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# Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS
FIRST SESSION

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## SENATE—*Tuesday, March 11, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, strength for those who seek You, hope for those who trust You, courage for those who rely on You, peace for those who follow You, wisdom for those who humble themselves before You, and power for those who seek to glorify You, we begin this new day filled with awesome responsibilities and soul-sized issues and confess our need for You. We are irresistibly drawn into Your presence by the magnetism of Your love and by the magnitude of challenges we face. Our desire to know Your will is motivated by Your greater desire to help us.

We thank You for the men and women of this Senate. Bless them as they debate the resolution on partial birth abortion and reflect on the issues of advise and consent. Help them maintain a spirit of unity as they press on with honest, open discussion and come to conclusions which are best for our Nation and the world. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. SANTORUM. Mr. President, this morning the Senate will resume the consideration of S. 3, the partial-birth abortion bill. It is my understanding Senator MURRAY will be prepared to offer an amendment this morning. The majority leader has stated it is his intention to finish this important legislation by the end of the week. Senators wishing to offer amendments to the bill are encouraged to notify the managers of their intent so that we can proceed to an orderly consideration of the amendments.

Under the previous unanimous consent agreement, at 11 a.m. today the Senate will return to the Estrada nomination and begin a discussion of the Senate's constitutional role of advise and consent. Members are encouraged to come to the Chamber and engage in this discussion.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party lunches. Following the recess, the Senate will return to the consideration of the partial-birth abortion bill. Additional amendments are expected and therefore Members should anticipate votes this afternoon.

Lastly, I know it was the hope of the majority leader to schedule a vote on a district judge on the calendar this morning. We attempted to schedule a vote at 10:30. At this point, we understand there is an objection to setting the vote on Ralph Erickson of North Dakota to be a U.S. District Judge for the District of North Dakota. We will continue to and hopefully work out a unanimous consent agreement. We will certainly notify Members if we are able to succeed in getting a vote set sometime this morning.

I thank all Members.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Nevada.

Mr. REID. Madam President, I say to the manager of this bill, first, we would probably agree to the judge without a vote. We are trying to run that through to find out if we would agree to the judge without a vote.

Secondly, we have a finite list of amendments we have received on our side. We have run that through to the floor staff on the other side. We understand, rightfully so, that Senators want to see the amendments before there is an agreement on whether or not we could proceed on that basis. Yesterday, the majority leader indicated to me and to the Democratic leader that he wanted to finish this bill and could we cooperate and have a finite list of amendments. We have given those to the other side and we hope we can move forward.

We have had a number of our Members who wanted to bring up amendments that are not related to this issue and we have worked to have them not do that. So we hope those amendments could be reviewed quickly. We will try to get all the amendments. The first amendment Senator MURRAY is going to offer, we hope there will be agreement that there would be no second-degree amendments to that. She is not going to offer it until there is some agreement to that effect. We hope to get that done quickly. We just gave the Senator the amendment. We understand it needs to be looked over.

Mr. SANTORUM. Madam President, I have not had a chance to see the amendment, but I want to thank the leader for his willingness to come forward and offer a set of amendments. It is a reasonable set of amendments, from my estimation. We have not run a check on our side to see if there are any amendments. We are in the process of doing that. I do not anticipate very many, if any, at this point.

We are going to look at the amendment of Senator MURRAY. If we can, we will certainly allow that to go forward and we will certainly consider all the other amendments. If my colleagues can get them to us, I think we can fairly quickly enter into a unanimous consent agreement and move forward on this legislation. Again, I thank the Senator from Nevada for his willingness to come forward last night with this consent agreement. We are off to a good start in trying to get this bill done in a timely fashion this week, and I thank him for his cooperation.

With respect to the issue of the judge, if the Senator does not want to vote on a judge, I know our leader would like to have a vote this morning, whether it is on a judge or some procedural matter. The leader would like to get Members to the Chamber for this discussion. Obviously, this is a vitally

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

important discussion. The role of advise and consent is one of the more fundamental issues we have to grapple with, and our leader would like to have as much participation as possible. As is the case in the Senate, we usually cannot get that participation unless Senators are in the Chamber for a vote, and I think that is his intention.

We will certainly work with the other side in making sure we can come up with some accommodation that will suit both sides.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. We resume today the debate on the issue of partial-birth abortion and Congress's fourth attempt to ban this procedure. There have been comments in the past about some of the descriptions we have used on the floor as to whether they are accurate, and whether some of the charts we have used are medically accurate charts. Some suggested in the line drawings we had depicted a fetus that was larger than the size of most in partial-birth abortions. In working with people from the medical community, we have come up with more realistic drawings to depict the actual procedure so people can graphically understand what is described in this legislation.

I will read the description in the legislation and show how the chart behind me is representative of this description. We have tightened the definition. The reason we tightened the definition was in response to the U.S. Supreme Court that found the original definition in the congressional bill, which is similar to the one in Nebraska, was unduly vague, and, therefore, unconstitutional because of vagueness. We have taken further steps to make sure that by banning this procedure we are not including any other procedure that is used for late-trimester, late-term abortions.

Let me read what is in the legislation today and then go through the charts to show how that comports with this definition.

> (1) the term "partial-birth abortion" means an abortion in which—
>
> (A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother . . .

Now, I break from the text as to what partial-birth abortions are. The procedure itself is done in a breech position, but there may be a case—and this is what we are taking into consideration, here, the presentation—where the doctor makes a mistake and cannot deliver the child for some reason in a breech position. As I know, having been the father of seven children, you do not want a breech delivery. That is a dangerous delivery. That is not a normal delivery.

To authorize or to start a delivery in breech is a higher risk to the mother, No. 1. No. 2, for purposes of this procedure, that is what is described, that is what the doctors have said is the procedure which they would recommend. But there are always, in these medical procedures, chances for things to go awry so we take into consideration that if for some reason during this procedure the head is presented first, that will still be covered.

> or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and
>
> (B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

Now, that is the description that is in the bill.

Let me show graphically the process by which this abortion takes place. This is a picture of a fetus inside the mother's uterus with the gestational age of roughly 24 weeks. The gestational period is 40 weeks for normal development. We are talking about now 24 weeks, or better than halfway through the pregnancy. That is when the vast majority of partial-birth abortions occur. In fact, all of them occur after 20 weeks. Most of them occur 22, 24, 26 weeks.

In the first picture we see the baby in the womb, in the normal fetal position. What has happened before this procedure occurs is the mother presents herself to the abortionist. And the abortionist, in making a determination to do a partial-birth abortion, gives the mother a medication to dilate her cervix so this procedure can then be performed. This dilation occurs over a 2-day period. The woman presents one day, the next day she stays at home, and the third day she arrives at the abortion clinic.

I use abortion clinic advisedly because this procedure is not performed in hospitals. It is not taught at medical schools. It is done solely at abortion clinics. The doctor who created this procedure testified that the reason he created this procedure was not because this was a better medical procedure for women. This was not designed for women's health. He said, and I am quoting him, he designed this procedure because other late-term abortions, when women presented themselves into his office, took 45 minutes. He could do this procedure in 15 minutes. Therefore, he said, he can do more abortions; he can make more money. So the person who designed this procedure, the person who put the medical literature out on this procedure is very clear as to why he designed this procedure. It is quick. It is easier for him. And he can make more money because he can do more abortions in a day.

So the mother, having been presented at the abortion clinic 2 days before, takes this drug. We heard from the Senator from Ohio yesterday, Senator DEWINE, of instances where mothers in Ohio, two cases—remember, this procedure was invented by a doctor in Ohio—two cases from a Dayton abortion clinic where the mother was given medicine to dilate her cervix and in two separate cases, because of the dilation, labor was induced and two different women delivered babies. One named Baby Hope lived 3½ hours and was not given medical treatment. I don't know all the facts as to why. Maybe it was an assessment that the child was too premature to live. The second baby, Baby Grace, was born and survived as a result of the live birth.

So we are talking about children here. This is very important. We are talking about this little infant here, this fetus, that would otherwise be born alive. The definition of the bill, I repeat one more time, of a baby delivered in a breech position:

> . . . any part of the fetal trunk past the navel is outside the body of the mother for the purposes of performing an overt act that . . . will kill the . . . fetus.

You cannot kill a fetus if it is not alive. So this is a very important part of this definition. When the baby is delivered, the baby must be alive. If the baby is dead, we are not talking about an abortion because the baby is already dead. We are talking about a living fetus, living baby.

The first step now, the women presents herself, the cervix has been dilated, the physician goes in and grabs the baby's foot and begins to pull the baby into the birth canal in a breech position. Again, I repeat, no one preferably delivers a child in a breech position. It is just not what is medically recommended, but in this case we have the child being presented in a breech position.

Again, you can see the size of the baby in relationship to the size of the hand of the doctor. Some will say, well, that baby is much bigger than a baby. This is a blown-up chart. Of course it is bigger. Look at the size of the child relative to the size of the hand of the physician who is performing this abortion. You will see the size is about the size of the hand, 8, 9 inches in length, which is roughly the size of a child at that gestational age.

The child is pulled through the birth canal and presented.

Remember, here is the child outside of the mother as described in the bill, outside of the mother beyond the navel. The child is alive. The child is alive and is being delivered in this breech position. But the child is alive at this point in time.

But for what I am going to describe in charts 4 and 5, this child could be born alive. It would be born alive. It had the potential to survive. But that doesn't occur in the case of the partial-birth abortion.

What happens next is the abortionist takes a pair of sharp scissors and, probing with their fingers to find the base of the baby's skull, the softer point here, below the bone that protects the brain, finds a soft spot and thrusts a pair of scissors into the base of a living child's head who would otherwise be born alive.

One of the nurses who testified before Congress said she witnessed a partial-birth abortion and she witnessed the reaction of a child who was killed by one of these procedures and she said she saw the child's arms go out, flinch like a baby would do if you dropped it—sort of let it go. They let their arms and legs sort of go out. That is what this little child will go through as a result of this procedure.

Can this child feel pain? Most assuredly. Its nervous system is developed. In fact, going back to the first chart, when the doctor is reaching in to try to grab the leg, as has been described in testimony, the child tries to get away from the instrument that is grabbing its foot. The scissors are thrust into the base of the skull. That very well may kill the child. I don't know. In some cases it probably would. Probably in most cases it would.

But we are not done yet. We have to add insult to the injury. The doctor takes a suction catheter and, through the hole which is now in the base of the child's skull, he inserts a suction tube, and with that suction tube he turns it on and suctions out the baby's brain. It collapses the baby's skull.

For those of you who have held newborns, you know that their skull is very soft, pliable. So without anything inside, it has been suctioned out through force, the baby's head collapses, and the rest of the baby can be delivered.

This is a procedure that is barbaric. It is barbaric. On a little baby who would otherwise be born alive—and if there is any question about that, I point to you Baby Hope and Baby Grace, who were ticketed for partial-birth abortions but were delivered prior to that.

What we have suggested in the Senate now, for the fourth Congress in a row, is that a procedure that was developed by a doctor who testified that the reason he developed this procedure was that he could do more abortions, make more money, is not medically necessary under any circumstances.

I have a quote here from Warren Hern. Warren Hern is a noted third-trimester abortionist. He has written books on late-term abortions. He does a lot of them. When he says, "I have very serious reservations about this procedure . . . you really can't defend it . . . I would dispute any statement that this is the safest procedure to use . . . " this isn't RICK SANTORUM who has trouble with abortion, period—I admit that—this is someone who does abortions. This is someone who does late-term abortions. As I said, Dr. Warren Hern is the author of the standard textbook on abortion procedures. We have a situation where this procedure was designed simply so they could do more late-term abortions quicker.

There is plenty of evidence—I will get into this later—that this procedure has profound, long-term health consequences to women. This is not, as Dr. Hern says, the safest procedure for women.

There is no case—and I am going to underscore this 100 times, and I challenge anyone who opposes this legislation—anyone: If you are on the floor of the Senate, listening back home, listening—if anyone here, anyone across America, anyone around the world—and I want the Supreme Court to hear this—anyone can present to me a case, a factual situation where a partial-birth abortion is medically necessary vis-à-vis other types of abortions, if you can present to me one case, I will be shocked. That is because I have been asking this question for 7 years here on the floor of the Senate, outside, to groups—the folks who agree with me, the folks who disagree with me.

I have asked one question: Tell me why this is medically necessary. Tell me why, when even abortionists say it is not medically necessary, where no medical school in the country teaches this procedure, tell me why we have to keep this brutality of killing a child literally inches away from being born, why we have to keep up this brutality that is done purely so doctors who are abortionists can make more money, legal in America.

I ask again, anybody who comes here to the floor to debate this issue, who says we need a health exception, give me one case—one case. Seven years I have asked this question. Seven years I have asked this question. One case. Never has anyone even tried to put one together here on the Senate floor.

I am hopeful the Senate will act on this bill. I am happy the minority whip, Senator REID, has given us a list of amendments so we can proceed in an orderly fashion on this legislation.

I see the Senator from Washington is here to offer her amendment. I certainly want to give her the opportunity to do that. I am looking forward to debate, not only on these amendments but to have a really good, honest debate—I underscore the word "honest." There has been a lot of information—I will go through that, too—that has been put out by people who oppose this ban, everything from saying the anesthesia kills the baby to on down the line. There has been a lot of information that has been erroneous that has been put out by the other side.

I am looking forward to a good, honest debate on this issue. I hope we can get an overwhelming vote in the Senate to ban a procedure that is horrific, brutal, and never medically necessary for any purpose. It is only necessary so we can have abortionists who do late-term abortions earn more money, and that isn't a good reason to allow this barbaric procedure to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

### AMENDMENT NO. 258

(Purpose: To improve the availability of contraceptives for women)

Mrs. MURRAY. Madam President, here we are, once again debating this issue. Since we began debating how to criminalize women's health choices yesterday, the Dow Jones has dropped 170 points; we are 1 day closer to a war in Iraq; we have done nothing to stimulate the economy or create any new jobs or provide any more health coverage. But here we are, debating abortion in a time of national crisis.

Since we are debating S. 3, I want to expose this proposal for what it is. It is deceptive, it is extreme, and it is unconstitutional.

First of all, it is deceptive. The other side wants you to think that this just affects one procedure performed in the third trimester, but that is not true. We need to remember what Roe v. Wade clearly spells out. Up to viability, a woman and her doctor make the choice. However, any late-term abortion can only be performed to save the life or health of the woman. But the language in S. 3 is broad. It is so broad as to apply to many procedures, and it would impact women in the second trimester.

That is exactly why the Supreme Court struck down a similar State law in Nebraska. It is deceptive because it would not just be limited to what the other side implies it does.

Partial-birth is a political term. It is not a medical term. Despite all of the hot rhetoric we hear, this bill is neither designed nor written to ban only one procedure. It would also apply well before viability and could ban possibly more than one procedure.

Second, this bill is extreme. It is just the first in a long march to dismantling a constitutionally protected freedom. Don't take my word for it. Listen to the President of the United States who declared in 1994:

> I will do everything in my power to restrict abortion.

On the issue of women's reproductive freedom, the President has kept his word. He and his staff have worked tirelessly to turn back the clock on women's health choices. In only 2 years, the President has issued a rash of executive actions that could severely restrict stem cell research, thus threatening lifesaving medical advances; reimposed the global gag rule on international family planning programs; made a fetus eligible for health insurance but not the pregnant woman who is carrying the fetus; packed the Federal courts with anti-choice judges; and appointed stanch opponents of reproductive choice throughout all levels of the executive branch.

We will hear the Republicans use the most graphic and disturbing descriptions they can find to try to sour the public on something that was decided by the U.S. Supreme Court years ago. And it still opens the door to future politicians banning additional safe and legal procedures.

Third, this ban is unconstitutional. The U.S. Supreme Court has already ruled that this very type of restriction violates the Constitution. Last year, in the case of Stenberg vs. Carhart, the U.S. Supreme Court ruled a similar law at the State level unconstitutional for two reasons.

First, the language is so broad that it bans other constitutionally protected procedures. The Supreme Court's rulings state:

> Even if the statute's basic aim is to ban D&X, its language makes clear it also covers a much broader category of procedures.

The bill before us is similarly unconstitutional because it covers too many constitutionally protected procedures.

Second, the Supreme Court found the State law unconstitutional because it did not contain an exception to protect the woman's health. Let me read that part of the ruling.

> The governing standard requires an exception where it is necessary and appropriate medical judgment for the preservation of the life or health of the mother.
>
> Our cases have repeatedly invalidated statutes that in the process of regulating the method of abortion impose significant health risks.

Guess what. The Republican bill before us fails the same constitutional test. It is too broad, and it does not contain an exception to protect the health of the mother. And the Supreme Court has said it is unconstitutional.

We have Republicans offering today a clearly unconstitutional bill on at least two counts. Proponents of the ban will argue that they have addressed the concerns addressed by the Supreme Court. However, a statement of congressional findings is not binding on the Court. The other side is using misleading and deceptive arguments to ram through an extreme and unconstitutional measure.

If the goal of the Republican Senate, the Republican House, and the Republican White House is to have fewer abortions in this country, then let us have an honest attempt to accomplish that goal. To show a real commitment to reducing abortion, my colleagues should support the amendment I will offer. It will help prevent unintended pregnancies and abortions in the first place.

The Murray-Reid amendment which we intend to offer would do three things: It would reduce unintended pregnancies, reduce the number of abortions, and improve the health of low-income women.

I will offer this amendment on behalf of Senator REID and myself. Senator REID has been a long-time champion of women's health issues, and especially for access to family planning. I thank Senator REID for his leadership on the amendment I will offer.

The Murray-Reid amendment would raise awareness about emergency contraceptives and ensure that insurance companies treat contraceptives fairly and ensure that low-income women have access to health care before, during, and after pregnancy.

First of all, the Murray-Reid amendment would reduce the number of abortions in America. I think that is something we can all agree on, and it is something we all would support.

By educating women about the availability of emergency contraception, an emergency contraceptive known as an EC could help prevent a pregnancy when taken within 72 hours. It is sometimes called the morning-after pill. An EC does not induce an abortion. An EC is not RU–486. It is simply a high dose of conventional birth control taken soon after contraceptive failure, unprotected sex, or rape.

ECs are safe and they are legal. They reduce the number of abortions and unintended pregnancies.

In fact, a study by the Alan Guttmacher Institute found that emergency contraception prevented 51,000 abortions in 2000. Unfortunately, too few women know that they are available. It has been reported that 50 percent of all pregnancies in our country are unintentional. The best way to ensure a healthy child and reduce the infant mortality rate or birth defects is to ensure that the woman is healthy prior to pregnancy. Public awareness campaigns targeting women and health care procedures will help remove many of the barriers to emergency contraception and will help bring this important means of preventing unintentional pregnancies to American women.

My amendment simply improves the awareness about emergency contraceptives.

According to the American College of Obstetricians and Gynecologists, only one-third of women of reproductive age know about emergency contraception.

Mr. President, again I will be offering my amendment shortly. One of the provisions will be to improve awareness about emergency contraceptives. As I said, according to the American College of Obstetricians and Gynecologists, only a third of women of reproductive age know about emergency contraception, and only one in five physicians regularly discuss it with their patients.

What the Murray-Reid amendment does is improve awareness about emergency contraceptives by providing $10 million in each of the next 5 years to establish a public education program. It will educate women and medical professionals across the country about the use of emergency contraceptives. It will allow the Department of Health and Human Services to provide grants to groups of providers working on this education campaign.

Not long ago I visited an organization in my State that provides bilingual pamphlets to clinics and providers in eastern Washington on the availability of ECs and how the drug combinations work to prevent pregnancy. I also know that Planned Parenthood of Washington is working to provide education on ECs as part of their overall family planning counseling.

State public health agencies could also apply for a funding grant to further their efforts to educate women on this safe and effective means of preventing pregnancy.

My amendment also makes emergency contraceptives available to victims of rape in the emergency room. When a woman has been raped and is brought to the emergency room, she may not even be aware that there is a safe and legal way to prevent her from becoming pregnant. We know that counseling in many emergency rooms on the availability of safe and effective contraceptives is simply being ignored. Providing emergency contraceptives or even information about them is still, amazingly, not standard protocol for treating a rape victim. Educating women will ensure that women are more aware. The unfortunate truth is that rape victims are not getting the care they need. Our amendment would allow doctors in the emergency room to just simply tell a rape victim about this safe and legal alternative to abortion.

Let me turn to the second part of my amendment, which requires insurance companies to treat contraceptives fairly. Today, amazingly, many insurance companies will cover drugs such as

Viagra, but they will not cover contraceptives. We should eliminate this discrimination in insurance and improve women's health.

Today, 20 States, including Washington State, do have some form of contraceptive equity requirement. Recently, a court decision in my home State of Washington affirmed access to contraceptives as a civil rights protection. Most Americans would agree that when you talk about preventing unintentional pregnancies and protecting women's health, you must have contraceptive equity.

The average annual cost of oral contraceptives can range from $400 to $700 a year. Women of reproductive age spend 68 percent more than men on out-of-pocket health care services. While there are several factors that cause this disparity, the lack of contraceptive equity plays a very big role. A recent survey of health plans showed that 49 percent of large group plans do not routinely cover a contraceptive method. Many States, including my own State of Washington, have taken steps to correct this obvious inequity. But without Federal legislation, the change will be slow, and it will lack a comprehensive commitment to protecting women's health.

This debate is not about costly new mandates or even about moral judgments; rather, it is about eliminating economic discrimination and protecting women's health.

Under my amendment, if health insurance plans offer prescription drugs, they would have to cover contraceptives and treat them equally. If we are going to jeopardize women's health by banning certain safe and legal procedures, then we must ensure access to contraceptives and effective family planning services.

Finally, my amendment would increase health coverage for low-income women through all stages of pregnancy. Not long ago, the administration said States should use SCHIP dollars for the care of the unborn fetus, but it did not extend that to the pregnant woman. That is ridiculous. The clinical guidelines of the American College of Obstetricians and Gynecologists and the American Academy of Pediatrics both indicate that the woman and the fetus should be treated together. It just makes sense.

So my amendment would ensure States can provide medical coverage for pregnant women from the SCHIP fund. That will help reduce infant mortality and ensure that both the woman and the child get the medical care they need.

This part of my amendment comes from a bipartisan bill, the Mothers and Newborns Health Insurance Act, that was introduced by Senators BINGAMAN, LINCOLN, and CORZINE, who have been huge champions of this issue.

Before I end this morning, I just want to share a story with my colleagues of a 34-year-old woman named Audrey Eisen. She and her husband Tom desperately wanted to have children. After trying for 2 years, they became pregnant. And after experiencing the sadness of a miscarriage in July of last year, Audrey and Tom were elated to learn they were pregnant. The checkups during the first few months indicated that the embryo was developing normally. At 13 weeks, they planned to have a special ultrasound. Unfortunately, they discovered the fetus was developing an abnormal number of fingers and toes and that the condition could indicate a much more serious complication, trysomy 13.

Trysomy 13 is a chromosomal condition in which there are three, rather than two, of the 13th chromosome. This syndrome is characterized by multiple abnormalities, many of which are not compatible with life beyond a couple of months. Most fetuses with trysomy 13 die in utero. Of those who make it to birth, almost half do not survive past the first month, and roughly three-quarters die within 6 months, and long-term survival is 1 year.

Unfortunately, neither life nor death comes easily for these children. It is a painful existence, marked by periods of breathing cessation and seizures. When Audrey returned for another ultrasound to get a better image of the fetal brain, her worst fears were confirmed. Here is what Audrey wrote:

> The first thing my OB examined during the ultrasound was the fetal brain. He did not say anything. I could tell he was holding something back and asked that he tell me what he saw. He said: "It is not normal." The rest of the scan was a blur as tears ran down my cheeks and those of my mother and husband who had accompanied me. Following the scan, the doctor left us alone to compose ourselves, after which we met with the genetic counselor. I cried with my whole body from the depths of my soul.

Audrey underwent additional testing in which she found that their fetus had a complete duplication of the 13th chromosome. It also exhibited a failure of the forebrain to properly develop and separate from the rest of the brain, a ventricular septal defect in the heart and a herniation of a portion of the abdominal organs into the umbilical cord.

Audrey's letter continues:

> At this point we discussed our options with the genetic counselor. My husband and I both felt strongly that it was in both the child's and our best interest to terminate as quickly as possible. The genetic counselor told us that we could either have a D&E or be induced. My doctor prescribed both procedures and we decided that a D&E was clearly best for me. The procedure was performed four days later on the first day of my 16th week of pregnancy. I don't think that I really understood this issue emotionally or intellectually until I was in the position of having to terminate my much desired pregnancy. Along with my sadness came a realization that if such legislation passed, the right to safe second trimester termination of pregnancies might not remain available to those women who come after me. In this event, I don't know how these women will endure. I don't know how I could have endured.

Audrey Eisen had to make a terrible decision that no mother ever wants to make. But this Senate wants to inject itself between Audrey Eisen and her doctor.

As I mentioned at the start of my remarks, I find it outrageous that as our Nation stands on the brink of war and our citizens struggle with a stagnant economy, the Republican Senate can find no more important topic to debate than criminalizing women's health decisions. When a woman is lying in pain in the operating room and doctors are telling her that her dream of a healthy baby has been replaced by a nightmare of medical complications and that under these harrowing circumstances she must immediately make a life altering decision that could determine whether she lives or dies or whether she can have children ever again, that woman should be able to make that decision with her family, her doctor, and her faith. The Senate should not make that decision for her.

This bill is an unconstitutional, extreme measure being sold through misleading arguments. If the proponents truly are interested in reducing unwanted pregnancies and reducing the number of abortions, they should support the Murray-Reid amendment which would also improve health care for low-income women. I urge my colleagues to reject the underlying bill. The Senate should not substitute its judgment for the judgment of a woman in one of the most intensely personal decisions she is ever likely to make. But if the Senate is going to ram through this unconstitutional, extreme measure, the least we can do is temper it with safe, responsible access to emergency contraceptives, fair treatment of contraceptives by insurers, and health care for low-income pregnant women.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Washington [Mrs. MURRAY], for herself, Mr. REID, and Mrs. BOXER, proposes an amendment numbered 258.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Mr. President, I commend Senator MURRAY for this amendment. I appreciate very much the leadership she has shown in providing a real opportunity to prevent late-term abortions to begin with. That is exactly what this amendment does. I appreciate very much her willingness to step forward.

I want to quickly state three things prior to the time that we have the opportunity to hear from Senator MURRAY more extensively about the importance of this amendment.

No. 1, I can recall so vividly on so many occasions over the last couple of years when Republicans cried crocodile tears about legislation that came to the floor without having first gone through committee. Crocodile tears. They did everything but throw things on the Senate floor, they were so upset, every single time somebody would suggest that amendments or bills be offered that had not been considered in committee. Yet right out of the box, one of the very first pieces of legislation presented to our colleagues today is legislation that didn't go through committee. That was rule under rule 14 on the floor. The double standard and the hypocrisy is amazing to me.

The second issue I think ought to be stated is that we may be going to war within the next 10 days. I hope not. I have said publicly and privately I hope we never consider war inevitable. But I must say, as we consider what is now occurring in North Korea, as we consider the extraordinary repercussions of what may occur in Iraq, as we consider the constant deliberations in the United Nations with regard to our actions, you would think the Senate would express itself, if not through resolutions, at least with our dialog, with our consideration of these issues, with our opportunities to express ourselves, and with more opportunity to avoid concern for all of these issues and others going into such a dramatic historic and consequential moment in our Nation's history. And yet we find ourselves debating this issue. I think it is an ironic juxtaposition. And I am disappointed we would be spending our time on it this week, given all of the other issues we have to address.

The third thing I would simply say is that, as with so many issues on the Senate floor, this issue is packed with emotion on both sides. We are the Nation's leaders. We set the tone. We are the ones who create a sense of perspective with regard to these debates. The more shrill we are, the more shrill we can expect the American people to be. The more confrontational and personal we are, the more confrontational and personal we can expect the American people to be.

So I urge my colleagues, as we go through this emotional debate, to demonstrate civility, to demonstrate a recognition that it is very easy to generate emotional fervor on this issue. It is out there already. I hope, in the tradition of the Senate, a debate as important as this would recognize our responsibility to deal with these issues sensitively, to deal with them in a way that recognizes the importance of civility, to recognize, as well, that tone can be an important factor in effecting substance.

So I only urge my colleagues on both sides of the aisle to recognize, to accept our responsibility to debate this issue with civility, with respect, with sensitivity, and with a recognition that our voices are heard way beyond these Chambers.

I thank again the Senator from Washington and again applaud her for her efforts.

I yield the floor.

Mrs. MURRAY. Mr. President, I thank the Democratic leader for his comments and his timely reminders, and I appreciate his comments at this time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that during the time from 11 to 12:30, the time for the Democrats be divided with DASCHLE, 10 minutes; LEAHY, 10 minutes; KENNEDY, 10 minutes; DURBIN, 5 minutes; SCHUMER, 5 minutes; and REID, 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, in a great Nation such as ours, we are fortunate to have democratic values and institutions so American citizens can openly and freely voice their opinions and attempt to influence government policies. The abortion debate has been a divisive one for our Nation for many years. People on both sides of this issue feel strongly and have argued, demonstrated, and protested with emotion and passion.

We all recognize that the issue is not going to go away anytime soon. One side will not be able to suddenly convince the other to drop its deeply held beliefs. But there is a need and, I believe, an opportunity for us to find common ground and take steps toward a goal all of us share; that is, reducing the number of unintended pregnancies in America.

I believe it is both possible and necessary for us to come together and enact effective legislation that will prevent unintended pregnancies, reduce the number of abortions performed, and address unmet health needs of American women.

We cannot only find common ground, but also commonsense solutions in the women's health amendment that Senator MURRAY and I have offered this morning. Our amendment will help to reduce the staggering rates of unintended pregnancies and reduce abortions. Our women's health amendment will also improve access to prenatal and postpartum care for pregnant women.

Specifically, our amendment will: No. 1, end insurance discrimination against women. Let me say that this amendment was offered many years ago by Senator SNOWE and me. I express my appreciation for her tireless efforts, for working with us in ending insurance discrimination against women. The Senator from Maine has been a stalwart in this regard.

No. 2, our amendment will improve awareness and understanding of emergency contraception and ensure that rape victims have information about and access to emergency contraception.

Lastly, it will promote healthy pregnancies in babies by allowing States to expand coverage for prenatal and postpartum care.

This is really unbelievable, but it is true: About half of all pregnancies in our country are unintended and about half of those will end in abortions. We must work together on this public health problem. It does not have to be this way. Most of these unintended pregnancies and resulting abortions can be prevented.

One of the most important steps we should take to prevent unintended pregnancies is to make sure that American women have access to affordable, effective contraception. I have been in a number of debates on this issue about contraceptive use. I can remember on a national radio program a woman called in from Texas. She said: I am now pregnant with my fourth child. I have diabetes. She went on to outline the many problems she would have having this baby. But she did say that the reason she is pregnant is because she and her husband could not afford prescription contraception. They tried other things that didn't work, and, as a result, she was going through this pregnancy.

What our amendment is all about is allowing women to have the choice to have contraceptives that work. Insurance companies, as the Senator from Washington so well outlined, provide money for all kinds of things. Why not contraceptives? It would be cheaper and certainly save a lot of money and aggravation in the long run.

As a result of medical innovation and pharmaceutical research, there are numerous forms of safe and highly effective contraception that are available by prescription. If used correctly, they would greatly reduce the rate of unintended pregnancies. However, one of the greatest obstacles to the usage of prescription contraception by American women is their cost.

The woman who called in to the national radio show is only one example. There are all kinds of examples of people who have insurance and do not have access to, for example, the pill—which is so effective in preventing women from becoming pregnant.

We know that women, on average, earn less than men. Yet they must pay far more than men for health-related expenses. According to the Women's Research and Education Institute, women of reproductive age pay 68 percent more in out-of-pocket medical expenses than men. Why? A lot of reasons, but one is due to their reproductive health care needs. Because many women cannot afford to pay for the prescription contraceptives they would like to use, many go without it, resulting in unintended pregnancies. Far too often that is the case.

This week is Cover the Uninsured Week—a major effort by a coalition of groups from all over the country to raise awareness to one of the fundamental problems of our society. About 44 million Americans lack health insurance. In addition to the 44 million, many other Americans are underinsured. The number who have no health insurance includes women and children. Most of the families affected are working families.

This is a tragedy that demands our attention. We have tried to get their attention, but we have not done very well. The high cost of prescription contraceptives is not only a problem for the millions of women without health insurance, it is also for millions of women who have health insurance because even having a plan that includes a prescription drug benefit does not guarantee that the prescription drugs you rely on are included.

Such is the case for a majority of women in this country who are covered by health insurance plans that do not provide coverage for prescription contraceptives. As a result, women are forced to either do without contraceptives or to bear this expense out of pocket. This is unfair to women and unfair to families. It is bad policy that causes additional unintended pregnancies, adversely affecting women's health.

As I indicated earlier, I have been trying since 1997 to remedy this, and we have accomplished a few things. We have been able to get women who work in the Federal sector to have their insurance cover this, but we have been unable to get it for the rest of the country. That is too bad.

Today, as part of our women's health amendment, we are again proposing commonsense legislation that has received bipartisan support in the past. The Equity in Prescription Insurance and Contraceptive Coverage Act, or EPICC, as we call it, requires insurance plans that provide coverage for prescription drugs to provide the same coverage for prescription contraceptives.

The woman in Texas—I cannot adequately convey to you the desperation in this woman's voice when she called in saying: I am a sick woman. All I needed was the ability to have a prescription where I would get a contraceptive that would work, but I didn't, and I am pregnant. It is going to affect my health adversely, and I don't know what will happen to the baby. I cannot convey in words the desperation, the concern in this woman's voice.

We are not asking for special treatment of contraceptives—only equitable, fair treatment within the context of an existing prescription drug benefit. This legislation will help increase the playing field a little bit for women. They spend more for their health care costs. This will help a little bit. Making contraception more affordable and available will enable more women to use safe and effective means to prevent unintended pregnancy. I hope that is a goal we all share. I believe it is.

Contraceptive coverage is much cheaper than other services. As the Senator from Washington pointed out, it is certainly cheaper than performing an abortion; it is cheaper than sterilizations and tubal ligations, and most insurance companies routinely cover these.

The Federal Employees Health Benefits Programs, which has provided contraceptive coverage for several years as a result of an amendment we offered on the floor, shows that adding such coverage doesn't make the plan more expensive. In fact, it saves money. Unintended pregnancies cost society money, cost families money.

As I indicated, this was first introduced by Senator SNOWE and me 6 years ago. We have been working across party lines and across the ideological spectrum to gain support in the Senate. It had 44 cosponsors last year in the Senate.

This is commonsense, cost-effective legislation that is long overdue. Promoting equity in health insurance coverage for American women, while working to prevent unintended pregnancies and improve women's health care, is the right thing to do. We should also take additional steps that would improve women's health and further reduce unintended pregnancies.

Our amendment would increase the awareness and availability of emergency contraception, an important yet poorly understood form of contraception.

I have never said this publicly, and I will not use her name, but she knows who she is. A very good friend of mine who worked for me for many years—she started off in high school as a runner in my office. She came to me one day, and I knew something was wrong. I said: What is the matter?

She looked at me with tears in her eyes and said: I was jumped last night.

I never heard that term before, but she was driving through a rough neighborhood and they stopped her car and she was raped—a teenager, Mr. President. I didn't know what to do or say. I called my wife's gynecologist/obstetrician, who is a friend of mine, and I said: Doctor, here is the situation . . . will you see her?

He said: Of course, I will see her.

So she went to him. She didn't become pregnant, but that is fortunate. Now, I wished, then, we had the ability to have emergency contraception. It would have relieved everybody's mind and made everybody feel better. I will never forget that. That was a traumatic night in her life, to say the least.

We have made progress since then—scientific progress—to make problems like that one something that can be dealt with. She would not have had to come to someone like me, her employer, and be humiliated by telling some one older than her about the problem. But she was one of the fortunate ones. She had somebody she could come to, and I had the opportunity to send her to my wife's gynecologist.

So, in effect, our amendment would increase the awareness and availability of emergency contraception, an important, yet poorly understood form of contraception. Approved for use by the FDA, emergency contraception pills work to prevent pregnancy, and they cannot interrupt or disrupt an established pregnancy. That is a scientific fact.

A woman could use emergency contraception in an emergency, such as if she had been raped and doesn't want to become pregnant.

The availability of an emergency contraception is particularly important for women who survive sexual assault, like my friend.

It is difficult to imagine the physical, psychological, and emotional pain that a woman who is raped endures. In addition to the violent attack to which these women have been subjected, they must also consider the possibility that in addition to the trauma of the rape, they could become pregnant as a result.

Compassion is a word we have heard a lot from political leaders in recent times. Actions speak louder than words. Surely, I acknowledge—and I think we should all acknowledge—it would be compassionate to make emergency contraception available to women to prevent them from becoming pregnant by the rapist who brutalized and traumatized them.

It would be compassionate to make emergency contraception available to a woman to prevent her from becoming pregnant by the rapist who brutalized and traumatized her.

I hope we can all agree on this legislation which would require hospitals receiving Federal health dollars to provide information about emergency contraception and make it available to sexual assault survivors when they are being treated in the emergency room.

Simply put, emergency contraception should be made available in every emergency room in America. Women who have been raped should be informed of all their options, including learning about emergency contraception. If they choose emergency contraception, it should be made available to them. It should be a choice.

Women who have been raped should be informed of all their options, including learning about emergency contraception, and if they so choose, it should be made available to them.

EC, emergency contraception, has been studied extensively and has been regarded as a safe and effective method to prevent unintended pregnancies.

Once I was on a radio show talking about my contraceptive coverage legislation. Someone called in and said: I think it is awful, and I am opposed to contraception of any kind. Mr. President, that is a person's right. Some people do not believe in contraception, and that is their right. Nothing in our legislation forces a woman to take any form of contraception. That should be a choice of a woman who has a health plan or a woman who has been raped. That is all we are saying.

EC has been studied extensively and regarded as a safe and effective method to prevent unintended pregnancies, I say again. Its use has been recommended by leading American authorities, including the American Medical Association, the American College of Obstetricians and Gynecologists, and it has been approved by the Federal Food and Drug Administration.

It is believed this would prevent hundreds of thousands of pregnancies and likely hundreds of thousands of abortions in America each year. Unfortunately, however, emergency contraception remains, for the most part, a well-kept secret. Most of the women who would benefit from it and would use it in an emergency to prevent an unintended pregnancy are unaware of its existence or do not know where to get it, where it is available. Even many health care providers do not understand what it is, how it works, and who could use it.

To reduce unintended pregnancy by raising awareness of emergency contraception, Senator MURRAY and I are proposing in this amendment to authorize $10 million in funding for the Centers for Disease Control and the Health Resources and Services Administration to develop and distribute information about emergency contraception to public health organizations, health care providers, and the public. This would prevent hundreds of thousands of unintended pregnancies and, of course, abortions.

These are just some of the simple, but I think necessary, steps we can and should take to prevent unintended pregnancies and reduce abortions.

To further improve the health of women and children, we should give States the option of covering pregnant women in the State Children's Health Insurance Program, called SCHIP, for the full range of their health needs, including prenatal, delivery, and postpartum care.

A number of years ago, a couple of neonatologists came to visit me. They were Nevadans. One was with a public hospital in southern Nevada. They had a number of messages. They wanted to see if we could get money to build a neonatal unit there. We have done that at the University Medical Center in southern Nevada. It is wonderful to go there and see those babies being saved because of modern technology.

Another message they wanted to deliver to me is that children are having children, and many of these children having children come to the emergency room—and they have never seen a doctor—to deliver the baby. They have never seen a doctor. It happens all the time. They were saying: We need to do something to allow these children to have a place they can go to get the care. Why don't they get care? There are a lot of reasons, but mainly it is a money situation.

I think this amendment is wonderful, and I like this part of our amendment very much, but I personally believe every woman in America, whether it is the wife of a billionaire or a woman who is on welfare and has nothing, and is 12 years old or 14 years old, should all be able to have free prenatal care. Every woman in America should be able to have free prenatal care. It would save this country so much money.

These doctors told me when they came to visit me that there are many million-dollar babies who, because of lack of prenatal care, are born with all kinds of problems. Had they had some prenatal care—some of these girls do not realize they should not smoke or take dope. They do not know. These are kids. If they had a place to go for prenatal care—there are grown women who need advice and counseling as to what should and should not be done during pregnancy.

I really believe all women should have free prenatal care. There should not be means testing. I think every woman should have free prenatal care in our country. We would save so much money as a society by doing that. That is another battle down the road some other day.

This amendment would give States the option of covering women in the State Children's Health Insurance Program for the full range of their health needs, including prenatal delivery and postpartum care. The mortality rates for infants and for mothers remain alarmingly high in the United States. We can, we should, and we must reduce these rates by extending coverage for prenatal care and pregnancy-related services. Unfortunately, the administration imposed a regulation last year that allows the fetus to be insured through SCHIP but excludes—excludes—the mother from coverage. Let me say that again. Through an administrative fiat, regulation, order, mandate, this administration imposed a regulation last year that allows a fetus to be insured through SCHIP, but excludes the mother of that fetus from coverage. Try to logically figure that one out. This is illogical, I think it is shameful, and I think it is absurd.

It, in effect, punishes women and certainly does not improve their health care. In any case, how can one claim to care about the health of an unborn child and not provide for the health and needs of his or her mother? The administration's policy means pregnant women are not covered during their pregnancy for medical emergencies, accidents, broken bones, mental illness, cancer, or even lifesaving surgery. Only procedures considered medically necessary for the fetus are covered. No postpartum care, of course, is included.

Remarkably, Health and Human Services Secretary Thompson tried to defend this policy by suggesting—listen to this—that the regulation which explicitly denies postpartum care is more comprehensive than legislation which provides full coverage including postpartum care. That is what he said. Do not try to figure out what it means because I cannot. This strains the credulity of anyone reading this and studying this situation. It flies in the face of common sense. We cannot have healthy babies if we ignore the health of the expectant mother. So States should be able to provide pregnant women with a full range of health services through SCHIP.

We should embrace these measures to protect the health of women and babies, prevent unintended pregnancies, and reduce abortions.

I am very happy to work with the distinguished Senator from the State of Washington, who is always on the cutting edge of things that relate to being compassionate and caring about people. It is an honor to join with her in helping us find common ground, commonsense solutions and show some compassion.

Let us find common ground. Let us agree on commonsense solutions and let us show compassion. There are four elements of this amendment. I hope we will move on and pass this unanimously. I do not know how anyone could oppose these commonsense amendments, but time will only tell.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we have roughly 10 minutes before we proceed to a debate on the constitutional role of the Senate in the advise and consent process. I do not have a sufficient amount of time to respond to all of the comments made by my colleagues from Washington and Nevada. We are looking at the amendment. We may have some amendments to it. My understanding is there are two jurisdictional pieces to this amendment. One is in the Finance Committee. The other is in the HELP Committee. We are still getting feedback from those committees.

My understanding is that some of these provisions have been offered at the committee level previously and the chairmen of those respective committees are letting us know what they would like to do.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. DURBIN. Will the Senator tell me if the underlying legislation, S. 3, went through the committee before it came to the floor?

Mr. SANTORUM. As the Senator from Illinois knows, this is the fourth Congress in which this legislation has been considered. It has gone through committee in previous Congresses. As I mentioned before, there are some changes to this legislation, but the basic underlying procedure that we attempt to ban is one that is very familiar to the Senator from Illinois and very familiar to other Members. It is obviously familiar to members of the committee. While this is a bill that, again, I would argue has some differences in it that are important from a constitutional perspective, this is an issue very familiar to every Member of the Senate and there was not really a sense that this was one that needed to go through the process again.

Mr. DURBIN. If the Senator will yield for two brief questions, and I will not dwell on this any longer.

Mr. SANTORUM. Yes.

Mr. DURBIN. Will the Senator please tell us when was the last time this bill went through the committee process, for example, the Judiciary Committee? Secondly, has this bill, which is virtually identical to the Nebraska statute rejected by the Supreme Court, gone through committee hearings since the Supreme Court rejected this very same language in the Nebraska statute?

Mr. SANTORUM. I will get the answer to the first question. I do not have the answer, but I will get that, No. 1. No. 2, this is different than the Nebraska statute. In fact, it was drafted in response to the Supreme Court's ruling in the Carhart v. Stenberg case.

To the other question, have there been hearings conducted about it, the answer is, no, there have not been hearings in the Senate. I do not know whether the House has conducted hearings on this language or not, but I can certainly find that out.

We are making the case and we will continue to make the case, and I assume those who oppose this legislation will make their case, as to the constitutionality of this legislation in its amended form that was struck down by the U.S. Supreme Court. I will go through those arguments repeatedly. I do not have time now because we only have about 5 minutes and I do have some other things I want to say.

Clearly, we believe we have addressed the issue of health. The Supreme Court, in the Carhart v. Stenberg case, took the record of the lower court. The lower court found that the health exception was needed based on the record, and the U.S. Supreme Court took the findings of fact from the district court and applied the standard that they would apply to this case, that the district court was clearly erroneous in coming to that decision. They did not find that standard to be met and so they accepted the underlying premise.

Congress has, on repeated occasions, made findings of fact in preparation for review by the courts, and in a vast number of these cases, the courts have been very deferential to Congress, as a body, that gets into much more detail through the process of hearings. We have had numerous hearings about this procedure in both the Senate and the House.

So while the Senator from Illinois has asked if we have had any recent hearings, we have had plenty of hearings on this issue and plenty of hearings about the medical necessity of this procedure. I ask the Senator from Illinois or any Senator who opposes this legislation, please come to the floor and present one case where this procedure is medically necessary. I do not think we need any more hearings. All I need is one case where this procedure would be medically necessary. In 7 years, no one has come to the floor of the Senate, no one has come to a hearing, no one has come before a hearing, no one has come anywhere, publicly, privately or otherwise, and presented a case where this is medically necessary for the health of the mother. So if there are no cases where it is medically necessary for the health of the mother, it is by definition outside of the rubric of Roe v. Wade. Now, that is a finding of Congress. That is a finding of Congress that is continuing to be substantiated by the inaction of those who oppose this to come up with a case.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. Sure, I am happy to yield.

Mr. REID. Let me say, through the Chair, to the Senator from Pennsylvania, the manager of this bill, the majority leader asked Senator DASCHLE and I to try to do something to move this legislation along. In good faith, we have narrowed the number of amendments to seven or eight that we have offered. The reason Senator MURRAY and I did this amendment is we thought we would get all the prevention issues out of the way quickly.

The point I am trying to make to my friend is that we are going to offer these together or separately. We are going to have votes on these amendments one way or the other. That is why we have asked that there be no second-degree amendments. Everyone should understand that we will come back and reoffer these.

In good faith, we are trying to move this legislation along. There is no effort to stall or to delay in any way. In good faith, we are trying to work this out with the other side. I only say this because the Senator said the committees wanted to look this over. Senator MURRAY and I are going to get a vote on these four issues. We would like to do it all at once. That would be the best way to do this. I want to make sure the leader hears from us what we are trying to do.

Mr. SANTORUM. I certainly respect the desire of the Senator from Nevada to get votes on these amendments, and we may well be able to accommodate that in a clean fashion directly, but I do not know the answer to that. I am still waiting to hear from the chairmen who have just seen this amendment a few minutes ago, to get a sense as to whether they believe there are some things that can be done to improve upon this recommended language.

The second point, in response to the Senator from Illinois, is the issue of vagueness. That was the other issue with which the Supreme Court dealt. We have come up with a much clearer definition.

The Senator from Washington said this is a deceptive amendment, that this language is very broad language and it does not limit it to a partial-birth abortion. I ask the Senator from Washington, or the Senator from California who was on the floor last night with the same argument, if they could describe a procedure that would be banned by the language in this bill. Give me another procedure and give me the definition of that procedure and tell me how that procedure would be banned by this bill.

The Senator from Washington brought in a case which certainly is a very distressing case, one that I can relate to on a personal basis, of a child who was discovered in utero with a fetal abnormality. The abortion performed on that child was done at 16 weeks. It was not a partial-birth abortion and under this legislation would continue to be legal. So we did not restrict at all the procedures that are done in any hospital in this country, because hospitals do not do this procedure. Abortion clinics do this procedure.

As I have said many times, they do it for one reason: the convenience of the abortionist to do more abortions in a shorter period of time. The doctor who developed this procedure developed it, in his words, so he could do more late-term abortions. He said this procedure takes 15 minutes. The other one takes 45. So he could do more abortions in 1 day. That does not strike me as one that was developed for medical necessity or to protect the health of women, but to protect the pocketbook of an abortionist, and that is not the kind of medicine that we should confirm or affirm in the Senate.

I yield the floor.

## EXECUTIVE SESSION

### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The VICE PRESIDENT. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The VICE PRESIDENT. Under the previous order, the time until 12:30 p.m. shall be equally divided between the two leaders or their designees.

The majority leader is recognized.

Mr. FRIST. Mr. President, thank you for presiding this morning. I appreciate your participation as our Presiding Officer in what we all recognize is an important moment for the Senate, the Senate that we all serve.

I have asked for this session over approximately the next hour and a half because one of our most important roles as Senators is to vote on executive nominations, including judges, lifetime appointees, who serve such a vital role in our constitutional design.

Because of the current debate, I have looked to our Founders for some guidance. John Adams, who helped create our Federal judiciary with his independence and its lifetime appointments, gave us a guide. He wrote that judges should be:

> Men of experience on the laws, of exemplary morals, invincible patience, unruffled calmness, indefatigable application . . . (and) subservient to none.

This is a high standard for a nominee and one I believe that Miguel Estrada has met. But it is also a charge for our Senate as the steward of an independent judiciary. Has the Senate met the Adams test or has this unprecedented filibuster and delay brought us all to the point of failing to meet that charge of John Adams?

Elected by my constituents, I am a Senator. Selected by my colleagues, I serve as Republican leader. Recognized by the Chair, I act as majority leader. With these responsibilities, I am entrusted as a guardian of the Senate. Its institutions, its traditions, its obligations are my unique charge, not only as leader but as a Member.

I am sensitive to this serious responsibility and I look forward to the discussion over the next hour and a half as we elevate the debate to what was intended under advise and consent as spelled out in the Constitution. As we move forward in the conversation over the course of the morning, with not just this nomination at issue but, really, our overall function as an institution under scrutiny, I will listen to all to hear their concerns and ideas about how best to move forward in a way that does justice to this nominee, but also to our institution and our Constitution.

To that end, our president, George Bush, has sent a letter to Senator DASCHLE and myself on this topic. Among his observations, he wrote the following:

> I ask Senators of both parties to come together to end the escalating cycle of blame and bitterness and to restore fairness, predictability, and dignity to the process. I ask that the Senate take action, including adoption of a permanent rule, to ensure timely up or down votes on judicial nominations both now and in the future, no matter who is President or which party controls the Senate. This is the only way to ensure that our judiciary works and that good people remain willing to be nominated to the Federal bench.
>
> All senators should have a chance to have their voices heard and their votes counted. All Presidents should have their judicial nominees considered and voted upon in a reasonable time. All nominees should have the certainty of an up-or-down Senate vote within a reasonable time. All judges should have the assurance that vacancies on their courts will not persist for years. And all Americans should have the assurance that the federal courts will remain open and fully staffed to resolve their disputes and protect their rights and liberties.

As leader, I tend to listen closely and patiently to the deeply held opinions expressed on the floor in hopes we can rise above the moment and act as our Founders intended. I ask unanimous consent the letter dated March 11 to myself and Senator DASCHLE from the President of the United States be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> THE WHITE HOUSE,
> *Washington, DC, March 11, 2003.*
>
> Hon. BILL FRIST,
> *Majority Leader, U.S. Senate, Washington, DC.*
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> DEAR SENATOR FRIST: The Senate is debating the nomination of Miguel A. Estrada to be a Judge of the United States Court of Appeals for the District of Columbia. Miguel Estrada's life is an example of the American Dream. He came to this country from Honduras as a teenager barely speaking English and went on to graduate with honors from Harvard Law School. He has argued 15 cases before the Supreme Court of the United States and served in the United States Department of Justice under Presidents of both political parties. The American Bar Association has given him its highest rating. When appointed, he will be the first Hispanic ever to serve on the D.C. Circuit.
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> I submitted Mr. Estrada's nomination to the Senate on May 9, 2001. But his nomination has been stalled for partisan reasons for nearly 2 years in which the Senate has not held a vote either to confirm or to reject the nomination.
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> The Senate has a solemn responsibility to exercise its constitutional advice and consent function and hold up or down votes on judicial nominees within a reasonable time after nomination. Senators who are filibustering a vote on Miguel Estrada are flouting the intention of the United States Constitution and the tradition of the United States Senate. The filibuster is the culmination of an escalating series of back-and-forth tactics that have marred the judicial confirmation process for years, as many judicial nominees have never received up or down Senate votes. And now, a minority of Senators are threatening for the first time to use ideological filibusters as a standard tool to indefinitely block confirmation of well-qualified nominees with strong bipartisan support. This has to end.
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> The judicial confirmation process is broken, and the consequences for the American people are real. Because of the Senate's failure to hold timely votes, the number of judicial vacancies has been unacceptably high during my Presidency and those of President Bill Clinton and President George H.W. Bush. The Chief Justice has warned that the high number of judicial vacancies, when combined with the ever-increasing caseloads, leads to crowded courts and threatens the administration of justice. When understaffed, the Federal courts cannot act in a timely manner to resolve disputes that affect the lives and liberties of all Americans. The courts cannot decide constitutional cases promptly, which harms people seeking to vindicate and protect their rights, and the courts cannot rule on commercial cases efficiently, which hurts the economy, businesses, and workers. Our system of equal justice under law administered fairly and efficiently is at risk. The American Bar Association in 2002 accurately described the situation as an "emergency."
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> My concern about the state of the judicial confirmation process is not new. In June 2000, I proposed timely votes for all nominees, stating that the confirmation process "does not empower anyone to turn the process into a protracted ordeal of unreasonable delay and unrelenting investigation." In May 2001, when I announced my first judicial nominations, I urged the Senate to rise above the bitterness of the past and again asked that every judicial nominee receive a timely up or down vote. In October 2002, after nearly two additional years in which too many nominees did not receive votes, I proposed a specific, commonsense plan involving all three Branches that, among other steps, would ensure that all judicial nominees receive an up or down Senate vote within 180 days of nomination.
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> Over the years, many Senators of both political parties have publicly agreed with the principle that every judicial nominee should receive a timely up or down Senate vote. Similarly, the Federal Judiciary, speaking through the Chief Justice in his 2001 Year-End Report, has stated that the Senate should "schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination."
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> I ask Senators of both parties to come together to end the escalating cycle of blame and bitterness and to restore fairness, predictability, and dignity to the process. I ask that the Senate take action, including adoption of a permanent rule, to ensure timely up or down votes on judicial nominations both

now and in the future, no matter who is President or which party controls the Senate. This is the only way to ensure that our Judiciary works and that good people remain willing to be nominated to the Federal bench.

All Senators should have a chance to have their voices heard and their votes counted. All Presidents should have their judicial nominees considered and voted upon in a reasonable time. All nominees should have the certainty of an up or down Senate vote within a reasonable time. All Judges should have the assurance that vacancies on their courts will not persist for years. And all Americans should have the assurance that the Federal courts will remain open and fully staffed to resolve their disputes and protect their rights and liberties.

As I stated last October, the current state of affairs in the United States Senate is not merely another round of political wrangling. It is a disturbing failure to meet a responsibility under the Constitution. Our country deserves better, the process can work better, and we can make it better. The Constitution has given us a shared duty, and we must meet that duty together. Thank you for your attention to this important matter.

Sincerely,

GEORGE W. BUSH.

Mr. FRIST. Mr. President, I will designate Senator HATCH to be in control of the remaining time on the Republican side.

With that, I yield the floor.

The VICE PRESIDENT. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I regret to say that the White House and many of our Republican colleagues have twisted this debate beyond all recognition. It is sadly ironic that Republicans now seek to cast this as a debate about constitutionality, for it is Republicans who evidently are quite ready to throw over our Constitution's enduring principles merely because they do not fit the politics of the moment.

Democrats have been accused of subverting the Constitution for mere political gain. We have been accused of subjecting a nominee to "unprecedented obstructionism." We have been accused of employing these tactics in the service of racism. Enough is enough. It is time to call the rhetoric of some of our Republican colleagues for what it is: Rank hypocrisy and cynical manipulation of fact.

While in the majority, Democrats facilitated the confirmation of 100 of the President's nominees to the Federal bench. After proving our cooperation, we now have the temerity to ask one nominee a series of simple questions that go directly to the question of his qualifications and judicial temperament.

We asked the administration to provide the documents the nominee drafted during his tenure at the Department of Justice, documents that have been provided by both Democratic and Republican administrations in the past. We ask these questions not to score cheap political points but to fulfill our solemn obligations under the Constitution.

The Senate, not just the Senate majority but the entire Senate, is required under the Constitution to provide advice and consent to the President on his nominations. All we have asked is that we be given the information necessary to provide that informed consent. Mr. Estrada, however, has chosen not to cooperate.

That is his right. But it is our constitutional duty to reserve our judgment until we know the whole picture.

Imagine a job applicant refusing to fill out the last four pages of a five-page application.

You couldn't get a job flipping burgers with that response. Surely, the American people would not reward such intransigence with a lifetime appointment to the second-most powerful court in the land.

Republicans disagree, and so it is the recalcitrance of the nominee and the administration, not Democratic opposition, that is responsible for this delay today.

Today, Republicans, one after another, will come to this chamber to claim that they are shocked that any nominee could be treated to this unprecedented obstructionism.

Let me be charitable and say that only willful amnesia allows our colleagues to levy such charges.

In 1994, Senate Republicans stood before this chamber trying to persuade their colleagues to filibuster one of President Clinton's nominations to the Federal bench.

The current Chairman of the Judiciary Committee said then that the minority has to protect itself and those the minority represents."

In 2000, the Senate was forced to vote on cloture because for 4 years, Republicans filibustered judicial nominee, Richard Paez and, for two years, Marsha Berzon.

Fifteen Republican Senators, including Senator FRIST, Senator INHOFE, Senator CRAIG, Senator BROWNBACK, Senator DEWINE, and others voted to continue the filibuster of Richard Paez.

Thirty Senators voted to "indefinitely postpone"—quoting from the resolution—Mr. Paez's nomination, which had then been pending for more than 1,500 days. That's right, 1,500 days.

No Republicans objected then. No Republican expressed concern for the unprecedented obstructionism that could endanger the Constitution that we are likely to hear about this morning.

No Republican dared to castigate his colleagues by calling the opposition to Mr. Paez "anti-Hispanic."

But the truth is, by comparison to the treatment of other nominees by the Republican majority, Mr. Paez and Ms. Berzon could almost be considered fortunate; at least their nominations made it to the floor.

Under the Republican majority, more than 50 different Clinton administration judicial nominees saw their nominations killed, not because of the shared objections of 41 Republican Senators, but because a single Senator chose to place an anonymous hold on their nomination. These nominations never received a hearing or a vote in the Judiciary Committee, let alone consideration on the floor of the Senate.

By describing this sad history, I do not mean to indicate how the confirmation process should work. It should not.

The President promised he would work with us on his judicial nominees. But instead he continues to nominate many extraordinarily controversial candidates.

We stand ready to cooperate in the nomination and confirmation of qualified judges who will enforce the law and protect the rights of all Americans. We demonstrated that on many occasions already in this Congress.

But we fear that we will be kept waiting.

The suggestion that the Democratic request for information is inappropriate is equally ludicrous.

When Robert Bork was nominated to the Supreme Court, the Senate sought and received his memos as Solicitor General, including one to the President on the application of Executive privilege to the case of the Nixon audiotapes.

When Justice William Rehnquist was nominated to the Supreme Court, the Senate sought and received all of the memos that he had written as a clerk to Justice Robert Jackson.

When Stephen Trott was nominated to the Ninth Circuit, the Senate sought and received line attorney memos regarding the appointment of special prosecutors.

When Benjamin Civiletti was nominated to be Attorney General, the Senate sought and received his line attorney memos regarding anti-trust settlement recommendations.

And when William Bradford Reynolds was nominated for Associate Attorney General, the Senate sought and received his memos to the Solicitor General regarding a discrimination case, a school prayer case, and internal legal memos on a redistricting case.

Our request for information from Mr. Estrada is both appropriate and well-grounded in precedent. Yet because that precedent stands in the way of their political ends, Republicans now seek to deny their own words and their own actions.

They are here today claiming that the Constitution is threatened by the very same procedures they themselves employed. They are here today claiming that the Constitution can be threatened by the very same powers that it grants.

The Constitution is secure. The Democrats support it by refusing to let one third of our Government become a rubber stamp.

Alexander Hamilton, foremost among the Framers in his support for a strong presidency, wrote in the Federalist Papers that the Senate's role in confirmations was an indispensable check on executive power.

In explaining the advise and consent clause, he wrote:

> Might not [the President's nomination] be overruled? I grant that it might. . . . [but] if by influencing the President be meant restraining him, that is precisely what must have been intended.

Mr. President, every Member of this body took an oath "to uphold and defend the Constitution of the United States." That is exactly what Democrats are doing.

I yield the floor.

The VICE PRESIDENT. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have listened to the distinguished majority leader, and I have been very interested in what he has had to say. The fact is, in spite of what he has said, there has never been a filibuster that has been successful against a circuit court of appeals nominee—never—in the history of the Senate.

During the time President Clinton was President of the United States, I was chairman of the committee for 6 years. I admit there were some on our side who wanted to filibuster some of his nominees. I worked very hard and diligently to make sure no filibuster could succeed. As a matter of fact, I don't think there was a serious, true filibuster at any time against any of the Clinton nominees.

I suppose people can have their own viewpoint, but the fact is that we helped to make sure no filibuster would succeed. We on this side made sure—the leadership on this side, including myself as leader of the Judiciary Committee—that no filibuster would succeed.

In fact, there is only one filibuster in the history of the country that has succeeded, and that was against Justice Fortas, back in 1968. I do not agree with that. I think it was the wrong thing then. It is the wrong thing now. It is really the big issue we are talking about today.

With regard to the request for additional information from Mr. Estrada and the unfortunate claim that he has not cooperated with the other side, look at the transcript—almost 300 pages long. It is one of the longest hearings on a circuit court of appeals nominee in history. Just look at the transcript. He answered question after question after question.

Then every Democrat on the committee was given an opportunity to submit written questions. Only two did. The others didn't avail themselves of that opportunity. They called that hearing a very fair hearing. It was conducted by them. It could have gone on longer. They could have gone on another day if they had wanted to, or more than 1 day, more than 2 days. They didn't do it. The reason they didn't is that they thought they would never call him up anyway. Unfortunately for them, they lost the election and today the Republicans are in control and he has been called to the floor. Once called to the floor, he deserves an up-or-down vote under our laws.

They are saying that, in spite of an almost 9-hour committee hearing, in spite of having all of his briefs and his oral arguments before the Supreme Court in 15 cases, in spite of the fact that he has the unanimously well qualified highest recommendation of their gold standard, the American Bar Association, in spite of the fact that they have numerous other documents and records and have documented his cases, they are saying they do not know enough about Mr. Estrada so they have to go into the highly privileged matters concerning recommendations for appeals, certiorari, and amicus curiae matters, some of the most privileged documents in the history of the country, in the Solicitor General's Office, in spite of the fact that seven living former Solicitors General have said that should never be allowed.

In each of the cases that the distinguished majority leader has cited where some documents have been given, these documents were given pursuant to specific requests for documents.

In this case, we have the generalized request of a fishing expedition into virtually every document he ever worked on at the Solicitor General's Office. No one has ever allowed a fishing expedition into these privileged documents of the Justice Department, let alone the Solicitor General's Office.

I join my colleagues here to voice grave concern over what appears to me to be a system in serious danger of breaking. I am talking about the system by which the Senate exercises its constitutional obligation to provide advice and consent on judicial nominees.

At the outset of my remarks, let me take a moment to set straight the proper role of the Senate in the confirmation of judicial nominees, starting with the text of the Constitution. In its enumeration of presidential powers, the Constitution specifies that the confirmation of judges begins and ends with the President. The Senate has the intermediary role of providing advice and consent. Here is the precise language of Article II, Section 2:

> The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

There is no question that the Constitution squarely places the appointment power in the hands of the President. As Alexander Hamilton explained in The Federalist No. 66:

> It will be the Office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made.

It is significant that the Constitution outlines the Senate's role in the appointments process in the enumeration of presidential powers in Article II, rather than in the enumeration of congressional powers in Article I. This choice suggests that the Senate was intended to play a more limited role in the confirmation of Federal judges.

Hamilton's discussion of the Appointments Clause in The Federalist No. 76 supports this reading. Hamilton believed that the President, acting alone, would be the better choice for making nominations, as he would be less vulnerable to personal considerations and political negotiations than the Senate and more inclined, as the sole decision maker, to select nominees who would reflect well on the presidency. The Senate's role, by comparison, would be to act as a powerful check on "unfit" nominees by the President. As he put it,

> [Senate confirmation] would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

This is a far cry from efforts we've seen over the past couple of years to inject ideology into the nominations process, and to force nominees to disclose their personal opinions on hot-button and divisive policy issues like abortion, gun control, and affirmative action which undoubtedly will come before the courts.

Historically, deliberation by the Senate could be quite short, especially when compared to today's practice. Take, for example, the 1862 nomination and confirmation of Samuel F. Miller to the United States Supreme Court. He was nominated, confirmed, and commissioned all on the same day! The Senate formally deliberated on his nomination for only 30 minutes before confirming him. His experience was not the exception. Confirmations on the same day, or within a few days, of the nomination were the norm well into the 20th century.

Contrast the Estrada nomination. He waited nearly a year and a half for his confirmation hearing, which lasted for hours. His nomination is now in its fifth week of debate on the Senate floor, nearly 2 years after the President nominated him. Clearly, this is a far cry from the role for the Senate that the Framers contemplated. What was enumerated in the Constitution as advice and consent has in practice evolved to negotiation and cooperation in the best cases, and delay and obstruction in the worst cases—like that of Mr. Estrada.

The Estrada nomination illustrates what is wrong with our current system of confirming judicial nominees. Despite a bipartisan majority of Senators who stand ready to vote on his nomination, a vocal minority of Senators is precluding the Senate from exercising its advice and consent duty. This is tyranny of the minority, and its is unfair.

It is unfair to the nominee, who must put his life on hold while he hangs in endless limbo, wondering whether he will be confirmed. It is unfair to the judiciary, our co-equal branch of government, which needs its vacancies filled. It is unfair to our President, who has a justified expectation that the Senate will give his nominees an up-or-down vote. And it is unfair to the majority of Senators who are prepared to vote on this nomination.

The filibuster of Mr. Estrada's nomination also represents a new low in the annuals of judicial confirmations. If Mr. Estrada is not confirmed, he will be the first lower court judicial nominee defeated through a filibuster. More broadly, he will be the first judicial nominee, period, defeated through a party-line filibuster, since the filibuster of the Fortas nomination for Chief Justice was supported by Democrats and Republicans alike. This bipartisan opposition was apparently well grounded, since Justice Fortas ultimately resigned from the Supreme Court amid allegations of ethical misconduct.

Of course, no such allegations of misconduct surround Mr. Estrada—only pure partisan politics can be blamed for the obstruction of a vote on his nomination. Let me take a moment to illustrate.

What does it take? There are so many Republican efforts to confirm Miguel Estrada that the nomination is in the fifth week of debate on the Senate floor. There is no end in sight. Seventeen attempts for unanimous consent to end the debate and have the vote were all rejected by our colleagues on the other side. The White House offer for Mr. Estrada to answer written questions was rejected by all but one Democratic Senator—all but one when they offered him to answer written questions. The White House offer for Estrada to meet with Senators was rejected by all but one Democratic Senator.

It doesn't sound to me as if they really want to know what is on his mind. In my opinion, they could easily do so by merely meeting with him and asking him any questions they want.

Of course, cloture filed to end the debate was rejected.

The system is broken. This case illustrates it more than any other case that has ever come before the Senate.

There can be little doubt that the breakdown in the Senate's advice and consent role is not limited to Mr. Estrada's nomination. All nominees for the circuit courts of appeals have suffered, as these charts illustrate.

Let me just go through this. I am talking about a system in danger of breaking. I think it is broken. This shows the average days pending for circuit court nominees for the first 2 years of a President's tenure. In the case of Ronald Reagan, it took an average of 51 days for circuit court nominees to be pending before they got to a vote on the floor. In the case of President George Herbert Walker Bush, it took an average of 83 days in order to get a judge pending. In the case of President Clinton, it did go up. It took an average of 107 days. With George W. Bush, the current President, it has taken 355 days.

That is a system in need of repair. What we are seeing is a slowdown in the confirmation of Federal judges.

Look at this: Again, a system in danger of breaking.

The confirmation rate of circuit court nominees for the first 2 years: Reagan, 95 percent; Bush, 96 percent; and, Clinton, 86 percent of his circuit court nominees were confirmed. George W. Bush has 53 percent.

Mr. SARBANES. Mr. President, will the Senator yield for a question? Does the Senator have a chart that would indicate the very same information but would take the Clinton nominees in the first 2 years when the control of the Senate was in the Senator's party?

Mr. HATCH. I don't have that chart.

Mr. SARBANES. Wouldn't that be a more pertinent chart?

Mr. HATCH. Let me put it this way: If we had not gone through—

Mr. SARBANES. The Senator picked the Clinton years when his own party was in the majority.

Mr. HATCH. That is right.

Mr. SARBANES. What is happening here—my perception, at least—is that what the Senator is now complaining about is a tactic which was instituted by the other side of the aisle in the very recent past.

Now we are being told this isn't the right way to do business. But no one on that side of the aisle said it wasn't the right way to do business only a few years ago when they were doing exactly the same thing.

Mr. HATCH. May I reclaim my time?

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. HATCH. If the Senator has questions, I will be happy to take them. In the case of President Clinton, yes, in the first 2 years it was 86 percent. Yes, JOE BIDEN was chairman at that time. Yes, the Republicans cooperated to make sure those circuit court nominees went through. In the first 2 years of George W. Bush, the Democrats were in control of the committee. We cooperated all we could. That is the best we could get done. I think those statistics still stand up very strongly.

What we are seeing is a slowdown in the confirmation of Federal judges—a systematic and calculated effort to block the nominees of the President of this country from the Federal bench. It is time to stop it. It is time to reform the system, to de-escalate. The first step, of course, is to vote on Mr. Estrada's confirmation. But there is much more that we can do to ensure that no other judicial nominee repeats this experience. I urge my colleagues to join me in my efforts to put an end to partisan politics in the confirmation process.

I have to say, both sides have not been right in this process in the past years. I am not trying to just find fault there, but one fault I can find: Never in the history of this country has there been a filibuster succeed against a circuit court of appeals nominee. To argue that he has not provided enough documentation or enough answers when they refused to meet with him, refused to submit written questions, when they had one of the longest hearings on record for a circuit court of appeals nominee, when they have a massive amount of documents, not only all the arguments he made before the Supreme Court but his briefs as well and a tremendous, almost 300-page record of proceedings before the committee, it certainly makes my point.

To come here and say that we now have to have privileged records on a fishing expedition that doesn't name anything specifically seems to me to fly in the face of what is right and proper.

As I understand it, we will go back and forth. I yield the floor.

The VICE PRESIDENT. Under the previous order, the Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, Republicans claim that we do not have a right to an extended debate on a judicial nominee lacks any foundation. The Constitution gives a strong role to the Senate in confirming federal judges. Both the text of the Appointments Clause of the Constitution and the debates over its adoption make clear that the Senate should play an active and independent role in selecting judges.

The Constitutional Convention met in Philadelphia from late May until mid-September of 1787. On May 29, 1787, the Convention began its work on the Constitution with the Virginia Plan introduced by Governor Randolph, which provided "that a National Judiciary be established, to be chosen by the National Legislature." Under this plan, the President had no role at all in the selection of judges.

When this provision came before the Convention on June 5th, several members were concerned that having the whole legislature select judges was too unwieldy. James Wilson suggested an alternative proposal that the President be given sole power to appoint judges. That idea had almost no support. Rutledge of South Carolina said that he "was by no means disposed to grant so great a power to any single person." James Madison agreed that the legislature was too large a body, and stated that he was "rather inclined to give [the appointment power] to the Senatorial branch" of the legislature, a group "sufficiently stable and independent" to provide "deliberate judgments."

A week later, Madison offered a formal motion to give the Senate the sole power to appoint judges and this motion was adopted without any objection. On June 19, the Convention formally adopted a working draft of the Constitution, and it gave the Senate the exclusive power to appoint judges.

On July 18, the Convention reaffirmed its decision to grant the Senate the exclusive power. James Wilson again proposed "that the Judges be appointed by the Executive" and again his motion was overwhelmingly defeated. The issue was considered again on July 21, and the Convention again agreed to the exclusive Senate appointment of judges. In a debate concerning the provision, George Mason called the idea of executive appointment of Federal judges a "dangerous precedent."

Not until the final days of the Convention was the President given power to nominate Judges. On September 4, 2 weeks before the Convention's work was completed, the committee proposed that the President should have a role in selecting judges. It stated: "The President shall nominate and by and with the advice and consent of the Senate shall appoint judges of the Supreme Court."

The debates, make clear, however, that while the President had the power to nominate judges, the Senate still had a central role. That is what the debate made clear. For instance, Governor Morris of Pennsylvania described the provision as giving the Senate the power "to appoint Judges nominated to them by the President.

The Convention, having repeatedly rejected proposals that would lodge exclusive power to select judges with the executive branch, could not possibly have intended to reduce the Senate to a rubber stamp role.

The reasons given by delegates to the Convention for making the selection of judges a joint decision by the President and the Senate are as relevant today as they were in 1787. The Framers refused to give the power of appointment to a "single individual." They understood that a more representative judiciary would be best served by giving Members of the Senate a major role.

The Senate has never hesitated to fully exercise this power. During the first 100 years after ratification of the Constitution, 21 of 81 Supreme Court nominations—one out of four—were rejected, withdrawn, or not acted on. During these confirmation debates, ideology often mattered. John Rutledge, nominated by George Washington, failed to win confirmation as Chief Justice in 1795. Alexander Hamilton and other Federalists opposed him because of his position on the controversial Jay Treaty. A nominee of President James Polk was rejected because of his anti-immigration position. A nominee of President Hoover was rejected because of his anti-labor view.

A very substantial number of us believe that we are facing another historic constitutional confirmation which only the Senate's power and processes can resolve. Our President has embarked on a course that threatens the balance of powers and the independence of the judiciary. His legal advisors have set him on a course to stack the U.S. Courts with judges who will judge in accordance with a narrow and extreme set of views, views outside of the judicial mainstream and aimed at making draconian and sudden changes in the direction of life and liberty in this Nation. President Bush is not the originator of this court-stacking plan. It began decades ago with his predecessors in the White House and Justice Department. It has been enabled by the successful efforts of some in our own body to retard the filling of judicial vacancies over the past two presidential terms.

The White House and its allies have not been bashful about admitting their radical goal. Our own respect for the judiciary leaves no doubt that our President was lawfully elected. But there is not the slightest basis for the argument that any popular mandate supports such a massive shift in judicial direction.

As Senators we have the power, and the responsibility to ourselves, our constituencies and our institution, to resist revolutionary change in the balance of power. We have the power—and responsibility—to reject the notion that a President can suddenly fashion the judiciary in his own image. We have a special responsibility to do so when the Senate is so evenly divided that, after due consideration and debate based on all the necessary information, the switch of a few votes could change the result. We certainly have the obligation to do so when the Executive Branch prevents us from exercising our assigned constitutional powers of advice and consent by depriving us of any access to the only documents which might tell us what kind of a judge a nominee will be—the very documents which the President's lawyers used to select and vet the nominee.

The issue before us today is about much more than Miguel Estrada. It is about the essential nature of our government; it is about the core values of the Senate; it is about our history and our legacy.

We must not let the Founders down. We must not let our predecessors down. We must not let our constituents down. We must not let our Nation down.

The VICE PRESIDENT. Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I begin by taking direct issue with the arguments by the Senator from Massachusetts. The advice and consent function set forth in the Constitution has been consistently interpreted for 216 years to confirm Presidential nominations, unless there is a reason not to. That has been the practice. Now we have a new position advocated by the Democrats, saying if there are 41 obstructors, then the Democrats want an equal share in the process of judicial selection.

The Senator from South Dakota raised the consideration that no one on this side of the aisle had spoken up, when in effect the shoe was on the other foot when the Democrats controlled the White House and Republicans controlled the Senate. There were those on this side of the aisle who spoke up and said worthy nominees submitted by President Clinton should be confirmed. I was one of them. We did confirm a number of contested nominations: Judge Richard Paez, Marsha Berzon, Roger Gregory, and others.

So it is true there have been delays when one party has controlled the White House and the other party has controlled the Senate. And Republicans are not blameless in this process. But I submit that in the 107th Congress, with President Bush in the White House and the Democrats in control of the Senate, the process has been carried to great extreme. This year, with the Republicans controlling both the White House and the Senate, we have had the unprecedented position of a filibuster on a judge for the court of appeals.

In the history of the judicial confirmation process, there has been only one prior filibuster, and that was on Justice Abe Fortas, nominated to be Chief Justice. That involved an issue of integrity, and that was a bipartisan filibuster. We had, perhaps, the most bitter contest on confirmation when Circuit Judge Clarence Thomas was up for confirmation to the Supreme Court. Within 50 minutes, let alone 5 minutes, I could not begin to summarize the contest there on the bitterness of the proceedings. Justice Thomas was confirmed 52-48. But no one suggested there ought to be a filibuster. The regular rule was followed. Even though there was a tie vote in the Judiciary Committee, which would not customarily, under Judiciary Committee rules, permit the matter to be advanced to the full body, it did come to the full Senate and there was no filibuster, and Justice Thomas was confirmed.

When the Democrats—and I very much deplore the partisan nature of this debate, but it is a matter of Democrats versus Republicans, and it is my hope we will find a way to solve it. When the Democrats raise issues about Miguel Estrada answering more questions, or raise the contention that his work as an assistant Solicitor General ought to be disclosed, they are, pure and simple, red herrings.

A long litany of nominees have come before the Judiciary Committee who have declined to answer questions and have been confirmed. In the judicial process, judges are not expected to give opinions until there is a case in controversy, until there are facts, until briefs are submitted, until there is oral argument, until there is deliberation among the judges, then a decision is made—not to answer a wide variety of hypothetical questions that are posed in nomination proceedings.

On the confirmation process of Merrick Garland, I asked the question: Do you favor, as a personal matter, capital punishment?

Mr. Garland replied: This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are expected to follow the rule.

Because of time limitations, I shall not go into detail on that. When Marsha Berzon appeared before the committee, she was asked by Senator Robert Smith about the abortion issue. Marsha Berzon was later confirmed.

I ask for 2 additional minutes.

Mr. HATCH. Mr. President, I yield the Senator 2 more minutes.

Mr. SPECTER. Marsha Berzon responded that the matter was settled, regardless of what her views were. A similar response was given by Judith Rogers to questions by former Senator Cohen.

With respect to Miguel Estrada's work as an Assistant Solicitor General, seven former Solicitors General wrote to Senator LEAHY, laying out the fact that it is of "vital importance of candor and confidentiality in the Solicitor General's decision-making process that Miguel Estrada's work should not be disclosed."

I am delighted that we have been joined by a number of Senators from the other side of the aisle. It is my hope that we will yet get five additional Senators who will break the deadlock and we will move to cloture and we will end this debate.

This controversy is poisoning the Senate beyond any question. It is distracting the Senate from other very important business. I hope we will find a way out promptly and ultimately establish a protocol so many days after a nomination is submitted, a hearing by the Judiciary Committee; so many days later, a committee vote; so many days later, floor action; so that regardless of what party controls the White House and what party controls the Senate, the public business will be attended to and the partisanship will be taken out of the selection and confirmation of Federal judges.

I yield the floor.

The VICE PRESIDENT. Under the previous order, the Senator from Nevada is recognized for 5 minutes.

Mr. REID. My colleagues on the other side of the aisle argue that the Senate's extended debate over Mr. Estrada's nomination is somehow unconstitutional. This is, at the very least, curious. They say Senate rule XXII, which allows for cloture on judicial nominations, is unconstitutional. Very curious. That rule provides that a vote of 60 Members of this body may end debate.

They point to the Constitution which provides several examples where a supermajority is required to approve a measure. Since nominations are not mentioned, they argue, only a simple majority should be required.

But the majority's focus on the vote count misses the point. If cloture had not been extended to nominations, among other things, in 1949, what would be the result? Well, maybe a single Senator could engage in unlimited debate. There would be no provision whatsoever to cut off that debate. There would be no provision to get to a vote—whether it be a supermajority or a majority vote.

Surely my colleagues do not argue that extended debate in the world's greatest deliberative body is unconstitutional.

We will continue to exercise our right to debate this nominee until he answers the Judiciary Committee's questions and provides the committee with his memoranda.

The vigorous debate we continue to have on the Estrada nomination reflects our fidelity to our constitutional obligations to advise and consent to Presidential judicial nominees.

It is that role that is the proper subject of a constitutional debate.

What did the Founding Fathers have in mind when they made that provision? In the Federalist Paper No. 47, James Madison, quoting Montesquieu, stated:

> There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates.

In Federalist No. 76, Alexander Hamilton was more specific when he explained that the Senate's role:

> [w]ould be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters [while serving as an] efficacious source of stability in the Administration.

In a lecture at the Heritage Foundation in 1993, David Forte said, in Federalist No. 10 and 51, Madison proposed division within the central government into a complex separation of powers. Forte said:

> The liberties of the people would therefore be protected, first by the residuum of sovereignty left to the states, and secondly, by tying different constituencies to separate parts of the federal government—House of Representatives, Senate, Executive, and Judiciary—and giving each branch some part of each other's powers in order to defend itself against any branch's aggrandizement of its own powers.

As Justice Brandeis said in Myers v. United States:

> The doctrine of separation of powers was adopted by the Convention of 1787 not to promote efficiency, but to preclude the exercise of arbitrary power.

Justice Brandeis went on to say:

> The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.

Indeed, this is the heart of the Estrada debate. The administration has advised this nominee not to answer our questions. It refuses to turn over documents which have been provided in the past and which would help evaluate this nominee.

The administration has made it impossible for the Senate to fulfill its constitutional duty. The White House seeks to wield unchecked power over the appointment of lifetime Federal judges, but that is not what the Founders of our country had in mind or what the Constitution provides. The Constitution divides power over nominations between the President and the Senate.

In an article in the Emory Law Journal, Professor Carl Tobias discussed how that intent of the Constitution's drafters has been carried out:

> The Senate has actively participated in naming judges since the chamber's creation because members of this body have a significant stake in affecting . . . appointments.

He continued:

> There has also been a venerable tradition in the senatorial involvement in the choice of nominees. . . . The state's senators or senior elected officials who are members of the President's political party have ordinarily recommended candidates whom the Chief Executive in turn has nominated.
>
> In short, judicial selection has been a shared responsibility of the President and the Senate. . . .

I would add that this is as the Founders intended.

The Cato Institute's "Handbook for Congress" puts it quite nicely:

> More important than knowing a nominee's "judicial philosophy" is knowing his philosophy of the Constitution. For the Constitution, in the end, is what defines us as a nation.

The Constitution defines the role of the President and the role of the Senate—

The VICE PRESIDENT. The Senator has spoken for 5 minutes.

Mr. REID. Mr. President, Senator KENNEDY used all his time. I ask for an additional minute.

The VICE PRESIDENT. The Senator is recognized.

Mr. REID. Continuing with the quote:

> More important than knowing a nominee's "judicial philosophy" is knowing his philosophy of the Constitution. For the Constitution, in the end, is what defines us as a nation.

The Constitution defines the role of the President and the role of the Senate in the process of selecting lifetime Federal judges. It is a shared responsibility. This administration and this nominee seek to exercise near total power over that process. If there is something unconstitutional afoot in the consideration of Mr. Estrada's nomination, it is that the President seeks to prevent the Senate from exercising its constitutional duty.

Mr. HATCH. Mr. President, I yield up to 5 minutes to the distinguished Senator from Texas.

The VICE PRESIDENT. The Senator from Texas is recognized.

Mr. CORNYN. I thank the Chair.

Mr. President, Daniel Webster once said that "justice is the greatest interest of man on Earth." I cannot help but think of that phrase as I read from today's letter from President George W. Bush, which was previously admitted as part of the RECORD, when he says:

> The Chief Justice warns that the high number of judicial vacancies, when combined with the ever-increasing caseloads, leads to crowded courts and threatens the administration of justice.

It has also long been recognized that "justice delayed is justice denied," and that is exactly what is happening to American citizens throughout this country, while President Bush's judicial nominees are being filibustered and slow boated. The President is being denied his prerogative of choosing his nominees for Federal benches subject to the advice and consent, the proper constitutional role of the Senate, being exercised.

I rise this morning with great concern about the state of our judicial confirmation process, something that Senator SPECTER and others have commented on. They have called for reform, for a fresh start, and I believe that is called for.

The Constitution makes clear that the President appoints judges with the advice and consent of the Senate. It has long been established, by constitutional text, by Senate tradition, and by Supreme Court precedent, that that means a majority of the Senate. But today, a bipartisan majority of the Senate is being denied the opportunity to vote on Miguel Estrada, by a minority that is intent on changing the rules, applying a double standard, and denying Miguel Estrada an up-or-down vote in this Chamber.

Somehow, this process has disintegrated to the point where a partisan minority of the Senate will not even allow a bipartisan majority to vote. This, of course, is not what the Constitution says or what the Founders had in mind. Our Founders never intended that the judicial confirmation process would become so poisonous as it has today.

This filibuster, this act of preventing a bipartisan majority from expressing its consent to Mr. Estrada's nomination, is, as we have heard, without precedent.

I could not help but think also about last year's debate over the confirmation of another nominee of President Bush, someone with whom I served on the Texas Supreme Court, and that is Justice Priscilla Owen, who will come up again this Thursday for another hearing in the Senate Judiciary Committee.

Some people during that process criticized the Texas system of electing judges, one that has been established in our constitution since Reconstruction and which also is replicated in the constitutions of other States.

Justice Owen has, as I have, long been an advocate for reforming the way in which Texas selects judges. But, Mr. President, whatever the problems the various States may have in their judicial selection systems, nothing—absolutely nothing—compares to how badly broken the system of judicial confirmation is here in Washington, DC.

In Texas, at least, the people are given a choice of judicial nominees and there is an opportunity for debate and discussion and, at long last, there is a vote. Whatever you can say about the process, we always get there. We always hold a vote.

Somehow we have lost our way in the Senate. When the President nominates individuals of high caliber to serve the American people through an appointment to the Federal bench, and bipartisan majorities of the Senate stand enthusiastically ready to confirm those individuals, the process of confirming these highly qualified nominees is simply obstructed.

As I say, I have long believed we need a fresh start, as articulated by others, to the judicial confirmation process, and the first step would be to bring this fine judicial nominee, Miguel Estrada, to a vote. It has already been too long. It is time to vote.

I yield the floor.

The VICE PRESIDENT. Who yields time?

Under the previous order, the Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I thank the Chair.

Mr. President, this is a curious situation: A person with an extraordinary background, Miguel Estrada, coming to the United States as an immigrant with limited knowledge of English, in a few years rises to the top of the Harvard Law School; he then goes on to work in the Solicitor General's Office dealing with Supreme Court decisions, working in the Department of Justice at the very highest levels.

It is an extraordinary story of personal achievement, academic achievement, and professional achievement. That is why the conduct of Miguel Estrada during this confirmation process has been so puzzling.

I believe he has received bad advice. I think the people at the Department of Justice who said to him, whatever you do do not answer questions directly, they were not fair to Miguel Estrada.

When you consider the questions which he refused to answer, these were not unreasonable questions. My colleague and friend from Alabama, Senator SESSIONS, regularly asked Democratic nominees the same questions we asked of Miguel Estrada in reference to Supreme Court Justices whom he admired, in reference to Supreme Court decisions with which he agreed or disagreed. No one argued that this was out of bounds or unfair. They said Senator SESSIONS was entitled to ask that of judicial nominees.

I have before me Richard Paez, Marsha Berzon, all of the different Democratic nominees who faced those very questions and answered them, as they should have.

When the same questions were posed to Miguel Estrada, his handlers at the Department of Justice said: Stay away from those questions. Do not answer those questions.

When Senator SCHUMER of New York asked Miguel Estrada about Supreme Court decisions that he would take exception to within the last 40 years, or even beyond, he went on to say:

> I ought not to undertake to, in effect, hold the Court to task for the purpose of having gotten something wrong when I haven't been in their shoes in the sense of having had access to all of the materials, argument, research, and deliberation that they had.

He ducked the question, a question so basic that a law student in a constitutional law course would answer that question. But Miguel Estrada refused. And that raises another question. I think he has received poor advice from the White House, because the White House has said that he cannot produce for us documentation that really tells the story of his legal views, documentation that has been presented by many nominees. They have said, no, we are stonewalling it; we are not going to release that information to Congress. So now Miguel Estrada is stalled in the Senate because he has refused to cooperate in the questioning, refused to produce the documents, refused to answer basic questions which Republican Senators asked time and again of

Democratic nominees, fair questions, reasonable questions.

This last weekend, I went to Alabama. It was my first visit to that State ever. I went with a group known as Religion in Politics, with Congressman JOHN LEWIS and Senator SAM BROWNBACK, to visit in Montgomery, Selma, and Birmingham, the sites of some of the most dramatic historic events in the civil rights movement in America. It was something to stand on Edmund Pettus Bridge in Selma with JOHN LEWIS on Saturday near the 38th anniversary of that march, at the exact spot where he was beaten down, hit in the head, suffered a concussion. JOHN LEWIS said to me: There never would have been a Selma to Montgomery march were it not for the courage of one Federal district court judge, Frank Johnson. Frank Johnson, a Republican appointee under the Eisenhower administration, stood up for what was right in the civil rights movement. With his courage, he not only had death threats on a regular basis, his mother's home was fire bombed. This man had the courage to stand up for the right thing.

When he passed away, Senator HATCH was right to introduce a resolution honoring Frank Johnson for his courage, saying that he had the courage to stand up against Plessy v. Ferguson, separate but equal. He had the courage to argue for one man one vote before its time had come.

I put that experience in the context of this conversation. This is not a routine decision. This is not another thing that the Senate should consider as part of some process that really we do not have to dwell on. We are appointing men and women to positions on the bench where they can make historic decisions. Frank Johnson did.

The court that Miguel Estrada aspires to is an even higher court, the second highest court in the land. Would it not have been reasonable for Miguel Estrada to have said that he disagreed with Plessy v. Ferguson, the basis of segregation in America for almost 100 years? He refused, and that is why his nomination languishes.

I yield the floor.

The VICE PRESIDENT. The Senator from Utah.

Mr. HATCH. I yield 4 minutes to the distinguished Senator from South Carolina.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, I have been in the Senate now for a couple of months at most—it seems longer—and I am bearing witness to a change in the Constitution I never envisioned I would be a witness to.

The minority on the other side, not all of them because some of them voted to allow Miguel Estrada a vote up or down, are, in effect, changing the Constitution. We can have an academic debate whether it is legal or not, but there are five situations in the Constitution where the Framers required a supermajority vote. Confirming a judge was not one of them. We are witnessing and we are part of a change to our Constitution by the fact that they are filibustering this judge requiring 60 votes to confirm a judge.

Why is this happening? What is going on? It is not about the way questions were answered. It is not about getting memos that no Solicitor General would allow to be released on their watch, Democrat or Republican. This is a calculated effort by our friends on the other side post-2002 election to go after our President.

They had a meeting before Miguel Estrada had a hearing, and their meeting was about: You are laying down too much for President Bush. You need to stand up to him.

They made a calculated decision to stand up to him by going after his judges. They are, in effect, changing the Constitution, and this is wrong. It is wrong politically and it is wrong constitutionally. Whether it is illegal, I do not know, but I know it is going to hurt our country and history will judge us poorly for allowing this to happen.

This is an effort to go after the President in a way that no other party has ever gone after a President before, and we will pay a price as a nation if this is successful.

I know my colleagues are better than this. I know they are capable of doing better than this because I can read what they said on other occasions when the shoe was on the other foot.

When I came to the Chamber a few minutes ago, the Senator from Massachusetts was giving us a history lesson about the role of the Senate and the President in confirming judges. This is what he said on March 7, 2000: Over 200 years ago, the Framers of the Constitution created a system of checks and balances to ensure that excessive power is not concentrated to any branch of the Government. The President was given the authority to nominate Federal judges with the advice and consent of the Senate. The clear intent was for the Senate to work with the President, not against him, in the process. In recent years, however, by refusing to take timely action on so many of the President's nominees, the Senate has abdicated its responsibility.

He was right then. He could see at that moment the problems that were being created for this country if we overly played politics with judicial nominations. He is wrong today because he is blinded by the politics of 2002.

We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues do not like them, do not like their answers, do not like the way they are behaving, do not like the advice they are getting—I am adding this now—vote against them, but give them a vote. That was Senator KENNEDY, February 3, 1998.

If Senators want to vote against somebody, vote against them. I respect that. State their reasons. I respect that. But do not hold up a qualified judicial nominee.

Senator LEAHY said: I have stated over and over again on this floor that I would object and fight against any filibuster on a judge, whether somebody I opposed or somebody I support. I thought the Senate should do its duty by giving them a vote.

They were right then. They could see clearly.

Mr. LEAHY. The Senator happened to mention my name. I ask if the Senator will yield?

Mr. GRAHAM of South Carolina. Yes.

Mr. LEAHY. Would the Senator be willing to state the whole quote? He has left out a very significant part in that quote. Is he willing to put the whole quote, the accurate quote?

Mr. GRAHAM of South Carolina. Absolutely.

The VICE PRESIDENT. The time has expired.

Mr. GRAHAM of South Carolina. I will be glad to do that. Could I, in turn, ask the Senator a question?

The VICE PRESIDENT. The Senator's time has expired.

Who yields time?

Mr. HATCH. I will yield time for the question.

Mr. GRAHAM of South Carolina. Is Senator LEAHY willing to answer my question?

Mr. LEAHY. Mr. President, whose time is this on?

The VICE PRESIDENT. The time of the Senator from Utah.

Mr. LEAHY. Is the Senator from North Carolina going to answer the question I asked him? Is he willing to read the whole quote? The Senator from South Carolina.

Mr. GRAHAM of South Carolina. South Carolina.

Mr. LEAHY. I beg your pardon. I apologize. Will the Senator from South Carolina be willing to read the whole quote?

Mr. GRAHAM of South Carolina. Absolutely. Rather than taking the time, I will put it in the RECORD.

Mr. LEAHY. If the Senator would read the whole quote in context, I am happy to answer any questions he has. If he is unwilling—

Mr. GRAHAM of South Carolina. Absolutely, I will. I do not have it, but if somebody will give it to me.

Mr. LEAHY. It is obvious that the Senator from South Carolina did not have the whole quote or he would not have quoted me out of context so badly.

The VICE PRESIDENT. The additional time of the Senator from South Carolina has expired.

Who yields time? Under the previous order, the Senator from New York is recognized.

Mr. HATCH. I yield time for the distinguished Senator from South Carolina to complete his question, and I hope the distinguished Senator from Vermont will answer his question.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. I do not want to misquote the Senator. I do not want to put words in his mouth. I do not want to take one part of his quote to suggest it means something that it really does not.

My question simply put: In June 1998, was the Senator trying to tell the Senate that it is wrong to filibuster a judge?

Mr. LEAHY. Mr. President, am I responding on the time of the Senator from Utah?

The VICE PRESIDENT. The Senator is correct.

Mr. LEAHY. If the Senator would read the whole quote, he would understand I was talking about the anonymous holds on Judge Sotomayor, and anonymous holds were being used as a filibuster. I made that very clear in that statement.

Interestingly enough, even though we have corrected the record a number of times on the floor, pointing out when that misstatement has been made, apparently those were times when the distinguished Senator from South Carolina was not on the floor.

The VICE PRESIDENT. The time of the Senator is expired. Under the previous order, the Senator from New York is recognized for 5 minutes.

Mr. SCHUMER. Mr. President, I am so glad to see so many of my colleagues in the Chamber today, although I wish they were here to debate the issues the American people are asking us about. What is happening with the impending war in Iraq? How will we pay for it? What is happening with stimulating the economy? What are we going to do to have average working men and women gain jobs? We have lost 2 million jobs.

Let the record show the reason we are not talking about those issues and we are continuing to talk about Mr. Estrada is that is what the Republican majority wants to do.

Mr. Estrada has a job. I think he probably gets paid a very nice salary, and he deserves it. But what about the 2 million Americans who do not have jobs, who have lost jobs since President Bush became President? Why can't we be debating that issue? I urge my colleagues to start talking about that and how we will stimulate the economy; and to start talking about how we will gain more allies in our struggle with Iraq; and to start talking about how we will pay for postwar Iraq.

It is at the insistence of my colleagues that we continue to debate this issue, although we have reached an impasse. We are not going to yield on something we think is a constitutional principle. We can sit here and debate and debate and debate, but you will not change anyone's voting. The reason is very simple. The reason is we believe sincerely and firmly this is not about any one individual, but this is about the constitutional process of advise and consent. This is about learning what potential judges think before they go to the bench to make decisions that affect our lives for a generation. We are entitled to do that. That is what the Founding Fathers intended, it is clear.

In the first nomination to the Supreme Court, where many of the original Founding Fathers who wrote the Constitution were present, Mr. Rutledge, the nominee of President Washington, was turned down because they did not agree with his views on the Jay Treaty.

The other side wanted debate; when they had nominees, they questioned. People asked, what is the difference? My colleagues on the other side knew Judge Paez's record and they knew Judge Berzon's record, and they chose to vote against him. That is fair. We all let ideology enter into the way we vote. Those who deny it are being less than candid. Otherwise, the votes would be sprinkled evenly between Democrats and Republicans.

When the other side was there, let me read a quote from Senator HATCH, a man I greatly respect and regard as a friend.

> The careful scrutiny of judicial nominees is one important step in the process, a step reserved to the Senate alone . . . I have no problem with those who want to review these nominees with great specificity.

My colleagues on the other side of the aisle, we are simply carrying out what Senator HATCH said was perfectly appropriate, what he had no problem with. We have not learned anything about Miguel Estrada's views with great specificity. And what we fear—and you will regret it if there comes a Democratic president—is that nominees will refuse to answer all questions, as Miguel Estrada did, and they will have no track record, and Presidents will endeavor to find people who have no known views when they nominate them to the bench.

My guess is the White House knows Miguel Estrada's views. My guess is they carefully researched it. When it comes time to make those views public, part of the constitutional process, we are denied that right by a nominee who stonewalls and does not answer the most obvious questions, and by a White House that will not release documents that have been released—in the cases of Mr. Bork, Justice Rehnquist, Mr. Civiletti, and Mr. Reynolds. All of them released the same documents the White House refuses to release now.

I ask the American people, ask yourselves a question, my friends. Why are they so afraid to reveal Miguel Estrada's record? If he proves to be a mainstream conservative, he will pass this Chamber. I have voted for over 100 of the 110 nominees. I disagree with most of them, but I don't think they are out of the mainstream, and the President deserves some benefit. But if Mr. Miguel Estrada's record shows he is so far beyond the mainstream that he will try to make law from the bench and not interpret the law, which those who are on the far left and far right tend to do, he should not be made a judge. The bottom line is, we have no way of answering that question until we follow Senator HATCH's mandate.

Mr. WARNER. Will the Senator yield?

The VICE PRESIDENT. The time of the Senator has expired.

Mr. WARNER. I ask if the manager will give me a minute or two?

Mr. REID. Will the Senator from Virginia yield so we can enter into a unanimous consent request?

The VICE PRESIDENT. Who yields time?

Mr. REID. Mr. President, I ask unanimous consent debate on this matter be extended until the hour of 12:50 with the time equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I yield to the Senator from Virginia.

Mr. WARNER. I say to my colleague—

Mr. SCHUMER. I am delighted to yield for a question.

Mr. WARNER. You brought up the history of Rutledge. I discussed this at length last night on the Senate floor.

Mr. SCHUMER. Mr. President, that is on the time of the Senator from Utah.

Mr. WARNER. You brought up the very important case of George Washington's nomination, Rutledge, who had been a constitutional Framer, and his colleagues in this Chamber, some of whom were constitutional Framers, turned him down, correct—but they did it by a vote. Am I not correct on that?

Mr. SCHUMER. You are correct.

Mr. WARNER. That is the essence of what we are trying to establish here, namely that a vote is what the Framers envisioned when they put in the supermajority, as the Senator from South Carolina put it. They did not put a supermajority in for nominations, the concept being that the President and the Senate would work together. Otherwise, the President could thwart the process by putting no one up for judicial nomination, thinking that the Senate would be arbitrary, and the Senate could arbitrarily, as I think we are doing now, turn them down.

As I mentioned last night on the Senate floor, unless we work together under the doctrine of checks and balances, which is inherent in the Constitution, we could thwart the ability of this Nation having any Federal judiciary.

Mr. SCHUMER. If I might answer briefly, my colleague.

Mr. HATCH. On your own time.

Mr. SCHUMER. I was asked a question.

The VICE PRESIDENT. The time of the Senator has expired. Who yields time?

Mr. LEAHY. I yield 1 minute to the Senator.

Mr. SCHUMER. If I might answer my good friend from Virginia, I have tremendous respect for his integrity.

Yes, there was a vote on Mr. Rutledge—after he revealed his views on the Jay Treaty and other issues. Of course, we should have a vote on Miguel Estrada. I don't disagree with that. But not until we know how he feels on the vital issues of the day.

How does he feel about the first amendment? How does he feel about the commerce clause? Does he believe, like some on the bench, that the commerce clause has been expanded too broadly and we ought to go back to regulation by the 50 States?

I have no idea, I say to my friend from Virginia. I have no idea of how he feels.

Mr. LEAHY. I yield one more minute to the Senator.

Mr. SCHUMER. I have no idea how he feels about the first amendment or about the 11th amendment, and the balance between the Federal Government and the States, the very issues the Founding Fathers wanted us to know.

The judiciary, and I know my colleague knows this, is the one nonelected branch of the government. The advice and consent clause——

Mr. HATCH. I can speak for Mr. Estrada. I know he feels very good about the first amendment. All of us do. I don't think that is the question.

The Senator has a right to ask written questions and meet with him personally to ask how he feels about something. I am sure he feels very good about him.

The VICE PRESIDENT. Who yields time?

Mr. SCHUMER. Mr. President, may I have 1 minute?

Mr. LEAHY. I yield an additional 1 minute.

The VICE PRESIDENT. The Senator from New York is recognized.

Mr. SCHUMER. If Mr. Estrada feels good about the first amendment, I ask my colleague, why can't he tell us? And why can't he elaborate? What does he feel about Buckley v. Valeo, a case we debated here for a long time? It is a past case. How far does he feel the first amendment ought to go?

It is certainly not good enough, not only for the Senators but for the American people to hear my friend from Utah say he feels good about the first amendment, I say to my colleagues, or the second, or the fourth, or any of the other vital amendments.

I say to my colleagues, this is not a laughing matter. This is serious stuff about the one nonelected branch of Government.

The Founding Fathers wanted, in the advice and consent process, serious questions. Just as Senator HATCH said, it was a part of the process to ask those questions when President Clinton's nominees were before us. What is good for the goose is good for the gander. I yield.

The VICE PRESIDENT. The Senator from Utah.

Mr. HATCH. I yield up to 3 minutes to the Senator from Missouri.

Mr. TALENT. Mr. President, I want to place this debate in historical context. The tradition of the Senate has been to confirm judicial nominations of the President if the nominees were competent, if they were qualified, if they were honest, if they had a record and background in the law, in the practice of law or on the bench or in academia, that suggested they could live up to the standards of the judiciary. If they did, they were confirmed and confirmed without having to answer questions that nobody ever has had to answer and would usurp and undermine the executive branch and the Solicitor General's Office if they had to answer it. Under those standards, hundreds of people in Miguel Estrada's circumstances have been confirmed without even any controversy, much less a filibuster, and everybody here knows it.

You can always invent a reason to be opposed to somebody. Senators on the other side have been good at doing that with regard to Miguel Estrada, but he ought to be confirmed. At least he ought to have a vote, if we are going to follow the traditions of the Senate.

Now those traditions have broken down to the point we not only are voting not to confirm people, we are not even allowing a vote. We have Senators conducting a filibuster on somebody because they suspect they might disagree with his jurisprudence.

What is it we are so afraid Miguel Estrada might believe; a man who went to Harvard Law School, was an editor of the Law Review, served in the Solicitor General's Office, has been given high marks by everybody who has ever supervised him? Of course he is in the mainstream.

In the past, we gave people the benefit of the doubt. We don't have time, with every judicial nominee, to go through everything they might believe about every particular judicial issue. The fact is, if we were applying the traditions of the Senate, or anything close, this man would be confirmed and we could move on. Now we cannot even get a vote, and everybody here knows that.

The Senate is broken. It is broken at a time where we may be going to war. The economy is in trouble. Of course we need to move on. I hear Senators from the other side saying we should not be debating this, we should be moving on. Yes. Exactly. But you can't stand up and conduct a filibuster and then say you are not obstructing. You are. Let us have a vote on this man. He will probably carry. Other nominees we have votes on may not carry. Let's get the Senate working together.

It is not the end of the world if somebody gets on the court of appeals that you don't like. He is not going to change the Constitution. He is on the court of appeals. Let's vote on him and let's move on.

What concerns me is something to which the Senator from New York referred. I am concerned that a few years from now a Democratic President may get elected and he is going to start nominating people and we are going to get back on this, except from this side of the aisle. It would be wrong.

I have three kids. They are 12, 10, and 6.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. TALENT. Can I have another minute to talk about my family?

Mr. HATCH. I grant the Senator 1 more minute.

The VICE PRESIDENT. The Senator is recognized.

Mr. TALENT. I appreciate it. Sometimes I go down to our little rumpus room and they are arguing about something, and the one thing I tell them I don't want to hear is: They started it. He started it.

There is a code of conduct to which you should adhere. Let's adhere to it. That is in the interest of this Senate. It is in the interests of the Constitution and the interests of the people. What must the people think when they see us doing this on an appellate court nomination? I ask my friends from the other side of the aisle, I know it was done—not to this extent but from this side of the aisle—to some of President Clinton's nominees. Let's go back to the standard we always followed. Let's make the Senate work. Let's keep it from being broken.

I thank the Senator for yielding.

The VICE PRESIDENT. Who yields time? The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, how much time is available to both sides?

The VICE PRESIDENT. The majority has 10 minutes 13 seconds; the minority, 14 minutes 11 seconds.

Mr. LEAHY. I thank the distinguished Presiding Officer.

I welcome the distinguished Presiding Officer to the Senate today in his capacity as President of the Senate. It is not often we see the Vice President in the chair of the Senate. With the U.N. Security Council meeting today, the OPEC meeting, the unsettled and threatening circumstances in so many parts of the world from the Middle East to the Korean peninsula to Iran and Iraq, we should feel very honored that the Vice President would take time out of his schedule related to those kinds of issues to be with us today.

I hope he will come back to the Senate when we debate the disastrous economic situation in the country, the loss of 2.5 million jobs in the last 2 years following 8 years of a million new jobs being added every year, or the 300,000 lost last month.

I know Senator DASCHLE sought for weeks to proceed to debate on S. 414, the Economic Recovery Act of 2003, which among other things includes the First Responders Partnership Grant Act, something that we could use in Vermont and Utah and Wyoming and everywhere else, but the Senate Republican majority has blocked debate and action on the Economic Recovery Act.

So, today, instead of debating the international situation, the need to pass an economic stimulus package, the need for an increased commitment to homeland defense, the need for legislation to provide a real prescription drug benefit for seniors or the many other matters so deeply concerning Americans, Republicans are insisting on returning again in some form to debate the nomination of Miguel Estrada.

I wonder if I might have order, Mr. President?

The VICE PRESIDENT. The Senate will be in order.

Mr. LEAHY. I note that what has impeded a Senate vote on the Estrada nomination has been the political game being played by the White House with this nomination. It is part of an effort to pack the Federal courts.

In many ways, the debate has been in the hands of the White House. This is a debate that could have ended at any time the White House wanted it to end. We wonder, is there something in Mr. Estrada's writings that the White House doesn't want us to see? The White House could have long ago solved this impasse by letting the Senate have access to Mr. Estrada's memos, especially since Mr. Estrada said he is perfectly willing to have us see those memos. We have plenty of questions we wanted to ask about it but we have to have the paperwork. He told us even though he said under oath he is willing to let us see it, the White House told him he could not.

So really this debate is in the control of the White House, not in the control of the leaders of the Senate. Past administrations provided legal memos in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Benjamin Civiletti, and this administration actually provided White House Counsel's office memos of its nominee to the EPA.

Our request for his memos was made nearly one full year ago, Mr. President. The White House also could have helped resolve this impasse through instructing the nominee to answer questions about his views at his hearing, to act consistent with last year's Supreme Court opinion by Justice Scalia in a case the Republican Party won to allow judicial candidates to share their views, and to stop the pretense that he has no views. The White House is using ideology to select its judicial nominees but is trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them.

Instead, it appears that the Senate Republican majority, at the direction of the White House, chose to extend this debate because its political operatives hope to use it to falsely paint those who will not be steam rolled as somehow being "anti-Hispanic." The Republicans' resort to partisanship regarding this nomination disregards the legitimate concerns raised by many Senators as well as by respected Hispanic elected officials and Hispanic civil rights leaders. Moreover, the Republican approach and the President's approach has been to divide: to divide the Senate, to divide the American people and, on this particular nomination, to divide Hispanic Americans against each other.

That is wrong. It is wrong because the President campaigned on a platform of uniting, not dividing. It is wrong because our country needs us to build consensus and work together, especially in these most challenging times.

Instead of bringing up legislation that could unite us or setting aside time for debate on the international and domestic challenges our country is facing, the Republicans have again returned to the nomination of Mr. Estrada and they have set aside an hour and one-half this morning for a constitutional debate. Many Democratic Senators have already spoken about the Senate's proper role in the confirmation process under the Constitution. I recall, in particular, statements by Senators DASCHLE, REID, BINGAMAN, BOXER, CLINTON, CORZINE, DODD, DORGAN, DURBIN, EDWARDS, FEINGOLD, FEINSTEIN, HARKIN, JOHNSON, KENNEDY, KOHL, LAUTENBERG, LEVIN, MIKULSKI, SARBANES and SCHUMER, among many others.

What is disconcerting about the recent debate is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our federal courts. I fear, Mr. President, that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an executive administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution so as to expand presidential power.

In the time set aside by the Republican majority for this debate today, I welcome the opportunity to shed light on the fiction that cloture votes, extended debate, and discussion of the views of nominees are anything new or unprecedented. What I do find unprecedented is the depths that the Republican majority and this White House are willing to go to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading our Constitution in isolation from its history and the practices that have endured for two centuries, in order to suit their purposes of the moment.

A few years ago, when Republicans were in the Senate minority and a democratically elected Democratic President was in the White House, columnist George Will, for example, had no complaint about a super-majority of 60 votes being needed to get an up or down vote on legislation or nominations proposed by the President. In fact, reflecting Republican sentiment at the time, what he said in his defense of the Republican filibuster of President Clinton's proposals, was the following:

> The Senate is not obligated to jettison one of its defining characteristics, permissiveness regarding extended debate, in order to pander to the perception that the presidency is the sun about which all else in American government—even American life—orbits.

This is from the Washington Post on April 25, 1993. It apparently did not trouble him or other Republicans when they were in the Senate minority that the Constitution expressly requires more than a simple majority for only a few matters. In fact, Mr. Will wrote: "Democracy is trivialized when reduced to simple majoritarianism—government by adding machine. A mature, nuanced democracy makes provision for respecting not mere numbers but also intensity of feeling."

Of course, that was in 1993 and President Clinton's proposals and a Democratic Senate majority were being contested by Republican filibusters. What is different a mere 10 years later? Just that the parties have switched roles and this year Democrats are in the Senate minority and a Republican occupies the White House. I ask unanimous consent that a recent article by Edward Lazarus that critiques Mr.

Will's new position be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Washington Post, Apr. 25, 1993]

## GEORGE WILL, MIGUEL ESTRADA, AND THE CLOTURE VOTE: HOW WILL'S FLIP-FLOP OF POSITIONS ILLUSTRATES THE INCREASING COLLAPSE OF THE POLITICS/LAW DISTINCTION

(By Edward Lazarus)

The flurry over Miguel Estrada's controversial nomination to the U.S. Court of Appeals for the District of Columbia continues on. So does the Senate Democrats' filibuster to stop Estrada from being confirmed.

Meanwhile, a rarely-invoked Senate Rule on the cloture vote has once again become a hot political football. Senate Rule XXII requires 60 votes of the Senate's 100 to stop debate, and break a filibuster.

Rule XXII's constitutionality is debated. Some believe that votes must be by a simple majority of 51, not a supermajority of 60, except in the limited cases in which the Constitution imposes a different rule.

Attorney Lloyd Cutler has put the argument as follows: "The text of the Constitution plainly implies that each house must take all its decisions by majority vote, except in the five expressly enumerated cases where the text itself requires a two-thirds vote: the Senate's advice and consent to a treaty, the Senate's guilty verdict on impeachments, either house expelling a member, both houses overriding a presidential veto and both houses proposing a constitutional amendment."

It's an interesting argument. Even more interesting is that the high priest of conservative columnists, George F. Will, has, over time, taken both sides of it—first attacking it, and now recently embracing it.

What spurred Will's change of mind? Sadly, it seems to be purely politics. That would be fine if it were an issue of policy, and politics. But it's not: It's an issue of constitutional law, which is supposed to have an answer deriving from history and precedent—an answer that transcends politics.

### GEORGE WILL'S FLIP-FLOP ON THE CLOTURE VOTE

Will, a historian of sorts, frequently opines on legal and constitutional issues. He generally holds himself out, as most commentators do, as an honest broker of ideas, albeit a broker with a distinct perspective.

In that role, Will has twice addressed the issue of Rule XXII.

The first time was in 1993. At the time, Democratic stalwarts, such as Cutler, were challenging Rule XXII. They feared that, despite Democratic majorities in both the House and Senate, Republicans would use the filibuster to frustrate the agenda of the new Democratic president, Bill Clinton.

At the time, Will took Cutler to task for his doubts about the constitutionality of Rule XXII. He complained that taking issue with the Rule was "institutional tinkering" that "would facilitate the essence of the liberal agenda—more uninhibited government." And he took direct aim at Cutler's argument about the Rule.

Specifically, Will argued that the five instances of supermajority votes listed in the Constitution were the only time supermajority votes could be used for externally-oriented legislation—"the disposition by each house of business that has consequences beyond each house, such as passing legislation or confirming executive or judicial nominees." However, "procedural rules internal to each house," according to Will, "are another matter." And in that sphere, a supermajority cloture vote was fine.

Indeed, Will pointed out, history supports this view: "[T]he generation that wrote and ratified the Constitution—the generation whose actions are considered particularly illuminating concerning the meaning and spirit of the Constitution—set the Senate's permissive tradition regarding extended debate. There was something very like a filibuster in the First Congress."

Fair enough. Until one reads the column Will published last week in The Washington Post regarding the Estrada nomination. Here's what Will has to say now (with emphases added):

"The president, preoccupied with regime change elsewhere, will occupy a substantially diminished presidency unless he defeats the current attempt to alter the constitutional regime here. If at least 41 Senate Democrats succeed in blocking a vote on the confirmation of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit, the Constitution effectively will be amended."

If Senate rules, exploited by an anti-constitutional minority, are allowed to trump the Constitution's text and two centuries of practice, the Senate's power to consent to judicial nominations will have become a Senate right to require a 60-vote supermajority for confirmations. By thus nullifying the president's power to shape the judiciary, the Democratic Party will wield a presidential power without having won a presidential election.

Wait a second. So Will now agrees with Cutler? And not only that, he reads both the Constitution's text and "two centuries of practice" relating to filibusters entirely differently than he once did? What's prompted his change of mind? And doesn't he owe Cutler an apology?

Obviously, conscientious commentators do change their views when they re-examine them and find them in error. I am no fan of a "foolish consistency" in such matters. But this kind of change of mind—without explanation or apology—is quite troubling.

Also troubling is the fact that Will's close analysis of the Constitution and the First Congress's proceedings, so important to him in 1993, is entirely missing here. And his venom—once directed at Cutler—now draws on Cutler (without attribution) instead. Only one conclusion seems possible: This is an exquisitely brazen example of intellectual flip-floppery that has nothing to do with law or the Constitution, or American history, and everything to do with conservative politics.

### WHAT THE FLIP-FLOP MEANS FOR WILL, AND FOR ALL OF US

The flip-flop is an embarrassment to Will and his reputation. Sadly, it may also be more than that as well. I fear that Will's adventure in hypocrisy is emblematic of what may well be the worst truth in American political discourse: nothing is shameful anymore. And no sense of integrity—an integrity that transcends politics—remains.

It seems especially ironic (or perhaps appropriate) that Will should come to represent this problem. After all, he—and commentators of his ilk—have spent the last decade or two bemoaning the rise of moral relativism in our society. They mourn the death of "shaming" as an instrument of behavior modification for politicians and citizens alike.

In the culture wars, Will and others like him have been the army defending such concepts as objective truth and personal responsibility. They have been the ones saying there is a right thing to do, independent of politics, independent of the times. They have carried the banner of integrity, in short. Now it's plain, though, that Will has torn up that banner even while pretending to uphold it.

I confess that I'm a sucker. I believe in these kinds of things—integrity, truth, certain absolute moral values, a right thing to do. Maybe it's all that Plato I read in college. I've always believed there is such a thing as a "true" answer (even if we cannot know it with certainty), and that there are ways of discerning better from worse, whether in argument or music or literature.

Nowhere did these beliefs seem to be more important than in the field of law. Courts wield great power to shape the social order and control the destiny of individuals. Their integrity rests ultimately on the belief that their decisions are not merely just that—exercises of power—but are, in addition, principled attempts to discern the proper meaning of the law. And the idea that there is a "proper meaning" in the first place, in turn presumes a universe that recognizes a genuine ability to choose better arguments over weaker ones, regardless of what one thinks of the results the arguments lead us to.

In according with these principles, I've critiqued legal reasoning even when I agree with its result, if I've felt the reasoning itself was flawed. For instance, though I support abortion rights, I've expressed strong qualms about Roe.

Now, however, it seems integrity is being radically redefined, as pure loyalty—fealty to the party, the political beliefs, the results that one prefers. Lying in the service of a cause has become, in some circles, honorable to do.

### CHANGING TIMES HAVE USHERED IN A NORM OF INTELLECTUAL DISHONESTY

Intellectual dishonesty is pure poison to the enterprise of the law. Yet countless examples show intellectual dishonesty has now become a routine, expected part of American discourse. The most obvious half-truths and hypocrisies are greeted with shrugged shoulders and a grunt of "what did you expect?"

These dishonesties that we have come to accept too easily range from the non-reasoning of Bush v. Gore, to the logic-defying economic rationale for more tax cuts, to the ever-shifting justification of war in Iraq. And they extend to just about every other significant issue of law and policy that affects American life.

Why does this happen? It cannot be because all the people perpetrating these intellectual frauds are bad people. It's been my experience (limited, I admit) that most people who go into government or devote themselves to a life of public policymaking or intellectualism, do so for the best of reasons—because they want to help shape the world for the better.

Then why? I found a partial answer watching, last night, an old clip of Daniel Ellsberg being interviewed by Walter Cronkite, in the wake of Ellsberg's controversial release of the Pentagon Papers. To paraphrase, Ellsberg contended that our society had become so divided, with each side so bent on perpetuating itself in power, that government and the world around it imposed a sustained and terrible pressure on good people to make a choice. They could either leave that world or, far worse, give up the search for truth, in exchange for the search for victory.

That was more than 30 years ago. Has anything much changed?

Mr. LEAHY. As Mr. Will noted in 1993, one of the key attributes of the Senate is the venerable tradition of extended debate and deliberations. In fact, not until 1917 was there even a provision in the Senate rules to allow for cloture, a procedure by which the Senate acts to cut off debate. The Senate first adopted the cloture rule in 1917. At that time, cloture was limited to and could only be sought on legislative matters. The cloture rule was extended in 1949 to include measures and matters, which includes judicial nominations. Thus, prior to 1949, there was no mechanism to limit debate on nominations, and in fact, disputes over nominations—to the few hundred seats in the federal judiciary—were handled and resolved by Senators behind closed doors.

Earlier in this debate today, one Senator indicated that all prior Supreme Court nominees had been given votes. I will just name a few judicial nominees who were not acted upon by the Senate earlier in American history: John M. Read, nominated by President Tyler on February 7, 1845; Edward Bradford, nominated by President Fillmore on August 16, 1852; Henry Stanbery, nominated by President Andrew Johnson on April 16, 1866; and Stanley Mathews, nominated by President Hayes on January 26, 1881. The facts are that many judicial or executive nominations were defeated in the Senate by inaction or by the threat of a filibuster over the years.

Republicans resurrected and amplified those tactics in the years 1995–2001 to defeat more than 50 of President Clinton's judicial nominees and to delay for years the confirmation of many others. In 1999, only 22 percent of President Clinton's circuit court nominees were confirmed. That was the first time in recent memory that a circuit court nominee was substantially more likely not to be confirmed than to be confirmed. For all of 1999 and 2000, only 44 percent of President Clinton's circuit court nominees were confirmed, making it more likely than not that his circuit court nominees would not be confirmed, unlike the nominees of the prior three Presidents, even during their last years in office. That is why vacancies on the circuit courts more than doubled from 16 in 1995 to 33 when the Senate reorganized in the summer of 2001. That is why this President has had so many circuit vacancies to fill, and he has shown little bipartisanship in his choices. In fact, rather than uniting people with his choices for lifetime appointments, he has sent forward a slate of circuit court nominees that has generated tremendous controversy and division.

In essence, until Republicans had a Republican President, Republicans interpreted the Advice and Consent Clause of the Constitution to allow a handful of anonymous Republican Senators to prevent an "up or down" vote by the full Senate on scores of qualified and moderate, mainstream judicial nominees of President Clinton. Now, when Democratic Senators have expressed genuine concerns about the lack of information regarding Mr. Estrada and have made a well-founded request to see his writings as a public servant, Republicans claim it is wrong and unconstitutional for Senators to act in accordance with Senate rules and tradition and their longstanding role as a check and balance on the President's appointment power.

The disregard for rules and traditions is especially unfortunate when what is at stake in judicial nominations are lifetime appointment for judges who will have the power to change how the Constitution is interpreted and whether civil rights, environmental protections, privacy and our fundamental freedoms will be upheld. With respect to the Estrada nomination, what is at stake is a seat on the second highest court in the country and the swing vote on that important court.

Most of the decisions issued by the D.C. Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country each year. This court has special jurisdiction over cases involving the rights of working Americans as well as the right to a cleaner environment. This is a court where federal regulations will be upheld or overturned, where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty.

This is a court that has vacant seats due to anonymous Republicans blocking the last two nominees to this court by a Democratic President. Those nominees had outstanding legal credentials and qualifications but during President Clinton's last term, the Republican-controlled Senate would not proceed to an up or down vote on either of them.

The word "filibuster" derives from the Dutch word for piracy, or taking property that does not belong to you. Under that ordinary definition, it would be accurate to say that at least two of the vacancies on the D.C. Circuit, for which Republicans blocked qualified nominees, were filibustered, as well. Republicans, who exploited every procedural rule and practice to block scores of Clinton nominees anonymously from ever receiving an up or down vote, now want to change the rules midstream, to their partisan advantage, again so that all of their nominees get votes as quickly as possible. The whole reason this President has so many circuit vacancies to fill is because this was the booty of their piracy, their filibustering of judicial seats that arose during the Clinton Administration while they prevented votes on that President's qualified nominees.

For example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed. Even after the Republican filibuster was broken by a cloture vote to end debate, many Republicans joined an unsuccessful motion to indefinitely postpone his nomination. None of the more than 30 Republicans who voted against cloture in connection with that nomination or who voted in favor of Senator SESSIONS unprecedented motion "to indefinitely postpone" the vote on Judge Paez's nomination, which had been pending for more than 1,500 days, should be heard to complain if Democratic Senators seek more information about this President's nominees before proceeding to a vote for a lifetime appointment.

Senator Bob Smith, a straight talker from New Hampshire, outlined the Senate's history of filibusters of judicial nominees and said:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking "unprecedented" action regarding the circuit court nomination of Mr. Estrada—much like the bogus White House claim that our request for Mr. Estrada's work while paid by taxpayers was "unprecedented"—is simply untrue. Republicans' desire to rewrite their own history is wrong. They should come clean and tell the truth to the American people about their past practices on nominations. They cannot change the plain facts to fit their current argument and purposes.

Back in 2000, Senator HATCH candidly admitted after cloture was invoked on the Paez nomination and Senator SESSIONS made his unprecedented motion to indefinitely postpone any vote on that judicial nomination that Judge Paez's nomination had been filibustered. He said:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

Republicans should not have come to the floor and told the American people over the last month that Democratic Senators had done something unprecedented in debating and opposing the Estrada nomination. They themselves did it quite recently and have done it repeatedly. Let us be honest about this and straight with the American people. Given the time allotted for today's debate, I cannot discuss them all but I will include in the record some of the other examples of Republican filibusters of presidential nominations from the nomination of Justice Abe Fortas to be Chief Justice of the United States Supreme Court through the nominations of Stephen G. Breyer, now Justice Breyer, to the First Circuit; Rosemary Barkett to the 11th Circuit; H. Lee Sarokin to the 3rd Circuit; and Marsha Berzon and Richard Paez to the 9th Circuit.

Even more frequent during the years from 1995 through 2001, when Republicans controlled the Senate majority, were Republican efforts to defeat President Clinton's judicial nominees through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them, Republicans eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes due to the anonymous acts of one or more Republicans.

Beyond the question of judicial nominees, Republicans also filibustered President Clinton's nomination of Dr. Henry Foster to become Surgeon General of the United States. This was an Executive Branch nominee that Republicans filibustered successfully in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nomination also required cloture but he was successfully confirmed.

Other executive branch nominees who were filibustered by Republicans included Walter Dellinger, whose name has been invoked with approval by Republicans during the debate on the Estrada nomination. Mr. Dellinger was nominated to be Assistant Attorney General for the Office of Legal Counsel and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never allowed to be a confirmed Solicitor General because Republicans had made clear their opposition to him.

In addition, in 1993, Republicans objected to State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Sam Brown was nominated to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President Clinton without Senate action. This was another successful filibuster by Republicans, and this was to a short-term appointment to serve in the Executive Branch, not to a lifetime appointment. Also in 1994, Derek Shearer was nominated to be an Ambassador and it took two cloture petitions to get to a vote before he was confirmed. In 1994, Ricki Tigert was nominated to chair the FDIC and it took two cloture petitions to get to a vote and confirmation of that executive nomination.

In addition, some remember Republican unwillingness to allow a Senate vote on the nomination of Bill Lann Lee to serve as the Assistant Attorney General for the Civil Rights Division at the Department of Justice. He told the Judiciary Committee that he would follow the law and enforce the law. He was the choice of the President to serve in that President's administration, but Republicans would not accord him an up or down vote before the United States Senate.

Republicans now claim that extended debate on this nomination is somehow unprecedented. I would point out that we have had a lot of extended debates and cloture votes over the last decade. I lost count of the number of times we had to vote on cloture when President Clinton was making nominations. This chart shows some of the Republican filibusters of nominations, leaving out their filibusters of legislation.

So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, it must be remembered that they recently filibustered several nominees and they succeeded in blocking many nominees by cloture votes and through anonymous holds. Here is a more complete list of recent Republican filibusters:

REPUBLICAN FILIBUSTERS OF NOMINEES

| Year | Nominee and position | Cloture petitions filed |
|---|---|---|
| 1968 | Abe Fortas, Supreme Court | *1 |
| 1980 | William Lubbers, NLRB | 3 |
| 1980 | Don Zimmerman, NLRB | 3 |
| 1980 | Stephen Breyer, 1st Circuit | 2 |
| 1987 | Melissa Wells, Ambassador | 1 |
| 1987 | William Verity, Commerce | 1 |
| 1993 | Walter Dellinger, Justice | 2 |
| 1993 | Five State Department Nominees | 2 |
| 1993 | Janet Napolitano, Justice | 1 |
| 1994 | Larry Lawrence, Ambassador | 1 |
| 1994 | Rosemary Barkett, 11th Circuit | 1 |
| 1994 | Sam Brown, Ambassador | *3 |
| 1994 | Derek Shearer, Ambassador | 2 |
| 1994 | Ricki Tigert, FDIC | 2 |
| 1994 | H. Lee Sarokin, 3rd Circuit | 1 |
| 1995 | Henry Foster, Surgeon General | *2 |
| 1998 | David Satcher, Surgeon General | 1 |
| 2000 | Marsha Berzon, 9th Circuit | 1 |
| 2000 | Richard Paez, 9th Circuit | 1 |

I would note that the Fortas, Brown and Foster cloture votes resulted in effect in the defeat of their lifetime or short-term appointments. Some of these filibusters occurred when the Republicans were in the minority—as with Senator Helms' filibuster of a State Department appointee of President Reagan, and some were while Republicans were in the majority—as with the filibuster of Judge Paez's nomination.

Notwithstanding the recent Republican efforts to filibuster that Hispanic circuit court nominee and their failure to give hearings or votes to three other Hispanic circuit court nominees of President Clinton in addition to other nominees, Republicans have come to this floor and made unfounded attacks against Democrats who have expressed concerns about Mr. Estrada's nomination. It appears the Senate Republican majority, at the direction of the White House, chose to extend this debate because political operatives hope to use it to falsely paint those who were not to be steamrollered as somehow anti-Hispanic. The Republican's approach of crass partisanship regarding this nomination——

Mr. SANTORUM. Mr. President, will the Senator yield for a question? These were not times when Republicans were in charge, is that correct?

Mr. LEAHY. Once I finish my speech I will be glad to yield to questions. I control the floor. Once I have finished my speech I will be glad to.

Mr. SANTORUM. Will he yield for a question?

Mr. SCHUMER. Regular order, Mr. President.

Mr. SANTORUM. I just want to make sure the RECORD is correct because the Senator said Republicans were in charge at that time.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Vermont has the floor.

Mr. SANTORUM. I just want to make sure the RECORD is correct.

Mr. LEAHY. The partisanship regarding this nominee disregards the legitimate concerns raised by many Senators. It is wrong because distinguished Latino leaders, who have spent their lives seeking justice and greater representation of Hispanic lawyers as judges, have been attacked by Republicans for showing courage and honesty in their judgment that this nomination is wanting. Joining the League of United Latin American Citizens, which previously wrote to the Senate disassociating itself with Republican attacks on Democratic Senators, yesterday the National Council of La Raza issued a statement condemning the treatment of Congressional Hispanic Caucus by Republicans. The NCLR statement notes how "deeply offended" it is by Mr. Estrada's supporters calling Congressional Hispanic Caucus members "tyrannical," "racist," and "anti-Latino".

Moreover, the Republican approach and the President's approach have been to divide the Senate, to divide the American people—may I have order, Mr. President? May I have order?

Mr. SCHUMER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Vermont has the floor. He may or may not yield.

Mr. LEAHY. That is wrong. The President campaigned on a platform of uniting, not dividing. It is wrong because our country needs us to build consensus and we should work together especially in these most challenging times. These are the years of Republican filibusters of judicial or executive branch nominees: 1968, 1980, 1980, 1980, 1987, 1987, 1993, 1993, 1993, 1994, 1994, 1994, 1994, 1994, 1994, 1995, 1998, 2000, 2000.

For Republicans to claim that they have never filibustered a circuit court nominee is just incorrect. For them to claim that they have never "successfully" filibustered a lifetime or short-term appointee's nomination is also incorrect. The debate on Mr. Estrada's nomination is important.

I think in the debate on this nomination, this is not a nomination that unites rather than divides. Certainly within the Hispanic community itself, highly respected members of the Hispanic community oppose Miguel Estrada.

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. LEAHY. I would be glad to. Let me finish these comments, and then I will yield on the time of the Senator from Utah.

In this case, it appears to me that the White House really wants to play politics. They could end this debate today if they wanted to. They can make these papers available so that Miguel Estrada can be asked questions based on them. Miguel Estrada has said under oath that he is perfectly willing to answer the questions, but the White House told him he is not allowed to. Once they are willing to, let us have a hearing and then let us go forward on questions based on what is in there.

The administration, however, seems to believe that somehow the Senate is their own unit to be used for whatever type of politicking they want. They renominated Judge Charles Pickering despite his ethical lapses. They renominated Justice Priscilla Owen despite her record as a conservative activist judge and after being rejected by the Judiciary Committee. Both of these nominees were rejected by the Senate Judiciary Committee after fair hearings and open debate last year. Sending these renominations to the Senate is unprecedented. No judicial nominee who has been voted down in Committee has ever been renominated to the same position by the President. The White House in tandem with the new Republican majority in the Senate is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to have the Senate fulfill its constitutional role as a forum for debate and careful consideration of our nation's foreign policy in accordance with the shared power provided in the Constitution. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have here this morning.

Among the consequences of this partisan strategy, of course, what has happened by the Republican scheduling of debate on this nomination is we don't have sufficient time to debate the Iraq situation. We don't talk about war in Iraq even though there is great division in this country. We don't talk about an administration which inherited the largest surplus any administration has ever inherited. The Clinton administration left the largest budget surplus to this administration than any administration ever had, and now Republicans are creating the largest deficit in history. The Clinton administration created a million new jobs a year. This administration is losing a million jobs a year. But if the Republican controlled Senate continues to schedule debate on Miguel Estrada, they will not have to talk about that.

That kind of tells me why they are doing this. Here is the greatest deliberative body in the world, and we don't have a debate on the war in Iraq. The Canadian Parliament does. The British Parliament does. The U.S. Senate does not.

I would be willing to yield to the Senator from Utah on his time.

Mr. HATCH. I will ask the question on my time. Will the Senator answer on his time?

Mr. LEAHY. On the time of the Senator from Utah.

Mr. HATCH. Let me ask the question on my time. I would like the answer on the Senator's time.

As to the number of circuit court of appeals judges, No. 1, who was in charge of the Senate when Abe Fortas was defeated by a filibuster? No. 2, were any of those circuit court nominees defeated by filibuster, or were they all confirmed?

Mr. LEAHY. Mr. President, I will refer to this in my statement. All of these were Republican filibusters and a few times a few Democrats joined with the Republicans in their efforts to block these nominees. Some of the Republican filibusters were successful, and some were not, but they all were filibusters and they all involved cloture petitions. A filibuster is still a filibuster even if it does not succeed in blocking the nominee forever. The Republican filibuster of Judge Paez's circuit court nomination proves that.

I fear that what the Republican majority is trying to do is rewrite Senate history in order to rubberstamp the Federal judicial nominees of this White House and that this will cause long-term damage to the Senate and the courts.

I have served in the Senate for 29 years. I have never seen a President so eager to divide rather than unite. I have never seen such stridency on the part of an executive administration or such willingness as this Senate majority's to cast aside tradition, the rules, and those things that give us a check and balance. It is unfortunate because the country expects more of us.

We see the most deliberative body on Earth—the Senate—not even debating the war we are about to go to in a matter of days, if the news accounts are correct, and we are talking about this because this is the Republican agenda, packing the courts.

In the debate Republicans have insisted upon, a number of fictions have been told. The cloture votes, the extended debate, and the discussion of the views of nominees is not anything new or unprecedented. What is going on here is unprecedented—with the Republican blank slate, no past history, and they think they can do whatever they want to do.

During the time when President Clinton was here and the Republicans were in charge, there were scores of nominees on which we didn't even have a vote. We had anonymous holds by Republicans. We didn't have up-or-down votes. Now, when we express genuine concern, now, when we say why can't Mr. Estrada show us the writings that he has said under sworn testimony he is willing to show us but the White House blocks him from showing us, somehow we are blocking. Maybe it appears that the Republicans like the rules when they are using them, but they don't like the rules when we are using them.

Even though Republicans blocked some Hispanic nominees of President Clinton and scores of others, I must add that the debate on the nomination of Mr. Estrada is not part of any retaliation. We have genuine concerns about his nomination, his answers and the documents we have requested to better understand his unvarnished views. In addition, we worked hard to move quickly on the vast majority of this President's judicial nominations, to demonstrate our fairness and bipartisanship. In just 17 months, the Democratic-led Senate confirmed 100 of President Bush's judicial nominees, even though Republicans averaged only 38 per year. We more than doubled the rate of confirmation. We also held hearings for 20 circuit court nominees and confirmed 17 of them in just 17 months, following on the heels of a Republican average of just 7 circuit nominees confirmed per year, and one year in which they allowed zero circuit court nominees to be confirmed. So, we worked very hard to return the nomination process to a more consistent and steady pace, after the obstruction in prior years. So far this year, 5 judicial nominees of this President have already been confirmed.

The confirmation of 100 judges nominated by this President was not enough for Republicans to be satisfied. They want every one of this President's judicial nominees to be confirmed no matter their ethical record or record of activism or their controversy. They want every judicial nominee on the courts immediately despite the serious concerns raised by Senators and citizens alike. They want to pack the court with many divisive judicial nominees who will tilt the balance of the courts for decades to come.

The fact is, it appears to me, the decision is being made not here in the Senate but by a political arm of the White House.

They have made these controversial appointments despite the recent history of the moderate nominees to these circuits of President Clinton who were blocked. If we use the ordinary definition of filibuster, we could say that at least two of the vacancies on the District of Columbia Circuit were filibustered despite the well-qualified nominees sent up by President Clinton. They were never allowed to be voted on. They didn't make it to the floor. Republicans blocked nominees in a far easier way. They didn't even bring them up. They were nonpersons—almost like the old Soviet Union. When you looked at the picture of the Politburo, you would find out the next year when the picture was shown they were X'd out.

Mr. SCHUMER. Mr. President, will my colleague yield for a question?

Mr. LEAHY. Certainly.

Mr. SCHUMER. How many of these nominees were never brought up even for debate? Does my colleague think it is even worse than trying to figure out what his views are than never having the debate on the floor and never bringing them up and never giving them a chance?

Mr. LEAHY. The Republicans wouldn't allow over 50 of President Clinton's nominees to ever have a hearing or ever have a vote. Many of these individuals were nominated years earlier. We never got to know what the reasoning behind the anonymous Republican holds was. Even when we finally did, for example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed. And even then, we had to vote in favor of cloture to get the up or down vote on his nomination. Fifteen Republicans voted against cloture—after he waited more than 20 months for a floor vote during the four-plus years he was pending before the Senate. In fact, one Republican Senator moved to indefinitely postpone Judge Paez's nomination, even though he had waited for 1,500 days, and 31 Republicans voted in favor of indefinitely postponing that nomination in March of 2000. If they had had the votes they never would have let him be confirmed. Not one Republican came to the floor during the time Judge Paez was waiting for a vote and suggested that the Republican filibuster during any of those 1,500 days was unconstitutional or anti-majoritarian.

In fact, today made me think of this when we have the two distinguished Presiding Officers, the distinguished Vice President and the distinguished Senator from Alabama. The distinguished Senator from Alabama actually objected to the Vice President at that time being in the chair in the closing moments of the debate on Judge Paez's nomination because the executive branch had nominated him and that was a conflict of interest in his view. Of course, Republicans did not make a similar motion today when it was a Republican Vice President in the chair during a debate about a Republican nominee.

Let us just be a little bit honest about what is going on here. This is sauce for the goose and sauce for the gander. And yet this Administration and many Republicans have not acknowledged our effort to turn the other cheek and confirm 100 of this President's judicial nominees in the prior 17 months of Democratic leadership of the Senate. Many of those nominations were to seats that were blocked from being filled during the prior period of Republican control of the Senate.

It cannot be that only the rules Republicans like at the times that they like them are the rules that are followed in the Senate, but more and more that seems to be what the Republican majority is demanding. They should not pretend the rules no longer apply simply because the Republican majority finds them inconvenient, but that is happening more and more in the Senate. Regrettably, it has occurred recently in connection with judicial nominees before the Judiciary Committee, when the Republicans insisted on breaching Rule IV, a longstanding rule of our Committee that allows for extended debate, as well.

I would like to address a most troubling development that demonstrates how Republicans are violating longstanding Senate rules to suit themselves. Two weeks ago in a meeting of the Senate Judiciary Committee, the Chairman unilaterally declared the termination of debate on two controversial circuit court nominations. Senator DASCHLE termed it deeply troubling and a "reckless exercise of raw power by a Chairman," and he is right. The Democratic Leader observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a Chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic Leader noted that faithful adherence to rules is especially important for the Senate and for its Judiciary Committee. He noted "how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law," that it acted in conscious disregard of the rules that were established to apply to its proceedings. If this is what those who pontificate about "strict construction" mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as "strict constructionists" to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench who respect the rule of law? In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

I am gravely concerned about this abuse of power and breach of our Committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the federal judiciary, everyone should be concerned. In violation of the rules that have governed that Committee's proceedings since 1979, the Chairman chose to ignore our longstanding Committee Rules and short-circuit Committee consideration of the nominations of John Roberts and Deborah Cook. Senator DASCHLE spoke to that matter that day. Senator FEINSTEIN, Senator SCHUMER and Senator DURBIN have also spoken to the Senate about this breach of our rules as well as a number of other liberties that Republicans have been taking with the rules.

This protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the Committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican Chairmen had always acted to protect the rights of the Senate minority. The rule has been the Committee's equivalent to the Senate's cloture rule. It had been honored by all five Democratic and Republican chairman, including Senator HATCH, until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get things accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

In fact, the only occasion I recall when Senator HATCH was previously faced with implementing Committee Rule IV, he did implement it. In 1997 Democrats on the Committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice. Then, Senator HATCH acknowledged: "Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right . . . ." In 1997, Chairman HATCH acknowledged: "Absent the consent of a minority member of the Committee, a matter may not be brought to a vote." In that case, in 1997, Chairman HATCH followed the rules of the Committee.

Last month the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override the rule rather than follow it. He did so expressly and intentionally, declaring: "[Y]ou have no right to continue a filibuster in this committee." He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and that debate was, in fact, terminated prematurely. Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the Committee.

In his recent letter to Senator DASCHLE, Senator HATCH now contends that he "does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote." I ask that the exchange of letters between Senator HATCH and the Democratic Leader be included in the RECORD.

Our Committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. It is even that minimum protection that Chairman Hatch will no longer countenance. It is Senator HATCH who has "turned Rule 4 on its head" last month, after 24 years of consistent interpretation and implementation by five chairmen. Never before his letter to Senator DASCHLE has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart what he called "an obstreperous Chairman who refuses to allow a vote on an item on the Agenda." After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after the fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. That novel interpretation was not even articulated contemporaneously at the business meeting.

The Committee and the Senate have crossed a threshold of partisan overreaching to rubber-stamp judicial nominees that should never have been crossed. I urge the Republican leadership to recommit the nominations of Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the Committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee. I urge the Judiciary Committee and the Senate to rethink the misstep taken last month and urge the Chairman and the Committee to disavow the misinterpretation and violations of Rule IV that occurred. Order and comity need to be restored to the Judiciary Committee. An essential step in that process is the restoration of minority rights under Rule IV and recognition of minority rights thereunder.

During the last four years of the Clinton Administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and Committee votes on his qualified nominees to the D.C. Circuit and it refused to give hearings to three Sixth Circuit nominees in those four years as well as to numerous other circuit nominees. Last month, in sharp contrast, this Committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the Committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

In circumstances such as these, when the rights of the minority are being violated and Senate rules and longstanding practices are breached, the minority is left with very few options and very little choice in how it must proceed. This President has been the most politically aggressive and the most unilateralist President I have seen in my 29 years in the Senate in his nominations. The Republican majority is now choosing to abet his efforts at the expense of the Senate minority's rights and the constitutional role of the Senate. That is most regrettable.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Nine minutes, 42 seconds; the other side has 40 seconds.

Mr. HATCH. I would like to correct the RECORD. When all of those circuit court judges were approved and confirmed, during the time when the filibuster occurred on Fortas—the only filibuster which was really a true filibuster—it was bipartisan and the Democrats controlled the Senate.

I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the Senator from Illinois earlier brought up the distinguished late Judge Frank Johnson of Alabama and commended him for doing the right thing. I wanted to remind the Senate of why Judge Johnson was able to do the right thing in desegregating the south. It was because of John Minor Wisdom of Louisiana and John Brown of Texas and Elbert Tuttle of Georgia, who were Republican appellate court judges appointed by a Republican President named Eisenhower at a time in the 1950s when the Democratic side of the Senate was using the filibuster to kill every important piece of civil rights legislation that was proposed in the Senate.

Senator Eastland of Mississippi, Senator Stennis of Mississippi would never have approved Judge Wisdom's nomination or never have agreed with it if they had known that he and Judge Brown and Judge Tuttle would order the admission of James Meredith to the University of Mississippi.

So at a time when these distinguished former Democratic Senators were filibustering every piece of civil rights legislation in the Senate, they didn't even consider filibustering an appellate judge. That way Judge Wisdom, Judge Brown, and Judge Tuttle all were confirmed, and all ordered James Meredith to be admitted.

The relevance of the point of the Senator from Illinois is that today's Democrats, our friends on the other side, are going further than the Democratic filibusters against the civil rights bills in the 1950s. They are denying the President the traditional right to nominate and appoint judges. I don't know what happened in the past, but I know what this one Senator will do in the future. If there is a Democratic President and I am in this body, and if he nominates a judge, I will never vote to deny a vote on that judge. If two or three more Senators on both sides will do the same thing, we could go back to having more respect for our judicial nominating process.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, when the Founding Fathers wrote our Constitution, they said that judicial nominees would be confirmed by the advice and consent of the Senate. Clearly that has always been a majority vote. They specified in the Constitution when a larger vote was necessary, such as treaties, which require two-thirds. In fact, when the 25th amendment to the Constitution was approved by the Senate in 1965, the Vice President of the United States, if appointed, would be required to receive a majority vote of the House and Senate for confirmation. So to say that a judge should require a supermajority is to amend the Constitution without going through the process.

That is what is happening today with Miguel Estrada. We are being required to muster 60 votes. We know we have 55 because we have had a vote now. We have had a cloture vote, and 55 people in the Senate believe Miguel Estrada should be confirmed for the Federal bench. And yet he is not confirmed because we have a higher threshold.

We can't amend the Constitution through a filibuster. We cannot take away the power of the President's appointments that are given in the Constitution with a filibuster. This is different from any other filibuster. A filibuster on an issue is a legitimate tool. But a filibuster on a judicial nominee takes the balance of power and skews it in favor of the legislature over the President's right to have his people appointed to the Federal bench.

The Senate needs to look carefully at the precedent being set. It is not right in a judicial nomination to hold a 60-vote threshold when the Constitution clearly says 51.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, many years ago when the Senate was the Supreme Court's upstairs neighbor in this building, a significant event took place which provides us with a warning. A young Architect of the Capitol wanted to improve the sight lines in the Supreme Court Chamber on the first floor. Calculating that one of the support pillars was unnecessary, he brought in a crew to remove it. Halfway through the project, the ceiling fell in on the Supreme Court Chamber, which was also the floor of the Senate above, destroying both Chambers for a period of time. The lesson is that when you tamper with one branch of Government, it can affect others in a way you cannot anticipate, and any attempt to tamper with the delicate balance of power must be met with suspicion and repelled with conviction.

We are tampering with that balance when we now, through filibuster, require a supermajority to confirm a Federal court of appeals judge.

President Bush did not get all the popular votes or all the electoral votes. The election was decided in an unprecedented manner. But when he was sworn in, he received all the constitutional powers of the Presidency. His ability to be the Commander in Chief is not partial. His ability to sign or veto legislation is not compromised. His ability to submit judicial nominees to this body for an up-or-down vote, something every President has exercised for over 200 years, is in no way limited.

Politics has its place, but not to the extent of stopping a vote on a judge at any and all costs. Let's discuss the merits of this nominee, his qualifications, his judicial temperament, but then let us follow the constitutional process we have followed for two centuries and vote yes or no on advice and consent for the President's nominee to the court of appeals.

For my colleagues who have concerns about Mr. Estrada's answers, or if you didn't like the things he didn't answer, vote against him. But give him a vote. Let's follow the Constitution. Let's not change the constitutional standing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield the remainder of my time to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I am now going to read a June 18, 1998 statement of the Senator from Vermont involving Clarence Sundram and other judges who were subject to discussion on that day:

> If Senators are opposed to any judge, bring them up and vote against them. But don't do an anonymous hold, which diminishes the credibility and respect of the whole U.S. Senate.
>
> I have had judicial nominations by both Democrats and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote.
>
> I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.
>
> If we don't like somebody the President nominates, vote him or her down. But don't hold them to this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators.

My statement is simply this: We are bearing witness to a constitutional change. And having looked at the statement of Senator LEAHY and his present conduct, we are bearing witness to a change on his part. He was right in 1998 to oppose the filibusters. He is wrong today to engage in one.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator for being the first person on his side of the aisle to actually read my whole statement. It is obvious I was speaking of a filibuster by an anonymous hold.

I welcome the Vice President to the Senate today in your capacity as President of the Senate. It is not often that we see the Vice President in the chair. With the meeting of the United Nations Security Council today and the OPEC meeting and the unsettled and threatening circumstances in so many parts of the world, from the Middle East to the Korean peninsula to Iran and Iraq, the Vice President has chosen to be in the Senate this morning. I look forward to seeing him as well if the Senate ever turns its attention to the disastrous economic situation in this country and the loss of more than 2.5 million jobs in the last two years and more than 300,000 last month. Senator DASCHLE and the Democratic leadership have sought for weeks to proceed to debate on S. 414, the Economic Recovery Act of 2003, which includes the First Responders Partnership Grant Act, but the Senate Republican majority has blocked debate and action. This morning, instead of debating the international situation, the need to pass an economic stimulus package, the need for increased commitment to homeland defense, legislation to provide a real prescription drug benefit for seniors or the other matters so deeply concerning Americans, we are returning in some form to debate a nomination that we have debated for over a month and on which cloture was defeated last week.

I note that what has impeded a Senate vote on the Estrada nomination has been the political game being played by the White House with this nomination as part of its effort to pack the Federal courts. The White House could have long ago solved this impasse by honoring the Senate's role in the appointment process through providing the Senate access to Mr. Estrada's legal work—just as past administrations have provided legal memos in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Ben Civiletti and this administration did with a nominee to the EPA—and through instructing the nominee to answer questions about his views—consistent with last year's Supreme Court opinion by Justice Scalia—and to stop pretending that he has no views. The White House is using ideology to select its judicial nominees but trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them.

Instead, it appears that the Senate Republican majority, at the direction of the White House, chose to extend this debate because its political operatives hope to use it to falsely paint those who will not be steam rolled as somehow "anti-Hispanic." The Republican's approach of crass partisanship regarding this nomination disregards the legitimate concerns raised by many Senators as well as by respected, Hispanic elected officials and Hispanic civil rights leaders. Moreover, the Republican approach and the President's approach have been to divide: to divide the Senate, to divide the American people and, on this particular nomination, to divide Hispanics against each other.

That is wrong. It is wrong because the President campaigned on a platform of uniting not dividing. It is wrong because our country needs us to build consensus and work together, especially in these most challenging times. It is wrong because distinguished Latino leaders, who have spent their lives seeking justice and greater representation of Hispanic lawyers as judges, have been attacked by Republicans for showing courage and honesty in their judgment that this nomination is wanting. Joining the League of United Latin American Citizens, which previously wrote to the Senate disassociating itself with Republican attacks on Democratic Senators, yesterday the National Council of La Raza issued a statement condemning the treatment of the Congressional Hispanic Caucus by Republicans. The NCLR statement notes how "deeply offended" it is by Mr. Estrada's supporters calling Congressional Hispanic Caucus members "tyrannical," "racist," and "anti-Latino."

This Administration has also shown disrespect for the concerns of Senators in renominating both Judge Charles Pickering, despite his ethical lapses, and Justice Priscilla Owen, despite her record as a conservative "activist" judge, both of whom were rejected by the Senate Judiciary Committee after fair hearings and open debate last year. Sending these re-nominations to the Senate is unprecedented. No judicial nominee who has been voted down has ever been re-nominated to the same position by any President. The White House in conjunction with the new Republican majority in the Senate is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to have the Senate fulfill its constitutional role as a forum for debate and careful consideration of our Nation's foreign policy. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have here this morning.

Many Democratic Senators have already spoken to the Constitution and the Senate's proper role in the confirmation process. I recall, in particular, statements by Senators DASCHLE, REID, BINGAMAN, BOXER, CLINTON, CORZINE, DODD, DORGAN, DURBIN, EDWARDS, FEINGOLD, FEINSTEIN, HARKIN, JOHNSON, KENNEDY, KOHL, LAUTENBERG, LEVIN, MIKULSKI, SARBANES and SCHUMER, among many others.

What is disconcerting about the recent debate is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our Federal courts. I fear, Mr. President, that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's Federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an executive administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution so as to expand presidential power.

In the time set aside by the Republican majority for this debate today, I am glad to have an opportunity to shed light on the fiction that cloture votes, extended debate, and discussion of the views of nominees are anything new or unprecedented. What I do find unprecedented is the depths that the Republican majority and this White House are willing to go to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading our Constitution in isolation from its history and the practices that have endured for two centuries to suit their purposes of the moment.

A few years ago, when Republicans were in the Senate minority and a democratically elected Democratic President was in the White House, columnist George Will, for example, had no complaint about a super-majority or 60 votes being needed to get an up or down vote on legislation or nominations proposed by the President. In fact, reflecting Republican sentiment at the time, what he said in his defense of the Republican filibuster of President Clinton's proposals, was the following:

> The Senate is not obligated to jettison one of its defining characteristics, permissiveness, regarding extended debate, in order to pander to the perception that the presidency is the sun about which all else in American government—even American life—orbits. (Washington Post, April 25, 1993.)

It apparently did not trouble him or other Republicans when they were in the Senate minority that the Constitution expressly requires more than a simple majority for only a few matters. In fact, Mr. Will wrote:

> Democracy is trivialized when reduced to simple majoritarianism—government by adding machine. A mature, nuanced democracy makes provision for respecting not mere numbers but also intensity of feeling.

Of course, that was in 1993 and President Clinton and a Democratic Senate majority were being contested by Republican filibusters. What is different a mere 10 years later? Just that the parties have switched roles and this year Democrats are in the Senate minority and a Republican occupies the White House. I ask unanimous consent that a recent article by Edward Lazarus that critiques Mr. Will's new position be included in the RECORD.

As George Will noted in 1993, one of the key attributes of the Senate is the venerable tradition of unlimited debate. In fact, not until 1917 was there even a provision in the Senate rules to allow for cloture, a procedure by which the Senate acts to cut off debate. The Senate first adopted the cloture rule in 1917. At that time, cloture was limited to and could only be sought on legislative matters. The cloture rule was extended in 1949 to nominations by amending it to include measures and matters, which included judicial nominations. Thus, prior to 1949, disputes over nominations—to the 100 seats in the Federal judiciary—were handled and resolved by Senators behind closed doors and many judicial nominations were defeated in the Senate by inaction or the threat of a filibuster. Republicans resurrected those tactics in the years 1995–2001 to defeat more than 50 of President Clinton's judicial nominees.

In essence, until they had a Republican President, Republicans interpreted the Advice and Consent Clause of the Constitution to allow a handful of anonymous Republican Senators to prevent an "up or down" vote by the full Senate on scores of qualified judicial nominees. Now, when Democratic Senators have expressed genuine concerns about the lack of information regarding Mr. Estrada and have made a well-founded request to see his writings, Republicans claim it is wrong and unconstitutional for Senators to act in accordance with Senate rules and tradition and their longstanding role as a check and balance on the President's appointment power.

It cannot be that only the rules Republicans like at the times that they like them are the rules that are followed in the Senate, but more and more that seems to be what the Republican majority is demanding. They should not pretend the rules no longer apply simply because the Republican majority finds them inconvenient, but that is happening more and more in the Senate. Regrettably, it has occurred recently in connection with judicial nominees before the Judiciary Committee, when the Republicans insisted on breaching Rule IV, a longstanding rule of our Committee that allows for extended debate, as well.

What is at stake in judicial nominations are lifetime appointment for judges who will have the power to change how the Constitution is interpreted and whether civil rights, environmental protections, privacy and our fundamental freedoms will be upheld. With respect to the Estrada nomination, what is at stake is a seat on the second highest court in the country and the swing vote on that important court.

Most of the decisions issued by the D.C. Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country each year. This court has special jurisdiction over cases involving the rights of working Americans as well as the right to a cleaner environment. This is a court where Federal regulations will be upheld or overturned, where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty.

This is a court that has vacant seats due to anonymous Republicans blocking the last two nominees to this court by a Democratic President. Those nominees had outstanding legal credentials and qualifications but during President Clinton's last term, the Republican-controlled Senate would not proceed to an up or down vote on either of them.

The word "filibuster" derives from the Dutch word for piracy, or taking property that does not belong to you. Under that ordinary definition, it would be accurate to say that at least two of the vacancies on the D.C. Circuit, for which Republicans blocked qualified nominees, were filibustered, as well. Republicans, who exploited every procedural rule and practice to block scores of Clinton nominees anonymously from ever receiving an up or down vote, now want to change the rules midstream, to their partisan advantage, again. The whole reason this President has so many circuit vacancies to fill is because this was the booty of their piracy, their filibustering of judicial seats that arose during the Clinton Administration while they prevented votes on that President's qualified nominees.

For example, a Mexican-American circuit court nominee of President Clinton, Judge Richard Paez, was forced to wait more than 1,500 days to be confirmed, and even after the Republican filibuster was broken by a cloture vote to end debate, many Republicans joined an unsuccessful motion to indefinitely postpone his nomination. None of the more than 30 Republicans who voted against cloture in connection with that nomination or who voted in favor of Senator SESSIONS' unprecedented motion "to indefinitely postpone" the vote on Judge Paez's nomination, which had been pending for more than 1,500 days, should be heard to complain if Democratic Senators seek more information about nominations before proceeding to a vote for a lifetime appointment.

I also recall that during the closing moments of that debate Senator SESSIONS objected that the Vice President of the United States was presiding over the Senate in his capacity as the President of the Senate. The Senator from Alabama objected that he should not be allowed to preside. I have not raised that objection to the Vice President presiding here today but have, instead, welcomed the Vice President. This is further demonstration that Democrats have been more moderate and much more cooperative with this Administration than Republicans were with the prior Democratic Administration.

I will include in my full statement for the RECORD the words of the Republican Senators who filibustered President Clinton nominees. Senator Bob Smith, a straight talker from New Hampshire, outlined the Senate's history of filibusters of judicial nominees and said:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking "unprecedented" action—much like the bogus White House claim that our request for Mr. Estrada's work while paid by taxpayers was "unprecedented"—is simply untrue. Republicans' desire to rewrite their own history is wrong. They should come clean and tell the truth to the American people about their past practices on nominations. They cannot change the plain facts to fit their current argument and purposes.

Senator HATCH candidly admitted after cloture was invoked on the Paez nomination and Senator SESSIONS made his unprecedented motion to indefinitely postpone any vote on that judicial nomination:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

Republicans should not have come to the floor and told the American people over the last month that Democratic Senators had done something unprecedented in opposing the Estrada nomination. They themselves did it quite recently and have done it repeatedly. Let us be honest about this and straight with the American people. Given the time allotted for today's debate, I cannot discuss them all but I will include in the RECORD some of the other examples of filibusters of presidential nominations from the nomination of Justice Abe Fortas to be Chief Justice of the United States Supreme Court through the nominations of Stephen G. Breyer, now Justice Breyer, to the First Circuit; Rosemary Barkett to the 11th Circuit; H. Lee Sarokin to the 3rd Circuit; and Marsha Berzon and Richard Paez to the 9th Circuit.

Even more frequent during the years from 1995 through 2001, when Republicans controlled the Senate majority, were Republican efforts to defeat President Clinton's judicial nominees through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them and eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes.

Beyond the question of judicial nominees, Republicans also filibustered the nomination of Dr. Henry Foster to become Surgeon General of the United States. This was an executive branch nominee that Republicans filibustered successfully in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nominaton also required cloture but he was successfully confirmed. Other executive branch nominees who were filibustered by Republicans included Walter Dellinger, whose name has been invoked with approval by Republicans during the debate on the Estrada nomination. Mr. Dellinger was nominated to be Assistant Attorney General and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never confirmed to his position as Solicitor General because Republicans had made clear their opposition to him.

In addition, in 1993, Republicans objected to State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Sam Brown was nominated to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President Clinton without Senate action. Also in 1994, Derek Shearer was nominated to be an Ambassador and it took two cloture petitions to get to a vote before he was confirmed. In 1994, Ricki Tigert was nominated to chair the FDIC and it took two cloture petitions to get to a vote and confirmation of that executive nomination.

So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, they must be reminded that they recently filibustered many, many qualified nominees. [chart] In addition, some of us remember Republican unwillingness to allow a Senate vote on the nomination of Bill Lann Lee to serve as the Assistant Attorney General for the Civil Rights Division at the Department of Justice. He told the Judiciary Committee that he would follow the law and enforce the law. He was the choice of the President to serve in that President's administration, but Republicans would not accord him an up or down vote before the United States Senate.

Now let me turn to a most troubling development that demonstrates how Republicans are violating longstanding Senate rules to suit themselves. Two weeks ago in a meeting of the Senate Judiciary Committee, the Chairman unilaterally declared the termination of debate on two controversial circuit court nominations. Senator DASCHLE termed it deeply troubling and a "reckless exercise of raw power by a Chairman," and he is right. The Democratic Leader observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a Chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic Leader noted that faithful adherence to rule is especially important for the Senate and for its Judiciary Committee. He noted "how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law," that it acted in conscious disregard of the rules that were established to apply to its proceedings. If this is what those who pontificate about "strict construction" mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as "strict constructionists" to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench that respect the rule of law? In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

I am gravely concerned about this abuse of power and breach of our Committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the federal judiciary, everyone should be concerned. In violation of the rules that have governed that Committee's proceedings since 1979, the Chairman chose to ignore our longstanding Committee Rules and short-circuit Committee consideration of the nominations of John Roberts and Deborah Cook. Senator DASCHLE spoke to that matter that day. Senator FEINSTEIN, Senator SCHUMER and Senator DURBIN have also spoken to the Senate about this breach of our rules as well as a number of other liberties that Republicans have been taking with the rules.

The protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the Committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican Chairmen had always acted to protect the rights of the Senate minority. The rule has been the Committee's equivalent to the Senate's cloture rule. It had been honored by all five Democratic and Republican chairmen, including Senator HATCH until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

In fact, the only occasion I recall when Senator HATCH was previously faced with implementing Committee Rule IV, he did so. In 1997, Democrats on the Committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice. Then, Senator HATCH acknowledged: "Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right. . . ." In 1997, Chairman HATCH acknowledged: "Absent the consent of a minority member of the Committee, a matter may not be brought to a vote." In that case, in 1997, Chairman HATCH followed the rules of the Committee.

Last month the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override the rule rather than follow it. He did so expressly and intentionally, declaring: "[Y]ou have no right to continue a filibuster in this committee." He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the Committee.

In his recent letter to Senator DASCHLE, Senator HATCH now contends that he "does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote." I ask that the exchange of letters between Senator HATCH and the Democratic Leader be included in the RECORD.

Our Committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. It is even that minimum protection that Chairman HATCH will no longer countenance. It is Senator HATCH who has "turned Rule 4 on its head" last month, after 24 years of consistent interpretation and implementation by five chairmen. Never, before his letter to Senator DASCHLE, has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart "an obstreperous Chairman who refuses to allow a vote on an item on the Agenda." After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after the fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. It was not even articulated contemporaneously at the business meeting.

The Committee and the Senate have crossed a threshold of partisan overreaching that should never have been crossed. I urge the Republican leadership to recommit the nominations of Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the Committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee. I urge the Judiciary Committee and the Senate to rethink the misstep taken last month and urge the Chairman and the Committee to disavow the misinterpretation and violations of Rule IV that occurred. Order and comity need to be restored to the Judiciary Committee. An essential step in that process is the restoration of minority rights under Rule IV and recognition of minority rights thereunder.

During the last four years of the Clinton Administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and Committee votes on his qualified nominees to the D.C. Circuit and the Sixth Circuit. Last month, in sharp contrast, this Committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the Committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

In circumstances such as these, when the rights of the minority are being violated and Senate rules and longstanding practices are breached, the minority is left with very few options and very little choice in how it must proceed. This President has been the most aggressive and unilateral I have seen in my 29 years in the Senate in his nominations. The Republican majority is now choosing to abet his efforts at the expense of the Senate minority's rights and the constitutional role of the Senate. That is all most regrettable.

I yield back my time.

Mr. KYL. Mr. President, in order to understand the constitutional problem we face with the filibuster of Miguel Estrada, it is important for the Senate and the public to focus on what is really going on here.

This filibuster is not a dispute about Mr. Estrada's answers to questions. If it were about unanswered questions then more than two Democrats would have taken up the White House's offer to pose new written questions to Mr. Estrada or to meet with him privately and ask them in person. But they did not, and it is now clear that the repeated refusal even to ask questions has exposed the emptiness of that argument. I hope we hear no more of it.

This filibuster also is not a dispute about confidential documents from the Solicitor General's office. Our filibustering colleagues must know that for the administration to comply with this demand is to undermine the effectiveness of the Department of Justice and its ability to defend the American people's interests in court. They must know that the President will not jeopardize the people's interests and that these confidential documents cannot be disclosed. So this document request is an unserious demand made precisely because the administration will not comply—just as four former Democrat Solicitors General have advised. No, this dispute is not about confidential memos.

The fact is that there is plenty of information available—more than enough information for a thoughtful Senator to make a decision whether to vote up or down. But don't take my word for it. Take Minority Leader DASCHLE's word for it. Last week the distinguished minority leader said that Mr. Estrada is too conservative and that he opposes his confirmation. How could the minority leader possibly have reached that conclusion if the record is so bare? How could he have reached any conclusion? The answer is obvious: Mr. Estrada's record is more than ample for Senators to explore. Just as over 51 Senators have reviewed the record to their satisfaction and concluded that Mr. Estrada is qualified and should be confirmed, so must Senator DASCHLE have reviewed the record and concluded that he should not be confirmed. He did not need more information.

So, why are we still here? Why is does this debate continue? Let us put aside these arguments about supposedly unanswered questions and disclosure of confidential memoranda, and let's focus on what this is really about: power. An unprecedented power-play by a partisan minority to re-define our constitutional "advice and consent" obligation at least for circuit court judicial nominees. This filibuster is about changing the rules of the game forever.

For 214 years, the Senate has interpreted "advice and consent" to require majority approval for any judicial nominee who reaches the Senate floor. But if filibustering Democrats prevail here, that rule will forever be changed. No longer will the "advice and consent" clause mean majority rule. Instead, it will mean 60 votes.

Now, my filibustering colleagues may say, "well, no—we're not trying to change the standard; we just want more information." The time for dodging the essence of this constitutional moment has passed. There can no longer be any question that the true goal of this filibuster is to defeat Mr. Estrada's nomination by preventing a vote, to change the standard from a simple majority to a 60-vote requirement.

A month ago the Senior Senator from Pennsylvania called this power-play a "constitutional revolution," and it saddens me to say that I must agree. A key part of our Constitution is its ordering of power between the different branches and parts of Government. Our Constitution is written, but we rely upon more than just the written word to understand its meaning. We rely upon the considered opinions of those who are charged with its interpretation. In most cases, that is the Supreme Court and the inferior courts that Congress establishes. But the Supreme Court is not the only body charged with interpreting the Constitution, because some areas of the Constitution are not subject to conventional judicial review. One of those areas is the "advice and consent" obligation of Congress. To understand that clause, the Senate must do the interpreting. The Senate has long had the constitutional obligation to decide what those words mean.

Throughout our history the Senate has had one consistent answer to the question of what "advice and consent" meant for lower court judicial nominees. That settled, bipartisan constitutional understanding of "advice and consent" was that only a majority vote is required. Now, a determined minority is determined to change the meaning of those words. And that is indeed a "constitutional revolution," just as Senator SPECTER has said.

Let's turn to the Constitution. I know some of my Republican colleagues have argued that the Constitution mandates "advice and consent" by a simple majority vote. They may be right. As has been said, the Constitution contains seven provisions calling for a supermajority from the legislature: overriding a veto, convicting on impeachment, expelling members of the House or Senate, ratifying treaties, proposing constitutional amendments, establishing Presidential incapacity, and during the Civil War era, removing the disabilities of rebellious officeholders. But the Constitution is silent as to "advice and consent." The U.S. Supreme Court has observed that a simple majority is the background rule in legislatures. It is therefore understandable that many have concluded that "advice and consent" mandates a simple majority for confirmation. Certainly as a democratically-elected body we should always have a strong presumption in favor of rule by simple majority. Only when an alternative supermajority rule is clear should we depart from that democratic tradition.

I also appreciate the argument that a filibuster in this context is different than a filibuster on legislation because the appointment and confirmation of judges is a shared responsibility we have with the President. Respect and comity demand that we give proper deference to presidential prerogatives. I certainly agree that filibustering a presidential judicial nominee endangers the traditional respect between the branches of Government, and that as Senators we have a responsibility to protect the relationship between the branches both for present and future Senators and Presidents.

So it might be the case that the constitutional text and structure mandate a simple majority, but I must say that I am not 100 percent convinced. It is possible that the Constitution's silence on this question was exactly that: silence. And it is possible that by remaining silent, the Founding Fathers intended to leave the question open for its own interpretation. I think we should allow for that possibility. But my skepticism does not change my conclusion, which is that we should apply a simple-majority requirement for confirmations.

Why do I reach this conclusion? Because the weight and precedent of the Senate's longstanding constitutional interpretation of its own "advice and consent" obligation compels it. Thus, even if the question was open in 1789, we have 214 years of experience and tradition to tell us what the right interpretation was. And the right interpretation is that the same interpretation that bipartisan majorities of the Senate have forever believed—that only a simple majority is required to confirm a lower court nominee.

The most obvious evidence of this tradition is the history itself. No lower court nominee has ever been rejected due to a heightened, 60-vote requirement. To be sure, some Senators have contemplated this change before. Over 30 Democrats tried to filibuster J. Harvie Wilkinson in 1984, Sidney Fitzwater in 1986, and Edward Carnes in 1992. A much smaller group of my fellow Republicans tried to filibuster Marsha Berzon and Richard Paez in 2000. So the issue has been raised before, although never in such a dramatic and pointed fashion as it is today.

Let me address for a moment the unique case of Abe Fortas. In 1968, Justice Abe Fortas was nominated for the Chief Justice position. Opposition was roughly divided between the political parties, based significantly upon alleged improper financial dealings and other ethical issues that eventually drove him to resign under threat of impeachment. Unlike the case at hand, there is no record in that case of a Senate majority willing to confirm Mr. Fortas. The single cloture vote failed 45–43. So it cannot be said that the will of the majority was thwarted, because no majority appears to have existed to confirm that nomination. The President withdrew the nomination before we ever found out the answer to that question. So unlike in the present case, the majority was not thwarted by filibuster.

But returning to the more recent history, it is important to point out that in every one of those cases, however, cooler heads prevailed. The Senate stepped back from that precipice and said "No, this we will not do. We will not filibuster judicial nominees." Senators such as the ranking member of the Judiciary Committee, Senator LEAHY, were so opposed in principle to such a constitutional change that he declared that he would "object and fight against any filibuster on a judge, whether it is somebody I opposed or supported." The Washington Post reports that in 1991 during the Clarence Thomas nomination battle, Senator LEAHY declared himself "totally opposed" to a filibuster, even as abortion activists urged such a step. And in 2000 a clear majority of Republicans joined with Democrats and invoked cloture on the Berzon and Paez nominations.

This is our tradition. We do not block judicial nominees by filibuster. This isn't a Republican constitutional interpretation. It isn't a Democrat constitutional interpretation. It is the Senate's interpretation. And in the Senate, where so much is based upon tradition, sometimes tradition is all we have to enforce constitutional norms. We rely upon our colleagues to say, as Senator LEAHY said, that they will fight on principle against the abuse of process regardless of whose particular ox is being gored. That is why I voted for cloture on the Paez nomination, and against confirmation. I refused to upset 214 years of settled constitutional interpretation and change our constitutional norms forever. I was unwilling to risk the damage to the Senate and to the nominations process that would result.

Let there be no mistake about it: If a minority of Senators are able to force a change to our 214-year-old constitutional tradition, we do great damage to this body and to the process by which judges are nominated and confirmed. And those changes will be permanent.

Now, I am a conservative, and I naturally resist unnecessary tinkering with our constitutional system. But I also understand that constitutional changes do happen, and that they are not always bad. I am an original sponsor of a constitutional amendment, S. 1, in this very Congress. But we have an amendment process for changes to the Constitution. We require 2/3 of each House of Congress, and then ¾ of the States. We have a process, and our constitutional stability depends on respecting that process.

This constitutional issue is unique, because the issue is probably not justiciable. I do know that a few professors have concluded that a judicial nominee in Mr. Estrada's shoes may have standing to challenge a filibuster, but the last thing we want is for a court to get involved. This is a Senate matter. And as a Senate matter, all we have is our wisdom and respect for a 214-year tradition to guide us. Can traditions change? Of course they can. We should be very wary of upsetting settled traditions because for the most part, traditions exist for a reason, but we should always be open to improvement.

However, if we are going to upset 214 years of constitutional interpretation and institutional tradition, shouldn't we require something more than the intransigence of 44 Senators who won't even admit that they are trying to change the constitutional rule? The Founding Fathers recognized that when we change constitutional rules, we should do so based on supermajority votes, not minorities' refusals to votes. As I said a moment ago, when we amend the Constitution, it takes two-thirds of both Houses of Congress. Then if it passes, it cannot be enacted until three-quarters of the States support it. That is not minority rule, but supermajority rule. I might add that even when the Supreme Court changes its constitutional interpretations through its decisions, they have to act by majority vote or new law is not created. Without a majority, there is no change to the constitutional rule.

What is happening here is dramatically different. Here, a minority—not a simple majority, and certainly not a supermajority—seeks to change a settled constitutional rule and overturn 214 years of the Senate's constitutional interpretation. I submit that this fundamental change to our constitutional understanding of the "advice and consent" power must not be allowed to take effect. And it certainly should not be undertaken by a minority of Senators for short-term gain. To do so jeopardizes not only the Senate's relationship with the President, who has the constitutional obligation to make judicial nominations, and the Judiciary, which is understaffed and in desperate need for a fair process consistent with our longstanding constitutional norms. It jeopardizes the respect that future Senates will give to our traditional constitutional norms. And it calls into question whether the Senate can be trusted with its stewardship over those norms in the future. Will the Supreme Court ultimately become involved in Senate affairs? I certainly hope not, but I have less confidence today than I did a month ago that no court would involve itself in these matters. And that is a day I do not want to see.

So, as I said, this is not about needing more information. The distinguished minority leader made that clear last week. Senator DASCHLE has enough information. He opposes the nominee. This is about power—the power of the minority to change 214 years of constitutional norms and interpretation. I urge my filibustering colleagues on the other side of the aisle to step back, look at the history, and ask themselves whether they truly believe that it should take 60 votes to confirm a judge. And, equally important, whether they believe that a minority of Senators should be able to wash away the Senate's longstanding traditional understanding of its advice and consent obligations. I submit that our obligation to the Constitution and to the institution of the Senate demands more than what we are seeing today.

Mr. HATCH. Mr. President, I rise in response to my colleagues' assertions about the Senate's role in the judicial confirmation process. I am compelled by their statement to provide a more complete record on the origins of the Senate's constitutional obligation to provide advice and consent on judicial nominees.

The constitutional duty of the President to nominate and appoint, and the intervening duty of the Senate to provide advice and consent, is set forth in Article II, Section 2:

> The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

Some of my Democratic colleagues have argued that the record of the debate of the Constitutional Convention leads to the conclusion that the Senate plays the central role in this process. This assertion is based on the Convention's initial—and, I should add, temporary—adoption of proposals that a national judiciary be established to be chosen by the national legislature, and its concurrent rejection of proposals that the President be given the sole power to appoint judges. My colleagues suggest that only in the final days of the Convention was the President given a role—the power to nominate judges—and that somehow this time line of events signals a more central role for the Senate than the actual text of the Constitution suggests.

It is first important to note that, contrary to the impression that my colleague from Massachusetts may have left, the record of the Convention indicates that the discussion of the establishment of the judiciary was limited to only a few actual days. During that time there were, indisputably, competing views as to how the judiciary should be established—by the Executive or by the legislature. But a careful review of the notes of the Constitutional Convention leads to the conclusion that the Framers bestowed on the President the paramount role in appointing judges.

There was significant opposition to the proposals to place the appointment power exclusively in the Senate. For example, according to the notes from the Convention for July 18, 1787, a delegate from Massachusetts, Nathaniel Ghorum, suggested "that the Judges be appointed by the Executive with the advice & consent of the 2d. branch, in the mode prescribed by the constitution of Masts. This mode had been long practiced in that country, and was found to answer perfectly well." James Wilson, one of the leading figures at the Convention, made a motion "that the Judges be appointed by the Executive." Mr. WILSON later wrote, "Instead of controlling the President still farther with regard to appointments, I am for leaving the appointment of all the principal officers under the Federal Government solely to the President. . . ."

Thus the debate progressed over exclusive appointment by the legislature versus exclusive appointment by the President. James Madison sought a compromise when he suggested the power of appointment be given to the President with the concurrence of 1/3 of the Senate. This is an interesting suggestion, given that we now face a virtual veto by a minority. Madison's proposed compromise has been turned on its head. Rather than a supermajority to disapprove the President's nominee, this Senate is demanding a supermajority for approval.

Some of my colleagues on the other side of the aisle seem to want to continue the debate of the Constitutional Convention. That debate is over. The resolution of the respective roles of the President and the Senate are found in the language of the Constitution, which in Article II vests the nomination and appointment powers in the President.

As Alexander Hamilton explained in The Federalist No. 66:

It will be the Office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose they can only ratify or reject the choice he—may have made.

The distinguished Assistant Democratic Leader referred to The Federalist No. 76, wherein Alexander Hamilton discussed the appointing power of the Executive. Hamilton stated "To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration." This passage indicates the Founders' understanding of a limited role for the legislature in the confirmation process. That role is for the Senate to act as a check on improper appointments resulting from favoritism or unfit character by the President.

The treatment of Mr. Estrada by the Senate is far different from the advice and consent role contemplated by the Framers. A vocal minority of Senators is blocking the majority, which stands ready to vote on his nomination. This is tyranny of the minority and it is unfair to all—to the Senate, to the President, to the nominee, and to the Judiciary.

Mr. President, I call upon my colleagues who are denying an up or down vote on the nomination of Mr. Estrada to let the Senate work its will. The President has done his duty in nominating Mr. Estrada. It is now our duty to consent or to withhold consent by an up or down vote. Let's end the debate on this nomination and proceed to that vote.

Thank you, Mr. President. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to speak about charges that the ongoing filibuster against Miguel Estrada is somehow unconstitutional, as some have claimed.

I take this job very seriously, and it is not often that I support preventing an up or down vote on any issue. In fact, this is the only time I have ever supported a filibuster against a judicial nominee, and I do so for very specific reasons, as do so many of my Democratic colleagues.

Contrary to the charges we have been hearing over the last few days, I believe this filibuster is precisely what the Founders of this Nation had in mind when they created a three-branched system of government with checks, balances, advice and consent.

This filibuster is not about preventing a conservative nominee from getting onto the court. Rather, this filibuster is about a failure of this administration to adequately seek the advice and participation of the U.S. Senate in the judicial nominations process, particularly with regard to this nominee.

I have spoken several times about Mr. Estrada specifically, and each time I have been clear, as have my colleagues—this is a nominee about whom we know very, very little, and he and this administration have simply not done enough to give us the kind of information we need to properly perform our constitutional duty of advice and consent. Because we are prevented from performing this constitutional duty, we have been forced to resort to a procedure, well within the Senate rules and by no means unprecedented, to enforce those rights.

The filibuster is one of the key devices throughout our nation's history that has protected the right of the minority party, or even of one Senator.

Without a filibuster right on nominations, there might never be advice and consent at all. And that would turn the Constitution on its head.

My colleagues on the other side of the aisle have attempted to make much of the fact that the Constitution does not provide for a "super-majority" vote on nominations, unlike constitutional amendments or treaties. This is true—the Constitution is silent on the issue of how many votes a nomination should take.

But the Constitution is equally silent about how many votes it would take to proceed to other measures as well—a patient's bill of rights, for example. Or a ban on human cloning. Or the assault weapons ban. Or education bills. Or even major civil rights legislation. Yet nobody argues that it would be unconstitutional for one or more Senators to filibuster these bills. Unwise, perhaps. Subject to public outcry, maybe. A legitimate subject of reasoned debate, absolutely. But unconstitutional? No.

Now let me address the issue of whether this filibuster is "unprecedented," as some have charged. If we look at the facts, we soon see that the only really unprecedented aspect of this filibuster may be its success. Many have tried, but few have succeeded. And this may be a good indication of how strongly we feel about enforcing our constitutional role of advice and consent to this and other nominations now before us.

The majority now argues that any filibuster of a judicial nominee is unconstitutional because it essentially establishes a new, 60-vote threshold for judicial nominees. But this 60-vote threshold has long been in place for controversial nominees facing objections from one or more Senators.

Again, the only real difference between the situation with Miguel Estrada and the situations where cloture votes were required on other nominees is that here, today, there are not enough votes to meet that 60-vote threshold.

The procedure is the same—a cloture vote.

The debate is the same—over a nomination to the federal judiciary.

Only the outcome is different, and I don't see how the outcome can determine the constitutionality of the process.

Let me list some other filibusters and cloture votes throughout recent history.

In 1968, Abe Fortas was actually prevented from becoming Chief Justice of the Supreme Court by filibuster. The other side may argue that this was a bipartisan filibuster, and they are right—but this is not the point. The point is, a filibuster was used as a tool, and the nomination failed.

In 1980, Stephen Breyer had to go through two cloture motions to obtain a seat on the First Circuit—to debate, Miguel Estrada has only had one cloture vote.

In 1994, a cloture vote finally stopped a filibuster against Rosemary Barkett, a nominee to the 11th Circuit.

In 1994, H. Lee Sarokin's nomination to the Third Circuit required a cloture vote before it could proceed.

In 2000, the nominations of both Marsha Berzon and Richard Paez to the Ninth Circuit Court of Appeals—nominations which had been stopped dead in their tracks literally for years by that time—underwent cloture votes. Richard Paez had waited for more than 1,500 days before he was given that cloture vote.

To be perfectly frank, hearing these charges from the other side of the aisle is surprising given how many other Clinton nominees were stopped cold by secret holds and other parliamentary tactics, both in committee and on the floor.

For instance, Elena Kagan was a Clinton nominee to the D.C. Circuit Court of Appeals—the same circuit to which Miguel Estrada is now nominated. In fact, Ms. Kagan was Miguel Estrada's supervising editor on the Harvard law review, yet Republicans stopped her nomination cold without even getting to the point of a filibuster, or a public accounting of who was for, and who was against, that nominee.

Elena Kagan was never filibustered on the floor, but she was effectively "filibustered" in committee by one or two Senators who prevented a hearing or a committee vote.

Other nominees to the circuit courts who were denied hearings or committee votes include Helene White for the Sixth Circuit, Jorge Rangel for the Fifth Circuit, Bonnie Campbell for the Eighth Circuit, and the list goes on and on. In fact, dozens of Clinton nominees were blocked in committee by anonymous holds or other obstructionist tactics, so there was no need for a filibuster on the floor.

It is most surprising to hear these charges of unconstitutionality from the other side of the aisle, given that many of my Republican colleagues actually participated in filibusters against Clinton nominees.

Richard Paez, for example, was one of President Clinton's Hispanic nominees to the circuit court, and he could not move on the floor until a cloture petition was filed. When the vote finally came to end the filibuster, the majority of the Senate voted to do so and Richard Paez is now a federal judge.

But many of my Republican colleagues voted to continue that filibuster, just three short years ago. Indeed, almost exactly three years ago, on March 8, 2000, fourteen Republican Senators voted to continue the filibuster against Richard Paez, including some of those who now argue that filibusters themselves are unconstitutional.

And when the cloture vote came on that same day for Marsha Berzon, another Clinton nominee who waited years for a hearing and up or down vote, thirteen Republican Senators voted to continue that filibuster as well.

How can these Senators now argue that this filibuster is unconstitutional? Is it only unconstitutional when Democrats filibuster a nominee, but constitutional for Republicans to do the same? Is it only unconstitutional if the filibuster succeeds?

The fact is, this filibuster is very constitutional, and in fact it may even be necessary to enforce the constitution's other provisions, such as the advice and consent power granted to the U.S. Senate.

I do not relish where we find ourselves today, nor do any of my colleagues—on either side of the aisle.

We stand poised to enter a war against Iraq, and under the constant threat of international terrorism. Our budgets are running at record deficits, the economy is still in trouble, and we recently reorganized our entire homeland security apparatus. All of these issues require the attention in this body.

The nominations debate is clearly very important to the future of our judiciary and to the rule of law for decades to come, and there is no question that this issue should not, can not, and will not, be ignored.

But we should be concentrating our efforts, and our limited resources in terms of time, staff and attention, on these other important issues as well.

It is clear now that Miguel Estrada will not become a federal judge unless our requests are met. Any further debate on this nominee is really a distraction from the many other important issues we should address.

I appreciate the attendance of the distinguished Vice President of the United States here today, and I appreciate the gravity of this debate.

But I urge the Republican leader and my colleagues to move beyond this debate so we can resolve these other, very important issues.

The PRESIDING OFFICER. The Senate majority leader.

Mr. FRIST. Mr. President, I appreciate the consideration of both sides of the aisle. We extended the debate for an additional 20 minutes. Normally we would have completed at 12:30. I think that represents the fact that the debate has been valuable, informative, and I do appreciate so many Members on both sides of the aisle coming forward and speaking during this period of time where my objective, as I said 2 hours ago, was to elevate the debate and talk about advice and consent as spelled out in the Constitution.

Much of what we have heard about is larger than any single nominee, even one as distinguished and compelling as

Miguel Estrada. I think most of us would agree that the process of advise and consent has gone awry. I suspect most of us will probably have different viewpoints on why that has happened, why it has evolved to the point where we are today. I respect those differing views.

One thing is clear to me—the system is not working well, it is broken, and that is a disheartening thought on my part. But to America it is an unfortunate truth. I think it is coming to the time we need to stop blaming each other and find a way to fix the system itself. With 17 unanimous consent requests, 100 hours of debate, still the nominee being subjected to a filibuster, where we don't see an end in sight, an up-or-down vote, I conclude the system is not working.

As has been pointed out, filibusters on executive nominations—until now, recently—has been exceedingly rare. As leader, that strikes me as a good thing. But it seems to be changing, and that is why it is important for us to carefully examine advise and consent as spelled out in the Constitution and our interpretation of that.

I do want to make a proposal for the other side of the aisle and I ask the assistant minority leader to think about it. The proposal is not in the form of a unanimous consent request at this point but possibly after lunch today. The proposal recognizes the context in which we find ourselves. It may be possible in the near future that we will have a military conflict, although I hope and pray that is not the case. But we need to begin later this week, and aggressively next week, addressing the issue surrounding the Federal budget. We want to focus on the economy and get it moving again. We have Medicare and prescription drugs, which we must address. We have a lot to do. The proposal that I will make—and I would like for the other side of the aisle to consider this—to the chairman and ranking member is that arrangements will be made for Miguel Estrada to appear again before the Senate Judiciary Committee in exchange for a date certain for an up-or-down vote on his nomination.

The second hearing is something we had not believed was appropriate, but I want to show both sides of the aisle that we are trying to reach out to do everything possible to go that extra mile and try to get an answer that works.

This is not a formal unanimous consent request at this time, but I do want to offer that opportunity. Again, it would be in exchange for a vote, up or down, at a time certain—to actually have another formal Judiciary Committee hearing with Miguel Estrada. It is my hope the other side of the aisle will decide it is time to conclude the debate and that we can focus on the challenges that lie ahead.

Mr. REID. Will the leader allow me to respond? Otherwise, I will use leader time.

Mr. FRIST. Yes.

Mr. REID. I appreciate that since being chosen majority leader the Senator from Tennessee has gone out of his way to make sure we have ample debate. He has used the cloture motion rarely, and we appreciate that very much. But I say, regarding the Estrada matter, we have been very consistent in our requests. No. 1 is that he answer questions. The Senator said he would try to satisfy that. But until he supplies the memoranda from the Solicitor's office, it is not going to change the position of the people on this side of the aisle. So if he makes the unanimous consent request, we will simply renew our unanimous consent request, as we have done on other occasions.

Mr. FRIST. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, would the distinguished majority leader take a moment just to make a quick observation?

Mr. FRIST. Mr. President, I will yield for 1 minute, and then we will go to lunch.

Mr. LEAHY. Mr. President, I appreciate very much the distinguished majority leader trying to figure out a way to get through this impasse. It is in the tradition of majority leaders, and I have served with every majority leader since the time of Mike Mansfield. Majority leaders try to work these matters out, and I appreciate that.

I urge him, in doing so, to look at the fact that Miguel Estrada has said he is willing to discuss his papers and find a way that that could be done. I think his suggestion of a hearing where questions would be asked based on that would be very workable. But I commend the distinguished majority leader for doing what is the tradition of leaders—to try to find a way through this.

Mr. FRIST. Thank you, Mr. President.

## RECESS

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived and passed, the Senate is adjourned.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## LEGISLATIVE SESSION

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## PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and continue consideration of S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR NOS. 32, 34, 35, 36 AND 55

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 32, Jeffrey Sutton, to be a U.S. circuit judge for the Sixth Circuit, there be 4 hours for debate equally divided between the chairman and the ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, on the circuit court judges, we have a couple circuit court judges on which we believe we can work out an agreement. Jeffrey Sutton is not one of them. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 34, Deborah Cook, to be a U.S. circuit judge for the Sixth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, this woman, along with Mr. Roberts, is part of those nominations we believe were improperly reported out of the committee. So I object to her and to Mr. Roberts at this time until there is another hearing in the Judiciary Committee.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 35, John Roberts, to be a U.S. circuit judge for the DC Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 36, Jay S. Bybee, to be a U.S. circuit judge for the Ninth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, Senator BIDEN had an objection to this proposed judge. We heard from his staff earlier today that probably has been resolved, but we will not know that until they check with Senator BIDEN who, as my colleague knows, is indisposed having had surgery. We will get back later, hopefully today. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, there are five individuals who are on the Executive Calendar. This is the last of the five. I will ask unanimous consent for him, as well, but clearly we want to move ahead as much as possible and want to continue to work with the other side. We do want to reach out once again. These unanimous consent requests are a part of our efforts to reach out and advance the process. I hope we can resolve this shortly.

Mr. President, as in executive session, I ask unanimous consent that with respect to Calendar No. 55, Timothy Tymkovich, to be a U.S. circuit judge for the Tenth Circuit, there be 4 hours for debate equally divided between the chairman and ranking member, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object. Mr. President, I have spoken to the leader and to the ranking member of the Judiciary Committee on the other judges. I have not spoken to either of them about this man. For that reason, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, with respect to the rejection of these five proposed unanimous consents, we do ask that the other side look at these as individuals. Once again, I state the willingness on our side of the aisle to bring these forward. I mentioned 4 hours for debate equally divided. If it takes 8 hours or 10 hours of debate, I would put that forward.

Rather than run through the unanimous consent request again, we will continue our conversations off the floor.

Mr. REID. Mr. President, through the Chair, I ask the leader this question: In regard to two of the names put forward, the woman from Ohio and Roberts, the best way to alleviate a very serious problem that has developed—and, you know, I think Senator LEAHY is right on his interpretation of the rules, but it really does not matter at this stage—why do we not have the Judiciary Committee reconvene regarding those two judges? If there are some more questions the Judiciary Committee members have, ask the questions and then those two matters, I am sure, will receive a number of Democratic votes, and we could have these two people on the floor. That could be scheduled under whatever the rules are in the Judiciary Committee.

I think we are creating problems for ourselves. I know Senator HATCH feels right the way he interprets the rules. We have people on this side who feel that he is wrong, and it would seem that an easy way to avoid that problem would be to reconvene the Judiciary Committee, see if Democratic members of the Judiciary Committee want to ask any more questions of those nominees, and we could move along. Otherwise, I am afraid that because of how we interpret the rules of the committee having been violated, it is going to unnecessarily throw another cloud over an already cloudy situation. I do not suggest the leader has to answer that publicly, but I would hope that he would follow through on that and see if that would be a way to avoid these problems.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, all five of these individuals are on the Executive Calendar for consideration on the floor of the Senate. We can continue our conversations, but all of these have gone through the Judiciary Committee and have been presented on the floor.

## EXECUTIVE SESSION

## NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA—Continued

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of the Estrada nomination.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. FRIST. Mr. President, earlier today we had a productive debate with the Vice President in the Presiding Officer's chair. The debate was constructive and did fulfill my goals to elevate the debate to the level of talking about advice and consent of the Constitution itself.

The nomination of Miguel Estrada has been pending before the full Senate for over a month. He was initially nominated 2 years ago. I have tried on numerous occasions to reach out for a time certain for a very simple up-or-down vote. That is all we ask for after these 5 weeks of debate. Each of the requests has been met with an objection from the other side of the aisle.

As I have stated, we are not going to give up on this nominee. We are going to continue to push for that very simple request that this nominee should have an up-or-down vote. He deserves an up-or-down vote, and I will continue to pursue every avenue possible in terms of reaching out. If the other side of the aisle says they want more information, we have responded by saying submit written questions and we will get the answers. The White House has made Miguel Estrada available individually to Senators to answer their questions, in an effort to keep this nomination moving forward.

Prior to lunch, I asked my Democratic friends if they would agree to a time certain for an up-or-down vote if a further hearing in the Judiciary Committee is scheduled. If they think they need more information regarding this nomination, they would agree to a hearing to be followed by an up-or-down vote. That would be another way to get information, if it really is the fact that the other side of the aisle wants more information. I hope it reflects to my colleagues on both sides of the aisle my attempt to reach out through every avenue possible to respond to their request for more information.

At the end of that hearing, I would expect as part of the proposal to have an up-or-down vote. If people do not like what they hear or, after that process, they say they do not know enough, then let them vote no, so they can express themselves with an up-or-down vote. I think it is time for a vote.

I am happy to yield for a brief response to my Democratic colleague, if he would like to comment.

Mr. REID. I thank the leader. As I indicated this morning, we would be willing to attend the hearing and ask questions of Mr. Estrada if, in addition to that, we had the documents that we have requested from the Solicitor's Office while he worked there.

Mr. FRIST. Mr. President, I ask unanimous consent that following a further hearing with respect to the Estrada nomination, there be an additional 4 hours for debate equally divided in the usual form, and the Senate then vote on the confirmation of the nomination of Miguel Estrada with no intervening action or debate.

Mr. REID. Mr. President, I ask unanimous consent that the request be modified to allow the provision of documents relevant to Mr. Estrada's government service, which were first requested in May of 2001; that the nominee thereafter appear before the Judiciary Committee to answer questions which we believe he failed to answer in his confirmation hearing and any additional questions that may arise after reviewing the documents we have requested.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. FRIST. Mr. President, reserving the right to object, as we have mentioned again and again, access to these SG confidential memorandum would be unprecedented and would jeopardize the integrity of our system. Therefore, I object to the request for modification.

The PRESIDING OFFICER. The objection is heard.

Is there objection to the initial request of the majority leader?

Mr. REID. Objection.

The PRESIDING OFFICER. The objection is heard.

### CLOTURE MOTION

Mr. FRIST. Mr. President, given that response, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Robert F. Bennett, Peter Fitzgerald, Jeff Sessions, John Ensign, Kay Bailey Hutchison, Rick Santorum, Don Nickles, Jim Talent, Lindsey Graham of South Carolina, Lisa Murkowski, Conrad Burns, John Warner, John Sununu, Gordon Smith, Elizabeth Dole, Saxby Chambliss, Christopher Bond, Susan Collins, Wayne Allard, Lamar Alexander, Norm Coleman, Pat Roberts, Craig Thomas, Larry E. Craig, Olympia Snowe, John McCain, James Inhofe, Jon Kyl, Lincoln Chafee, Judd Gregg, Richard G. Lugar, George Allen, Chuck Grassley, George V. Voinovich, Mike Capo, Michael B. Enzi, Thad Cochran, Mike DeWine, Arlen Specter, Sam Brownback, Ben Nighthorse Campbell, Richard Shelby, Ted Stevens, Chuck Hagel, John Cornyn, Pete Domenici, Mitch McConnell, Jim Bunning.

Mr. FRIST. I ask unanimous consent that the live quorum provided for under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

### LEGISLATIVE SESSION

Mr. FRIST. I ask unanimous consent that we resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could ask a question of the manager of the bill, the distinguished Senator from Pennsylvania, has the Senator had an opportunity to look over the unanimous consent request that we submitted to staff earlier today regarding the late-term abortion matter that is now before the Senate?

Mr. SANTORUM. We have been reviewing the one amendment. Has the Senator submitted all the other amendments? Only one amendment has been submitted, to my knowledge.

Mr. REID. I apologize for that. I thought staff had all the amendments, but the Senator does have our amendment, of course. It has been filed.

Mr. SANTORUM. We have one amendment. That is the only one I am aware that we have.

Mr. REID. We will make sure the Senator gets all the amendments. Can we agree on a time on this amendment before us without any second-degree amendments?

Mr. SANTORUM. Yes. In fact, I just spoke to the Senator from Washington about this.

Mr. REID. I am sorry.

Mr. SANTORUM. I suggested we would be willing to accept the amendment. She has requested that we have a rollcall vote of some sort. I am happy to agree on a reasonable time agreement.

Mr. REID. That would be fine. We would be happy to.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, we are working in good faith. I thank the Democratic whip for his willingness to try to work through these amendments. We are reviewing, on our side, the Murray amendment. There may be some concerns about it. We are hopeful to get a resolution and enter into a unanimous consent agreement on the disposition of that amendment.

We have just been handed another amendment. That is a positive step, a step in the right direction. We are hopeful we can proceed with a vote on the Murray amendment sometime today, and maybe another vote later this evening; if not, tomorrow morning. So there are fewer than a half dozen amendments we are aware of on this legislation. It looks as though we are making some progress.

Again, I thank the other side of the aisle for their cooperation.

I want to go back and go over some of the issues that have been discussed today about the underlying bill, which is the Partial-Birth Abortion Ban Act, and provide the context in which this legislation comes to the floor of the Senate.

Back three Congresses ago, in 1995 and 1996, this procedure had been unearthed, if you will. There was some medical literature that some Members of Congress found so abhorrent, for obvious reasons, that there was a strong belief that this procedure should be banned. So for three consecutive Congresses, the House of Representatives and, for two of those Congresses, the Senate debated this issue—always being blocked by the President of the United States and then, on the third attempt, by the U.S. Supreme Court.

We are now here with a version of the bill that is different from the previous versions. The version that was considered by the U.S. Supreme Court.

The reason we are back is not just to say the Court was wrong or that we disagree with the Court's judgment on constitutionality, although I do. I have to say the Court's view of the constitutionality of abortion statutes is really quite remarkable. It is not, as has been depicted by many on the other side with whom we have debated this issue in the past, that Roe v. Wade allows absolute freedom of choice in the first trimester, provides some limitations in the second, greater limitations in the third trimester. Lots of statements have been made on the floor that that is the case. Statements have been reported in the press. The press themselves have adopted this analysis of Roe v. Wade.

That is not what Roe v. Wade says—or Doe v. Bolton, its companion case—and not what subsequent cases from the U.S. Supreme Court have held. If that were the case, then the U.S. Supreme Court would have upheld the partial-birth abortion case.

Why? Because if there are legitimate restrictions on the right to abortion in the second and third trimester, I can't imagine a more legitimate restriction. But that is not what the Court has said. The Court has basically said there are no restrictions on abortion. It really is quite amazing that a right that was created, as I understand, by judicial fiat, not by the legislative process and not by the constitutional amendment process—I dare anyone to look at the U.S. Constitution and find the right to abortion. It does not exist in the U.S. Constitution. But by judicial fiat, by an act of judicial activism, this right was created.

Interestingly enough, this right, since it was created by nine people, they have no limitation on how they define it because there is nothing in the written Constitution that limits their own interpretation. It is what they say it is. It is a pure case of positive law created by an unelected group of men at the time.

What they are saying is absolutely right. There are no restrictions—none. I would challenge any of you to go through the Constitution, go through the Bill of Rights, and look at the rights within our Constitution and find another right in the Constitution that has no limit, that has no restriction. Every other right written in the Constitution has a limit, has curbs. The courts have permitted it, except this right that doesn't exist in the Constitution.

When we approach this issue of partial-birth in trying to find, in a sense, a way to put this procedure outside of Roe, I would argue that was the argument all along. And I believe back in 1996 when I argued this, it did not belong under Roe v. Wade. There are no health concerns of the mother. That is what makes all of the abortion basically unlimited up until the moment that the child is separated from the mother; that there is always a reason for the health of the mother and health defined under Roe v. Bolton means anything—stress, anxiety, fear. Anything associated with mental or physical health counts for allowing abortion up to the time of the separation of the child from the mother.

That is why I said there are simply no restrictions. We looked and questioned whether the partial-birth abortion procedure affects the health of women. The answer is clearly no. It does not.

There is a huge amount of congressional testimony both here in the Senate, with debates on the floor, debates on the floor of the House, testimony, overwhelming evidence, dispositive evidence that this procedure is never—I underscore the word "never"—medically necessary to preserve the health of the mother. That is a strong word, "never." That is an absolute term—"never." I use it with complete comfort—and have for 7 years here on the floor of the U.S. Senate. I did earlier today when I said, as I have repeated over and over again to those who believe that a health exception is necessary, give me a medical case in which a partial-birth abortion is medically necessary to preserve the health of the woman. Give me a case where it is preferable—not just necessary, where it is preferable. I can give you quote after quote, from the AMA to C. Everett Koop to the experts in late-term abortions, all of whom have said not only isn't it medically necessary but it is bad medicine. It is unhealthy. It is contraindicated.

The overwhelming body of medical evidence is that it is outside the scope of medicine. It is not taught in medical schools anywhere. It is not done in hospitals. It is done in abortion clinics. Why? Ask the doctor who designed the procedure. The doctor who designed the procedure said he did it for one reason. He could do more abortions in a day because this procedure took 15 minutes, and the other late-term abortion procedures took 40 minutes. He could do more abortions. He could make more money.

When we hear this debate from those on the other side who talk about how we have to be compassionate for the health of mothers, let me assure you, as a father of seven children, I am very compassionate to the health of mothers during pregnancy. This is not a procedure that was contemplated to be helpful to the health of mothers or is necessary or is even preferable to preserve the health of mothers. This is a rogue procedure. This is a gruesome, brutal procedure where the doctor delivers a child in a breech position.

I just try to imagine myself in that position, having been at the birth of seven children, seeing that delivery, being there and seeing how the doctor carefully handles the child being delivered. As you will see in the chart, the doctor is holding this child alive. This baby is alive in the abortionist's hand. He has his hand wrapped around this child, which is alive, moving, feeling, heart beating, and nerves feeling.

As you can see on the chart, a doctor is holding the child in his hand.

The Senator from Tennessee is here, and I will yield to let him speak.

But I know what doctors are instructed to do when faced with a living human being in their care. I know the instinct has to be, How can I help this patient? But in the case of a partial-birth abortion, this child doesn't count as a patient. Nevertheless, it is a human being.

If you look at this chart, this is clearly a human being. This is a child with 10 toes, 10 fingers, arms, and legs. This is a human being, and nothing but a human being.

Look at the hands of that doctor grasping this child, grasping this living human being, holding it—a doctor who took a Hippocratic oath holding this human being in his or her hand.

I just try to imagine what goes through the doctor's mind when he takes a pair of scissors and probes this living being whose nerves work, whose brain functions, whose heart is beating, and finds the place to thrust a pair of scissors into the baby's skull; holding this child, feeling the child's pain, feeling its reaction to being executed, and then proceeding to suction the child's brains.

I am just troubled that we allow this to continue in America; that we allow this procedure to be used by people who are there to heal. What we say to so many in our society is how we value life, and yet we let the most vulnerable among us be treated in such a fashion.

Our leader is here. I will be happy to stop with my remarks and yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The majority leader is recognized.

Mr. FRIST. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act of 2003. I want to spend a few minutes discussing the underlying bill, and then later have an opportunity to come back and talk specifically about some amendments that will be coming to the floor.

I will in part be talking about the procedure as a medical procedure, and also discuss some of the myths that surround the very specific procedure that is defined in this particular bill.

I rise to speak on this particular issue with a deep passion not only for the protection of life but also for the ethical practice of medicine.

Before coming to the Senate, I had the opportunity to study and practice medicine for 20 years. Although I am not an obstetrician, I have delivered many babies in the past. I have had the privilege, as a cardiovascular surgeon, to operate on a number of premature infants born probably about 3 or 4 weeks later than the infant—or the fetus, in this case—that is depicted in this picture, about 3 weeks after that.

I do speak as a surgeon and a board-certified surgeon. This is a surgical procedure. I have had the opportunity to do thousands of surgical procedures as well as mend the hearts and vascular systems on babies this size.

As a surgeon, let me say that there are certain ethical bounds to the application of surgical procedures, and these are bounds that in a moral sense should never be crossed by a surgeon. It is interesting that the people who developed this procedure, and its loudest proponents, are not surgeons but practitioners, and they are not board certified in a field that would be consistent with performing procedures such as this. That is important because people have this image that once recognizing there are hundreds and indeed thousands of these procedures, in all likelihood, performed every year, that you would have certified surgeons performing them, but that is not the case. For the most part, general practitioners are performing these procedures.

From a medical standpoint, I took an oath to treat every human life with respect, with dignity, and with compassion. Abortion takes life away, and partial-birth abortion, this particular procedure, does so in a manner that is brutal, barbaric, and morally offensive to the medical community.

I will not concentrate on the politics of partial-birth abortion, but talk a little bit about the disturbing facts of partial-birth abortion as a surgical procedure, a procedure that clearly should and must be banned.

The fact is that partial-birth abortion is a repulsive procedure. The procedure is straightforward in description: people have seen the various charts. This depicts a late stage in that particular procedure. It begins, as described by its greatest advocate, by, inside the uterus, manipulating the fetus and turning the fetus around so it can be delivered feet first, delivering the feet through the uterus and through the cervical canal to the position that is depicted in this particular diagram, and then taking scissors which are about 8 inches long, called Metzenbaum scissors, and thrusting them into the back of the base of the skull. Then, because that opening is not sufficient to drain the brains from the fetus itself, it requires a forcible opening of the scissors. If you were to take a regular pair of scissors—although the Metzenbaum scissors are longer—forcibly opening those scissors so the end of the scissors will split the skull wider so the brain can be evacuated and other contents within the skull.

Once the skull is allowed to collapse because of the evacuation of the brain and the intracranial contents, the skull itself collapses. And you can see how large the skull is to actually come through the cervical canal and through the birthing canal. It is necessary at this late stage because, as you can see, this, if born now, would be a premature infant. I will come to what the survival is if at this stage this fetus was actually delivered alive instead of dead.

The thrusting of the scissors into the base of the skull and the cranium itself takes this living fetus and kills the fetus itself. One of the problems is at this late stage in development, the neurological system is fully developed, fully developed to the point that with cervical blocks, which is the type of anesthesia typically used, or as is described by the father to this procedure, the fetus itself will feel that pain of thrusting the scissors in the back of the head.

This particular procedure is most commonly performed between 20 and 27 weeks. That is in the second trimester of pregnancy. People ask how far developed the fetus is. Pictorially, that gives you a pretty good idea of how well developed the fetus is. But to put that in perspective, 20 to 27 weeks, that is when most of these are performed. If you look at the early side of that, between 20 and 23 weeks, if that fetus was not killed but was just delivered at that point in time, overall survival today is about 30 to 50 percent. If you go to the period of 24 to 25 weeks—remember, this procedure is performed between 20 and 27 weeks—overall survival if the fetus had not been killed by using the scissors, the survival rate would be around 60 to 90 percent.

So these are premature infants. That is why people such as Senator Moynihan, who used to be in this body, call it the equivalent of infanticide, because these are performed at a time where if the infant were not killed, the infant would be delivered and although, yes, premature, would have better than a 50/50 percent chance of survival.

So when you hear about the procedure itself and you listen to the description, it is hard to imagine a more grotesque treatment or tortuous treatment of what, if delivered without being first killed, would face a fighting chance of being a healthy human being.

Partial-birth abortion exists today. The procedure is performed in America every day. That is the reason this body, I believe strongly, must act and act with a ban to put a stop to this morally offensive procedure that is a fringe procedure, that is a rogue procedure that is being applied each and every day. We must stop it.

The reason I describe—it is worth looking at these pictures—this procedure in detail is not to shock. That is not the purpose. It really is to inform. The description I gave you is a typical medical way of describing the procedure itself. I will say, being a physician and being board certified, it is my responsibility not to shock but to depict the procedure as spelled out in the bill, a very specific procedure as it really is, the reality of the procedure itself.

It is critical that we debate this in terms of that framework of reality, no matter how disturbing the reality is.

There are a number of arguments by people who say, no, we should allow this procedure, as morally offensive and repulsive as it is, to continue.

I would like to take some of those myths. I will present them as myths because that is what they are. First, some say that partial-birth abortion may be necessary to preserve the health of the mother. That is not true. Never has partial-birth abortion, the specific procedure that is described in the bill itself, never has it been the only procedure or the best procedure available in the case of a medical emergency. You have to remember that this procedure takes 3 days. In fact, the alternative procedure—I am not an advocate of the alternative procedure that is accepted within the medical community—does not take 3 days. So when you are talking about medical emergencies and people say, it is the best alternative out there, that is not true. It is a dangerous procedure.

The only advantage I can see of partial-birth abortion—which is a disturbing advantage; therefore, I wouldn't call it an advantage or a benefit—is the guarantee, by the thrusting of the scissors into the brain and evacuation of the brain, of a dead infant.

Still, in the remote chance—and I argue hypothetical, because I have not been able to talk to anybody today who has said partial-birth abortion would be required to save the life of a mother because, remember, it takes 3 days. When you have procedures that are within ethical bounds, accepted by the medical profession and taught in medical schools, you have alternative procedures. But in the remote chance—again I argue hypothetical—the ban would not apply if it were to save the life of the mother.

Second, some would say that partial-birth abortion is the best option to preserve the health of the mother. I argue, no, it is a dangerous option. Let me paraphrase an article in the Journal of the American Medical Association, published on August 26, 1998. There are "no credible studies" on partial-birth abortion that "evaluate or attest to its safety" for the mother. Partial-birth abortion, as described in the bill, is more dangerous to the health of the mother than the alternative procedures. There is a much greater danger.

The cervix itself is right here on the chart. This is the uterine cavity. You see the size of the head and the instrumentation of the hand and the instruments, which expand the cervix, which is the smallest part of the bottom of the uterus. When you overextend and expand that, you come to what is called cervical incompetence. This comes to the health of the mother long term, because cervical incompetence can have longstanding side effects to the mother.

Right here, those are the Metzenbaum scissors. It looks like a suction device. You can see those are about 8 inches long. Metzenbaum was the person who first described these scissors. The blunt instrumentation is done blindly. You cannot see. What you are doing is putting two fingers down, pulling down on the shoulders, putting the scissors on the top, and feeling this little indentation and thrusting inside. It is all done blindly—the manipulation of the two fingers and the manipulation of turning the fetus itself, as well as putting in the blunt instrument of the scissors. Once you insert the scissors that deeply into the uterus blindly, forcibly into the skull, if it doesn't go into the skull, it perforates the uterus.

The alternative procedures today—again, I am not supporting third trimester abortions and, to me, they are all repulsive. But it is important for people to know the alterative procedures don't involve the Metzenbaum scissors. It is done with an injection into the heart itself directly, or guided by ultrasound, very carefully controlled. It is not this blind procedure.

Comparing the various procedures is important because we keep hearing from certain people that this is the safest, or will be the safest or best alternative. It is simply not true. It is more dangerous. There is the danger of infection because of the increased manipulation that is required in this procedure itself, secondary to the performance of this procedure.

The third myth is the medical community—I was jotting notes when people were saying it infringes on the doctor-patient relationship. It says specific medical procedures that should not be banned by Congress. You know, first of all, that is not true. As a physician, you don't like big government coming in and telling you what you can and cannot do. Most people in life don't like Government intruding into their lives. And that doctor-patient relationship being as special as it is, you don't want Government coming in and saying yes, no, come in with that procedure. I feel the same way, generally. But as I opened up, I said there are certain ethical bounds and, yes, as a profession, we take certain oaths. One of them is the Hippocratic oath of doing no harm. But there is a certain ethical boundary and framework that, no matter who or what you are, you never go outside. But we have people going outside those ethical bounds. I argue that they are hurting women, when alternative procedures that are much safer are available. Thus, we must put a stop to that. And because it is performed every day, and it is outside of the ethical bounds, we are obligated to redefine those bounds in this particular case.

The bill says this is a rogue procedure that is never medically necessary and is condemned by the medical community. It has absolutely no place in the doctor-patient relationship. This is where the myth comes in, because that relationship is built on trust. That is the whole essence of the relationship between a woman and her physician, or a patient and a doctor. That trust has got to be built on moral behavior. What makes medicine a profession is this body of professional ethics, coupled with the specialized knowledge; and this goes outside the bounds of that framework of ethics, of morality.

Thus, I argue that this procedure, performed as it is across this country today, is offensive, is repulsive to this whole concept of the doctor-patient relationship, which is built on trust and moral behavior. This procedure is not moral.

People have made comments, "Where is the AMA?" There have been statements that the AMA does not oppose partial-birth abortion, or does. Let me just say the American Medical Association has supported this ban in the past. They oppose this specific procedure in this bill better, I would say, because it is more specifically defined than in the past bills; they oppose this specific procedure.

People say, well, the AMA is not out there saying this is the greatest bill on earth today. That is because it goes back to what I said, that they don't like the idea of anybody coming in and telling a professional what to do and what not to do. Let me leap back to what I said, and then I will go back.

The people who invented the procedure are not surgeons. They are not board certified. They operate outside the peer-reviewed literature. You cannot really go and find—because it is not accepted—this particular procedure in the peer-reviewed literature, which shows a certain amount of acceptance and respect in the mainstream community. It is simply not there.

The fourth myth I want to comment on is that some say making these specific techniques of partial-birth abortion a crime would make performing all late-term abortions almost impossible, and it would discourage doctors from performing legal abortions in all circumstances. I put this second to last in terms of the myths. I oppose abortions, but for those people who believe in abortions, it is important for them to know this is a myth. I can say that because in the bill, the partial-birth abortion is very specifically and tightly worded and described, so that the ban, or the prohibition, would be just on the techniques that were described earlier and that have been pictorially described on the floor of the Senate—that is, the partial-birth abortion procedure.

There are alternative procedures, and I also find those offensive; but some people do not find them offensive. Those would still be legal. So this idea that a very tightly worded ban on a specific procedure, which is a subset of other types of procedures that are done, would stop, would make all abortions illegal, is simply not true. Again, I come back to those alterative methods are safer.

The fifth and last myth is that some say partial-birth abortion is accepted as mainstream medicine. That is not true. This is a fringe procedure. It is not found in the common medical gynecological textbooks, obstetrics textbooks that our medical students are taught with today. It is not taught in medical schools or surgical residency programs. It is outside the mainstream. If one looks at all the obstetrics and gynecologic residency programs, only 7 percent provide routine training for even mainstream third-trimester or late abortions. That is only 7 percent. To the best of my knowledge, none—none—in the residency programs teaches or would teach this specifically described partial-birth abortion procedure.

Today's doctors are simply not trained with this procedure—yet we have people performing it—because it is dangerous, because it is a rogue procedure, and because it is outside the mainstream of generally accepted medical and surgical practice.

I will mention one last time, the most prominent practitioners of partial-birth abortions are not trained obstetricians, but are general practitioners. Partial-birth abortion is an affront to the safe and reputable practice of medicine.

The question often arises as to how often these abortions, using this technique, are performed. It is hard to get good data, but if we look at the data that is provided and that we can collect, it is not as uncommon a practice as one might think.

In 1996, the research arm of Planned Parenthood asked doctors for the first time a question on partial-birth abortion. The question produced an estimate at that point in time, 1996, that 650 such abortions were performed using this technique annually in the United States. The same survey found that in the year 2000, over 2,200 partial-birth abortions were performed in the United States—2,200 deaths purposely caused by this technique, by this rogue procedure. That is why we have this call to action which we have debated on this floor now in this Congress and, indeed, in the last Congress and in the Congress before that.

An interesting side piece of data is that Kansas, the only State that requires separate reporting for partial-birth abortions, in 1999 said 182 procedures of partial-birth abortion were performed on viable fetuses. Of interest to all, 182 of those procedures were performed for mental health reasons, but not for physical health reasons—not for physical health reasons. It is important to understand because we have an exclusion for life of the mother, but none of those was performed for life of the mother. Why? Because there are alternative procedures that are safer and quicker and less invasive for the mother.

A vast majority of Americans support a ban on partial-birth abortion. Their will was reflected in the 104th Congress and in the 105th Congress, and in both of those Congresses the House of Representatives passed this ban and the Senate passed this ban. Sadly, both of those efforts were vetoed by President Clinton.

Today, partial-birth abortion remains the law of the land, and we are going to change that. It is going to be changed in this body, and hopefully we can complete this bill tomorrow night and then move to the House of Representatives and then a bill will be sent to the President which I expect will be signed.

Partial-birth abortion is a morally offensive procedure. It is time to ban it. We as a society respect human life far too much to let it be ravaged in such an inhumane way: a living infant partially delivered, stabbed with 8-inch scissors, emptied of the contents of its skull, and then pulled from its mother dead. Never has this procedure been the only or the best one available to protect the health of the mother. In fact, as I pointed out, partial-birth abortion carries a greater risk of doing harm. That is why this procedure is morally offensive to doctors, not only as individuals but as professionals.

In closing, I ask my colleagues, as we debate this bill, that we do so with the barbaric reality, with the brutal reality of this heinous procedure in mind, and not be sidetracked by the myths of partial-birth abortion, especially that would in any way imply that this is an accepted mainstream medical procedure. It simply is not.

Instead, we need to ask one simple question: Does partial-birth abortion carry the danger of doing unnecessary harm to a mother, to an infant, and to our conscience as a nation that values the sanctity of human life? The answer is yes. That is how I will vote, and I urge my colleagues to vote the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, will the distinguished leader yield?

Mr. FRIST. Mr. President, I will yield.

Mr. BYRD. Mr. President, I ask unanimous consent that I may ask a question without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. How did I vote on this question the last time we voted?

Mr. FRIST. Mr. President, I will find out shortly how the distinguished Senator from West Virginia did vote.

Mr. BYRD. I thank the distinguished leader.

Mr. FRIST. Mr. President, I am informed that in the 106th Congress, the Senator from West Virginia voted yes to ban this procedure.

Mr. BYRD. I thank the distinguished leader.

Mr. President, I see two other Senators here who have been waiting. I have the floor, do I not?

The PRESIDING OFFICER. The Senator does have the floor.

Mr. BYRD. I thank the Chair. I hope I can yield to the distinguished Senator from California, Mrs. BOXER—for how long?

Mrs. BOXER. Ten minutes.

Mr. BYRD. Ten minutes, without losing my right to the floor, and then I may yield to the distinguished Senator from Ohio, my next-door neighbor, for 15 minutes, without losing my right to the floor, and that I will then be recognized as I am now recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair. I thank all Senators.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mrs. BOXER. Will the Chair please inform me when I have a minute left?

The PRESIDING OFFICER. The Senator will be informed.

Mrs. BOXER. Mr. President, when a bill that deals with a medical procedure comes before the Senate, that in itself is very rare. When a bill comes before the Senate that bans a medical procedure that many women have stated saved their lives, preserved their fertility, stopped them from having a severe health impact, I think it is important to turn to the people who know the most about this, and that is the OB/GYNs who choose, as their way of life, delivering children, who get their satisfaction in their work by staying close to a pregnant woman and seeing her through a pregnancy.

Hearing Senator FRIST's comments is very interesting to me, but I have to say I have read his bio, and there is nothing in here about delivering babies. Maybe he did when he was in school or as a resident. But what we are talking about here is OB/GYNs. What do they think? Why is that important? Because that is their life.

Let me tell my colleagues what the OB/GYNs say:

> Partial-birth abortion does not exist.

They are not the only ones who say that. The fact is the Supreme Court said that. They said the bill is so vague; it made up a term, "partial-birth abortion."

There is no such thing as partial-birth abortion, a very emotional term. But what we are talking about is a procedure that is used in a situation where any other procedure might cause grave harm to the woman.

Now, the AMA does not support S. 3. I hope Senator FRIST is aware of this. He is busy talking, which is fine, but I ask unanimous consent that the AMA statement that says they do not support S. 3 because it includes a provision that would impose a criminal penalty on physicians be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> AMERICAN MEDICAL ASSOCIATION,
> *March 10, 2003.*
>
> The Senate is considering a bill that would ban the procedure known as intact dilation and extraction, more commonly referred to as partial birth abortion. The American Medical Association (AMA) has previously stated our opposition to this procedure. We have not changed our position regarding the use of this procedure.
>
> The AMA also has long-standing policy opposing legislation that would criminalize medical practice or procedure. Since S. 3 includes a provision that would impose a criminal penalty on physicians performing intact dilation and extraction, the AMA does not support this bill.

Mrs. BOXER. Then I want to tell a story. My colleagues have an artist's rendering, but I want to show a photograph of a woman named Coreen Costello. I want my colleagues to listen to this because it is not a made-up picture. It is a real picture of a real family and a real woman. Why don't my colleagues listen to it because I think this is what we are supposed to be about, real people facing real problems and what we are about to do by passing radical legislation, which is unconstitutional on its face. It did not even go to the committee. I say to my friends, it did not even go to the Judiciary Committee, although the Supreme Court said it was unconstitutional. The least they could have done was bring it back to the committee and look at what the Court said, that the definition was broad, it was vague, it could ban more than one procedure and that it had no exception for the health of a woman.

Listen to the story of Coreen Costello. She says:

> I am writing to you on behalf of my family. I have testified before both the Senate and the House concerning the so-called partial-birth abortion ban. I have personal experience with this issue for at 30 weeks pregnant I had a procedure that would be banned by this legislation. When I was 7 months pregnant, an ultrasound revealed that our third child, a darling baby girl, was dying. She had a lethal neurological disorder and had been unable to move any part of her tiny body for almost 2 months. Her muscles had stopped growing and her vital organs were failing. Her lungs were so undeveloped, they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow amniotic fluid and as a result, the excess fluid was puddling in my uterus. When we learned about our baby's condition, we sought out many specialists and educated ourselves. Our doctors, five in all, agreed that our little girl would come prematurely and there was no doubt that she would not survive. It was not a matter of our daughter being affected by a severe disability—her condition was fatal. Our physicians discussed our options with us. When they mentioned terminating the pregnancy, we rejected it out of hand.

I want my colleagues to hear this, and I ask that there be order in the Chamber.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. I have listened to my colleagues, and I would appreciate it if they would hear a story of a woman named Coreen Costello, because if this procedure were to be banned—and I see that Dr. FRIST has left the floor—this woman could have died. But they leave the floor, and that is their prerogative.

This is what Careen Costello writes:

> We are Christians and we are conservative. We believe strongly in the rights, value and sanctity of the unborn. Abortion was simply not an option we would ever consider. This was our daughter. Instead, we wanted our baby to come in God's time and we did not want to interfere. We chose to go into labor naturally. It was difficult to face life knowing we were going to lose our baby but it became our mission to make the last days of her life as special as possible. We asked our pastor to baptize her in utero. We named her Katherine Grace. Another ultrasound determined Katherine's position in my womb. It was not conducive for delivery. Her spine was so contorted it was as if she was doing a swan dive, the back of her feet almost touching the back of her head. Her head and feet were at the top of my uterus. Her stomach was over my cervix. Due to swelling, her head was already larger than that of a full-term baby.

I say to my friends, this is real life. This is a situation of a woman who never, ever wanted an abortion. She said:

> As my condition worsened, we again considered our options. Natural birth or induced labor were not possible. We considered a cesarean but the experts felt the risk to my health and my life were too great.

We have a bill before us that makes no exception for the health of the woman. I was in the Chamber yesterday. We had a very tough debate, and the question was asked, How low can we sink? I have to say, when we hear stories such as this, that happen to real people—and if this were our daughter or our wife or our aunt, would we not say, save her life and her health?

The bottom line is this: This woman had the procedure that would have been banned with this bill. I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF COREEN COSTELLO

> My name is Coreen Costello and I am writing to you on behalf of my family. I have testified before both the Senate and the House concerning the so-called ``partial birth abortion'' ban and my family was with the President when he vetoed his legislation. I have personal experience with this issue for at 30 weeks pregnant I had a procedure that would be banned by this legislation.
>
> On March 24, 1995, when I was seven months pregnant an ultrasound revealed that our third child, a darling baby girl, was dying. She had a lethal neurological disorder and had been unable to move any part of here tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her lungs were so underdeveloped, they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow amniotic fluid and as a result, the excess fluid was puddling in my uterus (a condition known as polyhydramnios). When we learned about our baby's condition, we sought out many specialists and educated ourselves to see what we could do to save our child. My husband is a chiropractor and we are very proactive about our health care. We are generally skeptical about the medical profession and would never rely on the advice or diagnosis of just one doctor. However, our doctors (five in all) agreed that our little girl would come prematurely and there was no doubt that she would not survive. It was not a matter of our daughter being affected by a severe disability—her condition was fatal.
>
> Our physicians discussed our options with us. When they mentioned terminating the pregnancy, we rejected it out of hand. We are Christians and conservative. We believe strongly in the rights, value and sanctity of the unborn. Abortion was simply not an option we would ever consider. This was our daughter.
>
> Instead, we wanted our baby to come on God's time and we did not want to interfere. We chose to go into labor naturally. It was difficult to face life knowing we were losing our baby. But it became our mission to make the last days of her life as special as possible. We wanted her to know she was loved and wanted. We asked our pastor to baptize her in utero. We named her Katherine Grace—Katherine meaning pure, and Grace representing God's mercy.
>
> Another ultrasound determined Katherine's position in my womb. It was not conducive for delivery. Her spine was so contorted it was as if she was doing a swan dive, the back of her feet almost touching the back of her head. Her head and feet were at the top of my uterus. Her stomach was over my cervix. Due to swelling, her head was already larger than that of a full term baby. For two weeks I tried exercises in an attempt to change her position, but to no avail. Amniotic fluid continued to puddle into my uterus at a rate of great concern to my doctors. I was carrying an extra nine pounds of fluid. It became increasingly difficult to breathe, to sit or walk. I could not sleep. My health was rapidly deteriorating. My family and friends were much more aware of my health decline than I was. My complete focus was on Katherine.
>
> As my condition worsened, we again considered our options. Natural birth or an induced labor were not possible due to her position and the swelling of her head. We considered a Cesarean section, but experts at Cedars-Sinai Hospital felt that the risks to my health and possibly to my life were too great. A Cesarean section is done to save babies. It can be a life saving procedure for a child in stress or one who cannot be delivered vaginally. It is not the safest for a woman. There is an increased mortality rate with Cesarean section. In my case, even if a Cesarean could be done, Katherine would have died the moment the umbilical cord was cut. There was no reason to risk my health or life, if there was no hope of saving Katherine. She would never be able to take a breath.
>
> Our doctors all agreed that an intact D&E procedure performed by Dr. James McMahon was the best option. I was devastated. I could not imagine delivering my daughter in an abortion clinic. But Dr. McMahon was an expert in cases similar to mine. My situation and Katherine's condition were not new to him. He explained the procedure to us. My cervix would be gently dilated to maintain its integrity. Once I was dilated enough, Dr. McMahon could begin the procedure. In order for Katherine to be delivered intact, cerebral fluid would be removed, which would allow her head to be delivered without damage to my cervix.
>
> It took almost three hours to deliver our daughter. I was given intravenous anesthesia. Due to Katherine's weakened condition, her heart stopped beating during the procedure. She was able to pass away peacefully in my womb.
>
> Some who support his bill have stated that I do not fit into the category of someone who had a so-called ``partial birth abortion'' because I contend my baby died while still in my womb. Is this relevant? When the procedure began, her heart was still beating—who could predict for certain when she would actually pass away? If this legislation were passed, an intact D&E would not have been an option for me. The fact is, I had the procedure outlined in this legislation. Since I present the procedure as humane, dignified, and necessary, somehow this means I must have had a different procedure and am not relevant to this bill. This is simply not true.
>
> I come to you with no political motivation, rather I come with the truth. I have experience of an intact D&E. Some want you to believe their horrific version of this procedure. They have never experienced an intact D&E. I have. This procedure allowed me to deliver my daughter intact. My husband and I were able to see and hold our daughter. I will never forget the time I had with her, nor will I forget her precious face. Having this time with her allowed us to start the grieving process. I don't know how we would have coped if we had not been able to hold her. Moreover, because I delivered her intact, experts in fetal anomalies and genetics could study her condition. This enabled them to determine that her condition was not genetic. This was crucial for us in deciding whether or not to have another child.
>
> No one predict how a baby's anomalies will affect a woman's pregnancy. Every situation is different. We cannot tie the hands of physicians in these life and health saving matters. It is simply not right.
>
> With my health maintained, my cervix intact and my uterus whole, we were able to have another child. On June 4, we were blessed with a beautiful healthy baby boy. He is our delight! He is not a replacement for his sister. There will always be a hole in our hearts where Katherine Grace should be. He is, to us, a sign that life goes on. We cherish every moment we have with Tucker, and with our two other children, Chad and Carlyn. What precious gifts God has given to us.
>
> Losing our daughter was the hardest thing we have experienced. It's been difficult to come to Washington and relive our loss. And it's ironic that I, with my profound pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman will need this procedure. But until there is a cure for the cruel disorders that can affect babies, women must have access to this important medical option.

Mrs. BOXER. She concludes:

> Losing our daughter was the hardest thing we have ever experienced. It has been difficult to come to Washington and relive our loss. And it's ironic that I, with my profoundly pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman will need this procedure, but until there is a cure for the cruel disorders that can affect babies, women must have access to this important medical option.

The PRESIDING OFFICER. The Senator from California has 1 minute remaining.

Mrs. BOXER. In conclusion, in my last minute, I have told this story because what we are about to do, unless we adopt several of the amendments we will be offering, would mean that another woman such as this, another beautiful family such as this, might find that the woman has life-threatening illnesses if, in fact, she cannot have the procedure: hemorrhaging, uterine rupture, blood clots, embolism, stroke, damage to nearby organs, paralysis. This is what physicians tell us happens to women.

So my colleagues have a picture, and that is fine, although I have to say I hope the pages who feel a little queasy on this will not be forced to stay in the Chamber, but we are dealing with a circumstance that affects real people and these are the things that can happen to these women. I believe we have to have a voice, and the Murray amendment should pass because the Murray amendment would mean that women can have access to contraception and that abortion would become safe, legal, and rare.

I yield the floor back to Senator BYRD, who I believe has the time.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio now has 15 minutes.

The Senator from Ohio.

Mr. DEWINE. Mr. President, I will continue the debate in regard to the partial-birth abortion ban. This afternoon, I will talk about the constitutionality of this statute, S. 3. The argument has been made that this statute is unconstitutional, but I differ with my colleagues who make this argument.

Reference has been made to the Stenberg case that overturned the Nebraska partial-birth abortion law. I argue that the law in front of us, or the statute in front of us, is fundamentally different.

First, the language is different. The Partial-Birth Abortion Ban Act of 2003 provides a very precise definition of partial-birth abortion so that it is clear on the face of the legislation exactly what procedure is to be banned, unlike the Nebraska statute that was declared unconstitutional.

The bill would outlaw one, and only one, abortion procedure, and that is the D&X procedure, the partial-birth procedure we have been describing in very vivid detail on the Senate floor, the procedure that no one really can argue is anything less than barbaric and inhumane.

There is absolutely nothing vague, unclear, or ambiguous about how this bill defines the partial-birth abortion procedure.

To make this even more clear, it is useful to examine the law struck down by the Supreme Court in the Stenberg case. The procedure was defined in that case by the Nebraska Legislature as follows, and I will read from that Nebraska law that was found to be unconstitutional, to show its difference from this law:

> An abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery.

That is what the Nebraska law said. The phrase "partially delivers vaginally a living unborn child before killing the unborn child" was further defined in the Nebraska statute as follows:

> Deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure; that the person performing such procedure knows will kill the unborn child and does kill the unborn child.

The Supreme Court held this language of the Nebraska statute covered more than just one abortion procedure. The definition used in the Nebraska statute implicated not only partial-birth abortion procedures, but it also implicated the more common dilation and evacuation or D&E methods, which is different from a D&X method we are dealing with in this statute.

For the record, a D&E, according to the nonpartisan Congressional Research Service, is described as follows:

> D&E involves the dilation of the cervix and the dismemberment of the fetus inside the uterus. The fetal parts are later removed from the uterus either with forceps or by suction.

In other words, in a D&E procedure, an unborn child is essentially dismembered, limb by limb, piece by piece. During a D&E, an arm or leg is sometimes pulled into the birth canal before being twisted off, while the baby is still alive. The Justices thought this might be considered a partial-birth abortion under the Nebraska law definition because that definition, as I have just stated, includes any procedure in which a baby is delivered vaginally, even if that vaginal delivery is just a partial delivery.

At this point, it is worth repeating exactly how a partial-birth abortion procedure, again also known as a D&X procedure, is distinguished from a D&E procedure. The D&X or partial-birth abortion procedure was very well described by U.S. Supreme Court Justice Clarence Thomas in his dissent in the Stenberg case.

This is what Justice Thomas wrote:

> After dilating the cervix, the physician will grab the fetus by its feet and pull the fetal body out of the uterus into the vaginal cavity . . . While the fetus is stuck in this position, dangling partly out of the woman's body, and just a few inches from a completed birth, the physician uses an instrument such as a pair of scissors to tear or perforate the skull. The physician will then either crush the skull or will use a vacuum to remove the brain and other intracranial contents from the fetal skull, collapse the fetus' head and pull the fetus from the uterus.

That is depicted in a later phase of this procedure in this picture.

In order to avoid any possibility of confusion, the bill before the Senate, S. 3, defines the phrase "partial-birth abortion" so narrowly that only the D&X abortion procedure is covered. No other abortion procedures—including the D&E procedure in which an unborn baby's arm or leg is pulled into the birth canal before being twisted off—could possibly be implicated by S. 3.

While we have already heard it read on the Senate floor during the debate, while I read it last night in this debate, I think it is important to again repeat the bill's definition of the partial-birth abortion procedure. According to the definition in this bill, S. 3:

> (1) the term 'partial-birth abortion' means an abortion in which——
>
> (A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and
>
> (B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus;

My colleague from California and others have argued that the S. 3 definition of a partial-birth abortion still covers more than one abortion procedure. But she has never explained how this is possible. The description of partial-birth abortion in S. 3 is so precise and is based, frankly, on the description of a leading abortionist, Dr. Mark Haskell, a man about whom I spoke last night on the Senate floor, a man who regularly conducts these heinous procedures in my home State of Ohio. This is a very precise definition of a partial-birth abortion that leads absolutely nothing to the imagination.

Clearly, without question, S. 3 very precisely and very specifically addresses the first constitutional issue that was raised in the Stenberg case and is fundamentally different than the Nebraska statute that was declared unconstitutional by the U.S. Supreme Court. S. 3 would ban one and only one very specific abortion procedure. It simply imposes absolutely no undue burden on a woman's ability to obtain an abortion.

Let me turn now to the second issue, the second constitutional issue, and that is the health of the mother, which was the other issue raised in the Stenberg case. The so-called requirement that the statute must contain "the health of the mother" also springs from the notion of undue burden on the woman's ability to get an abortion.

The argument, as I understand, goes something like this: If a procedure is medically important to protect the health of the mother, banning that procedure would pose an undue burden on her ability to have an abortion. Yet in the case of the partial-birth abortion, medical experts have repeatedly confirmed that this callous act is never medically indicated. And because it is never medically indicated, banning it cannot possibly be an undue burden.

There is substantial evidence from past congressional hearings on this issue to support a finding obtained in the bill itself, and the bill makes these findings. It says in part, the following: Rather than being an abortion procedure that is embraced by the medical community, partial-birth abortion remains a disfavored procedure that is not only unnecessary to protect the health of the mother but, in fact, poses serious risk to the long-term health of women and, in some circumstances, their lives.

I remind my colleagues of a 1996 interview in which the former U.S. Surgeon General, C. Everett Koop, explicitly discussed partial-birth abortion. In that interview, a reporter for American Medical News posed the following question. This is what the interviewer asked.

> President Clinton just vetoed a bill to ban partial-birth abortions, a late-term abortion technique that practitioners refer to as intact dilation and evacuation or dilation and

> extraction. In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

Dr. Koop responded as follows:

> I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late term abortions because in no way can I twist my mind to see that the late term abortion as described, you know, partial-birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother.

Similarly, in 1997 a House committee report on the subject cited over 400 OB/GYN and maternal/fetal specialists who have unequivocally stated:

> Partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

The majority leader of the Senate, a medical doctor, gave us, a few moments ago, the benefit of his wisdom, of his experience on this issue. The point I believe is worth repeating because it is notable that so many doctors are willing to come right out and say: No, this is absolutely not necessary; we can never find one instance in which it is medically indicated.

Doctors usually don't say things like this. They just don't like being that definite because medicine, by definition, is usually a case-by-case situation, a case-by-case profession. But this issue is different. On this issue, it is crystal clear, partial-birth abortions serve no legitimate medical purpose that cannot be served by other means. As my colleague from Pennsylvania stated earlier today:

> Over the past several years the Senate advocates of partial-birth abortion have never produced even one case in which a partial-birth abortion is shown to be medically necessary.

Opponents of this bill go beyond just arguing about the merits of partial-birth abortion. They go further, probably because it is so gruesome that some of my colleagues are uncomfortable supporting it. Some of my colleagues would prefer to debate the issue of abortion more generally. They try to cast this debate as a debate about a broader issue, and that issue is reproductive freedom. But the issue before us today is not reproductive freedom; it is a much more narrow issue. The issue is very narrowly defined. It is simply the issue of partial-birth abortion. The issue before us is the very specific method of partial-birth abortion, a method that is particularly brutal and gruesome and wrong.

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified before our Senate Judiciary Committee in 1995. I would like to share with my colleagues what she said because she gave very gripping, very telling testimony.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DEWINE. I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Nurse Shafer described a partial-birth abortion she witnessed on a child of 26.5 weeks, and this is what she said:

> Dr. Haskell brought the ultrasound in and hooked it up so that he could see the baby. On their ultrasound screen I could see the heart beat. As Dr. Haskell watched the baby on the ultrasound screen, the baby's heartbeat was clearly visible on the ultrasound screen.
>
> Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and arms. Everything but the head. The doctor kept the head right inside the uterus. The baby's little fingers were clasping and unclasping and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening, sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby move in the pan. I asked another nurse and she said it was just reflexes. That baby boy had the most perfect angelic face I think I have ever seen in my life.

As stated in a House committee report containing the transcript of this nurse's testimony:

> The only difference between the partial-birth abortion procedure and infanticide is a mere 3 inches.

Three inches between life and death, between murder and lawful action, is clearly not enough. The time to ban this procedure once and for all is now. We cannot in good conscience let this barbaric procedure continue to be legal.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, parliamentary inquiry: Has the Pastore rule run its course today?

The PRESIDING OFFICER. It has expired.

Mr. BYRD. It has. I thank the Chair.

Mr. President, I shall speak out of order, not long. My guess is that I will speak for 20 minutes or less.

The PRESIDING OFFICER (Mr. CHAFFEE). The Senator from West Virginia is recognized.

### IRAQ

Mr. BYRD. Mr. President, the United Nations is in diplomatic disarray today as the foreign ministers from the world's most powerful nations scramble to find some scrap of common ground on the question of war with Iraq.

What a difference a few months makes. Last November, under the leadership of the United States, the 15-member U.N. Security Council unanimously approved Resolution 1441, strengthening the weapons inspection regime and giving Iraq a final opportunity to comply with its disarmament obligations.

The rapidity with which that unity has unraveled is astounding. What began as a constructive process to gain international support for war against Iraq has disintegrated into insults, accusations, and finger-pointing among the key members of the Security Council. Instead of forging an international coalition to deal with Iraq, as it set out to do, the Administration has managed to turn much world opinion against United States. With his insistence that the United Nations declare the inspection regime a failure and immediately authorize war against Iraq, the President has opened a chasm between the U.S. and Great Britain on one side and the remaining permanent members of the Security Council on the other.

Today, the White House is declaring the United Nations irrelevant—one of the most over used words in the English language as of today, I would say, and as of the last several days.

Today, the White House is declaring the United Nations irrelevant if it does not authorize immediate war against Iraq, and U.N. Secretary General Kofi Annan is countering that a U.S.-led invasion of Iraq without the sanction of the United Nations will violate the U.N. charter.

The knock-down, drag-out in the Security Council has tarnished the images of both the United Nations and the United States, and it has imperiled the political career of at least one world leader, one foremost leader, President Bush's staunchest ally, British Prime Minister Tony Blair.

What a high price to pay for the President's insistence on blindly following a war-first, war-now policy on Iraq. What a high price to pay.

Despite feverish activity this week on the part of the U.S. and Great Britain to persuade a majority of members of the Security Council to support a second resolution authorizing war with Iraq, the President and his chief advisers have made it clear that the activity is merely window dressing and that the United States is prepared to act with or without U.N. support. For the Bush administration, war with Iraq seems to be no longer a question of if, but when and the window on "when" is rapidly closing.

Dr. Condoleezza Rice, the President's National Security Advisor, declared over the weekend, "There is plenty of authority to act. We are trying very hard to have the Security Council one more time affirm that authority. But it's important to know that we believe the authority is there."

In other words, the die has been cast. As Caesar said when he crossed the Rubicon, "the die is cast." The rhetoric has hardened. U.S. forces are in place and poised to attack. The U.N. Security Council has been relegated to a classic Greek chorus of tragic protest while the United States takes center stage. The President has stopped listening.

The administration's strategy for war with Iraq is so far advanced that not only does the President have war plans on his desk, he also has a blueprint for the post-war reconstruction of Iraq.

On Monday, The Wall Street Journal reported that the U.S. Agency for International Development is soliciting bids from a handful of U.S. firms for a contract worth as much as $900 million to begin the reconstruction of Iraq. According to the Journal, the contract would be the largest reconstruction effort undertaken by the United States since the reconstruction of Germany and Japan after World War II.

With post-war contracts already in hand, can the onset of war be far behind?

My views, by now, are well known. I believe this coming war is not a necessity. I believe it is a grave mistake, not because Saddam Hussein does not deserve to be disarmed or driven from power, not because some of our allies object to war, but because Iraq does not pose an imminent direct threat to the security of the United States. There is no question that the United States has the military might to defeat Saddam Hussein. There is no question about that. But we are on much shakier ground when it comes to the question of why this Nation, the United States, under the current circumstances, is rushing to unleash the horrors of war on the people of Iraq.

In many corners of the world, the United States is seen as manufacturing a crisis in Iraq, not responding to one. Key members of the U.N. Security Council, including France and Russia, have vowed to veto any move to secure the imprimatur of the U.N. on war with Iraq. The U.N. weapons inspectors have pleaded for more time to do their work. Citizens by the thousands—nay, by the hundreds of thousands—have taken to the streets in countries around the globe, including the United States, Europe, and the Middle East, to protest the war.

The day after the September 11 terrorist attacks on America, the French newspaper Le Monde proclaimed, "We are all Americans!" Eighteen months later, the United States and France are hurling insults at each other, and the French are leading the opposition to the war against Iraq. In country after country, the United States has seen the outpouring of compassion and support that followed September 11 dissolve into anger and resentment at this Administration's heavy-handed attempts to railroad the world into supporting a questionable war with Iraq.

The latest report of the U.N. weapons inspectors only heightened the tensions in the Security Council and helped to precipitate the current scramble for a new resolution. On Friday—March 7—chief U.N. weapons inspector Hans Blix reported progress in the disarmament of Iraq and predicted that the inspection process could be completed in months—"not years, nor weeks, but months."

At the same meeting, Mohamed ElBaradei, the Director General of the International Atomic Energy Agency, threw cold water on a key assertion of the Bush administration, that Iraq is actively pursuing a nuclear capability on two fronts—by importing high-strength aluminum tubes which could be used as part of a centrifuge to produce enriched uranium and by attempting to buy uranium from Niger. Dr. ElBaradei said the inspectors have found no evidence—none—that Iraq is attempting to revive its nuclear weapons program, concluding that the aluminum tubes were for a rocket engine program, as Iraq claimed, and that the documents used to establish the Niger connection were faked.

Not even reports of a chilling discovery by U.N. weapons inspectors of a new type of rocket in Iraq that appears to be designed to carry chemical or biological agents has swayed the hardening opposition in the United Nations to authorizing an immediate war against Iraq.

The world is awash in anti-Americanism. The doctrine of preemption enshrined in the Bush administration's national security strategy the policy on which the war with Iraq is predicated has turned the global image of the United States from that of a world class peacemaker into what many believe is dangerous warmonger.

The President is on the wrong track in insisting on rushing into war without the support of the international community, and specifically the United Nations. Not only is America's reputation on the line, but so is our war on terror. The recent arrest of Khalid Shaikh Mohammed and two of his cohorts in Pakistan is evidence that the United States is making slow but steady progress in dismantling the al-Qaida organization, and that we are reaping huge dividends from the anti-terrorism efforts we have undertaken in cooperation with other nations in the Middle East.

Pakistan's cooperation is particularly important in the war on terror, and yet the majority of the Pakistani people are opposed to war with Iraq. How or whether Pakistani opposition to the war against Iraq will affect the war against terror is one of many unknowns.

The United States cannot bring down al-Qaida alone. We need support and cooperation from friendly nations in the region. We risk losing their friendship, and possibly causing major upheavals in the Middle East, if the President defies world opinion and launches a U.S. led invasion of Iraq.

Mr. SARBANES. Will the Senator yield for a question on that point?

Mr. BYRD. Yes, I am happy to yield, without losing my right to the floor.

Mr. SARBANES. On the al-Qaida front, we have just captured supposedly the third ranking person in al-Qaida.

Mr. BYRD. Yes.

Mr. SARBANES. We were able to do that because of cooperation from Pakistan.

Mr. BYRD. Yes.

Mr. SARBANES. Just to underscore the Senator's point about the necessity of having the cooperation of other countries to deal with the terrorism threat.

Mr. BYRD. Undoubtedly.

Mr. SARBANES. Yet Pakistan, which has been trying to work with us, has already announced that at best they will abstain at the Security Council with respect to the coming vote because it is applying such tremendous internal pressure in Pakistan that there is some danger that this Government that has been working with us may not survive and may collapse.

Mr. BYRD. Unquestionably.

Mr. SARBANES. Isn't that a dramatic example of the kind of problem the Senator is talking about that is being created for us around the world?

Mr. BYRD. It is a dramatic example and a most somber and chilling one. I thank the distinguished Senator for his observation.

The President may be lucky. We may be lucky. If we launch this war on Iraq, we may be lucky. I hope we will be. But we may not be.

The cost of war and the potential casualties—not only to American military personnel but also to innocent civilians in and around Iraq—are unknowns. The impact of war on the fragile fabric of the Middle East is also unknown. The administration seems to think that war with Iraq will pave the way to peace and democracy in the Middle East, but I believe that is merely wishful thinking. Saddam Hussein is not the cause of the strife between the Israelis and the Palestinians, and Saddam Hussein's downfall will not erase the deeply rooted conflict between the two sides.

War against Iraq may prove to be a fatal distraction from the war on terror. It could be. The danger to Americans today is from al-Qaida. Intelligence officials predict that war with Iraq will precipitate a new wave of terrorism against the United States and its allies and will serve as a powerful recruiting tool for anti-American extremists.

We need to keep the pressure on al-Qaida. We need to strengthen our defenses against a terrorist attack here at home. We need to focus the resources of our Nation on the war on terror and dismantle the al-Qaida network before it can mount another catastrophic attack on the United States.

The hour is late; the clock is ticking. But if the President would only listen to voices outside his war cabinet of superhawks, he might discover that it is not too late to stop the rush to war. There is still a chance that Saddam Hussein can be disarmed and neutralized short of war. As long as that possibility exists, the United States should drop its resistance to any slowdown in the march to war and should begin to talk with, and listen to, the other members of the Security Council.

The prospect of regaining unanimity within the United Nations on the question of Iraq is dim at best, but as long as there remains even a glimmer of hope, it is in the best interests of both the United States and the other members of the Security Council to regroup and strive to achieve that goal. The world community deserves nothing less.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BYRD. Yes, I yield without losing my right to the floor. I am about finished.

Mr. DURBIN. I would like to say, before asking my question to the Senator from West Virginia, if the American people are looking for a debate on the war in Iraq, the looming possibility of war in Iraq——

Mr. BYRD. They have been looking for one. They have been entitled to one. And now they have received one.

Mr. DURBIN. The only place they can find it is in the House of Commons in London——

Mr. BYRD. Thank God.

Mr. DURBIN. And from the desk of the Senator from West Virginia and two or three other souls who come to this floor to raise the issue.

Mr. BYRD. Thank Providence again.

Mr. DURBIN. I say a commendation to the Senator from West Virginia. Thank you for your leadership in bringing us to this debate. I ask you, to make certain this point is clear on the record, is it the position of the Senator from West Virginia that we all believe the world would be a safer place without weapons of mass destruction in Iraq, even without the leadership of Saddam Hussein, but that in order to be strong in our war on terrorism, we need the cooperation of countries all around the world which now are questioning our wisdom in pursuing this war in Iraq?

Mr. BYRD. Indubitably, that is the way I see it. That is my opinion. I believe there is ample evidence of that fact. The world itself at large wishes to see that, wants to see that and hopes for that.

Mr. DURBIN. I might also ask the Senator from West Virginia, is the point he is making that if we stay working with the United Nations on a common plan to disarm Iraq and if it fails and we ultimately join with the other nations around the world to take whatever action is necessary against Iraq, we will have a better outcome, not only in terms of the military outcome but the responsibility of reconstruction of Iraq? Is that the Senator's point as well?

Mr. BYRD. Precisely so and importantly, emphatically on the second observation the Senator has made.

In other words, the morning after, what happens in Iraq? What does that cost? If we destroy much of Iraq, we have a responsibility to help to rebuild it. That is going to be a tremendous cost. I am afraid this administration has not thought that element through.

Moreover, the administration has not told the Congress very much about that, what the cost of that may be, what the administration's plans are in that case. I think that is a very soft underbelly of this whole matter.

Mr. DURBIN. I will ask one final question. I don't want to mischaracterize the Senator's position, but I think what I am about to say he and I share. There is no question in our minds about not only the goodness of the men and women serving in the American military today and their ability and skill to win any military challenge thrown their way. I hope the Senator agrees that it is far better for our military forces and our Nation, in the long run, for us to show wisdom in the decision of how to bring Iraq under control rather than just demonstrate that military strength.

Mr. BYRD. The Senator is preeminently correct. Let me add, as ranking member of the Senate Appropriations Committee, I will never yield to anyone when it comes to supporting America's fighting men and women who have been sent abroad, and those at home, once the war begins.

I do not believe this war is necessary. But I will support to the last degree the men and women who have to go. They didn't ask to go, but they have to go; they are answering the call. I will support them on the Appropriations Committee to the furthermost of my ability.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. SARBANES. The Senator spoke earlier about the preemption doctrine the administration has put forward. Would the Senator agree that one of the dangers with the enunciation of that doctrine and the path the administration has now been pursuing—which is to assert that they may take unilateral action instead of trying to work in a cooperative way through international bodies—is that it will set a precedent for other countries around the world to pursue the same course? After all, here is the predominant superpower asserting a doctrine of preemption, apparently prepared to go the unilateral path. What is then in the future to prevent some other regional power that asserts that it is confronted with some danger, from some neighbor, from pursuing the same path? Are we not in the process of setting a very dangerous precedent on the international scene in terms of maintaining international peace?

Mr. BYRD. The Senator is right on point. This doctrine is exceedingly dangerous. It not only will set a precedent, it has set a precedent, as we have seen it begun to be put into play in Iraq. It will be a precedent. There will be a blotch on the escutcheon of the United States from now and until kingdom come. It is a dangerous precedent. Can't the Senator see that already it is beginning to have an impact on other nations, as we watch North Korea, as we watch Iran—why, those countries and others are going to say, well, if this bully on the block is going to do this, we had better get ready and get our things in order. Maybe we had better get ready to hit him or others within our reach. This is a genie that we will regret ever having let out of the bottle.

Mr. SARBANES. Let me ask the Senator one final question and be very clear. I take it the Senator would agree with me that none of us questions that if we were in imminent danger of being struck, we would be warranted in taking measures to protect ourselves against such dangers.

Mr. BYRD. No question about it. The President—whether it is a Republican or a Democrat—has an inherent power under the Constitution. If there is an imminent threat about to be carried out against the United States, of course, the President has a responsibility and a duty to act first.

Mr. SARBANES. Actually, the U.N. Charter grants the right of self-defense, which would in fact entitle us to act on our own accord if confronted with an imminent danger.

Mr. BYRD. No question. But even without the U.N. Charter, we have the inherent right. It is under the Constitution. I will be the last person to give up on that right.

Mr. SARBANES. I wanted to make that point because some are arguing that somehow we are giving over to someone else the decisionmaking authority, in case we are confronted with an imminent danger, to respond. That is not the case at all. So as we see this situation, that is not present. The question becomes how smart and how wise are we in exercising this unquestioned power, which we hold now on the international scene; is that not correct?

Mr. BYRD. Absolutely. We are taking a reckless course in advocating this doctrine. It is a nefarious doctrine, and it is scaring the world to death today. No wonder we are looked upon as being warmongers. When our friends begin to fear us, may I say to the distinguished Senator from Maryland—who is one of the foremost thinkers in this body. I have been in this Congress for 50 years now, and I have seen some thinkers. I remember John Pastore, for example, who was a thinker. The Senator from Maryland is a thinker. The Senator is right on point in what he is saying. This is a dangerous doctrine, a reckless doctrine. When our friends begin to fear us, we are in trouble.

Mr. SARBANES. I thank the distinguished Senator from West Virginia for the enormous contribution he has been making. He has been willing to speak the truth and raise these very important and serious questions, which I am frank to say I don't think have been given adequate attention downtown by the President or by, as the Senator characterizes it, his war cabinet. This course we are on has tremendous implications in all of the United States.

Mr. BYRD. It has vast implications. I will say to the Senator that some of us have trouble going to sleep at night as we ponder this question. I thank the Senator for his observations today and for the service he has rendered not only to the State of Maryland but to this country. I think the Framers of the Constitution would be proud of PAUL SARBANES. I think PAUL SARBANES could very well have been one of the 39 signers of the Constitution.

Mr. SARBANES. I thank the Senator. I would hope the circumstance would be that the Senator from West Virginia would have been presiding in the chair, if I may say so.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. REID. Mr. President, I have no problem with the Senator from Utah getting the floor. We have a unanimous consent request we wish to propound if the Senator will withhold.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished friend and colleague from West Virginia. Everybody in this body knows the deep affection I have for him and for his feelings, and for his earnest and very important analysis of many of the issues we have had to live with over the years. I have deep respect for the distinguished Senator from Maryland, as well. We came to the Senate together. They are both great Senators, in my eyes.

Mr. BYRD. Mr. President, will the distinguished Senator yield? I thank the distinguished Senator. When he speaks of respect for the Senator from Maryland and for this Senator, may I say it is mutual. I have great respect for the Senator from Utah. There have been few occasions—not many—when we have differed on the floor. I have tremendous respect for him, for his leadership, for his dedication to his country, and for his State.

Mr. HATCH. Mr. President, I appreciate that. I listened carefully to much of what the distinguished Senator from West Virginia said, and he raised a number of very important issues, no question about it. I have great assurance as a member of the Select Committee on Intelligence in our President as we are considering one of those issues. It just points out how difficult it is to be President of the United States, especially during times of strife and difficulty; how difficult it is to make these decisions; how difficult it is to determine what imminence really is. Hugo Grotius, the father of international law, basically said imminency is a very hard thing to define.

I think the Senator raised a lot of interesting points, but I also believe the President and his advisers have gone over every one of those points. I wish to mention one problem, and that is, some people try to blame Israel for our positions—not the distinguished Senator from West Virginia. But some have tried to raise that point and blame Israel. The fact is Israel is important here, but so are all the Arab states. Keep in mind, this man, Saddam Hussein, has weapons of mass destruction. He came within a few weeks of having a nuclear device. We all know that. It was a matter of time. They had the ability. They had the capacity. They had the scientists. Who knows how close they are to having a nuclear device now, because there is no possible way that 100 inspectors, or even 1,000 inspectors, whose every action, every word, everything they do is monitored by more than 1,000 security people, intelligence people.

Everybody knows Iraq, being the size of California, it is virtually impossible to be absolutely sure that these inspections are even working. If, in fact, they continue to have—which we know they have—biological and chemical weapons, we know they have certain stores of them. We know pretty much how much they have. But if, in fact, they have a nuclear device, I am going to tell my colleagues, Israel is acting very restrained and has throughout these difficulties in the Middle East. I hope they will be able to continue to act restrained. They have one of the best intelligence forces in the world, if not the best, in the Mossad. They are not going to wait if we are not going to take the responsibility of stopping this type of madman with weapons of mass destruction.

There have been 17 U.N. resolutions that have been ignored—17 of them. We have had over 9, 10, 11 years now of watching him flagrantly violate the U.N. resolutions. I respect my colleagues for their thoughtful analysis of this situation, but I also think there is a thoughtful analysis going on in the White House, the State Department, at the CIA, and in so many other ways.

With regard to the war on al-Qaida, anybody who thinks that war is not going on and we are not doing everything we possibly can ought to look at Khalid Shaikh Mohammed. Khalid Shaikh Mohammed is the director of operations for al-Qaida. We were not just sitting there worrying about Iraq. We were out there actively trying to find Khalid Shaikh Mohammed. I might add, we found him. We have him in custody now. We are learning a lot from what we found around Khalid Shaikh Mohammed.

That battle is ongoing. There is no letup in what we are doing against terrorism from that perspective. I can personally testify to that.

We may be very close to ascertaining the whereabouts of Osama bin Laden. So let no one misconstrue, the fact is, this administration is doing a very good job with regard to al-Qaida, with regard to terrorism. I happen to believe the administration listens carefully to my distinguished friend from West Virginia, and analyzing and realizing they have thought very carefully about the issues he raises, which are important issues, issues about which we all have to stop and think.

Keep in mind, imminence does not mean we have to wait until a nuclear device is blowing up New York or Washington, DC, or Los Angeles or Miami or Chicago. Imminence means the threat—it can happen tomorrow—and that threat is all around us. We know because we have been rounding up the people in America who are terrorist threats to us, who would not hesitate for a minute to take the lives of every American citizen they could possibly take.

I believe right now what we need is to rally together as much as we can. We do need wise men to raise these issues, as my distinguished friend from West Virginia has done, and he has done it continuously throughout his career. Many times he has been right. But I also believe there comes a time when we have to act, too, in the direct care and nurturing of our own country.

I believe the administration is listening to everything that has been said by my dear colleagues on the other side, and I think they are doing everything they can to protect this Nation and to protect the world from a third world war.

One of the worst happenings would be to leave Israel to have to defend itself over there and to leave the moderate Arab nations to have to defend themselves over there. There are a significant number of moderate Arab nations. If they have to go in, then we are really in very dire straits.

I mention these points hopefully in a way of helping all of us understand these are important issues. It is important we discuss them. It is also important we support the administration, which has the ultimate responsibility, and we do, too, here, no question about it.

We have passed a resolution that says we have to do what is in the best interest of our country. I believe this President and his advisers are doing that. They have, across the board, people who have philosophical differences in the administration. I think it is a good balance between those in the Defense Department and those in the State Department. I say with particularity, no one can say Colin Powell goes to war willingly, that he goes to war without having thought through every possible problem. No one believes he would risk our young men and women or our country in any way without thoughtful reflection and consideration.

I believe that is true of Donald Rumsfeld, who would be perhaps on the other side of the equation because he has the obligation of making sure our military is the best in the world, and that when we have to deploy our military, we do so in a manner that will let anybody know the United States is no pushover, and that you better think twice before you start taking on our people.

I respect my colleagues and I respect their viewpoints. I happen to differ with them on some of them, but the fact is my main difference is I believe these viewpoints have been considered and reflected upon by people of good will who, I believe, are trying to do the very best they can. In that regard, I compliment the distinguished Prime Minister of England who, against some very bad odds and some very difficult times, has stood as a very strong leader in this world. I think he will go down in history as a very strong leader, recognizing the threat of terrorism throughout the world, at least in part emanating from Iraq and the leadership of Saddam Hussein.

I also pay respect to our colleagues and friends in Pakistan who, under very stringent and difficult circumstances, have been willing to assist us in the capture of Khalid Shaikh Mohammed.

At this point, I would like to change the subject.

Mr. REID. Mr. President, could we do our UC? I am sorry to interrupt.

Mr. HATCH. Without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

### AMENDMENT NO. 258

Mr. SANTORUM. Mr. President, on behalf of Senator NICKLES, I state that the pending amendment offered by the Senator from Washington, Mrs. MURRAY, increases mandatory spending and, if adopted, would cause an increase in the deficit. Therefore, I raise a point of order against the amendment pursuant to section 207 of H. Con. Res. 68, the concurrent budget resolution on the budget for fiscal year 2000, as amended by S. Res. 304 from the 107th Congress.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the vote on the motion to waive the Budget Act with respect to the pending Murray amendment 258 occur at 6 p.m. today; that the time prior to the vote be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. REID. We have another unanimous consent.

Mr. HATCH. I will be happy to yield to my colleague, without losing my right to the floor.

Mr. SANTORUM. Mr. President, I further ask unanimous consent that following the disposition of the Murray amendment, Senator DURBIN be recognized in order to offer an amendment regarding health exceptions. I further ask unanimous consent that following the debate this evening, the amendment be temporarily set aside; provided further that when the Senate resumes consideration of S. 3 beginning at 9:30 tomorrow morning, Senator BOXER be recognized in order to offer a motion to commit; further, there be 2 hours equally divided in the usual form, and that following that debate the motion be temporarily set aside and the Senate resume consideration of the Durbin amendment for 1 additional hour of debate, equally divided. Finally, I ask unanimous consent that following the use or yielding back of the time, the Senate proceed to a vote in relation to the Durbin amendment, to be followed by a vote in relation to the Boxer motion to commit; provided further that no amendments be in order to either the motion or the amendment prior to the votes, with 4 minutes equally divided prior to the second vote.

Mr. REID. Reserving the right to object, Mr. President, we made progress on this most difficult issue today. If this unanimous consent agreement is entered, we will have gone at least halfway.

There are a couple of other amendments that have been submitted to the majority. We hope they would review those and maybe before the night is out enter into an agreement to have some end game for this legislation.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator from Nevada for his cooperation, and I appreciate the good work. We are making good progress. I encourage Members who have statements they would like to make on the bill, there will be time in the debate of the Durbin amendment tonight to make those statements, and we encourage Members to do that.

I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor to this bill, S 3.

The PRESIDING OFFICER. Without objection, both requests are agreed to.

Mr. HATCH. Mr. President, I rise today in strong support of S. 3, the Partial-Birth Abortion Ban Act of 2003. To begin, I would like to thank my colleague from the State of Pennsylvania, Senator SANTORUM, and applaud his leadership on this bill particularly, and on this issue generally, over the years. He is clearly very passionate about it, and is also one of the most extremely knowledgeable people anywhere on this issue. I respect him and am very proud of the work he has done on this issue.

I have spoken on the need to ban partial birth abortions many times since we began this effort many years ago. I have done so out of my personal conviction, and also because I am here to represent the people of Utah. By a huge margin, Utahns find the practice of partial-birth abortion offensive, immoral and impossible to justify as legal in America, or anywhere else in the world.

As chairman of the Senate Judiciary Committee, I have chaired several hearings about partial-birth abortions in past sessions, and I remain as convinced as ever that this important legislation is essential and will go a long way toward helping us restore our sense of human dignity in this country.

This bill does only one thing: it prohibits one particularly gruesome abortion procedure—so gruesome that only a handful of doctors are willing to perform it. This procedure is never medically necessary. It is simply morally reprehensible, indefensible, and should be banned. I honestly do not know how anyone, after learning of this procedure, could continue to defend it.

Those Members of this body who disagree with me, I think they should have to actually watch this procedure being done. Once they have seen the baby's legs kicking while it is being killed—I challenge them to defend it then, because as one can see, the legs and hands are outside, and anybody watching will know this is a fully living human being.

The procedure, known as dilation and extraction—or "D&X"—involves the partial delivery of an intact baby into the birth canal. In the case of a breech presentation, the baby is delivered from the feet through the shoulders so only the head remains in the birth canal. And in the case of a head-first presentation, the body's full head is delivered outside the birth mother. Then, either scissors or another instrument are used to stab a hole in the base of the skull. There is no doubt that this is a living baby at this point—a baby that feels pain, make no mistake about it. After the scissors are stabbed into the head a suction catheter is inserted to suck out the baby's brains and collapse the skull. That is about as barbaric as anything I have seen or heard.

Each time I read the description of this procedure I am sickened. It is not done as a mass of tissue but to a living baby capable of feeling pain and, at the time this procedure is typically performed, capable of living outside of the womb with appropriate medical attention.

All this bill would do is ban this grotesque, barbaric procedure. We are not talking about the entire framework of abortion rights here but just one procedure. And S. 3 also provides an exception for cases where the life of the mother is endangered by a physical disorder, illness or injury.

At least 31 States—including my home State of Utah—have enacted their own partial-birth abortion bans but, sadly, many have not taken effect due to temporary or permanent injunctions. S. 3 would create a Federal ban on just the D&X procedure I have described, and it carefully conforms to the constitutional jurisprudence in this area.

Now, let me explain how this bill differs slightly from previous versions. A couple of years ago, the Supreme Court handed down an opinion in Stenberg v. Carhart, which addressed a partial-birth ban in Nebraska. The Stenberg court, relying in part on a dubious trial court finding that it was forced to accept, struck down the statute.

In fact, the trial court's finding that partial-birth abortions could be necessary to protect the health of the mother was just wrong, and the findings outlined in S. 3 clarify this point.

The record in support of the fact that D&X is never medically necessary is long. In November, 1995, I presided over a 6½ hour Senate Judiciary Committee hearing on partial-birth abortions, and we also had a 1997 joint hearing with the Constitution Subcommittee in which we heard that D&X is not done for medical reasons.

The former U.S. Surgeon General, C. Everett Koop has said:

> . . . in no way can I twist my mind to see that [partial-birth abortion] . . . is a medical necessity for the mother. And it certainly can't be a necessity for the baby.

And Dr. Daniel Johnson, the former president of the American Medical Association said in 1997 that he and others investigating the issue:

> could not find any identified circumstances in which the procedure was the only safe and effective abortion method.

The fact is that there is no medical need to allow this type of barbaric procedure.

The 5-4 Stenberg court also had concerns that the procedure, as defined in the Nebraska statute, could have been construed to ban more than one type of abortion procedure, including one which could theoretically be used to protect the health of the mother. Based on this, the court found that the lack of a "health of the mother" exception created an "undue burden" because it could prevent a procedure that could be necessary for the health of the mother.

S. 3, the Partial-Birth Abortion Ban Act of 2003, addresses that problem as well by very specifically defining the procedure so that it only prohibits the D&X procedure, which, as our hearings have shown, and the findings in S. 3 confirm, is never necessary to protect the health of the mother.

Let me repeat, the carefully-drafted definition used in S. 3 for partial-birth abortion cannot be construed to include any abortion procedure other than the D&X procedure.

In other words, other alternative procedures, all of which will remain legal under S. 3, will be available in the event that the health of the mother needs to be preserved. For this reason, this bill does not require an exception for the health of the mother.

Now, let me address a misrepresentation that has been floated over the years—that is, that this barbaric procedure is rare. The record indicates that this is clearly not the case. In fact, one clinic in New Jersey alone admitted to 1500 of these procedures in just one year! And that is just one state. How can anyone claim that is "rare"?

And in the State of Kansas, which requires that doctors report partial-birth abortions and also cite the reasons given for having the abortion, we found out that doctors there performed 182 partial-birth abortions in just one year on babies they deemed viable. And every one of these reports, by the way, cited "mental health" as the reason for having this barbaric procedure.

It is likely that there are at least 3,000 to 5,000 of these procedures performed every year, despite what some try to claim.

To further expose the lack of credibility of those who claim this procedure is rare, we need only listen to Ron Fitzsimmons of the National Coalition of Abortion Providers. He admitted in 1997 that when he told us the procedure was rare, he "lied through my teeth." He added that he only represented it as being rare because, "I just went out there and spouted the party line." That shows how far these people will go. Abortion is so sacred to them they see no reason to ban any aspect of it, not even this barbaric procedure.

The truth always eventually prevails over the party line, and the truth is that this procedure is not rare, and it should be banned.

I think former Sen. Daniel Moynihan had it about right when speaking in favor of this ban in previous debates he called the procedure "close to infanticide." It is infanticide.

In recent years, we have heard about teenaged girls giving birth and then dumping their newborns into trash cans. One young woman was criminally charged after giving birth to a child in a bathroom stall during her prom, and then strangling and suffocating her child before leaving the body in the trash. Tragically, there have been several similar incidents around the country in the past few years.

This is what happens when we devalue human life.

William Raspberry argued in a column in the Washington Post several years ago that "only a short distance [exists] between what [these teenagers] have been sentenced for doing and what doctors get paid to do." How right he is.

When you think about it, it is incredible that there is a mere three inches separating a partial-birth abortion from murder.

Now, I have sympathy for any young woman who contemplates an abortion. The circumstances that drive a woman to it must certainly be complex and appear to her to be overwhelming and insoluble.

But the D&X procedure is not an ordinary abortion. It is not contemplated by the Roe v. Wade decision. Even the Stenberg court confirmed, and I quote, "By no means must physicians [be granted] 'unfettered discretion' in their selection of abortion methods." So this is not about overturning Roe v. Wade—that is a red herring.

The D&X procedure is one method which we ought not give doctors the discretion to perform. It is never medically necessary, it is never the safest procedure available, and it is morally reprehensible and unconscionable.

Partial-birth abortion simply has no place in our society and rightly should be banned.

President Bush has described partial-birth abortion as "an abhorrent procedure that offends human dignity." I wholeheartedly agree. I strongly urge my colleagues to join me in voting in favor of S. 3, the Partial Birth Abortion Ban Act of 2003, and help restore human dignity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, this would be an easier debate if we were speaking to an issue that only dealt with healthy mothers and healthy fetuses. The fact is, we are not. The Senator from California outlined a number of very difficult, troubling cases of women who have had to make very difficult choices that no one on this floor can comprehend without having gone through.

If we can reduce unintended pregnancies we can go a long way to reducing abortions in this country and not have these kinds of debates in the Senate. That is precisely what the current pending amendment is about that we are discussing at this time. It is an amendment that provides contraceptive equity for women. It provides emergency contraception education. It provides emergency contraceptives in the emergency room and it expands SCHIP and Medicaid to include low-income pregnant women so the mother and the fetus are both covered—unlike the current administrative rule.

My colleagues on the other side have offered a point of order against this amendment. I say to them, no one can hide behind a point of order. If we truly believe we want to reduce the number of abortions in this country, if we reduce the number of unintended pregnancies and allow help for women, as this amendment will do, we will all have made a step in the right direction.

I will have more to say but my colleague from Illinois is here. I yield 15 minutes to the Senator.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Washington.

I come to the floor to discuss an issue which is highly charged and emotional. In the 20 years I have served in both the House and the Senate, I can say the debates on this issue have been some of the most painful. No matter who you are, in the Senate or the House, whatever your political party, whatever your background, if you take this issue as seriously as you must, you have to reflect every time as to whether or not your vote makes sense, is fair, is a policy that America should follow.

Now, of course, we are debating the so-called partial-birth abortion procedure. I came to Congress many years ago personally opposed to abortion. It was part of my faith tradition, part of my personal value system. I came here to find that many of the people I assumed would be my allies opposed abortion but had other elements in their belief which started to trouble me.

I believe that a woman pregnant, facing extraordinary medical circumstances, a woman who is pregnant, having been impregnated by a rape or incest, should be given special concern and consideration. But I found many times that those who opposed abortions would make no exception no matter what the circumstances leading up to a pregnancy. And that troubled me.

I also found that in those extraordinary situations where a woman found in her pregnancy, one that she anticipated to be normal, uneventful, that something awful had occurred, that, in fact, many of the people who opposed abortion would not even allow that procedure in those extraordinary medical situations. I was surprised by that. I didn't expect to find it.

Then I met with some of the women and talked to them about their personal experiences. One of them is a woman I met from my home State of Illinois, Vikki Stella. This is a picture of Vikki, her husband, her family. Vikki's is an extraordinary story.

When Vikki was pregnant several years ago, she learned late in her pregnancy that her much wanted son was suffering from some extraordinary, serious abnormalities. Vikki, who is diabetic, was told that if she continued her pregnancy through to its natural conclusion, she could endanger her own health.

She told me personally—I had a chance to meet with her—that she couldn't believe it. This was supposed to be a very normal pregnancy. As you can see, she has other children. She learned, much to her surprise and amazement, that she faced an extraordinarily complicated pregnancy, and her doctor sat down with her and her husband, who is also a doctor, and said to them: You need to do something; you need to do it now to protect Vikki's survival and her own health.

She was faced with a terrible decision. She had already created the nursery in her home for the new baby. They had the walls painted, the furniture picked out; they expected in just a few weeks to have this new baby—to be told, instead, that she was facing a medical crisis in her own life. As she said, she could barely walk, it hit her so hard. Her husband had to help her walk away from the doctor's office.

She went home, she told me, in tears, saying to her husband: What are we going to do? I don't believe in abortion. He explained to her, as her doctor explained to her, that unless she did something right then and there to terminate that pregnancy, she would endanger her own life and her ability to have other children.

She prayed over it, thought about it long and hard with her husband and family, and decided to go through with the termination of the pregnancy.

Would you want to face that decision? I am sure glad I never had to as a father and husband. But she faced it. She terminated that pregnancy.

One of the last times I saw Vikki was here, right in front of the Capitol Building. She was pushing a stroller with her new baby in it—Nicholas. Nicholas came into this world as healthy and normal as you could ever ask.

So people who are arguing that those who go in for these extraordinary abortion procedures somehow hate babies, or look at these things lightly—please. If you listen to the women who have been through it, if you talk to them and their families, you will understand the tragedy that comes into their life, the crisis that comes into their life.

What we are saying on the floor of the Senate with S. 3, a bill sponsored by Senator SANTORUM, is that we do not want the doctor to make the decision. No. And we don't want the mother or her husband to make the decision. We want to make the decision. The Government should make the decision. The Government should overrule the doctor. The Government should say to her: Finish your pregnancy regardless of the outcome. You can't use the procedure.

Is that the right thing to do, for us to inject ourselves into those medical crisis situations? I don't think it is.

Whatever your view on abortion personally, for goodness' sake, I think you should have the heart to understand that you don't know everything; that, frankly, there are doctors in disagreement as to whether these abortion procedures are needed. If there is true medical disagreement, are we going to choose one side and say this will be the official Government medical position? That is what we are hearing today. We are hearing, when it comes to abortion, don't let your doctor decide; let your Senator decide for you.

I may have some expertise in some areas, but it certainly is not in medicine. I rely on professionals for my family, for myself, and when it comes to making these important decisions.

If you listen to these doctors, they are telling us: For goodness' sake, Senator, stop and think. Do you want to say that you can imagine every possible complication a mother would find late in her pregnancy and you want to rule that certain surgical procedures cannot be used to save a mother's health or her life? That is how far this goes. And it goes too far.

The other thing I learned when I came here was that many of the people who oppose abortion very strongly, with the deepest of convictions, feel just as strongly in opposition to contraception. I couldn't believe that part because—think about it—if you don't offer to a woman, a wife, for example, in a family situation, an option to plan her pregnancies, then you are just inviting an unplanned or unwanted pregnancy, inviting the possibility of abortion.

So to oppose contraception is to say to the woman: We are not going to stand by you even making your own decision and your family decision on when a child should come to your household. Of course, you know what happens. The likelihood of abortion increases when there are unwanted, unplanned pregnancies.

I always thought if you opposed abortion, it was common sense to say we would make contraception, family planning, birth control information available to women in America. That seems to me just common sense, so that you wouldn't have the unwanted, unplanned pregnancies leading to abortions.

I was stunned when I came to Congress many years ago to find that the people most vehemently opposed to abortion were equally opposed to contraception. How can that make any sense? Thank goodness Senator PATTY MURRAY of Washington, along with Senator REID of Nevada, came to the floor today on this abortion debate and said we really need to be on the record as to whether or not we are going to provide contraception in health insurance plans so that women can get birth control pills to decide when they are going to have children, when it is the right thing for them and their family.

Isn't it ironic that these health insurance plans will provide Viagra to men but will not provide birth control pills to women? That is a fact. Senator MURRAY's amendment comes to the floor and says we are going to put an end to that. We are going to provide that these women and families will have the contraception that they need to make their decisions on planning their families so there are wanted and planned children as often as possible, and the likelihood of abortion is diminished. That seems so patently obvious.

I commend Senator MURRAY again. She goes on to say if your feelings and emotions are strong when it comes to mothers and babies, for goodness' sake, prove it—not just by voting against abortion but voting for the mother, the pregnant mother, making certain that she has access to health care during her pregnancy.

Senator MURRAY offers a provision in her amendment which says we are going to allow pregnant women across America to come into what we call the SCHIP plan, a basic health insurance program offered by the States so that more and more working mothers have a chance to get prenatal care and have healthy babies. Why in the world would anybody even debate this: Contraception, birth control, family planning available for mothers, women and their families, and health insurance coverage for the pregnant mother so she can be certain to come out of this pregnancy healthy herself with a healthy baby?

This is a good amendment. This is a pro-life amendment.

What do we hear? We hear that the Senators on the other side of the aisle who say they are opposed to abortion—and I believe they are—are now going to try to kill the Murray amendment. They don't want the Senate to go on record in favor of family planning and birth control in the health insurance plans for women across America. They don't want the Senate to go on record so rape and incest victims brought into emergency rooms can have the contraceptive care they need immediately so they do not end up pregnant because of the crime that was committed against them. They don't want to vote for the Murray amendment that says pregnant mothers will have health insurance so that the babies will be healthy and the mothers will be healthy. And they call themselves pro-life.

I am sorry, it doesn't work. It is not consistent. If they are consistently pro-life, they should stand by the woman, stand by the mother, do everything in their power to make certain that that baby is born into a loving family and is as healthy as it possibly can be. That is what this amendment comes down to.

It is hard to imagine there is any opposition, and yet there is. In fact, a Senator will come to the floor here, he will make a procedural motion, and it will take more than a majority for Senator MURRAY to prevail. Do I understand right, we will need 60 votes? Is that correct? Sixty votes out of a hundred. So they have just raised the bar, and they said to Senator MURRAY: If you want to protect women in terms of family planning and birth control, you need more than a majority, Senator MURRAY; you need 60 votes.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I will just finish, and I will be happy to yield.

If you want to protect women who have been raped who are going into the emergency rooms—can you imagine the emotional problem they are facing right then and there? If you want to protect them so they can have emergency contraception and not be pregnant, you need 60 votes. Fifty-one will not do. If you want to give women basic health insurance so they can have a successful pregnancy, you need 60 votes. That is what is coming from the Republican side of the aisle. I don't believe it is consistent with the ethic that says we care not just about babies but about the mothers as well.

I yield to the Senator from Nevada for a question.

Mr. REID. Madam President, in the debate which took place from 11 until about quarter to 1 today, there was a lot of talk about 60 votes. I am wondering if this is a constitutional vote. They are asking for 60 votes. Does the Senator have anything to say about that?

Mr. DURBIN. The Senator from Nevada is right. When it comes to judicial nominations, the floor was filled earlier this morning with Republican Senators objecting to 60 votes. They set an outrageous standard to live by. Now they have turned around here. When it comes to Senator MURRAY's amendment to stand by women, to stand by pregnant mothers, to stand by victims of crimes, they have said to her that she is going to need 60 votes. In other words, they have been trying their best to stop her from protecting women in this circumstance.

I have to say to the Senator from Nevada, whether you are pro-choice, pro-life, or anti-abortion, it really is a woman's right to choose. Wouldn't you stand by a woman's right to plan for her own family and to be able to have at her disposal health insurance, birth control pills, and family planning information? We certainly say if a husband decides he needs Viagra in order to have a family, health insurance will cover that. Why wouldn't we cover birth control pills? That is what this says. Senator REID of Nevada has a bill. Senator MURRAY has added it to her amendment. It is eminently sensible.

We come down in this debate to pretty basic values and issues. As far as I am concerned, whatever you call yourself on the abortion issue, I think most people across America will agree we want to reduce the number of unplanned and unwanted pregnancies. We want to reduce those tragic circumstances in the case of crimes of rape or incest, and we want to make sure mothers have health insurance protection so they and their babies will be helped and taken care of in the best medical profession. Sadly, the opposition on the other side makes that very difficult, if not impossible.

This will be a good test vote when it comes to families and the rights of women and children. It really gets down to some fundamentals. It is not enough to stand up, as did my colleague from Wisconsin, DAVID OBEY, and pose for holy pictures and say, I am opposed to abortion, and then turn around and vote against family planning that can avoid abortion; turn around and vote against those contraception techniques of an emergency nature and avoid unwanted pregnancies; to vote against health insurance for these mothers.

The Senator from Washington has put this debate in the right perspective. If we are going to be honest about this issue, we need to support Senator MURRAY. I will be one who votes for her amendment.

I yield the floor.

Mr. REID. Madam President, was the time evenly divided?

The PRESIDING OFFICER. Yes.

Mr. REID. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Washington controls 21 minutes 11 seconds. The Senator from Pennsylvania controls 25 minutes 38 seconds.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I want to make a couple of points, and then I will yield to my colleague.

No. 1, the Senator from Oklahoma asked me to make a budget point of order on his behalf. I want to make it clear he has an SCHIP provision that is in the budget which they are marking up later this week. We will be on that subject. We will have plenty of opportunity to deal with this issue next week.

I agree with the Senator from Illinois. We should have a provision covering women going through pregnancy, and be supportive of that. I will not be supportive of covering medications that would lead to a fertilized egg not implanted in the uterus. I believe life begins at conception. I will not support drugs that would prevent a conceived embryo to be implanted.

I have mixed emotions about this amendment. But, nevertheless, it is roughly a $1 billion addition to the budget, and that should be done in the context of the budget, not on a partial-birth abortion bill.

Finally, I would like to add to the record by unanimous consent a letter from Dr. Pamela Smith, who was the director in 1996 of the Department of Obstetrics and Gynecology at Mt. Sinai Medical Center in Chicago. She is a member of the Association of Professors of Obstetrics and Gynecology. In response to the case Senator DURBIN has laid out, she has a response that is rather lengthy. But I will just quote one comment she said.

> . . . medically I would contend of all the abortion techniques currently available to her this was the worst one that could have been recommended for her.

Again, that just proves the point.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHYSICIANS' AD HOC COALITION
FOR TRUTH,
*Chicago, IL, September 23, 1996.*

DEAR MEMBER OF CONGRESS: My name is Dr. Pamela E. Smith. I am a founding member of PHACT (Physicians' Ad Hoc Coalition for Truth). This coalition of over three hundred medical providers nationwide (which is open to everyone, irrespective of their political stance on abortion) was specifically formed to educate the public, as well as those involved in government, in regards to disseminating medical facts as they relate to the Partial-Birth Abortion procedure.

In this regard, it has come to my attention that an individual (Ms. Vicki Stella, a diabetic) who underwent this procedure, who is not medically trained, has appeared on television and in Roll Call proclaiming that it was necessary for her to have this particular form of abortion to enable her to bear children in the future. In response to these claims I would invite you to note the following:

1. Although Ms. Stella proclaims this procedure was the only thing that could be done to preserve her fertility, the fact of the matter is that the standard of care that is used by medical personnel to terminate a pregnancy in its later stages does not include partial-birth abortion. Casarean section, inducing labor with pitocin or protoglandins, or (if the baby has excess fluid in the head as I believe was the case with Ms. Stella) draining the fluid from the baby's head to allow a normal delivery are all techniques taught and used by obstetrical providers throughout this country. These are techniques for which we have safety statistics in regards to their impact on the health of both the woman and the child. In contrast, there are no safety statistics on partial-birth abortion, no reference of this technique in the national library of medicine database, and no long term studies published that prove it does not negatively affect a woman's capability of successfully carrying a pregnancy to term in the future. Ms. Stella may have been told this procedure was necessary and safe, but she was sorely misinformed.

2. Diabetes is a chronic medical condition that tends to get worse over time and that predisposes individuals to infections that can be harder to treat. If Ms. Stella was advised to have an abortion most likely this was secondary to the fact that her child was diagnosed with conditions that were incompatible with life. The fact that Ms. Stella is a diabetic, coupled with the fact that diabetics are prone to infection and the partial-birth abortion procedure requires manipulating a normally contaminated vagina over a course of three days (a technique that invites infection) medically I would contend of all the abortion techniques currently available to her this was the worse one that could have been recommended for her. The others are quicker, cheaper and do not place a diabetic at such extreme risks for life-threatening infections.

3. Partial-birth abortion is, in fact, a public health hazard in regards to women's health in that one employs techniques that have been demonstrated in the scientific literature to place women at increased risks for uterine rupture, infection, hemorrhage, inability to carry pregnancies to term in the future and maternal death. Such risks have even been acknowledged by abortion providers such as Dr. Warren Hern.

4. Dr. C. Everett Koop, the former Surgeon General, recently stated in the AMA News that he believes that people, including the President, have been misled as to "fact and fiction" in regards to third trimester pregnancy terminations. He said, and I quote, "in no way can I twist my mind to see that the late term abortion described . . . is a medical necessity for the mother . . . I am opposed to partial-birth abortions." He later went on to describe a baby that he operated on who had some of the anomalies that babies of women who had partial-birth abortions had. His particular patient, however, went on to become the head nurse in his intensive care unit years later!

I realize that abortion continues to be an extremely divisive issue in our society. However, when considering public policy on such a matter that indeed has medical dimensions, it is of the utmost importance that decisions are based on facts as well as emotions and feelings. Banning this dangerous technique will not infringe on a woman's ability to obtain an abortion in the early stage of pregnancy or if a pregnancy truly to be ended to preserve the life of health of the mother. What a ban will do is insure that women will not have their lives jeopardized when they seek an abortion procedure.

Thank you for your time and consideration.

Sincerely,

PAMELA SMITH,
*Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Medical Center.*

Mr. SANTORUM. Second, I have another letter with an analysis done by Dr. Curtis Cook, Maternal Fetal Medicine, Michigan State College of Human Medicine, on the case of Coreen Costello. I will discuss both of these in detail later. But I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[Physicians' Ad Hoc Coalition for Truth]

THE CASE OF COREEN COSTELLO

Partial-birth abortion was not a medical necessity for the most visible "personal case" proponent of procedure.

Coreen Costello is one of five women who appeared with President Clinton when he vetoed the Partial-Birth Abortion Ban Act (4/10/96). She has probably been the most active and the most visible of those women who have chosen to share with the public the very tragic circumstances of their pregnancies which, they say, made the partial-birth abortion procedure their only medical option to protect their health and future fertility.

But based on what Ms. Costello has publicly said so far, her abortion was not, in fact, medically necessary.

In addition to appearing with the President at the veto ceremony, Ms. Costello has twice recounted her story in testimony before both the House and Senate; the New York Times published an op-ed by Ms. Costello based on this testimony; she was featured in a full page ad in the Washington Post sponsored by several abortion advocacy groups; and, most recently (7/29/96) she has recounted her story for a "Dear Colleague" letter being circulated to House members by Rep. Peter Deutsch (FL).

Unless she were to decide otherwise, Ms. Costello's full medical records remain, of course, unavailable to the public, being a matter between her and her doctors. However, Ms. Costello has voluntarily chosen to share significant parts of her very tragic story with the general public and in very highly visible venues. Based on what Ms. Costello has revealed of her medical history—of her own accord and for the stated purpose of defeating the Partial-Birth Abortion Ban Act—doctors with PHACT can only conclude that Ms. Costello and others who have publicly acknowledged undergoing this procedure "are honest women who were sadly misinformed and whose decision to have a partial-birth abortion was based on a great deal of misinformation" (Dr. Joseph DeCook, Ob/Gyn, PHACT Congressional Briefing, 7/24/96). Ms. Costello's experience does not change the reality that a partial birth abortion is never medically indicated—in fact, there are available several alternative, standard medical procedures to treat women confronting unfortunate situations like Ms. Costello had to face.

The following analysis is based on Ms. Costello's public statements regarding events leading up to her abortion performed by the late Dr. James McMahon. This analysis was done by Dr. Curtis Cook, a perinatologist with the Michigan State College of Human Medicine and member of PHACT.

"Ms. Costello's child suffered from at least two conditions: 'polyhydramnios secondary to abnormal fetal swallowing,' and 'hydrocephalus'. In the first, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. The second condition, hydrocephalus, is one that causes an excessive amount of fluid to accumulate in the fetal head. Because of the swallowing defect, the child's lungs were not properly stimulated, and an underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant

> chance of survival, but also would not likely die as soon as the umbilical cord was ctut.
>
> The usual treatment for removing the large amount of fluid in the uterus is a procedure called amniocentesis. The usual treatment for draining excess fluid from the fetal head is a procedure called cephalocentesis. In both cases, the excess fluid is drained by using a thin needle that can be placed inside the womb through the abdomen ("transabdominally"—the preferred route) or through the vagina ("transvaginally"). The transvaginal approach however, as performed by Dr. McMahon on Ms. Costello, puts the woman at an increased risk of infection because of the non-sterile environment of the vagina. Dr. McMahon used this approach most likely because he had no significant expertise in obstetrics and gynecology. In other words, he may not have been able to do it well transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess. After the fluid has been drained, and the head decreased in size, labor would be induced and attempts made to deliver the child vaginally.
>
> Ms. Costello's statement that she was unable to have a vaginal delivery, or, as she called it, 'natural birth or an induced labor,' is contradicted by the fact that she did indeed have a vaginal delivery, conducted by Dr. McMahon. What Ms. Costello had was a breech vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A caesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally."
>
> Given these medical realities, the partial-birth abortion procedure can in no way be considered the standard, medically necessary or appropriate procedure appropriate to address the medical complications described by Ms. Costello or any of the other women who were tragically misled into believing they had no other options."

Mr. SANTORUM. Madam President, I want to yield 10 minutes to the Senator from Kansas, and thank him.

Mr. DURBIN. Madam President, will the Senator from Pennsylvania be kind enough to yield for 2 minutes so I might respond? And I would be happy to yield.

Mr. SANTORUM. On the Senator's time. That is fine.

Mrs. MURRAY. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I hope you listen carefully to what the Senator from Pennsylvania just entered into the RECORD. He entered into the RECORD an opinion of another doctor which said the woman who faced that crisis pregnancy should have done it differently. I don't know if the Senator from Pennsylvania is aware of the fact that she not only had the counsel of her own obstetrician/gynecologist, but she had the counsel of her husband who was a practicing physician. She was relying on her husband's medical knowledge and the advice of her obstetrician/gynecologist. The Senator from Pennsylvania has found another doctor who disagrees. And he says that is why we should overrule her personal doctor and her personal obstetrician in this case; that we should make the decision here; that Senators and politicians should be making the decisions about what was the right information for her in that circumstance.

Is there something wrong with that picture? I think there is. We should leave the decisions in a crisis pregnancy, in a case where literally disaster occurs to the family, to the woman and her doctor, to her family, and to her God. For us to step in and say we are going to make medical decisions goes way too far.

The American College of Obstetricians and Gynecologists, representing 45,000 OB/GYNs, agrees:

> The intervention of legislative bodies in the medical decisionmaking is inappropriate, ill-advised, and dangerous.

I yield the floor.

Mr. SANTORUM. Madam President, if I may respond very briefly, there is no evidence in any record, nor did she give any testimony, that this was a crisis pregnancy. Second, there is ample testimony and overwhelming evidence that this procedure is never necessary for the life or health of the mother. It is never used in a 3-day procedure.

I won't go into great detail. That is the reason we have malpractice laws in this country. Doctors make very bad decisions and give bad advice to patients. It happens all the time. In this case, it happens with frequency. But there is dispositive, overwhelming evidence that the advice she was given was wrong. Because someone gives advice doesn't mean it is correct advice. She got bad advice and, unfortunately, it resulted in a heinous act being perpetrated in this case.

I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I thank my colleague from Pennsylvania for yielding the time. This debate is about a very difficult and very important topic of our era and our day.

I believe a true mark of a civilized society is not the level of human dignity it confers upon the strong or wealthy, but a true mark is on how much it confers upon the vulnerable and the oppressed. Clearly an abortion procedure that dismembers and kills partially-born human beings has no place in a civilized society.

I think it is becoming increasingly clear that the impact of abortions on society is profound. I want to spend some time talking about the impact on society, particularly when you take such a risky procedure as this which is not necessary and allow it to continue within the context of this society today.

I ask unanimous consent to have printed in the RECORD some statistics of the Kansas Department of Health and Environment on partial-birth abortions, when they were being conducted in the State, and the reasons they were being done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT, CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS,
*Topeka, KS, March 24, 2000.*

DEAR INTERESTED PARTY: State statutes require physicians, ambulatory surgical centers, and hospitals to report abortions to the Kansas Department of Health and Environment. The law also requires physicians, who perform abortions, to report to KDHE the number of certifications received under the Women's Right-to-Know Act. These data are compiled by the Center for Health and Environmental Statistics, Office of Health Care Information.

The collection of these vital statistics reports for 1999 is now complete. This report is a summary of the preliminary analysis of that data. Additional analysis of the 1999 abortion data will be included in the Kansas Annual Summary of Vital Statistics.

This report also contains information the Legislature requires physicians to report regarding (a) abortions performed at 22 weeks or more and (b) "partial birth" procedures. Responses to each of the numbered questions in these two categories are included and tabulated.

Please feel free to contact me regarding any questions you have.

Sincerely,

LORNE A. PHILLIPS, Ph.D.,
*State Registrar & Director,*
*Center for Health and Environmental Statistics.*

SELECTED INCLUDED ABORTION STATISTICS, KANSAS, 1999

| Selected statistics | Number | Percent |
|---|---|---|
| Total [1] induced abortions reported | 12,421 | 100.0 |
| Total [2] physician certifications reported | 12,708 | 100.0 |
| Residence of patient: | | |
| Number of in-state residents | 6,392 | 51.5 |
| Number of out-of-state residents | 6,029 | 48.5 |
| Not Stated | ............ | n.a. |
| Total Reported | 12,421 | 100.0 |
| Age group of patient: | | |
| Under 15 years | 114 | 1.0 |
| 15–19 years | 2,622 | 21.1 |
| 20–24 years | 4,149 | 33.4 |
| 25–29 years | 2,728 | 22.0 |
| 30–34 years | 1,499 | 12.0 |
| 35–39 years | 960 | 7.7 |
| 40–44 years | 328 | 2.6 |
| 45 years and over | 21 | 0.2 |
| Not Stated [3] | ............ | n.a. |
| Total Reported | 12,421 | 100.0 |
| Race of patient: | | |
| White | 9,044 | 73.0 |
| Black | 2,668 | 21.5 |
| Native American | 133 | 1.1 |
| Chinese | 100 | 1.0 |
| Japanese | 15 | 0.1 |
| Hawaiian | 3 | 0.0 |
| Filipino | 16 | 0.1 |
| Other Asian or Pacific Islander | 387 | 3.1 |
| Other Nonwhite | 17 | 0.1 |
| Not Stated [3] | 38 | n.a. |
| Total Reported | 12,421 | 100.0 |
| Marital Status of Patient: | | |
| Yes | 2,472 | 19.9 |
| No | 9,921 | 80.1 |
| Not Stated [3] | 28 | n.a. |
| Total Reported | 12,421 | 100.0 |
| Weeks Gestation: | | |
| Less than 9 weeks | 7,444 | 60.0 |
| 9–12 weeks | 2,998 | 24.1 |
| 13–16 weeks | 841 | 6.8 |
| 17–21 weeks | 564 | 4.5 |
| 22 weeks & over | 574 | 4.6 |
| Not Stated | ............ | n.a. |
| Total Reported | 12,421 | 100.0 |
| Method of Abortion: | | |
| Suction curettage | 10,650 | 85.7 |

SELECTED INCLUDED ABORTION STATISTICS, KANSAS, 1999—Continued

| Selected statistics | Number | Percent |
|---|---|---|
| Sharp curettage | 2 | 0.0 |
| Dilation & Evacuation | 929 | 7.5 |
| Medical Procedure I | | |
| Medical Procedure II | 289 | 2.3 |
| Intra-uterine prosta-glandin instillation | 3 | 0.0 |
| Hysterotomy | | |
| Hysterectomy | | |
| Digoxin-Induction | 366 | 3.0 |
| "Partial Birth" Procedure | 182 | 1.5 |
| Other | | |
| Not Stated | | n.a. |
| Total Reported | 12,421 | 100.0 |

[1] All reported, includes 26 Kansas resident abortions that occurred out-of-state.

[2] Occurrence data.

[3] Patient(s) refused to provide information.

Source: KDHE, Center for Health and Environmental Statistics, Office of Health Care Information.

"PARTIAL BIRTH" PROCEDURE STATISTICS

Physicians reporting "partial birth" abortions were required to fill out three numbered questions on the back of the VS–213 form. Those questions and the answers are provided below for Kansas and out-of-state residents. The questions would be in addition to those filled out if gestation was 22 weeks or more. All data are occurrence. The data represent a full year of reporting. A sample VS–213 form is in the appendices.

Number of "partial birth" procedures:

| Time period | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| January 1–March 31 | 2 | 65 | 67 |
| April 1–June 30 | 2 | 60 | 62 |
| July 1–September 30 | 3 | 50 | 53 |
| October 1–December 31 | – | – | – |
| Total | 7 | 175 | 182 |

17a) For terminations where "partial birth" procedure was performed, was fetus viable?

| Answers | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| Yes | 7 | 175 | 182 |
| Total | 7 | 175 | 182 |

17b) Reasons for determination of fetus viability:

| Answers | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable. | – | – | – |
| It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable. | 7 | 175 | 182 |
| Total | 7 | 175 | 182 |

18a) Was this abortion necessary to:

| Answers | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| Prevent patient's death | – | – | – |
| Prevent substantial and irreversible impairment of a major bodily function | 7 | 175 | 182 |
| Total | 7 | 175 | 182 |

18a) If the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment:

| Answers | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| Physical | – | – | – |
| Mental | 7 | 175 | 182 |
| Total | 7 | 175 | 182 |

18b) Reasons for Determination of 18a:

| Answers | KS residents | Out-of-state residents | Total |
|---|---|---|---|
| Based on the patient's history and physical examination by the attending physican and referral and consultation by an unassociated physician, the attending physician believes that continuing the pregnancy will constitute a substantial and irreversible impairment of the patient's mental function. | 7 | 175 | 182 |
| Total | 7 | 175 | 182 |

Mr. BROWNBACK. I would just note, in citing this statistic, it has been cited previously, the statistical year we have available to us, 182 partial-birth abortions were done and reported within the State of Kansas. Of those, when they asked if the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment physical or mental, they were asking, are you asking for this abortion, this partial-birth abortion to be done for physical reasons or for mental reasons, all 182 partial-birth abortions done in Kansas this year were for mental reasons. Zero were for physical reasons. The doctors conducting these, the patients doing it, said this is all for a mental reason.

The notion that some have put forward that there is not another physical option, that you are jeopardizing the physical health of the mother, the life of the mother by banning a partial-birth abortion procedure is certainly not borne out by the statistics in my State. You would think there should be at least one, maybe five that were for physical reasons of the mother. In our instance, in Kansas, where we require by law that partial-birth abortion be reported, and the reasoning, zero were for physical reasons. These were all for mental reasons that were put forward. I would hope we could put to rest the debate point about we have to maintain this procedure for the life of the mother, the health of the mother. Our experience in the State is that is simply not the reason. I am delighted to be able to provide that to my colleagues for the RECORD.

Regardless of your view overall on abortion, to have this grisly practice of partial birth continuing is something we should not have taking place. It is something we don't need to take place, and it does lead to a more callous society. That is the point I want to discuss, its overall impact on society. I hope we can step back a moment and philosophize a bit about what it does.

Aside from partial-birth abortion, it has become increasingly clear that the impact abortion has had on society is in itself profound. I am quite convinced the widespread acceptance of this brutal practice has already significantly coarsened public attitudes toward human life in general, particularly toward the most vulnerable in society, whether they are unborn or old or infirm. This coarsening of public attitude over the past several years has made other assaults against the dignity of humans and human life more acceptable and more accessible.

It is one of those slopes that you start down. If you say as a society, partial-birth abortion, we really don't like it that much but we will go ahead and let it take place, when you say it from a large legislative body such as this one, the Senate, the House of Representatives, to say we really don't care for it but we will let it take place, and we know what this procedure is and we know most of it, if not all of it, is on a choice basis of a mental concept, it is not on physical consequence for the mother, we know most of this is about a mental choice on the mother's part, and yet we are going to let this continue, what message does that send overall to society? What does it say to the country? What does it say to the world?

Does it make other assaults on human dignity possible? Euthanasia; assisted suicide; let's do embryo research; now let's clone human beings. We continue to move upon that path of saying the human being is not sacred; it is not precious; it is another entity; and we can countenance that such coarseness takes place, and it continues to move us on down that road.

Mother Teresa was quoted as once saying that "if we can accept that a mother can kill her own child, how can we tell other people not to kill one another?"

That is a really good question she was asking. If we accept that a mother would do this, particularly a partial-birth abortion procedure, how can we tell other people not to kill one another?

We all have a duty, an obligation, as citizens of the United States to stand up against such a moral outrage as partial-birth abortion. Human life is sacred. It is a precious gift. Human life is not something to be disposed of by those with more power. One of the most extreme assaults against human dignity is made against some of the most innocent among us, whether from the first moments of life to the moments just before birth, a child continues in that point to be a precious and unique gift, a gift never to be given or to be created again. It is given once. That is it. It seems therefore that in some measure this debate is about whether or not that child prior to birth is a child at all. Is this young human a person? Is it a child or is it a mere piece of property?

Some who support partial-birth abortion will argue this young human is not a person and can therefore be disposed of as property, as need sees. To me, this would be a ghastly concept. Elizabeth Cady Stanton, a lady whose statue is in this building, one of the women depicted in the portrait monument, foresaw this awful view of humanity, of human life. She wrote a letter to Julia Ward Howe in October of 1873 and said:

> When we consider that women are treated as property, it is degrading to women that we should treat our children as property to be disposed of as we see fit.

That is a quote from 1873. The Congress must speak out against this atrocity. We must speak out against this degradation of human life. These are life issues of enormous consequence, and they are issues by which history will rightly judge us.

I thank those who have brought the debate forward. I know everybody who has entered into it does so with deep convictions, deep desires to do what is right. I hope we would back up as a society and ask ourselves, what coarsening does this do to us; what message is this sending, and what are we really saying about that young human life? Is it a person or is it a piece of property? It is one or the other in our jurisprudence, it has to be. Everything in this building right now, everything in this country is either a person or a piece of property. I am a person; my clothes are property. The building is property. The people in here are personages. What is the young human? We have had this debate before. We really need to consider that that is a child. It is a gift.

I want to quote one more time Mother Teresa and her concern on this particular issue and this particular issue of abortion itself. I don't think anybody could question her bona fides for being willing to take care of the weakest and the poorest in society and in the culture overall and her willingness to work and her work being carried on of taking care of the most vulnerable in society. She said this one time about the whole issue of abortion. She spoke very passionately, clearly about this topic. She said:

> Many are concerned with the children of India, with the children of Africa where quite a few die of hunger and so on. Many people are also concerned about the violence in this great country of the United States. These concerns are very good. But often these same people are not concerned with the millions being killed by the deliberate decision of their own mothers. And this is the greatest destroyer of peace today—abortion which brings people to such blindness.

We are confronted with an issue that is difficult and has been in front of us before. We have a chance for the first time in a number of years to limit a particular ghastly abortion procedure. It has been adequately described over and over. This is the time. This is the place. This is the moment for the Senate to pass this bill, to pass it without amendment, to get it on through to the House and to the President, who will sign it into law. We can do something that really will send a right signal to society, a right signal overall to the culture, away from the coarsening and towards a life that does support a culture of life and not one of death.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Washington has 19 minutes and 43 seconds remaining.

Mr. KYL. I would like to take 20 seconds.

Mrs. MURRAY. Off of your time, I would be happy.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I wanted to compliment the Senator from Kansas for his leadership on this issue, as well as the Senator from Pennsylvania for his leadership. While they have done the bulk of the discussion on this issue, they represent a lot of us who feel just as strongly about the issue. I want them to know how much those of us who haven't spoken appreciate their leadership in proposing this legislation.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I want to take 5 minutes to thank my friend from Washington, Senator MURRAY, for her extraordinary leadership on women's health. The fact that this amendment is being debated is very encouraging to me, because when people stand up and say we want to prohibit a procedure that doctors tell us, OB/GYNs tell us is absolutely necessary in some cases in order for a woman to have her life saved or her health preserved, that is not something we should be doing here. We are not physicians; we are Senators.

What we would be doing is making sure that every woman in this country, when faced with a very difficult life-threatening or a health-threatening pregnancy can make decisions based on the best advice that she can get, the best science, because if we look at these families—and I have been showing these portraits of real women. This is a woman who, in her own words, said, "I am a conservative pro-life Christian." Those are her words. She said, "Abortion, to me, is something unthinkable." Yet she said in her own words, far more eloquent than mine, that had she not been able to have the procedure that my colleagues on the other side of the aisle want to ban, she might not have been able to bear another child. In fact, the possible health impacts of her not being able to have the procedure have been spelled out by physicians.

I am so happy to see my friend from Illinois in the Chamber because he is going to be offering an amendment to make sure that if this bad law moves forward, there is an exception, so that women won't hemorrhage, won't have uteruses rupture, won't suffer blood clots, won't have embolism or strokes, or won't suffer damage to nearby organs or have paralysis. Can you imagine us doing something that could lead to a woman—like this beautiful woman and the others I have talked about having to suffer one of those consequences—being ripped away from her family?

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. I am happy to yield.

Mr. DURBIN. We had a conversation on the floor about another woman whose photograph is here, whom I met, Vikki Stella, from my home State of Illinois. We talked about the complications she faced. It was interesting to me that as I told her tragic story—I wonder if the Senator from California is aware of the fact—the Senator from Pennsylvania took the floor and said that, in his opinion, she did not face a medical crisis in her pregnancy. I wonder if the Senator from Pennsylvania or the Senator from California are aware of the fact that at 32 weeks in her pregnancy an ultrasound disclosed that her son had nine major anomalies, including a fluid-filled cranium with no brain tissue at all; compacted, flattened congenital hip dysplasia; and skeletal dysplasia; and hypertoloric eyes, and he would never have survived outside the womb.

I wonder if the Senator believes it is within our purview, within our authority and knowledge, to judge that that terrible outcome in a pregnancy was not a medical crisis.

Mrs. BOXER. My friend has put it in a very stark way—that what is happening in this Chamber, and as my friend, Senator MURRAY, has eloquently pointed out, as we are amassed to go to war in Iraq, as we have a building crisis in North Korea, as we have the worst economy I have seen in decades, what is on this floor is banning a procedure that your constituent—is she yours?

Mr. DURBIN. Yes.

Mrs. BOXER. That your constituent needed in order to spare her son horrific health consequences. And the fact that somebody would say that is not a crisis, when you have described the status of this pregnancy, is stunning to me. I know people around here have big egos. I don't doubt that. We all have——

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I ask for an additional 3 minutes.

Mrs. MURRAY. I yield an additional 3 minutes to the Senator from California.

Mrs. BOXER. I know that most politicians—and we are all included—think we really know a lot, and we are really pretty smart, and we have to work hard at our jobs, and we feel confident and comfortable in our work, but when we start doing things such as this—outlawing a medical procedure that OB/GYNs tell us is necessary to preserve the health of a woman, and when we start telling women such as this woman here, and others I have shown, that they don't know what they are talking about, they were not in crisis, this isn't an emergency—I actually heard someone on the floor today say this isn't an emergency situation if it takes 3 days.

Well, let me tell you, it may take 3 days because of these complications that we are talking about. These are very complicated, difficult situations that are delicate. If it takes 3 days, it is because it is delicate.

I have to say, if we wind up banning this procedure—which, by the way, the way the bill as written is unconstitutional because the lawyers who have fought the previous case said it is legally identical to the case that the Supreme Court said was unconstitutional—and it is upheld because of a change in the Court, or whatever, we are going to find some tragedies that we are going to bring to the floor.

I don't want to see that day come. Doctors take an oath to do no harm. I wish we can take that same oath to do no harm. Roe v. Wade was a very important decision. It said in the first few months of a pregnancy, before viability, a woman has a right to choose what she wants to do with the pregnancy. That is Roe. After viability, we all support restrictions—but always with an exception for the life or the health of the mother.

This bill is so radical, it has no exception for health. The women I have brought to you have told me they could have suffered any one of these on this list of problems. How we can stand here on the floor, when physicians are telling us these are the problems—the hemorrhages, blood clots, strokes, paralysis—that could result If this particular method is banned, it seems to me we are doing harm. We are doing harm to the women of this country.

I would like to see us finish this bill. I would like to see these amendments pass. Senator MURRAY's amendment is so important. They are so important because what they will do if they pass and are signed into law is make abortion rare because it is talked about in every aspect of contraception being available to women. That is what we ought to be doing so we don't have to have this debate on abortion.

The PRESIDING OFFICER. The Senator has used her time.

Mrs. BOXER. I yield the floor at this time.

Mr. SANTORUM. Madam President, I ask the Senator from California this. She keeps making the statement and I want to make sure I give her an opportunity to substantiate this statement. The statement is made repeatedly that obstetricians and gynecologists around the country are saying that this is medically necessary to preserve the health of the mother.

Has one of those obstetricians or gynecologists submitted a circumstance by which this would be the case? And where have they said this is the case? I am asking. If the Senator from California is going to make a statement that obstetricians believe this is medically necessary to preserve the health of a mother, substantiate the statement.

For 7 years I have asked this question. Seven years. It has been asked at hearings and in a variety of different forums. I understand why the OB/GYN association opposes this ban because they do not like anything that criminalizes their behavior. I understand that. I am sure anybody who does behavior outside the bounds of morality and, therefore, potentially criminal, would like laws that do not stop them from doing what they want to do. I understand why people do not want constraints on their actions, but we have laws because we believe there are certain actions that are so morally reprehensible that we want to prohibit them and at which we want consequences directed.

Mrs. BOXER. Will the Senator yield for an answer to the question?

Mr. SANTORUM. I ask the question, as I have repeatedly: Provide for me an instance, a circumstance, a medical situation in which this procedure would be necessary to preserve the health of the mother. That is what I am asking. Give me a circumstance where this would be necessary and there would be no other procedures available. Give me a circumstance where this would be the best procedure.

Mrs. BOXER. I assume I am answering on my friend's time.

Mr. SANTORUM. If you can answer the question.

Mrs. BOXER. Yes, I would like to submit for the RECORD a letter from the University of California, San Francisco, Dr. Felicia Stewart, in which she says very clearly that this bill:

> . . . fails to protect women's health by omitting an exception for women's health; it menaces medical practice with the threat of criminal prosecution; it encompasses a range of abortion procedures; and it leaves women in need of second trimester abortions with far less safe medical options: hysterotomy and hysterectomy.
>
> The proposed ban would potentially encompass several abortion methods.

She goes on:

> If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible for some women who have underlying medical conditions.

And she says here is what happened to them: Death, infertility, paralysis——

Mr. SANTORUM. Reclaiming my time.

Mrs. BOXER. Coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Madam President, with all due respect to the Senator from California, she has not answered my question. That letter does not answer my question. I have asked not what could happen if abortions are not available. What I have asked is for a specific medical circumstance that someone can provide me where this procedure would be necessary to save the health of the mother.

In 7 years of asking that question, I have not gotten an answer. I think that is significant, that if this is so important, if Members of the Senate are going to come here and say this is medically necessary to protect the health of the mother, then they have to have evidence to support that statement. Saying that this limits options and saying potentially it could have adverse—give me a circumstance, give me a case.

The reason that no cases have been brought forward is because we have overwhelming testimony, dispositive testimony from physicians all across this country who say that it is never medically necessary, including the American Medical Association, which says this is a bad practice.

Take the cases that are being presented today. Vikki Stella. Did I say the pregnancy was not a crisis in the sense the child had multiple birth defects? Is that a crisis pregnancy? Of course it is in the sense that the child does not have a chance or very much of a chance to survive long after birth. But that is not what I said. What I said was it was not a medical crisis for the mother, and there is no evidence the mother was in any physical danger. I have gone through this personally as——

Mr. DURBIN. Will the Senator yield?

Mr. SANTORUM. Let me finish, and I will be happy to yield as I have continually. The fact that a child in utero is going through a crisis does not equate that the mother is going through a health crisis. There are lots of mothers of babies with multiple defects who carry that child to term or do things to try to help that child in utero survive. One does not equate to the other.

The case of Vikki Stella—and I am just reporting—I understand the fact she was carrying a child with multiple disabilities. My heart grieves for her and for all women who have to go through such difficult pregnancies. It is horrible to find out that a child you want may not live long after birth. It is as compelling a story as you can present to me. The point is, the answer does not have to be the death of the child.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SANTORUM. Without losing my right to the floor.

Mr. DURBIN. The Senator is an accomplished legislator. He is an accomplished lawyer with good background and understanding, but he is not a medical doctor. In this case, her medical doctor said because of her diabetic condition and complications that the fetus she was carrying could not survive outside the womb, if she had a C-section to deliver this child, it would have put her life and health at risk. The Senator from Pennsylvania comes to the floor and says: No, I understand it better. I can make a better diagnosis. She was not at risk.

Mr. SANTORUM. I reclaim my time.

Mr. DURBIN. How can the Senator stand here and make a medical judgment on a person he has never seen?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. One, you make it sound like the doctor who diagnosed the fetal abnormality was the one who performed the abortion. In fact—I am reading her story—the diagnosis was made by a perinatologist and the abortion was performed by an abortionist in a clinic, not the same person.

Mr. DURBIN. What is the point?

Mr. SANTORUM. The point is that this is not done in hospitals. This is done in abortion clinics. This is not a procedure that was developed to protect the health of the mother. This was a procedure that was developed so the abortionist could do multiple abortions and do more of them at the same time.

The case we are laying out here—and by the way, we are arguing a case of where you have a fetal abnormality which, by the way, is less than 1 percent of the abortions that are performed.

Mr. DURBIN. Does the Senator make that exception in his bill?

Mr. SANTORUM. Excuse me, there need not be an exception, but you are arguing these compelling cases and they are compelling because they are talking about women going through very difficult decisions, but there is no medical reason to do this procedure. There are other procedures available and safer. There are better procedures for abortion available. I am not talking about C-sections, but other abortion procedures that are better.

Mr. DURBIN. Will the Senator please tell me what procedure would have been better for Vikki Stella?

Mr. SANTORUM. Look, this procedure is not done in hospitals. So all I suggest is there are other safer, peer-reviewed procedures that can and are used on a routine basis by a physician——

Mr. DURBIN. Will the Senator please tell me, since he said it was not a medical crisis, and she did not need this procedure——

Mr. SANTORUM.—which is a standard D&E, which is the most common late-term abortion performed at hospitals, taught in medical school, and peer reviewed. This is not RICK SANTORUM talking. This is not the Senator from Tennessee talking. This is a variety of obstetricians.

The point is, they are giving a reason for keeping this procedure legal that is a red herring. This procedure is not taught in hospitals. It is not performed in hospitals. It is not done by advanced perinatologists who run into difficult pregnancies. Why? Because it is not safe. Why? Because there are better methods.

What we are trying to do here is protect women's health. We hear so much passion here about protecting women's health. We have a procedure that has been demonstrably proven is dangerous to women's health; that there are other procedures that are safer.

Why are we not concerned about women's health when we want to keep a procedure legal that is unsafe? Are we really concerned about women's health, or are we really concerned about eroding, chipping ever so slightly at this oracle of abortion in America? This is trying to stop something that is unsafe for women, that is obviously brutal for children, and is simply not necessary to protect the health of a woman.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mrs. MURRAY. Madam President, I think this discussion shows exactly why this Senate should agree on the women's health amendment that is now before this body and that we will vote on in a few minutes.

Senator REID and I have said that the goal of all of us should be to reduce the number of unintended pregnancies so that this issue that is being debated does not have to be debated on the floor of the Senate; that this issue should be decided between a women and her doctor, her family and her faith.

I commend Senator REID for working with me on this very important amendment, and I yield 8 minutes of my remaining time to Senator REID.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, this amendment is to end insurance discrimination against women and improve awareness and understanding of emergency contraception, ensure that rape victims have information about and access to emergency contraception, and promote healthy pregnancies of babies by allowing States to expand coverage for prenatal and postpartum care. That is what this amendment is.

The debate that has been going on in the last few minutes has nothing to do with the amendment offered by the Senators from Washington and Nevada.

As I mentioned earlier today, the abortion debate has been a divisive one for our Nation for many years. We recognize the issue is not going to go away soon, but there is a need—and I thought we had an opportunity, and I hope we still do—to find common ground and to take steps toward a goal I hope we all share: Reducing the number of unintended pregnancies in America and reducing the number of abortions.

We put forth a good-faith effort to find common ground by offering commonsense solutions in our amendment. Instead of giving serious consideration to our amendment that would improve access to contraception and improve access to care for pregnant women, the other side has instead chosen to hide behind a technicality. That is what it is. If my friends on the other side of the aisle were serious about improving women's health, serious about improving access to contraception, and serious about reducing unintended pregnancies, they would not dismiss this amendment on a technicality.

When the Bush administration decided it would allow a fetus to be covered through the SCHIP program but it was all right to exclude the mother from coverage, we did not have the opportunity to dismiss this shameful and absurd regulation on a technicality. As a result, we are missing the opportunity to provide critical health care coverage for low-income women and their babies.

The sad irony of tonight's vote is that the measures contained in our amendment would actually save the country money. In fact, as the Washington Business Group on Health has found in its report "Business, Babies and the Bottom Line," more than $6 of neonatal intensive care costs could be saved for every $1 spent on prenatal care, and low-birth-weight babies are 64 percent more likely to attend special education classes than normal-birth-weight babies. That is why the neonatologists came to see me, as I reported earlier today. They want women who have not had the opportunity to have prenatal care to have prenatal care. It saves the Government money.

Furthermore, an Agency for Health Care Research and Quality report has found 4 of the top 10 most expensive conditions in the hospital are related to care of infants with complications, respiratory diseases, prematurity, health defects, and lack of oxygen. All of these conditions can be improved and, in most cases, eliminated through quality prenatal care.

The same holds true for EPICC legislation that would improve access to contraception by requiring insurance plans which provide coverage for prescription drugs to provide the same coverage for prescription contraceptives.

The Washington Business Group on Health estimates that not covering contraceptives in employee health plans would cost 17 percent more than providing the coverage. It is a loser to vote against this amendment. If my colleagues are concerned about money—and that is what this technicality is all about—then vote with us because we are going to save the State, local, and Federal Governments money.

The Federal Employee Health Benefits Program, which has provided contraceptive coverage for several years now as the result of an amendment made on this floor, shows that adding such coverage does not make the plan more expensive.

This vote is not about money. If the other side were serious about improving women's health, serious about improving access to contraception, and serious about reducing unintended pregnancies, they would not dismiss this amendment on a technicality.

I hope people will vote their conscience, the conscience to help women have healthy babies.

Mrs. LINCOLN. Madam President, I support the prevention package amendment offered today by Senators MURRAY and REID to reduce the high rates of unintended pregnancy in our country as well as improve access to prenatal and postpartum care for pregnant women.

I urge my colleagues to support this commonsense approach to the health of women and their babies. If Senators really want to make our country a better place for babies, women, and their families, they should support this amendment.

Half of the 4 million pregnancies that occur in the United States every year are unintended. This amendment seeks to curb that trend by helping women better plan their pregnancies, improving knowledge of and access to contraception, and expanding insurance coverage for prenatal and postpartum care. If the provisions in this amendment were already law, I sincerely believe we wouldn't be here debating the underlying bill.

A recent report showed that abortion rates are at their lowest level since 1974. Most of this decline is attributed to women becoming better educated about how to care for their bodies. We are gaining greater access to safe contraceptive measures. That is the good news.

However, while there was an overall decline in abortion rates, the abortion rate among women of lower economic status actually rose. These women face greater barriers to contraception. To really reduce abortions in our country, we need to ensure that all women—poor and wealthy—have access to affordable and timely contraceptives.

This prevention amendment makes significant progress towards that goal. First, the amendment makes contraception more affordable for privately insured women, an important provision based on bipartisan legislation introduced by Senators SNOWE and REID. This provision establishes parity for prescription contraception by requiring private health plans to cover FDA-approved prescription contraceptives and related medical services to the same extent that they cover prescription drugs and other outpatient medical services. By making contraception affordable for working women and families, this provision takes a positive step forward in the effort to reduce abortions in our country.

Second, this amendment seeks to make women and health care providers more aware of emergency contraception, which is really just a specified dose of standard birth control pills that can be taken up to 72 hours after unprotected sex. Despite the potential for emergency contraception to drastically reduce unintended pregnancies and the need for abortion, it is underutilized and misunderstood. This amendment seeks to correct that. Emergency contraception is FDA-approved to be a safe and effective form of contraception, and it is often the only contraception option for women who have been raped.

Of the 300,000 women in our country who report rapes every year, 25,000 of them become pregnant. Women who have been raped deserve to be given information about emergency contraception when they seek medical help following their sexual assault. Rapes can happen at any time, day or night. Oftentimes, women are treated in hospital emergency rooms. This amendment also ensures that hospitals counsel raped women about their risk of pregnancy and offer them emergency contraception as an option. This policy is in line with emergency care standards established by the American Medical Association and could significantly reduce future abortions.

Lastly, I am glad that this amendment gives States the option of covering pregnant women in their Children's Health Insurance Programs. Based on bipartisan legislation we passed unanimously in the Finance Committee last summer, this bill allows coverage for prenatal care, delivery, and postpartum care. This provision could drastically improve the lives and health of thousands of women and children throughout our Nation.

The infant and maternal mortality statistics in this great country of ours are shocking. According to the Centers for Disease Control and Prevention, the United States ranks 28th in the world in infant mortality. We rank behind countries like Cuba and the Czech Republic. It is amazing to me that the United States lags far behind these nations in this area. Another shocking statistic from the CDC is that the United States ranks 21st in the world in maternal mortality. The World Health Organization estimates that the U.S. maternal mortality rate is double that of Canada.

When we are ahead of every other nation in almost every other arena, I am deeply saddened that we have not taken a course of action that would prove to the rest of the world that we truly do value life in this country, and that we want to do all we possibly can to ensure the healthy delivery of children, as well as the health of their mothers.

The fact is, we know how to address this problem. The solution lies in prenatal and postpartum care. Studies have shown that this care significantly reduces infant mortality, maternal mortality, and the number of low-birthweight babies. Prenatal care is also cost-effective. For every dollar we spend on prenatal care, we save more than 6 dollars in neonatal intensive care costs. Pre-term births are one of the most expensive reasons for a hospital stay in the United States.

I cannot emphasize enough the great opportunity we have here in the Senate to drastically improve the lives and health of women and babies in our country. We must allow States to cover pregnant women under SCHIP—the States want to do it, and the Federal government should give them the option.

I do not understand why anyone would stand in the way of common sense, practical solutions like the ones offered in this amendment. If my colleagues are serious in their quest to reduce abortions, they will support this amendment. Instead of debating the same bill we did 5 years ago—a bill that will ultimately be decided by the courts—let's do something proactive for our Nation's most vulnerable women and families. I urge all my colleagues to support this amendment today.

Mr. GRASSLEY. Madam President, I am aware that an amendment has been offered to the Partial-Birth Abortion Ban Act of 2003 that would provide coverage through the State Children's Health Insurance Program (S-CHIP) to pregnant women.

The amendment is similar to a bill that passed out of the Finance Committee last July. The bill providing health care to low-income pregnant women was never enacted in the 107th Congress. I support caring for low-income mothers and their unborn children. It is sound health policy.

It is a new Congress, and unfortunately, I can't support this amendment. This policy has not been properly debated in the 108th Congress.

Policies that alter our Nation's safety net programs deserve the Senate's proper attention. We must address policy changes to the safety net through regular order. By accepting this amendment, we are not allowing for this process to work.

Earlier this year, I worked with Senator NICKLES, Senator SNOWE and others to setup a process to address the need to redistribute unspent S-CHIP funds. Together we have set up a solid process to address S-CHIP redistribution through regular order.

I assure my colleagues that, as Chairman of the Finance Committee, I am willing to address pertinent S-CHIP issues in the near future and discuss the possibility of extending S-CHIP coverage to pregnant women.

Ms. MIKULSKI. Madam President, I rise in strong support of the Murray-Reid amendment. This amendment protects women's health. It makes abortions more rare—not more dangerous. It tries to find common ground.

I acknowledge the seriousness of this debate. My colleagues have raised troubling ethical issues about these grim and ghoulish procedures. But there are other equally troubling ethical issues at stake about who should decide how best to protect a women's health.

Proponents of the Santorum bill that we are debating deny that their legislation will have any consequences for women's health. They are wrong.

Denying women access to the abortion that could save their life and physical health is unconscionable—and unconstitutional.

A pregnant woman facing the most dire circumstances must be able to count on her doctor to do what is medically necessary to protect her from serious physical harm.

I want every woman who hears this debate to know: I am on your side. I will fight to protect your health.

That is why I am proud to support this amendment. It builds on my two decades of advocacy—to protect women's health, to give women access to appropriate medical treatments, and to make sure women are treated fairly and equally under the law.

When I was still a Congresswoman on the House side, there was study after study on how women were not included in the clinical trials at the National Institutes of Health (NIH).

Studies were being done with men only. One study examined whether aspirin decreases cardiovascular deaths on 22,000 men. A study on heart disease risk factors was conducted on 13,000 men—and not one woman. But the results of these studies were applied to both men and women.

What did this mean for women? Millions of men benefited from a study that found taking aspirin reduced their incidence of heart attacks. But since women weren't included in the clinical trial, we didn't know whether it would hurt us, help us, or have no effect.

This policy was unfair. It was harming women.

So one day, I called up Pat Schroeder, Connie Morella, and OLYMPIA SNOWE. We decided to go to NIH—to light a fire so they would take action.

It was a hot day in August. We pulled up in our cars, up to the curb at the front door of NIH. They knew we were there, they knew we were serious. They knew we were going to have a Seneca Falls on NIH if necessary. True story and the rest is history.

Within 1 month after that, working with TED KENNEDY, TOM HARKIN and the women of the House, there was an Office of Women's Health at NIH. NIH finally moved and I moved Congress.

We mow know that men and women often have different symptoms before a heart attack. We know that men and women have biological differences that must be studied and understood so women's symptoms can be recognized and treatments can be developed that are effective for both women and men.

Including women in clinical trials and making sure investments in biomedical research benefit men and women equally is about basic fairness.

This amendment is also about fairness. It includes the Equity in Prescription Insurance and Contraceptive Coverage Act (EPICC). EPICC requires health plans that cover prescription drugs to provide the same coverage for prescription contraceptives. 98 percent of workers with health insurance have prescription drugs benefits,but only 64 percent of workers have plans that cover birth control pills. Only 40 percent of workers have plans that cover all forms of contraceptives.

When health plans cover other prescription drugs but exclude the drugs that only women take, it is gender discrimination. It is wrong.

The Equal Employment Opportunity Commission (EEOC) agreed. I chaired a hearing of the Health, Education, Labor, and Pensions Committee on this legislation. The Committee heard testimony from Jennifer Erickson, a 28-year-old pharmacist from Seattle. Jennifer used this EEOC decision to take her employer to court. She won.

This was a landmark victory for women. But women should not have to sue their employers to get their health plans to treat them fairly.

That is why I am such a strong supporter of this legislation. EPICC protects every woman from illegal gender discrimination. It reaffirms our commitment to basic fairness for women under the law. It leaves medical decisions in the hands of women and their doctors—not legislators, and not insurance company bureaucrats. It expands access to contraceptives that help prevent unwanted pregnancies.

EPICC also builds on past successes. In 1998, I worked with Senators SNOWE and REID to require Federal Employee Health Benefit Plans that covered other prescription drugs to also cover prescription contraceptives. I have stood sentry in the Appropriations Committee to keep this promise to Federal employees.

Contraceptive equity for Federal employees was a downpayment. It created a model for employers—and other States—to follow, like my own state of Maryland. Maryland was the first state to pass a contraceptive equity law.

This legislation will make the final payment—so every woman can count on her health plan to treat her fairly and to cover her basic medical care.

This amendment also expands access to medical treatment for women by giving women who have been raped access to emergency contraceptives, and giving low-income pregnant women health insurance through the Children's Health Insurance Program.

The Murray-Reid amendment builds on past efforts to make sure every woman has access to the medical care she deserves. In 1990, I fought to make sure low-income women could get screened for breast and cervical cancer. Since this screening program started, over 1.5 women have been screened, more than 9,000 breast cancers have been diagnosed, and over 48,000 precancerous cervical lesions have been detected.

This screening program was a good start—but it left a serious gap. The program paid for women to get screened, but it did not pay the costs of treatment for women who were diagnosed with breast and cervical cancer through the program. Women were left to fend for themselves or rely on volunteers to provide free or reduced-cost treatment. I fought to change that.

In 2000—after years of effort—Senator John Chafee and I passed a law to give women who were diagnosed with breast and cervical cancer through this program access to the medical treatment they needed.

Let's continue to build on these efforts to make sure every woman has access to quality health care. Millions of Americans do not have access to health care, because they cannot afford health insurance. There are 267,000 women in Maryland without health insurance, 11 percent of Maryland women under age 65.

The Murray-Reid amendment will expand health insurance coverage. It includes legislation that I strongly support that allows states to expand their children's health insurance program to give pregnant women earning less than $17,000 a year access to the health care they need.

This amendment sends a message to women. I am on your side. I will fight to protect your health. I will fight to make sure you get treated fairly. I urge you to support it.

I am also here in support of the Murray-Reid amendment because it sends a message about the importance of prevention. This amendment will help prevent unwanted pregnancies—by expanding access to contraceptives through fair, equitable insurance coverage, guaranteeing that women who have been raped can get emergency contraceptives (ECs), and getting information to women and their doctors about ECs. It will prevent abortions.

Unlike this amendment, the Santorum bill that we are debating does not prevent a single abortion. It prohibits certain abortion procedures, but allows doctors to use other procedures in its place. The Santorum bill directs doctors to use other procedures that may be more dangerous to women. It is a hollow and ineffective approach.

Improving access to contraceptives makes sense. This amendment makes abortions more rare, not more dangerous.

Preventing unwanted pregnancies in the first place is something we can all agree on. People of good conscience and good will disagree on some of these difficult issues. I support commonsense ways to find middle ground. The Durbin amendment I will support is a commonsense approach to prohibit late-term abortions and protect women's life and health from serious harm.

There is too much at stake to angle for partisan advantage or to be driven by narrow ideology. Let's work together to prevent abortions and protect the health and lives of American women. I urge my colleagues to support this amendment.

Ms. SNOWE. Mr. President, I rise today in support of the amendment offered by Senator MURRAY, which would ensure that women have access to preventive health services—services like contraceptive coverage, and emergency contraception—to try to reduce the overall need for abortion by reducing the number of unintended pregnancies in this country. Furthermore, I support this amendment because just as critical to ensuring that women have the right to plan their families in ensuring that uninsured pregnant women have access to the care they need to have healthy pregnancies and pre-natal care.

The composition of this amendment provides women with the ability to have healthy families—which is what family planning is all about. Key to this effort is access to prescription contraceptives—including the most commonly used contraception by far, oral contraceptives. Access to these prescriptions are guaranteed under this amendment which includes legislation I have authored each year since 1997, the Equity in Prescription Insurance and Contraceptive Coverage Act.

I have led the fight for equitable coverage of contraceptives after having found out that in 1994, according to an Alan Guttmacher Institute, AGI, report, 49 percent of all large-group health plans and 49 percent of preferred provide organizations, PPOs, did not routinely cover all five methods of reversible contraceptives. That report led me to introducing EPICC for the first time in 1997. And while the statistics have improved there is more work to be done. According to a 2001 Kaiser Family Foundation report, while 98 percent of employers offer prescription drug coverage in general, still only 64 percent offer coverage of oral contraceptives. Again, this category is the most popular of all prescription contraceptives.

It's been 6 long years now since I first introduced EPICC, and according to an AGI report, in each of those 6 years women have spent over $350 per year on prescription oral contraceptives—for a total of over $2,100. Why? Because many insurance companies that already cover other prescription drugs do not cover prescription contraceptives. How can we continue to deny this fundamental coverage for prescription drugs that are a key component in women's reproductive health?

And that's no exaggeration, either. Take for example the known health benefits of oral contraceptives, which have been in use for over 40 years now. First, the pill has been demonstrated to lower the risk of pelvic inflammatory disease, and has been linked to reducing the risk of ovarion, endometrial and uterine cancers. And, the estrogen in the pill facilitates maintaining bone-density—a key component in the effort to fight osteoporosis and the debilitating and often life threatening results of bone fractures which are all too often faced by older women.

But if that's not enough, just consider the importance and impact of prescription contraceptives in context with what we're debating on the Senate floor this week. No matter where you are on the issues . . . no matter what your political stripe—there isn't a U.S. Senator who wouldn't want to reduce the number of abortions in America. I would guarantee that.

Knowing that approximately 50 percent of all pregnancies in the U.S. each year are unintended—the highest of all industrial nations—shouldn't that be a compelling reason to support this amendment, no matter which side of the abortion debate you're on? Indeed, I along with Senator REID—who has long been a Democrat lead on my legislation—have long believed the EPICC not only makes sense in terms of the cost of contraceptives for women, but also as a means of bridging, at least in some small way, the pro-choice pro-life chasm by helping prevent unintended pregnancies and thereby also prevent abortions.

Because, according to the Institute of Medicine Committee on Unintended Pregnancy, one of the reasons for the high rates of unintended pregnancies in the U.S. has been the failure of private health insurance to cover contraceptives—and half of these pregnancies end in abortion. Indeed, we know that there are 3 million unintended pregnancies every year in the United States. We also know that almost half of those pregnancies result from just the three million women who do not use contraceptives—while 39 million contraceptive users account for the other 53 percent of unintended pregnancies—most of which resulted from inconsistent or incorrect use.

In other words, when used properly, contraceptives work. They prevent unintended pregnancies—we know that. Yet, there are opponents of my legislation, regardless of what we know about what access to contraceptives does for both the health of women and their children by having pregnancies better planned, and better spaced. Why? Well, it certainly shouldn't be cost.

After all, a January 2001, OPM statement on EPICC-like coverage of federal employees under the FEHBP found no effect on premiums whatsoever since implementation in 1998. Let me repeat—no effect. In fact, some—like the Alan Guttmacher Institute—argue that improved access to and use of contraception nationwide would save insurers and society money by preventing unintended pregnancies, as insurers generally pay pregnancy-related medical costs—which can range anywhere from $5,000 to almost $10,000. Improved access to contraception would eliminate these costs and would reduce the costs to both employers and insurers.

In 1999, the New York Business Group on Health released estimates calculated by Pharmacia and Upjohn Pharmaceuticals on the cost to employers of providing contraceptive coverage. Taking into account the cost of unintended pregnancies, Pharmacia and Upjohn estimated an overall savings of $40 per employee when contraception is a covered benefit. An estimate that is supported by a study that estimated that not covering contraceptives in employee health plans would actually cost employers 15-17 percent more than providing the coverage due to the other pregnancy related costs.

Now, no one is saying that access to prescription contraceptives will solve the most vexing of social problems, but if access helps women plan their pregnancies, and includes in this planning assurances that they are in good health and that they will seek prenatal care, and that they have the financially stability to provide for their child—then, clearly, contraceptive coverage would significantly help improve the lives of millions of mothers and their future children.

While the facts demonstrate that this amendment is something that every senator regardless of their position on abortion should support it as it will reduce the instance of abortion while improving the health of women and their future children, I must also say that Senator MURRAY's amendment—her prevention package—even in its totality, is not enough to fix the problems in the underlying bill offered by my friend, Senator SANTORUM, which would ban late term abortions without providing for any clear exception to protect the life or the physical health of the mother. This is completely contrary to the 22-year-old landmark Supreme Court decision in Roe v. Wade that held that women have a constitutional right to an abortion, but after viability, States could ban abortions—as long as they allowed exceptions for cases in which a woman's life or health is endangered.

And there should be no doubt—the underlying legislation puts women's lives and health on the line. If we vote this week to send this legislation to the President without additional changes beyond the inclusion of this amendment—which beyond the guaranteed access to prescription contraceptives provides information about emergency contraceptives for women and doctors, access to emergency contraceptives for sexual assault victims and finally, access to health care for pregnant uninsured women—we will bear the burden of putting women's lives and health at risk by substituting the judgement of politicians for the judgement of medical doctors. And that just isn't right.

The bottom line is, women should have control over their reproductive health—whether it be through access to contraceptives, access to health care when they are pregnant or through preserving the right to choose which should include the right to terminate a pregnancy post-viability if a doctor determines that continuance of the pregnancy would result in a grievous injury to the woman's physical health.

After all, allowing women to decide what is in their best interests serves not only the woman's overall health, but their children's and their future children's health. This goal will be furthered by the amendment offered by Senator MURRAY and other amendments expected to be offered later this week by others which will ensure that we are following the guidelines laid out for us in the landmark Roe v. Wade decision ensuring that a woman's physical health is paramount in these decisions.

In the meantime, I urge my colleagues to join us in supporting this important amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. How much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes 48 seconds. The Senator from Pennsylvania has 38 seconds.

Mrs. MURRAY. Madam President, I state for all of our colleagues that we are going to vote in a few minutes on a very important amendment. We have heard a lot of rhetoric in the last few days saying that people care about women, care about women's health, care about the health of a child. I think what we all can agree on is that if we can help prevent unintended pregnancies and ensure access to health care coverage for low-income women, we have taken a major step forward in this country.

The Murray-Reid amendment we are going to vote on in a few minutes does several really important things. Today, in this country, in too many States, women do not have access to contraceptives simply because they are discriminated against by their insurance company.

What this amendment merely says is that it would prohibit those insurance plans from discriminating against contraception, so that women would not be denied the ability to make their own choices for their own family in their own homes with contraception that they can afford. I think this is something many Members agree on, many Members have supported, and it is a step in the right direction in this country for women's health.

Secondly, it provides emergency contraceptive education. It simply authorizes a $10 million education program to help people know and get information to women and health care providers on the availability and effectiveness of emergency contraceptives—again, preventing unintended pregnancies. It provides emergency contraceptives in the emergency room.

Senator REID spoke very eloquently this morning about a young woman who was raped, who had no knowledge of what she could do to make sure she would not have an unintended pregnancy as a result of the rape. This simply makes sure that emergency contraceptives are available in our emergency rooms so that victims of sexual assault can get the care they need and be taken care of without having to have an unintended pregnancy that would be devastating. This is something of which everyone in this Chamber can be supportive.

Finally, it expands the SCHIP and Medicaid Program to include low-income pregnant women. As we all know, the administration moved to make the fetus eligible under SCHIP but left out the woman. I find that reprehensible. I do not know how a woman's health can be separated from her fetus and one can say this procedure and this medical condition only applies to the fetus. For all of us who have been pregnant, we know that oftentimes when you are not feeling well, you are not sure why you are not feeling well. You cannot separate a woman from her womb when she is pregnant, and you cannot make that kind of coverage just for the fetus. You have to make sure the woman is healthy. That is what this amendment will do. I think it is something all of us can support.

What we have found this evening is that our colleagues on the other side, who have not spoken against this amendment because they do not want to speak against it, are hiding behind a budget waiver. To me, that is a technicality to hide behind. How can they go home and tell women that they are for women's health; that they are for making sure women have the opportunity to prevent unintended pregnancies so that we do not have these difficult choices on the floor of the Senate, and hide behind a budget waiver?

I tell all of my colleagues, a vote to waive the Budget Act is a vote to help prevent unintended pregnancies. It is a vote for women's health, a vote to make sure that women have access and the ability to make these choices for themselves.

I hope all of my colleagues will vote to waive the Budget Act so that we can put in place a bill that will allow women to make good choices for themselves that will allow them to be healthy and for their children to be healthy. Certainly, that is something on which we can all agree.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, a couple of points on the Murray amendment: No. 1, this amendment puts conditions on the receipt of enhanced SCHIP dollars. In order to get the enhanced match, a State must first expand eligibility up to 185 percent of the Federal poverty level with the regular Medicaid match rate. In other words, we will force States which are already facing tough budgetary times—and they are pounding on our door because of the cost of Medicaid already—to expand Medicaid before they are able to receive the benefits of this enhanced match.

I do not think this is going to accomplish what they want to accomplish anyway. We are going through the process right now in the budget to deal with this issue. Senator NICKLES has already said this is going to be dealt with in the budget. We will have a full discussion about this next week. That is the proper place for this discussion, not on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington.

Mrs. MURRAY. The Senate is about to vote on the Murray-Reid amendment. This is a prevention amendment. It is an amendment that supports women's health. If our colleagues choose to hide behind the technicality, that is their choice, but the American people want us to stand behind women's health. I urge my colleagues to support the motion to waive.

The PRESIDING OFFICER. The time has expired.

The question is on waiving section 207(b) of H. Con. Res. 68 of the 106th Congress as extended by S. Res. 304 of the 107th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. MCCONNELL) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chambers desiring to vote?

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—49

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Warner
Wyden

NAYS—47

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NOT VOTING—4

Biden
Graham (FL)
Kerry
McConnell

### CHANGE OF VOTE

Mr. WARNER. Mr. President, on rollcall vote No. 45, I voted nay, and it was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 47.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Illinois.

### AMENDMENT NO. 259

Mr. DURBIN. Mr. President, I have an amendment which I will be offering. At this point, I am prepared to commence debate on the amendment. I see the majority leader in the Chamber. If there is no other business to come before the Senate this evening, I will just continue the debate on the issue before us.

I would like to bring the attention of my colleagues to an amendment which I will bring to a vote tomorrow afternoon. This is an amendment which I have prepared and offered with a number of cosponsors. I would like to acknowledge their support in offering this amendment with me. They include a bipartisan group of Senators who, frankly, are on different places on the political spectrum when it comes to the issue of abortion. This may be one of the only amendments to be offered which brings together people who don't see eye to eye, usually, on this issue. It is a good-faith effort on the part of myself and the cosponsors to bring this amendment forward in an effort to find a reasonable way to resolve an extremely difficult issue.

I have said in previous debates, and I repeat that those who are on both sides of the issue come to it in good faith. Anyone who is in political life knows this is not an issue on which you are ever going to win. When it comes to the issue of abortion, there are a substantial portion of Americans who believe very strongly against a woman's right to choose, and a substantial portion who strongly favor a woman's right to choose. No matter which position you take, you are bound to make some enemies.

What I have found is that between these two positions on the issue, you will find most Americans. And most Americans when pressed come to the following conclusion: They believe that we should keep abortion procedures safe and legal but make them as rare as possible, do not encourage them, have them available in extraordinary situations, but do not encourage them.

That is the nature of the amendment which I am offering tomorrow, an amendment which I hope goes to the heart of the issue before us.

We are debating what is known as the partial-birth abortion procedure. It has been graphically described during the course of this debate, and I am sure will be described again. It is one of the procedures that is used to terminate a pregnancy.

There are those, including medical doctors, who argue that there is no such thing as a so-called partial-birth abortion. This was a term created for political purposes and that, in fact, when you look at all of the various abortion procedures available, you won't find this one listed. Some have called this the D&X procedure, dilation and extraction. Others say, no, it is somewhat different.

The reason the definition of that procedure is important is that across the street from the Senate in the Supreme Court, they have thrown out State statutes that just refer to partial-birth abortion by saying that it is so vague, they can't reach a conclusion as to what the State legislature in that case intended.

We come in this general debate on partial-birth abortion to the same impasse. The procedure is not well defined. But the amendment I offer is not an amendment that focuses on this procedure. What I focus on with the amendment is all abortion procedures postviability.

That is an important distinction. What we are saying is that regardless of the abortion procedure you are talking about, I am looking at that period of time after it is medically determined that the fetus that the mother or woman is carrying is viable, could survive outside the womb. That was a critical distinction made in Roe v. Wade over 25 years ago. They said, when it comes to a case where that fetus could survive and is viable, only under the most extraordinary circumstances could you end a pregnancy, could you terminate with an abortion.

That is reasonable. My amendment says that all abortion procedures postviability, after the fetus is viable, are prohibited except in two specific instances. You can only terminate a pregnancy legally through an abortion procedure after the fetus is viable if the life of the mother is at stake—same thing as said by my colleagues offering S. 3—or a woman, if she continued the pregnancy, has a risk of grievous physical injury. I will explain these terms a little later.

We also go on to say that in order to determine whether that late in the pregnancy, after the fetus could nominally survive outside the womb, in order to determine whether a woman's life is at risk to continue the pregnancy, or if she faces a grievous physical injury if she continues that pregnancy, you need not one but two doctors to certify that. But a reason that the two-doctor certification is important is that arguments were made that the same doctor performing the abortion would happily certify that the woman is eligible for the abortion. I don't believe that, but the critics have raised that point.

To overcome that point, we have added the requirement for a second medical certification of a doctor who is not performing the abortion procedure—a doctor who will certify that continuing the pregnancy threatens the life of the mother, or would expose this mother to grievous physical injury.

Then we add a very tough section in the bill that says that doctors who certify need to tell the truth. If they falsify information to justify a termination of a pregnancy, they face not only substantial fines of $100,000 in the first instance, $250,000 in the second instance, but in either case, if they falsify information about whether a woman's medical condition qualifies her for a late-term abortion, they can lose their licenses to practice medicine. That is about as serious a penalty as you can impose on a doctor.

So when you look at the span of what this amendment will do, it, in fact, limits all late-term abortions, regardless of the procedure—limits all late-term abortions, only allowing them in two cases: where the life of the mother is at stake if she continues the pregnancy, or whether she faces grievous physical injury—which we define—if she continues the pregnancy. She needs two doctors to stand by her.

We create an exception for an emergency. A woman late in her pregnancy, whose life is at risk, may not be able to find a second doctor; and if she can have a certification that it is an emergency situation, the second doctor's opinion will not be necessary. But that is the only exception. I think this is a very strict approach. I think it is one that is reasonable.

There has been a lot said on the floor as to whether the partial-birth abortion procedure is ever medically necessary. I have said repeatedly in debate that I am not a doctor; I cannot reach that conclusion on my own. I have to turn to others for advice. The American College of Obstetricians and Gynecologists says it is never the only thing you can do, but in some cases it may be the most appropriate thing for you to do.

I have a statement of policy from the American College of Obstetricians and Gynecologists which restates their earlier position of 1997. I ask unanimous consent that this be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
*Washington, DC, March 6, 2003.*

Hon. BARBARA BOXER,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER: The American College of Obstetricians and Gynecologists (ACOG) reaffirms its Statement of Policy on Intact Dilation and Extraction, initially approved by the ACOG Executive Board in 1997.

Sincerely,

RALPH HALE, MD,
*Executive Vice President.*

Attachment.

ACOG STATEMENT OF POLICY

(As issued by the ACOG Executive Board)

STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning "partial birth abortion," and "brain sucking abortions," has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as "Intact Dilatation and Extraction" (Intact D&X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;
2. instrumental conversion of the fetus to a footling breech;
3. breech extraction of the body excepting the head; and
4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D&X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D&X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3 percent of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6 percent. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D&X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D&X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D&X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D&X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Approved by the Executive Board, January 12, 1997.

Mr. DURBIN. Mr. President, we have a difference of opinion. Senator SANTORUM and others have said, wait a minute, we have doctor statements that say just the opposite. Some doctors and some doctor associations say this procedure is never needed, never necessary. Yet other doctors, such as the ones to whom I have referred, who do this for a living, say it may be the best thing to do. So when you have a difference of medical opinion, the obvious question is, Why would we, as a matter of law, come down on one side of this medical debate?

It is not unusual for a patient who is facing a serious medical decision to get a second opinion because sometimes doctors disagree. You have to decide as a patient, or as a parent of a patient, what is the right thing to do. To say we are only going to take one approach, one opinion, and that will be the law of the land is to foreclose medical options. To foreclose options in a case where there may be a medical crisis, a serious complication in the pregnancy, I don't think is a wise course of action. As visceral and emotional as this issue is, our responsibility is to step back and say let's deal with this honestly and deal with it in a way that we can defend in medical terms.

The bill before us bans only certain procedures and allows others to take place. Earlier, I had a conversation on the Senate floor with the Senator from Pennsylvania, Mr. SANTORUM, who is the lead sponsor. We talked about a particular case of a woman whom I have met from my State. She was the mother of two children. She was in her third pregnancy. Her husband, a businessman, had also been a practicing physician. She believed she was in a very normal pregnancy—until late, late, late in the pregnancy, the 32nd week, or 8 months into the pregnancy. She went in for an ultrasound because she had personal medical conditions they were worried about, and they determined by the ultrasound that the baby she was carrying had horrible birth anomalies and would not survive outside the womb, at which point her doctor said to her: If you go ahead with this pregnancy, normal labor in this pregnancy, or if you submit yourself to a C-section, it could be extremely dangerous. We recommend that you use the very procedure that is being banned by S. 3.

She tells the story of almost collapsing in the doctor's office when she learned this. She told me personally that she wasn't a person who supported abortion. She told many people she was opposed to it. Here she was facing a medical emergency with few choices. So she prayed over it, talked to her husband, and made the decision to go for this procedure.

The Senator on the floor, the Senator from Pennsylvania, Mr. SANTORUM, said she did the wrong thing. He has interposed his medical judgment, for what it is worth, and said she should have had a different form of abortion. I would not be so bold as to stand here on the floor and suggest that I can make that call or that decision. But it is interesting to me that, even being pro-life, he was saying she should have had an abortion procedure other than the one she chose.

The reason I raise that is that this amendment deals with all abortion procedures, not just one, not just the

D&X, or the partial-birth abortion procedure, but all abortion procedures postviability. I think that is important to remember in what we are trying to achieve.

If your goal is to reduce the number of late-term abortions in America, this amendment I am offering today has a greater likelihood of reducing that number than the underlying bill, S. 3. There is no question about it because only a very small percentage of cases use the so-called partial-birth abortion procedure. In fact, this amendment deals with all late-term abortions, all postviability abortion procedures. It would actually reduce the number of abortions performed.

My amendment bans all postviability abortions regardless of procedure, unless "the continuation of pregnancy would threaten the mother's life or risk grievous injury to her physical health." This exception is very important.

The Santorum bill violates a woman's constitutional right to have her health protected. If you will read S. 3—and I have read it—the biggest problem they have is that the language of the bill before us is virtually identical to a Nebraska statute that has already been rejected by the Supreme Court. The Senators who offer this believe that by passing this bill and putting in the findings of the earlier Supreme Court decision, that is good enough.

I don't think any student of constitutional law would agree with that. If the Supreme Court has reached the conclusion that this language fails to meet the test of Roe v. Wade, why in the world are we going through this exercise again?

I think it is better for us to consider my alternative because the substitute I am going to offer takes a different approach—I hope a better approach. The Santorum approach, S. 3, violates a woman's constitutional right to choose under Roe v. Wade. Don't take my word, take the word of the Supreme Court. That was their decision in the case involving the Nebraska statute with the identical language.

My amendment specifically protects a woman's constitutional right to choose before viability, before the fetus can survive outside the woman. That is an important distinction. Viability is, of course, a moving target. When Roe v. Wade was decided—I think the year was 1973—the last 3 months was considered the time that a fetus would be viable. Medical technology has made great leaps forward, and now there are fetuses that are viable even before the third trimester. So we say to use as a standard, as in Roe v. Wade viability in general, the trimester system. They said in Roe v. Wade that until the time the fetus is viable there are certain legal rights in this country. We protect them. Once viability is reached, those rights change and we start acknowledging the fact that the fetus has now become a potential human being at birth.

Roe v. Wade said we will define the laws of America based on viability. The amendment I offered does the same thing. The problem with S. 3—the reason this bill and versions have been found unconstitutional repeatedly is they refuse to accept the basic premise of Roe v. Wade, the premise of existing law in this country.

They just will not acknowledge that you should have a law banning a certain procedure only after viability, which is why the Supreme Court rejected the Nebraska statute. Each time it is stricken because it would, in fact, restrict the right to abortion before viability, before the fetus could survive. Court after court has stricken down State laws that have followed S. 3, the Santorum model. Yet here we are again: same language, same outcome.

My amendment represents a good-faith effort to deal with this issue. It draws the line with two specific cases: where the continuation of the pregnancy would threaten the mother's life, or risk grievous injury to her physical health. That is it, grievous physical injury.

Here is why I believe this is reasonable. At this late stage in the pregnancy, seventh, eighth, or ninth month, I believe Roe v. Wade tells us we have to look at the pregnancy in different terms. We are now postviability. We are now in a circumstance where the fetus can survive.

In those circumstances, I say the only way legally you can terminate the pregnancy is if continuing it could threaten the mother's life or continuing it could subject her to grievous physical injury, which is defined in my amendment.

What does grievous physical injury include? What if you diagnosed a mother in the course of her pregnancy with serious cancer? And what if you found that continuing the pregnancy somehow compromised your ability to treat her for that cancer? My alternative retains the abortion option for mothers facing extraordinary heartbreaking medical conditions, such as breast cancer, discovered during the course of pregnancy.

It also allows for postviability abortions in cases of uterine rupture, which could leave a woman sterile, future infertility, or non-Hodgkin's lymphoma.

The two-doctor requirement is an important element, too. Some have said one of the objections is if you allow a doctor to certify a mother's life is at stake or she runs the risk of grievous physical injury if the pregnancy continues, you are playing right into the hands of the people who perform the abortions. I have heard this argument so many times. We have addressed it directly in the amendment.

I require a second doctor to certify. You have two doctors who come forward and say exactly what the conditions are to terminate a pregnancy. I also have a requirement that this can be waived in case of a medical emergency.

What risks do doctors take if they are falsifying this information? If they do not tell the truth that a mother's life is at risk, they face substantial fines and the suspension or revocation of their license to practice medicine. It could not be more serious.

There are two reasons to support my substitute amendment. One, it would actually reduce the number of abortions performed in this Nation and, two, because it has a health exception not contained in S. 3, the Santorum bill now under consideration, it is more likely to withstand the constitutional challenge and scrutiny across the street at the Supreme Court.

I am honored a number of my colleagues on both sides of the aisle have joined me as cosponsor of the amendment. I particularly note the presence of my friend and cosponsor, Senator COLLINS of Maine. Her colleague, Senator SNOWE of Maine, is also a cosponsor, as is Senator AKAKA, Senator BINGAMAN, Senator LANDRIEU, and Senator MIKULSKI.

As I said at the outset, it is the only amendment I know that will be considered in this debate which has the support of Senators across the spectrum on the issue of abortion: those who consider themselves closer to a pro-life position, those who consider themselves closer to a pro-choice position. I think that speaks to the wisdom of the amendment. I hope my colleagues will consider that when the issue comes before us for a vote.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Chair. I am going to address most of my remarks to the bill. I do not think the amendment has been offered yet.

Mr. DURBIN. I ask the Senator's indulgence for a moment. That is correct, I have not offered the amendment. If I might at this time offer the amendment and then yield to the Senator to continue his speech.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. BINGAMAN, Ms. LANDRIEU, and Ms. MIKULSKI proposes an amendment numbered 259.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Late Term Abortion Limitation Act of 2003".

**SEC. 2. BAN ON CERTAIN ABORTIONS.**

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### "CHAPTER 74—BAN ON CERTAIN ABORTIONS

"Sec.
"1531. Prohibition of post-viability abortions.
"1532. Penalties.
"1533. Regulations.
"1534. State law.
"1535. Definitions.

**"§ 1531. Prohibition of Post-Viability Abortions.**

"(a) In General.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion, including the procedure characterized as a "partial birth abortion"——

"(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

"(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

"(b) No Conspiracy.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

"(c) Medical Emergency Exception.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

**"§ 1532. Penalties.**

"(a) Action by the Attorney General.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

"(b) First Offense.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

"(c) Second Offense—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

"(d) Hearing.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

"(e) Certification Requirements.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved——

"(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

"(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

**"§ 1533. Regulations.**

"(a) Federal Regulations.——

"(1) In general.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

"(2) Requirements.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain——

"(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28 that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

"(B) a description by the physician of the medical indications supporting his or her judgment;

"(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

"(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

"(3) Confidentiality.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

"(b) State Regulations.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

**"§ 1534. State Law.**

"(a) In General.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

"(b) Definition.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

**"§ 1535. Definitions.**

"In this chapter:

"(1) Grievous Injury.——

"(A) In general.—The term 'grievous injury' means——

"(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

"(ii) an inability to provide necessary treatment for a life-threatening condition.

"(B) Limitation.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

"(2) Physician.—The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.".

(b) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Ban on certain abortions ............ 1531.".

Mr. DURBIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am proud today to join Senator Santorum from Pennsylvania and a large majority of my colleagues in support of S. 3, the Partial-Birth Abortion Ban Act of 2003. I urge my colleagues to join me in passing this bill.

Since the amendment has been laid down, I will ask my colleagues to join me in opposing the amendment that has been put forth. My colleague said the procedure is not well defined. Read the bill. Partial-birth abortion is the best description of what we are talking about: allowing a baby to come within a heartbeat of being born and then killing it.

I am also fascinated by this term "viable fetus." I think that means a real baby. It is nice to phrase it in some other terms, but if it is viable, that is what we are talking about.

The argument is this is about health. No, it is not. This is about life and death, and that is why the bill speaks specifically to life. What we tried to do in framing this argument was to come up with the most definite situation where those who are in favor of abortion are separated from those opposed to abortion. It is pretty much that simple. There will be some efforts to try to bring it back a little more to the middle so people can put a little bit of a spin on their decision, but that is what this is about. That is why a procedure was picked that is not taught any longer; a procedure was picked that the American Medical Association said is not needed anymore. That makes it pretty clear.

You can add all the qualifications you want to it, but if you cannot oppose partial-birth abortion, then you must be in favor of abortion.

We are debating an issue that has an important bearing on the future of this Nation. Partial-birth abortion is a pivotal issue because it demands we decide whether we as a civilized people are willing to protect the most fundamental of rights: the right to life itself.

If we rise to this challenge and safeguard the future of our Nation's unborn, if we make this statement, we will be protecting those whose voices cannot yet be heard by the polls and the surveys and those whose votes cannot be weighed in the political process. If we fail in our duty, we will justly earn the scorn of future generations when they ask why we stood idly by and did nothing in the face of national infanticide.

Opponents have argued this procedure is necessary in some circumstances: to save the life of the mother or to protect her health or future fertility. These arguments do not have foundation in fact.

First, this bill provides an exception if the procedure is necessary to save the life of the mother and no alternative procedure could be used for that purpose. Moreover, leaders in the medical profession, including former Surgeon General C. Everett Koop, have stated unequivocally that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility; on the contrary, this procedure can pose a significant threat to both.

A coalition of over 600 obstetricians, perinatologists, and other medical specialists have similarly concluded there is no sound medical evidence to support the claim that this procedure is ever necessary to protect a woman's future fertility.

These arguments are offered as a smokescreen to obscure the fact that this procedure results in taking an innocent life at the moment of birth.

The practice of partial-birth abortion has shocked the conscience of our Nation and it must be stopped. Even the American Medical Association has endorsed this legislation. In a letter to the chief sponsor of this bill, Senator SANTORUM, the American Medical Association explained:

> Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. The Partial-Birth Abortion Ban Act now meets both of these tests. . . . Thank you for the opportunity to work with you towards restricting a procedure that we all agree is not good medicine.

I have based my decision on every bill that has come before this body on what effect it will have on those generations still to come. We in the Senate have deliberated about what steps we can take to make the society a better place for our families and the future of our children. We, as Senators, will cast no vote that will more directly affect the future of our families and our children than the vote we cast on this bill.

When I ran for office, I promised my constituents I would protect and defend the right to life of unborn babies. The sanctity of human life is a fundamental issue on which we as a nation should find consensus. It is a right that is counted among our unalienable rights in our Nation's Declaration of Independence.

We must rise today to challenge what has been laid before us to protect innocent human life. I urge my colleagues to join me in casting a vote for life by supporting the Partial-Birth Abortion Ban Act.

All of us in this body have had significant life experiences that have helped to shape our political philosophies. Eight years ago I had a torn heart valve and I was rushed to the hospital for emergency surgery. I had never been in a hospital except to visit sick folks. It was a tragic surprise to me. I am impressed with what they are able to do, but I have also been impressed with what doctors do not know, and that is not a new revelation for me.

Thirty-one years ago, my wife and I were expecting our first child. One day early in the sixth month of pregnancy my wife started having some pains and contractions. We were so new to the game we did not even know what that was, but fortunately she had a visit to the doctor scheduled that same day. I took her there and I went back to work. Then I received a call from the doctor who said: You need to come down here, too.

That is never good news when the doctor tells you to come to the doctor's office.

I went down there and the doctor said: You may have a baby right now. We know it is early, 3 months early, and that does not bode well. We will try to stop it and we can probably stop it.

Well, they could not. The baby came that night and weighed just a little over 2 pounds. I wanted to know what the doctor was going to do. The doctor said: Well, we will just have to wait until morning and see if she lives—not exactly the kind of medical technology and knowledge that one wants somebody to have about a baby.

He admitted that he did not have any control over it. It was in our hands at that point in time. We sweated through that night. I could not believe that the doctors could not stop a premature birth. Then I could not believe that they could not do something to help the newborn baby. Until someone sees one of these babies, they will not believe what a 6-month-old baby looks like. At the same time my wife gave birth to this 2-pound baby, a friend of ours gave birth to a 10-pound baby. This was a small hospital in Wyoming. They put them side by side. It was a tremendous contrast. Some of the people viewing the babies said: Oh, look at that one. Looks like a piece of rope with some knots in it; too bad.

We were watching her gasp and struggle with every breath. We watched the whole night to see if she would live, and we prayed.

The next day we were able to take this baby to a hospital that provided excellent care. She was supposed to be flown to Denver where they have the best care in the world for premature babies, but it was a Wyoming blizzard and we could not fly. So we took a car from Gillette, WY, to the center of the State to Wyoming's biggest hospital to get the best kind of care we could find. We were supposed to be going down in a four-wheel drive ambulance but we wound up going in an Edsel. They thought there might be a bigger medical emergency in the county so they could not get the four-wheel drive. I can say I thought the biggest emergency in the county was my daughter.

On the way down, we ran out of oxygen. We noticed a whole bunch of highway patrolmen going the other way. When we got to the hospital, we asked if there had been an accident, and they said, no, that they were looking for a premature baby who should have gotten to the hospital quite awhile ago. I said: Well, that was us.

We did receive exceptional care, but the doctor's words when we first talked to him at that hospital were: Well, another 24 hours and we will know something. Another 24 hours before we could do anything.

After those 24 hours, there were still several times when we went to the hospital and there would be a shroud around her isolette. We would knock on the window. The nurses would come over and say: It is not looking good. We had to make her breathe again. One time when they said, have you had the baby baptized, that is kind of the ultimate of dropping your heart in your shoes.

We had had the baby baptized in the first few minutes after birth using some water in a coffee cup from the kitchen of the hospital. A minister had come over and done that. We did learn from the nurse that they had no records of ever having lost a baby who had been baptized. But that child worked and struggled to live. Feeding was a major procedure. Losing the ability to get blood through the navel was a major procedure. She was 3 months premature, did not have any gristle in her ears. They flopped over. That had to be a part of the procedure yet that would come with growth.

We went through 3 months of waiting to get her out of the hospital. Every step of the way the doctor said: Her ability to live is not our duty. It gave me a whole new outlook on life, and now I want to tell everyone the good news. The good news is that the little girl who struggled so hard to live, who would be considered barely viable by most people who perform abortions, is now an outstanding public school principal in Chugwater, WY; population, 256; enrollment, 126 kids, kindergarten through 12th grade. She is doing a marvelous job. She has taught school for several years.

That does not mean she came out of this problem free. She was very lucky. There was a hum in that isolette that was sometimes covered up, and that hum wiped out a wide range of tones to her. So she cannot hear the same way that you and I do, but, oh, can she read lips, which in a classroom is really a very good thing for a teacher to be able to do. Even after they know she can read lips, they usually test her with it.

This experience has given me an appreciation for all life, and it continues to influence my vote now and on all issues protecting human life.

I have come to know what an incredible thing that is as I watch some of life's situations. For instance, death row, how come those people do not want to die? It is not common to life.

I watch these young babies. They want to live. They struggle with every fiber of their being to live. It is an incredible struggle—one we do not see in kids who come to term or kids as they grow up—when they have no meat on their bones and lungs that are underdeveloped and fingernails that have not come on yet. It is an incredible struggle that gives a new appreciation of life. It is such a miracle that we have to respect it. We have to work for it every single day in every way that we can.

I think this bill will help that effort. I think this bill will bring a little conscience, a little consideration, and a whole lot of thought to this country. It is something we have needed and we do need and we will need for the future of our kids.

I yield the floor.

Ms. COLLINS. Mr. President, I rise in support of the amendment offered by my friend and colleague from Illinois, Senator DURBIN, to ban all late-term abortions, including partial-birth abortions that are not necessary to save the woman's life or to protect her physical health from grievous harm.

This debate should not be about one particular method of abortion but, rather, about the larger question of under what circumstances should late-term or post-viability abortions be legally available. Let me be clear from the outset that I am strongly opposed not just to partial birth abortions, but to all late-term abortions. I agree they should be banned.

Such a ban, however, must have an exception for those rare cases when it is necessary to save the life of the woman or to protect her physical health from grievous harm. Fortunately, late-term abortions are extremely rare. In my state, according to the Maine Department of Human Services, just five late term abortions have been performed in the last 20 years.

Our amendment goes far beyond, in many ways, what the Senator from Pennsylvania is attempting to accomplish. His legislation would only prohibit one specific form of abortion. In fact, the bill he supports would not prevent a single late-term abortion. Let me emphasize that point. The partial-birth legislation before us would not prevent a single late-term abortion. A physician could simply use another, perhaps more dangerous, method to end the pregnancy.

By contrast, Senator DURBIN's proposal would prohibit the abortion of any viable fetus by any method unless the abortion is necessary to preserve the life of the woman or to prevent grievous injury to her physical health.

Those of us who have worked with Senator DURBIN on this amendment have taken great care to tightly limit the health exception. Grievous injury is limited to physical health. It is defined as a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

The Maine Medical Association has said that when "a pregnant woman develops a life or health-threatening medical condition that makes continuation of the pregnancy dangerous, abortion may be medically necessary. In these cases, intact dilation and evacuation procedures may provide substantial medical benefits or, in fact, may be the only option. This procedure may be safer than the alternatives, maintain uterine integrity, reduce blood loss, and reduce the potential for other complications." That is what the experts the doctors are telling us.

Senator DURBIN's amendment also includes a very important second safeguard. If the treating physician determines that continuation of the pregnancy would threaten the woman's life or risk grievous injury to her physical health, before the abortion could be performed, a second opinion, in writing, must be obtained from an independent physician. This second opinion must come from a physician who would not be involved in the abortion procedure and who has not been involved in the treatment of the woman.

Unlike the pending bill, which I believe is unconstitutional, the Durbin amendment is consistent with the U.S. Supreme Court's 2000 decision in Stenberg v. Carhart. In Stenberg, the Court struck down Nebraska's partial-birth abortion ban statute because it lacked any exception for the preservation of the health of the woman. The Court reaffirmed its earlier decisions in Roe v. Wade and Planned Parenthood v. Casey that abortion regulation must include an exception where it is "necessary, in appropriate medical judgment, for the preservation of the life or health of the woman."

The Durbin amendment is a fair and compassionate compromise on this extremely difficult issue. It would ensure that all late-term abortions—including partial-birth abortions—are strictly limited to those rare and tragic cases where the life or the physical health of the woman is in serious jeopardy. This amendment presents an unusual opportunity for both "pro-choice" and "pro-life" advocates to work together on a reasonable approach, and I urge our colleagues to join us in supporting it.

I yield the floor.

Mr. SANTORUM. Mr. President, I rise in opposition to the Durbin amendment. The Durbin amendment is virtually identical to the amendment we voted on 3 years ago, I believe it was. It adds simply nine words at the beginning of the amendment. It says:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion——.

And then adds these words——

> including the procedure characterized as a partial birth abortion.

And then it goes on. The only difference between that amendment and this amendment are the words "including the procedure characterized as partial-birth abortion." So all of the operative language that seeks ostensibly to ban certain abortions is the same.

What are the problems I have, and hopefully the majority of Senators have with this ban? No. 1, it only limits—the partial-birth abortion amendment is limited to postviability abortions. As we have discussed here over and over, the fact that babies who are delivered in a partial-birth abortion, partially delivered, are of gestational age that is in excess of 20 weeks and would otherwise be born alive, that doesn't necessarily mean that they would necessarily survive long-term or "be viable." Viability means not that they wouldn't be born alive, but they would have a reasonable chance of survival. That is a very subjective thing.

There is no definition of viability, no standard set in this legislation, and it is purely the abortionist's determination as to whether the child being aborted is viable or not.

We have survival rates of infants born at different gestational ages. Senator FRIST, earlier today, went through some of those. I will review them.

Prior to 23 weeks, a child being delivered at that time has a small chance. There are probably single digits or less at 21 weeks; 22 weeks maybe high single digits. I don't have those numbers but that is my recollection from years past debating this.

When we get to 23 weeks, you have a survival rate of about a third; 24 weeks, two-thirds; 25 weeks, almost three-quarters; 26 weeks, 90 percent. But in each one of these cases, even though there are increasing survival rates, you have a great deal of subjectivity of an abortionist being presented with a baby to determine whether this baby in utero is viable. It is purely subjective. All the physician has to say is: Well, I don't think it is viable. So this just doesn't apply. There is no ban at all.

Since most partial-birth abortions are in the 20-to-26 week range, there is ample opportunity, ample opportunity for the doctor to say in every instance: Well, I just didn't think it was viable.

There is no penalty. There is no criminal sanction. There is no peer review. There is nothing. So this is a ban without a ban because it leaves it completely to the subjectivity of the physician to determine viability.

But that is only half the problem. The other half of the problem is these words. It says:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion, including partial-birth abortion, certifies in writing in the physician's medical judgment, based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life——

Hear the operative words——

> or risk grievous injury to her physical health.

Substantial risk? A little risk? One percent risk? Half of 1 percent risk? Is it .00001 percent risk? Risk is not defined and risk can mean any risk. It can mean the slightest risk.

As Dr. Warren Hern, who is the author of the standard textbook on abortion procedures back in May of 1997, said in response to a question on this amendment: "I say every pregnancy carries a risk—" not just of grievous physical injury—"of death."

Every pregnancy carries a risk of death.

> I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.

He was talking about life and death. We are talking about her physical health, grievous injury to her physical health. That is the second part.

The fact is, risk not being defined is the open door. The analogy was made by someone that if you have a law that says no dog may be shot except where there is a risk that the dog in question may bite, then any dog can be shot because there is always a risk a dog is going to bite.

Any abortion can be performed because there is always a risk. Since we don't quantify the risk, since we don't define the risk, risk is whatever a doctor wants it to be. I bet you will not find one obstetrician, and certainly not one abortionist, who will make the claim that there is no risk associated with the continuation of a pregnancy. It is by definition a risk to the mother.

The most healthy pregnancy involves some element of risk. So this amendment—I am not questioning the intent of the Senator from Illinois. I know he went at this and worked, together with the Senator from Maine and others, to try to come up with a good-faith attempt to put a bill together that would be effective. But this doesn't do it. This simply leaves open both the issue of viability and who determines it. There is no peer review, no second-guessing to the abortionist, and then risk as an open question meaning any amount of risk.

I believe you will not find any doctor who will say there is not a risk. Of course, there is a risk.

The point is not risk, the point is, Is this procedure medically necessary? I keep coming back to this issue over and over again. Please present me with a case, with a case, a factual circumstance where this procedure would be medically necessary and where other abortion procedures could not do, not just as good a job, but a better job. Every health organization out there that I am aware of has said this is bad medicine, this is not practiced, this is not used to protect the health of the mother.

We keep trying to grab for a health-of-the-mother exception when the health of the mother is not at issue here. If we were concerned about the health of the mother, then we would not be doing the procedure. We would not be allowing a procedure that is unhealthy; that takes a mother who obviously is under some duress or she wouldn't be at an abortion clinic. She is under some either mental or physical or some sort of angst that she wants to terminate her pregnancy. This is not a decision that people come by easily.

What the doctor in the case of a partial-birth abortion does is give her a pill and send her home for 2 days. Come back to me in 2 days. And we have cases that we are aware of, the Senator from Ohio spoke about this yesterday, where children have been delivered in the interim because the cervix dilated too quickly, too much, and the baby was delivered. In one case that we are aware of the baby lived. But they send these mothers home for 2 days.

The doctor who designed this procedure said the reason he designed this procedure is because it only takes 15 minutes out of his day to do and the other abortions that are peer reviewed, that are taught in medical schools, that obstetricians and gynecologists do—not that physician who is not an obstetrician who came up with this procedure or most of the practitioners, if not all of them that I am aware of who do this procedure, to my knowledge, I am not aware that any are obstetricians. I could be wrong on that but the ones who have come before the Congress, the ones I have seen cited in articles and testimony who have done these, none of them have been obstetricians. They are abortionists who make money doing abortions. And they came up with a great way to make more money, to get patients in and out quicker.

That is great for them, but it certainly does not take into much account the health consequences to women. If you look at the AMA, and every physician group that has come forward, none of them are seeing this is superior medicine. None of them say this is to the benefit of women's health.

I hear so many of my colleagues talk about women's health, women's health, women's health. Where are they when we are trying to ban a procedure that is contraindicated for the health of women? Where there are other, safer, better procedures that are available for the health of women, and yet they stand foursquare against women's health, foursquare for the option that is the most dangerous. And it is never medically necessary. So you have to ask yourself a question. If you have a procedure that is the most dangerous procedure and that is the most unhealthy for women, why would you continue to support it if it is not medically necessary? Not one case has ever been voiced at any hearing or in any debate on the floor of the Senate or on the floor of the House. One has come forward and said: This is why. Here is the case. This is why this is the best procedure. No one—no doctor, no Senator, no Congressman, no layperson—has come forward and said, this is it, this is the reason. So we have no medical need.

But we do have overwhelming definitive evidence that this procedure is the most dangerous to the health of women. Yet there are those who will come to the floor and proclaim their allegiance to improving women's health who want this procedure made legal for the people who designed it so they can make more money doing abortions in 15 minutes as opposed to 45 minutes—and do it in a way that is just brutal.

This is another quote from Dr. Hern:

> I have very serious reservations about this procedure. You really can't defend it. I would

> dispute any statement that this is the safest procedure to use.

This is an abortionist who wrote the textbooks on abortions. He authored the textbooks on abortion procedures. He does late-term abortions regularly. He is the expert. He continues to do them. What professional in the field says you can defend it? Why would people come to the floor of the Senate to defend the procedure that is indefensible, that is never going to be necessary, and that is harmful to women? Why? Why would you do that? Because you want to create options. Why would you want to create an option that is harmful to women?

I understand people come in all the time saying we can't restrict the doctors. Of course you can restrict the doctors if what they are prescribing is harmful and if there are safer procedures to use. We darned well better proscribe it. We have to. We have an obligation to.

You have folks who are abortionists saying you can't defend it. Yet here we are defending it. Why? Why are some Members so dug in to protect a rogue procedure that brutalizes and executes a child 3 inches away from constitutional protection?

I had a debate several years ago on this issue. If a child was somehow delivered—3 inches from the crown of the baby's head, from the nape of the neck to the crown of its head—had actually gone through the cervix and the child was separated from the mother, they wouldn't argue that you then could kill the child. What is it that would allow this procedure?

You heard the Senator from Tennessee, Mr. FRIST, talk about all of the complications and all that could go wrong with the blind procedure in an area of the woman's body that is very susceptible to injury, and where these other abortions are performed under controlled conditions with sonograms and you can see everything that is going on. In this case, it is a blind procedure with a sharp instrument in an area that is very vulnerable to injury. Why? Why would people continue to defend a harmful procedure, the least safe procedure done only by abortionists, only in abortion clinics, not taught by schools and not done by obstetricians? Why? To protect women's health? No. For medical necessity? No. Why? That is a question I think needs to be answered.

What is so sacred here? What is so valued? What is it that is very deep inside this opposition, that is so important that we are willing to risk the health of women who are told by their doctors this is safe and who listen? The doctor-patient relationship is important. There is a sanctity to it. But you know what. Not every doctor lives up to that.

Many of the people who come here and argue for partial-birth abortion will be here in a few weeks arguing that doctors aren't worthy in many cases of our support and are against medical malpractice. These doctors who do bad things to patients should be hammered. What about these doctors who perform indefensible procedures that risk the health of women? Why aren't we going after them? Why are we protecting them? What is it? What is it that is so important that we are going to risk women's health when there is no medical necessity to do this? Where? It is contraindicated.

We know the answer to that question, don't we? We can't even come close. We can't even approach abortion as a right in this country because it is the supreme right. Anything that even approaches mentioning the word "abortion" irrespective of the consequences to women, God knows irrespective of the consequences to the children, we simply preserve this right above all rights.

OK. Maybe we have to argue for a procedure that is dangerous. Maybe we have to argue for a procedure that is going to hurt women. Maybe we have to argue for a procedure that is never medically necessary. Maybe we have to argue for a procedure that is not done by obstetricians even though we are talking about obstetrics here. We have to bite the bullet on this. Yes.

But do you know what. We are going to keep the barbarians away from the gates. We are going to keep these people away from this absolute right of abortion. Whether it costs a few women their lives, or it costs the health or reproductive future of women, you know, it is worth it. We can't erode this right.

That is what it is all about. That is what it is all about. It is not about women's health. There is not one physician in this country who has come and testified that this is about women's health because it is not. The AMA says it is not. The obstetrician organizations say it is not. No one argues that this is the best procedure. The expert on third-term abortion said it. He is on this side of their issue, by the way. But at least he will make the claim that he is for women's health, and he will do so honestly, which is something that has not been done by many of the outside "experts" who have argued to keep this procedure legal.

I have chart after chart. I will bring them out later. I have six charts going through the history of partial-birth abortions and showing the absolute fabrication put forth by those against this ban.

Oh, the anesthesia would dull the pain. Then another person testified that the anesthesia and the cervical block would kill the baby and there wouldn't be a live delivery. The anesthesiologists around the country went into panic. Women were hearing about it and they would be afraid with their delivery if they took anesthesia—that there would be a cervical block and their child would die. They had to backtrack from that.

The list is long. The facts stand. The reason this bill has gotten over 60 percent of the Senate, when probably 40 to 45 percent of the Senate is pro-life, is because this is, as the doctor from Colorado said, an indefensible procedure.

So why? Why are we here? We are here because the Supreme Court defended the indefensible. They defended the indefensible. We have responded to the Supreme Court.

I hope the Justices read this RECORD because I am talking to you. I want you to read every time over the last few days where I asked somebody to come forward with a health exception, where there is a medical necessity for the health of the mother to use this procedure. Read it. Observe the silence. I understand the Justices' feelings on the issue of abortion. It is evident from your decisions. It is obvious from your position. But you can't ignore the facts. Don't ignore the facts, because they are clear. They are as clear as the sound of the people coming forward with their examples. It is crystal clear. There is no sound and there is no reason for a health exception. Take the obligation you have seriously because I can tell you, the Members of this body do. We take our constitutional obligations dead seriously. The weight of evidence is not just overwhelming, it is dispositive. Listen. Learn. Decide justly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senator EDWARDS be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I listened carefully to the arguments made by the Senator from Pennsylvania. I would say the vast majority of the arguments he made had nothing to do with my amendment. He has made arguments on behalf of the underlying bill, and that is his right. I defend his right to do it. But I come back to a discussion of my amendment.

The Senator from Pennsylvania has argued that because we use the term "risk" in this amendment that it is so hard to understand or define, it really does not present any kind of protection. Let me read it for the record. We say in this amendment we will prohibit all late-term abortions—that is, abortions after a fetus is viable—unless two medical doctors certify—and one has to be a nonattending physician, in other words, an expert brought in for consultation—that continuing the pregnancy would threaten the mother's life—that is fairly straightforward—or risk grievous injury to her physical health.

The Senator from Pennsylvania says: I just don't understand what you could mean by "risk grievous injury to her physical health." The fact of a pregnancy is a risk.

That certainly is true. But to argue that each pregnancy is a risk of grievous physical injury is to overstate it and to ignore section 1535 where grievous injury is defined.

Keep in mind, the doctors who have to certify in writing that you are dealing with a viable fetus and there is a risk of grievous physical injury have their medical licenses on the line. Their right to practice medicine is on the line. If it is found they have misstated the facts concerning this pregnancy, they could lose their medical license. Do you think a doctor is likely to take that lightly? I don't. A doctor is likely to take that seriously.

Then read what we say about grievous physical injury. We define it as follows: It means a severely debilitating disease or impairment, specifically caused or exacerbated by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

There is a limitation which the Senator from Pennsylvania has not added into his argument. Listen to this limitation. The term grievous injury does not include any condition that is not medically diagnosable or—this is the important part—any condition for which termination of the pregnancy is not medically indicated.

You have to link up the continued pregnancy and the grievous physical injury in order to justify this late-term abortion. That is a fact. That is clearly written.

For the Senator to dismiss this and say, risk of grievous physical injury, that doesn't mean anything, any doctor would sign that, the doctor has his medical license on the line as to whether or not that fetus is viable, as to whether or not there really is a threat to the woman's life, as to whether or not there is a risk of grievous physical injury. His medical license is on the line, and it spells it out specifically in the amendment.

To think some doctor is going to just say: I will just sign that for my buddy, the abortionist, I don't believe so. Both doctors have too much at stake.

Let me go on to his underlying bill where he spent most of his time in argument. I understand it. The Senator from Pennsylvania feels very passionately about this issue. I know it. I have listened to him. I believe it, and I respect it. We see it differently, but I respect him for it.

I have grown weary, and I think the people who prepare the CONGRESSIONAL RECORD have grown weary of our submitting into the RECORD a direct rebuttal of the statement he repeats on the floor over and over and over again. Show me one doctor, not an abortionist, but one doctor who tells you this is medically necessary.

Well, I have already submitted them for the RECORD: The American College of Obstetricians and Gynecologists. They have said it. They have said this may not be the only procedure to save the life or preserve the health of a woman, but it may be the best, the most appropriate procedure in a particular circumstance. That is not good enough for the Senator from Pennsylvania.

First, he is mistaken if he does not believe obstetricians and gynecologists are medical physicians. They are. You have to be a medical doctor, board certified, in order to be part of this American College, and they have said it. They have made it clear. They are not so-called abortionists, which is a term developed here as part of the debate. These are people who do many other things with their lives, working with women for their health as well as for the delivery of their children. They have said the Senator from Pennsylvania is just wrong.

They are not alone. This has already been entered into the RECORD. I will not belabor the point. But Dr. Stewart from the University of California at San Francisco says the same thing. She says, after considering this procedure, this could turn out to be the best approach for some women facing very serious medical problems related to their pregnancy.

The Senator from Pennsylvania went on to say, not one person testified this procedure was medically necessary. I hasten to remind him, we put it in the RECORD early this morning, not one person testified because this bill was not brought before a committee. This bill came directly to the floor without any hearings, without any testimony from anybody.

I could stand here and say: Not one person testified on behalf of your amendment, not one doctor. You couldn't find one single doctor who testified on behalf of this bill, S. 3. That is technically correct because there was never a committee hearing.

So let's make it clear: Not one doctor testified for or against S. 3. This amendment came directly to us without any committee testimony.

Then the Senator from Pennsylvania spends a great deal of time arguing this procedure is harmful to women and those who are defending it—this is the procedure of his bill, nothing to do with my amendment—this procedure is harmful to women. I want to tell the Senator from Pennsylvania I have very limited expertise in anything. But before I came to the Senate, or to Congress, I was a practicing trial lawyer and spent many years defending doctors in medical malpractice cases, and suing them. I have been on both sides, representing plaintiffs and doctors who were defendants. So I know a little bit about medical malpractice.

I will tell you this. Can you imagine in this day and age any doctor is going to take part in a procedure that the Senator from Pennsylvania sees as so clearly harmful to women? How crazy could you be to subject yourself to the liability of a woman suing you because you chose a procedure that was harmful to her, as opposed to one that was safer for her. That just doesn't pass the smirk test. Doctors think twice. We hear about defensive medicine. They think about procedures and what is the safest procedure, the procedure least likely to expose them to liability in a court of law.

For the Senator from Pennsylvania to suggest these doctors ignore that and walk in and practice medicine that is harmful to women, without a concern, is to ignore the obvious. Medical malpractice cases are found in every State in the Union and substantial verdicts result from them. So I argue that common sense suggests if this were the most harmful procedure, the so-called partial-birth abortion, very few doctors would ever consider using the procedure and running the risk of exposing themselves to a medical malpractice case.

I would like to, if I can for a few minutes, go back to my amendment because most of what the Senator from Pennsylvania had to say didn't relate to my amendment at all. Here is where I think we come down. The Senator from Pennsylvania has had laser-like intensity focusing on one abortion procedure. He is troubled by it; he is pained by it. It is clear from his voice that it affects him very much, and I respect him for that. Thank goodness people fight for their convictions, even if I disagree with him on this. Please, I say to the Senator, step back and look at my amendment in a larger context. I am not just prohibiting the procedure you find objectionable. I am prohibiting that procedure and all other abortion procedures, postviability. So if, instead of using the dilation and extraction—partial-birth abortion—there is an effort to use some other procedure to terminate abortion after a fetus is viable, it is prohibited by my amendment, except in two specific cases: where the life of the mother is at stake and where there is a risk of grievous physical injury.

I suggest to the Senator if your goal in service on this issue is to limit the number of abortion procedures in America, reduce the likelihood of abortions being performed, you will achieve that goal more with my amendment than with your bill. Your bill is strictly focused on one extraordinary and rare procedure. Mine is focused on all procedures, postviability. You would have to say in fairness, just by the simple numbers of abortion procedures, my amendment is going to affect more abortion procedures and limit more abortion procedures than yours.

Why am I willing to do this? Because despite the fact I am pro-choice, I do believe, when it comes to postviability abortions, we really should draw a straight line.

My wife and I have been blessed with three wonderful kids. It has been a long time since we had a new baby in the house, and a long time since I watched my wife grow large in pregnancy. But I can remember the seventh, eighth, and ninth months. Most fathers and husbands can. At that point in time, there is no doubt about it, your wife is about to have a baby and it is very visible and, in many cases, she is very great with child, as they say. I really believe in those cases you should not terminate a pregnancy, except under the most extraordinary of situations. That is why we spell it out. That is why we require two doctors to certify it in writing. That is why we say to these doctors: Your medical license is on the line if you misrepresent the facts of this pregnancy. That is pretty serious, and that is why people across the abortion spectrum, pro-choice, pro-life, have come to this amendment and said this is a reasonable approach.

I am never going to convince my colleague and friend from Pennsylvania. He is passionately focused, laser-like focused on this procedure, and I will concede to him that, pre-viability, that procedure could be used under the Durbin amendment. I think those cases are rare. But I hope he will step back for a second and be honest about what this amendment could achieve. I think it is a positive thing. I think it is something many of us would feel makes real progress in dealing with this issue.

Make no mistake, I have spoken to people on the phone today, some of the strongest pro-choice organizations. They don't want the Durbin amendment to pass because they feel, as you have described, that if you did that, it is just the beginning of an exception to Roe v. Wade. I don't think it is an exception that is inconsistent with Roe v. Wade. I think it says we are going to consider the health of the mother, but only in the most exceptional circumstances, where grievous physical injury is at issue.

I might also add we did not include the phrase "mental health." As Senator COLLINS, my cosponsor, said earlier, to say that a woman late in her pregnancy—the seventh, eighth, or ninth month—argues she is suddenly in depression and therefore a viable fetus that could survive should be terminated is something I cannot personally accept. I am sorry, I cannot accept that. I will concede the point that if a woman suffering from a serious mental illness is suicidal and her life may be at risk. That would be the most extreme case, but that would be the only linkage I can think of that would justify the termination of a pregnancy that late in the pregnancy. That is the only one that comes to my mind.

So we have made this exception for physical health, grievous physical injury, or the life of the mother. I will not submit these statements again for the RECORD, but I believe ample evidence has been given as part of this debate that the obstetricians and gynecologists say do not pass the underlying bill, that medical doctors, such as Dr. Stewart, have written letters that suggest the same.

I yield the floor.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. SANTORUM. I want to make sure the Senator understands the question. I have not been asking about medically necessity. The quotes you have given me have said that it "ought to be the best." Another quote was "may be the best." I have not asked for someone's opinion on what ought to be or what could be. What I have asked for is an example. I wanted a fact circumstance to be provided as to where this would be the best, this would be appropriate, this would be medically indicated.

Not in any of the letters I have seen entered into the RECORD, or in any testimony, has anybody come forward with a factual circumstance that would support the general statements that it "may be." Well, it may be a lot of things, but the point is, there are no examples that support the "may be."

All I have asked for—and I have not received a response—is an example for us to look at, to have peer-reviewed, and to determine whether there is in fact a situation that has heretofore not been put in the RECORD, which is an example of a medical condition that would indicate a partial-birth abortion would be indicated to deal with as the best alternative.

Mr. DURBIN. If I may respond to the Senator, this is a statement from Viki Wilson of California in opposition to the bill. She tells of her pregnancy in 1994. She was expecting Abigail, her third child. Naturally, she was excited about this. It was 36 weeks into her pregnancy, when an ultrasound detected what all of the previous prenatal testing failed to detect—an encephalocele. Approximately two-thirds of her daughter's brain had formed outside her skull. She says in this statement—and I will make it part of the RECORD:

> What I had thought were big, healthy, strong baby movements were in fact seizures.
>
> My doctor sent me to several specialists, including a perinatologist, a pediatric radiologist, and a geneticist in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside of my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.
>
> Our doctors explained our options, which included labor and delivery, C-section, or termination of the pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctor also recommended against a C-section, because they could not justify the risks to my health when there was no hope of saving Abigail.
>
> We agonized over our options. Both Bill——

Her husband——

> and I are medical professionals.

She a registered nurse, he a physician, so they understood the medical risk.

> After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an Intact D and E.

Also known as partial-birth abortion. What I am saying to my friend and colleague from Pennsylvania is this is an example, a case, where she had three options. Partial-birth abortion was the third and chosen for medical reasons, reasons for which she said in the statement.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF VIKI WILSON, CALIFORNIA, IN OPPOSITION TO S. 3

I urge you to oppose S. 3. I understand that this bill is very broad and would ban a wide range of abortion procedures. Mine is one example of the many families that could be harmed by legislation like this.

In the spring of 1994, I was pregnant and expecting Abigail, my third child, on Mother's Day. The nursery was ready and our family was ecstatic. My husband, Bill, an emergency room physician, had delivered our other children, and would do it again this time. Jon, our oldest child would cut the chord. Katie, our younger, would be the first to hold the baby. Abigail had already become an important part of our family. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all of my previous prenatal testing had failed to detect, an encephalocoele. Approximately two-thirds of my daughter's brain had formed outside her skull. What I had thought were big, healthy, strong baby movements were in fact seizures.

My doctors sent me to several specialists, including a perinatologist, a pediatric radiologist and a geneticist, in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

Our doctors explained our options, which included labor and delivery, c-section, or termination of the pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctors also recommended against a c-section, because they could not justify the risks to my health when there was no hope of saving Abigail.

We agonized over our options. Both Bill and I are medical professionals (I am a registered nurse and Bill is a physician), so we understood the medical risks inherent in each of our options. After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an Intact D and E.

> It was important to us to have Abigail come out whole, for two reasons. We could hold her. Jon and Katie could say goodbye to their sister. I know in my heart that we have healed in a healthy way because we were able to see Abigail, cuddle her, kiss her. We took photos of her. Swaddled, she looks perfect, like my father, and Jon when he was born. Those pictures are some of my most cherished possessions.
>
> The second reason for the intact evacuation was medical: Having the baby whole allowed a better autopsy to be performed, to give us genetic information on the odds of this happening again.
>
> Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face. Oppose S. 3.

Mr. SANTORUM. Mr. President, the fact is, Viki Wilson testified at a Senate Judiciary Committee hearing in November of 1995. Viki Wilson, as the Senator from Illinois said, was in her ninth month of pregnancy when she received an abortion. According to Mrs. WILSON's testimony, the death of her daughter Abigail was induced inside the womb:

> My daughter died with dignity inside my womb, after which the baby's body was delivered head first.

At this Judiciary Committee hearing, Senator HATCH suggested to Mrs. WILSON that her abortion was not a partial-birth abortion as defined by the bill. Mrs. WILSON responded:

> It is true, if you take it verbatim. You know, my daughter did die in the womb.

That is not an example, No. 1, of partial-birth abortion because she did not have one and, No. 2, that she is not a medical professional. She is a registered nurse, and as my wife is a nurse, my mom is a nurse, please do not get me wrong, nurses are wonderful health professionals, and I have a tremendous amount of respect for them. I love them personally. To suggest that in her testimony, which you just heard—and it was not a partial-birth abortion, but even if it was, to suggest that her testimony was somehow a decision by the medical community or a physician putting forward a case by which the physician said this was the best option, this was medically necessary, and that other options were less desirable, this just does not make the case, which I keep coming back to the point that the case has not been made.

Some of my colleagues say: Why do you keep asking this question? Someone is going to come forward with something. After 7 years, you figure out no one is going to come forward because there are no cases, and no medical professional worth their salt would come forward and say something they know is not true because they are going to be reviewed by umpteen obstetricians and gynecologists who will come forward with the medical peer-reviewed research that indicates this procedure is not medically indicated, that it is not necessary, and it is not in the best health interest of the mother.

It is brutal, and as the Senator from Tennessee, our leader, said today, the only advantage he can think of to a partial-birth abortion is the certainty of a dead baby. That is the advantage. It is that you know by thrusting those scissors into the base of the skull and feeling—because the doctor has the baby in his or her hand. I just find it to be remarkable, from the standpoint of a physician who can hold a live baby who would otherwise be born alive, a baby who could survive outside the womb, in many cases, and while holding that child, take the sharp, long Metzenbaum scissors and thrust it into the base of the baby's skull.

I know many people have felt living beings die in their presence, whether it is a pet or a variety of different living animals, and the feeling when life rushes out, you know it. You feel it. The baby is moving. All of a sudden, as Brenda Shafer, the nurse who testified, said, the baby's arms and legs spring out, tensing up because of the shock to the system and then falling limp. Life evaporated, leaving this little child. And then to take those scissors and open them up—open them up—to stretch out the base of the skull, as the Senator from Tennessee described, to rupture the cranial cavity, to create a hole big enough to insert a suction catheter.

Why? Why is this procedure needed? I keep coming back to the question. It has not been answered because there is no answer. That is why the health exception is not needed, because it is outside the scope of Roe v. Wade, and we have clarified the other problem the Supreme Court noted, which is the vagueness of definition. We have a much more detailed definition. It cannot be confused.

The Senator from California keeps coming to the floor and suggesting other medical procedures would be covered by this current definition. Again, I ask the Senator from California to come to the floor and tell me what procedure would be covered by this definition. So far, the answer to that has been silence.

On the two points the Court had trouble with the Nebraska statute, there has been no response. I suggest there is no response because we have solved these problems, and that is why this legislation is constitutional.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, this is the third time I have taken the opportunity to talk about partial-birth abortion, and each time I have addressed the Members of the Senate, I have tried to cite some of the medical experts in this field.

It has been pointed out that, with the exception of one Member of the Senate, we are not doctors. I certainly am not a doctor, but I have tried to cite the experts and have tried to help build a record for anyone who looks at the proceedings to help them understand what the basis for the Senate's ultimate decision will be. I want to continue that practice tonight.

It is certainly true, as has been pointed out on the Senate floor, that we did not hold hearings on this bill, but over the last few years, we have had a series of hearings in both the Senate and the House of Representatives on this very issue. We have heard many witnesses. We not only have had the opportunity to hear the witnesses in the Senate and the House in the Judiciary Committees, but we also, of course, have had the opportunity to read journals, read news articles, and other sources of information.

Very briefly, what I would like to do tonight is add to some of the citations I have already made and talk about the question that my colleagues have been talking about, and that is whether or not partial-birth abortion is ever medically indicated. I submit to my colleagues the evidence is very clear that partial-birth abortion is not medically indicated. It is never medically indicated. Therefore, a medical exception is simply not needed.

It is important to cite what several OB/GYN doctors have said about this horrific procedure. These medical doctors, these experts, will tell us this abortion procedure is brutal, it threatens the life of the mother, and it is just plain unnecessary and inhumane.

I will take a few minutes tonight to read to my colleagues some of the testimony from doctors who, for years, have been saying this procedure is, in fact, wrong. In a House of Representatives hearing on September 27, 1995, these doctors testified that partial-birth abortion is not sound science. I ask my colleagues to listen to what several of them had to say.

First, Dr. Donna Harrison, then the chair of the Department of Obstetrics and Gynecology at the Lakeland Medical Center in Michigan, stated:

> There is no data or any proposed reliable data to show that this has a lesser incidence of maternal morbility or mortality than the standard prostaglandin termination. Indeed, any surgeon can tell you that when you put a sharp instrument into a body cavity, there is always the risk of perforating that organ. As an obstetrician, I can testify that this procedure has no medical indication over standard, recognized and tested procedures for terminating a pregnancy.
>
> It is a hideous travesty of medical care and should rightly be banned in this country.

Dr. Pamela Smith, former Director of Medical Education, Department of OB/GYN, at Mt. Sinai Medical Center in

Chicago and a member of the Association of Professors of Obstetrics, had this to say:

> Partial-birth abortion is not a standard for care for anything. In fact, partial-birth abortion is a perversion of a well-known technique . . . used by obstetricians to deliver that is considered to impose a significant risk to maternal health when it is used to deliver a baby alive, suddenly become the "safe method of choice" when the goal is to kill the baby? In short, there are absolutely no obstetrical situations encountered in this country, which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother.
>
> When I described the procedure of partial-birth abortion to physicians who I know to be pro-choice, many of them were horrified to learn that such procedure was even legal.

Dr. Nancy Romer, then a Clinical Associate Professor at Wright State University and Chair of the Department of Obstetrics at Miami Valley Hospital in Ohio, said this:

> There is simply no data anywhere in the medical literature in regard to the safety of this procedure. There is no peer review or accountability of this procedure. There is no medical evidence that the partial-birth abortion procedure is safer or necessary to provide comprehensive health care for women.

To add to this, Dr. Lewis Marola, then Chair of the Department of Obstetrics at St. Clare's Hospital in Schenectady, NY, said the following:

> The conversion of a fetus presenting a vertex to a breech position, as in the partial-birth abortion, is capable of causing an abrubtion of the placenta and amniotic fluid embolism. This is a dangerous and life-threatening situation. Never, ever, in our 30 years of practice, have my colleagues or I seen a situation which warrants the implementation of partial-birth abortion. Personally, I cannot imagine why a practitioner would want to resort to such barbaric techniques when other, recognized methods are available.

Dr. Joseph DeCook, once a Fellow at the American College of Obstetricians and Gynecologists, said the following at a press briefing in 1996:

> Reaching into the uterus to pull the baby feet first through the cervix—the second step [of the procedure]—"is a very dangerous procedure," "frightening" because of the chance that it might "tear the uterus." This is the "reason it was abandoned 30 or more years ago." There is also the danger of "perforating the uterus" with the instrument used to grab the baby's leg. Such a tear or perforation could result in severe hemorrhage, necessitating immediate hysterectomy to save the life of the mother.

Dr. Cutis Cook, from the Michigan State College of Human Medicine, said this:

> To my knowledge, and in my experience, this particular procedure described as partial-birth abortion is never medically necessary to preserve the life or future fertility of the mother and may, in fact, threaten her health or well-being or future fertility. In my opinion—and, I think, in the opinion of the medical literature and other specialists in my field—the fact remains that there are choices and there are alternatives to the partial-birth abortion procedure that do not require the use of what has now been demonstrated as a potentially dangerous and completely unstudied and unnecessary procedure.

I can go on, but the testimony from medical doctors is very clear. They know in their heart and in their minds that this procedure is not appropriate. It is never necessary. I would like to conclude tonight with what Dr. Joseph DeCook once said. He said that the partial-birth abortion procedure "sounds like science fiction. It ought to be science fiction."

I think that says it all. The testimony from these medical doctors is very clear. I have cited other doctors the other two times I have been in the Chamber, and when I come back later, I will cite other doctors. But the evidence is abundantly clear that partial-birth abortion, as my colleague from Pennsylvania has pointed out, is never medically indicated. At no time have the proponents of this procedure been able to come to the floor and cite any specific example where anyone has been able to say that it was truly medically indicated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I pay tribute to the Senator from Ohio who was in the Chamber until about this hour last night laying out very clearly, very succinctly, the legal, moral, ethical, and medical evidence as to why this procedure should be banned and why this Senate should feel comfortable, from all of those perspectives, in passing this legislation.

He has done an outstanding job, a thorough job. He has been an invaluable ally in the Senate in making the case, hopefully convincing case, to hopefully a clear majority of our colleagues, that we should proceed, maybe as early as tomorrow, in passing this legislation.

I thank the Senator from Ohio for his outstanding work and his obvious commitment to this cause.

I wanted to respond to the Senator but I got sidetracked. The Senator from Illinois mentioned something at the end of his talk, and I focused on that and I forgot to respond to a couple of other points he made with respect to his amendment.

I focus on the two problems, again, and respond to his defense of his amendment. He defended his amendment and spent the entire time talking about the grievous physical injury, grievous injury that could result, that would be the exception for his ban on late-term abortions.

I have concerns because of the issue of risk, and I don't want to repeat that. But what he did not talk about, as big or if not a bigger hole in this legislation, is the whole issue of viability. I believe the Senator—and I will check the record on this, and if I am wrong, I apologize. I believe the Senator from Illinois suggested that the physician certify that a child is not viable, and if there was a determination that the child was viable, he could lose his license. I don't see that in the legislation. I don't see a second doctor overseeing the issue of viability. It is clear from the reading of the language that the second doctor can review the risk of serious injury but is not responsible under the legislation for reviewing the issue of viability.

So we have, again, before we even get to the issue of injury or health risk, we have the issue of the abortionist determining whether the baby about to be aborted is viable. Since most partial-birth abortions and most abortions, generally, occur prior to viability, and most abortions, even late-term abortions, occur in the 20th, 26th, 27th week, very few occur 30-plus weeks where viability rates are very high. We are talking here about giving the abortionist, certainly in the case of partial-birth abortions, an unreviewable decision that even in the cases of 35 weeks there may be—I have not looked at the literature because it is. I agree, a rare circumstance—I suggest there are probably some instances where you can conclude the child is not viable for some reason, even at that stage.

What the Senator from Illinois has done is create a standard of viability that is not reviewable, and certainly with the case of partial-birth abortions, and I know his amendment purports to cover more than that, it covers even a very small subset of those abortions that we are talking about.

Mr. DURBIN. Will the Senator yield?

Mr. SANTORUM. I am happy to yield.

Mr. DURBIN. At the risk of reading what has been read many times:

> It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion——
>
> (1) certifies in writing . . .

The premise of this amendment is viability.

Now, I will concede the point, there are fetuses in the 35th week and later that are not viable, will never survive outside the womb. But the premise here is the fact that you must be dealing with a viable fetus in order for this prohibition to apply and for the exceptions to be applied, as well.

For the Senator to continue to ignore this clear language, I have to say I am prepared to defend what is written here. I am not prepared to defend what the Senator refuses to read.

Mr. SANTORUM. Reclaiming my time, is the Senator from Illinois stating that legislation requires a second opinion on the issue of viability?

Mr. DURBIN. It says:

> An independent physician who will not perform or be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his

or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

This is not your so-called abortionist. This is an independent physician.

Mr. SANTORUM. I did not hear the word "viable" in that second definition. There was no term——

Mr. DURBIN. May I ask the Senator a question? The Senator is understood to be a practicing attorney; is that true?

Mr. SANTORUM. That is correct.

Mr. DURBIN. I ask the Senator to pause and think about that for a moment. If a doctor called you and said: Attorney Santorum, there has to be a second opinion here on whether this mother's pregnancy should be terminated postviability, late term, what do you suggest?

I think the first thing you would ask is: What is the penalty if you are mistaken?

Oh, I could lose my license, face a penalty of $100,000 or $250,000.

I think Attorney Santorum and Attorney Durbin would say to this doctor: Wait a minute. Let me sit down and talk to you. Are you prepared to stand behind the fact that this is a viable fetus? Are you prepared to stand behind the fact that there is a threat to life here? Because if you are not, stay away from us.

Mr. SANTORUM. Reclaiming my time, you ask: Are you prepared to stand behind the fact this is a viable fetus? Yet your amendment does not say that. Your amendment does not say the second physician has to certify to viability.

What your amendment says is they have to certify that there is a risk—that word that I have trouble with, a "risk," a risk, not a substantial risk, not a verifiable risk, but a risk of grievous injury.

So your amendment does not deal with the independent physician second-guessing the determination by the doctor that this is a viable fetus. So we do not even get to the issue of risk if the doctor says it is not viable. If the doctor says it is not viable, no one is looking over his shoulder because your ban does not apply. So nobody is coming in and saying: Well, I understand you can say you are heavy handed with this doctor. We have a doctor, Dr. Hern, who will certify under oath that every pregnancy is a risk, that he can look at any pregnancy and find a substantial risk, and the nexus you spoke about under the legislation. This is the person who read the entire text of your amendment and said he is willing to do so in every circumstance.

Setting that aside, we do not even get to that if the doctor determines no viability, correct? Is that correct?

Mr. DURBIN. I say that it is a condition to even——

Mr. SANTORUM. The condition is not a reviewable condition.

Mr. DURBIN. It is certainly reviewable.

I say to the Senator from Pennsylvania, having sat across the desk from many physicians whom I represented, and sued, believe me, trust me, they are not going to stick their neck out, put their medical license on the line, unless there is certainty in their mind that they comply with the statute.

The suggestion by the Senator——

Mr. SANTORUM. The Senator from Illinois just said the statute does not apply if the physician certifies it is not viable. So the statute does not apply if the license is not on the line. But your statute does not say that. You may want to say that, but it does not say that.

Mr. DURBIN. I say to the Senator, I hope you understand that you and I come to this from a different perspective. Your perspective is one abortion procedure. You are prepared to not accept, but to tolerate other destructions of the fetus in abortion, but not this one, which troubles you greatly.

I don't deal with that aspect. I deal with postviability, that is, late-term abortions, of all types. And there is the distinction.

If the Senator is saying to me: "You do not cover fetuses that are not viable," guilty as charged. This amendment does not address the fetus that is not viable.

Mr. SANTORUM. I appreciate that. Let me reiterate for the record, I do not question—and I mean this with all sincerity—I do not question the sincerity of the Senator from Illinois. I know because many on his side have voted against his amendment who agree with him on the position of abortion. So I truly do recognize the Senator is attempting to find some middle ground.

With all due respect, I just don't believe you have gotten there, but I do not question you have attempted to do so.

The point I am trying to make is the whole operation of your statute does not apply unless the physician claims viability. If the physician doesn't claim viability, then your statute doesn't apply. I am a physician. I say—and under the Supreme Court a physician can abort a child under any circumstances for any reason up until the time of separation. So I have no legal liability out there. Outside of your amendment, I have no concern about my license, a lawyer, anything.

So all I have to say is this child is not viable. If I make the claim this child is not viable—I don't care if it is 39 weeks and 5 days. If I say it is not viable, your statute does not apply. If your statute does not apply, I am in the clear. So that is the concern I have, that you leave the determination of viability to the physician.

Mr. DURBIN. Can I ask—at least make a point here for the Senator from Pennsylvania? If he would be kind enough to read section 1532 of the penalties, under offenses: First offense, section (b), second offense, section (c). Note that it says:

> Upon a finding by the court the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify . . .

And it goes on to say medical license at stake, fine at stake.

Now, if you will turn back to read section (a) you will find 1531, section (a) includes viability of fetus.

So if a doctor has misrepresented—for example, if there is medical evidence the fetus was viable and the doctor went ahead and performed an abortion, arguing, "Well, it wasn't viable," and in so doing has misrepresented the medical facts, he can have his license revoked and face the penalty. That is what it says, section (a). It doesn't go down to subsection (1) and (2); it says subsection (a), which includes viability of the fetus.

What we are driving at is this, I would say to the Senator from Pennsylvania. Under this language I don't think I am going to get endorsed by any medical group that is going to stand up and say what a great amendment, Senator DURBIN, because it puts an extraordinary burden on doctors who want to be involved in these abortions. But I think that burden is merited when we are dealing with these particular circumstances.

Mr. SANTORUM. I would just suggest to the Senator from Illinois, having read this, having read the reference—not criminal but civil penalties could apply—it still leaves viability, No. 1, undefined; and, No. 2, solely at the discretion of the abortionist. You can say there is other evidence. But particularly when most of these abortions are performed, most late-term abortions are performed—the question of viability is a percentage. You can talk to most obstetricians and they will tell you the determination of viability is very difficult. Frankly, you leave it unreviewable from the standpoint of the act.

You say someone could bring a suit or someone could bring charges. The question is, Who would bring the charges? That is another story. But nevertheless, someone could. But to be able to prove a child is viable when you have up through early 30 weeks a percentage that are not, I think is a very steep task, and one that would not, I believe, dissuade. Certainly in the area where most late-term abortions are performed, the percentage is high enough that any abortionist could come forward and say this child, I just didn't believe it could live, and that as long as they did so with a reasonable judgment, you have no opportunity. You have no standard. You really do leave this very much wide open. I would just argue it does not accomplish what you want.

Again, there may be a handful of abortions that would fall under this in terms of a court or somebody saying because of the advanced—38, 39, 37 weeks we would have—there is a presumption of viability. But there is no presumption of viability in this statute. There is no presumption of viability, I believe, in any statute I am aware of. So if there is no presumption, then you have a very difficult task proving viability when you are not the physician at the time, there, doing the procedure.

Even if we get past the viability issue, which I believe we have not gotten past, you have this whole issue of risk of grievous injury to her physical health. I would again argue that the word "risk" leaves open a wide area, a wide berth for opportunity for physicians to get around this problem.

I just refer you to not just Warren Hern, but we have other physicians, other abortionists who have come forward and said they would come forward certifying that, under your statute, they read your language and said they would feel comfortable under that language. I suggest there are still problems here.

Again, I respect the Senator for his desire to deal with this issue, but I just don't believe his amendment hits the mark.

Mr. President, I am going to depart from conversation on the Durbin amendment and I will not talk anymore about it this evening. If the Senator wants to stay some more and talk about it, I am just going to talk generally on the bill.

I do not want to tell the Senator it is 8:30, if he wants to go home, he can go home, but I am going to make just some general comments on the bill. Then I intend to wrap up.

If the Senator would like to make another comment for a few minutes? OK. Then I will just proceed.

I will be brief because I know the Presiding Officer has been in the chair a long time and we have students here who want to get out before 9 o'clock so they can be in class tomorrow morning, so I want to make sure they are not deprived of their educational opportunities. I will do my best to finish before 9 o'clock.

When I came to the floor years ago to debate this issue, we talked a lot about the impact of abortion in this country; as Senator BROWNBACK said earlier, the cheapening of the value of human life that has occurred as a result of legalized abortion. That was amplified greatly by this particular procedure, this brutal procedure in which the child, a living child is all but born, 3 inches from legal protection under the Constitution, and then treated so brutally, so harshly.

I talked about the culture and how the culture is implicated in this, and how the medical profession is implicated in this. We hear so much talk about obstetricians wanting to keep these legal, but you would be hard-pressed in many communities to find obstetricians because of legal liability and all the problems associated with that.

In fact, the indication I talked about a few years ago was a classic case in point of obstetricians' insensitivity to life, compounded with their fear of legal liability. It is a pretty potent combination for any child with a disability in utero. It leads a lot of doctors to head out of town and not want to deliver children with any kind of fetal abnormality. Mothers who have children with fetal abnormality really do have trouble finding doctors who will treat because of the fear of litigation and because of this sense that, well, you know, let's just have an abortion. You don't want to be hassled with this child who may have multiple difficulties or problems. Certainly I don't want to have to deliver a child who has multiple problems because you can blame me for some of this, or I can be dragged into lawsuits.

So we have a real coarsening, from both the litigation end and, I would argue, from the abortion end of this issue dealing with the very children the other side uses to legitimize or attempt to legitimize the procedure of partial birth.

For these hard cases—these hard cases are not cases where the woman's life or health is in danger, but where the child's prognosis is poor because of multiple abnormalities—trisomy 13 was one example, aencephaly was, I think, another example, or hydrocephaly. There are all sorts of examples out there where children who have very severe birth defects are sort of shoved aside by our health care system, because of insensitivity to life compounded with the fear of legal liability, the one such case which I talked about in great detail was the case of Donna Joy Watts. Donna Joy came here to the Senate. In fact, her mother sat up in the galleries. Donna Joy was not allowed to sit in the galleries because she wasn't old enough. Under the rule, we were not permitted to bring her into the gallery.

She is a little girl who is a true miracle.

Very briefly, 7 months into her pregnancy, Lori Watts and her husband, Donny, learned through a sonogram that their child would not be normal. She went to see a genetic counselor. Unfortunately, there are far too many genetic counselors in this country. The genetic counselor quickly referred her for an abortion saying that their child had hydrocephalus, which is water on the brain; and that as a result of the water buildup, brain development was not normal because of pressure on the brain. As a result, their child would either die shortly after birth or would be living a "horrible life."

One of these genetic counselors suggested what would be a partial-birth abortion.

They didn't know that they were being referred for an abortion when they were referred to the doctor. But they were. They rejected that option. Through their faith and through their love of their child in the womb, they made the decision that if their child, Donna Joy, was hurting and was sick, they would act like parents who have a child that is hurting and sick. You do everything you can to help your child. It is a natural parental reaction. It is a very difficult reaction. It is very difficult to deal with these circumstances. But it is the instinct to first want to see what you can do to help your child, even if things look hopeless.

I have given the example many times. When parents find out their 7-year-old is stricken with leukemia which may be fatal, or diagnosed as fatal, I don't think the immediate reaction of most parents is, well, let us execute him to put him out of his misery. The immediate reaction is, What can we do to fight? What can we do to help this child survive? How can we rally around him or her to fight this problem that has confronted our family? Thankfully, many parents respond like Donny and Lori Watts. They were advised to see a specialist in high-risk obstetrics. I will not go through all of the details, but I can tell you that they went to hospitals and practice after practice. Practices simply wouldn't see them. They wouldn't see Lori because of her high-risk pregnancy and because of high risk in the sense that their daughter had severe abnormalities.

Eventually, they were able to find a doctor at the University of Maryland who agreed to monitor the pregnancy. And through a C-section, Donna Joy was born on November 26, 1991. She had very serious health consequences.

This is a picture of her. You can see the size of her head. It was large as a result of the hydrocephalus.

The Watts family lives in Greencastle, Pennsylvania.

Seven months into her third pregnancy, Lori Watts learned that her child would not be "normal." Through a sonogram, Lori and her husband Donny learned that their child had a condition known as hydrocephalus—an excessive amount of cerebrospinal fluid in the skull, also known as "water on the brain."

Lori's Ob-Gyn made an appointment for her to see a doctor billed as a "genetics counselor" at a clinic. When Lori Watts phoned the clinic to get directions and ask what they planned to do, the staff member told her that most hydrocephalic "fetuses" do not carry to term so they would terminate the pregnancy. When she asked how they could do an abortion so later in the pregnancy, she was told that the doctor could use a "skull-collapsing" technique—what we refer to as a partial-birth abortion. Appalled, Lori promptly canceled the appointment. When Donny Watts demanded to know why they had been referred to a facility that performs abortions, their Ob-Gyn explained that he thought he had referred them to a different doctor at that same clinic—a doctor who would have suggested ways to keep the child alive. The Wattses were stunned to realize that the clinic offered both life and death—depending on which staff doctor you happened to speak with.

Their Ob-Gyn then advised the Wattses to see a specialist in high-risk obstetrics. They never expected the cavalier treatment they received from the medical community. Doctors at Johns Hopkins University, Union Memorial Hospital, and the University of Maryland Hospital in Baltimore were quick to dismiss their baby's chances for survival and even suggested that if the child lived, she would be "a burden, a heartache, a sorrow." According to Donny Watts, "They wouldn't even give her a chance." Instead, they urged Lori to abort the baby to protect her own health and future fertility. Medical staff at Johns Hopkins would not even see Mrs. Watts. When she explained her situation over the telephone, she was urged to have an abortion. The Watts family received similar treatment from a perinatologist and a specialist in high-risk and severe abnormalities at Union Memorial Hospital. This perinatologist advised Mrs. Watts to have an abortion and claimed that without a neo-natal intensive care unit NICU, Union Memorial could not care for this sort of child. After making her own inquiries, however, Mrs. Watts learned that Union Memorial did in fact have a NICU. The Wattses next appealed to the University of Maryland high-risk obstetrics clinic, where the attending physician told Mrs. Watts she needed an abortion because the "fetus" had occipital meningoencephalocele—part of the brain was developing outside the skull.

Still determined to save their child, Lori and Donny Watts continued educating themselves about their baby's abnormalities and searching for a doctor who would perform the delivery. Finally, another doctor at the University of Maryland agreed to monitor the pregnancy. Through a Caesarean delivery, the Watts' third daughter, Donna Joy, was born on November 26, 1991.

Yes, Donna Joy was born with serious health problems. And like any loving parents, the Wattses expected the medical community to work tirelessly to help their new baby survive. They were greatly disappointed to discover that many members of the hospital staff treated Donna Joy with the same apathy, pessimism, and callousness after her birth. For instance, the Wattses were alarmed that doctors waited three days to implant a shunt to drain excess fluid from the baby's head. In prenatal consultations with a perinatologist, they had learned that the shunt should have been implanted as soon after the delivery as possible.

To add insult to injury, hospital staff made no attempt to feed Donna Joy in the traditional sense. Doctors at the University of Maryland believed that Donna Joy's deformities would prevent her from sucking, eating or swallowing. Because of a neural tube defect that made feeding her difficult, Donna Joy received only IV fluids for the first days of her life. Lori refused to give up. Initially, she literally fed breast milk to Donna Joy with a sterilized eye dropper, to provide sustenance. Then, at two weeks of age, the shunt failed, and Donna Joy was readmitted to the hospital for corrective surgery. When a tray of food was delivered to her hospital room by mistake, Lori had a brainstorm. She mashed the contents together and created her own food for the newborn with rice, bananas, and baby formula. She fed this mixture to the baby one drop at a time with a feeding syringe.

Unfortunatley, Donna Joy's fight for life became even more complicated. At two months of age, she underwent an operation to correct the occipital meningoencephalocele. At four months, a CT scan revealed that she also suffered from lobar-holoprosencephaly—a condition which results from incomplete cleavage of the brain. She was also suffering from epilepsy, sleep disorders, and continued digestive complications. In fact, the baby's neurologist conveyed to a colleague, "We may have to consider placement of a gastronomy tube in order to maintain her nutrition and physical growth." The baby was still hydrocephalic and could not hold her head up. Furthermore, the baby was suffering from apenea—a condition in which spontaneous breathing stops.

Then, at eighteen months of age, Donna Joy had another brush with death. She had suffered from encephalitis—inflammation of the brain—throughout the summer. Donna Joy developed amnesia, tore at her face and eyes, and could not talk or walk. Her recovery was—miraculously, I would suggest—facilitated when Lori Watts popped a tape into her VCR at random. The tape happened to contain an episode of the television show Quantum Leap in which the show's star, Scott Bakula, sings a song. Upon hearing Bakula's rendition of "Somewhere in the Night," Donna Joy showed the first signs of responsiveness in months.

At two years of age, Donna Joy had already undergone eight brain operations. Although most of these occurred at the University of Maryland Hospital, in one case doctors had to perform surgery at the child's bedside with local anesthesia. Finally, the family received good news about Donna Joy's prospects. Donna's neurologist, who re-examined the child after a seizure in September, 1996, noted that at four and one half years, Donna Joy could speak, walk, and handle objects fairly well. He also thanked a colleague ". . . for the kind approval for follow-up and allowing me to re-assess this beautiful young child, who is remarkably doing very well in spite of such a significant malformation of the brain."

Before Donna Joy moved to Pennsylvania, Maryland Governor Parris Glendenning honored her with a Certificate of Courage commemorating her fifth birthday. Mayor Steve Sager, of Hagerstown, Maryland, proclaimed her birthday Donna Joy Watts Day. Members of the Scott Bakula fan club have sent donations and Christmas presents for the Watts children. People from around the world who have learned about Donna Joy on the Internet have also been moved to write and send gifts. But perhaps most important, the Watts' determination has inspired a Denver couple to fight for their little boy under similar circumstances.

There is a lot of talk on the other side about partial birth abortions being necessary to preserve future fertility—indeed, one doctor cautioned Lori Watts that her fertility could be compromised if she chose not to have a partial birth abortion. Well, in June 1995 Lori and Donny Watts experienced the joy of welcoming another child—Shaylah—into the family. Like many children, Shaylah has asthma, but is otherwise healthy. Furthermore, Lori Watts experienced no similar complications with this pregnancy.

The story of Donna Joy Watts continues to inspire the public. The child that nobody gave a chance to live is now 11 years old. She has outlived her original prognosis by a decade. She continues to battle holoprosencephaly, hydrocephalus, cerebral palsy, epilepsy, tunnel vision, and Arnold-Chiari Type II Malformation—which prevented development for her medulla oblongata.

Donna Joy visited my office just a few weeks ago with her mother, father, and two of her sisters. She is now being home schooled with her sisters. She is very active outside of school too. She has taken a gym class where her favorite activities are running track and playing soccer. While she may tire a little bit faster than the other kids, there is no question that she keeps up with them and follows the rules of the games. Her teacher has said how very proud she is of how Donna has excelled in class. She has also taken art classes, where she particularly likes painting and beadwork. She loves music, and her church wanted me to know how much they love having Donna in their choir. She is active in not only her church choir, but also actively participates in her Sunday school class. The picture we have here is from a few years ago when Donna Joy was flower girl in her aunt's wedding, one of 2 weddings Donna Joy was in that summer. And she continues to add to her collection of movie star memorabilia. Oh, and she recently made an appearance on the Donahue Show with her mom Lori.

So far, Donna Joy sounds like a pretty normal kid. But let me tell you a little bit more about her. Donna Joy is also very thoughtful about the needs of others. In her Sunday school class, she will stop and help the younger children who might be struggling with doing their crafts. She helps out around the house—without complaining! Donna Joy regularly helps a local shop pack up their extra cloths for shelters for abused women, shelters for the homeless, and for orphanages in Romania. Not only that, but with her sisters and mother, she regularly visits the elderly in nursing homes. She finds out which of them hasn't had a visitor in a while and then plays games and sings with them. This little girl once described as "a burden, a heartache, a sorrow" is in fact a beautiful, lively child who is now caring for the needs of others.

Donna Joy's pastor recently sent me a letter expressing his appreciation of Donna Joy's life. Pastor David Rawley noted that "had Donna Joy's parents followed the advice of several physicians and aborted this child, our community and church would have been bereft of an absolute treasure." He referred to himself as "a member of the community which benefits from her life." I think he raises an important point. We never know ahead of time the impact that one life—in this case, Donna Joy's—will have on a family, on a community, or for that matter, the world. Lori wrote me the other day to say, "Donna Joy never put my life at risk. She's only made it better!

Let me say again that Donna Joy went through an enormous amount of medical procedures—shunts. She suffered from epilepsy, sleep disorders, digestive complications, a variety of different complications that came with the condition that she had in utero. She suffered from encephalitis, an inflammation of the brain. She was 18 months of age and had all sorts of problems—amnesia, tore at her face and eyes, couldn't walk or talk. She was not given much chance of recovery. And then a miracle happened. Donna Joy liked the television show, "Quantum Leap" and the show's star, Scott Bakula. She would perk up when he sang a song. She would light up. She was responsive. By putting the tape in and continuing to stimulate her, she was able to come through this and survive.

She underwent eight brain operations by the age of 2. She incurred a lot. She was a great inspiration to me in pursuing this cause because she was proof that these children who are unwanted, who are wanted up to a point and then unwanted, unfortunately—because of their abnormality, they become unwanted and a subject for an abortion.

This is a hard case, a crisis pregnancy, as someone described, that turned out for the best.

In previous discussions I talked about cases that didn't turn out so well. Subsequent to this debate and the publishing of my wife's book about our son, Gabriel Michael, whose case did not turn out as well as Donna Joy Watts, many people have talked to Karen and to me about their own personal stories, and their own crises that they had to go through and deal with. They talked about the difficulties that were presented and how happy they were looking back that they saw it through; supporting and loving their child up until natural death; and the healing experience that they endured as a result of the pain that was brought upon them.

Donna Joy is a good story. Donna Joy is someone who survived. All these obstacles were placed in front of her. But she lived despite what everyone said was an impossible situation. We have a recent picture of her.

This is Donna Joy in a recent picture. She served as a flower girl in a wedding. I understand she was in two weddings that summer. She has had health problems and continues to have some. She has difficulties. Having six little children at home, I know all about those difficulties and challenges that each individual child brings. But she is a fighter. She is an inspiration to all the moms and dads who are going to confront a difficult pregnancy—a pregnancy as some would suggest which will go awry. Maybe 1 percent, 10 percent, 5 percent, some small percentage of the people who had Donna Joy's condition will survive as well as she is. But she did because her parents believed in her. They didn't accept the culture that said: You don't need this birth. It is too much for you.

I am sure Lori and Donny would say this is too much at times, as any parent would. But here is a real-life situation with hopelessness. But occasionally there comes hope.

As bad as it can be, if you have trust in your instincts and you follow those instincts to love and support and nurture the child whom God has given you, as a gift—it may not be as you open the package what you expected it to be, but it is nonetheless a gift; and you have to search, many times, for meaning from the gift, as Karen and I have—but search and you will find the gift.

In Lori and Donny's case, the gift is obvious. She is a beautiful girl, who wrote me a letter. I would like to read that letter into the RECORD. She wrote it on March 6. She said:

> Dear Senator SANTORUM,
>
> I think abortion is very mean. I am very glad that my Mom and Dad did not let me die. I like to sing Karen Carpenter songs. I like to play with my best friend Mariam. I love my family and my church. My favorite actor is Scott Bakula. I love pizza! I love my puppy. Please tell the President and the other Senators that I want to be a T.V. star, and a pilot, and a U.S. Senator. Please tell them I want to live!

She is an example of the triumph of the human spirit that is far too often snuffed out by this brutal procedure. This brutal procedure not only snuffs out so much human potential, but its very presence in our society affects our spirit. It dulls our senses. It makes us less aware of the world around us because it is another thing we just have to block off, because we certainly cannot think, as we go through the day, of the dozen or so—maybe a few less, maybe a few more—of these procedures being performed on little babies, as the Kansas report says, with healthy mothers, healthy children.

If we thought every day about what partial-birth abortion is and the horror it brings to these little children, we would have trouble going home. So we just put it aside. We bury it someplace, as we bury so much else, and it hardens us. It takes a little breath of spirit out of us and makes us a less caring and loving culture, less sensitive to the needs and wants of our neighbors, and particularly the little children.

We have already seen it. Not only the 1.3 million abortions in this country, but we see it in people such as Peter Singer, who talks about children being killed after they are born, up to a year now, he says, because they really don't know who they are, and so it really doesn't matter. We kill them at that age. They have no sense of self. In some cases they may be in pain, so we need to alleviate pain.

See, that is absurd. Well, 40 years ago, this procedure that I described was considered too absurd to be legal in America, and it is.

So much that coarsens society is done just a little bit at a time, just on the fringes, just on the edges. And partial-birth abortion is just on the fringe, just on the edge, but yet coarsening our society, robbing us of the spirit, telling the world that we are not the country that we proclaim to be. And it is not even medically necessary.

I would ask my colleagues, tomorrow, if we get to a final vote, to support this language as is, not to pass any amendments to this bill. I encourage a very strong and robust vote, to send a message to America that this does offend us, and that this does coarsen our society, and we need to stop it, at least here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will be brief, no more than 5 minutes.

I will just say, I listened to the Senator's remarks. I know the Senator has gone through some personal trials and tragedies in his family. I am aware of that. And I respect the Senator for not only his strength, but for that of his wife and all his family in enduring these trials. Many of our families have been through similar trials.

I will tell you—and I am sure you will not be surprised; and I bet you will identify with this—some of the most heartening things I do are my visits to children's hospitals and seeing these parents, many of whom have children with serious health problems, who show such courage and such determination. It is a miracle to watch them and to see a child finally survive and prosper, as this beautiful little girl whose portrait the Senator brought to the floor.

It is a testament to God and a testament to the strength of the people who just do not give up when their children are at stake. I think that is the right thing to do. God has blessed me and my wife with three great kids, and a grandson to boot.

I will tell you, though, it troubles me that we end this debate on a day when we had a chance to offer across America health insurance to pregnant mothers who have no health insurance, so that they could have the best chance to give birth to a healthy baby, that we had that chance earlier in Senator PATTY MURRAY's and Senator HARRY REID's amendment—a chance to offer them health insurance. That amendment was defeated. It was defeated on a 49 to 47 vote. Three Republicans joined us in voting for the amendment.

I do not understand this: To have such depth of feeling and emotion for children, to have the medical resources to turn out like this beautiful little girl, and then to vote against that amendment; to vote against an amendment which offered health insurance. How can you possibly rationalize that we would have such determination to provide these medical resources, and when Members were given a chance today, they voted no. They voted no.

I believe this admiration, this strength of families, particularly of the ones I visit in hospitals, has to be put in context. These families have hope because they have access to the great hospitals, the great minds, the great doctors, medicine, and technology. Think of the despondency of the family with a sick child and no health insurance, nowhere to turn, begging—begging—in an emergency room for just any attention whatsoever.

So I would say my belief is that a commitment to family, a commitment to children, goes beyond the abortion issue. It goes to the basic issues of health care and health insurance. We had a chance today with the Murray amendment to do something about it. Sadly, we failed.

I hope another day will come. I hope those who opposed it today saying, oh, it wasn't in the budget, and we are going to save that for the budget resolution debate, will say the same thing next week when the budget resolution comes to the floor. I hope they will join me and others and show that this commitment to kids, this commitment to parents, this commitment to hope goes beyond the debate on abortion.

I yield the floor.

## MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO RAUL ELIZONDO DAY

Mr. REID. Mr. President, our attention if focused right now on Iraq and on our troops—the men and women on the front lines who are protecting us.

But we have always had men and women on the front lines protecting us—right here at home. They are our police officers, and they fight a war against crime every day.

I'd like to talk about one of those officers today—Raul Elizondo, of the North Las Vegas Police Department.

Raul Elizondo went to the same high school I did—Basic High School in Henderson, NV. He was a member of the championship wresting team there.

He went to the University of Nevada, Las Vegas, and then joined the North Las Vegas Police Department.

We have some outstanding officers in North Las Vegas, but Raul Elizondo quickly distinguished himself as one of the best.

He was known for going above and beyond the call of duty, and for getting personally involved in his community. He even helped get Christmas and birthday presents for children on his patrol beat.

In 1994, Raul Elizondo was named "Police Officer of the Year" by his colleagues in the North Las Vegas Police Officer Association.

That same year, he got a special commendation from the Chief of Police at the Annual Policeman's Ball.

Two months later he was killed in the line of duty.

This Thursday, March 13, will be Raul Elizondo Day in North Las Vegas.

Officers from the North Las Vegas Police Department will go to the elementary school that's now named after Raul Elizondo. They will read to students there, and help with classes, and eat lunch with kids.

Then in the afternoon they will have an assembly and a parade.

I wish I could be there with them. But on Thursday, while I'm here on the Senate floor, I'll be thinking about everyone involved.

I will be thinking about the police officers, who will be carrying on Raul Elizondo's tradition of being a role model for the community—as well as a law officer.

I will be thinking about Raul Elizondo's family—his mother Ann, his sister and his two brothers.

I will be thinking about the officers of the North Las Police Department, who still live with the pain of losing a colleagues and a friend.

And I will be thinking of the police officers all over the country, and the sherrif's deputies, and the FBI agents, and my old department—the Capitol Police. I'll remember how they put themselves on the front lines every day to keep me and my family safe. I'll offer my thanks for their sacrifice and my prayers for their safety. I hope you will join me.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I will describe a terrible crime that occurred April 8, 2002 in Northern Virginia. Two men beat a tow truck driver on the Beltway near Washington, D.C. The tow truck driver, who is Iranian, stopped on the highway to assist two men who appeared to be in need of help. After the driver stopped, the two men punched and choked him while calling him racist names.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## COST OF WAR WITH IRAQ

Mr. DODD. Mr. President, earlier today the Committee on Foreign Relations held a hearing about U.S. plans for humanitarian relief and reconstruction of Iraq, in the event we choose to use force to disarm that country. Senator LUGAR, the Chairman of the Committee did a superb job of assembling a panel of experts to talk about the various issues associated with that subject, including what such initiatives are likely to cost and how much assistance we can expect from other governments, international relief agencies and non-governmental organizations.

The Committee learned a great deal from our witnesses. We had a very good discussion of the range of costs we may be looking at to pay for not only U.S. military action, but humanitarian relief and the longer term reconstruction of Iraq—and the costs are likely to be substantial—even under relatively optimistic assumptions.

I was very disappointed that no administration representatives were present to take part in the Committee's deliberations. While the witnesses we heard from today were excellent and are certainly well qualified experts who could credibly speculate on the costs of these operations and other related matters, they aren't the people who are planning the U.S. operations in Iraq.

Let me say, that my comments are not meant as a criticism of Senator LUGAR, the Chairman of our Committee. He rightly identified the two key administration officials who are most knowledgeable on this matter—Andrew Natisos, USAID Administrator, and retired General Jay Garner, Director of the newly established Office of Reconstruction and Humanitarian Assistance at the Pentagon—two key individuals in any humanitarian relief and reconstruction effort in Iraq. The administration declined to make them available this morning.

That is deeply troubling to me.

I have to believe that the administration's reluctance to make its representatives available to the Committee was because they would have been asked some hard questions, including the range of cost estimates that they have been working with as they plan for military action, humanitarian relief and the longer turn reconstruction of Iraq.

I don't think the Committee would have found it very credible to hear from these witnesses that such a range of costs has yet to be developed, when we are just days away from war with Iraq. Nor would we have found it credible to hear that national security concerns prohibited them from sharing this information, particularly as USAID has just sought public bids from five major U.S. construction firms for $900 million in contracts for reconstruction projects in Iraq—including for restoration of water systems, roadways, ports, hospitals and schools.

Mr. President, are we saying that private American construction companies can be privy to details of U.S. reconstruction plans, but the Congress and the American people cannot? Who is paying the bills here anyway?

Perhaps the administration's unwillingness to provide these witnesses had something to do with the timing of the hearing. Could it be that the administration did not want to make public those cost numbers just as the Senate and House are about to begin debate on the FY 2004 Budget Resolution?

How can this body or the House have a credible debate on the FY 2004 budget without knowing what war and the aftermath of that war with Iraq is likely to cost?

How can this body have a credible debate about the FY 2004 budget without knowing what the total cost of our so called diplomatic efforts to persuade governments to allow the U.S. to station military troops within its territory, or cast favorable votes at the U.N. Security Council will reach?

The answer quite simply is, we cannot.

Mr. President, it would appear that we are on the eve of going to war. This is a very solemn moment for our Nation. The Congress and the American people need to have a full understanding of all that is involved in doing so, including what it will cost and the sacrifices that may be required in other areas. It is time for this administration to stop playing games and politics with this critically important issue.

I would say to the administration it is time to come clean and tell the American people what they are going to have to pay for our military actions in Iraq and for nationbuilding in the aftermath of that conflict.

## THE NATIONAL AQUATIC INVASIVE SPECIES ACT OF 2003

Mr. DEWINE. Mr. President, last week, I joined several of my colleagues in introducing the National Invasive Species Council Act, which addresses how the Federal Government would coordinate itself in combating aquatic and terrestrial and aquatic invasive species. I was also pleased last week to join my colleagues in introducing the National Aquatic Invasive Species Act of 2003, NAISA.

The National Aquatic Invasive Species Act of 2003 would reauthorize the Non-indigenous Aquatic Nuisance Prevention and Control Act, which Congress first passed in 1990 to better deal with the invasion of zebra mussels in the Great Lakes. The Great Lakes are still plagued by invasive species. In fact, over 160 non-indigenous species have been established in the Great Lakes since the 1800s.

The economic damage that invasive species, like the zebra mussels, Eurasion Ruffe, purple loosestrife, sea lamprey, and so many more cause to the Great Lakes is quite high. The zebra mussel has raised the cost of doing business for raw water users in the Great Lakes region by $24 million per year, and the Fish and Wildlife Service estimates that the economic impact to industries nationwide from zebra mussels over the next 10 years will be $5 billion dollars. The Eurasian Ruffe, another invasive species that fortunately has been found in just a couple ports in the Great Lakes, is estimated to cost the Great Lakes fishery $119 million if it spreads throughout the system. Considering that the value of the Great Lakes fishery is approximately $4 billion per year, I believe that Congress needs to take the next important steps to minimize the risk of new invasions into the Great Lakes.

NAISA would improve the Great Lakes aquatic invasive species program by authorizing the State Department to pursue a reference to the International Joint Commission, IJC, to analyze the prevention efforts in the Great Lakes. Last fall, the IJC released its 11th biennial Great Lakes Water Quality Report, and in that report, the IJC recommended this reference. Because controlling invasive species in the Great Lakes is an international effort, it is necessary for the IJC to review, research, conduct hearings, and submit to the United States and Canada a report that describes the success of current policies of governments in the United States and Canada having jurisdiction over the Great Lakes.

Our bill also would improve and expand upon the dispersal barrier project in the Chicago Ship and Sanitary Canal. The dispersal barrier was originally authorized in the National Invasive Species Act of 1996, and the project became operational in 2002. The electric barrier is proving to be effective in preventing the movement of carp up and down the canal, but this barrier is imperfect. This canal supports maritime commerce, and finding a permanent solution to preventing the inter-basin movement of invasive species is important. Therefore, NAISA would authorize the construction of a second barrier in the canal and mandate other improvements to this project so that if an invasive species breeches one barrier, there would be a backup barrier. Additionally, NAISA expands the barrier authority so that the Corps and the Fish and Wildlife Service would study additional waterways that would be good candidates for a dispersal barrier.

To address the largest pathway of invasive species introduction—ballast water—NAISA would establish a nationwide mandatory ballast water management program that would apply to ships entering the Great Lakes system. Because these ships still contain small amounts of unpumpable water that may contain organisms, ballast water management practices would help address the problem of "No Ballast On Board" or "NOBOB" vessels, which are ships that enter the Great Lakes reporting no ballast on board. By encouraging the regular flushing of sediments from ballast tanks in Great Lakes ships, management practices can further reduce the likelihood of new invasions.

Ships operating exclusively in the upper four Great Lakes, Superior, Michigan, Huron, and Erie, do not introduce invasive species into the Great Lakes, so it would be unnecessary to expect the lake carriers to comply with the mandatory ballast water management program. However, all ships, including those in the Great Lakes, would be required to have an Invasive Species Management Plan on-board outlining ways to minimize transfers on a "whole ship" basis and to abide by best management practices. Also all ships constructed after 2006 must have ballast technology on-board.

Finally, NAISA would include new authority to set up procedures for screening importations of live aquatic organisms to ensure that potential invasive species are not intentionally introduced into the Great Lakes System. I was very surprised to learn that currently, there are no processes for screening aquatic organisms that are shipped to this country. Our bill would direct the Invasive Species Council to develop a set of screening guidelines for federal agencies to use to determine whether a planned importation of a live organism from outside the country into the United States should proceed, and if so, whether that importation should be conditioned.

This is a very good bill with bipartisan, bicameral support. Though it is national in scope, the bill improves upon the existing authorities relating to the Great Lakes, which is vital to my home State of Ohio. Aquatic nuisance species are a threat to biodiversity, an economic burden, and a danger to human health. So I urge my colleagues to support the quick passage of this legislation.

## FBI'S RECENT FAILURES IN CHILD PORNOGRAPHY ENFORCEMENT

Mr. LEAHY. Mr. President, I rise to speak about an unfortunate string of events that may set back the Department of Justice in fighting child pornography. Unfortunately, it appears that recklessness by DOJ prosecutors and FBI investigators may result in child pornographers being set free all over the Nation. We cannot afford such mistakes in our efforts to protect our children.

The fight against child pornography is an important and laudable goal. Child pornography victimizes real children and scars them for life. That is why I joined Senator HATCH in introducing the PROTECT Act, S.151, which passed the Senate this month by a vote of 84-0 and now awaits action in the House. I urge the House to pass this bill swiftly as we wrote it and as it unanimously passed the Senate. That way we can quickly get prosecutors the tools they need to win these cases.

The scars of the children who are victimized by child pornography can be that much longer in healing when the power of the internet is misused to spread their images to a worldwide audience with the click of a mouse. The internet also provides child pornographers with greater anonymity, allowing them to exploit children from the perceived safety of their bedrooms and basements. It is crucial to pierce this veil of safety to deter child pornography. Those who victimize our children must be made to understand that they will be held accountable when they are caught.

With that accountability comes deterrence, and only through deterrence will our children actually be safer. By the same token, the failure to make a conviction stick when the FBI does catch a child pornographer emboldens all child pornographers in carrying out their criminal activity. Whenever child pornographers see one of their own "beat the rap," their perception that they can victimize the innocent with impunity is reinforced.

Last March, the Attorney General and FBI Director announced with great fanfare the "Operation Candyman" initiative. This investigation was billed as one of the most extensive child pornography stings in history. According to the FBI's March 18, 2002 press release, it involved all 56 FBI Field offices, nearly every U.S. Attorney's Office across the country, and the DOJ's Criminal Division. A major part of the investigation was accomplished by the FBI's completion and dissemination of a centralized search warrant affidavit that was slightly adapted and used in numerous jurisdictions to search the residences of suspects in the case. Thus, most all the Operation Candyman searches—and the admissibility of the evidence obtained through them—depend on the validity and accuracy of this centralized FBI affidavit.

Many arrests resulted from these searches. As the Attorney General said at the time he announced the operation, he wished this case to serve as an example "to others that we will find and prosecute those who target and endanger our children."

Unfortunately, this case may set the wrong kind of example. The DOJ has now admitted that its key affidavit—the one that it sent all over the country to conduct searches and gather evidence—contained false information. Two judges so far, one in Missouri and one in New York, have thrown out the evidence obtained from searches in this case. Because of the DOJ's admitted false statements, more cases are in peril within Operation Candyman. More importantly, as the Attorney General acknowledged at the time he announced the operation, other child pornographers may well take their cue from the FBI's failures in this case.

We all want to stop child pornography, but we must do so within the bounds of the Constitution. Otherwise, dangerous predators end up back on the street and our children are still at risk. In this case, two separate judges have found that the FBI acted recklessly and DOJ admitted that it provided false information in its nationally circulated affidavit.

It is all well and good to have press conferences and give catchy names to investigative efforts, but public relations is not enough. Press releases must be accompanied by an effective law enforcement campaign. Otherwise, instead of trumpeting success, we highlight failure. If we concentrate on the fundamentals and bring successful cases, there will be enough credit for everyone. That course alone will make our children safer.

Mr. President, I ask unanimous consent that a copy of a New York Times article discussing this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 7, 2003]

### JUDGE DISCARDS F.B.I. EVIDENCE IN INTERNET CASE OF CHILD SMUT

(By Benjamin Weiser)

A federal judge in Manhattan has thrown out the government's evidence in an Internet child pornography case involving a Bronx man, in a ruling that could imperil scores of related prosecutions around the country.

The judge, Denny Chin of Federal District Court, ruled that the F.B.I. agents who had prepared a crucial affidavit had "acted with reckless disregard for the truth." The ruling, dated Wednesday, was released yesterday, the same day that a federal judge in St. Louis, Catherine D. Perry, ordered evidence suppressed in a related case. Judge Perry, too, cited false statements in the affidavit.

The F.B.I. affidavit claimed that anyone who had signed up to join the Internet group at the center of the investigation automatically received child pornography from other members through an e-mail list.

This claim was used to obtain search warrants for the homes and computers of people who had joined the group, known as Candyman. The bureau later conceded that people who had signed up for the group—which also included chat sites, surveys and file sharing—could opt out of the mailing list and did not automatically receive pornography.

As a result, Judge Chin ruled, investigators would not have been justified in searching the home and computer of the Bronx man, Harvey Perez, who had signed up for the Candyman group but did not send or receive e-mail messages containing images.

"In the context of this case, a finding of probable cause would not be reasonable," Judge Chin wrote. Most subscribers to the group—part of a larger site known as eGroups—elected to receive no e-mail, Judge Chin said. The eGroups site, which was acquired by Yahoo, and the Candyman group are no longer in operation.

Operation Candyman was announced with great fanfare a year ago by Attorney General John Ashcroft.

Thus far, more than 1,800 people have been investigated, and more than 100 arrested, an F.B.I. spokeswoman said. There have been around 60 convictions, many as a result of guilty pleas, she added. Some defendants have admitted to molesting children, officials have said.

A Justice Department spokeswoman, Casey Stavropoulos, said yesterday that the two court rulings were being reviewed. "The department remains committed," she said, "to vigorously investigating and prosecuting the purveyors and distributors of child pornography."

Defense lawyers in the cases praised the rulings. Nicole Armenta, who represents Mr. Perez, said: "The fact that someone visited a Web site, and you don't know if they did anything wrong, can't be a reason to go into their home and seize their computer."

Daniel A. Juengel, a lawyer for Gregory Strauser, the defendant in the St. Louis case, called the rulings "a major victory for the Fourth Amendment," which protects against illegal searches and seizures. Mr. Juengel said he believed the decisions would significantly change how the Justice Department handled search warrants involving Internet crime, and how judges looked at affidavits in such cases.

The F.B.I. spokeswoman had no comment on the rulings, or on the agents' actions, and said that the agents would also have no comment. One agent, Geoffrey Binney, has left the F.B.I., and did not return a message left at his office seeking comment.

It could not be learned yesterday how many Candyman prosecutions have relied on the affidavit in question, but it appears that there could be many challenges.

Judge Chin noted that 700 copies of a draft version of the affidavit were sent to F.B.I. offices around the country for use in the investigation. In New York, federal prosecutors in Manhattan and Brooklyn announced last July that 10 people, including Mr. Perez, were being charged in the Candyman investigation.

Without the false statement in the affidavit, Judge Chin said, all that remained was the allegation that Mr. Perez had subscribed to a Web site where unlawful images of child pornography could be downloaded.

"If the government is correct in its position that membership in the Candyman group alone was sufficient to support a finding of probable cause, then probable cause existed to intrude into the homes" of several thousand people, merely because their e-mail addresses were entered into the Web site, Jude Chin wrote.

"Here, the intrusion is potentially enormous," the judge added. "Thousands of individuals would be subject to search, their homes invaded and their property seized, in one fell swoop, even though their only activity consisted of entering an e-mail address into a Web site from a computer located in the confines of their own homes."

## DISTURBING DEVELOPMENTS IN THE REPUBLIC OF GEORGIA

Mr. CAMPBELL. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I am concerned by a myriad of problems that plague the nation of Georgia a decade after restoration of its independence and nearly eleven years after it joined the Organization for Security and Cooperation in Europe, OSCE. Among these pressing concerns that I would like to bring to the attention of my colleagues is the ongoing violence against non-Orthodox religious groups, as well as allegations of torture perpetrated by Georgian security officials.

Concerning religious freedom, the situation in Georgia is one of the worst in the entire 55-nation region constituting the OSCE. Georgia is the only OSCE country where mobs are allowed to attack, violently and repeatedly, minority religious groups with complete impunity. Most recently, on January 24th, worshipers and clergy were assaulted and beaten in a mob attack on the Central Baptist Church in Tbilisi, where an ecumenical service was to have taken place. While police did eventually intervene, no arrests were made, and the planned ecumenical service between Baptists, Armenian Apostolic Church, Catholics and Lutherans was canceled. While I am pleased President Shevardnadze did issue a decree calling for a full investigation, to date no action by police or the Prosecutor General has taken place.

During the past three years of escalating mob violence, the Jehovah's Witnesses have experienced the majority of attacks, along with Baptists, Pentecostals, and Catholics. Sadly, victims from throughout the country have filed approximately 800 criminal complaints, and not one of these has resulted in a criminal conviction. The mob attacks are usually led by either Vasili Mkalavishvili, a defrocked Georgian Orthodox priest, or Paata Bluashvili, the leader of the Orthodox "Jvari" Union. Often the police and media are tipped off in advance of an attack—probably so that the media can arrive early and the police can show up late. The brazen leaders of these attacks have even given television interviews while mob brutality continues in the background.

In response to this ongoing campaign of violence against members of minority faiths, the leadership of the Helsinki Commission and other members of the Senate and House have been in correspondence with President Shevardnadze on numerous occasions. Congressional dismay over this ongoing issue was also reflected in language included in the omnibus appropriations bill underscoring concern over the Georgian Government's apparent resistance to prosecuting and jailing the perpetrators of these mob attacks. Despite assurances, Georgian officials have neither quelled this violence nor taken effective measures against the perpetrators of these assaults. Ironically, it appears that minority religious communities may be freer in parts of Georgia outside of Tbilisi's control than those under the central authorities.

The conference report language should send a strong message to President Shevardnadze and other Georgian leaders. They must understand the Congress's deep and abiding interest in this matter and our desire to see those responsible for the violence put in jail.

I also must express my concern regarding the widespread, indeed routine, use of torture in the Republic of Georgia. While law enforcement remains virtually nonexistent when it comes to protecting religious minorities from violent attacks, the use of torture by police remains a commonplace tool for extracting confessions and obtaining convictions in other areas. A government commission has also acknowledged that the scale of corruption in law enforcement has seriously eroded public confidence in Georgia's system of justice and the rule of law.

At one point, a few years ago, there appeared to be real political will to address this problem. Sadly, increased protections for detainees, adopted to facilitate Georgia's accession to the Council of Europe, were quickly reversed by the parliament once Georgia's admission was complete. Moreover, I am particularly concerned by remarks made by Minister of Interior Koba Narchemashvili in November. In a move calculated to look tough on crime following a notorious murder, he called for seizing control of pre-trial detention facilities from the authority of the Ministry of Justice. This would move Georgia in exactly the wrong direction. Reform must continue on two levels; continuing to move Georgia's legal standards into compliance with international norms, and improving actual implementation by law enforcement officers.

I want to see a prosperous, democratic, and independent Georgia, but these facts are deeply disturbing and disappointing. The Government of Georgia's failure to effectively address these concerns through decisive action will only further erode confidence here in Washington as well as with the people of Georgia.

## COVER THE UNINSURED WEEK

Mr. JOHNSON. Mr. President, in recognition of Cover the Uninsured Week, March 10th through the 16th, I want to address a very serious issue that our country is facing on the domestic front. It is a problem that can be found in every State and encompasses a staggering 41 million Americans, a number that is only due to increase if we do not take immediate efforts to remedy the problem. I am referring to the number of people in this country who lack health insurance. Let me also take this opportunity to acknowledge the effort that is being put forth this week by numerous individuals, organizations, and businesses alike who have been instrumental in arranging Cover the Uninsured Week. This event will highlight the degree to which the issue affects our society and will serve as a venue bringing communities, professionals, educators, faith groups, legislators, businesses, and those directly affected to find solutions.

There are 41 million Americans who lack health insurance, 75,000 of whom are South Dakotans. In 2001, 41.2 million people or 14.6 percent of the U.S. population were uninsured, which was an increase of 1.4 million from the previous year. This is most likely a result of the continued increase in the unemployment rate. These factors, coupled with State budgets that are strapped thin, are what many analysts predict is the making of a "perfect storm" in the wake of health care today. South Dakota is facing a $54 million shortfall this year alone.

Every year, South Dakota continues to lose access to health insurance companies. Currently, there are only three health insurance carriers offering individual coverage in this State. This is compounded with the continued increase of yearly premiums, which have left many individuals and families having to choose either between coverage and financial insecurity or joining the ranks of the uninsured and watching the possible deterioration of their health. Nationally, 8 out of 10 or the uninsured are in working families that cannot afford health insurance and are not eligible for public programs. In South Dakota, 84 percent of the uninsured live in a family headed by a working adult. The Center for Studying Health System Change found that health care costs for privately insured Americans jumped 10 percent in 2001. In 2002, premiums for employer-sponsored health coverage increased 12.7 percent. As many as 40 percent of small businesses in South Dakota that have provided workers a health benefit say that they may have to eliminate it. In addition, children are seriously affected by this decrease in health insurance coverage. While South Dakota has done very well at enrolling eligible children in the State Children's Health Insurance Program SCHIP, according to a January 2003 report by the Children's Defense Fund the State ranks 16th in the Nation in percent of uninsured children. A recent report showed that 19,000 South Dakota children under age of 19 are uninsured. These statistics on both the South Dakota level, as well as national level, only reconfirm the seriousness of the problem.

It goes without saying that the uninsured often face greater challenges and run a higher risk of developing chronic illness because seeking treatment or even preventative care is fiscally out of the question. A third of uninsured South Dakotans report needing to see a doctor but not going because of cost concerns. National studies have shown that the uninsured are four times more likely to experience an avoidable hospital or emergency room visit or stay. For those who experience these types of visits, medical costs can be too substantial to pay. Outstanding medical bills are a leading cause of bankruptcy and have been cited as a reason for half of all personal bankruptcy filings. It is troubling to know that a large number of Americans are placed in a position to gamble with their health and be faced with possible financial ruin if they seek care for minor or major ailments.

With these staggering statistics, we need to take initiatives, as well as employ current resources, that will prevent this problem from becoming even worse. I support the establishment of full deductibility of health insurance premiums for the self-employed. I feel strongly that we need to make additional funding available to community health centers and other public health programs, which are the main source of care for the uninsured. As well, I look forward to further movement on such legislative initiatives as the Family Opportunity Act, which would give States the option of allowing families of disabled children to purchase Medicaid coverage for them, and would provide for treatment of inpatient psychiatric hospital services for individuals under age 21 by allowing for payment of part or all of the cost of home or community-based services. While all of these initiatives are important steps forward, more needs to be done.

It is also important as we move forward with these initiatives, that we make sure to take precautions on other levels, so as not to exacerbate this problem any further. It is for this reason that I am concerned with the administration's Medicaid reform proposal. With States facing the most serious fiscal shortfalls to date, it is imperative to see that such programs as Medicaid be adequately funded. In previous years we have seen how Federal assistance has helped to expand this program, and in many ways been able to pick up where Medicare has left off. The Medicaid program has proved instrumental in providing health care coverage for many who would otherwise fall into the growing ranks of the uninsured.

Currently, there are 91,531 Medicaid-eligible recipients in South Dakota and the States' Medicaid expenditures are in excess of $450 million. This includes both State and Federal dollars. It is projected that the South Dakota Medicaid Program will spend over $70 million on prescription drugs alone in fiscal year 2003. The President's proposal would for the most part cease future Federal assistance, which has been instrumental in funding this program, and leave States having to pay back any Federal assistance they receive in a decade from now. This is not a solution, but a reshuffling of responsibility and liability from Federal and State to just States. This proposed reform could leave thousands of additional South Dakotans uninsured.

As you can see, the high volume of the uninsured is a serious situation in South Dakota, as well as the Nation at large. This problem needs to be remedied before any further erosion of our health care system commences. I look forward to the progress that will arise this week from the numerous presentations and discussions that will take place. However, it is my hope these discussions do not stop here. The ultimate goal of covering the uninsured can be reached as long as we work in a bipartisan fashion on both the Federal and State levels to make health care more affordable and accessible to all Americans.

## FIBRODYSPLASIA OSSIFICANS PROGRESSIVA

Mr. CORZINE. Mr. President, I rise to call attention to a little-known, little-understood, devastating "orphan" disease fibrodysplasia ossificans progressiva, or FOP—which strikes children between age 2 and 10.

Normally, when a young child sprains a wrist or an ankle, or bruises a knee, there's a natural healing process. But children with FOP—develop catastrophic bone spurs at the site of the injury that continue to grow, encasing major organs and exerting painful, life-threatening pressure. According to Dr. Frederic Kaplan, an orthopedic surgeon at the University of Pennsylvania, the worldwide center for FOP research, the average lifespan for people with this dreadful disease is about 45 years. But most sufferers are wheel-chair bound by age 20, breathing with the greatest difficulty, unable to feed or dress themselves.

Here's the sad problem: there are perhaps 300 FOP cases in the world—at least 12 in my state of New Jersey, 16 in New York, and 13 in Pennsylvania. This is the orphan of all orphan diseases. So we need to put a human face on this. For me, that face belongs to 10-year old Whitney Weldon, of Westfield, New Jersey. When first diagnosed two years ago, Whitney did all the things most all children do—run, play ball, skip down the street. Now she cannot lift her arms over her head. But she is able to ride a special bicycle and enjoy the art she loves, and time with her best friend. We want to give her the chance for more time, and to do that we need money for research. Right now Whitney's only treatment consists of painkillers and anti-inflammatory steroids. Nothing stops the bone growth.

Dr. Kaplan and his research partner at the University of Pennsylvania, Dr. Eileen Shore, have received a little more than $1 million over 4 years from the National Institutes of Health for research into the gene that causes FOP and to determine the pathways by which this abnormal gene causes extra bone production. This funding is a tribute to their progress so far, but there is still such a long way to go. Dr. Kaplan's annual budget is $1 million. About 20 percent of that comes from NIH funding—the other 80 percent comes from families and friends. And I'll tell you something interesting—Dr. Kaplan says that even though FOP affects only one person in 2 million, the answers that can be found in continued research can shed light on osteoporosis and extra-bone formation that occurs after head or spinal cord trauma. So there is the very real potential of beneficial effects for many millions of people.

There are some promising avenues. Adult stem cell research and examination of bone marrow from FOP sufferers have yielded possible directions to pursue. Wider stem cell research would be exponentially more helpful.

Whitney's parents enable her to live as normal a life as possible for as long as possible. And she shares fun and confidences with Mackenzie Roach, her friend since kindergarten. She also shares one of life's extraordinary connecting bonds with Mackenzie. Stephen Roach, Mackenzie's father, was killed on September 11 when terrorists bombed the World Trade Center. Stephen was very involved in raising funds and awareness for FOP. In his memory, Mackenzie's family has created the Stephen L. Roach Fund for FOP Research, which to date has raised more than $800,000.

Last March, President Bush declared 2002–2011 as National Bone and Joint Decade. That is a very hopeful development, and hope goes a long way. When we join that hope with a sustained focus on finding a cure for FOP, we will go even further.

## NINTH CIRCUIT COURT SPLIT—S. 562

Mr. BURNS. Mr. President, I rise today to join my colleagues in sponsoring S. 562, which will reorganize the Ninth Circuit Court of Appeals. I have been a long-time advocate of splitting this controversial court and my passion was further enflamed when a three-judge panel of the Ninth Circuit ruled that the words "under God" in the Pledge of Allegiance are unconstitutional. I found this ruling appalling.

In fact, I am also a cosponsor of S. Res. 71, which expressed support of the Pledge of Allegiance. This resolution unanimously passed the Senate on March 4. This resolution came as a result of the Ninth Circuit voting not to have the full court reconsider the earlier decision, which I believe was a mistake.

The current Ninth Circuit encompasses nine States, two territories, and 14 million square miles. The current population is estimated at 45 million people; however, the Census Bureau has estimated the population to grow to 63 million by the year 2010. In comparison, the circuit with the second highest population is the Sixth Circuit, which contains 29 million people. The Ninth Circuit also seats the highest number of active judges with 28, whereas the Fifth Circuit has the second highest with 17. The average number of judges in each circuit, excluding the Ninth Circuit, is 12.6.

The population served by the Ninth Circuit Court of Appeals needs a change. The liberal, frequently reversed decisions handed down by the Ninth Circuit do not fairly represent the views of my State and many of those in the surrounding region. About half of the judges on the Ninth Circuit are California based and, with all due respect, do not reflect the principles and values of those of us from Montana.

The amount of time between filing and disposition on the Ninth Circuit is exorbitant. In 2001, the national average was 10.9 months, while the Ninth Circuit's average time was 15.8 months, nearly a 5-month difference. From 1996 to 2001, the national average has increased by 0.5 months while the Ninth Circuit's average has increased by 1.5 months.

The size, unbalanced judgeships, high reversal record, and intracircuit conflicts of the Ninth Circuit, along with the past success of dividing the Fifth Circuit, endorse the notion of division. It was the intent of Congress to create regional courts based upon identity of population and the current Ninth Circuit Court simply does not reflect Montana's unique social, cultural, geographic or economic characteristics.

This trend cannot continue. It is time to split the Ninth Circuit and I urge my colleagues to join me in supporting this reasonable, commonsense bill.

## ZIMBABWE

Mr. FEINGOLD. I rise to draw the Senate's attention to events in Zimbabwe, where a continuing political and economic crisis is devastating the country and threatening the future of the southern African region. A combination of corruption at the highest levels of government, political desperation leading to ill-conceived economic and agricultural policies implemented in chaotic fashion, and severe political repression have brought the country to its knees. Already devastated by the HIV/AIDS pandemic, Zimbabwe is now gripped by a food crisis—one in large part caused by the government's policies. Nearly 40 percent of Zimbabweans are malnourished. This in a country that used to be a net exporter of food to the region.

Members of Zimbabwe's ruling party and their cronies have led their own country to ruin—even starvation—in order to manipulate the population and retain power. We are talking about a government that tortures independent journalists, beats respected civil society leaders who have testified before Congress, murders opposition supporters, and recently even arrested and detained a U.S. diplomat.

Last week, President Bush signed an executive order freezing the assets of 77 Zimbabwean individuals responsible for this repression and abuse, and prohibiting Americans from having business dealings with them. This is a step many of us in Congress had been anticipating for some time. Just last month I asked Secretary of State Powell about the status of the asset freeze, and more recently I spoke with the President's National Security Advisor, Dr. Condoleezza Rice, about this matter. I am glad the delay is over, and I commend the President for taking this step.

I was recently in Botswana and South Africa, and it is clear the consequences of the crisis are spilling over into other parts of the southern African region. Zimbabweans desperate to escape are spilling across borders. Foreign investors are nervous about engagement in the region. And the muted reaction of other African leaders is calling into question their commitment to the basic principles so critical to the development of the region.

I also commend the President and the administration for making it clear that the U.S. condemnation of the Zimbabwean government has nothing to do with race, and everything to do with basic principles like the rule of law, democratic governance, and freedom of expression. As the ranking member of the Subcommittee on African Affairs, I look forward to continuing to work with the administration, with colleagues on both sides of the aisle, with African leaders, and with the many brave and capable Zimbabweans who are working to stop Zimbabwe's decline into disorder and to realize the potential of the Zimbabwean people.

## ADDITIONAL STATEMENTS

## INTERNATIONAL WOMEN'S DAY

● Mr. FEINGOLD. Mr. President, I rise to take note of International Women's Day, which people around the world commemorated last Saturday. For nearly a century, women's groups worldwide have paused on March 8 to celebrate the achievements and contributions of women in all fields of human endeavor throughout our history. It is a special occasion to remember the progress women have made and to reflect upon the injustices and hardships they still face.

When I arrive here a decade ago, there were only six women in the Senate, and four of them had just come in with me in the Class of '92. Today there are 14. Of the 18 women who have ever been elected to a full term in the Senate, 13 are here now. There are now 62 women in the House of Representatives—the most ever. And NANCY PELOSI recently became the first woman ever chosen to lead a majority party in the Congress. Around the world, at latest count, almost 500 million people live in countries with female elected heads of government.

These are encouraging signs that we are making progress toward achieving full equality for women in the political realm. But even after the great advances of the past decade, women, who are more than half the electorate, account for only 14 percent of each House of the U.S. Congress. This is just one example of how, in so many areas, we still have a long way to go.

Women have made tremendous strides in the last century. In the United States today, more women than ever are attending college and earning post-graduate degrees. More women are entering the workforce and starting their own companies. But although equal pay for equal work has been the law of the land since 1963, on average, women still earn substantially less than men. Wage discrimination persists, costing families thousands of dollars each year. I am proud to support legislative efforts to correct this discrepancy.

While many women are going to work, many have to sacrifice time spent with their children in order to afford child care, education, and health care for their kids. Too often, women and children fall through the cracks of our system. Violence against women is still all too prevalent in our country. Domestic violence is the leading cause of injury among women of child-bearing age. One out of every six American women has been a victim of a rape or an attempted rape. Many rapes go unreported. Only recently have States begun to recognize crimes such as stalking or marital rape.

Outside the United States, the situation for women is often far starker. Last year, the world came to understand the brutal treatment of Afghan women under the reign of the Taliban. Unfortunately, the Taliban regime was just an extreme example of the kinds of repression and denial of basic freedoms that women face in much of the developing world. Women in many places are denied such basic rights as owning property. They are more likely to live in poverty, suffer from malnutrition, and lack access to education. Despite the expansion of women's health care research and practices in the last two decades, women still have unequal access to these services.

Such policies are not only unjust, they are unwise. Numerous studies have shown that one of the best investments a developing society can make is educating its girls. In societies where women are literate, infant mortality is lower and children are healthier and better fed. "Women are critical players in ensuring household food security and nutrition," according to the International Fund for Agricultural Development. "Increasing the economic resilience of the poor is largely about enabling women to realize their socioeconomic potential more fully and improve the quality of their lives. To do so, women need access to assets, services, knowledge and technologies, and must be active in decision-making processes." This is important to keep in mind as we grapple this year with food crises in Africa and elsewhere.

As we contemplate going to war with Iraq, we should bear in mind that women often suffer more than men from armed conflict. Women and girls are among those most affected by the violence, economic instability, and displacement associated with warfare, and they frequently are threatened by rape and sexual exploitation, whether at home, in flight, or in refugee camps. Rape and sexual assault have often been used as weapons of war. The U.N. Security Council passed a resolution on Women, Peace and Security in 2000. Yet the deliberate killing, rape, mutilation, forced displacement, abduction, trafficking, and torture of women and girls continue unabated in contemporary armed conflicts, according to UNIFEM.

Although it is usually men who go off to war, women often bear much of the burden. It is therefore crucial that women be active and respected participants in peace-building and reconstruction.

In peacetime as well, women are often victims of domestic violence and illegal trafficking for slavery and prostitution. In some countries, women fall victim to "honor killings," a deplorable practice whereby women are murdered by male relatives for actions that are perceived to bring dishonor to the family.

The Senate will likely soon be considering landmark legislation to deal with the global problem of HIV/AIDS, which I hope to be able to support. Here again, women must be at the center of our deliberations. Statistics compiled by UNAIDS show that both the spread and impact of HIV and AIDS disproportionately affect women and adolescent girls who are socially, culturally, biologically, and economically more vulnerable. In 1997, 41 percent of HIV-infected adults worldwide were women. In the latest report, they accounted for half. In North Africa and the Middle East, 54 percent of HIV-positive adults are women; in the Caribbean, 52 percent are. U.N. experts believe that women's empowerment is one of the only AIDS vaccines available today in most of the world, and that gender equality should be a guiding principle in the fight against HIV/AIDS.

I have had the opportunity to travel to numerous countries in Africa and see firsthand the devastating toll that HIV/AIDS and other infectious diseases are taking on the people of that continent. Young women are especially at risk. The United Nations reports that in Africa girls aged 15 to 19 are infected with HIV at a rate of 15 to 23 percent, whereas infection rates among boys of the same age group are 3 to 4 percent.

Mr. President, the protection of women's rights is vital to the success of promoting fundamental human rights. The Senate can work towards protecting women's rights and improve the status of women domestically and internationally by acting upon the United Nations Convention on the Elimination of Discrimination against Women, or CEDAW. CEDAW is the most comprehensive treaty on women's human rights, addressing almost all forms or discrimination in areas such as education, employment, marriage and family, health care, politics, and law. It has been over two decades since the United States signed this treaty, and it still awaits consideration before the Senate. Once again, I urge the Committee on Foreign Relations to take up this treaty and finally allow the Senate the opportunity to offer its advice and consent.

In conclusion, as we honor women everywhere and celebrate their accomplishments and contributions to history, we must recognize that there is still more to be done in the struggle for gender equity. Discrimination and violence against women still exist here at home and abroad. The United States and the rest of the international community must reaffirm their commitment to promote gender equality and human rights around the world.●

## SHRM LEGISLATIVE CONFERENCE

● Mr. ENZI. Mr. President, I welcome the members of the Society for Human Resource Management, SHRM, to Washington, D.C. for their 20th Annual Employment Law and Legislative Conference. Today, more than 200 SHRM members will visit Capitol Hill to share their views and experiences with issues such as the Fair Labor Standards Act, health care reform, and pension reform.

SHRM is the world's largest association devoted to human resource management. Representing more than 170,000 individual members, the society serves the needs of human resource professionals by providing a comprehensive set of resources. As an influential voice, SHRM also seeks to advance the human resources profession by ensuring that human resources is an essential and effective partner in developing and executing organizational strategy.

As a legislator, as a human resources professional, and as a member of SHRM, I want to congratulate SHRM for recognizing the important role individuals can play in affecting the legislative process. Human resources professionals are crucial to the successful operation of our nation's businesses and organizations. Most importantly they understand the positive impact of meeting with their Senators and Representatives to discuss recent workplace trends, their policy implications, and suggested remedies.

Citizen participation is a crucial component of the legislative process, allowing legislators and their staff the opportunity to hear constituents explain personal experiences as they live and work within our nation's laws. Finally, legislators gain critical knowledge through these conversations, resulting in legislation that's clearly applicable to the workplace and effective for employees and employers.

I sincerely thank the members of SHRM for their commitment to provide value to employees and employers across the United States while contributing an essential component to the political process—practical real world experience.•

## TRIBUTE TO JEANNIE BRIGHT

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Fort Knox civilian employee Jeannie Bright. As a technical publications editor with Fort Knox's Directorate of Training, Doctrine, and Combat Development, Ms. Bright was recently named the Training and Doctrine Command's Editor of the Year. She will be honored at the Secretary of the Army Awards ceremony in the Pentagon on March 14.

Ms. Bright began her civilian career with the Army in 1974. Over the past 22 years, she has poured over millions of words in search of errors and in pursuit of accuracy in Army publications for soldiers. She recently said, "Sometimes it can be monotonous stuff, but if we're talking about nuclear, biological, and chemical gear and we go to war, then this is pretty important stuff."

While the Army recognizes the dedicated efforts of Ms. Bright, her award should also serve to acknowledge the vital role that all civilian employees play in our Nation's defense. As we continue to keep our soldiers deployed all around the world in our thoughts and prayers, I rise to also thank the thousands of civilian employees like Ms. Bright who also serve our Nation.

I congratulate Ms. Bright on her tremendous service to the soldiers of Fort Knox, the entire Army and our great Nation. Thank you, Jeannie.•

## CELEBRATION OF THE 25TH ANNIVERSARY OF MICHIGAN AFSCME COUNCIL 25, AFL–CIO

• Mr. LEVIN. Mr. President, today I commemorate the Michigan American Federation of State, County, and Municipal Employees, AFSCME, Council 25, AFL–CIO for 25 years of dedication to State and local government employees. On March 14, 2003, members and supporters of Michigan AFSCME Council 25 will gather to celebrate the commitment this organization has shown and the support it has provided to working families in my home State of Michigan.

For over six decades, AFSCME and its members have worked to combat adversity in the workplace. What began as an effort to save civil service jobs expanded to become an adaptive and dynamic collective bargaining organization. AFSCME has thrived throughout its history by creatively meeting the difficult challenges that it and its members have faced. Today, the organization is a national leader among organized labor movements.

For the past quarter century, Michigan AFSCME Council 25 has represented and advocated for public employees throughout Michigan. The organization's membership includes employees of State, county, and municipal governments, school districts, public hospitals, and nonprofit agencies. Since the formation of Michigan AFSCME Council 25 by special convention in March of 1978, it has been a strong force dedicated to improving working conditions and advocating for its members.

Today, Michigan AFSCME Council 25 represents over 60,000 public employees and is organized into more than 300 local unions. Workers of virtually all public service occupations find a specialized voice within AFSCME. Because of the unwavering dedication that Michigan AFSCME Council 25 has shown to its community, working families and public employees have seen their working conditions improve and their voices heard.

I know that my Senate colleagues will join me in offering our congratulations to Michigan AFSCME Council 25 and its members as they celebrate their 25 years of unwavering support for Michigan's working families.•

## MONTE MADNESS

• Mr. BAUCUS. Mr. President, I rise today to express a little home State pride. It was described as "Monte Madness."

For months, Montanans logged on to the Internet to cast their votes. Billboards hailed his name. Communities rallied around him. Montana's political leaders backed him. And our State beamed with pride on January 1 when the University of Montana's Monte the Grizzly was crowned Capital One National Mascot of the Year.

For the first time, mascots across the country competed in an online election for the right to represent their school in national competition. Monte faced stiff competition from mascots like Penn State's Nittany Lion and the University of Florida's Albert the Gator. In the end, Monte won the distinguished title, earning the UM mascot program $10,000 and a lot of national exposure.

Monte is known for his athletic prowess, his slick dance moves, and his knack for firing up Griz fans. It's easy to understand why Missoula Mayor Mike Kadas declared February 1 as Monte Day.

The highflying mascot is an unsung hero of the University of Montana and a valuable member of the Missoula community. There is no doubt Monte is the hardest working mascot in collegiate athletics. He deserves the national recognition. He is the most spirited, most athletic, hardest hitting, best crowd surfing mascot ever to grace a college campus.

I endorsed Monte during his election because he is a mascot for the right reasons—to win ball games and boost Montana athletics.

But Monte is not only a Montana treasure on the field, he is committed to giving back to our communities. Monte often attends parades, community events, and gives his time to help others. He donated $1,000 he received from the national exposure to Big Brothers and Big Sisters of Missoula.

Monte makes us all very proud to be Montanans. May he wear his crown for all to see and ride his Griz-colored Harley for many years to come.•

## CARROLL COLLEGE

• Mr. BAUCUS. Mr. President, I rise today to honor the Carroll College Saints football team and to congratulate them on their NAIA National Championship.

As you can see, Montana has much to be proud of.

Carroll College is a 4-year college located in Helena, MT, and was ranked as the fourth best western regional comprehensive college by U.S. News and World Report.

In a game that became part of Montana sports legend, the Carroll Saints crushed their opponent, the two-time defending national champion Georgetown Tigers 28–7. The Saints pounded the Tigers in Tennessee and the echoes reached living rooms throughout Montana. We love football in Montana and the Saints gave us a team to be proud to cheer for and follow.

Although the game was magical, magic played no part in the Saints' success. Teamwork, amazing leadership from Coach Mike Van Diest, and hard work, in the weight room, on the field, and in the classroom, led this group of honorable young men through a solid season and an incredible string of playoff games.

Montana's college football teams recruit heavily from the state and many Montanan seniors led this legendary team. Darold Debolt from Great Falls, Casey Fitzsimmons from Chestor, Nick Garreffa from Billings, Chris Jones from Helena, Luke Lagomasino from

Lincoln, Shane Larson from Miles City, Tyler Maxwell from Helena, Cory Perzinski from Billings, Nick Porrini from Helena, and Heath Wall from Belt, all played their part in creating the unity and teamwork that this team displayed throughout the season.

The National Champion Saints' provided inspiration to all who followed them.●

## HONORING THE LIFE OF JACK WALDROUP, SR.

● Mr. BAYH. Mr. President, I rise today to honor the life of a fellow Hoosier and a dear friend, Jack G. Waldroup, Sr., who passed away on March 9, 2003.

Those of us who knew Jack were touched by his kind heart and generous spirit. His life was the embodiment of values Americans have cherished since the founding of our democracy: civic involvement, active political participation, and public service.

Jack loved Indiana. Throughout his days, he always remained close to his beloved home of Knox County. Jack graduated from Oaktown High School in 1946 and then spent time working on his family farm. He also served his community as a Chief Deputy in the Knox County Sheriff's Department. Soon after, Jack assumed his longtime position as a contract administrative assistant at United Engineers and Architects.

Jack's service to his party never faltered, and he became known in Indiana as "Mr. Democrat." Jack served ably as Knox County Democrat Chairman from 1970 to 1984, helping to cultivate and guide countless careers in public service. He could always be counted on for sound advice, and you could be sure he would give it to you straight—without any sugar coating. Jack's keen understanding of the political process coupled with his loyalty and honest advice led him to become a fixture in statewide Indiana politics, and a must-see for anyone seriously seeking to serve in public office.

Over the years, many leaders came to rely on Jack's wisdom and guidance. His good judgment and invaluable counsel was always appreciated and will be greatly missed.

When we reflect upon the lives of men such as Jack Waldroup, Sr., we are reminded that we live in a country where the true power to shape the destiny of government is vested in the people. We will all miss Jack deeply, but his memory will serve as a beacon and his life as an example of the virtues of civic involvement. He was my friend, and I shall miss him.●

## HONORING HAYS HIGH SCHOOL

● Mr. BROWNBACK. Mr. President, I rise today to congratulate some hard-working students who are paying attention to a neglected area of all of our education—our own history and founding.

Fortunately, there are programs such as "We the People: The Citizen and the Constitution program," which is the most extensive educational program in the country, and was developed specifically to educate young people about the Constitution and the Bill of Rights. This program, which is administered by the Center for Civic Education and funded by the U.S. Department of Education by act of Congress, finally addresses this woeful lack of knowledge in a systematic and thorough way.

In fact, on April 26, 2003, more than 1,200 students from across the United States will visit Washington, D.C., to compete in the national finals of the "We the People" program. What an experience!

I am especially proud to announce that the class from Hays High School from the town of Hays will represent my home State of Kansas in this national event. These young scholars have worked diligently to reach the national finals by participating at local and statewide competitions. As a result of their experience, they have gained much—including a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The three-day "We the People" national competition is difficult, yet true to life as it is modeled after hearings in the United States Congress. These hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The "We the People" program—which provides curricular materials at upper elementary, middle, and high school levels—not only enhances students' understanding of the institutions of American constitutional democracy, but it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. At the same time, critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Independent studies done by groups as diverse as the Educational Testing Service, Richard Brody at Stanford University, and researchers at the Council for Basic Education discovered that participants outperform comparison students, develop a greater commitment to democratic principles and values and are more enthusiastic about their work. Clearly this is a deserving program!

The class from Hays High School is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the "We the People" national finals.●

## THE UNIVERSITY OF WISCONSIN-MADISON MEN'S BASKETBALL TEAM

● Mr. FEINGOLD. Mr. President, today, with great admiration and as a proud alumnus, I congratulate the University of Wisconsin in Madison men's basketball team for their victory over the University of Illinois this week. This victory allowed the Badgers to claim the Big Ten conference title outright for the first time since 1947. As a lifelong Badger, I am proud of their accomplishment and I look forward to their play in the postseason.

In this, the 105th season of men's basketball at UW-Madison, the players and the coaching staff won their first consecutive conference crown since the 1923 and 1924 seasons. For the second year in a row, Badger basketball has made the people in Madison and around Wisconsin and the country proud to be Badgers. With this win, Coach Bo Ryan becomes only the third coach in Big Ten history to win titles in his first two seasons as coach. With this championship, UW-Madison continues its long tradition of dominance in Big Ten athletics.

As a graduate of UW-Madison, I take great pride in commending our men's basketball team, and I wish Coach Ryan and his Badger team all the best in postseason play. Wisconsin is behind you, and we wish you all the luck. Go Badgers.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT PROVIDING A PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION AND REPORTS ON THE IMPLEMENTATION OF THAT PLAN DURING FISCAL YEAR 2002—PM 22

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States together with an accompanying report; which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

As required by section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) and section 1205 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314), I am providing a report prepared by my Administration which presents a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on implementation of that plan during Fiscal Year 2002.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 11, 2003.*

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## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1496. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing (FRL 7463-2)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1497. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture (FRL 7462-1)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1498. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (FRL 7461-9)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1499. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing (FRL 7461-8)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1500. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing (FRL 7461-3)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1501. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing (FRL 7462-6)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1502. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines; Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category (FRL 7462-8)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1503. A communication from the Acting Deputy Principal Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Modification of Nations Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres of Land (FRL 7464-2)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1504. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (FRL 7459-9)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1505. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks (FRL 7462-3)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1506. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Standards for Hazardous Air Pollutants: Engine Test Cells/Stands (FRL 7461-4)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1507. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production (FRL 7461-7)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1509. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans For Designated Facilities and Pollutants; Rhode Island; Negative Declaration (FRL 7458-3)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1510. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled "Guidance for the Year 2003 Clean Water Act Recognition Awards" received on March 4, 2003; to the Committee on Environment and Public Works.

EC-1511. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled "MOU between EPA and the Nuclear Regulatory Commission: Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites" received on March 4, 2003; to the Committee on Environment and Public Works.

EC-1512. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration (FRL 7456-9)" received on March 3, 2003; to the Committee on Environment and Public Works.

EC-1513. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control (FRL 7446-1)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1514. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations (7461-1)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1515. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (7460-1)" received on March 6, 2003; to the Committee on Environment and Public Works.

EC-1516. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing (FRL 7460-2)" received on March 5, 2003; to the Committee on Environment and Public Works.

EC-1517. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Source Material Reporting Under International Agreements (RIN 3150-AH10)" received on March 7, 2003; to the Committee on Environment and Public Works.

EC-1518. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to List the Columbia Basin Pygmy Rabbit as Endangered (1080-AI17)" received on

March 7, 2003; to the Committee on Environment and Public Works.

EC-1519. A communication from the Deputy Associate Attorney General and White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Assistant Attorney General, received on March 3, 2003; to the Committee on the Judiciary.

EC-1520. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report relative to international agreements other than treaties entered into by the United States under the Case-Zablocki Act with Japan and Paraguay; to the Committee on Foreign Relations.

EC-1521. A communication from the Legal Counsel, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notices of Funds Availability Inviting Applications for the Community Development Financial Institutions Programs, the Native American CDFI Development Program and the Bank Enterprise Award Program" received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1522. A communication from the Legal Counsel, Community Development Financial Institutions Fund, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revised interim rule, Community Development Financial Institutions Program Revised interim rule, Bank Enterprise Award Program ((RIN1505-AA92)(1505-AA91))" received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1523. A communication from the Assistant General Counsel, Regulations, Office of the Assistant Secretary for Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "FHA Approval of Condominium Development Located in the Commonwealth of Puerto Rico for Mortgage Insurance Under the Section 234(c) Program (RIN2502-AH80)" received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1524. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report relative to exports made to Mexico, received on March 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1525. A communication from the Chair, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Administrative Fines" received on March 7, 2003; to the Committee on Rules and Administration.

EC-1526. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes; docket no. 2002-N316 [2-5/3-3] (RIN2120-AA64)(2003-0130)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1527. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2C10 Series Airplanes; Docket No. 2003-N-20 [2-5/3-3] (2120-AA64) (2003-0129)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1528. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330-223, 321, 322, and 323 Series Airplanes Equipped with Pratt & Whitney Model PW 4164, 4168, or 4168A Engines; Docket No. 2002-NM-102 (2120-AA64)(2003-0128)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1529. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt & Whitney Canada PW500 Series Turbofan Engines; Docket No. 2002-NE-45 (2120-AA64)(2003-0127)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1530. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileria de Aeronautica SA Model EB 135 and 145 Series Airplanes Docket No. 2002-NM-326 (2120-AA64)(2003-0126)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1531. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (54); Amdt. No. 3045 (2120-AA65)(20030014)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1532. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (29); Amdt. No. 3044 (2120-AA65)(2003-0013)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1533. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (59); Amdt. No. 3043 (2120-AA65)(2003-0012)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1534. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (27); Amdt. No. 3046 (2120-AA65)(2003-0011)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1535. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Air Traffic Rules; Flight Restrictions in the Vicinity of Niagara Falls; Docket No. FAA 2002-13235 (2120-AH57)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1536. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Enhanced Security Procedures for Operations at Certain Airports in the Washington, D.C. Metropolitan Area Special Flight Rules Area; Docket No. FAA-2002-11580 (2120-AH62)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1537. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones; Docket No. FAA-2001-8690 (2120-AG74)(2003-0001)" received on March 7, 2003; to the Committee on Commerce , Science, and Transportation.

EC-1538. A communication from the Acting Director, Office Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Season opening announcement for the sablefish with fixed gear managed under IFO program (0679)" received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1539. A communication from the Attorney/Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of the designation of an acting officer for the position Assistant Secretary for Governmental Affairs, received on March 7, 2003; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 113. A bill to exclude United States persons from the definition of "foreign power" under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG (for himself, Mr. Frist, Mr. Alexander, Mr. Warner, Mr. Enzi, Mr. Sessions, Mr. Roberts, and Mr. Graham of South Carolina):

S. 15. A bill to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE:

S. 586. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

By Mr. WYDEN:

S. 587. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. Corzine, Mr. Inouye, Ms.

Landrieu, Mr. Levin, Mr. Reed, and Mr. Sarbanes):

S. 588. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. Durbin, Mr. Allen, and Mr. Voinovich):

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

By Mr. SCHUMER (for himself and Mr. Santorum):

S. 590. A bill to amend title XVIII of the Social Security Act to provide for equitable reimbursement rates under the medicare program to Medicare+Choice organizations; to the Committee on Finance.

By Mr. MILLER:

S. 591. A bill to provide for a period of quiet reflection at the opening of certain schools on every school day; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS:

S. 592. A bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Ms. Mikulski, Mr. Leahy, Mr . Sarbanes, Mr. Bingaman, Mr. Lautenberg, and Ms. Landrieu):

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Governmental Affairs.

By Mr. JOHNSON (for himself, Mr. Daschle, Mr. Campbell, Mr. Cochran, and Mrs. Murray):

S. 594. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. Breaux, Mr. Allard, Ms. Collins, Mr. Sununu, and Ms. Snowe):

S. 595. A bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mrs. Boxer, Mr. Smith, Mr. Allen, Mr. Enzi, and Mr. Bayh):

S. 596. A bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Baucus, Mr. Domenici, and Mr. Bingaman):

S. 597. A bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. Miller, Mrs. Dole, Mr. McCain, Mr. Kerry, Mr. Chambliss, and Mr. Specter):

S. 598. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Ms. Collins, and Mr. Bingaman):

S. 599. A bill to amend title XVIII of the Social Security Act to provide coverage under the medicare program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mrs. Feinstein):

S. 600. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. Biden, Mr. DeWine, and Mr. Schumer):

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself, Ms. Mikulski, Ms. Cantwell, Mrs. Clinton, Mrs. Feinstein, Mrs. Lincoln, Mrs. Murray, Ms. Snowe, Ms. Murkowski, Mr. Bayh, Mr. Warner, Mr. Allen, Mr. Kohl, Mr. Inhofe, and Mr. Lugar):

S. Res. 79. A resolution designating the week of March 9 through March 15, 2003, as "National Girl Scout Week"; to the Committee on the Judiciary.

By Mr. LOTT:

S. Res. 80. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

By Mr. LIEBERMAN (for himself and Ms. Snowe):

S. Con. Res. 18. A concurrent resolution expressing the sense of Congress that the United States should strive to prevent teen pregnancy by encouraging teenagers to view adolescence as a time for education and maturing and by educating teenagers about the negative consequences of early sexual activity; and for other purposes; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 3

At the request of Mr. Santorum, the name of the Senator from Alaska (Ms. Murkowski) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

### S. 13

At the request of Mr. Kyl, the name of the Senator from Colorado (Mr. Allard) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

### S. 150

At the request of Mr. Allen, the name of the Senator from Georgia (Mr. Miller) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

### S. 152

At the request of Mr. Biden, the name of the Senator from Kansas (Mr. Brownback) was added as a cosponsor of S. 152, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

### S. 201

At the request of Mr. Schumer, the names of the Senator from California (Mrs. Boxer), the Senator from New York (Mrs. Clinton), the Senator from New Jersey (Mr. Corzine), the Senator from California (Mrs. Feinstein) and the Senator from Maryland (Ms. Mikulski) were added as cosponsors of S. 201, a bill to amend title 31, United States Code, to provide Federal aid and economic stimulus through a one-time revenue grant to the States and their local governments.

### S. 206

At the request of Mr. Roberts, the name of the Senator from Wyoming (Mr. Thomas) was added as a cosponsor of S. 206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

### S. 227

At the request of Mrs. Feinstein, the name of the Senator from Virginia (Mr. Allen) was added as a cosponsor of S. 227, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to certified or licensed teachers, to provide for grants that promote teacher certification and licensing, and for other purposes.

### S. 256

At the request of Mrs. Boxer, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 256, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

### S. 274

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

### S. 315

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 315, a bill to support first responders to protect homeland security and prevent and respond to acts of terrorism.

### S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

### S. 380

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

### S. 413

At the request of Mr. NICKLES, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 413, a bill to provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes.

### S. 459

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 459, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

### S. 464

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

### S. 465

At the request of Mrs. MURRAY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 465, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

### S. 505

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 505, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

### S. 516

At the request of Mr. BUNNING, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

### S. 521

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 521, a bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes.

### S. 522

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 522, a bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes.

### S. 523

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 523, a bill to make technical corrections to law relating to Native Americans, and for other purposes.

### S. 525

At the request of Mr. LEVIN, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

### S. 526

At the request of Mr. HATCH, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 526, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries.

### S. 532

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 532, a bill to enhance the capacity of organizations working in the United States—Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.

### S. 555

At the request of Mr. CAMPBELL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 555, a bill to establish the Native American Health and Wellness Foundation, and for other purposes.

### S. 569

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

### S. 582

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

### S.J. RES. 6

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.J. Res. 6, a joint resolution expressing the sense of Congress with respect to planning the reconstruction of Iraq.

### S. RES. 22

At the request of Mr. DORGAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 22, A resolution expressing the sense of the Senate regarding the implementation of the No Child Left Behind Act of 2001.

### S. RES. 46

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

### S. RES. 70

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Oklahoma (Mr. NICKLES), the Senator from Oregon (Mr. SMITH), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 70, a resolution designating the week beginning March 16, 2003 as "National Safe Place Week".

S. RES. 70

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. Res. 70, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 586. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the Round II EZ/EC Flexibility Act of 2003. This important legislation would secure vital funding for Round II Empowerment Zones and Enterprise Communities to ensure that communities throughout the country will be able to continue the important work of economic revitalization.

This legislation promotes the continued economic development throughout the EZ/EC program, particularly to the 15 Round II urban and 5 rural empowerment zones that were designated in 1999. Each of those communities has implemented a host of strategic initiatives aimed at economic growth and job creation in their respective communities.

The EZ/EC Act ensures that Round II communities EZs and ECs are provided with funding they were promised upon designation. It also authorizes the use of EZ/EC grants as a match for related Federal programs, providing the EZ/EC program with maximum flexibility to implement initiatives at the local level.

The Enterprise Zone/Enterprise Community program was created to provide Federal assistance over ten years in designated urban and rural communities that would fuel economic revitalization and job growth. The program does so primarily by providing Federal grants to communities and tax and regulatory relief to help communities attract and retain businesses.

Unfortunately, an inequity now exists between the way Round I and Round II EZs and ECs have been funded. Those communities that won EZ designations in the initial round, in 1994, received full funding from the Congress, which made all grant awards available for use within the first two years of designation. However, EZs and ECs designated in Round II did not receive this same funding authority.

Federal benefits promised to the Round IIs included funding grants of $100 million for each urban zone, $40 million for each rural zone and about $3 million for each Enterprise Community over a ten-year period beginning in 1999. In reliance on those "promised" funds, Round II zones prepared strategic plans for economic revitalization based on the availability of that funding. However, unlike Round I designees, who received a full funding up front, Round II zones have received a mere fraction of the funding promise.

The lack of a certain, predictable funding stream will ultimately undermine the ability of Round II EZs/ECs to effectively implement their economic growth strategies in their designated communities. And that's a shame, because the EZ/EC initiative has produced real results.

In fact, I'm proud to say that one of the best Round II EZs is located in Cumberland County, NJ. The Cumberland County Empowerment Zone, a collaborative effort of the communities of Bridgeton, Millville, Vineland and Port Norris, has been a model EZ, and committed all the funds made available to it by HUD.

Since the creation of the EZ, Cumberland County has witnessed more than 100 housing units rehabbed, renovated or newly built. A $4 million loan pool has been created to fund community and small business reinvestment. The EZ also has led to the funding for over 60 economic development initiatives, utilizing more than $11 million in funding to leverage $120 million in private, public and tax exempt bond financing.

These are real results. In fact, over 1,100 new jobs will be created in the County over the next year and a half alone if the Federal Government were to maintain its commitment to the EZ/EC program.

Cumberland County is just one example of how the EZ/EC initiative has brought hope and promise to communities throughout America. We need to do more to support and build on these initiatives. Now is the time for Congress to fulfill the promise made to Round II EZs and ECs.

I urge my colleagues to cosponsor this bill that will allow communities throughout the country to continue their work of economic revitalization. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 586

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Round II EZ/EC Flexibility Act of 2003".

**SEC. 2. CORRECTION OF INEQUITIES IN THE SECOND ROUND OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.**

(a) GRANT AUTHORITY.—There are authorized to be appropriated—

(1) to the Secretary of Housing and Urban Development, such sums as may be necessary to make grant awards totaling $100,000,000 to each of 15 urban empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(2) to the Secretary of Agriculture, such sums as may be necessary to make—

(A) grant awards totaling $40,000,000 to each of 5 rural empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(B) grant awards totaling $3,000,000 to each of 20 rural enterprise communities designated pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, taking into account any amount made available pursuant to any prior appropriation made for such communities.

(b) AUTHORITY TO USE FUNDS TO IMPLEMENT STRATEGIC PLAN.—Funds appropriated under Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to implement the strategic plan for the zone or community, including—

(1) economic development;

(2) infrastructure development;

(3) workforce development; and

(4) community development activities.

(c) NO LOSS OF FEDERAL FUNDS BY REASON OF RECLASSIFICATION AS RENEWAL COMMUNITY.—An area that, by reason of section 1400E(e) of the Internal Revenue Code of 1986, ceases to be designated as an empowerment zone or enterprise community under section 1391(g) of such Code shall not lose any Federal funds by reason of the cessation.

(d) AUTHORITY TO USE FUNDS TO PAY NON-FEDERAL SHARE OF MATCHING GRANTS.—Funds appropriated under any Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to pay the non-Federal share required in connection with another Federal grant-in-aid program undertaken as part of activities assisted under this section.

By Mr. WYDEN:

S. 587. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today, I am introducing the Hydrogen Transportation Wins Over Growing Reliance on Oil, H2 GROW, Act to accelerate getting cars and trucks powered by hydrogen on our roads as a way to reduce our Nation's dependence on foreign oil. In the House, Congressman CHRIS COX will also be introducing the H2 GROW Act, so we will have the first bipartisan, bicameral bill to provide incentives for commercialing hydrogen-powered cars and the fueling stations needed for hydrogen cars to have widespread acceptance.

Our legislation has the support of a diverse coalition of interest groups, ranging from the Natural Resources Defense Council to the automobile industry. It is not a coalition that naturally flocks together. In fact, on many environmental issues, these groups are skirmishing, not coalescing.

Just as these groups have come together. Congressman COX and I have felt, on a bipartisan basis, that he and I could find common ground on the critical issue of hydrogen fuel cells. Unlike some other proposals to promote hydrogen fuel cell vehicles, the H2 GROW Act goes beyond researching hydrogen to kickstart the market for hydrogen fuel cell vehicles and fueling equipment. Legislation he and I will introduce today, the H2 GROW Act, uses marketplace incentives so that a significant number of fuel cell vehicles can hit American streets in the next decade. In effect, our legislation goes beyond the popular wisdom that you can't do much to actually get these vehicles on the street anytime soon.

Our legislation stipulates that when someone opens a fueling station, sells fueling equipment, sells hydrogen fuel for use in vehicles, or buys a hydrogen fuel cell vehicle, the tax man won't cometh for the next 10 years. By creating incentives this way, our legislation, can catalyze commercialization of fuel cell vehicles. Tax holidays and tax incentives will stimulate a private market for everything from creating the infrastructure needed for fuel cell vehicles, to direct incentives for American consumers.

By using this approach, our legislation only pays for performance. It does not subsidize research that may or may not advance the goal of getting hydrogen-powered cars on the road. The tax credits and other incentives only reward actions that actually put cars on the road or fueling equipment in use.

Best of all, the price tag is minimal. The government isn't expecting any significant revenue from fuel cell vehicles anyway in the next 10 years—and that's the life of our bill. So there's no enormous cost to the government.

Congress has a clear choice between taking 20 years to get a significant number of hydrogen vehicles on the road and making real, measurable progress in the next 10 years. In my view, reducing this country's dependence on foreign oil is a national security priority. At a time when more than half our energy is imported, enacting policies that promote energy independence is a true act of patriotism. Our legislation would promote that energy independence.

Here are two examples of how our legislation provides critically needed incentives for the fuel cell market:

Congressman COX and I want to make it worth the consumer's while to buy a fuel cell vehicle in the first place. So a tax credit will help make up the difference between the cost of a gasoline-powered vehicle and a fuel cell car. For example, if in 2009, a consumer buys a fuel cell car for $25,000, the consumer can write $3,750 off his or her taxes to make the fuel cell car more affordable.

To help gasoline stations begin to shift to serving consumers with hydrogen fuel cell vehicles, our bill provides a 20-percent tax credit for every unit of hydrogen fuel sold equivalent to a gallon of gasoline.

The bill also helps taxpayers get the most of the fuel cell vehicle in terms of convenience and ease of use. With hydrogen fuel cells, filling up your car could be something you do at your home or your office as well as a retail filling station. So our bill gives taxpayers who install hydrogen fueling equipment in their homes a tax credit for up to 50 percent of the cost of the refueling equipment.

In my view, these are practical steps away from our reliance on foreign oil and toward better, cleaner transportation for all Americans. I also believe this plan is the best, most effective use of taxpayer dollars on this issue.

Companies like GM and Toyota—two car companies that are endorsing the H2 GROW Act—are already developing the technology to improve the performance and reduce the cost of fuel cell vehicles with more reliable, affordable materials. These companies are already putting the money and time into that effort. What Congress needs to do is help the American people and American businesses take advantage of these new products as they're perfected, and help them hit the streets as quickly as possible.

I firmly believe the H2 GROW Act is a strong step toward helping consumers to shore up this Nation's economic and environmental stability for future generations. I know Congressman COX feels the same way, and I encourage my colleagues to support our bipartisan legislation to accelerate commercialization of hydrogen fuel cell cars and help reduce our Nation's dependence on foreign oil.

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By Mr. ROCKEFELLER (for himself, Mr. CORZINE, Mr. INOUYE, Ms. LANDRIEU, Mr. LEVIN, Mr. REED, and Mr. SARBANES):

S. 588. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased and proud to introduce the MediKids Health Insurance Act of 2003. Congressman STARK is introducing a companion bill in the House.

This legislation is, without a doubt, ambitious. It is a deliberate effort to try to ignite a national commitment to the goal of insuring all of our children. For some, that is an idealistic proposition that does not seem achievable. With this bill, I want to call on the public and my colleagues to consider once again the clear and convincing case for investing the necessary resources in the health of our children—and therefore, in the well-being of their families and our entire country. The President and Congress continue to talk about their commitment to America's health. This bill challenges them to take action on their rhetoric.

Our children are not only our future, they are also our present. What we do for them today will greatly affect what happens tomorrow. Yet even though we recognize these facts, we still have not found a way to guarantee health coverage for children. Without health insurance, many of these children go without health care all together.

Children are the least expensive segment of our population to insure. They are also the least able to have control over whether or not they have health insurance. Yet we now have over 9 million uninsured children in this country. And with the downturn in the economy and the rising costs of health care, this number will continue rising.

Our success in expanding Medicaid and passing the State Children's Health Insurance Program was a meaningful, significant start at closing the tragic gap represented by millions of uninsured children. However, Congress cannot point to these programs and declare that our work is done. We still have much more to do. The percent of children in low-income families without health insurance has not changed in recent years. Even with perfect enrollment in S-CHIP and Medicaid, there would still be a great number of children without health insurance.

This is partially due to our increasingly mobile society, where parents frequently change jobs and families often move from State to State. When this occurs there is often a lapse in health coverage. Also, families working their way out of welfare fluctuate between eligibility and ineligibility for means-tested assistance programs. Another reason for the number of uninsured children is that the cost of health insurance continues to increase, leaving many working parents unable to afford coverage for themselves or their families. All of this adds up to the fact that many of our children do not have the consistent and regular access to health care which they need to grow up healthy.

That is why I am re-introducing the MediKids Health Insurance Act. This bill would automatically enroll every child at birth into a new, comprehensive Federal safety net health insurance program beginning in 2004. The benefits would be tailored to the needs of children and would be similar to those currently available to children under Medicaid. A small monthly premium would be collected from parents at tax filing, with discounts to low-income families phasing out at 300 percent of poverty. The children would remain enrolled in MediKids throughout childhood. When they are covered by another health insurance program, their parents would be exempt from the premium. The key to our program is that whenever other sources of health insurance fail. MediKids would stand ready to cover the health needs of our next generation. By the year 2020, every child in America would be able to grow up with consistent, continuous health insurance coverage.

Like Medicare, MediKids, would be independently financed, would cover benefits tailored to the needs of its target population, and would have the goal of achieving nearly 100 percent health insurance coverage for the children of this country—just as Medicare has done for our Nation's seniors and disabled population. It's time we make this investment in the future of America by guaranteeing all children the health coverage they need to make a healthy start in life.

The MediKids Health Insurance Act would offer guaranteed, automatic health coverage for every child with the simplest of enrollment procedures and no challenging outreach, paperwork, or re-determination hoops to jump through. It would be able to follow children across state lines, or tide them over in a new location until their parents can enroll them in a new insurance program. Between jobs or during family crises such as divorce or the death of a parent, it would offer extra security and ensure continuous health coverage to the Nation's children. During that critical period when a family is just climbing out of poverty and out of the eligibility range for means-tested assistance programs, it would provide an extra boost with health insurance for the children until the parents can move into jobs that provide reliable health insurance coverage. And every child would automatically be enrolled upon birth, along with the issuance of the birth certificate or immigration card.

As we all know, an ounce of prevention is worth a pound of cure. Providing health care coverage to children affects much more than their health—it affects their ability to learn, their ability to thrive, and their ability to become a productive member of society. I look forward to working with my colleagues and supporting organizations for the passage of the MediKids Health Insurance Act of 2003 to guarantee every child in America the health coverage they need to grow up healthy.

I stand before you today to deliver a message. That it is time to rekindle the discussion about how we are going to provide health insurance for all Americans. The bill I am introducing today—the MediKids Health Insurance Act of 2003—is a step toward eliminating the irrational and tragic lack of health insurance for so many children and adults in our country.

Partial solutions to America's "uninsured crisis" lie before Congress, and I recognize the sense of realism and care that are the basis for proposing incremental steps towards universal coverage. As someone involved in the tough battles in years past to achieve universal coverage, I will continue to do all I can to make whatever progress can be made each and every year.

But I also believe it is important to not lose sight of the ideal—and our capacity to reach that ideal—of the United States of America joining every other industrialized nation by ensuring that its citizens have basic health insurance. Until we succeed, millions of children and adults will suffer human and financial costs that are preventable.

Therefore, I offer this legislation to both enlist my colleagues in an effort to insist that all of our Nation's children are insured as quickly as possible and to lay out the steps that would achieve that goal. Some may say that we cannot afford this level of commitment to America's children in a time of war and economic downturn. I strongly disagree. We can fully fund MediKids with the more than $388 billion the President's budget proposes to spend on the dividend tax cut. I believe that choice is clear between providing 100 percent of our children with health care coverage and giving tax breaks to the wealthiest 2 percent of people in our country. I hope this bill will help to build the will and momentum so desperately needed by our children for action that will change their lives and strengthen our Nation. I ask my colleagues from both sides of the aisle to join as co-sponsors.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 588

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "MediKids Health Insurance Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; findings.
Sec. 2. Benefits for all children born after 2004.

"TITLE XXII—MEDIKIDS PROGRAM

"Sec. 2201. Eligibility.
"Sec. 2202. Benefits.
"Sec. 2203. Premiums.
"Sec. 2204. MediKids Trust Fund.
"Sec. 2205. Oversight and accountability.
"Sec. 2206. Addition of care coordination services.
"Sec. 2207. Administration and miscellaneous.
Sec. 3. MediKids premium.
Sec. 4. Refundable credit for cost-sharing expenses under MediKids program.
Sec. 5. Report on long-term revenues.

(c) FINDINGS.—Congress finds the following:

(1) More than 9 million American children are uninsured.

(2) Children who are uninsured receive less medical care and less preventive care and have a poorer level of health, which result in lifetime costs to themselves and to the entire American economy.

(3) Although SCHIP and Medicaid are successfully extending a health coverage safety net to a growing portion of the vulnerable low-income population of uninsured children, they alone cannot achieve 100 percent health insurance coverage for our nation's children due to inevitable gaps during outreach and enrollment, fluctuations in eligibility, variations in access to private insurance at all income levels, and variations in States' ability to provide required matching funds.

(4) As all segments of society continue to become more transient, with many changes in employment over the working lifetime of parents, the need for a reliable safety net of health insurance which follows children across State lines, already a major problem for the children of migrant and seasonal farmworkers, will become a major concern for all families in the United States.

(5) The medicare program has successfully evolved over the years to provide a stable, universal source of health insurance for the nation's disabled and those over age 65, and provides a tested model for designing a program to reach out to America's children

(6) The problem of insuring 100 percent of all American children could be gradually solved by automatically enrolling all children born after December 31, 2004, in a program modeled after Medicare (and to be known as "MediKids"), and allowing those children to be transferred into other equivalent or better insurance programs, including either private insurance, SCHIP, or Medicaid, if they are eligible to do so, but maintaining the child's default enrollment in MediKids for any times when the child's access to other sources of insurance is lost.

(7) A family's freedom of choice to use other insurers to cover children would not be interfered with in any way, and children eligible for SCHIP and Medicaid would continue to be enrolled in those programs, but the underlying safety net of MediKids would always be available to cover any gaps in insurance due to changes in medical condition, employment, income, or marital status, or other changes affecting a child's access to alternate forms of insurance.

(8) The MediKids program can be administered without impacting the finances or status of the existing Medicare program.

(9) The MediKids benefit package can be tailored to the special needs of children and updated over time.

(10) The financing of the program can be administered without difficulty by a yearly payment of affordable premiums through a family's tax filing (or adjustment of a family's earned income tax credit).

(11) The cost of the program will gradually rise as the number of children using MediKids as the insurer of last resort increases, and a future Congress always can accelerate or slow down the enrollment process as desired, while the societal costs for emergency room usage, lost productivity and work days, and poor health status for the next generation of Americans will decline.

(12) Over time 100 percent of American children will always have basic health insurance, and we can therefore expect a healthier, more equitable, and more productive society.

**SEC. 2. BENEFITS FOR ALL CHILDREN BORN AFTER 2004.**

(a) In General.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXII—MEDIKIDS PROGRAM

**"SEC. 2201. ELIGIBILITY.**

"(a) Eligibility of Individuals Born After December 31, 2004; All Children Under 23 Years of Age in Sixth Year.—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

"(1) Age.—

"(A) First year.—During the first year in which this title is effective, the individual has not attained 6 years of age.

"(B) Second year.—During the second year in which this title is effective, the individual has not attained 11 years of age.

"(C) Third year.—During the third year in which this title is effective, the individual has not attained 16 years of age.

"(D) Fourth year.—During the fourth year in which this title is effective, the individual has not attained 21 years of age.

"(E) Fifth and subsequent years.—During the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

"(2) Citizenship.—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

"(b) Enrollment Process.—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

"(1) individuals who are born in the United States after December 31, 2004, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

"(2) individuals who are born outside the United States after such date and who become eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

"(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

"(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII.

"(c) Date Coverage Begins.—

"(1) In general.—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2005:

"(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

"(B) In the case of an another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

"(C) In the case of an another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

"(2) Authority to provide for partial months of coverage.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

"(3) Limitation on payments.—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

"(d) Expiration of Eligibility.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

"(e) Entitlement to MediKids Benefits for Enrolled Individuals.—An individual enrolled under this section is entitled to the benefits described in section 2202.

"(f) Low-Income Information.—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether or not the family income of the family that includes the child is less than 150 percent of the poverty line for a family of the size involved. If the family income is below such level, the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating such fact. The Secretary also shall provide for a toll-free telephone line at which providers can verify whether or not such a child is in a family the income of which is below such level.

"(g) Construction.—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this section from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

**"SEC. 2202. BENEFITS.**

"(a) Secretarial Specification of Benefit Package.—

"(1) In general.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

"(2) Updating.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

"(3) Annual updating.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

"(4) Input.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

"(5) Limitation on updating.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

"(b) Inclusion of Certain Benefits.—

"(1) Medicare core benefits.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

"(2) All required medicaid benefits.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

"(3) Inclusion of prescription drugs.—Such benefits also shall include (as specified by the Secretary) prescription drugs and biologicals.

"(4) Cost-sharing.—

"(A) In general.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under title XVIII with respect to comparable items and services, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

"(B) No cost-sharing for lowest income children.—Such benefits shall not include any cost-sharing for children in families the income of which (as determined for purposes of section 1905(p)) does not exceed 150 percent of the official income poverty line (referred to in such section) applicable to a family of the size involved.

"(C) Refundable credit for cost-sharing for other low-income children.—For a refundable credit for cost-sharing in the case of children in certain families, see section 35 of the Internal Revenue Code of 1986.

"(c) Payment Schedule.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

"(d) Input.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

"(e) Enrollment in Health Plans.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare+Choice plans under part C of title XVIII. In the case of individuals enrolled under this title in such a plan, the Medicare+Choice capitation rate described in section 1853(c) shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

**"SEC. 2203. PREMIUMS.**

"(a) Amount of Monthly Premiums.—

"(1) In general.—The Secretary shall, during September of each year (beginning with 2004), establish a monthly MediKids premium for the following year. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/12 of the annual premium rate computed under subsection (b).

"(2) Elimination of monthly premium for demonstration of equivalent coverage (including coverage under low-income programs).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to constitute basic health insurance coverage described in such sentence.

“(b) Annual Premium.—

“(1) National, per capita average.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

“(2) Annual premium.—Subject to subsection (d), the annual premium under this subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

“(c) Payment of Monthly Premium.—

“(1) Period of payment.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

“(2) Collection through tax return.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

“(3) Protections against fraud and abuse.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

“(d) Reduction in Premium for Certain Low-Income Families.—For provisions reducing the premium under this section for certain low-income families, see section 59B(c) of the Internal Revenue Code of 1986.

**“SEC. 2204. MEDIKIDS TRUST FUND.**

“(a) Establishment of Trust Fund.—

“(1) In general.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the ‘MediKids Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

“(2) Premiums.—Premiums collected under section 2203 shall be transferred to the Trust Fund.

“(b) Incorporation of Provisions.—

“(1) In general.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

“(2) Miscellaneous references.—In applying provisions of section 1841 under paragraph (1)—

“(A) any reference in such section to ‘this part’ is construed to refer to title XXII;

“(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

“(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

“(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

**“SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.**

“(a) Through Annual Reports of Trustees.—The Board of Trustees of the MediKids Trust Fund under section 2204(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this title to maintain financial solvency of the program under this title.

“(b) Periodic GAO Reports.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this title. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this title.

**“SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.**

“(a) In General.—

“(1) Program authority.—The Secretary, beginning in 2005, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

“(2) Administration by contract.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

“(3) Coverage.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

“(b) Eligibility Criteria; Identification and Notification of Eligible Individuals.—

“(1) Individual eligibility criteria.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

“(2) Procedures to facilitate enrollment.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

“(c) Enrollment of Individuals.—

“(1) Secretary's determination of eligibility.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

“(2) Enrollment period.—

“(A) Effective date and duration.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual's application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

“(B) Limitation on reenrollment.—The Secretary may establish limits on an individual's eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

“(d) Program.—The care coordination services program under this section shall include the following elements:

“(1) Basic care coordination services.—

“(A) In general.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

“(B) Additional benefits.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual's circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

“(2) Care coordination requirement.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

“(e) Care Coordinators.—

“(1) Conditions of participation.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

“(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

“(B) have entered into a care coordination agreement; and

“(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician's services).

“(2) Agreement term; payment.—

“(A) Duration and renewal.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

“(B) Payment for services.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

"(C) LIABILITY.—Case coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator's decisions, failure or delay in making decisions, or other actions as a care coordinator.

"(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

### "SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

"(a) IN GENERAL.—Except as otherwise provided in this title—

"(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

"(2) individuals enrolled under this title shall be treated for purposes of title XVIII as though the individual were entitled to benefits under part A and enrolled under part B of such title;

"(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII);

"(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII; and

"(5) individuals entitled to benefits under this title may elect to receive such benefits under health plans in a manner, specified by the Secretary, similar to the manner provided under part C of title XVIII.

"(b) COORDINATION WITH MEDICAID AND SCHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded program may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

"(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

"(2) benefits under this title shall be primary payor to benefits provided under such program or title, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a 'wrap-around' basis to the benefits under this title.".

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "or the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund".

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking " and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII" and inserting ", the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII".

(3) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking "or (7)" and inserting ", (7), or (8)", and

(B) by adding at the end the following:

"(8) ADJUSTMENT FOR MEDIKIDS.—In applying this subsection with respect to individuals entitled to benefits under title XXII, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such title and the population under parts A and B.".

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(1) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(A) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(B) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children from enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through increases in provider payment rates, expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(2) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(d) EXPANSION OF MEDPAC MEMBERSHIP TO 19.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking "17" and inserting "19"; and

(B) in paragraph (2)(B), by inserting "experts in children's health," after "other health professionals,".

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

### SEC. 3. MEDIKIDS PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

### "PART VIII—MEDIKIDS PREMIUM

"Sec. 59B. MediKids premium.

### "SEC. 59B. MEDIKIDS PREMIUM.

"(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKids premium for the taxable year.

"(b) INDIVIDUALS SUBJECT TO PREMIUM.—

"(1) IN GENERAL.—This section shall apply to an individual if the taxpayer has a MediKid at any time during the taxable year.

"(2) MEDIKID.—For purposes of this section, the term 'MediKid' means, with respect to a taxpayer, any individual with respect to whom the taxpayer is required to pay a premium under section 2203(c) of the Social Security Act for any month of the taxable year.

"(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKids premium for a taxable year is the sum of the monthly premiums under section 2203 of the Social Security Act for months in the taxable year.

"(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

"(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

"(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

"(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

"(i) $17,910 in the case of a taxpayer having 1 MediKid,

"(ii) $22,530 in the case of a taxpayer having 2 MediKids,

"(iii) $27,150 in the case of a taxpayer having 3 MediKids, and

"(iv) $31,770 in the case of a taxpayer having 4 or more MediKids.

"(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

"(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

"(i) such dollar amount, and

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer's adjusted gross income.

"(e) COORDINATION WITH OTHER PROVISIONS.—

"(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium paid under this section shall not be treated as expense for medical care.

"(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55.

"(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

"(10) Every individual liable for a premium under section 59B.".

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Part VIII. MediKids premium.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 2004, in taxable years ending after such date.

**SEC. 4. REFUNDABLE CREDIT FOR COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

**"SEC. 36. COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.**

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 50 percent of the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act.

"(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit which would (but for this subsection) be allowed under this section for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for such taxable year over the exemption amount (as defined in section 59B(d)) bears to such exemption amount.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 36. Cost-sharing expenses under MediKids program.

"Sec. 37. Overpayments of tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 5. REPORT ON LONG-TERM REVENUES.**

Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the outyears.

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By Mr. AKAKA (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. VOINOVICH):

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personal possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President. Today I rise on behalf of myself and Senators DURBIN, ALLEN and VOINOVICH to re-introduce the Homeland Security Federal Workforce Act. This is similar to legislation Senator DURBIN, Senator THOMPSON, and I introduced in the 107th Congress. Like S. 1800, this bill is designed to strengthen the Federal Government's recruitment and retention efforts in the areas of science, mathematics, and foreign language where there is a growing absence of qualified personnel.

In the weeks following the terrorist attacks of September 11, FBI Director Mueller made a plea on national television for speakers of Arabic and Farsi to help the FBI and national security agencies translate documents that were in our possession but which were left untranslated due to a shortage of employees with proficiency in those languages. The General Accounting Office has reported that agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out their missions.

The Federal Government also lacks personnel with scientific and engineering skills. On February 25, 2003, William Wulf, president of the National Academy of Engineering, noted that the supply of talented engineers in government is not keeping pace with growing demand. A recent poll found that a mere 24 percent of job seekers believe that the best engineering job opportunities are in the Federal Government compared to 52 percent for the private sector. In another example, a 1999 report of the National Research Council found significant science and technology weaknesses throughout the Department of State. These shortfalls have real consequences that hamper our ability to monitor exports of military-sensitive technology and preventing proliferation of biological warfare expertise from the former Soviet Union.

Now more than ever, we must make sure we have the right people with the right skills in the right place. On January 9, 2003, the Washington Post reported that six major agencies moving into the Department of Homeland Security could lose roughly a quarter to one-half of their employees to retirement over the next five years. The data shows that about twice as many employees at these six agencies will be eligible to retire by the end of 2008 than are currently eligible. According to the data, the following percentages of employees will be eligible to retire: 59 percent at the Federal Emergency Management Agency; 54 percent of the Coast Guard; 46 percent of the U.S. Customs Service; 44 percent of the Animal and Plant Health Inspection Service; 32 percent of the Immigration and Naturalization Service; and 22 percent of the Secret Service.

An alarming 26,363 employees out of 67,166 in the six agencies would be eligible to retire in 2008. Unfortunately, the numbers for other Federal agencies are not any better.

We need programs to recruit personnel with the skills necessary to protect our country. The Homeland Security Federal Workforce Act will do just that. Today, agencies are forced to decide between funding programs and investing in their workforce. This is a no-win situation and has prevented many agencies from fully utilizing the Federal student loan repayment program which is intended to be a powerful recruitment and retention tool. The Homeland Security Federal Workforce Act expands the existing student loan repayment program by authorizing funds for key national security agencies. The Act establishes a separate fund to be administered by the Office of Personnel Management, OPM, to repay student loans for employees in national security positions who pledge to serve in the government for a minimum of three years.

In addition, our legislation would establish a National Security Service Board to oversee and implement the new National Security Fellowship Program and the National Security Service Corps. The National Security Fellowship Program is designed to fund graduate education for selected students learning skills critical to national security who agree to enter federal service on the completion of their degree.

Current employees would not be neglected. Twenty percent of fellowship slots would be reserved for Federal employees to enhance their education and training. In addition, more training opportunities would be provided to current federal employees through the National Security Service Corps. This program is designed to provide opportunities for mid-level federal employees in agencies with national security responsibilities to serve in rotational assignments to build experience and widen perspectives within the national security community.

Last March I chaired a hearing in the Subcommittee on International Security, Proliferation, and Federal Services of the Governmental Affairs Committee on this bill. Witnesses commented on the additional benefits this legislation could have on the ability of government recruitment and retention efforts. My former colleague, Representative Lee Hamilton, now the Director of the Woodrow Wilson International Center for Scholars, noted that, “Enactment of these proposals would encourage more people to enter national security positions by easing the financial sacrifices often associated with graduate study and with government service.”

The creation of the Department of Homeland Security once again raised concerns over the recruitment and retention of skilled employees in national security positions. To address these needs, Senator VOINOVICH and I successfully added an amendment to the Homeland Security Act to help alleviate problems associated with the workforce crisis facing the Federal Government. However, we must focus our efforts on recruiting and retaining employees with the technical and language skills the federal government needs the most. This legislation helps fill the holes in our recruitment and retention efforts.

As the United States Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded in 2001, “. . . the maintenance of American power in the world depends upon the quality of U.S. government personnel, civil and military, at all levels . . . The U.S. faces a broader range of national security challenges today, requiring policy analysts and intelligence personnel with expertise in more countries, regions, and issues.” The Homeland Security Federal Workforce Act will meet this challenge.

I look forward to working with my colleagues to ensure that the Federal Government has the tools to put the right people with the right skills in the right place to protect our great Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 589

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeland Security Federal Workforce Act”.

### SEC. 2. FINDINGS, PURPOSE, AND EFFECT OF LAW.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the United States requires the fullest development of the intellectual resources and technical skills of its young men and women.

(2) The security of the United States depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge.

(3) The United States finds itself on the brink of an unprecedented human capital crisis in Government. Due to increasing competition from the private sector in recruiting high-caliber individuals, Government departments and agencies, particularly those involved in national security affairs, are finding it hard to attract and retain talent.

(4) The United States must strengthen Federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels.

(5) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(6) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(7) In January 2001, the General Accounting Office reported that, at the Department of Defense “attrition among first-time enlistees has reached an all-time high. The services face shortages among junior officers, and problems in retaining intelligence analysts, computer programmers, and pilots.” The General Accounting Office also warned of the Immigration and Naturalization Service's “lack of staff to perform intelligence functions and unclear guidance for retrieving and analyzing information.”

(8) The United States Commission on National Security also cautioned that “the U.S. need for the highest quality human capital in science, mathematics, and engineering is not being met.” The Commission wrote, “we must ensure the highest caliber human capital in public service. U.S. national security depends on the quality of the people, both civilian and military, serving within the ranks of government.”

(9) The events on and after September 11th have highlighted the weaknesses in the Federal and State government's human capital and its personnel management practices, especially as it relates to our national security.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide attractive incentives to recruit capable individuals for Government and military service; and

(2) provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

(c) EFFECT OF LAW.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the collective bargaining unit status or rights of any Federal employee.

## TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN AREAS OF CRITICAL IMPORTANCE

### SEC. 101. STUDENT LOAN REPAYMENTS.

Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting after section 5379, the following:

**“§ 5379A. Pilot program for student loan repayment for Federal employees in areas of critical importance**

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.

“(2) NATIONAL SECURITY POSITION.—The term ‘national security position’ means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of the Pilot Program for Student Loan Forgiveness in Areas of Critical Importance established under this section, to involve important homeland security applications.

“(3) STUDENT LOAN.—The term ‘student loan’ means—

“(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

“(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

“(C) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

“(b) ESTABLISHMENT AND OPERATION.—

“(1) IN GENERAL.—The Director of the Office of Personnel Management shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of an agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position.

“(2) TERMS AND CONDITIONS OF PAYMENT.—Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.

“(3) PAYMENTS.—The amount paid by the agency on behalf of an employee under this section may not exceed $10,000 towards the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee must remain in such position for at least 3 years. The maximum amount that may be paid on behalf of an employee under this paragraph shall be $80,000.

“(4) LIMITATION.—Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

“(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(A) to affect student loan repayment programs existing on the date of enactment of this section;

“(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

“(C) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

“(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.

“(6) FUND.—As part of the program established under paragraph (1), the Director shall establish a fund within the Office of Personnel Management to be used by agencies to provide the repayments authorized under the program.

"(c) General Provisions.—

"(1) Coordination.—The Director of the Office of Personnel Management shall coordinate the program established under this section with the heads of agencies to recruit employees to serve in national security positions.

"(2) Reports.—

"(A) Allocation and implementation.—Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the manner in which the Director will allocate funds and implement the program under this section.

"(B) Status and success.—Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate Committees on Congress on the status of the program and its success in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

"(d) Ineligible Employees.—An employee shall not be eligible for benefits under this section if such employee—

"(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(2) does not occupy a national security position.

"(e) Terms of Agreement.—

"(1) In general.—An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee will—

"(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

"(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

"(2) Service with other agency.—The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

"(3) Recovery of amounts.—If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

"(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

"(4) Waiver.—The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

"(5) Crediting of account.—Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the fund under subsection (b)(6). Any amount so credited shall be merged with other sums in such fund and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

"(f) Termination of Repayment.—An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

"(1) separates from such agency; or

"(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

"(g) Equal Employment.—In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"(h) Additional Benefit.—Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

"(i) Appropriations Authorized.—For the purpose of enabling the Federal Government to recruit and retain employees critical to our national security pursuant to this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.

"(j) Length of Program.—The program under this section shall remain in effect for the 8-year period beginning on the date of enactment of this section. The program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

"(k) Regulations.—Not later than 2 months after the date of enactment of this section, the Director of the Office of Personnel Management shall propose regulations to carry out this section. Not later than 6 months after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary shall promulgate final regulations to carry out this section.".

## TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE

### SEC. 201. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

Subchapter VII of chapter 53 of title 5, United States Code, as amended by section 101, is further amended by inserting after section 5379A, the following:

**"§ 5379B. Fellowships for graduate students to enter federal service**

"(a) Definitions.—In this section:

"(1) Agency.—The term 'agency' means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the National Security Service Board under subsection (f).

"(2) Director.—The term 'Director' means the Director of the Office of Personnel Management.

"(3) Institution of higher education.—The term 'institution of higher education' has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(4) National security position.—The term 'national security position' means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of a program established for Fellowships for Graduate Students to Enter Federal Services as established under this section, to involve important homeland security applications.

"(5) Science.—The term 'science' means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.".

"(b) In General.—The Director shall establish and implement a program for the awarding of fellowships (to be known as 'National Security Fellowships') to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position.

"(c) Eligibility.—To be eligible to participate in the program established under subsection (b), a student shall—

"(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Director);

"(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

"(3) agree to employment with an agency or office of the Federal Government in a national security position.

"(d) Service Agreement.—In awarding a fellowship under the program under this section, the Director shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

"(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Director) and provide regularly scheduled updates to the Director on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

"(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Director; and

"(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Director, but not higher than the rate generally applied in connection with other Federal education loans.

"(e) Federal Employment Eligibility.—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Director that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Director may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less than 3 years, in the area of study for which the fellowship was awarded.

"(f) FELLOWSHIP SELECTION.—

"(1) IN GENERAL.—The Director shall consult and cooperate with the National Security Service Board established under paragraph (2) in the selection and placement of national security fellows under this section.

"(2) NATIONAL SECURITY SERVICE BOARD.—

"(A) ESTABLISHMENT OF BOARD.—There is established the National Security Service Board.

"(B) MEMBERSHIP.—The Board shall be composed of—

"(i) the Director of the Office of Personnel Management, who shall serve as the chairperson of the Board;

"(ii) the Secretary of Defense;

"(iii) the Secretary of Homeland Security;

"(iv) the Secretary of State;

"(v) the Secretary of the Treasury;

"(vi) the Attorney General;

"(vii) the Director of the Central Intelligence Agency;

"(viii) the Director of the Federal Bureau of Investigations;

"(ix) the Director of the National Security Agency;

"(x) the Secretary of Energy;

"(xi) the Director of the Office of Science and Technology Policy; and

"(xii) 2 employees, to be appointed by each of the officials described in clauses (ii) through (ix), of each Department for which such officials have responsibility for administering, of whom—

"(I) 1 shall perform senior level policy functions; and

"(II) 1 shall perform human resources functions.

"(C) FUNCTIONS.—The Board shall carry out the following functions:

"(i) Develop criteria for awarding fellowships under this section.

"(ii) Provide for the wide dissemination of information regarding the activities assisted under this section.

"(iii) Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.

"(iv) Provide the Director semi-annually with a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.

"(v) Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with the Director to make reasonable efforts to hire and place the fellow in an appropriate national security position.

"(vi) Review the administration of the program established under this section.

"(vii) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

"(viii) Carry out additional functions under section 301 of the Homeland Security Federal Workforce Act.

"(g) SPECIAL CONSIDERATION FOR CURRENT FEDERAL EMPLOYEES.—

"(1) SET ASIDE OF FELLOWSHIPS.—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

"(2) FULL- OR PART-TIME EDUCATION.—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

"(3) PART-TIME EDUCATION.—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

"(h) FELLOWSHIP SERVICE.—Any individual under this section who is employed by the Federal Government in a national security position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379A.

"(i) AMOUNT OF AWARD.—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Director, but not to exceed the sum of—

"(1) the amount of tuition paid by the fellow; and

"(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

"(j) APPROPRIATIONS AUTHORIZED.—For the purpose of enabling the Director to recruit and retain highly qualified employees in national security positions, there are authorized to be appropriated $100,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.

"(k) RULE OF CONSTRUCTION.—Noting in this section shall be construed—

"(1) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

"(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.".

## TITLE III—NATIONAL SECURITY SERVICE CORPS

### SEC. 301. NATIONAL SECURITY SERVICE CORPS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) a proficient national security workforce requires certain skills and knowledge, and effective professional relationships; and

(B) a national security workforce will benefit from the establishment of a National Security Service Corps.

(2) PURPOSES.—The purposes of this section are to—

(A) provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies;

(B) expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies;

(C) build professional relationships and contacts among the employees and agencies of the national security community; and

(D) invigorate the national security community with exciting and professionally rewarding opportunities.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term "agency" means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, and the National Security Agency.

(2) BOARD.—The term "Board" means the National Security Service Board established under section 5379B(f)(2) of title 5, United States Code.

(3) CORPS.—The term "Corps" means the National Security Service Corps.

(4) CORPS POSITION.—The term "corps position" means a position that—

(A) is a position—

(i) at or above GS–12 of the General Schedule; or

(ii) in the Senior Executive Service;

(B) the duties of which do not relate to intelligence support for policy; and

(C) is designated by the head of an agency as a Corps position.

(c) GOALS AND ADMINISTRATION.—The Board shall—

(1) formulate the goals of the Corps;

(2) resolve any issues regarding the feasibility of implementing this section;

(3) evaluate relevant civil service rules and regulations to determine the desirability of seeking legislative changes to facilitate application of the General Schedule and Senior Executive Service personnel systems to the Corps;

(4) create specific provisions for agencies regarding rotational programs;

(5) formulate interagency compacts and cooperative agreements between and among agencies relating to—

(A) the establishment and function of the Corps;

(B) incentives for individuals to participate in the Corps;

(C) professional education and training;

(D)(i) the process for competition for a Corps position;

(ii) which individuals may compete for Corps positions; and

(iii) any employment preferences an individual participating in the Corps may have when returning to the employing agency of that individual; and

(E) any other issues relevant to the establishment and continued operation of the Corps; and

(6) not later than 180 days after the date of enactment of this section, submit a report to the Office of Personnel Management on all findings and relevant information on the establishment of the Corps.

(d) CORPS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date on which the report is submitted under subsection (c)(6), the Office of Personnel Management shall publish in the Federal Register, proposed regulations describing the purpose, and providing for the establishment and operation of the Corps.

(2) COMMENT PERIOD.—The Office of Personnel Management shall provide for—

(A) a period of 60 days for comments from all stakeholders on the proposed regulations; and

(B) a period of 180 days following the comment period for making modifications to the regulations.

(3) Final Regulations.—After the 180-day period described under paragraph (2)(B), the Office of Personnel Management shall promulgate final regulations that—

(A) establish the Corps;

(B) provide guidance to agencies to designate Corps positions;

(C) provide for individuals to perform periods of service of not more than 2 years at a Corps position within agencies on a rotational basis;

(D) establish eligibility for individuals to participate in the Corps;

(E) enhance career opportunities for individuals participating in the Corps;

(F) provide for the Corps to develop a group of policy experts with broad-based experience throughout the executive branch; and

(G) provide for greater interaction among agencies with traditional national security functions.

(4) Actions by Agencies.—Not later than 180 days after the promulgation of final regulations under paragraph (3), each agency shall—

(A) designate Corps positions;

(B) establish procedures for implementing this section; and

(C) begin active participation in the operation of the Corps.

(e) Allowances, Privileges, etc.—An employee serving on a rotational basis with another agency pursuant to this section is deemed to be detailed and, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits with respect to the employee, is deemed to be an employee of the original employing agency and is entitled to the pay, allowances, and benefits from funds available to that agency.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Office of Personnel Management such sums as may be necessary to carry out this section.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SEC. 401. CONTENT OF STRATEGIC PLANS.

Section 306(a)(3) of title 5, United States Code, is amended by inserting before the semicolon the following: ", a discussion of the extent to which specific skills in the agency's human capital are needed to achieve the mission, goals and objectives of the agency, especially to the extent the agency's mission, goals and objectives are critical to ensuring the national security".

### SEC. 402. PERFORMANCE PLANS.

Section 1115(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(2) by inserting after paragraph (3) the following:

"(4) pursuant to paragraph (3), give special attention to the extent to which specific skills are needed to accomplish the performance goals and indicators that are critical to ensuring the national security;".

### SEC. 403. GOVERNMENTWIDE PROGRAM PERFORMANCE REPORTS.

Section 1116 of title 31, United States Code, is amended—

(1) in subsection (b)(1), by inserting before the period the following: ", and shall specify which performance goals and indicators are critical to ensuring the national security"; and

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by adding "and" after the semicolon; and

(C) by adding at the end the following:

"(D) whether human capital deficiencies in any way contributed to the failure of the agency to achieve the goal;".

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By Mr. HOLLINGS:

S. 592. A bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, the Department of Labor, recently released the latest unemployment results and at first blush, the 5.8 percent figure, while certainly too high, does not seem overly alarming. It is only with a look behind the numbers that some disturbing trends become apparent.

February marked the 31st consecutive month, since July 2000, that manufacturing employment has declined. This is the longest consecutive monthly decline in the post World War II era. Already, more than 2 million manufacturing jobs are gone. A generation ago, in 1974, manufacturing workers were 26 percent of the workforce, today they account for only 12.5 percent of the workforce.

For all of 2002, industrial production fell 0.6 percent following a 3.5 percent decline in 2001. That represented the first back-to-back annual declines in industrial output since 1974-1975.

Unfortunately, no end is in sight. By some measures, the manufacturing job loss is twice as bad as the last recession in the early Nineties. The 2002 Producer Price Index revealed the worst deflation in producer prices since 1949, suggesting that there is little incentive to restart the shuttered factories.

Prices for manufactured goods were down 1.5 percent in December from a year earlier. Next to a 1.6 percent year-to-year drop in November, it was the largest decline of such prices on record going back to 1958. And all this has occurred against the backdrop of 2 years of substantial fiscal stimulus and the most aggressive monetary policy in anyone's memory.

But this wasn't suppose to happen. Globalization was going to create a gentle prosperity that would create jobs, lift our standard of living and improve our communities. During the Clinton era, we entered into a series of international trade agreements, most notably NAFTA, WTO and China's entrance into the WTO, designed to increase trade and stimulate manufacturing job creation.

The second Bush administration continues this policy, trotting around the globe negotiating, free-trade agreements within every region of the world. Recently, the administration concluded agreements with Singapore and Chile.

After nearly a decade of the NAFTA/WTO free-trade experiment and after a year of "recovery", it seems appropriate to review whether this free trade era is working? The answer is clearly no.

Our factories have been swamped by a flood of imports. Each month seems to bring a record trade deficit and more stories of plants closing and moving offshore.

Our communities, particularly the rural ones, are quite literally emptying out. During the nineties, imports soared by more than 107 percent. Our trade surplus with Mexico dissolved soon after NAFTA went into effect. From 1991 to 2001, our trade deficit went from $77 billion to $427 billion, costing us hundreds of thousands of jobs.

Essentially, our trading partners are exporting their unemployment to us. Recently, Ed Yardeni, chief investment strategist of Prudential Securities, noted that while the United States currently has 16.3 million manufacturing jobs, some 20 million rural Chinese move to seek better-paying manufacturing and construction jobs in the cities, each year.

There seems to be no end in sight to pain being experienced by our manufacturing sector. Even a declining dollar is not improving our trade situation, as our factories race to re-establish overseas. It seems like recognizing where our problem is coming from would be a good first step toward solving it.

So today I introduce legislation designed to help get American manufacturing off the canvas. It is broad and wide ranging.

The legislation would eliminate the tax benefits associated with off-shore production, whether its by a United States or foreign-based company. It would eliminate the incentives for companies to move their headquarters outside of the United States. It would prevent the Export Import Bank or the Overseas Private Investment Corporation from funding any project that did not contain at least 80 percent U.S. content. It would eliminate the International Trade Commission. It would provide for an additional 500 Customs agents to enforce the tariff and quota rules associated with the textile trade. It would prohibit the sale in interstate commerce of any manufactured product made by anyone under twelve. It would reform WTO dispute settlement by establishing a panel of Federal judges to review the determinations that these dispute panels are reaching. It would express the Senate's strong support for the Byrd amendment which returns anti-dumping monies to injured parties. Finally, the legislation would extend the Buy America provisions for the Defense Department contained in the Berry amendment to the newly formed Department of Homeland Security.

It's just a start, but we have to begin the process of rejuvenating the American manufacturer.

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By Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. LEAHY, Mr. SARBANES, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Governmental Affairs.

Mr. DURBIN. Mr. President, today, with war looming with Iraq and hundreds of thousands of our troops poised for battle overseas, I would like to discuss the financial burden faced by many of the men and women who serve in the military Reserves or National Guard and who are forced to take unpaid leave from their jobs when called to active duty. Currently, there are nearly 170,000 Guard and Reservists mobilized and serving on active duty in our armed forces. While these individuals receive pay for the time they are on active duty, the salary gap between military duty and civilian work can be considerable. It is unfair to ask the men and women who have volunteered to serve their country, often in dangerous situations, to also face a financial strain on their families.

A number of employers have wisely acted to remedy this hardship by establishing financial compensation plans for their employees in the Reserves and National Guard. Many companies and State and local governments, including Ford, IBM, the State of California, Los Angeles County, and Austin, TX, recognize this burden and voluntarily pay the difference between the active duty military salary and civilian salary for these reservists. In my State of Illinois, Boeing Aerospace, State Farm Insurance, Sears, Roebuck & Company, the State of Illinois, the City of Chicago, and many other Illinois companies, local governments, and institutions cover the pay differential for Reserve and National Guard members called to active duty.

We should take similar action in Washington and set an example for employers throughout the country. Today, I am introducing with my colleague from Maryland, Senator BARBARA MIKULSKI, the Reservist Pay Security Act of 2003, legislation that will help alleviate the financial problems faced by many Federal employees who serve in the Reserves and must take time off from their jobs when our Nation calls. This bill would allow these citizen-soldiers to maintain their normal salary when called to active service by requiring Federal agencies to make up the difference between their military pay and what they would have earned on their Federal job.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large portion of their salaries. We must provide our reservist employees with financial support so they can leave their civilian lives to serve our country without the added burden of worrying about the financial well-being of their families. They are doing so much for us; we should do no less for them.

I urge my colleagues to join me in cosponsoring this important legislation.

Ms. MIKULSKI. Mr. President, yesterday I spoke on the floor about supporting our armed forces. Support for our troops is particularly important today as our soldiers, sailors, airmen and marines are deployed for possible war with Iraq. We must express our support not only with words, but with deeds. We owe that to our armed forces.

Our brave men and women of the National Guard and Reserves are experiencing hardships as a result of recent mobilizations. I believe we should do everything we can to reduce unnecessary financial burdens on members of the military, especially when they are putting themselves in harm's way to protect our great Nation.

We must stand up for our military; we must also stand up for their families. Our troops will face grave danger. They should not have to face fear for their families, and particularly they should not have to worry about their families' finances.

Though America is on the brink of war, American military families must never be on the brink of bankruptcy. That is why we, in the Senate, must take immediate steps to support military families.

Today, I am proud to cosponsor the Reservists Pay Security Act with my colleague Senator DICK DURBIN. Senator DURBIN introduced a similar bill in the House, and I introduced it in the Senate during Desert Storm in 1991. It was the right thing to do then, and it is the right thing to do now. I'm proud to work together again on this worthy cause.

The Reservists Pay Security Act of 2003 would ensure that Federal employees who take leave to serve in our military reserves receive the same pay as if no interruption in their employment occurred. Why start with Federal employees? Well, many large companies and local governments continue to pay the full salary of their employees when they are activated. I applaud those excellent corporate citizens and those local governments. Some of the largest employers in my own State are also meeting that responsibility. The Federal Government should be a model employer and set the example for large businesses. This should be a first step.

I believe we should move quickly to pass this bill because many members of the Guard and Reserves do work for the Federal Government in highly specialized areas. But the Federal Government needs to do more than that. We need to take a look at those who work for small business and those who are self-employed. A call for duty will be responded to, but a call for duty time and time again in a single-year period places the responsibility on the family. American families should never subsidize our war effort. We should be looking out for those families.

We owe reservists our support and a debt of gratitude. This bill is a step toward achieving that. I urge my colleagues to join us and enact this important legislation for the men and women of our National Guard and Reserves.

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By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. COCHRAN, and Mrs. MURRAY):

S. 594. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on the Indian Affairs.

Mr. JOHNSON. Mr. President, I, along with Senators DASCHLE, CAMPBELL, COCHRAN, and MURRAY introduce the Indian School Construction Act. This legislation establishes an innovative funding mechanism to enhance the ability of Indian tribes to construct, repair, and maintain quality educational facilities.

For education construction in fiscal year 2004, President Bush proposes a total of $292.6 million, the same level as was requested in FY 2003. Of this total, $131.4 million is for new school construction to replace seven trial schools on the BIA Priority List, one of those is in my home state of South Dakota. While I am pleased that seven schools will be replaced this year, there are literally dozens of schools that are in desperate need of replacement and repair. Simply, the process for replacing schools does not meet the need.

American Indians have been, and continue to be disproportionately affected by both poverty and low educational achievement. The fact that children are expected to learn despite inadequate educational facilities undoubtedly contributes to this disparity.

This bill provides a mechanism whereby an escrow account will be set up with a one time appropriation. Money would be placed in the escrow account and the tribal governments could use that account to issue bonds for purposes of constructing elementary and secondary schools. This allows tribal governments an opportunity to construct schools, even if the schools are low on the BIA priority list and are not slated for immediate construction under the direct appropriation process. Ultimately, this would mean that our children can learn in a better environment more quickly.

I urge my colleagues to closely examine the Indian School Construction Act and join me in working to make this innovative funding mechanism a reality.

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By Mr. HATCH (for himself, Mr. BREAUX, Mr. ALLARD, Ms. COLLINS, Mr. SUNUNU, and Ms. SNOWE):

S. 595. A bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, on behalf of myself and Senator BREAUX, I rise today to introduce the Housing Bond and Credit Modernization and Fairness Act of 2003. We are joined in this legislation by Senators ALLARD, COLLINS, SUNUNU, and SNOWE.

This bill will bring about important modifications to two important and popular Federal affordable housing programs—Housing Bonds, or single family Mortgage Revenue Bonds, MRBs, as they are commonly known, and the Low Income Housing Tax Credit. My long-time partnership on these issues with Senator BREAUX is one indication of the broad bipartisan support enjoyed by these programs. Another is the fact that our identical bill in the 107th Congress attracted 79 members of this body as cosponsors.

These programs are popular because they are state-administered, federal tax incentives designed to encourage private investment in first-time homebuyer mortgages for low and moderate-income families and privately developed and owned apartments for low-income renters. Moreover, they have a proven track record of being effective in providing housing to families who need it.

As with most things, however, these programs could use some improvements. Specifically, the current law governing these two housing programs includes some obsolete provisions that act as barriers and limit their effectiveness. The legislation we are introducing today would modernize these programs and remove these barriers.

The Housing Bond and Credit Modernization and Fairness Act does three things.

First, it repeals the so-called "Ten-Year Rule," a provision added to the MRB program in 1988 that prevents States from using homeowner payments on such mortgages to make new mortgages to additional qualified purchasers. For each day the Ten-Year Rule is in effect, States lose millions of dollars in financing for first-time homebuyer mortgages, amounting to more than $14 billion in mortgage authority between 2001 and 2005. This barrier keeps tens of thousands of additional qualified lower income homebuyers from getting an affordable MRB-financed mortgage, including many in my home State of Utah. Our bill eliminates the Ten-Year Rule to allow States to use mortgage payments to finance additional lower income mortgages.

Second, it replaces the present unworkable price limit for homes these mortgages can finance with a simple limit that works. Let me explain. Current law limits the price of homes purchased with MRB-financed mortgages to 90 percent of the average area home price. States have the option of determining their own purchase price limits or relying on Treasury-published safe harbor limits.

Most States have relied on the Treasury limits because it is costly and burdensome to collect accurate and comprehensive sales price data. The problem is that the Treasury Department has not been providing recent data. This has especially been a problem for states, such as Utah, with many rural areas. In fact, Treasury last issued safe harbor limits in 1994, based on 1993 data. Home prices have risen significantly in the past ten years. This means that the MRB program simply cannot work in many parts of many states because qualified buyers cannot find homes priced below the outdated limits. To have an outdated and unworkable requirement that holds back the families that this program is designed to help is poor public policy that cries out for remedy.

The answer, which is included in our bill, is to replace the present limit, set in Washington, by a simple formula limiting the purchase price to three and a half times the qualifying income under the program.

Finally, the bill makes Housing Credit apartment production viable in rural areas by allowing States to use statewide median incomes as the basis for the income limits in that program. This change would apply the same methodology for determining qualifying income levels used in the MRB Program. HUD data shows that current income limits inhibit Housing Credit development in more than 1,300 nonmetropolitan counties across the country.

I am pleased to tell my colleagues that the changes proposed by the Housing Bond and Credit Modernization and Fairness Act have been endorsed by the bipartisan National Governors Association, the National Council of State Housing Agencies, and nearly every major national housing organization. These groups know how important the Housing Bond and Housing Credit programs are in giving States the ability to meet the housing needs of low and moderate-income families.

The Housing Credit and the MRB programs work and they are important to each State. This bill gives the Congress a golden opportunity to create new housing opportunities for tens of thousands of low and moderate-income families every year, simply by improving these existing and proven programs. I encourage my colleagues to join this bipartisan effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 595

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Housing Bond and Credit Modernization and Fairness Act of 2003".

**SEC. 2. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.**

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) of the Internal Revenue Code of 1986 (defining qualified mortgage issue) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking "(and clause (iv) of subparagraph (A))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

**SEC. 3. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.**

(a) IN GENERAL.—Paragraph (1) of section 143(e) of the Internal Revenue Code of 1986 (relating to purchase price requirement) is amended to read as follows:

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

"(A) 90 percent of the average area purchase price applicable to the residence, or

"(B) 3.5 times the applicable median family income (as defined in subsection (f))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

**SEC. 4. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.**

(a) IN GENERAL.—Paragraph (4) of section 42(g) of the Internal Revenue Code of 1986 (relating to certain rules made applicable) is amended by striking the period at the end and inserting "and the term 'area median gross income' means the amount equal to the greater of—

"(A) the area median gross income determined under section 142(d)(2)(B), or

"(B) the statewide median gross income for the State in which the project is located."

(b) Effective Date.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

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By Mr. ENSIGN (for himself, Mrs. Boxer, Mr. Smith, Mr. Allen, Mr. Enzi, and Mr. Bayh):

S. 596. A bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation; to the Committee on Finance.

Mr. ENSIGN. Mr. President. I rise today with my colleagues Senator Boxer, Senator Smith, Senator Allen, Senator Enzi and Senator Bayh to introduce The Invest in the U.S.A. Act of 2003 to stimulate job growth and investment in the American economy.

Under current tax law, American companies doing business overseas are discouraged from bringing their earnings back home because those earnings are subject to up to a 35-percent rate of taxation. Specifically, our government imposes taxes on American companies when its foreign subsidiary earnings are brought back to the United States, to the extent of any shortfall in the tax paid abroad and the 35-percent U.S. tax rate. Therefore, many businesses do the math and conclude that it would be more beneficial to invest 100 percent of those earnings abroad than it would be to bring the funds home to be reinvested in the American economy.

Our proposal is a sensible, fiscally responsible way to provide immediate investment in the American economy. Specifically, the Invest in the U.S.A. Act bill will allow domestic corporations doing business abroad to bring their foreign earnings home by imposing a 5.25-percent toll tax on dividends in excess of normal distributions for only one year. Companies must reinvest these funds in the United States in an approved investment plan to take advantage of the lowered rate. Finally, domestic shareholders would permanently surrender the right to claim foreign tax credits for 85 percent of foreign income taxes associated with dividends subject to the 5.25-percent tax, as well as exclude 85 percent of income subject to the 5.25-percent tax from the calculation of the foreign tax credit limitation ensuring that no American company will be taxed less than 5.25 percent.

Lowering the tax burden on foreign subsidiary income for a limited time will open the floodgates for privately held foreign funds to be brought back into the American economy to provide immediate economic stimulus. According to the Joint Committee on Taxation, the Invest in the U.S.A. Act will not only increase receipts to the U.S. Treasury in the first year by $4.1 billion but also inject an additional $135 billion of privately held funds into the U.S. economy that will be an immediate stimulus to our economy at a cost of only $3.9 billion over 10 years—less than 3 percent of the overall gain this legislation will have to the American economy.

These funds can be used to create more jobs for American workers, solidify corporate pension and retirement funds, invest in manufacturing equipment and research and development, and reduce domestic debt loads thereby increasing employee and shareholder dividends. American jobs depend on American companies, and this proposal will accomplish that objective. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 596

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Invest in the U.S.A. Act of 2003".

**SEC. 2. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

(a) In General.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

"(a) Toll Tax Imposed on Excess Qualified Foreign Distribution Amount.—If a corporation elects the application of this section for any taxable year, a tax shall be imposed for such taxable year in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount for such taxable year, plus

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

"(b) Excess Qualified Foreign Distribution Amount.—For purposes of this section—

"(1) In general.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, such as for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) Base dividend amount.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) Fixed base period.—

"(A) In general.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) Shorter period.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Dividends.—The term 'dividend' means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

"(2) Controlled foreign corporations and United States shareholders.—The term 'controlled foreign corporation' shall have the same meaning as under section 957(a) and the term 'United States shareholder' shall have the same meaning as under section 951(b).

"(3) Foreign tax credits.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

"(4) Foreign tax credit limitation.—For all purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the timely filed income tax return for the taxpayer's first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

Mrs. BOXER. Today, Senator ENSIGN and I are introducing the Invest in the U.S.A. Act of 2003 along with Senators SMITH, ALLEN, ENZI, and BAYH. This economic stimulus legislation would create a one-year incentive for corporations to bring the profits they have made overseas back to the United States and invest them in creating jobs.

The act lowers the effective corporate tax rate on the foreign earnings of American companies from 35 percent to 5.25 percent for one year. By lowering that rate for one year, we will encourage companies to bring an estimated $135 billion from abroad back home to invest in the United States. Getting this capital into the domestic economy is particularly necessary in light of the difficulties firms are having raising money in this tough economy. By making this capital available for domestic investment, we will minimize the spending cuts that companies have been announcing for the coming year.

The Invest in the U.S.A. Act would constitute a true economic stimulus by encouraging investment and job creation right away in such activities as worker hiring and training, research and development, and new plants.

Our proposal is also fiscally responsible, unlike other proposals that fail to give the economy the shot in the arm it needs. It will result in job creation rather than deficit creation by enabling a tremendous amount of investment in our economy in the short term with only a small cost in the long term. For Government, the funds brought back to the United States will generate $4.1 billion in revenues in the first year and is expected to cost $3.9 billion over 10 years.

I want to thank Senator ENSIGN for his active, engaged leadership on this legislation. I particularly appreciate Senator ENSIGN's focus on ensuring that these funds will be targeted at creating jobs and stimulating our economy right away.

Mr. President, we will work hard to ensure that the provisions in this act are included in any economic growth package that the Senate considers because our workers need the opportunities it would create and our economy needs the capital it would generate.

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By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN):

S. 597. A bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased that today we offer a bipartisan energy tax incentives package for the 108th Congress. I have been joined in this introduction by not only Ranking Member of the Finance Committee, Senator BAUCUS, but also the Chairman and the Ranking Member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN as original sponsors of the Energy Tax Incentives Act of 2003, which we are introducing today.

This bill is substantially similar to the Energy Tax Incentives Bill which won overwhelming support on the floor of the Senate last April. It continues to represent a balanced package of alternative energy, traditional energy production and energy efficiency incentives. As we move forward towards a Mark-up of an energy tax bill by the Finance Committee, this bill represents a starting point. We hope over the next few weeks to be able to incorporate some of the new and improved versions of some of the provisions that we developed over the many months of conference during the last Congress.

I remain committed to diverse sources of energy and electricity, to include the production of electricity for wind and agricultural waste nutrients. In addition this bill reflects my continued interest in biodiesel and provisions to support small ethanol producers. I look forward to working with the Sponsors to craft a responsive bipartisan energy tax package.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 597

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Energy Tax Incentives Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Three-year extension of credit for producing electricity from wind and poultry waste.
Sec. 102. Credit for electricity produced from biomass.
Sec. 103. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.
Sec. 104. Treatment of persons not able to use entire credit.
Sec. 105. Credit for electricity produced from small irrigation power.
Sec. 106. Credit for electricity produced from municipal biosolids and recycled sludge.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.
Sec. 202. Modification of credit for qualified electric vehicles.
Sec. 203. Credit for installation of alternative fueling stations.
Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.

Sec. 205. Small ethanol producer credit.
Sec. 206. All alcohol fuels taxes transferred to Highway Trust Fund.
Sec. 207. Increased flexibility in alcohol fuels tax credit.
Sec. 208. Incentives for biodiesel.
Sec. 209. Credit for taxpayers owning commercial power takeoff vehicles.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Allowance of deduction for qualified new or retrofitted energy management devices.
Sec. 307. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.
Sec. 310. Allowance of deduction for qualified new or retrofitted water submetering devices.
Sec. 311. Three-year applicable recovery period for depreciation of qualified water submetering devices.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of geological and geophysical expenditures.
Sec. 508. Amortization of delay rental payments.
Sec. 509. Study of coal bed methane.
Sec. 510. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 511. Natural gas distribution lines treated as 15-year property.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 601. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.
Sec. 602. Modifications to special rules for nuclear decommissioning costs.
Sec. 603. Treatment of certain income of cooperatives.
Sec. 604. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.
Sec. 605. Treatment of certain development income of cooperatives.

TITLE VII—ADDITIONAL PROVISIONS

Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Credit for production of Alaska natural gas.
Sec. 704. Sale of gasoline and diesel fuel at duty-free sales enterprises.
Sec. 705. Clarification of excise tax exemptions for agricultural aerial applicators.
Sec. 706. Modification of rural airport definition.
Sec. 707. Exemption from ticket taxes for transportation provided by seaplanes.

## TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

### SEC. 101. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking "January 1, 2004" and inserting "January 1, 2007".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 102. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CLOSED-LOOP BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal or other biomass before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

"(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

"(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.", and

(2) by adding at the end the following new subparagraph:

"(D) BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

"(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

"(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

"(II) the 3-year period beginning after the date of the enactment of this subparagraph, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.".

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(D) biomass (other than closed-loop biomass).".

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

"(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

"(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.".

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.".

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting "AND SPECIAL RULES" after "DEFINITIONS".

(2) The heading for subsection (d) of section 45 is amended by inserting "ADDITIONAL" before "DEFINITIONS".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 103. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

"(E) swine and bovine waste nutrients,

"(F) geothermal energy, and

"(G) solar energy.".

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

"(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

"(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).".

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

"(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

"(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

"(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 104. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).", and

(5) by striking "TAX-EXEMPT BONDS," in the heading and inserting "CERTAIN".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 105. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) small irrigation power.".

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.".

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 106. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

"(I) municipal biosolids, and

"(J) recycled sludge.".

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

“(I) RECYCLED SLUDGE FACILITY.—

“(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

“(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.”.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

“(9) MUNICIPAL BIOSOLIDS.—The term ‘municipal biosolids’ means the residue or solids removed by a municipal wastewater treatment facility.

“(10) RECYCLED SLUDGE.—

“(A) IN GENERAL.—The term ‘recycled sludge’ means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

“(B) RECYCLED.—The term ‘recycled’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

### SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

### “SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

“(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

“(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

“(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

“(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(2) INCREASE FOR FUEL EFFICIENCY.—

“(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

“(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

“(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

“(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) In the case of a passenger automobile:

| **“If vehicle inertia weight class is:** | **The 2002 model year city fuel economy is:** |
|---|---|
| 1,500 or 1,750 lbs | 45.2 mpg |
| 2,000 lbs | 39.6 mpg |
| 2,250 lbs | 35.2 mpg |
| 2,500 lbs | 31.7 mpg |
| 2,750 lbs | 28.8 mpg |
| 3,000 lbs | 26.4 mpg |
| 3,500 lbs | 22.6 mpg |
| 4,000 lbs | 19.8 mpg |
| 4,500 lbs | 17.6 mpg |
| 5,000 lbs | 15.9 mpg |
| 5,500 lbs | 14.4 mpg |
| 6,000 lbs | 13.2 mpg |
| 6,500 lbs | 12.2 mpg |
| 7,000 to 8,500 lbs | 11.3 mpg. |

“(ii) In the case of a light truck:

| **“If vehicle inertia weight class is:** | **The 2002 model year city fuel economy is:** |
|---|---|
| 1,500 or 1,750 lbs | 39.4 mpg |
| 2,000 lbs | 35.2 mpg |
| 2,250 lbs | 31.8 mpg |
| 2,500 lbs | 29.0 mpg |
| 2,750 lbs | 26.8 mpg |
| 3,000 lbs | 24.9 mpg |
| 3,500 lbs | 21.8 mpg |
| 4,000 lbs | 19.4 mpg |
| 4,500 lbs | 17.6 mpg |
| 5,000 lbs | 16.1 mpg |
| 5,500 lbs | 14.8 mpg |
| 6,000 lbs | 13.7 mpg |
| 6,500 lbs | 12.8 mpg |
| 7,000 to 8,500 lbs | 12.1 mpg. |

“(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term ‘vehicle inertia weight class’ has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified fuel cell motor vehicle’ means a motor vehicle—

“(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

“(B) which, in the case of a passenger automobile or light truck—

“(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(C) the original use of which commences with the taxpayer,

“(D) which is acquired for use or lease by the taxpayer and not for resale, and

“(E) which is made by a manufacturer.

“(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

“(2) CREDIT AMOUNT.—

“(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

“(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

| **“If percentage of the maximum available power is:** | **The credit amount is:** |
|---|---|
| At least 4 percent but less than 10 percent. | $250 |
| At least 10 percent but less than 20 percent. | $500 |
| At least 20 percent but less than 30 percent. | $750 |
| At least 30 percent | $1,000. |

“(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

‘‘(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

| “If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $1,000 |
| At least 30 percent but less than 40 percent. | $1,750 |
| At least 40 percent but less than 50 percent. | $2,000 |
| At least 50 percent but less than 60 percent. | $2,250 |
| At least 60 percent | $2,500. |

‘‘(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

| “If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $4,000 |
| At least 30 percent but less than 40 percent. | $4,500 |
| At least 40 percent but less than 50 percent. | $5,000 |
| At least 50 percent but less than 60 percent. | $5,500 |
| At least 60 percent | $6,000. |

‘‘(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

| “If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $6,000 |
| At least 30 percent but less than 40 percent. | $7,000 |
| At least 40 percent but less than 50 percent. | $8,000 |
| At least 50 percent but less than 60 percent. | $9,000 |
| At least 60 percent | $10,000. |

‘‘(B) INCREASE FOR FUEL EFFICIENCY.—

‘‘(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

‘‘(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

‘‘(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

‘‘(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

‘‘(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

‘‘(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

‘‘(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

‘‘(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

‘‘(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

‘‘(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

| “If the model year is: | The increased credit amount is: |
|---|---|
| 2003 | $3,000 |
| 2004 | $2,500 |
| 2005 | $2,000 |
| 2006 | $1,500. |

‘‘(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

| “If the model year is: | The increased credit amount is: |
|---|---|
| 2003 | $7,750 |
| 2004 | $6,500 |
| 2005 | $5,250 |
| 2006 | $4,000. |

‘‘(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

| “If the model year is: | The increased credit amount is: |
|---|---|
| 2003 | $12,000 |
| 2004 | $10,000 |
| 2005 | $8,000 |
| 2006 | $6,000. |

‘‘(D) DEFINITIONS.—

‘‘(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term ‘applicable heavy duty hybrid motor vehicle’ means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

‘‘(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

‘‘(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.

‘‘(II) A rechargeable energy storage system.

‘‘(iii) MAXIMUM AVAILABLE POWER.—

‘‘(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

‘‘(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

‘‘(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

‘‘(A) which draws propulsion energy from onboard sources of stored energy which are both—

‘‘(i) an internal combustion or heat engine using combustible fuel, and

‘‘(ii) a rechargeable energy storage system,

‘‘(B) which, in the case of a passenger automobile or light truck—

‘‘(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

‘‘(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

‘‘(C) the original use of which commences with the taxpayer,

‘‘(D) which is acquired for use or lease by the taxpayer and not for resale, and

‘‘(E) which is made by a manufacturer.

‘‘(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

‘‘(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

‘‘(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

‘‘(A) 40 percent, plus

‘‘(B) 30 percent, if such vehicle—

‘‘(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

‘‘(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

‘‘(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

‘‘(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

‘‘(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8.500 pounds but not more than 14,000 pounds,

‘‘(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

‘‘(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of, the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(5).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3)".

(3) Section 6501(m) is amended by inserting "30B(f)(10)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard

500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

"(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(ii) $1,500.

"(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) $3,500, or

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(3) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(C) The heading of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e)".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

### "SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

| **"In the case of any taxable year ending in—** | **The applicable amount is—** |
|---|---|
| 2003 | 30 cents |
| 2004 | 40 cents |
| 2005 and 2006 | 50 cents. |

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

"(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause

(II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) Small ethanol producer credit not added back to income under section 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

**"SEC. 87. ALCOHOL FUEL CREDIT.**

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) Conforming Amendment.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) Cross Reference.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 206. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) In General.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) Effective Date.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

**SEC. 207. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.**

(a) Alcohol Fuels Credit May Be Transferred.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

"(i) Credit May Be Transferred.—

"(1) In general.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

"(2) Qualified assignee.—For purposes of this subsection, the term 'qualified assignee' means any person who—

"(A) is liable for taxes imposed under section 4081,

"(B) is required to register under section 4101, and

"(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

"(3) Regulations.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.".

(b) Alcohol Fuels Credit May Be Taken Against Motor Fuels Tax Liability.—

(1) In general.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

**"SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.**

"(a) Election To Use Credit Against Motor Fuels Taxes.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

"(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

"(2) the taxpayer or qualified assignee elects to claim such credit under this section.

"(b) Election Irrevocable.—Any election under subsection (a) shall be irrevocable.

"(c) Required Statement.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

"(d) Regulations.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.".

(2) Conforming amendment.—Section 40(c) is amended by striking "or section 4091(c)" and inserting "section 4091(c), or section 4104".

(3) Clerical amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Credit against motor fuels taxes.".

(c) Effective Date.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

**SEC. 208. INCENTIVES FOR BIODIESEL.**

(a) Credit for Biodiesel Used as a Fuel.—

(1) In general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

**"SEC. 40B. BIODIESEL USED AS FUEL.**

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) Definition of Biodiesel Mixture Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) Biodiesel mixture rate.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

"(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

"(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

"(2) Qualified biodiesel mixture.—

"(A) In general.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(B) Sale or use must be in trade or business, etc.—

"(i) In general.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

"(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(II) for the taxable year in which such sale or use occurs.

"(ii) Certification for biodiesel v.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

"(C) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) Coordination With Exemption From Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel v defined.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

"(2) Biodiesel nv defined.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

"(3) Registration requirements.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

"(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(ii) the requirements of the American Society of Testing and Materials D6751.

"(2) Biodiesel mixture not used as a fuel, etc.—

"(A) Imposition of tax.—If—

"(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(3) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Election To Have Biodiesel Fuels Credit Not Apply.—

"(1) In general.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) Time for making election.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) Manner of making election.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) Termination.—This section shall not apply to any fuel sold after December 31, 2005.".

(2) Credit treated as part of general business credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) Conforming amendments.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before January 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) Reduction of Motor Fuel Excise Taxes on Biodiesel V Mixtures.—

(1) In general.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) Biodiesel V Mixtures.—Under regulations prescribed by the Secretary—

"(1) In general.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) Tax prior to mixing.—

"(A) In general.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) Determination of rate.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

"(3) Definitions.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) Conforming amendments.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) Biodiesel V Mixtures.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Biodiesel V Mixtures.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) Effective date.—The amendments made by this subsection shall apply to any fuel sold after the date of the enactment of this Act, and before January 1, 2006.

(c) Highway Trust Fund Held Harmless.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

### SEC. 209. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 703, is amended by adding at the end the following new section:

### "SEC. 45N. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) General Rule.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) Definitions.—For purposes of this section—

"(1) Qualified commercial power takeoff vehicle.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) Highway vehicle described.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) Exception for Vehicles Used by Governments, Etc.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) Denial of Double Benefit.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

"(e) Termination.—This section shall not apply with respect to any calendar year after 2004.".

(b) Credit Made Part of General Business Credit.—Subsection (b) of section 38 (relating to general business credit), as amended by section 703, is amended by striking "plus" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", plus", and by adding at the end the following new paragraph:

"(25) the commercial power takeoff vehicles credit under section 45N(a).".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 703, is amended by adding at the end the following new item:

"Sec. 45N. Commercial power takeoff vehicles credit.".

(d) Regulations.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

## TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

### SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) In General.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,250, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

"(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

"(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

"(B) exterior windows (including skylights) and doors.

"(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—

"(I) heated by the same energy source and heating system type, and

"(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the new energy efficient home credit determined under section 45G(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).".

(d) Limitation on Carryback.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) No carryback of new energy efficient home credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.".

(e) Deduction for Certain Unused Business Credits.—Subsection (c) of section 196, as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45G(a).".

(f) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45G. New energy efficient home credit.".

(g) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

### SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) General Rule.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(b) Applicable Amount; Eligible Production.—For purposes of subsection (a)—

"(1) Applicable amount.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

"(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

"(2) Eligible production.—

"(A) In general.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

"(B) Categories.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii), and

"(iv) refrigerators described in paragraph (1)(B)(ii).

"(c) Limitation on Maximum Credit.—

"(1) In general.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

"(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

"(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

"(2) Limitation based on gross receipts.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) Gross receipts.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) Definitions.—For purposes of this section—

"(1) Qualified energy efficient appliance.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

"(2) Clothes washer.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) Refrigerator.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) Special Rules.—

"(1) In general.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) Verification.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) Termination.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.".

(b) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of energy efficient appliance credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.".

(c) Conforming Amendment.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the energy efficient appliance credit determined under section 45H(a).".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45H. Energy efficient appliance credit.".

(e) Effective Date.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

### "SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in subsection (d)(1),

"(B) $2,000 for property described in subsection (d)(2),

"(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

"(D) $2,000 for property described in subsection (d)(5), and

"(E) for property described in subsection (d)(6)—

"(i) $75 for each electric heat pump water heater,

"(ii) $250 for each electric heat pump,

"(iii) $250 for each advanced natural gas furnace,

"(iv) $250 for each central air conditioner,

"(v) $75 for each natural gas water heater, and

"(vi) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, "(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

"(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

"(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is

amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25Cs," after "sections 23".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

### SEC. 304. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 30 percent of the basis of such property, or

"(II) $500 for each 0.5 kilowatt of capacity of such property.

"(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term "qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

"(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 10 percent of the basis of such property, or

"(II) $200 for each kilowatt of capacity of such property.

"(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

"(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

"(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

"(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.".

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

### SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

### "SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

"(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1-1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

"(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

"(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

"(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

"(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

"(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1-1999, or

“(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

“(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

“(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

“(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

“(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

“(I) Natural ventilation.

“(II) Evaporative cooling.

“(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

“(IV) Daylighting.

“(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

“(VI) Improved fan system efficiency, including reductions in static pressure.

“(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

“(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

“(C) Computer software.—

“(i) In general.—Any calculation under this paragraph shall be prepared by qualified computer software.

“(ii) Qualified computer software.—For purposes of this subparagraph, the term ‘qualified computer software’ means software—

“(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

“(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

“(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

“(3) Allocation of deduction for public property.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

“(4) Notice to owner.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

“(5) Certification.—

“(A) In general.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(B) Qualified individuals.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

“(C) Proficiency of qualified individuals.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

“(e) Basis Reduction.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

“(f) Regulations.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

“(g) Termination.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

“(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

“(2) the construction of which is not completed on or before December 31, 2009.”.

(b) Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

“(32) to the extent provided in section 179B(e).”.

(2) Section 1245(a) is amended by inserting “179B,” after “179A,” both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence “or by section 179B”.

(4) Section 263(a)(1) is amended by striking “or” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, or”, and by inserting after subparagraph (H) the following new subparagraph:

“(I) expenditures for which a deduction is allowed under section 179B.”.

(5) Section 312(k)(3)(B) is amended by striking “or 179A” each place it appears in the heading and text and inserting “, 179A, or 179B”.

(c) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

“Sec. 179B. Energy efficient commercial buildings deduction.”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 306. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

### “SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

“(a) Allowance of Deduction.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

“(b) Maximum Deduction.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

“(c) Qualified Energy Management Device.—The term ‘qualified energy management device’ means any tangible property to which section 168 applies if such property is a meter or metering device—

“(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

“(2) which permits reading of energy price and usage signals on at least a daily basis.

“(d) Property Used Outside the United States Not Qualified.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

“(e) Basis Reduction.—

“(1) In general.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

“(2) Ordinary income recapture.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.”.

(b) Conforming Amendments.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking “or” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, or”, and by inserting after subparagraph (I) the following new subparagraph:

“(J) expenditures for which a deduction is allowed under section 179C.”.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking “or 179B” each place it appears in the heading and text and inserting “, 179B, or 179C”.

(3) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “, and”, and by adding at the end the following new paragraph:

“(33) to the extent provided in section 179C(e)(1).”.

(4) Section 1245(a), as amended by this Act, is amended by inserting “179C,” after

“179B,” both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

“Sec. 179C. Deduction for qualified new or retrofitted energy management devices.”.

(c) Effective Date.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In General.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) any qualified energy management device.”.

(b) Definition of Qualified Energy Management Device.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

“(15) Qualified energy management device.—The term ‘qualified energy management device’ means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.”.

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking “or” at the end of clause (ii), by adding “or” at the end of clause (iii), and by inserting after clause (iii) the following new clause:

“(iv) combined heat and power system property,”.

(b) Combined Heat and Power System Property.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) Combined heat and power system property.—For purposes of this subsection—

“(A) Combined heat and power system property.—The term ‘combined heat and power system property’ means property comprising a system—

“(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

“(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

“(iii) which produces—

“(I) at least 20 percent of its total useful energy in the form of thermal energy, and

“(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

“(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(v) which is placed in service after the date of the enactment of this paragraph, and before January 1, 2007.

“(B) Special rules.—

“(i) Energy efficiency percentage.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

“(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

“(II) the denominator of which is the lower heating value of the primary fuel source for the system.

“(ii) Determinations made on Btu basis.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

“(iii) Input and output property not included.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(iv) Public utility property.—

“(I) Accounting rule for public utility property.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) Certain exception not to apply.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

“(v) Nonapplication of certain rules.—For purposes of determining if the term ‘combined heat and power system property’ includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

“(C) Extension of depreciation recovery period.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.”.

(c) No Carryback of Energy Credit Before Effective Date.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

“(15) No carryback of energy credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.”.

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

### “SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

“(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

“(b) Limitations.—

“(1) Maximum credit.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

“(2) Prior credit amounts for taxpayer on same dwelling taken into account.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

“(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) Qualified Energy Efficiency Improvements.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

“(1) such component or combination of measures is installed in or on a dwelling—

“(A) located in the United States, and

“(B) owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

“(2) the original use of such component or combination of measures commences with the taxpayer, and

“(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) Certification.—

"(1) Methods of certification.—

"(A) Component-based method.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) Performance-based method.—

"(i) In general.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) Provider.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) Form.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) Building envelope component.—The term 'building envelope component' means—

"(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) Manufactured homes included.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) Application of Section.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) Limitation based on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) Additional Conforming Amendments.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25D," after "sections 25C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25D," after "25C,".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting "; and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

### SEC. 310. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by section 503, is amended by inserting after section 179D the following new section:

### "SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

"(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

"(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

"(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

"(2) which permits reading of water price and usage signals on at least a daily basis.

"(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(f) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 503, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by inserting after subparagraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.".

(2) Section 312(k)(3)(B), as amended by section 503, is amended by striking "or 179D" each place it appears in the heading and text and inserting ", 179D, or 179E".

(3) Section 1016(a), as amended by section 503, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179E(f)(1).".

(4) Section 1245(a), as amended by section 503, is amended by inserting "179E," after "179D," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by section 503, is amended by inserting after the item relating to section 179D the following new item:

"Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 311. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE IV—CLEAN COAL INCENTIVES

### Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

### SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

"(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

"(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

"(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

"(B) uses coal to produce 75 percent or more of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) POLLUTION CONTROL REQUIREMENTS.—

"(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) Design net heat rate.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate X [1- {((12,000-design coal heat content, Btu per pound)/1,000) X 0.013}], and

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) Application of certain rules.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(7) Inflation adjustment factor.—

"(A) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

"(B) GDP implicit price deflator.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

"(8) Noncompliance with pollution laws.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) National Limitation on the Aggregate Capacity of Qualifying Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible, and

"(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) Credit Treated as Business Credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the qualifying clean coal technology production credit determined under section 45I(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) No carryback of section 45I credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45I. Credit for production from a qualifying clean coal technology unit.".

(e) Effective Date.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

## Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

### SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) Allowance of Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) Amount of Qualifying Advanced Clean Coal Technology Unit Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

### "SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) Qualifying Advanced Clean Coal Technology Unit.—

"(1) In general.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

"(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(ii) which is acquired through purchase (as defined by section 179(d)(2)),

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) Special rule for sale-leasebacks.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

"(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

"(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45I(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting "(2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

### SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

"(A) In the case of a unit originally placed in service before 2009, if—

| "The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 8,400 .... | $.0060 | $.0038 |
| More than 8,400 but not more than 8,550. | $.0025 | $.0010 |
| More than 8,550 but less than 8,750. | $.0010 | $.0010. |

"(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| "The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7.770 .... | $.0105 | $.0090 |
| More than 7,770 but not more than 8,125. | $.0085 | $.0068 |
| More than 8,125 but less than 8,350. | $.0075 | $.0055. |

"(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

| "The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7.380 .... | $.0140 | $.0115 |
| More than 7,380 but not more than 7,720. | $.0120 | $.0090. |

"(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(A) In the case of a unit originally placed in service before 2009, if—

| "The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 40.6 percent. | $.0060 | $.0038 |
| Less than 40.6 but not less than 40 percent. | $.0025 | $.0010 |
| Less than 40 but not less than 39 percent. | $.0010 | $.0010. |

"(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| "The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 43.6 percent. | $.0105 | $.0090 |
| Less than 43.6 but not less than 42 percent. | $.0085 | $.0068 |
| Less than 42 but not less than 40.9 percent. | $.0075 | $.0055. |

"(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

| "The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 44.2 percent. | $.0140 | $.0115 |
| Less than 44.2 but not less than 43.9 percent. | $.0120 | $.0090. |

"(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45I or

48A shall have the meaning given such term in such section.

"(2) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.".

(b) Credit Treated as Business Credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) No carryback of section 45J credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Denial of Double Benefit.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) Denial of double benefit.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) Effective Date.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

## Subtitle C—Treatment of Persons Not Able To Use Entire Credit

### SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In General.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) Treatment of Person Not Able To Use Entire Credit.—

"(1) Allowance of credits.—

"(A) In general.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) Persons described.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) Transfer of credit.—

"(A) In general.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) Regulations.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) Use by TVA.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) Treatment of credits.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) Credit carryover.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) Credit not income.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) Treatment of unrelated persons.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.".

(b) Effective Date.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE V—OIL AND GAS PROVISIONS

### SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) General Rule.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) Reduction as oil and gas prices increase.—

"(A) In general.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2002' for '1990').

"(C) Reference price.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) Qualified Crude Oil and Natural Gas Production.—For purposes of this section—

"(1) In general.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

"(2) Limitation on amount of production which may qualify.—

"(A) In general.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) Proportionate reductions.—

"(i) Short taxable years.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) Wells not in production entire year.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

"(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the marginal oil and gas well production credit determined under section 45K(a).".

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Credit for producing oil and gas from marginal wells.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

### SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

"(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .............................................. 10".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

### "SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) TREATMENT AS EXPENSE.—

"(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) LIMITATION.—

"(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

"(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

"(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179C" each place it appears in the heading and text and inserting ", 179C, or 179D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 179D(d).".

(5) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

"Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 45L. ENVIRONMENTAL TAX CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

"(c) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

"(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(d) CERTIFICATION.—

"(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(f) COOPERATIVE ORGANIZATIONS.—

"(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

"(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

"(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

"(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Environmental tax credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking "2004" and inserting "2007".

### SEC. 507. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

"A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

### SEC. 508. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

### "SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

"(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.".

"(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

**SEC. 509. STUDY OF COAL BED METHANE.**

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

**SEC. 510. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR OTHER FACILITIES.—

"(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) FACILITIES PRODUCING REFINED COAL.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

"(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) COVERED FACILITIES.—

"(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

"(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iii) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

"(3) WELLS PRODUCING VISCOUS OIL.—

"(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

"(B) VISCOUS OIL.—The term "viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) COALMINE METHANE GAS.—

"(A) IN GENERAL.—This section shall apply to coalmine methane gas—

"(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

"(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

"(i) liberated during qualified coal mining operations, or

"(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

"(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

"(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

"(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

"(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

"(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

"(6) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).".

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 511. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.**

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .............................................. 20".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

**SEC. 601. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.**

(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from nontax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) Regulatory Relief.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) Reports.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2003, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

### SEC. 602. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.".

(c) Deduction for Nuclear Decommissioning Costs When Paid.—Paragraph (2) of section 468A(c) is amended to read as follows:

"(2) Deduction of nuclear decommissioning costs.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 603. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(c) CROSS REFERENCE.—

**"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 604. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

"(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

### SEC. 605. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking "or" at the end of clause (iv), by striking the period at the end of clause (v) and insert ", or", and by adding at the end the following new clause:

"(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

## TITLE VII—ADDITIONAL PROVISIONS

### SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

### SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2003, and annually thereafter.

### SEC. 703. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

**"SEC. 45M. ALASKA NATURAL GAS.**

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

"(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

"(d) RECAPTURE.—

"(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) The Alaska natural gas credit determined under section 45M(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

### SEC. 704. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.".

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

### SEC. 705. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations);

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2002, and before January 1, 2004.

### SEC. 706. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting ", or" and by adding at the end the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

### SEC. 707. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

Mr. BAUCUS. Mr. President, I am pleased to join Chairman GRASSLEY in introducing the Energy Tax Incentives Act of 2003. The chairman and the ranking member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN, are also original sponsors of this legislation.

This legislation is very similar to the energy tax incentives bill which won overwhelming support on the Senate floor last April and provides a strong starting point for the Senate Finance Committee towards a mark-up of an energy tax bill.

The urgency for this legislation at this point in time is particularly critical. Gasoline prices in the U.S. are at record levels. Low inventories, high crude oil prices, recent cold weather and continuing industry concern about a possible war with Iraq have raised gas prices close to the highest price ever recorded. This situation is not expected to improve in the near future.

To help alleviate this situation, this bill proposes a balanced package of alternative energy, traditional energy production and energy efficiency incentives. This legislation begins from the premise that we may accomplish energy policy goals by targeting market incentives—in the form of tax deductions and credits—at certain investments. The bill would accomplish this in three ways. First, we create incentives for new production, especially production from important renewable sources. Second, we create incentives for the development of new technology. Third, we create incentives for energy conservation.

Through targeted market incentives we hope to encourage the development of alternative sources of production and technologies, thereby boosting our overall energy resources. This will help promote energy independence in the United States, which will contribute to both greater economic growth and national security. At the same time, by encouraging development of sources of renewable energy and energy efficiency, we will also encourage pollution reduction and improve human health and the environment.

I look forward to working with my colleagues on this important piece of legislation.

Mr. BINGAMAN. Mr. President, I am pleased to join the Chairman and Ranking Member of the Finance Committee and the Chairman of the Energy and Natural Resources Committee as a sponsor of the Energy Tax Incentives Act of 2003, which we are introducing today.

The tax incentives we introduce today are designed to encourage commercial activities that will increase and diversify our energy supplies and help us to use those energy supplies more efficiently and productively. Our demand for energy continues to grow and we will need a broad portfolio of energy sources, including improved efficiency, to meet this demand. The energy tax package encompasses many of the diverse components that make up a comprehensive energy strategy. These include incentives for renewable resources, alternative transportation fuels and alternative fuel vehicles, energy efficient appliances and buildings, clean coal, domestic oil and gas production and infrastructure, as well as removing impediments to an integrated electric grid.

This bill reflects the work of the Finance Committee last year to develop a balanced package of energy tax provisions to complement the energy policy legislation developed by the Senate. The language of the bill is virtually identical to the tax sections of the Energy bill passed by the Senate last April. While new or improved versions of some of the provisions have been developed in the intervening months, this version provides a common starting point for any further refinements of the text. I look forward to participating in the Finance Committee's consideration of the energy tax package this year.

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By Ms. COLLINS (for herself, Mr. MILLER, Mrs. DOLE, Mr. McCAIN, Mr. KERRY, Mr. CHAMBISS, and Mr. SPECTER):

S. 598. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with Senators MILLER, DOLE, McCAIN, KERRY, CHAMBLISS and SPECTER in introducing the David Jayne Medicare Homebound Modernization Act of 2003 to modernize Medicare's outdated "homebound" requirement that has impeded access to needed home health services for many of our Nation's elderly and disabled Medicare beneficiaries.

Health care in America has gone full circle. People are spending less time in institutions, and recovery and care for patients with chronic diseases and conditions have increasingly been taking place in the home. The highly skilled and often technically complex care that our home health agencies provide has enabled millions of our most vulnerable older and disabled individuals to avoid hospitals and nursing homes and stay just where they belong—in the comfort and security of their own homes.

Under current law, a Medicare patient must be considered "homebound" if he or she is to be eligible for home health services. While an individual is not actually required to be bedridden to qualify for benefits, his or her condition must be such that "there exists a normal inability to leave home." The statute does allow for absences from the home that are "infrequent" or of "relatively short duration." It also gives specific permission for the individual to leave home to attend medical appointments, adult day care or religious services.

Unfortunately, however, the statute does not define precisely what "infrequent" or "relatively short duration" means. It leaves it to the fiscal intermediaries to interpret just how many absences qualify as "frequent" and just how short those absences must be. Interpretations of this definition have therefore varied widely.

As a consequence, there have been far too many instances where an overzealous or arbitrary interpretation of the definition has turned elderly or disabled Medicare beneficiaries—who are dependent upon Medicare home health services and medical equipment for survival—into virtual prisoners in their own home.

The current homebound requirement is particularly hard on younger, disabled Medicare patients. For example, last year I met with David Jayne, a 41-year-old man with Lou Gehrig's disease, who is confined to a wheelchair and cannot swallow, speak or even breathe on his own. Mr. Jayne needs skilled nursing visits each week to enable him to remain independent and out of an inpatient facility. Despite his disability, Mr. Jayne meets frequently with youth and church groups. Speaking through a computerized voice synthesizer, he gives inspirational talks about how the human spirit can endure and even overcome great hardship.

The Atlanta Journal Constitution ran a feature article on Mr. Jayne and his activities, including a report about how he had, with the help of family and friends, attended a football game to root for the University of Georgia Bulldogs. A few days later, at the direction of the fiscal intermediary, his home health agency—which had been sending a health care worker to his home for two hours, four mornings a week—notified him that he could no longer be considered homebound, and that his benefits were being cut off. While his benefits were subsequently reinstated due to the media attention given the case, this experience motivated him to launch a crusade to modernize the homebound definition and led him to found the National Coalition to Amend the Medicare Homebound Restriction.

The fact is that the current requirement reflects an outmoded view of life for persons who live with serious disabilities. The homebound criteria may have made sense thirty years ago, when an elderly or disabled person might have expected to live in the confines of their home—perhaps cared for by an extended family. The current definition, however, fails to reflect the technological and medical advances that have been made in supporting individuals with significant disabilities and mobility challenges. It also fails to reflect advances in treatment for seriously ill individuals that allow them brief periods of relative wellness.

It also fails to recognize that an individual's mental acuity and physical stamina can only be maintained by use, and that the use of the body and mind is encouraged by social interactions outside the four walls of a home.

The David Jayne Medicare Homebound Modernization Act of 2003 will create an exception to the homebound restriction based on the severity of the patient's functional limitations and clinical condition. The specific, limited exception to the homebound rule would apply to individuals who: one, have been certified by a physician as having a permanent and severe condition that will not improve; two, who will need assistance with three or more of the five activities of daily living, such as eating, dressing and bathing, for the rest of their lives; three, who require technological and/or personal assistance with the act of leaving home; and four, who are only able to leave home because the services provided through the home health benefit makes it possible for them to do so.

We believe that our legislation is budget neutral because it is specifically limited to individuals who are already eligible for Medicare and whose conditions require the assistance of a skilled nurse, therapist or home health aide to make it functionally possible for them to leave the home. Our legislation does not expand Medicare eligibility—it simply gives people who are already eligible for the benefit their freedom.

This issue was first brought to my attention by former Senator Bob Dole, who has long been a vigorous advocate for people with disabilities, and I ask unanimous consent that the editorial Senator Dole wrote for the Washington Post last summer entitled "Imprisoned by Medicare" be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Our proposal is also supported by the Consortium of Citizens with Disabilities, the Visiting Nurse Associations of America, the National Association for Home Care, Advancing Independence: Modernizing Medicare and Medicaid, AIMM, the National Coalition to Amend the Medicare Homebound Restriction, the Paralyzed Veterans of America, and the Half the Planet Foundation.

Moreover, the David Jayne Medicare Homebound Modernization Act of 2003 is consistent with President Bush's "New Freedom Initiative" which has, as its goal, the removal of barriers that impede opportunities for those with disabilities to integrate more fully into the community. By allowing reasonable absences from the home, our legislation will bring the Medicare home health benefit into the 21st Century, and I look forward to working with my colleagues to get it done.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 27, 2002]

### IMPRISONED BY MEDICARE

(Bob Dole)

Heroes inspire us to achieve the unachievable, to leave America a better place for future generations. They remind us that contributing to family and community is our highest priority. I am fortunate to know such a hero, and his story has inspired me to help achieve his one simple wish before he dies—to change a Medicare restriction so that he and thousands of others who live with permanent and severe disabilities can leave their homes to see their children grow up and contribute to their community without losing life-sustaining home health services.

David Jayne was diagnosed with Lou Gehrig's disease at age 27. Otherwise known as amyotrophic lateral sclerosis (ALS), this degenerative neuromuscular condition causes his muscles to atrophy, leaving him unable to eat, breathe or move on his own. Though his mobility is limited to moving three fingers, Jayne, now 41, has demonstrated to everyone who knows him or has read about him that the human spirit is indomitable.

I met David Jayne by chance at Reagan National Airport about a year ago. Attached to life support equipment and a computerized voice simulator because of his body's deterioration at the hand of ALS, Jayne had traveled with the help of friends from his home in Rex, Ga., to meet with his elected members of Congress. He came to urge them to amend the Medicare homebound restriction.

The homebound rule was intended to deter abuse of the home health benefit by limiting services to only those individuals whose illnesses and disabilities are so severe that leaving the home would require "a considerable and taxing effort." In the 1960s, when this rule was created, it reflected the limits of health care and technology at the time. It was incomprehensible then to think that someone with ALS or any severe and permanent disability could leave the home.

While the homebound restriction has not changed, the role of physicians and home health providers has. Nurses, doctors and home health administrators have been turned into watchdogs and given the responsibility to report any knowledge of their patients leaving their homes. And the awful reality of those receiving these services is that they must either lie or cheat just to enjoy fundamental liberties.

This nearly 40-year-old policy reflects an outmoded view of life for persons with disabilities. Thanks to advances in technology and greater community accessibility through the passage of the Americans with Disabilities Act (ADA), people with the most severe disabilities are able to leave their homes to go to work, volunteer in their communities and enjoy their family and friends. Unfortunately, Medicare policy has not kept pace with our times and is now punishing the very people it was intended to benefit. While Medicare has developed other and better policies to deter abuse, it has kept this outdated policy.

The Medicare statute does allow for absences from the home of "infrequent" or "relatively short duration." But the vagueness of this allowance leaves it to Medicare contractors to interpret just how many absences qualify as "frequent" and just how short those absences might be. To err on the conservative side, contractors have stripped home health coverage from those most needing it, including David Jayne, whose life depends on a ventilator, intravenous feeding and daily care from a home health aide. Because Jayne's story went public, his home health agency discontinued these life-sustaining services. They were only reinstated after members of Congress became involved and Jayne agreed to pay his home health provider for any claim denied by Medicare. But thousands of others live in fear of leaving their homes because of the stories that have been reported. In two heartbreaking cases, one mother's services were cut off after she attended the funeral for her child, while another mother did not attend the funeral of her child because of fear of losing her home health care.

For millions of Americans, Medicare-covered home health services provide a less costly alternative to nursing home or hospital care. There are abuses that should be corrected, but not by extracting a price that no law-abiding American should ever have to pay.

David Jayne has inspired many people with his love and determination and his simple words, "Always wait another day because the next day will be better." He inspired me to volunteer to try to help.

I urge the House of Representatives to amend this harsh restriction on individual freedom by including in the Medicare reform bill the David Jayne Amendment, carefully drafted by Rep. Ed Markey (D-Mass.) and Sen. Susan Collins (R-Maine), to do what we all know in our hearts is right, including all the appropriate safeguards to prevent abuse. And if this is not possible because of cost concerns, to adopt an amendment to provide for those who are severely and permanently disabled and who require the assistance of an attendant or a skilled nursing facility.

The amendment should give the Health and Human Services Department six months to address the homebound rule and make recommendations on how to bring it up to date with today's technology. Make no mistake, David Jayne is a prisoner—a prisoner in his specially designed wheelchair. His illness has robbed him of the ability to do anything without the aid of technology. Medicare shouldn't act as jailer too. Thousands of David Jaynes across America are looking to the president, Congress and the Department of Health and Human Services for help.

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By Mrs. LINCOLN (for herself, Ms. COLLINS, and Mr. BINGAMAN):

S. 599. A bill to amend title XVIII of the Social Security Act to provide coverage under the medicare program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the "Access to Diabetes Screening Services Act of 2003" with my friends Senators COLLINS and BINGAMAN. This bill will help to bring the epidemic of diabetes under control by providing Medicare coverage for laboratory diagnostic tests and other services which are used to screen for diabetes. Medicare cannot currently provide these screening services because they are prohibited to do so by Federal law.

Diabetes has reached epidemic proportions among adults in the United States. The latest figures published by the Centers for Disease Control, CDC, in the January 1, 2003, edition of the "Journal of the American Medical Association" show that 7.9 percent of the American population has diabetes. The CDC believes that if trends continue, more than 10 percent of all Americans will have diabetes by the year 2010. Even today our Nation is feeling the effects of this disease—diabetes is the Nation's sixth leading cause of death.

Diabetes strikes even harder in our nation's minority and emerging majority populations. Today, the CDC estimates that 11.9 percent of the African American population and nine percent of the Hispanic population has diabetes. Without a doubt, diabetes is now truly the epidemic of our time.

These rising rates are especially evident among our Nation's aging population. Currently almost seven million Americans age 65 and older, or over 20 percent of seniors, have diabetes. Roughly 20 percent of seniors age 65 and older have a newly identified condition called pre-diabetes, which if left untreated will develop into diabetes. An additional 40,000 people living with diabetes and end-stage renal disease under the age of 65 participate in the Medicare program.

Even more distressing is the fact that approximately one third of the 7 million seniors with diabetes, or 2.3 million people, are undiagnosed. They simply do not know that they have this very serious condition—a condition whose complications include heart disease, stroke, vision loss and blindness, amputations, and kidney disease.

My own home State of Arkansas has had first-hand experience with the rising diabetes rates. Arkansas ranks fifth in the Nation for diabetes incidence. Recent studies show that 8.9 percent of all Arkansas adults had diagnosed diabetes, and over one million Arkansans are at risk for undiagnosed diabetes.

Our Nation is not yet doing enough to manage this preventable and controllable disease. Last week, the National Institutes of Health, the CDC and the American Diabetes Association announced that the direct costs of treating diabetes grew by more than 50 percent between 1997 and 2002, from $44 billion to $91.8 billion. One of every ten dollars spent on healthcare in America is now spent on diabetes, and the average per capita cost of healthcare for a person living with diabetes is $13,243 versus $2,560 for a typical American without diabetes.

Those in the medical community and the federal government are only too aware of the rising prevalence and serious nature of diabetes. The Centers for Disease Control, National Institutes of Health, and the Department of Health and Human Services recently joined together in a national education campaign to inform people about diabetes and encourage people age 45 and older to get screened for diabetes.

Unfortunately, current law does not allow Medicare to reimburse for diabetes testing, even if a patient presents serious risk factors for diabetes such as obesity, high blood pressure, or high cholesterol. Most shockingly, even if a patient is experiencing early evidence of diabetes complications, such as blindness or kidney disease, Medicare still cannot reimburse a physician for diabetes testing.

This nonsensical omission of diabetes screening coverage is even more shocking in light of the fact that about 25 percent of the Medicare budget currently is devoted to providing medical care to seniors living with diabetes. In 1999, Arkansas spent $1.6 billion on direct and indirect costs of diabetes. The amount Arkansas spent on diabetes in 2002 is undoubtedly higher in light of the cost data available. Why are we continuing to react to diabetes and its complications instead of proactively screening our Medicare beneficiaries for this common and costly disease? This screening can identify the disease, even before any symptoms have appeared, and has the potential to save and improve thousands of lives. In addition, this screening will potentially help prevent countless cases of end-stage renal disease, blindness and amputations—preventable complications of the diabetes that are draining Medicare of vital resources.

The American Association of Clinical Endocrinologists strongly believes that patients with diabetes should be identified as early as possible in their illness. We have the technology to do this through screening.

I cannot overstate the need for this legislation. When faced with the rising prevalence of diabetes, the high percentage of seniors who already have the disease, the alarmingly high number of seniors who have diabetes but do not know it yet, the growing number of seniors living with preventable diabetes complications, and the high cost associated with diabetes treatment, it is obvious that Medicare should provide coverage for diabetes screening.

Our Nation must do more to battle the epidemic of diabetes through prevention, detection and treatment. This legislation will make detection of a deadly disease available to all Medicare enrollees. The American Diabetes Association has identified Medicare screening coverage as a top legislative priority, and I have worked closely with them to craft this legislation. I urge all of my colleagues to give serious consideration to cosponsoring and actively supporting the Diabetes Screening Act of 2003.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Arkansas, Senator LINCOLN, in introducing this important bill to provide Medicare coverage for laboratory diagnostic tests and other services used to screen for diabetes.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families. Diabetes is a devastating, lifelong condition that disproportionately affects the elderly, children and minorities. It is one of our Nation's most costly diseases in both human and economic terms, and is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, it is a major risk factor for stroke, heart disease and other chronic conditions. According to a new study released by the American Diabetes Association, diabetes cost our Nation $132 billion last year, and health care spending for people with diabetes is almost double what it would be if they did not have diabetes.

Unfortunately, diabetes frequently goes undiagnosed. Of the more than 17 million Americans who have diabetes, 7 million of whom are 65 and older, it is estimated that as many as one third don't know it. They simply do not know that they have this very serious condition that places them at increased risk of developing devastating and costly complications such as blindness, kidney failure and amputations.

Moreover, an additional 16 million Americans have a newly identified condition known as "pre-diabetes," an increasingly common condition in which blood glucose levels are higher than normal, but not yet diabetic. Pre-diabetes dramatically raises the risk for developing Type 2 diabetes and increases the risk of heart disease by 50 percent. According to research supported by the Department of Health and Human Services, most people with pre-diabetes are likely to develop diabetes within a decade unless their condition is diagnosed and they make the lifestyle changes necessary to reduce their risks for the disease.

Secretary of Health and Human Services Tommy Thompson has made diabetes prevention and management a key part of the Bush Administration's broader efforts to encourage a healthier America. As a part of this effort, the Centers for Disease Control and Prevention, the National Institutes of Health and the Department of Health and Human Services have joined together in a national education campaign to inform people about diabetes and encourage people age forty-five and older to get screened for diabetes.

Unfortunately, however, current law does not allow Medicare to pay for diabetes testing, even for patients with serious risk factors for diabetes, such as obesity, high blood pressure, or high cholesterol. Astoundingly, even if a patient is experiencing early evidence of diabetes complications such as blindness or kidney disease, Medicare will not pay for diabetes testing.

This coverage omission is particularly irrational given the fact that one out of every four Medicare dollars is currently spent on medical care for seniors who are living with diabetes.

Early detection and treatment are essential if we are to improve the quality of life for people with diabetes and prevent or delay the onset of the costly and sometimes deadly complications associated with the disease. We have the technology to identify diabetes even before the onset of any symptoms. These tests have the potential of improving and saving thousands of lives, not to mention countless Medicare dollars. It only makes sense that Medicare should cover them.

Both the American Diabetes Association and the American Association of Clinical Endocrinologists support our legislation, and I encourage all of our colleagues to join us as cosponsors.

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By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 600. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, there should be no doubt that energy is vital to our economy and that it contributes to our wealth and strength as a nation. While it is true that human intelligence, a skilled workforce, and the human spirit are essential to our economy and to our future, without useable energy, these virtues are not, of themselves, tools to make a physical difference.

As we look out decades and centuries into the future, determining whether we will have enough energy and finding the sources from which we will get it are extremely important endeavors. Will we get our energy from oil or from coal? Will it come from solar collectors and wind farms? Will it come from nuclear fission? I submit that the answer we work to provide to this question today will have a profound effect on the future quality of life for our children and grandchildren. This is part of the reason why energy policy is so controversial. It is because the stakes are so high.

Although fossil fuels will last for many decades yet—perhaps centuries—the reality is that we must begin to plan for the time when fossil fuels might not be so plentiful. Taken together, fossil fuels provide us with well over 70 percent of the energy we consume in this country. Much of that energy is imported. When you take oil, coal and natural gas out of the equation, what are our options for the long term future?

The significant potential contributors to our energy picture that are not fossil fuels are likely to be nuclear, hydropower, renewables such as solar, wind and geothermal, and fusion energy. We must pursue all of these options as if our future depended on it, because it does. It is in this context, that I want to focus my colleagues' attention today on the subject of fusion energy.

Fusion energy is the power of the sun and the stars and has been the subject of a decades-long research effort in the United States and around the world. The bad news is that the ultimate goal of practical fusion energy here on earth has proven to be far more difficult than the early pioneers of fusion research ever envisioned. But the good news is that there has been fantastic progress in the past decade, to the point where now there is almost no doubt that large excess amounts of fusion energy can be created in the laboratory. The question is: Can fusion energy be made practical and affordable?

When proven practical, fusion will be capable of producing huge amounts of base-load energy for our cities and our economy with no air or water pollution. Its fuel is virtually inexhaustible. It cannot blow up or melt down. Perhaps most tantalizingly, given our present circumstances, no nation or region will have a monopoly because everyone will have the fuel—a common component of water.

I am very proud today to stand with my good friend from California, Senator FEINSTEIN and introduce the Fusion Development Act of 2003. The Fusion Development Act of 2003 is meant to hasten the day when we can answer the question of practical and affordable fusion energy in the affirmative.

Last month, President Bush announced that the United States would be joining international negotiations on a major next step experiment on the road to fusion energy, known as the ITER project. One of the primary purposes of this bill is to authorize the Secretary of Energy to participate fully in this international magnetic fusion burning plasma experiment called ITER.

ITER is intended to establish once and for all that magnetically-controlled fusion energy reactions can produce power plant-sized amounts of fusion energy and establish the scientific basis for doing so. Further, ITER will demonstrate some of the technologies necessary to construct a fusion power plant such as large superconducting magnets and plasma control systems. ITER will be an international science experiment of a scale and importance second to none.

The siting and financing of ITER are currently being negotiated between Europe, Japan, Russia, Canada and China. This bill will help give the Administration the license it needs to move forward and stake out a good place at the table of the ITER experiment. The importance of the ITER experiment dictates that the United States must have a strong position as the project moves forward.

In addition, our bill sets as a goal that the United States should develop the scientific, engineering and commercial infrastructure necessary to be competitive with other nations in this new frontier of energy. In this regard, it requires the Secretary of Energy to submit to Congress a plan to strengthen our existing fusion research efforts and to address the critically important issues of fusion materials and technology.

I ask that my colleagues devote their time to the extraordinarily important subject of our present and future energy supply. The deeper one delves into this subject, the more self-evident it becomes that fusion is a must-have technology for the future.

The bill we are introducing today will help bring us closer to the time when energy is less of a global political issue and energy production has minimal impact on our natural environment. Fusion is an important part of this vision and this goal. I therefore urge my colleagues to support this legislation.

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 79—DESIGNATING THE WEEK OF MARCH 9 THROUGH MARCH 15, 2003, AS "NATIONAL GIRL SCOUT WEEK"

Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Ms. CANTWELL, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE, Ms. MURKOWSKI, Mr. BAYH, Mr. WARNER, Mr. ALLEN, Mr. KOHL, Mr. INHOFE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 79

Whereas March 12, is the anniversary of the founding of the Girl Scouts of the United States of America;

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girls Scouts has significantly contributed to the advancement of the United States;

Whereas the Girl Scouts is the preeminent organization for girls, dedicated to inspiring girls and young women to become model citizens in their communities with the highest ideals of character, conduct, and service to others;

Whereas the Girls Scouts, through its prestigious program, offers girls ages 5 through 17 a wealth of opportunities to develop strong values and skills that serve girls well into adulthood; and

Whereas on March 16, 1950, the Girl Scouts became the first national organization for girls to be granted a Federal charter by Congress: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of March 9 through March 15, 2003, as "National Girl Scout Week"; and

(2) requests the President to issue a proclamation designating such week as "National Girl Scout Week" and calling on the people of the United States to observe the anniversary of the Girl Scouts of the United States of America with appropriate ceremonies and activities.

Mrs. HUTCHISON. Mr. President, I rise today to submit an important resolution recognizing the Girl Scouts of America.

On March 12, 1912, Juliette Gordon Low assembled 18 girls in Savannah, Georgia for the first Girl Scout meeting. Girl Scouts of America has a current membership of nearly four million girls and adult volunteers.

It is the preeminent organization in the United States committed to inspiring girls and young women with the highest ideals of character, conduct, and service to others.

As the first National organization for girls to be granted a Federal charter by Congress, Girl Scouts offers girls of all ages, races, and socioeconomic backgrounds the opportunity to grow, develop friendships, and gain valuable life experiences.

The Girl Scout initiatives has enabled more than 50 million women in the United States to participate in community service projects, cultural exchanges, athletic events, and educational activities that teach self-confidence, responsibility, and integrity.

Girl Scout initiatives have reflected the Nation's changing social and economic climate. For example, the National organization recently began a campaign to encourage girls to develop an interest in math, science, and technology as a way to create greater diversity in the workforce and to help bridge the techno-gender divide.

Today, one in nine girls is a member of the Girl Scouts, and over two-thirds of our female doctors, lawyers, educators, and community leaders were once Girl Scouts. I am proud to say that I, too, was a Girl Scout.

I am pleased to be joined by my colleagues in introducing this legislation, which would designate the week beginning March 9, 2003, as "National Girl Scout Week."

Ms. MIKULSKI. Mr. President, I am very proud to join Senator HUTCHISON in submitting this Resolution to designate March 9 through March 15 as National Girl Scout Week. As former girl Scouts, we are so grateful for what Scouting has meant in our lives—and in the lives of millions of girls.

Girl Scouts put their values into action. As a Girl Scout, you participate in a broad range of activities—from taking nature hikes to taking in the arts. You serve in local food banks and learn about politics. As your skills grow as a Girl Scout, so does your self-confidence. The badges you earn serve as symbols for success, leadership, accomplishment, and service in your community. With help from the Girl Scouts, you can develop into a solid citizen in mind, body and spirit.

As a Girl Scout, you also learn values and attitudes that serve as good guides throughout life. You learn the importance of treating other people fairly and with the dignity they deserve. You develop the confidence to know that you can reach your goals. You learn to be a leader.

In today's hectic and uncertain world, Scouts are more important than ever. Young girls and boys need before and after school activities that are safe, educational, and fun. They need adult role models like the girl Scouts, who are dedicated to helping young people. They need to learn the high ideals of leadership, service, character, and good conduct. In sum, America needs the Girl Scouts to help us maintain a civil society.

I applaud the Girl Scouts for what you do to help girls and to help communities. I thank you for what you meant to me and what you do for millions of young women across the country. I hope the Resolution that Senator HUTCHISON and myself have introduced here today raises more public awareness of the good works that you do.

Congratulations to the Girl Scouts on your 91st anniversary. I am so proud of who you are and what you do.

## SENATE RESOLUTION 80—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 80

*Resolved*, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 500 additional copies of such document for the use of the Committee on Rules and Administration.

## SENATE CONCURRENT RESOLUTION 18—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES SHOULD STRIVE TO PREVENT TEEN PREGNANCY BY ENCOURAGING TEENAGERS TO VIEW ADOLESCENCE AS A TIME FOR EDUCATION AND MATURING AND BY EDUCATING TEENAGERS ABOUT THE NEGATIVE CONSEQUENCES OF EARLY SEXUAL ACTIVITY; AND FOR OTHER PURPOSES

Mr. LIEBERMAN (for himself and Ms. SNOWE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 18

Whereas nearly 4 in 10 girls in the United States will become pregnant before the age of 20;

Whereas the United States has the highest rates of teen pregnancy and childbirth in the industrialized world;

Whereas, despite significant progress over the past decade, there are still nearly 900,000 teen pregnancies each year;

Whereas, on average, nearly 100 teenage girls become pregnant and 55 teenage girls give birth every hour;

Whereas childbearing by teenagers costs taxpayers at least $7,000,000,000 each year in direct costs associated with health care, foster care, criminal justice, and public assistance;

Whereas teen pregnancy is closely linked to the social problems of welfare dependency, poverty and out-of-wedlock births, and has negative ramifications with respect to the critical social issues of overall child well-being, responsible fatherhood, and workforce development;

Whereas mothers who give birth as teenagers are less likely to complete high school and attend college, thereby unduly limiting their potential for economic self-sufficiency;

Whereas more than half of all mothers on welfare gave birth as teenagers to their first children;

Whereas 1 out of 2 unmarried mothers first gave birth as a teenager;

Whereas 80 percent of births to teenagers involve unmarried teen mothers;

Whereas almost all adults and teenagers believe that teenagers should be given a strong message from society that they should abstain from sex until they have at least completed high school; and

Whereas the children of teen mothers are more likely to be at risk for a variety of adverse health and educational outcomes than other children: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. DESIGNATION OF NATIONAL DAY TO PREVENT TEEN PREGNANCY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should strive to prevent teen pregnancy by encouraging teens to view adolescence as a time for education and maturing, and by educating teens about the negative consequences of early sexual activity; and

(2) the President should designate May 7, 2003, as "National Day To Prevent Teen Pregnancy".

(b) PROCLAMATION.—Congress requests the President to issue a proclamation designating May 7, 2003, as "National Day To Prevent Teen Pregnancy".

## AMENDMENTS SUBMITTED AND PROPOSED

SA 258. Mrs. MURRAY (for herself, Mr. REID, and Mrs. BOXER) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion.

SA 259. Mr. DURBIN (for himself, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. BINGAMAN, Ms. LANDRIEU, and Ms. MIKULSKI) proposed an amendment to the bill S. 3, supra.

## TEXT OF AMENDMENTS

**SA 258.** Mrs. MURRAY (for herself, Mr. REID, and Mrs. BOXER) proposed an amendment to the bill S. 3, to prohibit the procedures commonly known as partial-birth abortion; as follows:

Beginning on page 18, strike line 23 and all that follows through the end of the bill and insert the following:

### TITLE —PROVISIONS RELATING TO CONTRACEPTIVES

### Subtitle A—Equitable Coverage of Prescription Contraceptives

**SEC. 01. SHORT TITLE.**

This subtitle may be cited as the "Equity in Prescription Insurance and Contraceptive Coverage Act of 2003".

**SEC. 02. FINDINGS.**

Congress finds that—

(1) each year, 3,000,000 pregnancies, or one half of all pregnancies, in this country are unintended;

(2) contraceptive services are part of basic health care, allowing families to both adequately space desired pregnancies and avoid unintended pregnancy;

(3) studies show that contraceptives are cost effective: for every $1 of public funds invested in family planning, $4 to $14 of public funds is saved in pregnancy and health care-related costs;

(4) by reducing rates of unintended pregnancy, contraceptives help reduce the need for abortion;

(5) unintended pregnancies lead to higher rates of infant mortality, low-birth weight, and maternal morbidity, and threaten the economic viability of families;

(6) the National Commission to Prevent Infant Mortality determined that "infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception";

(7) most women in the United States, including three-quarters of women of childbearing age, rely on some form of private insurance (through their own employer, a family member's employer, or the individual market) to defray their medical expenses;

(8) the vast majority of private insurers cover prescription drugs, but many exclude coverage for prescription contraceptives;

(9) private insurance provides extremely limited coverage of contraceptives: half of traditional indemnity plans and preferred provider organizations, 20 percent of point-of-service networks, and 7 percent of health maintenance organizations cover no contraceptive methods other than sterilization;

(10) women of reproductive age spend 68 percent more than men on out-of-pocket health care costs, with contraceptives and reproductive health care services accounting for much of the difference;

(11) the lack of contraceptive coverage in health insurance places many effective forms of contraceptives beyond the financial reach of many women, leading to unintended pregnancies;

(12) the Institute of Medicine Committee on Unintended Pregnancy recommended that "financial barriers to contraception be reduced by increasing the proportion of all health insurance policies that cover contraceptive services and supplies";

(13) in 1998, Congress agreed to provide contraceptive coverage to the 2,000,000 women of reproductive age who are participating in the Federal Employees Health Benefits Program, the largest employer-sponsored health insurance plan in the world; and

(14) eight in 10 privately insured adults support contraceptive coverage.

**SEC. 03. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

**"SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

"(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

"(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

"(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

"(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

"(c) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed—

"(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

"(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

"(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

"(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

"(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

"(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

"(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

"(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

"(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

"(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

"(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

"Sec. 714. Standards relating to benefits for contraceptives.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2004.

**SEC. 04. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.**

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

**"SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

"(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

"(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

"(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

"(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

"(c) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed—

"(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

"(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

"(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

"(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

"(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

"(2) Limitations.—As used in paragraph (1), the term 'limitation' includes—

"(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

"(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

"(d) Notice.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

"(e) Preemption.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

"(f) Definition.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.".

(b) Effective Date.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2004.

### SEC. 05. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) In General.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

### "SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

"The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

(b) Effective Date.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2004.

## Subtitle B—Emergency Contraception

### SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Emergency Contraception Education Act".

### SEC. 12. FINDINGS.

Congress finds that—

(1) each year, 3,000,000 pregnancies, or one half of all pregnancies, in the United States are unintended, and half of all of these unintended pregnancies end in abortion;

(2) the Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent;

(3) the most commonly used forms of emergency contraception are regimens of ordinary birth control pills taken within 72 hours of unprotected intercourse or contraceptive failure;

(4) emergency contraception, also known as post-coital contraception, is a responsible means of preventing pregnancy that works like other hormonal contraception to delay ovulation, prevent fertilization or prevent implantation;

(5) emergency contraception does not cause abortion and will not affect an established pregnancy;

(6) it is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion;

(7) emergency contraceptive use is the United States remains low, and 9 in 10 women of reproductive age remain unaware of the method;

(8) although the American College of Obstetricians and Gynecologists recommends that doctors routinely offer women of reproductive age a prescription for emergency contraceptive pills during their annual visit, only 1 in 5 ob/gyns routinely discuss emergency contraception with their patients, suggesting the need for greater provider and patient education;

(9) in light of their safety and efficacy, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of emergency contraceptive pills, and have recommended that dedicated emergency contraceptive products be available without a prescription;

(10) Healthy People 2010, published by the Office of the Surgeon General, establishes a 10-year national public health goal of increasing the proportion of health care providers who provide emergency contraception to their patients; and

(11) public awareness campaigns targeting women and health care providers will help remove many of the barriers to emergency contraception and will help bring this important means of pregnancy prevention to American women.

### SEC. 13. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.

(a) Definitions.—In this section:

(1) Emergency contraception.—The term "emergency contraception" means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) that is—

(A) used after sexual relations; and

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus.

(2) Health care provider.—The term "health care provider" means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) Institution of higher education.—The term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(4) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) Emergency Contraception Public Education Program.—

(1) In general.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) Dissemination.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics and the media.

(3) Information.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception, and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) Emergency Contraception Information Program for Health Care Providers.—

(1) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) Information.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b), for distribution to the patients of the providers.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2004 through 2008.

## Subtitle C—Compassionate Care for Female Sexual Assault Survivors

### SEC. 21. SHORT TITLE.

This subtitle may be cited as the "Compassionate Care for Female Sexual Assault Survivors Act".

### SEC. 22. FINDINGS.

Congress finds that—

(1) it is estimated that 25,000 women become pregnant each year as a result of rape or incest;

(2) surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted;

(3) the risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack;

(4) the Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent;

(5) medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy, and it is most effective if administered in the first 12 hours after unprotected intercourse;

(6) in light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills; and

(7) it is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so she may prevent an unintended pregnancy.

### SEC. 23. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) In General.—Federal funds may not be provided to a hospital under any health-related program unless the hospital meets the conditions specified in subsection (b) in the case of any woman who presents at the hospital and—

(1) states that she is the victim of sexual assault;

(2) is accompanied by someone who states she is a victim of sexual assault; or

(3) whom hospital personnel have reason to believe is a victim of sexual assault.

(b) Assistance for Victims.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides it to her upon her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) Definitions.—In this section:

(1) Emergency contraception.—The term "emergency contraception" means a drug that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) Hospital.—The term "hospital" has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(4) Sexual assault.—The term "sexual assault" means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) Effective Date; Agency Criteria.—This section takes effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

## Subtitle D—Improved Coverage of Infants Under Medicaid and SCHIP

### SEC. 31. ENHANCED FEDERAL MEDICAID MATCH FOR STATES THAT OPT TO CONTINUOUSLY ENROLL INFANTS DURING THE FIRST YEAR OF LIFE WITHOUT REGARD TO THE MOTHER'S ELIGIBILITY STATUS.

(a) State Option.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "A State may elect (through a State plan amendment) to apply the first sentence of this paragraph without regard to the requirements that the child remain a member of the woman's household and the woman remains (or would remain if pregnant) eligible for medical assistance.".

(b) Enhanced FMAP.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by inserting "(A)" after "only"; and

(2) by inserting ", or (B) on the basis of a State election made under the third sentence of section 1902(e)(4)" before the period.

(c) Effective Date.—The amendments made by this section apply to medical assistance provided on or after October 1, 2003.

### SEC. 32. OPTIONAL COVERAGE OF LOW-INCOME, UNINSURED PREGNANT WOMEN UNDER A STATE CHILD HEALTH PLAN.

(a) In General.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

### "SEC. 2111. OPTIONAL COVERAGE OF LOW-INCOME, UNINSURED PREGNANT WOMEN.

"(a) Optional Coverage.—Notwithstanding any other provision of this title, a State child health plan (whether implemented under this title or title XIX) may provide for coverage of pregnancy-related assistance for targeted low-income pregnant women in accordance with this section, but only if the State has established an income eligibility level under section 1902(l)(2)(A) for women described in section 1902(l)(1)(A) that is 185 percent of the income official poverty line.

"(b) Definitions.—For purposes of this section:

"(1) Pregnancy-related assistance.—The term 'pregnancy-related assistance' has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women, except that the assistance shall be limited to services related to pregnancy (which include prenatal, delivery, and postpartum services) and to other conditions that may complicate pregnancy.

"(2) Targeted low-income pregnant woman.—The term 'targeted low-income pregnant woman' has the meaning given the term targeted low-income child in section 2110(b) as if any reference to a child were deemed a reference to a woman during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.

"(c) References to Terms and Special Rules.—In the case of, and with respect to, a State providing for coverage of pregnancy-related assistance to targeted low-income pregnant women under subsection (a), the following special rules apply:

"(1) Any reference in this title (other than subsection (b)) to a targeted low income child is deemed to include a reference to a targeted low-income pregnant woman.

"(2) Any such reference to child health assistance with respect to such women is deemed a reference to pregnancy-related assistance.

"(3) Any such reference to a child is deemed a reference to a woman during pregnancy and the period described in subsection (b)(2).

"(4) The medicaid applicable income level is deemed a reference to the income level established under section 1902(l)(2)(A).

"(5) Subsection (a) of section 2103 (relating to required scope of health insurance coverage) shall not apply insofar as a State limits coverage to services described in subsection (b)(1) and the reference to such section in section 2105(a)(1) is deemed not to require, in such case, compliance with the requirements of section 2103(a).

"(6) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any pre-existing condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

"(d) No Impact on Allotments.—Nothing in this section shall be construed as affecting the amount of any initial allotment provided to a State under section 2104(b).

"(e) Application of Funding Restrictions.—The coverage under this section (and the funding of such coverage) is subject to the restrictions of section 2105(c).

"(f) Automatic Enrollment for Children Born to Women Receiving Pregnancy-Related Assistance.—Notwithstanding any other provision of this title or title XIX, if a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the children's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan (or, in the case of a State that provides such assistance through the provision of medical assistance under a plan under title XIX, to have applied for medical assistance under such title and to have been found eligible for such assistance under such title) on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).”.

(b) State Option To Use Enhanced FMAP and SCHIP Allotment for Coverage of Additional Pregnant Women Under the Medicaid Program.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in the fourth sentence of subsection (b), by inserting “and in the case of a State plan that meets the condition described in subsections (u)(1) and (u)(4)(A), with respect to expenditures described in subsection (u)(4)(B) for the State for a fiscal year” after “for a fiscal year,”; and

(2) in subsection (u)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

“(4)(A) The condition described in this subparagraph for a State plan is that the plan has established an income level under section 1902(l)(2)(A) with respect to individuals described in section 1902(l)(1)(A) that is 185 percent of the income official poverty line.

“(B) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for medical assistance for women described in section 1902(l)(1)(A) whose income exceeds the income level established for such women under section 1902(l)(2)(A)(i) as of the date of the enactment of this paragraph but does not exceed 185 percent of the income official poverty line.”.

(c) No Waiting Periods or Cost-Sharing.—

(1) No waiting period.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) by striking “, and” at the end of clause (i) and inserting a semicolon;

(B) by striking the period at the end of clause (ii) and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman, if the State provides for coverage of pregnancy-related assistance for such women in accordance with section 2111.”.

(2) No cost-sharing for pregnancy-related benefits.—Section 2103(e)(2) of such Act (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting “AND PREGNANCY-RELATED SERVICES” after “PREVENTIVE SERVICES”; and

(B) by inserting before the period at the end the following: “or for pregnancy-related services, if the State provides for coverage of pregnancy-related assistance for targeted low-income pregnant women in accordance section 2111”.

(d) Presumptive Eligibility.—

(1) In general.—Section 1920A(b)(3)(A)(i)(III) of the Social Security Act (42 U.S.C. 1396r–1a(b)(3)(A)(i)(III)) is amended by inserting “a child care resource and referral agency,” after “a State or tribal child support enforcement agency,”.

(2) Application to presumptive eligibility for pregnant women under medicaid.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396r–1(b)) is amended by adding at the end after and below paragraph (2) the following flush sentence:

“The term ‘qualified provider’ includes a qualified entity as defined in section 1920A(b)(3).”.

(3) Application under title XXI.—

(A) In general.—Section 2107(e)(1)(D) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended to read as follows:

“(D) Sections 1920 and 1920A (relating to presumptive eligibility).”.

(B) Exception from limitation on administrative expenses.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following new subparagraph:

“(C) Exception for presumptive eligibility expenditures.—The limitation under subparagraph (A) on expenditures shall not apply to expenditures attributable to the application of section 1920 or 1920A (pursuant to section 2107(e)(1)(D)), regardless of whether the child or pregnant woman is determined to be ineligible for the program under this title or title XIX.”.

(e) Program Coordination With the Maternal and Child Health Program (Title V).—

(1) In general.—Section 2102(b)(3) of the Social Security Act (42 U.S.C. 1397bb(b)(3)) is amended—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by striking the period and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(F) that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting.”.

(2) Conforming medicaid amendment.—Section 1902(a)(11) of such Act (42 U.S.C. 1396a(a)(11)) is amended—

(A) by striking “and” before “(C)”; and

(B) by inserting before the semicolon at the end the following: “, and (D) provide that operations and activities under this title are developed and implemented in consultation and coordination with the program operated by the State under title V in areas including outreach and enrollment, benefits and services, service delivery standards, public health and social service agency relationships, and quality assurance and data reporting”.

(3) Effective date.—The amendments made by this subsection take effect on January 1, 2004.

(f) Application of Annual Aggregate Cost-Sharing Limit.—Section 2103(e)(3)(B) of the Social Security Act (42 U.S.C. 1397cc(e)(3)(B)) is amended by adding at the end the following new sentence: “In the case of a targeted low-income pregnant woman provided coverage under section 2111, or the parents of a targeted low-income child provided coverage under this title under an 1115 waiver or otherwise, the limitation on total annual aggregate cost-sharing described in the preceding sentence shall be applied to the entire family of such woman or parents.”.

(g) Effective Date.—Except as provided in subsection (e), the amendments made by this section take effect on the date of the enactment of this Act and apply to expenditures incurred on or after that date.

**SEC. 33. INCREASE IN SCHIP INCOME ELIGIBILITY.**

(a) Definition of Low-Income Child.—Section 2110(c)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1397jj(c)(4)) is amended by striking “200” and inserting “250”.

(b) Effective Date.—The amendment made by subsection (a) applies to child health assistance provided, and allotments determined under section 2104 of the Social Security Act (42 U.S.C. 1397dd), for fiscal years beginning with fiscal year 2004.

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**SA 259.** Mr. DURBIN (for himself, Ms. Collins, Ms. Snowe, Mr. Akaka, Mr. Bingaman, Ms. Landrieu, and Ms. Mikulski) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Late Term Abortion Limitation Act of 2003”.

**SEC. 2. BAN ON CERTAIN ABORTIONS.**

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### “CHAPTER 74—BAN ON CERTAIN ABORTIONS

“Sec.
“1531. Prohibition of post-viability abortions.
“1532. Penalties.
“1533. Regulations.
“1534. State law.
“1535. Definitions.

**“§ 1531. Prohibition of Post-Viability Abortions.**

“(a) In General.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion including the procedure characterized as a “partial birth abortion”—

“(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

“(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

“(b) No Conspiracy.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

“(c) Medical Emergency Exception.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

**“§ 1532. Penalties.**

“(a) Action by the Attorney General.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

“(b) First Offense.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

"(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

"(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

"(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

"(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

"(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

**"§ 1533. Regulations.**

"(a) FEDERAL REGULATIONS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

"(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

"(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28 that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

"(B) a description by the physician of the medical indications supporting his or her judgment;

"(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

"(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

"(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

"(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

**"§ 1534. State Law.**

"(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

"(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

**"§ 1535. Definitions.**

"In this chapter:

"(1) GRIEVOUS INJURY.—

"(A) IN GENERAL.—The term 'grievous injury' means—

"(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

"(ii) an inability to provide necessary treatment for a life-threatening condition.

"(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

"(2) PHYSICIAN.—The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**"74. Ban on certain abortions** ............ 1531.".

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, March 11 at 10:00 a.m. to receive testimony regarding Federal Programs for energy efficiency, and conservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 11, 2003, at 10:00 a.m., to hear testimony on The Funding Challenge: Keeping Defined Benefit Pension Plans Afloat.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 9:30 a.m. to hold a hearing on Iraq: Reconstruction,

Agenda

*Witnesses*

Panel 1: Mr. Eric Schwartz, Senior Fellow and Director, Independent Task Force on Post-Conflict Iraq, Council on Foreign Relations, Washington, DC; Dr. Gordon Adams, Director, Security Policy Studies Program; Elliott School of International Affairs, The George Washington University, Washington, DC; Ms. Sandra Mitchell, Vice President, Government Relations, International Rescue Committee, Washington, DC; Dr. Phebe Marr, Former Senior Fellow, National Defense University, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, March 11, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to consider the Committee's Views and Estimates on the President's FY 2004 Budget Request for Indian Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, March 11, 2003 from 10 a.m. to 12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON AVIATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select

Committee on Commerce, Science, and Transportation, Subcommittee on Aviation, be authorized to meet on Tuesday, March 11, 2003 at 9:30 a.m., in SR–253, for a hearing on FAA Reauthorization: Air Service to small Communities.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PERSONNEL

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 11, 2003 at 2:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs in review of the defense authorization request for fiscal year 2004

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, if I read real fast, I think I can get done by 9 o'clock, but I would not be a very popular person here with the pages who would have to go to school tomorrow morning if I do finish by 9 o'clock. So we will see what happens

## AUTHORIZING PRINTING OF RULES OF SENATE COMMITTEES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 80 which was submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 80) to authorize the printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 80) was agreed to, as follows:

S. RES. 80

*Resolved*, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 500 additional copies of such document for the use of the Committee on Rules and Administration.

## UNANIMOUS CONSENT AGREEMENT—REFERRAL OF NOMINATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services; provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Public Works for a period of 20 days of session; provided further that if the Committee on Public Works does not report the nomination within those 20 days, the committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR WEDNESDAY, MARCH 12, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, March 12. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 19, S. 3, the partial-birth abortion bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. SANTORUM. For the information of all Senators, on Wednesday, the Senate will resume consideration of the partial-birth abortion bill. Under the previous order, Senator BOXER will be recognized to offer a motion to commit. There will be up to 2 hours of debate equally divided. Following debate on the Boxer motion, the Senate will resume debate on the Durbin amendment. At the conclusion of those debate times, the Senate will proceed to consecutive votes in relation to those two pending amendments. Votes will occur at approximately 12:30, if all debate time is used. Additional votes can be expected throughout the day in an effort to complete the bill tomorrow.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:02 p.m., adjourned until Wednesday, March 12, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate March 11, 2003:

### FARM CREDIT ADMINISTRATION

LOWELL JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION. (REAPPOINTMENT)

GLEN KLIPPENSTEIN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE MARILYN FAE PETERS.

JULIA BARTLING, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE EUGENE BRANSTOOL.

### DEPARTMENT OF STATE

RALPH FRANK, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

WILLIAM M. BELLAMY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

### AFRICAN DEVELOPMENT FOUNDATION

JOHN W. LESLIE, JR., OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2007, VICE ERNEST G. GREEN, TERM EXPIRED.

### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008. (REAPPOINTMENT)

### DEPARTMENT OF JUSTICE

RAUL DAVID BEJARANO, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE STEPHEN SIMPSON GREGG.

### DEPARTMENT OF HOMELAND SECURITY

EDUARDO AGUIRRE, JR., OF TEXAS, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

### CORPORATION FOR PUBLIC BROADCASTING

ELIZABETH COURTNEY, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 31, 2004, VICE DIANE D. BLAIR.

### IN THE COAST GUARD

UNDER SECTION 211, TITLE 14, U. S. CODE, THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED:

*To be lieutenant commander*

JOHN P. NOLAN, 7078

UNDER SECTION 211, TITLE 14, U. S. CODE, THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED:

*To be lieutenant*

CHRISTY L. HOWARD, 0249

UNDER SECTION 211, TITLE 14, U.S. CODE, THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD:

*To be lieutenant commander*

BRUCE E GRAHAM, 6680
JOHN W GREEN, 6666

*To be lieutenant*

JEFFREY L AHLGREN, 6596
BRADFORD E APITZ, 0548
PAUL D ARNETT, 6608
LORI J BARD, 2531
ABBY S BENSON, 8821
RONALD E BRAHM, 9793
ROQUE DANAS, 5848
CARMEN S DEGEORGE, 8137
REBECCA A DREW, 4625
LONNIE J EVANS, 1918
JAMES T FLANNERY, 1593
FRANK L FLOOD, 9530
GENE G GONZALES, 1117
MARK A GRABOSKI, 9059
JOANNE N HANSON, 8886
MICHAEL L HERSHBERGER, 5328
TEDD B HUTLEY, 8928
JERALD R JARVI, 8056
RANDY J JENKINS, 8485
JOSEPH W KLATT, 5495
ROBERT K KORNEXL, 1868
AMY F KOVAC, 2137

PERRY J KREMER, 6280
KATHRYN A KULAGA, 8626
KEITH H LAPLANT, 5221
TIMOTHY J LIST, 3021
RANDY L LITTLE, 7498
MICHAEL C LUNASIN, 4392
LUIS E MARTINEZ, 9000
PAUL S MCCONNELL, 0223
WILLIAM A NABACH, 0806
GARY R NAUS, 0314
LAWRENCE J NORRIS, 1846
SUZANNE C B OLGUIN, 1979
ROBERT M PEKARI, 9820
MARK E PESNELL, 7687
MICHAEL R PIERNO, 8869
RONALD P POOLE, 6332
KENNETH U POTOLICCHIO, 7762
LEE S PUTNAM, 9334
TIMOTHY M RAYCOB, 7800
JOHN A SMITH, 8062
KYLE J SMITH, 9335
JAMES W SUMMERLIN, 4981
DEREK R THORSRUD, 9588
JASON E TIEMAN, 8906
KIETH M UTLEY, 6637
JAMES D WEAVER, 8845
ERIC A WESCOTT, 2661
MATTHEW T WELLER, 2434
GARY S WILLIAMS, 3943
CHARLES T WRIGHT, 2712
MICHAEL E YENSZ, 1753

*To be lieutenant junior grade*

ERIC C ALLEN, 1983
TOUSSAINT K ALSTON, 6769
MICHAEL J ANDERSON, 0949
RICHARD A ANGELET, 1179
DAVID E ARAGON, 5469
KYLE S ARMSTRONG, 9104
KYLE T ARNETT, 0383
DOUGLAS G ATKINS, 6109
STEPHEN D AXLEY, 1092
PATRICK T BACHER, 1515
MARK A BAFETTI, 9952
BRANDI A BALDWIN, 2170
SCOTT D BARANOWSKI, 6686
WILLIAM M BASHWINGER, 3067
CLAYTON R BEAL, 2224
JAMES A BINNIKER, 6559
LAURA E BOSWELL, 3557
JOHN M BOTDORF, 1048
WILLIAM C BRENT, 8145
CURTIS G BROWN, 6576
CHANING D BURGESS, 5030
PATRICK C BURKETT, 0433
DERREK W BURRUS, 7685
CONRADO R CABANTAC, 8969
TIMOTHY F CALLISTER, 6731
MARK CALTAGIRONE, 7856
ROBERT W CARROLL, 2432
JOHN D CASHMAN, 6416
STEVEN E CERVENY, 3190
JOHN V CHANG, 0337
THOMAS P CLOHERTY, 1517
MEGAN L CULL, 1803
ELAINA R DAVIS, 8579
BRIAN D DEMIO, 0524
AARON W DEMO, 1139
MATTHEW J DENNING, 3504
DANIEL T DEUTERMANN, 2439
ADRIAN DIAZ, 2624
DONALD G DOUGAN, 6445
JOHN F DRUELLE, 0846
DANIEL D DUMAS, 3652
GREGORY A DUNCAN, 2836
BRIAN J ECKLEY, 2960
JOHN A ELY, 8901
THOMAS C EVANS, 0079
PETER M EVONUK, 6203
WILLIAM D FIELD, 5281
JAMES T FOGLE, 1011
STEVEN P FORAN, 2592
JOSHUA M FULCHER, 0475
MARIANNE M GELAKOSKA, 8553
SHAWN T GERAGHTY, 3680
SHANNON B GIAMMANCO, 8032
RANDY L GIEBEN, 2181
MATTHEW S GINGRICH, 5612
MARK P GLANCY, 1778
JEFFREY M GLASS, 9672
SHIELDS R GORE, 0358
ANDREW C GORMAN, 5055
MARCELLA A GRANQUIST, 0307
SEAN W GREEN, 6770
ROBERT P GRIFFITHS, 9416
JAMES J HARKINS, 2677
WENDY L HART, 1153
JEFF S HENDERSON, 8244
JOHN G HENIGHAN, 5119
JAMES S HERALD, 1895
ROLANDO HERNANDEZ, 0246
CHAD B HOLM, 6689
MICHAEL T HOLMES, 2915
ASHLEY R HOLT, 9027
MICHAEL J HOSEY, 5791
CHRISTOPHER M HOWARD, 2437
JEFFERY S HOWARD, 0286
THOMAS A HOWELL, 2441
APRIL A ISLEY, 9533
EDWARD V JACKSON, 9470
MICHAEL S JACKSON, 0227
JAMES L JARNAC, 4461
DARWIN A JENSEN, 9839
JASON J JESSUP, 6236
GEOFFREY W JOHANNESEN, 3635
SANCHO V JOHNSON, 8117
ERIC J JONES, 0374
DEAN E JORDAN, 9029
DEBORAH D KAMZOL, 6199
MERIDENA D KAUFFMAN, 6640
MICHAEL S KELLOGG, 0567
BRAD W KELLY, 9803
JOHNNY J KIDWELL, 0819
JAMES A KLEIN, 4733
CHICO R KNIGHT, 7365
BRIAN M KOSTECKI, 3199
MARK I KUPERMAN, 8805
THOMAS L LAKE, 4615
TAYLOR Q LAM, 5597
KENNETH R LANGFORD, 7132
DANIEL P LANIGAN, 2620
MATTHEW H LAUGHLIN, 4884
BLANCA A LEIVA, 1461
LANCE E LINDGREN, 4049
DANIEL W LONG, 5905
ERICA N MACKCANNADY, 7954
NEIL C MARCELINO, 4746
KEASHA D MARTINDILL, 8510
JOSE D MARTIS, 1338
MARK R MATHEWS, 3223
ROMULUS P MATTHEWS, 4913
LEON MCCLAIN, 9165
NEIL MCHUTCHISON, 1701
CHRISTOPHER J MCINTYRE, 9846
LOUVENIA A MCMILLAN, 0532
IVAN R MENESES, 0247
ZEITA MERCHANT, 8183
STACY L MILLER, 9434
CHAD A MOORE, 3602
MATTHEW J MOORLAG, 8816
SHANA R MORRIS, 1815
MASAMBA A MOSES, 9515
EDWARD X MUNOZ, 5521
ANDRE C MURPHY, 8080
DAVID B MURRAY, 4030
PATRICK M MURRAY, 2148
ROBERT A NAKAMA, 6524
CHRISTOPHER A O'NEAL, 0563
THOMAS A OTTENWAELDER, 3785
JOHN D PACK, 1646
PATRICIA K PALADINO, 6571
TERESA K PEACE, 1300
JOSE PEREZ, 7476
TODD M PETERSON, 5399
KENNETH G PHILLIPS, 1176
NATHAN R PHILLIPS, 2019
WILLIAM E PICKERING, 7129
CRAIG J PINO, 2684
SARA S PLATT, 8908
ANGEL L POL, 3766
DAVID J POTYOK, 0915
MARC A RANDOLPH, 9255
MICHAEL J RASCH, 5366
MICHAEL C REED, 1856
DAVID J REINHARD, 1408
JORGE F REYES, 7074
RYAN S RHODES, 1665
RONALD E RICHARDS, 1001
FRED E RIPLEY, 1534
FERNANDO RODRIGUEZ, 7537
JAMES M ROGAN, 2993
PAUL J ROONEY, 3674
SHOLUNDA J RUCKER, 8114
PAUL C RUSSO, 2604
CHRISTY D RUTHERFORD, 0382
DAVID J SALICETI, 4923
PRIDE L SANDERS, 6634
DONALD E SHAFFER, 9174
GREGORY A SHOUSE, 3464
RYAN T SIEWERT, 6679
JAMES S SMALL, 6418
BRECKINRIDGE S SMITH, 3837
KEITH L SMITH, 7883
ROBERT J SMITH, 6882
GREGORY A SOMERS, 5622
NICOLE A STARR, 6210
JAMES B SUFFERN, 5698
CHRISTOPHER J TANTILLO, 3965
DALE T TAYLOR, 8045
JOHN R TAYLOR, 2018
MARK A TAYLOR, 8026
TRAVIS G TAYLOR, 8149
BRETT J THOMPSON, 3958
DOUGLAS TINDALL, 0920
GREGORY P TORGERSEN, 1186
KEITH A TREPANIER, 3490
RICHARD E VINCENT, 7521
DAVID C VONDAMM, 1025
DANIEL R WADDINGHAM, 4011
CHARLES E WEBB, 2063
KIMBERLY S WHEATLEY, 0257
ANDRE J WHIDBEE, 7456
KELLY K WHIDDEN, 6461
CHRISTOPHER WILLIAMMEE, 8763
CONNIE L WILLIAMSON, 8492
TIMOTHY C WILLIAMSON, 0396
CORNEDA Y WINTON, 6067
NORMAN C WITT, 4790
LANCE M WOOD, 3045
ROBERT S WORKMAN, 1044
RICHARD V YOUNG, 1093
BRADFORD W YOUNGKIN, 9905

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. ROBERT T. CLARK, 7273

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. EMILE P. BATAILLE, 3318

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. KEITH M. HUBER, 0101

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. SHEILA R. BAXTER, 5724

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) JOHN P. DEBBOUT, 9101

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) ROGER T. NOLAN, 6456
REAR ADM. (LH) ROBERT O. PASSMORE, 0129

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. CRAIG O. MCDONALD, 8124

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. DAVID O. ANDERSON, 4824
CAPT. DAVID J. CRONK, 9384
CAPT. DIRK J. DEBBINK, 0752
CAPT. FRANK F. RENNIE IV, 3148

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

WILLIAM O. PRETTYMAN II, 3258

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

DARRELL S. RANSOM, 4944

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 628, AND 3064:

*To be major*

FREDERICK D. WHITE, 1231

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

MICHAEL P. KILLION, 6708
DOUGLAS S. KURTH, 4280

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

DONALD J ANDERSON, 7943
LYLE O ARMEL III, 8317
LAURENT O BAKER, 2330
STEPHEN C BAKER, 8413
JEFFREY J BARE, 6312
DAVID H BERGER, 6017
WILLIAM D BEYDLER, 9312
MICHAEL S BOHN, 8715
CHRISTOPHER M BOURNE, 6522
GREGORY A BOYLE, 9979

JAMES R BRADEN, 3849
BARETT R BYRD, 5759
JEREMIAH D CANTY, 4700
EDWARD R CAWTHON, 0072
ROBERT H CHASE JR., 3806
DANIEL J CHOIKE, 5018
MARK G CIANCIOLO, 2940
MARK A CLARK, 7557
ROBERT J COATES, 4034
RAYMOND E COIA, 4123
PETER B COLLINS, 3472
THOMAS N COLLINS, 0919
JAMES T CONKLIN, 2419
CHRISTOPHER C CONLIN, 1124
MARSHALL I CONSIDINE III, 9886
SCOTT C COTTRELL, 6965
WILLIAM B CROWE, 0433
MARK R CYR, 9045
MICHAEL G DANA, 1185
JAMES T DAULTON JR., 2044
ENRICO G DEGUZMAN, 6422
PETER H DEVLIN, 3842
JAMES A DIXON, 2810
MICHAEL J DONOVAN, 9578
MARK A DUNGAN, 2162
LEO A FALCAM JR., 9324
DOUGLAS O FEGENBUSH JR., 7268
PETER J FERRARO, 7354
JAMES N FLOWERS, 5823
STEVEN A FOLSOM, 8765
CARL J FOSNAUGH III, 4866
KEVIN F FREDERICK, 1055
DAVID C FUQUEA, 5233
PIERRE C GARANT, 6550
JOHN C GAUTHIER, 7766
WILLIAM R GRACE, 9416
JACOB L GRAHAM, 3306
PATRICK J GREENE, 9746
RAYBURN G GRIFFITH, 7105
CURTIS E HABERBOSCH, 9063
KATHLEEN V HARRISON, 6348
KIP J HASKELL, 7063
DAVID J HEAD, 8799
BRIAN J HEARNSBERGER, 9978
PAUL K HILTON, 7893
ADELE E HODGES, 1663
DAVID K HOUGH, 2879
CHARLES L HUDSON, 9985
DAVID W HUNT, 8733
OSAMAH A JAMMAL, 9227
CAROL K JOYCE, 1628
PATRICK J KANEWSKE, 7857
MICHAEL R KENNEDY, 4572
DOUGLAS M KING, 9946
RICHARD W KOENEKE, 5407
BRUCE D LANDRUM, 7419
JAMES K LAVINE, 9455
BRADLEY C LINDBERG, 2855
JOHN P LOPEZ, 5135
BRUCE D MACLACHLAN, 2112
NICHOLAS J MARSHALL, 4486
ROBERT A MARTINEZ, 9862
PETER T MCCLENAHAN, 7709
MICHAEL W MCERLEAN, 2536
WALTER L MILLER, 1347
JOSEPH MOLOFSKY, 6999
ARCHIBALD MORRISON VI, 2145
DAVID C MYERS, 2670
KEVIN J NALLY, 8934
MICHAEL G NAYLOR, 6895
WALTER L NIBLOCK, 6728
CARLOS I NORIEGA, 8348
JOSEPH L OSTERMAN, 6835
STEVEN R PETERS, 7555
ILDEFONSO PILLOTOLIVE II, 0971
RICHARD S POMARICO, 6268
ALBERT F POTWIN, 9807
MATTHEW D REDFERN, 9580
RAYMOND G REGNER JR., 6745
DANIEL S ROGERS, 8259
ROBERT R RUARK, 2417
RICHARD W SCHMIDT JR., 3782
MARK C SEMPF, 9913
JOHN E SHOOK, 6549
MICHAEL A SHUPP, 7014
GREGORY P SIESEL, 5281
GLENN T STARNES, 0588
VINCENT R STEWART, 0528
CALVIN F SWAIN JR., 7221
JAMES J TABAK, 1847
PHILLIP C TISSUE JR., 8519
JAMES R TRAHAN, 1873
GREGORY S TYSON, 2196
MARK W VANOUS, 8095
BRIAN J VINCENT III, 0507
ERIC M WALTERS, 9898
JOHN R WASSINK, 6663
NATHAN O WEBSTER, 7387
GARY D WIEST, 2586
JOHN C WRIGHT, 5091
FRANCIS S ZABOROWSKI JR., 3259
DONALD W ZAUTCKE, 6991

# HOUSE OF REPRESENTATIVES—*Tuesday, March 11, 2003*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. SIMMONS).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 11, 2003.*

I hereby appoint the Honorable ROB SIMMONS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BALLENGER) for 5 minutes.

## COLOMBIAN COFFEE CRISIS

Mr. BALLENGER. Mr. Speaker, to most Americans coffee is nothing more than a morning pick-me-up, a drink over which to socialize, or an excuse to reacquaint ourselves with old friends or even to make new ones. But to Latin America, our neighbors down there, coffee is a way of life, a key to survival, and a hope for the future.

As many of my colleagues may know, coffee prices are at a record low. Latin American families who once made a good living at farming coffee are now being forced to leave the farm to find other work. Oftentimes, that means risking life and limb to emigrate to the United States or to engage in the illegal production and trafficking of narcotics just to survive.

As a businessman, I fully comprehend the ebbs and flows of commodity trading and the effects that oversupply can have on a market. But there is much more to the current coffee situation than profit margins. Latin Americans produce the highest-quality coffee anywhere in the world, but they cannot make a living from it. Without immediate action, the consequences will be felt well beyond the coffee fields.

It is important to remember that democracy is still young and fragile in Latin America. Growing poverty and an increasing lack of real economic opportunities are now threatening the very democracy that thousands of Latin Americans have risked, and sometimes lost, their lives to establish. Over the years, I have worked with Latin leaders to promote economic opportunities that would strengthen new democracies and improve the lives of their citizens. The production of real quality coffee, for instance, once brought unheard of prosperity to many of the communities in Central and South America. But with the price of quality coffee falling to historic lows, the flood of lesser- and cheaper-quality coffee entering the global market, these very communities are now left destitute and questioning the benefits of democracy.

Last July, the Subcommittee on the Western Hemisphere, which I chair, held a hearing on what some have termed the "coffee crisis." Some may refute the premise that there is such a crisis. The abandoned coffee plantations of El Salvador, Nicaragua, Colombia, and elsewhere, coupled with the thousands of people who are now out of work, tell a different story. There is a crisis.

During the hearing, witnesses testified that the trade in coffee is negatively affecting the local, national, and regional economies of our hemisphere. The overproduction of coffee is the result of unrestricted imports from places like Vietnam, where coffee is not a traditional crop and the farmers are heavily subsidized by the communist government. In a span of just a few years, Vietnam has emerged as the second leading exporter of coffee in the world. This oversupply has driven coffee prices to their lowest level in 30 years, to just a fraction of what they were a few years ago.

As a result of this hearing, the gentleman from California (Mr. FARR) and I cosponsored House Resolution 604, along with eight other Members of Congress. The resolution simply expresses the sense of the House that the United States should adopt a global strategy with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of countries affected by the collapse of coffee prices. It encourages the President to explore measures to support and complement multilateral efforts to respond to the global coffee crisis. But more importantly, it urges the private sector coffee buyers and roasters to work with the United States to seek their own solution to the crisis which is economically, socially, and environmentally sustainable.

Numerous foreign firms are already helping farmers move away from drug production and improve the local economies. A French grocery company, CarreFour, entered into a contract with the Colombian organic and specialty coffee farmers to buy their coffee at slightly higher prices to be marketed in CarreFour stores. While I am not prone to say anything really nice about the French, especially recently, this is the type of corporate citizenship that should be emulated. This simple act of corporate citizenship is providing coffee consumers the best coffee available while giving the farmers and their families a way to earn a living without having to produce drugs. I also understand that Starbucks and Green Mountain engage in outreach programs for the Latin coffee farmers that allow them to purchase quality coffees for their shops.

In conclusion, if we stand by and allow the crisis to worsen, we are committing ourselves to more drastic action in the medium to long term when the crisis will have spiraled to our further detriment. As the crisis deepens, so do the problems at the U.S. border, such as massive migration and the inflow of more illegal drugs like cocaine and heroin. Although there are efforts under way to address this problem, more action must be taken. I encourage my colleagues to join me in solving this crisis.

## IMPLICATIONS OF WAR WITH IRAQ MUST BE EXPLAINED BY ADMINISTRATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the administration continues to assert rightly that Saddam Hussein is an evil dictator, but the administration fails to explain how a preemptive war is in the best interest of the American people.

On February 25 I introduced House Joint Resolution 24 with the gentlewoman from California (Mrs.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

• Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TAUSCHER) and the gentleman from Pennsylvania (Mr. HOEFFEL.) The resolution requires the President to submit a new report to Congress that answers eight specific questions. It includes a sense of Congress clause that requests the President present the report before a public joint session of Congress.

It is our duty in Congress on behalf of the American people to ensure that if the President authorizes military force against Iraq, that he first give Congress a full accounting of the potential cost and the potential consequences.

The two reports submitted to Congress by the administration under requirements of the October resolution have failed to communicate the President's plans for Iraq. The administration in reports included no indication of the potential financial costs of the war and its aftermath, no indication of how weapons of mass destruction will be secured, and no discussion of blowbacks, the CIA term for terrorist actions against the United States.

The second report clearly acknowledges the magnitude of the task of reconstructing and stabilizing Iraq, calling it a massive undertaking. Unfortunately, the report fails to explain how this challenge will be overcome, what level of financial, what level of political, what level of military commitment that the administration is willing to make in Iraq after the war.

Before the U.S. initiates a preemptive strike, something we have never done before, without the consensus of the U.N. Security Council and in the absence of a clear, imminent threat to the United States of America, the administration must clearly explain to the American people the short- and long-term implications of attacking Iraq. H.R. 24 asks, and the administration should answer to the American public and to Congress:

Have we exhausted every diplomatic means of disarming Iraq?

Will America be safer from terrorism if we attack Iraq?

How will we deal with the humanitarian crisis that inevitably will follow this war?

How will the war with Iraq affect our already weak economy?

What will reconstruction of Iraq and providing humanitarian assistance to that country cost? And how long will it take, how long will American troops and civilians be stationed there and at what cost?

How will attacking Iraq prevent the proliferation of weapons of mass destruction, when Korea and Libya and other countries, and Iran, for instance, are much further along with nuclear development, we know, than Iraq is?

What will preemptive war do to the stability of the Middle East?

Are we ready to commit to a decade of military troops policing Iraq and the billions of dollars needed to rebuild and stabilize that country and make that country, in the words of the President, into a democracy?

These important questions need to be answered to the American public before President Bush decides preemptively, without U.N. support, to attack another country.

The Washington Post reported today: "The greatest source of concern among senior army leaders is the uncertainty and complexity of the mission in postwar Iraq, which could require U.S. forces," and get this, "to protect Iraq's borders, referee clashes between ethnic and religious groups, ensure civilian security, provide humanitarian relief, secure possible chemical and biological weapon sites, and govern hundreds of towns and villages." Simply put, we could be in the middle of a civil war.

How has the administration responded to these concerns? With silence. There are no legitimate plans for reconstruction that anyone has seen. There are no cost estimates for the conflict or the post-conflict occupation. There are no casualty estimates. These are concerns we must address.

Retired Army Major General William Nash commanded the first peacekeeping operation in the Balkans in 1995. After the Gulf War in 1991, he occupied the area around the Iraqi town of Safwan on the Kuwaiti border almost 2 years ago. He told The Post that during this time his troops dealt with recurring murders, attempted murders, "ample opportunity," in his words, "for civil disorder," and refugee flows they could never fully fathom. He went on to say that 200,000 U.S. and allied forces will be necessary to stabilize Iraq. Two hundred thousand.

Note that he uses the term "allied forces" in that total. If we continue on the course we are on, there will be few allied forces. Maybe Great Britain, maybe a few Turks, if we pay them enough, maybe a few Spaniards, maybe a few Italians, but overwhelming almost all of those 200,000 will be Americans and we will be footing the bill alone.

The civilian leadership at the Pentagon and the Department of Defense continually refuse to acknowledge the enormity of the challenge in post-conflict Iraq. They respond to inquires with delay tactics and uncertain estimates.

I am certain of one thing, Mr. Speaker. Any action against Iraq will be difficult, costly, and dangerous if we do not go to the U.N. Security Council.

## DOMESTIC VIOLENCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from North Carolina (Mr. COBLE) is recognized during morning hour debates for 5 minutes.

Mr. COBLE. Mr. Speaker, I rise to discuss a very important issue: domestic violence. Last week marked the second annual "Stop Violence Week in Washington." A series of events were held here to encourage men and women to come together to stop violence.

As chairman of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, this issue is of particular concern to me. In the 108th Congress, our subcommittee will be tackling important issues relating to violence prevention. The Bureau of Justice statistics estimate that in 1998 about 1 million crimes were committed against persons by their current or former spouses, boyfriends, or girlfriends. These types of crimes are generally referred to as "intimate partner violence," and women are the victims in about 85 percent of the cases. In 1998, in excess of 1,800 murders were committed by persons against their intimate partners.

Although these statistics are shocking, we have made great strides in the last 2 decades at increasing awareness of this problem, which is half the battle. Congress has taken an active role in addressing the problem by authorizing expiring grant programs and establishing new grants to more effectively target violence and abuse. Federal grant dollars are available through the Department of Justice and the Department of Health and Human Services to be used by State and local authorities to assist their communities and schools in fighting violence. For example, grants may be used by local authorities to aid law enforcement officers and prosecutors in gathering evidence and building cases to bring violent criminals to justice.

These grants also may be used to operate training programs for victim advocates and counselors. Many victims of domestic violence and sexual assault are afraid to retell their stories to friends, family or a counselor. Training people to know how to assist victims of domestic violence is a necessary tool in fighting this epidemic and preventing future abuse.

The 2000 reauthorization of the Violence Against Women Act created new grants to be used to address violence issues on college campuses. It also authorized new grant monies to assist victims of violence with legal concerns and to address violence against the elderly and disabled.

Continuing its commitment to fighting violence and domestic abuse, Congress provided generous monies again this year to the Department of Justice's Office on Violence Against Women.

It is important to recognize the work and dedication as well of groups committed to increasing awareness surrounding domestic violence through education campaigns, intervention, and counseling.

□ 1245

Mr. Speaker, the National Network to End Domestic Violence, the National Coalition Against Domestic Violence and the National Center for Victims of Crimes are just a few groups that are active in ridding our Nation, our homes, of violence. Many State and local groups across the country also work day to day to prevent violence, aggressively enforce penalties, and counsel victims of violent crimes.

Mr. Speaker, I hope that the Congress will continue to fund outreach and education programs and encourage individuals to work together to change attitudes towards these crimes. It is clear that we are making progress in this area, but we must continue to work together to eradicate violence against women. To all of those working at the local, State and Federal level to eliminate domestic violence and sexual abuse, we express our thanks to them for their selfless efforts and dedication. We hope that our support in the Congress will assist them in this very important battle and fight.

## HONORING 100TH ANNIVERSARY OF UNIVERSITY OF PUERTO RICO

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the order of the House of January 7, 2003, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized during morning hour debates for 5 minutes.

Mr. ACEVEDO-VILA. Mr. Speaker, this week Puerto Rico is celebrating the 100th anniversary of the University of Puerto Rico, our oldest and most prominent higher education institution. One hundred years ago, the University of the Puerto Rico was founded as a training center for teachers, and opened its doors with just 173 students. Since then, the UPR has evolved to become the foremost Hispanic-serving institution in the United States, and one of the leading universities in the Spanish-speaking world. Today the UPR offers 485 academic programs in practically all areas of learning and has a student body of about 70,000 students.

The political, cultural and economic development of Puerto Rico has been closely linked to the UPR. From governors, Supreme Court judges, and NASA engineers to world-renowned authors and poet laureates, all can be found in the UPR alumni. I am proud to be one of thousands of alumni of the UPR that today pay tribute to our alma mater. We look forward to another 100 years of excellence.

Mr. Speaker, congratulations to the people of Puerto Rico, to the University of Puerto Rico, to its students, and to its alumni on its 100-year anniversary.

## COVER THE UNINSURED WEEK

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, this week is Cover the Uninsured Week where lawmakers, the media, and our constituents will consider how we can help provide health care coverage for some 35 million Americans. No doubt some will pronounce that the answer lies in a single payer, universal health care coverage program. I say there are better ways. Why? Let us look at countries that do have national health care in place and see its problems.

Let me share with Members a story I read in a February 13 article in the New York Times about the growing lag on the Canadian health care system. According to this article, a Canadian government study shows that 4.3 million Canadians, 18 percent of those who saw a doctor in 2001, had a problem getting tests or surgery done in a timely fashion. Three million could not find a family physician. Canada spends $86 billion on the health care. Only the United States, Germany and Switzerland spend more as a proportion of economic output, but budget cuts since the early 1990s have impeded efforts to keep health care up to date.

Waiting lines have also increased because an aging population is placing more demands on the system. A study by the Fraser Institute recently concluded that patients across Canada experience waiting times of 16.5 weeks between receiving a referral from a general practitioner and undergoing treatment in 2001-2002, a rate 77 percent longer than in 1993.

Mr. Speaker, can Members imagine an insured American putting up with a wait for 4 months? As Members can imagine, those with the means to seek other options do not, due to what the Canadians call "line jumping" by the affluent and well-connected.

While the goal of many who recommended socialized health care is egalitarian, equal health services for all, that is exactly what they get, an equally long wait for all. But if a Canadian has money, they just fly south to a private physician in the United States. My State of Florida is notoriously a haven for Canadian snowbirds to winter in and seek medical care.

Last month I had members of various Canadian provincial governments visit me asking how they could work out an arrangement and fee schedule with physicians in Florida to provide services to them.

And to point out another example of the erosion of egalitarian goal that national health care is supposed to provide, there is an ad for an up-scale maternity service in London's. Portland Hospital. It points out women do not have to be famous to give birth there, they just need to have money. Deluxe private suites, champagne, and a beauty salon are just among some of the amenities. I thought all English women could receive quality, timely obstetrical care in their assigned hospital. But why then would the Duchess of York and supermodel Jerry Hall choose to have their babies outside the socialized system, because those who can afford to pay want choice, and we should provide nothing less for all Americans.

To seek a legacy in his final years of office, Canada's Prime Minister Jean Chretien has agreed to spend $9 billion more over the next 3 years. Fortunately for Canadians, the system's shortfalls have opened the way for tentative but growing movements toward privately managed medical services.

Let us resolve today to promote choice and opportunity for the uninsured to obtain the health care plan that works best for them. One of the major ways is to institute a tax parity into health insurance. The 90 percent of us who receive our health insurance through our employers are receiving a substantial tax benefit. We should extend this to those in the individual market also.

When this Congress convened on January 7, I introduced my bill, H.R. 198, that would allow any tax filer to deduct 100 percent of the cost of their health insurance as well as non-reimbursed prescription drugs. Currently, only the self-employed can deduct 100 percent, but what about the unemployed or the retired? H.R. 198 would help them also. Likewise, many of my colleagues have introduced legislation to provide tax credits for Americans to use for purchasing health care. These are all ways we can help cover the uninsured and enable them to purchase the health insurance of their choice.

### LONG LINES MAR CANADA'S LOW-COST HEALTH CARE

(By Clifford Krauss)

TORONTO. Feb. 11—During a routine self-examination last May, Shirley Magee found a lump on her breast. Within weeks she had it and some lymph modes removed. So far so good, until it came to the follow-up therapy.

Mrs. Magee, a 55-year-old public school secretary, researched her condition on the Internet, and read that optimally, radiation treatment should begin two weeks after surgery. But the local provincial government clearinghouse that manages the waiting time for radiation therapy told her she had to wait until the end of September—nearly three months after her surgery—to begin treatment.

"I was supposed to feel lucky I got in so quickly," said Mrs. Magee, still viscerally annoyed though she has since successfully completed her radiation regime. "It's a horrible feeling that something in your body is ticking that you have no control over. If I were a politician's wife I wouldn't have had to wait."

Long heralded for giving all Canadians free health insurance and paying for almost all medical expenses, the health care system founded in the 1960's has long been the third rail all of Canadian politics; not to be touched by private hands, nor altered by Parliament.

But growing complaints about long lines for diagnosis and surgery, as well as widespread line-jumping by the affluent, and connected, are eroding public confidence in Canada's national health care system and producing a leading issue for next year's national elections.

A recent government study indicated that 4.3 million Canadian adults—or 18 percent of those who saw a doctor in 2001—reported they had difficulty seeing a doctor or getting a test or surgery done in a timely fashion. Three million Canadians are unable to find a family physician, according to several private studies, producing a situation all the more serious since it is the family doctor who refers patients to specialists and medical testing.

"The sky isn't falling, but things are not rosy," said Dr. Dana W. Hanson, president of the Canadian Medical Association. "Nevertheless if things are not fixed, the sky may fall."

Canada spends $86 billion a year on health care—only the United States, Germany and Switzerland spend more as a proportion of total economic output—but budget cutbacks since the early 1990's have impeded efforts to keep health care up to date. A recent report by the Senate's Standing Committee on Social Affairs, Science and Technology indicates that well over 30 percent of the country's medical imaging devices are obsolete.

Overworked technology is one reason for the long lines; others include a shortage of nurses and inefficient management of hospital and other health care facilities, according to several studies.

Waiting times have also increased because an aging population has put more demands on the system, while the current generation of doctors is working fewer hours than the last.

Waiting can occur at every step of treatment. A study by the conservative Fraser Institute concluded that patients across Canada experienced average waiting times of 16.5 weeks between receiving a referral from a general practitioner and undergoing treatment in 2001-2002, a rate 77 percent longer than in 1993. The recent Senate report noted that waiting times for M.R.I., CT. and ultrasound scans grew by 40 percent since 1994.

"Waiting lists are the hornets' nests that are jeopardizing the system," said Dr. Tirone E. David, professor of surgery at the University of Toronto. He noted that Ontario residents needed to wait an average of two months to see a cardiologist unless it was an emergency, queries for angiograms took four to six weeks, and waiting times between initial examination and micro-valve repairs could take as long as six months.

"It wasn't that way 15 years ago," Dr. David added. "It does not alter the ultimate outcome, but there's an anguish and uncertainty when a person feels their life is in a holding pattern for up to a year."

Defenders of the Canadian system note that only patients waiting months for nonemergency care, like treatments for cataracts and hernias skew the waiting time statistics.

And they argue that within life expectancy of 78 years, Canadians still enjoy one of the longest life expectancies in the world, slightly higher than the United States where 41 million people have no health insurance.

Still recent polls show that while Canadians want to keep their national system they are worried about its future effectiveness.

"I don't think there's a lot of patience among the public for a lot more study," said Deputy Prime Minister John Manley in a recent interview noting that his own driver needed to wait a year for hip replacement surgery. "There's not a lot of time to deal with it."

In response to the growing concerns, Prime Minister Jean Chretien and the Senate conducted studies of the system, that concluded in recent months that shortages of doctors nurses and diagnostic equipment had caused at least some deterioration of care over the last 10 years.

Seeking a legacy in his final year in office, Mr. Chretien agreed last week to spend over $9 billion more over the next three years on programs to improve diagnostic equipment, primary care, drug coverage and home care. But the provincial and territorial premiers say that isn't nearly enough to alleviate shortages of services, particularly in rural areas.

The system's shortfalls have opened the way for tentative but growing moves toward privately managed medical services and user fee in return for quicker service. A hospital in Montreal has begun charging fees for some surgical procedures and renting operating rooms to patients for several hundred dollars an hour. A Vancouver hospital has begun selling full-body C.T. scans for $860.

In an effort to reduce waiting lists, the provinces of Alberta, Nova Scotia and Ontario have established about 30 private M.R.I. and C.T. clinics, some of which offer nonemergency services to be paid for by private insurance.

"With the system cracking at the edges and waiting lists growing, people will eventually say 'all right, let me pay'", said Dr. Tom McGowan, president of Canadian Radiation Oncology Services, Canada's first for profit cancer radiation treatment center which has treated nearly 2,000 patients since it opened in Toronto two years ago. (Patients still pay nothing at the radiation clinic; Dr. McGowan is paid by the province and receives bonuses if he surpasses productivity targets.)

The Ontario provincial government allowed Dr. McGowan to open his night clinic after it was forced to send 1,650 cancer patients to the United States for radiation treatments during a 25-month period in 2000 and 2001 because of waiting lists that were up to 16-weeks long.

Dr. McGowan said the emergency, which cost the province $20 million in travel costs, was not rooted in a shortage of equipment nor staff but inefficient public management. Whatever the reasons his patients are quick to tell horror stories about their waits for diagnostic tests and treatments.

"Your worst fear is it is going to grow while you are waiting," said Pat McMeekin, a 53-year-old hospital clerical worker, recalling the two months she had to wait between a mammogram and the first of two biopsies confirming she had breast cancer last summer. "When you have something you want to take care of it and be done with it."

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## TOLERANCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, I was here on September 11, 2001. I saw the skies filled with mud-brown smoke rising from the devastation at the Pentagon. I felt that anger that every American felt then and that continues to simmer in the lesser angels of our nature to this very hour.

There is in my heartland Indiana district a small mosque in Muncie, Indiana, where each weekend a small community, less than 1,000 people of Arabic descent, gather to practice their religious faith, each of them contributing in important ways in our community. They reached me in the immediate hours after September 11 and expressed to me their concern as family people for their well-being in the wake of this attack that was unanimously effected by Arab extremists against our country.

It was then that I issued a statement I read again today. I said then that the terrorists who attacked the World Trade Center and the Pentagon are not representative of the overwhelming majority of Arabs or Muslims in the United States, and we could not allow anger at this horrible act to lead us to hate or discriminate against innocent individuals who happened to be of Middle Eastern descent. I said that terror has no regard for religion or ethnicity, and if we attack the innocent simply because of their ethnic status, we are no better than the terrorists who attacked us.

So we come to these days in which we find ourselves again perhaps on the precipice of a war in the Middle East, with the news in our Muncie newspaper this weekend that a recent graduate of Ball State University was arrested on terrorist charges at his home in Idaho. I thought with this news and the potential for war abroad and terrorist attacks at home, it would be appropriate to rise again to remind the people of my district and the State and even of this country that we cannot allow the hatred that terrorists and their sympathizers possess to inflame our hearts and distort our communities.

I urge my fellow citizens to continue to embrace those ideals of the Declaration of Independence, and understand while we believe and have built a Nation founded on the premise that all men are endowed by our Creator with certain inalienable rights, we cannot and must not give voice of persecution or permit acts of discrimination against those among us of Middle Eastern descent. Millions of Arab Americans, like those in my district, contribute daily in vital ways to our communities and our Nation in every professional class, medicine, academia, engineering, and yes, to the U.S. armed forces.

The Good Book tells us, and what does the Lord require of you? To do justice, to love kindness, to walk humbly with your God. Let us as we go into these difficult times and in the difficult days ahead rededicate ourselves to practice justice and kindness toward every American, citizen and visitor of Middle Eastern descent, that we may hold up those ideals that brave Americans fight to defend in these days.

## ALLIED SUPPORT FOR WAR AGAINST IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized during morning hour debates for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I am confused today. I have been in Congress 17 years and I have been a strong supporter of our relations with our European friends, with parliamentarians from Russia, Ukraine, China, and every other major nation in the world. I have traveled to France and Germany several times, and have hosted scores of members of parliaments.

But what I saw occur last week and what I am hearing coming out of the President's mouth disturbs and confuses me. President Chirac of France and his counterpart, Chancellor Schröder of Germany, have said that they will not support the U.S. effort to remove Saddam Hussein from Iraq. They have further said there is no justification for war unless it is approved by the U.N. Security Council.

□ 1300

But I look at each country and I wonder what they are referring to, because it was France just 4 years ago when they wanted the U.S. to come in and assist them militarily in removing Milosevic from power in Belgrade. It was France who came to the U.S. and convinced our President to put our sons and daughters in harm's way. But in doing so, along with the French, in pushing America to fight this military battle, they would not go to the U.N. Security Council because they knew that Russia would veto any resolution.

So what did France and Germany do? Just a few short years ago, for the first time and only time in NATO's history, along with our President, at that time Bill Clinton, they used a NATO military force to invade a non-NATO sovereign nation to remove the head of state, and that head of state was Slobodan Milosevic. Now, Milosevic was a bad guy, a war criminal, he has done bad things, but everyone, including the special rapporteur for human rights at the U.N., Max van der Stoel, including Bill Clinton's own Ambassador to the U.N., Ambassador Holbrooke, have all said publicly that, in fact, Saddam Hussein is far worse than Milosevic ever was. In fact, a U.N. special rapporteur said there has been no leader since Adolf Hitler who has done the kinds of human rights abuses that Saddam Hussein has done.

How, then, can France and Germany when just a few short years ago for their own benefit, because a neighbor was threatening in their case, they felt, their security, enticed the U.S. to come in and use our troops to remove Milosevic from power militarily and today say, in a situation far, far worse in Saddam Hussein, that force is not justified?

I am also reminded of just a year ago, President Jacques Chirac, saying it again, the U.N. Security Council is the final group that should decide the change of regimes, sent French troops to the Ivory Coast because of a coup attempt, sent French troops there, without going to the U.N. Security Council, without asking for a vote, without employing the very tactics that he is standing up now and demanding around the world.

Mr. Speaker, I am troubled. The French and Germans have been our longtime friends, and hopefully they will be once this is over; but the words coming out of the mouths of Jacques Chirac and Gerhard Schröder and their foreign ministers leave me confused and bewildered. I really wonder what France stands for. I really wonder what Germany stands for. Are they really against human rights abuses as defined by Amnesty International and every other major human rights group? Are they really convinced that people who are bad actors like Milosevic should be removed from office, as we did with their pushing and support just a few years ago militarily? And if so, why the change with Saddam Hussein? I hope it is not because of the ties to oil that France has with Iraq. I would hope that is not the case with the French. But, Mr. Speaker, I do not know what the proper response is.

Mr. Speaker, I include for the RECORD two letters which were sent by me to President Jacques Chirac last Friday and Chancellor Gerhard Schröder, also last Friday, which basically lay out the facts and then asks the question of the French and Germans, Do you have a double standard? Is it okay to entice America to come in and fight a battle in front of you in your backyard to remove a leader that you have said publicly is a human rights abuser, even though you do not want to go to the U.N. and did not go to the U.N. to achieve the U.N.'s support? Is it okay to do that and then a few years later, after 12 years of seeing Saddam Hussein kill tens of thousands of innocent people, use chemical weapons against the Kurds, commit war crimes against our own American POWs, 21 of them, in fact, and, in fact, commit the most horrendous crimes against the Kuwaitis and all the other minority groups inside Iraq, and then to come forward and say, "Well, in this case it's different"?

HOUSE OF REPRESENTATIVES,
*Washington, DC, March 7, 2003*

President JACQUES CHIRAC,
*Republic of France, c/o Embassy of France, Washington, DC.*

DEAR PRESIDENT CHIRAC: As a long time friend of the French people and a steadfast facilitator of inter-parliamentary cooperation between our nations, I am compelled to contact you to express my disappointment with your government's actions. Throughout my tenure in Congress, I have hosted dozens of French parliamentarians, traveled to your country to speak to government officials and industry leaders, and endeavored to strengthen the relations between our great nations. However, I was outraged today by your Foreign Minister's statements before the United Nations opposing the use of force to uphold the United Nations Charter and the sixteen multilateral resolutions written after the Gulf War cease-fire in 1991. Your government's words and actions have done serious, if not permanent, damage to the once unshakable foundations of the great transatlantic alliance that has served our mutual interests for so long.

Your continued opposition to the use of force to disarm Iraq without the full support of the United Nations is steeped in hypocrisy of such epic proportions, that your sudden reverence for the inviolability of the United Nations is laughable. When the dictator Milosevic threatened western Europe's back door, France was entirely content to bypass the United Nations Security Council and take military action. History will forever judge your use of NATO—championing the organization's first offensive action against a non-menber—without any attempt to employ the global diplomacy of the United Nations. The actions of your Foreign Minister opposing the dedication of the United States stands in stark contradiction to the practices and motivations of your government in Yugoslavia. During negotiations within the Security Council amidst the NATO engagement, Alain Dejammet justified France's actions through the enforcement of three resolutions under Chapter VII on Kosovo and Yugoslavia's refusal to fulfill its obligations under those agreements. Your opposition and veto threat sends a disturbing message to future generations that international interference is no longer desired to end genocide, obstruct terrorism or aid a suffering people under a demonic regime. Even more disturbing, is that the efforts to remove the cancer of Slobodon Milosevic could not have been accomplished without the vast majority of coalition troops, air strikes and logistical support provided by the United States. In fact, France went to great lengths to have America commit our sons and daughters for this moral purpose, and we dutifully obliged.

I am quite sure that the foreign ministers of France and Germany slept soundly while the bombs fell on Kosovo without United Nations approval. However, the historically peaceful people of France are now roused to defend the sacred honor of the Security Council, the very same Security Council whose honor they flouted just five years ago. Convenience, not principle, seems to be France's guiding compass. Your constant opposition to America's effort to remove a regime that has continually violated several, if not all of the human rights provisions within the United Nations charter and presents an increasing threat to democracies all over the world is nothing short of appalling. The dictatorship in Iraq far surpasses the practice of murder and oppression that ever existed in Yugoslavia. Nevertheless, your country insists on turning a blind eye to the atrocities and breeding ground for terrorism that fail to occur near the borders of old Europe.

France's continued indifference to the plight of the Iraqi people, its neighbors and those who fall subject to Saddam Hussein's evil rule defies explanation. The atrocities perpetrated under Hussein's regime are well documented by organizations such as Human Rights Watch, the International Federation for Human Rights, Amnesty International, the Coalition for International Justice and even the United Nations. In fact, the former United Nations Special Rapporteur for Human Rights in Iraq, Max Van der Stoel, stated that "the brutality of the Iraqi regime was of an exceptionally grave character, so grave that it has few parallels in the years that have passed sine the Second World War. . . . It is to comparisons with the obscenity of the Holocaust and Stalin's mass murders that observers are inevitably drawn when confronted with the horrors of Saddam's Iraq. . . This is a state that employs arbitrary execution, imprisonment and torture on a comprehensive and routine basis."

The vile methods of torture inflicted upon Coalition prisoners of the Gulf War, Kuwaitis, Kurds, Sh'iit muslims, Iranians, Turkomans, and anyone else who dares to live a life contrary to the wishes of Saddam Hussein are well documented. Primitive executions, dismemberment, castration, hangings by barbed wire, the raping of women in front of family members and children, burning flesh with acid, finger and toenail extraction, boring holes into bodies with drills and the ignition of gasoline pumped into various orifices of the human body are routine measures employed by Hussein and his henchmen.

Yet France continues to make every effort to block Hussein's removal and protect a despot whose country has the highest number of disappearances and displaced persons in the World. You callously refuse to acknowledge the documented destruction of life and repeated offensive military actions against surrounding countries since the 1970's. Your actions condone the blatant disregard of United Nations resolutions since 1991, and repeatedly make it clear that international law should not be honored. The statements made today and your acquiescence may forever undermine the peaceful objectives that are the foundation of international law and serve to entice future evils.

America will not follow France's lead and remain content to concern ourselves solely with problems that border our country. We will not allow economic investments and resource dependency to impede our future judgments to alleviate the suffering of others. The American people and my colleagues in Congress will not soon forget the rank hypocrisy and blatant disloyalty displayed by your country today, and I am confident that the free people of the world will also refuse to follow your misguided lead.

Sincerely,

CURT WELDON,
*Member of Congress.*

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HOUSE OF REPRESENTATIVES,
*Washington, DC, March 7, 2003.*

Chancellor GERHARD SCHRÖDER,
*Federal Republic of Germany, c/o Embassy of Germany, Washington, DC.*

DEAR CHANCELLOR SCHRÖDER: As a long time friend of the German people and a steadfast facilitator of inter-parliamentary cooperation between our nations, I am compelled to contact you. Throughout my tenure in Congress, I have hosted dozens of Bundestag members, served on the German Caucus and U.S. Congress-German Bundestag Study Group, and endeavored to strengthen the relations between our great Nations. However, I was outraged today by your Foreign Minister's statements before the United Nations opposing the use of force to uphold the United Nations Charter and the sixteen multilateral resolutions written after the Gulf War cease-fire in 1991. Your government's words and actions have done serious, if not permanent, damage to the once unshakable foundations of the great transatlantic alliance that has served our mutual interests for so long.

Your continued opposition to the use of force to disarm Iraq without the full support of the United Nations is steeped in hypocrisy of such epic proportions, that your sudden reverence for the inviolability of the United Nations is laughable. When the dictator Milosevic threatened western Europe's back door, Germany was entirely content to bypass the United Nations Security Council and take military action. History will forever judge your use of NATO—championing the organization's first offensive action against a non-member—without any attempt to employ the global diplomacy of the United Nations. The actions of your Foreign Minister opposing the dedication of the United States stands in stark contradiction to the practices and motivations of your government in Yugoslavia. In fact, Minister Joschka Fischer himself characterized the Serbian actions as a "declaration of war against the policy of European integration. It is not only a question of morality or of human rights, it is a question of security and stability in Europe." Your opposition sends a disturbing message to future generations that international interference is no longer desired to end genocide, obstruct terrorism or aid a suffering people under a demonic regime. Even more disturbing, is that the efforts to remove the cancer of Slobodon Milosevic could not have been accomplished without the vast majority of coalition troops, air strikes and logistical support dedicated to your effort by the United States. In fact, Germany went to great lengths to have America commit our sons and daughters for this moral purpose, and we dutifully obliged.

I am quite sure that the Foreign Ministers of France and Germany slept soundly while the bombs fell on Kosovo without United Nations approval. Now, the people of Germany are roused to defend the sacred honor of the Security Council, the very same Security Council whose honor they flouted just five years ago. Convenience, not principle, seems to be Germany's guiding compass. Your constant opposition to America's efforts to remove a regime that has continually violated several, if not all of the human rights provisions within the United Nations charter and presents an increasing threat to democracies all over the world is nothing short of appalling. The dictatorship in Iraq far surpasses the practice of murder and oppression that ever existed in Yugoslavia. Nevertheless, your country insists on turning a blind eye to the atrocities and breeding ground for terrorism that fail to occur near the borders of old Europe.

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Yet your country continues to make every effort to block Hussein's removal and protect a despot whose country has the highest number of disappearances and displaced persons in the World. You callously refuse to acknowledge the documented destruction of life and repeated offensive military actions against surrounding countries since the 1970's. Your actions condone the blatant disregard of United Nations resolutions since 1991, and repeatedly make it clear that international law should not be honored. The statements made today and your acquiescence may forever undermine the peaceful objectives that are the foundation of international law and serve to entice future evils.

America will not follow Germany's lead and remain content to concern ourselves solely with problems that border our country. We will not allow economic investments and resource dependency to impede our future judgments to alleviate the suffering of others. The American people and my colleagues in Congress will not soon forget the rank hypocrisy and blatant disloyalty displayed by your country today, and I am confident that the free people of the world will also refuse to follow your misguided lead.

Sincerely,

CURT WELDON,
*Member of Congress.*

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## HONORING NAPERVILLE CENTRAL WOMEN'S BASKETBALL CHAMPIONSHIP TEAM

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the order of the House of January 7, 2003, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized during morning hour debates for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, I rise today in honor of the Redhawks, the Naperville Central High School women's basketball team, who this weekend brought home the Illinois Class AA State championship.

Under the leadership of Head Coach Andy Nussbaum, the Redhawks on Saturday tipped Chicago Fenwick in overtime, 63–59, to capture the school's first State title and the number seven ranking in the latest national rankings as compiled by USA Today.

Who are the Redhawks? They are Rachel Crissy, Seanna O'Malley, Lauren Grochowski, Brittany Utrata, Liz

Lawdensky, Tiffany Hudson, Courtney Peters, Erica Carter, Denise Hill, Candace Parker, Megan Martin, Meredith Daniels, Christina Sahly, Molly Glanz, Tara Hester, Kristen Ludwig and team managers, Getisa Korneggy and Amanda Brakke.

Mr. Speaker, all of Illinois, and especially the city of Naperville, are proud of the girls' accomplishments, none of which is more impressive than posting an unblemished 35-0 record. This was the first perfect season for a Class AA women's championship team since 1988.

As many people in Illinois and across the Nation know, not so long ago the women Redhawks would not have had the chance to even lace up their sneakers. Thanks to the passage of title IX in 1972, young women and girls throughout America have come to benefit from the opportunities enjoyed for so long by young men and boys in America. It has enabled young women to participate in school sports, to learn the value of teamwork and competition, and to gain the self-confidence and skills that are so valuable in business and in other future careers.

Congratulations, Redhawks; and let me say, look out Redhawks opponents in 2004. Coach Nussbaum returns four starters, including the top junior player in the Nation, Candace Parker.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 6 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

"Lord, my refuge, my stronghold, my God in whom I trust."

When the winds of distress swirl around us, Lord, or unsettling times demand determination, Members of Congress, as any of us in America, want to take refuge. We may seek refuge in consultation as we look for support from others. Or we may be tempted to blame others for our troubles. Rather than take refuge in excuses or in the shadow of others, we need to stand resolutely ourselves, claim You, O Lord, as our sure refuge, and act responding to Your guidance.

When as a Nation or as individuals our security is shaken or our vulnerability revealed, we may, like Adam, want to hide. We may be tempted to think the firing power of weapons is our greatest strength, or the power of money will protect us. But in all the battles that are fought, You alone, O God, are a lasting stronghold.

So it is: in God we trust now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TURNER) come forward and lead the House in the Pledge of Allegiance.

Mr. TURNER of Ohio led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ALTERNATIVE TO WAR

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, last week a Defense Department spokesman announced that the United States is preparing to use landmines in Iraq. What an insult to the 146 countries brave enough to sign the Landmine Treaty which forbids the use of landmines. Embarrassingly, the United States is not a signatory.

Landmines do not know the difference between a soldier and a child.

Instead of killing children, we need to educate them. Instead of seeding Iraq with explosives, we should plant seeds of peace and well-being worldwide. Instead of using landmines in Iraq, we should be cleaning up landmines in Afghanistan.

Madam Speaker, the use of landmines is a step in the wrong direction. There are alternatives to war. Our problem is we have not prepared for them.

## HONORING PRISON FELLOWSHIP

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, in the 1990s we realized that tough sentencing for criminals reduced crime rates. But this year alone, roughly 600,000 of those prisoners will be released; and statistics show that over 60 percent of these parolees will return to prison within 2 years.

To combat this trend, Prison Fellowship, a faith-based group, was formed and began to offer job-skills training, drug treatment, and the opportunity to cultivate character and faith. The results have been dramatic. Just 8 percent of their participants have returned to prison within 2 years. It simply produces productive rehabilitated members of society.

But the forces of the left seek to undo the progress by suing Prison Fellowship. Americans United for the Separation of Church and State have sued them because of this. The left needs to learn that faith-based programs work many times better than government programs. They are seeking to build a more healthy society.

## UNANIMOUS SUPPORT FOR U.S. TROOPS IN THE MIDDLE EAST

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Madam Speaker, over the weekend I joined with hundreds of Marines in my congressional district as they prepared to deploy to the Middle East. Many of their families asked me whether the American people will support them. They asked whether the polls that they read about reflect a lack of support for those who may be asked to fight for our freedoms in the Middle East.

Madam Speaker, I support the use of force, but I understand that there is a diversity of opinion on this issue. In America we have the right to agree, the right to disagree, the right to remain silent; but let no one believe for a moment that there is any division with respect to supporting our troops. Republicans and Democrats will go and fight for our freedoms abroad and Republicans and Democrats will stand by them at home. We cannot forget our support of those brave men and women, and I know that this Congress will not forget that for a moment.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## RECOGNIZING THE BICENTENNIAL OF THE ADMISSION OF OHIO INTO THE UNION AND THE CONTRIBUTIONS OF OHIO RESIDENTS TO THE ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT OF THE UNITED STATES

Mr. TURNER of Ohio. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 122) recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States.

The Clerk read as follows:

H. RES. 122

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's admission into the Union;

Whereas Ohio was the 17th State to be admitted to the Union and was the first State to be created from the Northwest Territory;

Whereas "Ohio" is derived from the Iroquois word meaning "great river", referring to the Ohio River which forms the southern boundary and a portion of the eastern boundary of the State;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free state, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, which is known as "The Mother of Presidents", has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon), created the basis for modern living as we know it;

Whereas Ohio, which is also known as "The Birthplace of Aviation", has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnik;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the "knowledge economy" of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for immigrants, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio began celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio; and

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State: Now, therefore, be it

*Resolved*, That the House of Representatives recognizes—

(1) the bicentennial of the admission of Ohio into the Union;

(2) the residents of Ohio for their important contributions to the economic, social, and cultural development of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

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### GENERAL LEAVE

Mr. TURNER of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 122, the resolution under consideration.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Madam Speaker, House Resolution 122 introduced by my distinguished colleague from my home State of Ohio (Mr. REGULA) recognizes the bicentennial of Ohio into the Union and the contribution to the economic, social, and cultural development of the United States.

The Iroquois Indians were the first to recognize the significance of the vast region of the Northwest Territory. Ohio is named after the Iroquois word meaning "great river."

The 2003 Ohio bicentennial celebration allows us the time to recognize the many contributions Ohioans have made to our country and the world. Because of its former canals, navigable rivers, railroads and roads, we are known as the Gateway State that provided for western migration. Our interstate transportation system is still one of the most used in the country, and Ohio is a powerhouse in the American economy.

We are proud of our native sons and daughters who have contributed to our great country. Ohio calls herself the mother of Presidents, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William Howard Taft, and Warren Harding all native Ohioans.

As a native Daytonian I am most proud of Ohio's aviation heritage. Dayton's Wright-Patterson Air Force Base is the largest air force base in the world and is the place where Orville and Wilbur Wright perfected flight. Annually, the Air Force Museum at the Wright-Patterson Air Force Base hosts a million visitors. In fact, Ohio boasts four significant aviation firsts: Orville and Wilbur Wright, first in powered flight; John Glenn, first man to orbit the Earth; Neil Armstrong, first man on the Moon; Judith Resnick, the first woman in space.

Ohio has been the home to 24 astronauts. In fact, Ohio's aviation history is recognized on the U.S. quarter for Ohio in the U.S. Mint series. But these memorable facts are only the beginning of the Ohio's story.

This year of 2003, the 200th birthday celebration of Ohio's statehood, allows us a full year to reflect on our heritage and to remind ourselves of how fortunate we are to be proud Americans. Therefore, I urge all Members to support the adoption of House Resolution 122.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to join in support of this resolution recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States.

Madam Speaker, this year the residents of Ohio will celebrate the 200th anniversary of their State's admission into the Union. They will celebrate the fact that Ohio inventors, including Thomas Edison, Orville and Wilbur Wright, Henry Timken, Charles Goodyear, Garrett Morgan, and Roy Plunkett, created the basis for modern living as we know it.

They will celebrate the fact that Ohio is the birthplace of aviation. It has been home to 24 astronauts, including John Glenn, Neal Armstrong and Judith Resnick. They will celebrate the many distinguished writers Ohio has produced like Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber.

However, one of Ohio's most profound contributions to the economic, social, and cultural development in the United States is the intricate role it played in the Underground Railroad.

Ohio's governing document, The Ordinance of 1787, states that "There shall be neither slave nor involuntary servitude in the said territory, otherwise than in the punishment of crime."

The slavery that did occur in Ohio was in the outermost portions of the territory that did not become part of the State of Ohio.

The Ordinance of 1787 not only attracted those fleeing the perils of slavery to Ohio, but also attracted various groups whose idealogy resonated with the State's anti-slavery sentiment. Quakers, Baptists, Methodists, and Presbyterians were among the groups who found themselves drawn to Ohio due to their opposition to slavery.

The Underground Railroad consisted of stations, places where runaways could hide, eat, and take refuge during the day. It was not a single route. It was a complex web of main and branch routes. Essential to navigating the Railroad were the conductors who served as guides to those travelers making their way to freedom. Ohio was one of the most heavily traveled States along the escape routes of slaves.

In addition to being a reasonable distance from north to south, Ohio provided access to Canada via Lake Erie. Slaves were able to take advantage of Ohio's first commercial railroad. Many of the staff on the commercial railroads also served as conductors on the Underground Railroad.

Ohio and its citizens have carved out a rich place in American history, well deserving of our recognition. Therefore, I am indeed proud and pleased to join with my colleagues in celebrating the development of this great State as a part of the Union which we know as the United States of America.

Madam Speaker, I do not have any further requests for time, and I yield back the balance of my time.

Mr. TURNER of Ohio. Madam Speaker, I yield such time as he may consume to my colleague, the gentleman from the State of Ohio (Mr. REGULA), the distinguished sponsor of this legislation.

Mr. REGULA. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I first want to compliment the gentleman from Illinois (Mr. DAVIS) on an excellent summary of the role of the State of Ohio in dealing with the issue of slavery. We are building a museum in Cincinnati, Ohio, which was the key spot on the Underground Railroad. And as you travel throughout Ohio, you will find a number of communities that will have a marker saying that this community was one of the stations along the way. So I think it is great that the gentleman gave the Members and the audience that watches C-SPAN an understanding of Ohio's role, and it is a proud one, in dealing with these issues.

Ohio is popularly known as "The Mother of Presidents." Our good friends from the State of Virginia like to take issue with that, but we claim eight in our State, one of whom served the 16th District of Ohio in Congress. That would be President William McKinley, who was also chairman of the Committee on Ways and Means. And if you go next door to the headquarters of the Committee on Appropriations, you will see a portrait of James Garfield, who also served in Congress and as chairman of Appropriations.

Madam Speaker, I think our colleague from Illinois has touched on a number of the important people that are part of Ohio history. I do not know if he mentioned Thomas Alva Edison, who started what is today a great industry in terms of providing electricity, and certainly his contributions in progress and industry were a result of hard work. Thomas Edison used to say, "Genius was 1 percent inspiration and 99 percent perspiration."

The gentleman from Illinois (Mr. DAVIS) mentioned John Glenn and his role. We are all very familiar with that. And so I think we in Ohio can take great pride in the part that our State has played in the history of this Nation's space program.

We have had a number of people in science who developed different things that are important to all of us. The Inventure Place is in Akron, Ohio. It tells the story of inventors in the United States. It is a hall of fame for inventors.

We have, of course, in Canton, Ohio the Football Hall of Fame. Many people are very familiar with that. And I would also mention that we have the National First Ladies Historic Site. It is the newest unit in the Park Service that tells how First Ladies have made a very great impact on the history of our Nation.

These are all things that give us pride in the State of Ohio and, since I did mention McKinley, I would add that as President of the United States he was perhaps the first one to recognize that the United States was no longer an insular nation, and he became a champion of international trade. He championed the Open Door Policy to China and many other issues involving trade. And of course as a result of Spanish-American War, the United States became a world player. And we know today that the world looks to, at least part of it, in this day and age, looks to the United States for leadership. But William McKinley made a very great impact on the path this Nation has taken from originally being very protectionist, very insular to that of a Nation that does set the challenge to other nations to follow suit.

I would urge all of my colleagues to support this resolution. It recognizes that Ohio has been a State since 1803 and as such has made many great contributions to our Nation's history.

Madam Speaker, I thank the gentleman for yielding me time.

Mr. TURNER of Ohio. Madam Speaker, I yield such time as he may consume to my colleague, the gentleman from the State of Ohio (Mr. GILLMOR).

Mr. GILLMOR. Madam Speaker, I am pleased to rise in support of this resolution honoring the bicentennial of the State of Ohio.

Madam Speaker, I want to commend my colleague from Dayton (Mr. TURNER) for sponsoring this resolution which pays tribute to the contributions of Ohioans to the economic, the social, and the cultural welfare of this country. I think it could objectively be said that no State surpasses Ohio in terms of the contribution that our people have made to the development of this country.

It is truly a diverse State from the Ohio River in the South to Lake Erie on the North. It has big businesses, small businesses, agricultural, recreational destinations.

The Buckeye State has developed also one of the finest educational systems in the United States. It is home to over 140 respective institutions with at least one college university or branch campus within 25 miles of every Ohioan.

It is home to a number of unique and extraordinary people, fast, first, most and best in the country.

Our State has given the United States eight presidents, one of whom was from my district, Rutherford B. Hayes; 24 astronauts, including the STS-70 All Ohio Shuttle Mission; and a plethora of sports legends, statesmen, distinguished writers, and successful aviators, Orville and Wilbur Wright, just to name two. Also, Neil Armstrong from Ohio was the first man to walk on the Moon.

Fellow northwest Ohioan, Thomas Edison, who was born in my district, would invent the light bulb, the phonograph, the stock ticker, and the movie projector. The combination of Mr. Edison and the Wright brothers truly makes Ohio the land of light and flight.

Ohio also holds claim to having America's first shopping center, its first kindergarten, its first chewing gum patent, its first professional baseball team, and the first hot dog.

Van Wert, which is located in my district, was the site of the first public library in this country. A few of the firsts in my district, and this could be repeated in districts all across Ohio: In my district the Whirlpool Corporation in Clyde, Ohio, manufactures more clothes washing machines than any plant in the world. The Heinz plant in Fremont produces more ketchup than any place in the world. It produces enough ketchup to fill 3.2 million 14-ounce bottles every single day.

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The R.R. Donnelley plant prints the most Bibles in the world. Arm and Hammer Baking Soda, in my hometown of Oldport, produces more baking soda than anywhere else, and we also have in my district in Tiffen, the world's largest manufacturer of porcelain toilet fixtures used by people throughout America.

Let me say that we are proud of our State. We are proud of what Ohioans have accomplished in history, and I would urge support for the resolution and say, happy birthday, Ohio.

Mr. TURNER of Ohio. Madam Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Madam Speaker, it is my pleasure to be here today. I want to thank the gentleman from Ohio (Mr. REGULA), my colleague from Navarre, for introducing this and the gentleman from Ohio (Mr. TURNER), my colleague from Dayton, who is a brand-new Member from the State of Ohio. This is the first bill I think he has done on the floor of the House, and it is always quite an experience for any of us.

I want to take this time to talk a little bit about the Buckeye State, the bicentennial of our great State. This event was especially significant to us in central Ohio because Chillicothe was one of the primary sites for the celebration since it was the location of the State constitutional convention and the first State capital.

In the 200 years since statehood, Ohio has been the birthplace of people who have literally changed the world, from Presidents to the Wright brothers to Neil Armstrong's first steps on the Moon.

The eight counties that make up Ohio's seventh district have produced Governors, U.S. Senators, some Congressmen, cabinet officials, military leaders, entertainers, and even saw the beginning of what became the 4-H clubs across the country out of Springfield, Ohio.

I know how much effort went into planning the many commemorative events for the 200th anniversary of the founding of our great State and the many different ways communities celebrated cross our heritage was a tribute to the diversity of our State. I think we have set a very high mark for future generations to top when the preparations begin for the 400th anniversary of the creation of Ohio in the year 2203.

Ohio is a wonderful area to represent. We have a great delegation, a great bipartisan delegation. We all work together for the benefits of the State. We are all Buckeyes, especially this year with Buckeyes at Ohio State being number one in the country, and we refer to ourselves as Buckeyes; and that is a tone that we have tried to set across the country as we talk to people about our great State and the Buckeye State.

Today, I just came back from Cincinnati where we talked about great waterways of the Midwest and the great waterway of Ohio, of the Ohio River, and of our northern coast which we call up in the Cleveland area, Toledo, all the way over to Pennsylvania. We are a great State. We have a great heritage and say happy birthday to the State of Ohio, and go, Bucks.

Ms. PRYCE of Ohio. Madam Speaker, as we celebrate 200th birthday of the great State of Ohio, I am proud to stand up here today to share with the American people why my home state of Ohio deserves a grand celebration and widespread recognition.

The name "Ohio" can be traced to the Native American word meaning "great" that was first used to describe the powerful river that marks our southern border. It was known as the Old Northwest at a time when Americans had no understanding of how vast our land truly was. This area drew independent and daring people of all walks of life who were in search of a new beginning. These pioneers picked up their life and settled on the beautiful river, fertile soil, rolling hills, and the lakes that felt like oceans.

There they founded a new state built on principles much unlike those in the other 16 states back in 1803. The State of Ohio would go on to lead the nation in public education by being the first to open its doors to women and African Americans. It would nurture some of the best American inventors, including the Wright Brothers, and boost eight of its citizens to the Presidency. Ohioans aspire to do great things and know no limits—just ask two of the world's most famous astronauts, Ohioans Neil Armstrong and Senator John Glenn.

Ohio has traditionally been a vanguard in the fight for opportunities and rights for women, and is recognized nationally for its leadership role in several major reform movements such as temperance, anti-slavery, and women's rights. Ohio played an important role in freeing the slaves, using the underground railroad to bring them to safety in the North. In fact, Ohio contributed more of its population to the Union Army than any other state.

Ohio Governor Bob Taft recently kicked off an eight month celebration of Ohio's 200th anniversary. These festivities allow all Ohioans to take part in understanding our state's history and marking it in their own special way.

I, along with my fellow Ohioans, am proud to salute our great state that has made an immeasurable contribution to the lives of all who know it as home, as well as our nation. Please join me in celebrating Ohio's Bicentennial to reflect on our state's proud heritage and abundant history. Happy Birthday, Ohio!

Mr. BOEHNER. Madam Speaker, I am privileged to join my friends from the Ohio delegation on the House floor today to mark yet another special occasion for our home state. Several weeks ago, we gathered here to celebrate and honor the Ohio State Buckeyes' college football national championship. And now we're here to mark yet another significant and historic event for the Buckeye State: Ohio's bicentennial.

Ohio's heritage is rich, and its importance to the nation is immeasurable. Consider these bits of trivia: Ohio played a vital role in the American Civil War. Our state contributed more of its population to the Union Army than any other state. Ohio is the home of 8 U.S. presidents. In fact, between the years 1840 and 1920, Ohio natives won 11 of 14 presidential elections. Ohio is home to legends in America's space program. Not only do Neil Armstrong and John Glenn call Ohio home, but the Buckeye State also is the home to twenty-two current astronauts. And finally, Ohio is the birthplace of aviation. The Wright Brothers called Ohio home and this year will be the focus of a celebration very close to my congressional district marking 100 years of flight.

Today, in Ohio schools, scores of students are poised to lead our state into its third century, and if the past two centuries are any indication, the best is yet to come.

Madam Speaker, it has been an honor to represent my friends and neighbors in Ohio on the local, state, and federal levels during my time in elected office. I wish them and all Ohioans across our state the very best today and in the years to come. May our next two hundred years be as prosperous and exciting as the last two hundred.

Mrs. JONES of Ohio. Madam Speaker, I rise today in support of House Resolution 122, recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social and cultural development of the United States. I am proud to be a lifelong resident of the State of Ohio. Ohio, known as the Buckeye State, is the birthplace of aviation and home to eight United States presidents.

Ohio is home to the first astronaut John Glenn, and the great inventors Thomas Edison and Granville T. Woods. The first female physician, Elizabeth Blackwell is also an Ohio native.

Ohio was an integral part of the Underground Railroad. For many escaped slaves Ohio would be the last stop on a long journey to Canada. Cincinnati is now home to the national Underground Railroad Freedom Center.

From humble roots in Ohio Dorothy Dandridge would establish herself as one of the greatest actresses in Hollywood, paving the way for a young girl from Bedford, Ohio, Halle Berry to become the first African American woman to win a Best Actress Academy Award. A native of Cincinnati, Ohio, Steven Spielberg revolutionized the movie industry with such movies as Jaws, E.T.: The Extra-Terrestrial and Jurassic Park and Indiana Jones.

Olympic gold medalist Jesse Owens took his first steps in Ohio as well as famous golfer Jack Nicklaus. Paul Lawrence Dunbar, Toni Morrison and Hugh Downs were famous Ohioans who mastered the power of the pen and became great contributors to literature. In addition, I would be remiss to not mention Garrett Augustus Morgan, who established the Cleveland Call and the invention of the nation's first patented traffic signal. History has been made in Ohio. Carl Stokes became the first African American mayor of a major city. His brother Louis Stokes would follow to make history as the first African American Congressman from Ohio, paving the way for me to stand before you today as the first African American Congresswoman from the State of Ohio. These great Ohioans and great Americans have helped to shape the fabric of this country. Through this celebration, we pay homage to their lives and legacies. I am honored to speak on behalf of the citizens of the

11th Congressional District of Ohio as we celebrate this Ohio bicentennial.

Mr. OXLEY. Madam Speaker, I'm proud to join my Buckeye colleagues in celebrating the 200th anniversary of the Great State of Ohio. My thanks to the dean of our delegation, Mr. REGULA, for introducing this resolution.

It's my great privilege to represent Ohio's Fourth Congressional District, a widespread and diverse region steeped in tradition that has contributed much to the rich history of our state.

Some three decades ago, my hometown of Findlay in Hancock County was honored by Congress with the designation "Flag City, USA." Nearby Arlington, Ohio, enjoys the title of "Flag Village, USA." The discovery of oil in 1886 contributed tremendously to the county's growth; Findlay is home to the headquarters of Marathon Ashland Petroleum, an oil refining and marketing leader to this day. It was about the Blanchard River—then called Mill Stream—that Hancock County's Tell Taylor reminisced in his 1908 song "Down by the Old Mill Stream."

Hardin County is known as the home of Jacob Parrot, the nation's first Congressional Medal of Honor winner in 1863. Employees at Ada's Wilson Football Factory hand-make well over one million footballs per year, providing the NFL's official game balls since 1941.

The Lima Army Tank Plant in Allen County has played a vital role in our nation's defense since the Second World War, when its forerunner, the Lima Tank Depot, processed more than 100,000 combat vehicles for shipment overseas. The tank plant's contributions continue in this new century, with ongoing work on the new Stryker light armored vehicle and a new $32 million Abrams tank upgrade program.

Logan County is famous not only for the nation's shortest street (20-foot-long McKinley Street), but also the first concrete street in America. George Wells Bartholomew, Jr., constructed this street in 1891, posting a personal bond of $5,000 to guarantee that the pavement would last for five years. That street carries local traffic to this day, and was declared a National Historical Civil Engineering Landmark in 1976.

Wyandot County's Old Mission Church is the oldest Methodist mission in the United States. Completed in 1824, the Church sits on the grounds of the Wyandotte Cemetery, a burial ground for the last Native American tribe in Ohio. The Basilica, and National Shrine of Our Lady of Consolation in Carey draws hundreds of thousands of pilgrims on a yearly basis.

Marion County is the site of the Warren G. Harding Home and Memorial, honoring our nation's 29th president. Marion, home of the Popcorn Festival and the Wyandot Popcorn Museum, also contains one of four branch campuses of The Ohio State University, 2003's national football champions. I am privileged to represent a total of three of OSU's branches.

Citizens of Shelby County take great pride in their magnificent 120-year-old county courthouse, which was recently added to the list of "Great American Public Places." Sidney, the county seat, developed a reputation as a railroad and canal center early in our state's history.

Residents of Mount Gilead in Morrow County rightfully take pride in the "victory shaft" that dominates the village's North Square. This stone monument was a 1919 gift from the federal government in recognition of Morrow County's support of World War I—its citizens purchased more war bonds per capita than any other county in the U.S.

Auglaize County is the birthplace of space pioneer Neil Armstrong and home to the Neil Armstrong Air and Space Museum. The county seat of Wapakoneta is a focal point of Native American history, serving as capital of the Shawnee nation in the late 1700s and early 1800s. Chief Blackhoof organized the migration of the Shawnee to Kansas in 1826, and afterward returned to Wapakoneta, where he died in 1831.

The Mansfield Blockhouse in Richland County is the county's oldest structure, built in the public square to protect early settlers from Indian attacks during the War of 1812. The medieval castle design of the Ohio State Reformatory, constructed in the late 1880s, landed it on the National Register of Historic Places in 1987, and has been featured in three major motion pictures. Mansfield was also the home of John Sherman, longtime House and Senate member from Ohio, Secretary of State, Secretary of the Treasury, Republican presidential candidate, and father of the Sherman Antitrust Act. Malabar Farm in Lucas is the former home and workshop of Pulitzer Prize winner Louis Bromfield, drawing thousands of visitors each year.

A bronze statue in the town square in Urbana memorializes the 3,235 Champaign County men who fought in the Civil War, 578 of whom did not survive the fighting. Urbana University's Johnny Appleseed Educational Center houses the largest collection of Johnny Appleseed memorabilia and information known to exist. St. Paris, in western Champaign County, was a leading carriage-making center for much of the late Nineteenth Century.

Madam Speaker, I'm proud that citizens in each of the 11 counties I'm honored to represent are taking an active role in celebrating not only our state's bicentennial, but also the rich and vibrant histories of their own communities. Their dedication and devotion ensure that our state's future remains bright for the next 200 years and beyond.

I salute the efforts of all who have made this bicentennial year a great one for our great state.

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of the Bicentennial of the State of Ohio's admission to the Union. I rise to honor the contributions of Ohio residents to the development of the United States.

On March 1, 1803, Ohio became the 17th state to enter the Union. From the invention of traffic lights and Teflon to the famous first flight at Kitty Hawk, Ohio has been the birthplace of many important advances in United States history. The nation's first interracial coeducational college, Oberlin College, was founded in 1833 in Oberlin, Ohio. The storied history of this great state is, perhaps, best demonstrated through the accomplishments of its amazing residents.

Ohio residents have contributed to many different aspects of United States history and culture. Inventors Thomas Edison and Charles Goodyear hail from Ohio. Well-known authors Harriet Beecher Stowe and Toni Morrison, as well as, poet laureate Paul Laurence Dunbar also come from Ohio. Ohio also has the distinction of producing more Presidents than any other state in the Union. Legendary comedians Bob Hope and Phyllis Diller, who have inspired millions to laugh, hail from Ohio.

Other noteworthy Ohioans include Doris Day, Clark Gable, Annie Oakley and Neil Armstrong. Ohio's contributions have not only been limited to academic and artistic pursuits. Many well-known athletes hail from Ohio also. World-renowned golfers Nancy Lopez and Jack Nicklaus are both from Ohio. African American track star Jesse Owens, who won four gold medals during the 1936 Olympics, grew up in Cleveland and graduated from Ohio State University.

Madam Speaker and colleagues, please join me in honor and recognition of the Bicentennial of the admission of Ohio into the Union, a state whose contributions to this great country cannot be overlooked.

Mr. NEY. Madam Speaker, Whereas, the people of Ohio are commemorating Ohio's 200th Birthday on March 1, 2003; and

Whereas, they will be celebrating the Bicentennial in Chillicothe, the original capital of the great state of Ohio; and

Whereas, the residents of Ohio have molded a strong tradition of family values and a commitment to a high standard of living for Two-Hundred Years; and

Whereas, Ohio, since its inception, has developed into a growing and prosperous community dedicated to its past and future generations;

Therefore, I join with the residents of the 18th Congressional District and all of Ohio in celebrating the Ohio Bicentennial.

Mr. TURNER of Ohio. Madam Speaker, I have no other speakers, and I urge adoption of this measure.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the resolution, H. Res. 122.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## SENSE OF CONGRESS REGARDING IMPROVED FIRE SAFETY IN NON-RESIDENTIAL BUILDINGS

Mr. TURNER of Ohio. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 85) expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

The Clerk read as follows:

H. CON. RES. 85

Whereas, on the night of February 20, 2003, a pyrotechnic display ignited a massive fire at The Station nightclub in West Warwick, Rhode Island;

Whereas 99 people have died as a result of the fire and an additional 186 people were injured in the fire, many of whom remain hospitalized as of the date of the submission of this resolution with life-threatening burns and other injuries;

Whereas the victims of the fire were residents of Rhode Island, Massachusetts, Connecticut, and several other States;

Whereas the firefighters, police officers (particularly officers of the West Warwick Police Department who were the first to arrive on the scene), and medical personnel who responded to the fire performed heroically under horrific circumstances, and they risked their own lives to save many of the injured;

Whereas, at hospitals in Rhode Island and Massachusetts, doctors, nurses, hospital staff, mental health professionals, and other health care workers toiled through the night and in the following days to care for the injured, and they continue to provide world-class care to victims of the fire who remain hospitalized;

Whereas hospital care for victims of the fire was provided at Rhode Island Hospital, Kent County Hospital, South County Hospital, Fatima Hospital, Massachusetts General Hospital, Miriam Hospital, Roger Williams Hospital, Landmark Hospital, University of Massachusetts/Worcester Hospital, Brigham and Women's Hospital, Westerly Hospital, Shriners Hospital, St. Luke's Hospital, Memorial Hospital, Charlton Hospital, and Newport Hospital;

Whereas the local Red Cross, with 10 paid staff and over 400 dedicated volunteers, has played a critical role in offering comfort to the families of victims and coordinating services;

Whereas State and local officials have responded to the fire and its aftermath quickly, effectively, and compassionately, and the people of Rhode Island and the Nation are grateful for their efforts;

Whereas Governor Donald Carcieri of Rhode Island and West Warwick Town Manager Wolfgang Bauer have shown exceptional leadership under trying circumstances and their sensitivity to the families impacted by the tragedy is much appreciated; Lt. Governor Charles Fogarty and Maj. Gen. Reginald Centracchio, as Co-Chairs of the Emergency Management Advisory Council, have also played a crucial role in responding to the tragedy; and the Rhode Island Emergency Management Agency has impressively and effectively coordinated a myriad of State and local activities;

Whereas area funeral directors and medical examiners have provided outstanding service throughout the tragedy;

Whereas the staff of the local family resource center has helped the families of victims to access the services and information they need and provided care and comfort to hundreds of grieving family members;

Whereas the people of Rhode Island and concerned citizens across the United States have shown incredible generosity in response to the tragedy, contributing hundreds of thousands of dollars to victims' assistance efforts;

Whereas many local businesses have provided victims and their families with crucial services from food to transportation, members of the Rhode Island Bar Association and Rhode Island Trial Lawyers Association have offered free assistance to victims and their families with immediate legal issues, and community mental health centers and mental health professionals have provided critical mental health care to victims and their families and other members of the community;

Whereas Federal agencies, including the Social Security Administration, the Federal Emergency Management Agency, the Bureau of Alcohol, Tobacco, and Firearms, the Department of Health and Human Services, the National Institute of Standards and Technology, and the Small Business Administration, have offered assistance and expertise that has been extremely helpful to the State's emergency response to the tragedy;

Whereas the West Warwick fire is only the most recent example of how deadly fire can be in nonresidential buildings;

Whereas, in 2001, the last year in which full statistics are available, 80 people were killed and 1,650 injured in fires in nonresidential buildings, not including the victims of the terrorist attacks on September 11, 2001; and

Whereas, on February 17, 2003, 21 people were killed in a tragic stampede at the E2 Nightclub in Chicago, Illinois, and this tragedy and the West Warwick fire, which have deeply impacted persons throughout the United States, emphasize the critical need for enhancements in nightclub and concert hall safety: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) expresses its deepest condolences to the family members and friends who lost loved ones as a result of the tragic fire on February 20, 2003, at The Station nightclub in West Warwick, Rhode Island, and offers its hope for the quick and full recovery of those persons who were injured in the fire;

(2) expresses immense gratitude for the efforts of countless emergency response personnel, local, State, and Federal officials, health care providers, volunteers, businesses, and citizens who have been part of the response to this tragedy; and

(3) urges State and local officials and the owners of entertainment facilities to examine their safety practices, fire codes, and enforcement capabilities in light of this horrific tragedy and to take all necessary action to ensure that such a tragedy never befalls any community again.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TURNER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TURNER).

GENERAL LEAVE

Mr. TURNER of Ohio. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TURNER of Ohio. Madam Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 85, introduced by the gentleman from Rhode Island (Mr. LANGEVIN), expresses the sense of the House with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire that struck on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

Madam Speaker, last month a great tragedy befell this Nation. Ninety-eight people were killed and nearly 200 more were injured when a devastating fire engulfed The Station nightclub that was hosting a concert in the suburban Providence, Rhode Island, town of West Warwick.

Stage props that sprayed pyrotechnics set on fire the acoustic wall behind the stage, and the fire spread across the nightclub ceiling at a terribly rapid speed. Apparently, the entire club was fully aflame in just 3 minutes. Many of the victims never had a chance to escape.

This unimaginable catastrophe was one of the deadliest nightclub fires in our Nation's history; and sadly, this incident seems so avoidable. I sincerely hope this event serves as a final wake-up call to owners and operators of entertainment venues across the country. I trust all those in responsible positions will take an even closer look at safety features in their facilities, in order that this tragedy may not be repeated.

I would like to express my sympathy to the grieving families and friends of the victims. I congratulate the local, State and Federal emergency responders that worked tirelessly to save victims from the fire and continue to treat patients that suffer from burns and other injuries. I hope and pray that those who remain injured will experience a full and very quick recovery.

Madam Speaker, I hope that the passage of this resolution will lead us to take steps toward improving the safety of nonresidential buildings. Therefore, I urge all Members to support the adoption of House Concurrent Resolution 85.

I thank my colleague from Rhode Island for introducing this important measure.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, I rise today to support the resolution regarding the needs for improved fire safety in nonresidential buildings. This is a major concern with regards to the tragic fire at a nightclub in West Warwick, Rhode Island, on February 20, 2003, which killed over 90 people and injured about 200. It is almost unthinkable and unimaginable that such a tragedy could and would occur.

I also want to recognize a similar tragedy that took place in my congressional district in Chicago on February 17, 2003, at the E2 nightclub in Chicago's south side, where a stampede led to approximately 21 people being killed and more than 50 injured. This was a tragedy that could and should have been prevented if there were better fire and building safety codes implemented like wider staircases, more visible exits, and windows for air circulation.

In recognizing the tragedy in Rhode Island, I would like to take this opportunity also to extend my condolences to the families of the fire victims in Warwick and to the victims of the E2 nightclub in Chicago.

Madam Speaker, as lawmakers, we are responsible for ensuring the safety of our citizens, especially in public places. As a result, we should immediately pass this bill before there is any other tragedy, and I would want to urge all of those who have responsibility for safety in public places to do everything possible to assure that those buildings are, in fact, safe; that there is adequate opportunity for people to exit; and that we protect the lives of our citizens.

I commend the gentleman from Rhode Island for introducing this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. TURNER of Ohio. Madam Speaker, I have no other speakers, and I want to thank the gentleman from Rhode Island for introducing this important resolution, and I urge adoption of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield 7 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), who is the author of this resolution.

Mr. LANGEVIN. Madam Speaker, I want to thank the gentleman for yielding me the time, and I appreciate his comments; and my condolences go to the families that lost loved ones in the Chicago tragedy as well. We share his pain in these two tragic events.

Madam Speaker, on the night of February 20, Rhode Island suffered a devastating tragedy. On that night, a massive fire, ignited by a pyrotechnic display during a rock concert, tore through The Station nightclub in West Warwick, Rhode Island, in my congressional district. That fire took 99 lives and left nearly 200 injured.

In any community, this tragedy would have been overwhelming, but in a small State like Rhode Island, when a closeknit town falls victim to one of the worst nightclub fires in the Nation's history, the impact is simply incomprehensible. Everyone in Rhode Island has a connection to one of the victims; and indeed, connections have been made all across New England and, indeed, the Nation.

I have introduced the resolution before us today to memorialize this horrible event and honor the victims and to express thanks for heroic efforts of so many emergency personnel, medical workers, community members, and government officials who have helped us through this tragedy.

Just as importantly, I was compelled to draw the attention of my colleagues to this fire in order to reinforce the urgent need for increased attention to fire safety nationwide. Federal, State and local officials, along with proprietors of nightclubs and other commercial facilities, must reevaluate safety regulations and their enforcement to ensure that this kind of tragedy never happens again.

If the West Warwick fire can serve as a wake-up call and lead to improved safety across the country, then these 99 lives will not have been lost in vain. It is the very least we can do to honor the victims.

As Rhode Islanders continue the healing process, I want to express my deepest condolences to those who lost loved ones in this horrible fire. There are no words to adequately express our profound sadness. Please know that they are in the thoughts and prayers of us all, and we will not let the lives of their husbands, wives, sisters and brothers, children, parents and friends be forgotten.

As of this afternoon, at least 40 people remain hospitalized, nearly half of them still in critical condition. I know my colleagues join me in offering up prayers for their quick and full recovery. They are fighting every hour, and they need our strength now more than ever. Our best wishes go out to them and their families as they weather the tough days ahead.

I would also like to express my immense gratitude for the heroic efforts of people and agencies from Rhode Island, Massachusetts, Connecticut, and elsewhere who have helped respond to this disaster. The firefighters, police, emergency responders who were first on the scene made a herculean effort under unimaginable circumstances; and we have them to thank that even more lives were not lost.

In addition, over a dozen hospitals in Rhode Island and Massachusetts have been caring for patients since this tragedy. The doctors, nurses, mental health professionals, and support staff of these hospitals have worked tirelessly to help the injured; and we are grateful for their service.

As usual, when tragedy strikes Rhode Island, our community has proven strong, resilient and boundlessly generous. I want to recognize the countless volunteers who have put their lives on hold to help in any way they can. Likewise, many of our State's business community have come forward to provide food, shelter, transportation and much more to those affected by this event.

I would particularly like to thank the Red Cross and its scores of volunteers for all they have done to give comfort and assistance to those whose loved ones were lost or injured.

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Rhode Island's Governor, Don Carcieri, has provided outstanding leadership throughout this ordeal and shown extraordinary sensitivity to the families involved, and I have personally heard from many of them how much they appreciate his efforts. West Warwick's town manager, Wolfgang Bauer, has worked hand in hand with State officials to help the people of his community through this event. Lieutenant Governor Charles Fogarty and Major General Reginald Centracchio, cochairs of the Emergency Management Advisory Council, have also played a crucial role in this crisis; and the Rhode Island Emergency Management Agency has impressively and effectively coordinated a myriad of State and local activities.

I would also like to thank my friend, the gentleman from Rhode Island (Mr. KENNEDY), who is an original cosponsor of this resolution, for his assistance, his friendship and support through this difficult time, and, of course, Rhode Island's senior Senator, JACK REED, and Senator LINCOLN CHAFEE for their tremendous efforts and leadership. And I want to express my great appreciation to several Federal agencies, including FEMA, the Social Security Administration, SBA, HHS and ATF, for all of their support. Their involvement has been critical, and I look forward to working with them further in the weeks to come.

Finally, Madam Speaker, let me address the issues of safety in our clubs, concert halls and other public places. As Americans have been reminded so painfully by the West Warwick fire, as well as the tragic nightclub stampede in Chicago just a few days earlier, we cannot relax our efforts to ensure that our fire and safety regulations are strong and effective and our entertainment facilities are in full compliance with them. As we now know all too well, to lose sight of the overall importance of safety can be fatal.

I have been greatly encouraged by the intense efforts going on across the country in recent weeks to revisit fire safety regulations and step up enforcement of existing laws. Our State and local officials are taking this issue seriously, and I am hopeful that the result will be improved safety in every city and town in America. I know that my colleagues are ready to offer whatever Federal assistance might be needed to support these efforts and ensure that the horrific events in Chicago and West Warwick are the last of their kind.

In closing, I urge support of House Concurrent Resolution 85.

Mr. DAVIS of Illinois. Madam Speaker, may I inquire as to how much time remains.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Illinois has 11½ minutes remaining.

Mr. DAVIS of Illinois. Madam Speaker, I yield 10 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Madam Speaker, I, too, want to join my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), in offering our heartfelt condolences to the families of the E2 Nightclub in Chicago for their tremendous loss. It is utterly ironic that the footage captured in Rhode Island of The Station nightclub on that terrible night was footage that was captured because a cameraman was following up on the local angle of club safety in light of what happened in Chicago. Those terrible images that we saw beamed across the country would not have been caught had it not been for our State trying to prevent what had happened in Chicago. How tragic it was that that is just what ended up happening.

Madam Speaker, it is with great regret that I stand on the floor of the House today to offer my sincerest condolences and heartfelt prayers to those who lost loved ones, to those who were lost, and those still recovering from the effects of the tragic fire in my State of Rhode Island. I know that there is nothing that we can say, no resolution that we can pass that will take away the consuming grief and the sense of loss that so many Rhode Islanders have felt and are feeling; but it is my hope that these condolences of the House, along with time, will help to heal those wounds.

I would like to say to my colleagues who have been watching the coverage of these sad events over the past days that you have no doubt heard several Rhode Islanders say that "everyone in Rhode Island is separated by one and a half degrees," a play off of the well-known "six degrees of separation" adage. Rhode Island is a small, but proud, State. There are fewer of us in Rhode Island than in Los Angeles, Dallas, Fort Worth, or Philadelphia. In Rhode Island, everyone knows everyone. Ask any Rhode Islander, and they will tell you their State is not so much a State as a community, a community where people are born, raised, educated, and eventually raise their own families in this place that will always welcome them home.

To my colleagues, and especially to my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), who I thank for bringing this resolution to the floor today, I say that the atmosphere under which we are at this time and place, where generations of American representatives have marked tragedies and triumphs in the halls of this Republic, today we mourn the worst of those disasters ever to afflict the people of Rhode Island. To date, we have lost 99 of our families, friends, and neighbors to this terrible tragedy. That is nearly half as many Rhode Islanders as were lost in the entire Vietnam War in our State of Rhode Island.

A disaster of this magnitude in a community like Rhode Island has tested the limits of our collective comprehension, resilience, and grief. While we mourn, we still hold out the hope, and offer our prayers, to the 190 men and women still fighting their injuries across New England, as many as 40 in the hospital. Their struggles will be difficult, the road ahead challenging; but the people of Rhode Island have proven that community togetherness and family can see us through anything. We offer them our support and encouragement today, and we promise that we will still be there in the months and the years ahead to ensure that we never forget that they are going to be living with these injuries for the rest of their lives.

Madam Speaker, but for the brave first responders who came immediately and professionally to their call to duty, many of those in the hospitals today would no longer be with us, and most assuredly the number of those still recovering from their injuries would be much, much higher. The emergency personnel on duty who rushed to the scene, to those who simply passed or heard through the grapevine about the tragedy and selflessly responded, the men and women of this House today say "thank you" to all of them. They worked without thought for themselves that freezing night, and afterwards, not only to free the trapped from the inferno, and tended through their own tears to the cries of the wounded, but long past the tragedy to tend to the emotional and psychological wounds that continue to inflict these victims.

Madam Speaker, what we ask of first responders in these situations is to be superhuman in the face of staggering human suffering. Most of us spend our lives doing our best to keep ourselves and our loved ones out of situations that the police, fire, and medical personnel rush into every single day, day after day. Their heroism in this tragedy does not go unnoticed. It might be added that with so much evil emanating from the events of 9-11, it is fitting to acknowledge that our State would not have been able to react as quickly as it had were it not for the lessons learned in that tragedy.

Also, the leadership shown at so many levels of government is inspiring to those of us who believe that there are indeed good and honorable people in government service. I want to join my colleague, the gentleman from Rhode Island, in recognizing all those who he recognized in his remarks; but I too want to pay particular attention to our new Governor, Governor Carcieri, who has shown tremendous leadership under pressure. The compassion and personal touch that he has brought to our State has truly been inspirational. More than any other person, the Governor has held our State together through this tragedy.

So while we continue to mourn for those who have walked on from this world and offer our prayers to those still fighting to return to good health, let us help to lessen their grief by showing our gratitude to all those who have helped them through this adversity.

There will be, unfortunately, no shortage of time to grieve for the mother that will not be able to open the presents with her children at the holidays. There is no shortage of time to grieve for the brother who will not walk down the aisle with his new bride. There is no shortage of time to grieve for the spouse who will not celebrate her next anniversary with her husband, the grandfather who will not see his grandchildren graduate from college, or the child who will take his first steps without his parents to see him. Many Rhode Islanders will have the rest of their lives for these somber memories. Now is a time for remembrance of how the human spirit, above all, arises in times of tragedy, because that is the only thing, besides the passage of time, that will help ease our current pain.

Unlike other no-less-painful losses we experience in the course of our lives, too many young lives were lost this horrific night. This incident has reminded me of the words that my father spoke at my cousin, John F. Kennedy, Jr.'s, memorial service. He said: "He was lost on that troubled night, but we will always wake for him, so that his time, which was not doubled, but cut in half, will live forever in our memory, and in our beguiled and broken hearts."

Madam Speaker, our hearts are broken; and those who are lost will no doubt live forever in our memory.

I want to thank the gentleman from Rhode Island once again for all the work that he has done representing his district through these difficult times. I know that the people who have entrusted their faith to him have been well served, and I appreciate this opportunity to rise in support of his resolution and strongly urge my colleagues to give it the support that it deserves.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume to commend both the gentleman from Rhode Island (Mr. LANGEVIN) and the gentleman from Rhode Island (Mr. KENNEDY) for bringing this great tragedy to our attention.

I also want to join with them in commending all of those who rose to the occasion, the policemen; the firemen; the Red Cross; emergency medical services personnel; mental health centers, crisis counselors; and even undertakers in my town, like Leak and Sons Funeral Home, who buried seven people without cost and greatly reduced the cost for an eighth person; radio stations; Salem Baptist Church, New Mount Pilgrim Baptist Church; the Push Rainbow; WGCI Radio; and all of those who have contributed in setting up educational funds for the children of those whose parents lost their lives in the E2 tragedy.

Our country has a tendency to rise up when there is a special need, and I commend all of those who took note of the tragedy in Rhode Island, as well as the tragedy at the E2 in Chicago.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 85.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## OBSERVER STATUS FOR TAIWAN AT WORLD HEALTH ASSEMBLY IN MAY 2003 IN GENEVA, SWITZERLAND

Mr. CHABOT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 441) to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland, and for other purposes.

The Clerk read as follows:

H.R. 441

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENTS TO PUBLIC LAW 107–10.**

(a) FINDINGS.—Section 1(a) of Public Law 107–10 (115 Stat. 17) is amended by adding at the end the following:

"(14) The government of Taiwan, in response to an appeal from the United Nations and the United States for resources to control the spread of HIV/AIDS, donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis and Malaria.".

(b) PLAN.—Section 1(b)(1) of Public Law 107–10 (115 Stat. 17) is amended by striking "May 2002" and inserting "May 2003".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

### GENERAL LEAVE

Mr. CHABOT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CHABOT. Madam Speaker, I yield myself such time as I may consume.

I want to express my strong support for this legislation, Madam Speaker. My friend, the gentleman from Ohio (Mr. BROWN), has worked long and hard to make Taiwan's participation in the WHO a reality, and we also want to thank the gentleman from California (Mr. LANTOS) for his leadership in this area as well. As in years past, I am pleased to join with them in this effort.

The good people of Taiwan have a great deal to offer the international community. It is terribly unfortunate that even though Taiwan's achievements in the medical fields are substantial, and it has expressed a repeated willingness to assist both financially and technically in WHO activities, it has not been allowed to do so because of strenuous opposition from the Communist Chinese dictatorship.

My colleagues may recall the travesty that occurred back in 1998, when Taiwan suffered from a serious entovirus outbreak which killed 70 Taiwanese children and infected more than a thousand.

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The WHO was unable to help.

In 1999, a tragic earthquake in Taiwan claimed more than 2,000 lives. Sadly, we learned in published news reports that the People's Republic of China demanded that any aid for Taiwan provided by the United Nations and the Red Cross receive prior approval from the dictators in Beijing. Yet when other nations face similar crises, Taiwan stands ready to help.

Our friends in Taiwan were among the first to offer assistance to the victims of the September 11, 2001 terrorist attacks on our Nation. They provided generous humanitarian assistance to the people of Afghanistan. They have been leaders in addressing global health issues and as this legislation notes, "The government of Taiwan, in response to an appeal of the United Nations and from the United States for resources to control the spread of HIV/AIDS, donated $1 million to the Global Fund to Fight AIDS, Tuberculosis, and Malaria."

Madam Speaker, many of us have been disappointed by our government's lack of effort to assist Taiwan in its attempts to obtain WHO observer status at the annual World Health Assembly in Geneva. We have expressed our concerns to the State Department, and most recently, a bipartisan group of 64 Members of this body sought the personal assistance of Secretary Powell in this matter. We are hopeful that our delegation to the upcoming Geneva conference will stand strongly in favor of Taiwan's candidacy.

Madam Speaker, I thank the gentleman from Ohio (Mr. BROWN), the gentleman from California (Mr. LANTOS) and also the gentleman from Illinois (Chairman HYDE) for his prompt consideration of this bill in the Committee on International Relations. We have been working quite some time for this, and I thank Members for continuing to work on this important issue. I urge adoption of this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I strongly support H.R. 441, and urge all of my colleagues to do so as well. I would like to commend my colleague, the gentleman from Ohio (Mr. BROWN) for his persistence in pushing for Taiwan's observer status at the World Health Organization. I also wish to acknowledge the chairmanship of the gentleman from Illinois (Mr. HYDE) on this critically important subject, and that of the gentleman from Ohio (Mr. CHABOT).

Madam Speaker, by battling the spread of infectious diseases and increasing the quality of health care to the global community, the World Health Organization makes a significant contribution to our national security. As we meet in this Chamber today, the WHO is dealing with an outbreak of Ebola in Africa, implementing new strategies to stop the spread of the deadly HIV/AIDS virus, and teaching the developing world how to stop the transmission of tuberculosis.

Madam Speaker, the fight for quality health care around the globe will never cease. As a result, the World Health Organization and its member countries must look for help from every nation to strengthen the work of the organization. Unfortunately, strong and consistent opposition from the Chinese government in Beijing has repeatedly stopped the people of Taiwan from contributing to the work of the WHO.

It is true that observer status for Taiwan will not come easy. Beijing holds sway over many WHO members, but the facts in support of Taiwan's case are clear and compelling, and support will undoubtedly build over time with active American engagement. Taiwan is one of our strongest allies in the Asia Pacific region. It is a beacon of democracy for people around the globe.

Taiwan has the resources and the expertise to make a significant contribution to the work of the World Health

Organization. The case for Taiwan as a member of WHO is clear and compelling, and I hope our administration will actively support this important initiative. I strongly support H.R. 441. I urge all of my colleagues to do so as well.

Ms. BORDALLO. Madam Speaker, today, I join my colleagues in support of H.R. 441 authorizing a U.S. plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva. I want to thank Congressman Sherrod Brown for his continued commitment to this cause.

The Constitution of the World Health Organization states, "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." Taiwan's participation in the organization advances this principle.

Taiwan has made many positive contributions that benefit our country and help the international community attain the health goals set by the World Health Organization. Advancing Taiwan's participation in the WHO would provide the people of Taiwan more opportunities to participate in international health initiatives.

Taiwan's willingness to come to the aid of the people of El Salvador in the wake of the devastating earthquake in January 2001 is indicative of their commitment to global health. In the days following the earthquake, the Taiwanese government sent 2 rescue teams that included emergency, medical and engineering specialists to assist in the rescue and recovery efforts. In addition, the Taiwanese government donated $200,000 in relief aid to the Salvadoran government.

The WHO Constitution also states, "the health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States." In advancing the participation of Taiwan in the WHO, we are increasing global cooperation to address the pressing health concerns of our time. I strongly commend H.R. 441 to my colleagues and urge its passage.

Mr. BROWN of Ohio. Madam Speaker, I strongly support H.R. 441, and I would like to thank my colleagues on the International Relations Committee and the Congressional Taiwan Caucus for their support as well.

For the past few years, we have been pushing for Taiwan's observer status at the WHO. I don't know about the rest of you, but I'm starting to experience deja-vu on this issue. Congress has addressed this several times, and I will continue to raise it until we have a resolution.

The World Health Organization makes a major contribution to the international community each and every day. The WHO has programs to stop the spread of HIV/AIDS and other infectious diseases, to support the development of basic health care services throughout the developing world, and to provide humanitarian aid to those in need.

In this growing struggle, the WHO and its member countries should be looking for help wherever they can get it. Unfortunately, Taiwan's efforts to obtain observer status to the annual World Health Assembly meetings in Geneva have been blocked.

While the Administration has indicated support for Taiwan's bid for WHO observer status, it is unwilling to match the rhetoric with action. The State Department argues that the majority of WHO members would never support observer status for Taiwan, and therefore the U.S. shouldn't make a concerted effort on Taiwan's behalf. Well I say, let's find out.

The Administration must make a concerted effort to ensure Taiwan's participation in the WHO. The bid may fail, but Taiwan won't be allowed to participate if we do not make the case of its involvement.

Taiwan is a strong, democratic ally. It has developmental and humanitarian resources that would make a substantial contribution to the WHO's mission. The people of Taiwan are volunteering these resources to fight global epidemics, and we are turning them away at the door. They have demonstrated this time after time—in Haiti; in El Salvador; and more recently by contributing a million dollars to the Global Fund to Fight AIDS, TB and Malaria. The world needs all the help it can get. Taiwan is not asking to join the WHO as a state, but rather as an observer. The case for observer status at the WHO is clear, and the Bush Administration should make it happen.

I strongly support H.R. 441, and urge my colleagues to do so as well.

Mr. WU. Madam Speaker, I rise today in strong support to H.R. 441, a bill to authorize the United States to seek observer status for Taiwan within the World Health Organization (WHO).

Every May, the World Health Assembly meets to consider the acceptance of new members to the WHO. Unfortunately, even as Taiwan is among the leaders in Asia in important health indicators, such as life expectancy and infant mortality, it is unable to contribute to the WHO.

While nationhood is a membership requirement, the WHO does provide observer status to such entities as the Vatican, the Knights of Malta, and the Palestinian Liberation Organization. As a self-governing and democratic island of twenty-three million people, and as a potential member with a great deal to contribute to the WHO, I strongly support WHO observer status for Taiwan.

As we once again approach the annual World Health Assembly, I urge Secretary Colin Powell and Secretary Tommy Thompson to work with our friends around the world to obtain WHO observer status for Taiwan. I urge my colleagues to vote yes on H.R. 441.

Mr. HASTINGS of Florida. Madam Speaker, I rise today in support of H.R. 441, a bill endorsing observer status for Taiwan at the annual summit of the World Health Organization in May 2003. I thank my good friend, Mr. BROWN of Ohio, for introducing the bill, and I look forward to voting for it.

Madam Speaker, over the years, this body has been divided on a variety of foreign policy issues. What the House has not been divided on, however, is its support for Taiwan, especially as it pertains to its status in the World Health Organization. The fact remains that Taiwan's exclusion from the WHO not only hurts Taiwan, but also the entire international community.

The WHO's constitution states that "the enjoyment of the highest standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." Yet, the constitution of the WHO has been disregarded when the inclusion of Taiwan in the WHO, even at observer status, has been laid on the table. This time for this to change is now.

Few recall that Taiwan was an original member of the WHO, participating as a full member from 1948 until 1972. The United Nations' 1972 decision to award Taiwan's seat to the People's Republic of China resulted in Taiwan's replacement at the WHO. Since then, Taiwan has sought to be readmitted into the WHO at the same time it has built one of the world's most dynamic free market economies and become a leading technological and scientific population.

Tragically, the world community has never fully benefited from the medical advancements made by Taiwanese doctors and scientists because Taiwan lacks WHO membership. Taiwan enjoys one of the highest life expectancy rates in Asia, has relatively low infant and maternal mortality rates, and has eradicated major infectious diseases such as cholera, smallpox, and polio. Additionally, Taiwan's government was the first in the world to provide children with free hepatitis B vaccinations. Until the international community recognizes that each country in the world will benefit multi-fold from Taiwan's inclusion in the WHO, political pressure from the People's Republic of China will trump the spread of Taiwan's medical advancements.

Madam Speaker, health has no borders, and certainly neither does disease. Taiwan's 23 million citizens suffer every single time relief is delayed simply because Taiwan is not a part of the WHO. Likewise, the world community suffers each time its access to Taiwan's medical advancements is limited for the same reason.

Taiwan's readmittance to the WHO is long overdue. With passage of this bill today, the State Department is again given the necessary tools to push forward on Taiwan's request. H.R. 441 is not a political statement against the People's Republic of China. Instead, it is recognition of opportunity for the entire world community. The successes of Taiwan's medical experts must no longer remain locked in a chamber of politics, and access to these ideas must be extended to all countries.

I urge my colleagues to support this bill. May we all look forward to a day when Taiwan is admitted back into the World Health Organization, an organization it helped build 55 years ago.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in support of H.R. 441, a resolution to authorize a United States plan to endorse and obtain status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland.

In response to an appeal from the United Nations and the United States, the government of Taiwan donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis and Malaria. Taiwan has also been a sovereign state since its founding in 1912. Although China has exercised control over Taiwan, Taiwan is a democratic and free society duly elected by the people.

As a sovereign state, Taiwan has acceded to the World Trade Organization and, despite the PRC's objections, I believe it is time for Taiwan to also obtain status as a member of the World Health Organization.

I fully support the intent of H.R. 441 and I also urge my colleagues to support his bill.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHABOT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 441.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CHABOT. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF 50,000 BULGARIAN JEWS FROM THE HOLOCAUST

Mr. CHABOT. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 77) commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance, as amended.

The Clerk read as follows:

H. CON. RES. 77

Whereas the people of the United States and the Republic of Bulgaria respect all faiths, including Judaism and Jewish culture;

Whereas during World War II, despite being allied with Germany, Bulgarians did not cede to Nazi pressure to fully enforce anti-Jewish legislation and resisted orders to deport their Jewish compatriots to Nazi concentration camps;

Whereas in the spring of 1943 the Bulgarian people succeeded in preventing the deportation of 50,000 Jews to such camps;

Whereas it is acknowledged with sadness that the deportation of over 11,000 jews from Thrace and Macedonia, territories which were administered by Bulgaria at that time, to Nazi concentration camps, took place;

Whereas Bulgaria was the only European country during World War II to increase its Jewish population;

Whereas members of the Bulgarian Parliament, the Bulgarian Orthodox Church, King Boris III, politicians, intellectuals, and citizens all played a part in the resistance to Nazi pressure to carry out the deportation;

Whereas March 2003 marks the 60th anniversary of Bulgaria's refusal to deport its Jews to Nazi concentration camps;

Whereas the Bulgarian people today preserve and continue their tradition of ethnic and religious tolerance; and

Whereas President George W. Bush and Prime Minister Simeon Saxe-Coburg Gotha are leading the United States and Bulgaria into a long-term strategic partnership: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) commemorates the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commends the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance; and

(2) reiterates its support for strong ties between the United States and Bulgaria.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

### GENERAL LEAVE

Mr. CHABOT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 77.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CHABOT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Con. Res. 77, a resolution commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust. This resolution was introduced by the gentleman from South Carolina (Mr. WILSON). H. Con. Res. 77 recognizes a relatively unknown but exceedingly important event in the history of Bulgaria and the history of Europe.

This resolution commends the Bulgarian people for their actions in 1943 and for preserving and continuing their tradition of ethnic and religious tolerance. In the spring of 1943, the Bulgarian people succeeded in protecting Bulgaria's entire Jewish population from deportation and death in Nazi concentration camps. This happened despite the fact that Bulgaria was officially allied with Nazi Germany from March 1941 until September 1944. Bulgaria's legislators, clergymen, civic leaders, intellectuals, and ordinary citizens, through a series of protests and appeals, blocked Nazi attempts to deport Bulgarian Jews to death camps in Poland. The entire Bulgarian nation, the people, the Parliament, the King and the Orthodox Church stood united and confronted the Nazi terror. As a result, in that critical moment in history, not even one of Bulgaria's 50,000 Jews was deported to Nazi gas chambers.

In fact, I am told that Bulgaria was the only country in Europe in which the Jewish population actually increased during World War II. The Bulgarian people should be commended for saving their fellow countrymen and compatriots from the Holocaust. Bulgarians today should be proud of their predecessors' courage and heroism, and we recognize today this historic action that was taken. In a country and region of such long and deep history, at the crossroads of civilizations, we should also recognize the tradition of ethnic and religious tolerance in Bulgaria and what it might mean today for the Balkans, for Europe, for the Middle East, and for the world.

Madam Speaker, I would again like to commend Bulgaria and the Bulgarian people for this historic event, and I urge strong support for this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this resolution. First, I would like to commend the gentleman from South Carolina (Mr. WILSON) for his leadership on this important resolution. I also want to recognize the contributions to this measure of the gentleman from Illinois (Mr. HYDE) and the gentleman from Ohio (Mr. CHABOT).

Madam Speaker, just in the past year Congress has focused attention on growing anti-Semitism in Europe. Unfortunately, some European leaders have used the pretext of the Middle East conflict to justify this ugly phenomenon of the 20th century reappearing in the 21st century.

Therefore, it gives me great pleasure to commend an important U.S. ally, a future member of NATO, on what it did during the darkest hours of European history. Bulgaria's actions during the Second World War prove that a small nation can have a tremendously positive impact on humanity. In Bulgaria, the effort to resist the Nazi pressure to enforce anti-Jewish laws and to deport its Jewish citizens to death camps was undertaken by the full spectrum of Bulgarian society. Members of the Bulgarian Parliament, the Bulgarian Orthodox Church, politicians, intellectuals, but most importantly, ordinary citizens all played a part in the resistance to Nazi pressure to carry out the unconscionable act of deportation to death camps.

March 2003 marks the 60th anniversary of Bulgaria's historic refusal to deport its Jews to Nazi concentration camps.

Some years ago at the initiative of my wife, she and I went to Bulgaria to express our appreciation for this heroic action of the Bulgarian people during the most difficult years of the Second World War. We met with a broad spectrum of Bulgarian people, and we had the opportunity of telling them that their little recognized heroic action is deeply appreciated by the American people and the Congress of the United States.

Sadly, Bulgaria was unique among its East European neighbors. In too many instances, the populations of other countries occupied by the Nazis turned against their Jewish compatriots or remained indifferent to their nightmare fate.

That is why today, Madam Speaker, I shudder when I hear the excuses used by some governments in Europe to explain the rise of anti-Semitism again on that continent. As we commend Bulgaria for this historic rescue, we must note that neighboring Macedonia is marking the tragedy of the deportation of over 11,000 Jews to Nazi death camps. This region was under the control of Bulgarian authorities at the time, but the Jewish residents did not have Bulgarian citizenship and were not saved from the Nazi death camps. They all perished.

Madam Speaker, I urge all of my colleagues to support this important resolution.

Madam Speaker, I reserve the balance of my time.

Mr. CHABOT. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON), the principal sponsor of the bill. I might note that the gentleman from South Carolina (Mr. WILSON) is likely to become a grandfather for the first time within the next few hours.

Mr. WILSON of South Carolina. Madam Speaker, I rise today with the great honor of introducing a bill with the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from California (Mr. LANTOS) to recognize the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance.

□ 1515

As the gentleman from Ohio (Mr. CHABOT) just mentioned, this indeed is a special day for me. It is a special day because I am so happy to tell the people of the world about the wonderful people that I have had the opportunity to be associated with in the Republic of Bulgaria. It is a special day because my daughter-in-law, Lauren, is in Bethesda right now. She is in labor awaiting the birth of our first grandchild. This is an extraordinary day on behalf of my son, who is an ensign in the U.S. Navy, Addison. We are indeed looking forward to the birth of Addison Graves Wilson, III. In fact, my wife is with the other prospective grandparents. My wife, Roxanne, and Julie and Craig Houston of West Columbia, South Carolina, are on I–95 as we speak coming up for the blessed event. We are just very grateful.

My association with Bulgaria, it is a bit unusual for someone from South Carolina to have an association with a country which does not have significant immigration to our State. It really started, and I need to give thanks to the late Lee Atwater, chairman of the Republican National Committee. He appointed me to be an observer for the first democratic elections that had occurred in decades in Bulgaria on June 10, 1990. I had the extraordinary opportunity of visiting Bulgaria. I do not want to give anybody the impression I am a world traveler, because it was my first visit to Europe. It was an extraordinary opportunity, though, for me.

I had gone to Bulgaria fully expecting to find the most slavish Soviet satellite. It was a country that was marked with a bitter dictatorship and a loyalty to the former Soviet Union that was unparalleled among the satellite countries of Eastern and Central Europe. When I arrived, it was, in fact, significantly different. It was like a country frozen in time. I found people who were really back to about 1939. It was an extraordinary circumstance of a country where the people were just terrific. They were very friendly, they were very open, they were excited about the efforts that Ronald Reagan had made of peace through strength, the liberation of Eastern and Central Europe. I also found a country which I could identify with coming from the southeastern part of the United States, which is in the southeastern part of Europe.

I found a very friendly meteorological climate. The people were friendly. The geography was remarkably similar to my home State of South Carolina. They have beautiful beaches to the east on the Black Sea, there is a midlands very similar to where I represent in Congress, and then there are mountains to the west. It was a time to really feel at home. I met wonderful people. The first person who greeted me was a candidate for the National Assembly, Stefan Stoyanov. Stefan ultimately was elected to their parliament, the National Assembly. Then I had the good fortune of hosting him to observe our elections in November of 1990. This was hosted by various civic organizations: the Rotary Clubs, the Kiwanis Clubs, the Optimist Clubs, the Lions Clubs of the central part of South Carolina, the midlands of South Carolina. They raised money for Assemblyman Stoyanov to come visit. At that time it was an extraordinary election victory for Governor Carroll Campbell, who was reelected. Governor Campbell took the Bulgarian assemblyman to the stage for recognition on election night at the victory party. It was an extraordinary event.

I then had the opportunity to visit later that year with the democratically elected members of the National Assembly, thanks to the Free Congress Foundation and Mr. Paul Weyrich and, in particular, the late Dr. Bob Krieble, who is the founder of the Krieble Institute, which has worked so well to establish democracy in the formerly-Communist countries. It was an extraordinary opportunity to be what Dr. Krieble called an agent of influence, and it was positive influence, to promote democracy.

I then returned several years later and saw remarkable change. Through the sister city program of the Columbia International Affairs Association, we have a sister city relationship with Plovdiv, the second largest city in Bulgaria. Columbia, the capital of South Carolina, is very fortunate to be associated with this ancient city. It was known as Philippopolis. It was known as Trimontium. I found the history of Bulgaria to go back to Roman and Greek times. It is just a phenomenal experience of wonderful people. I was very fortunate at that time to have my son with me, Addison, Jr., who then left that next week to be a midshipman at the U.S. Naval Academy.

In the particular bill today, I am very grateful for the leadership of the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations. I want to thank the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Subcommittee on Europe. And of course, somebody near and dear to me, the gentleman from Ohio (Mr. CHABOT), who has been a real leader. And the professional staff has been so helpful.

The rescue of the Bulgarian Jews from the Holocaust. In the spring of 1943, a period when Jews across Europe were subjected to total extermination in the Nazi death camps, the Bulgarian people, politicians and civic leaders through a series of resolute actions succeeded in protecting their 50,000 Jewish compatriots from deportation to the death camps. Bulgaria was the only country in Europe to increase its Jewish population during World War II. This happened despite Nazi pressure and the fact that Bulgaria was officially an ally of Hitler Germany as part of the Axis from March 1941 until September 1944.

Despite the anti-Jewish legislation and the heavy restrictions of the rights of the Jewish population adopted by the Bulgarian Government and Parliament in 1941–1942, anti-Semitism was never morally accepted by the Bulgarian society. King Boris III and the majority of the members of Parliament only reluctantly followed Hitler's official policy, resisting the implementation of the anti-Jewish legislation and regulations in their entirety. As a result of Nazi pressure, in February 1943 a secret agreement was reached to start the secret deportation of Jews by cargo trains in the first days of March 1943.

Due to the prompt public reaction and the resolute intervention of a group of active citizens, church leaders and politicians, led by Deputy Speaker of the Bulgarian National Assembly Dimitar Peshev, the Minister of Interior Gabrovski was forced on 9 March 1943 to cancel the deportation orders for the Jews from several Bulgarian cities. The trains, which had been waiting to be loaded with Bulgarian Jews and sent to the concentration camps in Poland, did not depart. Unfortunately, about 12,000 Jews from Aegean Thrace and Macedonia, who did not at that time have Bulgarian citizenship and had been already driven out of their homes by the special forces of the Jewish Commissariat, could not be saved and were deported through Bulgarian territory to Germany. The horrible sight of train compositions packed with Jews from Thrace and Macedonia crossing Bulgarian territory had a tremendous impact on public opinion in Bulgaria and strengthened even more the popular resistance against deportation.

Later, in March 1943, 43 members of the Bulgarian Parliament from the ruling majority, led by Deputy Speaker Dimitar Peshev, addressed a bold and decisive letter to the then Prime Minister Filov in which they called a possible deportation of Jews an inadmissible act with grave moral and political consequences for the country. The Bulgarian Orthodox Church played a crucial part in mobilizing public support against the deportation and exerting its influence on the government. Metropolitans Stefan in Sofia and Kiril in Plovdiv actively contributed to the campaign against state discrimination of the Jews.

The broad popular and civil movement in defense of the Bulgarian Jews culminated in May 1943 when the plan of deportation was finally aborted. King Boris III played a decisive role in this decision by not ceding to Hitler's increasing pressure and not allowing the deportation to happen. The King resisted Hitler's demands with the argument that the Bulgarian Jews were needed as a workforce in Bulgaria. At the end of May 1943, about 20,000 Jews from Sofia were sent to work camps in the countryside where they were assigned heavy labor duties and lived in miserable conditions; but they survived. Many other political and professional organizations and groups of intellectuals joined actively in this national effort. The credit as a whole belongs to the Bulgarian people who showed courage and strength in defending their fellow Jewish countrymen. Bulgarians today feel proud of the courage of their predecessors to save from deportation and death nearly 50,000 Bulgarian Jews.

I have seen firsthand the good will of the Bulgarian people as an observer of Bulgaria's first democratic elections in 1990, and I have witnessed the progress of Bulgaria's democracy away from communism. I commend the efforts of patriots like Prime Minister Simeon Saxe-Coburg-Gotha, Ambassador Elena Poptodorova, Foreign Minister Solomon Pasi, Defense Minister Nikolai Svinarov, Deputy Chief of Mission Emil Yalnazov, and Bulgarian Ambassador to Greece Stefan Stoyanov for continuing important reforms and for leading their entry into NATO.

We are proud of our allied Bulgaria. As cochairman of the House Caucus on Bulgaria along with the gentlewoman from California (Mrs. TAUSCHER), it is my privilege to introduce this legislation. I urge my colleagues to support House Concurrent Resolution 77.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

First, I want to commend my friend for his powerful and eloquent and thoughtful statement. I would like to add that it is no accident that as we speak, Bulgaria is standing tall with the United States at the United Nations at another critical juncture of history.

Mr. BEREUTER. Madam Speaker, this Member rises today in strong support of H. Con. Res. 77, a resolution recognizing and commending the Bulgarian people for a little-known, but extraordinary, historical fact. The resolution was introduced by the distinguished gentleman from South Carolina (Mr. WILSON), and this Member is pleased to be an original cosponsor.

This resolution seeks to commemorate the 60th anniversary of a historic act of courage and heroism: the rescue of the Bulgarian Jews from the Nazi Holocaust in 1943. In that critical moment of history, the Bulgarian people, from every walk of life, through a series of resolute actions, successfully stopped the deportation of Bulgaria's Jewish population to Nazi death camps.

Bulgaria was officially allied with Hitler Germany from March 1941 until September 1944, but anti-Semitism was never morally accepted by Bulgarian society. It is said that King Boris III and the majority of the Members of Parliament only reluctantly followed Hitler's official policies, resisting the implementation of anti-Jewish legislation and other restrictions in their entirety.

In February 1943, as a result of Nazi pressure, a secret agreement on the deportation of Bulgarian Jews to Germany was signed between Hitler's special envoy Dannecker and the Bulgarian Commissar on Jewish Affair Belev. The plan was to start the secret deportation of Jews by cargo trains in the first days of March 1943.

Due to immediate public reaction and the resolute intervention of a group of active citizens, church leaders and politicians, led by the Deputy Speaker of the Bulgarian National Assembly Dimitar Peshev, the Minister of Interior Nikola Gabrovski was forced on March 9, 1943 to cancel deportation orders for Jews from several Bulgarian cities. The trains, which had been waiting to be loaded and sent to concentration camps in Poland, did not depart.

Unfortunately, about 12,000 Jews from Aegean Thrace and Macedonia, who did not at that time have Bulgarian citizenship and who had already been driven out of their homes by the special forces of the Jewish Commissariat, were deported through Bulgarian territory to Germany. The horrible sight of trains carrying Jews from Thrace and Macedonia crossing Bulgaria and strengthened even more the popular resistance against deportation.

Later in March 1943, 43 members of the Bulgarian Parliament from the ruling majority, led by the Deputy Speaker Dimitar Peshev, addressed a bold and decisive letter to the then-Prime Minister Bogdan Filov, in which they called a possible deportation of the Jews an "inadmissible act" which "grave moral and political consequences" for the country.

The Bulgarian Orthodox Church played a crucial part in mobilizing public support against the deportation and exerting its influence on the government. Metropolitans Sefan in Sofia and Kiril in Plovdiv actively contributed to this effort.

The broad popular and civil movement in defense of the Bulgarian Jews culminated in May 1943 when the plan of deportation was finally aborted. King Boris III played a decisive role in this decision by not ceding to Hitler's increasing pressure and by not allowing the deportation to happen. Many other political and professional organizations and groups of intellectuals actively participated in this national movement.

The credit as a whole belongs to the Bulgarian people who showed courage and strength in defending their fellow countrymen. Bulgarians today rightly feel proud of the actions of their predecessors to save from deportation and death nearly 50,000 Bulgarian Jews.

Bulgaria should be proud of this historical event, and its tradition of ethnic and religious tolerance. Bulgaria's history should be recognized, and its people should be commended. Bulgaria should be an example to a region that has been torn apart by so much hatred and violence over the past decade. Let Bulgaria's history be an example to the Balkins and Southeastern Europe. Let Bulgaria's history be an example to all of Europe today, East and West, North and South, Old and New.

Madam Speaker, on this occasion, this Member urges strong support for this resolution and would also particularly like to thank Bulgaria, and the Bulgarian people, for Bulgaria's exceptionally strong support and cooperation with America in the international war on terrorism.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHABOT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 77, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CHABOT. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## RICHARD K. ARMEY ROOM

Mr. BURGESS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 19) designating the room numbered H–236 in the House of Representatives wing of the Capitol as the "Richard K. Armey Room".

The Clerk read as follows:

### H. Res. 19

Whereas, at the end of the 107th Congress, Representative Richard K. Armey retired after 18 years of distinguished service in the House of Representatives, including service as the Majority Leader for 8 years, the longest tenure of any Republican Majority Leader in 92 years: Now, therefore, be it

*Resolved*, That the room numbered H–236 in the House of Representatives wing of the Capitol shall be known and designated as the "Richard K. Armey Room".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 19 designates room 236 in the House wing of the United States Capitol as the Richard K. Armey Room. Former Majority Leader Dick Armey represented the 26th Congressional District of Texas for 18 years, and his dedication to the 26th district and to the State of Texas had no bounds. He represented the constituents with honesty, integrity, and was passionate about his fiscally conservative principles. I now represent this same district and will follow in the same spirit. The people of this district, the State of Texas, and our great Nation are better off as a result of Dr. Armey's leadership in Congress.

Former Majority Leader Armey was the first of his family to attend college. He rose from humble beginnings in rural North Dakota to the pinnacle of American government. His was not a path of privilege but of hard work, dedication and strong beliefs. He earned a bachelor's degree from Jamestown College, a master's degree from the University of North Dakota, and a doctorate from the University of Oklahoma.

In 1984, Dr. Armey was elected to his first of nine terms in this body. He quickly made a name for himself as someone dedicated to sound public policies based on conservative principles. During his time in the House, he was instrumental in passage of public housing reform, closing of obsolete and unnecessary military bases, and farm legislation reform, each of which saved the American people money and allowed the Federal Government to better serve the communities impacted.

□ 1530

Dick Armey was also a steadfast conservative who advocated fundamental tax reform and brought the implementation of the flat tax to the national stage. These achievements and ideas all came as all of Dick Armey's accomplishments came, through hard work, persistence and dedication.

In 1992, Representative Armey was elected to the position of conference chairman of the House Republicans, the top policy position within the Republican Conference. In 1994, when Republicans won a majority of seats in this House of Representatives for the first time in 40 years, Representative Armey was elected to serve as majority leader, a position he held for 8 years, one of the longest terms of any majority leader in the history of this body.

In addition to his leadership roles, Majority Leader Armey also served as cochairman of the Joint Economic Committee and as chairman of the Select Committee on Homeland Security, which was responsible for writing the legislation creating the Department of Homeland Security.

The naming of Room 236 as the Richard K. Armey Room is a fitting tribute to a dedicated public servant. I support the legislation and encourage all of my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H. Res. 19 would designate Room 236 in the House of Representatives as the Richard K. Armey Room. H–236 is located in the Capitol and currently serves as a meeting room.

Mr. Armey retired at the end of the 107th Congress after serving 18 years in the House. He was born in Cando, North Dakota, in 1940. After graduating from the local high school, he attended Jamestown College in Jamestown, North Dakota. He received his Master's Degree from the University of North Dakota and his Ph.D. from the University of Oklahoma.

Mr. Armey taught for many years, holding positions at the University of Montana, West Texas State University, Austin College and North Texas State University. While at North Texas State, he was the Chairman of the Economics Department for 6 years.

In 1992, Congressman Armey became the chairman of the House Republican Conference, and in 1994 he became the majority leader.

Designating this room in the Capitol is an appropriate recognition of Congressman Armey's civic contributions and his dedicated public service.

Madam Speaker, I reserve the balance of my time.

Mr. BURGESS. Madam Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Madam Speaker, I thank my colleague from Texas for yielding me time.

Madam Speaker, this is a great pleasure for me. This is my resolution, and I cannot think of a prouder resolution and a more meaningful one to me to bring forward than this resolution here today.

A person's work here in Congress speaks much louder than rooms that are named after them or statues that may collect dust in the hallways. It is right and fitting and appropriate that we name this room after Dick Armey, but I can tell you that the Dick Armey I know cares very little about what room is named after him. He cares much more about the legacy he has left for his children and grandchildren and this great country we call America.

Some would say that the beauty of our democracy is that when somebody leaves the United States Congress they are quickly forgotten. In some respects that is sad, because we have some great Members who come through our body on both sides of the aisle, Members who go on to bigger and better things, some might say in the United States Senate or the other body as we refer to it, maybe down in the administration, maybe they go home and raise their family, open a business, teach school, whatever it might be. But the beauty of our system and our democracy really does lie in the fact that it is we the people, and that while one great Member passes, a new great Member can hopefully fill those shoes as we move forward.

Dick Armey speaks often about something very simple that I happen to believe is very profound. "Freedom works" is a slogan that he has coined, to some extent. It is a long way of saying we hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, that of life, liberty and the pursuit of happiness.

It took a long sentence to get that out back in 1776, but today we can say it very simply as freedom works; freedom works in America, freedom works in our economy, freedom works in our workplace. Freedom may even work in Iraq. Freedom works in a lot of places, in a lot of places that we call America, and Dick Armey has helped bring freedom to our country.

It is an unusual procedure to bring a resolution to the floor to name anything in the United States Capitol. We do so only under very unusual circumstances. If you walk through the halls, you will find many great leaders with their name on the door. I believe it is appropriate that we take a pause today and name a room. But the name that I think that Dick Armey would find most appropriate on any room in this Capitol would be freedom.

The nice thing about this is that while I introduced this resolution, I did so with the full support of the Speaker of the House. I talked to him first, because you do not name rooms in the Capitol without talking to the Speaker. I also know I have the support of my entire conference. But what is even more enjoyable is to know we have the support of both sides of the aisle. Democrats who may have disagreed with Dick Armey during his term had an enormous amount of respect for him, even though there was disagreement oftentimes, and that is true, I think, for many leaders that Republicans look to on the Democratic side as well.

This is a bipartisan resolution. Former leader Armey is here in the Chamber today. I just want to say to my friend that this is as meaningful a public gesture as we can make, and we mean it with as much heartfelt wishes for you and your wife Susan, and the recognition that what you have done here has not been forgotten. Even though freedom works, our country continues, our democracy will flourish, and the Congress will continue to hopefully do good things that you will find enjoyable to watch from your new chair and your new seat.

Thank you very much for your service. We look forward to the opportunity when we can unveil this room some time in the near future.

Ms. NORTON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURGESS. Madam Speaker, I yield myself 1 minute.

Madam Speaker, the gentleman from Iowa is quite correct that it is hard to leave a legacy. The majority leader himself pointed out how service in this body does take a fair amount from one's family and one's time with one's family. I am aware of the fact that the retiring majority leader is expecting two grandchildren next month, and what a wonderful legacy it will be for those children when they visit the Capitol in years to come, to visit Room 236, the Richard K. Armey Room.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 19.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 39 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1832

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FLAKE) at 6 o'clock and 32 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 441, by the yeas and nays;

H. Con. Res. 77, by the yeas and nays; and

H. Res. 19, by the yeas and nays.

Proceedings on H. Res. 122 and H. Con. Res. 85 will be postponed until tomorrow.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## OBSERVER STATUS FOR TAIWAN AT WORLD HEALTH ASSEMBLY IN MAY 2003 IN GENEVA, SWITZERLAND

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 441.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 441, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 50]

YEAS—414

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baird
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)

Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—20

Akin
Andrews
Baker
Dingell
Doolittle
Farr
Franks (AZ)
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
Nadler
Oberstar
Serrano
Snyder
Solis
Stark
Weldon (PA)
Whitfield

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). The Chair would remind all Members that there are less than 2 minutes to vote.

□ 1853

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 50 on H.R. 441 I was unavoidably detained. Had I been present, I would have voted "yea."

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series of votes will be conducted as 5-minute votes.

## COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF 50,000 BULGARIAN JEWS FROM THE HOLOCAUST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 77, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 77, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 16, as follows:

[Roll No. 51]

### YEAS—418

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—16

Akin
Andrews
Brown-Waite, Ginny
Dingell
Doolittle
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
Nadler
Oberstar
Serrano
Snyder
Stark
Weldon (PA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE) (during the vote). Members are reminded that there are less than 2 minutes remaining to vote.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RICHARD K. ARMEY ROOM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 19.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 19, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, answered "present" 8, not voting 20, as follows:

[Roll No. 52]

### YEAS—406

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### ANSWERED "PRESENT"—8

Baird
Berry
Filner
McDermott
Olver
Owens
Sanders
Slaughter

### NOT VOTING—20

Akin
Andrews
Dingell
Doolittle
Gallegly
Gephardt
Gilchrest
Hyde
Johnson (IL)
McCollum
Miller, George
Nadler
Oberstar
Obey
Schakowsky
Serrano
Snyder
Stark
Stupak
Weldon (PA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded that there are less than 2 minutes remaining to vote.

□ 1908

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## PERSONAL EXPLANATION

Mr. AKIN. Mr. Speaker, I stayed in St. Louis to attend my pastor's visitation on March 11th and was absent for recorded votes.

Had I been present for those votes, I would have voted as follows on the following bills under suspension of the rules: H.R. 441—"yes"; H. Con. Res. 77—"yes"; H. Res. 19—"yes."

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## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 11, 2003.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 11, 2003 at 4:18 p.m. and said to contain a message from the President whereby he submits a report in accordance with section 1205 of Public Law 107-107.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

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## PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF STATES OF FORMER SOVIET UNION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

*To the Congress of the United States:*

As required by section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) and section 1205 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), I am providing a report prepared by my Administration which presents a plan for securing nuclear weapons, material, and expertise of the states of the Former Soviet Union and reports on implementation of that plan during Fiscal Year 2002.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 11, 2003.*

## HOUR OF MEETING ON WEDNESDAY, MARCH 12, 2003

Mr. KLINE. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow, Wednesday, March 12, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

## WAR CRIMES TRIBUNAL INDICTMENTS IN SIERRA LEONE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, yesterday a United Nations war crimes tribunal headed by an American in Sierra Leone indicted seven people, including rebel leaders and a powerful figure in that country's decade-long civil conflict.

The indictment is for crimes of murder, rape, extermination, acts of terror, enslavement, and attacks on humanitarian workers; and all, if not most of these crimes, are directly related to atrocities committed to gain control of and profit from conflict diamonds.

These indictments are an important and necessary milestone in the long road to securing justice and restoring the human rights of the people in that part of Africa.

Mr. Speaker, 75,000 people died in Sierra Leone. But not until one actually sees someone, this young girl that Congressman Tony Hall and I visited when we were in a refugee camp in Sierra Leone, when you see someone who had their arms and legs and hands cut off by rebels to scare and intimidate the local population to gain control, do these numbers mean something.

My colleagues might also know, as reported in the press, that the rebels, these people that have been indicted, have been selling conflict diamonds to al Qaeda that have been funding the al Qaeda efforts.

So we want to salute the men and women that are working for us in Sierra Leone to bring about these indictments.

[From the Associated Press Worldstream, Mar. 10, 2003]

### International War Crimes Tribunal Indicts Sierra Leone Rebel Leader

(By Clarence Roy-Macaulay)

Sierra Leone's international war crimes tribunal issued its first indictments Monday against seven former warlords, including imprisoned rebel leader Foday Sankoh whose followers gained infamy with a campaign of chopping off hands, legs, ears and lips of innocent civilians.

Also charged was Internal Affairs Minister Samuel Hinga Norman, who was arrested and cuffed Monday by police who surrounded him in his office in the capital.

Hinga Norman, the former deputy defense minister, orchestrated attacks by a pro-government militia of traditional hunters called the Kamajors whose alleged human rights abuses during the country's 1991–2000 civil war included torturing and summarily executing opponents and recruiting child fighters.

Three others were also arrested Monday while two remained at large.

Sankoh, whose Revolutionary United Front launched a vicious insurgency to control the country's government and diamond fields in 1991, will be among the first to go to trial, said David Crane, the court's American chief prosecutor.

The rebels' signature atrocity was cutting off the appendages of civilians in a tactic to spread fear among opponents.

Sankoh has been in prison since being captured in early 2000 after his fighters gunned down more than a dozen protesters outside his Freetown home.

"Today the people of Sierra Leone took back control of their lives and their future," Crane told reporters. "The dark days of the rule of the gun are over."

Crane said crimes alleged within the indictments include murder, rape, enslavement, looting and burning, sexual slavery, conscripting children and attacking humanitarian workers and U.N. peacekeepers.

Crane did not reveal when the cases would be heard. Court officials have been reluctant to give many details in advance for fear of jeopardizing the safety of trial participants.

The court was launched by an agreement between the United Nations and Sierra Leone to try serious violations of international and Sierra Leonean humanitarian law since Nov. 30, 1996, when Sankoh's rebels signed a peace accord with the government that was supposed to end five years of war.

The peace deal was followed by a military coup and several more years of fighting until the end of 2000.

Also indicted Monday was Johnny Paul Koroma, a former junta leader who is wanted by Sierra Leone's government in connection with a failed January coup attempt—the first since peace returned to the country.

Koroma, who allied himself with Sankoh's rebel in overthrowing Sierra Leone's civilian government in 1997, is currently at large.

Since elections were held last year, in which Sankoh's rebels stood for parliament without winning a single seat, a shaky peace has emerged, protected by nearly 17,000 United Nations troops—the world body's largest deployment anywhere.

Sierre Leone's war crimes tribunal differs from those of Rwanda and Yugoslavia as it will be held in the country and have a mix of local and international prosecutors and judges.

The court is expected to operate for three years on a budget of just under US $60 million paid for by contributions from about 20 countries, including the United States and Britain.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## THE TRUTH ABOUT SADDAM HUSSEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, there has been a lot of misinformation going around about our good friend, Saddam Hussein, and I think that the American people as well as my colleagues need to know really what is going on, because a lot of people have not been paying attention to this.

For the past decade, Saddam Hussein has violated 16 separate U.N. resolutions. He has failed to account for 26,500 artillery rockets used for delivering nerve gas; he has failed to account for 5,000 artillery shells filled with mustard gas; he has failed to account for more than 3,000 tons of chemicals that could be used as weapons; and he has failed time and time again to honor his agreement on the no-fly zone.

Mr. Speaker, he has enough biological agents to produce 26,000 liters of anthrax, 26,000 liters, 1,200 liters of botulinum toxin, and a whole bunch of others. He has tried to procure uranium for nuclear weaponry, and he has failed to account for nearly 30,000 empty munitions that could be filled with chemical agents.

☐ 1915

Yet, there are so many people, after all of these violations, who keep saying, we ought to wait, we ought to wait, we ought to wait. He is connected to the terrorist network. If we are not very careful, if we do not deal with him very quickly, he is going to produce these biological and chemical weapons, he is going to give them to one of his minions in al Qaeda or some other terrorist organization, they are going to come into the United States, and they are going to kill tens or hundreds of thousands of Americans. That is why we need to deal with him very, very expeditiously.

One of the things that concerns me so much is that we do not profit from history. Back in the late 1930s and early 1940s, Hitler, the Chancellor of Germany, said time and again that he wanted peace and he did not want to violate any neutrality treaties, and yet he violated the Treaty of Versailles. He went into the Sudetenland and got an agreement from the European allies and said that that was all he wanted. And then he went into Poland after violating a nonagression pact. And then he went into Denmark, and then he went into Norway, and then he went into Sweden, and then he went into Belgium, and then he went into Paris and France. And because the world did not pay attention to what was going on and they did not listen to Winston Churchill, who was the only voice who made any sense, 50 million people died. I want everybody to listen to that: 50 million people died because they did not pay any attention to what Hitler was saying and what he was doing.

Now, Saddam Hussein has at his disposal weapons of mass destruction, and he has hidden them for the past 10 to 12 years; and he has not accounted for them. For us and the Free World to keep our heads in the sand while this is going on is absolutely incredulous.

The President of the United States is doing the right thing. The only thing I would say to the President is if the United Nations does not start forcing him to adhere, Saddam to adhere to those U.N. resolutions, then why talk to them anymore? Mr. President, do what is necessary. Take our troops and invade Iraq from the north and the south, if possible, get rid of Saddam Hussein and his weapons of mass destruction, and send a signal to the world and the terrorists worldwide that we are not going to tolerate them. Do not mess with the U.N. anymore, Mr. President, because they simply are not with it.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FLAKE). The gentleman is reminded to address his remarks to the Chair.

## CONGRATULATIONS TO THE ANOKA TORNADOES

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to congratulate the Anoka Tornadoes on their victory on Saturday, March 8, in the Minnesota State High School Class AA Hockey Tournament.

The Minnesota State High School Hockey Tournament is one of America's preeminent high school sporting events, along with Indiana basketball and Texas football. The tournament was profiled in "Sports Illustrated" some years back. The Tornadoes finished 25-4-1, with a 3-to-1 victory over Roseville in the finals. This is their first State boys' hockey championship and one that will be especially memorable to the 13 seniors who ended their last game together with a victory.

Coached by Todd Manthey and Paul Talbot, both Anoka graduates, the Tornadoes out-shot Roseville 22-to-17 in a game that featured two head coaches with sons who were senior captains of their respective teams.

Anoka placed four players on the all-tournament team: defenseman and coach's son Tim Manthey, goalie Kyle Olstad, and forwards Ben Hendrick and Sean Fish.

Mr. Speaker, I congratulate these fine students on their championship.

## TRIBUTE TO BOYD STEWART

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, on March 16, 2003, my boyfriend, Boyd Stewart, of Olema, California, in Marin County will celebrate his 100th birthday. Born on a dairy ranch in the rural town of Nicasio on March 16, 1903, Mr. Stewart has been active in ranching and community issues his entire life.

After graduating from the Nicasio Elementary School with a student body of 17, Boyd attended Tamalpais High School where he rode a horse to San Geronimo and then boarded the steam train to Mill Valley, where there were cows grazing in the town center. Later, he attended Stanford University, earning money as a relief milker at the Palo Alto dairies and doing far better than his peers who were mowing lawns for cash. He left Stanford to run the family dairy when his father was killed by a horse.

In 1923, Boyd married Joseffa Conrad, a music teacher whom he met on the steps of Tamalpais High School when returning to see a favorite teacher. Joseffa died in 1980 at the age of 78. Today, daughter Jo Ann Stewart, granddaughter Amanda Wisby, and great grandson Stewart Campbell reside at the family ranch where, by the way, the two women run the business.

Over the years, Boyd has been an advocate for progressive ranching practices which many of his peers greeted with skepticism. Early on, he realized that overgrazing could destroy the land they relied on and that sound environmental practices would enhance their work. Boyd worked closely with farm advisors from UC Cooperative Extension and continues to be a strong supporter of measures to preserve the beautiful open spaces of Marin County so that we can preserve agriculture and the community's quality of life.

In 1932, Boyd moved to the present Stewart ranch where he lives in a farmhouse that was built in 1864. In 1935, he began producing grade A milk which meets the purest standards for drinking. His daughter, Jo Ann, took over operations in 1950; and in 1972, the ranch switched from dairy cattle to beef.

Horses have also been a part of the Stewart ranch's operations. In 1976, Boyd won the Morgan Man of the Year Award for establishing a now defunct Morgan horse breeding farm at Point Reyes National Seashore.

As an early supporter of Point Reyes National Seashore, Boyd was an advocate for fair practices for ranchers whose property was purchased by the government and then leased back for continued agricultural use. A small section of his property was purchased for the seashore in 1968, and the remainder became part of the Golden Gate National Recreation Area in 1974. He continues to be an active supporter of agriculture within the national seashore.

Understanding the value of connecting to nonfarmed communities, Boyd has been involved in Greater Marin County and beyond. As a prominent local citizen, he has occasionally had the opportunity to host visiting dignitaries to give them a taste of the West. Recently, for example, a soccer team from the People's Republic of China enjoyed a barbeque at the Stewart ranch at the invitation of China expert and former rancher Orville Schell. These young people got to know what it was like in beautiful Point Reyes. Team members still treasure their photos. They were decked in cowboy hats, and they were riding the Stewart horses.

Boyd has been an active member of numerous organizations such as the West Marin Chamber of Commerce, where he focuses on all aspects of civic life in West Marin. He was a board member of the Marin Humane Society, which named him Humanitarian of the Year in 1993. He left the group, by the way, when they stopped serving meat. He was also involved in the Marin Conservation League, American Jersey Breeders Association, American Morgan Horse Association, California Coop Creamery of Petaluma, Borden's Company, and others including the Tamalpais Trail Riders where his granddaughter Amanda became the youngest member at the age of 10 days. The ranch's most recent award, California Excellence in Range Management, from the California Cattleman's Association, demonstrates the family's continued focus on land stewardship.

Mr. Speaker, Boyd Stewart's heartfelt commitment to the land, its natural resources, its agriculture, and the people who enjoy it has inspired several generations.

## IN SUPPORT OF OUR ARMED FORCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Wisconsin. Mr. Speaker, when Members rise in this House for Special Orders, each of them speaks to a particular audience. Some are talking to fellow legislators, some are talking to the folks back home, some are talking to interest groups, and some, quite frankly, are just talking to themselves.

Tonight, Mr. Speaker, I would like to do something very different, because tonight I rise to speak to our men and women in uniform, some of whom are a long way from home right now.

To these brave folks I say this: I know you hear some of the protests in Europe and even on our own streets and campuses. I know you hear the sometimes bitter anti-American and antimilitary rhetoric of these protests, and I know you see the faces of some of the celebrities who not only oppose our Nation's policies but, all too often, question the morality of your actions as soldiers and sailors and airmen and Marines. Please know this: the overwhelming majority of your countrymen support you 100 percent.

The voices of the protesters and their cheerleading celebrities represent only a vocal minority, one that gets public attention way out of proportion to the numbers they represent.

Mr. Speaker, Richard Nixon spoke many years ago of a silent majority. Well, on this issue, standing with all of you, the majority will be silent no longer.

There is no better evidence than the fact that a movement that I am proud to say has arisen and taken root in Wisconsin is taking off. This movement, launched by a couple of talk show hosts and friends of mine, Charlie Sykes and Jeff Wagner of WTMJ Radio in Milwaukee, is an effort to support you, the brave men and women of our armed services, during these challenging and difficult times.

It started with just Charlie and Jeff in their open letter in response to the notorious Not in Our Name antiwar campaign. But what started with these two men and a fairly simple statement of principles has grown and grown and grown. It is now a thriving movement in my area known today as In Our Name.

The In Our Name effort is dedicated to supporting our troops and our Nation. In Our Name is attracting enormous backing from the people of Wisconsin and, more and more, the people of America. This past weekend, downtown Milwaukee was the site of a great rally in support of our troops and of the In Our Name campaign. It attracted hundreds and hundreds of folks from all walks of life, folks who gathered despite falling snow and freezing temperatures. And as of this evening, about 42,000 people have signed on to the In Our Name letter, including myself and my wife.

It is a statement that I want to read here tonight. It is a statement that I feel belongs in the recorded history of this extraordinary time in our Nation, and it is a statement that you on the front lines need to hear.

"Let there be no doubt in your minds as you embark on this mission that you carry the hopes, the prayers, and the gratitude of your country with you. Every generation learns anew that freedom carries a steep price. You are paying that price with your courage and your commitment, no less than those who fought to liberate Europe, to defend freedom in Korea and Vietnam, and to combat aggression in Kuwait a decade ago.

"As our fathers and grandfathers fought against and defeated Nazism, fascism, and communism, our generation must confront terrorism. You have answered that call.

"We know that you neither wanted this war nor fired the first shot. The war against America began on September 11, 2001, with the murder of 3,000 Americans. You fight in their name. You fight in the name of our children and our children's children who will not have to face a world dominated by terror, and you fight in the name of each and every one of us who signed this petition below.

"We know that all war is brutal and ugly and dangerous, but we also know that the price of inaction is even worse. We have learned the lessons of history, that the fruit of appeasement is war on an even more brutal scale.

"You fight so that the world will not have to face the nightmare of a tyrant like Saddam Hussein armed with chemical, biological, and nuclear weapons which he can use to threaten, intimidate, and murder. You fight today so that others will not have to fight even more savage battles in the future.

□ 1930

"We know that you have seen the anti-war protests around the world and in your own country. But know this: Your country is behind you. You are our sons, our daughters, our brothers and sisters, our wives and husbands. You are the best this country has to offer. In the difficult hours ahead, as President Bush said, the success of our cause will depend on you. Your training has prepared you. Your honor will guide you. You believe in America and America believes in you. You fight in our name. May God bless you, our troops, and may God bless America."

## AMERICA IS LOSING ITS ALLIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I rise in dismay at the self-inflicted isolation of our country and wonder if it is too late to recover from the most catastrophic failure in diplomacy in American history. We are left with no alternative to war, gradually each day even, though we have not been attacked and even though there is no claim of imminent attack.

War is the most serious effect of this failure but it is not all we have lost. Enough of the finger pointing and ally bashing. Us against the world is a completely unnecessary result when we have been dealing with a totalitarian tyrant like Saddam. We have been seized by the hubris of our own power, losing everything that matters to us in foreign affairs, especially at a time of global terrorism when we need each and every ally we can get. We are losing each and every one of our major allies. You can cite the small countries all you want to, but when you lose the permanent members of the Security Council, you cannot blink that, no matter who you are.

We have endangered our closest allies, beginning with England. Poor Tony Blair. He is permanently politically damaged now. He will be weakened in all he does. Pervez Musharraf, the most critical in our anti-terrorism allies, faces wholesale opposition at home. What in the world are we going to do if he falls?

We have thrown to the wind the spontaneous coalition that gathered around us after 9/11, and yet it seems that we believe it is all the administration's fault.

Actually, the President's approach sowed the seeds of its own destruction because he began by announcing an invasion strategy. Had he started with meetings and consultation with our allies, of putting proposals on the table, beginning with inspections, graduating with tougher and tougher action, he would have his coalition by now. In fact, he had to be convinced to consult at all. I remember his making fun of the notion of going to the United Nations until members of his own party, former officials of former administrations, advised that it was important to seek a coalition.

Mr. Speaker, the lesson of this wholesale failure of the greatest power left, with everybody running from it, amounts to you cannot be a world leader if you cannot convince others to follow. And the second lesson is that if you have the power, you do not have to flaunt it. Used skillfully, you can bring people to you simply because you are the greatest power in the world. God bless our country. May we still be saved from this catastrophe.

## PUBLICATION OF THE RULES OF THE SELECT COMMITTEE ON HOMELAND SECURITY 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COX) is recognized for 5 minutes.

Mr. COX. Mr. Speaker, pursuant to Clause 2 of House Rule XI, I submit for publication in the CONGRESSIONAL RECORD the following rules of procedure for the Select Committee on Homeland Security in the 108th Congress.

### RULES OF PROCEDURE ADOPTED MARCH 4, 2003

### 1. CONVENING OF MEETINGS

The regular meeting date and time for the transaction of business of the Select Committee on Homeland Security ("the Committee") shall be at 9 o'clock a.m. on the first Friday of each month, unless otherwise directed by the Chairman.

The date, time, place and subject matter of any hearing of the Committee shall, except as provided elsewhere in these rules, be announced at least one week in advance of the commencement of such hearing. The notice requirement may be abridged or waived in extraordinary circumstances, as determined by the Chairman with the concurrence of the Ranking Minority Member.

The date, time, place and subject matter of any meeting, other than a hearing or a regularly scheduled meeting, shall be announced at least 36 hours in advance for a meeting taking place on a day the House is in session, and 72 hours in advance of a meeting taking place on a day the House is not in session, except in the case of a special meeting called under Clause 2(c)(2) of House Rule XI.

### 2. PREPARATIONS FOR COMMITTEE MEETINGS

Under direction of the Chairman and Ranking Minority Member, designated majority and minority committee staff, respectively, shall brief Members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee Members in preparation for such meeting and to recommend any matter which the Committee Members might wish considered during any meeting. Such briefing shall, at the request of a Member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

### 3. MEETING PROCEDURES

Meetings of the Committee shall be open to the public except that a meeting or any portion thereof may be closed to the public if the Committee determines by record vote in open session and with a majority present that the matters to be discussed or the testimony to be taken on such matters would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any rule of the House. The determination whether any such discussion or testimony, or papers and other materials in connection therewith, shall be presented in open or executive session shall be made by the Chairman in conformity with the rules of the House and these rules. Opening statements at any hearing, mark-up, or other meeting of the Committee or any sub-committee may be given by any Member who is present within five minutes after the hearing, mark-up, or other meeting is called to order, in his or her discretion, in each case not to exceed three minutes. With the consent of the Committee, prior to the recognition of the first witness for testimony, any Member, when recognized for opening statement, may completely defer his or her three-minute opening statement and instead use those three minutes during the initial round of witness questioning.

One-third of the Members of the Committee shall constitute a quorum for the transaction of business, except in the following circumstances, in which a quorum shall be a majority of the Committee: ordering a report; entering executive session; releasing executive session material; issuing a subpoena; immunizing a witness; and reporting contempt. Two Members shall constitute a quorum for the purpose of holding hearings to take testimony and receive evidence.

In full Committee or subcommittee, the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed vote at any time, provided that all reasonable steps have been taken to notify Members of the resumption of such proceedings. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of, and the votes cast in opposition to, such measure or matter, or any amendment thereto. If at the time of the approval of a measure or a matter by the Committee a Member of the Committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that Member shall be entitled to not less than three additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by the Member, with the Clerk of the Committee.

### 4. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

Notice. Reasonable notice shall be given to all witnesses appearing before the Committee.

Oath or Affirmation. Testimony of witnesses shall be given under oath or affirmation which may be administered by the Chairman or his designee, except that the Chairman of the Committee may not require an oath or an affirmation where the Chairman determines that it would not be appropriate under the circumstances.

Questioning of Witnesses. Committee questioning of witnesses shall be conducted by Members of the Committee and such committee staff as are authorized by the Chairman or presiding Member. In the course of any hearing, each Member shall be allowed five minutes for the questioning of a witness until such time as each Member who so desires has had an opportunity to question the witness. The Chairman, or the Committee by motion, may permit an equal number of majority and minority Members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side. The Chairman, or the Committee by motion, may permit Committee staff of the majority and minority to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

Counsel for the Witness. Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may notify the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to the witness' appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain counsel will not excuse the witness from appearing and testifying.

Statements by Witnesses. A witness may make a statement, which shall be brief and relevant, at the beginning of the witness' testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding Member. Any witness desiring to submit a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so no less than 72 hours in advance of the witness' appearance before the Committee.

Objections and Ruling. Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding Member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present fails to sustain the ruling of the chair.

Transcripts. A transcript shall be made of the testimony of each witness appearing before the Committee during a Committee hearing.

Inspection and Correction. All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Such counsel shall have the appropriate clearance necessary to review any classified aspect of the transcript. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of the public record shall be made available to that witness at the witness' expense.

Minority Witnesses. Whenever a hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party Members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority Members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

Contempt Procedures. No recommendation that a person be cited for contempt of Congress shall be forwarded to the House unless and until the Committee has, upon notice to all its Members, met and considered the alleged contempt. The person to be cited for contempt shall be afforded, upon notice of at least 72 hours, an opportunity to state shy he or she should not be held in contempt, prior to a vote of all the committee, a quorum being present, on the question whether to forward such recommendation to the House. Such statement shall be, in the discretion of the Chairman, either in writing or in person before the Committee.

Closing Hearings. Hearings of the Committee shall be open to the public unless closed in accordance with Clause 2(g) or 2(k) of House Rule XI.

### 5. SUBPOENAS, SUBPOENAS DUCES TECUM, AND AFFIDAVITS

Unless otherwise determined by the Committee, the Chairman, upon consultation with the Ranking Minority Member, shall authorize and issue subpoenas. In addition, the Committee may itself vote to authorize and issue subpoenas. Subpoenas shall be issued under the seal of the House and attested by the Clerk of the House, and may be served by any person designated by the Chairman. Subpoenas shall be issued under the Chairman's signature or that of a Member designated by the Committee.

Provisions may be included in a subpoena, by concurrence of the Chairman and Ranking Minority Member, or by the Committee, to prevent the disclosure of Committee demands for information when deemed necessary for the security of information or the progress of an investigation, including but not limited to prohibiting the revelation by witnesses and their counsel of Committee inquiries.

A subpoena duces tecum may be issued whose return shall occur at a time and place other than that of a regularly scheduled meeting.

Requests for investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branched of the federal government, shall be made by the Chairman, upon consultation with the Ranking Minority Member, or by the Committee.

The Chairman or the Committee may require any person who is unavailable to testify as a witness at any hearing to submit an affidavit comprising such person's sworn testimony for use at such hearing.

### 6. STAFF

Members of the committee staff shall work collegially, with discretion, and always with the best interests of the national security foremost in mind. Committee business shall whenever possible, take precedence over other official and personal business. For the purpose of these rules, Committee staff means the employees of the Committee, consultants to the Committee, and any other person engaged by contract, or otherwise, to perform services for, or at the request of, the Committee, including detailees to the extent necessary to fulfill their designated roles. All such persons shall be subject to the same security clearance and confidentiality requirements as employees of the Committee under this rule.

Committee staff shall be either majority, minority, or joint. Majority staff shall be designated by and assigned to the Chairman. Minority staff shall be designated by and assigned to the Ranking Minority Member. Joint Committee staff shall be designated by the Chairman, in consultation with the Ranking Minority Member, and assigned to service of the full Committee. The Chairman shall certify Committee staff appointments, including appointments by the Ranking minority Member and joint staff appointments, to the Clerk of the House in writing, and such certification shall be submitted to the Committee for approval by majority vote.

The joint Committee staff works for the Committee as a whole, under the supervision and direction of the Chairman and Ranking Minority Member of the Committee. Except as otherwise provided by the Committee, the duties of joint Committee staff shall be performed and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direction supervision and control of the Staff Director. Majority and minority staff appointed by the Chairman and Ranking Minority Member, respectively, shall be subject to the same operational control and supervision concerning security and classified documents and material as are joint Committee staff.

Members of the Committee staff shall not discuss or divulge (a) either the classified substance or procedure of the work of the Committee, (b) any classified information which comes into such person's possession while a member of the Committee staff, or (c) any classified information which comes into such person's possession by virtue of his or her position as a member of the Committee staff, with any person except a Member of the Committee, for any purpose, or in connection with any proceeding, judicial or otherwise, either during or after the person's tenure as a Member of the Committee staff, except on a need-to-know basis, as determined by the Committee, and in such manner as may be determined by the House or by the Committee.

No member of the Committee staff shall be employed by the Committee unless and until such person agrees in writing, as a condition of employment, to notify the Committee, or, after the Committee's termination, the House, of any request for testimony, either while a member of the Committee staff or at any time thereafter, with respect to classified information which came into the staff member's possession by virtue of his or her position as a member of the Committee staff. Such classified information shall not be disclosed in response to such requests except as authorized by the Committee, or, after the termination of the Committee, in such manner as may be determined by the House.

No member of the Committee staff shall divulge to any person any information, including non-classified information, which comes into his or her possession by virtue of his or her status as a member of the Committee staff, if such information may alert the subject of a Committee investigation to the existence, nature, or substance of such investigation, unless directed to do so by the Committee.

The Committee shall immediately consider disciplinary action in the event any member of the Committee staff fails to conform to any of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff, criminal referral to the Justice Department, and notification of the Speaker of the House.

### 7. PROCEDURES RELATED TO CLASSIFIED OR SENSITIVE MATERIAL AND OTHER INFORMATION

(a) Committee staff offices, including majority and minority offices, shall operate under strict security precautions administered by the Director of Security of the Committee. At least one security officer shall be on duty at all times by the entrance to control entry. Before entering the office, all persons shall identify themselves.

(b) Sensitive or classified documents shall be segregated in a secure storage area under the supervision of the Security Director. They may be examined only in an appropriately secure manner. Copying, duplicating, or removal from the secure area of the Committee's offices of such documents and other materials is prohibited except with leave of the Chairman and Ranking Minority Member for use in furtherance of Committee business. No classified documents shall be maintained or stored in the majority or minority offices. Classified information in any form that is not obtained in Committee hearings and is not the property of the Committee or the House shall, while in the custody of the Committee, be segregated and maintained by the Committee in the same manner as Committee records which are classified.

(c) All Members of the Committee shall at all times have access to all records of Committee hearings and all other records, data, charts, and files that are the property of the Committee. In the case of any such materials that are classified, the Security Director shall be responsible for the maintenance, under appropriate security procedures, of a registry, which will number and identify all classified papers and other classified materials in the possession of the Committee. Such registry shall also be available to any Member of the Committee.

(d) Members who are not Members of the Committee shall have access to all Committee records as described in paragraph (c), in the same manner and subject to the same conditions and restrictions as Members of the Committee.

(e) Access to classified information supplied to the Committee shall be limited to Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and under the Committee's direction, the Staff Director.

No Member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a Member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session, or the contents of any classified papers or other classified materials or other classified information received by the Committee except as authorized by the Committee in a manner consistent with the provisions of these rules, or, after the termination of the Committee, in such manner as may be determined by the House.

Before the Committee makes any decision regarding any request for access to any testimony, papers or other materials in its possession or a proposal to bring any matter to the attention of the House or a committee or committees of the House, Committee Members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the Committee.

(f) Before a Member, officer, or employee of the Committee may have access to classified information, the following oath (or affirmation) shall be executed:

"I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the Select Committee on Homeland Security, except as authorized by the Committee or the House of Representatives or in accordance with the Rules of such Committee or the Rules of the House."

Copies of the executed oath (or affirmation) shall be retained by the Clerk as part of the records of the Committee. The Clerk shall make signatures a matter of public record, causing the names of each Member who has signed the oath to be available each day for public inspection in an appropriate office of the Committee offices.

### 8. SUBCOMMITTEES

(a) There shall be five standing subcommittees of the Committee, with jurisdiction as follows:

(1) Subcommittee on Infrastructure and Border Security: border security including prevention of importation of illicit weapons, pathogens, narcotics, and other contraband; illegal entry by foreign nationals; land borders, ports, and airspace; integration of federal, state, and local immigration law enforcement; protection of highways, bridges, waterways, airports and air transportation, energy supplies, and other critical infrastructure from attack; preservation of critical government, business, and financial institutions; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(2) Subcommittee on Rules: study of the operation and implementation of the House Rules with respect to homeland security; examination of jurisdictional disputes and overlap related to the Department of Homeland Security, and homeland security in general; consideration of changes to the House Rules, pursuant to Section 4(b)(3) of H. Res. 5, necessary to ensure effective oversight of the Department of Homeland Security, and homeland security in general; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(3) Subcommittee on Emergency Preparedness and Response: preparation for and response to chemical, biological, radiological, and other attacks on civilian populations; protection of physical infrastructure and industrial assets against terrorist attack; issues related to liability arising from terrorist attack; public health issues related to

such attacks; disaster preparedness; coordination of emergency response with and among state and local governments and the private sector; homeland security technology; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(4) Subcommittee on Cybersecurity, Science, and Research & Development: security of computer, telecommunications, information technology, industrial control, electric infrastructure, and data systems, including science, research and development related thereto; protection of government and private networks and computer systems from domestic and foreign attack; prevention of injury to civilian populations and physical infrastructure caused by cyber attack; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(5) Subcommittee on Intelligence and Counterterrorism: prevention and interdiction of terrorist attacks on American territory; liaison and integration of the Department of Homeland Security with the intelligence community and law enforcement; collection, analysis, and sharing of intelligence among agencies and levels of government as it relates to homeland security; threat identification, assessment and prioritization; integration of intelligence analysis, and sharing of intelligence, with and among federal, state, and local law enforcement; preservation of civil liberties, individual rights, and privacy; relevant oversight; and other matters referred to the Subcommittee by the Chairman.

(b) Bills, resolutions, and other matters shall be referred by the Chairman to the appropriate subcommittee within two weeks of receipt by the Committee for consideration or investigation in accordance with its fixed jurisdiction. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdiction, the Chairman may refer the matter as he deems advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the Chairman when, in his judgment, the subcommittee is not able to complete its work or cannot reach agreement on the matter. In a subcommittee having an even number of Members, if there is a tie vote with all Members voting on any measure, the measure shall be placed on the agenda for full Committee consideration as if it had been ordered reported by the subcommittee without recommendation. This provision shall not preclude further action on the measure by the subcommittee.

(c) The full Committee shall have general jurisdiction over all programs and activities of the Department of Homeland Security, liaison between homeland security agencies and programs throughout the federal government, and the Department of Homeland Security, state and local homeland security, and such other matters within the jurisdiction of each subcommittee as may be referred directly to the full Committee by the Chairman.

(d) The Chairman and Ranking Minority Member of the Committee shall be ex officio Members of each subcommittee to which they have not been assigned by resolution of the Committee.

### 9. LEGISLATIVE CALENDAR

The Clerk of the Committee shall maintain a printed calendar for the information of each Committee Member showing any procedural or legislative measures considered or scheduled to be considered by the Committee, and the status of such measures and such other matters as the Committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of such revisions shall be furnished to each Member of the Committee.

### 10. COMMITTEE TRAVEL

No Member of the Committee or Committee staff shall travel on Committee business unless specifically authorized by the Chairman or Ranking Minority Member, respectively. Requests for authorization of such travel shall state the purpose and extent of the trip, together with itemized expenses anticipated thereon. No preliminary arrangements for foreign travel shall be undertaken by any Committee Member unless such travel has been authorized in writing by the Chairman.

A report on all foreign travel shall be filed with the Committee Clerk within sixty calendar days of the completion of said travel. The report shall contain a description of all issues discussed during the trip and the persons with whom the discussions were conducted. If an individual with the Committee staff fails to comply with this requirement, he or she shall be subject to disciplinary procedures set forth in these rules.

### 11. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, the Committee or Subcommittee, as the case may be, shall permit that hearing or meeting to be covered by television broadcast, internet broadcast, print media, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in the Rules of the House.

### 12. DISPOSITION OF COMMITTEE RECORDS

Upon dissolution of the Committee at the conclusion of the 108th Congress, the records of the Committee shall be deemed current records and, consistent with House Resolution 5 of the 108th Congress, shall not be delivered to the Archives of the United States but rather shall become the records of such successor committee as shall be designated by the Speaker.

### 13. CHANGES IN RULES

These rules may be modified, amended, or repealed by the Committee provided that a notice in writing of the proposed change has been given to each Member at least 48 hours prior to the meeting at which action thereon is to be taken.

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## UNITED STATES IS NOT ACTING ALONE

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Madam Speaker, I cannot resist responding to the previous speaker's comments.

I am appalled frankly by some of the statements that were made from that podium just a few short minutes ago. The United States of America is not acting alone. The United States of America has not failed in diplomacy. It is the United States of America by the use of force through the United States of America and its allies, including the British, the Spaniards, the Italians and many other countries on the European continent, that have forced Saddam Hussein to come up with the weapons that he has come up with so far for destruction.

The United Nations has tried unsuccessfully, unsuccessfully year after year after year after year, through inspections, through economic sanctions, through criticism, through 16 or 18 separate resolutions, and yet the fine lady stands up in front of this House and says that the way we need to start this is with discussions.

What has been happening the last 12 years? I will tell you what has been happening the last 12 years. Saddam Hussein has been very methodically building up his arsenal, and I intend later this evening to go over not just a broad allegation that he has got additional weapons of mass destruction, not just an additional, not just a broad allegation that he has utilized these weapons of mass destruction because we know, in fact, he has. He has gassed his own citizens. He used them in his attack against Iran. He had prepared to use them when he occupied Kuwait .

What did he do these last 15 years, 12 years? That is exactly what he has done. He has very methodically, as I said, built up an arsenal. And now we have some people in our own Chambers that stand up and say, we ought to go talk more. We ought to start the inspection process and eventually kind of ramp it up a little.

Where have they been? With all due respect to my colleagues, when does this end? When are we going to say enough is enough?

I hope this evening I am able to present you with some remarks, with some convincing evidence, persuasive remarks that will show you just how evil this guy is.

It is amazing to me as I look out at the worldwide press, I do not think by the way the worldwide population, but as I look at the worldwide press, their media is slanted towards building up the good character of Saddam Hussein and destroying the good character of George W. Bush and America. What my colleague failed to mention in her previous statements here is she blames the United States for problems with our allies. Let me tell you, take a look on our allies. We have good, strong, solid allies out there and we have good relationships with many of our allies out there, but the fact is we also are a leader. We are the strongest Nation in the world. We are not going around boasting about it, but sometimes it falls upon the shoulders of the strongest person to pull that wagon up the hill. You know, if you have horses on a team and you are trying to get that wagon up the hill and you have some weak horses, at some point you have got to replace them with strong horses. That is not to say anything bad about the weak horses. It may be, in fact, that those horses were not built to pull a wagon up the hill. That is what we have happening here.

We have the French who for political reasons because they do not have much of a military, who for political reasons have decided to advance their causes by being the worst critic of the United States, by being the worst critic, you find very few words in the rhetoric on the fine island of France, and I say island because they are isolating themselves within the European continent, you find from their fine words horrible criticism of the United States of America.

You never hear the French leaders talk about what the United States does for the world. Do you know if you take a look we have no reason to apologize for this country. This country feeds more hungry people than any other country in the world. This country educates more people and educates them to a higher level than any other country in the world. This country exports, it overflows with freedom compared with any other country in the world. This country produces the greatest inventions known to man in the greatest quantity of any other country in the world. This country allows more private property rights than any other country in the world. Our Constitution allows more rights for our judicial system than any other country in the world.

We have the best medicine. Some of the best medicine ever known to mankind is developed in this country. Open heart surgery. You take a look at what you have. Root canals. You take a look at it. It is the United States of America. And yet we have Members of our own body up here apologizing and condemning our own country for perceived shortfalls. And what is their source? What do they use as their source? They use as their source the spokesman for the French. They use as their source the spokesman for the Germans.

Why do they not use as a source the Americans who have been able to realize the dream that only America offers and that America on many occasions has gone to battle throughout the world to give other countries the opportunity so that they too can enjoy the life we have enjoyed.

If you want to apologize for being a leader, if you want to apologize for being strong militarily, if you want to apologize for taking tougher action against Saddam Hussein, then move aside, then move aside, because the majority of the people in this Nation want this Nation to prevail when it comes to freedom. They want the United States of America to prevail when other countries need our assistance. They want this country to prevail, to stop the spread of weapons of mass destruction.

Would the gentlewoman or some of my other colleagues here, it would be interesting to pull out our comments about what you thought about Saddam Hussein when he invaded Kuwait. I would be very interested to see what your comments were about the French when they went down to the Ivory Coast last year, by the way, without the authorization of the United Nations, without even going to the United Nations to say they were going to the Ivory Coast with their military and the overthrow they did on the Ivory Coast. Where were my good colleagues when the French did that?

How can you stand up here on the podium and defend the French? The French are our allies somewhat. Keep in mind they are the ones that did not help us when we asked for overflight rights on our actions with Libya. Keep in mind, too, to my good colleague from the other State, keep in mind who built that military facility in Iraq. It was the French. Remember the one that the Israelites took out in a bombing raid, a very daring bombing raid about 15 or 20 years ago? That was built by the French.

I am amazed that Members of this body will stand up and act as if the United States of America is the black sheep, as if the United States of America should be shunned instead of talking about the great things this country has done, instead of talking about the bravery of 250,000 troops over there and a couple other hundred thousand throughout the world and all the troops at home that are supplying those troops over there, their dedication and their patriotism, to talk about a threat that is an imminent threat.

And do not kid yourselves, Saddam Hussein and his regime, it is a cancer, and you can go to the doctor and you can tell the doctor, Doc, I do not want to hear this announcement. I do not want to hear your prognosis that I have cancer. That is not what I want to hear, Doc. Let us start from the beginning and see if you can leave out the cancer part of it when you give your prognosis to me.

The doctor says to you, look, you can couch it any way you want. You can paint it any way you want. You can blame all your neighbors. You can have your neighbors blame you, but the fact is there is cancer out there and you better deal with it, because if you do not deal with it all you are doing is not eliminating the problem, you are passing the problem on to the next generation.

Do not all of us wish, even the gentlewoman who just spoke, do not all of us wish that we would have resolved this issue in 1990 or the first Persian Gulf War when we had the opportunity? And what stopped us from resolving the issue, from destroying that regime or taking out that regime in 1990 when we had the opportunity? What stopped us? It was not George Bush, Sr., that stopped us. It was the United Nations that said do not go into Baghdad. Stay out of Baghdad. Leave Saddam Hussein in power. And now look what we did. We have passed it to another generation.

I happen to be in the generation that it was passed to. And as a Member of that generation, I do not want to see it passed to the next generation. I want us to face up to this problem and our President has done a darn good job.

Remember, this country retains its sovereignty, despite what Annan says over at the United Nations, despite what he says, the sovereignty of the United States remains with the United States.

☐ 1945

We have never shifted our sovereignty to the United Nations, and I want to speak a little more about the United Nations here in a moment, but the United States did not need to go to the United Nations. The French did not go to the United Nations for their recent action on the Ivory Coast. We were not required to go to the United Nations. In fact, many of my constituents have said why did we even go to the United Nations? Why did we not just go out take care of the problem and move on?

The fact is that our President, George W. Bush, who has been unfortunately roundly criticized by some of my colleagues, it was his decision to take this to the United Nations. It is George W. Bush, who I happen to think is doing a remarkable job in his leadership, he is our Commander in Chief. He is the one who has led the pursuit of every diplomatic and reasonable, he has got to be reasonable, but every diplomatic channel.

While my good colleagues were enjoying the weekend, where was our Commander in Chief? He was on the telephone talking to China. He was on the telephone talking to Japan. He was on the telephone talking to Russia. He wants this resolved diplomatically, but at least he has got enough guts that if it is not resolved diplomatically, he will resolve it militarily.

Thank goodness we have got the team that we have down there at that White House. Everybody in this Chamber, in my opinion, would take a second seat to a Condoleezza Rice. Everybody in this Chamber, with due respect to my colleagues, I include myself there, would take a second seat to Dick Cheney, our Vice President. Everybody in this Chamber would take a second seat to Colin Powell. Everybody in this Chamber would take a second seat to Donald Rumsfeld.

Yet, many in this Chamber think they know it all. I am not being overly critical. I am just trying to say after these remarks that I hear condemning the United States, maybe not condemning the United States, but saying that we have led the worst diplomatic disaster in history, oh my gosh, it is clear there is not an in-depth study of history in those kind of remarks.

Where is the United Nations? I want to talk a little bit about the United Nations. I want to talk a little bit about the French and Germans, and I want to answer some of the questions, and most of all, I want to read an article that I think is right on point.

I actually went through it the other night, but many people asked that I go through it again, and I look forward to that, but first of all, let me talk about the United Nations. Let us face it. Let us take a look at what the United Nations is all about.

It has 191 member representatives in it, 191, and not being critical of the other 190, but if we take a look at that pool, just by the nature of our culture, just by the nature of the environments that we grew up in, just by the nature of our traditions in our particular countries, just by the nature of the governments that are within our country, we are different people. There are inherent conflicts.

There are a lot of things that we can do together, and I am one of those people that, while I think the United Nations is a paper tiger when it comes to military action, I think the United Nations has a proper place in our society. What is a proper role for the United Nations to play?

Let us start out, I think the United Nations can be kind of the centralizing authority to give us the help and the distribution we need to assist countries that have starving populations. For example, when we have a problem in Ethiopia, I bet the United Nations can help us with that problem. When we have a problem in Somalia, after they drag our soldiers through the streets, we cannot call on the United Nations. They do not have that capability. We have overestimated, we have exaggerated the role of the United Nations and its capability to carry anything on of substance, even in a diplomatic forum, with the exception of some very specific duties, and let me give my colleagues another example.

The President covered it very well in his State of the Union Address. We have a horrible plague of AIDS throughout the world. We need to conquer that disease. The United Nations is a good institution to lead that battle. The United Nations is a good institution to help with resources for advice on farming, to provide agricultural resources and so on.

But do my colleagues not understand, the United Nations, not because it is inherently evil or incompetent or incapable, but the United Nations, just by the fact of its structure, just by the way it is built, just by the way it is built, is not designed to be able to go into a country of mass destructions and face them down. The United Nations does not have the capability because of its membership to face them down. We cannot get that membership all put together.

Take a look at the United Nations. One of the biggest problems in the world that we spend a lot of time and resources on is human rights. This country leads the world in human rights, but what does the United Nations do? One of the countries that is one of the worst abusers of human rights and makes list after list year after year is Libya. What do they do at the United Nations? They name the Libya representative as the head of the Human Rights Commission. That is why they are ineffective when it comes to this type of international geopolitical action. We should understand that their role needs to be more targeted towards the things of which I spoke.

Let me say just a couple of words about the French and the Germans. I think the French are the shining example of hypocrisy. Let me quote from a recent Wall Street Journal editorial: But before we move on to war, says the editorial, let us pause to honor the grandeur of French hypocrisy on "the unilateral" use of military force. France seldom bothered to ask the United Nations or anyone else when it concludes its own interests are at stake. When a failed coup in the Ivory Coast last fall, and many of my colleagues probably do not even realize this, many of my colleagues probably could not identify with, and I am not being derogatory, but could not identify where the Ivory Coast is, but last fall the French sent troops down to the Ivory Coast because they had a failed coup, and let me go back to the quote: When a failed coup in the Ivory Coast last fall blossomed into a rebellion that threatened civil war, France never did get around to asking for a Security Council resolution. President Jacques Chirac also forgot to ask George W. Bush for his permission. Rather, he dispatched hundreds and eventually thousands of paratroopers and French legionnaires to contain the violence, to protect French citizens and to prevent the rebels from overrunning the country.

I would ask my good colleague, who had just previously spoken, would my colleague call the French's action on the Ivory Coast, would my colleague give them the same criticism she has just given the United States of America, that it is the lead example of the most horribly failed diplomacy or whatever the quote was? The French act when it is in their own interest. How ironic that they criticize the United States when the United States and its allies act in our interests, and I keep saying the United States and its allies.

With the worldwide media now, it is almost laughed off the table by my colleague who spoke before me. She says, well, these little countries, these little countries in Europe that are allied with the United States, I forget exactly what she said, but the effect of it was, does not mean much. Look at the big players. Let me tell my colleagues, those little countries in Europe mean a lot to us, and those little countries in Europe, they happen to think they are pretty important to this. After all, their continent is pretty important.

Let me tell my colleagues, if we want to go just by geographical size and by population size, let us take a look in that order of the allies that I speak of when I say the United States of America, that the worldwide media has largely ignored as a coalition of the willing. Start off with the United States of America. Put on to it Great Britain. Put on to that the Spanish, Spain. Put on to that the Italians. Then we start talking about Hungary. We can start talking about Poland. We can start talking about many other countries.

In fact, I think the coalition that will be put together for this action, if Saddam Hussein does not unilaterally disarm, I think that coalition will come very close or, in fact, exceed the size of the coalition for the first Persian Gulf War. This is not, as my colleague said, and I did write this down, the U.S. against the world. What a misstatement. That is a misstatement. It is not the United States against the world. It is the United States for the world, and a big part of the world is with the United States of America.

In the United States of America we can take any example we want in history, no country in history has ever gone beyond its borders, as the United States has, for other countries. We can take a look at World War I. We can take a look at World War II. We can take a look at the Persian gulf. We can take a look anytime there is a disaster in the world, what kind of relief do we see? United States of America.

When people are starving and we are allowed to get aid in there, what do we see on those bags of flour? United States of America. We have got an awful lot to be proud of, and frankly, we can be proud of our President and this administration. He is our Commander in Chief, and I can tell my colleagues frankly, over the weekend I listened to people like Sean Penn, a movie actor. I listened to Neil Young, big time singer in my generation. I listened to one of my favorite actresses, Julia Roberts. These are very talented actors, and I am appalled that all of the sudden they think they have doctorates in foreign policy, and they think that the President should take second seat to them.

I looked at one of the papers today, the New York Times perhaps or maybe it was the Wall Street Journal, full page ad from people who call themselves writers, "We are against the war." Those people have not spent a fraction of the time that even my colleagues here on the floor have spent on what we are dealing with here, and I hope they are paying attention this evening. I am sure they are not, but I sure wish some of them were paying attention this evening to explain away just exactly what Iraq is going to do with these weapons of mass destruction.

We elected our President, and President after President we put confidence in our administration and our leadership. They know a lot more than we know. My colleagues know a lot more than their constituents generally, simply not because we are brighter but because we have had classified briefings, because it is our job to know more. It is the President's job to know a little more about these foreign issues than some of our good actors that come out of Hollywood who stand up there on a stage and condemn this country, a country that has given them all the privileges that they enjoy. Tell me that Sean Penn could go anywhere else in the world and fulfill the American dream. We have got to act as a team here.

In regards to the Germans, I mean the French are getting a lot of political hay out of this. Jacques Chirac, his popularity polls have gone through the roof. He is able to dance on the stage without paying the band. He is able to enjoy the fruits, as he has for a long time, of the labor that the United States of America has put out there.

The French really are not a significant military power anymore. Where they have their power is in the Security Council. That is why they want to go through there because they have a veto, and frankly, I just came from Paris, I just came from visiting NATO meetings, and by going out and talking on the street, a lot of people in Germany and a lot of people in France, they think terrorism, the big threat is the United States. They do not see it as such a big issue, and I understand that if the French want to stand out of the battle, as they often do when the going gets tough, the French do not want to play. I can understand that. That is their nature. That is their character. I can understand that.

The Germans, a little different story, but I can still understand that, but there is a big difference between standing aside, stepping out of the fight, and standing aside and cheering on the opposition. That should not happen.

A lot of people want to do everything they can to get rid of Saddam Hussein except fight him. Everybody wants to think they can sweet talk Saddam out of his regime. It is not going to happen.

I hope that Saddam Hussein takes the chance, the last chance that is now being given to him by the United States of America and its coalition, and I hope that he disarms, but I kind of doubt that he will. I think it is possible he may go into exile, but the fact is it is the United States of America that has forced the United Nations to do something about it, and the United Nations in November accepted. They adopted 1141 that did something about it, but when it came time to call in the chips, the United Nations, because in my opinion of the makeup of the United Nations, could not stand up and carry its own weight, and at that point, once again, the United States and the allies that can carry the weight need to step in.

□ 2000

Madam Speaker, I want to read a letter, and I spoke to this the other evening; but let me, first, Madam Speaker, get a time check.

The SPEAKER pro tempore (Mrs. BLACKBURN). The gentleman from Colorado has approximately 35 minutes remaining.

Mr. McINNIS. I understand I have 35 minutes remaining, and I will yield back 10 minutes; so in my remaining 25 minutes let me begin by reading a letter, and I am quoting from Alistair Cooke. And as I mentioned the other night, I do not like to read from somebody else's script. I like to pull in quotes, and I hope I give credit to the quotes that are out there, but this is a very moving article.

We all know that history is a good study. It does not tell us exactly what will happen in the future, but any good history teacher will tell us that the failure to understand past history will certainly be a significant handicap to any kind of understanding of how to prepare for the future. There is no crystal ball out there that tells us about the future, but history gives us an advantage. This article, I think, reflects very accurately some history that I hope all of us will think about.

Let me read this, and I will quote throughout the article. I will leave the article periodically to make a comment, but I will tell my colleagues when I do that.

Mr. Cooke: "I promised to lay off topic A, Iraq, until the Security Council makes a judgment on the inspector's report, and I shall keep that promise. But I must tell you that throughout the past fortnight I've listened to everybody involved in or looking on to a monstrous din of words, like a tide crashing and receding on a beach, making a great noise and saying the same thing over and over and over. And this ordeal triggered a nightmare, a daymare, if you like. Throughout the ceaseless tide I heard a voice."

This is Mr. Cooke talking about his dream. He heard a voice. "I heard a voice, a very English voice of an old man, Prime Minister Chamberlain, saying: "I believe it is peace for our time," a sentence that prompted a huge cheer, first from a listening street crowd and then from the House of Commons and next day from every newspaper in the land. There was a move to urge that Mr. Chamberlain should receive the Nobel Peace Prize.

"In Parliament there was one unfamiliar old grumbler to growl out: 'I believe we have suffered a total and unmitigated defeat.' He was, in view of the general sentiment, very properly booed down. This scene concluded in the autumn of 1938 the British Prime Minister's effectual signing away of most of Czechoslovakia to Hitler."

So leaving the text for a minute, in 1938, Chamberlain signed over Czechoslovakia to Hitler, much like Saddam Hussein. Give him what he wants. Appease him. Back down to what is good for the world. Back down in your own interest. But you need to cover that. A politician cannot back away without giving it some kind of cover, and Prime Minister Chamberlain said, "I believe it is peace for our time."

Now, going back to the script again, let me start: "This scene concluded in the autumn of 1938 the British Prime Minister's effectual signing away of most of Czechoslovakia to Hitler. The rest of it, within months, Hitler walked in and conquered. "Oh dear," said Mr. Chamberlain, thunderstruck, "He has betrayed my trust."

"During the last fortnight a simple but startling thought occurred to me. Every single official, diplomat, president, prime minister involved in the Iraq debate was in 1938 a toddler, most of them unborn. So the dreadful scene I've just drawn will not have been remembered by many listeners.

"Hitler had started betraying our trust not 12 years but only 2 years before, when he broke the First World War peace treaty by occupying the demilitarized zone of the Rhineland. Only half his troops carried one reload of ammunition because Hitler knew that French morale was too low to confront any war just then, and 10 million of the 11 million British soldiers had signed a so-called peace ballot. It stated no conditions, it elaborated no terms, it simply counted the numbers of Britons who were 'for peace.'

"The slogan of this movement was 'against war and fascism,' chanted at the time by every Labour man and Liberal and many moderate Conservatives, a slogan that now sounds as imbecilic as 'against hospitals and disease.' In blunter words, a majority of Britons would do anything."

And let me leave the script here. This is probably the most important paragraph of what I am reading, or one of the most important:

"In blunter words, a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him. At that time the word preemptive had not been invented, though today it's a catchword. After all, the Rhineland was what it said it was, part of

Germany. So to march in and throw Hitler out would have been preemptive, wouldn't it?

"Nobody did anything and Hitler looked forward with confidence to gobbling up the rest of Western Europe country by country, 'course by course,' as the growler Churchill put it.

"I bring up Munich and the mid '30s because I was fully grown, on the verge of 30, and knew we were indeed living in the age of anxiety. And so many of the arguments mounted against each other today, in the last fortnight, are exactly what we heard in the House of Commons debates and read in the French press.

"The French especially urged, after every Hitler invasion, 'negotiation, negotiation.'"

Let me leave the text. Let me repeat this paragraph. The French especially urged, after every Hitler invasion, every time Hitler invaded a country, the French would stand up and say negotiate, negotiate.

"They negotiated so successfully as to have their entire country defeated and occupied. But as one famous French Leftist said, 'We did anyway manage to make them declare Paris an open city. No bombs on us!'.

"In Britain, the general response to every Hitler advance was disarmament and collective security. Collective security meant to leave every crisis to the League of Nations. It would put down aggressors, even though, like the United Nations, it had no army, navy or air force.

"The League of Nations had its chance to prove itself when Mussolini invaded and conquered Ethiopia. The league didn't have any shot to fire."

Some comparison. I leave the text. Some comparison to the United Nations.

"But still the cry was chanted in the House of Commons, the League and collective security is the only true guarantee of peace. But after the Rhineland, the maverick Churchill decided there was no collectivity in collective security and started a highly unpopular campaign for rearmament by Britain, warning against the general belief that Hitler had already built an enormous mechanized army and a superior air force.

"But he's not used them, he's not used them, people protested. Still, for 2 years before the outbreak of the Second World War you could read the debates in the House of Commons and now shiver at the famous Labour men. Major Attlee was one of them who voted against rearmament and still went on pointing to the League of Nations as the savior.

"Now, this memory of mine may be totally irrelevant to the present crisis. It haunts me. I have to say I have written elsewhere with much conviction that the most historical analogies are false because, however strikingly similar a new situation may be to an old one, there's usually one element that is different.

"And it may well be so here. All I know is that all the voices of the '30s are echoing through 2003."

Take a look at the history of the League of Nations. Take a look at what happened in 1938, when Churchill had to stand up and tried to convince the people that these weapons were being developed. Take a look at 1938 and see if you do not think you are seeing a replay when the French stood up every time Hitler invaded a country and said, negotiate, negotiate.

Well, now let us just move from that and let us just show some of the facts that I want to present. People have said, including the previous speaker, that, well, we need to start these negotiations. We need to be patient. We need to work through this. This is 13 years. Every resolution here, 678, 687, 707, clear down to 1284, every one of these resolutions Iraq has violated. Every one of these resolutions the U.N. stood up as if this was the last resolution because it was going to resolve it.

You know, if you signed a contract with somebody and you had this many contracts with an individual, and that individual broke every contract, every one of those you had with them, do you think that would give you a little history as to the next contract and how effective it might be?

We hear people say, well, Iraq is not a dangerous country. We have got Iraq contained. How contained did the world have Iraq when it gassed its own communities, the Kurds? How contained did the world have Iraq when it invaded Kuwait? Were they able to stop them? We were able to. The United States of America, leading the coalition, was able to push them back. But we could not stop the initial invasion. How about Iran, when Iraq started the war with Iran?

Take a look at these and take a look at the weapons he used. These are weapons of mass destruction. These are weapons that yesterday Saddam Hussein said he had, but today he denies he has them; and tomorrow, frankly, he will use them, in my opinion. He has the history.

Again, going back in history, again reflecting on history. Date: August 1983, mustard gas kills 100 people; October 1983, mustard gas kills 3,000 of his own people; February 1984, mustard gas kills 2,500 Iranians; March 1984, mustard gas, or Tabun, 50 to 100; March 1985, mustard gas; 1986, mustard gas; 1986, mustard gas; 1987, mustard gas; 1987, mustard gas; 1988, mustard gas and nerve agents.

This guy has got a history. This is a horrible individual we are dealing with. I am telling you, from the bottom of my heart, this is a cancer on our body. And we have different people telling us, look, do not take it off. Just ignore it; it will go away. I wish we could pray it away, I wish we could hope it away, I wish diplomatically we could negotiate it away. It did not work in 1938 with Hitler, and it is not going to work in 2003 with Saddam Hussein, in my opinion. We tried to make it work. We spared his life through the direction of the United Nations in 1990. We spared Saddam Hussein. We listened to the French; we listened to the United Nations to let his regime exist. Do not destroy his regime; he has learned his lesson. Just like Hitler, negotiate, negotiate. People said let us do anything we can except fight him. We are seeing a repeat of history.

Thank goodness we have a leadership team that understands this and is not willing to let history repeat itself and is willing to stand up not only for the security of the United States of America but for the security of those countries that are not able, that do not have the capability of our great country and our allies to go in and stop this from occurring. We have the capability today to stop that cancer. We have the chemotherapy treatment. We think we can make this patient do a lot better. And yet members of our own family are trying to convince the patient to walk away from the doctor's office, to deny that the cancer exists, or to admit that it exists and pretend it will go away and to try to negotiate with cancer.

You cannot negotiate with cancer. You must deal with overwhelming superiority if you have got it. And if it is too late, there is not much you can do. Cancer wins the battle a lot of times. It is the same thing here. We have got the tools. We have got the capability. If we do not do it, who will? If the United States of America and its allies do not stand up to this kind of stuff, who will? Do you think the French will ever stand up? Do you think the Germans will ever stand up?

Many countries in the world will not stand up because they do not have the tools. There are a lot of people that would like to join the fight, that would stand up if they had the tools. We have it and we have an inherent obligation to the next generation to do everything we can to stop it while we can.

I am the generation that got it transferred to me. We could have stopped it in 1990. We did not do it. And I will be darned if I am going to stand by and let my generation pass on this problem of mass weapons with this horrible, horrible individual. I will be darned if I am going to stand on the sidelines and pass that to the next generation.

□ 2015

Madam Speaker, I hear some peace people say what weapons, he does not have weapons of mass destruction or he is not a danger to us. I just answered what kind of danger exists.

This is a document of weapons that Iraq has: Mustard gas, 2,850 tons; sarin nerve gas, 795 tons; VX nerve gas, 3.9 tons; tabun nerve agent, 210 tons. This is deadly stuff. Anthrax, 25,000 tons, and we all saw what a few sprinkles of anthrax dust did in the United States Capitol. Take a look at what this will do. Imagine if there were 25,000 tons.

Where did our Nation come up with this list? We did not just create it. This is a list that Saddam Hussein produced for us. This is the list that Iraq admitted they had. Today they said trust me, despite the fact that for 12 years I have broken resolution after resolution, despite the fact that I invaded Kuwait and Iran, despite the fact that I gassed by nerve agents my own citizens, the Kurds, trust me, I do not have these weapons any more.

What did the United Nations do? The United Nations is willing to sit by and say, let us trust him.

Madam Speaker, it is the end of the line. We cannot continue to let this cancer spread.

I do not want Members to think it is a partisan effort up here. It is bipartisan. Let me conclude my remarks with a quote, and I want Members to read this quote with me. "What if Saddam Hussein fails to comply and we fail to act, or we take some ambiguous third route which gives him yet more opportunities to develop his program of weapons of mass destruction and continue to press for the release of sanctions and continue to ignore the solemn commitments that he made. He will conclude that the international community has lost its will. He will then conclude that he can go right on and continue to build an arsenal of devastating destruction. President Bill Clinton, February 19, 1998."

Madam Speaker, let us not make it a replay of 1938. Let us stand by the President of this country and the bipartisan resolution this Congress authorized. We are a can-do country. Our allies are can-do allies, and we can get this job done.

## TRIBUTE TO JOSEPH C. BEAUPREZ

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for the remaining 10 minutes.

Mr. BEAUPREZ. Madam Speaker, I rise to call the attention of the Members of this House of Representatives to a special occasion, the 85th birthday of a great American, my father, Joe Beauprez.

Like many other Americans, my dad's greatness does not come from wealth, public acclaim, notoriety, titles, nor worldly deeds. Nonetheless, he has definitely achieved world class status in the roles in life he chose to follow, more inconspicuous, more anonymous than some, but roles of importance requiring great character, substance, faith, and conviction.

Madam Speaker, my dad was content being husband, father and faithful servant to his God. He wanted nothing more than the unqualified love of my mother, the opportunity to work very hard and have something to show for it, to set a path for his children a bit smoother and more pleasant than the one he had to follow and, most importantly, to earn an eternal place in heaven as he believes to be God's plan.

Madam Speaker, like so many of his generation, America's greatest generation, my dad's parents were immigrants. They came to America poor, with little formal education, unfamiliar with our language and our customs. She had been a weaver of fine Belgian lace. He carried her lace in a sack on foot from town to town, selling it in local markets to earn a living. Times were hard, and the First World War threatened. News of opportunity in America offered them hope.

In America my grandfather shoveled coal to furnaces, and later with a loan from a neighbor, sealed with a handshake, he bought 80 acres of land, his own piece of America, something to call his own, and so much more than that sack that he owned in Belgium.

Though he had never been a farmer, with will and determination he learned quickly. In time he expanded the farm, raised eight children, my dad being the sixth, and the one who would end up keeping the farm going as his own, and my home, too, for nearly all my life.

Dad got to eighth grade at the local Catholic school, a 3-mile walk away. The early 1930s were not the best of times, Depression days. To keep the farm going, he came home to help out his dad and older brothers, never getting any more schooling.

My mom was more fortunate, she fished ninth grade before returning full time to her own parents' farm nearby. Mom and dad got married in 1940, and this June will celebrate 63 years together, an enormous and far too unusual achievement in today's world. They raised four kids, they saw to it we all went through that same Catholic school, even though money was always in short supply when we were growing up. They wanted only the best for their kids. All of us got through high school, and off to college, too. They found a way. Used cars, patched overalls, hand-me-down clothes, lots of home-grown cooking, and sack lunches. They found a way.

Many have observed that real heroes are in short supply these days, especially for our young people to emulate. Many of us worry that role models are in far too limited supply. We all certainly learn from our own experiences, learn by doing we call it, but we are also greatly impacted as we grow and develop by those powerful mentors that influence us: Teachers, coaches, neighbors, presidents, pastors and parents.

I will confess, Madam Speaker, that it took far too long for me to realize it, but my dad was the best. I am so blessed to have had him as both dad and hero. By worldly standards, dad might not have had so much. Winston Churchill explained it very well. "We make a living by what we get. We make a life by what we give."

Dad gave so much, and has lived a wonderful, eventful, purposeful life. Allow me to simply reflect on three gifts from my dad for which I am especially grateful: First by his example, he taught me the value of hard work, of self reliance, and personal responsibility. In an age when it seems the norm to try to get along as easily as possible, dad saw differently.

Dad cherished his opportunity to work the soil of that farm and to care for his livestock. Remembering the lessons of the Depression, as well as the drought years of the early 1950s, he knew he could lose whatever he had. He knew he could not do much about the weather nor the markets, the only variable he could control was his effort and his will, so he pushed himself. By sheer determination, he overcame obstacles to which most men would succumb.

How hard did he work? Well, not only did he farm the soil, he maintained a large cow-calf operation, and in 1952 he started milking some cows, too, to make enough money to pay the bills. He not only tried, he succeeded, and work hard he did. In fact, he never missed a single milking of those cows until he took one day off 14 years later. Even more impressive than his unfailing work ethic was this, he never complained. He never even talked about wanting to take it easier, take a vacation, sleep in just one morning. He had a job to do and a purpose for his work. He showed up every single day, and he did it. Falling to sleep night after night completely exhausted, he would rise well before dawn the next day to do the same all over again.

Secondly, Madam Speaker, as I already mentioned, soon my parents will celebrate their 63rd anniversary. The years and the hard work have taken a toll on them both. Mom broke her hip a couple of weeks ago, and is recovering in a hospital back home. Dad's memory is not quite so crisp any more. Lately he struggles to remember my name. It is a terrible disease, and a tough thing to witness. But he remembers who he loves and is even more devoted and tender to my mom than ever.

In 63 years, and I lived next door to him for most of those years, I never worried once where he spent the night or if he loved my mother. A wise person once said the greatest gift a father can give their children is to love their mother. Well done, dad, I never doubted. Once again, you provided me a perfect role model for my own marriage.

Madam Speaker, my dad gave me a third gift by his profound example. Regardless how deep the snow was, how much hay we had to bale. I knew right where we would be at 8 Sunday morning, in the third pew on the left of that same little Catholic church in which he was baptized. Giving back to God was simply nonnegotiable, because he knew he was blessed and wanted to say thanks.

Faith, family and the value of hard work, he taught me the most valuable lessons of life, and I am eternally grateful.

Madam Speaker, at a time when good examples seem hard to find, leaders often shun the responsibility to be role models. When real heroes are usually found only in history books, I have had the privilege of spending most of my life side by side with one of the all-time best. I think of my dad as a truly great American because he embodies the spirit of America, to try when the odds are against you, to love and have faith unconditionally, to dream big dreams and chase them and sacrifice for them, and to love this land, America, where the spirit inside your soul has the freedom to be as big and endless as this great Nation herself.

Madam Speaker, it is for those reasons I ask to have this tribute entered into the record of the 108th Congress of the United States of America commending the life and contribution of Joseph C. Beauprez of Lafayette, Colorado, on the occasion of his 85th birthday. Happy birthday, dad.

## MARTIAL LAW CONCERNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Madam Speaker, I come to the House floor tonight to talk about an issue which I think is of grave concern to this country.

I recently read an article published in the Sydney, Australia, Morning Herald entitled "Foundations Are in Place for Martial Law in the United States."

The author is a man named Ritt Goldstein, an investigative reporter for the Herald, and he said that recent pronouncements from the Bush administration and national security initiatives put in place in the Reagan era could see internment camps and martial law in the United States.

When President Ronald Reagan was considering invading Nicaragua, he issued a series of executive orders which provided FEMA with broad powers in the event of a crisis, such as the violent and widespread internal dissent or national opposition against a U.S. military invasion abroad. They were never used.

But with the looming possibility of a U.S. invasion of Iraq, recent pronouncements by President Bush's domestic security chief, Tom Ridge, and an official with the Civil Rights Commission should fire concerns that these powers could be employed or a de facto drift into their deployment in the future.

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On the 20th of July, the Detroit Free Press ran a story entitled "Arabs in U.S. Could Be Held, Official Warns." The story referred to a member of the Civil Rights Commission who foresaw the possibility of internment camps for Arab Americans. FEMA has practiced for such an occasion.

FEMA, whose main role is disaster response, is also responsible for handling U.S. domestic unrest.

From 1982 to 1984, Colonel Oliver North assisted FEMA in drafting its civil defense preparations. Details of those plans emerged during the 1987 Iran-Contra scandal. They included executive orders providing for suspension of the Constitution, the imposition of martial law, internment camps, and the turning over of government to the President and FEMA.

A Miami Herald article on the 5th of July, 1987, reported that the former FEMA director's, Louis Guiffrida's, deputy, John Brinkerhoff, handled the martial law portion of the planning. The planning was said to be similar to one Mr. Guiffrida had developed earlier to combat a national uprising by black militants. It provided for the detention of at least 21 million American Negroes in assembly centers or relocation camps. Today, Mr. Brinkerhoff is with the highly influential Anser Institute for Homeland Security. Following a request by the Pentagon in January that the U.S. military be allowed the option of deploying troops on American streets, the institute in February published a paper by Mr. Brinkerhoff arguing the legality of this. He alleged that the Posse Comitatus Act of 1878, which has long been accepted as prohibiting such deployments, had simply been misunderstood and misapplied. The preface to the article also provided the revelation that the national plan he had worked on under Mr. Guiffrida was approved by Reagan and actions were taken to implement it.

By April, the U.S. military had created a Northern Command to aid homeland security. Reuters reported that the command is mainly expected to play a supporting role to local authorities. However, Mr. Ridge, the Director of Homeland Security, has just advocated a review of U.S. law regarding the use of military for law enforcement duties.

Disturbingly, and it just really should disturb people, the full facts and contents of Mr. Reagan's national plan remain uncertain. This is in part because President Bush took the unusual step of sealing the Reagan Presidential papers last November. However, many of the key figures of the Reagan era are part of the present administration, including John Poindexter, to whom Oliver North later reported.

At the time of the Reagan initiatives, the then-Attorney General, William French Smith, a Republican, wrote to the National Security Adviser, Robert McFarlane: "I believe that the role assigned to the Federal Emergency Management Agency in the revised executive order exceeds its proper function as a coordinating agency for emergency preparedness. This department and others have repeatedly raised serious policy and legal objections to an emergency czar role for FEMA."

Criticism of the Bush administration's response to September 11 echoes Mr. SMITH's warning. On June 7 of last year, the former Presidential counsel, John Dean, spoke of America sliding into a, quote, "constitutional dictatorship," close quote, and martial law.

The reason I raise this issue is that I come from a State where in 1941 under executive order by the President, 9661, we rounded up all the Japanese Americans in this country and put them in concentration camps. We have set in place the mechanism to do that again and we must not, we cannot sacrifice the Constitution in this rush to war that we are doing in Iraq.

## DISTURBING EVENTS IN PUERTO RICAN POLITICS

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized for 5 minutes.

Mr. ACEVEDO-VILÁ. Madam Speaker, I would like to bring to the attention of this body some disturbing events in Puerto Rican politics during recent years. Specifically, I will talk about the corrupt and unethical actions of Puerto Rico's statehood leaders. I would like to start by saying that for many years Puerto Rico enjoyed an impeccable reputation of clean government. I am sad to say that this tradition was tainted by former Governor Pedro Rossello and his administration. During his administration, as Puerto Rico later discovered, there were many corruption schemes and rotten administrators pocketing millions of Federal and local funds. The irony is that the leadership of the Statehood Party, the party led by Governor Rossello for almost 10 years, became the leaders of the first corrupt government in the history of Puerto Rico. A party that claims to admire American democracy, a party that wants Puerto Rico to become a State of the union, was the party that embezzled Federal funds that belonged to our elders, our sick, and our children.

In 1997, the statehooders came to Washington to push for a statehood bill. They used millions of dollars in lobbying and political support to convince Congress that all Puerto Ricans wanted to become a State and used millions to silence the other voices from Puerto Rico. Now we know that this campaign was partially financed by illegal money.

It is amazing that, even today, the leaders of the Statehood Party are unwilling to recognize the depth of the corruption and continue to try to spin the issue as one of political persecution. They have gone as far as accusing the U.S. District Attorney's office in Puerto Rico of promoting prosecutions just for political reasons. They have no remorse.

As a result of the Federal and local investigations of this statehood corruption scheme, during the last months we have witnessed the conviction and indictment of many of the highest-ranking statehood leaders. In this chart, you will be able to see how far corruption went under the Statehood Party's government in the island. This is the Statehood Party's Hall of Shame. The list of corrupt officials and the depth of the corruption are impressive. Here are some of the cases.

In the legislative branch, Speaker Edison Misla-Aldarrondo, Speaker of the House, convicted.

Jose Granados-Navedo, Vice President of the House, resigned under scandal.

Norberto Nieves, legislator, convicted.

Jose Nunez, legislator, indicted.

Anibal Marrero, Vice President of the Senate, resigned under scandal.

Senator Victor Marrero, convicted.

Senator Freddie Valentin, convicted.

Let us see the executive branch: The personal assistant to the Governor, Angie Rivera, the person that had the key to the Governor's office, convicted.

Marcos Morell, secretary-general, executive director of the party, disbarred by the Supreme Court of Puerto Rico because of conflict of interest doing business with the government.

Bernardo Negron, president of the Federation of Statehood Party Mayors, convicted.

Andres Barbeito, director of the Pensions Administration, indicted.

Luis Dubon, the owner of the Statehood Party headquarters building, convicted.

Angel Luis Ocasio, deputy chief of staff to the Governor, convicted.

Eduardo Burgos, another deputy chief of staff to the Governor, convicted.

Jose Cobian, deputy finance director of the Statehood Party, indicted.

Victor Fajardo, Secretary of Education, convicted.

Oscar Ramos, administrator of the State Insurance Fund, under special prosecutor investigation.

Daniel Pagan, secretary of the Natural Resources Department, indicted.

Although Mr. Rossello has not been indicted, the extension of these corruption schemes leads to one of two possible explanations: number one, he was part of this scheme; or, number two, he is such an inept administrator that he should not be trusted again with the duty of managing a government or any institution.

When I first arrived as a freshman in Congress 2 years ago, I was informed that millions of dollars in Federal funds had been frozen or were at risk of being frozen because of this situation. The task of Governor Calderon and me was to assure compliance with Federal requirements to make the funds once again available. The projects and programs affected include child care, nutritional assistance, title I, Head Start, TANF, the urban train project, housing and E-rate.

After just 2 years, our efforts brought the desired results: the new administration in Puerto Rico implemented measures to comply with the Federal programs' requirements and the Federal Government of Puerto Rico was able to receive the frozen funds.

I want to clarify that the Statehood Party Hall of Shame has nothing to do with the national parties here. It is a cancer in the statehood movement. For example, Pedro Rossello was a well-known and active Democrat, and Edison Misla-Aldarrondo, the former Speaker of the House, was the Republican Party National Committee man. The common denominator is they belong to the leadership of the Statehood Party.

When the leaders of the Statehood Party come to Washington to lobby behind the backs of the people of Puerto Rico, I urge you to ask them, where were they when their party leaders were using Federal funds for personal and political purposes?

### REMARKS OF CONGRESSMAN ANÍBAL ACEVEDO-VILÁ TO BE ENTERED INTO RECORD

Madam Speaker, I would like to bring to the attention of this body some disturbing events in Puerto Rican politics during recent years. Specifically, I will talk about the corrupt and unethical actions of Puerto Rico's statehood leaders.

I would like to start by saying that for many years Puerto Rico enjoyed an impecable reputation of clean government and true public service. Leaders such as Luis Muñoz Marín, Roberto Sánchez, Rafael Hernández Colón, and Luis Ferré, earned the trust and respect of the people for their honesty in the management of the public treasure.

I am sad to say that this tradition was tainted by former Governor Pedro Rosselló and his administration. In 1992 Mr. Rosselló took office with a platform of government reform and ambitious public projects. He governed until the year 2000. During his administration, as Puerto Rico later discovered, there were many corruption schemes and rotten administrators pocketing millions of federal and local funds.

The irony is that the leadership of the Statehood party—the party lead by Governor Rosselló for almost 10 years—became the leaders of the first corrupt government in the history of Puerto Rico. A party that claims to admire American democracy, a party that wants Puerto Rico to become a state of the Union was the party that embezzled federal funds that belonged to our elders, our sick and our children!

In 1997, the statehooders came to Washington to push for a statehood bill. They used millions of dollars in lobbying and in political support to convince Congress that all Puerto Ricans wanted to become a state and used millions to silence the other voices from Puerto Rico. For years many of you in Congress witnessed the costly and aggressive campaign that the Puerto Rico statehood leaders orchestrated to advocate for statehood. Now we know that this campaign was partially financed by illegal money. I wonder how much more of that money was dirty money!

Moreover, Mr. Rosselló disregarded for years pleas by the opposition, by the press, by the civil society in general to investigate his government and his party. Instead of looking into the allegations he decided to conceal the facts, to protect his friend and to defend the corrupt members of his administration. Fortunately the federal authorities did their job in investigating and prosecuting the criminals and the people of Puerto Rico judged the statehood party in the polls.

It is amazing that even today the leaders of the statehood party are unwilling to recognize the depth of the corruption, and continue to try to spin the issue as one of political persecution. They have gone as far as accusing the US District Attorney's Office for the District of Puerto Rico of promoting prosecutions just for political reasons. They have openly said that the Federal Court system and local authorities are part of a conspiracy to criminalize statehood, again showing an utter disregard for the truth. They showed no remorse!

Do not get me wrong, the statehood movement is a legitimate movement and has many decent and honest members. Unfortunately for them, their leaders have betrayed their cause. There is no conspiracy to criminalize statehood, in fact, most of the convicted officials pleaded guilty in court before their sentences. There is a duty to prosecute the criminals that have hidden behind the statehood banner to steal money and for their own corrupt purposes. It is this leadership that I indict today. This statehood leadership that has inflicted the most damage to the statehood cause in Puerto Rico and the United States.

As a result of the federal and local investigations of this statehood corruption scheme, during the last months we have witnessed the conviction and indictment of many of the highest-ranking statehood leaders, including the personal assistant to former Governor Rosselló, two of the former Governor's Deputy Chief of Staff, the former Speaker of the Puerto Rico House of Representatives and former National Committeeman of the Republican Party in the Island, and the former Secretary of Education that pleaded guilty, to stealing at least $4.3 million of federal Title I funds for his benefit and the benefit of the Statehood Party.

In this chart you will be able to see how far corruption went under the statehood party's government in the Island. This is the Statehood's Party Hall of Shame. The list of corrupt officials and the depth of the corruption are impressive. Here are some of the cases that have been brought to Justice so far.

LEGISLATIVE BRANCH

Mr. Edison Misla-Aldarrondo (Speaker, PR House of Rep. And National Committeeman, Republican Party Puerto Rico Committee) Convicted

2. Mr. Aníbal Marrero (Vice President, Puerto Rico Senate) Resigned under scandal.

3. Mr. José Granados-Navedo (Vice President, Puerto Rico House of Reps.) Resigned under scandal.

4. Mr. Norberto Nieves (Member, PR House of Rep.) Convicted.

5. Mr. Freddie Valentín (Senator, PR Senate) Pleaded guilty.

6. Mr. Víctor Marrero (Senator, PR Senate) Convicted.

7. Mr. José Nuñez (Member, PR house of Reps.) Indicted.

EXECUTIVE BRANCH

1. Ms. María de los Angeles "Angie" Rivera (Personal and closest assistant of Governor Rosselló) Convicted.

2. Mr. Víctor Fajardo (Secretary, Department of Education) Pleaded guilty.

3. Mr. Daniel Pagán (Secretary, Department of Natural Resources and Environment) Indicted.

4. Mr. Andrés Barbeito (Director, Government Pensions Administration) Convicted.

5. Mr. Eduardo Burgos (Former Deputy Chief of Staff; Director, Municipal Revenues Collection Center) Convicted.

6. Mr. Luis Dubón (Owner, Statehood Party Headquarters' Building) Convicted.

7. Mr. José Cobían (Deputy Finances Director, New Progressive Party) Convicted.

8. Mr. Angel Luis Ocasio-Ramos (Deputy Chief of Staff, Governor Rosselló's Office) Convicted.

9. Marcos Morell (Former Executive Director of the Statehood Party) Disbarred by the Puerto Rico Supreme Court for a conflict of interest doing business with the Rosselló administration.

10. Bernardo Negrón (President, Federation of Statehood Party Mayors) Convicted.

Although Mr. Rosselló has not been indicted, the extension of the corruption leads to one or two possible explanations: 1) he was part of the corruption scheme; or 2) he is such an inept administrator that he should not be trusted again with the duty of managing a government.

During the investigation in cases such as the Secretary of Education scandal, the federal prosecutors found evidence that at least $1 million from federal funds were funneled into NPP (Statehood Party) coffers. It is widely know in Puerto Rico that the Secretary of Education was a leader in the Statehood Party's GOTV efforts during the political status plebiscite and the general elections.

The widespread corruption that I just described had a negative impact in many federal grants and programs that Puerto Rico was entitled to receive. When I first arrived as a freshman in Congress, I was informed that millions of dollars in federal funds had been frozen or at risk of being frozen because of this situation. The task of Governor Sila M. Calderón and myself was to assure compliance with federal requirements to make the funds once again available. The projects and programs affected include Child Care, the Nutritional Assistance Program, Head Start, TANF, the Urban Train Project, Housing and E Rate.

After just two years our efforts brought the desired results, the new Administration in Puerto Rico implemented the measures to comply with the federal programs' requirements and the Government of Puerto Rico was able to receive the frozen funds.

To do this is difficult to me as a Puerto Rican because the Puerto Ricans are a decent people, hard working people, an honest people. I know that this information may feed some unfair stereotypes. But Congress needs to be cognizant of the truth and I trust that the members of this House will be discerning and will not generalize based on a sad, but isolated case in our history. As a matter of fact, the way this Congress has treated Puerto Rico recently, authorizing the highest increase of federal funds for the Island in the Title I education program and appropriating funds for other important programs is a clear showing that Congress has recognized that Puerto Rico's government is back in good and clean hands. I am here to clear the name of Puerto Rico and to explain how we have extirpated the cancer of corruption.

What are we doing? We are cleaning up house and making sure it never happens again. As a result of the corruption scandals in former Governor Rosselló's administration, Sila M. Calderón ran for Governor of Puerto Rico with the goal of providing the Puerto Rican people with a transparent government. She has dedicated the past two years to implementing tough measures to restore public confidence in government.

I want to clarify that the statehood party hall of shame has nothing to do with the national parties. It is a cancer in the statehood movement. For example, Pedro Rosselló was a well-known and active Democrat; and Edison Misla, former Speaker of the House was the Republican Party National Committee man in Puerto Rico. The common denominator is that they belong to the leadership of the statehood party.

Although the statehood leadership periodically comes to this capital to express their esteem for the U.S., they misunderstand the values that the American flag represents.

When the leaders of the statehood party come again to Washington to lobby behind the backs of the people of Puerto Rico I urge you to ask them where were they when their party leaders were using federal funds for personal and political purposes. Ask them why did they remain in silence? Why they did nothing to fight corruption? Why are they supporting Pedro Rosselló's comeback to Puerto Rican politics, the person responsible for this disaster?

## HEALTH CARE CRISIS IN OUR NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. SOLIS) is recognized for 60 minutes as the designee of the minority leader.

Ms. SOLIS. Madam Speaker, tonight I am very pleased to be here to speak about health care and the crisis that we face here in our Nation and particularly about the crisis that is affecting the Hispanic population and other minority groups.

I am delighted that I have been joined tonight by three colleagues that will speak about some of the situations and problems that they face in their own States. First I would like to, as chairwoman of the Congressional Hispanic Caucus Health Task Force, recognize the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), who is our representative for the Virgin Islands. She is chair of the Hispanic brain trust for the Black Caucus.

I yield to the gentlewoman from the Virgin Islands.

Mrs. CHRISTENSEN. Madam Speaker, I want to begin by commending the leadership of the Hispanic Caucus, past and present, my colleague and current Chair, the gentleman from Texas (Mr. RODRIGUEZ), and my health counterpart, the gentlewoman from California (Ms. SOLIS), for the leadership they provide for all Americans and for the effective representation they provide to people of Hispanic descent. All people of color face unacceptable barriers to health care, but Hispanics and Latinos face the additional burden of language. Anti-immigrant sentiment places further roadblocks in their way to health services. Because of the leadership of the Hispanic Caucus in collaboration with advocacy groups, attention is being brought to these issues and the barriers are beginning to come down, but there is still much to be done.

Madam Speaker, the racial disparities in health care so ably documented by the Institutes of Medicine report and other reviews continue to show that if you are a minority American, you are likely to receive a diminished quality of care even if you have the same income and educational status. As we recognize the plight of the uninsured this week and the reverberating impact not just on families but on entire communities including those with insurance, it is important to point out that Hispanics have the highest uninsured rate among all racial or ethnic groups. Studies show that they are at high risk and lack basic access to medical care because of their high uninsured rates. That is why Hispanic Americans are joining other Americans from all backgrounds and parts of this country to rally during this April's Minority Health Month for universal insurance coverage and access to health care. Like other Americans of color and those living in the rural areas of our country, they are at increased risk.

Hispanics are twice as likely as Anglo Americans to have diabetes, twice as likely to have AIDS. Latino children are prone to have asthma, yet less likely to receive care. Too many still use emergency rooms too late in the stages of their illnesses because they lack a regular source of care. We must take steps to turn this around if we are to reach our ultimate goal of wellness for this country.

Further, many of Puerto Rican or Dominican descent comprise a large part of my district in the U.S. Virgin Islands. With their fellow Americans in the U.S. territories, they live under a system that caps Medicaid funding to our hospitals and clinics, leaving a heavy burden of care on municipalities that can afford it least and leaving many residents without access to care. Wherever this or a similar lack of access to care exists, there is also an effect on those with insurance and a direct and adverse impact on the ability of hospitals there to maintain quality health care services for everyone. Uncompensated care affects us all. We must take steps to turn this around if we are to reach our ultimate goals, as I said, for wellness in this country.

And so, Madam Speaker, the minority caucuses of this Congress will host a rally on April 29 on Capitol Hill to bring the attention of our fellow Americans and the Congress to the urgent need for universal access to health care, because this country can no longer afford for so many of its citizens to go without a means to pay for the quality health care that they deserve.

☐ 2045

Insured and uninsured alike, we are all in the sinking ship of a failing health care system in this country. The time to become proactive on the health issue that affects Hispanic Americans, African Americans, other minority Americans, rural Americans, and, indeed, all Americans, is now. Access for us, for those of us of color, is access for all.

I want to thank the gentlewoman from California (Ms. SOLIS) for yielding to me. I want to thank my colleagues for inviting me to join them in calling attention to these important issues.

Ms. SOLIS. Madam Speaker, I thank the gentlewoman, who in her own right is a leading physician and who has actually done so much to help further the cause for universal health care, access for everyone and also for HIV and AIDS prevention, and also for those many chronic illnesses that many of us face.

Madam Speaker, I would like to yield to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Madam Speaker, I thank the gentlewoman for yielding. I appreciate the opportunity to talk here today on an issue which I think is very timely and very important.

Today I dropped in H.R. 1200, which is a bill that I have dropped in for 12 years, providing universal health care insurance for the entire country. We are all one family. We are not this group or that group or another group or whatever. We are all together in this. We ought to have a plan that covers everybody, no matter where you live, no matter what color your skin is, no matter what ethnic background you come from, what kind of money you have or anything. It should be a system that covers everyone.

Now, today I just took this out of my wallet. I am covered because I have got this piece of plastic in my wallet. If I get in an accident or get sick and they haul me in the emergency room, they will find out I got this piece of plastic and I am covered. I can go for preventive care. I can go for all kinds of things. But if you do not have this piece of plastic, you will have to wait until you are really sick, because you cannot afford to pay for it; and you go into the emergency room, you get health care, but in the most inefficient way possible and the most inhumane way possible, at the end, when you should have been having preventive care before.

Now, this country, for reasons which totally escape me, cannot accept that it is a right for everyone to have health coverage. In Germany, we say, you know, what could the Germans know? In 1883 they put in a universal health care system. If you go to work tomorrow in Germany, you will have insurance tomorrow. They take in Turkish workers, they take in Kurds, they take in Bosnians. All these people come into their country, and they give them health care coverage from the very first day.

The United States has lots of people who come into this country to work. They come here to pick our vegetables, to work in the fields, to do the hard labor in this country. The fact is that of the 42 million people in this country who do not have insurance, 72 percent of them work full-time. They are not lazy. They are pulling their weight. They are doing what you have to do in a society to feed their family. But they do not have health insurance, and it is wrong. I think that the members of the Hispanic Caucus are absolutely correct in bringing this up, that everybody in this country should be covered.

The fact that Hispanics are in fact the least insured in this country is a travesty. If they were not doing the work they do in this country, we could not have the standard of living we have.

Ms. SOLIS. Madam Speaker, I appreciate the gentleman's remarks this evening.

Madam Speaker, it gives me a great deal of pleasure to recognize the distinguished gentleman from Texas (Mr. RODRIGUEZ), the chairman of the Congressional Hispanic Caucus.

Mr. RODRIGUEZ. Madam Speaker, I thank the gentlewoman for yielding.

Madam Speaker, I rise tonight to talk a little bit about health care, and I want to personally first of all thank the gentlewoman from California (Ms. SOLIS) for her leadership in the area of health.

On behalf of the Congressional Hispanic Caucus, the gentlewoman from California (Ms. SOLIS) is the chairwoman of the Task Force on Health. She has brought to it a great deal of energy. Now she sits on the Committee on Energy and Commerce also, so we have high expectations for the gentlewoman from California (Ms. SOLIS) and we want to thank her for what she has done, not only for her constituents back in California, but throughout the Nation, and her efforts in the area of health care. Under her leadership and passion the Health Care Task Force will be at the forefront of issues ranging from chronic diseases to the issues that we are here to discuss tonight, which is the uninsured.

The 2000 census revealed what many of us already knew back home, and that is that the Hispanic community has grown by leaps and bounds over the past decade. Hispanics are now the fastest growing community in the United States and make up close to 13 percent of the U.S. population. So I want to take this opportunity to say that of that part of the population, we have one of the largest numbers of uninsured.

Serving the uninsured must be a top priority for our Nation. Currently we have data to show that 33.2 percent, and it has been growing now with the individuals that have lost their jobs, of Hispanic individuals are uninsured, compared to the non-Hispanic whites who are uninsured at about 10 percent.

Let me tell you, these are people that are hard working individuals, that are out there working and making $20,000, $30,000, yet find themselves, if they are working for a small company, they are not going to have access to insurance. Unless they are working for a government, State, local or Federal, unless they are working for a major corporation, they will not have access to insurance.

So it is important for us to look at providing access to that insurance that their children and they need. While 19 percent of all Hispanics depend on Medicare and 35 percent of all Hispanic children depend on what we call the State Children's Health Insurance Program, which is CHIP, for their health care, still many of our needy families are not receiving the services that they deserve.

Despite the rhetoric of the administration, we leave millions of children behind by President Bush calling for a $2.1 billion cut in this critical program for children, which is the only health care that a lot of these children receive. These are families that are working, trying to make ends meet. They are not poor enough to qualify for Medicaid, and they find themselves just making too much money, $20,000, $30,000, that they do not have access to health care, which is unfortunate.

It is unfortunate for too many working Americans that continue to lack this access to health insurance. Hispanics especially fall into this category. Over 33 percent of the Hispanics are uninsured, as I indicated earlier.

When it comes to health care, despite the promises, the Bush budget leaves our community behind. The Bush budget gives no money to these vital Federal health care programs for Hispanic communities. The Bush budget insufficiently funds the Community Health Centers, which have been out there making a difference, that millions of uninsured low and moderate income individuals rely on for their health care needs. The Community Health Centers have been there in responding to our communities' needs, and we need to make sure they continue to get the resources needed.

The Bush budget also cuts funding to the Office of Minority Health that focuses on health concerns which disproportionately affect minority communities.

The Bush budget also cuts into the future of Hispanic communities by eliminating funding for health career opportunities that aim to increase the number of minority health care providers.

We need to ensure linguistically and culturally appropriate health care by providing minorities an opportunity to go into the health care profession. At the present time we understand and recognize that we have a large number of individuals that could qualify and could enter the profession. A lot of times a little assistance in these programs that allow that opportunity to get into nursing, that allow them to get into some of the other health professions, as well as the medical profession, is important. So every effort needs to be made to continue.

I want to also talk a little bit about diabetes and HIV/AIDS. In diabetes among the Hispanic community, the risk for diabetes is twice that of the non-Hispanic whites. Nearly 11 percent of Hispanics have been diagnosed with diabetes as compared to 7 percent of non-Hispanics.

In the area of AIDS, funding for HIV/AIDS must also address the change in infectious rates. Hispanics have a rate of new infections four times that of non-Hispanics, despite the fact we have made some gains in the area of AIDS. Despite the fact that the number that are getting it and that are suffering serious illnesses are decreasing, the number for Hispanics is growing disproportionately.

So we ask as we look at those issues, such as diabetes that hit Hispanics disproportionately and such as AIDS that now affect those poor communities throughout this country, as well as African Americans, it is time to focus attention to the needs of these populations. I would ask the Bush administration to seriously reconsider their budget when it comes to health.

The Bush administration also has continued to deny legal permanent residents, and I will say that once again legal permanent residents' access to vital programs such as the Temporary Assistance for Needy Families, TANF, and the States' Children's Health Insurance Program, such as CHIP. These are individuals that are here legally, these are individuals that have not broken the law, yet we have denied them the right to have access.

One of the proposals that we have serious concerns with this administration on is the proposal that he has taken in hand, and that is that the Medicaid proposal has been one that addresses the needs of the most needy in this country, those that are indigent.

He has taken the Medicaid, and then he has taken the CHIP program, which is the program that addresses the children of the working families of this country, and has taken that program.

Thirdly, he has also gone after the disproportional share, the money that goes to hospitals that provide the indigent care, that provide for those in need.

So those three programs impact the most needy of this country, yet those are the three programs that this administration has chosen to bundle up into one block grant, and his proposal is to send it to the States, with the understanding that as the future goes on there is going to be a cap on it, and in those States where we have disproportional numbers, such as Texas and other States, that we will continue to have a difficulty in that area.

I want to continue to go ahead and address a couple of issues, but I wanted to take this opportunity to thank our task force chairman from the Hispanic Caucus, the gentlewoman from California (Ms. SOLIS), on her efforts, and I want to continue to join her here and thank her very much for what she has been doing.

Ms. SOLIS. Madam Speaker, I thank the gentleman from Texas (Chairman RODRIGUEZ), our illustrious chair of the Hispanic caucus. I thank him for appointing me as the woman who will be now in charge of the issues regarding Hispanics and health care this term. I am very privileged to be in this position, and I know that we have a long charge ahead of us.

Madam Speaker, tonight, today as Chair of the Congressional Hispanic Caucus Health Task Force, I wanted to call attention to the health status of Latinos throughout the United States.

When we talk tonight about Latino health care, it is important to note that Latinos are the fastest growing minority group in the country, in the United States. So the issues we face confront the health care field throughout the country, whether you live in east Los Angeles, in my district in California, or if you live in Atlanta, Georgia, or in Birmingham, Alabama, where we are seeing a large number of Hispanics now residing in that area. I had the privilege, Madam Speaker, of being there this weekend and walking with other members of our caucus to celebrate a civil rights memorial for 28 years of suffrage that has gone on in the South. The issues are no different there than they are in other parts of the country with respect to those that are uninsured. African Americans and Latinos still face the same kinds of problems.

This week, however, Madam Chairman, we are celebrating this week as Cover the Uninsured Week, a national effort that is going on right now, that is being celebrated across the country, to recognize those people who are under-insured and uninsured.

I would be remiss if I did not point to this chart here tonight, to point out that 41 million Americans do not have health care insurance in our country. It is unfortunate that about 30 percent of those individuals are Hispanic.

Let me point that out on this section of the pie chart, 30 percent. Forty-seven percent of non-white/Hispanic, 47 percent. Thirty percent Hispanic, 16 percent black or African American, and 5 percent Asian and South Pacific Islander also fall into that category.

Madam Speaker, by the year 2020, it is projected that one in five children will be Hispanic. Yet Latino children have the highest uninsured rates in the U.S. child population.

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And unfortunately, the number of Latino uninsured has been on the rise over the past decade.

I would like to point out the next chart that I have. Here we see also the rising numbers of those individuals that are Latino, that are working, 43 percent; those that are in the private sector, 2 percent; 18 percent Latino, Medicaid; and others that receive some type of coverage; and then those that are in the uninsured category: Latinos, 37 percent, to 14 percent who are Anglo, or white. Madam Speaker, 73 percent of the Anglo population has insurance; 43 percent on this chart here indicates people that are working, working Latino family members are uninsured. It is a crime. It is a crime that this is the situation here in our country.

The next chart unfortunately does not provide us with many more good indicators. The number of Latinos uninsured has been on the rise over the past decade; and all we have to do is start looking at 1990, where 7.0 percent, the number of uninsured Hispanics, has increased 7.0 percent in 1990, a decade ago. When we look to the year 2000, it is now not quite doubled, but almost there, 11.2 percent. It has increasingly gone up. It is not to say that these people are not working, because they are. I fail to see the reason that they are not being provided with some attempted coverage for those that are uninsured.

In fact, 37 percent of nonelderly Latinos are uninsured, more than double the rate of whites. The large majority of uninsured Latinos come from working families, approximately 87 percent; but less than half of all Latinos have employer-based health coverage. That is to say that where they work, at their place of employment, they do not have any type of insurance coverage for their needs, to meet their needs.

So let us be clear tonight, I say to my colleagues. There are women and men who are working and paying taxes, they play by the rules, but they are not getting any health coverage. This goes far beyond just the Latino community. There are many working men and women, African American, Anglo women that I met, even today when I was out visiting folks in my district, who told me about their plight with not having adequate health coverage, or being underinsured. This is a real issue, I say to my colleagues, that we need to address.

Unfortunately, nearly one-third of all Latinos work for an employer who does not offer any health care insurance at all. The lack of insurance in our country is devastating to families, particularly Latino families. Among the uninsured, Latino adults in fair to poor health, 20 percent are women, 40 percent are men; and they have not visited a doctor in the past year. Can we imagine that, not being able to see a doctor in more than a year?

We know that the uninsured receive less preventive care and are diagnosed later for diseases and tend to receive less medical care for their illnesses. Uninsured children are 70 percent more likely than other children not to have received medical care for common conditions like ear infections, 30 percent are less likely to receive medical attention when they are injured, and nearly 40 percent of uninsured adults report skipping a recommended medical test or treatment in the past year.

Having health insurance would reduce death rates for the uninsured by 10 to 15 percent. How many lives can we save if we provide them with some attempted coverage?

There is a consensus that health insurance is a necessity. So how can we increase access to health insurance? Certainly, we need to make sure that children are enrolled in successful programs like the gentleman from Texas stated earlier, like the State Children's Health Insurance Program, known as SCHIP, and in California known as Healthy Families. And we must make sure that all of our vulnerable populations are enrolled in Medicaid in that safety net program, and that these programs make health care access a reality.

Madam Speaker, we also need to focus on innovative private and public approaches to covering the uninsured. When I was in the State legislature in California, I authored a bill to launch a body of research on how to provide universal health care coverage, and I was proud to be the sponsor of Senate bill 480. The researchers have come up with several proposals for universal health coverage, and many are being implemented now as we speak in Sacramento. Unfortunately, due to severe budget cuts, not only in the State of California but across the board, many of these programs that we have instituted in the past are now on the chopping block. One of the reasons is because of this whole new attempt to try to block-grant Medicaid. Our State is now being devastated with cutbacks in the budget. In California, which is almost a continent in and of itself, we are crying out for assistance now because our budget is woefully low in terms of providing coverage for the very needy, for the working poor, and for children.

Medicaid in California is known as MediCal. It is called MediCal. Our medical program offers dental services, physical therapy, and diabetes management. I was a proud offerer of reforms to provide treatment and management for diabetes. Lord knows the African American community and the Latino community suffer very high rates of diabetes. If it is not treated appropriately in a preventive matter, it can become a very acute problem that will come to haunt us and continues to haunt us if we do not come up with the incentive and money to go into those measures. I say we need to put money up front into programs like that to combat chronic illnesses like obesity, diabetes treatment, and asthma. These are the things that we need to be addressing and putting our money where our mouth is when we talk about providing assistance to the uninsured.

Medicaid is an incredibly important program, and it covers now approximately 40 percent coverage for Latinos; but without this help, I fear what will happen to our communities, not only Latinos, the people that I represent in my district, but poor people, working people, people who actually have jobs that will go without this kind of coverage.

Unfortunately, this administration has proposed what I said earlier, the Medicaid reforms known as block grants. What they are telling us is that they will give States money to be able to get more flexibility to provide coverage for different illnesses; but in the long run, in 10 years, they are going to cut that money back, and what it means is less people will be served. The elderly will be out. The young people, the children will be hurt.

I am here to tell my colleagues that we need to do more than that. We need to reverse that trend and ask this administration to step up to the plate and forget the rhetoric and really talk about making some very meaningful reforms in Medicaid and providing the coverage that is so very much needed in States like mine in California where we do not get a refund in our dollars. We are known as one of those States where we are a donor State. We give more money than we get back. I am here to say it is time that California and other States in the southwest like Texas, Washington State, and other parts of the country receive their fair share of dollars where we need it. Our seniors are crying out for reform; our children need it. Their voices are not heard often enough, and we know that. That is why we are here tonight, to speak on their behalf as well.

These proposals, as I see them, that the administration is proposing will be devastating; and instead, we should be looking at proposals that increase the Federal support to Medicaid by increasing Federal Medicaid or medical assistance known as FMAP. This bipartisan bill that has been introduced, known as H.R. 1816, will provide States the fiscal relief they need to improve health care access to vulnerable populations. To improve Latinos' access to Medicaid, we must lift the ban on health care access for legal immigrants and pregnant women and their children. I say, and I underscore, legal, people who are here legitimately who are having children here and are playing by the rules and paying taxes as they work, whether they are a nanny, whether they are a housekeeper, whether they are there in a restaurant serving us, or whether they are out in the fields picking our fruits and vegetables that we had here tonight, I say to my colleagues.

It is time to pass the bipartisan Legal Immigrant Child's Health Improvement Act. This bill would lift a 5-year ban currently in place on States receiving Federal support for health care services for lawfully present immigrant children and pregnant women who entered the United States after August 22, 1996.

This simply makes sense from a humanitarian and medical point of view, and it will save the public health system money, thousands and thousands of dollars. I can tell my colleagues that firsthand as a Representative in Los Angeles County where we have one of the largest health care, public health hospitals right now that sees so many individuals having to wait 8 hours just to be seen by one doctor, whether it is for a throat infection, an ear infection, or for being a victim of a drive-by shooting. It is unheard of, the kind of medical access that people have to attempt to receive, knowing fully that we are all paying for this standard of health care. Yet, it is unequal in areas that I represent. We have to change that. We have to work hard to make sure that it is equal for everybody, whether one lives in Texas, in the Rio Grande, whether one lives in Boston, Massachusetts, or whether one lives here in Washington, D.C.

We also must fix Medicare in order to help Latino seniors who are struggling with high-cost prescription drugs. This goes far beyond the Latino community. There are many, many seniors who are crying out for reform, who want to see their prescription drugs, the cost for that medication reduced dramatically. I can tell my colleagues now there are people who have told me, why is it that I have to pay $300 for my medication to treat my diabetes or my thyroid gland? I cannot afford to go on vacations; I barely make my rent. Why is it that the Congress cannot come together and make these reforms feasible so that I can live an appropriate life, one that I feel I deserve? This is what seniors are telling me all the time. I look at them and I look in their eyes and I feel we have done them a disservice, because we have not been able to reach an agreement with the other Members on the other side of the aisle to see that we are truly, truly addressing the needs of our senior population.

I say that fully knowing that my own parents are faced with that dilemma right now. They have one of those plastic cards that allows them to go see their HMO, Kaiser, Kaiser coverage; but they have to pay a copayment. If they have surgery, they have to pay another copayment. If they have to go in to get treatment for their thyroid, they have to pay another $200 or $300 every month, and my parents are on a fixed income. They no longer work. They are over 70 years old. I know there are millions of seniors that are in that same predicament, and they probably even have harsher, harsher illnesses than my own parents. And I pray that they will be able to make it as they see their daughter here try to get a resolution to provide an adequate prescription drug benefit for them, that is low cost, that does not discriminate against them, whether they are in an HMO program or if they are seeing their own fee-for-service doctor. There should be no discriminate treatment for either, and that is what I am going to work hard for, and I know that our Hispanic Caucus will do the same.

I want to tell my colleagues that recently I have had a chance to visit with a lot of my seniors in my own district in Monterey Park and in my new cities that I represent in Covina and West Covina, which were previously represented by the gentleman from California (Mr. DREIER). I want to tell my colleagues that folks are telling me the same thing: we have to change. We have to change the rules of the game so that everyone receives a fair, level playing field when it comes to access to health care.

Right now, because unemployment rates are so high, people are losing their jobs, they are losing their health care coverage. Today I saw a woman who I spoke to who runs her own business out of her own house. She told me that one of the opportunities that she had was to try to provide her own coverage for health care. It would cost her a minimum of $500 a month. That was entirely too much for her. What does that mean for her? That means that she is going to have to forego that. If she gets ill, God forbid. If she has to go to the doctor, God forbid. If she gets really sick or hit by a car or she becomes tremendously ill, she will have to go to a public emergency or trauma center, which is going to cost the public dollars, the taxpayers a lot more money. If we were just to put more money in to help the uninsured, we could save a whole lot in the long run.

I am advocating for us to have that discussion here tonight, for us to talk about other options for providing assistance to the uninsured and the underinsured, because there are a whole lot of people out there who are working that make $15,000, $16,000 a year, they have four kids, they are beating themselves up because they want the best for their kids; but they cannot afford to even make a copayment to have adequate coverage. It is time that we start looking at providing assistance to the uninsured, because every tax dollar that they pay into when they see their check, their payroll check, it says a deduction, but where does that deduction go? Is it going into a health care trust fund for them? Is it going to be available for them when they need it? Is it going to be available for their children? Those are the questions that I ask here tonight.

I would like to ask my colleague, the gentleman from Texas (Mr. RODRIQUEZ), the chairman of the Hispanic Caucus, to please share with me what insights he might be able to shed on this issue.

Mr. RODRIGUEZ. First of all, I want to thank the gentlewoman for allowing us to be here tonight, and I want to thank her for her leadership in the area of health. Also, as I was looking at the data that she had before us and the research and all of the studies, one of the things that was glaring was the fact that things are not getting any better; they are getting worse. As they get worse, we come up here and we get elected to respond to the problems that we are confronted with, we get elected to hopefully come up with some solutions to those problems. But it is unfortunate that some people are up here not to solve problems, but to see how they can leverage their political power in the process of not responding to the needs of our constituency in this country.

So one of the things that is important, as the gentlewoman indicated, is, and the research shows, that of the ones that are uninsured, 87 percent, especially the Hispanics, 87 percent of them are hard-working Americans. These are people that are not out there not working and being lazy; these are people that are making $20,000, $30,000, $40,000 a year. Yet, if they work for a small company, they do not have access to insurance. Once again, unless they are working for the Federal Government or the State government or some form of government, they do not have access to insurance, or a major corporation.

□ 2115

And so these are hard working Americans that are trying to make ends meet. They make some money and because of that they do not qualify for the Medicaid for the indigent. And now we are trying to take away the only thing that they might qualify for, which is to ensure their children an access to health care. So in this country we would hope that as we move forward, we make every effort to make it affordable and accessible. What good is it that we have the best health care in the whole world, the best research, if it is not accessible and it is not affordable? It does not make any sense. So hopefully we will continue to work on that.

I just wanted to also add that, additionally, we have only 43 percent that have employer based coverage compared to 73 percent for Anglos, which means that most Hispanics are working for even smaller companies and so they do not have any access.

I wanted to share with the Congresswoman, I represent Starr County on the Mexican border. I have 11 counties. Starr County is a beautiful county, yet it has the distinction of being one of the poorest in the 2000 Census. It is the poorest in the entire Nation. In Starr County we have close to 40 percent of those between the ages of 19 to 64 are without health insurance, 40 percent of the population. And the lack of insurance means restricted access to preventative care which can lead to costly emergency room visits, poor quality of life and even shortened lifespan. While we have a patchwork of Federal and State types of programs, we continue to have difficulty. And I know that there is a talk about the private sector coming in. Well, I represent rural America, too. I have 11 counties. I have a lot of what we call the "brush country" in Texas in San Saba, in Frio, La Salle, in Atascosa, Duval, Jim Wells also, those counties out there as well as Starr and now parts of Hidalgo, those counties are rural counties, a lot of them are rural counties and the ones that are rural counties have difficulty getting the private sector to come in. So despite the fact that we have had the private sector move into Medicare, they have not had the experience.

I will share with you what happened to one of my counties that I used to represent that I do not now, in Wilson County, where the private sector was not making the profits that they wanted to see. They cannot get rid of the individuals if they are not making the profits, but what they can do is decide not to service the entire county. So they decided to get rid of most of the rural counties.

So in rural America we are having a rough time. And if you work in rural America and live in rural America, most likely you are working for a small company. You are working for a small employer who does not have access to health insurance. That is why it is important for us to provide that alternative. That is why it is important for us to provide that access to health care that is so critical.

I wanted to also share with the gentlewoman that it is unfortunate that there are no easy answers, but the reality is that we can come up with if the will was there, we could make something happen. But it is unfortunate that we have not come to grips with it and we are not close to answering the problems. But the election is coming up in 2 years, and people have talked about meeting the prescription drugs. I saw the ads lots of time calling to thank Congressman so-and-so for their legislation that they had passed. Well, I want to ask where are they now on that piece of legislation? Nowhere.

And the same thing with the proposal on prescription drug coverage that this administration has put forward. It is embarrassing. It is a sham. The Bush administration in terms of their proposal on drug prescription, I am sick and tired of these types of responses when people are sincere. When they come to me when I go to churches they tell me, Mr. RODRIGUEZ, I cannot afford to buy the prescription. I cannot afford it. I buy my husband's. I cannot buy mine. We go without food because we are on fixed incomes.

We have got to do something about this. Once again, it does not make any sense for us to have all the remedies in the world when our own constituency who are working hard and trying to make ends meet do not have access to this.

I wanted to take this opportunity if it is okay to talk a little bit about the Hispanic Health Improvement Act that the gentlewoman is a co-author of that piece of legislation. I would like to use a little time on that.

This week we will be introducing the Hispanic Health Improvement Act with Senator BINGAMAN and the gentlewoman from California (Ms. SOLIS) and members of the Hispanic Congressional Caucus. This will be landmark legislation and it is based on the previous Hispanic Health Act. I reintroduced it in the 106th Congress with existing legislation with Senator BINGAMAN, who has been a champion for us. And I want to personally thank him for his efforts in the area of health care because he has been there.

In addition, we have taken some of the Federal regulations from the Hispanic Health Leadership Summit, as the gentlewoman will recall. We convened last August. The Hispanic Caucus convened in a group and incorporated many of the suggestions of the group. And we invited two Members from each side of the Congress, both Republican and Democrat, we invited them to San Antonio to come and talk about the needs of Hispanic health. We had a good representation from both Republicans and Democrats come forward and participate in our conference. And the legislation offers a variety of different strategies for expanding health care coverage, improving access, and that is important.

If you have the decisions that respond to the problems that we are encountering but you do not provide the access, it does not do any good. And also we talk about affordability. It has got to be affordable, otherwise forget it. I do not care how good the response is. If the person does not have any money, it is not accessible. It is not affordable. They will not be able to live unless they get that accomplished.

And then we also reduced and addressed the health disparities. We know that in certain communities such as the Hispanic communities and the African-American community that we have disparities such as diabetes, AIDS and varieties of others. So while we consider each provision in our bill, we look to improve it. And I am just going to highlight just a few things from the piece of legislation.

In order to address the lack of health care coverage, the legislation provides $33 billion between fiscal year 2003 and 2010 for the expansion of the successful State Children's Health Insurance Program, SCHIP, and to cover the uninsured, low-income pregnant women and parents. So we are looking at those working parents and women that are expecting. In addition, it provides States the option to enroll legal immigrants. Once again, we are not talking about undocumented illegals. We are talking about legal residents, legal immigrants, pregnant women and children, access to both Medicare and SCHIP.

In addition, the Congressional Hispanic Caucus considers the expansion of Medicaid and CHIP eligible to be critical legislative priorities for improving health, Hispanic health. The bill also seeks to address Hispanic health disparities and requires an annual report to Congress on Federal programs or responding to improving health status of Hispanic individuals with respect to both diabetes, cancer, as the gentlewoman has mentioned, asthma, HIV infection, AIDS, substance abuse and mental health. And the legislation provides $100 million for targeted diabetes prevention as well as education, school-based programs, and screening activities in the Hispanic communities. Similarly, the bill provides for targeted funds for programs that were aimed at preventing suicide.

One of the things that we have noticed recently, and when I have first heard about the issue of suicide among young Hispanic young ladies, I was not aware of the seriousness of the situation and how bad it was, and so the issue of mental health in responding to the needs of young Latinos who are committing suicide. We really need to be conscious of that. This country has really not come forward when it comes to the mentally ill, whether Hispanic or non-Hispanic. The mentally ill really are not addressed and especially our young, the youths, when it comes to mental illness, we need to see what we can do for them much sooner for them and see how to address these needs. We are hoping to begin to address the issue of mental illness.

And I want to lastly indicate that we seek in the bill to reduce health care disparities also by addressing the lack of providers who can provide culturally competent and linguistically appropriate care. That is so important. When you look at especially therapists that provide access to psychiatrists to Hispanics who when the doctor is unable to speak the language of the client, you know that the type of care is not going to be up to where it should be. When in describing the type of medication that is needed, having an understanding of the client in terms of culture is also extremely important; and we can cite some examples later on. But the bill also provides for increased funding for HRSA, health professions and the diversity programs.

As you know, the President's budget for 2003 budget proposal eliminates virtually all funding for these types of programs. So you tell me that we are needing people in the area of health care in every forum, we need minority representation in those areas, and yet these programs that are so needed by our community are the same programs that this administration is choosing to cut.

In addition to the promoting of diversity, these programs support the training of health professionals in the fields experiencing shortages, such as pharmacy, dentistry and allied health. They promote access to health care services in the medically underserved communities.

I want to also mention that the Hispanic Caucus considers increased funding for those programs a high priority. As the Hispanic community continues to grow, the implementation of these provisions will take on even greater importance, so the consequences of inaction will be felt for many years. So we encourage both the Democrats and the Republicans and the administration to reconsider their budget when it comes to health because their budget is one that basically says we do not care. We are not here to respond to the problems that are confronted by their little proposal. The President's proposal is a sham and I know that people, even Republicans that look at it, ought to be ashamed of that and they are embarrassed because it really does not address the issues that confront our communities and address the issues of our constituency when they come and say, how can I have access to buy the prescription that I need for my husband or my wife? And the answer is that unless we come together on that and unless we address that need, the bill that is before us does not answer the problem, and the solution that is there is only a political solution that really does not address the problem that is out there.

But the constituency back home will have an opportunity because the election will be coming up in 2 years. And I am hoping that as we go forward that we will make some inroads. And we have an opportunity because I know that both Democrats and Republicans are looking to get votes from the Hispanics. Well, you have a good opportunity. You start addressing the problems that confront our community, and I think our community will be willing to respond, I think, if that is the case. But if you give us lip service such as we are getting from this administration, then the results will be that you are not going to get our support and it is not going to happen because you are not there sincerely trying to address our problems.

I know this is the gentlewoman's time. I want to thank the gentlewoman very much for taking the time to be out here tonight.

Ms. SOLIS. I thank the gentleman from Texas (Mr. RODRIGUEZ). It is a pleasure to be here tonight with him and other Members that came forward to speak on this very important issue.

The gentleman touched on so many important areas that we do not even have time in our committees, and as a member of the Committee on Energy and Commerce, a new member, we did not even have sufficient time to debate this new proposal that the administration is putting forward.

We had about 3 weeks ago Secretary Tommy Thompson come forward and talk about the aspect of trying to block grant Medicaid, and I talked about that earlier. What it means, block granting, is that we are racheting down health care. Fewer people get fewer health care. Not more care, fewer. And with the rising increase of population with the uninsured, it means less dollars, not only for Hispanics but for blacks, for Asian Americans, even for Anglos that right now are uninsured.

□ 2130

We have to do something. We have to take action.

Rural America also has been neglected in this debate. We are not doing nearly enough to provide incentives for health care centers, public health care centers to be adequately funded, serving our at-risk populations out there and I mean in particular women and men over the age of 40 who are still toiling out there, whether they are working in the fields or working in rural America who have no benefit of health care access.

We need to put funding there. We have to come up with formulas that are expanding and broadening support of the Federal Government to reach out to these rural communities.

My colleague hit an important note that I want to touch on also, and that is, with respect to the shortage of health care professionals that exist, the opportunities for people to get into the medical profession and especially in the nursing profession. Many of our community colleges at this point in time do not find that they have adequate funding to offer the curriculum that costs a lot of money, but money that is invested and well-spent can provide a product that will mean so much for our society, and I am asking this administration to put more money into those areas, into those health career professions and create those career ladders and opportunities not only for Latinos who want to come back and serve in their community but for all underrepresented groups and particularly those people who live in rural America.

I also want to touch on the aspect of mental health because in that whole discussion we forget about women and individuals who are afflicted by domestic violence, people that have the right under welfare reform, TANF legislation that provides them the ability to get help. Many of these individuals are being asked now to get off of welfare as we know it and to find jobs, but their illnesses have not been addressed. Some have mental illness. Some have substance abuse. Many are victims, at least 50 percent of the caseload can report that they have been victims of domestic violence.

Why have we not done a better job of monitoring those individuals? They are going to go back into that cycle and there will be no remedy for them. We should put dollars up front for prevention in mental health care and that should be covered by any health insurance program, and that is not being adequately addressed.

I know that the former Senator Paul Wellstone had a proposal that is being reintroduced under his name to try to provide that incentive for fully covering mental health care illnesses so that when we detect them we can get to those individuals that need that help to remedy and provide them from creating more harm to themselves, and I know that our caucus will be working hard to promote that.

Lastly, I would just like to say that we have a long way to go in terms of health care. We talk about education as being a privilege and a right for everyone in America, but I do not think that we have talked enough about providing equal access to health care for Americans and people who reside in this country. Our country is so wealthy, we are one of the wealthiest countries in the world, and yet we forego providing assistance and immunization for children to combat TB, to fight HIV, infections that are now ongoing in communities like mine and like my colleague's.

I ask this administration why, why is it that we could send billions of dollars across this country to fight a war and not use that same money to fight the wars that are here on our own Earth, on our own country to combat AIDS, to combat diseases, chronic illnesses in here and making an investment in the very families that are sending their young men and women abroad to fight a war.

It is nonsense that we forego the kinds of opportunities that we have here at home to put that money where it will be well spent, that will reap profits and benefits for this country tenfold, in 10 years to come, instead of bankrupting our system right now.

Those are the questions that I have. Those are the questions that my constituents have been asking me, and I hope that this administration will step up to the plate and begin to outline their plan to provide a recovery for health care for all Americans but particularly in this case tonight for the uninsured and for the Latino community.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank the gentlewoman once again and touch a little bit on a couple of things that she mentioned.

On the mentally ill, there is no doubt that is one of the areas that we have not made the inroads that we should have. In this country, in a way, we have been negligent, not being responsive to our youth when it comes to the mentally ill. We have not provided the resources that are needed. We forgot all about Columbine and how that occurred, the fact that we really need to go and see what is happening. Youngsters, a lot of them were suffering from depression. We need to make sure we pay a little more attention to what is occurring in those areas and spend some time and look at the number of suicides of young people that is occurring.

So I am hoping that we begin to address some of these issues, and I am hoping that the will will be there to make something happen.

The gentlewoman also mentioned, I know, the issue of rural America.

Rural America right now, and I represent 11 counties that I indicated already that are having a rough time getting access, and one of the reasons why we decided to privatize part of Medicare is because the whole argument was to try to reduce the costs. In fact, the other side argued that Medicare is a government-run program and this and that, that they could do it better. We have tried that experiment, and as my colleague well knows, that experiment has failed. In fact, right now, if a person is under Medicare+, they are costing the Federal Government more money than a straight Medicare, despite the fact they might be paying $300 additional money.

So it is a gimmick to try to destroy the program. We know and people understood that if they provide access to our seniors, they are the ones that they are less likely to make a profit on because they are ill. The data that shows that a person on the average spends over $1,000 on prescription drug coverage when they are seniors. There is no insurance company that is going to be able to make the profits they would like to see from our most vulnerable in this country and our seniors, and we should not be doing that. We need to see how we can make it affordable.

What angers me, and I know what angers Americans, is that that same pharmaceutical company that sells those products that contributes to the politicians up here and contributes big bucks and puts those ads to thank those Congressmen for nothing basically because they did not accomplish a darn thing except the elections were coming up, those are the same companies that choose to sell those medicines in Canada and elsewhere for half the price, for one-third of the price.

The sincereness of their efforts, it is a crime what they are committing, and it is sad that we have got to this point that those same products can be bought in Mexico and Canada for much less, and it is the same company, and it is unfortunate that the ones that are having to pay because they claim that they are doing that for research purposes, and yet who are they sticking it to? Our most vulnerable, our seniors, who buy a large percentage of the prescriptions.

So I am hoping that we can come up with a realistic plan, and the people in this country, they are not stupid. They are going to see right through the President's proposal on prescription drugs. It helps a few at the expense of everyone else, because most people, at least the constituency of the Hispanic community, the only thing they have is Social Security. They do not have any other pension, and if they do, it is a small one. They do not have additional money to dish out $300 or more for additional coverage, and even though they get additional coverage, the private sector is not interested because if they do get sick they do not make a profit.

We have all understood that, and that is why we need to come up to the plate. This is no way to treat our seniors after they have given of themselves. This is a time for us to reach out to them and provide whatever assistance that we can and to be able to make it also in a way that is accessible and affordable.

So I wanted to once again thank my colleague for what she has done, and I want to also share that in health care somehow we have not come to grips because we do have a lot of Congressmen out here that basically feel that the Federal Government should have no role in health care, and apparently they feel that way and they feel that it should be just privatized. But we understand that people get ill and cost insurance companies, and we know that the insurance companies, as soon as a person gets a serious illness, will dump them if they have the opportunity, despite the laws that we have tried to pass.

That was happening in the 1960s, when we established Medicare and Medicaid, and that is happening now, so the companies are there, and for good reason, they are there to make a profit and provide access to health care but they are there to make a profit. So a person does not have any problems while they are young and healthy, but as soon as they get ill and they need them, that is when they start having the difficulties. Anyone who has gotten ill understands that and recognizes that.

So their main priority is to be there to make a profit and secondary is everything else, and that is why the Federal Government has a role and a responsibility. The health of this country depends on the quality of life for our constituency.

Ms. SOLIS. Mr. Speaker, I thank the gentleman for being here this evening and sharing his thoughts and words.

Again, I just want to underscore why we are celebrating here tonight, to talk about the real issue, and the real issue is that there is so many millions of Americans that are uninsured, 40 million, and we need to change that, and we need to do more here in the Congress and work together on both sides of the aisle to see that we come up with some remedies that can be taken care of this legislative session.

I want to thank the gentleman from Texas (Mr. RODRIGUEZ). I want to thank also other speakers that came here tonight representing the Congressional Black Caucus, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), and also the gentleman from Washington (Mr. MCDERMOTT). I am very privileged.

## GENERAL LEAVE

Ms. SOLIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

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## THE FORGOTTEN DEFICIT

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, tonight I am going to talk about two very serious issues for this Congress, for this President, certainly its effect on future generations and current and future retirees.

First, I am going to talk about defense spending, the overzealousness of Washington to continue to increase spending two, three and four times the rate of inflation, and what that means is increasing debt that we are going to leave to our children.

So what I have titled the first part is "The Forgotten Deficit," and though, right now overshadowed maybe by national security and the conflict in Iraq, this year's budget is very important. We must reverse the rapid descent into deficit spending that we have seen in the recent years.

Let me give my colleagues an example. From the $236 billion surplus that we had in the year 2000, the budget situation has deteriorated to a projected $436 billion deficit. From a $236 billion surplus 3 years ago now we are looking at $436 billion Federal funds deficit for this fiscal year and the same for next year. This is a swing of more than $600 billion in a $2.1 trillion budget, and this deficit is going to be much larger because this deficit from CBO does not include any money for the defense supplemental that is coming. It does not include any money for the extra cost of whatever we might do in Iraq, and it certainly does not include the effects of any tax cuts.

It should greatly concern us all that government spending is growing explosively as revenues decline. Discretionary spending has been at least 6 percent each year. The increase in discretionary spending has been at least 6 percent each year since 1995 at about 7.5 percent each year since 1998.

The chart I have on my left shows the projected increases on out after 2003, starting in 1993. So fairly flat from 1993 to 1997 and then a dramatic growth in spending, and we are looking at a situation where the discretionary spending growth will average at least 7.5 percent each year since budget balance was reached in 1998, about this level.

This spending increase, compared to what families are doing, how they are dealing with their possible increases in their budgets, is too dramatic to sustain, and it is leaving us huge challenges and huge problems for the future.

The President proposed a budget increase for 2004 of 3.5 percent, but even so, even though this is a smaller increase than we have seen over the past years, is still an increase in Federal Government spending, about twice the rate of inflation. This includes some needed spending on defense after September 11, I admit that, but we cannot excuse unrestrained nondefense spending which should not be increased during the challenge in the war situation that we are now in on terrorism.

□ 2145

Tomorrow, our House Committee on the Budget is going to mark up a budget resolution. I just stress, as strongly as I can, that it is important to the future of our economy and to the future of this country to start having the intestinal fortitude to hold down spending, to prioritize some of the spending we do. Some of the spending we do is much less necessary. Probably much of it is unnecessary.

As we ask the American people to do with less, as States all over the country are cutting back their budgets and suggesting that people are going to have to do more for themselves during these tight times, the Federal Government goes merrily along spending, and I will not give any comparisons to sailors or anybody else because I think we exceed almost anybody else's level of increased spending.

Government, at the Federal level, does not have the constraints of most States that have constitutional language that says that they cannot spend more than what is coming in to their government. In Washington, we can simply increase the deficit. And that is what we are doing. We are going to be increasing the deficit with this budget, after we pass this budget. Because of supplementals coming in, we are going to increase the Federal limit on the Federal debt. Every time we increase the Federal debt, Congress has to pass a law saying we are going to increase the Federal debt, and the President has to sign that law. And that is what we are doing.

In fact, we have tried to make it easier for ourselves by saying when we pass a budget that spends more money than the existing Federal debt, automatically we are going to consider a bill passed that increases the Federal debt to the level needed to accommodate that particular budget. I think this is a mistake for a couple of reasons, but one is that it makes it too easy to not face up to what we are doing with the increase in debt for this country and the challenge that that puts on future generations. I mean, what we are doing, in effect, is suggesting that our problems today are so great that it deserves us taking the money from the earnings of our kids and our grandkids to pay for today's spending. It is sort of pretending that they are not going to have their own problems 20 and 30 years from now.

The debt problem is soon to come to the fore as Congress is forced to increase the debt limit. The debt limit today is about $6.4 trillion, and we are going to dramatically increase that because we are dramatically increasing spending. If we cannot have an average of zero increase in nondefense discretionary spending, we should not have a tax cut. The enormity of Federal spending is almost inconceivable. Even as States and families cut their budgets, the Federal Government is squandering tax dollars faster than ever before.

The $2.1 trillion proposed budget is more than the Federal Government spent in the 178 years between 1789 and 1966. Let me say that again. The budget that is being proposed for this next year, that we are working on and the budget resolution is going to accommodate in markup tomorrow in the Committee on the Budget, is more than government has spent in the 178 years between 1789 and 1966. It amounts to over $7,500 for every man, woman, and child in the United States. It is neither fair nor realistic to assume that our problems today are so great that we should be putting this burden on our kids and our grandkids and future generations. Debt and deficit spending is an obligation to increase taxes sometime in the future.

Let me move to the problem of Social Security, which is a huge financial problem for this country. Social Security is one of the best retirement programs that we have. And as many of the people in America, Mr. Speaker, have heard, Social Security is facing a very dire financial situation, and that is because we have a coming Social Security crisis. Our pay-as-you-go retirement system will not meet the challenge of demographic change.

This chart represents the number of workers that are working. And what happens in this pay-as-you-go system that we started in 1934 with Social Security, current workers pay in their FICA tax, their Social Security tax, and immediately that money is not saved in some account for workers today, but it is immediately spent on paying the benefits of current retirees.

So when I talk about demographic change, I am talking about a situation where 26 people in 1940 were working and paying in their tax for each retiree. By 2000, it got down to three workers; three workers now paying a much-increased percentage of what they earn to accommodate the retirement of every one retiree. By 2025, we are looking at people living longer, a decline in the birthrate, so there will only be two people working and paying in their taxes to cover the benefits of every one retiree. A huge burden. A huge challenge.

As we borrow all this extra Social Security money that is coming in now, and that is going to run out very rapidly, currently we are looking at $199 billion more coming in every year, if you include the interest that is coming into Social Security over and above what is required to pay out, by 2016 we are looking at a situation where there is no longer going to be enough tax revenues coming in by current workers to pay for the benefits of current retirees.

Look at this next chart with me. Insolvency is certain. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they are going to take out in benefits, and payroll taxes will not cover benefits starting in 2015 or 2016; and the shortfalls will add up to $120 trillion between 2015 and 2075. Now, compare those huge numbers of trillions with our current budget that we are spending in 1 year. So the next-year budget that we are looking at is $2.1 trillion. But over this time period, we are looking at some way that we are going to have to increase borrowing or increase taxes or cut benefits to accommodate that unfunded liability of $120 trillion.

The biggest risk is doing nothing at all, and that is what we have been doing. I first came to Congress in 1993; but actually, I wrote my first Social Security bill when I was chairman of the Senate Committee on Finance in the State of Michigan, because it was one of those areas that looked like the greatest challenge for the Federal Government, how we were going to accommodate the situation where the number of workers is decreasing in relation to the number of retirees. And in a pay-as-you-go system, it just does not work out. It just is going to mean that Social Security is going bankrupt unless we make some changes.

The longer we put off the solution, the longer that it is demagogued in elections, the longer that Members of Congress and the President and the Members of the Senate are unwilling to sit down and talk about solutions, the more drastic those solutions are going to have to be. And that is because we have a temporary surplus coming into Social Security now, after the huge tax increase of 1983. The tax increase was so great that we have temporarily ended up with more money coming in.

Every dollar that has been coming in, government takes and spends and writes the Social Security trust fund an IOU. So the question is: Where is government going to come up with this extra money in 2016 or 2017 when funds coming in from the FICA tax, from the payroll tax no longer are large enough to pay the promised benefits? And to keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent, or benefits will have to be cut by 30 percent.

It is unfair. It is unreasonable. It is unconscionable not to face up to this problem and to move ahead with this problem. And of course in most of my elections, because I have introduced the Social Security reform bill that has been scored to keep Social Security solvent every session since I have been in Congress since 1993, my opponents have demagogued this. They have said, look, NICK SMITH is trying to ruin Social Security and, therefore, do not elect him. But I think more and more Americans, Mr. Speaker, are now starting to face up and realize that Social Security is becoming insolvent; and if we do not deal with it, the problem is going to be much worse.

Let me just give a little bit of history on what has happened since we started Social Security in 1934. Every time there was a problem of the money coming in on taxes being less than what was needed to pay benefits, taxes were increased and/or benefits were reduced. Let us not let that happen this time. Let us face up to the problem. Let us deal with it. Let us have both sides work together, without demagoguery, with not playing politics and trying to criticize either side. And both sides have been at fault in some of these situations.

Social Security has a total unfunded liability of over $9 trillion today. If you take that $9 trillion that we need today and spread it out over the time period of 2015 to 2075, then it means $120 trillion in those future inflated dollars that we are going to have to come up with sometime through that time period to pay benefits. The Social Security trust fund contains nothing but IOUs. So in 2016, 2017 how are we going to come up with the money? Do we increase the income tax? Do we increase the payroll tax?

Already 75 percent of American workers in this country pay more in the payroll tax than they do in the income tax. So I say, no, we cannot increase the payroll tax. Will Members of Congress be brave enough to say, look, we are going to have to cut back on some of this other spending? I certainly hope they will. Our increase in spending at two and three and four times the rate of inflation has maybe been politically wise in a reelection sense, because as you come up with new programs and make more promises to people and say we are going to take care of more of the problems with the Federal Government, that means the Federal Government gets bigger. But since it is unpopular to increase taxes, what we have done is increase borrowing. And again, increased borrowing is nothing more than a promise that taxes are going to have to go up sometime in the future.

Mr. Speaker, let me make one last comment as I conclude tonight's colloquy on some of the problems that we are facing, and that is that we are dealing with Social Security and spending and it has been politically wise for politicians to put off coming up with a solution on spending. So the tendency of Congress is we wait until it is almost a crisis before we deal with that crisis.

In terms of coming up with new programs, Members of Congress have found that it is easier to get elected because they go on television cutting the ribbon and on the front pages of their newspapers when they come up with new programs to help people in solving some problem. Look, there are lots of problems across the United States. We have a system of government in the United States that has served us very well, but government cannot solve all those problems, and government should not solve problems that States and individuals can solve for themselves.

We have a system not because we are stronger than people in other countries, not because we are smarter, but because our system encourages hard work; it encourages productivity. So we have said in our constitution those individuals that study and use that knowledge, those that work and save and invest end up better off than those that do not.

□ 2200

That is a system that other countries around the world are now trying to copy. Let us get back to that system. Let us hold the line on spending, and let us stand up and deal with the Social Security problem.

## AMERICA GOING TO WAR AGAINST IRAQ

The SPEAKER pro tempore (Mr. BURNS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. VAN HOLLEN) is recognized for 60 minutes.

Mr. VAN HOLLEN. Mr. Speaker, tonight I want to take some time to address one of the most serious questions facing our Nation today, whether we go to war against Iraq in the next few weeks.

The tragic attacks upon our country on September 11, 2001, transformed our thinking about national security in this country. In the wake of September 11, the Bush administration rightly sought to define the fundamental mission of American power around the goal of fighting international terrorism. After September 11, the international community rallied behind America's war on terrorism with unprecedented unity and diplomatic, military, intelligence and other support. For the first time in its history, NATO invoked Article V of the Washington Treaty declaring the September 11 attack to be an attack on all 19 NATO member countries. Within 24 hours of its introduction by the United States, the U.N. Security Council passed a resolution unanimously calling on all member countries to support the war on terror.

The subsequent U.S.-led military action against the Taliban forces in Afghanistan and the reconstruction efforts that followed received broad support from the international community.

Now less than 18 months later, the situation has changed dramatically. Polls show that anti-American sentiment is rising around the world, and some 70 percent of the world's citizens believe that the United States presents the greatest threat to world peace today, ahead of Iraq and North Korea.

U.S. relations with many of our traditional allies in the North Atlantic Alliance are more strained than at any point in that organization's history. Moderates in the Muslim world feel isolated and have begun to question their relationship with the United States. Our credibility has been damaged, and our moral authority eroded. Many serious threats to our security are not receiving the attention they deserve.

How did we get to this state of affairs just 18 months after the world community united behind U.S. leadership in the war on terrorism? How did we so quickly squander the reservoir of goodwill that we had immediately after September 11?

The answer lies squarely with the Bush administration's defense and foreign policies and the arrogance with which they have conducted those policies. Following the successful military campaign against the Taliban in Afghanistan, the administration began to redirect its energies toward Iraq and the removal of Saddam Hussein from power. In his 2002 State of the Union Address, his speech delivered just 4 months after the terrible al Qaeda attacks on our country, the President identified Iraq, Iran and North Korea as the Axis of Evil; but very quickly thereafter it became clear that the administration would focus its attention narrowly on just one of these, Iraq. And even while bin Laden, the architect of the September 11 attacks, was still at large, Saddam Hussein took his place as the symbol of the new threat facing America.

Let me make something crystal clear here. Saddam Hussein is a brutal dictator and his quest for weapons of mass destruction does pose a threat. The question for our country is what is the nature and extent of that threat, and what is the best way for us to address it.

I believe that our objective in Iraq should be Iraqi compliance with the

U.N. resolutions that require Iraq to disarm and eliminate its weapons of mass destruction and its missiles that exceed the 93-mile range. I also believe that we must accomplish that objective in a way that strengthens rather than diminishes our national security. It would be a tragic irony indeed if in the name of fighting terrorism we made Americans less rather than more secure, both today and in the future.

Tonight I want to address three areas: First, the Bush administration's approach to Iraq; second, the implications for America's national security of that approach; and third, where do we go from here. So first, the Bush administration's approach to Iraq.

Following the President's 2002 Axis of Evil speech, the administration's goal of regime change in Iraq began to take shape quickly. As columnist William Safire observed, regime change is a diplomatic euphemism for overthrow of government or the toppling of Hussein.

On February 5, 2002, testifying before the Senate Committee on Foreign Relations, Secretary of State Colin Powell stated, "We still believe strongly in regime change in Iraq, and we are looking at a variety of options that would bring that about."

By March of that year the debate in Washington over the pros and cons of military action against Iraq was fully engaged in the newspapers, the talk shows and the backrooms. Kenneth Adelman, President Reagan's arms control czar and a close ally of the hawks in the administration, wrote in the Washington Post that military action to remove Saddam Hussein and bring democracy to Iraq would be "a cake walk." Others, including former National Security Advisers to the President's father, Brent Scowcroft and James Baker, III, argued openly at that time against unilateral U.S. action to deal with Saddam.

Even the superhawks within the administration recognized that providing a legal rationale for regime change outside the context of the United Nations could prove tricky. While we may have the power, the power to go around knocking off nasty dictators, nothing under international law gives one country the right to invade another simply to change the regime. So what to do?

The Bush administration needed an argument, an argument that would provide the legal underpinning for unilateral American military action against Iraq or other nations that we determine to be a similar threat, and the answer devised by the administration was laid out in September 2002 in the national security strategy document, the so-called Doctrine of Preventive War. That theory is simple. It is also tempting. It goes like this: If we believe that a country will use weapons of mass destruction or arm terrorists with weapons of mass destruction against us, then we would "not hesitate to act alone if necessary to exercise our right of self-defense by acting preemptively."

In other words, the United States has the right to strike militarily, even if we have no evidence that such activities are occurring. We do not have to know that an attack is imminent, we can act on our belief that such action may occur at some point. It may sound good, but it does not take much to see that this doctrine is a recipe for international chaos.

Mr. Speaker, just imagine if India and Pakistan adopted this approach, South Asia would be decimated. The Preventive War Doctrine violates every principle of international law that the United States has fought to uphold.

The Bush administration was in fact asserting that the United States would be exempt from the very rules we expect all other nations in the international community to obey, because under international law we, and any other country, already have the right to take military action to defend ourselves against an imminent attack upon ourselves or our citizens. If we know another country is about to launch missiles against us, we do not have to wait for the missiles to land, we can act preemptively. If we know a foreign government is arming terrorists with weapons of any kind, including weapons of mass destruction, we do not have to wait in order to strike. We can take preemptive action under Article 51 of the U.N. Charter in the face of that kind of imminent threat.

But Iraq does not fit into that framework. The administration has never claimed that Iraq was behind the September 11 attacks. It is not an imminent threat. It is not poised to attack us. We have no evidence that it has transferred or is going to transfer weapons of mass destruction to any terrorist group. It has never possessed missiles capable of delivering weapons onto U.S. soils, and it is currently in the process under the U.N. regime of destroying its missiles with a range of over 93 miles. Not even this administration has claimed that an Iraqi attack is imminent.

Now as the administration rolled out its new theory of preventive war, and molded its approach to Iraq it did not want to go to the United Nations originally, and it also wanted to cut Congress out of the process in the early days. Administration lawyers claimed that the January 12, 1991 Congressional resolution authorizing the first President Bush to use force in the Persian Gulf War gave President Bush, the son, the right to send American troops into Iraq without further Congressional action.

The American people back then sensed that things were not going the right way. Polls showed that Americans might support military action against Iraq, but were not comfortable with America going it alone. And while the administration never conceded the legal point about having to go to Congress, it recognized the practical and political importance of requesting Congressional support, and it got it.

The Congressional resolution was, in my view, much too broad. It was a blank check. It gave the President the authority to take whatever military action he deemed appropriate without returning here to Congress for consent. Nevertheless, the Congressional debate and the resolution that was passed did reinforce the growing consensus that the President should work with our allies and the United Nations.

In November of last year, the administration itself, divided and under pressure from the American people, from Congress and British Prime Minister Tony Blair, took the very important decision to seek a new United Nations resolution on Iraq and put U.S. policy into the United Nations framework.

It was a great triumph for foreign policy of this country that on November 8, 2002, the United States got a unanimous Security Council vote for Resolution 1441, calling for resumption of inspections and enforcement of the U.N. resolutions on disarmament in Iraq. But what were the implications for us of going to the Security Council?

The decision to pursue action through the United Nations may have solved one problem, but it created another for the Bush administration. The administration's goal of regime change; in other words, getting rid of Saddam Hussein, did not fit with the more limited objective of enforcing Iraqi compliance with U.N. resolutions requiring Iraqi disarmament.

Administration hardliners who opposed going to the U.N. in the first place understood that these different goals could lead to very different approaches. They did not want to get mired in the U.N. process, and understood that their goal of forcibly removing Saddam Hussein from power was not necessarily consistent with the goal of enforcing U.N. resolutions. It was going to be like trying to fit the square peg into the round hole. And indeed, taking the case to the United Nations Security Council led to the clash of goals that is playing out today in the United Nations as we speak.

The U.N. strategy, going to the U.N., required the administration to shift its rhetoric and public justification of U.S. policy toward Iraq from regime change to the more limited objective, enforcing Iraqi compliance with U.N. resolutions. But short of a coup, or Saddam Hussein leaving Iraq, regime change obviously requires military action, but enforcing the U.N. resolutions does not necessarily require toppling Saddam Hussein. And while military action may ultimately be required to enforce U.N. resolutions, the two goals, regime change and compliance with U.N. resolutions, dictate very different approaches and very different timetables.

☐ 2215

In the U.N. context, the context we took ourselves in November of last year, regime change is the 'last-ditch option. It only becomes a choice after it is determined that disarmament has failed. How and when you reach that point and what efforts must be taken before you get to that point is not clearly spelled out in the resolution. In this process that we set up, the findings and judgment of the international inspectors headed by Hans Blix and the head of the International Atomic Energy Agency, Mohammed ElBaradei, hold enormous weight. And Iraq through its actions or inactions can influence the process and its outcome. The cost of going to the Security Council was clearly going to be over control of the timetable as we move forward.

But while the administration took the decision to go to the United Nations, it did not slow or adjust its military timetable. The deployment of U.S. forces went forward at an accelerated pace. The deadline for full deployment was mid-February or early March. We now have over 250,000 troops in the Gulf; and according to news reports, they are ready to attack whenever a decision is made. But the only deadline spelled out in Security Council Resolution 1441, passed unanimously by the Council on November 8, was that inspectors were to report to the Council on progress of disarmament, quote, "60 days after inspections resume," which turned out to be January 27, 2003. Resolution 1441 did not provide any guidance as to what would happen if Saddam Hussein was found to be at least in partial compliance with the inspections by this deadline, or if there was not a decision in the council to take military action by then. It did not foresee the situation we are in today, a U.N. process focused on the goal of disarmament with one timetable and the U.S. goal of regime change with its own military timetable.

Let me now talk about some of the other arguments that the administration has advanced as it faced increasing criticism for its approach, because there have been a number of additional arguments that have been made beyond the original argument that Iraq's quest for weapons of mass destruction and the possibility that it will give them to terrorists pose an unacceptable risk. The additional arguments rolled out by the administration include, number one, an alleged link between Saddam Hussein and al Qaeda, a link they have failed to prove; two, the brutal nature of Saddam's regime and the need to liberate the Iraqi people; and, three, most recently, in the President's February 26 speech before the American Enterprise Institute, the argument that the overthrow of Hussein would be a catalyst for the spread of democracy throughout the Middle East and help bring about a final settlement to the Israeli-Palestinian conflict, the Bush administration's new domino theory.

I want to discuss just two of these here: first, the argument that regime change is necessary because Saddam Hussein is evil; and, second, the claim that military action will prompt a democratic domino effect throughout the region.

First, the argument that military action is justified because Saddam Hussein is, quote, "an evil ruler." The hypocrisy of using this argument to justify regime change is difficult to ignore. Let us not forget that during the Iran-Iraq war the United States sided with Saddam Hussein. One of the central architects of current Bush administration policy, now-Secretary of Defense Donald Rumsfeld, played a key role in the Reagan administration's decision to embrace Saddam Hussein in the early 1980s.

Declassified U.S. Government documents show that when Rumsfeld visited Baghdad in December 1983 as a special Presidential envoy to pave the way for the normalization of U.S.-Iraq relations, Iraq was using chemical weapons on a daily basis in defiance of international conventions. Five years later, in 1988, at the end of the Iran-Iraq war, I traveled to the Iraq-Turkish border as a staffer on the U.S. Senate Foreign Relations Committee with my colleague Peter Galbraith. At that time, thousands of Kurds were fleeing across the border to seek refuge in Turkey. We interviewed hundreds of those refugees and documented Iraq's use of chemical weapons against the Kurdish people. Our report formed the basis for legislation to impose economic sanctions against Iraq for its use of chemical weapons against the Kurds. The bill passed the United States Senate; but the Reagan administration, which included many of the key players in today's debate, many people who are now in the Bush administration, opposed and helped stop that sanctions legislation when it came here to the House of Representatives. I challenge anyone to explain to me how you can oppose economic sanctions in 1988 in response to Iraq's use of chemical weapons against civilians and then today turn around and say that those same actions justify U.S. military force in 2003.

Moreover, if Saddam Hussein's use of chemical weapons against his own people was the reason for military action, we should have finished the job during the Persian Gulf War in 1991. Iraq has not used chemical weapons since 1988, since the time my colleague Peter Galbraith and I went to the Iraq-Turkish border at the end of the Iran-Iraq war. But 3 years later in 1991, not only did we not remove Hussein in Baghdad but at the end of the war we looked the other way, the United States looked the other way for many days, while Saddam Hussein turned his guns on the Shias in the south and the Kurds in the north. This history, I think, exposes the hypocrisy of the position the government has taken today and the willingness of some people in the administration to say anything to further their ends. The liberation of the Iraqi people is certainly a desirable goal, but it is also an argument that could be applied to many other countries with brutal regimes around the world. It is not by itself sufficient justification for U.S. military action.

Now, more recently, the administration has advanced the argument that the removal of Saddam Hussein will not only liberate the Iraqi people but will result in the spread of democracy throughout the Middle East. Promoting democracy in the Middle East is a very attractive goal, but one this administration has neglected until now. We have made only feeble efforts to push even generally supportive governments in Saudi Arabia and Egypt to move toward more openness and more democracy. And after calling for greater democratization of the Palestinian Authority many months ago, the administration has done nothing to help bring that vision closer to reality. The belief that democracy is going to somehow blossom in the Middle East as a result of U.S. military occupation of Iraq is a dangerous hallucination. Since when do we think we can implant democratic institutions throughout a region with no experience in democracy through some kind of big bang theory? True democratic change must come from within the region. It cannot be imposed from without. We have not begun to succeed at building democracy in Afghanistan. On what basis do we think we can do much better in Iraq, let alone the entire Middle East? We need only look at the Balkans, for example, at how difficult the task will be.

Four years after military intervention, NATO has 35,000 troops stationed in Kosovo, a region of less than 2 million people, and their departure date is not yet on the horizon. Most experts believe that the withdrawal of those troops and others in Bosnia would result in a return to violence and hostilities. Iraq is a country of 23 million people. Like Yugoslavia, it is an artificial construct, in this case strung together by the British colonial powers and made up of three major groups, 60 percent Shia, 30 percent Sunni, 10 percent Kurds. The President has presented this utopian vision of democracy breaking out in the Middle East after we invade Iraq. It is just as easy to imagine a scenario where difficulties in Iraq and the American action there fuel resentment toward occupying American troops and inflame the region against us, strengthening the hands of radical Islamic fundamentalists and making it more difficult to promote democracy and other U.S. goals in the region.

I recently came across an analysis of the imposing postwar task that we would face in Iraq, and I would like to share it with you. This is a quotation:

"It is not clear what kind of government you would put in. Is it going to be a Shia regime, a Sunni regime, or a Kurdish regime? Or is it one that tilts toward the Ba'athists, or one that tilts toward the Islamic fundamentalists? How much credibility is that government going to have if it is set up by the U.S. military? How long does the U.S. military have to stay to protect the people that sign on for that government? And what happens to it when we leave?"

These are the comments of none other than then-Secretary of Defense DICK CHENEY, speaking in April 1991 in support of former President Bush's decision to turn back on the road to Baghdad after we took Saddam Hussein's forces out of Kuwait. In fact, I agree with the 1991 DICK CHENEY. It will be a difficult, a costly and risky task to undertake the reconstruction of a postwar Iraq. It will take a long time, much longer than the 2 years the administration has suggested. It will take a sizable U.S. troop presence. And the U.S. Army's top uniformed officer has estimated that it would take hundreds of thousands of troops to feed the hungry and to keep the peace. Military action will also require enormous resources. Unofficial Pentagon estimates put the cost of the war alone at between $65 and $90 billion. The costs of reconstruction will be billions more.

So what are the implications? What are the implications of this policy for our security? I want to offer three observations: first, that the administration's approach to Iraq and the arrogance with which it has pursued its goals has badly damaged our ability to get the cooperation we need from others to protect our security interests and wage our long-term fight against terrorism. First, the administration's policies have triggered a rapid rise in anti-American sentiment around the world. There are those whose response to this sentiment is, hey, who cares? Their attitude: we're the big guys on the block, so who cares what they think? That swagger may make us feel good, but it is foolish. I care what the rest of the world thinks. We all should. We should care for the simple reason that what others think has an impact on our security. If our actions loosen our ties to our friends and allies, it undermines our ability to work together to combat terrorism. If our actions generate hatred and fuel the ranks of al Qaeda, it will increase the risk of attack upon us. If our actions undermine public support for friendly foreign governments, we may lose much more in the long run than we gain today. We may choose not to change our policies based on what others think, but it is foolish not to try to understand the views of others when our own security is at risk.

Having the support of our friends and allies in the international community is important to the achievement of most of our foreign policy objectives. With respect to Iraq, cooperation would both reduce the cost of war and increase the prospects of winning the peace. In the 1991 Persian Gulf War, former President Bush and then-Secretary of State James Baker received U.N. Security Council backing for the use of force to expel Saddam Hussein from Kuwait. They assembled an impressive coalition of forces and succeeded in sharing the burden of the war. The military forces of 18 other countries participated in the Persian Gulf War, and more than 85 percent of the costs of that war were borne by others. In the current conflict, we face the opposite problem. Instead of having others help bear the burden, we are having to pay others to participate. Hence, some have dubbed the coalition that the administration has assembled not the coalition of the willing, but the coalition of the bought.

Having international support in Iraq would also greatly increase the prospects of winning the peace. In addition to providing financial and peacekeeping support, truly multilateral action in Iraq would help defuse any anger that otherwise would be directed solely against the United States. It would also be very helpful to have U.N. participation in the immediate postwar governing structure in Iraq to show that this is not a war of the United States against the Islamic and Arab worlds, but the world against Saddam Hussein.

Secondly, the Bush approach to Iraq has badly soured our relations with our NATO allies. As I mentioned earlier, the first and only time in the history of NATO that we invoked article 5 of the Washington treaty declaring an attack on one member to be an attack on all was after September 11. This dramatic action was followed by unprecedented cooperation in various aspects of the war on terrorism and the U.S.-led action in Afghanistan. In January, 2002, President Bush met in the Rose Garden with German Chancellor Schroeder and warmly praised Germany's role in the fight against terrorism, in particular for hosting the Bonn conference for multilateral assistance for the reconstruction of Afghanistan and the German role in training the Afghan police force. This sentiment has now given way to Secretary of Defense Rumsfeld's Euro-bashing, including his incendiary comments comparing Germany to Libya and Cuba. The division in NATO is greater today than at any other time in its history. Never before have several NATO allies actively worked to defeat a U.S. proposal in the Security Council.

What caused this dramatic turnabout? The administration expected our allies to fall in lockstep behind its assessment of the Iraqi threat, behind its assessment of the extent to which Iraq has complied with the U.N. resolution and, most importantly, the administration's goal of regime change and its timetable for military action.

□ 2230

This approach probably reminded many of the way the Soviet Union used to dictate to the Warsaw Pact, rather than the traditional dialogue among NATO allies.

For many, the administration's "my way or the highway" approach to Iraq rekindled their resentment of the unilateralist approach to foreign policy issues that this administration took during its first 9 months in office, before September 11.

During that period, the administration thumbed its nose at the Kyoto Treaty on global climate change, walked away from the Anti-Ballistic Missile Treaty and an agreement to strengthen the Biological Weapons Convention, and demonstrated its contempt for the Comprehensive Test Ban Treaty and the International Criminal Court.

While the administration could have offered amendments to address legitimate concerns with some of these agreements, it chose instead to abandon them altogether, totally dismissing the views of our allies and other nations.

Much of this unilateral action was forgotten immediately after September 11, but the administration's approach to Iraq has reopened old wounds. Unless this split in the alliance is healed, damage to our interests could be great. Our allies have been extremely helpful in tracking down al Qaeda cells around the world. They have allowed U.S. troops to traverse their air space or use their territory for numerous operations outside of Europe, including the 1991 Persian Gulf War.

NATO currently has 50,000 peacekeepers in the former Yugoslavia, and 14 NATO allies have forces on the ground in Afghanistan. It is very difficult to imagine a successful U.S.-led operation in Iraq without the support both during the war and during the reconstruction period without the support of many of our NATO allies.

Third, the administration's Iraq policy has undermined the United Nations. After the September 11 attacks, the United Nations Security Council unanimously adopted an American sponsored resolution to oblige all 189 member states to crack down on terrorism. Our ambassador to the United Nations, John Negroponte, called it "an unprecedented resolution on terrorism in the work of the United Nations."

Today, the administration argues that the United Nations will become irrelevant if it does not immediately adopt a second resolution supporting military force in Iraq. But it is disingenuous to claim that we are concerned with the credibility of the United Nations and, at the same time, state that we will refuse to be bound by the Security Council unless it goes our way. Essentially our position is, the UN is relevant and credible only as long as it votes with us.

This kind of behavior undermines the legitimacy of the Security Council and the UN process. How can we credibly seek UN assistance and cooperation in the post-war building of Iraq, as we are, if we are unwilling to show respect for the UN process?

We cannot afford to forget the wide array of important issues that the United Nations deals with each day, from AIDS in Africa, peacekeeping in the Balkans, Cyprus, the Middle East and elsewhere. It is very much in our interest to have a viable and strong United Nations, and our actions should not undermine this goal.

Second, the administration's approach is likely to increase the risk of terrorist attack against the United States and threatens to plant the seeds for more deep-seated resentment in the Muslim world.

Last October, the CIA testified openly that Iraq for now, "appears to be drawing a line short of conducting terrorist attacks." In the United States. But, "should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably would be much less constrained in adopting terrorist actions."

In testimony before the Senate Intelligence Committee on February 6, 2003, CIA director George Tenet stated it this way: "The situation in the Middle East continues to fuel terrorism and anti-U.S. sentiment worldwide."

In the short-term, I think it is clear that the threat to Americans will grow. The real question is whether it will lead to a higher risk of terrorist attack in the long term.

Moderates in the region in the Middle East fear that a U.S. invasion will galvanize radical and ultra-conservative forces and lend them new credibility and legitimacy, swelling their ranks and increasing violent attacks. We should not forget that bin Laden has pointed to the U.S. presence in Saudi Arabia, our military presence there, the infidels in the Islamic sites of Mecca and Medina, as the catalyst for his deep-seated resentment of our Nation. One can only imagine that a U.S. military occupation of Baghdad, U.S. alone, could be a recruiting bonanza for al Qaeda and other terrorist groups.

Others argue that the war on Iraq will lead to regime change in the Middle East, but not the kind the administration envisions. Instead, the first regimes to go could be in Jordan and Pakistan, where pro-western governments have a fragile hold on angry populations. If Pakistan topples, many warn, al Qaeda could gain access to the nuclear weapons that Pakistan has.

The administration's single-minded focus on Iraq has also pushed out the consideration of other issues and badly skewed our national security priorities. Osama bin Laden is still at large. Despite the recent arrests in Pakistan, other key al Qaeda operatives are at large. Dramatic attacks, like the one in Bali, Indonesia, earlier this year, demonstrate that the international terrorist network is alive and well.

By elevating the threat of Iraq to the most dangerous threat to American security today, the Bush administration has helped create the impression that Iraq possesses the ability somehow of "blowing the United States off the face of the Earth." In fact, while Iraq certainly presents a threat to its neighbors, and, in a worst case scenario, could act to facilitate a terrible terrorist attack on this country, it does not possess nuclear weapons, which are the most dangerous weapons of mass destruction, and, unlike North Korea or Iran, is subject to an international inspections regime ongoing which can prevent it from making progress toward that goal.

In fact, it is instructive to remember that of the three countries identified as the "axis of evil" in the President's 2002 State of the Union address, Iraq is the country farthest away from acquiring such weapons.

So, far from a simple "us versus them" world that the Bush administration has painted, America faces a national security challenge of enormous complexity. We must simultaneously cope with several separate and potentially grave threats, from Iraq to North Korea and the continuing threat of international terrorist networks. Without progress on nuclear nonproliferation, this list could grow quickly.

At the same time, we remain committed to an ongoing military presence in the states of the former Yugoslavia and to the elusive process of a negotiated settlement of the Arab-Israeli conflict. Lack of progress in both these areas could set back American security interests and lead to an escalation in violence and terrorism. In South Asia, two nuclear countries are poised army-to-army along a fragile border. And the list goes on. Eliminating Saddam Hussein will not address these very real problems.

So, finally, where do we go from here? We find ourselves at a crossroads. There is little daylight left. It is not a question of whether or not we can defeat Saddam Hussein militarily. We can. Rather, it is a question of the long-term risks to our security by proceeding in a manner that alienates our friends, creates opportunities for our foes, weakens the rule of law and undermines America's moral authority.

If the threat can be met in other ways, then why would we not pursue those options to their fullest? Some have argued that it is too late, that the cost of the huge U.S. deployments overseas demand that these troops not be brought home without seeing military action.

I disagree. The stakes are too high for that kind of thinking. The costs, both human and financial, of deploying U.S. troops in the region, are insignificant compared to the costs of full U.S. military intervention and reconstruction of post-war Iraq.

We should not use our troop deployments as an excuse to act under an artificial timetable. Those deployments have played a role in achieving the more muscular inspections that we have seen in recent months.

We can always choose to take military action, but we cannot put the genie back in the bottle once we go down that road. Last Friday, Mr. ElBaradei, the Director of the IAEA, reported that there was no evidence of resumed nuclear activities in Iraq. He showed that the United States had unwittingly supplied the UN with forged documents to try and support our claim that Iraq had revived its nuclear weapons program.

The chief UN weapons inspector, Dr. Blix, who Secretary of State Powell has praised in the past as man of integrity and professionalism, Blix reported that Iraq had made progress toward disarmament and stated that the inspection process could be completed in a matter of months.

The use of force is a powerful and very important tool of foreign policy, but one that should generally be used as a last resort, when all other options fail. The heightened pressure the Bush administration has brought to bear on Iraq has focused world attention on Baghdad and reaped modest, but important, results with respect to Iraqi disarmament. I think most of the world believes that enforced UN inspections still have the potential to bring us to our primary goal, the disarmament of Iraq.

I believe the United States should give this process more time, both to further the goal of disarmament and to build broader international support for military action, should that become necessary to enforce the resolutions.

Mr. Speaker, in conclusion, I believe that the overall approach this administration has taken is taking us in a dangerous direction. I believe our moral standing, our greatest source of strength, has been diminished. We cannot build a more democratic and a more open world on the administration's policies of preventative war, disdain for international law and neglect of international cooperation.

We have our work cut out for us. We must fight for policies that help rebuild America's moral authority in world affairs. We must articulate a credible alternative foreign policy doctrine that is not based on American exclusionism, but on America's stake as a leading partner in a diverse international community.

We are a strong and rich country. We experienced a terrible tragedy on September 11, 2001, but we do not have to act out of fear. Our strongest weapon against hatred and extremism are our high ideals, our democratic example founded on the rule of law. We cannot, we must not, allow this administration in the name of those ideals to pursue policies that are not worthy of our Nation's great history.

I yield the remainder of my time to the gentleman from North Carolina.

## CONFRONTING IRAQ

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding, and congratulate him on a very fine and thoughtful statement.

Mr. Speaker, there is a good possibility that our country will be at war in Iraq before the month is out. The President held out little hope for any alternative approach to disarming Iraq at his press conference last Thursday. Yet a majority of the American people continue to urge for more time for inspections, while we are facing something close to a diplomatic meltdown with major allies. A failure to secure allied support will have major consequences for every American. Our citizens alone will shoulder the financial burden of this war and its aftermath. Our troops will need to be kept indefinitely in post-war Iraq. Our country alone, as an occupying force, will be the target of hatred, resentment and hostility from many in the Arab world. And America will risk losing our standing among the world's democracies as one who leads by moral suasion and example as well as by military might.

Pollsters here at home say they have rarely seen an issue where the public's reaction is more conditional or ambivalent. Tonight I want to suggest this is because the Bush administration has not answered basic questions about this war and has backed us into a situation where we seem to be choosing between equally unsatisfactory ways of dealing with what most agree is a deadly challenge.

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The distinguished historian William Leuchtenburg, citing Thomas Jefferson's maxim that "great innovations should not be forced on slender majorities," recently contrasted George W. Bush's unilateralism to the behavior of previous wartime Presidents and found him "unique in his defiance of so much international and domestic opinion."

Many of our constituents believe that the full range and intensity of public opinion has not been visible or audible in Congress. One reason is that, by our vote of October 10, which gave the President an open-ended authorization for the use of force, this institution forfeited its coordinate decision-making role. Mr. Speaker, an up or down vote on a resolution authorizing force is at best a blunt instrument for checking the executive's constitutional dominance of foreign and military policy; but by granting unchecked authority months in advance, we made that instrument blunter yet.

Still, I believe the questions and the challenges to the President's approach emanating from the Congress, and from Democratic Members in particular, have been more persistent and more consistent than most media accounts have acknowledged. It is true, Democrats were divided on final passage of the October resolution. And, in fact, this is not an issue on which a stance of absolute opposition is called for. We all understand Saddam Hussein to be a brutal dictator who is implacably hostile to our country and what we stand for. There is near unanimity in this body and in the international community that whatever capacity he has to make or use weapons of mass destruction must be ended.

But critical questions remain regarding alternative means to this end. Many Members of this body have raised these questions with increasing intensity in recent weeks; and unfortunately, the Bush administration has rarely provided satisfactory answers. What accounting do we have of the costs and risks of a military invasion? How are we to secure and maintain the support and engagement of our allies? Can Iraq be disarmed by means that do not divert us from or otherwise compromise equally or more urgent antiterrorist and diplomatic objectives? And do we have a credible plan for rebuilding and governing postwar Iraq, and have we secured the necessary international cooperation to ensure that this does not become a perceived U.S. occupation?

Administration officials, for example, have persistently refused to put a price tag on a U.S. invasion which, unlike the Gulf War, would have almost no financial backing from allies. The President's budget omits any reference to an Iraq war. With deficits for 2003 and 2004 already predicted to break historic records and $2 trillion slated to be added to the national debt by 2008, the addition of $80 billion to $200 billion in war costs could not come as welcome news. But it is an insult to this body and to the American people to submit a budget that absolutely fails to give an honest accounting, even within broad limits, of what those costs would be.

Daily dispatches from Korea leave little doubt that North Korea is taking advantage of our preoccupation with Iraq to dangerously ratchet up its nuclear program, and that the administration's diplomacy has not been up to this challenge.

And now we learn that the Bush administration, which, truth to tell, has never had its heart in Middle East peace-making, has rebuffed its so-called Quartet partners, the European allies, Russia, and the United Nations, and insisted on yet another postponement in publishing the long-anticipated "road map" to an Israeli-Palestinian settlement. Why? Because of the crisis in Iraq. President Bush in December demanded that release of the timetable for reciprocal steps and negotiations be delayed until after the Israeli elections. Now he is insisting again that the effort be delayed, this time until after we deal with Iraq, seemingly thinking that victory in Iraq will be the key to solving this and most other problems in the Middle East.

As the New York Times editorialized last Sunday, "The Bush administration has not been willing to risk any political capital in attempting to resolve the conflict between Israel and the Palestinians, but now the President is theorizing that invading Iraq will do the trick."

The fact is that the festering Israeli-Palestinian conflict and the Bush administrations's failure to do anything about it represent an enormous obstacle to enlisting the support we need to achieve our objectives in the region, including the war on terrorism. That is certainly the way the Europeans see it; and the President's rebuff has further poisoned the atmosphere, even as the administration struggles to gain allied support for military action against Iraq. Among the angriest allies reportedly is Britain's Prime Minister Tony Blair, who for months has pleaded with President Bush to become more involved in Israeli-Palestinian peacemaking.

The administration's torpedoing of the Quartet initiative is also ill advised and ill timed with respect to Palestinian efforts at reform. It comes precisely at the time that President Arafat, under considerable pressure, has nominated Mahmoud Abbas, otherwise known as Abu Mazen, for the new position of Prime Minister of the Palestinian Authority. Abu Mazen, with whom the gentleman from Florida (Mr. DAVIS) and I had a cordial and useful visit in Ramallah in December, has been an outspoken critic of the militarization of the Palestinian uprising. How successful his appointment proves in reforming Palestinian governance will depend, among other things, on how much real authority he and his position are given. But President Bush could hardly have picked a more inauspicious time to throw cold water on the plans to get back to negotiations.

"There was a lot of dismay when the road map was put off before, and the dismay right now is even worse," one European diplomat told a New York Times reporter. "Without hope, the power of extremists will only grow," added another.

Such, Mr. Speaker, are the costs of allowing Iraq to trump everything else on our antiterrorist and diplomatic agenda.

Mr. Speaker, the world welcomed the President's decision last fall to take the Iraq matter to the United Nations and, apparently, to give more extensive inspections and the supervised destruction of weapons a chance to work. But his rhetoric since that time has led many to believe that he has always regarded the inspections as foreordained to failure and war as the only recourse. Suspicions have deepened as administration statements about links between Iraq and al Qaeda have become less and less measured. Such statements have helped persuade some 42 percent of the American public that Saddam Hussein was personally responsible for the 9-11 World Trade Center attacks. But prospective allies examining the rationale for war have understandably been less impressed.

Inspections, of course, are a two-way street. They will never work without Iraq's willing cooperation; and that cooperation, as Mr. Blix and Mr. El Baradei have made clear, has been far from satisfactory. No matter how numerous or how skilled the inspectors are, they cannot find what amounts to needles in haystacks without honest and complete information regarding the weapons and the material which the Iraqis claim to have destroyed and the whereabouts of any remaining stockpiles.

Still, it does matter how we reach the conclusion that Iraq has effectively continued its defiance, that the inspections have failed, and that war is the only remaining option. In fact, the report of the inspectors at the United Nations last Friday significantly undermined the American position, arguing that progress has, in fact, been made and discounting the dangers of any Iraqi nuclear program.

It is essential that the world know and face the fact, as the President said last Saturday, that Iraq "is still violating the demands of the United Nations by refusing to disarm." But we undermine our own credibility when we scoff at the destruction of a stockpile of Al Samoud missiles as a matter of no consequence, or insist on a U.N. resolution with so short a time frame as to make it seem merely a pretext for war.

In fact, the U.N. inspectors themselves have specified the tasks remaining before them, and there is every reason to support the systematic pursuit of those objectives within a tight, but feasible, time frame. In the meantime, we must resist the notion that the alternatives confronting us are either to invade in the next few days or to appear to "back down" in a humiliating and dangerous fashion.

It is true that the massing of 235,000 troops has created a momentum of its own, and they cannot stay in place indefinitely. But the risks and the costs of an invasion undertaken in the face of major allied opposition remain, and we need to give full consideration to options that avoid either leaving Iraq's weapons in place or inexorably marching to war.

What might those options be? Michael Walzer has suggested intensifying what he calls the "little war" in which we are already engaged and challenging the French and the Germans and the Russians to become part of the solution. This could include extension of no-fly zones to cover the entire country, maintaining an embargo on strategic and dual-use materials, and intensifying the program of inspections and weapons destruction under international control.

If such a program succeeded in destroying or neutralizing Iraq's weapons capability, the U.S. and the U.N. could credibly declare their mission accomplished, and most of the troops could return home, having created the military pressure that helped prompt compliance. I realize that at present, prospects for such an outcome appear to be fading. But when we are in an untenable position, contemplating outcomes that are equally unacceptable, we have an obligation to press in new directions.

Mr. Speaker, whatever course our President and our country take, we will give our men and women in uniform our full support, and I am confident that a unified Congress will provide whatever resources they need to succeed. I have been moved by the farewell ceremonies for National Guard units in my own district, and I have the utmost respect for the service and sacrifice that these men and women exemplify. The debates we have over foreign and military policy do not change that in the least. In fact, we owe them, and all of our citizens, this debate, so that we do not choose our Nation's course either impulsively or by default, but with due consideration of our Nation's interests and values, and consideration of how our vast power can be a force for what is just and right in the world. May God grant us wisdom and courage for the facing of these days.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NADLER (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. SNYDER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. JOHNSON of Illinois (at the request of Mr. DELAY) for today and the balance of the week on account of injuries suffered in a car accident and doctor's orders to stay in the district.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. VAN HOLLEN) to revise and extend their remarks and include extraneous material:

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

The following Members (at the request of Mr. KLINE) to revise and extend their remarks and include extraneous material:

Mr. DELAY, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today, March 12 and 13.

Mr. GREEN of Wisconsin, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. WOLF, for 5 minutes, March 12 and 13.

Mr. COX, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, March 13.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ACEVEDO-VILÁ, for 5 minutes, today.

## ADJOURNMENT

Mr. PRICE of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 12, 2003, at 11 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1028. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thiophanate Methyl; Pesticide Tolerance for Emergency Exemptions [OPP-2002-0355; FRL-7285-9] received

February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1029. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyprodinil; Pesticide Tolerance [OPP-2002-0344; FRL-7289-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1030. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 6-Benzyladenine; Temporary Exemption From the Requirement of a Tolerance [OPP-2002-0308; FRL-7287-2] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1031. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oxadiazon; Tolerance Revocations [OPP-2002-0086; FRL-7187-3] received January 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1032. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 4-(Dichloroacetyl)-1-Oxa-4-Azaspiro [4.5] Decane; Pesticide Import Tolerance [OPP-2002-0245; FRL-7199-4] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1033. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticides; Tolerance Exemptions for Polymers [OPP-2003-0039; FRL-7291-7] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1034. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pelargonic Acid (Nonanoic Acid); Exemption from the Requirement of a Pesticide Tolerance [OPP-2002-273; FRL-7278-7] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1035. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills [OAR-2002-0045; AD-FRL-7446-6] (RIN: 2060-AK53) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1036. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program [Region II Docket No. NJ55-248, FRL-7441-4] received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1037. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: New Hampshire; Plan for Controlling MWC Emissions From Existing Municipal Waste Combustors [NH-51-7175a; FRL-7447-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1038. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Volatile Organic Compound Requirements from Specific Processes [MD129/130-3089a; FRL-7437-7] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1039. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District and Yolo-Solano Air Quality Control District [CA 271-0374a; FRL-7427-8] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1040. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances [FRL-7443-4] (RIN: 2060-AG12) received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1041. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Ohio: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7442-8] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1042. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment as of November 15, 1999, and Reclassification of the Metropolitan Washington, D.C. Ozone Nonattainment Area; District of Columbia, Maryland, Virginia [DC039-2030; MD073-3101; VA090-5063; FRL-7441-9] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1043. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clarification to Interim Standards and Practices for All Appropriate Inquiry Under CERCLA and Notice of Future Rulemaking Action [[FRN-7442-4] (RIN: 2050-AF05) received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1044. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan [FL-82-200309a; FRL-7443-3] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1045. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA255-0385; FRL-7448-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1046. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1047. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protecton Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Nothern Engraving Environmental Cooperative Agreement [WI112-01-7342b, FRL-7411-5] received January 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1048. A letter from the Acting Principal Deputy Associate Administrator, Environmerntal Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District [CA273-0381a; FRL-7 452-3] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1049. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones, Security Zones, Drawbridge Operation Regulations and Special Local Regulations [USCG-2002-13968] received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1050. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Atlantic Ocean Bad Boys II Film Production [COTP Miami 02-118] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1051. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River, Mile 602.0 to 604.0, Louisville, Kentucky [COTP Louisville 02-06] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Huntington Beach Offshore Grand Prix, Huntington Beach, California [COTP Los Angeles--Long Beach 02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; Indian River, 4th of July Celebration, Cocoa, FL. [COTP Jacksonville 02-083] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Biscayne Bay — Port of Miami, Miami FL. [COTP Miami 02-107] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Southwest Pass Sea Buoy To Nashville Ave Wharf, Mile Marker 100.8, above Head of Passes, Lower Mississippi River, New Orleans, Louisiana [COTP New Orleans-02-020] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 497.5 to 497.7, LeClaire, IA [COTP St. Louis 02-014] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 496.4 to 496.6, LeClaire, IA [COTP St. Louis 02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Tennessee River, Mile Marker 612.0 to 625.0 [COTP Paducah, KY 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Cassville Twin-O-Rama Fire Works, Cassville WI [COTP St. Louis, MO-02-012] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Highway 90 Bridge, Pascagoula River, Pascagoula, Mississippi [COTP Mobile, AL 02-016] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Bad Boys II Film Production [COTP Miami 02-113] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1062. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Biscayne Bay Dinner Key Channel, FL. [COTP Miami 02-103] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1063. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Colorado River, Laughlin, NV [COTP San Diego 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1064. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Port of Miami Bad Boys II Film Production [COTP Miami 02-092] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1065. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Miami River, Miami FL [COTP Miami 02-075] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1066. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 590.5 to 592.0, Rosedale, Mississippi [COTP Memphis-02-009] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1067. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Cumberland River, Mile Marker 190.5 to 192.0, Nashville, Tennessee [COTP Paducah-02-009] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1068. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River, Mile Marker 943.0 to 945.0 [COTP Paducah, KY 02-007] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1069. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; North San Diego Bay, CA [COTP San Diego 02-014] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1070. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Fireworks Display, New Jersey Pierhead Channel, NJ [CGD01-02-086] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1071. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; 4th of July Celebration, Salem, Massachusetts [CGD1-02-087] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1072. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Kansas City Aviation and Air show Expo, Kansas City, MO [COTP St. Louis 02-015] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1073. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 662.5 to 663.6, Lansing IA [COTP St. Louis, MO-02-016] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1074. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Middletown 4th of July Fireworks Display, Connecticut River, CT [CGD01-02-066] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1075. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones; Orchard Beach, Long Island Sound, NY [CGD01-02-079] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1076. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Main Pass, Block 4, 29 degrees 41'34''N, 089 degrees 20'22''W, Gulf of Mexico [COPT New Orleans-02-021] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1077. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Mississippi River Gulf Outlet Channel, mile marker 49.0, in the vicinity of light 111 and 112, Louisiana [COTP New Orleans-02-019] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 877. A bill to amend title XI of the Social Security Act to improve patient safety; with an amendment (Rept. 108-31, Pt. 1). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 108-32, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 5. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 108-32, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 866. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works (Rept. 108-33). Referred to the Committee of the Whole House on the State of the Union.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 877. Referral to the Committee on Energy and Commerce extended for a period ending not later than March 13, 2003.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HOUGHTON:

H.R. 1169. A bill to amend the Internal Revenue Code of 1986 to provide for the performance of certain tax collection services by contractors; to the Committee on Ways and Means.

By Mr. BURNS (for himself, Mr. Hastert, Mr. Boehner, Mr. Castle, Mr. Ballenger, Mr. Sam Johnson of Texas, Mr. Isakson, Mr. Tiberi, Mr. Wilson of South Carolina, Mr. Cole, Mr. Kline, Mrs. Musgrave, Ms. Watson, Mr. Burton of Indiana, and Mr. Tancredo):

H.R. 1170. A bill to protect children and their parents from being coerced into administering psychotropic medication in order to attend school, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 1171. A bill to provide grants to law enforcement agencies to use iris scanning technology to conduct background checks on individuals who want to purchase guns; to the Committee on the Judiciary.

By Mr. BACA (for himself, Mr. Taylor of Mississippi, Mr. Wynn, Mr. Acevedo-Vilá, Mr. Terry, Mr. McGovern, Mr. Levin, and Mr. Rangel):

H.R. 1172. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Armed Services.

By Mr. BACA (for himself, Mr. Simpson, Mr. Murtha, Mr. McGovern, Mr. Faleomavaega, Mr. Towns, Mr. Grijalva, Mr. Burr, and Ms. Ginny Brown-Waite of Florida):

H.R. 1173. A bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf; to the Committee on Financial Services.

By Mr. BACA (for himself, Ms. Norton, Mr. Towns, Mr. George Miller of California, Mr. Jackson of Illinois, Mr. Payne, Mr. McGovern, Ms. Carson of Indiana, and Mr. Clay):

H.R. 1174. A bill to provide for the award of a gold medal on behalf of the Congress to Tiger Woods, in recognition of his service to the Nation in promoting excellence and good sportsmanship, and in breaking barriers with grace and dignity by showing that golf is a sport for all people; to the Committee on Financial Services.

By Mr. BARRETT of South Carolina (for himself, Ms. Ginny Brown-Waite of Florida, Mr. Green of Wisconsin, and Mr. DeMint):

H.R. 1175. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits through fiscal year 2008, to extend paygo for direct spending, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER:

H.R. 1176. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991, relating to the I-35 High Priority Corridor from Laredo, Texas, to Duluth, Minnesota; to the Committee on Transportation and Infrastructure.

By Mr. DeMINT (for himself, Mr. Akin, Mr. Ballenger, Mr. Beauprez, Mr. Burr, Mr. Cannon, Mrs. Christensen, Mr. Coble, Mr. Cole, Mr. Cox, Mr. Crane, Mr. Dreier, Mr. English, Mr. Fletcher, Mr. Franks of Arizona, Mr. Graves, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hoekstra, Mr. Hostettler, Mr. Isakson, Mr. Istook, Mr. Janklow, Mr. Jones of North Carolina, Mr. Kolbe, Mr. LaHood, Mr. Gary G. Miller of California, Mrs. Musgrave, Ms. Norton, Mr. Norwood, Mr. Otter, Mr. Paul, Mr. Pitts, Mr. Rogers of Michigan, Mr. Ryun of Kansas, Mr. Smith of New Jersey, Mr. Terry, Mr. Tiahrt, Mr. Toomey, Mr. Upton, Mr. Weldon of Florida, Mr. Wynn, and Mr. Tancredo):

H.R. 1177. A bill to amend the Internal Revenue Code of 1986 to provide additional choice regarding unused health benefits in cafeteria plans and flexible spending arrangements; to the Committee on Ways and Means.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1178. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for medical malpractice liability insurance premiums, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE (for himself, Mr. Bonner, Mr. Wilson of South Carolina, and Mr. Bachus):

H.R. 1179. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. COX:

H.R. 1180. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEAL of Georgia (for himself, Mr. Gordon, and Mr. Taylor of North Carolina):

H.R. 1181. A bill to amend the Tennessee Valley Authority Act of 1933 to ensure that promoting recreation is treated as a primary purpose in the operation of dams and reservoirs under the possession and control of the Tennessee Valley Authority; to the Committee on Transportation and Infrastructure.

By Mr. DEAL of Georgia (for himself, Mr. Towns, Mr. Whitfield, Mr. Wamp, Mr. Pallone, and Mrs. Emerson):

H.R. 1182. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAHUNT (for himself and Mr. Saxton):

H.R. 1183. A bill to promote the Sensible Development of Renewable Energy in the Waters of the Coastal Zone, and for other purposes; to the Committee on Resources.

By Mr. DINGELL:

H.R. 1184. A bill to amend the Federal Water Pollution Control Act to increase certain criminal penalties, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. Pomeroy):

H.R. 1185. A bill to clarify the tax status of the Young Men's Christian Association retirement fund; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 1186. A bill to amend the Internal Revenue Code of 1986 to provide for proration of the heavy vehicle use tax between successive purchasers of the same vehicle; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 1187. A bill to impose a retroactive, 2-year moratorium on inclusion of unemployment compensation in gross income; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 1188. A bill to amend titles XI and XIX of the Social Security Act to provide for American Samoa treatment under the Medicaid Program similar to that provided to States; to the Committee on Energy and Commerce.

By Mr. FALEOMAVAEGA (for himself and Ms. Bordallo):

H.R. 1189. A bill to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Resources.

By Mr. FALEOMAVAEGA:

H.R. 1190. A bill to amend title 38, United States Code, to extend the eligibility for housing loans guaranteed by the Secretary of Veterans Affairs under the Native American Housing Loan Pilot Program to veterans who are married to Native Americans; to the Committee on Veterans' Affairs.

By Mr. GALLEGLY:

H.R. 1191. A bill to provide a grant program for gifted and talented students, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ (for himself, Mr. Farr, Ms. Baldwin, Ms. Schakowsky, Ms. Corrine Brown of Florida, Mr. Conyers, Ms. Norton, Mr. Frank of Massachusetts, Mr. Sanders, Ms. Woolsey, Ms. Lee, Ms. Solis, Mr. Payne, Mr. Rangel, Mr. Jackson of Illinois, Mr. Hastings of

Washington, Ms. KILPATRICK, Ms. DELAURO, Mrs. JONES of Ohio, Mr. SERRANO, Mr. MCNULTY, Mr. LIPINSKI, Mr. EVANS, Mr. SABO, Mr. BROWN of Ohio, Mr. OWENS, Mr. KUCINICH, Mr. RODRIGUEZ, Mr. FATTAH, Mr. STARK, Mr. COSTELLO, Mr. LYNCH, Mr. RAHALL, Mrs. MALONEY, Ms. MILLENDER-MCDONALD, Mr. GREEN of Texas, Mr. CUMMINGS, Mrs. NAPOLITANO, Ms. LINDA T. SÁNCHEZ of California, Mr. LANTOS, Mr. TIERNEY, Mr. KILDEE, Mrs. CHRISTENSEN, Mr. NADLER, Mr. MATSUI, Mr. DEFAZIO, Mr. ORTIZ, Mr. HINCHEY, and Mr. DAVIS of Illinois):

H.R. 1192. A bill to provide for livable wages for Federal Government workers and workers hired under Federal contracts; to the Committee on Government Reform, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYES:

H.R. 1193. A bill to amend title 10, United States Code, to provide permanent authority for certain chaplain-led family support programs of the Department of Defense; to the Committee on Armed Services.

By Mr. HERGER:

H.R. 1194. A bill to amend the Endangered Species Act of 1973 to enable Federal agencies responsible for the preservation of threatened species and endangered species to rescue and relocate members of any of those species that would be taken in the course of certain reconstruction, maintenance, or repair of Federal or non-Federal manmade flood control levees; to the Committee on Resources.

By Mr. LEWIS of Kentucky:

H.R. 1195. A bill to amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to carry out a demonstration program under the Medicare Program to examine the clinical and cost effectiveness of providing medical adult day care center services to Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. CROWLEY, and Ms. LEE):

H.R. 1196. A bill to provide a United States voluntary contribution to the United Nations Population Fund; to the Committee on International Relations.

By Mr. MORAN of Virginia (for himself and Mr. MCGOVERN):

H.R. 1197. A bill to direct the Consumer Product Safety Commission to promulgate a consumer products safety standard that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Energy and Commerce.

By Mr. PICKERING (for himself and Mr. WICKER):

H.R. 1198. A bill to amend the Defense Base Closure and Realignment Act of 1990 to prohibit the selection for closure or adverse realignment under such law any military installation used for undergraduate pilot training; to the Committee on Armed Services.

By Mr. RANGEL (for himself, Mr. DINGELL, Mr. HOLDEN, Mr. BROWN of Ohio, Mr. STARK, Mr. WAXMAN, Mr. PALLONE, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ALLEN, Mr. ANDREWS, Ms. BALDWIN, Mr. BECERRA, Mr. BELL, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of New York, Mr. BOSWELL, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Mr. CARDOZA, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CONYERS, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DOYLE, Mr. ENGEL, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GORDON, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOYER, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MATSUI, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOLLOHAN, Mr. MURTHA, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. OWENS, Ms. PELOSI, Mr. RAHALL, Mr. REYES, Mr. RODRIGUEZ, Mr. ROSS, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SLAUGHTER, Ms. SOLIS, Mr. STRICKLAND, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Mr. VISCLOSKY, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, and Mr. WYNN):

H.R. 1199. A bill to amend titles XVIII and XIX of the Social Security Act to provide for a voluntary Medicare prescription medicine benefit, to provide greater access to affordable pharmaceuticals, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDERMOTT (for himself, Mr. RANGEL, Mr. STARK, Mr. SERRANO, Ms. BALDWIN, Mr. WEINER, Mr. KUCINICH, Mr. CONYERS, Ms. LEE, Mr. FARR, Mr. DELAHUNT, Ms. WOOLSEY, Mr. HINCHEY, Mr. NADLER, Mr. SANDERS, Mrs. CHRISTENSEN, Mr. WAXMAN, and Ms. ROYBAL-ALLARD):

H.R. 1200. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. LINCOLN DIAZ-BALART of Florida, Mr. FOLEY, Mr. MARIO DIAZ-BALART of Florida, Mr. SMITH of New Jersey, Mr. WEXLER, Mr. TANCREDO, Mr. BURTON of Indiana, and Mr. ENGEL):

H.R. 1201. A bill to posthumously revoke the naturalization of Eriberto Mederos; to the Committee on the Judiciary.

By Mr. SCOTT of Georgia (for himself, Mr. MCINTYRE, Mr. TANNER, Mr. SHIMKUS, Mr. STENHOLM, Mr. LIPINSKI, Mr. FROST, Mr. LUCAS of Kentucky, Mr. ISAKSON, Mr. MEEK of Florida, Mr. PEARCE, Mr. RENZI, Ms. BORDALLO, and Mr. BISHOP of Georgia):

H.R. 1202. A bill to provide for a period of quiet reflection at the opening of certain schools on every school day; to the Committee on Education and the Workforce.

By Mr. SHIMKUS (for himself and Mr. JOHNSON of Illinois):

H.R. 1203. A bill to provide for the annual audit of the White County Bridge Commission, for the New Harmony Bridge over the Wabash River, Indiana and Illinois, for the filling of vacancies in the membership thereof, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SOUDER:

H.R. 1204. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes; to the Committee on Resources.

By Mr. STARK (for himself, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Ms. NORTON, Mr. NADLER, Ms. SCHAKOWSKY, Mr. GREEN of Texas, Mr. CARSON of Oklahoma, Mr. LANTOS, Mr. KILDEE, Mr. PASTOR, Ms. DELAURO, Mr. ABERCROMBIE, Mr. CONYERS, Mr. OLVER, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mr. HINCHEY, Mr. SCOTT of Virginia, Mr. CLAY, Mrs. CHRISTENSEN, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MCDERMOTT, Mr. OWENS, Mr. LATOURETTE, Mr. FALEOMAVAEGA, Ms. SOLIS, Mr. TIERNEY, Mr. STUPAK, Mr. KUCINICH, Mr. BRADY of Pennsylvania, Ms. BALDWIN, Mr. EVANS, and Ms. BERKLEY):

H.R. 1205. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SWEENEY:

H.R. 1206. A bill to prohibit United States voluntary and assessed contributions to the United Nations or the Organization for Economic Cooperation and Development if the United Nations or the Organization for Economic Cooperation and Development imposes any tax or fee on United States persons, continues to develop or promote proposals for such taxes or fees, or attempts to implement or impose a policy that would enable foreign governments to tax income earned inside the borders of the United

States; to the Committee on International Relations.

By Ms. WATSON (for herself, Ms. Eddie Bernice Johnson of Texas, Ms. Millender-McDonald, Mr. Owens, and Ms. Jackson-Lee of Texas):

H.R. 1207. A bill to amend the Higher Education Act of 1965 to withhold Federal student financial assistance from students who have engaged in hazing, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. Hyde, Mr. Neal of Massachusetts, Mr. King of New York, Mr. Crowley, Mr. Walsh, and Mr. Payne):

H.R. 1208. A bill to authorize appropriations for fiscal years 2004 and 2005 for United States contributions to the International Fund for Ireland, and for other purposes; to the Committee on International Relations.

By Ms. WATSON:

H.R. 1209. A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes; to the Committee on Resources.

By Mr. WAXMAN (for himself, Mr. Engel, Ms. Schakowsky, Mr. Crowley, Mr. Israel, Mr. Dicks, Ms. Watson, Mr. Abercrombie, Mr. Hastings of Florida, Mr. Ackerman, Mr. Owens, Ms. Berkley, Mr. Berman, Mr. Sherman, Mr. Weiner, Mr. Hinchey, Mr. Rohrabacher, Mr. Frost, Mrs. Capps, Mr. Wexler, Mr. Deutsch, Mrs. Maloney, Mr. Visclosky, Mrs. McCarthy of New York, Mr. Towns, Mr. Nadler, Ms. Millender-McDonald, Ms. Slaughter, Mr. Case, Mr. McNulty, Ms. Lofgren, Ms. Kaptur, Mr. Emanuel, Mr. Kucinich, Mr. Schiff, Mr. Farr, Mr. Faleomavaega, Ms. Solis, Mr. Frank of Massachusetts, and Mrs. Lowey):

H.R. 1210. A bill to provide for the establishment of the Holocaust Insurance Registry by the Archivist of the United States and to require certain disclosures by insurers to the Secretary of Commerce; to the Committee on Financial Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 1211. A bill to amend title 31, United States Code, to provide Federal aid and economic stimulus through a one-time revenue grant to the States and their local governments; to the Committee on Government Reform.

By Mr. SMITH of New Jersey (for himself, Mr. Evans, Mr. Brown of South Carolina, Mr. Rodriguez, and Mr. Michaud):

H.R. 1212. A bill to amend title 38, United States Code, to increase the amount of basic educational assistance for veterans under the Montgomery GI Bill, and to eliminate reductions of basic pay for eligibility for such assistance; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself, Mr. Boucher, Mr. Shimkus, Mr. Costello, Mr. Lewis of Kentucky, Mr. Mollohan, Mrs. Capito, Mr. Strickland, and Mr. LaHood):

H.R. 1213. A bill to facilitate the production and generation of coal-based power; to the Committee on Science, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico:

H.R. 1214. A bill to amend title XIX of the Social Security Act to provide public access to quality medical imaging procedures and radiation therapy procedures; to the Committee on Energy and Commerce.

By Mr. WYNN:

H.R. 1215. A bill to amend title 31, United States Code, to require the provision of a written prompt payment policy to each subcontractor under a Federal contract and to require a clause in each subcontract under a Federal contract that outlines the provisions of the prompt payment statute and other related information; to the Committee on Government Reform.

By Mr. WYNN:

H.R. 1216. A bill to amend the Small Business Act to increase the minimum Government-wide goal for procurement contracts awarded to small business concerns; to the Committee on Small Business.

By Mr. WYNN:

H.R. 1217. A bill to amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes; to the Committee on Small Business.

By Mr. WYNN:

H.R. 1218. A bill to require contractors with the Federal Government to possess a satisfactory record of integrity and business ethics; to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin (for himself and Mrs. Maloney):

H.J. Res. 36. A joint resolution expressing the sense of the Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month; to the Committee on the Judiciary.

By Mr. ENGEL (for himself, Mr. Towns, Ms. Slaughter, Ms. Lee, Mr. Lantos, Ms. Woolsey, Mr. Nadler, Mr. Frank of Massachusetts, and Ms. Baldwin):

H. Con. Res. 86. Concurrent resolution supporting the goals and ideals of the Day of Silence; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. McGovern, and Mr. Bilirakis):

H. Con. Res. 87. Concurrent resolution expressing the sense of the Congress regarding Turkey's claims of sovereignty over islands and islets in the Aegean Sea; to the Committee on International Relations.

By Mr. ANDREWS:

H. Con. Res. 88. Concurrent resolution expressing the sense of Congress that the Children's Internet Protection Act is constitutional as it applies to public libraries; to the Committee on the Judiciary.

By Mr. McDERMOTT (for himself, Mr. George Miller of California, Mr. Conyers, Ms. Lee, Mr. Kucinich, Ms. Norton, Mr. Brown of Ohio, Mr. Payne, Mr. Owens, and Mr. Olver):

H. Con. Res. 89. Concurrent resolution expressing the sense of Congress that the United States should respect the sovereign equality of the member states of the United Nations Security Council with respect to each state's position concerning Iraq's compliance with Resolution 1441; to the Committee on International Relations.

By Mr. OTTER:

H. Con. Res. 90. Concurrent resolution expressing the sense of the Congress that hunting seasons for migratory mourning doves should be modified so that individuals have a fair and equitable opportunity to hunt such birds; to the Committee on Resources.

By Mr. NEY (for himself and Mr. Larson of Connecticut):

H. Res. 134. A resolution electing Members to serve on the Joint Committee on Printing and the Joint Committee of Congress on the Library; to the Committee on House Administration.

By Mr. NEY (for himself and Mr. Larson of Connecticut):

H. Res. 135. A resolution providing amounts for the expenses of the Committee on House Administration in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. CANTOR:

H. Res. 136. A resolution congratulating the American Dental Association for establishing the "Give Kids a Smile" program, emphasizing the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself, Mrs. Johnson of Connecticut, Mr. George Miller of California, Mr. Kildee, Ms. Solis, Ms. Woolsey, Ms. DeLauro, Mrs. McCarthy of New York, Ms. McCollum, Ms. Millender-McDonald, Ms. Loretta Sanchez of California, Mrs. Maloney, Mr. Andrews, Mr. Payne, Mr. Farr, Mrs. Capps, and Mr. Bishop of New York):

H. Res. 137. A resolution expressing the sense of the House of Representatives that changes to Title IX athletics policies contradict the spirit of athletic equality and gender parity and should not be implemented, and that Title IX should be kept intact; to the Committee on Education and the Workforce.

By Mr. WYNN:

H. Res. 138. A resolution expressing the sense of the House of Representatives that small business concerns should continue to play an active role in assisting the United States military, Federal intelligence and law enforcement agencies, and State and local police forces by designing and developing innovative products to combat terrorism, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from small business concerns to improve homeland defense and aid in the fight against terrorism; to the Committee on Small Business.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. Collins, Mr. Isakson, Mr. Terry, Mr. Garrett of New Jersey, and Mr. Kolbe.

H.R. 5: Mr. DeMint, Mr. Sweeney, Mr. LaHood, Mr. Bradley of New Hampshire, Mr. Manzullo, and Mr. Simpson.

H.R. 20: Mr. Ryan of Ohio, Mr. Ruppersberger, Mr. Weller, and Mr. Crowley.

H.R. 40: Mr. Nadler.

H.R. 44: Mr. Pitts, Mrs. Jo Ann Davis of Virginia, Mr. Schrock, Mr. Wicker, Mr. Ryun of Kansas, and Mr. Tiahrt.

H.R. 57: Mr. Lucas of Oklahoma, Mr. Thornberry, Mr. Vitter, and Mr. Cantor.

H.R. 58: Mr. Kind, Mr. Kanjorski, Mr. Nadler, Mr. Michaud, Mr. Farr, Mr. Matsui, Ms. Eddie Bernice Johnson of Texas, Mr. Porter, Mr. Ney, and Mr. Camp.

H.R. 105: Mr. Meek of Florida, Mr. Ryan of Ohio, and Ms. Lee.

H.R. 107: Mr. Kildee.

H.R. 114: Mr. Porter.

H.R. 119: Mr. Tiahrt.

H.R. 153: Mr. Cannon.

H.R. 207: Mr. Terry.

H.R. 235: Mr. King of New York, Mr. Hayworth, Mr. Deal of Georgia, Mr. Burton of Indiana, Mr. Hyde, Mr. Putnam, Mr. Bartlett of Maryland, and Mr. Faleomavaega.

H.R. 259: Mr. Meek of Florida.

H.R. 284: Mr. Boswell, Mr. George Miller of California, Mr. Sherman, Mr. McInnis, Mr. Beauprez, Mr. Vitter, Mr. Rangel, Mr. Stearns, and Mr. Tancredo.

H.R. 300: Mrs. Emerson, Mr. Manzullo, and Mr. Hayes.

H.R. 303: Mr. Farr, Mr. Franks of Arizona, Mrs. Capito, Ms. Berkley, Mr. Oxley, Mr. Souder, Mr. Reyes, Mr. Allen, Mr. Hobson, Mr. Ackerman, Mr. Thornberry, Mr. Stearns, Mr. King of Iowa, and Mr. Ramstad.

H.R. 340: Mr. Inslee and Mr. Ose.

H.R. 372: Mr. Filner.

H.R. 401: Mr. Kirk, Mr. LaTourette, and Mr. Pallone.

H.R. 411: Ms. Kilpatrick.

H.R. 412: Mr. Porter, Mr. Leach, and Mr. Miller of North Carolina.

H.R. 419: Mr. Doyle.

H.R. 441: Ms. Lee, Mr. Ackerman, Mr. Clay, Mr. Cummings, and Mr. Garrett of New Jersey.

H.R. 446: Mr. Scott of Virginia.

H.R. 447: Mr. Sanders and Mr. Scott of Virginia.

H.R. 448: Mr. Scott of Virginia.

H.R. 453: Mr. Tiberi.

H.R. 482: Ms. Corrine Brown of Florida.

H.R. 490: Mr. Hoeffel, Mr. Boyd, Mr. Ford, and Mr. Nadler.

H.R. 517: Mr. Upton.

H.R. 527: Ms. Ginny Brown-Waite of Florida.

H.R. 528: Ms. Roybal-Allard and Mr. Weiner.

H.R. 531: Mr. LaTourette, Mr. Tom Davis of Virginia, Mr. Gallegly, and Mr. Nadler.

H.R. 533: Mr. Michaud.

H.R. 571: Mr. Lincoln Diaz-Balart of Florida, Mr. Everett, Mr. Bachus, Mr. Lewis of Kentucky, Mr. Souder, and Mr. Ryun of Kansas.

H.R. 613: Ms. Ginny Brown-Waite of Florida.

H.R. 660: Mr. Case, Ms. Loretta Sanchez of California, Ms. Ginny Brown-Waite of Florida, Mr. Faleomavaega, and Mr. Cox.

H.R. 664: Mr. Doggett, Mr. Schiff, Ms. Berkley, Mr. Lantos, Mr. Costello, Mr. George Miller of California, and Mr. Hyde.

H.R. 671: Ms. McCarthy of Missouri and Mr. Bereuter.

H.R. 673: Mr. Upton, Mr. Lipinski, and Mr. Frost.

H.R. 683: Mr. Green of Wisconsin, Mr. Crane, and Mr. Coble.

H.R. 684: Mr. Garrett of New Jersey.

H.R. 690: Mr. Owens.

H.R. 703: Mr. LoBiondo.

H.R. 713: Mr. Taylor of North Carolina.

H.R. 714: Mr. Bonner and Mr. Wamp.

H.R. 720: Ms. Dunn, Mr. Bilirakis, Mr. Feeney, Mr. Shaw, Mr. Sessions, Mr. Meek of Florida, Mr. Stearns, Mr. Hensarling, Mr. Putnam, Ms. Harris, Mr. Barton of Texas, Mr. Keller, Mr. Crenshaw, Mr. Smith of Texas, Mr. Thornberry, Mr. Mica, Mr. Lincoln Diaz-Balart of Florida, Mr. Crane, and Mr. Gonzalez.

H.R. 728: Mrs. Myrick, Mr. Crenshaw, Mr. Bass, and Mrs. Jo Ann Davis of Virginia.

H.R. 729: Mr. Gutknecht.

H.R. 735: Mr. Larson of Connecticut, Mr. Houghton, Mr. Blumenauer, Mr. LoBiondo, Mr. Saxton, Mr. Frost, Mr. Holden, and Mr. Lincoln Diaz-Balart of Florida.

H.R. 737: Mr. Stenholm.

H.R. 741: Mr. Case and Mr. Paul.

H.R. 745: Mr. Udall of Colorado.

H.R. 758: Mr. Bereuter.

H.R. 765: Mr. Hostettler.

H.R. 767: Mr. Kolbe, Mr. Carter, Mr. Sam Johnson of Texas, Ms. Ginny Brown-Waite of Florida, and Mr. McInnis.

H.R. 768: Mr. Gutierrez, Mr. Etheridge, Mr. Jackson of Illinois, and Mr. Engel.

H.R. 798: Mr. Udall of Colorado, Ms. Carson of Indiana, Mr. Weiner, Mr. Rangel, Mr. Costello, and Mr. Wynn.

H.R. 800: Mr. Hunter.

H.R. 802: Mr. Owens.

H.R. 811: Mr. Ruppersberger and Mr. Tierney.

H.R. 839: Mr. Cole and Mr. Simmons.

H.R. 844: Mr. Clyburn, Mr. Kildee, Ms. Millender-McDonald, Ms. Watson, Ms. Jackson-Lee of Texas, and Mr. Gonzalez.

H.R. 847: Mr. Ryan of Ohio and Ms. Schakowsky.

H.R. 857: Mr. Filner and Ms. DeLauro.

H.R. 859: Mr. Bereuter.

H.R. 882: Mr. Pitts, Mr. Frost, Ms. Ginny Brown-Waite of Florida, and Mr. McHugh.

H.R. 886: Mr. Michaud and Mr. Ryan of Ohio.

H.R. 887: Ms. Loretta Sanchez of California and Mr. Skelton.

H.R. 893: Ms. Lofgren.

H.R. 898: Mr. Ballance.

H.R. 919: Mrs. Kelly, Mr. Ruppersberger, Mr. Ryan of Ohio, Mr. Kennedy of Rhode Island, Mr. Waxman, and Mr. Grijalva.

H.R. 925: Mr. Hyde, Mr. Hastert, and Mr. Kirk.

H.R. 931: Mr. Manzullo, Mr. Hostettler, Mrs. Myrick, Mr. Taylor of North Carolina, and Mr. Bartlett of Maryland.

H.R. 934: Mr. Kildee, Mr. Faleomavaega, Mr. Owens, and Mr. Frost.

H.R. 936: Ms. Norton and Mr. Filner.

H.R. 941: Mr. Rogers of Michigan and Mr. Sam Johnson of Texas.

H.R. 953: Mr. Miller of North Carolina, Mr. Bachus, Mr. Renzi, Mr. Lewis of Georgia, and Ms. Ros-Lehtinen.

H.R. 976: Mr. Meek of Florida and Mr. George Miller of California.

H.R. 977: Mr. Thompson of California.

H.R. 979: Ms. Eshoo and Mr. Doyle.

H.R. 980: Mr. Forbes, Mr. Wexler, and Mrs. Maloney.

H.R. 1005: Mr. Hastings of Washington and Mr. Porter.

H.R. 1007: Mr. Israel, Mr. Crowley, Ms. McCarthy of Missouri, Mr. Faleomavaega, Mr. Frost, Mr. Ruppersberger, and Mr. Berman.

H.R. 1013: Mr. Nethercutt, Mr. Otter, Mr. Doolittle, Mr. Norwood, Mr. Ose, Mr. Pickering, Mr. Issa, and Ms. Ginny Brown-Waite of Florida.

H.R. 1020: Mr. Petri.

H.R. 1021: Mr. Ackerman, Mr. Crowley, Mr. Faleomavaega, Mr. Fattah, Mr. Frank of Massachusetts, Ms. Norton, Ms. Lee, Mr. Menendez, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Nadler, Mr. Owens, Mr. Pomeroy, Ms. Ros-Lehtinen, Mr. Ryan of Ohio, and Mr. Schiff.

H.R. 1057: Mr. Watt, Mr. Rangel, and Mr. Burgess.

H.R. 1068: Mr. Hunter, Mr. Pastor, Mr. Nadler, Mr. Gilchrest, Mr. Cooper, Mrs. Wilson of New Mexico, Mr. Cox, Mr. Latham, Mr. Gibbons, and Mr. Davis of Tennessee.

H.R. 1070: Mr. Costello.

H.R. 1077: Mr. Cooper.

H.R. 1093: Mr. Cooper, Mrs. Jones of Ohio, Mr. Faleomavaega, and Mr. Carson of Oklahoma.

H.R. 1096: Mr. Reyes, Mr. Hayworth, and Mr. McHugh.

H.R. 1097: Mr. Towns, Ms. Velázquez, Mr. Weiner, Mrs. Lowey, Mr. Nadler, Mr. Filner, Ms. Eddie Bernice Johnson of Texas, and Ms. DeLauro.

H.R. 1102: Mr. Pastor, Mrs. Napolitano, Mr. Cramer, and Mr. English.

H.R. 1105: Mr. Ortiz and Mr. Smith of Washington.

H.R. 1114: Mr. Bachus, Mr. Bradley of New Hampshire, Mr. Platts, Mr. Greenwood, Mr. Carter, Mr. Ehlers, Mr. Boozman, Mr. Gilchrest, and Mr. Upton.

H.R. 1116: Ms. Linda T. Sánchez of California, Mr. Meehan, and Mr. Owens.

H.R. 1120: Ms. Ginny Brown-Waite of Florida and Mr. Nadler.

H.R. 1125: Mr. Combest, Mr. Moran of Virginia, Mr. Upton, Ms. Ginny Brown-Waite of Florida, Mr. Sherman, Mr. Langevin, Mr. Doggett, Mrs. McCarthy of New York, Mr. Sandlin, Mr. Strickland, Mr. Bartlett of Maryland, Mr. Hoeffel, and Mr. Simmons.

H.R. 1126: Mr. Beauprez and Mr. Faleomavaega.

H.R. 1144: Mr. Clyburn.

H.R. 1145: Ms. Lee.

H.R. 1146: Mr. Everett.

H.R. 1147: Mr. George Miller of California.

H.R. 1157: Mr. Otter, Mrs. Capps, Mr. Pastor, and Mr. Nadler.

H.J. Res. 8: Mr. King of Iowa.

H.J. Res. 24: Mr. Allen, Mr. Fattah, Ms. Woolsey, Mr. Sabo, Mr. Udall of New Mexico, Mr. Kucinich, Mr. McGovern, Mr. Owens, Mr. Kind, Ms. Eshoo, Mr. Clay, Mr. Holt, Mr. Tierney, Mr. Abercrombie, Mr. Rangel, Mr. George Miller of California, Mr. Faleomavaega, Ms. Lee, Mr. Meeks of New York, Mr. Ryan of Ohio, Ms. Loretta Sanchez of California, and Mr. Olver.

H. Con. Res. 23: Mr. Cantor.

H. Con. Res. 25: Ms. Loretta Sanchez of California.

H. Con. Res. 30: Mr. Dingell.

H. Con. Res. 57: Mr. Udall of Colorado, Mr. Gonzalez, and Mrs. Lowey.

H. Con. Res. 61: Mr. Lampson and Mr. Miller of North Carolina.

H. Con. Res. 78: Mr. Towns, Mr. Meeks of New York, Mr. Gutierrez, Ms. Millender-McDonald, and Mr. Davis of Illinois.

H. Res. 12: Ms. Jackson-Lee of Texas, Mr. Hinojosa, Mr. Gonzalez, and Mr. Frost.

H. Res. 39: Mr. Knollenberg and Mr. Souder.

H. Res. 59: Mr. Hobson.

H. Res. 133: Mr. Chabot.

# EXTENSIONS OF REMARKS

## TRIBUTE TO THE BROOKLYN TABERNACLE CHOIR

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to the Brooklyn Tabernacle Choir.

The internationally renowned Brooklyn Tabernacle Choir was founded in 1973. As part of the ministry of the Brooklyn Tabernacle Church in Brooklyn, New York, the 250-voice choir is recognized worldwide for the magnitude of its sound and the soul-filled inspiration of its music. Since its formation three decades ago, the choir has emerged as a major influence within the Christian/gospel music industry.

With a multi-ethnic and economically diverse membership, the choir truly represents the best of New York and America. Some members have been singing with the choir for more than 25 years. Despite their differing backgrounds, the entire choir operates like a close knit family. This level of cooperation is possible because of the individual commitment of the members and the inspired leadership of its director, Carol Cymbala. I want to commend the choir on its ability to apply the harmony of music to the ministry of life.

On February 23, 2003, the Brooklyn Tabernacle Choir won a Grammy Award for Best Gospel Choir or Chorus for its album "Be Glad". With this most recent recognition, the group has become one of a few choirs which has attained the acknowledgment of both the popular music business and the Christian music industry. As a five-time winner of the Grammy Award and two-time winner of the Dove Award, the Brooklyn Tabernacle Choir has performed in some of the most celebrated venues in New York City, including Carnegie Hall, Radio City Music Hall, and the Paramount Theater. In a rare testament to the power of its music, the choir has played to a sold-out audience at Madison Square Garden. With New York City and Brooklyn as its home, the choir continues to greatly impact the local community, including my district, the 10th Congressional District of New York.

Mr. Speaker, I rise today to commend this choir not only on its most recent Grammy Award but on its 30 years of dedicated music ministry. In these difficult and uncertain times, I sincerely hope that the Brooklyn Tabernacle Choir continues to use music to bring a message of good news and hope to Brooklyn and the world.

## A PROCLAMATION RECOGNIZING KEVIN H. BARNETT

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. NEY. Mr. Speaker, whereas, Kevin H. Barnett has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Kevin H. Barnett has shared his time and talent with the community in which he resides; and

Whereas, Kevin H. Barnett has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Kevin H. Barnett must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award; and

Therefore, I join with Troop 141, the residents of Carrollton, and the entire 18th Congressional District in congratulating Kevin H. Barnett as he receives the Eagle Scout Award.

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## SOCIETY FOR HUMAN RESOURCE MANAGEMENT (SHRM)

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. BOEHNER. Mr. Speaker, I rise today to welcome the members of the Society for Human Resource Management (SHRM) to Washington, D.C. for their 20th Annual Employment Law and Legislative Conference. Today, more than 200 SHRM members will visit Capitol Hill to share their views and experiences with issues such as the Fair Labor Standards Act, health care reform, and pension reform.

SHRM is the world's largest association devoted to human resource management. Representing more than 170,000 individual members, the Society serves the needs of human resource (HR) professionals by providing the most essential and comprehensive set of resources available. As an influential voice, SHRM also seeks to advance the HR profession by ensuring that HR is an essential and effective partner in developing and executing organizational strategy.

As a legislator, I want to congratulate the members of SHRM for recognizing the important role individuals can play in affecting the legislative process. HR professionals maintain demanding schedules and are crucial to the successful operation of our nation's organizations. Most importantly they understand the positive impact of meeting with their Senators and Representatives to discuss recent workplace trends, their policy implications, and suggested remedies. Citizen participation is a crucial component of the legislative process, allowing legislators and their staff the opportunity to hear constituents explain personal experiences as they live and work within our nation's laws. Finally, legislators gain critical knowledge through these conversations, resulting in legislation that's clearly applicable to the workplace and effective for employees and employers.

Mr. Speaker, I sincerely thank the members of SHRM for their commitment to provide value to employees and employers across the United States while contributing an essential component to the political process—practical real world experience.

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## ARTICLE BY RABBI ISRAEL ZOBERMAN

### HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SCHROCK. Mr. Speaker, I am pleased to share the following article written by a constituent, Rabbi Israel Zoberman. His article is timely and informative with respect to the current political situation in Israel.

With a heavy heart I bade shalom's farewell to elderly parents who are Holocaust survivors, and to Israel where I grew up, on the eve of the unknown. I left a country calmly readying itself for a probable American attack on Iraq in freedom's name, and possible ramifications for the Jewish state that already experienced a limited taste of Saddam Hussein's Scud missiles during the 1991 Gulf War. As then, which I witnessed as well, the Israeli public receives updated gas masks, and urged to prepare a sealed shelter with essential food items. There is less concern now though it can quickly change.

I visited Israel with fellow rabbis immediately following the general elections there which serve as a barometer for the citizens' mindset, particularly after enduring over two years of the bloody Second Initifada presenting Israel with its greatest crisis since its 1948 inception. The resulting shrinking economy and the growing gap between the haves and the have-nots have added pressure, but also fortified the Israeli resolve to withstand the Palestinian assault of unprecedented suicide-homicide bombings, reflected in the elections' outcome. Free elections are not to be taken for granted in that part of the world, and Israel's vibrant example is the only such sign of democratic life! Israel is worried that only 69 percent of eligible voters participated this time, that should only happen in our own great democracy.

Prime Minister Sharon and the political Right were assured a major victory though the message was primarily aimed at Chairman Arafat along with punishing Israel's Left for providing him through the Oslo Accords with the means to terrorize though

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

short of submission to his agenda. Thus Arafat's plan boomeranged to gain through violence beyond what former Prime Minister Barak so trustfully offered him. He lost his gamble, with the Palestinians miscalculating once more and continuing to hurt their own welfare. This time Arafat succeeded to convince Israel and the U.S., both victims of terrorism and allies in combating it, that he is a critical obstacle to peace. I was fortunate to participate in a helicopter ride along the seam line separating the Israelis and Palestinians, watching from above the complexity of erecting the separation fence and Israel's disconcerting narrow waistline.

The sharpening conflict has also adversely impacted European Jewry as we studied the precipitous rise in anti-Semitism in France during our initial stop there, mindful of the contributing presence of millions of Arab Muslims though the French authorities are not indifferent to the Jewish plight. We were warmly greeted and candidly briefed by Howard Leach, the American Ambassador to France in his official residence. Israel's ambassador, Nissin Zvllli, was gracious as well. Both ambassadors pointed at the linkage between the events in the Middle East and the French scene. Our moving meeting with the legendary Nazi-hunter Beatte Klarsfeld reminded us that the Holocaust's ghosts are not altogether expunged. This sense was reinforced at the Drancy Memorial on the outskirts of Paris, where French Jews were herded into the surrounding building complex before deportation to death.

I painfully watched in disbelief on Israeli TV the shattering dream, so close to realization though so far, of Israel's first astronaut on his maiden voyage. Ilan Ramon's call from outer space to remember that we are all one human family on a precious but fragile planet Earth will long echo. His radiating and captivating optimism is so sorely missing and needed at this trying time. He, whose mother survived Auschwitz, along with his inspiring American colleagues aboard the Columbia, taught us how vulnerable are our most noble human aspirations and that the road to accomplishing them is strewn with broken pieces of a reality we are yet pledged to redeem through shalom's persistent promise of peace.

Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, is a member of the Rabbinic Cabinet of United Jewish Communities.

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## TRIBUTE TO WILLIAM C. WRIGHT

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of William C. Wright of Pueblo, Colorado. Bill was a hero who saved the lives of five people and was a constant contributor to his community. Today, I stand before this body of Congress and this nation to honor the heroism of William C. Wright, and commemorate his recent passing.

In a span of less than ten years, Mr. Wright's selflessness and quick thinking saved the lives of five people. In June of 1964, while working on a construction site, Bill saved an 18-month-old girl who had stepped in front of a moving truck. Bill risked his own life by jumping in front of the truck and cushioning the girl's fall with his own body. Then, a few weeks later, Bill stopped his car at an accident on La Veta Pass. Seeing a man pinned beneath the overturned car, Bill lifted the car, freeing the man to crawl to safety. Always humble, Mr. Wright said he doubted his own physical strength. The strength of his resolve saved the trapped man's life.

Less than a year later, Bill saved a young girl in a busy intersection in Gunnison, Colorado. Then, while traveling to Golden, Bill again paused to check on a vehicle stopped in the middle of the road. He saw a five-year-old boy brush against the gearshift, sending the car down a steep incline. Bill dashed after the car and, after breaking the window with his shoulder, stopped the car, saving the boy inside it. Finally, during a trip to Las Vegas, Bill saved another young girl, though he himself suffered a fractured elbow and a broken wrist. Mr. Wright's quick actions and selfless thinking saved the lives of five individuals, making him a true hero who will be deeply missed.

Mr. Speaker, it is with great sadness that we mourn the loss of Mr. William Wright. He saved many lives, and was a hero for Pueblo and all of Colorado. As we mourn Bill's passing, our thoughts are with those who knew him, and we are sure that his memory will live on in the lives of all those he touched, and especially those he saved.

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## IN RECOGNITION OF THE 60TH ANNIVERSARY OF INTERSTATE WORLDWIDE RELOCATION

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. WOLF. Mr. Speaker, I am proud today to recognize the 60th anniversary of Interstate Worldwide Relocation, headquartered in northern Virginia, a worldwide relocation and transportation management company specializing in household goods moving and storage.

A sterling example of the American dream fulfilled, Arthur E. Morrissette started the company on March 15, 1943, with a used truck worth $450, a dolly and a few furniture pads. His first move was billed at $12.50, and in the winter of that year he sold bundles of firewood just to keep the business going. Today, Interstate is a multi-million dollar enterprise, operating a fleet of approximately 300 vehicles, employing more than 300 people in northern Virginia and consisting of over 500 representatives worldwide.

Interstate, ranked in the nation's top twenty for relocation and transportation management companies, is committed to its motto of providing "Top Hat Service." The company has been recognized by both industry and community organizations for its outstanding customer service and safety efforts. To mention a few, American Moving and Storage Association honored Interstate in 2001 with a first place Safety Initiative Award and Fleet Safety Award. Fairfax County Economic Development Authority awarded its 2001 Blue Diamond Quality First Award to Interstate distinguishing the company as a business that provides high quality customer service above and beyond industry standards.

In addition, Interstate was awarded the 2001 National Capital Ethics Award by the Greater Washington and Northern Virginia Chapter of the Society of Financial Services Professionals as a business that exemplifies a strong commitment to business excellence and to the highest standards of civic and social responsibility, integrity and ethical conduct.

Interstate also has become the U.S. Department of Defense's second-largest mover, and has provided a superior level of service to military families moving domestically, and internationally.

The company also has a long standing commitment to serving the needs of the community, both locally and across the Commonwealth. Interstate's dedication to the support of education from the elementary school level through and including endowed scholarships at universities in the Commonwealth is commendable.

It is an honor to present Interstate Worldwide Relocation as an example of the business values America holds dear and as an example of an outstanding corporate citizen. On behalf of the northern Virginia community, we wish the entire Interstate family of management and employees another 60 years of "Top Hat Service."

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## A TRIBUTE TO YOLANDA J. MARTIN

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Yolanda J. Martin in recognition of her dedication to helping those in need.

Yolanda was born in the town of Puerto Armuelles in the Republic of Panama. However, she spent her formative years of elementary and high school in the city of Colon.

She immigrated to the United States in 1981 and has been a resident of Brooklyn ever since that time. Yolanda has a strong desire to improve her community by assisting the less fortunate. She believes that we must provide children and adults with the necessary resources to become educated and gain financial independence. Through education and financial development, she feels communities can empower themselves. She has shown a consistent dedication to these ideals through both her professional and personal life.

At fourteen, Yolanda joined the Boy Scouts Explorer unit where she was exposed to Emergency Medical rescue trainings. This experience cultivated her fascination with the medical field. Yolanda has become a State certified Emergency Medical Technician (EMT), Nurses Assistant, C.P.R. and First Aid Instructor, and HIV/AIDS Educational Instructor. As a way of giving back to the community, she worked as an EMT from 1990 to 1995, responding to 911 calls with a volunteer ambulance service. She volunteered an average of 20 to 30 hours a week.

Yolanda began her professional career in the United States working with mentally disabled people for the State of New York State from 1982 to 1985. For the next three years, she worked at the New York State Division for Youth. Yolanda followed this experience by working for the Board of Education as a bilingual Paraprofessional in Special Education.

More recently, she has founded three childcare services: Parents United for a Better Society Inc., child care center number one and child care center number two, and Minnie's Family Group Day Care, where she serves as the Executive Director and CEO.

The center offers the community 95 slots for day care, after school programs, summer programs, and universal pre-kindergarten for children up to 13 years old. Adult training and parenting classes are provided to the parents and others in the community as well. Yolanda is presently working on creating an additional day care center that will provide 178 childcare slots and a senior citizen day care program in the East New York area of Brooklyn.

Yolanda participates in a wide array of community activities. She helps distribute food to disadvantaged families in the community and assists undocumented residents with referrals to the appropriate agencies that can address their needs. Yolanda is the President and founder of a women's support group called Innovation and serves on the Board of Directors for the New York Lions Club. She is also a member of the Panamanian Black Chambers of Commerce, the Prospect Park Alliance group, the Interfaith Medical Center Auxiliary, and the PNM group of North America.

When Yolanda is not working with others in the community, she spends time with her children and family. She has three children, Ronald, Kendra, and Courtney. Yolanda is known for her excellent cooking as well as her interior decorating ability. She also enjoys the performing arts, horseback riding, and grooming horses.

Mr. Speaker, Yolanda is devoted to improving her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

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## A PROCLAMATION RECOGNIZING JOHN ALEXANDER GRECO

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. NEY. Mr. Speaker, Whereas, John Alexander Greco has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, John Alexander Greco has shared his time and talent with the community in which he resides; and

Whereas, John Alexander Greco has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, John Alexander Greco must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 150, the residents of Minerva, and the entire 18th Congressional District in congratulating John Alexander Greco as he receives the Eagle Scout Award.

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## TRIBUTE TO DONALD LEE KRIZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of Donald Lee Kriz and thank him for his contributions to the community of Glenwood Springs, Colorado. Donald passed away recently, and will be truly missed in his community.

Donald was born in Nebraska in 1929 and later moved to Greeley, Colorado, after having served in the U.S. Navy. While in the Navy, Donald was stationed in the Philippines for 13 months. After arriving in Greeley in the early 1950s, Donald worked for a farm equipment company. Then in 1965, he and his brother started Mountain Mobil Mix, a ready-mix concrete company in Frisco. The business boomed, and eventually expanded to cover over eight Western Slope counties. After having become a leader in concrete technology, Mr. Kriz sold the business in 1982. Once retired, Donald divided his time between his beloved Colorado and Arizona.

Donald was a leader in the business community, but his influence did not stop there—he was also an avid philanthropist. Donald was well known as a generous soul. He helped many young people with their college tuitions, their first homes and even with starting a business. Mr. Kriz was not only generous with his money, but also with his time. He helped to raise money for Garfield Youth Service through the annual "Kiss-a-Pig" fundraiser for many years. Donald was a gracious and giving man, whose community benefited significantly from his knowledge, time and efforts.

Mr. Speaker, it is with profound sadness that I remember the life of Donald Lee Kriz. The many people he impacted deeply value his dedication and generosity. My thoughts and prayers are with Donald's family and friends during this difficult time.

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## HELP MORE FULL-TIME WORKERS BRING HOME A DECENT PAYCHECK

### HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. GUTIERREZ. Mr. Speaker, today I am introducing the "Federal Living Wage Responsibility Act of 2003," legislation to mandate a livable wage for employees under Federal contracts and subcontracts. Forty-eight representatives currently cosponsor this important legislation.

Nearly a third of the members of the U.S. labor force work full-time, year-round and still do not earn enough to sustain a family above the poverty threshold of $18,400 per year for a family of four. Employees who work hard at full-time jobs should be paid a wage that assures they will not live in poverty.

To address this problem, this Act requires that:

Employees of Federal contracts or subcontracts of more than $10,000 be paid the greater of $8.85 per hour or the hourly wage necessary to reach the poverty level.

Individuals hired by the United States government also receive a living wage, helping thousands of more workers to stay above the poverty level.

Employees of Federal contracts or subcontracts and individuals hired by the United States government receive benefits such as medical or hospital care, vacation and holiday pay, disability and sickness insurance, life insurance and pensions.

Although Congress passed laws such as the Davis-Bacon Act and the Service Contract Act to help ensure that employees of Federal contractors earn a decent wage, thousands of federal workers and federally-contracted workers still do not earn enough to support themselves or their families.

This legislation will allow hard-working Americans to earn quality wages and to increase their savings for such essential needs as their retirement and their children's education. We believe the Federal government must take responsible, workable steps to reward working Americans and to help keep them out of poverty. This bill represents a practical step toward that goal.

Mr. Speaker, I urge my colleagues to support this important legislation.

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## TRIBUTE TO DEREK GRAY

### HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. MEEHAN. Mr. Speaker, I rise to express my strong support for the resolution offered by my colleague from Rhode Island. This resolution expresses the sense of the House of Representatives with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island, and expresses the condolences of Congress to the families and friends of the people who died in that horrible fire.

I was deeply saddened to learn of the tragic deaths of the 99 people who were killed and more than 180 others who were injured in the fire, including the death of Derek Gray. Derek was a Dracut, Massachusetts resident and only 22 years old when he died as a result of the nightclub fire. I want to express my deep condolences to Derek's family, as well as to the families and friends of all of the people who died or were injured as a result of the fire.

The Station nightclub fire was a massive tragedy—one in which nearly 100 people lost their lives. What we know about that horrible event is that the people who perished that night were the victims of a lack of protections—or enforcement of existing protections—to ensure the safety of club-goers. Last month, numerous others lost their lives in a Chicago nightclub stampede for the same reason.

We in Congress have a duty to the people who lost their lives and their families to work to ensure that these events never occur again.

We need to dramatically increase safety protections at entertainment facilities across this country, and we need to do it now.

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## A TRIBUTE TO EVELYN MEDORA MOSS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Evelyn Medora Moss in recognition of her commitment to her community.

Born in the Republic of Panama to George Leopole and the late Imogene Elisa Ashley, Evelyn came to the United States in the early 1960s. She is truly one of Panama's and America's success stories. Realizing early on that education was a key for a successful future, Evelyn attended the University of Panama and received a degree in Home Economics in 1959. After graduating, she took a job as a home economics teacher for Christ Church Episcopal School in Colon, Republic of Panama.

In the early 1960s, when she moved to the United States, Evelyn used her aptitude for numbers to start a new career. In 1962, she obtained a job as an Assistant Bookkeeper for White Mark Stores in New York City. She continued there until 1968 when she took a job at Ebasco Services where she worked for the next 25 years. She began as a Lead Accounting Clerk and would work her way up to Corporate Manager of Accounts Payable. In 1994 Evelyn joined Raytheon Engineers and Constructors as an Accounting Supervisor. Currently, she works for Washington Infrastructure Services as an Assistant Accountant. Never losing sight of the importance of education, Evelyn attended Brooklyn College during this time, receiving her Bachelor of Arts in Economics in 1977 and her Bachelor of Science in Accounting in 1978. Later, she completed courses at the Businesswomen's Training Institute, focusing on leadership issues. She also participated in the Institute's Advanced Studies' program.

Evelyn has also become a member of several professional organizations including the National Association of Black Accountants, the National Association of Female Executives, the National Association of University Women (NAUW), Harry S. Truman New Way Democratic Club in Brooklyn, the National Political Congress of Black Women, Brooklyn College Alumni Association, and the Women's Empowerment Movement.

She has been honored with several awards and distinctions for her accomplishments. The list includes: NAUW's 1987 Women of the Year Award, Women's Empowerment Movement's 2001 Outstanding Member of the Year, and NAUW's 2002 Distinguished Member award. She has also been listed in Who's Who in America, Who's Who in Finance, Who's Who in the World, and Two Thousand Notable American Women. Evelyn notes that her most important achievement is her son Marc Anthony.

The other important aspect of her life is her role as an active member of Trinity Church on Wall Street in New York City. She served for three years as Vice-President of the Congregation Council and is currently President. She has also performed several other functions including layperson, head usher, and congregation representative to the vestry.

Mr. Speaker, with her numerous awards and professional memberships, Evelyn Medora Moss has shown that she is clearly dedicated her community. As such, she is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly remarkable woman.

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## TRIBUTE TO CHIEF DARWIN HIBBS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the service of Chief Darwin Hibbs of Salida, Colorado before this body of Congress and this nation. After thirty-seven years working for the people of Salida, Chief Hibbs can be confident that his community is truly grateful for his years of dedicated service.

Darwin, who grew up in Salida, started working for the Police Force when he was only 25 years old. He started as a parking monitor, but through his hard work and dedication he moved through the ranks to become Salida's longest serving Police Chief. Under his guidance, the Police Force has nearly tripled in size from its original five officers. Chief Hibbs and his force have greatly improved the protection that the people of Salida receive. While acting as Police Chief, Darwin has created a strong and capable force that has been intricately involved in the capture of Colorado's largest cocaine ring, and various other high profile cases in the state. It is with great pride that I have the ability to honor Chief Hibbs today.

As a law enforcement officer, I am well aware of the dangers and hazards our peace officers face today. These individuals work long hours, weekends, and holidays to guarantee their fellow citizens' rights and protections. They work tirelessly, with great sacrifice to their personal and family lives, to ensure our freedoms remain strong in our homes and communities. Their service and dedication deserve the recognition and thanks of this body of Congress and our nation, and that is why I bring the name of officers like Police Chief Hibbs to light today.

Mr. Speaker, it is with great honor that I rise before this distinguished body of Congress and this nation to pay tribute to the extraordinary service of Chief Darwin Hibbs. His strong leadership and dedication have improved the quality of policing for the people of Salida and the residents of the entire State of Colorado.

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## HONORING MAYOR DAVID W. SMITH FOR HIS 25 YEARS OF OUTSTANDING SERVICE TO THE CITY OF NEWARK, CA

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. STARK. Mr. Speaker, I rise today to honor Mayor David W. Smith for his years of dedicated service to the city of Newark, California. On March 13, 2003, Mayor Smith's colleagues will celebrate his 25 years of service at a reception in Newark.

Mayor Smith was elected to the Newark City Council in 1976, and two years later was elected mayor. He is currently serving his 12th consecutive term, making him the most senior mayor currently serving in California and the 7th most senior mayor in the country.

Mayor Smith's genuine love for the city of Newark shows in the intelligent, commonsense approach he brings to decision making, and colleagues point to his terrific sense of humor as one of his great attributes. Under Mayor Smith's leadership, Newark has evolved into an efficient and responsive government.

When he first came into office in 1978, Newark generated little tax revenue outside of property taxes. Throughout his tenure, Mayor Smith has led Newark's resurgence by working to attract top companies and building state-of-the-art educational and recreational facilities.

Under Mayor Smith's leadership, the NewPark Mall Regional Shopping Center and the Newark Hilton Hotel opened for business in the 1980s. In the last decade, he has worked to accelerate development of the Newark Auto Center, which now houses 13 auto dealerships. He was also instrumental in attracting a large Sun Microsystems complex to the city.

Recently, Mayor Smith provided leadership in planning a new community college and in developing and constructing the George M. Silliman Complex, a world-class recreation center that will include a large indoor aquatic park.

While leading Newark's growth, Mayor Smith has also maintained his position as Vice-President of the Oatey Company's Retail Division. He serves on the U.S. Conference of Mayors, the Alameda County Conference of Mayors, and the Alameda County Transportation Authority, and on many local and national committees and boards. His many awards and honors include a Lifetime Membership in the U.S. Jaycees, and a listing in Who's Who in the West.

I am honored to join the colleagues of Newark Mayor David W. Smith in commending his exemplary leadership, which has enabled Newark to grow into a wonderful place to live and a successful commercial leader.

## IN SUPPORT OF TITLE IX

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Ms. SLAUGHTER. Mr. Speaker, I rise today to announce the introduction of a resolution in support of Title IX.

In 1972, about 30,000 women played college sports. Today, that number has increased by more than 500 percent.

In 1972, about 200,000 girls participated in high school athletics. Today, that number has increased by more than 800 percent.

Mr. Speaker, it is no coincidence that women and girls have more opportunity today than they did 30 years ago. It is not because they have more interest than they used to, and it is not because they have more ability than they used to. These increased opportunities are attributable to one law: Title IX.

Title IX of the Education Amendments of 1972 is the Federal law that prohibits sex discrimination in education. It states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." In essence, Title IX requires schools and colleges receiving Federal funds to give women and girls equal athletic opportunities, including athletic scholarships, equipment, coaching, and facilities, among other benefits.

Unfortunately, Title IX has come under assault. Those who favor changing Title IX argue mistakenly that it has led to the disappearance of athletic opportunities for male athletes. While both sides of the debate over Title IX athletics policies agree that they should allow for gender parity and overall fairness in sports, the real question that begs to be answered is, "What constitutes fairness?"

For those who want to alter Title IX and how it has been implemented, fairness means that male athletes should have a monopoly over opportunities and resources for their programs, regardless of how under-funded or nonexistent similar programs for female athletes may be.

For these challengers to Title IX, it is fair that while more women than men attend college, only 42 percent of all college athletes are women.

For them, it is fair that females currently receive 1.1 million fewer (41 percent) opportunities at the high school level and 58,000 fewer (38 percent) opportunities at the college level than do their male counterparts.

This ill-conceived notion of fairness that opponents of Title IX put forth justifies the fact that men currently receive $133 million (36 percent) more than women in athletic scholarships. Division 1–A colleges and universities allocate on average 71 percent of their scholarship money for men's athletics, and their recruiting dollars for male athletes double those spent on female athletes.

Not only do these opponents of Title IX feel that this is fair, but they oppose any efforts to salvage the progress that has been made. It bothers me deeply that opponents of Title IX say that male athletes are treated unfairly. Although 30 years of progress since Title IX have seen sports participation for males and females grow, female athletes are still not treated equitably.

This resolution expresses the sense of the House of Representatives that changes to Title IX athletics policies contradict the spirit of athletic equality and gender parity and should not be implemented. Title IX has been the dam that holds back gender discrimination in educational programs for 30 years, allowing millions of young women the opportunity to pursue goals of which their predecessors could only dream.

I am standing here to defend the integrity of this landmark civil rights law because it is the right thing to do, but I also rise in honor of my dear friend and beloved colleague, Patsy Mink. In 1972, Patsy helped to enact Title IX. I know that she would be standing right beside me were she alive today. She struggled for 30 years to protect educational equity for men and women, and it is in memory of the legacy she left behind that we must not give up on the fight to preserve equality for women.

Opponents of Title IX are trying to redefine what America sees as fair. As a consistent defender of gender equality and the protection of equal rights for all of our citizens, I am outraged by this particular brand of fairness. Patsy would have been outraged as well, and she would not have tolerated it. I hope all of my colleagues will join me, with our Republican and Democratic friends who support this legislation, as we all fight to preserve the integrity of this landmark law. Please cosponsor this resolution for the sake of Patsy Mink, for the sake of our Nation's girls, and for the sake of equality.

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## PAYING TRIBUTE TO LEONARD AND GEORGIANA KINDER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise today in order to recognize Leonard and Georgiana Kinder of Norwood, Colorado. The Kinders have been important members of their local community and the State of Colorado for many years.

The Kinders met in the early 1940s, when Leonard offered to give Georgiana a ride home. The two continued to grow closer when, in 1945, Leonard became a pilot in the United States Navy and was stationed in the South Pacific. After being transferred to a base in Oklahoma, Leonard sent Georgiana an engagement ring. A few years later, in 1948, the two moved to Redvale, Colorado. From 1959 until 1972, Leonard worked in the Union Carbide mines near Leadville, Colorado. During this same time, the Kinders built a school in Bullion Canyon, in which Georgiana taught first to eighth grade. The Kinders, along with a group of their friends, built and ran Ski Dallas, San Miguel County's first ski area and the forerunner of the now famous Telluride Ski Resort. Both Leonard and Georgiana have been extremely active in the Norwood area and have helped to build a strong sense of community.

Enjoying their retirement, the couple divides their time between their beloved Colorado and Arizona. Both Leonard and Georgiana are avid rock collectors and find joy in being outside with nature and perusing their hobby. Leonard is an excellent lapidary, creating polished stone spheres and globes. Georgiana is currently involved in the efforts to restore the Pioneer Day Stagecoach, the former school bus between Norwood and Telluride. The Kinders are exceedingly proud of their close-knit community, which they have supported for many years.

Mr. Speaker, it is with pride that I recognize Mr. and Mrs. Kinder before this body of Congress and this nation. Their dedication to Colorado and our country is truly noteworthy. The Kinders' active involvement in their community has benefited not only those in San Miguel County, but in the entire State of Colorado as well.

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## HONORING THE 25TH ANNIVERSARY OF MICHIGAN AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL 25

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to Michigan AFSCME Council 25 on their 25th Anniversary.

Michigan AFSCME Council 25 is one of the most dynamic unions in the Michigan AFL–CIO. The more than 60,000 members of Council 25 are comprised of state and local government workers committed to achieving dignity and improving their working conditions through collective bargaining. Michigan AFSCME Council 25 was formed by a special convention held March of 1978. Five smaller Michigan AFSCME Councils combined forces to form Council 25, which became larger and stronger than the previous councils. The new Council 25 streamlined and enhanced services and realized economies of scale to benefit AFSCME members across Michigan.

Today, Mr. Speaker, Michigan AFSCME Council 25 has blossomed into more than 300 local unions, representing more than 600 bargaining units. The local unions have their own constitutions, elect their own officers and administer a wide variety of local affairs. For 25 years, Michigan AFSCME Council 25 has been committed to Michigan's communities, has provided effective political activism and years of advocacy for Michigan's working families.

Mr. Speaker, I want to thank the numerous employees of state, county and municipal govennnents, school districts, public hospitals and nonprofit agencies to name a few, for their tireless efforts on behalf of workers throughout Michigan. I also want to commend AFSCME Council 25 President, Albert Garrett, who is a good friend and a passionate advocate for the members of Council 25 and all of Michigan's working families. Additionally, Lawrence Roehrig, the Secretary-Treasurer of Council 25 deserves our appreciation for his commitment to community service and the values held dear to working people across this great Nation.

On the occasion of their 25th Anniversary, Mr. Speaker, I ask all my colleagues to join me in saluting the Michigan AFSCME Council 25.

## A TRIBUTE TO GLORIA MILLER

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Gloria Miller in recognition of her dedication to improving the health of her community and uplifting those in need.

Born in Jamaica, W.I., Gloria at the age of 16 traveled to London England to study and begin a career in nursing. Her commitment and strong desire, then as it is now, was to educate, inform, and help others in the community. She immigrated to the United States in March 1968 and began working at Kings County Hospital in Brooklyn, New York. While working at the hospital, Gloria attended Lincoln Hospital School in the Bronx. After graduating, she was elevated to the position of Head Nurse. She furthered her education at St. Francis College where she earned a degree in both a Bachelor of Arts and a Bachelor of Science, graduating Summa Cum Laude. Next, Gloria took administrative courses in Long Term Care at the New York City Technical College in Brooklyn. Eventually, she received a Master of Public Administration from New York University with distinction. She accomplished all of this while working full time, caring for her two children, and planning numerous health fairs for St. Gabriel's Church.

In 1980, Gloria, now an Administrative Supervisor at Kings County Hospital, focused her energy on improving treatment for the drug dependent community, instituting a program to closely monitor dosage of medication and evaluation of patient progress. As part of the program, she also upgraded the hospital's system for documenting or recording nurses' interventions or admissions notes. She also encouraged greater participation in the hospital's drug addiction classes by holding teaching sessions in the hospital's lobby. Special emphasis was placed on intervention for drug addicts and alcohol dependent clients who were pregnant.

In 1989, Gloria moved to Coney Island Hospital where she focused on the facility's "Drug Free Clientele Program." As a clinical therapist, she identified clients with drug and alcohol problems and referred them to an in-house drug free program. She shared her work with the March of Dimes Foundation, which used some of the information as part of a paper on birth defects. In the late 1990s when Gloria retired, her main focus became helping her daughter who is following in her mother's footsteps by working as a nurse at Coney Island Hospital.

However, Gloria continues to be an asset to her community through her volunteer work. She volunteers at Samuel J. Tilden High School, where she conducts conflict management intervention groups and sessions on alternative ways of dealing with angry students. She also helped establish a scholarship fund for two consecutive years for four students entering the health administration field of study from Tilden. Gloria's volunteer service also extends to several other community-based organizations such as the Caribbean Women United for Social and Political Action (CWUSPA) and the Caribbean Women's Association. Additionally, she has served as Secretary and Chairperson for the Social Service Committee on Community Board 17. Gloria holds the position of 1st Vice-President at Dr. Susan McKinney Nursing and Rehabilitation Center Auxiliary and has been the Chairperson of the Community Advisory Board for the past three years. As Chairperson, she served as a member of the NYC Health and Hospitals Corporation Council of Community Advisory Board.

She is an active member of the St. Augustine's Episcopal Church and is one of the founding members and the first president of the Health Guild. During her presidency, she raised $23,000 for the church. She also holds a certificate from the New York Theological Seminary for assisting her priest with his Doctorate of Divinity Degree. Currently, she assists the priest-in-charge in coordinating annual services to honor the 67th precinct with the goal of fostering a better relationship between the police and community.

Mr. Speaker, Gloria Miller has dedicated her life to helping her fellow community members. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

## THOMPSON CANCER SURVIVAL CENTER

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. DUNCAN. Mr. Speaker, today I would like to share with you and the House news from my district that will offer life-saving technology to people across our Nation.

Thompson Cancer Survival Center in Knoxville, Tennessee, recently received state-of-the-art equipment that experts say will revolutionize cancer treatment. The $2.9 million TomoTherapy unit allows doctors to deliver radiation treatments more accurately, and with far fewer side effects, than traditional treatment.

TomoTherapy is especially effective for cancers of the prostate, neck, head and spinal cord, and other cancers that are near sensitive organs or structures. Doctors at Thompson will begin treating patients with TomoTherapy this spring, making them the first in the Nation to benefit from this new technology.

Thompson's TomoTherapy unit is one of only nine in the world, and so far only six U.S. hospitals are slated to receive this life-saving equipment. This means people from across our Nation and around the world will look to East Tennessee for help in battling cancer.

Mr. Speaker, I congratulate Thompson Cancer Survival Center for this latest victory in the fight against cancer.

## PAYING TRIBUTE TO KYLEE SMITH

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Kylee Smith of Montrose, Colorado. Through Kylee's diligent efforts, numerous Cottonwood Elementary School students have developed a love for physical fitness that will allow the students to reap many benefits for the rest of their lives.

Kylee has created an innovative program called "Shape Up Across Colorado" to encourage her students to participate in physical activity. The program, which has been in place since 1991, uses 400 squares, each representing a square mile in a model of the State of Colorado. As children advance through numerous levels of activities, they are allowed to fill in corresponding squares. Using this program, the students are able to see their progress while they participate in activities they love, such as running outside, and playing in the playground. Kylee has really taught her students how to love physical exercise as well as being in the outdoors.

Earlier this year, Colorado Governor Bill Owens honored Mrs. Smith for her efforts to teach children about the benefits of physical education. She was presented with the "Shape Up Colorado Teacher of the Year" award from the Governor's Council for Physical Fitness and the Colorado Foundation for Physical Fitness. Kylee, who is proud to live in Colorado with its great outdoor resources, believes that programs like this one will help my state become the nation's leader in physical fitness.

Mr. Speaker, it is with great pride that I stand before you, this body of Congress, and this nation today to honor Kylee Smith. Mrs. Smith has inspired her students to participate in vital lifelong, and life sustaining, physical exercise. The children of Montrose are lucky to have such a wonderful resource helping and guiding them to healthier lives. I applaud Kylee Smith for her efforts.

## A TRIBUTE TO ROXANNE PERSAUD

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Roxanne Persaud in recognition of her commitment to her community.

Roxanne was born in Georgetown, Guyana. The eldest child of Kenrick and Yvonne Persaud, she immigrated to the United States after graduating from high school. Upon arriving in the United States, she immediately enrolled in an adult after school program. Currently, she holds degrees in Bachelor of Science and a Master of Science in Education. Roxanne is in the process of completing her Master of Science Degree in Information Systems.

In August 1984, Roxanne began a part-time job at Pace University's Undergraduate Registrar's office. With no previous background in this area, she set out to learn all of the functions and task of the office. Today, she is the Senior Degree Audit Coordinator.

Roxanne is the Treasurer of the Organization for Social and Health Advancement in Guyana (OSHAG), a member of the 69th Precinct Community Council in Canarsie, Brooklyn, and an advisor for the Caribbean Students Association at Pace University, New York City campus. In addition, she is a member of the Thomas Jefferson Democratic Club.

In November 2002, Roxanne and members of OSHAG visited Guyana with a team of doctors representing Kings County Hospital in Brooklyn. Representatives from the American Cancer Society as well as HIV/AIDS specialists from representing Young Adult Institute were on the team. While in South America, the doctors conducted a medical workshop for Guyananese doctors on current cancer treatments and hosted a two-day conference for health care professionals, university students, and other members of the public. Throughout the trip, team members also provided other outreach services to the public as needed. Finally, the group cosponsored a cancer walk in collaboration with the Guyana Cancer Society. The team will be returning to Guyana again in 2003 to continue this mission.

On March 30, 2003, Roxanne and the members of OSHAG in collaboration with a Volunteer Youth Corp in Guyana will be launching a Big Brother/Big Sister mentoring initiative in Guyana. This will be the first of its kind in the South America region.

In addition to volunteering, Roxanne enjoys traveling and reading when she finds the time. She is thankful for her parents, siblings, colleagues, and Henry and Josephine Bolus' support, which has been essential in helping her accomplish so much.

Mr. Speaker, Roxanne Persaud is committed to community service and improving the lives of those in her own community and abroad. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

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## RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2003 VALOR AWARD RECIPIENTS

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize an extraordinary group of men and women in Northern Virginia. Several members of the Fairfax County Office of the Sheriff were honored at the Fairfax County Chamber of Commerce's 25th Annual Valor Awards. Each year, the Chamber recognizes individuals who have courageously demonstrated selfless dedication to public safety. These outstanding men and women have played an intricate role in building a better community. This hard work and determination has earned several members of the Office of the Sheriff the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several Valor Awards that a public safety officer can be given: Lifesaving Award, a Certificate of Valor, or a Gold, Silver or Bronze Medal of Valor. During the 25th Annual Awards Ceremony, 88 men and women from the Office of the Sheriff, Fire and Rescue Department, and Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that I enter into the RECORD the names of the recipients of the 2003 Valor Award in the Fairfax County Office of the Sheriff. Receiving the Lifesaving Award: Deputy Charles Taggart; Certificate of Valor: Private First Class Michael Hammond, Private First Class Leslie Sheehan, Deputy Randall Naeve, Master Deputy Sheriff Amy Gaisor, Private First Class Sharon Fogle, Sergeant Kevin Timothy, and Deputy Charles Taggart.

Mr. Speaker, in closing, I ask that my colleagues join me in congratulating this group of extraordinary citizens. In addition, I would like to take this opportunity to thank all the men and women who serve the Fairfax County Office of the Sheriff. The events of September 11th served as a reminder of the sacrifices our emergency service workers make for us everyday. Their constant efforts on behalf of Fairfax County citizens are paramount to preserving security, law and order throughout our neighborhoods, and their individual and collective acts of heroism deserve our highest praise.

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## PAYING TRIBUTE TO ALOYS AND WANDA SCHNEIDER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise today to recognize "Moon" and Wanda Schneider of Montrose, Colorado. The Schneiders have been important members of their local community and the State of Colorado for many years, and I would like to pay tribute to their efforts before this body of Congress and this nation today.

The Schneiders have been married for fifty-six years and are the parents of eight children. The couple began volunteering after Moon retired from the Agriculture Stabilization Conservation Service in 1978. Wanda had learned to play the piano, accordion and clarinet as a young girl in Canon City, so in 1983 the Schneiders started visiting nursing homes, where Wanda would play her keyboard and Moon would entertain the residents with his sharp sense of humor. When the new senior center opened in Montrose, the Schneiders put on their show once a week.

Eight years ago, Wanda volunteered to serve as the senior center's program chairman. Since then, she and Moon have helped with a variety of activities, including producing four plays. Moon himself has starred in three of them, most recently portraying the colorful actress Carmen Miranda. Moon has also served on the board of directors for the Golden Circle for six years, and the couple still finds time to pack and deliver Meals on Wheels.

Mr. Speaker, it is with pride that I recognize Moon and Wanda Schneider for the countless hours they have contributed to the welfare of seniors in Montrose, Colorado. They have been a great asset to the senior center and to the people of the nursing homes they serve. Their active involvement in their community is a credit to Montrose County and the entire State of Colorado.

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## TRIBUTE TO THE LOLA DE RODRIGUEZ DE TIO ACADEMY OF FUTURE TECHNOLOGIES AT INTERMEDIATE SCHOOL 162 FROM THE SOUTH BRONX

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute and to congratulate The Lola de Rodriguez de Tio Academy of Future Technologies at Intermediate School 162 from the South Bronx which, on Saturday, February 8, 2003, won the 2003 New York City FIRST Lego League Tournament. This is a highly competitive tournament that trains students to use Lego blocks and computers to solve challenges that urban planners face every day.

The New York City competition included 115 schools from the five boroughs, including Manhattan East, IS 72—The Rocco Laurle School, Brooklyn Tech, Hunter High School, IS 98K—Bay Academy, MS 51K, Satellite West Academy, IS 227Q—Louis Armstrong, MS 217 Q, IS 90M—Mirabel Sisters, IS 22—Mott Hall, IS 187—The Christa McAulliffe School in Brooklyn, among many others.

Despite being a rookie team they went on to win every category—including the robotics competition and the research competition. They also won the 2003 First Lego League Bronx Ryders Winner of the Top Prize Director's Award.

Mr. Speaker, I would like to take a moment to recognize the members of the team. From the 8th Grade Team they are: Terrell Washington, Byron Flores, Durrell Washington, Hazel Rivera, Elyse Arroyo, Noel Pichardo, Valentine Dixon and Austin Leak. From the 7th Grade Team they are: Jose Verdejo, David Quiñones, Nikisha Romsaran, Nickolos Rivera, Joshua Rodriguez, Natholy Torella, Jose Matos and Alexis Herrera.

The team will be heading to Houston, Texas to compete in the National Tournament from April 10–April 13. Only 20 teams out of 2500 nationwide have been chosen to compete. We wish these amazing young people from the South Bronx the best of luck.

They have demonstrated that they have the ability and the desire to be assets and role models in our community. We are proud of their accomplishments and I hope they will continue to be successful. They are terrific examples for young men and women throughout our communities.

Again, I congratulate and I wish them the best of luck in their future enterprises. They are our Champions!

Mr. Speaker, I ask my colleagues to join me in paying tribute to and congratulating The Lola de Rodriguez de Tio Academy of Future Technologies at Intermediate School 162 from the South Bronx.

## RECOGNIZING BOWIE STATE UNIVERSITY MEN'S BASKETBALL TEAM

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. HOYER. Mr. Speaker, I rise today to give recognition to the Bowie State University men's basketball team. On March 1, 2003, the Bowie State Bulldogs defeated Virginia Union to earn their first central intercollegiate athletic association men's title.

In their first appearance in the CIAA tournament in 30 years of play, the Bulldogs were down 41–32 at half-time against a 14-time league champion. Nevertheless, the team rallied back for a neck-and-neck second half. The winning basket was a heartstopper and came with less than a minute to go, giving the Bulldogs a 72–71 victory.

Mr. Speaker and colleagues, please join me in recognizing the great accomplishment of the Bowie State University men's basketball team and wish them the best of luck in their upcoming NCAA Division II tournament.

## INTRODUCING THE MEDIKIDS HEALTH INSURANCE ACT OF 2003

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. STARK. Mr. Speaker, I join with 34 colleagues to introduce the MediKids Health Insurance Act of 2003, which will provide universal health care for our nation's children through a new Medicare-like national program with benefits tailored toward children.

Sen. JAY ROCKEFELLER is introducing a companion bill in the Senate. I am grateful to Senator ROCKEFELLER for his leadership and commitment to this issue. We are introducing the bill at this time in recognition of the national educational and awareness campaign that has named this week "Cover the Uninsured Week."

Despite Medicaid and the implementation of the S–CHIP program, more than 9 million children are still without health insurance in America today. Now, with states facing severe budget crises, past expansions of Medicaid and S–CHIP are in real danger. In fact, with 35 states currently facing budget shortfalls that must be resolved this year, the number of uninsured children will grow. The outlook for the next fiscal year looks even more fiscally challenging for states. Programs like Medicaid and S–CHIP are the most vulnerable for eligibility and service provision reductions due to fiscal crisis.

The number of uninsured children is more than a statistic. It reflects the harsh reality experienced by many families—80% of whom are working families—who are forced to delay or do without needed medical care for their precious children. And, what does the research tell us about children brought up under these circumstances? Compared to those with health insurance, uninsured children have poorer health and higher mortality; they miss more school and have lower educational achievement; and they are less successful as adults in the workforce.

The MediKids Health Insurance Act is a real solution to the growing problem of children without health insurance. Our bill will guarantee health insurance for all children in the United States regardless of family income. Importantly, it would be a fully-federal program so that children's health care would not change from state to state as it does today.

The program is modeled after Medicare, but the benefits are tailored toward children. MediKids is financed like the Medicare Part B program with families paying a premium of 25% of the value of the program and the rest financed through general revenues. Premiums for MediKids would be collected each year when their parents' file their taxes. There is also a generous low-income subsidy for families phasing out at 300% of poverty.

MediKids would not override other forms of health insurance for children. Parents who have other coverage for their children—employer-sponsored insurance, individual policies, S–CHIP, Medicaid, or other policies—could maintain that coverage. But, if something happens and that coverage is no longer available, their children could always rely on MediKids for coverage. If the family moves, MediKids follows the children across state lines. And, no longer would kids get caught with no health insurance coverage if their parents are climbing out of welfare.

Enrollment in MediKids is simple with no complicated paperwork or re-determination hoops to jump through. When children are born or legally immigrate to this country, the parents are automatically given a MediKids insurance card and information on the benefits. For those children who are already born, the bill authorizes presumptive eligibility and enrollment at out stationed sites such as Disproportionate Share Hospitals and Federally Qualified Health Centers to simplify outreach efforts. Once the program is fully phased in no outreach will be needed because enrollment into the program will be automatic.

Both children's advocates and the health care professionals who care for children support our legislation. Endorsing organizations include: the American Academy of Pediatrics, the Children's Defense Fund, the American Academy of Child and Adolescent Psychiatry, the American Nursing Association, FamiliesUSA, the March of Dimes, the National Association of Children's Hospitals, the National Association of Community Health Centers, the National Association of Public Hospitals and Health Systems, the National Health Law Program, and NETWORK: a Catholic Social Justice Lobby. These providers and children's advocacy groups are united around the concept that children deserve access to continuous health insurance. MediKids meets that goal.

The successful future of our society rests in our ability to provide our children with the basic conditions to thrive and become healthy, educated and productive adults.

Guaranteeing continuous health care coverage is a necessary component for us to realize the potential of our future. This is not only a good investment; it is also a noble goal and obligation that we must fulfill. I look forward to working with my colleagues and with the many supporting organizations for the passage of the MediKids Health Insurance Act of 2003.

Below is a short summary of the bill.

### SUMMARY OF THE MEDIKIDS HEALTH INSURANCE ACT OF 2003

The MediKids Health Insurance Act provides health insurance for all children in the United States regardless of family income level by 2009. The program is modeled after Medicare, but the benefits are targeted toward children. Families below 150 percent of poverty pay no premium or copays, while those between 150 percent and 300 percent of poverty pay a graduated premium up to 5 percent of their income and receive a graduated refundable tax credit for cost sharing expenses.

The MediKids enrollment process is simple with no re-determination hoops to jump through because it is not means tested. MediKids follows children across state lines when fan-Lilies move, and covers them until their parents can enroll them in a new insurance program. Moreover, MediKids fills the gaps when families climbing out of poverty become ineligible for means-tested programs. It provides security for children until their parents can obtain reliable health insurance coverage.

#### ENROLLMENT

Every child born after 2004 is automatically enrolled in MediKids, and those children already born are enrolled over a 5-year phase-in as described below. Children who immigrate to this country are enrolled when they receive their immigration cards. Materials describing the program's benefits, along with a MediKids insurance card, are issued to the parent(s) or legal guardian(s) of each child. Once enrolled, children remain enrolled in MediKids until they reach the age of 23.

Parents may choose to enroll their children in private plans or government programs such as Medicaid or S–CHIP. During periods of equivalent alternative coverage, the MediKids premium is waived. However, if a lapse in other insurance coverage occurs, MediKids automatically covers the children's health insurance needs (and a premium will be owed for those months).

#### PHASE-IN

Year 1 (2005) = the child has not attained age 6.

Year 2 (2006) = the child has not attained age 11.

Year 3 (2007) = the child has not attained age 16.

Year 4 (2008) = the child has not attained age 21.

Year 5 (2009) = the child has not attained age 23.

#### BENEFITS

The benefit package is based on Medicare and the Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefits for children, and includes prescription drugs. The benefits will be reviewed annually and updated by the Secretary of Health and

Human Services to reflect age-appropriate benefits as needed with input from the pediatric community.

PREMIUMS, DEDUCTIBLES, AND COPAYS

Families up to 150 percent of poverty pay no premiums or copays. Families between 150 percent and 300 percent of poverty pay a graduated premium up to 5 percent of their income and receive a graduated refundable tax credit for cost sharing expenses. Parents above 300 percent of poverty are responsible for a small premium equal to one fourth of the average annual cost per child. Premiums are collected at the time of income tax filing. There is no cost sharing for preventive and well childcare for any children; all other cost sharing mimics Medicare.

FINANCING

Congress would need to determine initial funding. In future years, the Secretary of Treasury would develop a package of progressive, gradual tax changes to fund the program, as the numbers of enrollees grows.

STATES

Medicaid and S-CHIP are not altered by MediKids. These programs remain the safety net for children until MediKids is fully implemented and appropriately modified to best serve our nation's children. Once MediKids is fully operational, Congress can revisit the role of these programs in covering children.

To the extent that the states save money from the enrollment of children into MediKids, states are required to maintain those funding levels in other programs and services directed toward the Medicaid population. This can include expanding eligibility or offering additional services. For example, states could expand eligibility for parents and single individuals, increase payment rates to providers, or enhance quality initiatives in nursing homes.

## PAYING TRIBUTE TO: GRAND RIVER HOSPITAL DISTRICT

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you today to honor the good people of the Grand River Hospital District of Rifle, Colorado. America's rural health facilities are in crisis and it is our duty to embrace them in these trying times. Fortunately, the success of the Grand River Hospital District offers other rural medical providers hope. It gives me great pleasure to recognize them before this Congress and this nation.

The people of the Grand River Hospital District are devoted servants, dedicated to improving the delivery of quality, cost-effective health care in their community. Their hard work has paid off, and on May 12, they will open the doors to their brand-new 16.5 million dollar Grand River Medical Center. This expansion is an amazing accomplishment at a time when so many rural medical providers are struggling to stay open. Like all success, it has taken smart and dedicated people who have given much of themselves in the pursuit of excellence.

Mr. Speaker, I am proud to stand before this body of Congress and this great nation to recognize the accomplishments of the Grand River Hospital District. They are a guiding light for all struggling medical providers in rural America. Their example offers hope, and I am grateful to them for their dedication and the quality service they provide for the people of my district.

# SENATE—*Wednesday, March 12, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, these days here in the Senate are filled with crucial issues, differences on solutions, and vital votes on legislation. We begin this session with the question You asked King Solomon, "Ask! What shall I give You?" We empathize with Solomon's answer. He asked for an "understanding heart." We are moved with a more precise translation of the Hebrew words for "understanding heart," meaning a "hearing heart."

Solomon wanted to hear a word from You about the perplexities that he faced. He longed for the gift of wisdom so that he could have answers and direction for his people. We are inspired by Your response, "See, I have given you a wise and listening heart."

I pray nothing less as You answer this urgent prayer for the women and men of this Senate. Help them to listen to Your guidance and grant them wisdom for their debates and decisions. All through our history as a Nation You have made good men and women great when they humbled themselves, confessed their need for Your wisdom, and listened intently to You. Speak Lord; we need to hear Your voice in the cacophony of other voices. We are listening. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Pennsylvania, the acting majority leader, is recognized.

## SCHEDULE

Mr. SANTORUM. Mr. President, this morning the Senate will resume consideration of the partial-birth abortion bill. We had a good and vigorous debate last night and all day yesterday and made substantial progress on the bill. I appreciate Senators' willingness to come forward and debate this measure. In fact, I encourage Members who have not made opening statements and want to speak on this legislation to come to the floor today. We are moving expeditiously. We got a good unanimous consent agreement yesterday that calls for votes later this morning, perhaps at the latest early this afternoon.

My understanding is we have, beyond the two amendments that are locked in right now, two additional amendments that could be offered this afternoon. There may not be any other amendments. I want to make sure Members know there is a chance we could end up even finishing today. If Members are waiting, thinking they have plenty of time to come down and speak on the underlying bill, I encourage them to come down. We will be debating two amendments this morning. Senator BOXER's amendment will be up first. Actually, it is not an amendment but a motion to commit the bill to the Judiciary Committee. There will be 2 hours of debate, equally divided, on that motion, which we will proceed to momentarily, and subsequent to that debate we will have an hour debate on the Durbin amendment. All of that time is equally divided. Then we will proceed to votes on both of those amendments.

If all time is used, we will have votes at roughly 12:30 this afternoon, if not earlier.

As I said, there are two other amendments of which we are aware that could be offered this afternoon. I encourage Members who wish to participate in this debate to please come to the floor and do so this morning or this afternoon.

I remind my colleagues that a cloture motion was filed on the Estrada nomination yesterday by our leader, and that motion will ripen tomorrow morning.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through the acting majority leader I say to the majority leader, we believe we have the ability to finish this legislation very quickly. Anyone who wants to offer an amendment should get with floor staff forthwith because we are in the process of propounding a unanimous consent request to terminate this legislation. If people have amendments they want to offer, they should advise floor staff forthwith.

Also, we were able to work out yesterday, following the dialog I had with the majority leader on the floor, with Senator DASCHLE and people on our side to allow one of the circuit court nominees to go forward with debate, with up to 6 hours debate. Hopefully, we can complete that tomorrow also.

Mr. President, I ask unanimous consent, because the Senator from California has requested that the time on her amendment be the full 2 hours, and Senator SANTORUM and I have taken a little bit of time this morning—I ask that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

Pending:

> Durbin amendment No. 259, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order, the Senator from California, Mrs. BOXER, is to be recognized.

Under the previous order, there will now be up to 2 hours of debate equally divided on the motion to commit. The Senator from California.

### MOTION TO COMMIT

Mrs. BOXER. Mr. President, I send a motion to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from California [Mrs. BOXER] moves to commit the bill, S. 3, to the Committee on the Judiciary with instructions to hold at least one hearing on such bill and to report such bill back to the Senate after addressing the constitutional issues raised by the Supreme Court in its Stenberg v. Carhart decision.

Mrs. BOXER. Mr. President, this straightforward motion essentially says it is important that this bill receive the guidance and the wisdom of the Judiciary Committee, since issues have been raised at the Supreme Court that have not been addressed in this bill.

When I raised this in the beginning of the debate, a Senator on the other side said: We have debated this many times. Why do you want to go back to the committee?

Well, there is a big difference between the three previous occasions that we have debated this bill and this time, and that is, the Supreme Court has spoken. In June 2000, in the case of Stenberg v. Carhart, the Supreme Court ruled Nebraska's so-called partial-birth abortion law is unconstitutional. I am told very clearly by the lawyers who were involved in that case that the current bill before us, S. 3, is legally identical to the Nebraska bill.

The Supreme Court ruled that bill unconstitutional for two reasons. I would like to see the chart there. First, the bill contains no health exception. This is what the Supreme Court said:

> The governing standard requires an exception where it is necessary in the appropriate medical judgment for the preservation of the life or health of the mother. Our cases repeatedly invalidated statutes that, in the process of regulating the methods of abortion, imposed significant health risks.

Mr. President, this bill contains no health exceptions. I am very pleased Senator DURBIN will be offering a health exception today, as well as Senator FEINSTEIN later, and there may be others. But the bottom line is the bill itself, as it stands, contains no health exception. It makes it unconstitutional.

The second reason the legally identical bill was declared unconstitutional by the Supreme Court is that it imposed an undue burden on women because the definition in the law is too vague. It covers more than one procedure. This is what the Supreme Court said:

> Even if the statute's basic aim is to ban D&X—

By the way, there is no such mention of D&X in S. 3.

> its language makes clear that it also covers a much broader category of procedures.

Therefore, it is putting an undue burden on the woman, Mr. President. With the Supreme Court's decision, we should at least have a bill before us that will pass constitutional muster.

If I may see the other chart that summarizes the two.

Here you see the summary of the problems with S. 3. Exactly the same as Stenberg: Undue burden on women because the definition is vague, and no exception to protect women's health.

I believe we have a responsibility to make sure this bill is constitutional, and I would think that those of my colleagues who support this bill, even without a health exception, which I think is cruel to a woman and I think goes against the American value of caring about mothers and caring about their health—even if you support that, without a health exception, you ought to care about this being constitutional. It should be our responsibility because what is the point of all this—the President said he is going to sign it—if, in fact, the Court turns around and says it is the same problem all over again?

You hear from others that this problem has been remedied and we have taken care of this in the findings, and they are tweaking some of the words, but the people who argued this law the last time said that clearly it is legally identical. I placed those letters in the RECORD, and I will read from them again.

So we are spending time on the bill that experts tell us is unconstitutional. Yet we have so many other matters we should be addressing. If we want to address this bill, at least send it to the Judiciary Committee so that when it comes back, they will have looked at this question of constitutionality. In the meantime, we are not looking at the loss of jobs in this country.

Yesterday, my colleagues on the other side voted down health insurance for poor, pregnant women—the ability for women to have contraceptives so they would avoid unintended pregnancies. Oh, this is amazing to me. These are the issues people confront every single day.

So we have 14 pages of findings that basically say the Supreme Court found this, found that, and we find this, we find that; therefore, essentially, what we are doing is constitutional. It is amazing to me the authors of this bill would bypass the committee their own party controls and bring this bill straight to the floor without stopping in the committee of jurisdiction after the Court has very clearly spoken that this S. 3—because it is identical to Stenberg in a legal sense—is unconstitutional. No health exception. How can anyone who has ever read the Stenberg case or, for that matter, case law regarding abortions since many years ago, argue that if you don't have a health exception, you are meeting the constitutional standard?

I guess the Justices have felt all these years that a woman's health is important, and I guess some people in this body don't feel that way. That is your choice. But it is not constitutional. I think a hearing would be salutary. We could hear from the scholars, hear from the people who were involved in the Stenberg case. We could once again hear from the women who have gone through this procedure, many of whom I have shown you on the floor of the Senate. They call themselves very religious, very pro-life. Yet they chose to have a procedure that their doctors told them was necessary to preserve their fertility, to make sure they would not wind up being paralyzed.

I am looking forward to Senator DURBIN's amendment. I want to hear people argue against Senator DURBIN's amendment when he spells out the health impact that could occur to a woman if this type of procedure is not available to her. We have a committee system and it ought to be used. I want to let the Senate know that this idea of taking a bill to committee is certainly not a new idea.

Let's see what some of the Republican leaders said about sending bills to committee. This is March 6, 2002. This is Senator DON NICKLES on bringing a bill directly to the floor and bypassing the committee, which is exactly what is happening today. This bill bypassed the committee of jurisdiction, the Judiciary Committee, and was brought to the floor. Let's hear what Senator NICKLES said:

> Where is the committee report? One of the reasons we have markups in committees is to have everybody on the committee who has expertise on the issue to have input, to support it or oppose it—to issue a committee report so we can find out what is in it, so you can read what is in it in English, not just the legislative language, which is difficult to decipher. Our competent and capable staff prepare a committee report explaining in English, here is what this provision does, here is what this provision means.

This is why it is important to send bills to committee, particularly on a subject the Supreme Court has taken up and has found terrible problems, constitutional problems, with a similar, if not legally identical, bill.

Let's look at what else has been said. This is another statement by Senator NICKLES on bringing a bill directly to the floor and bypassing the committee:

> I think that bypassing the committee and bringing a bill directly to the floor is a violation of Senate protocol—spirit, basically telling the minority they don't matter. It doesn't make any difference if there are 49 members on the Republican side, you don't matter; you have no input.

I think this is quite amazing. And we have more statements as to why bills should go to committee by the Republicans who have bypassed committees just a year later—not even a year later.

Senator Frank Murkowski, now Governor of Alaska. He said this on bringing a bill directly to the floor and bypassing a committee:

> The question is, why in the normal course of events would a bill under the jurisdiction of the committee not be referred to that committee? To suggest that there is an effort to obstruct the process by giving members input on the bill through the normal process of amendments is a travesty of the process associated with the traditions of the Senate.

That was February 5, 2002.

That is a statement of Senator Murkowski, Republican, now Governor of Alaska. "It is a travesty of the process to bypass a committee." And this is about a bill that has, by the way, no constitutional problem as far as anyone knew, and here we are talking about a bill that comes out after a Supreme Court case and acting as if it never happened, in my view, because the operative language of the bill still does not meet the constitutional challenges laid out by the Court.

This is another statement on bringing a bill directly to the floor and bypassing the committee, by Senator NICKLES:

> I am very disappointed in this process. This process should not be repeated. It should not be repeated by Democrats or Republicans.

Let me say that again:

> This process should not be repeated by Democrats or Republicans. We have committees for a purpose. We have committees for a purpose: So we can have bipartisan input, so we can have the legislative process work, so we can have hearings on legislation so people can know what they are voting on, to where they can try to improve it, to where any member of the committee has an opportunity to read the bill and to amend it, to change it—win or lose, at least they have the opportunity to try.

We have a bill before us that should have gone to the Judiciary Committee. Senator TRENT LOTT's comments on bringing a bill directly to the floor and bypassing the committee:

> If we bring these important issues to the Senate floor without them having been worked through committee, it is a prescription for a real problem.

What do we have? A bill that never went through the committee, a changed bill that never had a hearing at Judiciary, about a subject that is as important as life and death. Unbelievable.

So my motion to commit this bill to the committee—where, by the way, the Republicans have control—is a proposal that is not partisan and that is sincere because I believe, with all the problems we have in the world, the last thing we need to do is pass a bill that is unconstitutional and then have it brought back again, where we have to start all over, we have to have pictures that some of my constituents told me they could not even look at.

The Supreme Court said you must have a health exception:

> The governing standard requires an exception where it is necessary, in the appropriate medical judgment for the preservation of the life or health of the mother.

My colleagues want to put themselves in the doctor's shoes and decide they know what is best in an operating room. They know. They may not have gone to medical school, but they know.

The Supreme Court wrote:

> Our cases have repeatedly invalidated statutes that, in the process of regulating the methods of abortion, imposed significant health risks [to the mother].

The Supreme Court wrote:

> Even if the statute's basic aim is to ban D&X, its language makes it clear it also covers a much broader category of procedures.

What I have presented in my opening statement is the following: We have a bill that deals with a subject of life and death. We have a bill that, if it passes, makes no exception for the health of the mother. We have a bill that legal experts say is legally identical to the law that was ruled unconstitutional by the Supreme Court.

We have a bill that affects real people. We heard their cases, and we will hear them more when Senator DURBIN presents his amendment. At a minimum, could we have a little humility and send a bill such as that to the appropriate committee? Could we have a little humility? Could we be a little humble?

Senators are playing doctor, and that is wrong. Senators are ignoring a Supreme Court decision that says there must be an exception for the health of the mother. That is wrong.

My mother always said to me, there is right and there is wrong. You should be humble, and you should care about other people. Those are the values I grew up with.

As a mother of two children, having had two premature babies and, thank God—in those years it was not easy—they made it, with God's help, and as a grandmother who saw a daughter have a very challenging pregnancy, I know these things do not always go smoothly. And I know, because I have lived long enough to know, that if a doctor says to a mother or a father of a daughter or a husband of a daughter or family members of a woman, she could have a hemorrhage and die if we do not use this procedure, she could have a uterine rupture, she could be made infertile, she could have a blood clot, she could have an embolism, she could have a stroke, she could have damage to her nearby organs and she could be paralyzed for life if she does not have a procedure, it is a very serious matter.

This is not a list that was made up by anyone. It comes from physicians. I have the letter, and I have placed it in the RECORD. There are other things, such as a coma, that I did not put on the list.

I am saying to my colleagues, be a little humble. At the minimum, send this bill to the committee. Have these doctors come forward. Create a health exception that is fair. Do not give us a bill with no health exception because that is cruel, it is wrong, and it goes against American values of caring about each other.

I hope we will have a good vote and that this bill, S. 3, will go to the Judiciary Committee. Senator SANTORUM can appear before them. He can tell them why he believes he has met the Supreme Court case, the challenges that were laid down in Stenberg. I could be there, Senator FEINSTEIN, other colleagues who feel another way. We could present our witnesses, we could talk about it, and then the committee could decide which way to go on it.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. I would be happy to yield.

Mr. REID. Is the Senator from California saying that no matter how one feels on the underlying issue, we would be better off as a Senate if it went back to the full committee for a hearing and they had witnesses come and testify before the committee, those who are in favor of the procedure, those who are against the procedure, and then bring the bill back to the floor? Is that what the Senator is saying should happen?

Mrs. BOXER. Yes. In addition, I say to my friend, have the lawyers who are familiar with the Stenberg case.

This chart shows the differences between this bill and the Stenberg case in terms of the legalese. Basically, they are identical. What we have is the Stenberg case that ruled that the Nebraska statute was unconstitutional because it placed an undue burden on women because the definition is vague and there is no exception to protect women's health.

Lawyers and constitutional experts tell us that the same problem exists in S. 3. So my friend is right. We would bring the legal people together. We would bring the women back. We could have another debate and then, regardless of how one feels—and I know the Senator and I may come down differently on this in the end—that is fine. I do not expect my position to prevail, let's be clear. But I think the Senate should, at the minimum, have the humility to hold a hearing and find out how they ought to draft this bill.

Mr. REID. Will the Senator yield for another question?

Mrs. BOXER. Absolutely.

Mr. REID. The Senator and I came to Washington to serve in Congress at the same time. We were elected the same year, 1982. Is it true that during the Senator's service in the House of Representatives, she sat through hundreds of hearings on a multitude of issues? Is that a fair statement?

Mrs. BOXER. That is correct.

Mr. REID. What, I say for the people who are watching this, would the Senator say as to why we have those hearings?

Mrs. BOXER. Clearly, we are trying to get an in-depth knowledge of the issues and the challenges. We want to make sure the bills we present to the full Senate, or the full House on the other side, are carefully thought out; they make sense; there are no unintended consequences that could occur. It is for all of those reasons. Of course, it becomes a place for the public to get involved, because right now—Senator FRIST, who is a doctor, his expertise is heart surgery and transplantation—we do not have anyone in the Senate who is an OB/GYN.

The other point I want to make while my colleague is in the Chamber, in addition to the fact that there is no health exception, is to bring out one of the things Senator NICKLES said last year about bypassing the committee.

This is a statement made by DON NICKLES when a bill bypassed the committee of jurisdiction and came straight to the floor. He said:

> I am very disappointed in this process. This process should not be repeated. It should not be repeated by Democrats or Republicans. We have committees for a purpose. We have committees for a purpose: So we can have bipartisan input, so we can have the legislative process work, so we can have hearings on legislation so people can know

what they are voting on, to where they can try to improve it, to where any member of the committee has an opportunity to read the bill and to amend it, to change it—win or lose, at least they have the opportunity to try.

That goes directly to my friend's question about why we have committees and what their purposes are.

Mr. REID. Will the Senator yield?

Mrs. BOXER. I am happy to yield.

Mr. REID. The Senator is asking in this motion filed to recommit this bill to the committee, basically what the chairman of the Budget Committee said last year, that this should be referred back to committee because this bill has not had a committee hearing before it came here, and after the Supreme Court decision, so that people who are involved or have some questions about the legislation can do as Senator NICKLES said, try to improve it, have an opportunity to amend it, change it. Win or lose, at least have the opportunity to try.

Mrs. BOXER. Yes. This is not a motion to recommit; it is a motion to commit.

Senator LOTT said, on bringing the bill to the floor and bypassing the committee:

> If we bring these important issues to the Senate floor without them having been worked through committee, it is a prescription for a real problem.

I say to my friend, Senator REID, you may be interested in this statement of Senator MURKOWSKI:

> The question is, why in the normal course of events would a bill under the jurisdiction of the committee not be referred to that committee? To suggest that there is an effort to obstruct the process by giving Members input on the bill through the normal process of amendments is a travesty of the process associated with the traditions of the Senate.

It is very unusual for me to bring out statements made by the other party when arguing for a position. I am not saying it any more eloquently than they said it.

I say to my friend, our assistant Democratic leader, what they are referring to is the energy bill. That never really had a constitutional question. We have here a situation where we have the Supreme Court ruling on a legally identical bill that this is unconstitutional.

I hope we will have support. I look forward to the remainder of the debate. I also look forward to Senator DURBIN's presentation on making sure we get a health exception. I hope colleagues will support that. That is what they ought to do if they really care about families and women and women's health, and we can move on, complete this bill, and have it, hopefully, committed to the Judiciary Committee where they can look at the constitutional questions and call on the doctors, have a good debate, and bring this back to the floor having had the benefit of the wisdom of the members of the Judiciary Committee, both Democratic and Republican.

I retain the remainder of my time and I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, to comment directly on the Senator's motion to recommit, she cites statements by Members of the Republican leadership concerning the practice last session of repeatedly bringing bills to the floor without having gone through committee. The bills we were referring to included a comprehensive energy bill, a bill about that thick, and the agriculture reauthorization, which was another rather thick and complicated piece of legislation, all brand-new material. The prescription drug plan, roughly $300 to $400 million in new Government spending, and a brand-new entitlement, never went through committee. And a whole host of other pieces of legislation. We are talking about major, complex, lengthy, pieces of legislation.

The corporate responsibility bill was dramatically changed and a whole list of others that came to this floor. Members were justifiably concerned that these rather extensive and expensive and complex pieces of legislation should have had some review at the committee level.

None of these measures, prior to their being placed on the floor of the Senate, had been on the floor of the Senate before, had not had any kind of consideration in any body.

Compare that to the legislation before the Senate. The legislation before the Senate is the same subject matter we have debated on the floor on four previous occasions. There have been two extensive Judiciary Committee hearings on this piece of legislation and there has been wide discussion both on the floor and off the floor about this particular procedure.

The Senator from California argues we should have this bill go before the Judiciary Committee now because it is a changed bill. These are her words: "It's a changed bill." Earlier in her discussion she said this bill does not meet constitutional muster because it is identical to the bill we passed previously. So if it is identical, how can it be changed? If it is identical, why do we have to go back? If it is not identical, you can at least make the point we need to go back.

I make the argument the underlying issue we are dealing with here, the issue of banning this procedure, has not changed at all. Some of the legislative language has changed, but the Senate floor is eventually going to handle this issue anyway and is perfectly competent to review this legal language and make a determination on their own as to whether they believe this meets the constitutional standard as set forth in the Carhart decision. I don't believe it is hard. There is a unique expertise within the Judiciary Committee to deal with something that eventually we have to deal with on the floor. There is a lot of information written about this subject area, and it has been fully and openly debated on the Senate floor.

It is a very narrow issue. This is not a Medicare prescription drug plan. This is not a comprehensive energy strategy. This is not an agriculture reauthorization bill. This is not a corporate responsibility bill. This is a very narrow single issue. We are talking about the difference in this case between maybe 20 or 30 words. I don't think we need a Judiciary Committee hearing and markup for 20 or 30 words on a bill we have debated four times on the floor of the Senate. We are perfectly capable of handling it.

That leads me to the second issue, which is the issue of constitutionality the Senator from California brings up as a reason to commit this legislation back to committee.

Let me address those issues. First, the issue of vagueness. The Senator from California quotes the U.S. Supreme Court in saying, "its language makes clear"—its language being the bill's language in Nebraska—"that it also covers a much broader category of procedures." As a result of that, the possibility with the language in the Nebraska statute covering procedures other than partial-birth abortion, the Court found it to be vague.

We have responded to that. We have responded to that with a much more detailed definition. Let me read the operative parts of the definition to show the difference in language in how we have responded to this concern. In S. 1692, which was virtually identical to the Nebraska statute, the definition was:

> An abortion in which the person performing the abortion deliberately and intentionally vaginally delivers some portion of an intact living fetus until the fetus is partially outside the body of the mother.

Let me repeat that:

> . . . some portion of an intact living fetus until the fetus is partially outside the body of the mother.

The Court said there are other procedures done, late-term abortion procedures that are done, that in the process of doing that procedure, a portion of the body—maybe an arm or a leg or an appendage, may actually come outside of the mother while the child is still alive. So what they are saying is as a result of that, we could be banning this other procedure. In the course of doing another abortion procedure that is legal, not barred by the legislation before us today, that could occur.

We have addressed that issue. They clearly point to that particular example. We have changed the language by saying the person performing the abortion deliberately and intentionally vaginally delivers "a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother or, in the case of a breech presentation, any part of the fetal trunk"—not an arm, not a hand, not a foot, not a leg—any part of the fetal trunk, which means, of course, the feet, the legs and the trunk "past the navel, is outside the body of the mother."

So we are not talking about performing a D&E, where the baby is killed in utero and dismembered and taken out a piece at a time. We are not talking about that procedure. We are talking about a procedure where—if we can get the chart so I can graphically show what we are talking about—there is no other procedure that could possibly be covered.

I ask those who are opponents of this bill if they can name for me another procedure where the child would be arms, legs, and trunk outside of the mother, all but the head. That is the procedure we are talking about here. No other medical procedure as defined in the medical literature has a baby in this position. Period. Period. There is no vagueness here. We are clear about this procedure.

We are very clear that the child is delivered in a breech position and then, if we put the previous chart up, these 8-inch long scissors—we can see the scissors are about as long as a human hand and the baby is roughly as long, maybe slightly longer than a human hand. This baby at this point is roughly, I believe, 24 weeks, which is roughly the time, 20 to 26 or 27 weeks, when the vast majority of these partial-birth abortions are performed.

I know the Senator from California said her constituents saw these pictures and they couldn't look at them. That is why we are trying to ban this procedure. Because this is horrific. You cannot look at it and not be affected.

The Senator from Washington, the day before yesterday, said that banning this procedure is an extreme measure. I would like to know what her definition of extreme is. Banning this procedure is an extreme measure. I asked her what she thought about the fact that 70 percent of the American public wanted to ban this procedure. Under my definition of extreme, it does not equate to 70 percent support of something being considered extreme. But she held fast. She said the reason it is 70 percent support is because they do not understand really what this procedure is all about.

I want to juxtapose that statement to the statement of the Senator from California who said the people in her State could not even look at the pictures. I suggest to you, what if every single American were forced to sit in front of a television set, or, worse yet, were required to come into an abortion clinic—these are not performed at hospitals; they are just performed at abortion clinics. What if every single American were required to come in and watch this occur to a little baby, to stand and watch a physician who is trained to heal, who is trained to save lives, who is trained, as the Senator from California said yesterday, to "first do no harm," remove a 20-week to 26-week, 27-week—in some cases unfortunately later than that—little baby from its mother.

This is the part I just find chilling. Imagine yourself, close your eyes and imagine yourself in this abortion clinic watching this little child. I have witnessed the birth of our seven little children. I see these little people emerge miraculously, incredibly, from the birth canal, from their mother into the loving hands of a doctor whose job it is to heal, whose job it is to nurture and take care of that child.

But in this case those hands are not there to heal. These are not healing hands. They look like it, don't they? They have the gloves on, don't they? They are sterile, aren't they? But they are not healing hands. No, these hands are not there to heal this little child. Those hands are there to grasp that little child who is alive; who is alive. By definition, under this bill, this is not a partial-birth abortion, because it says "delivers a living fetus."

So, if this child is not alive, this procedure is not barred. This procedure is only barred if this baby is alive.

So you have hands of a doctor trained to heal, grasping a living child whose arms and legs are extended, whose heart is beating, whose nerves are sensing, whose brain is attempting to understand what is going on, and he's grasping this living being.

When you hold something that is alive, when you have it in your hands, whether it is a little rabbit, guinea pig, or little puppy, there is a feeling. There is a sense you have when you are holding something that is alive. This doctor is holding something he or she knows is alive and is 3 inches from being born, 3 inches from constitutional protection. This doctor is not there to heal. He is there to take these scissors, long, narrow scissors that come to a point at the end—they are called Metzenbaum scissors—his job is to do this blindly, because this is not done with a sonogram. This is not done where the doctor can see inside of the mother through a medical device. No, this is done blindly. The doctor is feeling, reaching his hands in to find the spot, the lethal spot, the soft spot here at the base of the skull, that soft spot in this little baby where he takes this sharp instrument and blindly thrusts it into this baby's skull.

As our majority leader said yesterday, it is a dangerous procedure for mothers. It is a blind procedure. It is done in an area of the body that is very susceptible to injury. It is a very lush area of the body. There is no protection for the mother. As the Senator from Tennessee yesterday said, those scissors could slip because it is a blind procedure. They could perforate a uterus, or they could lead to incompetent cervix. They could lead to a variety of harm that other late-term abortion procedures do not do.

Not only is this lethal for this baby but it is dangerous for the mother. According to the doctor who designed this procedure, he said—again, this his testimony—that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome. His words: Never medically necessary. He personally designed the procedure and said often that the reason he designed this procedure was not because it was healthier for women, not because it was safer for women, and not because it was a better, more scientific way of doing this. This procedure is not taught in a single medical school in the country. It is not taught in a single hospital in the country. It is not, to my knowledge, performed by any obstetrician. It is performed by abortionists who are not board certified in obstetrics. But they are certified in destruction. That is what this procedure is. This is not a procedure to preserve the health of mothers. The doctor who designed this procedure said he designed this procedure because the other type of abortion, which we do not ban in this legislation, takes 45 minutes. This takes 15 minutes. In his words—not mine—"I can do more abortions in a day."

Those scissors are thrust into this little baby's skull.

Again, you are in this room. Close your eyes. You are in this room, and you are watching this baby whose arms and legs are moving, who is alive, who but for this act that is being perpetrated upon it, would be born alive. That is not to say it would live substantially longer after birth; depending on its gestational age, maybe or maybe not.

We have cases the Senator from Ohio talked about where mothers who had partial-birth abortions or were to have partial-birth abortions—remember how this procedure works. You can go in and present yourself to the abortionist. The abortionist gives you a pill and sends you home for 2 days. That is the reason it only takes 15 minutes of his time—because he sends you home with medication to dilate your cervix over a 2-day period of time and you present yourself again for the procedure. At that point, it only takes 15 minutes of his time. There are all sorts of complications which I will not get into right now.

Having dilation over a 2-day period of time could lead to women's inability to carry children long term after their abortion. In two cases in Ohio, women delivered children because their cervix dilated too quickly, which induced labor. It resulted in the delivery of two children, both of whom lived. One did not survive because she was too premature. The other lives today but was selected for this procedure.

Go back to the room again. You are watching this doctor with these hands that are holding a living child. The child fits, as you can see, very comfortably. The entire trunk and the body of the child fit into this physician's hand. The body is moving. But he finds the spot and thrusts the scissors into the base of the skull.

Nurse Brenda Shafer was assisting on a partial-birth abortion. By the way, she was not pro-life. She was working in an abortion clinic. But when she saw this and saw—her description—the arms and legs of the child shoot out like when you hold a little baby and you let it fall a little bit. The baby will react like that and shoot its arms and legs out, not knowing what is going on and not understanding what is being done to it because their ability to understand is limited to that. This baby doesn't have any time to understand because in that moment in which these little girl's or boy's arms spasm out like that, the baby is dead.

But the procedure doesn't end, the insult doesn't end, because the doctor then takes these scissors and pulls them, causing the scissors to pull the skull open—to break the skull apart so he can create a hole in the baby's head big enough for a suction catheter to be inserted into the base of the baby's brain.

They turn on this vacuum suction tube. Then they suction the baby's brain contents out—the cranial contents out. Because of the softness of the baby's skull, the skull collapses and the baby is then delivered dead.

As our majority leader, the doctor from Tennessee, said yesterday, the only advantage he can possibly conceive of for this procedure is that it guarantees the baby is dead before it is delivered.

We are not vague about the procedure we are describing. The court should not be under any misunderstanding about what we are attempting to bar. The language in this legislation is not really identical. If I were arguing for the plaintiff—that is their job. Their job is to go out and present the best argument they can. My guess is they will argue that it is not legally identical, and they will have three or four other arguments in the alternative that this court will not buy. That is the job of the lawyer representing their client.

Our job as Senators is to protect the decency of our society. It is to stop unnecessary brutality to the weakest among us—to stop procedures that are harmful to the health of mothers. There is not one physician who has testified who has said this procedure is the safest or is the best.

I ask this question again: As I repeated the last 3 days and I have asked for 7 years on this floor, give me a procedure, give me a case study where a partial-birth abortion is indicated, where it is necessary—this is the term, by the way, that the Supreme Court used as Senator BOXER's chart shows—where it is "necessary and appropriate medical judgment for the preservation of the life or health of the mother"—where it is necessary. There is not one case, not one instance in 7 years when it has been brought to this floor, or to the floor of any State legislature, the floor of any courtroom, any hearing room. Not one case has been brought where it has been argued, because of the particular medical circumstances, it is medically necessary for this brutality.

Why? Because this isn't taught in any medical school. It isn't done in any hospital. It isn't done by any obstetrician. This is a rogue procedure for the convenience and economic benefit of abortionists and abortion clinics. Of course, it is not medically necessary. It is not even medically recognized. It is dangerous to the health of mothers.

Let me quote from the findings in the bill. By the way, this is all from congressional testimony. I understand the Senator from California wants us to commit this back to committee for congressional hearings. Here are the definitive hearings we have had on this legislation:

> Those risks include, among other things; an increase in a woman's risk of suffering from cervical incompetence—

As I said before, you have a 2-day period where the cervix is dilated. That leads to a variety of different risk factors, including infection, that could lead to cervical incompetence.

As the Senator from Tennessee said yesterday—the only physician in the Senate, who has delivered his share of babies—you do not put these kinds of instruments through the opening where the cervix is without having some consequence or potential consequences to the ability, long term, for a mother to carry a child.

> As a result of cervical dilation making it difficult or impossible for a woman to carry a subsequent pregnancy to term; an increased risk of uterine rupture—

Why? Because of those scissors we showed you before, that suction catheter, if not properly placed, could cause a lot of damage.

> abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position—

Now, remember, any of you who have gone through the birth of a child—whether as a mother or a father or a relative—who have experienced the birth of a child, one of the things you always worry about is, is the child in the right position before delivery? Is the child in the right position? What is the right position? Well, head down.

What is one of the greatest fears of a mother and a father when they go in to deliver a baby? If the baby is not in the right position, and the delivery might have to be what? Breech. Breech deliveries are dangerous. They are potentially life threatening to the baby and could be very harmful to the mother.

What does this procedure deliberately do? It delivers the baby in a breech position. And:

> a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for [the breech position] other than for delivery of a second twin;" and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the . . . child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

Now, you have to ask a question, folks. Why are there people across this country in some of those organizations that are "abortion rights organizations," and some Members here in the Senate coming here to argue to maintain the legality of a procedure which is a rogue procedure—not according to RICK SANTORUM, but according to the AMA, according to a variety of different organizations that are out there that are physician-oriented organizations. It is a rogue procedure—not taught in medical schools, not done in hospitals, not done by obstetricians—designed by abortionists for the convenience of the abortionist, that is a greater risk.

I show you a chart with Dr. Hern's comment. I show you a comment of an abortionist who does late-term abortions. In fact, he doesn't just do them, he is "the" expert in America. As they say, he wrote the book. This man wrote the book. He is the author of standard textbooks on abortion procedures, abortion practices, and performs many third-trimester abortions. This is what he said:

> I have very serious reservations about this procedure . . . you really can't defend it. I would dispute any statement—

listen—

> any statement that this is the safest procedure to use.

This is not someone who supports my side of the argument, by the way. But what he is suggesting is, this is the least safe. In fact, we have umpteen medical organizations and physicians' testimony, saying: Well, you know, we want to keep it as an option. Many of these groups say: And we don't want doctors to have any restrictions on their right to practice. But, no, there are safer procedures, certainly.

But the evidence is overwhelming. This is the least safe procedure. This is the most dangerous procedure to the health of a mother. So it is the most dangerous. And it is never medically indicated, never medically necessary.

So, again, why? Why do you oppose this? Of all the alternatives, it is the most dangerous to the health of the mother. So it is dangerous to the health of the mother, and it is never medically indicated. Well, then, why would you support keeping it legal?

What is so important, what value that you hold, what thing is so precious that would require you to come here and defend a procedure that is never medically necessary and more harmful to women than other alternatives? What is it? It is not women's health. No, no, no, it is not women's health, because this is the most dangerous. And this is not medically necessary. So what is it?

Well, as the abortion rights groups have said, this is an assault on the right to an abortion. This procedure is an assault on the right. I would argue, most people do not even believe you could have abortions at this stage. When you look at this little, fully formed, living child, most people in America cannot imagine that abortions are performed on healthy mothers with healthy babies at this point in pregnancy, because the other side has said, for years: Well, Roe v. Wade only allows first-trimester abortions. They are limited afterwards. Wrong. Wrong—healthy mothers, healthy babies.

How do we know? Well, Ron Fitzsimmons, who is the director of the organization of abortion clinics in America, said: I lied through my teeth when I said this was performed in rare circumstances only to protect the health of the mother, on children who are deformed or mothers who are in danger. I lied through my teeth, he said. He said: We all know that these abortions are performed on healthy mothers and healthy babies. The vast majority—his quote—the "vast majority." We have better than a vast majority.

The State of Kansas, the only State in the Union that tracks these kinds of abortions, requires a reason for the abortion on the form the doctor has to fill out after he performs it. In Kansas, there were 182 partial-birth abortions in 1 year—in a State the size of Kansas. How many were for the health of the mother? How many were because the mother's life was in danger? How many were because the mother's future fertility was in danger? How many were because the mother was in danger of grievous medical injury, physical injury? How many were because this was medically necessary? How many? None. Zero. The reason given for all 182 brutal executions at the hands of a physician: mental health. They had to check a box somewhere: "mental health." Well, they have to say a health reason. You can't do it for no reason. But mental health, of course, is fear, anxiety, stress—certainly things we should be concerned about, but I do not believe at this stage in pregnancy a sufficient reason in the American public's eyes to do this.

Is stress a reason for this? Is this a justification in the eyes of the American public? Seventy percent—I daresay if we had every American in the room when one of these procedures was performed, God, I hope at least 95 percent would agree it was not justified.

This is an evil in our midst. One of the great things I believe about America and about my colleagues is when they see evil, they have the courage to stand up and fight it. This is the face of evil. Those hands, those healing hands are a corruption of medicine that we cannot allow to continue.

Please vote against this motion to commit, this motion to delay the banning of this procedure that could save some little baby somewhere in America from having to go through this.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, we have reached a point of this debate where there has been screaming and yelling on the Senate floor. I will try to react to those screams as calmly as I can and say that this bill doesn't protect the health of women. It puts our daughters in harm's way. That is not groups saying that. That is 45,000 OB/GYNs. Talk about loving hands; they are saying that. It is women who have had the procedure. They are saying that. And guess what. The Supreme Court says that. Because of that, we need to send this bill back. Actually it is not back to committee; it never went to committee.

I never said it was identical. I said it was legally identical to the Stenberg case. I have said that over and over.

This morning we have been listening to a series of lectures about medicine. I guess I find that odd on the Senate floor, especially the one about breech babies because my daughter was delivered breech. I understand that. I don't need to be lectured about that, about what it is, about what the risks were to me or my baby because I lived it.

I do know one thing: My constituents are right to look away from this drawing. No one wants to look at abortion. We want abortion to be rare. We want it to be safe. We want it to be legal. The vast majority of people in the State I represent, a State of 35 million people, support Roe v. Wade because it is a moderate decision that balances all the interests. Yes, the health and life of the mother always, and the interest of the fetus where, after the first 3 months, States can in fact set the rules of abortion, but always, always with the life and health of the mother at the forefront.

This bill does not do that. Therefore, this bill is unconstitutional, in addition to being cruel, in addition to being dangerous, in addition to putting women in jeopardy.

Again, I say to my colleague that he has chosen to put this drawing here. I could have chosen to put a drawing of a woman having a hemorrhage behind me. I could have chosen to put a drawing of a woman's uterus rupturing and everyone running around in the emergency room desperately trying to save her. I could have chosen a drawing of a woman slipping into a coma, having an embolism. I could have put a drawing of a woman paralyzed for life because perhaps she couldn't get this procedure which my colleague has decided doctors say they don't need. That is false on its face, and that is the reason we need to have a hearing.

We have letters from doctors. We have letters that lay out why, in fact, this procedure is necessary and why this bill is unconstitutional. A letter from the University of California, San Francisco, signed by Felicia Stewart. She says this bill:

> . . . fails to protect women's health by omitting an exception for women's health; it menaces medical practice with the threat of criminal prosecution; it encompasses a range of abortion procedures; it puts women in jeopardy.

She names the various abortion procedures which could be outlawed.

I would like to have this bill go to the Judiciary Committee because I would like to know why one procedure wasn't mentioned in the bill ever. It is on purpose because it is meant to cover more than one procedure. That is another unconstitutional provision.

By the way, the proponents of this said before that the laws before the court would be deemed constitutional. They were not. They were wrong then; they are wrong now. And surely if they think they are so right, why don't they want to take the time and have this bill go through the Judiciary Committee.

Dr. Stewart says:

> If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible . . .

And she lists them. They are even more than what is behind me.

The individual who argued the Supreme Court case that we are talking about, Stenberg, says the new Federal bill, S. 3 "contains the same two flaws of the Nebraska bill that was ruled unconstitutional." And she goes on to explain why. I don't want to be terribly repetitive, but there were two problems in the Stenberg case. The ban was too vague and, therefore, there was an undue burden on the woman because she could be denied all kinds of procedures. Secondly, there was no health exception.

So, yes, I could have had a drawing that showed a woman in severe crisis and constituents would have turned away from that as well. That is why Roe v. Wade is such an important decision because it knows that this issue is so difficult. It weighed the competing interests and it said, in the first 3 months of a pregnancy, government stay out. A woman and her doctor can decide. Senator SANTORUM should not decide, although in his opinion, I know he wants Roe v. Wade overturned. He thinks government should decide. I take issue with that. But there is no difference on the rest because I do believe later in a pregnancy, the State has a right to set the rules, always making an exception for the life and health of the mother.

I don't know what all the yelling is about because I could tell my colleague that we could probably get, if the leaders on his side of the anti-choice would agree, we could get a bill that could ban all late-term abortions—all—except for life and health of the mother. Wouldn't that be something we could do?

We will have the chance because, as I understand it, Senator FEINSTEIN will be offering that very bill. Let's see how our colleagues feel. They will have a chance to ban all late-term abortions with the life and health exception.

My colleague said, in answer to Senator NICKLES' comments about how important it is to send bills to the committee of jurisdiction—I wrote down what he said—they were talking about a complex piece of legislation, major complex piece of legislation. They were talking about a big piece of legislation, many pages. Well, I ask the question: What could be more important for the Senate Judiciary Committee to look at than a matter that deals with life and health? What could be more important for the Judiciary Committee to look at than a possible ban on a procedure that has no health exception, which could lead a woman into a life where she is paralyzed, where she has a stroke, where she cannot bear children anymore, where, in essence, she is taken away from her family? What could be more important to take 2 days on?

Are women not worth a couple of days of hearings here? Are women not worth it? They are your mother, they are your sister, they are your wife, they are our daughters.

Mr. DURBIN. Will the Senator yield further?

Mrs. BOXER. Yes.

Mr. DURBIN. I want to make sure this is understood by Members of the Senate and those following this debate, and I want to ask this question: Am I correct in my assumption that the exact language of S. 3, which is currently before us, was the same language in the Nebraska statute that was found unconstitutional by the U.S. Supreme Court?

Mrs. BOXER. It is legally the same. There are a couple of tweaks in the language, and there are a series of findings, but the lawyers who argued the other case tell us it is legally the same because there is no health exception and the language is so vague that it creates an undue burden.

I have behind me on a chart the two reasons the Court found that Stenberg was sufficient. Those issues remain in S. 3. That is why this motion to commit is an attempt to do the right thing by the women in this country, and for the children of this country, and for the families in this country, and for anybody who cares about this matter, and to have a couple of days of hearings to see if we can get a bill that would pass constitutional muster.

Mr. DURBIN. If I may ask another question of the Senator. So in 1999 we debated virtually the same bill on the floor?

Mrs. BOXER. Correct.

Mr. DURBIN. There was a vote taken and then the veto by President Clinton. Then subsequent to that the U.S. Supreme Court across the street took the Nebraska statute to consider whether or not it was constitutional, and that statute had the same language we are considering today. I can quote it. This was in the Nebraska statute, and this is in S. 3. Abortion is:

> necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, physical injury, including life and danger of physical condition caused by or from the pregnancy itself.

The identical wording to the Nebraska statute. So in the year 2000, the Supreme Court ruled this language unconstitutional. Yet we come back today with exactly the same language that was already rejected by the Supreme Court, and we are supposed to vote on this without any intervening committee hearing, without having people come before us and suggest that if you are going to approach this again, you certainly don't want to go down the same path as the Nebraska statute.

So the Senator's motion to commit is basically to take the language rejected by the Supreme Court—the language before us now—back to committee so that whether you are for or against this amendment, you can at least concede the obvious—that this language has already been rejected.

What we are going through here is, frankly, not a very productive undertaking. Is that the Senator's suggestion with the motion to commit?

Mrs. BOXER. Yes. I thank my friend. As an attorney, as he is, and as a member of the Judiciary Committee, he understands that this is in fact a wasted amount of time because there are so many other issues we could be dealing with here regarding the people of our country, who are struggling now under terrible economic times and are worried about foreign policy problems; and we are spending time on an extremely emotional issue. There is no question it is very difficult for this Senator to be here talking about it, because it deals with a situation where I believe the health of women could be jeopardized and doctors could be put in jail for trying to do the best for their patients. The other side gets very emotional as well. In the end, we have a piece of legislation that doesn't pass constitutional muster and this will be brought back again.

So it seems to me the intelligent thing to do is to bring it to the committee and make sure that this bill, as Senator SANTORUM says, meets the constitutional issues that were raised. Experts tell me it does not. The record is replete with references that colleagues on the other side thought the Nebraska case would pass constitutional muster and it did not either.

I also would like my friend to see a comment made by Senator NICKLES regarding the importance of going to committee because I think it stands out here as a way to make the point that, whether you are a Democrat or Republican, you should respect the fact that we have committees for a reason. When a bill bypassed the committee, he said he was very disappointed in this process, and this process should not be repeated, so that we can have bipartisan input, have the legislative process work, have hearings so people know what they are voting on, et cetera.

I think what we are doing makes a lot of sense because it impacts the health of women, the lives of women, and life and death itself, and it ought to go back.

Mr. DURBIN. Mr. President, I think two things ought to be brought up as part of the motion to commit. The first is that we are considering language already rejected by the U.S. Supreme Court—a 5-to-4 vote, by a fairly conservative Court. Yet we are being asked to vote on it again today. That does not suggest a learning process. It suggests that people are stuck in a political position that they are going to keep bringing up over and over again regardless of the Court. So the language is identical.

The second thing the Supreme Court said when they rejected the Nebraska statute still applies to this, and that is that there is no health exception, no situation where a mother's health situation is taken into consideration when an abortion procedure is allowed.

I might ask the Senator from California this. I listened carefully—and again I will defer to my colleague from Pennsylvania when it comes to his convictions and feelings on this issue; they are heartfelt, real, and sincere. I cannot listen to him without coming away with that impression. He said he believes that if every American could come into a medical setting and watch this abortion being performed, they would understand his position.

I would like to ask the Senator from California: Couldn't the same thing be said of the women who are finding late in their pregnancies that there has been a terrible complication which has occurred, which threatens their lives, threatens their health? Couldn't we also say, if you could sit down in a waiting room with a mother-to-be and her husband who have just been given tragic news at the end of what they thought was a normal pregnancy, and that in fact it is not normal, there are terrible complications, and that continuing this pregnancy may threaten this mother's life or threaten her ability to ever have children again? I wonder if you invited all of America into that waiting room to anguish with these parents, what their conclusion would be.

I say to the Senator—and I ask for a response—there is no doubt about this. This is a painful and emotional issue on both sides. But in fairness, it has to be said that the other side is arguing they don't want to take into consideration the health of the mother, they don't want to create an exception for a mother in desperate circumstances, facing a medical crisis that is threatening her health and ability to ever bear another child.

In honesty and fairness, should we not be talking about both sides of this equation? I ask the Senator to respond.

Mrs. BOXER. I say to my friend that that is the whole point. When you are dealing with these emotional, difficult, terrible issues, you have to look at all of that. That is why, on our side, we are willing to say we would ban all late-term abortions, as the Senator's bill would do, except for life of the mother and, in your case, a health exception which is a pretty tough health exception.

Mr. DURBIN. Grievous physical injury.

Mrs. BOXER. I am going to support you. I am also going to support Senator FEINSTEIN's, which gives a little more leeway to the patient and the doctor. The point is that is the right approach to balance the fetus's rights and the mother's rights.

That is the whole point of Roe and why it was such a reasoned, reasonable, and moderate decision because all of this is difficult. For us to outlaw medical procedures which doctors tell us are necessary—and my colleague keeps saying they do not. I put in the RECORD the letter from the OB/GYNs, 45,000 strong, who say do not do away with this procedure and, if you do, make a health exception.

I have told stories and I want to quickly go through one—how much time do I have remaining on my side?

The PRESIDING OFFICER. Fourteen minutes, 40 seconds.

Mrs. BOXER. Can I be told when I have 5 minutes remaining?

The PRESIDING OFFICER. The Chair will advise the Senator.

Mrs. BOXER. I thank the Chair. Mr. President, I say to my friend, he posed a very good rhetorical question which was: Does the Senator believe if people could hear these stories of the women and their families who are going through these choices, would they not also be touched and be moved? The answer is clearly yes.

I wish to tell my colleague about Coreen Costello who went through this procedure. I want to tell you how she defines her own ideology and religion. She says:

> We are Christians and conservative. We believe strongly in the rights, value, and sanctity of the unborn. Abortion was simply not an option we would ever consider.

She was told the muscles of the baby she was carrying had stopped growing and her vital organs were failing. Her lungs were so underdeveloped they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow and, as a result, the excess fluids were puddling in her uterus. They tried desperately to save the pregnancy.

She said:

> We wanted our baby to come on God's time, and we didn't want to interfere. We chose to go into labor naturally.

Eventually she was told if she did that, she could die.

> We asked our pastor to baptize her in utero. We named her Catherine Grace, Catherine meaning "pure" and Grace representing God's mercy.

We talk about the problems families face. These families are desperate to do the right thing for the family, for the child in utero, and eventually she had to have this procedure that the Senator wants to outlaw. She said it saved her life and it saved her health, and it was the only choice she had to save her fertility. She said:

> Losing our daughter was the hardest thing we ever experienced.

She said it has been difficult to come to Washington and tell her story.

Mr. DURBIN. If I may ask the Senator a question.

Mrs. BOXER. Yes.

Mr. DURBIN. I have heard that story, and I have personally met a woman from my State who faced a similar medical crisis, Vikki Stella, of Naperville, IL, a mother of two children who was pregnant with her third, anxiously awaiting the arrival of this little boy and learned very late in her pregnancy, much to her surprise, that her poor child was so deformed and abnormal that it could not survive outside the womb. The child was destined to die almost immediately after birth.

Of course, some people would say at that point: Why not just finish the pregnancy? Why do you have to do anything? Her doctor said to her, unfortunately: You are not the healthiest person in the world even as a mother of two children. You have a diabetic condition, and you have the chance of complications. Therefore, her doctor recommended that she terminate that pregnancy, using the same procedure which would be outlawed, banned, prohibited by this legislation.

Her husband was a practicing physician who was then in private business. She said in her testimony she almost had to be carried out of the waiting room after she was told this devastating information. They went home. I talked with her. She said they had sleepless nights about what is the right thing to do: Should I go ahead and risk my life and my health and finish this pregnancy or what?

They finally came to the conclusion that the best thing for her, her health, and her family was to go ahead and terminate the pregnancy of this poor malformed fetus that would never survive, and she did it. They used the very procedure which the Senator from Pennsylvania would prohibit and ban. The last time I saw her was here on Capitol Hill. She was pushing a stroller with her new baby boy.

I say to the Senator, a lot of this debate is premised on false premises that women that late in pregnancy would not take the termination of a pregnancy very seriously. I do not believe that. I think the overwhelming majority of women that late in a pregnancy are not going to end the pregnancy unless there is some extraordinary situation. That somehow the women who make this decision really never wanted to have a baby—look at Vikki Stella. Look at Mrs. Costello and others. They had a family and were hoping to add to their families. Frankly, there are lots of options which they could choose.

I say to the Senator from California, isn't that what we are finding, that these are extraordinary medical situations where we are asked now in the Senate to impose our medical judgment over the judgment of an obstetrician, over the judgment of a family doctor? We are going to make the medical decision on the floor of the Senate, a decision which should be made in a hospital, in a clinic, in a doctor's waiting room; isn't that what this comes down to?

I ask the Senator from California if she sees it as an issue that brings that kind of decision to the forefront.

Mrs. BOXER. I say to my friend, no one can be more eloquent than he. I think this whole debate is about Senators thinking they know more than families, doctors, the ability of families to sit around and choose the safest option in a real emergency situation.

My colleagues say it is not an emergency; the procedure takes 3 days. That does not even make sense to me. I think if you find out you are going to have a cancer operation and it takes a long time, it still is an emergency. The fact the procedure takes a while probably indicates it is even more of an emergency.

We have a lot to do. We have a lot of responsibilities. I do not want to do harm. I think that by sending this bill to the committee of jurisdiction to further explore the constitutional ramifications of this bill, which is legally identical to a law that was ruled unconstitutional by the Supreme Court, is the right thing to do. To listen, again, to some of the people who have lived through this is the right thing to do.

To do no harm is the minimum we should be doing. I think when the Senator offers his amendment to have a pretty narrowly drawn health exception, it ought to win because how do we stand here and say we have a heart when we ignore stories like Vikki Stella's?

Mr. DURBIN. If I may ask the Senator, too, after most of the debate yesterday, Senator SANTORUM came to the floor and told a very compelling story about a little girl who was born with some serious health defects and who survived and prospered. He showed us a beautiful photograph—which I am sure he is going to refer to again—of this little girl who had survived and conquered all of these challenges.

I ask the Senator from California, we all know these stories and we admire the courage of the parents and of the children who make it, but doesn't the Senator from California believe, as I do, that we should have adopted the Murray-Reid amendment yesterday which would have guaranteed health insurance coverage for uninsured mothers with these children who are struggling with all of these medical problems? Doesn't the Senator believe that if we are truly committed to these families and these children that Senator MURRAY and Senator REID have the best approach in terms of family planning information so that they have wanted pregnancies and that they have health insurance for these children?

Does the Senator believe, as I do, that if one is committed to these children, these mothers, and these families, they should also be committed to health insurance coverage so they can have the care they need to survive and prosper?

Mrs. BOXER. I absolutely supported the Murray-Reid amendment, as did my colleague. I was stunned at how many people on the other side of the aisle, who stood up and defended the rights of the fetus, somehow cannot defend the rights of a child. It is a stunning thing to me to see people, who are speaking so eloquently on this, vote against the Murray-Reid amendment to help poor children get the help they need, to help them get the medical attention they need.

We ought to think about the pictures of these women, with their families, who faced this. This is not an issue that is an abstraction. It is an issue about real families struggling. And being told that to save the woman, to save her ability to have future children, to make sure she does not wind up paralyzed or with a stroke, that she have a chance, this Senate is going to move to outlaw this procedure, that could do that for this woman without a health exception—I think it is cruel. I think it is wrong. I think it is sad. I think it shows a lack of humility. And I hope the people of this country will understand what we are talking about: The willingness of the pro-choice Members of this Senate to outlaw all late-term abortion as long as the life and the health of the mother are excepted.

I thank my colleagues for listening, and I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, to address a few issues the Senator from California spoke about, I made a comment about her calling this bill identical, and she said she did not call it identical, that she called it legally identical.

I quote from the unofficial record from 6:51 p.m. Monday on the floor of the Senate, the Senator from California: The Supreme Court said in an identical bill, it is far broader than just one procedure—identical bill.

The Senator from Illinois just repeatedly said this is the exact same bill, exactly the same language—"identical bill." The Senator from California said that is correct. So she is saying this is an identical bill, and then she suggested we need to send it back to committee because we need hearings because it is a changed bill. Which is it? Is is a changed bill or an identical bill?

It is not an identical bill, I concede that point to her. It is different. The language is substantially different. The Senator from California said: We meant to cover more than one procedure with this language.

Why would we want to do that? The Supreme Court said: The reason we are striking down your language is that we believe it covers more than one procedure. So we are going to craft language so the Supreme Court can come back and say, well, it covers more than one procedure?

Maybe my colleagues think we are not serious about banning this procedure. Let me assure them, I am serious as a heart attack about banning this procedure, and we have crafted language to do just that, and only that.

The language is different. It is not identical to the Nebraska statute. The Nebraska statute said, as the previous bill we considered on the floor, that a partial-birth abortion is performed in which the person performing the abortion deliberately and intentionally vaginally:

> delivers some portion of an intact living fetus until the fetus is partially outside the body of the mother.

The new language says:

> deliberately and intentionally vaginally delivers a living fetus until, in the case of a head presentation, the entire fetal head is outside the body of the mother, or, in the case of a breech presentation, any part of the fetal trunk—

That means the arms, legs, trunk—

> past the navel is outside the body of the mother.

Now, that is substantially different. It is not an identical bill. It is much more specific, to address the very issue the Court wanted us to address in the Stenberg v. Carhart case. So we are very clear. This is not vague, and this is an honest and sincere attempt to meet the constitutional strictures of the Supreme Court decision.

I will address Senator DURBIN's and Senator BOXER's point on some of the special cases, but the Senator from Minnesota is in the Chamber and I yield 10 minutes to him.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I do not know if there is an issue we face in this Senate that is as charged and certain to elicit a whole range of emotional responses as the issue of abortion. A lot of us bring very passionate perspectives to this. My wife Laurie and I are parents of two children who were destined to die. Our first son, Adam, was born with a genetic condition that we found out about at the time of birth, at delivery. He lived for a very short time, not more than a couple of months. As a result of that, I can say that my sense about the value of life was forged in steel, that each life is precious, that each life has value. That is the perspective I bring.

Ten years ago, our fourth child, our last daughter, Grace—in between we have a son Jacob, who is going to be 17 tomorrow, Thursday, and a daughter Sarah, who is 13, but our daughter Grace was born with the same condition. We knew about a week before that she was going to have this genetic condition which is very rare.

My wife gave birth. We cared for Grace for a couple of months. We brought her home from the hospital very quickly. We knew she was destined to die. We made that choice for Grace to be part of our life, because we understand the incredible value that every life gives, that every life has, that every life is a gift from God.

I recognize that my friends across the aisle have heartfelt and passionate beliefs on the other side of the abortion issue. I understand that. We disagree. But in this debate about partial-birth abortion, this debate in which we talk about a child partially delivered and then crushing its skull, this debate is one in which Minnesotans certainly, I believe, and Americans at large, can find common ground. This should be an issue which, in spite of one's position on the life issue, in spite of their views on abortion generally—this issue is one in which we should come together and agree to ban partial-birth abortion. As divisive as the issue of abortion is, there are a few things in which we can find common ground.

It is not part of this debate, but I have to tell this story. A while ago, my 13-year-old went to get her ears pierced. I received a call from the folks who wanted to pierce her ears wanting to know if dad said it was okay. They had to have parental consent. I think most Americans and most Minnesotans would say that makes sense. If it is true for having one's ears pierced, it should be true for abortion.

Even on this divisive issue, there are those things that we, as Americans, can agree on and say let's move together, let's find the common ground, and banning partial-birth abortion is one of them. It is time to put an end to this gruesome procedure that claims the lives of thousands of unborn children every year. It is time to ensure that no child suffers this violent, tragic death.

We are under assault in this country. I have watched the debate and I respect the work of my distinguished colleague from Pennsylvania. In this debate, we have been besieged by a campaign of falsehoods about what this issue is about. It is about partial-birth abortion.

Some say that the procedure is rarely performed; we do not need to deal with it. If it was performed even one time, most Americans would say is wrong and must be stopped.

So we are doing the right thing by finding common ground on this divisive issue and banning partial-birth abortion.

A recent survey by the Alan Guttmacher Institute, an affiliate of Planned Parenthood, released in January of 2003, reported that 2,200 partial-birth abortions were performed in 2000. In 1997, the executive director of the National Coalition of Abortion Providers estimated that approximately 3,000 to 5,000 abortions were performed by that method annually. This means that anywhere between 6 and 14 children die every day as a result of partial-birth abortion. This bill is a significant piece of child protection legislation and, again, one in which we should find common ground in spite of and regardless of one's position on abortion.

Abortion providers would have people believe this procedure is currently only performed when the mother's life is threatened or the fetus is deformed. This is simply not the case. Ron Fitzsimmions, executive director of the National Coalition of Abortion Providers, has stated:

> In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus, as reported in the New York Times.

My colleague, the distinguished Senator from Illinois, has offered an amendment that he believes offers a reasonable compromise to provisions contained in S. 3. Sometimes your friends want to love you to death. In the guise of saying they will help, they want to kill what we are trying to do. What we are trying to do is very simple in this bill. It is very specific. It is very clear. It is uncomplicated. We are trying to ban a gruesome procedure known as partial-birth abortion. That is what this is about.

The Senator's amendment seeks to make it unlawful to abort a viable fetus unless a physician, prior to performing an abortion, certifies the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

In this case, the exception swallows the rule. The word "viable" makes the ban on partial-birth abortion virtually meaningless, as a large majority of the procedures are believed to be performed during the second trimester, and the term "viable" will likely be read by the courts to include only third-trimester abortions.

Further, there is no requirement to certify whether the unborn child is, in fact, viable. The capacity for a baby to survive independently of the mother with technological assistance is currently reached in the late weeks of the second trimester. Without certification of viability, there is little or no new protection against the partial-birth abortion procedure.

Equally alarming, this amendment requires that there be a risk, not significant risk—not even slightest risk—but risk to the mother's health. There is a risk involved in almost every type of medical procedure, including delivering a baby. In the guise of seeking to offer some common ground, what we really have—and folks have to understand it for what it is—is an attempt to try to kill what is a very clear, very straightforward, very unequivocal, very heartfelt, and a very strong consensus-building effort to move together on this divisive issue of abortion. We want to say that in the Senate we understand there is common ground, and that common ground is to put an end to partial-birth abortion.

The amendment from my distinguished colleague from Illinois offers no new protection against this violent procedure for unborn children, as the loopholes in the amendment are so large. It is time to stop this inhumane, gruesome procedure. It is the right thing to do, and this is what the American people are asking us to do. The people in Minnesota are asking it. I have received scores of messages and letters from folks saying move forward on this effort. It is the right thing to do.

Again, this issue is divisive. We bring deep, personal stories to the debate. In the final analysis, we have before us a common ground, clear common-sense thing to do, and that is put an end to this gruesome procedure.

I thank the Senator from Pennsylvania and stand in solid support with him.

I yield the floor.

Mr. SANTORUM. How much time remains?

The PRESIDING OFFICER. The Senator has 11 minutes and 9 seconds.

Mr. SANTORUM. I yield to the Senator from Illinois 7 minutes.

Mr. FITZGERALD. I thank my colleague from Pennsylvania for the excellent work he has been doing on this ban on partial-birth abortion. I am an original cosponsor of Mr. SANTORUM's bill. I applaud him for his hard work and toil on this issue, not just this year but for several previous years. In fact, Senator SANTORUM has been working on this issue for some 7 years.

When you reflect that it has taken this long for this body to get to this date where we are close to having a vote and we hope the bill will pass and be signed by the President, you have to wonder what kind of a society have we become that it has taken us so long to get to the point where we are close to banning what to me seems to be a very cruel and inhumane procedure. It has been made abundantly clear, both in this debate and in many Senate committee hearings on prior occasions, that banning partial-birth abortion is a simple step those of us on both sides of the abortion issue should be able to coalesce and find common ground over.

We are talking about banning a specific procedure in which a baby is partially delivered, scissors are stuck in the back of the baby's skull, a vacuum suction tube is inserted into the skull, and the baby's brains are sucked out. We are banning this type of abortion only. Can we not agree this is too cruel and inhumane a procedure to allow in the United States? As Senator SANTORUM has said, we are not banning other types of abortion.

I am struck that several times in the 4-plus years I have been in the Senate, we have on several occasions had debates on the Senate floor and votes in the Senate about banning cruel and inhumane treatment of animals. In fact, I remember several years ago we had a debate over an amendment brought by Senator Torricelli that would prohibit the use of funds in the Interior budget to facilitate the use of steel-jawed traps and neck snares for commerce or recreation in a national wildlife refuge.

During the debate on this amendment, my friend and colleague from Nevada, Senator REID, described the amendment to ban steel-jawed traps and neck snares as a "no brainer." My colleague went on to say: "These traps are inhumane. They are designed to slam closed. The result is lacerations, broken bones, joint dislocations, and gangrene." In concluding, Senator REID stated: "In this day and age there is no need to resort to inhumane methods of trapping."

Many Members were persuaded. I was persuaded. I voted to protect the animals out West, the coyotes, wolves, and bears that were being inhumanely trapped in these steel-jawed traps and neck snares. Why were many of us persuaded? Why were we all troubled by steel-jawed traps and neck snares? Is it because there is something in our gut that turns and twists over the unnecessary suffering and pain of creatures with whom we share this Earth; the majestic animals who are as much a part of God's wonderful creation as we are; wonderful animals who add richness and texture to our own experience of the planet; animals whom we thank God for allowing us to appreciate and admire?

The suffering of a bear or a deer can lead many of us to say no to a steel-jawed trap or neck snare, but what about the scissor through the head and neck of a child? What about sucking a baby's brains out? We would not treat a mangy raccoon this way.

I remember a couple years back the Senate acted to do more to fight the inhumane treatment of dolphins. I remember supporting an amendment offered by my friend and colleague, Senator BOXER, to the fiscal year 2000 Commerce, Justice, State appropriations bill to force countries to pay their fair share of the expenses of the Tuna Commission and delay the importation of tuna caught using fishing methods that unnecessarily harm and kill dolphin. During debate on this amendment, Senator BOXER spoke eloquently of the thousands of dolphin killed each year by fishing methods that cruelly and unnecessarily harass, chase, circle, maim, and kill dolphin that happen to be swimming over schools of tuna. I appreciated her efforts and others' efforts in the name of humaneness.

I believe our Maker has touched our human conscience with something that makes us almost instinctively recoil from causing unnecessary pain and suffering to animals. I know there is a tender spot in the hearts of some who now oppose a ban on this cruel and inhumane procedure. I know it is there because I have seen it in debates in this body. But I don't understand how those who can hear the howl of the wolf or the squeal of a dolphin can be deaf to the cry of an unborn child.

If people were sticking scissors in the heads of puppies, we would not abide it. In the name of common decency and humanity, I urge my colleagues not to let this happen any longer to our own young. I applaud Senator SANTORUM for the good work he has been doing. We will keep fighting until we get this ban enacted into law.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator from Illinois for his support both here on the floor and things that we have done off the floor to get support for this legislation. He has been one of the champions. I appreciate his support as well as that of the Senator from Minnesota, his very heartfelt support for this legislation and the very touching personal story he related to the Senate.

How much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes 10 seconds. The Senator from California has 3 minutes 53 seconds.

Mr. SANTORUM. Mr. President, just to reiterate, I do not believe we should support the motion to commit. As I stated before, this is a piece of legislation we have had on the Senate floor. This is the fifth debate on the floor of the Senate. The Judiciary Committee has held two hearings and reported the bill out.

It is not exactly the same. As I said before, it is not identical. We have addressed issues of health and vagueness, but the substance is the same. We are talking about the same thing. We are talking about changing roughly 20 words in the statute. I think that is a small enough change for Members of the Senate to digest without the Judiciary Committee going through and giving its opinion.

The Senator from Utah, Senator HATCH, came to the floor and addressed the issues. Other members of the Judiciary Committee have been here and done likewise, many of whom are cosponsors of this ban.

I believe this is, frankly, going to delay consideration of this legislation. It will not have any impact or import in the long run to our deliberations. I think Members of the Senate are fully able to make this decision at this time being well versed after this debate.

We have had a good debate over the last 3 days. We will continue to do so, prior to passage. I think it is time to move forward. I hope my colleagues will join me in opposing the motion to commit.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to start by answering Senator FITZGERALD, who complimented me on my work. We have worked together on saving dolphin and others. But since he couched it in the form of an attack, I think I would like to respond in this way.

My whole life has been dedicated to protecting children, women, the elderly, the infirm, and that is what my current position on this issue reflects. I want to ensure pregnancies are safe, that women have prenatal care so they have healthy babies and, yes, when a woman faces a crisis pregnancy, that she can be saved—women, like some of the women in the Senator's own State of Illinois, who have to choose this particular procedure that would be banned by his vote, without even an exception for the health of a woman. I find that position to be inhumane.

I want abortions to be safe, legal, and rare. I have to say to my colleague from Illinois, if he wants to go back to the days when abortions were illegal, I could share some stories about people I knew who were made infertile, and many whom I have read about who died. If you want to go there, we will talk about it.

But right now we are talking about a bill that is a very important bill because it bans a procedure that women need to have available to them on rare occasions. Because we are talking about a bill that is legally identical—if I didn't use the term "legally identical" in every case, I apologize—we are talking about a bill that is legally identical to the bill that was declared unconstitutional by the Supreme Court.

Senator LEAHY agrees. He is the ranking Democrat on the Judiciary Committee. I will ask unanimous consent to have printed in the RECORD, if it has not been done so, his statement.

He says:

> Senators deserve the benefit of full consideration and vigorous debate before they are asked to cast a vote on such a significant and complicated issue.

He says:

> The Judiciary Committee has not had an opportunity to fully debate the pros and cons of this issue in a hearing since 1997.

I would say to my colleagues, to heed the words of their own leaders—Senator DON NICKLES, who excoriated Democrats for bypassing the committees instead of bringing a bill to the floor, in which he said:

> Bypassing the committee should not be repeated by Democrats or Republicans. We have committees for a purpose so we can have bipartisan input, so we can have the legislative process work, so we can have hearings on legislation so people can know what they are voting on.

It is the height of irresponsibility, it seems to me, when we are talking about a bill that would deny a procedure that 45,000 OB/GYNs say is sometimes necessary to save the health of the mother, not to have a hearing on this particular piece of legislation since we have not had one in a very long time and the Supreme Court chastised those who wrote the Nebraska law because, they said, it did not really make any exception for the health of the woman even though the kinds of risks that she faces are very serious.

Let's take a look at the risks that doctors tell us women face: Hemorrhage, uterine rupture, blood clots, embolism, stroke, damage to nearby organs, and paralysis.

So I say to my friends who come here with such compassion in their heart, to be compassionate toward the mothers, too, to understand what they may face.

Let's send this to the Judiciary Committee. That is where it should be. Let them take a look at it and bring it back up.

I yield the floor.

Mr. LEAHY. Mr. President, when Senator SANTORUM introduced S. 3 on February 14, the leadership immediately placed the bill on the Senate Legislative Calendar, bypassing committee consideration of the bill. I rise today to support the motion to commit the bill for consideration by the Judiciary Committee.

Senators deserve the benefit of full consideration and vigorous debate before they are asked to cast a vote on such a significant and complicated issue. In fact, the Judiciary Committee has not had an opportunity to fully debate the pros and cons of this issue in a hearing since 1997. Since that time, we have welcomed many individuals to the Senate, and to the Judiciary Committee, who were not members of this body when the bill was last debated. In addition, since our last Committee hearing, there has been judicial review of similar legislation, including a Supreme Court decision, that should be fully vetted by the Judiciary Committee.

The committee referral process is there for a reason and we ought to respect it. My colleagues on the other side of the aisle have repeatedly called for the Senate to follow these well-established practices.

For example, the distinguished senior Senator from Oklahoma complained in relation to the prescription drug bill last year: "What happened to the committee process? Shouldn't every member of the Finance Committee have a chance to say, 'I think we can do a better job?' Maybe we can do it more efficiently or better. No, we bypass the committee and take it directly to the floor." Other senior Republican Senators likewise complained about the need to involve Senate Committees and their expertise in development of prescription drug legislation, energy legislation and many other matters. How quickly they have changed their position. I have some respect for the Senate's established procedures and processes. I urge all Senators to support the motion to commit this matter initially to the Judiciary Committee for a hearing and committee consideration. With Senator HATCH as the committee chair and with a majority Republican membership, I do not understand what the Republican majority fears by having fair proceedings before the committee before the Senate is asked to take final action.

AMENDMENT NO. 259

The PRESIDING OFFICER. All time under the previous order has expired. Under the previous order, the Senate will now resume consideration of the Durbin amendment, No. 259.

Under the previous order, there will now be 1 hour of debate equally divided on the amendment.

The Senator from Illinois.

AMENDMENT NO. 259, AS MODIFIED

Mr. DURBIN. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to modifying the amendment? If not, the amendment is so modified.

The amendment (No. 259), as modified, is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Late Term Abortion Limitation Act of 2003".

**SEC. 2. BAN ON CERTAIN ABORTIONS.**

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

**"CHAPTER 74—BAN ON CERTAIN ABORTIONS**

"Sec.
"1531. Prohibition of post-viability abortions.
"1532. Penalties.
"1533. Regulations.
"1534. State law.
"1535. Definitions.

**"§ 1531. Prohibition of Post-Viability Abortions.**

"(a) In General.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion, including the procedure characterized as a "partial birth abortion"—

"(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

"(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

"(b) No Conspiracy.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

"(c) Medical Emergency Exception.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

**"§ 1532. Penalties.**

"(a) Action by the Attorney General.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

"(b) First Offense.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

"(c) Second Offense—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

"(d) Hearing.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

"(e) Certification Requirements.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

"(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

"(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

**"§ 1533. Regulations.**

"(a) Federal Regulations.—

"(1) In general.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

"(2) Requirements.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

"(A) a certification by the physician performing the abortion, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

"(B) a description by the physician of the medical indications supporting his or her judgment;

"(C) a certification by an independent physician pursuant to section 1531(a)(2), that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

“(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

“(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

“(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

**“§ 1534. State Law.**

“(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

“(b) DEFINITION.—In subsection (a), the term ‘State law’ means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

**“§ 1535. Definitions.**

“In this chapter:

“(1) GRIEVOUS INJURY.—

“(A) IN GENERAL.—The term ‘grievous injury’ means—

“(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

“(ii) an inability to provide necessary treatment for a life-threatening condition.

“(B) LIMITATION.—The term ‘grievous injury’ does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

“(2) PHYSICIAN.—The term ‘physician’ means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“74. Ban on certain abortions ............ 1531.”.

Mr. DURBIN. Mr. President, with no objection, let me explain what I have done because it is significant. I want to make it clear at the outset of this debate what I have done. If either side wishes to address it, I want to explain my rationale.

In the original version of the amendment we said if the doctor certified that a woman who was pregnant was eligible for a late-term abortion, certifying that her life was at stake if she continued the pregnancy, or that she faced the threat of grievous physical injury—if a doctor made that certification, we wanted to make certain it was the truth. We provided in this bill that a doctor who knowingly certified that a woman was eligible for a late-term abortion when he knew it was not true ran the risk of losing his medical license, would no longer be able to practice medicine, and for the first offense a fine of $100,000, for the second offense a fine of $250,000.

There was also a provision later in the same bill which subjected that same doctor to a potential criminal penalty for perjury.

I have spoken to some doctors who have said to me: Senator, understand, even if a mother's life is at risk, what you are asking this doctor to decide, that he is willing—he or she is willing to risk their medical license to ever practice medicine again, face a fine of $100,000, and go to prison—how many doctors do you think, even under the most difficult circumstances, would then undertake getting involved in terminating a pregnancy even if a mother's life is at stake?

I have thought about that. I rolled around last night thinking about that. I came to the conclusion they are right. I think it is a sufficient penalty to say that a doctor who misrepresents on this certification whether a mother's life is at stake or she faces a grievous physical injury could lose his license to practice medicine and face a substantial fine.

The modification which has been accepted here removes the criminal penalty. But even the criminal penalty, which might be 2 years, is something that comes and goes. Losing your medical license for a lifetime is certainly a penalty felt by that person for the rest of his or her natural life.

I made this modification. There will be some who will say you have weakened this bill. I don't think the loss of a medical license and facing a fine is a weakening of this bill to the point where doctors are now going to be less vigilant in making certain that they enforce the provisions of my approach and my amendment.

Having said that, and having explained what I have done this morning with this modification, and addressed the concerns of doctors and those of my colleagues who raised it, let me go to the heart of the issue.

We have talked today about a gruesome abortion procedure. I am still touched by it every time it is described. Any sensitive human being would be touched by it. But I will tell you there is no abortion procedure which, if it is described in detail, would not touch your heart. You are talking about the elimination of a fetus, whether viable or not. You are talking about gruesome surgical circumstances. Why in the world do we allow this to happen in America?

In the earliest stages of the pregnancy, we say we don't believe the fetus has reached the point of being a person. The argument about whether the joining of the sperm and the egg creates a person has been going on for centuries. Different religions, different cultural traditions, different countries, and different leaders have come to different conclusions. Even people in medicine can't quite tell you when it becomes a person.

So the Supreme Court in Roe v. Wade came up with some definitions in trimester terms—the first three months, the second three months, and last three months of pregnancy. They basically said in the first 3 months if a woman learns she is pregnant, it is basically her decision as to whether she wants to continue with the pregnancy or end it. In the second three months, a more complicated decision. But in the last three months—the seventh, eighth and ninth month of the pregnancy—the Court has made it clear we will not terminate the pregnancy in that situation unless there are compelling circumstances involving a threat to the life of the mother or a threat to the mother's health.

We have to put this conversation and debate into context. We are talking about the termination of a pregnancy through an abortion procedure where we have reached such a medical crisis that a doctor says to a woman, I have to tell you, if you continue this pregnancy, it could threaten your life. You may never bear this child because of the complications of this pregnancy, because you may die or I can tell you this: You may go through this pregnancy and run the risk of endangering your health permanently.

You say to yourself: What kind of endangerments would lead a woman to terminate a pregnancy late in the pregnancy? Senator BOXER has listed them. You could be dealing with a uterine rupture in a pregnancy where the woman understands that if she continues the pregnancy, she may never be able to bear another child.

These are not theoreticals or hypotheticals dreamed up by Senate staff and Members of the Senate. These are told us by doctors and by obstetricians who literally have to sit across the desk from a mother-to-be and say, I have terrible news. Something has happened we never anticipated. This late in the pregnancy you are facing something which you didn't think would ever happen: The possibility of a hemorrhage that could endanger your life, a uterine rupture that could endanger the ability to have a child, blood clots, embolisms, stroke, danger to your organs of a permanent nature, and even paralysis.

I have spoken to women who have been through this. Believe me, this was not a casual, easy decision. These women, late in pregnancy, were counting the days when finally their back stopped hurting them and finally they could get back to normal clothes and have the baby in their arms. They were waiting expectantly for that, only to learn at the last minute in the pregnancy something had happened that no one had anticipated.

The amendment which I offer says let us make certain if we are going to draw the line on the termination of pregnancy late in the pregnancy, let us make certain we don't forget there are two things that need to be respected. One of those comes down to the basic premise of philosophy of the mother first. Hardly anyone argues with this. If it is a choice between the life of the mother and the life of a fetus, most religious traditions and most people would say, For goodness sakes, you save the mother. You save the mother.

The Durbin amendment says you can only terminate the pregnancy late in the pregnancy, after viability, in the final trimester, give or take a few days, you could only terminate it if the mother's life is at stake. I hope there is no argument about that.

The second part is equally important. This is the part where we have a division of opinion. We part company here in the Senate; that is, whether or not you should allow late-term abortions when a mother faces the possibility of a grievous physical injury, as I have described. I think you should. At least I think the option should be there.

If some mother in that circumstance takes the heroic position that she may never be able to have another child, but she wants to go forward with this pregnancy, that is her decision. That is the decision for her and her family and conscience. It is one she can make.

But what we are seeing here with the underlying bill is we don't want to create the possibility for that decision to be made. We want to foreclose the possibility that a woman facing the threat of grievous physical injury late in her pregnancy would make the decision to terminate the pregnancy.

I think it is a mistake. I think we have pushed ourselves into medical judgment and medical decisions in a way we never should have done. Whether you are pro-life or pro-choice, should we not create an opportunity for that mother who has just been hit between the eyes with the knowledge that what was a perfect pregnancy has sadly gone the wrong way and that now if she continues that pregnancy she may endanger her life or endanger her ability to have another child?

These are tough decisions.

Mr. FITZGERALD. Mr. President, will the Senator yield for a question?

Mr. DURBIN. As soon as I am completed, I would be happy to, and I will yield on the Senator's time and on his sides time.

But I will just say if we are going to err in judgment here, let us at least err on the side of understanding that there are medical complications and there are medical problems which we cannot as simple lawyers and legislators even envision. Let us defer to the professionals, the obstetricians and gynecologists who have written to us and said, Please don't pass S. 3, the Santorum amendment. There are moments in time when we have to make critical medical decisions, and in those moments we have to do what is best for the woman involved here. Don't foreclose an opportunity. Don't tell us we cannot do it. Don't make it be prohibited under law.

That, I think, is what this debate is all about. I will tell you that this amendment which I have offered does not have universal acceptance either on the pro-choice or the pro-life side. Even this morning a pro-choice group notified me that people voting for the Durbin amendment are not going to be viewed in a popular and favorable light. I consider myself pro-choice in my approach to this decision. I know now that some pro-choice groups disagree with us because this amendment is very strict and very specific. It says when it comes to postviability abortions and late-term abortions, we are laying down very strict limitations and guidelines as to when you can be eligible for this.

This says it isn't just a matter of a doctor performing the abortion reaching the decision. It is a matter that has to be confirmed by another doctor. An independent doctor has to certify, yes, if that pregnancy goes forward, that mother's life is at stake, if that pregnancy goes forward that mother is facing the risk of grievous physical injury, and if that doctor misrepresents the condition of the mother, that doctor stands to lose his medical license and faces fines up to a quarter of a million dollars. I think this is as tough as it can be, and as tough as it should be to make certain we don't have abortions in late-term pregnancies except for the most serious and tragic circumstances.

Mr. President, I ask unanimous consent that Senators HARKIN and LIEBERMAN be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to make four quick points. I had three and a half points as reasons to oppose the amendment, but now I have a full-fledged four reasons because of the modification that was just submitted.

No. 1, this amendment is in the form of a substitute, so the underlying partial-birth abortion statute is gone. We do not ban partial-birth abortions under this procedure. It is gone. This procedure remains legal in the law of the land. This Durbin amendment is a substitute. If you want to ban partial-birth abortions, you cannot vote for the Durbin amendment because it eliminates the ban. That is No. 1.

No. 2, it talks about this is a postviability ban. The problem with that is—there are many problems—No. 1, viability is not defined in the legislation, and it is solely up to the discretion of the abortionist performing the procedure.

I ask unanimous consent to have printed in the RECORD the chart that I have on survival rates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

| Weeks | Number | Percent |
|---|---|---|
| 22 | 1 | 0 |
| 23 | 42 | 36 |
| 24 | 61 | 69 |
| 25 | 77 | 71 |
| 26 | 76 | 87 |
| 27 | 92 | 83 |
| 28 | 105 | 96 |
| 29 | 100 | 95 |
| 30 | 141 | 92 |
| 31 | 184 | 96 |
| 32 | 267 | 98 |

Mr. SANTORUM. And even up to 32, 33 weeks, you still have a 1, 2, 3-percent chance where the baby would not be viable. So you have up until 32, 33 weeks to basically say the child is not viable. If that is the case, this statute is not operative. You cannot even come in under it. There is nothing. The statute does not exist. All you have to do is say it is not viable. So you create an exception that swallows up the entire ban. That is No. 2.

No. 3, even if, by some point, the abortionist will say it is viable, and then proceed with an abortion—which I cannot imagine any physician, in their right mind, doing; but assuming they would say it is viable and proceed with an abortion—they just have to say there is a risk of grievous injury to her physical health. The operative word here is "risk"—a 1-percent risk, a .5-percent risk, a .001-percent risk—any risk.

Now, "risk" is, again, not clearly defined and is open. What this statute does say is it is subject to a second opinion from a doctor. Great. The problem is, there is no penalty anymore. That was half a problem because I thought the penalties were rather weak. Now, with the elimination of any potential prosecution under perjury, there are no penalties.

The Senator from Illinois says there could be a losing of your license. Well, that is not what his substitute says. It says the State has to develop procedures and requirements for what would happen if these things are violated. It does not say license revocation. It does not say that at all. It says they have to develop standards. And it could be suspension for a day for the first offense, 2 days for the second offense—half a day—it could be whatever the State would require it to be. And for the second offense, it is not that it must be revoked, it is not a must. It is an either/or. They could assess a fine. And the fine could be a dollar. It says up to $250,000, but it could be a dollar.

So now, having removed any criminal sanction, you are left with it being completely open-ended, with potentially no consequence for someone not telling the truth in this circumstance.

There are a whole host of other reasons this amendment does not work. But this amendment is fatally flawed. It was poor, in my opinion, as a substitute. But now it does not even have the criminal sanctions as even one potential hope for getting maybe some very late, third-trimester abortions banned. So I just suggest, while I understand why the Senator from Illinois modified his amendment—to try to get more folks to be supportive of his amendment—in so doing, he guts whatever is left of this amendment to actually ban any abortions in this country. As a result of that, I strongly oppose the amendment.

Mr. President, I yield 15 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise in opposition to the amendment to S. 3 that has been offered by my friend and colleague from Illinois. When the Senate considered the partial-birth abortion ban in 1999, we decisively rejected, in a vote of 61 to 38, a very similar amendment sponsored by my friend from Illinois. And, once again, I believe we should reject this amendment today.

Let me say to my colleague and dear friend from Illinois, he is a man of great integrity, great passion, and great compassion. He is someone with whom I have worked on this floor on many different issues. I know we will work together again on other issues. We worked together a few weeks ago on an amendment that we were successful in getting the Senate to pass to add additional money for the worldwide AIDS effort.

But I do believe the amendment he has offered—however well intended it is—is tragically flawed. The Senator from Illinois contends his current amendment would ban all partial-birth abortions after a fetus is viable unless two doctors certify that continuing the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Now, this may sound very reasonable, and does. But in, reality, this amendment has loopholes so big that abortion providers would be able to continue to perform virtually all the partial-birth abortions they perform today.

Why? Why do I say that?

First, the amendment ties the availability of late-term abortions to the risk of grievous injury to the mother. That sounds reasonable. But let's be clear about this. Grievous injury is, of course, by definition, necessarily subject to the so-called medical judgment of the abortion provider. The effect of this amendment is ambiguous on its own terms because the term "medical judgment" has, of course, a great deal of built-in flexibility. Specifically, under the precedent set by the U.S. Supreme Court, in 1973, in the Doe v. Bolton case:

> Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well being of the patient. All these factors may relate to health. . . .

That is from Doe v. Bolton.

Clearly, this precedent shows us there is a wide range of factors that can legally be taken into account in assessing medical judgment, so many factors that they create a host of loopholes through which many partial-birth abortionists—such as Dr. Martin Haskell, whom I have referenced on the floor before, who lives in my home State of Ohio, in Dayton—could easily slip through.

Further, under this amendment, who would make the call that the mother's life is threatened or that her physical health is at risk? We know the answer. Naturally, it would be primarily up to the abortion provider.

Although in nonemergencies, the abortionist would need to get one other doctor to agree with him, the amendment of the Senator from Illinois contains a medical emergency clause which permits the abortionist to decide to do an abortion without certifying anything prior to doing the procedure. Even worse, Mr. President and Members of the Senate, in those situations when the abortionist declares an emergency, he or she does not need to get independent confirmation from anyone—from no one. In other words, it is totally up to the abortionist's discretion.

In practice, in the real world, this likely means there will be absolutely no limit on the will of the abortionist. The doctor who will be certifying these procedures is a person like Dr. Haskell, a man who admitted that most of the abortions he already performs are elective—elective. That is Dr. Martin Haskell, and that is what he does.

Why do I talk about Dr. Haskell? I talk about him because I am familiar with him because he lives in my home State, but much more importantly, because he is typical of the people who provide these abortions. They are not your "Dr. Welbys." They are not your typical OB/GYNs. They are not surgeons. They are people who do this day in and day out, and that is what they do.

Let there be no misunderstanding. I want my colleagues, and I want the American people, to understand exactly who Dr. Haskell is and what it is that this man does for a living, what his livelihood is, what his mission is, what it is he does day in and day out to these innocent little babies. He kills them. That is what he does for a living.

Let's make no mistake about it. This man is going to do everything he can to maintain his livelihood.

He has a vested interest in performing partial-birth abortions. This amendment before us now is going to give him the ticket he needs to continue these procedures. The amendment by definition creates a loophole so big that Dr. Haskell and the other abortionists just like him could drive trucks through it. This amendment will allow them to continue to do what they do on a daily basis; that is, kill innocent babies, babies who, if given the chance, could be born and could grow up and could thrive and live productive lives and make positive contributions to our country.

Ultimately my colleagues need to know and the American people need to know that Dr. Martin Haskell in Dayton, OH is not your family practice physician. He is not "Dr. Welby." He kills babies. That is what he does for a living. This is the person who, under this amendment, tragically, would be charged with making the medical judgments. When Dr. Haskell needs to seek a second opinion, which is provided under this amendment, from a so-called independent physician as required under the amendment to determine if the procedure is necessary, who do you think he is going to ask? Do you think he is going to really ask the local family practice doctor nearby? We know he is not going to. He is going to ask one of his other abortion provider friends. We know that is what the truth is.

That is the way the world works. That is what is going to happen. If anyone believes otherwise, they are not living in the real world. That is the world of abortionists; that is the way it is.

In practice, this amendment would likely put no limit on the will of the abortionist. The doctor who will be certifying is a Dr. Haskell or someone like him or perhaps a third-trimester abortionist such as Dr. Warn Hern who wrote the textbook "Abortion Practice." Dr. Hern has argued that the fact of an occasional death in childbearing can justify any abortion, no matter how late in pregnancy it is performed. As he stated in the May 15, 1997 Washington Times:

> I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.

So even a so-called grievous injury exception potentially would allow an abortionist to perform a partial-birth abortion on any pregnant woman.

The second problem with the Durbin amendment is that its ban on partial-birth abortions is practically meaningless because the amendment on its own terms only applies to a fetus that is already viable. It does not apply to a fetus that is not viable. We know the overwhelming majority of partial-birth abortions—it has been estimated over 90 percent—occur between 20 and 26 weeks of pregnancy, not during the third trimester. Clearly, this amendment would not even apply to very many partial-birth abortions at all.

Even worse, the determination of viability is left entirely within the discretion of the abortionist. In other words, this amendment would allow someone like Dr. Martin Haskell to make the very subjective decision whether or not a fetus is viable. The amendment would allow Dr. Haskell to decide whether or not he even wanted to comply with the amendment. We all know what his decision would be in these cases. In fact, my fear is this amendment would allow thousands of these gruesome procedures to continue to be performed in the fifth and sixth months of pregnancy, horrific and painful and inhumane procedures performed on healthy babies of healthy mothers.

Yesterday I talked about Brenda Pratt Shafer, an experienced registered nurse who was assigned to an Ohio abortion clinic in the early 1990s. She witnessed partial-birth abortions. She saw what Dr. Haskell does for a living because she worked for a short time at Dr. Haskell's office. She testified before Congress about it. I would like to conclude today with her story because it clearly shows what happens when an abortionist like Dr. Haskell is left unrestrained. Here is what she said in describing one of the horrifying procedures she witnessed:

> The young woman was 18, unmarried, and a little over 6 months pregnant. She cried the entire 3 days she was at the abortion clinic. The doctor told us, "I'm afraid she's going to want to see the baby. Try to discourage her from it; we don't like them to see the babies." We gave her some IV-valium to calm her down, but she was never totally knocked out.
>
> The baby's heartbeat was clearly visible on the ultrasound screen. I stood 3 feet from the doctor as he took the forceps and brought the baby's legs down through the birth canal.
>
> He delivered the baby's body and arms, everything but his little head. The baby's body was moving. His little fingers were clasping together.
>
> He was kicking his feet. The baby was hanging there, and the doctor was holding his neck to keep his head from slipping out. The doctor took a pair of scissors and inserted them into the back of the baby's head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks he might fall. Then the doctor opened up the scissors, stuck the high-powered suction tube into the hole and sucked the baby's brains out. The baby went completely limp. Then, the doctor pulled the head out, and threw the baby into a pan.
>
> When the mother started coming around, she was crying "I want to see my baby." So we cleaned him up and put him into a blanket. We put her in a private room and handed her the baby. She held that baby in her arms and when she looked into his face, she started screaming "Oh my God, what have I done? This is my baby."
>
> At that point, I couldn't take it. In my 14 years of nursing, I had been pretty strong. But this was different. I started choking. I excused myself and ran to the bathroom. It was horrible, and I didn't fully understand my reaction. Then, I had to go back and take that baby away from his mother. She was so hysterical, and all she kept saying was, "It was a baby; he was so beautiful."

Many other beautiful babies are dying the same tragic deaths. Quite simply, we as a country, as a people, should not tolerate it. We should not tolerate it anymore. We must not allow it to continue. We must not pass amendments that would allow it to continue even under a legal ban of the partial-birth abortion procedure.

No matter how well-intentioned the amendment is, it is abundantly clear it would allow this partial-birth abortion procedure to continue. Therefore, I ask my colleagues to defeat the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Illinois.

Mr. DURBIN. Mr. President, I yield 10 minutes to my colleague, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Ms. LANDRIEU. Mr. President, I rise to speak to this important issue for a few moments and begin by saying that the event the Senator from Ohio described is indeed extremely troubling and would be classified as horrific by most people. If the Durbin amendment were adopted, that would not happen again unless the mother's life, through the determination of the physician, was in jeopardy, or her grievous physical health.

I argue with the Senator from Ohio and the Senator from Pennsylvania that if they were indeed—and I respect both Senators—serious about stopping what Senator DEWINE just described, the Durbin amendment has the best chance of stopping that from ever happening again than the pending bill by the Senator from Pennsylvania.

That is why I support the Durbin amendment. That is why I am a cosponsor of the Durbin amendment. Many of us come to the floor with very good intentions, to try to work to help fashion some compromises that would end what was just described, but also allowing for the Constitution to provide a framework according to Roe v. Wade, which does not represent—although it has been characterized inappropriately, and not clearly by both sides, because this debate, unfortunately, for 30 years or more, has been held hostage by the extremes on both sides.

I want to review, for the purpose of this debate, some writings from Roe v. Wade. To my friends on the pro-choice side, let me remind them of a paragraph in Roe v. Wade, written by Justice Blackmun:

> Some argue that a women's right is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reasons she alone chooses. With this we do not agree.

Roe v. Wade does not support that proposition. Let me read, for the pro-life community, from this decision, which was delicately crafted to address a very complex constitutional provision that was framed initially in the Bill of Rights, supported by the Constitution, and those principles are the principles of life, liberty, and happiness, not just for the fetus, for the unborn, for young children, but life, liberty, and happiness for people of all ages and all conditions in life, male and female, slave and free.

For the pro-life community, let me read what the Justices said:

> A State criminal abortion statute of the current Texas type, that excepts from criminality only a lifesaving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved [obviously], is violative of the Due Process Clause of the Fourteenth Amendment.

I suggest unless there are a majority of Senators willing to change the Constitution and remove the 14th amendment, this debate is going nowhere. The fact is that the Constitution supports a framework in which life and liberty for everyone, including the unborn, have to be taken into consideration.

I argue that the Senator from Illinois puts forth a very good amendment on the floor because we want to attempt, as a society, to outlaw late-term abortions, which violates our sense of decency and morality, within the framework of the Constitution, unless the woman's life is at risk or unless the woman is in grave physical health.

The American people do not agree with the extremes on both sides. The fact is, with all due respect to the Senators from Pennsylvania and Ohio, this is not an amendment that anybody could put on the floor that they would agree to, because they are opposed to abortion in every case, under every circumstance. They believe it should be outlawed. They are entitled to that position, to represent it, and they are entitled to run on it, which they have, and they have gotten elected. But I say that the majority of people in the country believe that in some situations abortion should be legal and safe, and we are attempting to make it more rare. But without the support of either the right or the left, the Senator from Illinois puts forth this amendment in good faith, and I support him, and so do some Republican Senators.

The country is very torn. In reading this decision, as I just reviewed portions of it, you can understand that the

Justices themselves thought it was a very delicate compromise that had to be put together based on the Constitution and the laws and views of the American public.

According to recent polling, only 33 percent, or less, of the population would ban all abortions under all circumstances; 29 percent would allow unfettered abortions; and the vast majority of Americans fall in the middle, which is understandable.

Late-term abortions are one of those positions we can actually do something about. While people have mixed views about it, this amendment would in fact outlaw all late-term abortions, all procedures.

The Santorum amendment only attempts to outlaw one procedure. I argue that once the Court is faced with it, it is not going to uphold it. So the end result of this debate is going to be not stopping one late-term abortion, when Senator DURBIN's amendment would actually accomplish that end.

The Durbin amendment draws a line at a place that—well, it is not crystal clear, but I ask you, what could possibly be crystal clear about this debate? Is anything crystal clear about it? Even though we think we are the smartest 100 people around, I think we can argue that we could not even make this debate crystal clear. There is no clarity about it. All you can do is do your very best. The Durbin amendment attempts to draw the line of viability. I argue that somebody else could put up another line. But at least viability has some clarity in medical terms. It is understandable, and I think acceptable, to the American people.

Viability is a line that was recognized by the Supreme Court as part of the original decision. As medical research gets clearer—not perfectly crystal clear, but as it brings forth new information, it is something we can use in terms of the measurement.

> The State has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grows in substantiality as the woman approaches term and, at a point during pregnancy, each becomes compelling.

That was also written by the Court.

The Durbin amendment says that when we reach the point of viability, the interest in the potential of human life is compelling; it cannot be ended without serious cause. This amendment raises the standards for late-term abortions from its current just general health to physical health, which is why many on the left cannot support it.

I think given the urgency of the Court and the Congress to protect viable life, perhaps raising the standard is necessary and I hope will be upheld by the Court.

If my colleagues are interested in actually banning late-term abortion—which I most certainly support, and the vast majority of people in Louisiana support—we should not engage in the politics of division but try to reach common ground to do this. I believe the Durbin amendment offers us that very opportunity.

I urge my colleagues to look beyond the rhetoric and to leave the fringe and move to the middle. Is this the answer to this whole question? No. But is it a step in the right direction to minimize abortions in this country? Yes. Is it something that would meet the constitutional test? Yes. Is it something that could be perfected over time? Yes. It is something that could have a direct impact on building the kind of compromise of which I think we could be proud. So I strongly urge my colleagues to support the Durbin amendment based on all that I have outlined.

I yield back the remainder of my time.

Ms. MIKULSKI. Mr. President, I express my strong support for the Durbin amendment.

I support the Durbin amendment because it is consistent with my four principles. These are my principles: It respects the constitutional underpinnings of Roe v. Wade. It prohibits all post-viability abortions, regardless of the procedure used. It provides an exception for the life and health of a woman, which is both intellectually rigorous and compassionate. And it leaves medical decisions in the hands of physicians—not politicians.

The Durbin alternative addresses this difficult issue with the intellectual rigor and seriousness of purpose it deserves. We are not being casual. We are not angling for political advantage. We are not looking for cover.

The Durbin amendment offers the Senate a sensible alternative, one that would prohibit post-viability abortions while respecting the Constitution and protecting women's lives. I believe it is an alternative that reflects the views of the American people.

I support the Durbin amendment because it is a stronger, more effective approach to banning late term abortions. The Durbin amendment respects the Constitution and the Supreme Court's ruling in Roe v. Wade. The Santorum bill before us does not. It is unconstitutional.

In fact, the Supreme Court ruled in Stenberg v. Carhart just 3 years ago that a Nebraska state law that bans certain abortion procedures is unconstitutional. The Supreme Court ruled it was unconstitutional for two reasons. First, it did not include an exception for a woman's health. Second, it does not clearly define the procedure it aims to prohibit and would ban other procedures, sometimes used early in pregnancy.

The bill before us, the Santorum bill, is nearly identical to the Nebraska law the Supreme Court struck down. The proponents of this legislation say they have made changes to the bill to address the Supreme Court's ruling. They have not. It still does not include an exception to protect the health of the woman. It still does not clearly define the procedure it claims to prohibit. Let me be clear about this. The Santorum bill is unconstitutional.

The Santorum bill violates the key principles of Roe v. Wade and other Court decisions. When the Court decided Roe, it was faced with the task of defining. "When does life begin?" Theologians and scientists differ on this. People of good will and good conscience differ on this.

So the Supreme Court used viability as its standard. Once a fetus is viable it is presumed to have not only a body, but a mind and spirit. Therefore it has standing under the law as a person.

The Roe decision is quite clear. States can prohibit abortion after viability so long as they permit exceptions in cases involving the woman's life or health. Under Roe, states can prohibit most late term abortions. And 41 states have done so.

In my own state of Maryland, we have a law that does just that. It was adopted by the Maryland General Assembly. It prohibits post viability abortions. It provides an exception to protect the life or health of the woman, as the Constitution requires. It also provides an exception if the fetus is affected by a genetic defect or a serious abnormality. This law reflects the views of Marylanders. It was approved by the people of Maryland by referendum.

Like the Maryland law, the Durbin alternative is consistent with Roe. It is a compassionate, Constitutional approach to prohibiting late term abortions.

It says that after the point of viability no woman should be able to abort a viable fetus. The only exception can be when the woman faces a threat to her life or serious and debilitating risk to her health as required by the Constitution.

The Durbin amendment is stronger than the Santorum bill. It bans all post viability abortions. Unlike the Santorum bill, the Durbin amendment doesn't create loopholes by allowing other procedures to be used.

I believe there is no Senator who thinks a woman should abort a viable fetus for a frivolous, non-medical reason. It does not matter what procedure is used. It is wrong, and we know it. The Durbin alternative bans those abortions. It is a real solution.

On the other hand, Senator SANTORUM's bill does not stop a single abortion. It does not ban all late term abortions. It bans certain procedures and diverts doctors to other procedures. This approach is both hollow and ineffective. It bans procedures that may be the safest for a woman's health. But let me be clear. Under

Santorum, late term abortions would still be allowed to happen.

It does not make late term abortions more rare. It makes them more dangerous. And for that reason, the Santorum approach is ineffective.

The Durbin amendment providers a tough and narrow health exception that is both intellectually rigorous and compassionate. It will ensure that women who confront a grave health crisis late in a pregnancy can receive the treatment they need. The Durbin amendment defines such a crisis as a "severely debilitating disease or impairment caused or exacerbated by pregnancy" or "an inability to provide necessary treatment to a life-threatening condition."

And we don't leave it up to her doctor alone. We require that a second, independent physician also certify that the procedure is the most appropriate for the unique circumstances of the woman's life.

I want to be very clear in this. The Durbin amendment does not create a loophole with its health exception. We are not loophole shopping when we insist that an exception be made in the case of serious and debilitating threats to a woman's physical health. This is what the Constitution requires—and the reality of women's lives demands.

Let's face it. Women do sometimes face profound medical crises during pregnancy. Breast cancer, for example, occurs in one in 3,000 pregnancies. In some unfortunate circumstances, pregnant women in their second trimester discover lumps in their breasts and are diagnosed with invasive breast cancer. Continuing the pregnancy—and delaying medical treatment—would put a woman's health in grave danger.

The Durbin amendment recognizes that to deny a woman in a situation like this access to the abortion that could save her life and physical health would be unconscionable. To deny her other children a chance to know a healthy mother would be unconscionable.

When the continuation of the pregnancy is causing profound health problems, a woman's doctor must have every tool available to respond. I readily acknowledge that the procedure described by my colleagues on the other side is a grim one. I do not deny that. But there are times when the realities of women's lives and health dictates that this medical tool be available.

I support the Durbin alternative because it leaves medical decisions up to doctors, not legislators. It relies on medical judgement, not political judgement about what is best for a patient.

Not only does the Santorum bill not let doctors be doctors, it criminalizes them for making the best choice for their patients.

Under this bill, a doctor could be sent to prison for up to two years for doing what he or she thinks is necessary to save a woman's life or health. I say that's wrong.

In fact, those who oppose the Durbin amendment say it is flawed precisely because it leaves medical judgements up to physicians. Well, who else should decide? Would the other side prefer to have the government make medical decisions?

I disagree with that. I believe we should not substitute a political judgment for medical judgement. We need to let doctors be doctors. This is my principle whether we are talking about reproductive choice or any health care matter.

Physicians have the training and expertise to make medical decisions. They are in the best position to recommend what is necessary or appropriate for their patients. Not bureaucrats. Not managed care accountants. And certainly not legislators.

The Durbin amendment provides sound public policy, not a political soundbite. It is our best chance to address the concerns many of us have about late term abortions.

Today, we have an opportunity today to do something real. We have an opportunity to let logic and common sense win the day. We have an opportunity to do something that I know reflects the views of the American people. Today, we can pass the Durbin amendment.

We can say that we value life, and that we value our Constitution. We can make clear that a viable fetus should not be aborted. We can say that we want to save women's lives and protect women's health.

The only way to do this, Mr. President, is to vote for the Durbin amendment. I urge my colleagues to support it.

Ms. SNOWE. Mr. President, I thank Senator DURBIN for introducing this very important measure for the women of this Nation. Today, we continue debate on the critical issue of allowing women to choose what is right for them, their health and their families.

In 1973—26 years ago now—the Supreme Court affirmed for the first time a woman's right to choose. This landmark decision was carefully crafted to be both balanced and responsible while holding the rights of women in America paramount in reproductive decisions. It is clear that the underlying Santorum bill does not hold the rights of women paramount—instead it infringes on those rights in the most grievous of circumstances.

Indeed, S. 3 undermines basic tenets of Roe v. Wade, which maintained that women have a constitutional right to an abortion, but after viability—the time at which it first becomes realistically possible for fetal life to be maintained outside the woman's body—States could ban abortions only if they also allowed exceptions for cases in which a woman's life or health is endangered. And the Supreme Court reaffirmed their support for exceptions for health of the mother just three years ago.

In Stenberg vs. Carhart, a case involving the constitutionality of Nebraska's partial birth abortion ban statute, the Supreme Court invalidated the Nebraska statute because it lacks an exception for the performance of the D & X, dilation and extraction, procedure when necessary to protect the health of the mother, and because it imposes an undue burden on a woman's ability to have an abortion. This case was representative of 21 cases throughtout the Nation. Regrettably, however, Senator SANTORUM's legislation disregards both Supreme Court decisions by not providing an exception for the health of the mother and providing only a narrowly defined life exception.

And let there be no mistake—I stand here today to reaffirm that no viable fetus should be aborted—by any method—unless it is absolutely necessary to protect the life or health of the mother, period.

Senator DURBIN's amendment, which I have cosponsored in the past and again this year, specifies that post-viability abortions would only be lawful if the physician performing the abortion and an independent physician certified in writing that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. It mirrors laws already on the books in forty-one states, including my home state of Maine, which ban post-viability abortions while at the same time including life and health exceptions mandated by the Supreme Court under Roe v. Wade.

Furthermore, this amendment will lower the number of abortions because it bans all post-viability abortions. S. 3, in contrast, will not prevent a single abortion. Sadly, it will force women to choose another, potentially more harmful procedure.

Is this what we really want? To put women's health and lives at risk? And shouldn't these most critical decisions be left to those with medical training—not politicians?

The findings in S. 3 would have you believe that this procedure is never necessary to preserve the life or health of the mother and that in fact it poses significant health risks to a woman. This is simply not true. Let me explain why there must be a health exception for "grievous physical injury" in two circumstances:

First, the language applies in those heart-wrenching cases where a wanted pregnancy seriously threatens the health of the mother. The language would allow a doctor in these tragic cases to perform an abortion because he or she believes it is critical to preserving the health of a woman facing: Peripartal cardiomyopathy, a form of cardiac failure which is often caused by the pregnancy, which can result in death or untreatable heart disease; preeclampsia, or high blood pressure which is caused by a pregnancy, which can result in kidney failure, stroke or death; and uterine ruptures which could result in infertility.

Second, the language also applies when a woman has a life-threatening condition which requires life-saving treatment. It applies to those tragic cases, for example,when a woman needs chemotherapy when pregnant, so the families face the terrible choice of continuing the pregnancy or providing life-saving treatment. These conditions include: Breast cancer; lymphoma, which has a fifty percent mortality rate if untreated; and primary pulmonary hypertension, which has a 50 percent maternal mortality rate.

Now, I ask my colleagues, who could seriously object under these circumstances?

Mr. President, I believe this is a common sense approach to a serious problem for American women and a contentious issue for the United States Congress. I am grateful to my colleague, Senator DURBIN, for championing this approach and I urge my colleagues—pro-life and pro-choice—to join together to support this amendment to ban all abortions after viability. Let's reduce the number of abortions in this country at the same time we protect the lives and health of women.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I want to review what the Senator from Louisiana said with respect to abortion. I think the Senator from Louisiana expressed her view as to what Roe v. Wade means. I sincerely believe that she feels that way. She would like the law to be that way, and I think most Americans would like the law to be more toward her direction than where it really is.

The law is pretty clear—Roe v. Wade and the companion cases—that in fact the right to an abortion is, in America today, at any time for any reason.

That is what happens. You can cite the case in Roe that talks about the issue of viability, but there was the Doe v. Bolton case that was decided with it; it was read together.

In Doe v. Bolton, the Court ruled abortion could be performed after fetal viability if the operative physician judged the procedure necessary to protect the life or health of the woman. That is where we come down, health of the woman. Under Doe v. Bolton, the health of the woman is anything—is anything. The Senator from Ohio just read this, and I will read it again:

> Medical judgments may be exercised in light of all factors—physical, emotional, psychological, familial, the woman's age—relevant to the well-being of the patient. All these factors may relate to health, and this allows the attending physician the room he needs to make his best medical judgment.

There is simply no restriction there. There is no limitation there, and there are people on the Court today who have interpreted that decision consistently with that no limitation. In fact, I would argue the Court is going even further in that direction. There is some scary language—this is the Carhart case—there is some downright scary language in this decision. I just wish the public understood how absolute this right is, how unfettered this right is, and how absolutely resistant the pro-abortion side is at keeping that pure right in place—unrestricted, unfettered right in place. But we are going even further than that.

We have a case here where we have two Justices of the U.S. Supreme Court, Justice Stevens and Justice Ginsburg, in a concurring opinion—thank God it is not the majority opinion—but in a concurring opinion in the U.S. Supreme Court, this is what Justice Stevens says, and this is what the Senator from Louisiana was saying:

> The liberty clause—

Oh, how words can be twisted.

> The liberty clause in the fourteenth amendment includes a woman's right to make this difficult and extremely personal decision, makes it impossible for me to understand how a State has any legitimate interest in requiring a doctor to follow any procedure other than the one he or she reasonably believes will best protect the woman in her exercise of this constitutional liberty.

Do you know what this means? This means he can do anything he wants, any procedure, none of them reviewable. That is why we had to pass a bill last year called the Born Alive Infant Protection Act. Why? Because Justice Stevens, one of the nine imperial Judges on the U.S. Supreme Court, unelected, had decided that if a doctor wants to deliver a live baby and then kill it, that is a procedure. Do you know what. Justice Stevens said that if that is what the doctor believes, fine. That is how far we are going. That is the corruption of this entire issue of abortion. It is just so corrosive that it takes people who see words such as "liberty" and turns them into murder. Liberty means now murder, in the eyes of Justice Stevens and Justice Ginsburg. Oh, this is such a caustic issue that just corrodes the essence of the spirit of America.

Senator DURBIN—I have said it repeatedly—I believe in good faith is trying to put some restriction in place to what has gone off. By the way, Justice Stevens, unfortunately, and Justice Ginsburg are not alone. You have Peter Singer, whom the New Yorker magazine calls "the most influential living philosopher"—the most influential living philosopher. As you will hear these statements, you may wonder, no, this is just some kook. No, Professor Peter Singer, distinguished chair, where? Princeton University. Peter Singer has argued that when the death of—what he argues—I will not quote him. I will submit this for the RECORD so there will be plenty of quotes in here because I do not have much time.

What he argues is that a child once born should be allowed to be euthanized up until—he has updated his opinions here. He believed it was only waiting 28 days after birth before deciding whether the baby has rights, but now he has said that is an arbitrary figure and it should be—"Oh, I think it should be somewhat short of 1 year but the point is not for me or anyone else to say, it should be up to the parents and, of course, the doctor."

You say this is crazy, allowing a parent or society, in the case where the parent is not there, to euthanize a child; that is crazy. I can guarantee, go back 50 years and maybe there were debates on this floor that thought abortion would be a crazy thing and that could not happen in our society; we could not have 1.3 million abortions.

I heard the Senator from California, and I hear this over and over: We want abortion to be safe, legal, and rare. Twenty-five percent of all pregnancies in this country end in abortion. By anybody's estimation, is that rare? Twenty-five percent, is that rare? Forty-seven percent of abortions in this country are a woman's second abortion or more. Is that rare? Is there something corrupting our society here?

I understand the Senator from Illinois is trying to get at least some piece of it, but he fails. He fails. He fails on four counts, and let me quickly go through them, and more actually, the Senator from Ohio listed a few more.

Four major counts: No. 1, there is a substitute. It eliminates the ban on partial-birth abortion. Most partial-birth abortions are done in the 20- to 26-week area where there is a question of viability. You have—and I entered those in the RECORD—you have up to 75 percent viability at the time of 26 weeks. But, again, it is a substitute that eliminates all previous viability abortions. No. 1.

No. 2, it does not define viability, and it leaves it up to the doctor to determine what is viable. If the doctor says this child is not viable, there is no review, and as soon as you say it is not viable, the statute does not apply. So all you have to do, if you want to have an abortion, is say it is not viable; nobody has to review it and the statute is not operable.

No. 3, risk of grievous injury to the physical health of the mother. Again, it uses the term "risk." It does not say how much risk. It can mean any amount of risk—one-half of 1 percent risk.

We have Dr. Warren Hern, who wrote the textbook on third-trimester abortions, the leading expert in this country, saying:

> I have very serious reservations about this procedure. You really can't defend it.

He also has a quote that says he would certify that every pregnancy has a risk of grievous physical injury to a mother—every pregnancy. What if he makes that statement and it is not true? What happens? The Senator from Illinois had criminal penalties potentially for perjury. Those are now removed from the bill. There is no criminal problem with that physician or the other physician who has come in to look at this from having any criminal sanctions.

What are the sanctions? He could lose his license. Not really. The State has to promulgate regulations under this statute to suspend or revoke a license. It does not say they have to revoke it or say how long the suspension is. It could be 1 day. I suspect in States such as New York, Connecticut, and Massachusetts, where abortions are overwhelmingly supported, you could have 2 hours of revocation, or something like that. It would be a ridiculous standard.

The bottom line is it mandates no revocation or suspension of license of any weight, and even at that, it is revocation or suspension or a fine up to $100,000 in the first case, $250,000 in the second, but it could be a dollar.

Again, there is no floor in the amount of money. So there really is the potential for no consequences in a lot of States, or maybe even in most States. It is a substitute. If one is against partial birth, they cannot be for this amendment. If it is understood that viability kicks one out of this statute to begin with, and it is only the decision of the doctor that determines viability and there is no review of that, that makes this statute basically inoperable, I would argue, for every abortion that is done in America.

Then if one gets in, there is the risk question, which again nullifies, really, any weight on the physician because risk can mean such a small amount of risk to make it almost inconsequential. Finally, there is no penalty if all that does apply.

So I suggest that while I believe the Senator from Illinois was trying to do something to attack what I described as an unfettered right to an abortion is the preeminent right in America—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask unanimous consent that Senator LINCOLN be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I yield 30 seconds to the Senator from California.

Mrs. BOXER. First, anyone who reads Roe v. Wade knows it is not an unfettered right. Clearly, at the later stages, Government can in fact restrict abortion. Secondly, the kind of talk we just heard on the Senate floor, where two Supreme Court Justices were essentially called murderers—if one reads back the words, it is essentially calling them murderers—I think is beyond inflammatory. I think it is dangerous rhetoric. It is wrong, and I am very sad that the debate has deteriorated to this point.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes 45 seconds.

Mr. DURBIN. Mr. President, if one takes a walk through this Capitol building, a few feet from where we are standing is the old Senate Chamber. If one reads the history of the Senate, they will find that in the 19th century, in the 1800s, that Chamber was divided over the issue of slavery to the point where one Senator was almost beaten to death on the floor of the Senate.

It is hard to think of issues in America that divide us the way slavery divided us then and the issue of abortion divides us today. There is such strong emotional, honest, and heartfelt feeling that comes into this issue on both sides.

I greatly respect the Senator from Pennsylvania, even though I may disagree with him on this issue. I believe he is speaking from the heart. I equally respect the Senator from California, who is on the opposite side of the issue. I have known her for 20 years. I know she speaks from the heart.

So many of us come to this issue understanding that if we walked into a town meeting in my home State of Illinois and brought up the issue of abortion, we would see people folding their arms and would know what they are thinking. Some of them are thinking: I do not like it; I do not want you to talk about it; I do not know why it is legal in this country, and we are a worse nation for having it. With their arms folded, you just know what they are thinking.

Then we will see another group with their arms folded and we will know what they are thinking: I do not think the Government ought to stick its nose in a woman's business when her health and her life are at stake. She, her doctor, her family, and her God ought to make that decision, not some politician. That is what we are going to get in most town meetings in most townhalls across America. But there is a group of people in the middle who are sitting there saying: I see both sides. I do not like the fact there are so many abortions in America. I do not like the fact you have circumstances where people need an abortion. We ought to find some way to work this out reasonably.

That is what the Supreme Court tried to do in the Roe v. Wade decision. They said: We are not going to allow abortions any time, anyplace, under all circumstances. We are going to kind of limit when a woman can have it, and under what circumstances.

Then the national debate started, and it has not ended. I do not know if it ever will. So I come today understanding that division in America, that division in my State, even that division of opinion within my own family. I understand this, I feel it, and I am trying with this amendment to strike a reasonable compromise.

Oh, the people with their arms folded on both sides of the hall will not like it. It does not ban abortion, which is what some people want. And it does not get the Government out of the picture completely, which is what others want. Instead, it tries to draw a reasonable, sensible line, a good-faith line, of where we will allow abortions in late-term pregnancies.

When we look at the sponsors of this amendment, unlike any other amendment on this subject, we will find we have the spectrum of opinion on abortion. Watch the rollcall vote. We are going to see Senators come forward who are pro-life and pro-choice who will support the Durbin amendment, and that says something, that when they have thought about it, maybe this is a reasonable middle ground.

I hope a majority of my colleagues will believe that it is. It says: Late in the pregnancy, after the fetus within the mother is viable and could survive, we are not going to allow you to terminate that pregnancy except under the most extreme situations.

The Senator from Pennsylvania says: What is viability? How do we know the fetus is viable? I cannot answer that question. No legislator can answer that question. The Supreme Court, in the case of Planned Parenthood of Central Missouri v. Danforth, said the determination of whether a particular fetus is viable is and must be a matter for the judgment of the responsible attending physician. They went on to say the time of viability is different in every pregnancy.

So I am using a standard the Supreme Court uses. The doctor has to decide: Have you reached a point where that fetus is more likely than not to survive outside the womb? If the answer is yes, then a woman knows she is very late in a pregnancy. Then, and only then, do two hard questions have to be asked before a pregnancy can be terminated. One, if that pregnancy is continued, will the mother die? If the answer is yes, certified not by one doctor but by two doctors, one being an independent doctor, that she is going to lose her life if she continues the pregnancy, then a consideration can be given to terminating the pregnancy, or one other possibility: If two doctors come forward, one independent as well as the one treating, and they conclude if the mother continues this pregnancy, at this point she runs the risk of suffering grievous physical injury. Those are the only two conditions, and that is it. Not if a woman feels like she wants to end the pregnancy. I cannot imagine a woman in that stage of her pregnancy even considering that possibility.

It goes beyond that. It goes to tangible, physical medical evidence, backed up by real doctors who are willing to certify. And this second doctor who has been written off by the critics of this amendment as just another "abortionist," that is not what it says at all. The second doctor's opinion has to be an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother. If one does not have that second doctor agreeing with the first doctor, the pregnancy cannot be terminated.

What is the risk for the doctor if they falsify it, if they lie about it, if they say, oh, we want to make a dollar here, so we are just going to put the certification down? If they lie about it, they run the risk of having their medical licenses suspended, on the second occasion revoked, facing fines up to $250,000. Is that a light penalty, that a doctor would lose his license for a lifetime? That is a pretty serious penalty. Would not any doctor think twice before conspiring to go ahead and certify it when, in fact, there is not medical evidence?

The Senator from Pennsylvania says we want abortions to be rare, but we do not do anything about it. The Durbin amendment will restrict more abortions and abortion procedures than the Santorum bill, S. 3.

Mr. SANTORUM's bill addresses one procedure, the partial-birth procedure, throughout a woman's pregnancy. My amendment addresses all late-term abortions, whatever the procedure.

Finally, when it comes to risk, he takes exception to the fact that I use the words "risk of grievous physical injury."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I thank the Chair.

Mr. President, before the vote begins, I ask unanimous consent that Senator DODD be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All time has expired.

Mr. SANTORUM. I move to table the Durbin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—60

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Chambliss
Clinton
Cochran
Coleman
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—38

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Carper
Chafee
Collins
Daschle
Dodd
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Inouye
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Snowe
Specter
Stabenow
Wyden

NOT VOTING—2

Biden
Kerry

The motion to lay on the table was agreed to.

MOTION TO COMMIT

The PRESIDING OFFICER. The question now occurs on the Boxer amendment. There are 2 minutes equally divided for each side.

Who yields time?

The Senator from California.

Mrs. BOXER. Mr. President, regardless of the vote on final passage of this bill, I think you ought to think about why it is important to commit this bill to the Judiciary Committee. Since we last debated this bill, the Supreme Court has ruled that an identical bill is unconstitutional based on two principles that I have here behind me.

Mr. KENNEDY. Mr. President, may we have order. The Senator is entitled to be heard. This is an important matter.

The PRESIDING OFFICER. The Senator will suspend.

May we have order. Please take your conversations off the floor.

The Senator from California.

Mrs. BOXER. Mr. President, since we last debated this bill, the Supreme Court has ruled an identical bill unconstitutional based on two principles: No. 1, there was a health exception; and this bill has none; and, No. 2, because of an undue burden on women because the procedure ban is so vaguely defined that it banned more than one procedure.

It has those same flaws and should be examined by the committee of jurisdiction.

The ranking member of the committee, Senator LEAHY, agrees. In his statement, Senator LEAHY said: "Senators deserve the benefit of full consideration"——

The PRESIDING OFFICER. The Senator has used 1 minute.

Mrs. BOXER. I will take another 30 seconds.

—"of full consideration and vigorous debate before they are asked to cast a vote on such a significant and complicated issue."

We are talking about—and I will show a picture of one of them—women such as Coreen Costello, a religious, self-described pro-life conservative woman who had no other option but this procedure if she wanted to preserve her health and have more children.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mrs. BOXER. I retain those 30 seconds.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we have debated this issue on the floor of the Senate for the fifth time. The issue is the same. There is a slight variation in the language of this bill—some 20 words. I think the Senate is perfectly capable of dealing with these changes and to address the issue of vagueness. I don't believe that after two hearings of the Judiciary Committee, after having gone through the committee on a couple of occasions and being debated here now for the fifth time, we need to commit this bill back to committee.

It has been asserted on the floor by the Senator from South Dakota that we are bypassing the committee, as was complained about in the past. I would just say that we are bypassing the committee on a bill that is this size with 20 different words—not this, which is the energy bill that bypassed the committee last year or the agriculture bill that bypassed the committee last year or on the prescription drug bill.

This has 18 titles in it.

I think there is a fundamental difference between asserting bypassing a committee with a bill which has been on the floor on five different occasions and one that is a brandnew piece of legislation with 18 titles and some 400 or 500 pages.

The Senate is ready to vote. The issue is well known. I hope we defeat the motion to commit and proceed to finish the bill in a timely manner.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, women such as the one shown in this picture deserve to have another hearing. These are the things that could go wrong if a woman is denied this procedure without a health exception: They could hemorrhage; they could have a uterine rupture, blood clots, an embolism, a stroke, have damage to nearby organs, or have paralysis.

We have not had a hearing on this bill since 1997, my friends. We have since had a Supreme Court decision that faults the bill because it does not have a health exception. At least vote with us, please, to commit this to the Judiciary Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, the facts are as evidenced from the Judiciary Committee hearings, which basically have not changed. The facts are the same. The procedure that we are attempting to ban is riskier and has a greater likelihood of causing all those things than the alternative procedures which are taught in medical schools, done in hospitals, by obstetricians. This is not done in hospitals, not done by obstetricians, not taught in medical schools.

This is a rogue procedure that was designed for one reason. The abortionist who designed it said why. It was designed so he could do late-term abortions in 15 minutes as opposed to 45 minutes, so he could do more in one day; that is, all of these health risks are, in fact, bogus. It is a riskier procedure.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—42

Akaka
Baucus
Bayh
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—2

Biden
Kerry

The motion was rejected.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise in support of S. 3, the Partial-Birth Abortion Ban Act. It is totally unbelievable to me that Congress yet again is working on legislation to make partial-birth abortions illegal.

This is the fourth Congress in which the Senate will have considered this issue. In that time, innocent babies have been killed by this cruel and horrible practice. It is time to finally end it once and for all.

The Senate voted to ban partial-birth abortions in the 104th Congress, the 105th Congress, and the 106th Congress. The first two attempts to ban this gruesome act were sent to the White House and vetoed by President Bill Clinton.

In the last Congress, the House passed a partial-birth abortion ban. However, the Senate leadership refused to bring the issue up for consideration. I commend our leader, Senator FRIST, for moving quickly to address this issue early in the 108th Congress, and I commend Senator SANTORUM for his lead in this effort. I am confident that the President at the other end of Pennsylvania Avenue will act in defense of life by signing this proposal into law.

All forms of abortion are gruesome procedures, but I cannot imagine anything more hideous than partial-birth abortion. I will spare my colleagues a detailed description of this heinous procedure since it is so repulsive. We have already seen graphic pictures and illustrations outlining this infanticide. It is really hard to believe we have to go through this exercise every Congress because nobody, with a straight face and a clear conscience, can stand up and defend this procedure.

The only way anyone can justify it is to say, hey, it doesn't matter because not that many partial-birth abortions are actually performed or they can try to cloud the issue by saying partial-birth abortions are only utilized in cases where the mother's life is in jeopardy. We know this just is not true. We know that some of the most ardent and visible defenders of abortion have actually lied about the numbers. It is not just a few hundred a year—it is in the thousands.

But the numbers really should not make any difference. If it is wrong and inhumane, we should ban it, whether it affects 1 or 1 million. But misleading facts about the numbers—trying to play down the prevalence and frequency of this procedure—are no justification for allowing this practice to continue.

This bill does not ignore the health needs of women. It clearly makes an exception when the life of the mother is in jeopardy. The plain language of this legislation clearly says that the ban on partial-birth abortions does not apply when such a procedure is considered necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury. So even though many medical experts insist that there is never any medical justification for a partial-birth abortion, this bill goes the extra mile and permits it if the mother's life is in jeopardy.

Personally, I don't think this makes much sense, but it just goes to show that those of us who support the bill are doing what we can to try to find a middle ground and to answer concerns that some of our colleagues still have.

No one can deny that partial-birth abortion is cruel. No one can deny that it is patently inhumane. No one can deny that it is gruesome and grotesque. In fact, in the 8 years we have been debating this bill, no one has really come up with a defense of partial-birth abortions that holds any water.

Therefore, I urge my colleagues to support this bill, support this ban; it is simply a matter of respect for human life.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Nevada is recognized.

Mr. REID. Mr. President, I yield to my friend from Pennsylvania.

### ORDER OF PROCEDURE

Mr. SANTORUM. Mr. President, I ask unanimous consent that following the disposition of the Boxer motion to commit, Senator HARKIN be recognized to offer an amendment, the text of which is at the desk, provided that there be 2 hours 30 minutes for debate, equally divided in the usual form, prior to a vote in relation to the amendment, with no second-degree amendments in order prior to the vote.

I further ask that following the disposition of the Harkin amendment, Senator FEINSTEIN be recognized in order to offer an amendment, the text of which is at the desk, provided that there be 2 hours for debate, equally divided, in the usual form prior to a vote in relation to the amendment, with no second-degree amendments in order prior to the vote.

I further ask consent that following the disposition of the Feinstein amendment, the bill be read the third time, with no intervening action or debate. I finally ask consent that at 9:30 a.m. on Thursday, provided that the bill has been read a third time, the Senate proceed to a vote on passage of the bill, again with no intervening action or debate; provided further that any second-degree amendments to the aforementioned amendments be relevant to the first degree.

I further ask unanimous consent that following that vote, the Senate proceed to executive session and vote on the confirmation of Calendar No. 53, Thomas Varlan, to be U.S. District Judge for the Eastern District, with no intervening action; further, that following that vote, the President be immediately notified of the Senate's action, and the Senate proceed to a period for morning business until 11:30 a.m., with the time equally divided in the usual form.

Finally, I ask unanimous consent that at 11:30 a.m., the Senate resume consideration of the Estrada nomination in executive session and the time until 12:30 p.m. be equally divided in the usual form, with a vote on the motion to invoke cloture occurring at 3:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As I understand it, we will have the Harkin amendment and the Feinstein amendment and final passage.

Mr. SANTORUM. The Harkin and Feinstein amendments will be voted on this afternoon or this evening potentially, and tomorrow morning a vote on final passage as the first order of business when we reconvene.

Mr. REID. Mr. President, I say to my friend, at the end of the first paragraph of the consent request, after the words "further that"—it is the first long paragraph.

Mr. SANTORUM. Yes, "further that."

Mr. REID. I ask that the words "if the above amendments are not tabled, if a tabling motion is made, any second-degree amendments" be inserted and then it would be just as the Senator said it, "and that they be debatable."

Mr. SANTORUM. We can accept that.

Mr. REID. So I accept that, other than this, Mr. President: The junior Senator from Iowa, the author of this amendment, would like an up-or-down vote on his amendment. I was just informed of that.

Mr. SANTORUM. I am fine with giving him an up-or-down vote.

Mr. REID. Mr. President, I know the Senator from Pennsylvania does not like this, but we have given and taken, for lack of a better description, trying to work our way through this. I very much appreciate his allowing us to go forward. I ask that the consent request be agreed to.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, it is so ordered.

Mr. SANTORUM. I thank the Senator from Nevada. The Senator hit the nail on the head, the head on the nail, whatever the case may be. The fact is, the Senator from Nevada has been very cooperative. This is not an extraordinary request. Even though I rather would have a motion to table, I am glad to accommodate the Senator. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

### AMENDMENT NO. 260

(Purpose: To express the sense of the Senate concerning the decision of the Supreme Court in Roe v. Wade)

Mr. HARKIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 260.

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE CONCERNING ROE V. WADE.**

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in Roe v. Wade (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in Roe v. Wade established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the amendment I have offered basically expresses the sense of the Senate in support of the Supreme Court decision in Roe v. Wade. With all of the legislation that continues to come up and chip away at Roe v. Wade, I decided it was important for us in the Senate to go on record that this historic decision was appropriate and should not be overturned.

I let the clerk read the full text of the amendment because it is very short and to the point. I offered this amendment 4 years ago on similar legislation that came before this body. The disposition of that amendment at that time, if I am not mistaken, was 51 to 47 in passage. There were some who were concerned about a couple of the findings. The difference between this amendment and the one I offered 4 years ago is basically two findings have been removed and the only findings left are just the findings that pertain only to Roe v. Wade.

This amendment is very simple, very straightforward. Basically, it puts us on record of saying the decision in Roe v. Wade on January 22, 1973, was appropriate and should not be overturned. I believe it is important that we remind ourselves about this decision as we get into the debate on this so-called partial-birth abortion—especially when this bill changes. That is different than what it was 4 years ago, as we try to parse words, trying to anticipate every medical procedure that might be performed by a doctor, getting into issues this Senator does not believe we are adequately prepared or equipped to do in terms of knowledge of all of the ramifications of certain medical procedures.

I want to make sure with all of this going on that we send a strong signal to the women of this country that Roe v. Wade is appropriate, it was a good decision, and it is not going to be overturned.

I assume maybe there are those in this body who want to see it overturned. I can accept that as their opinion and their view, but I think it is important for people to know where we stand on that decision.

As we all know, the U.S. Supreme Court announced its decision in Roe v. Wade as a challenge to a Texas statute that made it a crime to perform an abortion unless the woman's life was at stake. The case had been filed by Jane Roe, an unmarried woman, who wanted to safely and legally end her pregnancy.

Siding with Roe, the Court struck down the Texas law. In its ruling, the Court recognized for the first time that the constitutional right to privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." But the decision also set some rules.

The Court recognized that the right to privacy is not absolute, and that any State has a valid interest in safeguarding maternal health, maintaining medical standards, and protecting potential life. A State's interest in "potential life" is not compelling, the

Court said, until viability, the point in pregnancy in which there is a reasonable possibility for the sustained survival of the fetus outside the womb.

A State may, but is not required, to prohibit abortion after viability, except when it is necessary to protect a woman's life or her health. I add that for emphasis, "or her health."

This is what my resolution is all about: To say that we agree that Roe v. Wade was an appropriate decision and it should not be overturned.

The constitutional right to a private decision in this matter is no more negotiable than the freedom to speak or the freedom to worship.

Before the 1973 landmark ruling of Roe v. Wade, it is estimated that each year 1.2 million women resorted to illegal abortion, despite the known hazards of frightening trips to dangerous locations in strange parts of town; of whiskey as an anesthetic; of "doctors" who were often marginal or unlicensed practitioners, sometimes alcoholic, sometimes sexually abusive; unsanitary conditions; incompetent treatment; hemorrhage; disfiguration and death.

By invalidating laws that forced women to resort to back-alley abortion; Roe was directly responsible for saving women's lives.

Only 10 pieces of legislation were introduced in either the House or Senate before the Roe decision. But in the 30 years since the ruling, more than 1,000 separate legislative proposals have been introduced. The majority of these bills sought to restrict a womans right to choose.

Unfortunately, what is often lost in the rhetoric and in some of those proposals—is the real significance of the Roe decision.

The Roe decision recognized the right of women to make their own decisions about their reproductive health. The decision whether to bear a child is profoundly private and life-altering. As the Roe Court understood, without the right to make autonomous decisions about pregnancy, a woman could not participate freely and equally in society.

Roe not only established a woman's reproductive freedom, it was also central to women's continued progress toward full and equal participation in American life. In the 26 years since Roe, the variety and level of women's achievements have reached a higher level. As the Supreme Court observed in 1992:

> The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.

As I have said on many occasions in the past, going back almost 20 years, I do not believe that any abortion is desirable. I do not think anyone does. As a father, I have struggled with this issue many times in the past. However, I do not believe that it is appropriate to insist that my personal views be the law of the land, just as I do not think the personal views of the Senator from Pennsylvania, however strong he may hold them, ought to be the law of the land.

So what should Congress do?

If we are truly interested in both maintaining a woman's constitutional right to control her own reproductive life, and at the same time trying to limit the number of abortions in our society, there is action we can take. We can increase funding for family planning. Try getting that through on the floor of the Senate. We can increase funding for abstinence-only education. We have done some of that. We can mandate insurance coverage for contraception. We still need to do that. We do not, but we should mandate it.

We can provide more support for contraception research. Unfortunately, the Senate yesterday decided not to take these steps that could reduce the number of abortions. That was the amendment offered by my colleague from Washington, Senator MURRAY.

I strongly urge my colleagues to support this resolution. I believe it would establish the one important principle that we should agree on—that we will not strip away a woman's fundamental right to choose, and that is what this amendment does.

Further, I quote from Justices O'Connor, Kennedy, and Souter in Casey:

> At the heart of liberty is the right to define one's own concept of existence, of meaning of the universe and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

I am going to read that again because it is such a profound statement:

> At the heart of liberty is the right to define one's own concept of existence, of meaning of the universe and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under the compulsion of the State.

I think that is the essence of this issue, whether we will use the heavy hand of the State to enforce certain individuals' concepts of when life begins, how life begins, when a person can have an abortion, when a person cannot.

Yes, it is true, people are divided on this issue. Some people are uncertain about it. I quarrel with myself all the time about it, because it is as multifaceted as there are numbers of humans on the face of the Earth.

I would not sit in judgment on any person who would choose to have an abortion, especially a woman who went through the terrifying, agonizing, and soul-wrenching procedures of having a late-term abortion because her health or her life is in danger. That must be one of the most soul-wrenching experiences a person can go through. I just do not understand how we can be so presumptuous to think that we in the Senate can answer each one of those individual cases, with all the different facets that may be involved, and yet that is what some in the Senate believe the Senate and the Congress should do.

No, I do not want to sit in judgment on that, and I do not believe any of us ought to.

That is why, again, I think it is particularly important that we cut through all the folderol that surrounds this issue and get to the heart of it, which is Roe v. Wade. This is the heart of what we are talking about.

There are those who want to come along and change it and make it more complex, indecipherable, benefiting maybe one person one way, adding to the detriment of another person another way, so that we are right back where we were before Roe v. Wade was decided.

I believe very strongly that we need to express ourselves on this sense of the Senate resolution. I appreciate the agreement from the manager of the bill and our majority whip to have an up-or-down rollcall vote. I believe it is that important, and I appreciate their willingness to have that up-or-down vote.

I am sure I will have more to say later on. I believe there are 2½ hours of time divided equally, if I am not mistaken.

The PRESIDING OFFICER. Two hours and 20 minutes.

Mr. HARKIN. How much time have I consumed?

The PRESIDING OFFICER. The Senator has 61 minutes and 3 seconds.

Mr. HARKIN. I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise in opposition to this amendment. Before I make a statement, I encourage Members who have statements on this amendment or on the bill—we have roughly 2 hours of time remaining to debate this amendment, but obviously I encourage anybody who has statements on the bill itself to come down. Senator KENNEDY is in the Chamber, Senator HARKIN and myself. So there is ample opportunity and time. There is not much of a wait.

Does the Senator from Massachusetts wish to proceed?

Mr. KENNEDY. Mr. President, I will be ready in about 2 minutes, and I would like to have 10 minutes.

Mr. HARKIN. I yield whatever time the Senator desires.

Mr. KENNEDY. I appreciate that.

Mr. SANTORUM. The Senator from Massachusetts needs a couple of minutes before he is ready. Therefore, I yield 2 or 3 minutes to the Senator from South Carolina for a statement.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Senator HARKIN is right. This is a difficult situation. I am often asked at town meetings: Why should the government be involved in the regulation of abortion? It is a personal matter. I suppose it depends upon who you believe the interested parties are. Obviously, the interested parties are the mother, but many in the country believe there is another party to the decision process, and the unborn child. Someone has to speak for the unborn child.

In a country where people are free to express themselves, that they would outlaw abortion—I find it amazing people who believe it is a woman's right to choose would idly sit by and not petition the government to change that. The converse is true. This is why we are here. This is part of democracy, defining what the law of the land is in terms of the beginning of life, the taking of life, and the terminating of a life.

I don't find it odd at all we have these debates. This is exactly what a democracy is built upon—the rule of law. There are no understandings about the basics of life—when it begins, who can terminate it, under what conditions it can be terminated. If it is left to everyone's whim and personal desire, that is chaos.

What we are trying to do in a very reasoned way, with much emotion behind the reason, is give our views about how the government, society, should deal with the issue of when life begins, what is life, and who has the right to terminate it, and under what circumstances. To me, that is the essence of the rule of law. I look forward to hearing my colleagues express themselves. I do disagree with the concept that the government has no role in determining when life begins, how it should be ended, and who can end it, in a democracy.

I yield the floor.

Mr. SANTORUM. I say to the Senator from South Carolina, I appreciate the comments.

The Senator from Iowa read the famous clause out of the Casey decision, determining one's own concept of meaning of existence, of the universe, of the meaning of the universe, of the mystery of human life. The Senator from South Carolina hit the nail on the head. If everyone has their own right to decide what life is, what existence is, what the universe means—if we are not bound at all by any kind of societal norms, if we have the right to decide all these things, the kids who rushed into Columbine had it right because they said: I am law. My view of the world is what counts and that is all that counts. That is what this clause says: What I say goes.

That is what this clause says. That is where we are. That is where the line of cases have taken us. It is simply about our brute force, our positive rights. Society does not matter; it is what we want. The Congress should not be involved in this. It is what you want.

That is not the country that our Founding Fathers put together. That is not the Constitution they drafted. That, by the way, is why the right to abortion is not written in the Constitution.

This is a slippery slope we are heading down. In deference to the Senator from Massachusetts who is in the Chamber, I will define that slope momentarily.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. HARKIN. I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Republican leadership is wrong to ask the Senate to support legislation that has been ruled unconstitutional by numerous courts. Since the last debate in the Senate in 1999, the Supreme Court found a very similar law enacted by the State of Nebraska to be unconstitutional. This bill is unconstitutional as well.

The Republican leadership has chosen to make as its top priority a flatly unconstitutional piece of legislation at a time when so many families across the country are facing economic hardship, when communities are struggling to deal with homeland security needs, and being forced by State budget crises to cut back on education and health care.

Because of the Republican leadership's decision to act on this bill, we will do nothing this week to provide an economic stimulus plan for the Nation's families and workers. We will do nothing to provide new funding for communities struggling to protect themselves from new terrorist attacks. We will do nothing to help the millions of uninsured children in this country get the health care they need. We will do nothing for schools struggling to meet higher standards under the No Child Left Behind Act. We will do nothing to help college students struggling to pay tuition and relieve their debt. We will do nothing to help the millions of families across the Nation who are worried about their economic future.

Let us be clear as to what this bill does not do. This bill does not stop one single abortion. The proponents of this bill distort the law and the position of our side with inflammatory rhetoric, while advocating a bill that will not stop one single abortion. This bill purports to prohibit a medical procedure that is only used in rare and dire circumstances. It is not used for unhealthy mothers carrying unhealthy babies. If this bill is passed, a doctor could be forced to perform another, more dangerous procedure if it becomes necessary to terminate a pregnancy to protect the life, the health of the mother.

This bill does not protect the health of the mother. Nowhere is there language that will allow a doctor to take the health of the mother into consideration, even if she were to suffer brain damage or otherwise be permanently impaired if the pregnancy continued. And this bill is not needed to protect the life of the babies who could live outside the mother's womb because those babies are already protected under the law of the land.

In Roe v. Wade, the Supreme Court specifically held that unless there was a threat to the life, health of the woman, she did not have a constitutional right to terminate a pregnancy after viability.

So what is this legislation all about? It is about politics and inflammatory language and hot-button topics, but it is not about stopping abortion.

Because of the sound and fury and high emotion that surrounds this issue, I make my own personal views clear. I am pro-choice. But I believe that abortion should be rare. I believe we have an obligation to create an economy and the necessary support systems to make it easier for women to choose to bring children into the world. If the proponents of this legislation were serious about limiting the number of abortions in this country, then we would be debating access to health care, quality education, the minimum wage, and other issues of economic security that are so important to parents bringing up children. Those issues are not on the Republican leadership's agenda.

Instead, for rank political reasons we are here this week debating the so-called partial-birth abortion. I do not believe it is the role of the Senate to interfere with or regulate the kind of medical advice that a doctor can give to a patient. The doctor-patient relationship and the protection of the health of the mother is what is in jeopardy with this legislation.

From the time of the 1973 decision in Roe v. Wade through to the Stenberg-Carhart decision, the Constitution allows States to restrict postviability abortion as long as there are protections for the life and the health of the mother. Indeed, 41 States already ban postviability abortions regardless of the procedure used. My own State of Massachusetts prohibits these abortions except when the woman's life is in danger, or the continuation of the pregnancy would impose a substantial risk of grave impairment of a woman's health. I would vote for a postviability ban that protects women's life and health today.

The role of the Senate is to protect and defend the Constitution of the United States. Each of us in this body has taken that oath of office, and that oath of office and the Constitution require me to oppose this legislation. This bill unconstitutionally seeks to restrict abortion in cases before viability. It does not provide an exception to protect the mother's health after viability. It also impermissibly attempts to interfere with the doctor-patient relationship. For all these reasons, I oppose this bill.

Finally, I commend my friend and colleague, Senator HARKIN, and indicate my strong support for his amendment. This is a reaffirmation of the 1973 Supreme Court decision. It gives focus to the underlying debate and the policy issues which surround this whole issue.

As the Senator remembers so well, before Roe as many as 5,000 women died from illegal abortions each year. Many others suffered serious complications. In the years since 1973, the number of deaths resulting from abortion procedures has decreased dramatically. In order to keep abortion safe, we must keep it legal. That is why I support Senator HARKIN's amendment and strongly urge my colleagues to do so as well.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I yield 15 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I will spend a little time today talking about the amendment. But I also want to talk about the underlying bill.

This is an incredibly emotional issue for people across America. It is an incredibly emotional issue for people in this body. There truly are good people on both sides of this issue.

I believe the people who support abortion are wrong. Those who support abortion look at myself and others on this side of the issue, and think that we are wrong. But I do not look at the other side, and think that the people are evil or that they have evil intentions. I just think that they are not seeing the truth about what abortion truly is.

To talk about the bill itself: it has been described—it cannot be described too often, what a so-called partial-birth abortion really is; a D&X procedure—whatever you want to call it. So let me describe that.

I am a veterinarian by profession, so I understand a little bit about surgery and medical procedures. When I read through this particular procedure, it is amazing to me, as a health care worker, how any physician or any nurse could participate in this procedure and not be horrified.

What happens is a woman goes in the first day, and she has some local anesthetic put on her cervix. Then she has some clips put on that will help her dilate. She comes in the next day; same procedure; it helps her dilate some more. The third day she comes in, she is treated with some medication, including pitocin, which is something to help—just like when a woman is having trouble delivering—it helps to stimulate the birthing process, to put it in the simplest of terms.

While the woman is on that drug, they use an ultrasound to look at the woman's abdomen; to look inside the uterus. Looking at the ultrasound picture, the doctor can insert a clamp—basically some forceps—to grab one of the legs of the baby. The baby is in there, moving around. This ultrasound allows them to grip one of the baby's legs and not grab part of the uterus, because obviously that would be very dangerous to the woman.

As he or she grabs that leg, they then pull it down into the birth canal. That one leg then comes out of the cervix. The physician then takes one of his other fingers and grabs the other leg and brings them, both of the legs, down. Once into the birth canal, the doctor kind of wriggles them down a little bit and gets them to where (this would be the back of the baby) everything except the head—the head is still inside what is called the cervical os, and at that point the head is usually too large to come down.

That is the point where the physician puts his fingers around this little—I will call it what it is. They call it a fetus, but it is a little human being, whether you call it a fetus or baby or whatever you call it. It is a little human being.

This little human being is alive. You can feel it. You can feel the heart beating. You can feel movement in the legs. There is no question that the person who is performing this procedure can feel life in their hands.

As he puts his fingers around there, he brings usually a pair of Metzenbaum scissors, a kind of curved scissor, around the back and has to make sure he doesn't cut the cervix, so he has to elevate the cervix away from the baby's skull. Then right at the back of the baby's skull he inserts some kind of a forceps, usually the scissors, and makes an opening right at the back of the skull; then he will slide an instrument in that will suck the baby's brains out.

Try to imagine this. You have this little baby in your hands, and you are going to suck that brain out. As you do, you will feel the life go out of that little baby. Anybody who can listen to what is done in this procedure and say that as a civilized country we should allow this to go on—it boggles my mind. At that point, the skull collapses and the baby is allowed to be delivered.

In our society, under our current laws, if for some reason that cervix dilated a little more and this baby, while it was being brought down, slipped out, came fully out, this doctor who performed that same procedure, now, this much farther down—that would be considered murder under our laws. So this procedure really is a question of distance. We are 3 inches away from murder by our own laws.

If the baby is 3 inches up the birth canal, it is just an abortion. Three inches down, it is considered murder. This procedure is infanticide. A civilized society should never allow this kind of thing to go on. That is why we need to ban it.

A study published in the New England Journal of Medicine reports that—we have heard the exception for the health of the mother. For the life of the mother, we all agree. If it is the life of the mother, you can't have them both live, so you have to choose. But at 15 to 16 weeks of gestation, that is the point at which an abortion becomes more dangerous than childbirth. Partial-birth abortion generally happens after 20 weeks of gestation.

We have heard that we need to have exceptions for the mother's health. Abortionists say that if the language that was proposed earlier is passed, they would be able to use that language "health of the mother" to be able to perform an abortion any time, any place, at any month of pregnancy, and use this procedure. It would be allowed. That is why the health of the mother exception we keep hearing about is such a bogus argument. It is healthier for the mother to allow it, the baby, to reach full gestation.

In the terrible case of what is called an anencephalic baby, one which is born with not enough neural tissue to develop, we know they are going to die a very short period of time after they are born; it is safer for the mother to have that child. I would even argue that it is safer for them from a mental health standpoint. It is part of the grieving process we need to go through when we lose a child, just holding that child.

To just dismember it, or suck out its little neuro tissue, and deliver it that way can be worse for the mental health of the mother than actually allowing it to go full term, and then to go through the normal grieving process. All the mental health professionals tell us that denying mental grieving processes can actually be worse for people.

I think the health arguments are really not very good arguments. I think they are weak on their merits. It is just impossible to justify the type of things that go on with this procedure. We really should be banning it.

I appreciate the sponsor of the bill for the work he has done on this, and leading this country, I believe, in the right direction.

I want to make a couple of other comments on the underlying amendment, which is an amendment talking about Roe v. Wade.

Once again, really good people disagree on this issue. They look at it differently. I am the father of three. Actually, with my third child, the doctor didn't get there on time, and I, along with the nurse, delivered our third child. We could see him on the ultrasound throughout the process. Just being through the miracle of childbirth when every one of my children was born, I cried like a little baby. I didn't know which one was crying harder, the baby when it came out, or the father.

Appreciation for life is so important, I believe, in society. I think the whole idea of abortion has degraded the value of life in our society. We need to get back to valuing life. Life is so precious. We cannot take it for granted.

While I don't want to say anything against somebody else who feels or believes differently on the other side; if you really believe it is a baby, then we shouldn't be taking that innocent life. We should value it instead. I believe it is a baby from the time of conception. I believe that what we should be protecting are the babies, as human beings.

If you know anything about embryology—obviously veterinarians study a lot of embryology. Physicians study it, nurses, and any health care professional studies embryology. When a human being is conceived, it is not going to be anything but a human being. When you see the embryological picture, they may look like something else early on, but they are fully human. The full human chromosome complement is there from the time of conception. It isn't something that is added later. It is just in a different stage of development. It is very analogous to how my 5-year-old is at a different stage of development than that of my 11-year-old. They are both fully human, but they are at a different stage of development. A 1-month-old baby is not capable of taking care of itself. It is in a different stage of development than an adult. An 18-week or 16-week or 14-week human being in the womb is just at a different stage of development.

If we learn to protect and value human life, I would submit we would be better off as a country.

I think this debate gets too personal because we don't give credit to each side for having legitimate feelings on this issue sometimes. I respect people on the other side of this issue. I disagree with them, but I respect them. I hope more and more people will form relationships with people on both sides of this issue so that more and more dialog can happen and we can sit down together and try to look at this issue for what it really is. I believe that if we start seeing ourselves as children of God, that we, in the long run, will value human life, and some day we will stop abortion from happening in America.

I thank the author of this bill. I thank him for all of his great work on this. I consider him a great friend and a great American for doing this.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Madam President, I yield 15 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I thank my friend from Iowa. I thank him for introducing this important sense-of-the-Senate resolution amendment that will reaffirm Roe v. Wade, making it very clear that the policy of this Senate is for abortion to be legal, safe, and rare.

But I have to confess I am somewhat bewildered that we are having this debate at this time in our Nation's history. Obviously, the Republican leadership here in the Senate—along with the House and the White House—has made a choice. Of all the grave challenges facing our Nation at this moment in history, we want to work together to criminalize a private medical decision made by women and their physician. With so much at stake, and when our economic security, national security, and domestic security are at stake, I believe that is an unusual and, in my view, a misguided choice.

Today, 300,000 men and women wearing the uniform of our military stand in harm's way in the Persian Gulf. The other day we learned that Iran has progressed at an alarming rate for developing its own nuclear weapon capacity. North Korea continues to lob both rhetoric and missiles to demonstrate that it is wanting to be taken seriously as to the threat it poses to our immediate, imminent security.

Thousands of Americans continue to fight against al-Qaida in Afghanistan and search for Osama bin Laden. With so many American lives on the line, the Republican leadership has decided to spend its time working to criminalize a medical procedure that is used in very few cases and only when the health and safety of the woman is at stake.

Today, we know with all of these global uncertainties that we have a deepening economic crisis made worse because of the potential for war. Last month, we lost 312,000 private sector jobs—the steepest decline since the days following the attack of September 11. Consumer confidence has dropped to its lowest level since October 1993. The number of Americans who have been out of work for 6 months or longer has climbed to nearly 2 million. February marked the 20th consecutive month the private sector experienced negative job growth—the longest stretch of negative job growth since World War II.

With so many American families struggling to make ends meet until they can find work, the Republican leadership has made the choice to debate how best to criminalize a private medical decision made by women and their doctors.

Just last week, we learned the Federal budget crisis is far worse than was previously reported. The deficit is at a record $304 billion and climbing. Projections to eliminate our debt by 2008 have been replaced with new projections that have our debt level rising to historic highs.

You know about the $5.6 trillion surplus this administration inherited. It is gone, along with our Social Security and Medicare trust funds. Out in our States, our States, our cities, and our counties are facing incredibly difficult economic times. The States are facing a combined budget deficit of $85 billion—the worst financial crisis in a generation. We still have billions and billions of dollars of unmet homeland security needs.

With so much uncertainty here at home, the Republican leadership has made the choice to debate how best to criminalize a medical procedure for women.

I have to ask myself: Why was this moment chosen for this debate? Why aren't we debating the steps we could take to help the 8.5 million Americans who are out of work? Why aren't we debating how we can get our Federal budget back on the road to balance and begin to diminish these overwhelming deficits and this increasing debt load we will leave on the backs of our children?

Why are we not debating the necessity of our paying our bills? Why are we not debating what needs to happen if and when those 300,000 men and women in the military in the Persian Gulf are called to action, and in the days that would follow a military victory?

As I travel around, talking with people in my State, that is what they talk to me about: What about this war, Senator CLINTON? What is going to happen after a war, if it happens? What about homeland security? Are we as safe as we need to be here at home? Senator, what can we do about the jobs that are disappearing, the stagnant economy? How on Earth can we deal with this overwhelming budget deficit? What about not funding No Child Left Behind and the burdens that are being put on public education as a result? When are we going to get around to a prescription drug benefit for our seniors who are suffering and having to face these large bills? What are we doing to protect our environment? We are, after all, stewards of our natural environment for future generations.

Those are the questions I am being asked. Not only do I believe this is an inappropriate and unfortunate time for this debate to be occurring, but I find it deeply ironic that it is taking place in the month of March, Women's History Month.

Apparently, some people believe that the purpose of Women's History Month is to literally bring us back to a time in history when women had no choices. Instead of celebrating our accomplishments and improving the health and safety of women in the United States and internationally, there are those who would put women's health at risk.

But if we are to debate this emotional issue, then we must do so with great care—care about the words we use and the laws we write. Every time we use inflammatory language in this Chamber, it limits our ability to talk about this very private, personal decision between a woman, her loved ones, and her doctor.

Emotions run high with this issue. And I deeply appreciate my good friend from Nevada and the way he acknowledged we have very serious differences. But this is not a place nor is this a subject where we should be using language as a weapon to divide Americans.

So I am very concerned about some of the words I have heard used on this floor over the last several days. "Execution," "murder"—those are very inflammatory words that do not do justice to this great Chamber, nor to the seriousness of this debate.

I am also concerned about some of the visual aids that have been used by some of my colleagues. They are as deceptive as they are heartbreaking. Because what do they show? They show a perfectly formed fetus, and that is misleading. Because if we are really going to have this debate, then we should have a chart that demonstrates the tragic abnormalities that confront women forced with this excruciatingly difficult decision. Where are the swollen heads? Where are the charts with fetuses with vital organs such as the heart and the lungs growing outside the body? Why would we choose not to demonstrate the reality of what confronts the women I know, women who come with medical diagnoses that have said the brain in the head is so swollen that the child, the fetus, your baby, is basically brain dead? Now, it can be kept alive because it is on life support in the mother's body, but let me tell you what the realities are: these children cannot live outside the womb for more than mere seconds or minutes. That is what these women hear when they go in for their medical examinations and get the worst news that any potential mother could receive.

So a picture is worth a thousand words, as long as it is a realistic picture about what it is we are confronting, because a large part of this debate is about words, the words that are left out of this bill: the health and well-being of the mother.

The way this bill is written, the choice of language eliminates the distinction of trimesters. The vagueness makes this bill applicable to many other procedures in addition to the ones explicitly named. This bill is extreme, deceptive, and unconstitutional.

As my colleague from Pennsylvania stated: This is the beginning of the end. And that is absolutely what he means. If this bill passes, it is the beginning of the end of Roe v. Wade, it is the beginning of the end of the right of women in this country to make the most personal and intimate decisions that any of us would ever be called upon to make.

Yesterday, I had the opportunity to sit down with several women who have gone through this terribly difficult decision. What was so sad about each of these women's stories was how much each of them wanted the child they were carrying—only to learn that a fatal abnormality had inflicted each one, creating an unshakable sorrow. Each woman knew that her baby would not live long in utero or for no more than seconds or minutes outside her womb.

One of the women in my office told such a sad tale of what had happened to her and her husband. After trying so hard to become pregnant, they were thrilled when she discovered she was pregnant. But her happiness quickly turned to grief when doctors explained that her daughter had a genetic syndrome called Trisomy 13.

Now, many fetuses with Trisomy 13 die in utero. And those who survive birth do not live for long.

Her choice was not easy, and it was a choice she made with professional medical advice and with her family.

This young woman, Audrey Eisen, a Ph.D. student, articulated her concern perfectly when she wrote:

> Along with my sadness came a realization that if such legislation passed the right to safe second trimester termination of pregnancies might not remain available to those women who come after me. In this event, I don't know how these women will endure; I don't know how I would have endured.

I also met with Maureen Britell yesterday. Her daughter had developed a disorder where the brain stem develops. It is a disorder instead of a brain. After consulting with the experts at New England Medical Center, her family, and friends, she terminated her pregnancy. And listen to what she says:

> Now I'm sharing my story not only as a mother who would be banned from having an abortion, but as a military wife. I find the timing of this bill highly offensive, as we military families are just days away from sending our loved ones into armed combat. I resent the administration using families like mine as a cloak in their effort to ban reproductive health care in this country.

Madam President, I ask unanimous consent that the full statements of both of these women be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### AUDREY EISEN IN OPPOSITION TO S. 3

I believe that I am not atypical—34 years old and desperately wanting children. My husband and I are both graduate students, pursuing our PhDs in physics and microbiology, respectively. Tom and I have been together for eight years, married for four, and trying to have a baby for two. In November of 2002, after successfully fighting hormone-related infertility and experiencing the sadness of a miscarriage in July, we were thrilled to find ourselves pregnant!

While still apprehensive, we consciously decided to be excited—another loss would hurt just the same, regardless of whether or not we had allowed ourselves to be happy. In the first few months, my endocrinologist performed ultrasounds about every week and a half to ensure that the embryo was developing normally. It was such a treat to be able to see our child growing. I keep the pictures and my thoughts in a pregnancy journal.

When it became evident that we were going to make it through the first trimester, my endocrinologist referred me to an obstetrician (OB). At my first appointment the nurse put a Doppler to my belly and, much to my amazement, from a seemingly great distance I hear the characteristic "whoosh" of my child's heartbeat. We were on top of the world thinking that, for sure, this one was going to make it.

At 13 weeks we had a special ultrasound scheduled. Upon examination of the fetal anatomy we discovered that the child had polydactyly (more than the normal number of digits). While at first we thought it was just the hands, we later learned that the feet were affected as well. At the time, my husband and I thought that this was no big deal—we had both known people with an extra finger. However, we soon found out that polydactyly is associated with over 100 syndromes, most commonly Trisomy 13.

Trisomy 13 is a chromosomal abnormality in which there are three, rather than two, of the 13th chromosome. This syndrome is characterized by multiple abnormalities, many of which are not compatible with life beyond a couple of months. Most fetuses with Trisomy 13 die in utero; of those who make it to birth, almost half do not survive past the first month; roughly three-quarters die within 6 months. Long-term survival is one year. Unfortunately, neither life nor death come easily for these children—theirs is a painful experience marked by periods of breathing cessation (apnea) and seizures. Because my OB was unable to get a good image of the brain during the 13th week ultrasound, we returned at 15 weeks.

The first thing my OB examined during this ultrasound was the fetal brain. He did not say anything. I could tell he was holding something back and asked that he tell me what he saw. He said, "It is not normal." The rest of the scan was a blur as tears ran down my cheeks and those of my mother and husband, who had accompanied me. Following the scan, the doctor left us alone to compose ourselves, after which we met with a genetic counselor. I cried with my whole body, from the depths of my soul.

Shortly thereafter, I had amniocentesis. My doctor informed us that the full amnio results would take two weeks, but we could have FISH (fluorescence in situ hybridization) results in a couple of days. We had both studies done. The FISH results were as expected; our baby had Trisomy 13.

At this point we discussed our options with the genetic counselor. My husband and I both felt strongly that it was in both the child's and our best interest to terminate as quickly as possible. The genetic counselor told us that we could either have a D&E or be induced. My doctor described both procedures, and we decided that a D&E was clearly best for me. The procedure was performed four days later, on the first day of my 16th week of pregnancy.

Upon arriving home from the hospital following my D&E, a news story appeared on the television describing new legislation in the state senate aimed at banning "partial birth abortion." I don't think that I really understood this issue, emotionally or intellectually, until I was in the position of having to terminate my much-desired pregnancy. Along with my sadness came a realization that if such legislation passed the right to safe second trimester termination of pregnancies might not remain available to those women who come after me. In this event, I don't know how these women will endure; I don't know how I would have endured.

Two weeks following the procedure, we received a letter from the genetic counselor with the full results of the amnio and a summary of the ultrasonic findings. Our child had a complete duplication of the 13th chromosome and exhibited holoprosencephaly, a failure of the forebrain to properly develop and separate from the rest of the brain, a ventricular septal defect in the heart, and omphalocele, a herniation of a portion of the abdominal organs into the umbilical cord. Our child was also a girl and we miss her very much. In our case, abortion was the only choice.

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STATEMENT BY MAUREEN BRITELL ON S. 3

In February 1994, my family was happily awaiting the birth of Dahlia, our second daughter. My pregnancy was progressing smoothly and we were getting more excited as the days and weeks passed. At the time, my husband, Andrew, was on active duty in the Air Force and had been unable to come to any of my routine prenatal checkups. He wanted to share in the excitement, so when I was five months pregnant, we scheduled an additional ultrasound.

When we went in for our appointment, that joy dissipated. The technician was unable to locate my daughter's brain. After my doctor came in, he informed us that Dahlia had a fatal anomaly called anencephaly, where the brain stem develops, but not the brain.

I went to the New England Medical Center for a high level sonogram, which confirmed what my doctor had told me. The medical experts at the New England Medical Center reviewed our options with Andrew and me, but they all recommended the same thing: to protect my health, we should induce labor.

I am a Catholic and the idea of ending my pregnancy was beyond my imagination. I turned to my parish priest for guidance. He counseled me for a long time, and in the end, he agreed that there was nothing more I could do to help my daughter. With the support of our families and our priest, Andrew and I made the decision to end the pregnancy.

I was scheduled for a routine induction abortion in which medications are used to induce labor. My doctors anticipated that it would be a standard delivery and that because Dahlia had no brain she would die as soon as the umbilical cord was cut. After 13 long hours of labor, I started to deliver Dahlia. Unexpectedly, complications arose and Dahlia lodged in my birth canal. The placenta would not drop. Our doctors had to cut the umbilical cord to complete the delivery, and avoid serious health consequences for me. Dahlia died while still in my birth canal—the same description used in the so-called "partial birth abortion."

My husband and I still mourn the loss of Dahlia. However, because of the excellent medical care I received, I was able to become pregnant again and in June 1995, we welcomed Nathaniel into our family.

Now I'm sharing my story not only as a mother who would be banned from having an abortion, but as a military wife. I find the timing of his bill highly offensive, as we military families are just days away from sending our loved ones into armed combat. I resent the administration using families like mine as a cloak in their effort to ban reproductive healthcare in this country.

In a perfect world, I would never have to write you this letter. Every pregnancy would be wanted, healthy and happy—and no loved ones would be going off to war. Until that time, however, there will be other families like mine. And until that time, abortion must be kept safe, legal and accessible.

Mrs. CLINTON. Now, if these bills were to pass, each of these women would have been forced to carry their babies to term, only to see a child with such severe abnormalities die upon or shortly after birth. Their choices would have been limited not because of their moral and religious beliefs—which I deeply respect—nor because of their medical advice—which I can't possibly second-guess—but because of their Government.

I have to respectfully disagree with my colleagues about mental health. If we have learned anything in the last several decades, it is that there is no artificial divide between mental and physical health. The mind and the body are a totally integrated system. One affects the other. I believe that mental health is health. And I believe that forcing a woman to carry a child she knows will die is an assault not only on her mental health but on our values as a nation and a free people.

Part of the reason I feel so strongly about this is because as First Lady, I had the great privilege of traveling around the world representing our country. I have been to many places I never thought I would have gone in the past. I have seen what happens in other countries. I listened to women throughout the world.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. HARKIN. I yield an additional 5 minutes to the Senator from New York.

Mrs. CLINTON. I have listened to women throughout the world who have struggled against government regimes that forced them to bear children or to abort them. The decision was taken totally out of their hands. It was left to chambers such as this to make those most personal and intimate of decisions. I will give you a few quick examples.

In pre-democratic Romania, they had a leader named Ceausescu, a Soviet style Communist dictator, who decided it was the duty of every Romanian woman to bear five children so they could build the Romanian State. So they eliminated birth control, they eliminated sex education, and they outlawed abortions.

Here is what happened to you if you were a woman in Romania during the Ceausescu regime: Once a month you would be rounded up at your workplace. You would be taken to a government-controlled health clinic. You would be told to disrobe while you were standing in line. You would get up on the table. You would be examined by a government doctor with a government secret police officer watching. And if you were pregnant, you would be monitored to make sure you didn't do anything to that pregnancy.

When I first heard this, I was dumbfounded. I said: "Please, that cannot be true."

That is what happened. If a woman failed to conceive, her family was fined a celibacy tax of up to 10 percent of their monthly salary.

The terrible result was many children were born who were abandoned, who were left to be raised in government-run orphanages. We all know what happened when unfortunately HIV-tainted blood was used to help some of those children for medical reasons, and there was a huge outbreak of HIV/AIDS among these Romanian orphans.

Now go to the opposite side of the world and the opposite side of this debate. In China, local government officials used to monitor women's menstrual cycles and their use of contraceptives because they had the opposite view—no more than one child. So whether it was Romania saying you have to have children for the good of the state, or China saying you can only have one child for the good of the state, the government was telling us what we were supposed to do with our bodies.

If you wanted to have a child in China, you needed to get permission or face punishment. After you had your one allotted child, in some parts of China, you could be sterilized against your will or forced to have an abortion.

Today women in Romania and China are working to ensure their countries' family planning practices are voluntary and respectful of individual rights.

I don't think we could dismiss these examples. I have seen where government gets this kind of power, it can be quickly misused. The old standard maxim by Lord Acton: Power corrupts; absolute power corrupts absolutely.

I raise these issues not because they are part of the past or because they happened somewhere far away, but because I can guarantee you, standing here as a Senator, if we go down this path, you are going to have the same kind of overzealous, interfering prosecutors and police officials doing the very same kinds of things in this country.

Why did we ever have to do Roe v. Wade to begin with? Some States like mine, let abortion, as long as it was done safely and legally, occur under certain circumstances before Roe. Why did we have to have a Supreme Court decision? We had to have it because in many parts of the country these kinds of decisions were not permitted to be made by individual women.

Look at the progress we have made. The U.S. abortion rate is now at the lowest level it has been since 1974. When I was First Lady, I helped to launch the National Campaign to Prevent Teen Pregnancy. We increased education and public awareness. And since 1991, teen pregnancy has also declined. We learned that prevention and education, teaching people to make good decisions, really did work. But that is not what we are talking about here. We are talking about those few rare cases.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HARKIN. I yield the Senator an additional 5 minutes.

Mrs. CLINTON. We are talking about those few rare cases when a doctor had to look across a desk at a woman and say, I hate to tell you this, but the baby you wanted, the baby you care so much about, that you are carrying, has a terrible abnormality.

We had a chance yesterday to build on these successes and do even more for women's health and to prevent unwanted and unsafe pregnancies. Senator MURRAY's amendment would have increased access to contraceptive coverage by ensuring basic fairness for women in preventing health plans from discriminating against contraceptive coverage in their prescription drug plans. Yet my colleagues did not vote for that. They would much rather criminalize a health procedure than improve women's health. Senator MURRAY's amendment would have also provided Medicaid and CHIP coverage for pregnant women and their newborns. Yet again, we defeated that on a budget point of order because we are not really interested in women's health. That is not really what this debate is about.

I have to ask myself, why do we, as government officials, expect we can make these decisions? We know that people of means will always be able to get any health care procedure they deem necessary. That is the way it was before Roe v. Wade. That is the way it will be after this passes the Senate.

So who are we really leaving out? We are leaving out the vast majority of American women, middle income women, working women who can't get on an airplane to go to Sweden or some other place. I have also seen the results of that. In a hospital in northeast Brazil, a woman's hospital I visited, I went up and down the corridors. Half the women were there for the most wonderful of reasons, because they just had a baby. The other half were there because of problems they had encountered, mostly because of botched back-alley, illegal abortions. Some of them lost their fertility forever; some of them lost their lives.

When I asked the minister of health what they were going to do about this, he said to me: This is a classic case where it is the poor, the middle class that suffer. The rich can get whatever health care they need. We can make it illegal to get abortions. That doesn't bother the rich. There has always been a double standard. If you are rich, you get what you need. If you are poor, you are left to the back alleys.

That is one of the other reasons we had to do Roe v. Wade, because is it fair that we have that kind of distinction made on the basis of class or income instead of the basis of law?

We are facing a moment of historic importance, but not about what we should be debating at this time in our history. I only wish this legislation were not before us. But now that it is, we have to educate the American public.

I will end by referring again to the young woman, Mrs. Eisen, who was in my office yesterday, about 25 years younger than I am. Hard to imagine. She said: I had no idea that the decision I made with my husband and my doctor to deal with this genetic abnormality was something I could have never had under the laws of where I lived before, and that if this passes, it will become illegal in the future.

I said: Well, you didn't have to think about that. That was something that, thankfully, we took off the national agenda. But there are those who, from very deeply held beliefs, which I respect, would wish to substitute the Government's decision, just like they did in Romania and China, or substitute the roll of the economic dice, such as happens in Brazil and elsewhere for what should be a difficult, painful, intimate, personal decision.

This bill is not only ill-advised, it is also unconstitutional. I understand what the other side wants to do. They are hoping to get somebody new on the Supreme Court and to turn the clock back completely, to overrule Roe v. Wade, which is why the Senator from Iowa has such a timely amendment.

Is this bill really about what the sponsors say, or is it, as they candidly admit, the beginning of the end—to go back in this country to back-alley abortions, to women dying from botched, illegal procedures? I think you can draw your own conclusions.

It is up to the American public to determine whether they want medical decisions being criminalized by this Senate. Thank you.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Will the Senator yield for a question?

Mrs. CLINTON. Yes, on the Senator's time.

Mr. SANTORUM. Yes. The Senator from New York said that the women she had in her office who had late-term abortions—you characterized it that they would be "forced to carry their children to term" if this bill passed. Do you stand by that statement?

Mrs. CLINTON. Yes, I do.

Mr. SANTORUM. So you believe if this legislation passes outlawing partial-birth abortion, no late-term abortions would be available?

Mrs. CLINTON. That is what I believe based on what I consider to be the slippery slope of the legislative language that you have carefully and cleverly crafted in this bill.

Mr. SANTORUM. OK. I suggest that the Senator from New York examine the language. It is very clear that this is one particular kind of abortion we have addressed, and we have addressed the vagueness, as put forth by the U.S. Supreme Court. And there are other techniques available for abortion that are late term in nature, and this bill would in no way stop other abortions. In fact, the previous speaker on the Democrat side, Senator KENNEDY, made that very point. He made the point that this will not stop abortions.

I respect your feelings and I also respect Senator KENNEDY's. You both oppose the bill and you have opposite opinions on this issue.

Mrs. CLINTON. Will the Senator permit me to respond to his statement?

Mr. SANTORUM. Yes.

Mrs. CLINTON. I heard the Senator from Massachusetts referencing the fact that, legal or illegal, this is not going to prevent abortions where they are necessary.

My reading of the legislative language you have put forth, makes a very clear argument that this is a slippery slope; that there are going to be not only difficulties in defining procedures, but the fact is that once you have criminalized this procedure, what doctor will perform any medically necessary procedure? There is no reason to believe any doctor would put his practice and his life at risk.

As we know right now, a trial is going on in Buffalo, NY, for the murder of a doctor who provided such services.

Mr. SANTORUM. I thank the Senator. I gave her an opportunity to answer, and I have a couple more questions. No. 1, you suggested that this procedure was extreme. Does the Senator know the most recent Gallup polls—the polls consistently have shown that the banning of this procedure is supported by anywhere from 65 to 75 percent of the American public? What is your definition of "extreme"?

Mrs. CLINTON. I respond to the Senator from Pennsylvania that I think it is extreme when the Government prescribes medical procedures that may—despite their not being ones that most of us would ever hope to have experienced by any loved one—be necessary in certain specific events, that were medically determined.

Mr. SANTORUM. So you would suggest that something that is supported by—you are going to maintain your comment that something that is supported by 70 percent of the American public is extreme?

Mrs. CLINTON. Well, I think the Senator from Pennsylvania is posing a false syllogism. Clearly, if people are told in a poll about the kinds of procedures that might be medically necessary out of context, I can certainly understand why the reaction might be that is not something that we want to talk about, not something we want to think about. But what I do think is extreme is making a decision in this body to outlaw a medical procedure that may be required and medically necessary.

Mr. SANTORUM. So you don't think the American public understands this issue well enough to be able to form a judgment—I think that is what you are saying—even though we have debated this issue and it has been very much in the literature across America now for 7 years. There have been referendums in States and wide debate. You just don't think the public understands it. I beg to differ with you on that. I think I could stipulate that something that has the support of 70 percent of the public is, by definition, not extreme. So if you don't agree, that is your position, and I respect that.

The other thing you said was the chart I had up is "deceptive." I am very curious about how you came to that conclusion. Is it deceptive because it shows a perfectly formed baby?

Is the Senator aware of Ron Fitzsimmons who runs the Association of Abortion Clinics? He has said, when the argument was made by many of the people Senator BOXER and Senator MURRAY and yourself referred to, who came forward and talked about this being medically necessary or necessary because of complications late in pregnancy—Ron Fitzsimmons said he lied through his teeth when he gave that argument? That was his term. He said, "I lied through my teeth" that this was the case. He said it is a dirty little secret, and we all know—those are his terms—that late-term abortions are performed, and the vast majority of late-term abortions are performed on healthy mothers with healthy babies.

So do you believe it is deceptive to put before the American public the typical case of where a partial-birth abortion is performed, or would it be more deceptive to try to convince the American public that this is done for medical reasons, or on sick babies in the majority of cases, when it is not true?

Which would you say is more deceptive?

Mrs. CLINTON. You know, on the Senator's point, I am not arguing against any public education effort, any proselytizing, any means whatsoever to persuade people about what choice they should make. I don't, in fact, think that we have done enough to educate the public about reproductive health, about how to prevent unsafe and unwanted pregnancies, about how to improve contraception, and about what is really at stake in this debate over a women's right to make decisions about her own reproductive health. But for the Senator to imply that there are never instances of abnormalities and problems like the ones represented by the women in my office yesterday, which would be outlawed by your legislation, I believe is deceptive.

We could solve this, as we have now for 20, 30 years, by saying this is a debate that does not belong in the United States Senate. It belongs in the hearts, minds, consciences of women and their loved ones, and in the medical offices of America, not the U.S. Senate.

Mr. SANTORUM. I will challenge you to find anyplace in the record over the last 7 years where I said that was never the case. I have never said there are not difficult cases. What I have said repeatedly, because I wanted to be truthful with respect to the factual situations with which we are presented on the issue of late-term abortions and the instances in which partial-birth abortions are used—I refer the Senator to the State of Kansas where they have to report the reason for a partial-birth abortion; 182 were done last year, or the year before, and of those 182, none—zero—were done because of a problem with the child or a physical problem with the mother. They were classified as mental health.

So I suggest to the Senator that those in the abortion industry themselves say this is the typical procedure on the typical baby. There may be—and there are—a small number of cases that are late-term where you find out the child within the womb has a fetal abnormality and may not live. I just suggest—and you used the term—where is the brainless head? Where are the lungs outside the body? I will just say I will be happy to put a child with a disability up there. But, frankly, I don't see the difference in my mind—and I am not too sure the public does—with respect to that being any less of a child.

It is still a child, is it not? Maybe it is a child that is not going to live long, but do we consider——

Mrs. CLINTON. Will the Senator yield?

Mr. SANTORUM. In a moment. Do we consider a child that may not live long, or may have an abnormality, to be less of a child? Is this less of a human because it is not perfect? Have we reached the point in our society where because perfection is so required of us, that those who are not perfect don't even deserve the opportunity to live for however long they are ticketed to live in this country?

Are we saying we need these kinds of infanticides to weed out those who are not going to survive or those who are not perfect, and that somehow or another we have to have a method available that we only allow perfect children to be born? If that is the argument, I am willing to stand here and have that debate. If that is what you want us to show, I am willing to stand and show that.

I suggest this is the typical abortion that goes with partial-birth. That is exactly what the industry says is the case. If the Senator would like me to find a child that has a cleft palate, I can do that. That doctor from Ohio performs a lot of abortions. He says he did nine in one year because of that. If she would like me to show a case of spina bifida, I can do that. That may be a reason someone has to have a late-term abortion.

I would be happy to show those, but those are the exception rather than the rule, and I think it is imperative——

Mrs. CLINTON. Will the Senator yield?

Mr. HARKIN. Will the Senator yield for a question?

Mr. SANTORUM. I will be happy to. It is imperative upon us to present the standard, the predominant case in which partial-birth abortions are done, and that is what we are doing. I will be happy to yield for a question.

Mrs. CLINTON. The Senator from Iowa got in first.

Mr. HARKIN. Go ahead. The Senator is engaged in debate. I have a question.

Mr. SANTORUM. Fine.

Mrs. CLINTON. Does the Senator's legislation make exceptions for serious life-threatening abnormalities or babies who are in such serious physical condition that they will not live outside the womb?

Mr. SANTORUM. No, if——

Mrs. CLINTON. That is the point.

Mr. SANTORUM. I understand the Senator's point. I guess my point in rebuttal is that if you want to create a separation in the law between those children who are perfect and those children who are not——

Mrs. CLINTON. No——

Mr. SANTORUM. Please, let me finish. If a child is not perfect, then that child can be aborted under any circumstances. But if that child is perfect, we are going to protect that child more. I do not think the Americans with Disabilities Act would fit very well into that definition. The Americans with Disabilities Act—of which I know the Senator from Iowa has been a great advocate, and I respect him greatly for it—says we treat all of God's children the same. We look at all—perfect and imperfect—as creatures of God created in his image.

What the Senator from New York is asking me to do is separate those who are somehow not the way our society sees people as they should be today and put them somewhat a peg below legal protection than the perfect child. I hope the Senator is not recommending that because I think that would set a horrible precedent that could be extrapolated, I know probably to the disgust of the Senator from Iowa, certainly to me.

No, I do not have an exception in this legislation that says if you are perfect, this cannot happen to you; but if you are not perfect, yes, this can occur. The Senator is right, I do not.

Mrs. CLINTON. To respond, if I could, to the Senator from Pennsylvania, my great hope is that abortion becomes rarer and rarer. I would only add that during the 1990s, it did, and we were making great progress. These decisions, in my view, have no place in the law, so they should not be drawing distinctions in the law. This ought to be left to the family involved.

The very fact the Senator from Pennsylvania does not have such a distinction under any circumstances, I think, demonstrates clearly the fallacy in this approach to have a government making such tremendously painful and personal and intimate decisions.

Mr. SANTORUM. I certainly respect the difference of opinion the Senator and I have on the underlying issue of abortion. Again, I think people can disagree on that. I, frankly, do not agree there should be a difference between children who are "normal," in society's eyes—I do not know what that means anymore, what a society sees as normal—and those who happen to have birth defects, severe or not. I do not believe we should draw distinctions.

Mrs. CLINTON. If the Senator will yield for one final point, I want the RECORD to be very clear that I value every single life and every single person, but if the Senator can explain to me how the U.S. Government, through the criminal law process, will be making these decisions without infringing upon fundamental rights, without imposing onerous burdens on women and their families, I would be more than happy to listen. But based on my experience and my understanding of how this has worked in other countries, from Romania to China, you are about to set up——

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. To liken a ban on a brutal procedure such as partial-birth abortion to the forced abortion policies of China is a fairly substantial stretch, and I do not accept that as an analogy. I do not think it holds up under any scrutiny.

With respect to the other issue, let the record speak for itself.

Mrs. CLINTON. Madam President, if I can ask the Senator for one final point.

Mr. SANTORUM. On the Senator's time. I have been more than generous on my time.

Mr. HARKIN. I ask the Senator to yield.

Mr. SANTORUM. On the Senator's time.

Mr. HARKIN. The Senator has been very good about yielding for questions. If the Senator needs more time, I will join him in getting unanimous consent to give the Senator more time, if he needs it, because he has been very good about getting into a discussion. Do not worry about time. We will give you whatever time you want.

Mr. SANTORUM. I thank the Senator from Iowa.

Mrs. CLINTON. Is the Senator aware that in the very poll he cited, there is another finding? When Americans were asked if a law should be passed with no health exemption, 59 percent said no, it should not pass.

Mr. SANTORUM. I appreciate that. Again, that is a good open item for debate. I would suggest that most Americans—and that is why this debate the Senator from Iowa has brought up is so important—do not understand what the breadth of health exception means. I suspect most Americans understand when they hear health exception, they believe there is some imminent danger to the health of the mother. Of course, that is not what Doe v. Bolton says.

Doe v. Bolton talks very broadly of health. I will be happy to give the actual language. Doe v. Bolton is very broad on health to include everything from emotional and mental health to familial health, age of the mother. It is as broad a term—in fact, the courts have interpreted it to mean anything. It is an exception that, frankly, swallows up any limitation, restriction on abortion.

Does the Senator from Iowa have a question?

Mr. HARKIN. I would like the Senator to yield, on my time or his.

Mr. SANTORUM. Yield on mine. If I need time, I will let the Senator know.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I wish to ask the Senator a question. There are a number of issues about the Senator's bill that bothers me. One is how tightly it is drawn and it affords no leeway whatsoever for certain special cases. We talked about the health of the mother. A woman who came to see me some time ago—I do not know if this case is atypical, but I know it happened to one person. I know it is happening to others.

She and her husband had been trying to have children. She became pregnant. She found out the child's—basically the brain was outside the head.

Mr. SANTORUM. Anencephaly is no brain, just a brain stem.

Mr. HARKIN. I do not know exactly what that all means. Anyway, I do know she was told by her doctor that there was a possibility—he did not know how remote—but there was a distinct possibility that if she carried this child to term, which was going to die right away, that because of other complications she had, she might not be able to have other children. I am telling you this is what was told——

Mr. SANTORUM. If I can respond to the Senator from Iowa, the Senator from Iowa brings up a very valid point. We reviewed this over and over in previous years, and I will address it again.

No. 1, there are cases where late in pregnancy there are health considerations that may cause the child to have to be separated from the mother. There is no question about that. The question is, Is there a need for this procedure? First off, is there a need for an abortion? I think most obstetricians would tell you, no, there is no need for an abortion, but there is a need for separation.

Separation can be through a normal delivery. It can be through a cesarean section. So separation is necessary; abortion is not necessary.

The point I am making is this procedure is never medically necessary. I have repeated that over and over, and I have asked the Senator from California and the Senator from Washington, and many others, if they can come forward with a case where this procedure is medically indicated, medically necessary. They have not come up with a case because there are none.

There may be cases that the Senator from Iowa has discussed where there may be a need for separation, but I would argue not necessarily for abortion. If there is such a case—and I am not that much of an expert to know that because I am focused on this procedure solely, but if there is such a case for abortion, then the answer would be there are other, safer—this is what I underscore—procedures done in hospitals, by obstetricians, who are trained in medical schools.

This procedure is done not by obstetricians, not in hospitals, not by doctors trained in medical schools.

I ask the Senator, if it was his daughter, would he want to send her to someone to have this procedure who is not an obstetrician, not in a hospital, someone who is not trained in medical schools or would he rather have her go to a board-certified obstetrician in a hospital and have a procedure that is taught in medical schools and has been peer-reviewed?

What would the Senator prefer?

Mr. HARKIN. I would prefer we stick with Roe v. Wade which would allow my daughter to go to a hospital and to have a doctor perform a procedure on her that in the doctor's best judgment was the safest for her.

If I can just respond further, if the doctor decided this type of procedure was safer than a cesarean section, for example, which I would submit to my friend from Pennsylvania is every bit as gruesome if you would like to describe it, but it is up to the doctor to decide what is the safest procedure.

That is what I would want my daughter to have, so that is why I have my amendment on Roe v. Wade.

Mr. SANTORUM. I understand the Senator from Iowa. I would say if the Senator wants his daughter to go to the hospital and have an obstetrician give her the best procedure she wants, let me assure the Senator she will never have this procedure, because this procedure is not done by obstetricians and hospitals. It is not done.

I suggest to the Senator what we are doing is getting rid of a rogue procedure that has been demonstrably testified to that this is contraindicated. The AMA: Bad medicine. Their term, not mine.

I am saying this is a rogue procedure that is outside the medical arena. This is outside the standard of care.

The Senator knows about the issue of standard of care. He is involved greatly in health issues as the ranking member of the Health Subcommittee on Appropriations. I know he cares deeply about that and he knows the issue of standard of care.

Nowhere in the literature is this considered to be standard of care. As a result of that, I make the argument—in fact, I have made the argument—that this procedure is not healthy to women and as a result should be banned because it is the least safe procedure, and it is not appropriate.

I will answer one more question and then I would like to speak.

Mr. HARKIN. I say to my friend from Pennsylvania, I am not a doctor. I do not know. That is why these are the kinds of things that are not really up to us to decide to tell a doctor what is the safest and what is not the safest, or how to go about it.

Now, maybe we are getting somewhere. I heard my friend ask me about what I would want my own daughter to do if she was ever confronted with this, and I said I would want her to have the best care. I would want her to have a board-certified obstetrician/gynecologist take care of her in a safe, healthy, legal setting. That is why I have offered my amendment. That is why my amendment is pending right now because I want us to say once and for all again that Roe v. Wade is the law of the land, that if, God forbid, my daughter ever had a situation like that, she could go into a hospital, that she would not have the law hounding her, and that she could have a board-certified obstetrician.

So maybe we are getting somewhere. Maybe my friend is now going to support my amendment.

Mr. SANTORUM. No, I am not going to support the amendment of the Senator, but I would like an opportunity to speak.

Madam President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 30 minutes and 15 seconds. The Senator from Iowa has 23 minutes and 27 seconds.

Mr. SANTORUM. Madam President, first, I say again that in many of these difficult cases, if not all of them, to my knowledge—and I would be curious to hear if there is a case I am not aware of where there needs to be a separation of the mother from the child. I am not aware of any case, and I would certainly be anxious to hear any testimony to the contrary where separation necessarily means abortion. Separation does not necessarily mean abortion, and there are other ways to protect both the health of the mother and the health of the child. As a society, I think if that is possible, then that should be our preference.

Let me go back and talk about the overall issue of Roe v. Wade and where we have come as a result of that. Roe v. Wade was decided in 1973. Maybe the biggest problem I have with Roe v. Wade was that abortion was a matter that was decided by the people and by its elected representatives. It was, as every other issue is in America, decided in the public square, decided by this kind of debate.

I think this is wonderful. I think the people need to hear this. We do not get enough debate on the issue of abortion. It has sort of been put away in a corner. Why? I would argue this is the great moral issue of our time. It parallels very closely the issue of slavery back in the early 1800s, and the reason is because it is really the same issue.

The slavery issue was: Here is the African American, here is the black man and woman, and what we said in this country was we could look at this person, we could see this person, but under the Constitution it was not a person. We said this individual, this human being, was not conferred personhood under the Constitution. That is what slavery was all about. As a result, that person was property. What all of us knew to be a human being became property, and we had to fight a war to eventually overturn that.

Where are we with the issue of abortion? The child in the womb is not considered a person under the Constitution. Now, we can see it in a sonogram. That is one of the things that makes partial-birth abortion such an important debate because the baby can really be seen. One can see this is a human being; it is nothing but. But according to the Constitution, this child is not a person.

It is the same debate. It is the same argument. William Wilberforce in England, when he fought to overturn the slave trade, put together a poster. It was a picture of a black man. Underneath the picture, it said: Am I not a man?

I would simply say, look at this chart and under this picture could we not say: Am I not a child?

According to Roe v. Wade, according to the law of this great land, the answer to that question is, emphatically, no, and look what we can do to you.

Why? Because you are property. You are like the slave. You have no rights.

How we have twisted our Constitution, which is based on life and liberty. What is first, liberty or life? Think about that. Life, liberty, and the pursuit of happiness. Do we think the Framers sort of just threw those words together? Do we think they could have said, happiness, liberty, life, they sort of played around and said, which one of these is the right one? Did they put them in order for any reason? We can bet they put them in an order for a reason.

Can someone have liberty without life? No. There is no way possible, if one does not have the right to life, that they can have any liberty.

Can someone have true happiness without liberty? No. Life is a prerequisite to liberty. But what have we done in the case of Roe v. Wade? We have taken life and liberty and we have flipped them.

In Roe v. Wade, the Court put liberty ahead of life, and said the rights of a woman, liberty—this is the liberty clause, this is the grounds from which Roe v. Wade was derived. Of course, the right to abortion is not in the Constitution. But where does it come from? It comes from the what clause? The liberty clause.

So we took liberty and moved it ahead of life. What are the consequences of that? Obviously, we know what the consequences of that are for the child. What are the consequences of that for all of us? The consequences of that for all of us are that now one's freedom to do what one wants trumps someone else's right to exist.

In this case, it is just this little child in the womb. But if we set this precedent, which we have, that my right to my liberty trumps another's right to life—the Senator from New York talks about the slippery slope. Oh, what a slope we are on now. The Senator from New York talked about, you did not show the deformed child. Well, there is a guy in Princeton, NJ, by the name of Peter Singer who talks just about that issue. He talks about the deformed child. And what does he say? He says Roe v. Wade has it right. They put liberty in front of life, and that is right because some people are not worth having around. Yes, that is what he says. Is this guy a kook? Is this guy some sort of flake who is out there in the ether? No. He is a professor. Is he a professor at XYZ State University at Blackwater, PA? No. He is at Princeton University—a "distinguished" chair at one of our great universities.

What does he say? He writes: I should think it should be somewhat short of one year.

What does he mean, "somewhat short of one year"?

Somewhat short of 1 year after birth that we should be able to—what? Kill these little deformed children who happen to be born. Why? Well, because they are not really useful. Their life doesn't mean much. Our liberty means more than their life. Here again, moving life in front of liberty. Oh, what a tangled web we weave.

This is the product of Roe v. Wade. This is the product of the Court taking from us who understand ordered rights—that rights are put in order for a reason. Our Founders had it right.

Those who proclaim the virtue of abortion as a right said this would be a blessing to our society. They said: This would be a great blessing. So many positive things will happen. Divorces will come down. Spouse abuse will come down. Infant abuse will come down. Child abuse will come down. Abortions, of course, will go up, but the benefit is domestic violence will go down, teen pregnancy will go down, infanticide will go down, abandoned children will go down. And of course, none of them did. None of them did. Quite the contrary. All of them have at least doubled since 1973 as a percentage.

So this nirvana that getting rid of these—because, see, they argue that since we are going to get rid of 1.3 million children—25 percent of all pregnancies end in abortion—since we are going to get rid of all these unwanted stresses in people's lives, problems in people's lives, then people will be better off, people will be happier, people will be more free; people won't do bad things because they won't have this stress that complicates their life.

But is that the lesson that people learn? No. Sadly, people are much smarter than that. They learned from the leaders of our great country that the value of life was diminished. And they learned from our great country that their personal liberty was more important than your life. Their liberty, their rights, trump you. That is what they learned.

As I mentioned earlier, that is why the two guys ran into Columbine, toting their guns and shooting people, screaming, "I am the law," because that is what Roe v. Wade taught us. They taught us we can put down our neighbor, just like in the early years of this country we could put down the black man and woman.

We are on a very dangerous practice. I know we will celebrate and affirm Roe v. Wade. Our colleagues will support it because it is the law of the land and it is well accepted. I accept the fact that in this body I am a voice in the wilderness. But I will speak. This is not the most popular thing to come and talk about. These halls are not filled with people who want to speak on this issue. I understand, this is a tough one. You make a lot of people mad when you get up and talk about abortion because it is personal. I know. It is personal. But we have to step back.

I thank the Senator from Iowa for giving us an opportunity to step back and look at what we are doing, look at what we have done, and look at what may come of us if we do not turn away and give back to the people.

I was at a briefing the other day, and someone talked about the Iraqis and said: We are worried about them transitioning to democracy because historically they like being ruled. And I thought to myself: Just like Americans on abortion. They like being told what their position should be. They like the Court taking it and ruling. They do not want to have to think about it. They know they do not like it, but they do not want to talk about it, think about it, vote. They want someone else ruling for them. It is easier to give someone else your rights and let them make decisions for you. It makes your life a lot simpler.

I argue it is not making your life much better. No, what Roe v. Wade has done is separate the person, the human being—and there is no doubt, from the moment of conception this is a genetically human organism. It is human, fully human. Nothing is added. It is fully human. And it is, by definition, alive. How do we know? Because the definition of life is something that metabolizes, and this clearly is metabolizing. It is human life.

What did Roe v. Wade do? It took away the instantaneous bonding of human life and human person under the Constitution. It separated them. I repeat this for emphasis. It separated the human person from the human being. That precedent is now the law of the land. And you know what happens with precedent in this country; it is followed. Today for the unborn, tomorrow for—watch out. Watch out.

I remember in one of the early debates on this bill, I got an e-mail from a man from London who said he was sitting there watching the debate, hearing people talk about all these people with disabilities who needed to be destroyed through partial-birth abortion. Not because the mother's health was in danger—because they just were not perfect. He said: I am sitting in my wheelchair as a disabled man with spina bifida, knowing that they are talking about me. They are talking about me.

Today the child in the womb. Tomorrow?

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 23 minutes 27 seconds, and the other side has 15 minutes 31 seconds.

Mr. HARKIN. I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, it is really very interesting when we talk about disabled children that the man offering this amendment to reaffirm Roe v. Wade is the champion for the disabled. He has fought for the disabled all his life.

To somehow put out the idea that those who are pro-choice are not for the disabled is another terrible thing to say in this Senate. I have been in many of these debates over the years, and the comments made by some of my colleagues on the other side of this issue—in terms of their view toward women, women who want more than anything else to bear healthy children and have those children and, yes, even bear them if they are disabled—are extremely disturbing. The kind of comments we have heard about Supreme Court Justices border on, worse than inflammatory, dangerous comments. The comments we have heard about doctors and health professionals are very disturbing to me.

Let me reiterate that the AMA opposes this bill—my colleague keeps talking about the AMA—and they oppose it because it imposes criminal penalties on physicians who they say perform these procedures. So they are not in agreement with this bill at all. They find that S. 3 is something they must oppose.

The Senator from Pennsylvania keeps asking for specific cases of women who were told that this procedure was necessary as the safest procedure to save their health and their life. He keeps saying no one has come up with these.

I ask unanimous consent to have printed in the RECORD the full text of 10 statements by 10 women who so testified.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### STATEMENT OF VIKI WILSON, CALIFORNIA IN OPPOSITION TO S. 3

I urge you to oppose S. 3. I understand that this bill is very broad and would ban a wide range of abortion procedures. Mine is one example of the many families that could be harmed by legislation like this.

In the spring of 1994, I was pregnant and expecting Abigail, my third child, on Mother's Day. The nursery was ready and our family was ecstatic. My husband, Bill, an emergency room physician, had delivered our other children, and would do it again this time. Jon, our oldest child, would cut the cord. Katie, our younger, would be the first to hold the baby. Abigail had already become an important part of our family. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all of my previous prenatal testing had failed to detect, an encephalocoele. Approximately two-thirds of my daughter's brain had formed outside her skull. What I had thought were big, healthy, strong baby movements were in fact seizures.

My doctor sent me to several specialists, including a perinatologist, a pediatric radiologist and a geneticist, in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

Our doctors explained our options, which included labor and delivery, c-section, or termination of the pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctors also recommended against a c-section, because they could not justify the risks to my health when there was no hope of saving Abigail.

We agonized over our options. Both Bill and I are medical professionals (I am a registered nurse and Bill is a physician), so we understood the medical risks inherent in each of our options. After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an Intact D and E.

It was important to us to have Abigail come out whole, for two reasons. We could hold her. Jon and Katie could say goodbye to their sister. I know in my heart that we have healed in a healthy way because we were able to see Abigail, cuddle her, kiss her. We took photos of her. Swaddled, she looks perfect, like my father, and Jon when he was born. Those pictures are some of my most cherished possessions.

The second reason for the intact evacuation was medical: Having the baby whole allowed a better autopsy to be performed, to give us genetic information on the odds of this happening again.

Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face.

### TESTIMONY OF COREEN COSTELLO—1996

My name is Coreen Costello and I am writing to you on behalf of my family. I have testified before both the Senate and the House concerning the so-called "partial birth abortion" ban and my family was with the President when he vetoed this legislation. I have personal experience with this issue for at 30 weeks pregnant I had a procedure that would be banned by this legislation.

On March 24, 1995, when I was seven months pregnant an ultrasound revealed that our third child, a darling baby girl, was dying. She had a lethal neurological disorder and had been unable to move any part of her tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her lungs were so underdeveloped, they barely existed. Her head was swollen with fluid and her little body was stiff and rigid. She was unable to swallow amniotic fluid and as a result, the excess fluid was puddling in my uterus (a condition know as polyhydramnios). When we learned about our baby's condition, we sought out many specialists and educated ourselves to see what we could do to save our child. My husband is a chiropractor and we are very proactive about our health care. We are generally skeptical about the medical profession and would never rely on the advice or diagnosis of just one doctor. However, our doctors (five in all) agreed that our little girl would come prematurely and there was no doubt that she would not survive. It was not a matter of our daughter being affected by a severe disability—her condition was fatal.

Our physicians discussed our options with us. When they mentioned terminating the pregnancy, we rejected it out of hand. We are Christians and conservative. We believe strongly in the rights, value and sanctity of the unborn. Abortion was simply not an option we would ever consider. This was our daughter.

Instead, we wanted our baby to come on God's time and we did not want to interfere. We chose to go into labor naturally. It was difficult to face life knowing we were losing our baby. But it became our mission to make the last days of her life as special as possible. We wanted her to know she was loved and wanted. We asked our pastor to baptize her in utero. We named her Katherine Grace—Katherine meaning pure, and Grace representing God's mercy.

Another ultrasound determined Katherine's position in my womb. It was not conducive for delivery. Her spine was so contorted it was as if she was doing a swan dive, the back of her feet almost touching the back of her head. Her head and feet were at the top of my uterus. Her stomach was over my cervix. Due to swelling, her head was already larger than that of a full term baby. For two weeks I tried exercises in an attempt to change her position, but to no avail. Amniotic fluid continued to puddle into my uterus at a rate of great concern to my doctors. I was carrying an extra nine pounds of fluid. It became increasingly difficult to breathe, to sit or walk. I could not sleep. My health was rapidly deteriorating. My family and friends were much more aware of my health decline that I was. My complete focus was on Katherine.

As my condition worsened, we again considered our options. Natural birth or an induced labor were not possible due to her position and the swelling of her head. We considered a Caesarean section, but experts at Cedars-Sinai Hospital felt that the risks to my health and possibly to my life were too great. A Caesarean section is done to save babies. It can be a life saving procedure for a child in stress or one who cannot be delivered vaginally. It is not the safest for a woman. There is an increased mortality rate with Caesarean section. In my case, even if a Caesarean could be done, Katherine would have died the moment the umbilical cord was cut. There was no reason to risk my health or life, if there was no hope of saving Katherine. She would never be able to take a breath.

Our doctors all agreed that an intact D&E procedure performed by Dr. James McMahon was the best option. I was devastated. I could not imagine delivering my daughter in an abortion clinic. But Dr. McMahon was an expert in cases similar to mine. My situation and Katherine's condition were not new to him. He explained the procedure to us. My cervix would be gently dilated to maintain its integrity. Once I was dilated enough, Dr. McMahon could being the procedure. In order for Katherine to be delivered intact, cerebral fluid would be removed, which would allow her head to be delivered without damage to my cervix.

It took almost three hours to deliver our daughter. I was given intravenous anesthesia. Due to Katherine's weakened condition, her heart stopped beating during the procedure. She was able to pass away peacefully in my womb.

Some who support this bill have stated that I do not fit into the category of someone who had a so-called "partial birth abortion" because I contend my baby died while still in my womb. Is this relevant? When the procedure began, her heart was still beating—who could predict for certain when she would actually pass away? If this legislation were passed, an intact D&E would not have been an option for me. The fact is, I had the procedure outlined in this legislation. Since I present the procedure as humane, dignified, and necessary, somehow this means I must have had a different procedure and am not relevant to this bill. This is simply not true.

I come to you with no political motivation, rather I come with the truth. I have experience of an intact D&E. Some want you to believe their horrific version of this procedure. They have never experienced an intact D&E. I have. This procedure allowed me to deliver my daughter intact. My husband and I were able to see and hold our daughter. I will never forget the time I had with her, nor will I forget her precious face. Having this time with her allowed us to start the grieving process. I don't know how we would have coped if we had not been able to hold her. Moreover, because I delivered her intact, experts in fetal anomalies and genetics could study her condition. This enabled them to determine that her condition was not genetic. This was crucial for us in deciding whether or not to have another child.

No one can predict how a baby's anomalies will affect a woman's pregnancy. Every situation is different. We cannot tie the hands of physicians in these life and health saving matters. It is simply not right.

With my health maintained, my cervix intact and my uterus whole, we were able to have another child. On June 4, we were blessed with a beautiful healthy baby boy. He is our delight! He is not a replacement for his sister. There will always be a hole in our hearts where Katherine Grace should be. He is, to us, a sign that life goes on. We cherish every moment we have with Tucker, and with our two other children, Chad and Carlyn. What precious gifts God has given to us.

Losing our daughter was the hardest thing we have experienced. It's been difficult to come to Washington and relive our loss. And it's ironic that I, with my profound pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman will need this procedure. But until there is a cure for the cruel disorders that can affect babies, women must have access to this important medical option.

### TESTIMONY OF CLAUDIA CROWN ADES—1999

My name is Claudia Crown Ades. I live in Santa Monica, California. I have been married to Richard Ades for five joyous years.

Three years ago, when I was 26 weeks into what seemed a perfect pregnancy, I made the decision along with my doctor not to have an amniocentesis. At 33, there seemed no need. Then one day, feeling anxious and worried about declining that test, I went to my doctor. There was no basis for my anxiety; it was just an instinct. However, to set my mind at ease, I was sent to a radiologist, an ultrasound expert. "Don't worry," my doctor told me. "He can see a vein out of place." I was never expecting what came next.

The radiologist spent far too long conducting what was supposed to be a routine examination of a healthy baby. He told us that he wanted to review the images and that he would call us. The next day, when we returned from Rosh Hashana services, there was a message on the answering machine. "I'd like you to come back in so that my partner can take a look at your ultrasound. Please don't worry. I don't think it's anything," he said. You can't tell a pregnant woman not to worry.

His partner, who wrote the authoritative book on ultrasound, immediately determined that there was a sac of fluid in my baby's brain. He called it a Dandy Walker Syndrome. He also told us that many people walk around with Dandy Walker Syndrome without any impairment. On the other hand, it could be more serious and he referred us to a perinatologist for more expert opinion. The doctor put his hand on Richard's shoulder and told him not to lose hope and that everything could be ok. You don't console someone if nothing is wrong.

Because of his suspicions, which we were unaware of at the time, the perinatologist rearranged her schedule to see me the next day resulting in an agonizing night of emotional torture.

The next day, we went into the perinatologist's office, apprehensive about what we might discover. She prepped me for an ultrasound, and within thirty seconds, the perinatologist said, "I concur with your doctor." Concur with what? At this point we had no idea.

This was when our worst fears were realized. At that moment we learned that our son's Dandy Walker Syndrome was more serious than we had known. In addition to a fluid filled nonfunctional brain, he had a malformed heart with a large hole between the chambers that was preventing normal blood flow. He had also developed an extremely large cyst filled with intestinal matter, and hyperteloric eyes which was another indication of severe brain damage. We later found out that these symptoms added up to Trisomy 13, a fatal chromosomal disorder.

With each new bit of information, the tears flowed harder. Richard was holding me. I thought we were the only parents in the world who had ever heard such devastating news about their child. What were we going to do? We loved this baby. We wanted this baby desperately. This was our son. We were preparing our family and our world for him. And now, we had to prepare for a tragedy. Away went the baby name books. Away went the shower invitations. Away went the first birthday party, the baseball games, the bar mitzvah. Away went our dream.

Along with the tears, the questions flowed. Could a cardiologist fix our son's heart? Could a neurosurgeon repair his brain? Could an eye surgeon help him to see? Could this baby survive? Was there anything, anything at all, that could be done? The answers were emphatically no. It was our worse nightmare and it was real. Even if my son survived the pregnancy, he had no chance of life. Every day meant pain and torture for him. As his mother I could not, in good conscience, allow my child suffer.

By this time, a geneticist had joined us to discuss our options. We went through them all. I could carry to term. I could have a cesarean. I could induce pre-mature labor in the maternity ward. All of these posed risks for me. The doctors choose a procedure that would be the most appropriate for me, my baby, and for my future children.

The entire process took three days. No scissors were stabbed in the back of my baby's head; his brains were not sucked out and his skull was not crushed.

Ironically, the final day of the procedure was Yom Kippur, the holiest day of the Jewish year. On Yom Kippur, we are asked to mourn those who have passed and pray to God to inscribe us into the Book of Life. I prayed more than one person can pray. I was praying for all of us.

Although I never imagined I would be faced with such a difficult and painful decision I can honestly say that for many reasons, I feel very blessed. First, I was able to find out when I did. Second, I had access to the finest medical care in the world. And third, I live in a place where my rights as an individual have not been compromised.

Though I hope and pray that no one has to go through what my husband and I have, there are people who will. It can happen to anyone—to you, your wife, your sister, your daughter, your friends. All women should have the protection, the guidance and the access that modern medicine allows.

### Erica Fox

In October of 1995 I was pregnant with my first child. I had had amnio and that all came back fine. But at 23 weeks I had another ultrasound, which found that the fetus was suffering from Intra Uterine Fetal Growth Retardation. Further ultrasounds showed that the heart and other organs were very stressed. Two of the top neo-natal specialists told me that the fetus was in the process of dying and that if it made it to term, it would live a short and very painful life. I made the only decision that I, as a mother, could make. I chose to have an abortion. For the sake of my fetus and my health. I was sent to the best clinic in Los Angeles. And over the course of two days the intact D&E was performed. The doctor and nurses were the most compassionate people I have known. But it was a terrible time. And it was a time made more terrible when a few days later, the United States House of Representatives voted to ban the procedure. I watched with horror the lies about scissors stabbing the Gerber-like baby in the neck. The pain endured. The suffering. I knew the truth was different. The fetus I was carrying was not a Gerber baby. That it was not viable. That the sedatives used on me worked on the fetus. That the fetus was most likely dead long before it was ever taken from my body. I knew that the procedure had saved my reproductive system so that today I have a wonderful five-year-old son. Here he is. A boy so full of life and happiness.

### Tammy Watts—1995

We found out I was pregnant on October 10, 1994. It was a great day in so many ways, because on the same day, my nephew, Tanner James was born. My husband and I ran through the whole variety of emotion—scared, happy, excited, the whole thing. We immediately started making our plans—we talked about names, what kind of baby's room we wanted, would it be a boy or girl. We told everyone we knew . . . and I was only three weeks pregnant!

It wasn't an easy pregnancy. Almost as soon as my pregnancy was confirmed, I started getting really sick. I had severe sickness, and so I took some time off work to get through that stage. As the pregnancy progressed, I had some spotting which is common, but my doctor said to take disability leave from work and take things a month at a time. During my leave, I had a chance to spend a lot of time with my newborn nephew and his mom, my sister-in-law. I watched him grow day by day, sharing all the news with my husband. We made our plans, excited by watching Tanner grow, thinking "this is what our baby's going to be like."

Then, I had more trouble in January. My husband and I had gone out to dinner, came back & were watching TV, when I started having contractions. They lasted for about half an hour and they stopped. But then the doctor told me I should stay out of work for the rest of my pregnancy. I was very disappointed that I couldn't share my pregnancy with the people at work, let them watch me grow. But our excitement just kept growing, and we made our normal plans, everything that prospective parents do.

I had had a couple of earlier ultrasounds which turned out fine, and I took the alphafetoprotein test, which is supposed to show fetal anomalies—anything like what we later found out we had. It came back clean.

In March I went in for a routine 7-month ultrasound. They were saying this looks good, this looks good, then suddenly they got really quiet. The doctor said "This is something I didn't expect to see." My heart just dropped.

He said he wasn't sure what it was, and after about an hour solid of ultrasound, he and another doctor decided to send me to a perinatologist. That was also when they told us it was a girl. They said, "Don't worry, it's probably nothing, it could even be the machines."

We got home and were a little bit frightened, so we called some family members . My husband's parents were away and wanted to come home, but we told them to wait. The next day, the perinatologist did ultrasound for about two hours, and he said he thought the ultrasound showed a condition in which the intestines grow outside the body, something that's easily corrected with surgery after the birth. But just to make sure, he made an appointment for me in San Francisco with a specialist.

After another intense ultrasound with the specialist, the doctors met with us, along with genetic counselor. They absolutely did not beat around the bush. They told me, "She has no eyes, six fingers and six toes and enlarged kidneys which are already failing. The mass on the outside of her stomach involves her bowel and bladder, and her heart & other major organs are also affected." This is part of a syndrome called Trisomy–13, where on the 13th gene there's an extra chromosome. They told me, "Almost everything in life if you've got more of it, it's great. Except for this. This is one of the most devastating syndromes, and your child will not live."

My mother-in-law just collapsed to her knees. What do you do? What do you say? I remember just looking out the window. . . . I couldn't look at anybody. My mother-in-law asked, "Do we go on, does she have to go on?" The doctor said no, that there was a place in Los Angeles that could help if we could not cope with carrying the pregnancy to term. The genetic counselor explained exactly how the procedure would be done, if we chose to end the pregnancy, and we made an appointment for the next day.

I had a choice. I could have carried this pregnancy to term, knowing everything that was wrong. I could have gone on for two more months, doing everything that an expectant mother does, but knowing my baby was going to die, and would probably suffer a great deal before dying. My husband and I would have had to endure that knowledge, and watch that suffering. We could never have survived that, and so we made the choice together, my husband and I, to terminate this pregnancy.

We came home, packed, and called the rest of our families. At this point there wasn't a person in the world who didn't know how excited we were about the baby. My sister-in-law and best friend divided up a phone book and called everyone. . . . I didn't want to have to tell anyone. I just wanted it to be over with.

On Thursday morning we started the procedure, and it was over about six pm Friday night. The doctor, nurses and counselors were absolutely wonderful. While I was going through the most horrible experience of my life, they had more compassion than I've ever felt from anybody. We had wanted this baby so much. We named her Mackenzie. Just because we had to end the pregnancy didn't mean we didn't want to say goodbye. Thanks to the type of procedure Dr. McMahon uses in terminating these pregnancies, we got to hold her and be with her and have pictures for a couple of hours, which was wonderful and heartbreaking all at once. They had wrapped her up in a blanket. We spent some time with her and said our good-byes and went back to the hotel. Before we went home, I had a checkup with Dr. McMahon, and everything was fine. He said, "I'm going to tell you two things: first, I never want to see you again. I mean that in a good way. And second, my job isn't done with you yet until I get the news that you've had a healthy baby." He gave me hope that this tragedy wasn't the end, that we would have children just as we'd planned.

I remember getting on the plane, and as soon as it took off we were crying because we were leaving our child behind. The really hard part started when I got home. I had to go through my milk coming in, everything you go through if you have a child. I don't know how to explain the heartache. There are no words. There's nothing I can tell you, express or show you that would allow you to feel what I feel. Think about the worst thing that's happened to you in your life and multiply it times a million . . . maybe then you might be close. I couldn't deal with anybody, couldn't see anybody—especially my nephews. It was too heartbreaking.

Eventually I came around to being able to see and talk to people. I am a whole new person, a whole different person. Things that used to be important now seem silly. My family and my friends are everything to me. My belief in God has strengthened. I never blamed God for this, I'm a good Christian woman . . . however I did question. Through a lot of prayer and talk with my pastor, I've come to realize that everything happens for a reason, and Mackenzie's life had meaning. I knew it would come to pass someday that I would find out why it happened, and I think it's for this reason: I'm supposed to be here to talk to you, and say, "You can't take this away from women and families. You can't. It's so important that we be able to make these decisions, because we're the only ones who can."

We made another painful decision shortly after the abortion. Dr. McMahon called and said, "This will be very difficult, but I have to ask you this. Given the anomalies she had, so vast and different, there is a program at Cedars-Sinai, which is trying to find out the causes for why this happens. They would like to accept her into this program." I said, "I know what that means. Autopsies and the whole realm of testing." But we decided, how can we not do this? If I can keep one family from going through what we went through, it would make her life have some meaning. So they're doing the testing now. And because Dr. McMahon does the procedure the way he does, it made the testing possible.

I can tell you one thing—after our experience, I know more than ever that there is no way to judge what someone else is going through. Until you've walked a mile in my shoes, don't pretend to know what this was like for me . . . and I don't pretend to know what someone else is going through. Everybody's got a reason for what they have to do. Nobody should be forced into having to make the wrong decisions. That's what you'll be doing if you pass this legislation. Let doctors be free to treat their patients in the way they think is best, like my doctor did for me.

I understand that this legislation would make doctors like mine criminals. My doctor was the furthest thing from a criminal in the world. Many times I've called him my angel . . . they say there are angels walking around the world protecting us, and I know he was one. If I wasn't led to Dr. McMahon, I don't know how I would have lived through this. I can't imagine where we'd be without my doctor. He saved my family, my mental stability, and my life. I couldn't have made it through this without him, and I know there are a great many women out there who feel the same way.

I've still got my baby's room, and her memory cards from her memorial service, her foot and handprints. Those are good things, good memories . . . but she's gone. The best thing that I can do for her is to continue this fight. I know she would want me to. So, for her, I respectfully ask you to reject this legislation.

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### TERESA M. TAUCHI—OCTOBER 11, 2000

I consider Julia Kiyono to be our first child. She was born on Thursday, April 20, 2000, but did not live long enough to receive a social security number. I have never seen her birth or death certificate. Outside of the hospital in which she was born and beyond our circle of family and friends, she never existed. But she will always be our first child.

The story of my pregnancy with Julia is like that of so many other women who receive poor fetal diagnoses. Shock. Denial. Bargaining with God. Hope. Anger. Grief. Acceptance. Moving forward. It has been the longest six months of my life.

At 23 weeks gestation, our baby was diagnosed with a lethal form of skeletal dysplasia, a bone development disorder more commonly known as dwarfism. The length of her femur and humerus were five-to-six weeks behind in growth. Her thorax was also measuring abnormally small—her heart nearly filled her chest cavity and her lungs had no room to develop. Two separate perinatalogists predicted respiratory failure shortly after birth. For our baby, survival outside of the womb was impossible.

We received the news on a Friday. Sam and I passed the entire weekend by ourselves, canceling all social engagements and deflecting the inquiries of our friends. We weren't prepared to tell anyone other than our immediate family. We wouldn't have known what to say.

Instead, we spent the weekend installing a gravel patio in our backyard. On that same Friday, several tons of sand, pebble and cobblestone had been dropped off on our driveway, a delivery that was too late to call off. It seems like a strange task to undertake when your world is falling apart, yet we consumed ourselves with the physical labor of moving rocks, and shaping and smoothing our garden. My six-month pregnancy hardly got in the way. The physical exercise seemed to encourage an already-active baby to turn even more somersaults and thrash more karate kicks inside of me. She felt so alive to me and I cherished every moment.

In between the loading and unloading of wheelbarrows full of Pamy pebbles, we took turns crying. We leaned on each other, held each other, and told ourselves that we would somehow get through this. We asked each other why this was happening. We talked about the decisions ahead of us and cried some more. We read through the various pamphlets we received from kindly genetic counselors and wept again. By the end of the weekend we had hardly slept and were physically exhausted, emotionally drained. And we knew that we would terminate our pregnancy.

It was not a decision we took lightly.

Letting go of this baby seemed, at time, unfathomable. Sam and I had been married a little over a year when we conceived her, and as our first child, this baby was the embodiment of our future, of our new life as a family. Yet she inhabited a body that could not sustain life. We chose to release her soul from that body that would only bring her a painful struggle for breath. Moreover, we wanted her to feel nothing but our happiness and our love—a connection that began from the moment of conception. We didn't wish for her to continue inside of a mother's body consumed by so much grief and anguish, to hear a father's voice filled with such sadness and heartache.

I checked into the hospital on Monday evening and was relieved to have my own OB admit me. The nurses were extremely kind and ushered us to a private room in a quiet and empty corner of the labor and delivery ward, away from those mothers and fathers who could feel joy in the anticipation of their arrivals.

The induction of labor took two and a half days. Our baby was delivered at 12:35 p.m. on Thursday, April 20, 2000. It wasn't until that moment that we learned we had a little girl—Sam had insisted, through everything, that we wait until the birth to find out the sex of the baby. With the assistance of the hospital chaplain and my sister as our witness, we named her Julia Kiyono. Julia was the first girl's name we had ever agreed on, long before we knew anything could be wrong with the pregnancy. Kiyono was in honor of my late great-aunt, whom I grew up with as my grandmother and who had lost her only child, a four-year-old boy, in the internment camps during World War II. It wasn't until that moment, when I held our baby in my arms, that I finally understood the heartbreak that my grandmother had carried with her throughout her 99 years.

We kept Julia with us for the short time that she was alive. We cradled her and kissed her. We told her how happy we were to finally meet her and how much we loved her. And when her heart stopped beating two hours later, we whispered goodbye.

Today, we call the lush flowering vines, the budding fruit trees, and the fragrant sages that inhabit our backyard and surround the pools of gravel Julia's Garden. We have also planted a baby rose bush in her memory. It produces clusters of bright pink flowers that fade to white as they bloom. We have other reminders—her framed footprints that hang on our bedroom wall, a memory box that holds her receiving blanket, cards and photographs—of Julia's eternal presence in our lives.

Unfortunately, the legacy of prenatal testing, lethal diagnoses and termination—the memories we want to move beyond—too will endure. We learned shortly after Julia's death that her specific type of skeletal dysplasia was identified as Short-Rib Polydactyly Syndrome, a lethal condition that is inherited in an autosomal recessive manner. This means that my husband and I are both carriers of a recessive gene mutation and have a 25% chance of recurrence with each subsequent pregnancy. Through anecdotal evidence and my own research on autosomal recessive disorders, I have learned that carrier parents often have multiple affected pregnancies.

While there are plenty of reasons to believe that we will have a healthy child, I am a firm pragmatist. I know that it can happen to us again and that we will need to revisit the same heartbreaking decision every time—a choice that rightfully belongs to us and us alone.

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### Testimony of Kim Koster

My name is Kim Koster. My husband, Dr. Barrett Koster, and I have been married for more than seven years. We have known since before we were married that we wanted very much to have children.

To our joy, in November of 1996 we discovered that we were expecting. The news was a thrill, to us and to our family and friends. We were showered with gifts and hand-me-downs, new toys, books and love. Barry's family gave us a 19th century cradle, which had rocked his family to sleep since before his grandmother Sophie was born more than 100 years ago.

Our first ultrasound was scheduled a little more than four months into the pregnancy. On Thursday, February 20, we saw our baby and spent five short minutes rejoicing in the new life, and then the blow fell. The radiologist informed us that he had "significant concerns" about the size of the baby's head. His diagnosis was the fatal neural tube defect known as anencephaly, or the lack of a brain. After four months of excitement and joy, our world came crashing down around us.

Once the diagnosis was made, there was no further medical treatment available for me in our hometown, and we were referred to the University of Iowa Hospitals and Clinics in Iowa City. Our first OB appointment there was set for Monday morning. My husband and I spend that long weekend, the longest of our lives, doing research on anencephaly, talking with family and friends, and hearing personal stories about the fate of anencephalic babies.

In Iowa City, a genetics OB specialist examined a new ultrasound and immediately confirmed the diagnosis. An alpha-feto-protein blood test and amniotic fluid sample only drove the truth harder home. Our fetus had only a rudimentary brain. There were blood vessels, which enabled the heart to beat, and ganglion, which enabled basic motor function. There was no cerebellum and no cerebral cortex. There was no skull above the eyes.

I had been preparing for pregnancy for more than a year with diet, exercise and prenatal vitamins, including the dose of folic acid recommended to prevent neural tube defects. Yet we still lost our child to one of the most severe and lethal birth defects known. Our baby had no brain—would never hear the Mozart and Bach I played for it every day on our great-grandmother's piano, would never look up into our eyes or snuggle close to our hearts, would never even have an awareness of its own life.

On Tuesday, February 25, 1997, my husband and I chose to end my pregnancy with a common abortion procedure known as "D&E." As difficult as it was, I literally thank God that I had that option. As long as there are families who face the devastating diagnosis we received, abortion must remain a safe and legal alternative.

In 1998, Barry and I discovered to our delight that I was pregnant again. Although we were overjoyed, our happiness was tempered by the knowledge that we had a 1-in-25 chance of a second anencephalic pregnancy. This time, we asked our loved ones to hold off on the baby gifts, we played no Bach, and every week was a mix of excitement and unavoidable worry. And on July 17, 1998, an ultrasound revealed the worst. We had a second anencephalic pregnancy—a second daughter lost to this lethal birth defect.

Fortunately for my medical care, the so-called "partial birth abortion" bans have been vetoed by President Clinton, and my doctors were able to provide me with a safe, compassionate procedure that brought this second tragic pregnancy to an end. And thanks to those doctors and their ability to give me that care, my recovery has been rapid—enabling Barry and I to plan to try again.

But if this bill becomes law, we would not be able to do so. For the chances of our having a third anencephalic pregnancy are all the way up to 1 in 4, and this bill would ban any procedures that would help us. It would force me to carry another doomed child through all nine months. That idea is far more horrifying than all the unreal anti-choice rhetoric that can be manufactured, for the reality is that this is a terrible law, a grievous interference between doctor and patient, and would only compound the tragedy and heartache faced by families like us.

Please protect the health of women and families like mine, and reject S. 1692.

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### Testimony of Miriam A. Kleiman, Voters for Choice—March 10, 2003

My name is Miriam Kleiman. I am 36 years old. I have been happily married to my husband Jason Steinbaum for almost six years. We have a child named Zachary who is 19 months old. I am now pregnant again and am unfortunately unable to be with you today.

My pregnancy is currently in the 29th week. In July 2000, I was pregnant with another much-wanted child. My husband and I had been married three years and were excited and ready to be parents for the first time. We had selected furniture, car seats, and other items to help us keep our baby comfortable, warm, protected, and loved. As with many expectant mothers, I was scheduled for a regular obstetrical appointment. At that time, I assumed that this sonogram would be just another joyous look at the baby. I insisted that my husband join me for the appointment to share in the excitement and happiness of seeing our baby.

The sonogram technician, however, immediately detected severe problems. The OB was called in at once to tell us that the condition was extremely grave. We were transformed from happy, expectant parents to devastated, panicked people in immediate need of advice and options. We were rushed to a variety of hospitals where I was examined by several doctors, including a perinatologist, neonatologist, and radiologist. All told us that the baby had major brain abnormalities, including severe hydrocephalus and a malformed vein of galen. In other words, our precious baby boy would die at some point in utero or shortly after birth. Our world was shattered, and we needed to find a way to pick up the pieces.

After our consultations with these specialists, it was clear that there was no medical miracle to correct the baby's condition. Worse still, our doctors informed us that abortion was not an option because the pregnancy was past the legal limit for termination in most states. They said I had no choice but to wait and deliver our baby at term as if the pregnancy were proceeding normally. Third trimester abortions, they explained, are just not done. Desperate, we begged the head of our obstetric practice for any other options. He calmly explained that there were none—that I had no choice but to carry the baby more than two more months until delivery at full term unless the baby died in utero before that. We directly asked him about the possibility of termination. Our doctor glared at us and responded succinctly: "We call that murder."

We grasped for second, third and fourth opinions as we went from hospital to hospital. The radiologist we visited repeated the grim prognosis: The baby would die in utero or within days of birth. My husband turned to him and asked: "if this were your wife, what would you do?" He responded: "I would find any way possible to terminate the pregnancy."

If we did nothing, we would be on a death watch, merely waiting for our baby to die. This was totally unacceptable to me or my husband. Personally, I was prepared to go anywhere, at any expense to end our anguish and let us move on with our lives. We loved this baby boy too much and were too attached to him to suffer the misery of waking up every morning awaiting his impending death.

We made the dreaded phone calls to inform our parents that their long-awaited grandchild would not survive. Because Jason's father and sister are physicians with a network of colleagues, we learned that we had actually received incorrect information. There was, in fact, an option.

For the record, my abortion was performed in August 2000—my abortion was NOT a so-called "partial-birth procedure." After the delivery, my husband and I, along with our mothers, held our intact baby, said a blessing, and bid him goodbye. He is buried at a cemetery in Northern Virginia.

We feel a strong obligation to tell our story to inform others of why it is necessary to preserve the right to choose. In doing so, we also feel we are remembering the baby we lost, but still hold dearly in our hearts. It is hard to stress strongly enough that we did NOT "change our minds" about being parents. This was a desperately wanted child, one who had been planned for, dreamed of, read and sung to, and long-hoped for. The hardest part for us to convey is how much we did then and continue to love our son, how we remember him and mourn his loss, but how we made a decision that we thought would be more humane. Even in retrospect, two years later, we know we made the right choice.

This week, the Senate will consider legislation to end abortions. This would effectively eliminate all options for others like us, who have desperately-wanted pregnancies but whose dreams turn to nightmares with news of devastating medical conditions. If this legislation passes, it would end the important work of the very place that helped us through the worst time of our lives.

It is my hope that someday in the future when my doctor and his staff face the harsh rhetoric from the so-called "right to life" movement or hear about ill-advised congressional restrictions on a woman's right to choose, they will not see the anger of the anti-choice activists, but will envision instead of face of our healthy son whose picture adorns their wall and will know that what they did for my family—and so many others—was right and helped us reach this day.

Mrs. BOXER. I am going to just read a paragraph out of each of their stories. The first is Viki Wilson, who writes:

> Losing Abigail was the hardest thing that has ever happened to us in our lives, but I am grateful that Bill and I were able to make this difficult decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face.

Coreen Costello writes movingly. All of these are so moving that I would say if every American could read these, they would know that what we are about to do is wrong because it makes no health exception. She says:

> Losing our daughter was the hardest thing we have experienced. It has been difficult [to talk about our loss]. And it's ironic that I, with my profound pro-life views, would be defending an abortion procedure. God knows I pray for the day when no other woman needs this procedure. But until [then] . . . women must have access to this important medical option.

Claudia Crown Ades, at the end of her beautiful statement, writes:

> Though I hope and pray that no one has to go through what my husband and I have, there are people who will. It can happen to anyone—to you, your wife, your sister, your daughter, your friends. All women should have the protection, the guidance and the access that modern medicine allows.

All of these women were told by their physician that the safest procedure is the one that the Senator is going to outlaw here, without any exception.

Then there is Vikki Stella. She is a diabetic. She was told she absolutely needed this. We went through her story.

Then there are a number for whom I do not have photographs. Audrey Eisen—she says: "Along with my sadness came a realization that if such legislation passed," tragedy would happen to "those women who come after me." Outlawing these procedures, "I don't know how these women will endure; I don't know how I would have endured."

Erica Fox said:

> This procedure is not about murder. It's about finding way to go on. In the end, it's about life. A good life. A healthy life. The life I see every day shining at me in the eyes of my son.

Tammy Watts:

> I understand the Senate is considering legislation that would ban the kind of surgery that I just had. . . .

She goes on to talk about this terrible decision. She begs us not to outlaw this procedure. She says:

> I can't imagine where I would have been without [my doctor who performed this procedure.] He saved my family. . . . [He saved] my life. I couldn't have made it through this without him, and I know there are a great many women out there who feel the same way.

Theresa Tauchi writes us on October 11, 2000:

> I know that it can happen to us again and that we will need to revisit the same heartbreaking decision every time—a choice that rightfully belongs to us and to us alone.

Kim Koster wrote to us. She said:

> The reality is that this is a terrible law [this S. 3], a grievous interference between doctor and patient, and would only compound the tragedy and the heartache faced by families like us. Please protect [our] . . . families.

Miriam Kleiman; this is the last one I have.

> It is my hope that someday in the future when my doctor and his staff face the harsh rhetoric from the so-called "right to life" movement . . . they will not see the anger of the anti-choice activists, but will envision instead the face of our healthy son whose picture adorns their wall and will know that what they did for my family—and so many others—was right and they helped us reach this day.

The reason Senator HARKIN's amendment is so important is that under Roe v. Wade, the right to choose is guaranteed to a woman in the beginning of a pregnancy, the first few months. And after that we can restrict, but always with an exception for the life and health of the mother. That is Roe.

Let me tell you why it was important that that decision be made. Because before Roe, 5,000 women a year died from back-alley illegal abortions. I don't hear anything about these women. It chokes me up.

Women had to go and have back-alley abortions in other places—not a clean hospital, not a State-licensed facility, no practitioner who knew what he or she was doing. Money was slipped across the table, and 5,000 women a year died. That is why this vote is so important. We must not go back. We cannot go back to those dark days before Roe.

Mr. HARKIN. Will the Senator yield for a question?

Mrs. BOXER. Yes, I yield.

Mr. HARKIN. I thank the Senator for her stalwart support for all the years I have known her, for the principles and the law of Roe v. Wade, to ensure that the women of America have the right to choose. I thank her for her stalwart support, and I thank her for her comments this afternoon on behalf of this amendment I have offered.

I ask the Senator this question. We heard from our friend from Pennsylvania about certain polls that were taken about a certain procedure and this and that. But this amendment is about Roe v. Wade. Is the Senator familiar with polls taken in this country from women about whether or not they would support keeping Roe v. Wade or overturning Roe v. Wade? Is the Senator familiar with some of those polls?

Mrs. BOXER. I haven't seen any recent polls. I wonder if my friend could inform me. I assume overwhelmingly the people of this country support Roe because it is a moderate decision, a moderate mainstream decision.

Mr. HARKIN. That is exactly right. I say again to the Senator, when it is defined to people, both men and women, what Roe v. Wade really does in terms of the first 3 months and then after that what the State can do, but with exceptions for life and health of the mother, as the Senator so rightfully pointed out, the overwhelming majority of the American people say yes, that ought to inure to the individual and not to the Government.

Mrs. BOXER. Absolutely. I think people are horrified at the thought that a Senator would make such a personal, private decision. Our colleague from Pennsylvania wants to see Roe v. Wade overturned, and that is exactly what would happen. Government would be put in the middle of the lives, the private lives, of the people of this country. The people would no longer be trusted to make these decisions.

Mr. HARKIN. I further ask the Senator, would she concur in this view, that perhaps what this is all about is really not about a procedure but it really is about fundamentally getting at Roe v. Wade? I say that to my friend from California because 4 years ago when this came up, this Senator along with the Senator from California offered the same amendment. It said that Roe v. Wade—we recognize it as the law of the land and it should not be overturned.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. HARKIN. I yield another 5 minutes to the Senator from California.

Is the Senator familiar with the outcome of that vote? That vote at that time—I remember it precisely—was 51 to 47. Two people who are not here had announced they were opposed to it, so it was 51 to 49. By 2 votes, the Senate—49 Senators said Roe v. Wade should be overturned. That is how close we are here. That is why the people of this country ought to recognize that is what this debate is about—getting at Roe v. Wade; nothing more, nothing less.

I thank the Senator.

Mrs. BOXER. I say to my friend, he is absolutely right. Because there is no health exception in S. 3, it is a complete reversal from Roe.

What is shocking is my colleagues on the other side won't even make a health exception that was narrowly drawn by Senator DURBIN. They couldn't even go that far. We all know what could happen to a woman if she does not have this safe procedure. Doctors are telling us. We put those statements in writing. They could have a hemorrhage, their uterus could rupture, they could have blood clots, embolism, stroke, damage to nearby organs, and paralysis. Yet S. 3 comes to us without a health exception.

I say to my friend, the rest of the time is his. I have concluded my remarks. I am very proud to stand with him. I think it will be a close vote, but I am hoping a winning vote, so the message can go out from here that Roe v. Wade, which balanced all the interests—the family interests, the interests of the fetus, and the interests of the mother, which said that previability a woman has a right to choose, she will make that decision with her God and her doctor and her loved ones—that should stand. Certainly later in the pregnancy there can, in fact, be restrictions, and always exceptions for the life and health of the woman.

I thank my colleague for again offering this amendment. I think it is very important. I hope people of the country will watch the vote and will think about the ramifications.

I yield the floor. Senator HARKIN retains the balance of time.

Mr. SANTORUM. Madam President, I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I thank my colleague from Pennsylvania and my colleague on the other side of the aisle for this most spirited debate.

We are finally here debating the most difficult and contentious social issue of our day. This is one of those elephants in the living room that we in the country across America have been going around saying is not there; not wanting to focus on it; not wanting to confront it; but it is there. This is it, the issue of Roe v. Wade.

I was listening to colleagues, thinking of Mose's admonition: "Choose ye this day life or death." Which will it be? We are finally having the debate, Roe v. Wade.

I would like to remind colleagues. I read it again about 3 months ago. It is about federalizing State laws so we are clear on this. It is a lengthy opinion where they said we are going to take all of these State laws in a patchwork regarding allowing abortions, or not allowing it, and we are going to federalize it. We are going to discover a right to privacy and say this is built within the overall thinking of the Constitution, the original Framers. We are going to say there is a right to privacy that applies to reproductive health. We are going to take the State laws of Kansas, California, Iowa, the Pennsylvania and North Carolina law, we are going to take all of those laws, throw them all out, and say this is the law of the land. We are going to say we found it to be constitutional. There are a lot of constitutional scholars who have grave questions about the nature of the basic fundamentals in Roe v. Wade, regardless of the issue of abortion, but finding this constitutional right. Lots of people have questions about this decision. I hope fundamentally people will recognize that if you repeal Roe v. Wade, you go back to allowing the States to decide this issue, which is the way it was prior to Roe v. Wade. The States decided this issue. Kansas had a set of laws. Other States had sets of laws. This is how it was resolved and dealt with across the land. That is what we are talking about.

People are saying if you repeal Roe v. Wade, everything goes back into a back alley and no abortions would be allowed in the United States.

To be factually correct, what happens? This goes back to the States to decide how they will handle this particular issue if you do not have Roe v. Wade. When people paint such a cataclysmic change, we recognize what we are truly legally talking about on Roe v. Wade. What has happened since Roe v. Wade? It has been 30 years now, or a little more. Forty million babies have been aborted in the United States. We are now back and debating this fundamental issue.

Really, when you boil it all down, it is what is the legal status of a young human. The Senator from Pennsylvania beautifully put forward the competing issues of interest here of one side—the mother and the child. Fundamentally, you have to look at it and ask yourself and decide why as a country we have not been willing to confront this issue. What is the legal status of the child in utero? What is it? Is it a person or is it a piece of property? It is one of the two.

When the child is out of the mother's womb, we have clearly decided. Five seconds ahead of that time when it is in the womb, what is this child? Five months in the womb, what is this child? Is it a person or is it a piece of property? You can say that is an odd way of putting the debate.

One of the people who inspired me in this legislative arena was a gentleman named William Wilberforce, a parliamentarian in England. He led the battle for ending the slave trade by Great Britain. They had this debate on the fundamental issue of what is a slave. Is it a person or a piece of property? They even did a Wedgewood plate on this. They had a person in chains as a slave. They put a question around it. "Am I not a man and a brother?" They asked society that question. "Am I not a man and a brother?"

What is the child in the womb? Is it not a person and a brother? When will we decide? We just simply haven't been willing to say it. We have been willing to duck around different avenues on it. Now we are talking about research on the young human. We decided to treat it as property when talking about patenting young human life. You can't patent a person. Therefore, it must be property. But we are uncomfortable stating that in law because somehow it doesn't seem quite right.

When we let the child live, it becomes a person under everybody's definition. This actually happened in the slave debate. At one point in time in our Constitution we said a slave is three-fifths of a person because we weren't willing to say it was a person. It is property, so it is three-fifths. We all look back, that was horrible, and that was wrong. We know it was wrong.

Now you are finding that courts are hearing cases about frozen embryos and contesting between the mother and the father in a divorce case on whether to implant or not. They are asking the question in the divorce case: What is the frozen embryo, a person or piece of property? Now the courts are having to use the same sort of terms that were used in the slave debate. They are asking, Is it a quasi-human with the potential for life? They are still trying to get around the question of person or property. Which is it? It is one or the other. It is one or the other. The courts are trying to find that in a contorted way. It is not quite either because we don't want to face it now.

That is the fundamental question of Roe v. Wade. Is it a person or is it property? Am I not a man and a brother?

We have coarsened our society in a period of time since Roe v. Wade. Since 1973, approximately 40 million abortions have taken place in this country. We now have a debate in the Nation about whether we are going to have a culture of life or a culture of death. I think we would all agree we want a culture of life.

What does that mean? That means we support and stand for life. We stand for it in all phases of life. We stand for it in all difficulties and all types of life. It doesn't mean somebody who has some physical handicap has any less of a life than what I have or the Presiding Officer or anybody in this room. This is life we want to celebrate. We want to take that celebration to the weakest and most vulnerable in our society. We want them to be able to celebrate the culture of life. We want to project that and send that around the world, that we believe in the culture of life.

That is what this debate is about. Choose today life or death, culture of life.

Is a young human a person or property? I think scientific evidence clearly teaches over time, if it hasn't already, that this is a person. You can't treat it any other way.

I am glad we are having this debate. I am glad my colleague from Iowa raised this issue. It is an important one for us. I hope we can conclude this. We support the culture of life.

I yield the floor and reserve the remainder of time allotted to me.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time do I have, Madam President?

The PRESIDING OFFICER. Eleven and one-half minutes.

Mr. HARKIN. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today to support Senator HARKIN's Sense of the Senate that Roe v. Wade, the landmark 1973 decision recognizing a woman's constitutional right to choose, was rightly decided and should not be overturned; I also want to express my opposition to the underlying legislation.

Thirty years ago, the U.S. Supreme Court held that a woman has a constitutional right to privacy when making decisions concerning her personal reproductive choices. That decision, Roe v. Wade, was carefully crafted to be balanced and responsible while holding the rights of women in America paramount in reproductive decisions.

And Senator HARKIN's amendment is very simple: it asks the U.S. Senate to reaffirm that Roe v. Wade was rightly decided and should not be overturned. This amendment asks the U.S. Senate to reaffirm a woman's right to privacy in making her own personal medical and reproductive decisions.

Roe v. Wade held that women have a constitutional right to choose, but after the point of viability, the point at which a baby can live outside its mother's body. States may ban abortions as long as they allow exceptions when a woman's life or health is in danger. Yet the legislation before us, which lacks an important health exception, fails to do just that: provide for a woman when her health or her life is in danger.

In June 2000, the U.S. Supreme Court reinforced the importance of a health exception with its decision in Stenberg v. Carhart, which determined that a Nebraska law banning the performance of so-called "partial birth" abortions violated the Roe ruling by the Supreme Court.

The Supreme Court has stated unequivocally that every abortion restriction, including bans on so-called "partial-birth abortion," must contain a health exception. The Court emphasized that, by failing to provide a health exception, the Nebraska law was structured so as to place a woman's life in danger. That's exactly what the legislation before us today does as well: it places a woman's life in danger.

Despite the Supreme Court's very clear mandate, the legislation before us today does not provide an exception for the health of the mother. For this reason, this legislation, like the one struck down in Stenberg, is unconstitutional.

While I assume the author of this legislation is referring to a specific procedure, the legislation is not clear on that fact. In fact the U.S. Supreme Court held in the Nebraska case that even if the statute's basic aim is to ban one specific procedure, its language was so broad that it will also ban other medical abortion procedures.

Moreover, this legislation imposes an undue burden on a woman's ability to choose by banning abortion procedures at any stage in a woman's pregnancy. This bill does not ban post-viability abortions, a limit I would support, but unconstitutionally restricts women's rights regardless of where the woman is in her pregnancy.

This legislation does not have a clear exception for women's health. I fundamentally believe that private medical decisions should be made by women in consultation with their doctors—not politicians. And this includes the methods by which a physician chooses to treat his or her patients. Why should we decide that here on the Senate floor?

And I do not believe that congressional findings make up for medical consultation between a patient and her doctor. But this ban would undermine a physician's ability to determine the best course of treatment for a patient.

Physicians must be free to make clinical determinations, in accordance with medical standards of care, that best safeguard a woman's life and health. Women and their families, along with their doctors, are simply better than politicians at making decisions about their medical care. And I don't want to make those decisions for other women.

Three states, including my home state of Washington, have considered these bans by referendum. All three failed. We considered this debate in my home state in 1998. The referendum failed decisively—by a vote of 57 to 43 percent.

These so-called "partial-birth" abortion bans—whether the proposals that have been before the Senate in the past or the one before us today—are deliberately designed to erode the protections of Roe v. Wade, at the expense of women's health and at the expense of a woman's right to privacy.

I also want to say that I am extremely disappointed that my colleagues voted down Senator MURRY's women's health amendment yesterday because the easiest way to reduce the number of abortions is to prevent unwanted pregnancies in the first place. One critical way to do this is through better access to contraception, both by improvements in insurance coverage of contraception, as well as by improving knowledge of, and access to, emergency contraception.

The Supreme Court, during the thirty years since it recognized the right to choose, has consistently required that, when a state restricts access to abortion, a woman's health must be the absolute consideration. This legislation flouts the Supreme Court's explicit directive, the advice of the medical community, and the will of the American people. We must continue to ensure that the women of America have the right to privacy and receive the best medical attention available.

I urge my colleagues to support Senator HARKIN's Sense of the Senate that Roe v. Wade, the landmark 1973 decision recognizing a woman's constitutional right to choose, was rightly decided and should not be overturned.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. HARKIN. Madam President, I yield myself a couple minutes, and then I will close up. I know we have some people who need to vote here shortly.

Madam President, let us be clear about one thing. The amendment I have offered is, I think, as straightforward in its approach as Roe v. Wade is in its decision; that is, it simply just states Roe v. Wade is the law of the land and should not be overturned. That is what we are saying on this amendment.

I have not gotten much into the debate on the underlying bill itself. I may later on. I have left that to others. I just feel very strongly that in all the smoke and fog and haze and debate about this procedure and that procedure, and all of the kinds of philosophical debates that are being made—and some of them are very good. I thank the Senator from Pennsylvania. He has been very good about engaging in discussions on the floor. Maybe later on I will get into a little more philosophical debate with him on some of these things.

But this amendment simply is about Roe v. Wade. That is all this amendment is. It is for us to express ourselves, to express ourselves clearly and unequivocally that the Senate believes Roe v. Wade is the law of the land and should not be overturned.

Let us send a signal to the women of this country that we are not going to turn the clock back, we are not going to turn the clock back to what Senator BOXER from California said: the dark days when they went to back alleys.

If my daughter, God forbid, ever found herself in a position like that, as I said earlier, yes, I would want her to go to the best hospital, have a doctor, have a good obstetrician, and not be forced into a back alley. I want it legal. That is what Roe v. Wade is about, and that is what this amendment is about: to keep it safe, legal, and, yes, rare in the United States.

I yield back my time.

Madam President, I ask unanimous consent that Senator EDWARDS and Senator CANTWELL both be added as cosponsors, and Senator BOXER be added as a cosponsor, and Senator KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I want to address a couple issues and then make a closing argument.

One issue I want to address is the point Senator BOXER made, that there were 5,000 deaths of women because of abortions prior to Roe v. Wade.

Let me give a quote from the former medical director of the National Association for the Repeal of Abortion Laws, NARAL:

> How many deaths were we talking about when abortion was illegal? In NARAL, we generally emphasized the frame of the individual case, not the mass statistics, but when we spoke of the latter it was always "5,000 to 10,000 deaths a year." I confess that I knew that the figures were totally false and I suppose that others did too if they stopped to think of it. But in the "morality" of our revolution, it was a useful figure, widely accepted, so why go out of our way to correct it with honest statistics? The overriding concern was to get the laws eliminated, and anything within reason that had to be done was permissible.

So, obviously, it was not just used to get the law eliminated. It continues to be used to substantiate the law's existence. And what does this law do? It does many things. Let me summarize by mentioning two.

It takes from the American people the people's legitimate right to determine this crucial, moral issue. It was usurped from the people by fiat—not elegantly, I would suggest, but inelegantly by nine Supreme Court Justices, who decided to lord over the States and their elected representatives of the people their version of the world, their world view, their hackneyed interpretation of a constitutional liberty.

That is what happened with Roe v. Wade. It took from the people rights to decide their own fate, and rested it in an unelected body, at that time of nine old men. That is one thing Roe v. Wade did.

The second thing it did is it took a page, unfortunately, from our past, a page we thought we had learned a lesson from; and that is the page of the history of slavery.

Slavery was a situation in our country where we got our priorities out of whack. Our Founding Fathers said, we are endowed by our Creator with certain inalienable rights: life, liberty, pursuit of happiness. Ordered for a reason, for without life there is no liberty; without liberty, there is no happiness. They didn't say happiness, life, liberty; liberty, life, happiness. No, they are ordered for a reason. Life is a prerequisite to liberty.

But in the case of slavery, we put the liberty of the slave owner ahead of the life of the slave and turned the slave into property. We put the rights of the white person in America above the life of the black man or woman. We learned our lesson in a very painful way, but we didn't learn it well enough. The old saying: If you don't learn from history, you are doomed to repeat it. Here we stand, arguing this repetition of history and just like in this Hall; 150-plus years ago, people from areas of the country argued that this was not a reordering or a misordering of liberty. And so they do again today.

What we have done is put the liberty rights of people ahead of the life right of the unborn child. We have misordered our liberties. The pain that it has showered across the land of 40-plus million abortions and countless other maladies that have gone on, horrible social consequences result from that. We need to get our liberties back to where our Founding Fathers put them, where our Creator put them: Life, liberty, happiness. First among them is the right to life.

I know I will not be successful in this debate, but I hope my colleagues listen to the consequences of putting ordered liberties out of order. If you do that, the consequences to our society long term, the precedent we set with this constitutional case will poison the well of judicial decisions for many years to come. Today, it is the unborn child. Tomorrow and tomorrows after, it may be you.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CORNYN). The question is on agreeing to amendment No. 260.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. MCCONNELL) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murkowski
Murray
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Stevens
Warner
Wyden

NAYS—46

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Inhofe
Kyl
Lott
Lugar
McCain
Miller
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Sessions
Shelby
Smith
Sununu
Talent
Thomas
Voinovich

NOT VOTING—2

Biden
McConnell

The amendment (No. 260) was agreed to.

Mr. HARKIN. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

### AMENDMENT NO. 261

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 261 and ask for its immediate consideration. It is short, and I would appreciate it being read by the clerk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 261.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Post-Viability Abortion Restriction Act".

**SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.**

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion if, in the medical judgment of the attending physician, the fetus is viable.

(b) EXCEPTION.—This section shall not apply if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life or health of the woman.

(c) CIVIL PENALTY.—A physician who violated this section shall be subject to a civil penalty of not to exceed **$100,000**. The civil penalty provided for by this subsection shall be the exclusive remedy for a violation of this section.

Mrs. FEINSTEIN. Mr. President, this amendment is simple and straightforward. It bans any abortion after viability, except when a doctor has determined that it is necessary to save the life or protect the health of the woman.

I have been a part of the Judiciary Committee now for 10 years and I have seen this bill come up in three Congresses and listened to or read testimony on this bill for three Congresses.

The first time it came up, it became very apparent to me that the definition of partial-birth abortion was too vague. I wondered why it was so vague. It looked like it covered different medical procedures. And now, about 8 years later, I believe I know why it is so vague. I believe it is so vague because it could actually cover all abortions and therefore be a major strike against a woman's right to choose. Eighty percent of the people of this country believe that abortion must be safe and legal to preserve a woman's health.

People strongly believe that this is a decision between a woman, her clergy, her doctor, and her family.

I deeply believe politicians should not be in the business of making decisions about women's reproductive rights. In my view, the Santorum legislation, S. 3, is a Trojan horse. It is not what it purports to be. It supposedly bans one procedure, D&X, but actually confuses this procedure with another, D&E, the most commonly used abortion procedure. In fact, its wording is so vague that it could be construed to criminalize all abortions.

Yesterday's CONGRESSIONAL RECORD shows that Senator SANTORUM—and I have great respect for my distinguished colleague—stated:

> I have not been asking about medical necessity. . . . I have not asked for someone's opinion on what ought to be or what could be. What I have asked for is an example. I wanted a fact circumstance to be provided as to where this would be the best, this would be appropriate, this would be medically indicated.

I would like to answer Senator SANTORUM's question at this time, through a letter. After we heard this question, we called the University of California San Francisco Medical Center, the Department of Obstetrics, Gynecology, and Reproductive Sciences, and talked to the chief of that department at San Francisco General Hospital, who is also a full professor. His name is Philip D. Darney. Dr. Darney just sent me this letter, and I would like to read that letter into the RECORD:

> Dear Senator Feinstein: I write to provide examples of the need for a "medical exemption" to the proposed restriction of use of the so-called "partial birth abortion" technique which is now before the Senate. The medical term for the technique is "intact D&E".
>
> I am Chief of Obstetrics and Gynecology at San Francisco General Hospital, SFGH, where my department provides about 2,000 abortions yearly to poor women from throughout Northern California. Patients who are in the second trimester and who have special medical problems are referred to SFGH for treatment because our staff has special competence in second trimester abortion and because we can provide specialized care for women who are more likely to have a complicated pregnancy termination. Although I have not reviewed medical records in order to count the number of times we have employed intact D&E, I will provide examples of cases in which the technique was critical to safe conduct of our surgery:
>
> A 25 year old with two previous vaginal deliveries and bleeding placenta previa and a clotting disorder at 20 weeks was referred for termination of pregnancy. After checking her coagulation parameters and making blood available for transfusion, we dilated the cervix overnight with Laminaria and planned uterine evacuation when adequate dilation was achieved or bleeding became too heavy to replace. Within 12 hours cervical dilation was 3 cm and heavy bleeding had begun. We removed the placenta quickly and used the "intact D&E" approach to complete the abortion and accomplish quick control of blood loss. The patient required a transfusion of two units of whole blood and was discharged the next day in good health.
>
> A 38 year old with three previous caesarean deliveries and evidence of placenta accreta was referred for pregnancy termination at 22 weeks because her risk of massive hemorrhage and hysterectomy at the time of delivery was correctly estimated at about 75 percent. After SFGH sonographic studies confirmed placenta previa and likely accreta we undertook cervical dilation with laminaria and made blood available in case transfusion was required. To reduce the 75 percent probability of emergency hysterectomy in the situation of disseminated intravascular coagulation (DIC is quite likely with accreta) we decided to empty the uterus as quickly as possible with the intact D&E procedure and treat hemorrhage, if it occurred, with uterine artery embolization before our patient lost too much blood and hysterectomy was our only option. This approach succeeded and she was discharged in good health two days later.
>
> These two patients provide examples from my memory of situations in which the "intact D&E" technique was critical to providing optimal care. I am certain that a review of our hospital records would identify cases of sever pre-eclampsia, for example, in which "intact D&E" was the safest technique of pregnancy termination, I hope the law will not deny our patients the best treatment we can provide them under life-threatening circumstances. Sincerely, Philip D. Darney.

This letter is from the chief of obstetrics, gynecology and reproductive sciences at one of the best hospitals in the country. It answers Senator SANTORUM's question. It provides two examples of where D&X, or what some also call intact D&E, may well have been necessary to protect the health of the woman.

Heart disease, cancer, and grave fetal abnormalities are among the many conditions that can make pregnancy especially dangerous to a woman's physical health. Under S. 3, these patients would be forced to continue a dangerous pregnancy. That is why I am offering my health exception amendment today.

Indeed, there are many tragic situations that face women today, situations that most could never imagine. There is one thing that has always characterized these debates. That is that everyone looks at them from their own vantage point without taking into consideration the situations of others. If you have not encountered a difficult situation, such as a possibly dangerous pregnancy, it is hard to know what you would do. But women and their families face these situations daily.

That is as good a reason as any why the Senate should not intrude into this area, and why the reproductive choices of women should be left to the women, their clergy, their morality, their families, their doctors, and not to the Senate.

Having said that, the amendment I am offering strikes a balance between protecting a woman's health and ensuring the D&X procedure is not abused. This amendment would ban all postviability abortions unless a doctor determines that these abortions are necessary to protect the life and health of the woman. To ensure compliance with this ban, a doctor who performs a postviability abortion on a woman whose health or life is not at risk could be fined up to $100,000.

What is wrong with S. 3? I will take a moment to explain why I believe Senator SANTORUM's bill is a bad bill. To begin with, it is unconstitutional because it lacks a health exception. I heard Senator SANTORUM say a health exception is not necessary. It is necessary. A review of the Supreme Court's abortion decisions and the record makes clear that any ban on D&X—or what supporters of the Santorum bill incorrectly call partial-birth abortion—must include a health exception. My amendment includes such an exception.

In 1973, Roe v. Wade grounded the abortion right in large part on the States' compelling obligation to protect maternal health. In fact, the Court states that the States' interest in preserving the health of a pregnant woman grows more important as a woman's pregnancy progresses. Thus, under Roe, the need for a health exception becomes even stronger with second- or third-term abortion procedures.

In 1992, as my colleagues have stated this many times on the floor, the Supreme Court explicitly reaffirmed Roe in Planned Parenthood v. Casey. Then in the year 2000, in Stenberg v. Carhart, the Supreme Court ruled that any ban must have a health exception. I have outlined two specific examples of why such a health exception is necessary. Yet Senator SANTORUM's bill does not have such an exception.

At the same time, S. 3 attempts to ban a specific medical procedure which it calls partial-birth abortion. But the bill offers no medical definition of partial-birth abortion. Now the American College of Obstetricians and Gynecologists, whose more than 44,000 members represent approximately 95 percent of all board-certified OB/GYNs practicing in the United States, has developed a medical definition of what is a D&X procedure. The American College of OB/GYNs's definition of the procedure is very different from Senator SANTORUM's.

I have to ask, why? Why wouldn't the proponents of this bill put in a medically acceptable definition so that those physicians who were practicing medicine and may encounter this kind of case would know precisely what is prohibited? I believe I know the answer. The answer is that the bill is calculated to cover more than just one procedure. I think it is calculated to ban all abortions. I believe if the bill becomes law, it would be struck down as unconstitutional.

I ask unanimous consent to have printed in the RECORD the letter from the American College of OB/GYNs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### ACOG STATEMENT OF POLICY

### STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning "partial birth abortion," and "brain sucking abortions," has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as "Intact Dilatation and Extraction" (Intact D & X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;
2. instrumental conversion of the fetus to a footling breech;
3. breech extraction of the body excepting the head; and
4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D & X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.—Approved by the Executive Board, January 12, 1997.

Mrs. FEINSTEIN. According to the American College of OB/GYNs, any definition of D&X must include all four of the elements I mentioned performed in the proper sequence.

The proponents have refused to use this definition, although the definition has been available for years. Rather, the language in S. 3 is so vague that far from outlawing just one particular abortion procedure, the way this bill is written, it virtually outlaws any abortion procedure. This, I believe, is the true intent of this bill—a major strike, and perhaps a fatal strike, against a woman's right to choose.

Everyone agrees that S. 3 lacks a health exception. It purposefully lacks a health exception. In the Stenberg case, the Supreme Court ruled "significant medical authority supports the proposition that in some circumstances this procedure would be the safest." In her opinion, Justice O'Connor stated:

> Because even a post-viability proscription of abortion would be invalid absent a health exception, Nebraska's ban on pre-viability partial-birth abortions under the circumstances presented here must include a health exception, as well. The statute at issue here only accepts those procedures necessary to save the life of the mother whose life is in endangered by a physical disorder, physical illness, or physical injury. This lack of a health exception necessarily renders the statute unconstitutional.

Let me repeat her words.

> This lack of a health exception necessarily renders the statute unconstitutional.

Now, that is not my colleague, Senator BOXER, speaking. That is not the distinguished Senator from New Jersey speaking. That is not the distinguished Senator from Pennsylvania speaking. That is not the majority leader, a distinguished physician, speaking. That is the Supreme Court of the United States. That is the law of the land.

This language could not be more clear. However, supporters of the Santorum bill argue that they can ignore this language by throwing into their bill some questionable facts that a health exception is unnecessary. They argue that the so-called findings make irrelevant the Supreme Court's constitutional determination in Carhart that a health exception is necessary.

Now, it is not only Carhart. There are a series of other cases.

One is Richard Medical Center for Women v. Gilmore, in 1999, which was affirmed by the Fourth Circuit Court in 2000. I quote:

> The record contains significant evidence that the D&X procedure is often far safer than other D&E procedures.

Another is Rhode Island Medical Society v. Whithouse, in 1999, affirmed by the First Circuit in 2001:

> Defendants claim that a D&X could never be necessary to save a woman's health, but the evidence at trial failed to support that contention. Therefore, this court finds that the D&X could be used to preserve a woman's health and must be available to physicians and women who want to rely upon it.

If that is not enough, let me mention Hope Clinic v. Ryan, a 1998 decision.

> Intact D&E reduces the risk of retained tissue and reduces the risk of uterine perforation and cervical laceration because the procedure requires less instrumentation in the uterus. An intact D&E may also result in less blood loss and less trauma for some patients and may take less operating time.

Another example is Women's Medical Professional Corp. v. Voinovich, 1995, affirmed in 1997:

> After viewing all of the evidence and hearing all of the testimony, this court finds that use of the D&X procedure in the late second trimester appears to pose less of a risk to maternal health than does the D&E procedure. This court also finds that the D&X procedure appears to pose less of a risk to maternal health than the use of induction procedures.

These are all clear district court and appellate court decisions, plus a number of clear Supreme Court decisions, and yet S. 3 flies in the face of all of them. All it offers is 15 pages of weak factual findings.

The Framers of the Constitution did not intend that Congress be able to evade Supreme Court precedent and effectively amend the Constitution by holding a hearing and generating some questionable testimony from handpicked witnesses. Let me quote former Chief Justice Warren Burger on this point.

> A legislature appropriately inquires into and may declare the reasons impelling legislative action, but the judicial function commands analysis of whether the specific conduct charged falls within the reach of the statute and, if so, whether the legislation is consonant with the Constitution.

The supporters of this bill are effectively trying to overturn binding Supreme Court precedent and to rewrite the Constitution by enacting a bill that openly violates Stenberg v. Carhart and other Supreme Court opinions. This, in my view, clearly oversteps legislative authority.

The Santorum bill also presumes guilt on the part of doctors and forces them to prove that they did not violate the law. This is putting a burden on one group of people, the very people charged with protecting pregnant women from harm. The legislation provides that an accused physician could escape liability only by proving that he or she reasonably believed that the banned procedure—whatever that procedure turns out to be, because it is not defined in the legislation—was necessary to save the woman's life and no other procedure would have sufficed.

It also opens the door to the prosecution of doctors for performing almost any abortion method by forcing them to prove they did not violate a law that can be interpreted in many different ways. Indeed, this bill is a major step toward making all abortions illegal in the United States.

Why does the Federal Government need to be involved in this issue? Why is this legislation even necessary? Roe v. Wade clearly and unequivocally allows States to ban all postviability abortions unless necessary to protect the life and health of the woman. Forty-one States already have bans on the books. So the States have accepted the premise of Roe v. Wade. If they have been concerned about postviability abortions, as most are, they have taken action, as Roe so provides.

The fact is, abortions late in a pregnancy are rare and usually performed under very tragic circumstances. Some States have not seen the need to legislate in this area. Surely anyone who believes in States' rights must question the logic of imposing a new Federal regulation on States in a case such as this, where States have already legislated.

Finally, I say to my colleagues, the Santorum bill is a bad bill. It is clearly unconstitutional. I have cited district court cases. I have cited appellate court cases. I have cited Supreme Court cases. S. 3 fails to provide a straight health exception for the woman, which is necessary to stand the constitutional test. It is not the role of the Federal Government to make medical decisions. It should be up to the doctor and his or her medical judgment.

This bill is bad because it attempts to ban a medical procedure without properly identifying that procedure in medical terms; ergo, it muddies the water and it throws all procedures into risk. It could affect far more than the procedure it seeks to ban. And it presumes guilt on the part of the doctor, something that, in the case of physicians, may be unprecedented in American law.

In our criminal justice system, somebody has to prove you guilty. You are presumed innocent. This bill puts the burden on doctors, and it ignores the vital health interests of women who are often facing tragic complications in their pregnancies.

That is why I am offering this complete substitute to S. 3. This substitute amendment puts medical decisions back in the hands of doctors. If the doctor believes such a procedure is necessary to protect a woman's life or health, then he or she should be able to perform the procedure. I believe it is that simple.

I strongly believe that Congress should be supporting legislation that protects a woman's health. For the sake of all Americans, 80 percent of whom believe they should have the right to choose to protect the woman's health, from all walks of life, present and future, I urge my colleagues to join me in supporting this amendment.

Madam President, I yield 15 minutes of my time to the Senator from New Jersey.

Mr. SANTORUM. Can we go back and forth?

Mrs. FEINSTEIN. I have no problem with that.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Pennsylvania.

Mr. SANTORUM. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the distinguished Senator from Pennsylvania. I will not speak very long this evening.

Madam President, I would like to open my remarks by just talking a minute about what one of our very distinguished Senators, Mr. Patrick Moynihan, had to say about this procedure. We are not here arguing right to life or those who favor abortion. What we are here talking about is a procedure that has been described by Senator Patrick Moynihan as follows:

> I think this is just too close to infanticide. A child has been born and it has exited the uterus. And what on Earth is this procedure?

That is what the distinguished Senator from New York said.

We can spend all the time we would like in the Chamber talking about Roe v. Wade, about right to life and pro-abortion and where the American people are, where the American women are. But that is not the issue. The issue is, where do we stand on infanticide, that is to say, where do we stand on banning a procedure that reduces—that diminishes the life of a child that has been born and has exited the uterus? And, as Senator Moynihan said, what on Earth is this procedure?

I have been listening attentively. I understand the issue is a very personal one, a very serious one. It is one that is very difficult for many people to even come to the floor and debate, much less describe.

I don't choose to describe the procedure. I think my friend, the former Senator from New York, does it well enough in a few words when he says in this case what we are talking about is a child that has been born and has exited the uterus.

The question before us is what should we in the United States say about whether or not a doctor should accommodate the killing of a child as so described?

To me, where people stand in this country on abortion or who wants Roe v. Wade and who doesn't isn't the issue. The issue is, where are we on the actual taking of the life of a child that has already been born and has exited the uterus?

Roe v. Wade—where our Supreme Court chose to enter this fray—does not address this issue because they are talking about a much earlier period in the development of a fetus in the mother's womb. Partial birth abortion takes place way past the Roe v. Wade time schedule and, in fact, a child is born and then a choice is made regarding the life of that child.

There are arguments made that this ban is not constitutional. This is not true. I believe, having read the case of Roe v. Wade itself and then the Nebraska case that followed, that it is perfectly clear to me that the Supreme Court is not saying you cannot have a valid statute if it properly describes the procedure and it says that a child who has been born and who has exited the uterus can be put to death. Clearly, the court is not saying in the Nebraska case, nor in the Roe v. Wade case, that you cannot legislate with regard to this issue. I don't believe one has to spend a great deal of time on the issue. It seems to me you are either against partial birth abortion or you are for it.

If you are against it, you vote for the bill of the Senator from Pennsylvania. In that event, the legislation will work its way through the Congress, as it already has twice before. It will go to the President, as it has twice before. And again, we will ask the President, Will you sign it or not?

I believe it is patently clear that Congress will speak again just as it has spoken heretofore twice—not just the House, the House and the Senate. Then it will go to the President, but this time it will be this President. It is my understanding he will sign it. Therefore, the overwhelming will of the U.S. Congress about an issue of grave significance and of great importance will have been decided by the policymakers and presented to the executive branch, and it will be signed.

I believe we minimize this issue by saying only a few of these procedures are done. I submit that I have read literature that says between 3,000 and 5,000 of these abortions are done. I don't believe anybody can prove that there are only a few done, but I submit if there are only a few, that is a few too many.

From my standpoint, I compliment the distinguished Senator from Pennsylvania. He has carried this bill. He has argued it not only valiantly but with professionalism. I commend him and suggest to him that his many years of effort in this regard will soon see daylight.

I yield the floor. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 31½ minutes remaining.

Mrs. FEINSTEIN. Thank you, Madam President. I ask that 15 minutes go to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Senator from California. I thank her for permitting me to speak.

Madam President, I have listened very carefully to the arguments being made. I think a fundamental question preempts much of the discussion that is taking place. I think the essentiality to be considered is who determines decisions about a woman's health? As far as I am concerned, it is a relatively simple proposal. Is it the Senate which determines what we do about a woman's health when her health could be in jeopardy and she makes the decision, in consultation with her physician? Should it be the President of the United States? Should it be idealogues who want to control the behavior of legitimate actions of other persons? Or should it simply be a patient in consultation with her doctor and her family, legitimately covered even in reviews by the Supreme Court?

The bill offered by the junior Senator from Pennsylvania says politicians know best. And I say that is wrong. Keep the politicians out of the doctor's office.

We should not interfere with the medical judgment of a licensed doctor. Only a woman's personal physician can make judgments about the health risks of child birth for that particular patient. If a decision to terminate the pregnancy is made, it should be only the woman and her family and her personal physician.

I notice the principal supporters of this legislation are the same men who want to take away decisionmaking from the women of this country for their own health. As of today, this bill has 44 cosponsors and all but one of them are males. This creates the establishment, as I see it, of "male-ogarchy" over women's rights.

I say let women decide how to protect their health and their families' well-being which is often a question associated with this.

I thought we overthrew the Taliban telling women exactly how they can act, when they can act, and what they should be able to do. I continue to hear a great deal of concern from the other side of the aisle about fetuses which they call unborn children. What about the born children?

I am reminded of what Congressman Barney Frank said. He is from Massachusetts. He said for some people, their zeal for life seems to begin at conception and then ends at birth.

Next week we are going to likely work on the budget resolution. I expect that the Republican budget will track the President's fiscal year 2004 plan.

What happens to born children under the President's budget?

What happens to pre- and postnatal health programs? What happens to child care and nutrition programs? What happens to education and afterschool programs? What happens to job training programs? I will give you just a few examples.

Under the President's budget, the Head Start Program is weakened by turning it into a block grant. We all know the purpose of turning it into a block grant. It is to make it easier to cut the funding for it. In effect, the President is saying to the States: Here, you take this. You figure it out. And by the way, we are going to cut it. The result is that thousands and thousands of children who currently participate in Head Start will be thrown out of the program. It is a very valuable program.

Under the President's education budget, millions of children are left behind. Even though the President named his education proposal No Child Left Behind, the President's budget falls $9.4 billion short of fully funding the new education law that he signed into law only last year. The President would leave more than 6 million born children behind by refusing to provide $6.2 billion in title I funding he promised for 2004.

The President wants to cut funding for schools for military children, of all things. The President's budget would eliminate Impact Aid education funding for 110,000 born children whose parents are being mobilized to fight the war on terrorism and against Iraq.

He wants to make it harder for poor children to get school breakfasts and school lunches that, in many cases, are the only nutritional meals they will get in a day.

The President cuts Pell grants and eliminates new funding for Perkins loans. The President wants to reduce the maximum amount for a grant. And the President would eliminate $106 million in funding for new Federal contributions to Perkins loans, which provide low-interest loans for undergraduate and graduate students with exceptional financial need.

What about the children of working-class families? The President is willing to eliminate child care services for 200,000 children over 5 years. These are born children. What about them?

If we want to help protect children, why hasn't there been a cry in this Chamber for sensible gun legislation to make our schools and communities safer? In the year 2000, my gun show amendment passed the Senate. It was designed to take away unlicensed dealers' prerogatives to sell guns to anybody they wanted to. But it was killed in the House by the Republican leadership.

There are many other sensible gun laws we could pass, including a requirement that guns have child safety locks. Each and every year, approximately 3,300 born children are killed by gunfire. What about them? Are we going to pass laws to help protect children from gun violence? Why isn't that on the agenda of the junior Senator from Pennsylvania?

I commend the President for his commitment to fight the global HIV/AIDS epidemic we see in front of us. But I ask, what is the President doing about the growing AIDS epidemic right here in the United States, where one-half of all new HIV infections are among people under 25? What about these born children?

Right now, the Senate is trying to limit the choices women and their doctors have in making the most personal and painful decision.

In 1995, Congress repealed the motorcycle helmet law—I was the author of that law—because it was seen as an intrusion by the Federal Government into people's lives. Close to 3,000 people—most of them under the age of 30—die each year in motorcycle accidents. But if we tried to bring back the helmet law, I am sure we would hear about how intrusive it would be in people's lives.

The bill currently before the Senate is nothing more than an egregious invasion of privacy and an affront to the doctor-patient relationship.

Some of my colleagues would like us to believe women casually decide to terminate a pregnancy after carrying that fetus well into the third trimester. The ugly, inaccurate, and unfair portrayal some of our colleagues offer about a decision to terminate a pregnancy simply is not true. In fact, 89 percent of all abortions in the United States are obtained within the first 12 to 13 weeks. Fewer than 1 percent of all abortions are performed after 20 weeks.

In the most gruesome terms, the supporters of S. 3 draw a revolting picture of a process that should be avoided if at all possible. But do they present an alternative scenario of a family with children and a mother who is too ill physically or emotionally to continue giving guidance, love, and strength to her family because we in Congress intervened and told her doctor what he or she could and could not do in providing appropriate medical treatment?

This issue is one of trust. Do you trust politicians to make complicated medical decisions affecting women's lives? Or will you leave it to medical experts consulting with families and with patients? I say, let's give women and their doctors—not politicians—the right to make the choice.

Another item, Madam President: I would note the junior Senator from Pennsylvania continually quotes from an article that appeared in the Bergen Record, a newspaper in my State. I want to set the record straight since the Senator from Pennsylvania invokes a newspaper in my State. Years ago, it was discovered this newspaper article contained false information. I refer my colleagues to the CONGRESSIONAL RECORD of September 26, 1996, in which I entered a letter into the RECORD from the health clinic at issue in the article.

The letter showed the statistics cited in the newspaper article are false. It is now 6 years later, and I would say it is time for the junior Senator to refrain from using information that is demonstrably false.

There is an old saying: Everyone is entitled to their own opinion, but not their own facts.

The decision whether to vote for this bill ought to be an easy one. A recent Supreme Court decision struck down a Nebraska State law modeled on the very same legislation presented before the Senate by the junior Senator from Pennsylvania.

The Supreme Court held the Nebraska statute to be unconstitutional because it is too vaguely worded and it does not contain any exception for the health of the mother. That was the United States Supreme Court that said that.

The disregard for the health of a woman in this legislation is unconstitutional and it is offensive. I believe the Government should not intrude on these complicated decisions, or tell a woman with serious health or fertility risks how to make this difficult decision.

I am going to oppose this intrusion into the doctor-patient relationship. Let us continue to give women and their families—not politicians—the right to make these difficult choices. Let them determine what is right for their well-being and the well-being of their families.

Madam President, I urge my colleagues to oppose this intrusion. It is not a choice that should be made for a woman by politicians who do not feel the pain of this decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to add Senator STABENOW and Senator EDWARDS as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I yield 7 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Madam President, I rise in strong opposition to the amendment that has been offered by my friend and colleague from California.

A few hours ago, the Senate decisively rejected, in a vote of 60 to 38, a substitute amendment by my colleague from Illinois. The Feinstein substitute amendment we are now considering, frankly, is even worse than the failed Durbin substitute amendment. I would like to spend a few minutes to discuss this with my colleagues and explain exactly why I believe the Feinstein amendment simply is not good public policy.

The Feinstein substitute says that it would be "unlawful" to perform an abortion if "the fetus is viable" in the judgment of "the attending physician."

First, as I have stated earlier, most partial-birth abortions are conducted when the fetus is within 20 to 26 weeks, so, just as with the Durbin amendment, the Feinstein amendment does not even cover most partial-birth abortions.

Furthermore, the terms of the substitute, when you look at the language, make it practically useless in stopping these abortions.

What does the language in the Feinstein amendment mean? Very simply, it means the abortion provider—the person who will perform the abortion, the person who makes a living doing abortions—is the person who will make the decision of whether or not the abortion is legal.

What do I mean by that? Let me explain.

Specifically, the Feinstein substitute does not define when a fetus is viable.

It further imposes no restrictions on the abortionist. Instead the substitute would permit the abortionist to decide what viability means. The abortionist is the one under this substitute who makes that decision. As long as the abortionist says the fetus is not viable, then the Feinstein amendment would not apply. He could go ahead and perform the abortion. This is obviously not acceptable.

We don't have to search very far for an example of how abortionists would apply this standard. At least one abortionist who performs third-trimester abortions has publicly taken the position that viability occurs only when a baby can survive independently of the mother without any artificial assistance. Of course, that is not what most doctors mean when they refer to viability. It is not the standard understanding. But under the Feinstein substitute, this standard, as defined by this doctor, would be fine.

Even just this much discussion should be enough to convince everyone of the dangers of accepting this substitute, but there is more. Under the terms of the Feinstein substitute, even if an abortionist should, completely against his self-interest, declare the baby he has been hired to kill is, in fact, viable under the Feinstein substitute, he could still perform the abortion. All that would be required under the Feinstein substitute would be for the abortionist to determine, in the medical judgment of the abortionist, that the abortion was necessary to preserve the life or health of the mother.

As I discussed earlier today, the term "health of the mother" is almost impossible to clearly define, based on prior Supreme Court decisions. In fact, the Supreme Court has declared, in an abortion-context decision, that this term is extremely broad. I quote again for my colleagues from the Supreme Court case of Doe v. Bolton. Here is what the Court said:

> [P]hysical, emotional, psychological, familial, and the woman's age—[are] relevant to the well-being of the patient. All these factors may relate to health . . .

That is the Supreme Court, Doe v. Bolton. Under this definition, almost any excuse would be enough to justify a late-term partial-birth abortion. Yet the abortionist would be within the law because he determined the health of the mother was at risk.

In fact, we have a real-life example of just how this power to define a mother's health would be used. Kansas is currently the only State in the Union that requires partial-birth abortions to be reported distinct and separate from other abortions. In 1999, Kansas abortionists reported they performed 182 partial-birth abortions. They also reported all 182 of these partial-birth abortions were performed on babies who the abortionists themselves found to be viable.

Further, they reported that all 182 of these postviability partial-birth abortions were performed for mental as opposed to physical health reasons. Those are very interesting statistics. They tell us a lot. Every single one of these partial-birth abortions, 182 out of 182, were reported by the abortionist as being performed on viable children for mental as opposed to physical health reasons.

Mr. SANTORUM. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. DEWINE. After all this, if somehow, somewhere, somebody were able to prove the abortionist had in some way violated this law—and I don't know how that would ever happen—the only penalty would be a fine, a civil penalty.

If you add it all up, the effects of this substitute amendment are clear. It would leave someone like Dr. Haskell, who I have talked about, a professional abortionist who only does partial-birth abortions, to perform partial-birth abortions practically at will. Accordingly, this amendment would allow thousands of these gruesome procedures to continue to be performed.

A vote for the Feinstein substitute is simply a vote to kill the Partial-Birth Abortion Ban Act. It is a vote simply to allow partial-birth abortions to continue.

Therefore, I ask my colleagues to defeat this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I am a cosponsor of the amendment, and on behalf of Senator FEINSTEIN, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 5 minutes.

Ms. STABENOW. I appreciate the deeply held views on all sides of this issue. But first I will indicate there is not a more fundamental issue for the women of this country that relates to our privacy, respect for our own decisionmaking, as well as our own religious beliefs, than this fundamental issue we are debating. I also remind my colleagues that the term partial-birth abortion, there is not a procedure called that, but the late-term abortion procedure is in fact one-tenth of 1 percent of all of those procedures, all abortions that are done every year. We are talking about a very small group of procedures done when there are real tragedies.

These are wanted pregnancies, women who have been excited about having babies and find out very late in the term of the pregnancy that there is a serious or fatal problem. And their families grieve. They grieve over the decisions they have to make about how to proceed, given the information.

I believe we need, as a governmental body under the Constitution, to respect their privacy, their religious freedom, for them to be able to struggle with their own decisionmaking, their family's and their faith, to be able to do what is best to protect their own life and their own health.

I rise to support the Feinstein amendment strongly and would be surprised, given the vote on the Harkin amendment, if this amendment did not pass. We just had a vote where 52 Members of this great body voted to uphold Roe v. Wade, voted to uphold the constitutionality, the decision made by the Supreme Court in that case. The Feinstein amendment does nothing more than repeat the language as it relates to the life and health of the mother. It repeats what is current law in terms of Roe v. Wade. So those who support Roe v. Wade, who supported the Harkin amendment, should be supporting this amendment as well.

I would like to share a couple of letters that talk about what we are really doing.

This is a statement by Maureen Britell, given on March 10 of this year. She writes:

> In February of 1994, my family was happily awaiting the birth of Dahlia, our second daughter. My pregnancy was progressing smoothly and we were getting more excited as the days and the weeks passed. At the time, my husband, Andrew, was on active duty in the Air Force and had been unable to come to any of my routine prenatal checkups. He wanted to share in the excitement, so when I was 5 months pregnant, we scheduled an additional ultrasound.
>
> When we went in for our appointment, that joy dissipated. The technician was unable to locate my daughter's brain. After my doctor came in, he informed us that Dahlia had a fatal anomaly . . . where the brain stem develops, but not the brain.

Madam President, can you imagine how that couple must have felt at that moment? As a mother of two children, I certainly can. She goes on to say:

> I went to the New England Medical Center for a high-level sonogram, which confirmed what my doctor had told me. The medical experts [there] . . . reviewed our options with Andrew and me, but they all recommended the same thing: to protect my health, we should induce labor.
>
> I am a Catholic and the idea of ending my pregnancy was beyond my imagination. I turned to my parish priest for guidance. He counseled me for a long time and, in the end, he agreed that there was nothing more that I could do to help my daughter.

Madam President, I ask the Senator for 2 additional minutes.

Mrs. FEINSTEIN. I yield 2 more minutes to the Senator.

Ms. STABENOW. She said:

> With the support of our families and our priest, Andrew and I made the decision to end the pregnancy.
>
> I was scheduled for a routine induction abortion in which medications are used to induce labor. My doctors anticipated that it would be a standard delivery and that because Dahlia had no brain, she would die as soon as the umbilical cord was cut.

Madam President, again, can you imagine writing this letter and the pain of this woman and her family?

> After 13 long hours of labor, I started to deliver Dahlia. Unexpectedly complications arose and Dahlia lodged in my birth canal. The placenta would not drop. Our doctors had to cut the umbilical cord to complete the delivery, and avoid serious health consequences for me. Dahlia died while still in my birth canal—the same description used in the so-called "partial-birth abortion."
>
> My husband and I still mourn the loss of Dahlia. However, because of the excellent medical care I received, I was able to become pregnant again and in June 1995, we welcomed Nathaniel into our family.
>
> Now I'm sharing my story not only as a mother who would be banned from having an abortion, but as a military wife. I find the timing of this bill highly offensive, as we military families are just days away from sending our loved ones into armed combat. I resent the administration using families like mine as a cloak in their effort to ban reproductive healthcare in this country.
>
> In a perfect world, I would never have to write you this letter. Every pregnancy would be wanted, healthy and happy—and no loved ones would be going off to war. Until that time, however, there will be families like mine. And until that time, abortion must be kept safe, legal and accessible.

Madam President, we have thousands of women who have shared similar stories. We have thousands who are asking for us to say no to this extreme legislation, to support the Feinstein amendment, and to join with us—all of us—in efforts to come forward to prevent unwanted pregnancies.

I was so disappointed that Senator MURRAY's amendment did not pass—a positive effort to focus on prevention, on coming together to focus on stopping the unwanted pregnancies on the front end. I was very disturbed to see even a more restrictive effort to show how extreme this effort is—even Senator DURBIN's amendment did not pass this body.

This is an extreme measure, which will take away the ability for women to respond when their life or their health is in jeopardy as a result of a pregnancy. This is not what we should be doing in the Senate. I urge my colleagues, reaffirm the vote on the Harkin amendment to support Roe v. Wade by supporting the language in the Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, to address the letter the Senator from Michigan read, I want to assure the young lady who wrote that letter to the Senator from Michigan—and it is a very compelling story, one that has my sympathy, certainly—my heart goes out to her and her family for what she had to go through. Let me, please, assure her it is crystal clear from the language in the bill that what happened to her is not offered under this legislation. I will read it:

> The term partial-birth abortion means an abortion in which the person performing the abortion deliberately and intentionally vaginally delivered the living fetus.

Here is the key operative language:

> delivered the living fetus for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

The doctor in that case, first off, did not perform an abortion, did not deliver the child for the purpose of killing the child. So it is clear beyond a shadow of a doubt—and we have discussed this at hearings and on the floor multiple times—there are obviously times, unfortunately and tragically, where a birth is either induced, or a natural delivery where complications arise, and for the life of the mother the pregnancy is terminated. That is obviously a horrible and tragic situation. That is clearly outside of the bounds of this definition.

I just assure this young woman who wrote the Senator, and maybe even met with the Senator from Michigan, her case would not under any circumstances—if you are going through a procedure for the intention of delivering the child—this is for a person performing an abortion. This doctor was performing a delivery of a child who had complications, which resulted in having to terminate the pregnancy to save the life of the mother. That is clear in two cases. No. 1, they weren't performing an abortion. They didn't deliver for the purpose of performing an act that the person knows will kill the partially delivered fetus. No. 2, there is a life-of-the-mother exception in the bill. So in either case—predominantly the first case—the case the Senator from Michigan read——

Ms. STABENOW. Will the Senator yield for a moment?

Mr. SANTORUM. Yes.

Ms. STABENOW. I wanted to clarify that, in fact, given the situation, they were performing an abortion to do that. That was the intent of the procedure. It was an abortion. Additionally, I say the mother's life was not in jeopardy, but her health and future fertility were in question. There were a number of issues relating to her health as well.

I just indicate, with all due respect, I think the issue here, when we are debating medical procedures on the floor, really gets to the point about whether or not we in the Senate should be debating medical procedures. Earlier, there was a debate about whether a child which was born with a brain outside of its head was in fact to be categorized as a disabled child. All of these issues we are debating here as non-medical personnel, we don't know the facts or what happened in any individual case. So that would be my concern.

Mr. SANTORUM. Maybe I wasn't listening as attentively as I should have been. Maybe I heard it incorrectly. I am happy to review what the Senator read. I apologize if I got that wrong.

In either case, I wanted to clarify we are not talking about cases where there are not abortions being performed.

With respect to the statement that we should not be making these decisions, with all due respect, we make decisions here about everything under the sun—things that 50 years ago who would have thought we would be debating. To suggest we don't have the technical expertise to determine what is a brutal, gory, horrendous procedure and ban it—we make illegal in this country lots of things we find to be morally objectionable and offensive. I think we have every right—in fact, we have a duty to speak on this. To suggest we in the Congress don't have the right to make these decisions, that we have to give it up to the courts—unelected people, just give it up to them: I don't need to be ruled by a bunch of judges.

People elected me and the Senator from Michigan and everybody else in this Chamber to go forward and to make decisions about issues of importance to the people of our States. That is what we are going to do.

Ms. STABENOW. Will my colleague yield one more moment?

Mr. SANTORUM. I will be happy to yield.

Ms. STABENOW. I interject, we are not asking that this right be given up to the courts; we are asking that these decisions be left up to a woman, her family, and her faith.

Mr. SANTORUM. I appreciate the Senator's comments, but in all due respect, she is leaving it up to the courts because the courts have made this decision and the courts have dictated the law of the land. They have proscribed in elected representatives the right to have any impact on that. We had that debate just a few minutes ago with Senator HARKIN and his amendment.

The courts have completely trumped the legislature. They have decided to take an entire body of law away from us and the State legislatures. I believe the Senator was in the State legislature at one point. That is my recollection. They have taken it away from the State legislatures, taken it away from the Congress, taken it away from people in our democracy, in our Republic, and decided to hold it up across the street where nine, at the time men, decided to take the law into their own hands by creating a right that did not exist. It just did not exist. I do not know how you say this. All through time, all through the history of this country, this right was there and we did not find it. All of a sudden, we found this right in the middle of the Constitution in this liberty clause.

As I said before, they took the liberty clause of the Constitution, and within that clause they found this new right, this new right that took liberty and put it ahead of life, even though our Founders put life ahead of liberty because that is what our Creator did. We are endowed by our Creator with life, liberty, and the pursuit of happiness. Not liberty, life. You have to have life to enjoy liberty. What the Supreme Court did was put some person's liberty ahead of another person's life. That is fundamentally wrong, I do not care what your feeling is on abortion. It is wrong, and I suggest the Senator from Michigan and both Senators from California would agree with me that when the Supreme Court did that in the Dred Scott case, when they put the liberty of the slaveholder ahead of the life of the slave, the Senator from Michigan I am sure today would stand up and say: That is wrong; you cannot put someone's liberty rights ahead of someone's life rights.

What argument do you make in the case of abortion? Because that is it exactly. Remember, the liberty clause of the Constitution is the genesis of a right to an abortion. The liberty clause is the genesis of the right to an abortion, and it trumps the life of this other human being. That is the fact.

You can argue that it is a different case—people have—that somehow this child inside the womb is not a human being. But it is. It is genetically human. It is alive. It is a living human being. You can say in this case it is a special case. That is what they said in the 1850s, right here on this floor. They said it was a special case—a special case because, you know, these black people, they are not like us. These little children, they are not like us. But that is what they did in the 1840s and 1850s.

They put in the Dred Scott case that the liberty rights of the slaveholder trump the life rights of the slave. The slave was property. The child in the womb, under the Supreme Court Roe v. Wade decision, is property. Look at this case with open eyes. Look at this case and what it does, the history that is being repeated in the world today, and you wonder why people still march in the streets. It is the same reason—the same reason. It is the same case. It is Dred Scott, and for some reason we just choose not to see it.

What does this amendment do? It affirms Dred Scott. If you like Roe v. Wade, vote for this amendment because this is the law right now. Basically, the Harkin amendment makes no change. It takes the partial-birth statute, wipes it out, and just says: The law of the land is the law of the land. OK. We have accomplished nothing here. We have accomplished nothing over the last 4 days.

If you eliminate the underlying statute, which is the partial-birth abortion bill which we believe is constitutional, you wipe it out, all you do is restate the law, and that is what the Feinstein amendment does. So if you are for the partial-birth abortion bill and vote for this, do not go home and say you are for the partial-birth abortion bill because you are not because this amendment excises the underlying bill and replaces it with a restatement of Roe v. Wade. That is what this amendment does. Nothing else.

I suspect the Senator from California would agree with that. I do not think I am mischaracterizing her amendment whatsoever. It restates Roe v. Wade that says you cannot have abortions postviability except to protect the life or health of the mother. That is what Roe v. Wade said; that is what this amendment says.

In practice, of course, health means anything, so there is no restriction at all. In practice, this amendment will mean the same thing: There is no restriction at all.

With respect to the Durbin amendment—again, I said in all candor to him and I will repeat it on this occasion—at least I believe the Senator from Illinois was trying to find some restriction, was trying in a rather painful and I would argue ultimately failed way to find some movement, some attempt to reduce or put some stricture on postviability abortions. I think he failed in doing so, but I think he made an honest attempt to try. This does not even attempt to try. This basically restates Roe v. Wade.

Again, as far as I am concerned, this is the vote on the bill. If you vote for this, you basically vote to kill the bill and replace it with nothing. What you replace it with, again I would make the argument, is the Dred Scott case. That is what you replace it with. You replace it with putting people's liberty rights above people's life rights.

I repeat over and over, there is a reason the Founders put the ordered rights in the place they did. I will quote again:

> . . . they are endowed by their Creator with certain unalienable Rights, that among

these are Life, Liberty and the pursuit of Happiness.

I think everyone in this Chamber would agree, you cannot pursue happiness if you are not free, and you cannot enjoy freedom if you are not alive. So, of course, you cannot put freedom ahead of life. You cannot put someone's freedom ahead of someone's life. That is not right. That is out of order.

As I said before, we did it once before in this country and we paid a horrible price, and we have left a horrible legacy that has stained this country. I would argue we are doing the same thing. We are repeating the failures of history. For some reason—as many people did in the 1840s and 1850s, good upstanding—in the movie "Gods and Generals," people have objected to the fact all these people were God-fearing, southern generals and others; they were portrayed in almost a good, positive frame that these are good people; how can they believe that someone's liberty rights trump someone's life rights? How could they believe, these good, God-fearing people—these are faithful Protestants, Catholics, and Jews—how could they believe that? You just scratch your head and say they must have been bad people.

I do not think they were bad people, and I do not think the people on the other side of this issue are bad people. I think they just got it wrong. I think they do not understand the lessons, the wisdom of the people who wrote our founding documents, the wisdom of understanding basic rights and the ordering of those rights to give meaning to those rights because if you misorder the rights, they have no meaning. If you put happiness before liberty so that your right to happiness trumps my right to freedom, well, then, I am your slave. I am the object of your happiness for your own benefit. That is not fair. If you put my happiness in front of your life, well, obviously no one is going to say that is fair. And the same thing, if you put my freedom to do what I want in front of your right to life, most people would say that is not fair. But that is the law of the land. That does not say this is not a difficult issue. That does not say there are not cases that could pull at your heart strings and that the decisions people have to make are tough decisions. They are. But that is why——

Mrs. BOXER. Will the Senator yield for a question?

Mr. SANTORUM. In a moment. But that is why happiness is at the end. Because you know what, life and liberty are all about tough choices sometimes, all about making decisions which are not necessarily easy, and happiness results at the end, hopefully. We have to make a lot of tough decisions to get to that point. It is of lower priority. There are higher, more noble things than the pursuit of happiness. That is what our Founders understood. These basic rights, as painful, as troubling, and as difficult as they are to preserve, are important because without them there is no hope of freedom, there is no hope of happiness, there is no hope of prosperity. And so it is the case with the unborn. There is no hope of liberty, there is no hope of happiness, because we have misordered our priorities and rights in this country.

I know that is a tough message, and I know it is not a popular thing to hear, but I believe in my soul this is corrupting the body of this country, as slavery corrupted the body of this country for 200 years, and then some. We have an obligation to face history and to face the reality of what we are doing, and all we are asking is to end one little brutal procedure, one little insult to humankind. Three inches away from that legal status that would deem this person back in order, back in order where their life counts more than somebody else's liberty; 3 inches from coming under those founding documents that give them rights. But they might as well be 3 miles, for their life is ticketed for extermination in such a brutal fashion, in the hands of a doctor who was taught to heal.

We have an obligation to end and stop evil, even if it is just a little thing, even if it is only a few thousand times a year in this country. It almost boggles my mind to think that 3, 4, 5, 6, whatever thousands of these that occur a year is considered to be rare and infrequent. I say to my colleagues, if they are for the underlying bill, they cannot vote for the Feinstein amendment because it simply terminates this bill and replaces it with nothing, replaces it with current law.

No one who votes for this can say they are for the partial-birth abortion ban, because they are not. They are for eliminating that ban and replacing it with current law, a reinstatement of Supreme Court law, which is nothing as far as doing anything about this brutal procedure.

I am happy to yield. Can I yield on the Senator's time if that is okay?

Mrs. FEINSTEIN. May I ask, first, how much time we have remaining?

The PRESIDING OFFICER. The Senator from California has 10 minutes 36 seconds. The Senator from Pennsylvania has 25 minutes 23 seconds.

Mr. SANTORUM. I will yield on my time.

Mrs. BOXER. I appreciate that. I have two questions for the Senator. Is the Senator aware that 78,000 women a year around the world die of illegal abortions? And since he stated that the other figure I put out is false, I went back and got the World Health Organization number. Is the Senator aware of this?

The second question I have is: The Senator, in having a debate with Senator CLINTON, which I thought was probably one of the more instructive things that has happened this afternoon, talked eloquently about the rights of the disabled, and I wondered why the Senator, in the two last votes that we had, voted against the Individuals with Disability Education Act, IDEA funding, which would fund education for children with disabilities.

Mr. SANTORUM. As the Senator knows, I have been one of the strongest advocates for increase in funding for the disabled. I was one of the people who worked on this side of the aisle to try to get a dramatic increase. When I came to the Senate, IDEA was funded at 5 percent. It was promised at 40. One of the things I said on this floor and said repeatedly across my State, it was my objective to get it to where it was promised in 1975, which was 40 percent.

One of the concerns I had with the actual reauthorization of the legislation was not that we should not be putting more money in to help people with disabilities through the educational process. I disagreed with some of the substantive changes within the law, particularly when it came to how we——

Mrs. BOXER. This is appropriations. These are two votes.

Mr. SANTORUM. In that case, you are talking about the mandatory spending issue, and I do not believe——

Mrs. BOXER. No.

Mr. SANTORUM. That is my understanding.

Mrs. BOXER. I appreciate the Senator has not seen it.

Mr. SANTORUM. I have not seen it. I know I voted against mandatory spending for IDEA, but I voted consistently for increases.

Mrs. BOXER. These are two votes for 2 years in a row.

Mr. SANTORUM. As the Senator from California knows, since Republicans took control of the Chamber in 1995, IDEA funding has gone up from 5 percent to, I believe, about 15 to 20 percent right now through the initiative of many of us who saw this as a real scourge on the Congress for mandating something, saying we would fund it, and then we do not.

I do support it. I may not support the level of increases. As the Senator knows, when a hefty increase is supported, then somebody comes along and tries to double or triple that and blow a hole in the budget. I think my record is clear that I voted for responsible and steady increases to get us up to the 40 percent, and I have made a pledge to do so.

Mrs. BOXER. I ask unanimous consent that the record of these votes be printed in the RECORD.

Mr. SANTORUM. I have no objection.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 4577

AMENDMENT NO: 3699

Harkin motion to waive section 302(f) of the Budget Act to permit consideration of the Harkin-Wellstone amendment which provides full funding for the Individuals with Disabilities Education Act (IDEA) by increasing it from $7.35 billion to $15.8 billion.

Motion rejected: Yeas—40; nays—55; not voting—5.

Mr. SANTORUM. I want to counter a couple of other things. The Senator from New Jersey says I keep referring to the Bergen County Record, and he made a statement that has been proven false. I can say that the Bergen County Record has never printed a retraction to the story and claims to this day that their investigative reporter was not wrong. So there is an honest disagreement. The paper stands by their story, has not printed a retraction, and has said publicly that they have no intention of doing so. So just because Senator LAUTENBERG found somebody who disagrees with the story does not mean it is not true.

I want to go, finally—and then I will be happy to yield back to the Senator from California—to what this health exception means.

Under Doe v. Bolton, the health exception means—and I am going to read the case. "Health" was broadly defined.

> Medical judgment may be exercised in light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment.

So just understand what this amendment does. It strips out the language of the partial-birth abortion ban, replaces it with the language basically from Doe v. Bolton, which is the current law, which is no exceptions. In other words, there are no limitations under current law, by the courts, for any abortion at any time. There simply are no limits.

So that may be where many Members of this Chamber are, and I respect that. I disagree with them, but I respect that. To simply restate the law and then claim that one is for the partial-birth abortion bill, I think, falls hollow on the Chamber and hopefully we can defeat this amendment.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 38

Mr. SANTORUM. As in executive session, I ask unanimous consent that following the vote in relation to the Feinstein amendment, the Senate proceed to executive session, and an immediate vote on the confirmation of Calendar No. 38, William Quarles, to be U.S. District Judge for the District of Maryland, with no intervening action or debate; further, I ask that following that vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

The Senator from California.

Mrs: FEINSTEIN. I want to make a couple of comments. The first comment is that comparing my amendment with the Dred Scott decision is ridiculous. Having said that, the distinguished Senator from Pennsylvania is right about one thing. In a sense, this is a codification of Roe.

I have sat on the Judiciary Committee. I ask my colleagues the question: What do you think of Roe v. Wade? Overwhelmingly, most would say it is well-settled law. The States have adapted to it, and Roe v. Wade allows States to restrict abortion severely, if the fetus is viable, that is, can be sustained outside of the uterus. And over 40 States have banned or severely restricted postviability abortions.

S. 3 is duplicitous because it says it does one thing but does another. It says that it bans partial-birth abortion, but it does not adequately define it, and so bans much more than this method. Moreover, the bill does not define D&X in a medical context.

Respectfully, Senator SANTORUM is not a physician, and, respectfully, he is not going to be carrying out a surgical procedure. But there are hundreds of thousands of physicians out there who are carrying out this medical procedure. And Senator SANTORUM wants to leave them with an unclear definition in this bill. And the precise, medically accurate definition I read into the RECORD, the definition of D&X as proposed by the American College of Obstetricians and Gynecologists, is not the definition in the bill.

What I have done is tried to write a simple, straightforward bill that essentially sustains Roe v. Wade. So those who believe in Roe v. Wade should vote for my amendment. It says that any abortion is illegal once the fetus is viable, once the doctor determines that the fetus can sustain itself outside of the womb, unless the life and the health of the woman are in jeopardy. That is Roe v. Wade. The amendment is also consistent with a whole host of federal court decisions which I read and in the Supreme Court's decision in Stenberg v. Carhart where Justice Breyer, Justice O'Connor, and three other justices very clearly said that a Nebraska statute very similar to S. 3 falls because there is no exception for the health of the woman.

The Senator has talked about the liberty clause. And Roe v. Wade, yes, did come from the liberty clause of the due process clause of the 14th amendment and other parts of the Constitution. Roe helped establish a basic right of privacy for women.

I get so annoyed when men constantly strive to take away hard-won rights from women. Respectfully, I don't want Senator SANTORUM taking away my reproductive rights. I respect his views. I respect his rights. I respect his moral code, his religion, his conversations with his physician. Why can't those who happen to be pro-choice receive the same respect, particularly when a fetus is not viable, when a fetus cannot sustain life outside the womb? That is what this is all about.

Make no mistake, if you believe in choice, you will support my amendment. If you do not, you will support S. 3. That is the clear division of the house on this. If there were a clear medically accurate definition in S. 3, I would not be saying what I am saying. I would say: Members, you are voting on a particular medical procedure; you are prohibiting a particular medical procedure. But if you are voting for S. 3, you are voting to prohibit much more than just the medical procedure that has been put on this floor. You are also prohibiting D&E abortions as well. That has been the finding not of me but of obstetricians and gynecologists, some of them from the finest medical schools in our country, and numerous federal courts, including the Supreme Court.

S. 3's infringement on women's right to choose reminds me of another woman's right. It was not until 1920 that we got the vote. And when this Nation was founded and we go back to our days of—for some—glory, women could not get a higher education, women could not own property, women could not inherit. Every single right we have won has been fought for. And the right to choose has been fought for as well.

There are probably few people in this body who have seen a young woman ready to commit suicide from an unwanted pregnancy. I have. I went to college when abortion was illegal in the United States. I saw what happened. I saw the back-alley abortionist set up and do business. And then later I set sentences for women who had been convicted of felonies for having illegal abortions. I did that for 6 years. And I saw the tragedy they caused. We cannot go back to those days.

This is a step—let there be no doubt about it—back to those days. We have before us an imprecise piece of legislation, not just banning D&X but covering many more abortion methods than the S.3's supporters have said they aim to cover. A vote for my amendment will be a vote with the 80 percent of the population who believe in a women's right to choose to protect their health because my amendment is, Senator SANTORUM is correct, in essence a codification of Roe v. Wade.

I am hopeful that those who voted for the Harkin Roe v. Wade amendment will also vote yes on this amendment.

I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I appreciate the Senator from California in her direct response to the issue of what this amendment does. She said this codifies Roe v. Wade, but Members have had a chance to voice their opinion on Roe v. Wade. We just had an amendment on that. It is clear where our Members were.

That is not the issue before the Senate. The issue is not, Do we need another vote on Roe v. Wade. We already had one. The question is, Do we want a ban on partial-birth abortion? If you want a ban on partial-birth abortion, you do not get rid of the ban and replace it with nothing. I suggest you cannot vote for the bill on final passage and vote for this because you have just voted to kill the bill and replace it with nothing.

I think the Senator from California would agree with that. She says all we are doing is restating current law. So it does not accomplish anything.

At least the Durbin amendment, arguably, you could make the claim—I don't agree, but you could make the claim that this is accomplishing something. The Senator from Illinois made the claim, and you could stand up with the legislative crafting he did and at least make a claim to that. The Senator from California is not attempting to make a claim to that.

I encourage those who support the ban to vote against something that strips the ban and replaces it with nothing.

The Senator from California said that 80 percent of the public supports this right. That is not the case. There is simply poll after poll after poll after poll that shows if you understand what Roe v. Wade does—which is abortion any time, for any reason during pregnancy—probably less than 20 percent, in every poll I have seen, certainly less than 25 percent, support that.

In most polls I have seen, less than 20 percent support an absolute right to abortion. But that is Roe v. Wade.

I make the argument that 80 percent oppose Roe v. Wade. There may be a larger percentage. Certainly there is a larger percentage than 20 percent who support some limited right to abortion. But they do not support Roe v. Wade because Roe v. Wade is an absolute right to an abortion at any time during pregnancy. I wanted to make that clear.

If this bill passes, it will go to conference. We will report it back here and hopefully pass it and send it on to the President.

You are right. Several have said we are going to bring it to court. Of course it will go to court. The Supreme Court will have a chance to look at this, to see whether we have jumped through the hoops the Supreme Court made us jump through.

With respect to the amendment of the Senator again, going back to her amendment, I would posit a question. I don't know if anybody has the answer to it. I don't know if there are any statistics. How many human postviability abortions are stopped by Roe v. Wade today?

I believe Roe is an absolute right. I would have some Members who disagree with that, saying there are restrictions. If that is the case, I would certainly like to know how many abortions are blocked in this country because of Roe v. Wade. If there are some, I would certainly be interested in hearing. If the answer is none, then I think my statement stands, which is this is an absolute right to abortion in this country.

With respect to the statement of the Senator from California that I am comparing her amendment to the Dred Scott decision, that is not necessarily correct. I said her amendment is a restatement of Roe. And Roe is like the Dred Scott decision. I repeat, Roe is like the Dred Scott decision because Roe v. Wade put liberty rights ahead of life rights.

As I said, the founding documents stated we are endowed by our creator with certain inalienable liberties. We have ordered liberties—rights: Life, liberty, pursuit of happiness. Not liberty, life, pursuit of happiness. You must have liberty to enjoy life. You must have true liberty to enjoy happiness. They put them in order for a reason.

What Roe v. Wade does is take the liberty rights of an individual and puts them ahead of the life rights of another individual. That is exactly what happened in Dred Scott. They took the liberty rights of the slaveholder and put them ahead of the life rights of the slave.

So, as I said, I am not condemning her amendment or trying to say anything derogatory about what she put on paper. I am not saying that at all. I guess I am saying something derogatory about the decision of Roe v. Wade because I think it gets it wrong. The Supreme Court got it wrong.

The Senator from California said nominees coming before the Congress say Roe v. Wade is settled law. I suspect nominees in the 1850s and 1860, early 1860s, who came before the Senate said the Dred Scott case was settled law. That doesn't mean it was right. That does not mean it is constitutional, the way we look at liberty and the way we look at life, and the way we look at the order of those rights.

I just suggest these are important issues. But I underscore this. If you vote for this amendment, you vote to strip the bill and replace it with nothing. I think the Senator from California would agree with that. It is simply a restatement of law. That doesn't get you to a ban on this procedure and the eventual court challenge that we know is ahead of us on this issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I would like to respond in this way, if I may. The distinguished Senator said that if you vote for my amendment, you don't specifically ban D&X. That is true. You ban all postviability abortions, including all use of D&X postviability.

Let me also reiterate that S. 3 does not specifically ban D&X either. In fact, D&X procedure isn't defined in Senator SANTORUM's bill. The most knowledgeable people in the country have looked at S. 3, the nation's leading obstetricians and gynecologists, and what they tell me is that S. 3 will affect much more than D&X because S. 3's definition is incomplete and flawed. It is not me saying this, it is the American College of Obstetricians and Gynecologists. I have entered their letter into the RECORD.

The Senator could have used that definition in the bill, and then we would know what we were voting on. But he did not. I believe that, from the beginning, it has been intentional not to include a specific medically accurate definition in the bill. The bill is a Trojan horse. It could impact D&E abortions, the most common abortion method used, but the Senator refuses to admit it. The bill violates Roe and other Supreme Court opinions because it doesn't protect the health of the woman.

So what Senator STABENOW, Senator EDWARDS, and I have done in this amendment is say that any abortion after the point of a fetus' viability, as determined by the physician, is illegal—except to protect the health or life of the woman.

My amendment follows the Constitution. It is constitutional.

We just had 52 votes supporting Roe v. Wade. If those 52 votes are real, then the same senators will vote for my amendment because both Senator SANTORUM and I agree that this codifies Roe v. Wade.

I have listened to the debate over D&X as a member of the Judiciary Committee now in three Congresses. In every Congress I have asked: Why don't you put in the medical definition? And in every Congress the other side refuses to put in the medical definition. It makes you suspicious. Why wouldn't their bill use the generally accepted medical definition, unless it truly is a Trojan horse? Unless they are truly trying to mask what they are trying to do, which is to strike at the heart of a woman's right to choose.

I think I will now close off this debate. I urge those who voted on the Harkin amendment to please sustain that vote, to vote consistently, and to vote for the Feinstein-Stabenow-Edwards amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, having now gone through the process of trying to pass a piece of legislation that was found unconstitutional by the

Court, let me be very clear, it is not my intention to try to pass another piece of legislation that is going to be unconstitutional. If the Senator is suggesting that my motive here is to pass a piece of legislation and pull one over on the Court, let me make very clear I have no intention of trying to pull one over on anybody. This Court is not a friendly Court on this issue.

I realize I have, and the people who have worked on the drafting of this legislation have, a heavy burden to carry. So I am not being cute. I am not being deceptive. I am simply trying, to the best of my ability, to adequately and sufficiently describe a procedure to include that procedure and exclude all others. Because that is what the Court asked us to do—to define this procedure so specifically as to exclude others.

The Court went through great detail, talking about other procedures where a child could still be alive and portions of that child could be outside the mother. They could be doing another form of abortion and an arm or a leg or some portion of the body could go outside of the mother in the process of killing the child in the womb. So they said the original definition was not clear enough. So we came back and made it crystal clear. We said the person performing the abortion:

> . . . deliberately and intentionally vaginally delivers a living fetus, in the case of head-first presentation the entire fetal head is outside the body of the mother.

You do not do any other procedures where you present the head. You don't do it. I don't think any doctor in the land would say you do any of these other abortions where you present the head. It is just not done.

Second:

> . . . or in the case of breech presentation, any part of the fetal trunk past the navel.

So it is not a hand or a foot or an arm. It is the legs, the feet, the buttocks, and the lower part of the abdomen is outside of the mother, and in most cases the arms—the hands and arms.

That is a pretty clear definition of this procedure and cannot be—from all of the descriptions we have received in testimony—confused with any other procedure.

The AMA board of trustees said:

> The procedure is ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed outside of the womb.

These other procedures are done inside the womb. That doesn't mean maybe a portion of the baby may be outside. But it is killed by the doctor inside the womb.

> The "partial-birth" gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own baby.

This is the American Medical Association. They recognize that this is different. Courts say they may recognize it is different, but you haven't adequately defined it. Now we have adequately defined it. We have said the entire baby, basically, except for the head is outside of the mother. That is a pretty clear definition.

This idea that it is somehow vague and we have not addressed that issue I reject. We have addressed that issue. We have gone through the health exceptions, the Senator from California did. And I will not argue against myself. I think we have been successful in stating that we have rebutted the health exception by the stipulations that we have made in the bill.

Let me remind Members this is a vote to excise the underlying bill, eliminate it, substitute for it, strike it, and insert existing law—nothing, no change. This bill would have the effect of being on the floor of the Senate and have no meaning whatsoever. It simply is a restatement of Roe v. Wade. If you are for eliminating this procedure, you cannot vote for this amendment. It doesn't even try to do anything else. At least the Durbin amendment was a substitute. You eliminated the partial-birth. You could make the argument that we were eliminating all postviability abortions.

The Senator from California says this wouldn't change the law one bit—not one bit. All you are doing is killing the underlying bill and replacing it with nothing. That means you are voting against the bill.

I hope a good, strong majority of Members will vote for this bill and not simply strip this bill and replace it with nothing because that would be a pretty clear sign they are not in favor of the bill.

I yield the remainder of my time.

Mr. LAUTENBERG. Mr. President, earlier this evening I pointed out that the junior Senator from Pennsylvania continues to refer to a September 15, 1996 article in the Bergen Record that contained incorrect information about the number and type of abortions performed at Metropolitan Medical Associates, MMA. After I spoke on the floor he offered the following rebuttal, which I am paraphrasing because a formal transcript isn't available yet:

> I want to counter a couple of things to the Senator from—the Senator from New Jersey says I keep referring to the Bergen Record . . . I can just say that the Bergen Record never did print a retraction to the story and claims that their investigative reporter was not wrong. There is an honest disagreement. The paper stands by their story and has not printed a retraction and said publicly that they have no intention of doing so. So just because Senator LAUTENBERG found somebody who disagrees with the story doesn't mean it isn't true.

It so happens that the "somebody" who "disagreed" with the above mentioned Bergen Record article was the management of Metropolitan Medical Associates.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> DEAR MR. RITT, We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the many inaccuracies in the article printed in September 15, 1996 titled "The Facts on Partial-Birth Abortions".
>
> The article incorrectly asserts that MMA "performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation." This claim is false as is shown in reports to the New Jersey Department of Health and documents submitted semiannually to the New Jersey State Board of Medical Examiners. These statistics show that the total annual number of abortions for the period between 12 and 23.3 weeks is about 4,000, with the majority of these procedures being between 12 and 16 weeks. The intact D&E procedure (erroneously labeled by abortion opponents as "partial birth abortion") is used only in a small percentage of cases between 20 and 23.3 weeks, when a physician determines that it is the safest method available for the woman involved. Certainly, the number of intact D&E procedures performed is nowhere near the 1,500 estimated in your article. MMA perform no third trimester abortions, where the State is permitted to ban abortions except in cases of life and health endangerment.
>
> Second, the article erroneously states that most women undergoing intact D&E procedures have no medical reason for termination. The article then misquotes a physician from our clinic stating that "most are Medicaid patients . . . and most are for elective, not medical, reasons . . . Most are teenagers." This is a misrepresentation of the information provided to the reporter. Consistent with Roe v. Wade and New Jersey State law, we do not record a woman's specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary as required by the New Jersey Department of Human Services.
>
> Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.
>
> THE MANAGEMENT OF
> METROPOLITAN MEDICAL ASSOCIATES.

Mr. SANTORUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Oklahoma (Mr. NICKLES) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North

Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—35

Akaka
Baucus
Bayh
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Daschle
Dayton
Dodd
Durbin
Feinstein
Graham (FL)
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Sarbanes
Schumer
Stabenow
Wyden

NAYS—60

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Kyl
Landrieu
Lott
Lugar
McCain
Miller
Murkowski
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—5

Biden
Edwards
Kerry
McConnell
Nickles

The amendment (No. 261) was rejected.

Mr. JEFFORDS. Mr. President, I rise today to express my concerns with S. 3, the "so-called" Partial-Birth Abortion Ban Act of 2003.

Shortly before my election to Congress, the Supreme Court made its landmark decision in Roe v. Wade to constitutionally protect a woman's right to choose. During my time in Congress, there has been no other issue that has engendered more passion or debate than this decision.

While I ardently support a woman's right to choose, I have spent my time in Congress trying to ensure that abortions are as rare as possible. We can reduce the number of abortions through strong support of Title X, encouraging adoption, educating on the use of emergency contraceptives, and requiring insurance policies to cover contraceptives. In that manner we can ensure that women control their own reproductive destiny.

The "so-called" Partial-Birth Abortion Ban Act is one of many attempts to overtly or covertly undermine and overturn the constitutional right afforded women in Roe v. Wade. It is imperative that Congress not be the entity making a woman's decision on this most personal of issues. This is a decision to be made by a woman in consultation with her doctor and others she chooses to include. The bill we consider today will place the Federal Government in the middle of the most intimate of discussions between a woman and her physician.

I would like to take this opportunity to discuss with my colleagues the constitutional deficiencies contained in this legislation. Let me start with the title of this legislation, the Partial-Birth Abortion Ban Act.

Ask any doctor if they have ever performed a partial-birth abortion and the response is no such medical term exists. So what are we banning? For that answer we turn to the definition of a partial birth-abortion contained in the bill. What we find is a very broad—overly broad—definition that is strikingly similar to the over broad definition found unconstitutional by the United States Supreme Court in the Carhart decision.

You will hear my colleagues say this definition is limited to late term abortions, or abortions performed during the third trimester or postviability. However, if you examine the definition contained in this legislation, its breadth would cover safe abortion procedures that are used in the second trimester or previability of the fetus. Why have my colleagues chosen to use a definition that is over broad?

Enactment of this legislation, if upheld, would erode the Roe decision by banning an abortion procedure that is used previability of the fetus. Thus, this legislation can be clearly seen as an attempt to undermine the legal underpinnings of the Roe decision.

Another critical constitutional deficiency in this legislation is the absence of a health exception for the mother. The original Roe decision, and most recently the Supreme Court Carhart decision, required that any ban on an abortion procedure have an exception for the health of the mother. The proponents of this legislation will point to the pages of findings contained in the legislation as to why it is unnecessary to have an exception for the health of the mother. There are two problems with this rationale, first the Supreme Court has shown an unwillingness to consider Congressional findings of fact in recent decisions, such as Morrison, VAWA, and Kimmel, ADEA. Second, during the debate on the Carhart decision, the Supreme Court had knowledge of these findings, yet still ruled that because the Nebraska statute did not have an explicit health exception the law was unconstitutional.

So why do my colleagues seek to move this legislation forward even with these glaring constitutional deficiencies? I can reach no other conclusion, based on the facts, than it is an attempt to erode the constitutional protections provided to women in the Roe decision. Mark my words, this legislation is one step in the process of attempting to overturn the Roe decision, and I will fight that outcome every step of the way.

Mr. FEINGOLD. Mr. President, I will oppose S. 3, the Partial Birth Abortion Ban Act, and instead will support a constitutionally sound alternative.

Mr. President, I understand that people on all sides of this issue hold sincere and strongly held views. I respect the deeply held views of those who oppose abortion under any circumstances. Like most Americans, I would prefer to live in a world where abortion is unnecessary. I support efforts to reduce the number of abortions through family planning and counseling to avoid unintended pregnancies.

I have always believed that the decisions in this area are best handled by the individuals involved, in consultation with their doctors and guided by their own beliefs and unique circumstances, rather than by government mandates. I support Roe v. Wade, which means that I agree that government can restrict abortions when there is a compelling State interest at stake. I have previously voted to ban postviability abortions unless the woman's life is at risk or the procedure is necessary to protect the woman from grievous injury to her physical health, which is why I will again be voting for the Durbin alternative to S. 3.

Since the Senate last debated this issue in 1999, the Supreme Court has ruled on a statute that is almost identical to the language of the bill before us today. In June 2000, in Stenberg v. Carhart, the Court held that the State law, a Nebraska statute, banning so-called partial birth abortions was unconstitutional. The Court found that the law was so vague and overbroad that it posed an undue burden on a woman's right to choose by encompassing safe and common abortion procedures used prior to viability. The Court also found that, even in banning abortion procedures after viability, the State must include an exception for the health of the mother.

The Senate now has the Supreme Court's guidance, as we consider legislation regulating late-term abortions. This is guidance that the Senate did not have when we previously debated legislation like S. 3. I feel very strongly that Congress should seek to regulate abortions only within the constitutional parameters set forth by the U.S. Supreme Court. Yet in light of the Supreme Court's 2000 decision, the bill before us today, S. 3, is unconstitutional on its face. It is so vague and overbroad that it, too, could unduly burden a woman's right to choose prior to viability.

I might add that I would have preferred that S. 3 had been first reviewed by the Judiciary Committee on which I serve, rather than having been brought straight to the Senate floor. The Judiciary Committee should hold hearings and review the bill prior to its consideration by the full Senate. This is especially important because the Supreme Court has now struck down a law that is almost identical to the bill before us today. There have been no hearings in the Senate Judiciary Committee to consider this bill since the Court's Carhart decision. Perhaps, if the Judiciary Committee had more thoroughly reviewed this legislation, it would have reported a bill that could have withstood constitutional scrutiny.

The Durbin alternative amendment would ban abortions by any method after a fetus is viable, except when serious medical situations dictate otherwise. I support the Durbin amendment because it recognizes that, in some circumstances, women suffer from severely debilitating diseases specifically caused or exacerbated by a pregnancy, or are unable to obtain necessary treatment for a life-threatening condition while carrying a pregnancy to term. The exceptions in the Durbin amendment are limited to conditions for which termination of the pregnancy is medically indicated. It correctly retains the option of abortion for mothers facing extraordinary medical conditions—such as breast cancer, preeclampsia, uterine rupture, or non-Hodgkin's lymphoma—for which termination of the pregnancy may be recommended by the woman's physician due to the risk of grievous injury to the mother's physical health or life. By clearly limiting the medical circumstances where postviability abortions are permitted, the Durbin amendment protects fetal life in cases where the mother's health is not at such high risk. In contrast, S. 3 provides no exception at all to protect the health of the mother.

I understand that the Carhart decision did not define the health exception or limit it to grievous physical injury. I recognize that it is not clear whether the narrow health exception contained in the Durbin amendment would be upheld, if it comes before the Court. To date, I have supported this narrow definition of the exception necessary to protect the physical health of the woman because I believe that it strikes the right balance between preserving a woman's right to choose and concerns that abortion procedures late in pregnancy should only be used in rare circumstances. I voted for the Daschle amendment in the 105th Congress and the Durbin amendment in the 106th Congress and again in this Congress, because they reflect this position.

The Durbin amendment properly seeks to ensure that the exceptions to the ban on postviability abortions are properly exercised. It requires a second doctor to certify the medical need for a postviability abortion. The second doctor requirement will ensure that postviability abortions take place only when continuing the pregnancy would prevent the woman from receiving treatment for a life-threatening condition related to her physical health or would cause a severely debilitating disease or impairment to her physical health.

The Durbin alternative strikes the right balance between protecting women's constitutional right to choose and the right of the state to protect future life after viability. It protects a woman's physical health throughout her pregnancy, while insisting that only grievous, medically diagnosable conditions justify aborting a viable fetus. Both fetal viability and women's health would have been determined by the physician's best medical judgement, as they must be, in concurrence with another physician.

I hope that, as the Senate considers this bill and the proposed amendments, we do so in full recognition of the strong feelings about this issue on all sides. We should respect these differences and strive to legislate in this area in a way that is constitutionally sound. That is why I will oppose S. 3 and instead will support the Durbin substitute amendment.

Mr. KENNEDY. Mr. President, the Republican leadership is wrong to ask the Senate to support legislation that has been ruled unconstitutional by numerous courts. Since the last debate in the Senate in 1999, the Supreme Court found a very similar law enacted by the State of Nebraska to be unconstitutional. This bill is unconstitutional as well.

The Republican leadership has chosen to make as its top priority a flatly unconstitutional piece of legislation at a time when so many families across the country are facing economic hardship, when communities are struggling to deal with homeland security needs, and being forced by state budget crises to cut back on education and health care.

Because of the Republican leadership's decision to act on this bill, we will do nothing this week to provide an economic stimulus plan for the Nation's families and workers. We will do nothing to provide new funding for communities struggling to protect themselves from new terrorist attacks. We will do nothing to help the millions of uninsured children in this country get the health care they need. We will do nothing for schools struggling to meet higher standards under the No Child Left Behind Act. We will do nothing to help college students struggling to pay tuition and relieve their debt. We will do nothing to help the millions of families across the Nation who are worried about their economic future.

Let us be clear as to what this bill does not do.

This bill does not stop one single abortion. The proponents of this bill distort the law and the position of our side with inflammatory rhetoric, while advocating a bill that will not stop one single abortion. This bill purports to prohibit a medical procedure that is only used in rare and dire circumstances. It is not used on healthy mothers carrying healthy babies. And if this bill is passed, a doctor could be forced to perform another, more dangerous procedure if it becomes necessary to terminate a pregnancy to protect the life and health of a woman.

This bill does not protect the health of the mother. Nowhere is there language that would allow a doctor to take the health of the mother into consideration, even if she were to suffer brain damage or otherwise be permanently impaired if the pregnancy continued.

And this bill is not needed to protect the life of babies who could live outside the mother's womb because those babies are already protected under the law of the land. In Roe v. Wade, the Supreme Court specifically held that unless there was a threat to the life or health of a woman, she did not have a constitutional right to terminate a pregancy after viability.

So what is this legislation all about? It is about politics and inflammatory language and hot-button topics. But it is not about stopping abortion.

Because of the sound and fury and high emotion that surrounds this issue, I would like to make my personal views clear. I am pro-choice. But I believe that abortions should be rare. I believe that we have an obligation to create an economy and the necessary support systems to make it easier for women to choose to bring children into the world. If the proponents of this legislation were serious about limiting the number of abortions in this country, then we would be debating access to health care, quality education, the minimum wage, and the other issues of economic security that are so important to parents bringing up children. But those issues are not on the Republican leadership's agenda.

Instead, for rank political reasons, we are here this week debating so-called partial birth abortion. I do not believe that it is the role of the United States Senate to interfere with or regulate the kind of medical advice that a doctor can give to a patient. And that doctor/patient relationship and the protection of the health of the mother is really what is in jeopardy with this legislation.

From the time of the 1973 decision in Roe v. Wade through the Stenberg v. Carhert decision in 2000, the Supreme Court of the United States has made clear that the Constitution allows states to restrict post-viability abortions as long as there are protections for the life and health of the mother.

Indeed, 41 states already ban post-viability abortions, regardless of the procedure used. My own State of Massachusetts prohibits these abortions except when the woman's life is in danger or the continuation of the pregnancy would impose a substantial risk of grave impairment of the woman's health. I would vote for a post-viability ban that protects women's life and health today.

The role of the United States Senate is to protect and defend the Constitution of the United States. Each of us in this body has taken that oath of office. And that oath of office and the Constitution require me to oppose this legislation.

This bill unconstitutionally seeks to restrict abortions in cases before viability and it does not provide an exception to protect the mother's health after viability. It also impermissibly attempts to interfere with the doctor/patient relationship. For all of these reasons, I oppose this bill.

## EXECUTIVE SESSION

## NOMINATION OF WILLIAM D. QUARLES, JR., OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of William D. Quarles, Jr., of Maryland, to be U.S. District Judge for the District of Maryland.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William D. Quarles, Jr., of Maryland, to be U.S. District Judge for the District of Maryland. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oklahoma (Mr. NICKLES) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. CONRAD), the Senator from South Dakota (Mr. DASCHLE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 91, nays 0, as follows:

[Rollcall Vote No. 50 Ex.]

YEAS—91

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—9

Biden
Bond
Conrad
Daschle
Domenici
Edwards
Kerry
McConnell
Nickles

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Continued

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NOS. 36, 52, AND 54

Mr. SANTORUM. Mr. President, as in executive session, I ask unanimous consent that on Thursday, following the cloture vote with respect to the Estrada nomination, regardless of the outcome, the Senate proceed to the consideration of Executive Calendar No. 36, Jay S. Bybee, to be U.S. Circuit Judge for the Ninth Circuit; provided further that there be 6 hours for debate equally divided in the usual form, and that following the use or yielding back of the time, the Senate proceed to a vote on the confirmation of the nomination. I further ask consent that immediately following the vote, the Senate immediately proceed to a vote on the confirmation of Executive Calendar No. 52, the nomination of William Steele, to be U.S. District Judge for the Southern District of Alabama, to be immediately followed by a vote on the confirmation of Executive Calendar No. 54, the nomination of J. Daniel Breen to be U.S. District Judge for the Western District of Tennessee; provided further that following those votes, the President be immediately notified of the Senate's action, and the Senate then resume legislative session, with all the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic whip.

### COMPLETING ACTION ON S. 3

Mr. REID. Mr. President, if everyone uses all the time, tomorrow will be a long day. We do not know how much time everyone will use, but at least we have completed this very difficult legislation today. We have a circuit judge the leader has been asking for, and we have two more district court judges. So I think we have accomplished quite a bit this week.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator from Nevada. Through this entire week, he has been working with this side in good faith to move forward this legislation. He did an outstanding job, in my opinion, in helping us proceed through this process. I want to thank him for the excellent work and for his willingness to move at times this heated and controversial discussion on the bill to this process where we are now poised to pass this legislation tomorrow morning. Hopefully, it will pass by a very strong vote, and we will get the bill into conference and get it back. I think the House will bring this up in a couple of weeks and then possibly even get this bill back to the Senate within the month. So we are well on our way.

I want to thank all Members for their cooperation, for their willingness to offer amendments, and to come to the floor and debate it. Obviously, we have had a spirited debate, but one that has not just provided some heat but also hopefully provided a great deal of light as to the relative positions of the Senators on either side of this issue, and even the broader issue of abortion in general.

Mr. REID. Will the Senator yield?

Mr. SANTORUM. Yes.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I have said this a couple of times during the past few weeks, and I want to say this again. The leader could have come and filed cloture on this legislation very quickly, but he has obviously made a decision the Senate works best when people are allowed to offer amendments and speak their piece. There is no better example of that than this controversial legislation. All the amendments offered were on our side, and I think it speaks well of the direction that the Senate is going. We still have some obstacles we have to get over, but I again state that the pattern set by the majority leader in allowing debate to take place is good for this body, and I think the debate has been healthy. It has been very adversarial. That is what the Senate is supposed to be. There has been very heated debate on this issue. I think the Senate is better for this.

This issue has been aired. There were procedural efforts made to take it back to committee, and there was a lot of good debate. Again, I direct this to the majority leader—and I speak on behalf of Senator DASCHLE and the rest of the minority—we appreciate allowing us to act as the Senate should act.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I do not want to go without praising my own majority leader also. He obviously set the tone for this debate not only by structuring the way by which this debate proceeded, but very importantly in coming to the floor and laying out, in very strong arguments, the case against this procedure from a perspective that is unique in the Senate, which is the perspective of a physician.

I am going to have a few more things to say in a few minutes, but before I do that, I thank my incredible staff for helping me through this process, Heather MacLean and Wayne Palmer. Heather and Wayne were terrific in preparing for this debate. There was an obvious range on a wide variety of things, things, frankly, we did not even anticipate. They did an outstanding job in preparation, and an outstanding job in getting information to make me look good, which, I am sure many Senators will confirm, is not the easiest thing in the world to do.

I thank them both very much for their excellent assistance. I am not surprised, by any stretch of the imagination, regarding their incredible work, but I am very grateful.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 26, 2001 in Las Cruces, NM. A gay New Mexico State University student was beaten by two fellow students. Prior to the beating, the two attackers asked the victim if he was gay. According to police, a friend of the victim was followed that same night by three other men who asked him several times if he was also gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## WINNING THE PEACE IN IRAQ

Mr. KENNEDY. Mr. President, as President Bush prepares for war with Iraq, the administration also must prepare to win the peace.

While I have grave reservations about this administration's rush to war with Iraq, we all hope that if the President goes forward, the war will be quick and our troops will be safe.

But we must also recognize that once war is launched, American obligations in Iraq are only just beginning. The instant we occupy Iraq, we become responsible for the security, care, and feeding of its people—even the education of its children. Years of reconstruction and assistance to the Iraqi people will be necessary to bring Iraq to independence into the family of nations. And we can expect an American presence in that country for months and even years to come.

This is an enormous enterprise and an extraordinary obligation. But to win the peace in Iraq, we must get it right.

Today the Council on Foreign Relations issued a report on how this might be accomplished. The experts who contributed to this thoughtful report bring years of experience in addressing post-conflict reconstruction issues in both Republican and Democratic administrations.

The task force that developed this report was chaired by former Ambassador Thomas Pickering and former Defense Secretary James Schlesinger. And the project director is Eric Schwartz, who served in the Clinton White House as a senior official in the National Security Council.

The administration and Congress would do well to heed their recommendations. And I ask unanimous consent that the executive summary of the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### IRAQ: THE DAY AFTER

### REPORT OF AN INDEPENDENT TASK FORCE ON POST-CONFLICT IRAQ

Sponsored by the Council on Foreign Relations, Thomas R. Pickering and James R. Schlesinger, Co-Chairs, and Eric P. Schwartz, Project Director

### EXECUTIVE SUMMARY

If the United States goes to war and removes the regime of Saddam Hussein, American interests will demand an extraordinary commitment of U.S. financial and personnel resources to post-conflict transitional assistance and reconstruction. These interests include eliminating Iraqi weapons of mass destruction (WMD); ending Iraqi contacts, whether limited or extensive, with international terrorist organizations; ensuring that a post-transition Iraqi government can maintain the country's territorial integrity and independence while contributing to regional stability; and offering the people of Iraq a future in which they have a meaningful voice in the vital decisions that impact their lives.

But U.S. officials have yet to fully describe to Congress and the American people the magnitude of the resources that will be required to meet post-conflict needs. Nor have they outlined in detail their perspectives on the structure of post-conflict governance. The Task Force believes that these issues require immediate attention, and encourages the administration to take action in four key areas:

Key Recommendation #1: An American political commitment to the future of Iraq: The president should build on his recent statements in support of U.S. engagement in Iraq by making clear to Congress, the American people, and the people of Iraq that the United States will stay the course. He should announce a multibillion dollar, multiyear post-conflict reconstruction program and seek formal congressional endorsement. By announcing such a program, the president would give Iraqis confidence that the United States are committed to contribute meaningfully to the development of Iraq and would enable U.S. government agencies to plan more effectively for long-term U.S. involvement.

The scale of American resources that will be required could amount to some $20 billion per year for several years. This figure assumes a deployment of 75,000 troops for post-conflict peace stabilization (at about $16.8 billion annually), as well as funding for humanitarian and reconstruction assistance (as recommended immediately below). If the troop requirements are much larger than 75,000—a genuine possibility—the funding requirement would be much greater.

For reconstruction and humanitarian assistance alone, the president should request from Congress $3 billion for a one-year period, and make clear the United States will be prepared to make substantial additional contributions in the future. This initial contribution would include $2.5 billion for reconstruction and $500 million for humanitarian aid. (However, if there are significant interruptions in the availability of Iraqi oil revenues for the Oil for Food Program, the figure for humanitarian assistance would need to be considerably higher).

Key Recommendation #2: Protecting Iraqi civilians—a key to winning the peace: From the outset of conflict, the U.S. military should deploy forces with a mission to establish public security and provide humanitarian aid. This is distinct from the tasks generally assigned to combat troops, but it will be critical to preventing lawlessness and reassuring Iraqis who might otherwise flee their homes. As women and children will constitute the majority of refugees and internally displaced persons, special efforts should be made to ensure that they are protected from sexual assault and that their medical and health care needs are met. The Bush administration should sustain this public security focus throughout the transition. None of the other U.S. objectives in rebuilding Iraq would be realized in the absence of public security. If the administration fails to address this issue effectively, it would fuel the perception that the result of the U.S. intervention is an increase in humanitarian suffering.

Additional recommendations—protecting Iraqi civilians: Assist civilian victims of any use of WMD. The U.S. and coalition partners should be ready to conduct rapid assessment of any WMD damage, publicize the results of such assessments, provide information to Iraqis on how to mitigate the impact of WMD use, and provide assistance to alleviate the health effects of WMD exposures should it occur.

Seek to ensure protection for displaced persons and refugees. Administration officials should press neighboring governments to provide safe haven in their countries to fleeing Iraqis. If the government of Turkey and other governments are determined to establish camps within the territory of Iraq, U.S. officials should seek to ensure that such camps are safe and secure.

Sustain, for the time being, the basic structure of the Oil for Food Program. U.S. officials should work closely and intensively with the World Food Program (WFP) to ensure the continuation of the distribution network that sustains the Oil for Food Program in central and southern Iraq. The program should be modified over time to ensure transparency and effectiveness in meeting Iraqi needs.

Actively recruit international civilian police (civpol) and constabulary forces. Constabulary units such as Italy's Carabinieri have equipment, training, and organization that enable it to maintain public order and address civil unrest. In addition, international civilian police could play an important role in vetting, training, and mentoring Iraqi police.

Key Recommendation #3: Sharing the burden for post-conflict transition and reconstruction: The Bush administration should move quickly to involve international organizations and other governments in the post-conflict transition and reconstruction process. This move will lighten the load on U.S. military and civilian personnel, and help to diminish the impression that the United States seeks to control post-transition Iraq.

The Bush administration will likely be reluctant, especially early in the transition process, to sacrifice unity of command. On the other hand, other governments may be hesitant to participate in activities in which they have little responsibility. The Task Force recommends that the administration address this dilemma by promoting post-conflict Security Council resolutions that endorse U.S. leadership on security and interim civil administration in post-conflict Iraq, but also envision meaningful international participation and the sharing of responsibility for decision-making in important areas. The resolutions could direct WFP or another international humanitarian organization to assume lead responsibility for humanitarian assistance (and involve NGOs and Iraqi civil society in aid management and delivery); indicate that the United Nations will take responsibility in organizing (with U.S. support and assistance) the political consultative process leading to a transition to a new Iraqi government; establish an oil oversight board for Iraq; authorize the continuation of the UN's Oil for Food Program; establish a consortium of donors in conjunction with the World Bank and the IMF, to consider Iraqi reconstruction needs as well as debt relief; and indicate that responsibilities in other areas could be transferred to the United Nations and/or other governments as conditions permit.

Key recommendation #4: Making Iraqis stakeholders throughout the transition process: The administration should ensure that Iraqis continued to play key roles in the administration of public institutions, subject to adequate vetting. Continuity of basic services will be essential, and will require that thousands of Iraqi civil servants continue to do their jobs. In addition, every effort should be made quickly to establish Iraqi consultative mechanisms on political, constitutional, and legal issues, so that the period of interim governance will be limited and characterized by Iraqi engagement on the political as well as administrative level.

Additional recommendation—making Iraqis stakeholders: Encourage a geographically based, federal system of government in Iraq. In northern Iraq, the Kurdish population has operated outside of regime control for over a decade. While decisions on Iraq's constitutional structure should be made by Iraqis, the Task Force believes that a solution short of a federal system will risk conflict in a future Iraq, and that U.S. officials should adopt this perspective in their discussions with Iraqi counterparts and with Iraq's neighbors.

### OTHER ISSUES OF CONCERN TO THE TASK FORCE

The rule of law and accountability: Police training must be supplemented by efforts to build other components of a system of justice, especially courts. The Task Force thus makes the following recommendations: Deploy judicial teams, seek international involvement. The administration should promote the post-conflict deployment of U.S. and international legal and judicial assistance teams to help address immediate and longer term post-conflict justice issues.

Act early on accountability, seek international involvement in the process, and ensure a key role for Iraqis. Given the enormity of human rights abuses by the regime, the Task Force believes that accountability issues should be an early priority for the transitional administration. International involvement in the process, either through the creation of an international ad hoc tribunal, or the development of a mixed tribunal, will enhance the prospects for success. The Task Force notes that a truth and reconciliation process could be established concurrently with such a tribunal, as a complement to criminal accountability for those who bear greatest responsibility for abuses.

The Iraqi oil industry: U.S. officials will have to develop a posture on a range of questions relating to control the oil industry, such as how decisions on contracts for equipment and oil field rehabilitation will be made; who will consider and make judgments on the viability of executory contracts for development of oil fields, which have as a condition precedent the lifting of sanctions; and what will be required for transition from the Oil for Food Program to a transparent and accountable indigenous system to receive and disburse oil-related revenues?

The Task Force recommends that the administration strike a careful balance between the need to ensure that oil revenues benefit the people of Iraq and the importance of respecting the right of Iraqis to make decisions about their country's natural resources. In particular, the administration should undertake the following steps: Emphasize publicly that the United States will respect and defend Iraqi ownership of the country's economic resources, especially oil; seek an internationally sanctioned legal framework to assure a reliable flow of Iraqi oil and to reserve to a future Iraqi government the determination of Iraq's general oil policy. The removal of the regime will not alter Iraqi obligations under the existing, UN-managed, legal framework for oil, but it will likely result in the need for modifications. The Task Force believes that a new framework, which could be affirmed by a Security Council resolution, could establish a decision-making oversight board with international and significant Iraqi participation.

Address potential impact of regime change on Jordanian oil imports from Iraq. The Iraqi regime has provided the government of Jordan with free and heavily discounted oil. It is unclear whether such arrangements would continue in the post-conflict environment. In view of Jordan's economic situation and its important role on regional and international security issues, the administration should make efforts to address Jordanians needs in this area.

Regional diplomatic and security issues: In the Gulf, U.S. officials will confront the challenge of effectively downsizing the Iraqi military while seeking to promote a longer-term security balance in which Iraq's territorial integrity can be maintained. In the Middle East, a successful U.S. and coalition intervention in Iraq will raise expectations about a new U.S. diplomatic initiative on the Arab-Israeli dispute. On these issues, the Task Force makes the following recommendations: Closely monitor restructuring and professionalization of the Iraqi military, as well as disarmament, demobilization, and reintegration. These tasks are likely to be carried out largely by private contractors and/or international development organizations, and will require close supervision of what might otherwise be an uncoordinated effort. In addition, the Bush administration should promote programs in this area that include curricula emphasizing civilian control of the military and respect of human rights.

Consider a regional forum for discussion of security issues. The administration should strongly consider encouraging a security forum with states in the region. The forum could address confidence-building measures, and related issues such as external security guarantees and nonproliferation.

Initiate post-conflict action on the Middle East Peace Process. The Task Force encourages the administration to give high priority to an active, post-conflict effort to engage the peace process, and also believes that any such action by the administration must be accompanied by greater efforts by Arab states and the Palestinian leadership to discourage and condemn acts of terrorism and violence against Israelis and elsewhere in the region.

## NOMINATION OF JUDGE GREGORY FROST

Mr. DEWINE. Mr. President, I rise to speak in strong support of the nomination of Judge Gregory Frost, whom the President has nominated to be United States District Court Judge for the Southern District of Ohio, and whom the Senate confirmed just two days ago. I have had the pleasure of knowing Judge Frost for many, many years and can say with confidence that he is exceptionally qualified for this position. I believe that he will be an excellent Federal Judge.

Judge Frost currently serves as Judge on the Licking County Common Pleas Court in Newark, OH. He has been on the Licking County bench for the past 19 years—serving first as a Municipal Court judge from 1983 to 1990 before being elected to his current position.

As I discussed during his Judiciary Committee hearing, while on the Licking County bench, Judge Frost was selected to take the lead in writing the jury instructions for the State of Ohio. This is no small undertaking. These jury instructions provide the framework in which all jury cases in the State of Ohio are deliberated. The fact that he was chosen to do this reflects the esteem in which his colleagues hold him.

Before serving on the bench, Judge Frost served in private practice and also served an assistant Licking County prosecutor from 1974 until 1978. Having seen how the trial process works from many different perspectives—as a prosecutor, a defense attorney, and a judge—Judge Frost knows what defines good judicial temperament, and I believe that he has it.

While on the bench, his graciousness and dedication have earned him the respect of those inside and outside of his courtroom. I received many letters of support for Judge Frost that attest to this.

Without question, Judge Frost will be a fine addition to the District Court. He has the experience, the temperament, and the dedication to be an excellent Federal judge. I strongly support his nomination and thank my colleagues for voting in support of his nomination.

## JUSTICE NEEDED FOR THE MURDER OF PRIME MINISTER ZORAN DJINDIC

Mr. McCONNELL. Mr. President, this morning's news of the assassination of Serbian Prime Minister Zoran Djindic is deeply saddening.

Prime Minister Djindic was a man of courage and determination—whether tackling economic and political reforms or securing the extradition of war criminal Slobodan Milosevic to The Hague. He understood and accepted the risks of leadership in a transitional Serbia, and bravely served his compatriots.

Prime Minister Djindic rightly believed that Serbia's future rests with the rule of law, free markets, and a democratic political system. Threats against his life—including an assassination attempt only last month—underscored that his reform agenda directly challenging entrenched segments of Serbian society, including organized crime and the cronies of Slobodan Milosevic who continue to serve in the government and military.

Prime Minister Djindic scoffed at the notion that his untimely demise would derail Serbia's reform efforts. After last month's incident, he said, "If someone thinks the law and reforms can be stopped by eliminating me, then that is a huge delusion."

Those who share the Prime Minister's vision of peace and prosperity for Serbia cannot—and must not—give up their struggle. There is no better way to honor Zoran Djindic than to redouble efforts to implement reforms and to strengthen the rule of law.

During this uncertain time, the champions of reform and democracy in Serbia should know that the U.S. Congress continues to stand by their side; crime bosses and war criminals should know that the United States is committed to aiding reformers in their defeat.

We will continue to closely follow developments in Serbia and throughout the region—and will remain vigilant in demanding justice for the murder of Zoran Djindic.

## ADDITIONAL STATEMENTS

## SUPPORT FOR COMMUNITY HEALTH CENTER

● Mr. NELSON of Nebraska. Mr. President, I would like to express my strong support for Lincoln, NE's application for a community health center. I met recently with Secretary Tommy Thompson and discussed the proposal with him. He reacted positively, assuring me that the application would be given top priority.

The need for this facility in Lincoln is great. Lincoln is experiencing an influx of immigrant families who lack health care coverage and are in critical need of medical care. And Nebraska, like other States, is facing budgetary constraints due to the downturn in the economy and reduced its Medicaid rolls leaving more people without health insurance.

The new health center, which will be called the Peoples' Health Center of Lincoln, will provide many services to the area including: primary medical care, primary dental care and oral health education, lab services, social work and health education. With the Federal funds, the community will be able to proceed to develop these health services to the uninsured and underinsured in Lincoln.

I look forward to HHS's grant announcement and am hopeful that Lincoln's application will be approved.●

## HONORING DR. R. BRENT WRIGHT

● Mr. BUNNING. Mr. President, I speak in recognition of Dr. R. Brent Wright of Glasgow, Kentucky. Dr. Wright is a recipient of the American Medical Association's AMA Foundation Leadership Award at the 2003 AMA National Advocacy Conference held in Washington, D.C. earlier this month.

Each year the AMA takes an opportunity to honor young physicians who, in addition to offering patients quality medical attention, show a strong dedication to community affairs and leadership in the medical community. Only 25 young physicians in the nation receive this distinguished honor and I am proud that a fellow Kentuckian has been recognized for his innovative and hard work.

Dr. Wright serves as a family physician at the University of Louisville Health Science Center in Glasgow, Kentucky. No stranger to serving the needs of the community, he is Chair of the Community Medical Care Clinical Committee which offers assistance to uninsured and employed individuals. Dr. Wright is also active with medical associations, such as the AMA and the Kentucky Medical Association Congress of Delegates, and he serves as the Acting Program Director of the University of Louisville/Glasgow Family Medicine Residency Program.

His commitment to improving the health care system one patient at a time is certainly serving Kentucky well. I look forward to seeing the future accomplishments of his promising career, and I am pleased the Senate is joining me in honoring Dr. R. Brent Wright.●

## IN RECOGNITION OF THE 35TH ANNIVERSARY OF PROJECT REHAB

● Mr. LEVIN. Mr. President, today it is my great pleasure to recognize Project Rehab for 35 years of dedicated service promoting personal and community health throughout my home State of Michigan.

Since 1968, Project Rehab has functioned as a community-based outreach to people experiencing behavioral and mental health problems. Project in Rehabilitation began as the joint effort of Dr. William Kooistra and Dr. Chet Maternowski to offer counseling and treatment to heroin addicts in Grand Rapids, MI. Through their valuable service, Drs. Kooistra and Maternowski promoted awareness of drug addiction in a community that was not then equipped to address this problem. Overcoming sometimes harsh criticism, they succeeded in establishing their organization as a place of hope for those needing drug abuse treatment.

Over the years, Project Rehab has grown to fit the changing needs of its clients. While maintaining a strong emphasis on treating addiction and substance abuse, Project Rehab now offers a broad range of services, including work-release programs for prisoners, employee counseling, and educational programs to encourage behavioral and mental health.

Today, Project Rehab serves 5,000 clients annually in cities across Michigan. Through its educational services, Project Rehab educates more than 9,000 students, warning them of the dangers posed by drug and alcohol use. Within its field, Project Rehab is recognized as an innovative force, bringing unique treatment to individuals in need. As one of the largest and longest running substance abuse programs in Michigan, I commend Project Rehab for improving the lives of many in Michigan and setting an example for other programs around the country.

I know that my colleagues in the Senate will join me in congratulating Project Rehab for their committed work and for the hope they have given to many.•

## HONORING DR. DANIEL J. FINN

• Mr. BUNNING. Mr. President, I speak in recognition of Dr. Daniel J. Finn of Bardstown, Kentucky. Dr. Finn is a recipient of the American Medical Association's, AMA, Foundation Leadership Award at the 2003 AMA National Advocacy Conference held in Washington, D.C. earlier this month.

Each year the AMA takes an opportunity to honor young physicians who, in addition, to offering patients quality medical attention, show a strong dedication to community affairs and leadership in the medical community. Only 25 young physicians in the nation receive this distinguished honor and I am proud that a fellow Kentuckian has been recognized for his innovative and hard work.

Dr. Finn practices pediatrics at Flaget Hospital in Bardstown, Kentucky. He focuses his attention on helping children combat obesity, an increasing problem facing the youth of America, by tailoring weight management programs for at-risk children. Dr. Finn also assists emotionally and behaviorally troubled youth by serving on the Advisory Council for Buckhorn of Lincoln Trail. He demonstrates his commitment to the medical community by being actively involved in the AMA, American Academy of Pediatrics and the Kentucky Medical Association.

His commitment to improving the health care system one patient at a time is certainly serving Kentucky well. I look forward to following and hearing more of his promising career. I thank the Senate in allowing me to honor Dr. Daniel J. Finn.•

## HONORING KATHLEEN DANEK

• Mr. NELSON of Nebraska. Mr. President, today it is my honor to recognize Kathleen "Kathy" Danek for her many years of dedicated and selfless service to the State of Nebraska. Ms. Danek exemplifies true volunteerism: dependable, endless energy and passionate commitment to worthwhile causes.

Kathy Danek has long been a distinguished member of the American Postal Workers Union, AFL-CIO. Ms. Danek, through tireless work in several State and local agencies, earned the position as National Legislative Aide and Editor for the Auxiliary to the American Postal Workers Union. She has participated in numerous training activities to help auxiliary and union members understand the importance of grassroots involvement. Ms. Danek was also resoundingly elected to the District 1 Board of Education for the Lincoln Public Schools.

In addition to her service on the Board of Education and with the Postal Workers, Ms. Danek has always been an active member of St. Patrick's Catholic Church, often spending her free time teaching students and volunteering with St. Patrick's athletic programs. Her work also includes service with the Girl Scouts, the Lincoln Juniors Volleyball club, the Lancaster County Democratic Party, the YMCA as a softball and volleyball coach, and fundraising for the Doris Blair Softball Complex.

Because of her tireless work in the community, her peers have elected her President of the Lincoln Northeast High School Parent Advisory Board, President of the Lincoln Northeast High School Booster Club and Community Representative for the Lincoln Public Schools Graduation Requirement Committee. In addition, she has been selected as a member of the LPS High School Principal Selection Committee and was a community representative for the Northeast High School Media Center Committee. Ms. Danek has also devoted her time to Huntington and Dawes Middle schools.

Ms. Danek is a longtime resident of Lincoln, NE. She has been married to her husband Terry for 30 years. Together they have four daughters; Christine Goche, Wendy Danek, Kelly Witter, Megan Danek. They have two grandchildren, Bailey and Harrison Goche.

I am proud to represent Nebraskans like Ms. Danek who are committed public servants. Volunteer services are an essential part of communities. The selfless efforts of committed citizens like Ms. Danek, make our communities a better place to live and improve the quality of life for our neighbors. The city of Lincoln and State of Nebraska are fortunate to have Kathy Danek as a member of their community.•

## MESSAGE FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 441. An act to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 77. Concurrent resolution commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 441. An act to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2003 in Geneva, Switzerland, and for other purposes; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 77. Concurrent resolution commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance; to the Committee on Foreign Relations.

## MEASURE READ THE FIRST TIME

The following bill was read the first time:

S. 607. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1540. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2002 Farm Bill Regulations—Termination of Peanut Marketing Quota Program and Revised Flue-Cured Tobacco Reserve Stock Level (0560–AG82)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1541. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Grazing Payments for 2001 Wheat, Barley, or Oats (0560–AG22)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1542. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Collecting Guaranteed Loan Payments from FSA Farm Loan Program Borrowers (0560–AG44)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1543. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Limitations on the Amount of Farm Service Agency Guaranteed Loans" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1544. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sale and Purchase of Flue-Cured Tobacco Across County Lines (Florida and Georgia) (0560–AG68)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1545. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Conservation Reserve Program—Good Faith Reliance and Excessive Rainfall (0560–AG37)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1546. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Indemnity Payment Plan (0560–AG08)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1547. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Non-Insured Crop Disaster Assistance for Sea Grass and Sea Oats (0560–AG82)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1548. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Non-Insured Crop Disaster Assistance for Sea Grass and Sea Oats (0560–AG82)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1549. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Payments for Cattle and Other Property Because of Tuberculosis Doc. No. 00–105–2" received on March 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1550. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendments to the Tobacco Marketing Quota Regulations (0560–AG40)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1551. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Conservation Reserve Program—Farmable Wetlands Pilot Program (0560–AG38)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1552. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report relative to the Farm Credit Administration 2003 compensation program, received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1553. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Payments Limits (0560–AG77)" received on March 7, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1554. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, Department of Defense, transmitting, pursuant to law, the Annual Report on operations on the National Defense Stockpile (NDS), received on March 7, 2003; to the Committee on Armed Services.

EC–1555. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report relative to the plan to implement legislation concerning the transfer of Montgomery GI Bill (MGIB) entitlements to family members, received on March 7, 2003; to the Committee on Armed Services.

EC–1556. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the report relative to the Balanced Budget Refinement Act of 1999 and the implementation of the prospective payment system, received on March 7, 2003; to the Committee on Finance.

EC–1557. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Annual Report concerning compliance of the Farm Credit Administration with the Sunshine Act for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–1558. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of the Environmental Protection Agency's Inventory of Commercial Activities for 2002; to the Committee on Governmental Affairs.

EC–1559. A communication from the Deputy General Counsel, Veteran's Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Provision of Drugs and Medicines to Certain Veterans in State Homes (2900–AK34)" received on March 12, 2003; to the Committee on Veterans' Affairs.

EC–1560. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR 240.15c3–3—Customer Protection—Reserves and Custody of Securities 17 CFR 200.30–3—Delegation of Authority to the Director of the Division of Market Regulation (3235–AI51)" received on March 12, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1561. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MORAVAN a.s. Model Z242L Airplanes; Docket no. 2000–CE–05 (2120–AA64) (2003–0146)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1562. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace and Modification of Existing Class E5 Airspace; Ainsworth, NE; Correction; Docket No. 02–ACE8 (2120–AA66) (2003–0048)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1563. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E 5 Airspace; Memphis TN; Docket no. 02–ASO–29 (2120–AA66) (2003–0061)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1564. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Realignment of Federal Airways V 72 and V 289; MO; Docket no. 02–ACE–6 [1–26/3–10] (2120–AA66) (2003–0049)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1565. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Larned, KS; Docket No. 03/ACE–11 [2–25/3–10] (2120–AA66) (2003–0050)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1566. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cherokee; Docket no. 03–ACE–9 [2–25/3–10] (2120–AA66) (2003–0051)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1567. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification from Class E Airspace Herington, KS; Docket no. 03–ACE–10 [2–25/3–10] (2120–AA66) (2003–0052)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1568. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Clarinda, IA; Docket no. 03–AC0–12 [2–25/3–10] (2120–AA66) (2003–0053)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1569. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Wasilla, AK; Docket no. 02–AAL–7 [2–19/3–10] (2120–AA66) (2003–0054)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1570. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace Ankeny, IA; Docket no. 03–ACE–8 (2120–AA66) (2003–0055)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1571. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace Lebanon, MO; Docket no. 03–ACE–6 [2–19/3–10] (2120–AA66) (2003–0056)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1572. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Ames, IA; Docket no. 03–ACE–7 [2–19/3–10] (2120–AA66) (2003–0057)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1573. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Proposed Realignment of Federal Airways V 72 and V289; MO CORRECTION; Docket no. 02–ACE–6 (2120–AA66) (2003–0058)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1574. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Prohibited Area P 49 Crawford, TX Docket no. 03–AWA–1 [2–19/3–10] (2120–AA66) (2003–0059)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1575. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace and Modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS; Docket No. 03–ACE–4 [2–10/3–10] (2120–AA66) (2003–0060)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Joseph Timothy Kelliher, of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2007.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH (for himself and Mr. WYDEN):

S. 601. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, for inclusion in the Fort Vancouver National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. HAGEL, Mr. JOHNSON, Mr. BROWNBACK, Mr. DASCHLE, Mr. BURNS, Mr. DAYTON, Mr. ROCKEFELLER, Mr. CONRAD, Mr. COLEMAN, Mr. DURBIN, Ms. LANDRIEU, and Mr. MILLER):

S. 602. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 603. A bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. DOMENICI, and Mr. SANTORUM):

S. 604. A bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. WYDEN, Mr. BAUCUS, Mr. ALLEN, Mr. WARNER, Mr. KERRY, Mr. KENNEDY, Mr. AKAKA, Mr. BURNS, Mr. COLEMAN, and Mr. DAYTON):

S. 605. A bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. KENNEDY, Mr. DEWINE, Mr. HARKIN, Mr. SMITH, Ms. MIKULSKI, Ms. COLLINS, Mr. BINGAMAN, Ms. SNOWE, Mr. SARBANES, Mr. KERRY, Mr. BAYH, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, and Mr. DASCHLE):

S. 606. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself, Mr. GREGG, Mr. ENZI, Mr. THOMAS, Mr. VOINOVICH, and Mr. KYL):

S. 607. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; read the first time.

By Mr. REED (for himself and Mr. KENNEDY):

S. 608. A bill to provide for personnel preparation, enhanced support and training for beginning special educators, and professional development of special educators, general educators, and early intervention personnel; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself, Mr. LEVIN, Mr. LIEBERMAN, Mr. JEFFORDS, and Mr. BYRD):

S. 609. A bill to amend the Homeland Security Act of 2002 (Public Law 107-296) to provide for the protection of voluntarily furnished confidential information, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, Mr. CORNYN, and Mr. CAMPBELL):

S. Res. 81. A resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, Mr. CORNYN, Mr. CAMPBELL, and Mr. KYL):

S. Res. 82. A resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women; to the Committee on Foreign Relations.

By Mr. SANTORUM (for himself and Mr. BROWNBACK):

S. Con. Res. 19. A concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that March 17, 2003, should be designated as a national day of prayer and fasting; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 15

At the request of Mr. GREGG, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program.

### S. 50

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

### S. 54

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 54, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 120

At the request of Mr. BAYH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 120, a bill to eliminate the marriage tax penalty permanently in 2003.

S. 120

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 120, supra.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 171

At the request of Mr. DAYTON, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 227

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. ALLEN) was withdrawn as a cosponsor of S. 227, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to certified or licensed teachers, to provide for grants that promote teacher certification and licensing, and for other purposes.

S. 238

At the request of Mr. REED, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 238, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 251

At the request of Mr. BREAUX, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 252

At the request of Mr. THOMAS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 252, a bill to amend the Internal Revenue Code of 1986 to provide special rules relating to the replacement of livestock sold on account of weather-related conditions.

S. 271

At the request of Mr. SMITH, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 272

At the request of Mr. SANTORUM, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 317

At the request of Mr. GREGG, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 317, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs for work and family, and for other purposes.

S. 322

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 392

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 451

At the request of Ms. SNOWE, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from Nevada (Mr. REID), the Senator from Alabama (Mr. SESSIONS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 471

At the request of Mr. ALLEN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 471, a bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Committee, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 511

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

S. 516

At the request of Mr. BUNNING, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 529

At the request of Ms. CANTWELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 529, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act.

S. 544

At the request of Mr. DODD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

S. 560

At the request of Mr. CRAIG, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 566

At the request of Ms. MIKULSKI, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from

Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 566, a bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants.

S. 585

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 585, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. RES. 30

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Res. 30, a resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

S. RES. 46

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 70

At the request of Mr. CRAIG, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. Res. 70, a resolution designating the week beginning March 16, 2003 as "National Safe Place Week".

S. RES. 78

At the request of Mr. SPECTER, the names of the Senator from Oklahoma (Mr. NICKLES) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 78, a resolution designating March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

S. RES. 79

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 79, a resolution designating the week of March 9 through March 15, 2003, as "National Girl Scout Week".

S. RES. 79

At the request of Ms. COLLINS, her name was added as a cosponsor of S. Res. 79, supra.

AMENDMENT NO. 259

At the request of Mr. DURBIN, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 259 proposed to S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself and Mr. WYDEN):

S. 601. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, for inclusion in the Fort Vancouver National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise today as an original co-sponsor of the McLoughlin House Preservation Act.

Dr. John McLoughlin, a powerful 6'4" man, is known, officially and fondly, as the "Father of Oregon." His compassion played a critical role in the settling of the Northwest by Oregon Trail pioneers. Dr. McLoughlin's generosity to these early pioneers who arrived in the Oregon Territory after their incredible five month journey sick, hungry and without provisions was often the difference between survival and failure during their first winter.

This bill is a testimony to the hard work that one community can achieve. Preservation of the McLoughlin House and the nearby Barclay House, located in Oregon City, Oregon, is important to the cultural identity of Oregon. This bill would make them part of the Fort Vancouver National Park Service administrative site, thereby highlighting the interwoven connection between Fort Vancouver, the fur trade and the beginnings of the Oregon Territory.

Dr. McLoughlin first came to the Northwest in 1824, arriving at Fort George, now called Astoria, Oregon, to establish a supply center for the Hudson's Bay Company. Within a year, he moved to a more favorable location on the northern side of the Columbia, in what is now Washington State, and built a new trading post and named it Fort Vancouver. As the Post Administrator, the good hearted doctor maintained a very good relationship with neighboring Indians and used his medical skills to tend to the terrible fevers that broke out among them.

The Fort belonged to the Hudson's Bay Company that was a rival of American trappers, and although company policy discouraged American settlers, Dr. McLoughlin was not one to refuse a helping hand to any trapper or settler in distress. When frustrated with the Hudson's Bay Company policy opposing American settlers, Dr. McLoughlin resigned and moved to Oregon City on the Willamette Falls. By 1848, Oregon had grown so much that it was officially designated a territory, and by 1859, it became the nation's thirty-third state. McLoughlin remained a vibrant public figure and became the Mayor of Oregon City in 1851. Many of the debates concerning Oregon's statehood are said to have taken place in McLoughlin's living room, and the Oregon State Legislature aptly named him the "Father of Oregon."

The McLoughlin House was designated as the National Historic Site, one of the first in the west, in 1941. I thank my constituents in Clackamas County, particularly John Salisbury and the McLoughlin Memorial Association, for all of their hard work to preserve this Oregon treasure. Additionally, I thank Tracy Fortmann with the National Park Service at Fort Vancouver for her advocacy on behalf of the McLoughlin House. Mayor Alice Norris and the former mayors of Oregon City who have worked together to bring this legislation to the attention of the Oregon delegation deserve our thanks as well. Finally, I thank Representative HOOLEY for having the foresight to introduce this legislation in the House of Representatives in the 107th Congress and again in the 108th.

By Ms. SNOWE (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 603. A bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce "The Pathways to Self-Sufficiency Act of 2003." I am pleased to be joined in introducing this important legislation by my colleagues Senators BAUCUS, BINGAMAN and ROCKEFELLER.

This legislation is based upon the highly esteemed Maine program called "Parents as Scholars". This program, which uses State Maintenance of Effort, MOE, dollars to pay TANF-like benefits to those participating in post-secondary education, is a proven success in my state and is a wonderful foundation for a national effort.

We all agree that the 1996 welfare reform effort changed the face of this Nation's welfare system to focus it on work. To that end, I believe that this legislation bolsters the emphasis on "work first". Like many of my colleagues, I agree that the shift in the focus from welfare to work was the right decision, and that work should be the top priority. However, for those TANF recipients who cannot find a good job that will put them on the road toward financial independence, education might well be the key to a successful future of self-sufficiency.

As we have seen in Maine that education has played a significant role in breaking the cycle of welfare and giving parents the skills necessary to find better paying jobs. And we all know that higher wages are the light at the end of the tunnel of public assistance.

"The Pathways to Self-Sufficiency Act of 2003" provides States with the option to allow individuals receiving Federal TANF assistance to obtain post-secondary or vocational education. This legislation would give States the ability to use Federal TANF dollars to give those who are participating in vocational or post-secondary education the same assistance as they would receive if they were working.

We all know that supports like income supplements, child care subsidies, and transportation assistance among others, are essential to a TANF recipient's ability to make a successful transition to work. The same is true for those engaged in longer term educational endeavors. This assistance is especially necessary for those who are undertaking the challenge and the financial responsibility of post-secondary education, in the hopes of increasing their earning potential and employability. The goal of this program is to give participants the tools necessary to succeed into the future so that they can become, and remain, self-sufficient.

Choosing to go to college requires motivation, and graduating from college requires a great deal of commitment and work—even for someone who isn't raising children and sustaining a family. These are significant challenges, and that's even before taking into consideration the cost associated with obtaining a Bachelor's degree, with a four year program at the University of Maine currently costing almost $25,000. This legislation would provide those TANF recipients who have the ability and the will to go to college the assistance they need to sustain their families while they get a degree.

The value of promoting access to education in this manner to get people off public assistance is proven by the success of Maine's "Parents as Scholars", PaS, program. Maine's PaS graduates earn a median wage of $11.71 per hour after graduation up from a median of $8.00 per hour prior to entering college. When compared to the $7.50 median hourly wage of welfare leavers in Maine who have not received a post-secondary degree, PaS graduates are earning, on average, $160 more per week. That translates into more than $8,000 per year—a significant difference.

Furthermore,the median grade point average for PaS participants while in college was 3.4 percent,and a full 90 percent of PaS participants' GPA was over 3.0. These parents are giving their all to pull their families out of the cycle of welfare.

Recognizing that work is a priority under TANF, and building upon the successful Maine model, the "Pathways to Self-Sufficiency Act" requires that participants in post-secondary and vocational education also participate in work. During the first two years of their participation in these education programs, students must participate in a combination of colas time, study time, employment or work experience for at lest 24 hours per week—the same hourly requirement that the President proposes in his welfare reauthorization proposal.

During the second two years—for those enrolled in a four year program—the participant must work at least 15 hours in addition to class and study time, or engage in a combination activities, including colas and study time work or work experience, and training, for an average of 30 hours per week. And all the while, participants must maintain satisfactory academic progress as defined by their academia institution.

The bottom line is that if we expect parents to move from welfare to work and stay in the work force, we must give them the tools to find good jobs. For some people that means job training, for others that could mean dealing with a barrier like substance abuse or domestic violence, and for others, that might mean access to education that will secure them a good job and that will get them off and keep them off of welfare.

The experience of several "Parents as Scholar" graduates were recently captured in a publication published by the Maine Equal Justice Partners, and their experiences are testament to the fact that this program is a critically important step in moving towards self-sufficiency. In this report one Las graduate said of her experience, "If it weren't for 'Parents as Scholars' I would never have been able to attend college, afford child care, or put food on the table. Today, I would most likely be stuck in a low-wage job I hated barely getting by . . . I can now give my children the future they deserve."

Another said, "By earning my Bachelor's degree, I have become self sufficient. I was a waitress previously and would never have been able to support my daughter and I on the tips that I earned. I would encourage anyone to better their education if possible.

These are but a few comments from those who have benefited from access to post-secondary education. And,while these women have been able to attend college and pursue good jobs thanks tori the good will and the support of the people of Maine, Las has strained the state's budget. Giving States the option use Federal dollars to support these participants will make a tremendous difference in their ability to sustain these programs which have proven results. In Maine, nearly 90 percent of working graduates have left TANF permanently—and isn't that our ultimate goal?

I look forward to working with my colleagues to include this legislation in the upcoming welfare reauthorization. It is a critical piece of the effort to move people from welfare to work permanently and it has been missing from the federal program for too long.

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By Mr. SMITH (for himself, Mr. WYDEN, Mr. BAUCUS, Mr. ALLEN, Mr. WARNER, Mr. KERRY, Mr. KENNEDY, Mr. AKAKA, Mr. BURNS, Mr. COLEMAN, and Mr. DAYTON):

S. 605. A bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce legislation that would allow States with successful welfare to renew them for the next five years. In this effort, I am joined by Senators WYDEN, BAUCUS, ALLEN, WARNER, KERRY, KENNEDY, AKAKA, BURNS, and COLEMAN. All of our States and several others operate their welfare programs under waivers which allow them flexibility to design programs that work for people in their States.

The most comprehensive evaluation of welfare workforce strategies to date, commissioned and funded by the Department of Health and Human Services, demonstrated that a mixed strategy based on individual degree of job readiness was far and away the most effective way to transition families from welfare to work. This is the approach Oregon and others have taken, and I feel strongly that these States be allowed to continue their innovative and successful programs.

Oregon has long been considered a national leader in developing innovative strategies to serve its low-income citizens. Oregon's welfare waiver, known as "The Oregon Option," was implemented just a few months before passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Oregon Option reflects Oregon's strong belief in moving families forward to sustainable employment. Consistent with Oregon's reputation as an innovator, the Oregon Option also rejects a "one size fits all" approach for its low income families.

Oregon uses a labor market test to assess each person's ability to work. Families are expected to engage in intense job search for 45 days and if that process identifies significant barriers to families finding and retaining employment, case managers will work with the families to identify resources available to address those barriers. The case managers then work to develop appropriate plans that engage families in barrier removal activities, such as education, substance abuse or mental health treatment, finding housing for victims of domestic violence, while moving them toward employment. Oregon officials estimate that at any time, approximately 50 percent of all TANF families have substantial barriers to employment.

Oregon has demonstrated success in moving families into employment by fully utilizing its flexibility under the Oregon Option waiver. Oregon, and other states that have used federal flexibility to design successful programs, must not be forced either to abandon their effective approaches or to try to find loopholes to circumvent the approach mandated by current reauthorization proposals.

The legislation that my colleagues and I are introducing today will allow all states with currently operational TANF waivers, and states with waivers expiring after January 1, 2002, the option of renewing their waivers for the next five years, until the next scheduled reauthorization of welfare in 2008. This will ensure that successful programs designed by local people for local people aren't eliminated in favor of a "one-size-fits-all" federal program.

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By Mr. GREGG (for himself, Mr. KENNEDY, Mr. DEWINE, Mr. HARKIN, Mr. SMITH, Ms. MIKULSKI, Ms. COLLINS, Mr. BINGAMAN, Ms. SNOWE, Mr. SARBANES, Mr. KERRY, Mr. BAYH, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, and Mr. DASCHLE):

S. 606. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today, I am pleased to be joined by Senators KENNEDY, DEWINE, HARKIN, SMITH, MIKULSKI, COLLINS, BINGAMAN, SNOWE, SARBANES, KERRY, BAYH, CORZINE, and DAYTON in introducing the Public Safety Employer-Employee Cooperation Act of 2003. This legislation would extend to firefighters and police officers the right to discuss workplace issues with their employers.

With the enactment of the Congressional Accountability Act, State and local government employees remain the only sizable segment of workers left in America who do not have the basic right to enter into collective bargaining agreements with their employers. While most States do provide some collective bargaining rights for their public employees, others do not.

Studies have shown that communities which promote such cooperation enjoy much more effective and efficient delivery of emergency services. Such cooperation, however, is not possible in the States that do not provide public safety employees with the fundamental right to bargain with their employers.

The legislation I am introducing today is balanced in its recognition of the unique situation and obligation of public safety officers. To accomplish this the bill: 1. Requires States, within 2 years, to guarantee the right of public safety officers to form and voluntarily join a union to bargain collectively over hours, wages and conditions of employment; 2. Protects the right of public safety officers to form, join, or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal; 3. Prohibits the use of strikes, lockouts, sickouts, work slowdowns or any other action that is designed to compel an employer, officer or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of services; 4. Continues to allow States to enforce right-to-work laws which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees as a condition of employment; 5. Preserves the right of management to not bargain over issues traditionally reserved for management level decisions; 6. Exempts all states with a State bargaining law for public safety officers that are equal to or greater than the rights granted under Federal law; 7. Gives States the option to exempt from coverage subdivisions with populations of less than 5,000 or fewer than 25 full time employees.

Labor-management partnerships, which are built upon bargaining relationships, result in improved public safety. Employer-employee cooperation contains the promise of saving the taxpayer money by enabling workers to give input as to the most efficient way to provide services. In fact, States that currently give firefighters the right to discuss workplace issues actually have lower fire department budgets than States without those laws.

The Public Safety Employer-Employee Cooperation Act of 2003 will put firefighters and law enforcement officers on equal footing with other employees and provide them with the fundamental right to negotiate with employers over such basic issues as hours, wages, and workplace conditions.

I urge its adoption and ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 606

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2003".

### SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

### SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

### SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

### SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

### SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

### SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

### SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. KENNEDY. Mr. President, I am honored today to join Senator GREGG in introducing the Public Safety Employer-Employee Cooperation Act of 2003.

This bill is an important bipartisan effort to help protect our Nation's public safety officers on the job. The events of September 11 made clear that our Nation's true heroes are our fire fighters, police officers, and emergency medical technicians. We will never forget the sacrifices they made at the World Trade Center and the Pentagon. The photographs of tired, dust-covered, fire fighters confronting the unimaginable horror of that day are permanently emblazoned in our minds.

Thousands of public safety officers throughout the country serve in some of the country's most dangerous, strenuous and stressful jobs today. Every year, more than 80,000 police officers and 75,000 firefighters are injured on the job. An average of 160 police officers and nearly 100 firefighters die in the line of duty each year. It is a matter of basic fairness to give these courageous men and women the same rights that have long been enjoyed by other workers.

For more than 60 years, collective bargaining has enabled labor and management to work together to improve job conditions and increase productivity. Through collective bargaining, labor and management have led the way together on many important improvements in today's workplace—especially with regard to health and pension benefits, paid holidays and sick leave, and workplace safety.

Collective bargaining in the public sector, once a controversial issue, is now widely accepted. It has been widespread, since at least 1962, when President Kennedy signed an Executive order granting these basic rights to Federal employees. Congressional employees have had these rights since enactment of the Congressional Accountability Act almost a decade ago. It is long past time for State and local government employees to have Federal protection for the basic right to participate in collective bargaining agreements with their employers.

The bill we are introducing today extends this protection to firefighters, police officers, correctional officers, paramedics and emergency medical technicians. The bill guarantees the fundamental rights necessary for collective bargaining—the right to form and join a union; the right to bargain over hours, wages and working conditions; the right to sign legally enforceable contracts; and the right to a means to resolve impasses in negotiations.

The benefits of this bill are clear and compelling. It will lead to safer working conditions for public safety officers. States that lack these collective bargaining laws have death rates for fire fighters nearly double the rate in States in which such bargaining takes place. In 1993, fire fighters in nine of the 10 States with the highest fire fighter death rates did not have collective bargaining protection. Because public safety employees serve on the front lines in providing firefighting services, law enforcement services, and emergency medical services, they know what it takes to create safer working conditions. They should have a voice in decisions that can literally make a life-or-death difference on the job.

This bill will benefit all of us, not just public safety officers. When workers who actually do the job are able to provide advice on their working conditions, there are fewer injuries, increased morale, better information on new technologies, and more efficient ways to provide the services, all of which improve the safety and security of the communities that our public safety officers serve.

This bill will also save money for States and local communities. Experience has shown that when public safety officers can discuss workplace conditions with management, partnerships and cooperation develop and lead to improved labor-management relations and better, more cost-effective services. A study by the International Association of Fire Fighters shows that States and municipalities that give firefighters the right to discuss workplace issues have lower fire department budgets than States without such laws.

This bill accomplishes its goals in a reasonable way. It requires that public safety officers be given the opportunity to bargain collectively, but it does not require that employers adopt agreements, and it does not regulate the content of any agreements that are reached.

In States with collective bargaining laws that substantially provide the modest minimum standards in the bill—as a majority of States already do—those States will be unaffected by this legislation. Where States do not have such laws, they may choose to enact them, or to allow the Federal Labor Relations Authority to establish procedures for bargaining between public safety officers and their employers. This approach respects existing State laws, and gives each state the authority to choose the way in which it will comply with the requirements of this legislation. States will have full discretion to make decisions on the implementation and enforcement of the basic rights set forth in this proposal.

This amendment will not supersede State laws which already adequately provide for the exercise of—or are more protective of—collective bargaining rights by public safety officers. It is a matter of basic fairness for these courageous men and women to have the same rights that have long been enjoyed by other workers. They put their lives on the line to protect us every day. They deserve to have an effective voice on the job, and I urge the Senate to approve this important bipartisan legislation.

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By Mr. REED (for himself and Mr. KENNEDY):

S. 608. A bill to provide for personnel preparation, enhanced support and training for beginning special educators, and professional development of special educators, general educators, and early intervention personnel; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Personnel Excellence for Children with Disabilities Act of 2003 to ensure high quality personnel to serve students with disabilities.

I have long worked to improve the quality of teaching in America's classrooms for the simple reason that well-trained and well-prepared teachers, faculty, principals and administrators are critical to improving the educational performance and achievement of students.

As Congress turns to the reauthorization of the Individuals with Disabilities Education Act, IDEA, the focus shifts to increasing support for both new and veteran special education teachers, school principals, and the higher education faculty who train prospective special education teachers.

There are currently an estimated 6 million children who receive special education services. Yet, there are about 70,000 special education teaching vacancies in schools nationwide. The President's 2002 Commission on Excellence in Special Education report stated that "the growing shortage of special education teachers alarms this Commission." Moreover, an estimated 600,000 IDEA students are taught by unqualified or underqualified teachers nationwide. In some urban and rural areas, close to half of special education teachers are unqualified.

I am joined by Senator KENNEDY, a leader in improving education for all children, in introducing legislation today which would address and improve current conditions by enhancing personnel preparation, recruitment and retention, support and training for beginning special educators, as well as professional development for special educators, general educators, principals, paraprofessionals, and related services personnel.

The Personnel Excellence for Children with Disabilities Act modifies and strengthens the current State Improvement Grant program to focus solely on personnel and professional development, including support to school districts to meet the personnel requirements under IDEA.

Our legislation also establishes two grant programs. One would fund partnerships of school districts, institutions of higher education, and elementary and secondary schools that focus on meeting the needs of beginning special educators, through an additional 5th year clinical learning opportunity or the creation or support of professional development schools. Professional development schools seek to improve the professional status of teaching through a renewal of schools and preservice teacher education, in-service education of veteran teachers, and research to add to the knowledge base. The other grant program seeks to ensure that general educators, including principals and administrators, have the skills, knowledge, and leadership training to improve results for children with disabilities in their schools and classrooms. Currently, approximately half of students with disabilities spend 79 percent or more of their time in regular classes, according to the Department of Education's Annual Report to Congress for 2001. Only 20 percent are served outside of regular classes for 60 percent or more of the time.

Lastly, our legislation enhances the personnel preparation programs under the current IDEA Section 673. These programs provide grants to institutions of higher education to enhance the preparation of special educators.

In sum, the Personnel Excellence for Children with Disabilities Act seeks to enhance: the teaching skills of special educators, general educators, early intervention personnel, paraprofessionals and related services personnel; the leadership skills of principals; collaboration among special educators, general educators, and other personnel; mentoring and other induction support for beginning special educators; and training programs at institutions of higher education. The Act would also boost the ability of educators and personnel to: involve and work with parents, implement positive behavioral interventions; improve early intervention services for infants, toddlers, and preschoolers; and provide transition services and postsecondary opportunities. It would also improve their ability to: use classroom-based techniques to identify student potentially eligible for services; use technology to enhance learning of children with disabilities and communicate with parents; and ensure an effective IEP process.

The time for action is now because 98 percent of school districts report that meeting the growing demand for special education teachers is a top priority. Annual attrition rates for special education teachers are over 13 percent: 6 percent for those who leave the field entirely; and an additional 7.4 percent who transfer to general education. More than 200,000 new special education teachers will be needed in the next five years, according to U.S. Department of Education estimates. Investing in personnel preparation is critical for addressing these needs which, in turn, will improve outcomes and results for children with disabilities.

I urge my colleagues to join us in this essential endeavor by cosponsoring this legislation and working for its inclusion in the reauthorization of the IDEA.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 608

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Personnel Excellence for Students with Disabilities Act".

### SEC. 2. STATE PERSONNEL AND PROFESSIONAL DEVELOPMENT GRANTS.

Subpart 1 of part D (20 U.S.C. 1451 et seq.) is amended to read as follows:

## "Subpart 1—State Personnel and Professional Development Grants

### "SEC. 651. FINDINGS; PURPOSE; DEFINITION.

"(a) FINDINGS.—Congress finds the following:

"(1) The right of all children with disabilities to a free and appropriate public education requires States to adopt a comprehensive strategy to address teacher shortages and ensure adequate numbers of teachers to serve children with disabilities.

"(2) In order to ensure that the persons responsible for the education of children with disabilities possess the skills and knowledge necessary to address such children's educational and related needs, States must promote comprehensive programs of professional development.

"(3) The dissemination of research-based knowledge about successful teaching practices and models to teachers and other personnel serving children with disabilities can result in improved outcomes for children with disabilities.

"(b) PURPOSE.—The purpose of this subpart is to assist State educational agencies and local educational agencies, and their partners referred to in section 652, in providing support for, and improving their systems of, personnel preparation and professional development to improve results for children with disabilities.

"(c) DEFINITION OF POSTSECONDARY OPPORTUNITIES.—In this subpart, the term 'postsecondary opportunities' includes the transition from school to postsecondary education, adult services, or work.

### "SEC. 652. ELIGIBILITY AND COLLABORATION PROCESS IN GRANTS TO STATES.

"(a) ELIGIBLE APPLICANTS; DURATION OF ASSISTANCE.—A State educational agency may apply for a grant under this subpart for a grant period of 4 years.

"(b) PARTNERSHIPS AND CONSULTATIONS.—In order to be considered for a grant under this subpart, a State educational agency shall—

"(1) establish a formal partnership with local educational agencies, the lead State agency for part C, the State agency responsible for child care, the State vocational rehabilitation agency, the State agency for higher education, representatives of State-approved special education personnel preparation programs in institutions of higher education within the State, parent training and information centers or community parent resource centers, and other State agencies involved in, or concerned with, the education of children with disabilities; and

"(2) consult with other public agencies, persons, and organizations with relevant expertise in, and concerned with, the education of children with disabilities, including—

"(A) parents of children with disabilities and parents of nondisabled children;

"(B) general and special education teachers, paraprofessionals, related services personnel, and early intervention personnel;

"(C) the State advisory panel established under part B;

"(D) the State interagency coordinating council established under part C;

"(E) community-based and other nonprofit organizations representing individuals with disabilities; and

"(F) other providers of professional development and personnel preparation for personnel that work with infants, toddlers, preschoolers, and children with disabilities, and nonprofit organizations whose primary purpose is education research and development, when appropriate.

### "SEC. 653. STATE APPLICATIONS.

"(a) IN GENERAL.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

"(b) PARTNERSHIP AGREEMENT.—Each application submitted pursuant to this section shall specify the nature and extent of the partnership among the State educational agency and other partners (as described in section 652(b)), including the respective roles of each member of the partnership, and shall describe how grant funds allocated to the State under section 655 will be used in undertaking the improvement strategies described under subsection (c)(3).

"(c) PERSONNEL AND PROFESSIONAL DEVELOPMENT PLAN.—

"(1) IN GENERAL.—Each application submitted pursuant to this section shall include a personnel and professional development plan that is—

"(A) based on the needs assessment described in paragraph (2);

"(B) developed by the State educational agency in collaboration with the partners described under section 652(b)(1);

“(C) designed to enable the State to meet the standards described in section 612(a)(15) and implement the comprehensive system of personnel development under section 612(a)(14); and

“(D) coordinated with other State professional development plans for educators and personnel working with children in early childhood education programs.

“(2) NEEDS ASSESSMENT.—Each personnel and professional development plan shall include an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel that serve infants, toddlers, preschoolers, and children with disabilities within the State. Such assessment shall be based on an analysis of—

“(A) current and anticipated personnel vacancies and shortages in local educational agencies and local early intervention agencies or providers throughout the State, including the number of individuals currently serving children with disabilities that—

“(i) are not highly qualified, consistent with section 612(a)(15);

“(ii) are individuals with temporary, provisional, or emergency certification; or

“(iii) are individuals teaching with an alternative certification;

“(B) the extent and amount of certification or retraining necessary to eliminate the vacancies and shortages described in subparagraph (A);

“(C) current preservice and inservice training and preparation programs and activities available and accessible in the State to personnel that serve infants, toddlers, preschoolers, and children with disabilities, including—

“(i) the number of degree, certification, and licensure programs that are preparing general and special education teachers and personnel to serve children with high-incidence and low-incidence disabilities;

“(ii) the number of noncertification programs designed to train and prepare personnel to serve infants, toddlers, preschoolers, and children with disabilities, including the number of programs designed to provide training in early intervention and transitional services; and

“(iii) the number of programs or activities designed to provide the knowledge and skills necessary to ensure the successful transition of students with disabilities into postsecondary opportunities; and

“(D) information, reasonably available to the State, on the scope and effectiveness of current training and preparation programs and activities available in the State to personnel that serve children with disabilities, including—

“(i) access of general education teachers to preservice and inservice training in early intervention and special education, including training related to the diverse learning and developmental needs of children with disabilities;

“(ii) rates of attrition of special education teachers and early intervention personnel throughout the State and a description of factors that contribute to such attrition;

“(iii) data and major findings of the Secretary's most recent reviews of State compliance, as such reviews relate to meeting the standards described in section 612(a)(15) and implementing a comprehensive system of personnel development described under sections 612(a)(14) and 635(a)(8); and

“(iv) data regarding disproportionality required under section 618.

“(3) IMPROVEMENT STRATEGIES.—Each personnel and professional development plan shall describe strategies necessary to address the preparation and professional development areas in need of improvement, based on the needs assessment conducted under paragraph (2), that include—

“(A) how the State will respond to the needs for preservice and inservice preparation of personnel who work with infants, toddlers, preschoolers, and children with disabilities, including strategies to—

“(i) prepare all general and special education personnel (including both professional and paraprofessional personnel who provide special education, general education, or related services)—

“(I) with the knowledge and skills needed to meet the needs of, and improve results for, children with disabilities;

“(II) to utilize classroom-based techniques to identify students who may be eligible for special education services or other services prior to making referrals for special education services;

“(III) to help students with disabilities meet State academic standards;

“(IV) to work as part of a collaborative team, especially training related to all aspects of planning, design, and effective implementation of an IEP; and

“(V) to utilize effective parental involvement practices needed to work with and involve parents of children with disabilities in their child's education;

“(ii) prepare professionals, including professionals in preschool settings, and paraprofessionals in the area of early intervention with the knowledge and skills needed to meet the needs of infants, toddlers, and preschoolers with disabilities;

“(iii) develop the knowledge and skills and enhance the ability of teachers and other personnel responsible for providing transition services to improve such services and postsecondary opportunities for children with disabilities;

“(iv) enhance the ability of principals to provide instructional leadership on, and teachers and other school staff to use, strategies, such as positive behavioral interventions, to address the behavior of children with disabilities that impedes the learning of children with disabilities and others; and

“(v) ensure that school personnel who work with students with significant health, mobility, or behavior needs receive training, as appropriate, prior to serving such students;

“(B) how the State will collaborate with institutions of higher education and other entities that (on both a preservice and an inservice basis) prepare personnel who work with children with disabilities to develop such entities' capacity to support quality professional development programs that meet State and local needs;

“(C) how the State will identify model certification programs that may be used to create and improve certification requirements for personnel working with infants, toddlers, preschoolers, and children with disabilities;

“(D) how the State will provide technical assistance to local educational agencies, schools, and early intervention providers to improve the quality of training and professional development available to meet the needs of personnel that serve children with disabilities;

“(E) how the State will work in collaboration with other States, especially neighboring States, when possible, to—

“(i) address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

“(ii) support or develop programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; and

“(iii) develop, as appropriate, common certification criteria;

“(F) how the State will acquire and disseminate, to teachers, administrators, related services personnel, other service providers, and school board members, significant knowledge derived from educational research and other sources, and how the State will adopt promising practices, materials, and technology;

“(G) how the State will recruit and retain qualified personnel in geographic areas of greatest need, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, related services, and early intervention;

“(H) how the State will create collaborative training models and provide for the joint training of parents and special education, related services, and general education personnel in providing quality services and programs, and family involvement and support;

“(I) how the State will address systemic problems associated with meeting the standards described in section 612(a)(15) and implementing the comprehensive system of personnel development under section 612(a)(14), as identified in Federal compliance reviews, including shortages of qualified personnel; and

“(J) how the State will address the findings from the data required to be gathered under section 618 and the steps the State will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, including the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps.

“(4) COORDINATION AND INTEGRATION.—Each application submitted pursuant to this section shall—

“(A) include assurances that—

“(i) the personnel and professional development plan is integrated, to the maximum extent possible, with State plans and activities carried out under other Federal and State laws that address personnel recruitment, retention, and training, including plans carried out under titles I and II of the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, the Higher Education Act of 1965, and the Child Care and Development Block Grant Act of 1990, as appropriate;

“(ii) the personnel and professional development plan is integrated and based, to the maximum extent possible, on research and activities supported by grants under sections 672 and 673 and conducted by institutions of higher education throughout the State; and

“(iii) the improvement strategies described in paragraph (3) will be coordinated with activities undertaken by public and private institutions of higher education, as well as with public and private sector resources, when appropriate; and

“(B) contain a description of the amount and nature of funds from any other sources, including part B funds retained for use at the State level for personnel and professional development purposes under sections 611(f) and 619(d), and part C funds used in accordance with section 638, that will be committed to the systemic-change activities under this section.

“(5) Other information.—A State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may require, such additional information regarding the preparation and professional development of personnel that serve children with disabilities in the personnel and professional development plan.

### “SEC. 654. STATE USE OF FUNDS.

“(a) In General.—A State educational agency that receives a grant under this subpart shall—

“(1) expend funds not reserved under paragraph (2) to carry out improvement strategies contained in the personnel and professional development plan under section 653(c)(3); and

“(2) in the case of a State educational agency serving a State that the Secretary determines has not met the standards in section 612(a)(15) or implemented the comprehensive system of personnel development under section 612(a)(14), reserve not less than 35 percent of funds made available through the grant to award subgrants to local educational agencies as described in section 657.

“(b) Contracts and Subcontracts.—Consistent with the partnership agreement described under section 652(b), a State educational agency shall award contracts or subgrants to local educational agencies and institutions of higher education with State-approved special education personnel preparation programs, and may award contracts or subgrants to the lead State agency for part C, or other nonprofit entities, as appropriate, to carry out such State educational agency's personnel and professional development plan under this subpart.

“(c) Supplement, Not Supplant.—Funds received by a State educational agency under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

### “SEC. 655. STATE ALLOTMENTS.

“(a) In General.—The Secretary shall make a grant to each State educational agency whose application the Secretary has approved under section 653. Each grant shall consist of the allotment determined for a State under subsection (b).

“(b) Determination of Allotments.—

“(1) Reservation of funds.—From the total amount appropriated under section 658 for a fiscal year, the Secretary shall reserve—

“(A) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the freely associated States of the Marshall Islands, and the Federated States of Micronesia, to be distributed among those areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this subpart; and

“(B) one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs.

“(2) State allotments.—

“(A) Minimum allotment.—From the funds appropriated under section 658, and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount for each fiscal year that is not less than $500,000.

“(B) Allotment of remaining funds.—For any fiscal year for which the funds appropriated under section 658, and not reserved under paragraph (1), exceed the total amount required to make allotments under subparagraph (A), the Secretary shall distribute to each of the States described in subparagraph (A), the remaining excess funds after considering—

“(i) the amount of the excess funds available for distribution;

“(ii) the relative population of the States; and

“(iii) the scope and quality of activities proposed by the States.

“(3) Funds to remain available.—Allotments made to States under this section shall remain available until expended.

“(4) Reallotment.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

### “SEC. 656. EVALUATIONS.

“(a) In General.—Each State educational agency that receives a grant under this subpart shall submit an evaluation to the Secretary at such time as the Secretary may require, but not more frequently than annually.

“(b) Evaluation Components.—Each evaluation submitted to the Secretary shall include—

“(1) the data contained in the needs assessment described in section 653(c)(2);

“(2) a description of the progress made by the State in implementing each of the strategies described in section 653(c)(3);

“(3) an assessment, conducted on a regular basis, of the extent to which the personnel and professional development plan has been effective in enabling States to meet the standards described in section 612(a)(15) and implement the comprehensive system of personnel development under section 612(a)(14); and

“(4) such other information as the Secretary may require.

“(c) Report.—The Secretary shall submit to Congress a report on the evaluations received under this section.

### “SEC. 657. SUBGRANT AWARDS TO LOCAL EDUCATIONAL AGENCIES.

“(a) In General.—From funds made available under section 654(a)(2), a State educational agency shall award a subgrant to eligible local educational agencies to enable the eligible local educational agencies to recruit and retain special education teachers, paraprofessionals, and related services providers, to ensure that such agency meets the requirements in the policy adopted by the State in section 612(a)(15).

“(b) Eligible Local Educational Agency.—

“(1) In general.—A local educational agency shall be eligible to receive a subgrant under this section if the local educational agency—

“(A)(i) has failed to meet, or is in danger of failing to meet, the standards described in section 612(a)(15);

“(ii) serves a high number or percentage of low-income students; and

“(iii) has a demonstrated need to prepare and train new or existing personnel to meet the needs of children with disabilities; and

“(B) collects and uses data to determine local needs for professional development, hiring, and retention of personnel, as identified by the local educational agency and school staff—

“(i) with the involvement of teachers, other personnel, and parents; and

“(ii) after taking into account the activities that need to be conducted—

“(I) to give general and special education teachers, paraprofessionals, and related services personnel the means, including subject matter knowledge and teaching skills, to improve results and outcomes for students with disabilities; and

“(II) to give principals the instructional leadership skills to help teachers and related services personnel provide students with the opportunity described in subclause (I).

“(2) Consortium.—The term ‘eligible local educational agency’ may include a consortium of such agencies.

“(c) Application.—

“(1) In general.—An eligible local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

“(2) Contents.—Each application submitted under this subsection shall include—

“(A) a description of the activities to be carried out by the local educational agency and how such activities will support the local educational agency's efforts to provide professional development and to recruit and retain highly qualified teachers; and

“(B) a description of the needs described in subsection (b)(1)(B).

“(d) Grants Awarded.—State educational agencies shall award grants under this section on the basis of the quality of the applications submitted, except that State educational agencies shall give priority to eligible local educational agencies with the greatest need.

“(e) Use of Funds.—

“(1) In general.—An eligible local educational agency that receives a subgrant under this section shall use the funds made available through the subgrant to carry out 1 or more of the following activities:

“(A) Providing high quality professional development for special education teachers.

“(B) Providing high quality professional development to personnel who serve infants, toddlers, and preschoolers with disabilities.

“(C) Providing high quality professional development for principals, including training in areas such as behavioral supports in the school and classroom, paperwork reduction, and promoting improved collaboration between special education and general education teachers.

“(D) Mentoring programs.

“(E) Team teaching.

“(F) Case load reduction.

“(G) Paperwork reduction.

“(H) Financial incentives, as long as those incentives are linked to participation in activities that have proven effective in recruiting and retaining teachers and are developed in consultation with the personnel of the eligible local educational agency.

“(I) Hiring and training high quality paraprofessionals and providing other high quality instructional support.

“(J) Partnering with institutions of higher education for the training and retraining of teachers and to carry out any other activities under this paragraph.

“(2) Effective programs.—Funds under this section shall be used only for those activities that are linked to participation in activities that have proven effective in retaining teachers.

“(f) Matching Requirement.—Each eligible local educational agency awarded a subgrant under this section shall contribute matching funds, in an amount equal to not less than 25 percent of the subgrant award, toward carrying out the activities assisted under this section.

### "SEC. 658. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $250,000,000 for fiscal year 2004 and such sums as may be necessary for each succeeding fiscal year.".

### SEC. 3. ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS AND GENERAL EDUCATORS.

Chapter 1 of subpart 2 of part D of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.) is amended by inserting after section 674 the following:

### "SEC. 675. ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS.

"(a) Definitions.—In this section:

"(1) Eligible entity.—The term 'eligible entity' means a partnership between 1 or more institutions of higher education with a State-approved special education personnel program, and 1 or more local educational agencies.

"(2) Professional development partnership.—

"(A) In general.—The term 'professional development partnership' means a partnership between an eligible entity and an elementary school or secondary school that is based on a mutual commitment to improve teaching and learning.

"(B) Additional entities.—A professional development partnership may include—

"(i) a State educational agency;

"(ii) a teaching organization;

"(iii) a professional association of principals; or

"(iv) a nonprofit organization whose primary purpose is—

"(I) education research and development; or

"(II) training special education and early intervention personnel.

"(b) Authorization of Program.—

"(1) In general.—From amounts appropriated under subsection (g) for a fiscal year, the Secretary shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable such entities to establish professional development partnerships to improve the education of children with disabilities by—

"(A) ensuring a strong and steady supply of new highly qualified teachers of children with disabilities;

"(B) helping address challenges in the local educational agency to recruiting highly qualified teachers and retaining such teachers; and

"(C) providing for an exchange of knowledge and skills among special education teachers, including furthering the development and professional growth of veteran special education teachers.

"(2) Competitive basis.—Each grant, contract, or cooperative agreement under this section shall be awarded or entered into on a competitive basis.

"(3) Duration.—Each grant, contract, or cooperative agreement under this section shall be awarded or entered into for a period of not less than 3 and not more than 5 years.

"(4) Priority.—In awarding grants or entering into contracts or cooperative agreements under this section, the Secretary shall give priority to eligible entities that—

"(A) serve high numbers or percentages of low-income students; and

"(B) serve schools that have failed to make adequate yearly progress toward enabling children with disabilities to meet academic achievement standards.

"(c) Applications.—An eligible entity desiring a grant, contract, or cooperative agreement under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

"(1) describe—

"(A) the proposed activities of the professional development partnership and how the activities will be developed in consultation with teachers;

"(B) how the proposed activities will prepare teachers to implement research-based, demonstrably successful, and replicable instructional practices that improve outcomes for children with disabilities;

"(C) how the eligible entity will ensure the participation of elementary schools or secondary schools as partners in the professional development partnership, and how the research and knowledge generated by the professional development partnership will be disseminated and implemented in the elementary schools or secondary schools that are served by the local educational agency and are not partners in the professional development partnership;

"(D) how the process for developing a new preservice education program or restructuring an existing program will improve teacher preparation at the institution of higher education;

"(E) how the proposed activities will include the participation of schools, colleges, or other departments within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

"(F) how the proposed activities will increase the numbers of qualified personnel, including paraprofessionals, administrators, and related services personnel, that receive certification and serve children with disabilities in elementary schools or secondary schools;

"(G) how the proposed activities will recruit diverse prospective special education teachers;

"(H) how the eligible entity will collaborate with the State educational agency to ensure that proposed activities will be coordinated with activities established by the State to improve systems for personnel preparation and professional development pursuant to subpart 1;

"(I) how the grant funds will be divided among the members of the professional development partnership and the responsibilities each partner has agreed to undertake in the use of the grant funds and other related funds; and

"(J) how the eligible entity will gather information in order to assess the impact of the activities assisted under this section on teachers and the students served under this section; and

"(2) identify the lead fiscal agent of the professional development partnership responsible for the receipt and disbursement of funds under this section.

"(d) Authorized Activities.—Each eligible entity receiving a grant or entering into a contract or cooperative agreement under this section shall use the grant funds to establish a professional development partnership that—

"(1) develops a preservice teacher education program, or enhances and restructures an existing program, to prepare special education teachers, at colleges or departments of education within the institution of higher education, by incorporating an additional 5th year clinical learning opportunity, field experience, or supervised practicum into a program of preparation and coursework for special education teachers, that includes—

"(A) developing new curricula and coursework for the preparation of prospective special education teachers, including preparation to teach in core academic subjects;

"(B) support for new faculty positions to provide, coordinate, and oversee instruction of the clinical learning opportunity, field experience, or supervised practicum;

"(C) new, ongoing performance-based review procedures to assist and support the learning of prospective special education teachers;

"(D) providing assistance to students for stipends and costs associated with tuition and fees for continued or enhanced enrollment in a preparation program for special education teachers; and

"(E) supporting activities that increase the placement of highly qualified teachers in elementary schools and secondary schools; or

"(2) creates or supports professional development schools that—

"(A) provide high quality induction opportunities with ongoing support for beginning special education teachers;

"(B) provide mentoring, of prospective and beginning special education teachers by veteran special education teachers, in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

"(C) provide high quality inservice professional development to veteran special education teachers through the ongoing exchange of information and instructional strategies among prospective special education teachers and faculty of the institution of higher education;

"(D) prepare special education teachers to—

"(i) work collaboratively with general education teachers and related services personnel; and

"(ii) involve parents in the education of such parents' children; and

"(E) provide preparation time for faculty in the professional development school, and other faculty of the institution of higher education, to design and implement curriculum, classroom experiences, and ongoing professional development opportunities for prospective and beginning special education teachers.

"(e) Supplement, Not Supplant.—Funds appropriated under this section shall be used to supplement and not supplant other Federal, State, and local public funds available for the professional development or preservice preparation of special education teachers.

"(f) Evaluation.—

"(1) In general.—The Secretary shall conduct biennial, independent, national evaluations of the activities assisted under this part not later than 3 years after the date of enactment of the Personnel Excellence for Students with Disabilities Act. The evaluation shall include information on the impact of the activities assisted under this section on outcomes for children with disabilities.

"(2) Report.—The Secretary shall report to Congress on the results of the evaluation.

"(3) Dissemination.—The Secretary shall widely disseminate effective practices identified through the evaluation.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year.

### "SEC. 676. TRAINING TO SUPPORT GENERAL EDUCATORS.

"(a) Definitions.—In this section:

“(1) ELIGIBLE ENTITIES.—The term ‘eligible entity’ means a partnership that—

“(A) shall include—

“(i) 1 or more local educational agencies; and

“(ii) 1 or more State-approved special education personnel preparation programs; and

“(B) may include a State educational agency, a teaching organization, a professional association of principals, an educational nonprofit organization, or another group or institution that has expertise in special education and is responsive to the needs of teachers.

“(2) GENERAL EDUCATOR.—The term ‘general educator’ includes a teacher, a principal, a school superintendent, or school faculty, such as a school counselor.

“(3) POSTSECONDARY OPPORTUNITIES.—The term ‘postsecondary opportunities’ includes the transition from school to postsecondary education, adult services, or work.

“(b) AUTHORIZATION OF PROGRAM.—

“(1) ASSISTANCE AUTHORIZED.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable the eligible entities to provide professional development, leadership training, and collaborative opportunities to general educators to ensure that general educators have the skills and knowledge to meet the needs of, and improve results for, children with disabilities.

“(2) COMPETITIVE AWARDS.—The Secretary shall award grants, contracts, and cooperative agreements under this section on a competitive basis.

“(c) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this section for a period of not less than 3 and not more than 5 years.

“(d) APPLICATION.—An eligible entity desiring a grant, contract, or cooperative agreement under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

“(1) describe—

“(A) the proposed activities to be assisted by the eligible entity;

“(B) how the eligible entity will implement research-based, demonstrably successful, and replicable instructional practices that improve outcomes for children with disabilities;

“(C) how the eligible entity will implement training and collaborative opportunities on a schoolwide basis in schools within the local educational agency;

“(D) the eligible entity's strategy to provide general educators with—

“(i) professional development focused on addressing the needs of children with disabilities in their classrooms; and

“(ii) training and opportunities to collaborate with special education teachers and related services personnel to better serve students' needs;

“(E) the eligible entity's strategy to provide principals, superintendents, and other administrators with instructional leadership skills;

“(F) how the eligible entity will provide training to general educators to enable the general educators to work with parents and involve parents in their child's education;

“(G) how the eligible entity will collaborate with the State educational agency to ensure that proposed activities will be coordinated with activities established by the State to improve systems for personnel preparation and professional development pursuant to subpart 1;

“(H) how the grant funds will be effectively coordinated with all Federal, State, and local personnel preparation and professional development funds and activities;

“(I) how the eligible entity will assess the impact of the activities conducted and how the knowledge and effective practices generated by the eligible entity will be widely disseminated;

“(J) how the grant funds will be divided among the members of the partnership and the responsibilities each partner has agreed to undertake in the use of the grant funds and other related funds; and

“(2) identify the lead fiscal agent for the eligible entity.

“(e) AUTHORIZED ACTIVITIES.—Funds provided under this section may be used for the following activities:

“(1) To provide high quality professional development to general educators that develops the knowledge and skills, and enhances the ability, of general educators to—

“(A) utilize classroom-based techniques to identify students who may be eligible for special education services, and deliver instruction in a way that meets the individualized needs of children with disabilities through appropriate supports, accommodations, and curriculum modifications;

“(B) work collaboratively with special education teachers and related services personnel;

“(C) implement strategies, such as positive behavioral interventions, to address the behavior of children with disabilities that impedes the learning of such children and others;

“(D) prepare children with disabilities to participate in statewide assessments (with and without accommodations) and alternative assessment, as appropriate, and achieve high marks;

“(E) develop effective practices for ensuring that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965;

“(F) provide transition services to improve such services and postsecondary opportunities for children with disabilities;

“(G) work with and involve parents of children with disabilities in their child's education;

“(H) understand how to effectively construct IEPs, participate in IEP meetings and implement IEPs;

“(I) use universally designed technology and assistive technology devices and services to enhance learning by children with disabilities and to communicate with parents; and

“(J) in the case of principals and superintendents, be instructional leaders and promote improved collaboration between general educators, special education teachers, and related services personnel.

“(2) Provide release and planning time for the activities described in this section.

“(f) SUPPLEMENT, NOT SUPPLANT.—Funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available for training to support general educators.

“(g) EVALUATIONS.—

“(1) IN GENERAL.—The Secretary shall conduct biennial, independent, national evaluations of the activities assisted under this section not later than 3 years after the date of enactment of the Personnel Excellence for Students with Disabilities Act. The evaluations shall include information on the impact of the activities assisted under this section on outcomes for children with disabilities.

“(2) REPORT.—The Secretary shall prepare and submit to Congress a report on the evaluations.

“(3) DISSEMINATION.—The Secretary shall provide for the wide dissemination of effective models and practices identified in the evaluations.

“(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2004 and such sums as may be necessary for each succeeding fiscal year.”.

### SEC. 4. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

Section 673 of the Individuals with Disabilities Education Act (20 U.S.C. 1473) is amended—

(1) in subsection (a)(1), by inserting before the semicolon “, consistent with subpart 1”;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by amending subparagraph (C) to read as follows:

“(C) Preparing personnel in the innovative uses and application of technology, including implementation of universally designed technologies and assistive technology devices and assistive technology services, to enhance learning by children with disabilities through early intervention, educational, and transitional services, and to communicate with parents to improve home and school communication.”;

(ii) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(iii) by inserting after subparagraph (D) the following:

“(E) Preparing personnel to work in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.”; and

(iv) by adding at the end the following:

“(H) Providing continuous personnel preparation, training, and professional development for beginning special education teachers that is designed to provide support and ensure retention of such teachers.

“(I) Preparing personnel on effective parental involvement practices to enable the personnel to work with parents and involve parents in the education of such parents' children.”; and

(B) by amending paragraph (4) to read as follows:

“(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that include 1 or more of the following:

“(A) A proposal to prepare personnel in more than 1 low-incidence disability, such as deafness and blindness.

“(B) A demonstration of effective partnering with local educational agencies that ensures recruitment and subsequent retention of highly qualified personnel to serve children with disabilities.

“(C) A proposal to address the personnel and professional development needs in the State, as identified in subpart 1.”;

(3) in subsection (d)(2)—

(A) in subparagraph (C)—

(i) in clause (i), by striking “and” after the semicolon;

(ii) in clause (ii), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

"(iii) to implement strategies to reduce significant disproportionality described in section 618.";

(B) in subparagraph (E), by inserting before the period ", including model teaching practices to assist such persons to work effectively with parents and involve parents in the education of such parents' children"; and

(C) by adding at the end the following:

"(L) Developing strategies to improve personnel training, recruitment, and retention of special education teachers in special education in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers of limited English proficient children.";

(4) in subsection (e)(1), by inserting "emotional or behavioral disorders," after "impairment,";

(5) in subsection (h)—

(A) in paragraph (1)—

(i) by striking "2 years" and inserting "1 year"; and

(ii) by striking "OBLIGATION.—" and all that follows through "Each application" and inserting "OBLIGATION.—Each application"; and

(B) by striking paragraph (2);

(6) by striking subsection (i) and inserting the following:

"(i) SCHOLARSHIPS.—

"(1) IN GENERAL.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).

"(2) DETERMINATION OF AMOUNTS.—The Secretary may permit a grant recipient to determine the amount of funds available for scholarships, necessary stipends, and allowances, that is consistent with such recipient's grant award and the purposes of such grant.";

(7) by redesignating subsection (j) as subsection (k);

(8) by inserting after subsection (i) the following:

"(j) DEVELOPMENT OF NEW PROGRAMS OR RESTRUCTURING OF EXISTING PROGRAMS.—In making awards under subsections (b), (c), (d), and (e), the Secretary may support programs that use award funds to develop new, or enhance and restructure existing, personnel preparation programs."; and

(9) in subsection (k) (as redesignated by paragraph (7))—

(A) by inserting "$250,000,000 for fiscal year 2004 and" after "this section"; and

(B) by striking "of the fiscal years 1998 through 2002" and inserting "succeeding fiscal year".

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By Mr. LEAHY (for himself, Mr. LEVIN, Mr. LIEBERMAN, Mr. JEFFORDS, and Mr. BYRD):

S. 609. A bill to amend the Homeland Security Act of 2002 (Public Law 107-296) to provide for the protection of voluntarily furnished confidential information, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, last year when I voted to support passage of the Homeland Security Act, HSA, I voiced concerns about several flaws in the legislation. I called for the Administration and my colleagues on both sides of the aisle to monitor implementation of the new law and to craft corrective legislation in the 108th Congress. One of my chief concerns with the HSA was a subtitle of the act that granted an extraordinarily broad exemption to the Freedom of Information Act, FOIA, in exchange for the cooperation of private companies in sharing information with the government regarding vulnerabilities in the nation's critical infrastructure.

Unfortunately, the law that was enacted undermines Federal and State sunshine laws permitting the American people to know what their government is doing. Rather than increasing security by encouraging private sector disclosure to the government, it guts FOIA at the expense of our national security and public health and safety.

On March 16, we mark Freedom of Information Day, which falls on the anniversary of James Madison's birthday. Madison said, "A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy or perhaps both." As a long-time supporter of open government, I believe we must heed Madison's warning and revisit the potentially damaging limitations placed on access to information by the HSA.

I rise today to introduce legislation with my distinguished colleagues Senator LEVIN, Senator JEFFORDS, Senator LIEBERMAN, and Senator BYRD to restore the integrity of FOIA. I want to thank my colleagues for working with me on this important issue of public oversight. This bill protects Americans' "right to know" while simultaneously providing security to those in the private sector who voluntarily submit critical infrastructure records to the newly created Department of Homeland Security, DHS.

Encouraging cooperation between the private sector and the government to keep our critical infrastructure systems safe from terrorist attacks is a goal we all support. But the appropriate way to meet this goal is a source of great debate—a debate that has been all but ignored since the enactment of the HSA last year.

The HSA created a new FOIA exemption for "critical infrastructure information." That broadly defined term applies to information regarding a variety of facilities—such as privately operated power plants, bridges, dams, ports, or chemical plants—that might be targeted for a terrorist attack. In HSA negotiations last fall, House Republicans and the administration promoted language that they described as necessary to encourage owners of such facilities to identify vulnerabilities in their operations and share that information with the Department of Homeland Security, DHS. The stated goal was to ensure that steps could be taken to ensure the facilities' protection and proper functioning.

In fact, such descriptions of the legislation were disingenuous. These provisions, which were eventually enacted in the HSA, shield from FOIA almost any voluntarily submitted document stamped by the facility owner as "critical infrastructure." This is true no matter how tangential the content of that document may be to the actual security of a facility. The law effectively allows companies to hide information about public health and safety from American citizens simply by submitting it to DHS. The enacted provisions were called "deeply flawed" by Mark Tapscott of the Heritage Foundation in a November 20, 2002 Washington Post op-ed. "Too Many Secrets," Washington Post, November 20, 2002, at A25. He argued that the "loophole" created by the law "could be manipulated by clever corporate and government operators to hide endless varieties of potentially embarrassing and/or criminal information from public view."

In addition, under the HSA, disclosure by private facilities to DHS neither obligates the private company to address the vulnerability, nor requires DHS to fix the problem. For example, in the case of a chemical spill, the law bars the government from disclosing information without the written consent of the company that caused the pollution. As the Washington Post editorialized on February 10, 2003, "A company might preempt environmental regulators by 'voluntarily' divulging incriminating material, thereby making it unavailable to anyone else." "Fix This Loophole," Washington Post, February 10, 2003, at A20.

The new law also 1. shields the companies from lawsuits to compel disclosure, 2. criminalizes otherwise legitimate whistleblower activity by DHS employees, and 3. preempts any state or local disclosure laws.

The Restore FOIA bill I introduce today with Senators LEVIN, JEFFORDS, LIEBERMAN, and BYRD is identical to language I negotiated with Senators LEVIN and BENNETT last summer when the HSA was debated by the Governmental Affairs Committee. Senator BENNETT stated in the Committee's July 25, 2003 mark up that the administration had endorsed the compromise. He also said that industry groups had reported to him that the compromise language would make it possible for them to share information with the government without fear of the information being released to competitors or to other agencies that might accidentally reveal it. The Governmental Affairs Committee reported out the compromise language that day. Unfortunately, much more restrictive House language was eventually signed into law.

The February 10 Post editorial called the Leahy-Levin-Bennett language "a compromise that would accomplish the reasonable purpose" of "encouraging companies to share information with the government about infrastructure that might be vulnerable to terrorist attack without such broad harmful effects." Id. The Post editorial was titled, "Fix This Loophole," which is exactly what my colleagues and I hope to accomplish with the introduction of this bill. Id.

The Restore FOIA bill would correct the problems in the HSA in several ways. First, it limits the FOIA exemption to relevant "records" submitted by the private sector, such that only those that actually pertain to critical infrastructure safety are protected. "Records" is the standard category referred to in FOIA. This corrects the effective free pass given to industry by the HSA for any information it labels "critical infrastructure."

Second, unlike the HSA, the Restore FOIA bill allows for government oversight, including the ability to use and share the records within and between agencies. It does not limit the use of such information by the government, except to prohibit public disclosure where such information is appropriately exempted under FOIA.

Third, it protects the actions of legitimate whistleblowers, rather than criminalizing their acts.

Fourth, it does not provide civil immunity to companies that voluntarily submit information. This corrects a flaw in the current law, which would prohibit such information from being used directly in civil suits by government or private parties.

Fifth, unlike the HSA, the Restore FOIA bill allows local authorities to apply their own sunshine laws. The Restore FOIA bill does not preempt any state or local disclosure laws for information obtained outside the Department of Homeland Security. Likewise, it does not restrict the use of such information by state agencies.

Finally, the Restore FOIA bill does not restrict congressional use or disclosure of voluntarily submitted critical infrastructure information. The HSA language was unclear on this point, and even the Congressional Research Service could not say for certain that members of Congress or their staff would not be criminally liable. Homeland Security Act of 2002: Critical Infrastructure Information Act, February 29, 2003, CRS Report for Congress, Order Code RL31762, at 14–15.

These changes to the HSA would accomplish the stated goals of the critical infrastructure provisions in the HSA without tying the hands of the government in its efforts to protect Americans and without cutting the public out of the loop.

The Administration has flip-flopped on how to best approach the issue of critical infrastructure information. The Administration's original June 18, 2002, legislative proposal establishing a new department carved out an FOIA exemption, in section 204, and required non-disclosure of any "information" "voluntarily" provided to the new Department of Homeland Security by "non-Federal entities or individuals" pertaining to "infrastructure vulnerabilities or other vulnerabilities to terrorism" in the possession of, or that passed through, the new department. Critical terms, such as "voluntarily provided," were undefined.

The Judiciary Committee had an opportunity to query Governor Ridge about the Administration's proposal on June 26, 2002, when the Administration reversed its long-standing position and allowed him to testify in his capacity as the Director of the Transition Planning Office.

Governor Ridge's testimony at that hearing is instructive. He seemed to appreciate the concerns expressed by Members about the President's June 18 proposal and to be willing to work with us in the legislative process to find common ground. On the FOIA issue, he described the Administration's goal to craft "a limited statutory exemption to the Freedom of Information Act" to help "the Department's most important missions [which] will be to protect our Nation's critical infrastructure." (June 26, 2002 Hearing, Tr., p. 24). Governor Ridge explained that to accomplish this, the Department must be able to "collect information, identifying key assets and components of that infrastructure, evaluate vulnerabilities, and match threat assessments against those vulnerabilities." (Id., at p. 23).

I do not understand why some have insisted that FOIA and our national security are inconsistent. Before the HSA was enacted, the FOIA already exempted from disclosure matters that are classified; trade secret, commercial and financial information, which is privileged and confidential; various law enforcement records and information, including confidential source and informant information; and FBI records pertaining to foreign intelligence or counterintelligence, or international terrorism. These already broad exemptions in the FOIA were designed to protect national security and public safety and to ensure that the private sector can provide needed information to the government.

Prior to enactment of the HSA, the FOIA exempted from disclosure any financial or commercial information provided voluntarily to the government, if it was of a kind that the provider would not customarily make available to the public. *Critical Mass Energy Project* v. *NRC*, 975 F.2d 871 (D.C. Cir. 1992) (en banc). Such information enjoyed even stronger nondisclosure protections than did material that the government requested. Applying this exception, Federal regulatory agencies safeguarded the confidentiality of all kinds of critical infrastructure information, like nuclear power plant safety reports (*Critical Mass*, 975 F.2d at 874), information about product manufacturing processes and internal security measures (*Bowen* v. *Food & Drug Admin.*, 925 F.2d 1225 (9th Cir. 1991), design drawings of airplane parts (*United Technologies Corp. by Pratt & Whitney* v. *F.A.A.*, 102 F.3d 688 (2d Cir. 1996)), and technical data for video conferencing software (*Gilmore* v. *Dept. of Energy*, 4 F. Supp. 2d 912 (N.D. Cal. 1998)).

The head of the FBI National Infrastructure Protection Center, NIPC, testified more than five years ago, in September, 1998, that the "FOIA excuse" used by some in the private sector for failing to share information with the government was, in essence, baseless. He explained the broad application of FOIA exemptions to protect from disclosure information received in the context of a criminal investigation or a "national security intelligence" investigation, including information submitted confidentially or even anonymously. [Sen. Judiciary Subcommittee on Technology, Terrorism, and Government Information, Hearing on Critical Infrastructure Protection: Toward a New Policy Directive, S. HRG. 105–763, March 17 and June 10, 1998, at p. 107]

The FBI also used the confidential business record exemption under (b)(4) "to protect sensitive corporate information, and has, on specific occasions, entered into agreements indicating that it would do so prospectively with reference to information yet to be received." NIPC was developing policies "to grant owners of information certain opportunities to assist in the protection of the information (e.g., by 'sanitizing the information themselves') and to be involved in decisions regarding further dissemination by the NIPC." Id. In short, the former Administration witness stated:

> Sharing between the private sector and the government occasionally is hampered by a perception in the private sector that the government cannot adequately protect private sector information from disclosure under the Freedom of Information Act, FOIA. The NIPC believes that this perception is flawed in that both investigative and infrastructure protection information submitted to NIPC are protected from FOIA disclosure under current law. (Id.)

Nevertheless, for more than five years, businesses continued to seek a broad FOIA exemption that also came with special legal protections to limit their civil and criminal liability. That business wish list was largely granted in the Homeland Security Act.

At the Senate Judiciary Committee hearing with Governor Ridge, I expressed my concern that an overly broad FOIA exemption would encourage government complicity with private firms to keep secret information about critical infrastructure vulnerabilities, reduce the incentive to fix the problems and end up hurting rather than helping our national security. In the end, more secrecy may undermine rather than foster security.

Governor Ridge seemed to appreciate these risks, and said he was "anxious to work with the Chairman and other members of the committee to assure that the concerns that [had been] raised are properly addressed." Id. at p. 24. He assured us that "[t]his Administration is ready to work together with you in partnership to get the job done. This is our priority, and I believe it is yours as well." Id. at p. 25. This turned out to be an empty promise.

Almost before the ink was dry on the Administration's earlier June proposal, on July 10, 2002, the Administration proposed to substitute a much broader FOIA exemption that would (1) exempt from disclosure under the FOIA critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter unless the submitter gave prior written consent, (2) provide limited civil immunity for use of the information in civil actions against the company, with the likely result that regulatory actions would be preceded by litigation by companies that submitted designated information to the department over whether the regulatory action was prompted by a confidential disclosure, (3) preempt state sunshine laws if the designated information is shared with state or local government agencies, (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information, and (5) antitrust immunity for companies that joined together with agency components designated by the President to promote critical infrastructure security.

Despite the Administration's promulgation of two separate proposals for a new FOIA exemption in as many weeks, in July, Director Ridge's Office of Homeland Security released The National Strategy for Homeland Security, which appeared to call for more study of the issue before legislating. Specifically, this report called upon the Attorney General to "convene a panel to propose any legal changes necessary to enable sharing of essential homeland security information between the government and the private sector." (P. 33)

The need for more study of the Administration's proposed new FOIA exemption was made amply clear by its possible adverse environmental, public health and safety affects. Keeping secret problems in a variety of critical infrastructures would simply remove public pressure to fix the problems. Moreover, several environmental groups pointed out that, under the Administration's proposal, companies could avoid enforcement action by "voluntarily" providing information about environmental violations to the EPA, which would then be unable to use the information to hold the company accountable and also would be required to keep the information confidential. It would bar the government from disclosing information about spills or other violations without the written consent of the company that caused the pollution.

I worked on a bipartisan basis with many interested stakeholders from environmental, civil liberties, human rights, business and government watchdog groups to craft a compromise FOIA exemption that did not grant the business sector's wish-list but did provide additional nondisclosure protections for certain records without jeopardizing the public health and safety. At the request of Chairman LIEBERMAN for the Judiciary Committee's views on the new department, I shared my concerns about the Administration's proposed FOIA exemption and then worked with Members of the Governmental Affairs Committee, in particular Senator LEVIN and Senator BENNETT, to craft a more narrow and responsible exemption that accomplishes the Administration's goal of encouraging private companies to share records of critical infrastructure vulnerabilities with the new Department of Homeland Security without providing incentives to "game" the system of enforcement of environmental and other laws designed to protect our nation's public health and safety. We refined the FOIA exemption in a manner that satisfied the Administration's stated goal, while limiting the risks of abuse by private companies or government agencies.

This compromise solution was supported by the Administration and other Members of the Committee on Governmental Affairs and was unanimously adopted by that Committee at the markup of the Homeland Security Department bill on July 25, 2002. The compromise which I now introduce as a free standing bill would exempt from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are furnished voluntarily to the new Department and designated by the provider as confidential and not customarily made available to the public. Notably, the compromise FOIA exemption made clear that the exemption only covered "records" from the private sector, not all "information" provided by the private sector and thereby avoided the adverse result of government agency-created and generated documents and databases being put off-limits to the FOIA simply if private sector "information" is incorporated. Moreover, the compromise FOIA exemption clearly defined what records may be considered "furnished voluntarily," which did not cover records used "to satisfy any legal requirement or obligation to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government." The FOIA compromise exemption further ensured that portions of records that are not covered by the exemption would be released pursuant to FOIA requests. This compromise did not provide any civil liability or antitrust immunity that could be used to immunize bad actors or frustrate regulatory enforcement action, nor did the compromise preempt state or local sunshine laws.

Unfortunately, the version of the HSA that we enacted last November jettisoned the bipartisan compromise on the FOIA exemption, worked out in the Senate with the Administration's support, and replaced it with a big-business wish-list gussied up in security garb. The HSA's FOIA exemption makes off-limits to the FOIA much broader categories of "information" and grants businesses the legal immunities and liability protections they have sought so vigorously for over five years. This law goes far beyond what is needed to achieve the laudable goal of encouraging private sector companies to help protect our critical infrastructure. Instead, it ties the hands of the federal regulators and law enforcement agencies working to protect the public from imminent threats. It gives a windfall to companies who fail to follow federal health and safety standards. Most disappointingly, it undermines the goals of openness in government that the FOIA was designed to achieve. In short, the FOIA exemption in the HSA represents the most severe weakening of the Freedom of Information Act in its 36-year history.

In the end, the broad secrecy protections provided to critical infrastructure information in this bill will promote more secrecy, which may undermine rather than foster national security. In addition, the immunity provisions in the bill will frustrate enforcement of the laws that protect the public's health and safety.

Let me explain in greater detail. The FOIA exemption enacted in the HSA allows companies to stamp or designate certain information as critical infrastructure information, or "CII," and then submit this information about their operations to the government either in writing or orally, and thereby obtain a blanket shield from FOIA's disclosure mandates as well as other protections. A Federal agency may not disclose or use voluntarily-submitted and CII-marked information, except for a limited "informational purpose," such as "analysis, warning, interdependency study, recovery, reconstitution," without the company's consent. Even when using the information to warn the public about potential threats to critical infrastructure, the bill requires agencies to take steps to protect from disclosure the source of the CII information and other "business sensitive" information.

The law also contains an unprecedented provision that threatens jail time and job loss to any government employee who happens to disclose any critical infrastructure information that a company has submitted and wants to keep secret. These penalties for using the CII information in an unauthorized fashion or for failing to take steps to protect disclosure of the source of the information are severe and will chill any release of CII information—not just when a FOIA request comes in, but in all situations, no matter the circumstance. Criminalizing disclosures not of classified information or national security related information, but of information that a company decides it does not want public—is an effective way to quash discussion and debate over many aspects of the government's work. In fact, under the HSA, CII information is granted more comprehensive protection under Federal criminal laws than classified information.

This provision of the law has potentially disastrous consequences. If an agency is given information from an internet service provider, ISP, about cyberattack vulnerabilities, agency employees will have to think twice about sharing that information with other ISPs for fear that, without the consent of the ISP to use the information, even a warning might cost their jobs or risk criminal prosecution.

This provision means that if a Federal regulatory agency needs to issue a regulation to protect the public from threats of harm, it cannot rely on any voluntarily submitted information—bringing the normal regulatory process to a grinding halt. Public health and law enforcement officials need the flexibility to decide how and when to warn or prepare the public in the safest, most effective manner. They should not have to get "sign off" from a Fortune 500 company to do so.

While the HSA risks making it harder for the government to protect American families, it makes it much easier for companies to escape responsibility when they violate the law by giving them unprecedented immunity from civil and regulatory enforcement actions. Once a business declares that information about its practices relates to critical infrastructure and is "voluntarily" provided, it can then prevent the Federal Government from disclosing it not just to the public, but also to a court in a civil action. This means that an agency receiving CII-marked submissions showing invasions of employee or customer privacy, environmental pollution, or government contracting fraud will be unable to use that information in a civil action to hold that company accountable. Even if the regulatory agency obtains the information necessary to bring an enforcement action from an alternative source, the company will be able to tie the government up in protracted litigation over the source of the information.

For example, if a company submits information that its factory is leaching arsenic in ground water, that information may not be turned over to local health authorities to use in any enforcement proceeding nor turned over to neighbors who were harmed by drinking the water for use in a civil tort action. Moreover, even if EPA tries to bring an action to stop the company's wrongdoing, the "use immunity" provided in the HSA will tie the agency up in litigation making it prove where it got the information and whether it is tainted as "fruit of the poisonous tree"—i.e., obtained from the company under the "critical infrastructure program."

Similarly, if the new Department of Homeland Security receives information from a bio-medical laboratory about its security vulnerabilities, and anthrax is released from the lab three weeks later, the Department will not be able to warn the public promptly about how to protect itself without consulting with and trying to get the consent of the laboratory in order to avoid the risk of job loss or criminal prosecution for a non-consensual disclosure. Moreover, if the laboratory is violating any state, local or federal regulation in its handling of the anthrax, the Department will not be able to turn over to another Federal agency, such as the EPA or the Department of Health and Human Services, or to any State or local health officials, information or documents relating to the laboratory's mishandling of the anthrax for use in any enforcement proceedings against the laboratory, or in any wrongful death action, should the laboratory's mishandling of the anthrax result in the death of any person. The law specifically states that such CII-marked information "shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith." [H.R. 5710, section 214(a)(1)(C)]

Most businesses are good citizens and take seriously their obligations to the government and the public, but this "disclose-and-immunize" provision is subject to abuse by those businesses that want to exploit legal technicalities to avoid regulatory guidelines. The HSA lays out the perfect blueprint to avoid legal liability: funnel damaging information into this voluntary disclosure system and pre-empt the government or others harmed by the company's actions from being able to use it against the company. This is not the kind of two-way public-private cooperation that our country needs.

The scope of the information that is covered by the new HSA FOIA exemption is overly broad and undermines the openness in government that FOIA was intended to guarantee. Under this law, information about virtually every important sector of our economy that today the public has a right to see can be shut off from public view simply by labeling it "critical infrastructure information." Prior to enactment of the HSA, under FOIA standards, courts had required federal agencies to disclose 1. pricing information in contract bids so citizens can make sure the government is wisely spending their taxpayer dollars; 2. compliance reports that allow constituents to insist that government contractors comply with federal equal opportunity mandates; and 3. banks' financial data so the public can ensure that federal agencies properly approve bank mergers. Without access to this kind of information, it will be harder for the public to hold its government accountable. Under the HSA, all of this information may be marked CII information and kept out of public view.

The HSA FOIA exemption goes so far in exempting such a large amount of material from FOIA's disclosure requirements that it undermines government openness without making any real gains in safety for families in Vermont and across America. We do not keep America safer by chilling Federal officials from warning the public about threats to their health and safety. We do not ensure our nation's security by refusing to tell the American people whether or not their federal agencies are doing their jobs or their government is spending their hard earned tax dollars wisely. We do not encourage real two-way cooperation by giving companies protection from civil liability when they break the law. We do not respect the spirit of our democracy when we cloak in secrecy the workings of our government from the public we are elected to serve.

The argument over the scope of the FOIA and unilateral executive power to shield matters from public scrutiny goes to the heart of our fundamental right to be an educated electorate aware of what our government is doing. The Rutland Herald got it right in a November 26, 2002 editorial that explained: "The battle was not over the right of the government to hold sensitive, classified information secret. The government has that right. Rather, the battle was over whether the government would be required to release anything it sought to withhold."

We need to fix this troubling restriction on public accountability. Exempting the new Department from laws that ensure responsibility to the Congress and to the American people makes for a tenuous start not the sure footing we all want for the success and endurance of this new Department. I urge my colleagues to support the Restoration of Freedom of Information Act of 2003.

I ask unanimous consent to print the editorials I mentioned and several letters of support of the Restore FOIA bill in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

### RESTORATION OF FREEDOM OF INFORMATION ACT ("RESTORE FOIA") SECTIONAL ANALYSIS

Sec. 1. Short title. This section gives the bill the short title, the "Restoration of Freedom of Information Act".

Sec. 2. Protection of Voluntarily Furnished Confidential Information. This section strikes subtitle B (secs. 211-215) of the Homeland Security Act ("HSA") (P.L. 107-296) and inserts a new section 211.

Sections to be repealed from the HSA: These sections contain an exemption to the Freedom of Information Act (FOIA) that (1) exempt from disclosure critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter unless the submitter gave prior written consent; (2) provide civil immunity for use of such information in civil actions against the company; (3) preempt state sunshine laws if the designated information is shared with state or local government agencies; and (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information.

Provisions that would replace the repealed sections of the HAS: The Restore FOIA bill inserts a new section 211 to the HSA that would exempt from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are furnished voluntarily to the new Department and designated by the provider as confidential and not customarily made available to the public. Notably, the Restore FOIA bill makes clear that the exemption covers "records" from the private sector, not all "information" provided by the private sector, as in the enacted version of the HSA. The Restore FOIA bill ensures that portions of records that are not covered by the exemption would be released pursuant to FOIA requests. It does not provide any civil liability immunity or preempt state or local sunshine laws, and it does not criminalize whistleblower activity.

Specifically, this section of the Restore FOIA bill includes the following:

A definition of "critical infrastructure": This term is given the meaning adopted in section 1016(e) the USA Patriot Act (42 U.S.C. 5195c(e)) which reads, "critical infrastructure means systems and assets, whether physical or virtual, so vital to United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters." This definition is commonly understood to mean facilities such as bridges, dams, ports, nuclear power plants, or chemical plants.

A definition of the term "furnished voluntarily": This term signifies documents provided to the Department of Homeland Security (DHS) that are not formally required by the department and that are provided to it to satisfy any legal requirement. The definition excludes any document that is provided to DHS with a permit or grant application or to obtain any other benefit from DHS, such as a loan, agency forbearance, or modification of a penalty.

An exemption from FOIA of records that pertain to vulnerabilities of and threats to critical infrastructure that are furnished voluntarily to DHS. This exemption is made available where the provider of the record certifies that the information is confidential and would not customarily be released to the public.

A requirement that other government agencies that have obtained such records from DHS withhold disclosure of the records and refer any FOIA requests to DHS for processing.

A requirement that reasonably segregable portions of requested documents be disclosed, as is well-established under FOIA.

An allowance to agencies that obtain critical infrastructure records from a source other than DHS to release requested records consistent with FOIA, regardless of whether DHS has an identical record in its possession.

An allowance to providers of critical infrastructure records to withdraw the confidentiality designation of records voluntarily submitted to DHS, thereby making the records subject to disclosure under FOIA.

A direction to the Secretary of Homeland Security to establish procedures to receive, designate, store, and protect the confidentiality of records voluntarily submitted and certified as critical infrastructure records.

A clarification that the bill would not preempt state or local information disclosure laws.

A requirement for the Comptroller General to report to the House and Senate Judiciary Committees, the House Governmental Reform Committee and the Senate Governmental Affairs Committee the number of private entities and government agencies that submit records to DHS under the terms of the bill. The report would also include the number of requests for access to records that were granted or denied. Finally, the Comptroller General would make recommendations to the committees for modifications or improvements to the collection and analysis of critical infrastructure information.

Sec. 3. Technical and conforming amendment. This section amends the table of contents of the Homeland Security Act.

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[From the Washington Post, Feb. 10, 2003]

### FIX THIS LOOPHOLE

The Homeland Security law enacted last year contains a miserable provision that weakens important federal regulation and public access to information. Congress should act soon to repair the damage.

The goal of the provision was reasonable enough: encouraging companies to share information with the government about infrastructure that might be vulnerable to terrorist attack. Fearing public disclosure, companies have been reluctant to share information on vulnerabilities at, say, power plants or chemical factories. So under the law, any such "critical infrastructure" information that companies voluntarily provide to the government is exempted from disclosure to the public, litigants and enforcement agencies.

But the law defines "information" so broadly that it will cover, and thus keep secret, virtually anything a company decides to fork over. A company might preempt environmental regulators by "voluntarily" divulging incriminating material, thereby making it unavailable to anyone else. Unless regulators could show they had obtained the material independently, it would be off limits to them. And the law prescribes criminal penalties for whistle-blowers who make such information public. The collective impact will be to put in the hands of a regulated party the power, simply by turning over information, to shield that information from legitimate law enforcement purposes and from public disclosure.

Sens. Patrick J. Leahy (D-Vt.) and Robert F. Bennett (R-Utah) had negotiated a compromise that would accomplish the reasonable purpose without such broad harmful effects. It should be restored before the government finds its hands tied—and the public finds itself out of the loop—on important regulatory matters.

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[From the Washington Post, Nov. 20, 2002]

### TOO MANY SECRETS

(By Mark Tapscott)

Why does the White House sometimes seem so determined to close the door on the people's right to know what their government is doing? Even some of us who admire the leadership of President Bush in the war on terrorism would like to know.

Admittedly, insisting that the public's business be done in public isn't a popular cause these days. Recent surveys show that many Americans are willing to trade significant chunks of their First Amendment rights for the promise of greater security in the war on terrorism. Such surveys must gladden the hearts of Bush administration officials who—presumably unintentionally—undermine measures such as the Freedom of Information Act (FOIA).

Consider just three examples from the past year: Section 204 of the White House's original proposal to establish a Department of Homeland Security, White House Chief of Staff Andrew Card's March 2002 directive that agencies restrict access to "sensitive but unclassified" information, and the administration's claim of executive privilege to keep secret information regarding President Clinton's infamous midnight pardons.

The administration's Section 204 proposal exempted from FOIA disclosure any information "provided voluntarily by non-federal entities or individuals that relates to infrastructure vulnerabilities or other vulnerabilities to terrorism." One need not be a Harvard law graduate to see that, without clarification of what constitutes such vulnerabilities, this loophole could be manipulated by clever corporate and government operators to hide endless varieties of potentially embarrassing and/or criminal information from public view.

Subsequent negotiations in the Senate with the White House resulted in compromise language that takes care of some of the major problems, but in the rush to final passage, the Senate has accepted the House version of the legislation, which, being virtually identical to the administration's original version, remains deeply flawed in this regard.

The Card memo was issued when public anger over the Sept. 11, 2001, massacre was still intense. Despite the fact that the memo failed to define what constitutes "sensitive but unclassified" information, agencies responded by removing thousands of previously public documents from FOIA disclosure. The Pentagon, for example, estimated recently that approximately 6,000 Defense Department documents were removed from public view. Who now outside of government can verify that any of those documents contained information that could help terrorists?

Few would argue that the Section 204 proposal and the Card memo do not address legitimate national security needs in the war against terrorism. But to date, nobody has produced a single example of vital information that could not have been properly exempted from disclosure under the current

FOIA, which is backed by 25 years of detailed case law. Instead, the administration offers vague language that invites abuse.

Finally, there are those pardons, which provoked a national outcry when first reported. President Clinton had pardoned 140 people, including his Whitewater partner Susan McDougal, his brother Roger (convicted on cocaine-related charges) and international fugitive Marc Rich, wanted by the Justice Department for allegedly conspiring with the Iranian government in 1980 to buy 6 million barrels of oil, contrary to a U.S. trade embargo.

It is doubtful that the full facts behind the pardons will ever be known as long as the administration refuses to disclose nearly 4,000 pages related to the former president's actions. The Bush administration has taken a similar position on documents related to former attorney general Janet Reno's controversial decision not to appoint a special counsel to investigate possible Clinton administration campaign finance illegalities.

There was a time when at least one senior Bush administration official thought the FOIA essential because "no matter what party has held the political power of government, there have been attempts to cover up mistakes and errors." That same official added that "disclosure of government information is particularly important today because government is becoming involved in more and more aspects of every citizen's personal and business life, and so access to information about how government is exercising its trust becomes increasingly important."

So spoke a young Illinois Republican congressman named Donald Rumsfeld, in a floor speech on June 20, 1966, advocating passage of the FOIA, of which he was a co-sponsor.

The writer is director of the Heritage Foundation's Center for Media and Public Policy.

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## Fix the Critical Infrastructure Information Subtitle in the Homeland Security Act of 2002

The undersigned organizations are concerned about the current language for Critical Infrastructure Information in the Homeland Security Act of 2002, which contains ambiguous definitions that could unintentionally allow companies to keep broad categories of information secret and provisions that restrict the government's ability to use the information. In order to better serve the goal of improving public safety and security, we support efforts to fix the Homeland Security Act by clarifying the scope of the information protected and removing provisions that overly restrict the government's ability to use the information.

Senators Leahy (D–VT), Levin (D–MI), Jeffords (I–VT), Lieberman (D–CT), and Byrd (D–WV) will soon introduce legislation entitled the Restoration of Freedom of Information Act of 2003 ("Restore FOIA") addressing these concerns, using bipartisan language developed last year by the Senate Governmental Affairs Committee. The Restore FOIA solution would:

Clarify the FOIA exemption to be more consistent with established law.

Remove the restrictions on the government's ability to act as it sees fit in response to the information it receives.

Preserve whistleblower protections by removing unnecessary criminal penalties.

The information provisions currently within the Homeland Security Act of 2002 do not accomplish the goal of the law—empowering the government to protect citizens using private-sector information which is "voluntarily" shared and identifies potential vulnerabilities to terrorist attacks. The current language could have devastating effects on the work of the government to protect public health, safety and security, as well as government accountability. It is essential that these problems in the Homeland Security Act be fixed immediately before they become too firmly entrenched in the law.

Jean AbiNader, Managing Director, Arab American Institute.

Prudence S. Adler, Associate Executive Director, Association of Research Libraries.

Steven Aftergood, Project Director, Federation of American Scientists.

Gary Bass, Executive Director, OMB Watch.

Jeremiah Baumann, Director, Toxics Right to Know Campaign, U.S. Public Interest Research Group.

Ruth Berlin, Executive Director, MD Pesticide Network.

Lynne Bradley, Director, Government Relations, American Library Association.

Danielle Brian, Executive Director, Project on Government Oversight.

Sandy Buchanan, Executive Director, Ohio Citizen Action.

Jeanne Butterfield, Executive Director, American Immigration Lawyers Association.

Alyssondra Campaigne, Legislative Director, Natural Resources Defense Council.

Kevin S. Curtis, Vice President, Government Affairs, National Environmental Trust.

Lucy Dalglish, Executive Director, Reporters Committee for Freedom of the Press.

Charles N. Davis, Executive Director, Freedom of Information Center, University of Missouri School of Journalism.

Tom Devine, Legal Director, Government Accountability Project.

Rick Engler, Director, New Jersey Work Environment Council.

Jason Erb, Director, Governmental Relations, Council on American-Islamic Relations.

Darryl Fagin, Legislative Director, Americans for Democratic Action.

Margaret Fung, Executive Director, Asian American Legal Defense and Education Fund.

Vickie Goodwin, Organizer, Powder River Basin Resource Council.

Evan Hendricks, Editor/Publisher, Privacy Times.

Rick Hind, Legislative Director, Greenpeace.

Khalil Jahshan, Director of Government Affairs, American-Arab Anti-Discrimination Committee.

Susan E. Kegley, Staff Scientist/Program Coordinator, Pesticide Action Network, North America.

Robert Leger, President, Society of Professional Journalists.

Dave LeGrande, Director, Occupational Safety & Health, CWA/AFL–CIO.

Sanford Lewis, Director, Strategic Counsel on Corporate Accountability.

Conrad Martin, Executive Director, Fund for Constitutional Government.

Alexandra McPherson, Director, Clean Production Action.

Dena Mottola, Acting Director, New Jersey Public Interest Research Group.

Laura W. Murphy, Director, Washington National Office, American Civil Liberties Union.

Ralph G. Neas, President, People for the American Way.

Robert Oakley, Washington Affairs Representative, American Association of Law Libraries.

Paul Orum, Director, Working Group on Community Right-to-Know.

Deborah Pierce, Executive Director, Privacy Activism.

Chellie Pingree, President and CEO, Common Cause.

Ari Schwartz, Associate Director, Center for Democracy and Technology.

Debbie Sease, Legislative Director, Sierra Club.

Bob Shavelson, Executive Director, Cook Inlet Keeper.

Peggy M. Shepard, Executive Director, West Harlem Environmental Action.

Ted Smith, Executive Director, Silicon Valley Toxics Coalition.

David Sobel, General Counsel, Electronic Privacy Information Center.

Ed Spar, Executive Director, Council on Professional Association of Federal Statistics.

Vivian Stockman, Communications Coordinator, Ohio Valley Environmental Coalition.

Daniel Swartz, Executive Director, Children's Environmental Health Network.

Lee Tien, Senior Staff Attorney, Electronic Frontier Foundation.

Elizabeth Thompson, Legislative Director, Environmental Defense.

Sara Zdeb, Legislative Director, Friends of the Earth.

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MARCH 12, 2003.

Hon. SUSAN COLLINS,
*Chair, Senate Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*
Hon. ORRIN HATCH,
*Chair, Senate Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*
Hon. JOSEPH LIEBERMAN,
*Ranking Member, Senate Committee on Governmental Affairs, U.S. Senate, Hart Senate Office Building, Washington, DC.*
Hon. PATRICK LEAHY,
*Ranking Member, Senate Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATORS COLLINS, HATCH, LIEBERMAN, AND LEAHY: The Homeland Security Act of 2002 was a very important legislative accomplishment that responded to new challenges facing our country.

On the path to passage of the Act, however, certain sections, particularly Section 214, dealing with Critical Infrastructure Information, left a number of journalistic organizations concerned that broad categories of information—particularly information that relates to the public's health and safety—would unnecessarily be shielded from public view.

Thus, we support efforts to clarify the language in favor of essential openness, which, in fact, will also resolve potential barriers that restrict the government's own use of information provided by companies. The "Restoration of Freedom of Information Act of 2003" would substitute bipartisan language developed last year by the Senate Government Affair Committee for that which was enacted into law. This bill would:

Clarify the FOIA exemption to be more consistent with established law, while still protecting records on critical infrastructure vulnerabilities submitted to the Department of Homeland Security by private firms.

Remove the restrictions on the government's ability to act as it sees fit in response to the information it receives.

Preserve whistleblower protections by removing unnecessary criminal penalties.

It is important for both citizens and the government process that these changes in law are made quickly.

Thank you for your consideration.

Sincerely,

American Society of Magazine Editors; American Society of Newspaper Editors; Associated Press Managing Editors; Freedom of Information .Center, University of Missouri School of Journalism; Magazine Publishers of America; National Federation of Press Women; National Newspaper Association; National Press Club; Newsletter & Electronic Publishers Association; Newspaper Association of America; Radio-Television News Directors Association; Reporters Committee for Freedom of the Press; Society of Professional Journalists.

### LET FREEDOM RING

(By Maurice J. Freedman)

What if you want to find out if toxic chemicals are buried under your child's schoolyard? How could you tell if your veterans' benefits hinged on proving you were exposed to biohazards during a top-secret mission? Or perhaps a candidate for your city council wants to better understand formerly classified plans for emergency evacuation.

These days, it's possible, with considerable patience, determination, and a few clicks of a mouse, to file a request for answers to questions like these and a broad range of government information that are critical to our lives, work, health and well being.

But like registering to vote, in some places and for some people, this precious freedom hasn't always been so easy to exercise.

The main tool for such fact-finding, the Freedom of Information Act, known as FOIA, which we honor each year on the anniversary of James Madison's birthday, was first enacted on July 4, 1966. Before that, any-one who wanted to get records from the federal government had to establish his or her legal right to examine those records. That was expensive, time-consuming and a barrier for countless legitimate requests for information on issues from whether the nuclear reactor downwind had a record of safety violations to how the Nixon administration tried to deport John Lennon as detailed in his FBI files.

With FOIA, the burden shifted to government agencies, requiring them to meet these requests unless they fell within a handful of specific national security exemptions. Indeed, since then, any decision by an agency to withhold a document could be challenged in federal court.

From John Lennon's or Rev. Dr. Martin Luther King Jr.'s FBI files to record of debates on whether to use nuclear weapons in Vietnam, FOIA requests now run the gamut of what we need to know about what our government is doing with our tax dollars in our name. Whether it's internal NASA memos about space shuttle safety or exchanges among federal officials about Japanese internment camps during World War II, our right to know about the deliberations and actions of our federal government is a cornerstone of American democracy.

In 1974, in reaction to Watergate, Congress moved to strengthen FOIA. Unwilling to let our country be run more like a closed corporation than an open, democratic society, this change allowed courts to order the release of documents, even when the President said they couldn't be made public.

Our system of representative democracy depends on the free flow of information produced, collected and published by our government and available to the public so we can participate as an informed electorate.

Since the early 19th century, libraries have served as depositories for the written record of our nation's development and gateways to the decisions of its leaders, thus assuring public access to government information. Today, 21st-century librarians are committed to ensuring the public's right to know is protected in the electronic age. As organizers, navigators and providers of government information that serves the public, we help file FOIA requests and otherwise support freedom of information @ your library.

Many Americans depend on access to information collected, organized and disseminated by the federal government—from farmers and health care professionals, to journalists and veterans, community interest groups to local and state government officials, and indeed, all voters.

Americans come to libraries to find Census and other statistics; to help plan new business and marketing strategies; to research environmental issues and hazards, laws and regulations; and to learn about job opportunities from government and other employment lists.

The ongoing transition to predominantly electronic transmission of federal information offers both promise and problems for the public in this realm. Information that is only in electronic form quickly appears on—and as quickly disappears from—Web sites. There is often no one charged with capturing, preserving or making electronic data available to future generations, as well as those, who for a variety of reasons, cannot access or work with electronic information.

True national security is built on a vibrant democracy and a well-informed citizenry, not a culture of secrecy. Said James Madison, on whose birthday we make Freedom of Information Day, "Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives." Although he wrote in response to abuses by Britain's King George III, his warnings ring equally true today.

Every country has hospitals, police and schools. But only free countries allow the free flow of ideas. Free libraries are the hub of public access to government information. Challenges to an informed citizenry range from the complexity and inequality in information technology to illiteracy, limited information literacy skills and unequal access to education and information resources.

Thankful for our freedoms, we must do our best as we prepare to fight halfway around the world to ensure that we continue to guard with unrelating vigilance the right to know here at home.

Mr. LEVIN. Mr. President, today I join with Senators LEAHY, BYRD, JEFFORDS, and LIEBERMAN to introduce the Restore Freedom of Information Act, Restore FOIA, that will provide the public with access to information, while at the same time ensuring that information voluntarily submitted to the government by companies is not improperly disclosed. In order to ensure public access and limit improper disclosure, we need to reexamine some aspects of the Homeland Security Act, HSA, which was rushed through Congress last year, dropping several carefully-crafted, bipartisan measures which had been adopted by the Senate Governmental Affairs Committee, along the way. Dropping those measures left ambiguities in the law that need to be clarified, and today's bill is an attempt to make those clarifications and address certain problems that could otherwise result.

The issue this bill addresses is public access to information in the possession of the Homeland Security Department. Although some seem to want to shroud all homeland security efforts in secrecy, as Judge Damon Keith, writing for the U.S. Sixth Circuit of Appeals, recently warned "Democracies die behind closed doors." The principles of open government and the public's right to know are cornerstones of our democracy. We cannot sacrifice those principles in the name of protecting them.

One of the reasons that I voted against the Homeland Security Act last year was because the final bill dropped a bipartisan provision, passed by the Senate Governmental Affairs Committee, clarifying how the new Department of Homeland Security, DHS, should comply with the Freedom of Information Act, FOIA. The final bill substituted a poorly drafted provision that could inappropriately close the door on persons seeking unclassified information from the Department related to critical infrastructure.

What is critical infrastructure? Critical infrastructure is the backbone that holds our country together and makes it work—our roads, computer grids, telephones, pipelines, water treatment plants, utilities, and other facilities essential to a fully functioning Nation. It so happens that, in the United States, much of our critical infrastructure is controlled by private entities, often privately owned or publicly traded corporations. To strengthen existing protections for these facilities, the Federal Government asked the companies that own them to submit unclassified information about their facilities to assist the government in evaluating them, identifying possible problems, and designing stronger protections from terrorist attack, natural disasters, or other threats to homeland security.

Some companies asked to voluntarily submit this information feared that it might be improperly disclosed, and sought a new exemption from the Federal Freedom of Information Act, FOIA, to prohibit disclosure of so-called "critical infrastructure information." Reporters, public interest groups, and others feared that, if this FOIA exemption were granted, companies could send important environmental and safety information to DHS under the general heading of "critical infrastructure information" and thereby put this information out of the public's reach. To bring these sides together, last July, Senators BENNETT, LEAHY and I worked out a bipartisan

FOIA compromise that codified existing case law with regard to companies voluntarily submitting information. At the Senate Governmental Affairs Committee mark-up of the homeland security legislation, Senator Bennett said that the Administration supported our compromise, but the language was ultimately dropped from the final Homeland Security Act. As a result, the media, public interest groups, and others continue to fear that companies may be hiding important health and safety information that has long been public and should be public behind the mask of "critical infrastructure."

To rectify this situation, today we are introducing a bill that would change the existing HSA language in several important ways. First, our bill defines the key term, "critical infrastructure," in a more focused way than the overly broad language in the HSA. To do that, our bill draws from language in existing case law, that has already been tested by the courts. The existing HSA language, it interpreted broadly, could expand the prohibition on disclosing critical infrastructure information to include virtually every aspect of a company's operations, denying public access to a great deal of health and safety information that the public has a right to know. If this expansive interpretation was not the intent of the bill's drafters, then they should be willing to accept our court-tested language.

A second important change that our bill would make in the existing HSA involves the issue of civil immunity for companies that violate the law. As currently worded, the HSA seems to suggest that companies which voluntarily submit to DHS critical infrastructure information indicating that the company is in violation of public health or safety regulations may gain protection from legal action in court to halt or penalize this wrongdoing, even if the information shows that the company is acting negligently. For example, the current HSA provisions could lead to the disturbing situation where DHS learns, through a critical infrastructure submission, that a company is leaking polluted sludge into a nearby waterway in violation of environmental restrictions, but is barred from going to court to stop the pollution because the law appears to prohibit the agency's use of the critical infrastructure information in a civil action. Our bill would eliminate the possibility that the HSA would provide companies with civil immunity under these circumstances.

A third key problem with the existing HSA language is that it includes a provision that could send a Federal whistleblower who discloses critical infrastructure information, even to an appropriate authority, to prison. The language is clear that if a DHS employee discloses unclassified critical infrastructure information, even when acting as a whistleblower who reveals the information to Congress in an act of conscience or patriotism, that whistleblower could wind up in jail. My colleague, Senator LEAHY, describes a whistleblower who works at the FAA who blew the whistle on government collusion to coverup failures by airlines to meet tests on airline preparedness. That whistleblower could have ended up in jail had he blown the whistle under today's law. A year in jail is quite a deterrent for a Federal employee who is thinking about blowing the whistle, and we have never before threatened Federal whistleblowers with jail terms. It is a bad idea, and it is counterproductive to homeland safety.

There are other troubling provisions in the current HSA law as well, equally detrimental to the public's right to know. For example, the HSA exempts all communication of critical infrastructure information from the open meeting and other sunshine requirements of the Federal Advisory Committee Act, and places critical infrastructure information outside restrictions on ex parte contacts. The HSA also pre-empts state and local sunshine laws, an undue intrusion on the power of the States. The bill we are introducing today would strike all of these unnecessary provisions, and create in their stead a narrow FOIA exemption that balances the prohibition against improper disclosures of critical infrastructure information with the public's right to know.

Finally, I would like to include in the RECORD two examples of situations that could occur under the language in the HSA but would not occur under our bill. These disturbing examples were provided by Dr. Rena Steinzor, Professor at the University of Maryland School of Law, on behalf of the center for Progressive Regulation.

Case Study Number 1 is the following:

A large Midwest utility decides to replace an old coal burning electric generation unit with a new one. The new unit, much larger than the first, will produce significantly greater air pollution emissions. The company could mitigate these increases by installing additional pollution control equipment, but decides it does not wish to incur the expense. It begins construction and simultaneously reports its plans to the DHS as "critical infrastructure information." so Federal security experts will know about its increased capacity to generate electricity.

A Department of Homeland Security employee, visiting the plant to consult on government purchases of power during emergency situations, notices readings on internal gauges reflecting the dramatically increased emissions. She telephones EPA to report the situation. EPA issues a Notice of Violation to the company, and threatens to bring an action for civil penalties, but is instructed to desist by DHS officials who inform EPA that the HSA prohibits disclosing the information provided to the agency in court and that DHS wants to list the company as an emergency supplier capable of providing expanded electricity production in an upcoming report to Congress. EPA drops its enforcement action, and the DHS employee not only loses her job but also is prosecuted criminally.

Case Study Number 2 is the following:

Lobbyists representing companies that provide goods and services to the Department of Homeland Security routinely submit materials describing their companies' products in glowing terms. They arrange repeated trips for government purchasing agents to exotic locations under the guise of briefing them regarding the technical aspects of the products. All of this information is designated as critical infrastructure by the companies, and is therefore protected from disclosure and oversight by the media or possibly even individual members of Congress who could see the information but not reveal it.

The Homeland Security Act was never intended to protect polluters or special interests from public scrutiny. But as these examples demonstrate, that is exactly what could happen if the current, vague language in the law is not corrected. The bill we are introducing today would make the needed corrections.

On January 17, 2003 at his confirmation hearing before the Governmental Affairs Committee, I questioned Governor Ridge about these problems with the current wording of the Homeland Security Act. I asked him whether the HSA could have the unintended consequences of providing protections for wrongdoing while impeding access to necessary information to protect public health and safety. Governor Ridge replied: "[T]hat certainly wasn't the intent, I am sure, of those who advocated the Freedom of Information Act exemption, to give wrongdoers protection or to protect illegal activity, and I will certainly work with you to clarify that language." If that was not the intent, then let us fix the vague, and potentially dangerous provisions that are in this bill.

I would also note, for the record, that many organizations have endorsed our bill including the following:

American Association of Law Libraries, American Civil Liberties Union, American Immigration Lawyers Association, American Library Association, American-Arab Anti-Discrimination Committee, Americans for Democratic Action, American Society of Magazine Editors, American Society of Newspaper Editors, Arab American Institute, Asian American Legal Defense and Education Fund, Associated Press Managing Editors, Association of Research Libraries, Center for Democracy and Technology, Children's Environmental Health Network, Clean Production Network, Common Cause, Communications Workers of America, Cook Inlet Keeper, Council on American-Islamic Relations, Council on Professional Association of Federal Statistics, Electronic Frontier Foundation, Electronic Privacy Information Center, Environmental Defense, Federation of American Scientists, Freedom of Information Center, Friends of the Earth, Fund for Constitutional Government, Government Accountability Project, Greenpeace, Magazine Publishers of America, Maryland Pesticide Network, National Federation of Press Women, National Newspaper Association, National Press Club, Natural Resources Defense Council, New Jersey Work Environment Council, Newsletter & Electronic Publishers Association, Newspaper Association of America, Ohio Valley Environmental Coalition, OMB Watch, Pesticide Action Network, North America Powder River Basin Resource Council, Privacy Activism, Privacy Times, Project on Government Oversight, Radio-Television News Directors Association, Reporters Committee for Freedom of the Press, Sierra Club, Silicon Valley Toxics Coalition, Society of Professional Journalists, Strategic Counsel on Corporate Accountability, U.S. Public Interest Research Group, University of Missouri School of Journalism, West Harlem Environmental Action Working Group on Community Right-to-Know.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 81—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE CONTINUOUS REPRESSION OF FREEDOMS WITHIN IRAN AND OF INDIVIDUAL HUMAN RIGHTS ABUSES, PARTICULARLY WITH REGARD TO WOMEN

Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, and Mr. CORNYN, and Mr. CAMPBELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 81

Whereas the people of the United States respect the Iranian people and value the contributions that Iran's culture has made to world civilization for over 3 millennia;

Whereas the Iranian people aspire to democracy, civil, political, and religious rights, and the rule of law, as evidenced by increasingly frequent antigoverment and anti-Khatami demonstrations within Iran and by statements of numerous Iranian expatriates and dissidents;

Whereas Iran is an ideological dictatorship presided over by an unelected Supreme Leader with limitless veto power, an unelected Expediency Council and Council of Guardians capable of eviscerating any reforms, and a President elected only after the aforementioned disqualified 234 other candidates for being too liberal, reformist, or secular.

Whereas the Iranian government has been developing a uranium enrichment program that by 2005 is expected to be capable of producing several nuclear weapons each year, which would further threaten nations in the region and around the world.

Whereas the United States recognizes the Iranian peoples' concerns that President Muhammad Khatami's rhetoric has not been matched by his actions;

Whereas President Khatami clearly lacks the ability and inclination to change the behavior of the State of Iran either toward the vast majority of Iranians who seek freedom or toward the international community;

Whereas political repression, newspaper censorship, corruption, vigilante intimidation, arbitrary imprisonment of students, and public executions have increased since President Khatami's inauguration in 1997;

Whereas men and women are not equal under the laws of Iran and women are legally deprived of their basic rights;

Whereas the Iranian government shipped 50-tons of sophisticated weaponry to the Palestinian Authority despite Chairman Arafat's cease-fire agreement, consistently seeks to undermine the Middle East peace process, provides safe-haven to al-Qa'ida and Taliban terrorists, allows transit of arms for guerrillas seeking to undermine our ally Turkey, provides transit of terrorists seeking to destabilize the United States-protected safe-have in Iraq, and develops weapons of mass destruction;

Whereas since the terrorist attacks of September 11, 2001, and despite rhetorical protestations to the contrary, the Government of Iran has actively and repeatedly sought to undermine the United States war on terror;

Whereas there is a broad-based movement for change in Iran that represents all sectors of Iranian society, including youth, women, student bodies, military personnel, and even religious figures, that is pro-democratic, believes in secular government, and is yearning to live in freedom;

Whereas following the tragedies of September 11, 2001, tens of thousands of Iranians filled the streets spontaneously and in solidarity with the United states and the victims of the terrorist attacks; and

Whereas the people of Iran deserve the support of the American people; Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) legitimizing the regime in Iran stifles the growth of the genuine democratic forces in Iran and does not serve the national security interest of the United States;

(2) positive gestures of the United States toward Iran should be directed toward the people of Iran, and not political figures whose survival depends upon preservation of the current regime; and

(3) it should be the policy of the United States to seek a genuine democratic government in Iran that will restore freedom to the Iranian people, abandon terrorism, and live in peace and security with the international community.

### SENATE RESOLUTION 82—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE CONTINUOUS REPRESSION OF FREEDOMS WITHIN IRAN AND OF INDIVIDUAL HUMAN RIGHTS ABUSES, PARTICULARLY WITH REGARD TO WOMEN

Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, Mr. CORNYN, Mr. CAMPBELL, and Mr. KYL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 82

Whereas the people of the United States respect the Iranian people and value the contributions that Iran's culture has made to world civilization for over 3 millennia;

Whereas the Iranian people aspire to democracy, civil, political, and religious rights, and the rule of law, as evidence by increasingly frequent antigovernment and anti-Khatami demonstrations within Iran and by statements of numerous Iranian expatriates and dissidents;

Whereas Iran is an ideological dictatorship presided over by an unelected Supreme Leader with limitless veto power, an unelected Expedience Council and Council of Guardians capable of eviscerating any reforms, and a President elected only after the aforementioned disqualified 234 other candidates for being too liberal, reformist, or secular;

Whereas the Iranian government has been developing a uranium enrichment program that by 2005 is expected to be capable of producing several nuclear weapons each year, which would further threaten nations in the region and around the world;

Whereas the United States recognizes the Iranian peoples' concerns that President Muhammad Khatami's rhetoric has not been matched by his actions;

Whereas President Khatami clearly lacks the ability and inclination to change the behavior of the State of Iran either toward the vast majority of Iranians who seek freedom or toward the international community;

Whereas political repression, newspaper censorship, corruption, vigilante intimidation, arbitrary imprisonment of students, and public executions have increased since President Khatami's inauguration in 1997;

Whereas men and women are not equal under the laws of Iran and women are legally deprived of their basic rights;

Whereas the Iranian government shipped 50-tons of sophisticated weaponry to the Palestinian Authority despite Chairman Arafat's cease-fire agreement, consistently seeks to undermine the Middle East peace process, provides safe-haven to al-Qaida and Taliban terrorists, allows transit of arms for guerrillas seeking to undermine our ally Turkey, provides transit of terrorists seeking to destabilize the United States-protected safe-haven in Iraq, and develops weapons of mass destruction;

Whereas since the terrorist attacks of September 11, 2001, and despite rhetorical protestations to the contrary, the Government of Iran has actively and repeatedly sought to undermine the United States war on terror;

Whereas there is a bond-based movement for change in Iran that represents all sectors of Iranian society, including youth, women, student bodies, military personnel, and even religious figures, that is pro-democratic, believes in secular government, and is yearning to live in freedom;

Whereas following the tragedies of September 11, 2001, tens of thousands of Iranians filled the streets spontaneously and in solidarity with the United States and the victims of the terrorist attacks; and

Whereas the people of Iran deserve the support of the American people: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) legitimizing the regime in Iran stifles the growth of the genuine democratic forces in Iran and does not serve the national security interest of the United States;

(2) positive gestures of the United States toward Iran should be directed toward the people of Iran, and not political figures whose survival depends upon preservation of the current regime; and

(3) it should be the policy of the United States to seek a genuine democratic government in Iran that will restore freedom to the Iranian people, abandon terrorism, and live in peace and security with the international community.

## SENATE CONCURRENT RESOLUTION 19—AFFIRMING THE IMPORTANCE OF A NATIONAL DAY OF PRAYER AND FASTING, AND EXPRESSING THE SENSE OF CONGRESS THAT MARCH 17, 2003, SHOULD BE DESIGNATED AS A NATIONAL DAY OF PRAYER AND FASTING

Mr. SANTORUM (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

### S. CON. RES. 19

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror, and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist, and in this time of peril it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) March 17, 2003, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 260. Mr. HARKIN (for himself, Ms. CANTWELL, Mr. EDWARDS, Mrs. BOXER, and Mr. KERRY) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion.

SA 261. Mrs. FEINSTEIN (for herself, Ms. STABENOW, and Mr. EDWARDS) proposed an amendment to the bill S. 3, supra.

## TEXT OF AMENDMENTS

**SA 260.** Mr. HARKIN (for himself, Ms. CANTWELL, Mr. EDWARDS, Mrs. BOXER, and Mr. KERRY) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE CONCERNING ROE V. WADE.**

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

**SA 261.** Mrs. FEINSTEIN (for herself, Ms. STABENOW, and Mr. EDWARDS) proposed an amendment to the bill S. 3, to prohibit the procedure commonly known as partial-birth abortion; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Post-Viability Abortion Restriction Act".

**SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.**

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion if, in the medical judgment of the attending physician, the fetus is viable.

(b) EXCEPTION.—This section shall not apply if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life or health of the woman.

(c) CIVIL PENALTY.—A physician who violated this section shall be subject to a civil penalty of not to exceed $100,000. The civil penalty provided for by this subsection shall be the exclusive remedy for a violation of this section.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, March 12 at 10:00 a.m. to consider pending calendar business.

Agenda Item No. 1.—To consider the nomination of Joseph T. Kelliher to be a Member of the Federal Electricity Regulatory Commission.

Agenda Item No. 2: S. 164—To authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of César Estrada Chávez and the farm labor movement.

Agenda Item No. 3: S. 212—To authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling, and monitoring program for the High Plains Aquifer and for other purposes.

Agenda Item No. 4: S. 278—To make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

Agenda Item No. 7: S. 347—To direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes.

Agenda Item No. 8: S. 425—To revise the boundary of the Wind Cave National Park in the State of South Dakota.

Agenda Item No. 9: H.R. 397—To reinstate the license and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

Staff is working on amendments to Agenda Item No. 6: S. 328—To designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes. If a resolution can be achieved this item will be considered.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, March 12, 2003, at 10:00 a.m., to hear testimony on Welfare Reform: Building on Success.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 2003 at 11:30 a.m. to hold a Committee Business Meeting.

#### Agenda

The Committee will consider and vote on the following agenda items:

Treaties: Treaty Doc. 107-19, Tax Convention with the United Kingdom; Treaty Doc. 107-20, Protocol Amending Tax Convention with Australia; Treaty Doc. 108-3, Protocol Amending Tax Convention with Mexico.

FSO appointment/promotion list: 1. Sebranek, Lyle J., et al, dated January 28, 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 12, 2003 at 2:30 p.m. to hold a hearing on Regional Implications of the Changing Nuclear Equation on the Korean Peninsula.

#### Agenda

*Witnesses*

Panel 1: The Honorable James A. Kelly, Assistant Secretary for East Asian and Pacific Affairs, Department of State, Washington, DC.

Panel 2: The Honorable James Lilley, American Enterprise Institute, Washington, DC; Dr. Victor D. Cha, Associate Professor, Department of Government and the Edmund Walsh School of Foreign Service, Georgetown University, Washington, DC; Dr. Bates Gill, Freeman Chair in China Studies, CSIS, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a judicial nominations hearing on Wednesday, March 12, 2003, at 2 p.m. in the Dirksen Senate Office Building, Room 226.

#### Tentative Agenda

Panel I: The Honorable Richard G. Lugar, United States Senator (R–IN); The Honorable Evan Bayh, United States Senator (D–IN); The Honorable John W. Warner, United States Senator (R–VA); The Honorable George F. Allen, United States Senator (R–VA); The Honorable Dianne Feinstein, United States Senator (D–CA); The Honorable Kay Bailey Hutchison, United States Senator (R–TX); The Honorable John Cornyn, United States Senator (R–TX).

Panel II: Comac J. Carney to be United States District Judge for the Central District of California; James V. Selna to be United States District Judge for the Central District of California; Philip P. Simon to be United States District Judge for the Northern District of Indiana; Theresa Lazar Springmann to be United States District Judge for the Northern District of Indiana. Mary Ellen Coster Williams to be Judge for the Court of Federal Claims; Victor J. Wolski to be Judge for the Court of Federal Claims.

Panel III: Ricardo H. Hinojosa to be U.S. Sentencing Commissioner; Michael E. Horowitz to be U.S. Sentencing Commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, March 12, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Veterans of Foreign Wars.

The hearing will take place in room 345 of the Cannon House Office Building at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON AIRLAND

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 12, 2003, at 3 p.m., in open session to receive testimony on Army Transformation, in review of the defense authorization request for fiscal year 2004 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON OCEANS, ATMOSPHERE, AND FISHERIES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, Subcommittee on Oceans, Atmosphere, and Fisheries be authorized to meet on Wednesday, March 12, 2003, at 2:30 p.m., in SR–253, for a hearing on the Coast Guard and NOAA fiscal year 2004 budget requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON STRATEGIC FORCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 12, 2003, at 9:30 a.m., in open session to receive testimony on national security space programs and management in review of the defense authorization request for fiscal year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

### SUBCOMMITTEE ON BORDER SECURITY, IMMIGRATION AND CITIZENSHIP

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittees on Terrorism, Technology and Homeland Security and on Border Security, Immigration and Citizenship be authorized to meet to conduct a joint hearing on "Border Technology: Keeping Terrorists out of the United States—2003" on Wednesday, March 12, 2003, at 10:00 a.m. in Room 226 of the Dirksen Senate Office Building.

#### Tentative Witness List

Panel I: The Honorable Asa Hutchinson, Undersecretary for Border and Transportation, U.S. Department of Homeland Security, Washington, DC; Accompanied by: Robert Mocny, Director of Entry-Exit Program, Bureau of Immigration and Customs Enforcement, Washington, DC; Woody Hall, Interim Director, Office of Information & Technology, Bureau of Customs and Border Protection, Washington, DC.

Panel II: Nancy Kingsbury, Managing Director of Applied Research and Methods, U.S. General Accounting Office, Washington, DC; Stephen E. Flynn, Jeane J. Kirkpatrick Senior Fellow in National Security Studies, Council on Foreign Relations, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. DEWINE. Madam President, I ask unanimous consent that Ryan Richardson, a law clerk in my office, be given floor privileges for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. SANTORUM. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 24, National Correctional Officers and Employees Week, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 24) designating the week beginning May 4, 2003, as "National Correctional Officers and Employees Week."

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 24) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 24

Whereas the operation of correctional facilities represents a crucial component of the criminal justice system of the United States;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody, and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

*Resolved,*

**SECTION 1. DESIGNATION OF NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK.**

That the Senate—

(1) designates the week beginning May 4, 2003, as "National Correctional Officers and Employees Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

## NATIONAL CIVILIAN CONSERVATION CORPS DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 46, National Civilian Conservation Corps Day, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 46) designating March 31, 2003, as "National Civilian Conservation Corps Day."

There being no objection the Senate proceeded to consider the resolution.

Mr. SANTORUM. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statement be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 46) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 46

Whereas the Civilian Conservation Corps, commonly known as the CCC, was an independent Federal agency that deserves recognition for its lasting contribution to natural resources conservation and infrastructure improvements on public lands in the United States and for its outstanding success in providing employment and training to thousands of Americans;

Whereas March 31, 2003, is the 70th anniversary of the signing by President Franklin D. Roosevelt of the law historically known as the Emergency Conservation Work Act, a precursor to the 1937 law that established the Civilian Conservation Corps;

Whereas, between 1933 and 1942, the CCC provided employment and vocational training in the conservation and development of natural resources, the protection of forests, and the construction and maintenance of military reservations to more than 3,000,000 men, including unemployed youths, more than 250,000 veterans of the Spanish-American War and World War I, and more than 80,000 Native Americans;

Whereas the CCC coordinated a mobilization of men, material, and transportation on a scale never previously known in time of peace;

Whereas the CCC managed more than 4,500 camps in each of the then 48 States and Hawaii, Alaska, Puerto Rico, and the Virgin Islands;

Whereas the CCC left a legacy of natural resources and infrastructure improvements that included 3,000,000,000 new trees, 46,854 bridges, 3,980 restored historical structures, more than 800 state parks, 3,462 improved beaches, 405,037 signs, markers, and monuments, 8,045 wells and pump houses, and 63,256 other structures;

Whereas the benefits of many CCC projects are still enjoyed by Americans today in national and state parks, forests, and other lands, including the National Arboretum in the District of Columbia, Bandelier National Monument in New Mexico, Great Smoky Mountains National Park in North Carolina and Tennessee, Yosemite National Park in California, Acadia National Park in Maine, Rocky Mountain National Park in Colorado, and Vicksburg National Military Park in Mississippi;

Whereas the CCC provided a foundation of self-confidence, responsibility, discipline, cooperation, communication, and leadership for its participants through education, training, and hard work, and participants made many lasting friendships in the CCC;

Whereas the CCC demonstrated the commitment of the United States to the conservation of land, water, and natural resources on a national level and to leadership in the world on public conservation efforts; and

Whereas the conservation of the Nation's land, water, and natural resources is still an important goal of the American people: Now, therefore, be it

*Resolved*, That the Senate requests the President to issue a proclamation—

(1) designating March 31, 2003, as "National Civilian Conservation Corps Day"; and

(2) calling on the people of the United States to observe the day with appropriate ceremonies and activities.

## NATIONAL SAFE PLACE WEEK

Mr. SANTORUM. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 70, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 70) designating the week beginning March 16, 2003 as "National Safe Place Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. I ask unanimous consent the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 70) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 70

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place Program is committed to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 655 communities in 41 States and more than 11,000 locations have established Safe Place Programs;

Whereas over 61,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week of March 16 through March 23, 2003, as "National Safe Place Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place Programs, and to observe the week with appropriate ceremonies and activities.

## GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 78, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 78) designating March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 78) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 78

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece is 1 of only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict for more than 100 years;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete and in presenting the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas President George W. Bush, in recognizing Greek Independence Day on March 25, 2002, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror . . . . America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas on January 1, 2003, Greece took over the Presidency of the European Union for the fourth time since it joined the Union in 1981 with the message of "Our Europe: Sharing the Future in a Community of Values";

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, recently arrested key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's "successful law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas Greece's unprecedented Olympic security effort, including a record-setting expenditure of over $600,000,000 and the utilization of a 7-member Olympic Security Advisory Group which includes the United States, will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2003, marks the 182nd anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

## NATIONAL GIRL SCOUT WEEK

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 79, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 79) designating the week of March 9 through March 15, 2003, as "National Girl Scout Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 79) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 79

Whereas March 12 is the anniversary of the founding of the Girl Scouts of the United States of America;

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girls Scouts has significantly contributed to the advancement of the United States;

Whereas the Girl Scouts is the preeminent organization for girls, dedicated to inspiring girls and young women to become model citizens in their communities with the highest ideals of character, conduct, and service to others;

Whereas the Girls Scouts, through its prestigious program, offers girls ages 5 through 17 a wealth of opportunities to develop strong values and skills that serve girls well into adulthood; and

Whereas on March 16, 1950, the Girl Scouts became the first national organization for girls to be granted a Federal charter by Congress: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of March 9 through March 15, 2003, as "National Girl Scout Week"; and

(2) requests the President to issue a proclamation designating such week as "National Girl Scout Week" and calling on the people of the United States to observe the anniversary of the Girl Scouts of the United States of America with appropriate ceremonies and activities.

## MEASURE READ THE FIRST TIME—S. 607

Mr. SANTORUM. Mr. President, I understand that S. 607 introduced earlier today by Senators ENSIGN and GREGG, and others, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 607) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Mr. SANTORUM. Mr. President, I ask for its second reading and object to the second reading on this matter.

The PRESIDING OFFICER. Objection is heard, and the bill will remain at the desk.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 37 on the Executive Calendar. I further ask consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, any statements relating to the nomination be printed in the RECORD, and that the Senate then resume legislative session, with all of the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

### THE JUDICIARY

Ralph R. Erickson, of North Dakota, to be United States District Judge for the District of North Dakota.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## ORDERS FOR THURSDAY, MARCH 13, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, March 13; I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 19, S. 3, the partial-birth abortion bill, as provided under the previous order.

I further ask unanimous consent that when the Senate resumes morning business, the first 20 minutes be equally divided between Senators HAGEL and DORGAN, with the remainder of the time until 11:30 a.m. to be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. SANTORUM. For the information of all Senators, at 9:30 tomorrow morning, the Senate will proceed to a vote on final passage of the partial-birth abortion bill. Following that vote, there will be a second vote which will be on the nomination of Thomas Varlan to be a U.S. District Judge for the Eastern District of Tennessee. Following the second vote, the Senate will proceed to a period of morning business until 11:30 a.m., as stipulated by the previous order.

At 11:30 a.m., the Senate will return to executive session and resume the consideration of the nomination of Miguel Estrada to be a Circuit Judge for the DC Circuit, with the time until 12:30 p.m. equally divided between the chairman and ranking member of the Judiciary Committee or their designees. At 12:30 p.m., the Senate will vote on the motion to invoke cloture on the nomination.

Following the cloture vote, the Senate will consider additional judicial nominations. Members should expect up to three additional rollcall votes on these judicial nominations.

## PARTIAL-BIRTH ABORTION BAN ACT

Mr. SANTORUM. Mr. President, I just want to make a few additional comments before we wrap up on this debate. As I said earlier, this has been 7 years in the making, to take a bill that was conceived not by me but by Charles Canady over in the House of Representatives, who is now a Federal judge, I believe, and others here in the Senate. Senator Bob Smith from New Hampshire was one of the original leaders on this issue in the Senate. I know he will feel very good about passage of this legislation. It has been a long time coming. And a lot of effort has been put behind this measure by many Members. We have accomplished something that I think is really important.

People have said this is not going to stop any abortions. That may be the case. People have said this procedure is very rare. Well, I would argue that several thousand abortions a year, several thousand children being put through this brutality—I will, first, not classify thousands as rare—and as the Senator from Minnesota so eloquently said earlier today, even one should cause this Senate to stand up and say no.

This is a procedure that has no place in medicine, has no place in the legal behavior of anybody here in the United States of America.

We had a good debate today. We were able to defeat some amendments that were very much aimed at eliminating this ban, wiping the underlying bill out and replacing it with some language that would have, frankly, done little to nothing.

I thank all of my colleagues for standing up and sticking with this underlying bill, defeating amendments which I know in some cases were very difficult votes for Members. They came through, and we were able to get decisive votes.

We have had this partial-birth abortion debate so often, and it is our fifth time, unfortunately, we have had to be here on the floor of the Senate. But we also had a good debate on the whole underlying issue of Roe v. Wade.

While I was disappointed that the sense of the Senate passed, with, I believe, 52 positive votes here in the Senate affirming Roe v. Wade, I hope those who had an opportunity to listen to the debate today—for those who did not, I encourage them to pick up the RECORD because I think both sides of the aisle laid out their case. They laid out their case as to why this judicial decision is a good thing for America, as a country, and for the people—those who are for it. And those who are against it laid out a good argument, I would argue a compelling one, since I was one of the ones making it, that Roe v. Wade is not a good thing for this country. It is damaging to our culture, to the spirit of America.

I just want to reiterate why I feel so strongly about that. Because, as you noticed in the Senate, even during that debate, as heated as it was, you did not have a whole lot of people coming down here to engage in that debate.

It is the great moral issue of the day. There is no other issue that fires passion in people like this one, and it has for decades. It has been 30 years since the Supreme Court grabbed from the people the decision to determine what the collective morality of this country is with respect to the sanctity of human life in the womb. The Supreme Court took that decision from the people, and did it through legislating in a judicial decision.

Now, I would argue that irrespective of your position on abortion, as free people, we fought a revolution about those people taking rights from us or taking decisions from us, people who are not elected, who are not subject to the will of the voter. And that is what the U.S. Supreme Court did in 1973. They took from us, the people, the right to determine our fate, the right to determine our collective judgment, our moral decision.

Some people have come up to me for years and said: You don't have the right to make this moral decision. My response is: Well, if I, as your elected representative, don't have the right, what gives the right to nine unelected judges to make this decision for you?

This is a representative democracy. You elect people to make decisions for the collective whole. That is how the system works. And what judges are there to do is to determine whether they are within the constitutional framework. They are not to use, as a flimsy excuse, the Constitution to create legislation. That is the constitutional amendment process.

If you want to create a new right, pass a constitutional amendment. You don't create new rights by someone coming on a court and saying: Hey, I found a new right. That is exactly what the U.S. Supreme Court did in Roe v. Wade. They found a new right that for centuries—roughly two centuries—had not been found by some of the smartest men we have had in this country, some of the best and brightest.

Lawyers and nonlawyers in this country have served on the U.S. Supreme Court, and for all that time they could not find this right. But in 1973, seven Justices—seven men—I hear so often: Well, why are you men making these decisions—seven men on the U.S. Supreme Court found a right.

They found a right that was not written in this Constitution. I don't think anyone will make the comment that the right to an abortion is written in the black letters of the Constitution. It is not.

So where did this right spring from? Where did this right emerge from? It emerged from the liberty clause of the 14th amendment—individual liberty. The Senator from Iowa read a subsequent case, abortion case, the Casey decision. The Casey decision was about the Pennsylvania Abortion Control Act signed by a Democrat, Robert Casey, who I had a great amount of respect for, his willingness to stand up to his party and do what he believed was truly the legacy of his party, to look out for those who are the least fortunate among us or have the least power among us. That is what the Governor used to say over and over.

He passed a bill through the Pennsylvania legislature and signed this bill to put "restrictions" on abortion, horrible things like parental consent. That means when a minor wants to have an abortion, the parent has to consent because it is a minor child; or parental notification, which is what is sort of the lay of the land today, we passed parental notification statutes. But there was a whole variety of things: 24-hour waiting period, informed consent. There were a bunch of things in this act.

The Supreme Court, in making this decision, it was really remarkable. They came up with this language, really chilling language for society. It is language that says the heart of liberty is man's right to determine the meaning of life, of the universe. It is the essence of liberty, they said. It is one person's right to define for themselves life and liberty and the universe and the world.

I have to say our Founding Fathers could not have thought that. Those who passed the 14th amendment were not our Founding Fathers, but those who passed the 14th amendment, I just don't believe they thought every single person in America had a right to define their own existence. And that was part of it—what their own existence meant, what the universe meant, what liberty and life meant. If we all go around deciding what we believe is right or wrong and what is fair or not fair, if we all have our own moral code and we are not responsible for anybody else, that is chaos. That is simply my ability to impose my will on you and right makes right. The strongest prevail. That is not what they had in mind. I am sure of that.

That is where the line of cases after Roe v. Wade has taken us. It has taken us down a road where it is just positivism. It is my ability to be able to put my will on you. That is why I referred to the two killers from Columbine who said: I am the law. Where do you think they got that? Where do you think that came from? It came from the U.S. Supreme Court because that is what the Supreme Court says, that you are the law. You can define your own existence. You can define your own universe. That is the essential meaning of liberty. That wasn't in a dissenting opinion or a concurring. It was in the main body of the opinion.

So liberty, twisted and tangled beyond recognition in the abortion cases, twisted and tangled so much by the 1973 Roe case. Because what they did with liberty, a very important right, one of the fundamental rights, but our Founders knew it was not the most important right. Because when our Founders put together our original documents, they said we are endowed by our Creator, not the Supreme Court, not the Congress, but by our Creator, with certain inalienable rights. And then they listed them. They listed them deliberately in order. Life was first. Liberty was second. The pursuit of happiness was third.

Why did they order them in such fashion? Was it just because it sounded better? Life, liberty, pursuit of happiness sounds better than liberty, life, pursuit of happiness?

No, they ordered these rights because one flows from the other. You can't have happiness without freedom, without liberty, without true liberty. You cannot pursue happiness, you are not free to pursue your happiness. Happiness doesn't mean doing something that makes you feel good. It means living your life in a way that is fulfilling, purposeful. I would argue, the way God meant you to live your life—in service. That is the happiness they envisioned.

It wasn't my ability to dominate you or to impose my will on you. That is not the liberty they are talking about. That is certainly not the happiness. You have to have freedom to have happiness. And, of course, you must have life to be free. If you don't have life, having liberty means nothing. So they ordered these rights.

And what does Roe v. Wade do? Roe v. Wade takes those ordered rights and flips them. We have so contorted liberty in the line of abortion cases, we have so destroyed the essence of what the amenders of the Constitution intended that not only does the definition of liberty itself strike fear and should strike fear into the heart of every law-abiding citizen, because under this line of cases, liberty means whatever you can force on somebody else. Your opinion stands. Not only have we contorted liberty, but we have now exalted liberty over life.

How is that true? It is true because the liberty of the person carrying the child trumps the life of the child within. That is what happens in abortion. The rights of the mother are supreme to the rights of the child throughout the term of the pregnancy. That is what Roe v. Wade and Doe v. Bolton say. Abortions are legal in this country from the time of conception to the time of separation—legal every minute, every second. So the liberty rights trump the life rights.

I said before, there is only one other instance I am aware of in American history where such a stark reversal of rights has been tried. That was over 150 years ago in the Dred Scott case. The Supreme Court said the liberty rights of the slaveholder trump the life rights of the black man or woman. The liberty rights of the slaveholder trumped the rights of the black man and woman. Why?

This may sound familiar. The black man was not considered a person under the Constitution. Of course, this whole debate about Roe v. Wade is what? Is the child in the womb considered a person under the Constitution? The answer is, according to Roe v. Wade, no. It is not. It does not have rights.

So what did Dred Scott do?

Dred Scott said the human being—clearly human—as the Senator from Kansas said, William Wilberforce, when he was a Member of Parliament in England, was trying to stop the slave trade throughout the British Empire and he had, I believe, Wedgewood China make a plate that was then turned into a poster and distributed it throughout England and the world. It was of a black man, a slave, in shackles. The inscription around the plate was, "Am I not a man and a brother?"

So since 1973, we, too, have had our own version of that plate. Instead of a black man in shackles, we have an innocent child in the womb, who is human—genetically human—and living; it is a human being. Is this child any different in the eyes of the law than the black man under Dred Scott? Can he or she not also say: Am I not a child and a son, or a daughter, a brother, or a sister?

I believe the answer to that is yes. Now, I understand the consequences of this. I truly do. I understand the hardship that recognizing someone's right to life would impose on others. I understand the burden it puts upon women who are carrying a child they don't want. I understand that. I understand this is not an easy decision. I don't make this argument cavalierly, but to the extent I can make it scholarly, I understand the real ramifications of this. I understand there is real human suffering. I understand, like the Senator from California said, these men are telling me what to do with my body. I understand that feeling. I recognize it. I cannot tell you the number of women who have said that to me.

Women have a unique gift, which is the ability to conceive. Men do not have that ability. With all gifts come burdens and responsibilities. I know people, in our society in particular, are not necessarily comfortable with all of the burdens and responsibilities that may come upon them. But we are talking about a human being, a human life. We are talking about exercising the right of one person's liberty over another person's life, and giving that person their liberty rights, total control over someone's right to exist. That is a big deal. It is a great gift. But with that gift is this burden.

I make the argument that taking these liberties out of order doesn't just lead to this conflict that 1.3 million women will go through in this country—probably many more than that will go through this conflict. So 1.3 million women, or more, will decide the conflict in favor of their liberty rights—snuffing out the life of their unborn child. Almost half of those abortions will be the second, or more, abortion for the woman involved.

I am concerned about that, but I am also concerned about what happens down the road. What precedent have we set that we seem so unwilling to overturn, and what are the long-term consequences of that precedent? I use the example of children who are victims of infanticide. The right of infanticide since Roe v. Wade, you would think, would have gone down. That is what they said would happen. Prior to Roe v. Wade, the rate of infanticide was 4.3 percent. Since Roe v. Wade—in fact, within 10 years of Roe v. Wade, the rate more than doubled. That doesn't make sense, does it? Roe v. Wade was supposed to end unwanted pregnancies. It was supposed to stop infanticide, child abuse, spouse abuse, and domestic violence. Why? Because we weren't putting this burden on women. We were removing this burden. That is what abortion is about, removing a burden.

Then why have all of the things I have just mentioned increased since Roe v. Wade? Why is domestic violence going up? Why has spousal abuse gone up? Why has infanticide gone up? Why has divorce gone up? You can go down the list. Every social indicator that abortion was to cure, including teen pregnancy, has doubled or done more since Roe v. Wade. What happened since we have lifted this burden?

Maybe we really didn't lift the burden. Maybe we created a whole other burden. Maybe—just maybe—we made a moral statement in this country. Maybe the Supreme Court made a moral statement, which is that the life of a baby in the womb doesn't count; it has no legal standing. Now, how does something that has no legal standing, within a few seconds after birth, or the separation from the mother, all of a sudden have full standing? Well, obviously, and unfortunately, a larger number of mothers don't see that transition, don't recognize the difference and think, well, I can kill my child in the womb if I don't want it. What is the difference? It is just a few minutes, just a few seconds. And society recognizes that it is different.

Look at the sentences given out to cases of infanticide, particularly those immediately after birth, and cases of mothers killing their children who are 3, 4, 5, 6, 7 years of age. Look at the differences in sentencing. How does society view this newborn child versus the 4 and 5-year-old child? Look at the sentence. Remember just recently, in the last few years, the "prom mom" in I believe Delaware, and there were a couple others that got 2 years, or 18 months, for killing their children after birth. And when one looks at other cases of mothers committing murder, killing their children, they get life imprisonment because the children are 5 or 6 years old. What is the difference? That is how we value these children. We cannot even bring ourselves to consider the difference—even as a society, we look at a difference between a child who has no rights in the womb to one who has sort of quasi rights.

We have a professor at the University of Princeton, Peter Singer, whom the New Yorker magazine calls the most influential living philosopher. Imagine, most influential living philosopher, Peter Singer, Princeton University, not Podunk U but Princeton University, a distinguished chair. Here is a summary of his views:

> The views I put forward should be judged not by the extent to which they clash with accepted moral views, but on the basis of the arguments by which they are defended. Not all who are biological human beings should be counted as human beings.

That is what Roe v. Wade says. Roe v. Wade says not all biological human beings should be counted as human beings. That is not that far.

> Some human beings are more than others.

Just that phrase reminds me of the book "Animal Farm."

> The unborn, the newborn, the anencephalic——

Anencephalic is a child born without a brain, just a brain stem——

> and those in a vegetative state, for instance, do not count, or at least do not count fully as human beings.

It sort of reminds me of three-fifths of a person, not fully a human being. That is what the slave was counted as, three-fifths of a human.

> The other qualifying prong of this argument is that it is not rational to draw a hard and fast line between human beings and other forms of animal life. To do so is an instance of speciesism.

He has advocated a waiting period of 28 days after birth before deciding whether a baby has rights that we have to respect. Where do you think this comes from? It comes from Roe v. Wade. Why draw the line at birth? What is so significant about birth as to whether to give rights, particularly if the child, as we heard today from some of the debate, has severe abnormalities? Why give this child full rights? Who are they to insist upon rights?

He goes on to say:

> I should think it would be somewhat short of 1 year. But my point is that it is not for me or anyone else to say.

It reminds me of the clause in the Casey decision: I am not going to say what others—I just do what I want; you shouldn't tell me what to do; just let me do what I want.

> It should be up to the parents.

How many times have we heard this? Let the parents decide. Who are you, as society, to tell a parent what to do in the case of an abortion? Let the parents decide. They know what is in the best interests of their children.

He added:

> It is a decision that parents should make in consultation with their doctor.

Doesn't that sound familiar? You say, well, this is just some crazy man. New Yorker magazine, most influential living philosopher, a chair—a chair—at Princeton University. What does having this notoriety in the media and this distinguished academic position get you? Noticed. By whom? A judge. When? Maybe that is that decision of infanticide. Maybe it is the next case where a child is born to a mother, did not know the child was disabled or deformed, and was so upset about it that she committed infanticide. And a judge feeling sympathy for the mother, as society does—it is a horribly tragic situation, particularly if it is a young mother who went through a pregnancy. And so the judge does not want to do anything to ruin this girl's life. She might be from a good family. She might have a promising career. So why would we want to put her in jail and do something? I have to figure out a way not to impose a burden on her. Well, there is this distinguished chair at Princeton University; New Yorker magazine calls him a great thinker, ahead of his time; I have an idea; I will say—and Peter Singer writes extensively about this—that it is natural for a woman to kill her child. And so they will use all of his writings and come up with some mumbo-jumbo decision to give either no sentence or a light sentence. Thus, it gets into the case law.

Initially, it will be viewed as an outlier and thrown out as a ridiculous decision; it will be overturned. That happens with regularity, particularly in California in the Ninth Circuit. They are constantly throwing cases out of the Ninth Circuit in the Supreme Court.

Do not think for a minute these decisions like the Pledge of Allegiance case do not have the effect of a wave coming up on the sand. They go back, but they keep coming back. Eventually, they wear away the beach. So this will be the case here.

People are going to listen to this and maybe read this and say: Here is the Senator. It is late at night, and he is not thinking very clearly. I hope 30 years from now, God willing, I will still be on this Earth, not in the Senate Chamber, I hope. I hope I can read this statement and say: Boy, you were a fool; boy, that was really a silly argument you made. What were you thinking?

I fear I will not be able to say that because our culture is so fixated on relieving us of all of our burdens, of resting away all of our responsibilities so we can pursue what makes us happy. So do not be surprised that this poisonous line of cases will continue to poison the water of this culture and will lead to things such as partial-birth abortion.

I remember during previous debate I got a letter from a man in England saying he was watching the debate and heard the Senators describing these children in utero, these deformed children and saying: We need to keep partial-birth abortion available for these mothers late in pregnancy who find out their children are not perfect because we have to give mothers the right to destroy this child who is not perfect, who may not live long, or may have some abnormalities that are problematic. He kept hearing these cases after cases.

The other side does not argue that partial-birth abortion should be legal for healthy mothers and healthy babies, even though that is 99 percent of the abortions that occur, are partial-birth abortion; 100 percent in Kansas.

What they argue is, it is the hard cases. He said: I sat there and listened to Member after Member get up and describe people like me, for I am in a wheelchair and I have spina bifida. I am one of those cases, and they want to get rid of me.

And you say: Oh, no, abortion does not have an impact on how we view life. Oh, no, we do not devalue people. The Senator from New York asked today: Is there an exception in the bill for children with fetal anomalies? She asked me: Does the Senator have an exception in the bill for children with fetal anomalies? In other words, maybe we will sign off on the fact that healthy babies with healthy mothers cannot be killed, but we are going to provide less legal protection for healthy mothers with babies who have anomalies.

The poison of Roe v. Wade infects us all, and the amazing thing is we do not even know it. It is so part of us. We do not even realize it. It is that corrosive, slow effect that hardens us to life, hardens us away from any burden or sacrifice or responsibility. It is truly a poison that infects us all.

Today, the Senator from California, Mrs. FEINSTEIN, offered a letter from an obstetrician from the University of California San Francisco Medical Center about cases in which a partial-birth abortion was necessary. I have a letter in response to that from Dr. Nathan Hoeldtke, who is the medical director of Maternity-Fetal Medicine at Tripler Medical Center, Honolulu, HI. Both are experts and board certified in maternal-fetal medicine, the doctor whom Senator FEINSTEIN quoted who proposed these cases and Dr. Hoeldtke.

The letter from Dr. Hoeldtke reads:

> DEAR SENATOR SANTORUM, I have read the letter from Dr. Philip Darney addressed to Senator Feinstein regarding the intact D&E. often referred to as "intact D&X" in medical terminology, procedure, partial-birth abortion, and its use in his experience.
>
> As a board certified practicing Obstetrician/Gynecologist and Maternal-Fetal Medicine sub-specialist I have had much opportunity to deal with patients in similar situations to the patients in the anecdotes he has supplied.
>
> In neither of the type of cases described by Dr. Darney, nor in any other that I can imagine, would an intact D&X procedure be medically necessary, nor is there any medical evidence that I am aware of to demonstrate, or even suggest, that an intact D&X is ever a safer mode of delivery for the mother than other available options.
>
> In the first case discussed by Dr. Darney a standard D&E could have been performed without resorting to the techniques encompassed by the intact D&X procedure.
>
> In the second case referred to it should be made clear that there is no evidence that terminating a pregnancy with placenta previa and suspected placenta accreta at 22 weeks of gestation will necessarily result in less significant blood loss or less risk to the mother than her carrying later in the pregnancy and delivering by cesarean section. There is a significant risk of maternal need for a blood transfusion, or even a hysterectomy, with either management. The good outcome described by Dr. Darney can be accomplished at a near term delivery in this kind of patient, and I have had similar cases that ended happily with a healthy mother and baby. Further a standard D&E procedure could have been performed in the manner described if termination of the pregnancy at 22 weeks was desired.
>
> I again reiterate, and reinforce the statement made by the American Medical Association at an earlier date, that an intact D&X procedure is never medically necessary, that there always is another procedure available, and there is no data that an intact D&X provides any safety advantage whatsoever to the mother.—Sincerely, Nathan Hoeldtke.

I thank the Chair, and those who are watching, for their indulgence. I appreciate the tremendous support of the Chair and the statement he made today.

It is very heartening to be on the verge of passing a bill that could end up in law, signed by the President in very short order.

I gave a long talk about Roe v. Wade, but this is not an assault on Roe v. Wade. The point we are making is that this is actually outside of Roe v. Wade. The Court has foreclosed us from having a public debate, in having the public and their elected representatives decide the issue of abortion. They have taken it from us and have jealously coveted it for 30 years. But this is an attempt to stop a brutal evil that even the Senator from California, Mrs. BOXER, said her constituents could not bear to watch.

Well, if one cannot bear to watch it, how can they say they believe in it? If it chills one to the bone that we do this to little children, how can we allow it to be legal, to place a baby in the hands that were trained to heal and kill the child in the hands of a doctor?

People know evil when they see it. I believe abortion is an evil. For the first time in this debate, people saw the face, people saw what was being aborted. It was not a blob of tissue. It was not a group of cells. It was a little baby with arms and legs who wanted one thing, the opportunity to live, but who was brutally denied that by the hands of a doctor. Hopefully today—actually, tomorrow with the vote—it will be the beginning of the end of this brutal procedure.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:28 p.m., adjourned until Thursday, March 13, 2003, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 12, 2003:

### THE JUDICIARY

RALPH R. ERICKSON, OF NORTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA.

WILLIAM D. QUARLES, JR., OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

# HOUSE OF REPRESENTATIVES—*Wednesday, March 12, 2003*

The House met at 11 a.m.

The Reverend Eugene Counihan, Fernald Developmentally Handicapped Center, Waltham, Massachusetts, offered the following prayer:

Almighty and eternal Father, we acknowledge Your presence among us this morning as we once again prepare to do Your work. We ask You to look kindly on our modest efforts so that what is accomplished at this session will be for the betterment of our great country and the desire for the peace and good will of all her people and our friends throughout the world.

We also ask You to let Your face smile upon each and every one who is present here this morning and to bless them and their families. We thank You for the great privilege of being present today and to grant that our efforts and accomplishments fulfill and reflect Your will and the hopes of all whom we strive to serve.

Finally, we ask You to continue to bless America. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LAHOOD. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LAHOOD. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. HASTINGS) come forward and lead the House in the Pledge of Allegiance.

Mr. HASTINGS of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 8 of rule XX, proceedings will resume on agreeing to the Speaker's approval of the Journal and on motions to suspend the rules postponed on Tuesday, March 11. Votes will be taken in the following order:

Approval of the Journal, the yeas and nays;

House Resolution 122, the yeas and nays; and

House Concurrent Resolution 85, the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

One-minute will follow these three votes.

## THE JOURNAL

The SPEAKER. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 45, answered "present" 2, not voting 12, as follows:

[Roll No. 53]

YEAS—375

Abercrombie
Ackerman
Akin
Alexander
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Sullivan
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson (NM)

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

#### NAYS—45

Aderholt
Baird
Baldwin
Capuano
Costello
Crane
English
Filner
Ford
Fossella
Gutknecht
Hastings (FL)
Hinchey
Hulshof
Kennedy (MN)
Kucinich
Larsen (WA)
Lewis (GA)
LoBiondo
McDermott
Meek (FL)
Menendez
Miller, George
Moran (KS)
Oberstar
Olver
Otter
Ramstad
Rodriguez
Sabo
Schakowsky
Slaughter
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller

#### ANSWERED "PRESENT"—2

DeFazio
Tancredo

#### NOT VOTING—12

Allen
Becerra
Clay
Combest
Gephardt
Gilchrest
Hoeffel
Hyde
Johnson (IL)
Moore
Snyder
Weldon (PA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1127

So the Journal was approved.

The result of the vote was announced as above recorded.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series of votes will be conducted as 5-minute votes.

## RECOGNIZING THE BICENTENNIAL OF THE ADMISSION OF OHIO INTO THE UNION AND THE CONTRIBUTIONS OF OHIO RESIDENTS TO THE ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 122.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the resolution, H. Res. 122, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 54]

#### YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

#### NOT VOTING—10

Clay
Combest
Gephardt
Gilchrest
Hoeffel
Hyde
Johnson (IL)
Snyder
Weldon (PA)
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members have 2 minutes to vote.

☐ 1135

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SENSE OF CONGRESS REGARDING IMPROVED FIRE SAFETY IN NONRESIDENTIAL BUILDINGS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 85.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TURNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 85, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 55]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
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Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
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Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Clay
Combest
Conyers
Gephardt
Gilchrest
Hoeffel
Hyde
Johnson (IL)
Kilpatrick
Lucas (OK)
Snyder
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes to vote.

☐ 1142

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H. RES. 122, RECOGNIZING THE BICENTENNIAL OF THE ADMISSION OF OHIO INTO THE UNION AND THE CONTRIBUTIONS OF OHIO RESIDENTS TO THE ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT OF THE UNITED STATES

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that in the engrossment of House Resolution 122 that the Clerk be authorized to make technical and conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

## HOUSE TO MARK UP ITS BUDGET RESOLUTION TODAY

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, this afternoon the Committee on the Budget is planning to mark up our budget resolution. That budget resolution is important to our future and our economy. What I am particularly concerned with is the increase in deficit spending. The deficit as projected by the CBO is now approaching $435 billion for this next fiscal year. That does not include supplementals. It does not include any possible war.

If we are concerned at all about the negative impact of increased spending, if we are concerned at all about the debt obligation that we are passing on to our kids and our grandkids then we need to cut. We pretend that our problems today are more important than problems are 20, 30 years from now and asking them to pay back the debt of our overspending. I think it is unconscionable and I think it is bad for the economy, because we are going to end up bidding in the marketplace for available money and, therefore, drive up interest rates, which is bad for the economy.

☐ 1145

## STATES' RIGHTS AND MEDICAL MALPRACTICE

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I rise today to urge my colleagues to respect the rights of States that have governed in an area for over 30 years.

This House will consider H.R. 5 tomorrow. This legislation does nothing more than attempt to impose Congress' will on States without giving them the opportunity to draft their own solutions to this problem.

Medical malpractice is a problem. Insurance rates are a problem. Availability is a problem. But our States have dealt with this issue for almost 30 years now, and I know that in Texas the State legislature is considering a piece of legislation now. In fact, in 37 States, States are considering legislation now.

State legislatures have always been the laboratories for successful legislation. They are best positioned to determine how to address the medical malpractice situation in these States. These lawsuits are filed in State courts, not in Federal courts. H.R. 5, however, ignores the hard work being done by our States and imposes a one-size-fits-all, Washington-knows-best approach; and that is not the way to govern.

Mr. Speaker, I encourage my colleagues who consider themselves defenders of States' rights to oppose H.R. 5 tomorrow and let the State legislatures do their job.

## ALLOW MIGUEL ESTRADA A FAIR VOTE

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, nearly 2 years ago President Bush nominated Miguel Estrada to fill a vacancy in the United States Court of Appeals. During this time, the President's opponents have turned "advise and consent" into "criticize and dissent." They have stalled nearly all of his judicial nominations and much of his domestic agenda as well.

The President's opponents are purposely relegating important legislation to their "criticize and dissent" penalty box. This filibuster is not about Miguel Estrada. He is qualified to serve, and everybody knows that. No, sadly, this is a part of a larger plot to shut down our lawmaking process in an effort to score political points.

With terrorists knocking at our door, gas and heating prices soaring, an economy in need of a jump-start, they want to tie up the vital business of America with a filibuster against Miguel Estrada. And it will not end with Miguel Estrada. They will continue to obstruct at every turn.

Mr. Speaker, I urge opponents to allow Miguel Estrada a fair vote, return to the crucial work for which they were elected, and set free the legislative process they are holding hostage.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members are reminded not to make inappropriate statements about the Senate.

## DO NOT CUT IMPACT AID TO SCHOOLS

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I rise to strongly oppose the President's proposal to drastically cut Impact Aid to schools.

The need has been clear for over half a century. Begun in 1950, Impact Aid compensates districts for the loss of taxes that support schools. Military land and the military homes located on that land do not pay property taxes.

But the administration would cut funding for children living off base, even though the compensation rate is much lower. Yet taxes are also lost from these families. Over three-quarters of servicemembers living in my district claim residence in other States and do not pay State income or car registration taxes. Sales at commissaries or exchanges on bases are exempt from State sales taxes. Property, income, and sales taxes are all needed to pay for education.

Today, Mr. Speaker, as members of our armed services are deploying in large numbers to prepare for a possible war, it is critical for them to know that their children's schools are being supported by the very country for whom they are prepared to give their lives.

## THE ROLE OF THE UNITED NATIONS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, long ago it was written, "Choose this day whom you will serve."

Today, as we go about the people's business in this House of Representatives, in another body on the east coast of this country, an international security council meets and makes decisions about who the United Nations will serve in these momentous times.

Will the United Nations be a cover for tyrants and for nations who give them succor and support, or will the United Nations fulfill its historic mission and be about the business of advancing freedom in the world, confronting tyranny in the world, supporting civil liberties and basic human rights?

It is time for the U.N. to choose. But as the members of that historic body meet this very week and make these momentous decisions, let them know that in this Congress, after these times have passed, we will debate and we will decide and we will choose the metes and bounds of the commitment of the United States of America to the United Nations.

## NEW LEVEL OF BUFFOONERY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, this House reached a new level of buffoonery yesterday when one of the Members here used his authority to require vendors to rename French toast and that famous Belgian delicacy, French fries, saying this would "show support for the American troops protecting freedom abroad."

Now, Mr. Speaker, having been a "troop," I do not think many people are going to have their morale raised much by us calling it "freedom toast."

President Chirac's efforts to find a way to disarm Saddam without getting American troops killed is not an act of effrontery or hatred toward the United States.

I could recite a whole long litany of French contributions to our military goals, from providing the majority of troops at Yorktown, to voting with us more than 98 percent of the time in the Security Council, and we all know that France has been our longest and strongest ally.

We could take that picture down over there of Mr. Lafayette. He fought at Yorktown. Why not really be silly and make ourselves laughingstocks?

Mr. Speaker, let us stop putting this kind of silliness out and demeaning our relationship with the French.

## SUPPORT PRESIDENT'S PRO-GROWTH, PRO-JOBS TAX PROPOSAL

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I rise to support a pro-growth, pro-jobs plan. The President's tax proposal is critical to our Nation's economic health. Critics describe tax relief for working families, small businesses, and investors as a "cost" we cannot afford. Viewing this as a cost is shortsighted and simply bad economic theory.

If we look at the reality of the President's proposal, the reality of what tax relief will do, we know that this plan will generate enough jobs and tax revenues to reduce the so-called costs by 56.8 percent.

A key component of the President's plan for growth is dividend tax relief. If anyone doubts the need or wisdom of such a cut, I would refer them to a recent Washington Post commentary by Charles Schwab, who said he "can't think of any other tax policy that would, at one stroke, be more beneficial to ordinary investors." He predicted immediate benefits, with a stock market rise of 10 to 15 percent. Debates about cost are simply missing the point.

Mr. Speaker, it is clear this plan will assist in jump-starting our economy. I encourage all my colleagues to join in passing this important legislation.

## OPPOSE HEALTH ACT OF 2003

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my opposition to H.R. 5, the so-called HEALTH Act of 2003.

The acronym in the title of this bill supposedly stands for Help Efficient, Accessible, Low Cost, Timely Healthcare. But close examination of the provisions of the bill leads me to the conclusion that the acronym instead spells Help Eviscerate Accountability by Law for Traumatic Harm.

Supporters of this bill claim that medical malpractice premiums are out of control because of excessively high-damage awards in malpractice suits. But paid losses have tracked consistently with medical inflation rates for the last 3 decades. There simply is no explosion of paid losses.

Furthermore, there is no provision in the bill, no provision, that requires insurers to lower their rates once the caps are in place.

Supporters of this bill make it plain whom they care for: insurance companies. And it is also clear where the losses will be: people injured due to medical negligence.

## SUPPORT PRESIDENT'S PROPOSAL TO PROMOTE JOB CREATION AND ECONOMIC GROWTH

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, our economy needs new jobs. That is why I so strongly support President Bush's proposal to promote job creation and economic growth. One provision of that plan will lead to the creation of over 400,000 new jobs by the end of next year, and that is the proposal to eliminate the double tax on savings in stocks and mutual funds.

America's savers should be rewarded, not penalized, for investing, because when they invest their savings, they not only promote job creation, create the wherewithal for the hiring of new workers, but they also help provide for their own retirement. Indeed, those who are already retired stand to benefit from the elimination of the double tax, because over half of dividend payments are received by senior citizens.

To get our economy growing again, to provide tax fairness to the men and women who are saving for their future retirement and those who are already on fixed incomes, it is time to repeal the double tax on savings.

## DEBATE REAL ISSUES AND LEAVE JOKES TO COMEDIANS

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, the debate over war and peace in this House has crumpled into farce. Yesterday, some of our colleagues held a press conference to announce that the House would now be serving "freedom fries" and "freedom toast" instead of French fries and French toast. So far, German chocolate cake, Russian salad dressing, and the entire Chinese food section have been spared the wrath of these culinary correctors.

Mr. Speaker, this episode would be funny if it were not so sad. Because of this stunt, the image of the House in the eyes of the American people and people around the world will diminish once again. This House should not be a punch line, Mr. Speaker; it should not be the butt of jokes on the "Tonight Show."

I hope that the Members who staged yesterday's circus enjoyed the publicity. I hope it was worth it.

We are about to go to war, Mr. Speaker. Let us have a real debate about real issues that affect the lives of real people and leave the jokes to the comedians.

## CHILD MEDICATION SAFETY ACT OF 2003

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, last year the House Committee on Government Reform held a hearing exploring an issue that should shock all of us. Witnesses at the hearing testified that some school officials have taken it upon themselves to decide that a child needs to be placed on psychotropic drugs. These school officials are not licensed medical practitioners, and yet some of these officials have told parents that their child must be on a drug such as Ritalin, or their child would not be allowed to attend school any longer.

No child should face denial of educational services because they are not taking a psychotropic drug.

Last night, I introduced the Child Medication Safety Act of 2003. This legislation will address a significant problem facing children and their parents throughout the Nation and provide parents with protections from being forced into making decisions about their child's health under duress.

This bill has a simple message: States that take Federal education funds must prevent school district personnel, teachers, principals, and other nonlicensed medical professionals from forcing a child to be on psychotropic drugs in order to attend school or receive services.

Mr. Speaker, I urge my colleagues to support this important piece of legislation.

## THE INADEQUACY OF THE ADMINISTRATION'S BUDGET

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, as we speak, the House Committee on the Budget is marking up a budget resolution for this coming fiscal year. President Bush has proposed a budget that is $304 billion in deficit, the biggest deficit ever submitted. And do you know, there is not one dime in that budget for waging war with Iraq, let alone any of the reconstruction costs that are necessary.

If you look out for the next 10 years, President Bush is suggesting that we should accumulate deficits of over $5 trillion. Halfway through this next decade in 2008, the baby boom generation starts to retire, thereby doubling the number of people dependent upon Social Security and Medicare. Yet all of this $5 trillion in deficit is going to have to be borrowed from the Social Security and Medicare trust funds, and there is not one dime for Iraq or for any of the other domestic priorities.

Think about the fact that this budget means that Veterans Administration hospitals will be able to treat 168,000 fewer veterans, that we will have to eliminate education for homeless children and after-school care.

Take a look at this budget and cry.

□ 1200

## THE BUDGET

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I wanted to enter into this discussion about the budget because I think it certainly is a worthy one in a time when our Nation has been attacked and is working hard against terrorism and to protect our domestic States from threats. We are at war.

The reality is this is what our budget does. From fiscal year 2002 to 2003, there was a 7 percent increase. From 2003 to 2004 it will be about a 3 percent increase, with about a 5.5 percent increase in defense and in homeland security; there will be increases in unemployment insurance because of the economy; there will be increases in Social Security and, of course, a big increase in Medicare because of the prescription drug benefit that the President is pushing. Yet at the same time, we do need to tighten our belts. That is the way to attack the deficit.

I am glad to see that the Democrats are interested in the deficit after all of these years. What I would hope is that we can come together on a bipartisan, wartime budget and put the interests of the troops first, of the economy, of homeland security, of our seniors, and yet, at the same time, tighten our belts here in Washington within the government bureaucracy. I look forward to that process.

## THE BUDGET

(Mr. HONDA asked and was given permission to address the House for 1 minute.)

Mr. HONDA. Mr. Speaker, my goodness, what a difference 2 years make.

Two years ago, Republicans argued that the projected $5.6 trillion surplus was so huge and so certain that they could accommodate large tax cuts and increases in domestic spending, while still having enough to provide for unseen events. In fact, they even worried that the U.S. may pay off the public debt too quickly.

Today that $5.6 trillion surplus is gone and has been replaced with deficits as far as the eyes can see. Our national public debt has risen to $6.4 trillion, the highest amount in U.S. history.

In fiscal year 2002, American taxpayers spent $333 billion paying interest charges on our national debt, which translates to nearly $1 billion per day, every day.

That total is more than the government spends on education, transportation, child nutrition, homeland security, and the environment combined.

## MEDICAL MALPRACTICE INSURANCE

(Mr. BALLANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLANCE. Mr. Speaker, the medical community is rightfully concerned about the rising cost of medical insurance, and I strongly agree that Congress needs to address this urgent issue. There are three key points to be made in responding to this important issue: First, reform the insurance industry; second, reduce frivolous lawsuits wherever they are to be found; and, third, reduce the number of medical errors made, I am advised by my research, by a small minority of 5 percent of the physicians.

The Republican bill's attempt to cap damage awards and blame the trial lawyers would achieve none of these goals.

The insurance companies victimize patients through denial of medical coverage while doctors are severely gouged by staggering premiums. Caps only serve to further victimize patients without providing any relief to the medical profession. More importantly, in my opinion, caps take away our constitutional and time-honored right to trial by jury.

Mr. Speaker, I urge that we vote against this bill and let us pass a real medical malpractice reform bill.

## SUPPORT CONYERS-DINGELL ALTERNATIVE

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, I rise today in opposition to H.R. 5. This bill claims to protect patients' rights but, in fact, it strips away the rights of patients, especially women, seniors, children, and lower income families.

It does protect someone, however. It protects HMOs, the insurance industry, and the pharmaceutical companies.

Medical malpractice is a serious issue, but so is medical error. Thousands of Americans die every year due to medical mistakes and thousands more are injured and placed at risk. The wrong limbs have been amputated. Improper transplants have been performed. These are real people, real examples, and real injuries and deaths, not frivolous lawsuits.

Mr. Speaker, H.R. 5 would restrict the rights of such legitimately and seriously injured patients.

The Conyers-Dingell alternative offers meaningful reform without putting Americans at risk. Conyers-Dingell would eliminate frivolous lawsuits, increase competition, and reduce costs. It would address the crisis situation faced in some geographic areas, but not by sacrificing crucial protections.

I urge my colleagues to oppose H.R. 5 and to protect patients' rights by supporting Conyers-Dingell.

## HEALTH CARE FOR THE UNINSURED AND THE HISPANIC HEALTH IMPROVEMENT ACT

(Mr. RODRIQUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, I rise today to talk about the uninsured in America.

The number of uninsured in this Nation is alarming. Too many people continue to go without insurance coverage. The numbers right now range close to 41 million Americans who are uninsured. The majority of these individuals are hard-working Americans that make $20,000 to $30,000 and find themselves unable to pay for their prescriptions.

Tomorrow we will be filing a piece of legislation, the Hispanic Health Improvement Act. Hispanics are among the largest disproportionate number of uninsured, close to 31 percent. One out of three Hispanics are uninsured, yet 80 percent of those that are uninsured are working Americans, working hard but unable to provide it.

The bill will provide an expansion not only to Medicaid, but also to SCHIP. It also will provide an increase in resources for those areas that disproportionately hit Hispanics such as diabetes, cancer, asthma, HIV/AIDS, and others. It also will provide an opportunity to provide access and affordability in the areas that are confronted. In addition to that, it also will strengthen the Nation's health care by allowing more opportunities for doctors and nurses to be included.

## AMERICA NEEDS TAX RELIEF

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, America needs tax relief. The economy lost 308,000 jobs in February, one of the sharpest drops in recent memory. The unemployment rate now stands at 5.8 percent. While this is relatively low by historical standards, the unemployment rate was only 4 percent as recently as 2000.

Now, the President's economic growth package, I believe, is urgently needed to increase the number of jobs created in the United States. Private sector economists have drawn the same conclusion. The jobs growth package could create millions of new jobs. For example, the Macroeconomic Advisers estimate that the package would lead to the creation of nearly 2 million jobs by the end of 2004. The Business Roundtable puts the figure at more than 3 million.

So, Mr. Speaker, I believe that we should pass the Bush tax relief plan now.

## THE BUDGET

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, as we are poised to go to war and as States like Oregon are drowning in deficits caused by the souring economy, we would think it would be more vital than ever to adopt a responsible budget, one at least that addresses reality.

Unfortunately, the budget produced by the majority this year has huge tax cuts that do not stimulate the economy and would enact across-the-board spending cuts, regardless of the value of the services: Schools, nursing homes, veterans health care, law enforcement, bridges, highways, ports, and that is just to name a few.

While here in Washington these may be just functions in a budget, at home they represent our local economy, national defense, and public good. We should have the courage to face these tough decisions on a case-by-case basis and not shy away from our responsibility, a budget that addresses the needs of all Americans.

## THE TRUTH ABOUT H.R. 5

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, people on the other side are trying to pass off caps on medical malpractice awards as good for patients and doctors. In reality, it is only good for insurance companies.

The truth is, capping medical malpractice awards does not mean insurance rates will fall. Compare average insurance premiums for States with damage caps versus premiums for States with no gaps. For OB/GYN doctors, especially those hard hit by medical malpractice awards, we find that OB/GYNs in States without caps pay only 3.4 percent more than their counterparts in States with award caps.

General surgery doctors actually pay $602 more, not less, in States that have caps in medical malpractice awards.

Governor Jeb Bush's own CFO was quoted 2 weeks ago saying that medical malpractice insurance is rising in Florida because insurance companies are trying to make up losses in a soft economy.

Capping medical malpractice awards will not cause insurance rates to go down. Capping medical malpractice awards is simply a handout to the insurance industry at the expense of innocent patients and victims.

## ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, I rise today with a heavy heart to condemn in the strongest possible terms the assassination of Serbian Prime Minister Zoran Djindjic.

As a Member of Congress, I express my condolences to the government of Serbia and Montenegro and to the family of the late Prime Minister. Mr. Djindjic was one of the driving forces behind the extradition of Slobodan Milosevic to the Hague for war crimes, and also favored increased political and economic cooperation with the West.

Mr. Speaker, I think it is our responsibility to encourage the government of Serbia and Montenegro to hold all of those responsible for the assassination accountable and to continue their work for economic reform and full cooperation with the War Crimes Tribunal, including the turning over of those indictees who still remain at large and cooperation on the witnesses and the information that is needed.

Again, Mr. Speaker, we offer our condolences to the family.

## APPOINTMENT OF MEMBERS TO JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to 15 U.S.C. 1024(a) and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Joint Economic Committee:

Mr. STARK of California,
Mrs. MALONEY of New York,
Mr. WATT of North Carolina,
Mr. HILL of Indiana.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions may be taken in two groups, the first occurring before debate has concluded on motions to suspend the rules and the second after debate has concluded on remaining motions.

## HOSPITAL MORTGAGE INSURANCE ACT OF 2003

Mr. GARY G. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 659) to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals, as amended.

The Clerk read as follows:

### H.R. 659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hospital Mortgage Insurance Act of 2003".

**SEC. 2. STANDARDS FOR DETERMINING NEED AND FEASIBILITY FOR HOSPITALS.**

(a) IN GENERAL.—Paragraph (4) of section 242(d) of the National Housing Act (12 U.S.C. 1715z–7) is amended to read as follows:

"(4)(A) The Secretary shall require satisfactory evidence that the hospital will be located in a State or political subdivision of a State with reasonable minimum standards of licensure and methods of operation for hospitals and satisfactory assurance that such standards will be applied and enforced with respect to the hospital.

"(B) The Secretary shall establish the means for determining need and feasibility for the hospital. If the State has an official procedure for determining need for hospitals, the Secretary shall also require that such procedure be followed before the application for insurance is submitted, and the application shall document that need has also been established under that procedure.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this subsection (a) shall take effect and apply as of the date of the enactment of this Act.

(2) EFFECT OF REGULATORY AUTHORITY.—Any authority of the Secretary of Housing and Urban Development to issue regulations to carry out the amendment made by subsection (a) may not be construed to affect the effectiveness or applicability of such amendment under paragraph (1) of this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GARY G. MILLER) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. GARY G. MILLER).

### GENERAL LEAVE

Mr. GARY G. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to include extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GARY G. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 659, the Hospital Mortgage Insurance Act of 2003, and I urge my colleagues to vote in favor of this important legislation.

This legislation would give the Department of Housing and Urban Development the authority to provide FHA mortgage insurance to hospitals across the country which are currently ineligible for the insurance due to the lack of a State Certificate of Need Program.

The reduced costs for these hospitals will allow the modernization and rehabilitation of medical facilities across the country.

We have all heard from hospitals in our districts about the significant challenge they are facing in providing care to patients who are covered by Medicare and Medicaid. Hospital budgets are further strained as improvements in technology and health care knowledge require capital improvements such as additions and renovations to existing buildings.

The need for capital improvements at hospitals will continue to grow as hospitals are increasingly under pressure to acquire state of the art equipment and expand services.

We all know that modern health care facilities can improve the quality of life and the health of the population, yet financing for these new improvements at hospital facilities is often not readily available.

To assist States in providing modern health care facilities, Congress created section 242 of the National Housing Act.

Section 242 permits FHA to insure mortgages used to finance the replacement, modernization, and rehabilitation of inefficient existing hospital facilities. Hospitals benefit from the low interest rate costs attributable to FHA-insured financing.

Under the 1968 law, to be eligible for section 242 financing a hospital must obtain a Certificate of Need from a designated State agency. The Certificate of Need determines whether the hospital applying for the loan meets certain eligibility requirements for the receipt of the FHA loan guarantee.

In the absence of Certificate of Need authority, a State is allowed to commission a feasibility study. In addition, the hospital is required to demonstrate that there is a reasonable State or local minimum licensing and operating standard in effect.

The Certificate of Need Program is established to control the number of hospital beds and expenditures. When the Federal Certificate of Need Program began, 49 States enacted legislation for its Certificate of Need Program. Louisiana was the only State that did not.

As a result of continuing Federal policies encouraging deregulation, Certificate of Need authority has sunsetted in some States. In fact, over the last 20 years, at least 18 States have repealed the Certificate of Need Programs.

My own State of California does not have a Certificate of Need process. Therefore, it is far more difficult for hospitals to secure FHA-insured financing.

☐ 1215

Under this new legislation, California would be put on a level playing field with other States.

Even in States that have retained the Certificate of Need authority, some projects do not qualify. In States that do not have a Certificate of Need program, the relevant State agency often lacks the authority to commission alternative feasibility studies. The result of this is many States simply do not have access to this lower-cost FHA-insured financing.

In fact, of the 64 hospital mortgages FHA currently insures under this program, only four are located in non-Certificate of Need States. Obviously, the section 242 program must be changed so that FHA-insured financing is accessible to hospitals in all States.

H.R. 659 would give HUD the authority to establish a process for determining the need and feasibility for a hospital's proposed project, thus eliminating the requirement for States to provide a feasibility study where no Certificate of Need exists.

This is an important bill that makes the necessary changes to ensure that the section 242 program is a viable program for all States. Again, I urge my colleagues to support this legislation and ensure that FHA-insured financing is available in each State for the purpose of building new hospitals.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 659; and I would like to thank the subcommittee chairman, the gentleman from Ohio (Mr. NEY), and our chairman of the committee, the gentleman from Ohio (Mr. OXLEY), for expediting this legislation, because it is certainly needed.

I stand in strong support because FHA insures hospitals certainly under the section 242 loan program. The funding year 2004 administration budget is requesting the authority to insure $700 million of such hospital loans in funding year 2004. Decade-old statutory language authorizing FHA-hospital loans requires as a condition of a loan a State certification that there is a need for the hospital, or if no State procedure exists for such a certification, the State must commission an independent study of market need and feasibility.

H.R. 659 addresses that concern that this Certificate of Need requirement makes it difficult, if not impossible, for hospitals in many States, including California, as was mentioned, to be eligible for FHA loans.

This bill replaces existing statutory requirements with one that simply requires the HUD Secretary to establish a means for determining need and feasibility for any hospitals applying for a loan, with a proviso that a hospital located in any State with an official procedure for determining need, that a Certificate of Need must follow that procedure.

So I think that it has been well stated that the need is there. There are so many States that are waiting on us to provide them the opportunity to have access to this insurance, and I would ask for an "aye" vote.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 659, the Hospital Mortgage Insurance Act of 2003 and urge my colleagues support.

The Committee on Financial Services unanimously approved this legislation on February 13, 2003. H.R. 659 amends Section 242 of the National Housing Act to ensure that every state will be eligible for FHA insured financing to build new hospitals or renovation and updates existing hospitals. The version we are considering today includes an amendment that will make this legislation effective immediately.

Back in 1968, Congress enacted Section 242 in recognition that hospitals were in need of low cost financing in order to fund capital improvements such as additions and renovations to existing buildings, and in some cases to build new hospitals. In order to be eligible for the financing, the 1968 law required the hospital to obtain a certificate of need or to perform a feasibility study. However, over the years, as part of the effort to encourage deregulation, certificate of needs authority has sunset in some states.

H.R. 659 recognizes the fact that many states no longer have certificate of needs authority or the mechanisms in place for feasibility studies. It sets up a more simplified process for states to be eligible for the low-cost FHA insured financing.

H.R. 659 will help to assure that quality, affordable health care is more accessible to rural and urban American communities where conventional financing may not be readily available.

According to the Congressional Budget Office, enacting this legislation would result in $2 million to $3 million of additional collections each year, which will offset any additional costs associated with this change in the program.

I want to thank Housing Subcommittee Chair BOB NEY and Ranking Member MAXINE WATERS for their leadership on this important bill. Mr. Speaker, this is a good bill and I urge member's support.

Ms. WATERS. Mr. Speaker, I yield back the balance of my time.

Mr. GARY G. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and pass the bill, H.R. 659, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GARY G. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## AUTOMATIC DEFIBRILLATION IN ADAM'S MEMORY ACT

Mr. SHIMKUS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 389) to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

The Clerk read as follows:

### H.R. 389

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Automatic Defibrillation in Adam's Memory Act".

**SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.**

Subsection (c) of section 312 of the Public Health Service Act (42 U.S.C. 244), as amended by Public Law 107–188, is amended—

(1) at the end of paragraph (5), by striking "and";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) establish an information clearinghouse that provides information to increase public access to defibrillation in schools; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Louisiana (Mr. JOHN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS).

### GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H.R. 389.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what I have before me is an emergency external defibrillator, and that is the purpose of the bill we have on the floor as we speak. It is an incredible device that saves lives, and that is what this legislation is a means to address.

As one of the original co-sponsors of this bill and as a proud member of the Committee on Energy and Commerce, I would like to commend all of those who have worked to bring this legislation to the floor.

This is a training model of an AED, an acronym that stands for Automatic External Defibrillator. While the training device cannot save a life, AEDs can and have in every corner of the States. While many know about our Chicago airports which have lead the Nation establishing public access to defibrillation programs, I would like to tell you the story about Sean Morely. Sean is a 13-year-old boy from Buffalo Grove, Illinois, whose life was saved because of an AED. While playing baseball Sean was hit in the chest by a fastball. He went into sudden cardiac arrest, a condition where the victim's heart most commonly flutters in the chest, but does not provide the body with oxygenated blood. Within 10 minutes, there is nearly zero chance of saving a cardiac arrest victim's life. But Sean was lucky. A passing police officer from another district used the defibrillator in the trunk of his car to restore a normal heart beat for the young athlete.

It is important to realize that defibrillation is the only way to restart a sudden cardiac arrest victim's heart. Without that defibrillator, this story would have had a much different ending.

Stories like these have driven State governments to pass bills requiring AEDs in numerous locations. The Adam Act will help our local communities by setting up a national clearinghouse to provide schools with how-to and technical advice to set up public access defibrillation programs. It will ensure that schools have access to the appropriate training, successful fundraising techniques, and other logistics involved. This is particularly helpful to smaller school districts that do not have the local resources such as a major hospital that often exist in more urban areas.

The clearinghouse will also collect data on a large scale, an effort to allow for research with issues related to cardiac death in children and adolescents.

Over 200,000 Americans die each year of sudden cardiac arrest including children. The American Heart Association estimates that about 50,000 of these victims' lives could be saved each year with a strong chain of survival. The chain of survival includes an immediate call to 911, early CPR and defibrillation, and the arrival of early advanced life support.

Please do not think that your community does not need this type of assistance. Consider that the average emergency response time is about 12 minutes. That is 2 minutes after a cardiac arrest victim is beyond help. The small cost in supplying this technology to our schools will be returned in full and by the length of service of years to the community for each young life saved.

Mr. Speaker, I appreciate all my friends and colleagues who have worked on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. SHIMKUS) for this piece of legislation, and I also want to thank my distinguished colleague from California (Mrs. CAPPS) for being the prime sponsor of this very important piece of legislation, House Resolution 389, the Adam Act or the Auto Defibrillation in Adam's Memory Act. This is an important piece of legislation that will authorize the appropriation of resources to establish a much-needed clearinghouse providing information to increase public awareness to successful life-saving tools and programs.

Mr. Speaker, as we all know, heart disease is the single leading cause of death in America. This year alone over 1 million people will suffer from cardiac attacks, or coronary attacks. Over half of these people will die, and half of those will die before they reach the hospitals. Additionally, 60 percent of the heart-related deaths are due to cardiac arrest, and half of those occur in the patient before they can reach the hospital.

It is vitally important to ensure that victims of heart disease and cardiac arrest are able to receive immediate medical attention, first responders right at the site. The Adam Act will help enable Americans to recognize and respond to incidences of heart disease and cardiac arrest by providing schools with the guidance and resources necessary to set up public access defibrillation programs. H.R. 389 will work to ensure that schools have access to the appropriate training, fundraising techniques and other logistical requirements for successful life-saving programs. This is a very important and good bill, and I urge my colleagues to join me in supporting this important bill, a life-saving piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, let me congratulate the gentleman from Illinois (Mr. SHIMKUS) for this extraordinary bill. This is indeed a life saver. There are many things we do in this House that affect people's pocketbooks or the way in which we do business in this country or the way in which we live in our communities. This one saves lives. And when we have these important bills we ought to really be grateful to the authors who bring them forward and who gave so much time and attention to it, as the gentleman from Illinois (Mr. SHIMKUS) has done.

This bill, H.R. 389, the Automatic Defibrillation in Adam's Memory Act, is a simple clarification of a grant program authorized already by the Public Health Security and Bio-terrorism Response Act for States, Indian tribes and localities to develop and implement public access defibrillation programs. Because many schools also serve as community meeting places, several communities are considering placing the AEDs in their schools. In order to assist the schools interested in installing these AEDs, this bill clarifies that the public access defibrillation program grant dollars already authorized may also be used to establish information clearinghouses to assist in these efforts.

Automatic external defibrillators, AEDs, are widely used by emergency personnel and health professionals to assist individuals suffering from sudden cardiac arrest. The use of AEDs has proven effective to save lives when following the chain-of-survival plan developed by the American Heart Association, which includes an immediate call to 911, early CPR and defibrillation, and early advanced life support.

Heart disease is the leading cause of death in this country. AEDs have proven helpful in reducing the number of cardiac arrest fatalities and expanding the use of these medical devices will undeniably help save more lives.

Again, I want to thank the gentleman from Illinois (Mr. SHIMKUS) and my friend, the gentleman from Louisiana (Mr. JOHN), for all the work our committee did in a bipartisan fashion to bring this bill forward.

The gentleman from Louisiana (Mr. JOHN) may not remember this, but when Dudley LeBlanc was a senator in the State senate in Louisiana, I watched as he suffered a massive cardiac arrest in the house chamber. And I watched as a defibrillation team came in and saved his life in front of all the other members, a dramatic, if you will, example of how this technology can really save lives.

Again, I thank both the gentlemen, but also to all the members of the Committee on Energy and Commerce for the great work they have done in bringing this bill forward. I urge my colleagues in the House to adopt it expeditiously.

Mr. JOHN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. CAPPS), a prime sponsor of this life-saving piece of legislation.

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I am so pleased to rise in support of H.R. 389, the Automatic Defibrillation in Adam's Memory Act.

As co-chair of the Congressional Heart and Stroke Coalition and Caucus, I was proud to join with the gentleman from Illinois (Mr. SHIMKUS) in introducing this bill last year and again this year. And I want to thank my colleague from Illinois for his leadership on this issue. For the last few years, Congress has passed several bills to expand the use of automatic external defibrillators, or AEDs.

We have provided protections for good Samaritans, encouraged State and local governments to place AEDs in their buildings, and provided funds for their communities to purchase these devices.

The gentleman from Florida (Mr. STEARNS) and I have recently been urging the Architect of the Capitol to acquire AEDs and place them around the grounds.

☐ 1230

We hope we will see movement on this very soon, and now, with this legislation before us, we are starting to get them into schools. Some have suggested that AEDs will become as prevalent as fire extinguishers. We can only hope so. Rescue professionals know firsthand their cost effectiveness.

This bill would create a national clearinghouse of information about AEDs and public defibrillation so that schools can begin placing them throughout their facilities. We do not usually think of children at school as being a high risk group for heart attack, but it has been known to happen, and schools, let us keep in mind, often serve as community meeting places where the public can gather at various events. Think of the times when schools are used as disaster centers. Add to this the parents, teachers and staff at the schools, and it only makes sense to be assured that they have the life saving devices such as AEDs available.

I urge my colleagues to support this bill.

Mr. JOHN. Mr. Speaker, we have no further speakers, and I yield back my time.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

I, too, want to mention the support from my colleague who just spoke, the gentlewoman from California (Mrs. CAPPS), who has really become a champion on a lot of health care-related items, and so when we get her on our team that is a good teammate to have, and I do appreciate that.

There is a health care crisis in America. There is a health care crisis in rural America. I think the point that 10 minutes, the response time being 12 minutes for the response time from most paramedics, 10 minutes is too short of a time. They cannot get there. That poses this need for this bill. That chain of survival, the E–911. We had the E–911 Caucus that helped us locate individuals, CPR, defibrillation and other life support measures.

This is an important bill and I appreciate the committee and my friends on the Democratic side for helping move this expeditiously to the floor. I ask my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LaHOOD). The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 389.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHIMKUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 342) to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

The Clerk read as follows:

H.R. 342

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mosquito Abatement for Safety and Health Act”.

**SEC. 2. GRANTS REGARDING PREVENTION OF MOSQUITO-BORNE DISEASES.**

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 4 of Public Law 107–84 and section 312 of Public Law 107–188, is amended—

(1) by transferring section 317R from the current placement of the section and inserting the section after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following section:

**“SEC. 317S. MOSQUITO-BORNE DISEASES; COORDINATION GRANTS TO STATES; ASSESSMENT AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.**

“(a) COORDINATION GRANTS TO STATES; ASSESSMENT GRANTS TO POLITICAL SUBDIVISIONS.—

“(1) IN GENERAL.—With respect to mosquito control programs to prevent and control mosquito-borne diseases (referred to in this section as ‘control programs’), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of—

“(A) coordinating control programs in the State involved; and

“(B) assisting such State in making grants to political subdivisions of the State to conduct assessments to determine the immediate needs in such subdivisions for control programs, and to develop, on the basis of such assessments, plans for carrying out control programs in the subdivisions.

“(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to States that have one or more political subdivisions with an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to political subdivisions in other States.

“(3) CERTAIN REQUIREMENTS.—A grant may be made under paragraph (1) only if—

“(A) the State involved has developed, or agrees to develop, a plan for coordinating control programs in the State, and the plan takes into account any assessments or plans described in subsection (b)(3) that have been conducted or developed, respectively, by political subdivisions in the State;

“(B) in developing such plan, the State consulted or will consult (as the case may be under subparagraph (A)) with political subdivisions in the State that are carrying out or planning to carry out control programs;

“(C) the State agrees to monitor control programs in the State in order to ensure that the programs are carried out in accordance with such plan, with priority given to coordination of control programs in political subdivisions described in paragraph (2) that are contiguous;

“(D) the State agrees that the State will make grants to political subdivisions as described in paragraph (1)(B), and that such a grant will not exceed $10,000; and

“(E) the State agrees that the grant will be used to supplement, and not supplant, State and local funds available for the purpose described in paragraph (1).

“(4) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the State involved agrees that, promptly after the end of the fiscal year for which the grant is made, the State will submit to the Secretary a report that—

“(A) describes the activities of the State under the grant; and

“(B) contains an evaluation of whether the control programs of political subdivisions in the State were effectively coordinated with each other, which evaluation takes into account any reports that the State received under subsection (b)(5) from such subdivisions.

“(5) AMOUNT OF GRANT; NUMBER OF GRANTS.—A State may not receive more than one grant under paragraph (1).

“(b) PREVENTION AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States for the operation of control programs.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to political subdivisions that—

"(A) have an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to other political subdivisions;

"(B) demonstrate to the Secretary that the political subdivisions will, if appropriate to the mosquito circumstances involved, effectively coordinate the activities of the control programs with contiguous political subdivisions;

"(C) demonstrate to the Secretary (directly or through State officials) that the State in which the political subdivision is located has identified or will identify geographic areas in the State that have a significant need for control programs and will effectively coordinate such programs in such areas; and

"(D) are located in a State that has received a grant under subsection (a).

"(3) REQUIREMENT OF ASSESSMENT AND PLAN.—A grant may be made under paragraph (1) only if the political subdivision involved—

"(A) has conducted an assessment to determine the immediate needs in such subdivision for a control program, including an entomological survey of potential mosquito breeding areas; and

"(B) has, on the basis of such assessment, developed a plan for carrying out such a program.

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of a control program to be carried out under paragraph (1) by a political subdivision, a grant under such paragraph may be made only if the subdivision agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than ⅓ of such costs ($1 for each $2 of Federal funds provided in the grant).

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(C) WAIVER.—The Secretary may waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the political subdivision involved justify the waiver.

"(5) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the political subdivision involved agrees that, promptly after the end of the fiscal year for which the grant is made, the subdivision will submit to the Secretary, and to the State within which the subdivision is located, a report that describes the control program and contains an evaluation of whether the program was effective.

"(6) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a fiscal year may not exceed $100,000. A political subdivision may not receive more than one grant under such paragraph.

"(c) APPLICATIONS FOR GRANTS.—A grant may be made under subsection (a) or (b) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) TECHNICAL ASSISTANCE.—Amounts appropriated under subsection (f) may be used by the Secretary to provide training and technical assistance with respect to the planning, development, and operation of assessments and plans under subsection (a) and control programs under subsection (b). The Secretary may provide such technical assistance directly or through awards of grants or contracts to public and private entities.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'control program' has the meaning indicated for such term in subsection (a).

"(2) The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $100,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007. In the case of control programs carried out in response to a mosquito-borne disease that constitutes a public health emergency, the authorization of appropriations under the preceding sentence is in addition to applicable authorizations of appropriations under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.".

**SEC. 3. RESEARCH PROGRAM OF NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.**

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following section:

"METHODS OF CONTROLLING CERTAIN INSECT AND VERMIN POPULATIONS

"SEC. 463B. The Director of the Institute shall conduct or support research to identify or develop methods of controlling insect and vermin populations that transmit to humans diseases that have significant adverse health consequences.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

We will be speaking about mosquitos. I think it is appropriate that we represent both sides of the aisle by gentlemen from Louisiana.

I am pleased that the House is considering today the Mosquito Abatement for Safety and Health Act. I want to congratulate and thank the gentleman from Crowley, Louisiana (Mr. JOHN) for his authorship of this very important legislation, not just for our State, by the way, but for so many States in the Nation where, in fact, the West Nile virus has threatened lives, and it has, in fact, harmed so many individuals.

In fact, today, Illinois, Michigan and Iowa lead the country, three States ahead of Louisiana, in the number of reported cases of West Nile virus, and while we are experiencing wintry weather here in the Nation's capital, we may have rather numbed our senses to the fact that warm and wet weather is just around the corner and with it will come flowers, sunshine and, yes, mosquitos.

Just yesterday, USA Today warned, "Keep the bug spray handy, there is a good chance that West Nile virus will complete its coast-to-coast march this summer"; in fact, warning us that it is going to make it to the West Coast before the summer is over.

Last summer, the West Nile infected over 40 States. It has led to the death of 274 of our fellow citizens. It has made 4,000 others seriously ill, and what is remarkable is that many more Americans may have been infected by the West Nile virus but thankfully did not develop its serious complication.

Since 1999, when the West Nile was first detected in our country, the Centers for Disease Control and Prevention have taken the lead in assisting the States and the localities in combatting the spread of this disease.

The bill we are considering today will complement the work of the CDC and will provide authority to the Secretary of Health and Human Services to make grants to States for the purpose of coordinating such things as mosquito control programs, assessment and mosquito control planning grants to political subdivisions, and assistance in combatting the spread of mosquitos that carry West Nile. In addition, this Act authorizes CDC to award grants to political subdivisions of States for the operation of mosquito control programs themselves.

The rapid outbreak of West Nile across America, which is fast outpacing the prediction of many scientists, has made it very difficult for our communities to adequately respond. The additional Federal dollars we authorize through this legislation will assist States and localities with their immediate needs to combat it.

Notably, this legislation recognizes the importance of keeping mosquito control programs running and controlled at the local level, where they have historically operated. It simply gives additional support to the CDC so it can provide technical and training assistance to the planning, development and operation of these programs.

Finally, it directs the National Institutes of Health to support and conduct research to identify or develop methods to control insect and vermin populations that transmit diseases that have significant adverse health consequences for humans. The findings from this research hold the potential for the development of additional products to assist in mosquito control efforts.

Again, I want to thank the gentleman from Louisiana (Mr. JOHN) for his enormous leadership in this act and so many other things before the Committee on Energy and Commerce.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Louisiana as chairman of our Committee on Energy and Commerce and also the gentleman from Michigan (Mr. DINGELL), the ranking member. Without their leadership, this legislation would never be on the floor today, and to the gentleman from Louisiana (Mr. TAUZIN), I think that it is appropriate that we two Louisianans on either side of the aisle take the lead on this piece of legislation because, as we all know, mosquitos are nonpartisan biting insects, and so it is really important that we have a nonpartisan bill here. So I thank the gentleman very, very much for doing this.

I also want to thank Cheryl Jaeger with the majority staff and John Ford with the minority staff for their help in bringing this bill to the floor today.

I also want to thank the 50-plus cosponsors of this piece of legislation that are on both sides of the aisle from all over the country, 50-plus people. I also want to add the support of the gentleman from Arkansas (Mr. ROSS) and also the gentlewoman from Connecticut (Ms. DELAURO) and a special support from the gentlewoman from Texas (Ms. JACKSON-LEE) who shared with me just this morning a story of a lady, a constituent of hers, who died in her garden this past summer from West Nile virus. So she is a strong supporter of this piece of legislation.

I first introduced this piece of legislation in May of 2002 in the 107th Congress last year, and I do not think anyone would have realized, especially Members of Congress or any other Americans would have realized or imagined the effect West Nile has had since that time when I introduced this piece of legislation.

As we can see from the visual aids, the West Nile virus in the United States from 1999 to 2001 are depicted here in the red States, all the way from the Northeast all the way down to Louisiana, basically separated somewhat by the Mississippi River, but if we look at what has happened in just 1 year alone or year-and-a-half, the visual aid on my right indicates the verified cases, as of December 11 of this past year, of the cases of West Nile virus. They have spread to almost every State in our Union.

It is important to note that the spread of this has happened only over the last year-and-a-half. Over 4,000 people have been infected, and 300 people have died of this disease. The people of Louisiana have suffered almost 330 human cases, 24 deaths, but surprisingly enough we were not the worst ones affected. The State of Illinois, 800 human cases; the State of Michigan, 550 cases; and Ohio, 450 cases.

It is important that we know a little bit about this disease because it is somewhat new to the United States, and it is also important to know that prior to 1999 it was not diagnosed or it was not a disease that was diagnosed in America. It was first discovered in New York City in 1999, only 4 years ago. Before that, this virus was very common in Africa, Eastern Europe, Asia, or Western Asia and the Middle East. It is also important to know how this disease spreads, to try to get to better understanding of how we can cope with it.

First of all, it is a disease that infests birds, birds of all prey, but it is mostly in bluejays and crows where it is found more prevalent, and of course, this disease, mosquitos bite these birds and these birds go on and spread this virus to many hundreds and thousands of mosquitos who, in turn, bite humans, cattle, animals and infect them. So that is how the disease is spread. It is also important to note that the disease patterns are very similar to the migratory patterns of some of these birds. So we know a little bit about it, but we need to know more.

This disease has spread faster across America than anyone could ever, ever have imagined, including the Centers for Disease Control. Their projections were wrong about the spread of this disease. In 1 year the disease has spread all the way, as I mentioned, from the Mississippi River all the way to the Western coast of California and almost every other State in between, and of course, as my visuals show, this is now not just about the mosquito, the breeding States of this country, but it is a national public health threat, and I believe that the Federal Government should get involved and that is what this piece of legislation is all about.

The counties and parishes of this country have really surpassed their budgets. Mosquito control abatement programs are all done on the local level. The Federal Government, today, hopefully this bill will change that, but today is only done by parishes in Louisiana and, of course, counties, and they have surpassed their budget with this outbreak by many years in advance. They have spent their budgets last year for the foreseeable future on whatever they had budgeted for mosquito abatement programs.

Our public health systems have been strained because of this disease, and those who have been infected have put a real burden on our public health systems.

The population that is most at risk is our elderly population. The little research that we have found so far with this disease is that our seniors are most vulnerable. In fact, most of the deaths have occurred from West Nile in our senior population, and I think that that is very unfortunate and, also, young children. In fact, in the State of Louisiana there were concerns about recesses, outdoor activities, soccer fields. The soccer programs that are kicking off I know in my home State and across the country, the parents are very concerned about the spread of this disease because that is where mosquitos are.

Aside from some of the human casualties that I have mentioned before, it has become a real problem in Louisiana and other States across the country with cattle. Cattle are very susceptible to this disease, and the horsemen in Louisiana are very concerned about the spread of this. In fact, many of the cattlemen in Louisiana have been instructed to vaccinate their herds, to make sure in the coming mosquito season that they can have the proper vaccine.

Currently, there are no human vaccines to help with the spread of West Nile virus. NIH is working to develop this, but frankly, since it is such a new disease the realization is that a final product for vaccinating humans is years away. Therein lies the need for this piece of legislation.

Our only tools to fight this disease today are in mosquito abatement through education, and that is what this bill is all about.

Currently, the CDC helps to educate the public and local government on disease and prevention, but the CDC also does surveillance to the States to help monitor the progress of the virus.

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But, Mr. Speaker, I believe, and I beg of this body, that this is not enough. This is not enough. Eradication of mosquitoes is the most effective way today that we can stop the spread of mosquito-borne diseases. Abatement programs are handled on a local level, as I had said earlier, but counties are stressed. And the counties and parishes most in need are rural parishes that have a lower tax base and a lower ability to fund a very aggressive mosquito abatement program. H.R. 342 establishes a one-time matching grant program through the CDC to assist parishes and counties with either maintaining a mosquito control program or, frankly, starting one up. It is a two-to-one match not to exceed $100,000 per parish or county.

Finally, in order to ensure that our hardest hit areas are addressed, this piece of legislation prioritizes the States and counties and areas of the United States that have more proven cases and a more focal point for the disease in different areas of the State. But I believe we must act now. The 2003 mosquito season, and, frankly, the mosquito season in Louisiana never goes away, but the real aggressive mosquito season is at our doorstep around this country so it is important for us to act.

Mr. Speaker, I want to thank again the chairman of our committee, the gentleman from Louisiana (Mr. TAUZIN), and the ranking member for putting this bill through the committee very quickly and getting it on the floor today because it is certainly the time to address the mosquito problem in this country

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume to just advise that some of my Cajun friends have suggested that if we come up with a good mosquito gumbo recipe we might be able to solve some of these problems.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arkansas (Mr. BOOZMAN), my dear friend from my neighboring State.

Mr. BOOZMAN. Mr.Speaker, I thank the gentleman for yielding me this time.

Certainly as an Arkansan I am very aware of the West Nile disease. My brother, Fay Boozman, the Director of Arkansas' Health Department, testified before a Congressional committee that it is very possible that more Arkansans will be infected with the West Nile virus this year. This estimate reflects the fact that the number of cases has steadily increased in Arkansas since the West Nile virus first appeared in 2001.

Arkansas is certainly not alone in this trend. In fact, epidemiologists expect that in the upcoming season the virus will reach all 48 contiguous States, which is why Congress needs to act now. States like Arkansas cannot afford to dip into their emergency funds to combat the spread of West Nile virus. This bill will help States and localities fight this virus by authorizing matching grants of up to $100,000 for their mosquito abatement programs.

Mr. Speaker, I commend the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) for their leadership on this issue and for bringing this bill to the floor for a vote. I encourage my colleagues to pass this bill and provide much needed relief to our State and local governments who are on the front lines of this fight.

Mr. JOHN. Mr. Speaker, I proudly yield such time as he may consume to the gentleman from northeast Louisiana (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, in the summer of 2001 there was an outbreak of St. Louis encephalitis in four parishes in northeast Louisiana. There were 70 incidents resulting in 7 deaths. Seven of those incidents and two of the deaths were in parishes without mosquito control programs. In addition, in my district, Pointe Coupee Parish had the highest incidence of West Nile virus in Louisiana at more than 52 cases per 100,000 population.

When I was chairman of the Louisiana Health and Welfare Committee, we met to discuss State efforts to coordinate mosquito control. One of the issues that we often discussed was the Federal funding that was available for testing and education, but it was not readily available for mosquito control. That is why I support the MASH Act, because it provides much needed Federal funding for control and education.

I am proud to be a cosponsor of this legislation which provides needed assistance to local governments to control the outbreak of mosquito-borne illnesses. I also commend the gentleman from Louisiana (Mr. JOHN) and the gentleman from Louisiana (Mr. TAUZIN) for their hard work on this issue.

Mr. TAUZIN. Mr. Speaker, I want to thank my friend from Louisiana for his comments and endorsements, and I yield 5 minutes to the gentleman from the great State of Indiana (Mr. SOUDER), which is, by the way, the fifth in incidents of West Nile virus in the country.

Mr. SOUDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, last year, northeast Indiana had one of the highest rates of West Nile virus in the country, a total of 157 probable cases. Not being swampland or having the traditional problems of the South and Southeast, we were taken by surprise. A large percentage of these cases were reported in my hometown of Fort Wayne and in Allen County around it. In fact, I believe nearly two-thirds of the cases in all of the State of Indiana were in my Congressional district. Not only did we have animal deaths, not only is our bird population drastically reduced, but we have human deaths. We had multiple human deaths caused by the West Nile virus in my district.

In fact, Mr. Speaker, one of the counties outside of Chicago as well as my home county represented the bulk of the cases in the entire Midwest and should be the focus on any future studies in the Great Lakes because they were also the two highest counties with the St. Louis virus a number of years ago. The encephalitis virus seems to have replicated itself a number of years later in the same counties.

The concern that we have in my home county, because of the human deaths, is that it is impossible to communicate to the rest of the public. As we saw a number of people in the hospitals, very ill, including a reporter and a cameraman who were covering the case and were in miserable condition for a number of weeks, fear spread throughout my district. In my son's high school, they had spray booths outside the games. The football players, the band members, the cheerleaders felt under direct attack. A long-time friend of mine, a State Representative and State Senator Dick Worman, told me his daughter, Terry Lightfoot, who is on the East Allen County School Board, in all his years in the State legislature, he never had as many irate calls to his home, as his daughter did at the school board. As they would cancel a football game, football players would call in and say they would not be able to compete. If they canceled band practice, band parents would call in. If they kept it on, parents would call in and say you are putting my children at risk. It was near chaos in our area.

As a member of the Committee on Government Reform, and chairman of its subcommittee with jurisdiction over matters relating to public health, I commend the efforts of my colleagues, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) for addressing this critical public health dilemma. We held an oversight hearing last fall to try to look at some of the lessons that we learned, and one of those lessons was that we completely missed at the Federal Government what was going to happen in the Great Lakes. They projected it would be the Southeast. So it better be included in future planning by the government to try to address what happens in the Great Lakes areas so more people do not die because the government missed the plan.

Furthermore, we learned in that hearing from a gentleman from Lee County, Florida, Fort Myers, a representative of the mosquito supply people, that we may not even have adequate supplies, as a particular spray that is used is not commonly used in other areas now and they are worried about having the supply for mosquito eradication we need to look at.

We also need to make sure that we do adequate spraying. Counties like Lee County and others, where they are aggressive, managed to control this in the human populations. There was hesitancy in my hometown by some who tried to block the spraying initially. If we do not do this spraying, we put people at risk. In addition to the animals and the birds and others, we need to make sure that there is adequate research, we need to make sure there is adequate supplies on the market, and we need to make sure there is adequate political will among political officials to take the actions. Because if they do, lives, in fact, are saved, and we have heard from counties around the country where this is true.

H.R. 342 is a step in the right direction towards equipping our communities with the tools necessary to prevent and control mosquito-borne diseases. Federal agencies and regulations should empower rather than hinder the ability of States and municipalities to identify and eradicate mosquitoes and the diseases they carry and spread.

Aside from the funds to help our communities to establish or maintain an existing mosquito control program, which, by the way, we desperately need help from the Federal Government because this just overwhelmed our local budget in trying to deal with all the spraying in so many different points and school budgets as well. We need to make sure there are research dollars to further our knowledge of mosquito-borne viruses and their behavior. This is of vital interest to every parent, every person threatened.

We learned in Fort Wayne, Indiana, that everybody was vulnerable, from the youngest to the oldest. Some of the deaths and some of those most ill were 25 to 45, which the health department said was not likely, that it would be the young and elderly. We had deaths and severe illness in the midlife, well people, like I mentioned the reporter and the photographer from one of the major TV stations, in fact the number one rated.

So the consequences of not having an effective mosquito control program can lead to serious public health concerns. During the scope of the hearing that I mentioned earlier, we included such issues as funding levels for research of the virus as well as other issues.

Once again, Mr. Speaker, I thank the chairman for his leadership and that of the gentleman from Louisiana (Mr. JOHN) as well for his leadership.

Mr. TAUZIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume to thank the chairman once again, and I also would be remiss if I did not thank my senior legislative staff person who worked very hard on this bill, Vera LeBrun.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I applaud Congressman CHRIS JOHN for this outstanding legislation!

I rise in support of H.R. 342, the Mosquito Abatement for Safety and Health Act. West Nile Virus has been marching across the nation over the past three years, and threatens to take tens of thousands of lives over the next decade. We must focus the efforts of the Centers for Disease Control and Prevention on this problem, before it gets out of hand.

West Nile Virus was relatively unknown in the United States until 1999 when if began to crop up in the New York and a few select states in the Northeast. Since then, it has progressed West and South, until in 2002, all but 4 states in the Continental U.S. were affected by the insidious parasite. In 2002, over 4000 people were infected with the West Nile Virus. Of those infected, 274 died, including one woman from my District.

West Nile Virus is transmitted through mosquito bites. Although the majority of people infected do eventually recover, there is no known cure for West Nile Virus infection. Luckily, we do know how to largely contain the epidemic through control of the mosquitoes that carry virus. I have been reasonably pleased with the efforts in my District, from the Texas Department of Health, the Harris County Health Department, as well as the City of Houston, in combating West Nile Virus. With relatively meager funding, they have kept infection rates low through programs of spraying insecticides and larvicides, education programs and public service announcements, and surveillance of infection trends.

However, even one preventable death is too many. Furthermore, it seems that infections are still on the rise, so a re-doubling of our efforts is now appropriate. We need to put the creativity, technology, and resources available to us to work on stopping West Nile Virus in its tracks.

For example, last year I realized that although all of the public service announcements and CDC websites were advocating the use of DEET-containing mosquito repellents for prevention of infection, almost 60 percent of DEET-containing products did not have the word DEET on the label. Instead they were labeled in tiny print with the chemical name N,N dietlhyl-m-toluamide. Considering that seniors are the most vulnerable to infection, and that seniors can often be visually impaired, this was inappropriate. Such lack of clarity and consistency in a public health product labeling can cost lives. I reached out to industry representatives and to the EPA. The EPA quickly moved to alter their labeling requirements, and I am pleased to say that by this West Nile season, every can that has DEET in it, will have the word DEET on it.

But there is much more work to be done. The woman whose life was taken in my district, did not take the proper precautions to protect herself. That indicates to me that we need more education. We need to go door to door if necessary, helping seniors clear out old tires and debris from their yards, that might collect stagnant water where mosquitoes lay their eggs. We should give out DEET, and advice of times to stay inside or what clothes to wear, to minimize the risks of infection. We should give local health departments the resources they need to assess and address risks as needed.

The MASH Act will help in all of those endeavors. It will make it possible for Director of the Centers for Disease Control and Prevention, to make grants to States for coordinating mosquito control programs to prevent and control mosquito-borne diseases; and for assisting States in making grants to political localities to help them develop control programs. The Act will require commitment from the States as well, in the form of matching funds. But, the Secretary of the Department of Health and Human Services can waive that matching requirement for areas in dire financial straits.

But the bill is not just about sending more money. It will also encourage the CDC to use their expertise to help States develop strategies for protecting all of their citizens from West Nile Virus, and carry out research into ways to improve those strategies in the future.

This bill represents good preventive medicine. I support H.R. 342, and urge my colleagues to do the same.

Mr. LEVIN. Mr. Speaker, I rise in strong support of H.R. 342, the "Mosquito Abatement for Safety and Health Act," and urge the House to join me in voting for it.

There is a real and growing public health threat posed by the West Nile virus in my state of Michigan, as well as many other states throughout the country. Last year, Oakland County, Michigan, had 187 cases of West Nile Virus and 20 deaths. Macomb County reported 103 cases and six deaths. Many communities in my district have acted locally, but clearly the problem must be attacked broadly, across community lines.

All levels of government must be involved in responding to this clear and present health risk. Congress must do more to support State and local public health efforts to combat the spread of West Nile. The bill before the House today represents the least we should do to combat this mosquito-borne disease. It establishes two temporary grant programs to help state and local governments assess mosquito problems, and coordinate and operate mosquito control programs. The bill authorizes $100 million in FY 2003, and such sums as necessary through FY 2007. It is critical that Congress follow up this legislation with the appropriations needed to fund these vital programs.

I urge all my colleagues to support this important legislation.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of H.R. 342, the Mosquito Abatement for Safety and Health Act. This is a particularly important issue in my state of Illinois and for my district, both of which have been disproportionately impacted by West Nile Virus—more so than almost any other part of the country.

The latest survey shows that Illinois is suffering the highest numbers of human cases of West Nile in the country, 877 cases and 62 deaths. Over 630 cases of these cases were in Suburban Cook County and the Greater Chicago area, leading to 37 deaths. Compared with nationwide data, these numbers reveal an uncommonly high outbreak ratio in the Chicago Metro region.

H.R. 342, the Mosquito Abatement for Safety and Health Act will help Illinois and other states across the nation prevent any more outbreaks from occurring. Among other things, the act will provide grants to states to help them coordinate mosquito control programs to prevent and control mosquito-borne diseases. The bill also directs the Secretary of Health and Human Services to provide training and technical assistance to states and localities for the planning, development, and operation of assessments and plans regarding control programs. We cannot afford to lose more lives to West Nile Virus. I urge my colleagues to support H.R. 342.

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of H.R. 342, the Mosquito Abatement for Safety and Health Act, introduced by my colleague from the Energy and Commerce Committee, and my good friend, CHRIS JOHN.

This legislation would provide grants to communities for the operation of mosquito control programs to prevent and control mosquito-borne diseases.

Last summer, Americans watched in fear as the West Nile virus spread rapidly across our country.

Before 1999, there was no record of a West Nile virus case in North America, but in the last few years, West Nile has become a serious public health concern.

According to the CDC, from 1999 through 2001, there were 149 cases of West Nile virus in the United States reported, including 18 deaths.

That number skyrocketed last year, with West Nile affecting almost 4,000 individuals, and killing 259.

In my home state of Texas, more than 190 people were infected, and 11 lost their lives.

I have no doubt that those numbers will continue to climb.

We must take steps to control mosquito populations now, before the summer months come and it is too late.

That is why I am a proud cosponsor of the MASH Act.

This legislation provides vital assistance to our communities to give them the tools they need to control mosquito populations and protect the public health.

It also recognizes the severity of mosquito-borne disease in certain communities and ensures that those hardest-hit areas receive a priority in receiving assistance.

I know this will be helpful to my hometown of Houston, which had 77 confirmed cases of West Nile in the past year, and recently discovered as many as 40 mosquito pools that are positive for West Nile virus.

Like I said, we must act now, before the weather warms up and the mosquitoes start to swarm. I strongly support passage and enactment of the MASH Act, and urge my colleagues to do the same.

Thank you, Mr. Speaker, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 342, the Mosquito Abatement for Safety and Health Act. With snow on the ground and recent temperatures in the single digits, it is nice to look forward to the summer months but easy to forget the uneasiness that was felt during last summer due to the fear instilled by the West Nile virus.

Illinois was greatly impacted by the West Nile virus. Not only was there fear within parents to let their children go outside to play or to take a walk in the neighborhood in the morning or after dusk, there were the startling numbers of those stricken with the virus. Illinois saw 873 cases of the virus in humans along with 60 deaths, the highest in the Nation according to the CDC.

The Associated Press recently released that the harsh winters that most of the nation has felt does not preclude that the mosquitoes, particularly the ones infected with the virus, have ceased in numbers. The mosquitoes will continue to live and reproduce in sewers and other dark, warmer places were the harsh climates have not affected them. Due to this, the AP is suggesting that this year we will see the West Nile virus spread from coast to coast. Last year, our nation witnessed more than 4,000 individuals become ill and a total of 274 die from the West Nile virus. With the expected spread of the virus and increase number of mosquitoes, we can also then expect these numbers to grow.

Mr. Speaker, to ensure the nation has a sense of safety and security as they go outside in the next few months, I ask for full support of this resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to support H.R. 342, the Mosquito Abatement for Safety and Health Act introduced by Congressman CHRISTOPHER JOHN. As an issue that deeply effects my constituents in South Florida, I fully support this worthy legislation.

H.R. 342 establishes an important County eligible grant through the Centers for Disease Control (CDC) in order to assist elimination of harmful mosquito populations. The grant would allow for $2 of federal grant money for each $1 contributed by the participating county.

Miami-Dade County is currently experiencing severe problems with growing mosquito populations due to the warm environment and many instances of standing water. In the Fiscal Year 2003 Consolidated Appropriations Resolution, I led the charge to acquire $1,000,000 for the County to purchase a helicopter for mosquito control spraying. I believe that the funding, which would be provided under H.R. 342, will compliment the efforts of counties around the country to stop the spread of such deadly diseases as the West Nile virus.

Mr. Speaker, we can and must do more to protect our constituents from this environmental threat. H.R. 342 addresses this problem and establishes effective programs to help local governments best respond.

Mr. DINGELL. Mr. Speaker. I would like to thank my distinguished colleagues. Representative CHRIS JOHN and Representative TAUZIN for introducing H.R. 342, the "Mosquito Abatement for Safety and Health Act," and for working so diligently on behalf of the people and states who have been ravaged by the West Nile virus.

This legislation hits very close to home for me. My home state of Michigan has been hit hard by this deadly epidemic. To date, we have had 554 confirmed cases of West Nile and 50 deaths. Currently, a staggering 4,071 people in the United States have been found to be infected with the West Nile virus. Unfortunately, we have also had 274 deaths as a result of West Nile infection.

H.R. 342 seeks to complement the work that the Centers for Disease Control and Prevention (CDC) is already doing to fight mosquito-borne diseases. This legislation will provide an additional incentive for States and localities to plan and better coordinate mosquito control programs. Unfortunately, many localities have not had the resources or capabilities to conduct assessments and prepare plans to comprehensively develop effective mosquito control programs. The additional federal dollars authorized in H.R. 342 will work to assist states and localities with their immediate needs to combat the West Nile virus.

In addition to working with the CDC, the "Mosquito Abatement for Safety and Health Act" requires the Director of the National Institute of Environmental Health Sciences to conduct and support research into methods to control the population of insects and vermin that transmit dangerous diseases to humans.

The West Nile virus has emerged in recent years as a serious threat to public, equine, and animal health. H.R. 342 seeks to combat this unexpected epidemic by providing additional dollars for research, prevention, and educational programs. I urge all of my colleagues to join me in supporting this valuable piece of legislation.

Mr. VITTER. Mr. Speaker, I rise today in strong support of H.R. 342, the Mosquito Abatement for Safety and Health Act. This legislation is an important step towards a comprehensive plan for reducing the threat of West Nile virus.

Just yesterday news stations were reporting that not only was West Nile virus likely to spread to all 48 contiguous states—making it a truly national problem—but also that other mosquito-borne illnesses are potentially likely to follow. This sort of public health threat should not go unchecked. Many localities are smaller or rural, or are dealing with this serious public health threat for the first time. This legislation can help them all.

I am pleased that the Appropriations Committee agreed to increase West Nile research funding at the CDC almost 30 percent, and that NIH research into vaccines and treatment for West Nile also nearly doubled. I thank both Chairman REGULA and the Members who supported increasing these funds for their successful efforts. However, I know that these measures are just a start to truly ending this health problem.

I commend my Louisiana colleagues for their work on this bill, commit my future support to this endeavor, and strongly urge all of my colleagues to vote for this important legislation.

Mr. JOHN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 342.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ORGAN DONATION IMPROVEMENT ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 399) to amend the Public Health Service Act to promote organ donation.

The Clerk read as follows:

H.R. 399

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Donation Improvement Act of 2003".

### SEC. 2. SENSE OF CONGRESS.

(a) PUBLIC AWARENESS OF NEED FOR ORGAN DONATION.—It is the sense of the Congress that the Federal Government should carry out programs to educate the public with respect to organ donation, including the need to provide for an adequate rate of such donations.

(b) FAMILY DISCUSSIONS OF ORGAN DONATIONS.—The Congress recognizes the importance of families pledging to each other to share their lives as organ and tissue donors and acknowledges the importance of discussing organ and tissue donation as a family.

(c) LIVING DONATIONS OF ORGANS.—The Congress—

(1) recognizes the generous contribution made by each living individual who has donated an organ to save a life; and

(2) acknowledges the advances in medical technology that have enabled organ transplantation with organs donated by living individuals to become a viable treatment option for an increasing number of patients.

### SEC. 3. PAYMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

"PAYMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION

"SEC. 377. (a) IN GENERAL.—The Secretary may make awards of grants or contracts to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

"(1) providing for the payment of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred as 'donating individuals'); and

"(2) in addition, providing for the payment of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—Payments under subsection (a) may be made for the qualifying expenses of a donating individual only if—

"(A) the State in which the donating individual resides is a different State than the State in which the intended recipient of the organ resides; and

"(B) the annual income of the intended recipient of the organ does not exceed $35,000 (as adjusted for fiscal year 2004 and subsequent fiscal years to offset the effects of inflation occurring after the beginning of fiscal year 2003).

"(2) CERTAIN CIRCUMSTANCES.—Subject to paragraph (1), the Secretary may in carrying out subsection (a) provide as follows:

"(A) The Secretary may consider the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs.

"(B) The Secretary may consider the term 'qualifying expenses' as including the expenses of having one or more family members of donating individuals accompany the donating individuals for purposes of subsection (a) (subject to making payment for only such types of expenses as are paid for donating individuals).

"(c) LIMITATION ON AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—With respect to the geographic area to which a donating individual travels for purposes of subsection (a), if such area is other than the covered vicinity for the intended recipient of the organ, the amount of qualifying expenses for which payments under such subsection are made may not exceed the amount of such expenses for which payment would have been made if such area had been the covered vicinity for the intended recipient, taking into account the costs of travel and regional differences in the costs of living.

"(2) COVERED VICINITY.—For purposes of this section, the term 'covered vicinity', with respect to an intended recipient of an organ from a donating individual, means the vicinity of the nearest transplant center to the residence of the intended recipient that regularly performs transplants of that type of organ.

"(d) RELATIONSHIP TO PAYMENTS UNDER OTHER PROGRAMS.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'covered vicinity' has the meaning given such term in subsection (c)(2).

"(2) The term 'donating individuals' has the meaning indicated for such term in subsection (a)(1), subject to subsection (b)(2)(A).

"(3) The term 'qualifying expenses' means the expenses authorized for purposes of subsection (a), subject to subsection (b)(2)(B).

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008.".

### SEC. 4. PUBLIC AWARENESS; STUDIES AND DEMONSTRATIONS.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 377 the following section:

"PUBLIC AWARENESS; STUDIES AND DEMONSTRATIONS

"SEC. 377A. (a) PUBLIC AWARENESS.—The Secretary shall (directly or through grants or contracts) carry out a program to educate the public with respect to organ donation, including the need to provide for an adequate rate of such donations.

"(b) STUDIES AND DEMONSTRATIONS.—The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out studies and demonstration projects with respect to providing for an adequate rate of organ donation.

"(c) GRANTS TO STATES.—The Secretary may make grants to States for the purpose of assisting States in carrying out organ donor awareness, public education and outreach activities and programs designed to increase the number of organ donors within the State, including living donors. To be eligible, each State shall—

"(1) submit an application to the Department in the form prescribed;

"(2) establish yearly benchmarks for improvement in organ donation rates in the State;

"(3) develop, enhance, or expand a State donor registry, which shall be available to hospitals, organ procurement organizations, tissue banks, eye banks, and other States upon a search request; and

"(4) report to the Secretary on an annual basis a description and assessment of the State's use of these grant funds, accompanied by an assessment of initiatives for potential replication in other States.

Funds may be used by the State or in partnership with other public agencies or private sector institutions for education and awareness efforts, information dissemination, activities pertaining to the State donor registry, and other innovative donation specific initiatives, including living donation.

"(d) ANNUAL REPORT TO CONGRESS.—The Secretary shall annually submit to the Congress a report on the activities carried out under this section, including provisions describing the extent to which the activities have affected the rate of organ donation.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008. Such authorization of appropriations is in addition to any other authorizations of appropriations that are available for such purpose.

"(2) STUDIES AND DEMONSTRATIONS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than $2,000,000 for carrying out subsection (b).".

### SEC. 5. EFFECTIVE DATE.

The amendments made by this Act take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on H.R. 399, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health, that produced this important legislation.

Mr. BILIRAKIS. Mr. Speaker, I appreciate the gentleman's yielding me this time, and I rise in strong support of H.R. 399, the Organ Donation Improvement Act of 2003. This bipartisan bill was unanimously approved by the Committee on Energy and Commerce in February, and I urge all of my colleagues to join me in supporting this timely legislation.

Mr. Speaker, we are all aware of the great need for donated organs and tissue. According to the United Network for Organ Sharing, there are 80,791 people currently waiting for a transplant. Sadly, only 18,693 individuals had received a transplant as of September 2002, and more than 4,500 Americans died, died while on the waiting list.

Fortunately, Mr. Speaker, there is hope. Living donors represent a growing segment of the total organ donation pool. In fact, living donors represented over half of all donors in the first 9 months of 2002. That is why H.R. 399 authorizes the Secretary of Health and Human Services to award grants for the purpose of covering travel and subsistence expenses incurred by living organ donors. While the decision to become a living organ donor is an intensely personal one, I feel that it is our responsibility to remove any financial barriers that might prevent someone from making the gift of life.

H.R. 399 also provides the Secretary with $10 million in new grant authority to assist State governments and public and nonprofit private entities in developing innovative initiatives designed to increase organ donation rates, including living donation. I am hopeful we will learn some valuable lessons from these demonstration projects that we will be able to apply on a national scale.

H.R. 399 is widely supported, Mr. Speaker, by the transplant community. Organizations supporting my bill include the American Society of Transplant Surgeons, the American Society of Transplantation, the United Network for Organ Sharing, the Association of Organ Procurement Organizations, the National Kidney Foundation, the American Liver Foundation, the North American Transplant Coordinators Organization, the Patient Access to Transplantation Coalition, and the Eye Bank Association of America.

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Mr. Speaker, while I would never suggest that this bill encompasses every meritorious idea to increase organ and tissue donation, it is a very good bill and takes a positive step forward in our effort to ensure that every American has access to a donated organ or tissue when they need it.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 399, the Organ Donation Improvement Act of 2003. I thank the gentleman from Florida (Mr. BILIRAKIS), along with the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), and also the gentleman from Ohio (Mr. BROWN), the chairman of the Subcommittee on Health, for introducing the legislation and working to encourage a more efficient and widespread organ donation program and activities.

These numbers are staggering. Currently there are 78,000 men, women, and children waiting as we speak today for a kidney, heart, liver, lung or pancreas. Fewer than one-third of the 78,000, however, will receive a transplant this year. An average of 15 people die every day, one every 96 minutes, waiting for an organ that could have saved their life.

Sadly, while most Americans indicate that they support organ donation, only 50 percent of the families that are asked to donate an organ do so. This is an important piece of legislation that will work towards reducing the shortage of transplantable organs, tissues, eyes. Grants will be used to assist States in carrying out organ donation awareness, public education, outreach activities, and programs designed to increase the number of organ donors within a State. This is a very important, very good piece of legislation; and I enthusiastically support H.R. 399.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that I may be permitted to control the time of the gentleman from Louisiana (Mr. TAUZIN).

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Illinois and many other States have the ability to sign the back of their driver's license to give the gift of life, which is organ donation. That is in addition to the legislation that we have here on the floor today. I am pleased that the House is considering H.R. 399, the Organ Donation Improvement Act. This legislation builds on existing Department of Health and Human Services programs and encourages more Americans to give the gift of life.

Medical advances and the generosity of organ and tissue donors enable more than 22,000 Americans per year to receive organ transplants that save or enhance their lives. Despite their self-sacrifice and charity of these donors, this is only a small proportion of the more than 76,000 Americans who are now on the waiting list hoping to prolong their life by finding a matching donor.

Tragically, the number of patients waiting for organ transplants rose more than five times as fast as the number of transplant operations in the 1990s, according to an annual report by the United Network for Organ Sharing. As a result, about 5,500 people die in the United States each year, or 15 patients each day, while waiting for a donated heart, liver, kidney or other organ. It is estimated that every 16 minutes a new name is added to this growing waiting list.

As the demand for transplantation increases, the shortfall in organ donors for those with end-stage organ disease or organ failure will become even more pronounced. In order to narrow the gap between the supply and the increasing demand for donated organs, there must be an effort to encourage willing donors and create an environment conducive to organ donation.

H.R. 399 accomplishes this objective by permitting the Secretary of the Department of Health and Human Services to make grants to States, transplant centers, qualified organ procurement organizations, or other public or private entities for the purpose of providing for the payment of travel and subsistence expenses incurred by individuals who are making living donations of their organs.

In addition, the bill requests the Secretary to carry out studies and demonstration projects for the purpose of educating the public with respect to organ donation. These grants will assist the States in carrying out organ donor awareness, public education, and outreach activities, programs designed to increase the number of organ donors within a State, including live donors.

Mr. Speaker, I thank the gentleman from Florida (Mr. BILIRAKIS) for his dedication in moving forward with this legislation. There is no greater gift than the gift of life. I also thank the gentleman from Louisiana (Chairman TAUZIN) and my colleagues on the other side of the aisle who are very supportive of this legislation, and we were able to bring this up expeditiously.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Louisiana (Mr. JOHN) for yielding me this time. I commend the gentleman and all of the members of the subcommittee, and all of those who have brought this matter to the floor.

Mr. Speaker, I rise today in support of H.R. 399 and the need to continue awareness and education programs for organ donation. I was very pleased recently to be part of the 6th Annual National Donor Day at the Chicago Automobile Show on February 14 with the Illinois Secretary of State, the Honorable Jesse White, and Connie Payton, the widow of football legend Walter Payton. This is the single largest 1-day blood, organ and tissue donation drive in America.

However, we know that the drive and awareness brought to this great need should occur and is needed to occur more than just 1 day during the year. I am proud to represent five of the six world-class hospitals in Chicago that are part of the National Marrow Donor Program's network of transplant centers, including Northwestern Memorial Hospital, Rush-Presbyterian, Children's Memorial, the University of Illinois at Chicago, and Loyola Medical Center. These hospitals play a major role in not only making the public aware of the great need of donation but carrying out safe organ transplant procedures.

This need is particularly present in the African American population where African Americans make up less than 10 percent of the 4.8 million donors on the registry. On any given day, more than 80,000 Americans are waiting for an organ transplant. That number continues to rise by a new name every 14 minutes. Each day, 63 people receive an organ transplant, but 16 people will die because an organ is not donated. Fifty percent of those waiting for an organ transplant are minorities. Almost a full third of those waiting for an organ transplant in the United States are African Americans; 35 percent of those waiting for a kidney transplant are African American.

Some diseases of the kidney, heart, lung, pancreas, and liver are found more frequently in racial and ethnic minority populations than in the general population. For example, African Americans, Asians, Pacific Islanders, and Hispanics are three times more likely to suffer from kidney failure than whites. Native Americans are four times more likely than whites to suffer from diabetes.

Some of these diseases are best treated through transplantation, and others can only be treated through transplantation.

This legislation will allow States to receive grants to assist in organ donor awareness, public education and outreach activities, and programs designed to increase the number of organ donors within States, including living donors. It will assist in getting the word out that if one person does the simple task of signing a donor's card, 50 people will be able to receive an organ donation and begin a new, healthy chapter in their life.

Mr. Speaker, again, I am pleased to support this legislation, commend all of those who had a hand in bringing it to the floor, and urge its passage.

Mrs. WILSON of New Mexico. Mr. Speaker, Kyle is a normal second grader in New Mexico. But, when he was just nine days old, he and his family traveled to Loma Linda California for a much needed heart transplant. Every year, they make that same pilgrimage to Loma Linda for evaluations. It is 747 miles from Albuquerque to Loma Linda.

The current regional transplant model with a national, government-run program results in fewer organs available to New Mexicans. While organs are shared over wide geographical areas, donated organs are sent out of state. I think this system has caused fewer New Mexicans to donate organs, and it has certainly impeded the decision of families to pursue a transplant.

I applaud provisions of this bill which seek to educate the public on organ donation. It is by reaching folks one by one that awareness is raised. In New Mexico much of the public has misconceptions about this important issue. Since we have lost our transplant programs, many individuals decide that the travel distance, time, separation from family, and logistics are just too hampering. It is just too complicated and too much of a burden. We have some of the highest rates of Diabetes, Kidney disease, and Hepatitis B and C of any state, and yet our rates of transplants are among the lowest. We need hearts, we need livers, we need pancreases, and we need the ones we procure to stay close to home.

I also reiterate support for the sense of Congress contained in his bill that refers to family discussions of donation. Encouraging such dialogues to take place will help make decisions early. There are 32 states in which being designated an organ donor on a driver's license carries no legal weight at all. It is by communicating an individual's desires with family members that counts. Oftentimes, it is a point of crisis in which a family must make a decision whether or not to donate a loved ones' organs. If this is talked about beforehand, the desires of each family member can be made known. It is families that are affected by organ donation, and families that should make the decisions.

Mr. STARK. Mr. Speaker, I rise in support of the Organ Donation Improvement Act of 2003, H.R. 399. The commendable purpose of this bill is to increase public awareness of the need for organ donation and institute procedures to increase the frequency of this brave and noble act.

There is a serious shortage of available organs for donation. There are currently over 80,000 people waiting for an organ transplant and a new name is added to the waiting list every 13 minutes. As a result of the low rate of organ donation in this country, more than 6,000 people died in 2001 for lack of an available suitable organ. The passage of this bill and the implementation of its provisions will help to markedly reduce the number of such deaths in the future.

I commend Representative MICHAEL BILIRAKIS for introducing this bill and taking interest in this vital area. I encourage my colleagues to support this life saving legislation.

Mr. UPTON. Mr. Speaker, I rise in support of H.R. 399, the Organ Donation Improvement Act of 2003, of which I am a cosponsor. Let me just mention one number, that for me, says it all about why we need incentives to increase organ donations across the nation. In Michigan, over an 11-month period ending on December 1 of last year, 2,420 individuals were waiting for organs, and 164 people had died while waiting. These are our constituents, our families, our friends. I know the Transplant Society of Michigan, our state's organ procurement organization, is working hard to increase donations. But they could use a helping hand, as could OPOs across the nation. The Organ Donation Improvement Act we are marking up today is a very good start.

As of September 2002, the organ transplant waiting list had more than 80,000 men, women, and children waiting for a new kidney, heart, liver, lung, pancreas, or intestine. Unfortunately, an average of 17 people die every day, one every 85 minutes, waiting for an organ that could have saved their lives. H.R. 399 takes aim at increasing anatomical giving to help meet the critical need for vital human organs and give hope for life for those that have no other options for treatment or cure.

The key to donation is public education and awareness. This legislation gives the Secretary of Health and Human Services the ability to award grants to States for the purpose of assisting States in carrying out organ donor awareness, public education and outreach activities designed to increase the number of organ donors. While there is a desperate need for vital human organs, the American public should know that there is also a continuing need for donated human eyes and tissue. Donation is the term used to describe the humanitarian act of giving to help another. Anatomical gifts include vital, life-saving human organs, sight restoring eyes, and repair and reconstruction human tissue such as bone, cartilage, tendons, skin, and heart valves.

At national, state, and local levels, a partnership exists between the organ, eye and tissue bank communities. While all three communities are considered separate, given differences in medical criteria, training needs and distribution pathways, they are united in their message to encourage the act of donation. Organ donation saves lives, eye donation restores sight, and tissue donation provides skin grafts for critically injured burn patients and benefits thousands of patients in need of bone, cartilage, tendons, and heart valves. Without a donor, transplant surgeons cannot save and improve the health of even one individual.

Every individual can sign-up to be a donor, regardless of health or medical condition. It is imperative, however, that individuals openly discuss their decision to donate with family and friends so that they may help honor their loved one's wishes and are knowledgeable about their options. Just one individual can save and improve as many as 50 lives. Representatives of hospitals, organ banks, eye banks, and tissue banks work hand in hand to see that loved ones' wishes are respected and that gifts are properly handled for the benefit of others. I commend these organizations for working tirelessly toward this end and for their efforts to educate the public on the benefits of donation.

In closing, I fully encourage all Americans to consider the altruistic act of donation and to make others aware of your decision.

Ms. BORDALLO. Mr. Speaker, today, I join my colleagues in support of H.R. 399 to amend the Public Health Service Act to promote organ donation. I want to thank Congressman BILIRAKIS for his commitment to this cause.

The advances in technology have increased the chances of survival for many suffering from life-threatening illnesses. But technology alone is not enough. In many cases, survival depends on some form of transplant. Sadly, the need far exceeds the number of donors. H.R. 399 is a big step in addressing this serious demand.

Educating the public about the need for donors and the ways one can become a donor is crucial. Many believe that donation only comes at the end of a life. But each year thousands get a new change at life through the generosity and courage of living donors. For the families facing the loss of a loved one, donation is a legacy of life and an example of the best of humanity in the face of tragedy.

In promoting awareness of the need for donors, H.R. 399 offers hope to thousands waiting for another chance at life. I strongly support H.R. 399 and urge its passage.

Mr. JOHN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 399.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHIMKUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 663) to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes, as amended.

The Clerk read as follows:

H.R. 663

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Patient Safety and Quality Improvement Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—PATIENT SAFETY AND QUALITY IMPROVEMENT

Sec. 101. Amendments to Public Health Service Act.

"PART C—PATIENT SAFETY IMPROVEMENT

"Sec. 921. Definitions.
"Sec. 922. Privilege for patient safety work product.
"Sec. 923. National Patient Safety Database.
"Sec. 924. Technical assistance.
"Sec. 925. Certification of patient safety organizations.
Sec. 102. Promoting the diffusion and interoperability of information technology systems involved with health care delivery.
Sec. 103. Required use of product identification technology.
Sec. 104. Grants for electronic prescription programs.
Sec. 105. Grants to hospitals and other health care providers for information technologies.
Sec. 106. Authorization of appropriations for grants under sections 104 and 105.

TITLE II—MEDICAL INFORMATION TECHNOLOGY ADVISORY BOARD.

Sec. 201. Medical Information Technology Advisory Board.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds as follows:

(1) In 1999, the Institute of Medicine released a report entitled "To Err Is Human" that described medical errors as the 8th leading cause of death in the United States, with as many as 98,000 people dying as a result of medical errors each year.

(2) To address these deaths and injuries due to medical errors, the health care system must identify and learn from such errors so that systems of care can be improved.

(3) Myriad public and private patient safety initiatives have begun. The Quality Interagency Coordination Task Force has recommended steps to improve patient safety that may be taken by each Federal agency involved in health care and activities relating to these steps are ongoing.

(4) The Department of Health and Human Services has initiated several patient safety projects. The Joint Commission on Accreditation of Healthcare Organizations issued a patient safety standard that went into effect on July 1, 2001, and the peer review organizations are conducting ongoing studies of clinical performance measurement of care delivered to beneficiaries under the medicare program under title XVIII of the Social Security Act.

(5) Several steps can be taken now to improve patient safety. For example, according to the Centers for Disease Control and Prevention, hand washing is the single most important means of preventing the spread of infection. Repeated studies indicate that lack of or improper hand washing still contributes significantly to disease transmission in health care settings. Working with experts from the private sector, the Centers for Disease Control and Prevention has drafted "Guidelines for Hand Hygiene in Healthcare Settings" setting forth recommendations to promote improved hand hygiene practices and reduce transmission of pathogenic microorganisms to patients and personnel in health care settings.

(6) According to the Centers for Disease Control and Prevention, nosocomial infections affect approximately 2 million patients annually in acute care facilities in the United States at an estimated direct patient care cost of approximately $3.5 billion each year.

(7) The Congress encourages the continuation and acceleration of private sector efforts to take immediate steps to improve patient safety and recognizes the need for action in the public sector to complement these efforts.

(8) The research on patient safety unequivocally calls for a learning environment, where providers will feel safe to report health care errors, in order to improve patient safety.

(9) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (8) as stated in the Institute of Medicine's report.

(10) Promising patient safety reporting systems have been established throughout the United States, and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(11) Many organizations currently collecting patient safety information have expressed a need for protections that will allow them to review protected information so that they may collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections provide inadequate conditions to allow the sharing of information to promote patient safety.

(12) In 2001, the Institute of Medicine released a report entitled "Crossing the Quality Chasm" that found that the United States health care system does not consistently deliver high-quality care to patients.

(b) PURPOSES.—The purposes of this Act are—

(1) to encourage a culture of safety and quality in the United States health care system by providing for a health care errors reporting system that both protects information and improves patient safety and quality of health care; and

(2) to ensure accountability by raising standards and expectations for continuous quality improvements in patient safety through the actions of the Secretary of Health and Human Services.

### TITLE I—PATIENT SAFETY AND QUALITY IMPROVEMENT

**SEC. 101. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.**

(a) IN GENERAL.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting ", in accordance with part C," after "The Director shall";

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in section 938(1) (as so redesignated), by striking "921" and inserting "931"; and

(5) by inserting after part B the following:

### "PART C—PATIENT SAFETY IMPROVEMENT

**"SEC. 921. DEFINITIONS.**

"In this part:

"(1) IDENTIFIABLE INFORMATION.—The term 'identifiable information' means information that is presented in a form and manner that allows the identification of any provider, patient, or reporter of patient safety work product. With respect to patients, such information includes any individually identifiable health information as that term is defined in the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033).

"(2) NONIDENTIFIABLE INFORMATION.—The term 'nonidentifiable information' means information that is presented in a form and manner that prevents the identification of any provider, patient, or reporter of patient safety work product. With respect to patients, such information must be de-identified consistent with the regulations promulgated pursuant to section 264(c) of the

Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

“(3) PATIENT SAFETY EVALUATION SYSTEM.—The term ‘patient safety evaluation system’ means a process that involves the collection, management, or analysis of information for submission to or by a patient safety organization.

“(4) PATIENT SAFETY ORGANIZATION.—The term ‘patient safety organization’ means a private or public organization or component thereof that is certified, through a process to be determined by the Secretary under section 925, to perform each of the following activities:

“(A) The conduct, as the organization or component's primary activity, of efforts to improve patient safety and the quality of health care delivery.

“(B) The collection and analysis of patient safety work product that is submitted by providers.

“(C) The development and dissemination of evidence-based information to providers with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

“(D) The utilization of patient safety work product to carry out activities limited to those described under this paragraph and for the purposes of encouraging a culture of safety and of providing direct feedback and assistance to providers to effectively minimize patient risk.

“(E) The maintenance of confidentiality with respect to identifiable information.

“(F) The provision of appropriate security measures with respect to patient safety work product.

“(G) The submission of nonidentifiable information to the Agency consistent with standards established by the Secretary under section 923(b) for any National Patient Safety Database.

“(5) PATIENT SAFETY WORK PRODUCT.—

“(A) The term ‘patient safety work product’ means any document or communication (including any information, report, record, memorandum, analysis, deliberative work, statement, or root cause analysis) that—

“(i) except as provided in subparagraph (B), is developed by a provider for the purpose of reporting to a patient safety organization, and is reported to a patient safety organization;

“(ii) is created by a patient safety organization; or

“(iii) would reveal the deliberations or analytic process of a patient safety evaluation system (as defined in paragraph (3)).

“(B)(i) Patient safety work product described in subparagraph (A)(i)—

“(I) does not include any separate information described in clause (ii); and

“(II) shall not be construed to include such separate information merely by reason of inclusion of a copy of the document or communication involved in a submission to, or the fact of submission of such a copy to, a patient safety organization.

“(ii) Separate information described in this clause is a document or communication (including a patient's medical record or any other patient or hospital record) that is developed or maintained, or exists, separately from any patient safety evaluation system.

“(C) Information available from sources other than a patient safety work product under this section may be discovered or admitted in a civil or administrative proceeding, if discoverable or admissible under applicable law.

“(6) PROVIDER.—The term ‘provider’ means—

“(A) an individual or entity licensed or otherwise authorized under State law to provide health care services, including—

“(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, and hospice program;

“(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified nurse midwife, nurse anesthetist, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, or other individual health care practitioner;

“(iii) a pharmacist; and

“(iv) a renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long-term care facility, behavioral health residential treatment facility, clinical laboratory, or community health center; or

“(B) any other person or entity specified in regulations by the Secretary after public notice and comment.

**“SEC. 922. PRIVILEGE FOR PATIENT SAFETY WORK PRODUCT.**

“(a) PRIVILEGE.—Notwithstanding any other provision of law and subject to subsection (c), patient safety work product shall not be—

“(1) subject to a civil or administrative subpoena or order;

“(2) subject to discovery in connection with a civil or administrative proceeding;

“(3) subject to disclosure pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), or any other similar Federal or State law;

“(4) required to be admitted as evidence or otherwise disclosed in any State or Federal civil or administrative proceeding; or

“(5) if the patient safety work product is identifiable information and is received by a national accreditation organization in its capacity as a patient safety organization—

“(A) used by a national accreditation organization in an accreditation action against the provider that reported the information;

“(B) shared by such organization with its survey team; or

“(C) required as a condition of accreditation by a national accreditation association.

“(b) REPORTER PROTECTION.—

“(1) IN GENERAL.—A provider may not use against an individual in an adverse employment action described in paragraph (2) the fact that the individual in good faith reported information—

“(A) to the provider with the intention of having the information reported to a patient safety organization; or

“(B) directly to a patient safety organization.

“(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an ‘adverse employment action’ includes—

“(A) the failure to promote an individual or provide any other employment-related benefit for which the individual would otherwise be eligible;

“(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual; and

“(C) a personnel action that is adverse to the individual concerned.

“(3) REMEDIES.—Any provider that violates this subsection shall be subject to a civil monetary penalty of not more than $20,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected.

“(c) DISCLOSURES.—Nothing in this section prohibits any of the following disclosures:

“(1) Voluntary disclosure of nonidentifiable information.

“(2) Voluntary disclosure of identifiable information by a provider or patient safety organization, if such disclosure—

“(A) is authorized by the provider for the purposes of improving quality and safety;

“(B) is to an entity or person subject to the requirements of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), or any regulation promulgated under such section; and

“(C) is not in conflict with such section or any regulation promulgated under such section.

“(3) Disclosure as required by law by a provider to the Food and Drug Administration, or on a voluntary basis by a provider to a federally established patient safety program, with respect to an Administration-regulated product or activity for which that entity has responsibility, for the purposes of activities related to the quality, safety, or effectiveness of such Administration-regulated product or activity.

“(4) Disclosures of patient safety work product in accordance with this part by a provider to a patient safety organization.

“(d) EFFECT OF TRANSFER, DISCLOSURE.—The following shall not be treated as a waiver of any privilege or protection established under this part:

“(1) The transfer of any patient safety work product between a provider and a patient safety organization.

“(2) Disclosure of patient safety work product as described in subsection (c).

“(3) The unauthorized disclosure of patient safety work product.

“(e) PENALTY.—

“(1) PROHIBITION.—Except as provided in this part, and subject to paragraphs (2) and (4), it shall be unlawful for any person to disclose patient safety work product in violation of this section, if such disclosure constitutes a negligent or knowing breach of confidentiality.

“(2) RELATION TO HIPAA.—The penalty under paragraph (3) for a disclosure in violation of paragraph (1) does not apply if the person would be subject to a penalty under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), or any regulation promulgated under such section, for the same disclosure.

“(3) AMOUNT.—Any person who violates paragraph (1) shall be subject to a civil monetary penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected.

“(4) SUBSEQUENT DISCLOSURE.—Paragraph (1) applies only to the first person that breaches confidentiality with respect to particular patient safety work product.

“(f) RELATION TO HIPAA.—

“(1) IN GENERAL.—For purposes of applying the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033)—

“(A) patient safety organizations shall be treated as business associates; and

“(B) activities of such organizations described in section 921(4) in relation to a provider are deemed to be health care operations (as defined in such regulations) of the provider.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or affect the implementation of such regulations or such section 264(c).

"(g) NO LIMITATION OF OTHER PRIVILEGES.—Nothing in this section shall be construed to affect privileges, including peer review and confidentiality protections, that are otherwise available under Federal or State laws.

"(h) NO LIMITATION ON CONTRACTS.—Nothing in this section shall be construed to limit the power of a provider and a patient safety organization, or a patient safety organization and the Agency or any National Patient Safety Database, consistent with the provisions of this Act and other applicable law, to enter into a contract requiring greater confidentiality or delegating authority to make an authorized disclosure.

"(i) RELATION TO STATE REPORTING REQUIREMENTS.—Nothing in this part shall be construed as preempting or otherwise affecting any State law requiring a provider to report information, including information described in section 921(5)(B), that is not patient safety work product.

"(j) CONTINUATION OF PRIVILEGE.—Patient safety work product of an organization that is certified as a patient safety organization shall continue to be privileged and confidential, in accordance with this section, if the organization's certification is terminated or revoked or if the organization otherwise ceases to qualify as a patient safety organization.

"(k) REPORTS ON STRATEGIES TO IMPROVE PATIENT SAFETY.—

"(1) DRAFT REPORT.—Not later than the date that is 18 months after any National Patient Safety Database is operational, the Secretary, in consultation with the Director, shall prepare a draft report on effective strategies for reducing medical errors and increasing patient safety. The draft report shall include any measure determined appropriate by the Secretary to encourage the appropriate use of such strategies, including use in any federally funded programs. The Secretary shall make the draft report available for public comment and submit the draft report to the Institute of Medicine for review.

"(2) FINAL REPORT.—Not later than 1 year after the date described in paragraph (1), the Secretary shall submit a final report to the Congress that includes, in an appendix, any findings by the Institute of Medicine concerning research on the strategies discussed in the draft report and any modifications made by the Secretary based on such findings.

### "SEC. 923. NATIONAL PATIENT SAFETY DATABASE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—In conducting activities under this part, the Secretary shall provide for the establishment and maintenance of a database to receive relevant nonidentifiable patient safety work product, and may designate entities to collect relevant nonidentifiable patient safety work product that is voluntarily reported by patient safety organizations upon the request of the Secretary. Any database established or designated under this paragraph may be referred to as a 'National Patient Safety Database'.

"(2) USE OF INFORMATION.—Information reported to any National Patient Safety Database shall be used to analyze national and regional statistics, including trends and patterns of health care errors. The information resulting from such analyses may be included in the annual quality reports prepared under section 913(b)(2).

"(3) ADVISORY ROLE.—The Secretary shall provide scientific support to patient safety organizations, including the dissemination of methodologies and evidence-based information related to root causes and quality improvement.

"(b) STANDARDS.—In establishing or designating a database under subsection (a)(1), the Secretary shall, in consultation with representatives of patient safety organizations, the provider community, and the health information technology industry, determine common formats for the voluntary reporting of nonidentifiable patient safety work product, including necessary elements, common and consistent definitions, and a standardized computer interface for the processing of the work product. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of part C of title XI of the Social Security Act.

"(c) CERTAIN METHODOLOGIES FOR COLLECTION.—The Secretary shall ensure that the methodologies for the collection of nonidentifiable patient safety work product for any National Patient Safety Database include the methodologies developed or recommended by the Patient Safety Task Force of the Department of Health and Human Services.

"(d) FACILITATION OF INFORMATION EXCHANGE.—To the extent practicable, the Secretary may facilitate the direct link of information between providers and patient safety organizations and between patient safety organizations and any National Patient Safety Database.

"(e) RESTRICTION ON TRANSFER.—Only nonidentifiable information may be transferred to any National Patient Safety Database.

### "SEC. 924. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary, acting through the Director, may—

"(1) provide technical assistance to patient safety organizations, and to States with reporting systems for health care errors; and

"(2) provide guidance on the type of data to be voluntarily submitted to any National Patient Safety Database.

"(b) ANNUAL MEETINGS.—Assistance provided under subsection (a) may include annual meetings for patient safety organizations to discuss methodology, communication, information collection, or privacy concerns.

### "SEC. 925. CERTIFICATION OF PATIENT SAFETY ORGANIZATIONS.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of the Patient Safety and Quality Improvement Act, the Secretary shall establish a process for certifying patient safety organizations.

"(b) PROCESS.—The process established under subsection (a) shall include the following:

"(1) Certification of patient safety organizations by the Secretary or by such other national or State governmental organizations as the Secretary determines appropriate.

"(2) If the Secretary allows other governmental organizations to certify patient safety organizations under paragraph (1), the Secretary shall establish a process for approving such organizations. Any such approved organization shall conduct certifications and reviews in accordance with this section.

"(3) A review of each certification under paragraph (1) (including a review of compliance with each criterion in this section and any related implementing standards as determined by the Secretary through rulemaking) not less often than every 3 years, as determined by the Secretary.

"(4) Revocation of any such certification by the Secretary or other such governmental organization that issued the certification, upon a showing of cause.

"(c) CRITERIA.—A patient safety organization must meet the following criteria as conditions of certification:

"(1) The mission of the patient safety organization is to conduct activities that are to improve patient safety and the quality of health care delivery and is not in conflict of interest with the providers that contract with the patient safety organization.

"(2) The patient safety organization has appropriately qualified staff, including licensed or certified medical professionals.

"(3) The patient safety organization, within any 2 year period, contracts with more than 1 provider for the purpose of receiving and reviewing patient safety work product.

"(4) The patient safety organization is not a component of a health insurer or other entity that offers a group health plan or health insurance coverage.

"(5) The patient safety organization is managed, controlled, and operated independently from any provider that contracts with the patient safety organization for reporting patient safety work product.

"(6) To the extent practical and appropriate, the patient safety organization collects patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers.

"(d) ADDITIONAL CRITERIA FOR COMPONENT ORGANIZATIONS.—If a patient safety organization is a component of another organization, the patient safety organization must, in addition to meeting the criteria described in subsection (c), meet the following criteria as conditions of certification:

"(1) The patient safety organization maintains patient safety work product separately from the rest of the organization, and establishes appropriate security measures to maintain the confidentiality of the patient safety work product.

"(2) The patient safety organization does not make an unauthorized disclosure under this Act of patient safety work product to the rest of the organization in breach of confidentiality.

"(3) The mission of the patient safety organization does not create a conflict of interest with the rest of the organization.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 937 of the Public Health Service Act (as redesignated by subsection (a)) is amended by adding at the end the following:

"(e) PATIENT SAFETY AND QUALITY IMPROVEMENT.—For the purpose of carrying out part C, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.".

### SEC. 102. PROMOTING THE DIFFUSION AND INTEROPERABILITY OF INFORMATION TECHNOLOGY SYSTEMS INVOLVED WITH HEALTH CARE DELIVERY.

(a) VOLUNTARY STANDARDS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) develop or adopt voluntary national standards that promote the interoperability of information technology systems involved with health care delivery, including but not limited to computerized physician order entry;

(B) in developing or adopting such standards, take into account—

(i) the ability of such systems to capture and aggregate clinically specific data to enable evidence-based medicine and other applications that promote the electronic exchange of patient medical record information; and

(ii) the cost that meeting such standards would have on providing health care in the United States and the increased efficiencies in providing such care achieved under the standards;

(C) in developing or adopting such standards and to the extent practicable, test the efficacy, usability, and scalability of proposed interoperability standards within a variety of clinical settings, including an urban academic medical center, a rural hospital, a community health center, and a community hospital; and

(D) submit a report to the Congress containing recommendations on such standards.

(2) Consultation.—In developing or adopting standards under paragraph (1)(A), the Secretary shall consider the recommendations of the National Committee on Vital Health Statistics for the standardization of message formatting, coding, and vocabulary for interoperability of information technology systems involved with health care delivery. The Secretary shall consult with representatives of the health information technology industry and the provider community who are involved with the development of interoperability standards.

(b) Updates.—The Secretary shall provide for the ongoing review and periodic updating of the standards developed under subsection (a).

### SEC. 103. REQUIRED USE OF PRODUCT IDENTIFICATION TECHNOLOGY.

The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) in section 502, by adding at the end the following:

"(w) If it is a drug or biological product, unless it includes a unique product identifier for the drug or biological product as required by regulations under section 510(q)."; and

(2) in section 510, by adding at the end the following:

"(q)(1) The Secretary shall issue, and may periodically revise, regulations requiring the manufacturer of any drug or biological product that is subject to regulation by the Food and Drug Administration, or the packager or labeler of a drug or biological product that is subject to regulation by the Food and Drug Administration, to include a unique product identifier on the packaging of the drug or biological product.

"(2) For purposes of this subsection, the term 'unique product identifier' means an identification that—

"(A) is affixed by the manufacturer, labeler, or packager to each drug or biological product described in paragraph (1) at each packaging level;

"(B) uniquely identifies the item and meets the standards required by this section; and

"(C) can be read by a scanning device or other technology acceptable to the Secretary.

"(3) A unique product identifier required by regulations issued or revised under paragraph (1) shall be based on—

"(A) the National Drug Code maintained by the Food and Drug Administration;

"(B) commercially accepted standards established by organizations that are accredited by the American National Standards Institute, such as the Health Industry Business Communication Council or the Uniform Code Council; or

"(C) other identification formats that the Secretary deems appropriate.

"(4) The Secretary may, at the Secretary's discretion, waive the requirements of this section, or add additional provisions that are necessary to safeguard the public health.".

### SEC. 104. GRANTS FOR ELECTRONIC PRESCRIPTION PROGRAMS.

(a) Grants.—

(1) In general.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may make grants to qualified practitioners for the purpose of establishing electronic prescription programs.

(2) Matching funds.—

(A) In general.—With respect to the costs of establishing an electronic prescription program, a condition for the receipt of a grant under paragraph (1) is that the qualified practitioner involved agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs.

(B) Determination of amount contributed.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(b) Study.—

(1) In general.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall support a study to assess existing scientific evidence regarding the effectiveness and cost-effectiveness of the use of electronic prescription programs intended to improve the efficiency of prescription ordering and the safe and effective use of prescription drugs. The study shall address the following:

(A) The ability of such programs to reduce medical errors and improve the quality and safety of patient care.

(B) The impact of the use of such programs on physicians, pharmacists, and patients, including such factors as direct and indirect costs, changes in productivity, and satisfaction.

(C) The effectiveness of strategies for overcoming barriers to the use of electronic prescription programs.

(2) Report.—The Secretary shall ensure that, not later than 18 months after the date of the enactment of this Act, a report containing the findings of the study under paragraph (1) is submitted to the appropriate committees of the Congress.

(3) Dissemination of findings.—The Secretary shall disseminate the findings of the study under paragraph (1) to appropriate public and private entities.

(c) Development of Model.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, may develop an Internet-based mathematical model that simulates the cost and effectiveness of electronic prescription programs for qualified practitioners. The model may be designed to allow qualified practitioners to estimate, through an interactive interface, the impact of electronic prescribing on their practices, including the reduction in drug-related health care errors.

(d) Definitions.—For purposes of this section:

(1) The term "electronic prescription program"—

(A) means a program for the electronic submission and processing of prescriptions; and

(B) includes the hardware (including computers and other electronic devices) and software programs for the electronic submission of prescriptions to pharmacies, the processing of such submissions by pharmacies, and decision-support programs.

(2) The term "qualified practitioner" means a practitioner licensed by law to administer or dispense prescription drugs.

### SEC. 105. GRANTS TO HOSPITALS AND OTHER HEALTH CARE PROVIDERS FOR INFORMATION TECHNOLOGIES.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall make grants to hospitals and other health care providers (but not more than 1 grant to any 1 hospital or provider) to pay the costs of acquiring or implementing information technologies whose purposes are—

(1) to improve quality of care and patient safety; and

(2) to reduce adverse events and health care complications resulting from medication errors.

(b) Special Consideration.—In making grants under subsection (a), the Secretary shall give special consideration to applicants who seek to promote the following:

(1) Interoperability across hospital services or departments using standards developed or adopted by the Secretary under section 102.

(2) Electronic communication of patient data across the spectrum of health care delivery.

(3) Computerized physician order entry or bar coding applications.

(4) Electronic communication of patient data in hospitals that provide services to underserved or low-income populations.

(5) Improved clinical decisionmaking through acquisition and implementation of decision-support technologies.

(c) Certain Grant Conditions.—A condition for the receipt of a grant under subsection (a) is that the applicant involved meet the following requirements:

(1) The applicant agrees to carry out a program to measure, analyze, and report patient safety and medical errors at the hospital or other health care provider, involved, to submit to the Secretary a description of the methodology that will be used, and to have such program in effect as soon as practicable after the application for the grant is approved, without regard to whether information technologies under the grant have been implemented.

(2) The applicant has arranged for an evaluation that addresses the effectiveness and cost-effectiveness of the information technology for which the grant is provided and its impact on the quality and safety of patient care, submitted the evaluation plan to the Secretary, and received approval from the Secretary of the applicant's methodology.

(3) The applicant has or is developing a patient safety evaluation system (as that term is defined in section 921 of the Public Health Service Act (as amended by section 101)) for reporting health care errors to a patient safety organization.

(4) The applicant agrees to provide the Secretary with such information as the Secretary may require regarding the use of funds under this program or its impact.

(5) The applicant provides assurances satisfactory to the Secretary that any information technology planned, acquired, or implemented with grant funds under this section

will be part of an information program that—

(A) carries out the purposes described in subsection (a); and

(B) is comprehensive or will be expanded to become comprehensive, regardless of whether Federal assistance is available for such expansion.

(d) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall provide technical assistance to applicants and grantees to ensure the appropriate evaluation of the information technologies for which grants are awarded under this section, such as—

(1) reviewing and providing technical assistance on the applicant's proposed evaluation;

(2) developing mechanisms to ensure ongoing communications between grantees and evaluators to facilitate the identification and resolution of problems as they arise, ensure mutual learning, and promote the rapid dissemination of information;

(3) reviewing the interim and final reports required under subsection (e); and

(4) disseminating evidence-based information in interim and final reports to patient safety organizations, as appropriate.

(e) EVALUATION REPORTS BY GRANTEE.—A condition for the receipt of a grant under subsection (a) is that the applicant agree to submit an interim and a final report to the Secretary in accordance with this subsection.

(1) INTERIM REPORT.—Not later than 1 year after the implementation of information technologies under the grant is completed, the applicant will submit an interim report to the Secretary describing the initial effectiveness of such technologies in carrying out the purposes described in subsection (a).

(2) FINAL REPORT.—Not later than 3 years after the implementation of information technologies under the grant is completed, the applicant will submit a final report to the Secretary describing the effectiveness and cost-effectiveness of such technologies and addressing other issues determined to be important in carrying out the purposes described in subsection (a).

(3) RELATION TO DISBURSEMENT OF GRANT.—In disbursing a grant under subsection (a), the Secretary shall withhold ⅓ of the grant until the grantee submits to the Secretary the report required in paragraph (1).

(f) REPORTS BY SECRETARY.—

(1) INTERIM REPORTS.—

(A) IN GENERAL.—Through the fiscal year preceding the fiscal year in which the final report under paragraph (2) is prepared, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate periodic reports on the grant program under subsection (a). Such reports shall be submitted not less frequently than once each fiscal year, beginning with fiscal year 2004.

(B) CONTENTS.—A report under subparagraph (A) shall include information on—

(i) the number of grants made;

(ii) the nature of the projects for which funding is provided under the grant program;

(iii) the geographic distribution of grant recipients; and

(iv) such other matters as the Secretary determines appropriate.

(2) FINAL REPORT.—Not later than 180 days after the date on which the last of the reports is due under subsection (e)(2), the Secretary shall submit a final report to the committees referred to in paragraph (1)(A) on the grant program under subsection (a), together with such recommendations for legislation and administrative action as the Secretary determines appropriate.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "costs", with respect to information technologies referred to in subsection (a), includes total expenditures incurred for—

(A) purchasing, leasing, and installing computer software and hardware, including hand-held computer technologies;

(B) making improvements to existing computer software and hardware; and

(C) purchasing or leasing communications capabilities necessary for clinical data access, storage, and exchange.

(2) The term "health care provider" has the same meaning given to the term "provider" in section 921 of the Public Health Services Act (as amended by this Act).

(h) TERMINATION OF GRANT AUTHORITIES.—The authority of the Secretary to make grants under subsection (a) terminates upon the expiration of fiscal year 2011.

(i) MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of a grant to be carried out under this section, such grant may be made only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs ($1 for each $1 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNTS CONTRIBUTED.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

### SEC. 106. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS UNDER SECTIONS 104 AND 105.

For the purpose of carrying out sections 104 and 105, there are authorized to be appropriated $25,000,000 for each of fiscal years 2004 and 2005.

## TITLE II—MEDICAL INFORMATION TECHNOLOGY ADVISORY BOARD.

### SEC. 201. MEDICAL INFORMATION TECHNOLOGY ADVISORY BOARD.

Title XI of the Social Security Act is amended by adding at the end the following new section:

"MEDICAL INFORMATION TECHNOLOGY ADVISORY BOARD

"SEC. 1180. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 3 months after the date of the enactment of this section, the Secretary shall appoint an advisory board to be known as the 'Medical Information Technology Advisory Board' (in this section referred to as the 'MITAB').

"(2) CHAIRMAN.—The Secretary shall designate one member as chairman. The chairman shall be an individual affiliated with an organization having expertise creating American National Standards Institute (ANSI) accepted standards in health care information technology and a member of the National Committee for Vital and Health Statistics.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The MITAB shall consist of not more than 17 members that include—

"(A) experts from the fields of medical information, information technology, medical continuous quality improvement, medical records security and privacy, individual and institutional health care clinical providers, health researchers, and health care purchasers;

"(B) one or more staff experts from each of the following: the Centers for Medicare & Medicaid Services, the Agency for Healthcare Research and Quality, and the Institute of Medicine of the National Academy of Sciences;

"(C) representatives of private organizations with expertise in medical infomatics;

"(D) a representative of a teaching hospital; and

"(E) one or more representatives of the health care information technology industry.

"(2) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the MITAB shall be for the life of the MITAB.

"(3) MEETINGS.—The MITAB shall meet at the call of its chairman or a majority of its members.

"(4) VACANCIES.—A vacancy on the MITAB shall be filled in the same manner in which the original appointment was made not later than 30 days after the MITAB is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the MITAB.

"(5) COMPENSATION.—Members of the MITAB shall receive no additional pay, allowances, or benefits by reason of their service on the MITAB.

"(6) EXPENSES.—Each member of the MITAB shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

"(c) DUTIES.—

"(1) IN GENERAL.—The MITAB shall on an ongoing basis advise, and make recommendations to, the Secretary regarding medical information technology, including the following:

"(A) The best current practices in medical information technology.

"(B) Methods for the adoption (not later than 2 years after the date of the enactment of this section) of a uniform health care information system interface between and among old and new computer systems.

"(C) Recommendations for health care vocabulary, messaging, and other technology standards (including a common lexicon for computer technology) necessary to achieve the interoperability of health care information systems for the purposes described in subparagraph (E).

"(D) Methods of implementing—

"(i) health care information technology interoperability standardization; and

"(ii) records security.

"(E) Methods to promote information exchange among health care providers so that long-term compatibility among information systems is maximized, in order to do one or more of the following:

"(i) To maximize positive outcomes in clinical care—

"(I) by providing decision support for diagnosis and care; and

"(II) by assisting in the emergency treatment of a patient presenting at a facility where there is no medical record for the patient.

"(ii) To contribute to (and be consistent with) the development of the patient assessment instrument provided for under section 545 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, and to assist in minimizing the need for new and different records as patients move from provider to provider.

"(iii) To reduce or eliminate the need for redundant records, paperwork, and the repetitive taking of patient histories and administering of tests.

"(iv) To minimize medical errors, such as administration of contraindicated drugs.

"(v) To provide a compatible information technology architecture that facilitates future quality and cost-saving needs and that avoids the financing and development of information technology systems that are not readily compatible.

"(2) REPORTS.—

"(A) INITIAL REPORT.—No later than 18 months after the date of the enactment of this section, the MITAB shall submit to Congress and the Secretary an initial report concerning the matters described in paragraph (1). The report shall include—

"(i) the practices described in paragraph (1)(A), including the status of health care information technology standards being developed by private sector and public-private groups;

"(ii) recommendations for accelerating the development of common health care terminology standards;

"(iii) recommendations for completing development of health care information system messaging standards; and

"(iv) progress toward meeting the deadline described in paragraph (1)(B) for adoption of methods described in such paragraph.

"(B) SUBSEQUENT REPORTS.—During each of the 2 years after the year in which the report is submitted under subparagraph (A), the MITAB shall submit to Congress and the Secretary an annual report relating to additional recommendations, best practices, results of information technology improvements, analyses of private sector efforts to implement the interoperability standards established in section 102 of the Patient Safety and Quality Improvement Act, and such other matters as may help ensure the most rapid dissemination of best practices in health care information technology.

"(d) STAFF AND SUPPORT SERVICES.—

"(1) EXECUTIVE DIRECTOR.—

"(A) APPOINTMENT.—The Chairman shall appoint an executive director of the MITAB.

"(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

"(2) STAFF.—With the approval of the MITAB, the executive director may appoint such personnel as the executive director considers appropriate.

"(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the MITAB shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(4) EXPERTS AND CONSULTANTS.—With the approval of the MITAB, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(e) POWERS.—

"(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the MITAB may hold such hearings and undertake such other activities as the MITAB determines to be necessary to carry out its duties.

"(2) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the MITAB, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the MITAB to assist the MITAB in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(3) TECHNICAL ASSISTANCE.—Upon the request of the MITAB, the head of a Federal agency shall provide such technical assistance to the MITAB as the MITAB determines to be necessary to carry out its duties.

"(4) OBTAINING INFORMATION.—The MITAB may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the MITAB, the head of such agency shall furnish such information to the MITAB.

"(f) TERMINATION.—The MITAB shall terminate 30 days after the date of submission of its final report under subsection (c)(2)(B).

"(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the MITAB.

"(h) FUNDING.—There are authorized to be appropriated such sums as are necessary for each fiscal year to carry out this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Louisiana (Mr. JOHN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

### GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on H.R. 663, the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first commend the leadership of the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce, and the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. DINGELL), minority leaders on that committee, and the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means, and the gentlewoman from Connecticut (Mrs. JOHNSON), the subcommittee chairman of the Committee on Ways and Means, in helping us bring forward this important bipartisan legislation.

Mr. Speaker, I rise in strong support of the bill. This is a critically important bill which we refer to as the Patient Safety and Quality Improvement Act, and I look forward to its favorable consideration by the House today.

I know most Members are well acquainted with the disturbing frequency and devastating impact of medical errors. Unfortunately, recent events have once again attached a human face to the horrible reality that, sometimes, even the best health care professionals make mistakes.

The work of the Institute of Medicine in this area helped increase the public's focus on this problem, as well as potential solutions. One of the many recommendations that the IOM made in its 1999 report, which they called "To Err Is Human," was that Congress should enact laws to protect the confidentiality of information collected as part of a voluntary medical error reporting system. That IOM recommendation represents the foundation of the Patient Safety and Quality Improvement Act.

Specifically, H.R. 663 defines a new voluntary medical error reporting system whereby the Secretary of Health and Human Services will certify a number of private and public organizations to act as patient safety organizations, PSOs. These patient safety organizations will analyze data on medical errors, determine their causes, and develop and disseminate evidence-based information to providers to help them implement changes that will improve patient safety. H.R. 663 provides peer review protections to the documents and communications providers will submit to patient safety organizations, which we hope will encourage the exchange of this important information.

Mr. Speaker, I believe the bill will help us move from a "culture of blame" to a "culture of safety" and ultimately increase patient safety. The Patient Safety and Quality Improvement Act is the product of excellent, bipartisan work. I urge Members to join me in supporting it today.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 663, the Patient Safety and Quality Improvement Act. This bill is a product of bipartisan negotiations between not only the Committee on Energy and Commerce but also includes key members from both sides of the aisle on the Committee on Ways and Means; and I thank Members on both sides of the aisle for their very hard work on this important piece of legislation.

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It has been more than 3 years since the Institute of Medicine released the landmark study, "To Err Is Human." The Institute of Medicine stated that our health care system is plagued with an epidemic of medical errors. However, many of these mistakes could be prevented in the health care delivery system and the way that it is delivered.

With this bill, Congress is taking an important step towards reducing medical errors. The Patient Safety and Quality Improvement Act creates a voluntary reporting system that will enable providers to learn from past mistakes. Providers could report information about medical errors to patient safety organizations who would analyze the data in confidence and recommend strategies to prevent future errors. These organizations could share knowledge with each other and with the Agency for Health Care Research and Quality so that all actors in the health care system could benefit.

Congress intends for providers to take these lessons learned and modify their operations to keep their patients safer. This bill requires the Secretary of Health and Human Services to recommend which strategies for reducing medical errors would be appropriate standards for providers in Federal health care programs. No bill can prevent all medical errors, but it is our hope that this legislation will result in real differences that patients can see.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee, who is more responsible for this piece of legislation than any of us.

Mr. TAUZIN. Mr. Speaker, actually I rise first to commend a Member of the House who has done some extraordinary work, not even on our committee but on the Committee on Ways and Means, and that is the gentlewoman from Connecticut (Mrs. JOHNSON), who has really contributed mightily to the understanding of this issue and has helped indeed frame much of the solutions that this bill contains. I want to thank the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. THOMAS) of the Committee on Ways and Means for that vital process. I particularly also want to thank the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health, and the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. DINGELL), the ranking members of the subcommittee and the full committee, indeed for the fact that this is a bipartisan effort to do something about medical errors which end up creating victims of a health care system who should never have to suffer because of those errors.

We are told in the project of 1999 that was done by the Institute of Medicine, in that report entitled "To Err Is Human," that as many as 98,000 people in this country die as a result of medical errors. In fact, the news contains the story today of perhaps some errors in a young child who received an organ transplant just this week again. Those awful stories should come to an end. The first and most important way of ending medical error damage and death in our health care system is in fact to do what we are doing today, and that is to set up a system whereby health care officials and doctors and nurses, clinics and hospitals, can share information. One can learn from the other.

The impediments to sharing information today are many. The ability of a doctor to share information about something that went wrong or a hospital to share information with another hospital about something that could go right in the case of a medical error prevented, those inabilities are corrected in this act. The act creates not only the incentive for information sharing but grants an assistance for the technologies that are going to improve the transfer of information that will make less error in the health care system a reality and, therefore, again save human lives and human misery.

This act will not only improve the quality of our health care system, it will immeasurably improve the safety of the health care facilities and the safety net that surrounds someone who goes into one of those facilities expecting to be healed rather than to come out with an infection.

As the chairman of the Subcommittee on Health said, the effort here is to create a culture of safety by providing a legal protection framework for the information that is reported, that is provided, about quality improvement and patient safety. The thrust is to provide the opportunity for health care providers to submit information to a patient safety organization and have an analysis done so that we can learn from all the information coming in, what works, what does not work, what errors are occurring and why they are occurring, and then to have these same organizations have the benefit of that information in preventing those errors and in improving the safety of their procedures.

There are several provisions aimed at improving the diffusion and functioning of important information technologies that help prevent medical errors. This legislation is not the only one we will work on to help improve patient safety and quality. There are other efforts being undertaken in the States and in the local medical communities of all of our homes. We want to support those efforts as well and will continue to work in a bipartisan fashion as we have done here to help improve the outcomes in our health care system.

In short, today we begin a very aggressive campaign to root out errors within the health care delivery system and to save lives and injury that result from those errors. Tomorrow we will take up the liability questions, the questions of how liability and malpractice cases are pursued in this country. But today we focus on this set of victims as our committee continues to put patients first, as we try to focus all our health care policy and decisionmaking on how we can better help patients receive good, quality, safe health care when they go to a health care facility in this country or they seek the services of a health care provider.

This is extremely important stuff we do today. I hope this House understands that while this is a bipartisan effort, while it passed committee on a voice vote, while we are all very supportive of it and very grateful for the work of not only the members of our committee but other committees who have assisted us, I want everyone to know that this is really serious stuff. If this works, we could save nearly 100,000 American citizens who die yearly from these errors. This is important stuff. I urge the House to agree with this important legislation.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise today in strong support of the Patient Safety and Quality Improvement Act, legislation which will strengthen our health care system and improve patient care. Today we are considering a bill that creates a structured process for reporting errors made during the course of medical treatment. Voluntary and confidential disclosure can help reduce injuries and death due to medical errors. What we have here is the creation of patient safety organizations that are created to conduct comprehensive analyses of what went wrong following a medical mistake. The people who provide health care are given feedback that way so that they can make changes and prevent future occurrences. Compiling this information in a central database will allow providers nationwide to benefit from lessons learned.

The simple message is that we need to learn from our mistakes. For this legislation to be effective, it is essential that practitioners feel comfortable in coming forward with information. I met with a group of doctors and providers in my district and they suggested strongly that we encourage some kind of indemnification so that they could report accurate figures. I am glad to report that this bill contains strong legal protections and provisions to ensure that information reported is treated as confidential, such as whistleblower-type protections. I think that is a very good piece in this bill. Creating a culture of safety surrounding the reporting of medical errors will encourage health care practitioners to report these mistakes.

The Institute of Medicine reported in 1999 that medical errors are the eighth leading cause of death among Americans. I believe this bill will go a long way toward preventing many of these tragic deaths and injuries. Mr. Speaker, the bill makes great sense for patients and for health care providers. I applaud the committee for putting this bill forward, and I urge my colleagues to support this legislation.

Mr. STARK. Mr. Speaker, reducing medical errors is an important goal, and this legislation takes a small step in that direction. But don't be fooled by the rhetoric.

While the legislation offers a glimmer of hope that action will be taken, it does nothing to actually prevent any future medical errors or improve patient safety.

Unfortunately, the timing of the consideration of this bill is driven by crass political motives to provide cover for the anti-patient legislation that will be considered tomorrow.

I personally think one of our goals should be to first do no harm, and I believe this bill accomplishes that. But it doesn't do much good either.

Federal agencies, states, and the private sector are making strides in this area. But there are certain things that only Congress can do. The legislation before us is not the best example of what that role should be.

This legislation reflects a tenuously and delicately crafted compromise that assures that information which is discoverable today will remain discoverable if this bill becomes law. While the bill creates a new federal privilege for the data created for this new voluntary reporting system, it does not erode a patient's right to access information that is currently available and would be available but for this new system. I am satisfied that—as currently written—it seems to accomplish that goal. But I am concerned about how it will be used and intend to keep an eye on it.

The bill establishes a voluntary system under which patient safety organizations may be created, providers may report their mistakes and the Secretary may act to improve patient safety practices.

But let's talk about what this bill does not do.

It does not reflect the Institute of Medicine's recommendations from the landmark 1999 report.

It does not ensure that providers change their practices to prevent medical errors, based on the insight that might be gained from the system created under this bill.

It does not require a rigorous evaluation of this new voluntary system, which may be ineffective.

The IOM report estimated that as many as 98,000 hospital deaths each year may be attributable to preventable medical errors, yet this legislation fails to assure any reduction in this tragic statistic. It certainly doesn't address the recent organ transplant tragedies.

There are a number of steps that can be taken today to reduce errors and improve patient safety, but too few providers have implemented these policies.

For example, only one percent of hospitals require use of computerized order-entry systems to reduce pharmaceutical prescribing, dispensing and administration errors.

Similarly, last year the American Nurses Association testified that a significant portion of hospital errors are the result of fatigued and overworked staff. Around the country, nurses are regularly forced to work more hours than are believed to be safe to provide quality care. I introduced legislation (H.R. 745) to prohibit this unsafe practice.

Without assurances that the system will use this newly protected data to improve practice, this lop-sided exercise benefits the providers at the expense of patients, and the trade-off may not be worth it.

Finally, let's not forget that the timing of this legislation is not accidental. This legislation is being brought up today in an effort to distract from the anti-patient legislation that Congress will take up tomorrow. Don't be fooled by the rhetoric.

I intend to vote for this bill because it does no harm and lays the groundwork for future action. But we have missed an opportunity to do more.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 663, the "Patient Safety and Quality Improvement Act." This bipartisan bill is the product of collaboration with my colleagues on the Committee on Energy and Commerce, particularly Chairmen TAUZIN and BILIRAKIS, and Subcommittee Ranking Member BROWN. I also note that this legislation builds on the work of my colleagues on the Committee on Ways and Means, including Representatives JOHNSON, STARK, THOMAS, and RANGEL. I thank all who have made important contributions to this bill.

The Patient Safety and Quality Improvement Act addresses a problem that many of us are familiar with. According to a December 2003 survey by the Harvard School of Public Health and the Kaiser Family Foundation, 42 percent of the public says that they or a family member have experienced a medical error.

This bill contains one piece of the puzzle that must be completed in order to reduce medical errors. It would create a voluntary reporting system for the purpose of learning from medical mistakes.

Under this voluntary reporting system, health care providers could report information on medical errors to Patient Safety Organizations. These organizations would help providers analyze what went wrong and identify what strategies could prevent future mistakes. It is our intent that providers would take this knowledge and make changes in the health care delivery system to improve care for patients.

I also hope that the Secretary of Health and Human Services would use this knowledge to set some basic guidelines that all providers would be required to follow. Patients should be able to expect that providers are adhering to certain safety standards before they seek treatment from a doctor, hospital, or other facility.

The best patient safety bill, however, cannot prevent all medical errors. Unfortunately, there will be cases where a medical mistake is made and a patient suffers injury or death as a result. If medical malpractice was involved in these cases, patients and their families should be entitled to seek compensation under a fair and accessible legal system. It would be disingenuous to suggest that the limited legislation before us today could supplant the vital role of legal remedies for medical malpractice.

Again, I thank my colleagues for their cooperation in writing this patient safety bill, and I look forward to seeing the improvements that will result when it is implemented.

Mr. ENGEL. Mr. Speaker, HR 663, the Patient Safety and Quality Improvement Act, is important legislation that holds great promise to reduce medical errors. This legislation will allow medical errors to be reported so we can learn from mistakes and hopefully prevent future errors from occurring. By allowing errors or near misses to be reported anonymously it takes away the fear many providers have in regards to reporting errors.

I am particularly pleased that the legislation creates the Medical Information Technology Assessment Board which will work in conjunction with the Department of Health and Human Services to develop national interoperability standards. I was pleased to work with the Committee to get this provision included in the bill. These national standards will allow all aspects of health care technology to become compatible. Thus, computers, hand held electronic charts and other new devices that hold a variety of medical information, including laboratory and radiology results, pharmacy orders, etc, will all be compatible. This compatibility will greatly reduce medical errors. Further, the legislation authorizes grants to test the interoperability standards. This is vitally important as it will prove the efficacy, usability, and scalability of interoperability standards, thus encouraging hospitals and other health care facilities and providers to adopt the standards and invest in medical informatics.

Mr. Speaker, I am proud to be a cosponsor of the Patient Safety and Quality Improvement Act, and I thank both the Energy and Commerce and Ways and Means Committees for working in a bipartisan fashion to produce good legislation on such an important issue.

Mr. GREEN of Texas. Mr. Speaker, I am pleased to rise in support of the Patient Safety and Quality Improvement Act. This important legislation takes a number of steps to reduce medical errors.

In November of 1999, the Institute of Medicine released its groundbreaking report, To Err is Human, which raises serious concerns about shortcomings in the area of patient safety.

According to some estimates, as many as 98,000 people die in any given year from medical errors that occur in hospitals. That's more than die from motor vehicle accidents, breast cancer, or AIDS.

The costs of preventable adverse events are staggering. The direct and indirect costs of medical errors range from $17 billion to $29 billion. By any standard, that is far too much.

The Institute of Medicine recommended a number of options to help reduce medical errors, such as the creation of a Center for Patient Safety within the Agency for Health Quality and Research.

They also suggested a new system of reporting, and better use of technological advancements.

The legislation we are considering today incorporates many of the suggestions made by IOM, and will go a long way to help health care providers improve patient safety and prevent medical errors.

This legislation creates a "culture of safety" by encouraging providers to report medical mistakes. By reporting these problems, physicians and other providers are able to learn from their mistakes and prevent them from happening in the future.

This legislation also permits the Secretary of the Department of Health and Human Services to provide to patient safety organizations and to States technical assistance with reporting systems for health care errors, to establish a process to certify patient safety organizations, and to develop or adopt voluntary national standards promoting the interoperability of information technology systems involved with health care delivery.

These provisions will go a long way in helping our hospitals and physicians offices a safer place. I urge my colleagues to support this legislation and hope to see it signed by the President this year.

Mr. PAUL. Mr. Speaker, it is doubtful that H.R. 663, the Patient Safety and Quality Improvement Act, will in fact improve the quality of medical care. What is not doubtful is that H.R. 663 will increase the federal government's control over medicine, which I believe is the most dangerous trend facing medicine today. Under H.R. 663, federally-empowered boards and commissions will be empowered to establish new medical databases on patient errors, develop standards for health care information technology systems, and issue new federal standards regarding the packaging of drugs and biological products. Supporters of this bill will claim that compliance with the standards promulgated is voluntary: however, medical administrators will feel pressure to adhere to the federal guidelines for no other reason than to avoid jeopardizing their federal funding. Furthermore, it is questionable how long Congress will allow the standards to remain voluntary. After all, if the federal government is using taxpayer dollars to determine the best means of protecting patients, than we "owe" it to the taxpayer to make sure all practitioners are following federal standards!

Supporters of having the federal government determine the standards for patient safety believe that the federal government is capable of determining the best ways to enhance patient safety. However, Mr. Speaker, it is unlikely that the federal government can effectively identify and popularize a definitive list of best practices for a field as diverse and rapidly changing as medicine. In fact, by the time such standards make their way through what is certain to be a lengthy bureaucratic approval process, the standards are likely to be out of date! Furthermore, the standards will inevitably reflect the bias of those chosen to be on the patient safety boards. However, many practitioners will no doubt feel discouraged from adopting medical error reduction techniques not on the "approved government list." Thus, the main effect of federalizing the process of developing standards of patient quality will be to retard the development of those standards.

I am also concerned about the possible violations of privacy that inevitably accompany the government collection of medical data. Of course, the supporters of this bill claim that the reporting will not disclose any personal information. However, even medical systems which claim not to collect personal identifiable information can threaten privacy. This is because those with access to the information can oftentimes identify the subject of the "anonymous" report. I am aware of at least one incident where a man had his identity revealed when his medical records were used without his consent. As a result, many people in his community discovered details of his medical history that he wished to keep private! Just this morning, CNN's web site reported on the poor job federal agencies and government contractors are doing in protecting the confidentiality of social security numbers; yet we are supposed to trust the government with access to even more personal information!

In conclusion Mr. Speaker, H.R. 663 could actually retard the development of innovations in patient safety while promoting yet more federal control of health care. In addition, it poses a potential threat to medical privacy. Therefore, I urge my colleagues to oppose this bill.

Mr. JOHN. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 663, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BILIRAKIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on two of the motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 659, by the yeas and nays;

H.R. 389, by the yeas and nays.

Pursuant to House Resolution 67, the official photograph will be taken between these two votes, each of which will be conducted as a 15-minute vote.

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## HOSPITAL MORTGAGE INSURANCE ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 659, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and pass the bill, H.R. 659, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 15, as follows:

[Roll No. 56]

YEAS—419

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri

Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Berman
Combest
Fossella
Gephardt
Gilchrest
Hoeffel
Hyde
Inslee
Johnson (IL)
Reyes
Sanders
Schakowsky
Snyder
Velázquez
Weldon (PA)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair would remind Members that there are 2 minutes remaining on this vote.

□ 1344

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to House Resolution 67, this time has been designated for the taking of the official photo of the House of Representatives in session.

The House will be in a brief recess while the Chamber is being prepared for the photo. As soon as these preparations are complete, the House will immediately resume its actual session for the taking of the photograph.

About 5 minutes after that, the House will proceed with the business of the House.

For the information of the Members, when the Chair says the House will be in order, we are ready to take our picture. That will be in just a few minutes.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess while the Chamber is being prepared.

Accordingly (at 1 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1347

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 1 o'clock and 47 minutes p.m.

(Thereupon the Members sat for the official photograph of the House of Representatives for the 108th Congress.)

## AUTOMATIC DEFIBRILLATION IN ADAM'S MEMORY ACT

The SPEAKER pro tempore (Mr. LINDER). The pending business is the question of suspending the rules and passing the bill, H.R. 389.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 389, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 19, as follows:

[Roll No. 57]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)

Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—19

Combest
Emanuel
Etheridge
Gephardt
Gilchrest
Gutierrez
Hoeffel
Hoyer
Hunter
Hyde
Johnson (CT)
Johnson (IL)
Miller, George
Napolitano
Rush
Sanders
Snyder
Weldon (PA)
Wynn

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER) (during the vote). If anyone on the floor has not voted, the Chair would remind Members that there are 2 minutes remaining in the vote.

□ 1407

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. HOEFFEL. Mr. Speaker, unfortunately, I was absent for votes on Wednesday, March 12, 2003, as a result of my participation in the memorial service honoring Robert H. Haakenson. Had I been present, I would have cast my votes as follows: Rollcall vote No. 53, "aye," rollcall vote No. 54, "aye," rollcall vote No. 55, "aye," rollcall vote No. 56, "aye," rollcall vote No. 57, "aye."

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 8 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1700

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 5 p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 342, by the yeas and nays;

H.R. 399, by the yeas and nays; and

H.R. 663, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

## MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 342.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 342, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 9, not voting 9, as follows:

[Roll No. 58]

YEAS—416

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—9

Akin
Culberson
Duncan
Flake
Franks (AZ)
Miller (FL)
Myrick
Paul
Pence

NOT VOTING—9

Combest
Gephardt
Gilchrest
Hyde
Johnson (IL)
Meeks (NY)
Payne
Royce
Snyder

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair would remind Members that there are 2 minutes remaining on this vote.

□ 1720

Messrs. PENCE, AKIN and DUNCAN, and Mrs. MYRICK changed their vote from "yea" to "nay."

Mr. MARKEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ORGAN DONATION IMPROVEMENT ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 399.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 399, on which the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 425, nays 3, not voting 6, as follows:

[Roll No. 59]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Culberson
Flake
Paul

NOT VOTING—6

Combest
Gephardt
Gilchrest
Hyde
Johnson (IL)
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would remind Members that there are 2 minutes left on this vote.

☐ 1728

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to recommit was laid on the table.

## PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 663, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 663, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 6, not voting 10, as follows:

[Roll No. 60]

YEAS—418

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman

Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
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LaHood
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Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
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Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (WA)
Solis
Souder
Spratt
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Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
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Taylor (MS)
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Thompson (CA)
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Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
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Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—6

Akin
Flake
Franks (AZ)
Paul
Pence
Slaughter

NOT VOTING—10

Combest
Fletcher
Gephardt
Gilchrest
Hyde
Johnson (IL)
Osborne
Smith (MI)
Smith (TX)
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair will remind Members that there are 2 minutes left to this vote.

□ 1734

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON WAYS AND MEANS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Ways and Means:

HOUSE OF REPRESENTATIVES,
*Washington, DC, January 29, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: I am forwarding to you the Committee's recommendations for certain positions for the 108th congress.

First, pursuant to Section 8002 of the Internal Revenue code of 1986, the Committee designated the following Members to serve on the Joint Committee on Taxation: Mr. Thomas, Mr. Crane, Mr. Shaw, Mr. Rangel, and Mr. Stark.

Second, pursuant to Section 161 of the Trade Act of 1974, the Committee recommended the following Members to serve as official advisors for international conference meetings and negotiating sessions on trade agreements: Mr. Thomas, Mr. Crane, Mr. Shaw, Mr. Rangel, and Mr. Levin.

Third, pursuant to House Rule X, Clause 5(2)(A)(i), the Committee designated the following members to serve on the Committee on the Budget: Mr. Nussle, Mr. Portman, Mr. Hulshof, Mr. Lewis of Georgia, and Mr. Neal.

Best regards,

BILL THOMAS,
*Chairman.*

## APPOINTMENT OF MEMBERS AS ADVISERS ON TRADE POLICY AND NEGOTIATIONS

The SPEAKER pro tempore. Pursuant to 161(a) of the Trade Act of 1974 (19 U.S.C. 2211), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House as Congressional advisers on trade policy and negotiations during the first session of the 108th Congress:

Mr. THOMAS of California,
Mr. CRANE of Illinois,
Mr. SHAW of Florida,
Mr. RANGEL of New York,
Mr. LEVIN of Michigan.

## COMMUNICATION FROM OFFICE MANAGER OF HON. FRED UPTON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Rachel Williams, Scheduler and Office Manager of the Honorable FRED UPTON, Member of Congress:

MARCH 10, 2003.

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for documents and testimony issued by the U.S. District Court for the Middle District of Tennessee.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

RACHEL WILLIAMS,
*Scheduler and Office Manager.*

## COMMUNICATION FROM CHIEF OF STAFF OF HON. WILLIAM JENKINS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Brenda Otterson, Chief of Staff of the Honorable WILLIAM JENKINS, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, March 10, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for documents and testimony issued by the U.S. District Court for the Middle District of Tennessee.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely yours,

BRENDA J. OTTERSON,
*Chief of Staff.*

## CLEAN UP UNEXPLODED ORDNANCE

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, it is interesting this week that there is a proposal from the administration brought forward to exempt the Department of Defense from a series of environmental regulations.

Mr. Speaker, as somebody who has been working for the last 4 years to help the Department of Defense have the resources to clean up after itself with unexploded ordnance that is found in all 50 States, the UXO problem, slowly we are making progress, but it is a problem that Congress has not been providing clear direction to the Department of Defense or resources to clean up after itself.

Mr. Speaker, it is absolutely the wrong message for us to be delivering to the Department of Defense at this point. What we ought to be doing, rather than providing short circuits for environmental protection, we ought to step up to the plate. Congress should not be missing in action when it comes to take care of the legacy of past military actions within our own borders, provide authority, provide money to help make sure that these sites are cleaned up and that our families are safe and healthy in bases and training areas around the United States.

I do hope that we are able to divert this action going down the wrong way, giving the military the wrong orders. When we give them the resources, the right orders, they do the job. We should do that when it comes to protecting our environment.

## HISPANIC HEALTH CARE CRISIS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, too many Americans continue to be uninsured and too many of those Americans are Hispanic.

A recent study by the Robert Woods Johnson Foundation found that over 70 million Americans under 65 were uninsured for at least some time during the last 2 years. This is unfortunate enough, but the statistics are even more alarming when we look at the Hispanic community. In the last 2 years, over half the Hispanic population under 65 has gone without health insurance for some time. In California, half of the Hispanic population is currently uninsured.

We cannot ignore the problem as a country, and I certainly cannot ignore it as a Californian. More Hispanics live in California than any other State, and they contribute to the State's economy and culture in countless ways. But there remains a huge disparity between the Hispanic population and the rest of the population when it comes to the accessibility to health insurance and health problems. Studies consistently show that Hispanics suffer disproportionately from diabetes, obesity, HIV/AIDS and asthma.

We as policy makers need to commit ourselves to closing this gap. At a time when the economy has soured and the American families are feeling the effects, we need to bolster long-standing programs which have served Americans well. Medicaid is one of those programs. Instead of the current administration's proposals for tax cuts that will pad the pockets of the rich but will do little to shore up the programs that have served Americans admirably during times of economic downturn, the administration then turns around and tells our Nation's governors that there is no money to shore up these programs.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## AMERICA'S SHARED SACRIFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, Congressional Daily reports today that in a speech to the bankers, Majority Leader TOM DELAY said that "nothing is more important in the face of a war than cutting taxes."

Not only does that defy the history of great leaders in the Western world who understood the necessity of harboring our resources in times of uncertainty and times of war, but it also defies what the American community expects at a time of war.

□ 1745

That is the notion of a shared sacrifice. At a time when we are on the eve of sending our young men and women in harm's way, we have to think about what the contribution is of the rest of us. We understand the implications of this war in terms of costs are now said it could exceed $100 billion, but we do not know that, because the war has not been fought yet. We also understand that there is going to have to be a long-term commitment in Iraq after the war, and we do not have any idea of what that cost is going to be.

We know that, in fact, these costs, whatever they are, are not in the budget as submitted by the President of the United States, nor are they in the budget that is being formulated by the committees in the House and the Senate, but what this does suggest is that this tax cut and when we add to them the tax cuts that the President has proposed, ending with the taxation on dividends by providing huge amounts of tax free income for the wealthiest people in this country, what it suggests is when the bill comes due for this war, when the $5 trillion debt comes due because of the spending and because of the war and because of the Bush economy, that one group of Americans will not have to participate in that shared sacrifice. Those individuals, because of these tax cuts, will live in a tax free world.

So when the interest mounts on the debt year after year, when we have seen in a matter of 2 short years going from almost a $5 trillion surplus to a $2 trillion deficit, when we see the deficit reestimated into the hundreds of millions of dollars within a matter of months, apparently our colleague the gentleman from Texas (Mr. DELAY) and the President believe that somehow the wealthiest Americans in this country should not share in that sacrifice; they should not be burdened with the responsibility of helping to pay that back.

That will be left to people who earn their income through wages. They will continue to be taxed. They will continue to pay high rates of Social Security taxes, but the wealthy will not. They will escape that.

No, that is not the most important thing in the face of war. It cannot be cutting taxes. It cannot be how this country works its way through that war. It is more importantly how we make the decision to go to war. The President has offered a number of rationales for going to war. Most of them have been stripped away in the debate that is taking place in the international community, in the debate that is taking place in this country.

We have seen evidence offered and the evidence falls apart time and again. We have seen connections trying to be made between the war on terrorism and Iraq. The evidence has not been sustained, and yet as we proceed into that war the one thing that is on the gentleman from Texas' (Mr. DELAY) mind is cutting taxes. I think it defies what we know this country has done in the past when we have engaged in these conflicts and the necessity of what must be done, and I would hope that once again we would understand that the burden must be shared across American society because there are those who will be called upon to make the supreme sacrifice and that will be their lives and their futures in pursuit of this war should the President decide to go forward.

Clearly those who are at home must continue to engage in the kind of effort to pull this Nation through this period of time, and so we cannot embrace the philosophy of the gentleman from Texas (Mr. DELAY) that somehow the most important thing that we can do is to cut taxes and our most important obligation is somehow to tell the wealthiest people in America that they will not share in that sacrifice, they will not be there when the bill comes due for future generations.

## AUTISM

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I have with me today a box, and on this box I am not sure my colleagues can see this, but there is 50 to 100 pictures of children who are autistic, and in the box I have in back of my office I have probably close to 1,000 letters from parents who have autistic children who believe their children became autistic because they received vaccinations that contained mercury.

We all know mercury is a toxic substance, and we know that we should not have it around us, but we have, as a matter of fact, been vaccinating our children with many micrograms of mercury in each vaccination for probably the last 20 years, and as we increase the number of vaccines that the children were being inoculated with, the amount of mercury that they were being confronted with went up as well, and as a result, we have gone from one in 10,000 children who are autistic to one in 200 children that are autistic. That is a fifty-fold increase.

Soon what I am going to be doing, Mr. Speaker, is each night I am going to be coming down here and reading to the American people and my colleagues letters from these families telling of their child becoming autistic, when it happened and how it happened so that my colleagues and the American people will really know what is going on.

Many of the pharmaceutical companies do not want this to happen because they are concerned about the liability that they might incur. We have what is called the Vaccine Injury Compensation Fund, which if handled properly could deal with most of these children and their families, but unfortunately, the Vaccine Injury Compensation Fund, which was created not only to protect the pharmaceutical companies but to help these children in a nonadversarial way by getting money to take care of their damaged bodies and minds, has not been administered properly, but we are working on that now. Until we get a resolution of that problem, we will be down here every night or every other night reading these letters.

This is a letter from a man named Scott Bono and his wife is Laura Bono, and they tell about their child and how their child became autistic after he received vaccines. Now they have done a mercury toxicity test on their son which shows that he has quite a bit of mercury in his body, and the way he got that mercury into his body was through these vaccinations. They say in this letter, "When Jackson was first diagnosed with Pervasive Developmental Disorder at 20 months old, he had just experienced a four-month regression beginning days after his August 9, 1990 shots. He received HiB shot, with 25 micrograms of mercury, on July 25." And 2-weeks later he received on August 9 a DT shot with 25 micrograms of mercury in it. He had received, prior to that, 75 micrograms of mercury from other shots, and the boy became autistic shortly thereafter.

The parents were not aware of and did not get their child into what was called the Vaccine Injury Compensation Fund, which has a 3-year statute of limitations, which means that if they did not get into it within 3 years of finding out he was autistic and they believe the cause was vaccines that they could not get into the fund. We have thousands of families that were not aware of the Vaccine Injury Compensation Fund, who never applied, and those people have been left out in the cold.

Let me tell my colleagues the results of just this one family's problem.

Since he became autistic, their medical expenses have cost $578,980. Their insurance companies have paid $306,000 of that, but including food and everything else that they are providing for this boy for his special needs, it is costing them $35,000 in after tax dollars to take care of this child, and when we add all this up, it is over $600,000 in medical needs and therapy and food for this boy. Actually, they are in a very difficult financial situation because of that.

We have families that have sold their homes, have gone bankrupt, have borrowed money until they are about to go bankrupt to take care of their children's needs, and those people are confident, as I am, that their child was damaged by the mercury in these vaccines.

So, Mr. Speaker, we have got to do something about that. We have to either change the Vaccine Injury Compensation Fund to allow these people to get in there where their child and his problem is going to be reviewed by a special master, and if there is merit to their claim, this Vaccine Injury Compensation Fund should take care of that. If we do not get that, then the next thing we ought to do is allow them to be able to go to court to sue the pharmaceutical companies.

In any event, Mr. Speaker, I will be back here tomorrow night and I appreciate the Chair being liberal with his time. We have got to solve these problems for these kids. We cannot leave them out in the cold. The President said he was going to leave no child behind, and we should not leave these children behind.

## GASOLINE PRICES AT THEIR HIGHEST IN HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, last weekend when I was home in Oregon I noted that gasoline prices have reached the highest level in history, and I know that my State was not alone. We apparently have the fourth highest prices in the United States. Other States are even higher, and I assume that records were set everywhere.

That might be well and good if it was all due to free market forces and the underlying cost of doing business, but I fear it is not.

We have been through this before. During the first Persian Gulf War, Desert Storm, we saw a huge run-up in oil and diesel prices and aviation fuel which caused a tremendous amount of dislocation in the economy, but the economy was nowhere near as fragile as it is today. Then we found out a little bit later that the oil companies had taken advantage of the war, war profiteering. They had, in fact, raised their prices far in excess of the underlying costs of crude and any other additional costs they might have incurred because of the war in Iraq.

Now here we are a decade later. Again, it appears that the United States will soon be at war in Iraq, and we are seeing record prices at the pump, and again, they are talking about the underlying price of crude and the instability of demand, but the increases at the pump and the increases for the aviation industry and the increases for the truckers far, far, far exceed the increases in the underlying costs of crude, and plus, many of these oil companies are selling themselves their own crude oil or they have hedged the price or they have special deals with the OPEC cartel.

No, plain and simple, they have begun war profiteering this time before the war has started. It is time for Congress to take action.

The economy is weak. Three hundred and eight thousand people lost their job last month. A number of airlines are teetering on the edge of bankruptcy, and a number of them say that if a war happens and fuel goes up any more, costs them $180 million per penny, they will not be in Chapter 11 reorganization bankruptcy; they will be insolvent and out of business, costing tens of thousands more jobs and more harm to the economy, all so a few multinational oil companies can squeeze excess profits out of American airlines and families and truckers.

The President needs to take action. He could release fuel from the National Petroleum Reserve, the oil reserve, but he has chosen not to do that. So I have introduced a bill to give him more specific direction to give him authority once held by President Richard Nixon to stabilize the price of fuel with a fair rate of return to these oil companies and making them justify a run-up in price beyond a price that has prevailed a year ago today, and secondly, to have the President draw down the Strategic Petroleum Reserve in order to help drive down prices, mitigate supply, require the oil companies now and in the future to maintain minimum inventory levels so they cannot cry wolf and jack up the price every year when they switch from home heating oil to gasoline and all those things they love to do and then they have a refinery fire, nothing anyone could ever expect.

Ban the export of Alaska oil. We are going to hear arguments we should allow drilling in ANWR, but guess what, all the Alaska oil can and probably will be exported because this Congress, against my will, lifted the ban on the export of Alaska oil.

Finally, this administration is all for free trade. OPEC is not free trade. That cartel, those people, Saudis and others, are conspiring to drive up the price of oil, setting the price of oil in violation of all the agreements of the World Trade Organization. I am not a big fan of that organization, but this administration, who loves it and wants to expand its authority, should use the authority it has to object to that price fixing. It violates all of the tenets of GATT and the World Trade Organization.

□ 1800

So it is time for strong action here in Congress and at the White House to stop the war profiteering, the price gouging, driving more Americans out of work, bankrupting the airlines, idling trucks and the commerce of this country, all so a few multinational oil companies can run record profits for the next couple of quarters.

Choice seems pretty easy to me. We will see what my colleagues and the President think.

## APPOINTING A SPECIAL ENVOY FOR HUNGER

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, last week I wrote U.N. Secretary General Kofi Annan requesting he appoint a special envoy to respond to the hunger crisis throughout the world. U.N. special envoys have been appointed to respond to crises over the years, and what could be more compelling than millions of lives endangered?

Hunger is devastating Africa, North Korea, Argentina, and has reached into all corners of the globe. One of the worst cases is the current situation in Africa. Africa is on the brink of a crisis of biblical proportions. Thirty million people, 30 million, are at risk of malnutrition and starvation in Africa alone. This is on top, Mr. Speaker, of the HIV/AIDS crisis that is consuming resources that would otherwise be devoted to famine relief.

When I traveled to Ethiopia in January and Eritrea earlier this year, I saw firsthand the bloated bellies and the weak limbs of the children, and I was reminded of the devastation I saw when I was in Ethiopia with former Congressman Tony Hall in 1984 and 1985 during that famine. African countries in particular are suffering from donor fatigue and a lack of attention. The flood of international news has kept the reality of this situation away from people in many Western countries. When I think of some of the stupid shows that some of the networks run, like Joe Millionaire, Survivor, and these things, and how little time they are actually spending on the hunger and the starvation of people in every continent, it is very, very discouraging.

North Korea and Central Asia also teeter on the brink of crisis. In North Korea there are reports that up to 80 percent of the humanitarian relief never even reaches the North Korean people. If left unchecked, thousands and millions of North Korean lives will be in jeopardy.

Even in Argentina, once a middle class Latin American country, hunger is now widespread. Hospitals are regularly treating diseases caused by lack of protein and poor nutrition. Children in Argentina are dying of malnutrition, and in some communities relief organizations have classified 90 percent of the children as undernourished. Yes, in Argentina. This is especially tragic for a country that has more livestock than people.

This, Mr. Speaker, is a global crisis and it demands a global response. No one country can meet these needs. We in the United States should be proud, for in the year 2002 the United States Government, the American people, contributed 51 percent of all the food, compared to the EC and Europe's combined contribution of only 27 percent of the donations of the U.N. World Food Programme. Many countries have the ability to give more and may just be waiting to be asked. Time, resources and attention must be devoted to mobilizing and coordinating the resources required.

The lives of millions of women and children hang in the balance. A special representative, a special envoy under the leadership of the U.N. Secretary General Kofi Annan can mobilize the financial and material resources required, coordinate the international organization to achieve mutual relief and unity of effort, develop an integrated plan and provide operational direction and remove obstacles. This position is critical to reenergizing the global community, refocusing attention on this situation, and, most importantly, saving millions of lives.

In closing, Mr. Speaker, I would urge my colleagues on both sides of the aisle to contact the U.N. directly and encourage them to adopt a strategy to save the lives of the millions of women and children that hang in the balance. Attention by this Congress will send a loud and clear message. Otherwise, many of these 30 million or more will die.

## INDIANA'S NATIONAL GUARDSMEN AND RESERVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, our Reserves make up more than half of the Armed Services. Clearly, they are a key part of our national defense. As of today, more than 175,000 National Guardsmen and Reservists from all over our country have been called to active duty. Much has been demanded of our National Guardsmen and Reservists since September of 2001, and much more will surely be demanded of them as we move forward, facing new threats, new enemies, and new challenges.

These men and women are involved in military operations ranging from peacekeeping and humanitarian relief to homeland defense and active combat. Every day they work side-by-side with those on active duty around the world protecting Americans at home and abroad. It is important to remember that these men and women, in answering their call to duty, have left behind spouses, children, parents, friends and jobs. Nearly every community in every State has been affected.

One such community happens to be in my district, in Dubois County, Indiana. It is the folks of Jasper who know firsthand about the commitment of these young people to our country. Therefore, I am here on the floor today to commend the service and sacrifice of the men and women of Indiana's 1st Battalion and 152nd Infantry. These National Guardsmen, known as "Predators," come from not only Jasper but from many other towns in southern Indiana.

This battalion has a rich 150-year history. They defended the Union in the Civil War, they fought alongside our European allies in both World Wars, and now these Hoosier soldiers have once again answered the call of duty in a time of need. Nearly 650 of Jasper's finest are in Kuwait, and an additional 140 are preparing to depart.

Only one other National Guard unit in the country, also from Indiana, has sent more troops to Kuwait. The Jasper soldiers are also a part of one of the Nation's 15 elite reserve units. These elite units receive specialized training to ensure that they are ready to move rapidly to a war zone when needed.

I am proud that these men and women work to both protect the State of Indiana and, when asked, to defend the national security interests of the United States.

## IN SUPPORT OF MEDICAL MALPRACTICE AND INSURANCE REFORM ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs.

CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Madam Speaker, as you know, I am a family physician, and I rise tonight to speak about an issue that is critically important to the viability of the health care system in this country.

In addition to the impact of many millions of uninsured on the reduced viability of hospitals and quality health services for every one and our failure to make the proper investment in the health of people of color and in our rural areas, we have, for too long, allowed our doctors and other providers to be crushed by high and ever-increasing malpractice costs. If we continue this way, there will be no health care for anyone, insured or uninsured.

This evening, I want to focus on the malpractice crisis. On issues as complex as this, it is impossible to apply a single fix, yet that is what H.R. 5 attempts to do. Its only remedy is the instituting of a $250,000 cap on non-economic damages, such as pain and suffering, regardless of the number of parties against whom the action is brought. This cap is modeled after MICRA, California's Medical Injury Compensation Reform Act, which has clearly not worked.

In addition, underserved minorities, children, and patients with low or no income are not well served by H.R. 5. Compensation for economic damages for minorities and women is often already much less than those awarded to white males. In a case with caps on punitive damages and the calculated economic ones, if the individual is working for minimum wage, unemployed, a homemaker or a child, awards will be small and possibly not meet the real needs of the individual or their family.

But who knows what a young person's potential might be, or even that of an adult. There are Members serving in this body who were once on welfare. If they had filed for malpractice under what is proposed in H.R. 5, their award would not have reflected the potential they have now realized. I say that to say that we cannot project what a person's earning potential might be.

Then H.R. 5 also caps HMOs. That and politics is what the provisions of that bill are really about, protecting the corporations, as has been offered time and time again in different ways for different businesses in just about every committee, all under the guise of helping the consumer or the little guy.

Medical providers do not want to bear the brunt of political battles. They need real help. Their patients need their doctors and other health care providers. That is why I support the Conyers-Dingell substitute, and I hope they are given a fair rule today so that we can put the two bills side by side. There is no way H.R. 5 can measure up to it.

The Democratic bill includes measures that have been proven to work at reducing malpractice insurance rates. If one thing is clear from States' experience, it is that caps alone do not work. The Medical Malpractice and Insurance Reform Act of 2003, the Conyers-Dingell bill, does not cap damages for corporations. It does not apply caps at all, and it only applies to physicians and other health professionals. It also has a better statute of limitations provision, which especially protects injured children.

The Democratic substitute has several provisions that would cut down frivolous claims, including sanctions for attorneys and physicians, and it provides for alternate dispute resolution that could enable patients to avoid litigation costs altogether.

In addition to creating an advisory commission on medical malpractice insurance, it brings insurance companies under antitrust laws that prevent price fixing and requires savings realized through the provisions of the bill to go toward reducing premium costs, and there are several other great provisions that time does not permit me to list this evening.

Madam Speaker, I came to the floor this evening because there are a lot of misconceptions about H.R. 5 which have caused medical organizations and many of my colleagues to support it. In my opinion, the situation for health care providers is so bad that we are grasping at any straw to save the practices we have dedicated our lives to. But our health care providers and their patients need more than the weak straw offered by H.R. 5. We need real reform, real help.

The Democratic substitute would provide that help and help get us started on the kind of reform that will bring long-term relief to providers and be fair to all parties concerned. I hope this bill will be on the floor tomorrow, and I hope that all of my colleagues on both sides of the aisle will support and pass it. And then let us move on to fix all of the other problems in our health care system and provide health insurance coverage for everyone.

## THE BREAKDOWN OF CYPRUS PEACE TALKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Madam Speaker, it is with a profound sense of disappointment that I rise today to speak about the breakdown of the United Nations-sponsored Cyprus peace talks at the Hague this week.

Responsibility for this unfortunate setback in the peace process rests largely with one man, Mr. Rauf Denktash, the Turkish Cypriot leader who rejected U.N. Secretary General Kofi Annan's plan to end the 29-year division of Cyprus. A large share of the blame also rests with the Turkish military and hard-line nationalists in Ankara, who have maintained the illegal Turkish military occupation of Cyprus since Turkish troops invaded the island in 1974. If the government of Turkey were sincere about settling the Cyprus problem, they could have put the necessary pressure on Mr. Denktash to say yes to the U.N. plan.

In sharp contrast to Mr. Denktash, the newly-elected President of the Republic of Cyprus, Tassos Papadopoulos, said yes to a public referendum on the Secretary General's plan. His response is consistent with years of efforts by the government of Cyprus to try to negotiate in good faith to reunify the country, efforts that have been consistently rebuffed by the separatist Turkish Cypriot regime.

The U.N. peace process, which is strongly supported by the United States and the international community has sought to reunite Cyprus as a single sovereign bicommunal federation. With Cyprus poised to join the European Union in May 2004, Secretary General Annan chose to get personally involved in bringing the two sides together, asking the two leaders to put the U.N. plan before their people in a referendum. President Papadopoulos said he was prepared to do so. But, unfortunately, Mr. Denktash was not prepared to agree to put the plan to a referendum. It is a shame that the Secretary General's personal diplomacy was met by this kind of flat-out rejection.

In fact, it is the Turkish-Cypriot community which has held unprecedented public demonstrations in favor of the U.N. plan who will be the major victims of Mr. Denktash's intransigence, cut off from benefits of the EU membership that the rest of the island will enjoy.

Despite this failure, Madam Speaker, I praise President Papadopoulos for stressing that the Greek-Cypriot side will continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU.

Madam Speaker, I yield to the gentleman from New Jersey (Mr. ANDREWS), who has just been fantastic on this issue.

Mr. ANDREWS. Madam Speaker, I thank my friend, the gentleman from Florida, for his enduring leadership in this very important cause. I join him in his expression of dismay that this very hopeful effort has apparently been sidetracked, and I would hope this Congress could urge Mr. Denktash and his Turkish military sponsors to reconsider this decision.

☐ 1815

Madam Speaker, I believe that the principal division between the enlightened view of the Greek Cypriots and the regressive view of Mr. Denktash is their willingness to let the people decide their own fate.

In the set of principles articulated by Kofi Annan and the United Nations, there were many concessions made by the Greek Cypriots. There were many difficult decisions that the Greek Cypriot government would have to endure. That regime, because it is democratic, was willing to put that question to the people in the Greek part of Cyprus.

On the other hand, Mr. Denktash and his Turkish military sponsors were unwilling to let the voice of the Turkish Cypriot people determine their own fate. They have raised their voices on the streets and expressed overwhelming popular sentiment for a lawful and humane reunification of Cyprus. It is a tragedy that the voices of the Turkish Cypriots have been silenced by the short-term decision by Mr. Denktash and by his Turkish military sponsors.

Madam Speaker, I join the gentleman from Florida (Mr. BILIRAKIS), who has led us for so many years in this effort in urging Mr. Denktash and the Turkish Government to let the people of the Turkish part of Cyprus speak. Let them act for peace; and I believe we will, in fact, achieve peace.

Mr. BILIRAKIS. Madam Speaker, I thank the gentleman.

## STUDENT LOAN DEFERMENT FOR ACTIVE RESERVISTS AND NATIONAL GUARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Madam Speaker, I rise to discuss the legislation that I introduced yesterday, the Active Reservists and National Guard Student Loan Relief Act of 2003. The purpose of this act is to ease the financial burden shouldered by our many Reservists and members of our National Guard who have been called to active duty.

Right now, there are approximately 180,000 Reserves and National Guard members deployed in the United States and abroad. My legislation is a promise to the members of the National Guard and Reserves that their student loans will be taken care of while they are called to protect and fight for our country.

For members of the Reserves and the National Guard, being called to active duty often means a drastic cut in pay. This legislation will not eliminate that burden, but it will reduce the financial obligations placed on these brave men and women during their time of active service.

The legislation is quite straightforward. Specifically, it assists members of the National Guard and Reserves who have been called to active duty in two ways. It allows those members to defer their student loans while on active duty, and it subsidizes the accruing interest on those student loans which have been deferred.

The act effectively gives eligible servicemembers the same status that they had when they were students; and this will ensure that they do not return to student loans, after serving their country, that are larger than when they were called to serve. This is critically important legislation because it helps our Nation's men and women who have left their jobs, often in higher salaries, to serve in this time of crisis.

One example is a gentleman, first lieutenant from Pittsburgh, Pennsylvania, who has $50,000 in student loans. He has a master's degree in information systems, and he was called to active duty on January 2, 2003, for 1 year of service. This particular piece of legislation would save this gentleman approximately $2,600 this year in total interest. When we talk about families who have student loans, mortgages, car payments, this $2,600 will provide some peace of mind, while they are also taking a cut in pay, to hopefully allow them to focus on their duties abroad.

Congress must support our men and women who have been called to active service. This is a benefit that our troops enjoyed under the first President Bush during Operation Desert Storm, and it should be promised to our troops today and for the future. I urge Members to support this legislation, and thank the strong bipartisan support that we have already received.

## MEDICAL MALPRACTICE INSURANCE CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Madam Speaker, I am here tonight to talk about the medical malpractice insurance crisis which we face in New Jersey and in many States around the country. My concern is that the legislation, H.R. 5, which the Republican leadership intends to bring to the floor of the House of Representatives tomorrow, will not solve the problem in any way and in fact is another example of politics as usual where the Republican leadership, in this case with the support of the President, are bringing up a bill that they realize has no chance of passage. It may pass here and then it will go over to the other body and fail because it was not done on a bipartisan basis; it was not done in an effort to try to bring the parties together and put together something that would actually accomplish the purpose of bringing malpractice premiums down. Rather, it is sort of a bone to special interests.

In other words, it is something that is being put out so the Republicans can say and the Republican leadership can tell the doctor groups, the hospital groups, the HMOs, the drug companies, the medical device companies that somehow they are doing something to help them when in reality they are not because it is not a bill that will ultimately pass.

I want to talk a little bit about the crisis because it is real. In my home State of New Jersey, we have major problems with increasing malpractice premiums. Some of the doctors actually went out on strike about a month ago because of their concerns; and it continues to be a problem, particularly with certain specialty doctors. But in many cases, it is an across-the-board problem in New Jersey.

What is happening now with this Republican bill, H.R. 5, is it is essentially a one-size-fits-all approach that does not look at the actual underlying issue of health care and medical malpractice. It is really designed to put a cap on jury awards at $250,000, the theory being if you do not allow large jury awards, that will bring down the cost of malpractice insurance premiums. There is no evidence that is true.

The Republican leadership often cites the State of California as an example of where that kind of cap, a $250,000 cap, was put into place; but we know when the cap was put into place in California, premiums did not go down. The only time when premiums went down in California was when there was an initiative passed by the voters that actually addressed the cause and said that premiums could not rise a certain amount. That did accomplish bringing the premiums down because they were not allowed to increase significantly. But the $250,000 cap did not accomplish that.

There are many factors that contribute to the malpractice crisis in New Jersey and elsewhere. There is the changing face of health care in our Nation, namely an increase in high-risk procedures with inherently bad outcomes. There are also the recent problems we have seen in the health care market, namely a shift to managed care, to HMOs which have increasingly created bad outcomes. In addition, bad accounting or bad business judgment on the part of insurance companies has to be taken into consideration when discussing dramatic rises in medical malpractice premiums.

Now, wherever there has been success in trying to reduce premiums for malpractice insurance, it is because there has been some kind of combination of maybe some tort reform, but also linked to trying to actually address directly the effort to reduce the premiums themselves. As I said, in California the premium increases were actually capped.

In my home State of New Jersey a few years ago in the 1970s when we had a problem with rising malpractice insurance premiums, we set up a reinsurance fund which basically said that the insurance companies had to pay a certain amount of money into a fund, and that money would be used to reduce premium costs when there was a crisis.

I actually proposed this in the Committee on Energy and Commerce in the subcommittee that has jurisdiction over this issue. Last week when we had a markup, I proposed H.R. 485, the Federal Medical Malpractice Insurance Stabilization Act, that would create a national reinsurance fund just like we had in New Jersey. The proposal mandates that the Secretary of Health and Human Services establish a program where insurance companies pay into a Federal fund. In time of crisis, these funds are made available to the companies in an effort to provide stability in the marketplace for medical malpractice coverage.

I mention this not because it is the cure-all, but when I tried to raise it in the subcommittee, the Republicans said it was not germane. They would not allow it to be considered as an amendment. Why? Because they have this one-size-fits-all philosophy. They want to cap damage awards by the jury, and they do not want to deal with caps on premium costs that would actually bring down the cost of malpractice insurance.

I have a lot of issues that I want to talk about in the context of this malpractice reform issue, but I wanted to give an example because I think it is important when we are on the floor and we talk about legislation, we do not just talk about it in an abstract way; we give specific examples of what it means.

I want to give some specific examples in New Jersey, two examples of people who would be negatively impacted by the Republican proposal that is coming up tomorrow, in particular because of the way the language in that bill caps punitive damages, noneconomic damages, at $250,000; and also the way it designs and limits liability for punitive damages. It is a good way for me to illustrate the problems with that legislation because what would happen in this legislation is many people that have serious injuries or have even died, there would be very little recovery. The cap on the $250,000 essentially is a huge limitation on some of these people and their families that would suffer a great deal if this legislation were passed. So let me give Members two examples.

One example is Jersey City, New Jersey, a Vietnam veteran who was also a merchant marine barge captain was diagnosed with a carcinoid benign bleeding tumor in his left lung which required that the lung be removed. The diagnosing physician was part of a practice group that also included other doctors, including a surgeon who was set to perform the operation, although that surgeon had no contact with the patient prior to the surgery. The physician mistakenly removed the healthy right lung of the patient rather than the diseased left lung. They could not then also remove the patient's remaining functioning lung which contained the tumor.

Madam Speaker, after this error was discovered with this New Jerseyan, the physicians in this case allegedly altered the medical records and told the patient that after beginning surgery, they determined that they needed to remove the other lung because of a previously undiagnosed disease. However, the Vietnam veteran later learned that the pathology report on the removed lung revealed it was a completely healthy lung. Due to the extraordinary alleged coverup attempted by the defendants and their efforts in seeking to convince the patient that it was actually a good thing that they had removed the wrong lung, the plaintiff added a count to his complaint for punitive damages, not just for compensatory damages.

Today, Madam Speaker, this Jersey City Vietnam veteran requires oxygen 24 hours a day and has a host of medical problems as a result of the operation. Meanwhile, the tumor in his remaining lung will likely continue to grow. If it becomes cancerous, there is little that can be done to treat it. His lawsuit is pending.

What would H.R. 5 that the Republicans have brought up do? H.R. 5 would harm this Vietnam veteran in two ways. First, it would virtually eliminate meaningful economic compensation, limiting it to just $250,000, as we discussed. This is a small amount to compensate a man who has been an active professional and who now must have oxygen tanks with him at all times for the rest of his life.

□ 1830

Moreover, he has to live in fear that the tumor that his physicians failed to remove will become cancerous and metastasize, spreading cancer throughout his body, or will perhaps rupture, possibly drowning him in his own blood.

Secondly, if you look at H.R. 5, which we are going to consider tomorrow, the Republican bill, it sets standards for the award of punitive damages that would protect the kind of after-the-fact concealment of injury that is alleged in this case. So he cannot even sue because they tried to cover up the malpractice. Because in the bill, punitive damages would not be available unless the physician acted with malice specifically to injure the patient, which was not the case, or deliberately failed to avoid injuring the patient, which was not the case, because in this case the conduct for which punitive damages are claimed is not the malpractice or even the injury itself but the coverup of the malpractice and the harm and the doctors' deliberate deceit of their patient and as a result removing this healthy lung.

You can see how in this case, this patient basically would not be able to recover what is needed. I am going to give another example later, but I see one of my colleagues is here. I do not want to prolong this, but I do want to say one other thing about this bill which I think is so important. I had an amendment. In fact, the Committee on Rules is considering it now, although I doubt that they will allow it because I am sure the Republican majority is not going to allow these various amendments since they have the one-size-fits-all bill and that is what they want. But what the committee did and what the bill does that we are going to consider tomorrow is it not only limit damages and claims, if you will, for malpractice against a physician or a hospital, which is what the crisis is all about in New Jersey and I am sure my friend from Massachusetts would agree, the people that are concerned about malpractice are physicians and hospitals. They are the ones who have the premiums that are going up and that is where the crisis is. But this bill is not limited to doctors or even hospitals. It limits the liability or the claims, if you will, that can be recovered from HMOs, from drug manufacturers and even from medical device manufacturers.

The most egregious aspect of it is with regard to the HMOs. Because, Madam Speaker, as I think you know, we here in this House over the last few years have tried to pass a patients' bill of rights that would essentially say that if a decision was made by your HMO to deny you care, that you can appeal either through an administrative procedure or go to court and sue the HMO because they denied you the care that you were supposed to have. A number of the courts now in about 12 States, including the Federal Second Circuit Court in New York which covers a number of States, have now said that a person can sue an HMO. What this bill does tomorrow that we are going to be considering is take away your ability to sue the HMO in certain circumstances. It limits it considerably. So while we in Congress have been trying, or at least articulating the fact that we would like to expand people's ability to appeal a denial of a decision with regard to an HMO that really negatively hurt them or impacted their health, this bill would do the opposite. This would take away whatever rights people now have to sue their HMO or to recover from an HMO when they make a mistake through denial of care.

It is incredible for me to think that not only is this not going to work effectively to reduce premiums for malpractice, not only is this going to limit the ability of many victims, as I used my New Jersey example, to sue or to collect damages when they have been seriously injured, but the bill even goes beyond the issue at hand, which is rising premiums for doctors and hospitals and lets off HMOs and drug companies and medical device companies, basically in my opinion special interests who are helping the Republican leadership and so now they have to get some kind of compensation for what they do.

I see my colleague from Massachusetts is here. I yield to him at this time.

Mr. TIERNEY. I thank the gentleman from New Jersey and ask that he stay nearby because I want to have a conversation with him if I can eventually on this.

I have had some very interesting conversations with constituents in my office for a period of time now about this issue, ever since the bill was filed. Primarily the concept was that people come in and they are upset because of what they think are the consequences of this bill from whatever perspective they come.

Consumer groups come in on behalf of patients and talk about how unjust it is for the limitations that it puts on patients. Lawyers come in because they are concerned. They, of course, believe that they are doing the right thing in representing victims of malpractice. They believe that part of what they do that is noble and right is that they try to get people recovery so that they can continue on with their lives in some sort of respectable manner after some consequence or some disaster has happened to them. And doctors come in because they think that the bill may be helpful to them because they do not want to bear the unlimited exposure to lawsuit damages and do not want their premiums rising through the roof. So we have those three groups sort of pitting against themselves, or some combination. But when you sit people down and talk to them, it is really easy to see that this bill is not about doctors, it is not about lawyers, it is not about patients, it is about insurance companies. It is about insurance companies and those others that you mentioned at the end of your remarks who somehow managed to get into a bill that they are billing as being a limitation on premiums for malpractice but managed to sneak in there immunity for themselves and total absolution from any liability for their malfeasance or their mistakes or their negligence or their wrongful acts even if they are deliberate. The fact of the matter is that that does not serve the American public at all. It does not serve any of those other three groups that we talked about.

I have any number, as I am sure you do, a number of friends that are doctors, physicians in different fields, ranging from those that have a very high risk factor to those that have a very small risk factor. There is not a one of them that when I engage them in conversation that does not have compassion for their patient. When you say to someone, as I did just the other day to a doctor, this particular doctor deals with people with cerebral palsy, an absolutely dedicated physician. I said to him, if one of your patients by virtue of your mistake was injured at a very young age and the consequences were that they were going to have this disaster for the rest of their lives, do you think that $250,000 would fairly compensate them?

They say, well, no, of course not.

I ask if they realize that in this bill that is the limitation that is put on that. And that women that get injured that may not be working, may be bringing up a family in a household, they do not have economic earnings from which they can then generate a recovery but they have the rest of their lives to go forward when they may then have to go out and try and earn a living and they may be stopped from doing that, do you think for someone in that consequence, that $250,000 is enough?

Well, of course not, was the answer. And right on down the line, example after example. I came in late, but I know you were giving some examples earlier.

Their answer back to me was, why don't you engage and try to do something that is reasonable? If you don't think $250,000 is reasonable, why don't you engage them in that? I tell them that the simple fact of the matter is that this is not about a conversation. We are more than willing to sit down and talk about what is fair and what is just. The problem is that the insurance industry and the HMOs and the others that are driving this piece of legislation and I think using the doctors as a tool in this by trying to get them to believe that their premiums will go down when they will not, and history shows that they have not and studies indicate that they are not intended to by this bill, that they try to get them involved in that instead of realizing that this is all about the insurance industry, all about the HMOs, all about those other manufacturers that want to be absolved from liability and they do not want a discussion. They want to try to generate the heat high enough so that you are either for it or against it. There seems to be a lot of that going on around here these days. They make a bill very difficult and absolutely without any compromise.

You will find out that when the bill comes to the floor tomorrow, they will not be asking for amendments to make it better or to improve it. They will not be asking for any prolonged debate to talk about all the aspects of this, not just premiums but how do we protect doctors from unlimited liability, how do we protect patients to make sure they get their just due without putting doctors out of business. None of that will be open for debate. It will simply be a vehicle for people to make a case, perhaps in the next election in 2004 or whatever or to show themselves to their benefactors that they are out there waving the flag on their behalf. That is unfair. It is unfair to patients, it is unfair to doctors, it is unfair to lawyers and it is unfair to the American public at large.

The fact of the matter is that if you couch it in terms that this is all about keeping premiums down, it is something interesting to note that in California, where this is supposedly the model for this whole program, in the 1970s when they put in a cap on recovery, the fact of the matter is premiums did not go down. The next 4 years they went up considerably, and since that point in time, they have been pretty much running the average of around the rest of the country. So that is a fallacy. In Florida, when the Florida legislation said to the insurance industry, well, then if we are going to pass a bill like this, you have to certify to us that premiums will go down, the insurance industry said, no, we won't do that. In Nevada the same thing happened out there where they talked about enacting severe damage caps. The insurance industry came out and said very clearly that they would still not lower premiums. The studies indicate and history indicates that the insurance industry makes its money primarily not from premiums so much as from the investment of those premiums into other vehicles, whether they are bonds and to a lesser extent stocks and other vehicles and generate income from that. When the market is down, as it is now, and they are not paying off as they are, when it goes down, then they have to jack up the premiums to get the profits to which they think they need to go on with their company. Then they have to tell somebody that it is not about insurance companies and profit because they know that will not be extremely profitable because everybody wants people to have a profit but they do not want necessarily to be gouged. So they cannot go out and tell people that we just want to get a higher profit and we are going to do anything, we are not going to take any decrease in our profits, but instead we are going to go out and get the doctors, they cannot say that. They turn around and they say, you know what the problem is here? The people that are subject to malpractice, the people that have lost something in their lives, they are the problem. They are getting too high a recovery. Obviously because they are represented by lawyers helping them get that recovery, then lawyers are bad people, too.

The fact of the matter is many times these are complicated cases. Something happens, and if a doctor makes a mistake, it is complicated, and it is difficult sometimes to find out just where that mistake occurred, which part of the process, which doctor or other health care person was involved in that. A suit might be filed to find out, to discover where that was. Then the people that are not involved are let out or the person who is responsible, their insurance company gets engaged in the situation. You would hope that this is a system we have structured to give that person a fair recompense for their injuries. That is the way that it is supposed to work.

The problem is of course that now they are putting up there, they are saying that this whole idea of somebody recovering is where the culprit is. There has not been any great increase in huge recoveries across this country. They cannot point to statistics showing that all of a sudden we have had a spike in incredibly high recoveries for people. And those few high recoveries are generally knocked down by appeals courts to a much more realistic number. It just happens that there was something in the course of that case that the jury got upset with, whether it was somebody trying to cover up something that was done or an insurance company failing to pay off on time, or something that caused them to get an award up there and courts generally ratchet that back.

But if we are not going to proceed on the basis that we have done in the past of having a system where somebody who through no fault of their own is seriously injured, looks to the person who was negligent, to the person who conducted the malpractice for a contribution, which they then in return insure against, then we have to find out what else it is that we are going to put in place for a system. If we think that we want somebody else to decide other than a jury as to what somebody's fair recovery is, then let us hear what it is. Let us have a debate about that. Who should replace a jury of your peers in deciding that? If you think there should be a cap on the amount of money that people recover, let us have some experts as well as the general public engaged in the debate about what would a fair amount be, because you certainly need to take care of these people. We have decided as a society that the innocent part of that should not be the one that suffers the burden and goes without having any ability to sustain the rest of their lives. We have decided that we have to try and share that blame by making the person who has been negligent responsible and letting them insure for it.

Society has to have a replacement. We can complain about the system that we have all we want, but we should be having a debate instead about what changes in it we are going to make if we think that parts in it are not working. As I said in the beginning of my remarks, I have great sympathy for the doctors who feel they have to practice defensively, for the doctors who feel that their exposure is unlimited, for the doctors who insurance companies abuse by raising their premiums on the false pretense that it is the situation where people are getting too much for their injury. We have to sit down with people and say, what else are we going to put in place, how else are we going to make these decisions in a fair way so that people get fairly compensated for their injuries and so that we understand that doctors have to remain in practice and they have to remain in practice without the fear of being put out of business either financially or because they were constantly engaged in litigation.

I do not hear that kind of conversation coming from the other side of the aisle, from the majority. I frankly do not hear anybody saying we are going to sit down and try to iron this out. Did it go to committee? It went to committee, but people should not feel that there was an open dialogue in committee, that there was any deliberation and honest debate and suggestions about what changes might be made. It went to committee so that the majority who put forward the bill could ram it through on a straight party line vote and get it to the next level so we could do the same thing so that they would have some talking points to go back to their benefactors with and to campaign against and say like, oh my God, other people that don't vote for this bill want to put the doctors out of business, and we are the ones who want to save the doctors when in fact the premiums will not go down a stitch, the insurance companies will not allow the bill to be amended to put a requirement that if the recoveries go down, the premiums go down, and the fact of the matter really is it is all about the insurance companies, the HMOs and the others that are going to be shielded from liability and it is not about the doctors, not about the lawyers and, shamefully, it is least about the people that are really the ones that we should be focusing on here, the people that are injured through malpractice.

The best thing these insurance companies could do, one of the best things they could do is help doctors put in place some way to police those 5 percent of the medical profession that are responsible for 54 percent of the claims. It seems to me and I think others that that is one area to look at that would take care of a large part of the problem of legal actions and a large part of the problem with that small percentage of the premium increase that may be attributable to claims.

□ 1845

My recollection of reports and data shows that it is about half a percentage point on those premiums. But that would make sense. Find ways to hold accountable that 5 percent of doctors that have 54 percent of the claims, and make sure they are either reeducated so they are no longer guilty of malpractice, or move them out of the profession to someplace else where they are happy, to a less risky end of the business.

Then let us make sure we take a look at the insurance companies. If they are going to jack up prices every time their investment returns go down, then we have to look at the company industry and say something is wrong here. Doctors should not be subjected to these spikes in premiums just because the economy has gone down and that is where you invested all of your eggs, and now you are suffering a loss and you want to maintain your high profits, you are not satisfied with a lesser profit. Then we have to find a way to deal with that through insurance regulation.

Short of that, and if they are going to insist on putting that bill through, we would at least hope they would have provided some discussion about what is a fair amount; and $250,000, even by doctors accounts, is not a fair amount of a cap. We would have had some discussion about what are we going to do about policing those 5 percent of the medical profession that create 54 percent of the incidents that end up in lawsuits. And we would have done something with the fact of trying to work our way around so that doctors did not feel they were subject to legal suit in order for people to get discovery as to who is responsible, find some way earlier in the process for the facts to be known so that people could move forward, and have a good public debate about this so that everybody's interests were resolved.

That is not happening, my colleague from New Jersey, you know that very well; and I would just say to you that I would be happy to have a conversation with you on it if you want, but I think you would agree that we could have done a much better job sitting down as a full House, with a full complement of the committee, with all three parties, the Independents, the Republicans and the Democrats, and people representing the consumers, patients, the doctors, and the insurance companies, and talked about what is needed to be done in order for this to really be done correctly.

I think it is shameful we started out with this yelling and screaming contest, that it is all or nothing, there cannot be any reasonable conversation. Doctors feel they are put in the position of, gee, in order to save ourselves, we have to go along with this low cap, and we have to go along with the provisions of the bill that effectively make it difficult for people injured to even find legal representation, because it is going to be so expensive to proceed on that suit; and there will not be any compensation because the amounts have been capped and lawyers will not come on, and they will be without a lawyer.

Only one in eight people that are subject to malpractice now file a claim anyway, and I guess the insurance companies would like to collect those premiums from the doctors and have that one in eight number be even less. Their profits would be that much higher, but society would not benefit from it. People that were injured would still have to go through their lives with those egregious situations and without help; and I think that we should focus on making the situation better, not having a political battle here that does not allow for debate.

Mr. PALLONE. I want to thank my colleague from Massachusetts for bringing up the reality of what is happening here politically. I know neither one of us wants to talk about politics. We would rather talk with the substance of this issue and what could be done to bring premiums down, because that is where the crisis is.

But what is happening with the Republican leadership, and even the President on this, is totally political. I mean, I have to tell you, I will just give you the background in the Committee on Energy and Commerce. This came up just before the election, I think it was sometime in October, that the Republican leadership on the Committee on Energy and Commerce decided to bring this up. There may have been a hearing, I do not even remember if there was; if there was, maybe there was one. And they quickly brought this up in the committee, wanted to bring to the floor, just before the election in October, just to make the political point that they were trying to accomplish something.

Mr. TIERNEY. If the gentleman will yield, I think you take it back a step further. If you remember the debates about the Patients' Bill of Rights, where doctors and consumer-patients, consumer groups and others were together on this issue, understood that we needed to have protections against HMOs and the like, needed to be able to file an appeal to an egregious situation, I think a lot of it stemmed from the insurance companies and HMOs at that point in time saying we have to get back the equation here, and the way we will do it is we will improve our financial situation, and we will try to drive a wedge between those patients and their doctors.

Where they finally have come together and have focused the light on us and we are losing ground on the Patients' Bill of Rights, we have to again drive that wedge, and the way we will do it is by telling doctors that their premiums are going up, because patients that are subject to malpractice are getting too much compensation for their injuries, which they cannot justify and cannot move in that direction.

It is shameful. As I say, the doctors, in my view, are good people with the right mind, the right heart on this thing. When you sit down and talk with them, they understand that they are being used.

Their first comment always is, well, why do the Members of Congress not talk about what would be the right amount, if any amount, to talk about fair compensation? Why do they not talk about what should have to happen before a claim is filed? Why do they not talk about reining in the insurance companies?

I said we are perfectly willing, but conversation needs two parties, and there is one party here. We are listening. We would be more than willing to talk. The other side is not willing to have anybody listen, and they are only willing to ram things through; and unfortunately, that is what you are going to see tomorrow, and I do not think anybody is going to be served by it.

Hopefully, the other body in this institution will have the wisdom to stop that and force it back; and then maybe, maybe if there is enough pressure from other groups, we can have a conversation trying to improve the situation for everybody's benefit.

Mr. PALLONE. The gentleman is right on point. Let me tell you how much on point you are. Not only was this same bill essentially rammed in just a few weeks before the election through the committee, but, of course, it had to be the first order of business when we came back.

When we on the Committee on Energy and Commerce asked the Republican leadership on the committee to sit down with us and talk about a bipartisan bill that did not just deal with capping damages at $250,000, but actually dealt with all different aspects of the crisis, reinsurance, giving money, capping premiums or whatever, essentially what we were told, informally, was well, we cannot do that now. We cannot sit down. We have to bring this to the floor fast. Then it will go over to the Senate, and, do not worry, it will not pass there. Then we will sit down and talk with you about what we are really going to do.

This is essentially what we were told. This came in the subcommittee. Two weeks ago there was a hearing on Thursday. It was marked up in the subcommittee last Tuesday, it was voted out of the full committee last Thursday, and it was brought to the floor. Everybody understood that this had to go to the floor and there was not any opportunity to talk about what really could be accomplished, and we had to pass it in the House as a political measure for the reasons you said; and then when it gets to the Senate, okay, they will not pass it, we will have to sit down and talk.

This is the politics of it. There is no question about it.

Mr. TIERNEY. I just want to thank the gentleman for taking the time this evening to allow for some debate, probably much more than we will get tomorrow on this, so we could have a full discourse on what is going on and what the content of the bill is and what the effects are going to be on people. I think tomorrow we will hear a lot of the standard positions that people are taking, one side or another.

This discourse hopefully allowed us to broaden that out a little bit and talk about some the specifics. I thank the gentleman again for taking the time to do it and showing his leadership.

Mr. PALLONE. I appreciate the gentleman coming down.

Let me say another thing. This bill is primarily based, this bill that we are going to vote on tomorrow, is primarily based on the notion that damages, punitive and noneconomic damages, have to be capped at $250,000. What I have said over and over again to the Republican leadership in our committee, in the Committee on Energy and Commerce, is where is this magic $250,000 figure coming from? I hear over and over again, I guess because it was used in California, but there is absolutely no reason to believe that $250,000 is somehow some magical term to cap damages.

I think there are many on the Democratic side of the aisle, including myself, that do not have a philosophical problem with a cap on damages, but $250,000 is too low. Why is it not $1 million? Why is it not $1.5 million? Nobody on the Republican side of the aisle will give us an answer for that. They just insist that it has to be $250,000.

As my colleague from Massachusetts said, any effort to deal with this issue, other than capping damages, the Republicans completely reject. They say that the only thing we are really trying to do here is tort reform. We are not trying to deal with lowering premiums or addressing premium costs, other than through the vehicle of capping damages and tort reform. That is it.

Now, I just wanted to use another example, if I could, Madam Speaker, of how this legislation, this Republican bill that is coming up tomorrow, would be unfair to specific individuals.

I have another example in my home State in Newark, New Jersey, which is New Jersey's largest city, of a 12-year-old in Newark. I would just like to run through the case, explain what the case is, and why H.R. 5 would be very damaging.

This is a 12-year-old 8th grader who developed flu-like symptoms in September 2001. His mother took him to their family doctor, who gave him a prescription for antibiotics. When he showed no improvement, the boy and his mother returned and a different doctor changed the prescription. The boy seemed to be getting worse, continued vomiting and became dehydrated.

After 2 more weeks, his mother took her son to the emergency room. A blood test revealed there was something seriously wrong. Further testing determined that he had leukemia. However, he was informed he had a 95 percent chance of complete recovery.

Madam Speaker, the boy's pediatric oncologist prepared him for four chemotherapy protocols. After three administrations of the chemotherapy protocol, his progress chart noted that his leukemia was considered in remission.

The 12-year-old Newark boy went in for the final chemotherapy treatment at that point. The order for this administration should have been for one 60 milligram dose of a drug called doxarubicin. Instead, the written order called for three doses instead of one, and the chemistry department at the hospital reviewed the protocol but did not notice the overdose.

After the third dose, the boy had a violent reaction. The head oncology nurse reviewed the chart and said, "There has been a terrible mistake," and called the doctor. The doctor said, "Oh, no, how could this have happened?"

The boy's mother was informed that her son had received a massive overdose and he would be very sick. The most serious problem, she was informed, would be an overproduction of mucous throughout his body.

Now, Madam Speaker, the boy's health deteriorated, forcing him to stay in the hospital. He developed inflammation and ulceration of the linings of his mouth, throat and gastrointestinal tract. He experienced cardiac dysfunction, began vomiting blood and finally had swelling all over his body.

He transferred to a different hospital that began aggressive bone marrow transplants, but, unfortunately, too much damage had been done; and in April of last year this young boy died of severe adult respiratory distress syndrome, ARDS, caused by excessive mucous in the lungs.

Again, I use the example, because I want to show what the impact would be with H.R. 5, the Republican bill that we are going to consider tomorrow. The impact of this legislation would be very severe.

Being a 12-year-old, he did not have any income. The total amount of his economic loss would be the cost of medical treatment for his cancer treatment. The total available amount of noneconomic damages, compensation to his mother for the poisoning of her son, for his lingering, painful death, and her for permanent loss, would be capped at $250,000.

Now, again, what is the magical $250,000? Where does it come from? I do not know. Nobody will give me an answer.

I have had some people who I consider somewhat heartless say to me, well, you know, a boy dies, a young person dies, a minor dies. Why should we pay the parents any more than $250,000? In other words, they were not dependent on him economically. He did not have a wife, he did not have children, he did not have a job. He was too young for all that. But I think that is a very heartless approach.

It also begs the question of the fact that if there is very little penalty and very little consequence of negligence or medical mistakes, then one could argue that there is not much of an incentive to not keep making them on the part of the hospital or certain physicians maybe that should not be out there practicing.

I do not say that because I think that most doctors make mistakes or are negligent. I certainly do not. But there always are some, like in every profession, that do.

One of the reasons we have punitive damages and that we do not have a cap is because we want to make sure that there is a certain amount of punishment, so that people do not continue to practice and they are more cautious and do not make these mistakes. Otherwise, why would the mistakes not continue to be made?

I have other examples, Madam Speaker; but before I get to some of the other examples, I want to talk a little bit about the fact that this bill goes beyond just malpractice premiums, insurance premiums, for doctors and hospitals, and deals with drug companies and deals with HMOs and deals with medical device manufacturers, because I think the fact that this Republican leadership legislation goes way beyond the order of the day, way beyond the issue of premiums for doctors and hospitals is a strong indication, maybe the strongest indication, that it is really nothing but special interest legislation designed to help some friends of the Republican leadership.

I offered an amendment in committee, which is also being considered in the Committee on Rules, and was, of course, voted down in committee strictly on partisan lines and probably the same will happen in the Committee on Rules. I cannot imagine that we would be able to consider it tomorrow. But basically it would have struck the provisions in the bill that deal with the issue other than doctor and hospital premium costs.

I just want to talk a little bit about the amendment, because I think, again, it brings forth why this bill is really not meant to accomplish the goal of addressing the malpractice crisis.

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The amendment that I proposed strikes the language that includes liability protections on punitive and noneconomic damages for these industries; in other words, medical device manufacturers, HMOs, drug companies, and other health insurance companies. These are industries outside the scope of medical practitioners and, therefore, medical malpractice.

The limitations in the bill on liability covering defective medical products, dangerous prescription drugs, and claims against HMOs and health insurance companies I think are appalling, Madam Speaker. Shielding all of these additional industries from liability has no effect on medical malpractice insurance premiums which only affect doctors and hospitals and would only harm the current product liability system.

What H.R. 5 does, as written, is to leave victims with little recourse. These additional protections, the ones that I mentioned that go outside of the doctors and the hospitals, render victims completely unable to hold pharmaceutical companies, makers of defective medical products, and insurance companies accountable, even when they are proven negligent. Even if they are proven negligent, one cannot recover, other than based on a small amount.

In essence, what the bill does that we are going to be considering tomorrow is really a bill designed to reduce the consequences of the mistakes and wrongdoing of large corporations at the expense of victims of those harmful actions.

So here we are. Traditionally in our system, in our Anglo-American jurisprudence system that we are so proud of, it has lasted over 1,000 years, the effort was to protect the victim. Now, what we are doing with this bill is protecting the large corporations who do not need any protection. It is certainly not in the circumstances that are delineated here.

But the worst aspect of it, Madam Speaker, in my opinion, is with regard to HMOs. Because as I said, on a bipartisan basis, there were different bills; there was a Democratic bill and there was a Republican bill and the Republican bill passed and it was not, in my opinion, as good as the Democratic bill. But the bottom line is there were efforts on both sides of the aisle in the last 4 years in this body to try to deal with HMOs and reform HMOs so that patients had some rights. If they were denied care, they could go to some sort of a board or commission, administrative appeal, or they could go to court to overturn a wrongful decision that denied them care or caused them damages.

But what H.R. 5 does that we are going to consider tomorrow is it preempts State law and it amends Federal law far beyond, again, relating to doctors and hospitals, and it says that it applies to any "health care lawsuit brought in a Federal or State court." Now, that is where we get to the HMOs. Eleven States have laws that provide that HMOs may be held liable for refusing to authorize payment for appropriate care. These laws would be completely preempted by H.R. 5 if it passes and becomes law. And, in particular, what is happening is the courts in the States and even at the Federal level are expanding victims' rights because Congress has not acted. We never passed, Madam Speaker, the Patients' Bill of Rights. It passed in the House, but it never passed in the Senate. It was never signed by the President. So in the absence of having Federal law that would protect patients who are in an HMO, States have passed laws and now the courts have even stepped in and said that one can sue and seek grievances for HMO action.

In fact, one of the most important Federal courts, the United States Court of Appeals for the Second Circuit, which covers New York, Vermont, and Connecticut, recently held that Americans can sue HMOs and other insurers for injuries resulting from their cost-minimizing decisions. Now, this ruling, if it is upheld by the Supreme Court, would essentially make the Patients' Bill of Rights the law of the land. We would not even have to pass it. It would essentially make the Patients' Bill of Rights apply to the entire country. But these kinds of lawsuits, the Second Circuit opinion, State law, either enacted by the legislature or by the State courts, would all be preempted and severely limited by H.R. 5.

To me, to hear my colleagues on the Republican side spend the last 2 or 3 years saying that they want to protect patients' rights in HMOs and then have them vote on this tomorrow, which I am sure is going to be voted on by most of my Republican colleagues, that would take away all of those rights or at least severely limit them I think is just incredibly hypocritical. Even the President, the President said that he supported the Patients' Bill of Rights too and now he is saying that he favors this malpractice bill, which would essentially limit one's ability to sue and take action against an HMO. I really do not understand where my Republican colleagues are coming from on this.

Now, I just wanted to mention, there is a Democratic substitute to H.R. 5, which hopefully the Committee on Rules will put it in order but if they do not, I guess we can do it on a motion to recommit tomorrow so we would have some opportunity to bring it up. Basically what the Democratic substitute does is the opposite of most of the negative aspects of H.R. 5 that I talked about tonight. It tries to look at the malpractice issue in a much broader context, not only for tort reform dealing with lawsuits and damages, but also for insurance reform. In fact, it has a commission that would evaluate the cause and the scope of the recent and dramatic increases of medical malpractice insurance premiums and, most importantly, actually establishes a grant program, if you will. It is similar, I suppose, to the kind of reinsurance program that I mentioned where grants could actually be given to States or, in certain circumstances, where premiums go up. I really maintain that the only way that we are going to reduce premiums is not through any kind of a cap on damages in court, but rather by addressing it directly, by either having a reinsurance program that gives money back to the States or to the insurance companies so that the premiums go down, or providing some sort of grant program to reduce premiums. Again, it was the capping of premiums in California that made the difference, not the $250,000 in damages.

I see the gentleman from Texas is here, and I would like to yield to him at this time. I thank the gentleman for coming down.

Mr. SANDLIN. Madam Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding time and I thank him for his important efforts in this regard.

We can say that H.R. 5 was filed in that it calls attention to a very serious problem we are facing in the United States of America, and that problem is that the insurance carriers are absolutely gouging America's physicians and hospitals and other health care providers. The irony is that H.R. 5, while calling attention to that problem, does absolutely nothing to solve the problem.

We hear much coming from the other side about frivolous lawsuits. There is not a Member of this House that supports frivolous lawsuits and, in fact, if the other side was interested in getting rid of frivolous lawsuits, they would have put something in this legislation to take care of it. The Democrats support putting in specific provisions that say, if a suit and a claim has absolutely no basis in fact, no basis in law, no reasonable extension of law, that suit should be dismissed, the plaintiffs should pay the costs, and the plaintiff and the plaintiff's attorney should be sanctioned by the court for filing a suit without merit, period. If the other side was that interested in getting rid of frivolous lawsuits, they would have that in their legislation. However, they have ignored that.

Also, I think it is quite unusual that the claim is: Malpractice premiums are skyrocketing; we have to do something to help the doctors. Madam Speaker, the only people that are not at the table in this debate, the only people that are not affected by this law, the only people who are not subjected to any restrictions by H.R. 5, and that is the insurance carriers. The insurance carriers will get everything they want. It is a great payday for them, because they want a cap of $250,000 to limit what they will pay to aggrieved parties. However, they will not agree, they will not discuss, they will not even consider the possibility of lowering premiums.

That is absolutely outrageous. This is not a debate between doctors and lawyers; this should be doctors, lawyers, patients, consumers, pointing the finger at the insurance companies and saying, if you want this relief, you have to do something when you get it. But we know they are not going to do it. Do we know why we know? We know because we look at history. Historically, in the States that have caps their premiums are higher than in the States without caps. Now, go figure. That is because when the insurance carriers know that they have a limit, it is carte blanche. When they lost money, as the gentleman from New Jersey mentioned, in the stock market, they have a way for the government to help them get that money back or a quasi-government function; they just send a letter to our doctors. They send a letter and they say, you need to pay us more money.

Now, oftentimes we will hear folks on the other side of the aisle talk about MICRA in California. MICRA has not been a success, and MICRA is not what limited the cost of malpractice premiums in the State of California. MICRA was passed in 1975. Rates continued to go up. Doctors continued to have problems. Do we know what happened? In 1988, the voters of California, who do not support MICRA by the way, the voters of California passed Proposition 103. Proposition 103 was not malpractice reform. Proposition 103 did not say we have to limit what families get for the death of their children. Proposition 103 said we are going to regulate insurance and we are going to roll back the rates 20 percent.

Well, it is no surprise when we say we are going to roll back the rates 20 percent that rates go down. That is what it was designed to do. That is what happened in California. That is the only thing that has been a success. MICRA has had nothing to do with it. Do not be misled in this House either. MICRA is not H.R. 5. There are many, many significant differences between MICRA and H.R. 5. MICRA limits only, and puts a cap only on personal injury damages as a result of malpractice. The Health Act protects HMOs, it protects manufacturers of defective products, it protects; in fact, anyone engaged in any stretch of the imagination in the health care industry will be protected from civil rights violation claims, anti-fraud violation claims, anti-consumer claims. You name it, they are protected. It is just payola to the carriers and the HMOs.

The HMOs did not get the protection they wanted in the Patients' Bill of Rights. They have not gotten that deal done yet. So now they are back. Now they are back. Let us make no mistake about it: $250,000 is not pain and suffering. Madam Speaker, $250,000 is what the other side says that you get for the loss of your child. How much is the loss of your child worth? How much is the loss of a limb worth? How much is going blind worth? I do not know, but my friends on the other side somehow looked into a ball and they said, we know how much it is worth. If your child is dead, like Miss Santillan, that is worth $250,000 minus the cost and attorneys fees, thank you very much, next case. We have case after case after case.

I yield now to the gentleman from New Jersey, because he might want to talk about some of these specific cases that I know he has some information about, or maybe the gentlewoman from Texas (Ms. JACKSON-LEE) has some information she would like to share.

Mr. PALLONE. Madam Speaker, I will yield to the gentlewoman from Texas, but I think what the gentleman said in particular about the fact that this amount of damages, the $250,000 has no basis in fact. During the Committee on Commerce hearing last week, I asked many times, where does the $250,000 come from? What is it based on? The reply: the California statute. And that was passed years ago. So we can argue that just based on inflation alone, that that is no longer relevant. But then again, the Republicans just want to move ahead, steamroll it, and they are just not really interested in the reality of this and what really matters to the victims. So I appreciate the gentleman's comments.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from New Jersey. I am also delighted to join my good friend, the gentleman from Texas (Mr. SANDLIN), and I appreciate his leadership on this issue. Both of our committees have been working intently, the Committee on Commerce and the Committee on the Judiciary have been working very, very hard on this legislation. I think we have had the same quest and the same theme; that is, to strike at the misinterpretation by our physicians and hospitals, our friends that believe that H.R. 5 is going to solve their premium problem. That is really the crux of this legislation. It really is not insurance legislation which really should be relegated to the States.

It is interesting that my good friends would share their States rights positions over and over again when we go to the floor to talk about problems that should be solved by the national government, and then my good friends on the other side of the aisle are constantly chiding at the idea of rights to the States, rights to the States, the 10th amendment. But clearly, H.R. 5 abrogates, usurps, takes away, preempts States' jurisdiction on this question dealing with protecting victims and helping doctors.

So I want to say to my good friends across the Nation, and particularly my friends in Texas, that this legislation does nothing for you as it relates to those high premiums on your insurance.

My neighbor is the President of the National Medical Association. I realize the pain of knowing that a doctor has had to close his or her practice because they have been shocked, shocked or shot, or hit with a premium increase of $10,000, $50,000, $100,000.

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What this legislation does, H.R. 5, and I am glad the gentleman from New Jersey (Mr. PALLONE) has gathered us for this Special Order to be able to say, it does not hit the point of the premiums. It hits at the time of the decision. So what you are doing is undermining juries when victims have been adjudged to have been a victim. This does not have anything to do with frivolous lawsuits; 61 percent of the cases are dismissed. This says when children like Nathaniel come into the courthouse, Nathaniel is blind and paralyzed because physicians that he went to and a nurse that he went to noticed that he was not eating and that he was jaundiced, he was yellow, and failed to diagnose what Nathaniel had. Did not tell his parents, You needed to hospitalize him, after seeing a number of pediatricians.

So we now have a little boy who has no income, no way to discern what his income might have been. He has no income to be able to have you assess what he needs to care for him for the rest of his life because he has never worked. And you are going to suggest that if he went to a court and got a judgment that he should have a cap on noneconomic damages and, likewise, he should have a cap on punitive damages?

Madam Speaker, this does not make any sense. And so I have offered amendments that would induce the insurance companies to take their profits, put them back into the physicians and reduce the premiums by 50 percent. Fifty percent of the savings go to the doctor. And I would move to strike the noneconomic damages, move to strike the limits on the cap on punitive damages, and I also asked that 2 percent of the savings would go to help our doctors who are alcohol and drug dependent only, a few just like there were only a few percentage of our doctors who, in fact, perpetrate these acts that would warrant such severe litigation.

We want good health care in rural and urban America, suburban America. H.R. 5 does nothing but blow up HMOs and insurance companies. It does not do anything. I encourage my insurance companies, my friends, the pharmaceuticals, physicians, doctors, let us sit down and get at the core of the problem, the small percentage of these doctors that need help, the American Medical Association can do with us and work with us to do that. The national association can do that. Let us work together to ensure that we have good patient care, a good Patients' Bill of Rights, good strong Medicare and Medicaid, and good strong resources for our doctors to do the job that they need.

I am delighted the gentleman from New Jersey (Mr. PALLONE) gave me this opportunity. I just want to hold this sheet of California up to make sure that everyone really knows that their medical malpractice legislation did nothing. They had to actually do insurance reform much later to actually get the doctors' premiums down. My understanding is the California Medical Association is not supporting this legislation because they saw what happened in their State.

So I would hope that tomorrow we would be of good sense and good mind and defeat this legislation on the floor on behalf of our doctors and our hospitals and our patients.

Mr. PALLONE. Madam Speaker, I appreciate the gentlewoman for coming down. I know she was up in the Committee on Rules trying to get one of her amendments that she described passed. I doubt they will pass it because they are doing everything on a partisan basis.

We only have maybe a minute or two left. I just wanted to thank the gentlewoman for bringing up the fact that traditionally when you are dealing with insurance regulation it is done by the States. It is tremendously unprecedented to take an issue that has primarily been dealt with by the States where there are State laws on medical malpractice and tort reform and all of the sudden put it under this huge Federal rubric and think we are going to solve all these problems. Particularly when something is so complex like this, the States are traditionally the laboratories where we see what can be done to make things work and maybe the Federal Government copies it later if it works.

That I think is just another indication that this is just being for special interests. This is just being done by the Republicans tomorrow for politics because they want to take this one-size-fits-all solution, knowing it is never going to pass the Senate, knowing it is never going to become law, just so they can say to the drug companies and to the HMOs and to the doctors, we have done something to try to deal with your problem. Not even caring whether or not it is actually going to accomplish the goal because otherwise they would wait and see what is working in the States or they would wait and they would take a more comprehensive view before we moved ahead with Federal legislation.

I think that was a very good point the gentlewoman made, and it is one of the points that we need to continue to make.

We are not going to win this one tomorrow, but we have to bring up the debate. If what happens is that it does go over to the Senate and then we are allowed to sit down as Democrats and Republicans and come up with a solution that goes beyond just a cap on damages, then so be it. I welcome that opportunity. I do not understand why we have to wait for it to pass the House to do that. But hopefully that opportunity will be there, and we will be up front making sure we can come up with a solution.

Ms. JACKSON-LEE of Texas. Just for a moment, I know our time is ending. I think the statement we are making on the floor tonight, and I will be an eternal optimist, one, that we get 2 hours of debate and an open rule and the gentleman's amendments are allowed in and mine are allowed in, because this is such a historic and important decision that the Congress will be making in the backdrop of the number of young men and women who are now on the frontlines fighting for our freedom. It could be one of their relatives that would be subjected to this; but the point should be made, as I close, that we are not against doctors. We are not against hospitals, my friends. We are trying to help you make this legislation right.

## MEDICAL LIABILITY REFORM

The SPEAKER pro tempore (Mrs. MUSGRAVE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Madam Speaker, I rise tonight and will take my time to describe the crisis that we face in this country regarding access to health care; and make no mistake about it, this is truly a crisis. When you have doctors unable to go to emergency rooms to provide emergency care, particularly for patients who have sustained automobile accident and head injuries; when you have OB-GYN physicians, as I am, stopping their programs at the most experienced states of their career because of the fear of litigation, you have patients who are in most need of those skills being the least likely to get them.

This crisis also extends to the facts that fewer and fewer of our best and brightest are choosing medicine as a career. The application rates to our medical schools are down significantly over the last several years. What is causing this? We hear from the other side and a lot of things are mentioned, insurance companies, of course, are being blamed for gouging physicians and for gouging the public. But I suggest to you, Madam Speaker, that that clearly is not the case.

Let me just give you a few statistics and share with you what has happened in my State, not just my own district, the 11th, but in the entire State of Georgia. MAG Mutual, Medical Association of Georgia Mutual Insurance Company, a doctor-owned insurance provider states that premiums for malpractice insurance are rising at rates of 30 to 40 percent a year. The Georgia Medical Association reports 20 percent of State doctors are curtailing the scope of their practices with some 11 percent actually refusing to performing emergency surgery.

Recently, the Georgia Board for Physicians Workforce released an access-to-care study regarding physicians and the medical liability crisis. And let me share some of these statistics, and this is really frightening. In the State of Georgia, some 2,800 physicians are expected to stop providing high-risk procedures just to limit liability; 1,750 physicians in Georgia have stopped or are planning to stop providing ER coverage; 630 physicians plan to retire or in fact even leave the State. One in five family physicians and one in three OB-GYNs have reported plans to stop providing high-risk procedures including the high risk of delivering a baby. One-third of radiologists reported plans to stop providing high-risk procedures including, Madam Speaker, reading mammograms.

Now, Georgia is certainly not the only State in crisis. In fact, there are a total of 13 States that are in crisis: Georgia, Florida, Mississippi, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Washington, and certainly West Virginia. And there are 30 other States that are in a near crisis. In fact, Madam Speaker, there are only about seven States in this country that are not in crisis or near crisis.

So the issue that we are presenting and the issue that H.R. 5 is trying to address is the fact that we are losing access to care and this is affecting every citizen in these United States, in all 50 States.

It is causing physicians to stop practice in many instances at the most critical time of their career, when they are the most experienced, they are the most compassionate, they have the best judgment and the highest level of skills. They are actually walking away. They are trading their white coats, literally, for fishing gear, which is a shame, which is a shame. And this is happening all across the country.

When physicians stop their practices, it is not just losing one doctor; it is really losing a business. We are in a time of economic crisis in this country. We probably have 8 million people who are unemployed. As I point out, we are not just talking about the loss of one job when a physician decides to retire early or move to another State. We are talking about 5, 10, 15, 25 employees who have worked diligently in that medical practice in support of that physician. And you are putting every one of these people out of work, and adding to this crisis that we face right now of this economic downturn.

So, Madam Speaker, it is not about the physicians and their bottom line or how much money they are making in practice. It is not that at all. What our concerns are is the fact that runaway jury awards which have almost created a lottery-like mentality are resulting in no patient access. And the stories of people going to the emergency room, needing to see that neurosurgeon to treat that potential closed head injury. We heard some testimony today in a press conference. It was awfully sad to see the wife whose husband is now severely brain damaged. She came to Washington today, all the way from California with her two teenage children to describe how she went to the emergency room, her husband was taken to the emergency room after the automobile accident that he was in and there was no neurosurgeon on duty. And he had to literally be air-lifted 60 miles away, and it was a 6-hour delay before he could get the care that he needed and the result was he sustained permanent brain injury.

Madam Speaker, I see some of my colleagues have joined me in the Chamber, and I want to at this point yield to them. I know they have worked very diligently on this issue. They are cosponsors of H.R. 5, and they have got a lot of expertise that I know they would like to share with the Chamber and with the Members and, of course, with the American public. I would first like to recognize the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Madam Speaker, I would like to thank my colleague from Georgia (Mr. GINGREY) for putting this together in anticipation of what I think will be a great day for this Chamber and a great day for America and that is going to be the passage of H.R. 5, the HEALTH Act.

I am a co-sponsor of the HEALTH Act, as I was last year when it passed through this Chamber. I was pushing for medical liability reform at every level, on the Federal level most certainly, but in our own State of West Virginia.

Everybody has a story to tell, and certainly in West Virginia last year we had quite a story to tell. I just want to talk about two incidents that happened in our State of West Virginia.

I live in Charleston, West Virginia, the capital of our State. And the largest medical center there lost its Trauma 1 status, which means that if I were to be in a car accident and my family were to suffer like the woman that we talked with earlier today whose husband was in a car accident, they too would have to be transported to find a neurosurgeon to be treated in a Trauma 1 center outside of our State.

☐ 1930

To me, to live in a capital city and say you cannot provide that kind of care in our capital city does not speak very well for our State or our capital city. I am happy to say that that hospital has since retained its Trauma 1 status through great efforts by our governor, and we now do have our full emergency care, but in that point in time it was a devastating event.

We also had an event in September where a young boy had something lodged in his windpipe, went to the hospital, could not find a pediatric surgeon, had to be taken to Cincinnati, 4 hours away, before he could have that removed from his windpipe. Luckily, everything turned out all right, but if it had been a true emergency to the point where he was obstructed and could not breathe, it could have had a different ending.

I likened a lot of what was happening in West Virginia to the Perfect Storm. Our doctors were leaving in droves, our Trauma 1 center was closing, our doctors in Wheeling actually took a month long leave of absence in January to illustrate the devastation that they have felt in their emergency room with the skyrocketing costs of medical malpractice insurance.

According to the Chamber of Commerce, West Virginia has one of the largest problems. Let me just say, 65 percent of our physicians have said they would consider moving to another State to practice medicine; 41 percent said retiring early; 30 percent said leaving the practice of medicine altogether. And what does that say? To me, that says when a doctor who is in the prime of their lives and practicing medicine, not only do we lose access to quality care, but we lose that physician's expertise to train doctors that are coming through in medical school and the doctors to come, and it is a very discouraging fact.

Doctors are practicing defensive medicine all across this country, and they are ordering test after test because they are afraid of the consequences if they were to miss something or if they were to not order a test that could be in some form or fashion thought to have been not in the patient's best interests or in the patient's best interest to have. So they are ordering test after test. They are referring to specialist after specialist to get more judgments. They have prescribed more medicine.

This is what defensive medicine is about, and every physician or most every physician in my State and across the Nation knows exactly what it is to have somebody looking over their shoulder. These professionals train for years and decades, many of them, to provide good, safe, quality health care to our citizens, to provide access to our citizens.

I am particularly interested in rural health care because if our doctors leave, they are going to leave the rural areas first, and it is going to be a devastating situation for our country.

So I am extremely pleased that we are going to have H.R. 5 in front of us tomorrow. I am going to be voting yea very proudly. I think it is going to help in our States for our recruitment of our young physicians, retention of our physicians, and provide that quality health care and success that is extremely important.

I would like to tell the rest of the Nation that my State, because we were in the Perfect Storm last year, because we were in this devastating situation, our State legislature stepped up to the bat, and yesterday our governor signed a bill, a medical liability reform bill, a medical justice bill, that goes to a lot to lawsuits abuse and lawsuit reform and tries to get a handle on the lottery system of medical liability court cases. I am proud of our State. I am proud of our legislature for stepping up and answering the call and answering the question.

We need to pass this reform at the Federal level and vote for this HEALTH Act. Our court system is overwhelmed with these frivolous cases. Everyone in this body and everyone across America wants to see when an error has been made, when something unfortunate has happened, wants to see that person get what is rightfully due to them and to see that they are made whole because of an error that might have inadvertently been caused or intentionally been caused in a medical situation, and if we allow our court system to proceed the way it has with these frivolous suits and clogged up, the folks that are really due and that are really hurting are not going to have the access that they need.

This is also an economic development issue. If our health system is failing, we cannot develop our communities and a State like mine, if our health system is not standing, all the businesses are not going to come and bring employees into a State or a city that does not have good quality health care and good quality access to health care.

I think a lot of us across the Nation have a personal relationship with our physicians, and I think what happened in my State is what is happening across the country. With the personal relationships that we have with our physicians, that I might have with my OB/GYN or my mother might have with her physician, when those physicians leave in an untimely way because they are forced out of practicing medicine because of the high cost of medical liability, because of the fear of lawsuits, when those physicians leave, it breaks a serious bond in all of our lives. We have lost one of our friends, our advocates and somebody that we trust, and that is our physician.

I want to see our physicians be able to practice the way they have been trained, the way that they in their hearts know that we want to be treated, with good quality health care, and I believe that this health reform bill that we are going to pass tomorrow, modeled after the California bill, will go a long way to seeing that happen.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from West Virginia for her comments, and I am really appreciative of her pointing out some things that needed to be mentioned.

I talked about the fact that when a doctor closes his or her door that it affects more than one employee and it could affect five or 10 or so, and the West Virginia crisis was as serious as any in the Nation, and I commend West Virginia General Assembly and the governor for passing this reform, the Medical Justice Act as the gentlewoman from West Virginia described it, and that is really what it is. It is a Medical Justice Act, and what is important for people in this country to understand is that nobody, no physician certainly, is trying to deny a patient the access to a redress of grievances in a situation where they have been injured or a family member has lost their life because of practice below the standard of care, either on part of the physician or the hospital in which that care was provided.

I have unfortunately, over a 30-year career in OB/GYN with 5,200 deliveries, been involved in a couple or three lawsuits where myself, along with six or eight or 10 other people, were named, and in at least one of those cases I was pulling for the plaintiff. I felt that they deserved just compensation and was glad when they received it.

Nor are we trying to, in trying to address this problem with H.R. 5, to say and paint with a broad brush that all attorneys are guilty of being egregious in their behavior in regard to filing frivolous lawsuits and gouging the system. In fact, I think the opposite is true. Most attorneys are very professional. Those who are involved professionally in personal injury law do a good job, and they represent their clients well. Unfortunately, there are too many of those situations where the lawsuit is frivolous, and because of the ridiculous contingency fee structure it sort of promotes the filing of frivolous lawsuits and hoping for that one in a million lottery payoff, and that is really, it is not only putting physicians out of business. As the gentlewoman from West Virginia said, it is causing rural hospitals that provide some of the most important high risk care, a preponderance of Medicare and Medicaid patients, and they are closing the doors, and as she pointed out, in many instances that is the only employee base in the whole county or region of the State, and so it does not justify situations, but it is hospitals, too, that are dealing with this, and many of them, of course, are self-insured.

I see that the author of this bill, Madam Speaker, the distinguished gentleman from Pennsylvania is here, and I would like to yield as much time as he needs to let him talk about the bill.

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding and I thank all of my colleagues for this special order. It is very important and I did not hear the special order given by opponents of the bill earlier, but I am told that there are some corrections to the RECORD that might need to be made, and I would like to do that.

There is no one who is debating that there is a crisis in this country. The worst opponents, the most fervent of the opponents of the bill, the trial lawyers, are not arguing we are having a crisis in the States, including my State of Pennsylvania and many others. That is accepted. The question is what is the solution.

The key point that the opponents seem to make is that the insurance companies, the problem here is the insurance companies. It is not the legal system. It is not what goes on in the courtroom. It is that the insurance companies are overcharging for these liability premiums. If I thought that were the case and that the evidence substantiated that and if we had testimony to that effect, then I am not the least bit shy about going after the insurance companies. I know my colleagues are not. We would do what is necessary there.

The fact of the matter is that the National Association of Insurance Commissioners asked point blank, testified, not once but repeatedly, to the fact that there is no evidence that the insurance companies are colluding; that they are price gouging; that they are doing a market sharing plot; that they are scheming in some ways to overcharge for these premiums.

We do not have to take anyone's word for it. What we have to simply take a look at is the fact that 60 percent of the physicians in this country acquire their medical liability insurance from physician-owned companies. Think about that. These physician-owned companies are basically mutual companies. They are set up by doctors for the sole purpose of trying to enable doctors to get affordable medical liability. So they do everything in their power to get that premium as low as possible. They are certainly not colluding. They are certainly not price gouging. They are certainly not ripping off the doctors because they work for the doctors. They are owned by the doctors. They are the doctors.

The fact is that they have not been able to provide premiums at lower costs than the commercial insurers. So what does that tell us? That tells us that if, in fact, the commercial insurers were guilty of price gouging, were guilty of colluding, were guilty of overcharging, that their prices would be here and the physician-owned companies would be here. That is not the case.

What is the case is that they are at right about the same place and that leads us I think to the inescapable conclusion that the problem is with the judicial system and not with the insurance system.

Another argument that we have heard throughout this debate and we have heard at the hearings, we will hear certainly tomorrow a lot, is that $250,000 is just too low, how can we have such a low cap when noneconomic damages should be higher than that. So why did we pick $250,000? Picked it, first off, because that is what California did in 1975 and it has worked. While the rest of the country has seen medical liability rates go up by 505 percent since then, in California only 167 percent. So it has worked.

Secondly, the California Congressional delegation did not want us to set a cap that is higher than theirs because they are happy with theirs. They do not want that to change. So what we said, being respectful of other States and being respectful of the concept of States rights, we said, well, we will have a flexible cap, which means we set it at 250 as a floor and then any State that wants to can raise that cap to $500,000, to $750,000, to $1 million. They can put inflaters in there, they can revisit it from time to time, and I think that is fair, and that is reasonable, and that is contained in this legislation. So the fixation on the $250,000 I think is a bit of a red herring.

I have heard opponents of this bill say this bill does not do anything to stop frivolous suits. That is the problem. The problem is frivolous suits. What this bill does is stop frivolous suits. What it does is this. When we have no cap on the noneconomic damages, and we said we do not put any cap on economic damages, we think if we have the case of a child that has been terribly injured and is going to require round-the-clock care for the rest of its life, we are talking about judgments on the order of magnitude of $50 million, $75 million for the health care and for the lost wages, a lifetime of lost wages, and we are for that. This bill allows that.

When we have no cap on the noneconomic damages, the sky is the limit. So what happens when the sky is the limit? A frivolous suit is filed, a relatively weak suit is filed without much merit. The insurance company that is insuring the doctor or the hospital looks at the facts and says, well, this plaintiff is particularly pitiful, this plaintiff is an especially pathetic plaintiff, we have got a very strong attorney here on this case. We better not fight this because we go out into the courtroom and fight this and try to defend against this case, the jury could decide to give one of these jackpot awards and it is not worth the risk.

So, given the fact that we have got this huge risk, what we are going to do is we will just settle, and every time they settle one of these cases, that gets built into the premium, and it increases the incentive for more cases to be filed.

Finally, what we have heard over and over again and what we are certainly going to hear tomorrow is what about these tragic cases, what about the poor 17-year-old girl in North Carolina, the Mexican girl who died from the organ transplant error. In North Carolina, where that occurred, they have a law that allows for wrongful death suits. They will go into the court under that suit, as they would even if our bill becomes law, and they will be able to sue for and they can do it either pursuant to other State laws or pursuant to our law, get a claim and receive awards equal to a lifetime of lost wages.

□ 1945

The California Plaintiff's Bar has been extremely successful in figuring out how to raise those economic damages, as they should be. If somebody is paralyzed, they go in and they get not only all of their lost wages, all of their medical costs covered, but they say now he is going to have to pay for someone to do household chores, and he is going to have to have his car altered, get a special automobile, and he will have to have ramps in his house. All that gets covered, and it gets covered well, and we think that is the case in the most egregious examples.

I think, and I think a majority of the Members of Congress will vote that way tomorrow, that the crisis is real, the crisis is upon us, and the crisis is severe. We have the best health care system in the world, but people will and have already died because they could not get to a trauma center, because the trauma center did not have the docs there because the docs did not have the insurance. And those people who are injured because they cannot get access to health care are just as hurt and just as damaged and just as dead, unfortunately, because the system is not working.

We can solve this problem with this legislation. It is fair, it is balanced, and I thank my colleagues again for this excellent opportunity to tell America about this.

Mr. GINGREY. Madam Speaker, I thank the gentleman, the author of this bill, the distinguished gentleman from Pennsylvania (Mr. GREENWOOD) and the work that he has done on H.R. 5 trying to address this problem.

Madam Speaker, I notice that a couple of our colleagues who are doctors have joined us in the Chamber, and I would like to call on them to talk about this crisis and the medical justice bill, the Greenwood legislation, H.R. 5, which we are going to pass tomorrow and hopefully get that passed in the Senate and solve this problem.

First of all I will yield to the gentleman from Pennsylvania (Mr. MURPHY). Dr. MURPHY.

Mr. MURPHY. Madam Speaker, I thank the gentleman from Georgia (Mr. GINGREY), Dr. GINGREY, for yielding to me, and I appreciate the gentleman from Pennsylvania (Mr. GREENWOOD) taking the lead on H.R. 5 because it is an important bill.

Madam Speaker, I want to focus some of my comments on some explanations of what else is happening in Pennsylvania, because I think it is very valuable. Liability rates are skyrocketing, and many doctors are finding it difficult or impossible to afford to practice medicine in Pennsylvania. During the first 8 months of 2002 alone, more than 110 Pennsylvania obstetricians stopped practicing in the State. Entire graduating classes of prestigious medical residents in institutions moved out of the State to practice.

Furthermore, about 70 percent of Pennsylvania doctors cannot even afford to buy new equipment or hire new staff because they are strapped by the rising rates, according to a recent survey by the Pennsylvania Medical Society. Doctors are overworked, understaffed, working on aging equipment, and patients' access to quality health care has never been more threatened. For example, as a consequence of fewer obstetricians, many pregnant women now have to drive over an hour on the hilly roads of southwestern Pennsylvania just to see their doctor.

In my career I have worked in neonatal intensive care units, and I know the consequences of a mother who is in premature labor, especially those traveling long distances because there are no obstetricians nearby. In fact, there are increased risks for a child to have a variety of potential problems.

I wonder if I might ask the gentleman from Georgia a question on this. I know I have seen children whose mothers go into premature labor, and I think my colleague will agree that oftentimes time is of the essence. If that child is perhaps born at 24, 27 weeks, 3 or 4 months premature, there are a number of complications that can occur. As an obstetrician, what kind of time frame are we looking at under those circumstances where one has to get that baby to a hospital where there are specialists there?

Mr. GINGREY. I appreciate that question from the gentleman from Pennsylvania because it is so critical, and my colleague has worked so closely in that area dealing with those type patients after the fact and trying to work through their unfortunately permanent problems that they sustain as a result of that lack of access to care.

I can just anecdotally tell of a situation in my own family, Madam Speaker. My grandchildren, my twin granddaughters, who are precious, of course, as all grandparents talk about their grandchildren, but mine are now 5½ years old, but they were born at 26½ weeks. Now, very fortunately, we were in a community where we had excellent care. We had access to OB/GYN care; in fact, my own group. And we had a wonderful hospital and a wonderful intensive Neonatal Intensive Care Unit that the gentleman from Pennsylvania (Mr. MURPHY) is talking about. But had that occurred in a rural community, had that occurred in a community like West Virginia or Pennsylvania, where we are in a crisis mode, and physicians because of the inability to pay for these outlandish, outrageous malpractice fees caused by this crisis, then our little grandchildren would have not had that care and, without question, they would have become a statistic, as the gentleman from Pennsylvania is talking about.

That is the tragic situation that we would have experienced, and that others have experienced because of this crisis, not to mention the cost to society in trying to take care of children that sustain brain injury because of a lack of access to adequate obstetrical care. So I am so grateful the gentleman from Pennsylvania brought that up.

Mr. MURPHY. Madam Speaker, I appreciate what the gentleman has said, because it is so important in many children I have seen and I have followed where we have seen the mental retardation and cerebral palsy and brain damage. Luckily, many of these children do survive and do well, but sometimes the results are tragic so often because it requires more time for that baby to get to the hospital. It breaks our heart to think more of these cases may occur because there are not obstetricians delivering them in regions of the State.

I have also been told by a parent whose young child suffers from seizures that they have to wait 6 to 8 weeks just to see a pediatric neurologist because of a shortage of doctors in that specialty in the region. Our distinguished colleague from West Virginia mentioned a hospital in Wheeling, West Virginia. I know some of the physicians who actually live in my area staff that hospital, and they have told me of the deep concerns they have that a neurosurgeon is not available. So if someone suffers from a stroke, a helicopter has to be called and they have to transport that person to a hospital somewhere else. That hour can mean the difference between life and death or between a functional and dysfunctional life.

The opponents to reform blame soaring interest rates and also the sagging investment revenue of insurance companies due to the stock market decline. But if that were true, all States would be hit equally by the crisis, which is simply not the case. From 1998 to 2002, average liability for Pennsylvania obstetricians jumped from $25,000 to over $64,000. This is compared to States like Wisconsin and California that have seen average premiums hold steady at $35,000 to $45,000.

The truth is malpractice awards in Pennsylvania continue to be unusually large. During the year 2000, combined judgments and settlements in the State amounted to $352 million, nearly 10 percent of the national total, and juries in Philadelphia have awarded more in malpractice damages than the entire State of California did over the last 3 years.

To fix this problem we need balanced medical liability reform that ensures patients who are truly hurt by malpractice are fully and fairly compensated for as long as they need but that does not jeopardize the access of all patients to quality care.

I might also add that we faced many of these problems in Pennsylvania while I served as a State Senator, and we worked to pass a number of reforms in the medical liability system. These included strengthening the State Medical Board's power by granting an enforcement authority to investigate physicians with patterns of error, allowing malpractice judgments for future medical costs to be spread over time, requiring claims to be filed within 7 years from date of injury, eliminating the duplication of recovery for past medical expenses, and allowing doctors and hospitals to have verdicts lowered by a judge if it would force the closure of a medical practice or force a hospital to cut services, thereby damaging the ability to service the community.

Now, some of these are actually in H.R. 5, but I might add this. While these Pennsylvania State reforms were a step in the right direction, they have not had the full positive effects, and there are three major reasons why.

First and foremost, these reforms do not provide a cap on noneconomic damages, because in Pennsylvania the State Supreme Court has ruled such caps to be unconstitutional and it would require an amendment to the Constitution, taking 3 to 4 years to change that.

Secondly, a large percentage of the malpractice cases currently making their way through the system were filed before this legislation in Pennsylvania was passed and they cannot be affected retroactively.

Three, insurance companies are expecting court challenges to be filed against the legislation and are waiting to see if the reforms are upheld in court before taking any action. As such, it will probably take several years to see the full effect of the legislation, and it is for this reason we need to pass reforms at the Federal level. That is why we need to pass the HEALTH Act, which will provide full and fair compensation.

The bill would also change the current contingency fee system in which attorneys are encouraged to pursue larger settlements in order to receive bigger paychecks. It would use a sliding scale for that.

The HEALTH Act would also permit defendants to be held liable for no more than their share of responsibility for plaintiff's injuries, requiring insurance payments are deducted from damage awards and creating a statute of limitations for filing new lawsuits.

As someone who has spent his career in both health care and public policy, I have seen firsthand the need for comprehensive medical liability reform. We need solutions that address the problems at their root and not just stopgap Band-Aids that temporarily cover up the crisis. Above all, we need to ensure we fully protect patients who are genuinely damaged by medical malpractice while protecting the access of all patients to the best health care our State and our country has to offer.

That is why I believe we need to pass H.R. 5 and make sure that, above all, we protect patients' lives.

Mr. GINGREY. Madam Speaker, I thank the distinguished doctor, the gentleman from Pennsylvania, for his testimony.

I want to just share some statistics with the Chamber and then yield to the distinguished OB/GYN physician, the gentleman colleague from Texas (Mr. BURGESS), to tell us a little bit about, through his eyes, what the State of Texas is faced with.

Indeed, Madam Speaker, Texas, just as Pennsylvania, just as West Virginia, just as Georgia, is one of those crisis States. According to a Texas Medical Association poll of Panhandle doctors, 61 percent, 61 percent, have plans to retire early, and 83 percent say they use defensive tactics in practicing medicine for fear of being sued.

Another story from south Texas. A pregnant woman was forced to drive 80 miles to a San Antonio doctor and hospital because her family doctor in her more rural hometown had recently stopped delivering babies, citing malpractice concerns.

Madam Speaker, at this time I yield to a distinguished physician, the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Madam Speaker, I thank the gentleman from Georgia for yielding to me, and tonight I rise to share stories from the State of Texas that represent where we are in this current medical liability crisis. And I would stress, because we did hear from some of our colleagues from Texas from the other side of the aisle, that this is indeed a national crisis and it affects all of us on a national scale. It is not a local crisis.

Back in my district, just this past week, on Friday, a young man, a doctor named Kevin Magee, came to my attention. Dr. Magee is what is called a perinatologist practicing in Plano, Texas. Perinatologists are obstetricians, just as myself and the gentleman from Georgia (Mr. GINGREY) are, but they are kind of like an obstetrician plus. That is, they spend an additional 2 years in training, in fellowship, and they take care of the sickest mothers. They deliver the smallest babies. They are truly, truly an asset and a blessing to any community that has the services of a perinatologist.

Unfortunately, just by virtue of what they do for a living they become lawsuit magnets. This year, Dr. Magee received his bill for his medical liability insurance coverage and found it came to over $125,000. Now, this young doctor graduated from medical school in 1988 at the University of Texas Medical School in San Antonio. He went to a State supported school. That means that as a taxpayer, the State of Texas, I, and other citizens of Texas partially subsidized his education. We are not getting our money's worth out of his medical career because now, 10 years after going into practice, he has had to close his doors. He is unable to continue caring for his patients because his practice could not earn enough money to pay his liability insurance costs. The community lost a young man in the prime of his career.

I was talking to Dr. Magee back in the district last Friday, and the conversation was overheard by another individual who, somewhat cynically, suggested that, well, Dr. Magee, being an OB doctor is a hard job and maybe you are better off now in business. He had to close his practice last October, and now he is working in an allied field but no longer in direct patient care.

□ 2000

This person suggested to Dr. Magee, maybe you are better off not having to deliver those premature babies in the middle of the night. Dr. Magee stopped, and I could see the tears well up in his eyes. This was the job that he had trained for, 4 years of college, 4 years of medical school, 4 years of residency, and 2 years of fellowship. He said, "I would be back in the delivery room this afternoon if I only could."

Madam Speaker, with stories like that, we have to ask ourselves if this current litigious environment is good for patient care and patient access. I submit the answer to that question is, no.

In fact, a 1996 study done in Stanford, California, published in the 1996 "Quarterly Journal of Economics" demonstrated how broken the system is by clearly showing that the current medical liability environment does not improve patient access or patient care and has a negative impact on health care costs. The report, written by Daniel Kessler and Mark McClellan shows that States that had reformed their liability systems with laws that cap noneconomic damage awards and abolished mandatory prejudgment interest and place limits on attorney contingency fees, reduce hospital expenditures by 5 to 9 percent within 3 to 5 years of adoption of these laws.

The costs brought about by the current environment are borne by our entire system, from the family purchasing their own health insurance, to the business person, the entrepreneur trying to provide coverage to their employees, to the American taxpayer that supports medical services through Medicare, SCHIP and Medicaid programs. What does this 5 to 9 percent translate to in dollar terms? McClellan and Kessler's model shows that in States with effective tort reform, Medicare costs were 5.3 percent less for a new diagnosis of acute myocardial infarction and 9 percent less for ischemic heart disease.

If we applied this nationally across the country, this would mean that direct liability reforms would save $600 million a year in the Medicare program. And further extrapolating these costs across America's health system, this amount would come to a savings of $50 billion a year. Why are costs higher in States that have not enacted reforms such as those contained in H.R. 5? Because doctors have become accustomed to practicing defensive medicine, ordering tests they know their patients do not need, but could save their practice should a trial lawyer file suit against them. This wasteful health care spending drives up the cost for everyone, even the trial lawyers, so average Americans are saddled with additional costs when they go to the doctor.

Now, some will argue that additional medical services are a good thing. As a doctor in private practice, charge it up. They may say a doctor performing more tests may save more lives. However, this Stanford study shows that between the reform States and the nonreform States, mortality rates remain constant, indicating that a highly litigious environment does not improve patient health outcomes. The current environment is not conducive to low-cost, high-quality health care; and it must be changed.

The Congressional Budget Office has concluded that H.R. 5 would lead to an increase in the number of employers offering insurance to their employees and to the number of employees enrolling in employer-sponsored insurance and changes in the types of health plans that are offered and increasing the scope or generosity of the health benefits offered. In part, this development would be a result of lower health care costs.

As we have already seen in California, health care costs in that State are an estimated 6 percent lower than other States, saving California patients $6 billion every year on health care, all because California in 1975 had the foresight to adopt meaningful medical liability reform. H.R. 5 was molded after this successful approach.

I know my colleagues from Texas were here on the other side of the aisle earlier tonight and said that the California Medical Association did not like the Medical Injury Compensation Reform Act of 1975; but let me quote for a moment from a press release from January 16, 2003, which said that the California Medical Association applauds the call for a national medical liability law. President Bush and Senator DIANNE FEINSTEIN cite the California law as a national model:

"This has been a success in California for decades, and many States are looking to our State as a model," John Whitelaw, president, California Medical Association, and an OB-GYN physician.

We have a plan to reform the medical liability system, and ensure that doctors will be there when they are needed, doctors such as Dr. Kevin Magee in Plano, Texas. The HEALTH Act contains much-needed reforms to provide this security beginning with a provision ensuring a speedy resolution to claims. This means that the statute of limitations is clearly defined.

There are some exceptions to this, but this component ensures that claims are brought before evidence is destroyed and while memories are still fresh. The bill also weighs the degree of fault in a claim so a person with only 1 percent of the blame is not forced to pay 100 percent of the damages, as is the case now. This component eliminates the incentive to look for deep pockets, making one party unfairly responsible for another's negligence.

With this legislation, patients would also receive full compensation for their actual damages. Patients are able to recover maximum economic damages. These are items that have a quantifiable amount attached to them, such as medical expenses and loss of future earnings.

Lastly, this bill gives flexibility to States that have already enacted damage caps, and we have heard over and over again from the other side of the aisle from some of my colleagues in Texas that this law took away from States the right to do what they thought was the right thing. But in fact, as the gentleman from Pennsylvania (Mr. GREENWOOD) pointed out, it does no such thing. We have respected States' rights and their ability to enact and enforce other damage caps other than those provided in this plan. The $250,000 cap on noneconomic damages serves as a floor on noneconomic damages for States that have no plans in place. States with higher limits, whether higher or lower, can continue to enforce those limits.

The U.S. Congress has an opportunity to positively impact the cost and improve the access of health care in the United States. In fact, the United States Congress has the responsibility to pass this bill and pass much-needed medical liability reform.

The United States Congress must act, not only for the well-being of patients, but access to doctors, caring doctors, good doctors like Dr. Kevin Magee in my district, who have dedicated their lives to the business of healing.

In America, where it is easier to sue a doctor than to see a doctor, something has got to be done. I urge my colleagues to make a commitment to the health care of American families and vote for H.R. 5.

Mr. GINGREY. Madam Speaker, I want to share some examples of excessive costs for liability concerns. Consider this: an April 2002 survey of physicians showed that nearly 80 percent have ordered more tests than medically needed because the doctors' feared being sued, and nearly 75 percent referred patients to specialists more often than necessary. Doctors spent $6.3 billion last year on medical liability coverage. Hospitals and nursing homes spent billions more. The Federal Government, through its funding of Medicare, Medicaid and other programs, pays an additional $28 to $47 billion a year for health care due to the cost of medical liability coverage and defensive medicine.

Madam Speaker, I would like to yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for yielding, and it is a privilege for me to be here this evening to address this subject matter with my physician colleagues, of which we have many in the Congress.

Madam Speaker, I rise in strong support of H.R. 5, the HEALTH Act. The rising cost of health care has become an unrelenting problem. As I have said before, it has become easier to sue a doctor than see one. When access to health care is jeopardized, patients suffer. Doctors are leaving practice, and emergency rooms are closing their doors because of the astronomical increase in malpractice insurance premiums.

Health care costs are rising faster than they have in a decade, largely because the medical liability system is broken. Americans spend more per person in the cost of litigation than any other country in the world.

Unrestrained escalation in jury awards is the primary cause of the emerging medical liability crisis. The median medical liability award jumped from $700,000 in 1999 to $1 million in the year 2000. That is a 43 percent increase. Today the average award is $3.5 million. Members can do the math on what that does to medical liability premiums.

As a member of the Committee on the Judiciary, I have had an opportunity to mark up this legislation, which will grant better access to health care by fixing some of the broken medical liability systems that are driving doctors out of business. H.R. 5 is an effective bipartisan bill. It allows for unlimited economic damages such as medical expenses and loss of earnings. But it establishes a reasonable limit on noneconomic damages, commonly referred to as "pain and suffering." It also factors in degree of fault, eliminating the incentive to look for the deep pockets that makes one party unfairly responsible for another's negligence.

It is modeled after California's liability reform law passed in the early 1970s, which stabilized the State's medical liability insurance market and increased patient access to care and saves more than $1 billion a year in liability premiums.

The MICRA Act was passed nearly 30 years ago; and in all that time Congress has sat back and watched its success, while at the same time watching the health care crisis grow across the Nation.

Last year the House passed legislation identical to H.R. 5, but the Senate refused to act. With 18 States facing severe patient access crises, and my own State of Iowa showing problem signs, it is time that we take some action. In Iowa's case, we do not have room to spare. We sit last in Medicare reimbursement rates, and we are 50th out of the 50 States. It is a long ways up to 49. Our margin is very, very slim. Additionally, though, we have been able to improve the quality of our care, but access is a critical issue. Many of our health care services have gone out of State because of our low Medicare reimbursement rate; and with the additional cost of premium and the distance between people, it is critical that we pass H.R. 5.

This measure will help our struggling rural hospitals increase availability of medical services and lower health care costs. We need to do more to lift the burden of rampant, frivolous litigation off the backs of the American people; and this is a good start.

My daughter-in-law, Heather, is in medical school now and plans to build a future in the profession that many of my colleagues have chosen. The decision for her is can she withstand the rising cost of malpractice premiums.

Last weekend, I caught a ride on a plane back to Iowa. I happened to sit across the aisle from an OB-GYN with her baby on her lap. And in the 3 years she has practiced in this region, her premiums have gone from $10,000 to $60,000 per year. We hear higher numbers, but I do not know if I have heard a higher percentage increase, and that is with no claims against her practice.

Madam Speaker, I will vote for this bill with great faith that it will be a significant first step for this Congress to address the impending health care crisis.

Mr. GINGREY. Madam Speaker, I thank the gentleman for sharing his experience in his State.

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Madam Speaker, I see that the gentleman from Florida, the distinguished doctor of internal medicine, has joined us in the Chamber. I yield to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. I want to thank my colleague from Georgia, a former practicing physician in the practice of OB/GYN for his leadership on this very, very important issue. This is obviously a national crisis. It has regional features to it. California is not in the throes. They passed their malpractice reform.

We have got a real problem in Florida. Indeed, the Level 1 trauma center at Orlando Regional Medical Center is about to close down. The principal reason for that is they cannot get enough neurosurgeons to support the trauma center. One of the principal reasons they cannot get enough neurosurgeons to support it is that they cannot recruit physicians into the State of Florida and one of the biggest reasons for that is the astronomical cost of medical malpractice in the State of Florida. This is becoming an access issue. In the central Florida area of Orlando and the east central coast, Brevard County, where I live, you have upwards of 2, 3 million people in this region and we are going to lose one of the principal trauma centers. So people are going to suffer. People are going to die because of the medical malpractice crisis that we are facing in this Nation today.

I just want to address one very, very important issue about this whole matter. This is an incredible cost to our economy. It is an incredible drag on our whole health care system. There was an outstanding study. It was published in the Journal of Economics in 1995 out of California. They looked at the costs for two diagnostic codes, unstable angina and myocardial infarction, pre-California MICRA reforms, and then post-California MICRA reforms and showed a dramatic reduction, $500 million in the State of California for just those two diagnostic codes just because of those reforms. It clearly shows that defensive medicine is real. I know defensive medicine is real, you know defensive medicine is real, the other OB/GYN in the room knows defensive medicine is real. We practice defensive medicine every day. These researchers out of Stanford University were able to show the incredible cost. This is in 1995 dollars. They extrapolated that it costs health care in our Nation $50 billion a year, and I assume it is now $100 billion a year.

Madam Speaker, the Medicare program could save billions of dollars a year nationwide if we can pass medical malpractice reform. Those are dollars that can best be used to provide prescription drug benefits for seniors and other enhanced benefits, or extend the solvency of the Medicare program. This is a horrible, horrible crisis that we have today that is hurting the taxpayer. It is hurting all Americans. Indeed, this high cost of medical malpractice ends up costing us more money to just provide health care, and that in effect is a drag on our whole economy and it affects our ability to be competitive in the world marketplace.

We must pass this bill. The other body needs to pass this bill. It is good for America, it is good for health care in America, and certainly it would help us in the area I live to be able to keep our trauma center open and operating. I want to thank my good friend from Georgia and my good friend from Texas for their leadership on this very, very important issue.

Mr. GINGREY. I thank the gentleman from Florida, the distinguished doctor, for sharing those remarks with us. As one of the original cosponsors of this bill, of H.R. 5, he deserves a lot of credit for bringing it to this point.

Madam Speaker, in closing, as I said at the outset of the hour, this bill is not about denying access to a redress of grievances, if you will, for a patient who has been injured by a physician or a facility who is practicing below the standard of care for that community. Nothing in this bill does that, and it is not a bill to take away the right of a profession, an attorney who is engaged in personal injury work, to do their work and do it well. It is not about that at all. It really is about two things. It is about saving a great profession for my doctor colleagues, yes, but that is not the most important thing. The most important thing is to try to save a health care system, arguably the best in the civilized world, from the destruction of a legal system that has run amuck. That is what H.R. 5 is about, the HEALTH Act of 2003, the Medical Justice Act, if you will. I am a very proud cosponsor of this legislation. Tomorrow, when I vote for H.R. 5, it will be a very important moment in my young political life. I predict that this bill will pass this House of Representatives and we will move it on to the Senate. It is time for the Senate to act. Patients demand it. Our constituents demand it. It is too important to miss this opportunity.

## THE FEDERAL BUDGET

The SPEAKER pro tempore (Mrs. MUSGRAVE). Under the Speaker's announced policy of January 7, 2003, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Madam Speaker, we are about to begin the process of passing a budget. There are other matters on the agenda here in Washington, of course. We have just heard one, the medical malpractice and the capping of awards to patients. That is important. There are not many important things that we have considered so far this year. There are a few, but nothing is more important than the budget. The budget is part of a bigger process. The budget and appropriations process are inseparable. They go together. It is as if the appropriations process, which is the final allocation of funds for functions of government, begins with the budget. The budget is going to set the parameters. The budget is going to outline where the appropriations process can go. It is important that as many of our Members as possible focus now on the preparation of the budget. The budget is a moral statement. It is a moral statement of what the values of a nation are at a particular time. There may be some nations which cannot make such a moral statement with their budget. If it is Bangladesh or Haiti or a number of very poor countries in the world, they may have high moral values, they may want to educate all of their primary school children and high school children, they may want to send all their children to college for free, but they do not have the resources, they do not have the funding, so the moral choice is not theirs. In the United States of America, the richest nation that ever existed on the face of the Earth, we make moral choices because we have the resources. We can do whatever we want to do with our resources, but we choose to do in some cases outrageous things with our resources and neglect very important matters, such as education, such as health care.

You cannot separate the budget from the discussions of war and peace either. We are slowly proceeding at an escalating pace toward a war with Iraq. The war with Iraq cannot be dealt with and discussed and value judgements cannot be made about that war without also considering the budget and appropriations process. It is the budget. How much will the war cost? Can we afford the war at the same time we provide for the needs of our own people in a reasonable manner? How much will war and peace affect the decisions that are made by the Members of Congress from here until we end the final appropriations process?

It is very interesting that the President, who starts the budget process by submitting his recommended budget to the Congress, has chosen not to include in the budget figures any recommended budget for the war in Iraq. Everybody knows that we are preparing for war. We have nearly 200,000 troops already in the area of Iraq, more specifically in Kuwait just across the border from Iraq. It is pretty clear that the policy of our administration wants to move us toward war, despite the fact that the rest of the civilized world, or large parts of the civilized world are raising their voices in protest. We are moving in that direction, but it is not in the budget. What kind of moral statement is it that we do not even bother to mention the war in the budget? Is that a statement that it should be a secret document, that whatever the budget for the war in Iraq might be it is going to be too outrageous to discuss in public? That will be a bit un-American. There is no way you can appropriate large amounts of funds without coming here to this floor through the Congress. So eventually we are going to have a budget for the war in Iraq on top of the present budget.

The present budget already is a budget that has gone into deficit. We are going to expend more money, if we follow the President's recommendation, than we take in. So war and peace considerations will have to be a part of this process of deliberation about the budget. I do not want to spend the time today discussing the war. I want to talk about the budget. But I must say that an activity which will drain such a great amount of money from the coffers of the American people, an activity which will put a strain on the budget-making process for all other functions, must be dealt with to some degree here.

I am against going to war with Iraq. I think that we are less secure. Every day we move toward a war with Iraq makes us less secure, not more secure. I think we are as a people more in danger every day we move toward the war with Iraq. I made that statement back in the fall when we had on the floor consideration of whether or not to give the President the approval to go to war, knowing that the consideration was war in Iraq. I made that statement. I said that North Korea and Pakistan are two priorities that we should look at before we consider war in Iraq.

Most people do not know that there is a great danger lurking in Pakistan along the borders and in the whole country. There is a danger that a nation that already has nuclear weapons, that is our ally, that that government may be overthrown. That government teeters on the edge of disaster because there are a tremendous number of people in high places in the military establishment, in the intelligence apparatus, who are pro-al Qaeda. There are a tremendous number of people who are pro-the Taliban. In fact, the Taliban that we just defeated in Afghanistan was created in Pakistan with the help of the Pakistani military. There are tensions seething, there is fanaticism there with respect to the battle between India and Pakistan over Kashmir that warps the reasoning of lots of people. And it is possible that fanatics, assisted by professional military people and the fervor of the al Qaeda movement, could overthrow the government of Pakistan, our ally, our biggest Muslim ally in the world.

Pakistan has always been our ally. Throughout the Cold War it was our ally. It is our ally now at a time when it is very dangerous for the Pakistani government to be our ally. But they are there. They have the courage, they are supporting the effort, the war against terrorism in Afghanistan and in that region, and it appears they may support the President in his quest to make war on Iraq. But this ally is in danger. I think that I am one of the few people who would put them first on the list of dangerous situations that confront America. They have nuclear weapons already. They have nuclear weapons. They are a Muslim nation. Osama bin Laden and the al Qaeda organization will have nuclear weapons if they capture the government or take over the government of Pakistan.

Moving beyond Pakistan, of course, everybody is aware now—they were not aware last fall to the extent they are now—that North Korea poses a threat and every day we move toward Iraq, obsessed with attacking Iraq, we are ignoring the danger in North Korea. North Korea is a mystery. The leaders there are unpredictable, unknown. This is a nation that defies reason in that they have the technical know-how, they have a very educated population, a population that is able to produce high technology. They have some of the most efficient rockets in the world. They are in the position now to create nuclear weapons. In fact, it is predicted soon and they may have two or three nuclear bombs already.

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They have that kind of technology, they have that kind of capability, they have that kind of know-how. At the same time, they cannot feed themselves. The government cannot run a country which will provide food for the population, and the population is like captives to a government that cannot provide enough food for them.

This is a situation probably unprecedented in history, and unpredictable; and we should pay much more attention to it. We should be watching it much more closely. We should have our resources poised to deal with the unknown, the dangerous unknown, that exists in North Korea.

As far as Iraq is concerned, Saddam Hussein certainly is a person that should be dealt with. I think the fate of Milosevic, who is now on trial in the world court, indicted as a war criminal, that is the fate that should await Saddam Hussein; and we should push in every way possible to get that accomplished. But going to war with the people of Iraq in the manner we are proposing will not accomplish that task in a way which leaves us covered in dangerous spots elsewhere in the world. It also alienates. Because of the fact that we are about to wage a full scale attack on a whole nation, it alienates large numbers of allies that we may think we do not need; but we do need those allies.

So war and peace considerations are as much a part of the budget considerations as any others, because we are already in a situation now where a new Department has been created, Homeland Security, and the Homeland Security budget is a new strain on the total nondefense budget.

We will find in the President's budget a number of cuts in a number of proposals and propositions that move in a way which will place the burden of this war on the backs of the poorest people. We have proposals under way now which are outrageous with respect to robbing the poor to pay for our government. We have a recession. We have the impact of September 11. There are a number of forces in motion that keep the recession going, and it is getting worse.

I am not in a position where I have the expertise to explain why the recession is moving the way it is totally, but we know some of the factors. I just mentioned two of them.

We have serious problems with respect to budgeting for every State and every city across the country. Certainly in my home State of New York, we are deep in a situation where the expenditures loom high over the expected revenue in New York State.

In New York City, there is still a $2 billion to $3 billion gap in the budget. It is very serious across the Nation, of course, as I said before. There are many cities and States in the same position.

There are cities where the local education agency within the city is projecting cutting the number of days that children will be allowed to go to school. There are other cities that are projecting deep cuts in education and health care. There are cities where health care cuts are already taking place in large amounts.

In my City of New York, the mayor was criticized by the establishment press for allowing the Medicaid costs to increase. The mayor has merely done his moral duty and allowed the agencies responsible for providing Medicaid to give Medicaid to those who are eligible for Medicaid.

Our previous mayor had gone to great lengths to knock people off the welfare rolls who really had a right to be there. They were eligible. But in addition to knocking them off the rolls, our previous mayor would not counsel and pressured the departments responsible for administering Medicaid and food stamps, to the point where they would not tell people who were knocked off the welfare rolls that they still had a right to Medicaid or still had a right to food stamps. So at this point, half of the people eligible for food stamps in New York City are not receiving food stamps, on the one hand. On the other hand, the food pantries and the soup kitchens have long lines of people who need food, many of whom are eligible for food stamps, and they do not know it because of the oppressive policies of the previous administration.

The administration in power now says we should do the right thing. People who qualify for Medicaid should get Medicaid. They are under attack for raising the cost of city government. By raising Medicaid and dealing with people's health care, we are threatening the budget; and that is a reason the press considers it a legitimate reason to criticize the mayor.

"Life, liberty and the pursuit of happiness" is not just a loose statement made somewhere by the Founding Fathers. Life comes first, before liberty, before the pursuit of happiness. Life is related to health care. You have to be healthy; you have to stay alive. We are last among the industrialized nations. I understand that has to be translated into the provision of the best possible health care for every citizen.

If Canada can afford a plan which takes care of all the citizens of Canada, surely the United States can afford such a plan also. If Germany, France, if all the industrialized nations can afford to provide health care for all, surely the rich and powerful United States could also provide health care for all.

In this budget process that we are about to undertake, proposals are being made by the White House that Medicaid will be treated the way we have treated welfare reform. We are going to use Medicaid dollars to bribe the States. We are going to use Medicaid dollars in the same way that welfare reform dollars were used.

How were they used? In the Welfare Reform Act we offered every State funding at a certain level for their program for the poor people. At the same time, we gave them the leeway to keep all the funds that they were able to garner as a result of people who were taken off the welfare rolls. If you drive down the welfare rolls in whatever way, it was assumed it would be legitimate, that you would really check the eligibility of people, that the welfare rolls would go down, because we had programs that would help poor people, help them to get jobs, help them to find other means to sustain themselves. But in most States there was a reckless move to knock off as many as possible.

So many people were knocked off the rolls in New York City that we had to go to court and get a court order to force the city under the previous administration of Rudy Giuliani, force him to allow people to have a fair hearing. At one point the requirement that before you were pushed off the rolls a family had a right to a fair hearing, that was just pushed aside; and we had to get the courts to order that the fair hearing would be reinstated. The city dragged its feet and did as few fair hearings as possible.

Welfare rolls went way down. It benefited the State and city, and it was a way to fill the petty cash drawers of the city and the State on the backs of the poor.

They did that most successfully in the State of Wisconsin. Wisconsin is the home of the present Secretary of health and welfare. Wisconsin was one of the worst in forcing the welfare costs down and transferring the funds that were supposed to be used for the poor into other functions.

For that, the Governor of Wisconsin was rewarded and brought to Washington. So now the Governor of Wisconsin presides over a new proposal to take Medicaid and conduct the same kind of swindle with Medicaid that was conducted with welfare reform dollars. It is Robin Hood in reverse, robbing the poor to take care of the well-off or to take care of the governments of the States and the localities.

But the amount of money involved in the Medicaid swindle is so much greater than the amount of money involved with the welfare reform; so that bribe, that carrot held out there, is quite tempting for Governors who are now suffering with tremendous budget problems.

I say, in our budget, why do we not follow the Democratic stimulus package? The Democratic stimulus package says let us give money back to the States in an honest revenue sharing program. In that revenue sharing program, our Democratic Caucus did not do it to the degree I wanted, but you would target some areas.

I would target education. I would target Medicaid, and say we are giving you the money back. It is your money. Really all money comes from localities and States. The Federal Government does not generate any money. It is the money that comes out of taxpayers that live in States and local areas.

So we are giving back the money, a certain amount of money, to help with the budget problems that you have at the State and local level; but a certain percentage must be spent on education, and a certain percentage must be spent for health care also.

But that is honest revenue sharing, with controls and monitoring; and it is up front. What we are saying instead is we will give you your Medicaid money at the level that you have now, and that is it. Once we give it to you at that level, it will never go up; but you can use the money appropriated, for the next 5 years at least, you can use that money that you do not need for people who are on Medicaid.

If you drive down the Medicaid rolls, deny care to people that need it, all that you save can be utilized in some other way. This is called block grants, and there are other names for it. But that is the Republican majority's way of dealing with a major crisis in the country in terms of States and local governments and their budgets.

There is also a proposal that section 8 housing, housing programs for the poor, shall also be block-granted in the same manner. So you can take something from the pot for the poor people by taking from welfare reform, you can take some from the pot that is generated by Medicaid, you can take some from section 8, and on and on it will go, because obviously the Republican majority's philosophy of States' rights is being distorted to mean the States' rights to Federal dollars that are really intended for poor people.

So we are here considering the budget, and these are the kinds of overriding considerations that are taking place.

I have been appointed by the Congressional Black Caucus to coordinate an alternative budget. An alternative budget is an alternative to the Republican majority budget that is going to be presented here. It is also an alternative to what the President has presented.

Nobody knows exactly how much the Republican majority budget that will come to the floor of the House will look like the President's budget, but we assume that it will be very close to the President's budget.

I am not certain that this Republican majority will allow alternative budgets on the floor yet. I do not know whether that decision has been made or not. But I hope the decision is made to allow us to present alternative budgets on the floor.

Nothing is more important, as I said before, than the budget process, the budget process which opens up the appropriations process, the process that is the most important thing that government can engage in. And we need time to debate it; we need time to discuss it.

We among ourselves are overwhelmed by the complexities of our government, even before 9-11, even before the mobilization for the war on Iraq. This is a complicated era. We live in complicated times of governments. The functions of governments as big as the United States of America need deliberation. We need deliberations about function, we need debate, we need as much consideration as possible. So we should not rush through the process of the approval of a budget.

I think there are certain basic principles that we need to follow, and I set forth to my colleagues in the Congressional Black Caucus those principles.

One is we stand for and would like to do everything possible to facilitate a smaller, streamlined, and efficient government.

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That should be the goal of all lawmakers. However, there must be enough revenue and resources to carry out the vital functions of our complex American society. It is absolutely necessary that we maintain an adequate investment in human development.

The people who say that the policies of the Republican majority are fashioned in a way to squeeze, squeeze the dollars out of the Federal Government so that there will be no money, no funding available for social programs, they are correct. That is the way the Republican majority is proceeding, along with the help, of course, of a new administration. The Republicans, of course, control all of the apparatus of government now, and it will be more difficult than ever before to stop the march toward the movement of resources of the Federal Government out of the Federal Government and back to the States, to some degree, and the lessening, in the final analysis, to take away the safety nets, to take away the New Deal, to take away Lyndon Johnson's society; all of that is going to be reversed if these policies are allowed to endure in the name of making government more efficient.

I believe in efficient government. I want every dollar saved to be used for some good use. Over and over I have attacked the insufficient farm subsidy program. The farm subsidy program is one of the most inefficient programs in the civilized world. Huge amounts of money are poured into a program that is not a safety net program, but it is still a handout. The American people are giving money to agricultural businesses. In addition to giving money to the businesses, we have a farm loan, all kinds of loan programs that have existed over the last 50 years, and billions of dollars have accumulated where the farmers, the so-called farmers, the agribusinesses have not bothered to pay back the funds. So there are areas of waste which certainly should be looked at very closely. There are large numbers of areas of waste. I am in favor of an efficient, streamlined, smaller government, but not at the expense of meeting the needs of all of the people of the United States, especially those who are poorest and need safety net legislation.

A second general principle, a general priority that I would set forth, I have set forth for the preparation of our alternative budget, the alternative budget of the Congressional Black Caucus, is that Federal assistance for education, for health care, housing, child care, transportation, worker safety and protection, and business development is as vital as support for homeland security and defense. Now, here I want to make the case that inseparable, inseparable from the budget process is our security. Considerations of our security are inseparable from the budget process. Considerations of our prosperity, continued vibrant economy, are inseparable from the budget process. It is the budget, stupid. It is the budget. The budget, which is part of the beginning of the appropriations process, will determine whether we use our tremendous resources for the benefit of all of the American people, whether we make a pivotal decision and turn down the dark road of more and more to the people who already have the most and less and less for the folks at the bottom who need the most. That is what is at stake in this budget situation, and the fact that we must mobilize and finance a war only aggravates the situation much more.

A third principle is that the ability of the government to provide for the Nation's security can be effectively implemented and sustained only if all of the vital investments in human development are assigned priority on a continuing basis. Our security can be effectively implemented and sustained only if all of the vital investments in human development are assigned priority on a continuing basis. In other words, the first thing a nation of the size of the United States colossus, we are a colossus; nothing ever existed in the world like the United States of America. This colossus cannot function without a lot of educated human beings. In fact, the total population, as many as possible, must be educated; otherwise, we are going to grind to a halt. We cannot keep pace with all of the kinds of situations that are there without a tremendously educated population. We are already suffering greatly because of the fact that we have not sufficiently educated enough people to cover all of the fronts that have been exposed as a result of the al Qaeda attack on September 11.

One of the problems with the al Qaeda attack, and I have said it many times, is that despite the fact that we are very advanced technologically, we have satellite systems that cover the entire world, they can pick up telephone conversations anywhere in the world, any electronic mechanism can be picked up and recorded, and they did exactly that before September 11, and many of the messages that were picked up in Arabic were not translated in time to make the difference. I am not saying they could have totally prevented September 11, but it has already been admitted that some of the messages were picked up, but suffered from delayed translation, because we did not have enough Arab translators. We did not have enough Arab translators. Somebody in our government in high places failed in terms of his vision and his education to make certain that there was a comparability between the people who were able to translate messages and the volume of the messages coming in. Several months later, 2 or 3 months ago, a person was fired in the FBI apparatus because she blew the whistle and said we still do not have enough Arab translators. We still are not addressing the problem.

Now, Arab translators are just the tip of the iceberg. We had a problem here on Capitol Hill with that unknown person who sent out the anthrax, sent anthrax to one of our Senators, and that office had to be closed and the whole building shut down for 4 months. For 4 months we had to wait for the handful of people who have expertise in how to clean up anthrax to deal with the problem. For 4 months, for 4 months here on Capitol Hill, because of the fact that we did not have enough expertise to spread around, right here in Washington. In the Post Office, they did not get the same amount of attention. The absence of that attention led to the death of the two casualties of anthrax in Washington. They were two postmen. The attention was triage, focused here on Capitol Hill. Some of our offices had to shut down for 3 weeks. Even now, the impact of the anthrax scare determines how fast we get our mail. We do not get it very fast because of the fact that it is screened.

But the absence of expertise, the absence of people who knew how to do it was a problem. What if the anthrax fanatic had struck at 10 or 20 places at the same time? Where would we be at this point? We obviously need a lot of people who know how to clean up anthrax, just as we need people to know how to handle the response to chemical warfare, biological warfare. We are talking about that, but when we look at the cuts in education and the way education is treated, there seems to be no understanding of the obvious. It is obvious that one cannot get the people to do these things unless we have a pool, a pool of educated people to draw from, bigger than the pool we have now. Because the pool we have now to create lawyers and doctors and engineers and masses in MBAs, businessmen, that pool will be drawn upon to create the traditional replacements for those areas. We need more educated people to take on all of these other specialties and to make certain that we never, we never lose a war, we never lose a battle, and maybe never lose a life because we did not have the expertise needed. So the investment in human beings comes first.

Why are we proposing these budget cuts in education? Why are we not maximizing the amount of money spent on education as part of our mobilization for a continuing war against terrorism? A war against terrorism is a serious war and there is a tendency to try to paint all of us who are against the war in Iraq as passivists, people who want to lay down their lives and let the fanatics trample over us, as people who are not smart enough to understand the nature of the enemy.

I am against the war in Iraq, as I said before. I do not think we should be preparing for war in Iraq because it makes the world more dangerous for us. I am against that war, but I assure my colleagues, like many of my colleagues who voted against giving the President the power to go to war, my colleagues voted to give the President the power to make war on al Qaeda and the Taliban. We applauded, we applauded the immediate response to go after the people who perpetrated the September 11 attack.

I want to say that nowadays there is a lot of talk back and forth among poets. I just heard, before I came to the floor, a McNeil/Lehrer presentation where they talked for a few minutes about how poets are getting involved in trying to stop the war on the one hand; on the other hand, how some poets are getting involved on the other side, criticizing the poets who want to stop the war. This poet was very much in favor of going to Afghanistan, of challenging the Taliban, of routing al Qaeda.

I am not automatically a knee-jerk passivist; I do not run from the fact that there are fanatics in the world. On February 14 of last year, February 14, 2002, I made the following statement here on the floor in the form of a rap poem called "Let's Roll, America." I am not going to read it all, but I am going to read some of it to make it known that when it is time to mobilize, when the enemy is real, we should go forward.

LET'S ROLL AMERICA!
Set the tracks of destiny straight,
Don't look back
But close the gate.
Toast the past
But change the cast.
In every language of the earth
To the country of all nations
We have proudly given birth.
At the Olympics of forever
We will win all the races;
We are Great Angels of tomorrow
With magic mongrel faces.

LET'S ROLL, AMERICA!
Be generous philanthropy geeks,
Roll up the Sierra's highest peaks.
Be fanatic democracy freaks,
All the Founders dared to seek.
Sing loud the hallelujah note,
All our races and women can vote.

AMERICA LET'S ROLL!
Stand navy out to sea,
Off we go flying to stay free,
War never leaves us thrilled
But maniacs demand to be killed.
Saddam Hussein Satan's tutored underboss
Hitler minus the crooked cross
Gleefully calculates the victim loss.
Patrons of peace permitted no breath,
Ayatollahs eat dinner with death,
bin Laden is a monster of stealth.
The spirit of Gettysburg calls
Forward to the Normandy walls;
Descendants of John Brown:
Fascists under any flag
We swear to drown.
War never leaves us thrilled
But maniacs demand to be killed.

There is a time to go to war. Adolf Hitler presented us with that challenge. We can never sing the praises high enough of the American boys who died on the beaches of Normandy, the Battle of the Bulge, fighting the Fascist enemy in Europe far away from home, but clearly, a clear menace to the entire world. We cannot sing the praises high enough of those who died on Iwo Jima, those who fought the Fascists of Japan who clearly had designs on the entire world and who led the fight by opening the conflict, by attacking us on Pearl Harbor.

So there is a time to go to war and there is a time to mobilize all of our resources and understand that a country belongs to us all. It is everybody's country. And when we make up the budget, remember that it is everybody's country. The names of the people on the Vietnam Wall, almost 58,000. I have said it before, if you look at those names, take them down, study them, you will find that one-half of those names up there are young men who came from the big cities of America and the urban areas of America with very poor people, at least half came from families that qualified for welfare. At least half came from families that qualified for food stamps. At least a half came from families that deserved to have Section 8 housing. Those are Americans too, and many of the Americans in Kuwait right now are poor Americans who this country belongs to them, too. They are daughters, they are sons, and should not be denied the best education possible, should not be denied decent housing. Their mothers and grandmothers should not be denied Medicare, Medicaid by swindlers who want to save money on the backs of the poor.

So we will fight, and there are Americans who have fighting spirits who do not necessarily think that a knee-jerk reaction to using military force is the answer.

□ 2100

Let me proceed with my fourth principle in terms of basic assumptions and principles related to the preparation of an alternative budget. The fourth principle that I would state here is that while the taxing of the middle-income and working families must be reduced and maintained at the lowest possible levels, the Federal Government must nevertheless secure the revenue it needs by upwardly adjusting the tax rate on corporate entities and by creatively seeking larger fees from publicly owned resources such as the spectrum above us which belongs to us, the Internet, public lands and waterways. While the taxing of middle-income and working families must be reduced, the idea of a tax cut should not come from only the Republican majority. The question is who deserves the tax cut in the structure of revenue acquisition. What is the most just way to proceed with taxation?

This may be the defining moment in capitalism, democratic capitalism, how we revamp our tax structure. A tax structure which is revamped along the principles that have been established by the administration will lead us only to chaos because it makes the rich much richer, it widens the gap, it widens the gap between the rich and the poor in a way which only courts disaster for the future.

So our tax structure must be reflective of the situation that exists now. Wealth is being accumulated by very small groups of people. Wealth is being accumulated most rapidly by corporations, corporations which are the beneficiaries of all of the accumulated civilization that has gone before, the knowledge that science and engineering has produced, the knowledge that has come out of our research and laboratories. The drug companies that provide prescription drugs are very wealthy, huge conglomerations. But they built their enterprise on the backs of research that was done in public laboratories, research that was accumulated over the years by scientists whose names are not known in some cases, and in other cases whose names are known but they worked for institutes that were financed by our government. The Institutes for Health focuses on various diseases and research has been immediately there.

Bill Gates is probably the richest man in the world. Bill Gates is rich because there is an Internet. Internet and computers. Both computers and Internet were developed by the American military to the point where they can be transformed into the private sector in ways that allow people to make large amounts of money. The software of Bill Gates and Microsoft, the whole culture of the cybercivilization was created by the initiative of the American people.

The American military financed by the American people led the way; and, therefore, if we have tax corporations that have benefited from the efforts of the American people at a greater rate, it is only just. Instead of taxing corporations that get rich faster and faster, the pattern has been that corporations now bear less of the tax burden than they did 50 years ago.

There was a time when individuals and family taxes, income taxes comprised about 54, 55 percent of the total tax burden. Corporations were as high as 44 percent at one point. Corporations and their share of the burden dropped drastically down to the point where it reached as low as 4 percent at one point. And President Clinton and his administration began to bring it back up, I do not know, it is between 11 and 15 percent now. But that is a long ways from their fair share of the tax burden.

If we were to increase the percentage of taxes we collect from corporations, we could lower the taxes we collect from middle-income families and working families; and that is a proposition that I think our budget should go forward on now. We should reject the administration's proposals to cut taxes at the highest levels and provide cuts at the lowest levels. The payroll taxes for ordinary working people is the biggest tax increase we have experienced in the last 25 years. Percentage-wise, taxes have increased more for the poorest people through the payroll tax than any other form of tax. Let us relieve them of the great increase in payroll taxes. Let us relieve the middle class which bears the brunt of the burden of taxes; let us relieve them before we relieve the top 10 and 15 percent. Let us give the middle class back their money. Let us give them tax credits for the tuition for children. Let us give them child care tax credit. Let us do things without tax policy that benefit the most people instead of the elite few.

I am all for tax cuts, but I think that we need to drastically revamp, repeal the President Bush tax policies and revamp that policy to benefit the people who the need cuts most. Let us give the money to people who will be consumers. The rich will not turn the money over and purchase goods and services in order to revitalize the economy. They will invest it. If they spend it on services, they will go abroad and spend it in castles and high-class restaurants and a number of places which will not benefit the American economy necessarily. So we should see a tax cut for working families and a tax cut for the middle-income families as being a stimulus for the economy.

Item five, there should be an end to the tax system as we know it and a revamp which reduces the portion of the tax burden borne by individuals and families to less than 50 percent of the amount of money needed for taxation to cover our overall tax burden. Corporate entities utilizing the collective and accumulated knowledge in institutional support of a total society will continue to grow and prosper. Such recipients of public response of research and development protected by the legal system and the military might of the Nation and enriched by the greater American consumer market, such entities can and should bear a greater portion of the national tax burden. Corporate entities utilizing the collective and accumulated knowledge in institutional support of the total society, they will continue to grow and prosper.

Corporations are filthy rich. We know now from some of these scandals, the Enron scandal, the WorldCom scandal, we know how mega-bucks are passed among them as if they were pennies. One corporate executive was loaned $400 million. Another corporate executive was loaned millions of dollars, and they were forgiven by the corporation. On and on it goes. If you read what we have gotten exposed in a few corporations, you can see how most of them operate. Those that are honest have a great deal of leeway of choices to make with tremendous amounts of dollars. They can afford to pay for an American society that is generous enough to take care of all of its children and its elderly and people in need.

Such recipients of publicly sponsored research and development, I cannot emphasize this too much, they are recipients of publicly sponsored research and development, they are protected by the legal system and the military might of the Nation.

Those who have the most, have the most to be protected. If we go to war, we are going to war to protect those who do the most. Therefore, it is just for them to pay more in terms of taxes.

They are enriched by the greater American consumer market. Such entities can and should bear a greater portion of a national tax burden. Tax cuts for the upper-income brackets should be repealed immediately. Tax cuts for all families earning less than $50,000 per year should be implemented immediately, commencing with a large reduction of payroll taxes for the poorest workers. Tax cuts for the upper-income brackets should be repealed immediately. Tax cuts for all families earnings less than $50,000 a year should be implemented immediately, commencing with a large reduction for payroll taxes for the poorest workers.

Now, let me make it clear, I said I had been appointed as the coordinator for the Congressional Black Caucus alternative budget. These ideas here are still my ideas. They have not been all adopted by the Congressional Black Caucus. There is still some debate about whether we should have in our Congressional Black Caucus budget a freeze of the tax program the way it is or whether we should propose to have a repeal and revamping of it. And I want to note that. This is my proposal as an individual.

Let me go to point seven, related to education and job training. Leaving taxes which are critical, taxes are critical because they set the parameters. They tell us how much revenue we will have for our expenditures, and it is important that more attention be paid to tax policy. I think that one of the failures of the American academic community and the American citizens in general is they have allowed taxes to be a private matter for an elite group. They have allowed taxes to be treated with great mystery. We do not spend as much time ever discussing taxes and how the revenue is gained as we do discussing how the revenue should be spent. We should pay attention to both because in the absence of rational discussion, reasonable discussions we are having all these proposals that end up widening the gap between the rich and the poor and doing our Nation a great disservice because the Nation does belong to everybody. When you alienate certain groups, you are setting up a situation which is untenable.

Let me show you how bad it is with one set of statistics that came from the Federal Reserve. The Federal Reserve does a study every 3 years of consumer financing. And one of the facts that they generated are out of their most recent study of a 3-year period, not last year, but the 3 years before 2002, up to 2001. One of the facts that they generated was that the median net worth, the median net worth in terms of assets, wealth, for whites rose 17 percent in that 3-year period to $120,900; while the median net worth for minorities fell 4.5 percent to $17,000 for minorities. Talk about the gap between the rich and the poor: $120,900, median net worth for whites; $17,000 is a median net worth for minorities. That is more than just African Americans and other folks, other minorities are included there; but the most important factor is it did not go up. It fell from where it was before by 4.5 percent while the median net worth for whites rose by 17 percent. That was a great time of prosperity. The end of the prosperous 1990s and into the early 2000, 2001, whites saw their median net worth go up about 17 percent. Minorities saw their median net worth go down by 4.5 percent. The gap is $120,900 versus $17,000.

That is why the Congressional Black Caucus budget needs to address a special group with a special message. It needs to address black leaders, our budget, the Congressional Black Caucus alternative budget, has to address black leaders that if you think you are providing good leadership, if you are smug and you think we are going forward because you read these stories about the great movement forward of the black middle class and black middle-class families, how well off they are, then stop for a moment and consider what the hard statistics show: $17,000 versus $120,900.

We have much work to do and only education is our salvation in the minority community. There is no other way. A few people may hit the lottery. Maybe some folks are discovering gold mines somewhere in the world. But basically, the only way to accumulate wealth is to get an education and get a decent job and start the slow process of wealth accumulation in the family.

Let me rush now. I am running out of time. Education and job training then becomes the key to solving the great problem of the great gap in wealth. Our government must do everything possible to help solve that problem by making sure there is the opportunity to learn for everybody who wants to learn.

□ 2115

Point 7, since the Nation's security as well as its future economic stability and prosperity is directly dependent on the quality of education of its citizens, the budget should greatly increase Federal assistance for education from Head Start to title I, bilingual education, Historically Black Colleges and Universities, Hispanic Serving Higher Education Institutions, special education, education technology and on and on.

Since school buildings are essential for the implementation of all school improvements, the taboo must be ended, and the Federal grants for school construction must be provided. The President's budget is proposing construction grants, not loans, but only for charter schools. Let me just repeat that. There is a taboo, unfortunately many Democrats believe in it, too, but there is a taboo against offering money for school construction from the Federal Treasury. Somebody somewhere decided that school construction must be a function of the State governments and the local governments.

Now, they used to think that way about highways and roads; but we spent billions of dollars, Federal money, on highway roads because the modern national necessity required roads and highways that needed Federal help. We built the railroads. The railroads were financed by the Federal Government. The great linkup of the Pacific and the Atlantic, most people do not understand, it was not done by private money. It was the Federal Government that financed the railroads; and private railroads then, of course, had a way to take advantage of that as in the case of much government experimentation and research and development, benefit greatly.

Here we are. The President's budget breaks the taboo by saying we will give $175 million to charter schools for construction. If it is okay to give construction money to charter schools, why not all schools? Why have a taboo on public schools in general? It just so happens that politically, for partisan political reasons, chartered schools are favored. So we are going to have $175 million. We are not going to give a cent to public schools for school construction.

We have some kind of program that is sponsored by two Members of the House for loaning to school districts who do not want to borrow any more money. So even if we pass that, it will not do much good in terms of providing for the school construction needs we have.

Point 8, significant Federal initiatives for education reform such as No Child Left Behind cannot be implemented effectively while local education agencies are under assault from State and local budget cuts; therefore, an emergency targeted revenue sharing for education programs must be legislated.

Point 9, job training programs must be rescued from the downward spiral of budget cuts. It must be made complementary and compatible with our overall education efforts as well as the changing occupational needs generated by new challenges to homeland security and global competition.

Under Health, Human Services and Safety Nets, while the recently released Democratic Caucus Prescription Drug Plan with a $25 premium should be endorsed, that is, we have a plan. The Democrats have a plan that makes sense. Democrats have a plan that is in keeping with what other modern governments are doing for their populace. So we should support that plan, but there are other health care needs that must be addressed in our current budget.

Of greatest significance to the CDC are the President's proposals to have the Federal Government abandon Medicaid; and I have talked about that swindle, and we must stop that.

Welfare reform must be revisited and made more humane by providing more in cash payments for children. They should also provide money to allow any head of a welfare family to go to school for at least 2 years of college and be able to qualify for these jobs that are available like nurses' jobs or experts in cleaning up of anthrax.

Point 10, a coordination and calibration of the services provided to families under title XX with the goals of assisting low-income youth who are in the No Child Left Behind schools must be appropriately funded.

There are many other points that I do not care to go into. I want to conclude by saying there was a time when we had Draconian cuts proposed for education shortly after the Republican majority took over, and I opposed those cuts at that time by reciting a little poem called "The Nation Needs Your Lunch." They were proposing cuts in lunch programs in order to cut and save the budget. The Nation needs your lunch. Kids of America, there is a fiscal crunch. This regulation now needs your lunch. Things are becoming that absurd. We are cutting out vitally needed programs. Head Start is going to be cut. We are cutting vitally needed health programs for children, et cetera. We are a great Nation and we can do better than that.

I want to end with a new poem, a new rap poem which I think is very relevant:

Stop the war!
We need the cash!
Tank battles escalate!
Into nuclear ash.
Stop the war!
We need the cash!
Give Medicaid families
All of Rumsfeld's stash.
Throw the body bags
Into the trash.
Stop the war!
Welfare mothers
Rush to cry,
Soldiers from the ranks of
The poor will be the first to die.
Stop the war!
Dragging democracy to its knees
With friendly fire
Camouflaged by orange alert excitement
Ashcroft decrees
The Constitution's indictment.
Silent objectors will be spared,
Enemy combatants
All demonstrators have been declared.
Stop the war!
We need the cash!
Vietnam had
Profound lessons to teach:
Empires fall
When they overreach.
Stop the war!

## THE BUDGET DEFICIT

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Madam Speaker, I thank the Chair for this opportunity and if I could ask one of our pages to put a couple of charts up here.

Right now in the United States House of Representatives, the Committee on the Budget is marking up, what we call it is marking up, the budget for the 2004 fiscal year. The 2004 fiscal year starts next September 30, and we are looking at a budget that is going to be a little more conservative on discretionary spending but still looking at spending that has been increasing almost 7.5 percent a year, and that has led us into a very serious problem.

Probably at the present time, though overshadowed by national security and the conflict in Iraq, this year's budget is very important to the future of our kids and certainly to the future of our economy in this country. We must reverse the tendency to spend more and more money.

If my colleagues can imagine a chart that projects the increase in spending, and we do not have to imagine, this shows where we are going on the increase in debt and so it is going to represent the increase of this House Chamber to spend more and more money; and of course, what happens politically, if we bring home pork barrel projects, then we get on television, we cut the ribbon and probably we are more likely to get re-elected. So the tendency of Members of Congress, both in the House and Senate, is to make more promises of things they are going to bring home and end up spending more money, and that is what has led us to a very serious dilemma.

It seems reasonable that the increase in spending for the Federal Government should not be any more than the increase experienced by the average family in the United States; and yet, what is happening in government is we are spending three and four times the rate of inflation as far as the increase in spending over the last several years; and that is, of course, leading us into a very serious deficit, and let me just give my colleagues my thoughts on why this deficit and the larger debt is not good for our future.

Deficit, by the way, just to get our terminology straight, deficit spending means how much we overspend in any 1 year, how much spending is greater than the revenues coming into government, and then we add up that deficit for that year, and it adds to the total debt. The total debt of this country right now is $6.4 trillion. When I came to Congress just 10 years ago, it was just a little over $4 trillion. So a dramatic increase. So about $2 trillion increase in the 10 years I have been in Congress, but here is the prognosis for what we expect to happen in this 2-year session of Congress, and that is another $1 trillion increase, $1 trillion or more.

The projected deficit this fiscal year is $436 billion. For next year, it is $435 billion, and I say projected and emphasize that word because it does not include the supplemental that is coming in. It does not include the additional tens of billions of dollars that will be required as we continue in Afghanistan, if we go to war in Iraq. So we are approaching a half a trillion dollars overspending.

This is a swing of more than $7 billion in just this 3-year period between the year 2000 when we had a $236 billion surplus to this kind of deficit spending in just that 3-year period out of a $2.1 trillion budget. Huge differences. I mean, the economy certainly is part of it. So as the economy is sluggish and goes down, earnings are less from both individuals and businesses, so tax revenues are less. Expenses are more and so we are facing a war-type situation on whatever happens in Iraq, what we do in the war on terrorism; and so it is reasonable to some extent to go ahead and borrow a little more for those purposes, but we should be very conscious of the fact that we are continuing to spend in other discretionary spending 7.5 percent a year, much faster than inflation, of course, anyplace.

This shift in the budget certainly represents unrestrained spending, and that is what many of us are suggesting to the Committee on the Budget as they meet now, where some of the Democrats are suggesting, look, we should spend more for education, we should spend more for health care. There are hundreds of problems that need to be solved in the United States today, especially when individual States are hitting their budget crunch, but to ask government to increase borrowing to solve our problems is in a way saying to our kids and our grandkids that our problems today are so important and we do not think your problems, when you grow up and start paying your taxes, are going to be that important. So we are saying we want you to pay for today's spending that this Congress is suggesting in terms of all of the important programs that we might spend money for.

What greatly concerns me is that government spending grew explosively even as revenues have declined. Discretionary spending increases have been at least 6 percent each year since 1965 and at least 7.4 percent. Each year since 1998, there is four times the rate of inflation. The President's proposed budget is 3.5 percent increase for 2004 which is still as conservative as it is, still close to twice the rate of inflation.

Now, the gentleman from Maryland (Mr. BARTLETT) came and looked at this gross Federal debt and its components bar graph. So if he would like to come down and go over the bar graph to help describe the predicament, and I hesitate to say lies, but certainly hood winking of a lot of American people that at one time when we start bragging that the debt is going down, when actually the top blue line, it has never gone down, a little slow-down during 1998, 1999; but the total debt of this Federal Government has never gone down and the projection of ever bringing into balance the gross Federal debt is a long ways off, even though if we pretend that we do not owe the Social Security trust fund, when extra moneys come in, if we pretend that, if we pretend that it is not something that we owe the trust fund to Federal employees or the military as they pay in for their retirement funds, then we might have a balanced budget by 2007.

□ 2130

But that is not honest.

Madam Speaker, I yield to the gentleman from Maryland, and I even brought him a pointer.

Mr. BARTLETT of Maryland. I thank the gentleman very much. I spent, in a former life, 24 years teaching, and so this is like coming home to me.

This is a very interesting graph, and it points out some interesting things about the budget and about the deficit and about surpluses. Here we have three curves, and these three curves are labeled. The gross Federal debt. That is more often referred to as the national debt. And then there is the public debt. Now, this is the debt that we advertized that we were paying down during the 4 or 5 years of surpluses. And it is true. You can see that debt fell off slightly during the 4 or 5 years of surpluses.

But look at what was happening concomitant with that, and that was the debt held by government accounts. Now, another way of referring to that debt is that this is the debt owed to our children and our grandchildren, in large measure. This is the trust fund debt. These are the surpluses and the trust funds that we have collected from our working people, many of them our children and our grandchildren, to be there for them for their retirement and for their Medicare. We have taken that money and spent that money.

So all the while that we told the American people that we were paying down the public debt, the total debt, that is the debt on which interest is accumulating and the debt which we owe, is going up and ever up. There was not, as a matter of fact, a moment in time during those 4 or 5 years of our so-called surpluses that the gross Federal debt or the national debt actually came down. There were 14 months when the revenues exceeded the expenditures, but that is because of quarterly filings and April 15 and so forth.

If the Federal Government were required to keep its books on the accrual basis, which is the way every American company that handles more than $1 million a year, and we handle a whole lot more than $1 million a year, then there never was a moment in time when in fact the national debt, here labeled the gross Federal debt, went down.

Now, the fact that we were paying down the debt held by the public, the public debt, was good news for us here today. The low interest rates are at least partially due to the fact that we have paid down this debt somewhat. The Federal Government was not competing in the open market for dollars, and so interest rates dropped. So the low interest on your home, the low interest on your auto loan, which frequently is zero now, the low interest on your children's loan for tuition, all of that is due to the fact that we were paying down this public debt.

But the flip side of that is that for every dollar of public debt that we paid down by taking money from the trust funds, we accumulated another dollar debt in the trust fund. So that the sum of those two, always the sum of these two, equals the gross Federal debt.

Mr. SMITH of Michigan. If the gentleman will yield for a moment, just a little more to emphasize the servicing of this debt as it grows bigger and bigger.

Last year, it took 11.4 percent of our total budget to pay the interest on this kind of debt, the $6.4 trillion. But what if the economy recovers; and what if then the Federal Government is out there in the marketplace bidding against business and whoever else, the homeowners or potential homeowners, whoever wants to borrow some money? Here is government at the auction saying, we are just going to be the highest bidder because we need this much money to service the huge debt load that we have now obligated ourselves to. Interest rates are going to go up.

As government goes deeper in debt, they are going to be competitive in the marketplace and drive up interest rates. And if we go up with interest rates where we were several years ago, that 11.4 percent of the total Federal budget could easily double and it could be depriving potential homeowners, potential car buyers, potential business expanders from borrowing the money they need. So if the gentleman would excuse the interruption, I think it is so important that we look at the downside to the economy of accumulating this kind of debt as well as the unconscionable burden it places on our kids and our grandkids.

Mr. BARTLETT of Maryland. Well, that is exactly right. And if we look at the size of that expenditure, 11.4 percent, that is just a little lower than the roughly 15 percent that we spend on our military. And if interest rates rise, the amount of money that we spend on servicing the debt could be larger than the amount of money we spend on our military, which for a single item is certainly the largest number in our budget. So the interest on the debt could become the largest single expenditure in our budget.

Every year that we do not balance our budget makes it just that much more difficult to balance the budget the next year because we are going to have to pay more interest on the additional money that we have borrowed. So as year by year goes by and this debt goes up and up and up, it is going to be increasingly difficult to balance the budget.

Now, what we are telling our children and our grandchildren is that we cannot run our government on current revenues. And because the things we want to spend money on are so important, we hope that you will understand that we have to borrow money from your generation. So that when it comes time for you to run the government, not only will you have to run the government on current revenues, but you are going to have to pay back all of the money that we have borrowed from your generation. I do not think that is fair. I do not believe my children think that is fair. And I do not believe my grandchildren think that is fair.

I would like to talk for just a moment about this debt held by government accounts, or the trust fund debt. By law now the only place that we can invest surpluses in our trust funds is in nonnegotiable U.S. securities. That means when they take some FICA money, tax, from you, you see it on your pay stub and that goes into this account in Washington. Immediately there is a big computer that recognizes that that money has gone there, and so it, in effect, prints an IOU and it puts the IOU in the account and it takes the money out so that there is, in fact, no money in any of these trust funds.

Now, there are a lot of different trust funds, 50 odd trust funds. The largest of these trust funds is Social Security. The surpluses this year in the Social Security surplus will be about $161 billion. The next largest trust fund is the Civil Service Retirement Trust Fund, then the Railroad Retirement Trust Fund, and the Transportation Trust Fund, and the Airport Trust Fund, and it goes on and on through a list of smaller and smaller trust funds equally, about 50 of these trust funds. This year, the accumulated surpluses in these trust funds will be almost $200 billion, $191 plus billion surpluses, in these trust funds.

Now, what this means is, since the only place by law that we can invest surpluses in these trust funds is in nonnegotiable U.S. securities, this debt is bound to go on as long as this law stays in effect. What that means is that government will always be increasing the debt by that amount. Because that money comes in and it can only be invested in nonnegotiable U.S. securities. And there is no way that money in Washington will not be spent.

Mr. SMITH of Michigan. If the gentleman would yield, I think it is good to put a footnote in terms of what historically government has done to have extra money coming in to these trust funds so that government can go ahead and spend that money.

I think the gentleman has made it clear that when there is extra money coming into these trust funds an IOU is written and government spends that money for regular government spending. It is not put into any account.

Social Security, for example. We started Social Security in 1934. Every time that the trust fund started going down and there was not enough surplus, what did government do? It increased the tax rate on workers in this country. So we went from a 1.5 percent tax rate and now we are paying a 12.4 percent tax rate into the Federal Government.

In 1993, the taxes were raised so much on workers that we are experiencing more money coming in from the Social Security FICA tax than is needed. And so that money, the $161 billion that the gentleman suggested we are having this year, is now spent for other government expenditures. But it is still owed. Sometime, someplace, somewhere we are going to have to come up with that money, and it is going to start just a few years from now, in 2015 or 2016.

So I wanted to make the point that government, when they get in trouble, and usually the tendency is that we do not deal with difficult problems such as overspending, such as Social Security, such as Medicare, until a catastrophe hits, and the longer we put off these decisions the more drastic those solutions are going to be. So let us not force government into again raising the FICA tax, where 75 percent of the American workers pay more in the FICA tax than they do in the income tax.

If the gentleman, just for a minute, and I think we will want to put that chart back up, but if the gentleman would take that chart off, we will see a chart that represents spending over the last 10 years, where spending has gone up every year by an average of 7.5 percent.

Now, discretionary spending, and discretionary means that Congress decides every year through our budget process, through our appropriation process how much we are going to spend, and the tendency has been to just spend more. And we should not forget it is taxpayer money. And increasing taxes are not wise politically, because people have to reach into their pockets and pay those taxes. More and more people are looking at their biweekly paychecks or their monthly paychecks and saying, my gosh, look at the taxes that I am paying to the Federal Government. But that is only part of it, because now we have a hidden tax or a future tax by increased borrowing and increasing debt and the deficit spending.

Madam Speaker, I would yield back to the gentleman.

Mr. BARTLETT of Maryland. I thank the gentleman. And this is an interesting curve. When the gentleman said we are increasing our spending by about 7 percent a year, that seems to be a steady rate of increase. But it is interesting that when we have a steady rate of increase, the amount that we are increasing rises exponentially. And that is just the characteristic of this kind of a rise. So if this continues, just at the 7 percent, this curve gets steeper and steeper and steeper and steeper as time goes on. It is compounding interest.

There is a namesake of mine, I guess he is my namesake, because he is a bit older than I, at the University of Colorado who says the biggest failure of our industrial society is our inability to understand the exponential function. That exponential function, if we keep on increasing spending at this rate, will eventually bury us.

Let me put this original chart back up for a moment, and I just want to talk for a moment about these trust funds and lockboxes. Now, we heard an awful lot, while we had surpluses, about lockboxes. And, by the way, that is a word we have not heard since we stopped having surpluses. Nobody talks about lockboxes anymore. We had a lockbox first on Social Security and then we had a lockbox on Medicare.

Now, what this lockbox said was if we had a surplus in those accounts, and we did, and we do, and we will have for a while, but the reason we have surpluses in those accounts now is because actuarially we have a generation of people that are going to retire in the future. And unless we accumulate a lot of money for their retirement, there will be no Social Security checks for them. There will be no Medicare coverage for them. So that is the reason we have these accumulated surpluses. It is not that we can cut taxes because we have these surpluses, because we are going to need them in spades.

Now, that lockbox had nothing to do with preserving or protecting Social Security. We have not, as a matter of fact, done anything to preserve and protect Social Security. I am delighted we are talking about it. Seven years ago, 8 years ago, if I talked about Social Security, that would have been perceived by seniors as a threat to their Social Security. I would have lost a lot of votes. And so nobody even talked about Social Security.

Mr. SMITH of Michigan. If the gentleman will yield on this point. I was made chairman of a bipartisan Social Security task force. And it was interesting that after all of the Members learned the facts and learned the serious situation of Social Security running out of money; in other words, less money coming in than we were going to have to pay out in promised benefits, all, everybody, Republicans and Democrats, said, look, we have got to reform Social Security.

□ 2145

But I think part of the sadness of this story is the temptation and what we have seen Washington do so often is to maybe be not totally truthful with the American people in terms of whether you call it a lockbox and we are not going to spend the surplus from Social Security, or whether we are paying down the debt when actually the total debt of this country is increasing. I think it behooves every voter, every concerned citizen, every young person who this tremendous load is going to fall on to pay the increased costs of servicing this huge debt, and mostly likely it is going to result in higher taxes. Retirees should be concerned because the temptation of government is to reduce benefits and increase taxes.

Mr. BARTLETT of Maryland. I would like to talk about the balanced budget that we had and surpluses. There was a balanced budget, and there were some surpluses. The balanced budget was the unified budget. That is all of the money that comes into Washington and all of the money that Washington spends. But about 10 percent of the money that comes into Washington should not be Washington's money to spend because it is taken from the American people presumably to be put in trust for the American people to make available to them such things as civil service retirement, as Medicare benefits, and as Social Security retirement in later years. So there was a surplus, but it was not a surplus that resulted in paying down the debt.

Now a debt was paid down. The debt that was paid down was the public debt, and I am sure the average citizen had no idea that there were two debts, a public debt and the national debt. While we paid down the public debt, the national debt kept going up. As I mentioned earlier, I checked with the CBO, and there was not a moment in time during those 4 or 5 years when Washington was telling the American people that we were paying down the debt when in fact the debt that really mattered, the debt that we are passing on our children and grandchildren, there never was a moment in time when that debt went down. It went up. That debt is projected to go up faster and faster over the next several years. Looking at the curve, in the next 2 years, this jumps up just about half a trillion dollars. The advertised deficit is only $245 billion; but the real deficit is going to be roughly twice that because we have to add to whatever Washington tells us the deficit is, we have to add to that the monies that are taken from the trust fund.

Now, this whole trust fund charade started during the Johnson years. Those who are older remember his guns and butter. He was running deficits that were embarrassingly high. So what his administration did to hide those deficits was to move those trust funds on budget and then take the surpluses in the trust funds and spend them and pretend that was not debt.

They make the perfectly silly statement the Social Security surplus offsets the deficits. For me this year that is true because I did not have to go, as a part of this government, out in the marketplace and borrow dollars because what I did, without their consent, was to borrow that money from my children and grandchildren. As a matter of fact, what we have here, what we are amassing here is the largest intergenerational transfer of debt probably in the history of mankind. Eleven years ago when I ran for Congress, I promised my constituents that I was going to conduct myself down here so my kids and grandkids would not come and spit on my grave. I have tried to do that. That is why I have always been honest with my constituents.

For all of those years that we were saying that we had a surplus and were paying down the debt, I told audiences that it will probably not surprise them to learn that Washington is not being altogether truthful. We are paying down the debt. It is the public debt; but the public debt is only part of the national debt, which is a sum that is really important because we have to add to the public debt the debt accumulated in the trust funds which we have borrowed. That just keeps going up.

Mr. SMITH of Michigan. Madam Speaker, if the gentleman were to put his pointer on the green line, even the bragging of paying down part of that public debt lasted such a short time because of the increase in total spending by this Congress and the Presidents.

Mr. BARTLETT of Maryland. Projecting this out, we will buy and buy, and have a lesser appetite for borrowing from the public.

Pigs may fly, too, but I think that is about as likely as the Federal Government paying this debt.

Mr. SMITH of Michigan. Madam Speaker, let us talk about monetizing the debt because some economists have said all we need to do is monetize the debt. That means printing more money and having inflation making it easier for the government to pay down that debt.

Mr. BARTLETT of Maryland. That is right. That is what happened in Russia today. So their senior citizens who worked a lifetime to earn a retirement, now have $5 to $6 a month for their retirement. We could monetize the debt. We could cause such inflation in this country by printing money that is not represented by goods and services, and that is what inflation is. We could do that so it would be easy to pay down this debt because we would be paying it down with cheap dollars, but the people who really get hurt are those people who have worked hard and are counting on retiring on interest. We have destroyed their retirement. We have no right to talk about doing this to people in the future.

Mr. SMITH of Michigan. Imagine for a moment as a family or a business and you go into debt, nobody does that without some kind of plan to pay back that increase, maybe emergency money, that you are borrowing. But in every situation there is a plan to pay back what you borrowed. Not true with the Federal Government. There are no plans, no prospects of paying back this debt, except some time it is going to get so high and servicing this debt, the interest which is now 11.4 percent of our total budget, and we are borrowing money at a very, very low interest rate right now, 3 to 4 percent, that could easily go to a situation where we are paying twice that or even more than twice that.

Like the gentleman from Maryland (Mr. BARTLETT) said, servicing that debt, interest on the debt could be more than our military expenditures for this United States. Even at this time, right now we are approaching 17 percent for defense spending; and so it is easy to see if we do not control spending, if we are not conscious of the real truth in what the debt is doing and what it is doing to our future and our kids and the economy, then we are going to continue on that curve upward. Already at the top right-hand side of the curve, Members can see we are approaching a $10 trillion debt.

In the first 180 years of this country's history, our total spending did not amount to as much as the spending for this next fiscal year that we are projecting, a little over $2 trillion. So government has grown much faster than the rest of the economy. What does this mean? We have not used the world "socialism," but I think as government is bigger and does more things and does not empower people but empowers the Federal Government, we become more socialistic. And people are expected to pay in based on their ability to pay in, and take out based on their needs.

I think what has made this country great is the fact that those that learn and apply, those that work hard and save, those that invest end up better off than those that do not. That has been part of the motivation of our Constitution, which has brought us to the best, the strongest economy in our world in our last 226 years. How do we keep people's eyes from glazing over when we talk about going deeper in debt, and we hear justifications, that debt is manageable as a percentage of GDP? But just on a commonsense, logical basis, should we be passing this burden on to our kids and grandchildren?

How many grandmothers and grandfathers would be saying, if they understood the burden that they are putting on their grandchildren, we will do with a little less, but the Federal Government has to hold the line on spending?

Mr. BARTLETT of Maryland. Madam Speaker, the average American has little idea of how much tax they pay. The last year for which I saw data, tax freedom day was May 10. Every American citizen works up through May 10 to pay Federal, State, and local taxes. On May 10, Americans will have paid all of their taxes; but May 11, do not count on working for yourself because for the next 7 weeks, up until July 6 last year, every American had to work full time to pay the cruelest tax of all, the most regressive tax we pay, it is the worst tax for our poorest people because the poorest of the poor have to pay this tax, just like the richest pay the tax. There is no exemption from this tax, there is no deduction for this tax, and it is the favorite tax of my liberal friends who do not understand how really regressive this tax is. And what this tax is, it is unfunded Federal mandates. It is all of the laws that we have passed here that require a State or a county or a city or a business to do something that costs them money which we do not pay for in the Federal budget. It is called an unfunded Federal mandate, and that consumes the working time of every American for about 7 weeks, that is, 52 percent of your time is spent working for the government.

Mr. SMITH of Michigan. Madam Speaker, in the last few days, a lot of local representatives of local government are coming into Washington complaining about these unfunded mandates. Here is the Federal Government, since we like to not spend the money maybe and not have the debt look so bad, we simply pass a law that the State or a local unit of government has to do it.

We have to watch and guard against that as we look at a new Department of Homeland Security and the tendency of this Department to put out regulations and rules and mandates of what local governments should do. If we put out a mandate, then the gentleman from Maryland and I both agreed that the Federal Government should pay for it if we are going to demand that a local municipality or State is going to provide those services. If the Federal Government is passing a law for local units of government or companies, then the Federal Government has a responsibility to pay for it.

Mr. BARTLETT of Maryland. I think the most important thing to remember here is what we are doing here does not affect just you and me this year and our taxes; it is going to affect our kids and our grandkids.

I just cannot in good conscience continue to pass on to my kids and my grandkids this ever-increasing debt. What we are telling them is that it is impossible for us to run our government on current revenues because our needs are so important; they need to understand that we have to borrow from their generation so that we can continue to live the way we are living now in our generation.

□ 2200

We are telling them that, Sally and John, when it comes time for you to run the government, not only are you going to have to run the government on current revenues, but you are going to have to pay back all the money that we borrowed from your generation. Milton Friedman observed that government spends all the money you give it plus as much more as it can get away with.

Washington loves to spend money. Whenever a new bill comes up that has more money in it than we had in it last year, the question is always asked, if we spend more money, can we help more people? That is not the right question to ask. Of course if we spend more money we will help some more people. But the right question to ask is would this money help more people if we left it in the private sector than if we took it into the government and spent it? The answer to that question is almost always, except for running the military perhaps, that the money will do more good when left in the private sector.

So you listen to people here on the floor, they are always making the wrong point. They are always asking the wrong question. What they are saying is, if we spend more money, will we help more people? Yes. But that is not the right question. The right question is, if we left this money in the private sector, would it help more people than if we took it into the government and spent it? Almost every time the answer to that question is, please leave it in the private sector.

Mr. SMITH of Michigan. It is interesting that the original framers of our Constitution put in the Constitution that there would not be a tax based on income. They were looking at ways to structure a United States that encouraged effort, that encouraged work. We eventually amended that so we started saying, well, we will start out with a 1 percent tax on what you earned, now it goes up to 39½ percent of what you earn. It says to a young couple that wants to do a little better for their kids, we are going to tax you so much if you go out and get a job, but if you work an extra half shift or a full shift and earn more money, we are not only going to tax that extra earning but we are going to tax it at a higher rate. It has tended to be in many cases a discouragement for the kind of productivity that has made us so great in the first place.

As we look at our tax revision and how do we make our tax more fair, how do we have a tax that encourages savings, that encourages investment, it is something that has to be done to our very complicated Tax Code, where lobbyists and special interest groups have come in and got special favors for the sectors that they represent, often to the cost and expense of so many American taxpayers.

I think the points that we want to stress as we conclude tonight's session are, I think everybody during the next election should ask every Member of Congress that is running for Congress why they are increasing the debt that our kids and our grandkids are going to have to pay off, what they are going to do about Social Security, what they are going to do about Medicare. As the workforce goes down, the demographics, if you will, as there are fewer people working to pay all of the benefits for seniors. I think we should be asking Members of Congress, what is the honest reality of increased spending, that increased debt, and what are the unfunded liabilities of government, and there are so many unfunded liabilities, what we are eventually going to have to pay that is not considered in this budget. In fact, Social Security is the only revenue that has been taken off-budget so that you can see it on a separate line. Most of the intergovernment expenses are still considered under the budget, under the general fund.

Let me give you one example. All of the Members of Congress, all of the employees of the United States Government, there is no money that actually goes into the Social Security Administration. What happens is there is simply an IOU written for all of these Federal employees, Members of Congress, this is an IOU of how much we owe you for that 12.4 percent of the payroll of

Federal Government workers and Members of Congress. There is a lot of pretense in the budget and honesty is going to be the basis and understanding how the debt is growing and the consequences of each annual deficit that adds into a larger and larger debt, understanding the consequences of how it affects our economic future and the future of our kids.

Mr. BARTLETT of Maryland. You mentioned our Founding Fathers. It might be instructive to seek their counsel and to look back at how we got here and their dreams for this country. Our Founding Fathers came mostly from the British Isles and the European continent. If you think back in your history, almost all of them came from a country that was ruled by a king or an emperor who claimed and, incredibly from our perspective, was granted divine rights. What that says is that the rights came from God to the king or the emperor. They were divine rights. He would give what rights he wished to his people. When our Founding Fathers came here, in that Declaration of Independence, they made a very radical statement and we read it and seldom reflect on how radical it was. They said there that all men are created equal. The country they came from did not believe that because they thought the king and the emperor was created more equal, if we can use the term from Animal Farm. And that we are endowed by our Creator with certain unalienable rights. Among these are life, liberty and the pursuit of happiness. And what our Founding Fathers wanted to establish was a very limited government. They did that by writing into the Constitution, and I always carry a copy of it, in article 1, section 8, and these are just the words between my two thumbs. That is not much. This describes all of the powers that they granted to the Federal Government.

Just after I came here, about 10 years ago, I was given 3½ minutes in debate. That is a long time in debate. It was about a land grab that I thought was unconstitutional. So I took out my Constitution and I went down it. I am not going to read every word in this, it is not much if I read it all, but I just hit the highlights of each of these little paragraphs. You can see that they are little paragraphs.

That Congress shall have power to lay and collect taxes. We learned how to do that, did we not?

To borrow money. We are doing that big time.

To regulate commerce.

To establish a uniform rule of naturalization.

To coin money and regulate the value thereof. Somehow we gave that away to the Federal Reserve without amending the Constitution. I do not quite know how we did that.

Provide for the punishment of counterfeiting.

Establish post offices and post roads.

Promote the progress of science. These are copyrights and patents.

Constitute tribunals inferior to the Supreme Court. This is our lower courts.

Define and punish piracies and felonies.

And then about a third of all of these words deal with our control of the military.

To declare war. We do that. The President does not do that.

Raise and support armies.

Provide and maintain a Navy.

Make rules for the government and regulation of the land and naval forces.

Provide for calling forth the militia.

Provide for organizing, arming and disciplining the militia.

And then a big paragraph on the District of Columbia, to exercise exclusive legislation in all cases whatsoever. I am really supportive of home rule, but I do not know how we gave Washington home rule without amending the Constitution, which I think we should have done.

When I finished doing this, I went to leave and the recording clerk that sits just behind me came up the aisle behind me and tapped on my shoulder and said, What was that you were reading from? Oh, I said, that is the Constitution.

Can I see it? I hand it to them.

Can I copy it? They took it back and copied it.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BLACKBURN). The Chair will remind Members that it is inappropriate in debate to refer to other Members by their first names.

Mr. BARTLETT of Maryland. Madam Speaker, our Founding Fathers were so concerned that someone might not understand that they really meant to have a limited Federal Government, that just 4 years later, in 1791, they wrote 12 amendments that started through the process of two-thirds of the House, two-thirds of the Senate, three-fourths of the State legislatures, 10 of those made it through, we know that there was a Bill of Rights, and the 10th amendment in the Bill of Rights, the most violated amendment in the Constitution, the least referred to amendment in the Constitution probably, says very simply, the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people. That is old English and that is legalese. If we put that in modern everyday language what it says is if you can't find it in article 1, section 8, you can't do it.

I brought this up because this is the reason that we have this problem, an ever increasing debt, because we have not recognized the limited Federal Government that our Founding Fathers envisioned for us. Were they to be resurrected today and come see what we have done to their country, they might have a heart attack and die very quickly again. But they could not have imagined that the Federal Government would be what it is today, doing all of the things, little of which, by the way, can be justified by article 1, section 8, which is supposed to define what we do. So one way of solving our problem is a return to truly constitutional government, to stop doing those things that in their wisdom they knew could be done better in the private sector. We need to keep asking that question over and over again. Where will this money do the most good? Spent by government or left in the private sector to provide jobs and resources for our people?

Mr. SMITH of Michigan. Let us make clear, left in the private sector means being left in the pockets of the people that earn it. I would like to finish up on I think somewhat of a little bit of a positive note. In spite of the dilemma and the projection for increased deficits, the Republican Conference met this morning. We talked about our determination to hold the line on spending. The Committee on the Budget that is still meeting, I think, at this hour of the night to pass out their final resolution does a couple of things. It says let us reduce spending, discretionary spending outside of defense and homeland security. Let us reduce that discretionary spending by 1 percent across the board. And then if this budget is passed by the House and the Senate, it will go to the appropriators and it will be up to the appropriators to decide how to move some of that discretionary funding around so that they end up actually reducing, for the first time in the gentleman from Maryland's career here in Congress, in my career in Congress, because we came together in 1993, it will be the first time that there has actually been some reduction in discretionary spending outside of defense, and in this case also outside of homeland security. So a little good news. Let us hope that we have the intestinal fortitude, the determination to do what is right and at least start a beginning of being honest of what the debt is and how much it is and slowing down spending.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. REYNOLDS (during Special Order of Mr. SMITH of Michigan), from the Committee on Rules, submitted a privileged report (Rept. No. 108–34) on the resolution (H. Res. 139) providing for consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. DELAY) for March 11 and the balance of the week on account of medical reasons.

Mr. WELDON of Pennsylvania (at the request of Mr. DELAY) for March 11 and today until 3:00 p.m. on account of speaking at the International Energy Forum in Houston, Texas.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RYAN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Mr. ANDREWS, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and include extraneous material:)

Mr. TANCREDO, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, today.

## ADJOURNMENT

Mr. SMITH of Michigan. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Thursday, March 13, 2003, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1078. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Decanoic Acid; Exemption from the Requirement of a Pesticide Tolerance [OPP-2002-0272; FRL-7278-6] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1079. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Imazamox; Exemption from the Requirement of a Tolerance [OPP-2003-0034; FRL-7291-3] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1080. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — FHA Approval of Condominium Developments Located in the Commonwealth of Puerto Rico for Mortgage Insurance Under the Section 234(c) Program [Docket No. FR-4713-F-02] (RIN: 2502-AH80) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1081. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Service, transmitting the Department's final rule — Labeling Requirements for Systemic Antibacterial Drug Products Intended for Human Use [Docket No. 00N-1463] (RIN: 0910-AB78) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1082. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Reclassification and Codification of Fully Automated Short-Term Incubation Cycle Antimicrobial Susceptibility Devices From Class III to Class II [Docket No. 97P-0313] received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1083. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, Imperial County Air Pollution Control District [CA273-0381c; FRL-7452-5] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1084. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Miscellaneous Revisions [MD141/142-3095a; FRL-7450-2] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1085. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations [PA159-4201a; FRL-7448-7] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1086. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Michigan; Excess Emissions During Startup, Shutdown or Malfunction [MI80-01-7289a, FRL-7442-9] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1087. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination That State has Corrected Rule Deficiencies and Stay and/or Deferral of Sanctions, San Joaquin Valley Unified Air Pollution Control District [CA280-0390B; FRL-7451-1] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1088. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulation to Prevent and Control Air Pollution from Combustion of Refuse [WV058-6024a; FRL-7442-1] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1089. A letter from the Deputy Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Revisions to Broadcast Auxiliary Service Rules in Part 74 and Conforming Technical Rules for Broadcast Auxiliary Service, Cable Television Relay Service and Fixed Services in Parts 74, 78 and 101 of the Commission's Rules [ET Docket No. 01-75]; Telecommunications Industry Association, Petition for Rule Making Regarding Digital Modulation for the Television Broadcast Auxiliary Service [RM-9418]; Alliance of Motion Picture and Television Producers, Petition for Rule Making Regarding Low-Power Video Assist Devices in Portions of the UHF and VHF Television Bands [RM-9856] Received February 10, 2003, pursuant to 5 U.S.C. to the Committee on Energy and Commerce.

1090. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule — Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") — received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1091. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — West Virginia Regulatory Program [WV-088-FOR] received February 27.2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1092. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 021212306-2306-01; I.D. 020603B] received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1093. A letter from the Director, Regulations and Forms Services Division, Department of Justice, transmitting the Department's final rule — Abbreviation or Waiver of Training for State or Local Law Enforcement Officers Authorized to Enforce Immigration Law During a Mass Influx of Aliens [INS No. 2241-02; AG Order No. 2659-2003] (RIN: 1115-AG84) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1094. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulation;

Highway 90 Bridge Construction, Pascagoula River, Mississippi [COTP Mobile, AL 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1095. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; Matanzas River, St. Augustine, FL [COTP Jacksonville 02-084] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1096. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Mile 0.0 to 3.0, Wolf River Chute, At Mile Marker 736.0 Lower Mississippi River, Memphis, Tennessee [COTP Memphis, TN 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1097. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; James River, Newport News, Virginia [CGD05-02-063] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1098. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulation; Intracoastal Waterway, Melbourne, FL [COTP Jacksonville 02-079] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1099. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; Indian River, Titusville, FL [COTP Jacksonville 02-081] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1100. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulation; Horn Island Sea Buoy (HI) at the entrance to Horn Island Pass in the Gulf of Mexico to Bayou Casotte, Mississippi [COTP Mobile, AL 02-007] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1101. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone, James River, Newport News, Virginia [CGD05-02-047] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1102. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Youghiogheny River Mile 0.0 to 0.5, McKeesport, Pennsylvania [COTP Pittsburg 02-018] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1103. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; Intracoastal Waterway, Ormond Beach, FL [COTP Jacksonville 02-086] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1104. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-02-073] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1105. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Michigan City, MI [CGD09-02-066] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1106. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Michigan City, MI [CGD09-02-066] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1107. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Ferrysburg, MI [CGD09-02-064] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1108. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Michigan City, IN [CGD09-02-062] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1109. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulation; Indian River, New Smyrna Beach, FL [COTP Jacksonville 02-076] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1110. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Sabine Jetty Channel, Sabine, Texas [COTP Port Arthur 02-005] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1111. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Sabine River, Port Arthur, Texas [COTP Port Arthur 02-006] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1112. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Buffalo River, Buffalo, NY [CGD09-02-502] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1113. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Illinois River, Morris, IL [CGD09-02-518] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1114. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Cooper River, Port of Charleston, SC [COTP Charleston 02-089] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1115. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulations; St. Johns River, Orange Park, FL [COTP Jacksonville 02-082] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1116. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; York River, Yorktown, Virginia [CGD05-02-044] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1117. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Evanston, IL [CGD09-02-053] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1118. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Pentwater, MI [CGD09-02-055] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1119. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, St. Joseph, MI [CGD09-02-067] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1120. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-02-070] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1121. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-02-069] received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1122. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Michigan, Manistee, MI [CGD09-02-050] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1123. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD [CGD05-02-069] (RIN: 2115-AE46) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1124. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines and New Source Performance Standards for the Metal Products and Machinery Point Source Category [FRL-7453-6] (RIN: 2040-AB79) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1125. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the proposed free trade agreement between the United States and the Republic of Chile, pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974; to the Committee on Ways and Means.

1126. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the proposed free trade agreement between the United States and the Republic of Singapore, pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974; to the Committee on Ways and Means.

1127. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit (Rev. Rul. 2003-22) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1128. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Exceptions to imposition of the addition to the tax in the case of individuals (Rev. Rul. 2003-23) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1129. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2003-22) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on Rules. House Resolution 139. Resolution providing for consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system (Rept. 108–34). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CONYERS (for himself and Mr. Dingell):

H.R. 1219. A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTON of Texas (for himself, Mr. Hall, Mr. Frost, Mrs. Myrick, Mr. English, Ms. Pryce of Ohio, Mr. Sessions, Mr. Tiberi, and Mr. Ehlers):

H.R. 1220. A bill to prohibit pyramid promotional schemes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DeFAZIO (for himself, Ms. Kaptur, and Mr. Sanders):

H.R. 1221. A bill to provide for the stabilization of prices for gasoline, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on International Relations, Ways and Means, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself and Mr. Sandlin):

H.R. 1222. A bill to permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. Cannon, Ms. Berkley,and Mr. Baca):

H.R. 1223. A bill to create a commission on Internet gambling licensing and regulation; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Mr. Pitts, Mr. Cardin, and Mr. Levin):

H.R. 1224. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on International Relations, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UPTON (for himself, Ms. Eshoo, Mr. Hayworth, Mr. Becerra, Mr. Terry, Mr. Tanner, Mr. Gordon, and Mr. Frost):

H.R. 1225. A bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the Medicare Program for beneficiaries with cardiovascular disease; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER (for himself and Mr. Van Hollen):

H.R. 1226. A bill to authorize the Secretary of Transportation to conduct activities to improve worldwide traffic safety, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas (for himself, Mr. Turner of Texas, Mr. Nussle, Mr. Carter,. Mr. Toomey, Mr. Hoeffel, Mr. Burgess, Mr. Frost, Mr. Lampson, Mr. Bass, Mr. Ryun of Kansas, Mr. Sandlin, Mr. LoBiondo, Mr. Goode, Mr. Sessions, Mr. Stenholm, Mr. Terry, Mr. English, Mr. Chabot, Mr. Flake, Mr. Baird, Mr. Otter, Mr. Hefley, Mr. Sullivan, Mr. Cunningham, Mr. Istook, Mr. Paul, Mr. Green of Wisconsin, Mr. Smith of Michigan, Mr. Doolittle, Mr. Miller of Florida, Mr. Jones of North Carolina, Mr. Sam Johnson of Texas, Mr. DeMint, Ms. Ginny Brown-Waite of Florida, Mr. Pitts, Mr. Culberson, Mr. Everett, Mr. Deal of Georgia, and Mr. Shadegg):

H.R. 1227. A bill to provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist; to the Committee on Government Reform.

By Mr. CONYERS:

H.R. 1228. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. Pitts, Mr. Norwood, Mrs. Myrick, Mr. Ryun of Kansas, Mr. Burton of Indiana, Mr. Stearns, Mr. Souder, Mr. Forbes, Mr. Terry, Mr. Hostettler, and Mr. Goode):

H.R. 1229. A bill to require assurances that certain family planning service projects and programs will provide pamphlets containing the contact information of adoption centers; to the Committee on Energy and Commerce.

By Mr. ISSA (for himself and Mr. Calvert):

H.R. 1230. A bill to provide an environmentally sound process for the expeditious consideration and approval of a high-voltage electricity transmission line right-of-way through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent lands under the jurisdiction of the Bureau of Land Management and the Forest Service; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself, Mrs. Jo Ann Davis of Virginia, Mr. Waxman, Mr. Davis of Illinois, Mr. Moran of Virginia, Mr. Wolf, Mr. Hoyer, Ms. Norton, Mr. Wynn, and Mr. Van Hollen):

H.R. 1231. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER:

H.R. 1232. A bill to amend the Internal Revenue Code of 1986 to shorten the recovery period for the depreciation of certain property; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. McCrery, Mr. Paul, and Mr. Herger):

H.R. 1233. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself and Mr. Neal of Massachusetts):

H.R. 1234. A bill to amend the Internal Revenue Code of 1986 to encourage investment in high productivity property, and for other purposes; to the Committee on Ways and Means.

By Mr. GALLEGLY (for himself and Mr. Gibbons):

H.R. 1235. A bill to provide for the management of critical habitat of endangered species and threatened species on military installations in a manner compatible with the demands of military readiness, to ensure that the application of other resource laws on military installations is compatible with military readiness, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER (for herself, Mr. Wynn, Mrs. Johnson of Connecticut, Mr. Norwood, Ms. Watson, Mr. Manzullo, Mr. Davis of Illinois, Mr. Bonilla, Mr. Goode, Mr. Boozman, Mr. Towns, Ms. Norton, Mr. Mario Diaz-Balart of Florida, Mrs. Musgrave, Mrs. Northup, Mr. Hostettler, Mr. Ryan of Wisconsin, Ms. Ginny Brown-Waite of Florida, Mr. Davis of Alabama, Ms. Millender-McDonald, Mr. Owens, and Mr. Fletcher):

H.R. 1236. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island:

H.R. 1237. A bill to amend part C of the Individuals with Disabilities Education Act to improve early intervention programs for infants and toddlers with disabilities, and for other purposes; to the Committee on Education and the Workforce.

By Mr. LARSEN of Washington (for himself, Mr. Dicks, Mr. Stupak, Mr. Pomeroy, Mr. Nethercutt, Mr. Hastings of Washington, Mr. Smith of Washington, and Mr. Baird):

H.R. 1238. A bill to authorize the Attorney General to carry out a program, known as the Northern Border Prosecution Initiative, to provide funds to northern border States to reimburse county and municipal governments for costs associated with certain criminal activities, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN:

H.R. 1239. A bill to provide for emergency unemployment compensation; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Ms. Norton, Mr. Hinchey, Mr. Etheridge, Mr. Frost, Mr. Carson of Oklahoma, Ms. DeLauro, Mr. Owens, Mr. Lantos, Mrs. Davis of California, Mrs. Jones of Ohio, Ms. Berkley, Mr. Bishop of New York, and Ms. Schakowsky):

H.R. 1240. A bill to provide grants to eligible consortia to provide professional development to superintendents, principals, and to prospective superintendents and principals; to the Committee on Education and the Workforce.

By Mrs. LOWEY (for herself, Mr. Oberstar, Mr. Hinchey, Ms. Woolsey, Mrs. Capps, Mr. Schiff, Mr. Rangel, Mr. McDermott, Mr. Lipinski, Mr. Kildee, Mr. Sanders, Mr. Van Hollen, Mr. Emanuel, Mr. Bishop of New York, Mr. Grijalva, Mrs. Christensen, Mr. Ackerman, Ms. Lofgren, Mr. McNulty, Mrs. McCarthy of New York, Mr. Lantos, and Mr. Frost):

H.R. 1241. A bill to authorize additional appropriations to the National Institutes of Health for research on the early detection of and the reduction of mortality rates attributed to breast cancer; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 1242. A bill to establish a program to provide child care through public-private partnerships; to the Committee on Education and the Workforce.

By Mrs. LOWEY (for herself, Mr. McNulty, Mr. Berry, Ms. Woolsey, Mr. Rothman, Mr. Davis of Illinois, Ms. Watson, Mr. Sanders, Mr. Emanuel, Ms. Carson of Indiana, and Mr. Pallone):

H.R. 1243. A bill to assure equitable treatment in health care coverage of prescription drugs under group health plans, health insurance coverage, Medicare and Medicaid managed care arrangements, Medigap insurance coverage, and health plans under the Federal employees' health benefits program (FEHBP); to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 1244. A bill to amend title 5, United States Code, to provide that service performed by an air traffic controller who is transferred or promoted to a supervisory or staff position continue to be treated as controller service for retirement purposes; to the Committee on Government Reform.

By Mr. OLVER (for himself, Mr. Gilchrest, Mrs. Johnson of Connecticut, Mr. Udall of Colorado, Mr. Shays, Ms. Woolsey, Mr. Markey, Mr. Waxman, Mr. Inslee, Mr. Hinchey, Mr. Delahunt, Mr. Farr, Mr. Frank of Massachusetts, Mr. Honda, Mr. Moran of Virginia, Mr. Wexler, Mr. George Miller of California, Ms. Schakowsky, Mrs. Davis of California, Mr. Stark, Ms. Solis, Mr. Sanders, Ms. McCollum, Mr. McDermott, Mr. Blumenauer, Ms. Baldwin, Mr. Kucinich, Ms. Norton, Ms. DeLauro, Mr. Abercrombie, Ms. Eddie Bernice Johnson of Texas, Ms. Bordallo, Mr. Allen, Mr. Walsh, Mr. Neal of Massachusetts, Mr. Berman, Mrs. Capps, Mr. Van Hollen, and Mr. Cardin):

H.R. 1245. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions to inform the public and private sectors concerning, and encourage voluntary reductions in, greenhouse gas emissions; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 1246. A bill to authorize the Secretary of Education to make grants to eligible schools to assist such schools to discontinue use of a derogatory or discriminatory name or depiction as a team name, mascot, or nickname, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PAUL:

H.R. 1247. A bill to ensure and foster continued patient safety and quality of care by exempting health care professionals from the Federal antitrust laws in their negotiations with health plans and health insurance issuers; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 1248. A bill to amend titles 23 and 49, United States Code, relating to motor vehicle weight and width limitations; to the Committee on Transportation and Infrastructure.

By Mr. PAUL:

H.R. 1249. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for the cost of insurance against negative outcomes from surgery, including against malpractice of a physician; to the Committee on Ways and Means.

By Mr. RYAN of Wisconsin (for himself, Mr. Weller, Mr. Kleczka, Mr. Petri, Mr. Green of Wisconsin, and Ms. Baldwin):

H.R. 1250. A bill to amend the Internal Revenue Code of 1986 to modify the exemption from the self-employment tax for certain termination payments received by former insurance sales agents; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. Hinchey, Mr. Waxman, Mr. Kleczka, and Mr. Frost):

H.R. 1251. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO:

H.R. 1252. A bill to terminate the e-rate program of the Federal Communications Commission that requires providers of telecommunications and information services to provide such services for schools and libraries at a discounted rate; to the Committee on Energy and Commerce.

By Mr. TANCREDO:

H.R. 1253. A bill to amend the Endangered Species Act of 1973 to establish special requirements for determining whether the Preble's meadow jumping mouse is an endangered species or threatened species; to the Committee on Resources.

By Mr. WALDEN of Oregon (for himself, Mr. DeFazio, Mr. Radanovich, and Mrs. Bono):

H.R. 1254. A bill to amend the Federal Power Act to provide for market transparency in wholesale sales of electric energy, to prohibit round trip trading of electricity, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WALDEN of Oregon (for himself, Mr. DeFazio, Mr. Radanovich, and Mrs. Bono):

H.R. 1255. A bill to amend the Securities Exchange Act of 1934 to prohibit the fradulent recording of revenue from round trip sales of electric power; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. Leach, Mr. Dingell, Mr. Kolbe, Ms.

Pelosi, Mr. Shays, Mr. Hoyer, Mr. Sweeney, Mr. Menendez, Mr. Castle, Mr. Clyburn, Mr. Simmons, Mr. Davis of Florida, Mrs. Biggert, Mr. Kind, Mr. Greenwood, Mr. Conyers, Mr. Frelinghuysen, Mr. Abercrombie, Mr. Ose, Mr. Acevedo-Vilá, Mr. Ackerman, Mr. Allen, Mr. Andrews, Mr. Baca, Mr. Baird, Ms. Baldwin, Mr. Ballance, Mr. Becerra, Mr. Bell, Ms. Berkley, Mr. Berman, Mr. Bishop of New York, Mr. Bishop of Georgia, Mr. Blumenauer, Mr. Boehlert, Mr. Boswell, Ms. Bordallo, Mr. Boyd, Mr. Brady of Pennsylvania, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mr. Boucher, Mrs. Capps, Mr. Capuano, Mr. Cardin, Mr. Cardoza, Ms. Carson of Indiana, Mr. Carson of Oklahoma, Mr. Case, Mrs. Christensen, Mr. Clay, Mr. Cooper, Mr. Costello, Mr. Cramer, Mr. Crowley, Mr. Cummings, Mr. Davis of Alabama, Mr. Davis of Illinois, Mrs. Davis of California, Mr. DeFazio, Ms. DeGette, Mr. Delahunt, Ms. DeLauro, Mr. Deutsch, Mr. Dicks, Mr. Doggett, Mr. Dooley of California, Mr. Doyle, Mr. Edwards, Mr. Emanuel, Mr. Engel, Ms. Eshoo, Mr. Evans, Mr. Faleomavaega, Mr. Fattah, Mr. Farr, Mr. Filner, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Mr. Green of Texas, Mr. Gonzalez, Mr. Grijalva, Mr. Gutierrez, Mr. Hall of Texas, Ms. Harman, Mr. Hastings of Florida, Mr. Hill, Mr. Hinchey, Mr. Hinojosa, Mr. Hoeffel, Mr. Holt, Ms. Hooley of Oregon, Mr. Holden, Mr. Honda, Mr. Inslee, Mr. Israel, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mr. John, Ms. Eddie Bernice Johnson of Texas, Mrs. Jones of Ohio, Ms. Kaptur, Mr. Kennedy of Rhode Island, Mr. Kildee, Ms. Kilpatrick, Mr. Kucinich, Mr. Lampson, Mr. Langevin, Mr. Lantos, Mr. Larsen of Washington, Mr. Larson of Connecticut, Ms. Lee, Mr. Levin, Ms. Lofgren, Mrs. Lowey, Mr. Lynch, Ms. Majette, Mr. Markey, Mr. Matsui, Mrs. McCarthy of New York, Ms. McCarthy of Missouri, Ms. McCollum, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mr. Meehan, Mr. Meek of Florida, Mr. Meeks of New York, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Moore, Mr. Moran of Virginia, Mr. Nadler, Mrs. Napolitano, Mr. Neal of Massachusetts, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Ortiz, Mr. Owens, Mr. Pallone, Mr. Pascrell, Mr. Pastor, Mr. Payne, Mr. Peterson of Minnesota, Mr. Price of North Carolina, Mr. Rahall, Mr. Rangel, Mr. Reyes, Mr. Rodriguez, Mr. Rothman, Ms. Roybal-Allard, Mr. Ruppersberger, Mr. Rush, Mr. Ryan of Ohio, Mr. Sabo, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Sanders, Mr. Sandlin, Ms. Schakowsky, Mr. Schiff, Mr. Scott of Georgia, Mr. Serrano, Mr. Sherman, Ms. Slaughter, Mr. Smith of Washington, Ms. Solis, Mr. Spratt, Mr. Stark, Mr. Strickland, Mrs. Tauscher, Mr. Tierney, Mr. Thompson of Mississippi, Mr. Thompson of California, Mr. Towns, Mr. Turner of Texas, Mr. Udall of Colorado, Mr. Udall of New Mexico, Ms. Velázquez, Ms. Waters, Ms. Watson, Mr. Watt, Mr. Waxman, Mr. Weiner, Mr. Wexler, Ms. Woolsey, Mr. Wu, and Mr. Wynn):

H.J. Res. 37. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. LARSEN of Washington:

H.J. Res. 38. A joint resolution authorizing special awards to World War I and World War II veterans of the United States Navy Armed Guard; to the Committee on Armed Services.

By Mr. CASTLE (for himself and Mrs. Lowey):

H. Con. Res. 91. Concurrent resolution expressing the sense of Congress that the Nation should strive to prevent teen pregnancy by encouraging teens to view adolescence as a time for education and growing-up and by educating teens about the negative consequences of early sexual activity; to the Committee on Energy and Commerce.

By Mr. LANTOS (for himself, Ms. Ros-Lehtinen, Mr. Ackerman, Mr. Cox, Mr. Burton of Indiana, and Ms. Loretta Sanchez of California):

H. Res. 140. A resolution expressing the sense of the House of Representatives concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women; to the Committee on International Relations.

By Ms. LEE (for herself, Mr. Conyers, Mr. McDermott, Ms. Waters, Mrs. Jones of Ohio, Ms. Woolsey, Mr. Serrano, Mr. Filner, Ms. Jackson-Lee of Texas, Mr. Kucinich, Ms. Watson, Mr. George Miller of California, Mr. Stark, Mr. Payne, Mr. Owens, and Mr. Jackson of Illinois):

H. Res. 141. A resolution disavowing the doctrine of preemption; to the Committee on International Relations.

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## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Brown of Ohio, Mr. Strickland, Mrs. Emerson, and Mr. King of New York.

H.R. 21: Mr. Upton.

H.R. 22: Mr. Upton.

H.R. 33: Mr. Ballance.

H.R. 34: Mr. Thompson of California, Ms. Baldwin, Mr. Gutierrez, Mr. Meehan, and Mr. Farr.

H.R. 39: Mrs. Northup, Mr. Ortiz, and Mr. Issa.

H.R. 49: Ms. Eddie Bernice Johnson of Texas, Mr. Garrett of New Jersey, Mr. Cole, and Mr. Isakson.

H.R. 57: Mr. Terry, Mr. Kennedy of Minnesota, and Mr. Bradley of New Hampshire.

H.R. 107: Mr. Bartlett of Maryland.

H.R. 109: Mr. Tiahrt.

H.R. 111: Mr. Turner of Ohio, Mr. Davis of Tennessee, Ms. Bordallo, Mr. Baca, and Ms. Carson of Indiana.

H.R. 119: Mr. Simpson.

H.R. 126: Mr. Murphy.

H.R. 168: Mr. Hostettler.

H.R. 218: Mr. Sweeney, Mr. Vitter, Mr. Crowley, Mr. Murphy, Mrs. Wilson of New Mexico, Mr. Taylor of North Carolina, Mr. Burton of Indiana, Mr. Issa, and Mr. John.

H.R. 224: Mr. Tiahrt.

H.R. 225: Mr. Terry.

H.R. 245: Mr. Gordon.

H.R. 280: Mr. Pence.

H.R. 284: Mr. Lucas of Oklahoma, Mr. Pickering, Mr. Simmons, Mr. Miller of Florida, Mr. Meek of Florida, Mr. Pascrell, Mr. Ryan of Ohio, Mr. Cantor, Mr. Moran of Virginia, Mr. Camp, Mr. Janklow, Mr. Pearce, Mr. Platts, Mr. Baird, Mr. Lincoln Diaz-Balart of Florida, Mr. Baker, Mr. Capuano, Mr. Allen, Mr. Udall of Colorado, Mr. Cardoza, Mr. Brown of South Carolina, Mr. Wilson of South Carolina, Mr. Wicker, and Ms. Dunn.

H.R. 300: Mr. Bradley of New Hampshire, Mr. Camp, Mr. Isakson, and Mr. Stearns.

H.R. 303: Mr. Mica, Mr. Camp, Mr. Carter, Mr. Meek of Florida, Mr. Garrett of New Jersey, and Mr. Simpson.

H.R. 310: Mr. Hostettler.

H.R. 331: Mr. Holden.

H.R. 344: Mr. Paul, Mr. Goode, and Ms. Ginny Brown-Waite of Florida.

H.R. 375: Mr. Hunter and Mr. Bartlett of Maryland.

H.R. 391: Mr. Putnam, Mr. Coble, Mr. Bishop of Utah, Mr. Hensarling, Mr. Hefley, and Mr. Pitts.

H.R. 426: Mr. Peterson of Pennsylvania and Mr. Faleomavaega.

H.R. 427: Mr. Petri.

H.R. 442: Mr. Doyle, Mrs. Davis of California, and Mrs. Musgrave.

H.R. 444: Ms. Eddie Bernice Johnson of Texas and Mr. Ose.

H.R. 466: Mr. Shays, Ms. Eddie Bernice Johnson of Texas, Mr. McNulty, Mr. Serrano, Mr. Waxman, Mr. Crowley, Mr. Honda, Mr. Ose, Mr. Ruppersberger, and Mr. Murphy.

H.R. 488: Mr. Tancredo.

H.R. 501: Mr. Grijalva.

H.R. 522: Mr. Capito, Ms. Harris, Mr. Bartlett of Maryland, Mr. Manzullo, and Mr. Tancredo.

H.R. 528: Mr. Payne.

H.R. 545: Mr. Lipinski and Mr. McIntyre.

H.R. 548: Ms. Lofgren, Ms. McCollum, Mr. Gingrey, Ms. Schakowsky, Mr. Gutierrez, Mr. Hayes, Mr. Gordon, Mr. Marshall, Mr. Inslee, Mr. Forbes, Mr. Franks of Arizona, Mr. Isakson, Mrs. Capito, Mr. Cardoza, Mr. Leach, Mr. Mario Diaz-Balart of Florida, Mr. Michaud, Mr. Meek of Florida, Mr. Renzi, Ms. Baldwin, Mr. McDermott, Mr. Keller, Mr. Bonilla, Mr. Thompson of California, Mr. Stearns, and Mr. Hinojosa.

H.R. 577: Mr. Kucinich, Ms. Linda T. Sánchez of California, Mrs. Tauscher, Ms. Kilpatrick, Mr. Davis of Illinois, Ms. Lee, Mr. Towns, and Mr. Frank of Massachusetts.

H.R. 584: Mrs. Jo Ann Davis of Virginia.

H.R. 586: Mr. Udall of Colorado, Mr. Wu, and Ms. Jackson-Lee of Texas.

H.R. 589: Mr. Sandlin, Mr. Moore, Mr. Boyd, Mr. Dicks, Mr. Udall of New Mexico, Mr. Pomeroy, Mr. Hoeffel, Mr. Farr, and Mr. Miller of North Carolina.

H.R. 648: Mr. Carson of Oklahoma, Mr. Hastings of Washington, and Mr. Bartlett of Maryland.

H.R. 655: Mr. Deal of Georgia.

H.R. 660: Mrs. Blackburn and Mr. Gingrey.

H.R. 669: Mr. Pastor.

H.R. 685: Mr. McGovern, Mr. Bishop of New York, and Ms. Woolsey.

H.R. 732: Mr. Rogers of Michigan, Mr. Costello, Mr. Frost, Mr. Ford, and Mr. Peterson of Minnesota.

H.R. 735: Mr. Sensenbrenner, Mr. Serrano, Mr. Platts, Mr. Holt, and Mr. Rahall.

H.R. 742: Mr. Cardoza, Mr. Quinn, Mr. Jefferson, Mr. Edwards, Mr. Greenwood, Mrs. Capps, Mr. Frost, Mr. Wexler, Mr. Gordon, Mr. SIMPSON, Mr. DEUTSCH, Mr. MCNULTY, and Mr. CONYERS.

H.R. 760: Mr. LUCAS of Kentucky.

H.R. 761: Mr. LAMPSON.

H.R. 767: Mr. RAMSTAD, Mrs. JOHNSON of Connecticut, Mr. CRANE, and Mr. LEWIS of Kentucky.

H.R. 775: Mr. UPTON, Ms. GINNY BROWN-WAITE of Florida, Mr. BALLENGER, and Mr. FALEOMAVAEGA.

H.R. 784: Mr. DICKS and Mr. INSLEE.

H.R. 785: Mr. LARSEN of Washington.

H.R. 786: Mr. SENSENBRENNER.

H.R. 806: Ms. MCCOLLUM.

H.R. 809: Ms. LORETTA SANCHEZ of California.

H.R. 811: Mr. OWENS.

H.R. 812: Mr. FOLEY, Mr. GOODE, and Mr. WELDON of Pennsylvania.

H.R. 815: Mr. MCNULTY.

H.R. 818: Mr. LIPINSKI, Ms. LEE, and Mr. VISCLOSKY.

H.R. 823: Mr. RUPPERSBERGER, Mr. BISHOP of New York, Mrs. JONES of Ohio, Mr. SKELTON, Ms. MILLENDER-MCDONALD, Mr. HINCHEY, Mr. ETHERIDGE, Mr. WAXMAN, Mr. CLYBURN, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 829: Ms. MCCARTHY of Missouri, Mrs. CHRISTENSEN, and Mrs. DAVIS of California.

H.R. 851: Ms. WATSON, Mr. KUCINICH, Mr. OWENS, Mr. GORDON, Mr. LIPINSKI, Mr. FILNER, Mr. BROWN of Ohio, Mr. MCHUGH, and Mr. RYAN of Ohio.

H.R. 870: Mr. FOLEY and Mr. MATSUI.

H.R. 872: Mrs. MUSGRAVE.

H.R. 876: Mr. LUCAS of Oklahoma, Mr. STENHOLM, Mr. BEREUTER, Mr. ENGLISH, and Mr. HOUGHTON.

H.R. 898: Mrs. MYRICK.

H.R. 931: Mr. RYUN of Kansas, Mr. ISTOOK, and Mr. TANCREDO.

H.R. 937: Mr. LATHAM and Mr. GALLEGLY.

H.R. 941: Mr. NEAL of Massachusetts.

H.R. 953: Mr. THOMPSON of Mississippi, Mr. GORDON, Ms. MAJETTE, and Mr. WATT.

H.R. 970: Mr. COOPER, Mr. DAVIS of Illinois, Mr. LAHOOD, Mr. CRAMER, Mr. GORDON, Mr. FORD, Mr. MATSUI, Mr. LEACH, Mr. TURNER of Texas, Mr. CARTER, Mr. WU, Mr. PASTOR, Mr. RAHALL, Mr. BACHUS, Mr. DEUTSCH, Mr. SIMPSON, Mr. KLECZKA, Mr. WELLER, Mr. LIPINSKI, MR. BROWN of Ohio, Ms. SLAUGHTER, Mr. PETRI, Mr. MOLLOHAN, and Mr. RYAN of Ohio.

H.R. 975: Mr. SIMMONS.

H.R. 997: Mr. SHAYS, Mr. KLINE, Mrs. JO ANN DAVIS of Virginia, Mr. TANCREDO, Mr. DEAL of Georgia, Mr. CHABOT, Mr. PENCE, Mr. ISTOOK, Mrs. MYRICK, and Mr. JONES of North Carolina.

H.R. 1021: Mr. KENNEDY of Rhode Island, Ms. LINDA T. SÁNCHEZ of California, Mr. SERRANO, and Mrs. JONES of Ohio.

H.R. 1046: Mr. OBERSTAR, Mr. MATSUI, Mr. SMITH of Washington, Ms. LOFGREN, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. MCGOVERN, Mr. BERMAN, Mr. HOEFFEL, Mr. GEORGE MILLER of California, Mr. LEWIS of Georgia, Mr. MEEK of Florida, Mr. FROST, and Mr. CASE.

H.R. 1049: Mr. RENZI, Mr. GOODE, and Mr. DOOLITTLE.

H.R. 1052: Mr. HOLT, Mr. RAHALL, Mr. KIND, Ms. NORTON, Mr. GILCHREST, Ms. LEE, Mrs. CAPPS, and Ms. DELAURO.

H.R. 1054: Mr. WYNN.

H.R. 1061: Mr. TANCREDO and Mr. PLATTS.

H.R. 1091: Mr. PRICE of North Carolina.

H.R. 1102: Mr. PLATTS, Mr. PETERSON of Minnesota, and Mr. LIPINSKI.

H.R. 1105: Mr. FILNER and Mr. GILCHREST.

H.R. 1115: Mr. ROGERS of Michigan.

H.R. 1116: Mr. DAVIS of Alabama.

H.R. 1123: Mr. CANTOR.

H.R. 1124: Mr. LARSEN of Washington, Mrs. CHRISTENSEN, and Mrs. MALONEY.

H.R. 1130: Mr. GREEN of Texas, Mr. RYAN of Ohio, Mr. FALEOMAVAEGA, and Mrs. KELLY.

H.R. 1146: Mr. BARTLETT of Maryland, Mr. HEFLEY, and Mr. DUNCAN.

H.R. 1157: Mr. LARSEN of Washington and Mr. SERRANO.

H.R. 1170: Ms. LORETTA SANCHEZ of California.

H.R. 1192: Mr. RYAN of Ohio.

H.R. 1202: Mr. DAVIS of Tennessee.

H.J. Res 20: Mr. LEWIS of Georgia.

H. Con. Res. 19: Ms. LINDA T. SÁNCHEZ of California, Ms. KILPATRICK, Ms. LEE, Mr. HOEFFEL, and Mr. FRANK of Massachusetts.

H. Con. Res. 26: Mr. MILLER of North Carolina, Mr. MCGOVERN, and Mr. PITTS.

H. Con. Res. 78: Mr. RANGEL, Ms. NORTON, Mr. FATTAH, Mr. THOMPSON of Mississippi, and Mr. WYNN.

H. Res. 108: Mr. MCNULTY.

H. Res. 112: Ms. LORETTA SANCHEZ of California, Mr. MCGOVERN, Mr. SCHIFF, Mr. UDALL of Colorado, and Mr. RANGEL.

H. Res. 127: Mr. KANJORSKI.

H. Res. 132: Mr. POMBO, Mr. GINGREY, Mr. SHAYS, Mr. HASTINGS of Washington, Mr. CANNON, Mr. SESSIONS, Mr. FORBES, Mr. JANKLOW, Mr. CARSON of Oklahoma, Mrs. JO ANN DAVIS of Virginia, Mr. HOSTETTLER, Mr. MCHUGH, Mr. GOODLATTE, Mr. BAKER, Mr. YOUNG of Alaska, and Mr. DAVIS of Tennessee.

H. Res. 133: Mr. CULBERSON.

# EXTENSIONS OF REMARKS

## RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2003 VALOR AWARD RECIPIENTS MARCH 11, 2003

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize an extraordinary group of men and women in Northern Virginia. Several members of the Fairfax County Police Department were honored at the Fairfax County Chamber of Commerce's 25th Annual Valor Awards. Each year, the Chamber recognizes individuals who have courageously demonstrated selfless dedication to public safety. These outstanding men and women have played an intricate role in building a better community. This hard work and determination has earned several members of the Fairfax County Police Department the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several Valor Awards that a public safety officer can be given, Lifesaving Award, a Certificate of Valor, or a Gold, Silver, or Bronze Medal of Valor. During the 25th Annual Awards Ceremony, 88 men and women from the Office of the Sheriff, Fire and Rescue Department, and Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that I enter into the RECORD the names of the recipients of the 2003 Valor Award in the Fairfax County Police Department. Receiving the *Lifesaving Award:* Public Service Communicator III Lorraine Fells-Danzer, Lieutenant Amy Lubas, Police Officer First Class Michael Grinnan, Police Officer First Class Jason Riechel, Police Officer First Class Andrew Pytko, Lieutenant Erin Schaible, Police Officer First Class Richard Theal; *Certificate of Valor:* Police Officer First Class Dale Clark, Police Officer First Class John Hartle, Officer Lee Redenbo, Master Police Officer John Flinn, Master Police Officer Peter Masood, Police Officer Steve Mihelarakis, Sergeant Robin Davis, Officer Michael Comer, Second Lieutenant Thomas Vaclavicek, Master Police Officer John Brocco, Lieutenant Mark Rogers, Second Lieutenant John Naylor, Police Officer First Class Peter Kwak, Police Officer First Class Charles Wolfert, Police Officer First Class Mike Kazlk, Officer Angela Griffiths, Officer Kyle Kunstel, Officer Daniel Lauta, PSCA III Scott Pierpoint, PSCA I Maile Jones; *Silver Medal of Valor:* Lieutenant Timothy Hoover, Second Lieutenant Christopher Cochran, Sergeant Brian Hall, Master Police Officer Michael Twomey, Police Officer First Class Ron Estrella, Sergeant Kevin Andariese, Police Officer First Class Richard Mattison, Police Officer First Class Donald Kline, Police Officer First Class Mark Dale, Police Officer First Class Edward Warren, Police Officer First Class Chad Mahoney, Police Officer First Class Steven Carroll, Police Officer First Class Donnacha Fay, Police Officer First Class Tom Hulse IV, Officer Melissa Jones, Officer Jonathan Bobel, Master Police Officer John Bracco, Police Officer First Class Bradford Avery; *Bronze Medal of Valor:* Officer Joseph Wallace, Police Officer First Class Katherin Luppino, Police Officer First Class Kin Vanderveld, Sergeant James Cox, Lieutenant Tor Bennett, Police Officer First Class Michael Gibbons, Police Officer First Class Holly Hinkle.

Mr. Speaker, in closing, I would like to take this opportunity to thank all the men and women who serve the Fairfax County Police Department. The events of September 11th served as a reminder of the sacrifices our emercency service workers make for us everyday. Their constant efforts on behalf of Fairfax County citizens are paramount to preserving security, law and order throughout our neighborhoods, and their individual and collective acts of heroism deserve our highest praise. I ask that my colleagues join me in congratulating this group of extraordinary citizens.

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## HIS HOLINESS THE DALAI LAMA ON TIBETAN UPRISING DAY

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. KIRK. Mr. Speaker, I request the attached copy of the annual statement of His Holiness the Dalai Lama marking March 10, 2003 as the 44th anniversary of the Tibetan Uprising of 1959 be included in the CONGRESSIONAL RECORD.

On March 10, 1959, the people of the Tibetan capitol of Lhasa surrounded the summer home of the Dalai Lama in a brave effort to protect him from the Peoples' Liberation Army's guns that were trained on his compound from across the river. These heroic Tibetans refused to leave even after the Chinese artillery fire began failing. The Dalai Lama eventually fled into exile in a futile effort to protect them; thousands died during the Chinese assault on the city, and thousands more died as the PLA moved to suppress a nationwide uprising against their increasingly repressive occupation of Tibet.

Under the leadership of His Holiness the Dalai Lama, Tibetan people inside and outside Tibet continue their non-violent struggle to preserve their unique cultural, linguistic and religious heritage. I am proud that the U.S. Congress is a beacon of support for the Tibetan struggle. I hope that His Holiness' statement will inspire all of us to re-double our efforts in support of a peaceful resolution to this tragic situation. As the lead sponsor of the Tibetan Policy Act, I was pleased to see the Congress come together last year in support of a dynamic U.S. policy on Tibet. This year, as we implement this landmark legislation, we must continue our historic support for a movement that embodies the values of our nation and our time: freedom of speech, freedom of religion, freedom from tyranny, equality, liberty, self-determination, and democratic self-government.

MARCH 10TH STATEMENT

Our sincere greetings to our fellow Tibetans in Tibet and in exile and to our friends and supporters all over the world on the occasion of the 44th anniversary of the Tibetan People's Uprising of 1959. While there were positive developments on the overall issue of Tibet, we remain concerned about the continuing marginalization of Tibetans in their own country and Chinese actions on the human rights and religious freedom of the Tibetan people in the past year.

The 16th Congress of the Chinese Communist Party ushered a new era in China by smoothly transferring the leadership from the third to the fourth generation. This is a sign of political maturity and adaptability. The reforms, initiated by Deng Xiaoping and continued under President Jiang Zemin, have brought about great changes in China, especially in the fields of economy, trade and in the conduct of international relations. I welcome this development since I have always drawn attention to the need to bring China into the mainstream of the world community and have spoken against any idea of isolating and containing China. Unfortunately, in sharp contrast to these positive aspects, such a pragmatic and flexible approach has been lacking when it comes to upholding the basic civil and political rights and freedoms of its citizens, especially with regard to those of the so-called minorities within the People's Republic of China.

We were encouraged by the release of several Tibetan and Chinese political prisoners of conscience during the past year, Among them Tibetan prisoners such as Takna Jigme Sangpo and Ani Ngawang Sangdrol who spent years in prison solely for daring to express their views on Chinese policies in Tibet and in particular on Tibetan history and who represent the courage and determination of the Tibetan people inside Tibet.

I was pleased that the Chinese government made it possible for my envoys to visit Beijing to re-establish direct contact with the Chinese leadership and to also visit Tibet to interact with the leading local Tibetan officials. The visit of my envoys last September to Beijing provided the opportunities to explain to the Chinese leadership our views on the issue of Tibet. I was encouraged that the exchanges of views were friendly and meaningful.

I had instructed my envoys to make every effort to pursue a course of dialogue with the leadership in Beijing and to seize every opportunity to dispel existing misunderstandings and misconceptions in Beijing about our views and positions. This is the only sensible, intelligent and human way to resolve differences and establish understanding. It will not be an easy task nor can

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

it be accomplished within a short period of time. However, it provides the Tibetan and Chinese peoples a unique and crucial opportunity to put behind them decades of bitterness, distrust and resentment and to form a new relationship based on equality, friendship and mutual benefit.

Successive Chinese leaders have acknowledged and promised to respect with understanding and tolerance Tibet's distinct culture, history and identity. In reality, whenever Tibetans demonstrate allegiance and concern for their own people the Chinese authorities resort to their usual "policy of merciless repression", whereby they are labelled as "splittists" and as a result arrested and imprisoned. They have no opportunity to speak out the truth. The recent execution of Lobsang Dhondup and the death sentence given to Tulku Tenzin Delek without due process of law are clear examples of this policy, which cannot resolve the problem and therefore must be changed.

It is my sincere hope that the Chinese leadership will find the courage, vision and wisdom for new openings to solve the Tibetan issue through dialogue. Looking around the world we cannot fail to notice how unattended conflicts with ethnic roots can erupt in ways that make them extremely difficult to solve. It is, therefore, in the interest of the People's Republic of China to address such issues. A new creative initiative to resolve the issue of Tibet would serve as a very convincing sign that China is changing, maturing and becoming more receptive to assuming a greater role on the global stage as a reliable and forward-looking power. A constructive approach to the issue of Tibet provides important opportunities to create a political climate of trust, confidence and openness, both domestically and internationally. Such an expression of Chinese leadership during this time of deep anxiety over international conflicts, terrorism and ethnic strife in the world will go a long way to impressing and reassuring the world.

It is necessary to recognize that the Tibetan freedom struggle is not about my personal position or well being. As early as in 1969 I made it clear that it is up to the Tibetan people to decide whether the centuries-old institution of the Dalai Lama should continue or not. In 1992 in a formal announcement I stated clearly that when we return to Tibet with a certain degree of freedom. I would not hold any office in the Tibetan government nor any other political position. However, as I often state, till my last day I will remain committed to the promotion of human values and religious harmony, I also announced then that the Tibetan Administration-in-Exile should be dissolved and that the Tibetans in Tibet must shoulder the main responsibility of running the Tibetan government. I have always believed that in the future Tibet should follow a secular and democratic system of governance. It is, therefore, baseless to allege that our efforts are aimed at the restoration of Tibet's old social system. No Tibetan, whether in exile or in Tibet, has any desire to restore old Tibet's outdated social order. On the contrary, the democratisation of the Tibetan community started soon upon our arrival in exile. This culminated in the direct election of our political leadership in 2001. We are committed to continue to take vigorous actions to further promote democratic values among the ordinary Tibetans.

As far back as the early seventies in consultation with senior Tibetan officials I made a decision to seek a solution to the Tibetan problem through a "Middle Way Approach". This framework does not call for independence and separation of Tibet. At the same time it provides genuine autonomy for the six million men and women who consider themselves Tibetans to preserve their distinctive identity, to promote their religious and cultural heritage that is based on a centuries-old philosophy which is of benefit even in the 21st century, and to protect the delicate environment of the Tibetan plateau. This approach will contribute to the overall stability and unity of the People's Republic of China. I remain committed to this realistic and pragmatic approach and will continue to make every effort to reach a mutually acceptable solution.

The reality today is that we are all interdependent and we have to co-exist on this small planet. Therefore, the only sensible and intelligent way of resolving differences, whether between individuals, peoples or nations, is through a political culture of nonviolence and dialogue. Since our struggle is based on truth, justice and non-violence and is not directed against China, we have been fortunate to receive increasing worldwide sympathy and support, including from amongst the Chinese. I express my appreciation and gratitude for this consistent solidarity. I would also like to express once again on behalf of the Tibetans our appreciation and immense gratitude to the. people and the Government of India for their unwavering and unmatched generosity and support.

With my homage to the brave men and women of Tibet who have died for the cause of our freedom, I pray for an early end to the suffering of our people.

THE DALAI LAMA.

## HOUSE RESOLUTION 342, THE MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in great support of H.R. 342, the Mosquito Abatement for Safety and Health Act.

Mr. Speaker, mosquito-borne diseases are increasingly plaguing the United States. According to the Centers for Disease Control and Prevention (CDC), last year alone there were more than 5,000 people infected with mosquito borne-illnesses such as Dengue Fever and the West Nile virus.

As a member of Congress, I am greatly concerned with the West Nile virus' rapid spread nationwide. Out of my concern for the victims of West Nile virus and other mosquito borne diseases, I not only cosigned legislation and letters seeking grants and research dollars to combat this deadly virus, but I also wrote a letter to Dr. Julie Gerderding, the CDC's director. In the letter, I expressed the importance of the CDC, the NIH, and Congress to work cooperatively to communicate the concerns and resolutions in combating these deadly viruses.

Considering West Nile virus is prevalent during the summer and early fall, it is imperative that the necessary steps are taken in the virus's prevention and vaccination before the onset of the next summer season. Mr. Speaker, I believe H.R. 342, the Mosquito Abatement for Safety and Health (MASH) Act, would do exactly that.

Essentially, H.R. 342 would establish two temporary grant programs to help state and local governments assess mosquito problems, and coordinate and operate mosquito control programs. This measure would also authorize $100 million in FY2003, and such sums as necessary each subsequent year through FY 2007, for these grants.

While Florida was not as severely affected as Illinois or Michigan last year by the West Nile virus, Florida certainly has the propensity to be dramatically affected by this virus due to its annual warm climate. The increasing growth of outbreaks and spread of West Nile virus each year qualifies it as a public health threat that is likely to be with us for years to come. Addressing the problem now through H.R. 342 will provide benefits in the future, and most importantly save lives.

Mr. Speaker, I urge my colleagues to support the M.A.S.H. Act.

## INTRODUCTION OF THE MOURNING DOVE HARVEST ACT

### HON. C. L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. OTTER. Mr. Speaker, I rise before the House today to reintroduce the Mourning Dove Harvest Act, a bill that will give individuals who reside in all states a fair and equal opportunity to hunt mourning doves.

Hunters in states north of the 37th parallel often find that mourning doves already have migrated south for the winter by the time hunting season opens on September 1st. It is not uncommon for the fall hunting season to last less than one week or even one day in such northern states as Idaho, Montana and Washington. Many sportsmen unable to follow this migration are left without a hunting opportunity. States south of the 37th parallel, meanwhile, have a full season and ample opportunity to harvest these birds. Hunters in Mexico have the additional advantage of no harvest limits. Passage of this bill is the first step toward creating a season that will give residents of northern states an equal opportunity.

The designated hunting season for mourning doves that begins September 1st and ends March 10th is the result of the Migratory Bird Treaty Act of 1918, which in turn stems from the Migratory Bird Treaty of 1916. The Treaty signed by the United States, Canada, Mexico, Great Britain, Japan and Russia covers a multitude of migratory birds, including mourning doves. There is little legislative history justifying the selection of this fall opening date, and migration routes, hunting practices and conservation efforts have changed significantly in the 86 years since the Treaty's ratification. The last week in August has been identified as a period when these birds are not nesting, but are preparing for their annual southern migration.

Passage of this bill will allow hunters in states north of the 37th parallel to hunt mourning doves seven days earlier—during a time when their migration south is about to begin. Hunters in the north will be on a more equal footing with their counterparts in the south.

Scientists have found that regulated hunting has no significant effect on the mourning dove population.

This legislation amends the Migratory Bird Treaty Act of 1918 and asks the Secretary of State to begin discussions with the signatories of the Migratory Bird Treaty to include this change in the Treaty.

It is important to note that (1) this legislation offers hunters in the north a more equal opportunity to harvest mourning doves; (2) the morning dove is the most widely distributed and harvested game bird in North America; (3) in states north of the 37th parallel, mourning doves often begin their southern migration prior to September 1st, the opening day of the hunting season; (4) this change will not impact the mourning dove population.

After exhaustive studies, analysis and discussion of this issue, the time to pass this measure is now. In the name of equitable access to this resource, I urge the passage of this bill.

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## RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2003 VALOR AWARD RECIPIENTS

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize an extraordinary group of men and women in Northern Virginia. Each year, the Fairfax County Chamber of Commerce, along with the Fairfax County Board of Supervisors, recognizes public safety officials who have courageously demonstrated selfless dedication to public safety. These individuals are honored with the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several Valor Awards that a public safety officer can be given: The Lifesaving Award, a Certificate of Valor, or a Gold, Silver, or Bronze Medal of Valor. During the 25th Annual Awards Ceremony, 88 men and women from the Office of the Sheriff, Fire and Rescue Department, and Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that I enter into the RECORD the names of the recipients of the 2003 Valor Award in the Fairfax County Fire and Rescue Department. Receiving the Lifesaving Award: Captain John Hart, Shift Supervisor Roy B. Shrout III, Asst. Shift Supervisor Tammy Read, Psc.III Judith Lassiter, Psc.III Susan Farria, Psc.III Alicia Dale, Lieutenant Joseph Palau, Firefighter Juan C. Ayala, Technician Gregory W. Hunter, Technician David H. Gilmore, Technician Bryan J. Nix, and Technician James H. Williams; Certificate of Valor: Senior Building Inspector Michael A. Andreano, and Firefighter James M. Furman; Silver Medal of Valor: Lieutenant Wayne B. Stottlemyer, and Technician Ronald S. Pifer; Bronze Medal of Valor: Master Technician John C. Mayers.

Mr. Speaker, in closing, I would like to take this opportunity to thank all the men and women who serve the Fairfax County Fire and Rescue Department. The events of September 11th served as a reminder of the sacrifices our emergency service workers make for us everyday. Their constant efforts on behalf of Fairfax County citizens are paramount to preserving security, law and order throughout our neighborhoods, and their individual and collective acts of heroism deserve our highest praise. I ask that my colleagues join me in congratulating this group of extraordinary citizens.

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## INTRODUCTION OF THE MEDICARE Rx DRUG BENEFIT AND DISCOUNT ACT

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. RANGEL. Mr. Speaker, today, I am proud to introduce the Medicare Rx Drug Benefit and Discount Act with JOHN DINGELL, the Dean of the House and Ranking Member of the Energy and Commerce Committee. Our Ranking Member on the Ways and Means Health Subcommittee, PETE STARK, has had a leadership role in the development of this legislation, as have so many other health care leaders in our caucus.

This legislation makes good on our promise to add affordable, comprehensive prescription drug coverage to Medicare.

The Democratic bill will look, smell, taste, and feel like any other Medicare benefit, because it is a Medicare benefit. Beneficiaries will not be forced to join an HMO or other private insurer to get the prescription drugs they need.

Under this legislation, every beneficiary will be guaranteed a $25 monthly premium, $100 annual deductible, 20 percent coinsurance and $2000 out-of-pocket limit, no matter where they live.

We provide additional assistance for low-income beneficiaries. Those with incomes up to 150 percent of the poverty level ($13,470 for one person) will pay nothing.

Those with incomes between 150–175 percent of poverty ($13,470–$15,715 for a single person) will pay premiums on a sliding scale with no additional cost-sharing.

The Medicare Rx Drug Benefit and Discount Act would: lower prescription drug costs for all Americans, regardless of whether they are covered by Medicare, give all Medicare beneficiaries the option of a reasonably-priced guaranteed prescription benefit under Medicare, and ensure that senior citizens and people with disabilities receive coverage for the drug their doctor prescribes and not some substitute that an insurance company deems "equivalent."

Unlike the President's and other Republicans' proposal, our plan would never force seniors into an HMO or similar private plan in order to get a prescription drug benefit.

Republicans claim they will give seniors a "Medicare" prescription drug benefit, but their proposals are really just a way to provide subsidies to insurance plans and HMOs, not to help beneficiaries.

Republicans claim they will give beneficiaries choices, but their proposals really leave virtually all of the important decisions to the private insurance companies. Under the GOP plan, private insurers will decide which drugs are covered and which are not. If your drug is not on the list, too bad. Millions of seniors will not be able to afford their prescriptions under the GOP plan. Under the GOP plan, private insurers can pick and choose which pharmacies to include in their networks. If your neighborhood pharmacy is not on the preferred list, you are out of luck.

The bottom line is that those who can buy insurance under the GOP plan may find their choice of pharmacies severely limited or that they cannot get coverage for the drugs prescribed by their doctor.

Ultimately, there is only one choice the President and other Republicans want to force seniors to make—the choice of either their family doctor or their life-saving medicines. Under the GOP plan, seniors in search of even modest drug benefits would have to leave the traditional Medicare program—where they have the choice of any doctor they want—and join an HMO or other private insurer that may or may not cover their family doctor.

Many HMOs and private insurers have unfairly limited health care in the past. That's what the Patients' Bill of Rights debate has been about. They've been unreliable partners in Medicare to date; just look at the problems in the Medicare+Choice program. And now the Republicans want to put them in charge of this medication benefit under their "privatization" model.

Republican leaders have never liked Medicare. Former Speaker Gingrich once said Medicare would "wither on the vine because we think people are voluntarily going to leave it." In 1995, Dick Armey called Medicare: "a program I would have no part of in a free world."

Republican proposals lay the groundwork for them to make good on their desire to do away with the program. The Republican prescription drug plan is the first step towards privatizing Medicare. They would force seniors to deal with private insurance companies instead of having the choice of getting prescriptions through Medicare. They would also institute so-called "modernizations" that would significantly raise the premiums of beneficiaries who wish to stay in the traditional Medicare program.

In contrast, we base our plan—not on a flawed privatization model—but on the successful Medicare program. We offer a genuine Medicare plan, providing affordable voluntary drug coverage to all American seniors through Medicare.

Under this legislation, no senior will ever have to choose between putting food on the table or paying the rent or getting the medicines they need.

This legislation also helps reduce the skyrocketing costs that seniors and other beneficiaries currently pay for prescription drugs by utilizing the collective negotiating power of Medicare's 40 million beneficiaries to guarantee lower drug prices. By closing some loopholes in current law that prevent or delay generic drugs from coming to market, this legislation also reduces drug prices for all Americans.

While our Republican colleagues are engaged in a cynical political exercise designed to bring themselves political cover, we offer serious legislation. It would bring senior citizens Medicare prescription drug coverage.

When President Harry Truman first proposed Medicare in his second term, a wide array of Republican forces were against him saying he could not do it. Truman said: "We may not make it [now], but someday we will." Eventually, Truman and other Medicare advocates succeeded. Harry and Bess Truman became the first Medicare enrollees in 1965.

The Republican leadership may prevent us from passing a true Medicare prescription drug benefit now, but they cannot stop us in the long run because that is what seniors and all Americans have said they really want.

As PETE STARK points out, prescription drug coverage is as essential to seniors' good health in the 21st century as coverage of doctor visits and hospital stays was in the 20th century.

If you want to see the real difference between Democrats and Republicans, look at Medicare prescription drug coverage. While Republicans protect the pharmaceutical industry's profits, Democrats protect seniors from skyrocketing prescription drug costs. I urge my colleagues to look at the fine print, and to vote for this legislation when the opportunity arises.

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## INTRODUCTION OF THE CHILD MEDICATION SAFETY ACT OF 2003

### HON. MAX BURNS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. BURNS. Mr. Speaker, today I am pleased to introduce the Child Medication Safety Act of 2003. This legislation will address a significant problem facing children and their parents throughout the nation and provide parents with protections from being forced into making decisions about their child's health under duress.

Last year, the House Government Reform Committee held a hearing exploring an issue that should shock all of us. Witnesses at this hearing testified that some school officials have taken it upon themselves to decide that a child needs to be placed on psychotropic drugs. These school officials are not licensed medical practitioners, and yet they have felt comfortable telling parents that their child must be on a psychotropic drug or their child would not be allowed to attend school any longer.

This is unconscionable.

No parent should ever be coerced by a teacher or principal or other school official to place their child on a psychotropic drug. No child should ever face the denial of educational services only because they are not taking a psychotropic drug.

What are these psychotropic drugs? Ritalin, Adderall, and others are drugs that, when carefully prescribed by a licensed medical practitioner and carefully monitored in the administration, can help an individual with attention deficit disorder (ADD) or attention deficit-hyperactivity disorder (ADHD) control the symptoms of their disease so that they can function. These can be miracle drugs for many people, and when properly diagnosed and properly administered, many people benefit greatly from these drugs.

But psychotropic drugs also have a dark side. These drugs are listed on Schedule II of the Controlled Substances Act. Drugs are placed on Schedule II when: "(A) The drug or other substance has a high potential for abuse, (B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; or (C) Abuse of the drug or other substances may lead to severe psychological or physical dependence."

Why are parents being forced by some schools to place their child on a drug that "may lead to severe psychological or physical dependence?" These are drugs that have a high potential for abuse. These are drugs that the DEA says have a high diversion rate. This is unreal.

Teachers, principals, or other school personnel may mean well, and may think that they are doing the right thing, but most are not trained medical personnel and have absolutely no business forcing a parent to choose between their child's education and the potential harm of these drugs.

Now I do not want to demonize these drugs. When a licensed medical practitioner properly diagnoses a child as needing these drugs, the administration of these drugs may be entirely appropriate and very beneficial. But these decisions must be made without coercion or threat of the denial of education.

This Act has a simple message: states that take federal education funds must prevent school district personnel, teachers, principals, and other non-licensed medical professionals, from forcing a child to be on psychotropic drugs in order to attend school or receive services.

This is a common sense piece of legislation, and I strongly encourage my colleagues to support this bill.

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## THE PRESIDENT'S COMMISSION ON THE UNITED STATES POSTAL SERVICE

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. CUMMINGS. Mr. Speaker, I would like to insert into the RECORD a letter from the Congressional Black Caucus (CBC) sent to Mr. Dennis Shea, Executive Director of the President's Commission on the United States Postal Service (Commission). The President's nine-member bipartisan Commission was established to identify the operational, structural, and financial challenges facing the Postal Service; examine potential solutions; and recommend legislative and administrative steps to ensure the long-term viability of postal service in the United States. The Commission will submit its report to the President by July 31, 2003.

The letter outlines concerns the CBC and many of its constituents have with issues before the Commission. The CBC believes that:

First, before we change the United States Postal Service to accommodate modern technologies (Internet, electronic transfers, electronic bill payments), it is important to bear in mind that millions of Americans do not have the access or ability to use these services, especially those who are economically disadvantaged, and older Americans;

Second, considering the possibility of the privatization of the United States Postal Service, it seems clear that small rural and inner city markets will not support private business, thus leading to a reduction in the level of services and the ability of people living in these markets to communicate; and

Lastly, drastic change to the structure of the United States Postal Service also has the potential of reducing employment opportunities for veterans (who enjoy preferential employment) and groups under-represented in private industry (women and people of color).

Thus, any effort to dismantle the United States Postal Service could serve to negatively impact those populations traditionally marginalized in our country. I urge the Commission to look into the concerns outlined in the CBC's letter. I urge the President to carefully consider the Commission's recommendations in light of these concerns.

CONGRESSIONAL BLACK CAUCUS,
*Washington, DC, February 21, 2003.*

Mr. DENNIS SHEA,
*Executive Director, President's Commission on the U.S. Postal Service, Washington, DC.*

DEAR MR. SHEA: On behalf of the Congressional Black Caucus, we respectfully submit the following comments regarding the extremely important issues before the Commission on the United States Postal Service.

President Bush established the Commission on the United States Postal Service on the premise that modern telecommunications, the Internet, electronic transfers and electronic bill paying may justify or require changes in the Postal Service. However, millions of Americans, especially those who are economically disadvantaged and older Americans, do not have access to these means of communication. For them, the Postal Service continues to provide the only practical and available means of communication and commerce. Any change to the Postal Service that would affect the continued availability of universal mail service at uniform rates would threaten to further erode their economic security.

Some advocates of changes in the Postal Service also advocate privatization of the Postal Service. That movement, too, is based on the false premise that we may be able to dispense with the provision of universal service. For Americans in our rural areas and for many in our inner cities, a profit motive cannot support provision of essential services. This has always been and must remain the responsibility of our government. It is essential that there remain a universal postal system that spreads the cost of maintaining universal service among all those who use it. Any change that would favor the efficiency of private markets over the public interest in communications among all Americans would further isolate Americans who are already disadvantaged by economic circumstance or geographical location. We urge you not to support any policy that might permit that to happen.

We also want to caution against any change that would undermine the economic security of postal employees. In the Postal Reorganization Act of 1970, Congress recognized that employees of the former Post Office Department of the federal government were severely underpaid and labored in very unfavorable working conditions. In that Act, Congress improved postal wages and provided for free collective bargaining by unions representing postal employees. That system has worked very well. In the more than thirty years since Congress authorized the last wage increase for postal employees, postal wages have kept pace with inflation, and there has been no major work stoppage of the sort that disrupted postal services in 1970.

The Postal Service employs hundreds of thousands of women, African-Americans and other racial minorities. For many of these postal employees, the fact that the Postal Service provides a living wage and adequate fringe benefits, regardless of race or gender, has been critically important. This is in contrast to the private sector of our economy, where there remains an unfortunate disparity between the employment opportunities and compensation available to white males and the opportunities and compensation available to women and racial minorities. Therefore, any effort to dismantle the Postal Service would be a regressive step, contrary to our national effort to provide equal employment opportunities for women and racial minorities.

In the same vein, we are mindful of the large number of veterans employed by the Postal Service. Our promises and commitment to these veterans must not be forgotten or diminished. In their military service, and in their postal service, these veterans have served their country. It is necessary and appropriate that we continue to recognize their sacrifices by providing them preferential employment opportunities in government positions, including positions in the Postal Service.

Thank you for your careful consideration of our comments.

Sincerely,

ELIJAH E. CUMMINGS,
*Chair, CBC.*
DANNY K. DAVIS,
*Ranking Member, Special Committee on Postal Services.*

## INTRODUCTION OF THE MEDICARE Rx DRUG BENEFIT AND DISCOUNT ACT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. STARK. Mr. Speaker, today, House Democrats answer the public's call for a real Medicare prescription drug benefit.

The Medicare Prescription Drug Benefit and Discount Act is an entitlement that will guarantee affordable, comprehensive prescription drug coverage to all senior citizens and individuals with disabilities who are on Medicare.

The benefit in this legislation is simple. It has no gaps, and no gimmicks. Beneficiaries will pay a $25 monthly premium, have a $100 per year deductible, and pay 20 percent co-insurance up to a $2000 out-of-pocket limit. After a beneficiary spends $2000, Medicare pays for all other needed prescription drugs. Under this legislation, a beneficiary will never pay more than $2000 for prescription drugs in a year, and most beneficiaries will pay far less.

This legislation provides additional assistance to those with lower incomes. Beneficiaries whose incomes are under 150 percent of poverty will pay no premiums and no cost-sharing. Those with incomes between 150–175 percent of poverty will receive premium subsidies on a sliding scale basis and pay no cost-sharing. Unlike the House-passed Republican bill from last year, there is no hidden hatchet to deny benefits to low-income seniors who have modest assets.

These Medicare benefits will be guaranteed for everyone on Medicare, regardless of where they live and regardless of whether they are in the traditional Medicare program or a private plan. No senior will be forced to leave Medicare for a private plan in order to receive meaningful prescription drug coverage.

This legislation also tackles one of the biggest problems facing seniors, the uninsured, and all Americans: astronomical prescription drug prices. This bill will reduce Medicare prescription drug costs by using the market clout of 40 million Medicare beneficiaries to negotiate lower prices. It will also reduce prescription drug costs for all Americans by closing loopholes in current law that allow pharmaceutical companies to game the patent system and prevent competition from equally effective, but lower cost, generic drugs.

The Medicare Prescription Drug Benefit and Discount Act will guarantee the choices that matter. Under our plan, Medicare will pay toward the cost of every prescription drug, not just those for which a private insurance company cut a special deal with a drug maker. Seniors will be covered for any drug their doctor prescribes. And, under our plan, every pharmacy that is willing to play by the rules will be welcome to participate. Seniors will be able to go to the pharmacy of their choice.

And, importantly, unlike the President's plan and the Congressional Republicans' plan, our plan will never force elderly or disabled Americans to give up traditional Medicare in order to get a prescription drug benefit. Beneficiaries will be free to choose between the traditional Medicare program and private plans. But it will be a real choice, not coerced through the lure of a more generous prescription drug benefit.

The prescription drug coverage in the Democratic bill will seem just like any other Medicare benefit, because it is a Medicare benefit.

Don't be fooled by Republican rhetoric. They like to talk about choices, but in the end their proposals all boil down to one choice for seniors—choose either the doctor you know and trust or the medicines you know you need. This is not a choice that anyone should have to make.

The Administration claims to offer seniors the same choices that Members of Congress and federal employees get through the Federal Employees Health Benefits Program (FEHBP). Again, this is nothing more than hyperbole. Almost all Members of Congress, and most federal employees, are in the Blue Cross Standard Option plan in FEHBP. That plan offers a drug benefit with no deductible, a 25 percent copayment, and a $4000 cap on all medical spending per. year. No Republican has come forth with a comparable Medicare prescription drug benefit. Our bill does just that.

The Republicans' goal is simple: they are using the promise of a prescription drug benefit to attempt to privatize Medicare. No matter how you measure it, beneficiaries will pay more and get less under the Republican plan. At the same time, they are doling out hundreds of billions of dollars in federal tax dollar giveaways to their friends in the insurance and pharmaceutical industries.

Our legislation will not be cheap. But none of us question the cost of covering doctor visits and hospital stays under Medicare today. I would argue that prescription drug coverage is as essential to good health care in the 21st century as physician and hospital care was in the 20th century when Medicare was created.

The President has committed $400 billion to a Medicare drug benefit and so-called Medicare reform. On top of that, he's committed $726 billion to an economic stimulus plan that includes dividend cuts and speeding up tax breaks for the very richest among us. No one believes that this tax cut will provide real economic stimulus. If he would simply reduce its size, we could rededicate those funds to improving Medicare. That is a much more important priority for our nation than more tax cuts for those who need them least.

Unfortunately, it is not the goal of Republicans to create an affordable, meaningful prescription drug benefit in Medicare that works for all our Medicare beneficiaries of today and tomorrow. Instead, their prescription drug proposals are designed simply to provide political cover for the President and Republican Members of Congress—and to allow them to privatize Medicare so that the federal government's expenses are protected rather than protecting the expenses of seniors and people with disabilities.

Our bill meets the needs of the 40 million Americans who depend on Medicare. That's why the leading beneficiary organizations support this legislation. This is the drug benefit America's seniors and people with disabilities need and deserve. I urge my colleagues to join us in support of a real Medicare drug benefit by pushing for passage of the Medicare Rx Drug Benefit and Discount Act this year.

## IN OBSERVANCE OF TIBETAN UPRISING DAY

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Ms. PELOSI. Ms. Speaker, I rise in honor of Tibetan Uprising Day. Yesterday, Human Rights Watch reported that two Tibetan businessmen have been detained by Chinese authorities, apparently on suspicion of leaking information on the torture and trial of other Tibetan activists. It was an important reminder of the continued need to speak out against human rights abuses by the Chinese government. The following is my statement in observance of Tibetan Uprising Day that was read yesterday in Washington, D.C. and San Francisco:

Thank you to Bay Area Friends of Tibet and other Bay Area Tibet Support Groups for organizing this special observance of Tibetan Uprising Day. I am proud to represent a district where protecting human rights is a top priority.

Today we honor the courage and determination of those who stood against the Chinese Government's brutal oppression of the Tibetan People during the Lhasa Uprising 44 years ago. We also pay tribute to the thousands of Tibetans who have sacrificed and died opposing Chinese occupation, as well as all Tibetans who have suffered human rights abuses due to their religious, political or cultural beliefs or activities.

I am deeply concerned about the Chinese government's continued repression of the Tibetan people. The PRC continues to commit horrible human rights abuses, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views.

Two weeks ago, 78 of my colleagues in Congress and I wrote to Vice President Hu condemning the execution of Mr. Lobsang Dhondup. We also strongly urged him to commute the sentences of Tenzin Delek Rinpoche and Tserang Dondrup, and to release the others currently being held in connection with this case. These individuals were held incommunicado and suffered torture, and their trials were conducted under highly restrictive conditions and without counsel of their choosing.

The Chinese government denied all requests by the U.S. Consulate in Chengdu to observe these legal proceedings that reportedly did not meet United Nations' minimum standards of due process. Such abuses of judicial processes and disingenuous actions on the part of the Chinese Government are not conducive to good U.S.-China relations.

The plight of the Tibetan people is a challenge to the global conscience. Because of our unique position in the world, the U.S. has a special opportunity and responsibility to promote the values of liberty, equality, and human rights that we hold dear. If the U.S. government is serious about helping the Tibetan people, it must promote negotiations between the government of China and His Holiness the Dalai Lama and make self-determination for Tibetans a priority in the U.S.-China relationship.

Thank you for your continued activism for the people of Tibet. Your actions, words and prayers will move mountains. Please be assured I will continue to support the aspirations of the Tibetan people to preserve their heritage and regain their freedom.

## MOMENT OF QUIET REFLECTION IN SCHOOLS ACT

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SCOTT of Georgia. Mr. Speaker, thank you for the opportunity to discuss legislation that I am introducing today that would establish a moment of quiet reflection in our public schools. I am pleased to be joined by Representatives MCINTYRE, TANNER, SHIMKUS, STENHOLM, LIPINSKI, FROST, LUCAS of Kentucky, MEEK, PEARCE, ISAKSON, RENZI, BORDALLO, and BISHOP of Georgia as cosponsors of my legislation.

My legislation will provide for a period of quiet reflection at the opening of school on every school day. In today's hectic society, all too few of the country's citizens are able to experience a moment of quiet reflection before plunging headlong into the day's activities. The country's young citizens are particularly affected by this absence of an opportunity for a moment of quiet reflection. Therefore, the nation's youth, and society as a whole, would be well served if students were afforded a moment of quiet reflection at the beginning of each day in the public schools.

In Georgia, I observed that after several killings on school campuses around the country, students came together to have a moment of quiet reflection. Noting that this moment of silence seemed to be beneficial and calming, I believe that providing students with an opportunity for quiet introspection at the beginning of each school day would help to combat violence among our students. Similar legislation in Georgia has been upheld by the United States Court of Appeals for the Eleventh Circuit which ruled that a moment of quiet reflection does not violate the Establishment Clause of the U.S. Constitution.

On February 7, 2003, the U.S. Department of Education issued guidance on constitutionally protected prayer in public elementary and secondary schools. The Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools clarifies that as a condition of receiving Elementary and Secondary Education Act funds, state and local school agencies must certify that if a school has a "minute of silence" that students are free to pray silently, or not to pray, during these periods of time. Therefore, I urge my colleagues to support this legislation providing a moment of quiet reflection at the beginning of each school day.

## HONORING MRS. ROSEMARY PACE

### HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. WHITFIELD. Mr. Speaker, I rise to honor the late Mrs. Rosemary Pace of Hopkinsville, Kentucky. Mrs. Pace passed away on March 5, 2003. Mrs. Pace was a community leader and an outstanding citizen.

Mrs. Pace was a native of Elmhurst, Illinois. She was born on November 14, 1914. Throughout her lifetime, she touched the lives of many with her civic involvement. She was a home economics teacher at Bethel College in Hopkinsville and taught at the Fort Campbell Independent Schools for 18 years.

After retirement, Mrs. Pace continued to serve her community in many ways. She was a board member of the Senior Citizens Center, president and vice president of the Christian County Retired Teachers Association, president and vice president of the Christian County Chapter of the National Association of Retired Federal Employees, president of the Christian County Homemakers Association, secretary and treasurer of the Christian County Extension Council, board member of the Kentucky Farm Bureau, and a volunteer teacher at Holiday Elementary School.

Mrs. Pace also organized and distributed food commodities for Pennyrile Allied Services. She served as president and vice president of the St. Elmo Homemakers, and she was president of the Hunting Creek Homemakers. These are only some of her many community service activities.

Mrs. Pace was a strong believer in education. She founded the Family Career and Community Leaders (FHA) Rosemary M. Pace Region II Scholarship fund. She was a member of Delta Kappa Gamma Society, International.

Mrs. Pace spent countless hours establishing and promoting the Farmers Market in Hopkinsville. She received numerous awards and honors for her outstanding volunteer work in the community and the state. She epitomized the word volunteer and her service to the community will always be held as an example to others.

Mrs. Pace was known in the community for her trademark hats. Rarely was she seen in public without a beautiful red hat. She was a truly exceptional citizen.

Mr. Speaker, I am proud to call attention to the selfless acts of Rosemary M. Pace for all her efforts on behalf of so many, and I am honored to bring her accomplishments to the attention of this House.

## SUPPORT THE MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of H.R. 342, the Mosquito Abatement for Safety and Health Act. This is a particularly important issue in my state of Illinois and for my district, both of which have been disproportionately impacted by West Nile Virus—more so than almost any other part of the country.

The latest survey shows that Illinois is suffering the highest numbers of human cases of West Nile in the country, 877 cases and 62 deaths. Over 630 cases of these cases were in Suburban Cook County and the Greater Chicago area, leading to 37 deaths. Compared with nationwide data, these numbers reveal an uncommonly high outbreak ratio in the Chicago Metro region.

H.R. 342, the Mosquito Abatement for Safety and Health Act will help Illinois and other states across the nation prevent any more outbreaks from occurring. Among other things, the act will provide grants to states to help them coordinate mosquito control programs to prevent and control mosquito-borne diseases. The bill also directs the Secretary of Health and Human Services to provide training and technical assistance to states and localities for the planning, development, and operation of assessments and plans regarding control programs. We cannot afford to lose more lives to West Nile Virus. I urge my colleagues to support H.R. 342.

## H.R. 5—EFFICIENT ACCESSIBLE LOW-COST TIMELY HEALTH CARE

### HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. LINDER. Mr. Speaker, the President stated that to prove our health care system we must address excessive lawsuits—a prime cause of high health care costs to improve our health care system—excessive lawsuits. In a recent survey of Georgia doctors, approximately 18 percent expect to stop providing high-risk procedures to limit their liability risk. Nearly 33 percent of obstetrician/gynecologists and 20 percent of family practitioners said they will abandon high-risk procedures, such as delivering babies. More than 11 percent will stop providing emergency room services to reduce liability risk. Rising medical malpractice insurance rates are making it difficult for doctors to continue the life-saving work they love. We all want high quality, affordable health care and we all want to maintain an American system of medicine that serves as the model of proficiency and innovation. But our doctors and hospitals are being wrongly sued, we're paying more to receive quality care, and we are losing quality doctors. I urge my colleagues to pass medical liability reform.

## PERSONAL EXPLANATION

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. MCINTYRE. Mr. Speaker, on Thursday, February 27, 2003, my father underwent surgery and thus I was unavoidably absent for rollcall vote 39. Had I been present I would have voted "yea" on rollcall vote 39.

## AN OPEN LETTER TO FCC CHAIRMAN MICHAEL POWELL REGARDING THE CONSOLIDATION OF OWNERSHIP OF AMERICAN MEDIA

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SANDERS. Mr. Speaker, I am enclosing a letter that I recently wrote to Michael Powell, Chairman of the FCC, regarding the growing consolidation of media ownership in America. This letter is especially relevant today as the FCC is now in the process of eliminating the few remaining regulations which would stop further consolidation of the industry.

FEBRUARY 27, 2003.

DEAR CHAIRMAN POWELL, let's be clear. One of the great crises facing this country is that a handful of huge corporations control the flow of information. Whether it is television, radio, newspapers, magazines, books or the Internet, fewer and fewer giant conglomerates are determining what we see, hear and read. Unless we stop this trend and create a media with much broader ownership and diversity of opinion, it is not certain that democracy will survive in this country. This is a major, major concern that must be dealt with immediately. I fear very much that if we continue down the path we're on, we will end up like the former Soviet Union—a nation where there were many different news outlets, but all were controlled by the same entity. The difference is that in this country it will be multi-national corporations who control the media, and not the government.

Let me express my outrage that the FCC has chosen to have only one public hearing on what is one of the most important issues facing Americans today. Before any decisions are made regarding deregulation and increased corporate control over the media, the FCC must hear from the American people. In my view, the FCC should hold at least twenty meetings across the country to hear directly what ordinary the people have to say. Having held two town meetings in the state of Vermont on the issue of media consolidation, I can tell you first hand that the people of this country want to be heard on this issue. In Vermont, at the two public meetings that we held, over 600 people came out. I guarantee that you will have huge audiences all over the country and, let me take this opportunity to invite you to Vermont. Please do not make a decision without input from the people. Given what goes on in Washington it may be hard to believe, but there are opinions in this country which do not necessarily agree with Rupert Murdoch, General Electric, the Disney Corporation.and other large campaign contributors.

Why do we want more de-regulation and more concentration of ownership in the media. We should be moving in the other direction—less concentration, more diverse ownership and more points of view. Television is the means by which most Americans get their "news." Without exception, every major network is owned by a huge conglomerate that has enormous conflicts of interest. Fox News Channel is owned by Rupert Murdoch, a right-wing billionaire who already owns a significant portion of the world's media. His network has close ties to the Republican Party, and among his "fair and balanced" commentators is Newt Gingrich.

NBC is owned by General Electric, one of the largest corporations in the world and a company with enormous conflicts of interest. GE has a long history of anti-union activity. It has substantial interests in weapons manufacturing, finance, nuclear power and many other industries. It has vital concerns about our trade policy as they have been one of the leaders in shutting down American plants and moving them to low-wage countries like China and Mexico. GE is also an important contributor to the Republican Party.

ABC is owned by the Disney Corp., which produces toys and products in developing countries where they provide their workers atrocious wages and working conditions. CBS is owned by Viacom, another huge media conglomerate that owns, among other entities, MTV, Showtime, Nickelodeon, VHI, TNN, CMT, 39 broadcast television stations, 184 radio stations, Paramount Pictures and Blockbuster Inc.

The essential problem with television is not just a right-wing corporate bias in news and programming, or the transformation of politics and government into entertainment and sensationalism. Nor is it just the constant bombardment of advertising, much of it directed at children. It's that the most important issues facing the middle-class and working people of our country are rarely discussed. The average American watches dozens of hours a week of television, but to a very significant degree does not see his or her reality reflected on the screen.

In my strong opinion what the people of this country see, hear and read should not be controlled by a handful of multi-national conglomerates. More concentration of ownership in the media industry would be a disaster for this country. Stop the deregulation, and begin hearings on how we can have more diverse ownership and more divergent viewpoints on the public airwaves. Democracy is too precious to be given over to corporations interested only in growing bigger and more profitable. The airwaves and cable-ways belong to the people, and the interests of the people should be served.

Thank you for your consideration.

Sincerely,

BERNARD SANDERS,
*U.S. Congressman.*

## INTRODUCTORY STATEMENT FOR H.R. 1212 VETERANS' EDUCATION AFFORDABILITY ACT

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SMITH of New Jersey. Mr. Speaker, Mr. EVANS, Mr. BROWN of South Carolina, Mr. RODRIGUEZ, and Mr. MICHAUD join me in introducing H.R. 1212, the Veterans' Education Affordability Act, to increase the Montgomery GI Bill (MGIB) monthly educational assistance allowance to $1,200 for full-time students and repeal the $1,200 pay reduction for MGIB eligibility.

The original World War II GI Bill exceeded all expectations and had enormous benefits beyond the immediate ones given to deserving war veterans. College enrollment grew dramatically: in 1947, GI Bill enrollees accounted for almost half of the total college population. This resulted in a need for more and larger colleges and universities. In my home state of New Jersey, Rutgers University saw its admissions grow from a pre-war high of 7,000 to almost 16,000.

In the decade following World War II, more than 2 million eligible men and women went to college using GI Bill educational benefits. The result was an American workforce enriched by 450,000 engineers, 238,000 teachers, 91,000 scientists, 67,000 doctors, 22,000 dentists and another million college-educated men and women.

Building upon the success of the original GI Bill, Congress subsequently approved a second bill following the Korean Conflict; then a third bill following the Vietnam Conflict; and a fourth bill for the post-Vietnam War era. In 1985, under the dedicated leadership of former Veterans' Committee Chairman Sonny

Montgomery, Congress approved the modern version of the GI Bill which is fittingly called the Montgomery GI Bill. The MGIB was designed not only to help veterans make a transition into the workforce through additional education and training, but also to serve as a powerful recruitment tool for our all-volunteer armed forces.

With the enactment of Public Law 107–103, the Veterans Education and Benefits Expansion Act of 2001, Congress significantly increased MGIB purchasing power for veterans and servicemembers. I was privileged to author this legislation which increased the MGIB basic benefit in January 2002 from $672 to $800 per month. It further increased the benefit in October 2002 to $900 and will increase the benefit in October of this year to $985—a 46 percent increase from the $672 per month.

But according to data furnished by the College Board, for the current academic year the MGIB benefit remains below the level needed for a veteran-student to attend a public, four-year institution as a commuter student. This increase to $1,200 would be another significant step toward a more realistic educational benefit.

This legislation would also eliminate the $1,200 reduction in pay required for a servicemember to gain eligibility for the MGIB. We view the $1,200 as an unnecessary GI education tax and a hardship on the most junior servicemembers, many of whom qualify for food stamps. No other federal education program charges such a participation fee and H.R. 1212 will repeal it.

I strongly urge my colleagues to support this legislation to help both servicemembers and veterans get the most valuable benefit possible—a quality education and training for the workplace.

## REGARDING TOM JARMAN

### HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. HASTERT. Mr. Speaker, I rise today to talk about a very close friend of mine who is one of the unsung heroes of America. Tom Jarman is a teacher, a coach, a man of great wisdom, a noted author, and the kind of friend you would want if you ever got in a jam. He was recently inducted into the National Wrestling Coaches Association Division III Coaches Hall of Fame, but that is just one of 6 Hall of Fames that he has been inducted into. He is also a member of the Taylor University Hall of Fame, Wheaton College Hall of Fame, the Oswego High School Hall of Fame, the Indiana Wrestling Coaches Hall of Fame, and the Illinois Wrestling Coaches Hall of Fame.

Tom was the co-author of Beginning Wrestling, one of the all-time best selling books for young wrestlers in history. Apart from teaching young kids how to wrestle, he has also coached successfully at Manchester College, Northwestern University, and Taylor University. He has coached nineteen All-Americans, along with nineteen Academic All-Americans. He has an outstanding overall record of 394–126.

Throughout his career, Tom has emphasized to his wrestlers the importance of character, the value of hard work, the best virtues of competition, and the glory of fair play. He has done so with dogged determination and with the humility and humor of a first-class teacher. I don't know what all of Tom's former students are doing now, but I guarantee you that they are better citizens because of the time they spent with him.

I first met Tom Jarman when I was in junior high, and I wrestled with him at that level, in high school and at Wheaton College. Even back then, I knew that he had the makings of a great coach and teacher. In fact, at Wheaton College, Tom was the 1963 NCAA Collegiate Division National Champion at 158 pounds, and he was twice named an NCAA All-American. While 158 pounds is a long time ago, I still remember vividly Tom's will to succeed.

All to often, in this day and age, many universities are dropping their wrestling programs for legal or financial reasons. I think that is a big mistake, because when I look at the career of someone like Tom Jarman, who has been in the trenches for so many years, molding the characters of so many young men, teaching them to succeed at wrestling and succeed at life—I think how much better off this country is because of his efforts.

So, to my good friend, Tom Jarman, I salute you on your latest honor, and I salute you for being one of America's unsung heroes. Thank you for your great contributions to American society.

## QUALITY HEALTH CARE COALITION ACT

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. PAUL. Mr. Speaker, I am pleased to introduce the Quality Health Care Coalition Act, which takes a first step towards restoring a true free market in health care by restoring the rights of freedom of contract and association to health care professionals. Over the past few years, we have had much debate in Congress about the difficulties medical professionals and patients are having with Health Maintenance Organizations (HMOs). HMOs are devices used by insurance industries to ration health care. While it is politically popular for members of Congress to bash the HMOs and the insurance industry, the growth of the HMOs are rooted in past government interventions in the health care market though the tax code, the Employment Retirement Security Act (ERSIA), and the federal anti-trust laws. These interventions took control of the health care dollar away from individual patients and providers, thus making it inevitable that something like the HMOs would emerge as a means to control costs.

Many of my well-meaning colleagues would deal with the problems created by the HMOs by expanding the federal government's control over the health care market. These interventions will inevitably drive up the cost of health and further erode the ability of patents and providers to determine the best health treatments free of government and third-party interference. In contrast, the Quality Health Care Coalition Act addresses the problems associated with HMOs by restoring medical professionals' freedom to form voluntary organizations for the purpose of negotiating contracts with an HMO or an insurance company.

As an OB–GYN with over 30 years in practice, I am well aware of how young physicians coming out of medical school feel compelled to sign contracts with HMOs that may contain clauses that compromise their professional integrity. For example, many physicians are contractually forbidden from discussing all available treatment options with their patients because the HMO gatekeeper has deemed certain treatment options too expensive. In my own practice, I have tried hard not to sign contracts with any health insurance company that infringed on my ability to practice medicine in the best interests of my patients and I have always counseled my professional colleagues to do the same. Unfortunately, because of the dominance of the HMO in today's health care market, many health care professionals cannot sustain a medical practice unless they agree to conform their practice to the dictates of some HMO.

One way health care professionals could counter the power of the HMOs would be to form a voluntary association for the purpose of negotiating with an HMO or an insurance company. However, health care professionals who attempt to form such a group run the risk of persecution under federal anti-trust laws. This not only reduces the ability of health care professionals to negotiate with HMOs on a level playing field, but also constitutes an unconstitutional violation of medical professionals' freedom of contract and association.

Under the United States Constitution, the federal government has no authority to interfere with the private contracts of American citizens. Furthermore, the prohibitions on contracting contained in the Sherman antitrust laws are based on a flawed economic theory which holds that federal regulators can improve upon market outcomes by restricting the rights of certain market participants deemed too powerful by the government. In fact, antitrust laws harm consumers by preventing the operation of the free-market, causing prices to rise, quality to suffer, and, as is certainly the case with the relationship between the HMOs and medical professionals, favoring certain industries over others.

By restoring the freedom of medical professionals to voluntarily come together to negotiate as a group with HMOs and insurance companies, this bill removes a government-imposed barrier to a true free market in health care. Of course, this bill does not infringe on the rights of health care professionals by forcing them to join a bargaining organization against their will. While Congress should protect the rights of all Americans to join organizations for the purpose of bargaining collectively, Congress also has a moral responsibility to ensure that no worker is forced by law to join or financially support such an organization.

Mr. Speaker, it is my hope that Congress will not only remove the restraints on medical professionals' freedom of contract, but will also empower patients to control their health care by passing my Comprehensive Health Care Reform Act. The Comprehensive Health Care Reform Act puts individuals back in charge of their own health care by expanding access to Medical Savings Accounts and providing Americans with large tax credits and tax deductions for their health care expenses. Putting individuals back in charge of their own health care decisions will enable patients to work with providers to ensure they receive the best possible health care at the lowest possible price. If providers and patients have the ability to form the contractual arrangements that they find most beneficial to them, the HMO monster will wither on the vine without the imposition of new federal regulations on the insurance industry.

In conclusion, Mr. Chairman, I urge my colleagues to support the Quality Health Care Coalition Act and restore the freedom of contract and association to America's health care professionals. I also urge my colleagues to join me in working to promote a true free market in health care by putting patients back in charge of the health care dollar by supporting my Comprehensive Health Care Reform Act.

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## TRIBUTE TO MR. THOMAS SHEPARDSON

### HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. WALSH. Mr. Speaker, I rise today to honor the life of Thomas Shepardson. He was a life resident of Syracuse, NY, a graduate of Simmons Institute of Funeral Service and the owner of two local funeral homes. Aside from Tom's loving family, one of his most notable accomplishment was the creation of the Disaster Mortuary Operational Rescue Team, D–MORT. Tom died of a sudden heart attack this past February 18th, he was only 59 years old.

It was Tom's ingenuity to bring together the expertise of pathologists, dentists, morticians, police and rescue workers to collect and identify bodies after incidents of mass destruction. This successful collaboration has grown from a local county response team into 10 regional D–MORT teams across the country. Under Tom's leadership, D–MORT teams have responded to numerous disasters, including the September 11th attacks and the Oklahoma City bombings.

Mr. Speaker, directing these teams during such tragic situations is a daunting task. However Tom handled them with ease. He was always looking to help others while controlling the situation with his calm and collective demeanor. His leadership will certainly be missed.

It is truly an honor to recognize a man who's work has had such a positive and beneficial impact on so many lives. Mr. Shepardson leaves behind his wife Jacqueline, daughter Laura and two sons Peter and Christopher. Certainly they will miss Tom greatly, as will D–MORT and its members.

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## TRIBUTE TO MRS. HORTENSE RIDELY TATE ON HER 104TH BIRTHDAY

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. PAYNE. Mr. Speaker, it is with great pride that I rise today to recognize Mrs. Hortense Ridely Tate on her 104th birthday.

Born on March 9, 1899, Mrs. Tate was aware at an early age of the importance of education in her life. Upon completing high school, Mrs. Tate enrolled in Washburn College where she began her studies to become an English teacher, inspired by her father who was an elementary school principal. After completing college in 1921, Mrs. Tate took her first job at the Montclair YWCA in Montclair, New Jersey as Director of Cultural Programs. Over the next seventy-five years, Mrs. Tate made the YWCA her home away from home, serving as a committee member, board member, and eventually its President.

In addition to her involvement at the YWCA, Mrs. Tate took a position in 1930 as a teacher at the Robert Treat Junior High School in Newark, New Jersey. While there she rose to the position of head guidance counselor and was an early mentor to me as I started my teaching career at Robert Treat Junior High School.

While being extremely involved in the education community, Mrs. Tate also has a long history of community activism. She was a founding member of the National Council for Negro Women started by Mary McCloud Bethune as well as the Montclair Public Library and Human Relations Council, the League of Women Voters, her church, and the Alpha Kappa Alpha sorority.

Through her community service as well as her dedication to educating our country's children, Mrs. Tate has always been an active member in the 10th congressional district of New Jersey. It was a distinct honor and privilege to have worked with her and I wish her the very best on this momentous occasion. Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me today on wishing a very happy birthday to Mrs. Tate and in wishing her health and happiness in the years to come.

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## HONORING THE TOWN OF HAMPDEN

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take this opportunity to honor the 125th birthday of Hampden, Massachusetts, March 28, 2003.

Hampden is located in the core of the 2nd district congressional district of Massachusetts. At the time of separation from Wilbraham in 1878, industries were becoming active in Hampden. There is evidence that Hampden could have well turned into one of the many New England factories or industrial towns. However, it underwent an agricultural period that ultimately resulted in the establishment of Hampden as a residential town.

Throughout the course of Hampden's history many key points have characterized the town and helped it to retain the essence of its founders. Elizabeth Sessions, a prominent founding member of Hampden, is part of a four-generation legacy. The Sessions resided in Hampden from 1790–1933, and provided the present day town hall that is utilized by the town of Hampden. Also, the parents and siblings of Foster Fiercely, the Governor of Massachusetts, resided in the town of Hampden and made it a point to invite the residents to his inauguration. Additionally, in the early industrial days of Hampden, Edwin Marcus Chaffee (1806–1872), invented the mill and calender, which are used in the processing of Rubber. Andrew Jackson Davis became a multimillionaire copper king in Montana, but was born in Hampden during its industrial era. Another famous name to come out of Hampden is Thornton W. Burgess, an author of a variety of children's books. Furthermore, his home and land became part of the Audubon Society to preserve the legacy for future generations.

In celebration of the 125th birthday of Hampden, Massachusetts, the Hampden Historical Society is hosting a dual celebration. the March 28, 2003 event is dedicated solely to the presentation of all Proclamations received and the original petitions presented from 1878. On Memorial Day, additional festivities are being held, which will consist of a parade and fan-style celebration. In closing, I would like to honor the 169 people, who in 1877 set aside differences with neighboring towns to finally petition, and ultimately create, what is now known as the town of Hampden.

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## HONORING BROOKLYN CHINESE-AMERICAN ASSOCIATION 15TH ANNIVERSARY CELEBRATION

### HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. VELÁZQUEZ. Mr. Speaker, I rise today to honor the 15th anniversary of the Brooklyn Chinese-American Association.

The Brooklyn Chinese-American Association (BCA) has developed into the largest service and community development organization for the Asian communities of Brooklyn since its inception in 1987. BCA addresses the needs and concerns of Asian Americans, which therefore enhances the strength and cohesiveness of our neighborhoods.

Since BCA's beginnings, Brooklyn's Asian-American communities have seen tremendous growth with recent estimates of more than 250,000 Asian-American residents. Sunset Park has seen such a significant increase that it is now called "Brooklyn's Chinatown." Due to this population boom BCA provides numerous services and programs to ease transition of recent immigrants.

These programs include three early childhood education centers, nine youth-oriented programs, comprehensive bilingual social services, crime prevention and victim services. BCA also organizes community events and economic development projects. One annual event BCA is proud of is the annual Chinese New Year's parade, which brings local residents together to celebrate their heritage and traditions.

In celebration of BCA's 15th anniversary, I would like to acknowledge their hard work and dedication to enhancing the lives of Asian Americans in Brooklyn. Over the years, BCA's achievements have enabled them to offer programs that bring great joy to many residents.

I hereby join the Brooklyn Chinese-American Association along with Asian-Americans throughout the city to celebrate BCA's 15th anniversary.

## FREEDOM FROM UNNECESSARY LITIGATION ACT

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. PAUL. Mr. Speaker, I am pleased to introduce the Freedom from Unnecessary Litigation Act. As its title suggests, this bill provides an effective means of ensuring that those harmed during medical treatment receive fair compensation while reducing the burden of costly malpractice litigation on the health care system. This bill achieves its goal by providing a tax credit for negative outcomes insurance purchased before medical treatment. The insurance will provide compensation for any negative outcomes of the medical treatment. Patients can receive this insurance without having to go through lengthy litigation and without having to give away a large portion of their award to a trial lawyer.

Relying on negative outcomes insurance instead of litigation will also reduce the costs imposed on physicians, other health care providers, and hospitals by malpractice litigation. The Freedom from Unnecessary Litigation Act also promotes effective solutions to the malpractice crisis by making malpractice awards obtained through binding, voluntary arbitration tax-free.

The malpractice crisis has contributed to the closing of a maternity ward in Philadelphia and a trauma center in Nevada. Meanwhile, earlier this year, surgeons in West Virginia walked off the job to protest increasing liability rates. These are a few of the examples of how access to quality health care is jeopardized by the epidemic of large (and medically questionable) malpractice awards, and the resulting increase in insurance rates.

As is typical of Washington, most of the proposed solutions to the malpractice problem involve unconstitutional usurpations of areas best left to the states. These solutions also ignore the root cause of the litigation crisis: the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, government bureaucrats, and trial lawyers. There is no reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients. The Freedom from Unnecessary Litigation Act is designed to take a step toward resolving these problems through private contracts.

Using insurance, private contracts, and binding arbitration to resolve medical disputes benefits patients, who receive full compensation in a timelier manner than under the current system. It also benefits physicians and hospitals, which are relieved of the costs associated with litigation. Since it will not cost as much to provide full compensation to an injured patient, these bills should result in a reduction of malpractice premiums. The Freedom from Unnecessary Litigation Act benefits everybody except those trial lawyers who profit from the current system. I hope all my colleagues will help end the malpractice crises while ensuring those harmed by medical injuries receive just compensation by cosponsoring my Freedom from Unnecessary Litigation Act.

## TRIBUTE TO PATRICK D. McLAUGHLIN

### HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. WALSH. Mr. Speaker, on March 21, 2003 my friend and constituent, Patrick D. McLaughlin, will retire from 36 years of service with United Parcel Service. On that day, Pat will complete a very distinguished career that he began in 1967 as an office assistant. Since then, he has enjoyed a steady rise through the UPS ranks.

During this most recent tenure as the Upstate New York Public Affairs Coordinator, Pat has been a valuable source of information, always providing a straightforward assessment on the local impact of national policy being debated in Washington. UPS provides hundreds of steady, good paying jobs in my Congressional District. Pat's capable advocacy on behalf of these employees deserves our recognition and demonstrates his unwavering commitment to the betterment of the Central New York community.

In knowing and working with Pat through the years, we have developed a lasting friendship that will continue even though his duties at UPS will soon come to an end. As a friend, I am grateful for the opportunity to formally acknowledge his meaningful contributions to our community and honor his service to UPS on the floor of the United States House of Representatives.

Good luck, Pat. Thank you for your hard work.

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. GALLEGLY. Mr. Speaker, on March 11, 2003, I was unable to vote on H.R. 441 (rollcall vote 50), H. Con. Res. 77 (rollcall 51), and H. Res. 19 (rollcall vote 52). Had I been present, I would have voted "yes" on all three measures.

## RECOGNIZING BESSIE C. ALLEN

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. PALLONE. Mr. Speaker, I would like to call the attention of my colleagues to Mrs. Bessie C. Allen. Through her work as an educator Mrs. Allen has clearly demonstrated her affection and dedication to the community and state of New Jersey. She is truly a woman of unique character, leadership and ability. Mrs. Allen is a role model to all the young people whose lives she strives to enrich.

Bessie C. Allen has exhibited an tireless commitment to education throughout her life. In 1960, Mrs. Allen graduated from Ebenezer High School in Dazell, South Carolina. She later graduated from South Carolina State College with a Bachelor of Science Degree in Home Economics Education. Mrs. Allen went on to get her Masters of Arts Degree in Urban Education from the New York State University, Buffalo, NY, and a Masters of Science Degree in Educational Administration & Supervision from Kean College in Union, New Jersey. In 2001, Mrs. Allen attended the Comer Principal's Academy and Comer training at Yale University in Stanford, Connecticut.

Bessie C. Allen served as an Extension Home Economist for the U.S. Department of Agriculture at Clemson University in Clemson, South Carolina where she diligently helped rural families and 4–H Clubs to improve life in Lee County, South Carolina. After teaching home economics at several schools, Mrs. Allen served as Head Teacher and Department Chairperson of Neptune High School, devoting her talents to the department of Home Economics, Physical Education, Health, Art, Music and Industrial Arts. Mrs. Allen also served as Vice President of Neptune High School.

Currently, Mrs. Allen is an esteemed and greatly admired Principal of the Gables Elementary School of Neptune, New Jersey and has been honored many times over for her diligent service. Bessie C. Allen was named Outstanding Young Educator in New York State, Teacher of the Year in the State of New Jersey and one of ten Teachers of the Year in the United States. In addition to these honors, Mrs. Allen has received the distinguished honors of Who's Who in American Education, the Worlds Who's Who of Women, Two Thousand Notable American Women and International Leaders in America. In 1989, Mrs. Allen received the Degree of Declaration as a Lifetime Deputy Governor of the American Biographical Institute.

Mrs. Allen is married to Frederick Allen. Together they enjoy the company of their seven children and eight grandchildren. Mrs. Allen has spent thirty-nine years in her profession as an educator and throughout this time has continually strived to improve the lives of her students and the quality of her community.

Bessie C. Allen is an exceptional woman whose strong character and talents are greatly appreciated by all who know her. On this day, I ask my colleagues to join me in commending this extraordinary individual for her dedicated service.

## INTRODUCTION OF THE GIFT OF LIFE CONGRESSIONAL MEDAL ACT OF 2003

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. STARK. Mr. Speaker, I am proud to reintroduce the Gift of Life Congressional Medal Act of 2003. This legislation creates a commemorative Congressional medal of honor for organ donors and their families for performing such a brave and self-less act. Recognition of these gifts of life also publicizes our critical national need to increase organ donation. I want to thank Senator FRIST a heart and lung transplant surgeon himself, for introducing companion legislation in the Senate.

There is a serious shortage of available and suitable organs for donation. Over 80,000 people are currently waiting for an organ transplant; 2,200 are children under age 18. Every 13 minutes a new name is added to the list. Because of low donor rates, in 2001 alone over 6,000 people died for lack of suitable organ. Physicians can now successfully transplant kidneys, lungs, pancreases, livers, and hearts with considerable success. But, without expanded efforts to increase organ donation, the supply of suitable organs will continue to lag behind the need. Incentive programs and public education are critical to maintaining and increasing the number of organs donated each year.

Health and Human Services' (HHS) Secretary Thompson has been a strong advocate for organ donation throughout his years in public service. Under his leadership, HHS has already implemented initiatives to raise the public awareness of this vital act of giving life. The Gift of Life Congressional Medal Act is a great opportunity for us to work with Secretary Thompson to draw attention to this life-saving issue. It sends a clear message that donating one's organs is an act that should receive the profound respect of our nation.

The Gift of Life Congressional Medal Act establishes a nonprofit fund to be used to design, produce, and distribute a Congressional medal of honor to organ donors or to a surviving family member. Enactment of this legislation would have no cost to the Federal Government. The Treasury Department would provide a small initial loan for start-up purposes, which would be fully repaid. Subsequently, the program would be self-sufficient through charitable donations.

This is non-controversial, non-partisan legislation to increase the rate of organ donation. I ask my colleagues to help bring an end to transplant waiting lists and recognize the enormous faith and courage displayed by organ donors and their families. This bill honors these brave acts, while publicizing the critical need for increased organ donation. I urge swift passage of the Gift of Life Congressional Medal Act.

## HONORING CAROL KOLBERG

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. EMANUEL. Mr. Speaker, today I rise to recognize one of Chicago's finest educators. Carol Kolberg has served the Archdiocese of Chicago for more than 32 years and has been principal of St. Bartholomew Montessori, an elementary school on the Northwest side, for the past thirteen years. Under her leadership St. Bartholomew has blossomed and today is recognized as one of the best elementary schools in the city. A lifelong educator, Ms. Kolberg was one of twelve principals in the United States selected by the National Catholic Education Association to receive the 2003 Dr. Robert J. Kealy Distinguished Principal Award. This prestigious honor is presented annually to an elementary school principal. In order to qualify an individual must first be nominated by their archdiocese. Once nominated, the Association selects the recipients based on their experience, community service, leadership, and educational philosophy. Carol Kolberg's credentials are outstanding in each of these areas and I am proud to recognize her.

Mr. Speaker, I would also like to take this time to thank Ms. Kolberg for her service to Chicago. Across this country educators are being held to more stringent standards for preparing students. Carol Kolberg is a shining example of an educator, among many, who has devoted her life to school children. For 32 years Ms. Kolberg has selflessly given her best so that our children can learn and advance through life. I am proud to represent Ms. Kolberg and the other educators who serve the students of the 5th Congresional District.

## INTRODUCTION OF INTERNET GAMBLING LICENSING AND REGULATION COMMISSION ACT

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. CONYERS. Mr. Speaker, you might remember a failed experiment the U.S. government tried in the 1920s called Prohibition. Back then, the government tried to prevent people from drinking alcohol by making it illegal. We know what happened—speakeasies flourished, alcohol consumption spiraled, and organized crime infiltrated and profited from the provision of alcoholic beverages.

Today, Congress is rushing to pass a similar type of ill-conceived prohibition: the prohibition of Internet gambling. Gaming prohibitionists believe they can somehow stop the millions of Americans who gamble online from visiting Internet gaming sites by passing legislation to prevent the use of credit cards and other bank instruments to gamble on the Internet. Just as outlawing alcohol did not work in the 1920s, the current attempts to prohibit online gaming will not work, either.

Instead of imposing an Internet gambling prohibition that will drive gambling underground and into the hands of unscrupulous merchants, Congress should examine the feasibility of strictly licensing and regulating the online gaming industry. A regulated gambling industry will ensure that gaming companies play fair and drive out dishonest operators. It also provides a potential tax revenue source for financially-strapped States.

That is why I am introducing legislation to create a national Internet Gambling Licensing and Regulation Study Commission to evaluate how best to regulate and control online gambling in America to protect consumers, to provide badly needed tax revenue, and to prevent criminal elements from penetrating this industry. Rather than passing ineffective prohibition legislation in the vain hope that the problems related to Internet gambling will simply go away, the Commission will confront the issues head-on and formulate realistic, workable solutions.

Today in our country, gambling is a highly regulated, $26 billion dollar industry that creates substantial tax revenue for the States and provides a safe environment for the 52 million people who gamble in U.S. facilities. The Commission will explore whether the same conditions that afford safety and fair play in land-based casinos can and should exist for Internet-based casinos. In addition, the Commission will study whether the problems identified by gambling prohibitionists—money laundering, underage gambling, and gambling addictions—are better addressed by an ineffective ban or by an online gaming industry that is tightly regulated by the States.

First, some claim that Internet gambling sites are being used to launder money for terrorists or other criminal organizations. Although there is no evidence that Internet gambling is any more susceptible to money laundering than other types of e-commerce, it is still a significant law enforcement concern. In this regard, it is useful to compare a system where Internet gambling is legal and regulated to another legislative proposal that would prohibit the use of credit cards and other financial instruments for online gambling. What that other bill essentially says to gamblers is this: use cash and offshore bank accounts if you want to bet online. This is nonsensical on its face. If you truly want to prevent money laundering, the last thing you would do is eliminate the financial controls and recordkeeping that credit cards and U.S. bank accounts provide. To the contrary, a regime where there is strict oversight by the States and transparent recordkeeping is far more likely to prevent money laundering and give law enforcement the tools it needs to effectively prosecute criminals and terrorists.

Second, the problem of underage gambling should not be discounted. Children can be kept off of gambling websites, however, by requiring the use of a credit card, PIN numbers, and other screening devices. In fact, Congress recognized the usefulness of credit cards as a tool to protect minors on the Internet when it passed the Children's Online Protection Act.

Since Internet gambling prohibitions will not eliminate online gambling—just drive it underground—children will be better protected by a gaming industry that is held accountable to strict standards established by the States.

Finally, we must also consider the needs of problem gamblers and gambling addicts. Certainly, online gambling sites present difficulties for these individuals, just as land-based casinos do. Although unlicensed, unregulated gaming sites may have no incentive to prevent problem gambling, it is possible to establish a regulatory framework that can set financial limits on an individual's gambling, through the use of shared electronic recordkeeping. Technologies can even be employed to identify problem gamblers and put them in touch with organizations where they can get help. For this reason, the Internet affords the potential for greater protection for problem gamblers than land-based casinos.

Until now, Republicans and Democrats have stood together against those who wanted to cut off access to the Internet, restrict its boundaries, or use it for some special purpose. Except in the narrow areas of child pornography and other obvious criminal activities, Congress has rejected attempts to make Internet Service Providers, credit card companies, and the technology industry policemen for the Internet. We should not head down this road now. If we do, we'll be joining countries like Iraq, China, and other totalitarian regimes who limit their citizens' access to the Internet.

Attempts to prohibit Internet gambling in the name of fighting crime and protecting children and problem gamblers will have the opposite effect. Prohibition will simply drive the gaming industry underground, thereby attracting the least desirable operators who will be out of the reach of law enforcement. A far better approach is to allow the States to strictly license and regulate the Internet gambling industry, to foster honest merchants who are subject to U.S. consumer protection and criminal laws.

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## IN CELEBRATION OF WALTER JEFFERSON LEWIS

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. LEE. Mr. Speaker, Walter Jefferson Lewis passed away on February 22, 2003. On that day, his family and friends lost a loving son, brother, and companion and the world lost a passionate lover of art, food, travel, and life itself.

Walter Lewis was born and raised in Schenectady, New York. He went on to study at Syracuse University and Schenectady County Community College, graduating with distinction in the Culinary Arts and Hotel and Business Management.

Walter served his country, spending eleven years in the United States Air Force. During that period, he was stationed in Alaska, California, New Mexico, and Germany. The time spent in those distant posts just whetted his appetite for travel; his journeys took him across much of the globe, and he made lifelong friends wherever he went.

That same passion and zest for life fueled both his occupation and avocation of baking. Walter worked for a number of years managing the bakery department of the Golub Corporation, and he shared his culinary skills with those around him: for him, food, family, and food, were all joyously intertwined.

Walter Lewis will be deeply missed by those of us who knew and loved him. He made a special imprint through his faith, his gifts, and his joy of life. While we mourn his passing, we also celebrate his memory. May he rest in peace.

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## PAYING TRIBUTE TO THE PINK LADIES

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today in order to recognize the Pink Ladies of Delta, Colorado. This group of women has been truly dedicated to serving their community through numerous volunteer efforts with the Delta County Memorial Hospital. I would like to pay tribute to their efforts before this body of Congress and this nation today.

Over 65 strong, the "Pink Ladies" get their name from their distinctive pink jackets. Some work cleaning the whirlpool tubs used by rehabilitation patients, others greet people at the visitor's desk or in the cafeteria, and others knit baby caps for newborns. By donating more than 16,000 hours in the past year, the Pink Ladies have helped the hospital save more than $85,000. The ladies have also raised money to fund an annual scholarship for health care students, while also donating much-needed medical equipment.

Helping those in need is truly admirable work, and these women have taken on this work with passion and fervor. It is very inspirational to see a group of people who work this much in order to help others in their community, and I feel lucky to have the ability to honor these women who have worked so selflessly for such a long time.

Mr. Speaker, it is with great pride that I recognize the Pink Ladies before this body of Congress and this nation for their dedication to their community hospital. Their volunteer efforts have truly been a wonderful benefit to not only the people of Delta County, but to the people of the State of Colorado as well.

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## HONORING WANDA LITTLE ON THE OCCASION OF HER RETIREMENT

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the University of Connecticut Cooperative Extension System and the New Haven community in honoring one of our most active and distinguished community members, Wanda Lee Little, on the occasion of her retirement after thirty-two years of dedicated service.

Throughout her lifetime, Wanda has dedicated herself to enriching the lives of young people. Through her efforts to develop working social programs and her work with several service organizations, she has changed the face of our community. Wanda's endless contributions to the Greater New Haven area have made a real difference—improving the quality of life for hundreds of children and their families.

Over her thirty-two year career with the UCONN Cooperative Extension System, Wanda was responsible for the initiation of several youth development programs as well as the successful application for several grants from the United States Department of Agriculture. Her outstanding leadership and good work has provided numerous opportunities to the city of New Haven and its residents.

By adapting the USDA's SuperSnackers Program to include youth and workforce development into the program, Wanda created a youth focused model in which young people are trained in a basic nutrition curriculum and then team teach in summer camp settings throughout New Haven. Through the 4–H Summer Nutrition Education Program, Wanda served as an educator and mentor for hundreds of children—often offering these young people their first job experience. The lessons and skills these young people brought away from this program have proven to be an invaluable asset as they continue in their academic and professional careers.

Wanda's dedication to our community extends far beyond her professional career. A founding member of the City Wide Youth Coalition of New Haven, Inc., a past member of the Board of Directors for the Special Olympics Committee, and host family for Guilford, Connecticut's A Better Chance Program, her unwavering commitment to serving the community has empowered women, families, and young people to improve themselves and their lives. Her generosity and compassion is truly unmatched.

Wanda's innumerable contributions and her strong message have left an indelible mark on our community. I am pleased to rise today to join her husband, Horace, their children, grandchildren, family, friends, and colleagues in extending my sincere congratulations and very best wishes to Wanda Lee Little as she celebrates her retirement from a lifetime of good work. My sincere congratulations and very best wishes for continued health and happiness.

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## TRIBUTE TO BRENDAN ANTHONY ROGERS

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. ROGERS of Kentucky. Mr. Speaker, a most joyous occasion has taken place for me that I want to share with you and my friends.

On December 23, 2002, my oldest son and his wife became the parents of my first grandson. Brendan Anthony Rogers became the only Rogers boy to be born in my parents' family and therefore the bearer of the name into the future. Brendan's parents, Anthony and Mindy, live in my hometown, Somerst, Kentucky.

Brendan's grandmother, my first wife, Shirley, passed away in 1995. She would be very proud, as am I, of this handsome, lively little guy.

Mr. Speaker, in the midst of the weighty issues with which we are faced in this body, my announcement of this bundle of joy is indeed a respite. However, for me, Brendan's arrival is, in itself, a weighty matter because he brings to me a sense of immortality, and I know all my colleagues can identify with that.

Mr. Speaker, I ask of you and all our colleagues, that you join me in wishing to Brendan Anthony Rogers, as he embarks on life, Godspeed!

## TRIBUTE TO PAUL AND NADINE SHIRLEY

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. DUNCAN. Mr. Speaker, as Members of Congress, each of us has the privilege of representing countless numbers of constituents who work tirelessly to make their communities better. We meet these remarkable men and women every day, but often do not have the opportunity to highlight their contributions before the Nation.

Paul Shirley of Knoxville, Tennessee, is one such person, as was his late wife, Nadine. For more than 57 years of marriage this remarkable couple lived a life committed to sharing God's love with all those around them.

In November of last year, Nadine went to be with the Lord, but the example they set continues to be a standard matched by very few. Paul's dedication to changing lives around him has not slowed with Nadine's passing, and I know she is proud of his perseverance.

After graduating from the University of Tennessee in Business Administration, Paul began a career in the construction industry that continues today. From the very beginning Nadine played a key role in their business success.

Paul served as president of the Home Builder's Association of Greater Knoxville in 1962. He presently serves on the Board of Adjustments and Appeals for the City of Knoxville, a position he has held for 30 years. At each point of his professional career, Paul has always displayed the highest level of integrity and commitment to excellence.

It is, however, in the Shirleys' work together outside the business world that they found their most meaningful success. For almost 35 years, Paul and Nadine tirelessly worked to provide hundreds of children in the Knoxville area with a biblically based education surpassed academically only by the Christ-like love shown to each student.

In 1969, they, together with a dedicated group of parents, opened what was then known as West End Kindergarten. This soon expanded to become Knoxville Christian School and in 1975, the Shirleys donated 67 acres of land for what was to be the permanent campus of this growing school. Today, Knoxville Christian School provides a biblically based education to 108 students from Kindergarten through the ninth grade.

Paul served as president of the school until 1979, and both he and Nadine gave many years of service on the school's board of directors. Paul and Nadine's work, however, went far beyond what any job title implies, and their compassionate dedication to every child reached far beyond the classroom.

On February 20, 2003, those close to Knoxville Christian School came together to show their appreciation to Paul and to share in their memories of Nadine. As a small token of thanks for the impact this couple had on so many lives, Paul was presented with the "Christian Service Award." To those of us who attended this moving event, it was obvious that every person there was richer for having known this tremendous couple.

I am proud to call Paul my friend, and I share with him in the grief he feels with the passing of Nadine. I also deeply appreciate the unwavering life of service they led together. I know that Knoxville is a better community because of the love they shared and the example they set.

As I said at the beginning of these remarks, each of us in Congress has the chance to meet and know many remarkable people. I thank you for the opportunity to introduce you to just such a couple.

## PAYING TRIBUTE TO BOB BIGELOW

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Bob Bigelow of Pagosa Springs, Colorado for his outstanding service to the education of Colorado's youth. Bob has been involved as a volunteer in Pagosa Springs schools for eight years.

Bob is a retired rancher and corporate CEO who volunteers five days a week at area schools. At the local elementary school, he offers small group attention to students who need it, and also works with sixth graders to improve math and reading skills. Outside the classroom, Bob serves as the Accountability Chair for his school district and volunteers as a "big brother" to several local youth. In honor of his service, the Pagosa Springs Area Chamber of Commerce has named Bob Citizen of the Year.

Mr. Speaker, it is a great privilege to recognize Bob Bigelow for his dedication and commitment to the children of Pagosa Springs. His energetic service has enriched their young lives beyond measurement, and I am honored to recognize his accomplishments before this body of Congress and this nation.

## HONORING BOULDER CITY HIGH SCHOOL ATHLETES OF THE MONTH

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. PORTER. Mr. Speaker, I rise today to honor Sam McGrandy and Chris Stemmer, Boulder City High School's Athletes of the Month. Sam and Chris won this award based on their outstanding academic, leadership, and athletic skills.

Sam McGrandy has played every position on the girls basketball team and served as team captain last year. She has also played for the Boulder City High volleyball team, and maintains a 3.7 average in school.

Chris Stemmer has played boys basketball for Boulder City for the last three years, and was selected to the All-Division Team last year. Chris has also competed in football and track for Boulder City High.

Mr. Speaker, I am proud to represent each of these young athletes, and look forward to having the opportunity to honor these students on their future achievements.

## FREEDOM TO READ PROTECTION ACT

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. SANDERS. Mr. Speaker, I want to share with you some remarks that I made on March 3 when I introduced the Freedom to Read Protection Act. This legislation now has 28 co-sponsors and has been endorsed by the American Library Association, the American Booksellers Association and newspapers throughout the country. Yes, we must do all that we can to protect the American people from terrorism, but we can do it in a way that protects the basic constitutional rights of our citizens.

STATEMENT OF REPRESENTATIVE BERNIE SANDERS ON THE INTRODUCTION OF THE FREEDOM TO READ PROTECTION ACT

Good afternoon, and thank you for joining us here today to announce the introduction of the Freedom to Read Protection Act—legislation which will protect libraries, bookstores and their patrons from unjustified government surveillance into what books Americans are reading and buying, and what websites they may be visiting when using a library computer.

Let me begin by thanking the Members of Congress who have joined me here today. I also want to thank Chris Finan of the American Booksellers Association and Emily Sheketoff—Executive Director of the American Library Association's Washington Office—for joining us. I am also delighted that Trina Magi—a librarian from the University of Vermont—and Linda Ramsdell, a bookstore owner from Hardwick, Vermont, who is the President of the New England Booksellers Association, are here with us today.

Let me also congratulate the 62 cities and towns all across this country who have passed resolutions on this issue—and that number is growing rapidly. That effort is being coordinated by the Bill of Rights Defense Committee which understands that civil liberties and constitutional rights are not only a national issue, but a local issue. I also want to thank the editorial boards of the many newspapers all over this country who have spoken out on this freedom to read issue—including the Los Angeles Times, the Detroit Free Press, the Honolulu Observer, the Providence Journal-Bulletin, the Caledonia Record, and the Valley News.

The tri-partisan legislation we are introducing today—called the Freedom to Read Protection Act—would protect the privacy and First Amendment rights of American citizens against unnecessary government intrusion. Specifically, this legislation will exempt libraries and bookstores from Section 215 of the so-called "Patriot Act." The Freedom to Read Protection Act is being introduced by 24 members of Congress including Republican Ron Paul of Texas, and Congressman John Conyers, the Ranking Member of the House Judiciary Committee. They are both unable to join us today but I do want to recognize their support and leadership in protecting civil liberties. I am confident that in the days and weeks to come we will add many more cosponsors.

One of the cornerstones of our democracy is our right of Americans to criticize their government, and to read printed materials without fear of government monitoring and intrusion.

Yes, all of us concerned about terrorism and all of us are determined to do all that we can to protect the American people from another terrorist attack. But, the threat of terrorism must not be used as an excuse by the government to intrude on our basic constitutional rights. We can fight terrorism, but we can do it at the same time as we protect the civil liberties that have made our country great.

Unfortunately, the Patriot Act has changed all that. Section 215 of the Patriot Act greatly expanded the FBI's ability to get records from all businesses, including libraries and booksellers, without meeting the traditional standard needed to get a search warrant in the United States.

This is a very dangerous situation. Today, all the FBI has to claim is that the information they want is somehow relevant to an investigation to protect against international terrorism. This is an extremely low threshold for government intrusion and average Americans should be extremely concerned.

The reason they should care is that Section 215 does not just apply to terrorists or even foreigners or agents of foreign powers. Under Section 215 of the Patriot Act, the person whose records are being searched by the FBI can be anyone. The FBI doesn't even have to say that it believes the person is involved in criminal activity or that the person is connected to a foreign power.

Even more frightening, the FBI can investigate American citizens based in part on an American's exercise of his or her First Amendment Rights, such as writing a letter to the editor of a newspaper or reading books the government may not approve of.

And the traditional legal protections, that have been embodied in our Constitution for hundreds of years, no longer apply. The government can gain access to our reading records through the secret FISA court which was created by the Foreign Intelligence Surveillance Act in 1978 and which is off limits to the public. There's no way to know how many times the FBI has spied on library or bookseller records or whose records they have reviewed.

In fact, Section 215 prevents librarians and booksellers from telling their customers that their privacy has been violated. Who would have thought that in 21st Century America, the government could gain access to library circulation records and bookseller customer records with no evidence that the person whose records they are getting is involved in any wrongdoing, that all of this would be handled through a secret government court, and that the librarians and booksellers would be compelled by the law not to let anyone know that the government had swooped in to get their records?

Now some may ask how the federal government is using this new power. Members of Congress on both sides of the aisle are also interested in that question and have pressured the Justice Department to show how they are using these new powers. The information they have received after months of badgering the Department is inadequate. The Justice Department claimed most of the information regarding libraries and bookstores was "confidential," and could not be provided. This past October, several national organizations, including the American Booksellers Association, filed a Freedom of Information Act request to get statistical information, such as how many times the government has used its expanded surveillance authority under the Patriot Act. In January, a very limited amount of information was released to these groups and they are continuing to push for a more complete disclosure.

Importantly, an anonymous survey done by the University of Illinois found that over 175 libraries across the country have been visited by federal authorities since the September 11th attacks. How is the Congress and the public supposed to make sure that these new powers are not being abused when we do not even know how often they are being invoked and the types of institutions that are being investigated?

For many people who can not afford to buy books or have the Internet at home the library is critical to their ability to access to information. Many librarians and booksellers now fear that patrons have begun to self-censor their library use and book purchases due to fears of government surveillance. We need to remove libraries and booksellers from Section 215 so that Americans know their freedom to access information won't be improperly scrutinized by federal agents.

Let us be clear. The FBI would still be able to gain access to library or bookseller records as part of an investigation into illegal activity. All our bill does is restore the traditional protections that Americans expect and deserve. If the FBI has probable cause to believe that information in a library or bookseller's records or computers is connected to an ongoing criminal investigation or terrorism investigation, they can go to court and get a search warrant.'

In addition, the bill requires that the Justice Department provide more detailed information about its activities under Section 215 so we can determine how the FBI is using its new powers under Section 215.

Let me conclude by saying that all of us support protecting Americans from terrorism. But we do not win against terrorists by abandoning our most basic civil liberties. We cannot be an example of freedom for the world when our own government is spying on what Americans are reading.

## HONORING THE UNITED COMMUNITY NURSERY SCHOOL AS THEY CELEBRATE THEIR 40TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. DELAURO. Mr. Speaker, for the last four decades, the United Community Nursery School has been an invaluable resource to many children and families of New Haven. I am pleased to rise today to join with friends, families, and community leaders in paying tribute to their outstanding contributions as they celebrate their 40th Anniversary.

I have long held a firm belief in the importance of education and have often spoke of our nation's need to ensure that, even at the earliest stages, our children have access to programs and services that will enrich their education. The United Community Nursery School has been doing just this for the last forty years. Before initiatives like Headstart and before educational programming like Sesame Street and Mr. Rogers, the founders of the United Community Nursery School recognized this need and worked hard to find a solution.

At the time of its inception, quality nursery school programs were not available to every family. Members of the United Church on the Green, realizing this gap in the community, began to look for a way to offer these programs to all of New Haven's children. They envisioned a setting where small children, regardless of background, culture, or religion, would be able to play and learn together. They envisioned a preschool where talented and caring teachers could work with families to ensure that their young children were developing the skills and tools they need for a strong educational foundation. What began as a single classroom with a part-time staff grew quickly to become a remarkable education program for toddlers throughout New Haven.

The United Community Nursery School became one of the first in Connecticut to be accredited by the National Academy of Early Childhood Programs. A respected community resource, they were also one of the first to be designated as a New Haven School Readiness site. For four decades, the dedication and commitment of the staff and the members of the United Church have ensured that this treasure continues to provide much-needed early learning programs. Over the last several years, research has shown and experts have said that early learning is a fundamental piece of a child's education. The New Haven community—and more importantly our young children—have indeed been fortunate to have benefitted from the many contributions of the United Community Nursery School.

It is with great pleasure that I rise today to join all of those gathered in extending my sincere thanks and appreciation to the United Community Nursery School for all of their good work as well as my sincere congratulations on their 40th Anniversary. The legacy they have built will continue to educate and inspire generations to come.

## IN MEMORY OF ZORAN DJINDJIC

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. SMITH of New Jersey. Mr. Speaker, we learned today of the assassination in Belgrade of the Prime Minister of Serbia, Zoran Djindjic.

This is a true tragedy, not only for family and friends of Mr. Djindjic but for all the people of Serbia and, indeed, for all who struggle for human rights and democratic development.

Zoran Djindjic became a leader during difficult times in his country. He chose to stand in opposition to Slobodan Milosevic and his regime. That certainly was not the easiest course, and it took courage. Zoran Djindjic also had determination and, after repeated setbacks and obstacles, he played a key role in ousting Milosevic from power in 2000. He subsequently became, as Prime Minister of Serbia, a force for reform, recognizing that Serbia needed to cast off not only the yoke of Milosevic's rule but also Milosevic's legacy of nationalist hatred, organized crime, corruption and greed. Transferring Milosevic to The Hague in 2001 to face charges for war crimes, crimes against humanity and genocide perhaps best symbolized Djindjic's continued courage and determination to conquer the sinister forces which seized his country.

Zoran Djindjic was still battling resistance to reform in Serbia when his life was taken by the vicious act of cold-blooded assassins.

These will undoubtedly be turbulent times for Belgrade, for Serbia, and for Montenegro which is just embarking on a new relationship with Serbia. This tragedy may have reverberations throughout the region, particularly in Bosnia and in Kosovo.

It is my hope and prayer, Mr. Speaker, that the people of Serbia will respond to this crime with a loud and united cry: "Enough is enough." In the past, they have seen the lives of journalist Slavko Curuvija and politician Ivan Stambolic snuffed out for their advocacy of a civilized Serbia, in which human rights and the rule of law are respected.

Similarly Djindjic, too, was advocating such noble objectives. The very decent people of Serbia deserve a society which respects human rights and upholds the rule of law. That is what the leaders of Serbia must now provide without further hesitation or delay. I take heart in knowing that Djindjic had many colleagues who shared his vision of a reformed Serbia.

My deepest condolences go to the family of Zoran Djindjic. I hope that the incredible grief they must now feel will be tempered by the pride they should feel in his accomplishments and service to his country.

## COMMERCIAL DRIVER'S LICENSE DEVOLUTION ACT OF 2003

### HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. COBLE. Mr. Speaker, yesterday, I introduced the "Commercial Driver's License Devolution Act of 2003." This legislation will give states the option to establish their own commercial driver's license (CDL) requirements for intrastate drivers.

As many in this House already know, I have always been a strong advocate for taking power out of Washington and returning it to the states. I do not believe that our traditional, one-size-fits-all approach to governing is effective, efficient or economical for the American taxpayer.

The legislation which I propose today would return power to the states by giving states the option, and I emphasize option, to license intrastate drivers of commercial motor vehicles based upon testing standards determined by the individual states. As you know, the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) required states to establish a new and uniform program of testing and licensure for all operators of commercial vehicles both intra- and interstate. The principal objectives of this Act have been met and would not be harmed by this legislation.

The CMVSA is good law, and its provisions were necessary and timely for improving standards of performance for long-haul truck drivers. The CMVSA, however, was also imposed upon intrastate commerce where the operation of trucks may be a small but necessary part of an individual's job. We imposed our will on thousands of small businesses not involved in long-haul trucking and somehow expected them to adjust to any circumstance that might arise. Under these conditions, I believe it should be within a state's discretion to determine what kind of commercial vehicle licensure and testing is required for commerce solely within its borders.

I again want to emphasize that it would be entirely up to each state whether it chooses to reassume authority over licensing and testing of intrastate drivers. A state that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more states from using this option as the basis for an interstate compact. I am confident that those states taking advantage of this option will develop testing standards that maintain the same level of safety offered by the federal program. After all, the primary mission of all state DOTs is to ensure the safety of those travelling on its roads.

This legislation is extremely important to our nation's small businesses, and I urge the House to adopt this measure.

## THE REINTRODUCTION OF THE EQUAL RIGHTS AMENDMENT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mrs. MALONEY. Mr. Speaker, this is a difficult time. We're worried about the possibility of war and concerned about the men and women in our armed forces, but the best way to honor democracy is to ensure equality and justice for all. That's why we're leading this bipartisan movement for the Equality Amendment for women and men. We intend to do all we can to see that it becomes part of the Constitution, which is where it belongs.

I am proud to be joined by my Republican colleagues, JIM LEACH and JUDY BIGGERT. I am also grateful to the dean of the House, JOHN DINGELL, for his leadership on so many issues important to women; to leading pollster Mark Penn of the firm Penn, Schoen, and Berland; and to the noted economist, Dr. Heidi Hartman. I'd also like to acknowledge the representatives of so many organizations dedicated to improving the lives of women and families.

Women have achieved a great deal, but the statutory route has not been as successful as we hoped. The Glass Ceiling, the Pink Ghetto, the wage gap, the occupation gap, and sexual harassment are real problems. We're reintroducing the Equality Amendment because the only guarantee that American women will never again be subject to inferior treatment is to engrave the principle of women's equality into the Constitution.

We've seen over the years that laws can change, judicial attitudes can shift, and the gains we've won can slip from our grasp. The need for a constitutional guarantee of equal rights for women is compelling. We must do more, much more, to guarantee fair treatment in the work place. Existing laws can't get the job done, and could be rolled back.

Title IX, which for three decades guaranteed equality in education and in academic sports programs, is being eroded.

Enforcement measures on discrimination laws are backlogged and badly underfunded.

Women continue to be treated differently than men in pensions, insurance, and judicial awards.

Women still have trouble gaining access to housing and to equal pay for equal work. The wage gap persists. In fact, the Dingell-Maloney study that we released last year showed the gap in managerial salaries is actually widening.

Women still earn 76 cents for each dollar earned by a man. After a full day's work, no woman should be forced to take home only three quarters of a paycheck.

Too many women continue to be victims of sexual harassment.

Over nine out of ten Americans support equal rights for men and women, as Mark Penn can discuss. In fact, polling data shows that most Americans think the Constitution already guarantees gender equality—and they don't want it repealed. The ERA would establish that as a reality once and for all. It is time to ensure that the legal right to equality regardless of sex is subject to the same level of judicial review as race or other classes.

With 187 co-sponsors so far, the Equality Amendment has strong support in the House. And it enjoys strong backing in the Senate. Ours is a bipartisan, grass roots effort. With the help of organizations represented here and the over 140 groups that have already endorsed it, I hope we'll be able to move the ERA to a vote.

It is time for women to have an equal place in the Constitution. It is time for the Equal Rights Amendment to become law. Inscribed over the Supreme Court is the statement "Equal Justice Under the Law" and it means ALL people. And in 2003, we intend to SEE that equal justice under the law happens . . . and making the ERA part of the Constitution is the right way to do it.

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## PAYING TRIBUTE TO DR. M. EDMUND VALLEJO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize Dr. Edmund Vallejo of Pueblo, Colorado. Dr. Vallejo has been a dedicated teacher and mentor in the Pueblo community for nearly fifty years. He has made significant contributions as an author and citizen, and it is my honor to pay tribute to his accomplishments before this body of Congress and this nation.

Edmund grew up in an orphanage for boys in Denver and graduated from St. Mary's High School in Walsenburg, Colorado. After a year at Regis University, he joined the U.S. Navy and trained to be an aerial photographer. Edmund served the United States during the Korean War, and received a battle star for taking video footage of the fighting on Bunker Hill and Siberia Hill.

After being discharged, Edmund went back to school, first at Adams State College, then at the University of Northern Colorado, ultimately receiving a Ph.D. in education from Kansas University in 1975. Edmund spent over thirty-six years in Pueblo School District No. 60 as a teacher, guidance counselor, principal and superintendent. After retiring in 1991, he has furthered his dedication to education by serving as a mentor and tutor to at-risk children in the district, and Edmund now serves as the volunteer coordinator for Communities In Schools of Pueblo, a volunteer mentoring and tutoring program.

Edmund's other interests include both civic service and writing. He is a member of the Kiwanis Club of Pueblo, the Colorado Historical Society Board of Directors, the Rocky Mountain Council Boy Scouts of America Executive Board, the Pueblo School District No. 60 Educational Foundation, the Pueblo Chamber of Commerce, and VFW Post 5812. He is a contributing author to educational and historical journals and has already published a compilation of Colorado photography. He is working on a photo book about his Korean War experiences.

Mr. Speaker, it is clear that Edmund Vallejo is a remarkable man with an extraordinary lifetime of achievements. He has served his nation, his community, and his students well, and I would like to extend to him my congratulations on a life lived with a passion and dedication to serving others. I wish him the best in his future endeavors.

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## INTRODUCTION OF THE MEDICARE MEDICAL NUTRITION THERAPY

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. UPTON. Mr. Speaker, I am pleased to join with Representatives ANNA ESHOO, J.D. HAYWORTH, and XAVIER BECERRA in introducing the bipartisan Medicare Medical Nutrition Therapy Amendment Act of 2003. Several years ago, we amended the Medicare program to provide coverage for medical nutrition therapy services provided by registered dietitians and nutrition professionals for persons with diabetes or renal disease. The legislation we are introducing today will add Medicare coverage for services for beneficiaries with cardiovascular disease.

Medical nutrition therapy provided by registered dietitians and nutrition professionals is sound health care policy. It can save millions of dollars for a health care system beleaguered by escalating costs, and it can prevent unnecessary pain and suffering for millions of people and their families. In response to a request in the 1997 Balanced Budget Act, the Institute of Medicine of the National Academy of Sciences studied the value of adding medical nutrition therapy services for Medicare beneficiaries and the Medicare program and issued a report recommending that this benefit be added to the program. The report stated that coverage for medical nutrition therapy will "improve the quality of care and is likely to be a valuable and efficient use of Medicare resources, because of the comparatively low treatment costs and ancillary benefits associated with nutrition therapy." The report concluded that nutrition therapy has proven effective in the "management and treatment of many chronic diseases that affect Medicare beneficiaries, including . . . hypertension, heart failure, diabetes, and chronic renal insufficiency."

I urge my colleagues who have not yet cosponsored this bipartisan, sound health policy proposal to join us in this effort.

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## PERSONAL EXPLANATION

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. OBERSTAR. Mr. Speaker, the House of Representatives considered several bills under suspension of the rules yesterday and my vote was not recorded on those measures.

Had I been present, I would have voted "aye" on rollcall vote 50, rollcall vote 51, and rollcall vote 52.

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## JAMES FRANCIS HOMAN

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize James Francis Homan, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 312, and in earning the most prestigious award of Eagle Scout.

James has been very active with his troop, participating in such Scout activities as the Roe Bartle Scout Reservation. Over the 11 years he has been involved in Scouting, he has held numerous leadership positions, serving as Camp Senior Patrol Leader, Patrol Leader, Assistant Patrol Leader, Quartermaster, and Instructor. James also has been honored for his numerous Scouting achievements with the award of the Firebuilder in the tribe of Mic-O-Say award. Additionally, he has earned 34 merit badges during his years in Scouting.

For his Eagle Scout project, James converted and old pastor's study/storage room into a prayer chapel at Ascension Lutheran Church. He enlisted the services of families, fellow Scouts and members of his congregation to clean the windows, paint and refurbish the room.

Mr. Speaker, I proudly ask you to join me in commending James Francis Homan for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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## PAYING TRIBUTE TO UNITED WAY OF PUEBLO COUNTY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the United Way of Pueblo County, Colorado. The United Way has been serving Pueblo County for eighty years, providing a central resource for donations to support an array of critical community services. It is my honor to commend the Pueblo United Way's long record of success before this body of Congress and this nation.

The United Way organization came to Pueblo in 1923 when community leaders raised $105,000 by knocking on neighbors' doors. Though this effort went through many name changes, it always pursued the same mission: creating a central community fund to support community services. Today, the Pueblo County United Way is an autonomous organization that can focus its resources on the specialized needs of Pueblo County. It relies on hundreds of dedicated volunteers to raise money and keep administration costs low.

Over the years, the UWPC has raised over $31 million with its fundraising campaigns for its nineteen partner agencies including the American Red Cross, Pueblo Community Health Center, Salvation Army, and the YWCA. Other United Way partner agencies focus on youth development, providing basic food and shelter, and addressing the problems of domestic abuse. In addition, Pueblo United Way administers an endowment gift from the El Pomar Foundation and FEMA funds from the federal government to assist in emergencies.

Mr. Speaker, the United Way makes every dollar count for the citizens of Pueblo County. Thanks to the United Way, thousands of Coloradans have benefited from the generosity of their neighbors, and thousands more have known the joy of giving. It is my great pleasure to honor their eighty years of success here today. Congratulations, and may the United Way continue to serve Pueblo County long into the future!

## HONORING A DEDICATED PUBLIC SERVANT, MS. DIANN CONDREY

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. BONNER. Mr. Speaker, there are many unsung heroes who work day and night, week after week, month after month, to support the operation of the United States Congress. Most of these dedicated people labor outside of the spotlight—away from the glamour that is often associated with public service—but their work insures that our work can be done. One such dedicated public servant, Ms. Diann Condrey, will conclude her distinguished tenure on Capitol Hill this month and I rise tonight to salute Diann for her untiring loyalty and service.

Diann began her government career as a high school student in 1968 when she began working with the Department of Defense during the Vietnam war. At that time Diann's salary was a meager $3,776 a year.

Diann spent the next 16 years working for the Army and Navy originally as a management assistant and later as a computer specialist and project manager. In 1992, she took a position with the United States House of Representatives as a committee consultant providing computer support services to committees and to leadership offices. In 2000, she became the team leader responsible for training newly hired TSRs.

During my staff days on the Hill, I worked with Diann on a regular basis and got to know her very well. She has been a great asset to our Hill community. Her understanding of often complicated programs was always met with passion for helping her clients understand how to best implement the rapidly changing advances made in computers and technology.

Mr. Speaker, I proudly ask you and my colleagues to join me in honoring Ms. Diann Condrey for her many years of commitment to her Nation through her continued service and employment with the United States. I wish Diann the best of luck in her retirement and always.

## THE MEDICARE Rx DRUG BENEFIT AND DISCOUNT ACT OF 2003

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, last week, President Bush announced his prescription drug proposal for Medicare beneficiaries. Rather than using this opportunity to promote a quality drug benefit that would be dependable and guaranteed for seniors and persons with disabilities on Medicare, the President instead announced his intention to provide a financial benefit to pharmaceutical and insurance companies. By pushing seniors into HMOs—the path to Medicare privatization—and doing nothing to lower drug prices, the Bush policy would enrich industry instead of reducing the financial burden on beneficiaries.

Fortunately, an alternative plan, tailored to meet the needs of Medicare beneficiaries, would provide a comprehensive benefit that is both affordable and guaranteed. I support that plan, outlined by Leader NANCY PELOSI, Whip STENY HOYER, and Representatives DINGELL, RANGEL and others, because it puts the needs of Medicare beneficiaries first.

There is no benefit specified in the President's proposal. President Bush proposes that seniors enrolled in the traditional fee-for-service Medicare program would be eligible for catastrophic loss coverage, a discount drug card, and a $600 subsidy for those in the lowest income bracket. We don't know how much the catastrophic limit would be—$5,000, $7,000, or more. A drug card and a requirement that you spend thousands and thousands of dollars out-of-pocket is not a benefit.

There are several major problems with the President's proposal.

First, a catastrophic-only benefit will help very few beneficiaries. The average Medicare beneficiary spends $2,500 a year for prescription drugs, meaning that they would get no benefit. For example, if the cap for catastrophic coverage is set at $6,000, it would only cover 8 percent of Medicare beneficiaries. This enormous out-of-pocket expense is on top of existing Medicare cost-sharing requirements, which are already high.

Second, the Bush administration continues to promote drug cards, even when evidence shows the cards provide little assistance. Seniors would purchase the card for approximately $25 and then receive only 10 percent to 15 percent off their prescription drugs. In other words, an average beneficiary with $2,500 in drug bills would pay $2,125 to $2,250 under the Bush plan. In contrast, drug companies receive about $25 per person, per year from any number of the over 40 million current Medicare beneficiaries. Drug cards are marketed by private companies, and herein lies the true motivation to promote them.

Not only do the cards provide a financial windfall for private companies, but they fail to offer meaningful assistance to Medicare beneficiaries. Even with the card, there is no guarantee that needed prescription drugs would be covered. Likely, drugs would have to be on a pre-approved list to be covered.

Third, a $600 subsidy for Medicare recipients who are living at the poverty level is simply inadequate. Low-income elderly and disabled persons do not have the resources to purchase their medicine. Too often, they are forced to skip taking their necessary prescription because they can't afford it. President Bush's plan would offer the poorest Medicare beneficiaries a way to get $600 more worth of medicine, but unless they are eligible for Medicaid, they are still left to pay the rest of their costs on their own.

Catastrophic coverage, discount cards, and a possible subsidy constitute the extent of the President's plan unless beneficiaries move out of the traditional Medicare program and into a private plan, such as a PPO or HMO. Currently 89 percent of Medicare's beneficiaries are enrolled in the traditional fee-for-service program where they can choose their physician. President Bush is effectively pushing them out of that program and into a private plan, where they would supposedly receive an actual drug benefit. However, the details of the actual drug benefit—the premium level, cost-sharing requirements, and value of the benefit itself—are not delineated in the President's proposal. The lack of detail present throughout the proposal is extremely disconcerting.

Medicare+Choice is a haunting reminder of how private plans under Medicare can leave beneficiaries without choice, benefits, and providers. The plans not only lowered benefits and raised cost-sharing, but in many places pulled out of the market altogether. The drug benefit that Medicare+Choice initially offered has since largely dissipated. In 1999, only 11 percent of Medicare+Choice enrollees had a drug cap of $500 or less, meaning that plan would only cover up to $500 of drug costs. By 2002, that percentage exploded, leaving 50 percent of enrollees with a drug cap of less than $500. Since 1999, 2.4 million beneficiaries have been dropped from the Medicare+Choice program completely. In over 30 years, the Medicare program has never dropped a beneficiary from coverage.

The Administration wants to use the drug benefit as a carrot to lure beneficiaries into private plans. This forces elderly and disabled populations to choose between doctors they know and trust and the medications they know they need. We are not fooled by what the administration is doing. They have no intention of offering a drug benefit to Medicare recipients. The reason why President Bush is pushing this approach is because he is attempting to privatize the entire Medicare program.

It is imperative that we critically examine the risks involved in pushing beneficiaries into private plans, even though the list of concerns is long and daunting. Private insurance plans are inherently risky and unstable. Covered benefits would vary from plan to plan, from state to state, from one year to the next—leaving millions of beneficiaries with unstable coverage, if any at all. Private insurance plans are not available in every city or state, can drop coverage at any time, occasionally go bankrupt, and can be taken over by other HMOs that later change the rules. Under Medicare, the same basic package is available everywhere.

In addition to reducing benefits, private plans could raise premiums, increase copayments, restrict formularies, and limit choice of doctors or pharmacies in order to offset costs. Between 2001 and 2002, average monthly premiums increased 40 percent for Medicare+Choice enrollees. Enrollees in these plans have also been subjected to rising copayments for both generic and prescription drugs. Private plans can restrict formularies thereby dictating and restricting covered drugs. In fact, some private plans have completely eliminated coverage of brand-name prescription drugs. This is especially troubling, considering that of the 50 drugs the elderly most commonly use, 40 are brandname drugs, and only eight of these are available in a generic version. Private plans restrict beneficiaries to those doctors or pharmacies included in a particular plan. Even though the elderly and persons with disabilities often choose their physicians or their pharmacies based on nearness and accessibility, private plans would not take this into account.

I am not willing to compromise the health and well-being of senior citizens and people with disabilities so that private companies can get rich. Medicare beneficiaries deserve a real and substantive drug benefit regardless of the Medicare plan they are enrolled in. For those reasons, I support the House Democratic prescription drug proposal, the Medicare Rx Drug benefit and Discount Act of 2003.

The House Democratic proposal adds a new Part D in Medicare that provides voluntary prescription drug coverage for all Medicare beneficiaries beginning in 2006. Those wanting the benefit would pay a $25 monthly premium and a $100 deductible for drug coverage. Medicare would pay 80 percent of drug costs, 100 percent after beneficiaries spent $2000 out of their own pockets on prescriptions. Full coverage of premiums and assistance would be provided for persons with incomes below 150 percent of poverty and sliding scale premiums would be in effect for those persons between 150 percent and 175 percent of the poverty level.

Under the Democratic proposal, strong measures will be implemented to keep drug-prices down. First, the Secretary of Health and Human Services (HHS) would use the collective bargaining clout of more than 40 million Medicare beneficiaries to negotiate fair drug prices. Second, drug companies will be prevented from extending patents that allow them to use their monopoly power to block competition and keep prices artificially high.

The Medicare Rx Drug Benefit and Discount Act of 2003 offers a real benefit to Medicare beneficiaries as opposed to drug companies. Bush's proposal is served up as a gift to drug and insurance companies that have financed Republican elections and agendas. If the President has his way, insurance and drug companies will profit, but millions of Medicare beneficiaries will still lack affordable, comprehensive coverage.

## FORMER INSURANCE AGENTS TAX EQUITY ACT OF 2003

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, I come to the floor today with my colleagues Congressman JERRY WELLER, Congressman JERRY KLECZKA, Congressman TOM PETRI, Congressman MARK GREEN, and Congresswoman TAMMY BALDWIN, to introduce the Former Insurance Agents Tax Equity Act of 2003, a bill designed to correct a minor oversight in the Taxpayer Relief Act of 1997. This legislation will help ensure that certain retired insurance agents are not unfairly subjected to self-employment tax. It will bring consistency and fairness to the tax treatment of similarly situated former insurance agents.

Under current law, a small number of agents are forced to pay self-employment taxes on their retirement payments, while their peers at other insurance companies do not. This is because a change in the Taxpayers Relief Act of 1997 (TRA) was drafted in a way that unintentionally excluded a small group of agents.

In the TRA, Congress enacted a provision designed to clarify that certain termination payments received by valued, long-term former insurance agents should be exempt from self-employment tax. Unfortunately, the changes in 1997 provided clarification for most agents, but not others, as a result of how certain insurance companies structure their agent agreements.

As enacted, the 1997 provision provides that payments to a retired agent are exempt from self-employment tax when the agent's eligibility is tied to length of service, but not when the actual amounts of the payments are tied to the agent's length of service. Simply put, this is a distinction without a difference. There is no reason to provide different tax treatment for arrangements that are so similar just because the sum of an agent's termination payment is determined by varying the amount of compensation rather than the term of compensation.

Hard-working agents whose payments are tied to their length of service deserve the same fair treatment accorded to their counterparts at other insurance companies. Both types of contract seek to satisfy the same goal of rewarding loyal, long-time agents with more generous retirement payments. All of these payments, of course, continue to be subjected to income taxes.

The Former Insurance Agents Tax Equity Act of 2003 would simply strike language in the Internal Revenue Code that prevents companies from using a former agent's length of service in determining the amount of termination payment the agent will receive. In doing so, this bill fulfills Congress' intentions with the TRA and provides equitable tax treatment for all former agents. In addition, the budget implications are minor since only a very small number of agents are affected. This provision enjoys the support of thousands of insurance agents around the country, as well as the National Association of Life Underwriters, the Coalition of Exclusive Agents, and the National Association of Independent Insurers.

In the interest of ensuring that termination payments to former insurance agents are treated fairly and consistently under our tax laws, I hope that you will join me in supporting the Former Insurance Agents Tax Equity Act of 2003.

## HONORING GLENN RANDALL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to rise today and recognize Glenn Randall, an outstanding young cross-country skier from Collbran, Colorado. Despite unlikely odds, Glenn won the right to compete in the Junior World Championships in February. His dedication to the sport, and his determination, is truly a credit to this young athlete.

Glenn developed asthma at the age of three, but set his mind on racing with an inhaler. After competing in five- and ten-kilometer races, Glenn decided to enter the 30K United States Cross Country Championships. His parents, both avid cross-country skiers themselves, wondered whether their son could handle the exertion.

Glenn, who is sixteen and a high school sophomore, placed twenty-first overall and second among juniors, earning him a place on the American team for the World Championships and making him the youngest member of the U.S. team. Unlike many elite skiers, Glenn still attends a public school, squeezing in training around school hours, while also participating in high school cross-country and track.

Mr. Speaker, it is a great privilege to recognize Glenn Randall for his dedication and hard work before this body of Congress and this nation. The determination of this young man to exceed all expectations and overcome all obstacles is an inspiration to his peers as well as his elders. Glenn, who has achieved so much at a young age, has great things ahead of him, and it is my distinct pleasure to wish him the best of luck.

## PNTR TO RUSSIA

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. LEVIN. Mr. Speaker, today Mr. RANGEL, Mr. PITTS, Mr. CARDIN and myself introduced a bill that would grant permanent normal trade relations (PNTR) to Russia and "graduate" Russia from the application of the so-called Jackson-Vanik amendment. The legislation would provide a historic update in U.S.-Russia trade relations. It would strengthen U.S.-Russian relations and reinforce progress Russia has made in many areas. Additionally, the legislation would ensure that Congress continues to play an active role—with the Administration and with Russia—in confronting trade disputes and negotiating the terms of Russia's WTO accession.

It is useful to recall at the outset that the Jackson-Vanik amendment was itself an amendment to Title IV of the Trade Act of 1974, a trade statute. In particular, Title IV created a framework for conducting trade relations with non-market economies. The Jackson-Vanik amendment, which has been an effective tool for raising freedom of emigration and human rights concerns, is a key element of Title IV; however, the underlying purpose and function of the statute were and remain the conduct of trade relations.

Accordingly, PNTR legislation must address fundamental trade issues. Consistent congressional practice is to grant PNTR to a country that is subject to Jackson-Vanik only at the time of the country's WTO accession, or when negotiations on accession were effectively completed. In this way, Congress' vote on PNTR has served as a way to signal approval for the country's WTO accession agreement. Under this approach, Congress was able to exercise its constitutional prerogative to regulate commerce with foreign nations, and the American people benefitted from the Administration negotiating the strongest possible agreement.

This precedent has led to an important series of successful accessions to the WTO, including most notably for China, on terms that reinforced the WTO rules-based system, and brought great benefits to the people of the United States as well as other WTO countries.

In the case of Russia, WTO accession terms are still being negotiated. I believe it is appropriate to depart from that precedent and grant Russia PNTR now, so long as Congress retains a strong and effective tool to ensure that U.S. interests are fully addressed in those negotiations. And, there are many critical issues that still need to be addressed—Russian commitments to open its auto market, commitments in the services and other sectors, ongoing problems with pricing in the industrial energy sector, intellectual property protection, to name just a few. Moreover, several recent actions by Russia—including last year's poultry ban and potential new restrictions on beef and pork—have renewed concerns in Congress about Russia's commitment to opening its market to U.S. exports and service providers and to adopting market-oriented reforms.

This legislation ensures that Congress will continue to play an active role in addressing trade problems as they emerge and in obtaining a strong WTO accession agreement from Russia. While giving up the precedent of using the PNTR vote as a proxy for approval of WTO accession, the legislation allows Congress to consider a resolution directly addressing the terms of agreement between the U.S. and Russia on Russia's WTO accession. While in its form, this resolution would be nonbinding on the Executive, it would provide Congress with an important tool to assure itself of a continuing role in the formation of the terms of Russia's WTO accession and thereby implement Congress' constitutional responsibility of oversight over trade matters.

There are two sides to the PNTR coin—the trade issues and the "Jackson-Vanik" issues. The Jackson-Vanik amendment was an historic piece of legislation, aimed at addressing a serious problem in the former Soviet Union. It set forth important criteria related to freedom of emigration necessary for certain countries to obtain normal trade relations with the United States. Even from its inception, however, the Jackson-Vanik amendment was not only concerned with freedom of emigration, but also reflected the American commitment to human rights and freedom of religion. This fact is evident not only in the preamble of the Jackson-Vanik amendment, but also in the operation of U.S. relations with the former Soviet countries for nearly thirty years.

I think it is appropriate, then, that as we consider graduating Russia from the Jackson-Vanik amendment, that we place a strong emphasis on freedom of emigration, religious freedom, and human rights issues. These were the issues at the core of the Jackson-Vanik amendment, and continue to be relevant when considering "graduation," particularly for Russia, which was and is in many ways the primary focus of the Jackson-Vanik amendment.

I am glad that we were able to craft a bill that addresses these vital issues in a responsible way, rather than giving them "check-the-box" cursory treatment. The presence of Members of the Helsinki Commission on the bill, who have a long history of dealing with human rights and religious freedoms, demonstrates that we have given these issues the careful treatment they deserve.

Earlier this week, Senator LUGAR, the distinguished Senator from Indiana and a key participant in consideration of our relations with other nations, introduced a Russia PNTR bill. This bill did not address the issue of assuring a continuing congressional role in the resolution of vital elements of an agreement on Russia's WTO accession. I believe that Congress has a substantial role to play in overseeing negotiations of Russia WTO accession agreement to ensure that it provides the strongest benefits for U.S. workers, farmers and businesses, and therefore we are introducing this legislation today.

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## WHAT IF A PENSION SHIFT HIT LAWMAKERS, TOO?

## HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. SANDERS. Mr. Speaker, I want to share with you an article which appeared in the March 9th New York Times. It is not acceptable to me that millions of older American workers could lose the pensions they were promised by their companies because of a conversion to a cash balance pension. My experience in working with IBM employees in Vermont has shown me that these cash balance schemes are extremely unfair and could cut the expected retirement benefits of older workers by up to 50 percent.

Every member of Congress enjoys a defined benefit pension plan. We can figure out exactly how much we will receive when we retire by computing the years we have served, our salaries and the age at which we retire. A study I recently requested from the Congressional Research Service, CRS, shows very clearly that if members in Congress were in cash balance plan they would receive substantially less in pensions than in the defined benefit plan we currently enjoy.

President Bush has proposed regulations that would legalize age discrimination in cash balance pension conversion. These proposed regulations would give the green light to Fortune 500 companies to raid the pension benefits of millions of older workers. It seems to me that if Congress allows this extremely unfair proposal to go into effect, and jeopardizes the pensions of American workers, it should be prepared to do the same thing for itself.

Mr. Speaker, if cash balance plans are good enough for American workers, they should be good enough for members of the U.S. Congress. My understanding is that the Pension Security Act is supposed to go on the floor for debate sometime this month. During that time it is my intention to offer an amendment which would give all vested employees the right to choose which pension plan works best for them under a cash balance conversion. If that amendment does not succeed, I intend to offer another amendment that would convert the traditional pensions of members of Congress into cash balance plans if the President's proposal goes into effect. What's good for the American worker should be good for members of Congress.

[From the New York Times, March 9, 2003]

### WHAT IF A PENSION SHIFT HIT LAWMAKERS, TOO?

(By Mary Williams Walsh)

As members of Congress prepare to reform the pension system, they might want to think hard about the proposals on the table. A new study has examined what would happen to their own retirement benefits if the changes that some favor for other workers were applied to them. The answer might give them pause.

Virtually every senator and representative would lose out, the study found—in some cases by hundreds of thousands of dollars—if their current Congressional pensions were switched to a controversial variant called a cash-balance pension.

One big loser, for example, would be Representative Rob Portman, a major sponsor of the House Republicans' pension legislation. He had built up a pension benefit worth $337,857 by the end of 2002, if taken as a single payment, the study found. But if Mr. Portman had instead earned his benefits under a cash-balance plan, he would get $239,185, based on an age of 48 and 10 years of service.

Mr. Portman will turn 48 this year. (The study used approximate ages in calculating the hypothetical totals.)

The study, done by the Congressional Research Service, shows that other members of Congress would suffer losses of varying amounts, depending on their ages and years of service.

Congress will be deliberating on significant pension legislation in the coming months, including proposals that would affect benefit levels and the strength of the pension system itself. An especially contentious debate is looming over regulations proposed by the Bush administration on how companies could convert their traditional pension plans to the cash-balance variety.

The existing Congressional pension plan is generous, and no one is really planning to trade it in for a new, stripped-down version. For years, however, private-sector employers nationwide have been replacing traditional pension plans with newer ones that are generally meant to be less costly for the companies to offer, but that in many cases yield smaller benefits, or transfer all the risk to workers.

Seen in that context, the Congressional Research Service study shows how well members of Congress are insulated from some trends in the private sector.

Since the 1980's, hundreds of large companies have switched from traditional to cash-balance plans. These plans combine features of the traditional pension with yet another type of retirement plan, the 401(k), in which employees manage their own retirement money and sometimes receive matching contributions from employers. They are called cash-balance plans because employees periodically receive notice of a hypothetical cash balance that they can track as it grows.

In theory, the cash-balance pension has virtues that make it superior to the 401(k): it is paid for and managed by the employer, and it is guaranteed by the federal government; a 401(k) has no such guarantee. But in the real world, companies that have converted traditional pension plans to the cash-balance variety have reduced some employees' retirement benefits sharply. The worst losses have generally befallen older workers.

Statistics on the trend are sketchy. But a 2002 audit of 60 corporate pension conversions by the Labor Department's Office of Inspector General found that in 13 cases—about 20 percent—workers were deprived of retirement benefits. They were losing about $17 million a year because companies used improper calculations in making the conversions.

Extrapolating these lost benefits to the hundreds of pension conversions across the country, the office said, the affected workers "may be underpaid between $85 million and $199 million annually." The office called for heightened regulatory vigilance.

Even assuming proper calculations, cash-balance pensions can mean lower payments than in the traditional approach. Cash-balance plans differ from traditional plans, which are set up to let workers build the biggest part of their benefit in the years just before they retire. The idea was to promote worker loyalty by giving workers an incentive to stay with one company.

Many graying baby boomers in traditional plans may not know it, but now that they are passing 50 and amassing the bulk of their pensions—they are becoming very expensive to their employers. Companies that have converted to cash-balance pensions have been able to reduce labor costs by ending their traditional plans before many workers enter this high-accrual stage.

Cash-balance pensions build benefits more evenly over the course of a worker's career. For some people, they can yield larger benefits than traditional plans, particularly for younger workers who often jump from job to job.

In switching to cash-balance pensions, some companies have notified employees in technical jargon or euphemisms that have left workers clueless about what is really happening. But as older employees started to realize that the conversions could mean individual losses in the tens of thousands of dollars, they began to pepper the Equal Opportunity Employment Commission with age-discrimination complaints. Some have filed class-action lawsuits against their companies. The most prominent case, still pending, affects more than 140,000 employees at I.B.M.

In 1999, the Internal Revenue Service, which regulates pensions, placed a moratorium on conversions, to give specialists a chance to sort out their legality.

Now the Bush administration has proposed regulations that would settle the issue, laying out basic rules for making cash-balance conversions legal. Public comment will be accepted until Thursday, and hearings are scheduled for April 9. If the proposed regulations take effect, the moratorium will be lifted.

Critics of cash-balance plans fear that an end to the moratorium would prompt a flood of pension conversions. They and their advocates in Congress doubt that the regulations would adequately protect older workers.

"There are millions and millions of workers today who are scared to death that the pensions they have been promised, that they have worked their whole life for, will not come through," said Representative Bernard Sanders, a Vermont independent who has long opposed cash-balance pension conversions.

Proponents of cash-balance pensions have argued that conversions are usually harmless. They note that some companies have voluntarily sweetened their cash-balance plans after older workers complained.

In general, members of Congress who have served the longest would face the greatest losses if they were given a cash-balance payout.

Patrick J. Purcell, the Congressional Research Service economist who conducted the study, said he worked with each lawmaker's age and years of service without knowing whom the numbers applied to, "so there would be less reason for people to question the results."

He then used standard actuarial methods to compress each pension—normally taken as a lifelong stream of monthly checks—into a lump-sum payment.

Calculating the lump-sum value made comparison possible with cash-balance benefits, which are normally given in a single payment.

Mr. Purcell then calculated what the lawmakers' hypothetical cash-balance benefit would be if they had had such a pension from the day they entered Congress. That approach made for a more straightforward comparison and possibly gave an advantage to the cash-balance plan. In practice, some of the most harmful effects of pension conversions occur because employees undergo the change at midcareer.

Mr. Portman, the Ohio Republican, was unavailable for comment on the study. But a spokesman, Jim Morrell, noted that in 2001, Mr. Portman sponsored legislation requiring companies to notify employees of the way their benefits would be affected in cash-balance conversions. That bill is now law.

Senator Charles E. Grassley, Republican from Iowa and chairman of the Finance Committee, earned a pension worth $508,266 under the existing plan, based on an age of 70 and 18 years of service. Under a cash-balance plan, he would have received only $161,623, according to the study.

Mr. Grassley is also the former chairman of the Senate Special Committee on Aging and is active on pension issues. A spokeswoman, Jill Gerber, said Mr. Grassley could not comment on the new findings without seeing the study.

The study also found that Representative Tom DeLay, the House majority leader, had earned a benefit worth $608,143 at the end of 2002 under the current plan. In a cash-balance plan, Mr. DeLay, a Texas Republican, would receive $251,086 or 59 percent less, based on an age of 56 and 18 years of service.

Mr. DeLay did not respond to a request for comment.

Representative J. Dennis Hastert, the House speaker, qualified for a Congressional pension worth $540,572 at the end of 2002. He would qualify for $164,455 in a typical cash-balance plan, the study found, based on an age of 61 and 16 years of service.

Mr. Hastert's press secretary, John Feehery, questioned whether it was fair to single out members of Congress for scrutiny when the entire federal compensation system is skewed toward smaller paychecks and larger pensions compared with the private sector.

"The Treasury Department and Congress are looking at ways to make sure that any conversion is fair," he added. "But on the other hand, many companies, given the economic downturn, are faced with the possibility of not being able to offer any plan at all. And that also would be bad for employees."

Ms. Gerber noted that pension conversions in Iowa, Senator Grassley's state, generally make it clear that companies are backing away from traditional pensions. In the mid-1970's there were about 1,100 pension plans in Iowa, she said, but now there are fewer than 400. With some companies deciding not to offer any pensions at all, she said, Mr. Grassley sees a need to find some balance between protecting workers' benefits and offering employers incentives to stay in the pension system.

"The anti-cash-balance people are just anti-cash-balance," she said. "But if you just make cash-balance plans illegal, what are the plan sponsors going to do?"

The Congressional Research Service, a nonpartisan branch of the Library of Congress, did the study at the request of Mr. Sanders, who has introduced legislation opposing cash-balance conversions in the past—none of it successful. He said he hoped the new findings would "show the hypocrisy" of colleagues who would let other people undergo pension conversions but would not have to suffer ill effects themselves.

"If they think a cash-balance plan is good enough for American workers, why don't they convert their own pensions?" he asked in an interview.

He said he intended to introduce legislation this week that would force Congress to put its money where its mouth is: it would require the conversion of all Congressional pensions to the cash-balance type if the legislators allow the administration's proposed regulations to go forward.

Mr. Sanders himself would lose 72 percent of his pension if that happened. Based on an age of 61, with 12 years of service, he qualified for a $416,159 lump-sum payment at the end of 2002. In a cash-balance model, he would have received $115,850.

He would not comment on the prospects for his cash-balance legislation. Perhaps more pragmatically, he said he would also introduce legislation to require companies converting their pensions to let each worker choose whether to keep the old plan or go with the cash-balance plan.

Some companies have done this voluntarily, he noted.

"Kodak has done that," he said. "Motorola has done that. CSX, which is the new secretary of the Treasury's company," had done that, he said, referring to John W. Snow, who was chief executive of CSX, the railway company, before Mr. Bush appointed him in December to replace Paul H. O'Neill. As Treasury secretary, Mr. Snow has authority over the proposed regulations.

All of those companies converted, Mr. Sanders said, "but they gave workers the choice."

# AIR TRAFFIC RETIREMENT REFORM ACT OF 2003

## HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. OBERSTAR. Mr. Speaker, today I rise to introduce the Air Traffic Retirement Reform Act of 2003. This legislation will grant air traffic controllers, and more specifically air traffic controller supervisors, the same treatment that Federal firefighters and law enforcement officers (LEOs) receive under the Civil Service

Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

Both the CSRS and the FERS provide early retirement benefits and require mandatory separation for safety-related occupations, including Federal firefighters, LEOs and air traffic controllers. Under both CSRS and FERS, firefighters/LEOs and controllers are eligible for retirement after 25 years of service or after becoming 50 years old and completing 20 years of service. Additionally, the annuities for firefighters, LEOs and controllers are higher than ordinary Federal employees under CSRS and FERS.

However, the current definition of an air traffic controller in both CSRS and FERS is limited to people who are actively engaged in directing air traffic or their immediate supervisors. As a result, air traffic controllers who are promoted to staff specialists or second level managers before they are eligible to retire lose all benefits currently guaranteed controllers under CSRS and FERS. Yet, firefighters and LEOs that are promoted to management positions do not need to make a similar sacrifice.

The Air Traffic Retirement Reform Act of 2003 amends the CSRS and FERS to provide a more expansive two-tier definition of air traffic controllers. The new definition will include both employees covered under the current definition of air traffic controllers and second level supervisors. Second level supervisors would be eligible for the same retirement benefits available to line-controllers.

The Air Traffic Retirement Reform Act of 2003 provides fairness and parity between air traffic controllers and other Federal safety professionals.

## TRIBUTE TO BERNARD DOWIYOGO

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. BORDALLO. Mr. Speaker, I rise today to express condolences for the late Bernard Dowiyogo, President of Nauru, who passed away on March 9, 2003, in Washington, DC. The people of Nauru first elected President Dowiyogo to their parliament in 1973, only five years after achieving independence from Australia in 1968. Since then he was repeatedly elected to serve a number of successful terms as President of Nauru. The island nation of Nauru is a proud friend of the United States and a well respected neighbor of Guam in the Asia-Pacific community. I urge the Parliament of Nauru to put partisan differences aside and come together to commemorate the legacy of President Dowiyogo. I ask of this Congress that, in our prayers, we remember the family of President Dowiyogo, who is survived by his wife and four children.

## BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES PREVENTION ACT (H.R. 398)

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. HOLT. Mr. Speaker, I don't know all of the reasons why this bill was pulled from the suspension calendar today. But I hope it will be re-scheduled for our consideration soon. I support passage of this bill sponsored by my New Jersey colleague, Congressman MIKE FERGUSON. It will re-authorize the important work of the National Center on Birth Defects and Developmental Disabilities (NCBDDD) within the Centers for Disease Control (CDC). Statutory authorization for this particular national center expired at the end of Fiscal Year 2002.

But at the same time, I also want to underscore my concern that officials of the CDC and the National Center on Birth Defects do not currently intend to continue approximately $1 million in annual funding beyond Fiscal Year 2003 for the New Jersey Center for Birth Defects Research and Prevention, which is located in the City of Trenton. This would be very short-sighted and inefficient.

The New Jersey Center is one of eight such state centers that CDC established in 1997, at the direction of Congress. Since then, they have been hard at work developing a statewide registry and database on the incidence of birth defects and linking them to new research. Continuing this important work will help us determine what factors might be causing birth defects. It could yield invaluable insights into whether exposure to certain environmental hazards, for example, contributes to birth defects.

Sadly, our nation is now confronting huge budget deficits for years to come. But the CDC and the National Center on Birth Defects should build upon their initial five-year investment and continue their modest funding for all of the state efforts already compiling this vital information to help determine what causes birth defects.

Doing all we can to prevent birth defects and to learn more about what contributes to them is not a partisan issue. Accordingly, I look forward to working with my colleagues on both sides of the aisle to sustain federal support for New Jersey and other states that have taken the lead in developing this tracking data, while also enabling more states to do so.

## A TRIBUTE IN HONOR OF HUGH B. PRICE: AUTHOR, LAWYER, CIVIL RIGHTS LEADER, PUBLIC SERVANT

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. CUMMINGS. Mr. Speaker, I rise today as Chair of the Congressional Black Caucus to pay tribute to a great man who is retiring as the leader of one of our most cherished leadership organizations.

For the past nine years, Hugh B. Price has worked tirelessly to preserve and fortify the legacy of the National Urban League—the nation's oldest and largest community-based movement dedicated to moving African Americans into the social and economic mainstream. As president and chief executive officer of this ninety-two year old organization, Hugh Price's visionary leadership has prepared the Urban League Movement for a second century of leadership and service.

Given his successful tenure, it is only fitting that the Congress honor his accomplishments and thank him for his excellent stewardship.

It is a fact that Hugh's vision has increased the organizational, programmatic, and policy capacity of the National Urban League. Under his leadership, the League dramatically strengthened its fiscal performance and reached new heights in fundraising through strategic partnerships with corporations, foundations, and governmental agencies.

Under Hugh Price's talented leadership, signature Urban League Movement programs moved to the forefront of urban communities. One such program, the Campaign for African American Achievement, became synonymous with standards of academic excellence in urban schools across the country. This program provided positive reinforcement for young people who earn good grades through the National Achievers Society—a nationwide, community-based honors society recognizing children who have earned B averages or better in school.

Expanding upon its innovative work in the education arena, Mr. Price guided the National Urban League into a partnership with Scholastic, Inc., to create Read and Rise—a parent guide for helping children become proficient readers—and a companion public service campaign to spread the word about this free resource throughout the African American community.

Finally, Hugh Price's talented leadership positioned the Urban League Movement as a leading agenda setter of many policy issues affecting Americans. From education policy to affirmative action and racial profiling, Hugh B. Price inserted the National Urban League into the policy fray with fact-based arguments that often added new and thoughtful insight into strident policy debates.

His role as a master policy architect was also evidenced by his dedicated efforts to reconstitute the Washington office of the National Urban League into the Institute for Opportunity and Equality—a policy and research think tank that is quickly emerging as a leading information resource concerning issues important to African Americans.

Finally, Mr. Speaker, I am proud as Chair of the Congressional Black Caucus to stand before you today to laud the many accomplishments of Hugh B. Price, thank him for his service, and wish him a heartfelt farewell as he transitions from his successful tenure as President and Chief Executive Officer of the National Urban League.

## A TRIBUTE TO JACK BUCKLES

**HON. BOB FILNER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. FILNER. Mr. Speaker and colleagues, I rise today to pay tribute to Jack H. Buckles on the occasion of his 80th birthday.

Jack was born in Watagua, Tennessee on March 12, 1923. He was raised in a strong Democrat family of eight sons and two daughters. Following the outbreak of World War II, Jack enlisted in the U.S. Navy. He served aboard LCT 666, making numerous landings of soldiers and equipment on Omaha Beach on D-Day, June 6, 1944. After being honorably discharged at the end of the war, Jack returned to his home in Tennessee, where he became the first member of his family to attend college. On August 18, 1947, he married Billie Roberta Leonard. Shortly after his marriage, Jack became a journeyman steamfitter, working on numerous Tennessee Valley Authority construction projects. In 1959, Jack moved his family to Frederick, Maryland.

Jack joined the Steamfitters Union 602 in Washington D.C., where he served for more than 35 years with professionalism and commitment. Recognized for his exceptional skill in his craft, Jack was identified as one of the pool of select union members assigned to duties at the White House and other highly sensitive federal job sites. He supported the expansion of the medical and pension plans for the rank and file which today is recognized as one of the model union programs in the building trades in the District of Columbia.

A long time resident of Frederick, Maryland, Jack has proven himself to be a pillar of his community, a strong leader in his church and active in numerous community and service organizations. A life long Democrat, Jack has devoted himself to working for the advancement of the Democrat Party and Democrat candidates at the local and state level. He has been a member of the Christian Church of Frederick for more than 30 years, where he was selected by the congregation to serve as a Church Deacon.

Jack considers his family as his greatest achievement. A loving husband of over 55 years to Billie R. Buckles, they have one son, a daughter, four grandchildren, and two great-grandchildren.

Mr. Speaker, it is with great admiration that I recognize Jack H. Buckles before this body of Congress and this nation today. His contributions to his community, his church, and his family have been immeasurably beneficial in the lives of many.

## TRIBUTE TO JOEL IRWIN WOLFF

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Ms. ESHOO. Mr. Speaker, I rise to honor Joel Irwin Wolff who will be named Pioneer of the Year by Grays Harbor County, Washington on March 23, 2003.

Joel Wolff's father came to the United States from Germany and established Wolff's Department Store in Aberdeen, Washington, in 1897. Joel Wolff was born on September 26, 1908, and has spent his entire life in Grays Harbor County.

Joel Irwin Wolff has been the devoted husband of Ruth Kauffman Wolff for 65 years and he is the proud father of Susan Desmond of Portland, Oregon, and George Wolff of Hillsborough, California.

Mr. Speaker, I ask my colleagues to join me in honoring a true pioneer and a great American, Joel Irwin Wolff.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 13, 2003 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### MARCH 14

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the posture of U.S. Joint Forces Command and the role of joint experimentation in force transformation, in review of the Defense Authorization Request for Fiscal Year 2004.

SR–22

#### MARCH 18

9:30 a.m.

Armed Services

To hold hearings to examine ballistic missile defense in review of the Defense Authorization Request for fiscal year 2004.

SD–106

Foreign Relations

To hold hearings to examine the war on terrorism, focusing on diplomacy issues.

SD–419

Small Business and Entrepreneurship

To hold hearings to examine the practice of contract bundling in federal agency procurement, focusing on the loss of federal jobs in small business.

SR–428A

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine proposals to regulate illegal Internet gambling.

SD–538

Energy and Natural Resources

To hold oversight hearings to examine water supply issues in the Western United States.

SD–366

Finance

To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Commissioner of Internal Revenue.

SD–219

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold hearings to examine the President's proposed budget for fiscal year 2004 for the Fish and Wildlife Service.

SD–406

Appropriations

Military Construction Subcommittee

To hold hearings to examine Base Realignment and Closure.

SD–138

4 p.m.

Foreign Relations

To hold a closed briefing to examine the current hostage situation in Columbia.

S–407 Capitol

#### MARCH 19

9:30 a.m.

Judiciary

To hold hearings to examine ethical regenerative medicine research and human reproductive cloning.

SD–226

Armed Services

Readiness and Management Support Subcommittee

To hold hearings to examine acquisition policy and outsourcing issues in review of the Defense Authorization Request for fiscal year 2004.

SR–222

Rules and Administration

To hold oversight hearings to examine the operations of the Secretary of the Senate and the Architect of the Capitol.

SR–301

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider S. 15, to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, proposed legislation entitled "Lifespan Respite Care Act", "Pediatric Drugs Research Authority", "Caring for Children Act of 2003", "Genetics Information Nondiscrimination Act of 2003", and pending nominations.

SD–430

Indian Affairs

To hold hearings to examine S. 424, to establish, reauthorize, and improve energy programs relating to Indian tribes, and S. 522, to amend the Energy

Policy Act of 1992 to assist Indian tribes in developing energy resources.
SR–485

2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the effects and consequences of an emerging China.
SD–419

Armed Services
Strategic Forces Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on strategic forces and policy.
SR–232A

3 p.m.
Armed Services
Personnel Subcommittee
To hold hearings to examine the National Guard and Reserve military and civilian personnel programs in review of the Defense Authorization Request for fiscal year 2004.
SH–216

MARCH 20

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy, in review of the Defense Authorization Request for Fiscal Year 2004.
SH–216

Banking, Housing, and Urban Affairs
To hold hearings to examine issues related to the Department of Housing and Urban Development's proposed rule on the Real Estate Settlement Procedures Act.
SD–538

Governmental Affairs
To hold hearings to examine possible terrorist threats on cargo containers.
SD–342

10 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine the President's budget request for fiscal year 2004 for the Department of Commerce.
S–146, Capitol

Health, Education, Labor, and Pensions
To hold hearings to examine the Washington Teacher's Union.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.
345 Cannon Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the nomination of Vernon Bernard Parker, of Arizona, to be an Assistant Secretary of Agriculture.
SR–328A

2:30 p.m.
Foreign Relations
To hold hearings to examine how to make embassies safer in areas of conflict.
SD–419

Armed Services
SeaPower Subcommittee
To hold hearings to examine the U.S. Transportation Command in review of the Defense Authorization Request for fiscal year 2004.
SR–232A

MARCH 25

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold oversight hearings to examine National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails, and S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.
SD–366

MARCH 26

9:30 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the reauthorization of child nutrition programs.
SR–328A

Indian Affairs
To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.
SH–216

2:30 p.m.
Armed Services
Strategic Forces Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the Department of Energy's Office of Environmental Management and Office of Legacy Management.
SR–222

MARCH 27

9:30 a.m.
Armed Services
To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).
SH–216

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine terrorism, focusing on public health response.
SD–430

APRIL 2

10 a.m.
Indian Affairs
To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.
SR–485

APRIL 8

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Mammography Quality Standards Act.
SD–430

# HOUSE OF REPRESENTATIVES—*Thursday, March 13, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 13, 2003.*

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of history and Conqueror of evil, empower us to surrender completely to Your spirit. With renewed faith in Your guidance, even in the midst of conflicting inspirations, we commend to You the Members of Congress, the President, his Cabinet, and all who struggle to lead Your people and acknowledge Your sovereignty over all events and times.

When faced with impending decisions or making a deep commitment, Your devout people not only turn to You in prayer but they use every ounce of intelligence and every source of consultation to know Your holy will. Lord, human as we are, often we talk to You as we would a friend or an intimate, wondering what is Your mind.

At a certain moment, we begin to look for signs from You that will confirm the movement in our heart. Lord, send forth Your light that we may discern well the desolations or consolations You give us. If conscience is flooded with anger, resentment, and darkness, we will reexamine their source. If, however, You fill us with a surge of energy borne of inner peace and freedom, that takes us beyond our ego and is in tune with Your word, we will continue to seek to do Your will now and forever.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minutes on each side.

## BAN PARTIAL-BIRTH ABORTION

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, today, our colleagues on the other side of the building will vote on a bill banning the barbaric procedure of partial-birth abortion. Partial-birth abortion is one of the most violent and gruesome acts known to mankind.

Despite what its supporters say, several thousand times a year in the United States healthy babies and healthy mothers in the fifth and sixth months of pregnancy undergo this horrific procedure. As we seek to lead the world against tyranny and in support of basic human rights, we must recommit ourselves to promoting the basic human rights of the most vulnerable among us, the most innocent and defenseless members of the human race. We have a chance to stand up for what is right, to stand against what is wrong. We have a chance to defend those who need it most, to stand against those who seek to harm them.

Partial-birth abortion is not rare, partial-birth abortion is not safe, partial-birth abortion does not foster a respect for human life. It degrades us all. Partial-birth abortion must be banned. Let us pass the bill.

## THE CRISIS WITH IRAQ

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, I voted for the resolution authorizing the forcible disarmament of Iraq, and I continue to agree with the President of the United States that we should disarm Iraq by force, if necessary, in order to protect American lives. But I also recognize that if we go to war right now, the war will have little legitimacy in the eyes of the world community, and that increases the risks. I, therefore, believe that it is in our security interests to support Great Britain's latest proposal to establish specific unambiguous disarmament benchmarks and a firm deadline. Failure to comply with all requirements would trigger military action without further debate.

If Iraq does comply, we would have achieved our aims without the need for war, everybody's first choice. If Iraq again fails to meet its obligations, our good-faith effort will have helped restore some of the U.S.'s lost credibility, thereby strengthening the coalition supporting the war as well as improving our ability to prosecute the war on terrorism, as well as decreasing the risk and cost of rebuilding Iraq after a conflict.

I urge my colleagues to support this reasonable approach to the crisis.

## WOMEN AND HEART DISEASE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, last month we celebrated Heart Month, a time for us to reflect upon heart disease, its effects, and our methods of prevention.

I would like to take this opportunity to recognize the Miami Heart Research Institute for its dedication to the research and the treatment of this life-threatening disease.

Heart disease is the single leading cause of death for American women. Obviously, women make an indispensable contribution to the growth of our culture and must be ensured every opportunity for good health and longevity. It is critical that women be educated on the risk of heart disease as well as on the effective methods of prevention.

I hope that my colleagues will join me in recognizing the efforts of the Miami Heart Research Institute and that we will all grow in the awareness of the impact which heart disease has on Americans, especially our Nation's women.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## IN MEMORY OF FORMER CONGRESSMAN GUS YATRON

(Mr. HOLDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLDEN. Mr. Speaker, I have the sad task of informing my colleagues that my predecessor, Gus Yatron, passed away unexpectedly early this morning.

Gus Yatron dedicated his entire life to public service, first serving as a school director for the Reading School District, and then serving in the Pennsylvania State House and in the Pennsylvania State Senate. He served with distinction in the halls of Congress for 24 years.

During Gus Yatron's years of public service, he helped thousands of people and was respected by all the colleagues that he served with. Our thoughts and prayers go out to his wife, Millie; his daughter, Theana; his son, George; and to his grandchildren.

## ELIMINATING UNFAIR DOUBLE TAXATION ON DIVIDEND INCOME

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, over 250 economists have urged Congress to repeal the unjust double taxation on dividend income. This is an excellent opportunity to dramatically boost our economy and create jobs for Americans.

There is an urgent need to pass President Bush's plan. On March 11, the widely respected Charles Schwab wrote in The Washington Post, and I quote, "If we are going to stimulate the economy, we need a tax policy that bolsters confidence, improves corporate governance, unlocks the stagnant capital inside companies, and lifts the stock market across the board. Only the elimination of the double tax on dividends achieves all these goals. Congress ought to act quickly."

That is why I have introduced H.R. 225, the Double Taxation Elimination Act of 2003, and I ask my colleagues to join me in ending this unfair double tax on dividends which has been championed by the House Policy Committee chaired by the gentleman from California (Mr. COX) and which has been promoted by the Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS). With this plan we can stimulate the economy and create jobs.

In conclusion, Mr. Speaker, God bless our troops.

## SUPPORT OF TROOPS

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, our 1-minutes are designed for us to talk about things that are happening in our districts or whatever issues may be important for the day. I wanted to talk about a situation that is happening in east and northeast Harris County.

Mr. Speaker, we have a group that is talking about communities rallying for our troops. Now, our troops are in Iraq and in Afghanistan. We have two groups, the 373rd Support Battalion and also the 450th Chemical Battalion. They are Houston Reserves who are serving our country. What is happening this week in North Shore and Channel View and northeast Harris County and Houston are our communities showing support for those young men and women serving our country everywhere in the world.

Mr. Speaker, we are fighting for freedom and democracy everywhere in the world. My only frustration is that here on the floor of the House today we do not even get an amendment on a major piece of legislation. But we know that we support our troops, whether they are in Afghanistan, Iraq, or anywhere else in the world.

## FREEDOM OF SPEECH DOES NOT MEAN DESTRUCTION OF PRIVATE PROPERTY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, today I rise to talk about a misunderstanding about our Constitution. It has been reported that some antiwar protesters destroyed a 9–11 memorial in La Habra, California, last Saturday. The memorial was on private property and was set up after 9–11 to honor those murdered by the terrorist attackers. The antiwar protesters burned and ripped flags while the local police watched and did nothing.

It is unconscionable there would be Americans who would show no respect for those victims of 9–11. Even more outrageous is that the police department excused this vandalism by citing the first amendment's protection of freedom of speech. Freedom of speech is a God-given right of every American; destroying private property is not.

What would the police officers do if a citizen wanted to exercise his freedom of speech by setting fire to city hall? Can a person express their freedom of speech by punching a speaker they disagree with? Obviously not.

I encourage the La Habra Police Department and all police departments across this country to protect freedom of speech while at the same time not allowing vandals to destroy private property.

## NATION REJOICES IN RETURN OF ELIZABETH SMART

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, the Nation grieved with the Smart family when Elizabeth disappeared 9 months ago. As chairman of the Congressional Missing and Exploited Children's Caucus, I, and our Nation, are overjoyed at her discovery. This is the light at the end of the tunnel for her family and friends, something that every parent who has a missing child would dream of.

I want to thank the media, the citizens who paid attention and called in leads, and the law enforcement officials who worked so hard on this case. This is the ultimate example of the growing cooperation between law enforcement, the public, and the media. By working together, people become the eyes and ears of law enforcement, increasing their numbers by thousands.

We can learn a great deal from this case. First of all, the parents did exactly the right thing and were prepared with current photos and information of Elizabeth. This is the most important thing for parents to have. Elizabeth's sister was an incredible witness and a wonderful example of how kids can play a part in their own and others' safety. And we also saw law enforcement officials that handled the case well.

Through cooperation, like what we saw in this case, cooperation of the media, the public, witnesses, and the family, we will bring more children home.

## MONTANANS GATHER TO SUPPORT OUR TROOPS

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, I have been disturbed by the headlines depicting extremists protesting the disarmament of Saddam Hussein even before it begins. I sadly read about a group of anarchists trashing a 9–11 memorial in California, tearing up dozens of American flags. In doing so, these people send a caustic message to our young men and women in uniform who, instead, need our support.

I am proud of our troops. In my home State of Montana, our citizens admire these brave young people. Two weeks ago in Missoula, a large gathering of community leaders, families, and senior citizens gathered to show their support for the people in uniform who have volunteered to put their lives on the line for this country. Several days ago, a similar gathering in Kalispell turned out to show support for those who serve our country. Last weekend, more than 200 Montanans gathered in Billings, shouting "USA" and "God Bless America."

In each of these cases, Montanans gathered not to criticize our role in the Middle East, but to say, We love our country and we support our President. They gathered to tell our young men and women in uniform, We love you, we are proud of you, go with God, and may His grace surround you should you enter harm's way.

## MEDICAL LIABILITY LIMITATION ACT

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise in strong opposition to the so-called medical malpractice bill that we are going to be voting on today.

I have heard from the minority physicians in my area, and they are quite alarmed. They are quite alarmed because their insurance premiums keep skyrocketing. And I am talking about the State of California, where we had some reforms back in 1974 through a law called MICRA, which was supposed to bring down the cost of malpractice lawsuits. What happened there was not much.

We had also Proposition 103 that was passed to bring down insurance premiums. Guess what, folks? In California it helped slightly, but not enough.

□ 1015

In fact, in California, the rates are still 8 percent higher than other parts of the country. I want to call the Members' attention to the fact that the caps that we are going to be looking at in this proposal discriminate against children, seniors, and the unemployed.

I want to call attention to the case of Jessica Santillan, a Latina teenager, who died last month after doctors at Duke University Hospital confused her blood type during an organ transplant. Under this proposed bill, Jessica's family would only be allowed to recover $250,000 in damages. That is wrong. This is no small amount that can compensate for the suffering of the family. I urge Members to allow Congress to vote on the Conyers-Dingell alternative.

## PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 139

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committees on the Judiciary and on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

SEC. 2. House Resolution 126 is laid on the table.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 139 is a closed rule providing 2 hours of debate for consideration of H.R. 5, Help Efficient, Accessible, Low-cost, Timely Healthcare Act, more commonly known as the HEALTH Act. The rule waives all points of order against consideration of the bill and provides one motion to recommit with or without instructions.

Mr. Speaker, my home State of New York has been designated by the American Medical Association as one of the 18 crisis States because of the staggering number of physicians that are unable to obtain or afford liability insurance. It is not just physicians that are feeling the crunch; hospitals and other providers have also reached their breaking point.

Take, for example, family-run skilled nursing facilities in my district that have not once had a claim brought against them, yet they have seen their liability insurance rates climb over 200 percent during the past 2 years alone. That is 200 percent in the last 2 years alone.

According to a study conducted by the American Hospital Association and the American Society of Risk Management, one-third of the hospitals experienced an increase of 100 percent or more in liability insurance premiums in 2002. Meanwhile, patients are the ones losing choices, access, and care.

Mr. Speaker, last September I stood on this floor to speak in favor of the HEALTH Act. Since that time, my home community of Erie County, New York, has lost 40 actively practicing physicians. Only 3 months into the current year, they are anticipating a loss of another 20 physicians. If we do not solve the problems facing physicians in this community and so many others across America, who will provide the health care services so vital to all of our constituents?

The fact is that physicians are limiting their patients, moving to States with lower insurance rates, or closing their practices altogether. The fact is that astronomical costs and unpredictability in the legal system are causing this alarming trend.

The effect? Doctors practice defensive medicine to avoid litigation and think twice about openly discussing and reporting possible errors. A study released by the Department of Health and Human Services last week emphasizes that bolstering predictability in the legal system will dramatically reduce the incentives for unnecessary lawsuits. Those who need care will get it faster and more reliably, and those who may need proper redress will get it faster and more reliably.

The HEALTH Act will provide that predictability, while at the same time halting the exodus of providers from the health care industry, stabilizing premiums, limiting astonishing attorney fees, and above all, improving patient care.

Just as important is what HEALTH Act will not do. It will not preempt any existing State laws that limit damages at a specific amount, and it will not establish any new causes of action.

Also, it will not prevent juries from awarding unlimited economic damages. This means that quantifiable lost wages, medical costs, pain-reducing medications, therapy and lifetime rehabilitation can all be recuperated as tangible economic damages. Patients that have been wrongly injured will not be denied access to substantial amounts in economic damages.

The HEALTH Act is modeled after legislation adopted by a Democratic legislature and a Democratic Governor in the State of California nearly 30 years ago. While insurance premiums increased over 500 percent nationwide, California's have risen only a third of that much, by 167 percent.

California's insurance market has stabilized, increasing patient access to care and saving more than $1 billion per year in liability premiums. Equally important, California doctors are not leaving the State.

By following California's lead to place modest limits on unreasonable economic damage awards, an estimated $60 billion to $108 billion could be saved in health care costs each year. The Congressional Budget Office calculated that medical liability insurance premiums would be lowered an average 25 to 30 percent from what they are now under current law. And CBO also predicts that reducing the occurrence of defensive medicine would save anywhere from $25 billion to $44 billion per year of taxpayers' money.

I want to thank the leadership of the Committee on Energy and Commerce and the Committee on the Judiciary for working so expeditiously to bring this important measure back to the floor and focusing our attention on health care, particularly for coupling the HEALTH Act this week with patient safety legislation. Physicians need an environment where they can both share and learn, while at the same time practicing medicine without the fear of burgeoning liability rates and unnecessary lawsuits.

Mr. Speaker, spiraling medical liability insurance rates have hemorrhaged in recent years. Today we have an opportunity to stop the bleeding and maximize healthy patient outcomes. I urge Congress to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to the gentleman from New York (Mr. REYNOLDS) that the gentleman and I handled this measure last fall when this bill was brought to the floor. It was a bad bill then, and it is a bad bill now. I also want to clear up something about so-called unnecessary lawsuits. There are penalties for lawyers who bring frivolous claims into any courtroom; thus, I theorize that the majority evidently does not understand that particular distinction.

Mr. Speaker, I rise today in strong opposition to this closed rule for H.R. 5. This legislation requires a full and open debate. The closed rule is abhorrent and cowardly. It denies the opportunity for free and fruitful discussion that would uncover all this legislation's deficiencies.

The current Committee on Rules chairman, the gentleman from California (Mr. DREIER), said in 1994 when a Member of the minority, and referring to the Democratic members of the Committee on Rules, "But we should have a structure which allows Members to participate more than they do now, and that it is again underscoring Lord Acton's very famous line that power corrupts, and absolute power corrupts absolutely. The arrogance of power with which they prevent Members, rank-and-file Democrats and Republicans, from being able to offer amendments, that is what really creates the outrage here."

That was the gentleman from California (Mr. DREIER), and outrage continues in the minority today. If the majority alleges that Democrats were wrong in utilizing the closed rule when we were in the majority, why not be the bigger party and end the practice? Why the political games, or is it simply more fun to be principled when it is convenient?

There is no question that medical liability insurance rates are out of control. Consequently, fine doctors, as well as other health care providers, often do not properly attend to patients. However, the underlying bill will not relieve doctors of high malpractice insurance premiums. I am focused on giving Americans quality health care, as all of my colleagues are, not increasing profits for the health insurance industry; and there are good proposals to correct the situation. H.R. 5 is not one of them.

Instead of protecting patients, H.R. 5 protects HMOs and big insurance companies. The so-called HEALTH Act of 2003 addresses the health of the health care industry and not that of physicians and patients. H.R. 5 is bad legislation; but like perennial flowers, its contents sprout every Congress, replenishing the coffers of its supporters. HMOs and big health insurers should not receive special treatment. They are not above the law. Nor should they be exempt from new legislation simply because they contributed millions of dollars in the last two election cycles.

H.R. 5 applies to medical malpractice, medical products, nursing homes, and health insurance claims because its supporters' true concern is not the suffering of patients or victims. Instead, H.R. 5 advocates want immunization from the consequences of irresponsible civil behavior.

The top priority in reforming America's health care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year.

Wrong-doers must remain accountable. When a stay-at-home mom dies or a child dies or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away compensation for parents who lose children, husbands who lose wives, children who lose parents, and patients who lose limbs, eyesight and other very real losses that are not easily measured in terms of money.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. The malpractice insurance market is having a predicament because of the insurance industry. The other side of the aisle claims that the lure of big wins prompts many to file frivolous lawsuits. But, in fact, victims are already at a disadvantage. Two-thirds of patients who file a claim do not get a dime. About 61 percent of cases are dismissed or dropped, and 32 percent are settled; and too many of them are on the courthouse steps when they could have been settled earlier. Only 7 percent of all cases go to trial.

□ 1030

Patients prevail in only one in five of the cases that are tried. These are pretty staggering odds against the victims.

The American people would know these truths if their Representatives could expose the selective use of data and statistics that the majority uses in supporting H.R. 5. One classic example would be the notion that in California, after 1975, premiums went down. Well, they did not go down until California reformed the insurance laws. It did not go down. It went up progressively for 12 years.

But under today's closed rule, the majority is committing the greatest form of political malpractice. When the majority has finished bullying its members into voting the party line today, the American people will not only be barred from seeking compensation when a doctor transplants an incorrect organ but they will realize that with closed rules as the order of business, they cannot even seek compensation in the People's House.

For example, if this bill were current law, no experienced trial lawyer would take the case of the young Mexican girl who lost her life at Duke University. The case would be complex, obviously, and expensive to put on, there would be no economic damages, and the maximum noneconomic award would be $250,000. H.R. 5 treats the health care insurance businesses as the victims, and that is unacceptable.

The consequences of an injury are highly subjective and affect different people in vastly different ways. Put another way, how much is my arm worth? How much is your leg worth? This one-size-fits-all solution contradicts the promise of individualized justice and objectifies victims and the uniqueness of their suffering. Different States have different experiences with medical malpractice insurance and insurance remains a largely State-regulated industry. The $250,000 cap that must have been taken out of somebody's cap as a reason for going forward takes away juries' abilities in our States to determine the appropriate level of compensation for people who suffer grievous injuries at the hands of their health care providers. The majority does not trust the people to defend its political contributors.

Al Hunt of the Wall Street Journal quoted a Republican lawyer from Houston as asking, "Why are juries okay to take a man's life on the criminal side but are not competent to put a dollar value on an innocent victim's life on the civil side?" That is shameful. H.R. 5 is a health care immunity act that does not benefit physicians and victimizes patients.

When Democrats were in the majority, Republicans complained time after time that closed rules were unfair. On all of the radio infrastructure, we heard closed rules were unfair, unpatriotic and contrary to the goals of the framers. However, in more than 8 years that Republicans have been in the majority, closed rules are preferred and ruling with an iron fist is the practice. I am in strong opposition to this closed rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the debate has begun. We are going to have an hour on this rule. I believe after that we are going to have 2 hours of general debate. It really cuts right down through the center. As I talked about excessive court trial damage driving up the cost of patient health care, I listened to the other side say it is the insurance companies and the doctors that are the cause of so much of this. It will be a good debate. It will be a full hour here on this rule and it will be 2 hours of general debate, and then we are going to have an up or down on the HEALTH Act and we are going to find out whether it is passed and sent to the other body.

But I must say that over 60 percent of the doctors in the United States are insured by insurance companies that are owned and operated by other doctors and which operate primarily for their benefit. The idea that those companies would price-gouge the very physicians who own them, I think, is absurd.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. I thank the gentleman for yielding me this time.

Mr. Speaker, I practiced defensive medicine for 15 years before I was elected to Congress. Defensive medicine is extremely costly. The way it works is very simple. The patient comes in. You think the patient has something. And then you think of all the other things that it could be and how you could be sued if you missed those things, so you order more and more tests. You may say, well, this is just one doctor speaking anecdotally, but actually this very issue was studied scientifically in California. They looked at the reforms put in place in California and its impact on charges in the Medicare plan. They discovered that over time after the cap on damages went into place and the threat of very, very excessive damages went away that charges for two diagnostic codes, the two codes they looked at were unstable angina and myocardial infarction, went down and there was no increase in morbidity and mortality. In other words, quality was maintained while charges went down.

This study was published in 1995 in the Journal of Economics. It was done by economics professors at Stanford University. They argued that the high cost of litigation cost the Medicare plan billions of dollars a year in unnecessary procedures and tests. They further went on to say that it cost, in 1995 dollars, our health care system $50 billion a year. Today that figure is estimated at over $100 billion a year.

Mr. Speaker, this is not just an issue of access. We are going to hear about access from the gentleman from Florida (Mr. KELLER). He is going to talk about the trauma facility in Orlando, Florida, being closed down because of this problem. This is not just an issue of high cost. This is an issue of the uninsured. As the costs go up because of the high cost of litigation, more and more people are pushed out of the insured market into the uninsured category. We all say here that we care about the uninsured, the people who cannot afford health care, but this is impacting them. This is impacting our competitiveness in the global marketplace because all these costs of litigation get transferred into the costs of health care that get transferred into the costs of our products and services as we compete in the global marketplace.

If we pass this bill and if the other body passes it, the President has said he would sign it, it is going to allow more people to get access to health care, it is going to reduce our costs through the Medicare plan, and we may ultimately be able to better afford more services through Medicare like prescription drugs. And, yes, it will help our businesses and industries to be more competitive in the global marketplace.

This is a good rule, it is a fair rule, and this is an extremely important bill. I encourage all my colleagues to vote "yes."

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 30 seconds.

In response to my good friend and colleague regarding the fairness and openness and the 1 hour of debate, 31 amendments were offered last night in the Committee on Rules and my good friend the gentleman from New York (Mr. REYNOLDS) and I were there. Not one, not one, was permitted. What is fair about that?

In response to Dr. WELDON's defensive medicine argument, some people claim that billions of dollars are being wasted on so-called defensive medicine. Our own Congressional Budget Office has concluded that the idea of defensive medicine is uncertain and hypothetical. You can find that on page 74 of House Report 108-32.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FROST), the distinguished ranking member of the Committee on Rules.

Mr. FROST. I thank the gentleman for yielding me this time.

Mr. Speaker, we all agree that there is a problem in America's medical system, but Republicans are not taking a serious approach to this problem. They are just playing politics and risking the rights of patients in order to carry water for HMOs and insurance companies. We know this, Mr. Speaker, because Republican leaders have brought this bill to the floor under a closed rule.

Now, on this very important subject, let me quote from a statement made 9 years ago by the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), at a time that he was in the minority. He said, and I quote, "I oppose closed rules, Mr. Speaker. I believe they are anathema to the concept of deliberative democracy."

Mr. Speaker, if Republicans wanted to deal with medical malpractice in a serious and substantive way, would they be using a process that is, as the gentleman from California himself said, anathema to the concept of deliberative democracy? I do not think so. And would they be preventing the House from voting on Democrats' comprehensive medical malpractice reform plan? Certainly not. But that is exactly what Republican leaders are doing today. As a result, the only bill made in order by this rule today is the Republican one and it is a shocking attempt to protect insurance companies while attacking the rights of victims.

Make no mistake, Mr. Speaker, the Republican bill will not reduce doctors' premiums, but it will protect HMOs and insurance companies, and it will punish patients who suffer from medical mistakes, patients like 17-year-old Jesica Santillan, who died because of a tragic medical mistake in North Carolina earlier this year. Or patients like the 1-year-old baby who died in Dallas last August after a surgical error.

That is right, Mr. Speaker. Instead of reducing malpractice premiums, Republicans are reducing victims' rights. Instead of protecting patients, they are protecting the profits of HMOs and insurance companies. It is absolutely outrageous, but that is what you get with this Republican Congress.

It did not have to be that way, Mr. Speaker. Democrats, led by the two most senior Members of the House, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS), offered a comprehensive plan to bring down doctors' insurance rates and protect patients. The Democratic plan combines tort reform and insurance reform. It cracks down on frivolous lawsuits. And, just as importantly, it forces insurance companies to pass on their savings to doctors. Without this rate rollback provision, Mr. Speaker, insurance companies can just pad their profit margins instead of passing the savings on. That is a lesson we learned in Texas when we passed tort reform. So the Texas legislature and then-Governor

Bush agreed on a law that specifically required that insurance companies reduce doctors' premiums, and that is all we are trying to do here. But Republican leaders decided to protect insurance company profits while they were reducing patient protections. So they defeated our amendments in the Committee on Rules last night.

Mr. Speaker, doctors and patients deserve better than this. So I urge my colleagues to defeat the previous question. Then we can amend the rule to bring up the only comprehensive plan to reform medical malpractice, the Democratic substitute. And if Republicans succeed in passing this rule, I urge a "no" vote on the underlying bill. Do not let Republicans sacrifice victims' rights in order to protect HMO profits.

I would make one other point. Last night in the Committee on Rules when challenged by the gentleman from Michigan (Mr. DINGELL), the gentleman from California (Mr. DREIER), the chairman of the committee, explained why the committee was not going to grant an open rule, why they were going to grant a closed rule. What he said was, "This is payback. This is payback for what you did when you were in the majority."

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. Would the gentleman state the quote again that I said? I did not hear it correctly.

Mr. FROST. Mr. Speaker, I was sitting next to the gentleman from California, and I believe that I heard him say that this was payback.

Mr. DREIER. I never said anything of the kind.

Mr. FROST. Mr. Chairman, I was sitting right next to you.

Mr. DREIER. I never said anything of the kind. I just would like the record to show that, Mr. Speaker.

I thank my friend for yielding.

Mr. FROST. All I can say is I was sitting next to the gentleman. I understand and I know what I heard last night.

Mr. Speaker, assuming that the Republicans are pursuing some sort of payback because they do not like what we did when we were in the majority, I would only point out that we rarely granted closed rules, and they normally were bills out of the Committee on Ways and Means. Bills of this nature, of this controversy, when we were in the majority, we permitted the minority to have a substitute on the floor, something which they have denied us today.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have only served under the distinguished chairmanship of Chairman DREIER, but I am always pleased that in each rule that we make there is always a recommit. Looking back at history, one of the people that I think was a distinguished chairman of the Committee on Rules, Joe Moakley, I am not sure he always had a recommit in the legislation. I am not sure that former Speaker Tip O'Neill when he was a member of the Committee on Rules always voted that there would be a recommit. But I do believe that there has been a recommit in here. More importantly, I think it is important that this legislation was thoroughly vetted in two committees, the Committee on Energy and Commerce and the Committee on the Judiciary, and even passed by voice vote in the Committee on the Judiciary. Just weeks ago these same committees once again took testimony and the bill passed through the Committee on Energy and Commerce by voice vote.

□ 1045

The Committee on Rules last night took testimony for over 2 hours and reasonably provided 2 hours of general debate, in addition to the standard motion to recommit, and I believe we will have a full hour on this rule today.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER). The gentleman, a doctor, is an expert in this legislation.

Mr. FLETCHER. Mr. Speaker, I will have to say it is rather amazing that when the minority is wrong on policy, they focus on process.

Mr. Speaker, as a family physician, I have always tried to do what is best for patients, and as a Member of Congress I still try to do what is best for patients in Kentucky and all across America.

Mr. HOYER. Mr. Speaker, will the gentleman yield on that point?

Mr. FLETCHER. Not at this time. I have 3 minutes.

Mr. HOYER. We yielded on our side.

Mr. FLETCHER. Mr. Speaker, what is best for the patient? I believe that unlimited medical liability awards are bad for patients, because they cause malpractice insurance prices to climb, resulting in more expensive care, fewer doctors, and problems obtaining access to needed care.

H.R. 5, the HEALTH Act of 2003, actually ensures fair compensation for everyone. We need to keep in mind that everyone is entitled to full compensation for their losses, medical bills and wages under H.R. 5.

It is not unusual to hear stories of doctors moving from Kentucky to Indiana, where they have enacted comprehensive liability reform, to take advantage of lower costs of medical liability insurance.

Passing the HEALTH Act, which reasonably reforms our liability system, will hold premiums at a lower, more predictable rate. That will ensure patients are not left without their local physician, who may be otherwise driven out of their practice. And to say that this bill will not reduce frivolous lawsuits and reduce malpractice premiums is truly laughable. Lawsuits do not prevent injuries, they do not reduce medical errors, but they do create an atmosphere of fear, defensiveness and distrust in the doctor-patient relationship.

In fact, a recent study estimated that defensive medicine cost $163 per person per year in Kentucky. That means Kentucky spends about $655 million on unnecessary care due to fear of litigation.

Let me give you specific examples, too. Blue Grass Orthopedic Group in my district has never lost any of the handful of claims filed against its eight doctors. Yet their premiums, which were $222,000 last year, shot up to $635,000, nearly tripling in a single year. Why? Because personal injury lawyers, hoping to hit the jackpot, file frivolous lawsuits.

More than 70 percent of Kentucky physicians say their medical liability insurance premiums increased in 2002. Emergency physicians saw increases greater than 200 percent, general surgeons and orthopedists saw increases between 87 and 122 percent, and obstetricians and internists saw increases between 40 and 64 percent. Several saw several hundred percent increases in their premiums. In other words, this is just unsustainable.

It is estimated that for every obstetrician that leaves a practice in Kentucky, 140 women are left without their physician. That means that women during prenatal care will have to drive an extra 30 or 50 minutes to see a doctor. That also means during labor if that unborn child is in fetal distress, there is an extra 30 minutes of fetal distress, which could blankly rob that child of all their hopes and future of what they potentially could be.

As a family physician, I took an oath to do no harm. The only bill today that will help physicians keep that oath is one that ensures safe and timely access to care through reasonable, comprehensive and effective health care liability reform, and that is H.R. 5. I urge my colleagues to support this rule and vote yes on H.R. 5.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, there is a recent study reported in USA Today of medical malpractice insurance that concluded that, on average, doctors still spend less on malpractice insurance, 3.2 percent of their revenue, than on rent. I offer that for the gentleman from Kentucky (Mr. FLETCHER).

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I want to say to my friend from Kentucky, who says that we rise to focus on process, I tell my friend from Kentucky there is a reason for that, because your Committee on Rules does not have the courage to allow us to debate substance. It does not have the courage to allow us to offer a substitute and amendments to your bill so that we could discuss substance. Have courage on your side, that substance is what ought to be at risk here. We are prepared to debate it. Allow us to do so.

Mr. Speaker, once again today the Republican leadership is employing outrageous tactics that trample the rights of the minority and rig the rules of this debate.

Mr. FLETCHER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. As long as the gentleman yielded to me.

Mr. Speaker, these tactics demean the People's House. Hear me. Hear me. These tactics demean the People's House, demean democracy, demean freedom, and they fly in the face of commitments by Republicans when they regained the majority to run an open and deliberative process.

These comments are on the record. Here is how Gerald Solomon, the former Republican Chair of the Committee on Rules, explained it in November of 1994 when you were just about to take power. This is a quote, on the record:

"The guiding principles will be openness and fairness. The Rules Committee will no longer rig the procedure to contrive a predetermined outcome. From now on," the Republicans said, "the Rules Committee will clear the stage for debate and let the House work its will."

The year before, Congressman Solomon remarked, "Every time we deny an open amendment process on an important piece of legislation, we are disenfranchising the people and their representatives from the legislative process."

Mr. Speaker, this side of the aisle represents at least 140 million people. This side of the aisle represents 140 million Americans, and you have shut them up today, and you shut them up last week, and you may be considering shutting us up next week. Not 204 or 205 Democrats, but 140 million Americans.

I submit that this is precisely what we are doing today under this closed rule, which is what Mr. Solomon said you would not do. But you do it this day, and you demean this House.

I would say to the gentleman from Kentucky (Mr. FLETCHER), yes, that is why we talk about process, because we want to show why we are not serving doctors this day; why in State after State after State that have capped recovery premiums have not gone down. Doctors will not be served by this legislation you offer, and you will not allow us an amendment to do something that will protect doctors, that will protect patients, that will protect injured people.

This is a travesty of democracy, and it is a travesty for people who are injured severely by the negligence of others.

Vote against the previous question, vote against this bill, vote for fairness and equity in this House.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are going to continue on the debate of the issue of the day, which is medical liability. I must tell you, while I guess it is important to listen to some of the process, and half of this debate by the leadership of our House is on the process, I am hoping that we can continue to hear the debate that was at least opened by myself and my good friend from Florida who has a different view.

I look at it that we need to helm doctors and patients, and to make sure we can control the costs of malpractice insurance. I have listened to some of the debate on the other side that it is the doctors and insurance companies that are at fault.

It is an important debate. This is a debate that was heard 7 months ago in both the Committee on the Judiciary and the Committee on Energy and Commerce. The Committee on the Judiciary voted by voice vote to put the bill out. Only recently we have had those hearings again in the Committee on Energy and Commerce and the Committee on the Judiciary, and, in a bipartisan fashion, it was passed by a voice vote there.

Last night we took 2 hours of testimony. The Committee on Rules responded with a 2-hour debate, plus what will be a full hour of the resolution, now going forward here on the rule itself.

I look forward to the debate, I look forward to hearing it, and then I look forward to voting up or down on whether we are going to help patients or not.

Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would indeed like to debate the issue, I would like you all to live in my State of West Virginia over the last year. Our Trauma I Medical Center in the State's Capital, Charleston, West Virginia, closed. No specialist. It was reopened, but it was closed for 2 or 3 months.

In September of 2002, a young boy who had something lodged in his windpipe, his parents had to drive him 4 hours to get a specialist in Cincinnati, Ohio. Thank goodness it had a good ending, but it might not have.

In January, a group of Wheeling surgeons left the emergency room to illustrate the deep and devastating problem that West Virginia doctors are suffering with the high cost of medical liability. And, guess what happened? Our State legislature, which is predominantly Democrat, in probably the largest way of any State legislature, we have a Democratic Governor, they passed and signed the day before yesterday a medical liability bill that does in fact have caps on non-economic damages. Because, you know what? When your grandmother, when your mother, when your husband or wife cannot find medical care at a trauma center, cannot find an OB/GYN, when their general practitioner leaves to go to California, North Carolina, Georgia, that is a human problem. That is a health problem.

So the answer to this is the legislation that we are going to pass today. I proudly voted for it last year. I think it will help not only my State of West Virginia, but it will help every State in the Union.

We cannot retain and recruit physicians in the State of West Virginia because of this problem. We have had a brain drain because our older physicians are leaving, they are practicing defensive medicine, and they are afraid of the lawsuits that are pending in front of them. Sixty-three percent of them say they considered moving to another State, 41 percent are considering retiring early, and 30 percent are considering leaving the practice of medicine altogether.

Mr. Speaker, this is a devastating problem. Come to West Virginia and see. It is a quality of life issue, it is an economic issue.

Today I join with my colleagues to vote for H.R. 5, and I will be extremely happy to see national legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2¼ minutes to my good friend, the gentlewoman from New York (Ms. SLAUGHTER), who is an expert in this area, with a Master's of Public Health.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is one of the debates that has gone on for many years and it has always been characterized as a debate between physicians and lawyers, leaving out one of the major players in all of these problems, the insurance industry.

This health care act is wrongly named. It is the wrong prescription for curing any malady in medical malpractice insurance. The proponents want to claim jury awards for rising insurance premiums. But a study by Americans for Insurance Reform reported that rising insurance premiums are not tied to jury awards.

Let me for a moment talk about how an insurance company meets a lawsuit that is filed against it. The money that is asked for in that bill is set aside in a separate pot of money as though they had lost the suit. Of course, only about one of nine of those cases is ever brought to court, but that large pot of money still exists over there for the insurance company, on which they pay a very low rate of taxes. They should be a major player here.

Wait until your doctors hear back home that what we have done here today, because I am sure it is going to pass, will not do a thing in the world about lowering their insurance premiums. There is no mention in here that insurance companies of any sort will have to give back money to the physicians or to lower their rates. They are probably not going to give up anything out of that large pot they have had all of these years, and which we have no right, because the Federal Government has no oversight over insurance, to see what is there.

One of the most egregious things in this legislation and this debate is we have been told over and over that 5 percent of the physicians in the United States are responsible for more than 55 percent of the lawsuits. Would you not think that the sensible thing to do would be to get rid of that 5 percent? If this law passes, the 5 percent still continued to create malpractice, have bad outcomes on their patients. The only difference after this bill is passed is that patients will have no recourse at all.

□ 1100

The caps are really extensive. There is no recourse. And in addition, one more thing I would say. Not only are the insurance companies protected, but also the people who manufacture medical devices, HMOs, and pharmaceutical companies. It is very far-reaching and will do nothing to lower premiums.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 5, because there is absolutely a medical liability crisis in Florida which will, among other things, result in patients in Orlando with severe head injuries not having access to a doctor. Let me give one example of the crisis.

The Orlando Regional Medical Center is a large hospital located in the heart of my district in Orlando, Florida. It is home to the only Level I trauma center in the central Florida area. It specializes in treating patients with severe head injuries. The trauma center was praised last month by the State of Florida as delivering patient care that is "above and beyond" that of other Level I trauma centers. I personally toured this trauma center, and I can tell my colleagues it is a source of pride for many central Floridians.

Last week, Orlando Regional Medical Center announced that they were closing in April 2003 because the neurosurgeons in the Orlando area can no longer afford skyrocketing medical liability insurance premiums.

Now, how bad is the situation? Dr. Jonathan Greenberg, the chairman of the Department of Neurosurgery at ORMC, personally told me that the malpractice insurance premiums have risen five-fold over the past 2 years from $55,000 a year to $256,000 a year.

We do not have to guess what the consequences are when this sort of facility is closed down. Just last week, Mrs. Leanne Dyess testified before our Committee on the Judiciary. Her husband suffered one of these severe head injuries in a car accident. There were no longer any neurosurgeons in the area because they could not afford the liability insurance. As a result, it took 6 hours to airlift Mr. Dyess to a different location. It was too late. Mr. Dyess is now permanently brain damaged. He is unable to talk, unable to work, unable to provide for his family.

We must bring common sense back to the health care system so that patients with severe head injuries have access to trauma centers. We should care about each other more and sue each other less.

I ask my colleagues to vote "yes" on H.R. 5 and the rule. I will also include in the RECORD an article dated March 11, 2003 from Dr. Greenberg and published in the Orlando Sentinel.

[From the Orlando Sentinel, Mar. 11, 2003]

### NEUROSURGEON: SAVE TRAUMA CENTER

(By Jonathan Greenberg, M.D.)

A human tragedy of immense proportions is unfolding in Central Florida, and my neurosurgical colleagues and I have been unable to prevent it.

Less than two weeks after a state trauma-site review lauded Orlando Regional Medical Center's Level I trauma center for its high level of patient care and dedication "above and beyond" that at other Level I centers, the ORMC administration was compelled to inform the state that it will go off-line as an adult Level I trauma center as of April 1 because of the lack of neurosurgical coverage.

Seven neurosurgeons resigned from the ORMC medical staff, citing the physical stress of on-call requirements, medical malpractice-insurance premiums, increased liability exposure in treating trauma patients and the adverse impact that on-call coverage has had on their private practices.

I cannot fault my neurosurgical colleagues for having taken this action. They have complained that they were being charged significantly increased malpractice-insurance premiums—or were going to be denied malpractice insurance altogether—for the privilege of getting up in the middle of the night to take care of critically ill head and spine-injured patients.

Three neurosurgeons have closed their practices and left the community. Trying to replace them has been almost impossible. What sane physician would move to a state known to be in the throes of a "medical malpractice-insurance crisis," where insurance is either unobtainable or exorbitantly priced, and where there is a constant threat of frivolous but nonetheless disruptive lawsuits?

ORMC has lobbied vigorously for relief; we have demonstrated to increase public awareness and spoken with state representatives.

For those who denied that there was a "physician drain" or a problem with the tort system, who asserted that this was only an insurance-industry, stock-market-cyclical financial problem, who ignored the looming crisis, the end results of denial, deception, apathy and procrastination are clear.

As of April 1, Central Florida will have lost one of its most precious assets, the ORMC Level I trauma center. There will not be enough neurosurgeons left to fully man the on-call schedule.

We know that in the past many patients survived their injuries because they were brought to ORMC; they would not have survived elsewhere. After April 1, similarly injured patients may not survive. I am profoundly saddened by this prospect.

It will take more than an act of God to avert this catastrophe. It will take responsible action by the governor, the state Legislature, and county and regional leaders. Band-Aid solutions will not save a health-care system that is exsanguinating. ORMC has the only Level I trauma center in the state without sovereign immunity. Relief from predatory lawsuits and unaffordable insurance premiums and adequate compensation for extraordinary medical care will be necessary.

Mr. HASTINGS of Florida. Mr. Speaker, would the Chair announce the remaining time on both sides, please?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 10¼ minutes remaining; the gentleman from New York (Mr. REYNOLDS) has 10½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased and privileged to yield 3 minutes to my good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House, who I think can speak to both substance and process.

Mr. DINGELL. Mr. Speaker, I say to my colleagues, vote down this iniquitous rule. It is unfair. It is demeaning. It strikes at the heart of the parliamentary practices that are the proud tradition of this body. It also tears at the throat of honorable and open and fair debate. It denies every Member, not just Democrats, the right to offer amendments to the bill. Mr. Speaker, 31 amendments were requested of the Committee on Rules last night; not a one was given. A substitute was given.

The chairman of the committee talks of the need to have a fair and open process. Well, we do not have a fair and open process. Therefore, vote down the rule, vote down the previous question. It is an outrage, and it is inconsistent with the tradition and practices of the House.

I would point out that in the rules, rule XVI, clause 6 begins, "When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order." It is in the rules. The Committee on Rules should read it.

We are not discussing the substance of the legislation. We hope to have a fair chance to do so. We hope to have a fair chance to amend the basic proposition before this body. The Committee on Rules has not given it to us.

I went before the Committee last night and I asked, am I wasting my time and am I wasting your time by being here? The answer is, I was. I was not told that I was, but the simple fact of the matter was the decision had already been made. The process had already been carefully cooked so that no opportunity to amend the bill is before this body at this time.

We can talk about what it is that is wrong with this legislation and how the amendments would improve it. That is really not important. What is important is that the basic rights of the Members of this body, the basic prerogatives of the institution to perfect legislation before it has been denied by the majority, functioning through the organism of the Committee on Rules.

In 14 years as the chairman of the Committee on Commerce, never once did I go before the Committee on Rules to ask for anything other than an open rule so that all Members might have a fair chance to participate in the debate on the legislation and to offer amendments as the need would require, no matter how complex or controversial the legislation was. That is the way this institution should work.

This rule demeans this body. It demeans every Member here, and it demeans the Committee on Rules and those who have inflicted this outrage upon this body.

I say again, vote this rule down. It is wrong. It is arrogant. It is without justification. I note that it comes up on a day when this is the last item of business of the week and when this is the last item of business that will be done. Let us vote it down, and let us then go about the business of conducting the business of the House in a fashion which is consistent with the traditions of this great democratic institution.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, it is a great honor to be a Member of this institution, and it is an honor for me to have the opportunity to follow my very good friend, the gentleman from Michigan (Mr. DINGELL), the dean of the House.

As we have listened to the arguments that have been provided about the rights of the minority, I have to say that while the gentleman from Michigan (Mr. DINGELL) served for 14 years as chairman of the Committee on Commerce, I served for 14 years as a member of the minority in this institution. When we won the majority in 1994, I felt very strongly about something that had existed under the democratic rule in this place for 4 uninterrupted decades. I felt strongly about ensuring that the minority had the right to come forward with at least an opportunity, through an amendment and a motion to recommit, which was denied us on many occasions.

Now, last night when we had the testimony in the Committee on Rules, the gentleman from Michigan (Mr. DINGELL) told me that he came here in 1955, and our good friend, the gentleman from Michigan (Mr. CONYERS) came here in 1965, and they had never known of any instance whatsoever when the Democrats had denied the Republican minority the opportunity to consider at least an opportunity to amend through a recommittal motion.

I have to say that I have the greatest respect for the gentleman from Michigan (Mr. DINGELL), my friend; but I have a list right here of in the 100th Congress, 16 examples of where this was denied.

Now, this issue of payback has come up. Well, so is this payback now that we are imposing on the minority? Absolutely not. Because when we passed our opening day rules package, having served 14 years in the minority, I was very sensitive to make sure that we would guarantee the minority that right to offer a motion to recommit with an amendment, and that is exactly what is going to exist under this process.

Now, I believe that we should have as open and as fair a process as we can, and I stand here continuing to be committed to our goal of ensuring that the minority does have as many rights as possible, and I will continue to fight in behalf of that, because I believe in the Madisonian spirit of minority rights.

I also know that we have a responsibility to move our agenda. And we are doing that, while guaranteeing these minority rights.

Now, when we opened this process last night, I am very happy that my friend, the gentleman from Florida (Mr. HASTINGS), began by talking about the fact that we did meet his request to provide 2 hours. There will be a debate. There will be an opportunity for Members to voice their concern, regardless of what side of this issue they are on. I happen to think that it is very important for us to also recognize that the Committee on the Judiciary and the Committee on Energy and Commerce both had full markups with the exchange of ideas, and the people who have stood up to speak against this rule are people who in fact offered amendments through the committee process. The committee process has worked very effectively here.

We have come together with a package which I believe, through both committees, can, in fact, have an opportunity to be heard; and I urge my colleagues to vote in support of this rule and for the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would remind the distinguished chairman, my friend, that we did have 31 amendments last night; none of them have been allowed to come to the floor.

Mr. DREIER. Mr. Speaker, I thank the gentleman for reminding me.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT), my very good friend.

Mr. SCOTT of Virginia. Mr. Speaker, this closed rule does a disservice to the legislative process. Medical malpractice is a very complicated issue, there are many different provisions, and we cannot possibly debate each one with a closed rule. The fact is that one-half of the medical malpractice premiums represent ½ of 1 percent of health care costs, and those costs have been going up at the same rate of health care inflation. California had medical malpractice reform, but the rates did not go down until there was insurance reform.

This bill does nothing to eliminate frivolous lawsuits, but it makes the bona fide lawsuits even more difficult to bring. The elimination of joint and several liability means that you have to chase each and every doctor for each and every portion of their liability. The young Mexican girl with the transplant, one would have to prove a separate case against each and every company, the transplant company, the hospital, and everybody else before she could get anything. She would probably use up the whole $250,000 cap before she could get anything.

The collateral source rule will shift the cost of malpractice onto the employer. If one has a self-insured employer, if one of their employees gets put in a malpractice-induced coma, the employer will have to pay the bill. This bill prohibits subrogation so that the employer cannot get the money back; the malpractice insurance company will not have to pay that hospital bill.

Mr. Speaker, we need to debate that and discuss it; but we cannot, because it is a closed rule.

I hereby attach to my statement, the additional dissenting views I offered to the Judiciary Committee report on H.R. 5.

### Additional Dissenting Views

In addition to the dissenting views, I would add the following:

1. In addition to the comments on the bill's elimination of joint and several liability, I would add that this new burden on the plaintiff is administratively unfair to the plaintiff. The apportionment of malpractice responsibility is routinely made in the health care field by apportionment of insurance coverage. Health care providers can and do decide in advance who will pay for what coverage. The plaintiff, on the other hand, is not in a position to apportion damages, because the plaintiff often has no idea what happened, much less who was responsible. The entire concept of res ipsa loquitur is based on the fact that some cases are so obviously the result of malpractice that the general burden of proof is eased for such victims. With the elimination of joint and several liability, and without knowing exactly what

happened, the plaintiff will have to make a separate case, including establishing a standard of care, violation of that standard and proximate cause for each conceivable participant in his care and always have the possibility of defendants pointing to an "empty chair" or an insolvent defendant at the trial. This burden comes with the costs of expert witnesses for each doctor, nurse and hospital even minimally involved in the most egregious and obvious cases. As the dissent mentions, any defendant can always seek contribution without the elimination of joint and several liability.

2. In addition to the comments in the dissent on the collateral source rule, I would add that there are three interested parties: the plaintiff, the health care insurance company and the defendant. Good arguments can be made for the plaintiff to benefit from the provisions he has made to pay his bills. Some may have saved money over the years, including a medical savings account, and others may have paid for insurance. Those persons who have invested in insurance should be able to benefit from their thrift. If one is not persuaded by that argument, and is offended by the plaintiff "being paid twice" for the same bill, then one could reasonably say that the health insurance carrier should be able to get its money back through subrogation, and charge a smaller premium based on the anticipation that some of their claims will not ultimately have to be paid, because a tortfeasor will be responsible. The last person of interest who should benefit from the plaintiff's insurance should be the tortfeasor. In fact the prohibition against subrogation in the bill creates the bizarre situation in which a self-insured small business could have an employee in a malpractice induced coma, and have to pay all of the hospital bills, notwithstanding the fact that the negligent doctor is fully insured.

3. Finally, one of the reasons why the "average" malpractice award is increasing is because smaller cases are not brought. The complexity of the cases makes it impossible to hire an attorney if the award is too small to generate a meaningful attorney's fee. This "average" will undoubtedly increase if this bill is enacted because of limitations on damages, limitations on attorney's fees, elimination of joint and several liability and elimination of collateral sources. A better measure of the impact malpractice litigation has on the health care system is the fact that all malpractice awards and settlements have been approximately ½ of 1 percent of the national health care costs and have been recently increasing at the same rate as the health care costs generally.

ROBERT C. SCOTT.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE), a member of the Committee on Rules and Chair of the Republican Conference.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my home State of Ohio is one of a dozen States that is facing a real crisis in health care. Simply put, doctors are leaving and patients are suffering. One by one, facilities are closing their doors, retiring early, and not performing various procedures because, simply put, they cannot afford the insurance. The result is a pending perfect storm, where all of the converging factors meet to create utter and total chaos.

Among Ohio physicians surveyed last year, 96 percent expressed serious concerns about the impact of rising liability insurance. Seventy-two percent in high-risk specialties said insurance premiums have affected their willingness to perform procedures, and 34 percent have admitted that they have to order more tests, perform more procedures, and practice defensive medicine just to protect themselves. But as a result, health care costs soar. In Ohio alone, there is story upon story of doctors retiring early or leaving the State just because of liability premiums.

Take Brian Bachelder, who had to stop practicing obstetrics this year because he simply could not afford it. As a result, his patients, many of whom had trouble just paying for the gas to get to their appointment with him, will now have to travel 50 or 65 miles further for prenatal care. Or take Dr. Romeo Diaz, whose patients had to actually chip in and raise $40,000 to cover his increased premiums. All of this scrimping and saving for a doctor who had not had a malpractice claim filed in over 10 years.

America's health care system is quickly approaching the eye of a perfect storm, a world without doctors. They are becoming increasingly hard to find in so many places; and even worse, when you find one, they often cannot help. Their hands are tied.

Far too many Americans are unable to find a doctor to deliver a baby, to perform a surgery, or to provide trauma care necessary to save a loved one's life.

Mr. Speaker, Congress needs to act today and pass a medical liability reform plan that keeps our doctors practicing, alleviates patients' suffering, and restores medical justice to this system.

□ 1115

Mr. HASTINGS of Florida. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. HASTINGS) has 5¾ minutes remaining. The gentleman from New York (Mr. REYNOLDS) has 5½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, Nathaniel is in fact the face of the devastation of H.R. 5. In the name of God and country, this rule says to Nathaniel, 6 days old, he is brain damaged because physicians and nurses failed to diagnose jaundice. In this bill he would be denied under the capping of noneconomic damages that are capped. Nathaniel is the face of the horror of what happened in the Committee on Rules last night. There will be no response to our physician friends and doctor friends on the question of reducing premiums because they rejected my amendment that said 50 percent of the savings by insurance companies should be reinvested into physicians to lower their premiums.

They know that California did not have those premiums go down until California enacted insurance reform. This is an insurance giveaway bill. This is not going to bring doctors into rural and urban America.

Mr. Speaker, this rule should be voted down in the name of Nathaniel, now brain damaged. H.R. 5 is a devastation and a disgrace to this baby who lost the ability to live a good quality of life.

Mr. Speaker, I am disgusted by this closed rule and call on my colleagues to defeat the rule and the underlying bill. We have a health care crisis on our hands. We need to work together in a democratic fashion to address it: to improve access to care, to protect patients, to ensure that good physicians can afford to continue treating those patients, and to decrease frivolous lawsuits. The underlying bill does nothing to address any of those issues, and I and many of my colleagues came forth last night to present amendments that would have ensured that it did. Not a single one of those excellent ideas will be even considered today.

What in the name of God and Country is our Democracy coming to when on the Floor of the House of Representatives, there is not a single chance to debate and vote on one of many ideas that could save lives and rescue our floundering health care system?

I hate the idea of putting a price tag on a human life, or a value on pain and suffering. However, we all know that malpractice premiums are outrageously high in some regions, for some specialities of medicine. I understand that some physicians are actually going out of business because the cost of practicing is too high, and that we run the risk of decreasing access to healthcare if we do not find a way to decrease malpractice insurance premiums.

But it would be doubly tragic if we did compromise the ability of patients suffering from medical negligence from seeking recourse in our courts, and did not achieve any meaningful decrease in malpractice premiums. Therefore, I offered an amendment last night that would require that all malpractice insurance companies make a reasonable estimate each year of the amount of money they save each year through the reduction in claims brought about by this Act. Then they would need to ensure that at least 50% of those savings be passed down in the form of decreased premiums for the doctors they serve.

I shared this concept with doctors and medical associations down in Texas, and they were very enthusiastic, because this amendment would ensure that we do what, I am being told, this bill is supposed to do—lower premiums for doctors.

Without my provision, this bill could easily end up being nothing more than heartbreak for those dealing with loss, and a giant gift to insurance companies. Parents who lose a child due to a tragedy like the one in North Carolina recently where the wrong heart and lung were placed in a young girl—they don't lose any money—they lose a part of their souls. We are going to tell them that their child was only worth $250,000 in non-economic damages for all of their pain and suffering. We are being told that we are going to do this to such devastated families, in order to enable our doctors to keep treating patients. However, the Rules Committee has decided to prevent us from voting on amendments that would ensure that this bill helps any doctor at all.

Without debate and votes, a Democracy is not a Democracy. I will vote against this Closed Rule, and encourage my colleagues who care about helping patients and good doctors to do the same.

Mr. REYNOLDS. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. LINDER), a distinguished member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the rule and the underlying legislation, H.R. 5, the underlying medical malpractice reform bill. This rule gives the minority party a motion to recommit with or without instructions. This motion to recommit provides the minority with an opportunity to amend H.R. 5 as it sees fits, something the House Democrats often refused to give Republicans before 1995.

As a former dentist I understand the necessity for this particular form of tort law and how the reality of judicial adventurism is a prime cause of rising health care costs and reduced access in our country.

I absolutely believe that medical malpractice litigation has a substantive effect on health care quality and costs.

In a recent survey of Georgia doctors, 18 percent said they would stop providing high risk procedures to limit their liability; 33 percent of OB-GYNs and 20 percent of family practitioners said they will abandon high-risk procedures such as delivering babies. In addition, 11 percent of physicians will stop providing emergency room services.

The benefits of capping malpractice damages are staggering. In California it is estimated that MICRA has saved under those with high-risk specialties as much as $42,000 per year, not to mention the $6 billion per year of savings to patients in California. According to the U.S. Department of HHS, limits on noneconomic damages could yield taxpayers 25- to $44 billion per year in savings.

Our founders incorporated explicit protections for citizens in criminal trials in the sixth amendment. However, they foresaw the potential abuse in civil trials and thus remained explicitly silent on the rights of juries to operate in civil cases.

In Federalist 83 Alexander Hamilton went to great lengths to discuss the absence of constitutional protections in civil cases, going so far as to claim that he could not "discern the inseparable connection between the existence of liberty and the trial by jury in civil cases."

According to Hamilton, the genius of the constitution was not only its flexibility in handling the changing nature of the American judiciary but also its reliance on the legislature to prescribe the effective checks on such changes.

Abuse in our judicial system can be remedied by the implementation and power of trials by jury, but a balance must be struck between that idea and the notions of common sense and personal responsibility. Unfortunately, our current system does not strike that balance.

I urge, as such, my colleagues to join me in passing this rule and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT), who has studied this problem long-standing as an attorney.

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me time.

This is Linda McDougal, and like Nathaniel and many others she too would be a victim of the underlying bill H.R. 5. She received an unnecessary double mastectomy after doctors mixed up her results, her lab results, and erroneously told her she had breast cancer.

Under this bill her lifetime of pain and disfigurement would be worth $250,000 and not a penny more. I ask my friends, is that fair?

Well, if my friends have any doubts, I would suggest they ask their mother, their sister or their daughter.

Mr. REYNOLDS. Mr. Speaker, I yield 45 seconds to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I rise in support of the HEALTH Act of 2003. This bill will be the first step towards curing the escalating medical liability costs.

The runaway litigation has forced a dozen States into near cardiac arrest, including my home State of Nevada. In Nevada medical liability costs have skyrocketed, forcing doctors to leave in droves. The trauma center in our top hospital had to shut its doors because there were not enough doctors to treat the patients. Just about every day you pick up the paper and you turn on the TV and there is another story about a pregnant woman or an emergency patient going into other States to have their babies delivered or emergency care treated. It is just one example.

In Las Vegas, Mr. Speaker, obstetrician Dr. Shelby Wilbourn packed up a 12-year practice and moved to Maine, where insurance rates are more affordable and doctors appear less likely to be sued.

Mr. Speaker, in order to remedy this, we must pass this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I would say to the gentleman from Nevada (Mr. PORTER), the gentlewoman from Nevada (Ms. BERKLEY), who is married to a physician, does not find that H.R. 5 is going to remedy her husband's problem.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS), who is a registered nurse and has seen what we are talking about.

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the rule and the underlying bill.

We should not be capping the awards for pain and suffering that an injured patient receives when they have been harmed by their doctor. This puts the burden of rising insurance rates onto the innocent patient rather than the insurance company.

Mr. Speaker, I offered an amendment to the Committee on Rules which was not made in order. My amendment would set caps in the bill of $250,000 or the total compensation package of the CEO of the insurance company representing the doctor in the case, whichever is highest.

It is not fair for insurance companies to pay their executives millions of dollars, give them bonuses, increase their pay when they are trying to deprive victims of their rightful compensation. In these days of Enron and MCI WorldCom, I believe that Congress should be siding with injured patients over corporate executives.

The Nation's largest medical malpractice insurance company pays their CEO $9.7 million, but even so they apparently cannot keep paying for the pain and suffering of patients their clients have injured and so they keep raising their rates. You have to wonder about priorities.

This is about Nathaniel and Linda. This amendment that I propose promotes corporate responsibility. It is a more fair approach, and I urge my colleagues to defeat this rule and the underlying bill.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), who is an expert on the Committee on Energy and Commerce on this issue.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

The gentlewoman from Texas (Ms. JACKSON-LEE) showed me a picture of Nathaniel, a young boy tragically brain damaged. I want my colleagues to understand that this bill of ours is modeled after California law. And in California law just last May under the same kind of law, a little boy who was brain damaged at a very young age because of malpractice was awarded $43.5 million. And our bill would do nothing to prevent this young man from getting what they need, and that is probably a lifetime of round-the-clock medical care, a lifetime of lost wages.

All that would be recoverable in full, as it should be, and on top of that at least a quarter of a million dollars in pain and suffering; and if the State from which the child comes wanted to, that State could raise that level to whatever it wants. We have a flexible cap. This is a question of balance. This is a question of balance. We have to figure out how do we properly pay for medical liability claims in a reasoned way that still allows us to retain our doctors and hospitals.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), my friend, who is an attorney married to a physician, who has studied this problem actively and carefully over a period of time, coming from a State with dramatic problems.

Ms. BERKLEY. Mr. Speaker, I fear we are doing a terrible disservice to our Nation's physicians and the patients who depend on them. We are deceiving them by passing a bill that does not ensure that doctors will actually benefit from these caps.

As a representative of southern Nevada I am all too familiar with the medical liability issue. Nevada has faced a serious medical malpractice crisis for years. Doctors cannot afford insurance premiums and they are threatening to leave the State. Some have and some are refusing to accept new patients.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited noneconomic damages to $350,000 and allowed for judicial discretion in particularly egregious cases. Nevada passed caps. But the medical insurance companies have refused and have failed to reduce their premiums.

This Congress cannot for a minute pretend that we have addressed the real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all of the evidence demonstrating that the current crisis is due more to insurance company miscues than liability claims. We must combine them both and I urge you to reject this rule.

Mr. Speaker, I rise in opposition to the rule.

As a Representative of southern Nevada, I am all too familiar with this medical liability issue. Nevada has faced a serious medical malpractice crisis for the last year. Doctors cannot afford insurance premiums and are threatening to leave the State. Some have or are refusing to accept new patients.

I convened discussion groups of doctors and lawyers at my home to try to understand the medical malpractice issue, and it's a regular conversation in my own home as my husband and I, a doctor and lawyer, have searched for effective solutions to this crisis.

Nevada's problem is not one of obscene awards and lawsuits, but of poor calculations and bad decisions on the part of insurers over the past couple of decades.

Nevada's problem is the result of artificially inflated profits, over saturation and price slashing by the insurance company and when Nevada was no longer profitable, St. Paul Insurance Co. withdrew from the market. When that happened, 60% of Nevada's doctors lost their insurance carrier and the remaining medical malpractice insurance companies raised their rates to unconscionable extremes.

In August of 2002, Nevada passed a carefully balanced tort reform bill which limited non-economic damages to $350,000 and allowed for judicial discretion in particularly egregious cases.

Nevada passed caps, but the medical insurance companies have refused and have failed to reduce their premiums.

The evidence demonstrates that judgements are not the full, or even a large measure of the problem. And therefore caps will have a very limited effect on solving this problem.

This Congress cannot—for a minute—pretend that we have addressed the very real problem of skyrocketing insurance rates if we limit our prescription to liability caps. We must also provide doctors with insurance reforms as well.

Medical liability reform is worthless if we ignore all the evidence demonstrating that the current crisis is due more to insurance company miscues than to liability claims.

It is fundamentally unfair and bad public policy to limit jury awards without directly addressing reform of the insurance industry. If this Congress is going to pass tort reform, it should be accompanied by insurance reform so that insurance companies will pass along the savings, and doctors become the direct beneficiaries of cap limitations.

Anything less will fail to solve the malpractice crisis in my State and in this Nation.

I urge my colleagues to vote against this Rule. We are doing a terrible disservice to our Nation's physicians and to the patients that depend on them. We are deceiving them by passing a bill that does not insure that the doctors will actually benefit from caps.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from New York has 1¼ minutes remaining. The gentleman from Florida (Mr. HASTINGS) has 2 minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS) and then I will be prepared to close.

Mr. EDWARDS. Mr. Speaker, I am deeply disappointed that the Republican House leadership refused last night to even let this House consider my amendment, a reasonable amendment, to exclude the $250,000 caps only in cases where someone is guilty of gross negligence.

I support cracking down on frivolous lawsuits and I even favor punishing attorneys who file them. But under the guise of stopping frivolous lawsuits, it is wrong for the Republican leadership to protect those guilty of gross negligence even when the consequence is the loss of a child.

Jeanella Aranda was a 1-year-old baby. Last August Jeanella died needlessly in Dallas, Texas, because the transplant liver team did not check the fact that the father's liver and blood type were not compatible. Had they checked they have would have found out little Jeanella's mother could have donated part of her liver and Jeanella would most likely be alive today.

Mr. Speaker, I hope every Member of this House will ask his or herself this question before voting on this awful unfair rule: Had Jeanella Aranda been your child, would you think it would be fair for politicians in Washington to decide how to hold responsible those involved in her death?

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, everyone in this body knows why pregnant mothers cannot find doctors to deliver their babies, why emergency room and trama centers are closing and why physicians are leaving their practices. The health care liability crisis has been worsening every year since 1993, when I first introduced this legislation that we are considering today.

The national median malpractice awards has been increasing 43 percent a year. It is unsustainable. Today the average physician faces a new lawsuit every year. The opponents of this legislation are convinced that the best place to make split second medical decisions is in the courtroom. But this bill is about getting better health care in America for doctors and patients and all of the people who rely upon this system. It is high time for medical justice and high time to enact this legislation.

□ 1130

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will allow the House to consider the Conyers-Dingell substitute to the medical malpractice bill. My amendment will give Members an opportunity to vote on this substitute which, unlike the majority, takes a comprehensive approach to rising medical malpractice insurance premiums. It takes steps to weed out frivolous lawsuits. It requires insurance companies to pass their savings on to health care providers, and it provides targeted assistance to the physicians and communities who need it most.

Let me make it clear that a "no" vote on the previous question will not stop consideration of this bill. A "no" vote will allow the House to consider and get a vote on the Conyers-Dingell substitute. However, a "yes" vote on the previous question will shut out any opportunity for a vote on the substitute. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment and a description be printed in the RECORD immediately prior to the vote on the previous question, on which I urge a "no" vote on the base rule.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remaining time.

I hope my colleagues have had the opportunity to read the heart-wrenching testimony presented by Leanne Dyess earlier this month before the Committee on the Judiciary. I hope their compassion will allow them to consider how it would feel if a similar tragedy befell someone they love simply because doctors had been pushed out of the area; and I hope they can recognize that, today, we have the opportunity to prevent such tragedies from happening to others.

The HEALTH Act is about patients getting the best possible care they can when and where they need it. Dollar signs do not cure people; doctors do. Let us make sure doctors and other providers all across the country remain open for business.

I urge a "yes" vote on the rule and the underlying legislation. A "yes" vote is a vote for patients.

Mr. CONYERS. Mr. Speaker, there is one word that best describes this closed rule: cowardly. This is a Republican leadership that fears a real debate on this cold hearted proposal that would rob victims of medical malpractice. They fear that too many of their own Members would vote for a democratic bill because it makes sense and would address the problem.

They have decided to dodge a clean vote on a real bill and bury real debate in procedural doubletalk. They have decided to let their Members hide behind parliamentary tricks.

The Republican leadership has shredded any semblance of fairness or open debate. Just last year, for the first time since 1910, this Republican leadership denied the Minority party a motion to recommit. Today, the two most senior members of the House of Representatives, who are also the two Ranking Democrats on the Committees of jurisdiction, are being denied the opportunity to offer the amendment of their choosing.

The Republican leadership's bill doesn't solve the problem of medical malpractice insurance rates skyrocketing. It has no insurance reform at all. Doctors who are being price gouged by insurance companies will not see one cent of savings from this bill.

The simple fact is that draconian caps on damages do not reduce insurance premiums. In a comparison of states that enacted severe tort restrictions in the mid-1980s and those that resisted enacting any tort reform, no correlation was found between tort reform and insurance rates.

Our bill takes away the antitrust exemption for medical malpractice insurance providers that has allowed those providers to collude to jack up rates for doctors.

The Republican leadership's bill does nothing about the deadly problem of medical malpractice that costs victims literally their life and limb. Between 44,000 and 98,000 people die each year because of medical negligence in hospitals and the Republican answer is to take away the rights of surviving family members and accountability for bad apple health care providers.

H.R. 5 does nothing about the fact that 5% of all doctors are responsible for 54% of malpractice claims paid. H.R. 5 does nothing to solve the problem that medical malpractice is the fifth leading cause of death in the country.

Our bill preserves accountability in the health care system.

The Republican leadership's bill does nothing about frivolous lawsuits, only hurts victims. All this bill does is take away compensation from the most seriously injured plaintiffs. These are the victims who have a case that has so much merit that a jury of their peers decides they deserve more than $250,000 in non-economic damages.

Our bill requires an attorney to file a certificate of merit that an action is not frivolous and, if that certificate is false, that attorney can be disbarred.

The Republican bill takes a chain saw to the health care system instead of a scalpel. It is no wonder they fear a fair and honest debate and a clean vote.

I urge Members to:

(1) Vote "no" on the Previous Question so that we can make in order a vote on Conyers-Dingell and other worthy Democratic amendments.

(2) If we are not successful in defeating the previous question, vote "no" on this one sided, anti-democratic rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

### PREVIOUS QUESTION FOR H. RES. 139—MEDICAL MALPRACTICE: H.R. 5—HELP EFFICIENT ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

In the resolution strike "and (2)" and insert the following:

"(2) an amendment in the nature of a substitute consisting of the text of H.R. 1219 if offered by Representative Conyers or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

### CONYERS/DINGELL DEMOCRATIC SUBSTITUTE—H.R. 1219, "THE MEDICAL MALPRACTICE AND INSURANCE REFORM ACT OF 2003"

#### SECTION-BY-SECTION ANALYSIS

Scope. The legislation narrowly defines "medical malpractice action" to cover "licensed physicians and health professionals" for only cases involving medical malpractice. These definitions are intended to include doctors, hospitals, nurses, and other health professionals who pay medical malpractice insurance premiums. See, sec. 107(8).

*Title I—Reducing frivolous lawsuits*

SEC. 101.—Statute of Limitations. This section limits the amount of time during which a patient can file a medical malpractice action to the later of three years from the date of injury or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury. Children under the age of 18 have the later of three years from their eighteenth birthday or three years from the date the patient discovers (or through the use of reasonable diligence should have discovered) the injury.

SEC. 102.—Health Care Specialist Affidavit. This section requires an affidavit by a qualified specialist before any medical malpractice action may be filed. A "Qualified Specialist" is a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

SEC. 103.—Mandatory Sanctions for Frivolous Actions and Pleadings. This section requires all plaintiff attorneys who file a medical malpractice action to certify that the case is meritorious. Attorneys who erroneously file such a certificate are subject to strict civil penalties. For first time violators, the court shall require the attorney to pay costs and attorneys fees or administer other appropriate sanctions. For second time violators, the court shall also require the attorney to pay a monetary fine. For third time violators, the court shall also refer the attorney to the appropriate State bar association for disciplinary proceedings.

SEC. 104.—Mandatory Mediation. This section establishes an alternative dispute resolution (ADR) system for medical malpractice cases. Participation in mediation shall be in lieu of any other ADR method required by law or by contractual arrangements by the parties. A similar approach is recommended by the Committee for Economic Development (CED), which suggests that defendants make and victims accept "early offers." The effect of the "early offer" program, according to the CED, is that defendants will reduce the likelihood of incurring litigation costs, and victims would obtain fair compensation without the delay, expense or trauma of litigation.

SEC. 105.—Punitive Damages. This section limits the circumstances under which a claimant can seek punitive damages in a medical malpractice action. It also allocates 50 percent of any punitive damages that are awarded to a Patient Safety Fund managed by HHS. HHS will administer the Patient Safety Fund through the Agency for Healthcare Research and Quality. The Secretary will promulgate regulations that will establish programs and procedures to carry out this objective. See also, Sec. 221-223.

SEC. 106.—Reduction in Premiums. This section requires medical malpractice insurance companies to annually project the savings that will result from Title II of the bill. Insurance companies must then develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay. Insurance companies must report these activities to HHS annually. The section provides for civil penalties for the non-compliance of insurance companies.

*Title II—Medical malpractice insurance reform*

SEC. 201.—Prohibition on Anti-competitive Activities by Medical Malpractice Insurers. This section would repeal McCarran-Ferguson Act to ensure that insurers do not engage in price fixing. The Act, enacted in 1945, exempts all anti-competitive insurance industry practices, except boycotts, from the Federal antitrust laws. Over the years, uneven oversight of the insurance industry by the States, coupled with no possibility of

Federal antitrust enforcement, have created an environment that fosters a wide range of anti-competitive practices.

SEC. 202.—Medical Malpractice Insurance Price Comparison. This section creates an internet site at which health care providers could obtain the price charged for the type of coverage the provider seeks from any malpractice insurer licensed in the doctor's state. This section specifies the availability of online forms and that all information will remain confidential.

*Title III—Enhancing patient access to care through direct assistance*

SEC. 301.—Grants and Contracts Regarding Health Provider Shortages. This section authorizes the Secretary of Health and Human Services (HHS) to award grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health care providers as a result of dramatic increases in malpractice insurance premiums.

SEC. 302.—Health Professional Assignments to Trauma Centers. This section amends the Public Health Service Act to authorize the Secretary to send physicians from the National Health Service Corps to trauma centers that are in danger of closing (or losing their trauma center status) due to dramatic increases in malpractice premiums.

*Title IV—Independent advisory commission on medical malpractice insurance*

SEC. 401–402.—Independent Advisory Commission on Medical Malpractice Insurance. This section establishes the national Independent Advisory Commission on Medical Malpractice Insurance. The Commission must evaluate the causes and scope of the recent and dramatic increases in medical malpractice insurance premiums, formulate additional proposals to reduce those premiums, and make recommendations to avoid any such increases in the future. In formulating its proposals, the Commission must, at a minimum, consider a variety of enumerated factors.

SEC. 403.—Report. This section requires the Commission to file an initial report with Congress within 180 days of enactment and to file annual reports until the Commission terminates.

SEC. 404.—Membership. This section specifically establishes the number and type of commissioners that the Comptroller General of the United States must appoint to the Commission. Generally, the membership of the Commission will include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advooacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

SEC. 407.—Authorization of Appropriations. This section authorizes that such sums be appropriated to the Commission for five fiscal years.

(Prepared by the Democratic staffs of the Committee on the Judiciary and the Committee on Energy and Commerce.)

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 8, as follows:

[Roll No. 61]

YEAS—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Combest
DeGette
Gephardt
Gilchrest
Hyde
Johnson (IL)
Rush
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members have 2 minutes to record their votes.

☐ 1154

Ms. WATSON, Messrs. SANDLIN, MATSUI, HINOJOSA, SHERMAN, KUCINICH, Mrs. JONES of Ohio, Messrs. RUPPERSBERGER, BALLANCE, DEUTSCH, OWENS, Ms. MAJETTE, and Mr. DAVIS of Florida changed their vote from "yea" to "nay."

Mr. PETRI and Mr. PAUL changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 201, not voting 8, as follows:

[Roll No. 62]

AYES—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Combest
DeGette
Gephardt
Gilchrest
Hyde
Johnson (IL)
McIntyre
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1207

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

## HELP EFFICIENT, ACCESSIBLE, LOW-COST TIMELY HEALTHCARE (HEALTH) ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 139, I call up the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 139, the bill is considered read for amendment.

The text of H.R. 5 is as follows:

H.R. 5

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

### SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

### SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

### SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

### SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

### SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS IN COMPLIANCE WITH FDA STANDARDS.—

(1) PUNITIVE DAMAGES.—

(A) IN GENERAL.—In addition to the requirements of subsection (a), punitive damages may not be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, on the basis that the harm to the claimant was caused by the lack of safety or effectiveness of the particular medical product involved, unless the claimant demonstrates by clear and convincing evidence that—

(i) the manufacturer or distributor of the particular medical product, or supplier of any component or raw material of such medical product, failed to comply with a specific requirement of the Federal Food, Drug, and Cosmetic Act or the regulations promulgated thereunder; and

(ii) the harm attributed to the particular medical product resulted from such failure to comply with such specific statutory requirement or regulation.

(B) Rule of construction.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) Liability of health care providers.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

### SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) In General.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) Applicability.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

### SEC. 9. DEFINITIONS.

In this Act:

(1) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) Claimant.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) Collateral source benefits.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) Compensatory damages.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) Contingent fee.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) Economic damages.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) Health care lawsuit.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) Health care liability action.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) Health care liability claim.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) Health care organization.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) Health care provider.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) Health care goods or services.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) Malicious intent to injure.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) Medical product.—The term "medical product" means a drug or device intended for humans, and the terms "drug" and "device" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) Noneconomic damages.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) Punitive damages.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) Recovery.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) State.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

### SEC. 10. EFFECT ON OTHER LAWS.

(a) Vaccine Injury.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

### SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

### SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

### SEC. 13. SENSE OF CONGRESS.

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on the Judiciary and the Committee on Energy and Commerce printed in the bill, an amendment in the nature of a substitute printed in House Report 108–34 is adopted.

The text of H.R. 5, as amended pursuant to House Resolution 139, is as follows:

## H.R. 5

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003".

### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

### SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

### SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this Act shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

### SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

### SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

### SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i)(I) such medical product was subject to premarket approval, clearance, or licensure by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(II) such medical product was so approved, cleared, or licensed; or

(ii) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval, clearance, or licensure of such medical product.

### SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

### SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out

of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in antitrust.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug, device, or biological product intended for humans, and the terms "drug", "device", and "biological product" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

### SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

### SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS AND OTHER LAWS.—(1) Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for

health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

**SEC. 12. APPLICABILITY; EFFECTIVE DATE.**

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

**SEC. 13. SENSE OF CONGRESS.**

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 40 minutes and the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our Nation is facing a health care crisis driven by uncontrolled litigation. Medical professional liability insurance rates have soared, causing major insurers to either drop coverage or to raise premiums to unaffordable levels. Doctors are being forced to abandon patients and practices or to retire early, particularly in high-risk specialties such as emergency medicine, brain surgery and obstetrics and gynecology. Women are being particularly hard hit, as are low income and rural neighborhoods.

H.R. 5, the HEALTH Act, is modeled after California's highly successful health care litigation reforms enacted in 1975 and known under the acronym MICRA. California's reforms, which are included in the HEALTH Act, include a $250,000 cap on noneconomic damages, limits on the contingency fees lawyers can charge, and authorization for defendants to introduce evidence to prevent double recoveries. The HEALTH Act also includes provisions creating a fair share rule by which damages are allocated fairly in direct proportion to fault, reasonable guidelines on the award of punitive damages, and a safe harbor for punitive damages for products that meet applicable FDA safety requirements.

It is important to note that nothing in the HEALTH Act limits in any way the award of economic damages from anyone responsible for harm. Economic damages include anything to which a value can be attached, including lost wages, lost services provided, medical costs, the cost of pain-reducing drugs, and lifetime rehabilitation care, and anything else to which a receipt can be attached. Because of this, the reforms in the HEALTH Act still allow for very large, multi-million dollar awards to deserving victims, including homemakers and children, as the experience in California has shown.

Still, the California reforms have been successful. Information provided by the National Association of Insurance Commissioners shows that since 1975, premiums paid in California increased by 167 percent while premiums paid in the rest of the country increased by 505 percent. As Cruz Reynoso, the Democratic Vice Chairman of the U.S. Civil Rights Commission wrote recently in the Los Angeles Times, "What is obvious about MICRA is that it works and it works well. Our California doctors and hospitals pay significantly less for liability protection today than their counterparts in States without MICRA-type reforms."

The Congressional Budget Office has concluded that "under the HEALTH Act, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law." If California's legal reforms were implemented nationwide, we could spend billions of dollars more annually on patient care. Reform at the Federal level is necessary because the current crisis is national in scope.

According to a report by the Department of Health and Human Services, "The cost of these awards for noneconomic damages is paid by all other Americans through higher health care costs, higher health insurance premiums, higher taxes, reduced access to quality care, and threats to quality of care. The system permits a few plaintiffs and their lawyers to impose what is in effect a tax on the rest of the country to reward a very small number of patients." Congress must act to let doctors treat patients wherever they are and to reduce health care costs for all Americans.

H.R. 5 will also save the Federal taxpayers billions of dollars. Former Democratic Senator George McGovern has written in the Wall Street Journal, "Legal fear drives doctors to prescribe medicines and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this 'defensive medicine' squanders $50 billion a year, enough to provide medical care to millions of uninsured Americans."

According to the Department of Health and Human Services, "If reasonable limits were placed on noneconomic damages to reduce defensive medicine, it would reduce the amount of taxpayers' money the Federal Government spends by $25.3–44.3 billion per year."

Furthermore, despite accusations from the other side of the aisle, this is not a crisis caused by insurance companies. The President of the National Association of Insurance Commissioners wrote last month that "To date, insurance regulators have not seen evidence that suggests medical malpractice insurers have engaged or are engaging in price fixing, bid rigging, or market allocation. The preliminary evidence points to rising loss costs and defense costs associated with litigation as the principal drivers of medical malpractice prices."

We all recognize that injured victims should be adequately compensated for their injuries, but too often in this debate we lose sight of the larger health care picture. This country is blessed with the finest health care technology in the world. We are blessed with the finest doctors in the world. People are smuggled into this country for a chance at life and healing, the best chance they have in the world.

The Department of Health and Human Services issued a report recently that included the following amazing statistics. During the last half century, death rates of children and adults up to age 24 were cut in half and infant mortality rates have plummeted 75 percent.

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Mortality among adults between the ages of 25 and 64 fell nearly as much and dropped among those 65 years and older by a third. In 2000, Americans enjoyed the longest life expectancy in American history, almost 77 years.

These amazing statistics just did not happen. They happened because America produces the best health care technology and the best doctors to use it. But now there are fewer and fewer doctors to use that miraculous technology or to use that technology where their patients are. We have the best brain-scanning and brain-operation devices in history and fewer and fewer neurosurgeons to use them. Unlimited lawsuits are driving doctors out of the healing profession. They are reversing the clock; and they are making us all less safe, all in the name of unlimited lawsuits and personal injury lawyers' lust for their cut of unlimited awards for unquantifiable damages. But when someone gets sick or is bringing a child into the world and we cannot call a doctor, who will we call, a lawyer?

As a Nation today, we have to choose. Do we want the abstract ability to sue a doctor for unlimited, unquantifiable damages when doing so means that there will be no doctors to treat ourselves and our loved ones in the first place? On behalf of all 287 million Americans, all of us who are patients, let us say yes to reasonable health care litigation management and pass the HEALTH Act.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased to start the debate off on our side by yielding 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law, where this bill would have gone had there been subcommittee hearings.

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say first of all that I do not argue with the right of California to do tort reform or North Carolina or New York or any of the States. There are crises in some States, situations vary from State to State, and State legislators have the prerogative to set whatever tort laws they think are desirable. But I think it is the ultimate act of arrogance on our part as Members of Congress to think that we should dictate to the States in an area that has historically and forever been the prerogative of the State and in a way that I think substantially adversely impacts our whole Federal form of government, and in a way that runs contrary to just about everything my Republican colleagues say they stand for, which is devolving things back to the States.

I talked to a doctor this morning and I said to him, I have never seen a malpractice take place across State lines. To the extent that you operate on a patient from North Carolina, you being a doctor in North Carolina and the patient is from South Carolina, that creates diversity of citizenship and gets you into the Federal court. I offered an amendment in the Committee on the Judiciary designed to restrict this legislation to suits that are brought properly in the Federal court. I think we have the prerogative as the Congress to define what the Federal tort standards should be. But when we start dictating to the States that you have got to follow this one-size-fits-all bill, I think we have just kind of lost sight of the whole thing.

This should not be about getting the result that we want in any particular lawsuit that is pending. It should be about setting a framework, a public policy framework that honors the parameters that our Founding Fathers set up. For the life of me, I cannot figure out what the Federal nexus is for having a bill this broad. We can argue that there is a crisis; I do not think that is really the issue. The issue is how should we respond to the crisis and what should be our role at the Federal level in this context.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

Today, America faces a national insurance crisis that is destroying our health care system. Medical liability insurance rates have soared, causing insurers either to drop their coverage or raise premiums to unaffordable levels. Doctors and other health care providers have been forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, brain surgery, and obstetrics and gynecology. This is an intolerable problem that cries out for a solution.

The American people understand the problem. A poll conducted in early February shows that 59 percent of all Americans believe the crisis should be solved either by reining in personal injury lawyers or by placing caps on the amounts juries can award. The obvious cause of skyrocketing medical professional liability premiums is escalating jury verdicts. The median medical malpractice jury award doubled between 1995 and 2000, from a half a million to $1 million. That does not reflect the huge costs of cases that do not result in jury awards. In fact, 70 percent of all medical malpractice claims result in no payments because claims are either dismissed or withdrawn.

The CEO of Methodist Children's Hospital in my hometown of San Antonio has seen his premiums increase from less than $20,000 to $85,000 in less than 10 years. He has been sued three times. In one case, his only interaction with the person suing was that he stopped by her child's hospital room and asked how the child was doing. Each jury cleared him of any wrongdoing, and the total amount of time all three juries spent deliberating was less than 1 hour. Of course, the doctor's insurance company did spend a great deal of time, effort and money in his defense.

Mr. Speaker, Congress can solve the current health care crisis, but it can solve it only by passing the HEALTH Act.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from New York (Mr. WEINER), a distinguished member of the committee.

Mr. WEINER. Mr. Speaker, first of all, as the debate begins, let us put some myths to rest. We are going to hear a great deal of references to the California law that put in a cap. Since 1998, premiums have gone up 37 percent in California. Nationally they have gone up about 6 percent. So you keep talking about how great that has worked, but frankly it has not. In Florida where they also have a cap, and there are plenty of places around the country that do, they have a $450,000 cap that was put in the last time that suddenly we had an insurance crisis in this country in 1985, 1986. What happened then? Oh, yeah, insurance companies lost a lot of money in the stock market then, too, so that was the last crisis that we had. At the time Florida, they were smart, they asked insurance companies to report back to them the effect of the law. Aetna Casualty reported back. St. Paul, then the largest malpractice insurer, reported back; and in the words of St. Paul they said, quote, "The new limits will produce little or no savings to the tort system as it pertains to medical malpractice."

So feel free to keep talking about the examples that we have, but I think that you will find that when push comes to shove, the precedent is that these caps do not lower premiums. They do not lower premiums.

We are also going to hear a great deal of assertion today about out-of-control juries, out-of-control awards, judges who are completely out of their mind when they make decisions. Frankly, Duke Law School studied this notion not so long ago, as a matter of fact, in December of 2002. Here is what they said, and this is a quote: "The assertion that jurors decide cases out of sympathy for injuries to plaintiffs rather than the legal merits of the case have been made about malpractice juries since at least the 19th century, yet no research shows support for these claims."

But this is part of what I think is an underlying theme on the other side. American citizens cannot be trusted on juries to decide for themselves. They are not smart enough. Apparently my colleagues believe that juries that are made up of nine or 12 American citizens from your districts cannot be trusted to make these decisions. They simply are not trustworthy. But who are they? They are the same people that voted for you. Why is it you trust them to make a decision about who their Congressman would be and you will not trust them to make a decision about whether or not some medical malpractice case occurred and someone should be held accountable for that?

But there is another current here that I think is even more pernicious. Here we are. We sit in the Committee on the Judiciary. Let us take a look at what we have been doing recently. First, we are coming out after victims of this. This law only applies to you if you have been a victim of medical malpractice. You are a victim, but still we in the House want to take away your rights. Next we are going to take up bankruptcy reform. If you are really poor or you have fallen on hard times, we are coming after you next. But do not get too comfortable, because soon I hear that if you are an asbestos victim, we are going to come after your rights, too. This is who the Republican Party is standing up for in this House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act. The practice of medicine in the United States is in real crisis. According to the American Medical Association, Pennsylvania's OB-GYN medical malpractice insurance rates increased from $25,000 to $64,000 over the last few years. That is an increase of over 125 percent. That is, if the doctor can get insurance.

Excessive lawsuits have gotten so out of control that many doctors are closing their practices, leaving many patients with long waits to see physicians who are farther and farther away from them. Just this past Monday, I met with a dozen physicians in my district. Of the dozen, nearly all of them raised their hands when I asked them if they have children. Of those, all but a few said that they would advise their children not even to consider studying medicine; and one doctor said his wife forbade their kids to even entertain such notions, all because of the unreasonable burden of out-of-hand insurance costs and the consistent fear of lawsuits.

The Pennsylvania Medical Association reports that 80 percent of physicians have difficulties in recruiting new doctors and 89 percent of doctors practice defensive medicine, which increases health costs and drives doctors away from the highly specialized fields.

This bill sets time-tested limits on liability so that we can end this crisis. The proposal provides commonsense reforms. It limits the number of years to file a health care liability action so claims are brought while evidence and witnesses are available. It allocates damage in proportion to a party's degree of fault. It allows patients to recover full economic damages, such as future medical expenses and loss of future earnings while establishing a cap on noneconomic damages of $250,000. It places reasonable limits on punitive damages as well.

The criteria in this bill assure patients who are injured by a doctor that they will recover. But it also ensures that more of the money goes to the injured patient, not the attorney. Essentially, the lawyer is limited to 40 percent of the first $50,000 of the award, one-third of the second $50,000 and 15 percent of amounts over $600,000. The bill will protect victims of real malpractice, but it will also help reduce lawsuits.

Our Nation has the best health care system in the world, but it is in peril. H.R. 5 will put us back on track.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds for the benefit of my distinguished colleague, the gentlewoman from Pennsylvania, on the Committee on the Judiciary. She does not know, as she leaves the floor, that a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors in Pennsylvania increased by 13.5 percent, while the population increased by only 3.4 percent.

Mr. Speaker, I include the following citation for the RECORD:

In Pennsylvania a census conducted by the Pennsylvania Medical Professional Liability Catastrophe Loss Fund found that between 1990 and 2000, the number of doctors increased by 13.5 percent, while the population increased by only 3.4 percent. Not only is Pennsylvania not losing doctors, it had more doctors in 2001 than it did in the preceding five to ten years. Furthermore, the Philadelphia Inquirer notes that in 2000, "Pennsylvania ranked ninth-highest nationally for physician concentration, a top-10 position it has held since 1992. There were 318 doctors for every 100,000 residents in 2000, according to the American Medical Association.

□ 1230

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER), a distinguished member on the Committee on the Judiciary.

Mr. WEXLER. Mr. Speaker, I rise in opposition to H.R. 5. I do so because the proponents of this bill would have the country believe that the issue before this Congress is whether or not there is a medical malpractice crisis in America.

There is a medical malpractice crisis, but the issue before this Congress is how do we resolve that crisis? How do we minimize the premiums that doctors have to pay in order to participate in our medical society?

The reason we are in this position, according to a recently released report, particularly as it relates to my State, the State of Florida, by the group Public Citizen, is that a small number of negligent doctors and the cyclical nature of the insurance industry are largely to blame.

The Public Citizen report found that 6 percent of all doctors are responsible for one-half, 50 percent, of all medical malpractice cases. Six percent of doctors are responsible for 50 percent of malpractice cases. Yet the bill before this Congress does not at all address peer review of physicians, nor does it address the insurance aspect of the medical malpractice crisis, nor, most importantly, does it require insurance companies to pass on the savings from the alleged cap that would occur, pass that money on to doctors in the form of lower premiums.

In the State of Florida, which amounts to about 16 million people, in the last reported year there were 230 cases of awards in excess of $250,000, yet the proponents of this bill would argue that we will resolve this problem by limiting the excessive number of lawsuits that amount to excessive damages. They do not exist, these lawsuits, in the excessive number that they claim.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the distinguished chairman of Committee on the Judiciary for granting me time to speak on H.R. 5, the Medical Justice Act, HEALTH ACT of 2003. As an OB/GYN Member of the body, I think I have a unique perspective on this issue, not only as a physician who has delivered more than 5,000 babies and seen many of my colleagues giving up their practice because of fear of runaway lawsuits, but also as a grandparent. Let me explain that to you, because this issue is all about access to care for our patients, the citizens of this country.

My identical twin granddaughters were born 5 years ago at 26 weeks. They each weighed 1 pound 12 ounces. Thank God we were in a community where we had access to care. There was an OB/GYN physician willing to take care of my daughter in that high risk situation. There was a skilled neonatologist. We did have a hospital that still had an intensive care nursery.

Had we not been in that situation, had we been in a more rural part of my State or in some of the other States that are in a crisis mode, like the testimony that we heard from the mother yesterday from the State of Mississippi, my daughters would not have received that care, and instead of being healthy, vibrant 5-year-olds today, I am sure that both of them would have cerebral palsy, our family would be devastated and society would probably bear the brunt of the cost of their care for the rest of their lives.

So this bill is all about access to care. It is not taking away a person's right to a redress of grievances in a situation where they have been injured by a practice below the standard of care. It is not taking away from a trial attorney that works in the area of personal injury their right to do business, and most do in a very equitable manner and with integrity. No, it is not about that at all. It is about access to care.

I am proud to stand here today and enthusiastically support H.R. 5, and I hope the rest of my colleagues in this Chamber will do the same.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, only for the benefit of the gentleman from Georgia, who asserts that this bill does not take away anybody's rights, the gentleman must be aware, sir, as a Member of Congress and a doctor, that there is a $250,000 cap on noneconomic damages, unless he thinks that is not taking away anybody's rights.

Mr. GINGREY. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Georgia.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we know, this bill, of course, is applicable to those States that have not addressed this issue. Certainly the State of West Virginia and others who have finally tackled this issue, as they did in California in 1978, I believe, they can set their own caps. This law, H.R. 5, will be applicable to those States who, for one reason or another, have not.

Mr. CONYERS. Mr. Speaker, reclaiming my time, what about the States that have no caps?

Mr. GINGREY. Mr. Speaker, if the gentleman will continue to yield, the States that have no caps, of course, for noneconomic damages, this cap of $250,000 would be applicable.

Mr. CONYERS. In other words, the gentleman is sticking to his statement that this takes away nobody's economic rights, is that correct?

Mr. GINGREY. If the gentleman will allow me to respond?

Mr. CONYERS. If the gentleman will just answer yes or no.

Mr. GINGREY. The answer is no, it takes away no one's economic rights.

What in H.R. 5 is the gentleman pointing out to me or suggesting that takes away a person's right to economic recovery?

Mr. CONYERS. Mr. Speaker, if may I kindly and politely reclaim my time, and I would ask the gentleman to seek his own time from this point on.

Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), who has really worked hard on two committees and covered a lot of territory as a Member of Congress.

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, next week we will be considering most likely on the floor of the House a bill dealing with bankruptcy. Today we are considering a bill that is bankrupt, because it is an act of special cruelty that is being perpetrated on the most vulnerable of victims of malpractice, stay-at-home mothers and children, children like Steven Olson, who was left blind and brain damaged after an HMO refused to give him a $800 CAT scan when he was 2 years old. He is going to need round-the-clock care for the rest of his life. A jury, a jury, awarded him more than $7 million for his pain and suffering. But California has a cap on noneconomic damages, so the judge was forced to reduce the award to $250,000. That is $12 a day for the rest of his normal life expectancy.

Is that all he is owed for the irreversible damage that was done to him? Is that fairness? Is that justice? I think we know the answer.

Mr. Speaker, the sponsors of this bill have assured the physicians of America that this bill will lower their insurance premiums. The doctors are being deceived, for it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year, according to some estimates, up to 98,000 deaths per year. That is a real crisis. It does nothing to weed out the 5 percent of the medical profession who are responsible for 54 percent of the medical claims. So what is going to happen is good doctors will continue to subsidize those that ought to be out of the profession.

It does nothing to regulate the rates that insurance companies charge their policyholders. That did prove effective in California when it was passed in 1988.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims, capping injury awards at artificially low levels that are insufficient to meet their needs and making it difficult for them to even find a qualified attorney who is willing to take their case.

It is unconscionable, Mr. Speaker, for Congress to deprive these victims of the right to have a jury of their peers decide what their pain and suffering is worth. It is rather ironic that rather than regulating insurance rates, the apostles of the free markets opt to impose a system of wage and price controls. What irony.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2⅔ minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I first would like to thank the distinguished chairman for his hard work on bringing this bill forward.

Mr. Speaker, we have heard a number of things today, including from my good friend from North Carolina who mentioned that he had failed to see a situation where a malpractice case crossed State lines. Yet the case law in his own State contains many cases just like that.

As a matter of fact, the Supreme Court in North Carolina has actually ruled that if a patient leaves North Carolina, where they have no cap, travels to Virginia and are treated by a doctor there who thinks he has the protection of a malpractice cap, they can actually be sued in North Carolina, and the Supreme Court there said no cap applies.

Mr. Speaker, I have worked on this crisis, which I believe is indeed a crisis in health care and access to health care, for over a decade now, and every single time this issue is debated I see the opponents of this type of legislation coming in and they try to paint these faces.

On the one hand, they will show a victim of the most egregious scenario, and certainly those victims do exist. On the other side, they will show a portrait, mental, if no other way, of a doctor who is the most egregious kind of doctor.

Mr. Speaker, that is not the true face of this legislation, not the true face of this problem. Let me give you three of those faces.

One is the young internist who tries to save the life of a patient who can no longer breathe, and is actually getting on a helicopter and traveling to a hospital with that patient. At the end, even though they have committed no malpractice, they end up in litigation for almost 4 years. At the end of the process, the doctor looks at you and says, I did nothing wrong, but for 4 years I had a cloud of litigation over me, worried about whether I was going to lose my home and everything I had.

It has the face of the emergency room physician who has been working for 8 hours, and all of a sudden responds to a code outside of the department with a dying patient that he cannot pull one more miracle out of the hat on, and that patient dies. He is brought into that litigation just as a shotgun approach, and, after 3½ years, even though he has no award against him, his malpractice premium has gone up 70 percent.

Mr. Speaker, it also has the face of a family practitioner, an African American practitioner who I met with just a few months ago, who 2 years ago his premium was $30,000. Last year it went up to $100,000. This past year it went up to $230,000. Mr. Speaker, he closed his doors. The difficulty is not that he is no longer in that office; the difficulty is when all of the patients he serves knock on that door, he is not there to open it again.

Mr. Speaker, the difficulty with not passing this bill is the fact that all of those patients would no longer have access to health care. That is why it is important we get it passed.

□ 1245

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from Michigan (Mr. CONYERS).

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary and a ranking member on the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, today we are here to debate a bill, H.R. 5, written for us by the insurance industry. Supporters of restricting jury awards and malpractice lawyers' fees say excessive billion-dollar damage awards in medical liability suits is the reason medical malpractice insurance premiums have risen so sharply and that nearly half the States are experiencing an insurance crisis. However, others say, and I agree, that rising malpractice rates are part of the cyclical nature of the insurance business, and insurers are raising premiums now to recoup recent stock market losses. In addition, I believe any crisis that exists is specific to certain medical specialties and regions of the country.

Let us, Mr. Speaker, say it like it is: the insurance industry wants this bill because it will increase their profits. Well, forgive me if I do not support the insurance industry over injured patients. I do not represent insurance industry profiteers. I represent the people in my district, the people who will be severely disadvantaged if this bill passes in its current form.

We have gone back and forth on this issue for a long time now. The medical malpractice insurers tell us again there is a crisis, there is a shortage, there is a stoppage, or whatever else they think will bully Congress into doing their bidding. It is truly terrible that good doctors are paying the price for the insurance industry's bad business decisions. It is truly terrible that the insurance industry has fooled doctors into believing that injured patients are to blame for high premiums, and it is truly terrible that the insurance industry has this control over the health care system.

I would say to my colleagues, it is time for us to put an end to the misrepresentations of the insurance industry. It is time for us to stand up for our constituents and for people who have been injured, who have been maimed, and even killed, who deserve to be protected.

I say vote "no" on this bad bill. Our citizens deserve to be compensated for medical malpractice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank my distinguished chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time and also for his work on this important bill.

Mr. Speaker, I would like to rise in support of H.R. 5. Many of the people I represent in Iowa have to drive a long ways to see a doctor and even further to see a specialist. Thankfully, the health care access prices in Iowa may not be as severe as they are in some of the other States, and we have heard some of that this afternoon. However, I know that rural States like Iowa need to do everything they can do to improve access to health care.

Rising medical liability premiums due to lawsuits make it harder for doctors to stay in business and continue to see patients. As I said before, sometimes it is easier to sue a doctor than it is to see one. The health care access crisis hits rural Iowa hard because we have to drive further to seek medical attention. The people in my district cannot afford to lose a single OB-GYN or ER doctor to the rising medical insurance premiums; and if we do, our families will suffer.

Expectant mothers will have to drive further to see their obstetricians, accident victims will spend critical minutes and hours in transportation, seniors will have to drive further and sometimes will not receive the care that they need. Access is critical. The people I represent should not have to spend more time on the road than in a doctor's office.

The health care access crisis is further exaggerated in my district because we have the lowest reimbursement rate of the 50 States for Medicare reimbursement rates, and that means we have a thinner margin to play with.

I would point out also that, if the folks that are seriously opposing this bill were defending just the interests of the patients, we would have seen an amendment that would have waived contingency fees on noneconomic damages.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 3 minutes to the distinguished gentlewoman from California (Ms. LOFGREN), a senior member of the House Committee on the Judiciary and Committee on Science.

Ms. LOFGREN. Mr. Speaker, I am probably one of the few Members who have actually operated under MICRA in California. In the 14 years that I served on the board of supervisors, we bought malpractice insurance for the doctors at the county hospital; we settled lawsuits pursuant to MICRA related to the county medical professionals. People have argued the pros and cons of MICRA. The point that needs to be made is that H.R. 5 is not MICRA.

MICRA's cap on noneconomic damages applies to medical malpractice cases only. H.R. 5 extends liability relief to insurance companies, HMOs, nursing homes, medical device manufacturers, and pharmaceutical companies. In some cases, injured persons, for example, an elderly person abused in a nursing home, will only be able to look to their noneconomic damages for relief because they do not have any earnings to recover.

MICRA in California does not limit punitive damages in personal injury cases, but H.R. 5 caps punitive damages at two times economic loss, or $250,000, whichever is greater.

H.R. 5 would actually preempt California law by precluding tort recovery against nursing homes, HMOs who wrongly make medical decisions, and insurance companies. It would undercut California's elder abuse statutes, as well as undercut new measures that we have fought hard for in California that allow HMOs to be held accountable for their decision-making when that decision-making disrupts the doctor-patient relationship.

So whatever one thinks about MICRA in California, examine carefully H.R. 5, because it is not MICRA; it is putting the doctors in front of the insurance companies. But the big beneficiaries are the HMOs, the pharmaceutical companies, and the insurance companies and nursing homes.

I think this is not what our country should be doing to preempt California's elder abuse statutes and our new effort to hold HMOs accountable for the practice of medicine through insurance.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, one of the biggest problems facing our health care system today does not start in the doctor's office or in the operating room; it starts in the courtroom. We have a problem in America. There are too many frivolous lawsuits against good doctors, and patients are paying the price. It costs money to fight a frivolous lawsuit and oftentimes, in order to avoid litigation, doctors and insurance companies settle cases, even though they have not committed a medical error.

So it pays to sue. One can file lawsuit after lawsuit and eventually the legal system begins to look like a lottery. With the trial lawyers taking as much as 40 percent, it is clear who is winning.

We want our legal system to benefit patients, not trial lawyers. Anyone who has been harmed at the hands of a doctor should have their day in court. They should be able to recover the full cost of their care, and they should be able to recover reasonable noneconomic damages.

But we know the insurance companies raise the cost of medical malpractice coverage when faced with the risk of unlimited noneconomic damages. Doctors cannot afford to pay their insurance premiums and end up raising rates or leaving their homes for States with reformed medical litigation systems. That means that the health care is no longer affordable and accessible to many of our citizens. When doctors cannot pay the premiums and stop practicing medicine, everyone loses.

Mr. Speaker, this culture of litigation has to end. No one has ever been cured by a frivolous lawsuit.

So I support the reasonable limits on noneconomic damages. I believe it is time to pass medical liability reform that benefits patients, not trial lawyers. I urge the House to pass H.R. 5, the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a physician and an advocate for good health care for all Americans. We thank her very much for her leadership.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing, pretending to help doctors and patients, but really only helping the large health care corporations and doing nothing to help lift the malpractice burdens from doctors and other providers, or to ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, good ones, many who have never been sued, struggling to keep malpractice coverage and just to keep their offices open under the press of high premiums.

It is truly unfortunate that many of the organizations representing us are mistakenly supporting H.R. 5, because I think they think this is the best they can get. H.R. 5 is not. As a matter of fact, it is no help at all. Doctors are but pawns in what is clearly special interest legislation.

Mr. Speaker, H.R. 5 is an assault on the poor and minorities as well, because regardless of their injury and needs, the awards would be capped at low levels. For everyone, this bill sets values on human life and suffering that none of us can measure.

I say to my colleagues, defeat this bad bill that does a disservice to all of us, and join with our colleagues, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) and others, to pass a far better bill, a bill that will bring relief to HMOs, health professionals, and the patients who depend on their services and who need to be made whole.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise today to support the HEALTH Act of 2003, because I know what runaway health costs and a broken health care system look like.

In Tennessee we are battling to fix our own system, a statewide, nearly-universal health care service run by the government called Tenncare.

H.R. 5 means doctors in your neighborhood, not 50, 100, or 500 miles away in a metropolitan area. H.R. 5 means lower insurance premiums for working families and for small businesses.

This bill will not take away anyone's right to compensation. What it will do is prevent our community doctors, our community doctors from being targeted by profiteering lawyers.

I encourage all of my colleagues to join in supporting the HEALTH Act of 2003.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds.

I beg to differ with the gentlewoman from Tennessee. I wish her remarks were accurate, in noting from the American Insurance Association a comment that says, "Insurers never promised that tort reform," which is what medical malpractice, what H.R. 5 is, "would achieve specific premium savings." So in fact, the doctors will not be helped from this legislation, H.R. 5. The only persons that will be helped will be the insurance companies.

Mr. Speaker, it gives me great pleasure to yield 1 minute to the distinguished gentleman from Missouri (Mr. CLAY), a fighter for the rights of many and an advocate for good health care for all Americans.

Mr. CLAY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 5. The bill does a disservice to the medical liability insurance problem. It fails to provide the necessary solutions which are needed to have a win/win situation for all concerned parties.

Proposed legislative relief in the form of damage caps such as H.R. 5 may be construed as only a small portion of the remedy. Caps alone will not result in an immediate decrease in premiums. Malpractice suits take 3 to 8 years to come to trial. Current pending or filed suits will not be resolved for years. New caps on damages may not retroactively cover current suits. Therefore, premiums will not go down.

This bill is silent on the issue of the insurance industry and the failed investments policies of that industry's past. The choice is simple: enact H.R. 5 and have a system that has a tremendous overhead and continues to cause a disservice, or have a true reform plan that gives an immediate reduction in cost.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GERLACH).

Mr. GERLACH. Mr. Speaker, physicians in Pennsylvania face skyrocketing liability insurance rates. This is forcing them to leave their practices, retire early, or stop performing certain procedures.

□ 1300

That threatens access to care for patients in Pennsylvania and across this country. In my district alone, hospital services have been curtailed and advanced life support services have been terminated at an alarming rate. Without passage of medical liability reform at the Federal level, this situation will continue to worsen.

From 1977 to 2000 the number of practicing OB/GYNs in southeastern Pennsylvania has declined by 20 percent, and that is before the astronomical increase in doctors' medical liability, doctor insurance rates that took place last year. In Pennsylvania more than 75 hospital services have been closed or curtailed in the past year alone. The most severely affected specialty services are obstetrics, orthopedics, general surgery and neurosurgery.

Mr. Speaker, my constituents need real, meaningful medical liability reform and they need it now. We cannot allow the continuation of a system that is threatening and has in fact cut off patients' access to their doctor or hospital of choice. Let us put the patients above litigation and let us pass this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 15 seconds.

The playbook is being said over and over again. Victor Schwartz on tort reform says that many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I have never said that in 30 years.

Mr. Speaker, I will not vote for H.R. 5, because as it is, it does nothing to decrease the premiums our Nation's physicians are burdened with. It does nothing to decrease the number of frivolous lawsuits. It does nothing to decrease the amount of malpractice being inflicted upon the American people, by bad doctors who are jeopardizing the lives of their patients, and driving up the insurance costs of their colleagues. And it does nothing to protect the rights of those suffering in the wake of an act of medical negligence.

I have doctors in my district, who are struggling with high malpractice insurance premiums. In some regions, for some specialties, those premiums can be outrageous. If this bill becomes law, the caps on claims from injured patients will put a lot of money into the coffers of insurance companies. I offered an amendment yesterday in the Rules Committee that would have forced insurance companies to pass at least half of that money down to physicians in the form of reduced premiums. That just makes sense, if this bill is really intended to decrease premiums. But that amendment will not receive a vote today. That fact lays bare the claim that this bill is anything more than a gift to the insurance industry.

This bill has many troubling aspects and omissions. For example, noneconomic and punitive damages are capped at $250,000 and there is no provision to have this arbitrary number rise over time with inflation. So, we know that the value of the dollar will go down over time. Do we also feel the value of a human life, or of a child's pain and suffering will also go down over time? I surely do not. This could have easily been changed, but it was not.

Another aspect of this bill that I feel is morally repugnant, is in its valuing of rich people's lives more than poor people's, or children's, or stay-at-home mothers'. In the case of truly heinous acts of negligence, a judge and jury can award a damaged person with punitive damages. Punitive damages, as the name implies, are meant to punish egregious wrong-doers. This bill caps punitive damages at $250,000 or twice the economic damages, whichever is higher. So if a CEO with a high salary is injured and can't go back to work, his economic damages could be in the millions, and therefore through punitive damages—the perpetrator would be punished severely. On the other hand, if the injured is a child or a stay-at-home mother, the economic damages would be low, and the punitive damages would be capped at $250,000. Why would the U.S. Government, dedicated to the idea that every person should be treated as equal, say that doctors who hurt rich people should be punished more than those who hurt poor people—that the value of a poor person's life is less—that it is OK to take bigger risks in treating poor people? This is absolutely morally bankrupt.

And the bill does nothing to stem the tide of frivolous lawsuits. This bill, by definition, cuts awards to those people who a jury decided were not frivolous. This is short-circuiting our judicial process.

What in the name of God and country are we doing giving a gift to insurance companies, while people are suffering and access to medical care is threatened? I will vote against H.R. 5 and urge my colleagues to do the same.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BERMAN), a distinguished senior member of the Committee on the Judiciary who knows about California medical malpractice law firsthand.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, two points: In California we had much of the same issue that the country is now facing, rapidly escalating medical malpractice premiums, concerns that the health care system was broken, and we weighed the two approaches we had. One is the accountability for bad medical practices through the tort system versus a compromise that used a combination of tort reform, enhanced regulation of the medical profession and hospitals in terms of ensuring that bad practice would not be allowed to go unpunished and to continue, and insurance industry regulation legislation.

Now, we have this crisis in many other States of the Nation. Without getting into the issue to the extent to which tort reform played a role in reducing medical malpractice premiums and without getting into the debate about why we would need to federalize the entire system rather than letting the States work this through the same way California did, I just wanted to draw the attention of the body to the fact that what you are being told is not true. This is not an effort to take the California law as passed in 1975, known as MICRA, and to pass it and federalize it and to have it apply to the country as a whole.

This is a bald faced effort to cherry-pick certain provisions of that law, add many different people to the coverage of that law that were never included in that law, add additional tort reform provisions to that law that were not included in that law and then claim that we are doing MICRA.

In MICRA we enacted a series of very serious tort reforms, including the cap of $250,000, which I opposed vociferously then and do now. But we also massively enhanced both the level of insurance industry regulation and the authority of the boards of medical quality assurance, the disciplinary boards, to discipline those few physicians who were truly bad doctors, whose record of malpractice was astounding. If there was not going to be the full accountability from the tort system for the conduct of those physicians, then their status, their licenses would be in jeopardy.

We provided immunity to other physicians so that they would testify about the bad practices of those few doctors. We set up peer review committees in every area of this State. We significantly enhanced the powers of the boards of medical quality assurance. None of that, absolutely none of that appears here. This is a one-sided effort appealed to by certain interests, decrying other interests, to pretend they are taking the balanced approach of California when they are cherry-picking it to only limit its impact on one issue, the ability of injured patients to recover because of the negligence of another.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in support of H.R. 5, the HEALTH Act. Before coming to Congress I served as a doctor in north Texas for over 25 years. Over that time I delivered over 3,000 babies and handled my fair share of high-risk births. Because of the nature of my profession, I was not immune to being named in a lawsuit. Even though these claims were eventually dropped, my patients could not get back my time or the benefit of the care that they lost because I was away from my practice defending my livelihood.

The current legal environment reduced the access my patients had to my services, and that is a situation that I find unconscionable. Thousands of doctors share a similar story and millions of patients are affected in the same way by the current system.

The legal environment in which doctors must work is lopsided to favor a very narrow special interest group, that of the plaintiffs' bar. Because of this patients are losing access to specialized care they need because doctors are being driven out of business or taking time away from their practices to defend against frivolous claims. I urge passage of H.R. 5.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PASCRELL), one who has been a fighter for physicians and first responders.

Mr. PASCRELL. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I read section 12 of this legislation and it says that this is going to go into effect on the enactment of this bill, it becomes law. There is no grant program to help health care professionals. There is no end of frivolous lawsuits that has been discussed anywhere in this legislation. There is no attempt to pass on the savings to the very doctors who you have conned into believing that their rates are going to go down.

The insurance industry has said time and time again, not to the doctors, that there is no guarantee that the premiums will go down if this is enacted. And what you are going to do to us in New Jersey and 10 other States where we have strong legislation dealing with HMOs that rule the roost, you are going to let them all off the hook and you are going to protect bad doctors, bad hospitals and you are certainly going to protect bad insurance companies. And I say to you, you have created a great injustice here by putting forth this legislation without even allowing us to consider trying to solve the problem. Our bill does that.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the distinguished chairman for yielding me time and will answer my colleague that you cannot con doctors into anything. Doctors are not only trained professionals who can diagnosis what is wrong with you, they can diagnose what is wrong with our country.

I rise in support of H.R. 5. Without this bill health care in my State of Illinois will change for the worse. I am standing here representing Dr. Gina Wehrmann, who after paying her malpractice bill made less than the office manager in her practice and is now a pharmacist at Walgreens. I also stand with Dr. Scott Hansfield, head of obstetrics at Highland Park Hospital, who recently notified 2,500 of my constituents that he is leaving the practice of medicine and moving to a tort reform State.

The AMA has just put Illinois on the crisis list of liability watch for their practice. And in testimony before the Committee on Small Business, we learned that 85 percent of neurosurgeons have been sued in my State. Asked if this is too many, the plaintiffs' association said, no, 85 percent of neurosurgeons in Illinois were bad doctors.

I am worried about the plaintiffs' bar and its unintended war on women, forcing OB/GYNs out of my State of Illinois.

This is needed legislation. We need to pass it now. I commend the chairman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield the gentleman from New Jersey (Mr. PASCRELL) 10 seconds to respond.

Mr. PASCRELL. Mr. Speaker, is this gentleman letting us know today that he is guaranteeing a reduction in the premiums if this bill is passed? Is that what the gentleman is saying? I would like him to say for the record.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, I want to answer and I thank the distinguished speaker.

Mr. Speaker, I am going to ask the young lady just to come closer. We have the personal touch here this afternoon.

I want to answer the question that has been raised. This is over and over again about whose problems we are solving. Can I give my friends the real facts?

Sixty-one percent of the cases are dropped. That means as you go into the courthouse, and those of you who have been injured, you have your cases dismissed 61 percent. Plaintiffs only get 1 percent of the verdicts across the Nation. Defense verdicts. That means they rule on behalf of the HMOs, the doctors, the hospitals, 6 percent, and settlements are 32 percent.

H.R. 5 is a bill that does not harm the doctors and the physicians, which we do not want to harm, but it literally destroys the victims. What it does is when the verdicts come it injures the victims because you tell them that they cannot get a recovery.

There is no crisis in medical malpractice insurance. What the crisis is is the insurance companies who refuse to reduce the payments.

So let me show you who will be hurt by H.R. 5. Nathaniel will be hurt by H.R. 5. This is the face of H.R. 5. Why? Because Nathaniel was 6 weeks old when Nathaniel became brain damaged because he was not diagnosed with jaundice. In the Democratic substitute we eliminate cutting off Nathaniel's damages. We take the caps off the noneconomic damages. Is it not interesting that physicians who want to have their rates reduced do not get any relief directly from the insurance payoff because this is not access to medical care. This is insurance payoff day.

What we do for Nathaniel in the Democratic substitute is we say to the doctors, if you are good doctors, we want the savings that have been given to those to be reduced. I had an amendment that said reduce it by 50 percent. Put 50 percent of the savings and reduce the premiums of the doctors. This is real medical malpractice response. This puts the doctors in the rural communities in New Jersey, in Mississippi, in Texas and New York in the innercity. This helps the babies like Nathaniel.

And then to my dear friends, what about the States rights? What about the States that want to make their own determinations to protect their own citizens, to ensure that Nathaniel does not lay languishing with brain damage, and because he was only 6 weeks old, the noneconomic damages that would provide for him for the rest of his life were cut off, the pain and suffering damages were cut off at $250,000 in today's time? So besides cutting us off from having amendments, besides denying us a substitute—a legitimate way to discuss a reasonable response—this is what we have today: A false bill that addresses a false issue and Nathaniel languishing in brain damage. Our bill would have provided Nathaniel for getting his day in court, providing for his mother and father the pain and suffering they are experiencing while he languishes without hope.

Payoff day for insurance companies. I stand against it. Vote against H.R. 5.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) displayed a chart that indicated that 61 percent of the malpractice cases were either settled or dropped, and she insinuated that that was for free. It is not for free. It costs money to defend those suits, to go to court, to file answers, to do whatever discovery is necessary in order to convince the plaintiff that they do not have a case, and those costs get folded into the liability premiums that the physicians have to pay.

Who gets off free? It is the plaintiff that gets off free because the plaintiff is on a contingency fee and if there is no recovery then the plaintiff does not have any lawyer fees at all.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 25 seconds to respond.

The Republicans have represented that H.R. 5 is to reduce the premiums of physicians. Let it be perfectly clear, and I stand by my document, 61 percent are dismissed, but let it be perfectly clear that nowhere will the physicians have premiums reduced and more doctors be able to practice because we pass H.R. 5, which is a payout to the insurance companies. I maintain that position and it is accurate.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. HOEFFEL), who experiences firsthand what happens with a crisis in his State. He is a leader on these issues.

□ 1315

Mr. HOEFFEL. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I agree with her concern because Pennsylvania doctors have a tremendous problem with medical malpractice premiums doubling and tripling, but they have been sold a bill of goods. This bill will not bring down their premiums. We should try to help those doctors, but not by punishing the most severely injured victims of medical malpractice.

We need insurance reform. The law in California did not work to bring down premiums. When they put a $250,000 cap on damages, the premiums continued to rise until they passed insurance reform in 1988 and mandated a reduction in premiums. That is what we need to be doing here.

At a minimum, we have got to put flexibility into these hard and inflexible caps. We ought to allow the trial judge at a minimum to allow something above the caps if circumstances on a case-by-case basis require that, but this House will not allow that to happen.

Let us look at the sad case of Linda McDougal, who was diagnosed with breast cancer and had both breasts removed because of the lab report. It turned out the lab was wrong. The good news for Linda McDougal is that she does not have breast cancer. The bad news is she does not have breasts anymore.

What is that worth? The proponents of this legislation would say that a woman's breasts are worth no more than $250,000. I do not want my colleagues to make that decision. I want a jury to make that decision. I want to defeat this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

We have heard an awful lot about the impact on insurance premiums, and I just want to read from the CBO estimate, the cost of this bill. The CBO estimates that under this bill premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent lower than what they would be under the current law. However, other factors noted above may affect future premiums, possibly obscuring the anticipated effect of the legislation.

The effect of H.R. 5 would vary substantially across States, depending upon the extent to which a State already limits malpractice litigation. There would be almost no effect in malpractice premiums at about one-fifth of the States, while reductions in premiums would be substantially larger than the overall average at about one-third of the States.

What this means is that the reduction in premiums will be much greater in the States where there is a crisis, and what this bill does is that it provides access to medical care in States where high risk specialists are closing their practices because they cannot make enough money to support themselves and to pay their liability insurance premiums.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 10 seconds.

The real point is that the insurance companies have specifically said they will not reduce premiums with the passage of H.R. 5.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois (Mr. Davis), who knows hospitals because they are in his district, an advocate for good health care for all Americans.

Mr. DAVIS of Illinois. Mr. Speaker, in Chicago, an electrocardiogram is misread and the patient dies of a heart attack. A rare heart disorder is mistaken for a back strain and kidney stone. The patient dies. Both of these cases are about real people and real pain. In both cases, the families were awarded decent sums of money by juries, but I can tell my colleagues, no sum of money will ever replace the loss and suffering of people's lives. Yes, there is a crisis in health care, but this one-size-fits-all $250,000 cap on medical malpractice payoffs will not solve the problem.

I have a profound respect for doctors, nurses, hospitals and other health care professionals who provide services, some 25 of them in my Congressional district, five medical schools, but I am not prepared to leave to chance a $250,000 cap on consumers.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. Stenholm).

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 5, of which I am an original cosponsor. I cosponsored this bill because I believe that it will help ensure the availability of vital health services for patients in this country.

Listening to the debate today, the average citizen would assume that it is necessary to choose sides. Either one is for the docs and other health care providers or they are for the patients. I simply reject that premise and assert another, which is this. We must have a system where good doctors can practice good medicine if we are going to have healthy patients.

Does creating a good system mean that no doctor will ever fail again? No patient will ever again be injured through negligence or poor practice patterns? Of course not. But when those injuries occur through clearly bad behavior on the part of a health care team, I want the health care professionals to be responsible for their action.

I sympathize with the case examples brought to the floor by my colleagues on my own side of the aisle. There are a great many tragedies which occur when health care is poorly delivered. I have no interest in removing appropriate avenues of redress for those injured people and their families, but I do not believe these cases have much, if anything, to do with the bill before us today because it retains a great deal of legal redress for plaintiffs.

No one can claim that the system we have now is good for the doctors or the patients when doctors must pursue expensive defensive medicine rather than doing what they think is right. No one can think it is good for places to have doctors leaving the profession in droves because of the financial and physiological strains of caring for people under current malpractice realities.

The bottom line is that the failure of the medical liability system is compromising patient access to care. More than half of Texas physicians say that they are considering early retirement due to skyrocketing insurance premium, and nearly one-third are reducing the kind of services they provide.

Spiraling medical liability insurance premiums are forcing many hospitals to consider difficult decisions from cutting services to closing clinics. Some hospitals find it difficult to appropriately staff emergency departments, recruit and retain physicians in high-risk specialties. Where is the victory for patients in that scenario?

This situation is further magnified in rural communities where there are fewer hospitals and health care professionals. These hospitals and clinics already operate on narrow profit margins, and skyrocketing medical liability insurance push them closer to the brink of closure.

Ignoring the litigation problems we have now is a recipe for disaster. Many States, like my own, are already on the precipice of disaster, especially in fields like obstetrics.

It is for these reasons I join my fellow colleagues as original cosponsor of the HEALTH Act of 2003. The bill is not perfect. It can be improved but it will not be improved if it is defeated today.

I urge my colleagues, especially those who represent rural America, to support H.R. 5, which will have a chance of stabilizing our Nation's shaky medical liability system.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island (Mr. Langevin), who has faced many issues that deal with the needs of hospitals and his own constituents and good health care, and I thank him for his leadership.

Mr. LANGEVIN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Today, I rise in strong opposition to H.R. 5, the HEALTH Act, because this unhealthy act would severely limit the ability of patients to bring suits and seek appropriate damage awards while failing to require insurers to lower their rates once the so-called reforms are in place. This misguided measure would unfairly impact women, low income families and children or have absolutely no impact on the affordability of malpractice insurance coverage.

Proponents of this legislation claim that it contains the right cure for the medical malpractice liability crisis. This elixir is nothing more than a placebo that will not lead to safer medicine, but rather protect egregious medical malpractice behavior.

Though not a victim of medical malpractice, the $250,000 cap in this legislation could never compensate me for what I lost when I became paralyzed.

For these reasons, I would strongly urge my colleagues to oppose the underlying bill and to support the Democratic alternative, which would allow patients to seek redress while providing relief to physicians and hospitals in need while holding insurance companies more accountable.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. Scott).

Mr. SCOTT of Georgia. Mr. Speaker, I thank the gentleman very much for yielding that time.

I am very delighted to stand before a distinguished House of Representatives to make this plea.

I support this measure. I come from Georgia and represent a new Congressional district that represents one of the fastest growing areas in this country. It is the 13th Congressional District. I am here because of that growth, and I am also here to tell my colleagues that there is no greater pressing issue facing my district and the people of Georgia than this health care crisis that we are faced with today in medical liability insurance.

Our doctors are suffering immensely, not only in terms of having to cut back on the quality of services that they have to offer but also in our medical schools, where they are preparing our doctors for the future. Many of the medical schools in my State are saying now that many of the students are having second thoughts about even coming into the medical profession; 17.8 of the 2,800 physicians in Georgia are already reporting that they are contemplating, contemplating cutting back in their critical services for at-risk procedures, and nearly 2 percent have even indicated that if things do not change they are moving out of the State of Georgia.

I think we all know that Georgia is one of 18 States that has the highest, most significant medical malpractice insurance premium costs, and it is costing our State dearly. I am here to speak for those doctors and the dentists and the hospitals in that 11-county area that I represent around the City of Atlanta that is faced with this crisis, and I hope that this Congress will hear us as we cry out in Georgia on behalf of our physicians, our dentists, all of our health care providers, give us some relief.

I know this H.R. 5 before us is not a perfect bill. Nothing is perfect. Who amongst us or what amongst us is perfect? But it is a start. It is a beginning, and it is not incumbent upon us to complete the task, but neither are we free to desist from doing all we possibly can. That is what the American people are expecting of us.

Take this first step. Let us move this process forward. When it gets to the Senate we can work to perfect it even better. I urge my colleagues' vote on this very important matter, and let us bring better health care to our people of Georgia and the Nation.

I am here representing the patients, doctors, hospitals, and health care providers in the 13th Congressional District in Georgia. This is a new district, which encompasses parts of eleven counties due to the tremendous growth in this part of the state. It is also a diverse district, including county, regional, and private hospitals, several health care facilities, and hundreds, if not thousands of physicians and dentists, and other health care professionals. Georgia has been designated as one of 18 states facing a medical liability crisis and since Georgia's health care industry is being threatened by this crisis, I have decided to support the patients . . . and the doctors . . . and the hospitals . . . by supporting H.R. 5.

Earlier this year, the Georgia Board for Physician Workforce, the state agency responsible for advising the Governor and the Georgia General Assembly on physician workforce and medical education policy and issues, released a study showing the effects of the medical liability crisis on access to health care for Georgia's patients. For example, the study shows that 17.8 percent of physicians, more than 2,800 physicians in Georgia, are expected to limit the scope of their practices which is by far the largest effect of the medical liability insurance crisis on access to medical care. These physicians are expected to stop providing high risk procedures in their practices during the next year in order to limit their liability risk. Nearly 1 in 3 obstetrician/gynecologists and 1 in 5 family practitioners reported plans to stop providing high-risk procedures, indicating that access to obstetrical care may be significantly reduce during the next year as a result of the medical liability insurance crisis.

In addition, nearly 11 percent or 1,750 physicians reported that they have stopped or plan to stop providing emergency room services. 630 physicians plan to stop practicing medicine altogether or leave the state because of high medical malpractice insurance rates. About 13 percent of doctors reported that they had difficulty finding malpractice insurance coverage. In fact, at one particular Georgia hospital, the hospital could not give credentials to a surgeon and add that physician to its staff because the surgeon could not afford to buy medical malpractice insurance. In another instance, an obstetrician-gynecologist had to close his Georgia practice and work for a health care agency because he could not afford to buy medical malpractice insurance. What happens to the patients that his hospital could have treated but now it cannot because it does not have the surgeons that it needs? What happens to the mothers who need a doctor to provide pre- and post-natal health care but cannot find one because doctors are leaving the profession due to the high cost of medical malpractice care?

I support H.R. 5 because doctors, hospitals, and the health care industry are caught in the middle between insurance companies and lawyers. Doctors are being squeezed by their medical malpractice insurance premiums and by the high amounts being awarded to injured patients. Doctors need to see results; they need to know that if this bill becomes law that their insurance premiums will go down. The message must reach the insurance companies that premiums have to go down so that the medical profession can survive and access to health care is improved. The health care industry must have relief and this bill, although not the final answer is the first step in addressing the problems that affect doctors and the health care industry.

We have to address the issue of medical malpractice insurance and the extremely high cost of health care. We have to do something. This bill is not the complete answer. It is not the final answer. It is not the best answer but it is a start. We do have to do something and we have to do it now. In 2000, Georgia physicians paid more than $92 million to cover jury awards. That amount was the 11th highest in the nation despite the fact that Georgia ranks 38th in total number of physicians in the United States. Forty percent of the state's hospitals faced premium increases of 50% or more in 2002. St. Paul, the state's second largest insurance carrier, stopped selling medical liability insurance last year. Remaining insurers have reportedly raised rates for some specialties by 70 percent or greater. Some emergency room physicians, OB–GYNs and radiologists have not yet found a new carrier.

In addition, Georgia is heavily dependent on other states to train physicians. Approximately 70% of participating physicians in Georgia completed training in another state. High costs of medical malpractice liability insurance may reduce the attractiveness of Georgia as a location for medical practice. High professional liability insurance costs are a significant financial problem for teaching hospitals, reducing the already limited funding available for faculty, residents, and other medical education costs. The high cost of medical malpractice insurance for doctors and hospitals harms mostly those communities who serve minorities and low income patients. The physicians and hospitals who depend on Medicare reimbursements and who serve the 44 million uninsured Americans everyday cannot afford to pay higher insurance premiums. We need to ensure that these communities have access to quality health care and the best physicians or the health disparity that currently exists will continue to deepen and create a 2 tier health care system. We must do something now. We must support the patients who cannot speak for themselves. We must support our doctors and hospitals and we must pass relief for them today.

It is important for the House to pass a bill that can go to the Senate for consideration. I hope to perfect the bill even more as it moves through the legislative process. It would be a mistaken not to do anything. In fact, I have never seen a problem solved by doing nothing.

We must help doctors, physicians and dentists, hospitals, other health care providers, and American patients who are suffering in untold ways. Immeasurable damage is occurring in our nation's health care delivery system because of the high cost of medical malpractice insurance. With the passage of this bill, we are sending a clear and salient message to the insurance industry, which sets the premium rates for medical malpractice insurance and that message is: Bring Down the Cost of Medical Malpractice Insurance for Physicians and Hospitals.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY), an individual who has stood firm on the rights of patients, the rights of victims.

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman for the time, and with due respect to our colleagues that have spoken on the other side of this issue, I want to say that we all understand the issues that are here and we understand the impact that premiums have on doctors, but it is a shame that we have to choose a vehicle in this bill that pits doctors against victims of malpractice.

The doctors that come into my office understand that if there is an error made they want the patient to be compensated. There is no offer in this bill to give us a system better than the jury system. There is an arbitrary amount set that even doctors, when they look at it, understand that there is not nearly enough to fully compensate people.

This is simply an insurance company bill, an HMO bill, a prescription drug manufacturing bill that will limit their liability, and in order to try to push it through, pits doctors, well-intended doctors, against patients, victims.

The fact of the matter is this legislation should be looking at ways to weed out undeserving suits so that doctors are not exposed to them, while making sure that we preserve a way for people that are injured to get their full compensation in a fair manner. We have to also add into that premium control because the insurance companies simply are not a well-run organization, and that is where the answer is for doctors, improve that with insurance reform.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the Help Efficient, Accessible, Low-cost, Timely Healthcare Act of 2003.

As I rise today, in the midst of a contentious debate, Mr. Speaker, I think of my family and my parents. I think of the good health that God has so mercifully given our family over the years. I think about this great country of ours and the cutting-edge research of universities and our hospitals, like those in Muncie and Anderson and Richmond, Indiana, that I serve here in Washington.

□ 1330

We undoubtedly have the best health care system in the world, the envy of other nations. Yet, Mr. Speaker, the costs of health care are rising so much so, to the point where constituents of mine, like Gary Miller of Portland, Indiana, are in fear of losing access to health care due to its affordability. Gary Miller just called my office this morning as we began the debate on this bill to register his concern about the rising cost of health care in America. Well, I am here today, Mr. Speaker, to tell people like Gary Miller that help is on the way.

Physicians in this country are some of the finest people you will ever meet. It takes a special heart of compassion to help people that are hurting physically day in and day out. And no well-meaning compassionate physician, Mr. Speaker, should be forced to close the door of his or her practice just because they cannot afford to pay health care premiums caused by frivolous litigation. Even the most well-meaning trial lawyers in the country are filing litigation that is driving health care premiums through the roof.

The Good Book tells us: "You shall not muzzle the ox while it treads out the grain." And today I say to my colleagues, it is time to take the muzzle off physicians in this country and allow them to practice medicine and continue to heal our land. It is time to free doctors from the fear of bankruptcy and potential limitless litigation that currently hurts patients by causing doctors to engage in defensive medicine.

Mr. Speaker, I urge my colleagues to vote "yes" on this bill so people like Gary Miller do not have to live in fear of losing access to health care again. I urge a "yes" vote so we can get this country back on the road to affordable and available health care for all Americans.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE), who knows what it is like to have victims denied economic damages under this legislation.

Mr. INSLEE. Mr. Speaker, I think it is fair to say that this bill itself is a case of legislative malpractice. It is legislative malpractice because it will not deliver the goods to doctors in a reduction of their premiums because there is an outright total and utter failure to deal with insurance reform, which the evidence has shown is necessary to get a reduction in premiums.

We ought to listen to the story of a 23-year-old lady named Jennifer, a newlywed in Washington, who went in for a simple medical test and was told she had a rare form of cancer. She had an extended period of chemotherapy, she had a hysterectomy, and they then took out part of her lungs. She went through years of medical procedures and the test was faulty. She never had cancer.

Now, I do not know what the right dollar figure is for a woman's loss of the ability to bear children, but I know it is not $250,000. I know it is not what Ken Lay earned in about 2½ weeks, and I know that that decision should be made by 12 citizens sitting in a jury box rather than people answering to special interests in the United States Congress.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think there is a little bit of confusion around about the non-economic damage limit. There is a specific provision in H.R. 5 that says no provision of this act shall be construed to preempt any State law whether effective before, on, or after the date of enactment of this act that specifies a particular amount of compensatory or punitive damages or the total amount of damages in a health care lawsuit, regardless of whether or not such monetary amount is greater or lesser than that that is provided under this act.

Now, every one of the 50 States is free to adjust the $250,000 limit on non-economic damages upwards or downwards by enactment of the State legislature. My State limits it at $350,000. This is not touched by the HEALTH Act whatsoever. So if anybody thinks that this act is a straitjacket, the legislature is free to change it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this legislation.

Yesterday, on this House floor, we passed legislation that will reduce medical errors by enabling hospitals and other providers to develop systems that identify and present errors. In addition, it will enable us to build an interoperable system of technology that will, for example, eliminate mistakes in filling prescriptions. So yesterday we took a giant step forward toward reforming the very systems that will improve the quality of care we deliver to the people of America and, at the same time, reduce costs of health care.

Today, we need to pass this malpractice reform bill because, again, it will reduce costs by eliminating millions of defensive practices that have developed in our system simply for the purpose of enabling a physician to defend himself in court. By eliminating those defensive actions, we not only reduce costs but we will improve the quality of care patients have available to them.

It is ironic that when we are in a period of rapid change in medicine, where medical science is moving us toward ever-more sophisticated ways of diagnosing and treating illness, we are also reducing access to care through a liability system that cannot distinguish between error in a complex era and malpractice. So we are at the same time improving the quality of health people can get and denying them access to that care.

Ask any woman who has a high-risk pregnancy how hard it is to find an obstetrician who will take a woman with a high-risk pregnancy because of the cost of malpractice insurance. Talk to those doctors who are leaving practice or who are choosing to no longer do certain high-risk operations and procedures in order to keep their malpractice costs within some kind of reasonable bounds. Talk to those people out there in the real world who cannot see enough new patients to pay their gigantic malpractice preimum increases, and you cannot help but conclude that malpractice costs have gotten so out of control, they are now denying access to people in America to advanced health care.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish this bill would help cure that problem.

Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), one of our newest Members, and a new member on the Committee on the Judiciary, who we are very proud to have because she has been a real fighter for patients' rights.

Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts (Mr. DELAHUNT) be allowed to manage the balance of the time on the minority size.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I thank the gentlewoman from Texas for yielding me this time, and today I rise in opposition to H.R. 5.

There is no doubt that most Americans have real problems accessing affordable health care in this country, and we need to find a solution. However, H.R. 5 is a deplorable bill. It is the most simplistic method for addressing problems that we are experiencing with our medical community. It is akin to trying to put out a forest fire with a squirt gun.

Placing a cap on a victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will not keep specialists from practicing in their areas. H.R. 5 simply restricts injured patients' access to justice. It is modeled after a California law affectionately known as MICRA.

As a representative from California, I happen to know a lot about MICRA. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my State, but rather it took Prop 103, an insurance reform initiative, to stabilize the rates there.

H.R. 5 without insurance reform is meaningless, and I urge a "no" vote.

Mr. DELAHUNT. Mr. Speaker, would the Chair indicate how much time is remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. DELAHUNT) has 3 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. DELAHUNT. Mr. Speaker, it pleases me to yield 1 minute to the gentleman from Ohio (Mr. RYAN), a new Member and someone we are particularly proud of.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we know that the premiums are high, and we know the doctors are suffering; but this bill is not going to address the problem. And I would like to just take a minute, Mr. Speaker, to point out some of the inconsistencies from the majority party, the party that says we need to give all the power to the States. In this bill they are taking power away from the States. This is the party that says we are for individual responsibility, unless that individual is in the jury box, then we do not want to give it to them. This is the party that is for less government and less regulation, but at the same time they are putting price controls on attorneys. That is not free market.

Like a leading malpractice insurer in California said, I do not like to hear insurance company executives say it is the tort system. It is self-inflicted. That, in this bill, is not going to address that problem.

Mr. Speaker, I am afraid that all the faces and the names have turned to numbers in Washington, DC. This is not the answer. Real people are going to get hurt. We would like to welcome everybody back to the era of caveat emptor, or buyer beware.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), the chief deputy whip of the Democratic Caucus.

Mr. SANDLIN. Mr. Speaker, somebody in this Chamber needs to stand up for the doctors and somebody needs to stand up for the hospitals. Malpractice premiums are choking America's physicians, and H.R. 5 is nothing but a sham because H.R. 5 does not mention one time, from front to back, soup to nuts, does not ever even mention malpractice premiums. We need to do something about those premiums for the doctors. We need to do it now. We need to do it today. H.R. 5 will not do it.

And how about frivolous lawsuits? Frivolous lawsuits need to be ended. If a suit is filed with no basis in law or in fact, it should be dismissed at the cost of the plaintiff and the plaintiff should be sanctioned. But what does H.R. 5 says about frivolous lawsuits? It does not say one thing. That is a shame. That is outrageous.

We are only talking about benefits for insurance companies. We are talking about caps. The only people protected are insurance carriers. The only people celebrating today are executives in tall buildings owned by insurance companies.

This is not good for doctors, it is not good for hospitals, it is not good for patients. Let us stand up for them. Let us do the right thing.

Mr. DELAHUNT. Mr. Speaker, I yield 1 minute, the balance of my time, to the gentleman from New York (Mr. NADLER), who serves admirably on the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, one thing that has not been remarked upon is that the cap of $250,000 for pain and suffering, whether a baby is killed, a person is paralyzed for life, an old person is killed, regardless, aside from economic damages, they can only get $250,000. But that cap is not inflated. When that was first written in 1975 in California, $250,000 was worth what today is worth $1.6 million. The $250,000 now is worth what was then worth less than $39,000.

If there is no inflater put into this bill, and the Republicans in committee voted against it, except a couple of them, and they would not let me bring it onto the floor, then what we are really saying is people should get no recovery at all for pain and suffering and lifelong anguish and death and dismemberment. None. Only for lost wages, if they are workers, or for medical bills. Because eventually that is what this $250,000 will be worth, next to nothing.

Finally, on frivolous lawsuits. On contingency fees you cannot bring frivolous lawsuits, which is why this bill does not mention it and why talking about it is so dishonest.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have been listening intently to this debate. Many of my friends on the other side of the aisle apparently have not been listening at all to the debate, and I just want to rebut a couple of their points.

First, they say this will not reduce insurance premiums. They were right in that it will not reduce insurance premiums by law, but the CBO says that overall insurance premiums will be reduced by 25 to 30 percent and more in States where there is a greater problem. That is the market working. That is the economics working on it. But those premiums are not going to be reduced if the current law stays where it is.

Then we have heard time and time again about $250,000 in noneconomic damages. This bill gives each State the right to adjust that amount to a greater or a lesser amount. So the State legislatures can make a determination on whether $250,000 is proper or not. If they fail to do so, then the $250,000 in the HEALTH Act is the law for that State.

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Finally, we have heard "Physician, heal thyself," and that a small number of physicians are responsible for the vast majority of malpractice claims. Let me say that the current tort liability system provides a huge disincentive for doctors to talk about problems amongst themselves and to get the collective benefit of a number of doctors' opinions on how to treat a patient.

There has been a study that asked, "Generally speaking, how much do you think the fear of liability discourages medical professionals from openly discussing and thinking about ways to reduce medical errors?" Mr. Speaker, 59 percent of the physicians replied, "A lot."

If we pass this law, we will be seeing more collectively doctors' brains put together to deal with difficult cases, to talk about mistakes and make sure they do not happen again. This bill should be passed. I urge an aye vote on the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Ohio (Mr. BROWN) will control the time for the gentleman from Michigan (Mr. DINGELL).

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 5. I am joined by every major medical association representing the doctors of America across this country and across the very specialty organizations that are so deeply affected by the rising cost of medical malpractice insurance that many of them are leaving the practice that they were trained to do.

I thank the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from California (Mr. COX) for drafting this legislation. I certainly thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the staff of the Committee on the Judiciary for working so closely with the staff of the Committee on Energy and Commerce to advance the cause of this very important bill.

We will hear many stories today about the victims and how they are harmed in the health care system. And, of course, we cannot dispute the fact that many doctors make human errors. In fact, yesterday we indicated that the To Err Is Human report encouraged us to pass a medical errors bill, which we passed yesterday on the floor, which is designed to begin sharing information to reduce the number of those errors and to make sure that doctors are not hauled into court every time they help one another when trying to reduce the number of errors in the system.

We know there are victims of medical errors, but we do not often hear about the victims of the medical malpractice system gone awry. They are the victims who get denied access to health care in very critical moments because some doctor could not get his insurance renewed because premiums were too high, some doctor left the practice, some medical clinic, some institute closed down in the community, the stories we heard from victims yesterday here in Washington, D.C.

One wife and children were here talking about how the husband and father was in a horrible automobile accident and went to the hospital, only to find out the neurosurgeon who should have been there to help him had lost coverage 4 days earlier and was no longer at the hospital to service them. That gentleman suffers massive brain disabilities as a result of not having someone there to serve him.

Many pregnant women look forward to a natural childbirth, only to find out that doctors are increasingly recommending C-sections, and doctors who deliver babies are getting out of the business because they cannot afford the skyrocketing liability coverage policies that they need.

60 Minutes did a piece on one of those doctors who gave his whole life, his career to delivering babies. He cannot do it any more. He is doing prenatal work now because he cannot afford the awful cost of liability coverage.

So not only are these doctors harmed because they cannot practice the professions they love and worked so hard to learn, but the patients that come to them are increasingly being harmed. Doctors are moving from one community to another, moving to States that have liability protection because they have learned that they cannot afford the liability coverage in the community they were raised and educated in. They have to move from Mississippi to Louisiana, for example, and Mississippi loses the availability of those good physicians.

Those hidden victims, patients who cannot get care, who suffer from a lack of access to health care, are just as real, just as injured as any victim who has been injured by medical error or malpractice in this country. We have to do something about this. It is a broken system. When the health care system breaks down, it is our responsibility to make sure that we fix it, and we fix it so it does not just work in California or Louisiana, it works across America.

Our families are spread all over. My children are living in all kinds of States. I want them to be able to walk into a hospital and find somebody ready to serve them. I do not want them to walk into a hospital in Mississippi and find out a needed doctor is not there. That is the task we have before us today. As we move this legislation forward, we will complete the task we started yesterday, on the one hand beginning to cure that awful problem of medical errors within the system, errors which produce injury, and recovery is possible under our legal laws; and, secondly, to make sure that the legal liability system is fixed.

What are we doing here? We are recommending to the Congress and to the Nation nothing more, nothing less than the experience of the great State of California, which in 1975 adopted the law upon which H.R. 5 is based, a law which has kept liability premiums in California at one-third the increase level which has been experienced across the country. The other side of the aisle have been debating whether this will reduce insurance premiums. I tell them, go to CBO. CBO has estimated a 25 to 30 percent reduction in insurance costs across America if we pass H.R. 5.

Mr. Speaker, guess what, my State will not get that benefit. We already have the benefit of lower premiums because of reforms like this. Those premium reductions will go to States that do not have the benefit of a State law like California and Louisiana. Therefore, the reductions in premiums are likely to be higher in those States where there are no caps on liabilities.

One final thought. For those Members that are arguing that we are somehow capping the entire liability award, we are doing what California did with a Democratic governor and a Democratic legislature: We are only capping the noneconomic damages. That is the only thing we are capping. We are capping it at $250,000, but we are telling California and Massachusetts and Louisiana, or any other State in the Nation, if they do not like that cap, they can adopt their own cap. They can adopt a higher or lower cap. This legislation preserves for the States the right to adopt the cap that works for them.

But this legislation for the first time will say to everyone in this country, we are all entitled to have a health care professional available to us when we need it who otherwise would not be here because of a liability system that is so broken that it drives decent health care workers out of business and out of their professions at our loss.

Mr. Speaker, this legislation has to get passed and has to get passed soon. I urge Members to adopt this legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want Members on both sides of the aisle to be aware of three unanswered questions about H.R. 5. First, if the authors of this bill are sure that it will reduce and stabilize medical malpractice premiums, why are insurers accountable for producing that result?

During the medical malpractice debate in Ohio, insurers said they do not know whether premiums would come down. During a recent hearing in Pennsylvania, the actuary witness said he could not say whether premiums would come down. Even Sherman Joyce, President of the American Tort Reform Association said, "We cannot tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

We are voting on a bill that overrides State law and undercuts compensation for victims of medical malpractice, yet we do not know whether medical malpractice premiums will come down. California passed tort reform in 1975. Medical malpractice premiums continued to go up. Not until California 13 years later demanded a reduction in premiums with insurance reform did the situation improve. Yet insurers have zero, no obligation under this bill.

We are supposed to take it on faith and trust the insurance companies that they will pass along the savings. Apparently we cannot trust patients, cannot trust juries, cannot trust lawyers, but we can trust the insurance industry.

My second question is: Why is there no single insurance reform in this bill? The authors of H.R. 5 refer again and again to MICRA. The gentleman from Louisiana (Mr. TAUZIN) did, other Members will. MICRA is the California law that sets a quarter-million-dollar liability cap. Members know it was not MICRA that brought down premiums in California, it was insurance reforms 13 years later. Malpractice insurance premiums rose 450 percent after MICRA went into effect, and only when California established a prereview of rate increases and automatic rollback of excessive premiums did the doctors get any relief, yet this bill has no insurance reforms, no premium rollback. Why? The insurance industry does not like it.

The third question is if H.R. 5 is a response to spiking medical malpractice insurance premiums, something we want to do something about and our substitute bill does, why does this bill shield HMOs, shield drug companies, shield medical device manufacturers, and shield insurance companies from liability? It might have something to do with the fact that those industries have given tens and tens and tens of millions of dollars to Republican candidates. The majority bristles at the notion that the curious omissions from this bill have something to do with helping their friends, the drug companies, the insurance industry, the HMOs and the medical device industry.

Mr. Speaker, if the majority wants Democrats and the American public to stop accusing them of catering to their corporate friends, then maybe the majority should stop catering to their corporate friends. Then we could write a bill that will help doctors, then we could write a bill that will help patients. This bill simply is not it.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we would not help this debate by arguing that the other side is catering to trial lawyers. That is not going to help this debate. Let us argue on the facts for a change.

The gentleman from Ohio (Mr. BROWN) may not agree with what happened in California, but this is what Senator FEINSTEIN said. "I believe MICRA is the reason rates have gone down." That is a California Senator talking about her State.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I am pleased to see this bill on the floor today. We will hear many reasons today why this is a problem that needs to be dealt with but some reason about why is not the time. Now is the time to deal with this issue. Now is the time to put patients first, to see that our delivery system begins to function again. There are a dozen States that are in crisis mode and a dozen others that are about to get there.

The gentleman from Louisiana (Mr. TAUZIN) mentioned the people we had in town yesterday to talk about the importance of this bill, the two families that were here talking about what had happened to their families, not because they were in some isolated spot where one would assume care would not be available, but care was not available because we do not have this situation under control.

We had one family, a mother, a wife, two teenage children whose husband and father is no longer able to care for that family because instead of care being available, as it would have been just months ago minutes from the accident, care was now available 6 hours later because that person had to be moved.

We had one person talk about her dad in Las Vegas, Nevada, one of the fastest growing communities in the country, was in a car accident and could not get care because the trauma center had just closed because of this problem. That family's father is gone.

Mr. Speaker, any of us who vote on this legislation today could find ourselves, no matter how urban and concentrated the area we are traveling to in the next few days would be, in the situation of those families.

□ 1400

Or we can see those we love and care about, no matter how we think they would be in imminent contact with health care, find that health care was not available because we have not dealt with this problem. Today we have a chance to do that. Chairman GREENWOOD and Chairman TAUZIN and our friends on the Committee on the Judiciary brought this bill to the floor. It is a bill we need to pass today. I am pleased we have this opportunity.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. STUPAK), who cares about patients and physicians.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time. The majority of our doctors are hardworking and professional and serve their patients with the utmost ability. Only a few doctors are bad actors who act in negligent or irresponsible ways. But the reality is that this bill will do nothing to help doctors. It does not address the high insurance rates or the plight of doctors. H.R. 5 is totally misguided. It does not address insurance costs for doctors. Instead, it caps meritorious lawsuits where a judge or jury has found for the victim.

H.R. 5 puts a cap of $250,000 on noneconomic damages. Many dismiss noneconomic damages as pain and suffering and imply that they are less important than economic damages. The true definition of noneconomic damages are those damages that are real, permanent harms that cannot easily be quantified or measured in terms of money, such as blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility, loss of life, or loss of a child. These are horrific losses; and under this bill, they are capped at $250,000.

I offered an amendment to remove the antitrust exemption for insurance companies. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain a single provision about insurance? The insurance industry is the last industry left in the United States that is not subject to antitrust laws. If we really want to bring insurance rates down well, we must make insurance companies subject to government regulation and competition and subject to our antitrust laws.

Everyone in this House of Representatives believes that something needs to be done about the skyrocketing costs of medical malpractice insurance.

The majority of our Nation's doctors are hard working and professional, and serve their patients to the utmost of their ability. Only a few—a small minority—of doctors are bad actors, who act in negligent or irresponsible ways.

But the reality is that this bill will not help our nation's responsible and hard-working doctors. It does not address the high insurance rates or the plight of our doctors. Only the Conyers-Dingell motion to recommit will accomplish these goals. I believe that the Conyers-Dingell bill is a targeted and positive measure to address malpractice insurance in this country.

H.R. 5, on the other hand, is a boon to HMOs, to drug companies, and to medical device manufacturers, who receive the bill's protection from damages without any justification. I cannot understand why a bill that is supposedly designed to help our Nation's doctors would include these other groups—except to provide them with an unjustified windfall.

H.R. 5 is totally misguided—it does not address insurance costs for doctors—instead it caps those meritorious lawsuits where a judge or a jury has found for the victim.

H.R. 5 puts a cap of $250,000 on noneconomic damages. Many dismiss noneconomic damages as being pain and suffering, and imply that these are less important than economic damages.

The true definition of noneconomic damages are those real, permanent harms that cannot be easily quantified or measured in terms of money.

Noneconomic damages include blindness, physical disfigurement, loss of fertility, loss of a limb, loss of mobility and the loss of a child. These are horrific losses—and under this bill they are capped at $250,000.

And not only are they capped at this amount, but because this bill does not even allow an annual adjustment for inflation, each year that $250,000 will lose more and more of its value, and be worth less and less.

I offered an amendment at the Rules Committee to allow an adjustment for the rate of inflation, but my amendment was not made in order. I cannot believe that even this small and reasonable adjustment to help victims was denied.

I also offered an amendment to remove the antitrust exemption for insurance companies—that too was denied. If this bill is truly designed to address the insurance crisis in this country, how is it that it does not contain one single provision about insurance rates for doctors?

Democrats offered an amendment to require that insurance companies should pass on 50 percent of the amounts that they save as a result of this bill to doctors in the form of lower premiums. This would be a true way to ensure relief to doctors. Of course, this amendment was denied.

Medical insurers are the only industry left in America that is not barred from getting together and setting rates. If we really want to bring insurance rates down, we must make insurance companies subject to government regulation, to competition, and to antitrust law.

This bill will do nothing to help our doctors. Statistics have shown that even where caps exist, premiums are still inflated.

For example, my own state of Michigan has a cap in medical malpractice cases of $280,000 on noneconomic damages, with some limited exceptions.

Neighboring Illinois has no cap on noneconomic damages in these cases. Yet, the average liability premium in internal medicine is ⅓ higher in Michigan than the premium is in Illinois.

I support our Nation's doctors and I want to help them in the crisis they are facing. But voting for H.R. 5 and its misdirected caps will not provide that help, and I cannot support this bill.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Florida (Mr. STEARNS), chairman of the Subcommittee on Commerce, Trade and Consumer Protection of the Committee on Energy and Commerce.

Mr. STEARNS. Mr. Speaker, I am here to give a clear example from my home congressional district, a Dr. Joseph Hildner, a board-certified family-practice specialist in Belleview, Florida. He had a patient that was overweight and smoked too much. He never followed the doctor's advice, missed many appointments all the time, and failed to take blood pressure prescriptions. Suddenly the patient gets a heart attack, right? Then he sues because he was not cared for. The trial attorney simply identified anything that could have been done, declaring that no standard care was done for this patient by Dr. Hildner.

Obviously, Dr. Hildner tried to settle this thing because the doctor felt that he would go through long litigation. As it turns out, the lawyer was suing well above the amount of money that the insurance company had for his patient. This is just an example. So what happens to Dr. Hildner? His premiums go from $30,000 to $70,000. How does he pay? How do the doctors in this country pay? They start to hustle through more patients and more patients. They practice what is called defensive medicine; they have all these tests, just simply to protect themselves. He admits he is hustling through all these patients like cattle. He cannot give them the attention they need. So now he is giving unnecessary tests.

In the end, we need this bill. That is why I am an original cosponsor of H.R. 5.

I rise as an original cosponsor of, and in support of H.R. 5. This bill would help curb some of explosive noneconomic damage awards in medical liability cases, and resultant soaring malpractice insurance rates that lawsuits have been spurring.

Physicians in my home state of Florida, among other states, are already in a state of crisis, as evidenced by the "walk-out" earlier this year.

Dr. W. Herman Sessions of the Family Practice Associates in Orange Park, FL, wrote to me recently that his practice is considering exiting. He wrote,

> I am telling my female patients to get their mammograms this year because I feel that we are not going to be having mammograms read in the state of Florida next year. A radiology friend told me that it was at the last minute that they were able to obtain insurance to read mammograms. He told me that he is not certain that when their policy expires in one year that they will be reading mammograms without some sort of resolution to the liability crisis.
>
> We have had difficulty recruiting physicians to our hospital because nobody wants to practice in the state of Florida with our liability problem. These physicians are surgeons and surgical subspecialists. Our local neurosurgeon obtained liability insurance on the very last day of the year and he is able to practice for the calendar year of 2003. I asked him what his plans are for 2004. He told me that he will either retire, do strictly office consultation and no surgery, or move to another state.

And my constituent Johnny Beach from Bell, Florida, a young, married University of Florida senior worries about his wife's access to OB/GYNs.

Importantly, this legislation rightly does not cap economic damages, so that the tort system can continue to protect patients from malpractice as intended. I am pleased to cosponsor this bill, and urge its passage.

Joseph Hildner, M.D., a board-certified Family Practice specialist in Belleview, FL, writes: "We had a patient who is an obese smoker. Never followed our advice, missed many appointments, failed to fill blood pressure prescriptions. Patients suffered a heart attack, then sued for failure to arrange a stress test." The trial attorney simply identified anything that might have been done, declared that to be the "standard of care", threatened to sue for higher than the doctor's coverage limits, then settled for less. Even with a 90 percent chance of winning, a physician can't take the chance of going to trial and losing: the "excess verdict" would allow for seizure of his own personal assets. So the doctor settles. Actual negligence need not occur; an attorney only has to do is allege negligence.

But citizens of Belleview lose. Dr. Hildner is known for excellent clinical outcomes at controlled costs. He says,

> I've always enjoyed the art of medicine in which I get to practice clinical judgment. As a primary care physician, I am a shepherd, getting those who need it expensive high tech care, and protecting those who don't from unnecessary interventions. I'm also known for taking time to listen and explain. I don't have my hand on the doorknob while a patient is trying to talk.

Last year his insurance premium increased from $30,000 to $70,000. How does he pay? Now has to see more patients, and spend less time. "I'm now having to talk patients into "defensive medicine" tests they don't need, just so I can protect myself. I am beginning to hustle my patients through like cattle, to see enough to pay the bills. So this friendly country doctor known for using clinical judgment, and providing efficient, cost-contained, appropriate care, and known for taking time, is now talking patients into unnecessary tests (which is running up costs), and hustling them through."

Pass H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I just want to explain how this bill helps HMOs and hurts those patients that are victims of HMOs. Many of us for the last 4 years on a bipartisan basis tried to push a patients' bill of rights that basically would say that if you are denied care by your HMO, you can go to an outside maybe administrative agency and then finally can go to court and sue because of the denial of care and what the consequences of that were and actually get damages from a jury or a judge. This bill would kill that.

In many States, as well as in some Federal courts right now, patients have been given the right to sue an HMO, which is exactly what we were trying to do here in Congress when we supported a patients' bill of rights. But this bill says, no, you are not going to be able to do that anymore because it limits your ability to recover noneconomic damages as well as punitive damages against an HMO or another private insurance company.

I think there is a great deal of hypocrisy here. There are Members on the Republican side of the aisle that have said for years that they want to expand victims rights if they have been denied care or hurt in some way by an HMO, but they turn around today and they pass this bill which they are going to pass which basically limits those victims and their ability to sue an HMO even though the State courts and even though a lot of the Federal courts are now expanding victims' rights to sue.

What we are doing here is preempting the State law. If a State says, as mine in New Jersey says, that you can sue an HMO, this bill comes in and says, well, you can do it only under very limited circumstances. You cannot come here and say that you care about the victims. You do not care about the victims not only because you are putting a cap on them of $250,000 but you are not even going to let them sue the HMO in a fair way.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), chairman of the Subcommittee on Health of the Committee on Energy and Commerce, who has done such great work on this bill.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time. I, of course, rise in support of H.R. 5. I believe that the sensible reforms contained in this bill will go a long way toward alleviating the medical liability insurance crisis many States are facing and will also help prevent future crises from occurring.

On Tuesday of last week, the Energy and Commerce Subcommittee on Health, which I chair, approved H.R. 5, which was subsequently approved by the full committee on Thursday. In both cases, approval was by voice vote. The severity of the current crisis has necessitated that we act now. I would note that our committee has held numerous hearings over the past year to explore this issue and consider potential solutions.

That is why I continue to be disappointed with the rhetoric surrounding this debate. As chairman, I had wanted to focus a good deal of our last subcommittee hearing on how the insurance industry sets medical liability insurance premiums. In fact, the majority invited both the American Academy of Actuaries and the Physician Insurers Association of America to come testify at our hearing. Unfortunately, in spite of all the rhetoric on insurance, unfortunately the minority did not invite any insurance witnesses. Instead, they once again played politics, including inviting a witness to discuss something called Proposition 103, which he claimed is the real reason why California has been largely insulated from the current crisis. That struck me as somewhat odd, considering that the organizations working to defeat H.R. 5 never mentioned this ballot initiative during our debate on H.R. 4600 in the last Congress, even though this initiative passed in 1988.

What this tells me is that many people would rather play politics than work towards a real solution. I respect that some Members may feel that it is never appropriate to place any limit on subjective, unquantifiable, noneconomic damages regardless of the cost to the health care system. However, I do not respect those who will do or say anything to derail this process. I am voting for this bill because by doing so I am moving us one step closer to a solution. The medical community and the patients they serve demand it.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. DOYLE), who has stood up for patients and doctors alike.

Mr. DOYLE. Mr. Speaker, I represent Pittsburgh, Pennsylvania; and in the great State of Pennsylvania, doctors are paying way, way too much for malpractice insurance. It is a crisis, and they need some immediate relief. Unfortunately, the bill we have before us today will do nothing to give any doctor in my State any immediate relief. It will not do a single thing to reduce frivolous lawsuits. There is nothing in this bill that will reduce frivolous lawsuits.

So, Mr. Speaker, what should we do to address this situation? In Pennsylvania, we have just recently last year passed three laws that I believe are going a long way to address the problem. Number one, Pennsylvania has prohibited venue shopping for oversympathetic jury pools. We have established tough sanctions against lawyers who filed frivolous suits. We have reformed joint and several liability provisions to ensure all liable parties are truly responsible for their fair share of the judgment. We have established strict new standards for expert witnesses. We have allowed courts to reduce verdict amounts if the award will adversely impact access to health care. We have imposed a 7-year statute of limitations on filing of claims, and we have required insurers to offer patients safety discounts to medical facilities with good track records.

These are the types of reforms that will help deal with the situation. Putting a $250,000 cap on noneconomic damages disproportionately hurts poor people. These damage awards, they are not the cause of the problem. Two-thirds of patients who file claims receive nothing. Only 7 percent of these cases go to court. Let us not cap damages on people who can least afford it. Let us let States like Pennsylvania enact meaningful reforms like we have already done.

Mr. TAUZIN. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD), chairman of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce and the author of this legislation.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me this time. I would like to respond to some of the arguments made by the opponents. First off, there has been this constant drumbeat of accusations that somehow this legislation does not provide the care and the coverage for those who are harmed. Let us say it for the 15th time: this bill allows anyone who is injured by a doctor or a hospital or any other health care entity the ability to recover every single penny of economic damages, all their medical care, all their lost wages, lifetimes of lost wages. There are cases over and over again in the State of California that has this legislation in place where there are awards of $50 million, $80 million, et cetera. Plenty of money for the victims to cover their needs.

Secondly, there is this drumbeat that this is really about the insurance industry. Why are we not regulating the insurance industry? Listen carefully. Sixty percent of the physicians in this country buy their medical liability insurance from physician-owned companies. Those companies exist for one purpose, and that is to keep the price of medical liability insurance low. They do not gouge their customers; they do not collude with one another, because they are the doctors. They are not doing anything to raise rates or to hold rates up high. They are doing everything to push rates down. Guess what? They cannot offer lower premium prices than commercial insurers. So if your whole thesis here is, oh, those insurance companies, they are overcharging, they are gouging, they are colluding, explain to me, I beg you, stand up and explain to me why it is that the physician-owned companies are in the same boat and are not able to provide affordable coverage?

The gentleman from New Jersey (Mr. PALLONE) talked about shielding pharmaceutical companies, shielding HMOs, device companies from lawsuits. This bill does nothing of the kind. If a pharmaceutical company is guilty of making bad medicine or overcharging medicine, they will be liable for millions of dollars, untold millions of dollars for economic damages. There is no shield whatsoever.

Then finally let me say this. We have heard over and over again from the opponents of this legislation, it does not really help doctors. Let us see who supports it: the American Medical Association, the American Association of Neurological Surgeons, the American Association of Nurse Anesthetists, the American Association of Orthopedic Surgeons, the American Association of Thoracic Surgery, the American Association for Vascular Surgery, the American College of Cardiology, the College of Chest Physicians, the College of Emergency Physicians, the College of Nurse Midwives, the College of Nurse Practitioners, the California Medical Association. Every doctors' group in America supports this legislation.

So do not stand up with a straight face, opponents of this legislation, and tell us that the doctors are not smart enough to figure out that this is exactly the prescription that they need.

Mr. BROWN of Ohio. Mr. Speaker, understand that physician-owned companies are still companies that practice business the way other businessmen and women do.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the full Committee on Energy and Commerce.

Mr. DINGELL. I thank the gentleman for yielding me this time.

Mr. Speaker, we are witnessing a sorry spectacle today. Not only are we denied opportunity to properly debate but also to properly amend. And the doctors are being herded along in front of the HMOs and the insurance companies, because those insurance companies and HMOs are the beneficiaries of this legislation, not the doctors.

The Republican bill does nothing to limit frivolous lawsuits. It does, however, limit responsible lawsuits. The Republicans would restrict the rights of doctors by protecting HMOs, not by assuring that HMOs are subject to the discipline of the court.

☐ 1415

Republicans limit awards for meritorious claims. Republicans impose hurdles on aggrieved patients.

This is an outrageous piece of legislation. It is brought to the floor under outrageous proceedings. Thirty-one Members have asked for opportunities to offer amendments. They were denied. We are not even given a chance to offer a substitute to this legislation.

I can understand how my Republican colleagues are all looking sheepish and why they are thoroughly embarrassed. I would be embarrassed if I were engaged in this kind of practice myself, because, quite honestly, it is shameful, and it is totally inconsistent with the practices, rules and traditions of the House of Representatives. It is, indeed, a blow to the heart of the legislative process and responsible legislating. It is also a bite on the throat of the right to free debate and the right to amend and perfect legislation.

One of the important responsibilities of this body is to be able to amend legislation, for the House to work its will, for us to represent our people, for them to hear not only responsible debate, but to know that their will is heard and that their concerns are met, not only by debate, but by proper use of the amendment process. That is denied to us today, and I say to my Republican colleagues, shame on you. You have brought shame upon the House of Representatives. You have embarrassed me. I hope you have embarrassed yourself.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I only want to point out to the House that the substitute offered by the gentleman from Michigan (Mr. DINGELL) in subcommittee and full committee was defeated on a bipartisan vote in full committee of 30 noes to 20 yeas.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding me time.

We are here today because patients are losing, many have lost, access to care. People are dying as a result of not being able to see doctors in emergency rooms. Doctors who have never been sued are quitting the practice of medicine, and talented young men and women are not seeking careers in medicine because of what is happening.

Today there are billionaire lawyers. There is no such thing as a billionaire doctor. All of these billionaire lawyers have made their money in health care lawsuits.

The opponents of this legislation would have us believe that the phenomenon of billionaire lawyers is a reflection of social justice, but it is not. This money is coming out of our health care system. It is taking doctors out of emergency rooms. It is preventing women who are trying to deliver babies from having OB/GYNs available. There are not enough neurosurgeons to provide emergency care.

In Florida, the Orlando Regional Medical Center, which serves 33 counties, is planning to close its Level 1 trauma unit this month. Patients with serious head and neck injuries will have to be diverted to other hospitals. But in Florida those other hospitals in Tampa and Jacksonville, those trauma units are already overcrowded. The reason patients, particularly poor patients in Medicaid and in emergency rooms, cannot get care is the liability crisis caused by runaway lawsuits.

Doctors and hospitals now spend more on liability insurance than on medical equipment. The Chicago Tribune reports that in Illinois liability insurance premiums are rising 100 percent or more for high risk specialties. Our intention is that no more patients are denied the care that they need because the doctors who wish to serve them cannot afford liability insurance.

The solution, H.R. 5, the HEALTH Act, which I have introduced in this Congress since 1993 and am now coauthoring with the gentleman from Pennsylvania (Mr. GREENWOOD), is based on California's law, written by a Democratic legislature and signed by Jerry Brown, a Democratic Governor.

We have these reforms in our State, and they work. California's medical liability insurance premiums in constant dollars have fallen by more than 40 percent, while the rest of the country is in crisis. Injured patients in my State of California receive compensation more quickly than in the U.S. as a whole. Injured patients receive a greater share of the recoveries in lawsuits. California no longer suffers from the flight of doctors and needed services that we have seen in so many other parts of the country.

By passing this legislation, we will bring these California reforms nationwide, making health care more accessible for patients who are today denied care. I urge this House to pass the HEALTH Act, H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY), a member of the committee and an advocate for patients.

Ms. MCCARTHY of Missouri. Mr. Speaker I rise in opposition to H.R. 5 and in favor of the motion to recommit.

Mr. Speaker, I rise today in opposition to H.R. 5, a measure which restricts the rights of legitimately injured patients harmed by medical malpractice, restricts the rights of doctors in favor of insurance companies and does nothing to curtail frivolous law suits nor restrains insurance rates.

In addition to trampling on patient rights, this bill tramples on state's rights. H.R. 5 takes the constitutional concept of federalism to the extreme by severely limiting the traditional rights of plaintiffs seeking damages, a matter that should not be decided by Congress because it proposes tort reforms that are traditionally, and possibly constitutionally, areas to be decided by state legislatures and state courts.

Twenty-five states including Missouri cap non-economic damages to victims. The average Missouri award is $81,000 well below the $250,000 cap presented in H.R. 5, as well as Missouri state law. Twenty states courts have ruled that caps on damages are unconstitutional. H.R. 5 enacts a statute of limitations which 18 state courts have ruled unconstitutional. It is inappropriate for Congress to limit the rights of individuals when state courts have ruled that their rights are protected under state constitutions.

Missourians Jay and Sue Stratman have a son, Daniel Lee Stratman, who is only 11 years old. In July of 1996 Daniel was checked into the hospital for "minor" outpatient hernia repair surgery. Daniel was set to be released that same evening. Daniel was not released until November 8 of that year and nothing has been the same for either Daniel or his family.

Daniel is permanently disabled due to severe brain damage, which was a result of multiple repeated anesthetic errors during the supposedly routine surgery for inguinal hernia repair. As a result of the medical errors, Daniel has suffered profound neurological damage including severe cognitive deficits, a decreased level of awareness, diminished bowel and bladder control, and severe gross and fine motor skill injury. He is cortically blind due to the lack of oxygen and perfusion to his brain during surgery. His comprehension level and communication capability have been severely diminished. Daniel requires 24-hour vigilance and this will be true for all of his remaining 70-year life expectancy.

The cap in H.R. 5 unjustly penalizes those individuals without income, like Daniel. Others that fall into that category include: stay-at-home moms and the elderly. When a stay-at-home mom dies, or a child dies, or a senior citizen suffers irreparable harm, there is no economic loss because it is impossible to prove damages from loss of income.

By capping punitive damages, H.R. 5 limits protection for injured patients like Daniel. Instead the bill before us protects HMOs and big insurance companies from legal responsibility. HMOs and big health insurers, who are also big campaign contributors, should not receive special treatment under the law.

Further, H.R. 5 does nothing to reduce insurance premiums for doctors—the very thing Congress needs to address. Currently, medical malpractice insurance rates are rising because insurance companies are squeezing doctors to make up for investment losses over the last few years, investment loses most citizens have also experienced. Instead of penalizing doctors, hospitals and patients Congress should make major reforms to the insurance industry.

I support the Conyers-Dingell motion to recommit because it rightly focuses on giving Americans quality healthcare and weeding out frivolous lawsuits while maintaining the rights of patients with legitimate claims, and respect for the humanitarian doctor's perform.

I urge my colleagues to oppose H.R. 5 and support the motion to recommit to include patient's rights and state's rights.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN), who has pointed out in USA Today that the malpractice premiums are only 3 percent of revenue, actually less than the rent that physicians pay.

Mr. ALLEN. Mr. Speaker, this bill will not reduce health care spending significantly. If you add up all the malpractice premiums in this country, they represent one-half of 1 percent of the $1.4 trillion we spent on health care last year.

Now, some States have problems. Maine does not impose caps on noneconomic damages, yet we have comparatively low insurance premiums. Maine has a mandatory pre-litigation screening panel for every medical malpractice case. The panel consists of one attorney, one doctor and one retired judge. This panel process weeds out the frivolous lawsuits and encourages legitimate cases to come to a fairly quick resolution. Sixteen other States have similar screening panels.

States with screening panels should be exempt from the cap on noneconomic damages. There is no reason to impose this law on States which have figured out how to deal with this problem on their own. But this bill imposes a one-size-fits-all Federal rule in a traditional area of State jurisdiction.

And this bill does something else. This bill sticks individual plaintiffs, particularly those who are children or unemployed or elderly, with perhaps a huge lifetime cost because of severe injuries, instead of sharing those costs through our insurance system. So, once again, the Republican majority is basically saying it is better to stick the loss on those who suffer it than to share that loss broadly through insurance.

A $250,000 cap does not mean $250,000 will ever go to a plaintiff, because they always have expenses and attorney's fees and all of that. It seems to me that this cap is unbelievably low, it is imposed arbitrarily on States which have figured out another way to deal with this problem, it is bad policy, and I urge my colleagues to vote down H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, if H.R. 5 passes, we will be committing legislative malpractice, in my view. Listen to my constituents. If you were on a jury, you just might feel they deserve more than $250,000 for the pain and suffering they have suffered and will suffer. H.R. 5 would take that right away from you and other citizens.

"On May 19, 2000," writes my constituent, "I went for an outpatient surgery. During the surgery, the oxygen ignited, unbeknownst to the surgeon, the anesthesiologist and three to four other highly-trained medical personnel in the room. While the surgery continued, my entire face was burned.

"After a year of failed treatment to deal with the scarring, essentially I lost my entire upper lip, the front of my nose, the floor of the nose and immediate interior of my nose. I was referred to a specialist in Boston for reconstructive treatment. For these past three years I have been in a mask covering my face and I have nasal tubes to stent open my nose for 23 hours a day. With my mask on, I can only drink through a straw. My breathing was entirely cut off for almost 2 years, and is still not stable due to the scarring inside my nose. I have to travel to Boston monthly. I have been through eight surgeries and have two to four more pending, plus oral surgery and orthodontics.

"My claim is not frivolous, in spite of the rhetoric of the medical insurance and political spokespersons favoring legislation to cap awards for pain and suffering at $250,000.

"Legislation to cap damages fundamentally punishes again the victims of these horrendous medical mistakes. It is astonishing that federally proposed legislation would first target the victims of these errors before addressing the errors themselves."

The other one is from a grieving father of Rabbi Josef Yitzchak Lefkowitz, 28-years-old, who went into the hospital for an adjustment to his bite. In the recovery, the breathing tube fell out of his nose, but his jaw was wired shut and they could not find wire cutters to open his mouth. He died an agonizing and painful death.

These are not lottery winners. These are not people who won the jackpot. They deserve better than H.R. 5.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I believe we can all acknowledge that rising medical malpractice premiums are hurting doctors and patients. But I heard earlier from the other side that trauma centers are closing, and they are closing in Los Angeles. But it is not because of frivolous lawsuits, it is because we have not provided adequate reimbursement for Medicaid for those poor hospitals. That is why, and we are not even addressing that.

I have to say, with all due respect, that the bill will not lower insurance premiums. Caps in California did not lower premiums. Insurance reform did, Proposition 103, and only slightly, because we are still above many other States in the country.

We need to bring insurance providers to the table and we need to have that kind of discussion, not one that talks back and forth here on the floor.

Caps on noneconomic damages unfairly penalize children, retirees and stay-at-home moms. And you know why? Because they do not make an income.

Mr. Ed Whiddon, a retired lieutenant colonel in the Air Force, was a victim of malpractice at the hands of an anesthesiologist who left him a paraplegic. His compensation was almost entirely for pain and suffering damages because he was retired, no income, did not qualify for lost wages.

The bill would unfairly limit damages for retirees like this former member of our Armed Forces and others who earn no wages, like poor moms and children.

Let us protect patients' rights. Let us help those poor people. Let us open up those trauma centers by really addressing the issue adequately. This way is the wrong way. I urge my colleagues to oppose H.R. 5 and to support the Conyers-Dingell alternative.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Houston (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, my Ohio colleague could not say Texas. He just wanted to say Houston.

Mr. Speaker, I rise in opposition to H.R. 5, and I am frustrated like a lot of Members, one because we do not have an opportunity to have additional amendments. I thank our chairman for allowing us to let democracy work its will in our committee. We had a long hearing all day. But here on the floor we do not have that option. The same thing happened last year on prescription drugs. It is frustrating.

We are fighting for democracy all over the world, but we do not get to have a voice here on the floor of the House with an alternative.

I have a district in Texas, and we have a medical malpractice crisis. Of course, we have gone in and out of this for the last 30 years, but it has been dealt with by our State legislature in Texas, and literally as we stand here today, there is legislation that is out of the committee on the floor of the House for consideration that will solve our problem in Texas where it should be dealt with.

Thirty-seven States, including my home State of Texas, are considering legislation that would address the malpractice situation. We do not need Congress to tell us what to do. We can deal with it.

If Congress makes a mistake with H.R. 5, and I consider it a mistake, it is one-size-fits-all, Washington-knows-best for all 50 States, instead of letting the States deal with it.

The California experience that my colleagues on the Republican side talk about so successful, it was California, as hard as it is for a Texan to say they did something good, but it works. We do not need to tell California or Texas or any other State what they can do. They can deal with it, instead of us dealing with it here.

But let me talk about H.R. 5 just a little bit. It does not deal with medical errors, we have separate legislation on that; it does not stem the tide of frivolous lawsuits; and it does not help us deal with physician shortages. That is why it should be voted down.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I am going to put a longer statement in the RECORD, but I want to say this, that this bill is a flawed approach. It has a one-size-fits-all approach to every State, and it ought to be up to the States to decide how to deal with these issues.

California has a law that California's legislature adopted. But California and other States have jurisdiction over liability laws and licensure of medical professionals and disciplining those who are conducting malpractice. We ought not to take this whole thing over here in Washington. States ought to be able to adopt their own laws.

Secondly, the tort laws are to serve two purposes. First, to make people whole who are injured. By putting a cap on damages, it denies individuals the ability to be made whole through the court system.

Secondly, the idea of the tort law is to deter future malpractice, and I am afraid we are not going to deter future malpractice by this legislation.

I want to lastly point out, this bill goes beyond California law. It gives special treatment to HMOs, to pharmaceutical manufacturers and medical device manufacturers in a way that is completely inappropriate through an FDA approval process that then insulates them from liability for punitive damages, which I think is way out of line and wrong.

Mr. Speaker, I rise in opposition to this bill because it is fundamentally flawed and will do far more harm than good. It imposes a one-size fits all solution on every state. It imposes arbitrary caps on liability that defeat the purpose of compensatory and punitive damages. It gives legal protections that go far beyond the legitimate needs of doctors, benefiting profitable pharmaceuticals, HMOs, and insurance companies. And to add insult to injury, all of this comes at the expense of the injured victims of medical malpractice.

States have traditionally handled every aspect of the medical malpractice insurance problem, and are better equipped than the federal government to respond to skyrocketing insurance premiums in some areas of the country. States establish the applicable standards of care for health care professionals and are responsible for their licensure. States are responsible for boards of discipline and criminal laws to deter and punish professional misconduct. States are responsible for the rules governing lawsuits and the functioning of their civil justice system. And states are responsible for the regulation of the insurance industry. Like the State of California, which the supporters of this legislation hold up as a model for the country, other states are perfectly capable of enacting appropriate liability and insurance reform.

This bill, however, establishes a one-size-fits-all solution on the entire country and overrides state laws. For example, if this bill is enacted, states cannot elect to have a longer statute of limitations. States cannot opt out of liability caps. States cannot choose to inform juries of caps on liability or impose the traditional rule of joint and several liability. States cannot allow punitive damages in cases involving drugs and medical devices approved by the FDA.

H.R. 5 also takes the wrong approach to tort damages, which are designed to make victims of medical malpractice whole and punish those who have engaged in egregious misconduct. H.R. 5 allows unlimited recovery for objectively quantifiable damages, such as lost wages or medical bills, but it caps non-economic damages at $250,000. Non-economic damages are difficult to quantify, but they nonetheless compensate victims for real injuries such pain and suffering, the loss of the child, the loss of a limb, or permanent disfigurement. This bill's cap of $250,000 is clearly not enough to make victims whole in every case. H.R. 5 also takes the wrong approach to punitive damages, which are capped at two times the amount of economic damages or $250,000. Many wrongdoers protected by this bill—including HMOs, insurance companies, and pharmaceuticals—could absorb such a penalty with absolutely no impact on their bottom line. This defeats the very purpose of punitive damages in our system of justice, which is to punish wrongdoers and deter future misconduct.

In addition to these problems, this bill is a blatant give-away to special interests. It conspicuously ignores the business practices of insurance companies, which are certainly a cause—if not the primary cause—of the medical malpractice insurance crisis. And the bill gives special liability protection to large, profitable corporations such as MHOs and the manufacturers, suppliers, and distributors of drugs and medical devices. While these corporations have been major contributors to the Republican party, they have done little else to make a case for the protections they've won in H.R. 5.

I urge my colleagues to oppose the bill.

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The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Ohio (Mr. BROWN) has 2½ minutes remaining; the gentleman from Louisiana (Mr. TAUZIN) has 1½ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I have only one additional speaker to close, so I would urge my friend to use up the balance of his time.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman. We have two more speakers.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me say up front that I think we need to help doctors with unconscionable medical malpractice rates. I mean this most sincerely, and I pledge to do everything I can to help them; but this bill is not the way to go. It will adversely impact patients who are injured. These are people whose lives are irreparably harmed and this legislation, in my opinion, punishes them even further.

We can find a balance, but the majority is ramming this legislation through the House without regard to how it will hurt victims of negligent practices.

A $250,000 cap on economic damages disproportionately affects those who do not earn a lot of money. Someone with a minimum-wage job or a stay-at-home mom or dad cannot place a value on their work, but a corporate executive will walk away with millions in economic damages. This is not what we should be advocating in the House.

Further, the legislation limits the statute of limitations to 3 years from the day the injury occurred or 1 year from the day the injury is discovered. This is not fair. I had an amendment which I tried to put forward in the Committee on Rules in the hope that they would allow us an up-or-down vote on the floor. It was turned down. There are some injuries, for instance, HIV/AIDS or blood transfusions, where people do not find out about their injuries for more than 3 years.

So I believe this bill is not the way to go. It should be voted down, and I hope we can come back with good compromise legislation that helps doctors with malpractice rates.

Mr. BROWN of Ohio. Mr. Speaker, I would point out that we will have a motion to recommit, since the majority would not allow us any other amendments of the 31 requested.

Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this bill has one huge flaw that even its proponents concede: that the benefits, if any, flow directly to the insurance companies, not to the doctors. Therefore, I tried to perfect this bill. During the Committee on Energy and Commerce markup, I offered an amendment to ensure that the savings from the bill's caps on damages for patients' pain and suffering would be passed along to the doctors in the form of reductions in their liability insurance premiums. Every Republican voted no. They each voted with the insurance industry.

This bill deserves to be defeated, as long as there is no effective guarantee that savings from the bill's caps on damage will go not to doctors, but to the insurance industry.

This bill claims to be a cure for the high cost of insurance premiums paid by doctors, but it is really just insurance for insurance companies. It is a public policy placebo that only offers the illusion of relief from sky-high insurance premiums, while pumping cash into the bottom line of insurance companies.

Capping damages may save insurance companies money when their policyholders are sued, but the bill does not require insurers to pass along one cent of savings to the doctors so that they can stay practicing in local communities across this country.

We can all agree that health care liability insurance is a critical issue that has significant impact on patients, on doctors, on insurance; but this bill leaves out one critical link: the doctors who will not receive the benefits of the lower premiums that have been promised.

Vote "no" on this gag bill that does not allow for a full debate on the House floor.

Mr. TAUZIN. Mr. Speaker, I want to quickly point out, our own Congressional Budget Office estimates a 25 to 30 percent reduction in malpractice insurance costs and a savings to the U.S. Government alone of $18.1 billion if this bill passes.

Mr. Speaker, I yield the balance of our time for closing to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, congratulations to the chairman for all of his good work on this bill.

I rise in strong support of this legislation. I am proud to be a cosponsor, and I am pleased that today we finally move forward with meaningful, structural reforms that will have a tremendous impact on the medical liability crisis looming before our country.

Over the past few months I have seen health care providers, doctors, hospitals, nursing homes, all of our caregivers, curtail services to the community and to people in need. Why? They have done so because of the fear of frivolous lawsuits and these lawsuits which have caused insurance costs to skyrocket.

What amazes me is the misinformation that is out there on this issue and that has recklessly entered this debate. In fact, there is so much misinformation that some individuals in this body, I think, have forgotten what it is that we are trying to accomplish here.

Just the other day, I read an article claiming that medical liability reforms that we are going to pass with this bill will make it more difficult for patients to find lawyers. That is right. Is that the crisis that we are facing today? Not enough lawyers? Of course not. That is not what we are here for.

We are here because of patients, because we want to preserve patient access to care. All patients, whether a senior or a newborn baby, deserve the highest quality of care. But at the current rate, we cannot keep this promise.

My family has personally experienced the effects of this liability crisis in New Jersey with the recent birth of our third child. My wife's doctor lost her partner. The other OB whom she practices with had to leave the State because her insurance costs were too high. Our doctor was there for us, but I fear for other moms and dads, fathers and mothers, and loved ones in the future.

Frivolous lawsuits have never healed anyone. I have never met a trial lawyer who was developing a new treatment for AIDS. I have never seen a frivolous lawsuit treat someone with diabetes. I have never heard of a multimillion dollar jackpot reward that served a disabled veteran in a wheelchair. What they have done is driven patients away from their doctors.

Mr. Speaker, these are reasonable reforms. It is time that we ensure that our health care system serves patients and not trial lawyers. Vote "yes" on the HEALTH Act.

Ms. LEE. Mr. Speaker, for a nation that boasts about being the wealthiest in the world, claiming liberty and justice for all, the fact that there are over 40 million people without health insurance is a contradiction and a shame. And instead of addressing this crisis head on, this Administration and House Republican leadership continues to talk about health care and do nothing.

The bulk of the uninsured are low-income and minorities. These are the Americans who too often are ignored. The uninsured have lived a campaign of survival, and deserve a voice today and every day on this floor.

As I stand before you on this floor, I would like to introduce you to these voiceless constituents. They are the men and women who have jobs in our stagnant economy. Most Americans receive health insurance through their employers, but millions lack coverage because their employers do not offer insurance or simply cannot afford to pay for it.

Many of these working Americans qualify for Medicaid. Medicaid covers 40 million low-income people and their families, but millions more do not meet its limiting income and eligibility requirements because of savage welfare reform restrictions crafted by the Republicans, leaving the most vulnerable uninsured.

The numbers speak volumes. Fifty-six percent of the uninsured population are low-income and nearly one in five of the uninsured are low-income children. Although minorities comprise only 34 percent of the population, over half of the nation's uninsured are minorities. Twenty percent of these uninsured are African American and 34 percent are Hispanic.

Minorities and the underserved bear a disproportionate burden of mortality and morbidity across a wide range of health conditions. Mortality is a crude indicator of health status and demonstrates how critical these disparities are for minorities. For African Americans and Latinos, these disparities begin early in life and persist. African American infant mortality rates are more than double those of whites, 14 percent vs 16 percent, and the rate for Latinos is 9 percent compared to 6 percent for whites. The death rate for African Americans is 55 percent higher than for whites, with AIDS being the 6th leading cause of death for African American males. I could go on with a multitude of statistics that clearly illustrate the stark disparities in health care that exist for minorities. Yet the point remains that these disparities are a result of lack of insurance and lack of access to health care.

Health insurance is important because it impacts health outcomes. Nearly 40 percent of the uninsured have no regular source of health care and use emergency care more due to avoiding high cost regular visits. This situation creates an ongoing cycle of adults and children skipping routine check-ups for common conditions, recommended tests, and treatments because of the financial burden, resulting in serious illnesses that are more costly. The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided.

The message we must send is that universal health care that provides high quality health care should be provided without discrimination. That is why today I am introducing H.R. 3000, the U.S. Universal Health Service Act (U.S. UHSA). This proposal challenges us as Americans to take another look at the fundamental role government will have to play if we are ever to achieve an equitable and rational health care system.

Universal health care is the only way we can provide equal access and fairness to our health care system. The uninsured are suffering; if we don't acknowledge health care as a basic human right soon, it will be too late for some, and our society's most vulnerable will continue to suffer. Our nation is the only industrialized nation that does not have a health insurance program for everyone, and our health care system is failing. Make health care accessible! Make health care affordable! Make health care a guarantee! I encourage all of my colleagues to cosponsor H.R. 3000 and support health care for all.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong opposition to H.R. 5, the "Medical Malpractice and Insurance Reform Act of 2003." Furthermore, I fervently object to the House Rules Committee's prohibition of amendments to this controversial measure, a decision that does not allow for open objective debate or consideration of any worthy alternatives. The rule governing this measure smacks of partisan politics, favors the corporate insurance industry over the health and well-being of the American population, and effectively subverts our great nation's democratic process. Denying us the opportunity to discuss this openly is absolutely unacceptable and exposes what this legislation is all about.

H.R. 5 is purportedly designed to lower the high costs of physicians' medical malpractice insurance rates. We all agree that skyrocketing insurance premiums for medical malpractice are spiraling out of control and demand immediate attention. This bill, however, will not guarantee lower rates for doctors. Instead, it will severely limit victims' ability to recover compensation for damages caused by medical negligence, defective products and irresponsible insurance providers. In other words, H.R. 5 does not fix the problems plaguing the nation's health care system: it rewards insurance companies for bad investment decisions, offers minimal deterrence to doctors practicing bad medicine, and seriously restricts the rights of injured patients to be compensated for their injuries caused by such practices.

It is clear that the House leadership is not really trying to help doctors, but rather their friends in the insurance industry. H.R. 5 would usurp the role of the jury by empowering the Congress to determine the rate of compensation due to malpractice victims. The insurance industry often ridicules the rare million-dollar "windfall" jury awards given, asserting that the victim must feel like they have won the lottery. Do you suppose the parents of the 17-year-old transplant patient who died after being given the wrong blood type, or the Wisconsin woman who had a double mastectomy, only to discover after the operation that the lab had made a mistake and she did not have cancer after all, feel as if the jury-awarded compensation has enriched their lives? I think not. It is doubtful that any person or family that loses a loved one, or suffers years of pain and suffering because of a medicinal mistake or oversight, feels like celebrating, especially after fighting their way through the court system and finally receiving compensation.

The insurance industry continually asserts that recent hikes in malpractice premiums are caused by excessive jury awards, and that the only remedy is to cap damage awards in malpractice lawsuits at $250,000—no matter how egregious or irresponsible the case. Capping damage awards will not lower insurance rates nor address the real problems in the medical liability system primarily for two reasons—First, the cyclical nature of the insurance industry, that is, raising premiums to recoup losses due to bad investments in the stock market, and second, the number of medical errors made by the medical profession.

Instead of enabling insurers, we should reject the one-size-fits-all cap that will restrict the ability of those most severely affected by a medical mistake—Americans who struggle daily to make ends meet—to be properly compensated.

I am sympathetic to those good doctors and care givers who must pay soaring insurance bills or be forced to shut down their practices because of the exorbitant cost of liability insurance. Currently, malpractice premiums in my state of New Mexico are relatively low in comparison to those in some other states. However, due to increased concern over other economic and health related issues, we are already feeling the effect of our best physicians leaving the area to work elsewhere. Accordingly, I am extremely sensitive to the impact that increased premiums would present to this already delicate situation.

The vast majority of doctors serve the public well. Instead of a real solution for these reputable doctors, the Leadership's plan punishes the innocent victims of medical malpractice, and does not reduce the premiums for good doctors. To reduce the malpractice premiums physicians pay, reforming the insurance industry and implementing programs to reduce medical errors and cracking down on negligent doctors would be a better solution than the liability caps and tort reform initiatives the Leadership supports today, legislation that directly and adversely affects the victims of medical malpractice and their loved ones.

As our nation's lawmakers, I firmly believe that we must pledge to continue to work with doctors and patients to find equitable solutions for the numerous problems that plague access to quality health care in this country. We must act now to ensure that our good doctors are not unjustly punished for the malfeasance of others, and that everyone who deserves just compensation for wrongful acts or omissions receives adequate remedy.

Regrettably, the Leadership denies us today the opportunity to openly debate the issue or offer alternatives to H.R. 5 on the House floor. Accordingly, I reiterate my opposition to H.R. 5, and state my intent to support a motion to recommit the issue for further consideration.

Mr. FLAKE. Mr. Speaker, today I voted "no" on final passage of H.R. 5, the Help Efficient, Accessible, Low-cost, and Timely Healthcare (HEALTH) Act. My vote was a difficult one, but I am not convinced that the federal government should preempt state law in this area.

Those supporting this bill have made some compelling arguments as to why Congress should step in and institute these reforms. They cite the national nature of insurance plans, whereby a doctor in Arizona might have to pay more for malpractice insurance due to an over-the-top jury award in Texas. They also note that, as doctors close up shop or stop providing high-risk care in specialties such as emergency medicine and obstetrics and gynecology, patients are forced to cross state lines in order to seek out treatment. We have all watched with dismay as hospitals have been forced to shut their doors and doctors have opted to treat patients without malpractice insurance due to the high costs of premiums. Certainly, the trial attorneys who line their pockets with egregious fees aren't suffering as a result of the mess they've made with unscrupulous lawsuits. These arguments only underscore an already evident need for the states to pursue medical malpractice reforms. However, as one who believes firmly in federalism, I am unwilling to support legislation that would, in effect, preempt the constitution of the state of Arizona, which prohibits caps on damages.

The natural evolution of health care delivery suggests that a federal solution such as H.R. 5 may one day be necessary. Even today, we need tort reform badly. It's up to the states to begin that process, and I plan to be part of those efforts. The states should follow California's example, which has been an undeniable success over the past 25 years.

Mr. CUMMINGS. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act.

Each year tens of thousands of people die or suffer needless pain and deformity from preventable medical errors. I believe, as I am sure many of my colleagues believe that these Americans, whose families suffer tremendously as a result of these injuries and deaths are entitled to compensation. This compensation should not be decided by Congress but rather by a jury or judge in the prevailing jurisdiction which has made a decision based on the merits and facts of those cases.

Mr. Speaker, I think we need to focus on what's at stake here. We are talking about limiting meritorious claims. Claims of those like the little girl in North Carolina who received the improper blood type during her transplant and died shortly thereafter. Claims from innocent victims in my district and districts around the country who have received improper treatment or care and will suffer immeasurably as a result.

Mr. Speaker, for every $100 spent on health care in America, only $.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors, this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Mr. Speaker, we are not talking about frivolous claims as the Republicans would have us believe. In fact, this bill will not limit any frivolous claims nor will it lower insurance premiums. Instead it is a band-aid approach to a huge problem. The Conyers-Dingell bill would have implemented the type of reform necessary to lower medical liability premiums for doctors through imposing anti-trust regulations on the insurance industry, but unfortunately the American people will not ever hear of this comprehensive plan. Again, the Republican-led House Rules Committee has muzzled the voice of the people.

Mr. Speaker, I have heard many members speak of the California plan—also known as MICRA plan. However, the results of California are mixed at best. It is reported that in fact after passing MICRA, the actual premiums of California doctors are 8 percent higher than in states without caps and health care costs continue to rise. In fact the state of California subsequent to MICRA had to pass insurance reform to stop skyrocketing premiums that helped only fatten the pockets of the insurance companies. That is exactly what H.R. 5 will do, fatten the pockets of the insurance companies, who are trying to compensate for the investment losses made in the stock market.

Finally Mr. Speaker, H.R. 5 will also preempt state law—which sets its caps or sets no caps based on the input of its people. I would like to point out that in my own State of Maryland which as a cap on non-economic damages, over three times higher than that in H.R. 5 I might add, that the medical insurance premiums are still higher than those in the adjacent District of Columbia which has no caps. This is the shell game that the insurance companies are playing—and the American people are the losers.

It is for these reasons that I will vote against H.R. 5, and I urge my colleagues to vote against H.R. 5.

Ms. HARMAN. Mr. Speaker, I support California's MICRA, but H.R. 5 is not MICRA and I rise with some reluctance to oppose it.

As the daughter and sister of medical doctors, I understand better than most the chilling effect unlimited medical liability awards have on the practice of medicine.

Indeed, my father, who had a practice in Culver City, California, retired from practicing medicine in the mid-1970s because of the alarming increase in premiums. Only after his retirement did California enact its Medical Injury Compensation Reform Act—or MICRA.

MICRA is an experiment in limiting non-economic and punitive medical liability damage awards—and it has succeeded. For medical doctors, MICRA has provided stability in insurance premiums. For patients, it reduced meritless claims and accelerated the time in which settlements can be reached.

I strongly support MICRA, although before extending it to the entire nation, I would proposed adjusting the $250,000 cap on punitive and non-economic awards, first enacted in 1975, to reflect its current value.

Though H.R. 5 adopts the structure of MICRA, it is weighted down by dubious procedural and substantive roadblocks for a variety of causes of action against HMO's, nursing homes, and insurance companies—areas where the California legislature has enacted significant protections for patients. California's medical professionals oppose the inclusion of these provisions under H.R. 5's MICRA-like caps and procedures.

Last year, I voted for H.R. 5—with the hope and expectation that improvements would be made in conference with the Senate to narrow its egregious provisions. This did not happen, and constructive amendments offered in the Energy and Commerce Committee were opposed on near-party line votes.

The closed process by which we are considering this important bill today belies any desire by the majority to make the improvements I believe are necessary.

I cannot support the bill again in its present form. Hopefully, changes will be made in the Senate to align it more closely with California's

MICRA, with the modification of the caps I noted earlier. If this happens, I will support the conference report.

Medical professionals should be able to practice in a climate of certainty, and patients should be charged reasonable rates for quality care. This is what I support for every community in the country. This is not what H.R. 5, in its present form, delivers.

Mr. OXLEY. Mr. Speaker, medical malpractice lawsuits are increasingly being used to enrich lawyers at the expense of patients and doctors. We would never close the doors of our legal system to people who have legitimately suffered. But the abuse of the system is threatening the quality of care delivered by our doctors and hospitals. According to the Ohio State Medical Association, 76 percent of Ohio doctors say insurance costs have affected their willingness to perform high-risk procedures. I've met with doctors in my district who say these high costs might force them to retire. My rural district cannot afford to lose quality physicians.

This is clearly an issue of tort reform, not insurance regulation. State insurance commissioners strictly regulate liability insurers. Companies are not permitted to raise their premiums to make up for past losses. Malpractice insurance premiums are skyrocketing because over the last decade there has been an explosion in the number of lawsuits and particularly large awards, some reaching lottery proportions. That's something the market will reflect.

Reasonable limits on non-economic damages are a sensible way to make sure that malpractice lawsuit awards address actual damages. They work, without compromising legal rights or physician vigilance. Ohio is a case in point. When my state placed caps on these awards in 1975, insurance premiums dropped. When this cap was overturned, lawsuits . . . and therefore, costs . . . went up almost immediately. What changed was the behavior of lawyers, not doctors.

H.R. 5, the HEALTH Act, is a surgical solution to a crisis that spans from the operating room to the court room. I urge its adoption.

Mrs. BIGGERT. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act.

Frivolous malpractice lawsuits are spiraling out of control. Too many doctors are settling cases even though they have not committed a medical error. And good doctors are ordering excessive tests, procedures and treatments out of fear.

Those were the primary issues a panel of experts highlighted at a medical malpractice forum I hosted last summer in my congressional district.

At this forum, the doctors, hospital administrators, and other medical personnel that deal with these issues on a daily basis said these cracks in our medical system are driving physicians and hospitals out of business. They simply cannot afford the exorbitant malpractice insurance rates that result from these frivolous lawsuits. As a result, they are forced to close their doors, limiting patients' access to care.

Even if doctors can afford to stay in business, they cannot make decisions based solely on their patient's best interest. With the threat of malpractice suits constantly hanging over their heads, they must act in ways to protect themselves from being sued.

Take for example, the case of a five-year-old boy in my district who was hit by a car and sustained a broken leg, along with a minor skull fracture. Usually, in these sorts of cases, a neurosurgeon would monitor the patient, to make sure his brain injury remained stable. Because of malpractice concerns and excessive insurance premiums, no neurosurgeons at that hospital or in the area could afford to treat patients under the age of 18. In Illinois, a staggering 85 percent of neurosurgeons are sued for malpractice at least once in their careers.

Without a neurosurgeon to follow the patient, the child had to be transferred to another hospital and undergo an ambulance ride with a broken leg. Once he reached the other hospital, there was no pediatric neurosurgeon available, so the orthodpedic trauma surgeon had the child placed in traction. This involved inserting a pin into the patient's leg just above his knee to hang the weights that pulled on the leg, and keeping him in traction for a few weeks.

After two days, his parents wanted their child to be transferred back to the original hospital closer to home. This meant that the child had to endure another ambulance ride in vulnerable condition.

My point here is not that frivolous lawsuits hurt doctors; it's that they end up hurting patients—in this case, a five-year-old.

Are some malpractice lawsuits necessary? Absolutely. Patients must have access to justice and restitution. But it is wrong when trial lawyers can exploit the system through frivolous or unlimited suits. And it is wrong to jeopardize patients' access to healthcare.

Mr. Speaker, Congress has twice before had the opportunity to fix the malpractice system and I have supported these attempts. The good news is that we have another chance today to take a big step toward preserving the long-term viability of the medical system in Illinois and around the country.

I urge my colleagues to join me in supporting H.R. 5. It is time for Congress to enact common sense liability reforms that safeguard patients' access to care.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 5, legislation that would undermine the right of patients and their families to seek appropriate compensation and penalties when they, or a loved one, are harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is designed to protect bad doctors, HMOs, and other health care providers from being held accountable for their actions. Either way, this bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought forth a bill that favors their special interests at the expense of patients and quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. Unfortunately, this bill attempts to achieve that goal solely on the backs of America's patients. I said, "attempts to achieve that goal" intentionally.

Despite the rhetoric from the other side, there is absolutely nothing in H.R. 5 that guarantees a reduction in medical malpractice premiums. There is not one line to require that the medical malpractice insurance industry—in exchange for capping their liability—return those savings to doctors and other providers they insure through lower malpractice premiums. To quote one of many economists on this matter, Frank A. Sloan, an economics professor from Duke, recently said, "If anyone thinks caps on pain and suffering are going to work miracles overnight, they're wrong." In fact, the outcome of this bill could have zero impact on lowering malpractice premiums and instead go into the pocketbooks of the for-profit medical malpractice industry. Of course, the bill's proponents avoid mentioning that very real possibility.

Proponents of this bill like to say that they are taking California's successful medical malpractice laws and putting them into effect for the nation. This is also hyperbole. California did not simply institute a $250,000 cap on medical malpractice awards. The much more important thing that California did was to institute unprecedented regulation of the medical malpractice insurance industry. This regulation limits annual increases in premiums and provides the Insurance Commissioner with the power and the tools to disapprove increases proposed by the insurance industry. It is this insurance regulation that has maintained lower medical malpractice premiums. Yet the bill before us does absolutely nothing to regulate the insurance industry at all.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every $100 spent on medical care in 2000, only 56 cents can be attributed to medical malpractice costs—that's one half of one percent. So, supporters are spreading false hope that capping medical malpractice awards will reduce the cost of health care in our country by any measurable amount. It won't.

What supporters of this bill really do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe reasonably compensate victims for the harm that has been done to them.

H.R. 5 caps non-economic damages. By setting an arbitrary $250,000 cap on this portion of an award, the table is titled against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one's future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But, by capping non-economic damages, this bill would artificially and arbitrarily lower awards for those without tremendous earning potential. This means that a housewife or a senior would get less than a young, successful businessman for identical injuries. Is that fair? I don't think so.

The limits on punitive damages are severe. Punitive damages are seldom awarded in malpractice cases, but their threat is an important deterrent. And, in cases of reckless conduct that cause severe harm, it is irresponsible to forbid such awards.

Republicans claim to be advocates for states rights. Yet, this bill directly overrides the abilities of states to create and enforce medical malpractice laws that meet the needs of their residents.

This Congress has been unable to pass a Patients' Bill of Rights to protect the rights of patients enrolled in managed care plans. Thankfully states have not been similarly immobile. They have moved ahead and enacted numerous laws to hold HMOs and other health plans accountable for the care they provide to patients—and any harm they may cause in that process. My home state of California has enacted strong legislation in this regard. If H.R. 5 becomes law, those laws will be overridden. It is not just consumer advocates who are concerned about this. Steven Thompson, lobbyist for the California Medical Association, was recently quoted in the Sacramento Bee as saying, "The California law we supported was intended to protect doctors and hospitals—people who deliver care, but the health plans would benefit from the way the House bill is laid out." In other words, this bill is anti-Patients' Bill of Rights. Despite years of fighting in Congress to hold health plans accountable for their abuses, this bill actually protects them! I will not support any bill that precludes states from moving ahead to protect consumers—especially when Congress has proved incapable of addressing their needs.

The issue of rising malpractice insurance costs is a real concern. I support efforts by Congress to address that problem. That's why I would have voted for the Democratic alternative legislation that Representatives CONYERS and DINGELL brought to the Rules Committee last night. Unlike H.R. 5, the Dingell-Conyers alternative would not benefit the malpractice insurance industry at the expense of America's patients. Instead, it addresses the need for medical malpractice insurance reform—learning from the experience of California—to rein in increasing medical malpractice premiums. Rather than enforcing an arbitrary $250,000 cap, the bill makes reasonable tort reforms that address the problems in the malpractice arena—penalties for frivolous lawsuits and enacting mandatory mediation to attempt to resolve cases before they go to court. It also requires the insurance industry to project the savings from these reforms and to dedicate these savings to reduced medical malpractice premiums for providers. The Dingell-Conyers bill (H.R. 1219) is a real medical malpractice reform bill that works for doctors and patients alike.

The Democratic alternative bill is such a good bill that the Republican leadership refused to let it be considered on the House floor today. They were afraid that if Members were given a choice between these two bills, they would have voted for the Democratic bill. Once again the House Republican leadership has used their power to control the rules to stymie democratic debate.

Medical malpractice costs are an easy target. My Republican colleagues like to simplify it as a fight between America's doctors and our nation's trial lawyers. That is a false portrayal. Our medical malpractice system provides vital patient protection.

The bill before us drastically weakens the effectiveness of our nation's medical malpractice laws. I urge my colleagues to join me in voting against this wrong-headed and harmful approach to reducing the cost of malpractice premiums. It's the wrong solution for America's patients and their families.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong opposition to H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Health Care (HEALTH) Act, because this unhealthy act would severely limit patients' rights to sue for medical injuries while having virtually no impact on the affordability of malpractice insurance coverage. Because there is no provision in this measure requiring insurers to lower their rates once these so-called reforms are in place, it would leave countless patients deprived of relief while failing completely to help our struggling health providers.

Like many of my colleagues, I am deeply troubled by the rising cost of malpractice insurance. Doctors across the country are being adversely affected by an increase in medical liability insurance premiums. These increases are making it more costly for physicians to practice, and rising insurance rates could eventually mean that patients no longer will have easy access to medical care. Doctors completing residencies in expensive areas are seeking better rates elsewhere, and physicians already in the market are leaving.

There is wide agreement that something must be done to ensure reasonable rates and protect access to health care. Unfortunately, nothing in this legislation would decrease premium costs or increase the availability of medical malpractice insurance. Instead, it would make detrimental changes to the health care liability system that would extend beyond malpractice and compromise the ability of patients and other health care consumers to hold pharmaceutical companies, HMO's and health care and medical products providers accountable.

For example, the three-year statute of limitations on malpractice suits contained in this legislation is more restrictive than most state laws, and could cut off legitimate claims involving diseases with long incubation periods. Thus, a person who contracted HIV through a negligent transfusion but learned of the disease more than three years after the procedure would be barred from filing a claim.

In addition, H.R. 5 would arbitrarily limit non-economic damages to $250,000 in the aggregate, regardless of the number of parties against whom the action is brought. This cap would hurt patients like Linda McDougal, whose breasts were needlessly amputated due to a doctor's carelessness, and Jesica Santillan, who died after her doctor transplanted organs with an incorrect blood type into her body. It would disproportionately impact women, children, elderly and disabled individuals and others who may not have significant economic losses from lost wages or other factors but are still suffering very real injuries, such as the loss of a limb, pain and disfigurement, the loss of hearing or sight, or the loss of mobility or fertility. Surely, the impact of these injuries on their lives cannot be quantified at less than $250,000.

As an individual who was paralyzed at the age of sixteen when a police officer's gun accidentally discharged and severed my spine, I find this provision particularly offensive and callous. After my accident, my medical expenses were outrageously high, and amounted to more than most people make in a year. Although there is no amount of money that can ever return what was taken from me, I was awarded non-economic damages in the lawsuit my family filed shortly after my accident. Granted, my condition was not the result of medical malpractice, but had the non-economic damages in my case been capped, my life would have been profoundly affected because I would not have been fully compensated for my future health care needs. Likewise, I would not have been afforded the opportunity to attend college or had the hope of beginning a new life. While our civil justice system has determined that it is the injured party who deserves the greatest measure of protection, I find it a great disappointment that attempts to limit remuneration to victims of malpractice still persist.

In 1976, California enacted the Medical Injury Compensation Reform Act, MICRA, which limits non-economic damages to $250,000, and is similar to the cap being proposed in this legislation. However, in the twelve years following the enactment of MICRA, California's medical malpractice liability premiums actually increased by 190 percent. It took enactment of insurance reform in 1988 that mandated a 20 percent rate rollback to finally lower and stabilize malpractice premium rates. It is important to note, however, that California's rates are no lower than the national average. Moreover, California's 1976 cap on non-economic damages is now worth only $40,389, in 2002 dollars. As a result, a patient would need to recover $1,547,461 in 2002 for the equivalent medical purchasing power of $250,000 in 1976.

Further, H.R. 5 would completely eliminate joint liability for economic and non-economic loss, preventing many injured patients from being compensated fully. Joint liability enables an individual to bring one lawsuit against multiple entities responsible for practicing unsafe medicine or manufacturing a dangerous, defective product and have the defendants apportion fault among them, if the jury finds for the plaintiff.

Rather, our top priority in reforming America's health-care system should be reducing the shameful number of preventable medical errors that kill nearly 100,000 hospital patients a year—the equivalent of three fatal plane crashes every two days. In fact, only five percent of doctors account for 54 percent of malpractice payments. Earlier this year, the New England Journal of Medicine reported that surgical teams leave clamps, sponges and other tools inside about 1,500 patients nationwide each year. Making it more difficult for these victims to seek compensation will not lead to safer medicine; it will only protect egregious medical malpractice behavior.

Moreover, there is no evidence that the tort reforms proposed in H.R. 5 would guarantee a decrease in insurance rates. In fact, the average liability premium for both internal medicine and general surgery in 2001 was actually higher in states with caps on damages than in states without caps. The proponents of this measure claim that limiting "frivolous lawsuits" will lower premiums. However, a study that appeared in the New England Journal of Medicine in 1991 concluded that only about 2 percent of those injured by physicians' negligence ever seek compensation through a lawsuit.

Recent studies show that this figure remains unchanged. That means that even completely eliminating medical liability would have virtually no impact on the cost of health care. Do we need to find a way to lower insurance and health care costs? Absolutely. Is H.R. 5 the way to do it? Absolutely not.

Instead, I plan to support the Democratic motion to recommit, which would allow patients to seek redress and provide assistance to physicians and hospitals in need. Specifically, this alternative would end frivolous lawsuits by requiring affidavits to be filed by qualified specialists certifying that the case is meritorious. It would also establish an independent advisory commission to explore the impact of malpractice insurance rates, particularly in areas where health care providers are lacking. Again, I would urge my colleagues to oppose the underlying bill, and to support the Democratic alternative.

Mr. EVANS. Mr. Speaker, in my tenure in Congress, I have been dedicated to reforming many aspects of the health care system to promote the highest quality health care benefiting the greatest number of Americans. Mr. Speaker, I do not believe that the HEALTH Act would contribute to this goal.

This legislation blatantly advances the political agenda of the insurance companies. It does nothing to address the looming health care crisis we face where over 40 million Americans are without health insurance, access to quality care, or an ability to afford even basic screenings and medicines. This legislation would place a $250,000 limit on non-economic damages in malpractice suites brought against medical professionals. I cannot support limiting non-economic damages awards because I do not believe we have the authority to place an arbitrary dollar amount on the value of a person's health or life.

These payments compensate patients for very egregious injuries, such as the loss of a limb, vision impairment, and infertility. The loss of a child or spouse can also fall under the limiting category of non-economic damages. These damages are so wide and varying that a one-size-fits-all approach just will not suffice. Further, limiting payments would disproportionately affect women, children, the elderly, the disabled and others that may have endured indescribable suffering, yet cannot claim a loss of wages or salary. To limit payments on meritorious cases involving legitimately injured patients is a step in the wrong direction for both the best interests of patients and for the discussion on truly lowering malpractice insurance costs.

I do not believe that this legislation is particularly effective. These severe limitations would do little to lower insurance rates. For example, California, which has an equivalent cap on non-economic damages, has medical malpractice rates that are 19 percent higher than the countrywide average. It is crucial that a number of factors must be addressed to find an acceptable, working solution to this problem.

I support the alternative bill on which the Republican Congress refused to allow us to deliberate. That we are not allowed to debate on the Democratic alternative erodes the democratic process of which our government was founded and of which rules this House.

The Conyers-Dingell substitute would repeal the federal anti-trust exemption for medical malpractice insurance. This would increase competition and lower premium costs. The bill I support reduces the amount of frivolous lawsuits filed by providing severe penalties to lawyers who submit cases either without certification of merit or with a false certification of merit. I find the mandatory mediation provision in the Democratic substitute to be especially pertinent and of tantamount importance in approaching a viable solution to this complex problem. Mediation and the establishment of an alternative dispute resolution system will allow both defendants to reduce their litigation costs and victims to gain fair compensation.

I urge my colleagues to vote down H.R. 5 and demonstrate their support for a Democratic alternative which will truly begin to curtail ghastly expensive medical malpractice insurance costs.

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 5 is but another wolf in lamb's clothing pretending to help doctors and patients, but really only helping the large healthcare corporations while doing nothing to help lift the malpractice burden from doctors and other providers or to ensure fair treatment to their patients. Health care professionals need to see through this sham.

I am a family physician. I see my classmates and other doctors, excellent ones, many who have never been sued, struggling to keep their offices open under the pressure of outrageously high malpractice insurance premiums. Physicians are desperate for relief from their premiums. Unfortunately, the organizations representing physicians have been strongly supporting H.R. 5 possibly thinking that it is the best they can get, but it is not.

It is truly a disservice to all of us that the Conyers-Dingell bill was not allowed consideration and debate. H.R. 5 does not even compare and is a poor attempt at a solution to this complicated problem.

In fact, H.R. 5 is not of any help at all as has been proven in several states. This is politics and special interest legislation pure and simple, and our patients and us should not be the pawns in this game.

This bill is another assault on the poor and minorities as well because regardless of their needs their awards will be capped at low levels. The cornerstone of H.R. 5 is a $250,000 cap on non-economic damages modeled after the arbitrary $250,000 cap instituted in MICRA. Compensation for economic damages for minorities is often much less than those awarded to white males, and $250,000 in 1975 is the equivalent of $855,018 in 2003. H.R. 5 puts values on human life and suffering that none of us can measure. H.R. 5's severely restricted the statute of limitations would further hurt minorities because they often have less exposure or access to medical care which causes them to often discover their injuries later.

What my physician colleagues and all health providers need is real reform. We need to address all of the factors that cause the rise in premiums. We need to create legislation that includes the measures which have worked in the states that have successfully addressed this issue and brought relief to their health providers. H.R. 5 doesn't do any of this.

I call on my colleagues to defeat this bill, and then join with our colleagues JOHN CONYERS and JOHN DINGELL to pass a bill that incorporates the measures that will most effectively reduce premiums, and bring relief not to HMO's, but to those who really need it, the health professionals and the patients who depend on their services.

Mr. BLUMENAUER. Mr. Speaker, I am convinced action is needed to stabilize the delivery of health care, particularly for small communities and for medical specialties plagued by extraordinarily high premium rates. It is unacceptable to have prices spiraling so out of control that care is prohibitive for many doctors and patients. I am open to a range of alternatives to provide a long-term solution. This bill focuses only on capping damages to lower premiums, siting California's MICRA legislation as its model. Unfortunately, it ignores the other methods used in California, which may have had more impact over the long-term. The cap is eroding patients' rights by failing to provide for inflation and H.R. 5 suffers the same flaw.

The Republican alternative is simply an attempt to provide a partisan political response, rather than a serious effort at bipartisan legislative action. This bill is being rushed through the legislative process without an opportunity for amendment and with little relationship to the proposal that is likely to emerge from the Senate. Last fall, I voted against the same bill when it came to the floor. Unfortunately, the Republican proposal is still just a bargaining position, not a legislative solution.

It's very unlikely that this bill will be enacted into law, and if it was, it would be highly unfair to the people that I represent. I will continue to work with physicians and others in the health care community, and those who are involved and interested in patients' rights. We've missed an opportunity to advance more carefully crafted bipartisan solutions at this juncture, but there will be a time to do so in the future, and I look forward to participating in that fashion.

Mrs. BONO. Mr. Speaker, I rise today in support of H.R. 5 and the physicians that work tirelessly to care for the sick and injured.

I have witnessed first-hand the crux of the issue about which we debate today. My father worked as an ENT surgeon for 19 years in Southern California, both before and after California's MICRA law was enacted. He has also helped me to better understand the issues that those in private practice face and we both have an appreciation for the problems our doctors face. Living in Southern California my entire life has also allowed me to witness the changes that have taken place with regard to medical liability reform.

Numerous doctors from Southern California have contacted me about the benefit that they have seen from the liability laws that exist in our state and realize how much it has affected their ability to treat more patients effectively. Still, other states are witnessing a serious reduction in care, particularly in vital specialities including those that affect expectant mothers.

We face a vote today on an issue that centers on the ability of our doctors to practice the science that saves lives daily in our country. Currently physicians in many states face the reality of not being able to keep their practice running. Our problems cannot be solved by the trend of defensive medicine, as they can only lead to higher costs to the patient, the insurer, and the doctor. The ultimate price is paid when a defensive procedure costs not only money but the life of a patient.

It is unfortunate that many frame this debate in terms of political ideology. How can we continue to demoralize our doctors from working in the field that they love and providing care for those who are suffering? H.R. 5 is about tempering skyrocketing insurance premiums across the country. H.R. 5 is about providing real access to care and the continued ability for our health care system to run effectively in times of state and national budget deficits.

But, most importantly, Mr. Speaker, H.R. 5 is about allowing our doctors to help millions of people every year in the practice that they know better than any trial lawyer or bureaucrat in Washington, DC.

Mr. Speaker, I encourage my colleagues to support H.R. 5.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. I would also like to thank Chairman TAUZIN for his excellent work on this vital subject.

Mr. Speaker, it is unfortunate that we have to take this action today. I am a firm believer that everyone should have their day in court if they feel they have been wronged. However, inherent in this right is the assumption, if not the obligation, that this course of action will be used judiciously. However, that is not what has occurred. Medical malpractice litigation has become an industry in and of itself, with trial lawyers seeking out sympathetic courtrooms and juries where frivolous claims will be given undue credence. The courts should be forums to redress wrongs, not lotteries.

We are now reaping the results of this litigious behavior, and the main result is that patients no longer have access to the healthcare they always assumed would be there. Doctors are leaving the communities they have served for decades. Try to get pre-natal care in Las Vegas. Try to see a neurosurgeon in Mississippi. They aren't there anymore. We have seen the doctors in West Virginia and New Jersey actually go on strike to protest the absurd rise in malpractice premiums due to frivolous lawsuits. I have spoken to doctors in my district that simply cannot afford their malpractice premiums anymore, and they are looking to us for help. We can have it one way or the other—we can continue on the current path, where every visit to the doctor is seen as a potential windfall, or we can take these necessary actions to return an element of sanity to the malpractice equation.

I support H.R. 5 because I believe it will ultimately allow many doctors to continue practicing medicine, and thus ensure our constituents continue to have access to the care they need. This legislation does not let anybody off the hook—bad doctors will still be held accountable for their actions and patients injured through negligence will still have fair recourse. It simply prevents the trial bar from completely ruining our health care system. I urge my colleagues to give H.R. 5 their support.

Mr. BACHUS, Mr. Speaker, under Alabama law, punitive damages are the only damages available in wrongful death actions. Therefore, under H.R. 5, absence action by the Alabama Legislature, the maximum recovery for wrongful death (of, say, a 30-year-old father of three) resulting from medical malpractice would be limited to (no more than) $250,000. In good faith, I could not support such a result.

Mrs. JONES of Ohio. Mr. Speaker, this past December in West Virginia, doctors at four hospitals went on a 30-day strike to protest climbing malpractice insurance rates. Following, in January 2003, Pennsylvania narrowly averted a strike only after a last-minute deal was made between the doctors and then governor-elect Ed Rendell. Similar occurrences in other states have made me shudder about the possibilities of similar events occurring in Northeast Ohio. The Cleveland Clinic, University Hospitals, and their affiliates serve as Ohio's premier medical facilities and I recognize the value that professionals working at those institutions provide to the Greater Cleveland community. Recent editorials in newspapers across the country have highlighted the frustrations experienced by medical professionals. These serve as a sounding call to Congress to readdress tort reform and medical malpractice.

Although I am greatly concerned about the rising costs of insurance premiums, especially for certain high-risk medical procedures, and the subsequent decline in the availability of health care that results from doctors retiring or moving their practices, I am not convinced that tort reform is the panacea to the spiraling increase in medical malpractice premiums. Studies and anecdotal evidence clearly show an absence of correlation.

In 1995, Texas passed a series of tort law restrictions that advocates claimed would lower the cost of insurance in Texas by $864 million a year. Legislation was also passed mandating that any savings from such tort law restrictions be passed on to consumers. Despite claims made by proponents of the legislation, overall insurance premium savings in Texas, including any that might be attributed to changes in tort law, have been minimal. Yet since that legislation was passed, insurance company profits have skyrocketed in Texas. This pattern has been evident in several other states that have initiated tort reform legislation.

In March 2002, the American Insurance Association (AIA) commented that lawmakers who enact tort reform should not expect insurance rates to drop further. The AIA is a major trade group of the insurance industry and their comment strengthens my belief that tort reform is not the solution to higher insurance premiums. Furthermore, in a response to a study by the Center for Justice & Democracy, the AIA stated, "the insurance industry never promised that tort reform would achieve specific premium savings."

Although I am troubled by the possibility of insurers not issuing policies to medical practitioners in Ohio, it would be a mistake to simply credit lack of tort reform as the reason. For example, Missouri found itself in a similar situation several years ago and instituted tort reform legislation in the form of caps on non-economic damages for medical malpractice suits. Yet Missouri continues to have fewer insurers offering services to doctors. In addition, insurance companies that issue policies have not lowered premiums and have continued to enjoy hefty profits.

Differences in the price of identical policies between different states can be attributed to factors other than whether that state has enacted tort reform measures. For example, comparable premiums in Ohio are lower in California primarily due to the fact that California has one of the strictest sets of insurance regulations in the nation as a result of Proposition 103.

Tort reform advocates often call for caps on punitive damages and pain and suffering awards as one of their top priorities. These calls are usually accompanied by citing some of the outrageously high verdicts awarded to plaintiffs. But they neglect to cite the fact that judges often exercise their authority to reduce these verdicts or that they are reduced in the appeals process. Further, calls for tort reform are often just a form of scorn toward trial lawyers who may receive fees of between 30 and 40 percent of verdict amounts. But those advocates fail to note that trial lawyers typically take cases knowing that they could lose—and not receive any compensation for their work.

Finally, the tort reform argument often neglects to mention an important party in any malpractice suit—the injured plaintiffs or their families. A recent report by the Institute of Medicine estimates that as many as 98,000 hospitalized Americans die each year as a result of medical errors. This is more than the number of deaths attributable to breast cancer or car accidents. Tort reform advocates, in their zeal to denounce trial lawyers and boost insurance company premiums, are tacitly saying that grievously injured victims of medical errors or their families deserve only minimal compensation for their injuries. Passage HR 5 will have an arbitrary and cruel effect on legitimate victims of medical malpractice.

Since 1994, the House of Representatives have passed bills limiting malpractice awards. Some of these bills take the further step of removing state malpractice claims into the Federal courts. Each time, however, these bills have failed to get the 60 Senate votes necessary for passage. As expected this issue has arisen with full force in the 108th Congress. Yet the facts remain the same: This legislation neglects plaintiffs' rights, limits state trial court judges' discretion, and fails to show any tangible net benefit to doctors who purchase premiums while simultaneously result in higher profits for insurance companies.

Rather than focusing on implementing malpractice caps legislation that will not solve the problem of rising premium rates, Congress (and doctors and their regulatory boards) should be more vigilant in enforcing laws that cap the numbers of hours worked by residents (fatigue is often cited as a major contributor to medical errors), adopting a uniform system for reporting and analyzing errors nationwide, and coordinating patients records (while taking care to protect privacy) so that doctors can easily gain access to a patient's complete medical history.

But while I cast my vote against H.R. 5, I remain committed to ensuring that the medical practitioners and facilities in this country remain a viable part of their communities' health care system. My alarm at the possibility of a medical practitioner talent drain caused by ever increasing medical malpractice premiums is real but I am committed to the conclusion that federal tort reform is not the solution.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to H.R. 5 and to the rule that cut off any debate on a highly controversial bill with far-reaching consequences. The Majority has refused to permit consideration of any amendments whatsoever, going so far as to deny Democrats the opportunity to offer a substitute to the underlying bill.

There is no doubt that most Americans have a real problem accessing affordable health care. And it is true that we have some serious problems keeping specialists in practice and keeping trauma centers open. However, in seeking to address these problems, my Republican colleagues have come up with H.R. 5, a bill that caps a medical malpractice victim's recovery.

H.R. 5 is a deplorable bill. It is the most simplistic and useless method for addressing very real problems with our medical community. It is a ridiculous piece of legislation that is akin to trying to put out a forest fire with a squirt gun.

Supposedly, the goal of H.R. 5 is to stabilize medical malpractice insurance rates. But contrary to my colleagues' assertions, placing a cap on victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will keep specialists practicing medicine.

H.R. 5 only focuses on restricting injured patients' access to justice. H.R. 5 is modeled after California's Medical Injury Compensation Reform Act, known as "MICRA". My Republican colleagues love to sing the praises of MICRA.

However, as a Representative from California, I happen to know a lot about MICRA. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my state. MICRA was signed into law in 1975, but stability in medical malpractice insurance rates did not occur after MICRA was passed. Between 1975 and 1993, in fact, health care costs in California rose 343 percent, nearly twice the rate of inflation. Not only that, but the California costs exceeded the national average each year during that period by an average of 9 percent per year.

Any rate stabilization that has occurred in California is not due to caps, but to Proposition 103, which went into effect in 1990. Proposition 103 was an insurance reform initiative that changed California's insurance laws from a so-called "open competition" to a "prior approval" regulatory system. Prop. 103 requires insurers to obtain approval of rate increases. But even with enactment of Proposition 103, rates in California have stayed close to national premium trends.

Medical malpractice insurance rate hikes are cyclical. They tend to be at their highest when insurance companies' investment income is at its lowest. Tort caps have not and do not eliminate this cyclical pattern.

I'm not the only one who has said that tort caps alone will not lower insurance rates. I would like to quote just a few other individuals who have made similar statements:

> "Insurers never promised that tort reform would achieve specific savings."—American Insurance Association
>
> "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."—Sherman Joyce, president of the American Tort Reform Association
>
> "Many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years."—Victor Schwartz, general counsel to the American Tort Reform Association

Insurance companies are reluctant to look at any role they may play in the increasing liability insurance rates. Yet, their investment practices have made it nearly impossible for them to balance paid claims with premiums. Capping damages for plaintiffs is only one part of the stabilization equation. In order to bring about true stabilization, we must reform the insurance industry.

H.R. 5, without insurance reform is meaningless. H.R. 5 simply re-injures the legitimate victims of medical malpractice.

Had we been given the opportunity, Democrats would have offered a substitute crafted by Representative DINGELL and CONYERS. That substitute takes concrete steps to eliminating frivolous lawsuits. It requires insurance companies to share their savings with doctors and patients. It evaluates the causes of insurance rate increases and proposes solutions. In short, it seeks to deal with the problem of rising medical malpractice insurance rates by addressing all aspects of the problem—insurance companies, doctors, patients, and the tort system. It would have been the comprehensive and fair way of fighting the real problem. This legislation would have prevented the forest fire before it began.

The Members of this House—and the general American public—deserve the opportunity to consider a real proposal to address the medical malpractice insurance rate crisis. I urge a no vote on this rule.

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this legislation.

I do think that high premiums for malpractice insurance are a serious problem for doctors in many states. And I agree with the bill's supporters that this is a problem for those who need medical services, because it tends to make health care less available.

I would like to do something about that problem—but I think that if Congress is going to act, it should do so in a way that is both better balanced and better focused than the bill the House is debating today.

The need for balance and focus is all the greater when Congress considers legislation that would apply everywhere and would override a number of different State laws, including laws related to the relations between Health Maintenance Organizations (HMOs) and individual patients.

Over the years, many of our colleagues—particularly those on the other side of the aisle—have been outspoken about the problems associated with that kind of top-down, one-size fits-all approach to a problem that can be addressed by State legislators who are in a better position to respond to the particular circumstances of their constituents.

I haven't always agreed with those criticisms, but in this case I think they are appropriate.

For example, Colorado law places limits on the amounts that can be awarded in some lawsuits against doctors. I do not think the Colorado law is perfect, but I do think that our legislature is in a better position to judge such matters than the Congress—especially when we are forced to act under the kind of restrictive rules the one that applies to this bill.

I hoped the Republican leadership would let the House consider amendments that could have made this bill more effective and better balanced. However, that did not happen, and now we are forced with a take-it-or-leave it choice—a "my way or the highway" approach to legislating that is unworthy of this House.

Under those circumstances, and after careful consideration, I have decided I cannot support the bill. I am not persuaded that it will have a significant effect on the premiums doctors have to pay for malpractice insurance—or at least an effect great enough to warrant the reduction in the ability of injured people to win redress of their damages.

We have heard much about "frivolous" lawsuits—and I think there really are some. But not every lawsuit is frivolous—some are well-founded, because sometimes people really are hurt by negligence or other improper conduct. If I were persuaded that this bill struck the right balance, reducing the risks of frivolous lawsuits without unduly affecting the others—and if I were persuaded that as a result escalating insurance premiums would be effectively restrained—I would support it.

But as it is, I am not persuaded of those things and so, given the sole choice of a yes or no vote, I must regretfully vote no.

Mr. PAUL. Mr. Speaker, as an OB–GYN with over 30 years in private practice, I understand better than perhaps any other member of Congress the burden imposed on both medical practitioners and patients by excessive malpractice judgments and the corresponding explosion in malpractice insurance premiums. Malpractice insurance has skyrocketed to the point where doctors are unable to practice in some areas or see certain types of patients because they cannot afford the insurance premiums. This crisis has particularly hit my area of practice, leaving some pregnant women unable to find a qualified obstetrician in their city. Therefore, I am pleased to see Congress address this problem.

However this bill raises several questions of constitutionality, as well as whether it treats those victimized by large corporations and medical devices fairly. In addition, it places de facto price controls on the amounts injured parties can receive in a lawsuit and rewrites every contingency fee contract in the country. Yet, among all the new assumptions of federal power, this bill does nothing to address the power of insurance companies over the medical profession. Thus, even if the reforms of H.R. 5 become law, there will be nothing to stop the insurance companies from continuing to charge exorbitant rates.

Of course, I am not suggesting Congress place price controls on the insurance industry. Instead, Congress should reexamine those federal laws such as ERISA and the HMO Act of 1973, which have allowed insurers to achieve such a prominent role in the medical profession. As I will detail below, Congress should also take steps to encourage contractual means of resolving malpractice disputes. Such an approach may not be beneficial to the insurance companies or the trial lawyers, buy will certainly benefit the patients and physicians, which both sides in this debate claim to represent.

H.R. 5 does contain some positive elements. For example, the language limiting joint and several liabilities to the percentage of damage someone actually caused, is a reform I have long championed. However, Mr. Speaker, H.R. 5 exceeds Congress' constitutional authority by preempting state law. Congressional dissatisfaction with the malpractice laws in some states provides no justification for Congress to impose uniform standards on all 50 states. The 10th amendment does not authorize federal action in areas otherwise reserved to the states simply because some members of Congress are unhappy with the way the states have handled the problem. Ironically, H.R. 5 actually increases the risk of frivolous litigation in some states by lengthening the statue of limitations and changing the definition of comparative negligence!

I am also disturbed by the language that limits liability for those harmed by FDA-approved products. This language, in effect, establishes FDA approval as the gold standard for measuring the safety and soundness of medical devices. However, if FDA approval guaranteed safety, then the FDA would not regularly issue recalls of approved products later found to endanger human health and/or safety.

Mr. Speaker, H.R. 5 also punishes victims of government mandates by limiting the ability of those who have suffered adverse reactions from vaccines to collect damages. Many of those affected by these provisions are children forced by federal mandates to receive vaccines. Oftentimes, parents reluctantly submit to these mandates in order to ensure their children can attend public school. H.R. 5 rubs salt in the wounds of those parents whose children may have been harmed by government policies forcing children to receive unsafe vaccines.

Rather than further expanding unconstitutional mandates and harming those with a legitimate claim to collect compensation, Congress should be looking for ways to encourage physicians and patients to resolve questions of liability via private, binding contracts. The root cause of the malpractice crisis (and all of the problems with the health care system) is the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, government bureaucrats, and trial lawyers. There is no reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I have introduced the Freedom from Unnecessary Litigation Act (H.R. 1249). H.R. 1249 provides tax incentives to individuals who agree to purchase malpractice insurance, which will automatically provide coverage for any injuries sustained in treatment. This will insure that those harmed by spiraling medical errors receive timely and full compensation. My plan spares both patients and doctors the costs of a lengthy, drawn-out trial and respects Congress' constitutional limitations.

Congress could also help physicians lower insurance rates by passing legislation, such as my Quality Health Care Coalition Act (H.R. 1247), that removes the antitrust restrictions preventing physicians from forming professional organizations for the purpose of negotiating contracts with insurance companies and HMOs. These laws give insurance companies and HMOs, who are often protected from excessive malpractice claims by ERISA, the ability to force doctors to sign contracts exposing them to excessive insurance premiums and limiting their exercise of professional judgment. The lack of a level playing field also enables insurance companies to raise premiums at will. In fact, it seems odd that malpractice premiums have skyrocketed at a time when insurance companies need to find other sources of revenue to compensate for their losses in the stock market.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 5 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 5 exceeds Congress' constitutional limitations and denies full compensation to those harmed by the unintentional effects of federal vaccine mandates. Instead of furthering unconstitutional authority, my colleagues should focus on addressing the root causes of the malpractice crisis by supporting efforts to restore the primacy of contract to the doctor-patient relationships.

Mr. STRICKLAND. Mr. Speaker, I speak on the floor today in opposition to H.R. 5 and in opposition to the closed rule under which we are debating the bill.

I have heard from doctors and hospitals throughout my district that they are struggling with high malpractice rates. I think we all recognize that this is a big problem in many regions of the country, and I believe we must take action to ensure patients can continue to access quality and timely health care. In my rural Ohio district, access to care is a constant problem for many of my constituents. I hear the voices of the family practice physicians who tell me they no longer may be able to afford to deliver babies. In some cases in Ohio, pregnant women must travel long distances for prenatal care and delivery services because there is only one doctor providing these services throughout a county. Something must be done, but I do not think H.R. 5 gets it done.

These are the reasons I have cosponsored H.R. 1124, which has been introduced by Rep. DINGELL. H.R. 1124 would address high malpractice rates through moderate tort reforms, requiring attorneys to submit a certificate of merit declaring a case to be meritorious, and requiring medical malpractice insurance companies to dedicate at least 50 percent of the savings from these tort reforms to reducing the insurance premiums paid by physicians and other health professionals. In addition, H.R. 1124 attempts to look at the broad issues that may have contributed to the high malpractice rates doctors across the country are facing by establishing an independent advisory commission on medical malpractice insurance. I wish Congress had acted quickly and in a bipartisan fashion last year—had we done so, we may already have more answers about why rates are now as high as they are. And finally, H.R. 1124 would create a grants program through the Department of Health and Human Services to ensure that areas affected by high malpractice rates do not suffer a shortage of providers. However, we will not even hear debate about these provisions or others because the Leadership passed a closed rule that limits debate to the base bill. This does a disservice to the American people, to the House, and to the health care providers we want to help.

I believe H.R. 5 will not address the high malpractice rates our doctors are confronting. H.R. 5 fails to address or even acknowledge the complicated nature of this problem: my colleagues who have introduced H.R. 5 haven't considered how the insurance industry may have contributed to the high rates or considered how individual states' systems have affected malpractice rates.

Throughout the Energy and Commerce Committee's consideration of H.R. 5, I spoke about two provisions in H.R. 5 that I strongly oppose.

First, H.R. 5 would limit the liability of HMO's, drug companies, and nursing homes. These companies have never come to me to explain why their liability should be limited; in fact, I strongly believe consumers should have the right to use every tool possible to collect damages if they are injured by a drug or device company whose product is defective. My constituents have access to prescription drugs—the drugs are there in the pharmacy, ready to be purchased, and the drug companies aren't going out of business. Unfortunately, many of my constituents, especially seniors, can't afford to pay the prices these companies are charging. Since the drug companies are doing quite well, I think it's safe to say that they don't need the further protections H.R. 5 would afford them.

Second, I cannot support H.R. 5 because of its $250,000 limit on noneconomic damages. Noneconomic damages are awarded by a jury to compensate a victim for intangible pain and suffering. These noneconomic damages compensate for real, permanent harms that are not easily measured in terms of money, including blindness, physical disfigurement, loss of fertility, loss of limb, loss of mobility, and the loss of a child.

Noneconomic damages are often very important to low income adults, women, and children who often would not recover a large economic damage award when they are injured. In addition, someone whose injury is purely cosmetic may not have economic damages because the injury doesn't directly affect his or her ability to work. For example, the facial disfiguration 17-year-old Heather Lewinski has had to live with for the past 9 years because when she was 8 years old a plastic surgeon committed clear malpractice and scarred her for life. The years of pain and suffering Heather has lived with and testified to before the Energy and Commerce Committee two weeks ago are real. Heather's lawsuit against the plastic surgeon who injured her resulted in zero economic damages, but she did receive compensation in the form of noneconomic damages. H.R. 5 would have limited her award to $250,000. I cannot vote for legislation that would arbitrarily limit the damages that might be so important to the average American who finds themselves injured through medical malpractice. Although proponents of H.R. 5 contend that the bill will limit frivolous lawsuits, I believe it will not do so; instead, this provision would arbitrarily cap meritorious claims of malpractice.

I ask my colleagues: if we trust our jury system to make decisions about life and death, I believe we must be able to trust that jury system to make decisions about money.

The increase in malpractice rates is a huge problem for doctors and hospitals, and that is why I wish this bill had been crafted with input from the leaders of both parties. At the least, I wish we had the benefit of an open rule that would allow real debate here on the floor. I will not support this bill because I think it fails to prevent frivolous lawsuits, fails to address the problems with the insurance industry, and fails to provide direct relief to communities that are struggling with access problems resulting from high malpractice rates.

Mr. SHAYS. Mr. Speaker, I rise in support of the medical malpractice reforms contained in H.R. 5, the HEALTH Act. This legislation will help prevent frivolous litigation and significantly limit the practice of "defensive medicine," which has contributed to spiraling health care costs.

H.R. 5 caps noneconomic at $250,000, but doesn't place any limit on the economic damages which plaintiffs can recover. Excessive jury awards have driven the cost of health care up for everyone, so in my mind, there has to be a limit on how much juries can award victims in non-economic and punitive damages. The HEALTH Act is critical to retarding the explosion in health costs and making insurance more affordable to the 41 million Americans who lack it.

The dramatic increases in insurance rates which many physicians have experienced over the past year also prevent them from actually practicing medicine. Many physicians I have spoken to are at wits' end trying to figure out how to maintain their practice and pay these exorbitant costs.

On March 4, the American Medical Association added Connecticut to the list of states facing crises in their medical malpractice insurance rates. The organization also cited Connecticut as a state where a large number of physicians have ended their practices because of the high medical malpractice insurance rates.

These malpractice reforms, which are based on a proven California law, will make much-needed changes to the federal civil justice system without denying the legal rights of legitimate plaintiffs. It is imperative we move forward on this reform to discourage abuse of our legal system and curb the unsustainable growth of medical costs in our country.

Mr. Speaker, I strongly support the HEALTH Act because it will bring meaningful reform to a flawed system. I urge my colleagues to vote for this legislation.

Ms. KILPATRICK. Mr. Speaker, H.R. 5 is the Republican's quick fix to the health care crisis across the nation. They address the problem of increased insurance cost for medical malpractice, but have proposed a contorted theory for fixing it. An in-depth look at H.R. 5 shows that it does absolutely nothing to implement ways to decrease insurance premium costs, and furthermore, it does initiate means to increase the availability of medical malpractice insurance. For the foregoing reasons, I voted "no" on this passage.

H.R. 5 will limit the amount of non-economic damages that a patient can recover in a malpractice suit and it sets a bar for punitive damage recovery that is nearly impossible to reach. Overall, this bill limits the amount of recovery for all patients by providing a one-size-fits-all solution. How can we limit what a jury can award to an individual who has lost her/his right to reproduce because of a doctor's or medical manufacturer's negligence? How can we limit damage awards to an individual who has been paralyzed as a result of their negligence? How can we set a standard that is so difficult to meet that it will reduce the opportunity that plaintiffs will have to punish these defendants for their malicious acts? H.R. 5 is moving away from fixing the crisis in our health care industry and leaning towards making it worse by essentially punishing the victims.

Mr. Speaker, we need a bill that acts fast to help doctors and the medical industry sustain themselves financially. Right now, as we debate H.R. 5, thousands of doctors are leaving their respective states because they cannot afford the high insurance premiums. Doctors are now taking on much heavier loads of patients, much more than some of them can handle. To such as extent, some say that their situation is ripe for potential negligence cases, as they are not able to devote the attention necessary for the patient. They need our help now, Mr. Speaker, and we cannot change their situation by selling unfounded limits on non-economic damages.

Additionally, we must work to curb rogues from bringing fraudulent malpractice claims that flood our courtrooms, which are factored into the issue of high insurance premiums. For example, we should not prohibit a justified victim from receiving $750,000 in non-economic damages, but rather, we should aim to deter those rogues from each bringing fraudulent claims for non-economic damages worth $250,000. H.R. 5 does not provide for any differentiation between legitimate claims and the many unwarranted claims that bring a halt to judicial economy every day.

The Democratic substitute is superior because it would have sought and punished rogues for bringing fraudulent cases. It would not have capped non-economic damages or punitive damages. The substitute commissioned a study to assess the medical malpractice issue and determine how we can better address and then eliminate the problem. As for the current crisis, the substitute would authorize the Department of Health and Human Services (HHS) to provide grants to geographic areas that experienced extreme shortages of health providers due to the high premiums.

Although the Democratic substitute was superior for this crisis situation, the Republicans used their control of the House to prevent the substitute from being brought to the floor for a debate, along with any amendments that Democrats would have offered. This is undemocratic and an irresponsible use of leadership. The House floor is where all members should have the opportunity to discuss various ideas, views or bills from both sides of the aisle. To preclude that possibility is undemocratic. Mr. Speaker, I do not agree with the Republicans regulation of this very important issue and I also vehemently disagree with H.R. 5.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 5, the HEALTH Act. There is no question that medical liability insurance rates are out of control. These high insurance costs are threatening to put many doctors and other health care professionals out of business and limit access to health care. However, I cannot in good faith support legislation that limits the rights of patients, victims, and their families while protecting the health insurance industry. HMOs and big health insurers should not receive special treatment; they are not above the law and should not be exempt from responsibility through this legislation.

Under H.R. 5, insurance carriers can still raise rates any amount, at anytime. The Republican Leadership refused to allow free and fair debate by not allowing a substitute or any amendments to be debated and voted upon by the House of Representatives. The substitute would reform malpractice insurance carriers, which is essential in solving the medical liability crisis. It would also weed out frivolous lawsuits without restricting the rights of legitimate claims.

H.R. 5 is a one-size-fits-all approach that places caps on non-economic and punitive damages and does not address the issue of frivolous lawsuits. When a stay-at-home mother, child, or senior citizen dies or suffers irreversible harm, there is no economic loss because it is impossible to prove damages from loss of income. H.R. 5 takes away the rights of parents who lose children, husbands who lose wives, children who lose parents, and patients who have very real losses that are not easily measured in terms of money. These caps imposed in H.R. 5 unfairly take away the rights of victims of medical malpractice to receive compensation for their injuries.

H.R. 5 is modeled after the state of California's 1975 reform laws; however, my Republican colleagues give a false impression of the ramifications of that law. For more than a decade after California passed the 1975 law limiting damages in medical malpractice lawsuits, doctors' premiums continued ,to rise faster, overall, than the national rate of inflation. Once voters enacted Proposition 103, a measure to cap all insurance rates in California, premiums leveled off. The ballot initiative curbed the premiums, not the law implementing caps.

Physicians in Illinois and across the country are facing skyrocketing medical liability premiums, and for many providers, medical liability insurance is either unaffordable or completely unavailable. I believe something needs to be done to derail frivolous lawsuits and reform the insurance industry. Insurers' business practices for accounting and pricing have contributed sharply to the current problem. H.R. 5 does not reform the insurance industry, places unfair, restrictive caps on victims, and does not address frivolous lawsuits. For these reasons, I oppose H.R. 5.

Mr. GARRETT of New Jersey. Mr. Speaker, it's always easier to fix blame than to find a solution. That's certainly true when it comes to the health care accessibility crisis we have right now in America.

In state after state, including my home state of New Jersey, doctors are closing down or limiting their practices. Trauma centers are shutting their doors, and overall health care costs are rising dramatically because of medical liability problems. Who suffers? Thousands upon thousands of individual patients who need care—some who need critical care.

Rather than solve this problem, some people want to distort the facts and point fingers to serve a large political agenda. They'd sacrifice access to medical care as part of their effort to prevent tort reform of any kind.

Today, I have heard allegations that the real culprit is the lack of regulation over insurance company investment practices and pricing. As the former chairman of the New Jersey Assembly Insurance Committee, I can assure you that this is simply not the case. Insurance is a highly-regulated industry, where state insurance departments oversee nearly every aspect of the marketplace, including product pricing and insurer investment practices.

To be more specific, state insurance laws do not allow insurance companies to raise rates to make up for past investment losses. As Steve Roddenberry, a top Florida insurance official, said recently, and I quote, "We cannot permit it." Furthermore, the stock market has very little influence on companies who write medical malpractice insurance. In 2001, stock market investments made up just 9 percent of the industry's portfolio. Just 9 percent.

So it's simply not true that the lack of insurance regulation is causing premium increases. But what is causing those increases?

In large part, it's because the insurers are paying out more than they're taking in. That's right—insurance is an income-and-expense business just like any other. And in today's medical malpractice marketplace, companies are being forced to spend more on claims than they can collect in premiums.

The bottom line? The average medical malpractice insurance company is paying out $1.50 for every dollar it collects. That's not a recipe for success in the business world.

And that's why we have this crisis.

As long as insurance companies, many of which, by the way, are owned directly by their insured doctors, are faced with these losing scenarios, pressures on rates will continue unless something is done about what causes those companies to lose money.

This leads me back to my original point. If the doctors and nurses and hospitals who care for our children, our seniors, and the neediest among us cannot afford to deliver that care, we have a much bigger problem than who's making some money in the stock market. And rather than point fingers, it's time we address the real issue of lawsuit abuse, so we can solve the problem and let the health care system start working again.

Mr. Speaker, patient access to care in jeopardized. Physicians are being forced to limit services and practice defensive medicine and patients are bearing the burden, often being forced to travel hundreds of miles to the next available doctor in order to receive life-saving care.

I strongly encourage my follow members to pass the HEALTH Act, providing a much-needed, common sense solution toward reforming America's medical justice crisis. Together, let's ensure that patients get quality care first rather than going to court.

Mr. DEFAZIO. Mr. Speaker, I attempted to offer three of the thirty-one amendments to H.R. 5, the HEALTH Act, last night. Inexplicably, these were disallowed out of hand.

This rule is an abuse of the process. Yes, it might be payback to the Democrats based on some revisionist history, but more importantly, it's a payoff to the Republicans' generous benefactors in the insurance industry, and through this bill, a payoff to the pharmaceutical industry.

The Republicans claim that the underlying bill, H.R. 5, will control insurance costs through so-called "tort reform." This bill won't do that. In fact, in 1999, a senior executive at the American Tort Reform Association conceded that "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

This is the third crisis in medical malpractice in 25 years. Each of these "crises" happens to coincide with recessions, stock market downturns, and insurance industry investment losses.

The insurance industry is an equal opportunity market abuser. They legally can and regularly do collude to raise rates and limit availability of all lines of insurance. If this "crisis" in medical malpractice insurance is due to a malpractice crisis then why also is there a crisis in health insurance, homeowners' insurance, auto insurance, and general liability insurance? Health insurance costs are up 13 percent, homeowners insurance, 8 percent, and auto insurance, 8.5 percent. Maybe it's time the insurance industry was subject to the same laws as other industries.

Mr. Speaker, the solution that will bring relief and improve access to our nation's physicians will start with a repeal of the antitrust exemption of the insurance industry. Legislation like H.R. 5 simply allows the insurance industry to profit off the backs of both doctors and patients.

Mr. KIND. Mr. Speaker, I rise today in opposition to the HEALTH Act, H.R. 5. Although I support the concept of sensible medical malpractice laws, this bill goes too far in defending negligence and not far enough in protecting patients.

In my home state of Wisconsin, we have medical malpractice laws that work. The components of this successful law include a cap on non-economic damages of $442,000, which is indexed annually for inflation; a requirement that all providers carry malpractice insurance; and a victims' compensation fund.

The victims' compensation fund is a unique entity that has served both patients and health care providers well. The fund operates by collecting contributions from Wisconsin health care providers and paying the victims once an award has been determined. The physicians are liable only for the first $1 million in an award. If the award exceeds $1 million, the compensation fund will pay the remainder of the award.

A major problem with H.R. 5 is that it goes beyond medical malpractice law by including the provisions regarding pharmaceutical and medical devices. The bill completely exempts from liability medical device makers and distributors as well as pharmaceutical companies, as long as the product complies with FDA standards. These provisions would have no effect on medical malpractice insurance rates. Instead, they would leave victims with little recourse and render them unable to hold pharmaceutical companies and the makers of defective medical products accountable for faulty or unsafe products.

Another problem with H.R. 5 is that it overrides some state laws. While the bill would not override Wisconsin's own cap on non-economic damages, it would supersede our state laws regarding statute of limitations, attorneys' fees, and the criteria for punitive damages. This bill is a one-size fits all solution that is not right for Wisconsin.

Although I oppose H.R. 5, I agree that medical malpractice issues must be addressed. Unfortunately, H.R. 5 is modeled after California's law, not Wisconsin's statutes. The successful components of Wisconsin's medical malpractice laws could be the basis for a much better bill. I urge my colleagues to go back to the drawing board to craft a consensus piece of legislation that both protects patients and keeps physicians in business. In Wisconsin, we are proud to have laws that effectively accomplish both of these goals. These laws are threatened, however, by the current proposal. Therefore, I oppose H.R. 5.

Mr. SHAW. Mr. Speaker, I rise today in strong support of H.R. 5, the HEALTH Act. America's doctors are facing a full blown crisis. What's at stake is nothing less than the survival of the profession. What's to blame is astronomical medical liability insurance rates.

Patients have watched helplessly as physicians have had to limit services or close their doors altogether and flee the state in search of more business friendly environments. Even worse, many young people who dreamed of studying medicine are choosing not to, realizing they won't be able to reconcile their dream with the reality of making a living.

In my state of Florida, the situation is among the worst in the nation. The American Medical Association has labeled Florida as one of 19 "in crisis" regarding medical liability which can reach sums of over $200,000 annually. When it's easier to sue a doctor than to see a doctor, something has to be done.

We know that the reforms in the HEALTH Act will actually lower the overall cost of healthcare. Doctors, laboring under a constant fear of being sued, have a natural tendency to practice defensive medicine—ordering tests that may not be needed or refusing to perform more risky procedures. The direct cost of malpractice insurance and the indirect cost from defensive medicine raise the federal government's health care cost by at least $28 billion a year.

It is clear that the current system of dispute resolution is not working. The entire industry suffers for the few bad eggs out there. Only 5% of doctors account for more than half of all the money paid out in malpractice suits, but all doctors pay the costs in their premiums. I believe it will take reform on the federal level to get the country's health system back on course and out of the courtroom and I therefore, support the HEALTH Act. I urge a "yes" vote on H.R. 5.

Mr. BISHOP. Mr. Speaker, I rise today to oppose H.R. 5.

Mr. Speaker, this bill is dangerous because it proposes a one-size-fits-all limit, regardless of the circumstances. It supersedes the laws of all fifty states and will not solve the problem of high insurance costs.

The real culprit is the insurance industry. All insurance premiums—including medical malpractice, automobile and homeowner policies—have seen a drastic increase in the past few years. These increases are not unique to medical malpractice. When the stock market returns and interest rates are high, malpractice premiums go down. When investment income goes down insurance companies increase premiums and reduce coverage. This is a fabricated "liability insurance crisis." What we actually have is an "insurance malpractice crisis."

Those who support restrictions on medical malpractice awards must explain these arbitrary limits to the parents of Jessica Santillan, the young girl who died after receiving the wrong organs from a heart and lung transplant operation at Duke University Hospital.

Because of cases like this, Congress must expand, not limit patient's rights.

This bill does not address the high cost of insurance. Instead it limits meritorious cases and valid judgments. An exhaustive study of the court system by the University of Georgia concluded that "there is no evidence of an explosion in tort filings, and there are few signs of run-a-way juries." In contrast, this bill will hurt real people with real losses. I urge my colleagues to vote against this bill and defeat this fraud on the public.

Mr. CROWLEY. Mr. Speaker, a lot of people on the other side have one crucial fact wrong—capping medical malpractice awards does not mean insurance rates will fall.

I have charts here that compare the average insurance premium for states with damage caps versus the average insurance premium for states with no caps.

For OB/GYN doctors, supposedly a group especially hard hit by medical malpractice awards—we find that OB/GYNs in states without caps on damages pay $44,485 in insurance. OB/GYNs in states with caps on damages pay $43,010—a "whopping" 3.4 percent difference.

For general surgery doctors, they pay $26,144 in premiums if they are in a state with no caps on damages. They pay $602 more—not less—if their state caps malpractice awards.

Look, if we want to decrease medical malpractice insurance costs for doctors, then let's talk about that.

Let's talk about investigating insurance company pricing practices.

Or, if we want to cap something, then let's cap the actual problem, insurance rates.

But to put the blame for rising insurance costs on victims—that's not only cruel, it's completely false.

Mrs. McCARTHY of New York. Mr. Speaker, I rise today in strong opposition to H.R. 5, the HEALTH Act. As a nurse, I understand all too well the high cost of malpractice insurance and I recognize the crisis this is creating in our healthcare system, particularly in areas of high-risk procedures. I want a solution to fix this problem, but H.R. 5 is not the solution to helping this crisis.

H.R. 5 will only make this crisis worse. H.R. 5 exempts HMOs, pharmaceutical companies, and the FDA from punitive damage awards. This means that HMOs will continue to make medical decisions for patients based on what's best for their bottom line and not what is best medicine for the patients they serve. Under this legislation, a pharmaceutical company manufactures a drug or the FDA approves a product that proves to be harmful or deadly, a patient's family is limited in their recourse. After last year's Congressional debate, on the need to hold HMOs accountable for their actions I am shocked that anyone who supported the Patient's Bill of Rights can vote for this legislation.

In addition, by capping the punitive damages to $250,000, this bill unfairly penalizes children, the elderly, and mothers who stay at home since it is impossible to prove economic damages from lost wages. The only compensation these patients have is non-economic or punitive damages.

Mr. Speaker, I am appalled at the arrogance of the Republican leadership, for prohibiting Members from offering any amendments to improve this legislation in any way shape or form.

Mr. Speaker, had I been allowed to offer an amendment, I would have offered the following to improve this legislation:

Reducing frivolous lawsuits.—We need to limit the amount of time during which a patient can file a medical malpractice action to no later than three years from the date of injury, or three years from the date the patient discovers the injury. And require an affidavit by a qualified specialist before any medical malpractice action may be filed. This "Qualified Specialist" would be a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice, and board certification in a specialty relating to the area of practice.

Reducing premiums.—We should require medical malpractice insurance companies to annually project the savings that will result from the anti-price fixing mechanisms required by the Democrat substitute. Insurance companies must also develop and implement a plan to annually dedicate at least 50 percent of those savings to reduce the insurance premiums that medical professionals pay.

Solving healthcare professionals shortage.—We need to provide grants or contracts through the Health Resources and Services Administration (HRSA) to geographic areas that have a shortage of one or more types of health providers as a result of dramatic increases in malpractice insurance premiums.

Mr. Speaker, I urge all my colleagues to vote against H.R. 5.

Mr. WYNN. Mr. Speaker, the issue of high premiums for medical malpractice insurance is an important issue to doctors and patients. It is important that we lower insurance premiums, giving patients greater access to care. However, I am opposed to H.R. 5, the HEALTH Act.

First, tort reform has historically been the province of the States. All but 14 States, have some form of caps on medical malpractice suits. Thus, there is no need for Federal intervention.

However, I am not convinced that medical malpractice litigation alone has caused the increase in medical malpractice premiums. There is convincing evidence that suggests that the rise in medical malpractice liability premiums stems from poor business practices by many insurance companies. Insurance carriers in several cases appear to have relied on the investments in the booming stock market of the 1990s to price premiums at levels below the market price. Today's premiums seem designed to offset losses suffered when the market soured.

Meanwhile, it is unclear that even capping noneconomic damages in medical malpractice cases would lower premiums. Since California passed MICRA and capped noneconomic damages in the 1970s, their premiums have risen at rates above inflation.

Lastly, it took the 1985 passage of Proposition 103, which imposed price controls on premiums, to control the rising costs of premiums in California. Even with caps, California premiums are eight percent higher than in States without caps.

When considering this issue, we should not just consider tort reform, but examine the business and accounting practices of medical malpractice insurance carriers.

In committee, I introduced a substitute amendment to the underlying bill. The amendment would have created a medical malpractice commission to study the rising costs of medical malpractice insurance.

Last year, the Health Subcommittee held a hearing on the rising premiums. However, the committee never adequately considered the impact of the business practices employed by carriers on the rising cost of medical malpractice insurance. That is the real issue.

To date, the government has not fully examined all of the possible root causes for the rise in medical malpractice insurance.

My amendment in committee would have stripped the underlying bill and created a Federal bipartisan commission of eight members to study the cause of rising medical malpractice premiums during the last 20 years.

Specfically, the commission would look at the investment, accounting, and pricing practices of carriers, as well as jury awards in medical malpractice cases to determine what is causing the rise in premiums.

We all deserve our day in court; the case for caps on noneconomic damages has not yet been made. Before placing an unreasonably low cap on noneconomic damages in medical malpractice suits, let's sufficiently study the issue and determine the root cause for the rising premiums.

Mr. PITTS. Mr. Speaker, I rise today in support of H.R. 5.

Medical liability reform is one issue on which we cannot afford to waste time. In my home State of Pennsylvania, medical liability is not just a problem; it's a crisis. Medical liability rates are up 81 percent in Pennsylvania, and higher for some specialties. Every year, $22 billion is sucked out of the American economy due to excessive medical liability claims. In Pennsylvania alone, there are $1.2 billion in payouts each year. That's $1,000 for every man, woman, and child in the Commonwealth. As a result, insurance companies are fleeing and many doctors cannot afford—financially nor professionally—to continue to practice medicine in the State.

Last year, Chester County Hospital, in my district, came very close to taking the drastic step of closing its maternity ward when insurance for the obstetricians skyrocketed. The doctors reported that they would have to discontinue offering care at that hospital. Thankfully, the hospital stepped in at the last minute with a temporary solution and actually put these independent physicians on their payroll in order to provide coverage for them through the hospital captive insurance company. Since Chester County Hospital does twenty-one hundred or so deliveries a year, this load was too big for other providers in the area to pick up. Women would have had to leave Chester County to have their babies.

Lancaster General Hospital, also in my district, had to abandon plans to open a new clinic to serve the poor in Lancaster City when it learned that it would have to pay $1.5 million more for malpractice insurance. This is unacceptable. We cannot wait any longer to address this crisis.

Pennsylvania is not alone. In fact, most States face this same crisis. Patient access to health care is on the decline. It is alarming. Unless we can reign in the costs of medical liability, men, women, and children across the country will suffer from lack of access to health care. Our health care system cannot support nor afford the big payouts of medical liability lawsuits.

H.R. 5 is not simply an important bill, but a critical one. It will inject predictability and fairness into the medical liability process.

The bottom line is this: If you care about patient access to health care and are concerned about the rampant increase in the cost of health care, vote for this bill that is before us today.

Vote for H.R. 5.

Mr. NEY. Mr. Speaker, I rise today to express my support for H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare Act of 2003. Our healthcare system is currently in a crisis. Medical malpractice insurance rates have risen to epidemic levels in many areas of the country—so much so that it is a national problem, not just a state or local issue. For many physicians, their rates have risen at factors of over four times the level that they experienced when they began practicing medicine.

Mr. Speaker, imagine having to pay upwards of $130,000 to $150,000 out of your own pocket to do business. This is what our doctors are experiencing.

Statistics such as these have far reaching implications and effects on our Nation's healthcare system. As insurance rates rise, the costs to do business rise, and the costs to consumers and patients rise. The end result is that hardworking Americans are paying the tab for unwieldy lawsuits. The HEALTH Act will help to lessen the medical liability of healthcare professionals and will thus lower the costs of healthcare to all Americans. It will reduce these lottery style lawsuits and will improve the protections for victims of malpractice.

This bill allocates damages fairly by holding a party liable only for his or her degree of fault. It also requires that a jury be informed of any payments already made, allowing for consideration of payment by other tortfeasors. The act does provide for full compensation of economic damages, such as future medical expenses and loss of future earnings, and it does not limit damages recoverable for physical injuries resulting from a provider's care nor does it cap punitive damages.

Instead, it places reasonable limits on punitive damages. They would be limited to the greater of: Two times a patient's economic damages, or $250,000. The HEALTH Act does limit unquantifiable, noneconomic damages, such as pain and suffering, to $250,000. Patients will also be ensured that there will be funds to cover future medical expenses, and that a damage award will not risk bankrupting the defendants. The bill achieves this by allowing payments for future medical expenses to be made periodically, rather than in a single lump sum.

In conclusion, Mr. Speaker, for the sake of America's patients and healthcare system, I urge my colleagues to put partisanship aside and to pass this important piece of legislation.

Mr. BACA. Mr. Speaker, I come to the floor today in opposition to H.R. 5. I oppose this legislation because it will do nothing to change the current liability rates for doctors and it will punish America's seniors, children, and poor people.

People must realize that if this bill is passed, patients will be limited to actual damages only. That means a child or senior citizen who doesn't have income would receive only $250,000 for their injuries but a CEO with the same injury could be compensated millions simply because his income is higher.

I just don't see the difference. Under this bill if a homemaker or a waitress from my district who works just as hard as a CEO goes into the hospital and is permanently disabled, she would receive $250,000. But if Bill Gates or Donald Trump goes into the hospital and experiences the same injury, a jury can award them millions.

Why don't the Republicans believe that the waitress or the homemaker deserve just compensation? Why do Republicans believe that a CEO's injury is worth more than our daughter's, son's, parent's, or grandparent's? Once again, we are seeing legislation from the Republicans that benefits only the wealthy.

Insurances companies are currently gouging our Nation's doctors and it needs to stop. But, capping punitive damages at $250,000 will not help doctors—it will only hurt patients.

I am horrified that my colleagues on the other side of the aisle want to trump the decisions made by juries and tell an injured patient who has just lost their eyesight or a limb due to gross negligence that their injury is worth only $250,000.

The patient could be in pain for the rest of their life. The Republicans want to take the power to decide away from the jury and tell everyone that their pain and suffering is only worth a mere $250,000—no matter how painful the injury, no matter how permanent the damage.

And the Republicans think that once medical malpractice claims are capped at $250,000 that insurances rates will drop. I hate to break it to the Republicans, but we tried that system in California. Over a 12-year-period rates rose 190 percent. It wasn't until we passed sensible insurance reform that doctors experienced relief from staggering insurances rates.

We need to get a grip on insurance rates to help the doctors, but not at the expense of injured patients. H.R. 5 does not make sense, we need to stop further punishing injured patients and pass sensible legislation that really helps doctors.

Mr. MOORE of Kansas. Mr. Speaker, I rise in opposition to H.R. 5.

Last year, when the House approved legislation virtually identical to H.R. 5, I expressed my strong belief that Congress should address the medical malpractice insurance system as a whole. My calls went unheeded.

I believed last year, as I believe now, that a solution to the problem of rapidly rising medical malpractice insurance premiums must address all of the factors that contribute to premium cost. I have spoken with many physicians in my congressional district about this problem, and almost to a person, they agree with my assessment that Congress should look at the entire health care system for a solution to this very complex problem. Neither this legislation nor the hearings held in House committees addressed the pricing and accounting practices of medical malpractice insurance companies. The legislation before us addresses neither the responsibilities of the medical profession, through state medical boards, to police itself, nor the barriers that exist in some states to keep the profession from doing so. This legislation does not provide solutions to address the problem of medical errors nor does it provide one dollar to help hospitals and physicians purchase existing technology that could dramatically reduce those errors. It is also clear that Congress has not clearly thought through the consequences of preempting the traditionally state-regulated and state-monitored field of health care professions.

I truly share the concern of many of my colleagues and those in the medical profession about the rising rate of medial malpractice premiums. Last week, in my office, representatives of the Kansas Medical Society expressed their concern that this legislation is overreaching and a threat to state laws in states like Kansas, where they believe that a delicate balance has been achieved between the interests of injured patients and the medical profession. Notably, many States, including those considered to be in "crisis," have acted or are now acting to get their own houses in order.

Mr. Speaker, I call on my colleagues to reject spurious, ill-conceived and overtly political solutions, and join with me in an effort to attain a comprehensive understanding of our Nation's health care system. Then we can truly find a solution to this very real crisis.

Mr. DELAHUNT. Mr. Speaker, the sponsors of this bill have assured the physicians of America that the bill will lower their insurance premiums. Yet it includes none of the provisions that would be necessary to bring about such a result.

The bill does nothing to reduce the staggering number of medical errors that kill so many thousands of Americans each year.

It does nothing to weed out the five percent of the medical profession who are responsible for 54 percent of the claims.

It does nothing to regulate the rates that insurance companies charge for their policies.

Instead of adopting any of these measures, the Republican majority has chosen to blame the victims—capping jury awards at artificially low levels that are insufficient to meet their needs, and that makes it difficult for them to find a qualified attorney who is willing to take their case.

The cap on non-economic damages is cruelest to the most vulnerable: children and mothers who stay at home. They have no econimic damages. No loss of employment. No loss of past and future earnings. No loss of business opportunities. Apart from their medical bills, all of their losses are non-economic—for pain and suffering. Physical impairment. Disfigurement.

It's unconscionable for Congress to deprive these victims of the right to have a jury decide what their pain and suffering is worth.

Stephen Olson was left blind and brain-damaged after an HMO refused to give him an $800 CAT scan when he was two years old. He'll need round-the-clock supervision for the rest of his life. The jury awarded him $7.1 million for his pain and suffering. But California has a cap of non-economic damages, so the judge was forced to reduce the award to $250,000. Is that really all he is owed for the irreversible damage that was done to him?

Linda McDougal received an unnecessary double mastectomy after doctors mixed up her lab results and erroneously told her that she had breast cancer. Under this bill, she would receive a maximum of $250,000 for her lifetime of pain and disfigurement. Is that really all she is owed? Is that really all the compensation we would wish for our own mothers, sisters, and wives?

The irony is that despite the claims of the bill's supporters, there is no reason to believe that the cap on non-economic damages will have a serious impact on insurance premiums. A report by the New Jersey Medical Society estimated that a state cap of $250,000 on non-economic damages might result in reductions of, at most, five-to-seven percent. Other studies suggest that insurance rates are affected less by the level of non-economic damages than by the amounts paid out for economic losses.

And in California, whose 1975 Medical Injury Compensation Reform Act, known as MICRA, was the model for many of the provisions of this bill, there is little persuasive evidence that the law has brought about any reduction in premiums. Indeed, a 1995 study concluded that premiums increased dramatically during the decade following enactment of MICRA, and only stabilized once the voters imposed rate regulation under a 1988 ballot measure known as Proposition 103.

The sponsors of the bill are unwilling to take that step. Far be it from them to impose regulation on the insurance industry! Yet when it comes to litigation, these apostles of free markets opt for wage and price controls. They are horrified at the thought that Congress would cap the amount of assets that wealthy bankrupts can shelter from their creditors, but have no compunction about capping the amount that malpractice victims can recover from their injuries.

I suppose it's all a question of priorities. If medical care were really a priority for the majority, we'd be talking about increasing reimbursement rates. Improving the quality of medical training. Providing incentives for doctors to practice in underserved communities. Reducing the paperwork burden that drives dedicated physicians out of the profession. But we can't talk about any of these things. They cost money. And with new tax cuts promised and deficits mounting, investments in the health care system are simply not a priority.

That's why we're debating a bill like this one instead. A bill that does nothing to address the legitimate concerns of physicians, while inflicting further harm on patients who have suffered enough.

Mr. SHUSTER. Mr. Speaker, the rising costs of medical liability insurance in Pennsylvania are among the worst in the country. In fact, Pennsylvania physicians faced a 50 percent increase in insurance costs in 2002, with an additional 50 percent hike expected this year. Physicians have moved from my district to other States to continue practicing medicine. Recently, one of the most efficient hospitals in my district was literally within an hour of closing its doors when its pathology department could not secure medical liability insurance the 11th hour. The threat of rising medical liability costs to quality patient care in central Pennsylvania is beyond a crisis situation. The time for the House to act is now.

H.R. 5 is common-sense legislation aimed at reducing the skyrocketing medical liability costs that are threatening the availability of quality patient care in Pennsylvania and throughout the country. In addition, H.R. 5 protects the rights of patients with legitimate claims to receive compensation for economic losses, medicals costs, and lost wages.

Mr. Speaker, the threat of frivolous medical liability litigation is endangering the ability of physicians in my district to provide quality patient care. Congress must do its part to ensure access to care is not jeopardized at the expense of lining the pockets of trial lawyers.

I urge my colleagues to vote in favor of H.R. 5.

Ms. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 5, the Medical Liability Limitation Act.

I represent many of the nation's premier health care and biomedical research institutions in the nation. As such, I have worked diligently to represent the interests of my district on health matters.

On this issue in particular, I have met with numerous doctors and I agree, they need relief from the high cost of insurance premiums. Rising health costs are not just impacting doctors. High health costs are hurting consumers, hospitals, employers and the economy, in general.

But H.R. 5 is not the right prescription!

Because of the strict caps for pain and suffering, H.R. 5 will especially harm women, children, the elderly and disabled individuals who may not have significant economic losses to recover. Stay-at-home moms and caregivers for children or the elderly, in particular, will be denied the ability to seek adequate compensation for damages inflicted upon them. H.R. 5 also will be especially punitive to women because many kinds of injuries that happen mostly to females—like those that affect the reproductive system, that cause a loss of fertility, or that are inflicted through sexual assault—are largely compensated through pain-and-suffering awards and other non-economic loss damages.

I met recently with a constituent who was a victim both of medical malpractice and pharmaceutical negligence. When she was in her mother's womb, her mother was prescribed DES at a time when reports about its ineffectiveness and its potential harmful effects on the fetus had already been circulated. Almost two decades later, she developed an adenocarcinoma, an aggressive cancer affecting her reproductive organs. Not only was she then misdiagnosed, her doctor prescribed treatments that were contraindicated and that hastened the growth of her cancer. The misdiagnosis resulted in extensive surgery and reconstruction resulting in her infertility and a lifetime of intense emotional and physical suffering. The pharmaceutical negligence, which was not accurately diagnosed for years—long after the statute of limitations would have expired under the terms of H.R. 5—has resulted in a lifetime of pain and a mountain of bills for follow-up medical care. If H.R. 5 had been the law when her mother had been prescribed DES, she would never have been awarded enough even to pay her extensive medical bills, let alone compensate her for years of pain and suffering.

For several Congresses, we have worked to pass a patient's bill of rights, to make sure that doctors and patients make medical decisions, not bureaucrats. H.R. 5 is an anti-patient's bill of rights.

H.R. 5 is too broad. Beyond the issue of medical malpractice, H.R. 5 includes severe liability limitations for pharmaceutical companies, medical device manufacturers, nursing homes and assisted living facilities, and insurance companies.

Unlike the Conyers/Dingell alternative which I strongly support, H.R. 5 promises no relief from the high malpractice insurance rates paid by doctors and hospitals and serves as nothing more than a bailout for insurance companies who are passing on their investment losses to doctors.

Vote "no" on H.R. 5.

Ms. DEGETTE. Mr. Speaker, I think we all agree that there is a crisis in medical malpractice insurance rates. Unfortunately, this bill does not mention insurance rates or offer solutions for the doctors who are feeling the burden of high premiums.

H.R. 5 relies on the misconception that savings from malpractice litigation reforms will relieve high insurance premiums. However, litigation is not the cause of high malpractice insurance rates. There has been no increase in the rate of malpractice claims filed in recent years and the average payout has remained steady over the past decade. In fact, the one state that proponents of malpractice litigation reform continually cite as a success is California. What they don't say is that California's malpractice insurance rates only stabilized after the state reformed its insurance system.

Despite this evidence, proponents of H.R. 5 have continued to represent this bill as a relief for physicians, rather than what it really is—a bill that will add additional injury to patients who have suffered from medical malpractice.

H.R. 5 would cap non-economic damages at an arbitrary amount of $250,000 for people who have been injured by malpractice. Noneconomic damages compensate people for injuries that are very real, like permanent disfigurement, loss of sight or a limb, loss of fertility, and wrongful death. The cap on non-economic damages is unfair and should not become law.

This bill tells people like Heather Lewinski, a 17 year old girl who suffered permanent facial disfigurement at the hands of a plastic surgeon who lied to her and her family, that the severe pain, trauma, and suffering that she went through is worth $250,000. The bill tells people like Linda McDougal, whose breasts were amputated after she had been misdiagnosed with cancer, that the loss of her breasts and dignity is only worth $250,000. And it tells the family of Jesica Santillan, the little girl who died because the hospital failed to ensure that the heart and lungs she was about to receive would be compatible with her blood type, that their little girl's life was only worth $250,000.

Some advocates of H.R. 5 say that the bill only caps non-economic damages, not economic damages and that a person can receive full economic compensation for their injuries. Yet, this is unfair to the millions of Americans who do not work—retirees, stay-at-home moms, children, and seniors because they do not have economic damages. For example, Heather Lewinski, who underwent surgery when she was only 8 years old, did not have any economic damages. Linda McDougal's medical bills were already paid for and her loss would not directly affect her future earning potential. Yet, she suffered emotional trauma and a loss of dignity. Is her loss worth an arbitrary amount that was determined by a group of politicians? I certainly don't think so.

By adopting strict monetary caps on damages, Congress is creating a solution for a problem that does not exist. Medical malpractice claims are not increasing and juries are not making outrageous awards. According to the National Center for State Courts, there was no increase in the volume of medical malpractice claims between 1997 and 2001. Additionally, of the 16,676 medical malpractice cases with awards in 2001, only 5 percent were for $1 million or more. Clearly, this represents an extraordinarily small number of cases. I do not believe we should be restricting the rights of patients to receive fair and adequate compensation for their losses because of this very small number of large awards.

If we truly want to fix the real crisis that is plaguing our nation's doctors, we need to take a good look at the insurance industry. According to a study using the insurance industry's own data and conducted by Americans for Insurance Reform, while the total amount paid out over the past decade by malpractice insurers directly tracks the rate of medical inflation, the premiums that insurance companies charge doctors increase or decrease depending on the economy. In my state of Colorado, which has certain caps on damages, insurance companies took in over $119 million in premiums in 2001. Yet, they only paid out $36 million.

We should be taking a comprehensive approach to this crisis instead of placing unfair burdens on patients. We should be looking at the insurance cycle, how insurers manage investments and reserves, and financial pressures that health care payers place on providers and how that affects the way care is delivered.

Instead, we are considering a bill that is akin to curing a headache by amputating an arm. Arbitrarily limiting patients' rights is not fair and it will not solve the problem.

Stand up for the rights of patients and oppose this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. Tens of thousands of people die each year from preventable medical errors. But rather than reform the medical system to prevent needless deaths and injuries, doctors and big insurance companies are lobbying to limit the rights of injured patients to seek full recovery in the courts. This measure unfairly impacts women and low income patients.

The HEALTH Act (H.R. 5) attempts to address the problem of high insurance costs for doctors by limiting punitive damages in medical malpractice cases to $250,000 and caps attorneys' fees under the guise of addressing the rising cost of medical malpractice insurance. H.R. 5 caps non-economic damages in the aggregate—regardless of the number of parties involved in the dispute.

Despite its claim, H.R. 5 does nothing to directly address the problem of rising medical malpractice insurance rates for doctors. Malpractice insurance companies can expect a huge windfall from this legislation because it limits how much they have to pay out in claims, but does not address how much these insurance companies charge in premiums to doctors. The insurance industry has said that there is no guarantee of any specific savings from passage of this type of legislation.

The major malpractice problem facing Texans is the unreliable quality of medical care being delivered, which is a result of frequent medical mistakes and a lack of doctor oversight by the state medical board.

Government data show that "repeat offender" doctors are responsible for the bulk of malpractice payments. Between September 1990 and September 2002, 6.5 percent of Texas' doctors made two or more malpractice payouts worth a total of more than $1 billion. These represented 51.3 percent of all payments, according to information obtained from the federal government's National Practitioner Data Bank. Just 2.2 percent of the doctors made three or more payments, representing about a quarter of all payouts.

For every $100 spent on health care in America, only $.66 has been spent on malpractice insurance. As patients are most often victimized by repeat offending doctors (a mere six percent of doctors in Texas are responsible for 46 percent of all malpractice), this bill does nothing to reduce negligence by doctors and hospitals, but decreases incentive to improve patient safety.

Medical errors cause 3,260 to 7,261 preventable deaths in Texas each year. These errors cost families and communities $1.3 billion to $2.2 billion annually in lost wages, lost productivity and increased health care costs. In contrast, medical malpractice insurance costs Texas's doctors less than $421.2 million annually.

One more time the patient (consumer) gets the lump for being victimized. Vote against this rule and this bill under consideration.

It is for these reasons that I will vote against the rule and the bill, H.R. 5, and I urge my Colleagues to vote against H.R. 5.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 139, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 5 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Medical Malpractice and Insurance Reform Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

Sec. 101. Statute of limitations.
Sec. 102. Health care specialist affidavit.
Sec. 103. Sanctions for frivolous actions and pleadings.
Sec. 104. Mandatory mediation.
Sec. 105. Limitation on punitive damages.
Sec. 106. Use of savings to benefit providers through reduced premiums.
Sec. 107. Definitions.
Sec. 108. Applicability.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

Sec. 201. Establishment.
Sec. 202. Duties.
Sec. 203. Report.
Sec. 204. Membership.
Sec. 205. Director and staff; experts and consultants.
Sec. 206. Powers.
Sec. 207. Authorization of appropriations.

## TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

**SEC. 101. STATUTE OF LIMITATIONS.**

(a) IN GENERAL.—A medical malpractice action shall be barred unless the complaint is filed within 3 years after the right of action accrues.

(b) ACCRUAL.—A right of action referred to in subsection (a) accrues upon the last to occur of the following dates:

(1) The date of the injury.

(2) The date on which the claimant discovers, or through the use of reasonable diligence should have discovered, the injury.

(3) The date on which the claimant becomes 18 years of age.

(c) Applicability.—This section shall apply to any injury occurring after the date of the enactment of this Act.

### SEC. 102. HEALTH CARE SPECIALIST AFFIDAVIT.

(a) Requiring Submission With Complaint.—No medical malpractice action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), it is accompanied by the affidavit of a qualified specialist that includes the specialist's statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(b) Extension in Certain Instances.—

(1) In general.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice action without submitting an affidavit described in such subsection if, as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit.

(2) Deadline for submission where extension applies.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual's attorney) submits the affidavit described in subsection (a) not later than 90 days after obtaining the information described in such paragraph.

(c) Qualified Specialist Defined.—In subsection (a), a "qualified specialist" means, with respect to a medical malpractice action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney)—

(1) to be knowledgeable in the relevant issues involved in the action;

(2) to practice (or to have practiced) or to teach (or to have taught) in the same area of health care or medicine that is at issue in the action; and

(3) in the case of an action against a physician, to be board certified in a specialty relating to that area of medicine.

(d) Confidentiality of Specialist.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

### SEC. 103. SANCTIONS FOR FRIVOLOUS ACTIONS AND PLEADINGS.

(a) Signature Required.—Every pleading, written motion, and other paper in any medical malpractice action shall be signed by at least 1 attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) Certificate of Merit.—(1) A medical malpractice action shall be dismissed unless the attorney or unrepresented party presenting the complaint certifies that, to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

(2) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) Mandatory Sanctions.—

(1) First violation.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in violation, or upon both such person and such person's attorney or client (as the case may be).

(2) Second violation.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) Third violation.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

### SEC. 104. MANDATORY MEDIATION.

(a) In General.—In any medical malpractice action, before such action comes to trial, mediation shall be required. Such mediation shall be conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(b) Requirements.—Mediation under subsection (a) shall be made available by a State subject to the following requirements:

(1) Participation in such mediation shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(2) Each State shall disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including such mediation.

(3) Each State shall provide that such mediation may begin before or after, at the option of the claimant, the commencement of a medical malpractice action.

(4) The Attorney General, in consultation with the Secretary of Health and Human Services, shall, by regulation, develop requirements with respect to such mediation to ensure that it is carried out in a manner that—

(A) is affordable for the parties involved;

(B) encourages timely resolution of claims;

(C) encourages the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution.

(c) Further Redress and Admissibility.—Any party dissatisfied with a determination reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications made during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

### SEC. 105. LIMITATION ON PUNITIVE DAMAGES.

(a) In general.—Punitive damages may not be awarded in a medical malpractice action, except upon proof of—

(1) gross negligence;

(2) reckless indifference to life; or

(3) an intentional act, such as voluntary intoxication or impairment by a physician, sexual abuse or misconduct, assault and battery, or falsification of records.

(b) Allocation.—In such a case, the award of punitive damages shall be allocated 50 percent to the claimant and 50 percent to a trustee appointed by the court, to be used by such trustee in the manner specified in subsection (d). The court shall appoint the Secretary of Health and Human Services as such trustee.

(c) Exception.—This section shall not apply with respect to an action if the applicable State law provides (or has been construed to provide) for damages in such an action that are only punitive or exemplary in nature.

(d) Trust Fund.—

(1) In general.—This subsection applies to amounts allocated to the Secretary of Health and Human Services as trustee under subsection (b).

(2) AVAILABILITY.—Such amounts shall, to the extent provided in advance in appropriations Acts, be available for use by the Secretary of Health and Human Services under paragraph (3) and shall remain so available until expended.

(3) USE.—

(A) Subject to subparagraph (B), the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall use the amounts to which this subsection applies for activities to reduce medical errors and improve patient safety.

(B) The Secretary of Health and Human Services may not use any part of such amounts to establish or maintain any system that requires mandatory reporting of medical errors.

(C) The Secretary of Health and Human Services shall promulgate regulations to establish programs and procedures for carrying out this paragraph.

(4) INVESTMENT.—

(A) The Secretary of Health and Human Services shall invest the amounts to which this subsection applies in such amounts as such Secretary determines are not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Secretary in such Secretary's capacity as trustee of such amounts may be sold by the Secretary at the market price.

### SEC. 106. USE OF SAVINGS TO BENEFIT PROVIDERS THROUGH REDUCED PREMIUMS.

(a) IN GENERAL.—Notwithstanding any other provision of this title, a provision of this title may be applied by a court to the benefit of a party insured by a medical malpractice liability insurance company only if the court—

(1) determines the amount of savings realized by the company as a result; and

(2) requires the company to pay an amount equal to the amount of such savings to a trustee appointed by the court, to be distributed by such trustee in a manner that has the effect of benefiting health care providers insured by the company through reduced premiums for medical malpractice liability insurance.

(b) DEFINITION.—For purposes of this section, the term "medical malpractice liability insurance company" means an entity in the business of providing an insurance policy under which the entity makes payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim.

### SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION METHOD.—The term "alternative dispute resolution method" means a method that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice action or a medical malpractice claim.

(6) MANDATORY.—The term "mandatory" means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(7) MEDIATION.—The term "mediation" means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(8) MEDICAL MALPRACTICE ACTION.—The term "medical malpractice action" means an action in any State or Federal court against a physician, or other health professional, who is licensed in accordance with the requirements of the State involved that—

(A) arises under the law of the State involved;

(B) alleges the failure of such physician or other health professional to adhere to the relevant professional standard of care for the service and specialty involved;

(C) alleges death or injury proximately caused by such failure; and

(D) seeks monetary damages, whether compensatory or punitive, as relief for such death or injury.

(9) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim forming the basis of a medical malpractice action.

(10) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and any other territory or possession of the United States.

### SEC. 108. APPLICABILITY.

(a) IN GENERAL.—Except as provided in section 104, this title shall apply with respect to any medical malpractice action brought on or after the date of the enactment of this Act.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice actions on the basis of section 1331 or 1337 of title 28, United States Code.

## TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

### SEC. 201. ESTABLISHMENT.

(a) FINDINGS.—The Congress finds as follows:

(1) The sudden rise in medical malpractice premiums in regions of the United States can threaten patient access to doctors and other health providers.

(2) Improving patient access to doctors and other health providers is a national priority.

(b) ESTABLISHMENT.—There is established a national commission to be known as the "Independent Advisory Commission on Medical Malpractice Insurance" (in this title referred to as the "Commission").

### SEC. 202. DUTIES.

(a) IN GENERAL.—(1) The Commission shall evaluate the effectiveness of health care liability reforms in achieving the purposes specified in paragraph (2) in comparison to the effectiveness of other legislative proposals to achieve the same purposes.

(2) The purposes referred to in paragraph (1) are to—

(A) improve the availability of health care services;

(B) reduce the incidence of "defensive medicine";

(C) lower the cost of health care liability insurance;

(D) ensure that persons with meritorious health care injury claims receive fair and adequate compensation; and

(E) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

(b) CONSIDERATIONS.—In formulating proposals on the effectiveness of health care liability reform in comparison to these alternatives, the Commission shall, at a minimum, consider the following:

(1) Alternatives to the current medical malpractice tort system that would ensure adequate compensation for patients, preserve access to providers, and improve health care safety and quality.

(2) Modifications of, and alternatives to, the existing State and Federal regulations and oversight that affect, or could affect, medical malpractice lines of insurance.

(3) State and Federal reforms that would distribute the risk of medical malpractice more equitably among health care providers.

(4) State and Federal reforms that would more evenly distribute the risk of medical malpractice across various categories of providers.

(5) The effect of a Federal medical malpractice reinsurance program administered by the Department of Health and Human Services.

(6) The effect of a Federal medical malpractice insurance program, administered by the Department of Health and Human Services, to provide medical malpractice insurance based on customary coverage terms and liability amounts in States where such insurance is unavailable or is unavailable at reasonable and customary terms.

(7) Programs that would reduce medical errors and increase patient safety, including new innovations in technology and management.

(8) The effect of State policies under which—

(A) any health care professional licensed by the State has standing in any State administrative proceeding to challenge a proposed rate increase in medical malpractice insurance; and

(B) a provider of medical malpractice insurance in the State may not implement a rate increase in such insurance unless the provider, at minimum, first submits to the appropriate State agency a description of the rate increase and a substantial justification for the rate increase.

(9) The effect of reforming antitrust law to prohibit anticompetitive activities by medical malpractice insurers.

(10) Programs to facilitate price comparison of medical malpractice insurance by enabling any health care provider to obtain a quote from each medical malpractice insurer to write the type of coverage sought by the provider.

(11) The effect of providing Federal grants for geographic areas that have a shortage of one or more types of health providers as a result of the providers making the decision to cease or curtail providing health services in the geographic areas because of the costs of maintaining malpractice insurance.

### SEC. 203. REPORT.

(a) IN GENERAL.—The Commission shall transmit to Congress—

(1) an initial report not later than 180 days after the date of the initial meeting of the Commission; and

(2) a report not less than each year thereafter until the Commission terminates.

(b) CONTENTS.—Each report transmitted under this section shall contain a detailed statement of the findings and conclusions of the Commission.

(c) VOTING AND REPORTING REQUIREMENTS.—With respect to each proposal or recommendation contained in the report submitted under subsection (a), each member of the Commission shall vote on the proposal or recommendation, and the Commission shall include, by member, the results of that vote in the report.

### SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

(2) INCLUSION.—The membership of the Commission shall include the following:

(A) Two individuals with expertise in health finance and economics, including one with expertise in consumer protections in the area of health finance and economics.

(B) Two individuals with expertise in medical malpractice insurance, representing both commercial insurance carriers and physician-sponsored insurance carriers.

(C) An individual with expertise in State insurance regulation and State insurance markets.

(D) An individual representing physicians.

(E) An individual with expertise in issues affecting hospitals, nursing homes, nurses, and other providers.

(F) Two individuals representing patient interests.

(G) Two individuals with expertise in health care law or health care policy.

(H) An individual with expertise in representing patients in malpractice lawsuits.

(3) MAJORITY.—The total number of individuals who are directly involved with the provision or management of malpractice insurance, representing physicians or other providers, or representing physicians or other providers in malpractice lawsuits, shall not constitute a majority of the membership of the Commission.

(4) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of the Commission of financial or other potential conflicts of interest relating to such members.

(c) TERMS.—

(1) IN GENERAL.—The terms of the members of the Commission shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(2) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) COMPENSATION.—Members of the Commission shall be compensated in accordance with section 1805(c)(4) of the Social Security Act.

(4) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate at the time of appointment a member of the Commission as Chairman and a member as Vice Chairman. In the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

(5) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairman.

(B) INITIAL MEETING.—The Commission shall hold an initial meeting not later than the date that is 1 year after the date of the enactment of this title, or the date that is 3 months after the appointment of all the members of the Commission, whichever occurs earlier.

### SEC. 205. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of the Commission, the Commission may—

(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties;

(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

(4) make advance, progress, and other payments which relate to the work of the Commission;

(5) provide transportation and subsistence for persons serving without compensation; and

(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

### SEC. 206. POWERS.

(a) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

(b) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

(1) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

(2) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

(3) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

(c) ACCESS OF GENERAL ACCOUNTING OFFICE TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

(d) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General of the United States.

### SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 2004 through 2008.

(b) REQUESTS FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

Amend the title so as to read: "A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes.".

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, this is the Conyers-Dingell motion to recommit. It started out originally as the Conyers-Dingell substitute motion which, in the wisdom of the Committee on Rules and the chair of the Committee on Energy and Commerce, was determined not to be necessary. We did not need to waste this much time worrying or going over the same matter twice. So let us just have a 5-minute discussion on each side about a multibillion-dollar measure that affects every man, woman, and child in the United States of America. So I will take a couple of minutes and ask the dean of the House to spend the rest of the time making sure that we all understand what it does.

First of all, we do something about the problem that has been complained of grievously by every Member that has taken to the floor today. We do something about it. That is, we limit frivolous lawsuits by requiring that there is mandatory mediation for every malpractice lawsuit filed in the United States of America and that we require that attorneys' certificates of merit and mandatory sanctions occur. We require that affidavits of merit be provided from qualified medical specialists. We attempt to, in short, weed out frivolous lawsuits that will not restrict the rights of those with legitimate claims. Of course, finally, it is very important to realize that we reexamine the antitrust exemption that has been enjoyed by the insurance industry all of these years.

Mr. Speaker, I am delighted now to yield the balance of the time to the dean of the House, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, the bill before us is a bad bill. The motion to recommit is forced upon us by the recalcitrance of the Republican leadership which has not permitted us to offer a substitute. This is the package that we could go home and talk with pride of to our people and to our doctors. It weeds out frivolous lawsuits. It does not restrict the rights of legitimate claimants. It establishes an equitable, 3-year statute of limitation that protects children, the aged, the poor.

It requires affidavits of merit from qualified medical specialists and attorneys' certificates of merit with mandatory sanctions. It requires mandatory mediation. It also allows health care providers to challenge malpractice premium increases. It provides direct assistance to physicians in crisis areas through Federal grants, and it provides direct assistance to medical centers in danger of closing. It repeals the antitrust exemption for malpractice insurance, and it establishes Federal malpractice insurance and a reinsurance program. This is a program that will work.

Under a House in which we had a decent opportunity to debate and amend, Members of this body would understand that this is the package for which they want to vote. They would understand that this is a package which their people wish them to vote for, and I include in that the health care providers. It is a bill, or rather an amendment, which would assure that health care providers would receive the help that they need while, at the same time, not providing unnecessary shelters for HMOs and other undeserving persons who have contrived to leap aboard a vehicle which they think is going out and a situation which permits the doctors to be used as frontmen for a bunch of iniquitous rascals who do not deserve relief.

Mr. CONYERS. Mr. Speaker, we yield back any time that may be remaining.

The SPEAKER pro tempore. Does the gentleman from Louisiana (Mr. TAUZIN) seek time in opposition to the motion?

Mr. TAUZIN. I do, Mr. Speaker.

I first yield to the gentleman from Nevada (Mr. GIBBONS) for a colloquy.

Mr. GIBBONS. Mr. Speaker, I would like to ask the gentleman from Louisiana (Mr. TAUZIN) a question which concerns the relationship of Nevada law and H.R. 5.

In my State of Nevada, we have recently passed a law that sets forth a $350,000 cap for noneconomic damages, but it has some exceptions. I would like to know how this legislation applies in this circumstance.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman. Subparagraph 11(c)(1) says: "Any State law, whether effective before, on, or after the dates of the enactment of this Act that specifies a particular monetary amount of compensatory or punitive damages, or the total amount of damages, that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided under this Act."

Nevada's $350,000 cap generally fits the terms of this subparagraph and would generally apply. The handling of the exceptions is not specifically stated in the legislation. I would be prepared to work with the gentleman to discuss these exceptions as we move further in the process of this legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for his response, and I look forward to working with him on this matter.

Mr. TAUZIN. Mr. Speaker, the Dingell motion offers us a different solution than H.R. 5. Interestingly enough, not a single one of the 175 health care organizations and associations, doctors across America, endorses that solution.

□ 1445

But they have all endorsed H.R. 5. And let me explain to you why the doctors and the health care organizations have not endorsed the Dingell solution and have endorsed H.R. 5. By the way, the Committee on Energy and Commerce took a vote on the general substance of this motion to recommit and voted 30 to 20 against it and it was not a party line vote. Let me tell you why it was defeated, why so many organizations opposed it. Because what it generally offers is not insurance reform but a Federal commission, another bureaucracy to study the problem and to make recommendations one day to us.

We have studied this problem ad infinitum. We have held numerous hearings. The States have experienced this problem going back 25 years and they have offered us a solution. We are following their lead after 25 years of experience. Do we really need another Federal commission? No insurance reform, just a commission? And then to solve the problem of high malpractice liability coverage, this is the Dingell motion to recommit solution, not a single limitation at all on recoveries, unlimited recoveries as in current law, not a single cap on any kind of damages. Instead we get an attorney's certificate of merit. An attorney's certificate of merit. We get the trial lawyer to say, I think I have got a good lawsuit, and that is the solution.

Mr. Speaker, when an attorney signs a petition, when he signs the most egregiously incorrect, horribly drafted, when he signs the most inappropriate false petition, when he signs his name on it he is attesting to the validity of that petition. It may be a bad petition. It may be the most horrible lawsuit ever filed. It may get dismissed on the first motion to have it dismissed, but when he signed his name on it, he said it was a good petition.

So what does the Democratic motion to recommit tell us? We are going to solve this problem in America by having the same attorney sign a certificate that he has got a good suit, that he has got a good petition. Wow, that will really solve the problem.

I think you see why now that solution has been rejected by 175 organizations representing the doctors, the nurses, all the organizations across America who are crying to us for relief, who are telling us we are tired of petitions signed by lawyers that have no merit, that drive up medical malpractice suits, that drive us out of business and deprive the citizens of our country needed medical care when their loved ones need it the most. They are crying to us for help and the victims that came to us in our committee room and said, for God's sake, it is horrible when somebody commits a medical error, but it is also terrible when the doctor is not there when my child is sick, when my husband has been horribly mutilated in an automobile accident, when my daughter is trying to deliver her first child and there is no doctor there willing to do it because the cost of liability insurance is too high. They are crying to us to do something today. The motion to recommit tells us, well, let us just trust the lawyers and create a Federal commission. Whoopie-ding.

What do we tell those victims when we said all we did was trust the lawyers and created another Federal commission? I did not come here to create new Federal commissions to tell us what the problems were and what the solutions were. I came here like the rest of you, to figure out what the problems were and to solve them. H.R. 5 solves this program and deserves to be passed. This motion to recommit needs to go down.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 191, nays 234, not voting 9, as follows:

[Roll No. 63]

YEAS—191

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—234

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Janklow
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Clyburn
Combest
DeGette
Doyle
Gilchrest
Hyde
Istook
Johnson (IL)
Snyder

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG) (during the vote). There are 2 minutes left in this vote.

□ 1508

Messrs. McHUGH, QUINN, BURGESS, HOUGHTON, TANCREDO, BRADY of Texas and SAXTON changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 196, answered "present" 1, not voting 8, as follows:

[Roll No. 64]

AYES—229

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Dooley (CA)
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Janklow
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield

Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—196

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—1

Bachus

NOT VOTING—8

Combest
DeGette
Doyle
Gilchrest
Hyde
Johnson (IL)
Shuster
Snyder

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1516

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3. An act to prohibit the procedure commonly known as partial-birth abortion.

The message also announced that pursuant to section 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Idaho (Mr. CRAPO) as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

The message also announced that in accordance with section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Delaware (Mr. BIDEN) as Vice Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Eighth Congress.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for floor consideration of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation to the Committee on Rules up in room H-312 of the Capitol by noon on Tuesday, March 18. Members should draft their amendments to the bill as reported by the Committee on the Judiciary on March 12, 2003. Members are advised that the text should be available for their review on the Web sites of the Committee on the Judiciary and the Committee on Rules by Friday, March 14.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be sure their amendments comply with the rules of the House.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 17 to grant a rule which could limit the amendment process for the concurrent resolution on the budget for fiscal year 2004. Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol no later than 6 p.m. on Tuesday, March 18.

As in past years, Mr. Speaker, the Committee on Rules intends to give priority to amendments offered as complete substitutes. Members are advised that the text of the concurrent resolution, as ordered reported by the Committee on the Budget, should be available on the Web sites of both the Committee on the Budget and the Committee on Rules no later than Friday, March 14. Members should use the Office of Legislative Counsel to ensure their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I wish to inquire of the distinguished majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of the bills will be sent to the Members' offices early next week.

I might alert the Members, Mr. Speaker, that in a change from our traditional schedule, I would like to put the Members on notice that we plan to vote one-half hour earlier than usual on Tuesday, at 6 p.m. Members from both sides of the aisle have asked for flexibility this Tuesday because a number of them and their spouses are involved in the annual March of Dimes Dinner Gala, which begins at 6:30. So Members should be aware that we are still trying to work it out with the minority, but be aware that they could be notified that votes will start at 6 p.m. Tuesday rather than the normal 6:30.

Next week we expect to consider H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, as well as the 2004 Budget Resolution.

Earlier this week, the Subcommittee on Crime of the Committee on the Judiciary marked up H.R. 1104, the Child Abduction Prevention Act. Nearly identical legislation passed the House last Congress with close to 400 "yea" votes. Chairman SENSENBRENNER has announced that the Committee on the Judiciary will report the bill out from a markup on Tuesday.

This important legislation would codify a current judicial program to implement a nationwide Amber Alert System. In addition, this bill eliminates the statute of limitations for child abduction and sex crimes, prohibits pretrial release in cases of rape or child kidnapping, provides for mandatory minimum sentencing for child kidnapping, and establishes a "two strikes and you're out" for child sex offenders.

We hope to work with the minority to find a way to bring this important legislation to the floor next Wednesday, realizing that the House rules require a 2-day layover, after committee markup, to allow the minority to express their dissenting and minority views on legislation. But I hope we can work together in expediting this very important legislation to the floor.

Mr. Speaker, I thank the gentleman for yielding to me, and I am happy to answer any questions.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for the information he has provided us, and I will have a number of questions.

Mr. MATHESON. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Utah who would like to address the Amber Alert System and events that have occurred in his district.

Mr. MATHESON. Mr. Speaker, I thank the minority whip.

Mr. Speaker, I would suggest that we saw the benefits of an Amber Alert-like program yesterday in the State of Utah. We had a wonderful event occur, and it occurred because information got out to the public.

What concerns me, Mr. Speaker, is that the Senate has already passed national Amber Alert legislation unanimously. It has been in the House for 2 months now, about; and I would submit that the legislation referred to that is going to be in the Committee on the Judiciary contains a number of other provisions which are worthy of consideration, but I would suggest it might be worthwhile for us to take a look at the Frost-Dunn bill, the straight Amber Alert bill passed through the United States Senate. We could take it up on a unanimous consent request right now and get it on the President's desk right away.

Every day we delay is a day when another abducted child may have less access to an Amber Alert System that gets the information out to people. We learned a lesson in Salt Lake City. We are very proud of the miracle that occurred yesterday. Mr. Smart, in his time of triumph, still is emphasizing the need for Congress to move forward on this, and I would suggest that that is something this body ought to consider.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas, the ranking member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding. As the gentleman knows, the Amber bill, the Amber Alert plan, was named after a little girl, Amber Hagerman, who was abducted and murdered in my district in Texas, in Arlington, Texas; and the Senate, as previously mentioned, has passed this as a stand-alone bill, unanimously, and has sent it to the House.

I would ask my friend, the distinguished majority leader, what is the objection to bringing the Amber bill as a stand-alone matter, that has already been passed by the Senate, to the House either under unanimous consent or under suspension of the rules?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I will be glad to yield to the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's question, and I might point out that the gentleman, as well as many other Members around here, are always calling for regular order and we are expediting regular order.

The bill that the gentleman refers to is a bill that has just been marked up this week, even before, thank goodness, Mr. Smart's daughter was returned to him, and was on its way to full committee to be marked up later on next week. Because of the situation, the chairman of the Committee on the Judiciary feels very strongly that they can expedite the matter, actually hold an unusual markup before Members return, and hopefully have this bill on the floor on Wednesday.

There are a lot of provisions in this bill that help. And I might also point out to the gentleman that the Justice Department is running an Amber Alert System in 38 States. They are up and going. There are over 80 systems, Amber Alerts, operating as we speak. So it is not a situation where there will not be coverage of Amber Alerts out there. But I think this legislation is important to get at these criminals that are kidnapping these children, to help the police departments find them quicker and easier and be able to put them away, away from our children, along with codifying what the Justice Department is already doing.

Mr. FROST. If the gentleman from Maryland will continue to yield, my friend, the gentleman from Texas (Mr. DELAY), understands that by putting the Amber Alert legislation into a larger omnibus bill, this delays for a very substantial period of time the passage of the Amber Alert bill. There are a number of controversial provisions that have been added to it by the Committee on the Judiciary, provisions that were passed last year and were found unacceptable by the Senate.

I would repeat my question: What is the objection simply to bringing the Amber Alert bill itself as a stand-alone matter that has already been passed by the Senate? What is the objection to bringing that to the floor of the House?

Mr. HOYER. Reclaiming my time, Mr. Speaker, and before the majority leader answers that question, I would say to him that I have had consultation with the Democratic minority leader; and the Democratic leader and myself, I would say on behalf of our side of the aisle, we would agree to a unanimous consent request today to bring the Senate bill, which as I understand is Senate Bill 121, which essentially is the base bill.

I, frankly, do not interpose objections to that which the gentleman has outlined in his statement will be added to the bill. I do not necessarily find any one of those individual items objectionable: and as I understand, in the committee they were not particularly controversial. But we obviously could accelerate that.

The gentleman is correct. We do want to go by regular order. Regular order is obviously seeking from both sides a unanimous consent to take some action, and I say to the gentleman that consistent with what the gentleman from Texas (Mr. FROST) has said, this side of the aisle would be prepared to give a unanimous consent agreement to passing that bill before we go home today.

Mr. DELAY. Well, if the gentleman will continue to yield, I am not sure I remember the question of the gentleman from Texas.

Mr. FROST. Mr. Speaker, I would repeat my question, if I may.

Mr. HOYER. I yield to the gentleman for that purpose.

Mr. FROST. Mr. Speaker, my question is, What is the objection on the majority side to bringing the stand-alone Amber bill to the floor which has already been passed by the Senate, to bring it to the floor as a separate item and not part of a larger bill?

Mr. DELAY. I appreciate the gentleman's continuing to yield; and, Mr. Speaker, let me just say that I do not agree with the assessment of the gentleman from Texas as to how slow this process can be. And if we honor what this House has already expressed itself on, I remind the gentleman that this bill that he is talking about that got so bogged down, passed this House with over 400 votes and went to the other body where the other body killed it in the last Congress.

So this House has expressed itself that it thinks it is important not only to codify the Amber Alert System that is being run by the Judiciary Department but also to eliminate the statute of limitations for child abduction and sex crimes, to prevent pretrial release in cases of rape or child kidnapping, to provide for a mandatory minimum sentence for child kidnapping, and we also would like to see a "two strikes and you're out'' requirement for child sex offenders. I think all of these issues are vitally important when it comes to dealing with children that are being kidnapped in this country.

☐ 1530

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, if the gentleman from Texas (Mr. DELAY) did not see the press conference earlier today carried on CNN, I would advise the gentleman that the senior Republican Senator from Texas, Senator KAY BAILEY HUTCHISON, who was a cosponsor of the Amber bill in the Senate, urged that the House take up the Senate passed Amber bill as a clean bill with a separate vote.

Mr. Speaker, I would inquire, did the gentleman see Senator HUTCHISON's statement?

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. I did not see the press conference, but I just ask the question, what did she do to pass the bill out of the Senate in the last Congress?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, she introduced the Amber Plan in this Congress and had it passed unanimously 92–0, she and Senator DIANNE FEINSTEIN. That is all we are asking, that there be a separate stand-alone vote on the Amber bill in the House, just as there was in the Senate, so it can be sent to the President and signed into law.

If the gentleman would indulge me further, I would like to very briefly read part of a letter that I received today from a city Councilman in my district, Councilman Joe Bruner from the City of Arlington, Texas.

> Dear CONGRESSMAN FROST: I understand you have sponsored a bill which will take Arlington's own Amber Plan nationwide. In this day of turmoil and terror, I cannot think of any other means which would better cause the minds of moms and dads to return to normalcy. Doreen and I have always had a special place in our heart for little Amber and defy anyone to ever hinder the implementation of the Amber Plan. As councilman for the district here in Arlington where her body was found, I take exception to Congressman SENSENBRENNER's refusal to let your bill go through.

Then the letter continues.

This really speaks to the fact that the gentleman from Wisconsin (Chairman SENSENBRENNER) and the majority leader insists that the Amber Plan be combined with a larger piece of legislation that has had difficulty in the Senate.

I strongly urge my friend on the other side of the aisle, who has demonstrated an interest in children's issues, to persuade the chairman of the Committee on the Judiciary to permit this bill to go forward.

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman's concern. I have the same concern the gentleman has. I have convinced the chairman to accelerate the process. We are going to have this bill on the floor. With the cooperation of the minority, we will have this bill on the floor next week.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

At some point in time perhaps we can discuss further the regular order. I observe only that it is my understanding there is a bill coming over from the Senate that will not be referred to committee, will not be subject to amendment, will be taken up and passed as the Senate passed it, and it is my understanding that will be done because of the view of the majority how important it is to pass that bill immediately. That is the partial birth abortion bill.

Am I correct that is the procedure which the majority intends to follow?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I doubt that. I have not had an opportunity to see that the Senate has even passed the partial birth abortion bill yet. If they have, we will take a look at it. The last I checked, there was an amendment put on the bill that would cause it to go to conference under regular order.

Mr. HOYER. It has not passed the House yet. It is coming from the Senate, and obviously there may be amendments on it. It is our understanding that will be taken in effect from the desk as the Senate bill, voted on, and sent to the President.

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, actually the gentleman from Wisconsin (Mr. SENSENBRENNER) intended to mark up a partial birth abortion bill next week, but under the circumstances he wanted to accelerate the Amber alert bill and take it up earlier, and so he is putting off the markup on the partial birth abortion bill that we would bring to the floor, and then hopefully go to conference with the Senate under regular order.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for that comment.

The gentleman indicated that next week we will be taking up the budget. Can the gentleman tell me whether or not all substitutes that are requested from the Congressional Black Caucus, from the Progressive Caucus, from the Blue Dogs and from the Democrats on the Committee on the Budget will be made in order? I see the distinguished chairman of the Committee on Rules is standing.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I know the chairman of the Committee on Rules is a very fair man and the Committee on Rules tries to be as fair as they can. I would presume that the committee will be inclined to follow historic practice for the consideration of the budget next week.

Mr. HOYER. Mr. Speaker, I respectfully inform the majority leader, we were very concerned about the fact that we were shut down today in terms of offering amendments or substitutes. I will respectfully advise the majority that if that continues to occur, there will be actions on our side of the aisle to try to express our deep concern about that.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I simply will say as the distinguished majority leader has said, I actually made the announcement just a few minutes ago about the request that we have proposals submitted to the Committee on Rules by early next week so we will be able to consider this measure on Wednesday. It is our intention, as has been our intention in the past, to do everything we possibly can to make substitutes in order and as many substitutes as we possibly can.

I want to assure the gentleman that is the goal of the Committee on Rules, and we will look forward to testimony from our many colleagues who would like to offer proposals.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman and express the fervent hope that the committee will be able to reach its goals. They are commendable goals to achieve, and I hope they are achieved.

Mr. Speaker, we have been talking about the Amber bill and adding things to it. We had a bill a week and a half ago on the floor. That was to aid our men and women in the armed forces whom we are sending in harm's way. We were not able to pass it the week before. We have not passed it this week. Can the gentleman advise us as to the status of that bill.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the Committee on Ways and Means held a markup of the Social Security bill yesterday, and I expect to consider that legislation under a rule in the next week or so.

On the Armed Services Tax Fairness Act, the committee is still reviewing options for potential changes to that bill, but we also expect to consider that legislation in the very near future.

Mr. HOYER. Mr. Speaker, reclaiming my time, I advise the distinguished majority leader that I am authorized on behalf of the minority to tell the gentleman that if that bill were reported out without any additional items attached to it, we would be prepared to give unanimous consent so it could be passed either next Tuesday night or Wednesday.

Mr. Speaker, lastly, it is my understanding that we obviously want to accommodate those who want to go to that dinner, but am I correct in observing that the normal practice on Tuesdays will continue to be 6:30?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the gentleman is correct. This is a special and rare occurrence where we would not be starting votes on legislation at 6:30 on a day that we come back into session. There are extenuating circumstances, and we are trying to accommodate our Members. Yes, we hope to stick to 6:30 as much as possible.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

## ADJOURNMENT TO MONDAY, MARCH 17, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent when the House adjourns today, it adjourn to meet at noon on Monday, March 17, 2003.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

## HOUR OF MEETING ON TUESDAY, MARCH 18, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 17, that it adjourn to meet at 12:30 p.m. on Tuesday, March 18, 2003, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## HONORING KATHLEEN CASEY AND ALL IRISH AMERICANS ON ST. PATRICK'S DAY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Madam Speaker, with St. Patrick's Day only a few days away, it is appropriate for us to recognize and, yes, celebrate the role that Irish Americans have played in our history and in the development of our national character.

So many Irish Americans came here seeking refuge from tyranny and hunger in their own homeland. They never forgot that suffering that they left behind, which helped ensure that America has, over the years, sided with the oppressed and cared for the less fortunate.

Irish Americans passed on these values, along with a sense of decency and a commitment to justice, as well as a love of song and humor, from generation to generation. One of those proud Americans of Irish descent is Kathleen Casey of Orange County, California, who turns 80 years old today. We wish her a happy birthday, and will join her and other Irish Americans in the celebration of St. Patrick's Day this coming Monday.

## NO STRATEGIC PETROLEUM RESERVES TO BE RELEASED

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Madam Speaker, I urge Members to read the Wall Street Journal today wherein the Secretary of Energy, appointed by President Bush, assured Ali Naimi, the Saudi Minister, the man in charge of manipulating oil supply and heading up their negotiations with the cartel to control prices and to constrain supply, he assured him, Mr. Abraham, the Secretary of Energy, assured him the United States would not release oil from its Strategic Petroleum Reserve to help control the prices being gouged out of Americans by the Saudis and others.

That is outrageous. I cannot believe that the Secretary of Energy appointed by President Bush has cut a deal with the Saudis that we will not release our Strategic Petroleum Reserve to help the American consumers, to help keep our airlines from going bankrupt, to help keep our truckers from going bankrupt, and to help keep American families from not being able to put food on the table so they can buy a tank of gas for their car. There is something wrong with that. I have sent the Secretary of Energy a letter to ask him to explain his position to the American people.

## EXPRESSING REGRET FOR ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, I rise today to express my deep regret at the tragic assassination yesterday of Serbian Prime Minister Zoran Djindjic. Prime Minister Djindjic worked closely with my friend, Jim Denton, and my chief of staff, Brad Smith, in pursuing democratization in Serbia. In a country that has seen more than its share of autocratic governments, the Prime Minister promoted democratic ideals throughout his political career. He was one of the founding members of the Centrist Democratic Party in 1989, one of the leading anti-Milosevic parties. He was also instrumental in fostering the mass protest that ultimately ended Slobodan Milosevic's rule in 2000.

Since that time, he served as the Prime Minister of Serbia, promoting economic development and democratization within the former Yugoslavia. Prime Minister Djindjic was instrumental in delivering Slobodan Milosevic to face the war crimes charges before The Hague Tribunal.

It may be well that Mr. Djindjic's unabashed support for governance and his efforts to end corruption led to his tragic death. As we here in the United States continue to take advantage of our freedom and representative government, we must remember that there are fragile democracies all around the world.

Our Nation learned long ago that liberty does not come without a price. As other nations learn that same unfortunate lesson, the United States must continue to promote international democratization so the sacrifices of Prime Minister Djindjic and other revolutionaries will not have been in vain.

☐ 1545

## MOURNING ASSASSINATION OF SERBIAN PRIME MINISTER DJINDJIC

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I want to join the gentleman from California (Mr. DREIER) in his comments about Mr. Djindjic, the Prime Minister of Serbia. Serbia in the 1990s, like Iraq has gone through, was under the heel of a despot who was vicious and who in my opinion was a war criminal. When the United States acted to displace the Milosevic regime and ultimately Milosevic was voted out of office because we went into Kosovo, it was Mr. Djindjic who showed the courage and the moral commitment to ensure that Mr. Milosevic would be transferred to The Hague to answer for his crimes. That trial currently is going on. It is going on because Mr. Djindjic had the courage to facilitate the transfer out of Serbia to The Hague of the alleged war criminal Slobodan Milosevic.

He has now been assassinated. We do not know yet who the perpetrator of that assassination is. Suffice it to say, we have lost someone whose courage and commitment to freedom and human rights was an important aspect for his country and for the international community. We are a lesser international community for his loss.

## APPOINTMENT OF MEMBER TO MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mrs. BLACKBURN). Pursuant to 22 U.S.C. 276h, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE, Arizona, Chairman.

## APPOINTMENT OF MEMBER TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Canada-United States Interparliamentary Group:

Mr. HOUGHTON, New York, Chairman.

## APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276l, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the British-American Interparliamentary Group:

Mr. PETRI, Wisconsin, Chairman.

## APPOINTMENT OF MEMBERS TO HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER pro tempore. Pursuant to 2 U.S.C. 501(b), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the House Commission on Congressional Mailing Standards:

Mr. NEY, Ohio, Chairman;
Mr. ADERHOLT, Alabama;
Mr. SWEENEY, New York;
Mr. LARSON, Connecticut;
Mr. THOMPSON, Mississippi;
Mr. HOLT, New Jersey.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that on February 10, 2003, the Speaker delivered to the Clerk a letter listing Members in the order in which each shall act as Speaker pro tempore under clause 8(b)(3) of rule I.

## CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–46)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2002 (67 FR 11553).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 12, 2003.*

## PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–47)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c), I am transmitting a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 12, 2003.*

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## AUTISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, a few minutes ago, the majority and the minority leaders of the House, or the minority whip and the majority leader of the House, discussed the Amber Alert System and how important it was that we do everything we can to protect our American children. This lectern, or this stand, holds the faces of about 55 or 60 children who have been damaged, their parents believe, by vaccines that contain mercury and they have become autistic. One of those is my grandson.

It is very interesting, Madam Speaker, that today we found out that there is a just-published report in the "Journal of the American Association of Physicians and Surgeons" that involves a research study on autism. The research, conducted by Drs. Mark Geier and David Geier, analyzed mercury doses children received from thimerosal, which contains mercury in childhood vaccines in comparison to Federal safety guidelines. The doctors concluded that mercury from thimerosal did exceed Federal safety guidelines and that the study provides strong epidemiological evidence for a link between increasing mercury from thimerosal-containing childhood vaccines and neurodevelopmental disorders such as autism which has reached epidemic proportions. The authors stated, "A causal relationship between thimerosal-containing childhood vaccines and neurodevelopmental disorders appears to be confirmed."

The Geier research confirms the findings of an unreleased CDC study, Centers for Disease Control, obtained through the Freedom of Information Act, which found a relative risk of 2.48 between thimerosal exposures and autism. Courts of law have generally held that a relative risk of 2.0 or higher is sufficient to substantiate that a given exposure causes diseases.

So there is no doubt, no doubt, that the mercury that has been injected into our children is a cause, a contributing cause at the very least, but a cause, of the autism that these children are suffering. I have asked the parents of these children from across the country to write to me, to give me information on how their child became autistic and how close it was to when the child was vaccinated with vaccines containing mercury.

We had a big problem in the last session. Right at the end in the homeland security bill, there was an amendment stuck in at the 11th hour which took away any liability that the pharmaceutical companies might incur because of mercury-related damage done to children. We were able to get that out early this session. But now in the other body they are trying to put that back in in a bill that was introduced today by the majority leader. That is something that is intolerable. It is something that cannot be tolerated by this body or the other body.

I want to tell you why real quickly. Here is one example, a letter from a lady named Sue McManus from Kennesaw, Georgia. She says:

"Eight years ago, in 1994, I adopted a lovely daughter, Jessica, from Paraguay at age 5 months. Jessica was not identified as a special needs child at the time of adoption and was in fact seen by pediatricians in Paraguay who were U.S. trained as well as in this country and given a clean bill of health. Being a responsible parent and following directions from my doctors, I had her vaccinated within a few weeks of bringing her home. On 11/15/94, she received OPV, DPT, HIB and hepatitis B. On January 17, 1995, she received her second series of shots. Within 4 hours of the second series of shots, she reacted with severe infantile spasm seizures and she became autistic. She had three seizures that week and had never had any form of seizure prior to the second shot. Per medical recommendation, she received several shots that day. I don't have any doubt that my daughter reacted severely and directly as a result of this DPT shot or combination of shots."

She goes on to say that "she has not developed normally, she has become autistic, she stares at the walls, she flaps her arms like my grandson does and she has chronic diarrhea or constipation and it is a problem that will not go away." If you saw the movie "Rain Man," you know how bad autism can be. If we do not deal with this problem now, we are going to deal with it in 15 to 20 years when these people all become dependent on society.

Let me just say to my colleagues, this is something this House is going to have to address. It is not a partisan issue. Both Democrats and Republicans have said they want to protect America's children. The President said he does not want to leave any children behind. These kids are being left behind and their parents are being saddled with $50,000, $100,000, $200,000 bills. They are selling their homes, they are going bankrupt to take care of their children, and the people who are responsible for the damage to them, the pharmaceutical companies, are being left high and dry with no damage whatsoever being attributed to them. There is a responsibility here for this government to make sure these children are treated properly.

In the next few weeks I am going to be reading every night letters from these parents talking about how their child was damaged and in what proximity it was to the shots they received containing mercury. We can no longer turn our backs on this. We went from one in 10,000 children who are autistic to one in 150 right now. It is an absolute epidemic. We cannot sweep it under the rug.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. PALLONE. Madam Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## CYPRUS TALKS COME TO AN END

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, first let me tell the gentleman from Indiana that I would like to join in his remarks and I want to commend him for taking to the floor to talk about this issue. I agree with him wholeheartedly in what he has been saying tonight and previously.

Madam Speaker, I come to the floor this evening to express my supreme disappointment with Turkish Cypriot leader Rauf Denktash for his unwillingness to compromise, an action that led to the end of the Cyprus peace negotiations earlier this week.

Yesterday, after some 20 hours of continuous negotiations, U.N. Secretary-General Annan declared they had reached the end of the road.

Madam Speaker, let there be no doubt that Turkish Cypriot leader Denktash is to blame for this sorry conclusion. Yesterday, State Department spokesman Richard Boucher said he found it regrettable that, quote, "Mr. Denktash has denied Turkish Cypriots the opportunity to determine their own future and to vote on such a fundamental issue." Lord David Hannay, Britain's special envoy for Cyprus, also blamed Denktash when he stated, and I quote, "I am sad about it but I do not think that Mr. Denktash left him, Secretary Annan, any alternative."

Finally, in today's Washington Post, columnist Jim Hoagland writes, and I quote, "The defiance of one grumpy old man derailed peace plans put forward by diplomats from the United States and the European Union because this grumpster would not see multilateral reason. The stubborn, self-defeating unilateralist I have in mind is Ralph Denktash."

□ 1600

Madam Speaker, despite yesterday's giant setback, the President of the Republic of Cyprus, Tassos Papadopoulos, stressed that the Greek Cypriot side "will continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU."

Furthermore, President Papadopoulos pledged one more time to continue the efforts for a Cyprus settlement that would properly serve the interests of both Cyprus communities.

On the other hand, after the peace talks ended yesterday, Turkish-Cypriot leader Denktash continued his obstructionist actions threatening that if Cyprus accedes to the European Union on May 1, 2004, that there will be a disaster. He went on to say that talks would be suspended until Turkey joins the European Union.

Madam Speaker, Turkey's accession to the European Union was seriously undermined yesterday with the failure of a peace agreement. The Turkish government also bears blame for yesterday's developments after giving its full support to Denktash. New Turkish Prime Minister Erdogan said on Monday that it was impossible for Turkey to accept the U.N. plan in its current form.

Both the Turkish government and Denktash refused to listen to the thousands who have taken to the streets over the last couple of months in the occupied section of Cyprus and voiced support for a solution based on the U.N. plan.

The leader of the Republican Turkish Party in Turkey accused both the Turkish government and Denktash of bringing the talks to a deadlock, and he stated, "Mr. Denktash persuaded Turkey as well. Having the support of the powerful circles in Turkey he influenced the decision-making mechanism and foiled them. He used the indecisiveness for not making a serious decision. Not being able to decide, Turkey decided to preserve the status quo."

Madam Speaker, I continue to believe that the Bush administration did not put enough pressure on the Turkish government to force Denktash to negotiate in good faith. Turkey must finally realize that by supporting Denktash's intransigence, it is causing harm to its own long-term interest as a potential full member of the European Union.

After the setback of the U.N. efforts, the Bush administration must redouble its efforts to persuade Turkey and the Turkish-Cypriot leader to work constructively within the U.N. process to achieve a negotiated settlement to end the division of Cyprus.

Madam Speaker, Turkey's 28 year illegal occupation of 37 percent of Cyprus has to come to an end. It is time for all the citizens of Cyprus to be reunited so they may all reap the economic rewards available with the nation's accession to the European Union. It is very unfortunate this occurred, but I continue to believe that we can somehow achieve a situation where the Turkish Cypriots will join with the Greek Cypriots in a unified Cyprus that would join the European Union at the time that is scheduled next year. I am still optimistic that can be achieved.

## ONE NATION UNDER GOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RENZI) is recognized for 5 minutes.

Mr. RENZI. Madam Speaker, on March 10, our children who attend public schools in the jurisdiction of the Ninth Circuit Court, including my home State of Arizona, were told not to start their day with the real Pledge of Allegiance. An absurd ruling made by the Ninth Circuit Court of Appeals last June held that the 1954 Federal act that added the words "under God" to the Pledge of Allegiance violated the Establishment Clause of the first amendment.

Madam Speaker, our great Nation rests upon the wisdom of our Founding Fathers. Our Founding Fathers created a Nation based upon spiritual beliefs, and yet judges continually misinterpret this founding principle by citing the Establishment Clause.

So what really is the Establishment Clause? Within our Constitution, the Establishment Clause was created to protect American citizens against religious persecution, so that the government would not impose one religion, the government religion, so that a government or king would not impose his own spiritual or personal beliefs.

The Establishment Clause was not created by our Founding Fathers to sterilize this Nation, to not allow this Nation to utter the name of God. Just the opposite. The Constitution of the United States of America, written by our Founding Fathers, states this clearly in Article VII, in the year of our Lord one thousand seven hundred and eighty-seven.

So how ridiculous is it that the Ninth Circuit Court of Appeals can prohibit our teachers and children from reciting the Pledge of Allegiance in the public schools of nine western states, when the Constitution itself speaks of God?

Using this perverted logic, the Ninth Circuit Court of Appeals must now find our Constitution unconstitutional. This holding is a new low for our Nation, a low that will harm our children.

A good teacher, Mr. Byron Bolen, who teaches American government in Round Valley, Arizona, is concerned that we are undermining our national traditions and taking focus away from our Founding Fathers by not allowing the real Pledge in our classrooms. He believes this issue has become more an issue not of separation of church and state, but an issue that directly negates the patriotism that our children need to learn towards their country.

As a teacher in the First District of Arizona, Mr. Bolen asked me how far our courts will go to sterilize and remove God from our classroom and public places.

Our Founding Fathers created a Nation based on truth and morality and a love for democracy based upon a person's desire to conform to laws which they revere. Our good natural tendencies as human beings is to repel from evil and to be drawn towards goodness.

When hippie generation judges impose their own sterile secular beliefs on the American people, they are establishing their agnostic beliefs on Americans.

To go one step further, on February 28 the Court of Appeals in the Ninth Circuit refused numerous requests by our President, the Congress and local school districts to overturn their prior decision.

Twice now this court has ruled that reciting the real Pledge of Allegiance is unconstitutional. Yet in the House of Representatives we start our day with the real Pledge of Allegiance. Our institution writes and debates our laws only after we recite the real Pledge of Allegiance. We must act to allow our children to start their day the way we start our day here in the House.

Therefore, I call upon the Supreme Court to review this case, to review it expeditiously, and allow our children to honor our Nation by reciting the real Pledge, and let them start their school day the way we start our day.

## MAKE WAR A LAST-CASE SCENARIO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, interestingly enough, as a member of the Committee on the Judiciary and also a Member of the other side of the aisle, I happen to agree with the gentleman from Arizona that the First Amendment protects freedom of religion and freedom of speech, and that the Pledge of Allegiance is protected sufficiently for us to be able to say "under God." I hope we will be able to move forward to give the sense and the obvious position that the Pledge of Allegiance is still a very legitimate expression of loyalty to this country.

Interestingly enough, those of us who have stood fast against the war in Iraq have been accused of being disloyal to the United States of America and unpatriotic. That is why it is important to come to the floor of the House and try to express the voice of millions and millions of Americans and millions and millions of the world family and to again say to the singular voice that is resounding out of Washington and into the airwaves that I thought a democracy represented practice over words; that we would practice the idea that when the people speak, or when the people question, the leaders of government should entertain their concerns, particularly since the people of the United States send their young men and young women to far away shores to defend us. And might I say to the troops that are stationed abroad, there is not one divide amongst us in support of those very loyal troops.

The Constitution clearly enunciates the principle that the Congress has the duty and responsibility to declare war. We well recognize that in the Constitution it also acknowledges that the President is the Commander in Chief, and if and when those troops are deployed, the United States of America will be unified. That is why the judgment of making that decision is so very important.

We have gotten ourselves in a foreign policy shambles. Many people blame it on the United Nations, partly because they do not understand that the United States has consented to be a part of the United Nations through the U.N. Charter 51. And we have lived in peace for almost 50 years because, as much as you malign the United Nations, it has kept a sense of world decorum and order. It means that one nation does not lift up arms against another. It means that the friendship and affection for the United States has been because it has been a leader for peace over war. It has been a defender as opposed to an offender.

Now we have thrown all of that to the winds. We have cast Syria against Iran, and Iran against Syria, and Turkey against Syria, and Turkey against Iraq. We have potentially created a destabilizing situation in that region.

We have not focused on solving our problems with Israel and the Palestinians, a strong effective peace, an abhorrence of suicide bombings, a recognition of the importance of that region for us. We have totally overlooked North Korea, pointing missiles at Japan and South Korea.

I was in China a few weeks ago asking the President of China to engage. He said, you, the United States, needs to engage in bilaterals with North Korea.

What are the real ways we could engage in true, meaningful debate and respect of the United Nations? First of all, we have been not listening to them as they have argued vigorously for more vigorous U.N. inspections. It does not mean the United States is a wimp, that we cannot defend ourselves. What it means is that you understand the cost of war.

Over $1 trillion is expected we would have to pay out in this war, now that we have a $283 billion deficit, and the President is cutting $470 billion in child care and special education and, most of all, what a horror, veterans benefits. A veterans hospital that I have in my district is closing the door to those veterans who are trying to enroll, those men and women who offered themselves, who wanted to, or if they had to would have sacrificed their lives. We cannot let them get in the hospitals because this administration is cutting $470 billion on top of a $600 billion tax cut and disrespecting the fact they have given us no monies and no dollars to account for how much we will have to spend for this war.

So I believe we need action. And what is the action I propose? First of all, I hope we will be debating soon a resolution that I have to ask the question whether this Congress has abdicated its duty to declare war.

Second, I want the U.N. Security Council to have a tribunal and to try Mr. Saddam Hussein as a war criminal. And I want humanitarian aid for Iraq, democracy for Iraq. And we should focus, Madam Speaker, on the Mideast peace solution and have troops, a small number, to ensure the investigation and inspection of the U.N. inspectors.

Madam Speaker, I say there is another way. War should be the last option, and our voices should be heard.

## CONTROLLING AMERICA'S BORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Madam Speaker, as we rightfully address the issues that are confronting us overseas and the possibility of sending American troops into harm's way, I think it is also important for us to think about those people who are here in the United States, those citizens, who every day, as a matter of fact, face almost warlike conditions at places on our borders, a place on our southern border especially, that I think there is no other way to describe the activities down there, with the number of people coming through that border illegally. That it is a battle zone, and there are people there who daily deal with this particular problem. I am periodically going to bring several of these folks to the attention of the House.

Today I would like to identify Mr. Roger Barnett and his wife Barbara, who own a 22,000-acre ranch located only 2 miles from the U.S.-Mexico border near Douglas, Arizona. Mr. Barnett also owns and operates a towing and propane gas business with branches in Phoenix, Tucson, Wilcox and Sierra Vista.

Almost any evening after dark, Mr. Barnett can get in his truck, ride a short distance across his own land and personally witness groups of 20, 30, 40, 50, even 100 illegal aliens crossing the property. Sometimes, of course, they cross in daylight also.

□ 1615

Mr. Barnett, his brother, and his wife have personally been responsible over the course of the last year for detaining, calling the INS, and being able to actually take off of his property over 2,000, I say 2,000, people who are trespassing, who are coming across his property illegally and, in fact, coming into the United States illegally.

Now, of course, that in and of itself is a challenging experience for anybody who lives on that border, but along with it goes a whole lot of other problems that are created. Mr. Barnett and all of the other ranchers in the area find that their fences are cut. They are constantly, and I mean constantly, challenged with the responsibility of going out and repairing the fences that have been cut, trampled, gates left open, cattle disappearing, cattle being butchered and eaten right on the spot by the people who are coming through. The water on the property being damaged, the water wells being damaged; the amount of trash that accumulates on these properties is enormous, and it accumulates at something called layover sites and these are simply sites where a large number of illegal aliens will gather and they will prepare to be picked up by a truck, by some sort of vehicle in a road not too far away from the site. They discard all of their belongings because they want to pack as many into these vehicles as possible, so they will discard all of the trash that they have been carrying with them and certainly a lot of the water bottles, even articles of clothing. It is a place of enormous trash and human waste, as a matter of fact. This also gets into the water on the ranch when, after a rain, it destroys the wells; it becomes something that the cattle cannot drink.

The trucks and the buildings on this gentleman's property, as well as many people in the area, have been vandalized. The grasslands needed for food for the cattle are continually trampled by the aliens crossing and making new paths across the land. They discard, as I say, water bottles and trash and plastic bags. The cattle eat the plastic bags and die.

Recently, Mrs. Barnett, Barbara, was driving her truck near her home and saw three illegal aliens crossing her farm. She called her husband, and he and his brother came out and tried to locate them. After following the trail for a period of time, they found a stash of 220 pounds of marijuana hidden in the mesquite bushes.

The Border Patrol has told him that some part of his land is used every single night by drug traffickers, but the Border Patrol does not have the manpower to stop it. Lately, these illegal groups have been coming closer to his ranch house using a creek bed hiding spot not 100 yards from his home. A few months ago, he found a group of 30 and called the Border Patrol to come and get them.

This is happening day after day after day to the people who live in this area. This is not a unique story. I identify these people as homeland heroes, because they are fighting a war on their own land, on their own property, and on the border of the United States; and they are doing it certainly without the help of this government. They turn to their own government, to the Federal Government and say, what can you do? How can you help? What is happening to our property and to our lives? Our lives are essentially being destroyed.

They have to travel everywhere armed. They keep a rifle by the door, a loaded rifle by the door in almost every one of these houses up here because of the number of vandals that have come in, the number of times they have personally been threatened. People have been accosted. Their cars have been stolen, hijacked. The illegal aliens will put rocks up on the dirt road, stop the vehicles, and then hijack the vehicles.

Again, this is something that they put up with every single day. Madam Speaker, what would we do if that was the way we had to face every single day of our lives? I mean, would we not turn to somebody for help and say, what is going on here? This is incredible. This is, by the way, a relatively recent phenomenon, maybe 4 or 5 years. It is a result of a whole lot of things, including the fact that the Mexican Government has chosen to help move people into the United States illegally to serve some of their own needs in the country, Mexico, that is to say.

These are travesties, Madam Speaker, and they cannot be justified in any way, shape, or form. These people are homeland heroes. I want to bring them to the attention of my colleagues, and I will continue to do so.

## SUPPORT VOTING RIGHTS LEGISLATION FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Madam Speaker, today I have introduced a D.C. voting rights bill here in the House, and in the Senate it has been introduced by Senator LIEBERMAN with seven sponsors besides Mr. LIEBERMAN: Mr. FEINGOLD, Ms. FEINSTEIN, Mr. SCHUMER, Mr. DODD, Mr. KENNEDY, and Ms. LANDRIEU. I will be seeking cosponsors here in the House from both sides of the aisle beginning next week, and I will be seeking it on this eve of war. I am asking Members of the House to consider what it means to send people to war when those same people have no vote in the House and no Senators whatsoever. We, of course, are second per capita in Federal income taxes. Unless one comes from Connecticut, your constituents do not pay as much in Federal income tax as we do. Most of our residents pay income taxes.

The difference this year is that we are emphasizing something that most of our residents and most of my colleagues' residents have not had to do. On the eve of war, we honor 50,000 veterans of the District of Columbia who live here now. Three distinguished veterans who are also Washingtonians stood with me to announce that we are introducing the No Taxation Without Representation Act. They were former Secretary of the Army, Clifford Alexander, Harvard College, Yale Law School; Wesley Brown, a native Washingtonian, the first black person ever to graduate from the Naval Academy. He is also a graduate of Rensselaer Polytechnic, served in Korea in World War II, and is the former chair of my Service Academy Nominating Board that nominates young people from the District, selects people from the District for me to nominate to go to the academies. George Keyes, native Washingtonian, Air Force Academy, Yale Law School, Rhodes Scholar, just finished as chair of my nominating board for the service academies.

The present Chair, Kerwin Miller, was to be here. A West Point graduate, he could not attend for a completely outrageous reason. The House has attached a rider that forbids anybody who happens to be an employee of the District government from lobbying for voting rights. This man is head of the D.C. Veterans Affairs Office. What an outrage, Madam Speaker. This veteran, this West Point graduate, could not come here to plead for his own freedom because of a rider that has been attached to an appropriations bill that should not even be here in the first place because it consists of money raised in the District of Columbia.

The Revolutionary War "Taxation without Representation" slogan has been with us since District residents fought in that war and have fought in every war since. The people I represent have indeed had more casualties in many wars than many others in this House. In World War I, more casualties than three States; in World War II, more casualties than four States; in Korea, more casualties than eight States; and in Vietnam, more casualties than 10 States. And no vote, Madam Speaker.

Since I have been in the House, three wars have taken place: the Persian Gulf War, Afghanistan, and now we are on the verge of war with Iraq. I have spoken at all three, sent all three off to war, all with no vote.

Madam Speaker, it is one thing to give your taxes to your government without a vote. It is quite another to lay your life on the line for your country without a vote.

Everyone in the military today is a volunteer. There is a freeze so one cannot even get out, making it really a draft. Taxes without a vote in return is awful, particularly in this body that does not want people to pay taxes in the everyday sense of the word. But patriotism without a vote for it is a shame and a shame on us, particularly given the kind of war we now want to fight, a war for democracy in Iraq and in the Middle East.

I am pleased that there are Republicans who have said to me, This is wrong and I am not for it.

Voting is not a partisan issue, except in undemocratic countries. It cannot be a partisan issue in our country today when we are sending young men and women off to war, yes, even from the Nation's Capital. So the people I represent, in whose name I submitted this bill today, standing with three veterans who live in the District of Columbia, I ask this question of this House: how much longer are you going to ask the residents of your Nation's Capital, 600,000 of them, to pay taxes more than most of my colleagues do per capita and to go to war without the right to vote? How long? I hope not very long.

## SUPPORT H.R. 5

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Madam Speaker, today I rise to commend the House on the passage of H.R. 5 and to encourage the other body to immediately take up meaningful medical liability reform, the lack of which constitutes the number one health care problem in America today.

Doctors are being driven out of their practices by staggering medical liability insurance premiums, a direct result of the incredible increase in medical liability lawsuits and the mind-boggling sums of money paid in jury awards and settlements, much of which ends up in the pockets of personal injury trial attorneys.

In the last 10 years in Texas, my home State, we have seen a 500 percent increase in medical liability awards. But the money is not going to the injured. Studies show that 57 percent of medical malpractice premiums go towards attorneys' fees. Frivolous lawsuits have caused professional liability premiums to jump anywhere from 50 percent to 200 percent in Texas, and the amazing fact is that most of these suits are frivolous. In fact, more than three out of four liability claims against Texas doctors are simply dismissed, dismissed for no merit. Yet, in all cases, doctors are forced to spend tens of thousands of dollars to defend themselves.

Because of the skyrocketing cost of insurance, many physicians are simply closing their doors, moving away from high-risk specialties, refusing to perform certain medical procedures or, frankly, taking early retirement. For example, in Mexia, Texas, in my district, the regional hospital had four family practitioners 1 year ago. But because of the increased costs of their liability insurance, three doctors are now lost. This will leave the hospital with only one OB-GYN in a service area of 70,000 people.

Madam Speaker, this is unacceptable. In this same town in my district, another practitioner closed her clinic and ended up filing bankruptcy, principally due to the skyrocketing cost of liability insurance.

Madam Speaker, I fear without meaningful reform we will lose the best and brightest. They will avoid or exit the medical profession altogether, and where are we going to be 10 years from now if we do not have enough quality doctors to serve our patients?

I know personally how important it is to have the best and brightest practicing medicine. One year ago, our first child was born, a daughter we named Claire Suzanne; and I honestly believe she is the most beautiful baby in the world. But there was a point last year when I was not certain she would be with us, because after almost 12 hours of labor, at 4:30 a.m. in the morning, our baby was in a transverse arrest, apparently undeliverable. Losing her heartbeat with every contraction of my wife, the atmosphere in the delivery room turned very serious. Fortunately, due to a greatly skilled OB-GYN, an immediate C-section was performed in time to save our precious child's life. I do not want to contemplate what might have happened to my child or what could happen to someone else's child if the best and brightest are no longer there to practice medicine and save lives.

There are further problems, Madam Speaker. Doctors are being forced to practice defensive medicine just to protect themselves from being sued, ordering extra tests, invasive procedures and medications that they do not believe are medically necessary. Hospitals, doctors, and nurses are reluctant to provide care, even in emergency situations, because they live in fear of lawsuits. As one of my House colleagues recently noted, "Something is wrong with the system when it is easier to sue a doctor than it is to see one."

□ 1630

Madam Speaker, we know that there are 40 million people in this country without health insurance. Most simply cannot afford it. But for every 1 percent increase in individual health care premiums, 300,000 people nationwide are forced to go without medical insurance.

Madam Speaker, the answer to a medical tragedy or a grossly negligent medical act is not to pay personal injury trial lawyers millions of dollars, it is not to drive up the costs of health care for the rest of us, it is not to add more Americans to the ranks of the uninsured. The simple answer is to pull the license of the grossly negligent physician.

Madam Speaker, medical liability reform as we passed today will lower cost, improve quality, and provide more access to health care for all Americans.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BLACKBURN). The Chair would remind Members not to urge Senate action.

## RECALL DESIGNEE

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

OFFICE OF THE SPEAKER,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 13, 2003.*

HON. JEFF TRANDAHL,
*Clerk, House of Representatives,*
*Washington, DC.*

DEAR MR. CLERK: Pursuant to House Concurrent Resolution 1, and also for purposes of such concurrent resolutions of the current Congress as may contemplate my designation of Members to act in similar circumstances, I hereby designate Representative Tom DeLay of Texas to act jointly with the Majority Leader of the Senate or his designee, in the event of my death or inability, to notify the Members of the House and the Senate, respectively, or any reassembly under any such concurrent resolution. In the event of the death or inability of that designee, the alternate Members of the House listed in the letter bearing this date that I have placed with the Clerk are designated, in turn, for the same purposes.

Sincerely,

J. DENNIS HASTERT.
*Speaker of the House of Representatives.*

## ORDER OF BUSINESS

Mr. MCDERMOTT. Madam Speaker, I ask unanimous consent to take the time allocated to the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## AMERICA BETTER WAKE UP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, as we inch closer to Mr. Bush's unprovoked and unjustified invasion of Iraq, I come to the floor to talk about an issue that I think the American people should be aware of and Members of House should be very concerned about, and that is the type of news coverage they get about this war.

I see in today's Roll Call that the Republicans are setting up a spin room that will be briefings from the White House on a regular basis, but it is only on one side. It is all being coordinated through the gentleman from California (Mr. COX).

Now, in addition to that the question is then about reporters, and there are going to be two kinds of reporters in this war. The first are the embedded reporters. Those are the American reporters who are brought in and put in military uniforms and put in units of the military. They will be under constant censorship by the leadership of the unit that they are with. They have to sign an agreement to that effect. It is called the Coalition Forces Land Component Ground Rules Agreement, and that means they cannot write anything that the commander of that unit does not say is all right to go out.

Now it is pretty clear that the Secretary of War, Mr. Rumsfeld, is trying to deal with the problems of the Vietnam War. The press played an enormous role in stopping that war by reporting what is going on over there. Had there not been free press, there is no telling how long it might have gone on because the official reports were all bogus and we now know it. But, in the last couple of wars we have controlled the press, and this is the real best control I have ever seen.

There is a second kind of reporter, and that is the unembedded reporter, the international reporters. There is an article in today's paper from the Irish radio, an interview with a woman by the name of Kate Adie, who is the chief news correspondent for the BBC. She said when asked if there were any consequences of fatal actions, the Pentagon officers said we do not care. They have been warned, stay out of there. She says, "I am enormously pessimistic of the chance of decent, on the spot reporting as the war occurs."

Another man on the same program, Phillip Knightley, who is a war historian, said, The Pentagon has also threatened they "may find it necessary to bomb areas in which war correspondents are attempting to report from Iraq."

Now, Miss Adie was told the Americans, and I have been talking to the Pentagon, their attitude is "entirely hostile to the free spread of the information." I have been told by a senior officer in the Pentagon that if uplinks, that is television and electronic links, that is the television signals, were detected by any planes, the military would fire on them, even if they were journalists, she said. And the man said, Who cares?

Well, the fact is those smart bombs, they tell us a lot but they cannot tell the difference between a radio link, a cell telephone or a radar. They are going to do everything they can to stamp out any kind of information about this war that they do not want to have to have processed.

Now the American people are being taken into a war which is, we are going to be told it is going to be short and quick and sweet, and we were told that about the last war. We were told that only 147 people died in Iraq. But the fact is that 10,000 people have died since, and there are 221,000 claims of disability in the Veterans Administration due to depleted uranium and other toxins that were experienced by our troops. That was not reported at the time. It was not reported now. You have to go to the foreign press.

I would say to all Americans, you should be watching the BBC. Read the French papers, the German papers, any other paper besides the United States. The reporters in the White House are lap dogs to the White House. They stood up there in a press conference the other day and watched the President of the United States with a script on the podium saying, I will call on Joe. Joe. I will call on Sally. Sally.

He knew what the questions were that they were going to ask and he took exactly what he wanted. He would not take any question that was off his list. That is what the American people are supposed to make a decision about. You cannot have a democracy when the people are ignorant. They have to have information, and this administration is determined not to tell people what is going on. America better wake up quickly.

[From GuluFuture.com, Mar. 10, 2003]

## PENTAGON THREATENS TO KILL INDEPENDENT REPORTERS IN IRAQ

(By Fintan Dunne)

The Pentagon has threatened to fire on the satellite uplink positions of independent journalists in Iraq, according to veteran BBC war correspondent, Kate Adie. In an interview with Irish radio, Ms. Adie said that questioned about the consequences of such potentially fatal actions, a senior Pentagon officer had said: "Who cares. . . . They've been warned."

According to Ms. Adie, who twelve years ago covered the last Gulf War, the Pentagon attitude is: "entirely hostile to the free spread of information."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs," she told Irish national broadcaster, Tom McGurk on the RTE1 Radio "Sunday Show."

Ms. Adie made the startling revelations during a discussion of media freedom issues in the likely upcoming war in Iraq. She also warned that the Pentagon is vetting journalists according to their stance on the war, and intends to take control of US journalists' satellite equipment—in order to control access to the airwaves.

Another guest on the show, war author Phillip Knightley, reported that the Pentagon has also threatened they: "may find it necessary to bomb areas in which war correspondents are attempting to report from the Iraqi side."

Audio Transcript follows below:

Tom McGurk: "Now, Kate Adie, you join us from the BBC in London. Thank you very much for going to all this trouble on a Sunday morning to come and join us. I suppose you are watching with a mixture of emotions this war beginning to happen, because you are not going to be covering it."

Kate Adie: "Oh I will be. And what actually appalls me is the difference between twelve years ago and now. I've seen a complete erosion of any kind of acknowledgment that reporters should be able to report as they witness."

"The Americans . . . and I've been talking to the Pentagon . . . take the attitude which is entirely hostile to the free spread of information."

"I was told by a senior officer in the Pentagon, that if uplinks—that is the television signals out of . . . Bhagdad, for example—were detected by any planes . . . electronic media . . . mediums, of the military above Bhagdad . . . they'd be fired down on. Even if they were journalists . . . Who cares! 'said . . . [inaudible]."

Tom McGurk: ". . . Kate . . . sorry Kate . . . just to underline that. Sorry to interrupt you. Just to explain for our listeners. Uplinks is where you have your own satellite telephone method of distributing information."

Kate Adie: "The telephones and the television signals."

Tom McGurk: "And they would be fired on?"

Kate Adie: "Yes. They would be 'targeted down,' said the officer."

Tom McGurk: "Extraordinary!"

Kate Adie: "Shameless!"

"He said . . . 'Well . . . they know this . . . they've been warned.' "

"This is threatening freedom of information, before you even get to a war."

"The second thing is there was a massive news blackout imposed."

"In the last Gulf war, where I was one of the pool correspondents with the British Army. We effectively had very, very light touch when it came to any kind of censorship."

"We were told that anything which was going to endanger troops lives which we understood we shouldn't broadcast. But other than that, we were relatively free."

"Unlike our American colleagues, who immediately left their pool, after about 48 hours, having just had enough of it."

"And this time the Americans are: a) Asking journalists who go with them, whether they are . . . have feelings against the war. And therefore if you have views that are skeptical, then you are not to be acceptable."

"Secondly, they are intending to take control of the Americans technical equipment . . . those uplinks and satellite phones I was talking about. And control access to the airwaves."

"And then on top of everything else, there is now a blackout (which was imposed, during the last war, at the beginning of the war), . . . ordered by one Mr. Dick Cheney, who is in charge of this."

"I am enormously pessimistic of the chance of decent on-the-spot reporting, as the war occurs. You will get it later."

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## USA: CPJ SENDS LETTER TO SECRETARY RUMSFELD

### EXPRESSES CONCERN ABOUT EMBEDDING RULES AND NONEMBEDDED JOURNALISTS

MARCH 6, 2003.

Hon. DONALD H. RUMSFELD,
*Secretary of Defense,*
*The Pentagon, Washington, DC.*

DEAR SECRETARY RUMSFELD: The Committee to Protect Journalists (CPJ) is encouraged that the administration is making efforts to accommodate journalists who are seeking to cover a possible U.S. military action in the Gulf. We welcome the Pentagon's plan to embed as many as 500 journalists with U.S. forces as a positive step that will improve frontline access to combat operations.

However, based on a 10-day trip, which CPJ senior program coordinator Joel Campagna recently completed to Kuwait, Qatar, and Jordan, we have a number of concerns regarding both the embed system's implementation and the ability of the many reports who plan to report outside the system to conduct their reporting duties freely.

During his recent trip, CPJ's Campagna visited U.S. military bases in Qatar and Kuwait, meeting with military officials in both places to discuss the Pentagon's media policy. CPJ is particularly concerned by the specific language in the recently released Public Affairs guidance document on embedding and the Coalition Forces Land Component Command Ground Rules Agreement, which embedded journalists will be required to sign. The language could be used to justify unreasonable limits on coverage.

For example, among the information deemed "not reasonable" in the agreement is that which pertains to "on-going engagements." According to the guidelines, such information will not be released unless authorized by an on-scene commander. What constitutes an ongoing engagement is not clear from this document, and unit commanders could interpret it in an extremely broad manner as a basis to restrict reporting.

We, of course, recognize the need to protect certain kinds of information to ensure the safety of U.S. forces. However, we are concerned that under the embedding guidelines, unit commanders have the authority to request that embedded reporters refrain from reporting on a number of broadly defined categories of information. Despite explicit guarantees that journalists' material will not be censored, the guidelines state that when a unit commander believes a reporter may be in a position to reveal sensitive information, he or she may ask a reporter to submit copy for security review. The commander may then ask the reporter to remove information that is classified or sensitive. Access to such information would be contingent on agreeing to this review.

Moreover, despite general assurances from Pentagon officials that they will limit reporting only in cases where operational security would be jeopardized, reporters have expressed fears that officials will restrict coverage by limiting movements or delaying journalists' ability to file stories. The current guidelines grant broad discretion to unit commanders to limit the dissemination of information likely to be contained in news reports.

Perhaps more important than the embed plan itself is the extent to which journalists not embedded with U.S. troops will be allowed to move and gather news freely. To date, U.S. officials have offered no convincing guarantees that "unilateral" reporting, or reports by nonembedded journalists, will be allowed to proceed without interference. Pentagon officials have stated that they anticipate the presence of unilateral reporters in a potential military theater, and military units that encounter journalists will treat them "like any other civilian person found on the battlefield." Officials, however, have never provided details or assurances about the kind of access unilateral reporters would experience on or around the battlefield but instead have warned journalists about the dangers associated with not embedding.

Lastly, CPJ is concerned for the safety of the significant number of journalists who will likely be working in Baghdad should conflict erupt. While we are worried about possible threats from Iraqi authorities, who detailed and imprisoned several international correspondents during the 1991 Gulf War, we also fear that foreign reporters working in Baghdad could be endangered by U.S. air strikes. We note with concern that U.S. and NATO forces have targeted local broadcast facilities in previous conflicts, including the 1999 strike on the offices of the Yugoslav state broadcaster RTS television. Furthermore, your office has failed to assuage the concerns highlighted in our January 31, 2002, letter requesting clarification on the November 2001 U.S. military strike that destroyed the offices of the Arabic language broadcaster Al-Jazeera in Kabul, Afghanistan. We remind you that statements made by Pentagon officials to U.S. media representatives on February 28, 2003, warning of the potential dangers to unilateral reporters operating in Iraq do not absolve U.S. forces of their responsibility to avoid endangering media operating in known locations.

Today, hundreds of journalists are preparing to cover what could be a potentially hazardous assignment in Iraq and the Persian Gulf should the U.S. decide to attack

Iraq. Despite these inherent dangers, journalists have an obligation to report the news, especially in times of war, when public information is crucial. Any U.S. military action must take into account the safety of working journalists and their ability to work freely. As an independent organization of journalists dedicated to defending press freedom worldwide, we urge you to take the following actions to make certain that journalists covering a possible war with Iraq can do so freely and safely: Ensure that journalists operating within the embed system be allowed the maximum possible freedom to report; provide public assurance to journalists who will be reporting outside the embed system that the U.S. military will not interfere in their work and will impose only those restrictions absolutely necessary to ensure the safety of U.S. military personnel and operations; refrain from targeting broadcast and other media operating in Baghdad; and ensure that maximum precaution is taken to avoid harm to journalists operating in known locations in potential military theaters.

Thank you for your attention to these important matters. We await your response.

Sincerely,

JOEL SIMON,
*Acting Director.*

## CHILD ABDUCTION PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Madam Speaker, surely he came to save that which was lost.

As the father of two beautiful daughters, I was elated last night to see a little girl by the name of Elizabeth Smart lost 9 months ago to her family and her community restored to hearth and home. It was an awesome sight and a reunion that is difficult to imagine in its joy this side of eternity.

As a member of the Committee on the Judiciary and as the author of legislation protecting children from Internet pornographers, Madam Speaker, I am delighted to report this week against the backdrop of that awesome news Congress was caught doing something. It is truly astonishing.

In the midst of the disappearance of Elizabeth Smart and far too many others, last year Congress passed the Child Abduction Prevention Act, taking strong action to prevent child kidnappings in the future. It included a national Amber alert. But sadly, the Senate failed to act on that important legislation. Undeterred, the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), was already moving this bill last week when public vigilance restored Elizabeth Smart to her family.

Different from action in the other body earlier today, that creates a national coordinator that already exists within the Justice Department and a voluntary national Amber alert. The Child Abduction Prevention Act that was already marked up last week and scheduled for consideration in the Committee on the Judiciary this coming week creates a national Amber alert communication network. It gives the judicial branch the ability to impose life sentences for child sex offenders, creates a mandatory life sentence for two strike offenders. It eliminates the statute of limitation for child abduction and it doubles Federal funds to the National Center for Missing and Exploited Children.

There is real substance in the Child Abduction Prevention Act. This is a time against the backdrop of this extraordinarily joyous news that we in Washington need legislation, not symbolism and photo ops. To the family of Elizabeth Smart and her brave and courageous parents, may the Lord bless your reunion. But to my colleagues, let us seize this historic occasion of joy to pass meaningful legislation. Let us move the Child Abduction Prevention Act among my colleagues on the Committee on the Judiciary, and as swiftly as is possible, let us move it to the floor of the House of Representatives and to the President's desk. Our children, including Elizabeth Smart, deserve no less.

## PUBLICATION OF THE RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. NEY) is recognized for 5 minutes.

Mr. NEY. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI, I hereby submit for the RECORD the Committee on House Administration's Rules for the 108th Congress. The Committee Rules were adopted by the Committee on House Administration on February 5, 2003.

### RULES OF THE COMMITTEE ON HOUSE ADMINISTRATION

### RULE NO. 1: GENERAL PROVISIONS

(a) The Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a privileged motion in the Committee.

(b) The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and, subject to the adoption of expense resolutions as required by House Rule X, clause 6, to incur expenses (including travel expenses) in connection therewith.

(c) The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee, and to distribute such information by electronic means. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee shall be paid from the appropriate House account.

(d) The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The Committee's rules shall be published in the CONGRESSIONAL RECORD not later than 30 days after the Committee is elected in each odd-numbered year.

### RULE NO. 2: REGULAR AND SPECIAL MEETINGS

(a) The regular meeting date of the Committee on House Administration shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the Chairman of the Committee (hereinafter in these rules referred to as the "Chairman") as he may deem necessary or at the request of a majority of the members of the Committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting may be dispensed with if, in the judgment of the Chairman, there is no need for the meeting.

(b) If the Chairman is not present at any meeting of the Committee, or at the discretion of the Chairman, the Vice Chairman of the Committee shall preside at the meeting. If the Chairman and Vice Chairman of the Committee are not present at any meeting of the Committee, the ranking member of the majority party who is present shall preside at the meeting.

### RULE NO. 3: OPEN MEETINGS

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the Committee, shall be open to the public except when the Committee, in open session and with a quorum present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, that no person other than members of the Committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

### RULE NO. 4: RECORDS AND ROLLCALLS

(a) The result of each record vote in any meeting of the Committee shall be transmitted for publication in the Congressional Record as soon as possible, but in no case later than two legislative days following such record vote, and shall be made available for inspection by the public at reasonable times at the Committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(b)(1) Subject to subparagraph (2), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(c) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) House records of the Committee which are at the National Archives shall be made available pursuant to House Rule VII. The Chairman shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the Committee upon written request of any Committee member.

(e) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

(f) All Committee resolutions and Committee motions (other than procedural motions) adopted by the Committee during a Congress shall be numbered consecutively.

### RULE NO. 5: PROXIES

No vote by any member in the Committee may be cast by proxy.

### RULE NO. 6: POWER TO SIT AND ACT; SUBPOENA POWER

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The Chairman, or any member designated by the Chairman, may administer others to any witness.

(b)(1) A subpoena may be authorized and issued by the Committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the Chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any member designated by the Committee, and may be served by any person designated by the Chairman or such member.

(2) Compliance with any subpoena issued by the Committee may be enforced only as authorized or directed by the House.

### RULE NO. 7: QUORUMS

No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating Committee orders, or changing the rules of the Committee, one-third of the members of the Committee shall constitute a quorum. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

### RULE NO. 8: AMENDMENTS

Any amendment offered to any pending legislation before the Committee must be made available in written form when requested by any member of the Committee. If such amendment is not available in written form when requested, the Chair will allow an appropriate period of time for the provision thereof.

### RULE NO. 9: HEARING PROCEDURES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one (1) week before the commencement of that hearing. If the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the Chairman, each witness who is to appear before the Committee shall file with the clerk of the Committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the Committee upon any measure or matter, the minority party members on the Committee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Committee members may question a witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended as provided by House Rules. The questioning of a witness in Committee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The Chairman may accomplish this by recognizing two majority members for each minority member recognized.

(e) The following additional rules shall apply to hearings:

(1) The Chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the Committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(5) If the Committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (e)(5), the Chairman shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

(8) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee.

### RULE NO. 10: PROCEDURES FOR REPORTING MEASURES OR MATTERS

(a)(1) It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present.

(2) With respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) The report of the Committee on a measure or matter which has been approved by the Committee shall include the matters required by Clause 3(c) of Rule XIII of the Rules of the House.

(d) Each report of the Committee on each bill or joint resolution of a public character reported by the Committee shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(e) If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that members shall be entitled to not less than two additional calendar days after the day of such notice, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraph (c) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of the Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the Committee upon that measure or matter.

(3) shall, when appropriate, contain the documents required by Clause 3(e) of Rule XIII of the Rules of the House.

(f) If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings published and available to the members of the House prior to the consideration of such measure or matter in the House.

(g) The Chairman may designate any member of the Committee to act as "floor manager" of a bill or resolution during its consideration in the House.

### RULE NO. 11: COMMITTEE OVERSIGHT

The Committee shall conduct oversight of matters within the jurisdiction of the Committee in accordance with House Rule X, clause 2 and clause 4. Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress in accordance with House Rule X, clause 2(d).

### RULE NO. 12: REVIEW OF CONTINUING PROGRAMS: BUDGET ACT PROVISIONS

(a) The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in Clause 4(e) of Rule X of House Rules.

(b) The Committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

### RULE NO. 13: BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Whenever any hearing or meeting conducted by the Committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 4 of House Rule XI, subject to the limitations therein. Operation and use of any Committee Internet broadcast system shall be fair and nonpartisan and in accordance with Clause 4(b) of rule XI and all other applicable rules of the Committee and the House.

### RULE NO. 14: COMMITTEE STAFF

The staff of the Committee on House Administration shall be appointed as follows:

A. The Committee staff shall be appointed, except as provided in paragraph (B), and may be removed by the Chairman and shall work under the general supervision and direction of the Chairman;

B. All staff provided to the minority party members of the Committee shall be appointed, and may be removed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member;

C. The Chairman shall fix the compensation of all staff of the Committee, after consultation with the ranking minority member regarding any minority party staff, within the budget approved for such purposes for the Committee.

### RULE NO. 15: TRAVEL OF MEMBERS AND STAFF

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the Committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

### RULE NO. 16: POWERS AND DUTIES OF SUBUNITS OF THE COMMITTEE

The Chairman is authorized to establish appropriately named subunits, such as task forces, composed of members of the Committee, for any purpose, measure or matter; one member of each subunit shall be designated chairman of the subunit by the Chairman. All such subunits shall be considered ad hoc subcommittees of the Committee. The rules of the Committee shall be the rules of any subunit of the Committee, so far as applicable, or as otherwise directed by the Chairman. Each subunit of the Committee is authorized to meet, hold hearings, receive evidence, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary, and to report to the full Committee on all measures or matters for which it was created. Chairmen of subunits of the Committee shall set meeting dates with the approval of the Chairman of the full Committee, with a view toward avoiding simultaneous scheduling of Committee and subunit meetings or hearings wherever possible. It shall be the practice of the Committee that meetings of subunits not be scheduled to occur simultaneously with meetings of the full Committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the Chairman through the clerk of the Committee.

### RULE NO. 17: OTHER PROCEDURES AND REGULATIONS

The Chairman may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

### RULE NO. 18: DESIGNATION OF CLERK OF THE COMMITTEE

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the Committee shall act as the clerk of the Committee.

## HONORING ERNIE BARKA

(Mr. BRADLEY of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADLEY of New Hampshire. Madam Speaker, I rise today to pay tribute to a dedicated New Hampshire resident who has devoted over 30 years of his life to public service, Mr. Ernie Barka.

Ernie passed away Monday, March 10, at the age of 80. He was a true civic leader in his community, devoting his life to others and improving the quality of life for residents, not only in his hometown but all over southern New Hampshire. He worked tirelessly to help those less fortunate and was a champion for the elderly and for children.

The son of Lebanese immigrants, Ernie learned strong family values and the importance of respect for others while working in his parents' grocery store. The strong work ethic instilled by his parents during his childhood carried over to all aspects of his adult life, particularly in his community and civic involvement.

Ernie served most recently as Rockingham County Commissioner and was a former State representative and former school board member in the town of Derry.

Ernie is credited with launching the Meals on Wheels program in Rockingham County. Leaders like Ernie exemplify the true spirit of civic responsibility and he will be truly missed. His efforts to make New Hampshire a better place to live have made a lasting impact on the people of New Hampshire that both knew him and knew of him. I am happy to have called Ernie my friend.

## FINANCIAL CHALLENGES FACING THE NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Madam Speaker, with this early session today it seemed like an appropriate time to talk about what I think are maybe three of the greatest problems that we are facing in the United States Congress in America outside of our economic security and our physical security with the wars going on in Iraq, with the challenge from the terrorists around the world. However, the financial problems that we are facing in Congress are also very serious, and I think we must reverse the rapid descent that we have been taking into extra deficits and overspending. So today I will talk about three areas: One, spending; two, the resulting debt; and, three, some of the financial challenges that face this Nation in the future.

The first chart I have is a chart representing the last 10 years of spending; and discretionary spending has increased an average of 6.3 percent, 6.3 percent each year since 1996, and 7.7 percent each year since 1999. So it is somewhat flat. It starts going up in 1996 and then it really takes off from 1998, 1999 averaging 7.7 percent a year. That is two, three, depending on the year, sometimes almost four times the rate of inflation. So you can imagine if you project that on in this kind of growths of costs, government is going to be eating up more of our income, more of our gross domestic product in the years ahead.

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Why is this? How can we control ourselves from the overzealousness and the attractiveness to spend more money? Of course, politicians in this Chamber get elected every 2 years. The politicians in the other Chamber get elected every 6 years, and the tendency has been when a Member of Congress takes home more pork barrel projects, when they are doing something to solve some of the problems that we face in this country, then they get on television. They get on the front page of the paper. They become popular, especially with those people that need those services, and there is a greater propensity that they are going to get reelected.

So the tendency has been to spend more and more money, and we have changed our income tax system so that most of the people in the United States do not pay much of any income tax. It is the top 14 percent of taxpayers that pay something like 90 percent of the total income tax, and the bottom 50 percent of income taxpayers only pay about 1 percent of the income tax. So it is easy to understand that that bottom 50 percent is not outraged by increased taxes and increased spending and increased borrowing, and this is the next issue I wanted to talk about is borrowing.

Three years ago, in the year 2000, we had a budget surplus of $236 billion. This year we are approaching a $500 billion deficit. So over $700 billion changed from surplus to deficit in a total Federal spending budget that we are looking at this year of $2.1 to $2.2 trillion. Huge points, and again, that is because of the overzealousness to spend.

Let us look at what has happened as a result of that spending, and I think it is good to remind ourselves of the definitions. When we say "deficit" that means a year in which we are spending more money than the Federal Government has in revenues coming into the Federal Government, and "debt" is the accumulation of that annual overspending. So what does government do? We borrow more money.

As a safeguard to try to hold the line on borrowing, what we did many, many years ago is said, look, we cannot borrow, in fact, the Constitution prescribes it, we cannot borrow any extra indebtedness for this country unless it is a law passed by the Senate, the House and signed by the President, to try to put some restraints on the temptation to simply borrow more and more money and spend more and more of that money, and of course, this chart is an explanation, as best as we could portray it, in a blue line, a green line and a purple line, if you will, on the gross Federal debt and its components.

As we look at the bottom purple line, this is the debt held by government accounts. It is the money that we ask workers in this country to pay into the FICA tax, into the Social Security tax, designed in 1934, to be a forced saving so that while we are working, some of that money is taken out. FDR, Franklin Delano Roosevelt, said instead of having to go over the hill to the poor house, we are going to have mandatory savings during those years when a person is working, and then when they retire they will have more security, more Social Security. They will not have to go over the hill to the poor house.

So we came up with a Social Security system, and when we started, it was a situation where current workers paid in their taxes to pay for the benefit of current retirees. That is the same today.

Also, the extra money that is paid in by all Federal workers for their retirement programs, the money for the pensions of the military, our armed service members who pay in part of their wages for their retirement, that is all accounts held by the government, and what we assume in this Chamber, in the Senate and the White House, is that it is okay simply to write out an IOU and spend that money for other government services, but it technically is part of the debt, and as we see over the years, this debt held by government services continues to go up, at least past into the future, as far as we can see almost.

The green line in the middle is the debt held by the public, the Treasury auctions that we have, the so-called Wall Street debt, the debt that is held by retirement funds, insurance companies, banks, anybody that wants to buy those Treasury bills. That is the debt that is held by the public.

We saw a period in 2001 and 2002 and 1999 where we were having a little surplus in terms of paying down some of that debt held by the public, and so, to me, I think it was a little bit misleading, maybe a little bit of hoodwinking in terms of telling people we were paying down the Federal debt at a time when actually the total debt of the country continued to go up. The total debt never went down during our brag sessions of having a lock box, that we are going to take and pay down the public debt of this country.

Yet what was happening is we were to pay down that debt, we were taking extra money coming in from Social Security and the other trust funds and using that money to pay down some of the public debt. So, therefore, as my colleagues can see and as we have tried to portray by this chart, the debt has never really decreased.

Why is this bad policy? Why is it unfair to our kids and our grandkids and future generations to keep piling up this debt?

If we will, sort of pretending that our debt and our problems today are greater than maybe the needs of our kids and our grandkids, probably not so. They are going to have to somehow come up with the extra tax effort to pay off this debt but absolutely to pay the cost of servicing this debt.

Right now we have got a downturn and a sluggish economy, and so, therefore, there are less revenues coming in. The demand for extra money is not out there in the private sector, and so the effect of extra government borrowing does not hurt the economy so much, but when it is going to start to hurt is when we have this economic recovery. When individuals say it is time, I want to buy a new car, what is the interest rate; it is time I want to buy my house and my home for my family, how much is it going to cost me; and a business that decides to employ more and expand and buy the equipment and the facilities they need for expansion and business, and then they find out that who is at that marketplace, buying up available money, is the Federal Government.

The Department of Treasury has auctions every week, and based on the total indebtedness and how much extra we are spending over and above what is being brought into the Federal Government, it is a situation where government says, well, look, whatever it costs we are going to have our money. If we have to bid up the interest rate to make sure that we get the money we need, we are going to do that, and of course that results in the potential for higher interest rates and that is what is going to happen.

When the economy recovers, interest rates are going to go up. Interest rates right now are a little over 3 percent. So government can borrow money at about 3 percent, and yet even with that low interest rate, the servicing that debt, the interest that government pays on that borrowing represents 11.4 percent of our total Federal spending budget.

What would happen if we hit interest rates that were in existence in the late seventies and early eighties when we saw interest rates go as high as 17 percent, sometimes higher than 17 percent? Then that 11.4 percent becomes five times greater, and 60 percent of our budget would be used paying interest, and that is just the situation with the current debt today.

What if we project ourselves to the debt that is going to happen if we are not able to have the intestinal fortitude, if you will the guts, to stand up and say no, we are going to slow down spending, we are going to prioritize some of the Federal spending, government cannot be responsible to all of the problems of the country and we go back to the basics of our United States Constitution?

When Republicans took the majority in this Chamber in 1994 and starting in 1995, Newt Gingrich, the then Speaker of the House, asked me if I would be chairman of the Debt Limit Task Force, and so we got what I considered some of the really good thinkers in terms of trying to come together to analyze how do we start having a balanced budget, how do we start living within our means, how do we start convincing Members of Congress and the country that government cannot solve all the problems and that it is unconscionable just to keep spending more and more money, and of course, politically it is not wise to increase taxes to cover those expenditures, because people reach in and they feel their billfold and they feel the money going out of that billfold to pay the income tax but not so with borrowing. So the tendency has been to increase more and more borrowing.

What if interest rates, and they will, what if interest rates simply are forced up by 2 percent because of the extra demand that government has for borrowing? A person goes out and buys a $28,000 car and they amortize it over 5 years, pay it off in 5 years, it is going to cost them $3,000 more to buy that vehicle because government has pushed up interest rates in the marketplace.

What if they want a home, what if they are going to go out and buy an $80,000 to $100,000 home, amortized, let us say, over 25 years? Then they are going to end up paying $13- or $14,000 more for that home because government is in the marketplace bidding for available funds and driving up the bid on what that interest rate is going to be. So it is going to affect each one of us individually eventually if we are not able to hold the line on spending.

Our debt today amounts to about $24,000 per individual in this country. The total debt is $6.4 trillion.

Let me tell my colleagues another safeguard that our task force on holding the line on debt did. We said that there was a rule in this House, it was called the Gephardt rule, and the Gephardt rule stated in the rules of this Chamber that every time we passed a budget, if that budget spent more money than what was coming in in revenues, then automatically, without another vote, the debt limit of this country would be raised in legislation that would automatically be passed and sent on to the Senate. Why was that? That was so this Chamber was not embarrassed by having to take a vote and a debate on should we increase the debt for our kids and our grandkids.

I am a farmer from Michigan, and it has been our goal to pay off the mortgage, to give our kids a little better chance, but that is not what we are doing in this Chamber. That is not what we are doing across the hall at the Senate. It is not what we are doing at the White House. We are saying our problems must be so great that it justifies us making the wages and earnings of our kids and our grandkids and our great-grandkids to pay off that debt. That is sort of the spending part of the problem on debt.

Another task force that I have been chairing is a bipartisan task force made up of Republicans that sit on this side of the aisle, Democrats that sit on that side. So it was a task force on Social Security, and after we studied the problem and challenge of Social Security, we pretty much all agreed, Democrats and Republicans, that something has to be done because Social Security is going broke, and just let me review a couple of charts that I have on why Social Security is going to grow.

The coming Social Security crisis, and it is coming very quickly, our pay-as-you-go retirement system will not meet the challenge of demographic change. Pay-as-you-go is back to where it was. It is the same as when it started in 1934, existing workers pay in their Social Security tax. That money immediately goes out to current or existing retirees.

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So there is no savings account. Nothing is being saved up for your retirement. It is simply a situation where whenever there were not enough workers and enough revenue coming in for the Social Security to cover promised benefits, then what did government do? And I am sure you can guess what government did. They either raised the tax, Social Security tax, and/or they cut benefits. And most often, throughout the years since 1934, they have done both, raised taxes and cut benefits.

That is why when we looked at the chart on how much debt held by the government accounts kept going up, it is because in 1983, on Social Security, the Greenspan Commission raised taxes so high that ever since that law was enacted, there has been more money coming in to Social Security than was needed to pay out Social Security benefits. And like I said, government said, this is a good deal. We are going to take this money, write an IOU, and we are going to use the Social Security money to pay for other government programs.

That is why some of us said, look, we need something. We need private accounts. We need some way to get it out of the hands of spenders in Congress that would like to take that extra money and instead of saving it, somehow investing it. Every year, Congress has simply spent that money.

So what is in the Social Security trust fund? It is a nice name, but it is a misnomer because there is no real trust fund. There is no money there. So young people are at risk of trying to figure out ways on how they are going to do maybe without Social Security, or with much less Social Security; but more importantly, during their working life, they are going to probably be asked to pay more towards current benefits of retirees.

Look at this chart a minute with me. Demographics is the word. That is the problem. When we started this pay-as-you-go program, it worked very well. The working population was growing in relation to the number of retirees. In fact, back when we started the program, there were 36 workers working, paying in their taxes, for every one retiree. By 1940, it got down to 24 workers working, paying in their taxes, for every retiree. By the year 2000, three workers. Three workers paying in their taxes for every retiree. So their taxes, of course, had to go up. And what the actuaries at the Social Security Administration are predicting is that by 2025 there are only going to be two workers for every one retiree in this country.

And why is that? That is the demographics. The baby boomers. The increase in the birthrate has always been sufficient to keep an increased number of workers in relation to retirees. But now, after the baby boomers, those born after World War II, and the big increase in workers in this country, we are seeing a reduced birthrate; and at the same time we are seeing older people living longer. So where the average age of death when we started this program was 62 years old, which meant most people never got to 65 and collected Social Security benefits, now the average age of death is 86 years old, and it is going up.

Let me conclude by pointing out what we know about Social Security. Insolvency is certain. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out, and we know the results. The fact is payroll taxes will not cover benefits starting in 2015 and that the shortfalls will add up to, and listen to this, $120 trillion between 2015 and 2075. Our annual budget is only $2.1 trillion; but over those years, in excess of the tax money from Social Security coming in, we are going to need an additional $120 trillion.

That is why it is so important that we deal with this; that we step up to the plate; that we deal with this problem now instead of putting it off. Because we have a surplus now coming in from Social Security. If we can use that surplus, it is going to help.

The bipartisan task force on Social Security came to the conclusion that there has to be a better investment for that extra Social Security revenue coming in to the Federal Government. Private accounts are good, for a twofold reason. One, you take it out of the hands and you get it off the table in terms of having it available to be spent by Congress. So it is an assurance that that money is in the name of the American worker and they can depend on it. If they happen to die before age 65, then it goes into their estate.

Now, some have argued, well, we cannot let the individual decide how to invest that money. I say if it is a compromise, fine, let us do it the same as the government's Thrift Savings Plan, where there is a government manager with indexed funds and that you have the choice of some of those safe index funds and you invest in that variety of funds as you might choose. But, still, it is government saying these are the safe funds where you are going to be least likely to lose any of that money. And so somehow it is a good idea.

Because let me tell you, the Supreme Court, on two occasions now, has said that there is no entitlement to Social Security money. I mean, if you work all your life, you pay in all those Social Security taxes, the Supreme Court, on a couple of cases, has said, look, Social Security tax, the FICA tax, is simply a tax and your entitlement to get benefits is simply legislation that has been passed by Congress and signed by the President.

In conclusion, let me say that the biggest risk is doing nothing at all; to do nothing to set aside the Social Security trust fund money and to not use it. And the lockbox that we heard about 3 years ago was a farce. It did not do anything to save Social Security. It was just sort of rhetoric that became politically popular. That money really needs to be invested in some fashion, in such a way to make sure that it is not available to the rest of government to spend as they might choose in other areas.

Social Security has a total unfunded liability of over $9 trillion. Now, the $9 trillion is what we need to come up with today if we are going to keep Social Security solvent. The $120 trillion that I mentioned is future-years money with inflation, et cetera. So between the years 2015 and 2075 we are going to need that extra $120 trillion over and above the Social Security tax that is coming in from payroll.

And I need to mention that right now 75 percent of American workers pay more in the FICA tax, the payroll tax, than they do in the income tax. And it would be, I think, extremely unfair to increase that tax again. Over the years, we have done it dozens of times. It started out at 1.5 percent tax on your income, and that included the employer's share; and now it is up to 12.4 percent.

The Social Security trust funds contain nothing but IOUs. So if we do nothing, somehow government is going to have to raise taxes someplace or increase borrowing or cut down on other government expenses to accommodate what we promised in Social Security. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. Too much. It would be bad. It would be terrible. With so many seniors that depend on Social Security for over 90 percent of their total income in their old age, it would be inconceivable to make those kinds of cuts.

So I ask my colleagues, Madam Speaker, to stand up to this great challenge. Even in the midst of the tremendous challenges that we have with the terrorists, the challenge of what we do with Saddam Hussein in Iraq, we have to stand up and make some hard decisions to make sure that we save Social Security and we do not keep putting it off until it becomes a crisis. And that crisis is rapidly approaching, because sometime between the year 2015 and 2017 there is not going to be enough money coming in from the Social Security tax to pay benefits.

So back to my three areas that I thought were very important. One is spending. We cannot continue to spend. And there will be a lot of criticism on this budget that came out, because we are cutting back on spending. For the first time since I have been here, and I came in in 1993, the budget resolution that we are going to be looking at over the next couple of weeks actually says in the discretionary part of spending, which represents less than half of the total spending, but in some discretionary spending, in some entitlement spending we are going to have to cut back because we want to hold the total spending of this Congress down.

And you know what I think? I think even a lot of grandpas and grandmas, if they knew that it just meant extra borrowing to accommodate some of their needs, even to the extent of prescription drugs, they would say, look, if it is going to be borrowing that my grandkids have to pay back, hold off a little while. Try to hold the line on spending, because that is going to result in holding the line on the total debt that we are passing on to our grandkids.

Mr. BOYD. Madam Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Florida.

Mr. BOYD. Madam Speaker, I thank the gentleman for yielding. I have been watching from my office, and I came to the floor to tell him that I agree with everything he has said. And as a matter of fact, I and some others have control of the second hour, but I know the gentleman has some time left so I thought maybe before they get here he and I could talk.

Mr. SMITH of Michigan. Let us solve the Social Security problem. Let us solve the spending problem.

Mr. BOYD. I hope we can do that. Because the Social Security and the spending problems are the major problems that face our children and our grandchildren. We are hanging an albatross around their necks.

But I wanted to say to the gentleman from Michigan how pleased I was to hear the points that he has made. I did not realize he was a farmer from Michigan. I happen to be a farmer from Florida, as the gentleman may know; and I was very interested to hear the gentleman talk about the fact that as a farmer he knows that at the end of the day his revenues have to match his expenditures or he does not stay in business. I think all of the farmers around the country know that, and all of our small business people and even all of our constituents know that.

At the end of the day they have to have enough revenue to match their expenditures. And if they do not do that, they are bankrupt.

Mr. SMITH of Michigan. Reclaiming my time for just a moment, before the gentleman says it, I say if we cannot hold the line on spending, then we should not have a tax cut. And I yield to the gentleman.

Mr. BOYD. And I thank the gentleman for yielding. I could not agree with him more. I think that is why the gentleman will see, when the Blue Dogs, who are going to be here in the next hour to talk to the Nation, that the gentleman will find that our plan is to reduce spending too and to hold the line and defer the tax cuts until we get a handle on this thing.

But I just wanted to say that our constituents understand that if they cannot hold their spending down to a level that matches their revenue, that they are bankrupt. And they go to a court and they ask the court for relief. And the court will say, well, do you have a reorganization plan? And if they do not have a reorganization plan, the judge will require them to sell their house and their car and that new piece of property they bought, their stocks and so forth. And I think that is the situation we find ourselves in.

Mr. SMITH of Michigan. Madam Speaker, what I am a little nervous about on this reorganization plan that government might have is what some might call monetizing the debt, just printing more money, causing inflation, so it is easier to pay back. That would be terrible.

Mr. BOYD. That would be. That would be terrible. We have to figure out how to discipline ourselves, to quench our thirst for having programs that we are not willing to pay for in our generation.

So I just want to commend the gentleman for his coming to the floor on his own, by himself, and saying what he has said: I think there is a lot of opportunity here for us to work together, and I hope that we can to solve this long-term fiscal problem.

Mr. SMITH of Michigan. Well, Madam Speaker, the rumor is the gentleman might be going to the Senate before we get this worked out. I do not know if he wants to tell the 5 million listeners that we have tonight about that.

Mr. BOYD. Well, wherever we are, we need to work on it together.

Mr. SMITH of Michigan. Exactly right.

## THE BLUE DOG BUDGET

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. BOYD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BOYD. Madam Speaker, I appreciate the opportunity to speak, and I appreciate the remarks of the gentleman from Michigan who preceded me. I think I see a great glimmer of hope here, that those of us who are in different parties can come to the floor of the House of Representatives and essentially preach the same message.

That is what I want to do here today. I want to follow up on what the gentleman from Michigan (Mr. SMITH) says and tell the House that I believe that it is unconscionable that we are entering this time of war, this pending war, when we are economically in the doldrums. We have higher unemployment rates than we have had for years and years. Just 2 short years ago we had a surplus in our Federal budget, and in a very short 2 years we have managed to deplete that surplus and create the biggest deficit in the history of this Nation.

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I think the results of that, the consequences of that, are certainly unacceptable to me and should be unacceptable to most Americans because I think what it does for us in the long run, the long-term economic consequences of it are very serious. It will stagnate our economy. It will make it impossible to solve the long-term Social Security problem that we have that the gentleman from Michigan (Mr. SMITH) spoke about. It will make it almost impossible for us to put in place a prescription drug program.

Both presidential candidates on the campaign trail talked about that as one thing that this Congress should do, reform Medicare to include a prescription drug program. But sometimes as a Congress and as an administration, we seem so fixated on revenue reductions that we have to pay for the priorities that we may list as a Federal Government.

Those priorities are pretty simple. Our primary responsibility is national security. There is a new buzzword, homeland security, that has been created since 9/11, and we know that the world is changing and we have to react to that. That is the primary responsibility of the Federal Government is national security.

We have Social Security, which is a very important program to the success of this society over the last 40 or 50 years. I tell my constituents often that in 1964 about the time of the creation of the Medicare program, if an American reached the age of 65 in this Nation, there was a 58 percent chance they would be below the poverty level. In other words, 58 percent of our citizens that reached that age, retirement age, did fall below the poverty level.

That figure today is a single digit figure, less than 10 percent reach the age of 65 and fall below the poverty level. There are many reasons for that sort of success in having the retired generation of this Nation live in comfort, but the least of those reasons certainly is not that we have a great Social Security and Medicare program in place. We know those programs have long-term funding problems, and we have to find solutions for them.

I think many of us in the Blue Dogs felt we had that opportunity 2 years ago when we had a surplus to fix those programs long term so that our children and grandchildren would not be hung with the responsibility of fixing those programs because it is going to be a much, much more difficult fix 15 or 20 years down the road. The fixes are painful now, but not nearly as painful as they will be in 15 or 20 years.

The Blue Dogs have always focused on fiscal responsibility and tried to convince this Congress that the best thing we can do for this economy is to set our priorities, spending priorities, and be willing to pay for those in our own generation. That is really what our Blue Dog budget is all about, it is about getting the Federal Government back onto a glide path of fiscal responsibility.

We spent the whole decade of the 1990s trying to bring us out of the huge deficit years of the 1970s and 1980s. It was a long, difficult battle. There were spending cuts. We ratcheted down spending at every level of government. The facts, if they are spoken accurately, will bear that out. Now in just a few short years of fiscal irresponsibility, we put ourselves back into a deep, deep ditch.

Madam Speaker, we have some other folks joining us today, and I would like at this time to yield to the gentleman from Tennessee (Mr. TANNER), who is a very effective member of the Committee on Ways and Means, who will discuss a few details of the Blue Dog budget.

Mr. TANNER. Madam Speaker, I think the gentleman is correct in his assessment that our generation ought to be willing or have the courage to pay the bills that we are incurring for our protection and for the protection of our children and not pass on a debt that we have been working on to the extent that we are.

Let me give Members a few facts which are painful to even read. Right now we, the people of the United States, owe about $6.4 trillion as represented by our national debt. Even worse, 8 months ago Congress was called on to raise the debt ceiling; that is the amount of money that the people of the United States borrow. Eight months ago, we raised that debt ceiling $450 billion, which represents almost 10 percent of the then-$6 trillion debt. Do Members realize that 8 short months later we are told by the Secretary of the Treasury we are going to hit that ceiling in the next few days or weeks. That means we have run through in 8 months $450 billion of additional debt.

It gets worse. The Congressional Budget Office last week reported that the deficit for this year would be $287 billion, and that does not include any monies for a potential war in Iraq. CBO further predicted that the deficits over the next 10 years if we continue to follow the economic model that we are operating under right now and do the things the President has suggested with regard to the Tax Code, that over the next 10 years we will rack up almost $2 trillion of additional debt.

Now any rational businessperson understands that such an economic business plan, either in their business or for the country's business, is unsustainable; and the reason it is unsustainable is because interest must be paid on this debt. Last year we, the people of this country, paid $332 billion, paid and accrued $332 billion of interest on the national debt. The revenue of the Federal Government last year was $1.8 trillion. That means we have a debt tax, D-E-B-T, debt tax of 18 cents out of every dollar. Said another way, we have an 18 percent mortgage on our country and this debt tax, as we continue to borrow more and more money, is the only tax increase on the American people that cannot be repealed because interest has to be paid.

This does not even touch the moral argument of what we are doing to the next generation. I told somebody the other day, I said I do not think any of us in this room want to leave our children a country where the rivers and streams are so polluted that fish cannot live in it, kids cannot swim in it, and people cannot drink from them. I do not think anyone wants to leave our children a country where the air is so foul and smog infested that our children have to wear a surgical mask to ride their bicycle, and I do not think any of us want to leave our children a nation that is so burdened with debt that they will not be able to make the public investments that only the government can make to enable private enterprise to grow, expand and flourish.

If there is any businessperson in this country who thinks for one moment that private enterprise can flourish and grow without public infrastructure investment, whether it be in bricks and mortar, airports, railroads, harbors on our rivers and streams, or anything else, interstate highways. If they think private business can grow and flourish without that kind of public investment, then they have never been to a country that does not have any government because in those countries, nobody is doing any good. I have been there, seen that.

So I want to just say that under our present scheme if we listen to some, the deficits do not matter, that this is just a short-term problem. People have tried since the dawn of civilization and the invention of something we call money to borrow themselves rich. It has never worked then, and it is not working now, and anybody who thinks that we can borrow ourselves rich expects what never was and never will be.

We have a serious problem in this country. We are not doing our children right by passing on such a debt to them because we do not have the courage to either raise the necessary revenue for what we want, or we do not have the political courage to cut spending where we can. Something has got to be done, and that is why the Blue Dogs came today with a new budget for this fiscal year that will get us back on a glide path to balance. The biggest gift we could give to our country and to our children is a country that is debt free.

Just think, if we did not pay $332 billion in interest last year what we could do, either cut taxes or make the investments in education, in a world class military, in all of those things without ever raising taxes again. That is the kind of financial management I think people expect us to exhibit up here, rather than trying to borrow ourselves rich and tell them everything is going to be all right.

Madam Speaker, I just want to say that I hope people will give some consideration to the God-awful debt that this country possesses now and what is forecast for the future, and will help us as we try to wrestle with it.

Mr. BOYD. Madam Speaker, I thank the gentleman from Tennessee. Members can tell he is truly our leader on these kinds of budget issues, and a very thoughtful member.

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## THE BLUE DOG BUDGET PLAN

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LORETTA SANCHEZ) is recognized for the remainder of the minority leader's hour.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I was sitting in a military congressional hearing and could not get out in time, but we are here now and really excited about having so many of our Blue Dogs come here today to talk about the real problem on our hands.

And what is the problem on our hands? The problem is that a couple of years ago, many of us who were here in the Congress understood that we were in a surplus situation. We were getting more money in taxes than we were spending. And so we had a surplus. In just 2 years, under the Bush administration, we are in a deficit situation, a projected deficit, anybody that you talk to in this year's budget, of anywhere between about $300 billion and $350 billion. That does not include the war on terrorism, the war in Iraq, our work going on in Afghanistan; that is above and beyond the $300 billion-plus deficit that we are running this year.

Add that to almost a $6 trillion debt load that we are already carrying, and this becomes a major problem. Yet everything else seems to be going wrong. People are being laid off. There are no jobs being created under this administration with the plan that he had, his great tax cut that was supposed to stimulate the economy. It has not. Businesses are closing; bankruptcies are up. We read that in today's newspaper. That is despite all the other problems that we are having in the international world and with respect to a war. So our economy is weak and in many cases, like in California, is getting smaller as we speak.

So what do we do? The President's proposal has been to put forward a budget with stated aims of saying that the economy should get moving, that this budget of his would create jobs and that they would balance the budget. Strike one, strike two, strike three. This budget misses all marks of these three aims. I am going to go through that a little, and then we have got some Blue Dogs here who want to talk about what our proposal is for the budget of 2004.

First of all, economic stimulus. The way that the President has structured his tax cut does not and will not stimulate our economy in the short term. It does very little. In fact, even the President's plan when you look at it, only 5 percent of his projected stimulus package would have any impact now. Now, while people are being laid off. Now, while unemployment benefits are running out. Simply put, the President's stimulus plan is not stimulative at all. In contrast, we Democrats, and in particular the Blue Dog budget, would help to expand the economy. It would help those who have lost their jobs, and it would call for immediate tax rebates. That puts money in the pockets of those people who will spend it, not the people who already have money, but the people who need it to live on a day-to-day basis. It is going to create jobs.

Let us take a look at the President's tenure. Unemployment went from 4 percent to its current 5.8 percent. In other words, he has not created jobs. We have been losing them. He has done a round of tax cuts, over $1 trillion worth of tax cuts. It did not work. It has not worked. And now he proposes to do the same thing, another tax cut. But if his first one did not work, his second one certainly will not work. We need job creation, and we want it to include small business. Small business is where jobs in America are created today. The stimulus effort needs to be focused in part on small business. The Blue Dog plan calls for immediate aid to small businesses by calling for increases in small business expensing from $25,000 to $75,000 for equipment purchases in 2003 and 2004, right now. If businesses invest right now, we are going to give them a tax break, and that is going to stimulate the economy.

Finally, the President's plan, he says, would bring down the debt. But it will not. It would increase the national debt far into the future. As my colleague, the gentleman from Tennessee (Mr. TANNER), said, when we include the service on the debt, or the interest payment that we have to make that the President's plan would generate, his plan will cost at least $925 billion through 2013 alone, with no end in sight. The Democrats, and the Blue Dogs in particular, believe that the main thing we have to get under control is the debt, because when we do that, when we bring down the debt, then the interest payment that we make on that borrowed money becomes smaller and smaller.

When I first got to the Congress, it was about 17 cents of every dollar was spent on interest on the debt. By the time President Clinton got out of office, it was only 11 cents. We were bringing down the debt. The Republicans, when President Bush came in, they were having a hard time deciding, my God, what does the world look like when the Federal Government does not have any debt? They were worried. They were actually worried that we might bring down the debt and there would be no debt in the United States. But they fixed that. They fixed it by giving tax cuts, they fixed it with a bad economy, and now we are back up to 18 cents of every dollar we bring in as tax revenue to the Federal Government gets spent on the debt. We need to reduce the public debt. It is a debt tax.

We as Blue Dogs believe that we cannot simply stand around and criticize, but that we must present our own solution to the problem, that it has to be credible, that it has to be based in principles. The Blue Dog principles are to bring down the debt, stimulate the economy, create jobs, and get the economy moving again. That is why I am for the Blue Dog enforcement bill, which we call Assuring Honesty and Accountability in 2003.

All of the provisions in our budget enforcement bill are for debt and deficit reduction. In very black and white terms, we have a plan of how to bring down the debt and how to stimulate the economy. A handful of my fellow Blue Dogs will be here tonight to speak about that. I believe the next one that we have is the gentleman from Mississippi (Mr. TAYLOR), who will give his version of what Blue Dogs are trying to do to help bring down the debt, create jobs, and put more money in America's pockets.

Mr. TAYLOR of Mississippi. I thank the gentlewoman. I think it is important that we remind the American public where we are now. When we passed the Bush tax cuts in May, just 2 years ago, our Nation was $5,643,680,010,418 in debt. Less than 2 years later we are $6,445,790,102,749 in debt. That is an increase of over $800 billion. If you were to track the American debt from the founding of the American Revolution through the Vietnam War, our Nation had borrowed that much money in about 180 years. In less than 2 years, our Nation has borrowed that much money. What is particularly frustrating I think for all of us is the complete flip-flop on the part of our Republican colleagues.

The gentleman from Illinois (Mr. HASTERT) has been the Speaker of the House now for, I believe, 1,500 days or something very close to it. In those 1,500 days, he has never scheduled a vote on a balanced budget amendment. I find this a bit ironic, because on March 17, 1994, then-Member Hastert said clearly, "Until our monstrous $3.4 trillion deficit is eliminated, interest payments will continue to eat away at the important initiatives which the government must fund. I will not stand by and watch Congress recklessly squander the future of our children and grandchildren."

As I pointed out, the debt has increased $2 trillion since the Speaker said that, then-Member HASTERT. Yet he will not allow a vote on a balanced budget amendment, and we are not even sure he is going to allow a vote on the Blue Dog budget. As we know last year, it was so thoroughly convoluted in the Committee on Rules that we were not given a clear opportunity to offer it as an amendment. I hope, Mr. Speaker, you will do so this year.

I would also remind you that on that same day, you said, "The American people have wanted a balanced budget amendment for a long time, because they know it's the only way to force Congress to make spending choices."

Mr. Speaker, if you meant what you said in 1994, we are willing to help you do just that, but you have got to give us a vote on it.

There are some other interesting quotes. The next year, January 25, the Speaker said, "Mr. Chairman, a national debt of $4.5 trillion, you can see how it's growing, should finally convince every Member in this Chamber that Congress has got no discipline to solve its own problems. This balanced budget amendment will put discipline upon us."

Mr. Speaker, I wish you would live by those words and give us a vote.

Here a few days later, "The American people want their government to be fiscally responsible. They want us to balance the budget in order to lower our debt and make our children's future brighter."

We could not agree with you more. You were right in 1995. Why are you not for a balanced budget now?

Some other friends of mine on the other side of the aisle have said similar things. Now Majority Leader TOM DELAY, it has been a while. March 11, 1994:

"We are showing what we would do. If the Republicans were in charge of this House and in charge of the Senate, it would be a much different America. It would be a much different government."

In the past 2 years, or less, you guys have run up $800 billion in new debt. It is obviously different. I do not think it is better, but there is always time to change. I think one of the ways that you can change is to allow a vote on the floor next week of the Blue Dog budget, which would get us back on the path to a balanced budget.

The gentleman from Texas (Mr. DELAY) had some interesting statistics. This is from a speech that he gave on the House floor in 1995:

"In 1980, each child born that year immediately inherited a debt of $4,000. That is government debt. By 1985, because no balanced budget had been adopted, the children that year had inherited a $7,600 debt. By 1990, our children were burdened with almost $12,800 in debt."

This is again from Majority Leader DELAY's floor speech from 1995:

"Each year every child born in America this year will begin life with a debt of more than $16,700. Is it any wonder that young families have trouble saving money for a down payment on a house? Is it any wonder that the Federal Government's consumption of more than one-quarter of all our economic activity is driven in interest rates and stifling economic growth?"

When the majority leader made that comment, our Nation was about $4.3 trillion in debt. We are now $2 trillion further in debt, so I think it is fair to say that your $16,000 debt that you made reference to is now a $25,000 debt for every American man, woman and child. Yet what really troubles me, and I could go on and on pointing out very important Members of the Republican Party: the gentleman from California (Mr. THOMAS), the gentleman from Illinois (Mr. HASTERT), the gentleman from Texas (Mr. DELAY), the gentleman from California (Mr. DREIER).

One thing that strikes me as an American who tries to be objective about all of this and who kind of enjoys watching other people's political races, I remember distinctly then-candidate Al Gore being severely beaten about the head and shoulders for flip-flopping on the abortion issue. I know many people in this Chamber have different opinions on this, but my Republican colleagues reminded the American people that Al Gore ran as a pro-life candidate only to change to a pro-choice and accused him of flip-flopping. That is probably true. But if that is true, then how can the Speaker and the majority leader, the gentleman from California (Mr. THOMAS) and others who came to this floor and gave eloquent speeches, and they were eloquent speeches, about the importance of balancing the budget, the importance of a balanced budget amendment, that deficits are bad, that interest payments on the debt are bad, how can they now look the American people in the eye and say they are good?

□ 1745

It is a fair question to each of you. It is a fair question the American people ought to be asking my Republican colleagues. Do not try to tell me that you never said it, because it is in the CONGRESSIONAL RECORD.

So the question is, what did you really believe in? Did you believe it when you said it then, or do you believe it when you are saying deficits are not important now? Because they are totally opposite. And all I think the American people are asking for is some honesty, some honesty in budgeting, and some concern about the future of this country, and that we quit sticking our kids with the bills.

The last thing I am going to say, and it is the analogy I use back home because everyone understands it, there is not a Member in this body who would go out and buy a car, and say, "I don't care what it costs, I don't care what the payments are, because my 6-year-old child is going to pay the bill."

There is not a Member in this House that would go out and buy a house and tell the realtor, "I want the nicest house in the county. I don't care what it costs, I don't care what the payments are, because I am going to stick my grandkid with the bill." That is precisely what we have been doing as a Nation, and in less than 2 years we have stuck our kids and grandkids with an $800 billion bill.

The Blue Dogs will give you an opportunity next week to start turning that around. We are going to give you an opportunity to be men of your words. I hope you will join us in trying to balance the budget.

Mr. Speaker, I would hope that you would live by your own words and give us a vote on a much-needed balanced budget amendment to the United States Constitution.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentleman from Mississippi.

Mr. Speaker, now to join us on the House floor is the gentleman from Texas (Mr. TURNER), who has been a leader of the Blue Dogs and has some nifty charts here, to really explain, in case any of you have just joined us, that the Blue Dogs are about bringing down the deficit and creating jobs and bringing the economy back, in contrast to what the President and his Republican majority in the House and in the Senate have presented with their 2004 budget. We have a different budget in mind. We have a timeline to bring down the debt and bring this country back into surplus.

I yield to the gentleman from Texas.

Mr. TURNER of Texas. Mr. Speaker, I thank the gentlewoman for hosting this hour for our Blue Dog group for the presentation of our budget proposal.

The Blue Dog Democrats in the House are 35 members strong. We come from all over the United States. Tonight we have had Members from California, Mississippi, Tennessee and Florida. We will hear from the gentleman from Arkansas (Mr. ROSS) shortly.

This is a group that is united by one theme, and that is we believe that our country must return to balanced budgets, we must try to pay down our debt, which now stands at over $6.3 trillion, and, in order to do so, we have to adopt a fiscally responsible budget in this Congress this year.

Back in January the President revealed his budget plan, and we have had the opportunity to look very carefully at his plan. As you know, his plan calls for tax cuts and acceleration of tax cuts that were implemented 2 years ago when we passed the largest tax cut in the history of the country. That tax cut was to be phased in over a period of about 10 years. Those tax cuts have been phasing in, and the Blue Dog Democrats believe that the tax cuts that we have all received need to remain in place.

We also believe that the future tax cuts that will accrue to the benefit of low and middle income families need to be implemented immediately in an effort to bring about a short-term stimulus.

But the Blue Dog Democrats disagree with our President on two important points of his plan. First of all, we believe that it is wrong for half of his tax cut plan to be dedicated to the elimination of the taxation of dividends.

Now, there are many wealthy Americans who have a lot of stock and who would greatly benefit from eliminating the tax on dividends. But most Americans have very modest stock investments, and we believe it is wrong to dig the deficit hole deeper and to increase our national debt by proposing at this time the elimination of the taxation of dividends.

We also believe that at a time when our Nation is on the verge of war, that we as Members of Congress need to call upon the American people to share in the sacrifice that is being made by the young 18, 19, 20, 21-year-olds who are now gathered around the borders of Iraq, poised for military conflict.

In time of war, all Americans must share in the sacrifice. By eliminating the part of the President's budget plan that eliminates the tax on dividends, we believe we are calling upon those Americans who are best able to share in the sacrifice to postpone that part of the President's plan.

We also believe that American families who have incomes over $170,000 a year should be willing to defer the tax cuts that they would get under the President's plan in order to share in the sacrifice necessary to fight and pay for the war in Iraq.

That is the Blue Dog plan: Accelerate the tax cuts for the lower and middle income families, for all families who have incomes below $170,000 a year; but those who have greater incomes than that, they will get the tax cuts that would naturally accrue to the cuts in the lower tax brackets. They will get the benefit of the Blue Dog plan for accelerating the child tax credit and eliminating the marriage penalty, as will all Americans. But as far as a reduction of the top rates, those families at $170,000 and above should be willing to wait, wait until we get through this war, wait until our budget situation improves.

The difference in those two plans, the Blue Dog plan and the President's plan, has a dramatic impact upon our Federal budget. If you look at the chart to my right, you see the President's plan will dig the budget deficit hole deeper to the tune of $2.7 trillion in debt over the next 10 years. Our present $6.3 trillion debt under the President's plan at the end of 10 years will stand at $10 trillion. We think that is wrong. We think that is bad for the country. We think that is digging a hole that we will have a very difficult time getting out of.

The second chart I have shows that the amount of interest that every American family of four will have to pay just to service that debt that we will have under the President's plan. As you can see by the chart, currently every family in America pays $4,624 in interest just to service that $6.3 trillion national debt. That is what we call the interest tax, and the interest tax is the only tax that you cannot repeal, because the interest obligation on the $6 trillion debt must be paid every year by the taxpayers of this country.

So if you look at the President's plan, by the year 2013, 10 years from now, every American's debt tax will double. Every American family will be paying $8,458 every year, just to pay the interest on the ever-increasing national debt.

We believe that is wrong. We believe it is a tremendous waste of taxpayer dollars to invest that much in interest.

Ms. LORETTA SANCHEZ of California. If I may ask the gentleman a question on that, right now you are telling us we are paying about $4,400 for a family of four just on the debt that this Nation carries in 2003, and if the President's budget gets passed and signed by him, we are going to be looking at increasing that geometrically, basically?

Mr. TURNER of Texas. That is correct. As we said, by 10 years, the end of the budget period that we are now looking at, the tax paid by every family would be $8,458, just in interest. Today, 18 percent of every tax dollar collected by the Federal Government goes to pay interest.

To look at it another way, if you took only the Federal personal income tax, about 25 percent of every dollar we pay, 25 cents out of every dollar that we pay, goes just to interest on the national debt.

What a waste. We talk about wasteful spending, there is no greater waste in any area of spending than what we waste every year just paying interest on this debt that we have accumulated. The Blue Dog plan is to stop that hemorrhaging.

Ms. LORETTA SANCHEZ of California. I would say to the gentleman from Texas, this does not include what it costs for us to go to war with Iraq.

Mr. TURNER of Texas. That is correct. All of the discussion currently ongoing about the Federal budget, the levels of spending, do not include the cost of a conflict with Iraq or the cost of rebuilding Iraq once the conflict is over. The President has said that is a separate item, that it should be treated as a separate item. He has promised he will send a supplemental request to the Congress to pay for that if and when it occurs.

So we are actually talking about very conservative estimates of the size of the national debt, and the Blue Dog budget plan we are contrasting tonight with the President assumes the President's levels of total spending.

There are a lot of folks around here who believe very strongly, as I do and the Blue Dogs do, that we spend too much money and we have to be conservative in our spending. The President has sent us a budget that calls for significant reductions in the levels of spending that we have seen over the years. But even if you abide by the President's spending recommendations, which our budget does, his tax cut policies will increase our national debt to the level to the tune of $10 trillion by the end of this decade.

So, what we say is as long as we are facing war, facing growing deficits, those who are most blessed economically in our country should be willing to defer the future tax cuts they have yet to receive in order to help us dig our way out of this ever-deepening hole of debt and deficit.

The chart I have to my right shows in a line graph the differences and the surplus under the Blue Dog defense budget and the deficit that will occur over the next 10 years in the President's budget. The blue line shows the President's budget. The red line shows the path to a surplus under the Blue Dog budget.

As you can see, after 10 years, our Blue Dog budget has seen several years of improved fiscal condition of the Federal Government, and we have returned to surplus. We will have returned to a surplus by 2009. By the end of the decade, we will have returned to what we call a true surplus that does not account for the influx of Social Security funds, which we are currently spending, just to run the rest of the government.

This Congress a few months ago voted on several occasions never again to borrow money from the Social Security Trust Fund to run the rest of the government. We had 1 year, the last year of the Clinton administration, when we did that, when we accomplished that. But now we are back into deficit spending, we are using Social Security money once again to run the government, and the Blue Dog plan is a plan that will get us back to a point where we will no longer do that. The President's plan, to the contrary, does not accomplish that goal.

Just in the last 2 months, the Congressional Budget Office in revising its economic forecast on Federal income said that the Federal debt at the end of the 10-year period would be half a trillion dollars larger than they have said it would be in just January of this year. So the slide into ever-deepening debt has been dramatic.

The Blue Dogs call upon our President to take a look at the same numbers that his Office of Management and Budget produces, which are very similar to the numbers that our bipartisan Congressional Budget Office produces, and acknowledge and recognize that our picture, our financial picture, has changed dramatically, even since he announced his budget recommendations in January of this year.

I think, based on those changed numbers, the President should join with the Blue Dogs in trying to move toward a balanced budget within this decade, rather than continuing to dig this deficit hole deeper and deeper.

So, I hope tonight as the Blue Dogs have gathered on this floor, that we will be able to persuade not only our Democratic colleagues, who are well aware of this severe deteriorating budget situation, but our Republican colleagues, that they should take a good, hard look at the Blue Dog budget alternative.

It should be appealing to many of them, because for many years Republicans were known to be fiscal conservatives, and it has only been in the last 2 years when we have seen Republicans abandon that, and in fact on many occasions tell us that deficits really do not matter.

The truth is, common sense still prevails, and as you go along spending more money than you take in, eventually it is going to catch up with you. I have never seen a family that could sustain itself for very long incurring debts that they could not repay, and neither can your Federal Government.

□ 1800

So we believe Republicans will be attracted to our plan because we do not dig the deficit hole deeper. We believe that our spending levels, which are the same levels as the President's, will also be attractive to Republicans because they, I hope, would follow their President's recommendations on spending.

So we hope this plan will be well received, and we look forward to the opportunity to debate it when this House considers the budget resolution for this year.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman. Congratulations, by the way, at being named the ranking member of the new Committee on Homeland Security, another area of government that we will see, undoubtedly, some spending happening this year. I know with the gentleman's fiscal conservative principles that he will really hold the line and try to make America safe, but do it within a budget and without too much overspending, as we see the Republicans are attempting at this point. I thank the gentleman for being here tonight.

Next we have the gentleman from Arkansas (Mr. ROSS), who has been a Blue Dog now, I do not know, maybe 4 years, or maybe 2 or 3. He is going to talk about the Blue Dog budget. I yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Madam Speaker, I thank the gentlewoman from California. We have heard a lot of talk tonight about the Blue Dogs. There are 35 of us in the United States Congress who are conservative Democrats that make up the

Democratic Blue Dog Coalition. We have one mission as a coalition, and that mission is to promote fiscal discipline, fiscal responsibility, and to bring common sense to our Nation and its budget process.

We rise tonight because we are concerned about this country and its future. This country is $6 trillion in debt; and under President Bush's budget that he just released to Congress, over the next 10 years, this country will go from $6 trillion in debt to $9 trillion in debt.

This country spends $1 billion every single day simply paying interest on the national debt. What does that mean to all of us? It means a lot. Madam Speaker, $1 billion a day. We could build 200 brand-new elementary schools every single day in America just with the interest that we are paying on the national debt. I have several interstate highway programs under construction in my congressional district back home that will create jobs while the roads are being built and will create jobs long term because of an improved infrastructure which will allow more industry to come and locate in the Delta region, one of the most impoverished regions of the country. I could finish those highways in less than a week just with the interest that we are paying on the national debt. I call it a debt tax. The gentleman from Texas (Mr. TURNER) had it right. That is one tax that cannot go away because as the debt grows, the amount of interest that we as a Nation are required to pay on that debt also grows.

The first $2,559 that every single taxpayer in this country pays each year does not go to educate our children, it does not go to improve roads or to create jobs or improve health care, or to make it affordable and accessible, or to provide prescription drug coverage as a part of Medicare for our seniors, no. The first $2,559 that every taxpayer in this country pays each year simply goes to pay interest on the national debt. We have got to get this debt under control. But now it is getting worse.

From 1997 through 2001, this country did not deficit spend. Last year, President Bush's budget put us back in the days of deficit spending to the tune of $199 billion. This year it will be $300 billion. It is projected to be $307 billion next year. We are headed in the wrong direction. We must get out of the days of deficit spending, and we must begin to pay down this debt.

Social Security. The President's budget for fiscal year 2004, he wants over a 10-year period to borrow $2.3 trillion from the Social Security trust fund. Our government has already borrowed $1 trillion from the Social Security trust fund, and I think it is time for the politicians in Washington to keep their hands off the Social Security trust fund.

There are those in government who will tell us that we must invest that money until the time that we need it somewhere, and that may be true. But let me tell my colleagues something. When I go to the bank to get a loan, they want to know how much I am going to pay back and when I am going to pay it back. This country has already borrowed $1 trillion, getting ready to borrow an additional $2.3 trillion from the Social Security trust fund with absolutely no provision on how it ever gets paid back. Guess what? Assuming it does get paid back, Social Security as we know it today is still broke in 2041, because beginning in 2011, we will have more people earning Social Security benefits than paying into the system.

Medicare as we know it today is broke in 2030.

Now, the President wants another tax cut for the wealthiest people in America. I am not here to beat up wealthy people. This is America. Many people grow and realize the American dream of being successful, and there is nothing wrong with that. But we are asking our men and women in uniform to now make a sacrifice. We are asking people all across America to sacrifice during this heightened time with the potential for war and terrorism. I think now is not the time to pass additional tax cuts.

Let me say this, Madam Speaker. I was one of 28 Democrats to vote with President Bush for his tax cut about a year ago. It was the biggest tax cut in 20 years, $1.3 trillion. But a lot has happened since then. We have gone from a $5.6 trillion projected surplus to a $215 billion debt over the next 10 years. We have had 2.5 million people in America, 2.5 million in America lose their jobs; and anyone who has a retirement plan, a 401(k) plan or invests in the stock market knows exactly what has happened there. We may need dividend tax reform, but now is not the time to do it.

Madam Speaker, as I travel my district back home, I have people come up to me and they talk about how they are unemployed for the first time in their lives. They talk about how they are trying to get by on a $600 Social Security check with a $400-, $500-, $600-, even $700-a-month drug bill. People come up to me and talk about how they are struggling to figure out how they are going to afford to send their kids to college; but never has anyone walked up to me back home or anywhere, for that matter, and said, you know, I am having trouble feeding my kids because I am paying too many dividends, too many taxes on my dividends.

Now is not the time for that reform. Now is the time to be fiscally responsible. Now is the time to begin to get out of the days of deficit spending and to pay down, to begin to pay down this debt.

Here is why it is so important, and here is why the Blue Dog budget addresses those things, and here is why the Blue Dog budget is the right answer during these difficult times to begin the process of getting us out of deficit spending and beginning to pay down the debt. The reason is simple. My grandparents left this country just a little bit better off than they found it for my parents, and my parents left this country just a little bit better off than they found it for our generation. And I think we have a duty; no, I think we have an obligation to leave this country just a little bit better off than we found it for our kids and for our grandkids.

Ms. LORETTA SANCHEZ of California. Madam Speaker, I thank the gentleman from Arkansas. I think there was a point that the gentleman made that is so important for America to understand, and that is that when one comes to this country or when one is born in this country and one realizes their potential, one is in the greatest market economy the world has known, and so it is great if one can use their talents and make money. It is the American way. My father did it coming to this country, my brothers and sisters and I have done it in this country. We want the same thing for everybody. And I tell people all the time who make good money, I say, when they complain to me about paying taxes, I say to them, is it not a great country, where you can make $1 million, $2 million, $500 million a year? Is it not a great marketplace? Is it not great to see the infrastructure we have, the communication that we have? The way our market works, the way people can come here with nothing and make something? Is it not a great place?

Madam Speaker, one has to make money to pay taxes. I think it is a great thing that we pay taxes, because I see the improvements, I see what we have. We have a market economy where we can succeed. So we are not against rich people. We just want to tell people who are making money, there are the troops sacrificing, there are the unemployed sacrificing. There are teachers in classrooms sacrificing, taking out of their own pocket to buy supplies right now. Can you wait? Can you wait on your next tax cut? Would the gentleman not agree?

Mr. ROSS. Well, let me say that this is not a partisan issue for me. I was one of those who supported President Bush's tax cut about a year ago. I just think now is not the time for additional tax cuts, not at a time when we are asking our men and women in uniform to sacrifice, and not at a time when we return to the days of deficit spending, and this country is $6 trillion in debt. Again, we are spending $1 billion a day just paying interest on the national debt. Now is the time to restore fiscal discipline to our national government, to pay down this debt, and to get out of the days of deficit spending.

Let me tell the gentlewoman two things that concern me. If the President is just dying to spend $700 billion on something, let me tell my colleagues some things we ought to do in this country. We ought to quit talking about modernizing Medicare to include medicine for our seniors and we ought to do it, and we ought to fund it to where seniors can walk into the pharmacy of their choice, pull out their Medicare card and be treated just like they are when they go to the doctor and when they go to the hospital.

We hear a lot about homeland security. We hear a lot of talk about it, but it is way underfunded. On February 7, four members of the Cuban Coast Guard on a 30-foot boat made the trip across the waters from Cuba to Key West. They docked at the marina at a hotel in Key West with two machine guns, and they walked the streets of Key West for a number of minutes trying to find somebody to defect to. Thank God it was the Cuban Coast Guard, and thank God they were here to defect. What if it had been terrorists? We have to quit talking about homeland security, and we have to fund it. We have to keep America safe. We have to keep our children safe. We have to keep our grandchildren safe.

Ms. LORETTA SANCHEZ of California. Madam Speaker, the gentleman is right. We need to protect and invest in America. Because we know what happens when we invest in America, when we invest in education, when we invest in a health care system, when we invest in our infrastructure and our communications system. When we invest, we reap more. And when we spend and drive up the debt, we get ourselves in trouble.

When we are talking about 18 cents of every dollar going to pay down the debt, it is credit card amounts. It is what one would anticipate as being the highest cost of borrowing. And imagine if we have to go to war. That is outside of the President's budget. It is not included in the spending that he is proposing. So we will be even higher. And the Blue Dogs feel that the first thing we need to do is get down to basics. Hold down our spending, be good about that, tighten our belts in these tight times, spend on the right things, on investment, on homeland security, on education of our children, on our military. But we also believe it is not time for a tax cut. We believe that everyone must sacrifice during this time; and if we sacrifice and we do it right, we will bring down the debt that we see spiraling out of control. And when we do that, we will have more money, more money in the long run to spend on the things that make this country great.

So I would encourage my colleagues, in particular on the Republican side, to come and ask us about the Blue Dog budget, because we think it will work and it will bring down the debt. And when we bring down the debt, we will see ourselves where we were 2 years ago: in a surplus situation.

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□ 1815

## CONTROLLING THE TYRANT IN IRAQ

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I have come to the floor tonight to discuss our Nation's policy in Iraq and before I discuss that most important issue I would like to make a couple of preparatory comments.

First, I would I want to express my respect, admiration and appreciation for the men and women of our Armed Services who are today deployed in the service of their country, who are already assisting the security and freedoms of our country today, regardless of the outcome of our national policy in Iraq. And I think it is important to note in any discussion of our national policy that the very reason we have the opportunity to discuss and debate these issues on the floor of the House of Representatives are the contributions past, present and future of the men and women of the America's armed forces. Because the very right of freedom of speech would not exist without the courage and dedication of our soldiers and sailors and Air Force personnel, Marines and Coast Guard and there are others.

We would not have the ability and other Americans would not have the ability to protest, to question their government's policy but for the dedicated courage of these individuals. And I have a particular personal connection and admiration for them. In the last 2 weeks I have gone to two deployments of citizens and my neighbors to the Middle East. I went to the deployment in Bremerton, Washington of the 8th Navy Hospital Unit who left about 2½ weeks ago and watched them say good-bye to their husbands and wives and children for the service of this country. And I have them in mind when I am deciding what position to take in Iraq.

I have the sailors of the U.S.S. *Rodney Davis*, a U.S.S. frigate that shipped off last weekend from Everett, Washington now bound for the Middle East and watched them say good-bye to their loved ones on that dock, and I have them in minds when I think about what our policy ought to be in Iraq.

Regardless of what Americans think their policy should be in Iraq, I think we should stand absolutely unanimously as we did in Congress here, in the House last week when we passed a resolution respecting and pledging our support and our prayers, which the brave men and women have tonight and today, in the sands of the Middle East, and we have should not forget them in any stretch.

Second, I want to say that I think that the U.S. Congress needs more discussion, not less, of America's policy in Iraq. And I think it is very disappointing to many Americans that there has been a pall of silence in the House about Iraq for the last several months. It is disappointing because while every democratically elected legislative body around the world or many of them have been debating this subject, the very citadel of democracy, the U.S. House of Representatives right here, the People's House, has been almost absolutely silent on this issue, and I think that is not in the best traditions of democracy.

To that end, we have invited some of my Republican colleagues, the gentleman from Texas (Mr. DELAY), to lead an effort to debate what should be our policy here in the House of Representatives, and to date we have not convinced them to agree to that type of debate in the House and I think it is very unfortunate. I hope that some of my Republican colleagues will engage with us in that discussion in the near future, and we have hope the gentleman from Texas (Mr. DELAY) would reconsider and would allow debate to occur on the floor of the House in this regard.

And the reason I say that is while this House did cast a vote, which I believe unwisely abrogated our constitutional authority to make the decision on war to the executive branch, a lot has happened since that decision months ago. This Chamber should be debating what the right course of action is in Iraq. We owe it to the soldiers and sailors of the 8th Hospital Unit in the Navy and the people of the U.S.S. *Rodney Davis* and all Americans to decide and debate this subject. And I think it is most unfortunate that the House has derogated its responsibility to make that decision and punted it over to the White House down on Pennsylvania Avenue. So I hope that we can inspire additional debate. I have come to discuss this today. I wish we had others to join us who has a different view about Iraq.

Now to the substance of Iraq, I will pose about 8 or 10 questions that I think that we need to have answered before a war starts in Iraq.

The first question I would pose is, is a policy of inaction in Iraq the right and acceptable policy for America and the international community? And I will answer that with a resounding no.

Inaction is not an accepted policy when it comes to Iraq. And fortunately inaction is not what we have at this moment. We have a policy of keeping this thug, this tyrant, this diabolical dictator in a tight little box and that is where we ought to keep him, and we ought to continue and promote and make stronger our inspection protocol to find and root out and disarm this tyrant. And we have been having success in that regard in the last several weeks. And we ought to continue and enhance and strengthen our no-fly zone, which denies that dictator effective control of 70 percent of his country. And fortunately, and this is very difficult to the Iraqi innocent citizens under this tyrant's control, but we ought to continue this economic sanction policy as well to keep this tyrant in his box.

The gentleman from Wisconsin (Mr. KIND) has joined us and I yield to him.

Mr. KIND. Madam Speaker, I appreciate my friend from Washington State for yielding to me.

I just wanted to commend the gentleman for having this discussion this evening. I think it is perhaps the most important decision that the President is about to make on behalf of our Nation, and it is a decision that is going to affect our relationship with the Arab world and the rest of the international community for decades to come. But one of my concerns is for the past several months Congress has been AWOL on this issue, absent without leave. And I think there is still time for us to engage on this fundamentally important decision, and that is what will be the future course of events in dealing with Saddam Hussein and Iraq. And somehow, some way I think we need to come to grips with the new reality of the international order, and that is there are some bad people out there that pose security threats against the safety of our citizens, but it is imperative that we figure out a way of distinguishing between those individuals who are deterable and those who are undeterable.

Certainly I would put Osama bin Laden, the al Qaeda regime in the undeterable category. Those are the ones we need to focus on, we need to get after in order to enhance the security of our people in this country.

I think there is still a debate going on in regards to Saddam Hussein and whether he, in fact, can be deterred. But what is most disconcerting in all this is that we have lost a lot of good will in the international community. The international coalition of support that the President said he would work hard to try to achieve last fall has not come together and we are dealing with a different set of circumstances in an entirely different context today than when the first Iraq resolution came up last fall: The security threat that North Korea now poses against us, which I think is still the most imminent threat against our Nation's security today, even more than Saddam Hussein.

The fact that we do not have this coalition of support to do it the right way, not the military operation which we can pretty well do on our own but the rebuilding afterwards. I am afraid we could win the war but lose the peace. And that is why international support is so crucial. But also the domestic implication. The President a couple weeks ago submitted a budget calling for the largest deficit in our Nation's history, and it does not include a dime for the cost of the military buildup in the Middle East or the possible military action or the rebuilding that will have to come afterwards. These are issues that all of us in this Congress should been engaged in in having a national discussion, however unpleasant that might be. That is what a great democracy needs to do.

And that is why I earlier this week called on the gentleman from Illinois (Mr. HASTERT) and Majority Leader FRIST to allow the United States to have a renewed discussion, to give our constituents back home an opportunity through their representatives to voice their opinions and their concerns in regard to this very important decision. And that is why, again, I want to just thank my friend from Washington State (Mr. INSLEE) for trying to have a dialogue on this very important issue, because a lot of folks back home feel that they are wondering where Congress is in all of this. And instead of having these meaningful discussions, we are instead discussing about changing French fries to freedom fries. I mean, how trivial can you get?

So as we move forward, and I still think there is time to engage the country but also the international community in regard to this important decision, hopefully we will have more of an opportunity for Congress to get back involved in this and get the policy right. And regardless of what decision the President makes, and if it is a decision to send the troops in, I would hope at a minimum there would be consensus in the country that we need to support our troops.

I have been to a lot of deployment ceremonies for Guard and Reserve units in Wisconsin, and I had a chance to meet a lot of those who are being called up today, and let me tell you they are impressive individuals. Well-trained, well-motivated, very patriotic. They love and believe in their country, and we need to give them support in their mission. But it is our task as policymakers to make sure we get the policy right, and there is where the conversation should take place, and there is why we need to have these type of discussions.

So I thank my friend again for the opportunity to speak on this important issue, for the leadership he has shown on this important issue. And hopefully we will be able to work and engage together on this. That it is not just one individual here in this country making such a profound decision that will affect our position on the global scene for many years to come.

Mr. INSLEE. I appreciate it. We will continue to get our efforts to get a dialogue going in the House. The gentleman has written the gentleman from Illinois (Mr. HASTERT). I have written the gentleman from Texas (Mr. DELAY). We will continue these efforts.

Before the gentleman goes, I will note just a little problem we will be working on. I met with a group of reservists last weekend because we are having these longer deployments and longer call-ups and one of the things we need to work on is make sure they get adequate health care when they switch from one coverage to another as well as adequate travel reimbursement because, unfortunately, we will have longer deployments. I will be talking with the gentleman.

I thank the gentleman for joining me and I thank him for his leadership on this work.

Madam Speaker, we are talking about inaction is not an option when it comes to Iraq. And I point this out because I feel that in the debate, those who have supported a largely unilateral war, which is the situation we are in with very little international support, those who support that position have suggested that there is only two decisions here, war or passivity, war or inaction.

I think it is very important to note that the course we are advocating is that we continue to squeeze down on this tyrant. And that it is important to realize that we ought to engage the power of the international community to isolate him and to continue this disarmament program, and I think just in the last few days we have continued to see success in the inspection process, and it is important to realize no inspection process is going to be totally effective in the first 24 hours or the first 30 days. It took us years in the 1990s but the disarmament program and the inspection protocol, although it was not absolutely foolproof, in fact destroyed more weapons of Saddam Hussein than were destroyed in the Persian Gulf War. That is a significant fact that is sometimes forgotten. It ought to give us some degree of optimism about continuing the inspection protocol which is so important, which we ought to make stronger.

By the way, when it comes to these inspections, if we have to double the number of inspectors, if we have to triple the number of inspectors, if they need to go up a factor of ten, it is cheap at twice the price. Because frankly this inspection protocol is costing us a few million dollars a year. A war will cost somewhere between 60- and $120 billion a year to the United States taxpayers. And we ought to advocate with the United Nations to have a more rigorous inspection protocol and accomplish that.

The second question I would ask and I think is important to answer in this debate, is the President's assertion, his implicit assertion, that Saddam Hussein was behind the horrendous attack on our Nation September 11 supported by the evidence of our intelligence services? And I am afraid to say that that assertion is wholly unsupported by the evidence.

□ 1830

If Saddam Hussein were connected with the September 11 attack on this Nation, I would not hesitate for 5 seconds to vote for an action by the United States, even largely unilaterally, as we did in Afghanistan, because the Taliban was directly behind the attacks of the United States of America. It was responsible for thousands of deaths.

I have listened closely for months now for some shred of meaningful evidence that Saddam Hussein had broken with his decade of failing and refusing to ally with the al Qaeda, and all of the sudden the September 11 attack, and that has been wholly missing in this debate. I have gone to repeated classified briefings; and I obviously will not disclose what were in those briefings, but I have come away from a review of the entire record and not seen meaningful evidence of a connection between Saddam Hussein and September 11.

Frankly, it is not too surprising, because anyone who has studied the Mideast understands that there is a dramatic difference between the thinking of al Qaeda and Osama bin Laden and the type of tyranny and oppression that Saddam Hussein has advocated, because al Qaeda has been a fundamentalist Islamic group, and they have called Saddam Hussein, as recently as several weeks ago, an apostate, who is a secular tyrant; and they have been oil and water, and it is a good thing that they have been.

I serve on the Committee on Financial Services, and as recently as yesterday we had the Homeland Security Department, the Department of Justice, and the Department of Treasury; and we were looking at money laundering and issues about the financing of terrorism. I asked our three agencies whether there was any evidence that they would share with us that there was any financing by Saddam Hussein of the September 11 attacks, and I asked them a very specific question, because this is fundamental to the President's argument. They did not present one shred of evidence that there was a connection between Saddam Hussein and September 11, and this is very important in this debate.

It is not important to know whether Saddam Hussein is a despicable, loathsome human being who has been a tyrant, who has tortured his citizens, who has started wars, who one can find no virtue in whatsoever. That is an accepted fact, and we should not be naive enough to think otherwise.

When it comes to deciding whether America should go to war, it would be a huge mistake to go to war based on an illusion that this is the person responsible for September 11; and unfortunately, and it is unfortunate, I think, I saw a poll the other day that the President has convinced 42 percent of Americans that Saddam Hussein was behind September 11 when his own intelligence agencies know otherwise. That is unfortunate in this debate.

The third question I would ask that is important to ask is what is the relative threat posed by Iraq relative to the threats posed by other nations and non-nations around the world, and that is an important question, because there are an unlimited number of threats to our personal security. It is unlimited, and there is a hierarchy of how imminent and how dangerous they are, and if we simply focus on Iraq and if we are willing to go to war in Iraq, to the detriment of our ability to deal with other threats that I believe are more imminent and potentially more lethal, it will be a bad decision by the United States. So if I can, for a moment, talk about some of these other threats.

The President has indicated that Saddam Hussein has attempted to obtain fissionable materiel and nuclear weapons. This is true. It is clear that Saddam Hussein has tried for decades to obtain a nuclear device, and he has been spectacularly unsuccessful in his multiple-decade efforts, but other countries have not been unsuccessful.

North Korea, the country that the President of the United States told us is not creating a crisis, a country that has probably got fissionable materiel and is on the course to have several nuclear weapons in several months, that recently intercepted our reconnaissance aircraft, which has been involved in infiltration of various other countries, who is acting in a fanatical, totally unpredictable manner, who may have or will have shortly nuclear weapons that can reach Japan, who is developing missiles that can reach the western coast of the United States in a few years, that is an imminent threat to this country. Unfortunately, America's response to North Korea has been damaged, hindered and limited due to the President's concentration on Iraq, and I have to stand here to sadly say that if Saddam Hussein could, potentially, I do not know how with the inspection process, but with our inspection process under way, he is decades away from a nuclear weapon.

North Korea is months away from nuclear weapons that are deliverable to other nations and potentially the Western United States in several years. That is the number one threat to the security of this Nation and the President, who only has 24 hours in the day, has been making a lot of calls about Iraq, and has not had time to make calls about North Korea; and we have to be aware of the presence of these other threats.

Second threat, Iran. I was in Israel about a year and a half ago, and I met with the number three or five person in the Israeli defense force, and I asked him what he was most concerned about in threats in the region and to the security of Israel. Obviously, the intafada, creating the havoc and destruction, is first on his mind; but he told me, and he had a lot of concern in his voice when he told me this, that we had to really crack down on a country that started with the letter I in the Mideast, because they were very, very dangerous to the regional security of the area and to the security of Israel, and that country was Iran.

Because he told me that, because of the assistance of Russia, Iran was making significant progress to nuclear weapons, and his statement to me almost a year and a half ago has been borne out by the intelligence photographs we saw last, I guess it was, Monday now in our newspapers about the cascade of centrifuges that Iran has developed to develop fissionable materiel in relatively short order for another nuclear power in the Mideast. That is a clear and present danger to the security of the Mideast and ultimately to the United States, but the United States has not been able to deal with that threat because it has been so focused on Iraq, and I think that is most unfortunate.

While we are fighting a war in Iraq, if that breaks out, these other nuclear-armed countries, or very shortly will be, will be perfecting their weaponry under the cover of this war of Iraq. While we are fighting a country that is trying to make balsa wood airplanes, that we are now told was the reason to go to war, and I will come to that in a moment, we have got to be very cautious about focusing on one threat to the detriment of our ability to deal with others.

Fourth question, are we making progress in disarmament of Iraq? I have been actually relatively pleasantly surprised at the rate of progress we have made. It seems like every week or two we have been able to make progress in the disarmament of Iraq, and the folks listening probably are more familiar than I am; but it is important to note that progress continues as it did in the 1990s.

I think we cannot be naive. There is no way to guarantee absolute 100 percent disarmament of Iraq unless it becomes under our military control. It would take years to conduct searches of every nook and cranny in Iraq; but what we can say, I think with a relative degree of assurance, is that we have stopped Iraq's efforts to the extent they existed, which were quite rudimentary, at least in the last year or two, toward a nuclear weapon.

We have significantly impaired any ability to have a meaningful bioweapons hazard program, and we are on the way to assuring that the destruction of the delivery system or potential delivery system to the al-Samoud missile system, which I think now we have destroyed about 40 percent of their missile system, we are making real progress. The question in my mind is why stop that progress now in favor of a war while we are continuing to make progress on this effort? I do not believe there is a good answer to that question.

Fifth question, what would be needed in postwar Iraq? Here is where I think unfortunately the administration is wholly not up at least at the moment to the task of what they have said their goal is in Iraq. The President has offered a variety of statements as to what his goal is in Iraq. He has said that he has wanted to wage war or may want to wage war in Iraq in order to preserve the sanctity of the United Nations to make sure that the United Nations has credibility, and he has said that he is concerned about Iraq's threatening its neighbors. He said that it is for our own personal security, and he has said that he wants to free the Iraqi people from this tyrant; and I want to address that last goal of freeing Iraq from this tyrant.

The reason I want to address that is, to me, that actually if there were a legitimate reason for a war in Iraq would be the one that would be most telling and most consistent with the facts and the evidence, and the reason is because there is no question but that innocent Iraqis, by the millions, have suffered at the hand of this tyrant. It is an appealing thought to believe that we could free them from that control of this despot. That is appealing.

I have to say that in reviewing the plans, or lack of plans, and the commitment, or lack of commitment, of this administration, the ability of George Bush to bring democracy to Iraq, at best, is highly speculative; and I will tell my colleagues the reasons why.

Number one, exhibit A, Afghanistan. I believed war in Afghanistan was necessary from a personal security standpoint due to the tie of the Taliban government to the September 11 attack; but we had a perfect opportunity to, in fact, try to establish a democracy, and this administration has blown it big time. To the extent that when it came time for this year's budget, to put money in to help the rebuilding of Afghanistan, to help restore democracy to keep out the return of the Taliban, do my colleagues know how much money they put in their budget? Zero dollars, zero dollars for democracy in Afghanistan.

Their explanation was they forgot, and I think that was very candid. The President's administration forgot about the goal of democracy in Afghanistan; and today we are faced with the same problem we had after there were efforts to kick the Russians out, which is the return of the Taliban and the return to tyranny and return to the war lords because we have not made the investment that is required to get the job done in Afghanistan; and if we want a template, unfortunately, and I think it is unfortunate, if we want a template of what the Bush administration would do in Iraq, look what they have done in Afghanistan, which is to basically say we are going to take care of about a 10-block area around Kabul so we can say we have got some vestiges of a country. That is a farrier and I have not seen anything better planned for Iraq.

We have been asking on a bipartisan basis for the administration's plans on a postwar Iraq for months and months now; and we have been given, I do not know how to say this charitably. I am searching for a way to say it charitably. A joke perhaps is the best thing to say on what their plans are on a postwar Iraq.

Here is a country, cobbled together after the British Empire left the Mideast, of three distinct ethnic groups that have never worked together except under the heels of a despot with the Kurds who the administration has already decided to sell out to Turkey for the 15th time to the Kurds, the Kurds who are now finally enjoying some degree of autonomy under our no-fly zone. We have got the Kurds some freedom today from Saddam Hussein because of our no-fly zone and think of the irony of it.

The President may be on the cusp of a war, and he has agreed to turn them back to Turkey, and in fact, that is overstating a little bit, but he has allowed Turkey, under the secret deal he wants to make, to come into the Kurds' territory; and what an irony it is that the President says he wants to restore democracy in Iraq, and the first deal he cuts with Turkey is to allow them to come back in and again be dominant over the Kurds who are now free for the first time in decades.

That is the type of shady dealing and efforts that have plagued us in our Mideast policy for years.

□ 1845

And to think that we can break these eggs and put them back into the democracy category with the lack of commitment of this administration is wholly speculative and most disappointing to the poor people of Iraq. And I think anyone who knows the history of these people knows how terrible their conditions have been.

Frankly, if we had an administration that we believed we could have confidence would really commit to the democracy in Iraq, for the long-term future, and who made the commitment financially and otherwise. I would be a lot more willing to look at the idea. But we do not have that right now in this administration.

Talk about a financial commitment, we are talking about tens of millions, perhaps in the billions, of dollars in a postwar Iraq. And the President has not even factored in the cost of even the attack, much less the postwar cost into his budget, nor have my friends on the Republican side of the aisle. What type of commitment do we think we can make to the international community to in fact build democracy in Iraq when we basically have said we are not going to spend a dime to do it and we have been afraid, Congress and the administration, to build into our budget the cost that it would take to do this? No, perhaps building democracy in Iraq after a war could be a great vision, but we have certainly not seen the vision to make it happen.

Six. What are the real goals of the administration in Iraq? Here is something I think that is very important in the discussion. The discussion we have heard, and it has changed over time, but when the President went to the United Nations at one time, he said his good deal was the disarmament of Iraq. The problem is, and the reason I believe we have had so much problem in winning and building an international coalition, unlike the success that the first President Bush enjoyed, is that President Bush, in the very first statement of his administration, said that was not our goal at all. He said our goal was simply to remove Saddam Hussein, period. No ifs, ands, buts. No disarmament. Saddam Hussein was going to have to go.

When the President said, as he did most recently last week, that it is simply about removing Saddam Hussein, it did not matter what benchmarks he made, did not matter what inspections we had or what disarmament he would do, he was going to have to go, well, that would be attractive; but it has damaged our ability to build an international coalition to deal with this despot. And it is an unfortunate contrast to the skills that the first President Bush demonstrated in building an international coalition to deal with the threat in Iraq.

When the first President Bush spoke with respect to our international partners, we were clear to them about our goals, we hewed to the commitments we made to our international partners, and we did not tell our international partners that we were going to do what we were going to do, and it did not matter what they thought. That is what the first President Bush did, and he was successful. This administration has violated all those fundamental precepts of human communication, which is respect for one another.

The other goal is the President has said he wants to make sure the United Nations resolutions are honored. That is a legitimate goal. He has implicitly said he wants to show respect for the United Nations and build it up as a coalition, an international body that can deal with this. That is a laudable goal and an important one, but it certainly is shortchanged and has its legs cut out from underneath it when in the same breath the President says he wants to respect the United Nations, but then says he is going to ignore the United Nations if they do not do exactly as he wants them to do and he will start a war anyway.

You do not instill trust in your colleagues, or in the United Nations, when right out of the box you say you are just coming to them for a rubber stamp and you are going to start a war anyway. It is not the way to build respect in the United Nations. It is one of the problems we are having now in trying to build an international coalition to deal with this problem.

Seventh question. What has changed since Congress voted on this resolution? I thought it was unwise then for the U.S. Congress to derogate its constitutional duty to make a decision about war when it voted to essentially allow one person, one person in this country, to make the decision to go to war, rather than the elected officials here in Congress. When they drafted the Constitution, they said Congress had the power to declare war, so that one person would not have that awesome challenge and responsibility. Nonetheless, Congress did that, and my side of the vote did not prevail.

It is important to have this discussion now because since that decision, other potential enemies of the United States have used our continued concentration and obsession, and I will not use the word obsession, I will strike that word, but our concentration on Iraq has allowed them to continue to develop their own nuclear weapons programs. And we have been totally ineffective in dealing with those other issues, and that calls for Congress to have a debate about what the current state of this situation is. And we should have one.

The eighth question. Has the President really leveled with the American people about the ramifications of this war financially and otherwise? The sad fact is that he has not. He has refused to even discuss with the U.S. Congress what the costs are going to be. And at the same time that we are going to incur from $60 billion to $120 billion in cost, the President, unlike any other wartime President in American history, and every other wartime President in American history has leveled with the American people, and they have told the American people what the war would cost in lives and treasury. They have been straight and said we need to pay this. And this President has not been straight with the American people about the cost of this war, either in lives or treasury, because he wants his tax cut above everything. Above everything. At the same time we are going to spend an additional $60 billion to $120 billion, he continues to try to ram through these tax cuts, which is his number one ideological belief.

Now, to me, when we have seen our soldiers and sailors off to harm's way in this war, and they are making this sacrifice, it does not seem to me to be right that the President of the United States says we might have a war overseas, but we are going to have a fiscal party at home. That is irresponsible, and it does not respect the tradition and the willingness of Americans to sacrifice together when we do face a mutual security threat.

Number nine. What does a war in Iraq do to our security on the downside? Because many of us believe, and I believe, that while a war in Iraq and the elimination of Saddam Hussein's rule could reduce a particular threat that he presents, it could create greater threats in many other ways. I believe that in balancing those threats there is as much potential increased harm to the United States, in threats to our security, as there is benefit. And there are multiple reasons for that. The most obvious reason is what is happening in Iraq today, where we have kicked Saddam Hussein out of a particular region in the northeast corner of the country and al Qaeda has moved in.

It is a great irony. We have seen the sort of picture of what Iraq is going to look like in a post-Saddam Hussein world. Because in this corner of chaos, where there is no state, it is like a little Afghanistan about a decade ago. The fundamentalist Islamic movement has moved in and this group has now got about 700 fighters that are grouping in Iraq. Not under or allied with Saddam Hussein, but they are using the absence, this vacancy, this vacuum of state control to regroup and potentially plan attacks against the United States of America. By creating a chaotic situation in Iraq, we not only inspire the hatred which we have heard so many people talk about of young Muslim folks in the Mideast, but we will provide them a place to group, which is in a vacuum of what used to be Iraq.

It has been said by many people that a war in Iraq could be sort of the great dream of Osama bin Laden. Because no Osama bin Laden is going to bring down the United States in his wildest imagination. His dream is to incite a war between the West and Muslim nations. And his dream can only be accomplished in one possible way, and that is if the United States acts in a way which will prove to folks in the Muslim nations that in their view that we intend a colonial empire in the Middle East, which I do not believe we do. But to them, having an occupied Mideast Muslim nation, occupied for potentially years, and we have been in Germany for over 50, the ramifications of the recruiting efforts of Osama bin Laden are obvious.

I cannot think of a single thing that could potentially allow the regrouping of the al Qaeda network other than a war with Iraq, eventually. This is truly one battle we could win but lose the war. That is why war does not always buy more security. Sometimes it buys less, even if you win the first battle. And I think we should think about that.

Tenth. What would a largely unilateral war do to America's moral leadership in the world? I will close on this point, because I think it could be the most important for the long-term future of our Nation.

I believe America is a unique country that has a unique responsibility for moral leadership in the world. The world looks to us for leadership. It looks to us for an idea of what is acceptable conduct by nations and men. It looks to us to lead in the establishment of a rules-based society, because that is the genius of America. We have rules here and we follow rules here. Other countries do not. They do not have rules they follow in a lot of countries.

Since the collapse of the Soviet Empire, an empire we contained in a way that certainly makes Saddam Hussein look like a petty little maggot, but we contained the Soviet Union for many, many decades, and we should think about that in regard to Saddam Hussein. But we have this moral leadership, and we wear the cloak of moral leadership in the world, and we are looked to all over the world for leadership. The Statue of Liberty is not just about immigration. That flame is about leading the world in a lot of ways, not just economically.

It is my belief that should we go it alone, largely alone, which is the position we are in at the moment, if there is a lack of success developing an international coalition, which there has been a spectacular failure at this moment, if we act without United Nations sanctioning, we will have damaged our ability to fulfill the destiny of America to lead the world to a new civilization internationally, not just along the borders of our country. That is why it is so important for us to work with the international community to maintain what we have right now, which is the admiration of the world.

Think about what has happened in the last 12 months, where in the weeks following September 11 the world embraced us. There were headlines around the world in various newspapers. We were all Americans. Think how far that has changed because of the reaction against the United States and this administration acting so cavalierly in certain regards. It is disappointing.

But we can regain this. We can regain our position. We can continue to keep this tyrant in his box. We can build an international coalition. We can succeed in these inspections. We can continue our no-fly zone. We should continue to work with the international community. And in the days ahead, we hope that the President will listen to the American people and the voices from around the world in doing that, because that is America's destiny.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. DEGETTE (at the request of Ms. PELOSI) for today on account of a family emergency.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. TANCREDO) to revise and extend their remarks and include extraneous material:)

Mr. RENZI, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. HENSARLING, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. NEY, for 5 minutes, today.

## ADJOURNMENT

Mr. INSLEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 p.m.), under its previous order, the House adjourned until Monday, March 17, 2003, at noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1130. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Payments for Cattle and Other Property Because of Tuberculosis [Docket No. 00-105-2] (RIN: 0579-AB36) received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1131. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Unshu Oranges From Honshu Island, Japan [Docket No. 02-108-1] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1132. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aluminum tris (O-ethylphosphonate); Pesticide Tolerance [OPP-2002-0348; FRL-7292-6] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1133. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 1,3 Benzene Dicarboxylic Acid, 5-Sulfo-, 1,3-Dimethyl Ester, Sodium Salt, Polymer with 1,3-Benzene Dicarboxylic Acid, 1,4-Benzene Dicarboxylic Acid, Dimethyl 1,4-Benzene Dicarboxylate and 1,2-Ethanediol; Tolerance Exemption [OPP-2003-0037; FRL-7290-9] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1134. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyriproxyfen; Pesticide Tolerance [OPP-2002-0345; FRL-7289-6] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1135. A letter from the Assistant Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation: Cheesequake Creek, NJ [CGD01-03-003] received February 11, 2003, pursuant to pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Financial Services.

1136. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing [OAR-2002-0086; FRL-7461-3] (RIN: 2060-AG93) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1137. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing [OAR-2002-0035; FRL-7461-8] (RIN: 2060-AG66) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1138. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks [Docket ID No. OAR-2002-0085; FRL-7462-3] (RIN: 2060-AH55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1139. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing [OAR-2002-0054 and OAR-2002-0055; FRL-7459-9] (RIN: 2060-A167 and RIN: 2060-A168) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1140. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing [OAR-2002-0088; FRL-7462-6] (RIN: 2060-AG68) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1141. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture [OAR-2002-0048; FRL-7462-1] (RIN: 2060-AG55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1142. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products [OAR-2003-0002; FRL-7462-2] (RIN: 2060-AH02) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1143. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles [OAR-2003-0014; FRL-7461-9] (RIN: 2060-AG98) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1144. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands [OAR-2002-0040; FRL-7461-4] (RIN: 2060-A174) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1145. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production [OAR-2002-0003; FRL-7461-7] (RIN: 2060-AE79) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1146. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Rhode Island; Negative Declaration [RI-1047a; FRL-7458-5] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1147. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing [AD-FRL-7463-2] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1148. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District [CA 245-0375a; FRL-7446-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1149. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing [OAR-2002-0083; FRL-7460-2] (RIN: 2060-AG48) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1150. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations [OAR-2002-0080; FRL-7461-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1151. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production [OAR-2002-0057; FRL-7460-1] (RIN: 2060-AH75) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1152. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2003 Harvest Specification for Groundfish [Docket No. 021122286-3036-02; I.D. 110602B] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1153. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2003 Harvest Specifications for Groundfish [Docket No. 021212307-3037-3037-02; I.D. 110602C] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1154. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes Equipped with Rolls-Royce Model Trent 800 Series Engines [Docket No. 2002-NM-318-AD; Amendment 39-13027; AD 2003-03-03] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1155. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones: San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1156. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois [CGD08-02-020] (RIN: 2115-AE47) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-172-AD; Amendment 39-13033; AD 2003-03-09] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1158. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category [FRL-7462-8] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1159. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Modification of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Constuction Activity That Disturbs One to Five Acres of Land [7464-2] (RIN: 2040-AC82) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 444. A bill to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work; with an amendment (Rept. 108-35). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 875. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes (Rept. 108–36). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Ms. Carson of Indiana, and Mr. Michaud):

H.R. 1256. A bill to amend title 38, United States Code, to provide for the annual placement of memorials honoring the service in the Armed Forces of veterans who, at the time of death, were homeless or indigent; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. Michaud, Mr. Filner, Mr. Gutierrez, Ms. Corrine Brown of Florida, Mr. Rodriguez, Mr. Reyes, Mr. Strickland, Mr. Udall of New Mexico, Mr. Ryan of Ohio, Mr. Sanders, Mr. Holden, Mrs. Davis of California, and Ms. Waters):

H.R. 1257. A bill to amend title 38, United States Code, to make permanent the authority for qualifying members of the Selected Reserve to have access to home loans guaranteed by the Secretary of Veterans Affairs and to provide for uniformity in fees charged qualifying members of the Selected Reserve and active duty veterans for such home loans; to the Committee on Veterans' Affairs.

By Mr. McGOVERN (for himself, Mr. Shays, Mr. Oberstar, Mr. LaHood, Mr. Moore, Mr. English, Mr. Hinchey, Mr. Quinn, Mr. Wexler, Mr. Paul, Mr. Lynch, Mr. Boehlert, Mr. McNulty, Mr. Kildee, Mr. Kleczka, Mr. Rahall, Ms. Lofgren, Mr. Delahunt, Mr. Grijalva, Mr. Evans, Ms. Baldwin, Mr. DeFazio, Mr. Olver, Mr. McDermott, Mr. Frank of Massachusetts, Ms. Schakowsky, Ms. Slaughter, Mr. Udall of Colorado, Mr. Watt, Ms. Woolsey, Mr. Doggett, Mr. Levin, Mr. Costello, Ms. Hooley of Oregon, Mr. Sanders, Ms. Lee, Mr. Serrano, Mr. Sabo, Ms. McCollum, Mr. Markey, Ms. Norton, Mr. Holt, Mr. Blumenauer, Mr. Kucinich, Mr. Capuano, Mr. Rush, Mr. Gutierrez, Mr. George Miller of California, Mr. Pallone, and Mr. Allen):

H.R. 1258. A bill to repeal the statutory authority for the Western Hemisphere Institute for Security Cooperation (the successor institution to the United States Army School of the Americas) in the Department of Defense, to provide for the establishment of a joint congressional task force to conduct an assessment of the kind of education and training that is appropriate for the Department of Defense to provide to military personnel of Latin American nations, and for other purposes; to the Committee on Armed Services.

By Mr. WELLER (for himself and Mr. Crowley):

H.R. 1259. A bill to amend the Internal Revenue Code of 1986 to allow businesses to expense qualified security devices; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Ms. DeGette, Mr. Greenwood, Mr. Towns, Mr. Bilirakis, and Mr. John):

H.R. 1260. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Energy and Commerce.

By Mr. McKEON (for himself and Mr. Boehner):

H.R. 1261. A bill to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FOLEY:

H.R. 1262. A bill to implement or enhance consistent AMBER Alert plans throughout the country; to the Committee on the Judiciary.

By Mr. ACEVEDO-VILÁ (for himself, Mr. LAMPSON, Mr. FOLEY, Ms. VELÁZQUEZ, Mr. GUTIERREZ, Mr. SERRANO, Mr. PALLONE, Mr. CRAMER, Mr. FROST, Mr. WICKER, Mr. SCHIFF, Mr. CONYERS, Mr. ROGERS of Michigan, Mr. CHABOT, Mr. SHUSTER, Mr. ISAKSON, Mr. BOEHLERT, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, and Mr. DUNCAN):

H.R. 1263. A bill to require that certain procedures are followed in Federal buildings when a child is reported missing; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA (for himself, Mr. ORTIZ, Mr. ACEVEDO-VILÁ, Mr. TERRY, Mr. SOUDER, Mr. FROST, Mrs. JONES of Ohio, Mr. MCGOVERN, Mr. CUMMINGS, Mrs. NAPOLITANO, Mrs. LOWEY, and Mr. RAHALL):

H.R. 1264. A bill to provide for reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1265. A bill to provide, upon the request of a qualifying person, for the removal of the remains of any United States servicemember or other person interred in an American Battle Monuments Commission cemetery located in France or Belgium and for the transportation of such remains to a location in the United States for reinterment; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself and Mr. FOLEY):

H.R. 1266. A bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources and the credit for the production of electricity to include landfill gas; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself, Mr. LATOURETTE, Mr. WAXMAN, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. STARK, Ms. LOFGREN, Mr. GEORGE MILLER of California, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. PAYNE, Mr. RODRIGUEZ, Ms. CORRINE BROWN of Florida, Mrs. MALONEY, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. MORAN of Virginia, Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. PALLONE, Mr. GRIJALVA, Mr. HOLDEN, Mr. ABERCROMBIE, Mr. FILNER, Mr. FROST, Mr. LYNCH, Mr. HINCHEY, Mr. SERRANO, Mr. MCGOVERN, Ms. KILPATRICK, Ms. CARSON of Indiana, Mr. BAIRD, Ms. SLAUGHTER, Mr. BISHOP of New York, Mrs. NAPOLITANO, Mr. OWENS, Mr. ACKERMAN, Ms. MILLENDER-MCDONALD, Ms. MCCOLLUM, Mr. DOGGETT, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. RANGEL, Ms. WOOLSEY, Mr. MCNULTY, Mr. FATTAH, Mr. REYES, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. FALEOMAVAEGA, Mr. CLYBURN, Mr. BOSWELL, Mr. MCDERMOTT, and Mr. CASE):

H.R. 1267. A bill to amend the Public Health Service Act, the Social Security Act, and chapter 89 of title 5, United States Code, to provide research on the health impact and prevention of family violence; to provide training for health care professionals, behavioral and public health staff, and community health centers regarding identification and treatment for families experiencing family violence; and to provide coverage for domestic violence identification and treatment under the Maternal and Child Health Services Block Grant Program, the Medicaid Program, the Federal Employees Health Benefits Program, and the Community Health Centers Program; to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS:

H.R. 1268. A bill to amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COSTELLO (for himself, Mr. BOUCHER, Mr. WHITFIELD, Mr. SHIMKUS, Mr. LIPINSKI, and Mr. MOLLOHAN):

H.R. 1269. A bill to provide for research, development, and demonstration on coal and related technologies, and for other purposes; to the Committee on Science.

By Mr. CRANE (for himself, Mr. CAMP, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. JEFFERSON, and Mr. VITTER):

H.R. 1270. A bill to amend the Internal Revenue Code of 1986 to clarify the status of employee leasing organizations and to promote and protect the interests of employee leasing organizations, their customers, and workers; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. MARKEY, Mr. CRANE, and Mr. MATSUI):

H.R. 1271. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. MARKEY, Mr. BOUCHER, Mr. TOWNS, Mr. PALLONE, Mr. RUSH, Mr. ENGEL, Ms. DEGETTE, Mrs. CAPPS, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. INSLEE, Ms. MCCOLLUM, Ms. LEE, Ms. NORTON, and Ms. KILPATRICK):

H.R. 1272. A bill to prohibit fraudulent, manipulative, or deceptive acts in electric and natural gas markets, to provide for audit trails and transparency in those markets, to increase penalties for illegal acts under the Federal Power Act and Natural Gas Act, to reexamine certain exemptions under the Federal Power Act and the Public Utility Holding Company Act of 1935, to expand the authority of the Federal Energy Regulatory Commission to order refunds of unjust and discriminatory rates, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. LEWIS of California, Mr. MATSUI, and Mr. NUNES):

H.R. 1273. A bill to designate a United States courthouse to be constructed in Fresno, California, as the "Robert E. Coyle United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. DOOLEY of California (for himself, Mr. CARDOZA, Mr. NUNES, and Mr. RADANOVICH):

H.R. 1274. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county; to the Committee on Transportation and Infrastructure.

By Mr. FROST:

H.R. 1275. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Ms. HARRIS (for herself, Mr. ROGERS of Michigan, Mr. OXLEY, Mr. NEY, Mr. DAVIS of Alabama, Mr. MURPHY, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BEREUTER, Mrs. BIGGERT, Mr. BOEHLERT, Mr. CASTLE, Mr. EMANUEL, Mr. GILLMOR, Mr. GREEN of Wisconsin, Ms. HART, Mr. JONES of North Carolina, Mrs. KELLY, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mr. GARY G. MILLER of California, Mrs. CAPITO, Mr. RENZI, Mr. RYUN of Kansas, Mr. SCOTT of Georgia, Mr. SHADEGG, Mr. SHAYS, Mr. TIBERI, and Mr. WILSON of South Carolina):

H.R. 1276. A bill to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Financial Services.

By Mr. HAYWORTH (for himself, Mr. BECERRA, and Mrs. BONO):

H.R. 1277. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for ground rent paid on land on which a qualified residence of a taxpayer is located and which is allotted or Indian-owned land; to the Committee on Ways and Means.

By Mr. HILL (for himself, Mr. TAYLOR of Mississippi, Mr. BERRY, Mr. MOORE, Mr. SANDLIN, Mr. STENHOLM, Mr. TURNER of Texas, Mr. HOLDEN, Mr. MATHESON, Mr. THOMPSON of California, Mr. PETERSON of Minnesota, Ms. LORETTA SANCHEZ of California, Mr. MICHAUD, Mr. SCHIFF, Mrs. TAUSCHER, Mr. TANNER, Mr. JOHN, and Ms. HARMAN):

H.R. 1278. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HULSHOF (for himself, Mr. POMEROY, Mr. LEWIS of Kentucky, Mr. KENNEDY of Minnesota, Mr. WELLER, Mr. LIPINSKI, Mrs. EMERSON, Mr. SKELTON, Mr. SHIMKUS, Mr. BERRY, Mr. RYUN of Kansas, Mr. MCINTYRE, Mr. JOHNSON of Illinois, Mr. PAYNE, Mr. REHBERG, Mr. COSTELLO, Mr. HOSTETTLER, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mr. ROSS, Mr. LEACH, Mr. ANDREWS, Mr. BEREUTER, Mr. GILCHREST, and Mr. ETHERIDGE):

H.R. 1279. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the use of biodiesel as a fuel; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the

Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself, Mr. OXLEY, and Mrs. MALONEY):

H.R. 1280. A bill to reauthorize the Defense Production Act of 1950, and for other purposes; to the Committee on Financial Services.

By Mr. KING of New York:

H.R. 1281. A bill to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LOFGREN (for herself, Mr. NETHERCUTT, Mr. HOLT, Mr. CUNNINGHAM, Mr. ISSA, Ms. LEE, Mrs. TAUSCHER, Mr. HALL, Mr. MCGOVERN, Mr. MATSUI, Mr. BERMAN, Mrs. CAPPS, Mr. SCHIFF, Mr. PASCRELL, Mr. EHLERS, Mr. CAPUANO, Mr. LAMPSON, Mr. OLVER, Mr. HONDA, Mrs. DAVIS of California, Mr. CALVERT, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. STARK, Mr. EDWARDS, Mr. GREEN of Texas, Mrs. BONO, Mr. MARKEY, and Mr. LYNCH):

H.R. 1282. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Science.

By Mr. MEEKS of New York:

H.R. 1283. A bill to protect automobile consumers by requiring complete disclosure and warranty of any add-ons included with the sale of new automobiles; to the Committee on Energy and Commerce.

By Mrs. NAPOLITANO (for herself, Mr. DREIER, and Ms. SOLIS):

H.R. 1284. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project; to the Committee on Resources.

By Ms. NORTON:

H.R. 1285. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on the Judiciary.

By Mr. PALLONE:

H.R. 1286. A bill to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone; to the Committee on Resources.

By Mr. PAUL:

H.R. 1287. A bill to amend the Internal Revenue Code of 1986 to make health care coverage more accessible and affordable; to the Committee on Ways and Means.

By Ms. PRYCE of Ohio (for herself, Mrs. MYRICK, Mr. GREENWOOD, Mr. TANCREDO, Mr. HOUGHTON, Mr. KING of New York, Mr. GOODE, Mr. CASTLE, Mr. HYDE, Mr. WAMP, Mr. SHUSTER, Mr. SHIMKUS, Mr. PORTMAN, Mr. LATOURETTE, Mrs. BIGGERT, Mr. LOBIONDO, Mr. HOBSON, Mr. BURTON of Indiana, Mr. TIAHRT, Mr. SMITH of Michigan, Mr. WOLF, Mr. BACHUS, Ms. DEGETTE, Mrs. CAPPS, Mr. ISRAEL, Ms. LEE, Mr. UDALL of New Mexico, Mrs. MALONEY, Mr. JOHN, Mr. GREEN of Texas, Mr. LIPINSKI, Mr. POMEROY, Mr. TURNER of Texas, Ms. BALDWIN, Mr. STRICKLAND, Mr. PALLONE, Mr. PASCRELL, Ms. BERKLEY, Mr. HOLT, Mr. FROST, Mr. SERRANO, Mrs. LOWEY, Mr. MURTHA, Mr. MCINTYRE, Mr. INSLEE, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. LUCAS of Kentucky, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, and Mr. BURGESS):

H.R. 1288. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of all oral anticancer drugs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH (for himself and Mr. CARDOZA):

H.R. 1289. A bill to establish the National Parks Institute at the University of California, Merced, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Ms. CORRINE BROWN of Florida, and Ms. WOOLSEY):

H.R. 1290. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado:

H.R. 1291. A bill to amend the Public Health Service Act to include State high risk pool insurance programs in the list of covered entities that receive reductions in the prices charged for prescription drugs under the prescription drug pricing agreements under section 340B of that Act; to the Committee on Energy and Commerce.

By Mr. UDALL of Colorado (for himself and Mr. PICKERING):

H.R. 1292. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. UDALL of Colorado (for himself and Mr. FROST):

H.R. 1293. A bill to authorize the Small Business Administration and the Department of Agriculture to assist farmers and ranchers seeking to develop and implement agricultural innovation plans in order to increase their profitability in ways that provide environmental benefits, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. GEORGE MILLER of California, Mr. TIERNEY, Mr. OWENS, Mr. HINCHEY, Mr. CARDIN, Mr. BERMAN, Mr. LEACH, and Mr. PALLONE):

H.R. 1294. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable energy portfolio standard for certain retail electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WOOLSEY (for herself, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. FROST, Mr. HONDA, Mr. CONYERS, Ms. JACKSON-LEE of Texas, Mr. SERRANO, Mr. RYAN of Ohio, Mr. ABERCROMBIE, Ms. WATSON, Mr. OWENS, and Mr. SANDERS):

H.R. 1295. A bill to provide for coverage of diabetic foot sore apparatus as items of durable medical equipment under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 1296. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on the deduction of interest on education loans; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 1297. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter; to the Committee on Veterans' Affairs, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARTER:

H.J. Res. 39. A joint resolution proposing an amendment to the Constitution of the United States relative to references to God in the Pledge of Allegiance and on United States coins and currency; to the Committee on the Judiciary.

By Mr. SAM JOHNSON of Texas (for himself and Mr. HUNTER):

H. Con. Res. 92. Concurrent resolution expressing the sense of the Congress regarding the need to invest a minimum of 4 percent of gross domestic product on national defense; to the Committee on Armed Services.

By Mr. MCKEON:

H. Con. Res. 93. Concurrent resolution expressing the sense of Congress that the President should renegotiate the extradition treaty with Mexico so that the possibility of capital punishment or life imprisonment will not interfere with the timely extradition of criminal suspects from Mexico to the United States; to the Committee on International Relations.

By Mr. SESSIONS (for himself and Mrs. CAPPS):

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Education and the Workforce.

By Mr. CAPUANO (for himself, Mr. BILIRAKIS, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. OLVER, Mr. DOYLE, Mr. SERRANO, Mr. MEEHAN, Mr. BELL, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. BERMAN, Mr. MCNULTY, Ms. SLAUGHTER, Mr. CASE, Mr. LAHOOD, Mr. KILDEE, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. MATSUI, Mr.

Brown of Ohio, Mr. Greenwood, Ms. Baldwin, Mr. Rangel, Mr. Udall of New Mexico, Mr. McIntyre, Mr. Waxman, Mr. Ross, Mr. Conyers, Mr. Lynch, Mr. Simmons, Mr. Norwood, Mr. Dooley of California, Mr. Frank of Massachusetts, Mr. Stenholm, Mr. Scott of Virginia, Ms. Roybal-Allard, and Mr. Filner):

H. Res. 142. A resolution to express the sense of the House of Representatives that the Federal investment in programs that provide health care services to uninsured and low-income individuals in medically underserved areas should be increased to serve 20,000,000 individuals by 2006; to the Committee on Energy and Commerce.

By Mr. FROST (for himself and Mr. Lampson):

H. Res. 143. A resolution providing for consideration of the bill (S. 121) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes; to the Committee on Rules.

By Mr. WU:

H. Res. 144. A resolution to express the sense of the House of Representatives that the maximum Pell Grant should be increased to $5,800; to the Committee on Education and the Workforce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. Gordon, Mr. Barrett of South Carolina, Mr. Case, and Ms. Hart.

H.R. 23: Mr. Everett.

H.R. 57: Mr. Gillmor.

H.R. 58: Mr. Lipinski, Mr. Berman, Ms. Solis, and Ms. DeGette.

H.R. 75: Mr. Culberson.

H.R. 100: Mr. Michaud.

H.R. 120: Mr. Lipinski.

H.R. 125: Mr. Wu, Mr. Thompson of Mississippi, Ms. Slaughter, Ms. Lee, Mr. Davis of Illinois, Mr. Dicks, Mr. Frank of Massachusetts, Mr. Andrews, and Ms. DeGette.

H.R. 141: Mr. Wilson of South Carolina.

H.R. 217: Mr. Lantos, Mr. Frank of Massachusetts, Mr. Hastings of Florida, Ms. Linda T. Sánchez of California, Mr. Brown of South Carolina, Mr. Meehan, Mr. Faleomavaega, Mr. Simmons, and Mr. Wu.

H.R. 221: Mr. Conyers, Mr. Farr, Mr. Gutierrez, Ms. Eddie Bernice Johnson of Texas, Ms. Lee, Mr. McGovern, Mr. Pascrell, Mr. Towns, Ms. Woolsey, and Mr. Langevin.

H.R. 241: Mr. Michaud.

H.R. 282: Mr. Garrett of New Jersey and Mr. Gutknecht.

H.R. 303: Ms. Slaughter, Mr. Case, and Mr. Hall.

H.R. 308: Mr. Hinchey, Ms. Schakowsky, Mr. Ryan of Ohio, and Mr. Jackson of Illinois.

H.R. 343: Ms. Bordallo.

H.R. 362: Mr. Forbes, Mr. Greenwood, Mr. Quinn, Mr. Ortiz, Mr. Fattah, Mr. Wynn, Mr. Meehan, Mr. Snyder, Mr. Hoeffel, Mr. Putnam, Mr. Isakson, Mr. Platts, Mr. Hinojosa, Mr. Tancredo, Mr. English, Mr. Gibbons, and Mr. Aderholt.

H.R. 375: Mr. Blunt.

H.R. 380: Mr. McKeon.

H.R. 412: Mr. Olver, Ms. Jackson-Lee of Texas, Ms. Carson of Indiana, Ms. Slaughter, Mr. Turner of Ohio, Mr. Price of North Carolina, Mr. Cramer, Mr. Neal of Massachusetts, Mr. Capuano, Mr. Greenwood, Mr. Weiner, Mr. Turner of Texas, Mr. Smith of Washington, Mr. Platts, Mr. Shays, Mr. Issa, Mr. Hinojosa, Mr. Nadler, Mr. Snyder, Mr. Lipinski, Mr. Hunter, Mr. Dooley of California, Mr. Hinchey, Mr. Fattah, Mr. Souder, and Ms. Waters.

H.R. 432: Mr. Van Hollen.

H.R. 434: Mr. Baker, Mr. LaHood, Mr. Tiberi, Mr. Pitts, Mr. Bonner, and Mr. Boehlert.

H.R. 436: Ms. Lee.

H.R. 442: Mr. Larsen of Washington, Mr. Ryan of Ohio, and Mr. Osborne.

H.R. 466: Mr. Greenwood and Mr. Bradley of New Hampshire.

H.R. 489: Mr. Everett and Mr. Tancredo.

H.R. 490: Mr. Jenkins, Mr. Udall of Colorado, and Mr. Gillmor.

H.R. 496: Mr. Cannon.

H.R. 501: Mr. Davis of Illinois.

H.R. 502: Mr. Isakson.

H.R. 503: Mr. Lewis of Kentucky.

H.R. 528: Mr. Rothman.

H.R. 578: Mr. Shaw, Mr. Herger, Mr. English, Mr. Weller, Mr. Bachus, Mr. Graves, Mr. Moran of Kansas, and Mr. Wilson of South Carolina.

H.R. 583: Mrs. Musgrave, Mr. Crowley, Mr. Peterson of Pennsylvania, Mr. Osborne, Mr. McInnis, Mr. Kirk, Mr. Cantor, Mr. Brown of South Carolina, Mr. Beauprez, Mr. Tancredo, Mr. King of Iowa, Mr. Cramer, Mr. Putnam, Ms. Hart, Mr. Green of Wisconsin, Mr. Lucas of Kentucky, Mr. Tiberi, Mrs. Capito, Mr. Graves, Mr. Pence, Mr. Bonilla, and Mr. Baker.

H.R. 591: Mr. Filner.

H.R. 594: Mr. Tierney, Ms. Norton, Mr. Delahunt, Mr. Sessions, Mrs. Johnson of Connecticut, Mr. Cramer, and Mr. Meehan.

H.R. 611: Mr. Sensenbrenner.

H.R. 612: Mr. Sensenbrenner.

H.R. 615: Mr. Sensenbrenner.

H.R. 616: Ms. Ginny Brown-Waite of Florida.

H.R. 617: Ms. Ginny Brown-Waite of Florida.

H.R. 621: Mr. Fossella, Mr. Frost, Mr. Owens, Mr. Lipinski, Ms. Slaughter, Mr. George Miller of California, and Mr. Ryan of Ohio.

H.R. 677: Mr. Wu.

H.R. 678: Mr. Bonner and Mr. Bishop of Georgia.

H.R. 688: Mr. Porter.

H.R. 694: Mr. Ryan of Ohio.

H.R. 713: Mr. Weldon of Florida, Mr. Strickland, and Mrs. Cubin.

H.R. 714: Mr. Rehberg.

H.R. 735: Mr. Ferguson and Mr. Wolf.

H.R. 743: Mr. Peterson of Minnesota.

H.R. 767: Mr. Cantor, Mr. Hayworth, Mr. Herger, and Mr. Pence.

H.R. 768: Mr. Pickering.

H.R. 771: Mr. Cantor.

H.R. 775: Mr. Norwood.

H.R. 784: Mr. Rahall.

H.R. 800: Mr. Gillmor.

H.R. 811: Mr. Frost.

H.R. 814: Mr. Dicks, Ms. Norton, Mr. Langevin, Mr. Dingell, Mr. Farr, Mr. Waxman, Mr. Terry, Mr. Costello, Ms. Linda T. Sánchez of California, Mrs. Capps, Mr. Holden, Mr. Matheson, Mr. Kucinich, Mr. McNulty, Mr. McGovern, and Mr. Moore.

H.R. 815: Mr. Wolf.

H.R. 830: Mr. Goode.

H.R. 839: Mr. Lewis of Kentucky.

H.R. 847: Mr. Davis of Illinois.

H.R. 850: Mr. Bilirakis, Mr. Camp, Mr. Latham, Mr. Manzullo, and Mr. Kline.

H.R. 858: Mr. Scott of Georgia and Mr. Udall of Colorado.

H.R. 872: Mr. Hostettler.

H.R. 879: Mr. Goode.

H.R. 884: Mr. Porter.

H.R. 893: Mrs. Maloney.

H.R. 896: Ms. Bordallo.

H.R. 919: Mr. George Miller of California, Mr. McGovern, and Mr. Stupak.

H.R. 927: Mr. English, Mr. Weller, Mr. Shimkus, Mr. Quinn, Mr. Bereuter, Mr. Kennedy of Minnesota, Mr. Kolbe, and Ms. Ginny Brown-Waite of Florida.

H.R. 931: Mr. Norwood and Mr. Linder.

H.R. 935: Mr. Stark, Mr. Gutierrez, Ms. Ros-Lehtinen, and Mr. Engel.

H.R. 936: Mr. Engel, Mr. Grijalva, Mr. Ryan of Ohio, Mr. Davis of Illinois, and Mr. McGovern.

H.R. 941: Mr. Pomeroy and Mr. Whitfield.

H.R. 946: Mrs. Cubin.

H.R. 962: Mr. Sanders, Mr. Scott of Georgia, Mr. Castle, Ms. Woolsey, Mr. Frank of Massachusetts, and Mr. Levin.

H.R. 965: Ms. Waters, Mr. Deutsch, Mr. Waxman, and Mrs. Lowey.

H.R. 966: Mr. Filner.

H.R. 967: Mr. Frank of Massachusetts, Mr. Crowley, Mr. Pickering, Mr. Gordon, Mr. Olver, Mr. Graves, Mr. Davis of Alabama, Mr. Lipinski, Mr. Pastor, Mr. George Miller of California, Mr. Pomeroy, Mr. Ryan of Ohio, Ms. Norton, Mrs. Maloney, Mr. Kucinich, and Mr. McGovern.

H.R. 977: Ms. Woolsey and Mr. Gibbons.

H.R. 983: Ms. Loretta Sanchez of California and Mr. Schiff.

H.R. 995: Mr. Case and Mr. Hefley.

H.R. 1004: Mr. Smith of Washington, Mr. Nethercutt, Mr. Goodlatte, Mr. LaHood, and Mr. Serrano.

H.R. 1009: Mrs. Christensen.

H.R. 1013: Ms. Dunn and Mrs. Bono.

H.R. 1022: Ms. Linda T. Sánchez of California.

H.R. 1023: Mr. Sessions.

H.R. 1039: Mr. Faleomavaega.

H.R. 1048: Mr. Filner.

H.R. 1072: Mr. King of New York.

H.R. 1080: Mr. Schiff, Mr. Ryan of Ohio, Ms. DeLauro, Mr. Frank of Massachusetts, and Mr. Engel.

H.R. 1081: Mr. Berman, Mr. Schiff, Mr. Ryan of Ohio, Ms. DeLauro, Mr. Frank of Massachusetts, and Mr. Engel.

H.R. 1093: Mr. McCotter and Mr. Case.

H.R. 1094: Ms. Eddie Bernice Johnson of Texas, Mr. LoBiondo, Mr. Ryan of Ohio, Mr. Oxley, Mr. Larsen of Washington, and Mr. Kucinich.

H.R. 1095: Mr. Farr, Mr. Carson of Oklahoma, Mr. McHugh, Mr. Cardoza, Mr. Rohrabacher, Mr. Gordon, and Mr. Issa.

H.R. 1097: Mr. McNulty, Mr. Levin, Mr. Costello, Ms. Solis, and Ms. Eshoo.

H.R. 1104: Mr. DeLay, Mrs. Capito, Ms. Dunn, Mr. Brady of Texas, Mr. Foley, Mr. Goodlatte, Mr. Terry, Mr. Baker, Mr. Upton, Mr. McCotter, and Mr. Simmons.

H.R. 1105: Mr. Farr.

H.R. 1124: Mr. Strickland.

H.R. 1130: Mr. Gordon.

H.R. 1157: Mr. Abercrombie, Mr. Udall of New Mexico, Mr. Peterson of Minnesota, Mr. Manzullo, Ms. Corrine Brown of Florida, Ms. Eshoo, and Mr. Sabo.

H.R. 1160: Mr. Bonner, Mr. Everett, Mr. Vitter, Mr. Lewis of Kentucky, Mr. Nunes, Mr. Peterson of Minnesota, Ms. McCollum, and Mr. Janklow.

H.R. 1161: Mr. Osborne, Mr. Sullivan, Mr. Upton, Mr. Terry, and Mr. McCotter.

H.R. 1162: Mr. Israel.

H.R. 1165: Ms. Watson.

H.R. 1175: Mr. Pitts, Mr. Hensarling, and Mr. Beauprez.

H.R. 1196: Mr. LEACH.

H.R. 1199: Mr. PASTOR and Mr. SNYDER.

H.R. 1200: Mr. CARSON of Indiana, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 1203: Mr. HOSTETTLER.

H.R. 1212: Mr. FILNER.

Mr. 1231: Mr. ABERCROMBIE, Mr. AKIN, Mr. ALLEN, Mr. ANDREWS, Mr. BACHUS, Ms. BALDWIN, Mr. BASS, Mrs. BIGGERT, Mr. BISHOP of Georgia, Mr. BOUCHER, Mr. BOSWELL, Mr. BROWN of Ohio, Mr. BURR, Mrs. CAPPS, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. CRAMER, Mr. CROWLEY, Mrs. CUBIN, Mr. CUMMINGS, Mr. DELAHUNT, Mr. DEUTSCH, Mr. DOYLE, Mr. ENGEL, Mr. ENGLISH, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FOLEY, Mr. FORBES, Mr. FOSSELLA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GILCHREST, Mr. GILLMOR, Mr. GOODE, Mr. GORDON, Mr. HALL, Mr. HASTINGS of Florida, Mr. HAYES, Mr. HEFLEY, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOLT, Mr. HOSTETTLER, Mr. INSLEE, Mr. ISRAEL, Mr. ISTOOK, Ms. JACKSON-LEE of Texas, Mr. JOHN, Mr. JONES of North Carolina, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Mr. KING of New York, Mr. KLECZKA, Mr. KOLBE, Mr. LAHOOD, Mr. LANTOS, Mr. LEACH, Ms. LEE, Mr. LEWIS of Kentucky, Mr. LIPINSKI, Mr. LOBIONDO, Mrs. LOWEY, Mr. LUCAS of Kentucky, Mr. LYNCH, Mr. MANZULLO, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINTYRE, Mr. NEAL of Massachusetts, Mr. NEY, Mr. OBERSTAR, Mr. OLVER, Mr. OTTER, Mr. PALLONE, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PETRI, Mr. PLATTS, Mr. POMEROY, Mr. RAHALL, Mr. REHBERG, Mr. RODRIGUEZ, Mr. ROGERS of Kentucky, Ms. ROS-LEHTINEN, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SHAYS, Mr. SHIMKUS, Mr. SIMMONS, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SNYDER, Mr. SOUDER, Mr. TANCREDO, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. TIAHRT, Mrs. JONES of Ohio, Mr. TURNER of Texas, Mr. UDALL of Colorado, Mr. WALSH, Mr. WAMP, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. WHITFIELD, Ms. WOOLSEY, and Mr. WU.

H.J. Res. 4: Mr. ALEXANDER, Mr. BASS, Mr. FORBES, Mr. POMBO, Mr. TAUZIN, Mr. OTTER, Mr. BONNER, Mr. FRANKS of Arizona, and Mr. HAYES.

H.J. Res. 26: Mr. CARSON of Oklahoma and Mr. SULLIVAN.

H. Con. Res. 26: Mrs. NORTHUP and Mr. KILDEE.

H. Con. Res. 48: Mr. SESSIONS.

H. Con. Res. 49: Mr. PITTS, Mr. BURGESS, Ms. LEE, Mrs. LOWEY, and Ms. DEGETTE.

H. Con. Res. 56: Mr. BILIRAKIS and Ms. JACKSON-LEE of Texas.

H. Con. Res. 78: Mr. HINCHEY.

H. Con. Res. 79: Mr. BILIRAKIS.

H. Con. Res. 86: Mrs. LOWEY, Mrs. MALONEY, Mr. GRIJALVA, Mr. SERRANO, Mr. OWENS, and Mr. FARR.

H. Con. Res. 89: Ms. WOOLSEY.

H. Res. 28: Mr. BELL, Mrs. JONES of Ohio, Ms. NORTON, Mr. ROHRABACHER, Ms. BERKLEY, Mr. POMEROY, and Mr. PAYNE.

H. Res. 108: Mr. SMITH of Washington.

H. Res. 118: Mr. STEARNS, Mr. WYNN, Ms. MILLENDER-MCDONALD, and Mr. FROST.

H. Res. 121: Mr. KILDEE.

H. Res. 132: Mr. DUNCAN, Mr. BUYER, and Mr. COMBEST.

H. Res. 133: Mr. DAVIS of Tennessee.

H. Res. 140: Ms. WOOLSEY.

H. Res. 141: Ms. CORRINE BROWN of Florida.

# SENATE—*Thursday, March 13, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. On this day in 1995, Dr. Ogilvie delivered his first prayer as Senate chaplain; today he will lead us in prayer for the last time.

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O God, our refuge and our strength, a very present help in trouble, we will not fear! In the midst of these perilous times, we hear Your voice saying, "Be still, and know that I am God; I will be exalted among the nations, I will be exalted in the earth!" In response we affirm, "The Lord of hosts is with us;" You are our help and our hope.

Gracious God, I thank You that from the very beginning of our Nation, from the Continental Congress, through the formation of our Constitution, to the establishment of the first Senate, the leaders of this Nation have acknowledged You as Sovereign of this land and the source of all our blessings.

And now, gracious Lord, I thank You for the privilege of serving as Chaplain of these men and women. As You have called them to lead our Nation and the world, You have opened their minds and hearts to receive Your guidance and care. It is with profound gratitude that I reflect on these wonderful years with them. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## IN GRATITUDE TO CHAPLAIN LLOYD OGILVIE

Mr. FRIST. Mr. President, while reflecting on Dr. Ogilvie's tenure as Senate Chaplain, I came across a letter of his dated March 31, 1995. He was just 3 weeks on the job. You could already see his devotion not only to his official duties as Senate Chaplain, but his unofficial duties as the spiritual leader of the entire Senate family.

In that letter, he writes about the importance of interceding "personally" for Senators—for praying for Members, for our families, and for our staff. He says that he is just as close as a phone call and provides not only his work phone number, but his home phone number, as well. He asks that we keep him up-to-date about the needs of others in the Senate family. And he talks about building a "caring network of people who support each other."

Yes, this is a man who knew early on the Senate needs more than one prayer at the start of each day. We needed a lot of support from him, from God, and from each other. And that is exactly the kind of spiritual climate Lloyd Ogilvie fostered for 8 years as Senate Chaplain.

He conducted Bible studies—which Karyn and I and many in this Chamber regularly attended. He hosted weekly prayer breakfasts and small faith groups. He researched theological questions and advised us on the great moral issues of our times. And when he took time to offer his own private thoughts to God, he always forwarded our petitions with his.

He even filled in at the last minute when my office needed a third baseman on our Senate softball team. Now that is going above and beyond the call of duty.

Dr. Ogilvie consoled us during our darkest hours—September 11th, the October anthrax attacks, the loss of two Capitol Police officers and three Senate colleagues come to mind. But he was also there for us every day. To help us cope with the stress of our jobs. To help us overcome struggles in our personal lives. And, most of all, to help us keep things in perspective by reminding us we serve the United States in our offices, but we serve God in our lives.

So I simply want to say thank you to Dr. Ogilvie, for his many prayers on our behalf, for the many hours he dedicated to his position, and for being there—as the spiritual leader of the Senate family—every day in the Chamber and every day in our lives.

And, lastly, I want to thank him for being such a wonderful and supportive friend. I wish him the best in California with Mary Jane. And though Karyn and I will miss them both dearly, we are certain we will hear from them because they will always be family. And there is nothing more precious to the Ogilvies—as they have demonstrated time and again—than family.

The PRESIDING OFFICER (Mr. SUNUNU). The minority leader.

Mr. DASCHLE. Mr. President, in a few moments the Senate will offer a resolution which honors a member of our Senate family who, as the majority leader noted, will be leaving us soon. Lloyd Ogilvie has the appreciation of every one of the Members of this body. I join in expressing my heartfelt appreciation to him and his family as they begin the next chapter in their lives.

A Senate chaplain was once asked: You pray for the Senate? He replied, no, I look at those Senators as I stand on the dais and I pray for the country.

For the last 8 years, Lloyd Ogilvie has done a lot of praying—for our Nation, for the Members of this Senate, and for our families, for our staffs, and all the people who work in this building, and for those who come to visit the Senate from all over the world. He has prayed for us and with us. For many of us, he has been a source of guidance and support. We are grateful to him for his wisdom, for his friendship, and for his service to this Senate and our Nation.

The Senate has been through many challenges these last 8 years, as the majority leader has noted. During those challenges, many of us have found hope and direction in Dr. Ogilvie's words. He comforted us and led us through the deaths of three of our colleagues, our friends John Chafee, Paul Coverdell, and Paul Wellstone. He consoled us when two fine, brave members of the Capitol Police, officers J.J. Chestnut and Detective John Gibson, were murdered guarding this building. He helped us find courage and faith after our Nation was attacked on September 11, and again after the anthrax attack that closed the Hart Building. He has helped many of us grapple with the profound moral and spiritual questions that underscore all questions of public policy.

One lesson Dr. Ogilvie has always stressed is the importance of keeping our priorities straight. In his words: Put God first, then family, then Nation, then career, and things will turn out as they are meant to.

Now Dr. Ogilvie is living that lesson. He is putting his family ahead of his career and returning to California to be with and care for another treasured member of our Senate family, his wife Mary Jane. As much as we will miss him, we respect his decision greatly.

Everyone who knows Lloyd Ogilvie knows he has a special place in his heart for St. Andrew. That seems fitting for two reasons. The first and most obvious reason is that St. Andrew is the patron saint of Scotland, and we all know how proud Dr. Ogilvie is of his family's roots in that beautiful country. The other reason is St. Andrew never got the attention he deserved. In the Bible, it was Andrew's brother, Peter, who got the headlines, even though it was Andrew who first recognized that Jesus was an extraordinary teacher. It was Andrew who told Peter to pay attention to Jesus' words.

Here in the Senate, it is Senators who get most of the headlines. But for many of us for the last 8 years it is Lloyd Ogilvie who has been there to remind us of the important lessons.

Our thanks and our prayers will go to Lloyd Ogilvie as he returns to California. We wish him and Mary Jane, their children, Andrew, Scott and Heather, and their grandchildren, much happiness in the days, months, and years ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I know a vote was scheduled and many wish to speak, but I ask unanimous consent the vote may be delayed so I may speak at this time. I feel compelled to ask for that time so I may speak about our friend, Lloyd Ogilvie.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. The first time I heard Lloyd Ogilvie speak, it was in a prayer, and I remember looking up because I thought I had just heard what God's voice must sound like. What a magnificent voice he has. What a magnificent prayer he always prayed. But as Benjamin Franklin said:

> Well done is better than well said.

In spite of the magnificent messages he has delivered on this floor, his prayers, and our private counsel sessions with him, what he has done has been even more valuable; the way he has come to us all in times of great celebration and times of stress and times of despair. In the good times and the bad times he has been there for me and for many of us—all of us, at one time or another. In spite of all the good things he said, what he has done will be what will stay with us the longest.

Each morning I get up, the first thing I read is "One Quiet Moment," a passage from the Bible and a brief prayer that Lloyd Ogilvie prepared for all of us. It begins my days in the right way. Many nights, just before I go to sleep, I pray for Lloyd and Mary Jane, I pray for their safety, and for their future.

He has been a magnificent influence on this body and on me personally.

This morning I looked up the definition of "chaplain," and it is not enough to describe what he did. He wasn't just a person who was a counselor to this institution and our whole family. I looked up "pastor"—maybe that was the right word. That wasn't sufficient either because he was more than just a pastor to a flock in a narrow area.

No, he has been a spiritual counselor in the broadest sense. The Bible says, in Proverbs:

> Where there is no vision the people perish.

That, of course, refers to the way we really should think about the vision. I think it is true for a country, a country that seeks democracy and freedom and liberty. But it also is true in the broader sense. Lloyd has given us a vision of what life is really about. Thank you, Lloyd John Ogilvie. Well done—ay.

## COMMENDING THE SERVICE OF DR. LLOYD J. OGILVIE, THE CHAPLAIN OF THE UNITED STATES SENATE

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I send a resolution to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 83) commending the service of Dr. Lloyd J. Ogilvie, the Chaplain of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, we had the opportunity this morning to hear the last prayer of our Senate Chaplain, Lloyd Ogilvie, a man who has touched each of our lives in a different and very special way. All of us in here have reached an age where if we took a few moments and tried to list the people outside of our immediate families who really had an impact on us, it would probably be a pretty short list, if we were candid with ourselves.

I have been doing a bit of that the last couple of days, thinking about Lloyd, his contribution here, and the fact he is now going home to take up the challenge of providing care for his wonderful wife Mary Jane.

I have decided my list would be very short, indeed, outside of my immediate family. On that list would, indeed, be Lloyd Ogilvie, who has had a powerful impact on my life. I will never, ever forget him.

We all love him and we care for him. Even though we will not see him as much in the coming years, I hope each of us for whom he has made such a difference will make an extra effort to stay in touch with our dear friend in the coming years.

So, Lloyd Ogilvie, thanks for all you did for all of us. Good luck in the future. Thanks for making a difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I join the distinguished Senator from Kentucky in saying a word about the Chaplain, Lloyd Ogilvie.

I am a new Senator, as is the Presiding Officer, and there have been a great many wonderful things about coming to the Senate. But nothing has surpassed the privilege of getting to know Lloyd Ogilvie in these first couple of months. I have watched him and listened, and I have learned from him. I have been comforted by him. I am deeply grateful for that.

This month in Billy Graham's publication, "Decision," Lloyd Ogilvie's picture is on the front, and there is an interview with him about his 8 years in the Senate. It is a clue about why he has been such an inspiration to so many Senators. The questioner notes:

> A current Senator remarked that your prayers often "make reference to specific turmoil" in the Senate.

The questioner goes on:

> I understand that sometimes following your opening prayer you sit through the Senate sessions.

And Lloyd's answer was:

> The task of any spiritual leader is to listen. You can't minister to individuals or to a group unless you know what is going on. That is the reason that I have to be there.

Lloyd Ogilvie has been a counselor. He is a minister. He is a listener—maybe a listener above all. I have found in my conversations with him that I suspect he knows more about the Senate than any other individual because he knows the hearts of the Senators.

So I rise to thank him, to wish him the very best with his wife Mary Jane, and to let him know that one more Senator has been touched by his presence here in a very short period of time.

I ask unanimous consent to have printed in the RECORD the interview with Dr. Ogilvie that appears in the March 2003 edition of "Decision," the Billy Graham publication.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> After serving eight years as U.S. Senate Chaplain, Lloyd John Ogilvie is retiring this month. He has provided spiritual guidance to senators, to Senate staff and to families during some of the most tumultuous events in the history of the United States. Decision recently spoke with Ogilvie about his Senate experiences and about where God is leading him now.
>
> Q: Describe a typical day in the life of Lloyd John Ogilvie.
>
> A: I usually get up around 6 a.m. and walk for my exercise. As I walk around the Capitol, I pray for 20 senators each day. I cover all 100 senators in a week. Often God puts on my mind and heart people who have needs or concerns. Then, during the day, I often have an opportunity to talk with those people.
>
> After walking, I have my own personal Bible study, and then I walk to work. I live on the Hill—it's 10 minutes from my breakfast table to the floor of the Senate. I give the opening prayer for the Senate. I write the prayers in segments, perhaps a month ahead of time, and as crises change in the nation or in the world or in the life of the Senate, I can change the prayers so that they are current and relevant.
>
> The opening prayer is an extremely important part of my day, because it is on the Senate floor that I speak a word about God that

is crucial to American history and to our future. That word is sovereign. As I studied the prayers of those who founded this nation, a word they frequently used for God is Sovereign, because they came to this country seeking a land where God could be the Sovereign of the land.

So very often in my prayers, I use the word sovereign in describing God's nature and His lordship over this nation. Then I pray for God's power and direction and specifically for the needs that I know might be coming up that day.

I usually spend the rest of the morning in preparation for my Bible studies. I have five Bible studies during the week: for the senators, for senators' spouses, for the chiefs of staff of the senators' offices, and two studies for the Senate staff. It makes for a busy schedule, but I feel that my task is to lower the plumb line of God's justice and righteousness and mercy on the issues that we are facing in the nation. And I can do that by teaching the Bible.

Q: How do you make the Gospel relevant to the issues that our nation and world face?

A: I believe that the Holy Spirit, who inspired the writing of the Scripture, is present in the room as I teach the Scripture. That's awesome, when you stop and think of it. It forces you to study and pray and get ready, because there is a Word from the Lord, and He will speak through the Scriptures if we are faithful to communicate them.

Q: What is one message that we need to hear today?

A: We need to know that God is the Sovereign of this nation. We have a responsibility to trust Him, to seek His will and to live in accordance with His righteousness and justice.

As you trace U.S. history, it is fascinating to see how our founders were very clear about wanting God to guide them. In the First Continental Congress, Samuel Adams stood up and said, "I believe we need to pray," and they went down and got the pastor of Christ Church Philadelphia to come to Carpenters' Hall to pray. Then, when there were deadlocks in the Constitutional Convention, crucial people stood up and said, "We cannot make it without God's power."

Q: You have led the Senate spiritually during some extremely trying times, including the impeachment hearings and the Sept. 11 tragedy. What were those times like?

A: I can't imagine that in eight years we've been through all of this. I think of the impeachment, for example, when it was so important to reaffirm God's sovereignty and His grace. As I was standing outside the Chamber, the senators and leaders would go by and say, "What are you going to pray today?" Then Chief Justice William Rehnquist would say, "What have you got to say to God today?" Then at the end of the prayer, he would give an "Amen" with gusto. But it was a painful time. I'm so thankful that when the Senate leaders got together prior to the impeachment, they opened their meeting with prayer. Trent Lott was majority leader at that time, and he constantly called them back to trust God.

Then, of course, the aftermath of Sept. 11 was a time of helping people to realize that God has not caused that tragedy. He did not send that on America in judgment. But it did bring us to a place of asking what He had to say through all of this.

We had the long process of healing and taking care of people who were traumatized by that event. We had many different services during that period. I remember one in particular, when the senators went over to the National Cathedral to take part in a time of prayer following 9/11. I had the feeling that I should stay here at the Capitol; the staff needed someone to take care of them. So I asked for a large room that seated 300 people, and I made a simple announcement that we would have a prayer time. When I arrived, people were standing in the room, squeezed in shoulder to shoulder. Instead of 300 people, there were 600 in the room and out in the hall. By the end, 1,000 people had come.

Q: A current senator remarked that your prayers often "Make reference to specific turmoil" in the Senate.

A: I feel that this is part of my responsibility as chaplain. Answers to unasked questions are foolish, but Biblical answers to the real questions people are asking are powerful. It is our task to listen, to be sensitive to where people are and then to respond to what's going on inside of them and around them.

When the senators are under a great deal of pressure and stress, I'll pray about that and talk about the pressure cooker of politics. When they are at odds with each other, I can ask God to bring understanding and peace for the good of the American people and for His glory, and to help us depend on Him to bring understanding, to break deadlocks.

Q: I understand that sometimes following your opening prayer you sit through the Senate sessions.

A: The task of any spiritual leader is to listen. You can't minister to individuals or to a group unless you know what is going on. That is the reason that I have to be there. When I sense there is great tension or frustration, I go down on the floor, slip into the chair where I sit, and pray for those who are in conflict. Afterwards, I often go to them individually, talk with them about what's happened and see if I can bring them together.

I am pleased when I see greatness emerge in the senators and they reach beyond their parties and their own particular persuasions to have deep communication with each other. I see that in our Bible studies on Thursdays, when members of both parties study the Scriptures together and try to come to grips with what God might be saying.

Q: Our culture is heavily saturated with the message of separation of church and state, but you have often said that there is no separation of God and state. What do you mean?

A: There is no statement in the literature of U.S. history that is more misunderstood than this phrase, "separation of Church and State." It was included in a letter by Thomas Jefferson to the Danbury Baptists in Danbury, Conn. He was trying to protect the church from government and was establishing the fact that he was a different kind of leader than the sovereigns of Europe. The phrase, however, stuck and has been used to diminish the role of God in American life and in politics.

I believe that there is no separation between God and State. We need God in the affairs of government, and those who are involved in leadership desperately need Him and His guidance and direction. If we take God out of the affairs of government, we are left to our human devices without the empowerment that comes through a relationship with God.

I was very gratified when the Senate dealt with the recent question raised about the phrase "one nation under God." All of the Senators were in their seats, and we gave the Pledge of Allegiance together. No one was missing in affirmation of the fact that they all really believe in this historic declaration that we are a "nation under God."

Q: How can we pray for the Senators and their families?

A: Pray that they will know God, that they will trust God, that they will depend on supernatural power rather than on human talents, that they will pray for and receive the gift of courage, and that they will speak with boldness and dare to give the leadership that's necessary.

Q: What has led you to retire as Senate Chaplain on March 15?

A: My wife, Mary Jane, contracted a bad case of bacterial pneumonia last April, and it lodged in some scar tissue in her lungs from a previous cancer operation. They had such a hard time getting that dislodged that in the process they had to put her on a respirator. That was eight months ago, and she has been in three different hospitals since then struggling to get off the respirator, to get back to breathing on her own and to get back to health.

I'm so thankful for the way she has trusted God in this dark, dark valley of suffering. I realized that it would be much better for her to be near our family in California. She is in a respiratory hospital there that specializes in just the kind of illness she has. I thought I would go back and forth as frequently as I could and stay as long as I could, but I realized this was not adequate. For eight years, I have asked the senators to put God first, family second, the Senate third and ambition fourth.

It was time for me to live my message. So I told the officers of the Senate that I needed to be with my wife. Just as soon as she's strong enough, I'll be available to preach and to teach and to speak, here and around the world.

Mr. McCONNELL. Mr. President, if I may before the Senator from Tennessee leaves, he may not have been in the Senate very long—a couple of months—but the Senator from Tennessee has picked up the essence of Lloyd Ogilvie and why he is so widely admired, respected, and loved around here.

I thank the Senator from Tennessee for his contribution.

Mr. ALEXANDER. I thank the Senator.

Mr. COCHRAN. Mr. President, the retirement of our Senate Chaplain, Lloyd Ogilvie, leaves me with a profound sense of loss. He has been a personal friend to me, as well as a wise counselor and adviser. I know I will miss him greatly. He has served the Senate with great distinction. His daily prayers were works of art and poetry, delivered in his deep rich voice, with conviction and a seriousness of purpose.

He has warmed our hearts with his genuine concern for our spiritual well-being and reached out to touch the souls of staff members and Senate employees, as well, who sought his advice and his message of hope and reassurance. We have all been richly blessed by the presence and the ministry of Lloyd Ogilvie. Our thoughts and sincerest best wishes and our love go with him.

Mr. HOLLINGS. Mr. President, I have been in the Senate more than 36 years and there is no question that Dr. Lloyd John Ogilvie has been the best Senate Chaplain I've ever seen, by far. On this his last day, I join my colleagues in thanking him for the spiritual care he has provided to all of us and our families, and especially for his daily prayers as we tackle the monumental responsibilities before us.

My wife, Peatsy, and I pray for the health of his loving wife Mary Jane. And we are confident that as the Chaplain leaves Washington and returns to California good things await him. For in Psalm 92 it is written that the righteous shall flourish like the palm-tree and that in maturity they shall bring forth fruit and be full of vitality and richness. There is no more worthy son of the Creator to flourish in retirement than Dr. Ogilvie.

Mr. BENNETT. Mr. President, I take this opportunity to pay tribute to Lloyd Ogilvie, our Chaplain. I have told him of the deep affection that I and my wife Joyce have for him and Mary Jane. I wish I could reach as deeply into the writings of Robert Burns as he is able to and come up with exactly the right epigram.

I will point out that he and I share the common experience of living in Scotland as young men. He, there while he was studying for the ministry, and I, there while I was serving as a missionary for my church. In that experience, each of us gained deep respect for the Scottish people and Scottish traditions.

That is why you find me today sporting the tartan of my family, the Wallace tartan. My father served in this body as Wallace Bennett, coming from a long line of Wallaces, including one William Wallace. Whether it was the William Wallace who morphed as Mel Gibson onto the silver screen or not, I am not sure.

Lloyd Ogilvie has made his mark here in a tremendous way, and he deserves all of the wonderful things everyone has said about him. I simply quote a hymn that we sing often in our church. I don't think it is unique to our church, but we sing at this time when young men go out in the circumstance I have just described—go off to a foreign land or to a foreign part of the world to preach the gospel. We sing to them:

God be with you till we meet again;
When life's perils thick confound you;
Put His arms unfailing round you;
God be with you till we meet again.

This is what I say to Mary Jane and Lloyd Ogilvie, from all of us. God be with you till we meet again.

Ms. MURKOWSKI. Mr. President, I rise today to speak of the contributions and service to the Nation, the U.S. Senate, to my family and myself made by Dr. Lloyd J. Ogilvie as Chaplain of the U.S. Senate. I joined the U.S. Senate just over three months ago and I am repeatedly impressed and reminded about the history and tradition of this body. The Office of the Chaplain has served the Senate each day with prayer strongly reaffirming this institution's commitment to faith in God and our recognition of God being the ultimate sovereign over this Nation. The daily guidance and reminder of our Maker helps us all keep perspective on our duties and activities as we debate and make decisions of weighty issues confronting our country.

The Chaplain of the Senate has been an integral part of the U.S. Senate since 1789 when the first Senate elected the first Chaplain. The daily prayers of the Chaplains have been published over the years. In times of great turmoil and in times of the mundane the Chaplain reminds us of our obligation to keep the moral compass pointed in the right direction. This body has been brought together in times of conflict with the help of the Chaplain. Dr. Ogilvie has served us well as the sixty-first Chaplain since 1995.

Just last week the U.S. Senate passed a resolution reaffirming that the term "under God" was an essential part of the pledge of allegiance. I am confident that Dr. Ogilvie could have contributed to our insight and debate, but there is no dispute that this body and this Nation remain under the graceful guidance of God. We have been helped to understand this grace by the spiritual guidance of Dr. Ogilvie.

I have known of the Chaplain Ogilvie for longer than my service in the U.S. Senate. My parents, Senator Frank Murkowski and Nancy Murkowski, share a warm and special relationship with Dr. Ogilvie and his wife Mary. Through them I learned about Dr. Ogilvie and his compassion and commitment to his faith. They join me in sending their prayers, best wishes and expressions of warmth to him upon his retirement.

Dr. Ogilvie will be missed by all his flock and all who know him in his role as Chaplain in the U.S. Senate. He has served this institution in the tradition of this body with honor and excellence.

Ms. MIKULSKI. Mr. President. Eight years ago today, Dr. Lloyd Ogilvie became our Senate Chaplain. Today, as he leaves the Senate, I wish to thank Dr. Ogilvie for his spiritual guidance and friendship.

Dr. Ogilvie is a greet scholar and preacher. Yet he has been so much more to our Senate family. I am particularly grateful for the hospitality Dr. Ogilvie has shown to all religions. He hosted Jewish seders. He invited Cardinals to the Senate. He made sure that religious leaders of all faiths have led the Senate in prayer.

I also appreciate the creative and energetic way he reached out to the entire Senate family. He has led Bible study groups and prayer meetings for Senators and staff. He has provided individual counseling for anyone who has asked for it.

Since September 11, our Nation and our Senate have faced great stress and uncertainty. On September 11, during the anthrax attacks, and now as our Nation prepares for a possible war, Dr. Ogilvie has helped the Senate family to become stronger through faith and prayer.

I also wish to thank Reverend Ogilvie's wife, Mary Jane, who has been such an important partner to him and such a dear friend to all of us in the Senate. I wish the Ogilvies well as they move to California to begin a new chapter in their lives. They will always be in my thoughts and prayers.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 83) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 83

Whereas Dr. Lloyd J. Ogilvie became the 61st Senate Chaplain on March 13, 1995, and has faithfully served the Senate for 8 years as Senate Chaplain;

Whereas Dr. Ogilvie is the author of 49 books, including "Facing the Future without Fear"; and

Whereas Dr. Ogilvie graduated from Lake Forest College, Garrett Theological Seminary of Northwestern University and New College, University of Edinburgh, Scotland, and has served as a Presbyterian minister throughout his professional life, including being the senior pastor at First Presbyterian Church, Hollywood, California: Now, therefore, be it

*Resolved*, That—

(1) the Senate hereby honors Dr. Lloyd J. Ogilvie for his dedicated service as the Chaplain of the United States Senate; and

(2) the Secretary transmit an enrolled copy of this resolution to Dr. Ogilvie.

## SCHEDULE

Mr. FRIST. Mr. President, I will be very brief in our opening script this morning. We will have the opportunity during morning business later this morning for further comments to express our appreciation to Dr. Ogilvie for his 8 years of service to this body.

We will have two votes this morning and then we will have that period of morning business. Following some time for a bill introduction, there will be time available for the Senators to express their gratitude.

The next vote, following the two votes which are about to begin, will begin at 12:30, and will be on invoking cloture on the Estrada nomination. Additional votes will occur this afternoon. I will update Members later this morning.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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## PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent to have printed in the RECORD prior to the vote on S. 3, four letters from specialists in maternal fetal medicine in response to the letter the Senator from California had printed in the RECORD yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROCKFORD HEALTH SYSTEM, DIVISION OF MATERNAL-FETAL MEDICINE,
*Rockford, IL, March 12, 2003.*

Hon. RICK SANTORUM,
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SANTORUM: I am writing to contest the letter submitted to Senator Feinstein by Philip D. Darney, MD supporting the "medical exemption"; to the proposed restriction of the partial birth abortion (or as abortionists call it "intact D&E").

I am a diplomate board certified by the American Board of Obstetrics and Gynecology in general Obstetrics and Gynecology and in the sub-specialty of Maternal-Fetal Medicine. I serve as a Visiting Clinical Professor in Obstetrics and Gynecology, University of Illinois at Chicago, Department of Obstetrics and Gynecology, College of Medicine at Rockford, Rockford, Illinois; as an Adjunct Professor of Obstetrics and Gynecology, at Midwestern University, Chicago College of Osteopathic Medicine, Department of Obstetrics and Gynecology; and as an Adjunct Associate Professor of Obstetrics and Gynecology Uniformed Services University of Health Sciences, F. Edward Herbert School of Medicine, Washington, D.C. I have authored over 50 peer review articles in the obstetrics and gynecologic literature, presented over 100 scientific papers, and have participated in over 40 research projects.

In my over 14 years as a Maternal-Fetal Medicine specialist I have never used or needed the partial birth abortion technique to care for my complicated or life threatening conditions that require the termination of pregnancy. Babies may need to be delivered early and die from prematurity, but there is never a medical need to perform this heinous act.

I have reviewed both cases presented by Dr. Darney, and quite frankly, do not understand why he was performing the abortions he indicates, yet alone the procedure he is using. If the young 25 year old woman has a placenta previa with a clotting disorder, the safest thing to do would be to place her in the hospital, transfuse her to a reasonable hematocrit, adjust her clotting parameters, watch her closely at bed rest, and deliver a live baby. If the patient had a placenta previa, pushing laminaria (sterile sea weed) up into her cervix, and potentially through the previa, is contraindicated. It is no surprise to anyone that the patient went, from stable without bleeding, to heavy bleeding as they forcibly dilated her cervix to 3 centimeters with laminaria. The use of the dangerous procedure of blinding pushing scissors into the baby's skull (as part of the partial birth abortion) with significant bleeding from a previa just appears reckless and totally unnecessary.

Regarding the second case of the 38 year old woman with three cesarean sections with a possible accreta and the risk of massive hemorrhage and hysterectomy due to a placenta previa, it seems puzzling why the physician would recommend doing an abortion with a possible accreta as the indication. Many times, a placenta previa at 22 weeks will move away from the cervix so that there is no placenta previa present and no risk for accreta as the placenta moves away from the old cesarean scar. (virtually 99.5% of time this is the case with early previas). Why the physicians did not simply take the woman to term, do a repeat cesarean section with preparations as noted for a possible hysterectomy, remains a conundrum. Dr. Darney actually increased the woman's risk for bleeding, with a horrible outcome, by tearing through a placenta previa, pulling the baby down, blindly instrumenting the baby's skull, placing the lower uterine segment at risk, and then scraping a metal instrument over an area of placenta accreta. No one I know would do such a foolish procedure in the mistaken belief they would prevent an accreta with a D&E.

Therefore, neither of these cases presented convincing arguments that the partial birth abortion procedure has any legitimate role in the practice of maternal-fetal medicine or obstetrics and gynecology. Rather, they demonstrate how cavalierly abortion practices are used to treat women instead of the second medical practices that result in a live baby and an unharmed mother.

Sincerely,

BYRON C. CALHOUN, MD.

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MARCH 13, 2003.

Hon. RICK SANTORUM,
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SANTORUM: I have reviewed the letter from Dr. Darney describing two examples of what he believes are high risk pregnancy cases that show the need for an additional "medical exemption" for partial birth abortion (also referred to as intact D&E). I am a specialist in maternal-fetal medicine with 23 years of experience in obstetrics. I teach and do research at the University of Minnesota. I am also co-chair of the Program in Human Rights in Medicine at the University. My opinion in this matter is my own.

In the rare circumstances when continuation of pregnancy is life-threatening to a mother I will end the pregnancy. If the fetus is viable (greater than 23 weeks) I will recommend a delivery method that will maximize the chance for survival of the infant, explaining all of the maternal implications of such a course. If an emergent life-threatening situation requires emptying the uterus before fetal viability then I will utilize a medically appropriate method of delivery, including intact D&E.

Though they are certainly complicated, the two cases described by Dr. Darney describe situations that were not initially emergent. This is demonstrated by the use of measures such as dilation of the cervix that required a significant period of time. In addition, the attempt to dilate the cervix with placenta previa and placenta accreta is itself risky and can lead to life-threatening hemorrhage. There may be extenuating circumstances in Dr. Darney's patients but most obstetrical physicians would not attempt dilation of the cervix in the presence of these complications. It is my understanding that the proposed partial birth abortion ban already has an exemption for situations that are a threat to the life of the mother. This would certainly allow all measures to be taken if heavy bleeding, infection, or severe preeclampsia required evacuation of the uterus.

The argument for an additional medical exemption is redundant; furthermore, its inclusion in the legislation would make the ban virtually meaningless. Most physicians and citizens recognize that in rare life-threatening situations this gruesome procedure might be necessary. But it is certainly not a procedure that should be used to accomplish abortion in any other situation.

Passage of a ban on partial birth abortion with an exemption only for life-threatening situations is reasonable and just. It is in keeping with long-standing codes of medical ethics and it is also in keeping with the provision of excellent medical care to pregnant women and their unborn children.

Sincerely,

STEVE CALVIN, MD.

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REDMOND, WA,
*March 12, 2003.*

Hon. RICK SANTORUM:
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SANTORUM: The purpose of this letter is to counter the letter of Dr. Philip Darney, M.D. to Senator Diane Feinstein and to refute claims of a need for an exemption based on the health of the mother in the bill to restrict "partial birth abortion."

I am board certified in Maternal-Fetal Medicine as well as Obstetrics and Gynecology and have over 20 years of experience, 17 of which have been in maternal-fetal medicine. Those of us in maternal-fetal medicine are asked to provide care for complicated, high-risk pregnancies and often take care of women with medical complications and/or fetal abnormalities.

The procedure under discussion (D&X, or intact dilation and extraction) is similar to a destructive vaginal delivery. Historically such were performed due to the risk of caesarean delivery (also called hysterotomy) prior to the availability of safe anesthetic, antiseptic and antibiotic measures and frequently on a presumably dead baby. Modern medicine has progressed and now provides better medical and surgical options for the obstetrical patient.

The presence of placenta previa (placenta covering the opening of the cervix) in the two cases cited by Dr. Darney placed those mothers at extremely high risk for catastrophic life-threatening hemorrhage with any attempt at vaginal delivery. Bleeding from placenta previa is primarily maternal, not fetal. The physicians are lucky that their interventions in both these cases resulted in living healthy women. I do not agree that D&X was a necessary option. In fact, a bad outcome would have been indefensible in court. A hysterotomy (caesarean delivery) under controlled non-emergent circumstances with modern anesthesia care would be more certain to avoid disaster when placenta previa occurs in the latter second trimester.

Lastly, but most importantly, there is no excuse for performing the D&X procedure on living fetal patients. Given the time that these physicians spent preparing for their procedures, there is no reason not to have performed a lethal fetal injection which is quickly and easily performed under ultrasound guidance, similar to amniocentesis, and carries minimal maternal risk.

I understand the desire of physicians to keep all therapeutic surgical options open, particularly in life-threatening emergencies. We prefer to discuss the alternatives with our patients and jointly with them develop a plan of care, individualizing techniques, and referring them as necessary to those who will serve the patient with the most skill. Nonetheless I know of no circumstance in my experience and know of no colleague who will state that it is necessary to perform a destructive procedure on a living second trimester fetus when the alternative of intrauterine feticide by injection is available.

Obviously none of this is pleasant. Senator Santorum, I encourage you strongly to work for passage of the bill limiting this barbaric medical procedure, performance of D&X on living fetuses.

Sincerely,
SUSAN E. RUTHERFORD, MD.

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UNIVERSITY OF SOUTHERN CALIFORNIA, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
*Los Angeles, CA, March 12, 2003.*

Hon. RICK SANTORUM,
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SANTORUM, I am writing in support of the proposed restrictions on the procedure referred to as "partial birth abortion," which the Senate is now considering.

I am chief of the Division of Maternal-Fetal Medicine in the Department of Obstetrics and Gynecology at the University of Southern California in Los Angeles. I have published more than 100 scientific papers and book chapters regarding complications of pregnancy. I direct the obstetrics service at Los Angeles County Women's and Children's Hospital, the major referral center for complicated obstetric cases among indigent and under-served women in Los Angeles.

I have had occasion to review the cases described by Dr. Philip Darney, offered in support of the position that partial birth abortion, or intact D&E, was the best care for the patient in those situations. Mindful of Dr. Darney's broad experience with surgical abortion, I nevertheless disagree strongly that the approach he describes for these two cases was best under the circumstances. Such cases are infrequent, and there is no single standard for management. However, it would certainly be considered atypical, in my experience, to wait 12 hours to dilate the cervix with laminaria while the patient was actively hemorrhaging, as was described in his first case. Similarly, the approach to presumed placenta acreta, described in the second case, is highly unusual. Although the mother survived with significant morbidity, it is not clear that the novel approach to management of these difficult cases is the safest approach. It is my opinion that the vast majority of physicians confronting either of these cases would opt for careful hysterotomy as the safest means to evacuate the uterus.

Although I do not perform abortions, I have been involved in counseling many women who have considered abortion because of a medical complication of pregnancy. I have not encountered a case in which what has been described as partial birth abortion is the only choice, or even the better choice among alternatives, for managing a given complication of pregnancy.

Thank you for your consideration of this opinion.

Sincerely,
T. MURPHY GOODWIN, M.D.,
*Chief, Division of Maternal-Fetal Medicine.*

Mr. SANTORUM. Madam President, I ask unanimous consent that a letter from Dr. Daniel J. Wechter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SYNERGYMEDICAL EDUCATION ALLIANCE,
*Saginaw, MI, March 13, 2003.*

Hon. RICK SANTORUM,
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SANTORUM, I am writing in response to the letter from Dr. Phillip Darney which was introduced by Senator Feinstein.

I have cared for pregnant patient patients for almost 29 years, and have worked exclusively in the field of Maternal-Fetal Medicine (high risk pregnancy) for over 15 years. I am board certified in Obstetrics & Gynecology, and also in the subspecialty of Maternal-Fetal Medicine. I am an assistant professor in Obstetrics & Gynecology for the Michigan State College of Human Medicine, and co-director of Maternal-Fetal Medicine in Saginaw Michigan.

I have never seen a situation in which a partial birth abortion was needed to save a mother's life. I have never had a maternal death, not ever.

I am familiar with Dr. Darney's letter describing two of his cases. My comments are not meant as a criticism of Dr. Darney as a person or as a physician. I have great respect for anyone in our field of medicine, which is a very rewarding specialty but which requires difficult decisions on a daily basis. We are all working to help mothers and their children make it through difficult pregnancies. Still, I do disagree with his stand that the legal freedom to do partial birth abortions is necessary for us to take good care of our patients. For example, in the second case he describes, I believe that patient could have carried the pregnancy much further, and eventually delivered a healthy child by repeat caesarean section followed by hysterectomy. Hemorrhage is always a concern with such patients, but we have many effective ways to handle this problem, which Dr. Darney knows as well as I. Blood vessels can be tied off at surgery, blood vessels can be occluded using small vascular catheters, cell-savers can be used to return the patients own blood to them, blood may be given from donors, pelvic pressure packs can be used for bleeding following hysterectomy, and other blood products (platelets, fresh frozen plasma, etc) can be given to treat coagulation abnormalities (DIC). His approach of placing laminaria to dilate the cervix in a patient with a placenta praevia is not without it's own risk.

If Dr. Darney performed the partial birth abortion on this patient to keep from doing another c-section, or even to preserve her uterus, I'm hopeful he counseled the patient that if she becomes pregnant again, she will once again have a very high risk of having a placenta praevia and placenta accreta.

Lastly, I believe that for some abortionists, the real reason they wish to preserve their "right" to do partial birth abortions is that at the end of the procedure they have only a dead child to deal with. If they were to abort these women by either inducing their labor (when there is no placenta praevia present), or by doing a hysterotomy (c-section), they then need to deal with a small, living, struggling child—an uncomfortable situation for someone who's intent was to end the child's life.

Sincerely,
DANIEL J. WECHTER, M.D.,
*Co-Director of Maternal-Fetal Medicine, Synergy Medical Education Alliance.*

Mr. BURNS. Mr. President, the Partial-Birth Abortion Ban Act of 2003 is not about a woman's right to choose to have an abortion. Regardless of one's views on abortion in general, the partial-birth abortion procedure should have no place in a civilized society such as ours. Partial-birth abortion is an undeniably abhorrent procedure, and most physicians believe it is never medically necessary. The American Medical Association, the largest association of doctors in the United States, and the medical community at large, has endorsed banning this late-term abortion procedure. It is time for the Congress to follow suit.

Since 1995, at least 31 States have enacted laws banning partial-birth abortion. On June 28, 2000, the U.S. Supreme Court invalidated a Nebraska statute that prohibited the performance of partial-birth abortions. The Supreme Court determined that the Nebraska statute was unconstitutional because it failed to include an exception to protect the health of the mother, and because the language defining the prohibited procedure was too vague. We must not allow the Partial-Birth Abortion Ban Act to be diluted by amendments that would limit the application of this bill to a time after a child is determined to be viable. Such language would allow this procedure to continue being performed as late as the sixth month of pregnancy. Additionally, such amendments would create loopholes allowing this cruel procedure to be used even as late as the third trimester of pregnancy, a time at which many babies can sustain life outside the womb.

Passing the Partial-Birth Abortion Ban Act would prohibit any physician or other individual from knowingly performing a partial-birth abortion, except when necessary to save the life of a mother who is endangered by a physical disorder, illness, or injury. Experts have estimated that the partial-birth abortion procedure is used 3,000–5,000 times annually, and that the vast majority of these procedures are performed on a healthy mother and a healthy fetus. The Physicians' Ad Hoc Coalition on Truth—PHACT—a group of over 600 physicians-specialists—has spoken out to dispute the claims that some women need partial-birth abortions to avoid serious physical injury.

In September 1996, former Surgeon General C. Everett Koop and other PHACT members said:

> Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.

Banning partial-birth abortion has been addressed in every Congress since the 104th session, and banned in both the 104th and 105th sessions. We now have a President in office who has vowed to sign this Partial-Birth Ban Act when it comes before him without hostile amendments that would allow the continuance of this procedure. It is our moral duty to ban this repulsive practice once and for all, and it is my sincere hope that Congress will be able to finally pass the Partial-Birth Abortion Ban Act of 2003.

Mr. GRASSLEY. Mr. President, I rise today in support for the Partial-Birth Abortion Ban Act of 2003.

As a father of five, a grandfather of nine, and a proud great-grandfather, I regard life as a precious gift. During my tenure in the Congress—that is, since 1974—I have long supported policies that stand up for life and protect the unborn.

We made great strides in the 104th, 105th, and 106th Congresses on banning partial-birth abortions. It was unfortunate that President Clinton vetoed the ban. Not once, but twice.

Then, in 2000, the Supreme Court considered and struck down as unconstitutional the Nebraska State law making partial-birth abortion illegal. In Stenberg v. Carhart, the Court believed that the Nebraska law (1) did not contain an exception for the health of a mother, and (2) was too broad and could be construed to cover other types of procedures. The bill before us specifically addresses the Supreme Court's concerns.

I am disappointed and sickened that these abortion procedures are legal in the United States of America. I'm not alone. According to a recent Gallup poll, 70 percent of Americans want a ban.

My constituents want a ban on partial-birth abortions:

A woman from Tabor, IA, wrote, "I'm horrified that under current law, thousands of partial-birth abortions are committed in America every year."

A man from Atlantic, IA wrote, "I believe that when women would see that they would be terminating a life then they would opt 'no' to abortion."

A woman from Nora Springs wrote, "Abortions are actually murder because even though the child may not be out of the womb, it's still developing into a person."

A woman from Waverly, IA, wrote, "Partial-birth abortions are never medically necessary."

A young man in the 6th grade from West Union, IA, wrote, "A child might die, and in the future that small child could grow up to create a cure for a disease, or be a fireman and save many lives. Just think, you could have been aborted."

It's time for us to stand up against such an extreme medical practice that stops the beating heart of an unborn child.

Most medical professionals would agree that this specific abortion procedure is outrageous. In fact, the American Medical Association supported a ban in 1999.

You will hear many on the other side argue about a woman's health and reproductive rights. As the bill states, the physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome. His testimony waters down their theory that this procedure is necessary in certain situations to preserve the mother's health.

If we know that the procedure can pose a threat to both a woman's immediate health and future reproductive capacity, why do you want to expose women to the risks?

Condoning partial-birth abortion is bad medicine, and bad policy.

When abortion advocates say that abortion is a matter just between a woman and her doctor, they are rejecting the rights of an innocent human being.

The unborn baby is alive from the moment of fertilization, the unborn baby has a heartbeat at 3 weeks and brain waves at 6 weeks, the unborn baby has 46 chromosomes in the cells of his or her body, the unborn baby is a living human being.

Dr. Seuss said it just right: A person is a person, no matter how small.

Let's pass this bill to protect the innocent and unborn.

Mr. CORZINE. Mr. President, I rise in opposition to this legislation because I believe it is unconstitutional, and because its language is so broad that it effectively would ban standard and safe abortion procedures. I am concerned that, if approved, this bill would not only undermine a woman's right to choose, but it would endanger the lives of thousands of women who no longer would have access to safe abortion procedures when their health or their life is in jeopardy.

Before I go further, let me say that I fully understand the very real and legitimate concerns of those who support this legislation. The issue of abortion raises the most profound of moral and ethical dilemmas. These are emotional issues. They raise many hard questions. And the practical reality of abortion, all types of abortion, is hard for all involved.

Speaking for myself, I support a woman's right to choose. And I support it strongly. As I see it, a decision about abortion generally should be made by a woman and her doctor, not by politicians.

Having said that, I recognize that men and women of good faith can and will reach different conclusions about the difficult ethical questions involved in the debate on this legislation. And, I share concerns raised by many bill proponents about some of the most disturbing examples of procedures conducted post-viability. That's why I intend to support an amendment to restrict such procedures. The legislation I am supporting, however, is much more carefully crafted than the underlying bill, and it complies with the constitution by providing an exception where the health of the woman is at stake.

While I understand the genuine concerns of many advocates for this legislation, the language of the bill actually goes well beyond a ban on late-term abortions. In fact, its real effect would be to deny women's access to some of the safest abortion procedures at all stages of pregnancy. Because the legislation omits any mention of fetal viability, it bans abortions throughout all stages of pregnancy. And it bans one of the safest abortion methods—the "intact D&E"—that is used when a woman's life and health are in danger and for severe fetal anomalies.

I hope my colleagues will think long and hard about the implications of the legislation before us. We need to be very careful to avoid returning to a period in which abortion was illegal and the only choice women had was to seek an illegal and unsafe abortion. In those days, thousands of women died each year as a direct result of these legal prohibitions. And it would be tragic if this Congress were to forget the lessons of that history.

It also would be unconstitutional. In Roe v. Wade, the Supreme Court held that a woman has the right to choose legal abortion until fetal viability. States have the authority to ban abortion post-viability, so long as exceptions are made to protect a woman's life and health. And, indeed, 41 States have chosen to ban postviability abortions in instances in which a woman's life and health are not at stake. But, under no circumstances do the Congress or the States have the authority to ban medical procedures that are essential to preserving a woman's life or health, nor do they have the authority to completely ban access to abortion previability. This is a constitutionally protected right.

Unfortunately, the majority leader has brought to the Senate floor an abortion ban that has been struck down by courts in 21 States, including my State of New Jersey, and the Supreme Court. Based on that precedent, there is little doubt that, if this bill is enacted, it also will be struck down, and therefore it won't reduce the number of abortions at all. It makes you wonder: Why are we even spending our time debating this legislation?

If we really are interested in reducing the number of abortions in this country, we should ensure that all women have access to the full array of family planning services, including prescription contraception, emergency contraception, and prenatal care. We also should support an expansion of comprehensive sex education. I fully support the amendment offered by Senator MURRAY and REID that would have addressed these issues.

Every week, 8,500 children in our country are born to mothers who lacked access to prenatal care. Too many of these children are born with serious health problems because their mothers lacked adequate care during their pregnancies. As a result, 28,000 infants die each year in the United States. That, Mr. President, is the real tragedy. And we ought to act immediately to address this issue by expanding access to prenatal care, as several of my colleagues and I have proposed.

What we should not do, however, is pass legislation that we know is unconstitutional, that would ban a common and safe form of abortion at all stages of pregnancy, and that would increase maternal mortality—all without improving the health of a single child.

For these reasons, I urge my colleagues to oppose this bill.

I ask unanimous consent to print in the RECORD two letters, one from Physicians for Reproductive Choice and Health, and the other from Mr. Felicia Stewart, Professor of Obstetrics and Gynecology at the University of California. I believe these letters describe better than I the important medical reasons for voting against this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHYSICIANS FOR REPRODUCTIVE
CHOICE AND HEALTH,
*New York, NY, March 12, 2003.*

Hon. JON S. CORZINE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CORZINE: We are writing to urge you to stand in defense of women's reproductive health and vote against S.3, legislation regarding so-called "partial birth" abortion.

We are practicing family physicians; obstetrician-gynecologists; academics in obstetrics, gynecology and women's health; and a variety of other specialties in medicine. We believe it is imperative that those who perform terminations and manage the pre- and post-operative care of women receiving abortions are given a voice in a debate that has largely ignored the two groups whose lives would be most affected by this legislation: physicians and patients.

It is misguided and unprincipled for lawmakers to legislate decision-making in medicine. We all want safe and effective medical procedures for women; on that there is no dispute. However, the business of medicine is not always palatable to those who do not practice it on a regular basis. The description of a number of procedures—from liposuction to cardiac surgery—may seem distasteful to some, and even repugnant to others. When physicians analyze and refine surgical techniques, it is always for the best interest of the patient. The risk of death associated with childbirth is about 11 times as high as that associated with abortion. Abortion is proven to be one of the safest procedures in medicine, significantly safer than childbirth, and in fact saves women's lives.

While we can argue as to why this legislation is dangerous, deceptive and unconstitutional—and it is—the fact of the matter is that the text of the bill is so vague and misleading that there is a great need to correct the misconceptions around abortion safety and technique. It is wrong to assume that a specific procedure is never needed; what is required is the safest option for the patient, and that varies from case to case.

### THE FACTS

(1) So-called "partial birth" abortion does not exist.

There is no mention of term "partial birth" abortion in any medical literature. Physicians are never taught a technique called "partial birth" abortion and therefore are unable to medically define the procedure.

What is described in the legislation, however, could ban all abortions. "What this bill describes, albeit in non-medical terms, can be interpreted as any abortion," stated one of our physician members. "Medicine is an art as much as it is a science; although there is a standard of care, each procedure—and indeed each woman—is different. The wording here could apply to any abortion patient." The bill's language is too vague to be useful; in fact, it is so vague as to be harmful. It is intentionally unclear and deceptive.

(2) Physicians need to have all medical options available in order to provide the best medical care possible.

Tying the hands of physicians endangers the health of patients. It is unethical and dangerous for legislators to dictate the details of specific surgical procedures. Until a surgeon examines the patient, she does not necessarily know which technique or procedure would be in the patient's best interest. Banning procedures puts women's health at risk.

(3) Politicians should not legislate medical decision-making.

To do so would violate the sanctity and legality of the physician-patient relationship. The right to have an abortion is constitutionally-protected. To falsify scientific evidence in an attempt to deny women that right is unconscionable and dangerous.

The American College of Obstetricians and Gynecologists, representing 45,000 ob-gyns, agrees: "The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous."

The American Medical Women's Association, representing 10,000 female physicians, is opposed to an abortion ban because it "represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients."

### THE SCIENCE

We know that there is no such technique as "partial birth" abortion, and we believe this legislation is a thinly-veiled attempt to outlaw all abortions. Those supporting this legislation seem to want to confuse both legislators and the public about which abortion procedures are actually used. Since the greatest confusion seems to center around techniques that are used after the first trimester, we will address those: dilation and evacuation (D&E), dilation and extraction (D&X), instillation, hysterectomy and hysterotomy (commonly known as a c-section).

Dilation and evacuation (D&E) is the standard approach for second-trimester abortions. The D&E is similar to first-trimester vacuum aspiration except that the cervix must be further dilated because surgical instruments are used. Morbidity and mortality studies indicate D&E is preferable to labor induction methods (instillation), hysterotomy and hysterectomy because of issues regarding complications and safety.

From the years 1972–76, labor induction procedures carried a maternal mortality rate of 16.5 (note: all numbers listed are out of 100,000); the corresponding rate for D&E was 10.4. From 1977–82, labor induction fell to 6.8, but D&E dropped to 3.3 From 1983–87, induction methods had a 3.5 mortality rate, while D&E fell to 2.9. Although the difference between the methods shrank by the mid-1980s, the use of D&E had already quickly outpaced induction.

Morbidity trends indicate that dilation and evacuation is much safer than labor induction procedures and for women with certain medical conditions, labor induction can pose serious risks. Rates of major complications from labor induction, including bleeding, infections, and unnecessary surgery, were at least twice as high as those from D&E. There are instances of women who, after having failed inductions, acquired infections necessitating emergency D&Es as a last resort. Hysterotomy and hysterectomy, moreover, carry a mortality rate seven times that of induction techniques and ten times that of D&E.

There is a psychological component which makes D&E preferable to labor induction; undergoing difficult, expensive and painful labor for up to two days can be extremely emotionally and psychologically difficult, much more so than a surgical procedure that can be done in less than an hour under general or local anesthesia. Furthermore, labor induction does not always work: Between 15 and 30 percent or more of cases require surgery to complete the procedure. There is no question that D&E is the safest method of second-trimester abortion.

There is also a technique known as dilation and extraction (D&X). There is a limited medical literature on D&X because it is an uncommonly used variant of D&X. However, it is sometimes a physician's preferred method of termination for a number of reasons: It offers a woman the chance to see the intact outcome of a desired pregnancy, to speed up the grieving process; it provides a greater chance of acquiring valuable information regarding hereditary illness or fetal anomaly; and D&E provides a decreased risk of injury to the woman, as the procedure is quicker than induction and involves less use of sharp instruments in the uterus, providing a decreased chance of uterine perforations or tears and cervical lacerations. The American College of Obstetricians and Gynecologists addressed this in their statement in opposition to so-called "partial birth" abortion when they said that D&X "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based on the woman's particular circumstances, can make this decision.

It is important to note that these procedures are used at varying gestational ages. both D&E and D&X are options for surgical abortion prior to viability. D&E and D&X are used solely based on the size of the fetus, the health of the woman, and the physician's judgment, and the decision regarding which procedure to use is done on a case-by-case basis.

THE LEGISLATION

Because this legislation is so vague, it would outlaw D&E and D&X (and arguably techniques used in the first trimester). Indeed, the Congressional findings—which go into detail, albeit in non-medical terms—do not remotely correlate with the language of the bill. This legislation is reckless. The outcome of its passage would undoubtedly be countless deaths and irreversible damage to thousands of women and families. We can safely assert that without D&E and D&X, that is, an enactment of S. 3, we will be returning to the days when an unwanted pregnancy led women to death through illegal and unsafe procedures, self-inflected abortions, uncontrollable infections and suicide.

The cadre of physicians who provide abortions should be honored, not vilified. They are heroes to millions of women, offering the opportunity of choice and freedom. We urge you to consider scientific data rather than partisan rhetoric when voting on such far-reaching public health legislation. We strongly oppose legislation intended to ban so-called "partial birth" abortion.

Sincerely,

Nassim Assefi, MD, Attending, Women's Clinic and Adult Medicine, Harborview Medical Center, Seattle, WA.

Jonathan D. Berman, MD, Columbia River Mental Health Services, Vancouver, WA.

Elizabeth Bianchi, MD, Spokane, WA.

Paul D. Blumenthal, MD, MPH, Associate Professor, Department of Gynecology and Obstetrics, Johns Hopkins University, Director, Contraceptive Research and Programs, Johns Hopkins Bayview Medical Center, Baltimore, MD.

Fredrik F. Broekhuizen, MD, Professor Obstetrics and Gynecology, Medical College of Wisconsin, Madison, WI.

Herbert Brown, MD, Clinical Associate Professor, Obstetrics and Gynecology, University of Texas Health Science Center at San Antonio, San Antonio, TX.

Wendy Chavkin, MD, MPH, Professor of Clinical Public Health and Ob-Gyn, Columbia University, School of Public Health.

Philip A. Corfman, MD, Consultant in Reproductive Health, Bethesda, MD.

Anne R. Davis, MD, MPH, Assistant Clinical Professor of Obstetrics and Gynecology, Columbia College of Physicians and Surgeons, Columbia University, New York, NY.

Quentin B. Deming, MD, Jacob A. and Jeanne E. Barkey, Professor of Medince, Emeritus, Albert Einstein College of Medicine, New York, NY.

Paul M. Fine, MD, Medical Director, Planned Parenthood of Houston and Southeast Texas, Houston, TX.

Marilynn C. Frederiksen, MD, Associate Professor of Obstetrics and Gynecology, Northwestern University Medical School, Chicago, IL.

Susan George, MD, Family Physician, Portland, ME.

Richard W. Grady, MD, Assistant Professor, Children's Hospital and Regional Medical Center, Seattle, WA.

Laura J. Hart, MD, Alaska Urological Associates, Seattle, WA

Paula J. Adams Hillard, MD, Professor, OB-Gyn and Pediatrics, University of Cincinnati College of Medicine, Cincinnati, OH.

Sarah Hufbauer, MD, Country Doctor Community Clinic, Seattle, WA.

Robert L. Johnson, MD, FAAP, Pediatrician and Adolescent Medicine Specialist, Orange, NJ.

Harry S. Jonas, MD, Past President, The American College of Obstetricians and Gynecologist, Lee's Summit, MO.

Deborah E. Klein, MD, Swedish Physician Division, Seattle, WA.

Julie Komarow, MD, Covington Primary Care, Covington, WA.

Kim Leatham, MD, Clinical Instructor, University of Washington, Dept. of Family Medicine, Medical Director, Virginia Mason Winslow, Bainbridge Island, WA.

David A. Levine, MD, Associate Professor of Clinical Pediatrics, Morehouse School of Medicine, Atlanta, GA.

Sara Buchdahl Levine, MD, MPH, Resident, Social Pediatrics, Children's Hospital at Montefiore, Bronx, NY.

Scott T. McIntyre, MD, Seattle Family Medicine, Aurora Medical Services, Planned Parenthood of Western Washington Medical Advisory Committee, Seattle, WA.

Catherine P. McKegney, MD, MS, Hennepin Count Medical Director, Department of Family Practice, Minneapolis, MN.

Deborah Oyer, MD, Medical Director, Aurora Medical Services, Clinical Assistant Professor in Family Medicine, University of Washington, Seattle, WA.

Warren H. Pearse, MD, Ob/Gyn, Mitchellville, MD.

Natalie E. Roche, MD, Assistant Professor of Obstetrics and Gynecology, New Jersey Medical College, Newark, NJ.

Roger A. Rosenblatt, MD, MPH, Professor and Vice Chair, Department of Family Medicine, Rural Underserved Opportunity Program Director—School of Medicine University of Washington School of Medicine Seattle, WA.

Courtney Schreiber, MD, Chief Resident, Obstetrics and Gynecology, University of Pennsylvania Health System, Philadelphia, PA.

Jody Steinauer, MD, Clinical Fellow, Dept. of Obstetrics, Gynecology and Reproductive Sciences, University of California, San Francisco, CA.

Steven B. Tamarin, MD, St. Luke's/Roosevelt Medical Center, Attending Assistant, Department of Pediatrics, New York, NY.

Katherine Van Kessel, MD, Attending Physician, Harborview Medical Center, Department of OB/Gyn, University of Washington Medical Center, Seattle, WA.

Gerson Weiss, MD, Professor and Chair, Department of Obstetrics, Gynecology and Women's Health, New Jersey Medical College, Newark, NJ.

Beverly Winikoff, MD, MPH, President, Gynuity Health Projects, New York, NY.

And the board of Physicians for Reproductive Choice and Health.

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MARCH 5, 2003.

Hon. BARBARA BOXER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR BOXER: I understand that you will be considering Senate S. 3, the ban on abortion procedures, soon and would like to offer some medical information that may assist you in your efforts. Important stakes for women's health are involved: if Congress enacts such a sweeping ban, the result could effectively ban safe and common, pre-viability abortion procedures.

By way of background, I am an adjunct professor in the Department of Obstetrics, Gynecology and Reproductive Sciences at the University of California, San Francisco, where I co-direct the Center for Reproductive Health Research and Policy. Formerly, I directed the Reproductive Health program for the Henry J. Kaiser Family Foundation and served as Deputy Assistant Secretary for Population Affairs for the United States Department of Health and Human Services. I represented the United States at the International Conference on Population and Development (ICPD) in Cairo, Egypt, and currently serve on a number of Boards for organizations that promote emergency contraception and new contraceptive technologies, and support reducing teen pregnancy. My medical and policy areas of expertise are in the family planning and reproductive health, prevention of sexually transmitted infections including HIV/AIDS, and enhancing international and family planning.

The proposed ban on abortion procedures criminalizes abortions in which the provider "deliberately and intentionally vaginally delivers a living fetus . . . for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus . . ." The criminal ban being considered is flawed in a number of respects:

It fails to protect women's health by omitting an exception for women's health;

It menaces medical practice with the threat of criminal prosecution;

It encompasses a range of abortion procedures; and

It leaves women in need of second trimester abortions with far less safe medical options: hysterotomy (similar to a caesarean section) and hysterectomy.

The proposed ban would potentially encompass several abortion methods, including dilation and extraction (d&x, sometimes referred to as "inact d&e), dilation and evacuation (d&e), the most common second-trimester procedure. In addition, such a ban could also apply to induction methods. Even if a physician is using induction as the primary method for abortion, he or she may not be able to assure that the procedure could be effected without running afoul of the proposed ban. A likely outcome if this legislation is enacted and enforced is that physicians will fear criminal prosecution for any second trimester abortion—and women will have no choice but to carry pregnancies to term despite the risks to their health. It would be a sad day for medicine if Congress decides that hysterotomy, hysterectomy, or unsafe continuation of pregnancy are women's only available options. Williams Obstetrics, one of the leading medical texts in Obstetrics and Gynecology, has this to say about the hysterotomy "option" that the bill leaves open: "Nottage and Liston (1975), based on review of 700 hysterotomies, rightfully concluded that the operation is outdated as a routine method for terminating pregnancy." (Cunningham and McDonald, et al, Williams Obstetrics, 19th ed., (1993), p. 663.)

Obviously, allowing women to have a hysterectomy means that Congress is authorizing women to have an abortion at the price of their future fertility, and with the added risks and costs of major surgery. In sum, the options left are less safe for women who need an abortion after the first trimester of pregnancy.

I'd like to focus my attention on that subset of the women affected by this bill who face grievous underlying medical conditions. To be sure, these are not the majority of women who will be affected by this legislation, but the grave health conditions that could be worsened by this bill illustrate how sweeping the legislation is.

Take for instance women who face hypertensive disorders such as eclampsia—convulsions precipitated by pregnancy-induced or aggravated hypertension (high blood pressure). This, along with infection and hemorrhage, is one of the most common causes of maternal death. With eclampsia, the kidneys and liver may be affected, and in some cases, if the woman is not provided an abortion, her liver could rupture, she could suffer a stroke, brain damage, or coma. Hypertensive disorders are conditions that can develop over time or spiral out of control in short order, and doctors must be given the latitude to terminate a pregnancy if necessary in the safest possible manner.

If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible for some women who have underlying medical conditions necessitating a termination of their pregnancies, including: death (risk of death higher with less safe abortion methods), infertility, paralysis, coma, stroke, hemorrhage, brain damage, infection, liver damage, and kidney damage.

Legislation forcing doctors to forego medically indicated abortions or to use less safe but politically-palatable procedures is simply unacceptable for women's health.

Thank you very much, Senator, for your efforts to educate your colleagues about the implications of the proposed ban on abortion procedures.

Sincerely,

FELICIA H. STEWART, M.D.

Mr. SANTORUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "no".

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—64

Alexander
Allard
Allen
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Leahy
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—33

Akaka
Baucus
Bingaman
Boxer
Cantwell
Chafee
Clinton
Collins
Corzine
Dayton
Dodd
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Inouye
Jeffords
Kennedy
Kohl
Lautenberg
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NOT VOTING—3

Biden
Edwards
Kerry

CHANGE OF VOTE

Mr. DURBIN. Madam President, on the previous rollcall vote on S. 3, I inadvertently cast a vote I did not intend to cast. On rollcall vote No. 51, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is ordered.

(The foregoing tally has been changed to reflect the above order.)

The bill (S. 3), as amended, was passed, as follows:

S. 3

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Partial-Birth Abortion Ban Act of 2003".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a Sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart (530 U.S. 914, 932 (2000)), the United States Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". Anderson v. City of Bessemer City, North Carolina (470 U.S. 564, 573 (1985)). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently" (Id. at 574).

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the "clearly erroneous" standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan (384 U.S. 641 (1966)), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case." (Id. at 653).

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that "congressional fact finding, to which we are

inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose''. City of Rome, Georgia v. U.S. (472 F. Supp. 221 (D. D. Col. 1979)) aff'd City of Rome, Georgia v. U.S. (46 U.S. 156 (1980)).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission (512 U.S. 622 (1994) (Turner I)) and Turner Broadcasting System, Inc. v. Federal Communications Commission (520 U.S. 180 (1997) (Turner II)). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be ''seriously jeopardized''. The Turner I Court recognized that as an institution, ''Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here'' (512 U.S. at 665–66). Although the Court recognized that ''the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,' '' its ''obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' (Id. at 666).

(12) Three years later in Turner II, the Court upheld the ''must-carry'' provisions based upon Congress' findings, stating the Court's ''sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.' '' (520 U.S. at 195). Citing its ruling in Turner I, the Court reiterated that ''[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to ''amass and evaluate the vast amounts of data'' bearing upon' legislative questions,'' (Id. at 195), and added that it ''owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'' (Id. at 196).

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a ''health'' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, and 107th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, and 107th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, ''there are very few, if any, indications for . . . other than for delivery of a second twin''; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is ''not an accepted medical practice,'' that it has ''never been subject to even a minimal amount of the normal medical practice development,'' that ''the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,'' and that ''there is no consensus among obstetricians about its use''. The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is ''ethically wrong,'' and ''is never the only appropriate procedure''.

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade (410 U.S. 113 (1973)) and Planned Parenthood v. Casey (505 U.S. 833 (1992)), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child ''in a state of being born and before actual birth,'' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a ''person'' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a ''person''. Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are ''ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb''. According to this medical association, the '' 'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body''.

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

### SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

**"§1531. Partial-birth abortions prohibited**

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of this chapter.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**"74. Partial-birth abortions ............... 1531".**

### SEC. 4. SENSE OF THE SENATE CONCERNING ROE V. WADE.

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in Roe v. Wade (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in Roe v. Wade established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in Roe v. Wade (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

Mr. SANTORUM. I move to reconsider the vote.

Mr. ROBERTS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Madam President, I rise today to applaud this body for passing S. 3, the Partial-Birth Abortion Ban Act of 2003. I know the people of my home State of Utah share my sentiments because they recognize, as I do, that the practice of partial-birth abortion is immoral, offensive and impossible to justify. This procedure is so heinous that even many that consider themselves pro-choice cannot defend it.

While we have passed a similar measure before, it was never certain to be signed into law. Today it is. It saddens me that this legislation was even necessary, and even more that it took 7 years to achieve. I thank the Senator from Pennsylvania for his outstanding leadership in bringing this about. I hope he knows he has my admiration and respect.

Basic human decency has prevailed. I pray that never again will it be legal in this country to perform this barbaric procedure. Unfortunately, I am sure that opponents of this measure will seek to challenge the law in court—where I hope good judgment will ultimately prevail. Even in Stenberg v. Carhart the Supreme Court confirmed, and I quote, "By no means must physicians [be granted] 'unfettered discretion' in their selection of abortion methods."

There are those who consider every type of abortion sacrosanct and will oppose any effort to apply commonsense reasoning to the debate. I don't know how to get through to these people, except by forcing them to witness this barbaric procedure. A baby is almost fully delivered with only her head remaining inside the birth canal when the doctor stabs scissors into the base of her skull to open a hole through which he then sucks out her brain and collapses her skull. I honestly don't know how anyone can avoid being truly sickened when they see a baby being killed in this gruesome manner. It is not done on a mass of tissue but to a living baby capable of feeling pain and, at the time this procedure is typically performed, capable of living outside of the womb.

All this bill would do is ban this one procedure. We are not talking about the entire framework of abortion rights here, but just one procedure. The fact is that there is no medical need to allow this type of procedure. It is never medically necessary, it is never the safest procedure available, and it is morally reprehensible and unconscionable.

In recent years, we have heard about teenaged girls giving birth and then dumping their newborns into trash cans. One young woman was criminally charged after giving birth to a child in a bathroom stall during her prom, and then strangling and suffocating her child before leaving the body in the trash. Tragically, there have been several similar incidents around the country in the past few years.

This is what happens, when we continue to devalue human life.

William Raspberry argued in a column in the Washington Post several years ago that "only a short distance [exists] between what [these teenagers] have been sentenced for doing and what doctors get paid to do." How right he is.

When you think about it, it's incredible that there is a mere 3 inches separating a partial-birth abortion from murder.

Partial-birth abortion simply has no place in our society and rightly should be banned. President Bush has described partial-birth abortion as "an abhorrent procedure that offends human dignity." I wholeheartedly agree.

Mr. DASCHLE. Madam President, few issues divide our country more markedly than the issue of abortion. This debate is a difficult one, and I commend those on both sides of the issue who have given their time on the floor to express their very deeply held views on this matter. While the debate has had some unfortunate low points, it has also had some very high ones.

In particular, I commend those on the Democratic side Senators BOXER, MURRAY, DURBIN, HARKIN, and FEINSTEIN—who have helped manage the floor this week. Each of them has worked diligently to ensure these difficult issues were given the honest, constructive attention they deserve. I know very well how thankless that job can be, and I am grateful for their efforts.

I am personally opposed to abortion, and I oppose Federal funding of abortion except in cases of rape, incest, or medical necessity. Far too many abortions are performed in this country, and I want to do everything reasonable to discourage abortion.

That is why I support efforts to facilitate and promote adoption as an alternative to abortion, and that is why I support voluntary family planning, including improved access to contraception and research on improved contraceptive options for both men and women. That is why I supported Senator MURRAY's amendment.

Every abortion is a tragedy. But I recognize that there are extraordinary medical circumstances that make abortion necessary to save the mother's life or prevent grave harm to her health.

I also recognize and respect the Supreme Court's clear message on abortion stated first in the landmark Roe v. Wade decision and later in Planned Parenthood v. Casey.

The Court consistently upheld two basic tenets. First, before the stage of fetal viability—when the fetus is capable of living outside the womb with or without life support—a woman has a constitutional right to choose whether or not to terminate her pregnancy. Second, a woman's health must be protected throughout her pregnancy.

The Court has not, as the junior Senator from Pennsylvania has wrongly suggested, endorsed "abortion anywhere at any time." In Casey, the Court clearly drew a distinction between abortions performed before fetal viability and those performed after viability, clearly allowing the Government to restrict abortion after fetal viability.

While I am deeply troubled by the procedure described in S. 3, and voted again to ban it, I have real concerns that S. 3 is not the most effective means of limiting the late-term abortions the bill's sponsors claim to target.

Like many of my colleagues, I would prefer to ban all post-viability abortions, regardless of the procedure used. In 1997, in an effort to find a constitutional compromise that would actually stop far more abortions than the bill we have been debating today, I offered a broader ban much like the one offered by the Senator from Illinois yesterday.

The Durbin amendment, like the earlier Daschle amendment, banned all post-viability abortions, allowing an exception only if an abortion is absolutely necessary to protect the mother.

An ironic fact that the sponsors of S. 3 don't readily acknowledge is that, if their statements are accurate, S. 3 will not stop a single abortion. In contrast, the Durbin amendment would stop all post-viability abortions except those that are absolutely medically necessary. This may seem counterintuitive, so let me explain why this is true.

The sponsors of S. 3 answer the Supreme Court's concern that their legislation is too vague to meet constitutional muster by claiming that their legislation bans only one procedure and that it is clearly defined. They also claim that the ban does not restrict a woman's Court-affirmed right to choose because all other abortion procedures are allowed under S. 3. Finally, they claim their legislation avoids the Court's concerns about protecting the life and health of the mother because the procedure described in their legislation is never necessary to protect the mother; thus, other available procedures could be employed interchangeably.

If all those statements are true and I confess I am not confident that they are—then S. 3 will not stop a single abortion; it will merely cause women and doctors to choose a different abortion procedure. While I am deeply disturbed by this procedure, I oppose any unnecessary abortion once a fetus becomes viable.

If our true desire is to protect viable fetuses whenever possible, I think we can do better than S. 3.

An across-the-board ban on all post-viability procedures with a constitutional life and health exception is the only way to achieve that broader goal, and I deeply regret that the Senate has yet again failed to do so. It is a principle that would win the support of the American people and the Supreme Court, and it would actually reduce the number of abortions in this country. Yesterday's outcome is one I will never understand.

There is yet another reason S. 3 may fail to meet its objective. The Supreme Court has struck down what many experts claim is a "legally identical" bill, the Nebraska law banning this procedure. In previous Congresses, I have expressed my concern that this legislation may not withstand an inevitable constitutional challenge.

Now that the Court has ruled in the Nebraska case, that concern is even greater. But the sponsors of this bill have chosen to take that gamble, claiming their "20 word changes" have resolved the constitutional concerns. Those 20 words, by the way, are allegedly powerful enough to change the outcome in the Supreme Court, but not significant enough to merit a hearing in the Judiciary Committee.

If the sponsors of S. 3 are wrong, then this week's exercise will serve only to delay meaningful progress toward restrictions on not only this procedure, but all post-viability abortions. It will also fuel the unnecessary bitterness surrounding this debate.

At this point, it is my hope that this Senate bill will go quickly to the President so that the Supreme Court can rule on it. If the Court strikes it down, then I hope people on both sides of this issue will be willing to work together to stop all post-viability abortions except those that are absolutely necessary to protect a woman's life and health.

Finally, I want to say a few words about the women whose lives are impacted by our actions this week. One of the saddest aspects of this debate is the suggestion that countless women, for frivolous reasons, are choosing unnecessary abortions in the last few weeks of their pregnancies. That just isn't true.

Anyone willing to listen has heard the tragic stories of women and families who have had to terminate their pregnancies either because their own health was threatened, or their child was the victim of severe fetal anomalies often inconsistent with life outside the womb. These are not unwanted pregnancies, and these are not abortions of convenience.

Regardless of one's ultimate decision on this legislation, I hope that in the future the Senate will show greater respect for these women and the tragic circumstances they have faced. As they have so poignantly said, you or someone you love could face similar circumstances, and you would deserve better than these women and their families have gotten.

Mr. HARKIN. Madam President, I wanted to discuss my votes on S. 3 and its amendments. I have long supported a ban on late term abortions. However, S. 3 would not do that because it would be struck down by the U.S. Supreme Court because it does not contain a health exception. Both in 1973 and in 2001, the Supreme Court ruled that a government may regulate late term abortions with an exception to both life and health of the woman. The Court specifically ruled in the 2001 decision in Carhart—that Nebraska's law was too vague and did not contain the required health exception. Therefore, I supported the amendments offered by Senator FEINSTEIN and Senator DURBIN to ban late term abortions because they both contained the requisite health exceptions, and which I believe the Supreme Court would uphold.

I am also pleased the Senate passed my amendment, 52 to 46, affirming Roe v. Wade. A woman's constitutional right to make a private decision in these matters is no more negotiable than the freedom to speak or the freedom to worship. As a father, I have struggled with this issue. However, I do not believe that it is appropriate to insist that my personal views be the law of the land.

So what should Congress do? Pass a late term abortion ban that the Supreme Court will uphold; increase funding for family planning and abstinence-only education and mandate insurance coverage for contraception. All of these fall within the rules under Roe v. Wade—that established a woman's fundamental right to choose.

Mr. DODD. Mr. President, the Senate had an opportunity this week to find common ground on an issue that has too often been an ideological battleground: abortion.

As the Senate debated the partial Birth Abortion Ban Act of 2003, I cosponsored a bipartisan amendment authored by Senator DURBIN that could have actually reduced the number of abortions in our country while at the same time protecting a woman's life, health, and her constitutional right to choose. While the amendment was defeated, I remain hopeful that it will ultimately prevail someday as the most sound and moderate approach to addressing the troubling issue of late-term abortions.

The Durbin amendment struck a reasonable middle-ground approach on an issue that has frequently been dominated by the extremes. There are those who would universally ban all abortions. Others would universally allow all abortions. I respect the views of the people in each camp, but I disagree with them both.

Abortions ought to be legal, safe, and rare. That is my fundamental view, and it's the view that the Supreme Court has affirmed and reaffirmed for the past three decades since its decision in Roe vs. Wade. Abortions have never been--and should not be— available at any time for any reason. As Roe held, once a fetus achieves the point of viability, abortions may be regulated, but States must allow abortions to preserve a woman's life or health.

Forty-one States have already enshrined this standard, or one like it, into their State statutes. The Durbin amendment would have written it into Federal law. It would have respected a woman's constitutional right to choose while appropriately curbing choice after the point of viability where abortions are only necessary to preserve a woman's life or health.

This proposal was reasonable, it was constitutional and sensitive to the wrenching circumstances that families typically face when they must contemplate a late-term abortion. Unfortunately, it was adamantly opposed by those seeking a ban on so-called partial-birth abortions. Their proposal had two serious flaws that made it impossible for me to support.

First, the ban on partial-birth abortions bans just one medical procedure. It will not stop all late-term abortions from being performed, because an alternative procedure might be found. The Durbin amendment, on the other hand, would have limited all constitutionally-unprotected abortions without regard to a specific procedure. Why? Because the wisdom of using a given medical procedure is best left with medical professionals. We are legislators, not doctors.

Second, the partial-birth ban contained in this legislation will not protect a woman's health. The few women who might require this procedure to protect their health from severe injury will be completely barred from receiving it. A pregnancy gone awry is a tragedy. The partial-birth abortion ban will only compound that tragedy by forcing a woman to forego a safer procedure.

The partial-birth abortion ban, as its supporters readily admit, is intended not to find common ground and reduce unnecessary abortions, but to lead to a ban of any and all abortions in America—regardless of whether they are needed to protect a woman's life and health. I find this argument simply unacceptable and blatantly unconstitutional in light of Roe vs. Wade. Therefore, it is for this reason and the reasons stated above that I voted against final passage of the Partial Birth Abortion Ban Act of 2003.

While the Durbin amendment would not have ended the national debate over abortion, it respected the deeply held views of people on both sides of this issue. It offered the Senate and our country an opportunity—not to debate our differences, but to affirm our similarities. It would have allowed us to come together in a bipartisan fashion, pro-life and pro-choice—and offer something that would have reduced the number of abortions while preserving a woman's life, health and constitutional freedom.

Mr. ROCKEFELLER. Mr. President, I want to talk about the debate in the Senate this week regarding late-term abortion. I am a strong opponent of late-term abortions, and I know many Americans find them as deeply troubling as I do.

As I have done in the past, I voted this week to support a comprehensive ban on late-term abortions. The comprehensive ban I supported—offered as an amendment by Senator DURBIN would have put an end to all late-term post-viability abortions, unlike Senator SANTORUM's proposal, including but not limited to those performed using the procedure known as "partial birth." The Durbin ban also would have included a very narrow exception for the rare case when a woman's life or health is threatened by a troubled pregnancy, as required by the United States Supreme Court and the Constitution.

I want to end unnecessary late-term abortions, and I also agree with the Supreme Court that it is not right for a woman who faces grievous injury, or even death, to have no protection under the law. In those rare cases of a serious threat to a woman's life or health, the Durbin amendment would have allowed the woman, her family and no less than two physicians to pursue the best medical options. Except in an emergency, the two physicians—to include her attending physician and an independent non-treating physician—would have been required to certify in writing that in their medical judgment continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Grievous injury was carefully defined as a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy, or an inability to provide necessary treatment for a life-threatening condition.

I want to emphasize that if we are serious about ending the practice of late-term abortions then we must pass a law that will be upheld by our courts. The U.S. Supreme Court has been quite clear that to be deemed constitutional, any law banning late-term abortions must be narrowly focused and must include an exception for the health of the mother. Several previous bans ignored these tests and were struck down, and consequently there has been no end to this troubling practice. Senator SANTORUM's bill does not adequately meet the Court's requirements for constitutionality and will almost surely meet the same fate.

The Durbin amendment, on the other hand, was a clear and comprehensive ban that does comply with the constitutionality tests set forth by the U.S. Supreme Court. It would have ended the practice of late-term abortions, with a narrow exception for protecting a woman from grievous injury to her life or health. In those rare and extraordinarily difficult situations, the Durbin amendment would have ensured that a woman—not by the dictates of the Congress, but with the private counsel of her family, her doctors, and her clergy—makes the final decision.

I deeply regret that a majority of my Senate colleagues did not recognize the Durbin amendment was a more effective ban than Senator SANTORUM's proposal. I continue to hope that in the end we will find a way to enact a comprehensive ban on late-term abortions that meets the demands of the U.S. Supreme Court and Constitution by protecting the life and physical health of the mother in extreme situations.

## EXECUTIVE SESSION

### NOMINATION OF THOMAS A. VARLAN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to vote on Executive Calendar No. 53, which the clerk will report.

The legislative clerk read the nomination of Thomas A. Varlan, of Tennessee, to be United States District

Judge for the Eastern District of Tennessee.

Mr. HATCH. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 52 Ex.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—3

Biden
Edwards
Kerry

The nomination was confirmed.

Mr. HATCH. Madam President, I am pleased the Senate has confirmed Thomas Varlan for the United States District Court for the Eastern District of Tennessee. Mr. Varlan's distinguished record of service in both the private and public sectors makes him a great addition to the Federal bench.

Mr. Varlan graduated Order of the Coif from Vanderbilt University School of Law, where he served as managing editor for the Vanderbilt Law Review. In his 11 years in private practice, Mr. Varlan has focused on governmental relations, civil litigation, labor and employment law, and representation of quasi-governmental corporations and schools.

Mr. Varlan's impressive accomplishments include serving as law director for the city of Knoxville for a decade. In that capacity, he headed a department of 25 employees who represented the city in a variety of cases and provided legal advice to city officials.

Mr. Varlan's wealth of experience has made him an excellent nominee who is well prepared to handle the rigors of the Federal bench. Clearly, Mr. Varlan is the right choice to be a judge in the Eastern District of Tennessee. I am pleased my colleagues joined me in voting to confirm him.

Mr. FRIST. Mr. President, I am in strong support for the confirmation of Thomas Varlan to be a United States District Judge for the Eastern District of Tennessee.

Tom grew up in Knoxville, TN as a second-generation Greek-American. His parents, Alexander and Constance Varlan, instilled in their son the time-honored ideals of commitment to hard work, involvement in the community, and love for country.

He put those ideals to work in his studies of Political Science and Economics at the University of Tennessee in Knoxville, and at Vanderbilt University's School of Law, where he was the managing editor of the Vanderbilt Law Review. From there, Tom practiced law in Atlanta from 1981 to 1987. In 1988, Tom began ten years of service as Law Director for the City of Knoxville where he was responsible for a wide range of legal issues. In this role, Tom demonstrated his keen legal mind and temperament suited to judicial office.

Tom's current position as a partner at Bass, Berry and Sims has enhanced his solid background in the law. Tom Varlan is a skilled attorney who is known for his fairness, integrity and dedication to the law.

Tom has worn many hats in his professional life, but he has never wavered from the ideals that he grew up with. In fact, his nomination fulfills not only the dreams of his first-generation American parents, I believe it epitomizes the American dream as well.

I am convinced that Mr. Varlan will make an ideal judge, and he has my highest recommendation and unqualified support. I urge my colleagues to vote for his confirmation.

Mr. ALEXANDER. Mr. President, today the Senate confirmed the Presidential nomination of Thomas A. Varlan to be a United States District Judge for the Eastern District of Tennessee. I wish to express my support for him and to express my gratitude to my colleagues for the expeditious confirmation of this superb nominee.

Mr. Varlan was recommended last year by the current Senate majority leader, my colleague, Senator FRIST, and former Senator Thompson. As someone who, as Governor of Tennessee appointed some 50 judges, I am confident that Mr. Varlan will be an able Federal judge.

Mr. Varlan was born and raised in Oak Ridge, TN. He received a Bachelor of Arts degree from the University of Tennessee in 1978, graduating with the highest honors. He received his Juris Doctorate from Vanderbilt University School of Law in 1981, where he served as an editor of the law review and was selected for membership in the Order of the Coif, the national law school honor society.

After receiving his law degree, Mr. Varlan worked for 6 years as an associate with the law firm of Sutherland, Asbill & Brennan in Atlanta, Georgia. In 1988, he returned home to Tennessee and from 1988 through 1998 he served as Law Director for the city of Knoxville, managing all the legal affairs for Tennessee's third largest city. Mr. Varlan has been a partner at the Knoxville law firm of Bass, Berry & Sims, PLC since 1998.

Mr. Varlan has practiced law in the areas of employment, school, commercial, patent and trade secrets, antitrust, contracts, product liability, civil rights, tort, annexation, tax, zoning, condemnation, workers' compensation, constitutional, telecommunications, real property, governmental relations, and labor law. Mr. Varlan has practiced in federal, state, and administrative law courts throughout his career and has conducted a number of jury and bench trials.

Mr. Varlan has also been active in his community, providing legal services to disadvantaged persons and for organizations such as Volunteer Legal Arts Services in Atlanta, GA, and the Knoxville Bar Association's Mentor for the Moment Program.

I am confident that Mr. Varlan will be a fine addition to the Federal bench in Knoxville, and I thank all of my colleagues for their overwhelming support for him.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business.

The Senator from Illinois.

## CASTING OF 10,000TH VOTE

Mr. FRIST. Madam President, I wish to announce to my colleagues that a truly impressive milestone was just reached with this last vote. Senator LUGAR, on this vote just announced a few moments ago, cast his 10,000th vote as a U.S. Senator. That is a feat accomplished by just 21 other Senators in the history of this institution, the Senate.

Senator LUGAR's vote places him in the company of a distinguished list of Members which includes eight current Senators: Senators BIDEN, BYRD, DOMENICI, HOLLINGS, INOUYE, KENNEDY, LEAHY, and STEVENS.

Most importantly, Senator LUGAR's achievement is a testament of his tremendous service, not only to his home State of Indiana but to the United States of America.

I ask all of my colleagues to join me in congratulating Senator LUGAR for his important milestone.

(Applause.)

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I join the distinguished Republican leader in expressing my heartfelt congratulations to the senior Senator from Indiana, our colleague, DICK LUGAR.

He was sworn in on January 3, 1977. Over the course of these 10,000 votes cast, he has served as the chairman of the Senate Agriculture Committee and now serves as the chairman, as we all know, of the Foreign Relations Committee.

With those 10,000 votes, he has made a major impact on American history. I would be willing to bet that for every vote he has cast, he has made at least one more friend over all of these years. He may be a Republican and I may be a Democrat, but I have never been so appreciative of a relationship as a Senator as I have with Senator LUGAR. He has many more than 10,000 friends since he came to the Senate in 1977. So we congratulate him. We tell him of his great service to this country and our appreciation for that service. We hope that there will be many thousands more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I congratulate our dear colleague, Senator DICK LUGAR from Indiana, for his remarkable service to our country in many ways, not just through his leadership and years and votes in the Senate; prior to his time in the Senate, his service to our country in the U.S. Navy and all the other contributions he has made. It is a remarkable morning for our country to recognize this remarkable individual.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I am overwhelmed by the thoughtfulness and graciousness of both leaders, my friends BILL FRIST and TOM DASCHLE. I thank both of them for those very wonderful comments.

I will take a moment, if I may, to thank some other people, people of Indiana, who made it possible for me to be in the Senate to cast the 10,000 votes, those who gave me their confidence, their support, and their prayers throughout the years.

I especially thank the Lord above for giving me good health throughout that period of time and who made it possible to do this.

I must pay tribute, as we all are doing today, to Lloyd Ogilvie whose personal counsel and support to me and my family during the past 8 years has meant so much.

Of course, behind all of this is the confidence and love of my wife Charlene, our boys, and their wives, who have really sustained me, who said this is something we ought to be doing, a commitment of our time and our lives in a way that has been exciting for me and I hope for them.

My staff has made it possible for me to get to the Chamber for all of these votes. Wherever we are in the country, in Washington or at the airport, each one of us is indebted to staff who tell us when the votes are going to occur and give us some reasonable idea about what is being voted on. I pay tribute to each one of those persons.

I pay tribute to colleagues who have sustained me each day with their loyal friendship, likewise the sheer vigor of the experience. I feel each day it is an adventure, and I am sure that is shared by each of the colleagues who are present today.

I want to mention specifically Senator ROBERT BYRD, who was the majority leader when I first came. One of the reasons my vote total escalated so rapidly was that in 1977 I think Senator BYRD created an all-time record of rollcall votes. I am certain he will remember exactly how many, but I recall there were at least 650, which was a substantial amount for a freshman Senator to start out with. So we have had some money in the bank ever since, thanks to Senator BYRD.

Finally, I want to thank the pages. They have played a very special role in these votes because, as some of my colleagues know, occasionally I go running out on The Mall. On several occasions I have been caught as far away as 14th Street or the Washington Monument when the beeper went off. I had to run swiftly. Fortunately, my pace is sufficient to get the mile and a half back to the Capitol during the time of the vote to scramble up the back stairs, but in a disheveled condition I have prevailed upon the pages to crack open the door, and the reading clerk has been kind enough to read my name so that I can peak through and keep this voting record alive.

So I thank all of you. I appreciate very much this moment today.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Madam President, while the two leaders are in the Chamber, it is my understanding that the leaders are going to provide an opportunity for people who wish to give statements regarding Pastor Ogilvie—that the chairman of the Appropriations Committee is going to put that in booklet form. So is it fair to announce to everyone that they need not come now to give speeches regarding Pastor Ogilvie, that they will have an opportunity to give a speech later or insert something in the RECORD so Dr. Ogilvie will have all of these in one book?

Mr. FRIST. Madam President, that is correct. There has been an outpouring of feeling for our Chaplain on this very special day, 8 years after he first gave a prayer in this Chamber. With that outpouring of respect, people will be given the opportunity to provide their written statements. Of course, they are welcome to come and make statements, but we are encouraging people to make their written statements part of a permanent book that we will be giving him. We will have morning business and people can come to the Chamber. There will be other morning business conducted as well, but most of the tributes will be going into written form, and we encourage people to do just that.

The PRESIDING OFFICER. Under the previous order, the first 20 minutes shall be equally divided between the Senator from Nebraska and the Senator from North Dakota, with the rest of the time until 11:30 a.m. to be equally divided between the two leaders or their designees.

The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent that during the 20 minutes I be notified when I have consumed 5, after which the Senator from Nebraska will be recognized for 5 minutes, following which the Senator from South Dakota, Mr. JOHNSON, for 5 minutes, following that Senator BROWNBACK from Kansas for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE NEW HOMESTEAD ACT

Mr. DORGAN. Madam President, at a time when there is so much discussion about partisanship, let me describe legislation introduced in the Senate yesterday now called S. 602, which is truly bipartisan. We call it the New Homestead Act. Senator HAGEL, Senator JOHNSON, Senator BROWNBACK, I, and many others, Republicans and Democrats, have introduced legislation to address a very serious problem in the heartland of our country.

I will describe this problem by something a Lutheran minister from New

England, ND, told me. She said: In this small town in southwestern North Dakota, in my church I officiate at four funerals for every wedding.

What does that describe? It describes a small town in a rural State where the population is getting older, where they have few young people, few marriages and few births, and where they are suffering from the out-migration of people.

I will describe what is happening in the heartland of America with this chart. The red on this chart shows the rural counties across America that have experienced greater than 10-percent net out-migration over the last 20 years. There is a relentless engine of depopulation in the heartland of our country. It is from North Dakota to Texas in an eggshell shaped form.

My home county is right in the southwestern corner of North Dakota. It is slightly larger than the State of Rhode Island. When I left it, there were 5,000 citizens living in that wonderful county. Now there are 2,700 citizens, and the demographers say by the year 2020 it will have 1,800 citizens. Trying to do business in that county and so many others in the heartland is like doing business in a deep recession.

Nearly a century and a half after we populated the heartland of America by something called the Homestead Act, which said, move here, become a part of this land, and we will give you the land, we are seeing this relentless depopulation. In these areas, we have communities that are wonderful places in which to live. In fact, people aspire to recreate what we have in other parts of the country—strong schools, a great place to raise kids, safe streets, and wonderful communities. Yet, these rural areas are being ravaged by the out-migration of people. It is ruining their economy.

The question is: Should we care? Do we care? Well, when our cities were decaying and America's cities were in trouble, as a national policy we rushed to say, let's save America's cities with the Model Cities Program, an urban renewal program. We pumped significant resources into those cities to save them.

The question now is: Will we save the heartland in our country? Does it matter? S. 602, bipartisan legislation called the New Homestead Act, says it matters.

What the heartland contributes to America is very important. We need to give people the tools to help rebuild their economies in the heartland. That is what our legislation does.

We do not have land to give away anymore. But we say to individuals and businesses, if you stay there, if you come there, if you build there, if you invest there, here are financial incentives for you. We can turn this around. That is what S. 602 is about. S. 602 says to people, it is in your interest to help us rebuild the economies of the States in the heartland.

The New Homestead Act offers tax and other financial rewards for individuals who commit to live and work in high out-migration rural areas. It provides help paying college loans, offers tax credits for home purchases, protects home values, and establishes Individual Homestead Accounts, the economic equivalent of giving them free land as we did a century ago.

S. 602 provides tax incentives for businesses to expand or locate in high out-migration areas. Investment tax credits. Micro-enterprise tax credits. Accelerated depreciation.

Finally, a new homestead venture capital fund will help ensure that entrepreneurs and companies in these areas get the capital they need to start and grow their businesses.

We can do one of two things with respect to this problem in the heartland of America. We can sit here and gnash our teeth and wring our hands and say, this is awful. We can watch this depopulation continue for the next 20 or 50 years, and lose a significant and important part of our country's economy, or we can decide we are not going to let this happen, we are not going to be the frog in the pan of water on the stove only to find at this time it is too late to get out.

That is what this is all about. I am proud to work with my colleagues, Republicans and Democrats alike, to offer this legislation.

Mr. HAGEL. Madam President, I rise this morning to join my friend and colleague from North Dakota, Senator DORGAN, in introducing the new Homestead Act. We have heard from Senator DORGAN as to why many believe this issue, this challenge, needs attention. He laid some of those reasons out rather clearly.

Senator DORGAN and I and others introduced this legislation last year. The intent of this legislation is simple. It aims to help reverse the trend of population decline in rural areas and provide growth and opportunities in rural America. Many communities in rural America have not shared in the boom that has brought great prosperity to urban America. Instead, this out-migration of individuals and resources is taking a high toll on rural America. Over the last 50 years, nonmetropolitan counties in the Nation lost more than a third of their population, about 34 percent. Contrast this with the fact that during the same period the number of people living in metropolitan areas grew by over 150 percent.

Today, Nebraska is one of the States hardest hit by out-migration. Of 93 counties in Nebraska, 56 have lost at least 10 percent of residents due to out-migration over the past 2 years. According to the University of Nebraska report, most of these counties will see similar population losses over the next 2 decades without an expansion of non-agriculture industry.

Why are people leaving rural America? It is rather simple: For jobs and opportunities. One of the main provisions of our legislation addresses this issue by providing incentives to small businesses and other enterprises to locate and expand in rural areas. Small businesses are a critical element of the rural economy, as they are to all of America, accounting for nearly two-thirds of all rural jobs.

Our legislation builds upon the same spirit of the Homestead Act of 1862 which gave land to individuals who were willing to live and work in unsettled areas of the country. In fact, the first claim made under this act was just outside Beatrice, NE.

Our bill targets three different categories: Individuals, businesses, and capital formation. For individuals who live in or move to high out-migration counties, the legislation provides, as Senator DORGAN mentioned, three basic things: The college loan repayments and home tax credits, individual homestead accounts, rural investment tax credits, and a venture capital fund.

Last year, in the Senate Finance Committee, Senators GRASSLEY and BAUCUS called the bill a big idea. Indeed, it is a big idea. But it is the kind of big idea we need to help reverse the decline of rural America—not just the Midwest—but all of rural America.

I am proud of the fact our bill has the bipartisan support of 10 cosponsors and it has the endorsement of a diverse coalition of organizations across this country, all kinds of organizations. I am pleased again to be working with my friend, Senator DORGAN, in reintroducing this legislation. I ask my colleagues in this body to learn more about the aim, the specifics of this legislation, and that they would help and join us in addressing the challenges facing rural areas across our country.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise today to express my support for the New Homestead Act and I want to thank Senator DORGAN and Senator HAGEL for their leadership on the critically important issue. I am pleased to cosponsor this bipartism legislation.

America was originally a rural place. Many of our citizens lived and worked on farms or in rural towns throughout our country. During the turn of the century, towns and communities sprang up on railroad lines and river crossings. They served as regional trade centers and seats of local government. Opportunity was available for the children of these communities. Too often that is no longer the case. A changing economy from agriculture to technology has reduced opportunity in rural America and certainly rural

South Dakota. Out-migration is decimating many communities in my home State of South Dakota. Currently, 63 percent of South Dakota counties are considered high out-migration counties—averaging a 10 percent population loss over the past 20 years. In these counties there is also a 16 percent reduction in youth population, 6 percent increase in the elderly population, and 25 percent of these counties had more deaths than births. Once proud communities that were self sufficient are slowly withering away.

I believe that in order to forestall these trends Congress must now prioritize rural America. That is one reason why I am so supportive of this legislation. The New Homestead Act hopes to address out-migration by offering individuals who make a commitment to live and work in rural areas to get a college degree, buy a home, start a business and build a nest egg for the future. This legislation will also provide incentives for businesses to relocate or develop in high out-migration areas. This comprehensive, approach is needed to address this huge problem. While the bill will not save every community, it will provide communities with the tools they need to survive. Rural communities provide businesses and families many benefits. Good schools, low crime rates, a high level of civic involvement and a talented and committed workforce are just some of the benefits (specifics) that rural America provides this country. It is a way of life worth fighting for, and our Nation's commitment to this lifestyle is long-standing.

In fact, in 1862 our government made a commitment to populate rural America. The original Homestead Act made a deal with settlers willing to travel to the midwest; if you stay and work the land for 5 years we will offer you a quarter-section of land. This was a hugely popular and successful program. I know this first hand because my great-grandfather used this legislation to homestead near Centerville, SD.

Today we can offer tax incentives and financial rewards to individuals to move into out-migration counties. A generation ago the United States used a similar approach addressing the needs of our metropolitan areas. At that time, our country's cities were facing population and job losses, crumbling infrastructure—many of the same problems our rural areas face today. Billions of dollars were committed to housing, transportation, and job creation in urban areas.

As a Senator from a rural area, I was proud to participate and join in that effort. But now many of our metropolitan areas that were struggling thrive. We need this kind of commitment for our rural communities at this point in our history.

While this comprehensive legislation takes aim to remedy many of the problems facing small towns, I believe this forward-thinking bill is also important for farmers and ranchers who make a living from the land. It is critical to understand that prosperity in production agriculture can lead to robust conditions in Main Street rural America. As such, a decline in the farm economy causes economic hurt for rural businesses as well. This downturn in the rural economy is one we know all too well in South Dakota. Volatile market conditions for crops and livestock, unfair foreign trade, and the disastrous forces of Mother Nature, have all taken a toll on our farmers and ranchers in recent years.

Consider the sobering economic damage to South Dakota resulting from the ongoing drought: South Dakota State University, SDSU, economists estimate $1.4 billion has been eroded from the State's economy due to the drought. The impact includes $642 million in direct losses for livestock and crops, which is about one-sixth, or 17 percent of the average annual cash intake for agriculture.

I believe the New Homestead Act provides the kind of commitment and opportunity that our nation must be willing to once again make in order to sustain and grow prosperity for farmers, ranchers, and rural America.

Our entire Nation suffers when rural America suffers. Some of our country's most prized virtues, like good school systems, low crime rates, and high levels of civic participation, are alive and well in these areas, yet many are fighting for their survival. There is no doubt in my mind that these areas are worth saving. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I am pleased to join colleagues in the introduction of the New Homestead Act. I am very pleased to be a supporter along with my colleagues from North Dakota, Nebraska, and South Dakota.

Alexander Hamilton once made a statement I think is particularly applicable to the current situation we are discussing—what is happening in rural America, particularly in a swath of rural America from Texas north to the Canadian border that includes the State of the Presiding Officer and a number of States throughout the Midwest. He said:

> To cherish and stimulate the activity of the human mind, by multiplying the objects of enterprise, is not among the least considerable of the expedients by which the wealth of a nation may be promoted.

We listen to that and say: What does he mean? In other words, we must encourage and support intellectual activity and enterprise, and the area in which this has been most neglected has been in our rural communities. We must change this before some of these precious entities wither away.

Every year, rural communities become emptier and more desolate as fewer and fewer people remain. This out-migration of youth to more urban areas is due to the simple fact of a lack of economic opportunity within these beautiful settings.

Although America was originally rural, with most of its people living in rural areas and working on farms, that has changed dramatically over the course of the past century. Today, after decades of decline, less than 2 percent of the Nation's population live on farms in rural areas. In my State alone, over half of the counties are suffering from this youth drain and out-migration.

I have a map I want to show to my colleagues. These are counties in Kansas. We have 105 counties. These are the counties that would qualify for the New Homestead Act; that is 10-percent population decline or more over the last 20 years. You can see a huge swath of our State that has extensive out-migration.

You can say a lot of different factors caused this. One has been the concentration and growth in agriculture, where there are fewer farmers farming larger tracts of land. That is certainly accurate.

It is also the fact that a number of people in agriculture have, because of a lack of income, had to get off-farm jobs. There are not major urban areas in a lot of these places, so they have not been able to find that and they have had to move to major urban areas. So you have had this combination of difficulty in agriculture, difficulty of a lack of jobs on an off-farm basis. It has led to this huge out-migration.

If this were just Kansas, it would be problematic enough, but instead of a whole swath, particularly in the Middle West, from Texas sweeping up north all the way to Montana and Minnesota, you have a number of counties like this.

I believe nearly 90 percent of counties in North Dakota qualify because of the same feature: Concentration in agriculture, fewer off-farm job opportunities, and people saying: We simply don't have anyplace to work. We would love to live here. We would love to be able to stay here. We have to have a job. We have to be able to make a reasonable income.

This is the total population. If you look at the school-age population, it is even worse. It is even a more steep decline. I have been in cities in Rawlins County and far Northwest Kansas where the school-age population has declined nearly a fourth over the last 5 years. So while the overall population is going down like this, the school-age population is plummeting. As young people don't move back in the area, there are not the jobs and opportunities. They are saying: I would love to live here, but I can't.

I have been around a lot of rural development efforts that tried to push people back to rural areas. To me, this is a way to pull people back to rural areas, by providing economic incentives, the likes of which we did to populate the region in the first place. This is a region that was populated by the Homestead Act in the first place, telling people, if they will stay there and work 160 acres for 5 years, it is theirs.

We had people self-selected. It wasn't people saying: You are going to go, and we will select you, we won't pick you—it was the great American way. This is the opportunity. If you want to do it, it is your choice. You don't have to do it. People took it and moved out.

The New Homestead Act is recognizing the new economic realities and saying what can we do to pull people into these areas. These are ideas we tried in major urban areas, we tried them in Washington, DC, and a number of other places where we were having the hollowing out of urban areas, and they have attracted people back to the core in these urban areas. We are trying to take those same proven models, proven tests, to another area that has been hollowed out in the United States.

That is why I am excited about this bill. I am hopeful it is something we can move in total, or in part, quickly. We need to do so. We need to move this forward aggressively.

It is providing new hope and new vision in areas where a lot of people were of a mind that: I guess nobody is listening or paying attention, and we are going to have difficulty making it. Our community is not going to make it.

Here we are saying, no, we want to provide this new hope and opportunity with the New Homestead Act. I hope our colleagues, if they have other ideas that could strengthen this bill, will bring those forward as well.

It is a very difficult issue for our State. I am delighted to be supportive of this effort. My colleagues and I are going to push aggressively here and in the House to make it happen.

It is simple: rural America—our history, our founding lifestyle—is suffering and the Congress must not turn our backs. Take, for example, the town of Nicodemus, KS, in Graham County. This town was started more than a century ago when some 350 freed slaves left Kentucky and made a new beginning for themselves on the plains of Kansas. For a while, the town prospered, showing a new life to these newly-freed slaves. Unfortunately though, the railroad never moved in—a devastating lost opportunity that was followed by drought, depression, and, finally, a post-war exodus. Suddenly, the town itself and its population seemed almost ghost-like. Today, Nicodemus is without a school, and there is only one full-time farmer left in the area.

Unfortunately, this story is not an isolated one, as hard times have hit throughout America. In fact, this kind of situation is happening across our heartland, and we are here today to provide the much needed incentives to preserve rural America and the values instilled there.

We must revitalize within our heartland that spirit of creativity and enterprise that has always allowed our nation to grow and adapt. It has long been the key to our success both philosophically and in the wealth of our nation. For example, Americans who once held jobs that relied on the production of natural resources, such as farming, now work in service or technology industries. As a result of new technologies, American industries, including agriculture, have become more profitable with fewer employees. We in the Congress have an obligation to ensure the economic viability of these rural communities, even in light of the major problems and out-migration these areas are suffering.

In 1862, the Homestead Act inspired many to move to places like Kansas with promises of 160 acres of free land to those settlers who would farm and live there for five years. Today, we are introducing the New Homestead Act. While we aren't offering 160 acres, we are rewarding those individuals willing to take a risk and locate in a high out-migration county with the opportunity to get a college degree, buy a home, and build a nest egg for the future. Through loan repayment, small entrepreneurship credits, home tax credits, protecting home values, and individual homestead accounts, this bill reaches out to a new generation of Americans.

And it is this new generation of Americans that will help rejuvenate rural America. Since our founding, a strong and vibrant rural America has been essential to a strong nation—and this principle remains only more true today. Our continued national well-being depends as much, if not more, on the condition of our less populated areas as on our urban areas.

It is my hope that the Senate will take a serious look at this bill and move quickly to implement the provisions we have set forth. I appreciate the work that my colleagues Senators HAGEL and DORGAN have done on this bill. Their vision and drive have brought this bill to where it is today, and I hope that the same spirit will help propel this bill through the Senate so that we can start helping our rural communities as quickly as possible.

For, as we struggle through economic hard times nationwide, it would be wise to remember a comment George Washington made:

> A people . . . who are possessed of the spirit of commerce, who see and who will pursue their advantages may achieve almost anything.

I know our rural communities are not only our history, but still have much to offer our nation today. Therefore, let us enable that spirit of commerce, and put these communities on the path to recovery.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. BROWNBACK. Mr. President, as in executive session, I ask unanimous consent that the cloture vote on the Estrada nomination occur at 2:15 today; provided further the order for debate remain from 11:30 to 12:30; I further ask unanimous consent at 12:30 the Senate begin consideration of Calendar No. 36, the Bybee nomination as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE PLACED ON CALENDAR—S. 607

Mr. McCONNELL. Mr. President, I understand that S. 607 is at the desk and due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time by title.

The senior assistant bill clerk read as follows:

> A bill (S. 607) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Mr. McCONNELL. Mr. President, I object to further proceedings.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that I be recognized in morning business for a period of up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COVER THE UNINSURED WEEK

Mr. TALENT. Mr. President, this is "Cover the Uninsured Week" and there have been press events—and I guess you can call them rallies—around the country designed to inform America about the problem of the uninsured. I guess I am glad that is happening. It seems as though it happens a lot. We have been talking about the uninsured for a long time.

I think it is time we do something about the uninsured instead of just telling everybody that we have. And we can do that. I would suggest we are on the brink of doing it. We in the Senate just have to choose between the employees of the small businesses around the country, who are most of the uninsured, and the big insurance companies that have them under their thumb currently.

There are about 41 million uninsured people in the country at any given time. About 60 percent of those uninsured people are either owners of small businesses or employees of small businesses, or dependents of somebody who owns or works for a small business. Most of the people who are uninsured are working people. The reason they are uninsured and the reason they are not getting health insurance through their small business is that the small businesspeople are caught. They are stuck on a dysfunctional market. They are caught because all they bring to that market is a unit of 4 or 5 people, or maybe 20 or 30, or maybe 60 or 70. And they have very few choices. They consistently pay higher costs for health insurance premiums, and they get lower quality insurance than people who work for big businesses or people who work for the Federal Government, as we do.

I have seen this all over the State of Missouri and, indeed, all over the country. I chaired the Small Business Committee for two terms in the House. In that capacity and since then, I have visited personally with hundreds and hundreds of small businesspeople and with thousands of their employees. This is their No. 1 issue. It is not fair for them to be laboring under impediments that the rest of us do not have.

I was in Farmington, MO, over the weekend. I stopped by an optometrist's office run by a couple of optometrists, and a couple of their employees were there. They gathered around and told me a very familiar story. In 1999—I think it was—they said, we just felt we had to start providing health insurance to our people, as expensive as it was and as difficult as it was.

They had to spend hours and hours soliciting bids, maneuvering, and trying to get insurance for their people. So they started it.

They said: When we started, it was a little over $200 a month per employee. Now, 4 years later, it is over $500 a month per employee.

They are not able to give wage increases to their people because health insurance costs are increasing so fast.

Everywhere I go, small business health insurance costs are going up 20 or 25 percent a year.

There is a further human side to this story. One of their employees—a really neat lady—I talked with for a while. She is a single mom and a cancer survivor. She is trapped, and the small business is trapped with her, because if they drop the insurance, she will never get reinsured anyplace else. They feel a moral obligation to continue that insurance for her. The other employees are doing without wage increases and dealing with substandard insurance in order to help their fellow employee.

I have seen this story over and over again. And it is not necessary. We can do something about it, and we need to.

Here is what we can do.

The House passed several times in the 1990s—and the President now supports the plan—a plan that would simply allow small businesses to pool through their national trade associations or their professional associations and get health insurance on the same terms and under the same regulatory apparatus as the big businesses, the unions, and the Government currently do.

That is all we need to do, just empower the small businesspeople. It will not cost the taxpayers a dime because it is not a Government program. It is just allowing people to do what is already happening all over the United States.

So here is how it would work: Let's say the National Restaurant Association would sponsor national health insurance plans. They would start an employee benefit side, just like the big companies do. They would contract with national insurance companies. They would have a self-insured side. And then, if you are a restaurant employee, by joining the restaurant association, you would automatically be entitled to get this insurance. They would have to offer it to you. They could not tell you you could not have it. And you would be part of a pool of 20,000 or 30,000 people instead of in a unit by yourself with two or three or five or ten people, like my brother's situation. He has a little tavern kind of restaurant in St. Louis. Actually, it may be more of a saloon. But, in any event, he could join the National Restaurant Association to get coverage. It is just him and my sister-in-law who run this place. Apart from the money, which is impossible for him, he does not have the time and does not want to incur the risk of going out two or three times a year and soliciting bids.

And then, all of a sudden, what often happens to small businesspeople is they get called up because somebody actually filed a claim. The big insurance company tells them their rates went up astronomically. They have no power in this market. They are caught with few choices, with small groups, with high administrative costs. It is not necessary, and it does not even cost anything for us to fix it.

I was talking about this at a dinner the other day with six or seven people who were there to talk about how we could serve the underserved better with health care. This is part of the answer to it. We had a real good dialog with these folks. Many of them are operating a charitable enterprise where they are helping people get health care.

I laid this out for them, and one of the men said to me: Well, who wouldn't support that? Indeed, who wouldn't support it? I will tell you who doesn't support it: the big insurance companies, who control this small group market now. They are operating like monopolists. Monopolists ratchet down their output and raise their prices. That is what is happening. Fewer and fewer people are covered, and prices are going higher and higher. They are making money, and people around this country do not have health insurance. It is wrong, and it ought to stop.

One argument I hear about this is: Look, if we do this, the association health plans will engage in cherry-picking. What that means is, the healthy small business groups will go into the big plans, the sicker small business groups will prefer to stay out there in the small business market. This is actually an argument that the big insurance companies are raising. It is the exact opposite of the truth.

Common sense tells you if you have a history of illness, if you have cancer or had cancer or diabetes or kidney problems, or something similar to that, and somebody says to you, look, you can be in a small group market, you can work for a small business and be part of a group of 4 or 5 people or 40 or 50 people, or you can work for a big business and be part of a group of 10,000 people, which would you choose?

I have asked that question in small business groups around the country. I have not had a single person say: If I were sick, I would rather be part of the small group. Of course you would rather be part of the bigger group.

This is a haven for small business people who want to help themselves and their employees, and particularly the ones who are sick and need the insurance, such as that lady in the optometrist shop in Farmington. It is a haven for them. And it will cut the cost of their health insurance, on average, 10 to 20 percent and make insurance available to millions of people who currently do not have it. It does not cost the taxpayers anything. It is just like a big co-op.

We have a lot of support in the Senate. I am very pleased about our progress. The chairman of the Small Business Committee, the senior Senator from Maine, Ms. SNOWE, is a strong supporter and is leading the fight. Senator BOND is supportive. The

Senator who is presiding over the Senate today is supportive. Senator McCAIN is supportive. I have been talking with a number of my friends and colleagues on the other side of the aisle. I am hoping to get support there.

In the House, it passed on a strong bipartisan basis. I believe we can do the same. It is just a question of the choices we want to make. We can choose these small businesspeople and their employees who have been telling us, year after year after year: We are working full time; We care about our jobs; We care about our fellow employees; Let us help ourselves, or we can choose the big insurance companies that have a monopoly on this market and are charging higher and higher prices and providing fewer and fewer policies of insurance for people who need it.

I think the choice is clear. I urge the Senate to look at this bill, the association health plans. We can get it passed. We can make a difference, and we can do it now.

I yield back the remainder of my time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be equally divided between the chairman and the ranking member of the Judiciary Committee or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally between both sides.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is on the Estrada nomination.

Mr. LEAHY. I thank the distinguished Presiding Officer.

### SENATOR GRAHAM'S RETURN

I see the distinguished senior Senator from Florida in the Chamber. First, I will say on a personal basis, I am delighted to see him back. He is looking as healthy as he did before he left. I understand he is even more healthy now. For someone like myself who has probably a couple pounds more than I would like to be carrying, I noticed that he has found a way of losing a little weight. I suspect that what he has gone through is not something that is going to catch on with the various diet fads.

I had a chance to chat with the distinguished senior Senator last night, and he not only sounds even healthier than when he left, but he has the same sense of verve and sense of humor as he had before he left.

I yield to the distinguished Senator from Florida, if he would like to take the floor at this point, such time as he needs.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I extend to you and to my colleagues deep appreciation from me and my family for the many expressions of concern and best wishes which have flowed to us over the past 6 weeks. I report to the Senate that this is my second day back on the job since my operation. I feel increasingly strong and energetic, sufficiently so that I feel this is the time to come to the Senate floor and talk about the issue before us.

Before I do that, I especially extend my appreciation to the Republican leader and our colleague and friend, Senator BILL FRIST. As we know, before becoming a Senator, it was Dr. BILL FRIST. He happened to be a cardiac surgeon. When it was clear to me I was going to have to have cardiac surgery, and when that fact became known by a number of my friends, I had an almost mountain of suggestions as to what I should do, where I should go, who the surgeon should be.

Finally, my friend and former colleague, Connie Mack, called me and suggested I should talk to Senator FRIST, who actually knows something about this, which I did. He gave me excellent advice and a substantial amount of reassurance. Then after the operation, while I was still in the hospital, he came and visited. That was a touching moment for Adele and myself that he would make that effort.

I particularly thank Senator FRIST for his display of humanity during this period.

I am here to discuss my vote on the motion to invoke cloture on the nomination of Miguel Estrada to the District of Columbia Circuit Court of Appeals.

It will be my vote today to not invoke cloture. I want to explain the reasons for this. There are many issues raised by this nomination. I consider the most fundamental issue is the issue of the independence of the judiciary. That has been a matter of concern to thoughtful Americans from before our country was a country.

In the brilliant and Pulitzer Prize-winning book by David McCullough, "John Adams," John Adams is quoted from a paper he wrote called "Thoughts on Government." This was written before the War for Independence, anticipating that after a successful independence, there would be the need to establish a government. And these were some principles John Adams thought government should contain. Let me read one paragraph:

> "Essential to the stability of government and to enable an impartial administration of justice," Adams stressed, "with separation of judicial power for both legislative and the executive, there must be an independent judiciary, men of experience on the laws, of exemplary morals, invincible patience, unruffled calmness, indefatigable application, and should be subservient to none and appointed for life."

Those were the characteristics John Adams laid out as crucial to the essential stability of government and to have an able and impartial administration of justice. Those words, written before the war, then became the guiding star for our Founding Fathers at the Constitutional Convention in 1787.

In order to preserve the political independence of judges, the Constitution provides they shall, as John Adams suggested they should, serve a lifetime appointment. In order to protect from economic intrusion into the judiciary, this Congress is prohibited from reducing the salary of judges, so that they will be free of intimidation. But maybe the most difficult issue the Constitutional Convention faced—and it was one of the last matters to be resolved by that convention—was how should judges secure their place on the bench. Up until the very end of the Constitutional Convention, the idea was that this Senate would directly appoint Federal judges. However, late concern arose that this very principle of the independence of the judiciary might be at risk if one branch were solely responsible for the appointment of Federal judges. And so a compromise was struck. That compromise was that the President would nominate persons to be Federal judges, and that the role of the Senate would be to advise and then consent, through the confirmation process, to those nominations.

So the issue we are debating today—the relative role of the executive and legislative—is not a trivial issue. It goes to the heart, as John Adams said, of the stability of government, because it goes to the independence of the judiciary.

Having said that and having read some words from the 18th century, I would like to read you some words from the 21st century as printed in the New York Times Magazine of last Sunday. It is an article on one of our Federal intermediate appellate courts, a court of almost, but not quite, the same influence as the DC Circuit Court. One of its justices is J. Michael Luttig. It says this:

> Luttig told me that he thinks the politics surrounding judicial appointments makes judges hyperconscious of their political sponsors. "Judges are told, 'You're appointed by us to do these things.' So then judges start thinking, well, how do I interpret the law to get the result that the people who pushed for me to be here want me to get?"

Judge Luttig continued:

> I believe that there is a natural temptation to line up as political partisans that is reinforced by the political process. And it has to be resisted, by the judiciary and by the politicians.

Mr. President, I believe we are at a time when we are being called upon to resist an effort to inappropriately utilize the executive power to the exclusion of the legislative role in the appointment of Federal judges. I consider myself to be a pragmatist. I find very few things in life that are black and white. I do not think this issue is black and white.

I have been dealing with this issue in another dimension over the past weeks of recuperation. In my State of Florida, we have had for over 20 years a process of nominating Federal judges through a citizen-based judicial nominating commission. Persons who want to be a Federal judge in Florida submit their application to the judicial nominating commission, which reviews their submission and has personal interviews with those candidates that it believes are eligible for Federal judicial consideration. Then that commission used to recommend three people to the Senators. Senator Mack and myself worked for over 12 years in a very collaborative, nonpartisan manner to determine what recommendations should be made to the President. Under the system now, the number of persons to be recommended will be increased from three to six, and the role Senator NELSON and I will play—recognizing the fact that we are Democrats and the administration is Republican—is we will review those six nominations and make a judgment as to whether, in our opinion, any of those nominations would have difficulty being confirmed by the Senate. If that is not the case, then all six will go to the President for his consideration.

I highly commend to my colleagues the article I quoted from in The New York Times Magazine of March 9, 2003, written by Deborah Sontag.

I ask unanimous consent that some materials about this recent agreement that has been reached between the White House, the chairman of the Florida Judicial Commission, and Senator NELSON and myself, which I believe will well serve the Federal judiciary and the people of Florida, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[News From Bob Graham]

### WHITE HOUSE COMMITS TO HONOR FLORIDA NOMINATING SYSTEM

### GRAHAM SAYS JUDICIARY NEEDS TO MAINTAIN INDEPENDENCE

WASHINGTON (March 12, 2003).—Senator Bob Graham, D-Florida, announced today that the White House has committed to honor Florida's non-partisan process for selecting nominees for federal judgeships, federal prosecutors and U.S. marshals. The agreement culminates months of discussion about the importance of the role of the state's nominating commissions.

"This is an important assurance from Chief of Staff Andy Card that the White House will abide by the nominating process that has allowed the federal court system in Florida to retain public confidence and maintain its independence from political influence," Graham said. "For nearly two decades, this merit-based process has produced judges and other officials of the highest caliber, while allowing our state to outpace the nation in filling vacancies. We need to ensure that this tradition continues."

Graham released a letter from White House Chief of Staff Andrew H. Card Jr., that reads, in part: "I want to reiterate that the President is committed to following the commission process in Florida and intends to abide by the rules of procedure of the Florida Federal Nominating Commission, consistent with 'the Constitutional and statutory powers, duties; or prerogatives of the President of the United States or the Senate in the filling of vacancies by nomination and confirmation' (Rule 30)."

Graham said it was agreed that the White House commitment to following the reformed rules of the nomination process will be prospective, meaning that persons already nominated or who are under consideration for a vacancy will not be subject to the new process.

Upon receiving Card's letter, Graham said he would encourage prompt consideration of and support before the Senate Judiciary Committee the pending nominee for a District Court judgeship in the Southern District of Florida, as well as the nominees for U.S. marshal in the three federal judicial districts in Florida.

If confirmed, judicial nominee Cecilia M. Altonaga would be the first Cuban-American woman to sit on the federal bench. The pending nominees for U.S. marshal are Dennis A. Williamson in the Northern District; Thomas Hurlburt Jr., in the Middle District; and Christina Pharo in the Southern District.

"My complaint has never been with the qualifications of these individual nominees, but with the fact that the White House deviated from the nominating process which has so well served Floridians," Graham said.

"I am hopeful that, with the White House commitment, we will to return to a selection process that gives assurances of merit-based and non-partisan selection of jurists, expedites non-partisan consideration of those jurists by the Senate and maintains the independence of the judiciary."

THE WHITE HOUSE,
*Washington, March 12, 2003.*

DEAR SENATOR GRAHAM: Thank you for the numerous opportunities to discuss our mutual efforts to ensure that Florida's judicial vacancies are filled through an orderly process.

I know that you and Judge Gonzales have communicated previously about the important work and role of Florida's Federal Judicial Nominating Commission. I want to reiterate that the President is committed to following the commission process in Florida and intends to abide by the rules of procedure of the Florida Federal Judicial Nominating Commission, consistent with "the Constitutional and statutory powers, duties, or prerogatives of the President of the United States or the Senate in the filling of vacancies by nomination and confirmation" (Rule 30).

The Administration shares your desire to promptly fill the federal judicial and United States Marshals vacancies in Florida.

Sincerely,

ANDREW H. CARD, Jr.,
*Chief of Staff to the President.*

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COLSON HICKS EIDSON,
*Coral Gables, Florida, March 12, 2003.*

Hon. BOB GRAHAM,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRAHAM: I want to thank you for your support of the nomination of Judge Cecilia Altonaga for United States District Court Judge for the Southern District of Florida.

Your substantial personal involvement and leadership in the nomination of Federal Judges, U.S. Attorneys and U.S. Marshals, throughout your years of service in the United States Senate, have been exemplary and have been responsible for the high qualifications of the men and women who serve in the three federal districts in the State of Florida. You have my admiration and respect.

With warm personal regards, I remain,

Sincerely,

ROBERTO MARTÍNEZ.

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[From the Miami Herald, Jan. 16, 2003]

### FLORIDA'S JUDICIAL-NOMINATION PROCESS UNDER THREAT

(By Bob Graham)

For more than a decade, through both Democratic and Republican presidencies, Florida had an outstanding record of filling federal judicial vacancies through a nonpartisan, merit-based process.

The process was driven by the judicial nominating commissions, which took applications, interviewed candidates and submitted three names for consideration for each judicial vacancy. These commissions, appointed by the two senators, were made up of volunteers who represented a cross-section of our state: lawyers and lay persons, Democrats and Republicans. Both Florida senators interviewed the three finalists and passed their recommendations onto the White House.

The process worked. Over 10 years, we filled 26 District Court vacancies without a single significant controversy. Because of the confidence that the Senate Judiciary Committee vested in the Florida judicial-nominating process, between the 101st and 106th Congress, those vacancies were filled in an average of 108 days. This compares to the average time for all U.S. District Court vacancies of 151 days.

The process attracted highly qualified candidates for federal judicial vacancies. This is sometimes difficult because the open process makes all the information submitted by the candidates publicly available. However, because decisions were made on merit, candidates of the highest quality from private practice as well as the state courts and federal magistrates were attracted to apply.

RAISING CONCERNS

After George W. Bush became president, the process changed. Now the governor, along with the most senior Republicans in our state's congressional delegation, are responsible for naming the nominating commission's members.

While Sen. Bill Nelson and I can interview the candidates, we cannot make recommendations to the White House anymore. We can only indicate whether any of the candidates might encounter difficulty in winning Senate confirmation.

Since this new system has taken effect, there have been two instances that raise concerns about the politicization of the judicial-nominating process, threatening to undermine the credibility of our judiciary.

A year ago, the nominating commission announced groups of three finalists to fill three U.S. marshals positions in Florida, including one in the Southern District of Florida. In March 2002, my office was informed that the three finalists for the position in the Southern District were being put aside in favor of a candidate who had not even applied. This candidate has been renominated in the 108th Congress and is now awaiting action by the Senate Judiciary Committee.

In February 2002, the Judicial Nominating Commission announced that it had selected three finalists for a Southern District court vacancy. The candidates included two state circuit-court judges and the sitting U.S. attorney for the Southern District, who were interviewed by the Judicial Nominating Commission and found to be qualified. Nelson and I informed the White House that, if nominated, any of the three would be expeditiously confirmed.

By April, however, the process took a mystifying turn. The nominating commission's chairman informed the fellow commissioners that the White House had requested three additional names, effectively disregarding the three initial candidates. A month later, at the direction of the governor and two U.S. House members, the commission met again and selected three new finalists. A nominee is expected from the White House any day now.

The qualifications of these three new candidates are not to be questioned. Rather, the concern is the deviation from a process that has been successful for more than a decade. The independence and integrity of our judicial system are at stake.

The legal counsel to the president, Alberto Gonzalez, said that the initial panel had been rejected because of inadequate diversity. I found this surprising because half of the federal court officers nominated in Florida by the Republican-appointed Judicial Nominating Commission and selected by the president were minorities.

With this record, if this recent set of recommendations by the Judicial Nominating Commission was found by the president to be insufficient, what recommendation would Gonzalez make to satisfy the diversity sought by the president?

PROUD TRADITION

We must live up to the words said by former Florida Bar President Herman J. Russamanno about our federal courts: "Florida has been blessed with competent, experienced, compassionate and highly professional judges. These distinguished individuals bring to the court the highest standards and strong commitments to the administration of justice."

I am committed to this proud tradition, which is why we must honor a system of nonpartisanship and cooperation in the selection of Florida's federal judges.

Mr. GRAHAM of Florida. Having said that, I believe the standard for the kind of information the Senate has a right and a need for in order to be able to carry out its advise and consent function is not an ideological or even a precedential standard but, rather, a pragmatic standard. If a person has been, for instance, an academic and has written, as they typically do, extensive articles or books, there is some means by which you can get below and beneath the resume and get some feel of the person who is being considered.

Similarly, if a person has been a judge at the State level, or at other levels within the Federal judiciary, it is likely that they have written opinions or other statements of their jurisprudential feelings which, again, would give you means by which to evaluate and cast an informed vote to consent to a Presidential nomination.

I have been away from the Senate most of the time this matter has been under consideration. I do not serve on the Judiciary Committee, but colleagues whose judgment I respect have indicated they do not feel that as of today we have the information to, in an informed manner, provide that consent.

I believe this is an issue upon which honorable men and women can reach agreement, just as after a series of negotiations, Senator NELSON and I have reached an agreement on the means by which the Florida judicial nominating process will be ordered and respected.

I urge those of my colleagues who have been particularly involved in this to not see today's vote as the last chapter but, rather, as a call to find an honorable way to provide us with the information, given the status of this nominee and the dearth of information which might otherwise be available.

Let me say, Mr. President, I find some irony in the issues with which this Senate is currently dealing. We may be at war as early as next week. This Senate has already voted to authorize that war. There have been a number of rationales submitted for the war.

One of the rationales that has been recently advanced with a great deal of intellectual fervor has been the concept that by taking down Saddam Hussein, we could create a new climate throughout the region of the Middle East and that in that new climate could sprout the seeds of democratic institutions which would, in turn, lead to democracy. That would be a very admirable consequence.

The irony is that at the same time we are hoping that our actions of war will lead to democracy in a region of the world thousands of miles away which has little history of democracy, we are today debating a process that, in my judgment, if not carefully balanced between the executive and legislative branches, has the prospect, as John Adams suggested, of destabilizing one of the key institutions of our more than two centuries of democracy.

I return to my hope that people of good will can find a way to provide to this institution the information that it legitimately requires, and which the Constitution imposes upon us, to make an informed consent to the President's nomination.

I offer as an example of that spirit of cooperation the good deeds that were extended to me by Senator FRIST. Maybe some people who observe this debate observe the Senate in other highly partisan conflicts, such as the one we voted on earlier today, to believe that we are warring armies. Yes, we are people who have strong views and opinions, and we will express those views and support them with our votes. But we also are people who have a respect for our colleagues and a humanity towards them. I think this is the time to draw upon that respect and appreciation for humanity, as well as our responsibilities under the Constitution, to see if we can find a means to close this impasse and move on to the other important business of the Senate.

Mr. President, I appreciate this opportunity. I again thank you and my colleagues for all the expressions of good will during my absence.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my good friend from Florida for his statement. I again welcome him back. I heard in his absence statements from both Republicans and Democrats worried about him. I am glad to see him back. The Senator and his wife are dear and close friends of mine and my wife.

Sometimes people forget the Senate is a family. There are only 100 of us. We tend to know each other and spend time with each other. No matter what political positions we take, we worry about each other's health. We talk about each other's children and where they are going to school.

This is an example of those who were concerned about a very popular Senator. I am glad to see him looking in such great health. I welcome him back. I thank him, of course, for his very thoughtful statement. I am glad to hear the quotes from a book that I probably enjoyed as much as any in the last 10 years, David McCullough's book on John Adams. I do not own the publishing company or anything else, but I recommend that book to anyone who wants to read it.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. REID. Mr. President, this is not a question, but I wish to say, Senator GRAHAM and I came to the Senate together. I have been so impressed with BOB GRAHAM his entire tenure in the Senate because he never does anything halfway; it is always all the way. Whenever he comes to the floor to speak, he is prepared and has thought about what he is going to talk about. Today is no different.

Of course, I am happy to see him back stronger than ever and certainly wish him well in his ambitions politically, even though he may have had a slight setback, but knowing how hard the Senator from Florida works, I am sure he will catch up with the pack.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it was just 2 days ago we welcomed the Vice President to the Senate for debate scheduled by the majority. I said at that time that I am always glad to see the Vice President here, even though it is a rare appearance for a Vice President of either party.

I wish he had been here for debate about the impending war with Iraq. We are probably the only parliamentary body in the democratic world that has not had a major debate during the past few weeks on Iraq and the war. Or he might have been here for debate on terrorism or homeland defense or the need for action to stimulate the economy and improve the lives of the millions of Americans who have lost jobs over the last 2 years. Actually, there are more Americans losing jobs in a 2-year period than I think has occurred since I have been old enough to vote. Or the Senate might have been acting on a prescription drug benefit for seniors.

Apparently, we are not here to have that debate today nor did the majority schedule debate in the Senate on Tuesday on those important matters. Instead, we are here to hear again the arguments about Mr. Estrada. But not much has changed since last week or since this Tuesday. The administration's obstinacy continues to impede Senate consideration of this nomination.

The distinguished Democratic leader, Senator DASCHLE, pointed a way out of this impasse in a letter to the President on February 11. It is regrettable the President did not respond to that reasonable letter to resolve the issue. Instead, the letter sent this week to the distinguished majority leader, Senator FRIST, was not a response to Senator DASCHLE's realistic approach, but a further effort to minimize the Senate's role in this process by proposing radical changes in Senate rules.

I have great respect for the Office of the Presidency, for whoever holds it. One thing I have learned in 29 years is that Presidents come and Presidents go. The Office of the Presidency exists with its responsibilities, its duties, its rules, its traditions. Just as Senators come and go. No Senator holds a seat for life. No Senator owns a seat in the Senate. But the Senate stays, and the Senate has its rights, and it has its privileges, and it also has its obligations. It has its constitutional duties.

I have been in the Senate with six different Presidents. I have never been in the Senate with a White House that seems to have less understanding of the role of the Senate or more of a desire to overturn well over 200 years of practice and procedures in the Senate. I have never known a White House that thinks more just for the moment and not for the long term.

This may be why we are fast approaching the point where, as some suggest, the White House may get half of its goal of regime change, but they may get it in Great Britain. But I digress.

The real double standard in the matter of the Estrada nomination is that the President selected Mr. Estrada in large part based upon his 4½ years of work in the Solicitor General's Office, as well as for his ideological views. The administration undoubtedly knows what those views are and have seen those work papers. They know what he did. They picked him based on that, but they said even though we picked him based on that, we do not want the Senate to know what it was. We in the Senate cannot read his work, the work papers that would shed the most light on why this 41-year-old should have a lifetime seat on the Nation's second highest court.

We are to a point where the White House simply says, trust us, we know what he wrote and how he thinks and will make decisions, but we do not want you to know what he wrote, just rubberstamp him.

Actually, I would remind them of that made-up quote that President Reagan used to such effect—I happen to agree with President Reagan on it—trust but verify. We would like to verify. President Reagan said, "Trust but verify." They say, trust us. We say, let us verify.

So actually this whole matter is in the hands of the White House. They could move forward with Mr. Estrada easily if they wanted to. Instead, the White House has taken on the attitude that they want to carry out the responsibilities of the Presidency, as awesome as they are, but they also want to carry out the responsibilities of the Senate.

I think they have their hands full carrying out the duties of the White House, with the impending war. We have millions of Americans out of work. We have a stock market that has tanked. We have runaway budget deficits. This is an administration that inherited the largest surpluses in history, and they are about to create the largest deficits in history; an administration that inherited a robust stock market, and we are about to see the stock market go to an all-time low. They have enough to worry about. Let us worry about carrying out the duties of the Senate.

If they would simply cooperate, we could go forward with Mr. Estrada. I mention this because I do not want anybody to make a mistake. The control and the scheduling of whether there will be a vote on Mr. Estrada is in the hands of the White House.

There seems to be a perversion to require the Senate to stumble in the dark about Mr. Estrada's views when he shared these views quite freely with others, and when the administration selected him for this high office based on these views.

Justice Scalia wrote just last year:

> Even if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. Proof that a Justice's mind at the time he joined the Court was complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias.

It was just a week ago that I thanked the Democratic leader and assistant leader and Democratic Senators for speaking and voting in favor of preserving the integrity of the confirmation process. We are acting to safeguard our Constitution and the special role of the Senate in ensuring that our Federal courts have judges who will fairly interpret the Constitution and the statutes we pass for the sake of all Americans.

The administration's obstinacy continues to impede progress to resolve this standoff. The administration remains intent on packing the Federal circuit courts and on insisting that the Senate rubber-stamp its nominees without fulfilling the Senate's constitutional advice and consent role in this most important 'process.' The White House could have long ago helped solved the impasse on the Estrada nomination by honoring the Senate's role in the appointment process and providing the Senate with access to Mr. Estrada's legal work. Past administrations have provided such legal memoranda in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott and Ben Civiletti, and even this administration did so with a nominee to the EPA. Senator DURBIN noted this week that the administration is giving Mr. Estrada bad advice. Instead, the administration should instruct the nominee to answer questions about his views—consistent with last year's Supreme Court opinion by Justice Scalia—and to stop pretending that he has no views.

The White House is using ideology to select its judicial nominees but is trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them. It was not so long ago when then-Senator Ashcroft was chairing a series of Judicial Committee hearings at which Edwin Meese III testified:

> I think that very extensive investigations of each nominee—and I don't worry about the delay that this might cause because, remember, those judges are going to be on the bench for their professional lifetime, so they have got plenty of time ahead once they are confirmed, and there is very little opportunity to pull them out of those benches once they have been confirmed—I think a careful investigation of the background of each judge, including their writings, if they have previously been judges or in public positions, the actions that they have taken, the decisions that they have written, so that we can to the extent possible eliminate people eliminate persons who would turn out to be activist judges from being confirmed.

Timothy E. Flanigan, an official from the administration of the President's father, and who more recently served as Deputy White House Counsel, helping the current President select his judicial nominees, testified strongly in favor of "the need for the Judiciary Committee and the full Senate to be extraordinarily diligent in examining the judicial philosophy of potential nominees." He continued:

> In evaluating judicial nominees, the Senate has often been stymied by its inability to obtain evidence of a nominee's judicial philosophy. In the absence of such evidence, the Senate has often confirmed a nominee on the theory that it could find no fault with the nominee.
>
> I would reverse the presumption and place the burden squarely on the shoulders of the judicial nominee to prove that he or she has a well-thought-out judicial philosophy, one that recognizes the limited role for Federal judges. Such a burden is appropriately borne by one seeking life tenure to wield the awesome judicial power of the United States.
>
> Although the Senate Judiciary Committee has long recognized correctly, in my view, that positions taken as an advocate for a client do not necessarily reflect the nominee's own judicial philosophy, a long history of cases in which a nominee has repeatedly urged courts to engage in judicial activism may well be probative of a nominee's own philosophy.

Now that the President is not a popularly elected Democrat but a Republican, these principles seem no longer to have any support within the White House or the Senate Republican majority. Fortunately, our constitutional principles and our Senate traditions, practices and governing rules do not change with the political party that occupies the White House or with a shift in majority in the Senate.

Along with this current impasse, the administration has shown unprecedented disregard for the concerns of Senators in taking other unprecedented actions, including renominating both Judge Charles Pickering, despite his ethical lapses, and Judge Priscilla Owen, despite her record as a conservative "activist" judge. Both were rejected by the Senate Judiciary Committee after fair hearings and open debate last year. Sending these re-nominations to the Senate is unprecedented. No judicial nominee who has been voted down has ever been re-nominated to the same position by any President. This morning the Republican majority took another unprecedented step in holding a hearing on the re-nomination of Judge Owen, whose nomination had been rejected earlier by the committee. The White House, in conjunction with the new Republican majority in the Senate, is choosing these battles over nominations purposefully. Dividing rather than uniting has become their modus operandi.

Among the consequences of this partisan strategy is that for the last month, the Senate has been denied by the Republican leadership meaningful debate on the situation in Iraq. I commend Senator BYRD, Senator KENNEDY and the other Senators on both sides of the aisle who have nonetheless sought to make the Senate a forum for debate and careful consideration of our nation's foreign policy. The decision by the Republican Senate majority to focus on controversial nominations rather than the international situation or the economy says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have again here today.

One of the most disconcerting aspects of the manner in which the Senate is approaching these divisive judicial nominations is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our Federal courts. It should concern all of us and the American people that the Republican majority's efforts to re-write Senate history in order to rubber-stamp this White House's Federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come. I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution so as to expand Presidential power. What I find unprecedented are the excesses that the Republican majority and this White House are willing to indulge to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on blank slate and that they have been given a blank check to pack the courts. They show a disturbing penchant for reading the Constitution to suit their purposes of the moment rather than as it has functioned for over 200 years to protect all Americans through checks and balances.

The Democratic Leader pointed the way out of this impasse again in his letter to the President on February 11. It is regrettable that the President did not respond to that reasonable effort to resolve this matter. Indeed, the letter he sent this week to Senator FRIST was not a response to Senator DASCHLE's reasonable and realistic approach, but a further effort to minimize the Senate's role in this process by proposing radical changes in Senate rules and practices to the great benefit of this administration. A distinguished senior Republican Senator saw the reasonableness of the suggestions that the Democratic leader and assistant leader have consistently made during this debate when he agreed on February 14 that they pointed the way out of the impasse. Sadly, his efforts and judgment were also rejected by the administration.

More recently, in its edition for next Monday, March 17, a writer in The Weekly Standard suggests that other Senate Republicans, "several veteran GOP Senate staffers" and "a top GOP leadership aide" asked the White House to shown some flexibility and to share the legal memoranda with the Senate to resolve this matter, but were rebuffed. I ask unanimous consent that a copy of the article from The Weekly Standard be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Weekly Standard, Mar. 17, 2003]

### FILIBUSTER SI, ESTRADA NO!—THE GREAT REPUBLICAN DIVIDE OVER HOW TO FIGHT FOR BUSH'S JUDICIAL NOMINEE

(By Major Garrett)

It's not clear whether the constitutional definition of "advice and consent" will become a casualty of Miguel Estrada's fight for a seat on the D.C. Circuit Court of Appeals, but the possibility is serious and sobering. In a 55–44 vote, Democrats last week defeated a Republican attempt to break their unprecedented partisan filibuster of Estrada's nomination, opening the way for the simple-majority standard for Senate confirmation of judicial nominees to be replaced with a super-majority requirement. The Republic isn't there yet. But it's close.

"If we go very much further there will be obvious consequences," said Sen. Jon Kyl, an Arizona Republican. "This standard will have to be applied to both parties and by both parties. This is very close to the point where you can't pull it back."

The strain on the Constitution and Senate precedent is now obvious. Less obvious is the toll the Estrada fight has taken on the relationship between the new Senate GOP leadership team and the Bush White House. While GOP senators are loath to admit it, the Estrada debate has drifted on this long because the White House and the GOP leadership could not fashion a cohesive strategy.

Estrada is not the first fight new majority leader Bill Frist would have chosen—at least not under the restrictions imposed by the White House. Senate Republicans believe the White House has severely limited their room to negotiate.

Early on, several veteran GOP Senate staffers warned the White House and Justice Department to prepare for a brawl. They then gingerly asked two questions: Would Estrada answer more questions from Democrats? And was there any flexibility in the White House's objection to releasing the working memos Estrada wrote while deputy solicitor general in the Clinton Justice Department?

Senior Senate GOP staff told White House and Justice Department officials that cutting a deal on limited Democratic access to Estrada's working papers could lead to his confirmation. The White House refused. There would be no access to Estrada's working papers. Period. This adamantine posture, in the eyes of some in the Senate GOP leadership circles, handcuffed Frist.

"There's some frustration," said a top GOP leadership aide. "From the very beginning we told them that was the only way out and a face-saver for everyone. But it came down to the fact that no one on the White House or Justice team wanted to walk into the Oval Office and say to the president, 'You might have to give up these memos.'"

The administration's position on the memos reflects its deeply held ethic of aggressively defending executive branch prerogatives. Though the White House has never characterized the Estrada matter as one of executive privilege (it is more akin to lawyer-client privilege), it falls into the broad category of executive branch muscularity. And while most Republicans generally support this posture, some Bush allies on and off Capitol Hill have come to question the administration's fastidiousness in the Estrada fight.

"I understand the principle, and I support it, but on this one it feels belligerent," said a longtime Republican lobbyist and ally of the Bush White House.

When a reporter last week asked Sen. Rick Santorum, the GOP conference chairman, if opposition to divulging Estrada's Justice Department memos was permanent, he snapped, "Ask the White House."

Conservatives like Sen. Kyl see the Estrada fight as purely ideological and strongly oppose cutting any deal on access to his working papers.

"It's a phony issue, a manufactured issue," said Kyl. "We want to win this, but you don't win it by breaking a principle that has served this nation well for 200 years. And if we deal on the papers, it will be something else."

But Sen. Harry Reid, the Senate's No. 2 Democrat, has said he will support Estrada if the papers are turned over and nothing objectionable emerges. Enough Democrats to break the filibuster would surely follow Reid, senior Democratic sources say.

"Their guy's not going to get confirmed without them," said a top Democratic lawyer who backs Estrada. "This is not complicated. The White House is not going to confirm him without paying a price."

If that price seems too high, the White House may want to reexamine the price of the alternative, an increasingly bitter filibuster fight. While protecting the privacy of internal memos at the Justice Department, the White House may be sacrificing the 50-vote majority as the historic benchmark of constitutional fitness for the federal bench. Some Senate Republicans believe a new 60-vote standard for judicial appointments could severely hamper this president and all future presidents. And some Senate Republicans wonder why it's more important to protect executive privilege than a president's power to have judicial nominees confirmed by simple majority vote.

The White House wants the fight to drag out and political pressure to build on centrist Democrats. The White House likes the Hispanic dimension of the Estrada fight and is counting on the weight of editorial and public opinion to turn the tide.

But numerous Republican senators say the Estrada fight, for all its constitutional implications, has yet to resonate with the public. Democratic senators report no political backlash at home and see it as their duty to defend Daschle.

"This is an ideological fight, and this is a fight for Daschle to be taken seriously," said a senior aide to a Democratic senator who has teamed up with the White House on economic policy. "And my boss is with Daschle. He knows he's taken, and will take, enough flak on fiscal policy. This is a fight he's prepared to stick with."

Absent a deal on the working memos, all Estrada can bank on is White House and Republican promises to fight until they prevail. But no one in the GOP Senate leadership or the Bush White House can explain how or when that will happen.

Mr. LEAHY. It is too bad that the White House will not listen to reason from Senate Democrats or Senate Republicans. If they had, there would be no need for this cloture vote. The White House is less interested in making progress on the Estrada nomination than in trying to make political points and to divide the Hispanic community.

The Supreme Court, in an opinion authored by none other than Justice Scalia, one of this President's judicial role models, instructs that judicial ethics do not prevent candidates for judicial office or judicial nominees from sharing their judicial philosophy and views.

With respect to "precedent," Republicans not only joined in the filibuster of the of Abe Fortas to be Chief Justice of the United States Supreme Court, they joined in the filibuster Stephen Breyer to the 1st Circuit, Judge Rosemary Barkett to the 11th Circuit, Judge H. Lee Sarokin to the 3rd Circuit, and Judge Richard Paez and Judge Marsha Berzon to the 9th Circuit. The truth is that filibusters on nominations and legislative matters and extended debate on judicial nominations, including circuit court nominations, have become more and more common through Republicans' actions.

Of course, when they are in the majority Republicans have more successfully defeated nominees by refusing to proceed on them and have not publicly explained their actions, preferring to act in secret under the cloak of anonymity. From 1995 through 2001, when Republicans previously controlled the Senate majority, Republican efforts to defeat President Clinton's judicial nominees most often took place through inaction and anonymous holds for which no Republican Senator could be held accountable. Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them and eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and Committee votes.

Beyond judicial nominees, Republicans also filibustered the nomination of Executive Branch nominees. They successfully filibustered the nomination of Dr. Henry Foster to become Surgeon General of the United States in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nomination to be Surgeon General also required cloture but he was successfully confirmed.

Other Executive Branch nominees who were filibustered by Republicans included Walter Dellinger's nomination to be Assistant Attorney General and two cloture petitions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after significant efforts and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never confirmed to his position as Solicitor General because Republicans had made clear their opposition to him. In addition, in 1993, Republicans objected to a number of State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture petitions. In 1994, Republicans successfully filibustered the nomination of Sam Brown to be an Ambassador. After three cloture petitions were filed, his nomination was returned to President Clinton without Senate action. Also in 1994, two cloture petitions were required to get a vote on the nomination of Derek Shearer to be an Ambassador. And it likewise took two cloture petitions to get a vote on the nomination of Ricki Tigert to chair the FDIC. So when Republican Senators now talk about the Senate Executive Calendar and presidential nominees, they must be reminded that they recently filibustered many, many qualified nominees.

Nonetheless, in spite of all the intransigence of the White House and all of the doublespeak by some of our colleagues on the other side of the aisle, I can report that I believe the Senate will by the end of this week have moved forward to confirm 111 of President Bush's judicial nominations since July 2001. That total would include 11 judges confirmed so far this year and of those, seven would be confirmed this week. With the time agreement on the controversial nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit in place for later today, it also includes a circuit judge. Those observing these matters might contrast this progress with the start of the last Congress in which the Republican majority in the Senate was delaying consideration of President Clinton's judicial nominees. In

1999, the first hearing on a judicial nominee was not until mid-June. The Senate did not reach 11 confirmations until the end of July of that year. Accordingly, the facts show that Democratic Senators are being extraordinarily cooperative with a Senate majority and a White House that refuses to cooperate with us. We have made progress in spite of that lack of comity and cooperation.

Indeed, by close of business today, we will have reduced vacancies on the federal courts to under 55, which includes the 20 judgeships the Democratic-led Senate authorized in the 21st Century Department of Justice Appropriations Authorization Act last year. That is an extremely low vacancy number based on recent history and well below the 67 vacancies that Senator HATCH termed "full employment" on the federal bench during the Clinton administration.

Our D.C. Circuit has special jurisdiction over cases involving the rights of working Americans as well as the laws and regulations intended to protect our environment, safe work places and other important Federal regulatory responsibilities. This is a court where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives and their liberty, as well as the lives of their children and generations to come.

If a nominee's record or responses raise doubts or concerns, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's fairness and experience. No one should be rewarded for stonewalling the Senate and the American people. Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we confirm will be fair judges to all people and in all matters.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so that we could proceed to an up-or-down vote. Some on the Republican side seem to prefer political game playing, seeking to pack our courts with ideologues and leveling baseless charges of bigotry, rather than to work with us to resolve the impasse over this nomination by providing information and proceeding to a fair vote. I was disappointed that Senator BENNETT's straightforward colloquy with Senator REID and me on February 14, which pointed to a solution, was never allowed by hard-liners on the other side to yield results. I am disappointed that all my efforts and those of Senator DASCHLE and Senator REID have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter reasonably and fairly. Republicans would apparently rather engage in politics.

The Republican majority is wedded to partisan talking points that are light on facts but heavy on rhetoric. There has often been an absence of fair and substantive debate and a prevalence of name calling by the other side.

I urge the White House and Senate Republicans to end the political warfare and join with us in good faith to make sure the information that is needed to review this nomination is provided so that the Senate may conclude its consideration of this nomination. I urge the White House, as I have for more than two years, to work with us and, quoting from a recent column by Thomas Mann of The Brookings Institute, to submit "a more balanced ticket of judicial nominees and engag[e] in genuine negotiations and compromise with both parties in Congress."

The President promised to be a uniter not a divider, but he has continued to send us judicial nominees that divide our Nation and, in this case, he has even managed to divide Hispanics across the country, unlike any of the prior nominees of both Democratic and Republican presidents. The nomination and confirmation process begins with the President, and I urge him to work with us to find a way forward to unite the Nation on these issues, instead of to divide the Nation.

The presiding officer. The Senator from Utah.

Mr. HATCH. Mr. President, this is the fifth week of debate on Mr. Estrada's nomination. My Democratic colleagues have had unlimited opportunities to make their case. Some of them oppose him; others support him. But one thing has remained clear through this debate: There is no good reason to continue this route of obstruction by denying Mr. Estrada an up or down vote.

If my count is accurate, we have sought more than 17 times to come to an agreement with the Democratic leadership for a time to vote on Mr. Estrada's nomination. Each time, they rejected our efforts.

Yet, the Democratic leadership has complained that the Senate should move on to consider other important matters. All the while, they have continued to fight voting on Mr. Estrada's nomination—the very thing that would allow the Senate to focus its energies on other matters.

This filibuster of Mr. Estrada's nomination is just another step in a calculated effort to stall action on President Bush's judicial nominees. A few weeks ago, I spoke at length on the Senate floor about the Senate Democrats' weapons of mass obstruction. I mentioned that when the Democrats controlled the Senate, we saw them bottle up nominees in committee despite more than 100 vacancies in the Federal judiciary. They have continued to try to inject ideology into the confirmation process by demanding that nominees like Miguel Estrada answer questions that other nominees rightly declined to answer, but were nevertheless confirmed. They have sought production of all unpublished opinions of nominees who are sitting Federal judges—a demand that has resulted in the production of hundreds of opinions and required the expenditure of a significant amount of resources, money, effort, the time. Most recently, they have demanded that a nominee, Mr. Estrada, produce confidential internal memoranda that are not within his control. Although this tactic made its debut with Mr. Estrada, I expect that we will see it repeated with other nominees.

Each of these weapons of obstruction were at their most potent when Democrats controlled the Judiciary Committee. Now things have changed, and Democrats can no longer keep nominees like Miguel Estrada bottled up in committee while they make demands for answers to questions that are unanswerable, and for confidential documents that are not subject to production. Democrats no longer control the committee, and as a result Miguel Estrada's nomination has made it to the Senate floor. This means that the obstructionists among the Senate Democrats have turned to their ultimate weapon—the filibuster.

Filibusters of judicial nominees allow a vocal minority to prevent the majority of Senators from voting on the confirmation of a Federal judge—a prospective member of our third, coequal branch of government. It is tyranny of the minority, and it is unfair to the nominee, to the judiciary, and to the majority of the Members of this body who stand prepared to fulfill their constitutional responsibility by voting on Mr. Estrada's nomination.

I have taken to the floor time and time again, for Democratic and Republican nominees alike, to urge my fellow Senators to end debate by voting to invoke cloture, which requires the vote of 60 Senators. Most, if not all, of these occasions did not represent true filibusters, but were situations in which nominees were nevertheless forced to overcome the procedural obstacle of a cloture vote. And no lower court nominee has ever been defeated through use of a filibuster—all previous lower court nominees who endured a cloture vote were ultimately confirmed.

I am not alone in my disdain for forcing judicial nominees through a cloture vote. I think that it is appropriate at this point to note that many of my Democratic colleagues argued strenuously on the floor of the Senate for an up-or-down vote for President Clinton's judicial nominees.

The distinguished minority leader himself once said:

> As Chief Justice Rehnquist has recognized: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." An up or down vote, that is all we ask . . . .

The ranking member of the Judiciary Committee echoed these sentiments when he said:

> . . . I, too, do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41.

Another one of my Democratic colleagues, Senator KENNEDY, himself a former chairman of the Judiciary Committee, had this to say:

> Nominees deserve a vote. If our Republican colleagues do not like them, vote against them. But do not just sit on them—that is obstruction of justice.

The distinguished Senator from California, Mrs. FEINSTEIN, who also serves on the Judiciary Committee, likewise said in 1999:

> A nominee is entitled to a vote. Vote them up; vote them down.

She continued:

> It is our job to confirm these judges. If we do not like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that do not pass muster, vote no.

My other colleague from California, Senator BOXER, said in 1997:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

My colleague from Delaware, Senator BIDEN, also said in 1997:

> I . . . respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

I could go on, but I think I have made my point. I had hoped that I could count on each of my Democratic colleagues who made statements supporting an up-or-down vote for President Clinton's judicial nominees to join me in voting for cloture on Miguel Estrada. I had hoped that their remarks in the past were not merely about partisanship, but about the fairness that should be extended to all judicial nominees, regardless of which President nominated them.

Last week, I was wrong. But today, there is a second chance—another chance to set aside partisanship for fairness.

For this cloture vote to succeed, a supermajority of 60 Senators must vote to end the filibuster of Mr. Estrada's nomination. I regret that it has come to this, because forcing a supermajority vote on any judicial nominee is a maneuver that needlessly injects even more politics into the already over-politicized confirmation process. I believe that there are certain areas that should be designated as off-limits from political activity. The Senate's role in confirming lifetime-appointed article III judges—and the underlying principle that the Senate perform that role through the majority vote of its members—are such issues. Nothing less depends on the recognition of these principles than the continued, untarnished respect in which we hold our third branch of Government—the one branch of Government intended to be above political influence.

So I now say once again to my Democratic friends: Vote for Miguel Estrada or vote against him. Do as their conscience dictates you must. But do not prolong the obstruction of the Senate by denying a vote on his nomination. Do not cast their vote against cloture today. Do not continue to treat the third branch of our Federal Government—the one branch intended to be insulated from political pressures—with such disregard that we filibuster its nominees. Do not perpetuate this campaign of unfairness. Vote for him or vote against him, but just vote.

This first filibuster in the history of the Senate on a substantive judgeship for a circuit court of appeals nominee is unprecedented, something that should never happen, that we prevented from happening when I was chairman of the committee during the Clinton administration. My friends on the other side are using a fiction that they know the administration cannot fulfill, and that is demanding a fishing expedition into all of the papers in the Solicitor General's Office pertaining to Mr. Estrada's recommendations on appeals, certiorari, and amicus curiae. They know the administration cannot do that. They knew that when they wrote the letter making that unreasonable demand. This is what we call fiction, a red herring, so they can justify the filibuster they are undergoing and act very pious, that they are really trying to learn more about this man, in spite of the fact that they conducted the hearings.

The hearings went all day. The transcript is almost 300 pages. They have all of his Supreme Court briefs. They have all of his Supreme Court arguments. They know more about Mr. Estrada than they know about any circuit court of appeals judgeship nominee we have had over the last 27 years that I have been in the Senate, as far as I know. There might be one or two they might know as much about as they do Mr. Estrada, but this is a fiction. It is a red herring. We have a letter from seven former Solicitors General, all living former Solicitors General, from Archibald Cox to Seth Waxman, four of the seven Democrat Solicitors General, three of who worked with Miguel Estrada in the Solicitor General's Office, because he worked, I might add, 4 years for the Clinton administration and 1 year for the Bush administration. Those former Solicitors General say these types of documents should never be given, because it would chill the ability of the Solicitor General to get honest and decent opinions on very important matters for the people's business, and the people's business does not make any delineation between Democrats and Republicans. The Solicitor General represents all of the people.

I will now say a few words about Priscilla Owen before I go back to the hearing.

I rise for the purpose of reading a Dear Colleague letter that I have written and distributed today concerning the nomination of Justice Priscilla Owen of Texas to be a judge on the US Court of Appeals for the Fifth Circuit. I have distributed this to every Senator in the Senate.

> DEAR COLLEAGUE: On September 4 of last year I took the unusual step of writing to the entire Senate to express my outrage at the untruthful and misleading attacks made against Justice Priscilla Owen of Texas, who was nominated by President Bush to serve on the Fifth Circuit Court of Appeals. As you know, Justice Owen enjoyed the support of both of her home-state Senators last Congress, and again enjoys such support. I am writing today so that you have all information related to this important information.
>
> In September, I expressed my concern that a continued pattern of misinformation about a nominee, like the one generated about Justice Owen, could undermine the integrity both of the judiciary and of the branch of government in which we are privileged to serve. A day later, the Judiciary Committee refused to allow Justice Owen a vote by the whole Senate on a party-line vote of 10 to 9.
>
> Notably, one week later The Washington Post joined scores of other newspapers across the country in expressing support for Justice Owen and severely criticized the Committee's conduct. I have enclosed its editorial. The Post described the Committee's vote as "a message to the public that the confirmation process is not a principled exercise but an expression of political power." The Post also noted that although they disagreed with some of her opinions, "none seems beyond the range of reasonable argument."
>
> Despite the independent support of dozens of newspapers, prominent Democrats, and fourteen past Texas bar presidents, critics have portrayed Justice Owen as being "far from the mainstream." Yet Texas voters have twice elected her overwhelmingly to statewide office. The American Bar Association has unanimously rated her well qualified, its highest rating. In fact, Justice Owen was the first judicial nominee with the ABA's highest rating to be voted down by the Judiciary Committee.
>
> In my opinion, Justice Owen is perhaps the best sitting judge I have ever seen nominated. She is brilliant as well as compassionate. Justice Owen's record of applying the law as written is among the very best of any judicial nominee ever presented to the Senate. This is particularly true in her now famous decisions concerning the Texas law requiring parental notification when minor children obtain abortions. In these cases, no one's right to choose was implicated. The only right at stake was the right articulated by the Texas legislature of parents to have knowledge of, and an opportunity for involvement in, one of the most important decisions of their children's lives. In those

cases, Justice Owen did exactly what any restrained judge should do: She applied Texas statutory law as directed by Supreme Court's precedent, including Roe v. Wade. Ironically, it is Justice Owen's opponents—the same ones who accuse her of being an "activist"—who would have her ignore the legislature and the Supreme Court in order to reach a political result.

Justice Owen is also accused of deciding cases against consumers, workers, and the injured and sick. This charge is not only factually without basis, but also belies the accusation of "activism." Only those obsessed with outcomes, rather than the law governing the facts of a particular case, would be compelled by a mere counting up of wins and losses among categories of parties before a judge.

Working as a judge is like being an umpire; Justice Owen cannot be characterized as pro-this or pro-that any more than an umpire can be analyzed as pro-strike or pro-ball. I hope you will agree that a judge's job is to apply the law to the case at hand, not to mechanistically ensure that court victories go 50/50 for plaintiffs and defendants, consumers and corporations.

Justice Owen was also notably assailed by her critics using incorrectly the words of one of her biggest supporters, Alberto Gonzales, President Bush's White House Counsel. Judge Gonzales served with Justice Owen on the Texas Supreme Court and has written publicly that she is "extraordinarily well qualified to serve as a judge on the federal appeals court." Rather than focus on his ringing endorsement, however, detractors instead sensationalized a disagreement that Judge Gonzales had not with Justice Owen, but with other dissenting judges in a case involving the Texas parental notification law.

Justice Owen is an excellent judge. Her opinions, whether majority, concurrences, or dissents, could be used as a law school text book illustrating exactly how an appellate judge should think, write, and do the people justice by effecting their will through the laws adopted by their elected legislatures. She clearly approaches these tasks with both scholarship and mainstream American common sense.

As a new Congress takes a fresh look at this nomination, I hope you will join me in informing the American people of the truth about Justice Owen and in warning them of the grave danger posed by an uninformed politicization of the federal judiciary. I hope you will urge our colleagues to do the right thing when Justice Owen is again voted on by the Committee and goes to the Senate floor for confirmation.—Signed, ORRIN G. HATCH.

We are holding a hearing today on Justice Owen's nomination. I invite all of my colleagues to attend. In fact, I encourage them to do so. I want everyone to get to know Justice Owen and have the opportunity to hear from her firsthand. This is a very unusual invitation, I know. But these are unusual times in the Senate for judicial nominations, and Justice Owen is a particularly important and impressive nominee. I urge my colleagues to come to the hearing taking place in Dirksen 106 and see for themselves what an extraordinary person and jurist she is.

We are having difficulty with the President's judicial nominees. Every one of these circuit nominees is being contested, some more than others, but all of them are quite rabidly being contested. Miguel Estrada is a perfect illustration of someone who is totally competent, totally equipped to do the job, honest, decent, has earned his stripes, has the highest rating from the American Bar Association, the gold standard, according to our colleagues on the other side. Yet he is being filibustered here now in the fifth or sixth week.

We have a cloture vote today. I hope my colleagues will consider this. I hope we can get some of the more clear thinking colleagues on the other side to start voting for Mr. Estrada, to start voting for cloture, so we can end this outrageous debate and put a qualified person on the court. Let's not hide behind a fishing expedition to get documents they know no self-respecting administration is going to give to them, and using that as a basic shield to say they are not doing something unjust to Miguel Estrada. They are being very unjust, very unfair. It is not right. We ought to stop it.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Let me take this opportunity, first, to express my appreciation and the appreciation of the Senate for the outstanding work that is being done by Senator HATCH as chairman of the Judiciary Committee. That is a tough job. It always has been. It seems to be getting tougher with every passing Congress. I know from personal experience during my tenure as the Republican Leader, both in the majority and the minority, of the diligent work and good work that has been done by Senator HATCH to move judicial nominations through the process.

Quite often, it was very difficult in the committee and on the floor. There have been accusations that, perhaps, he had unfairly delayed judges in the past. But I can tell you this: My knowledge was, and memory is, that he worked very hard to move a lot of judges, several of whom were highly controversial but were eventually confirmed anyway.

Yes, at the end of the last term some judicial nominees of the Clinton administration were not completed, but if you compare the number that were left over to similar situations in the past, it was a smaller number. When you look at the number of judges that have been confirmed under the stewardship and leadership of Senator HATCH, it has to be a record in terms of overall numbers compared with previous chairmen and previous administrations.

I will talk more about specifics, but while Senator HATCH is here I wanted to recognize the untiring and patient and effective efforts of the Senator from Utah on this very worthwhile effort.

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. HATCH. I thank my dear colleague for those kind remarks. As he knows, there have been some on our side that did not want hardly any of the Clinton judges, especially the more liberal ones, some of whom have gone to circuit court of appeals.

Mr. LOTT. If the Senator will allow me to interject, I remember the Senator from Utah received some criticism from this side of the aisle, and so did I, as we tried to move some of these judges through the process. We may have voted against them, which I did in at least a couple of instances, but I thought they deserved a vote. And we made sure that those votes took place.

Mr. HATCH. We did that.

I thank my colleague because as the leader he helped me to do the job for the Clinton administration. The President deserved the best we could do. Do we get everything done? No one has ever gotten everything done at the end of anyone's administration.

He is right. Our record was much superior to when the Democrats controlled the committee.

I thank my colleague.

Mr. LOTT. I again thank Senator HATCH for the effort. I remember even last year at one point I think we had approximately 70 judges on the calendar, a large number, and there was disagreement about how to proceed. There was an indication we would have to have a recorded vote on every one of them, even though many of them could be moved on a voice vote with no problem. It looked like we were not going to be able to move them, but Senator DASCHLE and I kept talking about them and kept working on it, and we began to move them in blocks. We finished the process and we had moved, I think, almost all of them, if not all of them. That was an example of how there can be cooperation in this very important area of confirmation of judges.

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. HATCH. I ask the Senator on our side, when he concludes, Senator KENNEDY has 2 minutes. We yielded our time.

Mr. LOTT. I will be happy to yield to the Senator from Massachusetts when I have finished my remarks.

Mr. LOTT. Let me talk briefly about the situation we find ourselves in, specifically, the nomination of Miguel Estrada to be a DC Circuit Court of Appeals Judge.

I made a brief speech about a month ago saying I thought this was a highly qualified candidate, one who had lived the American dream, having been born in Honduras, coming here when he was 17, and highlighting the phenomenal life he has lived. I thought it was a matter we would do pro forma. I assumed we would have some debate and some disagreement, but since he is a great nominee, I thought he would be confirmed a month ago or more. But here we are still.

I will not go back and recount all of his qualifications. All the Senators know, and most of America knows now, Miguel Estrada is certainly qualified to be a circuit court of appeals judge. He is qualified by education. He went to some of the best schools in America where he was Phi Beta Kappa, a Magna Cum Laude graduate, editor of the Harvard Law Review at that citadel of great conservative legal thinking. Now, he is accused of being conservative; a committed conservative, despite his broad background. He was editor of the Harvard Law Review, if you will. So by education he is qualified.

There are some points and comments from the Federalist Papers, a couple of considerations, that you should look into when you consider a judge. One is whether or not they are fit in the area of character. This is a man that has lived an exemplary life. There is no allegation of impropriety, no allegation of ethical misconduct. None whatsoever. So by education, by character, by ethics, and by experience he is an incredible nominee.

Some say he has not been a lower court judge. That is not always the criteria. We have a lot of people who have gone to the circuit court of appeals, even the Supreme Court, without having earlier been a judge in another court. But he has been involved by working with the Federal judiciary, and by serving as an Assistant to the Solicitor General. He has argued 15 cases before the Supreme Court. I have only been able to witness one case where I sat in the audience and listened to the snail darter case before the Supreme Court. Listening to the arguments in that one case was enough for me. I left and never returned. But surely, clearly, everyone in this body knows this man is qualified to be a judge on the circuit court of appeals.

So what is the problem? What are they saying?

There is the suggestion that maybe he has a certain philosophy or a certain ideology, and that is a disqualification. If that were a disqualification, there are many judges I voted on during the Clinton years and at other points during my service in this chamber whom I would have voted against. I voted for Justice Ruth Bader Ginsburg even though I didn't agree with her philosophy and knew I probably wouldn't agree with a lot of her decisions, but she was qualified. She was the President's choice.

I think the burden is on the Senate to show why we should not confirm a nominee if they are qualified, have the proper experience, and don't have ethical problems. She met those criteria. I voted for her.

What is the problem here? Some Senators want more questions asked? Alright, that is a legitimate point. It is part of the advice and consent role of the Senate. Let's hear what the nominees have to say.

He had a long hearing before the Judiciary Committee. Every question in the world that could be thought of was asked of this nominee. He was asked hypothetical cases to which I personally would not respond. I thought that on a lot of things he was asked, he was very careful in how he responded. You don't want to prejudice your decision. You don't want to pass judgment on a Supreme Court decision on which your future decisions as a judge may be based. The number one factor for the Senate to keep in mind on this point, however, is that he has offered to meet with any Senator personally who wants to meet with him.

Secondly, Senators on both sides have been told if you want to ask more questions, then submit the questions, and he will answer the questions.

Finally, even a day or so ago, Senator FRIST—against some advice that perhaps this pattern should not be started—said Mr. Estrada would be willing to go back to the Judiciary Committee so that interested Senators could ask him some more questions, with an understanding he would get a vote. Unfortunately, that offer was turned down, too. They say they want to ask him more questions, but when they are given a chance to meet with the nominee or a chance to ask more questions, they don't ask them. When we say he is willing to go back for another hearing under these circumstances—no, they don't want that either. What do they say they want? They want internal memos from the time that he was working as an Assistant to the Solicitor General.

I believe that maybe something can be worked out on that. But you cannot set that precedent. Let me tell you why. If all these internal memos are made public in this instance, I guarantee future young attorneys in the Solicitor's Office, they will not be giving honest advice. No, no, they will pull their punches because they will know, anything I say in this written document may someday be used against me being confirmed as a Federal judge or in some other way. So this is not an insignificant request.

Should we try to find a way to work it out? I think so. But then I have been accused in the past of trying to get things done.

If everybody wants to make a statement around here to make their constituency happy, great. This is the way to do it. The People for the American Way and other liberal organizations—if Estrada is blocked—they will be happy. These political reasons are why many Senators on the other side of the aisle are opposing Mr. Estrada, but I want to point out that there are some notable exceptions, and I hope there will be more.

But on our side, we are able to say: This is an Hispanic nominee, and our core constituency groups are going to be happy. Republicans are happy, with us duking it out for this nominee to be on the Circuit Court of Appeals. Many will say that they are taking a stand, which is great.

How great is it when he is not confirmed? That is the goal here. I am not interested in blaming somebody or appeasing someone on our side. This man is qualified. We have vacancies on this court that should be filled. It is irresponsible for us not to find a way to work this out and get this nominee on the court.

So I say a pox on everybody's house if we are just trying to find a way to score political points with this man's life on hold while we do this thing that we are doing here. I really do think we are setting a dangerous precedent here, one we did not set in the past. We have not filibustered Federal judicial nominees. It is clearly not in the Constitution. I think advice and consent means 51 votes, not two-thirds; not 60—51.

You might say the Constitution doesn't make that clear. In the Constitution, article II, section 2, when the Framers of the Constitution were writing this out, when they intended supermajority votes, they said so. It clearly says in article II, section 2: To make treaties provided two-thirds of the Senators present concur. They specify two-thirds. When they said advice and consent, I believe they intended and expected, unless there were serious problems, that these nominees to the Federal judiciary would be confirmed with a vote, an up-or-down vote of 51.

I think what we are doing here is questionable constitutionally. We have never done this on a district or circuit court nominee before. Now we are about to do it.

Let me tell you what is scary. It may not be just about nominee Estrada. Next it is going to be Priscilla Owen. They are going to filibuster Priscilla Owen, a qualified woman who is a brilliant Supreme Court Justice in the State of Texas. I am sure they will extend it to other nominees, as well—maybe Sutton, maybe Cook, maybe Pickering. Is this a pattern?

Who in this room, and outside this room, believes that this tit-for-tat will not continue? Do they think that once we, Heaven forbid, ever have another Democrat President, that Republicans are not going to return the favor? We are going to filibuster them.

We have to stop this. I think we, the leaders, the Republicans, the Democrats, past and present, have to assume responsibility for how this has continued to escalate.

Did we do some things during the Clinton years with judges that we should not have done? Yes. But did we take up the cause and try to do the right thing on many occasions? Yes. That is why I am here today, because I do believe I have been a part of the solution and part of the problem in the past. I acknowledge it. But when I was the Majority Leader, I called up nominations that were controversial.

I remember on one occasion we did have a threatened filibuster and a cloture vote which was defeated. I made a speech standing right there saying: My colleagues, we don't want to do this. This was a judge nominated by President Clinton, but really it was a judge whom ORRIN HATCH recommended. His name was Brian Theodore Stewart. Unfortunately, though, cloture was defeated. So we started talking about that, and cooler heads prevailed. Shortly thereafter, we confirmed this judge. That was the only time we came close, during the past 7 years, to having a filibuster on a judge. We got right up to it, but we didn't do it, because we knew we couldn't do it and that it was wrong. So, fortunately we backed away from it.

In terms of what was done in the past, again, I resisted filibusters. I didn't want to have filibusters, even though I voted against Judges Paez and Berzon on their up-or-down confirmation votes. But Senator HATCH and I took a lot of grief. We said, no, they have come out of committee, they deserve an up-or-down vote. They got the vote, and they were confirmed. They each got an up-or-down vote, not a filibuster. Some people thought they should have been filibustered. I didn't think they should have been, and they weren't.

My colleagues, I ask us here today: Where do we go from here? What is next?

The argument can be made that you filibuster a lot of different ways. You don't let them out of committee; I know about that approach. The last Congress, I know two judges who were defeated on a straight party-line vote in the Judiciary Committee. They were not allowed to come to the floor to have a vote, and I believe the Constitution requires they should come here and have a vote, not be killed by 11 Senators in the Judiciary Committee, or 10, or whatever the number may be.

So, I accept part of the blame. I acknowledge that Republicans have not always handled judges in the right way. But I ask the question again, what next? We are going to kill them in committee? We are going to kill them by filibuster? This is wrong, my colleagues. We should not do this.

We are starting down a trail that is unfair, and it is going to come back to haunt this institution, haunt both parties, and damage the lives of innocent men and women.

I urge my colleagues, find a way to move this judicial nominee, Miguel Estrada. He deserves better. He should be confirmed.

Some people say: Wait, if we don't stop him now, he may be on the Supreme Court. Well let's test him. Let's confirm him. Let's see how he does. We might be surprised. We might even be disappointed. I have been surprised at times. I voted for a couple of Supreme Court Justices and wished I could take the vote back because when they got there, they were not what I thought they were going to be. Men and women can do surprising things when they become Federal judges for life.

So I just felt a need to come down and recall some of the things that have happened, admit some of the mistakes, try to sober this institution up. This is a great institution that does pay attention to precedents. It does, sometimes, start in the wrong direction, but most of the time we pull ourselves back from the brink; we find a way to get it done. I hope and I certainly feel down deep we are going to find a way to not set this precedent and not defeat this qualified nominee with a filibuster.

I yield the floor.

Mr. KENNEDY. Mr. President, I want to make a brief response to the points made by our colleagues on the floor and in the press during the past week.

It is not true that majority rule is the only rule in our country. The purpose of the great checks and balances under the Constitution is to protect the country from the tyranny of the majority. As far as shutting off debate in the Senate is concerned, majority rule has not been the rule since 1806. Even in our presidential elections, majority rule is not the rule, or we would have a different President today.

There is nothing even arguably unconstitutional about the Senate Rule providing for unlimited debate unless and until 60 Senators vote to cut off debate. The same Constitution which gave the Senate the power of advice and consent gave the Senate the power to adopt its own rules for the exercise of all of its powers, including the rules for exercising our advice and consent power.

The Constitution does not say that judges shall be appointed by the President as he wishes. It says that they shall be appointed by the President with the advice and consent of the Senate. We are not potted plants decorating one end of Pennsylvania Avenue. We play a very special role under the Constitution. The Founders gave us numerous powers to balance and moderate the powers of the President. They gave us longer terms than the President, and staggered our terms, so we would be less subject to the passions of the time. Clearly, we have the power and the responsibility to oppose the President when he refuses to provide us with the only documentation that can tell us what kind of person he has nominated for a lifetime appointment on the Nation's second highest court.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Executive Calendar No. 36, which the clerk will report.

## NOMINATION OF JAY S. BYBEE, OF NEVADA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The assistant legislative clerk read the nomination of Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 6 hours of debate equally divided in the usual form on the nomination.

The Senator from Nevada.

Mr. REID. Mr. President, Senator LEAHY, the manager of this side, requested that I speak now.

Mr. President, I am pleased that we will be moving forward on the nomination of Jay Bybee for U.S. Court of Appeals for the Ninth Circuit. This is an important job which Jay Bybee will have. It is the largest circuit as far as the number of judges that we have.

The chairman of the Judiciary Committee is here. I would be happy to yield to the chairman of the committee.

Mr. President, the Ninth Circuit is the largest circuit, with a full complement of 28 or 29 judges. It is a circuit that certainly is important to my State, the State of Nevada, and the entire western part of the United States. It is a controversial circuit. There have been efforts made in the past to change the makeup of the court and have States divided so we could create another circuit. No one can take away from the importance of this circuit. The State of California alone, with some 35 million people, is under the jurisdiction of the Ninth Circuit Court of Appeals.

The last time I had a conversation with a member of the Bybee family was on an airplane. Mrs. Bybee was on the plane. She is a lovely woman. Certainly Jay Bybee is a proud husband and father, as well he should be. I commented to Mrs. Bybee, Why does he have to write so much? He has written Law Review articles. He has written lots of articles on very controversial subjects. But the good thing about Jay Bybee is that he can explain why he wrote those articles. He is a person—while some may disagree with the conclusions that he reached in his large articles—who has the intellectual capacity to explain his reasoning. He has excellent legal qualifications, not only from an educational perspective but from an experience perspective.

He served as legal adviser during the first Bush administration. He has helped to teach a generation of new lawyers as a former professor at the University of Nevada, Las Vegas Boyd School of Law, and he has taught at other places. He is someone who will bring distinction to the Ninth Circuit.

He was favorably reported by the Senate Judiciary Committee on February 28. The swift pace of this nomination demonstrates how the process can work when both sides of the aisle work together, when the President works with Senators of the other party, and when the advise and consent clause of our Constitution is respected.

Senator JOHN ENSIGN and I work closely on all issues that affect Nevada, and on judges it is certainly no different. JOHN ENSIGN is a class act. The way he handles being in the majority is classic. We know the difference, both having served in the majority. It would be certainly easy for him just to submit a name and not run it past me. But, of course, he didn't. When he came up with the name Bybee, I said of course.

I have a lot of reasons for supporting people named Bybee. One reason is—I don't know the lineage—because there are a lot of Bybees in Utah and Nevada. But when I was in college I fought for a man by the name of "Spike" Bybee. He was a police officer in Cedar City, UT. But he devoted long hours of his time training fighters. "Spike" moved to Las Vegas where he became a respected probation officer. But my fondest memories of "Spike" Bybee were during the time he spent with me taking me in Arizona, Utah, and Nevada as my manager. Anyway, just for no other reason than I traveled around the country with someone who helped me through some difficult times—a fine man. He died at a young age from a very bad disease. I have the name Bybee in my mind from some of the times in my youth.

I indicated Senator ENSIGN and I consulted on Mr. Bybee's nomination when Senator LEAHY chaired the Judiciary Committee for a short time. Mr. Bybee was reported out of the Judiciary Committee in compliance with the committee's rules when Senator HATCH was chairman.

The consultation and respect for the rules is why we are here today, moving forward to fill the Ninth Circuit seat held by Proctor Hug, Jr. since 1977.

I must say a few things about Proctor Hug. He is a fine man and a great athlete. He went to Sparks High School. He was an all-star athlete in football, track, and basketball. He ran track in college, was State debate champion. He was student body president at Sparks High School. He met his future wife, Barbara Van Meter, at Sparks High School. He became student body president at the University of Nevada.

He served his country honorably in the Navy and then went to one of the most prestigious law schools in the entire country, Stanford Law.

He was appointed by President Carter and became Chief Judge of the Ninth Circuit in 1996. He was a good "Chief," as the other judges called him. He came back here a lot of times lobbying as a judge for issues important to the Ninth Circuit and the Federal judiciary.

Judge Proctor Hug set a fine example of what it means not only to be a judge but to serve your community and your country.

To show what great judgment Proctor Hug has, two of my sons were his law clerks, and one was his administrative assistant when he was chief judge. He signed up with Judge Hug for 2 years. He was a fine administrative assistant.

I expect Jay Bybee will follow in the evenhanded and impartial path set by his predecessor, Judge Proctor Hug.

The point is that where there is consultation, the nominating process works well. When consultation was the rule, where blue slips were issued and made public, the body swiftly confirmed 100 judges, as my friends know.

Talking about the 100 judges, when we were in control of the Senate—even over here in the minority, 11 judges by the end of today will have been approved for the circuit court, the trial court, and the Court of International Trade. In the last 24 hours we will have approved five judges—a circuit court judge, two trial court judges yesterday, and two today. We are moving along quite well.

I am not going to get into we did this and they did that. The fact is whoever did what, we are still filling a lot of judicial vacancies around the country.

I think it is important that we proceed to recognize we have a problem with Mr. Estrada. I know my dear friend, the junior Senator from Mississippi, the majority and minority leader during my time here in the Senate, recognizes that if he is going to get Estrada done, something different has to be done than what we have been doing.

I read in today's New York Times where the junior Senator from Mississippi said—I am paraphrasing, but he basically says: If we—talking about the Republicans—want to get Estrada done, then we are going to have to do something different. And, obviously, what we want done is to have supplied the records when he was in the Solicitor's Office and reconvene the committee and have the hearing.

Now, there are people who may vote for Estrada, if we could get through that process—Democrats. I think there would be a number of them. But until we get that information, and find out if something is being hidden—maybe there has been a perusal of all those documents, and maybe they can't be given to us. Maybe they can't be given to us because he has said things there. Maybe, as Paul Bender said, he is such an ideologue, and maybe he has written about all those things Paul Bender said when he was in the Solicitor General's Office. I don't know. But I would suggest that would be the best way to get over this hump.

The fact is, though, today we should not be dwelling on what we have not been able to do, but we should be talking about what we have done.

Today, we are going to confirm a circuit court judge. We are going to make a man—Jay Bybee—so happy; he was, on more than one occasion during his short tenure at the University of Nevada, Las Vegas—a new law school just accredited—selected as the No. 1 professor, the best professor, at that law school. He was not selected by the other professors. He was selected by the students.

Jay Bybee has a great personality. He has an in-depth knowledge of the law. He comes with a background from a wonderful family. I am so glad we are able today to confirm this man for a lifetime appointment to the Federal judiciary.

We keep talking about the DC Court of Appeals being right under the Supreme Court. So is the Ninth Circuit. It is the highest court you can serve on except for the Supreme Court.

Jay Bybee will serve with distinction and honor, and not only represent the State of Nevada well, and the students he taught at Louisiana and UNLV, but he will also represent the whole country, being a credit to the bar and to the judiciary.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield such time as he needs to the distinguished junior Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the senior Senator from Nevada, my colleague, Mr. REID, for all of the work he has done in helping us shepherd the nomination of Jay Bybee through this nomination process for the Ninth Circuit Court of Appeals. Without his help, with the way things are around here, we know this would not be happening today. That would be a shame because Jay Bybee is incredibly qualified. Everybody who has ever been associated with him understands that.

Mr. President, I rise today to speak to my colleagues about a man of the highest legal distinction, Mr. Jay Bybee. Mr. Bybee's experience and background, and his unquestioned dedication to the fair application of the law, make him an ideal nominee for the Ninth Circuit Court of Appeals.

As many of you know, Mr. Bybee appeared before this body in 2001 as a nominee to serve as Assistant Attorney General in the Office of Legal Counsel at the Department of Justice. He was confirmed unanimously by the Senate on October 23, 2001.

As head of the Office of Legal Counsel, Jay assists the Attorney General in his role as legal advisor to the President and all the executive branch agencies. The Office is also responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality.

Though a native of the chairman's home State of Utah, Nevada is proud to claim Jay as one of its own. Before his confirmation in the Senate in 2001, Mr. Bybee joined the founding faculty and served as a Professor of Law at the William Boyd School of Law at the University of Nevada, Las Vegas. Mr. Bybee's scholarly interests have focused in the areas of constitutional and administrative law. His dedication to ensuring that young law students learn the highest standards of legal practice resulted in his being named the Professor of the Year in 2000.

Mr. Bybee is known throughout the legal community as one of the foremost constitutional law scholars in the United States. He is regarded as extremely fair minded and adheres to the highest ethical and professional standards. He is admired throughout the legal profession as both a leader and a gentleman. Most importantly, Jay understands the rule of law, and will consistently and carefully consider the arguments on both sides of a legal question with an open mind. Because of Jay's combination of his legal skills along with his commitment to fairness, I have no doubts that he will serve in the best traditions of the federal judiciary.

If confirmed, Mr. Bybee's service will be an invaluable asset to the Ninth Circuit Court of Appeals. As you are aware, the Ninth Circuit is facing an overwhelming caseload, and the seat that Mr. Bybee has been nominated is designated as a "judicial emergency" by the Judiciary Conference of the United States.

Caseloads in the entire federal court system, including in the Ninth Circuit, continue to grow dramatically. Filings in the federal appeals court reached an all time high again last year. The Chief Justice recently warned that the alarming number of vacancies, combined with the rising number of caseloads, threatens the proper functioning of the federal courts. The American Bar Association has called the situation an "emergency."

There are currently four vacancies in the 28-judge court of the Ninth Circuit Court of Appeals, with one more vacancy already announced effective in November 2003. The Judicial Conference has asked for two new permanent and three temporary seats on the Ninth Circuit, just to cope with the caseload. That brings the total to 33 judges that are needed just to handle the caseload on the Ninth Circuit. Today there are only 24 judges doing the job of 33. This situation has to change.

That is why it is extremely important that the Senate approve the nomination of Jay Bybee today, and that the Senate continue to consider each one of the President's judicial nominations as quickly as possible.

I would like to thank the chairman and the entire Judiciary Committee and their staff for their hard work in shepherding this nominee through the process. I urge my colleagues in the Senate to vote in support of Jay Bybee's appointment to the Ninth Circuit today.

Mr. President, I first met Jay Bybee a few years ago. I had previously heard some great things from people in the community of southern Nevada about this legal scholar out at the new UNLV Boyd School of Law. I wanted to sit down and meet with him, to talk to him, and just pick his brain about the Constitution.

I am a veterinarian by profession, so I am not a lawyer and did not attend law school as many of our colleagues have. I thought, the more I could learn from scholars such as Jay Bybee, the educated I would be and therefore the better Senator I would be.

We sat down for over an hour. I could have stayed there all day. He has a fascinating mind. He has incredible knowledge of the Constitution, of this nation's history and of case law.

When I first was elected to the Senate, because President Bush had been elected I knew it would come upon me to recommend judges for the State of Nevada. I didn't have many ties in the legal community, so I had to look to Nevadans on whom I could count on for advice. One of the people I went to was Jay Bybee. He helped me tremendously in the interview process.

I actually felt sorry for the people who were coming before us because of the difficulty and depth of the questions Jay Bybee would ask them. It was because of that experience, when this process came forward, that I sent his name to the White House.

When the White House began to consider Jay Bybee, they realized immediately what a talent he is. That is why the Attorney General's Office took him away from the Boyd School of Law, to the position he is now in, in the Attorney General's Office. He advises the Attorney General on constitutional matters. That is how much they think of his constitutional expertise.

At the Boyd School of Law, and in the legal community in Nevada, there is nobody more highly thought of as a constitutional expert than Jay Bybee—both liberals and conservatives. They understand his expertise and the way he looks at law. Literally, I have talked to students from the far left end of the political spectrum to the far right end of the political spectrum, and they all talk about him with glowing remarks. It is truly amazing. I think it tells a lot to his character and a lot to his intellect.

I think he has the right tools intellectually, the right temperament and the right character to serve on the 9th Circuit. He has all the qualifications we want for someone to be on the Ninth Circuit—and especially the Ninth Circuit, the most controversial circuit we have in the United States. As you know, this is the circuit that just ruled that the Pledge of Allegiance is unconstitutional, and this body voted unanimously to condemn that and say we do not agree with that interpretation.

The Ninth Circuit needs help. We need qualified judges to give that help. Jay Bybee is exactly the kind of person we need to the 9th Circuit. There are currently four vacancies on the Ninth Circuit, and soon to be a fifth. The Judicial Conference recently also requested two new permanent judges and three temporary judges. They have a huge crisis on the Ninth Circuit because there are so many backlogged cases. It has been said on this floor: Justice delayed is justice denied. That is what is happening in the Ninth Circuit.

So it is important to approve Jay Bybee's nomination today, and to begin our work to appoint other judges to fill those vacancies I mentioned. It is my hope that we can get the new judgeships approved through this body so the Ninth Circuit can catch up on their caseload.

So enthusiastically, Mr. President, I recommend that we vote to confirm this outstanding nominee, Jay Bybee. He is a great family man. He will make a great judge. And he will be there for a long time, God willing, having a positive influence on the Ninth Circuit.

With that, I once again thank the senior Senator from Nevada. I also thank the chairman of the Judiciary Committee for his work in getting Jay Bybee's nomination to the floor. We appreciate all the indulgences. I know the Chairman has to constantly answer to each individual Senator, and we can be kind of a pain sometimes, but we sure appreciate the work done in getting Jay Bybee's nomination to this day when we can finally get him confirmed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my two colleagues from Nevada. You very seldom see two colleagues from different parties working so well together. They are both excellent people.

We all respect Senator REID. He is one of the moderate voices around here who tries to get things to work. And I personally appreciate it. And the distinguished junior Senator from Nevada, Mr. ENSIGN—I have not seen a better Senator in years. He is certainly making a difference on our side. And I believe, working with his colleague on the other side, he is getting a lot of things done for Nevada and for the Intermountain West, and it is terrific. So I pay tribute to both of them.

I am pleased we are considering the nomination of Jay S. Bybee who has been nominated by President Bush to serve on the United States Court of Appeals for the Ninth Circuit. Professor

Bybee has a sterling resume and a record of distinguished public service. I know him personally. I am a personal friend. I know his quality. I know what a good thinker he is. I know what a great teacher he has been. I know what a great job he has done down at Justice. He is a person everybody ought to support because he is a truly wonderful, upright, good, hard-working, intelligent individual.

Professor Bybee is currently on leave from the University of Nevada at Las Vegas William S. Boyd School of Law, where he has served as a professor since the law school's founding in 1999. Since October 2001, he has served as Assistant Attorney General for the Department of Justice Office of Legal Counsel. Notably, this is a post formerly held by two current Supreme Court Justices. As head of the Office of Legal Counsel, Professor Bybee assists the Attorney General in his function as legal advisor to the President and all executive branch agencies. The office also is responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality.

Professor Bybee, a California native, attended Brigham Young University, where he earned a bachelor's degree in economics, magna cum laude, and a law degree, cum laude. While in law school, he was a member of the BYU Law Review.

Following graduation, Professor Bybee served as a law clerk to Judge Donald Russell of the Fourth Circuit Court of Appeals before joining the firm of Sidley & Austin—one of the great law firms. In 1984, he accepted a position with the Department of Justice, first joining the Office of Legal Policy, and then working with the Appellate Staff of the Civil Division. In that capacity, Professor Bybee prepared briefs and presented oral arguments in the U.S. Courts of Appeals. From 1989 to 1991, Professor Bybee served as Associate Counsel to President George H.W. Bush.

Profeesor Bybee is a leading scholar in the areas of constitutional and administrative law. Before he joined the law faculty at UNLV, he established his scholarly credentials at the Paul M. Hebert Law Center at Louisiana State University, where he taught from 1991 to 1998. His colleagues have described Professor Bybee as a first-rate teacher, a careful and balanced scholar, and a hardworking and open-minded individual with the type of broad legal experience the Federal bench needs.

Professor Bybee comes highly recommended. One of his supporters is Mr. William Marshall, a professor of law at the University of North Carolina. Mr. Marshall served in a number of high-level posts in the Clinton administration including a stint as Deputy White House Counsel and, notably, as a counsel in the Office of Legal Policy at the Department of Justice, where he participated in the judicial selection process by screening prospective Clinton administrative nominees. In his letter to the committee supporting Professor Bybee, Mr. Marshall said:

> The combination of his analytic skills along with his personal commitment to fairness and dispassion lead me to conclude that he will serve in the best traditions of the Federal judiciary. He understands the rule of law and he will follow it completely.

Stuart Green, a law professor at Louisiana State University who describes himself as a "liberal Democrat and active member of the ACLU," said:

> I have always found [Jay Bybee] to be an extremely fair-minded and thoughtful person. Indeed, Jay truly has what can best be described as a 'judicious' temperament, and I would fully expect him to be a force for reasonableness and conciliation on a court that has been known for its fractiousness.

This self-described liberal Democrat states that Professor Bybee will bring some balance to the Ninth Circuit. I remind my colleagues that in this court 14 of the 24 active judges, including 14 of the last 15 confirmed, were appointed by President Clinton.

This court was recently in the news with yet another controversial decision. We are all familiar with the Ninth Circuit's recent ruling which held the Pledge of Allegiance to the Flag as unconstitutional under the Establishment Clause because the Pledge contains the phrase "under God."

The Ninth Circuit's high reversal rate by the Supreme Court is well documented, but less well known is the Ninth Circuit's propensity for reversing death sentences, with some judges voting to do so almost as a matter of course. No doubt the Ninth Circuit has some of the nation's most intelligent judges, but some cannot seem to follow the law. Just this term, the U.S. Supreme Court summarily reversed the Ninth Circuit three times in one day and vacated an opinion 9–0.

With two judicial emergencies in the Ninth Circuit, Professor Bybee is the type of judge we need. He is committed to applying and upholding the law. He will be a terrific judge. That circuit represents over 9 million people, the largest in the country. It has the most judges on a circuit court of appeals in the Nation. They need him.

Additional letters in support of Professor Bybee illustrate his professional competence and personal characteristics which will serve him well on the bench. Colleagues at UNLV deserve Professor Bybee as "widely and properly regarded as a leading constitutional law expert, and his expertise extends to many other areas of law as well. . . . Bybee is highly intelligent, industrious, diligent, and responsible. He has outstanding judgment and is a rock of stability. . . . Perhaps above all, he respects and works effectively with persons of diverse perspectives, temperaments, and ideology."

Another colleague of Professor Bybee wrote, "I should note that my personal politics are quite different from Bybee's, but Jay's tremendous intelligence, work ethic and, above all, his integrity and desire to complete each and every task not only to the best of his ability, but also to do the right thing with it, convinces me that I would rather have him be a federal judge than many or most who share more closely my own politics."

The committee has received similar letters in support of Professor Bybee from law professors and administrators throughout the nation, including the Dean of The George Washington University Law School.

I ask unanimous consent that these supporting Professor Bybee's nomination be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1).

Mr. HATCH. The legal bar's wide regard for Professor Bybee is reflected in his evaluation by the American Bar Association. Based on his professional qualifications, integrity, professional competence, and judicial temperament, the ABA has bestowed upon Professor Bybee a rating of Well Qualified.

This Senate has previously found Professor Bybee worthy of confirmation for a position of high responsibility in the government, and I am confident it will do so again today.

Professor Bybee is providing the Nation with exceptional service in his current position as Assistant Attorney General in charge of the Office of Legal Counsel. This office assists the Attorney General in his function as legal advisor to the President and all the executive branch agencies.

The office drafts legal opinions of the Attorney General and also provides its own written opinions and oral advice in response to requests from the Counsel to the President, the various agencies of the executive branch, and offices within the department. Such requests typically deal with legal issues of particular complexity and importance or issues about which two or more agencies are in disagreement.

The office also is responsible for providing legal advice to the executive branch on all constitutional questions and reviewing pending legislation for constitutionality. All executive orders and proclamations proposed to be issued by the President are reviewed by the Office of Legal Counsel for form and legality, as are various other matters that require the President's formal approval.

In addition to serving as, in effect, outside counsel for the other agencies of the executive branch, the Office of Legal Counsel also functions as general counsel for the Department itself. It reviews all proposed orders of the Attorney General and all regulations requiring the Attorney General's approval. It also performs a variety of special assignments referred by the Attorney General or the Deputy Attorney General. In this position, Professor Bybee has performed in an outstanding manner. He has rendered great service to our Nation, he has earned bipartisan respect and support, and is fully prepared to be a Federal circuit court of appeals judge.

(Ms. MURKOWSKI assumed the chair.)

Mr. HATCH. Madam President, I am confident that as the Senate confirms Professor Bybee, Democrats and Republicans can all share in the pride of a job well done. This Senate will have properly exercised its proper constitutional role of advice and consent. I urge my colleagues to support this nomination.

I yield the floor.

EXHIBIT 1

UNIVERSITY OF NORTH CAROLINA
SCHOOL OF LAW,
*Chapel Hill, NC, January 27, 2003.*

Re: Jay Bybee.

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington DC.*

DEAR CHAIRMAN HATCH: I am writing this on behalf of the nomination of Jay Bybee to the Ninth Circuit Court of Appeals.

First let me introduce myself. I am currently the Kenan Professor of Law at the University of North Carolina School of Law and have taught law for almost 20 years. I also worked in the Clinton Administration as the Deputy Counsel to the President under Beth Nolan and previously as an Associate Counsel to the President under Charles Ruff. In addition, I served under Assistant Attorney General Eldie Acheson in the Justice Department during the spring and summer of 1993 during which my task was to begin the processes of judicial selection for Clinton Administration appointments. I am therefore well familiar with the judicial selection process.

I have come to know Jay Bybee in my work as a law professor both through his writings and through the interactions we have had at numerous legal conferences and academic events. He is an extremely impressive person. To begin with, he is a remarkable scholar. His ideas are creative, insightful, and stimulating and his analysis is careful and precise. I believe him to be one of the most learned and respected constitutional law experts in the country.

He is also an individual with exceptional personal qualities. I have always been struck by the balance that he brings to his legal analysis and the sense of respect and deference that he applies to everybody he encounters—including those who may disagree with him. He is someone who truly hears and considers opposing positions. Most importantly he is a person who adheres to the highest of ethical standards. I respect his integrity and trust his judgement.

Needless to say, I believe that Jay Bybee's professional and personal skills make him an outstanding candidate for a federal judgeship. The combination of his analytic skills along with his personal commitment to fairness and dispassion lead me to conclude that he will serve in the best traditions of the federal judiciary. He understands the rule of law and he will follow it completely. He is an exceptional candidate for the Ninth Circuit and I support his nomination without reservation.

I hope these comments are helpful to you. Please feel free to contact me if you have any further questions.

Sincerely,

WILLIAM P. MARSHALL,
*Kenan Professor of Law.*

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UNIVERSITY OF GLASGOW
SCHOOL OF LAW,
*Glasgow, Scotland, January 13, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN HATCH: I am delighted to have the opportunity to recommend to you my former colleague, Jay Bybee, who has been nominated to a seat on the U.S. Ninth Circuit Court of Appeals. I got to know Jay Bybee during the approximately four years we served together on the Louisiana State University law faculty, where I am a professor of law. (During the 2002–03 academic year, I am on sabbatical, serving as Fulbright Distinguished Scholar to the United Kingdom, in residence at the University of Glasgow.)

Jay is a person of high intelligence, genuine decency, and a strong work ethic. He was an always reliable and generous colleague, a popular and effective teacher, and a creative and insightful scholar. He must surely be regarded as one of the leading constitutional law thinkers in the United States, particularly with respect to questions of separation of powers and the religion clauses of the First Amendment. I have no doubt that he will quickly establish himself as a leading member of the Ninth Circuit Court of Appeals.

Jay and I differ on many issues of politics and law (unlike Jay, I am a liberal Democrat and active member of the ACLU). Yet I have always found him to be an extremely fair-minded and thoughtful person. Indeed, Jay truly has what can best be described as a "judicious" temperament, and I would fully expect him to be a force for reasonableness and conciliation on a court that has been known for its fractiousness.

In short, I am pleased to recommend Jay Bybee enthusiastically and without any reservation to be a judge of the U.S. Ninth Circuit Court of Appeals.

Sincerely,

STUART P. GREEN.

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UNIVERSITY OF NEVADA LAS VEGAS,
WILLIAM S. BOYD SCHOOL OF LAW,
*Las Vegas, NV, January 29, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN HATCH: I enthusiastically support the nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit, and I hope that you and your colleagues will confirm his nomination. Professor Bybee is an outstanding teacher, scholar, lawyer, public servant and human being. He will become a splendid judge, exactly the sort who ought to sit on the appellate courts of our country.

I have known Jay Bybee for about five years, since I began to recruit him for a position on the founding faculty of our new law school here at UNLV. We were very fortunate to recruit a faculty member of Jay's quality—he is a superb teacher, a very well-published scholar and a very productive and collegial faculty member—and he, in turn, helped us to hire other members of what has become an excellent faculty. Moreover, in his years on our faculty, Professor Bybee helped us to build an excellent law school, teaching important courses, chairing key committees, producing excellent scholarship, speaking widely in our community, and serving as an example of an excellent public lawyer and scholar. We had hoped that he would return to our faculty at the conclusion of his service as Assistant Attorney General for the Office of Legal Counsel, but those hopes have now been superceded by the needs of our country, which has called him to the United States Court of Appeals.

Professor Bybee will answer that call excellently. He is very smart, very thorough and very knowledgeable about the demanding legal issues that confront our country and our courts. He is a creative thinker, but one whose creativity is appropriately tempered by rigorous legal analysis. More importantly, he is a compassionate and decent person who will approach his work in humane and very reasonable ways.

While those of us on the Boyd Law School faculty come from many backgrounds and hold a variety of views on important societal issues, I think that we all agree on at least three things: that Jay Bybee is a wonderful colleague who has earned our high esteem; that his departure from our faculty weakens our law school; and that his elevation to the federal judiciary will improve our courts and our country. President Bush has chosen well, and I hope that you will confirm his choice.

Please let me know if you would like further information or comment from me. Thank you for your service to our country.

Best regards.

Very truly yours,

RICHARD J. MORGAN,
*Dean.*

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UNIVERSITY OF NEVADA LAS VEGAS,
WILLIAM S. BOYD SCHOOL OF LAW,
*Las Vegas, NV, January 30, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I write to state my strong support for Jay S. Bybee, who was renominated on January 7 by President George W. Bush to be a judge of the United States Court of Appeals for the Ninth Circuit. I have known Bybee since 2001 when we both were members of the faculty of the William S. Boyd School of Law of the University of Nevada, Las Vegas.

I had the privilege of working directly and substantially with Bybee on Law School committees, in faculty meetings, and in a variety of informal contexts. I also have read much of his published work and have discussed him and his work with numerous other law professors, at the Boyd School of Law and other law schools, and with numerous of his students.

Based on these contacts and associations, I strongly commend Bybee to you. For three reasons, I am confident he would be an outstanding federal appellate judge. First, Bybee clearly has deep and extensive knowledge of the law. He is widely and properly regarded as a leading constitutional law expert, and his expertise extends to many other areas of law as well. By virtue of his private practice, government practice, and academic experience, he is well rounded and superbly knowledgeable in the law.

Second, Bybee's ability to commmunicate and teach are extraordinary. As a teacher, he is held in near legendary status here. His skill as a teacher established a standard that few other law professors can meet. The importance of federal appellate decisions lies not only in correct outcomes but also in the clarity and explanatory force of the opinions that justify the outcomes reached. Bybee's skill as a communicator and teacher will serve the nation well.

Third, Bybee's exemplary personal qualities will enhance his value as a judge. Bybee is highly intelligent, industrious, diligent, and responsible. He has oustanding judgment and is a rock of stability when seas become stormy. Perhaps above all, he respects and works effectively with persons of diverse perspectives, temperaments, and ideology. He is uniformly respected here by faculty, students, and administrators whose views span the political spectrum.

In sum, I have every confidence that Bybee will be an outstanding federal judge. He will contribute positively to the sound application and development of the law and to the wise administration of it. He is exceptionally able and well qualified. I hope that your Committee will act rapidly and positively on his nomination. Please contact me if you have any questions. Thank you.

Sincerely,

STEVE JOHNSON,
*E.L. Wiegand Professor of Law.*

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UNIVERSITY OF NEVADA LAS VEGAS,
WILLIAM S. BOYD SCHOOL OF LAW,
*Las Vegas, NV, January 30, 2003.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I write to offer my strongest recommendation that the Senate confirm the nomination of Jay Bybee to be a judge on the Ninth Circuit Court of Appeals. I clerked for a Ninth Circuit Court of Appeals judge in 1979–1980, so I have a pretty strong idea of what is involved in holding this position. I have also known Mr. Bybee since 1987 and have tremendous confidence that he is a person of great legal knowledge and sound judgment. Without question he has the ability and motivation to give cases the careful attention and thought they deserve. I carefully reviewed Jay's legal scholarship when he taught law at Louisiana State University and recommended his promotion and tenure there. His scholarship is very strong and analytical, and it is clear that he brings a careful and thoughtful mind to bear in addressing legal problems.

Jay is also a person of great integrity, and we can be confident that he will represent the nation well in his professional and personal endeavors. In the years I have known Jay, I have felt great confidence that his word was his bond. This is among the reasons why, when in 1999 I reported to join the faculty here at Boyd School of Law at the University of Nevada, Las Vegas, I invited Jay to co-author with me a book on the Ninth and Tenth Amendments—a work we are still working to complete. Jay's interests in legal scholarship reflect the range of interests he has, and he would bring to this position an awareness of the importance of structural issues relating to government powers as well as the fundamental importance of individual rights. Whether I was a member of the executive branch or the legislative branch of government, I would feel greatly reassured in knowing the important issues relating the scope of governmental powers would be addressed by one with Jay's background, expertise, and judgment.

If I could be of any further assistance to the committee or the Senate in deciding whether to confirm the nomination of Mr. Bybee, I would be happy to do so. I have total confidence that he would be a thoughtful, perhaps even brilliant judge.

Sincerely,

THOMAS B. MCAFFEE,
*Professor of Law.*

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THE GEORGE WASHINGTON
UNIVERSITY LAW SCHOOL,
*Washington, DC, January 30, 2003.*

Re: Nomination of the Honorable Jay S. Bybee to the U.S. Court of Appeals for the 9th Circuit.

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN HATCH: I write in support of the nomination of the Honorable Jay S. Bybee to the United States Court of Appeals for the 9th Circuit. I have known Jay in both his professional and governmental capacities and I have little doubt he will be a superb judge.

In the first place, Jay is, simply put, very smart, a highly useful attribute for a judge, in my opinion. He graduated with honors from both college and law school. But even more to the point, that legal work with which I am familiar is outstanding. He has a remarkable ability to digest an extraordinary amount of material and then, sorting the wheat from the chaff, produce a succinct, cogent analysis of the problem at hand. His law review articles are of the highest quality, thoroughly researched, impressively documented, carefully analyzed and gracefully written. His briefs exhibit a complete—and honest—explication of the relevant authorities and a thoughtful marshaling of the evidence in support of his position. They are all models of legal craftsmanship. He will undoubtedly apply these hightly honed analytical skills to the inescapably difficult problems federal judges face.

Jay also seems to understand well the amount of energy and efforts necessary to solve complex legal problems. He is a tireless worker producing impressive amounts of work at a very high level of quality. He will bear up well under the extraordinary workload our federal judges face.

I am also impressed with the breadth of Jay's legal experience. He has worked for a year on a court. He has practiced in the private sector. He has worked at both a staff and political level in the government. And he has spent time as an academic, reflecting on the broader purposes of the law. He has been exposed to the operation of the law in almost every imaginable setting. All of this experience will undoubtedly inform his judicial deliberations in highly useful ways.

I have also always found Jay enormously balanced, and fair in both his professional judgments and his personal dealings. He has political views, to be sure, but he is no ideologue. I have even seen him change his mind, something incredibly rare in the academy. I think any petitioner will justifiably have great confidence that his pleas will receive a fair, just and sympathetic hearing.

I also think Jay has a happily well-developed sense of the majesty and dignity of the law. He is well attuned to the importance of the law in protecting our rights, redressing our grievances, and protecting us from the pressure of both our neighbors and, on occasions, the government. At the same time, I think he understands—and understands well—the limits of legal redress. The courts are not legislators and I do not think Jay would ever confuse the two. In short, I think he has a sophisticated and appropriate appreciation of the role of the judge and the courts in our political and legal system. Jay will prove a very good judge, someone we will all be proud to claim, whatever our personal view of the appropriate line between courts and legislators.

Finally, I would be remiss if I did not stress just how extraordinarily decent Jay is. Even on first meeting, it is clear he is a thoughtful, considerate, indeed, kind person. But much more importantly, my every contact has also convinced me he is a person of unshakable integrity. He is clear and entirely transparent about his core values. And they are absolutely the right ones. They revolve around family, community and country. They bespeak a fidelity to law as both a device to ensure that all have the opportunity to reach their fullest capacity, as well as a shield against man's least worthy impulses. He is honest, forthright and entirely respectful of the dignity of everyone he meets.

I have gone on at perhaps too much length, but I strongly support this nomination. Jay has all the professional and, more importantly, in my judgment, personal attributes of a great judge. I sincerely hope he will become one.

Thank you for allowing me to submit this letter in support of Jay.

With best regards.

Sincerely yours,

MICHAEL K. YOUNG,
*Dean.*

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BOSTON COLLEGE
LAW SCHOOL,
*Newton, MA, January 22, 2003.*

Hon. PATRICK J. LEAHY,
*Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR LEAHY: I am delighted that Jay Bybee has been nominated for the 9th Circuit. I have known Mr. Bybee for almost two decades. We both served in Washington in the 1980s, overlapping at the Justice Department in 1984. I have had frequent contact with Mr. Bybee since then, because we both have taught constitutional law, and written articles in many of the same areas. Mr. Bybee is, among legal academics, one of the best known and best respected writers on the subjects of federalism and separation of powers. I have been impressed with his calm and approachable demeanor, his ability to explain difficult legal concepts in understandable terms, and his fairness and open-mindedness in dealing with those who have intellectual disagreements with him.

Mr. Bybee has also had a wealth of significant legal experience since his graduation from law school twenty-three years ago. As a private lawyer he has acquired expertise in issues concerning transportation and communication. In the Civil Division of the Justice Department for five years he acquired a wealth of knowledge about the standard business of the agencies of government. He has handled with considerable skill more than three dozen appellate cases for the United States. He served on the White House staff for two years as associated counsel to the first President Bush. And I think he has done a terrific job of running the Office of Legal Counsel for the past few months. I think that he will be a splendid addition to the 9th Circuit.

Sincerely,

JOHN H. GARVEY,
*Dean.*

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Mr. LEAHY. Mr. President, in spite of the intransigence of the White House and the overreaching of the Republican majority here in the Senate, I believe the Senate will, by the end of this week, have moved forward to confirm 111 of President Bush's judicial nominations since July 2001. That total would include 11 judges confirmed so far this year and of those 7 would be confirmed this week. Consideration of this controversial nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit is the 18th circuit nomination considered for this President since July 2001. The 17 others were each confirmed, some like Judge Shedd and Judge D. Brooks Smith with significant opposition. Nonetheless, Democrats have moved forward almost twice as promptly on this President's circuit nominees as the Republican majority did on President Clinton's circuit nominees. The Republican majority averaged 7 circuit judge confirmations a year over the 6½ years it previously controlled this process. By contrast, the Democratic majority confirmed 17 circuit judges in 17 months for President Bush, in addition to 83 district court judges.

In terms of percentages, which is what Republicans love to cite, the percentage of circuit nominees of President Clinton confirmed under the Republican majority in the 107th Congress was 0; the percentage confirmed in the 106th Congress was 44 percent; the percentage confirmed in the 105th Congress was 66 percent; and the percentage confirmed in the 104th Congress was 55 percent. In fact, despite the percentage for a full Congress, in four of their six full years, they confirmed 33 percent or less of President Clinton's circuit court nominees. In less than a full Congress, after assuming the majority in the summer of 2001 and in spite of the 9/11 attacks and the anthrax attacks and all the disruptions and priorities in those 17 months, the Democratically-led Senate not only held hearings on 20 circuit nominees, the Judiciary Committee voted on 19 and the Senate confirmed 17 for a 53 percent confirmation rate of the President's controversial slate of circuit nominees.

Those considering these matters might contrast the progress in which Democrats are assisting with the start of the last Congress in which the Republican majority in the Senate was delaying consideration of President Clinton's judicial nominees. In 1999, the first hearing on a judicial nominee was not until mid-June. The Senate did not reach 11 confirmations until the end of July of that year whereas we will reach that benchmark this year before St. Patrick's Day. Accordingly, the facts show that Democratic Senators are being extraordinarily cooperative with a Senate majority and a White House that refuses to cooperate with us. We have made progress in spite of them.

Indeed, by close of business today, we will have reduced vacancies on the Federal courts to under 55, which includes the 20 judgeships Democrats newly authorized in the 21st Century Department of Justice Appropriations Authorization Act last year. That is an extremely low vacancy number based on recent history and well below the 67 vacancies that Senator HATCH termed "full employment" on the federal bench during the Clinton Administration.

Turning to the nomination now before the Senate, the nomination of Jay S. Bybee for a lifetime appointment to the Ninth Circuit Court of Appeals is a difficult one for me. It is made all the more difficult by the respect I have for the senior Senator from Nevada, who has supported this nomination.

I think that Senator BIDEN made a compelling case against this nomination in his statement to the Judiciary Committee. I know that we intended to and did establish a separate Violence Against Women Office at the Department of Justice and a Director subject to Senate confirmation when we wrote the Department of Justice authorization legislation and enacted it last year. How Mr. Bybee could misinterpret that measure is beyond me.

Mr. Bybee appeared before the Judiciary Committee in 2001 when he was nominated to serve at the Department of Justice. During that confirmation hearing, Mr. Bybee promised the Judiciary Committee that as Assistant Attorney General, he would "not trample civil rights in the pursuit of terrorism" and that he would "bring additional sensitivity to the rights of all Americans" to his work at the Justice Department. Given the veil of secrecy imposed by the Administration, I have serious concerns about how the Department of Justice has been operating.

Unfortunately, Mr. Bybee's hearing for judicial office took place on a particularly busy morning when many Senators had other committee obligations and during the Secretary of State's address to the United Nations regarding Iraq. Many of us were unable to attend Mr. Bybee's hearing in person that day. At least five of us submitted detailed sets of written questions to ask about the Justice Department and some controversial views he has taken in his academic writings and speeches before the Federalist Society.

I have given a lot of thought to this nomination. I have concerns that Mr. Bybee was chosen to be another in a long line of circuit court nominees from this President who will prove to be an ideologically driven conservative activist if accorded lifetime tenure on the Court of Appeals.

However, Senator REID knows Mr. Bybee and supports his confirmation. Mr. Bybee is obviously conservative, but we've had a chance to review his articles and speeches and no one has called into question his ability and commitment to setting aside his views as a judge.

On the very day that Democrats cooperated in debating and voting on the Bybee nomination in Committee, our cooperation was rewarded by the Republican majority violating our rights. Republicans violated our longstanding Judiciary Committee rules and unilaterally declared the termination of debate on two other controversial circuit court nominations, John Roberts and Justice Deborah Cook that very morning.

Senator DASCHLE termed this unilateral action deeply troubling and a "reckless exercise of raw power by a Chairman," and he is right. He observed that the work of this Senate has for over 200 years operated on the principle of civil debate, which includes protection of the minority. When a chairman can on his own whim choose to ignore our rules that protect the minority, not only is that protection lost, but so is an irreplaceable piece of our integrity and credibility.

The Democratic leader noted that faithful adherence to longstanding rules is especially important for the Senate and for its Judiciary Committee. He noted "how ironic that in the Judiciary Committee, a Committee which passes judgment on those who will interpret the rule of law," that it acted in conscious disregard of the rules that were established to govern its proceedings. If this is what those who pontificate about "strict construction" mean by that term, it translates to winning by any means necessary. If this is how the judges of the judicial nominees act, how can we expect the nominees they support as "strict constructionists" to behave any better? Given this action in disrespect of the rights of the minority, how can we expect the Judiciary Committee to place individuals on the bench that respect the rule of law?

In my 29 years in the Senate and in my reading of Senate history, I cannot think of so clear a violation of Senators' rights.

As Chairman of the Agriculture Committee, as Chairman of the Subcommittee on Foreign Operations of the Appropriations Committee and as Chairman of the Judiciary Committee, I strove always to protect the rights of the minority. I did not always agree with what they were saying or doing, I did not always find it convenient, but I protected their rights. It was not always as efficient as I might have liked, but I protected their rights. That is basic to this democracy and fundamental to the Senate of the United States. Senators respect other Senators' rights and hear them out.

There is no question that the Senate majority is in charge and responsible for how we proceed. I understand that and always have—I wish Republicans had shared that view when I chaired the Judiciary Committee last year. But in the Senate, the majority's power is circumscribed by our rules and traditional practices. We protect and respect the rights of the minority in this democratic institution for the same reason we steadfastly adhere to the Bill of Rights.

I, too, am gravely concerned about this abuse of power and breach of our committee rules. When the Judiciary Committee cannot be counted upon to follow its own rules for handling important lifetime appointments to the Federal judiciary, everyone should be concerned. In violation of the rules that have governed that committee's proceedings since 1979, the chairman chose to ignore our longstanding committee rules and short-circuit committee consideration of the nominations of John Roberts and Justice Deborah Cook. Senator DASCHLE spoke to that matter that day. Judiciary Committee members, Senator FEINSTEIN, Senator SCHUMER, Senator DURBIN and Senator FEINGOLD have also spoken to the Senate about this breach of our rules, as well as a number of other liberties that Republicans have been taking with the rules.

Since 1979, the Judiciary Committee has had this particular committee rule to bring debate on a matter to a close while protecting the rights of the minority. It may have been my first meeting as a Senator on the Judiciary Committee in 1979 that Chairman KENNEDY, Senator Thurmond, Senator Dole, Senator COCHRAN and others discussed adding this rule to those of the Judiciary Committee. Senator Thurmond, Senator HATCH and the Republican minority at that time took a position against adding the rule and argued in favor of any individual Senator having a right to unlimited debate—so that even one Senator could filibuster a matter. Senator HATCH said that he would be "personally upset" if unlimited debate were not allowed.

Senator HATCH explained:

> There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue. I think those rights are far superior to the right of this Committee to rubber stamp legislation out on the floor.

It was Senator Dole who drew upon his Finance Committee experience to suggest in 1979 that the Committee rule be that "at least you could require the vote of one minority member to terminate debate." Senator COCHRAN likewise supported having a "requirement that there be an extraordinary majority to shut off debate in our Committee."

The Judiciary Committee proceeded to refine its consideration of what became Rule IV, which was adopted in 1979 and has been maintained ever since. It struck the balance that Republicans had suggested of at least having the agreement of one member of the minority before allowing the Chairman to cut off debate.

That protection for the minority has been maintained by the Judiciary Committee for the last 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee provides the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing. That rule and practice had until last month always been observed by the committee, even as we have dealt with the most contentious social issues and nominations that come before the Senate.

Until last month, Democratic and Republican chairmen had always acted to protect the rights of the Senate minority. The rule has been the committee's equivalent to the Senate's cloture rule in Rule 22. It had been honored by all five Democratic and Republican chairman, including Senator HATCH—until last month.

It was rarely utilized but Rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the other important function of the rule.

Besides protecting minority rights, it enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That, too, has been lost as the level of partisanship on the Judiciary Committee and within the Senate reached a new level when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

The premature and unilateral termination of debate in committee last month was apparently a premeditated act. Senator HATCH indicated that he had checked with the parliamentarians in advance, and he apparently concluded that he had the raw power to ignore our committee rule and so long as all Republicans on the committee stuck with him, he would do so. I understand that the parliamentarians advised Senator HATCH that there is no enforcement mechanism for a violation of committee rules and that the parliamentarians view Senate Committees as "autonomous". I do not believe that they advised Senator HATCH that he should violate our Committee rules or that they interpreted our Committee rules.

I cannot remember a time when then-Chairman KENNEDY or Chairman Thurmond or Chairman BIDEN would have even considered violating their responsibility to the Senate and to the committee and to our rules. Accordingly, we have never been faced with a need for an "enforcement mechanism" or penalty for violation of a fundamental committee rule.

In fact, on the only occasion I can recall when Senator HATCH was faced with implementing Committee Rule IV, he did so. In 1997, Democrats on the committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General for Civil Rights at the Department of Justice.

Republicans were intent on killing the nomination in committee. The committee rule came into play when in response to an alternative proposal by Chairman HATCH, I outlined the tradition of our Committee. I said:

> This committee has rules, which we have followed assiduously in the past and I do not think we should change them now. The rules also say that 10 Senators, provided one of those 10 is from the minority, can vote to cut off debate. We are also required to have a quorum for a vote.

I intend to insist that the rules be followed. A vote that is done contrary to the rules is not a valid one.

Immediately after my comment, Chairman HATCH abandoned his earlier plan and said:

> I think that is a fair statement. Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right, as the distinguished Senator said.

With respect to the nomination in 1997, Chairman HATCH acknowledged:

> Absent the consent of a minority member of the Committee, a matter may not be brought to a vote. However, Rule IV also permits the chairman of the Committee to entertain a non-debatable motion to bring any matter to a vote.
>
> The rule also provides as follows: "The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority."

Thereafter, given the objection, the committee proceeded to a roll call vote whether to end the debate. That was consistent with our longstanding rule. In that case, Chairman HATCH followed the rules of the committee.

At the beginning of our executive business meeting on February 27, I referenced the Committee's rules and during the course of the debate on nominations both Senator KENNEDY and I sought to have the committee follow them. We were overridden.

Last month, the bipartisan tradition and respect for the rights of the minority ended when Chairman HATCH decided to override Rule IV rather than follow it. He did so expressly and intentionally, declaring: "[Y]ou have no right to continue a filibuster in this committee."

Chairman HATCH decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. I had yet to speak to any of the circuit nominees on the agenda and other Democratic Senators had more to say.

Senator HATCH completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the committee. Contrast the statements of Senator HATCH in 1979 when he supported unlimited debate for a single Senator—with Republicans in the minority—with his action overriding the rights of the Democratic minority and his recent letter to Senator DASCHLE in which, now that Republicans hold the Senate majority, he says that he "does not believe the Committee filibuster should be allowed and [he] thinks it is a good and healthy thing for the Committee to have a rule that forces a vote."

But our committee rule, while providing a mechanism for terminating debate and reaching a vote on a matter, does so while providing a minimum of protection for the minority. Even this minimum protection will no longer be respected by Chairman HATCH.

Contrast Senator HATCH's recognition in 1997 that Rule IV establishes a Judiciary Committee "filibuster right" and that a "[a]bsent the consent of a minority member of the Committee, a matter may not be brought to a vote," with his declaration last month that there is no right to filibuster in committee.

In his recent letter to Senator DASCHLE, Senator HATCH declares that he "does not believe that Committee filibusters should be allowed." It is Senator HATCH who has "turned Rule 4 on its head" last month, after 24 years of consistent interpretation and implementation by five chairmen. Never before his letter to Senator DASCHLE has anyone since the adoption of the rule in 1979 ever suggested that its purpose was to be narrowed and redirected to thwart "an obstreperous Chairman who refuses to allow a vote on an item on the Agenda." After all, as Senator HATCH recognizes in his letter, it is the chairman's prerogative to set the agenda for the mark-up.

This revisionist reading of the rule is not justified by its adoption or its prior use and appears to be nothing other than an after-the-fact attempt to justify the obvious breaches of the longstanding Committee rule and practice that occurred last month. It was not even articulated contemporaneously at the business meeting.

I appreciate the frustrations that accompany chairing the Judiciary Committee. I know the record we achieved during my 17 months of chairing that committee, when we proceeded with hearings on more than 100 of President Bush's judicial nominees and scores of his executive nominees, including extremely controversial nominations, when we proceeded fairly and in accordance with our rules and committee traditions and practices to achieve almost twice as many confirmation for President Bush as the Republicans had allowed for President Clinton, and know how that record was mischaracterized by partisans. Those 100 favorably reported nominations included Michael McConnell, Dennis Shedd, D. Brooks Smith, John Rogers, Michael Melloy and many others.

I know that sometimes a chairman must make difficult decisions about what to include on an agenda and what not to include, what hearings to hold and when. In my time as chairman I tried to maintain the integrity of the committee process and to be bipartisan. I noticed hearings at the request of Republican Senators and allowed Republican Senators to chair hearings. I made sure the committee moved forward fairly on the President's nominees in spite of the Administration's unwillingness to work with us to fill judicial vacancies with consensus nominees and thereby fill those vacancies more quickly.

But I cannot remember a time when Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, Chairman HATCH previously, or I, ever overrode by fiat the right of the minority to debate a matter in accordance with our longstanding committee rules and practices.

The committee and the Senate have crossed a threshold of partisan overreaching that should never have been crossed. I urge the Republican leadership to recommit the nominations of Justice Deborah Cook and John Roberts to the Judiciary Committee so that they can be considered in accordance with the committee's rules. The action taken last month should be vitiated and order restored to the Senate and to the Judiciary Committee.

I urge the Republican leadership to rethink its missteps and urge the chairman and the committee to disavow the misinterpretation and violations of Rule IV that occurred last month.

We have also worked hard to report a number of important executive and judicial nominees in spite of the continued partisanship by the White House and Senate Republicans. As Senator FEINSTEIN recently noted, we have cooperated by not insisting on our rights to seven days notice or seven days holdover on various matters and we have not insisted on three days' notice of items on the agenda. We have proceeded to debate with less than a quorum present and Democrats have been responsible for making quorum after quorum so that this committee could conduct business. Ironically, we did so even last month while our rights were being violated. Order and comity need to be restored to the Judiciary Committee and to the Senate. An essential step in that process is the restoration of our rights under Rule IV and recognition of our rights thereunder.

There are continuing problems caused by the administration's refusal to work with Democratic Senators to select consensus judicial nominees who could be confirmed relatively quickly by the Senate. Despite the President's lack of cooperation, the Senate in the 17 months I chaired the Judiciary Committee was able to confirm 100 judges and vastly reduce the judicial vacancies that had built up and were prevented by the Republican Senate majority from being filled by President Clinton.

Last year alone the Democratic-led Senate confirmed 72 judicial nominees, more than in any of the prior six years of Republican control. Not once did the Republican-controlled committee consider that many of President Clinton's district and circuit court nominees, even though there were often more judicial nominees than that waiting for a hearing. In our efforts to turn the other cheek and treat this President's nominees better than his predecessor's had fared, we confirmed 100 judges in 17 months. Yet, not a single elected Republican has acknowledged this tremendous bipartisanship and fairness. When Chief Justice Rehnquist thanked the committee for confirming 100 judicial nominees, this was the first time our remarkable record had been acknowledged by anyone from a Republican background.

Almost all of the 100 judges we confirmed last Congress are conservative, quite conservative. And with some, the Senate has taken a significant risk that they will be activist judges with lifetime tenure. We nonetheless moved fairly and expeditiously on as many as we could. We cut the number of vacancies on the courts from 110 to 59, despite an additional 50 new vacancies that arose during my tenure. I recall that Senator HATCH took the position in September of 1997 that 103 vacancies, during the Clinton Administration, did not constitute a "vacancy crisis." He also stated repeatedly that 67 vacancies meant "full employment" on the federal courts.

Even with the vacancies that have arisen since we adjourned last year, we remain below the "full employment" level that Senator HATCH used to draw for the federal courts with only 60 current vacancies on the District Courts and Courts of Appeals. Unfortunately, the President has not made nominations to almost two dozen of those seats, and on more than one-half of the current vacancies he has missed his self-imposed deadline of a nomination within 180 days. Of course, several of the nominations he has made are controversial.

Last Congress, we worked hard to keep a steady pace of hearings, even though so many of this President's judicial picks proved to be quite divisive and raised serious questions about their willingness to be fair to all parties. We held hearings for 90 percent of his nominees eligible for hearings, a total of 103 nominees, including 20 circuit court nominees. We voted on 102 of them, two of whom were defeated after fair hearings and lengthy debate. The President has taken this unprecedented action of re-nominating candidates voted down in committee in spite of the serious concerns expressed by fair-minded members of this committee.

This year the committee has had a rocky beginning with a hearing that has caused a great many problems that could have been avoided. The committee proceeded to a vote on the Estrada nomination and to a vote on the Sutton nomination and to votes on the Bybee and Tymkovich nominations—all controversial nominations to circuit courts.

The rushed processing of nominees in these past few weeks has led to editorial cartoons showing conveyor belts and assembly lines with Senators just rubber-stamping these important, lifetime appointments without sufficient inquiry or understanding. What we are ending up with is a pile-up of nominees at the end of this rapidly-moving conveyer belt. There is no way that we can meaningfully keep up with our constitutional duty to determine the fitness of these nominees at this pace. The quality of our work must suffer, and slippage in the quality of justice will necessarily follow. I hope we will do all we can to prevent more of these "I Love Lucy" moments.

All of the Democratic Senators who serve on the Judiciary Committee have asked the Chairman to reconvene the hearing with Justice Cook and Mr. Roberts because of the circumstances under which it was held and not satisfactorily completed. We have also taken the White House up on its offer to make the nominees available with a joint letter seeking an opportunity to make further inquiries of them. Regrettably, last Wednesday the White House withdrew its offer and now refuses to proceed. That change of position by the White House, on top of the inadequate hearing on these important nominations, has created another impasse and unnecessary complication.

That is why the minority, while prepared to debate and vote on the Bybee nomination to the 9th Circuit and nine other presidential nominations on February 27, wished to continue the debate on the Cook and Roberts nominations.

Let me be specific: On January 29, the Judiciary Committee met in an extraordinary session to consider six important nominees for lifetime appointments to the federal bench, including three controversial nominees to circuit courts: Jeffrey Sutton, Justice Deborah Cook and John Roberts. Several Senators only officially learned the names of the nominees on the agenda for that hearing at 4:45 p.m. on January 28, the day before.

On learning that the chairman intended to include three controversial circuit court nominees on one hearing, something virtually unprecedented in the history of the committee, and absolutely unprecedented in this chairman's tenure, Democrats on the committee wrote to the Chairman to protest. We explained that since 1985, when Chairman Thurmond and Ranking Member BIDEN signed an agreement about the pace of hearings and the number of controversial nominees per hearing, there has been a consensus on the committee that members ought to be given ample time to question nominees, and that controversial nominees in particular deserve more time.

We explained that we were surprised by the chairman's rush to consider these three nominees at the same time, considering the pace at which President Clinton's nominees were scheduled for hearings. During the time Republicans controlled the Senate and Bill Clinton was president, there was never a hearing held to consider three circuit court nominees at once. Never.

Finally, we explained the importance of giving Senators sufficient time to consider each nominee and properly exercise their constitutional duty to give advice and consent to the President's lifetime appointments to the federal bench.

But our request went unanswered, and we were expected to question three nominees in the space of a single day. That proved impossible, as was evident throughout that long day. My colleagues and I asked several rounds of questions of Mr. Sutton, and were only able to ask very few questions of the other two nominees. We asked, during the hearing itself, that the chairman reconsider and ask the other two nominees to return the next day or the next week, and to give them the time they deserved in front of the committee, but he refused.

We asked the same thing after the hearing, and were told that indeed the nominees would make themselves available to meet with each of us, so we wrote to accept those offers, although as we explained, we would have preferred to meet with them altogether, and in a public session. But again, we were rebuffed. I wonder, though, if they were available for one sort of meeting, why were they not available for another. I regret that the White House refused our request to bring closure to those matters.

During the last 4 years of the Clinton administration, his entire second term in office after being reelected by the American people, the Judiciary Committee refused to hold hearings and committee votes on his qualified nominees to the D.C. Circuit and the Sixth Circuit. Last month, in sharp contrast, this committee was required to proceed on two controversial nominations to those circuit courts in contravention of the rules and practices of the committee. This can only be seen as part of a concerted and partisan effort to pack the courts and tilt them sharply out of balance.

I ask unanimous consent to print a letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, February 24, 2002.*

Hon. ALBERTO R. GONZALES,
*Counsel to the President, The White House, Washington, DC.*

DEAR JUDGE GONZALES: As you may know, Democratic Senators on the Judiciary Committee have been offered the opportunity to meet with Justice Deborah Cook and Mr. John Roberts in order to ask questions and discuss issues relevant to their nominations to lifetime appointments to United States Courts of Appeals. We are writing to let you know that some of us would like to accept those offers and meet with both of the nominees together before voting on their nominations.

We are available to meet as early as Wednesday, February 26, 2003, but are amenable to another mutually convenient time. For the purposes of review after the meeting, we will arrange for a stenographer to attend the meeting and record the exchanges with the nominees. We also anticipate that the meeting will be open to the public.

We hope that you and the Department of Justice will work with us to schedule this important meeting. Some of us believe the January 29, 2003, Committee hearing did not provide an adequate opportunity to ask the questions necessary for Senators to effectively carry out their Constitutional duty to advise and consent to judicial nominees. Written questions are not a satisfactory substitute for direct exchanges between Senators and the nominees.

Thank you for your assistance, and we look forward to the meeting we have requested.

Sincerely,

Patrick J. Leahy; Edward M. Kennedy; Joseph R. Biden, Jr.; Dianne Feinstein; Charles E. Schumer; John Edwards; Herbert Kohl; Russell D. Feingold; Richard J. Durbin.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, I am here in the Chamber this afternoon to speak to the nomination of Jay Bybee of Nevada to the Ninth Circuit Court.

I call it the Ninth Circuit Court of Western States. I know the State of the Presiding Officer is part of the Ninth Circuit, as is my State of Idaho.

It is a circuit that has caused us great frustration over the last good number of years as many of its cases have been overturned. In fact, just this term, the Supreme Court in one day overturned three cases or reversed three cases of the Ninth Circuit.

Some call it the most dysfunctional court of the land. I believe it to be that. Idahoans are extremely frustrated when a San Francisco-oriented judge makes a decision on an Idaho resource matter that is so totally out of context with our State and the character of our State and her people that Idahoans grow angry. That is why it is not unusual that I and others over the years have offered legislation to divide the Ninth Circuit. That has been spoken to on more than one occasion in this Chamber, and it will be again this year.

I and my colleagues from Idaho are supportive of that kind of legislation, and it is that kind of legislation the Presiding Officer has just introduced: to change the character of this court to be more reflective of the broad scope of its authority than just to have, if you will, California judges making decisions for Idaho, Washington, Oregon, Alaska, and other States.

It is the largest court in the land, and it is a court that clearly needs our attention. It begs for our attention. The outcry in my State and in other States, such as Alaska, demands it. But today we have an opportunity to improve it, and that is to confirm Jay S. Bybee to the U.S. Court of Appeals for the Ninth Circuit.

I am confident the Senate will consent to the appointment of Professor Bybee, who enjoys bipartisan support and, in these current times as we debate judges in this Chamber, bipartisan support is in itself unique. That must speak to the uniqueness of this individual.

A review of Professor Bybee's credentials demonstrates he is, as the American Bar Association has concluded, a highly qualified person for this position. Professor Bybee's education, his private legal career, his work as a law professor, and his extensive Government service, have prepared him well to serve as a circuit judge. Let me briefly review his background.

Professor Bybee received a BA magna cum laude and with highest honors in economics from Brigham Young University. He also attended the J. Reuben Clark Law School at BYU, graduating cum laude. I also note he was an editor of the BYU Law Review. Those are high credentials from a very well-qualified, recognized law school.

Following his graduation from law school, Professor Bybee clerked for Judge Donald Russell of the U.S. Court of Appeals for the Fourth Circuit and then was engaged in private practice of law at the distinguished firm of Sidley & Austin. There he handled regulatory and antitrust matters, including civil litigation in Federal courts and administrative law matters before the Interstate Commerce Commission.

Professor Bybee began his career in public service first as an attorney in the U.S. Department of Justice, Office of Legal Policy, then as an attorney on the appellate staff at the Civil Division. During this period, he worked on a variety of departmental issues and judicial selections, was the principal author of the Government's briefs in more than 25 cases, and argued cases before a number of Federal circuits. Professor Bybee also served as an associate counsel, as the chairman of the Judiciary Committee, Senator HATCH, mentioned, to George H. W. Bush.

Professor Bybee has had an excellent career as a law professor, beginning at the Paul M. Hebert Law Center at Louisiana State University. He is a founding faculty member at the University of Nevada, Las Vegas William S. Boyd School of Law. As an accomplished scholar in the areas of administrative and constitutional law, Professor Bybee has taught courses in civil procedure, constitutional law, administrative law, and seminars on religious liberty and the separation of powers.

My colleague from Nevada was talking about his phenomenal knowledge of the Constitution and its authority and responsibility and our responsibility to it as we craft law.

He has a distinguished record in publications in a phenomenal variety of legal areas.

Professor Bybee presently serves as an Assistant Attorney General, heading the Office of Legal Counsel at the U.S. Department of Justice. Supervising a staff of attorneys, Professor Bybee has the principal responsibility for providing legal advice to the Attorney General on constitutional, statutory, and regulatory questions. In addition, the office reviews orders to be issued by the President or the Attorney General for form and legality. The Office of Legal Counsel also advises the President and the executive branch agencies on constitutional and statutory matters.

It is clear from his educational record, his private practice, his outstanding credentials as a law professor, and his distinguished career in public service that Professor Bybee is well qualified to serve on the Ninth Circuit and will be an outstanding judge. In fact, I am quite confident he will lift the quality of that court in its decisions substantially.

Professor Bybee comes highly recommended. As a result of that, clearly he brings distinguished service to an area that cries out for the need of astute minds.

As Senator HATCH mentioned, one of his supporters is William Marshall, Professor of Law at the University of North Carolina. I note that Professor Marshall worked in the Clinton administration as Deputy Counsel to the President and in the Justice Department reviewing judicial nominees.

In Professor Marshall's letter in support of Professor Bybee, he writes:

> He—

meaning Professor Bybee—

> is an extremely impressive person. To begin with, he is a remarkable scholar. . . .

I think what I have said and the record I have spoken to clearly exemplifies that.

> I believe him to be one of the most learned and respected constitutional law experts in the country. He is also an individual with exceptional personal qualities. I have always been struck by the balance that he brings to his legal analysis and the sense of respect and deference that he applies to everybody he encounters—including those who may disagree with him. He is someone who truly hears and considers opposing positions. Most importantly, he is a person who adheres to the highest of ethical standards. I respect his integrity and trust his judgment.

That is a quote from the letter of William Marshall, Professor of Law, University of North Carolina.

That endorsement rings loud in these Halls as it speaks well to the person who is before us today. Other letters of support from law professors with whom he worked and associates throughout the Nation speak highly of Professor Bybee. They note his personal integrity, his professional ability, his clear and thoughtful scholarship, and his exemplary personal qualities. Even those who disagree with him politically are impressed with Professor Bybee and strongly support his nomination.

That is the record. The record is clear. I am pleased that we see the kind of bipartisan support that most judicial nominees who come to this floor deserve. I support his nomination. He brings integrity and quality of mind to decisionmaking and judgment to the Ninth Circuit Court, a court of which my State of Idaho is a part. I strongly endorse Professor Bybee.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator for his statement. I, too, will support Professor Bybee. I have no problem with doing that at all.

May I say that Professor Bybee can be proud that Senator LARRY CRAIG has spoken on his behalf. Senator CRAIG is one of the most articulate Senators not only at this time in this body, but having been in this body for more than 44 years now, I can say that I have seen a lot of articulate speakers but Senator CRAIG is one among the foremost of those. I would treasure his support of my nomination if I were indeed a nominee for any position.

Madam President, has the Pastore rule run its course for today?

The PRESIDING OFFICER. Yes, it has.

Mr. BYRD. Madam President, I believe the Senate is in executive session.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I ask unanimous consent that I may speak as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Is there any limitation on time?

The PRESIDING OFFICER. No, there is not.

### RECONSTRUCTION OF IRAQ

Mr. BYRD. I thank the Chair. I will speak perhaps, as I see it, 40 minutes or less, which is something worthy of commenting on in itself.

There is an axiom in military planning that countries tend to prepare to fight the last war, not the next one. Some historians blamed the incredible death toll of World War I on military commanders who failed to realize that the days of set-piece battles, as in the days of the American Revolution or the Napoleonic Wars, were over. Some have also pointed out that the countries that were overrun in the opening months of World War II were those that were best prepared to engage in trench warfare.

As our own Republic continues to ready for war in Iraq, there has been the alarming tendency to see this next war as a replay of our 1991 campaign to liberate Kuwait. Some have taken to calling the impending conflict "gulf war II," as if we could win this conflict in 2003 by rewinding the tapes of smart bombs dropping on their targets in 1991. I fear that many have succumbed to an intellectual and moral laziness that views the coming war through the lens of our victory in 1991.

This next war in Iraq will not be like the last. Twelve years ago, there was a war in one act with an extensive list of players opposing an aggressive antagonist. Now, the curtain is about to rise on a war with the same lead character, Saddam Hussein, but only one great power opposing him, that great power being the one superpower in the world today, the United States. Many countries that played supporting roles in the last war look as though they will, this time, serve more as extras, seen only in the crowd scenes without supporting roles. Most ominously, we do not know how long this costly drama might last. It may last a month. It may last 2 months. It may last a week. It may last 2 days. Who knows? I do not know. But this conflict will be played out in many acts.

As in the last war, the coming battles will draw heavily on U.S. air power, followed by the use of our ground troops to destroy the Iraqi army. That is where the similarities between 1991 and 2003 begin and end. The ultimate goal in the coming war is not to roll back an invasion of a small, oil-rich corner of desert that borders the Persian Gulf. This time, the goal is to conquer the despotic government of Saddam Hussein.

In the 1991 gulf war, our victory was followed by an orderly withdrawal of our troops, so that they may return to their hometowns to march in ticker-tape parades and be honored with twenty-one gun salutes to acknowledge a resounding American victory on the battlefield.

It may not be the same in 2003. Our forces do not have the straightforward task of pushing the Iraqi military out of Kuwait. The aim is to push Saddam and his associates from power. This could involve house-to-house fighting or laying siege to Baghdad and other urban centers, where seven out of ten Iraqis live. The United States will have to manage religious, ethnic, and tribal rifts that may seek to tear the country apart. According to a declassified CIA estimate, we must contend with the increasing chance that Saddam Hussein will use weapons of mass destruction against our troops as they march toward Baghdad.

After all of this, more work awaits. A U.S. invasion of Iraq with only token support from other countries will leave us with the burden of occupying and rebuilding Iraq. The United States will find itself thrust into the position of undertaking the most radical and ambitious reconstruction of a country since the occupation of Germany and Japan after World War II.

The likely first step in a post-war occupation would be to establish security. No rebuilding mission could possibly occur if the Iraqi army still has fight left in it or if Iraq's cities are in chaos. Establishing security could well prove to be more difficult than defeating Iraq's military. Saddam Hussein could go on the lam, forcing our military into a wild goose chase. Surely Iraq could not be considered secure if its evil dictator were to be on the loose.

Creating a secure environment in Iraq also means dealing with difficult situations. How will our military deal with hungry Iraqis taking to the street in mobs? What are we going to do about civilians exacting revenge on those who had oppressed them for so long? How will we prevent violence within and among Iraq's multitude of tribes, ethnic groups, and religions?

I am not convinced that, right now, the Administration has any idea of how to deal with these scenarios, or the dozens of other contingencies that might arise while the United States serves as caretaker to a Middle Eastern country.

The United States will then be faced with the task of providing for the humanitarian needs of 23 million Iraqis, 60 percent of whom are fully dependent on international food aid. The United State will have to make sure that roads and bridges are rebuilt so that humanitarian assistance can get through to where it will be needed. That would be largely our responsibility. That would not be the case if we were being attacked, if the United States were being attacked by Iraq, if the United States were confronted with an imminent and direct threat from Iraq. If that were the case, then we would not be so morally responsible for cleaning up the mess, for reconstructing, for rebuilding that which we will have destroyed.

That is not the case. We will have to make sure that roads and bridges are rebuilt so humanitarian assistance can get through to where it will be needed. Electrical systems will have to be repaired. Who knows, some in this country may have to be repaired when that attack is launched. But we are talking about the morning after now, the post-war Iraq.

Electrical systems will have to be repaired so that doctors can operate in their hospitals. Water systems must be maintained to provide drinking water to the country as it enters the scorching summer months and to provide sanitation to prevent the spread of disease. Telephone systems will also be needed to communicate with the distant parts of a country that is the size of France, or a country that is seven times the size of West Virginia.

Protecting or rebuilding this critical infrastructure may become a huge task in itself, as Saddam Hussein is apparently planning a scorched earth defense of his regime. Such a scorched earth defense could involve setting oil fields ablaze. It could involve blowing up dams. It could involve the destruction of bridges over rivers, two of the oldest rivers in the world, the Euphrates and the Tigris, in a country that when I was in school many years ago was referred to as Mesopotamia, the land between the two great rivers. Such a strategy on the part of Saddam Hussein could involve sabotaging water supplies or destroying food sources. U.S. military officers are now reporting that Iraqi troops dressed as U.S. soldiers may seek to attack innocent Iraqi civilians in an effort to blame the West as being responsible for war atrocities.

If we are successful in deposing Saddam Hussein—and I don't have any doubt we will be successful in doing that; there is any number of scenarios by which Saddam may be deposed. He may be assassinated. Assassinations do occur, as we read today in the newspapers about an assassination. Saddam Hussein may turn tail and run. He may want to live and fight another day. He may decide to fight to the death. He may be willing to die himself while others die around him. Who knows. But there is no doubt in my mind that he will be deposed, one way or another.

But in any event if we are successful in deposing Saddam Hussein and limiting the loss of life among our troops and those of Iraqi civilians, the United States will have to reform the government of Iraq. According to an article that appeared in the Washington Post on February 21, the post-Saddam plan crafted by the administration calls for the U.S. military to take complete, unilateral control of Iraq after a war, followed by a transition to an interim administration by an American civilian. This interim administration would purge Iraq of Saddam Hussein's cronies and lay the groundwork for a representative government. General Barry McCaffrey, who commanded ground troops during the 1991 war, estimated in the article that the occupation would take 5 years.

Let us remember that Iraq once had a colonial government under the flag of Great Britain from 1920 to 1932. Iraqis revolted against British troops, leading one of the great men of the 20th century, one of the great men of all time, Winston Churchill to refer to the country as "these thankless deserts."

Have you ever been in a sandstorm in the deserts of the Middle East? It is quite an experience.

If the United States is to administer Iraq for a period of years, we will run the risk of being viewed as a new colonial power, no matter how pure our intentions. Those who may greet us as liberators in 2003 may increasingly view us as interlopers in 2004, 2005, 2006, and beyond.

The United States will also face the task of reforming Iraq's military. Fearful that a weak Iraq could fuel the ambitions of other regional powers, the Department of Defense is now considering how to take apart Iraq's million-man army and rebuild it into a smaller, more professional force. While details are still wrapped in secrecy, it appears that the United States will have a major hand in retraining and reequipping the post-Saddam Iraqi army. We are already trying to build an Afghan national army of perhaps 70,000 troops, but a new military for Iraq would have be several times that size. One thing is for sure, the arms industries must be salivating at the profits that could be made from building a new, modern Iraqi army from scratch.

These occupation and reconstruction missions are all difficult risks and difficult tasks. No wonder the ranking general in the British military, Gen. Sir Mike Jackson, said in an interview published in a London newspaper on February 23:

> In my view, the post-conflict situation will be more demanding and challenging than the conflict itself.

We had better hear that. We had better take note of that. Let's hear again what the British military general says. The British general, Sir Mike Jackson—here is what he said in an interview published in a London newspaper on February 23 of this year:

> In my view, the post-conflict situation will be more demanding and challenging than the conflict itself.

In other words, the war we may soon face in the Persian Gulf will be an entirely different campaign than was the war in 1991.

Congress and the American people, the people in the galleries that extend from sea to shining sea, from the Gulf of Mexico to the Canadian border, the people, the American people, those out there who are looking upon this Chamber through that electronic lens, those people, the people need to know how long we can expect to occupy postwar Iraq.

Last month, Under Secretary of State Marc Grossman estimated that a military occupation of Iraq would take 2 years. That estimate is hard to believe. Gen. Douglas MacArthur believed that the occupation of Japan after World War II would take no more than 3 years. It lasted 6 years and 8 months. The first U.S. military governor in Germany, Gen. Dwight Eisenhower, anticipated that the United States military would "provide a garrison, not a government, except for a few weeks." Instead, the first phase of the occupation of Germany lasted 4 years.

These types of missions have their own momentum. We have had United States troops in Bosnia for 7 years and United States soldiers in Kosovo for 3½ years. Let us not forget that Gov. George Bush, as a Presidential candidate in 2000, said he would work to find an end to those peacekeeping missions. But the United States is now looking at a peacekeeping mission in Iraq that dwarfs our deployment to the Balkans in every respect.

I find it utterly confounding that a President so opposed to nation building would then launch into military scenarios that so clearly culminate in that very outcome. I have to wonder—I have to wonder if this President is simply so driven to act that he cannot see that action itself is not the goal. How far along was this administration in planning military action in Afghanistan before the question of what postwar Afghanistan would look like even came up? There seems to be at least some forethought about postwar Iraq, but how thoroughly has it been forethought? How thoroughly has it been thought about? How thoroughly has it been scrutinized?

The information given to Congress—that's that legislative branch up there, the people's representatives. Why, those people down in the White House view the legislative branch with contempt, with disdain. Why should they let those people up there know what they, the people on Mt. Olympus, are thinking? The information given to Congress and to the American people, who pay all of us in public office—we are the hired hands. I am one of the hired hands. So is the President of the United States. He is just one of the hired hands. Then why should we view those people, who pay us, with such contempt that we don't think we ought to let them in on these secrets?

Oh, we don't have to tell them. We don't have to tell the people's elected representatives in Congress. We don't have to tell them. We'll let them know what we estimate the cost to be when we send up our bill, when we send up a supplemental appropriations bill.

Congress and the American people should also know how much it will cost to occupy Iraq. At least there must be some estimates that have been carefully wrought. The Army Chief of Staff, General Shinseki, is standing by his estimates, given to the Armed Services Committee, that "several hundred thousand" troops would be required to occupy Iraq. There is an Army Chief of Staff who doesn't back down. There is an Army Chief of Staff who doesn't break and run. He said this a few days ago. His estimate was disputed by the Defense Department. But General Shinseki didn't cower. He is standing by his estimate, given to the Armed Services Committee, that several hundred thousand troops would be required to occupy Iraq.

The Congressional Budget Office has provided estimates, based on an occupation force of 75,000 to 200,000 American troops, it would cost $1 billion to $4 billion—from $1 billion to $4 billion—per month.

I said that right. The cost of occupying Iraq has been estimated to be $1 billion to $4 billion per month. How much is that money to us peons? Under $4 billion. That is $1 to $4 for every minute since Jesus Christ was born. Perhaps that can give us hillbillies a little better feel of what we are talking about; $1 billion to $4 billion per month. That is $12 billion to $48 billion per year; $33 million to $130 million per day; $23,000 to $93,000 per minute. And these enormous amounts do not include the cost of rebuilding Iraq.

One estimate by the United Nations Development Program says that at least $30 billion will be needed for reconstruction in the first 3 years after a war. The actual cost, of course, could be much higher.

If the United States initiates war against Iraq in the coming days, maybe a week—I find it a little hard to think it will be 2 weeks, but it could be. If the United States initiates war against Iraq in the coming days, we will be hard pressed to share these staggering costs with our allies. We have foolishly engaged in a war of words with some of our most powerful European allies, countries which could have been valuable partners in rebuilding Iraq if war were proven to be inevitable.

Instead, it looks like the American taxpayer—you out there looking in this Chamber—the American taxpayer will be alone, all by himself, in shelling out billions of dollars for new foreign aid spending.

Some have suggested that Iraqi oil might take care of the post-war costs. According to the United Nations, if Iraq's oil production reached all-time highs, about $16 billion in revenue could be generated each year. Right now, Iraq's legitimate oil sales are supposed to buy food and medicine for the starving and ill. After a war, however, those funds could be subject to claims by Iraq's creditors, who are owed at least $60 billion in commercial and official debt. There is also the issue of $170 billion in unpaid reparations to Kuwait.

Mr. President, the big, black, endless pit we will find in Iraq after a war will not be filled with cheap oil for our gas-guzzling cars. The pit—that bottomless pit—that we will find in Iraq will have to be fed with enormous amounts of American dollars.—Courtesy of whom? Courtesy of Uncle Sam.

The irony of investing huge amounts of money to rebuild Iraq when we have urgent needs here at home has not been lost on late-night comedians. One talk-show host commented that if President Bush's plan to provide Iraqis with food, medicine, supplies, housing, and education proves to be a success, it could eventually be tried in the United States, too.

The comedians are on their toes. They are not overlooking any bets.

If the United States leads the charge to war in the Persian Gulf, we may be lucky and achieve a rapid victory. I hope we will be lucky. Perhaps the odds for being lucky are, I guess, 90 to 1. But we may not be lucky. But even if we are lucky, we will then have to face a second war—a war to win the peace in Iraq. That war will not be over in a day, or a week, or a month, or a year. That war will last several years, perhaps many years, and will surely cost hundreds of billions of dollars.

In the light of this enormous task, it would be a great mistake to expect that this will be a replay of the 1991 war. The stakes are much higher in this conflict.

Despite all of these risks and costs, it seems the administration continues to move our country closer and closer and closer to war. It seems we have already lost patience. We have already lost patience. We have stopped listening. This administration, this President, has stopped listening. The superhawks that surround him have stopped listening, if they ever were listening. It seems we have already lost patience for a regime of arms inspections that might take months to play out. But going to war will require our commitment to Iraq to last years—years.

The problems with Iraq are not going to be solved when 700 cruise missiles and 3,000 bombs land on that country in the opening days and the opening nights of war. Assuming victory—and I assume victory—we will be on the hook. You know what that means. We will be on the hook to rehabilitate Iraq. And I fear that the rebuilding of that ancient country with its ancient artifacts—a country that goes back to the mists of biblical years, of Abraham, and Issac, and Jacob, and Joseph—a country, a land of Ur, and a land between the two great rivers—after the rebuilding of that ancient country, there will have to be another act of U.S. unilateralism. There you are—another act of U.S. unilateralism for which the American people are ill prepared.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I first pay tribute to my very distinguished colleague and senior Senator from West Virginia, whose eloquence on this subject has been magnificent in the last months and whose leadership in behalf of the wisdom of the Senate and the tradition of the Senate has been recognized by—I believe the Senator said over 20,000 telephone calls from fellow citizens came into his office in response to his outspoken courage.

The Senator said he noticed in last Sunday's New York Times a reprint of one of his famous speeches which he gave here just a short while ago.

I thank the Senator for his gracious leadership on behalf of our country and on behalf of the institution of this Senate. This Senator has learned more about the Constitution and the traditions of this great institution from the Senator from West Virginia than from any other source. I am grateful for that education, which is actually the subject I want to bring up today because in a few moments we will begin voting once again on proceeding to a nomination to the second highest court.

Mr. BYRD. Madam President, if the distinguished Senator will yield briefly——

Mr. DAYTON. I yield to the distinguished Senator from West Virginia.

Mr. BYRD. Madam President, may I thank the distinguished Senator for his overly charitable comments concerning this Senator. And I am indeed grateful. I am grateful for the fact that he on several occasions here during his short career thus far in the Senate—I predict that it will be a long career, if he wishes to make it a long one—has stood with me with regard to several important subjects—subjects that deal with the Constitution, deal with this institution, and that deal with war and peace.

I thank him for standing shoulder to shoulder and toe to toe. I thank him likewise for what he brings to the Senate—vigor and fresh insights, vision that is beyond today's 24 hours, a man whose kinsman served in the Constitutional Convention from the State of New Jersey, and whose signature on that Constitution will be there until kingdom come.

I thank the Senator.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank the Senator from West Virginia. I would stand proudly with the Senator on any matter shoulder to shoulder. I believe I am 30-some years younger than the Senator. I wish I had the Senator's vigor and eloquence to carry forward. I thank the Senator for those kind words.

Taking what I have learned from the distinguished senior Senator from West Virginia, I note, with dismay, that while this body has spent over 100 hours on the Senate floor debating this judicial nomination, I compare that 100 hours on one judicial appointment with the number of hours this year this body has spent discussing and debating a declaration of war before commencing a war against Iraq.

And the answer is: Zero, not 1 hour, not 1 minute of formal debate in the 108th session of the Senate on this profound matter of war and peace, life and death—even now, with this Nation poised on the brink of war, a war which the United States is instigating, without direct provocation, without an immediate threat to our national security; the first war under the new doctrine of preemption, a claimed right to attack another country because they might become a future threat; the first war in which the United States is perceived in the eyes of much of the rest of the world as the provocateur, as a threat to world peace.

The Times of London recently surveyed the English people and asked: Who is the greatest threat to world peace today? Forty-five percent named Saddam Hussein, 45 percent named President Bush. In Dublin, Ireland, the poll was 31 percent Saddam Hussein, 68 percent President Bush. In the Arab world, the populations are overwhelmingly against a U.S. invasion of Iraq.

Osama bin Laden, with his most recent tape, is attempting to exploit those emotions, exhorting the members of his al-Qaida terrorist organization and followers to rise up against the invader, the crusader, the United States.

Those sentiments come as a great shock to us, as unwarranted and undeserved as they are. A few, unfortunately, in high levels in this administration believe they don't matter, that they are irrelevant.

Eighteen months ago, we had the sympathy and support of the entire world after the dastardly attacks of 9/11, support and sympathy which has been needlessly squandered and which will not easily be regained.

Here at home our citizens receive color-coded warnings of greater or lesser unspecified threats. They are told to stockpile water, food, plastic sheets, and duct tape, or else they are told nothing at all.

The Secretary of Defense, testifying before the Senate Armed Services Committee, on which I serve, said recently: We are entering what may prove to be the most dangerous security environment the world has known.

In the midst of this ominous, dangerous, fateful time, the 108th session of the Senate has devoted no time for debate or discussion. The last 3 days the debate has been on a bill that purports to ban partial-birth abortions, a matter of importance, a matter of great concern to some, but not one that required the attention of the Senate at this moment in time.

Now we move on to consider, once again, a judicial nomination, then another judge; and before that there was another judge. Does it appear we are avoiding something? Well, we are. We are avoiding our constitutional responsibility, perhaps the most important responsibility placed upon us by the U.S. Constitution: whether to declare war.

As I have learned from the distinguished Senator from West Virginia, the Constitution says—simply, clearly, emphatically—Congress shall declare war, only Congress, no one else—not the President, not the judiciary, not the military—only Congress, only the 435 Representatives and 100 Senators elected by and acting for the people of the United States.

Last October, a majority of the Members of the 107th Congress—a majority of the Members in the House and a majority of the Senate—voted to transfer that authority to the President. Five months before he even made his own final decision regarding war or peace, Congress was asked to give him that authority that the Constitution assigns only to us. And Congress did so. It passed a resolution that said the President may use whatever means necessary, including the use of force, against Iraq.

Oh, we use such clever euphemisms in the Senate, words which disguise the meaning of our intentions. Use "whatever means necessary." And, oh, by the way, lest you forget, it is OK with us if you use force—not the lives of American men and women, not their bodies, their blood, their patriotism—use force—not the deadly, ear-splitting, Earth-shaking, people-maiming, death-dealing bombs, and other weapons of destruction, the most devastating, overwhelming, terrifying, death-dealing force the world has ever known coming from us, the good guys, the protectors, the preservers of world peace, the United States of America.

What incredible foresight the Founders of this great Nation had in not wanting a decision that enormous, that Earth-shaking or ear-shattering to be made by one person—not by this President, not by any President.

Instead, this President asked for—and the 107th Congress acquiesced and gave—complete, unrestricted, unrestrained authority, with no conditions, no restraints to make that decision. Don't tie my hands, the President said.

Don't tie the President's hands? What did the Founders of the country think of that? Thomas Jefferson wrote, in 1798:

> In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

"Bind him down from mischief by the chains of the Constitution."

Tie his hands? That was not enough. "Chain him to the Constitution."

We, in Congress, are supposed to be chained to the Constitution. We took an oath. When we were sworn in, we promised to support and defend the Constitution of the United States against all enemies, foreign and domestic, bear true faith and allegiance to the same Constitution.

That was our oath and our allegiance written—not to the country, not to our State, not to our Government but to the Constitution of the United States of America.

The Founders of this Nation had other admonitions for the United States regarding the Constitution: Follow it or change it, but don't ignore it or evade it.

George Washington, in his Farewell Address, in 1796, said:

> If, in the opinion of the people, the distribution of constitutional powers be wrong, let it be corrected by amendment in the way which the Constitution designates. But let there be no change by usurpation, for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Finally, an admonition from another perspective, that of Edward Gibbon, the author of the "History of the Decline and Fall of the Roman Empire." He said:

> The principles of a free constitution are irrevocably lost when the legislative power is taken over by the executive.

In this sense, the legislative power was not taken over by the Executive. We gave it away. Here, Mr. President, you decide. If you are right, we will try to share the credit. If you are wrong, you take the blame.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DAYTON. The Senator yields.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Will the Senator from Minnesota yield without losing his right to the floor?

Mr. DAYTON. The Senator yields without losing his right to the floor.

Mr. BYRD. Mr. President, the Senator from Minnesota is making a great speech. It is great because of the quotations the Senator from Minnesota has given to us today about that Constitution.

The Senator was one of the lonely 23 who voted not to give to this President, or any other President—not to attempt to hand over to this President or to any other President—the power to declare war, which is found in the eighth section of article I of the Constitution of the United States.

A nominee for a Federal judgeship came to me the other day. I said: Where in the Constitution is the power to declare war lodged? He didn't remember. I said: Where in the Constitution is the vestment of the power to appropriate moneys? He knew it was there, but he didn't know in what section that was to be found. Of course, I didn't have any problem in reminding him where both were to be found.

But the Senator from Minnesota today is referring to the Constitution of the United States, written in 1787, signed by 39 individuals, among whom was one kinsman of the distinguished Senator from Minnesota, MARK DAYTON, and his name is found in that illustrious roll of signers from the State of New Jersey, William Livingston, David Brearley, William Paterson, Jonathan Dayton. The Senator from Minnesota, Mr. MARK DAYTON, voted to uphold the Constitution, concerning which he has stood before that desk of the Presiding Officer with his hand on the Bible and swore to support and defend that Constitution.

This Senator who sits in front of me, I now put my hand on his shoulder, Senator KENT CONRAD, he was among the 23, yes. He was on that illustrious roll to which someone in ages hence will point. The Senator from Illinois, Mr. DURBIN, sits here on the floor today. He, too, was one of the 23 who stood for the Constitution on that day, when a majority of the Senate voted to shift the power to declare war to the President of the United States. But 23 Senators voted to leave that authority where the Constitution puts it: namely, in Congress.

What would Jonathan Dayton have said could he have spoken on the day that those 23 Members stood up for the Constitution—21 Democrats, one Independent and one Republican—what would Jonathan Dayton of New Jersey have said if he could have spoken to the Senate that day? What would his advice to us have been?

Mr. DAYTON. I think he would have said it was a good thing we added West Virginia to the United States of America so we could have the distinguished Senator from West Virginia to give us the guidance he did that day.

Since the hour is approaching for the vote under the rules, I will conclude my remarks.

Mr. BYRD. I thank the distinguished Senator for yielding.

Mr. DAYTON. I thank the Senator for his kind words.

I respectfully urge the majority leader and all of my colleagues to turn their attention to this fateful decision when we return next week. A decision whether or not to vote a declaration of war is one that would be a very difficult vote, one that would be a career-shaping or career-shattering vote, but it would be one the Constitution requires of us, as do our fellow citizens who elected us. And it is one that only we can and must do, to vote on whether or not to declare war.

I urge the Senate to turn its attention to that matter when it resumes next week.

I yield the floor.

Mr. FEINGOLD. Mr. President, I will oppose the nomination of Jay Bybee to the Ninth Circuit Court of Appeals. I was not able to attend the hearing that was held on Mr. Bybee because of Secretary Powell's presentation that morning to the United Nations. So I submitted written questions, as did a number of my colleagues. Unfortunately, I have to say after reviewing Mr. Bybee's response to those questions that his unwillingness to provide information in response to our inquiries is striking. On more than 20 occasions, Mr. Bybee refused to answer a question, claiming over and over again that as an attorney in the Department of Justice he could not comment on any advice that he gave at any time. This is unfortunately becoming a very familiar refrain of nominees before the Judiciary Committee.

I say unfortunate because it puts many of us in the position of having to oppose nominees because they have not been forthcoming. This was not the approach taken by at least some Bush nominees in the last Congress. Michael McConnell, for example, was forthcoming in his testimony and answers to written questions. He convinced me that he would put aside his personal views if he were confirmed to the bench.

There is an extensive body of legal work both written by or at least signed off on by this nominee, in this case unpublished Office of Legal Counsel opinions. The administration and the nominee are acting as if they are irrelevant to the confirmation process. A nominee cannot simply claim that he or she will follow Supreme Court precedent and ask us to take that assurance on faith, when there are written records that may help us evaluate that pledge, but the nominee refuses to make those records available.

Only three OLC opinions had been made publicly available since Mr. Bybee's confirmation to head that office. That is extraordinary, given that 1,187 OLC opinions dating back to 1996 are publicly available. This is a dramatic change in the Department's practice, a change that did not occur until this nominee was confirmed to be Assistant Attorney General for the office. While there may be some justification for releasing fewer opinions since 9/11, the wholesale refusal to share with the public and Congress important OLC decisions affecting a wide range of legal matters is, to say the least, troublesome.

But the failure to make OLC opinions available to the Judiciary Committee during the consideration of a nominee for a seat on a circuit court is unacceptable. Even White House Counsel Alberto Gonzalez, in a letter Mr. Bybee cites in his written responses, agrees that there is no universal bar to disclosure of OLC opinions. Gonzalez wrote that:

> No bright-line rule historically has governed, or now governs, responses to congressional requests for the general category of Executive Branch "deliberative documents."

The administration should be able to agree to an acceptable procedure to allow the Judiciary Committee to review Mr. Bybee's OLC opinions. Given the recent history of many OLC opinions being made public, it is hard to believe that there are no opinions authored by Mr. Bybee that could be disclosed without damaging the deliberative process. Indeed, it is very hard to give credence to the idea that OLC's independence would be compromised by the release of some selection of the opinions of interest to members of the Judiciary Committee or the Senate.

Without the OLC memos, important questions about the nominee's views on how far the Government can go in the war on terrorism, enforcing the rights of women, enforcing the rights of gays and lesbians, and other important issues do not just remain unanswered, they apparently remain off-limits.

One of Mr. Bybee's responses may explain the reluctance to make any OLC materials available. In his response to a question from Senator BIDEN about why DOJ did not create an independent Violence Against Women Office at DOJ as required by Congress in a bill passed last year, Mr. Bybee left the impression that OLC may have either intentionally omitted or ignored the key portions of the legislative history in crafting its opinion.

In a series of questions from Senator BIDEN about his involvement in DOJ's decision on the VAWO, Mr. Bybee was given the opportunity to clarify his view of the law and correct what appears to be a clearly erroneous interpretation of the legislative history. Instead he seems to try to downplay the importance of his office's legal analysis on the decision. He states at one point:

> The structure of the letter would thus indicate that legislative history had no significant bearing on its analysis or conclusion.

The members of the Judiciary Committee are entitled to better. How can we be confident that Mr. Bybee will put aside his personal policy views and fairly interpret and apply the law as passed by this body, when it seems that his office crafted a legal opinion designed to allow the Department of Justice to willfully ignore clear legislative intent? Perhaps the legal opinion itself will shed some light on this question, but we are not being permitted to see it.

Mr. Bybee also mischaracterized many of his own writings and speeches and failed to directly answer most of the questions put to him about them, claiming he would simply follow existing Supreme Court precedent. As we all know, the Supreme Court has not answered every legal question. It is our circuit court judges that are routinely in the position of having to address novel legal issues, not the Supreme Court.

For example, I asked Mr. Bybee about his views, published in a law review article, that we should consider repealing the 17th Amendment which provides for the direct election of Senators. The nominee now simply states that Senators should be popularly elected, almost claiming he had never argued to the contrary in his article. His answers to my questions about this article were evasive, not forthcoming.

Another telling example is his response to a series of questions from Senator EDWARDS about a 1982 article in which he criticized the IRS decision to deny tax exempt status to Bob Jones University because of its racially discriminatory practices. The article is full of statements revealing a disdain for anti-discrimination policies and warned of a parade of horribles should the government continue to use its spending power to advance such policies.

Yet, in his written responses, Mr. Bybee seems to deny the very clear meaning of his written words. He goes so far as to claim that he was only commenting on the Government's change in position in the case and not the very important public policy issue at the heart of the case. That, it seems to me, is an adventurous reading of the article, at best.

Based on Mr. Bybee's unwillingness to answer any question about his views on a wide range of issues, his distortion of his own limited but telling written record, and the failure of the administration to provide any of his numerous OLC opinions to the Judiciary Committee for review, I must vote no on his nomination to the Ninth Circuit Court of Appeals.

Mr. DURBIN. Mr. President, I rise today in opposition to the nomination of Jay Bybee for the Ninth Circuit Court of Appeals. Mr. Bybee recently passed out of the Judiciary Committee by a vote of 12 to 6.

Mr. Bybee is a smart person and a talented attorney—there is no argument about that. But he is one of the most strident voices in the country in advocating states' rights over Federal rights.

For example—and I think members of the Senate here should take special note of this—he wrote a law review article arguing that the 17th amendment was a bad idea. The 17th amendment, of course, is the amendment that allowed for direct election of United States Senators.

Mr. Bybee believes that ratification of the 17th amendment has resulted in too much power for the Federal government, and too little for the States. Here is what he said in his law review article:

> If we are genuinely interested in federalism as a check on the excesses of the national government and therefore, as a means of protecting individuals, we should consider repealing the 17th Amendment.

I, for one, disagree.

On behalf of a conservative foundation, Mr. Bybee wrote a successful amicus brief in the 2000 case United States v. Morrison, in which the Supreme Court struck down part of the Violence Against Women Act. Mr. Bybee wrote that Congress had no power under either the Commerce Clause or the 14th amendment to pass crucial provisions of this law. I thought this was settled law 75 years ago. Mr. Bybee thinks it is time to revisit this notion.

In addition, I am troubled by Mr. Bybee's positions regarding gay rights. He has been very critical of the Supreme Court's 1996 decision, Romer v. Evans, that struck down a Colorado constitutional amendment that prohibited local governments from passing laws to protect gay people. He called such laws that protect gay people from discrimination "preferences for homosexuals."

In another gay rights case, he wrote a brief defending the Defense Department's policy of subjecting gay and lesbian defense contractors to heightened review before deciding whether to give them security clearances. He argued that this policy was not a violation of the Equal Protection Clause and argued that such reviews were justified, in part, because some gays and lesbians experienced "emotional instability."

I am also concerned that Mr. Bybee—as head of the Justice Department's Office of Legal Counsel—has been involved in shaping some of the most controversial policies of the Ashcroft Justice Department. For example, he may have been involved in the new interpretation of the second amendment.

He may have been involved in the TIPS program, in which people in the United States are encouraged to spy on their neighbors and coworkers and report any conduct they find to be "unusual."

He may have been involved in the decision to declare the al Qaeda and Taliban detainees at Guantanamo Bay as prisoners of war under the Geneva Convention.

I say "may have been involved" because he refused to tell us. In written responses to 20 different questions we posed to him, he gave the following answer:

> As an attorney at the Department of Justice, I am obligated to keep confidential the legal advice that I provide to others in the executive branch. I cannot comment on whether or not I have provided any such advice and, if so, the substance of that advice.

Mr. Bybee is the most recent example of an appellate court nominee who has stonewalled the Senate Judiciary Committee. I do not believe that such conduct should be rewarded.

I oppose the nomination of Mr. Bybee to the Ninth Circuit.

## NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—CONTINUED

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

### Cloture Motion

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Trent Lott, Robert F. Bennett, Peter Fitzgerald, Jeff Sessions, John Ensign, Kay Bailey Hutchison, Rick Santorum, Don Nickles, Jim Talent, Lindsey Graham of South Carolina, Lisa Murkowski, Conrad Burns, John Warner, John Sununu, Gordon Smith, Elizabeth Dole, Saxby Chambliss, Christopher Bond, Susan Collins, Wayne Allard, Lamar Alexander, Norm Coleman, Pat Roberts, Craig Thomas, Larry E. Craig, Olympia Snowe, John McCain, James Inhofe, Jon Kyl, Lincoln Chafee, Judd Gregg, Richard G. Lugar, George Allen, Chuck Grassley, George V. Voinovich, Mike Crapo, Michael B. Enzi, Thad Cochran, Mike DeWine, Arlen Specter, Sam Brownback, Ben Nighthorse Campbell, Richard Shelby, Ted Stevens, Chuck Hagel, John Cornyn, Pete Domenici, Mitch McConnell, Jim Bunning.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "No."

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 42, as follows:

[Rollcall Vote No. 53 Ex.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—42

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—3

Biden
Edwards
Kerry

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

## JAY S. BYBEE, OF NEVADA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senate will resume consideration of the Bybee nomination.

Who yields time?

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be recognized as in morning business for up to 10 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 616 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the two leaders have agreed that the vote on the circuit judge would occur at 3:45. I am sure there will be a unanimous consent brought here soon.

Mr. SESSIONS. Mr. President, I ask unanimous consent that at 3:45 all time be yielded and the Senate proceed to the first vote, which is on the confirmation of Mr. Bybee.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Mr. President, might I inquire, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the nomination of Jay S. Bybee.

Mr. DODD. Mr. President, I ask unanimous consent to proceed as in morning business so as not to interrupt the debate on the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DODD are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to speak for 3 minutes on the nominee. I can do it before or after my leader on the Judiciary Committee.

Mr. LEAHY. I tell my friend from New York, I have allowed others to go, but one more doesn't bother me, especially someone as good as the Senator from New York. I certainly have no objection.

Mr. SCHUMER. I thank my colleague. I will try to be brief and leave the majority of the remaining time for him.

I rise in support of the nomination of Jay Bybee for the Ninth Circuit Court of Appeals. I realize that my support—I was one of two Democrats on the Judiciary Committee to be for Mr. Bybee—may surprise some people, so I wanted to explain for a few moments why I will be voting to confirm him.

As most of my colleagues know, I use three criteria to evaluate judicial nominees: Excellence, moderation, diversity.

Excellence, legal excellence, Mr. Bybee meets that criteria. Diversity, you can't judge that by one individual, but the Bush administration has been pretty good, certainly not terrible, in terms of diversity.

It is moderation where I have had the greatest problem with some of the President's nominees. I don't believe in judicial nominees too far left or too far right because in each case, they tend to make law, not interpret law, as the Founding Fathers said they should. I believe there has to be balance, balance on the courts. And I have said this many times, but there is nothing wrong with a Justice Scalia on the court if he is balanced by a Justice Marshall. I wouldn't want five Scalias, but one might make a good and interesting and thoughtful court with one Brennan. A Rehnquist should be balanced by a Marshall.

Jay Bybee, make no mistake about it, is a very conservative nominee. It is fair to put him in a similar category with many of the more conservative nominees we have had. If Mr. Bybee were nominated to another court that is hanging in the balance or where most of the nominees were conservative, I probably wouldn't vote for him. If he were nominated for the Supreme Court, for example, there would be a different calculus. But Mr. Bybee is nominated to the Ninth Circuit. The Ninth Circuit is by far the most liberal court in the country. Most of the nominees are Democratic from Democratic Presidents. It is the court that gave us the Pledge of Allegiance case which is way out of the mainstream on the left side. Therefore, I think Jay Bybee will provide some balance.

Let me repeat, if he were nominated to another court, I might have evaluated this differently. But when it comes to nominations, I mean what I say and I say what I mean. There has to be balance. Standards cannot only apply when they help achieve the desired outcome.

I want to be as fair and honest as I can be in this process. I have developed a set of criteria for evaluating nominees. I don't pretend to change them when after applying those criteria the scales tip in favor of supporting a nominee many of my friends oppose.

I respect those who arrive at a different conclusion. I understand their reasoning. I intend to vote yes on Mr. Bybee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we have moved the time up, I realize, in the next 6 minutes for the first vote. That is something I have agreed to accommodate a number of Senators on both sides of the aisle who have commitments. As a result, also as a result of yielding time to the distinguished Senator from Alabama, who had one of the nominees and, of course, appropriately should be speaking, and others, I will not be able to say all the things I wanted to.

I ask unanimous consent that I be recognized for 20 minutes after the conclusion of the final rollcall vote today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Obviously, as usual, should the leaders have other plans for that, I will do my usual courtesy of yielding to them.

(The remarks of Mr. LEAHY are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The question is, Will the Senate advise and consent on the nomination of Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit? On this question, the yeas and nays are required.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, parliamentary inquiry: Who is the next judge after this?

The PRESIDING OFFICER. That would be Judge Steele from the State of Alabama.

Mr. LEAHY. Mr. President, I understand we also have J. Daniel Breen, of Tennessee, on the list. I ask unanimous consent that it be in order to ask for the yeas and nays on his nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll with respect to the Bybee nomination.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Texas (Ms. HUTCHISON), the Senator from Arizona (Mr. KYL), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) would vote "no."

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 19, as follows:

[Rollcall Vote No. 54 Ex.]

YEAS—74

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Inhofe
Jeffords
Johnson
Kohl
Landrieu
Leahy
Lieberman
Lincoln
Lott
Lugar
McCain
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—19

Boxer
Byrd
Clinton
Corzine
Dayton
Durbin
Feingold
Feinstein
Harkin
Inouye
Kennedy
Lautenberg
Levin
Mikulski
Murray
Reed
Sarbanes
Stabenow
Wyden

NOT VOTING—7

Biden
Campbell
Edwards
Hutchison
Kerry
Kyl
McConnell

The nomination was confirmed.

### CHANGE OF VOTE

Mr. DAYTON. Mr. President, on rollcall vote No. 54, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, following this vote, I ask that the majority leader be recognized; following that, that Senator LEAHY be recognized; following that, Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOMINATION OF WILLIAM H. STEELE, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William H. Steele, of Alabama, to be the United States District Judge for the Southern District of Alabama?

The nomination was confirmed.

Mr. HATCH. Mr. President, I support the nomination of Judge William Steele to the United States District Court for the Southern District of Alabama.

Judge's Steele's professional record indicates that he is eminently qualified for the federal trial bench. Upon graduation from the University of Alabama School of Law, Judge Steele clerked for the Tuscaloosa County district court. As an Assistant District Attorney in Mobile, he handled hundreds of criminal matters, including more than 75 jury trials. Upon being promoted to Chief Assistant District Attorney, he was significantly involved in the creation of the Child Advocacy Center for physically and sexually abused children. He then served as an Assistant United States Attorney prosecuting mail fraud, public corruption, drug violations, firearms violations, and tax code violations.

In addition to his broad federal and state criminal experience, Judge Steele has considerable civil experience. In the private sector, while continuing to maintain a viable state and federal criminal trial and appellate practice, he also handled domestic relations matters, civil litigation in State and Federal court, representation of claimants in social security matters, and representation of the Alabama Department of Human Resources in child custody matters.

Since 1990, Judge Steele has served as a Federal magistrate judge. In this capacity, he has handled a wide range of civil matters, preliminary criminal matters, prisoner cases, and social security appeals.

I know that Judge Steele will be a credit to the Federal bench and will honorably serve the citizens of south Alabama. I thank my colleagues for voting for his confirmation.

Mr. SESSIONS. Mr. President, I am pleased to be able to make some remarks in support of the nomination of Judge William H. Steele to be U.S. district judge for the Southern District of Alabama. He is one of America's finest magistrate judges—a magistrate judge who does a lot of the kind of legal work that goes on in every Federal courthouse in America. Magistrate judges are not title III Federal judges, but they do much the same work day after day that Federal judges do.

During his time as a magistrate judge, Judge Steele has had firsthand experience in the work, and he has won the respect of the bench and the bar in southern Alabama.

He has been in training now for 12 years for this position. In the Southern District of Alabama the magistrates are used to an extraordinary degree by the Federal judges who allow the magistrates to do as much work as possible. And they frequently preside over civil cases with the consent of the parties involved.

I have talked with other lawyers and judges in Alabama. They are very excited about his nomination and look forward to his confirmation.

Some people talk about public service, but throughout his life, Bill Steele has done more than just talk. Judge Steele has dedicated the better part of his life to public service and has served both this country and the State of Alabama well. After graduating summa cum laude from the University of Southern Mississippi in 1972, Judge Steele served in the U.S. Marine Corps as an officer, pilot, and instructor pilot. During his service in the Marine Corps, Judge Steele participated in the operation to evacuate American citizens from Lebanon in 1976. He also served in the Alabama National Guard as a pilot and as commanding officer of an assault helicopter company.

After serving his country in the Marine Corps, Judge Steele attended the University of Alabama School of Law. After law school, he was employed as an assistant district attorney in Mobile, AL, and worked for 6 years in the office of a Democrat district attorney.

I was U.S. attorney during that time. That is where I got to know Bill. Our staff worked closely with the district attorney's office, and they always came back with the most glowing opinions of Bill Steele and his integrity, his judgment, and his fidelity to truth and justice.

Later, Judge Steele became chief assistant district attorney in Mobile. I got to know him well during that time and developed great respect for him. I think he tried 100 or more trials as an assistant district attorney. Then, in 1987, given his reputation for excellence, I hired him as an assistant attorney in the U.S. Attorney's Office. I can say without reservation that during his service, while I was a U.S. Attorney in the Southern District of Alabama, Judge Steele did not disappoint. Judge Steele tried a number of cases while he was in the U.S. Attorney's Office, which is the Federal system in which he will now be a district court judge. He held that position for 2 years and then went into private practice and did an excellent job there.

He was instrumental as a private practitioner and chief assistant district attorney, in the establishment of the Child Advocacy Center, an agency devoted to identifying and providing assistance to child victims of physical and sexual violence.

In 1990, the Federal court in the Southern District of Alabama commenced its search process for a U.S. magistrate. They usually have 60 or more applications. It is a very competitive process. The judges want the very finest lawyer—someone who would make a superb judge because the better work that magistrate does, the more relief the Federal district judges get. After all that competition, he won and was hired.

For 13 years now he has served as a magistrate judge. He has done so many different cases.

Bill Steele is one of Alabama's most outstanding magistrate judges, and I am confident that he will be an even better district court judge. I have followed Judge Steele's career since the time I worked with him at the U.S. Attorneys Office in the Southern district of Alabama, so I know from firsthand experience what kind of individual Judge Steele is. This statement will not do him justice. He is a nominee of the highest order, and it is an understatement when I say that I am pleased that President Bush has chosen to nominate Magistrate Judge William H. Steele for elevation to the Southern District of Alabama.

As a magistrate judge, Judge Steele has been training for a district court position for the last 12 years, and because the Southern District of Alabama utilizes magistrate judges to a greater extent than most other districts, he will be able to hit the ground running in his new position. I have had conversations with the other judges in the Southern district and I know that they are as excited about Judge Steele's nomination as I am, so I am glad that we can move forward with his confirmation.

Some people talk about public service, but throughout his life, Judge Steele has done more than just talk. Judge Steele has dedicated the better part of his life to public service and has served both this country and the great state of Alabama well. After graduating summa cum laude, from the University of Southern Mississippi in 1972, Judge Steele served in the United States Marine Corps as an officer, pilot, and instructor pilot. During his service in the Marine Corps, Judge Steele participated in the operation to evacuate American citizens from Lebanon in 1976. Judge Steele also served in the Alabama National Guard as a pilot and as the commanding officer of an assault helicopter company.

After serving his country in the Marine Corps, Judge Steele attended the University of Alabama School of Law, graduating in 1980. After law school, Judge Steele was employed as an Assistant District Attorney in Mobile, Alabama, and worked for six years for a democrat District Attorney. At the District Attorney's Office, Judge Steele distinguished himself as an outstanding advocate, litigating close to, if not more, than 100 jury trials. In recognition of his legal skills and leadership qualities in the District Attorney's Office, Judge Steele was appointed as Chief Assistant District Attorney in 1985. As the Chief Assistant, Judge Steele was instrumental in establishing, the Child Advocacy Center, an agency devoted to identifying and providing assistance to, child victims of physical and sexual violence.

In 1987, given his reputation in the community for excellent legal abilities and personal skills, I was proud to hire Judge Steele as an Assistant U.S. Attorney in the Southern District of Alabama. I can say without reservation, that during his service, while I was the U.S. Attorney in that office, Judge Steele did not disappoint. I found him to be a first-rate lawyer who set the standard for integrity by treating all parties with respect.

In 1990, Judge Steele was appointed to the position, which he currently holds, as a United States Magistrate Judge. He has served in this position with distinction, handling a full array of criminal and civil matters in federal court. The Southern District of Alabama has a heavy caseload, and the judges there depend on magistrate judges to go beyond preliminary criminal matters and social security cases. The magistrate judges in the Southern District are in rotation to receive 25 percent of the civil docket, where the parties consent. So Judge Steele has been doing the job of a district judge, including presiding over civil jury trials in many instances. It is my understanding, from talking to lawyers who practice in the Southern District, that Judge Steele has managed his docket well and the numbers show it. This is simply an outstanding nominee.

Judge Steele has not only been a leader in the workforce, but has been a leader and a active participant in his community as well, serving on the board of the Child Advocacy Center that he helped establish. And for the record, Judge Steele does not shy away from the arts. Judge Steele often volunteers his time to support First Night Mobile, a family-oriented, New Year's Eve, alcohol-free celebration of the arts, and he regularly performs with the Mobile Symphonic Pops as a saxophone player.

I acknowledge, that all of these accolades would be futile, if Judge Steele had not demonstrated commitment to the rule of law and to the Constitution, during his service as a magistrate judge. In my view, this is the first and foremost requirement for a federal judge. This is what our democracy hinges upon, and I know that Judge Steele is committed to that requirement. Judge Steele has a reputation for being eminently fair and impartial throughout the bar association. And having worked with him personally, I know that he is an individual with unquestioned integrity and the utmost character.

I will just say this: when it comes to serving with the distinction, it is the lawyers in the community who know a judge the best. Here is what Fred Gray, former counsel to the late Reverend Dr. Martin Luther King, Jr., had to say about Judge Steele in a letter to the Senate Judiciary Committee supporting his confirmation:

> I have practiced law in the State of Alabama and before all the federal district courts . . . I realize that it is important that all the judges who serve on the courts . . . are one[s] who possess the necessary personal characteristics, experience, practical knowledge, legal skills and professional background, so they will administer justice in a fair and impartial manner.
>
> I have discussed [Judge Steele's] qualifications generally and specifically with reference to intelligence, honesty, morality, integrity, maturity, stability, demeanor and temperament with members of the bar who know him and have practiced before him and other judges who sit on some of the courts in Mobile. Based upon their representations to me, Judge Steele possesses all the necessary qualities for a [federal judgeship].
>
> I have had the opportunity to meet with Judge Steele personally . . . I believe he will be fair to all litigants who appear before him . . . regardless of color or national origin or the type of litigation. I believe he will administer justice tempered with mercy.

I do not believe that you could receive a better endorsement than this one.

The lawyers and individuals who know Judge Steele best, because they have worked with him and practiced in front of him, have all voiced support. Since his nomination has been pending, Judge Steele has been endorsed by a number of individuals including the current President and 16 former presidents of the Mobile Bar Association, several former presidents of the Birmingham Bar, and several former presidents of the Alabama Bar Association.

The Vernon Z. Crawford Bay Area—African-American—Bar Association of Mobile, AL gave its unanimous endorsement:

> The . . . Association strongly recommends Magistrate Bill Steele for this position because he recognizes and is sensitive to the issues facing African American lawyers and the African American community. . . . We give Magistrate Steele our highest recommendation.

Major General Gary Cooper, USMC—Ret., former Ambassador to Jamaica, president of a Commonwealth National Bank in Mobile, AL, and an African American:

> As an African American citizen of Mobile and as a retired Marine, I appreciate what William Steele has done for his community as a county and federal prosecutor and federal magistrate, and what he has done for his country as a Marine helicopter pilot. His record indicates that he will make a fine . . . Judge.

Joy Williams, former law clerk to Magistrate Judge Steele and an African American:

> [W]hile I was the only person of color clerking on the court at the time, I truly felt comfortable and accepted from the moment I interviewed with Judge Steele. He has never given me a reason to question the sincerity of his support of me and my endeavors both professionally and personally.

Merceria Ludgood, Assistant County Attorney for Mobile County, former Director of Program Services for Legal Services Corporation in Washington, D.C., and former Executive Director of Legal Services Corporation of Alabama:

> Magistrate Judge Steele is one of the finest men I have ever known. Never once have I believed his actions to be motivated by politics or ambition. He simply wants to do the right thing for the right reasons.

Robert D. Segall, attorney for the American Civil Liberties Union in the case opposing the display of the Ten Commandments in an Alabama courtroom:

> Judge Steele is an outstanding selection, is very highly qualified, and I respectfully urge his prompt confirmation.

Carlos A. William, Southern District of Alabama Federal Defenders Organization:

> During the years I have practiced in [Judge Steele's] court, I have come to know a jurist of integrity, professionalism and compassion, and I have grown to respect his judgement. . . . [I] note that every lawyer in my office, Kristen Gartman Rogers, K. Lyn Hillman Campbell and Christopher Knight, in unsolicited comments, have expressed their support for Magistrate Steele's nomination. It is therefore without hesitation that I send this letter in support of Magistrate William Steele's nomination.

Larry C. Moorer, long time practitioner in Mobile, Alabama and an African American:

> Over the years, I have handled several legal matters before Magistrate Judge Steele . . . He has shown over the years that he is fair and impartial, and will rule according to the law regardless of public opinion or possibly his own personal feelings. . . . Magistrate Judge Steele provides a level playing field . . . [and] he possesses the attributes for being an outstanding appellate judge.

Larry Sims, President of the Mobile Bar Association and 16 former presidents.

Numerous officers and members of the Women of the Mobile Bar Association.

Hodge Alves, President of the Mobile Chapter of the Federal Bar Association.

Several former presidents of the Montgomery Bar Association.

Bruce Rogers, incoming president of the Birmingham Bar Association, and a number of former presidents.

Warren Lightfoot, former president of the Alabama Bar Association, and managing partner of one of the most respected litigation firms in Birmingham, AL.

Jim North, a prominent Democrat in Birmingham, former clerk for Justice Hugo Black, and former President of the Alabama Bar Association.

Rosemary Chambers, Circuit Judge of Mobile County.

Chris Galanos, a Democrat and former District Attorney of Mobile County who employed Steele as a prosecutor for several years.

Alex Bunin, Federal Public Defender, Districts of Northern New York and Vermont.

Greg Breedlove, on behalf of the unanimous firm of Cunningham, Bounds, Yance, Crowder and Brown, L.L.C. in Mobile, Alabama—prominent Democratic, plaintiffs' firm.

John Morrow, former president of the Birmingham Bar Association and longtime practicing attorney with one of the largest firm's in Birmingham, AL.

Ed Allen, 38-year practitioner with one of the largest firms in Birmingham, Alabama, and former member of the Executive Committee of the Birmingham Bar Association, and the Labor and Employment sections of the American Bar Association and the Alabama Bar Association.

Henry Brewster, Mobile, AL, Democrat plaintiff's lawyer whose practice focuses on employment discrimination cases.

Jerry McDowell, long-time practitioner from Mobile, AL.

This support, in my view, confirms that President Bush made the right decision in nominating Judge Steele.

Judge Steele has the professional qualifications, integrity, professional competence and judicial temperament to serve on the federal bench in the Southern District of Alabama. The ABA has acknowledged such, rating him unanimously qualified. As a magistrate judge in the Southern District of Alabama, he is practically already doing the job. Judge Steele will make an excellent addition to the federal bench, and deserves to be confirmed by this Senate. I look forward to supporting Judge Steele and to casting my vote in favor of his confirmation. I urge my colleagues to support Judge Steele.

I yield the floor.

I want to say I don't know that I have met a finer individual, a more dedicated patriot than Judge Bill Steele. He is someone I admire and someone who is admired by people I admire. People who have good judgment of character think he is first rate.

The Bar Association in the Southern District of Alabama has unanimously told me time and again how much they appreciate him and how well they think he will do as a Federal judge. And I am very pleased for him.

He has received support from a large number of different sources. Of course, the established bar in the Southern District of Alabama speaks very highly of him.

You ask what about others? What do they say about him? The President of the Alabama Bar Association for the State is Mr. Fred Gray. He was former counsel for the late Rev. Dr. Martin Luther King, Jr., and has tried some of the most historic cases in the history of the United States.

He was involved in New York Times v. Sullivan and Chameleon v. Light Foot and was the attorney on the Rosa Parks bus boycott case. He worked directly with Dr. Martin Luther King, Jr., at that time. He has written an excellent book describing the bus ride to justice.

He writes to me his strong support for Judge Steele. He realizes he said it is important that all judges who serve on the courts possess the necessary personal character, experience, knowledge, legal skills, and professional background so they will administer justice in a fair and impartial way.

He went on to explain his meeting with Judge Steele—his knowledge of him, and his support for him. Group after group has written on Judge Steele's behalf.

I believe this Senate will make a wise decision if Judge Steele is confirmed. I have absolutely no doubt that this fine nominee will serve with distinction. He will serve and treat every party before the court with courtesy. He will control his court with firmness but fairness. He will demonstrate integrity. And, most of all, every day that he goes to work, Bill Steele will sit there and try to do what he can to produce justice.

I am delighted he has been able to move through the process. I thank my colleagues in the Senate for their help. I saw Senator LEAHY earlier. I congratulated him and thanked him for allowing this nomination to move forward.

I thank Senator HATCH for his determination to move nominees, who are qualified, forward to confirmation.

As I said, I am confident in Judge Bill Steele. The courts of the United States will have a superstar who will do a superb job.

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## NOMINATION OF J. DANIEL BREEN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of J. Daniel Breen, of Tennessee, to be United States District Judge for the Western District of Tennessee?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Texas (Ms. HUTCHISON), the Senator from Arizona (Mr. KYL), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announced that, if present and voting, the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) would each vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 55 Ex.]

YEAS—92

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—8

Biden
Campbell
Edwards
Hutchison
Kerry
Kyl
McConnell
Miller

The nomination was confirmed.

## THE CONFIRMATION OF DANIEL BREEN TO BE A UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE

Mr. FRIST. Mr. President, I am in strong support of Judge Daniel Breen to be United States District Judge for the Western District of Tennessee.

For more than a decade Judge Breen has admirably served the state of Tennessee's Western District as a United States Magistrate Judge. Before assuming this position in the Jackson and Memphis area, he practiced law in most of the surrounding West Tennessee counties for sixteen years.

Judge Breen graduated first in his class from Spring Hill College and later graduated from the University of Tennessee College of Law. His list of bar-related and civic activities is long and distinguished: President of the Tennessee Bar Association, Subcommittee Chair in the American Bar Association, Executive Committee member of the West Tennessee Council Boy Scouts of America, and a Lifetime Board Member of the West Tennessee Cerebral Palsy Center. As you can tell, his roots are deep with the people he serves.

In addition to an active civil trial docket, Judge Breen is also recognized as an effective mediator, and an instructor and author on alternative dispute resolution. He has made a broad range of contributions to the bar, as well as the State and Federal courts. This work has earned him the respect of the local legal community. I have heard from many in the Tennessee bar praising Judge Breen's thoughtfulness and judicial temperament. Judge Breen is a dedicated, hard working and even-handed jurist.

Judge Breen's record has prepared him to be ready for this job beginning on day one. I am honored to support his confirmation, and I know he will serve the Western District of Tennessee as a U.S. District Judge with distinction. I thank my colleagues for voting for his confirmation.

Mr. HATCH. Mr. President, I am pleased today to support Judge John Breen, who has been nominated to the U.S. District Court for the Western District of Tennessee.

Judge Breen has served on both sides of the bench with distinction. Upon graduating from the University of Tennessee Law School in 1975, he entered private practice by joining the Jackson firm of Waldrop & Hall. He is one of the few lawyers these days who spent his entire litigating career with a single firm. His area of expertise was general civil litigation. In addition to representing insurance companies and self-insured businesses, he also represented individual clients in real estate, commercial, corporate and estate planning matters.

Judge Breen has made a broad range of contributions to the bar. He served as the President of the Tennessee Bar Association, which reflects the high esteem in which his colleagues hold him. He also served on the Board of Directors for the Tennessee Bar Foundation. In the course of his career, he has accepted many appointments to represent indigent criminal defendants in State and Federal court. Judge Breen also provided many hours of pro bono service for West Tennessee Legal Services.

Since 1991, Judge Breen has served as a Federal magistrate judge, where he has handled a broad array of evidentiary hearings and issued many reports and recommendations. In addition, Judge Breen is also recognized as an effective mediator, as well as an instructor and author on alternative dispute resolution.

The American Bar Association rated Judge Breen unanimously well qualified, its highest rating. I am confident that he will serve on the bench with integrity, intelligence and fairness.

Mr. ALEXANDER. Mr. President, I support the nomination of John Daniel Breen to be a United States District Judge for the Western District of Tennessee. I am pleased that the Senate has moved so expeditiously to confirm this exceptional nominee.

Mr. Breen is currently a United States Judge in the Western District of Tennessee. Judge Breen was recommended last year by the current Senate Majority Leader, my colleague, Senator FRIST, and former Senator Thompson. I am pleased to add my voice in support of his nomination. As someone who, as Governor of Tennessee appointed some 50 judges, I am confident that Judge Breen will continue to be an able Federal judge when he is confirmed as a United States District Judge for the Western District of Tennessee.

Judge Breen was born and raised in Jackson, TN. He was a summa cum laude graduate of Spring Hill College in Mobile, AL in 1972, and was valedictorian of his class. He received his Juris Doctorate from the University of Tennessee College of Law in 1975, where he served as a member of the law review.

After receiving his law degree, Judge Breen worked for sixteen years with the law firm of Waldrop and Hall, P.A. in Jackson, TN. Judge Breen has been a United States Judge for the Western District of Tennessee since 1991 and has an excellent reputation in this position.

Judge Breen has vast litigation experience. As a practicing attorney, he practiced general civil litigation primarily in the areas of tort law and workers' compensation. Judge Breen was involved in litigating one of the premier lawsuits in Tennessee in the 1990's, which resulted in the adoption of comparative negligence.

Judge Breen has been actively involved and held leadership positions in local, State and national bar associations throughout his legal career. He has also been extremely active in his community by, among other things, providing pro bono legal services to disadvantaged persons and serving as a member on a variety of community organizations.

I am confident that Judge Breen will be a fine United States District Judge for the Western District of Tennessee, and I thank all my colleagues who supported this nomination.

## NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now continue in executive session with the consideration of the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

### CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin G. Hatch, Robert F. Bennett, James M. Inhofe, John Ensign, Sam Brownback, Michael B. Enzi, Wayne Allard, Michael D. Crapo, Susan M. Collins, Pete V. Domenici, Conrad R. Burns, Kay Bailey Hutchison, John E. Sununu, Norm Coleman, Charles E. Grassley.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum as provided for under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of all Senators, this cloture motion, which will be the third vote in relation to the Estrada nomination, will occur on Tuesday. I regret that it has been necessary for me to file this motion once again. With Tuesday's vote, the Senate will have matched the most cloture votes relative to executive nominations. That is certainly not a record or milestone I think this Senate should be proud of achieving.

## LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—BUDGET RESOLUTION

Mr. FRIST. Mr. President, I ask unanimous consent that at 2 p.m., on Monday, March 17, the Senate proceed to the consideration of the first concurrent budget resolution, if it has been properly reported by that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the information of all Senators, there will be no further votes during today's session.

We have had a productive, full week. I thank the managers on both sides of the aisle for today's work and the previous days' work.

Earlier today, by a vote of 64 to 33, the Senate passed S. 3, the partial-birth abortion ban bill. I thank all Members on both sides of the aisle for their debate and their courtesies throughout the consideration of that bill.

In addition, this week, we have been able to confirm five district judges and one circuit judge. Unfortunately, we were unable to reach a conclusion with respect to the Estrada nomination and, therefore, we will have the cloture vote, once again, on Tuesday.

Next week, the Senate will proceed to the budget resolution. The Budget Act provides for 50 hours of consideration and, therefore, all Members should expect late sessions next week. Although we will begin the budget resolution on Monday, no votes will occur that day. Therefore, the next vote, on cloture, will occur Tuesday morning.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, just a unanimous consent request: Senator LEAHY wishes to speak for 20 minutes, and Senator KENNEDY for 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, what was the previous unanimous consent agreement of the time for the Senator from Vermont?

The PRESIDING OFFICER. The previous order had Senator KENNEDY receiving 30 minutes.

Mr. LEAHY. But prior to the votes, wasn't there—

The PRESIDING OFFICER. The Senator from Vermont already had 20 minutes.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Does the distinguished majority leader have other matters?

Mr. FRIST. No.

## THE COUNTDOWN TO WAR

Mr. LEAHY. Mr. President, last Thursday, at his press conference, the President of the United States gave his reasons to justify the use of military force to remove Saddam Hussein from power.

The President said again that he has not made up his mind to go to war, but his own advisers are saying that even if Iraq fully complies with U.N. Security Council Resolution 1441, Saddam Hussein must be removed from power.

The President said his goal is protecting the American people from terrorism. That is a goal we all share. But he offered no evidence that Iraq had anything to do with the September 11 attacks or any details of Iraq's links to al-Qaida.

He offered no new information about the potential costs of a war, either in American and Iraqi lives, or in dollars. Both Republicans and Democrats have urged the President to be more forthcoming with the American people, to tell us what sacrifices may be involved—not to have Cabinet members come to the Senate and the House, and when asked how much they estimate a war and its aftermath may cost, say: We have no idea.

We know the administration has estimated the costs, yet the President dismissively says "ask the spenders" in Congress, knowing full well that Congress appropriates funds, it is the President who spends them.

It is disingenuous, at best, to refuse to level with the American people at a time of rapidly escalating deficits. We know it has already cost billions of dollars just to send our troops over there, but how many more tens or hundreds of billions of dollars, may be added to the deficit? The President is apparently ready to send hundreds of thousands of America's sons and daughters into battle without saying anything about the costs and risks.

The President repeatedly spoke of the danger of "doing nothing," as if doing nothing is what those who urge patience and caution—with war only as a last resort—are recommending. In fact, virtually no one is saying we should do nothing about Saddam Hussein.

Even most of the millions of people who have joined protests and demonstrations against the use of force without U.N. Security Council authorization are not saying the world should ignore Saddam Hussein.

Yet that is the President's answer to those who oppose a preemptive U.S. invasion, and who, contrary to wanting to do nothing, want to give the United Nations more time to try to solve this crisis without war.

The President also failed to address a key concern that divides Americans, that divides us from many of our closest European allies, that divides our allies from each other, and that divides the U.N. Security Council. That issue is not whether or not Saddam Hussein is a deceptive, despicable, dangerous despot who should be disarmed. There is little, if any, disagreement about that.

Nor is it whether or not force should ever be used. Most people accept that the United States, like any country, has a right of self-defense if it is faced with an imminent threat. If the U.N. inspectors fail to disarm Iraq, force may become the only option.

Most people also agree that a United States-led invasion would quickly overwhelm and defeat Iraq's ill-equipped, demoralized army.

Rather, the President said almost nothing about the concern shared by so many people, that by attacking Iraq to enforce Security Council Resolution 1441 without the support of key allies on the U.N. Security Council, we risk weakening the Security Council's future effectiveness and our own ability to rally international support not only to prevent this war and future wars, but to deal with other global threats like terrorism. This concern is exacerbated by the increasing resentment throughout the world of the administration's domineering and simplistic "you are either with us or against us" approach. It has damaged longstanding relationships, relationships that have taken decades of trust and diplomacy to build, both with our neighbors in this hemisphere and our friends across the Atlantic.

The President says that if the Security Council does not support the use of force today, it risks becoming irrelevant. The President has it backward. The Security Council would not become irrelevant because it refuses to obey the President of the United States. Rather, the Security Council's effectiveness is threatened if the United States ignores the will of key allies on the Security Council regarding the enforcement of a Security Council resolution.

The President was also asked by several members of the press why there is such fervent opposition to his policy among Americans and some of our oldest allies when only a year and a half ago, after the September 11 attacks, the whole world was united in sympathy with the United States. He had no answer.

The President should heed the words of former National Security Adviser Brent Scowcroft, who was an architect of the 1991 Gulf War. General Scowcroft has strongly criticized the administration's ad hoc approach based on a "coalition of the willing" which the general calls "fundamentally, fatally flawed." General Scowcroft said:

> As we've seen in the debate about Iraq, it's already given us an image of arrogance and unilateralism, and we're paying a high price for that image. If we get to the point where everyone secretly hopes the United States gets a black eye because we're so obnoxious, then we'll be totally hamstrung in the war on terror. We'll be like Gulliver with the Lilliputians.

For 200 years, people around the world have looked up to the United States because of our values, our integrity, our tolerance, and our respect for others. These are the qualities that have set the United States apart. Today, while most countries share our goal of disarming Saddam Hussein, we are being vilified for our arrogance, for our disdain for international law, and our intolerance of opposing views.

A distinguished American career diplomat, John Brady Kiesling, echoed General Scowcroft's concerns about the practical harm done to U.S. interests and influence abroad. He recently wrote to Secretary of State Colin Powell, proffering his resignation as an act of protest about the administration's policy toward Iraq. I suspect Mr. Kiesling's eloquent and heartfelt explanation of how he reached the difficult decision to give up his career expresses the feelings and concerns of some other American diplomats who are representing the United States at our embassies and missions around the world.

I ask unanimous consent that Mr. Kiesling's letter to the Secretary be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. While I was disappointed by President Bush's remarks last week, the Bush administration and the Pakistani Government should be commended for the capture of Khalid Shaikh Mohammed, one of al-Qaida's top leaders who was reportedly the mastermind of the September 11 attacks. Whether others within al-Qaida will quickly fill Mr. Mohammed's shoes remains to be seen, but the fact that the U.S. Government and other governments are methodically tracking these people down sends an important message and should give some comfort to the American people. This is encouraging. Let's hope we can soon celebrate the capture of Osama bin Laden, because capturing the leaders of al-Qaida should be our highest priority.

But the world is increasingly apprehensive as the United States appears to be marching inexorably towards war with Iraq. Today, there are more than 250,000 American men and women in uniform in the Persian Gulf preparing for the order to attack. We hear that the decision must be made within a matter of days because it is too costly to keep so many troops deployed overseas. In other words, now that we have spent billions of dollars to ship all those soldiers over there, we need to use them because we cannot back down now, as I have heard some people say. Frankly, this is one of the worst reasons possible to rush into war.

We should not back down. Saddam Hussein must be disarmed. Doing nothing—I agree with the President about this—would mean the United Nations is unwilling to enforce its own resolutions concerning perhaps the most serious threat the world faces today, the proliferation of weapons of mass destruction. That would be unacceptable. The U.N. Security Council ordered Iraq to fully disclose its weapons of mass destruction. Iraq has not yet done so.

I agree with those who say the only reason Saddam Hussein is even grudgingly cooperating with the U.N. inspectors is the buildup of U.S. troops on Iraq's border. I have commended the President for refocusing the world's attention on Saddam Hussein's failure to disarm. I also recognize the time may come when the use of force to enforce the U.N. Security Council resolution is the only option. But are proposals to give the U.N. inspectors more time unreasonable, when it could solidify support for the use of force if that becomes the only option?

Despite the President's assertion that Iraq poses an imminent threat to the United States, that assertion begs credulity when the U.N. inspectors are making some progress and a quarter of a million American soldiers are poised on Iraq's border. Absent a credible, imminent threat, a decision to enforce Resolution 1441 should only be made by the Security Council—not by the United States or any other government alone.

The President says war is a last resort. If he feels that way, why do he and his advisors want so desperately to short-circuit the inspection process?

Why is he so anxious to spend billions of dollars to buy the cooperation of other countries, other countries that do not yet believe war is necessary?

Why is he so unconcerned about the predictably hostile reaction in the Muslim world to the occupation of Iraq, perhaps for years, by the United States military?

Why is the President so determined to run roughshod over our traditional alliances and partnerships which have served us well and whose support we need both today and in the future?

I cannot pretend to understand the thinking of those in the administration who for months or even longer have seemed possessed with a kind of messianic zeal in favor of war. A preemptive, U.S. attack against Iraq without a declaration of war by Congress or the U.N. Security Council's support may be easy to win, but it could violate international law and cause lasting damage to our alliances and to our ability to obtain the cooperation of other nations in meeting so many other global challenges.

Just recently, Homeland Security Secretary Tom Ridge warned that a war with Iraq could bring more threats and more terrorist attacks within the United States. The CIA Director has testified that Saddam Hussein is more likely to use chemical or biological weapons if he is attacked. Yet we are marching ahead as though these warnings don't matter.

I have said before, this war is not inevitable. I still believe it can be avoided. But I fear that the President, despite opposition among the American people, in the U.N., and around the world, is no longer listening to anyone except those within his inner circle who are eager to fight.

The President says we must overthrow Saddam Hussein to protect the American people. Saddam Hussein is a threat, but North Korea, on the verge of acquiring half a dozen nuclear weapons, poses a far more serious and immediate threat to the United States and the world. Yet the administration is too preoccupied with Saddam Hussein to be distracted by North Korea, even though North Korea has shown no qualms about selling ballistic missiles and anything else that will earn them money. It makes no sense.

I hope the Iraqi government comes to its senses. I hope we do not walk away from the U.N. I hope we don't decide that just because our troops are there, we cannot afford to wait.

EXHIBIT 1

FEBRUARY 27, 2003.

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart.

The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has oderint dum metuant [Ed. note: Latin for "Let them hate so long as they fear," thought to be a favorite saying of Caligula] really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

## AMERICAN VALUES AND WAR WITH IRAQ

Mr. KENNEDY. Madam President, the true greatness of America lies in the values we share as a nation.

From America's beginning, we shared a passionate concern for the rights and the well-being of each individual—a concern stated eloquently in our founding documents, the Declaration of Independence, the Constitution and the Bill of Rights.

From our immigrant roots, we learned not only to tolerate others whose appearance, religion, and culture are different from our own, but to respect and welcome them, and to recognize our diversity as a source of great strength.

From our religious faith and our sense of community, we gained an understanding of the importance of fairness and compassion for the less fortunate.

In the same way that parents try to build a better life for their children, each generation of Americans has tried to leave a more just society to the next. We all know that our history includes periods when grave injustices were tolerated. Those dark periods in our national history teach us lessons we must never forget. But we have battled fiercely to overcome injustice, and we are a better nation for our willingness to fight those battles.

Our most deeply held national values are rooted in our pursuit of justice for all. It urges us to ensure fair treatment for each person, to extend help to those in need, and to create opportunity for each individual to advance. Those are among the most important yardsticks by which we measure our success in building "a more perfect union."

Now as we consider the prospect of war with Iraq, many of us have serious questions about whether current national policy reflects America's values.

We owe it to the brave men and women of our armed forces to ensure that we are embarked on a just war—that the sacrifice we ask of them is for a cause that reflects America's basic values.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war.

Their families left behind are sacrificing, too, each and every day here at home, wondering if their loved ones in uniform will return unharmed. Many—especially the families of our reservists—are struggling to make ends meet as their spouses are called up for months of duty abroad. Wives are separated from husbands. Children are separated from fathers and mothers. Businesses and communities are struggling to go forward without valued employees now serving in the gulf.

More than 150,000 National Guard and Reserve soldiers have been mobilized.

Of these, 13,000 have been on active duty for at least a year. Others return home from deployments, only to turn around and head back overseas for a new tour of duty. For many of these soldiers, "the expected one weekend a month, two weeks a year" is merely a slogan, and does not reflect their new reality. In fact, today's reservists are spending thirteen times longer on active duty than they did a decade ago.

A recall to active duty brings financial hardship as well. Many give up larger civilian salaries when they go on active duty. The law requires employers to take back reservists after their deployments. But for those who work in small firms or are self-employed, there are no such guarantees unless their firms are still in business.

The families of our men and women in uniform pay a price for this deployment. During the Vietnam War, only 20 percent of all Army military personnel were married. Today over 50 percent of the military are married, which means enormous strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone, never knowing how long their loved ones will be away.

Among those on active duty, we are demanding more from our troops for longer periods of time. One of our aircraft carriers, the USS Abraham Lincoln, has been away from home port for 233 days. The crew expected to return for Christmas, and had made it half way home across the Pacific Ocean when they were given orders to turn around and head for the Persian Gulf. These men and women are forced to put their lives on hold, missing births, delaying weddings, and dealing with family crises by phone and e-mail.

These men and women are well-prepared to serve their country. But in calling them up, we also pay the price here at home with increased vulnerability in our police and fire departments. A recent survey of 8,500 fire departments by the International Association of Fire Chiefs showed that nearly three-fourths of them have staff in the Reserves. A similar survey of more than 2,100 law enforcement agencies by the Police Executive Research Forum found that 44 percent have lost personnel to call ups.

These are Americans who love their country. They proudly wave the Stars and Stripes on our national holidays. They honor and pray for past veterans on Memorial Day. Their children are in our schools. They attend our churches, our synagogues, and our mosques. We see them in the grocery store or at PTA meetings. They are a part of our communities—and a part of us. And they are willing to give their lives for their country. So we owe it to these men and women and their families—these brave Americans—to get it right.

I am concerned that as we rush to war with Iraq, we are becoming more divided at home and more isolated in the world community. Instead of persuading the dissenters at home and abroad, the Administration by its harsh rhetoric is driving the wedge deeper. Never before, even in the Vietnam war, has America taken such bold military action with so little international support. It is far from clear that the United Nations Security Council will pass any new resolution that we can use as authorization for military action in Iraq. Even some strategically important allies, such as Turkey, who were expected to be with us, have backed away. The administration continues to turn a deaf ear to all of these voices, and single-mindedly pursues its course to war.

Within the rising chorus of dissent have been the voices of much of the organized religious community in this country—Christian, Jewish and Muslim. Within the Christian community, opposition to war against Iraq includes the Roman Catholic Church, to which I belong, and many mainline Protestant and Orthodox churches. These are not pacifist groups who oppose war under all circumstances. They are religious leaders who say the moral case has not been made for this war at this time.

War is not just another means to achieving our goals. More than any other option, it is dangerous, it is deadly, it is irreversible. That is why, whenever we resort to force in the world, there is an urgent need to ensure that we remain true to our values as Americans.

Saddam Hussein is one of the most brutal tyrants on the world stage today. He has murdered thousands of his own people—many with chemical and biological weapons. He has attempted to wipe out entire communities. He has attacked neighboring countries. He supports terrorism against innocent civilians throughout the Middle East. Undeniably, the world would be a better place without Saddam Hussein. That fact, however, should not be the end of the inquiry, but only the beginning.

From the perspective of our shared values, the fundamental question is whether this is a "just war." That is not an easy question to answer, because some elements of a just war are clearly present.

There are six principles that guide the determination of "just war." They were first developed by St. Augustine in the Fifth Century and expanded upon by St. Thomas Aquinas in the Thirteenth Century. To be just a war must have a just cause, confronting a danger that is beyond question; it must be declared by a legitimate authority acting on behalf of the people; it must be driven by the right intention, not ulterior, self-interested motives; it must be a last resort; it must be proportional, so that the harm inflicted does not outweigh the good achieved; and it must have a reasonable chance of success.

These are sound criteria by which to judge our impending war in Iraq.

First, does Iraq pose a danger to us that is beyond question?

Clearly, Iraq does pose a considerable danger, principally because of Saddam Hussein's biological and chemical weapons and his history of attempts to develop nuclear weapons. But it is not at all clear that the only way to protect ourselves from that threat is war. In fact, many of us are deeply concerned that initiating a war to remove Saddam Hussein will actually increase the danger to the American people.

The biological and chemical weapons Saddam has are not new. He has possessed them for more than a decade. He did not use them against us in the gulf war and he did not use them against us in the years since then, because he understands that any use of them would lead to his certain destruction. As CIA Director George Tenet stated last year in testimony before Congress, the greatest danger of their use occurs if Saddam knows he is about to be removed from power and therefore perceives he has nothing left to lose.

Iraq, to the best of our knowledge, has no nuclear weapon. If nuclear weapons in the hands of a rogue state are our principal concern, then certainly North Korea poses a much more imminent threat. And Iran—not Iraq—is close behind.

The President must explain why war with Iraq will not distract us from the more immediate and graver danger posed by North Korea. Something is wrong at 1600 Pennsylvania Avenue if we rush to war with a country that poses no nuclear threat, but will not even talk to a country that brandishes its nuclear power right now. Any nuclear threat from Iraq, we are told, is probably 5 years into the future. But the threat from North Korea exists today.

Desperate and strapped for cash, North Korea is the greatest current nuclear danger to the United States, and it is clearly taking advantage of the situation in Iraq. It is the country most likely to sell nuclear material to terrorists. It may well have a long-range missile that can strike our soil.

War with Iraq will clearly undermine our ability to deal with this rapidly escalating danger. But our options are not limited to invading Iraq or ignoring Iraq. No responsible person suggests that we ignore the Iraqi threat.

The presence of U.N. inspectors on the ground in Iraq, coupled with our own significant surveillance capacity, make it extremely unlikely that Iraq can pursue any substantial weapons development program without detection. If we can effectively immobilize Saddam's activity, the danger his regime poses can be minimized without war.

Above all, we cannot allow differences over Iraq to shatter the very coalition we depend upon in order to effectively combat the far greater and more imminent threat posed by the al-Qaida terrorists. Close international cooperation is what led to the recent arrest in Pakistan of the planner of the 9/11 attack.

Second, has the war been declared by a legitimate authority acting on behalf of the people?

When Congress voted last October, most Members believed that the use of force by America would have United Nations backing. Such backing is now highly unlikely. Last October, no international inspectors had been in Iraq for 5 years. Now, U.N. inspectors are on the ground engaged in disarming Saddam.

No war by America can be successfully waged if it lacks the strong support of our people. And America remains divided on an invasion of Iraq without United Nations approval. The reason for that lack of support today is clear. The administration has not made a convincing case that war is necessary, nor have they credibly answered crucial questions about the cost of the war in lives and dollars, how long American troops will remain in Iraq, and what type of Iraqi government will replace Saddam.

In his address last week on a post-war Iraq, President Bush failed to give adequate answers to the key questions on the minds of the American people about the war and its aftermath. He painted a simplistic picture of the brightest possible future—with democracy flourishing in Iraq, peace emerging among all nations in the Middle East, and the terrorists with no base of support there. In a dangerous world, the fundamental decision on war or peace cannot be made on rosy and unrealistic scenarios.

Third, any war must be driven by the right intention.

I do not question the President's motive in pursuing this policy, but I seriously question his judgment.

The Bush administration was wrong to allow the anti-Iraq zealots in its ranks to exploit the 9/11 tragedy by using it to make war against Iraq a higher priority than the war against terrorism.

Al-Qaida—not Iraq—is the most imminent threat to our national security. Our citizens are asked to protect themselves from al-Qaida with plastic sheeting and duct tape, while the administration prepares to send our armed forces to war against Iraq. Those priorities are wrong.

In a desperate effort to justify its focus on Iraq, the administration has long asserted that there are ties between Osama and Saddam—a theory with no proof that is widely doubted by intelligence experts. Two weeks after 9/11, Secretary Rumsfeld claimed that we had "bulletproof" evidence of the link. But a year later, CIA Director Tenet conceded in a letter to the Senate Intelligence Committee that the Administration's understanding of the link was still "evolving" and was based on "sources of varying reliability." In fact, the link is so widely doubted that intelligence experts have expressed their concern that intelligence is being politicized to support the rush to war.

Fourth, war must always be a last resort.

That is why all options must be pursued. Inspections still have a chance to work in Iraq. Progress is difficult. No one said it would be easy. But as long as inspectors are on the ground and making progress, we must give peace a chance.

But before resorting to war, it is extremely important to reach agreement that there is no alternative. Nations that have been among our closest allies oppose us now because they do not believe that the alternatives to war have been exhausted. Many of them believe that an invasion of Iraq could destabilize the entire Middle East.

Many of them believe that instead of subduing terrorism, war with Iraq will increase support and sympathy in the Islamic world for terrorism against the West. We cannot cavalierly dismiss these concerns of our allies.

War with Iraq runs the very serious risk of inflaming the Middle East and provoking a massive new wave of anti-Americanism that may well strengthen the terrorists, especially if we act without the support of the world community.

A year ago, The Wall Street Journal quoted a dissident in Saudi Arabia who has turned his focus from his own government to the U.S. Government. He said: [The main enemy of the Muslims and the Arabs is America—and we don't want it to impose things on us. We would rather tolerate dictatorship in our countries than import reforms from America.]

The war against al-Qaida is far from over, and the war against Iraq may make it worse.

After 9/11 we witnessed an unprecedented rallying of the world community to our side. That international unity was our strongest weapon against terrorism. It denied terrorists sanctuary, it led to a vital sharing of intelligence, and it helped to cut off the flow of financial resources to al-Qaida. We cannot allow that international cooperation to shatter over our differences on Iraq. We cannot be a bully in the world school yard and still expect friendship and support from the rest of the world.

Fifth, any war must be proportional, so that the harm inflicted does not outweigh the good achieved.

If there is a war, we all pray that it will be brief, and that casualties will be few. But there is no assurance of that. Certainly, we have the military power to occupy Iraq. But that may only be the beginning. Our troops may be confronted by urban guerilla warfare from forces still loyal to Saddam or simply anti-Western. The war may be far more brutal than we anticipate.

In such a conflict, innocent civilian casualties could also be high. We cannot let Saddam hide behind innocent human shields if there is a war. But that large risk makes it all the more imperative for war to be only a last resort.

We have been told that an attack on Iraq will begin with an enormous cruise missile assault to destroy their infrastructure, strike fear and awe in the hearts of the enemy, and undermine their will to resist. We know that thousands of cruise missiles will be fired in the first 48 hours of the war, more than were launched in the entire 40 days of the gulf war. Such a massive assault will unavoidably produce a very substantial number of civilian casualties. That harsh reality adds greatly to the burden that must be overcome by those who argue that war is the proper response now. It is a burden they have not met.

One of the highest and worst costs of war may be the humanitarian costs. Sixty percent of Iraq's people rely on the United Nations' Oil-for-Food Program for their daily survival. Food is distributed through 46,000 government distributors supplied by a network of food storage barns. A war with Iraq will disrupt this network. Many Iraqis, especially poor families, have no other source of food. Women and children will be the most vulnerable victims. According to recent reports, 500,000 Iraqi children already suffer from malnutrition.

And what are the costs to America? We all know there is an increased risk of another domestic terrorist attack. The war will make it a more dangerous time on the American homefront.

There will also be a very substantial financial cost to the war The short-term cost is likely to exceed $100 billion. The long-term cost, depending on how long our troops must remain in Iraq, will be far more. If our national security were at stake, we would spare no expense to protect American lives. But the administration owes the nation a more honest discussion about the war costs we are about to face, especially if America has to remain in Iraq for many years, with little support from other nations.

The sixth element of a just war is that it must have a reasonable chance of success.

I have no doubt that we will prevail on the battlefield but what of the consequences for our own national security and the peace and security of the Middle East?

We know that a stable government will be essential in a post-war Iraq. But the administration refuses to discuss in any real detail how it will be achieved and how long our troops will need to stay. President Bush assumes everything will go perfectly. But war and it's consequences hold enormous risks and uncertainties.

As retired General Anthony Zinni has asked, will we do what we did in Afghanistan in the 1970s—drive the old Soviet Union out and let something arguably worse emerge in it's place?

The vast majority of the Iraqi people may well want the end of Saddam's rule, but they may not welcome the United States to create a government in our own image. Regardless of their own internal disagreements, the Iraqi people still feel a strong sense of national identity, and could quickly reject an American occupation force that tramples on local cultures.

We must recognize that from the day we occupy Iraq, we shoulder the responsibility to protect and care for its citizens. We are accountable under the Geneva Conventions for public safety in neighborhoods, for schools, and for meeting the basic necessities of life for 23 million Iraqi civilians.

This daunting challenge has received very little attention from the administration. As the dust settles, the repressed tribal and religious differenced of the past may come to the fore—as they did in the brutal civil wars in the former Yugoslavia, in Rwanda, and other countries. As our troops bypass Basra and other Iraqi cities on their way to Baghdad, how will we prevent the revenge bloodletting that occurred after the last Gulf War, in which thousands of civilians lost their lives?

What do we do if Kurds in northern Iraq proclaim an independent Kurdistan? Or the Shia in southern Iraq move toward an alliance with Iran, from which they have long drawn their inspiration?

We have told the government of Turkey that we will not support an independent Kurdistan, despite the fact that the Kurdish people in Iraq already have a high degree of U.S.-supported autonomy and have even completed work on their own constitution. Do we send in our troops again to keep Iraq united?

Post-War Afghanistan is not exactly the best precedent for building democracy in Iraq. Sixteen months after the fall of the Taliban government in Afghanistan, President Hamid Karzai is still referred to as "the Mayor of Kabul"—because of the weak and fragile hold of his government on the rest of the nation. Warlords are in control of much of the countryside. The Afghan-Pakistani border is an area of anarchy—and ominous al-Qaida cells.

The U.S. military is far from equipped to handle the challenge of meeting the needs of a post-Saddam Iraq. Our government must have a plan in place to care for the population. Yet we have heard little from the administration on how they intend to meet this obligation. To succeed in winning the peace, we will need the help and support of the international community. That is afar less likely to happen if we do not have the international community with us the start.

Before the President makes the final fateful decision to go to war in Iraq, his administration must answer each of these just war questions much more convincingly than they have so far. The American people are waiting for the answers. The entire world is waiting for the answers.

We are no at a major cross-road in our history. The 9/11 attrocities has forced us all to think profoundly about what is great in America. All through our shock and grief, the people's courage never failed. 9/11 was one of the Nation's saddest hours, but the response was one of our finest hours.

That hour must not be lost. It can mark the beginning of a new era of common purpose—a return to policies which truly reflect America's values, a return to the genuine pursuit of justice. The unselfishness we saw in 2001 must not give way to selfishness in 2003. The noble caring for one another that we celebrated then must not be succeeded now by a retreat from our ideals.

Yes, our country is strong but it can be stronger—not just in the power we hold, but in the promise we fulfill of a nation that truly does make better the life of the world. If we rededicate ourselves to that great goal, our achievements will reverberate around the globe, and America will be admired anew for what it must be now, in this new time, more than ever—"the last, best hope of earth."

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO INTELLIGENCE SERVICES

Mrs. DOLE. Madam President, I rise to pay tribute to the excellent work of our intelligence services in capturing Khalid Shaikh Mohammed. This is a major triumph in the war on terror. Our officers from the Central Intelligence Agency and Federal Bureau of Investigation, the National Security Agency, and their counterparts in the Pakistani and intelligence services are to be highly commended.

Let there be no doubt, capturing Mohammed is a big deal. He has a long and bloody history. He has been implicated in the 1993 bombing of the Twin Towers. He played a major role in plans to hijack airliners in Asia and crash them into the sea. He may well have been a leader in the attack on the USS *Cole*, an attack that killed 17 United States sailors and wounded 39 others. He has been implicated in the attacks on the United States embassies in Kenya and Tanzania which killed hundreds and wounded thousands. And he planned the attacks of September 11.

It is not just attacks against Americans. He is now wanted by our friends, the Australians, for questioning in connection with the recent bombings in Bali which killed hundreds of those citizens. There has even been a warrant issued by our reluctant allies in France for his role in the bombing of a synagogue that killed a French citizen.

Those are the horrible acts of his past that we know about. By capturing Mohammed, what devastating plots have our intelligence services prevented? Hopefully, as they start to learn more from Mohammed, they will also be able to thwart future attacks.

Another possibility is that those who would engage in such acts will realize their secrets may now be compromised and, hopefully, they will abandon their plans.

Not only did we get Mohammed, their operations planner, we also got Hawsawi, their chief financier. The 9/11 terrorists sent their left-over money to Hawsawi. By taking him out of the al-Qaida operations, we have damaged their ability to move money into terrorists' hands. This should hamper their ability to launch any currently planned operations.

I want to thank our intelligence services for the work they do. Yes, there have been mistakes in the past, and there will be human failures in the future. But when we learn of their victories, they should be thanked. That thanks comes with the knowledge that there must be many more instances where we have been protected and there was no public acclaim for these servants of the public. Frankly, without the publicity surrounding this case, we might never have known all the agencies that contributed to the captures.

The Central Intelligence Agency and the Federal Bureau of Investigation do not watch after us alone. We should be thankful for the hard work of the men and women of the Defense Intelligence Agency, the National Security Agency, and the National Reconnaissance Office. They and others are working around the clock to defend us in the war on terror.

It is not just our intelligence agencies that should be thanked. It was our friends in Pakistan who discovered Mohammed, who arrested him, who turned him over. President Musharraf has continued his strong support for the war on terror, and we must continue to work with allies such as Pakistan to eradicate terrorism.

Yes, this is a great win in the war on terror, but it was not a victory. We may never actually realize when we have achieved victory; for the men and women who make our intelligence system work will have to continue their vigilance, that quiet and all too often unheralded vigilance.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold her suggestion of the absence of a quorum?

Mrs. DOLE. I withhold.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask consent to speak in morning business.

The PRESIDING OFFICER. We are in morning business.

## IRAQ

Mr. DURBIN. Madam President, there is an interesting turn of events. Those who were looking for a debate on the war in Iraq had best turn to C-SPAN and witness the question period in London before the British House of Commons. I have been watching it. It is a fascinating debate.

Tony Blair is defending his position in support of the United States. His own party is divided. The conservatives support him. The questioning is very tough. In the course of defending his position, some important questions are being asked and answered in the British House of Commons.

If you would expect the same thing here in the U.S. Congress, you might be surprised or disappointed to learn it is not taking place. What is taking place is speeches on the floor by individual Senators. Today, I have seen Senator BYRD of West Virginia, Senator DAYTON of Minnesota, Senator KENNEDY of Massachusetts. Others have come to the floor to speak about the war in Iraq. But there has literally been no active debate on this issue on Capitol Hill, in the United States of America, since last October.

The reason, of course, is that last October we enacted a use of force resolution which virtually gave to the President of the United States the authority to declare war and execute it against Iraq at the time and place of his choosing. I was one of 23 Senators who voted against that resolution, believing that there were better ways to achieve our goals, and that if Congress did that, we would be giving to this President the greatest delegation of authority to wage war ever given to a President.

The time that has intervened since the passage of that resolution has proven me right. Congress has had no voice. Oh, we have had moments of criticism, moments of comment, but we are not a serious part of this national concern and national conversation over what will happen in Iraq. That is indeed unfortunate.

There are several facts I think everyone concedes, virtually everyone, on either side of the issue. The first and most obvious is that Saddam Hussein is a ruthless dictator. His continued domination over the nation of Iraq will continue to pose a threat to the region and a concern for peace-loving nations around the world. The sooner his regime changes, the better. The sooner we control his weapons of mass destruction, the better for the region and for the whole world. No one argues that point, not even the nations in the U.N. Security Council that are arguing with the United States about the best approach.

The second thing I think should be said at the outset is no one questions the fact that the U.S. military, the men and women who make it the best military in the world, deserve our support and our praise. They deserve our continued devotion to their success, whatever our debate about the policy in the Middle East or even in Iraq. As far as those 250,000 American servicemen now stationed around Iraq, and many others on the way, whatever our position on the President's policy, that is irrelevant. We are totally committed to their safety and their safe return. That is exactly the way it should be.

Having said that, though, I think it is still important for us to step back and ask how we have possibly reached this state that we are in today. The United States finds itself in a period of anti-Americanism around the world that is almost unprecedented. I traveled abroad a few weeks ago. I was stunned to find in countries that have traditionally been our friends and allies that, although they are saying little, in private they are very critical of the United States and what we have done.

What happened between September 11, 2001, and March 13, 2003? Remember that date, after the September 11 tragedy, when nations all around the world, including some of our historic enemies, came forward and said they would stand with the United States in fighting the war on terrorism? It was an amazing moment in history. It is a moment we will never forget as Americans.

For the first time since the British came into this building in the War of 1812, the United States was invaded by an enemy. Of course, Pearl Harbor was an attack on the territories as well, but that attack on the continental United States on September 11, 2001, was one that stunned us, saddened us, shocked us as a nation, and we looked for friends and we found them in every corner of the world. They joined us in a war on terrorism, sharing intelligence resources, working together, making real progress. It was a good feeling, a feeling that many of these countries now understood how important a friendship with the United States would be for their future and for the world.

Look where we are today. We are at a point now where we are trying to win enough friends to show that we have a multilateral coalition that is going to wage this war against Iraq.

I ask unanimous consent to have printed in the RECORD an article that was published in Business Week. The edition was March 10, 2003.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Business Week, Mar. 10, 2003]

### DOLLAR DIPLOMACY

Money, it is often said, is the mother's milk of politics. It's also turning out to be the nectar of superpower diplomacy.

As George W. Bush approaches the diplomatic climax of his arduous drive to win backing for war with Iraq, U.S. diplomats increasingly find themselves tempted to brandish Uncle Sam's checkbook—and with it, the suggestion that sticking with America now might mean rewards later. Much of this bid to win friends is playing out in the U.N. Security Council, which is grappling with a U.S.-backed resolution that could trigger military action against Saddam Hussein. But in broader terms, pressure on the White House to dangle inducements transcends the U.N. debate and goes to the heart of Washington's current dilemma—America's poverty of friendship.

For two years, Administration diplomacy has been marked by a brash Texas swagger that Bush partisans consider a refreshing exercise in plain-speaking—and which some traditional allies consider arrogance. But the differences go beyond style. In walking away from global treaties and disdaining the views of traditional allies, Bush foreign policy has also been marked by an in-your-face unilateralism that has set much of the world on edge.

Now, with the Administration struggling to round up allies and hosting the leaders of such nations as Latvia and Bulgaria to demonstrate the depth of its coalition, the price of that disdain is coming into focus. "We've made it harder than it had to be by taking a high-handed approach," says Samuel R. Berger, National Security Adviser during the Clinton Administration.

Indeed, the bill for the Administration's approach is just starting to come due—and the bottom line is breathtaking. On Feb. 25, Bush aides revealed that the cost of a military campaign could top $95 billion. That's a far cry from what happened during the first Gulf War, when coalition partners paid some $70 billion of the $75 billion war tab. "Rebuilding Iraq will require a sustained commitment from many nations including our own," Bush said in speech to the American Enterprise Institute on Feb. 26. But the fact is, the U.S. will likely find itself shouldering peacekeeping duties and much of Iraq reconstruction on its own—meaning beleaguered American taxpayers may bear the brunt of the costs.

True, a broad coalition never in the cards. Unlike Operation Desert Storm, which was a response to Iraq's invasion of Kuwait, this showdown looms as an exercise in preemptive action. Still, while Bush talks of a "coalition of the willing" backing a U.S. invasion of Iraq, in reality the America finds itself with precious few allies as the hour of decision approaches. And buying allegiances one country at a time is a far cry from building a cohesive group committed to a common cause.

Another consequence of the Bush Administration's Iraq policy is that it could unintentionally undermine the President's broader goal of implanting the seeds of reform in the region. If the intervention comes to be seen by Iraq's neighbors as illegitimate, the result could be more radicalism, not less. The Administration's lofty goals in the Mideast could be much harder to achieve if "Americans are seen less as a partner than as a foreign power," says Jon B. Alterman, who recently left the Bush State Department.

In a sense, the current bargaining round was heralded by the September 11 terror strike on America. In the subsequent war on the Taliban regime in Afghanistan, the White House decided it had to shore up friendship and showered largesse on new allies ranging from Tajikistan to impoverished African nations. None fared better than Pakistan, a desperately poor country that was pivotal in the anti-terror war. President Pervez Musharraf's regime suddenly found itself freed of sanctions imposed for its nuclear testing and the beneficiary of a $12.5 billion debt restructuring from the U.S. and other nations. That helped lift Pakistan from a debtor nation to one that now runs a modest current-account surplus.

Now, the Bush team faces a far more formidable chore in mustering global support for disarming Iraq by force. With skepticism rampant, France and a big bloc of nations fear the consequences of the U.S. making preemptive attacks an acceptable policy tool. Just as important, they fear that the risks of a destabilized Mideast far outweigh the danger Saddam poses. And in the region, where Saddam has been weakened and contained since the 1991 war, resistance to a U.S. invasion has led some countries to limit the American military's rights to nearby bases.

With allies scarce, small wonder that the Bushies may be tempted to float aid promises—or be hit with a raft of "impact payment" requests from countries such as Egypt, Israel, Turkey, and Jordan, who claim their economies will be damaged by the fallout of any conflict. "When somebody knows they're necessary for your game plan, they raise the price," says former top State Dept. official Chester A. Crocker.

The Bush Administration stoutly denies it's buying U.N. support or military access. "The President is not offering quid pro quos," insists White House Press Secretary Ari Fleischer. In fairness, the practice of cementing an entente with aid is hardly limited to the Bushies. The Clintonites, who currently assail Bush's need to reach for his wallet, threw billions at North Korea to keep its nuclear program shuttered. They also were forced to shrug when U.S. contributions to the International Monetary Fund were squandered by Russian kleptocrats. "Checkbook diplomacy," says former State Dept. official Helmut Sonnenfeldt, "is as old as checkbooks."

The most naked example of haggling came in the U.S.-Turkey base talks. With Turkish public opinion strongly antiwar and an economy on the ropes, the Turks sought upwards of $35 billion in U.S. assistance for the right to station American troops on Turkish soil for use in a pincer move against Saddam. After bitter negotiations, Ankara came away with a package that includes up to $20 billion in cash and loans, some NATO military gear, and assurances that Iraq's Kurdish nationalists will be kept in check. Says Mehmet Simsek, A London-based analyst with Merrill Lynch & Co.: "The bottom line is, it will give Turkey some breathing room."

One reason the talks were so tough is Turkey's history with Desert Storm. After that war, the U.S. backed out of promises to compensate the country for the loss of trade with Iraq and aid to refugees. Now the Turks want money up front.

Jordan may actually be the hardest hit of Iraq's neighbors this time, so Washington is also receptive to Amman's calls for help. "Nearly a quarter of our GDP could be knocked out as a result [of a new war]," frets Fahed Fanek, a Jordanian economist. The Administration is expected to ask Congress for $150 million in aid on top of the $300 million a year Jordan now receives. The U.S. already has started to deliver on a deal for F-16 fighters and Patriot II missiles, likely at a discount.

Other neighbors have their hands out, too. Israel wants $4 billion in additional military aid and $8 billion in loan guarantees. Egypt, which sees war losses of $1.6 billion to its tourist-dependent economy, wants faster delivery of as much as $415 million earmarked for Cairo.

Much of the dickering has been more subtle. Key swing votes on the Security Council—Chile, Guinea, Cameroon, Angola, Mexico, and Pakistan—have growing trade ties with the U.S. that could be jeopardized by a vote against the U.S. resolution. Both France and the U.S. are vying for those votes, the U.S. by noting that the America drive to ease agriculture subsidies among rich nations could open markets to Third World farmers.

What will be most telling is how Pakistan votes. After all, U.S.-backed debt restructuring allowed the country to adopt reforms that have helped revive the economy. And President Musharraf left Washington in late 2001 with a 15% increase in clothing and textile exports to the U.S., worth $500 million to Pakistani manufacturers. But Pakistani officials insist money won't sway their vote. "This is a matter of much greater importance than just a question of incentives," says Munir Akram, Pakistan's U.N. ambassador.

It's still far from clear whether dollar diplomacy will give Uncle Sam a clearcut victory in the U.N. But even without an affirmative vote, Bush seems intent on going ahead with plans to attack Saddam by late March. Then the questions become: What kind of alliance will Bush be heading, and how durable will such a coalition of convenience be?

If all goes swimmingly on the battle-field, some of today's qualms will surely fade—replaced by radiant TV images of liberated Iraqis and new-wave technocrats who vow to build a new nation. But if the intervention turns into the oft-predicted miasma of Middle Eastern intrigue and dashed hopes, America could find itself standing far more alone than it is today. Fast friends may be hard to come by in the self-centered world of diplomacy. Still, the kind you make because of truly shared interests seem preferable to the kind you rent.

Mr. DURBIN. Let me quote several lines from this article in Business Week, not known as a liberal publication:

> But in broader terms, pressure on the White House to dangle inducements transcends the U.N. debate and goes to the heart of Washington's current dilemma—America's poverty of friendship.

It goes on to say:

> And buying allegiances one country at a time is a far cry from building a cohesive group committed to a common cause. Another consequence of the Bush Administration's Iraq Policy is that it could unintentionally undermine the President's broader goal of implanting the seeds of reform in the region. If the intervention comes to be seen by Iraq's neighbors as illegitimate, the result could be more radicalism, not less.
>
> The Administration's lofty goals in the Mideast could be much harder to achieve if "Americans are seen less as a partner than as a foreign power," says Jon B. Alterman, who recently left the Bush State Dept.

What a dramatic turn of events, and from the spirit of international cooperation, fighting the war on terrorism, for the United States to be in a bidding war to try to bring the Turks into the position where they will allow us to use their country, it is just such a change from where we were. It reflects a sad decline in our diplomatic skills.

Consider at the same time what is happening in North Korea. Here we have a country which has decided to test the United States. Why they have decided is anyone's guess. But let me hazard one. They see what is happening in Iraq. Iraq is waiting for the United Nations and others to protect them from a United States invasion, and they are not being successful. North Koreans decided to take a much different course. They are confronting the United States in the crudest and most dangerous way—suggesting that they are going to build nuclear weapons; they are going to fire missiles; they are going to harass our aircraft; and they are going to defy us. They believe that is the way to hold the United States back. The process they are building up could potentially proliferate nuclear weapons around the world.

Our response there, unlike with Iraq where we are full bore with a quarter million troops and billions of dollars committed, is to not even speak to the North Koreans. I don't understand that level of diplomacy. I don't understand how that will make this a safer world.

Let us reflect for a moment, though, on what is happening in the United Nations. I have read the critics from the right who basically said we should go right over the United Nations; we no longer need them; we have the power; we don't need to wait around for small nations with populations that are a fraction of the United States to decide whether they will support us. In a way, in the world of realpolitik, that is true. But the United States, in informing the United Nations, had something else in mind. It is not just a matter of whether we have the power and a show of more strength than the United Nations as a member but whether the United States is stronger with collective security engaging other countries around the world to join us in efforts such as containing Iraq and its danger.

I happen to believe that collective security is not old fashioned and outmoded. It is critically important for us to consider building alliances to achieve important goals for the United States and the world because in building those alliances through the collective security of the United Nations, we bring together common values, a consensus on strategy, and a world vision that will serve all of us well.

To walk away from the United Nations and say, once having engaged them in a resolution, that we may not be able to pass a use-of-force resolution and that we will do it ourselves is to walk away from an important concept which has been fostered by the United States and supported by the United States and which has been critically important to us as recently as our effort in the Persian Gulf and in Afghanistan.

But, by tomorrow, the decision may be made. If the United Nations Security Council does not support us, it is indeed possible that we will have unilateral action by the United States, with the possible support of the British.

I asked the Secretary of Defense, Secretary Rumsfeld, several weeks ago: Who are our allies in this coalition against Iraq? He said: Certainly the United States with about 250,000 troops, and the British with about 26,000 troops, and others. I said: Of the others, who would rank third? At that point, he said: The Turks.

We know what is happening. Their Parliament will not allow us to use their country as a base of operation. That may change. But it shows, when it comes to this effort, that it is by and large a bilateral effort by the United States and the British against the Iraqis. I think that is not the best approach. I think it is far better for us to acknowledge what I think is the real effective approach, and that is to engage our allies in the United Nations and in the Security Council to put meaningful deadlines on Saddam Hussein; for the inspectors to reach their goals; to let Saddam Hussein know that every step of the way, his failure to cooperate could result in the United Nations taking action against him. That does not call for an invasion, but it puts him on a tight timetable that he has to live by.

To abandon the inspections, to abandon the role of the United Nations, and to launch a unilateral invasion of this country is going to be something that I think we may regret. Will we be successful militarily? I believe we will. I can't tell you the cost in terms of American lives or in terms of Iraqis killed. But I trust our military to succeed in this mission.

Having succeeded militarily, though, what will we then face? We will face, of course, the devastation in Iraq.

This week, we learned that the United States was now soliciting bids from companies in the United States for the reconstruction of Iraq before the bombs have even fallen. That could be momentous in terms of cost. We will face it.

As Tom Friedman of the New York Times has written, when we go into a gift shop and see the sign, "If you break it, you own it," the fact is when we invade Iraq and remove its leadership and occupy that country, it is then our responsibility. Others may help us, but it is primarily our responsibility.

The same thing is true in terms of the long-term vision of Iraq. This is a country with no history of self-government, this is a country with no history of democracy, and we want to bring certain values there. We have to concede the fact that it will take some time before they arrive at that point. We will be there in an occupational way with others perhaps, but we will have the responsibility of making that transformation a permanent or semi-permanent presence of American troops in the Middle East and all that that entails.

At the same time, it is bound to enrage our enemies around the world—those who think the United States is acting unilaterally and not acting in concert with other nations, peace-loving nations that would share our ultimate goals. That, too, may complicate the war on terrorism. That has been conceded by intelligence agencies and others. Our efforts in Iraq may spread the seeds of terrorism on new ground, and maybe even here in the United States. We will have to work that much harder to protect ourselves.

I want to enter into the RECORD a letter sent to Secretary of State Colin Powell from John Brady Kiesling, who is with the United States Embassy in Athens, Greece.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. COLIN POWELL,  
*Secretary of State,*  
*Washington, DC.*

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart. The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will being instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has "oderint dum metuant" really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends

> than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security, and justice for the planet?
>
> Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.
>
> I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.
>
> Sincerely,
>
> JOHN BRADY KIESLING,
> *U.S. Embassy Athens.*

Mr. DURBIN. Mr. President, this letter is a letter of resignation. Mr. Kiesling, a career diplomat who has served in United States embassies around the world, resigned over our foreign policy in Iraq. I will not read the entire letter. But this I will read. It is the letter from Mr. Kiesling to Secretary Powell:

> The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

Those are the words of a man who was a career diplomat serving the United States with principle and convictions and who resigned from the diplomatic corps over our policy in Iraq. That is a sad commentary, but it is a reality.

The reality is that we are following a course of foreign policy that is a dramatic departure from what we have followed for almost 50 years. We are making decisions relative to this war in Iraq which are changing the rules the United States has not only lived by but preached for decades. We are confronting the world that has most recently been our allies in the war on terrorism and telling them that, with or without their cooperation and approval, we are going forward with an invasion of Iraq. We are saying to the rest of the world that the United States has the power and will to use it. It is certain that we have the power and the strength. The question is whether or not we have the wisdom—the wisdom to understand that simply having the strength is not enough.

I would like to quote a few words from a statement made on this floor on October 3 last year by a man who used to sit directly behind me here, Paul Wellstone of Minnesota. I miss him every single day. I pulled out the statement he made relative to this use of force resolution. I can recall now when he said some of these words.

I quote from Senator Wellstone:

> To act now on our own might be a sign of more power. Acting sensibly and in a measured way in concert with our allies with bipartisan congressional support would be a sign of our strength.

It is still true today. It is true so many months later.

I think the President and this administration still have a chance to take what could be a course of action that departs from a tradition in values which we have stood by and preached for so many decades, and return to those values in our efforts in Iraq.

And I hope we do it. I hope we do not discard the United Nations and all of our allies who are part of it. I hope we understand that when some of our best friends around the world question whether we are approaching this sensibly, it does not demonstrate their weakness but really calls into question whether we have the humility to step back and say: Can we do this more effectively for a more peaceful world for generations to come?

Madam President, I close by saying, I return now, in just a few moments, to my home State of Illinois. As I walk the streets of Springfield, of Chicago, and of other cities, people come up to me and say: Why don't I hear a debate in the U.S. Congress about Iraq?

Well, the fact is, that debate was waged and decided last October. I was one of 23 Members who voted against the use of force resolution because I believe there is a better way: a collective approach with the United Nations, that makes certain that the United States has a coalition of nations behind it in suppressing the evil of Saddam Hussein and his dangers to the region, rather than a coalition of nations united against us. That, sadly, is what we face today.

The vote in the United Nations tomorrow is historic. I hope we have the support of that institution. I hope, if we do not, this administration will pause before unleashing the furies of war and consider whether there is a better, more measured and sensible approach to show not only our might but our strength and clarity of purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

## THE ECONOMY

Mr. DORGAN. Madam President, my colleague from Illinois has been talking about foreign policy and, more specifically, about Iraq and the use of force. He touched on the issue of North Korea and terrorism.

We do need to have more debate, aggressive and thoughtful debate, about all of these issues. There is no question that North Korea, in my judgment, and in the judgment of many in this country, is an urgent, serious threat to our country. They kicked out the inspectors. And they do have nuclear weapons, at least according to our intelligence officials. They believe North Korea does have nuclear weapons.

The threat of terrorism continues in this country. Homeland security is a top priority. And all of these issues are very important. But I want to speak about an issue here at home; that is, domestic policy, especially this country's economy.

We wake up every morning—for months in this country—hearing the lead story on the news being war with Iraq. It is the lead story every morning, bar none. It is an important story, no question about that. But there are a lot of folks who wake up in this country these days who are out of jobs. Some 8 million people—perhaps more than that, we are told—do not have work.

Madam President, 308,000 additional people lost their jobs last month alone—308,000 people. Do you know who loses their jobs first? Oh, it is not Members of Congress and it is not people who drive big cars. It is the people who know the definition of "secondhand," "second shift," "second jobs." It is the people who struggle at the bottom of the economic ladder. They are the last to be hired and the first to go.

This economy of ours is in trouble. It is time to stop tiptoeing around and pretending about it. We have two Budget Committees meeting now in this Congress. We have a budget submitted by this President that is completely, in my judgment, irresponsible. That is not a partisan criticism, it is just a criticism of a budget that completely ignores what is happening in this country. It is a budget that pretends everything is just fine and all we need to do is keep doing what we have been doing and this country will see its economy come out of the doldrums. That is patently untrue, in my judgment. It is time for us to say that.

Let me talk a bit about this plan and about where we are. There is not a Democrat or Republican way to fix what is wrong with this ship of state with respect to its economy. But there are right ways and wrong ways to do it. And I know that the moment we dare criticize the administration, we have all of these strident voices from the extreme of the political system who say:

Well, how dare you criticize the administration or the President.

Look, I think both parties have done plenty wrong in this country's past. But we face an intersection now that is unlike any intersection America has come to in a long time. This intersection is one where we confront both serious, urgent foreign policy problems—Iraq, North Korea, terrorism, and more—and, at the same time, confront very serious problems here at home—an economy that is languishing, without growth, an economy that, last month, saw 308,000 people lose their jobs.

Now just think of one of those. I am not asking you to think about 1,000, 10,000, 100,000 or 300,000—just one, who comes home and says to his or her family: Something happened at work today. I lost my job. It wasn't my fault. I have done the best I could. I am a good worker, but I have lost my job because the economy is not working well. It's soft.

So what happens here in Washington, DC? Well, we act as if none of this is going on. This is a cheering section, to say: Well, things are going to be better. This is not a problem. What are you complaining about?

Let me talk, just a little, about where we are with this economy of ours.

We have a $10 trillion economy in this country. This is the biggest, the best economy in the world. None of us would want to live elsewhere. We are lucky to be Americans, lucky to be Americans alive now. But our responsibility, as Americans, is to nurture, protect, and foster the development of this great country of ours, and that means protecting this economic engine that produces the jobs and the opportunities for the American people.

Now, in May of 2001, we had an economy that economists told us would produce budget surpluses at the Federal level as far as the eye could see. They said: I tell you, we're walking in tall clover here. There are going to be budget surpluses for 10 years, so you all ought to get about the business of providing big, big tax cuts.

President Bush came to town and said: My heavy lifting is to ask the American people to accept big tax cuts. That is the easiest lift in American politics, I guarantee you. I would like to see one politician who works up a sweat asking people to accept tax cuts.

So the President said: $1.7 trillion in tax cuts; that's my plan. I stood at this desk then, and I said: I think we ought be a little conservative. What if something happens? What if we are giving away money we don't get? What if we don't have these surpluses? What if something that we can't predict at this point occurs and these surpluses don't exist? What you are going to do is run into big deficits and have our children shoulder the consequences of this mistake.

Well, I lost that debate. And so a $1.7 trillion tax cut proposed by the President was pushed through this Congress. And guess what. In a matter of months—just a matter of months—we discovered our economy was in a recession. Months after that, September 11, the most devastating terrorist attack against this country in its history; months after that, a series of corporate scandals unlike any we have ever seen in this country; during all of that time, the bursting of the technology bubble and the collapsing and pancaking of the stock market; and during all of that time, the prosecution of a war against terrorism.

You think about that, all of those consequences—a recession, the bursting of the technology bubble, the pancaking of the stock market, corporate scandals, a war against terrorism. All of that combined to create a dramatic difference in this economy. We have far less revenue coming in. And the result is, big deficits.

Here is what we found:

In May of 2001, Mr. Daniels, the head of OMB, said: We are going to have a $5.6 trillion surplus. We had better get about the business of having big tax cuts, he and the President said.

Well, in 2 years, we went from a $5.6 trillion estimated surplus to a $2.1 trillion deficit. That is nearly an $8 trillion change in the economic fortunes of this country. And yet we have people acting as if it is not happening. None of this is happening, according to them.

What is the antidote to this? What do we do? Well, let's ratchet up some more tax cuts. Short of money? Well, then, reduce your revenue stream. So the President proposes more large tax cuts.

I suppose if you don't care about fiscal responsibility, about budget deficits, then you can do that. But the fact is, we have seen this calculation before. I come from a high school of nine. We didn't have higher math, but there is only one way to add one and one that equals two. That is the math book I studied.

The fact is, this administration's budget does not add up. They say increase defense spending, increase homeland security spending, have less revenue, and have a few budget cuts in domestic discretionary programs, and it will all add up. It doesn't add up. They want to pretend that it adds up. The American people know it doesn't add up.

On the domestic discretionary piece, they say let's increase these two big areas of spending: Defense, homeland security. Let's cut taxes. And incidentally, let's cut taxes on average for someone with $1 million a year in income, let's cut their taxes on average nearly $90,000 a year. We can afford that, they say. But, they say, what we will do is take it out of domestic discretionary spending, nondefense. What does that mean? That means what we will do is cut back on title I spending. That is what they talked about in one of the budget resolutions today.

I toured a school about 2 weeks ago. At the library there was a third grader, a young boy, great-looking young kid, looking at a book and pictures. I met him and said hi to him. I came up behind him and tapped him on the shoulder. The principal of the school, after we got out of earshot of the young boy, said: Do you know something about that boy? You can't tell it right now, but that young boy almost died. He was subject to the most severe abuse I have ever seen in a family. He was beaten badly, taken away from his mother because of the beatings. You know he is doing very well now. This little kid has kind of gotten through all of this. He is doing well. This kid is part of the program for the school, the title I funds for disadvantaged kids. That is the kind of investment we make in these kids. And this little boy needed some of that investment. That is what we do with title I, with Head Start. We give these tiny kids who don't have it so good an opportunity to get a head start in education.

With Pell grants, kids who couldn't go to college get an opportunity to go to college. I had a young Native American stand up in a meeting once and say: Mr. Senator, I am an American Indian. I am the first in my family ever to go to college. I am able to be here because I have Pell grants, because we don't have any money. I will graduate from this college, and I will go back to teach school on the Indian reservation which I came from.

He did. That is the value of investing in some of these programs such as education programs for some of these kids. We can just talk about it as if it is some amorphous program that does not mean anything with no names attached, but that is not the case. All of these investments in the lives of young children make a difference. So when we talk about fiscal policy and plans and budgets, it is just too easy for some people who don't understand that there is a constituency out there. They don't have lobbyists in the hallway. There are no 5-year-olds or 6-year-olds or 3-year-olds waiting as we leave the Chamber to say: Please, Mr. Senator, will you help us. They don't have the voices here.

The fact is, just taking one example of what we do that makes a difference in people's lives, in education of children, especially children who haven't had it so good, we have people who just blithely walk around here these days and say: This is not a difficult circumstance to get out of. Give the wealthy some very big tax cuts, spend $675 billion that we don't have, charge it to the kids, cut back on education programs, and cut back on many of the other programs that help people who don't have it so good and call it a day. Have a good night's sleep.

Those who can sleep with those priorities, in my judgment, have a misplaced priority of public service. The priority in this country ought to be, first of all, to have a fiscal plan that adds up so this country's economy has a chance to grow and provide opportunities and jobs for people.

There is no social program we work on that is as important for working people as a good job that pays well. So making this economy work, giving it the opportunity to work, having it add up so people have confidence in the future is critically important. And then at the same time preserving the opportunity for some very important things, whether it is helping family farmers during a disaster, helping young kids get a chance to start in school through the Head Start program—all of those are so important.

We are doing a shadow dance in this Chamber. Everybody here knows this nonsense does not add up, and no one is willing to say it because the minute you say it, people start screaming that you are somehow disloyal to this administration.

I want this administration to succeed. I want this President to succeed. I want him to succeed so this country does well. I want our economy to grow. I want our foreign policy challenges with Iraq and North Korea and others to work out in the right way. I don't come here wanting us to fail. But if we don't stand up and point out the obvious, that we are headed down a path toward deeper and deeper Federal budget deficits with which we will saddle our children, if we don't change course, this country is not going to grow and will not provide opportunities.

I suppose there will be many who will continue this shadow dance that goes on to pretend everything is just fine, but we know better than that. If we were headed towards these deficits with the previous administration, I guarantee you there would be 20 people in this Chamber every night putting blue smoke out the Chamber; they would be so upset about it. But somehow in the shadow of 9/11, we have moved to a circumstance where the most irresponsible fiscal policy I have ever seen proposed is judged to be a yawn by this Chamber.

We have the two Budget Committees meeting, and they are saying: We can fit all this in. We can fit in big tax cuts. In fact, now they say—those so-called conservatives—deficits don't even matter. It is not a big thing to be worried about.

I don't understand what has happened with respect to the relative positions of politicians these days. Conservatives say deficits don't matter? That is a different kind of conservative than I am familiar with. Deficits, of course, matter. Someone has to repay them.

I don't mean to belabor this point, but on top of this fiscal policy that has us now headed towards the largest deficits in the history of our country, take Social Security out of the calculation, and you should. The Social Security surpluses should not be used to reduce the budget deficit. They are trust funds. The President proposes taking all the trust fund and using it, but they ought not. So if you take that out, you have a budget deficit this year of nearly $450 billion. But add to that a trade deficit of over $460 billion this year alone—the highest in human history. This economy is off course. We need to fix it.

We need to stand up for the economic interests of America in trade and begin reducing that trade deficit, because we have to pay that with a lower standard of living in our future. That is not an option. That trade deficit is owed to other countries. You can make an argument as an economist that the budget deficit we owe to ourselves. Nonetheless, we will still have to bear that burden. But our children will likely bear the burden of a 10-year deficit that is put on their shoulders by a fiscal policy that is irresponsible.

We will have a budget debate next week. I will offer amendments. My colleagues will offer amendments. I don't have any interest in deciding that Republicans have the wrong answer and Democrats have the right answer. There are good answers that come from all parts of the Chamber. But the construct of this fiscal policy is just fundamentally wrong and everybody in this Chamber who knows how to add and subtract ought to know that. It is time for us to start speaking about it.

I am perfectly interested in providing tax cuts to the American people when we have budget surpluses. But the tax cuts should be to working families and should be distributed fairly. But at a time when we have the highest deficits, to say let's ignore them and let's have a political construct that increases spending in the largest areas of spending in the Federal budget and decreases taxes with very large tax cuts and then pulls the rest out of it out of some very important things that invest in people in this country, including veterans and Indian health and education, and a whole series of things, that is wrong.

We need to stand up and talk about it. I will speak about it at greater length next week. I wish I could come to the floor and say this is a wonderful fiscal policy. I just cannot. I feel obligated to say this is wrong; we are headed in the wrong direction. We need to fix it as a country. Our children's future depends on it.

I will make one final point. On September 11, when this country was attacked, we were one country. I was proud of President Bush, and one of the best speeches I ever heard he gave to a joint session of Congress. This country responded as one. But this country does not do a service to its future by believing now—a year and a half following that period of time—that voices still, because they don't want to engage in debate over issues that are important to our future, are somehow disadvantageous to our country. We need a robust debate about the right fiscal policy. We disserve our constituencies if we don't bring this debate to the floor in an aggressive way. What works? What will restore economic health to the country? What do we do to improve economic growth, to provide jobs, to get people back to work, and get the economy moving again? Those are the questions we have to ask as we construct a budget and put this fiscal policy together.

I regret I come to say this fiscal policy makes no sense at all and must be changed. I wish that were not the case, but it is. The result of that is I will be here with amendments, as will others, hoping we can improve this fiscal policy for our country's future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

## THE WORDS OF ALISTAIR COOKE

Mr. STEVENS. Madam President, I am glad to see an Alaskan in the chair as I make this statement. This morning, as it usually happens, when I turned on my computer, I found a series of e-mails from friends at home. I do not always have time to read them then, but I saw one from a very close friend, who has been a friend now for over 50 years—Frank Reed, a former neighbor, a person who has helped me in many ways in my life. He asked me to read this article he attached to his e-mail. I get a little disturbed when I see that the testament is a little longer than the e-mail. But I found that he had sent me a verbatim transcript of an article by Alistair Cooke entitled "Peace For Our Time," that was on the BBC News on Monday, February 3 of this year. I want to read that tonight because I think it reflects what I have been trying to say on the floor of the Senate these past several weeks.

The following was written and spoken by Alistair Cooke. He said this:

> . . . I promised to lay off topic A—Iraq—until the Security Council makes a judgment on the inspectors' report and I shall keep that promise.
>
> But I must tell you that throughout the past fortnight I've listened to everybody involved in or looking on to a monotonous din of words, like a tide crashing and receding on a beach—making a great noise and saying the same thing over and over. And this ordeal triggered a nightmare—a day-mare, if you like.
>
> Through the ceaseless tide I heard a voice, a very English voice of an old man—Prime Minister Chamberlain saying: "I believe it is peace for our time"—a sentence that prompted a huge cheer, first from a listening street crowd and then from the House of Commons and next day from every newspaper in the land.

> There was a move to urge that Mr. Chamberlain should receive the Nobel Peace Prize. In Parliament there was one unfamiliar old grumbler to growl out: "I believe we have suffered a total and unmitigated defeat." He was, in view of the general sentiment, very properly booed down.
>
> This scene concluded in the autumn of 1938 with the British prime minister's effectual signing away of most of Czechoslovakia to Hitler. The rest of it, within months, Hitler walked in and conquered. "Oh dear," said Mr. Chamberlain, thunderstruck. "He has betrayed my trust."
>
> During the last fortnight a simple but startling thought occurred to me—every single official, diplomat, president, prime minister involved in the Iraq debate was in 1938 a toddler, most of them unborn. So the dreadful scene I've just drawn will not have been remembered by most listeners.
>
> Hitler had started betraying our trust not 12 years but only two years before, when he broke the First World War peace treaty by occupying the demilitarized zone of the Rhineland. Only half his troops carried one reload of ammunition because Hitler knew that French morale was too low to confront any war just then and 10 million of 11 million British voters had signed a so-called peace ballot.
>
> It stated no conditions, elaborated no terms, it simply counted the numbers of Britons who were "for peace."
>
> The slogan of this movement was "Against war and fascism"—chanted at the time by every Labour man and Liberal and many moderate Conservatives—a slogan that now sounds as imbecilic as "against hospitals and disease." In blunter words a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him.
>
> At that time the word pre-emptive had not been invented, though today it's a catchword. After all the Rhineland was what it said it was—part of Germany. So to march in and throw Hitler out would have been preemptive—wouldn't it?
>
> Nobody did anything and Hitler looked forward with confidence to gobbling up the rest of Western Europe country by country—"course by course", as growler Churchill put it.
>
> I bring up Munich and the mid-30s because I was fully grown, on the verge of 30, and knew we were indeed living in the age of anxiety. And so many of the arguments mounted against each other today, in the last fortnight, are exactly what we heard in the House of Commons debates and read in the French press.
>
> The French especially urged, after every Hitler invasion, "negotiation, negotiation". They negotiated so successfully as to have their whole country defeated and occupied. But as one famous French leftist said:
>
> > "We did anyway manage to make them declare Paris an open city—no bombs on us!"
>
> In Britain the general response to every Hitler advance was disarmament and collective security. Collective security meant to leave every crisis to the League of Nations. It would put down aggressors, even though, like the United Nations, it had no army, navy or air force.
>
> The League of Nations had its chance to prove itself when Mussolini invaded and conquered Ethiopia (Abyssinia). The League didn't have any shot to fire. But still the cry was chanted in the House of Commons—the League and collective security is the only true guarantee of peace.
>
> But after the Rhineland the maverick Churchill decided there was no collectivity in collective security and started a highly unpopular campaign for rearmament by Britain, warning against the general belief that Hitler had already built an enormous mechanized army and superior air force.
>
> But he's not used them, he's not used them—people protested.
>
> Still for two years before the outbreak of the Second War you could read the debates in the House of Commons and now shiver at the famous Labour men—Major Attlee was one of them—who voted against rearmament and still went on pointing to the League of Nations as the savior.
>
> Now, this memory of mine may be totally irrelevant to the present crisis. It haunts me. I have to say I have written elsewhere with much conviction that most historical analogies are false because, however strikingly similar a new situation may be to an old one, there's usually one element that is different and it turns out to be the crucial one. It may well be so here.
>
> All I know is that all the voices of the 30s are echoing through 2003 . . .

Madam President, I was but 14, not 30. I remember the tension we all felt at that time, as country after country became destroyed by Hitler. Previously on the floor of the Senate, I mentioned Hitler and compared Saddam Hussein to Hitler. I was criticized even by the papers at home in Alaska.

I was delighted to read Alistair Cooke's article that Frank Reed sent to me this morning, and I commend it to the rest of the Senate.

This haunts me. It haunts those of us who lived through the thirties to know we might go through the thirties again because too many people refuse to listen to the truth, refuse to listen to what some of us see in Saddam Hussein, as being another Hitler.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 628 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## HONORING GENERAL AL LENHARDT

Mr. DASCHLE. Madam President, a little over 18 months ago, I came to this floor to welcome MG Alfonso Lenhardt to the Senate on his first day as this body's Sergeant at Arms.

Tomorrow will be GEN Lenhardt's last day in the Senate.

It is with profound admiration, and more than a little sadness, that I rise today to thank him for his extraordinary service, and to wish him much success and happiness in the years ahead.

Nominating Al Lenhardt to serve as the Senate's Sergeant at Arms was one of the great honors of my time as majority leader. It was also, I think, one of the best decisions I made in more than 30 years of public service.

I did not know Al before we began the search for a Sergeant at Arms in the summer of 2001. He was recommended to me by our former Secretary of the Senate, Jeri Thomson.

Jeri had met Al more than a decade ago when they were both at the Kennedy School of Government at Harvard. She was impressed by his intelligence, knowledge, steady demeanor and commitment to public service, characteristics she correctly noted are highly desirable in a Senate Sergeant at Arms.

Twenty minutes after meeting Al, I knew Jeri had identified the right person for this job.

I also knew, when I nominated Al, that he would make history in this Senate. What I did not realize is what a crucial role he would play, and what a difference he would make, in the history of this Senate.

Al Lenhardt is the first African American ever to serve as the Senate's top law enforcement and administrative officer. In fact, he is the first African American to serve as an elected officer of the Senate or House—ever.

That seems hard to believe, but it is true. And after 212 years, I must say, it was long overdue.

And he was the individual serving as the top law enforcement officer of the Senate when the unimaginable happened—terrorists struck a devastating blow on American soil.

The September 11 attacks occurred less than a week after Al Lenhardt was sworn in as Sergeant at Arms. I do not think he took a day off for over 5 months.

Five weeks after September 11, a letter containing a lethal dose of anthrax was opened in my office.

That incident remains the largest bioterrorism attack ever on U.S. soil, and one of the most dangerous events in Congress' history.

Al Lenhardt's leadership ability, experience and demeanor were instrumental in the Senate's entry into the post-September 11 world. I am not sure that before that terrible day any of us fully appreciated the threat that America's enemies posed to our U.S. Capitol, a majestic and enduring symbol of our democracy.

Al Lenhardt rose to the challenge of protecting against further terrorist attacks on the Capitol complex and protecting the people who work in and visit these buildings—without closing "The People's House" to the people themselves.

Al provided calm and steady leadership in the face of danger that reassured us all in an extraordinarily stressful and emotional time.

When deadly anthrax was released in the Hart Building, 50 Senators and their staffs, and 15 committees and their staffs, were displaced for 96 days while the building was remediated.

Never before—not even when the British burned the Capitol in 1814, had so may Senators been uprooted.

Relocating them and their staffs presented an unprecedented logistical challenge. But Al Lenhardt and his staff, and the staffs of the Rules Committee and the Secretary of the Senate, responded quickly and well. The business of democracy never stopped.

Al Lenhardt stood tall in the face of danger. And his steady hand assured that the Senate kept functioning.

Over the past 18 months, Al Lenhardt rose to the occasion, demonstrating to me that he was indeed the right man, with the right skills and experience, in the right place, at the right time.

Al Lenhardt has had a remarkable public career.

He served in the United States Army for 32 years and as a combat veteran wears the Purple Heart earned in Vietnam.

He retired from the Army in 1997.

His last Army position was commanding general of the U.S. Army Recruiting Command at Ft. Knox, KY. From that post, he managed more than 13,000 people in 1,800 separate locations.

Before that, he served as the senior military police officer for all police operations and security matters throughout the Army's worldwide sphere of influence.

In the 1980s, he did counter-terrorism work in Germany against the Baader-Meinhof Gang and other terrorist groups.

He also was the former commander of the Army's Chemical and Military Police Centers at Fort McClellan, AL, which trains the military police who are guarding our bases overseas.

Al Lenhardt was born in Harlem 59 years ago.

He earned a bachelor's degree in criminal justice from the University of Nebraska, a master of arts degree in public administration from Central Michigan University, and a masters of science degree in the administration of justice from Wichita State University. He has also completed post-graduate studies at the Kennedy School of Government at Harvard, and the University of Michigan Executive Business School.

Between the Army and the Senate, he served for 4 years as executive vice president and chief operating officer of the Council on Foundations, where he worked to harness the power of philanthropy to meet some of America's most urgent unmet needs.

He has been active in an array of organizations, from the Boy Scouts of America, to the Boys and Girls Clubs of Washington, DC, the National Office of Philanthropy, and the Black Church Project.

He has been married for 38 years to Jackie Lenhardt, one of the few people I have ever met who has a more commanding presence than Al. Jackie and Al have three daughters—two lawyers and a doctor—and two grandchildren, Olly, who is 4, and Maya, who was born 2 months ago.

The closest thing to a complaint I've ever heard from anyone who knew Al Lenhardt in the Army was from an officer who took a battalion six years after Al had left it.

He said: "It's tough to go into a unit after Al Lenhardt because he leaves such strong footprints. Six years later, his policies and procedures still stood. He made a lasting impact on soldiers."

The one consolation in saying goodbye to Al Lenhardt is knowing that the policies and procedures he instituted here in the Senate will continue protecting us in the future.

Al's predecessor, Jim Ziglar, began the effort to modernize security and protect the Capitol in an age of terrorism. And he made a good start.

But I think even Jim would acknowledge that it is Al Lenhardt who deserves the lion's share of the credit for leading the Senate into the modern age of security and law enforcement.

If Congress is ever forced to vacate this building, or even this city, for any length of time, the Senate will be able to move and resume the work of democracy immediately in a new location under a "continuity of operations" plan that Jim Ziglar started and Jeri Thomson and Al Lenhardt completed.

While Al would be the first to state that more needs to be done, he has ensured that the Senate will continue operations in the event of any emergency.

The physical security around the Capitol is much stronger and intelligence gathering, analysis and sharing is much better today than it was on September 11th—largely because of Al Lenhardt.

We are better prepared to prevent attacks—and to respond if attacks happen—than we were before Al Lenhardt came here.

Because of Al Lenhardt, we now have an effective crisis communications network that uses state-of-the-art technology.

We have emergency evacuation plans and drills.

We've implemented state-of-the-art mail security to prevent another nightmare like the anthrax attack.

Capitol Police officers are getting new training to deal with the new threats. We are also expanding the police force—so our officers can get some much-deserved rest.

Al Lenhardt has played a leadership role in building stronger working relationships with security and intelligence experts at the departments of Homeland Security, Justice, Defense and other agencies.

That is another way Al Lenhardt made history.

The first Saturday morning after the anthrax letter was opened, Al was at work in the Capitol, surrounded by scientists and investigators. He had been at work until late the night before.

That morning, someone asked him: "If you had to decide all over again, would you still want this job?"

Al smiled his great, broad smile and—without a moment's hesitation—replied: "Absolutely. To be in a position to serve your country—what better job could there be?"

To that, Mr. President, I can only add: What better person could there have been in the Senate Sergeant at Arms' position these last 18 months than General Alfonso Lenhardt?

Certainly no one I have ever met.

Al Lenhardt has earned the respect and gratitude of every member of this Senate, and of this nation.

I am proud to have recommended him. I am proud to have served with him. And I am even more proud to call him my friend.

Indeed the entire Senate community is grateful to Al Lenhardt for what he has contributed to us, and we will miss him.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the majority leader leaves the floor, I ask to be associated with the remarks he made about General Lenhardt. I add that in the years Senator DASCHLE has been the Democratic leader—he is starting his eighth year—he has done a lot of very good things for the State of South Dakota, our country, and the Senate. But nothing he has done has been more meaningful than selecting this professional, the first time in the history of our country, the Sergeant at Arms was a professional who had experience.

He was in charge of all the military police in the Army, a general in the United States Army, and was called upon for duty by Senator DASCHLE. If there were ever anyone with a vision regarding the problems this country faced and this Senate passed, Senator DASCHLE, in selecting General Lenhardt—because September 11 came during his honeymoon period. He had just gotten here.

We were so well served and have been so well served. I want the RECORD to reflect not only my great admiration and my friendship for General Lenhardt, I want the record to reflect for all Senator DASCHLE has done, nothing has been more important in the Senate than his selecting this good man for this most important job.

Mr. DASCHLE. I thank my dear friend, the Senator from Nevada, for his very kind words.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I walked over to the floor without realizing we were giving a testament to

General Lenhardt. But I could not agree more with the words I heard from Senator DASCHLE, as well as the words from Senator REID of Nevada. It is true, as I reflect upon it, that I know of no man who contributed greater service for his country than Al Lenhardt. He is such a professional. He is such a gentleman. He is so good. We trust him so much. We are so lucky that he was our Sergeant at Arms during the tragic times the Capitol family has been through the last couple of years.

I know we are all extremely proud of him and we will have very fond memories of his service here. I say to General Lenhardt, you are a great man, and we appreciate your service.

Mr. President, I rise today to pledge my support for our brave men and women who are on the front lines protecting America as we work to eliminate terrorism. . . . To pledge my support for the United States and all that our country represents: democracy, freedom of speech and religion, independence of thought. . . . And to pledge my support for our leaders and our free and open elections that allow democracy to thrive.

I also rise today to urge and insist that throughout the ongoing situation with Iraq, we remember our underlying goal: To protect our country from weapons of mass destruction and terrorist threats and stop those who provide assistance to terrorist operations. In order to fully accomplish these goals, we need the support and assistance of the broadest possible worldwide coalition of our allies.

It's not in our Nation's interest to establish arbitrary deadlines to force us to act without the support of others. This is not the time to isolate our country by moving into a unilateral war against Iraq.

A war that could result in massive casualties and long term devastation. A war that has the likely potential of increasing terrorist threats against our Nation.

There is no question that the United States has the ability and the right to take necessary action to protect our country. But we should not burn bridges—bridges that we will surely need down the road—in our rush to war with Iraq.

There is no debate that the brutal regime of Saddam Hussein must come to an end. He has a long history of attacking and murdering his own people, employing chemical and biological weapons, and continually defying the limits set forth by the UN. There have been reported links between Iraq and terrorist activity, although no link has been established between Iraq and the events of September 11. The Iraqi people and the global community deserve to be free from a cruel dictator and the threat to safety that he represents. The credibility of the United Nations and of America is on the line.

We must take the time to fully weigh the risks and costs associated with unilateral action against the results we will achieve. The threat Iraq poses is not imminent, at least not so imminent that we can't continue with another week, or another month, of negotiations to garner the support of members of the United Nations Security Council.

The clock is ticking, but the alarm has not yet rung. I encourage the administration to continue inspections beyond their self-imposed March 17 deadline. In these final critical minutes, we have the opportunity to lay out hard and fast, mutually agreed upon benchmarks for Hussein to meet—or not meet—to determine his fate. Britain laid out definitive steps yesterday, such as allowing Iraq scientists to be interviewed abroad, destroying banned weapons and providing documentary evidence of any such destruction in the past.

While support for their resolution has not been overwhelming, it is important to continue along this path. Indeed, it is critical. We must both provide assistance to Britain, our strongest ally, while employing every resource at our command to garner Security Council support.

As the world's superpower, it is not only our responsibility, but it is in our best interest to lead. It's our responsibility to walk with and secure the support of our allies. The decisions we make in the coming days will have global reverberations and I am hopeful we won't have to endure the impacts alone.

In the case that unilateral military action is decided upon, the ramifications, lengthy reconstruction process and costs involved must be addressed. There are numerous reports that a war with Iraq will be a relatively short operation. But what follows in a month, in 6 months, in a year?

If the United States chooses to go it alone in Iraq and forsakes the support of a majority of our allies, the hurdles and pitfalls will be numerous. And the likelihood of long term success and stability will be diminished. If we are successful in our mission to remove Saddam, a successor will need to be determined. The likelihood of Iraq becoming a democracy in our lifetime is unlikely. Even with the ousting of Saddam, we must be prepared and accepting of a moderate Arab government similar to others in the region.

The cost of rebuilding the country will be enormous, both in terms of money and manpower. From ensuring the Iraqi children can obtain clean water to establishing a forum for a free and open government to thrive. Are we willing to take those costs solely upon ourselves?

We must also be ready to focus our resources on the stability of the entire Middle East region and Muslim world. We need a comprehensive policy of economic engagement, one that includes expanded trade.

We should consider a trade benefits program similar to what we currently do for Africa, the Caribbean, and the Andean countries. In order to achieve long-term stability and reduce the terrorist threat, we will need to engage the entire region. And we will need our allies to assist in this engagement.

It's time to face facts. Our country is facing a troubling economy, unemployment, low growth, large national debt. Interest rates can't go much lower.

If we continue to disregard the concerns of other Security Council members and move forward with only a small band of countries that support immediate military action, the lion's share of the costs and military burden will fall on America's shoulders. Where will this money come from. How long must our troops be away from their families—months, years, decades? We must be fully prepared for this scenario before we move forward.

We are all in agreement that Saddam Hussein is a bad man and the threat he poses cannot be disregarded. While I unequivocally support removing Hussein from power, knowing that he is a peril to the region and the world, I urge that we move forward with a strong coalition of support. The clock is running down, but there is still time to gather our allies. Our long term interests—on every front—will be best achieved by standing together, united behind our common goal of eliminating terrorism and keeping our countries safe.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Utah.

## MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I listened with interest to my friend from Montana. While I had not prepared a response, I feel, nonetheless, moved to make a response.

My colleague from Montana made the point that Saddam Hussein must be removed and then suggested that we need more time and we should be willing to grant more time. This is, indeed, the position of many people in the United Nations. They keep saying just another week, just another month if necessary. The Senator from Montana used that same timeframe.

In my opinion, we do not have that option. In my opinion, we have two options, not three. The two options are either to go ahead or to come home. The option of staying in place and allowing the inspections to go on for an indeterminate period of time is not a viable option.

The reason for that is that our troops are not where they are on anything like a permanent status. They are there at the indulgence of foreign governments that have allowed them to come in with the firm understanding that they will be there very briefly. In the countries where they are currently bivouacked, they are simply there, on the edge of moving forward.

If we now say to those countries, the host countries that are harboring our troops, we are going to leave them there for an indefinite period of time while the inspectors continue to poke around Iraq, I expect that country after country will say: No. We did not bargain for American troops in these numbers on our territory for an indefinite period of time.

If you are not moving ahead into Iraq, withdraw your forces and go home. And if we do withdraw our forces and go home, it is clear Saddam Hussein will not be removed until he dies. And he may very well die in his bed, because once the United States has sent the signal to the world that we are prepared to do whatever is necessary to remove this brutal dictator and then we back down and bring our troops home, we can never put them back in those places again. No host government currently allowing American forces on its soil will say OK, now that Saddam Hussein has nuclear weapons, you can come back and be on our soil and make us a target for those nuclear weapons. No. We have two choices. We can either move ahead or we can come home.

It is not the most sympathetic character in Shakespeare. A comment made by Lady Macbeth becomes appropriate here. "If it were done when 'tis done, then 'twere well it were done quickly."

If we are going to remove Saddam Hussein, we must do it quickly. And if we are not, we should not leave our troops in their present posture for an indefinite period of time while inspectors poke around on a scavenger hunt in Iraq.

Mr. DODD. Mr. President, obviously, the major conversation today is about how we might successfully disarm Saddam Hussein of the weapons of mass destruction, which many of us still believe are there in Iraq and pose a serious threat, not only to ourselves but to allies and others.

I certainly do not minimize the importance of dealing with this issue. In fact, as my constituents know, I voted for the resolution last fall authorizing the President to use force if that became necessary. I still support that position.

I think the President ought to have that authority from Congress. I am grateful to him for coming to Congress and asking for that kind of backing. When I voted to give him that authority, I did not mean, of course, necessarily that authority would be used regardless of other circumstances. And certainly, over the past several months, we have seen a concerted effort to try to resolve the problem of Iraq short of using military force.

In fact, the President's own words, deserve being repeated; that is, that he did not welcome or look forward to the use of military force to solve this problem. He hoped it would be resolved without using force. I applaud him for making those statements and hope he is still committed to that proposition.

I am concerned, still, as are many Americans, that we may see a military conflict in the coming days, and that every effort to try to resolve this matter, diplomatically and politically, has not yet been exhausted. I know the administration is working on it.

As one Member of this body, I encourage them to continue doing so. I do not mean indefinitely, obviously. There are obviously points at which you have to accept the fact that there is not going to be the kind of cooperation you would like to have. I certainly would not suggest we ought to go on indefinitely here at all, but I do believe our allies and friends—principally Great Britain, which has been remarkably steadfast in their loyalty to the U.S. Government on this issue—need to be listened to, that their advice and counsel have value and weight. And if there are ways in which you can craft resolutions which would build support at the U.N. Security Council, then we ought to try to do that. That does not mean you go on weeks trying to sort that out. But I hope every effort is being made to fashion just such an arrangement that would allow us to deal with Saddam Hussein.

I happen to believe, in the absence of the threat of force, I don't think diplomacy would work alone, nor do I necessarily believe the threat of force, without some effort by diplomacy and politics, would necessarily work as well as we would like.

It is a combination of the threat of force and the use of diplomacy that I think has produced the significant, positive results we have seen in the last number of weeks. And the President deserves credit for that, in my view.

There is almost a sense of victory occurring here. He may be the most critical voice regarding this progress that has been made, but, nonetheless, I think progress is being made.

Mr. President, I want to shift quickly, if I can, however, to the cost of reconstruction. I know the conversation is whether or not there will be a war. Let's assume, for a second, that comes. As regrettable as it is—and we hope it will, obviously, be done at a minimal loss of innocent lives and the lives of the men and women in uniform—I am deeply troubled by the fact this administration has been unwilling to come before Congress to share with us their best and worst-case scenarios in terms of the cost of reconstruction in Iraq.

Certainly, I do not expect, nor should anyone, that the administration would be able to tell you with any great deal of specificity exactly what those costs would be. But you are not going to convince anybody in this Chamber, or most Americans, that the administration has not projected some cost figures on what it is going to cost us to rebuild Iraq, either alone or with the cooperation of others around the globe.

The reason I say that is because I noticed the other day that the administration had solicited bids from four or five major U.S. corporations to bid on an almost $1 billion contract for reconstruction or partial reconstruction in Iraq.

I am convinced that those firms had to have some knowledge of what the bid was all about in order to make it. What concerns me is that there may be people in those corporations who know far more about what the costs may be than the representatives and taxpayers of this country, who will ultimately be asked to pay the bill.

I was stunned, when we had a hearing of the Senate Foreign Relations Committee just a few days ago on this very subject matter, at the cost of reconstruction, that the administration refused to send any witnesses up to share with the committee, under the leadership of the distinguished chairman of that committee, Senator RICHARD LUGAR of Indiana—that the administration refused to even step forward and share with the committee their general thoughts on what may be the costs.

How is it that four or five corporations can apparently have access to information and yet the Congress of the United States does not? The four or five corporations were Bechtel, the Fluor Corporation, Halliburton, owned by Kellogg, Brown and Root, the Lewis Berger Group, the Parson Group. Those, I believe, are the names of the corporations invited to bid on the reconstruction contracts.

If you are telling these corporations about what the costs may be, and what may be involved, and yet you can't let Members of Congress know—particularly the committee charged with the responsibility—ultimately, I think that is a mistake.

There was a report conducted, I think by the Brookings Institution, with such distinguished Americans as James Schlesinger and others, that made an analysis of the post-cost figures on reconstruction. They all made the similar recommendation. You have to step forward.

As our former colleague, John Glenn, used to say: If you want the American public to be supportive of actions like this, they have to be involved in the takeoff as well as the landing.

I think his words, that I heard him repeat on numerous occasions, have particular value in talking about this debate. This is not to suggest that everyone is going to endorse the numbers. But you need to let the American public know what they are in for, so that there is some understanding of what this involvement is going to cost us. I think you are going to do far better at winning support ultimately for these figures if you share your ideas.

Again, no one is expecting you are going to have to be wedded to these numbers. But you are not going to build the kind of domestic support you need for a number of years on the reconstruction of Iraq if you do not begin to share with the American public what sort of cost figures we are talking about.

It is estimated by some groups already that the cost could be at a low figure of $20 billion a year. The cost of the war, of course, we can't get any numbers on. We don't have any numbers on how many of our U.S. military personnel might have to be stationed in Iraq for how long a period of time during the period of occupation.

Let me share with you from the Brookings report. Even assuming, they said, little war-related damage—we hope that is the case—the reconstruction requirements in Iraq will be very substantial. Estimates of the requirement vary considerably from as little as $25 billion over a multiyear period to as much as $300 billion over 10 years. It is estimated that repairing and restoring Iraq's electrical power grid to its pre-1990 level would cost as much as $20 billion and that the short-term repairs for the oil industry would cost about $5 billion. Additional reconstruction requirements involve water, sanitation, transportation, and other infrastructure.

I bring this up not because I am trying to persuade people they ought not to be for using force, if that becomes necessary, but just to suggest that if you don't involve people and share with them what the estimated cost of this may be, you will be in trouble.

Let me tell you what I suspect is really behind a lot of this. As I am speaking on the floor of this Chamber, the budget committees of the Congress are meeting. They are talking about the cost of Government over the next number of years—tax policy, spending policy, what they will be. The estimates now for the deficit are hovering around $400 billion a year. I don't find it merely coincidental that the administration is refusing to share with us how much this war may cost, how much the reconstruction may cost at a time we are also considering the budget. Why is it they won't share these numbers? Is it because they don't want the Budget Committee or this Chamber, which will vote next week on the budget, to have before it some idea of what taxpayers will be asked to shoulder as a result of this involvement? Again, you will not convince me that those numbers don't exist. They do exist.

It is outrageous that the administration won't step forward and say: Here is our best estimate, worst case, best case. Regardless of how you feel about this conflict, potential conflict—again, I voted with the President to support the use of force if necessary—where are the Members of the Senate? Why don't they stand up for the Senate when it comes to the budget—we are the ones being asked to vote on this—and be as demanding as I am about sharing these numbers? I would think every single Member of this body, regardless of how you feel about the war, would want to know what the cost may be, so that when you cast a vote either in the Budget Committee or on the floor of the Senate next week, you would have some idea of what the implications are going to be. Without having that information, I don't know how you will vote for some of these other matters, knowing that the cost could be billions and billions of dollars in the coming 5 or 10 years.

Maybe I am the only one who feels this way. I suspect I am not. I suspect there is a tremendous concern growing that we are digging a very deep hole for ourselves financially with these massive tax cuts and massive spending going on. I find it more than ironic that some of the strongest advocates for this budget only a few short years ago were standing here begging us to vote for a constitutional amendment to balance the budget and, but for one vote, we would have written it into the Constitution. Now they stand before us and tell us deficits don't matter and that we don't even have to share with you the estimated costs of our involvement in Iraq.

My hope is that in these coming days before the end of this week or the first part of next week, the administration might share through some vehicle, if not before a congressional committee then some other forum, what the costs are apt to be so that next week when we vote on the budget, we can include those numbers in the estimated burden the American taxpayer may be asked to shoulder.

I am deeply worried that we are digging a very deep hole for ourselves, and we are not being honest and square with the American public about what those implications will be.

I yield the floor.

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## TORTURE IS A CRIME

Mr. LEAHY. Mr. President, I want to take a moment today to speak about an issue that has been discussed in the press recently, which is the use of torture to obtain information from persons who are suspected of being terrorists.

It is well-established that torture is a violation of international law, by which our country is bound. It is also a violation of our own laws. Yet commentators have been quoted by the press saying that in certain limited circumstances, when the threat is a possible terrorist attack, the use of torture is justified. Some have even suggested that since torture is used, why not simply admit it and accept it as a fact of life?

These are not easy questions. Who does not want to do everything possible to save innocent lives? We all do. But the United States is a nation of laws, and I reject the view that torture, even in such compelling circumstances, can be justified. I would hope all countries would uphold their obligations under international law, but that is not the case. It is the 21st century, and yet torture is used by government security forces in some 150 countries.

We have often spoken about how important it is not to let the terrorists win. We try not to let ourselves be intimidated. We take precautions, but we go about our daily lives.

The same holds true of the tactics terrorists use. If we don't protect the civil liberties that distinguish us from terrorists, then the terrorists have won.

Torture is among the most heinous crimes, and there is no justification for its use. One need only review history to understand why there can be no exception to torture. The torture of criminal suspects flagrantly violates the presumption of innocence on which our criminal jurisprudence is based, and confessions extracted as a result of torture are notoriously unreliable.

Also, history has shown that once an exception is made for torture, it is impossible to draw the line. If we can justify torture in the United States, then what is to prevent its use in China, Iraq, Chile, or anywhere else? If torture is justified to obtain information from a suspected terrorist, then why not torture the terrorist's wife and children, or his friends and acquaintances who may know about his activities or his whereabouts? In fact, that is what happens in many countries.

There is also the issue of what constitutes torture versus acceptable, albeit harsh, treatment.

Torture is defined in the Convention Against Torture, which the United States ratified, as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession . . .".

A March 4 article in the New York Times described the treatment of Afghan prisoners at the Bagram air base. Two former prisoners, both of young age, recently died in U.S. military custody. Other prisoners described being forced to stand naked in a cold room for 10 days without interruption, with their arms raised and chained to the ceiling and their swollen ankles shackled. They also said they were denied sleep for days and forced to wear hoods that cut off the supply of oxygen.

I do not believe that prisoners of war, some of whom are suspected of having killed or attempted to kill Americans, should be rewarded with comforts. Harsh treatment may, at times, be justified.

However, while I cannot say whether the treatment described by these Afghan prisoners amounts to torture under international law, it does sound cruel and inhumane. The inhumane treatment of prisoners, whoever they are, is beneath a great nation. It is also illegal. That is the law whether U.S. military officers engage in such conduct themselves, or they turn over prisoners to the government agents of another country where torture is commonly used, in order to let others do the dirty work.

Some of these Afghan prisoners may be guilty of war crimes. Some may be members of al-Qaida but may have never fired a shot. Others may be completely innocent. But regardless, I was not proud when I read that article, and when I think of how often I and other Members of Congress have criticized other governments for treating prisoners that way. It undermines our reputation as a Nation of laws, it hurts our credibility with other nations, and it invites others to use similar tactics.

I am encouraged that the Department of Defense is conducting a review of the deaths of the two Afghans at Bagram, both of which were ruled homicides by an American pathologist. Those responsible for what happened must be held accountable. But I also urge the Department to review whether the interrogation techniques used there, and at other U.S. military facilities are fully consistent with international law. It should not take a homicide to reveal that prisoners in U.S. custody are being mistreated.

I yield the floor.

## WELCOMING THE PRIME MINISTER OF IRELAND

Mr. DODD. Mr. President, I want to take a moment to welcome the Prime Minister of Ireland, who is here today. You will notice, I have a green tie on today. I am fully aware, as most Americans are, that St. Patrick's Day is on the 17th day of March, not the 13th day of March. But when the Prime Minister of Ireland arrives here to celebrate St. Patrick's Day a little earlier this year, those of us who are of Irish descent—and even those who are not but wish they were—generally wear a little green to celebrate this festive holiday.

Prime Minister Ahern was at a lunch a little while ago hosted by the distinguished Speaker of the House, DENNY HASTERT. Vice President CHENEY was also in attendance representing the President, who normally would be attending an event such as this today, but, obviously, events in the Middle East made it difficult for him to get away. All of us understand that. We regret he was not able to be with us, but we fully appreciate there are other matters that require his more immediate attention.

But we thank the Prime Minister, the Taoiseach of Ireland, for him not only being here but for his tremendous work, along with Tony Blair and other political leaders in Northern Ireland, particularly Jerry Adams and David Trimble, in their efforts to try to resolve, once and for all, the political disputes that have been so devastating on the people of Northern Ireland over these last number of years. Based on conversations we have had, it would appear that we are getting very close to, hopefully, a final resolution of those issues.

So I welcome the Prime Minister and other political leaders from Ireland and Northern Ireland who have come, as they traditionally do, to celebrate St. Patrick's Day, but have made this a working holiday, if you will, to engage in further conversations on what we might do to help resolve the matters of Northern Ireland, as well as to listen to their sound advice and observations regarding the turmoil that is brewing in the Middle East.

## ELIZABETH SMART AND THE NATIONAL AMBER ALERT NETWORK ACT

Mr. REID. Mr. President, I, like all of America, was elated last night when we heard the news that the young girl from Utah, Elizabeth Smart, who had been missing for more than 9 months, had been found and reunited with her family. Most of the time, the vast majority of these stories about these girls—mostly girls who are kidnapped, abducted, stolen—end in bad news. This ended in good news.

As a father and grandfather, I really don't know the emotion of a parent who has a child stolen. An abducted child must be the worst nightmare of a parent. But this nightmare ended as I have just related.

The Justice Department says the number of children taken by strangers annually is between 3,000 and 4,000—it varies but thousands of children. Every day children are stolen. These children and their parents deserve the assistance of the American people and the helping hand of the Federal Government.

We stand ready and willing to help. We all feel so helpless when a child is kidnapped. What can we do to help? There is not very much because mostly these stories end, not like Elizabeth Smart's, they end in tragedy. For the past 2 years, Senators LEAHY, HATCH, HUTCHISON, FEINSTEIN, and others have introduced the National Amber Alert Network Act to aid in the recovery of abducted children. Last year, Committee Chairman LEAHY, 1 week after it was introduced, held a hearing on the AMBER plan, and then we passed the bill by unanimous consent in both the Judiciary Committee and the full Senate when it was under the Democrats' control. Such quick and dynamic action on legislation is unheard of around here, but that is proof positive of the overwhelming support that exists for what is really a nonpartisan issue.

Unfortunately, the House of Representatives refused to pass a national AMBER Alert network. They refused to pass this act because they said they didn't like it as a stand-alone bill. They wanted it part of something else—part of something else being part of nothing. It is unknown to me how many children's lives would have been saved if we had had a national AMBER Alert. We know, with the situation we had in California, that it really works.

This year, the Senate again, under the leadership of Senator HATCH, rapidly passed unanimously this bipartisan legislation. But once again the House of Representatives—the leadership of the House of Representatives, Republican leadership of the House of Representatives—is refusing to act quickly on this bipartisan AMBER Alert bill.

I served in the House of Representatives. They could pass this legislation in a matter of hours—not days, hours. Ed Smart, Elizabeth's father, has called upon the House of Representatives to pass this noncontroversial Senate-passed AMBER Alert bill. I agree this is the proper course and the fastest way to protect our children from danger.

In fact, I am confused as to exactly why the House Republican leaders refuse to pass this bill since they agreed to include in the fiscal year 2003 omnibus spending bill $2.5 million for AMBER Alert grants. The House leadership still, however, chooses to ignore the bill that the Senate has twice passed under the bipartisan leadership of Senators HATCH and LEAHY, once when Senator LEAHY was chairman, once when Senator HATCH was chairman. To include AMBER legislation as a provision in an omnibus bill, standing alone, or in any other capacity, it doesn't matter to us.

I hope the successful recovery of Elizabeth Smart and her father's call for passage of the Senate-passed bill today moves the House Republican leadership to not play politics and promptly let this National AMBER Alert Network Act pass as a stand-alone measure—

next week. They could do it tonight. I know how the House works.

The AMBER plan has been credited with the recovery of 49 children nationwide, 49 children who have been reunited happily with their parents. Mr. President, 38 States have a statewide plan. Officials in those States that do not yet have AMBER plans are working toward establishing the AMBER Alert system, and one of the aims of this bill is to help towns, counties, and States all over America to build and support systems to broadcast AMBER Alerts.

Our bipartisan legislation creates a national AMBER Alert coordinator at the Justice Department to work with States, broadcasters, and law enforcement agencies to set up AMBER Alert plans, to serve as a point of contact to supplement existing AMBER plans, and facilitate appropriate regional coordination of AMBER Alerts.

As I was eating dinner last night, watching Larry King, I was so impressed with the enthusiasm, hope, and glee demonstrated by the family of Elizabeth Smart. Of course, we all recognize the father in tears, saying how happy he was, why haven't we passed this legislation. Today, when he has learned the real facts, he is saying: Why hasn't the House passed this legislation?

This legislation also directs the coordinator in the Justice Department to establish voluntary guidelines for minimum standards for AMBER Alerts and their dissemination. As a result, the bill helps kidnap victims while preserving flexibility for the States. Developing and enhancing the AMBER Alert system is a costly endeavor for States to take on alone. So to share the burden, the bill establishes two Federal grant programs managed by the Justice and Transportation Departments for such activities as information dissemination on abducted children and suspected kidnappers, and for necessary AMBER Alert equipment.

Our Nation's children, parents, and grandparents deserve our help to stop the disturbing trend of children's abductions—to let everyone know they are helping by their taxpayer dollars going to a national system. Everyone can then say, "I have done my share." I think we have a program here that really helps.

In the State of Israel, which every day faces terrorist threats and activities, 90 percent of the terrorist activities are thwarted as a result of citizens, people of good will, seeing something that doesn't look right and calling law enforcement. If there is something going on next-door, on the block, something in their city that they see, or in their neighborhood, they can complain to authorities, and it helps. That is what happened here.

We had people in Salt Lake City—actually, Sandy, UT—who I am sure said: I don't know if I am doing the right thing, but I think this could be Elizabeth. A little girl with a wig—a little girl? She is a teenager—she has been gone almost a year—with a wig and some kind of mask over her face, a veil, as they call it.

But these people of good will said: You know—I am sure I am thinking what they must have thought—this is going to be humiliating to me, if I stop these people. Maybe they are religious people, maybe this is part of their religious garb and costume. Maybe I'll embarrass them and me. But what if I let them go, walk by, and I haven't done anything about that, and this is Elizabeth?

For whatever reason, they decided to become intervenors. She stepped forward, and said: I think this is Elizabeth. Sure enough, it was. The little girl had a wig on and a veil. She said: I am Elizabeth Smart. As a result of that, she was reunited with her parents.

We don't know. We will never know what that girl has gone through. We don't know all of it. I personally don't know if she was brainwashed, as was Patty Hearst. I don't know anything about it. But I know there are some happy people in Salt Lake City today. Not only the family, not only the family, but all over Salt Lake City, the State of Utah, the neighboring State of Nevada, but the whole country is celebrating a successful conclusion to a kidnapping, an event which doesn't happen that much.

I hope the House of Representatives' conscience will be pricked and they will reach out and do something quickly which they have the capability of doing and allowing the national AMBER Alert program to pass. It should pass not in this congressional session, not this month, but next week, and early in the week. That is my desire. I hope we follow through on it.

## THE SAFE RETURN OF ELIZABETH SMART

Mr. HATCH. Mr. President, I express my deep-felt feelings about the answer to all of our prayers in Utah. There has never been a State where virtually everybody got on their knees and prayed for the return of this young woman, Elizabeth Smart.

I have to tell you, we believe in miracles out there. We have seen them time after time after time. But I have to admit, most people had pretty much given up. They were thinking, well, that poor soul undoubtedly had to have been murdered. But her father and her mother never gave up.

They were in my office just a short while ago saying: We are going to find her. We believe she is alive—praying every day, fasting for their daughter. People in Utah fast and pray in these situations.

I have to tell you, I was so thrilled last night to see they finally found her.

I could hardly get to sleep.

I want to pay tribute to that wonderful family and her neighbors. Jake Garn and Kathleen Garn are two of the neighbors. I have to tell you, they both have been of tremendous help and bolsterers, as have all of the neighbors, to the Smart family. Jake has moved heaven and earth for them. He has talked to me, worked with me, worked with others. His wife Kathleen is as good as it gets. She is a wonderful human being. I know she was over there all the time, giving solace, support, comfort. It is typical of these two, who served in the Senate with us for so many years and did such a great job, to continue to do a great job in our home State. That family really deserves a lot of credit. Not only the immediate family but the extended family exercised their faith and prayers on behalf of this young woman.

I hope everything is OK with her. It is certainly OK compared to what she has gone through. I hope everybody who knows her and knows that family will lend support and solace and comfort to help them to reunite in every way and help this young woman to overcome the terrible experience she has had over the last 9 months.

## AMERICA'S COMMITMENT TO INTERNATIONAL LAW

Mr. BINGAMAN. Mr. President, when future generations reflect on the fallout from the terrorist attack of 9/11/2001, I fear they will see our own commitment to international law as a casualty of that event. I do.

For some time now, there has been a contest within the U.S. foreign policy establishment between those who believe our greater security lies with the strengthening of international institutions and agreements, on the one hand, and, on the other, those who believe our security is enhanced if we demonstrate the will and capacity to prevail; that is, to dominate the new world and shape it to our liking.

The election of President Bush and the attack of 9/11 have moved U.S. policy to endorse this second vision—that of U.S. dominance of a world that meets our standards of acceptable conduct.

The result of this shift in U.S. foreign policy is now evident in the statements and actions of the President regarding Iraq. Unless I misread those statements by the President and his foreign policy team, sometime within the next few days, the United States, and possibly British, troops will begin an invasion of Iraq. The mission, according to the President, will be to disarm Saddam Hussein, to capture and destroy his weapons of mass destruction, to liberate the people of Iraq from his despotic rule, to install a new and democratic government, and to hold up Iraq as a model for freedom and democracy that can be emulated by other Middle Eastern countries.

These are noble objectives. My concern is not with the objectives but with the apparent decision the President has made to proceed with an invasion now while many Americans and many of our traditional allies believe that alternatives to war still exist.

In his State of the Union Address, the President spoke about a circumstance where "war is forced upon us." After the President spoke, I came to the Senate floor to make what I considered an obvious point; that is, that war had not been forced upon us. It is still my view today that war with Iraq has not been forced upon us. Our allies who are urging that the U.N. weapons inspectors be given more time to do their work agree with that view.

In the report to the Security Council last Friday, Hans Blix and Mohamed ElBaradai, the heads of the U.N. inspection teams, reported progress toward the goal of ensuring that Iraq has been disarmed. They pointed out that more cooperation by Iraq is needed, but they acknowledged that cooperation has increased.

President Bush and Secretary of State Powell have correctly pointed out that Iraq's increased level of cooperation does not constitute full compliance with Security Council Resolution 1441, in that Iraq has not fully, completely, and immediately disarmed.

The question is whether this failure to fully comply with the U.N. resolution justifies an armed invasion of Iraq at this time. Many Security Council members believe it does not, and, in my view, it does not.

Our Government's position appears to be that we will enforce the U.N. Security Council resolution even though the Security Council itself does not support that action at this time. In other words, we will act in coordination with the views of the world community of nations as long as those views agree with our own. When those views differ from our own, we will use our great military capability to impose our will by force.

I, for one, can support a policy of imposing our will by force, notwithstanding the views of our allies, if there is an imminent threat to our own security and if all options, other than war, have been exhausted. But neither of those circumstances prevails today.

A decision to wage war at this time, absent the support of our traditional allies, contradicts the foreign policy on which this Nation has been grounded for many decades. It undermines the international institution that previous U.S. administrations worked to establish as an instrument for world peace. It clearly signals that even absent an imminent threat to our security, we consider ourselves the ultimate arbiter of acceptable behavior by other governments and that we will act to "change regimes" when we determine the actions of other governments to be unacceptable.

Madam President, this is an unwise and dangerous precedent for us to establish. Stripped of its niceties, it is essentially a foreign policy premised on the belief that "might makes right." At this point in world history, we have the might and, therefore, accommodating the views of others seems a low priority. But the day will surely come when others also have the might, and then we may wish we had shown restraint so that we can argue that others should as well.

There is a famous scene from "A Man For All Seasons," the magnificent play Robert Bolt wrote, about the conflict between Sir Thomas More, a man of conscience and the law, and his sovereign, Henry VIII.

More and Roper, his son-in-law, are arguing about the law at this point in the play. Their conversation is instructive. Roper, the son-in-law, exclaims: "So now you'd give the Devil benefit of law!" More replies: "Yes. What would you do? Cut a great road through the law to get after the Devil?" Roper says: "I'd cut down every law in England to do that," to which More responds: ". . . And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then?" "Yes, I'd give the Devil benefit of law, for my own safety's sake."

I submit that if the United States determines to circumvent the U.N. in this case, the Devil may well turn round on us, and we could reap the whirlwind for years to come.

I yield the floor.

## HOUSTON, WE HAVE A PROBLEM

Mr. LEAHY. Mr. President, after years of shortchanging our nation's crime labs, the Administration has unveiled a proposal to spend more than $1 billion over five years on forensic DNA programs. This proposal is overdue, but it is welcome, and it will make a difference.

For two years I have repeatedly urged the Administration and House Republicans to fully fund existing programs aimed at eliminating the DNA backlog crisis and, in particular, the inexcusable backlog of untested rape kits. Until now, the Justice Department has simply refused to make this a high priority. In the meantime, untested critical evidence has been piling up while rapists and killers remain at large, while victims continue to anguish, and while statutes of limitation expire.

I am pleased that the Administration's new commitment to funding DNA programs includes $5 million a year for post-conviction DNA tests that can be used by inmates to prove their innocence. Post-conviction DNA testing has already been used to exonerate more than 120 prisoners nationwide, including 12 awaiting execution. Last year the Justice Department cancelled plans to spend $750,000 on a post-conviction DNA testing initiative, and diverted the money to another program. It is heartening that the Department at last has recognized the importance of ensuring that the power of modern science, in the form of DNA testing, is available to help prosecutors and defendants alike establish the truth about guilt and innocence.

Clearly, DNA testing is critical to the effective administration of justice in 21st Century America. But like every forensic tool, DNA testing is only as accurate as the labs and technicians that process the evidence. When we shortchange our labs, we shortchange the whole criminal justice system. The appalling situation in Houston, Texas, is only the most recent example.

Last December, a state audit conducted by a team of forensic scientists uncovered widespread problems at the Houston Police Department's crime laboratory. These problems included poorly trained technicians, shoddy recordkeeping, and holes in the roof that allowed rain to possibly contaminate samples. A Houston councilwoman who toured the lab last June described trash buckets and water buckets throughout the facility: "They were having to move tables around, because some of the leaks were near and sometimes above where the analysis was occurring."

Elizabeth Johnson, a DNA expert familiar with the Houston police lab, has pointed to serious problems beyond holes in the ceiling problems that suggest widespread incompetence or even corruption. Dr. Johnson has testified that lab technicians often vastly exaggerated the probability of a defendant's guilt, while mischaracterizing evidence that exonerated a defendant as "inconclusive." In many cases, she found, lab technicians' reports, which were used to make critical decisions throughout the criminal justice system, asserted conclusions that were entirely unsupported by their data: not technical errors; not misjudgments; but flat-out fabrications.

I have spoken before about the disastrous consequences of sloppy lab work. Two years ago, an FBI investigation found that a police chemist in Oklahoma City was routinely exaggerating her results. At least one man who was convicted on the basis of the chemist's so-called "expert" testimony was later exonerated and released from prison. He had already served 15 years of a 65-year sentence.

There are many other cases in which people have been wrongly convicted because forensic specialists were incompetent, or because they fabricated or overstated test results to support the prosecution's theory of the case. In 1997, we learned about major problems at the FBI's crime labs, ranging from unqualified forensic scientists to contamination of evidence and the doctoring of laboratory reports. Before that, there were similar problems in various state crime labs. Police in Baltimore are currently reviewing 480 cases worked on by a former police chemist who testified at a 1983 rape trial against a defendant who was later exonerated.

While the situation in Houston is not unprecedented, it is particularly alarming. That is because Houston is in Harris County, the execution capital of the United States. Harris County sends more people to death row in a year than many states do in a decade. More defendants from Harris County have been executed than from any other county in the country.

Harris County prosecutors are now busily reviewing their closed cases to determine whether they involved evidence processed by the Houston police lab. They have already ordered new DNA testing in more than 20 cases, including 7 cases in which the defendant was sentenced to death. Ultimately, several hundred cases will need to be retested.

Retesting has already cleared one man, Josiah Sutton. Sutton was only a teenager when he was convicted and sentenced to 25 years for rape, based largely on a bogus DNA match by the Houston police lab. It now appears that he spent the last 4½ years in prison for nothing.

How many Josiah Suttons has Harris County wrongfully convicted? Probably quite a few. Hundreds of people have been convicted using DNA evidence processed by the Houston police lab. The fact that the very first batch of cases to be retested has exposed a wrongful conviction suggests that Sutton may be just the tip of the iceberg.

How many more people will be cleared through retesting? That is a trickier question. According to the state audit, the Houston police lab routinely consumed most if not all of the evidence available for testing, with little or no regard for the importance of conserving samples. This practice will greatly limit the possibility for retesting in the hundreds of cases now under review.

DNA testing is an extraordinary tool for uncovering the truth, whatever the truth may be. It can show us conclusively, even years after a conviction, where mistakes have been made. But it cannot show us anything if there is no evidence to test. By needlessly consuming entire DNA samples, the Houston police lab may have destroyed the only key to freedom for more than one wrongly convicted person.

The failure to preserve DNA evidence is a problem in many parts of the country, but it seems to be an official policy in Harris County. In 1997, DNA testing exonerated Harris County defendant Kevin Byrd only because, by pure luck, the 12-year rape kit had not been destroyed pursuant to bureaucratic routine. The very week that Byrd was freed, however, Harris County officials systematically destroyed the rape kits from 50 other old cases, citing a lack of storage space.

No doubt many of the rape kits that Harris County destroyed that week and over the years were analyzed under the leaky ceilings of the Houston police lab. But even with the best of intentions, Harris County prosecutors will not be able to resurrect that evidence for retesting. There may well have been another Josiah Sutton or two among those cases—defendants who were wrongfully convicted based on bad lab work—but without the evidence to prove it, we will probably never know.

The essence of law enforcement is seeking the truth, not hiding from it or destroying evidence in a fit of pique or to save face. The disdain for science, truth, and justice we have seen in Houston, at the heart of the nation's capital punishment system, is an utter disgrace.

All of which is to say that I hope my colleagues will join me in supporting the Administration's new DNA initiative. One billion dollars will give States the help they desperately need to improve the quality and credibility of their crime labs, and to eliminate the backlog of untested DNA evidence. Five million dollars a year will go a long way toward ensuring that no deserving inmate is denied post-conviction DNA testing because he or she cannot afford to pay for it.

In his remarks announcing the DNA Initiative, Attorney General Ashcroft said he "looked forward to working with the Chairmen of the House and Senate Judiciary Committees to develop legislation that provides appropriate post-conviction DNA testing to federal inmates."

I welcome that, but I have a better idea. With Chairman HATCH's agreement, I would like to issue a bipartisan invitation to Attorney General Ashcroft to come to talk to us in open committee about a legislative proposal that is already written, has already been refined and debated, and has already received overwhelming bipartisan support.

I refer to the Innocence Protection Act, a modest and practical package of reforms that aims at reducing the risk of error in capital cases. The reforms proposed by the IPA are designed to create a fairer system of justice, where the problems that have sent innocent people to death row would not occur, and where victims and their families could be more certain of the accuracy, and finality, of the results.

More specifically, the Innocence Protection Act would ensure that post-conviction DNA testing is available in appropriate cases, where it can help expose wrongful convictions, and that DNA evidence is adequately preserved throughout the country. The bill also addresses one of the root causes of wrongful convictions—inadequate defense representation at trial.

Last year, the IPA won the support of a bipartisan majority of the Senate Judiciary Committee, and more than half the entire House of Representatives. Together with other lead sponsors—Senator GORDON SMITH, Senator SUSAN COLLINS, Representative BILL DELAHUNT, and Representative RAY LAHOOD—I am committed to reintroducing the IPA this year and getting it signed into law.

The path to prompt reform is through legislation that is already written and fine-tuned. The path to consensus is through legislation that has already received broad bipartisan support. And the path to addressing the fundamental problems in our criminal justice system is through legislation that addresses the most common cause of wrongful convictions—inadequate defense counsel—as well as their most conspicuous solution—DNA testing. The path, in each case, is the Innocence Protection Act.

I look forward to continuing to work with my colleagues on both sides of the aisle to pass the Innocence Protection Act this year.

I ask unanimous consent to have printed in the RECORD 2 articles, one from the Washington Post, the other from the New York Times, which describe the ongoing investigation into the Houston police lab.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 11, 2003]

### REVIEW OF DNA CLEARS MAN CONVICTED OF RAPE

(By Adam Liptak)

When Josiah Sutton went on trial for rape in 1999, prosecutors in Houston had little to build a case on. The victim was the only witness, and her recollection was faulty. But they did have the rapist's DNA, and technicians from the Houston police crime laboratory told the jury that it was a solid match.

That was enough to persuade the jurors to convict Mr. Sutton and send him to prison for 25 years.

But new testing has conclusively demonstrated that the DNA was not Mr. Sutton's, the Houston Police Department said yesterday.

The retesting is part of a review of the laboratory that began after a scathing state audit of its work led to a suspension of genetic testing in January. Mr. Sutton's apparent exoneration is the first to result from the review.

Legal experts say the laboratory is the worst in the country, but troubles there are also seen in other crime laboratories. Standards are often lax or nonexistent, technicians are poorly trained and defense lawyers often have no money to hire their own experts. Questions about the work of laboratories and their technicians in Oklahoma City, Montana and Washington State and elsewhere have led to similar reviews. But the possible problems in Houston are much greater. More defendants from Harris County, of which Houston is a part, have been executed than from any other county in the country.

"This is an earthquake," Mr. Sutton's lawyer, Bob Wicoff, said. "The ramifications of this for other cases, for death penalty cases, is staggering. Thousands of cases were prosecuted on the basis of this lab's work.

The audit of the Houston laboratory, completed in December, found that technicians had misinterpreted data, were poorly trained and kept shoddy records. In most cases, they used up all available evidence, barring defense experts from refuting or verifying their results. Even the laboratory's building was a mess, with a leaky roof having contaminated evidence.

The police and prosecutors vowed to retest DNA evidence in every case where it was used to obtain a conviction. But they remained confident that the laboratory's problems were primarily matters of documentation and testimony that was not conservative enough.

The Sutton case has changed that.

"It's a comedy of errors, except it's not funny," said State Representative Kevin Bailey, a Houston Democrat who is chairman of a committee of the Texas Legislature investigating the laboratory. "You don't need to be a scientist to know that you have to wear surgical gloves. You have to tag evidence. You need to not have a leaky roof contaminating evidence."

The Houston police have turned over some 525 case files involving DNA testing to the Harris County district attorney's office, which has said that at least 25 cases warrant retesting, including those of seven people on death row. Both numbers will grow significantly as more files are collected and analyzed, Marie Munier, the assistant district attorney supervising the project, said.

Mr. Bailey said he was troubled that the retesting was being conducted under the supervision of Harris County prosecutors.

"I have lost confidence in the Police Department and the district attorney's office to handle this," Mr. Bailey said. "I'm really bothered by the fact that the review is being done by the same people who allowed the errors to go on and prosecuted these cases and so have a stake in the outcomes of the review."

Joseph Owmby, who prosecuted Mr. Sutton, said his office had not received a formal report from Identigene Inc. of Houston, the outside laboratory his office hired to perform the retesting.

"If he has been exonerated," Mr. Owmby said, "we also have an eyewitness identification, and we will have to work through that. If he was exonerated, it certainly doesn't make me feel any better."

Mr. Owmby said his confidence in the police laboratory's work had been shattered. "We're not scientists," he said. "We were presenting evidence that was presented to us. There is a big problem. We are treating it as a big problem."

Houston police officials issued a statement yesterday confirming Mr. Sutton's exclusion, but noted that they had not received a formal report from Identigene.

At a hearing on Thursday, Chief C. O. Bradford said his department had shut down its DNA laboratory and begun an internal affairs department investigation on whether there was criminal or other wrongdoing. Chief Bradford added that there should be a "cease and desist" on executions in the relevant cases until the retesting is complete.

"There certainly is a fear that people were wrongly accused, wrongly convicted or received longer sentences than they should have," he said last week in an interview in Austin.

William C. Thompson, a professor of criminology at the University of California at Irvine who has studied the Houston police laboratory's work, said, "The likelihood that there are more innocent people convicted because of bad lab work is almost certain."

Elizabeth A. Johnson, a DNA expert retained by Mr. Sutton's lawyers, has appeared as a defense witness in about 15 cases involving the crime laboratory and is perhaps its most vocal critic.

In one rape case, Dr. Johnson said, a technician testified that a swab of the victim found semen, even though initial laboratory reports said there was no semen present. In other cases evidence that technicians said was inconclusive actually exonerated the defendant. Often, she said, technicians would vastly exaggerated the probability of a defendant's guilt.

There was, she said, "an overall lack of understanding of how this work is done and what it means."

She said the laboratory was particularly weak where the sample involved a mixture of DNA from two people.

"They can't do a sperm sample separation to save their lives," Dr. Johnson said. "If you put a gun to their heads and said you have to do this or you will die, you'd just have to kill them."

There is plenty of blame to go around in the Sutton case, legal experts said, and it suggests a need for an independent investigation and systemic reform.

"The criminal justice system in Houston is completely dysfunctional," Professor Thompson said. He examined eight DNA cases processed by the Houston police at the request of KHOU-TV, the television station that first called attention to the laboratory's problems in several reports in November.

In Mr. Sutton's case, there happened to be a small amount of evidence available for retesting. That is seldom the case in Houston, according to the state's audit.

Mr. Sutton's mother, Carol Batie, said her son's main concern on hearing there would be retesting was that so little evidence remained available.

"We were concerned it would come back inconclusive," Mr. Batie said.

Mr. Bailey, the state representative, said the Sutton case should change the usual presumptions in cases where retesting is impossible. "Unless there is other strong corroborative evidence," he said, "those people at the very least deserve retrials."

The victim in the Sutton case identified him, but her testimony has been questioned. She said she was raped by two men. Both were around 5 feet 7 inches tall, she said: one weighed 135 pounds, the other weighed 120.

Five days later, she saw several men on the street and identified two of them as her attackers. DNA evidence excluded one man at the time, meaning one of her two identifications was demonstrably mistaken from the start. Mr. Sutton, moreover, is 5 foot 10 and weighs more than 200 pounds.

The Sutton case, said David Dow, a University of Houston law professor who represents death row inmates in capital appeals, "is probably the tip of the iceberg."

"There were two different problems in the crime lab—scientific incompetence and corruption," Professor Dow said. "That's a deadly combination. Once you have corruption, there is no reason to think that this is limited to DNA cases or cases where there is scientific evidence of any sort."

"If this were a death penalty case," he added, "Sutton may well have been executed by now."

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[From the Washington Post, Mar. 1, 2003]

## TEX. LAWMAKERS PROBE LAB OVER REPORTS OF TAINTED DNA EVIDENCE

(By Karin Brulliard)

AUSTIN, Feb. 28.—The Texas Legislature has launched an inquiry into the operations of the Houston Police crime lab after reports that the lab's shoddy facilities and faulty practices may have led to contamination of DNA evidence in hundreds of cases.

An independent audit by the state in December uncovered the problems. In January, police officials suspended DNA testing at the lab, and the Harris County District Attorney's office began a review of all cases that involved evidence processed there.

So far, the DNA from at least 14 convictions will be retested because of information secured during the reviews, said District Attorney Charles A. Rosenthal Jr. At least three involve death row cases.

Houston is in Harris County, which has sent more people to death row than any other county in Texas.

"It's a serious, serious problem," said state Rep. Kevin Bailey, a Democrat from Houston who is chairman of the House General Investigating Committee, which will hold hearings on the lab next week. "The public has a right to expect a fair and accurate analysis by a metropolitan crime lab. When we find out that we've not had that, it causes people to question the whole criminal justice system."

In the December audit, a team of forensic scientists detailed problems that included inadequate recordkeeping, poor maintenance of equipment and a leaky roof that it said could lead to contamination of DNA samples.

City Councilwoman Carol Alvarado, who toured the facility June 11 after receiving complaints from lab employees, said the roof was in poor shape.

"These were not just leaks; these were holes," she said. "There were trash buckets and water buckets throughout the lab. They were having to move tables around, because some of the leaks were near and sometimes above where the analysis was occurring."

Alvarado said she reported her findings to the council June 19, but funding issues prevented the council from awarding a contract for roof repair until January.

Houston Police Department spokesman Robert Hurst refused to comment on the lab.

Elizabeth Johnson, who directed the Harris County DNA lab until 1996, said water from a leak could taint samples. But she also said the city police lab's problems run deeper than a leaky roof.

"Every single case I ever reviewed of theirs had at least one serious error and sometimes more than one error," she said. "I'm not talking about a typo. I'm talking about things like controls being missing. Most common were that their reports would say one thing, and their data didn't support that at all."

Rosenthal said any DNA retests that reveal errors will lead to new trials.

Bailey said the use of DNA evidence from a flawed lab reveals the "win and get a conviction at all costs" attitude of the district attorney's office. He wants hearings to determine whether an external review is necessary.

"No innocent people should be convicted because of faulty analysis," he said. "At this point, I'm skeptical as to whether the Houston lab can analyze their own mistakes."

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[From the Washington Post, Mar. 13, 2003]

### TEX. EXECUTION STAYED AT LAST MINUTE—SUPREME COURT CONSIDERS REVIEW

(By Charles Lane)

The Supreme Court granted a last-minute stay of execution last night to a Texas death-row inmate who says he is innocent of the murder of which he was convicted 23 years ago, setting the stage for another high-profile debate at the court over alleged flaws in the U.S. capital punishment system.

In a brief order issued about 10 minutes before officials were to administer a lethal injection to Delma Banks Jr., the justices said that he should be kept alive at least long enough for them to consider his request for a full-scale hearing on claims that his 1980 trial in Bowie County, Tex., was marred by prosecutorial misconduct, ineffective defense counsel and racially discriminatory jury selection.

Banks, an African American, was convicted of killing a white teenager by an all-white jury. If his execution had proceeded last night, he would have been the 300th person put to death in Texas since the state resumed executions in 1982.

It was unclear when the court might meet to consider Banks' petition. Its next scheduled closed-door conference is March 21. However, the stay may be a favorable sign for Banks because it required the votes of at least five justices, and a decision to hear his case could be made with the assent of just four justices.

Consistent with growing public concern over the possibility of wrongful death sentences, the court has shown interest recently in the issues raised by Banks' appeal, though its rulings have not always come out the way death penalty opponents would have liked.

The court ordered a lower court review of another Texas man's death sentence last month, ruling that a case could be made that jury selection at his trial was racially biased; last year, it abolished capital punishment for the mentally retarded. But also last year, the court rebuffed an effort to seek abolition of the death penalty for juveniles and let Virginia proceed with the execution of a murderer who had been represented at trial by the murder victim's former lawyer.

"Delma Banks Jr., who has maintained his innocence from the beginning, found justice in the courts today, and we are hopeful that this delay will allow a meaningful review of the serious claims in his case," Banks' lawyer, George Kendall of the NAACP Legal Defense and Education Fund, said in a prepared statement. "The court's decision to stay the execution in order to potentially hear the significant claims put before it demonstrates that our tribunals will not turn a blind eye to egregious miscarriages of justice."

Bobby Lockhart, district attorney of Bowie County, said, "Factually, [Banks] was guilty, and legally the jury found him guilty. As to the death penalty, that's up to the Supreme Court. I think that the Supreme Court will review the case and find that he was guilty, and I think there's no way the stay [of execution] will be extended beyond 30 days."

Banks' case has attracted attention in part because of the supporters who have rallied to his cause, including former FBI director William S. Sessions and two former federal appeals court judges.

In a brief submitted to the Supreme Court in support of Banks' request for a stay, Sessions and his colleagues said that the Banks case is tainted by "uncured constitutional errors" that are "typical of those that have undermined public confidence in the fairness of our capital punishment system."

Banks, then 21, was convicted in 1980 of shooting his co-worker Richard Wayne Whitehead, 16, to death with a .25-caliber handgun.

Banks' lawyers argue that prosecutors wrongfully suppressed evidence that one of their key witnesses, who has since recanted, lied on the stand. Banks' attorneys also argue that his inexperienced defense lawyers offered little evidence to counter prosecutors' claims that Banks deserved the death penalty, even though he had no previous criminal record.

Prosecutors kept African Americans off the jury, they contend, producing the all-white panel that convicted Banks and sentenced him to death in the course of two days of legal proceedings.

No physical evidence linked Banks to the crime. But Banks was the last person seen with Whitehead, and prosecutors said their case against him is strong. Last week, the New Orleans-based U.S. Court of Appeals for the 5th Circuit, reversing a federal district judge's ruling in favor of Banks, permitted his execution to proceed, on the grounds that the alleged flaws in his trial were not substantial enough to have changed the outcome.

The Texas Court of Criminal Appeals this week refused to block Banks' execution, and the Texas Board of Pardons and Paroles would not hear his plea because it was filed too late.

Because of the prolonged appeals process in his case, Banks has been on death row while Texas conducted 299 executions, the most of any state since the Supreme Court permitted states to resume capital punishment in 1976.

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## RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCAIN. Mr. President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 108th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator HOLLINGS, I ask unanimous consent that a copy of the Committee Rules be printed in the RECORD.

### RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

#### I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

#### II. QUORUMS

1. A majority of members shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

#### III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

### IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

### V. SUBCOMMITTEES

1. Any member of the Subcommittee may sit with any Subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

### VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

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## ARMING CARGO PILOTS AGAINST TERRORISM ACT

Mr. BUNNING. Mr. President, I rise to thank my colleagues on the Senate Commerce Committee for unanimously passing the language of the Arming Cargo Pilots Terrorism Act as an amendment to the Air Cargo Security Act.

As was made so terribly clear on September 11, 2001, we must be ready for terrorist threats in places and times we never before thought we would. Congress has acted deliberately to increase our security and make it harder for terrorists to repeat the destruction of September 11.

One step Congress took was to arm pilots of commercial aircraft who volunteered for a rigorous training program. At the last minute, commercial cargo pilots were left out of the program while their counterparts flying for commercial passenger carriers were armed. That makes no sense because cargo pilots fly the same planes with the same or larger fuel loads as the passenger aircraft that were hijacked on September 11.

Last week, I introduced the Arming Cargo Pilots Against Terrorism Act to close that dangerous loophole. Today, Senator BOXER offered our bill as an amendment in the Commerce Committee and it passed unanimously. I thank her for all her hard work on this issue and I thank the Commerce Committee for acting expeditiously.

I am hopeful this bill soon become law and the loophole will be closed. We need to protect our cargo pilots and the general public from any possible threat.

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## THE ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

Mr. McCAIN. Mr. President, when Zoran Djindjic was assassinated in Belgrade yesterday, Serbia and the world lost a champion of freedom who gave his life in service to it. We mourn his death and condemn his assassins' attempt to destroy democratic rule in a country that was only recently liberated from Slobodan Milosevic's tyranny, but had already come so far.

I first heard about Zoran Djindjic in 1996 when he took to the streets of Belgrade with hundreds of thousands of Serbs to force Milosevic to accept local election results. He was victorious in that battle. It took him four more years of hard and dangerous work to defeat Milosevic at the polls and in the streets.

The Serbian revolution of 2000 showed the world that democracy can succeed, in the Balkans as elsewhere, if leaders are wise, persistent, and courageous. The Milosevic government was the last Balkan dictatorship to fall. Zoran Djindjic was the person pushing hardest at the pillars of the authoritarian state. Once he became Prime Minister, he made the tough decisions to transform Serbia from dictatorship to democratic republic. He sent Milosevic to The Hague, despite fierce internal opposition; he implemented critical economic and political reforms; and recently he had begun to aggressively fight organized crime. It was one battle too many.

Those who would corrupt and destroy democracy in Serbia presumably hope by their actions to extinguish the Serbian people's aspirations to live under rule of law and in liberty as part of a secure and prosperous Europe. They have failed. Killing one man will not stop reform or diminish the passion of Serbs to be part of the European family of free nations. I hope it will only invigorate Zoran Djindjic's many followers to carry on the struggle they began together in the dark days of Milosevic's rule.

Our prayers are with the Djindjic family, his colleagues in the Democratic Opposition of Serbia, and the Serbian nation. To the people of Serbia, we say: Please continue to fight for those principles your Prime Minister represented with honor, skill, and courage. He will be written into the history of a very difficult time. His name will be known for the freedom he helped bring to a long-suffering people. America salutes a fallen hero.

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## JACKSON-VANIK

Mr. LEVIN. Mr. President, nearly three decades ago, a small provision was included in the Trade Act of 1974. While relatively small in number of words, this provision, known as the Jackson-Vanik amendment, helped open up an entire society.

Three decades ago, during the height of the Soviet Union's power, Senator Henry "Scoop" Jackson and Representative Charles Vanik introduced legislation that exposed the repressive tactics of the Soviet Union. By focusing attention on the emigration restrictions that the Soviet Union placed on its Jewish citizens, the Jackson-Vanik amendment reiterated American concern about the wide-scale human rights abuses occurring in the Soviet Union. In the process, the Jackson-Vanik amendment played a vital role in changing Soviet society.

Now, as the cold war recedes further into the past, it is time for Russia to be "graduated" from Jackson-Vanik. Because of the persistence of the Jackson-Vanik requirements, the administration must report semi-annually on the Russian Federation's compliance with the freedom of emigration requirements. This reporting requirement is a source of much frustration and embarrassment to our Russian friends, a fact that is made clear to me whenever I meet with individuals or groups from Russia.

Russia has made great progress in reforming itself. Since 1994, consecutive administrations have noted that the Russian Federation has been found to be in full compliance with the freedom of emigration requirements under Title IV of the Trade Act of 1974. In this time, the United States has signed a bilateral trade agreement with Russia, and the Bush Administration according to its website "has begun consultations with Congress and interested groups on the possibility of graduating Russia and other countries of the former Soviet Union from the provisions of the Jackson-Vanik amendment." Graduating Russia from Jackson-Vanik at this time will improve our relations with Russia while enabling us to reflect upon the courage of Soviet Jewry and the success of this legislation. I ask unanimous consent that a letter from Mr. Leonid Nevzlin, former President of the Russian Jewish Congress and a current member of the Russian Senate, be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. This letter states that "there should be no doubt that the Jewish community believes the Jackson-Vanik requirements have been met in terms of immigration and freedom of movement in today's Russia."

This bill, which Senator BAUCUS is introducing and which I am pleased to co-sponsor, would enhance relations between the United States and Russia. While recognizing the advances made by Russia, the legislation also ensures that Congress can continue to play a meaningful role in addressing trade disputes with Russia and in setting the terms of World Trade Organization, WTO, accession for Russia.

While this legislation grants Permanent Normal Trade Relations, PNTR, to the Russian Federation, it does not abrogate the rights of Congress to comment on Russia's accession to the WTO nor does it remain silent about the need for continued progress by the Russian Federation with regard to human rights matters.

The Jackson-Vanik amendment was but one part of the Trade Act of 1974 that addressed trade with nonmarket economies. Recognizing the trade policy aspects of "graduating" a country from Jackson-Vanik, Congress has traditionally granted PNTR to a country subject to Jackson-Vanik only at the time of its accession to the WTO. This practice has given Congress the ability to voice its approval for the terms by which a nation accedes to the WTO. The terms for Russia's WTO accession are still being discussed, and even though this legislation would provide PNTR for Russia before those terms are final it also provides Congress with the means to comment on those terms and voice its approval or disapproval for them.

This legislation addresses the concerns of the Jackson-Vanik Amendment while preserving Congress' ability to play a key role in discussions about Russia's accession to the WTO. In a piece encouraging the ending of Jackson-Vanik's applicability for Russia, the Israel Policy Forum stated that: "things change. Old empires disappear. Old enemies become new friends. History's challenge is to anticipate its direction and move along with it."

This legislation recognizes the profound changes wrought by the Jackson-Vanik Amendment while acknowledging our need to move forward as we continue to engage with Russia on matters of human rights and trade.

EXHIBIT 1

JUNE 27, 2002.

Hon. CARL LEVIN,
*United States Senate,*
*Washington, DC.*

DEAR SENATOR LEVIN: I am pleased we had an opportunity to meet when I was in Washington, DC last week. Your long-standing interest to promoting closer working relationships between the U.S. Senate and the Russian parliament is much appreciated.

As promised, I am sending a copy of my letter, as president of the Russian Jewish Congress, to Presidents Bush and Putin expressing support for repeal of the Jackson-Vanik Amendment. I prepared the letter some time ago and it is surprising that more people in the U.S. Senate were unaware that it had been sent. There should be no doubt that the Jewish community believes the Jackson-Vanik requirements have been met in terms of immigration and freedom of movement in today's Russia.

I have also taken note of your concerns about the sale of dual use technology to Iran and Iraq. In this regard, as you recall I proposed in our meeting that our two chambers establish a framework to assess how we can both develop greater cooperation on matters of mutual concern. I am very pleased that both you and Chairman Biden encouraged me to develop such a framework and look forward to working with both of you to see that this is accomplished.

On another matter, I know of your interest in reducing America's dependence on oil shipments from Middle East countries and though you would like to know that Russian oil company YUKOS, will be delivering the first load of Russian oil to Houston, Texas soon. I am confident that Russia could be a reliable supplier and would welcome the opportunity to work with you and others in Congress on initiatives that would encourage this development.

It is my hope to build a closer working relationship with select members of the U.S. Senate in order to take a fresh approach to a new set of challenges that beset both our countries.

In recognition of the upcoming celebration of America's Independence Day on July 4, I extend my best wishes to you, as representative of the people, for your country's remarkable achievement.

Sincerely,

LEONID NEVZLIN,
*Senator, Deputy Chairman of the Committee for Foreign Affairs, Council of Federation of Russian Parliament.*

## COVER THE UNINSURED WEEK

Mr. SMITH. Mr. President, as most of my colleagues know, this week is Cover the Uninsured Week in America. The Robert Wood Johnson Foundation and a host of other organizations, including the U.S. Chamber of Commerce, the AFL–CIO, and AARP, have come together, recognizing that we can delay no longer in addressing this critical issue. Like them, I believe that Congress should seize this opportunity to reaffirm its commitment to bringing high quality, affordable, and stable health coverage within reach of the 41 million Americans who now go without.

Health insurance coverage is the best predictor of access to health care in America today; yet, despite its importance, more than 41 million Americans remain uninsured, and 75 million Americans under 65 years of age—three out of every 10—were uninsured at some point during the past two years. Experts estimate that this number will increase by 1 to 3 million people this year as the economic downturn continues. In our state alone, 436,000 people sought Oregon Health Plan coverage last year—a 14 percent increase since 2000.

I know we can reverse this trend because we have done it in the past. During my first year in the U.S. Senate, I helped create the State Children's Health Insurance Program, SCHIP. That program provides coverage for needy children who do not qualify for the Oregon Health Plan. Today, all 50 States have SCHIP programs providing for 4.6 million children. And in 2001, Oregon's SCHIP program provided health coverage to over 41,000 needy children.

While we in Congress debate the ways in which legislators can help tackle this difficult problem, people all over the country are acting on their own to help bring health services and a better quality of life to countless vulnerable Americans. During Cover the Uninsured Week I would like to tell you about one person from my own state of Oregon whom I consider to be a true "Health Care Hero." Mr. Ian Timm is a man who has truly made a difference to the lives and health of many Oregonians.

Mr. Timm is well known as an effective advocate bringing health services to Oregon's needy. Whether serving on the Oregon Rural Health Association board, chairing the Oregon Statewide Health Coordinating Council, or providing leadership as a Linn County Commissioner, Mr. Timm has dedicated his professional life to making a difference in the lives of others. He is well known for providing both vision and structure to Oregon's efforts to provide quality health services for children and families. Because of his work, young children receive immunizations, mothers have quality pre-natal care, and seniors have the attention of physicians, all regardless of their financial status.

In Oregon, we have a tradition of taking care of those who cannot take care of themselves—Mr. Timm has been a leader in making this value a reality. For instance, Mr. Timm's vision led to the development of Care Oregon, which provides health coverage for thousands of Oregonians as the largest insurer of clients within the Oregon Health Plan. He serves on the Oregon Partnership to Immunize Children, ensuring that Oregon kids receive the preventive care they need. Through his work at the Oregon Primary Care Association, Mr. Timm has increased access to health care by bringing resources to community based health centers. These centers are one of the most effective ways to provide health care to those who often drop through the cracks, preventing disease and saving lives.

But Mr. Timm's service is not limited to our borders. Driven by his faith and concern for others, he has shared his time and talents overseas in the Sudan and in Thailand. During the Ethopian refugee crisis, he supervised the construction of camps and provided medical and sanitation services for 105,000 refugees. In Thailand, he created sanitation programs for 14 refugee camps, and supervised two outpatient clinics, public and school health programs, and the Khmer Health Training Center. Few of us are willing to forsake the comforts of home, yet Mr. Timm volunteered to bring hope and life to those in the most desperate corners of the globe.

Mr. Timm has built both a local and national reputation as an effective advocate and distinguished public servant who is a true friend to the poor and vulnerable. This year, Mr. Timm will retire from professional service, ending his distinguished career as the Executive Director of the Oregon Primary Care Association. He will be sorely missed. But given his record of valuable service, I'm confident he will continue to make a difference for Oregonians.

I salute Ian Timm for his record of accomplishment and tremendous legacy of healthy Oregon children and families. He is the definition of a Health Care Hero and an example of compassionate service for all of us here in Congress and across America.

We in the U.S. Senate have a moral obligation to follow Ian Timm's example. In so doing, the 108th Congress can leave its own legacy of healthy children and families. Cover the Uninsured week lasts only 7 days, but I urge my colleagues to continue their personal commitment to this issue throughout their time in public office and beyond. Only with this type of dedication can we truly keep America healthy.

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## UH-60 BLACKHAWK CRASH AT FORT DRUM, NEW YORK

Mr. BURNS. Mr. President, I rise today to mourn the loss of 11 brave soldiers killed in a UH-60 Blackhawk crash on the afternoon of Tuesday, March 11, at Fort Drum, New York. This tragic accident occurred as the unit was conducting a routine training exercise. One of the young men on board, Pfc. Stryder O. Stoutenburg, was from Missoula, MT. He was only 18 and was assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

The other 10 young men killed are:

Cpt. Christopher E. Britton, 27, from Ohio, assigned to Headquarters and Headquarters Company, 1st Battalion, 10th Aviation Regiment.

Chief Warrant Officer 3 Kenneth L. Miller, 35, from California, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Staff Sgt. Brian Pavlich, 25, from Port Jervis, NY, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. John L. Eichenlaub, Jr., 24, from South Williamsport, PA, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. Joshua M. Harapko, 23, from Peoria, AZ, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Spc. Lucas V. Tripp, 23, from Aurora, CO, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Spc. Barry M. Stephens, 20, from Pinson, AL, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Pfc. Shawn A. Mayerscik, 22, from Oil City, PA, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Pfc. Tommy C. Young, 20, from Knoxville, TN, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Pfc. Andrew D. Stevens, 20, from Rockingham, NH, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

In addition, two young men were seriously injured—Spc. Dmitri Petrov and Spc. Edwin A. Mejia, both from Charlie Company, 4th Battalion, 31st Infantry Regiment.

Each and every one of these young men was a patriot and served their country bravely. My thoughts and prayers go out to the families of these boys. While the cause of the accident remains under investigation, I have asked to be kept informed of any and all developments and am confident that a thorough examination will be conducted.

Our brave military men and women fully know the risk they take in doing their duty and they meet this risk head on, to ensure that the rest of us continue to live with freedom. Tragic accidents such as this one truly remind us all of the high price of freedom.

I will continue working with my colleagues to make sure our troops have the best equipment, instruction, and supplies to ensure their safety not only on the battlefield, but in training exercises as well. May God bless the young soldiers who died training to defend the values of this great Nation.

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## MIDDLEBURY COLLEGE PANTHERS' WELL-PRACTICED TRADITION

Mr. LEAHY. Mr. President, today I want to bring to the Senate's attention a group of student athletes in Vermont who have an unusual and admirable tradition. For the past 42 years, Middlebury College freshman have helped a Middlebury man with a disability make it to football and basketball games like clockwork. It is another example where students' education extends far beyond the walls of a college classroom.

In the March 10, 2003, issue of Sports Illustrated, well-known sports columnist Rick Reilly took a moment to explain the tradition to his readers. Middlebury College has long been recognized as one of the Nation's finest institutions of higher education. The quality of its faculty, the rigors of coursework, stunning facilities, and the success of its athletic programs are the foundation for Middlebury's storied history and academic reputation. Yet it also is what goes unnoticed that makes this truly a special place—like a tradition that takes place right before the start of every football and basketball game. It is a tradition that has come to exemplify what it means to be a Middlebury College Panther, a Vermonter, and a person in full.

For the past 42 years, the freshman members of the Middlebury College football and basketball teams have been going to Butch Varno's house before the start of the game and literally giving him a lift. Mr. Varno, who from infancy has contended with cerebral palsy, is confined to a wheelchair and does not drive. On game day, he anticipates the arrival of a small band of Panthers for a ride to the game, which includes lifting Mr. Varno out of bed and getting him to the bleachers.

We in Vermont are proud of the student athletes who make this happen before each game. Whether they know it or not, they represent the very best of our Nation's college students. They are learning, playing hard and, most importantly, caring for others in their community.

I ask unanimous consent that the text of Rick Reilly's column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Sports Illustrated, Mar. 10, 2003]

### EXTRA CREDIT

(By Rick Reilly)

The best college tradition is not dotting the i at Ohio State. It's not stealing the goat from Navy. Or waving the wheat at Kansas.

It's Picking Up Butch at Middlebury (Vt.) College.

For 42 years Middlebury freshman athletes have been Picking Up Butch for football and basketball games. It's a sign-up sheet thing. Carry the ball bags. Gather all the towels. Pick Up Butch.

Basketball players, men and women, do it during football season. Football players do it during basketball season. Two hours before each home game, two freshmen grab whatever car they can get and drive a mile off campus to the tiny house where 54-year-old Butch Varno lives with his 73-year-old mother, Helen, who never got her driver's license. And they literally Pick Up Butch, 5'3" and 170 pounds, right off his bed.

They put him in his wheelchair and push him out of the house, or one guy hauls him in a fireman's carry. They pile him into the car, cram the wheelchair into the trunk, take him to the game and roll him to his spot in the mezzanine for football games or at the end of the bench for basketball.

Butch always smiles and says the same thing from the bottom of his heart: "CP just sucks." Cerebral palsy. While his fondest dream has always been to play basketball, it'll never happen. There is little that he can physically do for himself.

"At first, you're a little nervous; you're like, I don't know," says freshman wide receiver Ryan Armstrong. "But the older guys say, 'We did it when we were freshmen. Now you go get him. It's tradition.' So me and my buddy got him the first week. He's pretty heavy. We bumped his head a couple of times getting him into the car. He's like, 'Hey! Be careful!' But he loves getting out so much that afterward you feel good. It's fun to put a smile like that on somebody's face."

And the kids don't just Pick Up Butch. They also Keep Butch Company. Take Butch to the Bathroom. Feed Butch. "He always likes a hot dog and a Coke," says 6'8" Clark Read, 19, a power forward. "It's kind of weird at first, sticking a hot dog in his mouth. The trick is to throw out the last bite so he doesn't get your fingers."

Thanks to 42 years of freshmen, Butch hardly ever misses a Middlebury game. Not that he hasn't been late.

"One day this year, the two guys were calling me on their cell," says Armstrong, "and they're going, 'We can't find Butch!' And I'm like, 'You lost Butch? How can you lose Butch?' Turns out they just couldn't find his house."

Nobody at Middlebury remembers quite how Picking Up Butch got started, but Butch does. It was 1961. He was 13, and his grandmother, a housekeeper at the dorms, wheeled him to a football game. It started snowing halfway through, and afterward she couldn't push him all the way back home. A student named Roger Ralph asked them if they needed a ride. Ever since then, Butch has been buried in the middle of Middlebury sports.

Sometimes he gives the basketball team a pregame speech, which is usually, "I love you guys." He holds the game ball during warmups and at halftime until the refs need it. He is held upright for the national anthem. Once in a while, just before tip-off, they put him in the middle of the players' huddle, where they all touch his head and holler, "One, two, three, together!" When the action gets tense, the freshmen hold his hands to keep them from flailing. After the games some of the players come back to the court and help him shuffle a few steps for exercise, until he collapses back in his chair, exhausted. Then it's home again, Butch chirping all the way.

And it's not just the athletes at Middlebury who attend to him. Butch is a campus project. Students come by the house and help him nearly every day. Over the years they taught him to read, and then last year they helped him get his GED. Somebody got him a graduation cap and gown to wear at the party they threw in his honor. During his thank-you speech, Butch wept.

"These kids care what happens to me," Butch says. "They don't have to, but they do. I don't know where I'd be without them. Probably in an institution."

But that's not the question. The question is, Where would they be without Butch?

"It makes you think," says Armstrong. "We're all young athletes. Going to a game or playing in a game, we take it for granted. But then you go Pick Up Butch, and I don't know, it makes you feel blessed."

Now comes the worst time of the year—the months between the end of the basketball season, last week, and the start of football in August. "It stinks," Butch says. He sits at home lonely day after day, watching nothing but Boston Red Sox games on TV, waiting for the calendar pages to turn to the days when he can be one, two, three, together again with the students he loves.

On that day the door will swing open, and standing there, young and strong, will be two freshmen. And, really, just seeing them is what Picking Up Butch is all about.

## ADDITIONAL STATEMENTS

### REGARDING THE RETIREMENT OF TALBERT O. SHAW AS PRESIDENT OF SHAW UNIVERSITY

• Mr. EDWARDS. Mr. President, I am pleased today to pay tribute to a remarkable North Carolinian, Talbert O. Shaw.

Dr. Shaw is retiring this year as president of Shaw University after a groundbreaking 15 years in which he helped this noble institution regain its footing and once again become a beacon of knowledge, opportunity and service for the people of North Carolina and beyond.

Dr. Shaw was born in Jamaica, the ninth of 10 children. He served as a minister in Jamaica and the Bahamas before moving to the U.S. in the 1950s. After earning his master's degree and doctorate in ethics from the University of Chicago, Dr. Shaw taught religion and ethics for 10 years before becoming interim dean of the Howard University Divinity School in Washington D.C. He then served as dean of arts and sciences at Morgan State University for 11 years.

Dr. Shaw left his comfortable position at Morgan to heed an urgent call from Shaw University, the oldest historically black university in the South. The University had fallen on hard times and was in dire financial trouble. The school had no endowment, there was not enough money to pay day-to-day expenses. Enrollment was down. No one would have blamed him if he had passed up this challenge. But he didn't pass it up—he took it on.

Rallying students, faculty, and the community with his slogan "Strides to Excellence: Why Not the Best," Dr. Shaw worked tirelessly to turn around the school's fortunes. And thanks to his leadership, Shaw University is once again a shining light. Enrollment is up, debts are paid and the endowment is now $15 million. Seventy percent of the faculty have Ph.Ds. Because of his belief that "education of the heart is just as important as the education of the heads and hands," he has incorporated values and ethics into the Shaw curriculum. Thanks to the efforts of Dr. Shaw and his outstanding faculty and staff, Shaw students are receiving an education second to none.

Dr. Shaw has also found time to contribute to the community. Among other things, he serves on the board of the Wade Edwards Learning Laboratory, an after-school program that my wife and I started and has offered invaluable service to the young people we serve.

We are sorry to see Dr. Shaw leave but we in North Carolina wish him and his wife, Marlene, many, many years of happiness and health as they take on future challenges together.

In striving for excellence, Dr. Shaw asked, "why not the best?" Fortunately, that's just what he gave us. Thank you, Dr. Shaw, for a job well done. You are an inspiration to us all.•

### COMMENDING THE HUMANITARIAN WORK OF JOHN VAN HENGEL

• Mr. McCAIN. Mr. President, I rise today to honor a great American, a man whose tireless efforts on behalf of needy people everywhere are an inspiration to us all. February 21 of this year marked the 80th birthday of my constituent, John van Hengel, who has become known as the "Father of Food Banking." His vision for feeding the hungry and his work making that vision a reality has made a tremendous difference in the lives of millions of people.

John van Hengel's work is a testament to the ability of one person to change the world for the better. In 1965, John was a businessman who volunteered some of his spare time to the St. Vincent de Paul Society in Phoenix, AZ. In the course of his volunteer work, John saw there was a need for additional food for the Society's soup kitchen. In the course of his work, John met a woman who had to collect food from grocery store garbage bins to feed her 10 children. That needy mother told John that there should be a place where surplus food could be stored and available to people who needed it, instead of being thrown out and wasted. As he looked around for ways to better serve the needy people he met, John noticed that fruit was being left unpicked on suburban backyard trees around Phoenix. John recruited volunteers to gather fruit that remained in area fields after harvesting. He then delivered these much needed fruits and vegetables to various local churches. With John's leadership, one of the Nation's first "gleaning" projects became a reality.

John recruited the local grocery stores and asked them to donate surplus food. John also approached his local church, and the church responded by loaning John $3,000 and an abandoned building. In 1967, John van Hengel founded the world's first food bank, named St. Mary's in honor of the church that housed it. Thus was born the first food bank and the concept of food banking—a central source for food donations and distribution to a wide range of local charitable agencies that feed the hungry.

After the creation of the St. Mary's Food Bank, John founded Second Harvest in 1976. With the help of private donations and State and Federal grants, John helped to set up and develop Second Harvest food banks in other nearby communities in Arizona, California, and other States. The success of these new food banks led to Second Harvest becoming formally incorporated in 1979. Today, it is known as America's Second Harvest, the Nation's largest hunger relief charity and a nationwide network of more than 200 regional food banks and good rescue organizations that provide food and other services to more than 50,000 local charitable agencies.

In 1982, John van Hengel stepped down from his full-time role at Second Harvest to pursue his work of spreading food banking internationally. In 1984, John van Hengel founded Food Banking, Inc., a nonprofit food bank consulting organization. John helped spread the notion of food banking and volunteerism in an international capacity, first in Canada through the creation of the Canadian Association of Food Banks, then to France, and to Belgium. Today, the Federation of European Food Banks meets regularly to discuss experiences and ways to expand the work of its members. Recently, the idea of food banking has spread to Brazil, Israel, Mexico, and Japan. John van Hengel's vision, first articulated and acted upon in Phoenix in 1967, is the first link in an international chain of food banks and compassion for the neediest among us.

John van Hengel's food banking idea is simple, but like all truly great ideas, it took the efforts of one man working for a lifetime to reach fruition. Because John van Hengel was the need to help hungry people, he created a concept to address that need. Dozens of countries and millions of people now have a powerful weapon against hunger.

In the wake of his 80th birthday, it is a privilege in honor John van Hengel for his noble dedication to feeding the hungry. His vision and leadership continue to greatly impact the lives of millions throughout the United States and the world.•

## TRIBUTE TO CRAIG STALKER—TROOPER OF THE YEAR IN SOUTHERN REGION

• Mr. BUNNING. Mr. President, I rise today in the Senate to honor and pay tribute to Kentucky State Police Trooper Craig Stalker for being named the Southern Region Trooper of the Year.

This honor was bestowed upon Trooper Stalker by the International Association of Chiefs of Police. Trooper Stalker was nominated for this prestigious award after he rescued several people from two burning cars in Johnson County, KY, while off duty. After receiving this distinction he was presented with a 35-pound eagle trophy.

The citizens of eastern Kentucky are fortunate to have Trooper Stalker protecting their communities. His example of leadership, hard work, and compassion should be an inspiration to all throughout the Commonwealth.

Congratulations, Trooper Stalker for receiving this award. Trooper Stalker is just one of the many Kentucky State Police officers which put others before themselves by vowing to protect and serve Kentuckians. They have earned our admiration and respect, and for this we will always be grateful.•

## IN HONOR OF DR. LLOYD OGILVIE

• Mr. ALLARD. Mr. President, since 1995 Dr. Lloyd Ogilvie has provided exceptional spiritual leadership to the Senate family. Serving as chaplain for 8 years, Dr. Ogilvie daily guided and counseled Members and staff with encouragement, support, and wisdom.

I will miss Dr. Ogilvie. Lloyd Ogilvie has led the Senate family and Nation through difficult situations, including the shooting deaths of Capitol Hill police officers J.J. Chestnut and Detective John Gibson; the impeachment of our President; the deaths of three Senate Members, Paul Wellstone, John Chafee, and Paul Coverdell; the tragic terrorist attack on 9/11; the attack of anthrax on the Senate; and the current possibility of war.

His leadership and counsel have stayed Senate Members, spouses, and staff. I thank Dr. Ogilvie for his daily prayers. He offered us spiritual leadership through his weekly Bible study for Senators, and always made himself available—at any time of the day—as a source of prayer and counsel. Chaplain Ogilvie also hosted a weekly Bible study for Senate spouses.

Chaplain Ogilvie also made himself available to staff. He welcomed staff to his office, responded to electronic mail from staff, and taught an inspirational study every Friday for Senate staff. Dr. Ogilvie also made an effort to stimulate relationship with the Washington community. He made information available to staff about opportunities to serve Washington-based charities, and he made the Senate aware of Senate and community groups to help Senate staff strengthen their lives morally and spiritually. Dr. Ogilvie also offered himself to minister and speak to the local Washington community.

While serving in the Senate, I have been encouraged and blessed by Chaplain Ogilvie and I am pleased the Senate chose him as our Chaplain. His friendship and counsel have served the Senate well and Washington will miss his presence.

My wife Joan and I give you and Mary Jane our warmest thoughts and our prayers as you return home to California. We will continue to pray for you and your family. We thank you for your service and ministry to us and wish you and your family God's best.•

## LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 20, 2001 in San Diego, CA. An Afghani taxicab driver was attacked by one of his passengers. According to police, after getting in the cab, the passenger asked the cab driver for his nationality. After the driver answered, a heated argument ensued. When the cab stopped, the passenger got out and put his hands around the driver's throat and struck him with his fist.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

## REAUTHORIZING THE ASSAULT WEAPONS BAN

• Mr. LEVIN. Mr. President, in 1994 President Clinton signed into law a ban on the production of certain semiautomatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics. This law is scheduled to sunset on September 13, 2004.

Last week before the Senate Judiciary Committee, Attorney General John Ashcroft indicated the Bush administration's support for the current ban on assault weapons, but refused to support reauthorization of the ban. I believe we should not only reauthorize this bill, but strengthen it. I hope the Bush Administration will support reauthorization.

According to National Institute for Justice statistics cited by the Brady Campaign to Prevent Gun Violence, the assault weapons ban has successfully reduced the use of assault weapons in crime. According to the report, crime gun traces for assault weapons declined by 20 percent the first year after the ban took effect from 4,077 in 1994 to 3,268 in 1995. Comparatively, trace requests on all crime guns decreased by only 11 percent over the same period of time.

Even with the success of the ban, assault weapons still pose a threat to community safety. In 1994, every major national law enforcement organization, including the Fraternal Order of Police, the National Sheriff's Association, and the Major City Police Chiefs Association, supported the Federal assault weapons ban. I expect that law enforcement will again support this important piece of gun and community safety legislation.

I urge my colleagues in the Senate and the President to support the reauthorization of this important bill.•

## A TRIBUTE TO KENT KRESA

• Mrs. FEINSTEIN. Mr. President, I would like to take this opportunity to recognize an outstanding leader of American industry, Kent Kresa, upon his retirement. For the past 13 years, Mr. Kresa has presided over Northrop Grumman Corporation as its chairman and CEO.

Under his guidance, Northrop Grumman grew from a mid-sized defense company known primarily for aircraft building to a full-spectrum major defense firm. The Northrop Grumman that Mr. Kresa refashioned is home to 120,000 employees located in all 50 States and has operations in 25 foreign countries.

It is my privilege to commend Mr. Kresa for a career that helped modernize our defense industrial base and that significantly bolstered our national security.

Mr. Kresa was born in New York City and raised on Long Island. He received his education at the Massachusetts Institute of Technology, earning a bachelor's degree in 1959 and post-graduate degrees in 1961 and 1966, all in aeronautics and astronautics.

Before joining Northrop Grumman, Mr. Kresa served with the Defense Advanced Research Projects Agency, where he was responsible for applied research and development programs in the tactical and strategic defense arena. From 1961–68 he was associated with the Lincoln Laboratory at M.I.T., where he worked on ballistic missile defense research and re-entry technology.

During his distinguished career, Mr. Kresa received many of industry's and the government's most prestigious honors. In January, Forbes Magazine featured him on their cover and named Northrop Grumman the Company of the Year. In 2002, Mr. Kresa was awarded the Ellis Island Medal of Honor for his significant contributions to our nation's heritage. He received the Navy League's Admiral Chester W. Nimitz Award for outstanding support of the U.S. Navy.

Also last year, he was named president for a 1-year term of the American Institute of Aeronautics and Astronautics. And he was presented the California Institute of Technology's Management Association's Excellence in Management Award for demonstrating extraordinary vision and leadership.

In 2001, BusinessWeek magazine selected Mr. Kresa as one of the Nation's Top 25 managers. That same year he received the Private Sector Council's Leadership Award for his commitment to improving governmental efficiency. In May 2000, the Aerospace Historical Society presented Mr. Kresa with the International von Kμrmμn Wings award for his contributions to the industry. And in March of 2000, the California Manufacturers and Technology Association named Mr. Kresa and Northrop Grumman a Manufacturer of the Century.

Other honors include Honorary Fellow by the American Institute of Aeronautics and Astronautics in 1998; California Industrialist of the Year in 1996, by the California Museum of Science and Industry and the California Museum Foundation; the Navy League of New York's Admiral John J. Bergen Leadership Award in 1995; and the Air Force Association's John R. Alison Award for Industrial Leadership in 1994.

During Mr. Kresa's tenure at DARPA, he received the Arthur D. Flemming Award as one of the top 10 people in the U.S. Government in 1975; the Navy's Meritorious Public Service Citation the same year; and Secretary of Defense Meritorious Civilian Service Medal in 1974.

While impressive, this partial list of honors only begins to tell the story of Mr. Kresa's contributions to the defense industry and this country.

After joining Northrop in 1975, he was responsible for innovations in stealth and surveillance aircraft, such as the revolutionary B–2 stealth bomber. He was named president of the company in 1987, and CEO and chairman of the board in 1990.

Within the next few years, he embarked upon a decade-long effort that would not only transform Northrop Grumman but also make the company a major force in changing the nature of the defense business.

He and his staff foresaw that a post-cold war defense establishment would require a very different array of products and services, that America's military of the future would rely on systems and integrated networks to tremendously enhance the capabilities of its platforms. He worked tirelessly to help the Department of Defense achieve this vision of interconnected platforms working together to greatly increase the situational awareness and speed of engagement of our military forces.

To build a company that could better support the new direction of the Department of Defense, Mr. Kresa and his staff acquired 16 other major firms, many of them legends in their own right. These included Grumman, Westinghouse, Logicon, Litton Industries, Newport News Shipbuilding, and, most recently, TRW.

"This Amalgamation of great companies," to quote Mr. Kresa, created a corporate structure that has led to new efficiencies and much creative collaboration. Today, for instance, Navy ships can be built from top to bottom as well as networked with other platforms simply through the joint efforts of Northrop Grumman experts in information technology, avionics, satellite communications and other areas.

Mr. Kresa was also instrumental in developing and gaining Congressional approval for several key platforms that will help form the backbone of our 21st century military. These include the Joint Strike Fighter, the DDX family of destroyers, cruisers and littoral combat ships, and the new generation of Coast Guard ships and aircraft known as the Deepwater project.

As Mr. Kresa moves on to exciting new challenges I wish him, his wife Joyce, and their daughter Kiren, every success and happiness.

For more than 42 years, Mr. Kresa has worked relentlessly in pushing for greater innovation, efficiency and readiness within our great Nation's defense establishment. My office will remember Mr. Kresa for his loyalty, dedicated service, and accomplishments—and we thank him.•

## OUTSTANDING RHODE ISLANDER

• Mr. REED. Mr. President, I rise to pay tribute to an outstanding Rhode Islander, Jimmy McDonnell, who is celebrating his retirement from the Biltmore Hotel after 45 years of dedicated service.

Since his earnest beginnings in 1948 as a busboy in the Town Room Restaurant, Jimmy McDonnell has exemplified great professionalism, boundless enthusiasm, and is today an institution in Rhode Island's hospitality industry. Jimmy McDonnell is synonymous with the Biltmore Hotel, located in the heart of the capital city of Providence.

As a waiter, manager, and director of catering service at the Biltmore Hotel for over five decades, he has become a hallmark of one of Rhode Island's finest institutions. Over his long and industrious career Jimmy McDonnell has attended to the needs of people from all walks of life—from Presidents and foreign heads of state, to CEOs and politicians, to television and movie celebrities and even to rock stars. Jimmy has been in the center of the Rhode Island restaurant and hotel industry and is well known to our community's most distinguished residents and visitors. Synonymous with the finest in service, Jimmy has, through his professionalism, skills and graciousness, always put Rhode Island's best foot forward and illuminated the kindness and generosity of our great State.

In addition to celebrities, he has touched the lives of virtually hundreds of Rhode Islanders and their families. He oversaw countless social events and charitable endeavors and he was "the person" to whom you entrusted the details of your son's bar mitzvah or who made sure your daughter's wedding went according to plan. He helped make cherished memories for so many, and his good heart and hard work footnoted many special events in our State and in our lives. His exemplary legacy of service leaves many Rhode Islanders with fond memories and stories of the man they knew as "Mr. Biltmore." His presence at the Biltmore will indeed be sorely missed.

I ask my colleagues to join me in commending Jimmy McDonnell for his many years of service at the Biltmore Hotel, and to the hospitality industry which makes Rhode Island such a special place to live, work, and visit.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## 6-MONTH PERIODIC REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—PM 23

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c), I am transmitting a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 12, 2003.*

## NOTICE STATING THAT THE EMERGENCY DECLARED WITH RESPECT TO THE GOVERNMENT OF IRAN IS TO CONTINUE BEYOND MARCH 15, 2003—PM 24

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2002 (67 FR 11553).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 12, 2003.*

## MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 342. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

H.R. 399. An act to amend the Public Health Service Act to promote organ donation.

H.R. 659. An act to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals.

H.R. 663. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 85. Concurrent resolution expressing the sense of Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

The message further announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. STARK of California, Mrs. MALONEY of New York; Mr. WATT of North Carolina; and Mr. HILL of Indiana.

The message also announced that pursuant to section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives as Congressional Advisors on Trade Policy and Negotiations during the first session of the One Hundred Eighth Congress: Mr. THOMAS of California; Mr. CRANE of Illinois, Mr. SHAW of Florida, Mr. RANGEL of New York; and Mr. LEVIN of Michigan.

At 5:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 342. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 389. An act to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

H.R. 399. An act to amend the Public Health Service Act to promote organ donation; to the Committee on Health, Education, Labor, and Pensions.

H.R. 659. An act to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 663. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## MEASURE PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 607. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

## MEASURE HELD AT THE DESK

The following measure was ordered held at the desk until the close of business March 19, 2003, by unanimous consent:

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1576. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Unshu Oranges from Honshu Island, Japan (Doc. No. 02–108–1)" received on March 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1577. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the Montgomery GI Bill (MGIB) Biennial Report to Congress, received on March 12, 2003; to the Committee on Armed Services.

EC–1578. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report relative to international agreements other than treaties entered into by the United States under the Case-Zablocki Act with Japan, Greece, France and Uzbekistan, received on March 12, 2003; to the Committee on Foreign Relations.

EC–1579. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–50 and CF6–80C2 Turbofan Engines; Docket No. 2001–NE–19 (2120–AA64) (2003–0147)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1580. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–00 Series Airplanes Modified by Supplemental Type Certificate STO169AT–D Docket No. 2002–NM–56 [1–13/3–10] (2120–AA64) (2003–0131)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1581. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800 XP Airplanes; Docket no. 2001–NM–315 [1–13/3–10] (2120–AA64) (2003–0132)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1582. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honey International Inc. ALF5021L–2, –2C, ALF502R–3 and –3 and –3A Series Turbofan Engines; Docket no. 2002–NE–24 [1–15/3–10] (2120–AA64) (2003–0133)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1583. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller Inc. Model HC C2YR–4CF Propellers; docket no. 2001–NE–48 [2–4/3–10] (2120–AA64) (2003–0134)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1584. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–100 and –300 Series Airplanes; docket no. 2002–NM–140 [2–5/3–10] (2120–AA64) (2003–0135)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1585. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: PIAGGIO AERO INDUSTRIES SpA Model P 180 Airplanes; Docket no. 2002–CE–46 [2–5/3–10] (2120–AA64) (2003–0136)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1586. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–600, 700, 700C, 800, and 900 Series Airplanes; Docket no. 2002–NM–240 (2120–AA64) (2003–0137)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1587. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller, INC, Model HD E6C 3B/E13890K Propellers; Docket no. 2000–NE–45 (2120–AA64) (2003–0138)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1588. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Robinson Helicopter Company Model R22 Helicopter; Docket no. 2001–SW–44 (2120–AA64) (2003–0139)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1589. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Robinson Helicopter Company Model R44 Helicopters; Docket no. 2001–SW–45 (2120–AA64) (2003–0140)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1590. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: PIAGGIO AERO Industries SpA Model 180 Airplanes; Docket No. 2002–CE–47 (2120–AA64) (2003–0141)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1591. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: APEX Aircraft Model CAP 10 B Airplanes; Docket no. 2002–CE–04 (2120–AA64) (2003–0142)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1592. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model HP 137 Jetstream Mk I Jetstream Series 200, 3101, and 3201 Airplanes; Docket No. 2002–CE–14 (2120–AA64) (2003–0143)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1593. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives SCATA Griyoe AEROSOATUAKE Nideks TB 8m 10, 20, 21, and 200 Airplanes Docket no. 2002–CE–43 (2120–AA64) (2003–0144)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1594. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Aircraft Equipped with Honeywell Primus II RNZ 850–851 Intergrated Navigation Unites; Docket No. 2003–NM–41 (2120–AA64) (2003–0145)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1595. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Shelbyville and Las Vergne, Tennessee (MM Docket No. 01–224)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1596. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Shafter and Buttonwillow, California (MM Docket No. 02–58)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1597. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Junction, Texas; Chino Valley, Arizona; Arkadelphia, Arkansas; Aspermont, Texas; Cotulla Texas) (MM Docket Nos. 01–263, 01–264, 01–265, 01266, 01–267)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1598. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Balmorhea, Texas (MB Docket No. 02–15, RM–10463)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1599. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Snyder, Littltfield, Wolfforth and Floydada, Texas and Hobbs, New Mexico (MM Docket No. 01–144; RM–10406, RM–10340)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1600. A communication from the Deputy Chief, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems; Petition of City of Richardson, Texas: Order of Reconsideration (FCC 02–318; CC Docket 94–102)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1601. A communication from the Attorney/Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432—1435 MHz, 1670–1675 MHz, and 2385–2390 MHz Governments Transfer Bands (WT Docket No. 02–8, FCC 02–152)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1602. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Virginia: Final Authorization of State Hazardous Waste Management Program Revisions (FRL 7465–8)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1603. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surfact Coating of Metal Coil (FRL 7467–1)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1604. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Mississippi Update, to Materials Incorporated by Reference (FRL 7445–5)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1605. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri (FRL 7467–4)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1606. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; New York (FRL 7464–8)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1607. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Historic Area Remediation Site (HARS)-Specific Polychlorinated Bipheny Worm Tissue Criteria (FRL 7467–6)" received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1608. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Thirteenth Annual Report to Congress relative to the Health and Safety activities relating to the Department of Energy's Defense nuclear facilities during calendar year 2002, received on March 12, 2003; to the Committee on Governmental Affairs.

EC–1609. A communication from the Director, Office of Federal Housing Enterprise Oversight (OFHEO), transmitting, pursuant to law, the OFHEO's Fiscal Year 2002 Performance Report, received on March 12, 2003; to the Committee on Governmental Affairs.

EC–1610. A communication from the Director, Office of Management, Budget and Evaluation/Chief Financial Officer, transmitting, pursuant to law, the report relative to the Department of Energy's annual list of Government activities that are not inherently governmental in nature, after review and consultation with the Office of Management and Budget (OMB); to the Committee on Governmental Affairs.

EC–1611. A communication from the Special Counsel, Office of the Special Counsel, transmitting, pursuant to law, the Annual Report of the Office of Special Counsel for Fiscal Year 2002, received on March 12, 2003; to the Committee on Governmental Affairs.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–64. A resolution adopted by the City of Warren, State of Michigan relative to solid waste; to the Committee on Environment and Public Works.

POM–65. A resolution adopted by the Town of New Castle, State of New York relative to the decomissioning of the Indian Point Power Plants; to the Committee on Environment and Public Works.

POM–66. A resolution adopted by Urbana City Council, State of Illinois relative to opposition to a war against Iraq; to the Committee on Foreign Relations.

POM–67. A resolution adopted by the Town of Mansfield, State of Connecticut relative to opposition to the war against Iraq; to the Committee of Foreign Relations.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Christine K. Alexander and ending Adam M. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

Coast Guard nominations beginning Diane J. Hauser and ending Lisa H. Degroot, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

Coast Guard nomination of Scott Aten.

Coast Guard nominations beginning Paul S. Szwed and ending Darell Singleterry, which nominations were received by the Senate and appeared in the Congressional Record on February 25, 2003.

Coast Guard nomination of John P. Nolan.

Coast Guard nomination of Christy L. Howard.

Coast Guard nominations beginning Bruce E. Graham and ending Bradford W. Youngkin, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2003.

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Ellen G. Engleman, of Indiana, to be Chairman of the National Transportation Safety Board for a term of two years.

*Ellen G. Engleman, of Indiana, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2007.

*Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2006.

*Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2005.

*Charles E. McQueary, of North Carolina, to be Under Secretary for Science and Technology, Department of Homeland Security.

*Jeffrey Shane, of the District of Columbia, to be Under Secretary of Transportation for Policy.

*Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

*Robert A. Sturgell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Foreign Service nominations beginning Lyle J. Sebranek and ending Margaret K. Ting, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2003.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

The following executive reports of treaties were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 107–19 Tax Convention with the United Kingdom (Exec. Rept. No. 108–2)]

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (Treaty Doc. 107-19).

[Treaty Doc. 107-20 Protocol Amending Tax Convention with Australia (Exec. Rept. No. 108-3)]

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (Treaty Doc. 107-20).

[Treaty Doc. 108-3 Protocol Amending Tax Convention with Mexico (Exec. Rept. No. 108-4)]

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Second Additional Protocol That Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108-3).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH:

S. 610. A bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself, Mr. Ensign, Mr. Allard, Mr. Miller, and Mr. Crapo):

S. 611. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, and platinum, in either coin or bar form, in the same manner as stocks and bonds for purposes of the maximum capital gains rate for individuals; to the Committee on Finance.

By Mr. BENNETT:

S. 612. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL (for himself and Mr. Allard):

S. 613. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Mr. Rockefeller, Mr. DeWine, Mr. Dodd, Ms. Collins, Ms. Cantwell, Ms. Landrieu, Mrs. Lincoln, and Mr. Bingaman):

S. 614. A bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. Specter):

S. 615. A bill to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Ms. COLLINS (for herself, Mr. Jeffords, Mr. Chafee, Mr. Kerry, Mrs. Hutchison, Mr. Reed, Mr. Lieberman, Mr. Voinovich, Mr. Dorgan, and Mr. Leahy):

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN (for himself, Mr. Feingold, Mr. Daschle, Mr. Durbin, Ms. Mikulski, Mr. Schumer, Mr. Kennedy, Mr. Dodd, Ms. Landrieu, and Mr. Kerry):

S. 617. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself and Mr. Ensign):

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes; to the Committee on Indian Affairs.

By Mr. SCHUMER (for himself and Mrs. Clinton):

S. 619. A bill to provide for the transfer to the Secretary of Energy of title to, and full responsibility for the possession, transportation, and disposal of, radioactive waste associated with the West Valley Demonstration project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EDWARDS (for himself, Mr. Lautenberg, and Mr. Levin):

S. 620. A bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. Jeffords, Mrs. Murray, Mr. Leahy, and Ms. Cantwell):

S. 621. A bill to amend title XXI of the Social Security Act to allow qualifying States to use allotments under the State children's health insurance program for expenditures under the medicaid program; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Kennedy, Mr. Baucus, Ms. Snowe, Mr. Daschle, Mr. Smith, Mr. Kerry, Mr. Thomas, Mr. Bingaman, Mr. Bunning, Mr. Rockefeller, Mrs. Lincoln, Mr. Jeffords, Mr. Enzi, Mr. Sarbanes, Mr. Domenici, Mr. Johnson, Mr. Ensign, Mrs. Murray, Mr. Hollings, Ms. Stabenow, Mr. Corzine, Mr. Bennett, Mr. Schumer, Mr. Warner, Mr. Reid, Mr. DeWine, Mr. Reed, Ms. Collins, Mr. Miller, Mr. Lugar, Mr. Lieberman, Mr. Leahy, Mr. Chafee, Mr. Kohl, Mr. Graham of South Carolina, Mr. Edwards, Mr. McCain, Mr. Dorgan, Mr. Roberts, Mr. Dodd, Mr. Dayton, Ms. Cantwell, Mr. Breaux, Mr. Biden, Ms. Mikulski, Mr. Levin, Ms. Landrieu, Mr. Inouye, Mr. Harkin, Mr. Durbin, Mrs. Clinton, Mrs. Boxer, Mr. Bayh, and Mr. Akaka):

S. 622. A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Ms. Collins):

S. 623. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. Levin):

S. 624. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. Wyden):

S. 625. A bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself and Mr. Miller):

S. 626. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself, Mr. Shelby, and Mrs. Feinstein):

S. 627. A bill to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself, Ms. Mikulski, Mr. Bond, and Ms. Murkowski):

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter; ordered held at the desk.

By Mr. FEINGOLD:

S.J. Res. 9. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. Daschle):

S. Res. 83. A resolution commending the service of Dr. Lloyd J. Ogilvie, the Chaplain of the United States Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 84. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; considered and agreed to.

By Mr. MILLER:

S. Res. 85. A resolution to amend paragraph 2 of rule XXII of the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 86. A resolution to authorize testimony and legal representation in W. Curtis Shain v. Hunter Bates, et al; considered and agreed to.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. INHOFE, Mr. JEFFORDS, Mr. DASCHLE, Mr. CRAPO, Mr. KERRY, Ms. CANTWELL, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. WARNER, Mrs. MURRAY, Mrs. HUTCHISON, Ms. MIKULSKI, Mr. SARBANES, Mr. LAUTENBERG, Mr. CHAFEE, Mr. DURBIN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. VOINOVICH, Mr. HOLLINGS, Mrs. BOXER, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. ALLARD, Mr. DODD, and Mr. EDWARDS):

S. Res. 87. A resolution commemorating the Centennial Anniversary of the National Wildlife Refuge System; considered and agreed to.

By Mr. HATCH:

S. Res. 88. A resolution honoring the 80th birthday of James L. Buckley, former United States Senator for the state of New York; considered and agreed to.

By Mr. DAYTON (for himself and Mr. COLEMAN):

S. Res. 89. A resolution honoring the life of former Governor of Minnesota Orville L. Freeman, and expressing the deepest condolences of the Senate to his family on his death; considered and agreed to.

By Mr. LOTT (for himself and Mr. DODD):

S. Con. Res. 20. A concurrent resolution permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman; considered and agreed to.

By Mr. BUNNING (for himself and Mrs. LINCOLN):

S. Con. Res. 21. A concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NICKLES (for himself, Mr. BAYH, Mr. BUNNING, Mr. FITZGERALD, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. REED, and Mr. ROBERTS):

S. Con. Res. 22. A concurrent resolution expressing the sense of the Congress regarding housing affordability and urging fair and expeditious review by international trade tribunals to ensure a competitive North American market for softwood lumber; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Special Report entitled "Legislative Activities Report, 107th Congress" (Rept. No. 108–19).

## ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 68

At the request of Mr. INOUYE, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 189

At the request of Mr. WYDEN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 204

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 204, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2003.

S. 262

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 262, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 304

At the request of Mr. DODD, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 304, a bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes.

S. 319

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 319, a bill to amend chapter 89 of title 5, United States Code, to increase the Government contribution for Federal employee health insurance.

S. 320

At the request of Mr. GREGG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 320, a bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes.

S. 321

At the request of Mr. MCCAIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 355

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 355, a bill to amend the Internal Revenue Code of 1986 to allow a credit for biodiesel fuel.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 395

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 395, a bill to amend the Internal Revenue Code of 1986 to provide a 3-

year extension of the credit for producing electricity from wind.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 461

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 461, a bill to establish a program to promote hydrogen fuel cells, and for other purposes.

S. 464

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 499

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 499, a bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 532

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 532, a bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.

S. 564

At the request of Ms. LANDRIEU, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 564, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 582

At the request of Mr. BUNNING, the names of the Senator from Montana (Mr. BURNS) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. CON. RES. 6

At the request of Ms. LANDRIEU, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Mr. BREAUX), the Senator from Florida (Mr. NELSON), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. DODD), the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. Con. Res. 6, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel "Chappie" James, the Nation's first African-American four-star general.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Georgia (Mr. MILLER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. BOND), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Mr. LEVIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. MILLER, and Mr. CRAPO):

S. 611. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, and platinum, in either coin or bar form, in the same manner as stocks and bonds for purposes of the maximum capital gains rate for individuals; to the Committee on Finance.

Mr. REID. Mr. President, last Congress, I introduced the Fair Treatment for Precious Metals Investors Act to correct a flawed capital gains tax definition, which includes precious metals investments as "collectibles." This simple flaw in the tax code has discouraged investments in gold and other precious metals for nearly fifteen years. I rise today to reintroduce the Fair Treatment for Precious Metals Investors Act to correct this problem.

My State, Nevada, is the third largest producer of gold in the world behind Australia and South Africa. Largely because of Nevada's exports, America enjoys a good trade surplus of more than $1 billion. U.S. gold is purchased around the world in financial markets from London to Zurich to Hong Kong.

Historically, precious metals investments derived their value from their rarity. Today, however, precious metals coins and bars are specifically designed and produced by governments to be used as an investment vehicle for those commodities similar to stocks and bonds. My legislation will correct the outdated tax classification of precious metal bullion and apply to precious metals holdings the same capital gains tax treatment as stocks, bonds, and mutual funds.

In 1997 and 1998, The Taxpayer Relief Act and the Internal Revenue Service Restructuring and Reform Act set two basic types of capital gains tax rates: short-term capital gains, which are taxed at between 15 and 39.6 percent, and long-term capital gains which are taxed at a maximum rate of 20 percent.

Long-term capital gains attributable to investments defined as "collectibles", (vintage wines, rare coins, and the like), however, are taxed at a maximum rate of 28 percent. Although precious metal bullion coins are intended to be used as investments in the precious metals they contain, they are still classified as "collectibles", and are taxed at the 28 percent maximum rate. The Taxpayer Relief Act allowed precious metal bullion coins held in IRA accounts to be taxed at the same rate as stocks and other capital assets. The bill I introduce today would treat all precious metal investments with the same tax equity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 611

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Treatment for Precious Metals Investors Act".

### SEC. 2. GOLD, SILVER, AND PLATINUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (A) of section 1(h)(6) of the Internal Revenue Code of 1986 (relating to definition of collectibles gain and loss) is amended by striking "without regard to paragraph (3) thereof" and inserting "without regard to so much of paragraph (3) thereof as relates to palladium and the bullion requirement for physical possession by a trustee".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

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By Mr. BENNETT:

S. 612. A bill to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I rise today to introduce the "Glen Canyon National Recreation Area Boundary Revision Act."

This legislation will revise the total acreage within the National Recreation Area's, NRA, boundary to reflect the actual acreage within the NRA, and it will also do much to protect the scenic view of Lake Powell as seen by those traveling along U.S. Highway Route 89.

As enacted into law, the enabling legislation for the Glen Canyon National Recreation Area, inaccurately reflected the acreage within the NRA boundary. This legislation would correct the acreage ceiling by estimating the acreage within the NRA to be 1,256,000 instead of 1,236,880.

Secondly, this bill would authorize the Secretary of the Interior, to exchange 320 NRA acres for 152 acres of privately owned land in Kane County, UT. Currently, Page One L.L.C. owns 152 acres between U.S. Highway 89 and the southwestern shore of Lake Powell. This private land provides a breathtaking view of Lake Powell from Highway 89, which is the main viewshed corridor between the highway and the lake. This land also encompasses three highway access rights-of-way and a developed culinary water well. In an effort to protect this viewshed and better manage its boundaries along its most visited entrance, the National Park Service, NPS, has been negotiating with Page One to exchange 370 acres of NRA lands for these 152 acres. The approximate value of the NRA lands is $480,000 whereas the private land's appraised value is $856,000. Page One has agreed to donate the balance of appraised value to the NPS.

By authorizing this land exchange, this bill will allow the NPS to preserve and better manage the corridor between the park and Highway 89, which affords such a scenic view of Lake Powell. This boundary change would not add any facilities, increase operating costs, or require additional staff and as such, it will not add to the NPS maintenance backlog.

Because of the common interest in preserving this scenic corridor from development, this legislation has garnered the support of the administration, the Kane County Planning and Zoning Commission, the National Parks Conservation Association, and the Southern Utah Planning Advisory Council. In light of the benefits provided by and community support for this proposal, I look forward to working with my Senate colleagues and the administration to pass this legislation this year.

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By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 613. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing a bill to facilitate the move of the Denver Veterans Affairs Medical Center, DVAMC, from its present site in Denver to the former Fitzsimons Army Medical Center in Aurora, Colorado. I am pleased to be joined in this effort by my friend and colleague Senator ALLARD as an original co-sponsor.

The bill would authorize the Secretary of Veterans Affairs to construct, lease or modify major medical facilities at the site of the former Fitzsimons Army Medical Center. It instructs the Secretary to work with the Department of Defense in planning a joint Federal project that would serve the health care needs of active duty Air Force and the VA. It would also require the Secretary to submit a report to the Committees on Appropriations and the Committees on Veterans Affairs of the Senate and the House of Representatives. This report would detail the options selected by the Secretary and any information on further planning needed to carry out the move.

The relocation of the DVAMC to the former Fitzsimons site offers a unique opportunity to provide the highest quality medical care for our veterans and certain members of our military. The University of Colorado Health Sciences Center, UCHSC, is moving its facilities from its overcrowded location near downtown Denver to the Fitzsimons site, a decommissioned Army base. The UCHSC and the DVAMC have long operated on adjacent campuses and have shared faculty, medical residents, and access to equipment. A DVAMC move to the new location in conjunction with the DOD would allow such cost-effective cooperation to continue, for the benefit of our veterans, active duty Air Force members and all taxpayers.

The need to move is pressing. A recent VA study concludes that the Colorado State veterans' population will experience one of the highest percent increases nationally in veterans age 65 and over between 1990 and 2020. The present VA hospital was built in the 1950's. While still able to provide service, the core facilities are approaching the end of their useful lives and many of the patient care units have fallen horribly out of date. Studies indicate that co-location with the University on a state-of-the-art medical campus would be a cost effective way to give veterans and active duty Air Force members in the region the highest quality of care. The move would also provide a tremendous opportunity to showcase a nationwide model of cooperation between the University, the Department of Veterans Affairs, VA, and the Department of Defense.

The VA needs to move quickly. Assisting our veterans with their medical needs is a promise we, as a country, made long ago.

The savings we can realize by approving the timely transfer of our veterans' medical treatment facilities in the Denver region compels me to urge my colleagues to act quickly on this bill. We must not miss out on this opportunity to serve America's veterans and their families by ensuring that they receive the excellent medical care they deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 613

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' New Fitzsimons Health Care Facilities Act of 2003".

### SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS, FORMER FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out major medical facility projects under section 8104 of title 38, United States Code, at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado. Projects to be carried out at such site shall be selected by the Secretary and may include inpatient and outpatient facilities providing acute, sub-acute, primary, and long-term care services. Project costs shall be limited to an amount not to exceed a total of $300,000,000 if a combination of direct construction by the Department of Veterans Affairs and capital leasing is selected under subsection (b) and no more than $30,000,000 per year in capital leasing costs if a leasing option is selected as the sole option under subsection (b).

(b) SELECTION OF CAPITAL OPTION.—The Secretary of Veterans shall select the capital option to carry out the authority provided in subsection (a) of either—

(1) direct construction by the Department of Veterans Affairs or a combination of direct construction and capital leasing; or

(2) capital leasing alone.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal years 2004, 2005, 2006, and 2007 for "Construction, Major Projects" for the purposes authorized in subsection (a)—

(1) a total of $300,000,000, if direct construction, or a combination of direct construction and capital leasing, is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a); and

(2) $30,000,000 for each such fiscal year, if capital leasing alone is chosen pursuant to subsection (b) for purposes of the projects authorized in subsection (a).

(d) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004, 2005, 2006, or 2007 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004, 2005, 2006, or 2007 for a category of activity not specific to a project.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on this section. The report shall include notice of the option selected by the Secretary pursuant to subsection (b) to carry out the authority provided by subsection (a), information on any further planning required to carry out the authority provided in subsection (a), and other information of assistance to the committees with respect to such authority.

### SEC. 3. JOINT ACTIVITIES TO ADDRESS HEALTH CARE NEEDS OF VETERANS AND MEMBERS OF THE AIR FORCE.

The Secretary of Veterans Affairs and the Secretary of the Air Force shall undertake such joint activities as the Secretaries consider appropriate to address the health care needs of veterans and members of the Air Force on active duty.

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By Ms. COLLINS (for herself, Mr. JEFFORDS, Mr. CHAFEE, Mr. KERRY, Mrs. HUTCHISON, Mr. REED, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DORGAN, and Mr. LEAHY):

S. 616. A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce the Mercury Reduction Act of 2003. I am pleased that my colleagues, Senators JEFFORDS, CHAFEE, KERRY, HUTCHISON, REED, LIEBERMAN, VOINOVICH, DORGAN, and LEAHY have joined me in this initiative. Our legislation addresses the very serious problems of mercury in the environment and mercury disposal. It takes special aim at one of the most common and widely distributed sources of mercury mercury fever thermometers while also for the first time creating a nationwide policy for dealing with surplus mercury.

Mercury is a potent neurotoxin that is widespread in the environment and particularly harmful to developing children. In fact, according to a draft report recently released by the EPA, approximately 5 million American women of childbearing age have mercury levels in their bloodstream above safe levels. Tragically, the children of these women will have an elevated risk of birth defects.

When mercury enters the environment, it takes on a highly toxic organic form known as methylmercury. Methylmercury is almost completely absorbed into the blood and distributed to all tissues including the brain. This organic mercury can accumulate in the food chain and become concentrated in some species of fish, posing a health threat to some people who consume them. For this reason, 40 States have issued freshwater fish advisories that warn certain individuals to restrict or avoid consuming fish from affected bodies of water.

One prevalent source of mercury in the environment is from mercury fever thermometers. Many of us know from personal experience that they are easily broken. In fact, in 1998 the American Poison Control Center received 18,000 phone calls from consumers who had broken mercury thermometers.

One mercury thermometer contains a little under one gram of mercury. Despite its small size, the mercury in one thermometer, if it were released annually into the environment, is enough to contaminate all the fish in a 20-acre lake.

The bill we are introducing today calls for a nationwide ban on the sale of mercury fever thermometers. It would also provide grants for swap programs to help consumers exchange mercury thermometers for digital or other alternatives.

Our legislation would allow millions of consumers across the Nation to receive free digital thermometers in exchange for their mercury thermometers. By bringing mercury thermometers in for proper disposal, consumers will ensure the mercury from their thermometers does not end up polluting our lakes and threatening our health. It will also reduce the risk of breakage and contamination inside the home.

An important component of our bill is the safe disposal of the mercury collected from thermometer exchange programs, which are increasingly popular in communities throughout our country. I want to make sure that we are actually removing surplus mercury from the environment and from commerce, rather than simply recycling it. It obviously does little good to collect all this mercury from thermometer exchange programs if it is going to be recycled into new products and put back into commerce and eventually into our environment. This bill directs the EPA to ensure that the mercury is properly collected and stored in order to keep it out of the environment and out of commerce. Once the mercury is collected, my intention is it will never again be able to pose a threat to the health of our children.

The mercury collected from thermometer exchange programs is only part of the problem. There is a bigger problem, and that is the global circulation of mercury. Let me give an example. When the HoltraChem manufacturing plant in Orrington, ME, shut down a few years ago, the plant was left with over 100 tons of unwanted mercury and no known way to permanently and safely dispose of it. In total, about 3,000 tons of mercury is held at similar plants across the country.

Yet despite this surplus mercury, large amounts of mercury are still being mined around the world. In addition, the Department of Defense currently has a stockpile of over 4,000 tons of surplus mercury it does not know what to do with and for which it does not have any use.

In view of these facts, why are Algeria and other countries still mining huge amounts of an element that is a known neurotoxin, when the United States and other countries are doing their best to remove this extremely toxic element from the environment? How will the United States dispose of the huge amounts of mercury at chloralkali plants and other sources that no longer are understood?

Our bill would create an interchange task force to address these very questions. The task force would be chaired by the Administrator of the Environmental Protection Agency and would be comprised of members from other Federal agencies involved with mercury. Our legislation directs this task force to find ways to reduce the mercury threat to humans and to our environment, to identify long-term means of disposing of mercury safely and properly, and to address the excess mercury problems from mines as well as industrial sources. This task force would also be directed to identify comprehensive solutions to the global mercury problem. One year from the creation of this task force, it would be required to submit its recommendations to the Congress for permanently disposing of mercury and for reducing the amount of new mercury mined every year.

In the meantime, this legislation would make significant progress toward reducing one of the most widespread sources of mercury contamination in the environment, a source that is found in many of our homes; that is, the mercury thermometer. Perhaps even more important, this legislation would, for the first time ever, establish a national policy, which is what we need to deal with surplus mercury in order to protect our environment in the long term, as well as our health, and particularly the health of developing children, from this highly toxic element.

I hope many more of my colleagues will join me in cosponsoring this legislation and that it will be signed into law this year.

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By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. DURBIN, Ms. MIKULSKI, Mr. SCHUMER, Mr. KENNEDY, Mr. DODD, Ms. LANDRIEU, and Mr. KERRY):

S. 617. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce the No Taxation Without Representation Act of 2003 legislation that will right an ongoing injustice experienced by 600,000 American citizens—the citizens of the District of Columbia—who have historically been denied voting representation in Congress.

This injustice is felt directly by District residents, but it is also a stain on the fabric of our democracy for the Nation as a whole. By now, we should all understand that the vote is a civic entitlement of every American citizen. It is democracy's most essential right, our most useful tool.

I am proud to be the chief Senate sponsor of this bill, which Congresswoman NORTON is also today introducing in the House. I am delighted that Senator FEINGOLD, who has worked with me for two years on this legislation, is joining me again as an original sponsor, as are Senators DASCHLE, DURBIN, MIKULSKI, SCHUMER, KENNEDY, DODD, LANDRIEU and KERRY. The aim of the legislation is simple: It would provide full voting representation in Congress—through two senators and a member of the House—to citizens of the District, providing to them the same rights to participate in our democracy as citizens in the 50 States. Despite this bill's title, it would not exempt residents of the District from paying income taxes.

Last year, the Governmental Affairs Committee, which I then chaired, held a hearing on this issue in May. It was the first time since 1994 that Congress had held a hearing on the issue. Five months later, in October, the Committee reported out legislation identical to the bill we introduce today. I am proud that we progressed as far as we did last year. Unfortunately it was not far enough.

Today, I think it is particularly ironic—though painfully so—that we are introducing this legislation as the Nation stands on the brink of a decision about war with Iraq to protect our national security. If war does come, citizens of Washington D.C. will serve their fellow Americans with pride, as they have in every previous war. In fact, the District suffered more casualties in Vietnam than the citizens of 10 states. Furthermore, over 1,000 Army and Air National Guardsmen and women from the District have already been called upon to help in the war on terrorism. Yet—to our shame—D.C. citizens cannot choose representatives to the legislature that governs them. There is something wrong with this picture.

The people of this city have also been the direct target of terrorists, and yet citizens of the District have no one who can cast a vote in Congress on policies to protect their homeland security. Citizens of Washington, D.C., pay income taxes just like everyone else. Actually, they pay more. Per capita, District residents have the second highest Federal tax obligation. And yet they have no say in how high those taxes will be or how their tax dollars will be spent.

They fight and die and pay for our democracy, but they cannot participate fully in it. How can we countenance this? How can we promote democracy abroad effectively while denying it to hundreds of thousands of citizens in our Nation's Capital?

The citizens who live in our Nation's Capital deserve more than a nonvoting delegate in the House. Notwithstanding the strong service of the Honorable Congresswoman ELEANOR HOLMES NORTON and her ability to vote in committee, a representative without the power to vote on the floor of the House simply isn't good enough.

Prior to the District's establishment in 1790, residents of the area who were eligible to vote had full representation in Congress. When the framers of the Constitution placed our Capital under the jurisdiction of the Congress, they placed with Congress the responsibility of ensuring that D.C. citizens' rights would be protected in the future, just as Congress should protect the rights of all citizens throughout the land. For more than 200 years, Congress has failed to meet this obligation. And I, for one, am not prepared to make D.C. citizens wait another 200 years.

Today, no other democratic nation denies the residents of its capital representation in the national legislature. What must visitors from around the world think when they come to see our beautiful landmarks, our monuments, and our Capitol dome—proud symbols of the world's leading democracy—only to learn that the citizens of this city have no voice in Congress? What would we do if the residents of Boston, Nashville, Denver, Seattle, or El Paso had no voting rights? All those cities are roughly the same size as Washington, D.C.—and I know we as a Nation wouldn't let their citizens go voiceless in the Congress.

Incredibly, the vast majority of Americans already believe that D.C. residents have voting representation in the Congress. When they are informed that they don't, 80 percent of Americans, according to one poll, say that they should. That is overwhelming support and by righting this wrong, we will be following the will of the American people.

The people of the District of Columbia have been without this key right for far too long. I urge all of my colleagues to support this legislation.

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By Mr. REID (for himself and Mr. ENSIGN):

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes; to the Committee on Indian Affairs.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to reintroduce the Western Shoshone Claims Distribution Act. Last year the Senate unanimously passed this bill, which will at last release funds the United States has held in trust for the Western Shoshone people for over 24 years. Unfortunately the House was unable to complete its consideration of the bill before the last Congress adjourned.

Historically, the Western Shoshone people have resided on land within the central portion of Nevada and parts of California, Idaho, and Utah. For more than a hundred years, the Western Shoshone have not received a fair compensation for the loss of their tribal land and resources. In 1946 the Indian Claims Commission was established to compensate Indians for lands and resources taken from them by the United States. In 1962 the commission determined that the Western Shoshone land had been taken through "gradual encroachment." In 1977 the commission awarded the tribe in excess of $26 million dollars. The United States Supreme Court has upheld the commission's award. It was not until 1979 that the United States appropriated over $26 million dollars to reimburse the descendents of these tribes for their loss.

The Western Shoshone are not a wealthy people. A third of the tribal members are unemployed; for many of those who do have jobs, it is a struggle to live from paycheck to the next. Wood stoves often provide the only source of heat in their aging homes. Like other American Indians, the Western Shoshone continue to be disproportionately affected by poverty and low educational attainment. The high school completion rate for Indian people between the ages of 20 and 24 is dismally low. American Indians have a drop-out rate that is 12.5 percent higher than the rest of the National. For the Western Shoshone, the money contained in the settlement funds could lead to drastic lifestyle improvements.

After 24 years the judgment funds still remain in the United States Treasury. The Western Shoshone have not received a single penny of this money which is rightfully theirs. In those twenty-four years, the original trust fund has grown to well over $121 million dollars. It is the past time that this money should be delivered into the hands of its owners. The Western Shoshone Steering Committee has officially requested that Congress enact legislation to affect this distribution. It has become increasingly apparent in recent years that the vast majority of those who qualify to receive these funds support an immediate distribution of their money.

This Act will provide payments to eligible Western Shoshone tribal members and ensure that future generations of Western Shoshone will be able to enjoy the benefit of the distribution in perpetuity. Through the establishment of a tribally controlled grant trust fund, individual members of the Western Shoshone will be able to apply for money for education and other needs within limits set by a self-appointed committee of tribal members. I will continue my ongoing work with the members of the Western Shoshone and the Department of Interior to help resolve any current land issues.

It is clear that the Western Shoshone want the funds from their claim distributed without further delay. They have already voted twice to firmly and decisively voice their interests. Members of the Western Shoshone gathered in Fallon and Elko, NV in May of 1998. They cast a vote overwhelmingly in favor of distributing the funds. 1,230 supported the distribution in the statewide vote; only 53 were opposed. Again on June 2002 they cast a vote overwhelmingly in support of the distribution of the judgment funds at a rate of 100 percent per capita. 1,647 Western Shoshone voted in favor of the distribution of the funds; only 156 opposed. I rise today in support and recognition of their decision. The final distribution of this fund has lingered for more than twenty years. During the 107th Congress, the Indian Affairs Committee approved and the full Senate unanimously passed this bill. It is clear that the best interests of the Tribe will not be served by prolonging their wait. Twenty-four years has been more than long enough. I ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 618

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Western Shoshone Claims Distribution Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) Committee.—The term "Committee" means the administrative committee established under section 4(c)(1).

(2) Western Shoshone joint judgment funds.—The term "Western Shoshone joint judgment funds" means—

(A) the funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of Claims; and

(B) all interest earned on those funds.

(3) Western Shoshone judgment funds.—The term "Western Shoshone judgment funds" means—

(A) the funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission; and

(B) all interest earned on those funds.

(4) Judgment roll.—The term "judgment roll" means the Western Shoshone judgment roll established by the Secretary under section 3(b)(1).

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

(6) Trust fund.—The term "Trust Fund" means the Western Shoshone Educational Trust Fund established under section 4(b)(1).

(7) Western Shoshone member.—The term "Western Shoshone member" means an individual who—

(A)(i) appears on the judgment roll; or

(ii) is the lineal descendant of an individual appearing on the roll; and

(B)(i) satisfies all eligibility criteria established by the Committee under section 4(c)(4)(D)(iii);

(ii) meets any application requirements established by the Committee; and

(iii) agrees to use funds distributed in accordance with section 4(b)(2)(B) for educational purposes approved by the Committee.

**SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT FUNDS.**

(a) In General.—The Western Shoshone judgment funds shall be distributed in accordance with this section.

(b) Judgment Roll.—

(1) In general.—The Secretary shall establish a Western Shoshone judgment roll consisting of all individuals who—

(A) have at least ¼ degree of Western Shoshone blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) Ineligible individuals.—Any individual that is certified by the Secretary to be eligible to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be listed on the judgment roll.

(3) Regulations regarding judgment roll.—The Secretary shall—

(A) publish in the Federal Register all regulations governing the establishment of the judgment roll; and

(B) use any documents acceptable to the Secretary in establishing proof of eligibility of an individual to—

(i) be listed on the judgment roll; and

(ii) receive a per capita payment under this Act.

(4) Finality of determination.—The determination of the Secretary on an application of an individual to be listed on the judgment roll shall be final.

(c) Distribution.—

(1) In general.—On establishment of the judgment roll, the Secretary shall make a per capita distribution of 100 percent of the Western Shoshone judgment funds, in shares as equal as practicable, to each person listed on the judgment roll.

(2) Requirements for distribution payments.—

(A) Living competent individuals.—The per capita share of a living, competent individual who is 19 years or older on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid directly to the individual.

(B) Living, legally incompetent individuals.—The per capita share of a living, legally incompetent individual shall be administered in accordance with regulations promulgated and procedures established by the Secretary under section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)).

(C) Deceased individuals.—The per capita share of an individual who is deceased as of the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid to the heirs and legatees of the individual in accordance with regulations promulgated by the Secretary.

(D) Individuals under the age of 19.—The per capita share of an individual who is not yet 19 years of age on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be—

(i) held by the Secretary in a supervised individual Indian money account; and

(ii) distributed to the individual—

(I) after the individual has reached the age of 18 years; and

(II) in 4 equal payments (including interest earned on the per capita share), to be made—

(aa) with respect to the first payment, on the eighteenth birthday of the individual (or, if the individual is already 18 years of age, as soon as practicable after the date of establishment of the Indian money account of the individual); and

(bb) with respect to the 3 remaining payments, not later than 90 days after each of the 3 subsequent birthdays of the individual.

(3) Applicable law.—Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), a per capita share (or the availability of that share) paid under this section shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources for any purpose; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or Western Shoshone member would otherwise be entitled to receive under—

(i) the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) any other Federal or federally-assisted program.

(4) Unpaid funds.—The Secretary shall add to the Western Shoshone joint judgment funds held in the Trust Fund under section 4(b)(1)—

(A) all per capita shares (including interest earned on those shares) of living competent adults listed on the judgment roll that remain unpaid as of the date that is—

(i) 6 years after the date of distribution of the Western Shoshone judgment funds under paragraph (1); or

(ii) in the case of an individual described in paragraph (2)(D), 6 years after the date on which the individual reaches 18 years of age; and

(B) any other residual principal and interest funds remaining after the distribution under paragraph (1) is complete.

**SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT JUDGMENT FUNDS.**

(a) In General.—The Western Shoshone joint judgment funds shall be distributed in accordance with this section.

(b) Western Shoshone Educational Trust Fund.—

(1) Establishment.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States, for the benefit of Western Shoshone members, a trust fund to be known as the "Western Shoshone Educational Trust Fund", consisting of—

(A) the Western Shoshone joint judgment funds; and

(B) the funds added under in section 3(b)(4).

(2) Amounts in trust fund.—With respect to amounts in the Trust fund—

(A) the principal amount—

(i) shall not be expended or disbursed; and

(ii) shall be invested in accordance with section 1 of the Act of June 24, 1938 (25 U.S.C. 162a); and

(B) all interest income earned on the principal amount after the date of establishment of the Trust fund—

(i) shall be distributed by the Committee—

(I) to Western Shoshone members in accordance with this Act, to be used as educational grants or for other forms of educational assistance determined appropriate by the Committee; and

(II) to pay the reasonable and necessary expenses of the Committee (as defined in the written rules and procedures of the Committee); but

(ii) shall not be distributed under this paragraph on a per capita basis.

(c) Administrative Committee.—

(1) Establishment.—There is established an administrative committee to oversee the distribution of educational grants and assistance under subsection (b)(2).

(2) Membership.—The Committee shall be composed of 7 members, of which—

(A) 1 member shall represent the Western Shoshone Te-Moak Tribe and be appointed by that Tribe;

(B) 1 member shall represent the Duckwater Shoshone Tribe and be appointed by that Tribe;

(C) 1 member shall represent the Yomba Shoshone Tribe and be appointed by that Tribe;

(D) 1 member shall represent the Ely Shoshone Tribe and be appointed by that Tribe;

(E) 1 member shall represent the Western Shoshone Committee of the Duck Valley Reservation and be appointed by that Committee;

(F) 1 member shall represent the Fallon Band of Western Shoshone and be appointed by that Band; and

(G) 1 member shall represent the general public and be appointed by the Secretary.

(3) Term.—

(A) In general.—Each member of the Committee shall serve a term of 4 years.

(B) Vacancies.—If a vacancy remains unfilled in the membership of the Committee for a period of more than 60 days—

(i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and

(ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

(4) Duties.—The Committee shall—

(A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i);

(B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;

(C) ensure that those funds are used in a manner consistent with this Act;

(D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—

(i) operating procedures;

(ii) rules of conduct;

(iii) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);

(iv) application selection procedures;

(v) procedures for appeals to decisions of the Committee;

(vi) fund disbursement procedures; and

(vii) fund recoupment procedures;

(E) carry out financial management in accordance with paragraph (6); and

(F) in accordance with subsection (b)(2)(C)(ii), use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than $100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D).

(5) Jurisdiction of tribal courts.—At the discretion of the Committee and with the approval of the appropriate tribal government, a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations (or a successor regulation), shall have jurisdiction to hear an appeal of a decision of the Committee.

(6) Financial management.—

(A) Financial statement.—The Committee shall employ an independent certified public accountant to prepare a financial statement for each fiscal year that discloses—

(i) the operating expenses of the Committee for the fiscal year; and

(ii) the total amount of funds disbursed under subsection (b)(2)(B)(i) for the fiscal year.

(B) Distribution of information.—For each fiscal year, the Committee shall provide to the Secretary, to each organization represented on the Committee, and, on the request of a Western Shoshone member, to the Western Shoshone member, a copy of—

(i) the financial statement prepared under subparagraph (A); and

(ii) the list of names compiled under paragraph (4)(B).

(d) Consultation.—The Secretary shall consult with the Committee on the management and investment of the funds distributed under this section.

**SEC. 5. REGULATIONS.**

The Secretary may promulgate such regulations as are necessary to carry out this Act.

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By Mr. EDWARDS (for himself, Mr. Lautenberg, and Mr. Levin):

S. 620. A bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pension.

Mr. EDWARDS. Mr. President, I rise today along with my colleagues Mr. Lautenburg and Mr. Levin to re-introduce the College Fire Prevention Act. This measure would provide Federal matching grants for the installation of fire sprinkler systems in college and university dormitories and fraternity and sorority houses. I believe the time is now to address the sad situation of deadly fires that occur in our children's college living facilities.

The tragic fire that occurred at Seton Hall University on Wednesday, January 19th, 2000, will not be forgotten. Three freshmen, all 18 years old, died. Fifty-four students, two South Orange firefighters and two South Orange police officers were injured. The dormitory, Boland Hall, was a six-story, 350-room structure built in 1952 that housed approximately 600 students. Astonishingly, the fire was contained to the third floor lounge of Boland Hall. This dormitory was equipped with smoke alarms but no sprinkler system.

Unfortunately, the Boland Hall fire was not the first of its kind. And it reminded many people in North Carolina of their own tragic experience with dorm fires. In 1996, on Mother's Day and Graduation Day, a fire in the Phi Gamma Delta fraternity house at the University of North Carolina at Chapel Hill killed five college juniors and injured three others. The three-story fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

Sadly, dorm fires are not rare. On December 9, 1997, a student died in a dormitory fire at Greenville College in Greenville, IL. The dormitory, Kinney

Hall, was built in the 1960s and had no fire sprinkler system. On January 10, 1997, a student died at the University of Tennessee at Martin. The dormitory, Ellington Hall, had no fire sprinkler system. On January 3, 1997, a student died in a dormitory fire at Central Missouri State University in Warrensburg, MO. On October 21, 1994, five students died in a fraternity house fire in Bloomsburg, PA. The list goes on and on. In a typical year between 1980 and 1998, the National Fire Protection Association estimates there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving one death, 70 injuries, and $8 million in property damage.

So now we must ask, what can be done? What can we do to curtail these tragic fires from taking the lives of our children, our young adults? We should focus our attention on the lack of fire sprinklers in college dormitories and fraternity and sorority houses. Sprinklers save lives.

Despite the clear benefits of sprinklers, many college dorms do not have them. New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings. In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent of them had fire sprinklers present.

At my State's flagship university at Chapel Hill, for example, only 14 of the 33 residence halls have sprinklers. Only 3 of 9 dorms at North Carolina Central University are equipped with the lifesaving devices, and there are sprinklers in 4 of the 18 dorms at the University of North Carolina at Greensboro.

The legislation I introduce today authorizes the Secretary of Education, in consultation with the United States Fire Administration, to award grants to States, private or public colleges or universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories. These entities would be required to produce matching funds equal to one-half of the cost of the project. This legislation authorizes $80 million for fiscal years 2004 through 2008.

In North Carolina, we decided to initiate a drive to install sprinklers in our public college and university dorms. The overall cost is estimated at $57.5 million. Given how much it is going to cost North Carolina's public colleges and universities to install sprinklers, I think it's clear that the $100 million that this measure authorizes is just a drop in the bucket. But my hope is that by providing this small incentive we can encourage more colleges to institute a comprehensive review of their dorm's fire safety and to install sprinklers. All they need is a helping hand. With this modest measure of prevention, we can help prevent the needless and tragic loss of young lives.

Parents should not have to worry about their children living in fire traps. When we send our children away to college, we are sending them to a home away from home where hundreds of other students eat, sleep, burn candles, use electric appliances and smoke. We must not compromise on their safety. As the Fire Chief from Chapel Hill wrote me: "Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing . . . The only complete answer to making student-housing safe is to install fire sprinkler systems." In short, the best way to ensure the protection of our college students is to install fire sprinklers in our college dormitories and fraternity and sorority houses. My proposal has been endorsed by the National Fire Protection Association. I ask all of my colleagues to join me in supporting this important legislation. Thank you.

I ask unanimous consent that the text of the legislation and the letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 4, 2003.

Hon. JOHN EDWARDS,
*U.S. Senate,*
*Washington, DC.*

SENATOR EDWARDS: On behalf of the National Fire Prevention Association (NFPA) and our 70,000 members, I want to thank you for introducing the College Fire Prevention Act. We are pleased to support your legislative efforts to provide federal assistance for the installation of fire sprinkler systems in college and university housing and dormitories.

Each year, an estimated 1,800 fires occur in dormitories and fraternity and sorority houses. These fires are responsible for an average of one death, seventy injuries and over $8 million in property damage. Of these fires, only 35% had fire sprinkler systems present. As you know, in your home state of North Carolina, a tragic fire on Mother's Day in 1996 killed five students in a fraternity house.

Our statistics show that properly installed and maintained fire sprinkler systems have a proven track records of protecting lives and property in all types of occupancies. In particular, the retrofitting of fire sprinkler systems in college and university housing will greatly improve the safety of these public and private institutions.

Thank you for your leadership on this crucial issue. NFPA is ready to assist in any way to see this legislation passed.

Sincerely,

JOHN C. BIECHMAN,
*Vice-President, Government Affairs.*

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CHAPEL HILL FIRE DEPARTMENT,
*Chapel Hill, NC, March 12, 2003.*

Senator JOHN EDWARDS,
*Dirksen Senate Office Building,*
*Washington, DC.*

DEAR SENATOR EDWARDS: One of the most under addressed fire safety problems in America today is university and college student housing. Every year, parents send their children off to college seeking an education unaware that one of the greatest dangers facing their children is the fire hazards associated with dormitories, fraternity and sorority houses and other forms of student housing. We in Chapel Hill experienced a worst-case scenario, when in 1996 a fire in a fraternity house on Mother's Day/Graduation Day claimed five young lives and injured three more. We recognized the only complete answer to making student-housing safe is to install fire sprinkler systems.

I had the privilege of reading a draft copy of your proposed legislation amending the Higher Education Act of 1965 to create a matching grants program supporting the lifesaving step of installing fire sprinkler systems in student housing. I strongly urge you to introduce this legislation and I pledge to assist you in promoting this important Bill. Your proposed legislation is the only real solution to the fire threat in student housing. Higher education cannot prepare our young people to contribure to society if they do not survive the experience.

After thirteen years of being responsible for fire protection at the University of North Carolina—Chapel Hill, I am convinced that where students reside, alarms systems are not enough, clear exit ways are not enough, quick fire department response is not enough and educational programs are not enough. The only way you can insure fire safety for college student housing is to place a fire sprinkler system over them. Thank you for recognizing the magnitude of this threat and for proposing a solution to it.

Tell me how we can help.

Sincerely,

DANIEL JONES,
*Fire Chief.*

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S. 620

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COLLEGE FIRE PREVENTION ASSISTANCE.**

Title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.) is amended by adding at the end the following:

### "PART E—COLLEGE FIRE PREVENTION ASSISTANCE

**"SEC. 771. SHORT TITLE.**

"This part may be cited as the 'College Fire Prevention Act'.

**"SEC 772. FINDINGS.**

"Congress makes the following findings:

"(1) On Wednesday, January 19, 2000, a fire occurred at a Seton Hall University dormitory. Three male freshmen, all 18 years of age, died. Fifty-four students, 2 South Orange firefighters, and 2 South Orange police officers were injured. The dormitory was a 6-story, 350-room structure built in 1952, that housed approximately 600 students. It was equipped with smoke alarms but no fire sprinkler system.

"(2) On Mother's Day 1996 in Chapel Hill, North Carolina, a fire in the Phi Gamma Delta Fraternity House killed 5 college juniors and injured 3. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

"(3) It is estimated that between 1980 and 1998, an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 70 injuries, and $8,000,000 in property damage were reported to public fire departments.

"(4) Within dormitories, fraternities, and sororities the number 1 cause of fires is arson or suspected arson. The second leading cause of college building fires is cooking, while the third leading cause is smoking.

"(5) New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings.

"(6) In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent had fire sprinklers present.

**"SEC. 773. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part $80,000,000 for each of the fiscal years 2004 through 2008.

**"SEC. 774. GRANTS AUTHORIZED.**

"(a) PROGRAM AUTHORITY.—The Secretary, in consultation with the United States Fire Administration, is authorized to award grants to States, private or public colleges or universities, fraternities, and sororities to assist them in providing fire sprinkler systems, or other fire suppression or prevention technologies, for their student housing and dormitories.

"(b) MATCHING FUNDS REQUIREMENT.—The Secretary may not award a grant under this section unless the entity receiving the grant provides, from State, local, or private sources, matching funds in an amount equal to not less than one-half of the cost of the activities for which assistance is sought.

**"SEC. 775. PROGRAM REQUIREMENTS.**

"(a) APPLICATION.—Each entity desiring a grant under this part shall submit to the Secretary an application at such time and in such manner as the Secretary may require.

"(b) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to applicants that demonstrate in the application submitted under subsection (a) the inability to fund the sprinkler system, or other fire suppression or prevention technology, from sources other than funds provided under this part.

"(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—An entity that receives a grant under this part shall not use more than 4 percent of the grant funds for administrative expenses.

**"SEC. 776. DATA AND REPORT.**

"The Comptroller General shall—

"(1) gather data on the number of college and university housing facilities and dormitories that have and do not have fire sprinkler systems and other fire suppression or prevention technologies; and

"(2) report such data to Congress.

**"SEC. 777. ADMISSIBILITY.**

"Notwithstanding any other provision of law, any application for assistance under this part, any negative determination on the part of the Secretary with respect to such application, or any statement of reasons for the determination, shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.".

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mrs. MURRAY, Mr. LEAHY, and Ms. CANTWELL):

S. 621. A bill to amend title XXI of the Social Security Act to allow qualifying States to use allotments under the State children's health insurance program for expenditures under the Medicaid program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators JEFFORDS, MURRAY, LEAHY, and CANTWELL entitled the "Children's Health Equity Act of 2003." This bill addresses an inequity that was created during the establishment of the State Children's Health Insurance Program, CHIP, that unfairly penalized certain States that had done the right thing and had expanded Medicaid coverage to children prior to the enactment of the bill.

While the Congress recognized this fact for some States and "grandfathered" in their expansions so those States could use the new CHIP funding for the children of their respective States, the legislation failed to do so for others, including New Mexico, Vermont, and Washington, among others. This had the effect of penalizing a certain group of States for having done the right thing.

The "Children's Health Equity Act of 2003" addresses this inequity by allowing those States, which had expanded coverage to children up to 185 percent of poverty by April 15, 1997, before the enactment of CHIP, to be allowed to also utilize their CHIP allotments for coverage of those children covered by Medicaid above 133 percent of poverty—putting them on a more level field with all other States in the country.

As you know, in 1997 Congress and President Clinton agreed to establish the State Children's Health Insurance Program, CHIP, and provide $48 billion over ten years as an incentive to States to provide health care coverage to uninsured, low-income children up 200 percent of poverty or beyond.

During the negotiations of the Balanced Budget Act, BBA, of 1997, Congress and the Administration properly recognized that certain States were already undertaking Medicaid or separate State-run expansions of coverage to children up to 185 percent of poverty or above and that they would be allowed to use the new CHIP funding for those purposes. The final bill specifically allowed the States of Florida, New York, and Pennsylvania to convert their separate State-run programs into CHIP expansions and States that had expanded coverage to children through Medicaid after March 31, 1997, were also allowed to use CHIP funding for their expansions.

Unfortunately, New Mexico and other States that had enacted similar expansions prior to March 1997 were denied the use of CHIP funding for their expansions. This created an inequity among the States where some were allowed to have their prior programs "grandfathered" into CHIP and others were denied. Therefore, our bill addresses this inequity.

New Mexico has a strong record of attempting to expand coverage to children through the Medicaid program. In 1995, prior to the enactment of CHIP, New Mexico expanded coverage to for all children through age 18 through the Medicaid program up to 185 percent of poverty. After CHIP was passed, New Mexico further expanded its coverage up to 235 percent of poverty—above the level of the vast majority of states across the country.

Due to the inequity caused by CHIP, New Mexico has been allocated $266 million from CHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over $26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its federal CHIP allocations.

New Mexico is unable to spend its funding because it had enacted its expansion of coverage to children up to 185 percent of poverty prior to the enactment of CHIP and our State was not "grandfathered" into CHIP as other comparable states were.

The consequences for the children of New Mexico are enormous. According to the Census Bureau, New Mexico has an estimated 114,000 uninsured children. In other words, almost 21 percent of all the children in New Mexico are uninsured, despite the fact the State has expanded coverage up to 235 percent of poverty. This is the second highest rate of uninsured children in the country.

This is a result of the fact that an estimated 80 percent of the uninsured children in New Mexico are below 200 percent of poverty. These children are, consequently, often eligible for Medicaid but currently unenrolled. With the exception of those few children between 185 and 200 percent of poverty who are eligible for CHIP funding; all of the remaining uninsured children below 185 percent of poverty in New Mexico are denied CHIP funding despite their need.

Exacerbating this inequity is the fact that many States are accessing their CHIP allotments to cover kids at poverty levels far below New Mexico's current or past eligibility levels. The children in those States are certainly no more worthy of health insurance coverage than the children of New Mexico.

As the health policy statement by the National Governors' Association reads, "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states."

Consequently, the bill I am introducing today corrects this inequity. The bill reflects a carefully-crated response to the unintended consequences of CHIP and brings much needed assistance to children currently uninsured in my State and other similarly situated States, including Washington and Vermont.

Rather than simply changing the effective date included in the BBA that helped a smaller subset of States, this initiative includes strong maintenance of effort language as well as incentives for our State to conduct outreach and enrollment efforts and program simplification to find and enroll uninsured kids because we feel strongly that they must receive the health coverage for which they are eligible.

The bill does not take money from other States' CHIP allotments. It simply allows our States to spend our States' specific CHIP allotments from the Federal Government on our uninsured children—just as other states across the country are doing.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 621

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Children's Health Equity Act of 2003".

**SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE SCHIP FUNDS FOR MEDICAID EXPENDITURES.**

Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

"(g) AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

"(1) STATE OPTION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to fiscal years in which allotments for a fiscal year under section 2104 (beginning with fiscal year 1998) are available under subsections (e) and (g) of that section, a qualifying State (as defined in paragraph (2)) may elect to use such allotments (instead of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

"(B) PAYMENTS TO STATES.—

"(i) IN GENERAL.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

"(ii) EXPENDITURES DESCRIBED.—For purposes of clause (i), the expenditures described in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 133 percent of the poverty line.

"(iii) NO IMPACT ON DETERMINATION OF BUDGET NEUTRALITY FOR WAIVERS.—In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

"(2) QUALIFYING STATE.—In this subsection, the term 'qualifying State' means a State that—

"(A) as of April 15, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is up to 185 percent of the poverty line or above; and

"(B) satisfies the requirements described in paragraph (3).

"(3) REQUIREMENTS.—The requirements described in this paragraph are the following:

"(A) SCHIP INCOME ELIGIBILITY.—The State has a State child health plan that (whether implemented under title XIX or this title)—

"(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

"(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

"(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

"(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

"(C) ADDITIONAL REQUIREMENTS.—The State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

"(i) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

"(ii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

"(iii) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

"(iv) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

"(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).".

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By Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. BAUCUS, Ms. SNOWE, Mr. DASCHLE, Mr. SMITH, Mr. KERRY, Mr. THOMAS, Mr. BINGAMAN, Mr. BUNNING, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. JEFFORDS, Mr. ENZI, Mr. SARBANES, Mr. DOMENICI, Mr. JOHNSON, Mr. ENSIGN, Mrs. MURRAY, Mr. HOLLINGS, Ms. STABENOW, Mr. CORZINE, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. REID, Mr. DEWINE, Mr. REED, Ms. COLLINS, Mr. MILLER, Mr. LUGAR, Mr. LIEBERMAN, Mr. LEAHY, Mr. CHAFEE, Mr. KOHL, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MCCAIN, Mr. DORGAN, Mr. ROBERTS, Mr. DODD, Mr. DAYTON, Ms. CANTWELL, Mr. BREAUX, Mr. BIDEN, Ms. MIKULSKI, Mr. LEVIN, Ms. LANDRIEU, Mr. INOUYE, Mr. HARKIN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Mr. BAYH, and Mr. AKAKA):

S. 622. A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, Senator KENNEDY and I are happy to announce the introduction of the Family Opportunity Act of 2003, a bill to promote family, work, and opportunity. Every day, across the country, thousands of families struggle to obtain affordable and appropriate health care coverage for children with special health care needs, including children with conditions such as autism, mental retardation, cerebral palsy, developmental delays, or mental illness.

Low and middle income parents who have employer sponsored family health care coverage often find that their private insurance doesn't adequately cover the array of services that are critical to their child's well-being, such as mental health services, personal care services, durable medical equipment, special nutritional supplements, and respite care. Because Medicaid, our nation's health care program for low-income individuals, offers the type of comprehensive care that best meets the needs of children with disabilities, it can become a lifeline on which many parents depend.

Yet, Medicaid is a safety net program and one must be impoverished in order to be eligible. This presents a terrible choice for many low and middle income families who have a child with special health care needs: they must choose between work or impoverishment. Or, in the worst cases, parents consider the devastating choice of relinquishing custody for an out-of-home placement so their child can obtain services they so desperately need. Truly, there is nothing more heartbreaking for a parent than to be unable to provide for a child in need.

Consider the following example: Mr. and Mrs. Jones have two daughters, Heather and Hannah. Hannah was born with cerebral palsy. The family earns $29,000 a year and is insured through employer sponsored health insurance. Mr. Jones recently lost his job because of down-sizing. Last year, even with insurance, the family spent nearly $9,000 on out-of-pocket medical expenses. Mr. Jones has found a new job; unfortunately, the family's insurance premium has risen to $200 a month and does not cover essential occupational and physical therapy. The family dipped into their 401K when Hannah was born. The family's earnings minus the health care premiums, minus out of pocket expenses puts this family at an annual income of $17,600. The federal poverty level for a family of four is $18,400. This hard-working family is being impoverished because of their commitment to care for their disabled child.

Over the past three years, I have worked with Senator KENNEDY and Representative PETE SESSIONS to advance this important legislation on behalf of thousands of families who need our help. Each year, more than 70 Senators have signed on as co-sponsors of the legislation. I understand the many pressing challenges facing our nation's health care system, but I urge the Senate to show its support for helping these families and pass the Family Opportunity Act this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 622

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Opportunity Act of 2003" or the "Dylan Lee James Act".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. Opportunity for families of disabled children to purchase medicaid coverage for such children.
Sec. 3. Treatment of inpatient psychiatric hospital services for individuals under age 21 in home or community-based services waivers.
Sec. 4. Development and support of family-to-family health information centers.
Sec. 5. Restoration of medicaid eligibility for certain SSI beneficiaries.

### SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

"(XIX) who are disabled children described in subsection (cc)(1);"; and

(B) by adding at the end the following new subsection:

"(cc)(1) Individuals described in this paragraph are individuals—

"(A) who have not attained 18 years of age;

"(B) who would be considered disabled under section 1614(a)(3)(C) but for having earnings or deemed income or resources (as determined under title XVI for children) that exceed the requirements for receipt of supplemental security income benefits; and

"(C) whose family income does not exceed such income level as the State establishes and does not exceed—

"(i) 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

"(ii) such higher percent of such poverty line as a State may establish, except that—

"(I) any medical assistance provided to an individual whose family income exceeds 250 percent of such poverty line may only be provided with State funds; and

"(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.".

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

"(i) require such parent to apply for, enroll in, and pay premiums for, such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (h)"; and

(2) by adding at the end the following new subsection:

"(h)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) does not exceed 5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 2005.

### SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21 IN HOME OR COMMUNITY-BASED SERVICES WAIVERS.

(a) IN GENERAL.—Section 1915(c) (42 U.S.C. 1396n(c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded"; and

(B) in the second sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21" before the period;

(2) in paragraph (2)(B), by striking "or services in an intermediate care facility for the mentally retarded" each place it appears

and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21";

(3) in paragraph (2)(C)—

(A) by inserting ", or who are determined to be likely to require inpatient psychiatric hospital services for individuals under age 21," after ", or intermediate care facility for the mentally retarded"; and

(B) by striking "or services in an intermediate care facility for the mentally retarded" and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21"; and

(4) in paragraph (7)(A)—

(A) by inserting "or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded,"; and

(B) by inserting "or who would require inpatient psychiatric hospital services for individuals under age 21" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to medical assistance provided on or after January 1, 2004.

### SEC. 4. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501 (42 U.S.C. 701) is amended by adding at the end the following new subsection:

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2)—

"(i) there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(I) $3,000,000 for fiscal year 2004;

"(II) $4,000,000 for fiscal year 2005; and

"(III) $5,000,000 for fiscal year 2006; and

"(ii) there is authorized to be appropriated to the Secretary, $5,000,000 for each of fiscal years 2007 and 2008.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, children with disabilities or special health care needs;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed by families of children with disabilities or special health care needs who have expertise in Federal and State public and private health care systems and health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) under this subsection in accordance with the following:

"(A) With respect to fiscal year 2004, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2005, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2006, such centers shall be developed in not less than 50 States and the District of Columbia.

"(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

### SEC. 5. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking ") and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following'".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the first day of the first calendar quarter that begins after the date of enactment of this Act.

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Mr. KENNEDY. Mr. President, it is an honor to join my colleague Senator GRASSLEY today in re-introducing the Family Opportunity Act of—so that once and for all, we can remove the health care barriers for children with disabilities that so often prevent families from staying together and staying employed, and that so often prevent their children from growing up to live independent lives and become fully contributing members of their communities.

More than 9 percent of children in this country have significant disabilities, many of whom do not have access to the basic health services they need to maintain their health status, let alone prevent its continuing deterioration. To obtain theses health services for their children, families are being forced to become poor, stay poor, put their children in institutions or ever give up custody of their children—all so that their children can qualify for the health coverage available under Medicaid.

In a recent survey of 20 States, families of special needs children report they are turning down jobs, turning down raises, turning down overtime, and unable even to save money for the future of their children and family—all so that their child can stay eligible for Medicaid through the Social Security Income Program. The lack of adequate health care in our country today continues to force these families into poverty in order to obtain the care they need for their disabled children.

The legislation we are reintroducing will close the health care gap for the nation's most vulnerable population, and enable families of disabled children to be equal partners in the American dream.

In the words of President George Bush in his "New Freedom Initiative," "To many Americans with disabilities remain trapped in bureaucracies of dependence, and are denied the access necessary for success—and we need to tear down these barriers.

The Family Opportunity Act will do just that. It will tear down the unfair barriers to needed health care that so many disabled and special needs children are denied. It will make health insurance coverage more widely available for children with significant disabilities, through opportunities to buy-in to Medicaid at an affordable rate. States will have greater flexibility to enable children with metal health disabilities to obtain the health services they need in order to live at home and in their communities. It will establish Family to Family Information Centers in each state to assist families with special needs children.

The passage of Work Incentives Improvement Act in 1999 demonstrated the nation's commitment to give adults with disabilities the right to lead independent and productive lives without giving up their health care. It is time for Congress to show the same commitment to children with disabilities.

We came very close to passing the Family Opportunity Act in the last Congress. I look forward to working members of this new Congress to enact this important legislation, and give disabled children and their families their rightful opportunity to fulfill their dreams and participate fully in the life of our nation.

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By Mr. WARNER (for himself and Ms. COLLINS):

S. 623. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WARNER. Mr. President, today I am introducing legislation to provide some relief for our Nation's retired Federal employees from the severe increases in Federal Employee Health Benefit, FEHB, program premiums. This measure extends premium conversion to federal and military retirees, allowing them to pay their health insurance premiums with pre-tax dollars.

Over 9 million Federal employees, retirees and their families are covered under FEHBP. In 2003 premiums are expected to rise an average of 11 percent, the third year in a row the average increase has exceeded 10 percent.

The increasing cost of health care is a critical issue, especially to retirees living on a fixed income. The 2003 Cost of Living Adjustment, COLA, for Federal civil service annuitants is only 1.4 percent, the lowest since a 1.3 percent increase in 1999. The modest COLA is completely diminished by increased health care costs.

In the fall of 2000 premium conversion became available to current federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees. While premium conversion does not directly affect the amount of the FEHBP premium, it helps to offset some of the increase by reducing an individual's federal tax liability.

Extending this benefit to federal retirees requires a change in the tax law, specifically Section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code.

Under the legislation, the benefit is concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing Federal and military retirees are strongly behind this initiative, including the National Association of Retired Federal Employees, the Military Coalition, the Fleet Reserve Association, and the Association of the U.S. Army.

I encourage my colleagues to support this critical legislation and show their support for our Nation's dedicated Federal civilian and military retirees. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 623

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

"(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

"(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

"(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 2. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

### "SEC. 223. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

"(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (18) the following new paragraph:

"(19) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 223."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 223. TRICARE supplemental premiums or enrollment fees.

"Sec. 224. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 3. IMPLEMENTATION.

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

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By Mr. BAUCUS (for himself and Mr. LEVIN):

S. 624. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the U.S.-Russia Trade Act of 2003.

This legislation would grant Permanent Normal Trade Relations to Russia. However—and I want to be very clear about this point—this legislation would also ensure that Congress retains proper oversight of negotiations to bring Russia into the World Trade Organization.

Congress typically grants PNTR to a Jackson-Vanik country only when that country is about to join the WTO. This is, for example, exactly what Congress did when China joined the WTO.

The Administration and some of my colleagues have suggested that Congress should grant PNTR to Russia prior to their joining the WTO. If we are going to do down this path, we must ensure that there is adequate Congressional oversight.

This legislation would ensure Congressional involvement in the following way: after negotiations are completed, Congress would be guaranteed a vote on a resolution to disapprove of Russia's joining the WTO, if such a resolution is introduced.

Congress has a key role to play in negotiating an agreement on Russia's entering the WTO. China's WTO accession demonstrates this. The Administration was able to obtain a better deal with China because of Congressional involvement.

And there are some real concerns with Russia. The Russian government has announced that it plans to add additional restrictions on imports of U.S. agricultural products, including poultry, pork, and beef. That's unacceptable, and it is behavior that should not be rewarded.

I look forward to working with my colleagues to ensure that Congress continues to have an important role in Russia's accession to the WTO.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 624

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. FINDINGS.

The Congress finds that--

(1) the Russian Federation has adopted constitutional protections and statutory and administrative procedures that accord its citizens the right and opportunity to emigrate, free of anything more than a nominal

tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of such citizens to emigrate to the country of their choice or to return to the Russian Federation;

(2) the Russian Federation has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1994;

(3) the Russian Federation has taken important steps toward the creation of democratic institutions and a free-market economy and, as a participating state of the Organization for Security and Cooperation in Europe (in this Act referred to as the "OSCE"), is committed to developing a system of governance in accordance with the principles regarding human rights and humanitarian affairs that are set forth in the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act") and successive documents;

(4) the Russian Federation is committed to addressing issues relating to its national and religious minorities as a participating state of the OSCE, to adopting measures to ensure that persons belonging to national minorities have full equality both individually and communally, and to respecting the independence of minority religious communities, although problems still exist regarding the registration of religious groups, visa, and immigration requirements, and other laws, regulations, and practices that interfere with the activities or internal affairs of minority religious communities;

(5) the Russian Federation has enacted legislation providing protection against discrimination or incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination, including anti-Semitism;

(6) the Russian Federation has committed itself, including through exchanges of letters, to ensuring freedom of religion, equal treatment of all religious groups, and combating racial, ethnic, and religious intolerance and hatred, including anti-Semitism;

(7) the Russian Federation has engaged in efforts to combat ethnic and religious intolerance by cooperating with various United States nongovernmental organizations;

(8) the Russian Federation is continuing the restitution of religious properties, including religious and communal properties confiscated from national and religious minorities during the Soviet era, facilitating the reemergence of these minority groups in the national life of the Russian Federation, and has committed itself, including through exchanges of letters, to continue the restitution of such properties;

(9) the Russian Federation has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force on June 17, 1992;

(10) the Russian Federation is making progress toward accession to the World Trade Organization, recognizing that many central issues remain to be resolved, including removal of unjustified restrictions on agricultural products of the United States, commitments relating to tariff reductions for goods, trade in services, protection of intellectual property rights, reform of the industrial energy sector, elimination of export incentives for industrial goods, reform of customs procedures and technical, sanitary, and phytosanitary measures, and inclusion of trade remedy provisions;

(11) the Russian Federation has enacted some protections reflecting internationally recognized labor rights, but serious gaps remain both in the country's legal regime and its enforcement record;

(12) the Russian Federation has provided constitutional guarantees of freedom of the press, although infringements of this freedom continue to occur; and

(13) the Russian Federation has demonstrated a strong desire to build a friendly and cooperative relationship with the United States.

### SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE RUSSIAN FEDERATION.

(a) Presidential Determinations and Extensions of Nondiscriminatory Treatment.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the Russian Federation; and

(2) after making a determination under paragraph (1) with respect to the Russian Federation, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) Termination of Application of Title IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of the Russian Federation, chapter 1 of title IV of the Trade Act of 1974 shall cease to apply to that country.

### SEC. 3. POLICY OF THE UNITED STATES.

It is the policy of the United States to remain fully committed to a multifaceted engagement with the Russian Federation, including by—

(1) urging the Russian Federation to ensure that its national, regional, and local laws, regulations, practices, and policies fully, and in conformity with the standards of the OSCE—

(A) provide for the free emigration of its citizens;

(B) safeguard religious liberty throughout the Russian Federation, including by ensuring that the registration of religious groups, visa and immigration requirements, and other laws, regulations, and practices are not used to interfere with the activities or internal affairs of minority religious communities;

(C) enforce and enhance existing Russian laws at the national and local levels to combat ethnic, religious, and racial discrimination and related violence;

(D) expand the restitution of religious and communal properties, including by establishing a legal framework for the timely completion of such restitution; and

(E) respect fully freedom of the press;

(2) working with the Russian Federation, including through the Secretary of Labor and other appropriate executive branch officials, to address the issues described in section 1(11); and

(3) continuing rigorous monitoring by the United States of human rights issues in the Russian Federation, including the issues described in paragraphs (1) and (2), providing assistance to nongovernmental organizations and human rights groups involved in human rights activities in the Russian Federation, and promoting annual discussions and ongoing dialog with the Russian Federation regarding those issues, including the participation of United States and Russian nongovernmental organizations in such discussions.

### SEC. 4. REPORTING REQUIREMENT.

The reports required by sections 102(b) and 203 of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b) and 6433) shall include an assessment of the status of the issues described in subparagraphs (A) through (D) of section 3(1).

### SEC. 5. CONTINUED ENJOYMENT OF RIGHTS UNDER THE JUNE 17, 1992, BILATERAL TRADE AGREEMENT.

(a) Finding.—The Congress finds that the trade agreement between the United States and the Russian Federation that entered into force on June 17, 1992, remains in force between the 2 countries and provides the United States with important rights, including the right to use specific safeguard rules to respond to import surges from the Russian Federation.

(b) Applicability of Safeguard.—Section 421 of the Trade Act of 1974 (19 U.S.C. 2451) shall apply to the Russian Federation to the same extent as such section applies to the People's Republic of China.

### SEC. 6. EXERCISE OF CONGRESSIONAL OVERSIGHT OVER WTO ACCESSION NEGOTIATIONS.

(a) Notice of Agreement on Accession to WTO by Russian Federation.—Not later than 5 days after the date on which the United States has entered into a bilateral agreement with the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, the President shall so notify the Congress, and the President shall transmit to the Congress, not later than 15 days after that agreement is entered into, a report that sets forth the provisions of that agreement.

(b) Resolution of Disapproval.—

(1) Introduction.—If a resolution of disapproval is introduced in the House of Representatives or the Senate during the 30-day period (not counting any day which is excluded under section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)), beginning on the date on which the President first notifies the Congress under subsection (a) of the agreement referred to in that subsection, that resolution of disapproval shall be considered in accordance with this subsection.

(2) Resolution of disapproval.—In this subsection, the term "resolution of disapproval" means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the agreement between the United States and the Russian Federation on the terms of accession by the Russian Federation to the World Trade Organization, of which Congress was notified on     .", with the blank space being filled with the appropriate date.

(3) Procedures for considering resolutions.—

(A) Introduction and referral.—Resolutions of disapproval—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) Committee discharge and floor consideration.—The provisions of subsections (c) through (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(c) through (f)) (relating to committee discharge and floor consideration of certain resolutions in the House and Senate) apply to a resolution of disapproval to the same extent as such subsections apply to resolutions under such section.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

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By Mr. SANTORUM (for himself and Mr. MILLER):

S. 626. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, today, I am pleased to introduce, along with my colleague Senator MILLER, the bipartisan Teacher Paperwork Reduction Act of 2003. During the 107th Congress, we were successful in legislating sweeping reforms in education with the passage of the No Child Left Behind Act. This year we hope to complete reauthorization of another important federal education initiative—the reauthorization of the Individuals with Disabilities Education Act, IDEA, this year. As we consider this legislation, our greatest responsibility is to improve the quality of the education that students with special needs receive.

One of the problems fostered by the current system, which stands in direct contrast to our purpose, is the excessive paperwork burden imposed on our special education teachers. This burden takes valuable time away from classroom instruction and is a source of ongoing frustration for the special education teachers working on the frontlines. As a result, this undermines the goal of providing the best quality education possible to all children. The Teacher Paperwork Reduction Act addresses this problem and seeks to offer solutions that will benefit special education teachers and most importantly the children they instruct.

This bipartisan legislation includes four main provisions to correct the problem of burdensome paperwork. First, the Department of Education, in cooperation with state and local educational agencies, would be required to reduce the amount of paperwork by 50 percent within 18 months of enactment of the legislation and would be encouraged to make additional reductions. Second, the General Accounting Office, GAO, would conduct a study to determine how much of the paperwork burden is caused by Federal regulations compared to State and local regulations; the number of mediations that have been conducted since mediations were required to be made available under the 1997 IDEA amendments; the use of technology in reducing the paperwork burden; and GAO would make recommendations on steps that Congress, the U.S. Department of Education, and the States and local districts can take to reduce this burden within six months of the passage of this legislation.

Third, mediation would be mandatory for all legal disputes related to Individual Education Programs, IEPs, to better empower parents and schools to focus resources on a quality education for children rather than unnecessary litigation within one year of enactment of this legislation. Fourth, the Department of Education is directed to conduct research to determine best practices for successful mediation, including training practices, that can help contribute to the effort to reduce paperwork, improve student outcomes, and free up teacher resources for teaching. The Department would also provide mediation training support services to support state and local efforts. The resources to fund these requirements would come from money appropriated through Part D of IDEA.

The Council for Exceptional Children, CEO, states, "No barrier is so irksome to special educators as the paperwork that keeps them from teaching." According to a CEC report, concerns about paperwork ranked third among special education teachers, out of a list of 10 issues. The CEC also reports that special education teachers are leaving the profession at almost twice the rate of general educators. Statistics concerning the amount of time special education teachers spend completing paperwork are telling. 53 percent of special education teachers report that routine duties and paperwork interfere with their job to a great extent. They spend an average of five hours per week on paperwork, compared to general education teachers who spend an average of two hours per week. More than 60 percent of special education teachers spend a half to one and a half days a week completing paperwork. One of the biggest sources of paperwork, the individualized education program, IEP, averages between 8 and 16 pages long, and 83 percent of special education teachers report spending from a half to one and a half days each week in IEP-relating meetings.

One special education teacher expressed her frustration with excessive paperwork to me. "I began my professional career as a lawyer, but found that I had a passion for interacting with and helping students and became a teacher. However, I decided last year that I could no longer work with special education students from my district. I came this decision reluctantly and solely on the basis of the increasing and burdensome amount of paperwork required for special education summer services. As a teacher, your job is to interact, teach, and participate in a student's learning experience, in particular that of a student of special needs. As a result of the paperwork and fear of lawsuits by school districts, I am no longer able to interact with my students."

There are three primary factors associated with burdensome paperwork. The first factor is federal regulations. The 1997 IDEA regulations set forth the necessary components of the IEP and require teachers to complete an array of paperwork in addition to the IEP. According to the National School Boards Association, NSBA, "These requirements result in consuming substantial hours per child and cumulatively are having a negative impact on special educators and their function." Second, there are misconceptions at the state and local levels regarding Federal regulations that result in additional requirements imposed by the States and local school districts. The U.S. Department of Education compiled a sample IEP with all the necessary components, and it is five pages long. However, most IEPs are much longer. The third factor is litigation and the threat of litigation. In order to be prepared for due process hearings and court proceedings, school district officials often require extensive documentation so that they are able to prove that a free appropriate public education, FAPE, was provided to the special education student.

A key provision of the bill makes mediation mandatory for all legal disputes related to IEPs. There are several benefits to using mediation as an alternative to due process hearings and court proceedings. According to the Consortium for Appropriate Dispute Resolution in Special Education, CADRE, mediation is a constructive option for children, parents, and teachers and allows families to maintain a positive relationship with teachers and service providers. Parents have the benefit of working together with educator and service providers as partners instead of as adversaries. If an agreement cannot be reached as a result of mediation, parties to the dispute would retain existing due process and legal options.

Mediation is also a much less costly, less time consuming alternative for all parties concerned. Parents do not have to pay for mediation sessions, because under the 1997 IDEA amendments, States are required to bear the cost for mediation. States and local districts save a lot of money as well. According to the Michigan Special Education Mediation Program, MSEMP, the average hearing cost to the state is $40,000; it pays approximately $700 per mediation session. The NSBA reports that attorney fees for school districts average between $10,000 to $25,000. In contrast, the Pennsylvania Bureau of Education says that it pays mediators $250 per session. The cost effectiveness of mediation is apparent. Not only does mediation save money, it saves time as well. According to the Washington State Department of Education, a mediation session may generally be scheduled within 14 days of a parental request, whereas it may take up to a year to secure a court date.

Most importantly, mediation is a successful alternative to due process hearings. At least some form of agreement is reached in 80 percent of sessions nationwide. In Pennsylvania, 85 percent of voluntary special education mediations end in agreement in which both parties are satisfied. According to the New York State Dispute Resolution Association, mediation ending in resolution of the conflict occurs for 75 percent of referrals, and in Wisconsin, approximately 84 percent of those who chose mediation would use it again.

The Teacher Paperwork Reduction Act is meant to alleviate a serious problem that causes frustration and discouragement among dedicated special education teachers who expend energy and countless hours in order to give students with disabilities an equal opportunity to learn. It is only fair and right to find ways to reduce paperwork in order to give teachers more time to spend educating our students and changing their lives, and less time wading through stacks of paper. I would invite my colleagues to join us in cosponsoring this legislation to help teachers, schools, and parents provide a better education for all students so that no child is left behind.

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By Mr. KYL (for himself, Mr. SHELBY, and Mrs. FEINSTEIN):

S. 627. A bill to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KYL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 627

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlawful Internet Gambling Funding Prohibition Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers;

(2) the National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them;

(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry;

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability;

(5) gambling through the Internet, which has grown rapidly in the half-decade preceding the enactment of this Act, opens up the possibility of immediate, individual, 24-hour access in every home to the full range of wagering opportunities on sporting events or casino-like contests, such as roulette, slot machines, poker, or black-jack; and

(6) the extent to which gambling is permitted and regulated in the United States has been primarily a matter for determination by individual States and, if applicable, Indian tribes, with Federal law serving to prevent interstate or other attempts to evade or avoid such determinations.

### SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT SYSTEM INSTRUMENT, CREDIT CARD, OR FUND TRANSFER FOR UNLAWFUL INTERNET GAMBLING.

Chapter 53 of title 31, United States Code, is amended by adding at the end the following:

### "SUBCHAPTER IV—FUNDING OF ILLEGAL INTERNET GAMBLING

### "§ 5361. Definitions

"For purposes of this subchapter, the following definitions shall apply:

"(1) BET OR WAGER.—The term 'bet or wager'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code;

"(D) includes any instructions or information pertaining to the establishment or movement of funds in, to, or from an account by the bettor or customer with regard to the business of betting or wagering; and

"(E) does not include—

"(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

"(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

"(iii) any over-the-counter derivative instrument;

"(iv) any other transaction that—

"(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

"(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

"(v) any contract of indemnity or guarantee;

"(vi) any contract for insurance;

"(vii) any deposit or other transaction with an insured institution;

"(viii) any participation in a simulation sports game, or an educational game or contest, that—

"(I) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event;

"(II) has an outcome that reflects the relative knowledge and skill of the participants, with such outcome determined predominantly by accumulated statistical results of sporting events; and

"(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; or

"(ix) any lawful transaction with a business licensed or authorized by a State.

"(2) BUSINESS OF BETTING OR WAGERING.—The term 'business of betting or wagering' does not include, other than for purposes of section 5366, any creditor, credit card issuer, insured institution, or other financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service.

"(3) DESIGNATED PAYMENT SYSTEM.—The term 'designated payment system' means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, that the Secretary, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, determines, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

"(4) INTERNET.—The term 'Internet' means the international computer network of interoperable packet switched data networks.

"(5) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' has the same meaning as in section 230(f) of the Communications Act of 1934.

"(6) OFFICE.—The term 'Office' means the Office of Electronic Funding Oversight, established under section 5362.

"(7) RESTRICTED TRANSACTION.—The term 'restricted transaction' means any transaction or transmittal involving any credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(9) UNLAWFUL INTERNET GAMBLING.—The term 'unlawful Internet gambling' means the placing, receipt, or other transmission of a bet or wager by any means which involves the use, at least in part, of the Internet, where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

"(10) OTHER TERMS.—

"(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms 'credit', 'creditor', 'credit card', and 'card issuer' have the same meanings as in section 103 of the Truth in Lending Act.

"(B) Electronic fund transfer.—The term 'electronic fund transfer'—

"(i) has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

"(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(C) Financial institution.—The term 'financial institution' has the same meaning as in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

"(D) Insured institution.—The term 'insured institution' means—

"(i) an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act; and

"(ii) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(E) Money transmitting business and money transmitting service.—The terms 'money transmitting business' and 'money transmitting service' have the same meanings as in section 5330(d) (determined without regard to any regulations issued by the Secretary thereunder).

### "§ 5362. Office of electronic funding oversight; policies and procedures to identify and prevent restricted transactions

"(a) Establishment of Treasury Office.—

"(1) In general.—There is established within the Department of the Treasury, the Office of Electronic Funding Oversight, the purposes of which are—

"(A) to coordinate Federal efforts to prohibit restricted transactions; and

"(B) otherwise to carry out the duties of the Office, as specified in this subchapter.

"(2) Director.—The Office shall be headed by a Director, appointed by the Secretary. The director of the Office may serve as the designee of the Secretary, at the request of the Secretary, for any purpose under this subchapter.

"(b) Regulations.—Not later than 6 months after the date of enactment of this subchapter, the Office, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General of the United States, shall prescribe regulations requiring any designated payment system, and all participants therein, to establish policies and procedures reasonably designed to identify and prevent restricted transactions through the establishment of policies and procedures that—

"(1) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means;

"(2) block restricted transactions identified as a result of the policies and procedures developed pursuant to paragraph (1); and

"(3) prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

"(c) Requirements for Policies and Procedures.—In prescribing regulations pursuant to subsection (b), the Office shall—

"(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be 'reasonably designed to identify' and 'reasonably designed to block' or to 'prevent the acceptance of the products or services' with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;

"(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with, restricted transactions; and

"(3) consider exempting restricted transactions from any requirement imposed under such regulations, if the Office finds that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

"(d) Compliance With Payment System Policies and Procedures.—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, shall be considered to be in compliance with the regulations prescribed under subsection (b), if—

"(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant—

"(A) to identify and block restricted transactions; or

"(B) to otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

"(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (b).

"(e) No Liability for Blocking or Refusing To Honor Restricted Transactions.—A person that is subject to a regulation prescribed or order issued under this subchapter and blocks, or otherwise refuses to honor, a restricted transaction, or as a member of a designated payment system relies on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under this section, shall not be liable to any party for such action.

"(f) Regulatory Enforcement.—Regulations issued by the Office under this subchapter shall be enforced by the Federal functional regulators and the Federal Trade Commission, in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

### "§ 5363. Prohibition on acceptance of any bank instrument for unlawful internet gambling

"No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

"(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

"(2) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

"(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

"(4) the proceeds of any other form of financial transaction, as the Secretary may prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

### "§ 5364. Civil remedies

"(a) Jurisdiction.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this subchapter or the rules or regulations issued under this subchapter by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

"(b) Proceedings.—

"(1) Institution by federal government.—

"(A) In general.—The United States, acting through the Attorney General, or, in the case of rules or regulations issued under this subchapter, through an agency authorized to enforce such regulations in accordance with this subchapter, may institute proceedings under this section to prevent or restrain a violation or a threatened violation of this subchapter or such rules or regulations.

"(B) Relief.—Upon application of the United States under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter or the rules or regulations issued under this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(2) Institution by state attorney general.—

"(A) In general.—The attorney general of a State (or other appropriate State official) in which a violation of this subchapter allegedly has occurred or will occur may institute proceedings under this section to prevent or restrain the violation or threatened violation.

"(B) Relief.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation or threatened violation of this subchapter, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(3) Indian lands.—

"(A) In general.—Notwithstanding paragraphs (1) and (2), for a violation of this subchapter or the rules or regulations issued under this subchapter that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

"(i) the United States shall have the enforcement authority provided under paragraph (1); and

"(ii) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act shall be carried out in accordance with that compact.

"(B) Rule of construction.—No provision of this subchapter shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

"(c) Expedited Proceedings.—In addition to any proceeding under subsection (b), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this subchapter or the rules or regulations issued under this subchapter, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), in accordance with rule 65(b) of the Federal Rules of Civil Procedure.

"(d) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

"(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating this subchapter, or a hypertext link to an online site violating this subchapter, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section pursuant to section 5366;

"(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

"(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

"(D) specify the interactive computer service to which it applies; and

"(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

"(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084 of title 18, United States Code, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

"(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

"(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

"(3) RULE OF CONSTRUCTION.—The provisions of paragraph (2) do not affect any potential liability of an interactive computer service or other person under any provision of title 18, United States Code, other than as specifically provided in paragraph (2).

"(e) FACTORS TO BE CONSIDERED IN CERTAIN CASES.—In considering granting relief under this section against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, the court shall consider—

"(1) the extent to which the person extending credit or transmitting funds knew or should have known that the transaction was in connection with unlawful Internet gambling;

"(2) the history of such person in extending credit or transmitting funds when such person knew or should have known that the transaction is in connection with unlawful Internet gambling;

"(3) the extent to which such person has established and is maintaining policies and procedures in compliance with rules and regulations issued under this subchapter;

"(4) the extent to which it is feasible for any specific remedy prescribed as part of such relief to be implemented by such person without substantial deviation from normal business practice; and

"(5) the costs and burdens that the specific remedy will have on such person.

"(f) NOTICE TO REGULATORS AND FINANCIAL INSTITUTIONS.—Before initiating any proceeding under subsection (b) with respect to a violation or potential violation of this subchapter or the rules or regulations issued under this subchapter by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, the Attorney General of the United States, an attorney general of a State (or other appropriate State official), or an agency authorized to initiate such proceeding under this subchapter, shall—

"(1) notify such person, and the appropriate regulatory agency (as determined in accordance with section 5362(f) for such person) of such violation or potential violation and the remedy to be sought in such proceeding; and

"(2) allow such person 30 days to implement a reasonable remedy for the violation or potential violation, consistent with the factors described in subsection (e), and in conjunction with such action as the appropriate regulatory agency may take.

**"§ 5365. Criminal penalties**

"(a) IN GENERAL.—Whoever violates this subchapter or the rules or regulations issued under this subchapter shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

**"§ 5366. Circumventions prohibited**

"Notwithstanding section 5361(2), a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service, may be liable under this subchapter if such creditor, issuer, institution, operator, business, network, or participant has actual knowledge and control of bets and wagers, and—

"(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

"(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.".

### SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

(a) IN GENERAL.—In deliberations between the United States Government and any other country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act and the amendments made by this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

### SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVISIONS.

(a) AMENDMENT TO DEFINITION.—Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with "The term" as paragraphs (1) through (5), respectively; and

(2) in paragraph (5), as so designated—

(A) by striking "wire communication" and inserting "communication";

(B) by inserting "satellite, microwave," after "cable,"; and

(C) by inserting "(whether fixed or mobile)" after "connection".

(b) INCREASE IN PENALTY FOR UNLAWFUL WIRE TRANSFERS OF WAGERING INFORMATION.—Section 1084(a) of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

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By Mr. STEVENS (for himself, Ms. MIKULSKI, Mr. BOND, and Ms. MURKOWSKI):

S. 628. A bill to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia* Orbiter; ordered held at the desk.

Mr. STEVENS. Madam President, on February 1, 2003, the Space Shuttle *Columbia* was lost during re-entry into Earth's atmosphere. We all mourn that tragic loss. But although our hearts have been filled with sorrow, we have also taken comfort in the knowledge that there was so much about these heroic astronauts for us to be grateful for.

They were, indeed, remarkable people for they truly represented the best of the human spirit. As such, it is only fitting that we endeavor to remember them for their outstanding contributions.

Today, along with Senators BOND and MIKULSKI, I introduce legislation to construct a memorial to the crew of the *Columbia* Orbiter at Arlington National Cemetery.

This memorial would be located in close proximity to the memorial to the crew of the *Challenger* Orbiter at Arlington Cemetery and that the design of the Columbia Memorial is intended to be consistent with the artistic sensibilities of the Challenger Memorial.

This legislation would authorize the Secretary of the Army, in consultation with NASA, to place the Columbia Memorial at Arlington and would make available $500,000 from funds already appropriated in the Fiscal Year 2003 DOD Appropriations Act for the Memorial.

The bill also authorizes NASA to collect gifts and donations for the Columbia Memorial at Arlington Cemetery or for another appropriate memorial or monument. This authority to collect donations and gifts expires after 5 years.

We will never forget the wonderful legacy of the *Columbia* astronauts. They have been an inspiration to us all.

Lastly, I take this opportunity to invite any Senator to join with me in cosponsoring this legislation to establish this memorial to these outstanding individuals.

I ask unanimous consent that the bill be held at the desk until the close of business Wednesday, March 19, so that such Senators will be shown as original cosponsors of this legislation. It is my further hope that this bill will be speedily cleared on each side of the aisle so that it may be sent to the House next week, if at all possible. I send the bill to the desk, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be held at the desk until the close of business, Wednesday, March 19.

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By Mr. FEINGOLD:

S.J. Res. 9. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I introduce a Senate companion to a joint resolution already introduced in the House by Congressman SHERROD BROWN of Ohio.

This resolution is quite simple. It requires the President to report to Congress on the potential costs and consequences of military action in Iraq before ordering the United States Armed Forces to war in Iraq. This is a resolution that simply requires that this country know what it is we are getting into before, not after, war breaks out.

Of course, it is my hope, and I very much believe the President when he asserts that it is his hope, that there will be no war. But judging from the administration's statements and Iraq's behavior, with each passing day it becomes more and more likely that the United States will engage in a major military operation in Iraq. It is entirely possible that we will undertake this operation without a great deal of international support. And while I have no doubt in my mind that our admirable men and women in uniform will be successful in any military engagement, I do have doubts about whether or not the American people truly understand the magnitude of the task the country is setting for itself—not only with regard to the military engagement itself, but with regard to occupation and reconstruction.

I do not believe that Americans have been told much about what the future holds beyond the most optimistic of scenarios, and frankly I do not believe that Congress has heard much about the full range of potential scenarios either.

This resolution would require that the President provide that information before ordering our men and women in uniform to war in Iraq.

The resolution asks for a full accounting of the implications for homeland security of initiating military action against Iraq. It asks for an accounting of the implications for the fight against terrorism. It asks for an accounting of the implications for regional stability in the Middle East, and for an accounting of the implications of war in Iraq for the proliferation of weapons of mass destruction.

This resolution recognizes that there may be positive and negative implications to consider. It does not pre-judge these issues. But it does acknowledge that Members of Congress, the elected representatives of the people, should be privy to the thinking of our experts and leaders in the executive branch about the effect of war in Iraq on all of these issues. It is our responsibility to weigh these questions, to weigh the consequences of starting a war.

And, while I do not doubt for a moment the skills and competence of our brave service men and women, I do know that their efforts alone are not enough to ensure a lasting victory. It is crucial to the ultimate success of U.S. policy, that the American people understand the potential risks and the potential rewards of this national undertaking. We are considering the American military occupation of a major Middle Eastern country, and we are considering this in a very dangerous time. This country must have its eyes open before we move forward.

This resolution also requires that the administration explain to Congress the steps that the United States and our allies will take to ensure that any and all weapons of mass destruction will be safeguarded from dispersal to other rogue states or international terrorist organizations. If the goal is disarmament, then defeating Saddam Hussein's forces is not going to accomplish the mission at hand. Do we know where the WMD sites are? One would assume that we would share that information with the inspectors if we had it. But if we do not, how will we ensure that WMD and the means to make them are not dispersed across Iraq's borders, or sold off to the highest bidder, in the event of invasion. Saddam Huessein's order is despicable and dangerous. But disorder is dangerous too. Again, we need to understand the risks, and we need to understand the plan.

This resolution requires the Administration to explain the plan for stabilization and reconstruction. Earlier this week the Senate Foreign Relations Committee held a hearing on reconstruction in Iraq. We had hoped to get answers to some of the basic questions that senior officials from the State and Defense Departments were utterly unable to respond to as recently as February. But the Administration canceled the appearance of General Jay Garner, the director for the Pentagon's Office of Reconstruction and Humanitarian Assistance, who was slated to come before the committee. And so the Foreign Relations Committee of the United States Senate is left scanning the newspapers to get a sense of Administration plans, extrapolating from tidbits in the press to understand potential costs, and quizzing very capable experts—but experts not privy to Administration planning—about the universe of possibilities. This is simply unacceptable.

This resolution calls for the Administration to clearly report to Congress on the nature and extent of the international support for military action against Iraq and the impact of military action against Iraq on allied support for the broader war on terrorism. I believe that this is the single most important issue before us. I know that I disagree with some of my colleagues on the wisdom of the Administration's policy in Iraq. But I am certain that none of us disagree on the proposition that the first priority of all of us in government must be the fight against terrorism. And we all know that we cannot fight terrorism alone. But I have heard directly from foreign officials who are telling me that it will be more difficult for them to be strong supporters of the fight against terrorism if the U.S. acts in Iraq without the United Nations' approval.

This resolution calls on the Administration to explain clearly the steps that it will take to protect United States soldiers, allied forces, and Iraqi civilians from any known or suspected environmental hazards resulting from military operations. Everyone in this body has heard from veterans of the Gulf War who suffer and struggle even today, long after their period of sacrifice for their country should have ended. Based on what we know from these veterans, it is entirely reasonable to demand a plan now, not after the fact.

The resolution also calls for the Administration to provide estimates of the American and allied military casualties, Iraqi military casualties, and Iraqi civilian casualties resulting from military action against Iraq, and measures that will be taken to prevent civilian casualties and adhere to international humanitarian law. I know that America is a resilient society and a resolute society. But I am not at all sure that Americans have been prepared for anything but the best-case scenario, and that is a disservice to the American people and a disservice to our military.

This resolution calls for an estimate of the full costs associated with military action against Iraq, including, but not limited to, providing humanitarian aid to the Iraqi people and to neighboring nations in light of possible refugee flows, reconstructing Iraq with or without allied support, and securing long-term political stability in Iraq and the region insofar as it is affected by such military action. I can tell you that right now in the Budget committee, we are flying blind, trying to make fiscally responsible decisions for the future while the Administration remains unwilling to provide an honest accounting of what this war will cost, or what it will cost to meet the humanitarian needs of Iraq, or what the long process of reconstruction will cost. We know that these are not small figures. And unfortunately, it looks as though we will be proceeding without a great deal of international support, meaning less burden-sharing and more shouldering of this cost on our own. And that is why this resolution also calls for an accounting of the anticipated short and long term effects of military action on the United States economy and the Federal budget.

I feel strongly that we should have demanded this information long ago. But we continue to ask, because Congress continues to have constitutional responsibilities. And I continue to hear from a tremendous number of my constituents who are deeply concerned about the prospect of a war with Iraq. The sources of their concern and their views on the issue vary, but in virtually all cases, they want to understand the range of options before us, and they are demanding more information about the costs and commitments they will incur as a result of decisions that we make here. They are right to insist on that information, to insist that we exercise some foresight here and wrestle honestly with the consequences that may follow from taking military action. Without such a discussion, we cannot hope to answer the most important question before us—will a given course of action make the U.S. more or less secure in the end.

I urge my colleagues to support this resolution, and to insist that the Administration provide this information before war breaks out. I voted against the resolution authorizing the use of force in Iraq last fall, because I was uncomfortable with the Administration's shifting justifications for war, dissatisfied with the vague answers available at the time relating to our plans for dealing with weapons of mass destruction and reconstruction in Iraq, and most of all, because I was concerned that this action would actually alienate key allies in the fight against terrorism. But even those who voted differently surely must believe that we have a responsibility to anwser these questions now, and to share the answers with our constituents, so that this great country is operating not on wishful thinking or simple ignorance, but with an understanding of the facts before us, and the awesome task ahead.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 83—COMMENDING THE SERVICE OF DR. LLOYD J. OGILVIE, THE CHAPLAIN OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 83

Whereas Dr. Lloyd J. Ogilvie became the 61st Senate Chaplain on March 13, 1995, and has faithfully served the Senate for 8 years as Senate Chaplain;

Whereas Dr. Ogilvie is the author of 49 books, including "Facing the Future without Fear"; and

Whereas Dr. Ogilvie graduated from Lake Forest College, Garrett Theological Seminary of Northwestern University and New College, University of Edinburgh, Scotland, and has served as a Presbyterian minister throughout his professional life, including being the senior pastor at First Presbyterian Church, Hollywood, California: Now, therefore, be it

*Resolved*, That—

(1) the Senate hereby honors Dr. Lloyd J. Ogilvie for his dedicated service as the Chaplain of the United States Senate; and

(2) the Secretary transmit an enrolled copy of this resolution to Dr. Ogilvie.

### SENATE RESOLUTION 84—PROVIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 84

*Resolved*, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Chambliss, Mr. Cochran, Mr. Smith, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Lott, Mr. Cochran, Mr. Dodd, and Mr. Schumer.

### SENATE RESOLUTION 85—TO AMEND PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. MILLER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 85

*Resolved*, That paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. (a)(1) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by 16 Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day but 1, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question: "Is it the sense of the Senate that the debate shall be brought to a close?".

"(2) If the question in clause (1) is agreed to by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then that measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"(3) After cloture is invoked, no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least 1 hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"(4) After no more than 30 hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The 30 hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any 1 calendar day.

"(5) If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"(6) No Senator shall call up more than 2 amendments until every other Senator shall have had the opportunity to do likewise.

"(7) Notwithstanding other provisions of this rule, a Senator may yield all or a part of his 1 hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than 2 hours so yielded to him and may in turn yield such time to other Senators.

"(8) Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least 10 minutes, is, if he seeks recognition, guaranteed up to 10 minutes, inclusive, to speak only.

"(9) After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than 24 hours.

"(b)(1) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent motions to bring debate to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent cloture motions on any measure, motion, or other matter pending before the Senate, except by unanimous consent, until the previous motion has been disposed of.

"(2) Such subsequent motions shall be made in the manner provided by, and subject to the provisions of, subparagraph (a), except that the affirmative vote required to bring to a close debate upon that measure, motion, or other matter, or unfinished business (other than a measure or motion to amend Senate rules) shall be reduced by 3 votes on the second such motion, and by 3 additional votes on each succeeding motion, until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn. The required vote shall then be an affirmative vote of a majority of the Senators duly chosen and sworn. The requirement of an affirmative vote of a majority of the Senators duly chosen and sworn shall not be further reduced upon any vote taken on any later motion made pursuant to this subparagraph with respect to that measure, motion, matter, or unfinished business.".

### SENATE RESOLUTION 86—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN W. CURTIS SHAIN V. HUNTER BATES, ET AL.

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution, which was considered and agreed to:

S. RES. 86

Whereas, in the case of W. Curtis Shain v. G. Hunter Bates, et al., No. 03–CI–00153, pending in Division II of the Oldham Circuit Court, Twelfth Judicial Circuit, Commonwealth of Kentucky, an affidavit has been requested from Senator Mitch McConnell:

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Senator McConnell is authorized to provide testimony in the case of W. Curtis Shain v. G. Hunter Bates, et al., except concerning matters for which a privilege should be asserted and when his attendance at the Senate is necessary for the performance of his legislative duties.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator McConnell in connection with any testimony authorized in section one of this resolution.

### SENATE RESOLUTION 87—COMMEMORATING THE CENTENNIAL ANNIVERSARY OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. INHOFE, Mr. JEFFORDS, Mr. DASCHLE, Mr. CRAPO, Mr. KERRY, Ms. CANTWELL, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. WARNER, Mrs. MURRAY, Mrs. HUTCHISON, Ms. MIKULSKI, Mr. SARBANES, Mr. LAUTENBERG, Mr. CHAFEE, Mr. DURBIN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. VOINOVICH, Mr. HOLLINGS, Mrs. BOXER, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. ALLARD, Mr. DODD, and Mr. EDWARDS) submitted the following resolution; which was considered and agreed to:

S. RES. 87

Whereas March 14, 2003, will mark the Centennial Anniversary of the National Wildlife Refuge System;

Whereas the United States Senate continues to fully support the mission of the National Wildlife Refuge System, and shares President Theodore Roosevelt's view that: "Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander";

Whereas President Theodore Roosevelt's vision in 1903 to conserve wildlife started with the plants and animals on the tiny Pelican Island on Florida's East Coast, and has flourished across the United States and its territories, allowing for the preservation of a vast array of species; and

Whereas the National Wildlife Refuge System of 540 refuges, that now hosts 35,000,000 visitors annually, with the help of 30,000 volunteers, is home to wildlife of almost every variety in every state of the union within an hour's drive of almost every major city: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the National Wildlife Refuge System on its Centennial Anniversary;

(2) expresses strong support for the National Wildlife Refuge System's continued success in the next 100 years and beyond;

(3) encourages the National Wildlife Refuge System in its continued efforts to broaden understanding and appreciation for the Refuge System, to increase partnerships on behalf of the National Wildlife Refuge System to better manage and monitor wildlife, and to continue its support of outdoor recreational activities; and

(4) reaffirms its commitment to continued support for the National Wildlife Refuge System, and the conservation of our Nation's rich natural heritage.

### SENATE RESOLUTION 88—HONORING THE 80TH BIRTHDAY OF JAMES L. BUCKLEY, FORMER UNITED STATES SENATOR FOR THE STATE OF NEW YORK

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 88

Whereas James Buckley served in the United States Senate with great dedication, integrity, and professionalism as a trusted colleague from the State of New York;

Whereas James Buckley served with distinction for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit;

Whereas James Buckley's long and distinguished career in public service also included serving in the U.S. Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe;

Whereas James Buckley celebrated his 80th birthday earlier this week: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges and honors the tremendous contributions made by James Buckley during his distinguished career to the executive, legislative, and judicial branches of the United States; and

(2) congratulates and expresses best wishes to James Buckley on the celebration of his 80th birthday.

### SENATE RESOLUTION 89—HONORING THE LIFE OF FORMER GOVERNOR OF MINNESOTA ORVILLE L. FREEMAN, AND EXPRESSING THE DEEPEST CONDOLENCE OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. DAYTON (for himself and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 89

Whereas the Senate has learned with sadness of the death of former Governor of Minnesota Orville L. Freeman;

Whereas Orville L. Freeman, born in Minneapolis, Minnesota, greatly distinguished himself by his long commitment to public service;

Whereas Orville L. Freeman, football star, student council president, and Phi Beta Kappa honors student, graduated magna cum laude from the University of Minnesota;

Whereas Orville L. Freeman, a Major in the Marine Corps, served the United States with honor and distinction during World War II, and was awarded a Purple Heart for wounds associated with his heroism;

Whereas the organizational leadership of Orville L. Freeman helped build the Minnesota Democratic-Farmer-Labor Party into a successful political party;

Whereas, in 1954, Orville L. Freeman became the first Democratic-Farmer-Labor candidate to be elected Governor of Minnesota;

Whereas Orville L. Freeman, elected to 3 consecutive terms as Governor, advanced the concept of governance now known as "the Minnesota Consensus," which views government as a positive force in the lives of citizens, and government programs as investments in Minnesota's future;

Whereas, during his service as Governor of Minnesota, Orville L. Freeman increased State funding for education, improved health and rehabilitation programs, expanded conservation efforts, and achieved many other successes that improved his State and the lives of its citizens;

Whereas Orville L. Freeman served as the Secretary of Agriculture in the administrations of President John F. Kennedy and President Lyndon B. Johnson, during which service he initiated global food assistance programs and developed the domestic food stamp and school breakfast programs;

Whereas, in addition to his outstanding public service, Orville L. Freeman was also a successful international lawyer and business executive;

Whereas Orville L. Freeman was a devoted husband to his wife, Jane, for 62 years, a loving father to two exceptional children, Constance and Michael, and a proud grandfather to three talented grandchildren, Elizabeth, Kathryn, and Matthew; and

Whereas Orville L. Freeman led a life that was remarkable for its breadth of pursuits, multitude of accomplishments, standards of excellence, dedication to public service, and important contributions to the improvement of his country and the lives of his fellow citizens: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) pays tribute to the outstanding career and devoted work of the great Minnesota and national leader, Orville L. Freeman;

(2) expresses its deepest condolences to the family of Orville L. Freeman on his death; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Orville L. Freeman.

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## SENATE CONCURRENT RESOLUTION 20—PERMITTING THE CHAIRMAN OF THE COMMITTEE ON RULES AND ADMINISTRATION OF THE SENATE TO DESIGNATE ANOTHER MEMBER OF THE COMMITTEE TO SERVE ON THE JOINT COMMITTEE ON PRINTING IN PLACE OF THE CHAIRMAN

Mr. LOTT (for himself and Mr. DODD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 20

*Resolved by the Senate (the House of Representatives concurring)*, That effective for the One Hundred Eighth Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

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## SENATE CONCURRENT RESOLUTION 21—EXPRESSING THE SENSE OF THE CONGRESS THAT COMMUNITY INCLUSION AND ENHANCED LIVES FOR INDIVIDUALS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES IS AT SERIOUS RISK BECAUSE OF THE CRISIS IN RECRUITING AND RETAINING DIRECT SUPPORT PROFESSIONALS, WHICH IMPEDES THE AVAILABILITY OF A STABLE, QUALITY DIRECT SUPPORT WORKFORCE.

Mr. BUNNING (for himself and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 21

Whereas there are more than 8,000,000 Americans who have mental retardation or other developmental disabilities;

Whereas individuals with developmental disabilities include those with mental retardation, autism, cerebral palsy, Down syndrome, epilepsy, and other related conditions;

Whereas individuals with mental retardation or other developmental disabilities have substantial limitations on their functional capacities, including limitations in two or more of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, independent living, and economic self-sufficiency, as well as the continuous need for individually planned and coordinated services;

Whereas for the past two decades individuals with mental retardation or other developmental disabilities and their families have increasingly expressed their desire to live and work in their communities, joining the mainstream of American life;

Whereas the Supreme Court, in its Olmstead decision, affirmed the right of individuals with mental retardation or other developmental disabilities to receive community-based services as an alternative to institutional care;

Whereas the demand for community supports and services is rapidly growing, as States comply with the Olmstead decision and continue to move more individuals from institutions into the community;

Whereas the demand will also continue to grow as family caregivers age, individuals with mental retardation or other developmental disabilities live longer, waiting lists grow, and services expand;

Whereas our Nation's long-term care delivery system is dependent upon a disparate array of public and private funding sources, and is not a conventional industry, but rather is financed primarily through third-party insurers;

Whereas Medicaid financing of supports and services to individuals with mental retardation or other developmental disabilities varies considerably from State to State, causing significant disparities across geographic regions, among differing groups of consumers, and between community and institutional supports;

Whereas outside of families, private providers that employ direct support professionals deliver the majority of supports and services for individuals with mental retardation or other developmental disabilities in the community;

Whereas direct support professionals provide a wide range of supportive services to individuals with mental retardation or other developmental disabilities on a day-to-day basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, and housekeeping and other home management-related supports and services so that these individuals can live and work in their communities;

Whereas direct support professionals generally assist individuals with mental retardation or other developmental disabilities to lead a self-directed family, community, and social life;

Whereas private providers and the individuals for whom they provide supports and services are in jeopardy as a result of the growing crisis in recruiting and retaining a direct support workforce;

Whereas providers of supports and services to individuals with mental retardation or other developmental disabilities typically draw from a labor market that competes with other entry-level jobs that provide less physically and emotionally demanding work, and higher pay and other benefits, and therefore these direct support jobs are not currently competitive in today's labor market;

Whereas annual turnover rates of direct support workers range from 40 to 75 percent;

Whereas high rates of employee vacancies and turnover threaten the ability of providers to achieve their core mission, which is the provision of safe and high-quality supports to individuals with mental retardation or other developmental disabilities;

Whereas direct support staff turnover is emotionally difficult for the individuals being served;

Whereas many parents are becoming increasingly afraid that there will be no one available to take care of their sons and daughters with mental retardation or other developmental disabilities who are living in the community; and

Whereas this workforce shortage is the most significant barrier to implementing the Olmstead decision and undermines the expansion of community integration as called for by President Bush's New Freedom Initiative, placing the community support infrastructure at risk: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*,

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the "Direct Support Professional Recognition Resolution".

**SEC. 2. SENSE OF CONGRESS REGARDING SERVICES OF DIRECT SUPPORT PROFESSIONALS TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.**

It is the sense of the Congress that the Federal Government and the States should make it a priority to ensure a stable, quality direct support workforce for individuals with mental retardation or other developmental disabilities that advances our Nation's commitment to community integration for such individuals and to personal security for them and their families.

## SENATE CONCURRENT RESOLUTION 22—EXPRESSING THE SENSE OF THE CONGRESS REGARDING HOUSING AFFORDABILITY AND URGING FAIR AND EXPEDITIOUS REVIEW BY INTERNATIONAL TRADE TRIBUNALS TO ENSURE A COMPETITIVE NORTH AMERICAN MARKET FOR SOFTWOOD LUMBER

Mr. NICKLES (for himself, Mr. BAYH, Mr. BUNNING, Mr. FITZGERALD, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. REED, and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Finance.

### S. CON. RES. 22

Whereas the United States and Canada have, since 1989, worked to eliminate tariff and nontariff barriers to trade;

Whereas free trade has greatly benefitted the United States and Canadian economies;

Whereas the U.S. International Trade Commission only found the potential for a Threat of Injury (as opposed to actual injury) to domestic lumber producers but the Department of Commerce imposed a 27 percent duty on U.S. lumber consumers;

Whereas trade restrictions on Canadian lumber exported to the U.S. market have been an exception to the general rule of bilateral free trade;

Whereas the legitimate interests of consumers are often overlooked in trade disputes;

Whereas the availability of affordable housing is important to American home buyers and the need for the availability of such housing, particularly in metropolitan cities across America, is growing faster than it can be met;

Whereas imposition of special duties on U.S. consumers of softwood lumber, essential for construction of on-site and manufactured homes, jeopardizes housing affordability;

Whereas the United States has agreed to abide by dispute settlement procedures in the World Trade Organization and the North American Free Trade Agreement, providing for international review of national remedy actions; and,

Whereas the World Trade Organization and North American Free Trade Agreement dispute panels are reviewing findings by the ITC: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, that it is the sense of the Congress that—

(1) The Department of Commerce and U.S. Trade Representative should work to assure that no delays occur in resolving the current disputes before the NAFTA and WTO panels, supporting a fair and expeditious review;

(2) U.S. anti-dumping and countervail law is a rules-based system that should proceed to conclusion in WTO and NAFTA trade panels;

(3) The President should continue discussions with the Government of Canada to promote open trade between the United States and Canada on softwood lumber free of trade restraints that harm consumers;

(4) The President should consult with all stakeholders, including consumers of lumber products in future discussions regarding any terms of trade in softwood lumber between the United States and Canada.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Wednesday, March 19, 2003, in room SR 301, Russell Senate Office Building, to conduct an oversight hearing on the operations of the Secretary of the Senate and the Architect of the Capitol.

For further information concerning this meeting, please contact Susan Wells at 202-224-6352.

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 9:30 a.m., in open and possibly closed session, to receive testimony from unified and regional commanders on their military strategy and operational requirements, in review of the Defense Authorization Request for Fiscal Year 2004 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 13, 2003, at 10 a.m., to conduct a hearing on "The Administration's Proposed Fiscal Year 2004 Budget for the Federal Transit Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 13, 2003, at 9:30 a.m., in SR–253, for an executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 13 at 10 a.m., to receive testimony on gaining an understanding of the impacts of last year's fires and then looking forward to the potential 2003 fire season.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 13, at 2:30 p.m., is to conduct oversight on the designation and management of national heritage areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, Federal and non-Federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 2 p.m., to hold a members briefing on Iraq's political future.

Briefer: The Honorable William Burns, Assistant Secretary for Middle East, Department of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing entitled "Setting the Record Straight: The Nomination of Justice Priscilla Owen" on Thursday, March 13, 2003, at 10 a.m., in the Dirksen Senate Office Building, room 106.

*Witness list*

Panel I: The Honorable Kay Bailey Hutchison and The Honorable John Cornyn.

Panel II: Priscilla Richmond Owen to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 13, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reserve Association, and the Air Force Sergeants Association.

The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 13, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, March 13, at 9:30 a.m. to conduct an oversight hearing on the implementation of the CMAQ and Conformity programs. This meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON READINESS AND MANAGEMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session on the Senate on Thursday, March 13, 2003, at 2 p.m., in open session to receive testimony on the impacts of environmental laws on readiness and the related administration legislative proposal in review of the Defense Authorization Request for Fiscal Year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. McCONNELL. Mr. President, I ask unanimous consent that Bruce Artim and Dr. Mark Carlson from Senator HATCH's staff be granted floor privileges for the remainder of the session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GILA RIVER INDIAN COMMUNITY JUDGMENT FUND DISTRIBUTION ACT OF 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 30, S. 162.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 162) to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 162) was read the third time and passed, as follows:

S. 162

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Gila River Indian Community Judgment Fund Distribution Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 101. Distribution of judgment funds.
Sec. 102. Responsibility of Secretary; applicable law.

TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

Sec. 201. Plan for use and distribution of judgment funds awarded in Docket No. 228.
Sec. 202. Plan for use and distribution of judgment funds awarded in Docket No. 236–N.

TITLE III—EXPERT ASSISTANCE LOANS

Sec. 301. Waiver of repayment of expert assistance loans to Gila River Indian Community.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) on August 8, 1951, the Gila River Indian Community filed a complaint before the Indian Claims Commission in Gila River Pima-Maricopa Indian Community v. United States, Docket No. 236, for the failure of the United States to carry out its obligation to protect the use by the Community of water from the Gila River and the Salt River in the State of Arizona;

(2) except for Docket Nos. 236–C and 236–D, which remain undistributed, all 14 original dockets under Docket No. 236 have been resolved and distributed;

(3) in Gila River Pima-Maricopa Indian Community v. United States, 29 Ind. Cl. Comm. 144 (1972), the Indian Claims Commission held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–C;

(4) in Gila River Pima-Maricopa Indian Community v. United States, 684 F.2d 852 (1982), the United States Claims Court held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–D;

(5) with the approval of the Community under Community Resolution GR–98–98, the Community entered into a settlement with the United States on April 27, 1999, for claims made under Dockets Nos. 236–C and 236–D for an aggregate total of $7,000,000;

(6) on May 3, 1999, the United States Court of Federal Claims ordered that a final judgment be entered in consolidated Dockets Nos. 236–C and 236–D for $7,000,000 in favor of the Community and against the United States;

(7)(A) on October 6, 1999, the Department of the Treasury certified the payment of $7,000,000, less attorney fees, to be deposited in a trust account on behalf of the Community; and

(B) that payment was deposited in a trust account managed by the Office of Trust Funds Management of the Department of the Interior; and

(8) in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit an Indian judgment fund use or distribution plan to Congress for approval.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADULT.—The term "adult" means an individual who—

(A) is 18 years of age or older as of the date on which the payment roll is approved by the Community; or

(B) will reach 18 years of age not later than 30 days after the date on which the payment roll is approved by the Community.

(2) COMMUNITY.—The term "Community" means the Gila River Indian Community.

(3) COMMUNITY-OWNED FUNDS.—The term "Community-owned funds" means—

(A) funds held in trust by the Secretary as of the date of enactment of this Act that may be made available to make payments under section 101; or

(B) revenues held by the Community that—

(i) are derived from trust resources; and

(ii) qualify for an exemption under section 7 or 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

(4) IIM ACCOUNT.—The term "IIM account" means an individual Indian money account.

(5) JUDGMENT FUNDS.—The term "judgment funds" means the aggregate amount awarded to the Community by the Court of Federal Claims in Dockets Nos. 236–C and 236–D.

(6) LEGALLY INCOMPETENT INDIVIDUAL.—The term "legally incompetent individual" means an individual who has been determined to be incapable of managing his or her own affairs by a court of competent jurisdiction.

(7) MINOR.—The term "minor" means an individual who is not an adult.

(8) PAYMENT ROLL.—The term "payment roll" means the list of eligible, enrolled members of the Community who are eligible to receive a payment under section 101(a), as prepared by the Community under section 101(b).

(9) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

### TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

**SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.**

(a) PER CAPITA PAYMENTS.—Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any other provision of law (including any regulation promulgated or plan developed under such a law), the amounts paid in satisfaction of an award granted to the Gila River Indian Community in Dockets Nos. 236–C and 236–D before the United States Court of Federal Claims, less attorney fees and litigation expenses and including all accrued interest, shall be distributed in the form of per capita payments (in amounts as equal as practicable) to all eligible enrolled members of the Community.

(b) PREPARATION OF PAYMENT ROLL.—

(1) IN GENERAL.—The Community shall prepare a payment roll of eligible, enrolled members of the Community that are eligible to receive payments under this section in accordance with the criteria described in paragraph (2).

(2) CRITERIA.—

(A) INDIVIDUALS ELIGIBLE TO RECEIVE PAYMENTS.—Subject to subparagraph (B), the following individuals shall be eligible to be listed on the payment roll and eligible to receive a per capita payment under subsection (a):

(i) All enrolled Community members who are eligible to be listed on the per capita payment roll that was approved by the Secretary for the distribution of the funds awarded to the Community in Docket No. 236–N (including any individual who was inadvertently omitted from that roll).

(ii) All enrolled Community members who are living on the date of enactment of this Act.

(iii) All enrolled Community members who died—

(I) after the effective date of the payment plan for Docket No. 236–N; but

(II) on or before the date of enactment of this Act.

(B) Individuals ineligible to receive payments.—The following individuals shall be ineligible to be listed on the payment roll and ineligible to receive a per capita payment under subsection (a):

(i) Any individual who, before the date on which the Community approves the payment roll, relinquished membership in the Community.

(ii) Any minor who relinquishes membership in the Community, or whose parent or legal guardian relinquishes membership on behalf of the minor, before the date on which the minor reaches 18 years of age.

(iii) Any individual who is disenrolled by the Community for just cause (such as dual enrollment or failure to meet the eligibility requirements for enrollment).

(iv) Any individual who is determined or certified by the Secretary to be eligible to receive a per capita payment of funds relating to a judgment—

(I) awarded to another community, Indian tribe, or tribal entity; and

(II) appropriated on or before the date of enactment of this Act.

(v) Any individual who is not enrolled as a member of the Community on or before the date that is 90 days after the date of enactment of this Act.

(c) Notice to Secretary.—On approval by the Community of the payment roll, the Community shall submit to the Secretary a notice that indicates the total number of individuals eligible to share in the per capita distribution under subsection (a), as expressed in subdivisions that reflect—

(1) the number of shares that are attributable to eligible living adult Community members; and

(2) the number of shares that are attributable to deceased individuals, legally incompetent individuals, and minors.

(d) Information Provided to Secretary.—The Community shall provide to the Secretary enrollment information necessary to allow the Secretary to establish—

(1) estate accounts for deceased individuals described in subsection (c)(2); and

(2) IIM accounts for legally incompetent individuals and minors described in subsection (c)(2).

(e) Disbursement of Funds.—

(1) In general.—Not later than 30 days after the date on which the payment roll is approved by the Community and the Community has reconciled the number of shares that belong in each payment subdivision described in subsection (c), the Secretary shall disburse to the Community the funds necessary to make the per capita distribution under subsection (a) to eligible living adult members of the Community described in subsection (c)(1).

(2) Administration and distribution.—On disbursement of the funds under paragraph (1), the Community shall bear sole responsibility for administration and distribution of the funds.

(f) Shares of Deceased Individuals.—

(1) In general.—The Secretary, in accordance with regulations promulgated by the Secretary and in effect as of the date of enactment of this Act, shall distribute to the appropriate heirs and legatees of deceased individuals described in subsection (c)(2) the per capita shares of those deceased individuals.

(2) Absence of heirs and legatees.—If the Secretary and the Community make a final determination that a deceased individual described in subsection (c)(2) has no heirs or legatees, the per capita share of the deceased individual and the interest earned on that share shall—

(A) revert to the Community; and

(B) be deposited into the general fund of the Community.

(g) Shares of Legally Incompetent Individuals.—

(1) In general.—The Secretary shall deposit the shares of legally incompetent individuals described in subsection (c)(2) in supervised IIM accounts.

(2) Administration.—The IIM accounts described in paragraph (1) shall be administered in accordance with regulations and procedures established by the Secretary and in effect as of the date of enactment of this Act.

(h) Shares of Minors.—

(1) In general.—The Secretary shall deposit the shares of minors described in subsection (c)(2) in supervised IIM accounts.

(2) Administration.—

(A) In general.—The Secretary shall hold the per capita share of a minor described in subsection (c)(2) in trust until such date as the minor reaches 18 years of age.

(B) Nonapplicable law.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held by the Secretary under this Act.

(C) Disbursement.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in subsection (c)(2) until such date as the minor reaches 18 years of age.

(i) Payment of Eligible Individuals Not Listed on Payment Roll.—

(1) In general.—An individual who is not listed on the payment roll, but is eligible to receive a payment under this Act, as determined by the Community, may be paid from any remaining judgment funds after the date on which—

(A) the Community makes the per capita distribution under subsection (a); and

(B) all appropriate IIM accounts are established under subsections (g) and (h).

(2) Insufficient funds.—If insufficient judgment funds remain to cover the cost of a payment described in paragraph (1), the Community may use Community-owned funds to make the payment.

(3) Minors, legally incompetent individuals, and deceased individuals.—In a case in which a payment described in paragraph (2) is to be made to a minor, a legally incompetent individual, or a deceased individual, the Secretary—

(A) is authorized to accept and deposit funds from the payment in an IIM account or estate account established for the minor, legally incompetent individual, or deceased individual; and

(B) shall invest those funds in accordance with applicable law.

(j) Use of Residual Funds.—On request by the governing body of the Community to the Secretary, and after passage by the governing body of the Community of a tribal council resolution affirming the intention of the governing body to have judgment funds disbursed to, and deposited in the general fund of, the Community, any judgment funds remaining after the date on which the Community completes the per capita distribution under subsection (a) and makes any appropriate payments under subsection (i) shall be disbursed to, and deposited in the general fund of, the Community.

(k) Reversion of Per-Capita Shares to Tribal Ownership.—

(1) In general.—In accordance with the first section of Public Law 87–283 (25 U.S.C. 164), the share for an individual eligible to receive a per-capita share under subsection (a) that is held in trust by the Secretary, and any interest earned on that share, shall be restored to Community ownership if, for any reason—

(A) subject to subsection (i), the share cannot be paid to the individual entitled to receive the share; and

(B) the share remains unclaimed for the 6-year period beginning on the date on which the individual became eligible to receive the share.

(2) Request by community.—In accordance with subsection (j), the Community may request that unclaimed funds described in paragraph (1)(B) be disbursed to, and deposited in the general fund of, the Community.

**SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE LAW.**

(a) Responsibility for Funds.—After the date on which funds are disbursed to the Community under section 101(e)(1), the United States and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the funds disbursed.

(b) Deceased and Legally Incompetent Individuals.—Funds subject to subsections (f) and (g) of section 101 shall continue to be held in trust by the Secretary until the date on which those funds are disbursed under this Act.

(c) Applicability of Other Law.—Except as otherwise provided in this Act, all funds distributed under this Act shall be subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

## TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

**SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 228.**

(a) Definition of Plan.—In this section, the term "plan" means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 228 of the United States Claims Court (52 Fed. Reg. 6887 (March 5, 1987)), as modified in accordance with Public Law 99–493 (100 Stat. 1241).

(b) Conditions.—Notwithstanding any other provision of law, the Community shall modify the plan to include the following conditions with respect to funds distributed under the plan:

(1) Applicability of other law relating to minors.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of this Act, by the Secretary.

(2) Share of minors in trust.—The Secretary shall hold a per capita share of a minor described in paragraph (1) in trust until such date as the minor reaches 18 years of age.

(3) Disbursal of funds for minors.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in paragraph (1) until such date as the minor reaches 18 years of age.

(4) Use of remaining judgment funds.—On request by the governing body of the Community, as manifested by the appropriate tribal council resolution, any judgment

funds remaining after the date of completion of the per capita distribution under section 101(a) shall be disbursed to, and deposited in the general fund of, the Community.

**SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 236-N.**

(a) DEFINITION OF PLAN.—In this section, the term "plan" means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 236-N of the United States Court of Federal Claims (59 Fed. Reg. 31092 (June 16, 1994)).

(b) CONDITIONS.—

(1) PER CAPITA ASPECT.—Notwithstanding any other provision of law, the Community shall modify the last sentence of the paragraph under the heading "Per Capita Aspect" in the plan to read as follows: "Upon request from the Community, any residual principal and interest funds remaining after the Community has declared the per capita distribution complete shall be disbursed to, and deposited in the general fund of, the Community.".

(2) GENERAL PROVISIONS.—Notwithstanding any other provision of law, the Community shall—

(A) modify the third sentence of the first paragraph under the heading "General Provisions" of the plan to strike the word "minors"; and

(B) insert between the first and second paragraphs under that heading the following: "Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of the Gila River Indian Community Judgment Fund Distribution Act of 2003, by the Secretary. The Secretary shall hold a per capita share of a minor in trust until such date as the minor reaches 18 years of age. No judgment funds, or any interest earned on judgment funds, shall be disbursed from the account of a minor until such date as the minor reaches 18 years of age.".

### TITLE III—EXPERT ASSISTANCE LOANS

**SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO GILA RIVER INDIAN COMMUNITY.**

Notwithstanding any other provision of law—

(1) the balance of all outstanding expert assistance loans made to the Community under Public Law 88-168 (77 Stat. 301) and relating to Gila River Indian Community v. United States (United States Court of Federal Claims Docket Nos. 228 and 236 and associated subdockets) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Community from any liability associated with those loans.

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## ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar Item No. 31, S. 222.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 222) to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 222) was read the third time and passed, as follows:

S. 222

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Zuni Indian Tribe Water Rights Settlement Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) EASTERN LCR BASIN.—The term "Eastern LCR basin" means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term "Fund" means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) PUMPING PROTECTION AGREEMENT.—The term "Pumping Protection Agreement" means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) RESERVATION; ZUNI HEAVEN RESERVATION.—The term "Reservation" or "Zuni Heaven Reservation", also referred to as "Kolhu:wala:wa", means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North,

Range 26 East, Gila and Salt River Base and Meridian.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) SRP.—The term "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) TEP.—The term "TEP" means Tucson Electric Power Company.

(10) TRIBE, ZUNI TRIBE, OR ZUNI INDIAN TRIBE.—The terms "Tribe", "Zuni Tribe", or "Zuni Indian Tribe" means the body politic and federally recognized Indian nation, and its members.

(11) ZUNI LANDS.—The term "Zuni Lands" means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are—

(A) within the Zuni Heaven Reservation;

(B) held in trust by the United States for the benefit of the Tribe or its members; or

(C) held in fee within the Little Colorado River basin by or for the Tribe.

**SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.**

(a) SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), $19,250,000, to be allocated by the Secretary as follows:

(1) $3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).

(2) $15,750,000, of which $5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) OTHER AGREEMENTS.—Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

**SEC. 5. TRUST LANDS.**

(a) NEW TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;

(C) Section 30: W 1/2 , SE 1/4; and

(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) FUTURE TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;

(B) Section 16: S 1/2 SW 1/4 SE 1/4;

(C) Section 19: S 1/2 SE 1/4 SE 1/4;

(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4:

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) NEW RESERVATION LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) LIMITATION ON SECRETARIAL DISCRETION.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) LANDS REMAINING IN FEE STATUS.—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) FINAL AGENCY ACTION.—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) NO FEDERAL WATER RIGHTS.—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) STATE WATER RIGHTS.—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) FORFEITURE AND ABANDONMENT.—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) AD VALOREM TAXES.—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) AUTHORITY OF TRIBE.—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) FEDERAL ACKNOWLEDGEMENT OF INTERGOVERNMENTAL AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) NO ABROGATION.—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent

with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) REMOVAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) EXCEPTION.—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) DISCLAIMER.—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98–408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101–486; 104 Stat. 1174)).

**SEC. 6. DEVELOPMENT FUND.**

(a) ESTABLISHMENT OF THE FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) ADDITIONAL DEPOSITS.—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) LIABILITY.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS FOR ACQUISITION OF WATER RIGHTS.—

(1) WATER RIGHTS ACQUISITIONS.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) RIGHT TO SET OFF.—In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) WATER RIGHTS.—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

**SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.**

(a) FULL SATISFACTION OF MEMBERS' CLAIMS.—

(1) IN GENERAL.—The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) NO RECOGNITION OR ESTABLISHMENT OF INDIVIDUAL WATER RIGHT.—Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) TRIBE AND UNITED STATES AUTHORIZATION AND WATER QUANTITY WAIVERS.—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) TRIBAL WAIVERS AGAINST THE UNITED STATES.—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) Tribal Waiver of Water Quality Claims and Interference With Trust Claims.—

(1) Claims against the State and others.—

(A) Interference with trust responsibility.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) Injury or threat of injury to water quality.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) Claims of the United States.—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(3) Limitations.—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D)(3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) Waiver of United States Water Quality Claims Related to Settlement Land and Water.—

(1) Past and present claims.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) Future claims.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) EFFECT.—Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

**SEC. 8. MISCELLANEOUS PROVISIONS.**

(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of Article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under Article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) TRIBAL USE OF WATER.—

(1) IN GENERAL.—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) EXCEPTION.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) RIGHTS-OF-WAY.—

(1) NEW AND FUTURE TRUST LAND.—The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) ADDITIONAL RIGHTS-OF-WAY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) VESTED RIGHTS.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) OTHER CLAIMS.—Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) NO MAJOR FEDERAL ACTION.—

(1) IN GENERAL.—Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) SETTLEMENT AGREEMENT.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

**SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.**

(a) IN GENERAL.—The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) DEADLINE FOR EFFECTIVE DATE.—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

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## DESIGNATING SERVICE IN THE JOINT COMMITTEE ON PRINTING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 20, which was submitted earlier today by Senators LOTT and DODD.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 20) was agreed to, as follows:

S. CON. RES. 20

*Resolved by the Senate (the House of Representatives concurring),* That effective for the One Hundred Eighth Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

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## PROVIDING FOR MEMBERS OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 84, which was submitted earlier today by Senators Lott and Dodd.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 84) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 84) was agreed to, as follows:

S. RES. 84

*Resolved,* That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Chambliss, Mr. Cochran, Mr. Smith, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Lott, Mr. Cochran, Mr. Dodd, and Mr. Schumer.

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## IMPROVED FIRE SAFETY IN NONRESIDENTIAL BUILDINGS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 85, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 85) expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REED. Mr. President, yesterday the House passed H. Con. Res. 85, a resolution paying respect to the victims of the tragic nightclub fire on February 20, 2003 in West Warwick, RI, and expressing the sense of Congress regarding the need for improved fire safety in buildings used by the public. I thank my colleagues for expediting consideration of this important resolution in the Senate today.

The West Warwick fire is a devastating loss that has affected the lives of thousands of Rhode Islanders. Mr. President, 99 people have died, and nearly 190 people were injured, many of whom are still in hospitals in critical condition.

In the first minutes and hours of this tragedy, our firefighters, police, and emergency medical personnel performed heroically under horrific circumstances, as did many of the patrons who were at the scene and helped to save others.

I want to express my heartfelt condolences to the many families of those who perished in the West Warwick fire, and to let them know that our thoughts and prayers are with them and with the survivors who will struggle with the physical and mental toll of this horrible event for the rest of their lives.

This was a catastrophe brought on by a series of bad decisions. Fault will be sorted out in time, but there are already lessons learned.

State and local officials across the country are, and should be, reexamining their fire and building codes and stepping up enforcement of safety practices in public buildings to make sure that a tragedy like this does not happen again. Congress should do everything it can to support this effort and to encourage both state and local governments and federal agencies to adopt and strictly enforce the most current fire and building consensus codes.

In addition, as our nation continues to fight the war on terror, the response to the West Warwick fire provides a good illustration of how far we've come—and how far we have to go—in improving our emergency management capabilities. Local first responders were on the scene within minutes to help rescue victims, treat the injured, and fight the tremendous blaze that consumed the Station nightclub. As casualties continued to mount, the Rhode Island Emergency Management Agency coordinated the massive rescue and recovery efforts by state and local agencies from Rhode Island, Massachusetts, and Connecticut. Several hospitals in Rhode Island and Massachusetts received scores of victims suffering from severe burns and smoke inhalation, many of whom remain in critical condition today.

There is no question that the response to the West Warwick fire was better than it would have been before September 11, 2001, thanks to our state's efforts over the past 18 months to strengthen emergency preparedness. Federal assistance in this regard has helped, including equipment and training grants from the Department of Justice's Office of Domestic Preparedness, FIRE Grants from the Federal Emergency Management Agency, and bioterror preparedness grants from the Department of Health and Human Services, which included funding to create regional hospital plans to respond to terrorism.

But we can do better. As tragic as the West Warwick fire was, it was a localized event involving deaths and injuries in the hundreds rather than thousands, yet it overwhelmed our state's emergency response systems and hospital emergency room capacity. Assistance from surrounding states and Federal agencies was required to manage the immense tasks of emergency response, medical care, and identifying scores of bodies.

Rhode Island and other states, with the support of the Federal Government, will continue our efforts to strengthen the security of our homeland, and we will apply the hard lessons learned in West Warwick about safety in public buildings.

Mr. President, I thank my colleagues for supporting this important resolution to urge state and local officials and owners of entertainment facilities to examine their safety practices, fire codes, and enforcement capabilities to ensure that such a tragedy never befalls any community again.

Mr. CHAFEE. Mr. President, 3 weeks ago—on a cold winter evening—several hundred people gathered at the Station nightclub, a popular venue for live bands in West Warwick, RI. They had come to spend time with friends and to listen to music. Too quickly, this festive occasion turned to horror.

A local television cameraman—who ironically was there to shoot footage for a news story on nightclub safety—captured the scene in an extraordinary piece of video that will haunt Rhode Islanders for many years. A pyrotechnic display on stage ignited nearby soundproofing material, and the flames spread through the nightclub with shocking speed. By most estimates, it took only 2 minutes—2 minutes—from the moment that soundproofing caught fire, until the building was engulfed in flames and filled with superheated, toxic, black smoke.

As this disaster unfolded, heroic emergency personnel rushed to the rescue, placing their own lives in jeopardy. Eyewitness accounts described amazing acts of bravery at the scene. Firefighters saved dozens of men and women, whom they pulled from the doorways and windows of the burning building. Meanwhile, EMTs did their best to stabilize those who were gravely injured and worked with the police to help bring order to the prevailing chaos.

Rhode Island is blessed with a network of fine hospitals, several of which have received national recognition for the quality of their care. On that night, medical teams provided the best treatment for the injured, many of whom have a long recovery ahead. At Rhode Island Hospital—which received 65 fire victims, nearly all at once—an entire floor was converted into a burn unit overnight. Surgeons, nurses, technicians and other support staff must have been overwhelmed by the trauma, but they persevered.

Rhode Island's new Governor, Don Carcieri has been brilliant in managing the State's response to this crisis. Less than 2 months after taking office, Governor Carcieri has demonstrated remarkable leadership abilities in the aftermath of the fire. His efforts came at a critical time and helped ensure that every public official delivered a consistent, productive message.

Whether speaking to all Rhode Islanders at a televised press conference or visiting quietly with grieving families, Governor Carcieri has emerged as a strong, reassuring presence during a very difficult time for Rhode Island. He has expressed our anger at what when wrong, and our compassion for the victims and their loved ones.

Federal agencies also responded immediately to this enormous tragedy. I am grateful for all of the assistance that Rhode Island has received thus far: from the Bureau of Alcohol, Tobacco, and Firearms, the Department of Health and Human Services, and the Small Business Administration.

My family and I extend our heartfelt sympathy to the families at this time of great sadness. I hope they will take some comfort in knowing that even with a population of more than 1 million people, Rhode Island is small enough that its citizens consider one another as neighbors. That sense of closeness—developed over decades of shared experiences, both joyful and sorrowful—binds us together and is part of what makes Rhode Island unique among the States.

Those connections are especially strongly felt in small towns and villages, such as Potowomut, where my family has made its home for many years. Potowomut is a close-knit community, somewhat isolated from the rest of the city of Warwick and Rhode Island—on a peninsula that juts out into Narragansett Bay. Sadly, a fellow Potowomut resident, Tracy King, was among those who perished in the fire.

Tracy was working at the Station nightclub on the night of the fire, and as least initially, managed to escape the blaze. Once outside, however, he rushed back into the building to help others scramble to safety. Tracy was a tall, powerful man—always bursting with energy—and I am certain that he helped save some lives. I share in the heartbreak that all of Tracy's friends feel, knowing that he did not make it back out in time.

In recent years, Tracy had achieved a measure of fame in Rhode Island, as he had an unusual talent for balancing large, heavy objects on his chin—Christmas trees, ladders, desks—even a refrigerator—all balanced perfectly on his chin.

In 1993, he appeared on "The Late Show with David Letterman," and balanced a 17-foot canoe. Imagine that—a 17-foot canoe, straight up in the air! Tracy was a wonderful entertainer, and he especially enjoyed performing for groups of children. He generously shared his talent at local festivals, schools, and hospitals—everyone delighted in seeing him in action.

Tracy King leaves behind his wife, Evelyn, and three sons—Joshua, Jacob, and Jordan. I ask my colleagues to remember the King family in their prayers.

We also remember that there are many other families in Rhode Island, and across the State line in Massachusetts, that are still coping with this sudden, traumatic loss. In the days following the fire, survivors and family members of those who had died or been injured gathered together to mourn, to ask questions, and to share their stories. May they continue to draw strength from one another, and be sustained by the enduring support of their community.

The Senate is considering this concurrent resolution recently approved in the House, cosponsored by my colleagues in the Rhode Island delegation, expressing the importance of improved fire safety in nonresidential buildings in the aftermath of this tragic fire. I urge adoption of the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 85) was agreed to.

The preamble was agreed to.

## AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 86, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 86) to authorize testimony and legal representation in W. Curtis Shain v. G. Hunter Bates, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 86) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 86

Whereas, in the case of *W. Curtis Shain* v. *G. Hunter Bates, et al.*, No. 03–CI–00153, pending in Division II of the Oldham Circuit Court, Twelfth Judicial Circuit, Commonwealth of Kentucky, an affidavit has been requested from Senator Mitch McConnell;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Senator McConnell is authorized to provide testimony in the case of *W. Curtis Shain* v. *G. Hunter Bates, et al.*, except concerning matters for which a privilege should be asserted and when his attendance at the Senate is necessary for the performance of his legislative duties.

Sec. 2. The Senate Legal Counsel is authorized to represent Senator McConnell in connection with any testimony authorized in section one of this resolution.

## CENTENNIAL ANNIVERSARY OF NATIONAL WILDLIFE REFUGE SYSTEM

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 87, introduced earlier today by Senator NELSON of Florida.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 87) commemorating the Centennial Anniversary of the National Wildlife Refuge System.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAHAM of Florida. 100 years ago tomorrow, President Theodore Roosevelt ordered that a small island in Florida's Indian River be forever protected as a "preserve and breeding ground for native birds." With this simple promise of wildlife protection, the National Wildlife Refuge System was born. A century later, the refuge system has grown to include more that 530 refuges on more than 94 million acres with locations in every state.

Florida's National Wildlife Refuges have been fulfilling the promise of protecting wildlife for a full century. Pelican Island, the first refuge, is being restored to its original size so that birds may be able to find refuge there for the next hundred years. Archie Carr National Wildlife Refuge in Titusville protects endangered sea turtles so they have an undisturbed place to lay their eggs. And, Florida Panther National Wildlife Refuge in Naples is protecting our state animal, the Florida Panther, which is on the brink of extinction.

The National Wildlife Refuges in Florida have been protecting more than just animals. As part of the greater Everglades ecosystem, Ten Thousand Islands National Wildlife Refuge and the Arthur R. Marshall Loxahatchee National Wildlife Refuge are protecting both the wildlife and habitats that make up part of America's Everglades.

Florida is a destination for sportsmen and nature lovers throughout the world. Be they avid hunters or fishermen or tourists traveling to visit our unsurpassed beaches or the pristine beauty of Florida's interior, the National Wildlife Refuge System is part of the allure, with facilities and locations to cater to any person who wants to visit nature.

Nationwide, more than 35 million people visit national wildlife refuges to see some of the world's most amazing wildlife spectacles, or to fish, hunt, photograph nature, and learn about our natural and cultural history.

The centennial anniversary of the National Wildlife Refuge System is a time to celebrate these natural treasures and recognize their value to our society. Today there is a celebration of Pelican Island to commemorate this historic day. Throughout the year, there will be other celebrations in honor of 100 years of successful preservation. Because National Wildlife Refuges have been such an important part of the ecological preservation of our nation, I joined with my colleague from Florida, Senator NELSON, in sponsoring a resolution that would reaffirm the strong support that the National Wildlife Refuge System enjoys in this body.

National Wildlife Refuges are a key component of our nation's conservation network. Because of the establishment of the Refuge System, wildlife of all types have a safe place to live and human beings have a place to interact with the wildlife and nature in an ecologically responsible way. The National Wildlife Refuge System has had a successful 100 years and I hope we can continue to support the system so it prospers for the next 100 years.

Mr. JEFFORDS. Mr. President, I join my colleagues from Florida in commemorating the 100th anniversary of the founding of the National Wildlife Refuge System. One hundred years ago, President Teddy Roosevelt established the first wildlife refuge, Florida's 3-acre Pelican Island. This small beginning has given rise to more than 500 National Wildlife Refuges throughout our country, demonstrating that Americans want unique places for wildlife to flourish and allow for recreation.

While Florida is home to the first refuge, my state of Vermont home to two refuges, the Missisquoi National Wildlife Refuge and the Silvio O. Conte National Wildlife Refuge.

The Missisquoi Refuge, founded in 1943, was established to provide a resting feeding area for migratory waterfowl, and as a general wildlife refuge. It spans 6,592 acres on the eastern shore of Lake Champlain. It is a mix of hardwood forests and open fields and home to the largest heron rookery in Vermont. More than 200,000 ducks converge on the refuge each fall and most of Vermont's black terns nest on the refuge. Osprey nest on the refuge and Missisquoi River and the shoreline of Lake Champlain provide outstanding fishing opportunities.

Our Silvio O. Conte Refuge, founded in 1997, is shared with New Hampshire and Massachusetts. It was established to protect the abundance and diversity of native species throughout the 7.2 million-acre Connecticut River watershed. In addition to protecting rare species, native plants and animals and their habitat, managers of this refuge are working with partners throughout New England to help control invasive species.

The wildlife and recreation opportunities provided by our refuges are made possible by the dedication of the Fish and Wildlife Service employees, who I would like to congratulate today. Without their expertise and dedication to providing visitors with hunting, fishing, wildlife observation, photography, interpretation and environmental education opportunities, our refuge system would not be enjoying the success we are celebrating today. They provided this public service to more than 55,000 annual visitors at our 2 refuges and I hope that these classrooms of nature continue to provide children and adult alike a unique educational experience.

In addition, I would like to acknowledge the thousands of volunteers nationwide who give their time and expertise to making the National Wildlife Refuge experience a memorable one for all of us.

Congratulations to all involved in the National Wildlife Refuge System.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 87) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 87

Whereas March 14, 2003, will mark the Centennial Anniversary of the National Wildlife Refuge System;

Whereas the United States Senate continues to fully support the mission of the National Wildlife Refuge System, and shares President Theodore Roosevelt's view that: "Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander";

Whereas President Theodore Roosevelt's vision in 1903 to conserve wildlife started with the plants and animals on the tiny Pelican Island on Florida's East Coast, and has flourished across the United States and its territories, allowing for the preservation of a vast array of species; and

Whereas the National Wildlife Refuge System of 540 refuges, that now hosts 35,000,000 visitors annually, with the help of 30,000 volunteers, is home to wildlife of almost every variety in every state of the union within an hour's drive of almost every major city: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the National Wildlife Refuge System on its Centennial Anniversary;

(2) expresses strong support for the National Wildlife Refuge System's continued success in the next 100 years and beyond;

(3) encourages the National Wildlife Refuge System in its continued efforts to broaden understanding and appreciation for the Refuge System, to increase partnerships on behalf of the National Wildlife Refuge System to better manage and monitor wildlife, and to continue its support of outdoor recreational activities; and

(4) reaffirms its commitment to continued support for the National Wildlife Refuge System, and the conservation of our Nation's rich natural heritage.

## HONORING THE 80TH BIRTHDAY OF JAMES L. BUCKLEY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 88 which was submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 88) honoring the 80th birthday of James L. Buckley, former United States Senator for the State of New York.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 88) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 88

Whereas James Buckley served in the United States Senate with great dedication, integrity, and professionalism as a trusted colleague from the State of New York;

Whereas James Buckley served with distinction for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit;

Whereas James Buckley's long and distinguished career in public service also included serving in the U.S. Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe;

Whereas James Buckley celebrated his 80th birthday earlier this week: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges and honors the tremendous contributions made by James Buckley during his distinguished career to the executive, legislative, and judicial branches of the United States; and

(2) congratulates and expresses best wishes to James Buckley on the celebration of his 80th birthday.

## HONORING FORMER GOVERNOR ORVILLE L. FREEMAN

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 89, which was introduced earlier today by Senators DAYTON and COLEMAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 89) honoring the life of former Governor of Minnesota Orville L. Freeman, and expressing the deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 89) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 89

Whereas the Senate has learned with sadness of the death of former Governor of Minnesota Orville L. Freeman;

Whereas Orville L. Freeman, born in Minneapolis, Minnesota, greatly distinguished himself by his long commitment to public service;

Whereas Orville L. Freeman, football star, student council president, and Phi Beta Kappa honors student, graduated magna cum laude from the University of Minnesota;

Whereas Orville L. Freeman, a Major in the Marine Corps, served the United States with honor and distinction during World War II, and was awarded a Purple Heart for wounds associated with his heroism;

Whereas the organizational leadership of Orville L. Freeman helped build the Minnesota Democratic-Farmer-Labor Party into a successful political party;

Whereas, in 1954, Orville L. Freeman became the first Democratic-Farmer-Labor candidate to be elected Governor of Minnesota;

Whereas Orville L. Freeman, elected to 3 consecutive terms as Governor, advanced the concept of governance now known as "the Minnesota Consensus," which views government as a positive force in the lives of citizens, and government programs as investments in Minnesota's future;

Whereas, during his service as Governor of Minnesota, Orville L. Freeman increased State funding for education, improved health and rehabilitation programs, expanded conservation efforts, and achieved many other successes that improved his State and the lives of its citizens;

Whereas Orville L. Freeman served as the Secretary of Agriculture in the administrations of President John F. Kennedy and President Lyndon B. Johnson, during which service he initiated global food assistance programs and developed the domestic food stamp and school breakfast programs;

Whereas, in addition to his outstanding public service, Orville L. Freeman was also a successful international lawyer and business executive;

Whereas Orville L. Freeman was a devoted husband to his wife, Jane, for 62 years, a loving father to two exceptional children, Constance and Michael, and a proud grandfather to three talented grandchildren, Elizabeth, Kathryn, and Matthew; and

Whereas Orville L. Freeman led a life that was remarkable for its breadth of pursuits, multitude of accomplishments, standards of excellence, dedication to public service, and important contributions to the improvement of his country and the lives of his fellow citizens: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) pays tribute to the outstanding career and devoted work of the great Minnesota and national leader, Orville L. Freeman;

(2) expresses its deepest condolences to the family of Orville L. Freeman on his death; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Orville L. Freeman.

## PRINTING OF TRIBUTES TO DR. LLOYD OGILVIE

Mr. BENNETT. Mr. President, I ask unanimous consent that the tributes to Dr. Lloyd Ogilvie, the retiring Senate Chaplain, be printed as a Senate document, with the understanding that Members have until 12 noon, Friday, March 21, to submit these tributes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR FILING BY BUDGET COMMITTEE

Mr. BENNETT. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, the Budget Committee have from 11 a.m. until noon on March 14 to report legislative matters.

## EXECUTIVE SESSION

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### TREATIES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following treaties on today's Executive Calendar: Nos. 2, 3, and 4.

I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that any statements be inserted in the RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaties the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

Mr. BENNETT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the ratification of these treaties, please rise. (After a pause.) Those opposed will rise and stand until counted.

With two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification are as follows:

CALENDER NO. 2

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (Treaty Doc. 107–19).

CALENDAR NO. 3

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (Treaty Doc. 107–20).

CALENDAR NO. 4

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Second Additional Protocol That Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108–3).

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## ORDERS FOR MONDAY, MARCH 17, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1 p.m., Monday, March 17. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired and the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 2 p.m., with the time equally divided between the two leaders or their designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, on Monday the Senate will be in a period of morning business until 2 p.m. Under a previous agreement, at 2 p.m. the Senate will begin consideration of the budget resolution. I remind my colleagues that under the budget procedures, there will be up to 50 hours for debate on the resolution. Members, therefore, should anticipate late sessions and numerous rollcall votes next week.

As a reminder, another cloture motion was filed on the Estrada nomination today. That cloture vote will occur on Tuesday morning. As announced earlier, there will be no rollcall votes on Monday. The next rollcall vote will occur on Tuesday morning, and Senators will be notified of the time when that vote will occur.

## ADJOURNMENT UNTIL 1 P.M., MONDAY, MARCH 17, 2003

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Monday, March 17, 2003, at 1 p.m.

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## NOMINATIONS

Executive nominations received by the Senate March 13, 2003:

### DEPARTMENT OF JUSTICE

R. HEWITT PATE, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE CHARLES A. JAMES, JR.

### THE JUDICIARY

DAVID G. CAMPBELL, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–273, APPROVED NOVEMBER 5, 2002.

### DEPARTMENT OF STATE

HELEN R. MEAGHER LA LIME, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL JEFFERY L. ARNOLD, 2649
BRIGADIER GENERAL ROBERT M. CARROTHERS, 3234
BRIGADIER GENERAL MICHAEL G. CORRIGAN, 8444
BRIGADIER GENERAL GEORGE R. FAY, 4701
BRIGADIER GENERAL JOHN R. HAWKINS III, 7069
BRIGADIER GENERAL MICHAEL K. JELINSKY, 5149
BRIGADIER GENERAL TERRILL K. MOFFETT, 6766
BRIGADIER GENERAL PAUL D. PATRICK, 6466
BRIGADIER GENERAL HARRY J. PHILIPS JR., 8457
BRIGADIER GENERAL JERRY W. RESHETAR, 0799
BRIGADIER GENERAL STEPHEN B. THOMPSON, 2012
BRIGADIER GENERAL STEPHEN D. TOM, 2119
BRIGADIER GENERAL GEORGE W. WELLS JR., 9978
BRIGADIER GENERAL ROBERT J. WILLIAMSON, 7138

*To be brigadier general*

COLONEL CHARLES J. BARR, 7265
COLONEL DAVID N. BLACKLEDGE, 1316
COLONEL BRIAN J. BOWERS, 6804
COLONEL EDWIN S. CASTLE, 3201
COLONEL OSCAR S. DEPRIEST IV, 1453
COLONEL MARI K. EDER, 2706
COLONEL DENNIS P. GEOGHAN, 4365
COLONEL ALAN E. GRICE, 6369
COLONEL PAUL F. HAMM, 4818
COLONEL PHILIP L. HANRAHAN, 2194
COLONEL CHRISTOPHER A. INGRAM, 5053
COLONEL JANIS L. KARPINSKI, 0063
COLONEL JOHN F. MCNEILL, 6825
COLONEL WILLIAM MONK III, 7931
COLONEL GARY M. PROFIT, 1548
COLONEL DOUGLAS G. RICHARDSON, 7068
COLONEL MICHAEL J. SCHWEIGER, 1172
COLONEL RICHARD J. SHERLOCK JR., 9856
COLONEL CHARLES B. SKAGGS, 7815
COLONEL RICHARD M. TABOR, 7175
COLONEL PHILLIP J. THORPE, 4583
COLONEL ENNIS C. WHITEHEAD III, 9925

# EXTENSIONS OF REMARKS

## INTRODUCTION OF THE MILITARY TRIBUNALS ACT OF 2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, today I am introducing, with my colleague Mr. FRANK of Massachusetts, the Military Tribunals Act of 2003 to provide congressional authorization for tribunals to try unlawful combatants against the United States in the war on terrorism.

As the war on terrorism continues and more suspected al Qaeda terrorists are arrested, Congress must ensure that justice is delivered swiftly and responsibly in order to punish the terrorists as well as to prevent future attacks.

Article 1, Section 8 of the Constitution provides that it is the Congress that has the power to establish tribunals inferior to the Supreme Court. Up until now, however, there has been no congressional authorization for military tribunals. Efforts to form such tribunals, to date, have been performed solely by executive order of the President with clarifying regulations promulgated by the Secretary of Defense.

Some would argue, not implausibly, that despite the clear language of Article 1, Section 8, congressional authorization is not necessary; that as Commander-in-Chief, the President has the authority to regulate the affairs of the military which extends to the adjudication of unlawful combatants. However, if Congress fails to act, any adjudications by military tribunal will likely be challenged in court on the basis that the tribunals were improperly constituted.

The Military Tribunals Act of 2003 establishes the jurisdiction of these new courts to quickly and efficiently prosecute suspected al Qaeda terrorists who are not U.S. citizens or lawful residents. The bill preserves the basic rights of habeus corpus, appeal, and due process. Furthermore, this legislation protects the confidentiality of sources of information, protects classified information, and also protects ordinary citizens from being exposed to the dangers of trying these suspects.

Perhaps of most importance, in the context of a war without a clear end and against an enemy without uniform or nation, this bill requires the President to report to Congress on who is detained, for how long, and on what basis.

Mr. Speaker, in sum, the Military Tribunals Act of 2003 gives the Commander-in-Chief the power to try unlawful combatants, provides the confidence that these judgments will be upheld, establishes clear rules of due process, and ensures that the hallmarks of our democracy are not compromised.

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## STATE HIGH-RISK POOL DRUG ASSISTANCE PROGRAM ACT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the State High-risk Pool Drug Assistance Program Act. The bill provides much needed relief on prescription drug costs for those individuals who get health insurance coverage through a qualified state high-risk pool insurance program.

While much of the debate on prescription drugs has focused on older Americans, there is another group of Americans who need affordable access to prescription drugs. These people are the 153,000 individuals who get health care coverage through a state high-risk pool insurance program.

Thirty states have established high-risk pools for individuals who cannot obtain or afford health insurance in the individual market. High-risk pools generally cover people who have been denied coverage because of a pre-existing condition or who have received quotes from insurers that are higher than the premiums offered by the risk pools. Their premiums range from 124 percent to 200 percent of the standard market rates in their state.

For example, a female, non-smoker who lives in Adams County in Colorado may pay $850 a month in premiums to obtain coverage through Cover Colorado, my state's highrisk pool. If this woman takes medications to manage a chronic disease, she will have fewer dollars to spend on them. I have heard stories about people with chronic conditions cutting their pills in half, choosing between paying for drugs and paying for food, or forgoing the medications altogether. These folks shouldn't be forced to make these choices at all. I think it's time for Congress to do something to help state high-risk pools, consumers, employers and state legislatures control the cost of healthcare.

My bill would add qualified state high-risk pool programs to the list of entities that participate in the Public Health Service's 340B pricing program, which was created in 1992 to help safety net providers purchase outpatient drugs at discounted rates. The 340B program has expanded access to care to low-income and vulnerable populations without increasing the financial burden on taxpayers. The program has saved safety net providers and the taxpayers hundreds of millions of dollars in outpatient drug costs. We should extend the program to include high-risk pools.

My bill uses the National Association of Insurance Commissioners definition of qualified state high-risk pool so that all risk pools would be able to participate in the program. It gives the Secretary of Health and Human Services the power to promulgate regulations to carry out the program so that it is run similarly to the successful AIDS Drug Assistance Program; however it sets minimum regulations for the operation of the program. People who are enrolled in a risk pool and who take maintenance drugs for chronic conditions could save 40 percent on their prescriptions.

The bill uses the federal government's purchasing power to provide discounts to drugs for high-risk pools nationwide. If individuals in high-risk pools can't get the drugs they need to manage their condition, they could end up in the emergency room and cost the taxpayers millions of dollars. If they weren't covered under the risk pool, they would most likely end up in Medicaid or uninsured, which would cost the taxpayers millions of dollars. Ironically, many consumers in risk pools have conditions that would qualify them for one of the public programs currently covered under the 340B drug discount program. But their income level is too high for public health programs and too low to afford coverage in the individual market, and that's only if they aren't denied coverage due to a pre-existing condition.

Some may ask what the federal interest is in this issue. Congress has already determined that interest by guaranteeing that people have access to high-risk pools through the Health Insurance Portability and Accessibility Act of 1996 and the Trade Act of 2002, both of which are federal laws. Since the federal government is requiring high-risk pools to cover more people, it should make high-risk pools covered entities under the 340B program to save taxpayer dollars.

The legislation is good for the insurance market, consumers, employers and states. It is good for the insurance market and for consumers because high-risk pools stabilize health insurance coverage and reduce the number of uninsured.

It is good for the risk pools because the savings that they experience from the drug discount can be used to provide more affordable coverage and better health plans.

It is good for consumers because it will give people in high-risk pools access to affordable maintenance medications for chronic conditions and keep them out of the emergency room.

It is good for employers because if we control the costs of the high-risk programs, it will keep down the assessments that insurers and employers pay to fund the program.

And it is good for states because if we control the costs of the program, cash-strapped states won't have to find additional funds to stabilize the risk pool, and the state's contribution will go a lot further.

Mr. Speaker, a small but not insignificant number of people would benefit from my legislation, and it would save millions of dollars in health care costs and uncompensated care. This is a prevention bill, a cost savings bill, a pro-business bill and a taxpayer savings bill. I look forward to working with my colleagues

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and all interested parties to pass meaningful drug assistance legislation for our nation's state high-risk pools.

## TRIBUTE TO THE LATE JOHN FOSTER, SHERIFF OF JOHNSON COUNTY, KANSAS

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MOORE of Kansas. Mr. Speaker, I rise to pay tribute to a dedicated public servant, the late John Foster, Sheriff of Johnson County, Kansas, who passed away on March 6th after a brief but valiant battle with pancreatic cancer.

John Foster, who died at age 67, began his career in the Johnson County Sheriff's Department in 1956, then took the post of assistant police chief in Fairway, Kansas, four years later. He became chief of police in Lenexa, Kansas, in 1971 and retired briefly twenty years later. A year later, in 1992, he returned to the Sheriff's Department as undersheriff. He was elected to a four-year term as Sheriff in 2000.

Doctors diagnosed Sheriff Foster's cancer in January. On February 21st, two weeks after they told him he might live from two weeks to a year, John told county officials that his disease was terminal. Undersheriff Frank Denning assumed Foster's duties on an acting basis the following week.

I got to know John Foster well during my twelve years as Johnson County District Attorney. John was my friend. He had a wonderful sense of humor. He always stayed close to the people he served, and was a profile in humane, progressive law enforcement at the local level. He mentored scores of younger law enforcement officers during his forty-six years of public service and leaves his home county, and its residents, a much better place as a result of the time he spent serving and fostering it.

Mr. Speaker, John Foster is survived by his wife, Karen Foster, five children—Margaret, Diane, Susie, Jan and Todd—and four granddaughters. I join with them in mourning this profound loss and place into the RECORD an article from the Kansas City Star that memorializes a dedicated and valuable law enforcement and public safety official.

[From the Kansas City (KS) Star, Mar. 7, 2003]

JOHNSON COUNTY SHERIFF DIES OF PANCREATIC CANCER

(By Richard Espinoza)

Johnson County Sheriff John Foster, who spent almost half a century in law enforcement, died at home early Thursday of pancreatic cancer.

Doctors diagnosed Foster, 67, in January. On Feb. 21, two weeks after doctors told Foster he might live two weeks to a year, he told county officials that the disease was terminal. Undersheriff Frank Denning assumed Foster's duties the following week.

Voters elected Foster, a Republican, to a four-year term in 2000. Now Johnson County Republicans must nominate a successor and send the person's name to Gov. Kathleen Sebelius, a Democrat.

He began his career at the Sheriff's Department in 1956, then took the post of assistant police chief in Fairway four years later. He became chief in Lenexa in 1971 and briefly retired in 1991. The following year, he returned to the Sheriff's Department as undersheriff.

Colleagues said Foster's main goal was keeping fellow law enforcement officers happy and well-trained so they could take good care of their community.

"He loved officers," Fairway Police Chief Kevin Cavanaugh said. "He loved what they stood for and what they represent. He did everything in his power to teach people and be an example of how to put their best foot forward in the best possible way."

Foster helped the Sheriff's Department win raises to reduce the number of deputies who left for better-paying jobs, switched to better-looking uniforms and constantly trained a new generation of law-enforcement leaders.

"He'd accomplished a lot, but I know he wasn't done," Johnson County District Attorney Paul Morrison said.

In Topeka, the Kansas House approved a resolution Thursday honoring Foster for his nearly 50 years of public service in law enforcement. A copy will be given to his family. It was sponsored by House members from Johnson County.

Sen. Karin Brownlee, an Olathe Republican, said a similar resolution would be introduced in the Senate next week.

Johnson County Commission Chairwoman Annabeth Surbaugh issued a statement praising Foster's encouragement and support.

"The county has lost a great man," Surbaugh wrote, "a man whose strong and steady step never wavered, a man whose dedication and commitment to this community was unshakable, a man whose wisdom and guidance were a source of inspiration and comfort to so many."

Many law officers visited Foster at home during his last days to tell him how he had encouraged them in their careers.

Lenexa Police Chief Ellen Hanson, whom Foster hired in 1975, recalled the way he helped people succeed.

"He was a confidence builder, but not falsely," Hanson said. "I think he had a great ability to see people's strengths and build on them."

Colleagues remembered his love for teaching, and several said he passed on some piece of wisdom in nearly every conversation.

"Every time I spoke to him," Cavanaugh said, "whether it was something to do with law enforcement or on a personal level, I always learned something. It seemed as if he always wanted to teach."

Some of it was serious, like the sharp distinction he drew between mistakes of the head—those that are rectified easily—and mistakes of the heart, which show a troubling lack of ethics.

Other times he couched a lesson in humorous "Fosterisms," like the warning he frequently issued on what he called the "three Bs of booze, broads and bills."

"The one thing that can cause you trouble if you don't handle them correctly is that," Hanson quoted Foster. "If you handle those things with honesty and integrity, you're not going to have a problem."

Foster was a life member of the International Association of Chiefs of Police and the Kansas City Metropolitan Chiefs and Sheriffs Association. He was a member of the Kansas Association of Police Chiefs, the Johnson County Chiefs and Sheriffs Association and the Kansas Sheriffs Association.

Foster taught as an adjunct instructor at Johnson County Community College, and he was a graduate of the FBI National Academy.

He lived in Johnson County all his life. He attended Hickory Grove Grade School in Shawnee and Shawnee Mission Rural High School, now Shawnee Mission North. He earned a bachelor's degree in criminal justice and a master's in administration of justice, both from Wichita State University.

He was a member and past president of the Lenexa Rotary Club.

Foster is survived by his wife, Karen M. Foster; five children, Margaret, Diane, Susie, Jan and Todd; and four granddaughters.

Instead of flowers, Foster's family suggests donations to a scholarship fund for law-enforcement families that they plan to establish soon.

The family was making funeral plans Thursday.

## OUR PATRIOT SAILORS: HONORING CAPTAIN JAMES PARESE

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. FOSSELLA. Mr. Speaker, we wake up every morning to our newspapers filled with stories of possible war, of tragic loss of our astronauts, of heightened warnings of terrorist attacks and of dangerous international dictators. In all, Americans are finding it a difficult time to be confronted every day with these tragedies, uncertainties and fears.

Therefore, Mr. Speaker, during times like these, it is all the more vital to our national spirit to tell Americans about uplifting and comforting stories. We need to remind ourselves of our national qualities for which we are so unique—patriotism, courage and generosity for our fellow man.

The story I tell you today, you will not have read about in your local paper, nor watched on TV, because this is the story of an unsung hero, a man who showed unwavering bravery during the terrorist attacks in New York on September 11, 2001.

I rise today to honor one of my constituents, James Parese, who is the Captain of the Staten Island Ferry, *Samuel I Newhouse.* On that terrible morning on September 11, Captain Parese was one of the countless private citizens on maritime vessels around Manhattan who immediately responded to an emergency message. Cackling across marine radios in New York's harbor—the Coast Guard summoned all boats and their crews to abandon their usual duties and respond to extraordinary needs in the New York waterways.

Captain Parese explains that day himself best when he said, quote, "The subways were down, and they closed the bridges. We were basically the only way out. Us and the smaller ferries, the police boats and the tugs. I couldn't believe the amount of tugs; there were a sea of tugboats coming from Staten Island heading for Manhattan."

Since September 11th, we have heard so many human stories of tragedy, heroism, loss and miracles. We've heard the brave deeds of the New York firefighters and police officers. We will forever owe them our deepest gratitude.

And today we honor one of America's maritime heroes—one of hundreds of private men and women who selflessly and quietly answered the call from the Coast Guard for "all available boats". The miraculous rescue and response effort by water has also permanently altered our nation's official approach to defending our homeland security along our coastline.

The South Street Seaport Museum in New York City put together an exhibit to bring to light the historic maritime evacuation of Manhattan on September 11. I learned of these sailors from the book, All Available Boats. The book was put together and edited by Dr. Mike Magee, a doctor who happened to see the museum exhibit and felt strongly that these heroic stories deserved to be heard by the American people.

Hundreds of non-military ship captains of all kinds of vessels—from ferries like Captain Parese to tugboats and from private vessels to even historic ships—answered the Coast Guard's call and sailed directly into Ground Zero.

In the end, they evacuated over 300,000 people from Manhattan. It was the largest maritime evacuation since the battle of Dunkirk in 1940. Remarkable.

After hearing the radio call on September 11, Captain Parese unloaded his ferry's passengers back onto Staten Island, turned around and steered his ferry directly into the Staten Island Ferry Loading Dock on Manhattan. There, thousands of people were pouring onto his boat to find a way to escape the terrorism on the island. People were literally jumping off the docks to try to hit the ferry's decks. One man said he was, quote, "jumping for my life."

Captain Parese's ferry, already covered in ash, began to fill with smoke. Despite his eyes and lungs burning from the smoke, Parese stayed and loaded over 6,000 scared and desperate passengers onto his ferry. Because of the thick smoke, he was forced to use radar to steer the boat southbound. On reaching Staten Island, Parese unloaded his passengers. He immediately then turned his empty ferry around and headed straight back to Manhattan.

Parese then rejoined the other ships' captains in their massive evacuation of Manhattan. Yet, during one of the most frightening days in our nation's history, we now have learned that our fellow citizens were not just rescued by these boats, they were shown kindness and comfort by these captains and their crewmates.

Every man, woman and child who Captain Parese rescued from Manhattan is grateful to him for giving them an escape route, for his kind spirit and for his dedication to duty.

On a different Staten Island Ferry than Parese's that day—was a boy, Tim Steto, a student at the Leadership High School in Manhattan. Tim and some other students caught the very last ferry from Battery City Park before it closed.

After stumbling through the streets around Ground Zero in terror and confusion, Tim said that once the ferry took off from Manhattan—quote—"there was a visible difference in the air quality. We looked back at this horrible scene then looked forward to see this clear, beautiful view of Staten Island. No clouds or smoke." And this young high school student said that—quote—"the thought of being taken to safety kept me calm."

After evacuating those three hundred thousand people from the Manhattan island, Parese and the other captains returned again to Ground Zero to volunteer to help with other vital tasks. They pumped water from the harbor to feed the fire hoses and brought in needed supplies.

Also, with the bridges and tunnels closed, these boats became the necessary transportation for bringing firefighters, police and other emergency workers to Ground Zero from New Jersey and beyond.

In one account after another of these stories, the captains and their shipmates worked without break, without fear and without instructions.

September 11, 2001 was a day when average American men and women became heroes for their fellow Americans and for our nation. Those enemies of freedom around the world have always underestimated the determination, bravery, love of country and freedom of the American people.

Captain Parese and the other brave patriot sailors that day are the finest example that the evil enemies of freedom can tear down our walls and tragically kill our citizens, but they will never quench the American spirit.

I admire the bravery of my constituent, James Parese, as much as I admire his humility. He takes no special credit for his brave and tireless actions that day. He very simply says that—quote "everyone pretty much did what they had to do".

James Parese, thank you from all of us in the United States House of Representatives for your brave and heroic acts that will never be forgotten by the thousands of people you brought to safety on September 11. And thank you for continuing to go out every day to ferry the Staten Island citizens to Manhattan for work.

Finally, we recognize and applaud all the hundreds of patriot sailors that tragic day who fearlessly answered our Coast Guard's call for "all available boats". Their actions make all of us proud to be Americans and we salute their courage.

God bless these unsung heroes and God always bless this great freedom-loving nation of the United States of America.

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## ESTABLISH FEDERAL RENEWABLE ENERGY PORTFOLIO STANDARDS FOR CERTAIN RETAIL ELECTRIC UTILITIES

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, along with my cousin and colleague, Representative MARK UDALL of Colorado, I am today introducing legislation that amends title VI of the Public Utility Regulatory Policies Act of 1978 to establish Federal renewable energy portfolio standard, RPS, for certain retail electric utilities.

I would like to thank Representatives BERMAN, CARDIN, HINCHEY, LEACH, GEORGE MILLER, OWENS, PALLONE, TIERNEY, and especially Representative HENRY WAXMAN who share the vision that we in Congress can develop a national energy policy that is founded on two key principles: renewable energy and energy efficiency. I am especially proud that this is a bipartisan effort.

Mr. Speaker there are some who say that a long-term sustainable energy plan is impossible. Or that renewable energy and energy efficiency are pipe dreams, and that the U.S. will never be able to break its reliance on traditional energy sources like oil and coal. I disagree.

Now, in the post-September 11th world, and as we are on the brink of war with Iraq, the renewed conflict in the Middle East shows us that we cannot continue to rely on imported oil from that region. When my father, Stewart Udall, was Secretary of the Interior, the U.S. imported 20 percent of its oil. My father argued that we shouldn't import more than 20 percent of our oil on national security grounds. Today, we import 53 percent of our oil, 47 percent of which comes from OPEC countries; by 2020, the United States will import 62 percent of its oil unless we act to change the way we produce energy.

Even more frightening, world production is expected to peak some time in the next few decades; some even say as early as 2007. That means that as energy demand increases more and more rapidly, the world's oil supply will be proportionally diminished.

While energy production has brought tremendous prosperity and allowed us to grow our economy at unprecedented rates, nonrenewable forms of energy are responsible for many of the greatest environmental threats to America's well-being.

Consider this, less than 2 percent of this nation's electricity is generated by non-traditional sources of power such as wind, solar, and geothermal energy. During the period from 1973–1991, smart investments were made to develop new technologies that made our energy use more efficient without affecting economic output. These investments curbed the projected growth rates of energy use in the United States by 18 percent from what they would have been without the investments.

Unfortunately, the U.S. spends only one half of 1 percent of its energy bill on research and development. 60 percent of that money is wasted on the country's failed experiment in nuclear energy. Less than ⅓ of the nation's tiny research and development budget is spent on renewable energy and energy efficiency technologies.

Mr. Speaker, I am particularly interested in Renewable Portfolio Standards, RPS, which I believe paves the road for the development and investment in clean energy technologies and local economic development. RPS, in my mind, clearly serves as model for tomorrow's small and medium businesses to draw a profit from their own environmental responsibility.

During the 107th Congress, in the Senate version of H.R. 4, there was a provision, which proposed that retail electricity suppliers—except for municipal and cooperative utilities—be required to obtain a minimum percentage of their power production from a portfolio of new renewable energy resources. The minimum energy target or "standard" would start at 1 percent in 2005, rise at a rate of about 1.2 percent every two years, and peak at 10 percent in 2019.

I applaud the Senate for including an RPS provision in the Energy bill, which the House failed to include in our energy package. However, I believe that we are capable of going further than the 10 percent peak in 2020 and believe we should set the standard higher to around 20 percent. As I mentioned earlier, less than 2 percent of this nation's electricity is generated by non-traditional sources of power such as wind, solar, geothermal, etc.

Why is this legislation so important now Mr. Speaker? It's important because the Department of Energy's total energy efficiency and renewable energy budget would remain essentially unchanged at $1.3 billion for fiscal 2004. For example, Biomass and biorefinery systems would see the biggest cut, down 19 percent, to $70 million. Solar is flat at $79.6 million; wind is down 6 percent, to $41.6 million; hydropower is unchanged at $7.4 million; and geothermal is down 4 percent, to $25.5 million.

It's important because yesterday Secretary Gale Norton came before the House Resources Committee, of which I am a member, to make the case for drilling in the Arctic National Wildlife Refuge. It's important because the House will pass an energy bill, thanks to the help of the Rules Committee, to open the 1.5-million-acre ANWR coastal plain to oil development.

Mr. Speaker, we are a nation of "petroholics." Instead of pushing for the exploration of oil development and contributing to this country's addiction to oil, we should be pushing for the exploration of renewable energy development. This is what this legislation does, Mr. Speaker. And I have no doubt that whatever energy bill the majority brings before the House that it will not contain language to promote and expand renewable energy development in this county.

Our legislation is the first step toward encouraging greater use of our country's clean and domestic renewable energy resources. Our legislation would:

Encourage the use of renewable energy by establishing a nationwide, market-based program that would set fair, achievable and affordable clean energy goals for each state;

Give states flexibility to achieve renewable energy goals;

Benefit farmers and save consumers money; and

Reduce air pollution and the threat of global warming.

Our legislation would require that retail electricity suppliers—except for municipal and cooperative utilities—be required to obtain 15 percent of their power production from a portfolio of new renewable energy resources by 2020 and within 5 years add an additional 5 percent, so by 2025, 20 percent of retail electricity suppliers' power production would be derived from a portfolio of new renewable energy resources.

Mr. Speaker consider the following:

Wind farms in the Pacific Northwest are producing energy at a price of 3 cents per kilowatt-hour. This is less than the current price of power from natural gas. With a little encouragement, wind energy could become economically viable around the country, and this means a tremendous level of energy self-sufficiency for the U.S. Using wind as an energy source, twelve Midwest states alone could generate three times the total U.S. electricity consumption.

Solar power, one of the most well known forms of renewable energy, also has potential for the future. The cost of solar energy has dropped by 90 percent since the early 1970s, and scientists and industry groups predict the price will drop another 66 percent by 2020. Solar energy, if properly developed, could go a long way towards freeing the U.S. from its dependence on coal. Just 10,000 square miles of solar panels would supply all of the nation's electricity needs.

And several months ago, the Public Service Company of New Mexico and FPL Energy LLC, based in Florida, signed an agreement to build one of the nation's largest wind generation fields in my congressional district near Fort Sumner in eastern New Mexico. Harnessed by 136 twirling turbines, wind will be used to create electricity in the first large-scale renewable energy operation in the state.

Wind will make up less than 4 percent of the power generated by PNM, and this project has the hope of becoming the first of many wind farms in the state and an example of using and developing new technologies for renewable energy use.

A strong RPS makes good economic sense to help states diversify their energy market, increase their work force, and help revitalize communities who have little to no economic development.

Even the New Mexico Public Regulation Commission is working on passing a Renewable Portfolio Standard for New Mexico that would require electric utilities to generate 10 percent of their electricity from renewable energy sources by 2007.

Mr. Speaker, our dependence on coal, oil and other traditional energy sources is unsustainable. To protect our environment and our economy, we must turn off the dead end street that our energy non-policy has been leading us down, and start down a path of energy productivity and sustainable, environmentally sound production.

I encourage my colleagues in the House to support this legislation and support building solid renewable energy provisions within whatever energy bill comes before the House.

## HONORING THE ACHIEVEMENT OF WOMEN IN COMMUNITY DEVELOPMENT

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the achievements of women in community development. Women are key leaders in building quality, affordable housing and they are revitalizing their communities in the United States as well as internationally. The central role of women in any effective community development strategy, whether the goal is economic development, housing, education or health, has been well documented.

The National Network of Women in Community Development, in partnership with women community development leaders from across the country are working to bring a collective voice to foster new policies and improve existing ones, which are more responsive to the housing and community development needs of women and children.

On the occasion of the 20th Anniversary of the McAuley Institute, the only national nonprofit community development intermediary that focuses its resources on the housing and related needs of women and their families, I would like to recognize the vital role that women-led development organizations have played in creating housing across the country and in the restoration of communities.

## A TRIBUTE TO ANNA GUTIERREZ, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Ms. Anna Gutierrez, an outstanding woman of California's 29th Congressional District. Over the years, Ms. Gutierrez has given selflessly of her time and energy to many different organizations in the City of Monterey Park and surrounding areas.

A forty-three year resident of Monterey Park, California, Anna was a payroll supervisor for Blue Chip Stamps for twenty-five years, and a payroll supervisor for Figgie International for nine years. Despite working full-time, she found time to volunteer at all of her children's schools: Sacred Heart of Mary School, Cantwell High School and Marian School. Besides her children, Dennis, Carolina and Jeffrey, she has four grandchildren and four great-grandchildren.

After her retirement in 1994, Anna volunteered to serve senior lunches at First Methodist Church and participated in two senior citizen clubs, the Friendship Club and the Senior Affairs Club, both in Montebello, California. Currently she is a member of the Montebello Breakfast Club and treasurer for the Los Angeles Monterey Park (LAMP) Optimist Club.

For many years, Anna has been a docent of the Monterey Park Historical Society Museum and is in charge of the school children tour program. She volunteers for the City of Monterey Park as a Commissioner on the Historical Commission and is a Precinct Poll Inspector for citywide elections. In addition, she assists the Monterey Park Police Department by participating with the Monterey Park Senior Citizen Patrol.

Of all her activities, the organization that is nearest to her heart is the Maryvale Orphanage in Rosemead, California. An active participant for over eight years, she volunteers in many ways, including fundraising, assisting in rummage sales, and packaging Christmas gifts for the economically disadvantaged.

Ms. Gutierrez's breadth of volunteer work is remarkable and all who have the opportunity to work with her are better off for the experience.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Anna Gutierrez. The entire community joins me in thanking Ms. Gutierrez for her continued efforts to make the 29th Congressional District an enhanced place in which to live.

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## IN RECOGNITION OF COVER THE UNINSURED WEEK

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MOORE of Kansas. Mr. Speaker, I rise today to recognize a very important initiative that will bring national attention to a severe and growing problem—the uninsured in America.

The sheer number and variety of organizations involved in Cover the Uninsured Week show that the consequences of this problem touch our entire society. Every community, every hospital, every caregiver, every taxpayer, and every individual in our country has a stake in addressing this issue.

New reports that suggest that 75 million Americans lacked insurance for all or part of 2001 and 2002 only give this issue increased urgency. It is easier from a public policy perspective to look at one piece of the puzzle—for example, how urban hospitals struggle to provide uncompensated care, how families struggle when they have a disabled child or how small business struggle to offer health insurance to their employees. But the problem is broader, and it is clearer than ever that allowing Americans to remain uninsured negatively affects our nation's health status, access to care and even our financial security.

Since coming to Congress, I have made addressing this issue one of my primary goals. I am working in particular with my colleagues in the Blue Dog Caucus to address the group with the highest uninsured population—employees of small businesses. I am working on legislation to provide tax credits for small employers who offer health insurance. I know this is just one piece of the puzzle of the uninsured, but I think that if we can sustain the momentum created by Cover the Uninsured Week and utilize the expertise of the broad array of organizations that have come together to bring this issue to the forefront, we can put the pieces together and make a difference for all uninsured Americans.

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## REMOTE SENSING APPLICATIONS ACT OF 2003

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Remote Sensing Applications Act of 2003. I am very pleased that my colleague Representative CHIP PICKERING of Mississippi is joining me as an original cosponsor of this bill.

I introduced this bill as H.R. 2426 in the 107th Congress, and the House—though not the Senate—passed it last year. I'm eager to work with my colleagues on both sides of the aisle in this Congress to see my legislation through to passage in both chambers.

I introduced this bill in the 107th Congress mainly to address a real problem we have in Colorado, the problem of excess growth and sprawl. My goal was to point to a way to utilize the resources of the federal government to help foster wise community planning and management at the local level. As a member of the House Science Committee and the Space and Aeronautics Subcommittee, it made sense to me to look for ways to help communities grow in a smarter way through the use of technology.

I have reintroduced the bill in this Congress because I still believe we need to do more to promote geospatial technology. Geospatial data from satellites can produce very accurate maps that show information about vegetation, wildlife habitat, flood plains, transportation corridors, soil types, and many other things.

By giving state and local governments and communities greater access to geospatial data from commercial sources and federal agencies such as NASA, I believe that the federal government can help bring valuable—and powerful—informational planning resources to the table.

My bill would facilitate this transfer of information. The bill would establish in NASA a program of grants for competitively awarded pilot projects. The purpose would be to explore the integrated use of sources of remote sensing and other geospatial information to address state, local, regional, and tribal agency needs.

State and local governments and communities can use geospatial information in a variety of applications—in such areas as urban land-use planning, coastal zone management and erosion control, transportation corridors, environmental planning, and agricultural and forest management.

But another potential application that has garnered much recent attention is the use of geospatial technology to bolster our homeland security.

Emergency management has always been an important responsibility of state and local governments. But in the aftermath of the September 11 terrorist attacks, the scope of this responsibility has broadened. Geospatial technology can help states and localities identify the location, nature, and scope of potential vulnerabilities and the impact of potential hazards, as well as how to respond to events and recover from them.

Certainly it is important that we continue to add to our database of available geospatial information—more information is always better than less. But we also need to get maximum use of information we already have at hand. That is the need this bill would address.

State and local officials are becoming more familiar with the uses of geospatial technology for various planning purposes. However, there is a need for federal agencies such as NASA, which has been pioneering the uses of satellite remote sensing technologies, to work with state and local organizations to demonstrate how remote sensing and other geospatial data can offer a cost effective planning and assessment tool.

I'm pleased there was broad bipartisan cosponsorship of the bill in the last Congress and that it earned the endorsement of a number of important national organizations. These supporters of my bill understand the importance of targeting geospatial information at the places where it will have the greatest impact—the local and regional levels.

The Remote Sensing Applications Act can help begin to bridge the gap between established and emerging technology solutions and the problems and challenges that state and local communities face regarding growth management, homeland security, forest fire management, and other issues.

Mr. Speaker, this bill will be welcomed by states and localities nationwide. I look forward to working with Representative PICKERING and other Members of the House, including my colleagues on the Science Committee, to move forward with this important initiative.

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## HONORING DOMESTIC VIOLENCE SHELTERS IN THE 9TH DISTRICT OF OHIO

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. KAPTUR. Mr. Speaker, Women's History Month is celebrated during the month of March in the United States and around the world. Last week Members of Congress participated in Domestic Violence Awareness Week on Capitol Hill in partnership with Lifetime Television to raise awareness of the issues surrounding domestic violence, and address possible solutions.

Domestic Violence is one of the most critical public health issues facing women and children today, and its impact is felt by every member of our society. Domestic Violence is not just a women's issue. Domestic Violence touches the lives of men, women and children—affecting the entire family structure in our country.

I would like to take the time this month to honor the domestic violence shelters in my district—the 9th District of Ohio for the services they provide daily to individuals coping with domestic violence. The YWCA Battered Women's Shelter in Toledo, OH, the Family House in Toledo, OH, the Safe Harbour Domestic Violence Shelter in Sandusky, OH, and Ottawa County Transitional Housing in Port Clinton, OH. All four of the mentioned organizations serve women and children on the front lines. The staff members of the shelters are the individuals that hear the stories, and provide services to people in need. The statistics are real, and the issue of domestic violence must be kept at the forefront of domestic policy debates locally and nationally.

The YWCA Battered Women's Shelter in Toledo serves the area of Lucas County and offers emergency short-term housing and counseling for battered women and their children. The Family House in Toledo serves Lucas County and is a short-term emergency shelter for homeless families, offering supportive services through a family case manager. Ottawa County Transitional Housing in Port Clinton is a long term homeless shelter for women and children. The shelter serves people in Erie and Ottawa counties offering supportive services to families.

I sincerely thank all of the individuals that work for these important organizations, serving our community, and the people of the 9th District of Ohio daily. Onward.

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## HONORING THE LIFE OF ERNIE MILLS

**HON. TOM UDALL**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of New Mexico. Mr. Speaker, New Mexico lost a legend recently. Ernie Mills, the dean of New Mexico's political reporters, died from pneumonia on Wednesday, February 26 in Santa Fe. Ernie's career and New Mexico politics were synonymous. There was probably no one else in Santa Fe who knew more about how New Mexico politics worked. Governors, senators, and representatives and a host of elected officials from across the state knew that Ernie and his "little birdies" had the scoop on what was really happening in the state's political arena.

Ernie first came to New Mexico in 1957 when he became editor of the Gallup Independent. He had started his journalism career in New York where he worked for New York Herald Tribune. In 1958, he became the Capitol Bureau Chief for the Albuquerque Journal. He later opened his own public relations consulting firm in Santa Fe and Albuquerque, and was president of the New Mexico Chapter of the Public Relations Society of America.

In 1968–69, Ernie covered the activities of New Mexico servicemen in Vietnam during two tours of duty. During his tours of Vietnam, he also handed television coverage of the fighting there, first for KOB–TV and later for KOAT–TV.

Ernie was probably best known for his participation in one of New Mexico's largest news stories: the 1980 prison riot in Santa Fe. Rioting inmates requested that Ernie—and no one else—be allowed into the prison to negotiate a settlement with them. Fifteen hostages were released after his participation, all unharmed. Thirty-three inmates died in the bloody confrontation.

Ernie's career was devoted to his syndicated newspaper columns and radio and television shows. He produced a daily radio commentary Dateline New Mexico that was carried by more than 20 radio stations statewide. He also had a weekly television show entitled Report from Santa Fe that had been produced by KENW–TV in Portales, and that had aired for more than 27 years.

He received numerous awards during his career, including Broadcaster of the Year in 1995 from the New Mexico Broadcasters Association. The same organization also honored him for Special Reporting, Best News Coverage, Best Editorial Writing and Radio Newsman of the Year.

Ernie Mills is gone, but his impact on New Mexico will be with us forever. He will be remembered for his sense of fair play, his balanced reporting, his unwillingness to report in something without first making sure of his facts, even if it meant that he was not the first to break the news. He always said it right.

Yes, he will be remembered for his "little birdies," his "gatos flacos," his "wall-leaners," and his interviews that kept his guests struggling to keep up with him. And we won't forget the "train wrecks," even if we don't remember what they were about. We will remember the man who gave his heart to all New Mexico. There was never a time that Ernie did not put people first. It was their hearts that he was about. When asked about running for office, Ernie was fond of saying, "I'd like to run for office, but I wouldn't want to serve." It was Ernie's way of saying how much he loved being close to the people.

A memorial service for Ernie will be held on St. Patrick's Day in the State Capitol. He would have loved this. He was proud of his Irish heritage and it is fitting that he be remembered in the center of New Mexico's political world in Santa Fe.

Mr. Speaker, no one can ever replace Ernie Mills. His brand of journalism was unique and exclusively his own. More importantly, Ernie took people under his wing, to love, guide and protect. His heart was bigger than all New Mexico. On behalf of all who knew him, I can confidently say that we will sincerely miss him. I feel as though I have lost a real friend, and I extend my deepest sympathies to his wife Lorene and his children, Joy, Ken, Eddie, and Margaret.

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## BEECH GROVE GIRLS CHAMPIONSHIP

**HON. JULIA CARSON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. CARSON of Indiana. Mr. Speaker, I rise to congratulate Beech Grove High School, located in the seventh Congressional District, on winning the Indiana State Girls Basketball Final. The Beech Grove Hornets beat St. Joseph's from South Bend, IN, 63–45.

Congratulations to Coach Dawn McNew who led the Beech Grove Hornets to a 27–1 record. I also want to congratulate her players whose teamwork implemented her system so well: Katie Gearlds, Emily Ringham, Joy Cromley, Stephanie Durbin, Clara Harris, Katie Ringham, Mandy Seward, Nicole Helfrich, Patty Collins, Maria Combs, Sarah Lamping, and Jenni Moore.

The Hornets' stellar performance is an example of the benefits of superb teamwork and sportsmanship.

Beech Grove defeated North Harrison, Ramsey, IN, to advance to the Girls State Finals. The State Finals were played at Conseco Fieldhouse on Saturday, March 8th.

Beech Grove won its first state title, led by Hornets player Katie Gearlds, who scored a 3A title-record of 33 points. Katie, who has a scholarship to Purdue University, finished the season with 2,521 points, placing her fourth in state career scoring in Indiana.

This exceptional win by the Hornets is a perfect example why Title IX should remain as it is. Title IX has allowed the number of females participating in interscholastic sports to increase from 300,000 in 1971 to approximately 2.4 million in present day.

Congratulations to the Beech Grove Hornets! You have made us proud!

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## COMMEMORATING 60TH ANNIVERSARY OF HISTORIC RESCUE OF 50,000 BULGARIAN JEWS FROM THE HOLOCAUST

SPEECH OF

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 11, 2003*

Mr. SMITH of New Jersey. Madam Speaker, during the Holocaust, the Jews of Europe were subjected to persecution and, ultimately, targeted for total genocide—not only by foreign occupiers, but also at the hands of erstwhile friends and even their own governments. In the face of this atrocity, Bulgaria stands out for protecting its indigenous Jewish population from the evil machinery of the Holocaust. Despite official allied status with Nazi Germany, Bulgarian leaders, religious figures, intellectuals and average citizens resisted pressure from the Nazis to deport Bulgarian Jews to certain death in the concentration camps of Eastern Europe. Thanks to the compassion and courage of broad sectors of Bulgarian society, approximately 50,000 Jews survived the Holocaust.

Once an ally of Nazi Germany in March 1941, the Bulgarian Government and Parliament came under pressure from the Nazi regime and enacted legislation severely curtailing the rights of the Jewish population. In February 1943, a secret meeting between, Hitler's envoy to Bulgaria, and Bulgaria's Commissar on Jewish Affairs, established a timetable for exporting to Germany the Jews in Aegean Thrace and Macedonia, territories then under Bulgarian administration, and deportation of Jews from Bulgarian cities. The deportations were to begin on March 9, 1943.

Trains and boats to be used in the deportations were in place, and assembly points in Poland had already been selected when word of the plans was leaked. Almost immediately, 43 members of the Bulgarian Parliament led by Deputy Speaker Dimiter Peshev signed a petition to condemn this action. This, coupled with widespread public outcry from active citizens, political and professional organizations, intellectuals, and prominent leaders of the Bulgarian Orthodox Church, led the Minster of the

Interior to stay the deportation orders. Later that month, Peshev again took a bold step in drafting a letter, signed by members of the ruling coalition, which condemned the possible deportation of Jews, calling this an "inadmissable act" with "grave moral consequences."

In May 1943, the plan for deportation of the Bulgarian Jews was finally aborted. King Boris III resisted Nazi pressure to advance the plan, arguing that the Jews were an essential component of the workforce. While some 20,000 Jews from Sofia were then sent to work camps in the countryside for the remainder of the war and subjected to squalid conditions, they nevertheless survived.

Tragically, there was no such reversal of fate for the estimated 11,000 Jews from Aegean Thrace and Macedonia, who did not have the protection afforded by Bulgarian citizenship. Already driven from their homes in March 1943, these individuals were transported through Bulgarian territory to the Nazi death camps. Madam Speaker, this month marks the 60th anniversary of Bulgarian resistance to the Holocaust. The people of Bulgaria deserve our commendation for their selfless efforts to preserve such a threatened religious community, and in fact, the number of Jews living in Bulgaria actually increased during the Holocaust.

Bulgaria's record of tolerance was distorted by 40 years of communist misrule which culminated in the 1984–89 forcible assimilation campaign against its largest minority, the Turks. One of the first initiatives of the government following the fall of communism in November 1989 was the reversal of this brutal campaign. A return to the wholesale suppression of minority groups as exemplified by the forcible assimilation campaign is inconceivable today, and Bulgaria is a democracy that promotes respect for fundamental rights.

Last year, Bulgaria's Ambassador to the United States, Elena Poptodorova, testified before the Helsinki Commission regarding the ongoing efforts of her government to promote tolerance, consistent with Bulgaria's historical traditions. I have been particularly encouraged by Bulgaria's initiatives, in cooperation with leading non-governmental organizations, to promote the integration of Roma and non-Roma in schools. This work deserves the full support of the Bulgarian Government.

I am disappointed, however, that the Bulgarian Government has not yet adopted and implemented comprehensive anti-discrimination legislation, even though it pledged to do so in early 1999 in a platform of action on Roma issues, and committed to do so in the 1999 OSCE Istanbul Summit document. Four years have come and gone since Bulgaria made those pledges, and it is past time for those pledges to be honored.

I am hopeful the Bulgarian Government will do more to combat violence motivated by racial or religious intolerance. Two cases of such violence, against Romani Pentecostals in Pazardjik, appear to have received only superficial attention from the authorities.

Madam Speaker, I also was disappointed to learn of the recent passage of a new religion law in Bulgaria. Several drafts of a religion law had laid relatively dormant until the last months of 2002, when the process was expedited. As a result, it is my understanding that minority faith communities were excluded from the drafting process and assurances to have the Council of Europe review the text again were ignored. The law is prejudiced against certain religious groups and falls well short of Bulgaria's OSCE commitments. The law also jeopardizes the legal status of the Orthodox synod not favored by the Government and its property holdings, as well as threatens fines for using the name of an existing religious organization without permission. New religious communities seeking to gain legal personality are now required to go through intrusive doctrinal reviews and cumbersome registration procedures, and co-religionists from abroad have been denied visas based on poorly written provisions.

Bulgaria's leadership on these various issues would be welcomed, especially in light of their plans to serve as Chair-in-Office of the OSCE in 2004. The United States is particularly appreciative of Bulgaria's firm stand against terrorism at this time, and we look forward to continued strong relations between our countries. The proud heritage stemming from the days of the Holocaust serves as a good reminder of the importance of taking stands which are right and true. Mr. Speaker, I am pleased that this Congress is able to recognize that heritage and historical fact.

## A TRIBUTE TO MARY BOGER, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Mary W. Boger. Ms. Boger's passion for community volunteerism, especially on behalf of children and education, has made the City of Glendale and surrounding areas a better place in which to live.

A product of the Glendale Unified School District, she attended Pasadena City College, then had a successful career in the business world. Mary and her husband, Dr. Donald Boger have raised eight children in total: JoAnn, Terry, Debbie, Scott, Elizabeth, Melanie, David, Charles, nine grandchildren and five great-grandchildren.

A strong advocate of education, Ms. Boger has served on numerous school committees and task forces, including Citizens for Glendale Community College, and the School Facilities Bond Committee. In addition, she has volunteered with the Glendale Parent Teacher Association, Glendale Healthy Kids, Verdugo Hills Visiting Nurse Association, Safe Places and Glendale Youth Coalition. She is currently a member of the Glendale Unified School District Board of Education, serves on the Glendale YWCA Board of Directors, and is President of Las Candelas.

Mary has received many awards, including the Glendale News Press Woman of Achievement Award in 1998, the California Legislature's 43rd Assembly District Woman of the Year in 2000, and the Glendale Community College Alumni Association's Award of Merit for Career Achievement and Community Service.

The time, energy and love she gives to our community is extraordinary, and the residents of my district have benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Mary W. Boger. The entire community joins me in thanking Mary Boger for her continued efforts to make the 29th Congressional District a healthier and safer environment, especially for children, in which to live.

## FAMILY FARM AND RANCH INNOVATION ACT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today, I am again introducing legislation to help ensure our nation's family farms and ranches continue to produce the agricultural products that have made us the breadbasket for the world.

Small family farms and ranches helped build the foundation of America. Thomas Jefferson once wrote in a letter to George Washington, "Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness." Today many small farms and ranches have disappeared. This is in part because the smaller farms and ranches have not been able to change to more profitable means of production. To continue as a viable business in agriculture farmers and ranchers need to be able to use modern techniques that increase profitability, and do it in a manner that is environmentally sound.

The Family Farm and Ranch Innovation Act (FFRIA) would provide necessary tools for small agriculture businesses to modernize and become more competitive in today's market, access to credit and a plan to turn the credit into increased revenue.

The U.S. Department of Agriculture's National Commission on Small Farms report titled A Time to Act found, "The underlying trend toward small farm decline reflects fundamental technological and market changes. Simply put, conventional agriculture adds less and less value to food and fiber on the farm and more and more in the input and post-harvest sectors. We spend more on capital and inputs to enable fewer people to produce the Nation's food and look primarily to off farm processing to produce higher value products. Sustainable agriculture strives to change this trend by developing knowledge and strategies by which farmers can capture a large share of the agricultural dollar by using management skills to cut input costs—so a large share of the prices they receive for their products remain in their own pockets—and by producing products of higher value right from the farm." (In context of the report farms include ranches.)

The innovation plans in FFRIA, to be developed with the USDA's Natural Resources Conservation Service, would provide the blueprints to increase the value of farm and ranch outputs.

The report also found, "Agricultural operations require high levels of committed capital to achieve success. The capital-intensive nature of agricultural production makes access to financial capital, usually, in the form of credit, a critical requirement. Small farms are no different from larger farms in this regard, but testimony and USDA reports received by this Commission indicate a general under-capitalization of small farms, and increased difficulty in accessing sources of credit." If small farms and ranches are going to use improved technologies laid out in innovation plans they will need capital. The Small Business Administration's 7(a) loan program has a long history of helping small businesses and would be a great tool for small farmers and ranchers to implement their plans.

America's small farms and ranches need a hand up to remain viable in our rapidly changing marketplace. Often today's small agriculture businesses are family owned and have only a very small profit margin. The combination of low market prices for raw agricultural commodities and the rising cost of land means that many of these businesses cannot afford to carry on. And that causes more urbanization of valuable farm and ranch land.

This legislation recognizing the importance of our small farming and ranching businesses. They provide diversity in the market place, local production of food, less pollution, and jobs, all of which strengthen our economy. And, farms and ranches that are part of our community remind us that food and other agricultural products don't just come from stores, and remind us of our connection to the land.

Mr. Speaker, small farms and ranches have provided the livelihood for many families since the beginning of our country. This bill will help ensure small farms and ranches do not become a thing of the past by providing the technical expertise and capital to allow them to meet the challenges of the 21st Century.

### FACT SHEET—FAMILY FARM AND RANCH INNOVATION ACT

Summary: Bill would authorize the USDA to assist Small farmers and ranchers who want to improve their operations by developing Innovation Plans and would authorize the Small Business Administration to provide loan guarantees to implement these plans.

#### LOAN AUTHORITY

Bill authorizes the Administrator of the Small Business Administration to guarantee, under section 7(a) of the Small Business Act, loans to small businesses engaged in farming and ranching, for the purpose of implementing Agricultural Innovation Plans.

#### AGRICULTURAL INNOVATION PLANS

Plans are to be developed on request of a farmer or rancher whose operation has been certified as a small business concern under the definition of the Small Business Administration.

Plans are designed to increase the on-farm or on-ranch income of small farmers or ranchers and protect the environmental quality of the farm or ranch where the farming and ranching operation is located by minimizing the production of pollutants and conserving the natural resource of the farm or ranch.

The U.S. Department of Agriculture, Natural Resources Conservation Service, will develop the plans.

## A PEACEFUL DIALOGUE BETWEEN CHINA AND TAIWAN MUST RESUME

### HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. AKIN. Mr. Speaker, at present there are more than 400 Chinese missiles targeted on Taiwan. It is estimated that roughly 50 more are being added each year. Moreover, China has devised strategies to destroy Taiwan's political, financial, military, communications and production centers within days. What is even more menacing is that China has reiterated that it will use force against Taiwan if Taiwan refuses to accept China's "one country, two systems" unification formula.

China's intimidation of Taiwan is unworthy of its status as a major world power. China must not ignore Taiwan President Chen Shuibians' repeated pleas for resumption of cross-strait dialogue. If war breaks out in the Taiwan Strait, China, Taiwan and the rest of the countries in the Asian-Pacific will all suffer irreparable economic and political damage.

Our friends and allies in Europe regard peace and stability in the Taiwan Strait as critical to everyone's interests in Asia. On September 5, 2002, the European Parliament passed a resolution calling on China to remove its missiles along Taiwan's coast. Last October, the Czech Parliament also passed a similar resolution calling on China to remove its missiles from the Taiwan Strait.

The United States believes that a military clash in the Taiwan Strait must be avoided. A peaceful dialogue between China and Taiwan must resume now. It is my hope that Beijing will begin dismantling the missiles currently targeting Taiwan and pursue a peaceful resolution of current tensions with Taiwan. I support efforts of the U.S. State Department to this important end.

In the meantime, while we advocate the peaceful resolution of the Taiwan issue, we must continue to sell arms to Taiwan to help Taiwan protect itself, under the framework of the Taiwan Relations Act. Our commitment to defend Taiwan is, and must remain, strong and unequivocal.

## INTRODUCTION OF A BILL TO PROHIBIT THE COMMERCIAL HARVESTING OF ATLANTIC STRIPED BASS

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. PALLONE. Mr. Speaker, today I introduce legislation to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone of the United States. This legislation would grant protections to this species that would enable coastal populations to return to historical abundances.

The Atlantic striped bass is a valuable resource along the Atlantic coast and is one of the most important fisheries for recreational anglers within the sixth Congressional District of New Jersey. As ranking member of the Subcommittee on Fisheries Conservation, Wildlife, and Oceans, I have a long history of involvement in protecting, preserving, and enhancing the striped bass fishery. It is in this spirit that I would like to designate the striped bass as a federal game fish. This bill would prohibit the commercial harvesting of striped bass and reserve this resource for recreational catches only, thereby ensuring a healthy and sustainable recreational fishery.

The recovery of the striped bass fishery since the crash of the late 1970's is an example of successful state and federal cooperation and angler support over the last two decades. The population rebound is encouraging, but a recent Atlantic States Marine Fisheries Commission decision to both increase the commercial quota and open the exclusive economic zone to striped bass fishing could lead to serious consequences for striped bass. I feel that this decision is too much, too soon, and it is imprudent to subject the fishery to these intensified demands. I believe we must take precautionary measures now to avoid the potential threat of a collapse in the future.

In the interest of responsible conservation and sustainable recreational fisheries, I support the goal of making striped bass a game fish along the entire coast. I believe that this is the only way we can truly ensure the future of this important species.

Mr. Speaker, I urge my colleagues to support this legislation to protect the Atlantic striped bass, a species that maintains an immensely popular recreational fishery. I appreciate this opportunity to convey my concerns about the management of this prized fishery, and I look forward to continuing my involvement in ensuring sound policy decisions.

## CONGRATULATIONS TO CAMP ALVERNIA ON ITS 115TH ANNIVERSARY

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. ISRAEL. Mr. Speaker, I rise today to acknowledge the 115th anniversary of Camp Alvernia, located in Centerport, NY.

In its first summer in 1888, Camp Alvernia's Franciscan Brothers brought deserving poor youth from Brooklyn to the country environment during the summer months. Since then, the camp has been dedicated to teaching their campers respect for themselves, each other and our environment.

Camp Alvernia also provides scholarships for families who find themselves in financial difficulty. They are committed to helping families and children from impoverished situations to develop spiritually, morally and physically while enjoying Long Island's beautiful environment.

Campers at Camp Alvernia enjoy sports, arts and crafts, nighttime campfires and many more activities.

I commend Camp Alvernia and their staff for their dedication to our nation's children, and congratulate them on their 115th anniversary.

## A TRIBUTE TO SALLY KENDALL BALDWIN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Sally Kendall Baldwin. Ms. Baldwin's passion for community service, especially on behalf of education and the arts, has made the City of San Gabriel a better place in which to live.

A native Californian, Ms. Baldwin attended UCLA, majoring in Elementary Education. In 1960, she met and married Harry Baldwin, currently a San Gabriel City Councilman, and they have two children, Kendall and Gregory. After college, the Baldwin family moved to San Gabriel, California.

As a young mother, Sally was involved in the Boy Scouts of America, San Gabriel National Little League and the San Gabriel High School Quarterback Club. After her children were grown, she became involved in the Pasadena Shakespeare League and efforts to raise funds for the renovation of the San Gabriel Mission.

Ms. Baldwin has been instrumental in the efforts toward unification of the San Gabriel School District, which was accomplished in 1992 and the school bond issue to renovate elementary schools, which passed in 2002. A teacher in the San Gabriel Unified School District for the last twenty-eight years, she will retire in June 2003. She began the Annual Community Read-in at McKinley Elementary School. Last year, she worked with the Los Angeles Master Chorale on a project for her students to learn how to write lyrics and melody, and perform their own songs with members of the Chorale.

Currently, Sally is Executive Vice President of the Asian Youth Center, a member of the San Gabriel Historical Society and the Metropolitan Associates, an outreach of the L.A. Opera Company. In addition, she is active in The Church of Our Saviour Episcopal Church, serving as a Vestry member, an usher and a Lay Eucharist Minister.

The time and effort she gives to our community is truly remarkable, and the City of San Gabriel has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring an extraordinary woman of California's 29th Congressional District, Sally Kendall Baldwin. The entire community joins me in thanking Sally Baldwin for her continued efforts to make the 29th Congressional District an enhanced environment in which to live.

## RENEWABLE PORTFOLIO STANDARD

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing a bill with my cousin Rep. TOM UDALL to establish a federal renewable portfolio standard (RPS).

The electric utilities throughout the country have done a good job providing this nation with reliable energy. They have done so well, in fact, that we take our energy for granted.

But as demand continues to grow, we need to make sure that we continue to have affordable and reliable supplies. And, most importantly, as we move to more competition in the delivery of electricity, we must make sure that the environment and consumers are protected. So it makes sense to put incentives in place to ensure that less polluting and environmentally friendly sources of energy can find their way into the marketplace.

But it's not enough to take protective steps. I believe it's critical that we also take affirmative steps to promote cleaner energy production. That's why I support requiring that a certain amount of our energy supplies come from renewable energy sources in the form of a renewable portfolio standard, or RPS.

The RPS is a market-friendly approach that will provide increased reliability, energy security, and environmental and health benefits. By reducing the cost of new clean technologies, it will also make more choices increasingly available in the competitive marketplace, and help restrain fossil fuel price increases by creating more competition for those fuels. The RPS creates intense competition among renewables, with the market picking winners and losers among renewable technologies, not the government.

An RPS will be good for consumers. According to the Department of Energy, an RPS will save consumers billions of dollars. An RPS will also spur economic development in the form of billions of dollars in new capital investment and in new property tax revenues for local communities, and millions of dollars in new lease payments to farmers and rural landowners. Importantly, an RPS will also keep our energy dollars at home and diversify our energy portfolio. Finally, the increased use of clean renewable energy through an RPS will take us toward a clean energy future by reducing air pollution from dirty fossil-fueled power plants that threaten public health and our climate.

We have worked hard to draft legislation that we believe will create public benefits for everyone. The renewable energy goals the bill sets are significant—requiring retail electricity suppliers to derive 20 percent of their power production from renewables by 2025. In addition, the bill is not overly burdensome for states as it gives them flexibility to achieve these goals. The bill sets up a credit trading system that allows states to buy and sell credits to meet their renewable energy goals, which will work to further reduce costs. A cap of 3 cents a kilowatt-hour protects consumers from excessive costs. The bill permits states to borrow credits against future renewables, bank renewable credits for future use, or sell them on the open market. The bill gives federal credits for existing renewables and for renewables required under a state RPS. The bill also returns money to the states from the sale of credits for state weatherization programs, low-income energy assistance programs, and for encouraging the installation of additional renewables.

Finally, our bill makes clear that while material removed from the national forests in connection with fuel reduction projects or for other reasons can qualify as biomass, we have been careful to make it clear that the bill does not set up a new program under which timber would be harvested specifically for that purpose.

Our RPS bill will save consumers money, benefit farmers and rural landowners, reduce air pollution, and increase reliability and energy security. My cousin and I believe this RPS bill is a win-win proposition and worthy of the support of our colleagues. We will work together and with our colleagues on both sides of the aisle to push it forward in the House.

## ARTHUR ASHE: GENTLEMAN AND REVOLUTIONARY

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. RANGEL. Mr. Speaker, for the benefit of my colleagues I rise to share an important article which appeared in the New York Times on February 9th that details the legacy of Mr. Arthur Ashe. The article entitled, "A Gentleman, A Revolutionary" was written by Mr. Donald Dell, former United States Davis Cup team captain, a leader in the sports marketing industry and a close personal friend of Mr. Ashe.

The article discusses Arthur Ashe's lifelong commitment to making a difference and his selfless work for causes of freedom and justice throughout the world. It is a poignant piece and one that I believe gives a compelling example of what a principled and moral individual can accomplish for his community and his nation.

[From the New York Times, Feb. 9, 2003]

### A GENTLEMAN, A REVOLUTIONARY

(By Donald L. Dell)

The Arthur Ashe I knew was not only a tennis player, an activist, a thinker, a writer; he was also a man of uncommon grace and power. On this, the 10th anniversary of his death—Arthur died on Feb. 6, 1993—I want to express my sentiments about my good friend of 23 years.

When I first met him, he was a skinny young man with a whippy tennis game. He had great wrist action in his strokes, on both his forehand and his backhand. He had a tremendous arsenal of shots; he could hit his backhand about seven different ways. He was shy, introverted, but he was a risk taker. He was never afraid to take a chance to win a point. Even then, there was a touch of the quiet revolutionary in him.

As he matured, he developed into a genuinely intellectual man: inquisitive, studious, a man who loved learning. This side of his nature is what led him to champion so many causes, rationally and reasonably. To say that Arthur Ashe transcended tennis is an understatement.

Yet it was tennis that remained a passion. Arthur was focused on being the best player he could be. He achieved that zenith in 1975 with his victory over Jimmy Connors to win Wimbledon—in my opinion, his greatest triumph on the court. That match remains a classic example of brains over brawn. Connors's combination of power and consistency was considered invincible, and yet Arthur diffused that force, thinking and calculating his way to the signature championship of his exceptional 15-year career.

Of course, Arthur always knew that he carried more obligations than merely winning tennis matches. He knew that he was representing his race at all times. The demands of such a burden are difficult to fathom, certainly for those of us who have never experienced it. Through it all, Arthur remained patient, always willing to give of his time to meet with people, to sign autographs or to conduct a clinic for underprivileged kids.

I was surprised when I read Arthur's quote that the toughest obstacle he had faced was not his two open heart surgeries, or even AIDS, but rather, as he put it, "being born black in America." We had a long discussion about it. He told me that regardless of how prominent you were, each day every black person in this country was made aware that he or she was black. Arthur had faced racism as a young man growing up in Richmond, VA, and regardless of his success, he continued to have to deal with it his whole life.

His commitment to making a difference, along with his sense of justice, led him to become a leader in the anti-apartheid movement. He assumed the role in his usual intellectual way. He first visited South Africa in 1973, largely as a learning experience. At the time, he was denounced by the black community, much of which felt that he was being used as a pawn by the South African government. But Arthur believed that you could not speak out against apartheid unless you knew something about it. He also thought it was important for young blacks there to see a free black man, one of accomplishment and stature in his chosen field.

Arthur's sense of responsibility to his race, again coupled with his intellectual curiosity, led to one of his proudest achievements. While attempting to research the heritage of black athletes, he found no definitive work on the subject. In typical Ashe fashion, he set out to produce one. He invested three years of his time and money and employed three research assistants to write "A Hard Road to Glory," a three-volume history of the black athlete in America. That work, published in 1993, is a milestone in the field of historical sports writing; the script for the television version, which Arthur also wrote, won three Emmys.

For all his public achievements, I was always struck, in my personal relationship with him, by his overriding sense of trust. That trust pervaded my professional dealings with him as his lawyer for 23 years. We never had a formal contract. After an initial letter of agreement in 1970, he and I renewed each year with a handshake. Trust came naturally to him. He strongly believed—and we would debate this long and often—that there was a lot more good in people than bad.

But that trusting nature belied his toughness. Clearly, Arthur was tough on the tennis court, but off the court, he was just as strong-willed. One need look no further than the strong, unpopular stands he took on issues like more stringent academic standards for college athletes. Often swimming against the tide, Arthur always chose what he believed to be the moral and principled course.

And, obviously, Arthur had to be a man of great courage to deal with his medical traumas. Not once, when he learned that he had AIDS, did he say, "Why me?" He felt that same question could be asked of all the wonderful things he enjoyed in life. Why did he win Wimbledon? Why did he marry a beautiful, talented woman, Jeanne, who was such a major force in his life, and become father to a loving, precious child, Camera? No. When it came to adversity, Arthur preferred to pose the question differently. "Why not me?" he would ask.

When our group was leaving South Africa in 1973, someone handed my wife, Carole, a newspaper. Rolled inside it was a poem from Don Matera, a South African poet and freedom fighter who had recently been banned and was therefore prohibited from meeting with Arthur in public. I think that poem really captures the essence of Arthur Ashe.

I listened deeply when you spoke
About the step-by-step revolution
Of a gradual harvest,
Tendered by the rains of tolerance. . . .
and I loved you brother—
Not for your quiet philosophy
But for the rage in your soul,
Trained to be rebuked or
summoned. . . .

These lines reveal the true Arthur Ashe: a man of quiet philosophy, with a raging, noble soul—a man I loved so much. We may never see his like again.

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## INTRODUCTION OF THE ANIMAL DRUG USER FEE ACT OF 2003

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. UPTON. Mr. Speaker, I rise in support of the bipartisan Animal Drug User Fee Act of 2003, legislation that I am introducing today with Reps. DEGETTE, GREENWOOD, TOWNS, BILIRAKIS, and JOHN.

Closely modeled after the Prescription Drug User Fee Act, the Animal Drug User Fee Act is designed to give the FDA the resources and incentives necessary to significantly improve the animal drug review process. This legislation is sorely needed. Despite a statutory review time of 180 days and the enhanced flexibility granted the agency in the Animal Drug Availability Act of 1996, the average review currently takes about 1.5 years and may drag on for several years. This slowdown in review times is jeopardizing the supply of the new, safe and effective animal drugs needed to keep our pets, flocks, and herds healthy.

The Animal Drug User Fee Act of 2003 is endorsed by a coalition of organizations, including the American Veterinary Medical Association, the American Farm Bureau, the National Cattlemen's Beef Association, the National Milk Producers Federation, the American Association of Equine Practitioners, the American Sheep Industry Association, the National Pork Producers Council, and the National Turkey Federation. My cosponsors and I anticipate that additional organizations will join in this endorsement as we move forward with the legislation.

I urge my colleagues to join with me and the original bipartisan cosponsors of this legislation in supporting and cosponsoring the Animal Drug User Fee Act of 2003.

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## A TRIBUTE TO JOAN VIZCARRA, 29TH CONGRESSIONAL DISTRICT WOMAN OF YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Joan Vizcarra, an outstanding woman of California's 29th Congressional District. Ms. Vizcarra's passion for community service, especially on behalf of education has made the City of Temple City a better place in which to live.

Ms. Vizcarra graduated from California State University at Los Angeles, majoring in psychology. Currently a realtor, she is attending the Phillips Graduate Institute taking a graduate program in psychology to obtain her marriage and family therapy license. Joan and her husband, Fernando Vizcarra, a Temple City Councilmember, have been married thirty-four years and have two children, Lara and Erin, and one grandchild.

Joan has been a member of the Temple City Unified School District Board of Education for twelve years, including serving on the budget and multicultural subcommittees. She is a board member of the Temple City Educational Foundation and a member of the site committee for Cleveland Elementary School's LEARNS program. In addition, Joan is a member of the California Association of Realtors and is the legislative liaison for the California School Boards Association. Ms. Vizcarra's past volunteer participation includes the Temple City Parent Teacher Association, Campfire Girls, the Arcadia Board of Realtors, the Temple City Kiwanis Club, and various political organizations.

The effort and time Joan gives to our community is truly remarkable, and the City of Temple City has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring an extraordinary woman of California's 29th Congressional District, Joan Vizcarra. The entire community joins me in thanking Joan Vizcarra for her efforts.

## RECOGNITION OF THE OCEANSIDE CHAMBER OF COMMERCE

### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. ISSA. Mr. Speaker, today the Oceanside Chamber of Commerce will proudly host the official grand opening of their new offices. There will be a ribbon cutting and reception to commence this special occasion. I want to ask special recognition for the efforts of Mr. David Nydegger the Chief Executive Officer of the chamber for his hard work in making the new offices a reality.

The Oceanside Chamber Mission Statement reads "To promote a strong business climate throughout the City of Oceanside, serve as leader and advocate for the business community, enhance the economic stability of the city and act as a collective voice for business concerns."

I believe that the Oceanside Chamber of Commerce has been successful in achieving the goals stated in its mission statement. Since its doors opened in 1896, the chamber has effectively promoted local business and been a valuable resource to the Oceanside business community.

Mr. Speaker, on the occasion of the chamber's grand opening, I would like to personally recognize the work of the Oceanside Chamber of Commerce on behalf of the businesses and citizens of Oceanside.

## RECOGNIZING STEVE COX

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Steve Cox, an exceptional gentleman who has exemplified the finest qualities of citizenship and leadership in his work as the sheriff of Livingston County, Missouri, and with the Elks Lodge 656 of Chillicothe.

This year, Steve is being honored with the Outstanding Achievements Award as the Elk's citizen of the year. Steve is truly an asset to crime fighting in Northwest Missouri. Under his leadership, his department has received the Missouri State Deputy Sheriff of the Year Award two years in a row.

When Steve is not working relentlessly as the sheriff, he spends his spare time in internet chat rooms searching for sexual predators. To date, he has brought over a dozen to justice.

Mr. Speaker, I proudly ask you to join me in commending Steve Cox for his many important contributions to Northwest Missouri Officers, the Elks Lodge 656 of Chillicothe, his community and the 6th District of Missouri.

## WHAT THE AMERICAN FLAG MEANS TO ME

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. LATHAM. Mr. Speaker, I wish to share with my colleagues an essay written by Jefferson Brown, a constituent of mine from Mason City, IA. Jefferson is a 12-year-old 6th grader at Roosevelt Middle School in Mason City. He recently won an award from the Elks Lodge in Mason City and will soon be traveling to the State Capital in Des Moines to compete in a state-wide competition. I submit his award-winning essay for the RECORD.

The American flag means many things to me. It symbolizes pride, joy, strength, and ability. These all come from the flag of the great country we live in.

The flag symbolizes pride, the pride of our country, ourselves, and pride for our flag of America. It gives hope, it gives us pride, the flag is a symbol of our pride in our country.

The flag represents joy for the heroes who stood tall defending our country. Joy when the warriors came home to us all. The joy of one, the joy of all is in the flag that flies high above us, the flag stands for joy in America.

Strength is in the flag, and the strength is in the hearts of all the American people. The strength is in our army, strength in those who lost a loved one on those days when we stood tall. The strength is in one; the strength is in all, it is in America; that stands tall.

Last but not least, ability. The flag stands for ability. Ability is in all of us, it is what we do. We are better at some things than others. Some of us can run or jump better then others, or we can draw or write better; but the point is that we all must bring our abilities together just as if we were colors on the American flag, the colors come together to make the flag. Just as we must, all united as one.

## A TRIBUTE TO JACQUELINE "JACQUIE" FENNESSY, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today to recognize an outstanding woman of California's 29th Congressional District, Ms. Jacqueline "Jacquie" Fennessy. Over the years, Ms. Fennessy has given selflessly of her time and energy to many different organizations in Altadena, California.

A 45-year resident of Altadena, Jacquie and her husband, Dr. William J. Fennessy have five children, William, Brian, Michael, David, Daniel, and twelve grandchildren. As a young mother, she was involved in the Boy Scouts of America, the local Parent Teacher Association and Little League. In 1986, she became the Executive Director for Patron Saints Foundation, a position she currently holds. The foundation is an association that awards charitable grants to non-profit health care organizations in the west San Gabriel Valley.

Jacquie has served on the Altadena Town Council since 1992, serving as Chair for three terms. The consummate volunteer, Ms. Fennessy is also a member of the Altadena Chamber of Commerce, Christmas Tree Lane Association, Altadena Heritage and the Altadena Conservancy. Her board memberships include the Sheriff's Support Group of Altadena, Scripps Home, and the Altadena Historical Society. Active in Altadena's libraries, she has been an Altadena Library Board of Trustee member since 1994, serving two terms as President, and a member of Friends of the Altadena Library for nearly forty years.

Jacquie has received many awards, including the California Legislature's 44th Assembly District Woman of the Year in 1999, Pasadena Mental Health Association's Community Volunteer of the Year in 1998, and Citizen of the Year in 1998 by the Altadena Chamber of Commerce.

The time and energy she gives to our community is truly remarkable, and the greater Altadena area has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Jacqueline "Jacquie" Fennessy. The entire community joins me in thanking Ms. Fennessy for her continued efforts to make the 29th Congressional District a better place in which to live.

## ALBERT AND MARY CLARK CELEBRATE 60TH WEDDING ANNIVERSARY

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KANJORSKI. Mr. Speaker, I rise day to call the attention of the House of Representatives to the 60th wedding anniversary of my good friends Albert and Mary Clark of Pittston, PA. The Clarks will be honored March 15 with a Mass of Thanksgiving at St. Mary's Church in Pittston and an anniversary dinner at St. Mary's Center in Scranton.

Albert and Mary, the former Mary Jordan, were married March 6, 1943, in their neighborhood church in Pittston, in the middle of World War II. He wore his Navy ensign's uniform for the ceremony. At the time he was an administrative officer with the Navy at the Philadelphia Ship Yard, which was then a major deployment facility for troops and shipping traffic.

They are the proud parents of seven children: Michael, of Washington, DC; Patrick, of Columbia, SC; Kevin, of San Francisco; John, of Poway, CA; Brian, of Dunmore; Albert, Jr., of Scranton; and Mary Kenney, of Clarks Summit. They are also the proud grandparents of 22 grandchildren.

In addition to raising a large family, Mary has been continuously active in various organizations of her parish church, including her role as Eucharistic minister. Last year, Albert was presented with the Man of the Year award by the Greater Pittston Friendly Sons of St. Patrick.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the 60th wedding anniversary of Albert and Mary Clark, and I wish them and their family all the best.

## SHLOMO ARGOV—A VICTIM OF MINDLESS VIOLENCE

### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. OBEY. Mr. Speaker, a good man has died after spending 20 years completely paralyzed because of mindless violence perpetrated by the Abu Nidal Middle East terrorist faction. Shlomo Argov, the former Israeli Ambassador to Britain, who died on February 23 in a Jerusalem hospital, was shot as he emerged from a meeting in a London hotel in 1982. For more than 20 years he was a living example of the tragedy that has befallen so many decent people because of mindless hatred that is used to justify terrorist acts.

I first met him when he showed me around Jerusalem on my first visit to the Middle East after the 1973 Israeli-Arab war. He was a political moderate who in his conversations with me spoke articulately of the need for Israelis and Palestinians to come to an understanding about their differences, and, yet, he was gunned down by forces of hatred who have always been anxious to make a political point regardless of the injury done to other human beings or to their own cause.

Before he was so viciously assaulted, he had a distinguished career in Israeli's Minister of Foreign Affairs and served as Ambassador to Mexico, the Netherlands, and finally, Ambassador to Britain. His death is another demonstration of how close the Middle East is to running out of men of good will before it runs out of hatred.

Mr. Argov paid a terrible price for trying to bring his talents to bear to advance the well being of the part of the world from which he came. His death should not go unnoticed. Neither should the distinguished service that he provided to Israel and the world before his life was so cruelly changed by mindless Palestinian militants.

Thoughtful people in both Israeli and Palestinian circles should view his death as another reminder of the need to end the terror, cut through the hatred, and give innocent civilians in that region an opportunity for the kind of happy and decent life which was denied to Shlomo Argov.

I'm sure the sympathies of all of us who knew him go out to his family. I am inserting a copy of Mr. Argov's obituary that appeared in the Washington Post.

[From the Washington Post, Feb. 24, 2003]

ISRAELI DIPLOMAT SHLOMO ARGOV DIES

JERUSALEM.—Shlomo Argov, 73, the former Israeli ambassador to Britain who was paralyzed during an assassination attempt by Palestinian militants that triggered Israel's invasion of Lebanon in 1982, died Feb. 23.

He has been in Jerusalem's Hadassah hospital since the shooting. Hospital officials said he died from complication from wounds that left him completely paralyzed and on life-support machines.

Israeli Prime Minister Ariel Sharon announced at the start of Sunday's weekly Gabinet meeting that "this morning, before dawn, Ambassador Shlomo Argov died."

Gunmen from the Abu Nidal guerrilla faction, which has ties to Libya, Syria and Iraq, shot Mr. Argov after a diplomatic meeting outside London's Dorchester Hotel. Three Abu Nidal members were convicted in the shooting.

The shooting was Israel's stated pretext for invading Lebanon four days later and laying siege to Beirut for three months until Palestinian leader Yasser Arafat and his fighter were forced out of the country. The invasion also marked the start of an 18-year Israeli military presence in south Lebanon, which ended with Israel's withdrawal in May 2000.

Reuven Merhaz, a former colleague of Mr. Argov, said Sharon, who was defined minister at the time, had planned the Lebanon invasion, well before Argov was shot.

"The war plan was ready," Merhav told Israel Radio on Sunday. "He [Sharon] made no secret of it. He had presented the plan to the Americans some months earlier."

Mr. Argov, who was born in Jerusalem, studied in Washington and London and joined Israel's Ministry of Foreign Affairs in 1959. He served as ambassador to Mexico and the Netherlands before assuming his position as ambassador to Britain in 1979.

The Jerusalem Post described Mr. Argov as "brilliant and suave" and ranked him with orator and historian Abba Eban, Israel's first ambassador to the United Nations, who died in November.

Victor Harel, a deputy director general at the Israeli Foreign Minister, said that at the time of the shooting. Mr. Argov was in his physical and intellectual prime, jogging every day and conversing in fluent English and Spanish in addition to his native Hebrew.

While he remained lucid after the shooting, he was emotionally devastated by the awareness of his disability, Harel told the radio.

"He was fully conscious for the first two or three years." he said "But he couldn't do anything on his own. The paralysis was total. He also got more and more medication, so visiting him became harder and harder."

Mr. Argov's survivors include three children.

## RESOLUTION TO EXPAND ACCESS TO COMMUNITY HEALTH CENTERS

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CAPUANO. Mr. Speaker, I rise today to introduce the Resolution to Expand Access to Community Health Centers. At a time when the number of uninsured Americans continues to increase and federal and state governments are facing budget shortfalls, community health centers continue to provide vital services at reasonable cost to millions of Americans. This bipartisan initiative calls for doubling the current level of funding for the consolidated health centers program by 2006. The additional funds would double access to comprehensive health care for the millions of Americans who currently are without health insurance.

Community health centers are local, nonprofit, community-owned health care providers serving low-income and medically underserved urban and rural communities. Health centers have a proven 30-year track record of providing cost-effective, comprehensive, quality care. Past investment in community health centers has resulted in improved health and quality of life for many Americans, as well as a reduction in over all national health care spending.

Community health centers provide health care services to uninsured and low-income individuals in medically underserved areas. They are vital to the fabric of health care in our country. This year, more than 1,000 health centers will serve nearly 14 million children and adults in 3,400 communities across the country. Of these, 5 million are uninsured; 750,000 are homeless; 850,000 are migrant and seasonal farmworkers; 5.4 million are residents of rural areas; and nearly 9 million are people of color.

Community health centers are vital in my congressional district. Health Centers have significantly increased the use of preventive health services such as Pap smears, mammograms, and glaucoma screening services among the populations they serve. Health Centers have increased substantially the number and proportion of immunized children, and have made significant strides in preventing anemia and lead poisoning. Furthermore, Health Centers contribute to the health and well-being of their communities by reducing the risk of adverse pregnancy outcomes, keeping children healthy and in school, and helping adults remain productive and on the job.

Expanding community health centers is a proven, viable, and cost-effective way to bring health services to uninsured populations and underserved communities. The bipartisan REACH Resolution would enable health centers to serve 20 million Americans, including 9 million individuals without health insurance. As Cover the Uninsured Week comes to a close and with 41 million Americans living with no insurance we need to find ways to address this crisis. The REACH Resolution is a step in the right direction. The resolution would send a clear message that Congress supports efforts to provide critical health care to low- and moderate-income urban and rural communities. I urge my colleagues to support this important legislation.

## A TRIBUTE TO DOROTHY M. COHEN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

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### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to pay special recognition to Ms. Dorothy Cohen, an outstanding woman of California's 29th Congressional District. Over the years, Dorothy has been an outspoken advocate for the residents of the city of South Pasadena, California.

Ms. Cohen has been a member of the South Pasadena City Council since 1994, serving as Mayor for two terms. Some of her greatest accomplishments on the Council include the re-opening of City Hall five days a week, repainting the city's historic water tower, advocating for a quarterly city newsletter and serving as its editorial advisor for seven years, adoption of the tiger lily as the city flower, and her efforts to preserve the quality of life for the citizens of South Pasadena.

Dorothy is a fourth generation Californian and a forty-one year resident of South Pasadena. Prior to her marriage in 1950 to Jerry Cohen, a reporter and features writer for the Los Angeles Times, she was a reporter and television columnist for the San Diego Union Tribune. While raising her children, she worked part-time for fourteen years for the South Pasadena Unified School District. During that time, she actively participated in the South Pasadena Parent Teacher Association and the Girl Scouts of America.

A long-time supporter of public libraries, Ms. Cohen was a cofounder of the Friends of the South Pasadena Public Library Bookstore in 1984. She currently serves as the chair of its Steering Committee and volunteers weekly in the bookstore. She is past president of the Friends of the Library, Library Board of Trustees and the League of Women Voters.

Dorothy has participated in numerous city task forces over the years, such as the Downtown Revitalization Task Force, the General Plan Advisory Committee, and the Mission Street Specific Plan Committee. Most recently, she co-chaired the Gold Line Railway Station Art and Design Advisory Committee.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Dorothy M. Cohen. The entire community joins me in thanking Ms. Cohen for her continued efforts to make the 29th Congressional District an enhanced place in which to live.

## THE ENGLISH LANGUAGE UNITY ACT OF 2003—H.R. 997

### HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KING of Iowa. Mr. Speaker, I have introduced legislation to make English the official language of the United States Government. The English language is the carrier of liberty and freedom throughout history and the world. For centuries, our common tongue, English, has been the uniting force in this great nation, knocking down ethnic and religious barriers to make us truly one nation. Today, as we rally for unity and patriotism a common means of communication propels us toward our goal.

The English Language Unity Act declares English the language of the United States. Like its predecessors, it does not affect the teaching and study of other languages. It does not deter the use of other languages in the home, community, church, or elsewhere. The Act includes commonsense exceptions to the policy, for international relations, national security, teaching of languages, and preservation of Native Alaskan or Native American languages.

A common language has enabled generations of Americans to realize the dream of American opportunity and freedom. Studies continue to prove those who know English get better jobs, earn more money and receive better health care than those who cannot speak the language. As a result, an emphasis on English decreases reliance on the federal government.

The need for official English appears in our newspapers every day—injuries in the workplace, mistranslations at hospitals, people who are unable to support themselves and their families—all because they could not speak English.

Recognizing a common language is neither racist nor exclusionary. It is a principle enacted by 177 countries worldwide to allow for the transmission of ideas and customs and to allow people of multiple cultures to come together. This bill does not inhibit people from speaking other languages, nor does it attempt to place any limits on culture, religion or customs.

The Unity Act gives newcomers an opportunity to succeed in the United States. It bonds the newcomer with his fellow Americans, allowing both to reach for the highest rung on the economic ladder and provide for a family.

According to the U.S. Department of Education, those with limited English proficiency are less likely to be employed, less likely to be employed continuously, tend to work in the least desirable sectors and earn less than those who speak English. Annual earnings by limited English proficient adults were approximately half of the earnings of the total population surveyed.

Few doubt this reality. In a 1995 poll by the Luntz Research firm, more than 80 percent of immigrants supported making English the official language of the United States. They are joined by 86 percent of all Americans who agree with English as the official language of the United States.

Similar English legislation in the 104th Congress, H.R. 123, drew 197 bipartisan House cosponsors and won a bipartisan vote on August 1, 1996. That spirited effort, led by our late colleague Bill Emerson, is unfinished business that we must attend to for the benefit of all Americans.

Mr. Speaker, I would respectfully request that the following document, prepared by the national group U.S. ENGLISH, Inc. be inserted into the RECORD. This document is a compilation of news stories from major newspapers across the United States which highlights numerous incidents where the inability to speak English has resulted in very serious consequences.

I urge my colleagues to cosponsor The English Language Unity Act of 2003 in the 108th Congress so that we can ensure that all Americans have the opportunity to attain the American dream.

#### LANGUAGE BARRIER DANGEROUS, OFTEN DEADLY, FOR IMMIGRANTS

The high rate of immigration to the United States is rapidly changing the face of America, primarily due to the massive numbers of limited-English speakers arriving daily to our shores. There are 21.3 million people living here today who do not speak English "very well."

Following are but a few recent snapshots of appalling episodes that occur regularly in communities around the U.S. Tragic situations like these can be averted if immigrants are given every opportunity to learn English:

#### PHILADELPHIA STRUGGLES UNDER LANGUAGE BARRIERS

Language has become a big problem in Philadelphia, with about 65,810 Philadelphians, or 4.6 percent of the city's population, being isolated by language barriers. Two recent examples of linguistic troubles:

Elderly Russian-speaking residents were "clueless" after being thrown out of their adult day care center because they didn't understand recent eligibility changes that had been sent to them in the mail and were written in English.

Dominican Republic shopkeepers couldn't meet requirements of food inspectors because they didn't speak English.

(Philadelphia Daily News, Sept. 25, 2002, originally reported by Scott Flander)

#### CRASH CAUSED BY LANGUAGE GAP

An accident on a state highway in New Hampshire was caused when an English speaking passenger said, "You're going to take a left at exit 5," while trying to teach a Spanish speaking driver how to operate a motor vehicle. The driver proceeded to make a sharp left and collide with a tree. The car was totaled, but both occupants escaped unharmed.

(The (Manchester, NH) Union Leader, July 23, 2002, originally reported by Sherry Butt Dunham)

#### MEDICAL MISHAPS

Immigrants, both because of language problems and cultural differences, are at risk for communicating with their doctors.

There's the story of the Hispanic mother who gave her child 11 teaspoons of cough medication because she read the English word "once" as the identically spelled Spanish word for eleven. The child lived, but the mistake could have been fatal.

(Passaic (NJ) Herald News, July 2, 2002, originally reported by Sarah Brown)

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### MAN ACCUSED OF KILLING BROTHER-IN-LAW, USES LANGUAGE BARRIER TO SHOW INNOCENCE

Language skills played a central role in a Rhode Island courtroom when the defense claimed the accused had not been read his rights in his native language of Gujarati. The 25-year old, who had been in the United States for 12 years, is accused of murdering his brother-in-law in a Portsmouth hotel.

Though the accused gave a statement admitting to the crime, the defense claims that the charges of murder, conspiracy to commit murder, committing assault with the intent to rob, conspiring to commit robbery and discharging a firearm while committing a crime of violence resulting in a death should be dismissed because the Miranda warning was meaningless to a man whose 1991 report card gave him an "LB" [language barrier] grade in reading and writing.

(The Providence (RI) Journal-Bulletin, Apr. 5, 2002, originally reported by Alisha A. Pina)

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### LINGUISTIC GHETTO HITS PROFESSIONALS

Even though many immigrants to the U.S. bring impressive resumes and skills, the language barrier sidelines thousands. The stories are endless and familiar:

The Iraqi political refugee who was a college professor in Iraq, with a doctorate in international development from Oklahoma State University. A specialist in agriculture, he now directs terminal traffic at Atlanta's Hartsfield International Airport.

The West African surgeon who once trained other doctors as a member of the World Health Organization, and once served as the only doctor in a refugee camp in Ghana that housed thousands of people. He worked nonstop, rarely getting a full night's sleep. Today, he works in a warehouse in Lithonia, Ga. He can't be certified as a doctor in America until he masters English well enough to pass the medical exams.

(Cox News Service, Jan. 15, 2002, originally reported by John Blake)

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### JAPANESE WOMAN DIES IN FREEZING TEMPERATURES, LANGUAGE BARRIER CONTRIBUTING FACTOR

A woman holding a crude map of a tree next to a highway and wandering around a landfill aroused the suspicions of Minnesota police, who later determined she was looking for the treasure featured in the fictional movie "Fargo." Though officials attempted to explain to the woman, who spoke only Japanese, that neither the movie nor the treasure was real, attempts to overcome the language barrier were nearly insurmountable. Six days after being placed on her way home, her body was found by a bow hunter 60 miles east of Fargo.

(The Bismarck Tribune, Jan. 8, 2002, originally reported by Deena Winter)

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### TEENAGE MOMS GET UNEXPECTED 'SURPRISE'

Each year the California Department of Social Services prints calendars to help teenage mothers cope with a daunting world. They include nutritional tips for babies and mothers, immunization charts, job and domestic violence hotlines, tips for living a responsible life.

This year an unexpected surprise: A toll-free number for a phone sex line. The number was printed by mistake on 32,000 Spanish-language calendars sent to 169 county CalWORKS offices, community organizations and job centers across the state.

Normally, someone at the department, who would call the phone numbers to make sure they were correct, would proofread the English- and Spanish-language calendars. But this year, after the English-language version was translated into Spanish at Chico State, no one at the department proofread it.

(Sacramento Bee, Jan. 1, 2002, originally reported by John Hill)

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### IMMIGRANTS FACE DEADLY MIX DUE TO LANGUAGE GAP

Orange County, Calif., is dealing with a startling increase in the number of Hispanics and immigrants killed on the job, part of a 33 percent rise nationwide, even as the overall number of fatalities has declined. An investigation into the records found that nearly half of the persons killed while working over the last three years were immigrants.

Experts say that language barriers and lack of training play a major role in the trend. OSHA investigations have found a lack of understanding of instructions and a lack of use of safety gear in many inquiries following workplace incidents. Worse, OSHA found that many immigrant worker casualties go unreported.

One Orange County worker died from a fall into a 175–degree vat of chemicals at an Anaheim metal-plating shop. Though the company's instruction manual clearly forbid walking on the 5-inch rail between tanks, it was printed in English, not a language that the worker understood. A subsequent inquiry into the accident found that many of the recent hires were neither trained to handle hazardous materials nor proficient in English.

(The Orange County (CA) Register, Oct. 21, 2001, originally reported by Natalya Shulyakovskaya and Alejandro Maciel)

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### LANGUAGE BARRIER IMPEDE POLICE INVESTIGATIONS

After failing to solve only two of 11 homicides in the prior 12 months, Lexington, Ky., police had failed to make arrests in six of 13 homicides in an eight month span in 2001. Officials attribute the lack of closure to the difficulty with the language barrier, encountering more witnesses and relatives who spoke English poorly or not at all. "Any time you have a language barrier, it's going to slow you down," said Lt. P. Richardson of the Lexington Police.

(Lexington (KY) Herald-Leader, Aug. 28, 2001, originally reported by Jefferson George)

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### LANGUAGE BARRIER OFTEN TURNS ROBBERY INTO MURDER

Police in New Jersey stepped up patrols after a series of attacks on gas station attendants in the early morning hours. Gas station employees in New Jersey are especially vulnerable, as the Garden State is one of only two states to prohibit self-serve gasoline.

Police surveillance and drive-bys were increased to allay fears among workers, though officials cautioned late-night gas attendants, 95 percent of whom are estimated not to speak English, to not resist when confronted with a robbery situation. "The language barrier could play a big part," said Sgt. Steve Choromansky, "Sometimes a robber might think someone is stalling, when they're just unsure of the situation."

(The Bergen County (NJ) Record, Aug. 28, 2001, originally reported by Leslie Koren and Peter Pochna)

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### SPANISH-LABELING MISTAKE IN BABY FORMULA

Hundreds of batches of infant formula were recalled when it was found that the preparation instructions in Spanish were incorrect. As written, the Spanish instructions created a product that could lead to seizures, irregular heartbeat, renal failure or death in infants.

(The Arkansas Democrat-Gazette, Jul. 11, 2001)

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### BILLIONS SPENT ON MEDICAL MISHAPS

An immigrant woman gave her 85-year-old mother a dangerously high dose of blood pressure medicine because she couldn't understand the label's English-language instructions. The Food and Drug Administration estimates that $20 billion a year is spent hospitalizing people who, because of the language barrier, take the wrong dose of medication, take the wrong medication entirely or mix drugs in dangerous combinations. Health experts say millions of immigrants risk injury or death because warnings on medicine bottles only come in English.

(Associated Press, Oct. 12, 1997, originally reported by Lauran Neergaard)

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## ON EVE OF WAR D.C. VETERANS STAND WITH NORTON ON INTRODUCTION OF D.C. VOTING RIGHTS BILL

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. NORTON. Mr. Speaker, today, I introduce the "No Taxation Without Representation Act" in the House, and simultaneously our good friend, Senator JOE LIEBERMAN, will introduce the same bill in the Senate. The bill would afford the residents of the District of Columbia the same congressional voting rights enjoyed by all Americans. The introduction of this legislation follows a well-attended Town Meeting on voting rights last week of determined D.C. residents intent on obtaining Congressional voting rights, especially today as the nation prepares for war.

Our bill is particularly inspired by the District of Columbia's 46,000 veterans, who are represented by three distinguished veterans who appeared with me at a press conference this morning. I especially thank my friend, former Secretary of the Army Clifford Alexander, who also served in the United States Army. Secretary Alexander has long worked for equal rights for the American people, and especially for D.C. residents, and was the lead plaintiff in one of the D.C. voting rights cases before the U.S. Supreme Court, Alexander v. Daley. I am also personally indebted to Secretary Alexander, who preceded me as an especially distinguished chair of the Equal Employment Opportunity Commission. I am also grateful to the other veterans who are here today. Both are D.C. residents and graduates of the service academies—Wesley Brown, the first black graduate of the U.S. Naval Academy and a former chair of my Service Academy Selection

Board and George Keys, a graduate of the U.S. Air Force Academy and current Selection Board Member as well as a former chair. The Service Academy Selection Board performs an indispensable service for D.C. residents and for our country. Board members spend countless hours screening, interviewing and selecting candidates for me to nominate to the nation's service academies.

I also invited the current chair of my Service Academy Board, Mr. Kerwin Miller, to participate in the press conference today, and he originally agreed to speak. However, Mr. Miller not only serves on my Service Academy Board, he also is the Executive Director of the D.C. Office of Veterans Affairs. Mr. Miller was forced to decline for reasons that sharply underscore the very reason why we are here today. Mr. Miller is unable to appear at this press conference because of a rider attached to the District's annual appropriations legislation that prohibits city officials, except for elected officials, from lobbying on behalf of their own voting rights. Not only is the District of Columbia denied voting rights, but the Congress adds insult to injury by attaching this outrageous provision to our own budget to deliberately hamstring the city in its quest for voting rights. This provision is hideously un-American, and I again will seek to have it repealed, especially this year.

In seeking full congressional representation, we often have stressed the District's taxpaying status because most of us pay federal taxes and because uniquely among American citizens, D.C. gets no vote in Congress in return. However, today we emphasize a duty of citizenship far more important, requiring far greater sacrifice. Ever since America's first war, the Revolutionary War, that was waged to eliminate taxation without representation, D.C. residents have fought and died for their country. They have done so often disproportionately. In World War I, the District suffered more casualties than three states; in World War II, more casualties than four states; in the Korean War, more casualties than eight states; and in Vietnam, more casualties than ten states.

Since I have been in Congress, I have participated in ceremonies that have sent D.C. residents to the Persian Gulf War, to Afghanistan, and now to the Iraqi border. I have never been able to vote in their name, and our residents are without any representation in the Senate. Yet, in today's military, each is a volunteer who has willingly taken on the most weighty of all the obligations of citizenship. Thus, I introduce our voting rights bill today for D.C. residents but particularly for our residents serving in the military today and the nearly 50,000 veterans who live in our city.

Encouraged by the 9–0 Senate Committee vote that took the city's voting rights bill to the Senate floor last year, we are now in the throes of preparations to take our case to the country. Let us begin by telling America what too many do not know about service and sacrifice without representation.

I urge my colleagues to support this vital legislation.

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## TRIBUTE TO BOB HITZHUSEN

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SKELTON. Mr. Speaker, it has come to my attention that a long and exceptionally distinguished career at the Missouri Farm Bureau will soon come to an end. Mr. Bob Hitzhusen has announced his retirement after 25 years of service to the farmers of Missouri.

Bob launched his professional agriculture career after graduating with a degree in Agriculture Economics from Iowa State University. After serving as an admissions counselor at Iowa State for two years, he joined the legislative staff of Congressman Wiley Mayne in 1975, serving in Congressman Mayne's Washington, DC office.

Bob joined the staff of the American Farm Bureau in 1975 as a full-time lobbyist, starting his career with the Farm Bureau. In his position as lobbyist, he worked with several congressional delegations and followed key agricultural issues.

Bob joined the Missouri Farm Bureau staff as Director of National Legislative Programs in 1978. In this position, he was responsible for Farm Bureau's policy development program and was actively involved in lobbying for Farm Bureau members on state and national levels. He has played an active role in every major farm program re-write since the 1973 Farm Bill. In addition, he has been actively involved in international trade legislation, including organizing agricultural support for the North American Trade Agreement and the GATT implementing legislation. He also worked to implement meaningful Missouri River policy that would benefit Missouri's agriculture producers, including work to provide a better levee system and work to ensure the Missouri River Master Manual fully represents the interest of the Show Me State.

In 1996, Bob was appointed Chief Administrative Officer and Corporate Secretary for the Missouri Farm Bureau Federation and Affiliated Companies. In addition to his administrative duties, he has continued to serve as an active lobbyist for the farm organization on state and national issues.

Due to his exceptional service to the Missouri Farm Bureau and agricultural programs, Bob has been singled out as a leader in agriculture. He was chosen to participate in the European Community's visitors program, where he spent three weeks studying agricultural policy in Europe. He was also awarded a partnership award by the USDA soil and water conservation programs in Missouri.

As Bob Hitzhusen prepares to spend more time with his family, his wife Verlee and his sons Paul and Mark, I know the members of the House will join me in expressing appreciation for his dedication to Missouri's agriculture community and to the Missouri Farm Bureau.

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## A TRIBUTE TO ROBERTA H. MARTINEZ, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our Nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Roberta H. Martinez. Ms. Martinez's passion for community volunteerism, especially on behalf of Latino-American history and culture, has made the City of Pasadena a better place to live.

Ms. Martinez earned her BA in music, her MA in music history and is a practicing musician. Currently she is narrator and vocalist for the Aztec Stories Project, scheduled to play at the Ford Theater in Los Angeles in the fall of this year. Besides owning her own production company, she is a guest lecturer, historian, and an elementary and middle school substitute teacher. She and her husband, James Grimes, reside in Pasadena, and have two children, Kate and Matthew.

Roberta is host/producer of an award-winning cable access television show—Casa Martinez—musica y mas in Pasadena. As a producer, she has worked on many annual projects including the Adelante Mujer Latina conference, Latino Fest, and the Cinco de Mayo celebration. In addition, she is the founder and current Chair of the Latino History Parade and Jamaica. One of the projects Roberta is most proud of is the history project "The Past Lives Vividly in the Present: a history of the Latino Community in Pasadena" that she researched and produced.

Roberta serves on numerous boards and committees, including the Pasadena Historical Museum, the San Gabriel Valley Hispanic Chamber of Commerce, Pasadena Latino Forum, Latino Heritage Association, Leadership Pasadena and the Zonta Club. In addition, she assists the City of Pasadena by participating on the Arts Commission, the Pasadena Community Access Corporation, and the Northwest School Site Steering Committee. In 2002, Roberta received the Pasadena YWCA's Woman of Excellence in the Arts Award.

The time and energy she gives to our community is truly remarkable, and the City of Pasadena has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Roberta H. Martinez. The entire community joins me in thanking Roberta Martinez for her continued efforts to making the 29th Congressional District a better place in which to live.

## ORGAN DONATION IMPROVEMENT ACT OF 2003

SPEECH OF

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 12, 2003*

Mr. CAMP. Mr. Speaker, I rise today in strong support of H.R. 399, the Organ Donation Improvement Act of 2003. Simply stated, this bill will promote organ donation by removing existing barriers to living organ donation and educating the public.

Right now there is simply not enough organs to meet the needs of patients waiting for them on the transplant lists. The challenge before us is to maximize the number of available organs and to maximize the recovery of organs available for donation. When an organ becomes available for transplant, we must spare no resource to ensure that it is delivered to a patient in need and this bill is a work towards reaching that goal.

Behind every number is a person. Some are waiting for a life-saving or life-enhancing transplant. Others celebrate the gift of life they have received.

The mission of this bill is to change the numbers, by increasing the number of organ and tissue donors, ultimately saving more lives. It is my hope that this outreach will educate the public about organ and tissue donation, correct misconceptions about donation, and create a greater willingness to donate.

Mr. Speaker, this is a good bill and a step in the right direction. As a long time advocate for organ donation, I urge support for this bill. I yield back the balance of my time.

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## ELIZABETH SMART FOUND ALIVE

### HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. DOOLITTLE. Mr. Speaker, when it was reported yesterday afternoon that Elizabeth Smart was found alive and well, we all breathed a collective sigh of relief, thankful to God that, in this all too rare instance, there was a happy ending.

For months, we prayed in earnest for Elizabeth's safety and for the Smart family, who courageously have crusaded for their daughter despite long odds, refusing to give up their search. Driven by faith, hope and love, their tenacity never wavered. Keeping the case alive, they created invaluable public awareness that eventually resulted in her safe retrieval. In particular, I would like to send my fondest wishes to my friend, Joy Bradford, Elizabeth's aunt who along with the Smarts refused to give up looking for her niece.

I would also like to recognize the Salt Lake City community, who became an extended family for the Smarts, never faltering in support, and never relenting in a search for one of their own. Gratitude must also be extended to the four Sandy police officers that confronted Elizabeth's abductors and the people who alerted them. They are true heroes.

It is difficult to express in words how relieved and overjoyed we all are that Elizabeth is alive and back in the arms of her loving family. Our prayers have been answered. Miracles do indeed happen.

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## CRISIS IN HEALTHCARE

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. PAUL. Mr. Speaker, America faces a crisis in health care. Health care costs continue to rise while physicians and patients struggle under the control of managed-care "gatekeepers." Obviously, fundamental health care reform should be one of Congress' top priorities.

Unfortunately, most health care "reform" proposals either make marginal changes or exacerbate the problem. This is because they fail to address the root of the problem with health care, which is that government policies encourage excessive reliance on third-party payers. The excessive reliance on third-party payers removes all incentive from individual patients to concern themselves with health care costs. Laws and policies promoting Health Maintenance Organizations (HMOs) resulted from a desperate attempt to control spiraling costs. However, instead of promoting an efficient health care system, HMOs further took control over health care away from the individual patient and physician.

Returning control over health care to the individual is the key to true health care reform. This is why today I am introducing the Comprehensive Health Care Reform Act. This legislation puts control of health care back into the hands of the individual through tax credits, tax deductions, Medical Savings Accounts, and Flexible Savings Accounts. Specifically, the Comprehensive Health Care Reform Act:

A. Provides all Americans with a tax credit for 100% of health care expenses. The tax credit is fully refundable against both income and payroll taxes.

B. Allows individuals to roll over unused amounts in cafeteria plans and Flexible Savings Accounts (FSA).

C. Makes every American eligible for an Archer Medical Savings Account (MSA) and changes the tax laws to increase the benefits of MSAs.

D. Repeals the 7.5 percent threshold for the deduction of medical expenses, thus making all medical expenses tax deductible.

By providing a wide range of options, this bill allows individual Americans to choose the method of financing health care that best suits their individual needs. Increasing frustration with the current health care system is leading more and more Americans to embrace this approach to health care reform. For example, a recent poll by the respected Zogby firm showed that over 80 percent of Americans support providing all Americans with access to a Medical Savings Account. I hope all my colleagues will join this effort to put individuals back in control of health care by cosponsoring the Comprehensive Health Care Reform Act.

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## A TRIBUTE TO SONIA BEDROSSIAN PELTEKIAN, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District, Ms. Sonia Bedrossian Peltekian. Over the years, Sonia has been an outspoken advocate for the Armenian-American community.

Born in Jerusalem, Ms. Peltekian attended St. Joseph High School, graduating as valedictorian, and Terra Santa Girls' College where she majored in business administration and minored in music teaching and conducting. Sonia worked in Jerusalem as a music teacher at Terra Santa Boys College, a secretary at the United Nations Relief and Work Agency, and organist/choir director for Terra Santa Church.

In the 1970s, Sonia immigrated to the United States, became a United States citizen, and married Barkev Peltekian. She and her husband have two children, Lara and Paul. Her work experience includes a fourteen-year term as an administrative assistant for Blue Cross of California, piano teaching, and assisting in the family business, Barkev's Photography.

Ms. Peltekian volunteers for the United Armenia Fund, the American Red Cross and the Armenian Cultural Association. For nearly thirty years, she has been extremely active in the Armenian Relief Society, Western Region "Mayr" Chapter in Los Angeles, serving as President and Vice President. In 1998, Sonia won the County of Los Angeles' Outstanding Volunteer Award for her service to refugees living in Los Angeles County. In addition, she volunteers at various schools and community functions to speak about issues related to Armenian culture, women and religious holidays. Her command of four languages: English, Armenian, Arabic and French help to make her a much sought-after public speaker and volunteer.

Throughout the years, Sonia has focused on using her knowledge to enhance opportunities for the Armenian-American community, which has greatly benefited from her devoted service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Sonia Bedrossian Peltekian. The entire community joins me in thanking Ms. Peltekian for her efforts.

## A SPECIAL TRIBUTE TO DR. RALPH QUELLHORST, OHIO CONFERENCE MINISTER FOR HIS DEDICATED SERVICE TO THE STATE OF OHIO

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding gentleman, and good friend, from Ohio. Dr. Ralph Quellhorst became an Ordained Minister of the United Church of Christ in 1962. Shortly thereafter he became an Adjunct Professor at Ohio Northern University in Ada, Ohio. Dr. Quellhorst served on its faculty from 1963–1965. Also during that time, Dr. Quellhorst led the congregation of the Emmanuel United Church of Christ in Bluffton, Ohio.

Mr. Speaker, in 1967, Dr. Quellhorst became the Associate for Leadership Development for the Ohio Conference, United Church of Christ. He served in that capacity until 1975, during which time he also served the Eden Theological Seminary as an Adjunct Professor. In 1975, Dr. Quellhorst left Ohio for New York City to serve as an Associate in the Office for Church Life and Leadership, UCC. During his service in New York City, Dr. Quellhorst served as an Adjunct Professor in the New York Theological Seminary.

From 1982 through 1992, Dr. Quellhorst served under the Indiana Kentucky Conference, United Church of Christ, in Indianapolis, Indiana. Finally, in 1993, Dr. Quellhorst returned to the great state of Ohio to serve as Conference Minister and Executive for the Ohio Conference, United Church of Christ, from which he is retiring this month.

Mr. Speaker, Dr. Quellhorst boasts quite a long list of educational and professional achievements. His first degree was obtained in my congressional district at Heidelberg College, located in Tiffin, Ohio. There he received his B.A. in Speech. In 1962, he received his B. Div. from the Eden Theological Seminary, where he later obtained his M. Div. in 1974. Dr. Quellhorst completed his education in 1976, when he received his D. Min. from the Eden Theological Seminary. Dr. Quellhorst serves on the Heidelberg College Board of Trustees, where he has chaired the Academic Affairs, Faculty and Curriculum, Institutional Advancement, and Executive committees. He recently served on the Heidelberg Presidential Search Committee. In addition to his contributions in the academic realm, Dr. Quellhorst has been recognized for his humanitarian efforts. In 2000, he was awarded the John Calvin Award for Humanitarian Work, which was presented at the 4th World Congress of the Hungarian Reformed Churches held in Budapest, Hungary.

Dr. Ralph Quellhorst has had a significant impact on the lives of so many people. He has helped so many in the congregations he has served to live a life of goodwill and sacrifice. These chances to give back to the public have brought him a lifetime of both personal and professional achievement. Ohio is certainly blessed to have had Dr. Quellhorst's voice touch the lives of so many in our state.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Dr. Ralph Quellhorst. Our communities are served well by having such honorable and giving citizens, like Dr. Quellhorst, who care about their well being and stability. We wish him, his wife, Sue, and their family all the best as we pay tribute to one of our state's finest citizens.

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## PERSONAL EXPLANATION

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MCINTYRE. Mr. Speaker, on Thursday, March 13, 2003, I was unavoidably absent for rollcall vote 62, on agreeing to House Joint Resolution 139. Had I been present I would have voted "no" on rollcall vote 62.

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## ORGAN DONATION IMPROVEMENT ACT OF 2003

### HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. STRICKLAND. Mr. Speaker, I am proud to support H.R. 399, the Organ Donation Improvement Act of 2003. This important measure takes steps to increase donation activity to meet the demand for life-saving human organs. Human anatomical donation is truly the greatest gift one can offer to another. This humanitarian act looks beyond one's self and to those in need—to children, young adults, parents, and family members—whose lives we value and whose future we safeguard.

H.R. 399 makes note of the importance of family discussions and encourages families to express their desires and openly pledge to help others through the act of donation. Americans have the ability to choose to give gifts that restore sight, save lives, and improve the health of others through organ, eye and tissue donation. While the need for organs is a well-documented fact, the need for donated tissues and eyes should also be stressed. Many Americans do not realize that those who cannot become donors of organs for various medical reasons can still save sight and improve the health of others through eye and tissue donation. It is therefore of critical importance that when families do discuss their wishes to give anatomical gifts, they are knowledgeable about all of their opportunities: to save lives; restore sight; and improve the health of others through the donation of their organs, eyes, and tissues. These precious gifts give life, improve health and advance medical science for those who often have no alternative hope for treatment and cure.

In 2001, there were 24,076 organ transplants giving life; 33,000 cornea transplants restoring sight; and 900,000 tissue transplants improving physical function and health. These impressive statistics demonstrate the generosity of the American people. Yet, more donors are needed to meet the need for life-saving transplants, sight restoration procedures, repair of wounds and severe burns. Education and awareness is the first step toward bridging the gap to meet the need for more anatomical donors. In closing, I encourage all Americans to take the time to discuss with family members the most precious gift a person can give—one's organs, eyes and tissues—to better mankind.

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## A TRIBUTE TO ANNIE CHIN SIU, D.D.S., 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishment made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today to pay special recognition to Annie Chin Siu, D.D.S., an outstanding woman of California's 29th Congressional District. Over the years, Dr. Siu has given selflessly of her time and energy to many different organizations in the greater San Gabriel Valley.

A San Francisco native, Dr. Siu attended the University of California at Berkeley. She graduated from the University of California at San Francisco School of Dentistry, specializing in Orthodontics and was the only woman in her dental school class. After her marriage to Dr. Tim Siu, the Sius moved to Alhambra, where Dr. Siu opened her orthodontic practice. Now retired from private practice, Dr. Siu continues to teach at the University of Southern California School of Dentistry. The Sius have been married for nearly fifty years and have four children: Tina, Susan, Jennifer, and Valerie.

Dr. Siu has been the recipient of numerous awards, including the California Legislature's 49th Assembly District Woman of the Year, the 2003 Medal of Honor from the University of California San Francisco Dental Alumni Association, the Alhambra Rotary Club's Paul Harris Award, Bank of America's Achievement Award, the Los Angeles Chinese Chamber of Commerce's Service Award, Los Angeles Chinatown Public Safety Award, and the Edward Angle Orthodontic Excellence Award.

Dr. Siu is a past President and longtime member of the Alhambra Chamber of Commerce. The consummate volunteer, Dr. Siu has been active in the Alhambra Public Library Association, the Los Angeles Chinatown Library. the Soroptimist Club of Alhambra-San Gabriel-San Marino, University Women Association, United Way, the Chinese American Museum, Chinese Historical Society of Los Angeles, Los Angeles Chinatown Public Safety Association, and the West San Gabriel Valley YMCA. In addition, Dr. Siu is a member of numerous professional organizations, including the USC School of Dentistry Board of Councilors, American Dental Association, and the California Dental Association.

The time and energy Dr. Siu gives to our community is truly remarkable, and the greater Los Angeles area has benefited greatly from her dedicated service.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Annie Chin Siu, D.D.S. The entire community joins me in thanking Dr. Siu for her continued efforts to make the 29th Congressional District a better place in which to live.

## TRIBUTE TO MR. DAVID GUZMAN, FORMER PRESIDENT OF THE NATIONAL ASSOCIATION OF VETERANS' PROGRAM ADMINISTRATORS

### HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to Mr. David Guzman, who recently concluded his tenure as President of the National Association of Veterans' Program Administrators (NAVPA) after holding this position from October of 1998 to October of 2002.

Mr. Guzman also recently retired as the University Registrar at Washington State University and now moves to the position of NAVPA Legislative Director. I am grateful that we will retain his leadership abilities in this small way.

Long before Mr. Guzman served this nation's veterans, he had a distinguished career in the United States Air Force. He served at assignments throughout the world for 30 years before retiring in 1987, with his last assignment at Hickam Air Force Base in Hawaii where he was Senior Enlisted Advisor to the Commanding General of the Pacific Air Forces. He served two tours in the Republic of Vietnam.

Mr. Guzman has testified before the Veterans' Affairs Committee frequently on Montgomery GI Bill enhancements. He brought first-hand knowledge on veterans' education policy to his testimony from working with veterans at Washington State University.

Thank you, Mr. Guzman, for your dedication to America's servicemembers and veterans. You are leaving a lasting legacy of dedicated service to America and those who protect our freedoms.

## IN MEMORY OF AHMAD R. OLOMI

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to his country and community was extraordinary. Orange County, California, was indeed fortunate to have such a dynamic and dedicated community leader who willingly and unselfishly gave his time and talents to make his community a better place in which to live and work. The individual of whom I am speaking is Ahmad Rateb Olomi. He was unexpectedly and tragically taken in an airplane accident over the Arabian Sea on Monday, February 24, 2003, at the age of 45.

Mr. Olomi was born in Afghanistan, and earned a bachelor's degree in Civil Engineering from the University of Engineering and Technology in Lahore, Pakistan. He moved to the United States in 1980. He was hired by Orange County in 1984 and shortly thereafter became a naturalized United States citizen. He worked his way up from Engineering Technician to the position of Senior Civil Engineer. Some of the more notable projects he worked on were Seven Oaks Dam, the Santa Ana River Mainstem Project, and the Laguna Canyon Road State Route 133 realignment. Over his 19 years of service to Orange County, Mr. Olomi developed himself into one of the County's most talented and valued professionals.

In addition to his love for the United States and his community, he never forgot his original homeland. On the day of the tragedy, Mr. Olomi was on a 6-month leave of absence from the County of Orange traveling with the Afghan Minister of Mines and Industries to help with the rebuilding of Afghanistan, and the construction of a transnational pipeline project that would pump natural gas and oil from Turkmenistan across Afghanistan and into Pakistan.

Mr. Olomi was also a dedicated family man. He is survived by his wife Roya and children, Yusef and Sahar. He is remembered by his family and friends as a man admired for his integrity, honesty, intelligence and selfless commitment to others. My thoughts and prayers go out to them for their loss.

Mr. Speaker, looking back at Mr. Olomi's life, we see a man dedicated to his family, community, adopted country and original homeland—an American and Afghani whose service led to the betterment of those who had the privilege to come in contact or work with him. Honoring Mr. Olomi's memory is the least we can do today for all that he gave over his lifetime.

## INTRODUCTION OF EFFICIENT ENERGY THROUGH CERTIFIED TECHNOLOGIES (EFFECT) ACT OF 2003

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MARKEY. Mr. Speaker, today I am pleased to join Reps. CUNNINGHAM, CRANE and MATSUI in introducing the Efficient Energy through Certified Technologies (EFFECT) Act of 2003. This bill provides tax incentives to make both new and existing buildings more energy efficient. These incentives are workable, verifiable and will promote market transformation, stimulating the market for energy efficient technology and services.

Building construction and operation represents 15 percent of Gross National Product and buildings consume 35 percent of the Nation's primary energy budget—almost twice as much as cars. This bill would stimulate the economy while decreasing energy consumption. It would improve our national energy security by reducing vulnerability to transmission disruptions and cutting our oil and gas import dependence.

The tax incentives are based totally on energy performance, achieving two critical goals: It assures that projected energy savings will be achieved; and it encourages vigorous competition and innovation in the marketplace, reducing the cost of energy efficiency.

Within 10 years, the EFFECT Act could produce power savings of 110 gigawatts—the equivalent of 275 400 megawatt power plants. The cost savings could be over $30 billion annually. Right now the effect would stimulate the use of existing, off-the-shelf technology that can cost-effectively reduce energy use by 50 percent for existing buildings. This would result in nearly a 6 percent reduction in air pollution emissions over the next 10 years—equivalent to taking 40 percent of our automobiles off the road—and save American homeowners billions of dollars each year in energy costs.

This bill is supported by a coalition of environmentalists and industries, and as shown by the latest Gallup Poll, the American people. In that poll, 60 percent agreed that the United States should emphasize greater conservation by consumers of existing energy supplies, while 29 percent supported production of more oil, gas and coal supplies as the solution.

This bill demonstrates the extraordinary power of energy conservation to reduce the need for wasteful, inefficient, and capital intensive energy projects. There is no other Federal policy proposal that has the potential to save this much energy and peak power or to help the economy so much for so little cost. I urge my colleagues to join the original cosponsors in passing this bill.

## PERSONAL EXPLANATION

### HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SWEENEY. Mr. Speaker, on March 4, 2003, I missed rollcall vote No. 42. If I had been present I would have voted "yes."

## CYPRUS

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mrs. MALONEY. Mr. Speaker, I am deeply disappointed by the failure of the recent talks between the President of the Republic of Cyprus, Tassos Papadopolous and Turkish Cypriot leader, Rauf Denktash, which ended yesterday without an agreement due to the intransigence of Mr. Denktash.

We have observed years of intense negotiations between the Greek and Turkish Cypriot communities and were hopeful that this round would end in success. As you know, in 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops in Cyprus. Nearly 200,000

Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country.

Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. The latest success is the European Council's invitation to Cyprus to become one of the ten new Member States of the European Union. Sadly, the people living in the occupied area continue to be mired in poverty. We had hoped that a united Cyrus would join EU.

Instead, we are faced with failure. Failure because Mr. Rauf Denktash has denied Turkish Cypriots the opportunity to determine their own future and to vote in a referendum which would have likely lead to a solution of the Cyprus problem.

Despite my concerns and disappointment, I appreciate the comments of President Papadopolus who has stated that the Greek Cypriot side will "continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the EU."

I urge the government of Turkey to take constructive steps for resolving the Cyprus problem. And I urge the Administration to continue with its efforts to persuade Turkey and the Turkish-Cypriot leader to work within the UN process to end the division of Cyprus.

At a time when tensions are rising around the world, we must seize every opportunity to achieve peace and stability.

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## A TRIBUTE TO PASTOR JEAN BURCH, 29TH CONGRESSIONAL DISTRICT WOMAN OF THE YEAR—2003

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Women's History Month. Each year, we pay special tribute to the accomplishments made by our nation's most distinguished women during the month of March. It is my great honor to recognize extraordinary women who are making a difference in my district.

I stand today, to recognize an outstanding woman of California's 29th Congressional District. Pastor Jean Burch of Pasadena, California, has been pivotal in the social and religious vitality of our community and I wish to salute her efforts today.

Raised in Pasadena, she attended Pasadena City College, continuing her journey into higher education at Biola University where she earned her Bachelor of Arts Degree in Organizational Leadership with an emphasis in Biblical Studies.

Pastor Burch had a successful twenty-year career within the legal profession. In March 2000, she left the legal profession to become the Senior Pastor of Community Baptist Church in Pasadena. Her religious career began in the early 1970s under the leadership of Dr. Reverend Coy Turrentine, the late Bishop James E. Henry and as Assistant Pastor for her father, Pastor Emeritus John W. Burch at Community Baptist Church. In addition, she served as an instructor at the Southern California School of Ministry, teaching a course entitled "Women in Ministry."

A natural leader, she has been extensively involved in many community, civic, and religious organizations. Some of the boards she has served on include the National Association for Law Placement, the Los Angeles Association of Legal Recruitment Directors and the Pasadena Public Library Association. Currently she is a board member of the Ecumenical Council of Pasadena Area Churches and Northwest Pasadena Development Corporation. Along with other faith leaders and the Coalition for Zero Violence, Pastor Burch participates in a united effort to end violence in the Pasadena Unified School District. Her church, Community Baptist, is the faith-based partner for Community Arms and Kings Villages affordable housing properties.

Pastor Jean, as she is affectionately called, is beloved and respected by the entire community. She is the proud mother of Leya Douglas, a member of her ministry team, and a grandmother to Kyley Douglas, born in January 2003.

I ask all Members of Congress to join me today in honoring a remarkable woman of California's 29th Congressional District, Pastor Jean Burch. The entire community joins me in thanking Pastor Burch for her continued efforts to make the 29th Congressional District a more vibrant and enjoyable place in which to live.

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## RECOGNIZING THE LEADERS OF CHURCH OF GOD IN CHRIST FOR THEIR LETTER TO PRESIDENT BUSH EXPRESSING GRAVE CONCERN ABOUT A POSSIBLE PREEMPTIVE ATTACK ON IRAQ

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. LEE. Mr. Speaker, I rise today to recognize and commend the predominantly Black clergy, intellectuals and informed laypersons of the community-serving Church of God in Christ for their letter to President Bush regarding a possible preemptive attack on Iraq. I sincerely hope that ever Member of the House and every American will give serious thought to the points raised in this moving and thoughtful letter.

Mr. Speaker, at this point I wish to insert the letter into the RECORD.

CHURCH OF GOD IN CHRIST, INC.,
*Memphis, TN, January 23, 2003.*

HON. GEORGE W. BUSH,
*President, The White House,*
*Washington, DC.*

DEAR PRESIDENT BUSH: We write to you as predominantly Black clergy, intellectuals and informed laypersons of community-serving churches of the Church Of God In Christ, to address matters of the deepest gravity, namely, that of war and peace, as presented by your statements and those of Vice President Richard B. Cheney and Secretary of Defense Donald H. Rumsfeld concerning a preemptive attack upon Iraq.

We are mindful that war, should it come to pass, will directly affect the safety and well-being of tens of thousands of our fellow citizens in the Armed Forces, of whom significant numbers are ethnic minorities in the enlisted as well as officers and non-commissioned ranks.

Our thoughts also extend to the safety and well-being of Iraqi civilians who have not lifted a hand against the United States. We are deeply concerned that critical moral reflection on the prospects of war has been overlooked by some in your Administration. We do not advocate a weak America; unable to defend the innocent from rapacious tyranny of attack, but a strong America must examine itself before setting off to war.

Moreover, Mr. President, we must confess that we fail to see the rush to war as a rational expression of the compassionate conservatism that you promised the country at the beginning of your Administration.

Sovereigns in antiquity and national leaders today, especially those who identify with the Christian heritage, are expected to examine their war aims, strategy and tactics in light of these moral principles to determine if war should be pursued, and if so, to determine how these can be pursued in as humane a manner as possible towards all parties to a conflict. Failure to satisfy these criteria renders the war aims, strategies and tactics, at a minimum, morally suspect and perhaps morally unacceptable in the eyes of the Church universal and under the gaze of a just and Holy God.

We note the rising voices from all parts of America pleading for restraint, reflection and prudence in considering war against Iraq. Notable conservatives from your own party with significant prior foreign policy experiences, such as Brent Scowcroft and Lawrence S. Eagleburger, have counseled against this war. This is especially true in the absence of an actual attack, or evidence of preparation for it against the United States that could be put forth for public review.

We also note the similar wise counsel against the rush to war from your own Secretary of State, General Colin L. Powell, a soldier's soldier himself. Noteworthy also is the recent letter from CIA Director George Tenet to the House and Senate Intelligence Committees warning of the grave dangers to the United States of domestic terrorism if war is waged against Iraq.

We would agree that Iraq's President, Saddam Hussein, has demonstrated aggression against his neighbors in the past, some of which was unopposed by the United States government. We would also agree that if Iraq possessed weapons of mass destruction this would be a matter of grave concern. In this regard, we believe that the United States' interests are best served by using the existing mechanisms of international law, collaboration and consultation with our allies and the use of existing United Nations resolutions to support the work of weapons inspectors so they may detect and destroy any weapons of mass destruction found in Iraq.

However, we do not find any moral justification for a pre-emptive strike in the absence of an attack, or real threat of an attack, upon the United States. A military strike of this nature puts the United States in the posture of aggressive warfare, not defense, which is precisely the behavior that we, and your Administration, deplore in the Iraqi regime.

We recall the moral witness of the Reverend Dr. Martin Luther King, Jr., forty years ago when the United States launched its military excursion into Southeast Asia without significant prior public debate. In retrospect, had the American people been able to engage in a free public debate on the military aims and process, tens of thousands of lives on all sides of the conflict might have been spared.

As Church leaders, we painfully remember that while Blacks were struggling to secure full civil rights in the American South, our youth were sent off to fight and die in an undeclared war whose military and political objectives were unclear. We do not wish to see more young Americans die in a new war whose goals are ill-defined.

Money spent on war to destroy lives could instead be used to save lives by financing the alleviation of the impending famines in southern Africa, or to provide clean drinking water to enhance the health of hundreds of thousands of poor, defenseless men, women and children throughout that continent.

These resources could also be productively directed toward providing treatment and prevention services for those afflicted by the HIV/AIDS holocaust in Africa, the United States and other countries around the world. Not to forget the blight and ravages of economic depression in Appalachia and the inner cities of America.

As those who are representative of the many churches that serve the spiritual and social needs of millions of Blacks and other ethnicities in America, we humbly ask your Administration to stay the hands of war and vengeance and instead yield to the rule of law and the inherent disposition toward peace that is central to America's Christian heritage. We call upon your decision makers to reflect upon the inspired Biblical witness of the Apostle James:

"What causes fights and quarrels among you? Don't they come from your desires that battle within you? You want something but you don't get it. You kill and covet, but you cannot have what you want. You quarrel and fight. You do not have because you do not ask God. When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your pleasures." (Saint James 4:1-3)

Surely our nation and its leaders can examine their own intentions in light of Holy Scripture before setting their feet upon the blood-soaked path of war, whose ultimate outcome is known with certainty only by the Maker of us all.

We pledge to pray for you and your Administration, that you might encounter the Divine Wisdom in this matter.

In Christ,

G.E. PATTERSON,
*Presiding Bishop.*

## IN HONOR OF MAYOR "W" PETE WISNIESKI

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mayor "W" Pete Wisnieski—Dedicated family man, accomplished community leader, and admired friend and mentor to countless. Mayor Wisnieski's foresight, integrity and leadership led the City of Independence through an amazing evolution—from a sleepy rural village to a thriving, viable and family-friendly City—all without compromising the city's small-town charm.

Mayor Wisnieski was born and raised in Independence, and continues his life-long commitment to the City. Soon after graduating with honors from Independence High School, Mayor Wisnieski became operator of the Independence Ford Garage, and began raising his family. Together, Mayor Wisnieski and his wife of 64 years, Marge, raised five children, and are blessed with many grandchildren.

Mayor Wisnieski has demonstrated a lifelong commitment to serving the residents of his hometown, following the path of his father, Frank Wisnieski. Frank was elected to serve as the first Mayor of the Township of Independence, and served in that capacity for sixteen years. Instilled with the ideals of public service from his parents, Mayor Wisnieski began his journey of public service in 1956, when he won his first bid as Mayor of the Village of Independence.

Mayor Wisnieski served Independence as mayor for twenty-two years, bringing a sense of fairness, integrity and kindness to the office. During his leadership, the City flourished. He led the effort in commercial growth along Rockside and Pleasant Valley Roads. This vital development provided a sound tax base, which translated into superior city services and low property taxes for all residents.

And years before public officials became environmentally enlightened, Mayor Wisnieski understood the significant and delicate balance between progress and preservation. It was Mayor Wisnieski who led the effort to preserve nearly fifteen acres of green space in the heart of Independence, known for decades as Elmwood Park. Because of his leadership and vision, this beautiful tree-lined park continues to provide recreational enjoyment to thousands of residents, young and old, every year, in the form of swimming, baseball, soccer, fishing, and tennis, strolling, and biking.

Additionally, Mayor Wisnieski's concern for the safety of all residents led to the construction of new fire and police complexes with additional staff to accommodate any medical or safety emergency—twenty-four hours a day, seven days a week.

Mayor Wisnieski has always been a champion of community volunteerism and helping others. He is a founding charter member of the Kiwanis Club of Independence, and founding member of the Independence Historical Society.

Remarkably, throughout all of his exceptional accomplishments, Mayor Wisnieski remains today as he always has been—humble, gentle, and kind—always willing to offer a smile, friendly word, or helping hand. Mayor Wisnieski continues to exude a genuine love and concern for all people, and he extends to everyone the same warmth and respect, regardless of their title or social status.

Mr. Speaker and Colleagues, please join me in honor, gratitude and recognition of "W" Pete Wisnieski, former Mayor of Independence. Mayor Wisnieski's hard work, insight, and dedication to his community have served to uplift and improve every facet of the City of Independence, and set a strong foundation for future ideas, projects and growth. Mayor Wisnieski combined heart with grit while in office, and continues to be the finest example of a citizen, leader, husband, father, grandfather, neighbor and friend. Mayor Wisnieski has earned the admiration and respect of the entire Independence community, as well as the entire Greater Cleveland community and beyond. "Where after all, do universal human rights begin? In small places, close to home."—Eleanor Roosevelt.

## THE CUNNINGHAM/MARKEY EFFICIENT ENERGY THROUGH CERTIFIED TECHNOLOGIES ACT OF 2003

### HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Efficient Energy Through Certified Technologies, EFFECT, Act of 2003. I am joined in this effort by a substantial and diverse coalition of my colleagues including Mr. MARKEY of Massachusetts, Mr. CRANE of Illinois, Mr. MATSUI of California, as well as Senator SNOWE of Maine and Senator FEINSTEIN of California. This bill is supported by a strong coalition of industries and organizations.

In the 1990s, San Diego alone experienced a 10.2 percent increase in population. This number is expected to rise even further in the next ten years. With such a significant rise in population, comes the need for additional housing. Congressman MARKEY and I have created legislation that would give builders and consumers a reason to construct housing and purchase equipment that not only saves the consumer money in the long run, but also helps save energy. This legislation offers tax incentives to encourage the production and sale of technologically advanced, energy-efficient buildings and equipment.

My constituents in San Diego suffered through the Energy Crisis during the summer of 2001. The aftershocks of the rolling blackouts and outrageously high energy prices are still being felt. While my colleagues from San Diego and I are still seeking ways to prevent this terrible crisis from happening again, I am introducing this bill in an effort to formulate a long-term energy plan.

Buildings account for over $250 billion of energy use annually, more than half of peak electric demand, and 35 percent of air pollution emissions. Tax incentives for buildings and their major equipment can reduce energy use anywhere from 30 percent to 50 percent, and help to improve air quality. The incentives will reduce peak power demand, which can diffuse the risk of blackouts and high electricity prices. Peak power shortages cost California $15 billion in 2000 alone.

This legislation is performance based, not cost based. One dollar of federal tax incentives for energy efficiency offered today will not be paid until January-April 2004, but manufacturers will respond to the incentives by investing in production facilities for more efficient products immediately.

The legislation is structured to promote the creation of competitive markets for new technologies and designs that are not widely available today, but have the possibility of being cost effective to the consumer in the future.

Please join me in supporting the EFFECT Act which will provide for a cleaner environment and help reduce energy needs, thus postponing the need for building new power plants as well as helping to save our environment.

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## THE JAVITS-WAGNER-O'DAY PROGRAM WORKS FOR AMERICA

### HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BURR. Mr. Speaker, for the past 64 years the Javits-Wagner-O'Day Program has empowered Americans who are blind or severely disabled by providing them with a diverse set of employment opportunities. Today, 38,000 disabled Americans are realizing their potential by working in their local communities under this program. These Americans are proud to provide the Federal Government and the U.S. Military with a wide array of SKILCRAFT® brand and other program products and services. The Program prides itself on delivering high-quality products and services at competitive prices in the most convenient way possible.

The Javits-Wagner-O'Day Program includes, among other things, the following product categories: office supply, military-specific, safety, maintenance, repair, medical-surgical, janitorial-sanitation, and customization. The services that are provided to federal and military customers include, but are not limited to, call center and switchboard operation, military base and federal office building supply centers, CD-ROM duplication-replication, data entry, document imaging and grounds care.

I rise today in support of the Javits-Wagner-O'Day Program and the opportunities it provides for an underemployed population of hard-working Americans. Sales of these products and services are enabling more disabled Americans to have the opportunity to become full members of society, including paying into the tax base rather than taking from it. Today in Winston-Salem, North Carolina, 127 blind Americans are employed under the Program, and are producing quality items and services for federal customers.

The Javits-Wagner-O'Day Program is administered by the Committee for Purchase from People Who Are Blind or Severely Disabled (appointed by the President), with much assistance from National Industries for the Blind, NIB, and NISH, which serves people with a wide range of disabilities. More than 650 local nonprofit agencies associated with NIB and NISH employ people who are blind or disabled to produce the products and offer the services authorized for sale to the federal government under the Program.

The Javits-Wagner-O'Day Program is a great illustration of a successful partnership, a partnership that has the ability to grow with the changing procurement environment within the federal government.

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## EDITORIAL BY LT. COL. CRAIG MAYER

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. SHUSTER. Mr. Speaker, I rise today to bring to my colleagues' attention an editorial written by Lieutenant Colonel Craig Mayer (ret.) of Bedford, Pennsylvania. Lt. Col. Mayer is a former U.S. Department of Defense attache and served as a member of the United States Marines during the Vietnam War. On March 7, 2003 Colonel Mayer wrote an eloquent editorial that describes not only his reflections of war, but also made a compelling case in support of military action against Saddam Hussein. I urge my colleagues to keep the following article in mind as the debate concerning Iraq continues;

When I think of America going to war with Iraq, what comes to mind first is the distinct, sickeningly sweet smell and the feel of dark, sticky blood as I helped drag a horribly wounded young Marine to a medevac helicopter. And the memory of picking up the young Marine's boot—most of his lower leg still in it—and tossing it into the helicopter. It's the odor of gunpowder and sweat, screams of agony, a green jungle haze, the confusing noise of whirling helicopter blades, Viet Cong machine gun fire, and gasping, wide-eyed men.

I suffer no illusions about the real costs of war and have no impulse to go fight again or send others into the hellish experience I survived in Vietnam.

Why then should we indulge this obscenity again with Iraq? What is at stake? And is it worth the sacrifice?

The debate on the impending war is more, much more, about power and competing worldviews—within America and within the community of nations—than it is or ever was about Saddam's threats and misadventures. The issue is not really about inspections, adequate justification, sham cooperation, or any sincere belief that Saddam Hussein will ever willingly disarm, the debate is about the constraint of American power.

Iraq is the stage for a test of those worldviews.

One view seeks to avoid the use of military power to bring about the rule of law and instead relies on persuasion, negotiation, cooperation, and international institutions. It rationalizes and tolerates threats because its proponents really can't do anything about them. This view is borne of decades of global security and prosperity provided by the United States. It is a view grounded in strategic weakness.

The competing view, the American power view, looks to military power along with the means and willingness to use it as essential for a state of security to create peaceful solutions and the rule of law to govern and grow. It sees international forums and processes as less than reliable. It perceives risks differently and is less willing to tolerate threats because it can do something about them. It is a position grounded in strategic strength.

These opposing views are now colliding. Both views desire the rule of law and peaceful solutions to international problems, but their means are at odds.

Those nations and people of the power adverse view will encounter and confront us simply because we are the only power on the world stage with the means to shape and effect global security. Only by constraining American power can they gain a relative advantage and advance or validate their view. Since the end of World War II, Europe and much of the rest of the world has depended on and has been responsive to American power and our ability to globally project that power—be it in economic or military terms. Our power is now enormous and unprecedented in world history.

Adherents of the power adverse view, most notably France, Germany, and less so Russia, have chosen the Iraq crisis and the forums of the U.N. Security Council and NATO to confront us. We should not be misled by their public assertions or how they or their supporters would like to frame the international debate in the important days ahead. Behind all their coming challenges to intelligence information, appeals for peace, attempts at redefining compliance, pleas for delays, excuses for Iraqi resistance, and bleats about smoking guns is the objective of constraining American power—irrespective of any concerns about Iraq. This is the central and fundamental objective.

There is overwhelming justification for the coerced disarmament of Iraq—the justification threshold was passed years ago.

No greater damage could be done to the maintenance of a stable world order and global security than to succumb to the instincts and wants of those confronting us. The stakes in this encounter are quite high—perhaps more so than at anytime in the past half century. If the power adverse proponents prevail, it will weaken their security and severely undermine the effectiveness of the U.N. Security Council and NATO—paradoxically, the very institutions they hope to rely on. If they prevail, global security decisions will be thrown into forums and processes that promise little more than delay, equivocation, indecision, and paralysis. Something the world cannot afford in the face of immediate threats and mounting dangers. At the same time, France, Germany, and Russia are not our enemies—they are simply wrong. It is not time for their view to prevail and if history is a teacher that time will probably never come.

The young Marine that I helped drag to a helicopter 34 years ago died a few hours after he was wounded. Our company commander wrote a letter to his parents. The family was presented a purple heart and their son's name was chiseled into the marble monument in Washington.

In the impending war dying is at stake, suffering is at stake, and misery for loved ones left behind is at stake. It is obscene. But the harsh reality is that we live in an anarchic world of walls and the security and defense of a progressive, stable world order depends on military might and this is one of the roles we play. I know that these words provide little solace for the parents of a young Marine we lost years ago. I know that they will not fill the voids in our lives we now feel and that might be created in the days and weeks ahead. I only hope that they might help.

If I thought the impending War with Iraq was a contemporary Vietnam, an ill-conceived and misunderstood venture, I would be one of the first to object. It isn't, and I do not object.

## IN REMEMBRANCE OF ZORAN DJINDJIC

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. WELDON of Pennsylvania. Mr. Speaker, I wish to express my sincere condolences both to the family of Prime Minister Zoran Djindjic and to the nation of Serbia-Montenegro. His assassination cannot be allowed to stop the process of democracy and reform that Mr. Djindjic promised.

The world mourns the loss of a true democrat and lover of freedom; having dedicated his life to these ideals, Mr. Djindjic was willing to risk everything to bring freedom to his homeland. Both during their time in opposition and after the Democratic Party came to power, a rise in which he played a major role, Mr. Djindjic stood not only for democracy in Serbia-Montenegro, but also for justice, as demonstrated by his critical role in bringing Slobodan Milosevic to justice.

Prime Minister Djindjic worked tirelessly to bring Serbia-Montenegro out of the international isolation forced upon it by the regime of Milosevic. Toward this goal, I met with the Prime Minister in January of this year, and I was quite impressed by both his commitment to democracy in Serbia-Montenegro and to making it an integral part of Europe and the world.

In order to ensure democracy and justice, Mr. Djindjic also was a committed opponent of organized crime, the scourge of so many democratizing states. Without political leaders commited not only to the ideals of democracy, but also to a basic foundation of justice, a free society cannot flourish. Prime Minister Djindjic was a prime example of just such a political leader—one that Serbia-Montenegro, and the world, needs more of.

Yesterday was truly a sad day for democracy, one of its champions fell; but we cannot let the crimes of a few undue the good of lifetime devoted to freedom. Although the world has lost Zoran Djindjic, we must all make sure that his dream lives on.

## RECOGNIZING THE LEADERS OF CHURCH OF GOD IN CHRIST FOR THEIR LETTER TO PRESIDENT BUSH REGARDING AFFIRMATIVE ACTION

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. LEE. Mr. Speaker, I rise today to acknowledge and commend the leaders of the community-serving Church of God in Christ on their poignant and powerful letter to President Bush regarding Affirmative Action. I encourage my colleagues here in the House and all Americans to read this important letter.

Mr. Speaker, at this point I wish to insert the letter into the RECORD.

CHURCH OF GOD IN CHRIST, INC.,
*Memphis, TN, January 23, 2003.*

Hon. GEORGE W. BUSH, *President,*
*The White House,*
*Washington, DC.*

DEAR PRESIDENT BUSH: We write to you as the leaders of the community-serving Church Of God In Christ on the matter of Affirmative Action and the recent actions of your Administration toward millions of Blacks in America seeking equal opportunity and participation in the economic, cultural and political life of the nation.

We are deeply disappointed in the actions of your Administration regarding the legal briefs that your Justice Department submitted to the Supreme Court opposing equal opportunity for Blacks in the form of Affirmative Action as practiced by the University of Michigan.

We note that the Republican Party has in recent years failed to speak with a unified voice in favor of redressing the grave effects of the historic wrongs committed against African-Americans in this country, which continue to reduce and constrain the life opportunities of their descendants. Despite the past strong leadership of Republicans such as President Richard M. Nixon, who implemented robust and vigorous measures in employment, minority contracting and university admissions to wipe away the effects of past anti-Black discrimination, we now observe that since the 1980's, your party has rapidly retreated from the historic Republican ideals of equal opportunity and racial justice.

We see that your Secretary of State, General Colin Powell, made a strong statement supporting intensive ongoing implementation of Affirmative Action. This seems to put him at odds with others in your Administration and party, as well as many of your proposed judicial nominees, on the best way to redress the continuing exclusion of Blacks from the economic benefits of American Society. We support Secretary Powell's position and think that other Republicans would do well to follow his lead in standing for strong support of Affirmative Action.

The reason Affirmative Action is needed is due to the historic experience of Blacks in America. The experience of Blacks in this country is without analogue and is unique due to the nature of American enslavement of millions of Blacks during the founding of the republic and thereafter. The political, social, cultural and economic effect of racial exclusion because of slavery, which continued in the form of Jim Crow laws and currently operate through more subtle forms of racial prejudice, result in Black Americans having a special and unique set of claims for redress by the body politic.

This month you celebrated the legacy of the Reverend Dr. Martin Luther King, Jr., and pledged yourself to renewed efforts toward equal opportunity. The way to turn your words into something beyond empty rhetoric is to support concrete action towards equal opportunity in the form of Affirmative Action. Even Dr. King called for "compensatory measures" to help Blacks approach parity in employment opportunities, income wealth, entrepreneurship and other indicators of well being in this country. While we believe that race should not be the only factor in Affirmative Action efforts, we do believe that it is valid to take account of race as a factor when opportunities are distributed among people in society today.

With greater effort expended by your Administration and others yet to come, we look forward to the day when Affirmative Action will no longer be necessary. That will be when America has finally attained the level of equal opportunity, inclusion and sense of beloved community for all citizens.

The Black community seeks the opportunity to be strengthened so that eventually it can stand upon its own feet, having the effects of past racial exclusion and discrimination erased and able to enter into the fullness of the blessings of America. Your Administration's active support of the Black community in this matter could be among the greatest legacies of the party of Lincoln.

We pledge to pray for you and your administration that you might encounter the Divine Wisdom in this matter.

In Christ,

G. E. PATTERSON,
*Presiding Bishop.*

The General Board: C. E. Blake; C. D. Owens; L. E. Willis; J. N. Haynes; P. A. Brooks; G. D. McKinney; W. W. Hamilton; L. R. Anderson; N. W. Wells, R. L. H. Winbush; S. L. Green, Jr.

## IN HONOR AND REMEMBRANCE OF MARY SLAMA

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mary Slama—Beloved wife, cherished mother and grandmother, and friend and mentor to many.

Mary leaves behind a legacy of professionalism, volunteerism, journalistic talent, and sincere concern for her community. Driven by a passion for learning and personal growth, Mary attained a Bachelor's degree and later a Master's degree in English. She led the West Life newspaper as reporter, then editor, with fairness, accuracy, wit and heart. Mary kept west side readers well informed and updated on news stories ranging from local community and political news to human interest stories.

Mary's high level of energy and great enthusiasm for life radiated throughout her every endeavor. Her vital work on behalf of my Congressional campaign raised the spirits of those around her, and inspired others to do their best. Moreover, Mary's wonderful sense of humor and kind nature consistently served to soften even the harshest of personalities.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Mary Slama—Community advocate, and friend and mentor to countless, including me. I offer my deepest condolences to her beloved husband, Bill; beloved son and daughter-in-law, Tim and Marilyn; cherished grandchildren Natalie and Patrick, and to her many colleagues and friends. Her kind nature, journalistic talent and ability to connect with others have made our corner of the world a better place. Mary Slama's friendship, significant work, and concern for our community will be remembered always.

## SPARE THE LIFE OF DEVINDER PAL SINGH BHULLAR

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BURTON of Indiana. Mr. Speaker, Devinder Singh Pal Bhullar faces the death penalty. He should be spared. His pending execution shows that the Indian constitution only protects the Hindu majority.

Bhullar was accused of being involved in a 1993 bombing near the offices of the Youth Congress in Delhi. 20 people were killed in that blast and Congress leader M.S. Bitta lost a leg.

This might be a justifiable sentence for such a crime except for a few small details. Mr. Bhullar was found "not guilty" by the presiding judge of a three-judge panel from India's Supreme Court. The judge directed that he be released. Apparently, that was not acceptable to the fundamentalist Hindu nationalist regime. So they tortured him to coerce him into signing a false confession which was subsequently retracted. Yet they are executing him on the basis of this forced confession.

This is offensive to anyone with a sense of justice. Mr. Speaker. This is not the way a democratic country does things. It is how criminal cases are handled in such models of democracy as Red China and Iraq. Meanwhile, Sajjan Kumar and H.K.L. Bhagat, the officials responsible for inciting the murders of thousands of Sikhs in Delhi, have never been brought to justice.

Unfortunately, this is typical of how India treats its minorities. Last year in Gujarat 2,000 to 5,000 Muslims were murdered by militant Hindu nationalists while police, under orders, stood by and did nothing. No one has been punished for this atrocity. Now police in Gujarat are demanding very intrusive information about Christians there. Meanwhile, two states have enacted laws prohibiting religious conversions—except to Hinduism, of course.

Police have murdered over a quarter of a million Sikhs, over 200,000 Christians in Nagaland, over 85,000 Muslims in Kashmir, and tens of thousands of Assamese, Bodos, Dalit "untouchables," Manipuris, Tamils, and other minorities. Indian forces were caught red-handed in a village in Kashmir trying to set fire to the Sikh Gurdwara and some homes there. Two studies have shown that Indian forces carried out the massacre of 35 Sikhs in Chithisinghpora three years ago this month.

Missionary Graham Staines and his two sons were murdered by being burned to death in their jeep while the killers surrounded the jeep and chanted "Victory to Hannuman." Missionary Joseph Cooper was severely beaten and had to spend a week in the hospital. Then he was expelled from the country for preaching. The widow of Mr. Staines was also expelled from India. Christian churches have been burned and schools and prayer halls have been violently attacked with impunity. There have been priests murdered and nuns raped.

In 1995, Indian police picked up human-rights activist Jaswant Singh Khalra did a study of cremation grounds in Punjab which showed that thousands of Sikhs have been picked up, tortured, murdered, then declared "unidentified" and secretly cremated. For his efforts, Khalra was picked up by the police and murdered while in police custody. More than 52,000 Sikhs sit in jail as political prisoners without charge or trial.

The time has come to stop our aid to India. We should also support the self-determination to which all peoples and nations are entitled. This is the only way to end atrocities such as these and to ensure peace, freedom, stability, and prosperity in South Asia.

Mr. Speaker, I would like to place the Council of Khalistan's outstanding press release on the Bhullar case into the RECORD.

DEVINDER PAL SINGH BHULLAR'S LIFE MUST BE SPARED

MINORITIES ELIMINATED, DIRECTLY OR BY COURTS

WASHINGTON, DC, Feb. 25, 2003.—The impending execution of Devinder Pal Singh Bhullar shows that the Constitution of India only protects the majority Hindu population, according to Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh struggle for independence from India. Dr. Aulakh called on the President of India to stop the execution. Bhullar was accused of a 1993 bomb blast near the Youth Congress office in Delhi in which 20 people were killed. Congress leader M.S. Bitta lost a leg in that attack.

The presiding Judge of a three-Judge bench in the Supreme Court of India found Professor Bhullar, a political activist, "Not Guilty" and directed that he be released. However, Professor Bhullar was convicted based on a forced confession obtained through torture, which was retracted. On that basis India wants to impose capital punishment on Professor Bhullar. Sajjan Kumar and H.K.L. Bhagat, who personally incited the murder of thousands of Sikhs in Delhi, go off scot-free without any punishment. Even by Indian standards, this is an outrageous miscarriage of justice.

"The Bhullar case is merely the latest example of how India eliminates minorities," said Dr. Aulakh. Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been picked up, tortured, and killed, then their bodies are declared unidentified and secretly cremated. Then Mr. Khalra was murdered in police custody. His body was not given to his family. Similarly, the police murdered former Jathedar of the Akal Takht Gurdev Singh Kaunke. His body was not handed over to his family.

Last spring the Indian police stood aside under orders while militant Hindus murdered 2,000 to 5,000 Muslims in Gujarat. Australian missionary Graham Staines was murdered a few years ago by VHP activists. Staines and his two young sons were burned to death while they slept in their jeep. Their killers surrounded the jeep and chanted "Victory to Hannuman," a Hindu god. After the murder, Staines' widow, who was working with lepers, was expelled from India. No one was ever punished for these atrocities. Nuns have been raped, priests have been murdered, and Christian churches have been burned by the fanatic, fundamentalist Hindu nationalist militants.

"It is clear from these actions that India is not the democracy it claims to be," said Dr. Aulakh. "Instead it is a tyrannical Hindu theocracy where minorities die or disappear," he said. "There is a consistent pattern of Indian government efforts to protect its tyrannical rule over the minorities of South Asia."

The Indian government has murdered over 250,000 Sikhs since 1984, more than 200,000 Christians since 1948, over 85,000 muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. More than 52,000 Sikhs are being held as political prisoners. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. No Sikh representative has ever signed the Indian constitution. The Council of Khalistan is the government pro tempore of Khalistan, the Sikh homeland. The Sikh Nation demands freedom for its homeland, Khalistan.

"Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sine qua non and India should allow a plebiscite for the freedom of the Sikh Nation and all the nations of South Asia," Dr. Aulakh said.

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## RECOGNIZING THE CONTRIBUTIONS OF THE HONORABLE MILTON B. ALLEN

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. CUMMINGS. Mr. Speaker, today I rise to pay respect to the life of a great man who passed away—my friend and mentor, the Honorable Milton B. Allen. Mr. Speaker, I rise today to ask my colleagues to join me in remembering the life of a brilliant man, the Honorable Milton B. Allen—a brilliant lawyer, judge, father, husband, mentor, community activist and leader. A life that ended last week when Judge Allen, at 85, died of cardiac arrest at his home in Windsor Hills.

Milton Allen was a man of humble beginnings, who rose to great heights as a polished lawyer and fair jurist. He attended Douglass High School in Baltimore, Maryland where he played third-string fullback on the football team and haunted the library. He read everything he could find. He later went on to Coppin State College to become a teacher.

"Simple reason," he said one day. "Teaching was about the only thing open to blacks then."

Mr. Speaker, Milton Allen was a teacher in the freedom schools of our time. As a young man in the Navy, Milton Allen taught other young men of color the skills that would allow them to advance in their military careers—this during a time when no men of color could advance past that of seaman. As a lawyer, he taught thousands of his neighbors how to find a path to justice within the arcane corridors of the law.

As Baltimore City's first African American State's Attorney—the first Black prosecutor in any major American city—Milton Allen taught our community that the pursuit of justice could, indeed, be "color-blind." He sued the city to desegregate "public" tennis courts and defended people who lost their jobs for attending public meetings where speakers included communist sympathizers, as he believed that free speech should be protected in America. He also sued the state to open "public" colleges to blacks.

Later in life as a judge on what would later become Baltimore's Circuit Court, Milton Allen helped many of the City's troubled youth by giving through his seasoned advice as a family court judge.

Mr. Speaker, I had the opportunity to work for Milton Allen after he had lost his re-election bid for State's Attorney. He had joined the law firm of Mitchell, Allen and Lee, and I served as the firm's law clerk. Mr. Speaker, Milton Allen, although always busy and always blazing a trail for righteousness, always found time to stop to engage even strangers in meaningful conversation. He was always giving helpful advice.

In fact, the advice and counsel that I received from Milton Allen went far beyond his contribution to the skills that made me a more capable attorney. Judge Allen taught young lawyers like me that our calling demanded constant devotion to integrity.

And Mr. Speaker, Judge Allen exemplified integrity. As Dr. Stephen Carter once observed:

> Persons of integrity know the difference between what is right and what is wrong. They stand up for what is right—even when that stand may place them in jeopardy. Persons of integrity persevere and lead—until the rest of the world catches on and catches up. And they are not afraid to proclaim their vision of what is right—so others can follow in their steps.

Dr. Carter could have been writing about my friend—and teacher—Judge Milton B. Allen. Judge Allen devoted his life to planting the seeds of justice within the human spirit. He taught us that, in a free society, the seeds of justice can take hold and grow.

Mr. Speaker—most important of all—Milton Allen taught my community that justice grows best in the shared soil of universal respect. The source of justice is the integrity that comes from our respect for each other as human beings. Milton Allen was a teacher and a friend. Our lives will be less for his passing—but we have been truly enriched by his living. Milton Allen paved the way for so many lawyers who never even had the privilege of knowing him.

In the words of the theologian, Max Lucado, "The great revivals and reformations that dot the history of humanity were never the work of just one person. Every movement is the sum of visionaries who have gone before, generations of uncompromised lives and non-negotiated truths. Faithful men and women who have led forceful lives." Mr. Allen was this kind of human being. And I will miss him.

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## WORKFORCE REINVESTMENT AND ADULT EDUCATION ACT OF 2003

### HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. MCKEON. Mr. Speaker, today, I am introducing the Workforce Reinvestment and Adult Education Act of 2003 to reauthorize the nation's job training system, as well as adult education and vocational rehabilitation programs. This legislation builds upon and improves the systems created in the Workforce Investment Act of 1998. We have worked closely with the Administration to craft legislation to continue to empower individuals in improving their careers.

In 1998, under the Education and the Workforce Committee's leadership, Congress passed the Workforce Investment Act to reform the nation's job training system that formerly was fragmented, contained overlapping programs, and did not serve either job seekers or employers well. WIA consolidated and integrated employment and training services at the local level in a more unified workforce development system. Local, business-led workforce investment boards direct the activities of the system.

One of the hallmarks of the new system is that, in order to encourage the development of comprehensive systems that improve services to both employers and job seekers, local services are provided through a one-stop delivery system. At the one-stop centers, assistance ranges from core services such as job search and placement assistance, access to job listings, and an initial assessment of skills and needs; intensive services such as comprehensive assessments and case management; and, if needed, occupational skills training.

The WIA system contains the federal government's primary programs for investment in our nation's workforce preparation. Even though the system is still maturing since its full implementation in July 2000, States and local areas have created comprehensive services and effective one-stop delivery systems. The system is serving the needs of unemployed workers seeking new jobs in this time of economic recovery. In addition, the training services provided through WIA are invaluable in helping employers find the workers they need in areas of the country facing skill shortages.

Nonetheless, there have been challenges with the system. There is a need to increase the financial contribution of the mandatory partners in the One-Stop Career Centers while at the same time increasing the service integration among the partner programs. This includes serving through the one-stop system special populations that have unique needs. We are concerned that administrative duplication remains in the system, resulting in unnecessary bureaucracy that dilutes the ability of states and local areas to address their communities' needs. There is also a need to simplify the local and state governance processes and to strengthen the private sector's role. Additionally, we need to increase training opportunities and improve performance accountability.

This bill also aims to streamline current WIA funding in order to provide more efficient and results-oriented services and programs, strengthen infrastructure of the one-stop delivery system, eliminate duplication, improve accountability, enhance the role of employers, and increase states' and local areas' flexibility.

This reauthorization provides an opportunity to build on and improve the current WIA system so that it can respond quickly and effectively to the changing needs of both workers and employers and further address the needs of special populations. It is designed to promote productive workforce development programs connected to the private sector, postsecondary education and training, and economic development systems in order to enhance the career opportunities and skills of the 21st century workforce. Our goal is to improve the locally driven system to ensure we provide the tools to meet local workforce development needs.

Title II of this Act is the Adult Basic Skills Act, to reauthorize state programs for adult education. The adult education program currently serves 2.7 million adults, almost half who are immigrants whose first language is not English. The program also serves those who are working to get a GED or its recognized equivalent, or are preparing for higher education. Adult basic education programs across the country are offered through schools, community centers, libraries, public housing, community colleges, and volunteer organizations, both public and private, profit and non-profit.

This bill makes changes to current law, and places more of a focus on the delivery of the basic skills of reading, writing, speaking, and math. Additionally, we have sought to ensure that instructional practices are based on scientific research. Provisions have been included to increase accountability for States and local providers to have measurable results in improving basic skills, GED graduates, and those entering higher education. It is important that there be increased coordination with the business community, and Labor Department programs.

The bill also makes improvements to the Rehabilitation Act of 1973, which provides services to help persons with physical and mental disabilities become employable and achieve full integration into society. The Vocational Rehabilitation (VR) title of this bill enhances and improves transition services, which promote the movement of a student served under the Individuals with Disabilities Education Act (IDEA) from school to post-school activities. This legislation also requires States to include in their State plans an assessment of the transition services provided through the VR system and of how those services are coordinated with such services under IDEA. Also included in the State plan are strategies the State will use to address the needs identified in the assessment of transitions services described above.

I look forward to working with the members of the Committee, other member of Congress, the Administration, and all stakeholders as we work to a craft legislation that will build upon and improve the systems we created in 1998 and continue to empower individuals in enhancing their career opportunities and skills in our 21st century workforce. I urge my colleagues to join me and the other original cosponsors in support of the Workforce Reinvestment and Adult Education Act of 2003.

## HONORING THE LIFE OF SAM KARAS

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. FARR. Mr. Speaker, I rise today to honor the life of Sam Karas. He passed away on February 26, in Monterey, California. He was an actor, an activist, a salesman, a storyteller, a singer, a dancer, a father, a husband and most notably, a friend. He is survived by his wife, Edie, his three daughters Penelope Lockhart, Judith Karas, and Rachel Holz, and four grandchildren.

Sam was born and raised in Chicago, Illinois, by a poor family of Greek immigrants. Growing up he loved three things: "The Shadow" pulp novels, apple pie and basketball. Upon graduating from high school, he moved to Monterey to serve as a 2nd lieutenant in the United States Army during World War II. Despite lacking a college education, Sam was able to quickly rise to the rank of 1st lieutenant, and his enrollment in the armed services was the beginning of what would be a lifelong dedication to public service.

Among others, Sam served on the board of trustees of the Monterey Peninsula Unified School District and was one of the original organizers and board members of the Human Rights Commission. Sam also served with the California Coastal Commission, the Natividad Medical Center Foundation, the Monterey Jazz and Pop Festivals, the Wharf Theater, the Monterey Film Commission, the California Film Commission, and the Monterey Peninsula College board of trustees. In addition, the ACLU, the NAACP, Monterey County, the Sierra Club, and the Carmel Meat Company, which he founded, have honored him.

Sam started this small meat company shortly after marrying his wife Edie in Monterey in 1944, and he sometimes cooked large pots of stew for the homeless along the railroad tracks. Owning this company gave him many other opportunities to reach out to the homeless, a cause that remained close to him over the next half a century and spurred him to become entrenched in the Monterey community.

It was frequently said that Sam represented the wrong communities of Monterey County, as he was mostly concerned with issues such as poverty and health care—issues pertinent to the Salinas Valley, not the Monterey Peninsula. Sometimes the trivial complaints of his constituents bothered him, but that was Sam's character: he wanted to help the people that truly needed helping. A smooth-talking, gladhanding politician he was not. Sam often came at his opponent with disheveled hair, fraying suits and sweaters, and a penchant to comment bluntly, but he never shied away from confrontation. He had an innate sense of right and wrong, and he pursued justice doggedly. He wanted the best for everybody.

The Central Coast of California has mountains and beaches, but on behalf of this House, I wish to celebrate the life of Sam Karas: a man whose spirit made Monterey County a scenic paradise and a more just society.

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## BRONZE STAR MEDAL TO MR. OTHO STONE

### HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. HOOLEY of Oregon. Mr. Speaker, on March 22, 2002 I had the distinct pleasure of presenting the Bronze Star Medal to one of my veteran constituents. Today, it is with deep sadness I would like to inform you and my colleagues that Mr. Otho Stone passed away last Friday. Mr. Stone was a WW II veteran who loved his country and served with honor and dignity. He received the honor of the Bronze Star while seeing action against our enemies during WW II.

Mr. Speaker, Mr. Stone asked for no special recognition for serving his country but he did ask that our country keep the promises made to all veterans who have served this great nation.

For their service and sacrifices our nation's soldiers and veterans deserve our eternal gratitude.

I know that Mr. Stone would be proud when I say that the men and women who have served our country so honorably know best that freedom is never free, that it is only won and defended with great sacrifices.

And we should honor all our veterans by keeping our promises to them.

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## TRIBUTE TO MR. WENDELL TAYLOR BUTLER

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BASS. Mr. Speaker, I rise to recognize my constituent, Mr. Wendell Taylor Butler and the contribution he made to our country during World War II as a contributor to the Manhattan District Project.

On January 19, 1942, President Franklin D. Roosevelt, approved a top-secret effort to produce an atomic weapon. An unprecedented alliance of industry, academia and government was formed, and in just twenty-seven months, the atomic bomb was produced. Over 140,000 men and women, both civilian and military, worked together in secret communities throughout the United States. Relatives could not even be trusted with the knowledge of their whereabouts or the type of work they were doing. These individuals represent the ingenuity, determination, and patriotic commitment that led our Nation to victory in World War II.

Mr. Butler was employed at Linde Air Products in Tonawanda, New York. This particular facility was used by the government for laboratory and pilot plant studies for uranium separation. The work accomplished at his location was vital for the successful completion of the project.

I ask my colleagues to join me in honoring Mr. Wendell Taylor Butler and the other men and women who remained at home to design, develop, and implement the discoveries of the Manhattan Project. Their dedication and devotion to our national security allowed them to carry out one of the most epic engineering and industrial ventures in our Nation's illustrious history.

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## COMMEMORATING THE 50TH ANNIVERSARY OF CUB SCOUT PACK 596 FROM ST. ALPHONSUS PARISH

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, today I rise in recognition of the 50th anniversary of Cub Scout Pack 596 from St. Alphonsus Parish in Greendale, Wisconsin. For the past five decades, the leaders, and members of Cub Scout Pack 596 have made invaluable contributions to their community, to Wisconsin, and to our country.

Since 1930, the Cub Scout have helped young boys learn new skills and civic responsibility. Character development, good citizenship, and personal achievement are among the ten purposes of cub scouting. Other goal include spiritual growth, family understanding, respectful relationships, sportsmanship and fitness, friendly service, and fun and adventure. Cub scouts earn merit badges in recognition for physical fitness and talent-building activities. As a former cub scout, I believe that the values I was taught as a member—respect for nature, for other people, and for ourselves—have helped to shape who I am today.

Pack 596 makes a difference in their community every year through programs such as Scouting for Food. In this program, scouts leave empty bags at homes in their neighborhood for the families to fill. The scouts then return the following weekend to take the food-filled bags to the local food pantry. Pack 596 also participates in a toy drive for needy children every Christmas. These boys have consistently worked to make the world a better place and steadfastly honored their motto to do their best.

Mr. Speaker, Cub Scout Pack 596 has served as a model for all cub scout packs for 50 years. They have set a high standard for cub scouts everywhere through their commitment to God and country and their dedication to helping develop the future leaders of our Nation.

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## COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL WILDLIFE REFUGE SYSTEM

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. KIND. Mr. Speaker, one hundred years ago, President Theodore Roosevelt displayed historic vision and took a bold step forward in his quest to protect our Nation's natural wonders. He decided that the plight of one group of birds on a scant five acres in Florida was important enough to warrant the protection of the Federal government. Roosevelt made this decision on March 14, 1903, continuing his commitment to protect American public lands. In creating a National Wildlife Refuge, however, Roosevelt brought the American public on a great ideological departure from the principles underlying our National Park System: While those lands are set aside for the enjoyment and appreciation of people, wildlife refuges are for the sole benefit of wildlife. This ideological leap was truly historic, and I commend President Roosevelt and celebrate his enduring legacy.

Since the first refuge was established in our State in 1912, the Wisconsin refuge system has become an integral part of life for our citizens. Our five wildlife refuges and two wetlands management districts attract nearly two million visitors each year. They provide critical habitat for our State's world-renowned wildlife resources, as well as opportunities for recreation and groundbreaking research.

Horicon Marsh, covering 32,000 acres, is the largest fresh water cattail marsh in the United States and is designated as a "wetland of national importance." Trempleleau, The Upper Mississippi River, and Horicon National Wildlife Refuges are designated as "globally important bird areas." And Necedah National Wildlife Refuge serves as the summer home for research experiments with the migration of highly endangered whooping cranes.

I wonder whether the President knew what he was setting in motion when he set aside those five seemingly inconsequential acres. Could he possibly have dreamed that such humble beginnings would flourish into the grand national wildlife refuge system that we boast today? That system now consists of more than 575 individual units and encompasses over 95 million acres. Refuges can be found in every State in the Union, protecting more than 250 threatened or endangered plants and animals, including such beloved and symbolic species as the manatee, bald eagle, and California jewelflower. These figures far exceed any expectations that President Roosevelt may have had. Our refuge system is truly a triumph of American vision and commitment to responsible stewardship of our unparalleled natural heritage.

I am proud to support the National Fish and Wildlife Service in its vital mission and grateful to be able to pass this legacy on to future generations of Americans.

## PAYING TRIBUTE TO: MR. BRIAN BRADY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise today in order to recognize Brian Brady of Grand Junction, Colorado. Brian is a gifted young man whose dedication and entrepreneurship are a credit to his community. Today, I would like to pay tribute to his efforts before this body of Congress and this nation.

As an active member of the Grand Junction community, Brian serves on a variety of local boards and works with many organizations including three of the largest and most active organizations in Mesa County: the Rotary, United Way and the Mesa County Crime Stoppers. Brian's company, Brady MicroTech, creates and maintains websites and is currently the Webmaster of the Gene Taylor's Sporting Goods website, in charge of everything from the creation of their online catalogue, to taking the photos of the store and maintaining customer relations. Brian has a lot on his plate, especially for a young man who is currently a senior at Central High School in Grand Junction.

A few years ago, Brian and few other young men, Ryan and Rob Cook, and Daniel Davis, approached a local radio station about a teen issues program. The radio station gave the boys an opportunity to broadcast their show, which became an amazing success. Currently, the show airs every Tuesday night from nine until ten o'clock and gives local teens a platform to discuss everything from local issues to the concerns on the mind of today's teenagers.

Brian is a true asset to the people of the Grand Valley, not only for his work with teens, but also for his contribution to local organizations and businesses. Mr. Speaker, it is with great pride that I recognize this capable and gifted young man before this body of Congress and this nation. His dedication to community service is a credit to Mesa County and the entire State of Colorado.

## COMMENDING THE 101ST AIRBORNE DIVISION OF THE UNITED STATES ARMY

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. TANNER. Mr. Speaker, I wish to recognize the honorable service of the men and women of the 101st Airborne Division of the United States Army, who are again answering this nation's call to duty. They have already been deployed to the Persian Gulf in preparation for whatever conflict may lie ahead.

While international debate continues over the appropriate course of action, Mr. Speaker, it is easy for us to forget about the men and women who are already on the front line, preparing for the unknown, ready to accept the orders that are handed down.

There are almost 20,000 men and women stationed at Fort Campbell, which sits on the border between Tennessee and Kentucky. Fort Campbell is home to the 101st Airborne Division "Screaming Eagles," under the command of Maj. Gen. David Petraeus. The 101st Airborne Division has a long history of outstanding military service, playing key roles in World War I, World War II, Korea, Vietnam and Desert Storm.

From an Apache fighter-helicopter, the "Screaming Eagles" fired the very first shots in the Gulf War, taking out Iraqi communications and paving the way for the ground attack. In the ground war, the 101st made the longest and largest air assault in world history into enemy territory. About 4,500 "Rakkasans" from the division's 3rd Brigade also spent six months in Afghanistan, fighting in Operation Anaconda, one of the toughest fronts in this nation's war on terrorism.

Now, the men and women of the 101st are again answering the call to duty. The "Screaming Eagles" have left behind their families and their homes to set up camp in the desert. These brave soldiers know that their country may need them, and they are ready to serve.

Mr. Speaker, I hope you will join me in applauding the dedication and duty demonstrated by the courageous men and women of the 101st Airborne Division of the United States Army. Their love for our country, the safety of its people and the protection of its liberties, is what makes this nation free and great.

## TRIBUTE TO JOY BRYSON

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to a wonderful person and former member of the Transportation and Infrastructure Committee staff who passed away a few weeks ago, Mrs. Joy Bryson. Just one year ago, I rose to congratulate Joy on her retirement. Her retirement was all too short. As Joy's family returns from taking her home to North Carolina, I rise to honor Joy once again.

Joy was a much-loved member of the T&I Committee Staff, and we all miss her very deeply. All of us, Member and staff alike, suffered with her through her long ordeal with breast cancer and its permutations, a struggle that I know all too well from my own experience, losing my late wife, Jo, after an eight-and-a-half year battle with the same disease.

When in remission, Joy worked as an active advocate for breast cancer research and for cancer research and treatment. Joy was a very strong advocate for the work of the Breast Cancer Research, Treatment, and Education Center at George Washington University Hospital. She actively supported efforts in the private sector community to raise funds for the "mammavan" project of G.W. Hospital that helps provide mammograms for women in underserved areas of Washington, D.C., and the international community of the city.

Joy dealt with her long struggle with cancer privately. She did not want attention brought to her, which, in a way, was unfortunate, because many of us wanted to comfort, support, and console her. But, she carried on, with her loving family by her side, a very private campaign that she ultimately lost.

I ask all of you to keep her and her family—her husband, Lit, and her two children, Chris and Jeni—in your prayers. Keep those who are left behind in your prayers. They are the ones who need it most. Joy will be where her name suggests, in the joy of eternity, in the hands of our loving Father.

## COMMEMORATION OF TIBETAN UPRISING DAY

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### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. LANTOS. Mr. Speaker, I rise today to invite all my Colleagues to commemorate during this week the 44th anniversary of one of the most tragic events in Tibetan history. During the bloody "Lhasa Uprising" in 1959, courageous people were killed while standing up for the religious, political and cultural rights of all Tibetans. Throughout this uprising, many large Tibetan cities were destroyed by Chinese artillery, His Holiness the Dalai Lama was forced into exile for fear of his life and, according to Chinese statistics, nearly 87,000 Tibetans were killed, arrested or deported to labor camps.

The brutal crushing of the Lhasa Uprising tragically only further highlights the brutal suppression of the Tibetan people, which began with the Chinese invasion in 1948 and continues to this very day. Facing brave resistance after the invasion of Tibet, the People's Republic of China forced the Tibetan Government to accept a 17 point agreement in 1951 by threatening Tibet with further military force. The agreement made Tibet a part of China, but assured the people of Tibet that all political, cultural and religious institutions, including that of the Dalai Lama would be preserved. China has yet to stand by these promises. After systematic and ongoing violations of the agreement, a growing Tibetan rebellion began to reach a national scale.

The Chinese blamed His Holiness the Dalai Lama for the resistance and rumors began to stir of plans to kill or kidnap him in reaction to this rebellion. On March 10th, 1959 the people of Lhasa surrounded the Dalai Lama's Norbulingka compound in hopes to protect their leader from an almost certain death, and they also demanded that the Chinese leave Tibet. This day is remembered by the Tibetan Community around the world as "Tibetan Uprising Day." One week later, on March 17th, 1959, as feared by many, the People's Liberation Army began shelling the Dalai Lama's complex. Unbeknownst to the PLA the Dalai Lama had fled to India only a short 48 hours before the attack.

Mr. Speaker, the people of Tibet have faced persistent brutal oppression for nothing more than the crime of having different beliefs than those of the Chinese government. Since China's occupation of Tibet, the PRC has enforced its despotic rule with violence such as military occupation, population transfers and the destruction of Tibetan cultural and religious institutions. The people of Tibet have had almost every human right possible violated over the past 50 years. To this day, the PRC continues to violate the 17 point agreement and commit horrifying human rights abuses in Tibet. The citizens of this country suffer through arbitrary arrests, detention without trial, torture and persecution for speaking out peacefully on political and religious views.

As an American, I am proud to defend the Tibetan right to self-determination and recognize today as "Tibetan Uprising Day." In 2002, under the Tibetan Policy act, which I authorized, the US Congress articulated our support for the Dalai Lama's attempt to attain a negotiated settlement through means of dialogue and not violence. The fact that this atrocity has gone on for so long is completely outrageous and unacceptable. The people of Tibet had their lives stripped from them; everything they knew and loved was taken in an appalling manner. These people not only fought and died for their own freedom, but for the freedom of their children and all future Tibetans. In 1989, the international community recognized the tremendous contributions his Holiness has made to a negotiated settlement through non-violent means by awarding him the Nobel Peace Prize. I commend the Dalai Lama and his people for their determination and strength throughout this ordeal. On this day of remembrance I hope everyone will take a moment to reflect on the situation in Tibet, and also consider what we have done and what we can still do in the future to further assist this country in their struggle for a peaceful resolution.

# HOUSE OF REPRESENTATIVES—*Monday, March 17, 2003*

The House met at noon and was called to order by the Speaker pro tempore (Mr. CULBERSON).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 17, 2003.*

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

As the mounting tensions of war increase, we turn to You, Lord God Almighty, as our hope and salvation.

If the diplomatic corps could not resolve this conflict of intentions and deal with violations of U.N. accords peacefully, the possibilities of human combat seem inevitable. The darkness of war seems to descend upon us all.

Renew America in confident faith and deepen our commitment to seek peace as soon as possible. As You lead us through this surgical operation, keep the focus on a full recovery of healthy relationships in the Middle East and prevent a bloody hemorrhage.

Help us to realize it is never too late nor too early to begin a dialogue with opponents and all our efforts are in search for the way to a stable peace.

Protect and guide all American military forces, for we as people of faith across this country continue to claim You as sovereign Lord over this Nation, now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arizona (Mr. RENZI) come forward and lead the House in the Pledge of Allegiance.

Mr. RENZI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 162. An act to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. Con Res. 20. Concurrent resolution permitting the Chairman of the Committee on Rules and Administration of the Senate to designate another member of the Committee to serve on the Joint Committee on Printing in place of the Chairman.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 14, 2003.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 14, 2003 at 10:16 a.m.

That the Senate passed without amendment H. Con. Res. 85.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## HELP AMERICAN LIBERATORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RENZI) is recognized for 5 minutes.

Mr. RENZI. Mr. Speaker, in days when wars were fought with bows and arrows, the international doctrine of self-defense said that a nation should not go to war unless attacked. But in these days of weapons of mass destruction and in these days following September 11, we no longer enjoy such a privilege. Americans cannot gamble on the false hope that Saddam Hussein, who has already killed one million of his own people, will not team up with the al Qaeda terrorists who have the intention and the determination to kill a million Americans.

This lethal combination of Iraqi stockpiles of weapons of mass destruction and the al Qaeda network of international terrorists is too much to be left in the hands of the U.N. Security Council.

For those who think we have no reason to fight, no reason to ever go to war, I ask you to envision a Saddam Hussein who is the new hidden financier behind the al Qaeda network, a Saddam Hussein as a secret arms broker for the al Qaeda network, and a Saddam Hussein who has become the new leader of the al Qaeda network.

This is why Americans must choose to put their future in the hands of the American administration, in our own military. Our future and your children is dependent upon us and our Nation protecting itself. This wounded beast, the Iraqis, this wounded beast, the al Qaeda network, will team up and come after us like a wounded beast, like a wounded bear.

In addition, America lives by a moral obligation to lift up the weak, defend the oppressed, and free those too enslaved to free themselves. We come as liberators not conquerors. We have proven our just and true intentions in liberating other Islamic nations like Kuwait, like Bosnia, like Afghanistan. We have shown the Muslim world that we can help you be free and respect your faith.

So rise up, people of Iraq, overthrow the Butcher of Baghdad. Begin to dream now of how you can rebuild your nation, how you can choose to institute a representative form of government of your own choosing. You need not be content with the mediocrity imposed upon you. Your Iraqi brothers and sisters will return to your homeland from exile. They will help rebuild your nation. This is your chance, a second chance to breathe free. Rise up now and help the American liberators.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. RENZI, for 5 minutes, today.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 162. An act to provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes; to the Committee on Resources.

S. 222. An Act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Resources.

## ADJOURNMENT

Mr. RENZI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 18, 2003, at 12:30 p.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

*[The following Executive Communications are a corrected version of those that ran on Thursday, March 13, 2003]*

1130. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Payments for Cattle and Other Property Because of Tuberculosis [Docket No. 00-105-2] (RIN: 0579-AB36) received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1131. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Unshu Oranges From Honshu Island, Japan [Docket No. 02-108-1] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1132. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Aluminum tris (O-ethylphosphonate); Pesticide Tolerance [OPP-2002-0348; FRL-7292-6] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1133. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—1,3 Benzene Dicarboxylic Acid, 5-Sulfo-, 1,3-Dimethyl Ester, Sodium Salt, Polymer with 1,3-Benzene Dicarboxylic Acid, 1,4-Benzene Dicarboxylic Acid, Dimethyl 1,4-Benzene Dicarboxylate and 1,2-Ethanediol; Tolerance Exemption [OPP-2003-0037; FRL-7290-9] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1134. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pyriproxyfen; Pesticide Tolerance [OPP-2002-0345; FRL-7289-6] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1135. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing [OAR-2002-0086, FRL-7461-3] (RIN: 2060-AG93) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1136. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing [OAR-2002-0035; FRL-7461-8] (RIN: 2060-AG66) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1137. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks [Docket ID No. OAR-2002-0085, FRL-7462-3] (RIN: 2060-AH55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1138. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing [OAR-2002-0054 and OAR-2002-0055, FRL-7459-9] (RIN: 2060-A167 and RIN: 2060-A168) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1139. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing [OAR-2002-0088, FRL-7462-6] (RIN: 2060-AG68) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1140. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture [OAR-2002-0048-FRL-7462-1] (RIN: 2060-AG55) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1141. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products [OAR-2003-0002-FRL-7462-2] (RIN: 2060-AH02) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1142. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles [OAR2003-0014-FRL-7461-9] (RIN: 2060-AG98) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1143. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands [OAR-2002-0040-FRL-7461-4] (RIN: 2060-A174) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1144. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production [OAR-2002-0003: FRL-7461-7] (RIN: 2060-AE79) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1145. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Rhode Island; Negative Declaration [RI-1047a; FRL-7458-5] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1146. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing [AD-FRL-7463-2] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1147. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District [CA 245-0375a: FRL-7446-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1148. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing [OAR-2002-0083; FRL-7460-2] (RIN: 2060-AG48) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1149. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations [OAR-2002-0080; FRL-7461-1] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1150. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the

Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production [OAR-2002-0057; FRL-7460-1] (RIN: 2060-AH75) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1151. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2003 Harvest Specification for Groundfish [Docket No. 021122286-3036-02; I.D. 110602B] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1152. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2003 Harvest Specifications for Groundfish [Docket No. 021212307-3037-3037-02 I.D. 110602C] received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1153. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes Equipped with Rolls-Royce Model Trent 800 Series Engines [Docket No. 2002-NM-318-AD; Amendment 39-13027; AD 2003-03-03] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1154. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1155. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois [CGD08-02-020] (RIN: 2115-AE47) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1156. A letter from the Assistant Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Cheesequake Creek, NJ [CGD01-03-003] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-172-AD; Amendment 39-13033; AD 2003-03-09] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1158. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category [FRL-7462-8] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1159. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Modification of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Constuction Activity That Disturbs One to Five Acres of Land [7464-2] (RIN: 2040-AC82) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

*[Submitted March 17, 2003]*

1160. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests [DFARS Case 2002-D001] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1161. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Insurance of State Banks Chartered as Limited Liability Companies (RIN: 3064-AC53) received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1162. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1163. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7535] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1164. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7434] received March. 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1165. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1166. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1167. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1168. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule —. Changes in Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1169. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Suspension of Community Eligibility [Docket No. FEMA-7801] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1170. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7620] received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1171. A letter from the Deputy Congressional Liason, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Credit by Brokers and Dealers; List of Foreign Margin Stocks [Regulation T] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1172. A letter from the Chief Counsel (Foreign Assets Control), Department of the Treasury, transmitting the Department's final rule — Rules Governing Availability of Information — received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1173. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1174. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received March 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1175. A letter from the Secretary of the Interior, Department of the Interior, transmitting the Department's final rule — Subsistance Management Regulations for Public Lands in Alaska (RIN: 1018-AI88) received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1176. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Gulf Sturgeon [Docket No: I.D. 020522126-3051-02] (RIN: 0648-AQ03) received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1177. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Wildlife and Plants; Final Designations and Nondesignations of Critical Habitat for 42 Plant Species From the Island of Moloki, Hawaii (RIN: 1018-AH08) received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1178. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Rafts [Docket No. 99-NE-31-AD; Amendment 39-13035; AD 2003-03-11] (RIN: 2120-AA64) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1179. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; San Diego Bay [COTP San Diego 03-008] (RIN: 2115-AA97) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1180. A letter from the Board of Trustees, Federal Old-Age And Survivors Insurance And Disability Insurance Trust Funds, transmitting the 2003 Annual Report Of The Board Of Trustees Of The Federal Old-Age And Survivors Insurance And The Federal Disability Insurance Trust Funds, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2), and 1395t(b)(2); (H. Doc. No. 108—49); to the Committee on Ways and Means and ordered to be printed.

1181. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories (Rev. Rul. 2003-21) received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1182. A letter from the Board of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, transmitting the 2003 Annual Report Of The Boards Of Trustees Of The Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2), and 1395t(b)(2); (H. Doc. No. 108—48); jointly to the Committees on Ways and Means and Energy and Commerce, and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Omitted from the Record of Jan. 2, 2003]*

Mr. NEY: Committee on House Administration. Report of the Activities of the Committee on House Administration During the 107th Congress (Rept. 107-810). Referred to the Committee of the Whole House on the State of the Union.

*[Submitted on March 17, 2003]*

Mr. NUSSLE: Committe on the budget. House Concurrent Resolution 95. Resolution establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108-37). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

*[Omitted from the Record of March 13, 2003]*

Pursuant to clause 2 of rule XII the Committee on Energy and Commerce discharged. H.R. 877 referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HYDE (for himself, Mr. Lantos, Mr. Weldon of Florida, Ms. Lee, and Mr. Leach):

H.R. 1298. A bill to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; to the Committee on International Relations.

By Mr. BOEHLERT:

H.R. 1299. A bill to amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Science.

By Mr. TOM DAVIS of Virginia (for himself, Mr. Berman, Mr. Cannon, Mr. Frank of Massachusetts, Mr. Smith of New Jersey, Ms. Solis, Mr. Lincoln Diaz-Balart of Florida, Ms. Roybal-Allard, and Mr. Moran of Virginia):

H.R. 1300. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to identify and register certain Central Americans residing in the United States; to the Committee on the Judiciary.

By Mr. HOUGHTON (for himself, Mr. Allen, Mr. Boehlert, Mr. Pomeroy, Mr. Ramstad, Mr. Taylor of Mississippi, Mr. Quinn, Mr. Hinchey, Mr. English, Ms. Corrine Brown of Florida, Mr. McHugh, Mr. Moore, Mr. Upton, Mr. McNulty, Mr. Kennedy of Minnesota, Mr. Kildee, Mr. Simmons, Mr. Frank of Massachusetts, Mr. Reynolds, Mr. Dicks, Mrs. Emerson, Mr. Payne, Mr. Walsh, Mr. Frost, Mr. Murtha, Mr. Ross, Mr. Kind, Mr. Olver, Ms. McCollum, and Mr. Schiff):

H.R. 1301. A bill to amend the title XVIII of the Social Security Act to provide payment to Medicare ambulance suppliers of the full costs of providing such services, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANZULLO:

H. Res. 145. A resolution providing amounts for the expenses of the Committee on Small Business in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. NEY:

H. Res. 146. A resolution providing for the expenses of certain committees of the House of Representatives in the One Hundred Eighth Congress; to the Committee on House Administration.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Lynch, Mr. Boswell, Mr. Isakson, Mrs. Capps, Mrs. McCarthy of New York, and Mr. Kildee.

H.R. 21: Mr. Isakson.

H.R. 25: Mr. Deal of Georgia and Mr. Norwood.

H.R. 173: Mr. Boyd, Mr. Skelton, Mr. Fossella, Mr. Beauprez, Mr. Nadler, Ms. Schakowsky, Mr. Grijalva, Mr. Hostettler, Mr. Berman, and Mrs. Emerson.

H.R. 294: Mr. Paul.

H.R. 362: Ms. Harman and Mr. Smith of New Jersey.

H.R. 428: Ms. Ginny Brown-Waite of Florida, Mr. Gonzalez, Mr. Otter, Ms. Eddie Bernice Johnson of Texas, Mr. Smith of Texas, Mr. Upton, and Mr. Berman.

H.R. 589: Mr. Lampson, Mr. Houghton, Mr. Dreier, Mr. Davis of Tennessee, Mr. McHugh, and Mr. Murphy.

H.R. 857: Mr. LaTourette, Mr. Frank of Massachusetts, and Mr. Berman.

H.R. 1043: Mr. Bass.

H.R. 1068: Mr. Gordon, Mr. Bass, Mr. Berry, Ms. Baldwin, Mr. Engel, Mr. Putnam, and Mr. Wilson of South Carolina.

H. J. Res. 4: Mr. Sam Johnson of Texas, Mrs. Miller of Michigan, Mr. Pearce, and Mr. Cannon.

H. Res. 133: Mr. Rohrabacher, Mr. Rehberg, Mr. Brady of Texas, Mr. Beauprez, and Mr. Bass.

# SENATE—*Monday, March 17, 2003*

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Charles V. Antonicelli, St. Joseph's Church on Capitol Hill, Washington, DC.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray. Almighty God, source of all power and goodness, we give You thanks and praise this day for the many blessings You bestow on our country. Help us to be a beacon of hope and freedom to all nations.

Lord, look kindly on the Members of this august body. Give them wisdom and compassion, patience and endurance, so that they may meet the needs of Your people with justice and truth. Give them a sense of humble reverence for You and a sense of loving service to the people they have been elected to represent. Strengthen them with fortitude to make difficult decisions and courage to carry them through.

Dear God, bless these Senators in their deliberations this day. Keep them always from harm and watch over the people whom they serve. Help them to be a sign of Your care and protection to us always.

We ask this in Your holy name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with the time equally divided between the two leaders or their designees.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. GRASSLEY. Mr. President, there will be a period for morning business until 2 p.m. At that time, the Senate will begin consideration of S. Con. Res. 23, the budget resolution. By statute, there will be 50 hours of debate. So Senators should expect late nights and numerous votes throughout this week.

As previously announced, there will be no votes today. However, it is the leader's intention to complete action on this matter of the budget this week.

There will be a cloture vote on Mr. Estrada's nomination tomorrow. Senators will be notified as to the precise time of that vote as soon as the majority leader and minority leader have consulted.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Iowa.

## CELEBRATE AMERICAN AGRICULTURE

Mr. GRASSLEY. Mr. President, we have an opportunity this week, as we do every year, to celebrate American agriculture. This is the week we traditionally recognize. It is called National Agriculture Week.

Ask any friend or neighbor what is eating them and you are likely to get an earful about rising gas prices, military action in Iraq, the high cost of health care, prescription drugs, or the downturn in the U.S. economy.

In my most recent town meetings, I listened to Iowans express anxiety about job security, retirement security, health care security, energy security, national security, and homeland security. But never once did I have a single person in my State list as one of their concerns the concern of food security. That is because we in the United States are blessed with a rich agricultural bounty to provide more than enough food to feed U.S. consumers and a growing world population. American farmers are the most productive food producers in the world and, as a result, each American farmer can feed more than 120 people at home and abroad.

That is reason enough to give Americans an extra peace of mind. Yet I guess a majority of Americans take their food and how it got to their fork somewhat for granted. That is, in fact, a shame.

American agriculture serves an instrumental role in the life of every American. As George W. Bush has noted:

> A nation that can feed its people is a nation more secure.

Beyond the benefits to national security, American agriculture also anchors the economy because the production of food and fiber from the farm to the consumer represents one-fifth of the U.S. economic pie. It props up our balance of trade. Agricultural exports exceed $1 billion per week. It creates jobs. Twenty percent of America's workforce is employed in the food chain from production to processing, marketing, and retailing. It saves the American consumer money because each American consumer spends only 9 percent of their income on food, the lowest percentage in the world.

Every year in March those of us with interests in agriculture join forces to celebrate National Agriculture Week and spread the word about agriculture's affordable, high-quality abundance and its social, economic, and environmental influences on America.

Located in the heart of America's breadbasket, Iowa's agricultural heritage goes back many generations. Iowans appreciate how significant our food system is, not only to basic human existence, but to the State's economy and also to our way of life.

As the leading producer of corn, soybeans, hogs, and eggs in America, Iowa's high-quality agricultural bounty would make George Washington proud. The farmer and our first President, George Washington, once said:

> Agriculture is the most healthful, most useful, and most noble employment to man.

At the turn of the 21st century, Iowa is working to stay on the leading edge of the research and use its bounty to benefit biotechnology and advances in life science. Whether growing crops for pharmaceutical use or raising cattle capable of producing proteins that can be used for human drug therapies, Iowa has significant potential to create good, high-paying jobs and reap economic benefits in ways unimaginable at the turn of the last century when the production of food was all that was on farmers' minds.

With several farmer-owned ethanol plants up and running, Iowa also is fueling local economic activity and helping to increase our energy independence by turning home-grown corn into ethanol, lessening our dependence upon a foreign source such as Iraq, for instance.

As a life-long family farmer, I take advantage of every opportunity in Washington, DC, in Congress, like now in this Senate Chamber, to serve as a farmer's advocate because I want to make sure that family farmers' voices are heard at the policy tables in Washington. Notwithstanding the need to keep our food production and supply system safe from sabotage, Americans are blessed to live in a Nation where food security does not mean wondering if there is enough food available to feed one's family every day.

National Agriculture Week, March 16 to 22, is a good opportunity to showcase American agriculture and to give thanks to those who work hard to get high quality, affordable food from the farm to our table. I hope every one of those people living in urban America who might think that food grows in super markets rather than on farms would give a thought to the usefulness of the family farm and what it contributes to the quality of life of Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I first want to commend the Senator for his eloquent statement. I think it is always important to remind Americans, no matter where they live, of the productivity of American agriculture and the importance, particularly, of our family farmers. There is no one who is a greater advocate for America's farmers than the Senator from Iowa. So I am very pleased to have had the privilege of hearing his comments today.

(The remarks of Ms. COLLINS pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## POST-BALANCED BUDGET ACT

Ms. COLLINS. Mr. President, I want to discuss the upcoming budget resolution and its impact on home health agencies. According to the Congressional Budget Office, the Post-Balanced Budget Act reductions in home health care have totaled more than $72 billion between fiscal years 1998 and 2002. This is more than four times the $16 billion that CBO originally estimated for that time period and it is a clear indication that the Medicare home health cutbacks have been far deeper than Congress ever intended.

As a consequence of these reductions, cost-efficient home health agencies across the country have experienced acute financial difficulties and cashflow problems which have inhibited their ability to deliver vital care. Home health spending has been cut in half since 1997. More than 3,400 home health care agencies have either closed their doors or stopped serving Medicare patients. Moreover, the number of Medicare patients receiving home health care nationwide has dropped by 1.3 million, more than a third. This points out the most central and critical issue: Cuts of this magnitude simply cannot be sustained without ultimately affecting patient care, without ultimately diminishing the provision of care to some of the most vulnerable citizens in our Nation.

It, therefore, is my intent to offer an amendment to the budget resolution this week calling on the Senate to stabilize and promote fairness in Medicare home health reimbursements by avoiding further cuts in home health spending, preserving the full market basket update, and restoring funding for this important benefit, including the extension of the 10 percent rural add-on reimbursement I have discussed today. I hope all of my colleagues will join me in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I will make a few comments in morning business. I agree with the Senator from Maine. As cochairman of the Rural Health Caucus in the Senate, we have been working for a very long time and will continue to work for equity payments between urban and rural areas. In this instance, in-home health care costs are often higher in rural areas.

## ENDANGERED SPECIES ACT REFORM

Mr. THOMAS. Mr. President, I will talk a moment about an issue that has been important to Wyoming and to the entire country. As in many cases, the things we do here and the national laws we pass have different effects in different places. Wyoming, being a rather large State, a rural State, is 50 percent owned by the Federal Government. When we talk about endangered species, the program works much differently than it does in Delaware. There needs to be a certain amount of flexibility, as is the case with many things we do.

I am for endangered species acts. It is proper we have programs that protect various endangered species, whether they be plants or animals. That should continue. However, we have been in this program now since about 1970 and there are, from our experience, changes we ought to consider. I am convinced this program needs some kind of change.

Unfortunately, the results we have had are not the kind of results we intended. There has been a large amount of listing of endangered species but very little recovery. Of course, the purpose, the bottom line, is intended to protect special species and to recover them so they are self-supporting. We are hopeful we can strengthen the program to some degree so we can emphasize the recovery rather than simply the listing. The listing has an impact, particularly where there are interspersed private and public lands. What is done in public lands affects those on private lands.

Because of the way lands were developed in the West with the Homestead Act, part of the lands were homesteaded and are now private. Those that were public are used by those folks with leases and they intermingle. It is an overlapping issue.

We have had several experiences in our State and particularly with the States surrounding Yellowstone Park—Idaho, Montana, and Wyoming—particularly with grizzly bears. Everyone recognizes the importance and wants to maintain the grizzly bear. They were developed in the park to refurbish them. We have long since, several years ago, surpassed the numbers in the plan for total recovery numbers, but they are still not de-listed; they are still listed and treated as endangered because we cannot come together on what the range ought to be. We cannot figure it out to get them de-listed.

The same thing is true with wolves. We have wolves that were there years ago and they left. The Park Service reimported them from Canada and put them in Yellowstone Park. We knew they would not stay in Yellowstone Park and, of course, they did not. We have the same sort of problem with a predatory animal that is now in Wyoming, Montana, and Idaho, and it is managed as an endangered species. For people who have property at risk, sometimes even humans at risk, there is not much that can be done as long as these critters are endangered.

We seek to get a plan so they can be endangered in Yellowstone Park, but the States surrounding can have a plan to manage the animals so there is some control. We need to shift it. Under the program that very seldom happens.

This program has been around for about 30 years. Most people would be surprised to know there has been over 1,000 animal species and 750 plant species that have been listed under the act. There have been only about 15 animals recovered. The emphasis has been on the listing, and continuing to be listed, rather than to find a way to get them recovered, which is what it is all about.

My bill would continue to have the program and would strengthen the program rather than weaken it. It did two fairly basic things. One, it requires in the listing process there be substantive and substantial scientific information. Animals can currently be listed easily by nomination, sometimes without sufficient documentation of the facts. That is clear with the so-called jumping mouse in eastern Wyoming. After it was listed, no one could find evidence it was actually there. So there really was not any scientific and useful evidence before being listed. That ought to be changed.

In addition, when there is a listing, there has to be a plan for recovery. So the range of the animal or plant is known. We know the numbers, and when appropriate, they will be de-listed.

I introduced a bill now before the Congress. I hope we can take it up in the Committee on Environment and Public Works. Senator CRAIG and Senator HAGEL are currently cosponsors.

We are circulating materials and have quite a bit of support. Interestingly enough, the group that was in my office last week that represents shopping centers was very much in favor of this bill. I was pleased but surprised.

This impacts local land owners and public land managers and impacts communities and State governments particularly. We can make the program useful but also workable for the people who live in the area.

We have listed over 1,800 species, including plants and animals, and there have been only 15 recoveries. There is something wrong with that. We need to look at that. Hopefully, we will have a chance to make some changes in the committee and in the Senate.

I ask unanimous consent to have printed in the RECORD some pertinent information.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. FISH & WILDLIFE SERVICE: THREATENED AND ENDANGERED SPECIES SYSTEM (TESS)—LISTINGS BY STATE AND TERRITORY AS OF MARCH 4, 2003

WYOMING

Notes:

Displays one record per species or population.

Includes experimental populations and similarity of appearance listings.

The range of a listed population does not extend beyond the states in which that population is defined.

Includes non-testing sea turtles and whales in State/Territory coastal waters.

Includes species or populations under the sole jurisdiction of the National Marine Fisheries Service.

*Animals—14*

Bear, grizzly lower 48 States, except where listed as an experimental population (*Ursus arctos horribilis*);

Crane, whooping (except where XN) (*Grus americana*);

Crane, whooping U.S.A. (CO, ID, FL, NM, UT, and the western half of Wyoming) (*Grus americana*);

Dace, Kendall Warm Springs (*Rhinichthys osculus thermalis*);

Eagle, bald (lower 48 States) (*Haliaeetus leucocephalus*);

Ferret, black-footed (except where XN) (*Mustela nigripes*);

Ferret, black-footed U.S.A. (specific portions of AZ, CO, MT, SD, UT, and WY, see 17.84(g)) (*Mustela nigripes*);

Lynx, Canada (lower 48 States DPS) (*Lynx canadensis*);

Mouse, Preble's meadow jumping (*Zapus hudsonius preblei*);

Pikeminnow (=squawfish), Colorado (except Salt and Verde R. drainages, AZ) (*Ptychocheilus lucius*);

Sucker, razorback (*Xyrauchen texanus*);

Toad, Wyoming (*Bufo baxteri (=hemiophrys)*);

Wolf, gray (lower 48 States, except MN and where XN; Mexico) (*Canis lupus*); and

Wolf, gray [XN] (*Canis lupus*).

*Plants—4*

Butterfly plant, Colorado (*Guara neomexicana* var. *coloradensis*);

Penstemon, blowout (*Penstemon haydenii*);

Ladies'-tresses, Ute (*Spiranthes diluvialis*); and

Yellowhead, desert (*Yermo xanthocephalus*).

GENERAL STATISTICS FOR ENDANGERED SPECIES: DATA CURRENT AS OF MARCH 15, 2003

How many species in the United States are listed as threatened and endangered or proposed for listing as threatened or endangered?

517 U.S. species of animals are listed.

745 U.S. species of plants are listed.

29 U.S. species of animals are currently proposed for listing.

4 U.S. species of plants are currently proposed for listing.

How many listed species have designated critical habitat?

410 U.S. species have designated critical habitat.

How many candidate species are there?

117 species of animals are candidate species.

140 species of plants are candidate species.

How many habitat conservation plans (HCPs) have been approved?

415 habitat conservation plans have been approved.

How many listed species have approved recovery plans?

1,000 species have approved recovery plans.

THREATENED AND ENDANGERED SPECIES SYSTEM (TESS)

SUMMARY OF LISTED SPECIES—SPECIES AND RECOVERY PLANS AS OF MARCH 3, 2003

| Group | Endangered | | Threatened | | Total species | U.S. species with recovery plans** |
|---|---|---|---|---|---|---|
| | U.S. | Foreign | U.S. | Foreign | | |
| Mammals | 65 | 251 | 9 | 17 | 342 | 53 |
| Birds | 78 | 175 | 14 | 6 | 273 | 77 |
| Reptiles | 14 | 64 | 22 | 15 | 115 | 32 |
| Amphibians | 12 | 8 | 9 | 1 | 30 | 14 |
| Fishes | 71 | 11 | 44 | 0 | 126 | 96 |
| Clams | 62 | 2 | 8 | 0 | 72 | 57 |
| Snails | 21 | 1 | 11 | 0 | 33 | 22 |
| Insects | 35 | 4 | 9 | 0 | 48 | 29 |
| Arachnids | 12 | 0 | 0 | 0 | 12 | 5 |
| Crustaceans | 18 | 0 | 3 | 0 | 21 | 13 |
| Animal Subtotal | 388 | 516 | 129 | 39 | 1072 | 398 |
| Flowering Plants | 570 | 1 | 144 | 0 | 715 | 572 |
| Conifers and Cycads | 2 | 0 | 1 | 2 | 5 | 2 |
| Ferns and Allies | 24 | 0 | 2 | 0 | 26 | 26 |
| Lichens | 2 | 0 | 0 | 0 | 2 | 2 |
| Plant Subtotal | 598 | 1 | 147 | 2 | 748 | 602 |
| Grand Total | 986 | 517 | 276 | 41 | 1820* | 1000 |

Total U.S. Endangered—986 (388 animals, 598 plants).
Total U.S. Threatened—276 (129 animals, 147 plants).
Total U.S. Species—1262 (517 animals***, 745 plants).

*There are 1851 total listings (1288 U.S.). A listing is an E or a T in the "status" column of 50 CFR 17.11 or 17.12 (The Lists of Endangered and Threatened Wildlife and Plants). The following types of listings are combined as single counts in the table above: species listed both as threatened and endangered (dual status), and subunits of a single species listed as distinct population segments. Only the endangered population is tallied for dual status populations (except for the following: olive ridley sea turtle; for which only the threatened U.S. population is tallied). The dual status U.S. species that are tallied endangered are: chinook salmon, gray wolf, green sea turtle, piping Plover, roseate tern, sockeye salmon, steelhead, Steller sea-lion. The dual status foreign species that are tallied as endangered are: argali, chimpanzee, leopard, saltwater crocodile. Distinct population segments tallied as one include: California tiger salamander, chinook salmon, chum salmon, coho salmon, steelhead. Entries that represent entire genera or families include: African viviparous toads, gibbons, lemurs, musk deer, Oahu tree snails, sifakas, uakari.

**There are 561 distinct approved recovery plans. Some recovery plans cover more than one species, and a few species have separate plans covering different parts of their ranges. Recovery plans are drawn up only for listed species that occur in the United States.

***Nine animal species have dual status in the U.S.

THREATHENED AND ENDANGERED SPECIES SYSTEM (TESS)

DELISTED SPECIES REPORT AS OF MARCH 15, 2003

| Date species first listed | Date delisted | Species name | Reason delisted |
|---|---|---|---|
| 03/11/1967 | 06/04/1987 | Alligator, American (Alligator mississippiensis) | Recovered. |
| 02/17/1984 | 02/06/1996 | Bidens, cuneate (Bidens cuneata) | Taxonomic revision. |
| 04/28/1976 | 08/31/1984 | Butterfly, Bahama swallowtail (Heraclides andraemon bonhotei) | Act amendment. |
| 10/26/1979 | 06/24/1999 | Cactus Lloyd's hedgehog (Echinocereus lloydii) | Taxonomic revision. |
| 11/07/1979 | 09/22/1993 | Cactus, spineless hedgehog (Echinocereus triglochidiatus var. inemis | Not a listable entity. |
| 09/17/1980 | 08/27/2002 | Cinquefoil, Robbins' (Potentilla robbinsiana) | Recovered. |

DELISTED SPECIES REPORT AS OF MARCH 15, 2003—Continued

| Date species first listed | Date delisted | Species name | Reason delisted |
|---|---|---|---|
| 03/11/1967 | 09/02/1983 | Cisco, longiaw (Coregorus alpenae) | Extinct. |
| 06/02/1970 | 09/12/1985 | Dove, Palau ground (Gallicolumba canifrons) | Recovered. |
| 03/11/1967 | 07/25/1978 | Duck, Mexican (U.S.A. only) (Anas "diaz") | Taxonomic revision. |
| 06/02/1970 | 08/25/1999 | Falcon, American peregrine (Falco peregrinus anatum) | Recovered. |
| 06/02/1970 | 10/05/1994 | Falcon, Arctic peregrine (Falco peregrinus tundrius) | Recovered. |
| 06/02/1970 | 09/12/1985 | Flycatcher, Palau fantail (Rhipidura lepida) | Recovered. |
| 04/30/1980 | 12/04/1987 | Gambusia, Amistad (Gambusia amistadensis) | Extinct. |
| 04/29/1986 | 06/18/1993 | Globeberry, Tumamoc (Tumamoca macdougalii) | New information discovered. |
| 03/11/1967 | 03/20/2001 | Goose, Aleutian Canada (Branta canadensis leucopareia) | Recovered. |
| 10/11/1979 | 11/27/1989 | Hedgehog cactus, purple-spined (Echinocereus engelmanni var. purpureus) | Taxonomic revision. |
| 12/30/1974 | 03/09/1995 | Kangaroo, eastern gray (Macropus giganteus) | Recovered. |
| 12/30/1974 | 03/09/1995 | Kangaroo, red (Macropus rufus) | Recovered. |
| 12/30/1974 | 03/09/1995 | Kangaroo, western gray (Macropus fuliginosus) | Recovered. |
| 04/26/1978 | 09/14/1989 | Milk-vetch, Rydberg (Astragalus perianus) | Recovered. |
| 06/02/1970 | 09/12/1985 | Owl, Palau (Pyroglaux podargina) | Recovered. |
| 06/14/1976 | 01/09/1984 | Pearlymussels Sampson's (Epioblasma sampsoni) | Extinct. |
| 06/02/1970 | 02/04/1985 | Pelican, brown (U.S. Atlantic coast, FL, AL) (Pelecanus occidentalis) | Recovered. |
| 07/13/1982 | 09/22/1993 | Pennyroyal, Mckittrick (Hedeoma apiculatum) | New information discovered. |
| 03/11/1967 | 09/02/1983 | Pike, blue (Stizostedion vitreum glaucum) | Extinct. |
| 10/13/1970 | 01/15/1982 | Pupfish, Tecopa (Cyprinodon nevadensis calidae) | Extinct. |
| 09/26/1986 | 02/28/2000 | Shrew, Dismal Swamp southeastern (Sorex longirostris fisheri) | New information discovered. |
| 03/11/1967 | 12/12/1990 | Sparrow, dusky seaside (Ammodramus maritimus nigrescens) | Extinct. |
| 06/04/1973 | 10/12/1983 | Sparrow, Santa Barbara song (Melospiza melodia graminea) | Extinct. |
| 11/11/1977 | 11/22/1983 | Treefrog, pine barrens (FL pop.) (Hyla andersonii) | New information discovered. |
| 09/13/1996 | 04/26/2000 | Trout, coastal cutthroat (Umpqua R.) (Oncorhynchus clarki clarki) | Taxonomic revision. |
| 06/14/1976 | 02/29/1984 | Turtle, Indian flap-shelled (Lissemys punctata punctata) | Erroneous data. |
| 06/02/1970 | 06/16/1994 | Whale, gray (except where listed) (Eschrichtius robustus) | Recovered. |

The PRESIDING OFFICER (Mrs. DOLE). The Senator from New Mexico.

Mr. BINGAMAN. What is the order?

The PRESIDING OFFICER. The time for morning business is equally divided. The minority controls 28 minutes 19 seconds.

Mr. BINGAMAN. Madam President, I ask I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CRITICAL ECONOMIC SITUATION

Mr. BINGAMAN. Madam President, I appreciate the chance to speak for a few minutes on the critical economic situation we are facing in the United States and the direct effect that low crude oil inventories, combined with high energy prices, are having on the American economy. This is a particularly important time to focus on this issue because of the impending conflict with Iraq that we all are keenly aware of.

We have a situation today of constrained supply of crucial products and very high prices. We saw nearly 3 million barrels of oil per day come off the market during the Venezuela crisis which began in December. This—combined with an unusually cold winter in the eastern part of the United States and refiners drawing down their crude oil inventories—has left crude oil and crude product markets extremely tight.

From a supply standpoint, we are operating on very thin margins. Any accident that unexpectedly shuts a refinery or interrupts flow through a major pipeline is capable of producing real shocks in our supply of these products. It has happened before. In 1996, a pipeline emergency blocked deliveries to refineries in the Midwest during a similar period of tight supplies. In the year 2000, a dock collapsed along the Intracoastal Waterway near Lake Charles, LA, curtailing supplies to two major gulf coast refineries.

The sharp increase in energy prices that we have seen so far this year has caused a major problem for our economy. The Nation's manufacturing sector continues to struggle. Consumers across America are faced with real hardships because of these high prices. Nearly all of the inflationary pressures that our economy is experiencing are coming from increased energy costs, which jumped 4.8 percent in January. They jumped an even sharper 7.4 percent in February—the largest 1-month jump since 1990. Excluding increases in the food and energy items, the core inflation index actually dropped 0.5 percent in February, instead of rising as it did.

The simple truth of the matter is this. Rising energy prices are keeping Americans from spending their hard-earned dollars elsewhere. Given the current energy price environment, consumers are likely to pay more than $200 billion in higher energy costs this year. This $200 billion works out to be about 2 percent of our gross domestic product, which is no small item.

The obvious question we need to be asking is, Where does this money come from? Companies are not hiring. In fact, they are laying people off.

A looming crisis that should worry all of us exists in the Nation's chemical industry. We are in danger of losing our domestic chemical industry as high natural gas prices push it to operate offshore. That, of course, will result in the loss of thousands of more good, high-paying American jobs.

U.S. oil and natural gas stocks are dangerously low and the risk that energy price spikes will continue to significantly damage our economy is a very real prospect.

Gasoline and diesel prices are at near decade highs. In fact, in my home State of New Mexico and across the country, diesel prices are at an all-time high—$1.75 per gallon today.

High diesel prices have a direct impact on the trucking industry. There was an article in the Albuquerque Journal this weekend that talked about the impact of high energy prices on consumers and on the trucking industry. I ask unanimous consent to have that article printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. In my home State, again, 12 percent of the State's population is estimated to be involved in the trucking industry. High diesel prices are shutting down small trucking companies every day. These are real economic effects. We are all well aware of the problems in the airline industry as well and the threatened bankruptcy of some of our major airlines; in part traceable to the high price of energy.

In our discussion of the current situation and use of the SPR, we have used several phrases. One—"Likely to cause a major adverse impact on the national economy. . . ."—that description matches very closely the statutory provisions we wrote into the law when we created the Strategic Petroleum Reserve.

As I read that statute and look around at what is happening, it is clear to me that the time has come to act on that statutory authority. I have repeatedly asked the administration to clearly state what its policy is with regard to the Strategic Petroleum Reserve, and they have refused to do so as yet. It has become apparent from what has been said by the administration that it is not likely to use the Strategic Petroleum Reserve to correct this rapidly deteriorating situation. Rather, the administration seems to be relying on OPEC to increase production and to send that production to our shores.

At their meeting last week, OPEC Ministers asserted that they would provide additional supplies in the event that there is a war with Iraq, but they also made it clear that those new supplies would be costly.

The administration appreciates the promise of the Saudis to raise production in the event of a shortage, and I appreciate that as well. Some Saudi oil, evidently, is already on its way to United States ports. But the fact is, given the present situation, this is not enough. This is long-haul oil. We need oil in our system now to keep the system functioning and prevent refineries from running on empty.

We have a timing problem. If war begins—and we all are well aware it may begin at any time—Iraqi oil production and perhaps some Kuwaiti production will cease. This will cause a shortfall of somewhere between 2 percent and 6 percent of the world oil supply. We seem to be assuming that the Saudis can make up that difference, and it is possible that they can. Some analysts estimate however that they are already operating at full capacity.

But let's suppose they can make it up. They still have to get that oil here. It takes 40 days for an oil tanker to get here from the Persian Gulf, and we need to release oil from the SPR now in order to keep liquidity in the system, to keep our refineries running, and to prevent further harm to our economy. If it takes 40 days for Persian Gulf oil to reach our shores, and those tankers set sail perhaps 10 days ago, there are still 30 days left before we will see any of that oil.

The delivery process has started, but the extra oil is still far away at sea. We need liquidity in the system now, and I am saying the smart thing to do is to take out a little insurance policy to cover that period, from today until that oil can arrive.

I am urging the President to allow private companies to exchange up to 750,000 barrels of oil per day from the SPR, until this long-haul crude from the Middle East reaches our ports. Companies taking part in this swap that I am proposing would pay the Government a fee plus a future price differential for leasing the oil, and would replace the oil with an equivalent grade of crude within 6 to 12 months.

This modest release would complement and not compete with the oil that is headed this way. It would provide supply in a crucial time. I believe this swap drawdown could begin immediately and could continue until additional oil that OPEC producers have promised actually arrives.

This 750,000 barrels-per-day swap is well-short of the 4.3 million barrels-per-day of drawdown capacity we have within the Strategic Petroleum Reserve. I understand President Bush does not want to release all of the Strategic Petroleum Reserve as our Nation is on the brink of war. But what I am proposing leaves nearly 85 percent of that total SPR drawdown capacity untouched. We will be minimizing the damage to our economy by putting these extra barrels out there into the system now, and we will be helping to prevent a gasoline supply shortage and further price spikes.

The U.S. refining sector already is functioning at minimum operating levels. Without new crude supplies, refiners may be forced to reduce those production levels, leading to higher gasoline, higher jet fuel, and higher diesel prices, and causing even more damage to our economy.

Our economic security is at stake. We cannot afford not to do this. The American people also cannot afford for us not to do this. I urge the administration to seriously consider this proposal. In my view, it is time for us to act.

I yield the floor.

EXHIBIT 1

[From the Albuquerque Journal, Mar. 15, 2003]

### N.M. GETS SHOCK AT PUMP

(By Diane Velasco)

"It's just ridiculous," said Bill Andes of Albuquerque as he pumped $1.69-a-gallon gasoline into his company car at a Chevron station in the Northeast Heights.

Andes' reaction on Thursday evening was typical of many motorists as gasoline prices spiraled to record levels in Albuquerque, Las Cruces and statewide this week.

Andes doesn't pay personally for gasoline in his company car, but his wife's Suburban has a 60-gallon tank.

"$1.69 times 60—you do the math," he said.

Andes was paying the average statewide price of $1.69 a gallon for regular unleaded gasoline, five cents higher than a week earlier and a record. The previous record, set May 31, 2001, was $1.68 a gallon.

Albuquerque's average price per gallon was lower than the statewide average. In Albuquerque, the price climbed 6 cents to $1.66 a gallon for regular unleaded fuel, according to AAA New Mexico's Weekend Gas Watch, which was released Friday. The price tied a record set two years ago.

Santa Fe's average price rose 4 cents to $1.73 a gallon, higher than the national average of $1.72 but still below the city's record $1.75 set two years ago.

In Las Cruces, the average price climbed 3 cents last week to $1.63 a gallon, tying that city's record.

Rising prices have caused Albuquerque resident Lorenzo Gutierrez to think about parking his 1999 Dodge Ram pickup, which he said gets just 11 miles a gallon, and buying a motorcycle for daily use.

Nicole Monge used to spend $20 a week to fill her Toyota Tacoma pickup. Now she spends $26.

"The prices won't restrict my travel plans, but they will restrict my spending money," she said.

It could be worse.

Some places around the country are seeing prices above $2 per gallon.

Rising prices at the pumps are caused by the record-high price of crude oil, said Bob Gallagher, president of the New Mexico Oil and Gas Association.

At the New York Mercantile Exchange on Friday, April crude oil futures closed at $35.38 a barrel.

Crude now represents 50 percent of the cost of a gallon of gasoline, up from its usual 25 percent, he said.

The crude oil price has risen by $7 to $10 per barrel because of uncertainty about what will happen if the United States goes to war with Iraq.

"At this point, you have to start to become concerned that (price increases) will impact the daily activities of individuals as well as small and large businesses," Gallagher said.

"If daily activities are impacted, that will have a negative impact on the economy because there will be less money available to spend," he said. "I am hopeful we are all but topped out for the price of gasoline."

High gasoline prices will hinder Yvonne Shije's 45-mile trips from Zia Pueblo to Albuquerque. She will try to do all of her shopping at once to eliminate extra trips, she said.

The world political situation is also making her a more discerning consumer.

"I don't want to be purchasing gas from particular stations (whose companies) buy oil from Iraq," she said. "Why would you want to put money into their pockets when you could buy American?"

Diesel prices are also at an all-time high—more than $1.75 a gallon nationwide—said Vic Sheppard, managing director of the New Mexico Trucking Association.

"We see a lot of people just closing their doors in New Mexico," he said. "We hear daily of people just saying, 'I can't make it any more.'"

About 86 percent of the state's trucking firms have six or fewer trucks and are thus more vulnerable to price swings in fuel, Sheppard said.

While Sheppard does not know how many jobs have been lost in the industry since prices began spiraling, he estimates 12 percent of the state's population is involved in trucking, including warehousing and distribution.

Henry Pacheco, owner of Pacheco Trucking Co., is currently charging his customers a 5 percent surcharge to cover rising fuel costs. He said he plans to increase that to 7 percent next week.

"It's put a slowdown on us—I'm not getting as much freight as I used to because I added the surcharge to my rates," he said.

Although he is getting more calls, potential customers are reluctant to pay the surcharge, Pacheco said.

His 20-year-old Pacheco Trucking Co. has 10 trucks and employs as many as 14 drivers.

## IRAQ

Mr. LEVIN. Madam President, I would like to take a few minutes to speak about the current situation in Iraq.

There has been a broad consensus that Saddam Hussein is a murderous tyrant and that the world is a more dangerous place if he has weapons of mass destruction. There has also been consensus that he has not complied with his obligations under the U.N. ceasefire resolution at the end of the Gulf War and the numerous resolutions that followed, which called for him to disarm, particularly with respect to weapons of mass destruction. And there has been consensus that the U.N.

should enforce its resolutions more forcefully than it had in recent years. This led to passage of U.N. Security Council Resolution 1441 which resulted in the resumption of weapons inspections by the U.N.

Now there is division at the U.N.

Many members of the United Nations want to complete the inspections and keep Saddam contained and in a box until those inspections are completed. Just a few days ago, the President said he would call for a vote at the U.N. Security Council to authorize the use of force so that every member nation could state its position. The President has now apparently reversed himself in the face of a likely rejection by the Security Council.

The issue, until yesterday, was whether to proceed militarily without the support of the world community as expressed by the Security Council or, alternatively, to give the inspectors the months they said they need to complete their work, the position which many members of the Security Council apparently favor.

The President has apparently chosen the former course. I have felt that course was unwise for a number of reasons. By failing to rally the Security Council to a common view, we have lost the best chance to force Saddam Hussein to capitulate because it is likely that only if Saddam Hussein sees a united world at the other end of the barrel will he see no potential to turn the tide to his favor. A world solidly against him would be a world that an anti-U.S. propaganda machine would have great trouble stirring up. Just as in the gulf war, Saddam was unable to score any propaganda points when 28 nations, including a number of Muslim nations, provided military forces against him.

Another reason I have felt that proceeding without the U.N. would be unwise is we would lose some support in the region, with the resulting loss of staging areas and overflight rights, as is apparently the case in Turkey, which, in turn, could increase the length of the war and the number of casualties.

There are also serious long-term risks in proceeding without support of the world community as expressed through the U.N. Such an attack on Iraq would be viewed by much of the world as an attack by the West against an Islamic nation, rather than of the world against Saddam. We would fuel the anti-Americanism that is already so prevalent, and stoke the terrorism which is already our No. 1 threat.

Admiral Lowell Jacoby, the Director of the Defense Intelligence Agency, told the Senate Armed Services Committee in February:

> Much of the world is increasingly apprehensive about U.S. power and influence. Many are concerned about the expansion, consolidation, and dominance of American values, ideals, culture, and institutions. Reactions to this sensitivity to growing "Americanization" can range from mild "chafing" on the part of our friends and allies, to fear and violent rejection on the part of our adversaries. We should consider that these perceptions mixed with angst over perceived "U.S. unilateralism" will give rise to significant anti-American behavior.

I have also felt that proceeding without the U.N. would make it less likely that other nations will join us in the difficult tasks of providing stability in reconstructing Iraq in the aftermath of the conflict. U.N. Secretary General Kofi Annan recently said the following:

> If they [the members of the U.N. Security Council] cannot agree on a common position and if some of them launch action without the support of the [Security] Council, the legitimacy of this action will be widely questioned and it will not obtain the political support required to ensure its success in the long term, once the military phase is over.

The European Union's External Relations Commissioner, Chris Patten, likewise pointed out recently that "if it comes to war, it will be very much easier" to make a case for other countries to contribute to the reconstruction of Iraq "if there is no dispute about the legitimacy of the military action that has taken place."

Further, and of great significance, President Bush's principal basis for launching a military action is Iraq's failure to comply with U.N. Security Council Resolution 1441 and other U.N. resolutions. But how is it credible to invoke the Security Council's resolutions as a basis for our action and then ignore that same Security Council if it does not agree with us on the wisdom of military action at this time and does not give us the resolution we want?

Stressing the importance of a U.N. authorization does not give the U.N. a veto over American action. Nobody has a veto over America's foreign policy or decisionmaking. The decision is America's and America's alone. The issue is not whether we need the U.N.'s permission to use force; we don't. The issue is whether it would be wise to have the U.N.'s support and whether we will be more secure from terrorists and other threats if we initiate a military action against Iraq without the support of the world community. If there were an imminent threat against us, we would not—and should not—hesitate to use force. But attacking in the absence of an immediate threat is a very different scenario with very different risks.

The President has said that the U.N. will become irrelevant if it does not authorize member states to use military force at this time against Iraq. But the Security Council's decision in this matter, whichever way it would have gone, would have been highly relevant.

If the Security Council authorized force by member states, that would be relevant as a statement of the world community against Saddam. But if the Security Council rejected authorizing force at this time, as they apparently would have, it would still be relevant because our use of military force in the face of such a Security Council rejection could have a worldwide negative political impact with great peril to us.

The issue is not whether we will prevail militarily without the U.N.'s support; we will. The issue is whether our long-term security would be enhanced in that circumstance or whether chaos and instability in the Middle East, following our unilateral action, will be deep and long and more costly, and whether the level of terrorism against us in the world will rise to a higher point than it otherwise would.

The U.N. too often has been seen by the administration as an obstacle to overcome instead of an opportunity to rally the world. And the administration has also weakened its case at the U.N. in a number of ways.

It has used divisive rhetoric and denigrating attitude towards the views of other nations whose support we seek. Countries have been told "you are either with us or against us." The U.N. has been told that while we welcome U.N. endorsement, we can do just fine without you. U.N. inspectors were called "so-called" inspectors. And before U.N. inspections even began, they were called useless. Germany and France were sneered at as being part of "old Europe." This kind of rhetoric alienates our friends and fuels the inflammatory propaganda of our enemies. Divisive and dismissive rhetoric is no way to rally the Security Council. It comes across as bullying and domineering.

The White House spokesmen have also spun facts in a transparent way, contradicting themselves from day to day. The refusal of Iraq to assure the safety of U–2 surveillance planes was at first called a serious breach of resolution 1441. When agreement was reached between U.N. inspectors and Iraq to fly the planes shortly thereafter, the White House spokesman said the agreement was no big deal. Similarly, when the inspectors determined that Iraqi missiles violated U.N. resolutions limiting their range, the White House pointed to the violation as significant evidence of noncompliance. When, soon thereafter, Iraq agreed to destroy those missiles, with U.N. inspectors looking on, the White House spokesman said that action was evidence of the Iraqis' deception. That kind of spinning and reversal of field by White House spokesmen has not helped our credibility or our cause.

We will prevail militarily in Iraq on our own, albeit with increased risk, but it will be more difficult to win the larger war on terrorism without the world community in our corner. We need the eyes and the ears and the intelligence of the people of the world if we are going to detect and ferret out, deter, and destroy those who care nothing for international law and do not even accept the rules of war.

Historically, America has been strongest when we found common cause with other nations in pursuit of common goals. The path to a safer world and a more secure America has rarely come from a go-it-alone approach. Thomas Friedman wrote recently in the New York Times:

> [I]f Mr. Bush acts unilaterally, I fear America will not only lose the chance of building a more decent Iraq, but something more important—America's efficacy as the strategic and moral leader of the free world.

If war against Iraq comes, far better it be seen as the decision of the world community, not just a U.S.-British decision.

The President said accurately on January 3 that Saddam Hussein has no respect for the Security Council and does not care about the opinion of mankind. But surely we should.

President Bush has now decided to end the diplomatic effort. Those of us who have questioned the administration's approach, including this Senator, will now be rallying behind the men and women of our armed forces to give them the full support they deserve, as it seems certain we will soon be at war.

Last October a majority of both Houses of Congress voted to authorize the President to use military force with or without the authority of the United Nations. While I disagreed with that decision and offered an alternative, the overriding fact is that this democracy functions through debate and decision. The decision to give the President wide authority was democratically arrived at.

The courageous men and women whom we send into harm's way are not just carrying out their orders with bravery and the highest form of professionalism. They are also implementing the outcome of the democratic debate which this Nation protects and honors. Those men and women should know that they have the full support and the fervent prayers of all of the American people as they carry out their missions.

Madam President, I ask unanimous consent that my recent remarks to the Council on Foreign Relations and the Boston World Affairs Council, along with two of my opening statements at recent Armed Services Committee hearings, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### REMARKS OF SENATOR CARL LEVIN, CHAIRMAN, SENATE ARMED SERVICES COMMITTEE, "U.S. POLICY TOWARDS IRAQ," COUNCIL ON FOREIGN RELATIONS, OCTOBER 8, 2002

Thank you, Walt, for your kind introduction. I understand that with the change in Administrations, you have returned to your tax law practice. I think it was John Maynard Keynes who remarked that "The avoidance of taxes is the only intellectual pursuit that carries any reward." We'll ask you about the truth of that statement when I'm finished speaking about U.S. policy towards Iraq!

I want to thank Les Gelb, the Council on Foreign Relations President, and Pete Peterson, the Council's Chairman of the Board, for inviting me this evening, and I want to thank the Council for its 80 years of outstanding service to our Nation and to the world as the "privileged and preeminent nongovernmental impresario of America's pageant to find its place in the world." Those are the "objective" words of Les Gelb, by the way.

Last night, President Bush described in detail the threat that Saddam Hussein's regime poses. I have relatively few differences with that description, and there is also a consensus that if Saddam Hussein continues to refuse to meet his obligation to destroy his weapons of mass destruction and prohibited missile delivery systems, the United Nations should authorize member states to use military force to destroy those weapons and systems and that the United States Armed Forces should participate in and lead a United Nations authorized force.

So the issue that is in dispute is whether unilateral force should be authorized by Congress now in case the U.N. does not act. How we answer that question could have a profound and lasting impact on the safety of our children and grandchildren for decades to come. Because the difference between attacking a nation with the support of the world community or attacking it without such support is fundamental, and it can be decisive.

The President answers the question by seeking a resolution from Congress that gives him the authority to use force under the auspices of the United Nations or to go-it-alone if the United Nations fails to act. He seeks this unilateral authority even though he does not condition its use on the threat to the United States by Saddam being imminent. Indeed, he argued in the National Security Strategy that was released by the White House last month that preemptive attacks to forestall or prevent hostile acts by our adversaries can now be undertaken although a threat is not imminent. The new strategy states explicitly that "We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. Rogue states and terrorists do not seek to attack us using conventional means." The President's Iraq resolution and the National Security Strategy, therefore, both take the position that an "imminent" threat is no longer required as a basis for our military action in self-defense. The President is explicitly seeking to modify the traditional concept of preemption by deleting the need for "imminence" and substituting that of "sufficient" threat in the Strategy and "continuing" threat in the proposed resolution.

That the President is seeking the authorization for unilateral preemptive attack without U.N. authorization is at the heart of the Senate debate that is presently taking place, and the vote on that resolution will come soon.

Under the traditional international law concept of preemption in self-defense, the United States would be justified in acting alone in the case of a serious threat to our nation that is imminent. In a case where such a threat is not imminent, military action would be justified only if it were carried out pursuant to an authorization for the use of force by Member states by the United Nations.

The choice facing the Senate is whether Congress should now—at this time—give the President the authority to "go-it-alone," to act unilaterally against Iraq if the United Nations fails to act. Congress is being presented with this issue at the very same time our Secretary of State is trying to get the United Nations to back a tough new resolution authorizing member states to use military force to enforce Iraqi compliance with inspections and disarmament.

Last night the President said, "I have asked Congress to authorize the use of America's military if it proves necessary to enforce U.N. Security Council demands." But, the White House resolution asks for much more. It isn't limited to the use of force if the United Nations authorizes it; on the contrary, it specifically authorizes, now, the use of force on a unilateral, "go-it-alone" basis, that is, without Security Council authorization. The President's rhetoric doesn't match the resolution. Moreover, the White House approach authorizes the use of force beyond dealing with Iraq's weapons of mass destruction and their means of delivery.

The resolution I introduced is consistent with how I think most Americans want us to proceed. It emphasizes the importance of dealing with Iraq on a multilateral basis and it withholds judgment at this time on the question of whether the United States should "go it alone," that is, should act unilaterally against Iraq, if the United Nations fails to act.

My resolution does the following: First, it urges the U.N. Security Council to adopt a resolution promptly that demands unconditional access for U.N. inspectors so Iraq's weapons of mass destruction and prohibited ballistic missiles may be located and destroyed; and within that same U.N. resolution, authorizes the use of necessary and appropriate force by U.N. Member States as a means of enforcement in the event Iraq refuses to comply.

My resolution also specifically authorizes the use of the United States Armed Forces, pursuant to that U.N. Security Council resolution, if Iraq fails to comply with its terms and the President informs the Congress of his determination that the United States has used appropriate diplomatic and other peaceful means to obtain Iraqi compliance with such a U.N. resolution.

My resolution affirms that under international law and the U.N. Charter, especially Article 51, the United States has at all times the inherent right to use military force in self-defense, affirming the fact there is no U.N. veto over U.S. military action. It also affirms that Congress will not adjourn sine die so that Congress can return to session, if necessary, and promptly consider proposals relative to Iraq if, in the judgment of the President, the U.N. Security Council does not promptly adopt the resolution I described above.

My resolution, therefore, supports the President's appeal to the United Nations and approves—right now—the use of our Armed Forces to support the action of the United Nations to force compliance by Saddam Hussein with inspections and disarmament. It does not, however, authorize now—before we know what the United Nations intends to do, before we know whether or not we have the world community on our side—it does not authorize the United States Armed Forces going-it-alone. Should we need to consider that possibility at a future time, the resolution provides for the immediate recall of Congress to do so. My resolution doesn't—on a matter of war and peace/life and death—exceed the grant of authority needed at the present time.

If Congress instead endorses the resolution proposed in the Senate by Senator Lieberman and others allowing the unilateral use of force at this time—even in the absence of a U.N. authorization—we will be sending an inconsistent message. We will be telling the United Nations that, if you don't act, we will—at the same time that we are urging them to act. We will be telling the United Nations that they are not particularly relevant—at the same time we are urging them to be very relevant.

If we want the United Nations to be relevant and credible—if we want the United Nations to succeed—if we want the United Nations not to be limited to humanitarian and disaster relief and other tasks that are mighty useful but are not essential—and I think most of us do—then we have to focus our efforts there and give those efforts a chance to succeed.

If we act wisely—authorizing the use of our forces pursuant to a U.N. resolution authorizing Member states to use force—we will not only unite the Congress; ultimately, we would unite the world community, on a course of action that we all seek: the elimination of Saddam Hussein's ability to threaten the world with weapons of mass destruction. That's where our focus should be: uniting the world, not dividing it.

Moreover, a go-it-alone approach in which we attack Iraq without the support and participation of the world community entails serious risks and could have serious consequences for us in the Middle East and around the world. It makes a difference, when deciding to use force, whether that use of force has the support of the world community.

It makes a difference for us in the current situation involving a possible attack on Iraq:

If we go it alone, will we be able to secure the use of airbases, ports, supply bases, and overflight rights in that region? Those rights and those capabilities are so important to the success of a military operation against Saddam.

If we go it alone, will there be a reduction in the broad international support for the war on terrorism, including the law enforcement, financial, and intelligence cooperation that is so essential?

If we go it alone, will that destabilize an already volatile region and undermine governments such as Jordan and Pakistan? Could we possibly end up with a radical regime in Pakistan, a country that has nuclear weapons?

If we go it alone, will Saddam Hussein or his military commanders be more likely to use weapons of mass destruction against other nations in the region and against our military forces in response to our attack than would be the case if he faced a U.N.-authorized coalition, particularly if that coalition included Muslim nations as the coalition did during the Gulf War?

If we go it alone, will other nations view our action as a precedent for threatening unilateral military action against their neighbors in the future?

If we go it alone, will we be undercutting efforts to get other countries to help us with the expensive, lengthy task of stabilizing Iraq after Saddam is removed?

Beyond the current situation relative to using force in Iraq, going-it-alone without U.N. authorization, based on a modified concept of preemption that no longer requires the threat to be imminent, will lead to a serious risk to international peace and security.

If we act unilaterally, without U.N. authority or an imminent threat, that will create a dangerous situation for international peace and stability in the long term. We would be inviting other nations to forego an important rule of international law requiring a serious and imminent threat before one nation can attack another in the name of self defense.

By seeking a U.N. resolution that will authorize U.N. Member States to use force if Iraq does not comply with its terms, we are not giving the United Nations a veto over the conduct of our foreign policy. Rather, we are getting from the United Nations strength and international credibility and legitimacy, should military force be needed.

We should be seeking to unite the world against Saddam Hussein, not dividing it. Our immediate objective should be to get the United Nations to act—to locate and destroy Iraq's weapons of mass destruction and the means of delivering them. The threat Saddam presents is real, and we should deal with it. But authorization for preemptive, unilateral U.S. action in Iraq does not need to and should not be granted at this time. If the U.N. doesn't act, Congress can be called back promptly to consider a request to authorize force unilaterally and to consider the serious and different risks involved in pursuing that course at that time.

Last Monday's Washington Post carried a story in which a senior European official's response to the United States going-it-alone was, "A lot of Europeans would feel they'd been put in an intolerable position." For those who would agree to participate militarily, "it would be less a coalition of the willing than of the dragooned."

Javier Solana, former NATO Secretary General and currently High Representative for the European Union's Common Foreign and Security Policy, the EU's top foreign policy official, in an address at NATO Headquarters last Thursday, stated "Ad hoc coalitions of docile followers to be chosen or discarded at will is neither attractive nor sustainable."

Just last week, after hearing from Prime Minister Blair and Foreign Minister Straw, the ruling Labor Party's Conference issued a formal position on Iraq that included the following: "Conference believes that the authority of the U.N. will be undermined unless it is enforced, and recognises that in the last resort this could involve military action but considers that this should be taken within the context of international law and with the authority of the U.N."

And just last Friday, Turkey's presidential spokesman said that his nation would participate in a campaign against Iraq only if the world body blessed it, stating "An operation not based on international law cannot be accepted."

The best chance of having Saddam Hussein comply with U.N. Security Council resolutions is to make sure that when he looks down the barrel of a gun, he sees the world at the other end, and not just the United States.

Congress should give the President what he said last night he was asking for—the authority to use U.S. military force to enforce U.N. Security Council demands, not what the White House resolution also provides—go-it-alone authority. Our focus then would be where it belongs: securing a United Nations resolution that can unite the world; that has the best chance of forcing compliance; that reduces the risk to our forces and to our interests throughout the world; that avoids to the maximum extent possible the negative consequences if force is required, including the loss of cooperation on the war on terrorism; and that has the best chance of isolating Saddam Hussein rather than isolating the United States.

Thank you for listening. That concludes my remarks. I would be happy to answer your questions.

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### SENATOR CARL LEVIN'S REMARKS TO THE BOSTON WORLD AFFAIRS COUNCIL REGARDING THE CHRISTIAN A. HERTER AWARD, DECEMBER 2, 2002

Thank you for honoring me with this prestigious award.

The past recipients of the Christian A. Herter Award are a distinguished group of people who have made significant contributions to better understanding among nations, and I am honored to be included in this group.

It is a particular pleasure to be receiving this award with Dick Lugar, who will become the Chairman of the Senate Foreign Relations Committee in January. No member of the Senate is better qualified for this important position than Dick. He is a true internationalist who enjoys the confidence of both Senate Democrats and Republicans, as well as the respect of foreign leaders and parliamentarians around the world.

A Senator from Michigan can't talk about the importance of national consensus and bipartisanship in America's foreign policy without recalling the career of Arthur Vandenburg, who was an ardent champion of a bipartisan American foreign policy. Senator Vandenberg helped draft the 1945 United Nations Charter and steered its passage through the Senate. He later played a leading role in constructing the Marshall Plan and in the formulation of NATO. Over the years, his name has become synonymous with the expression that "politics end at the water's edge."

That expression is a good one to keep in mind in the weeks after a hard-fought midterm election and a lengthy debate in Congress over U.S. policy in Iraq. Both these events revealed differences over foreign policy between Democrats and Republicans, and even in some cases among Democrats and Republicans.

For the most part, Democrats and Republicans will be in agreement on a foreign policy agenda in the coming year.

We agree on the need to continue an all-out effort against al Qaeda and other international terrorist groups.

We agree on the need to follow to the finish the effort to disarm Saddam Hussein, especially if the multilateral path that the President started at the United Nations is followed.

We agree on the need to deal with the problem presented by North Korea's recently acknowledged nuclear weapons program, working calmly and determinedly with South Korea, Japan and others.

We agree on the need to strengthen the authority of the central government in Afghanistan.

We agree on the need to combat the proliferation of weapons of mass destruction, a goal to which Dick Lugar has contributed so much by creating the Cooperative Threat Reduction Program.

We agree on the value of expanding NATO and modernizing its mission and operations.

But leaving politics at the water's edge doesn't mean that there won't be differences over foreign policy. While a bipartisan foreign policy is important for both domestic and international purposes, it is healthy—indeed essential at times—for constructive alternative positions to be expressed, as long as these alternatives are not prompted by partisan motivations.

The Bush Administration's initial foreign policy positions on a host of issues had a pronounced unilateral, and at times, even an isolationist tone. Despite Candidate Bush's call for humility on the part of the world's sole superpower, President Bush too often ignored Candidate Bush's good advice. For instance, his early statements on international treaties and peacekeeping in the Balkans served to undercut or offend even close Allies and, perhaps more importantly, unnecessarily provoked feelings of hostility among the peoples of many nations.

Constructive criticism of some of the Administration's foreign policies and foreign policy statements over the past year has had a positive impact on both the policies and the rhetoric. That criticism came from within the Administration, from members of Congress of both parties, from the media, and from the leaders of allied and friendly nations.

For example, during the weeks leading up to the Congressional vote on an authorization for the use of military force against Iraq, many members of Congress sought changes to the Administration's initial proposal. The Administration, in essence, originally sought authority to act unilaterally to bring about regime change in Iraq at a time of the President's choosing.

Senator Lugar joined forces with Senator Biden to modify the Administration's proposal to refocus the grant of authority to use military force on Iraq's weapons of mass destruction and on seeking a new U.N. Security Council resolution authorizing the use of force.

I offered an alternative resolution, which was not adopted, which was designed to give even greater importance to a multilateral approach through the United Nations. It deferred a Congressional decision on authorizing the unilateral use of force until such time as the multilateral approach proved to be beyond our reach. My alternative would have called on the United Nations to promptly adopt a new resolution demanding that Iraq provide immediate, unconditional and unrestricted access to the U.N. weapons inspectors so its weapons of mass destruction could be destroyed, authorizing the use of military force by U.N. Member States to enforce the resolution in the event that Iraq refused to comply. My alternative would have authorized the President to use U.S. military force to destroy Iraq's weapons of mass destruction pursuant to such a U.N. resolution, and would have provided that Congress not adjourn so we could consider proposals relative to the use of unilateral force if the U.N. Security Council failed to adopt a resolution authorizing the use of force by member states.

I have urged a multilateral approach to the Iraq threat because I believe that approach has the greatest chance of success. A multilateral approach reduces the risks involved in military action and minimizes the fallout from vengeful, violent retaliatory responses which often result if we're perceived as a unilateral bully. The events of 9/11 made clear that dealing with international terrorism must be our first priority, but we can't effectively deal with international terrorism without the political, law enforcement, intelligence, and, at times, military assistance and cooperation of the world community. That same multilateral approach is essential to combating the proliferation of weapons of mass destruction, or to dealing with the threat posed by North Korea's nuclear program.

I believe the efforts of many within and without the Administration had an impact on the course of action chosen by the Administration and on the legislation on Iraq that was enacted by Congress, which endorsed the multilateral approach and conditioned the unilateral use of force on the President certifying that diplomatic means will not succeed. I also believe those efforts helped Secretary Powell to prevail, at least temporarily, over other views within the Administration during the painstaking negotiations that led to the unanimous adoption of U.N. Security Council resolution 1441 on November 8th.

The U.N. resolution was a victory for those who favor a multilateral approach to the use of force. It's great to be the world's only superpower, and I hope it stays that way. But I do not believe that our national interests are well served when we engage in rhetoric that needlessly inflames passions and incites hostility towards the United States and its citizens. Teddy Roosevelt's soft rhetoric and big stick approach was about the right balance.

We must be more than powerful; we must be wise in the use of our power and wise in the use of our rhetoric. The United States must be a leader, not a loner. Otherwise, we will turn what has been admiration for our values and our beliefs into fear of domination by us and hostility towards our apparent arrogance.

Recently I was struck in reading an excerpt from Bob Woodward's new book, "Bush at War," in the Washington Post. Woodward was reporting on an interview with the President, and at the end which Laura Bush joined them. The President had just told Woodward that the First Lady wished the President's rhetoric wasn't quite so harsh about getting them "dead or alive." When the President asked her why, the First Lady said, "It just didn't sound that appealing to me, really." The First Laey added that she tells the President from time to time, "Tone it down, darling."

In the spirit of the Christian Herter award, I pledge to work with others in the Congress to seek consensus in support of the Administration's foreign policies whenever possible and, when necessary, to support constructive alternatives that I believe will better suit the interests of the United States. And relative to the Administration's rhetoric, I also will from time to time will urge them to "tone it down, darlings."

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### Opening Statement of Senator Carl Levin, Hearing on Worldwide Threats With George Tenet, Director of Central Intelligence and Lowell Jacoby, Defense Intelligence Agency, Wednesday, February 12, 2003

All of us want Saddam Hussein to be disarmed. The best way to accomplish the goal of disarming Saddam Hussein without war is if the United Nations speaks with one voice relative to Iraq. I also believe that if military force is used, the best way of reducing both the short-term risks, including the risks to U.S. and coalition forces, and the long-term risks, including the risk of terrorist attacks on our interests throughout the world, is if the United Nations specifically authorizes the use of military force.

That's the bottom line for me—the best way of increasing any chance of disarming Saddam Hussein without war and of minimizing casualties and future attacks on the United States if war does ensue is if the United Nations acts relative to Iraq.

Supporting U.N. inspections is an essential step if we are going to keep the Security Council together. We can support those U.N. inspections by sharing the balance of our information about suspect sites, by quickly getting U-2 aircraft in the air over Iraq, with or without Saddam Hussein's approval, and by giving the inspectors the time they need to do their work as long as the inspections are unimpeded.

I disagree with those, including high officials in our government, who say that U.N. inspections are useless. We heard that before the inspections began. We heard it from Dr. Rice at the White House last week. I am astounded that some of those high officials have gone so far as to refer in a derogatory way to the "so-called" U.N. inspectors. If these inspections are useless without Iraqi assistance in pointing out where they have hidden or destroyed weapons of mass destruction, why are we sharing any intelligence at all with the inspectors; and why are we apparently finally implementing U-2 flights to support the inspectors?

It's one thing to be realistic about the limitations of the U.N. inspections and not have too high hopes about what they can produce.

It's another thing to denigrate their value, prejudge their value, be dismissive and disdainful about the beliefs of others on the U.N. Security Council about their value, and be cavalier about the facts relative to those inspections.

Referring to being cavalier about facts brings me to my next point, the sharing of intelligence information in our possession with the U.N. inspectors.

This is an issue that I have followed very closely. For the last several weeks, at my request, the CIA has been providing me with the classified details of how much information we have been sharing with the U.N. inspectors in Iraq. We just began sharing specific information in early January, according to Secretary Powell as quoted in the Washington Post on January 9th. While I can't go into those classified details in an open hearing, I can say that the information the CIA has provided me made it very clear that we had shared information on only a small percentage of the suspect sites in Iraq and that we had not shared information on the majority of the suspect sites, which was confirmed by CIA staff.

At yesterday's hearing, I was astounded when Director Tenet told us that we have now shared with U.N. inspectors information about every site we have where we have credible intelligence. Then, last night, in Director Tenet's presence and in the presence of Senator Warner, his staff acknowledged that we still have useful information that we have not shared with the inspectors—which is the opposite of what Director Tenet told the Intelligence Committee yesterday in open session. If we haven't shared yet all the useful information that we have with the U.N. inspectors, that would run counter to the Administration's position that the time for inspections is over.

When President Bush addressed the U.N. General Assembly on September 12th of last year, he said that "We want the United Nations to be effective, and respectful, and successful. Well we have some responsibility to help the United Nations achieve that. Saying to other countries, including allies, that if you don't see it our way, you must have some ulterior motive, doesn't help.

While a number of heads of State and Government have called for the U.N. Security Council to take the necessary and appropriate action in response to Iraq's continuing threat to international peace and security and some have pledged to contribute military forces to that effort, others believe that we should give the strengthened inspections the time they need to finish their job. Both groups agree on the necessity of disarming Iraq. Rather than following a course that divides the United Nations and separates us from some of our closest allies, we should at least fairly consider courses of action that unite the world community against Iraq.

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### Opening Statement of Senator Carl Levin, Ranking Member, Committee on Armed Services Hearing with Secretary of Defense Donald Rumsfeld and Chairman of the Joint Chiefs General Richard B. Myers, Thursday, February 13, 2003

Secretary Rumsfeld and General Myers, thank you for coming.

Mr. Chairman, as we meet today, America's Armed Forces stand on the brink of possible military action. In the next few weeks, as many as 250,000 of our soldiers, sailors, airmen and marines will be in the Persian Gulf region, preparing for a possible war against Iraq. Almost 40,000 more stand on the front lines in Korea, within range of North Korean artillery and rockets. Thousands of additional American troops are risking their lives every day in continued operations in the global war on terrorism in Afghanistan and other hot spots around the world. And of course many more continue to work to keep the peace and work to build a more stable future in the Balkans and elsewhere. To support these efforts, the President has already called up more than 110,000 members of the Reserve components to active duty.

Many questions have been raised in recent months about our policy moves on Iraq, Korea, and elsewhere. Concerns have been raised about our proclivity to proceed unilaterally; about a rising tide of anti-Americanism overseas; about the risk that the focus on Iraq has reduced our focus on the war against terrorism, which has to be fought and won here at home as well as overseas; about whether our refusal to talk directly with the North Korean regime as urged by our South Korean allies may be undermining our interests in that area of the world; and about the degree of our commitment to rebuilding Afghanistan and the possible consequences of a similar lack of follow-through in Iraq.

I share many of these concerns. I believe that America is at its strongest and best when we make common cause with other nations in pursuit of common goals. I believe that the path to a safer world and a more secure America rarely comes from a go-it-alone approach. Specifically, I believe that, in the absence of an imminent threat, it is in our interest to have a U.N. resolution authorizing member States to take military action before initiating a pre-emptive attack against Iraq.

If there is any chance of disarming Saddam Hussein without war, it is for the United Nations to speak with one voice. And if military force is used, the best way of reducing both the short-term risks, including the risks to U.S. and coalition forces, and the long-term risks, including the risk of terrorist attacks on our people throughout the world, is also a U.N. resolution authorizing the use of force.

Supporting U.N. inspections is an essential step if we are going to keep the Security Council together. We can show support for those U.N. inspections by sharing with the U.N. inspectors the balance of our significant intelligence information about suspect sites, by quickly getting U-2 aircraft in the air over Iraq without conditions and with or without Saddam Hussein's approval, and by giving the inspectors the time they need to finish their work as long as the inspections are unimpeded.

Yesterday, I talked about statements by the administration that all useful intelligence information in our possession has now been shared with the U.N. inspectors.

Condoleeza Rice told us that at the White House 10 days ago. George Tenet told us that at an open Intelligence Committee hearing two days ago. They were in error. Director Tenet acknowledged yesterday here that we still have information and will be sharing it.

The premature declaration that we've already shared all useful intelligence makes us seem excessively eager to bring inspections to a close.

Top administrative officials from the beginning said inspections were useless and that inspectors couldn't find anything without Saddam showing them where it was.

Well, that's what he is supposed to do, but there's at least a chance inspections will prove useful even without his cooperation. Inspectors caught him in lies about his biological weapons program in the '90s. And in this morning's paper it appears they are catching him in lies about the range of missiles he's developing.

Another way to support the inspectors is to back up their request for U-2 surveillance planes, with a U.N. resolution that any interference with them by Saddam Hussein would be considered an act of war against the United Nations.

During the State of the Union speech, President Bush noted that "Iraq is blocking U-2 surveillance flights requested by the United Nations." Secretary Powell, during his address to the U.N. Security Council a week ago noted that "Iraq also has refused to permit any U-2 reconnaissance flights that would give the inspectors a better sense of what's being moved before, during and after inspections."

Indeed the New York Times on January 30th quotes a senior White House official as describing Iraq's refusal to allow the U-2 surveillance flights "the biggest material breach of all, so far."

I met with Dr. Blix and his staff in New York on January 31st. They told me that U-2 flights would be very useful because of their ability to observe large areas of Iraq and to loiter for extended periods of time. U-2 flights would be particularly helpful to track trucks that appear to be moving items from one suspicious place to another, and to track mobile labs. Satellites can't track suspicious vehicles; U-2s can.

For this reason, I was astonished to read on Tuesday that State Department spokesman Richard Boucher characterized what appears to be an agreement to implement U-2 flights as nothing "worth getting excited about." If Iraq's refusal to allow U-2 surveillance flights is cited by the President and characterized by the White House as "the biggest material breach of all," if Secretary Powell is right when he says that U-2 surveillance flights would give the inspectors a better sense of what's being moved before, during and after inspections, then minimizing their usefulness at this point can only be explained as further disdain for the inspections effort.

It may be unlikely that inspectors will catch Saddam with the goods without his cooperation. But it's at least possible and we should increase that possibility by sharing all our useful intelligence and using the U-2s.

Supporting the inspectors in these and other ways is not inconsistent with the position that administration has correctly taken that the burden is on Saddam Hussein to show where the prohibited material is or what he's done with it. The fact that he hasn't carried his burden is undeniable. But how best to deal with his deceit and deception is still ours and the world's challenge.

There is unanimity around here about one thing at least: all of us and the American people will stand behind our uniformed forces if they are engaged in military conflict. Should they be so engaged, we will provide our men and women in uniform with everything they need to ensure that they prevail promptly and with minimal casualties.

Mr. LEVIN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 23) setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

The Senate proceeded to consider the concurrent resolution.

Mr. NICKLES. Madam President, I ask unanimous consent that the staff of the Senate Budget Committee named on the list I send to the desk be permitted to remain on the Senate floor during consideration of S. Con. Res. 23 and the conference report thereupon, and the list be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

### Senate Budget Committee Staff

AMDUR, Rochelle, ANGELIER, Amy, BAILEY, Stephen, BAYLOR, Lauren, BRANDT, Daniel, P., III, CHEUNG, Rock E., DUCKWORTH, Cara, ESQUEA, Jim, FELDER, Beth (Chief Counsel: Full Access Pass), and FLOYD, Ronnie.

GALVIN, Timothy, GREENWOOD, Lee A., HEARN, Jim, HERNANDEZ, Jody, full access (by UC), HERSHON, Lawrence, HORNEY, James, full access (by UC), HAUCK, Megan, HUGHES, Stacey, full access (by UC), JONES, Michael, and JONES, Rachel.

KENT, Don, KEOGH, Erin, K., KONWINSKI, Lisa (General Counsel: Full Access Pass), KUEHL, Sarah, LAVINE, Jessie, MARSHALL, Hazen (Staff Director: Full Access Pass), MYERS, David, NAGURKA, Stuart, and NAYLOR, Mary (Staff Director: Full Access Pass).

NELSON, Sue, full access (by UC), NOEL, Kobye, NOLAN, Tim, O'NEILL, Maureen, ORTEGA, David A., OSTERBERG, Gayle, OSWALT, Anne, PAPPONE, David, PHILLIPS, Roy, POSNER, Steven, and PRICE, James Lee.

REIDY, Cheri, RIGHTER, John, RUDESILL, Dakota, SEYMOUR, Lynne, STEWART, Margaret Bonynge, STRUMPF, Barry, TAYLOR, Robert, WINKLER, Jennifer, and WOODALL, George.

Mr. NICKLES. Madam President, I ask unanimous consent that the following floor staff members, two from my staff and two from Senator CONRAD's staff, named on the list I send to the desk be given "all access" floor passes for the Senate floor during consideration of S. Con. Res. 23: Stacey Hughes and Jody Hernandez from the Republican staff, and Jim Horney and Sue Nelson from the Democratic staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor during the consideration of the fiscal year 2004 concurrent resolution on the budget.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, today we will be considering the budget resolution, S. Con. Res. 23, a resolution for fiscal year 2004—actually, 2004 through fiscal year 2013. I urge my colleagues to seriously consider this resolution.

I will readily say it is not perfect. It is a result of a lot of work from individuals on both sides of the aisle who considered and put this resolution together.

We had a 2-day markup in the Senate Budget Committee. We had 20-some-odd votes. And I thank my colleague Senator CONRAD for his cooperation that we were able to finish and conclude the resolution we are now reporting to the Senate this week.

This resolution has a lot of provisions in it. It provides for how much money we are going to spend, how much money we are going to tax, how much money we are going to take in. It also has a few other provisions in it, and I will go into those in a moment. It is most important that we pass a budget resolution. We have passed budget resolutions every year since the enactment of the Budget Act in 1974, except for last year when we did not get it done. I am not throwing complaints at anybody. I think it is vitally important, if Congress is going to get its work done; that we pass a budget resolution; that we tell the appropriators how much money they are going to spend; that we tell the Finance Committee and the Ways and Means Committee how much money we are going to spend on Medicare; that we set the outlines or the framework on the size of government; that we tell the Finance Committee whether they should have a growth package.

In this resolution, we do call for a growth package. It is similar or identical to the number that the President requested. Actually, I think the President requested a number of about $670 billion for the growth package. The Committee on Joint Taxation scored it and said it is $725 billion. That is what we have in our resolution. It is a resolution that says we want to figure out how we can grow the economy.

It is vitally important that we do grow the economy, and I will make a couple of comments about that. We have inherited a very difficult situation. We have very large deficits. Some people might say that was caused by President Bush's tax cut in 2001. I say that is not the case. The very large deficits that we have, have primarily happened because we have had a precipitous decline in revenue, and that decline in revenue was not because of the tax cut, it is because the economy has been very soft, because a lot less money is coming into the Federal Government, both on personal income tax and corporate income tax.

The chart behind me shows that in the year 2000, the Federal Government total receipts were over $2 trillion—actually $2.025 trillion. In 2001, that declined about 2 percent to $1.9 trillion. It was $2 trillion, and then $1.9 trillion. Last year, it declined to $1.85 trillion. That is a reduction of $175 billion over that 2-year period of time. That is a reduction of 9 percent.

Because of that reduction in revenue and because of an increase in expenditures, expenditures went from $1.8 trillion in 2000 to $1.86 trillion, to last year over $2 trillion. So spending went up by about 12 percent and revenues went down by 9 percent. That kind of intersection meant we went from a surplus of $127 billion in the year 2001 to a $158 billion deficit in the year 2002. So we went from a surplus of $127 billion to a deficit of $158 billion in that period of time because revenues have gone down and expenditures have gone up. It is about that simple.

One might say, why? Well, let's look a little bit more at the economy. There has been a very precipitous drop in the stock market, well beyond what our computers were able to estimate as to what is the flow going to be, what does this mean in actual revenues that will come in to individuals, both in capital gains and also in personal income tax.

This gives an example. Nasdaq, which peaked in March of 2000, was down. It was almost 5,000. I believe it did hit 5,000 in March, went down to 2,500 or 2,600 by the end of the year 2000—almost a 50 percent reduction in the last 9 months in the year 2000. It continued to decline somewhat in 2001 and 2002.

As a result of that flow, everybody missed it, including the Congressional Budget Office and the Office of Management and Budget when they gave their estimates of what the fiscal situation was in January of 2001. They missed it big time. They greatly overestimated the amount of money that would be coming in to the Federal Government.

Both CBO and OMB were projecting revenues would continue to climb, maybe a little slower than what they did for the last several years in the 1990s, but they assumed that they would continue to ascend. In reality, they dropped by 9 percent. So the Congressional Budget Office, which is a nonpartisan office—and I do not fault them for their work; I am saying they missed it. Then we also had a little event on September 11, 2001, that was a real tragedy that cost 3,000 lives in the United States and caused untold damage to this economy. It would be interesting to see if the economists could ever figure the costs of that to our economy, but it has been in the billions of dollars and therefore and ultimately in revenues to the Federal Government.

So we had a recession that was already starting in 2000. We had a stock market decline that was enormous, and then we also had 9/11/01, which was a double hit. If we add these things together, revenues are way down. They are actually down for the first 4 or 5 months of this year compared to last year.

So we have been hit by a lot: The war on terrorism, that terrible tragedy of September 11, and the fact that we have had a very large decrease in the value of the stock market. All combined means that revenues coming into the Federal Government, like maybe revenues coming into a lot of States, are way down. So we went from surpluses of over $150 billion to last year we had a deficit of over $120 billion, which is forecast by the Congressional Budget Office to rise this year to, I believe, $246 billion. That is if we do nothing.

I do not believe doing nothing is satisfactory. I guess we could just do nothing and hope that maybe things will get better, but I think we should do something. What can we do to help grow the economy? The President has a growth package. I understand people on the other side of the aisle have a growth package. Good. Let's consider a growth package. How can we grow the economy? I think we should consider any and all ideas. The President requested us to set aside as much as $700 billion for a growth package. That is what we have done, and we have it in a reconciliation instruction.

Now, we do not write the tax bill, and all of our colleagues should be aware of that. We do not write the tax bill in the Budget Committee. We do give instructions to the tax-writing committees: Here is the amount of money they can use to put together a growth package.

What we have proposed is about $725 billion. I believe about $30 billion of that is for actual spending, what we would call refundable tax credits, and the balance of the President's proposal is mostly geared toward various tax cuts that would help grow the economy.

I believe many of those tax cuts would do that, they would help grow the economy. They would help get these figures on the revenues, that blue line, instead of going down, to go up. Frankly, it will not go up unless we really have a growing economy.

The President has several proposals. I will touch on a couple of them. Probably the most controversial is eliminating the double taxation of dividends. We are long overdue for eliminating the double tax on dividends. Many have called for it, Democrats and Republicans.

I don't see how anyone can defend the present policy which taxes distributions from corporations higher than almost any other country in the world. We tax the distribution profits, called dividends, to the stockholders at rates of 65 or 70 percent. There is only one country in the world that taxes dividends higher than the United States, and that is Japan. We are about even with them. We tax dividends higher than France. We tax dividends higher than the Swiss and almost higher than anyone with the exception of Japan. That is absurd.

We are supposed to be this defender of free markets, entrepreneurship, and we are saying if you make money in the corporation, and you distribute to the owners, we want two-thirds, maybe three-fourths of it. That is terrible tax policy. The President said we should eliminate double taxation of dividends. If we did that, we would encourage a lot of changes in behavior. Right now, the present Tax Code encourages debt and discourages investment in equities. I compliment the President for his proposal. If we can get the taxation of dividends down at a more realistic level, we would have encouragement for investment which would create jobs. That would be positive. We need to think what can we do—not to score political points but what can we do to help grow the economy. That is a fundamental part of the President's growth package, the elimination of the double taxation of dividends.

He has several other provisions that would help. I used to run a small business, and he has a provision that would allow people to expense up to $75,000. That is a good provision. That would encourage jobs. That is positive. We should pass that.

The President has several provisions that would be very helpful to families. Basically, eliminating the marriage penalty for couples with incomes less than $56,000 would be very positive. Right now, a married couple with combined incomes up to $56,000 have a marginal rate of 27 percent. Say they make $50,000. Any additional dollar they make is taxed at 27 percent. The President said you should be taxed at no more than 15 percent, all the way up to $56,000. Not to get too wonkish, that equates to $1,100 more per couple with combined incomes up to $56,000.

Some say this just benefits the wealthy. That is not true. You are not wealthy if you make $56,000. The President says you should pay combined tax together, husband and wife, not in excess of 15 percent. That is a positive proposal.

The President has a proposal that says we should increase the per-child tax credit from $600 to $1,000. If you have four kids, that is $4,000 you do not have to pay taxes on. That would be an increase of $1,600 that you get to keep from present law. Present law on the child credit and on the marriage penalty and on the 1-point rate deductions we have had is $600. That is scheduled to expire at the end of the year 2010. In the budget, we extend that for the years 2011, 2012, and 2013.

We do not propose to do it in the so-called reconciliation package. The reconciliation package is the growth package. In the growth package, what we proposed to the Finance Committee is an amount that would allow the per-child tax credit, that would allow elimination of the marriage penalty, that would allow expensing for small business, and that would allow for eliminating the double taxation of dividends, something I believe would very much help grow the economy.

I had business people who saw me today and thought that would help grow the economy by hundreds of thousands of jobs. I heard others say that just eliminating double taxation of dividends alone would be several hundred thousand jobs.

We need to consider how we can grow the economy. We have a measure in the budget that is under reconciliation that says we should consider opening the Alaska National Wildlife Refuge and allow exploration to occur in the refuge. I urge my colleagues to vote in favor of that proposal. I understand there may be an amendment to strike. That is one proposal that would create jobs. That is one proposal that will reduce our dependency on imported oil which right now is right at 60 percent and increasing. A lot of that is from the Middle East. Some of it happens to be from Venezuela and other places. Oil costs are high. So we need to figure out how we can reduce our dependence on foreign oil. This is a main provision where we can do it. And for those who say they don't think we should do that because it might not be sensitive to the environment, I guess they have not been there.

I have been in the Alaska National Wildlife Refuge and the Coastal Plain area. It can be done. If you have been to Prudhoe Bay, you can see that is where we have been getting up to 2.1 million barrels per day. That is now under 1 million barrels a day. We need to supplement that. We can do that with exploration in a very scientific, environmentally safe and sound manner that will not have any negatives whatever on wildlife and will help reduce our dependence on foreign sources of oil. And we will keep billions and billions of dollars in the United States instead of sending those dollars to the Middle East and other countries. We are exporting so many dollars in purchasing imported oil; this is a way we can create jobs. There will be thousands and thousands of jobs created, good jobs created if we are able to enact the provision dealing with the Alaska National Wildlife Refuge.

It is also important to note we constrain the growth of government under this budget. I have no doubt that many people will be complaining about the budget and will complain about the deficit, but they will probably be some of the same people who will be voting to increase spending far and above what is proposed in this resolution.

The President has proposed and we have adopted in our resolution budget caps on the amount of money that we will have on discretionary spending both for 2004, 2005, and 2003, as well. We have caps for all 3 years. We would increase the spending cap amount to a total of $784 billion in 2004, compared to what we have enacted in 2003 of $765 billion. In nondefense, it is a $10 billion increase. And we also have mandatory, total outlay increase for 2003 and 2004, 4.4. A majority of that is mandatory. We are holding down nondefense. The growth of nondefense between 2003 and 2004 is 2.9 percent. The growth in defense between 2003 and 2004 is 2 percent.

Now, why only 2 percent? The year before in defense, 2003, we are already at 8.6 percent. We added $10 billion, actually $6 billion for defense, $4 billion for intelligence-related in the 2003 appropriations bill just passed last month. I mention that to my colleagues. It is very important.

We hear about the growth package and people want to cut the growth package. I am sure we will have amendments. That is perfectly right. I hope we have the amendments to eliminate the growth package or to cut the growth package in half. We had those amendments in the committee. I expect we will have them on the floor. I hope they will be defeated. They want to take the growth out of the growth package. I want the economy to grow. How much is enough? Is $350 billion enough? Is $700 billion enough? We anticipated having revenues of over $27 trillion over this 10-year life of this budget. So $350 billion is a very small percentage. It is about 1 percent; $700 billion is about 2 percent.

Can we make some changes that would have a dramatic impact on revenues? I think we can. We have a little history on our side showing if we do what is right, we can make the economy grow. In 1997, we had a significant tax cut. We actually passed one in 1995 and President Clinton vetoed it. We passed one in 1997 and he signed it. If you look at the results, you also see the revenues went way up.

What was one of the main components of the tax bill that we passed in 1997? It was reducing the tax rate on capital gains from 28 percent to 20 percent. There was a flood of money coming into the Federal Government as a result of that change, a flood of money—more money than the Government ever anticipated because we didn't use dynamic scoring. We used static scoring. We actually assumed maybe this was not going to raise very much money. It raised a lot of money. Because we reduced the tax on financial transactions, we had a lot more financial transactions, and it caused and encouraged an explosion in the stock market. It encouraged a lot of investment. It encouraged growth.

The changes we make can make a world of difference. That is why I encourage my colleagues to consider the President's growth package. What changes can we make now that will help grow the economy?

If you look at taxation, we were taxing exchanges, financial transactions, and we were taxing those at 28 percent. If we reduced that to 20 percent and we had a lot more transactions, that would generate a lot more money.

What about dividends? If they are taxed at 60 percent—combined rate, corporate and individual, at 65 percent or 70 percent, if we can reduce that and only tax it once so corporations are taxed at 35 percent, it is going to greatly encourage corporate investment and distribution to their owners. I think that would encourage investment and I believe have a very positive impact on the stock market and, frankly, on everybody.

Somebody would say that only benefits the wealthy guy who owns a lot of stock. That is not true. Ask the person who works for the telephone company, who has a 401(k), and they have watched their stock investments go back down as Nasdaq did. They want it to go back up. They want the entire market to go back up. Ask a Federal employee who invested in the C fund, the common stock fund. Are they invested? Sure they are. They want to see the stock market go up. When it does, I think it has a very positive impact on the economy. I just mention those things. The President has that proposal.

He does have a cap and we put the cap in our budget, a cap on discretionary spending, a cap that grows just a couple of percent, 2.4 percent, for 2004. So this very important figure, 784 figure—last year you might remember we heard a lot of discussion, talk about 751. That was the discretionary cap figure the President had. Then, 759 or 751, we discussed that figure like it was the total Federal budget. It is not. But it is the amount of money we say we are going to appropriate. We ended up appropriating 765, now 784; it is a 2.4-percent increase.

I hope we do not increase that figure during the course of all the amendments we are going to consider. I know there are dozens of amendments that say we need to spend more money. We are already spending something like $7,000 for every man, woman, and child in the United States.

Spending has been growing dramatically over the last several years. When these revenue figures were going up, our outlay figures said let's just catch up. Just on the discretionary side, outlays, nondefense, went up 17.1 percent; in 2002, they went up 12.5 percent. Both of those figures are greater than what we did in defense for 2001 and 2002. That is not sustainable. That is not affordable.

Our proposal said let's at least limit the growth. We did better in 2003 in nondefense discretionary. Now we are saying let's hold it at 2.4 percent, about the rate of inflation. Many of our colleagues say that is not enough. We need to have more money for everything you can imagine, and I am sure those amendments will come. I urge my colleagues to show some fiscal discipline. Do we want to have the President's growth package, a bigger one or a smaller one? Let's vote and then decide how much money we are going to spend.

We do not dictate to the Finance Committee the composition of the growth package. We are assuming the composition is similar to the President's.

We also do not dictate to the Appropriations Committee. We make assumptions: This is how it will break down. But I might mention they could reallocate the money in any way they want.

There are a couple of other things I will mention that are part of the resolution. We have assumed $400 billion for improvements in strengthening Medicare: not just offering a prescription drug package, which would be a component of it, but to improve and strengthen and solidify, make Medicare a better system for seniors and for future seniors. That is in the proposal, of the $400 billion increase.

Homeland security—we have the President's request, an 18.4 percent increase over last year.

In education, we have increased funding for title I by $1 billion; for IDEA, $1.2 billion.

We have a reserve fund for uninsured of $50 billion, an instruction to the Finance Committee.

We have a highway figure of $32.1 billion; that is 10 percent over the President's request. I know there is going to be a request to increase that figure dramatically—some people say by as much as $5 billion or $8 billion or $10 billion more per year. There is not enough money in the trust fund to do it. There is not enough money generated by gasoline taxes to do it.

I am a believer that highways should be paid for by user fees, by gasoline taxes. Some people would want to increase the deficit by whatever amount it is to expand on that figure. I hope we do not do that. I am sure that will be one of the contentious issues with which we wrestle.

I encourage my colleagues, I hope they review this budget proposal. It tracks largely what the President requested for defense and nondefense for the first couple of years. It tracks the President's request for expanding and improving Medicare, homeland security, education—we bumped over the President's figures in education. I hope my colleagues will consider it. I hope they will say, What can we do that will help grow the economy? If they have a better idea, let's consider it.

We will consider an amendment also at the appropriate time. I look forward to working with all my colleagues and particularly my ranking member, my friend and colleague, Senator CONRAD, on this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, today we begin a fundamental and critically important debate on the fiscal future of our country. We do it as our country is poised on the brink of war. We do it when our country is now in record budget deficits. We do it at a time when we see challenges facing our country on many fronts. This is a debate of enormous consequence.

I, first, thank our chairman of the Budget Committee, Senator NICKLES, for the way he has conducted our committee. He is new as the chairman. He has walked into a difficult, challenging situation, but he has conducted himself as a real gentleman and we, on our side, appreciate that very much. He has also gathered an exceptionally good staff. We appreciate working with them as well.

This debate is about the fundamental question of where this country will go in its fiscal future. We will decide whether this country will continue down the dangerous path of deficits, debt and decline, or whether we will take a step back toward fiscal responsibility, balanced budgets, and economic strength.

In the 2 years since the Bush administration has come into office, our Nation has suffered a dramatic and disturbing downturn in our fiscal and economic affairs. We went from a position of unparalleled growth, job creation, and opportunity to one of deficits, growing debt, growing unemployment, and doubt about our Nation's economic future. This budget resolution that we will begin debating today will determine whether we continue on the path set by this administration, a path that is rapidly undermining our fiscal strength, or whether we begin to reverse this dangerous course.

The budget resolution that we have before us, the majority passed out of the Budget Committee on a party-line vote, I believe is not the answer to what ails this country. It follows closely the President's proposal for massive tax cuts for the wealthiest among us that will only drive us deeper into deficit and debt.

The chairman of the committee calls part of those tax cuts a growth package, which is what the President terms it. We respectfully disagree. I do not believe, and many on our side do not believe, that it is a growth package. We believe instead that it will inhibit growth because deficits and debt will explode and the heavy weight of those deficits and debt will hold down economic growth. When you run deficits, you reduce the pool of societal savings. When there is less of a pool of societal savings, there is less money available for investment. And without investment, you cannot grow. I think on both sides of the aisle we agree on that basic premise.

The majority's resolution includes fully $1.4 trillion in new tax cuts, $726 billion for the so-called growth package, and more than $600 billion to make the President's 2001 tax cuts permanent. With interest costs, these tax cuts will add $1.7 trillion to the deficit.

Let's make no mistake, these are not tax cuts that are being paid for by cutting spending; they are not tax cuts that come out of a surplus. They are tax cuts that will be funded by borrowing the money. I should also add, they will also be financed by taking over $2 trillion out of Social Security trust fund surpluses to pay for them.

At a time when we are on the brink of war in Iraq, we face a crisis with North Korea, we face an ongoing global fight against terrorism and al-Qaida, deficits are at record levels and continue to grow, job losses are mounting, and the retirement of the baby boom generation looms just over the horizon, I cannot think of anything more irresponsible than enacting this plan.

Now is a time that we should be focusing on strengthening our Nation's defenses and homeland security, improving our economy, and restoring fiscal discipline over the long term to assure that future generations are not saddled with these debts.

If Congress were to actually adopt the plan before us, it would plunge the country off a fiscal cliff and threaten the education of our children, the financial security of our seniors, the stability of our economy, and the ultimate strength of our Nation.

First of all, it disturbs me we are even considering a massive tax cut package at a time when we are on the brink of war. How can we call on our troops to be willing to make the ultimate sacrifice but ask for no sacrifice here at home to fund their endeavors? I do not think that sends the proper message, when our troops are in the field, on the brink of battle.

Past Congresses and past Presidents have almost always called on the American people to help share the burden of conflict by buying Government bonds, by forgoing tax cuts, or even paying higher taxes to pay for a war. The American people proudly carried this burden and recognized it was their responsibility and a small price to pay for the privilege of living in the greatest and strongest country in the world. They certainly did not consider tax cuts for the wealthiest when their fellow countrymen were in battle and their Nation was in deep deficit and growing debt.

Amazingly, despite the fact that we are on the verge of war, neither the President's budget nor the majority's resolution includes any resources for such a conflict. How can we consider cutting revenues by $1.9 trillion, with the interest costs included, as the President has proposed and have not one penny in the budget for the looming war?

Some say, well, it is hard to predict what the war will cost. Indeed, that is true. But one thing we know for certain is the right number is not zero. But that is what is in this budget resolution—zero, zero for putting our troops in position to launch an attack on Iraq, zero for the conflict almost certain to come, zero for the reconstruction of that country, zero for the occupation.

We do have estimates of what all those things cost. Before the Armed Services Committee, they were told in some detail that the costs of just having our troops in place, without going to war—just having them in place—between now and the end of September, would be from $64 to $84 billion. But there is not a dime in this budget. What sense does that make? Are we in total denial that having a quarter of a million troops poised for a war against Iraq is not going to cost anything? Surely we know that is not true. The cost is substantial, and we ought to provide for it in this budget.

Let's consider just how much this war could cost.

Officially, the administration has refused to provide Congress with a cost estimate. The press reports have cited administration officials acknowledging that they could request a supplemental appropriation of $60 to $95 billion to cover war costs in 2003 alone.

This chart shows how much the administration could request in a supplemental for these war costs, and it shows how much has been put in the budget resolution before us. The number is zero.

Mr. President, colleagues, we know that is not right. That should not be our budget for this looming war. And nowhere has the administration accounted for the possibly large postwar costs, such as occupation, humanitarian assistance, and reconstruction, not to mention any indirect costs to the United States, such as an extended spike in oil prices.

That is why it is so important that Congress be provided with a war cost estimate before we proceed with large tax cuts or large new spending initiatives. Congress should have the information before we make these long-term commitments, not after.

It is disturbing to read press reports that Republican leaders may be asking the administration to delay their supplemental request until these tax cuts are locked into a budget resolution.

This is how Congress Daily reported the situation:

> Vice President Cheney met with Senate Majority Leader Frist [on] Thursday to discuss, among other things, the timing of a spending request on military action in Iraq. It is not expected that such a request would come until after the House and Senate complete floor action on the budget resolution, a key aide said.
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> . . . [H]owever, having a supplemental that could total somewhere between $65 and $95 billion come up while the tax cuts and the budget resolution are being debated could threaten the Republicans' economic agenda. House leaders have also said they want the supplemental war request delayed as long as possible to provide breathing room between the tax cuts and war spending.

If this report is accurate, and the war supplemental is really being held to give breathing room for the tax cuts, we are in worse shape than I even imagined.

To understand why the majority's budget plan is, I believe, making incorrect assumptions with respect to the economy, it is worth reviewing what has happened to the budget over the last 2 years.

When the President was advocating his first tax cut in 2001, he promised we could easily afford it. He ignored warnings that the tax cut he was proposing was too large. In a speech just 2 years ago, the President said:

> Tax relief is central to my plan to encourage economic growth, and we can proceed with tax relief without fear of budget deficits, even if the economy softens.

He was wrong. We now know how wrong he was. Instead of the $5.6 trillion in projected surpluses over the next 10 years that were projected when the President came into office, now, according to the Congressional Budget Office's latest estimates, if we adopt the President's budget plan, we will face a $2.1 trillion deficit over that time period. That is a stunning downturn of nearly $7.7 trillion in just 2 years.

I listened to our chairman give the reasons for this downturn. The one thing I did not hear him mention was the effect of the tax cuts. And yet the tax cuts over the 10-year period are the biggest single reason for this deterioration in our financial condition.

What could be more clear? Let's just do the math. We were told we would have $5.6 trillion over the next decade in surpluses.

Now we are told if we adopt the President's tax and spending plans, we will be $2.1 trillion in the hole over that same period. The tax cuts we passed in 2001 were $1.35 trillion plus the associated interest costs. If you reduce revenue, and that means you have more deficit and more debt, that means your interest cost goes up. The total cost of those tax cuts, about $1.7 trillion.

Now the President comes before us with an additional $1.6 trillion of tax cuts over this period of time. The associated interest cost takes that to a total cost of $1.96 trillion. If you add the $1.7 trillion from the previous tax cuts, the $1.96 trillion from these tax cuts, you get almost $3.7 trillion; $3.7 trillion of the $7.7 trillion of deterioration. That is about 40 percent of the variance. That is the biggest reason.

The second biggest reason is the increased cost associated with the attack on this country—increased defense cost, increased homeland security cost, which we all have supported.

The third biggest reason, quite apart from tax cuts, is the economy is not throwing off the tax revenue anticipated for this level of economic activity. That is a simple mistake in the calculations.

The fourth reason is the economic downturn.

Those are the key reasons for this collapse in our fiscal fortunes. But let's be clear, the tax cuts are the biggest single reason.

In last year's State of the Union address when this change in our fiscal fortunes was becoming more clear, the President saw what his policies were doing and he began to acknowledge that deficits had returned. He said then:

> . . . [O]ur budget will run a deficit that will be small and short-term . . .

Again he was wrong. It is now very clear that the deficits will be neither small nor short term. In fact, the Congressional Budget Office has told us that the deficit would total $338 billion in 2004 if we were to adopt his plan. And if, as the law requires, we are to exclude Social Security from that calculation, the deficit in this coming year would be $512 billion. In fact, we would see throughout the rest of this entire decade deficits would never be below $400 billion.

This chart shows it. This is what CBO told us back in May would occur without the President's policies, the top line. And we would have emerged from deficit in about 2011. If, instead, the President's policies are adopted, and this is the balance line, this is where you have no deficits, this is what happens if the President's policies are adopted. We never escape from deficits the entire rest of this decade, and they are not small. They are very large. In fact, they are record deficits, record in dollar terms, over $500 billion in 2004 alone on a budget of $2.2 trillion. That is a deficit of over 25 percent. That is not a small deficit.

In 2001, the President gave a radio address to the Nation. He said then:

> . . . [M]y budget pays down a record amount of national debt. We will pay off $2 trillion of debt over the next decade. That will be the largest debt reduction of any [nation] ever. Future generations shouldn't be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

The President was absolutely right in his values and in his sentiment, but that is not what we are getting in terms of a policy. What we now see is endless deficit and endless debt passed on to our children and grandchildren. In fact, when he said he would virtually eliminate the debt back in January of 2001, he said there would only be $36 billion of debt left by 2008. Now we see, instead of almost eliminating the debt, it is growing. In fact, it will be over $5 trillion by 2008, over $5 trillion. That is just the publicly held debt. That doesn't include the debt we are running up to the trust funds of Medicare and Social Security, debts that will also be in the trillions and trillions of dollars.

The consequences of this dramatic increase in debt are many. But one of them that hurts this Nation the most is the increased interest cost we will face. Back in January of 2000, we were told the interest cost during this period would be $622 billion. Now we see that instead of $622 billion, the interest cost will be $2.3 trillion; $1.7 trillion in interest cost, money that can't be used to build a destroyer to protect the Nation, money that can't be used to eliminate the terrorist threat to our country, money that can't be used to educate a child or feed a hungry person or do anything else that government does. Instead, it is wasted money, wasted in the sense it won't do anything positive other than pay our bills.

That increase in debt, that increase in deficits is, to me, the greatest threat posed to our national economic security. Again, if we listen to President Bush, we know his heart is in the right place. In his State of the Union address this year he said he would not pass on our problems to future generations. He said then:

> This country has many challenges. We will not deny, we will not ignore, we will not pass on our problems to other Congresses, to other presidents and other generations.

That is precisely what the President's budget plan, and what the budget plan before us, does. It passes on the burden to future generations. It asks our children to shoulder the debts we are running up.

It is interesting to look at what the President's policies will do according to his own analytical perspectives. From page 33 in his budget, what this chart shows is the next 10 years, the budget sweet spot. Even though we are in very large deficit, even though we are in record deficit, even though the debt is mounting, we can see this is the good times because this is the chart from the President's own budget document looking out as far as 2050.

What it shows is, if the President's policies are adopted, his proposals for tax cuts, his proposals for spending, we are going to take a leap off the cliff into deficits that are unsustainable and that are dramatic and that are devastating to this country's economic strength and economic future.

We need to remember this is the worst possible time for us to be accumulating such a mountain of debt.

This is precisely the time when we should be paying down debt, or prepaying the coming liability of the baby boom generation.

When we look at the next two decades, we can see that the President's tax cut explodes in costs at exactly the same time the Social Security and Medicare tax surpluses disappear. Right now, the tax cuts are somewhat less than the trust fund surpluses from Social Security and Medicare.

But look what happens when those trust funds go cash negative in the next decade. At the very time the trust funds of Social Security and Medicare go cash negative, the cost of the President's tax cuts explode. That is what this chart shows us.

The blue bar, which is the smallest, is the Medicare surplus. Ultimately, it becomes Medicare deficits. The green bar is what Social Security is running now in surplus, which will also turn to deficits when the baby boomers start to retire. The red bar shows the President's tax cuts.

What this chart shows is as clear as it can be. None of this adds up. It doesn't come close to adding up. Right now, while the trust funds are running substantial surpluses, those funds are being used to pay for the tax cuts and other expenditures of Government. They are not being banked. They are not being used to pay down our other debt so that we would be in a better position when the baby boomers retire. And those surpluses are not being used to prepay the liability we all know is to come. Instead, those trust fund surpluses are being spent. They are being spent to fund these tax cuts; they are being spent to fund other expenses of Government.

Look what happens when we get out into about the next decade. Then as the baby boomers retire, the trust fund turns to cash negative, instead of throwing off big surpluses.

For example, this year, the Social Security trust fund surplus is over $160 billion. That is real money—$160 billion in this year alone. But all of that is going to change when the baby boomers start to retire. Then the trust funds of Social Security and Medicare go cash negative. As the years progress, we go cash negative in a big way. That is the very time that the cost of the President's tax cuts explode. The result: massive deficits, massive debt.

This chart is looking out to 2018, when we will have a deficit approaching a trillion dollars for that year alone. That is what these charts show. That tells me that this budget plan can only have one conclusion, and that is to take us on a course to massive cuts in Medicare, in Social Security, and in all the rest of Government. That is the only conceivable outcome of a policy that has been laid down by the President and that has been largely adopted in the budget resolution.

I don't think that is the direction in which the American people want to go. But they need to know that the logic of this plan is inescapable. It is massive deficit; it is massive debt.

The President has proposed what he calls an economic growth package. Clearly, we need to have an economic growth strategy. That is something on which we can all agree. We need an economic growth strategy because we have lost 2.5 million jobs in the private sector since January of 2001. Let's be clear. What has caused that? No. 1, economic downturn. No. 2, the attack on this country that made the economic downturn more severe. Those are the culprits in the near term for what has happened to us. So we simply must respond to 2.5 million jobs lost during that period of time.

But the President has told us that his growth package, which doesn't cost $725 billion—when you include the interest costs, it costs $994 billion from 2003 to 2013—almost a trillion dollars of costs, only a very small part of it is effective this year when the economy is weak and needs a boost. This doesn't make sense to me, nor does it make sense to many economists. Clearly, we need a growth strategy. This is where the chairman and I are in complete agreement. We need a growth strategy.

But we need a growth strategy that will really grow the economy, one that will provide lift at a time of economic weakness, but one that will return us to fiscal balance in the long term so we are not putting upward pressure on interest rates that would only slow economic growth and kill a stronger economic future.

Some have said deficits don't matter, deficits don't affect the economy. Chairman Greenspan, head of the Federal Reserve, believes deficits matter. He said in testimony before the Senate Banking Committee:

> There is no question that as deficits go up, contrary to what some have said, it does affect long-term interest rates. It does have a negative impact on the economy, unless attended.

Well, it is not just Chairman Greenspan who believes it. Mark Zandi, a well-respected economist with Economy.com has evaluated the Democratic plan for economic growth and contrasted it with the President's plan. What he concluded is that, in the short term you get more economic growth from the Democratic plan because we put more into giving lift to the economy now, when it is weak.

He shows that, in 2003, we would have almost twice as much economic growth as the President's plan. The same is true in 2004. And perhaps even more interesting, he concludes that over the long term, the President's economic growth plan actually hurts economic growth.

Let's be clear. We believe the President's so-called growth plan will help in the short term—not as much as our plan would, but it would help—but it actually hurts in the long term. Why? Because the tax cuts are not paid for by spending reductions in the President's plan. Instead, the President's tax cuts are financed by borrowing and taking the money out of the Social Security trust fund surpluses. That is a prescription for putting upward pressure on interest rates and for hurting long-term economic growth.

Again, that is not just my view, that is not just the view of Mr. Zandi; it is also the view of Macroeconomic Advisers. They happen to be the group that is hired by the White House, hired by the Congressional Budget Office, to give long-term assessments of what different policies will do for economic growth. This is what they have said the effect of the President's plan will be.

This chart shows the President's policy compared to the base. The base is the green line; the President's policy is the black line. What it shows is that in the short term the President's policy would increase economic growth—again, not as much as the Democratic plan; nonetheless, it would be positive. Over the long term, it would be worse than doing nothing. It would actually hurt long-term economic growth.

Again, the reason for that is very simple. The reason is, if you finance these tax cuts with borrowing, you are increasing deficits, increasing debt, and that provides a dead weight on this economy.

We have the Federal Government in there competing with the private sector to borrow money. That drives up the cost of borrowed money, drives up interest rates, and that hurts economic growth.

It is just not my view, or the view of Macroeconomic Advisers, or Mr. Zandi; it has now been expressed by a group of the most distinguished corporate leaders in America.

The nonpartisan Committee for Economic Development, a group of some 250 CEOs of major companies, has looked at the President's plan, and they have come forward with the following conclusions. I should emphasize the Committee for Economic Development is a nonpartisan, nonpolitical group of 250 leading businessmen and academics, a group composed of largely fiscally conservative business leaders and academics, including executives from the Bank of America, Bell South, Allied Signal, PricewaterhouseCoopers, Deloitte & Touche, Ford Motor Company, and many more.

This group issued a report opposing the President's tax cut and noting that it would explode deficits and debt right in the face of the retirement of the baby boom generation. That is exactly right. Here is what they found.

No. 1, current budget projections seriously understate the problem.

No. 2, while slower economic growth has caused much of the immediate deterioration in the deficit, the deficits in later years reflect our tax-and-spending choices. So this is the debate between the chairman and me. He is saying the tax cuts are not the reason for the opening up of these deficits, and he is right, in the first few years of this 10-year plan. But over the full 10 years of the 10-year plan, the biggest reason for the return to deficits is the tax cuts. That is not just my conclusion, that is the conclusion of this group of corporate leaders.

No. 3, deficits do matter. When you have to be borrowing money for the Federal Government, that puts the Federal Government in competition with the private sector and that puts upward pressure on interest rates, especially at a time when the economy is recovering.

No. 4, the aging of our population compounds the problem.

I do not know what could be more clear. We have record deficits now. The President says cut another $2 trillion out of the revenue base and do not offset it by cutting spending, but increase spending and do it when we all know the baby boomers are about to retire and will really explode costs to the Federal Government. What earthly sense does this make? We are cooking a stew here that will be impossible to choke down. We will be choking on deficits and debt in this country, and you do not have to just take my word for it. The President's own budget documents have reached precisely the same conclusion. They show we never emerge from deficit and that as the baby boomers retire and the costs of the tax cuts explode, the deficits mushroom, the debt grows geometrically to unsustainable levels.

Let me put up the reasons for the decline we were discussing earlier. The reasons for the disappearance of the $7.7 trillion—remember 2 years ago, we had a forecast of $5.6 trillion of surpluses over the next decade. We now know, according to the Congressional Budget Office, if we adopt the President's tax-and-spending plans, instead of $5.6 trillion of surpluses, we will have $2.1 trillion of deficits. That is a swing of $7.7 trillion in 2 years.

Where did the money go? Over the 10 years, 38 percent went to the tax cuts, those already passed and those proposed; 26 percent went to the problem of the models not correctly forecasting revenue for various levels of economic activity. That is apart from the tax cuts. It is less revenue, but not caused by the tax cuts. The two of them together are 64 percent of the reason for the disappearance of the surplus. Sixty-four percent is less revenue than anticipated. Most of it is the tax cuts, but the other is mistakes in forecasting. Twenty-seven percent of the reversal is additional spending caused by the attack on the country, the additional defense spending, and the additional spending for homeland security. Only 9 percent is the economic downturn.

Now we have the Committee for Economic Development telling us that we are on a course that does not make sense. So we look at the proposal before us by the chairman of the Budget Committee that passed on a party-line vote out of the committee. What does it show us?

It shows us that if you do not use Social Security, if you do not throw that money into the pot, if instead you treat it like a trust fund, if instead you protect it, if you treat Social Security as a true trust fund, the deficit in 2004 under the budget chairman's mark will be $503 billion out of a budget of approximately $2.2 trillion. That is a huge deficit. What we see is never emerging from deficit if we do not use Social Security for other purposes for the whole rest of the decade. In fact, we never get below $300 billion in shortfall on an operating basis.

Where is the money coming from? Mr. President, $2.7 trillion is being taken from Social Security surpluses and used to pay for these tax cuts and being used to pay for the other expenses of Government.

These chickens are going to come home to roost. This is a profound mistake, I believe. I believe we should have either used this money to pay down debt or prepay the liability we know is to come, but to take this money from Social Security surpluses when we are right on the eve of the retirement of the baby boom generation, we know what it is going to do. It is going to force incredible choices on a future Congress and a future administration. They are going to have to run up massive debt or have enormous tax increases or deep cuts to Social Security and Medicare. This is reality talking now, and it is a hard reality, but it is something we have to face up to.

Instead of paying down debt, here is what is happening to the gross Federal debt. It is exploding. It was $6 trillion in 2002. If we adopt the chairman's mark, it will be $12 trillion at the end of this budget period; $12 trillion in debt.

The chairman said the tax proposals of the President are not weighted to those at the top. I must say I differ. I do not know what tax plan he is studying, but the tax plan I look at that the President has advocated shows the overall tax cuts are almost totally weighted to the top end. This is from the Center on Tax Policy, and it shows that taxpayers with over $1 million of income a year will get an $88,000 tax cut—$88,873. That is pretty generous. Taxpayers who are in the middle of the income scale, those earning from $21,000 to $38,000, get a $265 tax cut. If that is not weighted to the top, I do not know what is.

By the way, this AGI, adjusted gross income, of $21,000 to $38,000, is 20 percent of taxpayers who are in the middle of income distribution in this country. They take the income of all those in America and divide them into groups of 20 percent. The group that is in the middle 20 percent has an adjusted gross income of between $21,000 to $38,000. They get very little by way of this tax cut. Those at the top—and, of course, people earning over $1 million a year are in the top 1 percent of this country—get a tax cut of over $88,000. This is trickle-down economics all right. It did not work before, and I do not think it will work now.

This shows the benefit by quintile of the President's proposal. It shows the bottom 20 percent get two-tenths of 1 percent of the benefit; the second 20 percent gets 10.8 percent; the third 20 percent get 23 percent; the fourth 20 percent get 32 percent; the top 20 percent get a third of the benefit. So that is clearly heavily weighted to the top.

I conclude by saying I hope we pause, think, and reflect about what adopting these policies would mean to the economic future of the country. I think these are fateful decisions that are about to be made, fateful decisions that will have an effect on this country for many years to come. I very much hope that before we are finished our work on this budget resolution that we change course, that certainly we enact a growth package, one that includes tax cuts, one that gives a lift to the economy but one that does not burden us with deficit and debt for years to come; that we return to an understanding that fiscal responsibility is critical to long-term economic growth. That must be the conclusion that we come to during this debate on the budget resolution.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). Who yields time?

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I have heard many people say the tax cut is really weighted towards the upper income people, and sometimes I do not know if we are talking about the 2001 tax cut or the tax cut that President Bush is now proposing for growth or the extenuation of the 2001 tax cut.

In his total 10-year budget, the President had about $1.5 trillion of reduced revenues. Of that, $695 billion, I believe, was in the growth package and tax cuts; about $30 billion in expenditures. Some of the tax cuts were refundable, so Government will write a check. So that goes on the expensing side. About $600 billion of that figure is the extension of the 2001 tax cuts that will sunset at the end of the year 2010. Those are tax cuts that are the per-child tax credit, the marriage penalty, and also the reduction in rates.

I might mention the reduction in rates, what we already passed in 2001, particularly as far as income strata is concerned, who benefited the most percentage-wise, low income benefited a much greater percentage than upper income. Those are the facts. We reduced the 15-percent bracket to 10 percent, and we did it retroactive in June of 2001. We made it retroactive to January of 2001. Now, that is a reduction of rates of about 30-some-odd percent. That is from 15 percent to 10 percent, and it was made retroactive for individuals who were in that income tax bracket.

For individuals who were at the maximum tax bracket, we went from 39.6 percent to 38.6, 1 percentage point. Incidentally, we went 1 percentage point in the other rates as well. The 28-percent rate went to 27 percent, for example. So percentage-wise, they did not do near as well, about a 3-percent reduction compared to a 33-percent reduction for lower income.

As a matter of fact, the Tax Code is more progressive now as a result of the 2001 tax cuts than it was without the 2001 tax cuts. Upper income people pay a greater percentage of the income tax. Senator GRASSLEY will probably allude to this when he makes some of his comments.

If we pass the President's entire package as presented, the tax cut would still be more progressive. One might say, why? Well, because we are increasing the number of people who will pay no income tax. If one has four kids, passing a child credit of $1,000 per child is $4,000 they do not pay taxes on. If one has income less than a certain amount, they may not pay any in connection with tax. So percentage-wise, that may be a 100-percent reduction of their income tax. That is rather significant.

I mentioned the marriage penalty. Couples with taxable income less than $56,000 would be taxed at a 15-percent bracket instead of marginally at a 27-percent bracket. So that benefits them dramatically. It goes from a 27-percent bracket to 15-percent bracket. That is almost a 50-percent reduction. That is very significant. Sometimes people want to play class warfare. I don't. I want to come up with good tax policy. It is absolutely not good tax policy to be taxing distributions from corporations to the tune of 67 or 70 percent.

And now a personal example. I used to run a manufacturing company before coming to the Senate. It was a corporation, Nickles Machine Corporation. We made money for a while. Unfortunately, we turned into a nonprofit organization—but not by choice. When we were making money, we wanted to distribute some of the money to our shareholders, to the owners of the company. At that time, corporate tax was 48 percent and the tax on individuals was 50 percent, for our purposes. If you have $1,000 and distribute that to the owners, the net result is the Federal Government gets 75 percent and the owners get 25 percent.

What is it today? If a corporation wants to distribute $1,000, they pay 35 percent corporate tax and the individuals might be paying 27 percent, possibly 33 percent or 38.6 percent. If a corporation wants to distribute $1,000 in earnings to the owners, the Federal Government gets 70 percent and the owners get 30 percent. This is not a very good deal.

A lot of corporations said: Let's do something else; let's pay bonuses. So there were bonus schemes. The goal of a business is to generate a profit and distribute that to the owners. It makes no economic sense to pay a lot of dividends if the Government gets over half, maybe as much as two-thirds, maybe more than two-thirds, even up to 70 percent. That is how present law is written.

The President proposes changing that, and I compliment him for doing so. Alan Greenspan has spoken in favor of that needed change. Many who follow the markets, including Charles Schwab and others, say this would be very positive and would help raise the markets. We would stop this terrible suffocating policy of overtaxing corporate distributions, which is what we are doing. We are currently grossly overtaxing corporate distributions. We need to change that.

Again, this will help anyone, including Senate employees. I don't see too many millionaires walking around here, but it would benefit every Senate employee who works for me who has money in the retirement account. It would help employees of corporations who have money in retirement funds. A teacher retirement fund is one of the largest in the country. I believe it is the California teachers retirement plan. They invest in the stock market. They would benefit from this proposal. It would benefit everyone, including our country.

I don't think we should be talking about class warfare. Percentage-wise, the lower income group has a greater percentage reduction of its income tax than any other group. That is a fact.

Some are talking about this leading to cuts in Social Security and Medicare. I find that not to be the case. The Social Security trust fund will be just as large in 10 years whether we pass this budget or not. We do not do one thing that would have any impact on the Social Security trust fund.

Right now, the Social Security trust fund is financed by payroll tax. There is more money going out than coming in if you look at Social Security and Medicare combined. If you take the two trust funds combined, there is more money going out because we subsidize Medicare substantially in Part B. I will have charts on the total money in those pots of funds.

We want to have a very good, enlightened debate on this entire budget. I encourage my colleagues, if they find this budget deficient, to please offer their own. We will have ample time to consider alternatives. I am sure others have ideas, and we would be happy to debate those.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me indicate when one is assessing effective tax rates on corporations, it is a very tricky business. The chairman is citing the tax rates found in the tax tables. But those are not the effective tax rates that companies pay. It gets to be much more complicated than it appears superficially in terms of top rates.

For example, the chairman is making the point regarding everyone who has retirement account benefits. Our employees benefit—although they are, for the most part, well-to-do people—from the dividend taxation proposal. The way tax law works, they do not pay those taxes in a retirement account. Those are tax-free accounts. They are not paying the dividend tax. It might be true they would benefit if the value of the stocks went up, but that is very much a crapshoot. No one knows for certain what the effect of a dividend tax proposal would be in terms of stock valuation. But we do know the effect on deficits and debt. It will drive up deficits. It will drive up debt.

Many Members believe, and many economists believe, increased deficits and increased debt will inhibit long-term economic growth, not improve it; it will hurt people, not help people.

When the chairman talks about lower income people getting a bigger percentage reduction in their income taxes than higher income people, that leaves out a profoundly important point. That is, most lower income people—in fact, most taxpayers—pay much more in payroll taxes than they pay in income taxes. There is no payroll tax relief in this plan. It is all geared to income taxes. Automatically, that is giving the greatest benefit to those who are the best off.

When you take all the President's proposals together and evaluate who the big beneficiaries are, it is indisputable that it is heavily weighted in the top end. Certainly, the dividend top proposal is weighted in the top end heavily, and that is half of the President's so-called growth package.

I will yield the floor so colleagues have their chance to express their views on the budget resolution before the Senate.

Mr. NICKLES. I yield to the Senator from Wyoming such time as he desires.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am pleased we are at the point of having the debate now on the budget. It is extremely critical to the operation of the Nation to have this done in a very timely fashion. I appreciate the cooperation on both sides of the aisle to bring it to this point.

I enjoyed the insights and debate we had last week as it congenially went through committee. There was a lot of cooperation, a lot of exploration, a lot of decisionmaking last week that resulted in the budget that is here today so we can begin the floor debate. I look forward to making progress on the budget this week and getting it wrapped up so the authorizing committees can look at the exact projects they have coming, have some kind of idea of the amount of money that is in there and, at the same time, the projects they want to do over the years that are necessary to accomplish. Then, of course, the timely work of the authorizing committees will allow the timely operation of the Appropriations Committee.

Last year we were not able to approve an appropriation until this year, in January. That is supposed to be done in October, not January—October. We got it done in January. But we ought to be able to get it done in October, before October 1, so all the agencies know what they are operating on for that year so we are not guessing for part of the year and then operating on an appropriation.

All of that ties back into this budget process. The budget process is not the details of where the money goes, but it is the broad blueprint for where it goes. Most importantly, it establishes the rules that people have to operate under when they do authorizing and appropriations.

This is an extremely critical piece of the puzzle. It is a piece designed to be done in relatively rapid fire, so those other parts of the process can be done.

Today I rise in support of the budget resolution as reported by the Budget Committee last Thursday. I do commend the chairman of the committee and my colleagues for developing a fiscally responsible and realistic budget, and for doing it in a timely manner. The hard work of the committee has set the stage for final adoption before the April 15 deadline.

You may not know that the April 15 deadline has only been accomplished four times since 1976. We have a great opportunity to have it accomplished this year. I look forward to doing that.

The resolution as introduced today will not only enable us to win the war on terrorism, to secure the homeland, and to generate long-term economic growth, but it will also provide critical funding for America's children and our national transportation system.

As a new member of the Budget Committee, this has been my first opportunity to work on the Federal budget in depth. The week the President's budget was released I read the entire thing from front to back. Since then, I have studied the summary tables for each of the budget functions and have worked through the costs and benefits of the President's economic growth and development plan. As an accountant and businessman, I believe I have a unique understanding of the President's growth package and the budget, and I strongly urge my colleagues to pass this budget as introduced.

I would like to speak specifically about the President's economic and growth package for a moment. I have taken the last several weeks to closely analyze that Economic Growth and Jobs Plan because I think we must ensure that each initiative will act as a stimulus and not as just another expenditure. While I have a degree in accounting, you do not need to be an accountant to know we cannot spend our way out of debt. Accounting does not work that way. We either have to increase revenue or decrease spending in order to balance the budget in the coming years.

I had a little lesson right after the first of the year in balancing budgets and the importance of it. The President asked me to go to Brazil and represent the United States at the inauguration of the new President down there. I was delighted to make the trip. It was quite an adventure. They invited heads of state to their inauguration, unlike our inaugurations, and the heads of states around the world do respond. There were 130 countries represented.

They take the credentials on a seniority basis that goes to heads of state and then crown princes and then vice presidents and eventually it gets down to the delegation that we had over there. We were 40th in line, so there were a lot of heads of state there. I had an opportunity to talk to many heads of state. Our delegation had an appointment every hour with a different head of state or with a cabinet member of the new President, and a meeting with the new President.

He is from a leftist government, so it was interesting to find out what he had in mind for his country. One that was particularly critical to him was balancing the budget. He recognized that the future of his country depends on that more than, perhaps, any other item that he can do. He is also interested in moving the programs to as close to the people as possible, giving them flexibility and reducing the bureaucracy.

That sounds like a lot of the issues I have been talking about, and I do not consider myself to be leftist, but I did notice with most of the heads of states to whom I spoke, they did put an emphasis on that balancing of the budget. I am convinced that is what we can do for this country to ensure the future of the country, and the sooner it is possible to do it, the more important it is—but the more sure that we can do it, the more important it is.

Unfortunately, while the Federal Government accounting offices are good at estimating expenditures, they are not very good at projected revenues. They use static numbers. That means that no matter what kind of economic plan we have, those numbers are not going to be reflected in any budget, toward helping to balance the budget at all. Keep that in mind when we are talking about budget here.

The static numbers provided by the Congressional Budget Office do not take into account the long-term positive effects of the President's growth package, the effects that would have on the economy. I believe this erroneously skews the debate. Positive results should be reflected along with negative results, and increased revenues should be taken into account when making decisions about an economic growth package.

The answer to improving our economy is not through increased spending of Government programs. You cannot spend yourself into a better economy. Try that on your own budget. It works kind of the same way. You have to do it with the Government by growing tax revenue from the private sector.

As we know from past economic reports, dollars invested by private companies tend to circulate through the private sector nearly twice as much as those spent by the Government on domestic programs. Some of those estimates go up as high as seven times when you spend in the private sector as opposed to spending in the Government sector. For example, when one business buys something, the business that sold it to them receives the money. The business that sold it to them turns around and spends it at another company, which takes it and spends it at another company, which spends it. Some say this action circulates the dollar as many as seven times through the economy—seven taxable times through the economy. That is one of the differences between a government expenditure and a private expenditure.

The result is the efficient use of capital and more Federal revenue. The trick is to get the private sector into that expanded mode fast enough that the tax revenue comes in at greater amounts than had been anticipated. From past times we have seen that providing an economic plan, providing some tax relief, has stimulated the economy. It can do that again. But what we are talking about is the efficient use of capital: where it can be best applied to get the best results.

This does not mean we have to decrease spending for critical programs in order to spur investment. Instead, I believe we must hold our spending in check and then increase revenue by creating an environment that allows businesses to grow and subsequently pay more into the Federal pot.

We need to grow the economy back to where it was before the recession that started 3 years ago, and then was added to by September 11, and then we have to grow it beyond.

When I first got to the Senate, the first item of business was a balanced budget constitutional amendment. We were going to force ourselves to balance the budget. I have to tell you, the constitutional amendment came within one vote of passing—one vote. I have to tell you, that was pressure from the American people, and we paid attention to it in this body and we began balancing the Federal budget. When we did, the economy skyrocketed. That is what can happen if we have a plan for getting back to a balanced budget. We can grow the economy faster than it grows right now.

It wasn't that we cut spending during that time. Lord knows, we did not cut spending. But we increased the revenues. That is the key. It is easier to balance the budget when you rapidly increase the revenues. That is what I think the President's economic growth plan will do. I believe the President's proposal is the most effective engine for spurring that growth.

We need to aid the people and businesses that make up our economic machine and get it moving down the tracks at full speed again. That is the businesses, particularly the small businesses.

The President's economic growth package makes sense. Eliminating the double taxation on dividend income is fair and right, as income should not be taxed twice. The proposal will eliminate the current tax bias against equity investment, and because a little over 50 percent of American households own equities, it will benefit a wide range of income levels.

I have to mention, there are seniors in this country who have done some planning for their retirement, and one of the ways they did that was to pick out companies that pay dividends, and to pick out companies that pay dividends in different months so they get a dividend check each month. I will tell you, those senior citizens know what it is to have their income taxed twice. In fact, they have a lot of instruction on unfair taxation that falls on them.

Further, eliminating the double taxation may encourage investors to reward companies that pay out a healthy dividend, not just by purchasing their stock but by purchasing the stock at a higher multiple of corporate earnings.

I have to tell you, that balance can be paid out. That has to be real money. That cannot be phony accounting. That straightens out some of the accounting process. Look to the dividends.

The President's proposal to accelerate the 2001 tax cuts will rightly put money back into the hands of hard-working taxpayers. I believe the most important acceleration would be the reduction in the highest tax rate because sole proprietorships, partnerships, and subchapter S corporations are taxed at that level.

We talk about it as though it were a few wealthy individuals. I had people talking to me about the unfair double taxation of dividends before the President ever mentioned it. It was coming from Wyoming people who had small businesses who have grown those small businesses and have grown them very successfully. They started to mount as regular corporations rather than subchapter S corporations. They were able to build those businesses. They have very successful businesses with some retained earnings now that could go into some other projects, but they are not about to pay that out if they have to get taxed on it one more time. They already paid the tax. They do not think it is fair to be taxed on it again.

As some of you know, I owned a shoe store in Gillette, WY. So I understand this subchapter S and C corp taxation and know that those C corp small businesses are taxed at a different rate. Subchapter S corporations pay at the individual rate. And for many of those in business, because of the money that is flowing through the corporation—not money they are getting, money flowing through the corporation, money they are putting back into inventory and equipment and buildings so they can grow that company—they are paying taxes on it, if they have it as a subchapter S corporation, and they are paying it at the highest individual rate, which cuts into the amount they can put back into the business.

So, simply put, the more money that corporation has to pay in taxes, the less money they have to invest in inventory, to maintain the building, or, more importantly, to hire more people to take care of customers—jobs.

As such, I think reducing this tax burden on small businesses will be the most effective growth mechanism. I also believe the President's efforts to encourage long-term economic growth, through higher expensing caps for small business expenditures, is extremely helpful and long overdue. Again, the money that they are investing in equipment and buildings would be able to be written off quicker, which would encourage them to go ahead and make those expenditures sooner, which is short-term growth for the economy. Months and years before the President released his growth package, small business owners from Wyoming were asking me for that kind of relief as well.

I have to tell you, it is small business that has been building this country. For the past several years we have had the megamergers, we have had a big company buying up another huge company. The numbers they talk about from those purchases are absolutely astronomical to me. I don't even have the concept for how much money they are talking about. But one of the things I have noticed is, after they make that megamerger, they have what they call a downsizing, or a "rightsizing." I call it laying off people—10,000, 20,000 people laid off.

Until the decline of 3 years ago—and actually up until about a year ago—the slack from those megamergers was being picked up. Those people were being hired. Those people were being put to work. Those people were given jobs. Where? In small business. Small business was growing the economy. They are able to define a niche and able to provide a need. And they are able to respond to change quickly. That is the advantage of small business.

Fortunately, we have people in this country who are willing to take the risk of developing a special niche, filling a need for this country, and selling the people of this country on that need. That is what has grown the business. A lot of those little businesses have grown into very big businesses, but that is how they started.

That is where we really need to fuel this engine. We need to fuel it from the small business aspect. We have that opportunity. We have that opportunity with the President's economic growth plan. I hope we will take advantage of it.

Small businesses should not bear the brunt of taxes. As corporations struggle to meet income projections and cost reductions, small businesses are the ones providing jobs and putting food on the table for our working families. They are the ones growing the jobs. Small businesses are the backbone of the American economy, and we must allow them to grow and prosper.

While I support the President's plan and the package we assumed in the budget resolution, it is important to remember the Budget Committee cannot dictate how the Finance Committee structures the tax package. This resolution simply reconciles the Finance Committee to reduce revenues by $698 billion, which is consistent with the President's growth plan. I urge my colleagues to support the reconciliation package without amendment.

During this uncertain time, we must be mindful of the fiscal impact of the war on terrorism and the war in Iraq. These are threats we may not be able to avoid, and we must be prepared to provide the resources necessary to keep the men and women of our armed services safe and strong.

However, I caution my colleagues. We should not add the cost of the war to the baseline of our budget. God willing, this war will be short, if it happens. And we should not treat it as an ongoing expense. We should not put it in as a baseline so that next year we can build from that baseline at even greater expenditures. It has to be treated as a one-time emergency.

Mostly, I fear that the money used this year to fund the war will be swallowed up next year by the spending machines we can't wait to dip into as a new pool of money.

Finally, in closing, I would briefly like to mention another issue that is important to the people of Wyoming and to many Senators who hail from rural States. This issue is drought assistance. During the Budget Committee markup, I worked with my colleagues to include a sense of the Senate that would direct Congress to develop a long-term drought plan and establish a reserve that would fund emergency and disaster assistance to livestock as well as agricultural producers hurt by drought.

I think this provision goes a long way in making a clear statement that we are systematically preparing for the negative impacts of drought and other disasters through a long-term strategy rather than a knee-jerk reaction.

Something that has disturbed me in the budget for our country has to do with our knowledge of impending disasters. We don't know which disasters they are; we don't know where they are going to strike; we don't know what they are going to be or we might be able to do more in the way of prevention. That just isn't the way Mother Nature works. But we do know every year—since I have been here, and looking back several years before that—

there are around $6 billion worth of disasters in our country.

We do not budget for that. We treat them strictly as emergencies. Anybody in the private business sector who knows there is going to be a huge expenditure builds that into the budget. I am hoping, through a process, we can eventually get to the point where the known emergencies—that is, the known amount of dollars of the emergency—even though we don't know which they are or where they will occur, that they will be provided for up front as part of the budget.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. ENZI. I yield for a question.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator is speaking so well on these issues as an accountant. I think he is the only accountant in the Senate, and a small businessman himself. I would like to ask this question on the double taxation.

I have heard economists and others, like Larry Kudlow, for example, say that big corporations are withholding earnings. They are not paying them out in the form of dividends because they are taxed. And they are retaining those earnings. Then they are using those earnings, when they don't know what to do with them, basically, to buy up small competitive corporations. Does the Senator think, based on his experience in business, that could be one factor in the consolidation of big businesses more and more in America? And is that unhealthy for the country?

Mr. ENZI. I think our tax system has encouraged companies to get bigger and to enfold more kinds of operations into their current operations, even if they were not compatible with the current operation, just so they could do as you have expressed, avoid some of the double taxation there would be on dividends and also drive up the price of the stock by making these other acquisitions.

Growth, sometimes, of another business will drive up the price of the stock because it increases the number of sales for the host corporation. It did not increase the number of sales for the purchased corporation, but by adding that to the new one or by sticking some other units out there, they can drive up the stock prices. We have seen a number of mechanisms for being able to drive up the stock prices.

I do expect we will see kind of a reversal in the way companies have been doing that. If we can put some plans in place to better stimulate small businesses, we will see some of those big businesses spinning off some of the businesses that they have had before, taking the cash, paying some dividends and increasing the value of their stock based on the true accounting, the cash that they are able to generate. They will be able to do that because they won't have that double taxation burden some of the investors look for, those opportunities. They don't want to receive the dividends. They want to see the increase in stock value instead. So instead of encouraging cash to be distributed so they can put it into the economy, perhaps for smaller business earnings, it is going exactly the opposite way.

Mr. SESSIONS. Just to follow up, is it the view of the Senator that by eliminating the double taxation on dividends, this would encourage businesses to distribute dividends to shareholders and not hoard it and end up purchasing and consolidating their business interests, expanding it by purchase of competitive smaller businesses?

Mr. ENZI. The Senator from Alabama is absolutely correct. It will grow a lot of new businesses. It will put it in the hands of people who will be looking for opportunities of small businesses that fill niches, and there will be money available for small businesses through venture capital to be able to get the money to put that idea they have had in place for a long time and actually produce the product, market the product, get it out there where it is providing a service to people and growing the business at the same time. It will change the way people in this country invest. It will improve the way corporations operate.

I thank the Senator for his questions. I urge my colleagues to support the fiscal year 2004 budget resolution as reported by the Senate Budget Committee.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I am pleased to yield 25 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, before my friend from Wyoming leaves the floor, I want him to know I listened carefully to his arguments. I had difficulty following the argument that we should not include any funding in the budget for the war in Iraq. I am sure he has attended—I have seen him there—a number of meetings where we have listened to the Secretary of Defense and others say we couldn't project what the war is going to cost because we didn't know what other allies were going to contribute, how many troops they were going to have, what they were prepared to spend. Now on the eve of the President's statement, we have a very good idea about where the burden of this conflict is going to fall. It is going to fall on American taxpayers.

I am troubled about why we don't include any of that in the budget. We know it cost $25 billion to send the service men and women over there. That is a CBO figure. It will cost $25 billion to get them back. We know now that to build the Iraqi oil industry, if we were to go in there today without any kind of impact or any destruction, it is going to cost about $15 billion more to bring it up to speed. We know that electricity is about half pace and it is going to cost another $10 billion to bring that up to speed. We are trying to bring Iraq back to its former self. We know that communications is about half speed and that will cost another $10 billion.

We know we will need a minimum of 50 or 75,000 troops. General Shinseki says 200,000 troops. General Nash, a previous commander over there in the first Gulf War, mentioned a couple hundred thousand troops. We had 70,000 in Bosnia. It is difficult for me to think that just as an opener we will not need $50 to $75 billion. I find it difficult to understand why we are not including that and discussing that when we are talking about the budget for the future, when we know we are going to have to get the expenditures.

As I heard, the argument was, we don't want to put it in because it will be part of a baseline in terms of future spending, which suggests that we are not rational enough or sensible enough or responsible enough to be able to deal with these figures down the road.

I don't want to be unfair to my colleague from Wyoming. If I don't have it right, I will be glad to yield for a question.

Budgets are the way a nation sets its priorities, and the priorities in the Republican budget are profoundly wrong for America. It fails to address the real problems of real families. It appears to have been drafted in a sound-proofed room so that the voices of working men and women, students and senior citizens could not be heard. It's a harmful rehash of the same failed economic policies that have caused so much misery and pain for so many Americans.

In the 2 years since President Bush took office, the well-being of American families has declined at an alarming rate. Ask most Americans how their lives have changed since President Bush took office, and they will tell you. Declining job security. Disappearing retirement savings. Plummeting school budgets. Rising college tuition. Skyrocketing health care and prescription drug costs. Duct tape and plastic sheeting instead of real steps to make neighborhoods secure. Federal budget deficits as far as the eye can see. The White House has not only failed to feel their pain, it has made their pain worse.

Even when it comes to the Government's highest obligation—the safety of our country—this budget falls short. Al Qaeda and other terrorist groups are planning every day how they can inflict yet another terrible act of terror on our soil. We deserve better than duct tape and orange alerts to protect our communities from terrorism. We need a budget that ensures that fire fighters and police officers and health care workers and other first responders have the resources and training they need to protect us. We need to protect not only our airports, but our seaports and bridges and schools and other public buildings.

At the same time, President Bush is preparing for a new war with Iraq. At this very moment, a quarter of a million American men and women in uniform are poised in the Gulf, awaiting the order from their Commander-in-Chief. They are prepared to sacrifice their lives for their country. Even after the war, we face an uncertain future in Iraq as we struggle to win the peace. We all know that to do the job right in Iraq may well require a huge commitment of dollars and troops over many years, and it is far from clear that we will have significant support from other nations in this mission.

But what does this budget propose? Yet another round of tax breaks for the very wealthiest Americans.

How will more tax breaks for the wealthy hire more qualified teachers to teach our children? How will another tax break for millionaires help working men and women get job training and find a new job? How will another tax break for the wealthy help families afford health insurance or provide prescription drugs under Medicare? How will another tax break for the wealthy help them recover their lost retirement savings? How will another tax break for the wealthy win the war against terrorism? How will a mountain of budget deficits help us build a better future for our children? And how will more tax breaks for millionaires help us defeat Saddam Hussein?

With the economy in shambles and continuing threats from terrorists, these are not normal times. Our responsibility in Congress is to pass a budget that meets the challenges of our times. Instead of more tax breaks for the wealthy, we should be concentrating on our national security and our economic security.

We should enact no further permanent tax breaks until the costs of war with Iraq are determined. Giving our troops everything they need to do the job, and to do it safely, should come first.

Surely, when our troops come home, we want them to come home to better schools, not schools facing drastic budget cuts, fewer teachers, and with crowded classrooms. We want them to come home to a strong economy, with jobs that let them care for their families and save for a secure retirement. We want them to be able to afford health insurance and look forward in their retirement years to a strong Medicare program that helps them afford the prescription drugs they need.

This budget fails these tests. It rejects the steps needed to restore the economy, and instead embraces ideologically rigid policies that have not worked and will not work. In 2001, President Bush pushed a $1.3 trillion tax cut through Congress that disproportionately benefits the wealthiest taxpayers. Now, the administration is seeking an additional $1.6 trillion in tax cuts, even more heavily slanted toward the rich. That is not the solution to the problems facing working families. That is a strategy that will only add to their problems.

These problems have grown steadily worse since President Bush took office in January 2001. Certainly, his policies are not the sole cause of the economic downturn we have witnessed in the last two years. The stock market began its decline before he took office, and so did the recession. The economic shock caused by the September 11 attack was beyond his control. However, the response of the administration to these economic challenges has been ineffective. The President's single-minded commitment to tax cuts for the wealthy as the cure for every economic ailment has made a bad situation worse. The administration has ignored remedies that would provide a significant short term stimulus, while undermining our long-term economic strength. As a result, the economy continues to stagnate, and the number of families facing hardship continues to grow.

Huge numbers of working men and women have lost their job security. As layoffs mount, they live in fear of being the next to be let go. There are two and a half million fewer private sector jobs in America today than there were just two years ago. Those looking for a job are finding it increasingly difficult to obtain one. The number of long-term unemployed workers has increased by nearly 200 percent since President Bush took office. The Bush administration is the first administration in fifty years to have a net loss of private sector jobs. In the face of these problems, Republicans have been slow to support an extension of unemployment benefits. They continue to oppose assistance for one million workers facing long-term unemployment and for hundreds of thousands of part-time and low-wage workers who currently receive no benefits.

Mr. President, this chart shows the 2.5 million private sector jobs that have been lost in the last 2 years. From 111.7 million jobs in January 2001, to 109.2 million in February of this year.

Health insurance is becoming less and less affordable for millions of workers and their families: Over two million more Americans are without health insurance today than there were two years ago. One in ten small businesses which offered their employees health insurance in 2000 no longer do. The average cost of health insurance is rising at double digit rates—up by 11 percent in 2001 and another 12.7 percent in 2002—nearly four times the rate of inflation. The health care squeeze on working families is getting tighter and tighter.

The cost of higher education is rising beyond the reach of more and more families. The gap between the cost of college tuition and the tuition assistance provided by the federal government has grown by $1,900 in the first 2 years of the Bush administration. Yet, Republicans oppose efforts to meaningfully increase financial aid for qualified students. As a result, the number of worthy students being denied the chance to go to college is growing each year.

For millions of families, their retirement savings have seriously eroded in the last two years. The value of savings in 401(k) plans and other defined contribution plans has declined by $473 billion in the last two years. The value of individual retirement accounts dropped by $229 billion in 2001. The 2002 data are not available yet, but given the poor performance of the stock market, it will be another steep decline. Many middle-aged workers who thought their retirements were secure are suddenly being forced to consider staying in the workforce longer and reduce their standard of living in retirement.

These are the realities American families face today. It is no surprise that consumer confidence has dropped more than fifty percent since President Bush took office.

The fiscal well-being of the Federal Government has suffered as dramatic a reversal as the financial well-being of America's families. When President Bush took office, CBO projected a $5.6 trillion surplus over the next ten years. Two years later, that surplus has disappeared. CBO's most recent projection is a $378 billion deficit over that same period. Part of the surplus disappeared with the economic downturn, but a major portion of it was dissipated by the policies of the Bush administration. It is even more disturbing that the White House has not learned from this sad experience. If Congress enacts the proposed budget submitted last month by the Bush administration, the deficit will grow to over $2.1 trillion. These numbers have a serious real world impact. The President's plan would make it impossible for the Federal Government to meet its most basic obligations to the American people.

To all these problems, the Bush administration has one answer—more and more tax cuts predominately benefitting the wealthiest taxpayers.

In this current situation, the most irresponsible action Congress could take would be to accept the proposal of the Bush administration to enact major new permanent tax cuts. The combined cost of the President's plan to exempt dividend income from taxation, accelerate the tax cuts for the upper income brackets, and make the 2001 tax cuts permanent would be over $1.3 trillion in the next 10 years. This immense increase in the deficit would also trigger an additional $300 billion in interest costs on the larger national debt. We cannot afford the loss of an additional $1.6 trillion from the Treasury. Temporary tax cuts to stimulate the economy are affordable, but the President's large, permanent tax breaks are not. If the Bush plan is adopted, the Federal Government will not have the resources to meet urgent domestic needs in education, in health care, and in homeland security. Even more troubling, their plan will make it virtually impossible for us to keep the commitment of Social Security and Medicare in future years.

If Congress accepts the budget which Senate Republicans have proposed, the on-budget deficit will be nearly four trillion dollars by 2013. That fact is not in dispute. The number comes right from the Chairman's mark. The cumulative on-budget deficit in fiscal year 2013 will be $3.948 trillion—an extraordinary amount. More than three-quarters of that amount is directly attributable to the Bush tax cuts enacted in 2001 and the additional cuts proposed in 2003.

The impact of these new tax cut proposals is clear from the administration's own budget. When the President says "no" to obviously needed spending on urgent domestic priorities such as education and health care, he says the war on terrorism requires us all to tighten our belts. The burden of these sacrifices falls mainly on low and middle income individuals and families. The President refuses to ask the wealthiest taxpayers to share the burden.

In the midst of his repeated calls on others to sacrifice, he is advocating over $1.3 trillion in new tax breaks—$726 billion for his "economic growth" package and $624 billion to make the reduction of the higher brackets and the estate tax repeal permanent—primarily for those with the highest incomes. That policy is wrong.

As a result of the Bush tax plan already enacted, the wealthiest 1 percent of the taxpayers will each save an average of $50,000 a year, and now he wants to give each of them even more—an additional $25,000 a year.

This chart indicates who benefits from President Bush's tax cut proposal. This is a Brookings analysis. We see on this chart $88,000 to millionaires, $239 for working families.

It cannot be wartime for middle America, but still peacetime for the rich.

The Bush administration is using the recession to justify major new permanent tax breaks for the wealthy. Exempting dividend income from taxation will take $400 billion out of the Treasury over the next 10 years. Half of that enormous amount—$200 billion—will go directly into the pockets of the richest taxpayers.

The information on this chart is from Citizens for Tax Justice. Under the Bush plan to eliminate the tax on dividends, the richest taxpayers get half the savings, pocketing $200 billion; 49 percent goes to the richest 1 percent; 31 percent goes to the next 10 percent. Effectively, 80 percent of the benefit goes to the richest 10 percent.

The American people deserve better from the White House. We should be freezing the rates of the top income tax brackets at their current level and maintaining the estate tax on estates over $4 million. We should not be enacting any new permanent tax breaks for the wealthy when we are so clearly failing to address so many of our most basic, urgent national needs.

For the cost of reducing the tax rate—listen to this, Mr. President—for the cost of reducing the tax rate on the top income brackets, we could provide the additional education funding needed to keep the promise made in the No Child Left Behind Act for a decade. We could fund that program for a decade.

For the cost of permanently repealing the estate tax on multimillion dollar estates, we could help to ensure that Social Security has the financial resources needed to keep the promise of a secure retirement for future generations. That is the alternative.

For the cost of President Bush's newly proposed $726 billion package of additional tax breaks tilted to the most wealthy taxpayers, we could fully fund a generous program of prescription drug assistance for senior citizens and extend health insurance to more uninsured families. That is the alternative.

Which does this body want to do? Which of these choices will make the American community stronger and better able to face the challenges of the future? The decision to pass more and more tax cuts for the richest among us is a decision to ignore America's greatest needs. Now is the time for Congress to bring our policies back in line with our national values.

The economy needs a real stimulus plan. A genuine economic stimulus must meet three criteria. It must have an immediate impact, it must be temporary, and it must be fair, bringing the recovery to all Americans and not just to the wealthy few. The Bush proposal fails on all three accounts.

Less than $40 billion of the $726 billion cost of the administration's plan would reach the economy in 2003 when it is needed to stimulate growth. That is, of the $726 billion of the President's proposal, only $40 billion of it would be stimulative right now, Mr. President. Most of the revenue will be spent long after the recession has ended. More than $570 billion of the total amount would not be spent until 2005 or later. In contrast, our Democratic stimulus proposals would put much more money into the economy in 2003, with little additional long-term costs. Temporary tax cuts to stimulate the economy are affordable, but the President's large permanent tax breaks are not.

The cost of the new permanent tax cuts of the President's plan is so high—$1.3 trillion over 10 years—that it would dramatically expand the deficit, leading to higher long-term interest rates. These higher rates could actually prolong the recession by making it more expensive for businesses to borrow the money they need to grow. The overall White House proposal is unfair to most Americans. It will provide a tax cut windfall to the wealthy few, while neglecting the needs of working families, and it will not provide the timely and targeted stimulus the economy needs.

The stimulus plan proposed by the Democratic leader would inject $140 billion into the economy this year, and it is designed in a way that will maximize the stimulus effect of each dollar. Half of the total amount—$70 billion—would be used to provide immediate tax relief to working families. Each person who pays either income tax or payroll tax will receive $300, and families with children will receive additional tax relief. Thus, a family of four would receive a $1,200 tax cut this year. It is a fair plan that will provide tax relief to the hard working families who need it most and are most likely to spend it quickly. In designing a stimulus tax cut, it is particularly important to include relief for low wage workers who pay substantial payroll tax but owe no income tax. The Democratic plan covers the millions of workers in this category who are excluded from the administration's much more costly plan.

The Senate Democratic plan also provides immediate, targeted tax relief for businesses to stimulate new investment. It accelerates depreciation to 50 percent for this year and triples the amount small businesses can expense this year. The goal is to provide businesses with strong tax incentives to invest in new plants and equipment now, rather than postponing those expenditures until further years.

Our plan also recognizes the dire fiscal problems that state and local governments across America are facing. These governments must balance their budgets each year. When a recession cuts revenue sharply, state and local governments must either raise taxes or cut spending. Either step will deepen and prolong the recession, and undercut our stimulus efforts at the Federal level.

It is also important to remember that more people need to rely on state and local programs in an economic downturn. The number of people eligible for Medicaid grows substantially in times of recession, and many other costs rise as well. Without jobs and without health care, families have no where else to turn. We should make certain that the needed resources are available for them. The Democratic stimulus plan will provide $40 billion to hard-pressed states and communities. It will provide additional dollars to maintain health care, education, and social services. It will also help with the substantial costs of dealing with the threat of terrorism. It is money well spent which will help stimulate the economy now. Unfortunately, the Republican budget totally ignores this need.

The American people face a health care crisis. The administration and Republicans in Congress have responded with a budget that not only fails to address this crisis, but advances an extreme right wing agenda that will make the crisis worse.

Every American family is experiencing some aspect of this crisis. Health care costs are skyrocketing, and families with insurance are facing unaffordable premium increases at the same time benefits are being reduced. The number of Americans without any insurance at all is unacceptably high and rising rapidly. No family with insurance today can be sure that it will be there tomorrow if serious illness strikes. And for senior citizens, the national promise of affordable health care through Medicare is being broken every day because Medicare does not provide prescription drugs.

In the face of this crisis, the administration and the Republicans in Congress have proposed a budget that pays lip service to meeting the needs of senior citizens for prescription drug coverage, but fails to provide resources that are adequate for the job.

Even worse, they have proposed to dismantle Medicare and force senior citizens into HMOs and other private insurance plans in order to obtain the drug benefit they are offering. They are proposing to use Medicare as a piggy bank to fund tax credits for the rich. Under the House budget resolution, the Ways and Means Committee is directed to come up with $214 billion in Medicare savings so that the wealthy few can become even wealthier.

It is no accident that the Bush administration's program depends on forcing senior citizens into HMOs and other private insurance plans. Whether the issue is Medicare or the Patients' Bill of Rights, the Bush administration has consistently stood with the powerful special interests that seek higher profits and against the patients who need the medical care. If all senior citizens are forced to join an HMO, the revenues of that industry would increase more than $2.5 trillion over the next decade. Those are high stakes. There is a big reward for HMOs and the insurance industry if the Bush administration plan is enacted. But there is an even greater loss for senior citizens who have worked all their lives to earn their Medicare, and that loss should be unacceptable to all of us. No senior citizen should be forced to give up the doctor they trust to get the prescription drugs they need. No budget accepted by this Congress should put the interests of the rich and powerful ahead of the interests of senior citizens and their families.

The Republican prescription for Medicaid is equally unacceptable. Their proposal would victimize 46 million of the most needy and most dependent of our fellow Americans. The administration is proposing the same type of destructive block grant program for Medicaid that the Gingrich Congress failed to enact almost a decade ago. The Republican block grant would leave many innocent victims in its wake—sick and needy children and their parents, the disabled, and low-income elderly.

In each year's budget process, the Bush administration shows less and less support for education. At a time of enormous unmet student needs, it is shameful for the President year after year to submit anti-education budgets that provide zero overall growth in financial support for education and that cut priority programs for schools.

The PRESIDING OFFICER. The Senator has used 25 minutes.

Mr. KENNEDY. May I get 5 more minutes?

Mr. CONRAD. I will be happy to provide to the Senator whatever time he consumes.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator may continue.

Mr. KENNEDY. Mr. President, it is shameless for this administration to talk about the promise of the school reforms contained in the No Child Left Behind Act while submitting a budget to cut the resources necessary to make school reform a reality for millions of children.

The administration proposes massive new tax breaks for the wealthy, but it has no compunction in proposing that over 6 million needy children must be left behind for every year for the foreseeable future. The administration has no hesitation in proposing that over half a million children be dropped from after school programs.

It even proposes to cut aid to the schoolchildren of the Nation's soldiers serving in the war against terrorism who have been sent off to fight a war against Iraq.

The Senate Republican budget before us rejects the President's cut on the Impact Aid Program for military schoolchildren, but it still cuts funding for the No Child Left Behind Act school reform bill by $700 million.

On this chart, if we look at the years 1997 to 2001 in terms of support for education, it was an 11-percent increase on average during that period of time. Now these figures are the requests, not the actual numbers: In 2002, 3.6 percent increase requested by President Bush; 2003, 2.8 percent; and for fiscal year 2004, half of 1 percent. These figures were up higher because of the work that was done ultimately on the floor of the Senate, but these are the budget requests over the past few years.

In the past, Democrats and Republicans in Congress have worked together to reject the Bush administration's anti-education budgets by a substantial bipartisan majority, and we should do the same this year. We have to make sure Congress lives up to its promise to leave no child behind.

At the same time, we have to provide more college students with financial aid to meet rising tuition costs. The President proposes not one penny, not a single penny, in individual student Pell grants. Without an increase in Pell grants, over 110,000 students are in danger of being shut out of college.

The gap between the cost of college tuition and the level of tuition assistance has grown by $1,900 since President Bush took office. Yet this budget does nothing to narrow that gap.

Young Americans now have an average of $17,000 in student loan debts. Low- and moderate-income students face more than $3,000 in annual college costs not covered by financial aid, work study, or savings. This budget does nothing to help these students.

Just as Social Security is a promise to senior citizens, we should make education security a promise to every young American. If one works hard, finishes high school, is admitted to college, we should guarantee that they can afford the costs of the 4 years it takes to earn a degree. That was President Kennedy's goal in the 1960s and it must be our mission today, and we will fight on the Senate floor this week to make the dream of a college education a reality for all. We will fight this month, this year. We will not stop because the fight is for America's future.

Finally, as I mentioned earlier, this budget fails to include the costs of the impending war in Iraq. The Senate Republican budget contains no money to pay for the war in Iraq, which may begin in a matter of hours, and no money for the cost of occupying and rebuilding Iraq after the war.

The President has refused to submit a cost estimate to Congress despite repeated requests. Over 200,000 military personnel have been moved into place for the war; 90,000 more are on their way. Many of them are from the National Guard and Reserve. They had to be mobilized especially for this mission. The Pentagon is already soliciting proposals from major contractors for the rebuilding of Iraq, yet the administration continues to stonewall us on the costs of the war.

The President knows that the overall costs will be enormous and is obviously afraid of sticker shock when he discloses the facts to the American people. The President does not want to tell Congress what the war will cost until his tax cut proposals are locked in. He is afraid if he tells us, Congress might do something sensible, such as reducing the size of the tax cut to help pay for the war. That is the last thing this administration wants—Congress making responsible fiscal decisions.

So instead, this Republican budget is asking us to pretend that the war is not on the horizon. The Senate of the United States cannot accept such a sham. Let's do the responsible thing: Pay for the war with Iraq and the aftermath before we have another tax cutting raid on the Treasury.

The timing of the President's tax cut could not be worse. We already have record deficits. We are about to go to war. We have never cut taxes in wartime before in the history of the country, and now is not the time for new permanent tax cuts.

The Republican budget fails to provide even one dollar to address the costs of the impending war with Iraq. It places more tax breaks for the wealthy ahead of the needs of our men and women in uniform who are making the greatest sacrifices. Funding for their needs should be our highest priority, not an afterthought.

As I have said, it cannot be wartime for most Americans but still peacetime for the wealthy. The wealthy should have to wait for their tax cuts, at least until the costs of the war and reconstruction of Iraq are addressed.

I thank our ranking member for the time he has yielded, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. I yield whatever time he consumes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I appreciate the opportunity to discuss this important issue. This week we are going to be discussing a number of critical issues, as has already been mentioned by a number of those who have spoken. It is expected that the possibility of war with Iraq will come closer, if not become a reality, sometime in the near future. At the same time, we are debating probably the biggest economic issue, and the biggest issue for the management of this country, that the Senate will deal with this year, as we put together the budget resolution. In that context, I will basically give a brief overview of how we got to where we are, where it is that we are, and the decisions we will be making.

Many people will remember that a few short years ago we were talking about major surpluses across the board and for as far as we could see into the future. In fact, I have in front of me a projection that was based back in January of 2001, which estimated that in this budget year that we are working on right now, the 2004 budget year, the surplus was projected to be around $396 billion. This same sheet shows what the projection today is as opposed to what was projected in the year 2001, and the projection is around a $199 billion deficit. In other words, just for the budget year in which we are working, the projections over the last essentially 2-plus years have gone from a projection of a $396 billion surplus to a $199 billion deficit.

Now, what caused that? We will hear a lot of debate about what caused it. In fact, it has already been said today that President Bush's tax cut from a few years ago caused it, that President Bush's economic policies have caused it. In reality, we are going to see some of the numbers that have been put together.

What happened is that on 9/11 the United States was attacked by terrorists and people saw the World Trade Center collapse. People saw what happened very vividly as the United States responded to the fact that we were at war with terrorists. Following that, there were massive increases of spending at the Federal level; spending required to respond to the 9/11 attacks; spending required to address the war against terrorism, for example, the war which we have fought already in Afghanistan; spending to deal with our homeland security; spending to deal with strengthening our national security and preparing ourselves to be sure that America and Americans are safe throughout the world as we deal with an increasingly dangerous world.

In addition to that, spending has gone up on health care. Spending has been driven up in a number of the other social areas of our budget. We saw very little relief, if not in fact dramatic increasing pressures, for spending in the last 2 years. At the same time, the economy collapsed.

I will put up our first chart. We have seen this chart already today, but this chart shows that at the same time our spending started to go through the roof, as spending started to go up dramatically, revenue, which is the blue line, dropped off dramatically. The revenue dropped off dramatically for a number of reasons. It has been said that the revenue dropped off because of President Bush's tax cut. In part, that is true, because although that tax cut was phased in over 10 years and although most of that tax cut has not even occurred yet and cannot be the responsibility of these declines in revenue, a part of it was. There was tax relief, and as a result of that tax relief there was some decline in revenue. However, let's go to the next chart.

This next chart is another way of looking at the same thing. Again, the blue is revenue and the red is spending. The revenue since 2000 has gone down precipitously. The spending in Washington has not. This is another way of showing we are facing the dual problem of increasing pressures on spending and reducing our falling revenue to support the Federal budget.

Why did the fall-off on revenue happen? This chart shows what happened in our economy. This is the Nasdaq. Starting in 2001, it hit about 5,000. It is now down to—when the chart was made—around 1,200 and is hovering in that neighborhood today, about a 75-percent reduction in the values just on this market. The same type of charts could be put here for the New York Stock Exchange or for other exchanges across the world which have seen worldwide dramatic reductions in economic activities.

Virtually everyone who pays any attention to the economy these days knows the bubble popped and the economy went into a serious collapse. Many have called it recession. We have held dozens of hearings in Washington to understand what happened, why it happened, and how soon we will be able to climb out. People know about the Enron debacle, the WorldCom debacle, and the loss of confidence the American people have in our markets today, which loss of consumer confidence has generated further difficulty in the economy. People are also aware we are potentially going to have to go to war in Iraq. That cloud over the economy itself is generating the kind of lack of confidence in economic activity that causes us to have difficulty in seeing a rebound in the markets.

The next chart shows what it was that caused us to see the dramatic change in our deficit. This chart shows the year 2004. There are charts that can predict it out for 10 years and add in some of the proposed stimulus package. But this chart shows what caused us to end up where we are today in the budget.

Over half of the problem we are facing is what I have been discussing, the weak economy and changes in the estimates of what revenue will be coming into the Federal Government through our current tax and revenue structure. As I indicated, a portion is attributable to tax relief, although this is static scoring, and if one looks at what tax relief does to the economy, I suspect that number will go down dramatically. Static scoring shows nothing but 100 percent loss of revenue for any tax dollar relief.

But we know when there is tax relief, that causes an impact in the economy. That dollar is not spent by the Federal

Government but spent somewhere else, and if the relief is effectively projected, it could be significant. So this number could be reduced significantly. But even if we use static scoring and say a tax cut reduces revenue, dollar for dollar for the Federal Government, only 19 percent of what we look at now is attributable to the tax relief we passed a few years ago in the Senate and the House. That is another 6 percent for tax relief not attributable to the vote a few years ago and the increased spending.

Take just the increased spending that has been caused in Congress by September 11, the war on terrorism, the need to beef up our national security, the increases in health care costs, and a number of other cost drivers we have in our budget. Take the increased spending and the collapse of the economy. It represents 75 percent of why we are where we are.

I suspect during the week we will hear how President Bush's economic plan caused us to be where we are. Here are the facts. There will be a lot of projections and a lot of charts, but nothing can change the reality of what happened on September 11, what our response to it has been, and what happened in the economy following that. That, in a nutshell, is what caused us to end up where we are.

With that explanation of what happened, we get to a situation where this economy has put forward a budget. I will be rough in my numbers because I don't have the charts in front of me. If we do nothing, if this committee simply says we will keep Federal spending at its current levels—we will not drive it up or down, we will not reduce taxes or increase taxes, we will take current law as it now sits—someone could give me a more accurate number, but it is in the neighborhood of $150 to $200 billion of deficit, if we do nothing.

The question is, Should we do something? Should we cut spending in an effort to keep the difference down? Should we raise taxes? I don't believe there is anyone who is suggesting raising taxes right now is a good idea. But there are those who are suggesting because of this, because the economy is no longer contributing what it was contributing before, and because if we learned any lesson in the last few years, it is that the way to get out of these economic difficulties in the Federal budget is to have a strong, flexible, dynamic, vibrant, resilient economy—if we want to do something to make this gray part of the chart get stronger and become better in terms of generating revenue for the Federal Government, then we should have some kind of a stimulus package.

So the debate comes around: Should we cut spending? Should we freeze spending? Should we keep spending controlled? Should we reduce taxes? Should we have a stimulus package? And if so, what, and how?

Looking at the spending side of this equation, the spending drivers in this budget are the beef-up in our national security. In fact, these numbers do not even include the possibility of a war with Iraq. I will talk about that in a moment. The increase in our national security spending, the increase in the costs of fighting the war on terrorism, the increases in homeland security, and the increases in health care—and there are a few others—are the main drivers of the increases in costs in this budget. I don't believe there are very many in the Senate, or in America, who would say right now is the time to cut defense spending or right now is the time to cut homeland security spending. We can hold the line, and we are going to do that, and this budget does put significant pressure on holding those lines, but there is not a lot of room in the circumstances we see right now to reduce those spending areas, although we will work our hardest to do so. I believe we will do so in a bipartisan fashion to get to the right numbers on the budget.

To make a quick aside, I have fought for a balanced budget amendment for years. I still believe we should have one. As I and others have fought for a balanced budget amendment, one of the examples for exceptions we have always acknowledged is we could see a situation where we would need to tolerate deficits for a period of time if we were facing war or a national emergency declared by the President. Today I believe those circumstances face us. I believe we are at war today with terrorists. I believe it is very possible we will be at war with Iraq soon. And I believe we face a national emergency in terms of our homeland security needs. Those are the unfortunate realities that cause us to have very little flexibility on the spending side of this budget, although again I say we are going to do everything we can to bring it under control on the spending side.

The question is, What do we do then, after we have done everything we can on the spending side? By the way, contrary to some of the arguments heard today, the budget proposed works its way back to a balance. It takes 10 years to do so. I am very disheartened by the fact, with the spending pressures we see and with the revenue dropoff we have seen, that our projections are going to take us 10 years to get back into balance. The fact is, this budget balances over the 10-year period.

What do we do when we look at this revenue side? The question is, Do we do nothing? There are those who have advocated today that we should not have any tax relief. One argument is, have no tax relief until we know what the cost of the war is. Another argument is, have no tax relief because we should not have tax relief when we face this kind of spending pressure in the budget. And when we face these kinds of problems we have talked about that legitimately cause us to have to increase expenditures in major categories, we should not be looking at tax relief.

There is another side of the argument, and that side of the argument is, unless we do something to give a basic boost, a shot in the arm, a revitalization to our economy, we will see the grow-back of this weakened economy be much slower. It gets back to that argument about dynamic scoring, of what a tax cut really will do. That is one of the reasons President Bush has proposed—and this Budget Committee has proposed to the Congress—that we have tax relief.

As our chairman of the Budget Committee has indicated, this Budget Committee does not write the tax bill. We simply tell the rest of the Congress, and in this case the Finance Committee, how much money we are willing to budget for them to utilize in establishing a tax cut. Then the Finance Committee can come together and, in its best wisdom, craft the most effective tax cut designed, in their opinion, to do the best for our economy.

That having been said, there are proposals out there. The President made his proposal. This budget accommodates the President's proposal. The President's proposal is to do basically three things.

It is to take the tax cut that we passed in the year 2000 and make it permanent. Most people in the country never quite understood why it was that Congress would pass a tax cut and make it only last for 10 years, phase it in over 10 years, and then have it expire basically as soon as it is phased in. It has to do with some interesting procedural requirements on the floor of the Senate which I will not get into now, but the fact is the tax cut which was implemented a few years ago will expire in 10 years, and the first part of the President's plan is to make it permanent.

The second part is to say we should not phase it in over 10 years. We should accelerate it and implement it all now.

The third part has a number of pieces, but the core of it is elimination of double taxation on dividends.

Let's put up the next chart.

There is a big attack on this. Frankly, in all these areas the attack starts out—you will hear this said dozens of times in the next few days—it is a tax cut for the wealthiest of Americans.

I have been in Congress now 10 years. I served 6 years in the House, 4 years in the Senate. I am in my fifth year in the Senate. Over that 10 years, in virtually every year I and others like me who want to see taxes cut and reduced, when we have fought for tax relief, every single solitary time that we proposed a tax cut of any kind or nature, it has been attacked as a tax cut for the wealthy. Every time. Even when all we did was propose the marriage tax penalty elimination, it was attacked as a tax cut for the wealthy.

The common rhetoric of those who do not support reducing the Federal tax burden begins with "a tax cut for wealthy Americans," because the attack is that any tax cut is going to benefit the wealthy. If you look at the numbers, as to who pays taxes in America, it is primarily those in the upper income brackets who pay by far the largest percentages of the taxes. So if you look at actual dollars, you can make that argument.

But if you look at what is being done in the tax relief proposed by the President on a proportional basis, on a percentage basis, the biggest amount of tax relief is going to those in the lower income brackets.

As this chart shows, those earning from zero to $30,000 will have their taxes reduced by 17 percent. Those earning from $30,000 to $40,000 will have their taxes reduced by 20 percent. In the $40,000 to $50,000 category, the reduction is 14.5 percent.

You can see as you go up in income categories, until you get past the $75,000 to $100,000 figure, the higher percentage reductions are all occurring in the lower brackets. The higher income brackets have the lowest percentage of income reduction.

Again, one could take the actual dollars, but because very few numbers of Americans fit in these categories proportionately, but they make the higher levels of income, a smaller reduction in their taxes is going to give them a higher dollar benefit and people can use dollar numbers to show that. But the reality is that the higher percentage of relief is going to those in the lower income categories. It is pretty much impossible to have a tax cut, unless it is just a tax cut for the lower brackets, that doesn't have some relief across the board, and then allow those to make that argument about the tax cut for the wealthy.

In my opinion, it is class warfare. It is attempting to say those at the upper ends of the income brackets in America should have no tax relief and all tax relief should be favored toward this end, toward the lower income brackets. What happens if you follow that logic is that eventually no tax cut is ever acceptable because the tax down in these categories gets to the point where, no matter what you do with it, unless you eliminate it, it doesn't generate the revenue reductions or doesn't generate the stimulus to the economy that is necessary to get the impact that is desired. That is where we are today. That is why we are seeing these arguments.

I think it is very unfortunate that every time we try to cut taxes in this Congress the first response is that whatever the tax is that is proposed to be reduced, it is a tax cut for the most wealthy Americans.

Let's go back to the chart I just took down. With regard to the proposal that we eliminate double taxation of dividends, Charles Schwab, the founder and chairman of Charles Schwab Company, indicated in a Washington Post commentary on March 11 of this year:

> I can't think of any other tax policy that would, at one stroke, be more beneficial to ordinary investors.

I suspect somebody could say only rich people invest, and therefore this is a tax cut for the wealthy. But I do not think that argument is going to be made too strongly on the floor this week because most Americans are now involved in the markets in one way or another, even if it is only through their retirement plans. But most Americans know it is critical to see things like the New York Stock Exchange and the NASDAQ and others get a boost.

Charles Schwab goes on to say:

> The impact [of dividend relief] would be enormous.

I believe in that same commentary he indicated his personal belief to be he would expect to see the stock market rise 10 or 15 percent with a renewed bolt of confidence throughout the entire economy just by doing what the President has proposed with regard to the double taxation of dividends.

We have another financial expert in the country who has weighed in on this issue, Alan Greenspan, on February 12, before the House Financial Services Committee:

> In my judgment, the elimination of the double taxation of dividends will be helpful to everybody.

I think he was responding directly to this notion that it only helps a certain class in society. He was responding to this class warfare argument that continues to be brought up as we try to address tax policy. He said:

> There is no question that this particular program will be, net, a benefit to virtually everyone over the long run, and that's one of the reasons I strongly support it.

The reason it is strongly supported by these experts is because today, as has been indicated by others who have spoken on the floor, there is very little incentive in a corporation to generate dividends. That is because, if those dividends are paid out, they are taxed twice. As the chairman of the committee indicated, the net tax burden is about 70 percent. Whereas, if the corporation instead incurs debt, and further leverages itself, then it gets a deduction for that debt or it gets a deduction for a portion of the debt costs. So it can actually get a tax benefit for going further into debt, and it pays a tax penalty if it sends out dividends to its shareholders.

What we have seen is corporations increasingly following this path because of the pressure that is put on them by our Tax Code, putting themselves further and further into leveraged positions which I believe is one of the reasons we saw what happened to Enron. That is why Enron had to go through these incredibly complicated sets of transactions to try to mask the amount of debt it was really carrying. It is the same with many other corporations.

If we want to encourage corporate America, which generates strength and jobs for this country and the families which depend on those jobs, if we want to generate pressure in the business community for the kinds of proper decisionmaking that will give us stable, strong businesses that will generate strong and lasting jobs, then we need to address the policies by which we tax them. We need to encourage policies that will support dividend payment rather than debt. That is one of the reasons why you see so many experts saying it is critical for us to move into this new kind of tax policy.

The question is—given it is good policy—can we do it now with this very dire budget situation we face? That is a tough question. It is a tough question for me to answer because in the short term it will cause our deficits to go up, although the amount of that is in discussion and in dispute because some will use static scoring, and some will use dynamic scoring, and we really don't know the dynamics of it.

There will probably be charts here today that show all these projections have the potential to be widely inaccurate; and we all agree with that. But the fact is, we do know there is a dynamic that occurs when we change our tax policy, and the experts are telling us that dynamic will be beneficial to making our economy more flexible and more resilient.

So the question is, Do we take this stand now? Do we do what is necessary to give a boost to the economy, realizing it may take a period of years for the real strength of it to build us back to where we have made our posture stronger, do we sit tight and do nothing now and hope the economy grows out of it on its own or, as some will probably suggest, do we spend ourselves into prosperity? Does the Federal Government take the position that we need to have a lot of spending, a lot of stimulus in the economy, and we should just not concern ourselves with the deficit but spend ourselves back into a strong position economically?

As you might guess, I strongly reject that "spend ourselves back into prosperity" argument. It will probably never be said that way today or throughout this week. But I encourage people who follow this debate to note, when amendments are proposed, do those amendments drive up the deficit or do they not? Do those amendments drive up Federal spending or do they not?

Let's go back to that first chart with the lines, because as we debate amendments on this budget, the amendments will generally have one of two or three impacts. They will either be deficit-neutral, which means they could increase spending by increasing taxes or they could reduce taxes, which is reduce this line, or they could increase spending, which is this line.

I think it is very important for people to pay attention to the amendments that are offered because this whole week I hope we do not get any amendments on the floor that would drive the deficit up with more spending. I would hope we would recognize the deficit increases that are caused by the tax reductions can be addressed with an understanding of the dynamic impact they will have over time.

Just a couple of other arguments I want to address.

It has been said the proposals of this budget spend the Social Security trust fund. I understand what is being said there. Let me clarify what the situation is because I do not believe Americans should go away from this debate believing that somehow the Social Security trust fund is being robbed. The fact is, regardless of whether the tax cut is eliminated from this budget or whether it is put into this budget, the Social Security trust fund, at the end of the 10-year cycle, will be about $4.1 trillion. It will be the same trust fund no matter what happens. Because what occurs is that, in the Social Security trust fund, the excess that comes in from payroll taxes that is not spent out into the Social Security system is a part of that surplus. That surplus is turned into Federal debt instruments.

Then, what are those Federal debt instruments used for? Spending, or for tax relief, or for whatever is a matter for Congress to address. But the fact is, those Federal debt instruments are there, and they are still there to protect Social Security.

My last point. Some have said we should not do anything because we are possibly going to be going to war. Again, the argument there seems to be that tax relief is not wholesome for the economy; therefore, we should not be doing anything to destabilize the economy.

I believe what I have said indicates where I come down on that point, that the fact is we must do something to stimulate and strengthen this economy. The medicine we need is in the President's proposal and is made possible by the projections of this budget.

Although we will face some very expensive and very difficult budget decisions, if the United States goes to war in Iraq, that simply increases the need for us to do our best to make this economy strong and to do what we can, through our tax policy decisions, to put us in the best posture to have a flexible, resilient economy in these difficult world circumstances. So for all these reasons, I encourage this Senate to support this budget.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to speak as in morning business and I will use my leader time to do so.

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## SALUTING SENATOR ROBERT C. BYRD

Mr. DASCHLE. Mr. President, about 3 months ago, a remarkable discovery was made. In an abandoned storeroom in the subbasement of this Capitol, two Senate staffers discovered the long-lost, handwritten payroll records of the Senate from 1790 to 1870.

The ledger contains a vast wealth of information about the birth and the history of this Senate. It also contains authentic signatures of John Adams, Thomas Jefferson, and Aaron Burr. Historians say it is very likely the only document in the world signed by all three of those giants of American history.

Three days after it was found, I was able to hold that ledger in my hands. Every page I turned revealed more legendary names: James Monroe, George Mason, Abraham Lincoln, Daniel Webster, Henry Clay, John Calhoun. It was a rare privilege to be able to hold such a tangible link to the giants of this Senate. For the last 16 years, I have had the privilege to be able to serve with—and learn from—a living link to those giants: the incomparable senior Senator from West Virginia, ROBERT C. BYRD.

Today, we celebrate yet another milestone in Senator BYRD's extraordinary career. As of today, Senator BYRD has served in Congress for 50 years, 2 months, and 14 days. Since the beginning of our Nation, only two Members of Congress have served longer than Senator BYRD.

For the last 44 years—more than half his life—Senator BYRD has served in this Senate—longer than all but one other Senator. I come to the floor today to congratulate Senator BYRD on reaching this historic milestone and to thank him for the many lessons he has taught me and for the kindnesses he has shown me over these many years. I also thank Erma Byrd, Senator BYRD's wife. I have heard Senator BYRD say often that he could not do this job were it not for her support and her love. I thank Mrs. Byrd for sharing so much of her husband with their State, and our Nation, for so long.

At the beginning of our Nation, there was another couple who shared a great passion for democracy and public service. Their names were John and Abigail Adams. On July 3, 1776, the day the Declaration of Independence was signed, John Adams wrote to Abigail about the world-changing events that had occurred that day in Independence Hall in Philadelphia. In that letter, John Adams wondered whether future generations would understand how much the signers of the Declaration had risked so that the Americans who would come after them could know freedom.

Somewhere, I think, John and Abigail Adams must be smiling down on Senator BYRD. In these anxious days, when some argue that the United States must curtail some of our Constitutional rights, or rewrite the balance of powers in our Government, ROBERT BYRD reminds us that principled compromise is a worthy goal—but our basic constitutional principles themselves must never be compromised.

ROBERT CARLYLE BYRD seems as much a part of West Virginia as the Appalachian Mountains themselves. In fact, he was born, in 1917, in North Carolina. After his mother died of scarlet fever, his father gave him up before his first birthday. He was adopted by his aunt and uncle, who took him to West Virginia's coal country. His family had little money.

After graduating from high school and working for a time as a butcher in a coal company store, he yearned for a political life. He began that political life in 1946, when he was elected to the West Virginia state legislature. Six years later, he was elected to the U.S. House of Representatives. And 6 years after that, he was elected to this Senate. Two years ago, he was elected to his eighth term in the Senate. Only one Senator—Strom Thurmond—ever served longer in the Senate. He is one of only a handful of Senators ever to cast 15,000 votes in this body.

Over the years, ROBERT BYRD has served as majority leader, minority leader, President pro tempore and President pro tem emeritus of the Senate, not to mention Democratic whip and chairman and ranking member of the Senate Committee on Appropriations. He is the preeminent historian of the Senate and the author of the definitive history of this institution. He is a legendary orator. His speeches cover everything from the great issues of the day to the framers of the Constitution and the need for civility in the Senate to the virtues of the King James Bible and even the greatness of dogs. He is a master of the Senate's rules and traditions. Two years ago, he offered to share his knowledge of those rules with newly elected Senators. Most of the new Senators took advantage of those priceless tutorials. So did a few Senators who had been around for a lot longer.

All of his life, ROBERT BYRD has been driven by the desire to know and understand more. He was already serving in the Senate when he earned a law degree from American University in 1963, after a decade in night school. He received his bachelor's degree from Marshall University in 1994.

Besides great constitutional issues, another development that always provokes eloquence from Senator BYRD is when one of his fellow Senators marks a personal milestone. I was deeply touched by his beautiful words to my family and me on the birth of my first grandchild nearly a year ago. I know those words were not easy ones for a man whose heart still breaks over the death of his own grandson 20 years ago. And my family and I treasure them.

Last November, the New York Times ran a profile on Senator BYRD on the occasion of his 85th birthday. The article described how, during the debate on the homeland security bill, Senator BYRD would come to this floor every day and, for hours, voice his concerns about what he regarded as serious flaws in the bill.

The reporter asked Senator BYRD: "Why are you spending so much time—and irritating some of your fellow Senators—prolonging a battle you're sure to lose?" Senator BYRD replied, "To me, that question misses the point, with all due respect to you for asking it." "To me," he said, "the matter is there for a thousand years in the record. I stood for the Constitution. I stood for the institution. If it isn't heard today, there'll be some future member who will come through and will comb through these tomes."

To that, I will add a prediction of my own: Years from now, Americans will read the name "ROBERT C. BYRD" and they will read the words of this extraordinary Senator. And when they do, they will feel that same respect and gratitude I felt when I held that ledger in my hands and looked at the names of some of the giants of our past. ROBERT C. BYRD is a vital link to the patriots who created our democracy . . . I am honored to know him and serve with him, and to call him my teacher and friend.

By the way, on December 2, 2009, Senator BYRD will become the longest-serving member in the history of Congress. I look forward to celebrating that day with him and to the many days I hope to be able to serve with him and learn from him between now and then.

I yield the floor.

## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004—Continued

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to respond briefly to my colleague who spoke previously on the question of the budget before us. He put up a chart that showed just the effects in 2004 and said that the tax cut was not the biggest reason for the decline in our fiscal condition. But let us recall that the chart he put up was for 2004 alone.

The President's proposals are not 1-year proposals. They are multiyear proposals. Two thousand four is one of the years where the tax cuts have the least cost and the least effect. The reason for that is the tax cuts that have already been passed and the tax cuts the President has proposed are back-end loaded.

The biggest cost comes toward the end of the 10-year period. When we look at the whole 10-year period of 2001 going forward, what we see is a much different picture than our colleague from Idaho showed.

There we see that the biggest single reason for the decline in our fiscal condition is the tax cuts. We can see, just as a reality test, the tax cuts already passed, including the interest cost, are $1.7 trillion. The tax cuts going forward, the President has proposed, including interest costs, are $1.96 trillion. That is a total of nearly $3.7 trillion. The decline in our fiscal circumstance is $7.7 trillion. So just as a reality test, the biggest single reason for the overall decline in our fiscal condition is the tax cuts.

The next biggest is the spending that occurred because of the attack on this country, 27 percent. Twenty six percent is also revenue decline, revenue decline not attributed to tax cuts but because there was an overestimation of revenue. The smallest part of the reason for our declining fiscal condition is the economic downturn.

Our colleague from Idaho also said that this budget balances by 2013. It does on a so-called unified basis. That is when you put all the money in the same pot—all the money from whatever source going in the pot, all the spending coming out of that pot.

I have never believed that that is the right way to handle Federal revenue and Federal spending because, for example, the Social Security trust fund ought to be treated differently. All the money should not go in the same pot. You should not be taking operating expenses out of Social Security revenues. We didn't put on a payroll tax to raise revenue to pay for the other functions of Government. We raised payroll taxes in order to pay for Social Security benefits.

In the year 2013, the amount of money from the Social Security trust fund that will be used to pay the operating expenses of the Federal Government will be $331 billion.

That doesn't strike me as a balanced budget. No private sector firm could take the retirement funds of their employees and use them to fund the operating expenses of the company. If you tried to do that, you would be on your way to a Federal institution, but it would not be the U.S. Congress.

On the issue of who benefits from the tax cut, the Senator showed percentage reductions for various income categories. But if we look at who gets the dollars, we get quite a different picture. This is from the Department of Treasury. It shows those earning $30,000 to $40,000 get, on average, $252. Those earning over $200,000 get $12,500. And if you earn over $1 million, you get an $88,000 tax cut. It is true that the wealthy pay a higher proportion of taxes in this country than do the rest of us, but they don't pay that much more.

Our friends always want to exclude payroll taxes. The fact is, 80 percent of American taxpayers pay more in payroll taxes than they pay in income taxes. So that has been left out of the calculation completely.

Finally, on the question of what do we do about our circumstance, I was glad that our colleague put up a chart that showed the revenue of the Federal Government and the spending of the Federal Government. It is both of those elements that create deficits. So if you have a tax cut that costs $100 billion, that adds $100 billion to the deficit just like if you spent $100 billion.

In this budget proposal, even though we are already in record deficit, they propose cutting another $1.4 trillion. With interest costs, that will be an additional deficit of $1.7 trillion. I don't think you can stand up and be against deficits and, on the other hand, vote to explode them. You either walk the walk and talk the talk, or else you wind up where we are headed, which is into deep deficit and deep debt.

The fact is that we are not making the choices that are going to be necessary. If we are going to have that level of tax cut, then you have to cut the spending to offset it, unless you want to put it on the charge card, create deficit.

Finally, the Senator from Idaho indicated that some of us are advocating doing nothing. Well, I am not advocating doing nothing. I am advocating that, with our country in the position of record deficits, on the brink of war, with not a dime of war costs in this budget, it would be wise for us not to add new spending unless it is for national defense or homeland security—not to add additional tax cuts, unless it is for a stimulus package for the economy, until we know more about what this war cost might be.

It seems to be common sense to me that we know more about our circumstances. I will offer an amendment tomorrow that does that. It at least creates a 60-vote point of order against new spending, unless it is for national defense or homeland security, and it will preclude additional tax cuts unless they are for a stimulus package because it seems to me to head off the cliff on the brink of war is extraordinarily unwise.

With that, I thank the Chair. Does the Senator seek time?

Mrs. MURRAY. I do. I would like 15 minutes.

Mr. CONRAD. Mr. President, I yield 15 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank my colleague from Alabama and my colleague from North Dakota. I also thank the Senator from North Dakota for his tremendous work on this budget.

Mr. President, I can really think of only one word to describe the budget now before the Senate. In the middle of a war on terrorism—and on the eve of a war in Iraq—this budget offers a huge tax cut to the few, projects massive deficits for decades, and ignores the cost of war in Iraq.

There is only one word for that approach: reckless.

Lacking in caution—reckless.

Deliberately courting danger—reckless again.

It is time for a reality check. Hundreds of thousands of our soldiers are poised on the knife's edge, ready to perform their duty at any moment. On this critical day, we hope and pray for their safety, security, and speedy return. There is no doubt that Congress will provide for our soldiers, both on and off the field of battle.

We know it will cost a lot of money. We know the money is well spent in keeping our Nation's best and brightest as secure and safe as possible.

But the cost of winning this war and winning the peace afterward is not reflected anywhere in this budget. That is irresponsible. That is burying our heads in the sand as the danger approaches. I cannot imagine any American family going out and running up their credit cards when they know they are going to have a major expense in the next months.

Ignoring the financial costs of war will not make those costs go away. Driving our country further into debt will certainly make it harder for us to pay those bills when they come due.

Mr. President, the only word for that approach is "reckless." This budget would pile on record deficits, give a tax cut to the few, and ignore the costs of war and peace. But even worse, this budget doesn't even adequately fund the basics, such as homeland security, education, and transportation.

A budget is a statement of priorities. In an environment where we cannot fund everything, we have to make choices based on our values. I think we have to get our priorities straight.

Today, we are fighting a war on terrorism, we are on the brink of a war in the Middle East, and we have many other international challenges, including North Korea and Iran. Historically, when our Nation is facing war and so many challenges, we sacrifice, we make every dollar count, but not in this budget.

I cannot recall another time in our history when we have faced so many challenges, yet have been so reckless with our budget. This budget would provide a massive giveaway to the few, while our sons and daughters fight a war overseas. That is not sacrifice, that is not responsible and I think it is wrong.

The President's budget, with its freewheeling tax cuts and lack of sacrifice in the face of war, is more appropriate for the roaring twenties than for the challenges we face today, in 2003.

I am very skeptical of a budget that says we can have it all, even as we stare down massive financial commitment for years in places such as Iraq. Ignoring the cost of war and its aftermath is reckless. Running up huge deficits to fund a misguided tax plan is reckless. Failing our needs at home, such as homeland security, border security, education, and transportation, is reckless.

Just look at homeland security, which will become, by the way, even more important if our country is at war. September 11 showed us, in a most horrific way, that we are vulnerable at home. Our intelligence officials have told us that another attack at home is not a question of "if" but "when."

We know our first responders—our firefighters, EMTs, and police will be on the front lines if, Heaven forbid, there is another attack. I recently got a letter from Kelly Fox, president of the Washington State Council of Firefighters. They represent 6,500 firefighters in my State. These are the people who are in the trenches of the homeland security front. They told me they don't have the training, the equipment, or staffing to respond to various attacks.

I want to share with my colleagues a letter that Kelly Fox, president of the Washington State Council of Firefighters, wrote to me:

> Let me assure you, we are prepared to do whatever is necessary to protect the citizens of this State—even if it means putting ourselves in harm's way. Although the job we need to perform in this war on terrorism is familiar, the magnitude of the challenges before us is unprecedented—as the enemy now comes to our cities and towns.

He goes on to write:

> Last August, Congress (led by a Democratic majority in the Senate) provided President Bush $2.5 billion in emergency homeland security funding, for him to release to local police and fire departments if he thought it was needed. Regrettably, he rejected that funding and vowed, "we'll spend none of it."
>
> President Bush held back hundreds of millions of dollars for equipment, training, and other needs for our first responders.
>
> Fifteen months ago, we were told that $3.5 billion was being earmarked for first responders in the Bush administration's fiscal year 2003 budget. But to date that money is nowhere to be found. Firefighters in Washington and across our Nation have received plenty of praise and accolades since 9/11. We have been invited to many photo ops.
>
> But our cities and towns, our counties, our fire districts, and their fire departments are still waiting for that funding. In fact, our State has yet to see a dime of money that was promised by the Bush administration to help our firefighters and paramedics.

Kelly Fox speaks for 6,500 firefighters in my State. We need to heed his call.

Last year, Congress passed funding for homeland security. The President rejected it. The President then actually blamed Congress for not funding homeland security.

The bottom line is we must fund the security needs in our communities—from our fire departments and police departments to State public health labs. With States facing budget deficits, first responders need our help to protect our citizens. We can do better than this budget. I will support an amendment to adequately fund homeland security, and I will likely even offer my own amendment.

I am also concerned that this budget does not provide enough funding for education. When we passed the No Child Left Behind Act, we passed it based on two commitments. First, we would hold schools accountable for their progress. And second, we would provide schools with the resources to meet those new requirements. Those two always went together—otherwise schools cannot make real progress. But now it seems that Congress and the President have forgotten about the funding part. We still have an obligation to fund the new requirements that Congress imposed on local schools. We cannot leave local schools holding the bag, so I intend to offer an amendment to fully fund the No Child Left Behind Act.

I also think this budget falls short in supporting our transportation infrastructure. We know that transportation problems plague our biggest cities and isolate our rural communities. In my home State of Washington, our inadequate transportation network is hindering our economy, our productivity and our quality of life.

When we make sound investments in our transportation infrastructure, we create good jobs today, and we build the foundation for our future economic growth. When we make our transportation systems more efficient, more productive, and safer, that will pay real dividends for our economy and our communities. Throughout this process, I am going to support efforts to adequately fund our transportation infrastructure.

Another area where this budget is severely flawed is in its treatment of the Arctic National Wildlife Refuge. The Arctic National Wildlife Refuge is an important and unique national treasure. It is the only conservation system in North America that protects a complete spectrum of arctic ecosystems. It is the most biologically productive part of the Arctic Refuge. And it is a critical calving ground for a large herd of caribou, which are vital to many Native Americans in the Arctic. Energy exploration in ANWR would have a significant impact on this unique ecosystem.

The proponents of this measure argue that over the years, energy exploration has become more "environmentally friendly." While that may be true, there are still significant environmental impacts for this sensitive region. Exploration means a footprint for drilling, permanent roads, gravel pits, water wells, and airstrips.

The oil reserves in ANWR—in fact, the oil reserves in the entire United States—are not enough to significantly reduce our dependence on foreign oil. There are four ways to really reduce our need for foreign oil.

First, we can increase the fuel economy of our automobiles and light trucks. That will reduce air pollution and carbon dioxide emissions, save consumers significant fuel costs, and reduce our national trade deficit.

A second way to reduce our need for foreign oil is to expand the use of domestically produced renewable and alternative fuels. That will reduce emissions of toxic pollutants, create jobs in the United States, and reduce our trade deficit.

Third, we can invest in emerging technologies like fuel cells and solar electric cars.

Fourth, we can increase the energy efficiency of our office buildings and homes.

These four strategies will reduce our dependence on foreign oil and protect one of our Nation's most precious treasures.

Let us all remember that the amount of oil in ANWR is too small to significantly improve our current energy problems. The oil exploration in ANWR will not actually start producing oil for as many as 10 years. Exploring and drilling for oil and gas at ANWR is not forward thinking. It is a 19th century solution to a 21st century problem.

Mr. President, these are just some of the flaws that make this budget reckless.

As I close, let me put this into context because I have served on the Budget Committee since 1993. During that time, I have seen our country's economy turn around twice now. In 1993, we started with huge budget deficits. On the Budget Committee, we made tough decisions, and throughout America families worked hard and got our economy moving again. Employment rose; the stock market soared; and Americans benefited from low interest rates and declining poverty.

But today it seems as if we are back where we started: the surplus is gone; we are facing looming deficits; Americans are out of work, and they need help.

If the President and the majority in this Congress have their way, their plan will grow our Nation's debt from $5 trillion to over $12 trillion as their plan reaches full maturity—$12 trillion. And for what? So millionaires can get an average tax break of $90,000, according to the Tax Policy Center, and the rest of us get a $12 trillion debt. That debt and our annual deficits will make it harder for us to fund urgent national priorities. It will hit every American when they buy a house or finance a car.

I hope we can find a way to produce a bipartisan budget that addresses these issues for the benefit of the American people. Doing anything less would be reckless.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time does the Senator from Alabama desire?

Mr. SESSIONS. Fifteen to twenty minutes.

Mr. NICKLES. I yield the Senator from Alabama as much as he desires.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the Chair for giving me an opportunity to speak on this important budget issue, and I thank Senator NICKLES for yielding me time.

Mr. President, I congratulate Senator NICKLES and express my admiration for him, quite sincerely, for the superb job he has done as chairman of the Budget Committee. It is a very important committee in this Congress. He has handled it with great skill. He knows, and we all know, that this year we need a budget.

Last year we did not pass a budget. Last year we did not pass 11 out of the 13 appropriations bills during the tenure of the Democratic leadership, and we were left to commence this year with the very difficult problem of funding the Federal Government by passing in an omnibus bill 11 appropriations bills that should have been passed last year before October 1 when the fiscal year began. We were operating on a continuing resolution and operating in a way that made no sense if anybody studied it. If the American people had known how poorly we had operated last year, they would have perhaps been even more upset than they have been with us.

This year, we have a Budget Act and we passed it out of committee. We have it before the Senate. If we continue our timely operation, we will pass it according to the time limits of the Budget Act. We will have a framework for our spending program in the Congress, and only then will we know what our limits are and what we have to spend, what we can do in terms of tax cuts, and how we can stimulate and grow this economy. Those are the issues that I think are important.

I note, in response to some of the comments, my good friend Senator CONRAD complained that Senator CRAPO had not been accurate or described the full picture when he discussed the problems with surpluses this year, the deficit this year, and how it occurred. What Senator CRAPO said was absolutely correct. Senator CRAPO pointed out that they had predicted a $300 billion-plus surplus this year, and with that prediction hanging out there, spending went up substantially the last couple of years. Now with the economic slowdown and the 9/11 attack, the stock market taking hits, those predictions have not been accurate. He posed a question: Why is there a deficit this year? Why is it being projected for next year? And he explained without dispute, I think, that it was not the 2001 tax cut passed by this Congress and requested by President Bush. It represented only 19 percent of the reduction in revenue. That 51 percent of the reduction in revenue to the Federal Government was a result of the economic slowdown, and 24 percent of the disappearance of our surplus was the direct result of increased spending.

The point he was making, and that is so important for us to know, was that economic growth is the way we are going to get out of deficit. It is not counting numbers. It is what we can do to strengthen the American economy, to get people working again.

There are some good aspects in the President's package for growth, but one of them is ANWR. I flatly dispute the argument that if we could bring on the oil production out of Alaska, that the Alaskans want us to produce, that would not positively impact our economy. As a matter of fact, the National Group of Unions has come before Congress and urged us, pleaded with us, to pass ANWR. Their estimates are that it would create 600,000 jobs. That is jobs in the United States of America.

When we buy oil from other countries such as Venezuela and Saudi Arabia, who gets the jobs? People in those countries get the jobs. They pay taxes to their countries on the income they make. If we had Americans working on this pipeline and steel mills build the pipe and do all that would be a part of this tremendous endeavor economically, they would be paying taxes to the United States of America. When we buy oil from Saudi Arabia, Iraq, Venezuela, and places such as that, it is a transfer of our wealth to those countries. We want to keep as much of that wealth home as possible.

Does anyone think the environment is important in Venezuela? I do not think they would. I submit that with the technology, and control by the Environmental Protection Agency, and the watching by the environmentalist groups, there is no doubt in my mind we will produce oil cleaner in the ANWR region than we would in any of these other countries. So I believe that is a red herring, and it is a tremendous economic potential for us to work on that. So growth is important.

I also would point out to my friend, Senator CONRAD, there is no dynamic scoring whatsoever in his numbers. They do not suggest there is any growth in the economy that comes from allowing people to have revenue and be able to keep money in their own pocket. It does create an economic growth situation. That is unaffected, and it even becomes more significant as the years go by in the outyears.

Our friends across the aisle are proposing some sort of growth package, but it is very anemic, $300 or $350 per person. That is no answer at all. What we want to do is get our country back on steady growth progress. If we can do that on a healthy level so that we are leading the world, as we have and really as we do today in terms of a large economy that is growing, I think we can make progress that will begin to erase these deficits and we will not do it by taxing American people more.

We have heard Senator KENNEDY complain with gloom and doom that everything is going so horribly bad, this war is going to put us in bankruptcy, and the American economy is going to fail. Oddly, on the announcement that hostilities may be nearby, the stock market has been surging today. I do not think we should be so gloomy. I think we ought to see the possibilities for the future.

I say this about funding this war: We voted last October, and we had a full debate by all the Members of this body. Senator KENNEDY, I guess to his credit, from his point of view—and he is consistent—opposed the war. But overwhelmingly, we voted to support it, 77 to 23. We talked about the costs at that time. Everybody knew it was going to cost, and everybody knew it would be paid for by a supplemental because it is not a part of the normal defense budget.

We made a commitment to our troops. We have a quarter of a million troops in the Iraq region, and they are prepared to put their lives at stake for us. I do not think there ought to be the slightest suggestion in any way that we are not going to honor that commitment. When we committed to put our troops there, we committed to pay the cost of it.

I, for one, believe we ought to keep it low. I believe we ought to get our troops out when the war is successfully completed, if it goes to a conflict, as soon as we possibly can. I think we ought to do everything we can to strengthen Iraq. But I do not believe this Nation should permanently attach itself in a military way to Iraq, for a whole lot of reasons, and I do not think it is going to happen. I do not believe the Secretary of Defense believes that. I do not think the President does.

Some of these figures that are being floated around have been exaggerated. So we voted. We are going to back him. As a member of the Armed Services Committee, I point out that on February 27 of this year, in a letter signed by our chairman, Senator JOHN WARNER, and the ranking Democratic member, CARL LEVIN, they suggested clearly that we would fund the costs of a war by a supplemental. In the letter they wrote on February 27, it says:

> The administration is expected to request a supplemental appropriations for these concurrent and future military operations. We urge our colleagues' consideration for any such request. We must show strong support of our troops in the field.

Signed, CARL LEVIN and JOHN WARNER.

Now, that is what we have been doing all along, and everybody knows it. I know the Democratic leader, Senator DASCHLE, has been promoting the idea—was quoted in the paper, and it came up at the Budget Committee; now it has come up on the floor—that they would start carping about the fact that we cannot have a budget until the President sets forth in detail exactly what money is going to be spent on this conflict, a conflict that has not even occurred yet. He should not be expected to do that.

We had the Congressional Research Service to check on budgeting for wars in the past, and they stated this, if it makes any difference to anybody:

> Presidents have not requested and Congress has not provided funding for wars in advance of the start of operations. Rather, administrations have requested funding after operations have begun and Congress has subsequently appropriated money to meet specific documented budgetary requirements.

Further:

> Congress has provided the executive branch with considerable flexibility in financing military operations in advance of specific congressional action on appropriations.

Of course, that is the way it has been historically because that is the way it is. We cannot predict how these things are going to go with certainty. I believe that is a red herring and an improper thing to be saying now, to suggest that we may not be willing to fund this effort. We are going to keep the cost as low as possible. But this Congress, through its vote last fall, when Democrats were in the majority, authorized the President to act if he needed to and we would pay for it.

I will make a couple of points in general about where we are with the budget and what we can do about it. The economy has been sinking. In fact, as I recall, during the last month of President Clinton's tenure in office, the economy was in negative growth. The President inherited an economy that began to stall. It began to make some progress, and then there was 9/11, and the economy has not moved.

We do not need to get into recriminations or blame. The question is, What do we do now to grow this country, get our economy moving? That is the question we ought to deal with. When there is a robust economy, unemployment falls. This allows American workers choices on jobs. Certainly some workers will be able to find a job and other workers will have choices and can pick a better job.

Growth helps employment. It provides more overtime to workers and it provides more revenue for the Government. That ought to make our big government friends happy. The more people work, the more they make overtime, the more they pay taxes, and the more we can spend it in Congress.

We clearly are at a point where we need to strengthen economic growth. Americans believe and the characteristics we display as a Nation are to focus on growth in the private sector. Innovation occurs there; investment occurs there; jobs are created there. That is how we make progress as a nation. That is why we remain strong economically. We are not where we want to be.

I saw recently unemployment in Germany was at 13 percent. The French economy is in trouble. The Japanese economy has been in trouble for a long time. Consistently, our economy has been stronger than the other industrialized nations in the world. We have done it because we have believed in the private sector. We learned through the big government years, it does not work. Tax and tax and spend and spend does not create jobs. We remember President Clinton made that dramatic announcement, the era of big government is over. It represented the collection of intellect and economic offense of tax-and-spend government. It was a big deal when he said that. It was an important change in our psychology.

I suggest we ought not go back to tax and spend. We need to watch what we do. We need to contain the growth in spending. We have another growth plan this year. We need not follow that European model that has stilted their economy.

It is the time of less taxes, less regulations, and a greater commitment to the free market has allowed us to be a vibrant and strong economy and allowed us to have money to spend on a military, have money to spend on incredible amounts for our research and health care, to be able to help the fight for AIDS around the world, because we have a strong economy. We need to defend and cherish that aggressively.

There are a number of components of this tax package. I don't know who my colleagues refer to as the rich, but let's talk about some of the people who are going to benefit from eliminating the marriage penalty, reducing tax rates for all groups, accelerating and enhancing the tax credit individuals get for children, enhancing the child tax credit, and eliminating double taxation on dividends.

The President has proposed moving forward the cuts in the marginal tax rates. Those are the rates paid, depending on your income level, with lower rates made retroactive to January 1 of this year, which will give a stimulus to the economy. What does that mean? Tax brackets in excess of the 15 percent rate, already slated to decrease in 2004 and in 2006 based on the existing law, will be made effective immediately. In other words, we are phasing in tax cuts and the reduction of that 15 percent rate at 10 percent and making that happen by 2006.

The President said let's make that effective immediately. These are working Americans, lower-income working Americans. Currently, the tax brackets in this range are 27 percent, 30 percent, 35 percent, and 38.6 percent at the top. The President's proposal will immediately reduce each of these tax brackets to 25, 28, 33, and 35 percent. At their lowest levels, these benefit married couples with taxable income of $47,000 and up, and single taxpayers with taxable incomes of $28,000 and up. Who would benefit from the change? The Treasury Department estimated 28 million taxpayers would receive an average tax reduction of $1,100. That is almost $100 per month this Government will not be extracting from hard-working American citizens. They will be allowed to keep that money. There is no tax on this. Remember, there is no withholding on this reduction in tax. It is right off what you would be paying the Federal Government. A taxpayer who gets a $90 a month benefit receives a benefit of $90 a month.

Second, the plan calls for acceleration of the reduction of the 10 percent bracket expansion that has been scheduled for 2008 and brings it to 2003, this year. That means effective immediately, for married couples, their first $14,000 in taxable income is taxed at only the rate of 10 percent. It does not mean their first $14,000 they earn, but the first $14,000 taxable income after their deductions. That is a 33 percent reduction. Under current law, only the first $12,000 in taxable income is allowed to be received at this preferential rate. Single taxpayers would see their first $7,000 in taxable income immediately fall under the lower rate. Who benefits? The Treasury estimates it would reduce taxes for over 69 million taxpayers.

The President is also proposing an accelerated reduction in the marriage penalty. As we have all learned, there is a penalty on marriage in this country. It is the result of a quirk in the Tax Code which assesses additional tax liabilities on couples who choose to marry and file jointly rather than remaining single where they can file separately. The marriage penalty is an unfair and incredibly unpopular part of the Tax Code. In fact, we are in the bizarre position in this country of penalizing that which we would want to encourage—marriage. I know someone who got divorced in January. They said had they been clever and gotten their divorce in December they would have saved $1,800 on their taxes. We had the spectacle of the U.S. Government paying bonuses to people who divorced and penalizing people who marry. It is not good social policy. It is not good tax policy. It is something we ought to eliminate. It is past due to be eliminated. We are working on that. We were going to phase this in by the year 2009, and the President proposes making that effective this year so people get the benefit now. A married couple earning a taxable income of $47,000 or more will be able to claim twice the standard deduction they are currently allowed.

Who benefits from this? According to the Treasury Department, 35 million married couples would receive an average tax deduction of $574 from this alone. That is meaningful money for any family. The economic principle is when you tax something, you get less out of it. When you subsidize something, you get more. We have been taxing marriage and subsidizing divorce. That is not good for this country to be doing.

Another of the President's proposals is to accelerate the child tax credit, immediately raising this credit to $1,000 in 2003 from its current $600 level. When I got elected to the Senate in 1996, I campaigned on this issue. I talked to young families all over America. They are trying to buy a house. They have to have a car. Maybe both are working. They have to have two cars. They are trying to raise children and meet those expenses. The tax deductions that were significant for children in the 1950s have been totally eroded, and they are getting whacked in taxes. They are trying to raise the next generation of children taking care of us when we are drawing Social Security.

I think this is a huge deal. I remember how excited I was when we passed the $500-per-child tax credit in 1997. They said this was cutting taxes too much. It was too much of a tax cut and we could not sustain it. But we continued, ending up later having the huge surplus we had just a couple of years ago.

This is a fairness issue. In this country, the people who may be hurting the most when you look at it fairly are young couples, just working, just beginning in their careers. They have not raised up and gotten seniority, been promoted and making higher wages, but they have young children they are trying to take care of, to educate, to buy shoes for, to take to Disney World on occasion if, Lord willing, they have the opportunity.

We ought to pass this tax deduction and accelerate it as good public policy. This will also put money in the pockets of families to spend on behalf of their children. It will help the economy when they buy products. Somebody makes those products. Somebody at the store benefits from that. You pay sales taxes on it. The State and local governments benefit from that also.

According to the numbers I have, 26 million families would receive an average tax benefit of $623. That is $40-plus or $50 per month as a tax benefit as a result—per child under this plan.

We have a plan for small businesses to be able to accelerate their depreciation, their expensing of new investments from $25,000 to $75,000. We want to encourage businesses to expand, to invest. When they do that, they hire people to do the expansion. They buy equipment. They expand their building. They improve their parking lot. They create economic growth. Small businesses, for a lot of reasons, are not being treated fairly in today's business environment.

I strongly believe, in the course of passing legislation that would create a budget for us and that would allow for a growth package and would set the spending levels for America, we need to create an atmosphere, not of dependence on government benefits; what we need to do is create an atmosphere that invigorates employment in the private sector, creating jobs, creating choices of jobs for American workers, where they can get raises and leave one business and go to another one for a higher paying job if they want, where they can get bonuses, and where they can have overtime and bring home more money. That is what we need to do, to strengthen our economy. Our goal should be to do that.

One of the reasons the Council of Economic Advisers has recently estimated that the President's plan will spur the American economy to create over 2.1 million jobs in the next 3 years is this focus on the private sector. The President is focused on assuring America's continued economic growth. This plan is one large indication of his commitment to promoting job creation.

The President's plan also calls for the elimination of double taxation on corporate dividends. Under his plan, dividend income received by individuals would be excluded from their taxable income, if those dividends are paid out of previously taxed corporate earnings. This is a very important provision. Many people in America's investor class understand that when they buy stock and receive dividends, they are paying probably a third or more of that in taxes in addition to the fact that it has been paid previously by the corporation.

According to the numbers that have been put together, the United States of America has the second highest tax in the world on corporate earnings, second only to Japan—over 70 percent when you total it up. So this is an unhealthy situation. What is happening for a lot of reasons is the American businesses realize if they distribute—after they make a profit and they pay their 35 percent corporate tax on that—if they distribute it to their stockholders, they have to pay another 35 or so percent on it—or more.

So what do we think, and what do the experts think, this reduction would do to help the economy? I think one thing it would do, clearly, is it would make stocks more attractive. It would cause people to have an additional reason to invest in the stock market. Whatever the level the stock market would be, whether it was low or high, by passing this tax it would make it higher than it would be otherwise.

I don't guarantee the stock market will go up because it passes, but I guarantee it will be higher than it would otherwise have been. Why? Because when you make the purchase of a stock that produces a dividend, and that dividend comes to you tax free, it is a more attractive investment. That is why people buy tax-free bonds instead of other bonds. So that would be helpful in raising the stock market. It would make it more attractive.

I think it important for us to recall that revenue to our Government is volatile. One reason revenue income to our Government is volatile is the stock market. When the market is up and people sell stock, they have to show a capital gain, and they will pay a tax on the sale—20 percent normally. When the market is down and they sell a stock, they do not take a gain, so they do not pay 20 percent tax on that profit; they take a capital loss.

If they have some other product they sold—real estate they sold and showed a gain on—they can use the loss in the market to offset that gain. Also, they are allowed, under the Tax Code, to take $3,000 per year and offset that capital loss against their ordinary income, reducing the ordinary income tax they would pay.

To me, this is a clear indication that if the stock market is high and doing well, the Government will receive more revenue. That is not factored into any of these projections whatsoever, what impact the dividend tax reduction would have. If the market is up, revenue will be up. It will give businesses more value if their stock goes up, and they will be able to invest more and grow more. With a higher value stock, they can do that.

In summary, the dividend tax is an unfair double tax. It is the second highest in the world. The elimination of this tax will help the stock market; it will help the recovery; it will help businesses be able to borrow and invest. It will allow individuals to receive income on which they do not have to pay taxes. They will have more money to spend. Because of the change from taking losses to growth, revenues to the Government will go up. I think it is the right thing to do. Dollar for dollar, it is a good plan.

I tell you, there are many good things in the President's proposal. It is something we have to deal with this week. This budget will set the framework for where we are going. It will set the outline for what our spending and our taxing plans will be.

I hope we will focus on two things: containing spending, making it at a reasonable level, and growing this economy, because it is only through growth we will be able to return to surpluses and eliminate the deficits that are now occurring.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me just take a few moments to respond to my colleague, Senator SESSIONS, who is a valued member of the Budget Committee, I might add, and whom I serve with on the Ethics Committee. He has served there with real distinction as well. But we fundamentally disagree. That is what debate is all about. That is what democracy is all about. And that is what is healthy for the country.

The Senator described the growth package on our side as puny, I think. Let me just say, here is the difference between our two plans for this year. I would describe the President's plan as puny for this year.

Of the total cost of his plan, which is over $900 billion, less than 5 percent of it is for this year, at the time the economy clearly is weak and needs a lift.

Our plan is more than twice as large as the President's plan for this year: $102 billion of economic stimulus.

An analysis has been done by the distinguished economist Mr. Mark Zandi of Economy.com, comparing the lift our plan will give the economy over this year and next over the President's plan. It shows the plan we have provided will give almost twice as much in terms of economic stimulus in 2003 and 2004 as the President's plan.

Interestingly enough, for the long term, he finds the President's economic growth plan actually hurts economic growth. Why? Because it explodes deficits and debt. It does not offset the cost of the tax cuts with spending reductions. It finances the tax cuts with borrowed money.

Our friends on the other side seem to have fallen into this notion that you can borrow your way to wealth and economic strength. That has never been true in history. You cannot borrow your way to economic strength. It is as if you had decided you would go out and run up the credit cards and make believe you are wealthy. No, no, no. No, we are not going to buy into that new theory.

Our friends on the other side of the aisle used to believe deficits matter. Many of us on this side still believe deficits matter. I am happy to say some on the other side still believe deficits matter. But it is not just Mr. Zandi who has found that the plan of the President will hurt economic growth in the long term. Macroeconomic Advisers, who is under contract to the White House, under contract to the Congressional Budget Office, to do macroeconomic analysis, has concluded that after 2004, the President's plan actually hurts economic growth. We would have less economic growth than if we did nothing. Now, that is not my idea of economic growth.

I would say this to my colleague: The one thing that is certain about the plan on the other side, the thing that is going to grow is the deficit. The deficit is going to grow. We are already going to have record deficits under this plan, and they are going to continue as far as the eye can see.

According to the President's own documents, we are never going to get out of deficit. It is just like falling off a cliff. Because the cost of the President's tax cuts explodes at the very time the cost of the Federal Government explodes by the retirement of the baby boom generation.

But it is not just my view. Newspaper after newspaper—here is the Deseret News, in Salt Lake City:

> War is unpredictable . . . a long, protracted campaign that triggers counter-attacks by terrorists and Iraqi sympathizers could be hugely expensive. Coupled with giant tax cuts, it could send the budget deficit back into levels not seen in a decade or more, which would stifle growth and hamper investment.

It isn't a growth plan they have on the other side; it is a grow-the-deficit plan, a grow-the-debt plan, that will hurt economic growth.

> Congress ought to put the president's tax plan on the shelf for awhile until it knows better how the men and women in uniform are going to be spending their year.

Newspaper after newspaper. Here is the Philadelphia Inquirer:

> . . . [B]e careful what's given away in the name of any "growth and jobs" plan. Federal budget deficits are back. States are reeling from their own deficits while shouldering new homeland security chores. The demographic train wreck facing Social Security and Medicare as baby boomers age hasn't gone away just because politicians have stopped talking about it. Money is so tight President Bush can't pay for even his own cherished initiatives such as education reform.

This is from the News & Observer, Raleigh, North Carolina:

> When the Republicans won the White House there was a projected surplus of about $200 billion for this fiscal year and talk about fully protecting Social Security and even digging out from beneath the national debt. Now, in large part because of the earlier Bush tax cut and necessarily higher spending for the anti-terrorism fight, the nation has plunged into red ink again. . . .

> In the meantime, President Bush goes on pushing hard to make tax-rate reductions permanent and to cease federal taxation of stock dividends. Both the federal and state budgets could face dire consequences from this economic plan. On and on it goes. "Unfair tax proposal rewards wrong group."

This is from the Kansas City Star:

> There's no real debate over the fact that Bush's proposal on dividends would largely benefit the rich. Some apologists talk about wanting to help the elderly, which doesn't tell the whole story: Bush's dividend proposal would help elderly people with lots of money in the stock market.
>
> Bush's tax package is unfair, short-sighted and fiscally irresponsible. He and members of Congress—particularly Republicans, who now control Capitol Hill—must develop a far better plan in the months ahead.

Let me just finish with this one. I have many more because newspapers all around the country—not Democrats, not Republicans—that have tried to analyze the President's plan have come back and said it is a nonstarter. Here is the Los Angeles Times:

> . . . Bush's trickle-down package threatens to swamp the economy in a wave of debt. And that's before taking into account the huge but unknowable cost of preparing for and perhaps fighting a war with Iraq. The White House's tax-cutting yet free-spending ways defy history, and taxpayers will be the ones left responsible for decades to come.

That is just a part of what the Senator from Alabama said that I think requires a response. He said some are saying: Do nothing. That is really not what Senator DASCHLE has proposed nor what I have proposed. But I do believe it would be wise, on the brink of war, when there is no provision in this budget for the costs of that war—and none of us are suggesting—I want to make clear to my colleague, if I could have his attention, none of us are suggesting this administration or your party has any intention but to fund our men and women in uniform. I have no doubt of that. I want to make very clear, we make no suggestion, none, that there is any reluctance to back our men and women in uniform. That is not the point.

The point is this: When we are on the brink of war, and there has been no provision in the budget for the cost of that war, even though we know there are substantial costs associated with it, it seems unwise to some of us to increase spending, to have new spending initiatives—except for defense and homeland security—or to have new tax cuts, unless they are for a stimulus package.

That is the point we are making. And I think it is a wise one and a prudent one.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. CONRAD. I am happy to yield for a question.

Mr. SESSIONS. I understand that. I think the suggestion is our budget process has to stop until that occurs. And I think it is impossible for the President to give us a number now. I believe it does cause some confusion in our unity, which I would not favor.

But I want to ask the Senator this.

Mr. CONRAD. Let me just respond to that first.

Look, we are not suggesting the budget process stop. No. We are saying there ought to be a point of order, a 60-vote point of order against new spending initiatives, unless for defense or homeland security, or for new tax initiatives, other than for a stimulus package.

We are not suggesting the budget process stop. We are suggesting it proceed, but that it proceed with some restriction, some disincentive for new spending, other than for defense and homeland security, or for new tax cuts, other than for a stimulus package.

Mr. SESSIONS. I know the Senator is committed to whatever figure we have to do to fund the effort of our fine men and women in uniform. I was looking at the Democratic proposed stimulus plan, and it is pretty anemic. I ask Senator CONRAD if he knew that not only was it basically limited, most of it in just 1, 2, or 3 years, but that in fact in 2004, as a result of eliminating the depreciation provisions that are in existing law, it would amount to a $16.7 billion tax increase on small businesses in 2004 and a $14.8 billion increase in 2005?

Mr. CONRAD. Part of the plan that I have endorsed would include enhanced depreciation for small business.

Mr. SESSIONS. We passed it as part of a stimulus package before. The bill that has been put forward as the Democrat stimulus plan calls for the elimination of those which would amount to a tax increase over the current law of $16.7 billion in 2004 and $14.8 billion in 2005.

I ask the Senator if he believes this kind of very large increase in taxes on small businesses would be wise in a time of economic slowdown?

Mr. CONRAD. No. In fact, the plan I have endorsed would expand expensing for small business. I think that is a better course and would be a real stimulus. We should aggressively have a plan of small business expensing, expanding small business expensing in this year.

I see Senator ALLARD is in the Chamber. Is he seeking time?

Mr. ALLARD. I have a statement I would like to make when we get an opportunity during the debate.

Mr. CONRAD. We are under a time limit. There needs to be a granting of time in order for Senators to have an opportunity to speak. Senator NICKLES is not here at the moment. Perhaps he is on his way.

Mr. NICKLES. Mr. President, I yield the Senator from Colorado such time as he desires.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Colorado.

Mr. ALLARD. Mr. President, I need time to get set up.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE TEACHER TAX RELIEF ACT OF 2003

Mr. WARNER. Mr. President, I rise today in support, once again, of America's teachers by joining with Senator COLLINS in introducing the Teacher Tax Relief Act of 2003.

Senator COLLINS and I have worked closely for some time now in support of legislation to provide our teachers with tax relief in recognition of the many out-of-pocket expenses they incur as part of their profession. In the 107th Congress, we were successful in providing much needed tax relief for our Nation's teachers with passage of H.R. 3090, the Job Creation and Worker Assistance Act of 2002.

This legislation, which was signed into law by President Bush, included the Collins/Warner Teacher Tax Relief Act of 2001 provisions that provided a $250 above-the-line deduction for educators who incur out-of-pocket expenses for supplies they bring into the classroom to better the education of their students. These important provisions will provide almost half a billion dollars worth of tax relief to teachers all across America over the next two years.

While these provisions will provide substantial relief to America's teachers, our work is not yet complete.

It is now estimated that the average teacher spends $521 out of his or her own pocket each year on classroom materials—materials such as pens, pencils and books. First-year teachers spend even more, averaging $701 a year on classroom expenses.

Why do they do this? Simply because school budgets are not adequate to meet the costs of education. Our teachers dip into their own pocket to better the education of America's youth.

Moreover, in addition to spending substantial money on classroom supplies, many teachers spend even more money out of their own pocket on professional development. Such expenses include tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

The fact is that these out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Without a doubt, the Teacher Tax Relief Act of 2001 took a step forward in helping to alleviate the Nation's teaching shortage by providing a $250 above-the-line deduction for classroom expenses.

However, it is clear that our teachers are spending much more than $250 a year out of their own pocket to better the education of our children.

Accordingly, Senator COLLINS and I have joined together to take another step forward by introducing the Teacher Tax Relief Act of 2003.

This legislation will build upon current law in three ways. The legislation will:

No. 1, increase the above-the-line deduction for educators from $250 allowed under current law to $500;

No. 2, allow educators to include professional development costs within that $500 deduction. Under current law, up to $250 is deductible but only for classroom expenses; and

No. 3, make the Teacher Tax relief provisions in the law permanent. Current law sunsets the Collins/Warner provisions after 2 years.

Our teachers have made a personal commitment to educate the next generation and to strengthen America. In my view, the Federal Government should recognize the many sacrifices our teachers make in their career.

The Teacher Tax Relief Act of 2003 is another step forward in providing our educators with the recognition they deserve.

## ARE WE READY FOR THE CONSEQUENCES OF WAR WITH IRAQ?

Mr. AKAKA. Mr. President, I rise today to express my deep concerns that we are not as prepared as we should be for the consequences of a war with Iraq.

I have complete confidence in the ability of our armed services to defeat Iraq. We have a superb military which is, without a doubt, the most effective and most professional fighting force ever fielded in the history of mankind.

We can all be proud of our dedicated military men and women. It is their dedication and willingness to risk their lives in the service of their country that places a special responsibility on our shoulders. Our responsibility is to ensure that their service is not expended in the vain pursuit of ill-defined objectives and that our national security is truly enhanced.

In my capacity as a member of the Senate Armed Services Committee, I meet with many of our field commanders. Prior to our debate last session on H.J. Res. 114 concerning war with Iraq, I met with one of our senior commanders just returned from the war against terrorism. He told me "keep asking the hard questions" about the consequences of committing American troops to a war on Iraq. I have heeded his advice, and it is the reason I stand today to discuss the consequences of war on Iraq.

I am concerned that we are not sufficiently prepared either materially or psychologically for a protracted occupation of Iraqi territory, nor are we sufficiently well prepared domestically for possible terrorist attacks on American soil.

My constituents ask me why the President has chosen to fight Iraq at this time or what his objective is in so doing. I do not have a good answer for them because the President has yet to provide one.

Certainly it is true that Saddam Hussein has resisted and ignored over the past 12 years United Nations resolutions calling for Iraqi disarmament of its weapons of mass destruction. Certainly it is true that Saddam Hussein has oppressed the Iraqi people and carried out terrible attacks against the Kurds and Shia tribes of Southern Iraq. Certainly it is true that Saddam Hussein has paid only grudging lipservice to recent efforts by the United Nations Monitoring, Verification and Inspection Commission, UNMOVIC, to discover and eliminate Iraq's weapons of mass destruction.

However, none of those issues justifies going to war now if we are unprepared for the consequences of war and if we do not have a clear exit strategy for getting out of Iraq. It would be far better to take the time to ensure that we are prepared for both the consequences at home and abroad before sending our superb military into combat in a distant land.

The reasons for war have increased in number and difficulty as we build up our forces in the gulf. At first, the President asserted that war was to end Saddam Hussein's program for developing weapons of mass destruction. More recently, the President has added that our objective is to "help the Iraqi people rebuild their economy, and create the institutions of liberty in a unified Iraq at peace with its neighbors." The President argues for war because he believes that "success in Iraq could also begin a new stage for Middle Eastern peace, and set in motion progress towards a truly democratic Palestinian state." Mission creep is already occurring, and the mission has not begun.

In February testimony before the Senate Foreign Relations Committee, retired General Anthony C. Zinni asked, "do we want to transform Iraq or just transition it out from under the unacceptable regime [. . . .]" and he added, "defining the problem, however, is only half the task. The other half deals with how you solve the problem. I have not seen a lot of specifics in this area."

The mission of an American occupation to establish a democratic Iraq is well-meaning but difficult to implement. Indeed, as I read testimony and speeches by administration officials, I am struck by how many new objectives are being added to our mission: for example, establish the rule of law and an independent judiciary; create a free enterprise system; end weapons of mass destruction programs; make an American ally; create a bulwark against terrorism; forge a secular and democratic state; reform the educational system; and develop a free press. These are extremely ambitious programs for a country that has little, if any, historical experience and no recent experiences in any of these conditions. Perhaps we should be bringing democracy to our allies in the region.

A well-defined objective is crucial for a mission's success. Will the objective be a discrete military mission: seek and destroy Iraq's weapons of mass destruction, or an open-ended goal to bring democracy to a country that has no experience in democracy? The administration now indicates that both goals are intertwined: to rid Iraq of its weapons of mass destruction we must create a democracy in Iraq. Perhaps that is the case. But the opposite is also possible: a democratic Iraq responsive to the will of the Iraqi people, continuing to share borders with countries traditionally hostile to Iraq—including Iran which we have learned this week is well on its way to developing nuclear weapons—may feel compelled to restart its weapons of mass destruction program out of self-preservation.

Let us be clear: we can take weapons away from Iraqi leaders but we cannot erase the knowledge of how to make those weapons from the minds of Iraqi scientists. That capability will always remain. Weapons scientists and engineers will not unlearn what they have learned. To make another Iraqi WMD program impossible, we need to develop solid support for an international regime with enforcement mechanisms to prevent the proliferation of weapons of mass destruction and the means to deploy them.

Unfortunately, the President's rush to war is undermining the very international consensus we need to forge to prevent proliferation.

International cooperation is essential both in the short term and in the long term. In the short term, it is essential for our goal of ending the threat from Iraq. A stable international coalition is the basis for managing any future crisis. In the long term, it is essential to prevent the spread and use of weapons of mass destruction.

The administration insists that all it needs is a "coalition of the willing" to go to war. That may be true for war, but will there be a coalition to pay the costs of an indefinite occupation of Iraq? Without international support, the United States will pay the direct cost for our military presence and reconstruction. Our struggling economy will also pay an indirect cost adding to our sky-high deficit. Already it looks more like a coalition for war of the compensated than a coalition of the willing.

I believe we are not ready for the cost of such an occupation both in terms of money and our military.

When the British conquered Iraq in 1917, the British military commander, Lieutenant General Sir Stanley Maude, said "our armies do not come into your cities and lands as conquerors or enemies but as liberators." When the British departed Baghdad in the 1930s, Sir Kinahan Cornwallis observed, "my own prediction is that they will all fly at each other's throats and that there will be a bad slump in the administration which will continue until someone strong enough to dominate the country emerges, or alternatively, until we have to step in and intervene."

We should heed history before we attempt to make a future. The danger is that the war will end in a few weeks while crisis endures for a long time.

Just recently, the administration announced a $900 million contract for postwar Iraqi reconstruction. This is just a small down payment on what people in and outside the Government estimate may amount to over $100 billion, not including the cost of maintaining a long-term American troop presence in Iraq. A military presence will cost additional billions and tie down American forces, affecting training, rotation cycles, and recruitment of our entire military. The cost will be borne largely by the American taxpayer unlike the first gulf war which saw Saudi Arabia and Germany contribute 44 percent of the operation.

Some suggest that Iraqi oil exports will pay for the occupation force and reconstruction efforts. But a recent study by the Council of Foreign Relations warns not to expect such a "bonanza." The Iraqi oil industry is estimated to need $5 billion in investment and 3 years just to return to pre-1990 production levels, and Iraq is already carrying an external debt burden of $300 billion.

If, as some experts predict, our forces confront ethnic, tribal, and religious in-fighting and are besieged by terrorist attacks emboldened by pan-Islamic hostility to the American occupation, we may need a much larger force than the current 45,000 to 75,000 under review by the Pentagon. No doubt, as in the first gulf war, there will be score settling among Iraqis with vigilante justice and possibly open warfare. Many are predicting that Kurdish refugees expelled in 1968 from their homes in Kirkuk will pour back into this center of Iraqi oil wealth, bringing with them the possibility of war with Turkey seeking to protect Turkmen minority interests.

The Pentagon is reported to be planning on a 2-year military occupation of Iraq under a military governor that may be expanded to 5 years. Ironically, one of the first things this governor general will have to do is to rebuild the Iraqi military with professional training and new weapons. Time magazine reports that the Pentagon has "only a rudimentary plan for rehabilitating the bulk of the [Iraqi] Army." But it is clear that we cannot demobilize over 400,000 Iraqi troops without adding to the problems in the civilian sector.

We are just beginning to plan for all these postwar problems. On February 11, 2003, Undersecretary of Defense for Policy Douglas Feith announced that the President "has directed his administration to begin planning now" for reconstruction and testified that the administration was still "conceptualizing" peace. Now is too late for a war that may start this month. The Defense Department's Office of Reconstruction was opened only on January 20, 2003. Time magazine reported on March 2 that "at this late hour, the Administration is not very ready for the peace."

As Middle East expert Anthony Cordesman warned in testimony before the Foreign Relations Committee on February 7, 2003, "we are rushing planning efforts without making adequate efforts to make up for our lack of knowledge. As a result, planners both outside and inside the U.S. government may end in doing more harm than good. . . ."

President Bush has stated that "we will remain in Iraq as long as necessary and not a day more." I appreciate his candor, but I am deeply disturbed by such an open-ended commitment to deploying American troops. We may wear out our welcome long before we have accomplished the democratic transformation of the Middle East envisioned by the President.

I am also concerned over the lack of preparation at home for the possibility of terrorist attacks. Even the President is dissatisfied with the counterterrorism budget passed for this fiscal year. I am dissatisfied that we have not done more during the past 2 years. As chairman of the Governmental Affairs International Security Subcommittee, I began holding hearings on our preparedness against terrorist attacks in July 2001. I have continued to press for reform of our national and local preparedness. I agree with the President that the budget for this fiscal year was too small. We have done too little to defend ourselves against attack.

I am disturbed by the letter from FBI Special Agent Colleen Rowley to FBI Director Robert Mueller indicating that the FBI would not be able to "stem the flood of terrorism that will likely head our way in the wake of an attack on Iraq." Last month the FBI issued a warning that "lone extremists represent an ongoing terrorist threat in the United States." Certainly, steps have been taken to improve our law enforcement capability, but I believe much more needs to be done before we are as prepared as we should be. The President acknowledged as much when he announced in his State of the Union Address his intent to create by May 1 a new Terrorist Threat Integration Center. This Center is at least 3 years away from being fully staffed according to administration plans.

In other areas we are also behind. The Transportation Security Administration has just begun to assess the vulnerabilities of American airports to terrorist attack, especially from shoulder-launched missiles—that task force was set up after the deadly November 28 attack against an Israeli airline in Kenya. The President's plan to immunize 500,000 health care workers against smallpox in 30 days has only inoculated 4,200 and is draining money and personnel from other programs in State and local public health departments.

Many State and local law enforcement officials have yet to receive federal security clearances so that they can receive information about potential terrorist attacks. Our emergency health care system is already stressed to the breaking point as hundreds of emergency departments have been closed due to budgetary constraints even as the number of patient visits has increased. Few of the respirators operated by local firefighters and other first responder rescue teams were found to be effective against poison gas. Many reservists in our first responder units have been called to active military duty, depleting critical services at home.

The list of problems is endless. The ability to solve these problems is limited by time and by money. The bottom line is that we have a lot to do and a long way to go before we are as ready at home for war as we are for waging war far away.

If war does come, both in Iraq and here at home, we will all support our troops and do the best we can to confront the problems here. I believe that the security of all Americans would be better served by taking the time to be better prepared. Allowing United Nations inspectors to do their work in Iraq will deplete the number of weapons Saddam Hussein might aim at our troops—already 46 Al Samoud missiles have been destroyed—and build international support for resolving the Iraq crisis. We will have not only a coalition of the willing but a coalition of the strong.

If we pursue our current path, we will have a war lacking in many things essential to achieving complete success. It will be a war without broad international support, without sufficient planning for postconflict reconstruction and stability, without a definite exit time and strategy, and without a firm pricetag. Moreover, it will be a war with serious ramifications for our long-term readiness capabilities for homeland security and for managing other crises.

## NOMINATION OF JOSEPH KELLIHER TO THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. WYDEN. Mr. President, I cannot allow the Senate to proceed with Mr. Kelliher's nomination to the Federal Energy Regulatory Commission today or anytime soon.

This is a position of enormous importance to my constituents in Oregon who have had their energy prices soar through the roof during the past few years while the Commission has failed to serve as an effective watchdog over energy markets.

In the limited time I was able to question Mr. Kelliher at his confirmation hearing, he demonstrated little understanding of the impact on the Northwest of the manipulation of west coast spot markets by Enron using the various strategies described in the Enron memos. These strategies have had a devastating impact on Northwest energy consumers and on long-term contracts that the Bonneville Power Administration (BPA) and many other Northwest utilities subsequently were induced to sign in order to protect themselves from the volatility of the manipulated spot markets. In response to my question about whether the Enron memos provided grounds to get out from overpriced contracts, Mr. Kelliher states: "As a legal matter, I do not know sir. I thought those memos were designed to manipulate spot markets."

To date, there has been a total failure on the part of the Commission to make any kind of connection between the manipulation of spot markets and the impact on long-term contracts that have raised rates for Northwest ratepayers. In fact, the Commission currently appears to be pursuing two completely different standards for when ratepayers may be entitled to refunds for manipulation of spot markets as compared to when overpriced, long-term contracts that were a direct result of that manipulation can be voided or reformed. The net effect could be that Northwest ratepayers could be struck in long-term, overpriced contracts even if the rates in those contracts are not considered just and reasonable according to FERC's own standards.

What is also of concern to me is that there are a number of critical issues to Northwest energy consumers that will be coming before the Commission in the next several weeks. These include Commission decisions on filings by the Bonneville Power Administration and other Northwest utilities for relief from contracts with Enron and other energy traders, enforcement cases against the marketers accused of manipulating west coast energy markets and the Commission's proposal to create a one-size-fits-all standard market design for transmission systems that would be ill-suited to our region's transmission system and could create new opportunities for manipulation of Northwest energy markets. With these critical issues coming before the Commission, the Northwest needs to be assured our region's interests will be fully and carefully considered.

Mr. Kelliher has not convinced me he fully understands the impact of manipulation of west coast energy markets on Northwest ratepayers or the problems the Commission's standard market design proposal could create for the Northwest electric power grid. For these reasons, I would object to a unanimous consent request for the Senate to take up Mr. Kelliher's nomination until my concerns can be addressed.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 15, 2001. Two men taunted and attacked four lesbian students outside a cafe near Louisiana State University. The attackers approached the women and asked them if they were "boys or girls." The victims said that one of the attackers threw a drink at them and another attacker punched the victims repeatedly.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## SIERRA LEONE SPECIAL COURT INDICTMENTS

Mr. FEINGOLD. Mr. President, I rise to call my colleagues' attention to the historic developments that have unfolded in Sierra Leone in recent days.

On Monday, the Special Court for Sierra Leone, a body charged with bringing to justice those most responsible for the horrific war crimes that occurred in that country, issued its first indictments. Seven people were indicted for war crimes, crimes against humanity, and violations of international humanitarian law: Foday Sankoh, Johnny Paul Koroma, Sam Bockarie, Issa Hassan Sesay, Alex Tamba Brima, Morris Kallon, and Sam Hinga Normam. The subjects of these initial indictments—ranging from infamous RUF leader Sankoh to former junta leader Koroma to Cabinet Minister Norman—clearly illustrate the commitment of the Court and of Sierra Leone to genuinely break with the past, and to firmly assert the illegitimacy of all of the abuse and atrocities of the past, not just that portion committed by one faction or another. Five of the indicted individuals are under arrest today; two remain at large. I urge the international community to ensure that they are found, arrested, and turned over to the court.

This development is an important step toward breaking the cycle of violence and impunity in West Africa—a cycle that plunged the people of Sierra Leone into a long national nightmare from which they have only begun to recover. That same cycle is responsible for the ongoing suffering of the people of Liberia, and now threatens the once-stable country of Cote d'Ivoire. It is true that fear of accountability may provoke some actors to try to disrupt the progress made in Sierra Leone thus far, but the history of that beautiful country has shown that turning a blind eye to the abuses of the past only ensures more in the future. The people of Sierra Leone are bravely pursuing justice. They deserve international support.

## LLOYD J. OGILVIE

Mr. ENZI. Mr. President, ever since I first arrived in the Senate, I have always looked forward to starting each new day with a prayer. Whether that prayer came from one of his excellent books, like One Quiet Moment, or on the Senate Floor, we have all received a great deal of inspiration and encouragement from our Chaplain, Dr. Ogilvie. Each day, as we prayed together on the floor or in our offices, Dr. Ogilvie has helped us to focus on the tasks of the day and the importance of working together as one family to solve the problems we face as a nation. His words have also reminded us of the beliefs of our Founding Fathers and their inherent trust in God for all things.

Looking back over the years he has served in the Senate, Dr. Ogilvie has helped us through a long list of trials, tribulations and difficulties. In particular, he prayed with us each morning as we began to recover from the pain of the attacks of September 11. As the Chaplain of all the Senate, he took the pain and isolation that some of us felt from those days, and through prayer and understanding, he brought us together as one, the Senate family, and taught us how to console each other and how to help each family member through the pain of that day.

Now, after all he has done for us, Dr. Ogilvie will be leaving to help his own special family and his wife, Mary Jane. Their's is a remarkable story, and someday it may be written, about teamwork, love and happiness. Now she needs his time, his caring and his attention and so he will be working with her, just as she has worked with him as part of his team for all of the years of their marriage, to bring her back to health.

As he prepares to return to California to be with his wife, a lot of us have taken a few moments to think about the difference he has made in our lives, in our staff's lives, and in the every day routines of the Senate.

I have always believed that there was no better gauge of how well you did your job than to measure your results against what you said you wanted to do on your first day in the office. For Dr. Ogilvie, that meant pursuing a role as "intercessor, trusted prayer partner and faithful counselor to members of the Senate family as they seek to know God and discover His will in the monumental responsibilities entrusted to them."

I don't think there is any doubt that he has fulfilled his own charge to the letter. He has been a counselor, comforter and a source of strength for us all, no matter our status or rank in the Senate or in each office because those things don't matter to the other members of a family when someone is in need.

One of my favorite moments from the New Testament has to do with the story of the apostles who were in a boat with Jesus Christ when a terrible storm came up all around them. As Christ slept peacefully, the apostles were in the throes of a terrible panic about their situation and what was to become of them. As Christ was awakened and sensed their fear, He stretched out His arms and quelled the seas and the winds and everything around them became peaceful and calm once again.

Our lives are often like that. We see the storm clouds and the very real rough winds and seas that seem like they will batter and demolish the little boat of our life. The thought can often leave us feeling very afraid of what is to become of us. In those moments, Dr. Ogilvie was a constant reminder that the strength of God was never far off, and we were never far from Him. All we needed to do was to imitate Christ, stretch out our arms to God and listen for the peace and calm that is always within us. That is God's gift to the troubled and confused and it always lies within us, in the depths of our hearts and souls. Another of God's gifts was surely Dr. Ogilvie, who has a wonderful talent of helping us to find that small, still place in ourselves where we can find the peace, strength and comfort of God for those times when life seems unfair and our boat feels adrift and lost in the turbulent seas of the world.

After coming to know Dr. Ogilvie over the years, and seeing him in prayer with my staff, and so many others, I have no doubt that a book about our Chaplain and the many ways he has made a difference in our lives would be a very thick one. Every office, and every staff has at least a handful of stories about Dr. Ogilvie and the difference he made in their day or their lives just by being available and joining in prayer—or by being there to listen. To those who are fortunate enough to know him, he has been more than a Chaplain to us—he has been a trusted friend who could always be relied on for a good word of advice or to help with an idea or suggest a different approach to a problem.

We all know that all prayers are answered, it is just a difficult thing when the answer we pray for isn't the one we receive. Through the years, Dr. Ogilvie helped so many of our staff members through the storms of their own lives and he did so with great humility, kindness and a gentleness of spirit.

As I thought about the problems faced by my staff, I remembered the mother of one of my staff members who has a problem with pain. When he found out about it, Dr. Ogilvie called her and personally expressed his support for her and his intention to keep her in his prayers. It meant a lot to his mother and to my staff member to know just how much he could count on and rely on the Chaplain for help.

Another member of my staff had just received the devastating news that both of her parents were ill and facing a crisis in their health. Again, Dr. Ogilvie offered his prayers, his support and his spiritual strength for the battle. When a miracle came to pass and both parents recovered, he was there to express the joy and happiness that he found in another's victory. As the old adage says so well, each person's joy was his own.

Another staff member's wife was battling cancer. Dr. Ogilvie was there again to support and encourage as he prayed with them and helped them to face and battle the illness together.

Those are just a few examples of a long list that I could put together of the times when Dr. Ogilvie joined us in prayer, silently and in the background, helping to strengthen the ties between us and the Lord—because, as he said in his mission statement—it was more than his job, it was his charge from God.

For my own office, we will never forget all that Dr. Ogilvie shared with us when one of our staffers, a young man named Ben, faced the ultimate crisis of his life.

Ben was a remarkable young man, someone you took a liking to as soon as you met him. He had a remarkable spirit that comes from being young and being convinced you can do pretty much anything you want to. I don't think I've ever seen anyone at so young an age that was so full of promise and potential—mixed in with a lot of personality and spirit. We all knew when we met Ben that he was one colt that would be impossible to break—but sometimes the spirited ones make the whole herd run better. Such was the case with Ben.

He had come to us in the middle of a battle with cancer and every day we could sense his joy at the gift he was given of another day, another moment of life. Every day he seemed to be getting better and stronger until one terrible day when he seemed to lose a lot of ground and strength—all of a sudden. That was the day it started to seem clear that he might lose his battle with cancer.

Each day, as Ben battled for his life, we battled to be heard as we prayed in earnest for his recovery. Although each passing day seemed to put that elusive goal further from us, we joined together with Dr. Ogilvie in our prayers for a miracle. Sadly, we didn't get what we prayed for. I still remember the day we got the news we had come to dread but expect. Ben had passed away.

Once again, Dr. Ogilvie was with us, to comfort those of us who had lost a good friend, a hard working colleague, and an all around nice guy who had made a difference in all our lives. As we remembered our past years together many of us wondered why God had taken his future from him and from us at such a young and tender age.

Together with Dr. Ogilvie we prayed for answers to these and to all the questions that haunt those who have lost a loved one.

Those answers will come from God at His own speed and at His own time. For then, and for now, it was enough to have our good friend, Dr. Ogilvie, lead us in prayer and provide the words that resonated in our hearts as he helped us find the strength and courage to support each other as we continued to reach out to his family as they mourned the loss of a special son.

Dr. Ogilvie never said this in his prayers or lectures, but it was so clear from the way he lives his life that he knows it's not about him—it's about his service and it's about our God. He is God's servant and he continues to serve Him with great strength and an abundance of good cheer and good will. In many ways he's like a beacon of light that helps to light the way we must walk to draw closer to God and His holy heaven.

One of the greatest preachers of our time was Billy Graham. When asked what made for a good preacher he said, "The test of a preacher is that his congregation goes away saying, not, "What a lovely sermon!" but "I will do something."

If that is the test, Dr. Ogilvie is one of the best. In fact, I don't think there is a single one of us who met with Dr. Ogilvie to discuss a problem who didn't leave feeling absolutely certain that he or she knew what to do and when to do it.

That was one of Dr. Ogilvie's great gifts. He could listen and provide strength and support while he helped us all to find the answer that was right for us—from the silence and peace that lies within our hearts.

God bless you, Dr. Ogilvie, for you certainly were a blessing to each of us while you were here.

I have always believed that God puts us where He needs us, where He wants us to be found. I have no doubt that He is doing that with you right now. Wherever you go from now on, and whatever path He chooses to have you follow, I have no doubt you will continue to do a good job and represent well He who has sent you. As it teaches us in the Bible, "you have been faithful over a few things, I will make you ruler over many things. Enter into the joy of your Lord." God bless you, Dr. Ogilvie, and may you continue to find the joy of your Lord wherever you go and in everyone you meet.

## ADDITIONAL STATEMENTS

### TRIBUTE TO TAYLOR AGATHEN

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Taylor Agathen, winner of the Conservation Art Contest. Over 100,000 students ranging from first to fifth grade throughout the Commonwealth of Kentucky participated in the Conservation Art Contest. As part of the Conservation Art Program, the contest's purpose is to teach students about the importance of soil conservation in their communities. This year's theme was "Kentucky Soil . . . It touches all of us."

Taylor's poster, titled, "Kentucky Soil . . . it touches my life," detailed erosion problems throughout Taylor County and ways to prevent it. Along with the help of her family, Taylor discovered that such ways to prevent erosion included the use of rocks, logs, and cement walls, and had pictures in her poster to prove it. It was a creative design that underscored the need to address the erosion problems throughout our Commonwealth.

Taylor Agathen's first grade teacher, Ms. Laura Dickens, informed her of the Conservation Art Contest. As the first place recipient, Taylor will receive a $500 savings bond and will be an honored guest at The Courier-Journal Awards Luncheon on May 22. She worked hard for this achievement and has earned these rewards. One day Taylor hopes to be a marine biologist and I am sure she will make a good one.•

### TRIBUTE TO THE UNIVERSITY OF VERMONT CATAMOUNTS

• Mr. JEFFORDS. Mr. President, I rise today to congratulate coach Tom Brennan and the University of Vermont Catamounts for their 56–55 victory over home team Boston University in the America East Men's Basketball Championship game this past Saturday. Matt Sheftic, a native of Essex Junction, VT, scored a career-high 23 points in the conference final and was named Tournament Most Outstanding Player. In a dramatic finish to a hard-fought contest, David Hehn hit the winning shot with just 5.6 seconds remaining. As time expired you could hear cheers from Boston to Brattleboro to Burlington.

The Vermont Catamounts will now play the top-seeded Arizona Wildcats on Thursday. The game marks Vermont's first-ever appearance in the NCAA tournament. Although the Catamounts will be a heavy underdog, they bring a 21–7 record, conference player of the year Taylor Coppenrath, of West Barnet, VT, and the heart and determination of every player and coach on the UVM team. In addition, the support and enthusiasm of all Vermonters will travel with the team to the Huntsman Center in Salt Lake City.

I congratulate each member of the team: Coach Tom Brennan, Associate Head Coach Jesse Agel, Assistant Coach Pat Filien, Assistant Coach Jeff Rush, David Hehn, Germain Njila, Matt Sheftic, Grant Anderson, Taylor Coppenrath, Jack Phelan, Andre Anderson, Mike Goia, Corey Sullivan, Scotty Jones, T.J. Sorrentine, and Martin Klimes.

As the team prepares for the Arizona game, I want to extend my congratulations and best wishes to the Catamounts. GO, CATS, GO.•

### HONORING MICHAEL NELSON FOR HIS SERVICE TO NEBRASKA

• Mr. NELSON of Nebraska. Mr. President, today it is my honor to recognize Michael Neil Nelson for his many years of dedicated and selfless service to the State of Nebraska.

Since 1992, Michael Nelson has worked for the Lincoln, NE Department of Housing and Urban Development. As a housing rehabilitation specialist, he has aided hundreds of Lincoln families by rehabilitating their homes and improving their quality of life. Mr. Nelson has also assisted first-time home buyers in finding suitable housing for their families, and has taught many homeowners how to maintain their investment and enhance the neighborhood.

Mr. Nelson was instrumental in establishing a Rebuilding Together affiliate organization in Lincoln. Rebuilding Together preserves and revitalizes houses and communities, assuring that low-income homeowners, particularly those who are elderly and disabled, and families with children, live in warmth, safety, and independence. Through this worthwhile initiative, Mr. Nelson spent countless hours recruiting and organizing volunteers in our community. He worked tirelessly to secure donations from community members and often spent his weekends arranging project publicity and outreach efforts.

Mr. Nelson has always viewed his job with housing initiatives as his way of improving our community. His construction management expertise, coupled with his ability to connect with citizens, makes him a valuable asset to our community. His hard work was often noticed, and he received many accolades from his clients and awards from the city for going above and beyond his responsibilities.

I am proud to represent Nebraskans like Michael Nelson who are committed public servants. Volunteer services are an essential part of communities. The selfless efforts of committed citizens like Mr. Nelson make our communities a better place to live and improve the quality of life for our neighbors. The city of Lincoln and State of Nebraska are fortunate to have Michael Nelson as a member of their community.•

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of March 13, 2003, the following reports of committees were submitted on March 14, 2003:

By Mr. NICKLES, without amendment:

S. Con. Res. 23. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

The following nominations were discharged from the Committee on Rules and Administration pursuant to the order of March 18, 2003:

NOMINATIONS DISCHARGED

Ellen L. Weintraub, of Maryland, to be a Member of the Federal Election Commission for a term expiring April 30, 2007.

Michael E. Toner, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2007.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WYDEN:

S. 629. A bill to amend the Internal Revenue Code of 1986 to assist individuals who have lost their 401(k) savings to make additional retirement savings through individual retirement account contributions, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 630. A bill to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself and Mr. CARPER):

S. 631. A bill to amend title 39, United States Code, with respect to cooperative mailings; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself, Mr. BINGAMAN, Mr. WARNER, Ms. COLLINS, Mr. SARBANES, and Mr. ROCKEFELLER):

S. 632. A bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease; to the Committee on Finance.

By Mr. KERRY (for himself, Ms. LANDRIEU, Ms. STABENOW, Ms. CANTWELL, and Mr. PRYOR):

S. 633. A bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. HATCH (for himself, Mr. DOMENICI, and Mr. BINGAMAN):

S. 634. A bill to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 635. A bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. BOND):

S. 636. A bill to amend title XVIII of the Social Security Act to provide for a permanent increase in medicare payments for home health services that are furnished in rural areas; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. LUGAR):

S. Res. 90. A resolution expressing the sense of the Senate that the Senate strongly supports the nonproliferation programs of the United States; to the Committee on Foreign Relations.

By Mr. SANTORUM (for himself and Mr. BROWNBACK):

S. Res. 91. A resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of the Senate that March, 17, 2003, should be designated as a national day of prayer and fasting; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 2

At the request of Mr. MILLER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

### S. 68

At the request of Mr. INOUYE, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

### S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

### S. 201

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 201, a bill to amend title 31, United States Code, to provide Federal aid and economic stimulus through a one-time revenue grant to the States and their local governments.

### S. 206

At the request of Mrs. CLINTON, the names of the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. MILLER) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

### S. 287

At the request of Mr. LEAHY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

### S. 344

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

### S. 403

At the request of Mr. BAUCUS, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 403, a bill to lift the trade embargo on Cuba, and for other purposes.

### S. 457

At the request of Mr. LEAHY, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

### S. 470

At the request of Mr. SARBANES, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

### S. 480

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

### S. 511

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

### S. 518

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Virginia (Mr. ALLEN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

### S. 575

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 575, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

### S. 582

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 595

At the request of Mr. HATCH, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Wyoming (Mr. THOMAS), the Senator from Delaware (Mr. CARPER) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 598

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 598, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 605

At the request of Mr. SMITH, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 605, a bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008.

S. 623

At the request of Mr. WARNER, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Idaho (Mr. CRAIG), the Senator from New Jersey (Mr. CORZINE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Mr. SARBANES), the Senator from Oregon (Mr. SMITH), the Senator from Florida (Mr. GRAHAM), the Senator from Illinois (Mr. FITZGERALD), the Senator from South Dakota (Mr. JOHNSON), the Senator from New Hampshire (Mr. GREGG), the Senator from Georgia (Mr. MILLER), the Senator from Vermont (Mr. JEFFORDS), the Senator from Maine (Ms. SNOWE) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S.J. RES. 3

At the request of Mr. LIEBERMAN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 3, a joint resolution expressing the sense of Congress with respect to human rights in Central Asia.

S.J. RES. 8

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S.J. Res. 8, a joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 629. A bill to amend the Internal Revenue Code of 1986 to assist individuals who have lost their 401(k) savings to make additional retirement savings through individual retirement account contributions, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, over a year ago the greed of some senior executives at the Enron corporation finally caught up with them. Enron's financial house of cards began to tumble, and along with it went the pensions and retirement dreams of thousands of employees and investors. Among the employees whose pensions were crushed in Enron's accounting avalanche were nearly all of Portland General Electric, or PGE's 2,700 employees in Oregon.

Enron took over PGE in June of 1997, and two years later merged the PGE employee 401(k) retirement plan into a single plan. That plan allowed employees to contribute up to 15 percent of their income, with the company matching in Enron stock. When Enron took over PGE in 1997, PGE's stock was trading at $27 a share; three years after the merger, Enron stock was trading at $85 a share, enticing employees to invest 100 percent of their 401(k) money in Enron stock.

Enron's stock had begun to slide in August 2001, and it was not until October that real panic set in. At that time the captains of the Enron ship knew it was sinking. In an effort to prevent a massive stock sell-off, senior executives on the deck locked workers in the boiler room, preventing them from selling off 401(k) shares while they dumped their own. By the time the pension lockdown ended, an Enron share was worth less than ten dollars. In early December, Enron filed for bankruptcy.

Earlier this year Congress enacted significant corporate accountability legislation so that executives and accountants can no longer use certified financial statements to play a game of financial hide-and-seek. But little was done for the workers who were locked in the boiler room. The purpose of the legislation I am introducing today, the "Catch-Up Retirement Savings Act," is to give those PGE employees who were harmed by the greed of Enron executives the opportunity to catch-up on some of their lost retirement. My bill does two things to help workers. First, it allows employees to triple the deductible amount they may otherwise contribute to an IRA, and second, it gives employees a 50 percent tax credit on the amount they contribute to their IRA. The tax incentives would be available for five years to employees whose employer filed for bankruptcy and who was the subject of an indictment or conviction resulting from business transactions related to such case, and whose employer matched at least 50 percent of the employee's contributions to the pension plan.

No act of Congress can ever respond fully to the egregious harm that has been caused to thousands of Oregonians by the collapse of Enron. But I believe that something must be done to help recoup some of the lost pension savings. The "Catch-Up Lost Retirement Savings Act" is a small but important step that Congress should take to help employees to begin to catch-up on their retirement savings.

I ask unanimous consent that the text of the bill and a chart be printed in the RECORD.

There being no objection, the bill and chart were ordered to be printed in the RECORD, as follows:

S. 629

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Catch-Up Lost Retirement Savings Act".

**SEC. 2. ALLOWANCE OF CATCH-UP PAYMENTS.**

(a) IN GENERAL.—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (A) the following new subparagraph:

"(C) CATCH-UP CONTRIBUTIONS FOR CERTAIN INDIVIDUALS.—

"(i) IN GENERAL.—In the case of an eligible individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

"(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

"(I) subparagraph (B) shall not apply.

"(ii) ELIGIBLE INDIVIDUAL.—For purposes of this subparagraph, the term 'eligible individual' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or deferred arrangement (as defined in section 401(k)) of an employer described in clause (ii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

"(iii) EMPLOYER DESCRIBED.—An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

"(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

"(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

"(iv) QUALIFIED PARTICIPANT.—For purposes of clause (ii), the term 'qualified participant' means any eligible individual who was a participant in the cash or deferred arrangement described in clause (i) at least 6 months before the filing of the case described in clause (iii).

"(v) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2007.".

(b) CREDIT ALLOWED FOR CATCH-UP CONTRIBUTIONS.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**"SEC. 25C. CERTAIN CATCH-UP IRA CONTRIBUTIONS.**

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual who makes an election under section 219(b)(5)(C) for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to 50 percent of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed the increase in the deductible amount determined under section 219(b)(5)(C) .

"(b) DENIAL OF DOUBLE BENEFIT.—No deduction or other credit shall be allowed with respect to any contribution to which a credit is allowed under subsection (a).

"(c) INVESTMENT IN THE CONTRACT.—Notwithstanding any other provision of law, a qualified retirement savings contribution shall not fail to be included in determining the investment in the contract for purposes of section 72 by reason of the credit under this section.

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Certain catch-up IRA contributions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

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"CATCH-UP" SAVINGS AMOUNTS ALLOWED

For Years 2003–2004: IRA Contribution, $3,000; Catch-up amount, $1,500; and Credit, 50% = $750/year.

For Years 2005: IRA Contribution, $4,000; Catch-up amount, $1,500; and Credit, 50% = $750/year.

For Years 2006 and 07: IRA Contribution, $4,000; Catch-up amount, $3,000; and Credit, 50% = $1,500/year.

Total amount from credit for years 2003 through 2007, assuming maximum amount saved, equals $5,250.

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By Mr. CRAIG (for himself, Mr. BINGAMAN, Mr. WARNER, Ms. COLLINS, Mr. SARBANES, and Mr. ROCKEFELLER).

S. 632. A bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease; to the Committee on Finance.

Mr. CRAIG. Mr. President, I ask unanimous consent that the text of the bill I am introducing today, on medical nutrition therapy, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 632

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medicare Medical Nutrition Therapy Amendment Act of 2003".

**SEC. 2. COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES FOR BENEFICIARIES WITH CARDIOVASCULAR DISEASES.**

(a) IN GENERAL.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)) is amended to read as follows:

"(V) medical nutrition therapy services (as defined in subsection (vv)(1)) in the case of a beneficiary—

"(i) with a cardiovascular disease (including congestive heart failure, arteriosclerosis, hyperlipidemia, hypertension, and hypercholesterolemia), diabetes, or a renal disease (or a combination of such conditions) who—

"(I) has not received diabetes outpatient self-management training services within a time period determined by the Secretary;

"(II) is not receiving maintenance dialysis for which payment is made under section 1881; and

"(III) meets such other criteria determined by the Secretary after consideration of protocols established by dietitian or nutrition professional organizations; or

"(ii) with a combination of such conditions who—

"(I) is not described in clause (i) because of the application of subclause (I) or (II) of such clause;

"(II) receives such medical nutrition therapy services in a coordinated manner (as determined appropriate by the Secretary) with any services described in such subclauses that the beneficiary is receiving; and

"(III) meets such other criteria determined by the Secretary after consideration of protocols established by dietitian or nutrition professional organizations;

for such number of hours as the Secretary may specify, except that, in the case of a beneficiary with a cardiovascular disease, such number may not exceed 3 hours in a year without a determination of a physician that additional hours are medically necessary in that year due to a change in medical condition, diagnosis, or treatment regime of the patient;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the date of the enactment of this Act.

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By Mrs. BOXER:

S. 630. A bill to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am pleased to be re-introducing today a bill that will take an important first step in restoring the San Gabriel River, which runs through Los Angeles, CA. During the 107th Congress, this bill received unanimous support from the House of Representatives and from the Senate as part of an omnibus California Parks bill. However, due to a technical error, unrelated to this legislation, the bill was never sent to the President. I am hopeful that this legislation will quickly receive the consideration it deserves so it can be enacted into law.

The San Gabriel River has suffered from years of abuse and neglect and needs our help. For far too long, we have channeled, redirected, constricted, polluted, and simply ignored it. The result is that substantial portions of the river look nothing like its natural form. Instead of soft bottoms covered with aquatic grasses, stream banks lined with trees and bushes, and waters teaming with fish, these rivers have cement bottoms, cement banks, and little remaining wildlife.

Today, we begin what will be a long, slow process in turning the tide for this urban watershed. This bill directs the Secretary of the Interior to conduct a study of the San Gabriel River watershed to consider various mechanisms for providing federal protection and assistance to this river and its watershed.

It is particularly important to restore the San Gabriel River so it can serve as a source of outdoor recreation for one of our Nation's most congested urban areas. Most communities in Los Angeles are desperate for open space. They seek outdoor areas where children can play, adults can meet, and people of all ages can find respite from the daily hustle and bustle of some of our most economically and socially stressed neighborhoods. The San Gabriel River system can and should provide that to them.

This vision is shared by Congresswoman HILDA SOLIS, who first introduced this bill in the House of Representatives in the last Congress. I look forward to working with her on passing this bill quickly and then taking the additional steps needed to restore the San Gabriel River.

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By Mr. KERRY (for himself, Ms. LANDRIEU, Ms. STABENOW, Ms. CANTWELL, and Mr. PRYOR):

S. 633. A bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased today to be re-introducing legislation, the "Small Business Federal Contractor Safeguard Act," designed to protect the interests of small businesses in the Federal marketplace.

Currently as the Ranking Member, and last Congress as Chairman, of the

Senate Committee on Small Business and Entrepreneurship, I have focused a considerable amount of energy on increasing the role of small businesses in the Federal marketplace. Not only is it an issue of fairness, but it is in the best interest of our economy and our national security. In fact, the Small Business Administration was created after World War II to ensure that small businesses would be viable for defense-related production, to build a diverse pool of suppliers so that the country would not be dependent on only a handful of companies. As this country prepares for war in Iraq and continues the on-going war on terrorism, we should be improving that viability and expanding that diverse pool. We should be increasing our business with small business, not reducing it.

It is no secret that the Committee on Small Business and Entrepreneurship places a great deal of importance on moving legislation forward in a bipartisan manner—the members of my Committee understand we represent the interests of all of our nation's small businesses, the most important and dynamic segment of our economy. And nowhere is the bipartisan consensus stronger than in the area of Federal procurement and ensuring that our nation's small businesses receive their fair share of procurement opportunities.

The legislation we are introducing today has one ultimate purpose, to prevent Federal agencies from circumventing small business protections with regard to the practice known as contract bundling. Few issues have so strongly galvanized the small businesses contacting community as the practice of contract bundling, which occurs when procurement contracts are combined to form large contracts, often spread over large geographic areas, and results in minimal or no small business participation.

Many supporters of the practice of contract bundling point to its cost savings—they claim it saves the taxpayer money to lump contracts together. Unfortunately, there is little evidence supporting this claim, and too many contracts are bundled without the required economic research designed to determine if a bundled contract will actually result in a cost savings.

The SBA's Office of Advocacy, an independent body within the SBA, estimated that for every increase of 100 bundled contracts, there was a decrease of over 106 individual contracts issued to small firms. For every $100 awarded on a bundled contract, there was a decrease of $33 to small business. This cost small businesses an estimated $13 billion in 2001. The Office of Advocacy arrived at these conclusions using a conservative definition of what constitutes a bundled contract. Therefore, the negative impact on small businesses from contract bundling is likely more severe.

While seemingly an efficient and cost-effective means for Federal agencies to conduct business, bundled contracts are anti-competitive. And they are anti-small business. When a Federal agency bundles contracts, it limits small businesses' ability to bid for the new bundled contract, thus limiting competition. Small businesses are consistently touted as more innovative, providing better and cheaper services than their larger counterparts. But when forced to bid for mega-contracts, at times across large geographic areas, few, if any, small businesses can be expected to compete. By driving small business from the Federal marketplace, contract bundling will actually drive up the costs of goods and services purchased by the Federal government because competition will be limited and our economy will be deprived of possible innovations brought about by small businesses.

While there are current laws in place intended to require Federal agencies to conduct market research before bundling a contract, loopholes in the current definition of a bundled contract allow them to often skirt these safeguards.

Our legislation changes the name "bundled contract" to "consolidated contract," strengthens the definition of a consolidated contract, and closes the loopholes in the existing definition to prevent Federal agencies from circumventing statutory safeguards intended to ensure that separate contracts are consolidated for economic reasons, not administrative expediency.

The new definition relies on a simple premise: if you combine contracts, be it new contracts, existing contracts or a combination thereof, you are consolidating them and would need to take the necessary steps to ensure it is justified economically before proceeding.

Our legislation also alters the current Small Business Act requirements regarding procurement strategies when a contract is consolidated to include a threshold level for triggering the economic research requirements.

Previously, any consolidated contract would trigger the economic research requirements, something considered onerous by many Federal agencies and often cited as the reason for circumventing the law. The new procurement strategies section of the Small Business Act would require a statement of benefits and a justification for any consolidated contract over $2 million and a more extensive analysis, corresponding to current requirements for any consolidated contract, for consolidations over $5 million.

In order to move forward with a consolidated contract over $2 million, the agency must put forth the benefits expected from the contract, identify alternatives that would involve a lesser degree of consolidation and include a specific determination that the consolidation is necessary and justified. The determination that a consolidation is necessary and justified may be determined simply through administrative and personnel savings, but there must be actual savings.

In order to move forward with a consolidated contract over $5 million, an agency must, in addition to the above: conduct current market research to demonstrate that the consolidation will result in costs savings, quality improvements, reduction in acquisition times, or better terms and conditions; include an assessment as to the specific impediments to small business participation resulting from the consolidation; and specify actions designed to maximize small business participation as subcontractors and suppliers for the consolidated contract. The determination that a consolidation is necessary and justified may not be determined through administrative and personnel savings alone unless those savings will be substantial for these larger contracts.

By establishing this dual-threshold system, we have placed the emphasis for the economic research on contracts more likely to preclude small business participation, while not ceding smaller contracts to the whims of a Federal agency. This change, coupled with a clear definition of a consolidated contract, should be enough to garner compliance. However, if Federal agencies continue to consolidate contracts when there is no justification, fail to conduct the required economic research, or fail to provide procurement opportunities to small businesses, the Committee would have little choice but to consider legislative changes requiring punitive measures for these Federal agencies. This is a step I have been reluctant to take in the past. However, I am optimistic that such a step will not be necessary and that the fair and reasonable system established under this legislation will be effective.

I would once again like to thank my fellow sponsors, Senators LANDRIEU, STABENOW, CANTWELL, and PRYOR for their continued support on this issue. I hope all of my colleagues will join us in supporting this bill. I ask that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 633

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Small Business Federal Contractor Safeguard Act".

**SEC. 2. CONTRACT CONSOLIDATION.**

(a) DEFINITIONS.—Section 3(o) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:

"(o) DEFINITIONS.—In this Act the following definitions shall apply:

"(1) CONSOLIDATED CONTRACT; CONSOLIDATION.—The term 'consolidated contract' or 'consolidation' means a multiple award contract or a contract for goods or services with a Federal agency that—

"(A) combines discrete procurement requirements from not less than 2 existing contracts;

"(B) adds new, discrete procurement requirements to an existing contract; or

"(C) includes 2 or more discrete procurement requirements.

"(2) MULTIPLE AWARD CONTRACT.—The term 'multiple award contract' means—

"(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

"(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

"(C) any other indefinite delivery or indefinite quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation.".

(b) PROCUREMENT STRATEGIES.—Section 15(e) of the Small Business Act (15 U.S.C. 644(e)) is amended to read as follows:

"(e) PROCUREMENT STRATEGIES; CONTRACT CONSOLIDATION.—

"(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as—

"(A) prime contractors;

"(B) subcontractors; and

"(C) suppliers.

"(2) PROCUREMENT STRATEGY REQUIREMENTS WHEN THE VALUE OF A CONSOLIDATED CONTRACT IS GREATER THAN $2,000,000.—

"(A) IN GENERAL.—An agency official may not execute a procurement strategy that includes a consolidated contract valued at more than $2,000,000 unless the proposed procurement strategy—

"(i) specifically identifies the benefits anticipated from consolidation;

"(ii) identifies any alternative contracting approaches that would involve a lesser degree of contract consolidation; and

"(iii) includes a specific determination that the proposed consolidation is necessary and the anticipated benefits of such consolidation justify its use.

"(B) NECESSARY AND JUSTIFIED.—The head of an agency may determine that a procurement strategy under subparagraph (A)(iii) is necessary and justified if the monetary benefits of the procurement strategy, including administrative and personnel costs, substantially exceed the monetary benefits of each of the possible alternative contracting approaches identified under subparagraph (A)(ii).

"(C) ADDITIONAL REQUIREMENTS WHEN THE VALUE OF A CONSOLIDATED CONTRACT IS GREATER THAN $5,000,000.—In addition to meeting the requirements under paragraph (A), a procurement strategy that includes a consolidated contract valued at more than $5,000,000—

"(i) shall be supported by current market research that demonstrates that the consolidated contract will result in—

"(I) cost savings;

"(II) quality improvements;

"(III) reduction in acquisition cycle times; or

"(IV) better terms and conditions;

"(ii) shall include an assessment of the specific impediments to participation by small business concerns as prime contractors that result from contract consolidation;

"(iii) shall specify actions designed to maximize small business participation as subcontractors, including suppliers, at various tiers under the consolidated contract; and

"(iv) shall not be justified under paragraph (A)(iii) by savings in administrative or personnel costs, unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

"(3) CONTRACT TEAMING.—

"(A) IN GENERAL.—If the head of an agency solicits offers for a consolidated contract, a small business concern may submit an offer that provides for the use of a particular team of subcontractors for the performance of the contract (referred to in this paragraph as 'teaming').

"(B) EVALUATION OF OFFER.—The head of the agency shall evaluate an offer submitted by a small business concern under subparagraph (A) in the same manner as other offers, with due consideration to the capabilities of all of the proposed subcontractors.

"(C) NO EFFECT ON STATUS AS A SMALL BUSINESS CONCERN.—If a small business concern engages in teaming under subparagraph (A), its status as a small business concern shall not be affected for any other purpose.".

(c) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 2(j)—

(A) by striking the subsection heading and inserting the following:

"(j) CONTRACT CONSOLIDATION.—"; and

(B) in paragraph (3), by striking "bundling of contract requirements" and inserting "contract consolidation";

(2) in section 8(d)(4)(G), by striking "a bundled contract" and inserting "a consolidated contract";

(3) in section 15(a)—

(A) by striking "bundling of contract requirements" and inserting "contract consolidation"; and

(B) by striking "the bundled contract" and inserting "the consolidated contract"; and

(4) in section 15(k)(5)—

(A) by striking "significant bundling of contract requirements" and inserting "consolidated contracts valued at more than $2,000,000"; and

(B) by striking "bundled contract" and inserting "consolidated contract".

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By Mr. HATCH (for himself, Mr. DOMENCI, and Mr. BINGAMAN):

S. 634. A bill to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce a bill to help highlight and protect sites in one of our Nation's most archaeologically rich regions, the Four Corners. The Trail of the Ancients National Historic Trail Act of 2003 would amend the National Trails System Act to direct a study of the suitability of designating the Trail of the Ancients as a national historic trail.

The Trail of the Ancients National Historic Trail would become a multistate, auto route featuring world-renowned examples of Ancestral Puebloan cultures in the Four Corners area. The Ancestral Puebloans, also known as Anasazi, preceded today's Navajo and Ute tribes. The Trail of the Ancients connects many of the most significant Ancestral Puebloan sites in the Four Corners area of Utah, Colorado, Arizona, and New Mexico.

The Four Corners region in the Southwestern United States is one of the areas of greatest archaeological interest in the Nation. The Trail of the Ancients National Historic Trail would provide improved access to and understanding of this region's numerous examples of the Ancestral Puebloan culture. The history of the Four Corners region is not only unique and important to the Nation, it is unparalleled in how well it is preserved in the remaining archaeological sites. The semi-arid climate of the Four Corners area has helped preserve some the archaeological sites beyond what is typically seen in most other areas of the United States. International recognition of a number of the sites in the area has contributed to the wealth of information about the peoples who lived in them.

The Trail would highlight areas and sites where our Nation's earliest inhabitants, the Paleo Americans, traveled and lived as early as 10,000 B.C. Within the same region lived the Ancestral Puebloan Indians from about A.D. 1 to 1300. The Trail would also feature sites that chronicle the existence of today's Ute Indian culture from the early 13th century, as well as today's Navajo people.

I point out that the Trail of the Ancients National Historic Trail would include only existing routes and roads, and would not require the acquisition of additional property. Currently, much of the existing route is officially designated a Scenic Byway in Utah, Colorado, and Arizona. The trail also intersects and shares stops with other national- and State-designated byways and highways including the San Juan Skyway in Colorado and the Utah Bicentennial Highway.

Most of the existing cultural and historical interpretation of the numerous sites along the trail was developed independently. Designation of the Trail of the Ancients National Historic Trail would link many of the cultural and recreation areas for the benefit of the traveling public and involved communities. Just as importantly, designation as a national historic trail would provide a unified framework for protecting and interpreting for the public the trail's most important sites.

That is why I am introducing this legislation today. This bill would authorize the study of the Trail of the Ancients for possible inclusion in the National Trails System and allow for its precious and irreplaceable sites to be best protected, as well as enjoyed by the public.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

Ms. COLLINS (for herself and Mr. BOND):

S. 636. A bill to amend title XVIII of the Social Security Act to provide for a permanent increase in medicare payments for home health services that are furnished in rural areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Rural Home Health Payment Fairness Act, which would extend the 10 percent add-on payment under Medicare for home health care services in rural areas that is currently scheduled to sunset on April 1. This legislation would help to ensure seniors and disabled citizens living in rural America continue to receive the home health care benefits and services they depend on and deserve.

Health care in this country has gone full circle. Patients are spending less time in the hospital. More and more procedures are being done on an outpatient basis and recovery and care for patients with chronic diseases and conditions have increasingly been taking place in the home. As a consequence, home health care has become an increasingly important part of our health care. The kinds of highly skilled and often technically complex services our Nation's home health nurses provide have enabled millions of our most frail and vulnerable senior citizens to avoid hospitals and nursing homes and stay where they want to be, in the security, privacy, and comfort of their very own homes.

I have visited home health patients throughout my State in northern, central, and southern Maine. Regardless of where they live, the impact of home health care on their lives has been the same. It has made the difference between couples staying together in their own home for their golden years, despite the ill health of one of the spouses, or being forced prematurely into a nursing home or into repeated hospitalizations.

One elderly gentleman told me all he wanted was to live out the remaining days of his life with his wife, whom he had been married to for decades, and that home health care allowed them to be together in the home where they had always lived, as he completes his final years.

Home health care is also a bargain. It makes a great deal of sense to care for people in their own homes and avoid the extra costs of nursing homes and hospitalization. Our home health care system is fragile. Extension of the 10 percent add-on payment for rural home health care agencies will help to ensure that patients living in rural communities continue to have access to vital home health services. Surveys have shown the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required to cover long distances between patients, higher transportation expenses, and other cost factors.

Rural agencies also experience higher costs relative to productivity. Because of the longer travel distances, rural caregivers are unable to perform as many visits in a single day as their urban counterparts. Saundra Scott-Adams, the Executive Director of Visiting Nurses of Aroostook in northern Maine, tells me her agency covers 6,600 square miles to serve a population of only 73,000. Her costs are understandably much higher and her hard-working nurses are not able to see as many patients in a day as their urban counterparts. The long distances they must drive mean they are able to see fewer patients each day.

Moreover, agencies in rural areas are frequently smaller than their big city counterparts, which means their relative costs are higher due to smaller scale operations and an ability to take advantage of economies of scale. Smaller agencies with fewer patients and fewer visits mean that fixed costs, particularly those associated with meeting regulatory requirements, are spread over a smaller number of patients and visits, increasing overall per-patient and per-visit costs. If the rural add-on payment is eliminated on April 1, it will only put more pressure on our rural home health agencies that are already operating on a very narrow margin, and it could, in fact, force some of these agencies to close.

Some agencies operating in rural areas are the only home health providers for a vast geographic area. If any of these agencies are forced to close, the Medicare patients in that region will completely lose their access to home health care.

Earlier this year, the Medicare Payment Advisory Commission voted unanimously to extend the rural add-on payment for home health services for one year. I urge all of my colleagues to join me in cosponsoring this important legislation to ensure that all of our seniors, no matter where they live, whether they live in big cities, in suburbs, or the smallest communities, continue to have access to quality home health services.

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 90—EXPRESSING THE SENSE OF THE SENATE THAT THE SENATE STRONGLY SUPPORTS THE NONPROLIFERATION PROGRAMS OF THE UNITED STATES

Mr. BYRD (for himself, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 90

Whereas on March 6, 2003, the Senate gave its advice and consent to the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002 (the Moscow Treaty), which treaty will result in the draw down of thousands of strategic nuclear weapons by December 31, 2012;

Whereas the lack of strict and effective control over and security of all weapons of mass destruction by the governments having jurisdiction over such weapons continues to be of grave concern to all nations that are threatened by terrorism, especially after the catastrophic terrorist attacks of September 11, 2001; and

Whereas despite some recent improvements in cooperation at the highest levels of the Russian Federation, various officials and agencies of the Russian Federation have been counter-productive in barring access and information to the United States with respect to nonproliferation programs and activities, thereby needlessly hindering the progress of such programs and activities: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the Senate strongly supports the nonproliferation programs of the Department of Defense, the Department of Energy, and the Department of State, which programs are intended to reduce the worldwide threat posed by nuclear, chemical, and biological weapons that remain unsecured in the Russian Federation and elsewhere;

(2) the Russian Federation should continue to improve the access of the United States to key facilities, and the sharing of information with the United States, so as to bring a successful and timely conclusion to various nonproliferation programs and activities; and

(3) the United States should redouble its efforts to achieve full implementation of the nonproliferation programs of the Department of Defense, the Department of Energy, and the Department of State under effective management, and make full use of all funds that Congress appropriates or otherwise makes available for such programs.

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### SENATE RESOLUTION 91—AFFIRMING THE IMPORTANCE OF A NATIONAL DAY OF PRAYER AND FASTING, AND EXPRESSING THE SENSE OF THE SENATE THAT MARCH, 17, 2003, SHOULD BE DESIGNATED AS A NATIONAL DAY OF PRAYER AND FASTING.

Mr. SANTORUM (for himself and Mr. BROWNBACK) submitted the following resolution; which was considered and agreed to:

### S. RES. 91

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror, and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist, and in this time of peril it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) March 17, 2003, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

* * *

## AMENDMENTS SUBMITTED AND PROPOSED

SA 262. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table.

SA 263. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 262.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE REGARDING A VALUE-ADDED TAX TO PAY THE COSTS OF WAR ON IRAQ.**

It is the sense of the Senate that the recommended levels and amounts in section 101 assume a 2 percent value added tax to pay the costs of the war against Iraq and against terrorism.

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**SA 263.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

**SEC. . SENSE OF THE SENATE ON SUSPENDING INCOME TAX CUTS FUNDED BY SOCIAL SECURITY SURPLUSES.**

It is the sense of the Senate that the budgetary totals in this resolution assume that the Internal Revenue Code of 1986 should be amended to suspend future reductions of income tax rates enacted in 2001 if the Social Security surpluses are used to fund such tax rate cuts.

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## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 19, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Indian energy legislation, S. 424, the Tribal Energy Self-Sufficiency Act, and S. 522, the Native American Energy Development and Self-Determination Act of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 26, 2003, at 10:00 a.m. in Room 216 of the Hart Senate Office Building to conduct an OVERSIGHT HEARING on the Role and Funding of the Federal National Indian Gaming Commission (NIGC).

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, March 26, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony regarding the issues uncovered as a result of the Blue Ribbon Panel's findings on Aerial Fire Fighting Safety and to learn what the agencies are doing to respond to the recommendation of that report. (Contact: Frank Gladics 202–224–2878 or Jared Stubbs at 202–224–7556).

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

* * *

## AFFIRMING IMPORTANCE OF NATIONAL DAY OF PRAYER AND FASTING

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 91, which was submitted earlier today by Senators SANTORUM and BROWNBACK.

The PRESIDING OFFICER. The clerk will report the title of the resolution.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 91) affirming the importance of a national day of prayer and fasting, and expressing the sense of the Senate that March 17, 2003, should be designated as a national day of prayer and fasting.

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 91) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 91

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror, and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist, and in this time of peril it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) March 17, 2003, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

## ORDERS FOR TUESDAY, MARCH 18, 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m., Tuesday, March 18; I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 23, the concurrent budget resolution; provided further that there be 20½ hours remaining under the control of the chairman of the Budget Committee and 21½ hours remaining under the control of the ranking member.

I further ask unanimous consent that at 12 noon, the Senate return to executive session and immediately proceed to the cloture vote on the Estrada nomination, provided that, regardless of the outcome, following the vote the Senate return to legislative session and resume consideration of S. Con. Res. 23.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say, through the Chair to my friend, the distinguished chairman of the Budget Committee, I appreciate very much the cooperation shown to this point on this very difficult matter. This is going to be an extremely busy week, with the President making his speech tonight in less than an hour and this country engaged in so many different things. This budget is extremely important. It is going to take the cooperation of both sides to come up with something that is not—I do not want to say an embarrassment. I do not mean that. The rules allow the Senate not to look at its best when we have 50, 60 votes at the end of all of this. I have spoken to our leader. I have spoken to the chairman of the Budget Committee. I have spoken to Senator CONRAD. We are going to do our very best to work out a program where we will make it so that we have the opportunity to offer our amendments and hopefully not have the marathon that we normally have at the end of a bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank my friend and colleague. This week will be a challenging week, to say the least. I look forward to working with him, and I would very much like to have an orderly consideration of the budget, the resolution, and the amendments in the process and avoid the so-called vote-arama that in years past we have found ourselves in with a lot of very important votes, with very little time for consideration. I do not think it makes the Senate look very good.

## PROGRAM

Mr. NICKELS. Mr. President, for the information of Senators, tomorrow the Senate will resume consideration of S. Con. Res. 23, the budget resolution. At 12, the Senate will proceed to a cloture vote on the Estrada nomination. Following that vote, the Senate will return to consideration of the budget resolution. Members should expect amendments to be offered during tomorrow's session, which will require votes throughout the day. The majority leader encourages all Members who intend to offer amendments to work with the resolution managers in order to ensure an orderly process for debate. It is the intention of the majority leader to finish the budget resolution this week. Therefore, Members should expect late nights and rollcall votes throughout the week.

## ORDER FOR ADJOURNMENT

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator ALLARD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

## THE BUDGET

Mr. ALLARD. Mr. President, before I begin my remarks, I thank the budget chairman for his consideration. He is doing a great job. This is the first year he has assumed responsibility as chairman of the Budget Committee. In that position, he has expressed a willingness to work with all members of the Budget Committee and work with Members of the Senate to get a budget out of the Senate. I commend him for that effort.

I think it was extremely disappointing not only to me but to the American people that last year we did not get a budget passed. That is the first thing that has to happen. If we want to see this process move forward in an orderly manner, we need to pass a budget.

I rise today to make a few comments relating to the budget resolution that is before us. This resolution, in my view, is one of the most important, only next to the legislation committing and supporting our Armed Forces, which is perhaps the most important the Congress will consider.

As my colleagues know, the budget resolution establishes the framework by which Congress will appropriate funds over the next year and it sets a model for the future. Further, this resolution will establish a series of important mechanisms for the enforcement of budget policy and outline important policy priorities to be ultimately determined by other Senate committees.

I serve on the Senate Budget Committee, and I will take this opportunity to comment on the pending resolution, as well as a number of important choices facing this body as we proceed with this debate.

I will make a few comments on the current climate. I have stated numerous times in recent years that continual increases in discretionary spending threaten the long-term fiscal stability of the Government and doom the taxpayer to greater long-term obligations. The slim window of historic surpluses we experienced in Washington from 1998 through 2001 sparked a rapid spending spree, unlike virtually any this Nation has ever experienced.

From the year 2000 to 2003, the Federal Government will have spent more than in any other 4-year period in the last 60 years, excluding the war years of World War II. When compared to the previous 4 years, 1996 to 1999, the Government has increased spending by a startling $782 billion. The 4-year cost per household of the Federal Government reaching $73,000. This reckless spending represents irresponsibility in the short term and far worse in the long term.

Today our Nation stands in the midst of a war on terror and on the brink of a costly engagement with the savage totalitarian Government of Iraq. These are conflicts that this country did not ask for but obligations we must meet. Today's international landscape demands nothing less than total commitment to our Armed Forces. I am pleased this budget resolution meets that commitment. I would go one step further and state clearly the defense of the homeland and the protection of American interests is the paramount responsibility of the Federal Government in this Republic.

By abandoning fiscal restraint and discretionary spending over the last 4 years, we have not only continued to bleed current and future taxpayers but created enormous fiscal obstacles to the prosecution of this Nation's defense.

I will speak briefly on defense and the war on terror. The budget resolution reported by the committee provides for $400 billion for defense in fiscal year 2004. That is meeting the President's request for the continued aggressive prosecution of our war against terror around the world. The full amount of the President's request for Homeland Security is also included, the new Department of Homeland Security, growing from $21.3 billion in 2003 to $27.1 billion in 2004. These dollars will go to the securing of our borders, the training and supply of first responders, bioterrorism preparedness, and increased interagency coordination. I can think of no greater priority in these troubled times.

In talking about the growth package and the tax cuts, perhaps the area of the budget which will face the greatest scrutiny this week will be the reconciliation instruction for the President's proposed growth package. This resolution provided for $698 billion from 2003 through 2013 for growth, job creation, and tax relief. I support the President's approach to this growth proposal: Mixing tax relief targeted to working families, encouraging investment by the small business sector—which, I might add, is the backbone of this economy in this country—and eliminating the double taxation of dividends.

A number of colleagues made clear they do not believe this package will stimulate the economy and insist the most stimulative effect would be through increased spending. This is not only an argument I fail to embrace, it is one I find dangerous in light of the incredible recent increases in spending that have proven ineffective in changing the economy.

Today, Federal revenues are down for the second consecutive year. That is an unprecedented decrease. The Nasdaq stands at one-quarter of its value just 3 years ago. To those who claim that the Federal Government can spend its way out of such conditions, stimulating growth by absorbing more of America's paycheck, I ask where the evidence is that this, indeed, works.

As I stated earlier, Congress has added $782 billion in spending over the last 4 years. In light of the sum of this regrettable spending spree, the President proposes a rather humble growth package over the course of the next 10 years. The amount provided in this resolution accommodates the acceleration of several key tax cuts already implemented into law such as the marriage penalty tax and the cut in marginal income tax rates. Further, there is room in this package to increase the child tax credit and increase small business expensing limits. These are very real ways to allow working Americans to keep more of their money, and to do so starting today. I trust they will know best what to do with these savings and can see only beneficial stimulus.

With regard to the dividend proposal, the resolution also accommodates the President's desire to cut one of the Tax Code's most egregious examples of double taxation, that tax placed on corporate dividends. It is unfortunate that dividend taxation is an area where the United States is a world leader, taxing dividends at a rate higher than any nation in the world other than Japan. I would like to be clear on the nature of this tax. It is a tax on capital. It makes capital more expensive. It makes doing business more expensive. Capital can be used far better by those innovating and investing in the private sector rather than through expanding government largess.

The Wall Street Journal outlined the benefits of this proposal in a February 26 article. The Wall Street Journal reports that the dividend proposal would increase job creation by as many as 500,000 jobs per year over the next 5 years. That is an immediate and wonderful economic stimulus. Federal Reserve Chairman Alan Greenspan recently testified before Congress in support of the elimination of the double taxation of dividends as "a benefit to virtually everyone in the economy over the long run."

Some in this body disagree with Mr. Greenspan and will attempt to wheel out their tired old incredible rhetoric by labeling this a tax cut for the rich. A half million more jobs is not a tax cut for the rich. I hope our dialog will be sophisticated enough to recognize this.

Let me talk a little bit about our domestic priorities. I am pleased to share President Bush's commitment to a number of domestic priorities reflected in this budget. As a long-time advocate of a Medicare prescription drug benefit, I am glad to see an investment of $400 billion over 10 years to strengthen Medicare. This unprecedented investment includes a prescription drug benefit for our Nation's seniors, allowing equity and access to the latest and most beneficial drugs on the market. The $400 billion will also be available for the improvement and modernization of Medicare, catastrophic coverage, and assistance to low-income beneficiaries. The President has made clear this is not simply another step in the expansion of the Medicare Program but a call for reform and enhanced efficiency.

With the pending retirement of the baby boom generation, it is more important than ever that Medicare be built on a strong foundation and offer the most effective treatments possible. This budget follows in the bold footsteps of the No Child Left Behind Act, continuing the commitment made with that landmark legislation. This budget resolution offers the single largest ever financial support for education in America, going above and beyond the President's request. Title I grants to local education agencies will increase by $1 billion. The Individuals with Disabilities Education Act will see a $1 billion increase in part (B) grants to States, with additional funds available if a reauthorization bill is enacted that authorizes those additional funds.

Now to enforcing our budget discipline. Last September, the historic Budget Enforcement Act expired. This lapse, along with the inability of the Senate to pass a budget resolution and 11 of 13 appropriations bills, meant the loss of significant controls on Federal spending. The resolution before the Senate today seeks to correct this failure and restores some budget discipline to the process. The resolution contains enforceable, discretionary budget caps for fiscal years 2003, 2004, and 2005 consistent with the funding levels outlined by President Bush. This resolution also reinstates the 60-vote point of order against advanced appropriations as well as targeting nondefense emergency appropriations with a similar point of order. Perhaps the most important of all, the budget contains an extension of the pay-go point of order to limit unbudgeted mandatory spending increases over revenue decreases.

Budget discipline has long been an area of keen interest to me, and I have to say I appreciate Chairman NICKLES' commitment to enforcement, although I hope we will continue to work toward establishing greater controls in spending.

Then a word about dynamic scoring: From a process standpoint, I am also very interested in expanding this discussion to include dynamic scoring. As my colleagues are aware, the Congressional Budget Office, various committees, and the administration generally rely on what is referred to as static scoring. That is, that legislation and revenue decreases are scored in terms of costs to the Federal Government, without factoring in the yield to the Government of the economic stimulus generated by that policy change.

There are a number of States that have implemented dynamic scoring, including the State of California; and 40 States incorporate the principles of dynamic scoring in their budget calculation because they understand that it truly reflects what happens in the real world. That is why I am such an advocate of dynamic scoring, a process which I think reflects what will happen in the real world as a consequence of our budget.

Earlier, I spoke of the dynamic benefit of the elimination of double taxation of dividends by quoting the Wall Street Journal and Chairman Greenspan. Mr. Greenspan, the Journal, the Heritage Foundation, and others have vociferously asserted that this proposal will lead to more jobs and, thus, the generation of more wage hours and taxes paid. Even the Clinton administration Director of OMB agrees there is some stimulus effect. Despite this highly credible choir of proponents, I cannot as yet, to date, propose a dynamic scoring for this proposal produced by this Congress because it doesn't reflect what happens in the real world. The proposed growth package is a perfect example of the need for dynamic scoring to be incorporated into this process.

Is it so ridiculous to think that we could calculate the impact this package would have on job creation, increases in disposable income and savings, and even a return on Federal revenues due to economic activity?

Let me go to the chart to reemphasize my point. I have here a chart which reflects what will happen to additional job creation with the President's stimulus package.

The blue part of the bars on this chart reflects what would happen to our economy if we did not change the law at all, if we stayed just the way we are. On top of that, you will see the orange part of the bar, which reflects additional jobs that would be created with the President's economic growth package. An important part of that package is eliminating the double taxation on dividends.

So, after 2004, 2005, as we move on out to 2008, we see that there is a substantial increase in the number of additional jobs.

It is nice to talk about additional jobs. What does it do as far as money in Americans' pockets, in order to help the economy grow? The next chart shows the additional disposable income. This is the total amount of disposable income that would be available to Americans as we create these jobs through the President's job stimulus package, his economic stimulus package.

The blue line again reflects what would happen if we did not change any of the current law. The orange part of those bars reflects the additional growth that would happen as a result of us passing the President's stimulus package. I think this is significant additional disposable income. That means Americans will have more money in their pockets to spend, businesses would have more money in their checkbooks in order to buy new equipment and create jobs. It is a job stimulus package that we need today. We don't need it 3 years from now; we need it today, and I do hope we can move ahead.

Using the dynamic scoring model generated by the Heritage Foundation Center for Data Analysis, we can see the President's proposal generates a significant amount of growth in the economy and, in fact, gets far more bang for the buck than any increase in spending or Government handout. Current baseline projections for total employment forecast an unemployment rate of 5.4 percent in 2004. Incorporating the dynamic scoring method of measurement, we can see that would lower the rate to 4.9 percent, or an addition of 997,000 jobs to the economy.

In my home State of Colorado, more than 16,000 more jobs would be created in 2004 alone. I have a piece of paper here with me that reflects the amount of job growth we can expect in each State individually. For example, we can go to Alabama, the State of Senator SESSIONS. We heard his comments. There is a growth in 2004 of 15,100 jobs. Over the 5-year period, it is going to be an average growth of 13,840 jobs per year, based on the President's economic growth plan. If we look at the President's stimulus package, what effect will it have?

We can look to Kentucky, for example. The Presiding Officer understands Kentucky. With the President's growth package we can expect, in 2004, 13,900 new jobs with an average over the years up to 2008 of 12,720 new jobs each year.

I have how this will impact each individual State as we move through the years. It is important that we pass the President's job stimulus plan.

I have been in Washington long enough to know better than to take job forecasts and predictions as gospel, but I also know that any policy that can potentially increase employment by almost a million jobs in 1 year simply must be considered.

I believe it is expected we at least try. There are individuals who say we should not do anything on economic growth and stimulus. I think that is the wrong approach. I think the American people expect some action to happen out of the Senate.

There are those who say maybe we ought to just do increased spending. Many of my friends on the other side of the aisle are promoting an economic growth stimulus package that puts emphasis on more spending. My response to that is, if spending is the answer, with all the spending that has happened in the last 4 years, why isn't our economy growing?

I think we have one thing we could do, that we should try at least, in order to stimulate that economy. I think we need to cut taxes. We need to cut taxes to stimulate the part of the economy that is most adversely affected, and that is the business sector of our economy, the small business sector—the double taxation of dividends. I have had one accountant tell me if we eliminate the double taxation on dividends, they are going to be recommending changes in the way that small business is organized and how they can do it in a way that will save money and bring money into the small business sector.

I believe we must do more than just complain and criticize but come up with a plan of action. I see no plan of action from my colleagues opposing this proposal. Americans deserve to hear alternative plans and not just suggestions of negativity without action.

I will bring my comments to a conclusion by simply stating I think this is a good budget proposal that is before us. I think it accounts for the President's economic stimulus package. Considering the condition of the Nation today, we need to pass an economic stimulus package. It addresses the immediate needs of defending this country as we are on the brink of moving into conflict. I think it is a reasonable budget. So standing here on the floor of the Senate, I express my support and hope the Members of the Senate will pass this budget because we need to have a budget this year.

Having concluded my remarks, I yield back my time.

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## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:30 p.m., adjourned until Tuesday, March 18, 2003, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## TRIBUTE TO SENATOR STAN WEAVER

**HON. TIMOTHY V. JOHNSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. JOHNSON of Illinois. Mr. Speaker, I would like to take this opportunity to honor one of the great sons of Illinois, Senator Stan Weaver, who after selflessly donating forty-five years of his life to the State of Illinois is retiring from public service. In 1957, he began a twelve-year tenure as the mayor of my hometown of Urbana, IL. Weaver was later elected to the Illinois House of Representatives in 1968, where he served one term before his election to the Illinois Senate in 1970.

While Senator, Weaver served as chairman of the Senate Rules Committee and was a ranking member of the Senate Executive and Appropriations Committees as well as the Operations Commission. In 1997 he served in the newly created position of Senate Majority Leader after serving as assistant Senate Leader for twenty-two years. As a lawmaker, Stan's priorities have always been those of the people of the 52nd District, including quality of education, agriculture and economic development. He has proven to be a strong advocate for the University of Illinois and has helped it become one of the most prestigious examples of higher education in the nation.

Before entering public service, Stan Weaver graduated from Urbana public schools, attended Michigan State College, the University of Illinois, and graduated from the Indiana College of Mortuary Science. During World War II, Stan admirably served his country in the Army Air Force in the Southwest Pacific Theater.

In addition to his busy political career, Stan has found time to be a devoted father and grandfather to his son Blake, daughter Sherry, and to his two wonderful granddaughters, Lindsey and Jessica.

Besides being his community's state senator, Stan Weaver is heavily involved in several public organizations. He is the past president of the Illinois Municipal League, a member of the Veterans of Foreign Wars and the American Legion, member of the Mohammed Temple and of the International Chili Society. He also belongs to the Masonic Lodge, where he earned the rare distinction of 33rd Degree Mason because of his long-time dedicated service.

When Stan retires, his legacy to the State of Illinois will be one of quiet, effective leadership and commitment to the greater good. Whenever he rose to speak, people recognized his command of the issues, and colleagues from both political parties held him in the highest esteem. It has been my honor to know and serve with Senator Stan Weaver in the Illinois General Assembly. As the longest serving senator of his time, he will always be remembered as a powerful force in the Illinois Senate and his dedication to public service shall be sorely missed.

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## THE FRIENDS OF IRELAND ST. PATRICKS DAY 2003

**HON. JAMES T. WALSH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. WALSH. Mr. Speaker, I rise on this St. Patrick's Day on behalf of the Friends of Ireland in the United States Congress as we proudly reflect upon the ties that bind America and the island of Ireland.

We extend a warm welcome to the Taoiseach, Bertie Ahern, and to the political leaders from Ireland and Northern Ireland who have traveled to America to celebrate St. Patrick's Day with us. We would like to recognize and commend President Bush's commitment to the peace process and to the promotion of reconciliation in Northern Ireland. We would also like to recognize Ambassador Richard Haass for the important and constructive role he has played in the implementation of the Good Friday Agreement.

This year we mark the fifth anniversary of the Good Friday Agreement, which holds the promise of ensuring a just and lasting peace in Northern Ireland and a stable and inclusive government for all the people of Northern Ireland. The Friends of Ireland stand firmly with those political leaders who are steadfastly working to ensure that the Good Friday Agreement will be fully implemented and that political institutions of Northern Ireland will be restored for once and for all.

Since the Good Friday agreement we are seeing a more stable economy in Northern Ireland. Unemployment is down dramatically in both communities, inward investment is up strongly, and Northern Ireland is one of the fastest growing economies in Europe.

We encourage all the parties to take the necessary steps for peace, and we look forward to the cessation of all paramilitary violence in Northern Ireland, the demilitarization of Northern Ireland, the growth of a police force that represents and protects all the people of Northern Ireland, and the enactment of justice and equality laws that serve all the people of Northern Ireland.

We commend this progress and encourage greater and mutually beneficial economic links between the island of Ireland and the United States. The 44 million Americans of Irish decent share these goals, and join us in wishing the people of the island of Ireland a happy St. Patrick's Day.

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## HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

SPEECH OF

**HON. STEVE BUYER**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 5, legislation to ensure that patients have access to quality medical care by bringing balance to our medical liability system.

The purpose of the medical liability system is to provide a remedy for patients who have been harmed by negligent actions on the part of providers. But excessive litigation, legal action filed without legitimate cause, can lead to patient harm. Women who cannot find obstetricians for high risk pregnancies, and trauma patients who do not have access to appropriate medical care, suffer when doctors have been driven from practice due to high litigation expense. Doctors who must practice defensive medicine increase the cost of health care for everyone and put their patients through unnecessary procedures.

Many States have struggled to bring reforms to their liability systems. Indiana, fortunately, has not been one of them. Over 20 years ago, Indiana reformed its medical liability system. Today, patients are compensated quickly without endless litigation, doctors have reasonable malpractice insurance rates and the medical community provides quality care to Hoosier patients.

It is my understanding that under H.R. 5 Indiana will be able to retain the core aspects of its medical liability system. These include, the medical review panel requirement, the total compensation cap, and the limit on providers' liability. It is also my understanding that there is nothing in H.R. 5 that would prevent other States from adopting a medical liability system that includes such elements.

I urge the adoption of H.R. 5 to bring common sense back to our medical liability system.

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## HONORING DR. JERRY SHEN

**HON. W. TODD AKIN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. AKIN. Mr. Speaker, on February 28th the St. Louis area lost one of its leading physicians and a committed advocate of the sacredness of human life, Dr. Jerry Shen.

Dr. Shen was a Harvard-trained pediatrician, a pioneer in the field of adolescent medicine whose commitment to the young people of my great home state of Missouri was legendary. But that commitment had roots not in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Show-Me state but in Dr. Shen's native land of China.

When the Communists seized power in China, Dr. Shen and his family were on the last boat out and traveled on expired passports. He and his family had faith that God would take care of them, and in His great mercy, He did.

Dr. Shen was someone whose medical knowledge and Catholic faith animated his belief that human personhood should be protected from the moment of conception until natural death. He was instrumental in founding the Missouri Right-to-Life movement, which regularly has one of the largest delegations to the annual March for Life in January here in our nation's capital.

As a former board member of Missouri Right-to-Life, I knew the work of Dr. Shen well and admired it greatly.

Dr. Shen was a man of action. He admired Mother Theresa's work and told his family he was going to convince her to bring her Sisters of Charity to St. Louis to work with the poor. Many in the community were doubtful but Dr. Shen moved forward and today, the Sisters are in the City of St. Louis. In fact, a full row of the Sisters were at Dr. Shen's funeral mass.

Dr. Shen's funeral mass was about "Choosing Life," a text taken from Deuteronomy 30:5–12. Archbishop Justin Rigali of the Diocese of St. Louis quoted the Apostle Paul in referring to Dr. Shen, noting that he had "fought the good fight, finished the race, kept the faith."

There can be few higher epitaphs than that. Dr. Shen did, indeed, fight faithfully and well for the right to life that our Declaration of Independence affirms is intrinsic to all of us. For that, he deserves the thanks of a grateful nation. He certainly has mine.

## NO CFCs FOR 25 YEARS

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. DREIER. Mr. Speaker, as we celebrate this Saint Patrick's Day and all that is green, I would like to point to another important "green" milestone associated with March 17. Twenty-five years ago, on March 17, 1978, the Environmental Protection Agency promulgated regulations prohibiting the further use of chlorofluorocarbon (CFC) propellants from almost all aerosol products manufactured and sold in the United States. Even before that date, many U.S. manufacturers of aerosols voluntarily removed CFCs in response to environmental concerns linking CFCs to the depletion of the earth's protective ozone layer.

Today, CFCs are used in only very rare and special circumstances, such as for medical uses like asthma inhalers, and even many of these "essential uses" are switching to non-CFC alternatives. Under the Montreal Protocol, more than 160 countries joined the United States and agreed to cease production of CFCs except for medical products.

When environmental concerns over the impact of CFCs on the ozone first arose, producers undertook the extremely difficult and costly task of reformulating and retesting hundreds of products in order to assure that the new propellants would perform as well as CFC propellants had. But importantly, the U.S. aerosol industry not only complied with the 1978 regulation, it in fact led the way for the rest of the world.

Unfortunately though, public perception has not caught up with reality. Public opinion polls, taken as recently as last year, have found that nearly half of all consumers—48%—are still unaware of the 25-year-old regulations that prohibit the use of CFCs in aerosols. This has often led consumers, unaware that aerosols cause no harm to the Earth's protective ozone layer, to bypass today's environmentally safe aerosol products.

Research has shown that consumers are still being influenced by incorrect information regarding the environmental impact of aerosols and many are avoiding them as a result. This is unfortunate because there are a number of inherent benefits to be gained from the aerosol delivery system, such as the consistency of an aerosol spray which minimizes waste.

Shaving cream, hair spray, spray paint, bug spray, fragrant body sprays, spray starch, and aerosol air fresheners, just to mention a few, are all aerosol products. And like all aerosol products, these do not contain CFCs. In addition to being CFC free, most aerosol packages are made of steel which, when empty, are also recyclable in many communities.

The companies in the aerosol industry have worked hard to produce products that are efficacious and environmentally sound. In other words, they work, and they don't harm the Earth's protective ozone layer. The more than 100,000 Americans directly employed in the aerosol industry are proud of their companies and their products, and rightly so.

March 17 will always be a day when we associate the color green with St. Patrick's Day. but it should also be a date that reminds us that U.S.-produced aerosols have been CFC free and environmentally friendly since 1978.

## A VETERAN'S OPINION

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. SMITH of Michigan. Mr. Speaker, I would like to share with my colleagues a letter to the editor that was printed in The Manchester Enterprise, of Manchester, Michigan, written by one of my constituents, Larry Byrne, a Vietnam veteran.

"To the editor:

'Manchester Area People for Peace,' . . . if not for using the Manchester name in your group's cause, I'd never taken the time to write this article.

I know as a Marine Corps Sergeant serving two tours of duty in Vietnam, my views may be slightly different from those that are active in the 'people for peace' camp. I do hope you realize this doesn't mean the rest of us that enjoy living in our peaceful community would rather live elsewhere, just because we don't share your views on this serious matter.

Peace is a state of mind that the majority of Americans have the right and privilege to share. We should never take it for granted nor believe that it didn't come at a very high cost. Hundreds of thousands of men and women gave their lives so that we could live in peace.

Our country has made its mistakes throughout its history when it comes to war. Maybe we should have helped remove a crazed paperhanger much earlier than we did, but as Pearl Harbor was bombed they talked peace.

Maybe we should have not been drawn into the Vietnam 'crisis.' I was sent to Vietnam after some 35,000 Americans gave their lives doing what their country requested of them. I was only 19 at the time and I'll never forget discussing with other Marines the hurt and anger we'd feel when we would read the Stars & Stripes newspaper. Articles and pictures showing our fellow Americans protesting back home only seemed to demoralize us and strengthen our enemy. This brings us to current events. Does anyone really believe Iraq's hostile government or any terrorist organizations would not let us live in peace if not for the threat of war? Therefore, it seems this great nation of ours with all its flaws has been give the role of 'peacekeeper.' To those of you that don't like this position for our country, I ask . . . to whom do we give it?

Germany would have gladly taken the role 60 years ago, but now they just want to direct the leaders.

Japan, like Germany, somewhat graciously relinquished the role and decided to build better cars.

Canada—just joking, eh?

From France, a newspaper ad: 'French military rifle for sale. Never fired, dropped once.'

United Nations? Please, the UN has proven totally ineffective with the Iraq situation.

On the other hand, what if nobody did anything? I don't know if isolationism could work in our small world today, but if we were all willing to give up a lot, who knows?

A new song came out called, "Have you Forgotten." I suggest as you're walking on the bridge with your peace signs you listen to it. Who knows, you may learn something. By the way, don't try this in Tieneman Square.

Personally and perhaps most of us that served in our country's military, especially in Vietnam, would appreciate you not using our town's name of Manchester to promote your ideas. Again, I respect your rights and privileges to do so, but don't draft me by name association to be a participatant in your point of view.

Da Nang, 1969 or Manchester 2003—strong believes don't change . . . you're hurting us and helping them."

Mr. Speaker, I commend Mr. Byrne for writing this letter.

## TRIBUTE TO THE MORRIS HIGH SCHOOL ROBOTICS TEAM

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute and to congratulate the members of the Morris Robotics Team from Morris High School in the South Bronx for their remarkable work and achievements.

Three years ago, thanks to Gary Israel, a history teacher, and a $5,000 award from the National Aeronautics and Space Administration (NASA), the school started a robotics team. Mr. Israel campaigned to raise $25,000 from local sponsors, encouraged skeptical parents and faculty, and gathered a team of 15 students who built a robot named Bulldog. This robot placed 3rd out of 38 at the For Inspiration and Recognition of Science and Technology (FIRST) regional competition in New York, demonstrating the robot's agility and basketball skills, as well as its creators' teamwork. The Morris team worked with graduate students from Columbia University's School of Engineering to construct the robot, combining the technical knowledge of the engineers with the mechanical abilities of the teenagers.

Morris High School has received support from many sponsors, such as: the Columbia University School of Engineering, the Fu Foundation and Applied Science, NASA, the North Folk Bank, the McGraw Hill Companies, the New York Yankees, ABC, and the Port Authority of New York & New Jersey. Secretary of State Colin Powell, a graduate of Morris High, presented the members of the Morris Robotics Team a gold coin in honor of the team's achievements over the past three years.

Mr. Speaker, the Morris Robotics Team has mentored students at I.S. 162 since they decided to join in the FIRST Lego League competition and looked for support. Morris High School students have been working at the school since October 2002, and thanks to this, on February 8, 2003, members of the Morris Robotics Team and I.S. 162 students competed for and won the 2003 First Lego Competition Director's Award. The Director's Award is given to the team that is best in five key elements of the Technical and Team Performance Awards.

Morris High School also competed the weekend of March 8 with 60 other high schools around the country in competition for mentoring/coaching a winning middle school team. The Morris Robotics Team is the only New York City high school that has traveled to Richmond, Virginia, to compete in the NASA/Virginia Commonwealth University (VCU) South-Atlantic Regional FIRST Robotics Competition on March 6–8. On Friday, at the conclusion of the first day of competition, Morris High School won the Imagery Award, which celebrates attractiveness in engineering and outstanding visual aesthetic integration of the robot and the team appearance. At the end of the competition on Saturday, March 9, the Morris Robotics Team received the top trophy as the South Atlantic FIRST Robotics Winner. The Morris Team has the opportunity to be a dual regional winner when they compete in the New York City High School Robotics Regionals on March 21 and 22.

Mr. Speaker, I would like to take a moment to recognize the members of the team: Sherelle Benjamin, Malik Shuford, Sashanna Saunchess, Angel Alvarado, Walson Ty, Makeba Higgins, Tyrue Green, Jose Vanderpool, Mark Banks, Isaias Guity, Alison Green, Cruz Mayelyn De Los Santos, Uche Nwosu, Daniel Nwosu and Edwin Ruiz.

This team has demonstrated that they have the ability and the desire to be assets and role models in our community. We are proud of their accomplishments and I am confident they will continue to be successful. They are terrific examples for students throughout our schools and communities.

Again, I congratulate them and I wish them the best of luck in their future activities and competitions. They are our champions and our future leaders!

Mr. Speaker, I ask my colleagues to join me in paying tribute to and congratulating the Morris High School Robotics Team in the South Bronx.

## HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

SPEECH OF

### HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. POMEROY. Mr. Speaker, I rise today to express my support for the bill before the House, H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003. I believe it is important that Congress act to address the medical malpractice crisis that has begun to threaten access to care around the country.

I will vote for this legislation because I view our current medical malpractice system as in a state of crisis, and I think it is important to begin the legislative process needed to preserve access to care for all Americans. I do, however, believe that the bill could be improved and I encourage our colleagues in the Senate to be open to constructive suggestions that address legitimate concerns from members on both sides of the aisle. For example, I am concerned that the $250,000 cap on noneconomic damages in this bill is too low. As a former state insurance commissioner, I recognize that caps can be useful to providing predictability and stability in the insurance market. But I also believe that a higher cap on such damages would be more appropriate without undermining predictability or significantly raising premiums.

I think it is important that we recognize that there are other dynamics of the medical malpractice crisis that need to be considered, and we should view this reform proposal as only one part of a comprehensive solution. Just this week, as my colleagues know, the House passed legislation that I cosponsored dealing with medical errors reporting and reduction, creating what is intended to be a "feedback loop" for health care systems. I hope my colleagues will share my view that once the House passes this medical malpractice reform bill, it will mark only the beginning of a dialogue to help stabliize our health care system while protecting appropriate consumer remedies. To be certain, this is a difficult balance to strike within a complex set of issues, and I urge my House and Senate colleagues alike to remain open to bipartisan efforts to improve this legislation.

## PERSONAL EXPLANATION

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 17, 2003*

Mr. JOHNSON of Illinois. Mr. Speaker, I was unable to travel to Washington for the legislative week beginning on March 10, 2003 as a result of injuries sustained in a car accident. I have included a letter from my physician stating that his medical judgment was that I not drive or fly extensively for the week after the accident. Had I been present in Washington for votes, it was my intention to vote in the following ways:

Rollcall No. 50—"aye."
Rollcall No. 51—"aye."
Rollcall No. 52—"aye."
Rollcall No. 53—"aye."
Rollcall No. 54—"aye."
Rollcall No. 55—"aye."
Rollcall No. 56—"aye."
Rollcall No. 57—"aye."
Rollcall No. 58—"aye."
Rollcall No. 59—"aye."
Rollcall No. 60—"aye."
Rollcall No. 61—"aye."
Rollcall No. 62—"aye."
Rollcall No. 63—"no."
Rollcall No. 64—"no."

CARLE TRAUMA CENTER,
*Urbana, IL, March 11, 2003.*

Re Mr. Tim Johnson.

*To Whom It May Concern:*

U.S. Representative Tim Johnson was hospitalized at Carle Foundation Hospital under my care the week of March 9th due to trauma suffered in a car accident. It was my medical judgment that he not fly or drive extensively for at least a week after the trauma. It would be dangerous and potentially life-threatening if he were to do so given the trauma to his lungs and rib cage, and potential damage to lungs and/or heart.

Sincerely,
URETZ J. OLIPHANT, MD, FACS,
*Director, Trauma Services.*

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 18, 2003 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 19

9 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine the fiscal year 2004 proposed budget estimates for the Department of Health and Human Services.
SD–124

9:30 a.m.
Foreign Relations
To hold hearings to examine nonproliferation programs of the Department of State.
SD–419

Judiciary
To hold hearings to examine ethical regenerative medicine research and human reproductive cloning.
SD–226

Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on acquisition policy and outsourcing issues.
SR–222

Rules and Administration
To hold oversight hearings to examine the operations of the Secretary of the Senate and the Architect of the Capitol.
SR–301

10 a.m.
Appropriations
Defense Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of the Army.
SD–192

Health, Education, Labor, and Pensions
Business meeting to consider S. 15, to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, proposed legislation entitled "Lifespan Respite Care Act", proposed legislation entitled "Pediatric Drugs Research Authority", and pending nominations.
SD–430

2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the effects and consequences of an emerging China.
SD–419

Indian Affairs
To hold hearings to examine S. 424, to establish, reauthorize, and improve energy programs relating to Indian tribes, and S. 522, to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources.
SR–485

3 p.m.
Armed Services
Personnel Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the National Guard and Reserve military and civilian personnel programs.
SH–216

### MARCH 20

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold hearings to examine proposed legislation amending the Clean Air Act regarding fuel additives and renewable fuels.
SD–406

Armed Services
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on atomic energy defense activities of the Department of Energy.
SH–216

Banking, Housing, and Urban Affairs
To hold hearings to examine issues related to the Department of Housing and Urban Development's proposed rule on the Real Estate Settlement Procedures Act.
SD–538

Foreign Relations
Business meeting to consider an original bill to authorize Appropriations for Global HIV/AIDS, Tuberculosis, and Malaria programs, and other pending calendar business.
SD–419

Governmental Affairs
To hold hearings to examine possible terrorist threats on cargo containers.
SD–342

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of Commerce.
S–146 Capitol

Appropriations
Interior Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of Agriculture Forest Service.
SD–124

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the fiscal year 2004 budget request for the Environmental Protection Agency.
SD–138

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.
345 Cannon Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the nomination of Vernon Bernard Parker, of Arizona, to be an Assistant Secretary of Agriculture.
SR–328A

Aging
To hold hearings to examine Medicare, focusing on prescription drugs.
SD–562

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine the Space Shuttle Columbia, focusing on the future of space policy.
SR–253

Foreign Relations
To hold hearings to examine how to make embassies safer in areas of conflict.
SD–419

### MARCH 21

9:30 a.m.
Armed Services
Emerging Threats and Capabilities Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on science and technology programs and the role of Defense laboratories.
SR–325

### MARCH 25

9:30 a.m.
Joint Economic Committee
To hold hearings to examine Medicare's financial crisis, focusing on the long-term financial viability of the program, proposals to add a prescription drug benefit and other reforms.
SD–628

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Alfred Plamann, of California, to be a Member of the Board of Directors of the National Consumer Cooperative Bank, and Thomas Waters Grant, of New York, Noe Hinojosa, Jr., of Texas, and William Robert Timken, Jr., of Ohio, each to be a Director of the Securities Investor Protection Corporation.
SD–538

Health, Education, Labor, and Pensions
To hold hearings to examine the Washington Teachers Union.
SD–430

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold oversight hearings to examine National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails, and S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.
SD–366

### MARCH 26

9:30 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed legislation entitled "Caring for Children Act of 2003", proposed legislation

entitled "Genetics Information Nondiscrimination Act of 2003", and other pending calendar business.

SD–430

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the reauthorization of child nutrition programs.

SR–328A

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Air Force.

SD–192

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.

SH–216

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine issues uncovered as a result of the Blue Ribbon Panel's report of findings on Aerial Fire Fighting Safety and responses to the report.

SD–366

2:30 p.m.

Armed Services

Strategic Forces Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the Department of Energy Office of Environmental Management and Office of Legacy Management.

SR–222

### MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine health care transmission of global AIDS in Africa.

SD–430

### APRIL 2

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

### APRIL 8

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Mammography Quality Standards Act.

SD–430

## POSTPONEMENTS

### MARCH 19

2:30 p.m.

Armed Services

Strategic Forces Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on strategic forces and policy, to be followed by a closed session in SR–222.

SR–232A

### MARCH 20

2:30 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the U.S. Transportation Command.

SR–232A

# SENATE—*Tuesday, March 18, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Charles V. Antonicelli of Saint Joseph's Church on Capitol Hill.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

We give You thanks and praise this day, Lord God of justice and peace. You are the source of all that is good in our world.

Psalm 37 reminds us that "if you trust in the Lord and do good, then you will live in the land and be secure. If you find your delight in the Lord, He will grant your heart's desire. Commit your life to the Lord, trust in Him and He will act, so that your justice breaks forth like the light, your cause like the noon-day sun."

Almighty Father, bless Your sons and daughters who seek to do Your will this day. May we find our delight in You so that You may grant our hearts' desires. Help us to commit our lives to You and let Your justice shine bright in our world.

We ask this in Your Holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. CHAMBLISS). The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the budget resolution. There are now 42 hours remaining under the statutory limit. In order to process amendments, it will be necessary to have lengthy sessions throughout this week in order to complete action on the budget resolution. Members who intend to offer amendments are encouraged to notify the managers of the bill so there can be an orderly consideration of those amendments.

As a reminder, there will be a cloture vote, beginning at 12 noon today, on the nomination of Miguel Estrada. In addition, the Senate may recess for the weekly party caucuses to meet during today's session.

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, the manager of the bill, Senator CONRAD, is with Senator DASCHLE now. He has an amendment that he is ready to offer. We have discussed that with Senator NICKLES.

What we need to work out is to see if we can charge the time during the time set aside for the weekly party conferences. We have not worked that out yet. We are in the process of trying to do that.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 23, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 23) setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 264

Mr. CONRAD. Mr. President, I rise today to offer the first amendment to the budget resolution pending before us. I believe this is a critically important amendment as our Nation is on the brink of war.

After the President's speech of last night, I don't know what could be more clear than we are on the eve of conflict. The budget before us, submitted by the President, the budget that came out of the Budget Committee, contains no provision for that conflict. There is no money for conflict. There is no money for reconstruction. There is no money for occupation. There is no money.

Some have said, well, they have looked at the history and found that in the past wars were not budgeted for until operations have begun. I suggest operations have begun. We have nearly a quarter of a million troops poised on the border with Iraq. We have hundreds of thousands of reservists who have been called up. We have five carrier battle groups in the area. Operations have begun. We have special forces in Iraq at this moment. We are conducting air operations over Iraq at this moment. Who can assert that operations have not begun?

In the past, the Second World War, the First World War, Uncle Sam delivered a message to the American people: It takes taxes and bonds. And the message was that it takes common sacrifice to defend this Nation. But that is not what this budget says. This budget says, let's have a $1.5 trillion tax cut that goes primarily to the wealthiest among us before there has been any assessment of war cost or occupation cost or reconstruction cost or humanitarian aid cost. That strikes many of us as unwise. Many of us believe we ought to take a moment and do a calculation of what this war is likely to cost before we engage in new spending initiatives or before we launch a whole other round of significant tax cuts, given the fact we are already in deep and record deficit.

The deficit under the chairman's mark for this year, excluding Social Security, will be over $500 billion in a $2.2 trillion budget. That is a massive budget deficit by any calculation. As I have indicated, it includes no money for potential war cost, none.

The amendment I am offering says this: The Senate may not consider legislation that would increase the deficit until the President submits to Congress a detailed report on the overall estimated costs of the war. This measure would be enforced with a 60-vote point of order. In other words, if there were more than 60 votes in the Senate to add to the deficit, we would be able to do that.

There are two exceptions. We could add the spending for legislation relating to national or homeland security. That just represents common sense. We certainly don't want to limit our ability to respond to any threat. So we would have an exception from the 60-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

vote point of order in adding to the deficit for expenditures for national defense or homeland security.

The second exception would be an economic recovery and job creation package which does not increase the deficit over the time period 2005 to 2013.

In other words, we would be saying the following: We are going to have a 60-vote point of order against any measure that increases the deficit with the exception of additional spending for national defense or homeland security and with the additional exception of a stimulus package for this economy that does not add to the deficit in the years 2005 to 2013. The stimulus package could add to the deficit in 2003 and 2004 but not beyond.

I hope my colleagues will think carefully about what this amendment will do and what is in the budget before us.

In the Senate Republican plan, there is no money for any part of the conflict. We learn from news reports that there will be a supplemental sent up to us by the White House for between $60 and $95 billion. That means the deficit in 2003 will approach $600 billion when we exclude Social Security, truly a massive deficit.

It has been asserted that we don't know the cost of conflict. That is true. That is understandable. The one thing we know, though, is that the cost of conflict is not zero. That is the number that is in this budget. That is what the President has sent us as a budget, that there is no cost. That defies common sense. We know there is cost.

We know there are substantial costs. Here are some of them. We are reading in the press that the defense supplemental, the war supplemental the President may send us will be in the range of $60 to $95 billion. I read in the paper this morning that it may be $80 billion.

Humanitarian aid, we know we are going to be responsible for refugees, perhaps millions of people requiring feeding, requiring shelter, dispossessed by the conflict. Those estimates, on a conservative side, are $1 billion.

Reconstruction of Iraq, not included in the budget, there is a various range of estimates; $30 billion over 10 years, a conservative estimate.

The occupation of Iraq, there is no provision in the budget. Estimates run from $17 to $46 billion a year.

Aid to allies—Israel, Jordan, Egypt—not provided for in the budget, estimates of the cost run from $6 to $17 billion. We have not listed Turkey here. We negotiated an agreement with Turkey for some $6 billion. There are discussions with Russia, multiple billions of dollars in terms of a package for them.

And the war on terrorism in 2004, no additional provision—estimates that that could cost $19 billion. None of it is included in this budget.

Does that make any sense when we all know that the conflict is about to start and that we have already experienced substantial costs just moving our forces into position to launch this attack? Many of us don't think so.

Congress Daily reported on March 14 the following:

> Vice President Cheney met with Senate Majority Leader Frist Thursday to discuss, among other things, the timing of a spending request on military action in Iraq. It is not expected that such a request would come until after the House and Senate complete floor action on the budget resolution, a key aide said.

That report went on to say:

> Having a supplemental that could total somewhere between $65 billion and $95 billion come up while the tax cuts in the budget resolution are being debated could threaten the Republicans' economic agenda. House leaders have also said they want the supplemental war request delayed as long as possible to provide breathing room between the tax cuts and war spending.

I hope this is not true. I hope very much that we are not engaged in a cynical attempt to hide costs from people so that we make the tax cuts more palatable. If that is true, that is very disturbing. We ought to have all the cards on the table. We ought to be telling the American people the truth as completely and as fully as we can know it. And the truth is, this war is going to cost a lot of money. It ought to be included in our calculations to the best of our information.

We know from previous conflicts that initial war cost estimates are often low. Go back to the Civil War. The estimates were it was going to cost $200 million. The actual cost was $3.2 billion, a 1,500-percent increase over initial estimates.

World War II: Initial estimates were that it would cost about $112 billion. It wound up costing over $195 billion, a 75-percent increase. Vietnam: Initial estimates were $12.3 billion. It wound up costing $111 billion, an 800-percent increase over the initial estimates.

We can all hope that will not be the case here, and I do not in any way suggest we ought to budget for those kinds of dramatic increases over what the initial estimates are. But at the very least we ought to be budgeting for what the estimates are.

The President spoke last night. He spoke clearly. He spoke directly. He gave Saddam Hussein and his cadre 48 hours to get out of Iraq. The reports are this morning that Saddam Hussein and his group are not going to leave Iraq. There are already indications the President may address the Nation tomorrow. We are discussing and debating the budget resolution now. We ought to include our best estimates for this conflict in what we are doing now.

I go back to the amendment I am offering. It says we should have a 60-vote point of order against anything that adds to the deficit with two exceptions: one, additional costs associated with national defense and homeland security, and, two, additional tax cuts as part of a stimulus package that would be effective this year and next. Those would be the two exceptions—commonsense exceptions. Other than that, we should create a hurdle to additional new spending or additional tax cuts when we do not know the cost of this conflict.

When we look back at previous conflicts, this is what we see. This has been the response of Congress and the administration in every conflict America has experienced. The Revolutionary War: Excise and property taxes were enacted to pay for it; War of 1812: Excise and sales taxes were enacted to pay for it; Mexican-American War: There were no Federal taxes during this period; the Civil War: Excise, inheritance and income taxes were enacted to pay for it; the Spanish-American War: Excise and inheritance taxes were raised and war bonds were sold to pay for it; World War I: Income, estate, and corporate taxes were raised to pay for it; World War II: A major expansion of corporate, excise, and income taxes, and war bonds were sold to pay for it; Korea: Income taxes were raised to pay for the war; Vietnam: Business and income taxes were cut in the early stages, and in the midstages they were increased to pay for the war; in the Persian Gulf, the 1990 income tax increase was passed; and in this war, instead of paying for it, the President is saying: Let's have a $1.9 trillion tax cut. That is the cost of the tax cut and the associated interest costs, even though we are already in deep deficit—in fact, in record deficit.

We are asking our troops to perhaps make the ultimate sacrifice. We are asking them to be prepared to risk their lives. It seems to me we ought to be asking the rest of the American people to sacrifice as well for this conflict. We certainly at the least should not be having a massive tax cut when we are already in deep deficit and have no idea what the war costs are. We may need every dollar to do what is needed to prevail in this conflict and respond to the terrorist threat that is expanded by it.

This morning we awoke to a recommendation from Mr. Ridge, the head of the Department of Homeland Security, to move up the threat level as a result of potential war with Iraq. Intelligence services are telling us it is a virtual certainty that there will be a terrorist attack against the United States in this timeframe. We ought not to be adding to the deficit except for national defense, homeland security, and a stimulus package. Anything beyond that is risky at a time when we are on the brink of war.

I hope my colleagues will think about this amendment. It requires a 60-vote point of order. That means if there is some other contingency other than national defense, other than homeland security, other than a need for a stimulus package, we could do it, but it would take a supermajority to add to the deficit when we do not know the cost of the war.

I hope colleagues will think very carefully about this amendment before we vote on it. My amendment is at the desk, and I call it up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. KENNEDY, proposes an amendment numbered 264.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prevent further deficit increases, except for national and homeland security and short-term effects of measures providing for economic recovery, until the President submits to Congress a detailed estimate of the full cost of the conflict with Iraq)

At the end of subtitle A of title II, insert the following:

**"SEC. . PROTECTING RESOURCES REQUIRED FOR NATIONAL SECURITY AND ECONOMIC RECOVERY.**

"(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would increase the deficit in any fiscal year, other than one economic growth and jobs creation measure providing significant economic stimulus in 2003 and 2004 which does not increase the deficit over the time period of fiscal years 2005 through 2013 and spending measures related to national or homeland security, until the President submits to the Congress a detailed report on:

"(1) the costs of the initial phase of the conflict, maintaining troops in the region, and reconstruction and rebuilding of Iraq; and

"(2) how all of these costs fit within the budget plan as a whole.

"(b) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the members, duly chosen and sworn. An affirmative vote of three-fifths of the Members or the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section."

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am a cosponsor of the amendment. I commend the Senator for bringing this matter to the attention of the Senate and I hope the country because I think the vote on this amendment is going to say a great deal about what this country is about.

I was listening very carefully to the Senator's comments that we should not provide, outside of meeting our responsibilities at home and our defense responsibilities and a temporary stimulus, a tax cut until we are going to pay for the war in Iraq, pay for the occupation in Iraq, and also pay for the return of the troops from Iraq.

I was with the Senator over these past weeks when we had a series of briefings. We were told in those briefings that we could not make an estimate to the Budget Committee because we did not know exactly how many other countries were going to be joining with us, what the extent of their armed forces would be, who those countries might be, and what the size of their military would be.

So because it was going to be difficult to make assumptions, on the basis of that fact, they were not going to make a submission to the Budget Committee. I think the Senator from North Dakota has reminded us, and the President certainly reminded us last night, that we are in effect going it alone. It is going to be the United States that is going to be assuming most of the costs. As I understand the Senator, it is not only a question of the finances, but it is also the message that we are sending to these American servicemen and women, who over the period of the next 36 to 48 hours will be risking their lives for their country, all at the same time that the Senate of the United States is going to be acting to give a tax break for wealthy individuals in this country.

If we think that is a message of fairness, if we think that is backing up our troops in Iraq, I miss it completely. On the one hand, Americans are losing their lives and at the very same moment this Senate is giving a tax break to wealthy individuals. What is it about this Senate that they would consider this?

I commend the Senator from North Dakota for reminding us of the history of this Nation. Never in the history of the Nation, have we had a tax cut for wealthy individuals, or for any individuals during wartime. As the Senator pointed out, we have a shared responsibility to come together as a Nation and engage in some form of sacrifice. I still remember the selling of bonds that took place during World War II. We were trying to get all Americans to contribute by buying the bonds for America, with everyone doing their bit. But, oh, no, not in this budget. We are, on the one hand, sending our servicemen and women overseas to risk their lives, and at the same time we are prepared to give one of the largest tax breaks in the history of this country.

We should not commit the country to large new permanent tax breaks until the full cost of the Iraq conflict is known.

We all know that the long term costs of the war in Iraq and its aftermath will be substantial. Independent estimates show the cost of the war between $50 and $150 billion. The Senator has outlined some of the areas of concern in terms of cost already. As I understand it, it costs about $9 to $13 billion to send the military over there. I hope the Senator will correct me with these figures if I am wrong. We know it is going to cost about $5 or $7 billion to bring them back. The best estimate is about $17 billion for every 75,000 troops. We had General Shinseki say our presence in the region might have to be several hundred thousand troops. Most of the military leaders, including General Nash who served in the gulf during the previous war, thought the same number of troops were needed to pacify a country as they go in at the same time of the invasion, at least for the first several months. If we are talking about $17 billion for 70,000, and we have General Shinseki talking about several hundred thousand, say 200,000, that is three times that amount. We are already up to almost $60 billion.

We have seen the estimates of rebuilding the oil industry at $5 to $7 billion, if it is not destroyed. We have seen that bringing communications infrastructure up to 100 percent, would be another $15 billion. We have seen the cost of bringing the electricity to 100 percent estimated at $15 billion. We are talking about tens of billions of dollars, and this is not even getting into the payments to the various civil servants we are going to have to make once the current Iraqi Government is gone, to get them to continue performing their functions after the war.

We assume all of these responsibilities under the Geneva Convention the day troops go across the border. Yet we do not have any kind of effort by this administration to work with the Budget Committee to try to work out a process of paying for these matters. I say to the chairman of the committee, we now have 175,000 guardsman and reservists who are serving. In many of these situations, the private insurance that they have for their families is not retained when they are activated. We ought to be making sure that at the very least, we are going to meet the health insurance costs for families of the 175,000 reservists and National Guard who are being called up and are serving.

Yet do we have that kind of coverage included in this budget? Has the administration said we ought to care for our service men and women in this budget who are facing this threat? They have not. I do not understand, and the American people don't understand why we are in this rush to pass this budget that is constructed to give major kinds of tax reductions for wealthy individuals without allocating the necessary resources to go to war. It makes absolutely no sense whatsoever. We are talking about tens of billions of dollars. Not one dollar has been set aside in the budget which Senate Republicans have brought to the floor for what everyone knows will be an expense in the tens or hundreds of billions of dollars.

The American people ought to be informed about this. We have had a great many hearings around this body about the war, but those are classified and those are secret. Why can we not come out in the open and let the American people know exactly what this is going to mean in terms of the costs of the conflict? Why not include them in on this? Why exclude them from any of the information in terms of the costs of this conflict? We know the President has refused to submit a cost estimate to Congress because the overall cost will be so enormous and he is obviously afraid of "sticker shock" when he discloses the facts to the American people. The President does not want to tell Congress what this war will cost until his proposal for $1.3 trillion in new tax cuts for the very wealthy is locked in. He is afraid that if Congress knew the real costs of a war in Iraq, that Congress might do something sensible—such as reducing the size of the tax cut to help pay for the war.

The way to have it done would have been to have worked with the Budget Committee and outlined what would be responsible recommendations and what would have been a responsible position to balance the costs we are going to face in the future, and defer any kind of tax reductions or breaks until we were able to get the job done.

Finally, as we are sending our servicemen and women overseas to engage in battle, I share the belief that we should be building a better America here at home for when they return. They deserve, when they come home, to have a nation that has a sound economy. Our economy is flat now. We have a responsibility to take the steps now to make sure that when these service men and women come home, after they have been risking their lives, they are going to have a sound economy for their future. They ought to be able to come home and know that their younger brothers and sisters are going to go to good schools, get a good education, have an opportunity to continue their education in college, and not face an education system that has been virtually abandoned in this country.

When they come home, they ought to know there is going to be the chance of being able to have affordable health insurance policies and not see that their parents are increasingly being put at financial risk because of the increasing costs of health insurance or the increasing costs of prescription drugs.

We need a budget that will strengthen America. This is not that budget.

The idea that we are not going to use our resources to educate future generations, we are not going to help families out with spiraling health insurance premiums, we are not going to help them out with prescription drugs; no, no, we are not going to do that. Instead, we are going to give a tax break for the wealthiest individuals at a time when our brave men and women in uniform are risking their lives in Iraq. This budget is not the right budget during a time of such high national purpose for America.

The American people understand fairness. In the face of all the anxieties they have been facing here at home, they understand fairness. They understand, that when the sons and daughters of working families are going to risk their lives that it is absolutely unfair at that very moment to provide tax breaks for the most wealthy individuals in this country and fail to invest in America.

While Senator CONRAD is here, we will introduce a little later in the day, legislation regarding health insurance coverage for our Reservists and National Guardsmen and women, but I would like to have a chance to review with the Senator and other Members what the particular challenge is for these servicemen and servicewomen. If you think it is worthy of your support I ask that you support the legislation.

I thank the Senator from North Dakota for his strong leadership on this budget resolution and for presenting this amendment before the Senate.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I join the distinguished Senator from Massachusetts in congratulating our leader on the Budget Committee, the Senator from North Dakota, for his ongoing leadership and the priorities he set forth. They are so important. He made them so clear on behalf of the American people. I cannot think of a more important amendment than the amendment of Senator CONRAD at this time and on this day. I hope we will unanimously support this amendment. I hope we would not have to have a vote, that we could do this by voice vote today.

This amendment says exactly what we ought to be doing at this moment in time in our history. The amendment says, other than funding defense and homeland security and stimulating jobs and the economy, we are going to stop; we are going to wait on the rest of the budget; we are going to wait on additional spending. Certainly there are critical areas we care about. We are going to wait on any kind of a tax cut until we can pay for this war, until we know what the bill is. We know, if we do not do that, exactly how we are going to pay for it. We are going to pay for it by continuing to go into massive debt, depleting the Social Security and Medicare trust funds. That is how we are going to pay for it if we do not agree to this amendment.

This is absolutely critical. I think certainly the people in Michigan look at us in wonderment that we would be bringing up the budget resolution for the coming year, in which are the values and priorities of the American people, and we would not have any money set aside for a war in which we are about to engage.

How would an American family do that? If you were putting together your budget and you had a huge expense coming up in a couple of days, you wouldn't just ignore it. You wouldn't ignore it unless you just planned on putting it on a credit card, maybe. That is essentially what we are doing, is paying for the war through a taxpayers' credit card. That is not good enough and it is also not necessary. It is not necessary to do this outside the budget. This should be brought forward. We should at least put aside a reserve fund. We know at this point we cannot say exactly what it will cost. We certainly do not know what the reconstruction will cost. We do not know how long after the war we will be involved with Iraq, rebuilding Iraq. But we do know it is more than zero. We know that. We know it is more than zero.

We have a pretty good idea you could start somewhere in the $80 billion to $100 billion range and not be too high. So this says: Let's wait on other things. Let's wait and let's make sure we are covering the costs of a war that our President last night indicated most likely we are about to begin.

We also believe part of that is making sure we have dollars for those who are fighting on the front lines here at home. We all care deeply and stand united supporting our troops overseas. We know in this resolution we clearly indicate defense should be our top priority at this time, to make sure both our reservists and National Guard and their families are receiving what they need in terms of health care, and certainly recognizing their sacrifice, leaving their fulltime jobs and going to serve all of us at this time of conflict.

We have another group and that is the group that is serving us on the front lines at home. That is the group that answers the 9–1–1 call, the emergency medical personnel, the sheriff, the fire department. These are the people who have to respond. We, in fact, know the likelihood. Certainly there is increased risk right now they will have to respond.

So part of what we are saying is defense abroad but also defense in our hometowns needs to be the top priority. We need to pay for that, too. We are not yet doing that. We are seeing promises to other countries for their help in this effort, yet no willingness to provide assistance for those who are helping us on the front lines in our own hometowns.

Again, it just doesn't make any common sense. What we are saying through this amendment is we need to stop until we make it clear what the costs are for the war. We will focus on defense, homeland defense, and making sure we are stimulating jobs in the economy so in fact we are having a strong economy for our families and those fighting for us who will be coming home, so they will have that strong economy and jobs. But it is not the priority now to say that, among all the things we could be doing, we are going to give another round of tax cuts to those who make millions of dollars a year.

We look at shared sacrifice and we are being told we all have to sacrifice. I read an article not long ago about our Senate Republican leader going in front of a group of veterans. But while he certainly indicated supporting the veterans, he said: Veterans are going to have to sacrifice.

I would suggest veterans have already sacrificed and, in fact, we are creating war veterans whom we will be asking to sacrifice. But where is the sacrifice? Where is the sacrifice for those here at home who make millions of dollars a year, who already have one home, two homes, three homes, several cars, and are doing well? We welcome that. We would like that for every American. We certainly want an economy where every American can work hard and do well and move up the income scale.

But what happens when we say to people, those making $13,000 a year, serving us in the Army versus somebody at home whose life is not on the line or someone who is not a police officer or a firefighter or EMT worker, what do we say when we are saying we cannot fund homeland security, we cannot make sure you have health care that you need to protect your families if you are in the National Guard or Reserves? We are not going to budget for this war, but we are going to say that if you are blessed and doing well and are at the very top of the income earnings of America, earning millions of dollars a year, then we are going to put you ahead of everybody else; and we are going to say that you ought to be able to get a tax cut, even though it means we cannot pay for the war, that we have to go back into debt, even though it means we have massive debt that is eventually going to raise interest rates and make it harder for people to buy houses and cars and send their kids to college; even though it puts us in a situation where we cannot provide prescription drug help for our seniors, we cannot fully pay our share of the public school bill through the Leave No Child Behind; even though we have to leave veterans standing in line for months to see a doctor at the VA; even though there are all kinds of other issues where we are saying to people that you have to sacrifice right now. Children have to sacrifice, seniors have to sacrifice, veterans have to sacrifice, our families and small businesses that are not getting help with their health care bills have to sacrifice; but a few folks at the top do not. And they are not asking for that, either.

When I talk to folks who are doing very well at home, they say, we can wait. It is alright. We are not asking for this. We want to make sure our kids are safe at home, that hometown security is taken care of, the school systems are strong, and our troops have what they need overseas. They want to make sure that, in fact, those things are in place, which relate to our safety and security, and the economy, and the other issues that are very important for Americans, very important to keep us strong.

This amendment is incredibly important. It basically says stop. Our President says in less than 48 hours we are going to be at war, assuming Saddam Hussein does not leave the country. We believe we have an obligation and a responsibility to pay for that war, to make sure our troops have what they need, to make sure people on the front lines in our communities at home have what they need so we are safe first. We need to do that first. Then we can talk about tax cuts and how to structure it so the majority of Americans benefit.

We can talk about the important issues of health care and education and the environment and other critical needs in the country; but we need to stop now and focus first on the safety and security issues of our country and making sure our economy is strong with a stimulus so there are jobs. We need to start there, as any other family when you have to set priorities. Let's start with the bottom line priorities, given where we are now. Let's make sure we can pay for it, not be adding to the debt, and then we can debate other important issues that we all care about.

Again, I commend Senator CONRAD for his leadership and for this very important amendment. I hope all of us can come together and show unity on this floor and send a message across the country that at this time we are going to put our safety and security first, and we are going to make sure we are not putting it on a credit card—we are paying for it—and that we are going to make sure our troops and front line people at home have what they need before other decisions are made about this budget.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I thank the Senator from Michigan for her remarks and for her leadership on the Budget Committee. She has been somebody who is dedicated to fiscal responsibility, and also addressing the priorities of the American people. Whether it is improved education for our children, or expanded health care, she has been a champion of all of that.

I say to my colleagues, last night we had a discussion about a number of the issues facing us in this budget. As we discuss our current fiscal circumstance, I wish to remind people where we are, compared to where we thought we were going to be. This is critically important to understanding the choices before us.

Two years ago we were told by the administration that we would have $5.6 trillion in surpluses over the next decade. The Congressional Budget Office produced this chart that showed the possible range of outcomes from a worst-case scenario to the best-case scenario with respect to budget deficits and possible budget surpluses. The center point of that range was the $5.6 trillion of surpluses over the next decade. In other words, they said you can have a wide variance of outcomes. You could actually have deficits, or you could have even larger surpluses than the $5.6 trillion that was the most likely outcome that they projected, as did the administration.

At the time, the President was proposing a very large tax cut and he said we can have it all. He said we can have a large tax cut, major defense buildup, more money for education, more money for health care. He said we could have a maximum paydown of the debt and protect Social Security—the Social Security trust fund surpluses. We could stop the raid.

Well, after the Congressional Budget Office showed us this range of possible outcomes, I tried to alert our colleagues that betting that we could have it all was probably a risky bet, and it would perhaps be a wiser course not to count on any 10-year forecast coming true, and that we had to take account of the possible downside risk as well as the upside potential.

The will of this body was to charge ahead and bet that all those surpluses would come true. Now we know that was a bad bet; it was a risky bet. When we go back and actually do a line that shows where we actually are compared to the projections, we see we are below the bottom. Not only are we not at the midpoint of the possible range of outcomes with respect to the surplus, we are below the bottom. The result of that, of course, is deficits are exploding.

Under the chairman's mark, we are going to have a deficit this year—not counting Social Security. If we treat Social Security like a trust fund, as the law requires, we will have a deficit this year of $503 billion. That is before any war costs. There are no war costs in that calculation. If the war cost is $100 billion, as many estimate in the first year, the deficit this year will be $600 billion.

We have never had a deficit of more than $290 billion in our entire national history; $600 billion in 1 year would be staggering.

It is a fundamental reason I am offering the amendment before us. The amendment says you cannot add to the deficit unless you can get a supermajority vote in the Senate. You have to get 60 votes or more to add to the deficit, with two exceptions. We would not have that requirement for additional expenditures for national defense or homeland security. We would not have that supermajority requirement for a stimulus package to give lift to the economy this year and next when we are forecasting economic weakness.

If this does not concern our colleagues about the direction of the fiscal condition of our country, I don't know what it will take to make them concerned. Not only do we see enormous deficits now, but we see it throughout the rest of the entire decade. Again, that is without any war costs. That is without any fix to the alternative minimum tax which now affects 2 million Americans and will affect 35 million Americans by the end of this decade.

On top of that, under the chairman's mark, under his budget proposal, we see they will be taking $2.7 trillion of Social Security surpluses over the next decade and using those to pay for the tax cut and other expenditures. This is incredibly unwise. The baby boom generation is about to retire. The leading end starts to retire in 2008. When that happens, the cost to the Federal Government of Medicare and Social Security will increase dramatically because the number of people who are eligible increases dramatically.

Instead of using this money for tax cuts and other expenditures, we should be using it to pay down the debt or to prepay the liability we all know is to come. Instead, the money is being spent. It is being used to fund tax cuts. It is being used to fund other expenditures. These taking of Social Security surplus funds and using it for other purposes will create an extraordinarily difficult set of choices for a future Congress and a future President.

In many ways what I have already said understates the problem. In talking about deficits, we do not talk about the debt. Yesterday, I talked about the publicly held debt. That is the debt held by the public in this country. The President told us 2 years ago we would be virtually debt free by 2008 if his plan were adopted. We now know instead of being debt free, we will have over $5 trillion of debt by 2008. That is the tip of the iceberg because that is the publicly held debt. That does not count the debt to the trust funds because we are taking the Social Security surpluses, using them for other purposes. That is also debt. That is also debt that has to be paid back.

If we look at that debt under the chairman's mark, we can see it will equal $12 trillion by the end of this budget period by 2013. In 2002, the gross debt was just over $6 trillion. In that period of time, we will be doubling the debt, doubling the debt right on the brink of the retirement of the baby boom generation.

That is why in the President's own review of his budget, he provided this chart. It is the long-term outlook for the country. What it shows is we are in the sweet spot now. Even though we are running record deficits, a deficit that may approach $600 billion this year, these are the good times, according to the President. This is what happens, he says, if we adopt his spending and tax cut proposals. It is just like falling off a cliff into an ocean of red ink. That is what will happen.

Right at the time the costs of Government explodes with the cost of the baby boom generation, the cost of the President's tax cut explodes. What it does is create deficits that are totally unsustainable. It will mean massive debt, massive tax increases, massive benefit cuts. That will be the only way out of this ocean of red ink.

This chart should alert everyone as to where we are headed. It shows the size of the Medicare trust fund surpluses in blue that ultimately become deficits, the size of the Social Security trust fund surpluses are in green, and it shows the size of the President's tax cuts in red. Right now there is a fairly rough balance between the surpluses of Social Security and Medicare and the size of the President's tax cuts, both those enacted and those proposed.

But look what happens when the trust funds go cash negative in 2016 and 2017. At the very time they go cash negative, the cost of the President's tax cuts explode, driving us into deep deficits, deep debt, deficits that will reach over $1 trillion a year. No one is going to loan us that kind of money. That is not going to work. These are deficits that are absolutely unsustainable.

The head of the Congressional Budget Office, who was put in place by our friends on the other side of the aisle, told us last year if we go in this direction, it will mean massive debt; it will mean unprecedented tax increases, tax increases of 50 percent; and it will mean massive benefit cuts. I hope someone is listening. It is as though deficits are not a concern anymore. They better be because it is going to have real effects on real people, and they are going to be dramatic effects. They are going to be harshly negative. We are not paying attention to what we all know is coming. This is not a projection. Those baby boomers have been born. They are alive today. They are eligible for Social Security and Medicare. Those costs are going to explode as they retire.

Unlike the 1980s, some of my colleagues say: Gee, in the 1980s we had big deficits and it all worked out—we had time to get well, then. We had time between those massive deficits and the retirement of the baby boom generation. This time, there is no time to get well. The baby boomers are going to retire.

That is why the amendment I am offering is important. It says you have to have at least 60 votes to increase the deficit, except for expenditures for national defense and homeland security and except for tax cuts that are part of a package to stimulate the economy to get it growing again in 2003 and 2004. Other than that, you have to have a supermajority to add to the deficit.

This is a consequential debate. At some time, the history of the fiscal affairs of our country will be written and looked back at this time and people will be held accountable for the choices they made. I hope they are wise choices.

I see my colleague from Iowa is present, and I understand he has remarks. I yield the floor.

The PRESIDING OFFICER. Does the Senator from North Dakota yield time to the Senator from Iowa?

Mr. CONRAD. Mr. President, I yield 10 minutes to the Senator from Iowa.

### IRAQ

Mr. HARKIN. Mr. President, I thank the Senator from North Dakota for yielding. I will speak on the situation in Iraq. I find it almost surreal that we are here debating the budget—it is important, obviously, for what will happen to the future of our country—but I note that at least the British House of Commons just today committed a whole day of debate on Iraq. Then they will vote on a resolution. It looks as though Prime Minister Blair will win the resolution in the House of Commons, but at least they are having a debate. We would think that would be happening here in the Senate, that we would have at least 1 day of debate about whether or not our President is doing the right thing.

I watched the President last night, and it looks as if his mind is made up. In fact, I think it has been made up for a long time. I was disheartened to learn that the United Nations is withdrawing its inspectors. They have been making some progress, but they are now being pulled out.

Last October, I was one of 77 Senators who supported the congressional resolution on Iraq. The resolution, in the version that we passed, supported diplomatic efforts to enforce the Security Council resolutions. And if all peaceful means failed, it authorized the use of force so we could defend the national security of the U.S. and enforce Security Council resolutions.

At the time, I said that going to war should be the last resort. It was clear then—and it is clear now—that Saddam Hussein is a brutal dictator, and that weapons of mass destruction in his hands are a grave danger to the international community. But I said then—and say now—there is a right way and a wrong way to confront him and disarm him.

In voting for the resolution, I say to my fellow Iowans and to my fellow Senators, I was clear I was not voting for immediate war with Iraq. I wanted to provide maximum leverage for the President to persuade the Security Council to approve a tough, new resolution for inspections and disarmament.

Since October, this approach has had some success. The Security Council passed a strong resolution, and inspectors went back into Iraq for the first time since 1998. Faced with a united world, Iraq has generally let the inspections take place. After some resistance, Iraq has begun to allow some overflights and interviews with scientists. And they are destroying their al-Samoud missiles, as the U.N. demanded.

Now clearly, there are huge gaps in Iraq's cooperation. They have stonewalled in providing required information on their former chemical and biological weapons. And, as Secretary Powell described to the Security Council, they appear to have tried to deceive U.N. inspectors. But as far as we know, the disarmament of Iraq had begun. It certainly has not been completed and verified. But the process was underway and should have been allowed adequate time to bear fruit. Yet now war is going to start.

Back in October, the President, perhaps reluctantly, agreed to work through the United Nations in seeking disarmament of Iraq through peaceful means. I now have to wonder if President Bush really meant it. Almost from the day inspections began, the administration has been proclaiming their end.

Back in January, the President gave "a matter of weeks, not months." But from the start, the inspectors themselves have said it would take months or years for them to complete their work.

And I regret to say that we have not been helping the inspectors adequately. As I said after Secretary Powell's presentation to the U.N., rather than complaining about truck convoys weeks after the fact, we should help the U.N. stop and inspect them with real-time intelligence. But according to a CBS News report from February 21, U.N. inspectors said our intelligence—U.S. intelligence—has just led them "to one dead end after another." These U.N. inspectors called the intelligence we gave them "garbage after garbage after garbage."

The administration has not even been clear on what we want from Iraq. The resolution I voted for referred to enforcing Security Council resolutions. Now, while there are a lot of those, the key one demanded disarmament of Iraq's nuclear, biological, and chemical weapons programs, and of their long-range missiles.

After hundreds of inspections, the U.N. has found no evidence of ongoing programs for weapons of mass destruction. They did find that some missiles go a few miles over the limit. Iraq declared those, and is now destroying them. Nobody is saying that Saddam Hussein's obsessive pursuit of these weapons is suddenly over, but we sure do not have much evidence there to justify an invasion and full scale war.

So the administration tries to bring in September 11 and the fear that Hussein will give his weapons of mass destruction—assuming he has some—to terrorist groups. But no one has ever shown that Iraq had any involvement in the September 11 attacks. And even U.S. and British intelligence officials describe evidence of Hussein's links to al-Qaida as weak.

A recent Washington Post graphic showed 20 key terrorist organizers. They were from Saudi Arabia and Egypt and several other countries, but not one was from Iraq.

So now the administration talks about fostering democracy throughout the Middle East. That is a noble goal. But it is hard to grow democracy out of the barrel of a gun. It seems more likely that a U.S. invasion and occupation of Iraq will lead to more extremism and terrorism in that region.

In any case, our goal was supposed to be enforcing U.N. Security Council resolutions and defending U.S. national security. The resolutions are about disarmament in Iraq, not about rebuilding governments in that region.

Further, the administration has been throwing out allegations about Iraq without bothering to back them up. First, they claimed Iraq has been trying to buy uranium, based on documents that turned out to be forgeries. They pointed to a British intelligence dossier that turned out to be copied from academic papers several years old. They talked about close ties to al-Qaida based on an alleged facility in an area of Iraq that Hussein does not control and on one visit to an Iraqi hospital.

The Vice President, on Sunday, claimed that Iraq has "reconstituted nuclear weapons," a bizarre claim, but the U.N. has found no evidence that Iraq ever had nuclear weapons to reconstitute or that they now have an active program to make them. But after the Vice President said that, he turned around and then said something else. I am reading here from the Washington Post of this morning, Tuesday: "Bush Clings To Dubious Allegations About Iraq."

> In his appearance Sunday, on NBC's "Meet The Press," the vice president argued that "we believe he has, in fact, reconstituted nuclear weapons." But Cheney contradicted that assertion moments later, saying it was "only a matter of time before he acquires nuclear weapons." Both assertions were contradicted earlier by Mohamed ElBaradei, director general of the International Atomic Energy Agency, who reported that "there is no indication of resumed nuclear activities."
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> Earlier this month, ElBaradei said information about Iraqi efforts to buy uranium were based on fabricated documents. Further investigation has found that top CIA officials had significant doubts about the veracity of the evidence, linking Iraq to efforts to purchase uranium for nuclear weapons from Niger, but the information ended up as fact in Bush's State of the Union address.

Well, on and on and on it goes.

After I listened to the President last night, and after going through all the false assertions that they have made—what the Vice President said on national television on Sunday, without a shred of evidence—reminds me of two ships called the *Maddox* and the *Turner Joy*, that supposedly in the late summer of 1964 were attacked in the Gulf of Tonkin.

I ask Senators, go back and read the Senate debate on the Gulf of Tonkin resolution in August 1964—our two ships attacked in the open ocean, attacked by vessels from North Vietnam. That led to a drumbeat to pass the Tonkin Gulf resolution, which gave the President the authority to engage in full scale war in Vietnam.

What did we learn later? We learned later that there never was such an incident. Neither the *Maddox* nor the *Turner Joy* was ever attacked. This was all fabrication, all total fabrication.

But I ask, what elected official, what appointed official in the Johnson administration or later in the Nixon administration was ever held to account for that? Yet 50,000 lives later, we recognize what led us into Vietnam.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. HARKIN. Can I ask for another 5 or 7 minutes.

Mr. CONRAD. Another 5, if that is OK. We have another speaker who is scheduled in that slot.

Mr. HARKIN. I appreciate that.

Mr. CONRAD. Mr. President, if I could interrupt the Senator and ask the time be charged to the resolution, and the other time that has been allotted to the Senator from Iowa be charged to the resolution rather than the amendment.

The PRESIDING OFFICER. The Senator has that option.

Mr. HARKIN. So, Mr. President, we almost have before us another *Maddox* and *Turner Joy:* a claim that Iraq has reconstituted nuclear weapons, but the evidence is not there.

The President himself said, last October:

> Iraq possesses ballistic missiles with a likely range of hundreds of miles—far enough to strike Saudi Arabia, Israel, Turkey and other nations—in a region where more than 135,000 American civilians and service members live and work.

Those are the President's words.

But:

> Inspectors have found that the al-Samoud 2 missiles can travel much less than 200 miles—not far enough to hit the targets Bush named.

The constant beating on the drums of war, along with the shifting goals—last night for the first time I heard that it is not just Hussein who has to leave but also his sons; the goal was regime change, then it was disarmament, and now it is regime change and a family thing, to get the family out—the dubious allegations, the lack of support for inspections, make it look as though this administration has been set on war from the beginning and has just been casting about looking for support for their war all along.

Is war justified? I have absolute confidence in the men and women of our Armed Forces. Faced with war, they will win, and will do so with courage, discipline, and skill. But even with our overwhelming strength, even assured of victory, war is a terrible prospect. Thousands of innocent people will die. Iraq will be left in chaos. We will be left to occupy a country most likely for years, left with the responsibility on our taxpayers of rebuilding it.

America has always been reluctant to engage in war. And this will be the first war ever in which we have invaded where there has not been an imminent threat.

I believe there are at least four tests that must be met before we go to war. First, we must face an imminent threat. That has not been shown. Could Saddam be a threat down the line sometime? Perhaps. But we could contain him with inspections, and not just a handful but 500 or 1,000 inspectors—there is no limit on how many inspectors we could have; we could put in 1,000 inspectors. Would that cost more money? Sure. A lot less than a war.

So we must face an imminent threat, and that has not been shown.

Secondly, war should be the last resort, not the first. Even if a threat is demonstrated, we should launch a war only after we have exhausted all reasonable alternatives, as we required in the resolution last fall. In this case, we clearly have not.

Third, we must have substantial support among our allies and work with the United Nations. The agreements Saddam Hussein has violated are with the U.N. He didn't make those agreements with the United States, he made them with the United Nations. So since it is not a bilateral problem, it is a multilateral problem, we should be working through the United Nations. There is no doubt we can win a war against Iraq on our own—no doubt about that—but we are going to need the other nations to help rebuild Iraq after the war.

Finally, before we go to war, the fourth thing we need is a full debate in the Congress. Thus, I applaud Senator BYRD and Senator KENNEDY for their resolutions to move the debate forward. But now the clock has run out. I can't for the life of me understand, why the British House of Commons can have a full day of debate today on whether or not to pass a resolution to go to war, but the U.S. Congress can't.

I think back to our own Revolution which gave us the power. It is in the Constitution of the United States that only Congress has the power to declare war. And there can be no mistake about it. This is not an intervention. This is not military police activity. This is not defending ourselves against an imminent threat. This is an invasion and a full-scale war against a country.

I believe the Congress, and only the Congress, has the right to do that, and we have not even had the debate. It is time we have the debate.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CONRAD. Does the Senator from New York seek time?

Mr. SCHUMER. Yes, I ask for 5 minutes.

Mr. CONRAD. I yield 5 minutes off the resolution to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. SCHUMER. I thank my colleague from North Dakota for offering this amendment which is timely and important.

What is this budget? Why do we have a Budget Act? Why do we have a budget resolution? It is to set priorities. If we didn't have to set priorities, we could have as many tax cuts as we wanted and as much spending as we wanted and as big a deficit as we wanted, and the country would be in chaos.

The Budget Act is a disciplining process that says: Everyone wants a whole lot of good things in America, but we have to set priorities. And we say this as we are in the shadow of war.

I have spoken on this and issued a statement last night, and I will be speaking more later. I pray for our soldiers and hope and pray that Saddam sees the light and abdicates. But if he doesn't, we will back our soldiers and do everything we can. That is a priority that we have to set and will set. But we have other priorities.

The Senator from North Dakota has wisely said, before we set those other priorities, we ought to figure out what the war and the ensuing peace will cost. I, for one, believe tax cuts are appropriate to stimulate the economy. The amendment wisely allows that. But it says before we go into a long train of large tax cuts—it doesn't say don't do them—let's figure out as best we can what the costs of the war are. Are the costs of the war going to crowd out funding for Medicare and Social Security? Are the costs of the war going to crowd out money for education or money for transportation? They may. We just ought to know it before we do it. Then, if we do have a crowding out, do people prefer, say, Medicare or tax cuts? Do they prefer education or tax cuts? Do they prefer transportation money or tax cuts? That is what a budget resolution is all about.

To proceed with a budget resolution that is going to offer massive tax cuts without knowing the cost of the war would drive any accountant crazy. Last year we were all saying, accountants have to get a whole lot better. Any accountant in his first year of taking an accounting course in college would say: If you have a huge cost coming up—a cost we all support, the cost of the war—don't do other types of things, whether it be spending or cuts, before you know what that cost is.

My colleague has put together a great amendment. In fact, if you are a fiscal conservative, above all you should support the amendment. I don't care what your ideology is, this is a fiscally conservative amendment. It says, get your ducks in order; figure out what your costs are before you engage in a massive program of tax expenditure.

It leaves room for a stimulus which we all need and will support. But it simply says, figure out your priorities because if we don't and we do a budget resolution and we don't know what the costs of the war are going to be, one of two things will happen: We will have a deficit that goes way beyond what anyone imagined and it will wreck our economy, or other kinds of spending needs will be crowded out—spending for education, spending for transportation, spending for Medicare and Social Security. All we are saying is: Figure out the priorities.

It is virtually reckless to do a budget resolution until we know what the costs are. I say this as somebody who is not opposed to spending money on a war. But at the same time we have war, to have massive tax cuts and not know what the other consequences will be for our deficit and spending, as I said before, would drive any student in the first year of Accounting 101 absolutely crazy.

I thank my colleague from North Dakota for putting together a fiscally conservative and responsible amendment, for restoring some order to make sure that the Budget Act, which says, let's not be kids in a candy store and just pick everything without knowing the consequences—that is what the Budget Act says—to make sure it has some real teeth and real meaning.

I thank my colleague from North Dakota for offering the amendment. I hope we will have bipartisan support for it because it is only fair and right.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ENZI). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. Mr. President, I commend the Senator from New York for his eloquence and his comments. Also, I commend the distinguished ranking member on the Budget Committee for the leadership he has shown in offering this amendment today. I am very grateful to him for the work he has invested into this amendment. I am very hopeful our colleagues on both sides of the aisle will see its wisdom.

Our Nation is living through some grave and difficult days. We face the continuing threat of terror and the developing danger of nuclear proliferation from both North Korea and Iran. At the same time, the American economy is stagnating, the Federal deficit is exploding. More and more Americans are losing hope that they will ever find a job.

Overshadowing all of this, we stand on the cusp of war with Iraq. We need to be awake to this moment in history. In generations past, our country stared straight into the eyes of every threat and did what it took to overcome danger. The hallmark of American history has been the willingness of our leaders and our citizens to sacrifice today for the liberty, security, and prosperity of our children and our children's children tomorrow.

President Bush said in his State of the Union Address:

> We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, to other generations.

We could not agree more.

Now is not a time to pass reckless tax breaks that will saddle our Nation with debilitating debt for generations to come, while doing nothing to energize our economy today. Our Nation needs to be united in the face of the many threats before us. But I fear the President's tax break plan not only divides us against one another today, it pits the political whims of the moment against the economic security and prosperity of the future.

Therefore, I am asking Democrats and Republicans to come together to support this amendment, which has been called the "patriotic pause," because it states clearly that, except for national security, except for defense, except for a genuine and very small fiscally responsible economic stimulus plan, this Congress will approve no new tax breaks or new spending until the cost of war in Iraq and the rebuilding effort that will follow are determined.

Under this amendment, we will provide every necessary resource to support our troops and protect our homeland. We will also do what it takes to re-ignite our economy. But this amendment acknowledges that we have an obligation to keep our commitments to America's children, families, and seniors. If we enact the Republican budget plan with the $1.5 trillion in new tax breaks, primarily for those at the very top, we would see deficits and debt for as far as the eye can see. And the cost of these new tax breaks explodes in the future, sucking up resources needed to keep our commitments to Social Security and Medicare.

This past weekend, I met with a group of seniors to discuss the issues most important to them. Concerned about the uncertain future of Social Security and Medicare, one gentlemen said to me:

> Five years ago, I was part of the "greatest generation." Now someone is trying to declare war on me.

This Congress must honor the patriotism of our parents and grandparents by living up to our obligations to them. We must demonstrate our own love of country by living up to the highest traditions of our history.

The "patriotic pause" gives us that chance. It will demonstrate to our citizens and to history itself that we are awake to the demands of this moment, and it will preserve the resources and trust necessary to meet whatever challenges our shared future holds.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. CONRAD. I see my colleague from North Dakota is seeking time. How much time does the Senator wish?

Mr. DORGAN. Fifteen minutes.

Mr. CONRAD. I yield 15 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. On this amendment, how much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. DORGAN. Senator CONRAD has offered an amendment that is simple, devastatingly simple, and right.

I talk often about going to a very small school, probably not the smallest school that anyone in the Senate attended, but it must be close. My entire high school, four grades, was 40 kids, and the senior class in my high school was 9. I kid that I was in the top 5 somewhere in a high school class of 9. We did not have Ph.D.s teaching math. I didn't need a Ph.D. to tell me how to add 1 and 1; 1 and 1 always equals 2—except in Washington, DC, during a budget debate.

Let me talk about what is happening with respect to fiscal policy in this country. This is a chart that shows what is happening with respect to Federal surpluses and deficits. We were in the go-go 1990s, turbocharged 1990s; our economy was building, creating new jobs and producing tax revenues, and we began to have surpluses.

We had people say: We have surpluses as far as the eye can see; let's provide very large tax cuts. President Bush was the leader of that $1.7 trillion effort. Some said we ought to be a little more conservative, if something happens. But the President got his way, we had a very large tax cut, and guess what. We then had a recession.

The attacks of September 11, the war on terrorism, the largest corporate scandals in history, the bursting of the tech bubble, pancaking of the stock market, and guess what happened. We went from black ink to red ink quickly, with a devastating decline into huge, crippling Federal budget deficits. That is where we are. That is where we are headed.

What is the answer? The President says, let's have more tax cuts. In my hometown, as they say, when you were in the hole, you did not order more shovels, you just stopped digging. This is a circumstance where we have to sober up as a country and evaluate how do we deal with these hemorrhaging Federal budget deficits in the long term. We do it, as the Senator from my home State says with this amendment, by deciding to wait for additional tax cuts and additional spending: Let's have a pause at the moment, put a lid on it all; no big tax cuts, no big spending increases. He allows in his amendment the opportunity and the need to deal with defense and homeland security, he allows the need in the first 2 years to deal with a stimulus plan, if necessary, but he says, beyond that, let's have a pause.

On the eve of potential military action in Iraq, we hope and pray it is quick and decisive with minimum loss of lives, but we know as it happens, it will cost a great deal of money, and we are going to be prepared to respond to that. We will provide the resources necessary to support the brave men and women who fight for this country. But we ought to ask the question on the eve of military action, should we pass a budget resolution that says, by the way, what we propose at the moment, as is the case with President Bush's budget and the budget that came out of the Budget Committee, let's have very large tax cuts, let's have the huge costs of war and reconstruction and the consequence of that, and let's attach to that additional tax cuts?

Maybe it is only in this town that there is some sort of escape from reality, but in my little hometown if you talk about budgets and responsibility and, yes, patriotism, it seems to me we have to add up what our needs are, what we have to do as a country, how much revenue we have to do it with, and try to come to some reconciliation of that. But that is not the case in Washington, DC.

Let me say this about tax cuts. Tax cuts represent the easiest political lifting in American politics; no question about it. If you want the easiest lift in the Senate, boast about all the tax cuts you support. I would love to say I support all the tax cuts and I believe we all ought to have a zero tax rate, but that is not the fact. The fact is we build roads, we educate our kids, we provide for our common defense, we do all of these things together, and someone has to pay for that. I would love to say let's have giant tax cuts that go on forever. But it is not the responsible thing to do, especially on the eve of a war.

The amendment offered by my colleague, Senator CONRAD, is simple. He says let's take a pause for a moment. The budget resolution that comes to the floor out of the Budget Committee says: Let's decide to have very large tax cuts, make the previous tax cuts permanent, and on top of that, have additional large tax cuts. And, oh, by the way, we will increase defense, increase homeland security, and shrink domestic discretionary spending, including education, health care, and all the other issues.

It seems to me things that go around come around, and we already have a construct of this. David Stockman wrote a book about it. That was in 1981. They said, we can double defense spending and have very large tax cuts and it will add up. It didn't. Someone asked President Reagan about his plan, and there was a parody about that. He said: Well, what this new economic plan is, you take an apple, and you cut it in half, and then you have three glasses, put half an apple in one glass, half an apple in the second glass, and half an apple in the third glass. They said: How do you get three halves from one apple? And he said: See, you don't understand our theory.

I think I do understand the theory. There are only two halves of the apple, but this budget resolution provides the kind of theory and gimmickry that will head us down a road to hemorrhaging deficits that will cripple this country. It will devastate our ability to restart this economic engine of ours.

The people who watch us here in the Congress, watch what we do, they need to see we are serious about trying to put this fiscal house in order.

I ask unanimous consent for 3 additional minutes.

Mr. CONRAD. I am happy to yield 3 additional minutes to the Senator from North Dakota.

Mr. DORGAN. Those who watch this process need to understand we are serious about what we are doing here, that what we do will lead to some kind of economic stability in the future. They count on it, that we are not going to spend money we don't have. We are not going to burden our kids with debt. We are going to try to have some means to pay for that which we do and, yes, that includes paying for the costs of military action and supporting our troops.

I support this Conrad amendment because I think it puts national security and economic security first. I support this amendment because I support the troops, and I support this amendment because I support efforts to increase homeland security in this country. I support this amendment because I believe our economy needs a boost. All of those, in my judgment, will be the fruits of this amendment.

I regret that we have the budget resolution on the floor that came from the Budget Committee. It has completely taken a vacation from reality. There is no way it adds up. You can explain it until you are blue in the face, it doesn't add up, and it is not going to lead to a better and brighter economic future.

I want a fiscal policy, as does my colleague, I believe, a fiscal policy that expands this country's economy. First, we need to jump-start it and then we need to try to find ways to give people confidence to expand it.

Our economy is all about confidence. When people are confident in the future, they do things that manifest that confidence: buy a house, buy a car, take a trip. They do the things that expand the economy. When they are not confident about the future, they do exactly the opposite and the economy contracts. They defer the purchase, don't take the trip. The economy contracts.

I want people to take a look at what the Senate does, what my colleague has done with this amendment, and say this gives us some confidence about the future. There are people who are serious about making sure this adds up, about making the right investments, establishing the right priorities for this country. That is what this amendment does.

In my judgment, if you decide you are with the Budget Committee resolution that came to the floor of the Senate, what you are saying is we believe we should have long-term, growing, inescapable Federal deficits and we don't care much about it.

I will tell you what, if you don't care much about it in the Senate, there are many who will. They will pay for it with their jobs. They will pay for it with lost opportunity. They will pay for it with weaker schools. They will pay for it with less homeland security. That is a guarantee.

On the positive side, let me say this amendment is a giant step in the right direction and I hope my colleagues will support it. I commend Senator CONRAD for the amendment that he calls The Patriotic Pause amendment. It says: Let's stop. Let's take a look. Let's listen to what is happening around here and let's make a sound judgment about where this country ought to head and what its priorities are.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. I ask that I be yielded time under consideration of the amendment.

The PRESIDING OFFICER. Without objection, the Senator from Arizona.

Mr. MCCAIN. Mr. President, as Senators begin debate on the budget, I want to briefly discuss why, at this time, I cannot in good conscience vote in favor of tax cuts, irrespective of their size or to which segment of the population they are targeted, nor can I support any substantial spending increases that are not related to improving our Nation's defense from the obvious and serious threats facing us today.

Let me stress, however, that I am, like my colleagues, concerned with the weakened state of our economy, and I do not dismiss lightly arguments in support of stimulating our economy with tax cuts. I know the negligible growth in our economy today has left many Americans without work, their investments and saving diminished, with lower standards of living, and that their elected representatives are expected to do something to help alleviate their suffering. I may have concerns that some parts of the administration's proposed tax cuts would not provide the near term stimulus necessary to strengthen our obviously anemic economic recovery. However, I am certainly willing—even inclined—to consider tax cuts that would provide a more immediate stimulus, such as, for instance, a reduction in payroll taxes. But not at this time.

The United States is currently engaged in a global war against terrorism, and will, in all likelihood, soon commence a necessary war to disarm Iraq by destroying the regime of Saddam Hussein. The costs of these enterprises are not known with any degree of certainty at this time. Nor are the costs we will incur after what I believe, what I fervently hope, will be a brief, successful war in Iraq, as we seek to establish the foundations for a peaceful, stable and democratizing Iraq. The administration has not provided the Congress with a realistic estimate of how much this worthwhile endeavor will cost the U.S. Treasury. I don't fault them for that. The costs are simply not knowable at this time.

I believe the war in Iraq can be concluded successfully in a relatively brief time. But it is surely possible that the conflict won't meet our best estimates for its probable duration. It might take longer than we hope or it may exceed our hopes. As any responsible war planner will tell you, it is always wise to expect the unexpected in war. Few battle plans have realized in their execution the planners' every assumption.

Moreover, we do not know at this time how great will be the costs of meeting our responsibilities in a post war Iraq or with how many other countries that burden will be shared. The answer to those questions will depend, more than anything else, on how quickly and how thoroughly this military action succeeds.

Also, if terrorist organizations use our action in Iraq as the occasion and the excuse to initiate new attacks against Americans, at home and abroad, that too will put new pressures on our treasury. What is already clear to me is that we will need to spend substantially more on our national defense—in the long term—that is currently envisioned, according to recent reports, in the budgets being marked up by the House and Senate budget committees. How much more will depend, of course, on the war's costs. But it will also depend on challenges from the continued threat from al-Qaida and other associated terrorist groups, and from the aggressive actions by states hostile to the United States and our allies, which are intent on acquiring weapons of mass destruction, such as North Korea.

In addition, the costs of our security at home are great, and certain to increase over the next few years. Our war against al-Qaida has been significantly successful. The President and his administration deserve great credit for that. But the enemy in our global war against terrorism is not yet vanquished. Speaking as a border state senator, with the challenges to better protect our borders so evident to Arizonans, I am acutely aware of how much more needs to be done to secure our homeland.

Even without assuming the costs of these various contingencies, particularly the war in Iraq and the responsibilities we will have in that country following the cessation of hostilities, the increase in the Federal budget deficit envisioned over the next 10 years ought to concern greatly every member of Congress. In the first 5 months of fiscal year 2003, the United States Government has already run up a $195 billion deficit. The Congressional Budget Office estimates that even without the President's tax cuts and without further increases in spending for the remainder of the fiscal year, the total budget deficit for 2003 will reach $246 billion. If we add the projected costs this year of the President's tax cuts the deficit would reach $287 billion. Most alarming, are the deficit projections for the next 10 years, incorporating the President's proposed tax cuts, released by CBO last week: $1.8 trillion. That's a pretty staggering sum, and it does not include any of the costs of our imminent actions in Iraq.

We should be concerned about deficits. They limit economic expansion by reducing the amount of national savings available for investment. This raises both interest rates and interest payments on the national debt. Deficits constrain our ability to respond effectively to unanticipated fiscal events. If we do not reduce them, projected long term deficits will reach dangerous levels, lowering the national income and standards of living for future American generations.

That said, I would still be open, at some point, to proposals to stimulate the economy with tax cuts. But not now. We should take a pause in our efforts to increase spending on nondefense needs and to reduce taxes.

However, I will not support the amendment by my friend from North Dakota to create a 60-vote budget point of order against any legislation that contains tax cuts or spending increases that would increase the deficit until the President submits to Congress a detailed report on the costs of our operations in Iraq. The way to address legitimate concerns with this budget resolution is not by creating new, complicated points of order, containing numerous exceptions and subject to very discretionary judgments about what is significant economic stimulus, and what is an adequately detailed report on the costs of war and reconstruction in Iraq. The Senate should speak directly to these concerns now, and vote for or against tax cuts and nondefense spending increases in this budget resolution. Should continued negligible economic growth require the stimulus offered by tax cuts later in this Congress, after, for lack of a better metaphor, the dust has settled somewhat in our operations in Iraq, and Congress and the administration have a better understanding of the costs of war and peace incurred by the United States, Senators can consider changes to fiscal policy at that time.

However, while I don't foreclose future consideration of a tax cut to stimulate the economy, no one can be expected to make an informed decision on fiscal policy at this time with so many uncertain contingencies possibly on the horizon, and with the near, mid- and long-term costs of defending this country unknown and presently unknowable. Let us wait until we have succeeded in Iraq, and until we have some idea of what percentage of the costs of the aftermath of those hostilities we will have to bear. The best thing that can be done for the economy today is to win the war in Iraq quickly, completely, and to attract the coalition of partners necessary to help us meet our postwar objectives in that country. That is a far more necessary, and responsible stimulus to our economy at this time. And it is far sounder statesmanship than cutting taxes in the dark, or running up spending, without due regard to our primary responsibility to the American people: their physical security.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am wondering——

Mr. CONRAD. How much time does the Senator seek?

Mr. KENNEDY. Five minutes.

Mr. CONRAD. Mr. President, I yield 5 minutes off the resolution to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

### NOMINATION OF MIGUEL ESTRADA

Mr. KENNEDY. Mr. President, in just a few moments we will be voting on Mr. Estrada's nomination for the district court. I wish to take a few moments of the Senate's time to talk about a very important matter, and a matter which is really the basis of the dispute in the Senate. That is about the materials that have been requested by members of the Judiciary Committee which have been denied to the members of the Judiciary Committee.

Thanks in large part to the majority leader's suggestion of a serious constitutional debate, we have all learned some important history lessons.

We have learned in detail about the deliberate decision of the Founders to give the Senate a major and independent role in the selection of Federal judges at the Constitutional Convention in 1787, and to prevent the judiciary from becoming a pawn of the President.

We have been reminded that the founders made a very specific decision to create the Senate as a constraining force on the President, to resist sudden or drastic changes in the direction of the Nation and to prevent Presidential overreaching.

We have all reread the key provision of the Constitution in which the Founders instructed that the Senate exercise its specific powers in accordance with rules of its own making. We have learned that until 1949, the first 162 years of our country, those rules provided no way at all to end Senate debate on a nomination by the President. In 1949, our rules established the possibility of a cutoff of our prized freedom of speech on the Senate floor—but only when a two-thirds majority consensus supported imposing that restraint on the minority.

Despite the hypocritical cries of "majority rule governs" from those who would have us abdicate our central constitutional role, we all recognize that the President who has caused this controversy over judicial nominations would not be our President today if majority rule applied to the Presidential elections.

It is clear that the administration has not met its burden of demonstrating the suitability of this nominee. The nomination process is not a game of hide and seek, in which the White House selects only the positive information about a nominee to give the Senate and withholds the rest, in the hope that the Senate will not find it. The process is not complete until the administration shares with the Senate all of the available information, so that the Senate can exercise its advice and consent power deciding for itself, under its own rules, what is relevant and what is not, what is dispositive and what is not.

The members of the President's party do not serve him well, nor do they serve their own interests well, nor do they fulfill their obligations to the Senate, if they allow the White House to short-circuit the process by selectively withholding information. And the fact that some of that information may be confidential, or sensitive, or classified, or embarrassing does not end the matter. It merely starts a process within the administration of deciding whether the nomination of a particular person for a particular position at a particular time is important enough to the President to justify the release of that information.

In some cases it may be possible to block out particular items in documents without destroying their utility. In some cases it may be appropriate to allow receipt and discussion of particular documents in closed committee session without immediate release to the public. In some cases, it may be necessary to provide classified documents to committees with the facilities to handle it properly and with staff who are cleared to review it. Once the Senate has the information on any of these grounds, we can decide whether the information is relevant, what weight to place on it, and whether further investigation or questioning is required.

The argument for withholding documents in close cases is not a very strong one—it does not rise to the level of proprietary business information or intelligence methods, for example. And as many of us on the committee have pointed out to the White House, there are many instances in recent history where the Justice Department has provided such materials to us.

One of the best examples of such a case was the Richard Kleindienst confirmation proceeding. In that case, as here, members of the Committee requested extensive litigation materials from the Justice Department. Unlike the present case, the Chairman, although he disagreed with those Senators on the merits of the nomination, agreed that they were entitled to make their requests, and certified the requests as Committee requests to which the Department would have to respond. The Department in fact provided the Judiciary Committee with extremely sensitive deliberative litigation documents from various offices at Justice. They revealed the Department's strategies and thought processes on the appeal and settlement of a major set of antitrust cases.

Moreover, the Solicitor General himself, the eminent former Dean of Harvard Law School, Erwin Griswold, appeared before the committee and answered questions of Senators on both sides of the aisle on the content of the recommendations made to him by attorneys in the Department and by him to the Acting Attorney General and Antitrust division, including his own and others' opinions on the strengths and weaknesses of various litigating positions. Like every Solicitor General, he asserted the right of the Department to withhold deliberative documents. But at the same time he and the Department in fact disclosed and discussed those deliberations in the Senate, sometimes in unrestricted form and sometimes under restrictions.

Why did they do so? In the Department's own words, they could release any such information whenever they determined that there was a "compelling public interest" in doing so. And for some reason they concluded that there was such a public interest in getting Mr. Kleindienst—already confirmed as the Deputy Attorney General—confirmed to fill the vacancy in the position of Attorney General for the one year left in Richard Nixon's first term. I note that Justice did refuse to provide certain materials which the nominee offered to avow under oath would have no relevance to the facts at issue. After extensive additional hearings, the nominee was confirmed, but later resigned when documents eventually released in the Watergate and other proceedings showed that he had not been truthful in his testimony to the committee. He pleaded guilty to a subsequent criminal charge of "failing to testify fully and accurately" to the Senate.

That case demonstrates that the Department could and did as a matter of discretion release extremely sensitive litigation documents and information from the Solicitor General's office, including the testimony of the Solicitor General himself, merely to accomplish the confirmation of a cabinet member for a short-term appointment to a post which did not really need to be filled. Clearly then the Department has full power to release sensitive documents when they are requested in the context of a nomination for a lifetime appointment to the nation's "second highest court."

In this case a substantial portion of the committee have concluded that the White House has not met its burden of going forward. The nominee's record does not contain the usual body of judicial decisions or legal publications which demonstrate the way he addresses important legal questions. On the contrary, as the hearing record demonstrates, members had serious questions about the nominee's suitability, questions for which the nominee's answers ranged from evasive to inconsistent. But the committee did not have the full record. It did not have what may be the best evidence of the nominee's approach to current legal issues of great import, the writings of the nominee himself, writings composed by the nominee in the Solicitor General's office in circumstances which even his supporters concede were likely to show him at his most candid.

It is perfectly reasonable and logical for Senators to conclude that the Executive's refusal to provide that complete record is based on either or both of two rationales: Either the White House fears that Senate access to the documents—even without automatic public access—would confirm the unsuitability of the nominee, or the White House does not think there is a "compelling public interest" in completing Mr. Estrada's nomination process.

In either event, the ball is in the executive branch's court: If they think there is a compelling public interest in moving ahead with this nomination, they can and should turn over the materials. If they do not think there is a compelling public interest in proceeding with this nomination, they can continue to refuse to provide the materials. But if that is their decision, then they should cease their imposition on our time and especially our Republican colleagues' patience, forgo the Rovian hopes of short-term political gain from "Groundhog Day" repetitions of useless cloture votes, and just pull the nomination.

Mr. President, this nominee has been sent to the Senate of the United States. We had a very good debate the other day about the shared responsibility between the President and the Senate in naming individuals to the courts with lifetime appointments.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. KENNEDY. Mr. President, could I have 1 minute more?

I yield myself 1 more minute.

We had a very good debate on that issue. The fact is, this administration has seen all of those papers. On that basis, they have nominated him. But they have refused to let us see them and expect us to be a rubberstamp. It is wrong. I hope we will continue to reserve our judgment on this nominee until we get that information.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, it is my understanding we have a vote at noon; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. Mr. President, the floor leader, the chairman of our committee, is not in the Chamber at the moment, so I will not propound a unanimous consent request. But I would ask for his staff to consider that we permit another amendment.

I see the Senator is in the Chamber now.

I say to the chairman, I was just saying that we have this vote. Then it would be my hope that, at some point soon thereafter, we could have a vote on my amendment. I am told we need a window until 3 o'clock for votes. Maybe we could have an opportunity to offer additional amendments in that interim period and stack votes at 3 o'clock, if we are limited in our ability to vote until then.

Mr. NICKLES. Mr. President, I will be happy to work with my colleague. Because I have been running back and forth to a lot of meetings, I have not had a chance yet to even address the Senator's amendment that is pending, so I wish to do that.

Are we still working through the lunch break?

Mr. CONRAD. Yes. The intention was to do that. We would have the vote at noon. If the vote is done at around 12:30, that is why I am raising the question now of being able to offer another amendment, so we could use that time productively.

## EXECUTIVE SESSION

## NOMINATION OF MIGUEL A. ESTRADA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT COURT

The PRESIDING OFFICER. The hour of noon having arrived, the Senate will go into executive session and resume consideration of Executive Calendar No. 21.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, as you all know, we are going to vote on the Estrada nomination one more time with regard to cloture. The fact of the matter is, I am very concerned about this because I think the Senate is placing itself into a serious procedural set of problems that literally could come back to haunt the Senate for many years to come. You see, this is the first filibuster in history of a circuit court of appeals nomination.

It is a shame that there has to be a filibuster against one of the leading Hispanic legal thinkers in America—especially since I don't believe there has been a glove laid on Miguel Estrada from the beginning of this debate right up until today.

Everybody knows this man is highly qualified, having received the highest rating from the American Bar Association of unanimously well-qualified. Very few judgeship nominees receive that type of unanimously well-qualified rating from the American Bar Association.

Miguel Estrada has lived an American dream life. He came here from Honduras at age 17. He hardly understood English, and taught himself English. He graduated from high school and went on to Columbia University where he graduated magna cum laude. He then went on to Harvard Law School and graduated magna cum laude. He was editor of the Law Review at Harvard. Miguel Estrada became a law clerk to Judge Amalya Kearse on the Second Circuit Court of Appeals, one of the most coveted spots for young law graduates who are of exceptional ability, and then he became a law clerk for Justice Anthony Kennedy on the U.S. Supreme Court. Certainly, one of the most coveted jobs any young law graduate can have is to clerk for a Justice on the U.S. Supreme Court.

Miguel Estrada became a prosecutor in the Manhattan office and tried appeals there for the prosecutor's office. He went on to become a member of the Solicitor General's Office as Assistant Solicitor General. He worked there for 5 years—4 years for the Clinton administration, 1 year for the Bush administration—where, according to performance reviews, he was given the highest ratings one could possibly receive from his superiors and where he argued cases before the Supreme Court. This man has argued 15 cases before the U.S. Supreme Court, winning 10 of them. Most attorneys never have an opportunity to argue before the Supreme Court, let alone have the experience Miguel Estrada had.

He went through one of the most detailed hearings on record before the Senate Judiciary Committee last September, conducted by the distinguished Senator from New York, Mr. SCHUMER. My friends on the other side have said this hearing was conducted fairly; it was a decent hearing. They had every opportunity to ask any questions they wanted. If they wanted to go longer, they could have gone longer. They did not. Afterwards everyone had the opportunity to file written questions. Only two Democrats filed written questions: Senator KENNEDY of Massachusetts and Senator DURBIN of Illinois.

Now we find ourselves, because the Republicans have taken control of the Senate, with a nominee before the Senate who probably would never have gotten here had it been left up to my colleagues on the other side and whose nomination now hangs in the balance because of a first-time filibuster in history against a circuit court of appeals nominee. In fact, we have only had one successful filibuster in the history of this country against a judicial nominee, and that was Abe Fortas back in 1968 when it was a bipartisan filibuster; both Republicans and Democrats filibustered Fortas. I did not agree with that filibuster then. I do not think it was right then, and I certainly do not agree with the filibuster now. I think it is very dangerous.

More importantly, if we continue to filibuster this nominee, it will show once and for all that the Senate is broken with regard to Executive Calendar nominees and, in particular, judicial nominees. If we are going to filibuster nominees we do not care for on either side of this august room, if the Democrats received a Democrat President and we filibuster his nominee because our nominee has been filibustered, then I think this system will be totally broken, will break down, and be very hard to repair.

I hope my colleagues on the other side will think through what they are doing. I hope there are a number of clear-thinking people on the other side who will realize that this is a dangerous procedure to do. It flies in the face of the Constitution because the President has the nomination power, and he has the appointment power, and we have the advise and consent power. But advise and consent means an up-or-down vote. It means once a person comes to the floor, there comes a time when debate has to end and there should be an up-or-down vote. In this case, that vote has been prohibited by our colleagues on the other side through this mechanism of a filibuster for the first time in history.

I believe what they are doing is blatantly unconstitutional because by requiring 60 votes to have an Executive Calendar nominee pass through the Senate, we are diminishing the executive branch of Government and the judicial branch of Government vis-a-vis the legislative branch of Government. All three are supposed to be coequal branches of Government.

This practice is dangerous. In my view, it is unconstitutional. We have to face this one way or the other, and all because my colleagues on the other side claim they do not know enough about Miguel Estrada, after all of these experiences, all of this knowledge we have about him, after one of the longest hearings on record in the history of circuit court of appeals nominations. In addition they are hiding behind a red herring, a false demand to go on a fishing expedition through all of the appeals certiorari and amicus curiae recommendations that Miguel Estrada worked on while at the Solicitor General's Office for 5 years. That has never been allowed before, it should never be allowed, and, frankly, I do not believe any self-respecting administration will ever allow that type of a fishing expedition into the most confidential, privileged papers in the Justice Department itself.

Seven former living Solicitors General, four of whom are Democrats, three of whom worked with Miguel Estrada as Democrat Solicitors General in the Clinton administration, have said it is highly inadvisable to allow this type of a demand by the Democrats to be approved by anybody because it would certainly damage the information on which so many of our Solicitors General have come to rely.

Yet this day people are saying they just do not know enough about this man. There has hardly been a nominee to any circuit court of appeals in this country in history who is more well known than Miguel Estrada.

The problem really comes down to this: He is conservative, and I think my colleagues on the other side believe he is pro-life. I personally do not know what he is with regard to the abortion issue, but I can tell you this, Mr. President: I do believe he is basically a good, strong conservative but a conservative who worked in the Clinton Justice Department for 4 solid years with the highest recommendations of his supervisors while he was at the Clinton Justice Department in the Solicitor General's Office. So this phony red herring issue is exactly that.

If we continue to filibuster this man, I believe we will have a Senate that is broken, a system that is broken, and we are going to have to do whatever we have to do to see that Executive Calendar nominees get up-or-down votes when they come before the Senate. Presidents of the United States deserve that consideration and they should have it.

If one reads the advise and consent clause in article II of the Constitution, just a few lines above it, it was made clear that you can have supermajority votes, and I think there are seven mentioned in the Constitution. But just a few lines above the advise and consent clause is a requisite two-thirds vote for ratification of treaties. If the Founding Fathers wanted to allow or require supermajority votes with regard to the advise and consent clause, they would have said so. They did not. The natural conclusion from any constitutional scholar would be that we are entitled to an up-or-down vote as the exemplification of the advise and consent clause.

The fact is, that is not being allowed because of a filibuster on the other side with the phoniest of excuses that they do not know enough about this very well-known young Hispanic man of high quality, high ability, with the highest recommendation possible, not only from the American Bar Association but from Democrat attorneys as well, such as Seth Waxman, for whom I have great affection and respect, a former Solicitor General of the United States.

I hope our colleagues will think it through and we vote for cloture so we can have an up-or-down vote on Mr. Estrada, and if they do not, we will have to see what happens in the future.

With this third cloture vote, we will have reached the most cloture votes ever given or ever required in the history of the Senate for an executive calendar nominee. Should cloture not be invoked, we will still go to further cloture votes, as we should. We need to fight for this nominee because he deserves the right to sit on the Circuit Court of Appeals for the District of Columbia.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, with respect to this issue of Mr. Estrada, if those who come to the floor to make speeches about Mr. Estrada are trying to put together a puzzle for us, they are missing about six or eight key pieces. Let me use some information and some time to describe what those pieces are.

I do not want anyone to tell me that we have folks in this Chamber who do not support the President and the process by which we nominate and confirm judges. I think we have voted on 111 Federal judges in the Senate and I believe I voted for 110 of them. Now, I am a little weary of people coming to the floor and misstating the facts. They say, this is the first filibuster we have ever had. Not true. That is just not the case. Mr. Paez waited 4 years in the Senate, under the leadership of those who are now concerned about moving Mr. Estrada through this Chamber, and in order to get Mr. Paez through this Chamber there had to be a cloture vote. So I am a little weary of these stories about cloture.

We had a cloture vote on Mr. Paez. Why? Because that was required in order to move his nomination, which waited 4 years.

Mr. HATCH. Will the Senator yield on that?

Mr. DORGAN. I am happy to yield to the Senator on his time, if that is all right with the Senator.

Mr. HATCH. Yes. Is the Senator aware that there has never been a cloture vote to prevent somebody from having an up-or-down vote for the circuit court of appeals or the district court in this country, and further, no one has ever been stopped by a cloture vote in this country prior to this other than Abe Fortas?

Further, let me ask the Senator this additional question: If the Senator is referring to me as misstating the facts, I was the one who put Paez through. I was the one who put Berzon through. I was the one who put through a whole raft of them who were criticized on our side. I hope the Senator is not referring to me on this matter.

Does the Senator know of anyone, other than Abe Fortas, who was stopped by a filibuster who did not, once they got to the floor, have an up-or-down vote?

Mr. DORGAN. Mr. President, the Senator asks an interesting and a good question. He talks about people who got to the floor of the Senate. I could bring out a chart that shows candidate after candidate for the circuit court who never got a hearing in the committee, not one hearing on the committee, let alone a vote in the committee or a vote on the floor.

Mr. HATCH. Will the Senator yield on that?

Mr. DORGAN. Let me continue my statement. Let me say this with respect to cloture votes and a filibuster: Mr. Paez waited 4 years. The only way he got to the floor for a vote was with a cloture vote. That is called a filibuster, a cloture vote to break a filibuster.

Let me say this about Mr. Estrada: Having voted for every Federal judge but one who has been nominated by President Bush, I am prepared to have a vote on Mr. Estrada as soon as Mr. Estrada and all of those who support him say to this administration and to this candidate for a lifetime appointment, answer the questions. I would say to the Senator from Utah—on the day he had Mr. Estrada's hearing, he also had a hearing for another candidate for a judgeship. His name is Judge Hovland. He is in the Western District of North Dakota, a Republican, someone I supported strongly. I came that day and spoke for him. I say to the Senator from Utah, on the same day Mr. Hovland appeared before the committee, Mr. Estrada appeared before the committee. Does the Senator know that Mr. Hovland answered the very questions Mr. Estrada would not? Does the Senator know that Mr. Estrada refused to answer the questions Mr. Hovland answered?

Mr. HATCH. Will the Senator yield?

Mr. DORGAN. I ask the question of the Senator: Why is that the case? And I would simply say this: As soon as Mr. Estrada answers the questions and provides the information, I believe there ought to be 100 votes for cloture and we ought to have an up-or-down vote on Mr. Estrada. Until that time, no one who aspires to a lifetime on the Federal bench ought to be able to say to this Senate we are going to withhold information that has been requested.

I do not think the Senator from Utah should want that. I do not want it, and at least speaking as one Senator, I will not allow it. I will not vote for cloture until Mr. Estrada provides the information that has been requested of him.

I am happy to yield on the time of the Senator.

Mr. HATCH. I think the Senator has a splendid record with regard to voting for Federal judges, and I personally appreciate that.

Is the Senator aware that no true filibuster has ever succeeded against any Federal court nominee, other than Abe Fortas, in the history—

Mr. DORGAN. Well, I say—

Mr. HATCH. Let me ask my full question—of this country?

Secondly, is the Senator aware that Mr. Estrada, and the White House, have not only offered to come up and speak personally and answer every question of any Senator, they have offered to answer any questions in writing. He has answered all of those questions in writing for this body. And is the Senator aware that we have also offered to even have another day of hearing, as long as we get an up-or-down vote, where any Senator who wants to can ask any question he wants to on the committee?

I would even go broader than that. I invite any Senator on the Democrat side who wants to ask any question to come to the committee and ask him. But we would want a vote certain in order to do that. No candidate nominated in the history of this country has ever made that offer, and I am just saying I think he has answered the questions and I think the Senator just is not aware of it.

Mr. DORGAN. I am happy to yield to the Senator on his time. The Senator from Utah has had a generous amount of time on the floor of the Senate to make his case on many occasions, and he makes his case in a very persuasive way for those on his side of the aisle, perhaps. But having voted for all but one of the nominees sent by this President, I am a little weary of hearing anybody stand up and say those of us who vote against cloture are somehow obstructing at this point because the Senator knows full well why cloture has not been achieved. The answer is very simple. We have asked for only two things of this nominee: One, answer the questions that were put to him in that hearing.

Mr. HATCH. Which he has done.

Mr. DORGAN. Well, that is not the case. That has not been done. But No. 2, release the information that is available with respect to his service at the Justice Department for the Solicitor General's Office.

The fact is, when those conditions are met, I will be on the floor saying, let us have a final vote on Mr. Estrada. If those conditions are not met, neither the Senator nor anyone else in the Senate ought to demand that we give up our rights and opportunities to ask questions for those who seek a lifetime appointment to the Federal bench.

Mr. HATCH. Will the Senator yield one more time?

Mr. DORGAN. I say this, I am a little weary of the campaign that is going on around the country, letters to the editor, and talk shows, and all the rest that forget about two, three, or four key pieces to the puzzle, and the key pieces to the puzzle are this: This President has a right to nominate candidates to Federal judgeships. He has done two in North Dakota, both Republicans, both wonderful people. I supported them strongly. They are both now on the Federal bench. Our country is better because of it. I have voted for other Federal judges whose philosophy I disagree with because I think by and large they were qualified to serve on the Federal bench, and I have voted for all but one of those nominees sent by President Bush.

Let me come back to this point. On the very day the Senator from Utah presided over a hearing in the Judiciary Committee, Judge Hovland from North Dakota answered questions that Mr. Estrada did not answer. I do not understand why a committee chairman is not the first one on the floor of the Senate to say we ought not move this until we get all the information we requested.

I am not someone who will stand in the way of a final vote on Mr. Estrada because of philosophical or other concerns. I will not do that. But as long as I am in the Senate with Republican or Democratic candidates for the Federal bench, I will demand they answer the questions put to them. In this case, Mr. Estrada has not done that.

One last time I will yield on your time.

Mr. HATCH. He has answered the questions in writing as well as orally in a very lengthy hearing. Is the Senator aware at any time in history—I am sure he is not—where a fishing expedition has been allowed into the Solicitor General's confidential privileged memoranda, on all appeals, certiorari, and amicus curiae recommendations? That has never happened in the history of this country.

I have offered to the side of the distinguished Senator to make available, if there are specific questions, I would go to the White House and see what I can do. But never has there ever been allowed a fishing expedition into all of these very privileged documents without some reason for authorizing it, and there is no reason offered by my colleagues on your side.

Mr. DORGAN. Reclaiming my time, a fishing expedition is not at all what this is about. The Senator from Utah knows that. I have listened to him at great length and voted with him on almost all judgeships. The Senator from Utah ought to demand what I demand and others demand: Candidates who aspire to a lifetime appointment to the bench ought to respond to the request for information from this Congress. That has not happened in the case. You can assert it until you are blue in the face. It is not the case that the information has been made available. Other candidates made it available. Mr. Estrada has not. When he does, I believe he ought to get his vote. Until he does, he should not get that vote.

I am weary that those who support this President's nominees almost universally are told we are somehow obstructing. That is not the case. Especially in circumstances where there were a good many fine people in this country who were nominated for the Federal judgeships, including circuit courts, who never got a hearing before the committee, I didn't hear anyone on the floor of the Senate, especially from that side, talking about it at great length. These are good men and women. They never got a hearing. This is not payback as far as I am concerned.

Mr. Estrada should get his vote as soon as he complies with the request for information from the Senate, which he has not done. He can do it this afternoon, and we can have a vote tomorrow, as far as I am concerned.

Mr. FRIST. Mr. President, the Senator from Massachusetts earlier made comments as to the Solicitor General memoranda requested for Miguel Estrada that are not well informed and have been refuted by a letter from the Department of Justice, sent to me, dated today, March 18, 2003. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, March 18, 2003.*

Hon. BILL FRIST,
*Majority Leader, U.S. Senate, Washington, DC.*

DEAR MR. LEADER: I write to correct a significant and recurring misstatement of fact regarding the nomination of Miguel Estrada, which has been repeated several times on the Senate floor in the past several weeks. As noted below, several Democrat Senators have asserted or implied their belief that the White House and the Department of Justice reviewed Mr. Estrada's appeal, certiorari and amicus recommendations authored during his tenure in the Bush and Clinton Solicitor General's Offices before deciding whether to nominate him to the D.C. Circuit, and that the decision not to disclose these memoranda is based on the Administration's knowledge of their contents. Nothing could be further from the truth. Despite the fact that counsel to the President Alberto Gonzales explained in a February 24th letter to Senator Schumer that "[n]o one in the Executive Branch has reviewed these memoranda since President Bush took office in January 2001," Senators continue to repeat this allegation, which warrants this additional response. An identical letter will be sent to Minority Leader Daschle.

Because the professional opinions of attorneys in the Solicitor General's office are—and always have been—confidential, no one in the White House, the Department of Justice or anywhere else in the Executive Branch reviewed these privileged documents—not before Mr. Estrada's nomination on May 9, 2001, and not since then. Unfortunately, the mistaken notion that the Administration has reviewed Mr. Estrada's memoranda has grown rapidly from speculation to rumor to purported fact. In order that your colleagues might have the most accurate information available during your deliberations on Mr. Estrada's nomination, we wish to point out specific misstatements and erroneous assumptions on this issue and to set the record straight.

In a February 12, 2003, floor speech, Senator Leahy speculated that the Administration knows what is in Mr. Estrada's confidential memoranda: "Regarding the document request related to Mr. Estrada's nomination, he has told both Senator Hatch and myself, as well as several Members of the Senate, that he is perfectly willing to show us his writings and respond to them and answer questions about them, but he has been told by the administration that he cannot; the administration, however, would review those writings. They are the only ones who know whether this direct evidence of his views, the interpretation of law, is accurate or misleading—they are the only ones who have access to it and they say, basically: Trust us." Congressional Record, Feb. 12, 2003, at S2251. Senator Durbin elevated the speculation to a conclusion on February 26: "Mr. Gonzales in the White House said, no, we will not consider producing anything. It leads members to conclude on this side of the aisle that there is something very damaging in these materials that they do not want disclosed. It is the only conclusion you can draw . . . this White House, tentative and concerned about whether or not Miguel Estrada has said some things that could jeopardize his nomination, refuses to disclose." Congressional Record, Feb. 26, 2003, at S2756.

Several days later, Senator Schumer repeated the mistaken assumption that the Administration has reviewed Mr. Estrada's memoranda: "Why won't Mr. Estrada or the administration—which is his sponsor, his mentor—in this particular situation why won't he give up these documents? I will tell you what most people think when they hear about it. And I have talked to my constituents, the few who ask me about this. They say he is hiding something. Do I know he is hiding something. Do I know he is hiding something? Absolutely not. I have not seen the documents. But I tell you one thing: The great lengths that the administration and my colleagues on the other side have gone to not give up these documents makes one suspect there is something there they do not want people to see. So the documents are crucial." Congressional Record, Mar. 4, 2003, at S3064.

Senator Kennedy extended the error when he suggested that the Administration reviewed Mr. Estrada's memoranda in the selection and vetting process prior to nomination: "We certainly have the obligation to do so when the Executive Branch prevents us from exercising our assigned constitutional powers of advice and consent by depriving us of any access to the only documents which might tell us what kind of a judge a nominee will be—the very documents which the President's lawyers used to select and vet the nominee." Congressional Record, Mar. 11, 2003, at S 3434.

In a March 13, 2003, floor speech, Senator Leahy completes the cycle of misstatements when he asserted that the Administration reviewed Mr. Estrada's memoranda in deciding whether to nominate Mr. Estrada.

"The real double standard in the matter of the Estrada nomination is that the President selected Mr. Estrada in large part based upon his 4½ years of work in the Solicitor General's Office, as well as for his ideological views. The administration undoubtedly knows what those views are and have seen those work papers. They know what he did. They picked him based on that, but they said even though we picked him based on that, we do not want the Senate to now what it was. We in the Senate cannot read his work, the work papers that would shed the most light on why this 41-year old should have a lifetime seat on the Nation's second highest court.

"We are to a point where the White House simply says, trust us, we know what he wrote and how he thinks and will make decisions, but we do not want you to know what he wrote, just rubberstamp him.

". . . There seems to be a perversion to require the Senate to stumble in the dark about Mr. Estrada's views when he shared these views quite freely with others, and when the administration selected him for his high office based on these views." Congressional Record, Mar. 13, 2003, at S3671.

These assertions are simply wrong. First, each statement is based on the fundamentally erroneous premise that officials in this Administration have seen Mr. Estrada's memoranda. Let me assure you unequivocally—and permanently put to rest any misunderstanding—that at no time has this Department of Justice or the White House ever reviewed the memoranda that Miguel Estrada wrote during his tenure in the Solicitor General's office.

Second, the statements above mistakenly suggest that the Department of Justice has declined to release Mr. Estrada's memoranda because of concerns over their content. In reality, as we have explained, the Department has chosen to keep these documents confidential for the reason articulated by all seven living former Solicitors General—including four Democrats: "Any attempt to intrude into the Office's highly priveliged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests."

Thank you for allowing me to set the record straight on this important point. I appreciate the opportunity to assure you and your colleagues that we in the Administration have never examined Miguel Estrada's confidential memoranda. I hope that by clearing up this misunderstanding, we will have taken an important step toward ending the filibuster of Mr. Estrada—the first filibuster of a lower-court nominee in American history—and allow the bipartisan majority of Senators who support Mr. Estrada to vote on his confirmation.

Sincerely,

JAMIE E. BROWN,
*Acting Assistant Attorney General.*

Mr. FRIST. Mr. President, today's third cloture vote on Miguel Estrada's confirmation breaks through a new barrier—not the barrier that some may have hoped for with this exceptional nominee.

It is unprecedented that a circuit court nominee be subjected to a third cloture vote. A no vote today remains unfair to this nominee who has been pending over 700 days, it is unfair to the bipartisan majority that wants to end this debate and have a vote, and it is unfair to the President, who deserves better from this Senate.

Eighteen times the majority has requested unanimous consent to vote on the Estrada confirmation. Eighteen requests have been denied, even though Senators have debated this confirmation for over 100 hours. Twice before today, a bipartisan majority has likewise requested to end debate by voting for cloture.

Others, too, have expressed their desire that we end this debate. Over 113 editorials in 31 States have called for an end to this filibuster and expressed their support for this nominee. Only 11 have expressed the opposite.

The filibuster to this nomination continues despite the unprecedented accommodations that have been offered:

Repeatedly, the White House has offered the nominee up to answer more written questions; only one Senator took them up on it.

Repeatedly, the White House has offered the nominee up to meet privately to answer more questions; only one Senator took them up on it.

I have offered the nominee up for a second hearing. The offer was rejected.

Now that the minority has stopped saying that Mr. Estrada is unresponsive they now focus on their unlimited request for confidential and privileged memoranda. They do this even though all living past Solicitors General, including four Democrats, have opined that this request is improper.

We will not give up. This nominee will be confirmed and we will keep on voting if necessary. The minority's position on this is unreasonable. I hope they will be as accommodating as we have been.

Mr. HATCH. Mr. President, it is disturbing to me that much of the debate regarding the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit has focused on previous nominations considered by this Senate. In particular, the nominations of Judge Richard Paez and Judge Marsh Berzon, who now sit on the Ninth Circuit Court of Appeals, have been raised over and over again by Senators opposed to Mr. Estrada.

The discussion of previous nominations is troubling for a number of reasons. First, Judge Paez and Judge Berzon were confirmed by the Senate. They were not subjected to a filibuster as is the case for Miguel Estrada. Second, on a personal level, it is disappointing to me that these two judges should be used as examples of alleged Republican obstructionism, when I worked hard for their confirmation, argued against delay, and supported their nominations.

To continue to inject prior nominations into the Estrada debate indicates to me that the opposition is more interested in some sort of retribution for misperceived wrongs rather than fulfilling the Senate's constitutional duty of advice and consent. I have heard it stated on the Senate floor, referencing the so-called filibuster of Judge Paez, "what goes around comes around." I certainly hope that it is not the case that the refusal to give a vote to Miguel Estrada is some sort of payback.

The distinguished Minority Leader described the Senate's responsibility very well nearly three years ago as we were concluding debate on the nominations of Judge Paez and Judge Berzon. He stated on March 9, 2000, " . . . [T]here is a time and a place for us to consider any nominee and, once having done so, we need to get on with it."

I agree with the Democratic leader. We have considered the nomination of Mr. Estrada and now we need to get on with the vote—up or down, as Senators choose to cast their vote.

Senator DASCHLE continued, "I do not know who is going to be President next. I do not know who is going to be in the majority in the next Congress. But let's just assume that the roles are reversed . . . and we have a Republican President—which I do not think is going to happen. Do we want to pay back our colleagues for having made these people wait as long as they have?

. . . I do not want to hear about that in this body. There is going to be no payback. . . . Will we have votes and vote against nominees on the basis of whatever we choose? Absolutely."

So again, as the Democratic leader stated, Senators are free to vote against the nominee on the basis of whatever they choose, but let us have a vote.

Now, as Chairman of the Judiciary Committee, I worked hard for the ultimate confirmation of Judge Paez and Judge Berzon. Nevertheless, there were some significant difficulties with their nominations which took time to resolve. I agree that they took too much time. However, these nominees did receive a vote, they were confirmed, and they now sit on the Ninth Circuit. These two nominees were not filibustered as Mr. Estrada is now being filibustered. It is true that cloture motions were filed on the nominations. Let me emphasize that it was the Republican Leader who filed a cloture petition, so there would be limited debate and a vote up or down. Furthermore, those cloture motions passed by wide margins, 86–13 in the case of Judge Berzon, and 85–14 in the case of Judge Paez. The record is clear that a true filibuster did not occur with regard to these nominations.

Following the cloture votes, the Majority Leader, Senator LOTT, made the following comments: "As you know, cloture was just invoked on two Ninth Circuit judges. I still hope we have not set a precedent. I don't believe we have because it was such an overwhelming vote to invoke cloture and stop the filibuster. We should not be having filibusters on judicial nominations and having to move to cloture. But we had to, and it was an overwhelming vote."

Senator LEAHY's response to the Majority Leader's statement is noteworthy. He said: "I was struck by the comments of the distinguished leader in saying we should not have the precedents of filibusters and requiring cloture. I commend him for supporting the cloture motion and moving this forward so we would not have that precedent."

As I have said, the confirmations of Judge Paez and Judge Berzon were not without delay. There was considerable opposition to their nominations. But that delay did not amount to anything sort of a filibuster of these nominees.

The debate on both Judge Paez and Judge Berszon took place on March 7, 8 and 9 under time agreements. The final day of debate, when they were confirmed, was 4½ hours total. The Republican leadership did file cloture to get time agreements and to ensure a final vote on these two nominees of President Clinton. I have asked for similar treatment for Miguel Estrada—a time agreement and an up or down vote but this has been denied repeatedly.

So the record is clear that this was not a true filibuster. There was limited debate with time agreements. Cloture was filed as a floor management tool and was overwhelmingly approved. The nominees did receive an up or down vote both were confirmed. Let's give Miguel Estrada that same courtesy.

Now with regard to the nominations of Judge Paez and Judge Berzon, I do not want to rehash the debate on these nominees, but I do want to put their confirmation into some perspective, since my Democratic colleagues keep bringing them up.

Judge Paez's opponents were very concerned about statements he made in 1995, while a sitting federal district judge, regarding two California ballot initiatives—Proposition 187 to limit public assistance to illegal immigrants, and Proposition 209 to end racial and gender preferences in California. Legitimate questions were raised concerning whether his comments were consistent with the Judicial Canon governing judges' extra-judicial activities. There was genuine concern about these remarks on matters that would likely be the subject of litigation. Many of my colleagues viewed this as evidence of his inability to render fair decisions on these issues.

A second area of concern regarding Judge Paez involved what some saw as his activist views of the judiciary. Judge Paez had stated, "I appreciate the need for courts to act when they must when the issue has been generated as a result of the failure of the political process to resolve a certain political question. There is no choice but for the courts to resolve a question that perhaps ideally and preferably should be resolved through the legislative process." Now, this statement did raise concerns that Judge Paez would use his position to legislate from the bench.

A third issue regarding Judge Paez was his rulings in certain cases. In particular, there was legitimate concern over the judge's role in two cases related to illegal fundraising during the 1996 presidential campaign—those of John Huang and Maria Hsia. You may recall Ms. Hsia was associated with fundraising and money laundering through Buddhist nuns, while Mr. Huang was associated with illegal campaign fundraising, mostly from foreign sources. Judge Paez was assigned to both of these cases.

In the case of John Huang, Judge Paez accepted a very lenient plea agreement. Mr. Huang pled guilty to a felony charge of conspiracy to violate Federal election law and was sentenced to no jail time. He was ordered to pay a $10,000 fine and was required to serve 500 hours of community service.

Many of my colleagues found it suspicious that Judge Paez would be assigned to both of these cases. There was criticism about the handling of these cases. At a minimum, there was concern about the propriety of his involvement in these cases, which pointed back to the Clinton-Gore campaign.

Despite all the concerns regarding the involvement of Judge Paez in these cases, my own view was there was no reasonable basis to further delay the vote on Judge Paez. I was vigorous in my call for an independent prosecutor to investigate all alleged illegalities in the 1996 campaign. However, I also did not believe Judge Paez was implicated and I pressed forward with his nomination. I am asking the same treatment for Miguel Estrada—give him a vote.

There were also questions over Judge Paez's ruling on a Los Angeles city ordinance prohibiting aggressive panhandling at specified public places and passed in response to the death of a young man who refused to give a panhandler 25 cents. Judge Paez found the ordinance unconstitutional under the California constitution because the law constituted "content-based discrimination." The Supreme Court of California, asked by the Ninth Circuit Court of Appeals to rule on the holding, held that the Los Angeles ordinance was constitutional and valid.

Another troubling case was a decision issued by Judge Paez in 1997, John Doe I v. Unocal, in which he ruled that American companies can be held liable for human rights abuses committed by foreign governments or overseas companies owned by the foreign governments with which they do business. These cases, and others, persuaded many of my colleagues that Judge Paez was well out of the mainstream.

With regard to Judge Berzon, I voted for her confirmation, finding her to have the intellect, integrity, and impartiality to serve as a Federal judge.

Those opposed to Judge Berzon pointed out that her entire legal experience was in one narrow field—labor law. Her opponents also pointed out that she had been very vocal in the expression of her political views, with membership and leadership in several organizations that many considered activist.

The fact remains that, regardless of the opposition and careful scrutiny of these nominees, both Judge Berzon and Judge Paez each were given an up or down vote. In the case of Judge Paez, he was confirmed by a vote of 59–39. Judge Berzon was confirmed by a vote of 64–34. Miguel Estrada deserves the same courtesy. If Senators are opposed, let them vote no. But to refuse a vote is unfair to the nominee, harmful to the Senate, and destructive to the notion of an independent judiciary.

Mr. LEAHY. Mr. President, this is not a day, in my view, when the Senate majority should be pressing forward on this divisive matter. Nor has anything changed since last Thursday or since March 6 when the Republican majority scheduled two earlier cloture votes on this nomination. The administration's obstinacy continues to impede progress to resolve this standoff. The administration remains intent on packing the federal circuit courts and on insisting that the Senate rubber stamp its nominees without fulfilling the Senate's constitutional advise and consent role in this most important process. The White House could have long ago helped solve the impasse on the Estrada nomination by honoring the Senate's role in the appointment process and providing the Senate with access to Mr. Estrada's legal work. Past administrations have provided such legal memoranda in connection with the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott and Ben Civiletti, and even this Administration did so with a nominee to the Environmental Protection Agency.

We have the statement of Attorney General Robert H. Jackson, who later became one of our finest Supreme Court Justices, when he wrote an Attorney General Opinion in 1941 acknowledging that among the occasions when exceptions should be made and executive Department files would be produced to the Congress would be confirmations. As Attorney General Jackson noted:

> Of course, where the public interest has seemed to justify it, information as to particular situations has been supplied to congressional committees by me and by former Attorneys General. For example, I have taken the position that committees called upon to pass on the confirmation of persons recommended for appointment by the Attorney General would be afforded confidential access to any information that we have—because no candidate's name is submitted without his knowledge and the Department does not intend to submit the name of any person whose entire history will not stand light.

Senator DURBIN noted last week that the administration has poorly served this nominee and given Mr. Estrada very bad advice. I agree.

The Bush administration claimed that no administration had ever provided materials like Mr. Estrada's work papers in connection with a nomination. We have now demonstrated over and over that precedents exist going back over the last 20 years.

Today, I would like to mention additional examples of similar materials that were provided to Congress. On February 1, 1982, the Senate Finance Committee held a hearing to consider legislation to deny Federal tax-exempt status to private schools practicing racial discrimination, after the Reagan administration decided to reverse a long-standing policy and grant exemptions to segregationist schools. A number of Justice Department memoranda, as well as communications between high-level officials, were turned over by the Reagan administration to the Senate Finance Committee in connection with the hearing, just months after the documents were first written.

The issues at that hearing reveal that some of the documents turned over were much more sensitive than those requested of Mr. Estrada, but they were still provided to Congress by the Reagan administration. After a long and intense debate in the Reagan Justice Department and among high-level Justice and Treasury Department officials and White House counsel, on January 8, 1982, the Reagan Justice Department announced that it would discontinue the IRS's long-standing policy of denying tax-exempt status to racially discriminatory private schools. The Justice Department also changed its position in the Bob Jones case before the Supreme Court, abandoning its defense of the policy that prohibited tax exemptions for discriminatory schools. One of President Bush's current circuit court nominees, Carolyn Kuhl, was an aide to Attorney General William French Smith at the time and participated in urging reversal of the policy.

After the Justice Department decision was announced, more than 200 lawyers and others in the Justice Department's civil rights division sent a letter to William Bradford Reynolds, who then headed the civil rights division, expressing "serious concerns" about the Reagan administration's decision that racially discriminatory private schools are entitled to tax exemptions. And they questioned the division's commitment to vigorously enforce the Nation's civil rights laws.

In response to such protests, President Reagan proposed legislation to make it illegal to grant tax exemptions to schools that discriminate on racial grounds. The Senate Committee on Finance, and the House Committee on Ways and Means, scheduled public hearings on the Federal Government's policy regarding the effect of racial discrimination on the tax-exempt status of private schools.

The Senate Finance Committee held its hearing on February 1, 1982. In connection with this hearing, the committee requested high-level Justice Department memoranda, correspondence, deliberations, and other documents related to the reversal of the administration's position. The documents turned over to the Senate Finance Committee included:

Letters from Representative TRENT LOTT to Secretary Regan, IRS Commissioner Egger, and Solicitor General Lee, urging change in the administration's position on Bob Jones;

memorandum from Associate Deputy Attorney General Bruce Fein to Deputy Attorney General Edward Schmults, advising Schmults on private schools;

memorandum from Carolyn Kuhl, Special Assistant to the Attorney General, to Ken Starr, noting Reagan/Bush campaign statements on private schools;

memorandum from Peter Wallison, Treasury General Counsel, to Secretary Regan briefing him on meeting with Representative LOTT;

memorandum from Treasury General Counsel Wallison to Deputy Secretary McNamar and Secretary Regan on Government's position in Bob Jones case;

memorandum from Civil Rights Division Head, William Bradford Reynolds, to Attorney General Smith justifying changes in Administration's position on Bob Jones;

memorandum from Treasury Assistant Secretary for Public Affairs, Ann McLaughlin, to Deputy Secretary McNamar on "press strategy" for releasing Bob Jones decision;

memorandum from IRS Chief Counsel Gideon to Treasury Deputy General Counsel Government's statement in Bob Jones;

letter from IRS Chief Counsel Gideon to Civil Rights Division Head Reynolds on formulation of Government's statement in Bob Jones; and

memorandum from Assistant Attorney General Theodore Olson from the Office of Legal Counsel to Attorney General Smith and Deputy Attorney General Schmults responding to the analysis in Reynolds' memo on Bob Jones.

Clearly, in 1982, the Republican administration at that time released to the Senate documents that included internal memoranda among high-level Justice Department officials, interagency communications, and documents relating to the government's position in an important Supreme Court case. They also included letters to the Solicitor General.

Moreover, the Reagan administration turned over these documents within months after being written, and no harm was done to the workings of the Justice Department or the administration. The Bush administration is claiming that it is unprecedented; to turn over such documents—and that the release of documents written by Mr. Estrada 6 to 10 years earlier would irreparably harm the government. I urge the administration and Republican Senators to consider this additional precedent. Certainly legislation is different from a nomination. While both are matters for the Senate, legislation is different in that it can be amended or revised. A nomination is a lifetime appointment.

In 2001, this White House agreed to give access to memoranda written by Jeffrey Holmstead, nominated to be an Assistant Administrator of the Environmental Protection Agency. The Senate Committee on Environment and Public Works requested memoranda from Holmstead's years of service in the White House counsel's office under former President Bush. In particular, the committee was interested in materials related to Holmstead's handling of an amendment to the Clean Air Act and other environmental issues. In the summer of 2001, the Bush administration resolved an impasse with the committee over the nomination by permitting committee staffers to review memoranda that Holmstead wrote while in the White House counsel's office. In sum, the administration allowed access to documents from the White House counsel's office—a more sensitive post than the one Mr. Estrada held when he was in the Department of Justice.

In another situation, in 2001, this White House allowed Senator LIEBERMAN and the Senate Government Affairs Committee access to documents regarding environmental rulemaking, although I would note that such access was allowed only after Senator LIEBERMAN threatened to subpoena the information. Faced with this threat, the Bush Administration worked to reach an accommodation, and allowed access to documents, including documents that the administration characterized as "high-level deliberative documents," as part of an oversight investigation of the Bush administration's regulatory rollbacks.

So, despite this administration's continued insistence on confidentiality, it has turned over, allowed access or worked to reach an accommodation on access to documents similar to those requested in connection with the Estrada nomination in other cases and for other committees. And, again, in the instance of the Estrada nomination, the matter before the Senate concerns a lifetime appointment to the second-highest court in the land.

Last Thursday, the former Republican leader accepted "part of the blame" for how the Senate has come to consider judicial nominations. I appreciate that because it is one of the few times a Republican Senator has accepted responsibility for what happened during the years in which the Republican majority in the Senate blocked and delayed so many of President Clinton's judicial nominees. The Senator from Mississippi also acknowledged that "you filibuster a lot of different ways." I thank the Senator from Mississippi for trying to be constructive and for suggesting that "something can be worked out" on the request for Mr. Estrada's work papers from the Department of Justice.

In yesterday's edition of The Weekly Standard, a report suggests that other Senate Republicans, "several veteran GOP Senate staffers" and "a top GOP leadership aide" asked the White House to show some flexibility and to share the legal memoranda with the Senate to resolve this matter, but they were rebuffed. It is regrettable that the White House will not listen to reason from Senate Democrats or Senate Republicans. If they had, there would be no need for this cloture vote. The White House is less interested in making progress on the Estrada nomination than in trying to score political points and to divide the Hispanic community.

The real "double standard" here is that the President selected Mr. Estrada based in large part on his work for 4½ years in the Solicitor General's Office as well as for his ideological views, but the administration says that the Senate may not examine his written work from the office that would shed the most light on his views. The White House says that the Senate should not consider the very ideology the White House took into account in selecting a 41-year-old for a lifetime seat on the country's second-highest court. Another double standard at work here is that this is a nominee who is well known for having very passionate views about judicial decisions and legal policy and is well known for being outspoken, and yet he has refused to share his views with the very people charged with evaluating his nomination.

It seems to be a perversion of the constitutional process to require the Senate to stumble in the dark about his views, when he shares his views quite freely with others and when this Administration has selected him for the privilege of this high office, and for life, based on those views.

One of the most disconcerting aspects of the manner in which the Senate is approaching these divisive judicial nominations is what appears to be the Republican majority's willingness to sacrifice the constitutional authority of the Senate as a check on the power of the President in the area of lifetime appointments to our federal courts. It should concern all of us and the American people that the Republican majority's efforts to re-write Senate history in order to rubber stamp this White House's Federal judicial nominees will cause long-term damage to this institution, to our courts, to our constitutional form of government, to the rights and protections of the American people and to generations to come.

The White House is using ideology to select its judicial nominees but is trying to prevent the Senate from knowing the ideology of these nominees when it evaluates them. It was not so long ago when then-Senator Ashcroft was chairing a series of Judiciary Committee hearings at which Edwin Meese III testified:

> I think that very extensive investigations of each nominee—and I don't worry about the delay that this might cause because, remember, those judges are going to be on the bench for their professional lifetime, so they have got plenty of time ahead once they are confirmed, and there is very little opportunity to pull them out of those benches once they have been confirmed—I think a careful investigation of the background of each judge, including their writings, if they have previously been judges or in public positions, the actions that they have taken, the decisions that they have written, so that we can to the extent possible eliminate people eliminate persons who would turn out to be activist judges from being confirmed.

Timothy E. Flanigan, an official from the administration of the President's father, and who more recently served as Deputy White House Counsel, helping the current President select his judicial nominees, testified strongly in favor of "the need for the Judiciary Committee and the full Senate to be extraordinarily diligent in examining the judicial philosophy of potential nominees." He continued:

> In evaluating judicial nominees, the Senate has often been stymied by its inability to obtain evidence of a nominee's judicial philosophy. In the absence of such evidence, the Senate has often confirmed a nominee on the theory that it could find no fault with the nominee. I would reverse the presumption and place the burden squarely on the shoulders of the judicial nominee to prove that he or she has a well-thought-out judicial philosophy, one that recognizes the limited role for Federal judges. Such a burden is appropriately borne by one seeking life tenure to wield the awesome judicial power of the United States.

Now that the occupant of the White House no longer is a popularly elected Democrat but a Republican, these principles seem no longer to have any support within the White House or the Senate Republican majority. Fortunately, our constitutional principles and our Senate traditions, practices and governing rules do not change with the political party that occupies the White House or with a shift in majority in the Senate.

The White House, in conjunction with the new Republican majority in the Senate, is purposeful in choosing these battles over judicial nominations. Dividing rather than uniting has become their modus operandi. The decision by the Republican Senate majority to focus on controversial nominations says much about their mistaken priorities. The Republican majority sets the agenda and they schedule the debate, just as they have again here today.

I have served in the Senate for 29 years, and until recently I have never seen such stridency on the part of an administration or such willingness on the part of a Senate majority to cast aside tradition and upset the balances embedded in our Constitution, in order to expand presidential power. What I find unprecedented are the excesses that the Republican majority and this White House are willing to indulge to override the constitutional division of power over appointments and longstanding Senate practices and history. It strikes me that some Republicans seem to think that they are writing on a blank slate and that they have been given a blank check to pack the courts.

They show a disturbing penchant for reading the Constitution to suit their purposes of the moment rather than as it has functioned for more than 200 years to protect all Americans through its checks and balances.

The Democratic leader pointed the way out of this impasse again in his letter to the President on February 11. It is regrettable that the President did not respond to that reasonable effort to resolve this matter. Indeed, the letter he sent last week to Senator FRIST was not a response to Senator DASCHLE's reasonable and realistic approach, but a further effort to minimize the Senate's role in this process by proposing radical changes in Senate rules and practices to the great benefit of this administration.

A distinguished senior Republican Senator saw the reasonableness of the suggestions that the Democratic leader and assistant leader have consistently made during this debate when he agreed on February 14 that they pointed the way out of the impasse. Regrettably, his efforts and judgment were also rejected by the administration.

The Supreme Court, in an opinion authored last year by none other than Justice Scalia, one of this President's judicial role models, instructs that judicial ethics do not prevent candidates for judicial office or judicial nominees from sharing their judicial philosophy and views.

With respect to "precedent," Republicans not only joined in the filibuster of the nomination of Abe Fortas to be Chief Justice of the United States Supreme Court, they joined in the filibuster of Stephen Breyer to the First Circuit, Judge Rosemary Barkett to the Eleventh Circuit, Judge H. Lee Sarokin to the Third Circuit, and Judge Richard Paez and Judge Marsha Berzon to the Ninth Circuit. The truth is that filibusters on nominations and legislative matters and extended debate on judicial nominations, including circuit court nominations, have become more and more common through Republicans' own actions.

Of course, when they are in the majority Republicans have more successfully defeated nominees by refusing to proceed on them and have not publicly explained their actions, preferring to act in secret under the cloak of anonymity. From 1995 through 2001, when Republicans previously controlled the Senate majority, Republican efforts to defeat President Clinton's judicial nominees most often took place through inaction and anonymous holds for which no Republican Senator could be held accountable. In effect, these were anonymous filibusters.

Republicans held up almost 80 judicial nominees who were not acted upon during the Congress in which President Clinton first nominated them, and they eventually defeated more than 50 judicial nominees without a recorded Senate vote of any kind, just by refusing to proceed with hearings and committee votes.

Beyond judicial nominees, Republicans also filibustered the nomination of executive branch nominees. They successfully filibustered the nomination of Dr. Henry Foster to become Surgeon General of the United States in spite of two cloture votes in 1995. Dr. David Satcher's subsequent nomination to be Surgeon General also required cloture but he was successfully confirmed.

Other executive branch nominees who were filibustered by Republicans include Walter Dellinger's nomination to be Assistant Attorney General, and two cloture motions were required to be filed and both were rejected by Republicans. In this case we were able finally to obtain a confirmation vote after elaborate effort, and Mr. Dellinger was confirmed to that position with 34 votes against him. He was never confirmed to his position as Solicitor General because Republicans had made clear their opposition to him. In addition, in 1993, Republicans objected to a number of State Department nominations and even the nomination of Janet Napolitano to serve as the U.S. Attorney for Arizona, resulting in cloture motions.

In 1994, Republicans successfully filibustered the nomination of Sam Brown to be an Ambassador. After three cloture motions were filed, his nomination was returned to President Clinton without Senate action. Also in 1994, two cloture petitions were required to get a vote on the nomination of Derek Shearer to be an Ambassador. And it likewise took two cloture motions to get a vote on the nomination of Ricki Tigert to chair the FDIC. So when Republican Senators now talk about the Senate Executive Calendar and Presidential nominees, they must be reminded that they recently filibustered many, many qualified nominees.

Nonetheless, in spite of all the intransigence of the White House and all of the doublespeak by some of our colleagues on the other side of the aisle, I can report that the Senate has moved forward to confirm 111 of President Bush's judicial nominations since July 2001. That total includes 11 judges confirmed so far this year, and of those, seven were confirmed last week. The Senate last Thursday moved forward on the controversial nomination of Jay S. Bybee to the United States Court of Appeals for the Ninth Circuit.

Those observing these matters might contrast this progress with the start of the last Congress in which the Republican majority in the Senate was delaying consideration of President Clinton's judicial nominees. In 1999, the first hearing on a judicial nominee was not until mid-June. The Senate did not reach 11 confirmations until the end of July of that year. Accordingly, the facts show that Democratic Senators are being extraordinarily cooperative with a Senate majority and a White House that refuses to cooperate with us. We have made progress in spite of that lack of comity and cooperation.

We worked hard to reduce Federal judicial vacancies to under 55, which includes the 20 judgeships the Democratic-led Senate authorized in the 21st Century Department of Justice Appropriations Authorization Act last year. That is an extremely low vacancy number based on recent history and well below the 67 vacancies that Senator HATCH termed "full employment" on the Federal bench during the Clinton Administration.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so that we could proceed to an up-or-down vote. Some on the Republican side seem to prefer political game playing, seeking to pack our courts with ideologues and leveling baseless charges of bigotry, rather than to work with us to resolve the impasse over this nomination by providing information and proceeding to a fair vote.

I was disappointed that Senator BENNETT's straightforward colloquy with Senator REID and me on February 14, which pointed to a solution, was never allowed by hard-liners on the other side to yield results. I am disappointed that all my efforts and those of Senator DASCHLE and Senator REID have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter reasonably and fairly. Republicans would apparently rather engage in politics.

I urge the White House and Senate Republicans to end the political warfare and join with us in good faith to make sure the information that is needed to review this nomination is provided so that the Senate may conclude its consideration of this nomination. I urge the White House, as I have for more than 2 years, to work with us and, quoting from a recent column by Thomas Mann of The Brookings Institute, to submit "a more balanced ticket of judicial nominees and engag[e] in genuine negotiations and compromise with both parties in Congress."

The President promised to be a uniter not a divider, but he has continued to send us judicial nominees that divide our nation and, in this case, he has even managed to divide Hispanics across the country. The nomination and confirmation process begins with the President, and I urge him to work with us to find a way forward to unite the Nation on these issues, instead of to divide the Nation.

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit:

Bill Frist, Orrin Hatch, Robert F. Bennett, James Inhofe, John Ensign, Sam Brownback, Michael B. Enzi, Wayne Allard, Mike Crapo, Susan Collins, Pete Domenici, Conrad Burns, Kay Bailey Hutchison, John E. Sununu, Norm Coleman, Charles Grassley.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the nomination of Miguel A. Estrada, of Virginia, to be the United States Circuit Judge for the District of Columbia Circuit shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 56 Ex.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LEGISLATIVE SESSION

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## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume consideration of S. Con. Res. 23.

The Senator from Oklahoma.

Mr. NICKLES. How much time remains on the Conrad amendment?

The PRESIDING OFFICER. The majority has 51 minutes and the minority has 19 minutes.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, we are now on the Conrad amendment. The majority leader wishes to speak. I ask unanimous consent the time for that statement be charged against the majority side on the budget resolution. Following the statement, the Senate will recess. That recess will be charged to the amendment. When the amendment time runs out, it will be charged to the majority side on the budget resolution.

Mr. REID. Reserving the right to object, it is my understanding Senator CONRAD has 19 minutes remaining on the amendment.

The PRESIDING OFFICER. Correct.

Mr. CONRAD. Reserving the right to object, I want to understand just what transpired before we go forward.

Mr. REID. If I could state what is going to happen, after the majority leader makes his statement, we will go into a quorum call and the time will be charged against the amendment, which would mean you would lose 19 minutes and they would lose whatever additional time they had, which would be an hour and 50 or 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### IRAQ

Mr. FRIST. Mr. President, last night the President addressed the Nation on the approaching consequences of 12 years of deceit and brutality by the regime of Saddam Hussein. The stark choice presented to Saddam's regime is fully justified: leave or be removed.

Saddam has failed to disarm. He has violated 17 U.N. resolutions, attacked his neighbors, threatened regional stability and sought and used weapons of mass destruction. He has assaulted his own people and ruled them by terror. This 12-year saga of deceit and denial now enters its final chapter.

For those who suffer daily terror under the oppression of Saddam's regime, for those who have survived torture and imprisonment, for those who watched as family members suffered and died in the agony of chemical weapons attacks, their moment of liberation is near. For those who will defend this dying regime, the moment of reckoning is imminent.

The President has shown great patience and given diplomacy every chance to work, but as he stated last night the time to act has arrived.

In recent days we have heard intemperate and ill-chosen words of criticism directed at the President from some elected to serve in this great body. Such statements are, simply put, disappointing.

We have reached this moment of possible conflict with Iraq, not by our choosing but by Saddam Hussein's. We do not prepare for war because we want to. We do so because we must. The failure of diplomacy to deter Saddam Hussein does not date back to the past 4½ months or to the beginning of this President's term.

The failure of diplomacy traces back through 12 years of defiance by Saddam Hussein, 12 years of deceit by his regime, 12 years of slowly eroding international resolve even among our allies while all the time the threat to this country has grown closer and closer and closer.

Since that dark day in September of 2001, many in this great Nation have lived with the fear of the grave and growing threat of terrorism. Instinctively, the American people understand that we cannot permit a ruthless dictator, aggressor and supporter of terror such as Saddam Hussein to pursue and possess the world's most deadly weapons. This is a threat that must be addressed, now.

Last night, in committing to meet this threat, the President stated what we have all come to expect and to respect, in him. He said:

> That duty falls to me as commander in chief by the oath I have sworn, by the oath I will keep.

The President has committed the Nation to action. We will not wait while the threat gathers with a destructive force that is incomprehensible. We will live in freedom of fear.

I thank the Lord that at this moment of testing, this great Nation is led by this great leader.

It has been suggested by some here on the Senate floor that the President acts without justification, without a legal basis, and without the consent of Congress. This is flat out wrong.

Mr. President, each and every Senator is entitled to their own opinion, but they are not entitled to their own facts.

On August 2, 1990, Iraq—without provocation—invaded and occupied the territory of Kuwait. Through 5½ months of diplomacy, Iraq ignored demands that it withdraw from Kuwait. And on January 16, 1991, a U.S.-led coalition of nations launched Operation Desert Storm. After the liberation of Kuwait, former President George Bush announced a cease-fire, unilaterally halting offensive military operations on February 28, 1991.

On March 3, 1991, General Norman Schwarzkopf and the commander of Iraqi forces concluded a cease-fire agreement, temporarily suspending gulf war hostilities. The cease-fire agreement obligated Iraq to accept unconditionally the voluntary destruction, removal, and rendering harmless—under international supervision—of all nuclear, chemical, and biological weapons, and all stocks of agents, and all related subsystems and components, and all research, development, support, and manufacturing facilities.

The cease-fire agreement was ratified and approved on April 3, 1991, by the U.N. Security Council in Resolution 687. That resolution, which is still in force, reaffirms all 13 of the Security Council's earlier resolutions on Iraq's invasion of Kuwait.

In a letter delivered to the Security Council on April 6, 1991, Saddam Hussein's regime formally accepted the terms of the cease-fire without conditions. Nevertheless, Saddam Hussein has consistently and repeatedly refused to abide by his obligations to disarm under international supervision as required in the 1991 gulf war cease-fire and succeeding United Nations resolutions, and has attacked U.S. and British aircraft lawfully enforcing these obligations almost continuously since 1991.

On November 8, 2002, the United Nations Security Council unanimously adopted Resolution 1441. This resolution gave Saddam Hussein's regime "a final opportunity to comply with its disarmament obligations," which preserved and cited the authorities to act contained in Resolution 687, and placed the burden of proving compliance squarely on the Iraqi dictator.

In the intervening 12 years, Saddam Hussein has blatantly and cynically persisted in his illegal refusal to comply with his obligations under the 1991 cease-fire agreement that suspended hostilities in the gulf war, and with Resolution 1441.

Mr. President, international obligations such as those which Saddam Hussein has ignored for more than a decade are meaningless unless they are backed by an unflinching resolve and international commitment to enforce them.

Given Saddam Hussein's weapons of mass destruction programs, his demonstrated willingness to use these weapons, and possible intersections between his regime, al-Qaida, and other international terrorist organizations, the absence of such resolve could have devastating consequences for world peace in general and to the United States in particular.

If it is necessary to act, if Saddam fails to heed the ultimatum, any subsequent military action against Saddam Hussein's regime will be lawful and fully authorized, pursuant to a series of resolutions passed by the Congress, pursuant to the President's Commander in Chief authority under the Constitution, pursuant to the venerable international legal principle confirming the inherent right of a state to defend itself, pursuant to Article 51 of the United Nations Charter, and pursuant to a long series of United Nations Security Council resolutions.

In the event of hostilities, the U.S. service men and women on the front lines will have this Congress' full support and the backing of the American people. We will do what it takes to give them the resources they need to complete their mission. Our thoughts and our prayers are with them, and with their families and loved ones here at home.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. WARNER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I commend our distinguished majority leader for his very heartfelt remarks. We were together last night at the meeting with the President. It was a somber meeting. But, clearly, the President is a man at peace with himself and has inner confidence. He has carefully gone about the decisionmaking to arrive at the decision he made last night and such decisions as he may make here in the ensuing hours and days to come.

But most especially, in the minds of all of us last night were the men and women of the Armed Forces and their families. The distinguished leader has spoken most eloquently about them. Because, in the end, together with a large group of civilians who are employed in the various agencies and Departments of our Government, they must bear the risk, the brunt of such force as may be used against them. So I am privileged to stand here with my distinguished leader today.

I, too, am concerned about the remarks of some of our colleagues. I found some of those remarks to be, in my judgment, a disbelief. I could not believe they were said. But bottom line, this morning, in the Armed Services Committee, in a formal meeting of the committee, I invited each Senator present, on both sides of the aisle, to address opening statements on the events of the last 24, 48 hours. I say to my distinguished leader and to my colleagues, I felt their responses were very responsible and, indeed, showing support for the men and women in the Armed Forces and the Commander in Chief, who must make those decisions to lead them.

I yield the floor.

## RECESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now recess until 2:15 p.m. for the weekly party meetings, provided that recess time be charged as under the previous order.

There being no objection, the Senate, at 12:58 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2004—Continued

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I yield the Senator from Utah 20 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that the time I use be charged against the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MEDICAL LITIGATION CRISIS

Mr. HATCH. Mr. President, today I rise to speak about the medical liability and litigation crisis in our country.

This is a crisis that is preventing patients from accessing high-quality health care—or, in some cases, any care at all—because doctors are being driven out of practice. It is a crisis that is needlessly increasing the cost of health care for every American.

This is not the first time we have addressed this issue. As many of you will recall, we debated, and passed, medical litigation relief in the Commonsense Product Liability and Legal Reform Act back in 1995. Unfortunately, the language we passed was stripped from that bill in conference.

I am sorely disappointed that—in the ensuing eight years—we have not addressed this problem. As a result, the situation has become worse, not better; the problem has expanded, not shrunk. We must act now if we are to fix the crisis in health care delivery this has caused in many parts of our country.

I was pleased last summer when President Bush announced his desire to address this issue. I am even more pleased that the President has continued to emphasize the importance of the problem and the need for reform in speeches around the country, and in his State of the Union Address. We in the Senate welcome the President's support in this effort.

Make no mistake. We have a health care crisis in this country, one that is due in large part to litigation that is out of control. But not all Americans may be aware of just how serious are the ramifications of this crisis.

This map, with data supplied by the American Medical Association, shows the states that currently are experiencing a medical liability crisis and those that are showing signs of developing a crisis. The 18 red states are in crisis. The 27 yellow states are showing problem signs. Only five states are currently "ok". On a map with last year's data, only 12 states were in crisis. The problem is growing and it reaches from coast to coast.

I ask unanimous consent to have printed in the RECORD a July 18, 2002, Associated Press article, "Soaring Malpractice Insurance Squeezes out Doctors, Clinics," that highlights some of the problems faced by patients and doctors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Associated Press, July 18, 2002]

### SOARING MALPRACTICE INSURANCE SQUEEZES OUT DOCTORS, CLINICS

(By Theresa Agovino)

The shock from Jim Lawson's July 4 death in a Nevada auto accident was felt well beyond his family and friends.

The two-car crash on a busy street leading to Las Vegas airport came just one day after the nearest trauma clinic, at the University Medical Center, closed down. The 58 orthopedic surgeons who rotate through the hospital had insisted on relief from the soaring cost of medical malpractice insurance.

No one can be sure his death, confirmed at an emergency room an hour away, could have been avoided. Trauma centers generally offer more effective attention for accident victims.

But it prompted a quick July 13 reopening of the university center. Some 10 to 15 of the doctors agreed to become temporary employees of the county hospital, limiting their liability to $50,000, while the governor tries to enact legislation that would restrict medical malpractice awards.

On a much broader level, it brought new attention to a national problem that doctors say is obliging many of them to flee certain states or give up certain specialties—or the entire profession—because of skyrocketing insurance premiums linked to soaring jury awards.

The impact of the trauma center's closure in Las Vegas was summed up by its director, Dr. John Fildes: "The standard of care in our community was set back 25 years."

The number of communities suffering similar problems is mushrooming.

This summer, two Pennsylvania hospitals, one Arizona hospital and a clinic in Oregon closed their obstetrics units.

Several counties in upstate New York have no obstetricians covering night shifts.

Soon, two counties in Pennsylvania won't have a neurosurgeon. Seven hospitals on the Mississippi coast share 3 neurosurgeons, one of whom, Terry Smith in Biloxi, is likely to leave next month because he can't find insurance.

Thirteen insurance companies have refused to cover Dr. Smith, who currently pays $65,000 in annual premiums. One company may agree to cover him, but it is likely to cost $100,000, an amount he says he can't afford.

Smith said he often puts in seven-day weeks now to meet the community's needs.

"This is an area with lots of poor and minority people, so you as a doctor feel you're doing something important," Smith said. "I feel guilty about leaving but I just don't have a choice.

"The two guys I'm leaving behind are friends of mine and they'll be working even harder," he said.

Mississippi is one of 12 states where rising premiums, tied to awards by state juries in malpractice cases, are creating a crisis, according to the American Medical Association. The others are New York, Nevada, Florida, Ohio, Texas, Georgia, Pennsylvania, New Jersey, Washington, Oregon and West Virginia.

Because of risks associated with certain medical conditions and forms of treatment, some specialties pay especially high rates, and those rates are compounded by being charged in states where laws place fewer limits on jury awards.

For example, while premium increases this year average about 15 percent nationwide for all practices, rates for obstetricians and gynecologists in Pennsylvania are set to balloon by anywhere from 40 percent to even 81 percent, according to Medical Liability Monitor, a trade publication. In West Virginia, they are catapulting anywhere from 29 percent to 36 percent.

The average jury award for medical malpractice doubled to $1 million in the six years ending in 2000, according to Jury Verdict Research, a private database used by lawyers, insurers and doctors. Lawyers who handle malpractice cases are critical of the database, pointing out that it is not comprehensive and contending that its findings are inflated.

In any event, verdicts of more than $1 million are common in states like Mississippi and Nevada. in the first six months of this year, there were five jury awards in in Mississippi and the average verdict was $5.6 million, according to the state's medical association.

"I think juries are just frustrated with managed care and health care in general, so they take it out on doctors," said Dr. Michael Daubs, an orthopedic surgeon who said he may leave Las Vegas if his rates keep rising.

He says he has never been sued but his insurance jumped $20,000 to $60,000 a year. He has applied for medical licenses in three other states.

Some insurance companies are leaving the medical liability business. St. Paul Cos. the second largest provider of medical malpractice insurance, announced last December it would stop writing policies, leaving 42,000 doctors searching for coverage. St. Paul said it lost close to $1 billion on its medical malpractice line last year.

Smaller insurers are also cutting back or leaving the business. Pennsylvania's second-largest medical malpractice insurer, Phico Insurance Co., failed earlier this year and was liquidated by the state.

Legislation has been introduced in Congress that would limit the pain and suffering portion of malpractice awards to $250,000. The bill, intended to override state laws, would also curtail lawyers' fees and allow juries to hear about the plaintiffs' other sources of income.

"We absolutely need tort reform," said Dr. Donald Palmisano, president elect of the AMA. "The situation has spiraled out of control.

The AMA lists six states as having their malpractice situations under control: California, Colorado, New Mexico, Wisconsin, Indiana and Louisiana. In Wisconsin, where there is a limit on awards, St. Paul did not suffer a loss.

Trial lawyers are opposed to the caps. They cite surveys showing juries rule in favor of doctors in two thirds of all malpractice lawsuits. They say doctors and hospitals should focus on reducing mistakes, not jury awards.

"If you run over someone over by accident, no one is putting a cap on what you will have to pay them. Why do we want to elevate one group in society above another?" said Leo Boyle, president of the Association of Trial Lawyers of America.

Boyle blames insurance companies for keeping rates artificially low in the 1990s to win business as they expanded wildly, a practice made possible by blooming returns in the stock market. "Insurance companies were reckless in their pricing and now patients are supposed to pay for it?" he said.

Joseph Roethel, who follows the medical insurance industry as assistant vice president at A.M. Best Co., an insurance rating agency, parcels out the blame equally: Insurance companies kept rates too low in the 1990s and jury awards have gone too high.

Now, he said, "Insurance companies don't have the reserves for these types of jury awards."

Some doctors are resorting to working without insurance, using a credit line or their own money to cover malpractice expenses. The practice isn't common but is done, especially in Florida. Most hospitals won't allow that practice.

Two hospitals in West Virginia have begun directly employing more doctors and paying their insurance to alleviate the doctor shortage. Many hospitals consider such an option too expensive.

At Bluefield Regional Medical Center in West Virginia, doctors are more careful now in delivering medicine, according to hospital president Eugene Palowski. But they are also much less willing to care for high-risk patients with multiple conditions, leaving them to find physicians in surrounding states.

Many patients are confused, or just plain angry.

Marine Hawkins, 20, of Boyle, Miss., was shocked to hear from her obstetrician that he was closing his practice—just two weeks before her due date of July 21.

The nearest doctor is 30 minutes away. She doesn't have a car, and will have to rely on relatives to get there.

"This isn't what I needed now," she said.

Mr. HATCH. The article points to the "national problem that doctors say is obliging many of them to flee certain states or give up certain specialties—or the entire profession—because of skyrocketing insurance premiums linked to soaring jury awards."

The article notes,. as I am sure my colleagues from Nevada are acutely aware, that the University Medical Center trauma clinic in Las Vegas—the only Level one trauma center in Nevada—closed on July 3 last year.

The 58 doctors who were associated with the trauma center had requested, but had not received, much-needed relief from soaring medical liability insurance costs.

Let me give you just one example of the havoc this wreaked. On the 4th of

July, the day after the center closed, Jim Lawson could not access the Level one trauma care that he needed. Mr. Lawson was the victim of a serious traffic accident, and on that day, the closest Level one trauma center was more than an hour away by air!

Unfortunately, Mr. Lawson did not survive. The trauma center was hurriedly reopened on July 13, but with only 10–15 doctors working on a temporary basis, with limited liability. Commenting on the trauma center's closure, its director, Dr. John Fildes, stated, "The standard of care in our community was set back 25 years."

Mr. Lawson's family spoke at a press conference here in the Senate last week. His death was a tragedy to his family and to his community. No one knows whether Mr. Lawson could have been saved had he been treated at the nearby trauma center. But would any of us want that to happen to one of our loved ones? To be forced to bypass the nearest trauma center, and travel an hour to receive emergency care?

I certainly would not. And, the Senate should take the necessary steps to ensure that it does not happen to anyone else. But this crisis is not limited to emergency services. Ensuring the availability of adequate obstetric care is also an increasing problem.

According to the same Associated Press article, one Arizona hospital, a clinic in Oregon, and two Pennsylvania hospitals closed their obstetrics units recently. Several counties in upstate New York have no obstetricians covering night shifts.

What does that say to the expectant mother whose child comes into the world at night . . . "There's no room at the inn"?

The crisis is particularly acute in the farming and ranching communities of rural America. Mr. President, I ask unanimous consent to print in the RECORD a Washington Post article from February 3, 2003, titled "Insurance Crisis Hits Hard on Prairie; Denied Coverage, Obstetrician for 3 Wyoming Counties Ends Practice."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Feb. 3, 2003]

### INSURANCE CRISIS HITS HARD ON PRAIRIE; DENIED COVERAGE, OBSTETRICIAN FOR 3 WYOMING COUNTIES ENDS PRACTICE

(By T.R. Reid)

When the Wheatland High Bulldogs hosted arch-rival Douglas for a basketball game the other night, the gym was jammed with fans roaring support for the home team. But one prominent Wheatland citizen watched the game with mixed loyalties. Willard Woods, the local obstetrician, had delivered just about every player on both the Wheatland and Douglas teams.

As the only "baby doctor" serving a three-county swath of the khaki-brown Wyoming prairie for the past quarter-century, Woods has delivered about 2,500 infants, including almost all the high school athletes in Wheatland, Douglas, Chugwater and other rural communities. But this winter, Woods ended his obstetrical practice.

"I love delivering babies," the intense physician, 56, said. "I really love delivering the babies of women I delivered a couple decades ago. And I know this community needs an obstetrician.

"But you can't practice without [malpractice] insurance. And I can't get coverage for deliveries any more."

The national malpractice insurance crisis that President Bush spoke of in his State of the Union address last week hit home for Wheatland this winter when Woods' insurance company joined a number of national malpractice carriers in declaring bankruptcy.

That left only two firms selling malpractice insurance in Wyoming, and neither one was willing to take on a new obstetrical coverage. Woods did get insurance for his gynecological practice—a branch of medicine that spawns far fewer lawsuits than delivering babies—but the annual premium costs him $116,000, three times what he paid a year ago.

In this wheat-growing region of eastern Wyoming, where medical services are sparse and scattered—Platte County, with a population of less than 9,000, has five doctors, equal to the number of veterinarians—the impact has been acute.

Women with normal pregnancies can still have their babies delivered in the hospital; Woods's two partners, both general practitioners, share the delivery duties.

"But if you have any kind of problem, like I did," said Wheatland mother Kori Wilhelm, who has a genetic blood mutation that makes pregnancy dangerous, "you have to go to Cheyenne now—and it's a three-hour round trip—to get the specialized treatment we used to get right down the street at Dr. Woods's clinic."

Woods' problem has turned into a financial problem for Platte County Memorial Hospital, a 43-bed facility that is Wheatland's biggest building. "The economics of a rural hospital are always tight," noted hospital director Mike Matthews. "If I don't have all my physicians providing services here, I'm losing revenue. And if I have to cut back—well, this hospital is the third-biggest employer in the county."

The two family practitioners who share Woods's practice have found their lives complicated by the insurance problems. Their malpractice premiums have gone up sharply, though neither one has ever been sued. Even worse has been the impact on their daily schedules.

"We're now the only docs delivering babies in the whole area," said Steve Peasley, a Douglas native who returned to the prairie after finishing Georgetown Medical School. "So each one of us has to be on call every other day. That means you can't leave town. You can't have a beer at the barbecue. And after a full day of regular practice, you get a call from the hospital at 3 a.m. saying somebody's in labor."

Wheatland's medical problem is replicated in communities large and small across the country as more and more doctors find malpractice insurance out of reach. Some doctors in New Jersey plan to demonstrate today to protest the high cost of insurance, while doctors have already staged protests in West Virginia, Nevada and Florida. Bush's proposed solution to the growing crisis is to put a limit on the amount of damages an injured patient can win. That would reduce the number of multimillion-dollar jury verdicts, cutting the risk for doctors and their insurance companies. In Woods's view, the president has it just right.

"We love that plan," he said. "It will save medicine in Wyoming." In the neighboring state of Colorado, he notes, which has a limit on pain-and-suffering awards, malpractice premiums tend to be a fraction of the Wyoming rates.

Wyoming's state constitution prohibits any limit on damage claims against a corporation—a ban that goes back to the 1880's, when the Union Pacific Railroad was the most powerful, and most hated, institution in the state. But a federal law capping damages would presumably override the state constitution.

Still, there are doubts here about the Bush plan. "The cap on damages sounds like a simple solution, but it isn't one," said Dave Freudenthal, a lawyer and Wyoming's newly elected Democratic governor. "We just had hearings in the legislature on this issue. The insurance companies said a cap on damages would not reduce rates, and would not induce any more companies to sell [malpractice insurance] in Wyoming."

The governor said he hopes to appoint a blue-ribbon panel to study "new approaches that would work in a rural, sparsely populated state like this." Wyoming covers a land area bigger than Maryland and Virginia combined but has fewer residents, and fewer doctors, than the District.

While the study is underway, Wheatland has to get by without an obstetrician.

"I can't practice OB anymore, and nobody else will do it, either," Woods said with a grimace. "My daughter wants to be a doctor, and she asked me what kind of medicine she can do so she doesn't have to worry about insurance. And I said, 'Well, you sure don't want to deliver babies.'"

Mr. HATCH. Mr. President, the article describes the plight of the people of Platte County, WY, population 9000, where the only obstetrician has been forced to give up delivering babies because obstetrics liability insurance is unavailable.

The article states:

> As the only "baby doctor" serving a three-county swath of the . . . Wyoming prairie for the past quarter-century, (Dr.) Woods has delivered about 2,500 infants, including almost all the high school athletes in Wheatland, Douglas, Chugwater and other rural communities. But this winter, Woods ended his obstetrical practice. "I love delivering babies," the intense (56-year-old) physician said. "I really love delivering the babies of women I delivered a couple of decades ago. And I know this community needs an obstetrician. But you can't practice without (malpractice) insurance. And I can't get coverage for deliveries any more."

This is not news to the rural West. There is an increasing shortage in my home state of Utah as well. Studies by both the Utah Medical Association and the Utah Chapter of the American College of Obstetricians and Gynecologists underscore the problem in my state. According to the Utah Medical Association:

> 50.5 percent of Family Practitioners in Utah have already given up obstetrical services or never practiced obstetrics. Of the remaining 49.5 percent who still deliver babies, 32.7 percent say they plan to stop providing OB services within the next decade. Most plan to stop within the next five years.

The Utah Medical Association study also relates:

> Professional liability concerns [were] given as the chief contributing factor in the decision to discontinue obstetrical services. Such concerns include the cost of liability insurance premiums, the hassles and costs involved in defending against obstetrical lawsuits and a general fear of being sued in today's litigious environment.

Mr. President, ensuring the availability of high-quality prenatal and delivery care for pregnant women and their babies, the most vulnerable members of our society, is imperative. But these are not the only members of society who have difficulty in accessing healthcare.

According to the July 2002 Department of Health and Human Services report, "Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Cost by Fixing our Medical Liability System," the indigent are finding it increasingly difficult to access care also.

The HHS report states that "[m]any doctors cannot volunteer their services for a patient who cannot pay, and the proportion of the physicians who provide charity care at all has declined, because doctors cannot afford the required liability coverage."

The July, 2002 report and the Department's report released this month, "Addressing the New Health Care Crisis: Reforming the Medical Litigation System to Improve the Quality of Health Care," describe the economic consequences of rising insurance costs also.

While many Americans have experienced problems accessing healthcare due to excessive litigation, all Americans are paying for it. This is a national problem and one that requires a national solution.

In my letter of March 12 to Budget Committee Chairman NICKLES and ranking Democrat CONRAD, I emphasized the important implications of medical liability litigation on the Federal budget.

In that letter, I wrote:

> The Federal Government pays directly for health care for members of the armed forces, veterans, and patients served in the Indian Health Service. The Federal Government provides reimbursements for the Medicare and Medicaid programs. According to the Department of Health and Human Services March 3, 2003, report . . . the Federal Government spends $33.7 billion–$56.2 billion per year for malpractice coverage and the costs of defensive medicine. That report states, "reasonable limits on non-economic damages would reduce the amount of taxpayers' money the Federal Government spends by $28.1 billion–$50.6 billion per year."

I continued to write:

> In my view, federal legislation that would decrease costly frivolous medical liability lawsuits and limit awards for non-economic damages is necessary, not only to ensure patient access to health care, but to curb increasing Federal health care costs. Because of the substantial and important budgetary implications, particularly to the Medicare and Medicaid programs, we request that the budget resolution include language calling for medical liability legislation reform.

I am pleased to report that the budget resolution we are considering today recognizes the tremendous impact of medical liability costs. In fact, the budget resolution as reported includes $11.3 billion in savings over 10 years as a result of medical liability reform, based on CBO calculations. The Medicare program alone will save $7.9 billion, while Medicaid will save $2.9 billion. The remaining savings will occur in the Federal Employee Health Benefits Program and the Department of Defense.

Medical liability litigation directly and dramatically increases health care costs for all Americans. But, skyrocketing medical litigation costs also increase health care costs indirectly by changing the way doctors practice medicine. In an effort to avoid frivolous suits, doctors often feel compelled to perform diagnostic tests that are costly and unnecessary.

This defensive medicine is wasteful, but for doctors it has unfortunately become necessary. According to a recent Harris poll, fear of being sued has led 79 percent of doctors to order more tests than are medically needed, 74 percent to refer patients to specialists more often than necessary, 51 percent to recommend invasive procedures that they thought were unnecessary, and 41 percent to prescribe more medications, including antibiotics, that they did not think were necessary.

Defensive medicine increases health care costs, but the real risk of the current medical liability system and the resulting practice of defensive medicine is that it also puts Americans at risk. Every test and every treatment poses a risk to the patient. Every unnecessary test, procedure, and treatment potentially puts a patient in harm's way. According to the Harris poll, 76 percent of the physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

And so, that brings us to the big question: What can we do to address this crisis? The answer is plenty. There are excellent examples of what works. The March, 2003 Department of Health and Human Services report describes how reasonable reforms in some states have reduced health care costs and improved access to quality health care. According to the report, over the last two years, in states with limits of $250,000 to $350,000 on non-economic damages, premiums have increased at an average of 18 percent compared to 45 percent in States without such limits.

California enacted the Medical Injury Compensation Reform Act, also known as MICRA, over 25 years ago in 1975. MICRA slowed the rate of increase in medical liability premiums dramatically without affecting negatively the quality of health care received by the State's residents. As a result, doctors are not leaving California. Furthermore, between 1976 and 2000, premiums increased by 167 percent in California. But, believe it or not, they increased three times as much, an incredible 505 percent, in the rest of the country. Consequently, Californians were saved billions of dollars in health care costs and Federal taxpayers were saved billions of dollars in the Medicare and Medicaid programs.

The March, 2003 report goes on to state:

> A leading study estimates that reasonable limits on non-economic damages such as California has had in effect for 25 years, can reduce health care costs by 5-9 percent without "substantial effects on mortality or medical complications." With national health care expenditures currently estimated to be $1.4 trillion, if this reform were adopted nationally, it would save $70–126 billion in health care costs per year.

I would guess that no one in this body—with perhaps the exception of our colleague from Tennessee, Dr. BILL FRIST, our majority leader—is more keenly aware of the defects in this system than I. Before coming to Congress, I litigated several medical liability cases as a defense lawyer. I have seen heart-wrenching cases in which mistakes were made. But, more often, I have seen heart-wrenching cases in which mistakes were not made and doctors were forced to expend valuable time and resources defending themselves against frivolous lawsuits.

It has been estimated that 66 percent of all medical liability lawsuits brought are frivolous. They are brought by plaintiff's attorneys who seek to obtain the costs of defense, costs that approach $100,000 per case.

Let me take a moment to address the unfortunate incident that occurred recently in North Carolina. As the country is so painfully aware, Jesica Santillan, a young girl who needed a heart and lung transplant, received organs of the wrong blood type. Her death was a tragedy and our hearts go out to everyone involved.

Some are seizing on Jesica's most unfortunate death to argue that we should not proceed with medical liability reform legislation. I would argue just the opposite: Jesica's death shows the need for reform of the current system. Let me make clear that we do not know all of the facts surrounding Jesica's case. We are not the doctors, the family, the Duke personnel or their lawyers. But we do know that the current medical liability system did not prevent Jesica's death. In fact, many experts believe that the current system, by discouraging communication between doctors, nurses, and hospitals, increases the likelihood that medical errors will occur.

The recent Institute of Medicine report, "To Err is Human" described the impact of preventable medical errors in America's health care system. One of the report's main conclusions was that:

> The majority of medical errors do not result from individual recklessness or the actions of a particular group this is not a "bad apple" problem. More commonly, errors are caused by faulty systems, processes, and conditions that lead people to make mistakes or fail to prevent them.

We do not know all of the facts of Jesica's case. But, we do know that more lawsuits cannot prevent medical errors from occurring. Her death should not be used by those who oppose medical litigation reform to prevent other patients from receiving access to the care they deserve. No, Jesica's death does not indicate that medical liability reform is unnecessary. If anything, cases such as this support the need for reform.

We need reform to identify better and more efficiently when malpractice has occurred and which patients should be compensated. We need reform to identify better when malpractice has not occurred. The reform that I envision would address litigation abuses in order to provide swift and appropriate compensation for malpractice victims, redress for serious problems, and ensure that medical liability costs do not prevent patients from accessing the care they need.

Jesica's death was a tragedy. But it would be a greater tragedy if we let her death prevent other little boys and girls from receiving access to the lifesaving care they need. That is what is happening in many parts of America today. And that is what will continue to happen if we do not address this crisis in this Congress.

And so, we need to move ahead with legislation to improve patient safety and reduce medical errors. I agree that we need to find an appropriate way to address egregious cases. No one believes more than I that victims of malpractice should be compensated swiftly and appropriately for their losses. But that is not what is happening in our current medical legal system. Patients are forced to meander through a complicated legal system and often are awarded damages only after years of legal bickering. Juries are awarding astounding and unreasonable sums for pain and suffering. A sizable portion of those awards goes to the attorney rather than the patient. The result: Doctors cannot get insurance and patients cannot get the care they need.

As Chairmen of the HELP and Judiciary Committees, Senator GREGG and I held a joint hearing earlier this month in an attempt to identify the root causes of the crisis. We heard from a patient who experienced an adverse outcome due to a medical error. But, we also heard from a patient and a patient's wife who were victims of the current crisis, unable to find the medical care they or their loved ones desperately needed because medical liability insurance costs had driven doctors out of practice.

We heard from a lawyer who believes that insurance reform is the answer. But, in addition, we heard from the Texas State Insurance Commissioner and also from the president of Physician Insurance Association of America, representing provider-owned or operated insurance companies that provide insurance for the majority of American doctors. These gentlemen face this crisis and its consequences every day. Their data and their studies as well as those from the Department of Health and Human Services show that increasingly frequent frivolous lawsuits and skyrocketing awards are responsible for rapidly rising premiums.

Has the recent downturn in the economy and the stock market affected medical liability premiums? Possibly, but this does not appear to be a major cause of the current crisis. Insurance companies invest conservatively, primarily in bonds and State insurance commissioners monitor and regulate insurance business practices closely. Moreover, insurance companies are precluded from increasing premiums to make up for past losses.

As a matter of fact, they have to cover these losses. The country's largest medical liability insurance company, St. Paul, no longer provides this insurance. Now doctors are forming their own nonprofit corporations to handle these matters and one can imagine that they are doing their best to reduce costs.

It seems to me that the insurance reform discussed at the hearing not only misses the mark badly; it would do nothing to address the cause of the crisis and it would prevent State Insurance Commissioners from performing the job they were appointed to do. I have to say that I came away from our hearing convinced that out-of-control medical litigation is the major cause of the crisis and that we must do something to stop it.

The current medical litigation system resembles a lottery more than it does a justice system. This system harms patients in many ways and raids every American's wallet. All Americans deserve the access to care, the cost savings and the legal protections that States like California provide their residents. This problem has reached crisis proportions and it is high time that we act. The task before us is to design a system that protects both the patient and the provider. It is important that we take steps to benefit both patients and health care providers, not the trial lawyers. Or else, we are in danger of losing access to necessary healthcare.

Let's put some sense into the system by passing medical litigation improvement legislation this year that gives patients access to their doctors and enables doctors to provide high quality cost-effective medical care. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. On behalf of the Senator from North Dakota, the manager of the amendment, I yield 10 minutes to the Senator from Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

### SUPPORT FOR THE MILITARY

Ms. MIKULSKI. Mr. President, as America braces for war, my thoughts are with our troops. Our men and women in uniform have my steadfast support. Though there is disagreement about the best way to disarm Saddam, there is something we all agree upon, and that is that America must be united in support for our troops. We must defend our defenders and stand up for the brave men and women of our military.

Each and every member of our military is part of an American family. They are about to make tremendous sacrifices and undertake great risks. They need to know that the United States of America is with them, and that we owe them a debt of gratitude. But the military does not need just our words; they need our help. We must support them not only with words but with deeds. That means to ensure our troops have the best training and the best equipment we can provide.

We also need to stand up for American families, for the military families who are facing long separations and terrible worries about the safety of their loved ones. While they worry about their spouses overseas, they do not need to be facing financial worries at home. America needs to make sure these families do not face financial hardship.

With our U.S. military overseas, their spouses should not be worried about counting pennies. Their spouses should not have to worry about going on food stamps. Their spouses should not have to, as the Guard and Reserve is being called up, worry about if they are going to have to go through their savings and their family's college accounts. So while we are talking about tax cuts for Joe Billionaire, let us make sure we do not forget GI Joe and GI Jane. We need to remember them not only with parades, but we need to remember them in the Federal checkbook and we need to remember them in the Federal Tax Code. We need to get behind those troops and use this budget and other actions we will be taking up to support our troops.

Let's not forget why we are at this point. The fault lies squarely with Saddam Hussein. For the last 12 years, he has ignored U.N. resolutions and embargoes while rebuilding his illegal chemical and biological weapons. U.N. Resolution 1441 gave Saddam a final opportunity to come clean and destroy his prohibited weapons and to fully report to the U.N. He continues to ignore that. He is dangerous and duplicitous. He needs to be disarmed.

Americans have differing views on how best to do this. Saddam is a danger to the world; therefore, the world should share the burden of defanging him. The risks and consequences of acting alone are much greater than they would be from multilateral action. The risks to our troops are greater, and the challenge in postconflict Iraq will be greater if other nations do not share the burden.

That is why, during the debate, I voted against unilateral action but voted for Senator LEVIN's amendment to demand that Iraq disarm and to authorize the use of multinational force if Iraq refused to comply, and to do this through the United Nations. Once we gave unilateral authority to the President, I believe it let the international community off the hook. Why would members of the U.N. Security Council make any tough decisions? They did not have to. They knew we would go it alone. Why would they stand up and make tough decisions and take tough actions? They did not have to. They knew we would go it alone. I believe by authorizing unilateral action, the Senate actually weakened the negotiating position of our President and the Secretary of State at the U.N. Why would other countries send their troops in harm's way if America was ready to do it without them? Unfortunately, this is what has happened.

The U.N. refused to act, and the United States is now poised to act alone with a modest coalition of the willing. We cannot let this be the end of diplomacy. The President must continue to work with other nations to expand that coalition of the willing so that the dangers of war are shared along with the cost. He needs to go back to the U.N. to share the responsibility and the economic cost of rebuilding Iraq. I know we will face a significant humanitarian crisis, and we already are facing significant humanitarian need in the United States of America. While we are going to talk about rebuilding Baghdad, we cannot end up paying the whole bill ourselves. Because while we rebuild Baghdad, I have to worry about rebuilding Baltimore, and Salisbury, and other communities.

I face a budget, as an appropriator, that is skimpy, spartan, and takes it out on public housing residents and shrinks opportunity at the very time we want to be able to go it alone.

The President has made his choice. We are going to support the decision of the United States of America. We are going to support our troops. Let's support our troops in the budget. When we take a look at the budget, let's take a patriotic pause, and make sure we can afford not only to be a world power and stand up for America but make sure we have a budget where we stand up for what America stands for: Empowerment, hope, and opportunity.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the very able Senator from Maryland for her statement and for the values expressed in that statement.

I think we have reached a critical moment. We have 250,000 troops poised on the border with Iraq. There are a number of additional troops from the U.K. Other nations may be involved, as well. There is no provision for the cost of this conflict in the budget.

It does strike me as the better part of wisdom to say we ought to limit any additional measures that add to the deficit by either spending or tax cuts, with the two exceptions I have noted before. On the spending side, certainly we would exempt national defense and homeland security. On the tax side, we would be wise to exempt the funds for a stimulus package in 2003 and 2004. Beyond that, we would require a supermajority vote that adds to deficits when we are on the brink of conflict, the cost of which has not been quantified.

That is what my amendment is about. I hope as we move closer to the time toward a vote on that amendment, our colleagues will give thoughtful consideration to what I have offered.

Mr. KOHL. Mr. President, I rise in strong support of the amendment of the Senator from North Dakota. Though cloaked in the arcane language of a Budget Act point of order, the goal of the amendment is clear and important. The amendment says that this Congress should not pass new spending or new tax cuts until we have adequately budgeted for the war.

The Conrad amendment contains exceptions for spending on national security, homeland security, or stimulative tax cuts with no budgetary effect after 2005. But beyond those essential measures, Congress could not pass any of our new policy initiatives—not Democratic or Republican initiatives—not new entitlement programs or new tax cuts—until we are sure we have the resources to fund the war we will almost certainly begin this week.

It is amazing that we even have to have this debate. It will be even more unbelievable if this amendment fails. The budget is our spending blueprint for the next fiscal year. It lays out our spending and tax priorities. Yet nowhere in the budget are there funds allocated for military action in Iraq, for recovery after the war, for the foreign aid promised to our allies, for increased protection domestically from retaliatory terrorist attacks. Not a dime.

Is that because the supporters of this budget don't want to pay for the costs of fighting the war in Iraq? Of course not. I am confident that every member of Congress fully supports our troops as they deploy overseas. The President will send us a bill for the war and the resulting increases in homeland security, and Congress will pay it—promptly and fully.

So why is it not in the budget? One simple reason. The authors of this budget want an enormous tax cut: $1.4 billion in tax cuts—most of which will benefit upper income tax payers—over the next 10 years. Half of those cuts are even given our special, fast track treatment through the reconciliation process. The authors also want to show a balanced budget within the next decade. And they do that by cutting domestic spending, including defense. The largest cuts come in the last 5 years of the budget.

But if we figure in the costs of the war, the after-war Iraq restoration, and increased homeland security, there's no way our budget will balance in 10, or even 20, years. There is no way we can afford the war we are all already committed to fund and an enormous tax cut. No way.

It is irresponsible to commit to unnecessary, enormous tax giveaways at a time our scarce resources might be needed to fight a war. In the name of responsible budgeting—in the name of sane budgeting—shouldn't we at least delay the tax cuts until we have a better idea of what the war will cost?

The American people are willing to sacrifice for war—especially those who are leaving their families and homes to fight in a foreign land. Shouldn't we be willing to sacrifice as well? Shouldn't we give up these ridiculous budget games and do our jobs. In my mind, that means making sure our troops have adequate funds to successfully win the war in Iraq, that our country is safe from terrorist attacks, and that our debt doesn't grow so large that it strangles growth and opportunity for future generations.

The Conrad amendment will help us write a budget that is responsible—to our troops overseas, to our families at home, and to the future generations who count on us to leave their country better off than we inherited it. I urge my colleagues to support it.

Mr. REID. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. REID. I have worked with the two managers of the bill and the two leaders, and it appears that we will be able to have two back-to-back votes around 5 p.m. today. The staff is in the process of preparing a written announcement. There very likely will be two votes on two separate amendments at or about 5 o'clock today.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent that following a point of order against the Conrad amendment No. 264, Senator CONRAD be recognized in order to make a motion to waive relative to his amendment and that the amendment and the motion then be temporarily set aside; provided further that Senator CONRAD be recognized in order to offer an amendment, the text of which is at the desk, and that the time until 5 o'clock be equally divided in relation to the amendment; further, I ask that at 5 o'clock the Senate proceed to a vote in relation to the motion to waive with respect to amendment No. 264, and regardless of the outcome, the Senate then immediately proceed to a vote in relation to the second Conrad amendment. Also, no second-degree amendments be in order prior to the above amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I believe the pending amendment, No. 264, offered by the Senator from North Dakota, Mr. CONRAD, proposes to create a new point of order prohibiting the consideration of certain spending and tax measures until the President sends information regarding the costs of the war. The language is not germane to the measure now before the Senate; therefore, I raise an objection under section 305(b)(2) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, would the two managers of the bill allow 2 minutes of debate equally divided prior to the second vote?

Mr. NICKLES. Certainly.

Mr. REID. I ask unanimous consent that the agreement be modified to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

### AMENDMENT NO. 266

Mr. CONRAD. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Dakota (Mr. CONRAD) proposes an amendment numbered 266.

Mr. CONRAD. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To redirect $1.214 trillion in revenues that would have been lost by implementing the President's entire tax cut agenda into a reserve fund to strengthen the Social Security trust funds over the long-term)

On page 3 line 9, decrease the amount by $50,472,000,000

On page 3 line 10, increase the amount by $118,203,000,000.

On page 3 line 11, increase the amount by $103,103,000,000.

On page 3 line 12, increase the amount by $67,667,000,000.

On page 3 line 13, increase the amount by $48,733,000,000.

On page 3 line 14, increase the amount by $45,877,000,000.

On page 3 line 15, increase the amount by $46,217,000,000.

On page 3 line 16, increase the amount by $51,107,000,000.

On page 3 line 17, increase the amount by $185,171,000,000.

On page 3 line 18, increase the amount by $279,411,000,000.

On page 3 line 19, increase the amount by $296,254,000,000.

On page 3 line 23, decrease the amount by $50,472,000,000.

On page 4 line 1, increase the amount by $118,203,000,000.

On page 4 line 2, increase the amount by $103,103,000,000.

On page 4 line 3, increase the amount by $67,667,000,000.

On page 4 line 4, increase the amount by $48,733,000,000.

On page 4 line 5, increase the amount by $45,877,000,000.

On page 4 line 6, increase the amount by $46,217,000,000.

On page 4 line 7, increase the amount by $51,107,000,000.

On page 4 line 8, increase the amount by $185,171,000,000.

On page 4 line 9, increase the amount by $279,411,000,000.

On page 4 line 10, increase the amount by $296,254,000,000.

On page 4 line 14, increase the amount by $373,000,000.

On page 4 line 15, decrease the amount by $681,000,000.

On page 4 line 16, decrease the amount by $5,789,000,000.

On page 4 line 17, decrease the amount by $10,895,000,000.

On page 4 line 18, decrease the amount by $14,956,000,000.

On page 4 line 19, decrease the amount by $18,291,000,000.

On page 4 line 20, decrease the amount by $21,806,000,000.

On page 4 line 21, decrease the amount by $25,743,000,000.

On page 4 line 22, decrease the amount by $33,540,000,000.

On page 4 line 23, decrease the amount by $59,747,000,000.

On page 4 line 24, decrease the amount by $77,943,000,000.

On page 5 line 4, decrease the amount by $373,000,000.

On page 5 line 5, decrease the amount by $681,000,000.

On page 5 line 6, decrease the amount by $5,789,000,000.

On page 5 line 7, decrease the amount by $10,895,000,000.

On page 5 line 8, decrease the amount by $14,956,000,000.

On page 5 line 9, decrease the amount by $18,291,000,000.

On page 5 line 10, decrease the amount by $21,806,000,000.

On page 5 line 11, decrease the amount by $25,743,000,000.

On page 5 line 12, decrease the amount by $33,540,000,000.

On page 5 line 13, decrease the amount by $59,747,000,000.

On page 5 line 14, decrease the amount by $77,943,000,000.

On page 5 line 17, decrease the amount by $50,845,000,000.

On page 5 line 18, increase the amount by $118,884,000.000.

On page 5 line 19, increase the amount by $108,892,000,000.

On page 5 line 20, increase the amount by $78,562,000,000.

On page 5 line 21, increase the amount by $63,689,000,000.

On page 5 line 22, increase the amount by $64,168,000,000.

On page 5 line 23, increase the amount by $68,023,000,000.

On page 5 line 24, increase the amount by $76,850,000,000.

On page 5 line 25, increase the amount by $218,711,000,000.

On page 6 line 1, increase the amount by $339,158,000,000.

On page 6 line 2, increase the amount by $374,197,000,000.

On page 6 line 5, increase the amount by $50,845,000,000.

On page 6 line 6, decrease the amount by $60,038,000,000.

On page 6 line 7, decrease the amount by $176,931,000,000.

On page 6 line 8, decrease the amount by $255,492,000,000.

On page 6 line 9, decrease the amount by $319,181,000,000.

On page 6 line 10, decrease the amount by $383,350,000,000.

On page 6 line 11, decrease the amount by $451,373,000,000.

On page 6 line 12, decrease the amount by $528,223,000,000.

On page 6 line 13, decrease the amount by $746,934,000,000.

On page 6 line 14, decrease the amount by $1,086,092,000,000.

On page 6 line 15, decrease the amount by $1,460,289,000,000.

On page 6 line 18, increase the amount by $50,845,000,000.

On page 6 line 19, decrease the amount by $68,038,000,000.

On page 6 line 20, decrease the amount by $176,931,000,000.

On page 6 line 21, decrease the amount by $225,492,000,000.

On page 6 line 22, decrease the amount by $319,181,000,000.

On page 6 line 23, decrease the amount by $383,350,000,000.

On page 6 line 24, decrease the amount by $451,373,000,000.

On page 6 line 25, decrease the amount by $528,223,000,000.

On page 7 line 1, decrease the amount by $746,934,000.000.

On page 7 line 2, decrease the amount by $1,086,092,000,000.

On page 7 line 3, decrease the amount by $1,460,289,000,000.

On page 32 line 6, increase the amount by $26,000,000.

On page 32 line 7, increase the amount by $26,000,000.

On page 32 line 10, decrease the amount by $11,458,000,000.

On page 32 line 11, decrease the amount by $11,458,000,000.

On page 32 line 14, decrease the amount by $10,901,000,000.

On page 32 line 15, decrease the amount by $10,901,000,000.

On page 40 line 2, increase the amount by $373,000,000.

On page 40 line 3, increase the amount by $373,000,000.

On page 40 line 6, decrease the amount by $681,000,000.

On page 40 line 7, decrease the amount by $681,000,000.

On page 40 line 10, decrease the amount by $5,789,000,000.

On page 40 line 11, decrease the amount by $5,789,000,000.

On page 40 line 14, decrease the amount by $10,895,000,000.

On page 40 line 15, decrease the amount by $10,895,000,000.

On page 40 line 18, decrease the amount by $14,956,000,000.

On page 40 line 19, decrease the amount by $14,956,000,000.

On page 40 line 22, decrease the amount by $18,291,000,000.

On page 40 line 23, decrease the amount by $18,291,000,000.

On page 41 line 2, decrease the amount by $21,806,000,000.

On page 41 line 3, decrease the amount by $21,806,000,000.

On page 41 line 6, decrease the amount by $25,743,000,000.

On page 41 line 7, decrease the amount by $25,743,000,000.

On page 41 line 10, decrease the amount by $33,566,000,000.

On page 41 line 11, decrease the amount by $33,566,000,000.

On page 41 line 14, decrease the amount by $48,289,000,000.

On page 41 line 15, decrease the amount by $48,289,000,000.

On page 41 line 18, decrease the amount by $67,042,000,000.

On page 41 line 19, decrease the amount by $67,042,000,000.

Strike all from line 20 on page 45 through line 2 on page 46.

At the appropriate place, insert the following:

**“SEC.   . RESERVE FUND TO STRENGTHEN SOCIAL SECURITY.**

If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would strengthen Social Security and extend the solvency of the Social Security Trust Funds, the Chairman of the Senate Committee on the Budget may revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution by up to $1,214,000,000,000 in budget authority and outlays for the total of fiscal years 2003 through 2013.

Mr. NICKLES. Mr. President, I know the Senator from Texas has been waiting patiently. I will recognize the Senator from Texas for 20 minutes.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Texas.

Mr. CORNYN. Mr. President, I thank the distinguished chairman of the Budget Committee on which I had the honor of serving for his work on this budget resolution and for his leadership on the Budget Committee. My compliments as well to the ranking member, Senator CONRAD, for the civil but spirited way in which the committee debated the markup of this budget resolution.

I believe the budget resolution we have before us represents the priorities of the Federal Government and, more importantly, of the American people. I rise today to discuss some fundamental questions which I believe are important to this debate, and to address arguments that have been made in support of spending more of the taxpayers' money in the name of fiscal restraint, as odd as that may sound, and at the same time to talk about cutting deficits.

As many of my colleagues on the committee and here on the floor, I support this budget resolution, including the President's jobs and growth package. I believe it can make a real difference, not only to my State of Texas but to the Nation. I believe, if we hold to our principles and our priorities, we can assure that the needs of the Nation are met and help our economy grow.

If we are successful, we can help prevent future generations from being saddled with the bill for excessive spending that some in this body seem determined to create. Over what remains of the 50 hours allotted under the Congressional Budget Act under this debate, many amendments will be offered and have already been offered that reduce the amount of the President's growth package. If that were not enough, many of those who want to cut tax relief want to turn around and spend what would have been tax relief on bigger government. Rather than allow American taxpayers to choose how they want to spend their hard-earned money, those who would seek to cut tax relief and increase spending want to choose for the American people how that money should be spent and grow Government ever larger.

The fundamental question in this debate is simple: Should we support higher taxes, more Federal spending, and bigger government or should we facilitate economic opportunity and jobs? For me, that is what this debate is all about. Who should spend that money: politicians and bureaucrats or taxpayers? Families or the Government? Small business owners on investment and job creation or the Federal Government? Senior citizens on enhancing their retirement security or the Federal Government?

This debate is really about who we should trust to get done the job of growing our economy and creating greater economic opportunity for all Americans. Should we help people keep more of their money so they can spend it, invest it, or save it as they wish or should we simply add more taxes to an already beleaguered American taxpayer, giving up on economic growth and increasing the deficit?

I urge my colleagues, don't be fooled. This debate is not about shrinking deficits. It is about growing spending.

The first chart to which I would like to direct my colleagues is one that demonstrates a rather dramatic fact; that is, over the last couple of years we have seen spending soar, while Government revenues have shrunk. In fact, revenues have fallen by nearly 9 percent over the last 2 years. At the same time, though, Congress has seemed not to have even noticed because spending has increased by 12 percent over that same period.

We all agree on the need to control deficits. Our friends on the other side of the aisle contend that allowing more people to keep what they themselves earned would, in fact, balloon the deficit. I disagree. It is not spending by taxpayers that balloons deficits; it is spending by Congress, as this chart dramatically represents.

If you listen to this debate closely, you will notice that opponents of the President's growth package and this budget resolution do not propose that we pay down the debt instead of tax relief. They, in fact, propose spending hundreds of billions of dollars instead of tax relief and this growth package. They want to spend every penny of what would be relief to taxpayers and an investment in economic growth on something else altogether.

Those on the other side of the aisle, and on the other side of this issue, seem to be concerned about deficits when there is a proposal to provide relief to the beleaguered American taxpayer. They spend hours on the Senate floor and in committee rooms warning that taxpayers keeping more of what they earned is a risky proposition.

We have heard all that before and it still does not wash. Notice carefully that they are not shy about spending more of the taxpayers' money, even if that spending causes the very same deficits they complain about here on the floor. In fact, despite the deficit, despite a sluggish economy, despite the costs of waging war and rebuilding our military, many of our colleagues want to increase discretionary spending but not just on the Department of Defense and on homeland security. That funding is already provided for in this budget resolution. The money that should flow back to the taxpayers will, if our colleagues who oppose this resolution are successful, flow instead to more and more Government spending.

The next chart I show to my colleagues is a list of Budget Committee amendments to what was ultimately voted out as the budget resolution. Each of these amendments failed. But as you can see, this chart, I believe, is an indicator of what those who oppose this budget resolution propose instead.

For example, here is one amendment for an additional $2.2 billion. You can see the figure of $200 billion more for Medicare, an additional $1.8 billion for function 700 for veterans, another for increased spending on natural resources—all of which are provided for, to some extent, in the budget resolution that was voted out of committee. But you can see from the chart the total of these amendments would have added, if they were not defeated, approximately $440 billion in new spending.

That is why I say those who complain so loudly about budget deficits but at the same time propose huge increases of hundreds of billions of dollars in new Federal spending really do not have their story straight. Because, of course, if we do not cut spending, and if we do not see the economy grow, that means less hope and less opportunity for American workers. And that means more taxes for the beleaguered American taxpayer.

My question is simply this: Why shouldn't the Government be required to do what American families have to do during lean times? Why shouldn't the Government have to tighten its belt in lean times?

Indeed, the growth of Government continues, but the economic recovery will not under these tax-and-spend proposals. Shared sacrifice, which is what is called for during lean times, is not shared, at least by the American taxpayers, if they continue to see nondiscretionary increases in spending with no end in sight.

I support the President's growth package as recommended in this resolution because I believe individuals and families in my State and across America, the people who pay the taxes and earn the money, can better save, spend, and invest their money as they see fit—far better than can the Federal Government. I believe Texans know better what they need than the spenders in the Halls of Congress.

According to the latest Scripps Howard Texas poll, the people of my State are worried about not having enough money for their retirement, about skyrocketing energy prices, and about college tuition for our children. They are worried about the issues that affect their lives directly.

The President's jobs-and-growth plan addresses these concerns by providing a short-term economic stimulus that will encourage investment and job growth, as well as strengthening our long-term economic growth. The President's plan will create more wealth, provide higher wages and more jobs, thereby leaving more money for families, while increasing their standard of living.

As for the argument that this proposal would cause greater deficits, I disagree. If we were to hold the line on new spending, if we were responsible with the taxpayers' money—the money they send to Washington every year—and if we make the most out of the revenues we have by following the limits set out in this budget resolution, then we will prevent growing deficits and extinguish this deficit entirely in the foreseeable future.

It is only by spending beyond our means that we create deficits. Last year's failure to pass a budget resolution is a clear example of the failure to act, the failure to set important guidelines for the Federal budget. The failure of last year's Senate leadership to accomplish what we are now doing on the Senate floor meant the Senate had few guidelines to follow, few limits on spending, and no responsibility, at least within the constraints of a budget resolution, to control boundless spending by the Government.

Let's recall a little bit of history that revisionist historians both in this body and outside seem to forget.

The chart I have in the chamber shows, of course, what we all remember; that is, at the time President Bush came into office, we saw a tremendous trend downward in terms of the growth of our gross domestic product. And, of course, we have seen a tremendous decline in the stock market. It has really only been by virtue of the tax cuts that were passed in 2001—which would be made permanent—that we see increased money in consumers' pockets, money they have been able to use to buy a car, to buy a house, in conjunction with lower interest rates. That is what has kept the meager recovery we have seen as good as it has been.

Of course, the economic recovery was staggered by the events of 9/11 and, of course, the continuing war against terrorism and, obviously, the uncertainty associated with the geopolitical situation in the Middle East.

As a result, our economy has been sluggish and investor confidence remains low. GDP has grown at an anemic rate, while the labor market has remained soft, with an unemployment rate in February of 5.8 percent.

To address the economic challenges that confront our Nation and confront America's families, the President proposed, and I support, and this budget resolution reflects, a jobs-and-growth package. This package will spur near-term and long-term economic growth. It will provide an opportunity for more robust business investment and, yes, it will encourage new job growth.

His proposal, which this budget resolution includes, would first accelerate to January 2003 portions of the tax bill that was passed by this body in 2001 that are currently scheduled to be phased in, including a reduction in marginal income tax rates, additional relief from the marriage penalty, a larger tax credit for children, and increasing the size of the 10-percent income tax bracket. The net effect of these proposals is allowing taxpayers to keep more of what they earn, so they can spend it as they see fit.

Who benefits? Well, obviously, the individual taxpayer. But just as importantly, small business owners, including sole proprietors and partnerships, most of whom report and pay taxes on their personal income tax returns.

This plan will increase the incentives for small business owners to invest in technology, machinery, and other equipment to help them expand and create jobs, and reduce the cost of capital needed to help small businesses grow. And, of course, as a result, people who are looking for work, who want to work but cannot find a job, will benefit, too.

As the President has stated:

> [M]ore than two-thirds of taxpayers who pay the highest marginal tax rates are small business owners who include their profits when they file their individual tax returns with the IRS.
>
> All together, the tax relief I propose will give 23 million small business owners an average tax cut of $2,042 this year. And I'm asking Congress to make those reductions permanent, so that America's entrepreneurs can plan for the future, add more employees, and invest in our economy.

Those were the words of the President of the United States when he made this proposal. Again, it translates into a single word, and that word is "jobs."

Under this proposal, this budget resolution, a married couple with two children and an income of $40,000 will see their income tax reduced by $1,133, a 96-percent decline; an older couple with an income of $40,000 will see their taxes reduced by 41 percent; a married couple with one child and an income of $40,000 will see their taxes decline by 33 percent; a married couple with two children and an income of $60,000 will see their taxes decline by 24 percent; and a married couple with two children who earn $75,000 between them will see their taxes reduced by 19 percent.

I also want to address briefly that portion of the budget resolution that eliminates the double taxation of corporate income such that dividend income will no longer be taxed at the individual level.

As the chairman of the Budget Committee has pointed out earlier, American taxpayers pay some of the highest taxes in the world—second only to Japan, I believe, on corporate dividends. Under current law, dividends can be taxed once at the corporate level and up to the highest tax bracket for individual taxpayers, once those dividends are paid by a corporation to its shareholders. That is more than any nation in Western Europe.

Under the President's proposal—which is only fair—those dividends will be taxed once and not twice. There are numerous economic benefits to the economy, and I really believe this is one of the most important aspects of this growth package. The first effect will be to lower the cost of capital. This will make new investments in technology and equipment more attractive to firms while providing investors with larger after-tax returns. For individual taxpayers and families, this means more money to spend, save, or further invest. For companies, as individuals invest more, increasing the amount of capital available in the capital markets, worker productivity will increase, real wages will rise, and more jobs will be created.

This proposal will also—not incidentally—remove the current bias toward debt financing.

As Alan Greenspan said in testimony before the House Financial Services Committee in February:

> In my judgment, the elimination of double taxation will be helpful to everybody. . . . There is no question that this particular program will be, net, a benefit to virtually everyone in the economy over the long run, and that's one of the reasons I strongly support it.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. CORNYN. I ask the chairman for 2 or 3 more minutes.

Mr. NICKLES. I yield an additional 5 minutes to the Senator.

Mr. CORNYN. My thanks to Senator NICKLES.

Finally, I want to point out that 45 percent of those who earn $50,000 a year or less—many of whom are seniors—will benefit from this ability to enhance and secure their retirement years. It will also boost the stock market and the value of hundreds of thousands of retirement plans, as corporations that don't currently pay dividends choose to do so because of the elimination of the bias against payment of corporate dividends in our Tax Code, and grow the stock market value in all likelihood, and, as I say, help secure the retirement of American workers.

Finally, this budget resolution increases to $75,000 the amount small businesses may expense from taxable income in the year that investment occurs. This incentive to further investment by small businesses—which create the vast majority of jobs in our country—will help lower the tax-adjusted cost of capital for small business, the "job factory of America," as the President has called it. This increases the ability of small businesses to make new purchases, invest in new equipment, hire new workers, or retain current ones. That is more jobs and more growth.

In conclusion, while the Congressional Budget Office has scored this proposal by the President, this growth package, in a static way, both sides of the aisle recognize—indeed, one of the Democratic alternatives to the President's proposal embraces the concept—a stimulus effect and growth effect by tax cuts.

PriceWaterhouseCoopers, for example, has reported that the President's growth package would increase the number of jobs by an average of 1.2 million a year during the first 5 years and an average of 900,000 per year over 10 years, and that the proposal would add $738 billion in new income to the economy during the first 5 years and about $1.5 trillion over 10 years, and other private sector estimates are even higher.

The President's Council of Economic Advisers estimates that the jobs and growth plan will create 1.4 million new jobs by the end of 2004.

Mr. President, if we are serious about growing jobs, about putting this economy back on track, and if we are serious about the need to restrain massive Government spending, then we must get serious about setting these priorities in our budget blueprint. Let's not just talk about preventing deficits while at the same time calling for more spending. Let's not decry a plan that benefits the economy by benefiting taxpayers and call for that money instead to be spent by Government. Let's, instead, set limits and stick by them.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, first of all, I ask unanimous consent that Senator DASCHLE, Senator FEINGOLD, Senator KENNEDY, and Senator CORZINE appear as cosponsors of my amendment which is currently pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I am going to take a few minutes to respond to my able colleague, the Senator from Texas, who is a member of the Budget Committee. He has suggested that on our side we are just out here spending money as much as they have proposed in tax cuts; so it is either take the Democrats' spending or the Republicans' tax cuts, and here come the deficits, and don't worry about the future of Social Security and Medicare. I could not disagree more strongly.

Facts are stubborn. The facts show that the assertion by the Senator from Texas simply is without merit. Democrats are not proposing additional spending at the size of the tax cuts proposed on the other side—nothing close to it.

The Senator presented a chart that showed a series of amendments offered in the Budget Committee by our side, totaling $440 billion—additional money for prescription drugs, for education, and for homeland security. Yes, we offered amendments to reprioritize, but we paid for each of those by reducing the tax cut, and every time we went further to reduce the budget deficits.

Remember, their tax cuts are $1.4 trillion; with the interest cost, $1.7 trillion. So even if our amendments to change the priorities—more in line with the American people—had been adopted, we would still have been more than a trillion dollars better off in terms of the deficits and debt of this country. That is a fact.

The other side is proposing to borrow the money to give these tax cuts and to finance the spending initiatives that are in their plans. They are going to be borrowing money as far as the eye can see—and right on the eve of the retirement of the baby boom generation.

Many of us on our side, and I also acknowledge a number on their side, believe that is a mistake. Senator MCCAIN talked this morning about the fact that he thought adding spending or tax cuts at this point is ill-advised. I must say, I agree with the Senator from Arizona.

More than that, our colleague is suggesting that somehow their plan reduces deficits. No, it does not. It explodes deficits. We are going to have a debate out here. Let's be truthful with each other and truthful with the American people. Their plan does not reduce deficits; their plan explodes deficits.

Two years ago, we had projected surpluses of $5.6 trillion. If we now adopt the President's spending and tax cut plans, instead we will have $2.1 trillion of deficits. Those are not my numbers. Those are the numbers from the nonpartisan Congressional Budget Office.

Where did the money go, because that is money over a 10-year period? Thirty-eight percent is going to tax cuts under the President's plan, those already passed and those proposed. That is where the money is going. Twenty-seven percent has gone to spending. Where is that spending? Almost exclusively in increases for defense and homeland security which the President asked for, quite rightly, and which we supported, again, quite rightly. Twenty-six percent is technical changes which simply means overestimations of revenue apart from the tax cuts. The models are not giving the correct answers in terms of actual revenue generated for various levels of economic activity. About 9 percent is the economic downturn.

When our colleagues suggest they have a plan that is going to eliminate deficits, that the President's plan somehow does, it does not. We are required by law to exclude Social Security from the calculation of deficits. When we do that, the deficit in 2004 under the President's plan is going to be $512 billion, and those deficits never get below $400 billion every year for the next 10 years. What are they talking about they have a plan that is going to eliminate deficits? There is no elimination of deficits; there is no end to deficits under this plan that the President has put before us.

This is from his own budget document. You do not have to take my word for it, take his word for it. This is right out of his budget document, page 43, "Analytical Perspectives." This is what happens, according to the President, looking long term, and what it shows is we are in the "sweet" spot now. We are in the good times because this is when the Social Security and Medicare trust funds are producing hundreds of billions of dollars of surpluses. This year alone, the Social Security surplus will be $160 billion. They are taking it all, every penny. And under the President's plan, they are going to do that the entire next decade. Every penny of Social Security surplus will go to pay for tax cuts and other spending.

Some of us think that is a disaster for this country. Why? Because very soon the baby boomers are going to start to retire, and then what are we going to do? We should be taking that money and paying down debt or prepaying the liability but not using it to pay other bills, not using it to pay for tax cuts.

If there was a private sector firm in America that tried to take the expenses, they would be headed for a Federal institution, but it would not be the Congress of the United States, and it would not be the White House. They would be headed for a Federal facility all right. It would be a Federal prison because that is fraud.

Let's just get down and get honest about the fiscal circumstances of the country. The President's budget says we never get out of deficit under his plan, and, in fact, if we adopt his spending plan, if we adopt his tax plan, the deficits explode right at the time we see an explosion of expense to the Federal Government because of the retirement of the baby boom generation, the cost of the President's tax cuts explode, and we have a sea of red ink and deficits and debt that are utterly unsustainable.

The head of the Congressional Budget Office told us last year that if we proceed down this path, we will have massive debt, massive tax increases, tax increases of as much as 50 percent, massive cuts in benefits in Social Security and Medicare. Let me predict today, if the President's plan is adopted or anything close to it, very soon our colleagues on the other side will be coming to us with massive cuts in Medicare and Social Security, and if anyone doubts it, just look at the House budget offered this year. They have already started it. They have over $470 billion of cuts to programs such as Medicare and Medicaid, and over $200 billion of cuts to domestic discretionary spending, law enforcement, and all the rest.

The jig is going to be up because this does not add up, and this plan drives this country deep into deficits and debt, and that is a fact. That is according to the President's own calculations, his own budget documents. This is not a question that is even a close call as to whether the plan before us increases deficits or reduces them. It dramatically increases them, and it is going to get much worse when the baby boomers start to retire.

I was glad to see our colleague put up a chart that showed total outlays and total revenues. It is the relationship between outlays and revenues that determines deficits. Our friends on the other side, or at least some of them, seem to think the only thing that creates a deficit is spending. No, no, no. It is the relationship between revenue and spending that determines whether you have a deficit or a surplus. It is when spending exceeds revenue that one runs a deficit. That is a very simple concept, but somehow it has been lost. That is what creates a deficit.

This chart shows the long-term pattern of spending and revenue over the last 20 years. This goes back to 1981. The blue line is the revenue line. The red line is the spending line. You can see we had a big gap back in 1981, 1982. These were the Reagan years. In fact, I will put up what the history of deficits has been under these various administrations.

Here it is: When President Reagan came into office, deficits were running about $80 billion. He then pursued the economic policy that is being repeated today, and deficits exploded to over $200 billion a year. They improved marginally before the first President Bush took office, and then they got much worse. In fact, we had the past record deficit under the previous President Bush, $290 billion. President Clinton came in, and we passed a plan in 1993 that every single Republican opposed—everyone in the House, everyone in the Senate. They said it would crater the economy. We can go back and look now. It is very easy to determine who had it right and who had it wrong.

Our Republican friends said in 1993: If you pass this plan, it will crater the economy. It will increase deficits. It will increase debt. It will increase unemployment. Let's check the record.

We passed the plan in 1993. Every single year of that 5-year plan the deficits were decreased. During this period, we kicked off the longest economic expansion in our Nation's history, the lowest unemployment in 30 years, the lowest inflation in 30 years, and the highest level of business investment in our Nation's history.

In 1997, we then passed a bipartisan plan in which we joined together and finished the job and pulled this Nation completely out of deficit and actually stopped the raid on the Social Security trust fund.

We stopped taking Social Security trust funds and using them for other purposes, and that was the combined effect of the 1993 plan and the 1997 plan. Actually, the 1993 plan did about 80 percent of the heavy lifting. Then President Bush came into office proposing massive tax cuts and saying we could have it all. He said we could pass the tax cuts and we did not need to worry about deficits, that he had enough margin to be assured that, even if the economy weakened, deficits would not return.

Well, he was proved to be wrong, not just because of the tax cuts. Let's be fair. Let's be direct. It is a combination that led us back into the swamp of deficits. In the short term, the biggest effects were the economic slowdown and the attack on this country which required us to increase defense spending and homeland security spending. But over the longer term, over the 10 years of the Bush plan, the biggest reason, as I have indicated, was the size of the tax cuts. It is the biggest single reason for our fiscal deterioration, not in the short term, not in 2003, not in 2002. The biggest reasons in the short term were the economic slowdown and the attack on the country, without question, but over the 10 years of his plan, the biggest culprit is the tax cuts, driving us deep into deficit.

These numbers do not even tell the full story because, in truth, the full story is much more serious than these numbers reveal. The truth is, this does not show the effect of taking Social Security trust fund money every year for the next 10 years, in total more than $2.7 trillion of Social Security money taken.

Mr. President, I am very pleased to see a former colleague, Senator Mack, join us on the floor. He was an outstanding colleague, who we enjoyed serving with very much, truly a gentleman and somebody who we miss in this Chamber. Nobody did more to add an air of civility to this Chamber than our colleague Senator Mack, and we are delighted to see him back.

Mr. NICKLES. If the Senator will yield?

Mr. CONRAD. I would be happy to yield.

Mr. NICKLES. I think he was wanting to speak on the Senator's amendment.

Mr. CONRAD. No doubt he would if he still were a Member of the Chamber.

Let me now turn my attention to the presentation of the amendment that is the next one for consideration because it goes to the central question that we have been talking about. What are we going to do about these deficits?

Let me say to my Republican colleagues, it is important to focus on spending, but we cannot just focus on spending. We have to focus on the revenue side as well. And my colleagues cannot say they care about deficits when they are adopting a budget that is going to cost $1.7 trillion in tax cuts and the associated interest costs that are going to drive us deeper into deficit and make believe they care about deficits. That dog will not hunt.

Now, we are going to give our colleagues another opportunity to face up to these long-term obligations that we face as a country because the amendment I am offering now takes $1.2 trillion in the tax cuts and redirects them to a reserve fund to strengthen Social Security. Instead of raiding $2.7 trillion, we are going to reduce it. We are going to reduce the tax cut by $1.2 trillion, and we are going to apply it, not for spending but to strengthen Social Security.

This is a vote for history. This is a vote for the ages. This is a vote that people are going to look back on, years ahead, and say, who stood up to protect Social Security and who wanted to take the money raised with payroll tax dollars and use it for a tax cut that goes primarily to the wealthiest among us? That is the question before us.

I hope every Member of this Chamber will say we ought to reduce the tax cut and use that money to strengthen Social Security. That still leaves almost $200 billion available in tax cuts—actually, something less than that. With that amount of money, we could provide a short-term stimulus along the lines offered by Senator DASCHLE, a plan that provides important tax relief for working families and small businesses, or we could choose to accelerate the marriage penalty relief and the increase in the child tax credit that were scheduled to be phased in over a period of years when they were enacted in 2001, or we could accelerate the across-the-board tax rate cuts now scheduled to occur in 2004 and 2006. We concluded that was the best way to stimulate the economy. Or we could provide protection for individuals from the alternative minimum tax.

My amendment would not prevent us from providing a significant increase in the amount of investment small businesses could immediately deduct rather than depreciating over a number of years.

The bottom line is that the amount provided for stimulus in our amendment would allow for considerable flexibility in responding both to the needs of our economy and of our taxpayers. My amendment does not dictate how these resources ought to be used to strengthen the Social Security Program over the long term. Rather, our amendment simply reserves budget resources so that when Congress does act to strengthen Social Security, resources will be available to do it.

Nearly every Social Security reform plan that has been proposed requires additional resources. In fact, the plans recommended by the President's own commission to strengthen Social Security requires over a trillion dollars of resources from the general fund.

There are a variety of ways that these resources could be used to strengthen the Social Security Program. Some of our colleagues might prefer to use these resources to prefund the Social Security benefit through individual accounts or collective investments. Others might support using these resources to transfer revenues to the Social Security trust funds or to pay down debt and free up future resources to meet benefit commitments. Until Congress and the President act to strengthen this important program, the resources in this reserve fund would be dedicated to deficit reduction.

Why is this amendment important? Today, we are at an important fiscal crossroads. I think we all know where we are headed. We are in record deficit, and according to the President's own documents, these are the good times. This is the budget sweet spot. We are ready for a leap off the cliff if the proposal before us by the President is adopted.

I hope my colleagues will take a close look at this amendment. We know that Social Security goes cash negative, the trust funds, in 2018. We know that Medicare goes cash negative in 2013 and becomes insolvent by 2026. We know these challenges are real. They are not projections. The baby boom generation has been born. They are alive today. They are eligible for Social Security and Medicare.

If we put up the chart that shows the future of Social Security, we see that the trust fund now is running substantial surpluses, but they turn to massive deficits after 2018. This is going to happen, and we can either prepare for it or fail to do so. The choice is ours, and the most fundamental choice is going to be made very soon. It is going to be made when we determine the outlines of this budget resolution.

It is not just Social Security; it is Medicare as well. The Medicare trust fund is running surpluses now but will turn to massive cash deficits starting in 2013.

The question before us is, How do we respond? The CBO Director, Dan Crippen, said to us:

> Put more starkly, Mr. Chairman, the extremes of what will be required to address our retirement are these: We will have to increase borrowing by very large, likely unsustainable amounts; raise taxes to 30 percent of GDP, obviously unprecedented in our history; or eliminate most of the rest of Government as we know it. That is the dilemma that faces us in the long run, Mr. Chairman, and these next 10 years will only be the beginning.

Unfortunately, he has it right. What the President has proposed is truly stunning in terms of the long-term costs of the tax cuts he has proposed.

This chart shows the Social Security shortfall, according to the Center on Budget and Policy Priorities, some $4 trillion in the 75-year period; medicare shortfall, $5 trillion. The tax cuts the President proposed and which have already been enacted are $12 trillion.

We can take a bad situation and make it much worse or we can begin the process of being serious about our fiscal challenges. That means yes, being tough on spending. It also means being tough on the size of future tax cuts.

I urge my colleagues to give careful consideration to this amendment.

I ask unanimous consent my colleague, Senator CORZINE, be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. I note the last comment about discipline with respect to spending. It is the case that the amendment the Senator offered not only has a pause with respect to tax cuts but also on the spending side, is that correct?

Mr. CONRAD. That is the amendment I offered earlier that we will be voting on at 5 o'clock. We are now on my second amendment, an amendment that takes $1.2 trillion of the proposed tax cut and uses it to strengthen Social Security. It is absolutely correct that the other amendment I have offered would create a requirement to a supermajority vote to have new spending initiatives, as well as new tax cuts, other than spending for national defense and homeland security and other than for tax cuts that would provide for an immediate lift to the economy.

Mr. DORGAN. If the Senator will yield further, I was not aware you had gone to the second amendment.

The first amendment, which I intend to support, has a pause with respect both to spending and a tax cut in the name of fiscal sanity to try to resolve massive deficits in the outyears.

The Senator makes the same point, in many ways, with respect to the Social Security amendment as we get into the period of time when the war babies, the largest baby class in American history, begin to retire. The explosion of costs in Social Security to meet those demands will cause us to have serious shortfalls unless we plan for it now. It is precisely the reason we have a so-called "surplus" in Social Security each year. It is not truly surplus. It is to be put away in a trust fund and used for that period of time when we need it when we have maximum strength on the Social Security.

If I may make an additional comment. The charts make the compelling case that this fiscal policy is completely out of whack. It reminds me of the joke about the guy caught stealing who said to the policeman, Are you going to believe me or your own eyes?

The presentation is so clear that we are headed towards a cliff. We better stop this one way or the other and find a way to have a pause, find a way to restore some stability and solvency to the Social Security system.

I intend to support both amendments.

Mr. CONRAD. The Senator from New Jersey?

Mr. CORZINE. If the Senator from North Dakota would reflect on a question. I think the numbers are we have 37 million seniors 65 and older, and we are on our way to something approaching 75 million in the next 15 years. Do I understand that this amendment you are proposing is designed to make sure we begin to prepare for that inevitability, the charges against Social Security, which reduce the poverty rate of seniors in America from when it was conceived from about 50 percent of all seniors to right at 10 percent? Is that correct?

Mr. CONRAD. The Senator is exactly correct. We are going to a circumstance in which we will have 77 million senior citizens, more than double what we currently have. This is unprecedented in our history and perhaps it is one reason we have a hard time coping. It is not something we have ever seen before. Perhaps that is one reason we have a hard time understanding the dimensions of this change.

Mr. CORZINE. If the Senator from North Dakota would clarify another element of how budget practices work. Presumably payroll taxes, which each individual who is working pays into the Social Security and Medicare trust funds, are designed so that people invest in receiving guaranteed benefits—in the case of Social Security—relative to what they expect will be there.

Is it true, or am I analyzing this properly, that we are now potentially, given the kind of framework of the budget outlay before us today, using payroll taxes that people were expecting to be used to build up the Social Security trust fund and Medicare trust fund, to be made available to cut taxes, maybe even dividend taxes for those who may be doing well already in society? We are using payroll taxes to indirectly fund the tax cuts being proposed or allowed in the budget resolution?

Mr. CONRAD. Certainly that is the conclusion I come to. We are taking this year alone $160 billion of Social Security trust fund surpluses and using it for other purposes. We are not paying down debt with it. We are not prepaying the liability with it. We are not investing it. We are taking it to use to fund operating expenses, including other tax cuts.

Looking ahead under the President's plan over the next 10 years, we will take every penny of the Social Security trust fund surplus. We will not pay down debt with it, we will not prepay the liability, we will not invest it. We will use it to help finance these tax cuts. So we are taking payroll taxes, in part, and using them to fund an income tax cut that will go predominantly to the wealthiest among us.

Some say to make that comment is class warfare. I don't think it is class warfare. I think it is a fact. You are taking payroll taxes from people and using it to fund income tax cuts for higher income people. What is most troubling is we are borrowing it all. That is leading us into a very deep deficit-and-debt ditch.

Mr. CORZINE. I thank the Senator from North Dakota.

Speaking in the context of what true fiscal responsibility is about, one needs to make sure the fundamental programs that are accepted by the American people, such as Social Security and Medicare benefits, are properly funded. It certainly strikes me that using the very taxes that are supposed to be supportive of those programs to fund tax cuts that are going to create deficits for as far as the eye can see is a very hard swallow when three out of four Americans pay more in payroll taxes than they actually pay in income taxes.

Mr. CONRAD. My colleague from New Jersey is one of the most sophisticated investors, one of the most sophisticated financial managers in America, with a track record that is clear for all to see. He headed one of the most prominent, most successful financial management houses in the world, and enjoyed an extraordinary reputation there. When the Senator speaks on the question of the effects of fiscal policy on our economy and the future strength of our economy, I think people would be wise to listen.

Is the Senator seeking time?

Mr. CORZINE. I would like to make a few comments with regard to the amendment.

Mr. CONRAD. I am happy to yield 5 minutes off the resolution to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. CORZINE. Mr. President, I rise to strongly support this amendment because I believe it is so important we understand that fiscal responsibility is really what is at stake. This amendment, more than almost anything that I see, actually addresses the issue of making sure we start to reserve for this great need, Social Security, that the able Senator from North Dakota has pointed out we will have to address in subsequent years. It does it by paying down debt now. It really addresses this issue of not using our payroll taxes to fund tax cuts for those who are already doing well in society.

We are making a very large mistake, as the analysis of the ranking member of the Budget Committee showed, with respect to using those resources in a way that is going to leave us with budget deficits over the next 10, 12, 13 years. I think that is hard to understand, particularly in the context of Social Security, which has been such a successful program in America, one that has reduced the poverty rates for seniors from well over 50 percent to down about 10 percent as we go forward.

This is one that is very difficult to understand, particularly in the context of trying to allow room for a dividend exclusion tax for which I have difficulty finding support based on the idea that it is going to be stimulus for job growth or, on any objective analytical basis, be promotive of the well-being of our economy.

One of the places we just turned—everybody has their favorite economist. We just happen to have 10 Nobel Prize-winning economists who spoke out on the tax cut plan proposed by President Bush, saying:

> It is not the answer to our problems. Regardless of how one views the specifics of the plan, there is wide agreement on permanent change in the tax structure and not the creation of jobs and growth in the near term.

I cannot find people who say this proposal is going to do anything to turn around the current state of the economy. And what we are doing is financing it with one of those taxes that is the most heavy burden on those who have the least ability to pay.

It strikes me, again—I mentioned three out of four working Americans pay more in payroll taxes than they do in income taxes, than they certainly receive with respect to any kind of dividend taxation.

This is a very hard swallow—not particularly for the seniors today; we have the resources to fulfill our promises with respect to guaranteed benefits for seniors today. But if we do not address this problem with regard to Social Security over the long run, future generations are not going to have the same guaranteed benefits that have been promised, as they are being committed to as they pay into the Social Security trust fund today. It is a breach of faith. One of the things we need to do is make sure we address it today.

Frankly, the President's tax cut over the period of time that we are looking at the solvency of Social Security, on its lowest, it is about $12 trillion. That is over 57 years. That will help people evaluate the solvency of Social Security. Right now, it will be able to meet the guaranteed benefits out to about 2042, about halfway. Twelve trillion dollars, we are eroding the revenues of the Federal Government. Again, we are eroding it by using payroll taxes to fund tax cuts for the very best off in our society. And the obligation of fixing this Social Security problem is only $3.5 trillion. It sounds like not so much money, but when you compare it to what we are putting into this tax cut that the President is laying on the table and has allowed for in this budget resolution, it is about three times the size.

That is what this amendment is about. It is asking us to make those steps where we can begin to extend that solvency and protect Social Security. By the way, we are paying down the debt at the same time. At least we are limiting the growth of the debt relative to where it would be, which has all the other positive ingredients. The Federal Government is not in the capital markets of the country competing with the private sector to take capital that they will be borrowing to pay for these tax cuts and other expenditures we make for the overall levels of government involvement in the economy. It is called crowding out. It has been a problem at other times in our history. We are creating a format where this will absolutely be the case in the future, and that is why this amendment is such an important one to support by protecting Social Security and putting in place a framework for fiscal responsibility for the long term. I support the amendment and hope my colleagues will as well.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to speak in opposition to both amendments. To remind our colleagues, we expect a vote on both of the amendments offered by our friend and colleague from North Dakota, Senator CONRAD, at 5 o'clock. Both of these amendment also are very important.

Let me just address the first Conrad amendment, the first one we will vote on. In my opinion, it is fatally flawed for a couple of reasons. One, it creates a new 60-vote point of order against the spending and tax legislation until the President sends Congress a report on the cost of the war and reconstruction of Iraq. I think it is a serious mistake for Congress to ever limit itself depending on what another branch of Government does, whether it is the executive or the judicial branch. I think that is a serious mistake. Certainly if you think of balance of powers, does that really make sense? I don't think so. So I urge my colleagues to support a budget point of order against it.

I guess that will be a motion to waive the point of order. But I hope my colleagues will think for a moment what we are doing. We are saying we are not going to act until the executive branch does something. There are a lot of different ways of getting the executive branch's attention other than saying we are not going to deal with the budget or issues before Congress. I think it is very constraining and shortsighted.

It is shortsighted from the standpoint it makes an exemption or an exception. It says we can't do it to consider legislation that deals with spending—except for defense. I agree with that; homeland security, and I agree with that. Then it says: Except for a growth package. Then it kind of defines out the Democrat leader's growth package.

I heard our colleagues on the Democrat side say it has a pause in spending. It doesn't have a pause in spending. I look at the Senate Democrats' stimulus plan. It has $85 billion in new spending in 2003 and $26 billion in new spending in 2004. It has a tax cut in 2003 but a tax increase in 2004, and a tax increase in 2005.

In other words, we are going to have a resolution that says you have to have 60 votes to do anything other than our package. You can't do your package, can't do somebody else's package, but it is OK to do the Democrats' package. I find that to be fatally flawed.

Then I find it repeated in the second amendment. The second amendment is the largest tax increase we have had offered before the Senate in a long time. This amendment is mind-boggling.

First let me state, in the President's initial budget he requested about $1.5 trillion in revenue reductions over the 10-year period of time. Keep in mind, we are talking about over a base of $26 trillion or $27 trillion. We reduced that to $1.3 trillion in the budget resolution we have before us.

Senator CONRAD's second amendment would reduce that 1.3—I keep hearing 1.4, but actually it is 1.314 trillion in our resolution. He would reduce that to $121 billion. I believe that would allow for $87 billion in the first year.

Maybe it is a coincidence, but the Democrats' Economic Recovery Act, introduced by Senator DASCHLE, has spending of $85.6 billion in the first year.

So both amendments basically say, we want to have no tax cuts or we want to have no tax cuts whatsoever except that we want to be able to do our stimulus plan, and even though the amendment may not define it, the stimulus plan as introduced in S. 414, Senator DASCHLE's plan, on which Joint Tax and CBO score its spending at $85.6 billion in the first year and $26.2 billion the second year—that is additional, incremental spending.

The budget resolution we have before us, just to put it in perspective, has about $10 billion in new nondefense spending. So this would be an increase of about 8.5 times the amount of incremental, new spending we have in our bill.

That is a big spending increase. That is a humongous spending increase, not to mention its impact on future taxes.

The budget resolution we have before us assumes that present law, the 2001 tax bill—which is scheduled to sunset in the year 2010—would be extended. It assumes that it would be extended to the years 2011, 2012, and 2013. That is about a $600 billion package.

Senator CONRAD's second amendment assumes that is not the case. In other words, that would not be the case. In other words, there would be a tax increase. It means the people who are paying at the 10-percent income tax level would go to the 15-percent level.

It means for the people who would be paying at the 25-percent level, their rate will go back up to 28 percent. It means that people who would be paying at the 35-percent level will be paying 39.6 percent.

It means that couples who have children, who would have a $1,000 tax credit per child, will go back to $500. It means that couples who saw their marriage penalty greatly reduced will see it greatly reenacted.

It means that married couples who have net effective tax rates or taxable income of $56,000 today, who pay a 15-percent rate on all income up to that level, will find a great percentage of that income taxed at 28 percent.

It is a humongous tax increase. So I urge our colleagues to vote no.

I will again make a couple comments.

I heard, in statements of support, that: Well, this would stop those tax cuts for the wealthy. Well, wait a minute. What is wealthy about a couple making $56,000? What is wealthy about a $1,000 tax credit per child? What is wealthy about trying to get rid of the marriage penalty for married couples who make $56,000? What is so wealthy about that?

Why should individuals be paying at rates in excess of what General Motors pays? People who are sole proprietors, people who own their own business, why should they pay income tax rates in excess of the largest corporations in America?

Why don't we just try to pass—I guess this amendment is just that—you try to pass a big tax increase and see if that really helps the economy. I don't believe it will. I think it would hurt the economy. I think it would cost thousands and thousands of jobs.

I heard our colleague from New Jersey say he had a couple of economists that do not support the elimination of double taxation. I have a whole list of economists who say getting rid of double taxation on dividends would be very positive and have a very stimulative impact on the market. And that would help anybody, not just people who currently own taxable stock or dividends that might be taxable. It would help anybody who happens to have investments in their retirement accounts that are tracking the market, which would include probably every teacher, every public employee, every union member, all of whom have savings plans, retirement plans which are dependent on a vibrant stock market. The President has a plan that would grow that. Our colleagues do not.

Then let me make a couple other comments on Social Security. I keep hearing all this comment about: Well, this budget raids Social Security. I have heard the figure, $2.6 trillion or $2.7 trillion. If you use that analogy, the budget that was reported out of the Budget Committee last year, but not considered on the floor of the Senate, would have so-called raided Social Security of $2.1 trillion.

I want to add some facts on just Social Security and Medicare. The reason I add the two together—maybe this is my old business hat—but I look at payroll taxes and individuals who are self-employed. I used to be self-employed. They pay 15.3 percent of payroll taxes, up to—the taxable amount this year is what? I think it is $87,000. Now, it just so happens that 12.4 percent of that is Social Security and 2.9 percent of that is Medicare. So if you add the two together, it is a combined total of 15.3 percent of payroll.

I actually looked for the last 20 years. I wanted to see how much money is going in from the payroll taxes and how much money is going out in benefits. I did that.

As this chart shows, the income coming in is shown on the blue lines, and the benefits going out are shown on the red lines. And I notice from the years 2003 to 2013, the amount of money coming in is less than the money going out.

I am not crediting interest on these so-called trust funds. I will touch on that for a second.

If an individual is self-employed or they are working for a company where the company matches, they pay 7.45 percent of the 15.3 percent. Their employer matches this amount to create the combined total. That is what is coming in to fund Social Security and Medicare. So the total taxes coming in, in the year 2003, for these functions would be $731 billion. And the amount of money going out in Social Security and Medicare is $746 billion. There is more money going out than coming in.

I wanted to look back at the last 20 years or the last 10 years prior to that to see what happened in actual dollars coming in and going out.

On this chart, the amount of money coming in is the lighter color, and the amount of money going out is the darker color. In almost every year—not every year, but in almost every year—more money is going out than coming in. In a few years there is a surplus.

But then I wanted to know: Wait a minute, if there is a surplus, where did that surplus come from? And I kind of notice there is a general fund surplus or general fund transfer from the general fund into Medicare. In other words, for most of these years, but not every year, you will notice there is more money paid out in Social Security and Medicare.

So I guess you could say: Oh, they had some surpluses in Social Security, but we are raiding it. Well, if you are raiding it, you are moving it out to pay Medicare.

Frankly, an employee, an individual, an employer, they don't really make that fine distinction between Social Security taxes and Medicare taxes. They pay the payroll tax. And it just so happens, they pay the payroll tax and the Government is paying out more than what is coming in.

Even in those few years where there was a surplus—more money came in than went out combined—for those few years, if you look at the amount of money in the general fund, transferred in to Part B—and we subsidize Part B, the doctors' portion of Medicare; we subsidize that to the tune of 3 to 1, 75 percent Federal Government; not payroll taxes, general revenue funds going in to subsidize Part B, the doctors' payments—those amounts exceed any positive amount, as shown over here on the chart. So the point is, more money is coming out than if you add Social Security and Medicare together. Maybe there is some synergy there.

If you look at the amount that some of our colleagues—and I agree with Senator CONRAD on many aspects of Medicare and Social Security and long-term challenges that we have. We have an unfunded liability in Medicare that is about $15.3 trillion. It is about two or three times that of Social Security. Demographically, we have a big challenge. We need to be addressing it in a bipartisan way. We do not make changes around here in Medicare without bipartisan support. So we need to be working together to help save the system and improve the system.

In our budget, we provide for up to $400 billion to strengthen, improve, and save Medicare. That is a lot of money. That is a big expansion of an entitlement, not just for prescription drugs but also to save the system that we know needs to be addressed. We need to do it in a bipartisan way. I hope we will.

But I want to make a couple of analyses. I keep hearing about raiding Social Security, and I think: Wait a minute. Do they not know we are paying all this money extra for Medicare?

Do they not know Medicare has an enormous unfunded liability? Do they not know we are paying a lot of general fund money to subsidize Medicare? Those things also should be computed and added. If Social Security is being raided, it is being raided to pay Medicare.

A lot of this trust fund symbolism is because Congress, over the years—well, we have strengthened the Medicare trust fund and HI fund because we moved home health away from HI into Part B, which is subsidized by the general fund. This made the HI fund look more solvent. In reality, it was financial maneuvering. The real security for Medicare and Social Security is a healthy economy. If we don't have that, we don't have jobs, we don't have payroll taxes coming in, and we won't be able to pay benefits.

Both systems are basically on a pay-go system. If they were funded systems, we would be put in jail because we have not funded the liabilities in the systems. I used to be a fiduciary and trustee of a pension plan. There are liabilities to an employer if you don't fund the plans. We don't do that for public employees. We never have in Social Security or in other Federal employee plans. So I just mention that.

Finally, I want to touch on this comment about "raiding the trust fund." I want to make sure people understand this. Social Security—if we enact no bill, or our budget stays as it is, we will end up having a $4.1 trillion trust fund. If we don't do a budget, we will have $4.1 trillion in the trust fund, period. So, again, the important aspect of being able to pay Social Security and Medicare, frankly, is a growing economy. The President has a plan to grow the economy.

If we adopt either of these two amendments pending before us, what we will say is the only growth package we can enact is the one that is offered by our colleagues on the Democrat side. Looking at their package—look at the composition of it; it is not a tax package, it is basically a spending package. In 2003, it says, we will spend $85.6 billion, and we will have a tax reduction in 2003 of $16.2 billion, but we will have a tax increase in 2004—next year, 6 months from now—of $17.8 billion, and a tax increase in 2005 of $16 billion. We will take away the bonus depreciation provision that was in the 2002 tax bill that had strong bipartisan support, that many people are talking about maybe we should extend or improve or enhance. So we really would encourage investment.

This provision would take it away. If you want to do something to dampen the economy, it would be to adopt these amendments. I cannot think of anything more negative on the economy than if we adopted these provisions. They are consistent in saying, yes, we want to cut your tax bill, but we want to have our proposal, which is not a tax bill, it is really a spending bill.

In about 45 minutes, I urge my colleagues to vote no on both of the underlying amendments.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I don't know, honestly, what amendment our chairman is looking at, but it is not mine. I don't have spending in the amendment. I have not provided for the Democratic leader's plan—I have not. In the amendment the chairman is discussing, I have $150 billion of tax cuts, including $25 billion of refundables, which the chairman has in his own package. I have matched his own package on refundables. I have no spending.

The only thing that, perhaps, he is looking at is in the early years, because I more front-end-loaded the plan. We have additional interest costs initially. But over the life of the plan, it is substantially less interest cost. This isn't a plan with spending in it; it is a plan that has tax cuts in it.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. NICKLES. I am reading your first amendment, and correct me if I am wrong. S. Con. Res. 23—it is a point of order amendment; 264 is the amendment number. On pages 1 and 2, it says:

> It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would increase the deficit in any fiscal year, other than one economic growth and jobs creation measure providing significant economic stimulus in 2003 and 2004, which does not increase the deficit over the time period of fiscal years 2005 through 2013. . . .

But it does allow—correct me if I am wrong—a significant increase in spending in 2003 and 2004, comparable to that as introduced by Senator DASCHLE.

Mr. CONRAD. The Senator is talking about my first amendment.

Mr. NICKLES. Yes.

Mr. CONRAD. That amendment provides for a stimulus package. The Senator is correct. In 2003 and 2004, that provides for both tax cuts and spending. In the second amendment I am offering, to reduce the size of the tax cut and still leave $150 billion in tax cuts, there is no provision of spending. So I guess this is an example of why it is better if we handle each of these amendments individually rather than to stack them, because we get confused about what amendment we are addressing. I guess that is why we are designed here to offer an amendment at a time.

Let me just say, on the second amendment, it is—I say this directly to the chairman—not designed to accommodate the Democratic leader's stimulus plan. It doesn't have the spending that is in his stimulus plan. It simply has $150 billion in tax cuts, $25 billion of which is refundables. I have done that to try to give our colleagues different opportunities to address what I consider the greatest threat we face, which is sinking into this abyss of deficits and debt. I believe, with everything that is in me, that we ought to do something on both the spending side and the tax-cutting side, and that is what the first amendment represents. It is an attempt to say to our colleagues that we are on the brink of war and we don't know what it will cost, we are in record deficit now, and that what we should do is make it more difficult to spend money and to have tax cuts, with two exceptions: We don't make it more difficult to spend money on defense or homeland security, and we don't make it more difficult to have tax cuts to the extent that they are for 2003 and 2004, to accommodate a stimulus package to give lift to the economy.

Mr. DODD. Will my colleague yield?

Mr. CONRAD. Yes, I am happy to.

Mr. DODD. I believe this is the chart regarding the second amendment that really makes the point very clearly. He showed this to me the other day, and it struck me as graphically describing exactly what the Senator from North Dakota is saying. Here are the years 2003 to 2008, and 2013. These are surplus numbers. Correct me if I am wrong, but these are surplus numbers we are looking at, in terms of the Social Security surplus. The light blue at the top is the Medicare surplus. That begins to run down and out around here, just the time that these tax cuts go into effect.

The point I have understood him to make is that this seems to be designed specifically to starve our ability to see to it that both Social Security and Medicare have the resources they need. The President calls for more than $1 trillion in resources to support his tax cuts. Right at about the time these tax cuts will really hit home, we then lose the revenue ability to respond to the needs of Social Security and Medicare; is that correct?

Mr. CONRAD. The Senator from Connecticut does a very good job of describing the enormous challenge we face. The hard reality is that we have record budget deficits now, and this is before the baby boom generation retires. When the baby boom generation retires, the trust funds will turn cash negative.

I want to clear up one thing if I can. The Senator from Oklahoma, the chairman of the Budget Committee, says if you take Medicare and Social Security and lump them together, we are spending more than we are taking in. But what he has done here is mix apples and oranges, if I can say so.

First of all, the Social Security trust fund is separate and apart. It is not lumped with Medicare. If you look at the Social Security trust fund, this is what you will see. Right now it is running substantial surpluses. This year the Social Security trust fund will run a $160 billion surplus. We should be using that money to pay down debt or prepay the liability or invest it, but instead we are taking it and using it for tax cuts.

We know what is going to happen. In 2018, that trust fund is going to turn cash negative, and when it does, it is like falling off a cliff. At the very time it turns cash negative, the costs of the President's tax cuts explode, meaning only one thing: massive deficits, massive debt.

If we look at the Medicare trust fund, and what the Senator from Oklahoma has done, as we know, there is a part A to Medicare. It is largely for hospitals. That has a trust fund. That trust fund is now running surpluses. It is much smaller than the Social Security trust fund, but nonetheless there are surpluses in the tens of millions of dollars. But that, too, is going to go cash negative in 2013 right at the end of this budget period. When it goes cash negative, it goes cash negative in a dramatic way and, again, right at the time the cost of the President's tax cuts explode, leaving us unable to respond to the crisis that is going to occur. If I can conclude by saying what the Senator from Oklahoma has done is he has combined the part A of Medicare, which has a trust fund, the Social Security trust fund, and part B of Medicare, which largely goes to fund the cost of doctors.

The part B of Medicare is funded in a completely different way. The Senator from Oklahoma is correct, three-quarters of that money comes not from payroll taxes but comes from general fund transfers. That is what we did long ago. We have had various formulas, but we decided long ago that part B was going to be funded in part by payroll taxes and in part by general fund transfers.

Lumping these all together obscures the fact we do have trust funds and that those trust funds are running cash surpluses. They are going to go into massive cash deficit, and to run budget deficits on top of that right before the baby boomers retire, and it is going to force excruciating decisions in the future, either massive cuts in benefits or massive tax increases or some combination.

That is the problem I see with the budget plan put to us by the President and put to us by our colleague from Oklahoma.

Mr. DODD. Mr. President, can I receive 5 minutes or so?

Mr. CONRAD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes 45 seconds.

Mr. CONRAD. I will be happy to yield 5 minutes to the Senator from Connecticut.

Mr. DODD. I thank my colleague. I see my colleague from Colorado is here as well and wants some time to speak. I will be brief so he can be heard.

These two amendments are different in thrust. I will address the first amendment. I know others have spoken about it.

I heard over and over, and I agree—in fact, I listened to the Vice President the other day on one of our national news programs say how the world really has been divided into two parts over the last 18 months: What was going on prior to 9/11 and what has happened since 9/11. I agree with him. I think we have to look at the world in two parts. We will never be the same again. Others have said that over and over. I do not know anyone who fundamentally disagrees with that point.

I am concerned about this budget process coming right on the eve, if you will, of significant, major conflict, and the fact we are debating the budget needs and priorities of our Nation and excluding from this debate the cost of this conflict and the cost of the reconstruction that will come afterwards. For the life of me, it is almost as if we are engaging in an Alice-in-Wonderland world here. On the one hand, the entire world is anxious about what may happen within hours of this debate, and on the other hand, we are debating a budget process that locks us in for a decade, and there is no discussion about what is going to become a major issue for us: the cost of this conflict and the cost of the reconstruction period afterwards.

This morning I tried to go through the news media to see if I could find an article about this debate. I found very little about this debate. Obviously, the attention is on what will happen in Iraq. Yet what we are debating today, and will be debating tomorrow and the next day, in the midst of this conflict, I will argue is as significant in many ways as the impending conflict in the Middle East. But what concerns me is that we are literally locking ourselves into budget priorities that are excluding a tremendous cost, a cost, by the way, as one who supported the resolution last fall, I accept. It is one that we have to bear, but I do not know how the budget can be debated without talking about the major costs of war that we all know will be coming.

The amendment offered by the Senator from North Dakota says that we ought to at least require that the President provide Congress with a report on the costs of the imminent war with Iraq before the Senate acts on any new tax cuts or spending initiatives. I am not expecting a detailed accounting here. Obviously, you cannot do that, but you are not going to convince this Senator that there have not been people at the executive branch level who have anticipated best- and worst-case scenarios of this conflict.

We have heard estimates anywhere from $60 billion to $95 billion, just on the military part. In fact, I gather we have already spent some $25 billion just in getting our forces and equipment to the Middle East. We are already incurring a cost, and yet there is no mention of those costs in this budget.

Certainly, the idea that we have not incurred the cost yet because the conflict has not started, therefore, we cannot mention these numbers yet, I think flies in the face of reality. Clearly, we have costs already.

I tried to historically see if I could find another example of when we were on a brink of a conflict when we actually had a tax cut of the magnitude we are talking about here. I cannot find any historical precedent for what we are about to do. In fact, Harry Truman, who is revered today as a courageous American President, prior to Korea said: We will do this, but, by the way, I am going to have tax increases to pay for it. If we are going into a conflict in the Pacific rim, I cannot very well ask us to go and not bear the financial cost of doing so.

The only time I recall we went into a conflict and did not face the music financially was during the Vietnam conflict. We saw the ultimate results of trying to wage a fight there and not pay for it simultaneously.

As someone who is supportive of the fact that we have to go to war—reluctantly I regret that is the case but understand it must be so—I for one would like to see us adopt the amendment of the Senator from North Dakota because I think the American public would expect nothing less of us here. This is absolutely critical. We are prepared to put young men and women's lives at risk, who are about to bear the burden—and let's be honest—almost solely so, certainly solely financially—and yet we are engaged in a budget debate and discussion that does not even bring up a red nickel in the cost of this conflict and the cost of reconstruction.

The amendment of the Senator from North Dakota says let's determine what these costs are. Let's factor that all in and then decide whether or not we want to support a $1.3 trillion or a $1.4 trillion tax cut over the next 10 years.

I do not for the life of me understand why we would not pause a few moments here, a few days even, necessarily to see how this issue is going and come back to this issue and resolve it. I am hopeful our colleagues will support this amendment. I think it is patriotic. Can you imagine if this does not go as well as we might like and these costs explode and here we are locked into a situation in which we cannot afford to pay the costs? How ridiculous we will look as a Senate that we did not wait a few days to determine whether or not we needed extra resources to pay for these costs.

My time has expired. I urge my colleagues to support this amendment and support the second amendment as well. With respect to the first amendment, I cannot believe we are going to go on record and adopt a budget that does not take into consideration one of the greatest challenges we face as an American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I ask that the Senator from Oklahoma yield me some time.

Mr. NICKLES. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Twenty-one and a half minutes.

Mr. NICKLES. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Oklahoma for yielding me 10 minutes.

Before I start my prepared remarks, I wish to thank the chairman of the Budget Committee, Senator NICKLES, for a great job. This is the first year he has taken on the responsibilities of the Budget Committee. It is a tough environment today. With this tough economic environment and being on the brink of war, he has brought a budget bill that holds down spending, cuts taxes, and actually has a plan in which we can eliminate deficit spending over a 10-year period. In today's environment, I think that is phenomenal work.

As a member of the Budget Committee, it has been a pleasure for me to work with him because he has made a commitment to work with members on the Budget Committee to try to put together a reasonable proposal. It is important we get a budget passed in this Congress, this session. Last year we experienced the problem of what happens when we do not pass a budget from the Senate, and we see the free-for-all that happens in spending.

I think we are in a spending spree. There have been some speakers earlier today who tried to blame the current economic problems we are having on this President. I have to remind the Members of this body that the economy was starting to show a downturn the first few months that the President was in office. He did not have any effect on that economic downturn that was coming. In fact, what this President did was he proposed a tax cut. It ended up being a temporary tax cut because it was opposed by the other side, but it was a 10-year tax cut. It was put in place and the argument was made, well, here we are, we are just doing something that is going to benefit the wealthy.

If we look at the figures of who pays the individual income taxes in this country, the top 50 percent of the income producers of this country pay nearly all of the taxes. There is only about 4 percent of the taxes that are paid by the lower 50 percent of the income producers in this country. The other 50 percent pays 96 percent of the taxes. So how can there be a tax cut policy without addressing the needs of those producers who we have in this country?

The naysayers criticize the temporary tax cut, but about October of last year we began to hear some of them admit, yes, the tax cut, even though it was temporary in the spring of 2001, it did help the economy. It helped buoy up the economy. Even an editorial last October in the Washington Post, which is no friend of those of us who want to continue to cut taxes, had to admit that it was the temporary tax cut that helped buoy up the economy.

We are looking at an economy today that is struggling. I had a town meeting this last weekend in my home State of Colorado, the largest county in the State of Colorado in Denver, and we talked about the economy. I talked with them about just having gone through a spending spree—a spending spree, I might add, that started before this President stepped in to office. I said, if we look over the past 4 years or so of spending, it has been the largest amount of spending that we have incurred in any 4 years, excluding World War II. If spending is what it is going to take to stimulate this economy, why have we not seen the economy improve today? At that point nobody wanted to increase spending at that town meeting.

I asked, well, why don't we just do nothing? I mean, some Members of the Senate are saying let's do nothing, leave the current laws as they are and let it ride. I asked, do you think a do-nothing proposal is what we need to help today's economy? Nobody agreed to that.

So what is left? What is left is we need to cut taxes because if we look as a percentage of the gross domestic product, the amount of taxes that are being paid today by Americans is among the highest it has ever been in history. It is not the highest. We peaked down a little bit. Several years ago it was the highest, but we are still among the highest as far as a percentage of gross domestic product. That is very significant because the gross domestic product has been growing in the last decade or so at phenomenal rates. So it is a huge burden.

I commend the President for coming forward with a tax cut that would actually increase jobs in this economy. I am looking at some figures that have been supplied to me about the job growth in this country, and there have been a number of studies that have been put out. Some of them say that 60 percent of what the President is providing in tax cuts will actually spill over to create more job growth and that is going to be reflected in growth in revenue to the Federal Treasury, and as a result of that, the fiscal notes that we have in the Congress are not as severe as some may believe because we are not taking into account the real world of what happens when we actually do a tax cut, how that stimulates the economy.

Now we looked at some individual States where they have done some analysis. This is not the one that says it is 60 percent; it is not the lowest one, which is 40 percent. I might add, the 40-percent economic analysis on number of jobs was made by President Clinton's former assistants in OMB, Office of Management and Budget. The figures are around 57 percent that they came up with, and so we see a growth in jobs in all the States.

Take my State of Colorado, in 2004 we see 16,200 new jobs created because of the economic stimulus plan that is put forward by the President. We go down and look at, for example, Oklahoma, where the chairman of the Budget Committee is from, 11,600 jobs. We can look at Texas, the State of the Presiding Officer, we are looking somewhere at 74,000 new jobs created in the State of Texas. Look at North Dakota, for example, a much smaller State but still there is a proven growth impact of 2,300 jobs. As a result of the President's proposal, economists have analyzed that they anticipate this job growth to occur.

The point can be made, well, we are having to spend money if we use the static analysis that we use in the Congress, but there is a return on that. That same study has indicated that for every dollar of investment, there is a $3.22 return.

I remember when I started my business I had to incur a debt to get things going, to create jobs, to be able to buy equipment and get moving. I considered that was a worthy investment. I think we are going to have to make an investment in today's future. I think we need to make that investment in terms of a tax cut, and I think we need to do something along what the President is suggesting we ought to be doing, that for each $1 in tax cuts we are going to get a $3.22 return over a 10-year period.

That brings me to the two amendments that are before us now. The first amendment we will vote on, where we are cutting out all the whole proposal basically other than what is going to be proposed by the other side of the aisle, which has a lot of severe restrictions on it. There are a couple of problems I have with that amendment. I think we pretty easily defined defense, but in homeland security, sure, we want to protect the homeland security in general terms. That means securing our borders and providing assistance to those people who will deal with emergencies in case of some kind of a terrorist attack, and that is police and firemen in this country. There are individuals who are trying to expand that definition of homeland security.

The point I make is that homeland security has not been well defined, and in some instances we may open up a hole for more spending than what we intend to do.

The other thing I point out that we have, I will take them at their word, $150 billion is what they want to use to stimulate the economy. It does not do much. If we took that $150 billion and put it out over 11 years, it is only .5 of an impact on the total amount of taxes collected over that period of time. That does not do much. We need to do more.

Mr. President, $150 billion is a drop in the bucket. We need to look, at a minimum, at what the President is looking at. Maybe we ought to do more. Time of war I don't think is the time to be pulling back on the economy. It is the time to try and stimulate the economy. When we stimulate the economy, we create job growth, we allow individuals and businesses to retain more of the money in their own pockets. They spend money on equipment, and that means we will begin to see this economy grow.

I will vote no on the two amendments. I urge my colleagues to do the same.

I thank Senator NICKLES for granting me the time, and I yield the floor.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. There remain 10½ minutes for the majority and 5½ minutes for the minority.

Mr. NICKLES. I suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. CONRAD. And the vote is scheduled for 5 o'clock?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. Mr. President, let me take a few minutes to talk about the two amendments I have offered that are now pending. The first amendment I offered says we should not add to new spending initiatives or tax cuts until we have a full idea of the cost of this war.

As my colleagues know, there is no provision in this budget, either in the one sent to us by the President or the one that has come out of the Budget Committee, for war costs. We know the number is not zero. That is the number that is in the budget.

So the first amendment I offered is to make it more difficult to add to deficits by spending or tax cuts, with two exceptions. On the spending side we would have an exception for national defense or homeland security. On the tax-cutting side, we would have an exception for a stimulus package with costs in 2003 or 2004. So that is the first amendment I have offered.

The second amendment I have offered would reduce the tax cut by $1.2 trillion, still leaving a $150 billion tax cut but using the $1.2 trillion to strengthen Social Security, given the fact that the baby boom generation is about to retire, given the fact under the budget resolution before us, virtually every penny of Social Security surplus during the entire next decade is being used to pay for other things. It is being used to pay for tax cuts. It is being used to pay for other expenses of Government.

Those are the two amendments I have pending. I hope very much my colleagues will give serious consideration to them.

Again, the first amendment says simply this:

The Senate may not consider legislation that would increase the deficit until the President submits to Congress a detailed report on the overall estimated costs of the war.

That is enforced with a 60-vote point of order, so it could be overcome if there were a supermajority vote here in the Senate. There are two exceptions: On the spending side, legislation relating to national or homeland security and, on the tax-cutting side, an economic recovery and job creation package which does not increase the deficit over the time period 2005 to 2013. That would permit a stimulus package in 2003 and 2004. Again, the second amendment reduces the tax cut, which approaches $1.4 trillion, by $1.2 trillion, and reserves that money to strengthen Social Security.

I again welcome support from my colleagues on both of these amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have already made a budget point of order on the first amendment. Senator CONRAD moved to waive it. I urge my colleagues to vote no on the motion to waive.

The amendment creates a new 60-vote point of order against spending and tax legislation until the President does something, until the executive branch does something. I think that is a serious mistake. We are going to handicap what congressional action can be waiting on what the executive branch must do. There are other ways of getting the administration's attention than saying we are not going to legislate. So I think that's a serious mistake.

Also, it is very interesting but fatally flawed from its definition. It says we won't do anything except for—well, maybe the Democrat stimulus plan. In other words, we are not going to consider anything but maybe our bill, because it says we have an exemption in 2003 and 2004, and also not increase the deficit in 2005 to 2013.

If I look at the Democratic leader's package, it has significant deficit increases in the first year of about $100 billion in 2003; $85.6 billion in spending, $16 billion in tax reduction for a total of a $101 billion increase in deficit in 2003. Then in 2004 it has $26 billion in new spending but a tax increase of $17.5 billion, and a tax increase in 2005 of $16 billion.

It assumes the bonus depreciation that we passed in 2002 would be curtailed; In other words, a tax increase on business. Even though we have already given it to you, we are going to take that away from you. That is really going to help the economy?

I think this resolution is fatally flawed, and I hope our colleagues would vote no on it.

On the second amendment, it is an amendment that basically says we should have at least $1.2 trillion more tax increases than proposed by the President or the budget resolution that is pending before us; a $1.2 trillion tax increase. It is not every day we vote for something that large. It also says no reconciliation bill. It says let's do a $150 billion—actually $121 in tax reduction, $29 billion in spending in the first year or so. Again, it is kind of patterned where maybe this would fit for the Democrats' proposal but not anything like the President's proposal. Let's have our stimulus or growth package or just gut the bill.

What is the net increase? It assumes the 2001 tax cuts that are scheduled to sunset in 2010, that will not happen. Those tax increases we are going to hit. So people who are paying 10 percent, look out, your tax rate will go to 15 percent.

In our proposal we assumed we would extend those tax cuts, but we did not do it in reconciliation, so Congress would have another 6 years or 7 years to make that decision. Senator CONRAD's amendment assumes we are going to have those tax increases hit. We are going to allow all the changes we made in 2001 to sunset; therefore, you are going to see death tax rates go back up to 55 percent; you are going to see rates climb back to higher levels. It means for couples who were receiving $1,000 per child, that is going to be reduced to $500. It means couples who have a combined income of $56,000 and are paying in the 15 percent tax bracket are going to find about $12,000 of that income is going to be taxed at 28 percent instead of 15 percent.

It is a big tax increase compared to the resolution we have before us. I urge my colleagues to vote no on both amendments.

These are important amendments. I thank my friend and colleague from North Dakota because I told people, if people want to cut the growth package, let's vote and find out where the votes are. This is an amendment to say the growth package should be maybe $150 billion, but even at that we are going to reduce the total amount of tax reduction assumed in our bill to zero on the growth package, other than the $150 billion, and assume there will be very large tax increases actually hitting the American people in the years 2010, 2011, and 2012.

I hope we would not enact such a plan. I think it would be a disastrous move for the economy.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from North Dakota.

Mr. CONRAD. Madam President, let me be clear. My first amendment does not contain the Daschle growth package. It does not. It simply is not reading my amendment. My amendment says very clearly the following: That we would prevent additional increases to the deficit by spending, or by taxes. And we would enforce it with a 60-vote point of order with two exceptions: On spending for national security, homeland security, national defense; on taxes, you can have a stimulus package in 2003 and 2004. It could be the Daschle package. It could be the Nickles package. But you could not have a stimulus package that adds to the deficit in 2005 and beyond.

That in no way restricts you to the Daschle package. It would allow it, but it would not prevent any other stimulus package from being enacted for 2003 and 2004.

On my second amendment, which reduces the tax cut by $1.2 trillion, still leaving a tax cut of $150 billion, the money is used to strengthen Social Security. It is held in a reserve fund. That allows us to reduce the deficit and reduce the debt. If we want to have a growth package here, we better get serious about the deficit and the debt because most economists are telling us the President's so-called growth package doesn't grow the economy at all. It actually hurts long-term economic growth. Why? Because the President's tax cuts are not offset by spending reductions. The President's tax cuts are offset by borrowing.

That increased borrowing, that increased deficit, that increased debt reduces the pool of societal savings, reduces the pool of money available for investment and reduces economic growth.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CONRAD. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NICKLES. Madam President, I thank my colleague and want to inform our colleagues we will be voting in 2 minutes on two important amendments, and I encourage our colleagues to vote no.

I have a list of economists who state the President's package would help the economy and help grow it. It is several pages. I don't know if I want to clutter the RECORD further. I ask unanimous consent to have printed at least a couple of pages. I do not want to burden the taxpayers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Here is what prominent economist and industry leaders are saying about the President's economic growth proposal:

"President Bush's fiscal stimulus package is desirable not only to deal with the current sluggishness in the economy, but also with the longer term problems arising from disincentives to save, invest and work in America." (Richard Vedder, Distinguished Professor of Economics, Ohio University)

"The President's economic growth package is a very positive step forward for investors, workers, and taxpayers. For the sake of the economy, we hope that Congress will speedily enact the President's tax relief proposals and NTU will be working toward that goal." (John Berthoud, President, National Taxpayers Union)

"The package is a great New Year's surprise. We'll be raising our economic and equity outlooks and lowering our unemployment rate expectations." (David Malpass, Bear Stearns & Co. Inc.)

"A brilliant, double-barrelled tax cut that will increase the income of every American worker and create millions of new and better jobs." (Martin Anderson, Keith and Jan Hurlbut Fellow, Hoover Institution, Stanford University)

"President Bush's proposed growth plan is not just a bunch of random tax cuts, it is a plan that really pushes the 'growth buttons' by improving incentives to work, save and invest, and is a step toward real tax reform. This package, along with recent improvements in the tax treatment of business investment, will give a real lift to jobs and GDP." (Stephen J. Entin, President and Executive Director, Institute for Research on the Economics of Taxation (IRET))

"By accelerating tax rate reductions and eliminating the double-taxation of dividends, President Bush's tax package would significantly increase the economy's performance. But the proposal also represents much-need tax reform and is a significant step toward a simple and fair system like the flat tax." (Dan Mitchell, The Heritage Foundation)

"President Bush's proposal on dividends ameliorates the double-taxation of corporate profits, ending the incentives in our tax code #1 to over-leverage business, with the consequence of too much debt and vulnerability to the business cycle, and #2 to over-rely on accounting numbers rather than the pay-out of cash. His proposal on expensing of capital expenditures will help invigorate our economic recovery." (Clifford F. Thies, Professor of Economics and Finance at Shenandoah University, and member of the Board of Directors of the American Association of Small Property Owners (AASPO))

"The double taxation of dividends has never made sense and this is a perfect time to remove this crazy form of taxation. It not only harms economic growth in the obvious ways, but also in subtle ways. Given the wave of recent corporate scandals, this is the perfect time to introduce a policy change that will simultaneously increase investor confidence while creating greater accountability for managers." (Brian J. Hall, Associate Professor, Harvard Business School)

"Taxpayers at all income levels should cheer President Bush's call for greater tax relief. These pro-growth and pro-family tax cuts are well-timed to provide stimulus for the U.S. economy." (Russell Lamb, North Carolina State University)

"The President's proposal eliminates unfairness in the tax code, distributes the gains widely to Americans who pay income taxes, and creates incentives for growth. What more can we ask?" (Don Booth, Professor of Economics, Chapman University)

"The President's Economic Growth Package is a solid and aggressive plan to further boost economic growth and job creation in 2003 and beyond. The cuts in marginal tax rates will allow all individuals to better spend, save, and invest, and they are especially beneficial to the ongoing viability of the small businesses that pay taxes at the individual level such as Subchapter S Corporations." (Paul Merski, Chief Economist & Director of Federal Tax Policy, Independent Community Bankers of America)

"I think this is a bold economic package that both provides much-needed near-term economic stimulus and boosts after-tax incentives for growth and investment. The current double-taxation of dividends is unjustifiable on economic efficiency grounds and its elimination should provide a welcome lift to the equity market by increasing after-tax returns on stocks and further improve corporate governance by encouraging firms to increase dividend payouts. The acceleration of the margin tax rate cuts from 2006 into 2003 should eliminate incentives to defer income and economic activity, which in turn should further boost economic growth in 2003. This is the most significant proposal to roll back tax disincentives to growth and stimulate the economy since the Reagan tax cuts." (John Ryding, Chief Market Economist, Bear Stearns & Co. Inc.)

"This is the type of bold action needed to jump start the stagnant U.S. economy. When these measures go into effect, the U.S. industrial sector will resume its role of innovating and creating jobs to provide an engine for growth in the global economy." (Thomas J. Duesterberg, President and Chief Executive Officer of the Manufacturers Alliance/MAPI, a public policy and business research organization in Arlington, VA)

"The President's plan is directly targeting consumer spending and investment incentives. The reduction of marriage penalty, the increase in child tax credit, the extension of unemployment benefit and speeding up tax relief will help revive consumer spending, increase confidence and boost aggregate demand in the short-run. The end of double taxation of dividends and increasing incentives for small businesses should help sustain momentum in favor of job creation and long-term growth." (Magda Kandil, International Monetary Fund)

"Once again, President Bush is demonstrating his strong leadership ability. This stimulus package is just the type of measure his economy needs to get back on track. Just upon hearing about it the markets have reacted wildly in response. Imagine how it'll be when it's enacted." (Horace Cooper, Centre for New Black Leadership)

"Business investment is key to fostering healthy levels of economic growth. President Bush's plan offers much needed capital and incentives to the sector of the economy shouldering the bulk of job creation, economic growth and innovation—small businesses and entrepreneurs. We are also encouraged by the President's proposal to eliminate the double taxation of dividends. With the strength of the economy becoming increasingly dependent on the health of the equity markets, this measure will help restore both certainty and investor confidence. The overall package is good for small business, which means it's good for America." (Karen Kerrigan, Chair, Small Business Survival Committee)

"The President's plan alleviates one of the most economically destructive distortions in the tax law and also provides welcome relief to small businesses." (David R. Burton, The Argus Group)

"President Bush's 'Taking Action to Strengthen America's Economy' plan is a sound and well thought out policy package. The plan offers not only short-term stimulus for the American economy but it also lays the foundation for long-term, non-inflationary, economic growth for the decades ahead. By extending unemployment benefits, the plan reaches out to those workers who, through no fault of their own, find themselves out of work. In addition, the creation of the new Personal Reemployment Accounts will help to ensure that America has the most dynamic labor markets the world has ever seen. One of the most impressive things about the plan is that it is not limited to only short-term stimulus. President Bush obviously understands the importance of long-term economic growth for America's future. By eliminating the double taxation of dividend income President Bush's plan will allow Americans to save more effectively for their retirements and to save money for their children's future. In addition, by encouraging small business to invest and invent the plan will help to ensure the rapid advancement of American productivity. These productivity increases will help to insure that America's children of today will enjoy a higher standard of living than their parents and their grandparents. The positive effects of the President's plan will be felt for decades into the future." (Michael W. Brandl, Ph.D., The University of Texas at Austin, McCombs School of Business, Department of Finance)

"A far-reaching reform of the U.S. tax system to reduce the large distortions implied by the existing structure of taxes on capital income is long overdue. Studies published in leading economics journals show that the welfare of U.S. households improves by an amount equivalent to an increase of between 1.5 to 3 percent per quarter forever because of the tremendous efficiency gains that the economy stands to make from lower taxes on dividends and other forms of capital income. These findings are not driven by glossy budgetary arithmetics. In fact, they follow from economic models that impose tough assumptions keeping current levels of government expenditures and transfer payments covered and making the long-run rate of economic growth independent of the tax cuts." (Enrique Mendoza, University of Maryland)

Mr. NICKLES. I also have a list of economists who say the President's package would greatly increase the stock market: James Glassman from Chase, 10 percent to 15 percent; Charles Schwab, 10 to 15 percent; and on and on. Some of us would love to see the stock market increase. The amendment of the Senator would basically gut the growth package. There would be zero growth package—maybe $150 billion in the first 2 years, but that is not long-term growth. And his first amendment does say a point of order would lie unless there was significant economic stimulus in 2003 and 2004, and also you can't have any increases. It happens to fit the Daschle plan. It doesn't fit any plan I have seen on this side, so it is kind of a carve-out. We will have a budget point of order or super point of order against any bill I have seen, but certainly not the minority leader's plan.

I urge our colleagues to vote no on the motion to waive. And then I will move to table the second amendment at the appropriate time.

Also, Madam President, I ask unanimous consent that the vote on the second amendment be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Madam President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 264. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—43

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Edwards

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

### AMENDMENT NO. 266

The PRESIDING OFFICER. There are now 2 minutes of debate prior to the vote in relation to amendment No. 266.

Who yields time?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair.

Madam President, this amendment reduces the tax cut by $1.2 trillion, leaving a tax cut of $150 billion, and with the reduction in the tax cut, it is put in the reserve fund to strengthen Social Security. That means it will be used to reduce the deficit until it is needed to help supplement the Social Security system.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I am going to move to table the amendment, so I urge our colleagues to vote aye in favor of the motion to table.

This amendment says we should have zero stimulus except for $150 billion up front; zero extension of the current law. In other words, we have a lot of taxpayers right now who are paying 10 percent. Their rate would go to 15 percent. We have a lot of taxpayers who are paying 25 percent. Their rate would go to 28 percent. We have some taxpayers paying 35 percent. Their rate would go to 39.6 percent. We would have increases in the death tax, the marriage penalty, and a decrease in the child tax credit from $1,000 to $500.

I urge my colleagues to vote against this $1.2 trillion tax increase compared to the budget resolution before us.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—57

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dayton
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—42

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Edwards

The motion was agreed to.

The PRESIDING OFFICER (Mr. ALEXANDER). The majority leader.

Mr. FRIST. I take a second to update Members as to the schedule for this evening and the remainder of the week. There are approximately 35 hours remaining for the consideration of the budget resolution. The two managers were here late into the evening yesterday and have been here all day today. Both are ready for business. Thus, we will continue to around 11 o'clock tonight. Members who will be offering amendments should notify the chairman or ranking member so there can be some sense of order to the process, both tonight and over the next several days, as well.

We will finish the budget resolution this week. To that effort, the Senate will need to remain in session late into the evening tonight, tomorrow night, and likely the next night. With that, we will consume the statutory limit of time. Members should be aware of these lengthy sessions this week and adjust their schedules accordingly.

With respect to tonight, there will be one other amendment laid down shortly. That amendment will relate to ANWR. A number of Senators will want to speak on that issue tonight. I do not anticipate any further rollcall votes tonight.

Again, I will alert Members that we will remain in session late.

Mr. REID. If the leader will yield, speaking for this side of the aisle, the ANWR amendment will be laid down. Senator CONRAD, the manager on our side, and our leader, have indicated it would be to everyone's interest on our side to debate ANWR tonight. So if Members have a speech to give on ANWR on our side, it should be done tonight because there will shortly be a unanimous consent agreement that we will attempt to have approved that has the approval of both leaders that will take us to other amendments tomorrow morning, pay-go and the tax cut to be offered on our side. The two leaders have indicated these would be stacked for votes sometime tomorrow afternoon.

On our side, I repeat, we have all night tonight to debate as much as people want on ANWR. Tomorrow morning and afternoon on our side will be a very limited time to speak on ANWR.

Mr. FRIST. Madam President, we will also encourage our Members to speak on ANWR tonight. I do know there is at least one Member who wants to speak on ANWR tomorrow—at least two people.

The other statements were correct. Pay-go will be laid down tomorrow, another amendment will be laid down in the morning, and we will likely have stacked votes some time tomorrow afternoon, the time to be determined based on people's schedules.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, on behalf of Senator CONRAD, I yield as much time as the Senator from California desires to speak at this time.

The PRESIDING OFFICER. The Senator from California is recognized.

### AMENDMENT NO. 272

Mrs. BOXER. I send an amendment to the desk and ask for its immediate consideration. I ask the following cosponsors be included on this amendment: Mr. CHAFEE, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, Mr. FEINGOLD, Mr. DASCHLE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. DURBIN, Mr. WYDEN, Mr. REID of Nevada, Ms. STABENOW, Mr. HARKIN, Mr. KENNEDY, Mr. EDWARDS, and Mr. BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from California [Mrs. BOXER], for herself, and Mr. CHAFEE, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, Mr. FEINGOLD, Mr. DASCHLE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. DURBIN, Mr. WYDEN, Mr. REID, Ms. STABENOW, Mr. HARKIN, Mr. KENNEDY, Mr. EDWARDS, and Mr. BINGAMAN, proposes an amendment numbered 272.

Mrs. BOXER. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To prevent consideration of drilling in the Arctic National Wildlife Refuge in a fast-track budget reconciliation bill)
>
> On page 45, beginning on line 13, strike subsection (a) (the reconciliation instruction to the Committee on Energy and Natural Resources).

Mrs. BOXER. Madam President, it is a great honor for me to offer this amendment. I hope very much that Members on both sides will support it. The amendment is very simple. It strikes the reconciliation instructions given to the Energy Committee that will lead to oil drilling in a pristine place in America, a God-given gift, the Arctic National Wildlife Refuge.

We are striking, in essence, the instructions, and that will in essence say, no, we will not have drilling in this pristine area.

There are so many Members on both sides of the aisle that want to speak on this tonight, I will give a little instruction as to the beauty of the refuge, and then I will yield to my colleagues as they come over, and get back to the stream of my four-part argument.

In light of the world situation, we need to. see something beautiful. This is something quite beautiful. I will show some beautiful photographs from the Alaska National Wildlife Refuge. This is Wild Sweet Pea and Marsh Creek in the coastal plain. It speaks volumes to what God has given us.

This picture on the plain shows the caribou and beautiful mountains with the water in front. The last time we debated this issue, I showed this photograph and one of my colleagues from Alaska said this is not where it is going to happen. We quickly called to Alaska and had their wildlife people confirm that is a fact.

Let me show more of the wildlife. This is a magnificent bird, the chart bird. This unbelievable photograph shows a polar bear reflected in the water. Cast your eyes on this. This is pretty extraordinary. One cannot paint anything quite as magnificent as what God has created. The musk oxen is seen running through this area. The next photograph shows the porcupine caribou swimming. These are pretty extraordinary photographs.

This gives Members an idea of what we are trying to save and why we ask colleagues from both sides of the aisle to please support us in striking this instruction from the budget.

I first make an argument about process. After I do that, I am going to yield to my colleague from Connecticut for up to 10 minutes.

This debate over the Arctic National Wildlife Refuge, though it is coming in the evening at 6 p.m., is a very important debate. It is a very important environmental issue. If you look at some of the polling data from every one of our States, people believe very strongly that this place should be preserved, as it was when it was given to us.

The fact we are discussing it as an amendment to the budget bill is, it seems to me, inappropriate. It deserves to have much more debate. It deserves to have much more consideration. It deserves to have much more public input. It deserves to have much more time. But this is the hand we are dealt. We are dealt a hand where, without even mentioning the Arctic National Wildlife Refuge except in one line, it really is kind of snuck into this budget resolution.

But be that as it may, the result is the same. We then move forward under reconciliation and we could not stop it except if we were able to get the majority vote. We could not really filibuster it.

I want to have printed in the RECORD a letter on this point from OLYMPIA SNOWE, LINCOLN CHAFEE, and there are four others on this. I will read their names: SUSAN COLLINS, JOHN MCCAIN, MIKE DEWINE, PETER FITZGERALD. I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, January, 30, 2003.*

Hon. BILL FRIST,
*Senate Majority Leader, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR FRIST: With the start of the 108th Congress, we believe the Senate has an opportunity and obligation to set the nation's fiscal priorities by ensuring that a sound and responsible budget blueprint is adopted. As this important work begins, we respectfully ask for your leadership in promoting an FY 2004 budget that does not include an assumption for the leasing of the Arctic National Wildlife Refuge or reconciliation instructions directing the raising of such revenue.

Because the opening of the Arctic Refuge to drilling raises a host of policy concerns, including serious environmental ramifications, we do not believe this issue should be injected in the budget process. Opening up the Arctic Refuge proved to be extremely controversial in the 107th Congress and was debated at length during the Senate's consideration of an omnibus energy bill. Ultimately, on April 18, 2002, by a vote of 54–46, the Senate defeated a procedural motion to invoke cloture on an amendment that would have opened the Arctic Refuge to drilling. With its strict rules limiting debate, the budget is not conducive to adequate consideration of an issue of this magnitude.

We believe that the Arctic Refuge should be preserved and that budgetary effects of oil leases in the Refuge are incidental when considering the profound negative impact of drilling in the Arctic Refuge.

Accordingly, given the strict rules governing debate of the budget and the significance of our national policy on the Arctic Refuge, we respectfully ask that you resist efforts to include provisions in the FY 2004 budget resolution related to opening up the Arctic Refuge for drilling.

Thank you for your consideration of this important matter.

Sincerely,

OLYMPIA SNOWE.
LINCOLN CHAFEE.
SUSAN COLLINS.
MIKE DEWINE.
JOHN MCCAIN.
PETER FITZGERALD.

Mrs. BOXER. They make this point I think quite eloquently. They say:

> Because the opening of the Arctic refuge to drilling raises a host of policy concerns including serious environmental ramifications, we do not believe the issue should be injected into the budget process.

I have to applaud my Republican friends who wrote this letter. Such an important issue about such a place involving such beauty should not be the subject of a little amendment here dealing with reconciliation. We need to have much more serious debate.

I will close this part of my statement in this way. In 1960, when President Eisenhower set aside 8.9 million acres to form the original Arctic Range, his Secretary of the Interior noted that the area was:

> one of the most magnificent wildlife and wilderness areas in North America, a wilderness experience not duplicated elsewhere.

As you can see, nothing has changed about that description. It remains a special place, richer in wildlife than perhaps any other part of the country.

I say to my Republican friends, it was a Republican President who said let's preserve this place forever. It seems sad that the Republican President now is saying let's simply turn our back on this legacy. I hope Republicans and Democrats will join together. I think we have a good chance to do it and stand up tonight during debate and tomorrow when we have this vote, and make the case that this is a special place that deserves protection.

There is not enough oil in it to make a whit of difference, which I will get into later. Let's do the right thing here.

I am very pleased Senator LIEBERMAN is here. He has taken a tremendous leadership role on this issue. It is my delight to yield him 10 minutes, or if he needs more time, I am happy to yield that as well.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from California, Senator BOXER, for introducing this amendment and taking the lead role on it. It is characteristic of the way in which, ever since she came to the Senate, she has been a great champion for environmental protection, for natural resource conservation, and for the protection of the American people from the assaults on their health that are so often represented by environmental pollution.

I rise to support the amendment and to say, once again, the issue is joined here about the Arctic National Wildlife Refuge. Will we allow oil companies to drill for oil on this extraordinary piece of America, one of God's great gifts to this country? The pictures speak much more than 1,000 words about the beauty and magnificence, the tranquility, the sense that you are looking at a piece of Earth the way it looked around the time of creation, if I may take some liberties with the description.

Is it worth desecrating—and I use that word advisedly—this magnificent part of America for oil, 6 months' worth of oil, to ruin the natural beauty of the Arctic National Wildlife Refuge forever for 6 months' worth of oil which will reduce our dependency on foreign oil by the year 2020, if, God forbid, drilling is allowed, from 62 percent to 60 percent?

This question before us invokes the extent to which we value and wish to protect in the spirit not only of Eisenhower but in the spirit of the seminal figure in American government for the conservation ethic, which is another great Republican President, Teddy Roosevelt. Do we value this land and are we prepared to protect it or are we going to desecrate it, diminish it, change it forever for a small amount of oil? Is that really what our energy policy should be about? Does it really offer us any hope of more energy independence which we strive for? The answer of course is, no, it is not worth it.

This is a battle that has gone on now in Congress for more than a quarter of a century. It is one of the reasons why I sought to come to the Senate of the United States in my campaign in 1988, because the incumbent Senator I declared against had voted in favor of drilling for oil in the Arctic Refuge. It is a battle I have been proud to continue to wage with colleagues on both sides of the aisle over the 14-plus years I have been here. I feel sometimes as if we are guards at the borders protecting the beauty that those pictures illuminate.

Here the issue is joined again and joined, if I may say so, in a way that is a backdoor method. It is kind of an abuse of process, if I can use a term from my old law practice and attorney general days. It is an abuse of practice because it attempts to allow for the drilling for oil in the Arctic Refuge by including the permission and authorization in a budget bill. It does it, of course, for one reason, which is to overcome and avoid the Senate's proud tradition of unlimited debate.

Senator BYRD is in the Chamber. I have heard him speak so eloquently about this, and about the extent to which the Senate honors this tradition. Of course, this goes back to the very way in which our Founders and Framers conceived of the Senate, the famous saucer and cup metaphor. I have heard the Senator say, and have been moved by it, the rule of unlimited debate—filibuster, if you will—is there to protect the Nation, its values—in this case its resources, unmatched natural beauty and resources—from falling to the passions of the moment that destroy something timeless, our values, or in this case, again, the natural beauty of a part of America. For what?

That is exactly why we ought not as a matter of process allow this end run to occur. I would like to think that even those who favor drilling in the Arctic Refuge would consider voting for this amendment Senator BOXER has introduced just on the principle of it, the process principle of it. If we allow this controversy to be settled in a backdoor method with far less than 60 votes, which would be required on cloture, we are opening the door for this to happen on more and more issues that are of concern to our colleagues.

That is the fundamental question that is raised as a matter of process, the substance I have spoken to, a 62- to 60-percent reduction in dependence on foreign oil. This is of course the wrong policy. But we need to invest our resources in alternative, renewable, clean sources of energy. We have so many. We need to depend on sources of energy that are within our possession, not dispersed in unsettled areas of the world that compromise our international security and international independence. We need to require vehicles to be more fuel efficient. That would save much more energy and make us a much stronger country than the drilling for oil in this most beautiful place.

The coastal plain of the Arctic Refuge has been called the American Serengeti. It is inhabited by 135 species of birds and 45 species of land mammals. The plain crosses all five different eco-regions of the Arctic. It is breathtakingly beautiful.

Some will argue in this debate, as they have off the floor, that you can somehow put oil wells and pipelines into this area, and it is just going to be kind of a small blemish on the landscape of the refuge—a little brown mark on a red apple. But, believe me, this apple will soon be rotten to the core. If we allow these pipelines to go on there and this drilling to occur, there will be a series of blemishes—dozens of holes that will be connected together by roads, pipelines, and other infrastructure. Spidering out of these blemishes would be an elaborate additional infrastructure of roads and pipelines and airstrips and processing plants.

The effect of all this has been documented over and over again, most recently in an independent study authorized and requested by the National Academy of Sciences, which documented the impact of the drilling that has gone on in other areas in this part of America, and documented it in a very discouraging and upsetting way.

This is going to be a close vote. We have had many close calls in this long-term, very worthy effort to protect the Arctic Refuge.

I was with a group of people the other day, advocates who are concerned about the refuge. We were commenting that this battle has been going on for more than a quarter century here in the Senate. I mentioned I had been fighting it for my 15 years in the Senate. There was a lady, a very distinguished woman from the Gwich'in Native American people who inhabit this area, and she said: We have been living here and working to protect and preserve this sacred ground for more than 10,000 years.

That is what is on the line here: whether not just the Gwich'in people but all the American people are going to be able to enjoy the tranquility, the perspective, for another 10,000 years, and another 10,000 years beyond that, that comes from the natural magnificence that is dramatized in the pictures Senator BOXER has shown us.

This is not a time to ignore the basic conservationist—I would add, conservative—values of our country that teach us we ought not to look at every available natural resource area in our country as something more to exploit. Our values are stronger than that and longer term than that. We owe the Earth that God has given us more respect than that. Nature, after all, reminds us of our humanity. And that is what conservation and this battle on this amendment are all about.

So I thank my colleagues of both parties for standing with us. I thank Senator BOXER again for being such a leader, a battler, a champion for what is right. I urge my colleagues to support this amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of the manager of the bill, Senator CONRAD, I yield 15 minutes off the resolution to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, if I might add, if we could make clear that when Senator BYRD concludes, Senator KERRY be recognized for 10 to 15 minutes to speak on the amendment that is pending.

Mr. REID. That would be yielded off of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from California, Mrs. BOXER, for her thoughtfulness and her characteristic courtesy.

### AMENDMENT NO. 264

Mr. President, I speak with reference to the Conrad amendment No. 264, which was voted on earlier today. I had hoped to speak prior to the vote on that amendment, but I was unable to do so.

Mr. President, the amendment that was before the Senate at that time was one of simple common sense. The President, last night, spoke to the Nation of imminent military action. The American people know that war is looming. The Senate knows that war is looming. And yet the budget resolution before the Senate ignores that war. It ignores the obvious costs that are staring all of us square in the face. This Senate ought to be up front with the Nation and anticipate the costs of war in this budget.

Last night, I went to the White House with a number of my colleagues from this body and from the other body. The message I carried was a simple one. I will support the funds as ranking member of the Appropriations Committee to ensure the safety of the men and women in our Armed Forces. They did not ask for this mission. They did not ask to go overseas. But they are there. They are ready to carry out their orders. They are ready to defend America. I will not flinch when it comes to their safety and support.

But I do not support the policy that sent them there or that sends them there even though they will not have the support and endorsement of the United Nations.

What I will not support is a blank check for this administration to allow military action in Iraq to slowly creep into other operations, into other lands. We have seen how the goal of disarmament in Iraq has changed to fighting terrorism in Iraq, to ousting the leadership of Iraq, to bringing peace to the Middle East through war in Iraq, to forcing Saddam Hussein and his sons from Iraq. Is it any wonder that I and others worry what goal may be next? Where is this preemptive strategy taking us? Where are we taking the world?

I have stood in this Chamber time and again to warn of the dangers of this policy of preemptive strike without imminent threat. I have urged the President to step back and reconsider his decisions. But the administration has its eyes shut, its ears covered, its mind closed. The decision, apparently, has been made.

This is a war that does not have to be. This is a war that could be avoided. But the President has placed this Nation on the road to war, and there is little hope, if any, of turning back.

In the coming days, we will hear again from the President. I hope that, as he gives the command to commence military action, he and his administration will be looking at several moves ahead.

Reconstruction and peacekeeping will be huge tasks. The American people must be prepared for the strains of these missions. We should not feed them rosy scenarios that a war will be painless or that an occupation would be of minimal length. Nor should we keep them in the dark. It is imperative that, in times of crisis, the American people can maintain trust in their Government.

We must repair our alliances. Already our move to war has had fallout for our closest ally, Britain, with the resignation of Britain's Foreign Secretary. There is an ever-increasing chance of serious repercussions in the Middle East. We will need the combined political strength of all of our friends and allies, and the process of repairing our ties must begin immediately.

Winston Churchill once said about war:

> The statesman who yields to war fever must realize that once the signal is given, he is no longer the master of policy but the slave of unforeseeable and uncontrollable events.

It is those unforeseeable and uncontrollable events that may be precipitated by a war with Iraq that keep me awake at night. I wish I could share the President's confidence that the toppling of Saddam Hussein and his regime will set into motion a peaceful revolution in the Middle East. Perhaps it will. We may be lucky. But I have watched too many decades of strife and bloodshed in the Middle East to believe that yet another war can serve as a reliable road map to peace.

It is true that no one can predict the final cost of this war. But it certainly is not zero. That is what the President has asked us to budget, zero, and that is what the resolution would budget. Absolutely nothing. It is as if the looming war where simply a figment of one's imagination.

If only that were the case.

Mrs. BOXER. Will the Senator yield for a question before Senator KERRY takes us back to this very important environmental amendment?

Mr. BYRD. Yes.

Mrs. BOXER. I just want to thank my colleague once again for continuing to speak out from his heart on an issue that is on everyone's mind. I remember so well standing with my friend on this issue and coming to the floor in October and laying out a number of questions. How much would this war cost, I was asking in October. How long do we plan to stay in Iraq? Who would bear the combat risk with us? Who was going to pick up the bill? Are there any other countries, and what would they pay? And what is the impact of this war on terrorism here at home? Are we prepared?

It seems to me amazing—the question I have for my friend is—that here we are debating the budget for this year and everyone knows exactly what is going to happen because the President has been very open about it. We are going in there. I say to my friend, does he have one more answer today than he had those 5 months ago, in October? Does he have one more answer to those economic questions or those very important questions that were raised at that time than he had 5 months ago?

Mr. BYRD. Mr. President, I have had no answer. I received no answer, no estimates whatsoever. And the administration, through some of its department heads, has said: That is impossible. It is impossible. And why should we do that? That would be—if I may use my own words—a wasteful exercise. The administration has sent forth no estimate.

Of course, we all understand that there can be no hard and fast estimate at this point. Many of us have been Members of this body and/or the other one through previous wars. We know how difficult it is to come up with solid estimates. But we also know when an administration is leveling with us. After all, we are the elected representatives of the American people. They send us here. They are entitled to know the answers to these questions. The American people are entitled to know what is the best estimate at this particular time and, under the conditions the administration foresees at this point, what are the best estimates of the actual cost of the war in treasure and blood, what is the best estimate with respect to the occupation of Iraq, the morning after, reconstruction in Iraq. But we get nothing. We get nothing from the administration.

The administration treats the elected representatives of the American people with seeming contempt. When the representatives of the people ask those questions, the answer, may I say to the Senator, is what it was then: We don't have the estimates.

The administration is no nearer now than it was then in giving it to us. I think it is our duty to continue to ask.

Mrs. BOXER. I thank my friend. I certainly will continue to ask.

I believe under the previous order Senator KERRY gets the floor; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Was a request made?

The PRESIDING OFFICER. Yes, it was made without objection.

Mr. STEVENS. I have been waiting for time. I would hope we would not enter a unanimous consent request without some consultation.

The PRESIDING OFFICER. An order has already been entered.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. For parliamentary purposes, I don't want to have the Senator from Alaska believe something was abused here. I would like to see what he would like. There was no effort to try to slide something by. There was nobody else on the floor, and the Senator just asked if we could have a little bit of time.

Mr. STEVENS. Mr. President, I am perfectly happy. I will seek recognition when the lady has finished.

Mr. KERRY. Mr. President, I think the request was for 10 to 15 minutes. That is all. Then I will yield the floor. The Senator can proceed as he desires.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent to proceed for 1 minute outside of that time. I want to say a few words to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank the Senator from West Virginia, to whom I have listened over the course of the last months, who has asked extraordinarily important questions of the Senate. While we differ on the vote, we don't differ in our goals or on what we believe have been the failures of diplomacy over the course of the last months. He is absolutely correct about the failure to be forthcoming. One can desire a goal and hope that an administration is in fact going to implement the goal effectively. Many of us feel bitterly disappointed by the way in which diplomacy, relations with Congress, the transparency, the degree of effectiveness of our involvement with allies—there are a host of failures that raise extraordinary questions.

I thank the Senator from West Virginia whose years here are unparalleled and whose credibility as a consequence is unmatched by anybody here.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his kind remarks. He is overly charitable, and I deeply appreciate them.

AMENDMENT NO. 272

Mr. KERRY. Mr. President, I rise in support of the amendment of the Senator from California. I thank her for bringing this amendment, which is one of the most important issues we will vote on in the Senate this year. It is not just a vote to protect a refuge; it is a refuge; it is a pristine wilderness.

The words "pristine wilderness" together mean something. They carry more than just the notion of a policy put in place by President Eisenhower in 1960, I believe, reinforced later in the Alaska Lands Act signed by President Carter. This is a national treasure. The words "pristine wilderness" both are destroyed, the entire concept is destroyed, by what this amendment seeks to do, may I add, not in the normal process of legislation as we approach it here but slipped into the budget for the specific purpose of trying to bypass the normal rules of the Senate.

Now, certainly, any tool is available to anybody, but I think Americans ought to judge whether or not they want a pristine wilderness destroyed in its pristineness and in its wilderness for the sake of a minor, tiny percentage of oil that has no impact on world oil prices, has no impact—or negligible, to be accurate, about a 2 percent impact ultimately, 10 years from now, if it delivers its potential—on the total amount of dependency on American oil from abroad.

In 1975, when President Carter first began to wrestle with the issue of America's dependency on oil, we were about 35 percent dependent on foreign oil. At that time, we sought to reduce that dependency and to create alternatives, renewables, and to move to a different kind of energy base.

Today, after all the talk of seriousness of purpose, guess what. The United States of America is no longer 35 percent dependent; we are approaching 60 percent dependency on foreign oil. God only gave us 3 percent of the world's oil. Saudi Arabia has 46 percent. The Middle East, in total, has about 65 percent. So do the equation. Any kid in America can do this equation.

If the United States only has 3 percent of the world's oil, and the Middle East has 65 percent of the world's oil, and your demand for oil is going from 35 percent to 60 percent, a 2 percent difference for the destruction of the wilderness does not solve America's problem.

The bottom line is, there is only one way to solve America's problem. You cannot drill your way out of America's problem. You have to invent your way out of America's problem. Inventing your way out of America's problem means beginning to push the curve on the creation of an entirely differently based economy—a hydrogen-based economy or some other. We could do that if we were to harness the energy of our colleges, universities, and venture capitalists and create the tens of thousands—if not hundreds of thousands—of high-value-added jobs that would come from pushing in that direction.

So my objection is to the proposal by those who want to drill in the Arctic Wildlife Refuge, which is shortsighted and destructive of a wilderness. This photograph represents what the wilderness looks like today. If you start drilling, this other photo is what it could look like. It will be no longer a wilderness.

Most recently, the GAO issued a report that said there is an enormous negative downside to the environment in those areas in which we have already agreed to drill. In those areas in which we have already agreed to drill, there is an extraordinary amount of drilling left to be done. We have enormous leases that are available and open that can be pursued. We don't need to drill in the Arctic Wildlife Refuge. In fact, the most important oil companies of the country are not particularly seeking to drill there. They don't have any intention of drilling there, except to the degree that it is opened up and someone else goes there; then they may believe, competitively, that they have to.

Lord John Brown, the president of British Petroleum—which has been working hard to push solar and alternatives and renewables—said publicly: We don't really need the Alaska refuge. We don't think it is the principal place to drill.

The real drilling for America's future is offshore drilling in the Gulf of Mexico. I know some will argue that it is an energy security magic bullet. But I have described why it is not a magic bullet, No. 1. No. 2, this is not sound energy policy.

The United States of America is still spending, I think, about $6 billion in order to provide oil and gas fossil fuel incentives. The total incentive of the United States for alternatives and renewables is $24 million. Billions of dollars to go after fossil fuel, which we know is a dependency that leads us nowhere—in fact, it leads us to increased global warming problems, to increased dependency on foreign oil—$24 million going into alternatives and renewables.

Europe has a much better sense of the future than, apparently, this administration in the United States right now. Great Britain has determined that they are going to provide almost all of their electricity in Great Britain—even though they are oil rich in the North Sea—from windmills, wind power, over the next 10 to 15 years. If you go to Holland or Denmark, you will see in the bays off those countries windmills that are providing enormous power.

In Minnesota, in our own country, I have met farmers who are actually earning more providing wind power to their local farm neighbors. From windmills, wind power, they are earning more, providing some 2,000 farms with power, than they are from farming. Think of what you could do if you began to move to biomass ethanol or corn-based ethanol for Iowa and for other States that grow and farm, which are already in huge dependency on the U.S. Government for billions of dollars—to do nothing or to not grow.

We are completely on the wrong track. This effort to try to drill in the Arctic Wildlife Refuge is a misguided effort to try to keep America locked into a place that takes us nowhere. I believe we need to open up a different future for this country, and the Energy Information Administration concluded last year that drilling in the refuge would only reduce oil imports by a tiny 2 percent, which provides no security to the United States at all. It is not good environmental policy, it is a terrible excuse for an energy policy, and it seems to me that domestic and renewable sources are urgently needed.

Why? Well, no foreign government can embargo them. No Saddam Hussein can seize control of them and reduce the flow. No cartel can play games with them. No American soldier will ever have to go and protect them with his or her life because they are here, they are home grown, and they don't put us into that predicament.

So I will be voting in support of Senator BOXER's amendment in favor of protecting the Arctic National Wildlife Refuge. I strongly urge my colleagues to do the same. We have had this debate before. A majority of the Senate had decided previously that this does not contribute to the energy policy of our Nation, and I hope we will stand by that decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to yield 10 minutes to the Senator from Wyoming and that I be recognized after that time.

Mr. DURBIN. Mr. President, reserving the right to object, may I have an understanding as to how much time will be used on your side before it returns to our side of the aisle?

Mr. STEVENS. Mr. President, it is my intention to use such time as may be available to me in making statements to answer comments made by the Senator from California and the Senator from Massachusetts. I have no estimate of how long I am going to take.

Mr. DURBIN. Mr. President, reserving the right to object, it is my understanding—and I may be mistaken—all I am trying to establish is how long you will speak on your side before it returns to this side of the aisle. Can the Senator give us an estimation of the time that you will use?

Mr. STEVENS. I don't think I am limited in time. I will yield myself time off the bill, by authority of the manager on our side. I don't know how much time. I will not agree to a time limit.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, I am just confused. Senator THOMAS is going to speak for how many minutes?

Mr. STEVENS. Ten minutes.

Mrs. BOXER. Is it on this measure? Senator DURBIN has been here, and he would like 10 minutes, too. If you can work him in following Senator THOMAS, then the Senator from Alaska can talk the night away if he wants.

Mr. STEVENS. Mr. President, I say to the Senator that I will speak now, and then I will yield to him later. I have the floor.

The PRESIDING OFFICER. The Senator from Alaska——

Mr. NICKLES. Will the Senator from Alaska yield for a second?

Mr. STEVENS. Yes.

Mr. NICKLES. Just to clarify, I believe the Senator from California yielded to both the Senator from West Virginia and the Senator from Massachusetts, in addition to making an opening speech. So there were at least three speakers.

The Senator from Wyoming wanted 10 minutes, and the Senator from Alaska wishes to speak as well. So we would like to have the idea that we would alternate back and forth, but I believe there were three consecutive speakers on your side.

Mrs. BOXER. Mr. President, I say to my friend, if he does not mind yielding to me for an answer, we were very brief on this side. I spoke about 7 minutes. Several speakers spoke for 10 minutes. All I am trying to do is get Senator DURBIN into the debate. Senator STEVENS may well want to go on for an hour or so. We just do not know. We are just trying to work Senator DURBIN in at some point.

Mr. STEVENS. Mr. President, I have a request pending, and I ask it either be agreed to or I be permitted to start speaking. I believe I still have the floor; is that correct?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I have withdrawn my request. If the Senator wishes to ask me a question, I will be glad to answer the question. I would be pleased to make a request that the Senator from Wyoming be accommodated in his request to speak for 10 minutes. I do not wish at this time to be limited to the amount of time I can speak. I am speaking about my State. I am speaking about the future of my State, and I do not see why I should be yielding back and forth 5 minutes at a time in terms of speaking on this issue. It is a very important issue to me. I do not know how long I am going to speak, but I am not going to speak all night, obviously. I am not prone to long speeches, but I do not wish to say how long I am going to speak at this time.

I renew the request that the Senator from Wyoming have 10 minutes; after that, I be recognized to make my statement about an issue so vital to my State.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair. Mr. President, I appreciate the opportunity to talk a few moments about energy for this country, about an energy policy that we have not yet developed and have the responsibility to develop. I appreciate the opportunity to talk about the requirement for an energy policy.

We worked on this issue last year, my colleagues will recall, and did not get this done. It is more necessary now than before that we have an energy policy for the future of this country's economy. It is a little naive to talk about all the little problems when we do not talk about where we need to be. And if we paid attention at all to what has been done in energy over the last several years and what the demands are going to be for energy, we would start being a little more realistic about where we want to go.

I have listened for several years to the environmentalists and the political aspect of energy, and I think that is what it is. We need to talk about the realism of providing energy for American families and for the jobs that are required.

Energy is such an important element in our lives. I live in a State that is a producer of energy. I live in a State where we have lots of public lands. I live in a State where we have been able to have access to public lands and production from public lands without ruining the environment.

Most of us recognize that America is now 60 percent or more dependent on foreign sources of oil. Much of that comes from areas of the world that are now in great upheaval and are hostile to the interests of the United States. Oil represents about one-third of our trade deficit. We spend hundreds of millions of dollars per day overseas to support unstable regimes around the world. ANWR is one of America's best chances for a major discovery, as much as 16 billion barrels of oil. Each barrel produced at home is one less we need to buy abroad.

Just a few months ago, we saw the labor strike in Venezuela shut down oil production there. It halted nearly 15 percent of our imports. A threatened strike in Nigeria also constrained oil supplies, and we saw the result of that in prices this time. One of these days, we will see the result in a shortage of energy.

Domestic oil inventories are at an all-time low level, the lowest in 27 years, destroyed by the strike in Venezuela and a colder than average winter. There is very little excess capacity in the world for oil production. The International Energy Agency recently said that the global oil supply is running on empty. They said that on March 13. Development of ANWR will, of course, ease the strain on global markets but ensure a continued stable supply.

In addition, of course, higher oil prices are a tax increase on the U.S. economy, and every American citizen feels that loss. Economists estimate a loss of 0.5 percent in GDP for every $10 increase in oil costs. Every American family spends more of their money on energy, and it leaves less money for other important priorities, such as education, health care, investments in new homes, and in the economy.

Energy costs hit lower income Americans the hardest. A family earning less than $15,000 a year spends 14 percent of its household budget on energy compared to only 2.3 percent for a family earning $50,000 a year, and we are very concerned about that. We talk about it all the time. Here is an opportunity to do something about it. Diesel prices and truckers—there are lots of issues, and we all know what they are.

I think, too, we ought to talk—and I am sure the Senator from Alaska will—about the development of oil and gas in ANWR. It will be conducted with the best advanced technology available in America today: Ice roads, directional drilling, 3-D seismic exploration, many we have used in Wyoming. We know it can be done. New technologies allow a field the size of Prudhoe Bay, with 20 percent of U.S. oil supply for the last 25 years, to be developed in an area less than the size of Dulles Airport.

This proposed development at ANWR would be limited to less than 2,000 acres in an area of 19 million acres, close to the coast, not up in the mountains as the picture always shows. The picture is not valid. It is not true. It is not there.

Exploration will be limited to the winter months, November to May, to protect breeding and wildlife migration patterns.

I have been through this a number of times. I have been to Alaska. I have been to this area. I am satisfied it is going to be a great boon to our need for energy. I am satisfied it can be done in a way that is environmentally satisfactory, and I think it can be a great boon for our economy. I certainly hope we can take an opportunity to provide a better chance for our future economy by opening this field.

I thank my colleague for the time and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my blood pressure goes up when this amendment comes up because I was in the Eisenhower administration, and I was one of those who participated in drawing the order which led to the creation of the Arctic National Wildlife Range. That order stated specifically that the area involved was withdrawn from all forms of appropriations under the public land laws, including the mining but not the mineral leasing laws. So starting in that period in the fifties, the area of Alaska way up in the corner, 9 million acres, was set aside at the request of the Fairbanks Women's Garden Club.

My then-boss, Secretary Fred Seaton, Secretary of the Interior, decided to take that action, and it was subsequently confirmed by President Eisenhower 2 years later.

That land along the Arctic has never been closed—never been closed—to oil and gas leasing and exploration. In 1980, President Carter signed a law after the election which set aside over 100 million acres of Alaska land.

I start off with this map to show our State is the largest State in the Union. One-fifth the size of all the land under the American flag is in Alaska. When one looks at this map, all the colored areas have been set aside by an act of Congress. They are no longer available for development in Alaska. These lands were set aside after prolonged battle over the Alaska lands.

One of the few conditions, stipulations we requested was that this area of the Arctic Plain be open for oil and gas exploration. At that time, I parted from my then-colleague, Senator Gravel of Alaska, and allowed this bill to become law in 1980, which President Carter signed based upon the commitment that was made to me by two Senators.

This is the photograph that was taken at the time we entered that agreement, Senator Jackson of Washington, Senator Tsongas of Massachusetts, and myself, in 1980. I was the minority whip, Senator Jackson was chairman of the Interior Committee, and Senator Tsongas was a member of that committee. I was in the minority.

These gentlemen wished to withdraw over 100 million acres of Alaska. We asked for some stipulations pertaining to access and other such matters that were in the bill President Carter signed. The one area we asked be maintained to be available for oil and gas was the Arctic Plain. I say this in all humility, but those who come to this floor and say that is wilderness are not telling the truth. It is not a wilderness area. It has never been a wilderness area. It was specifically left out of the designation of wilderness and it is not wilderness.

Those photographs we have seen of caribou, the caribou are the porcupine herd. They come up from Canada. They come up and they calve in this area in the summertime. Oil and gas exploration does not take place in the summertime. The tundra is soft. We wait until it is frozen and we build ice roads across. The caribou are not there when the oil and gas exploration takes place, and the assertion that it is wilderness is absolutely not true. Those who offer these photographs and claim this is wilderness ought to come in here and say that.

By the way, I do not know where that crossing is which the Senator from California is displaying in her chart, but I presume that it is in June sometime when the caribou come up and leave within, at the maximum, 6 weeks. As a matter of fact, in recent years, they have not come up at all. They have gone up to calve on the Canadian side of the Arctic.

In any event, of the enormous amount of caribou that reside in Alaska, and they do reside there year round, this herd does not reside there year round. It migrates up for a few days in the summertime. The central Alaska herd which is up around Prudhoe Bay—I heard all of these arguments about caribou and I saw the beautiful pictures at the time the oil pipeline amendment was on the floor to authorize the construction, the right of way of the Alaska oil pipeline. We heard claims that the action in building that pipeline would destroy the caribou, that they would suffer all sorts of harm. As a matter of fact, that is a myth. The caribou herd in the vicinity of the oil pipeline is almost six times larger than it was at the time the pipeline was built. Oil and gas activity does not harm the caribou at all. There is no proof whatsoever it ever harmed the caribou.

That is not the only caribou herd. There is a western caribou herd. There are more resident caribou, not migrating caribou, in Alaska than people. I represent more caribou than I do people. I am trying to represent those caribou, too, because they are maligned by this assertion that oil and gas activity has harmed them when their numbers have grown so greatly since that took place.

Some claim this oil and gas activity we seek to have take place in the 1002 area, as we call it, is opposed by the native people. We are going to hear that from people on the other side of the aisle. That is not true, either. There is one group of Alaska Indians whose basic home is in Canada, the Gwich'ins, who reside on the South Slope of the Brooks Range. At the most, they number a thousand of our people and some of them are in Canada. They oppose it. All the people of the North Slope and the Alaska Federation of Natives, which represents over

100,000 Alaska native people, support going forward with the oil and gas activity in this 1002 area.

The real problem about it is, I have trouble trying to get people to understand the size of Alaska. I want to show Alaska's map superimposed on the South 48, as we call it. As we can see, Alaska is almost as wide and almost as deep as the United States. Up in the corner is the Arctic National Wildlife Refuge which was created in 1980, which engulfed the Arctic Range. The Arctic Range came down like this, and this is the 1002 area in green. It is not part of the wildlife refuge.

When the oil and gas activity is over, we stipulated it would revert to the Refuge. My colleagues cannot see it, but right up there is a little dot. This green area is a million and a half acres. That little dot is 2,000 acres. We have agreed that not more than 2,000 acres will be used out of the million and a half acres set aside for oil and gas development in prosecuting the exploration and development of oil and gas in the North Slope.

I think we have to take a look at what is going on in terms of the estimates that have been made. I understand there have been assertions of fact that I disagree with entirely. The largest untapped oil field in the North American continent is the area of the Arctic Plain, or the 1002 area. There is estimated recoverable oil there of 10.3 billion barrels.

For historic basis, let's go back to the time that Prudhoe Bay was discovered and we were trying to build this enormous pipeline from Valdez to Prudhoe Bay. The estimate then was there would be a billion barrels of oil in that reserve at Prudhoe Bay. Last year, out of Prudhoe Bay, we produced the fourteenth billionth barrel of oil. The estimates were conservative fourteen times over. They said there would be about a billion barrels of oil, and we have produced already 14 billion barrels and we know we have more to go.

Some people assert this is a small amount of oil. It is more than is produced in Texas. Our reserves are greater than Texas's. The estimated daily production is about 1.4 million barrels a day from the 1002 area, from the area we are talking about. Texas produces 1,065,000 barrels. We can see across the level of production as far as the—we produce 972,000 barrels from Prudhoe Bay now and that is another story. That is one of the stories I did not want to be limited on because I want to tell the Senate this story.

At the time we had the Persian Gulf war, at the request of the Federal Government, the throughput of the Alaska oil pipeline was increased from 1.9 million barrels a day to 2.1 million barrels. We went up 200,000 barrels a day to offset the loss of access to oil at that time and the increased demand for oil because of the war.

Today, that throughput is 972,000 barrels. That pipeline is less than half full. Why? Since the 1970s, it has been producing from the Prudhoe Bay area, and we need additional daily production. Where is it to come from? Where did we believe it would come from? We believed it would come from the 1002 area, from the area that is in dispute as to whether or not we should drill it. If that area is not drilled and we do not get additional reserves, the time will come when it will be uneconomical to use the oil pipeline. That is really what these people want. They want to go back and reverse history because they do not like the oil pipeline becoming filled again.

This is the greatest reserve we have in the United States. This is another depiction of the situation at the Arctic National Wildlife Refuge. This is the refuge. The area in light brown is wilderness. The area in green is not wilderness. It is reserved for oil and gas exploration, and the balance of the area is wildlife refuge. The Coastal Plain is the 1002 area, a million and a half acres. Its description and its boundaries were drawn by Senator Jackson and Senator Tsongas in order to make sure the area would be available to oil and gas exploration. As a matter of fact, when he signed the bill, President Carter referred to that. I quote from the signing ceremony from the administration of Jimmy Carter in 1980:

> This act reaffirms our commitment to the environment. It strikes a balance between protecting areas of great beauty and value and allowing development of Alaska's vital oil and gas and mineral and timber resources.

The only area covered by that bill that had any oil and gas potential was the 1002 area. We have the right to explore and develop this 1.5 million acres, and President Carter withdrew over 100 million acres.

Now this amendment seeks, once again, to renege on that commitment my two friends from the Senate in 1980 made and put into law. It was not just a verbal commitment but a proposed development of the Arctic Coastal Plain of up to 1.5 million acres.

We have included in this resolution a reference to income that will come from the bidding to develop oil in that area. It is $2.1 billion. That is the beginning. We estimate the income to the Federal Government from the development of that area on an annual basis will be roughly $1 billion a year. That is from the royalties that come from developing Federal land.

What has to be recognized is this is an area of barren tundra. Ask anyone who has been there in the wintertime. This is not some picture of caribou and lakes and a dreamy sort of place to be. As a matter of fact, one of the reasons the caribou do not come up is, the bugs are so bad, they go into Canada. When they are really bad in that part of Alaska, they go to Canada. They go up there and get in the water to avoid the bugs.

If they want to show a picture of the 1002 area, that is it, as far as you can see—nothing but frozen tundra. You do not see any caribou; you do not see any bears; you do not see pictures of beautiful flowers. There are tourists in the summertime, the 6 weeks the caribou are there, and they leave with the caribou. My Eskimo people stay there and live there. They want this land drilled so they can have some income to support their lifestyle.

Before the oil and gas came up there, I used to go up there in the 1950s, and it was a terrible place, to see how those people lived. Now, because of the revenue they get from the development of oil on the North Slope, they have nice homes, they have nice buildings, they have one building with a nice elevator, they have a beautiful small college, they have one of the most beautiful set of schools to be found anywhere in America. They support it with their money, coming from the taxes they derive from drilling and activities on their land.

One time I took a postmaster general up there to visit the area. We got into a bus right off the airplane and went over to the post office. He went into the post office. I thought he would faint because the digital thermometer said minus 99. It was a wind chill factor thermometer, minus 99. My people were living up there. We went to the post office; we went to lunch that day.

This is a picture of some of these children in Kaktovik. This is the one village in the center of the area that people say is a wilderness area. Right in the center is this village of Kaktovik. You do not have development in wilderness—that is my memory. These are beautiful people. And they know what they want. They want that area drilled so they can continue to get the income, send their children to school, have telephones, and have the kind of facilities we have everywhere else in the country. Without it, they have no basic income. Their income is in resources.

By the way, to shock the Senate, half the coal in the United States is also in Alaska. We do not produce it because a Senator came on the floor one day and offered an amendment to prohibit the mining for coal unless the natural contour was restored after taking the coal out—a virtual impossibility: Take tons of coal out of the tundra, and you are supposed to restore the natural tundra. That has blocked coal development in Alaska for 45 years. That is another typical type of amendment that comes from people with minds that oppose this.

Look at that picture. I hope the camera can compare that with where the children are in wintertime. This is propaganda of the worst sort, from the richest people in the United States, who finance these extreme environmental organizations and come here and tell us how to live in Alaska. They spend more money in lobbying than the oil industry. They spend less money than the oil industry in protecting the environment. I have an aside on that, too, which I will get to tomorrow.

Another aspect of this is pipeline prices. One of the problems about the supply of oil in the United States is the ability to maintain some stability in prices. This is a busy chart, but it shows the relationship of the throughput of Alaska pipeline to the price of oil in the United States. The green line is the throughput of the oil pipeline. The red line is the price of oil. As the throughput started, as we started to build the pipeline, the price kept going up. But when we reached the peak of production, the price was the lowest in the United States that it has been in 30 years. When we keep going, as the pipeline throughput declined—and this is the current situation—the price of gasoline in the whole United States went up. Our ability to produce 25 percent of the domestically produced oil in the United States stabilizes the price of oil and stabilizes the price of gasoline in the United States.

The price of gasoline today is up considerably. The price of aviation gas is almost double. The spiking price on gas, top demand gas, went up about 900 percent this last week. We are running short of both oil and gas domestically produced. The way to keep prices down is to maintain the ability to approve a substantial portion of what we consume. At the time of the oil embargo of the 1970s, we imported 34 percent of our oil. Today, we import 56 percent of our oil. That is what is causing that price to go up.

This is a chart that shows the potential of production from ANWR to the amount of imported crude oil by the barrels we are bringing in. We are bringing in 1.5 million barrels a day from Saudi Arabia; Canada sends 1.4; Mexico, 1.2; Venezuela, 1.2; Iraq, half a million, but the stability for prices comes from our ability to produce oil.

What is happening today is, the pipeline is less than half full. We need to get greater reserves and start producing at the rate of at least 1,000 barrels a day, fill up the pipeline, and we will maintain some stability in the price of oil.

Now to the problem of people who I call extremists who say there is only a 6-month supply of oil in ANWR. That assumes ANWR has only 3 billion barrels, and the estimate is at least three times that. It also assumes the only oil the United States uses in that 6-month period is that from ANWR. You could apply the same suggestion to Texas. If all the current production of Texas was used and that was the only oil we used, it would be a 9-month supply. This one deposit in Alaska, under their computation, is 6 months. That is the worst statistic economically I have ever seen used on the floor of the Senate. It is so misleading as to be dishonest. It is a dishonest statistic.

I really believe we have to find some way to get Senators to understand what this is basically all about.

When Prudhoe Bay was developed, the technology then required using a substantial amount of land. Of the 19 million acres in the area known as ANWR, the Coastal Plain is 1.5 million acres, as I have said. The limitation under the proposal before the Senate is 2,000 acres. This would depict the size of Dulles Airport—13,000 acres. We are looking at an area that is so small it would fit into Dulles Airport more than six times. We are not using a lot of land. We will not use a lot of land. We agreed to this limitation. Not more than 2,000 of the million and a half acres will be used for oil and gas development.

The other thing they say is there will be permanent damage to our arctic tundra. This is an area that was developed. That was an oil well at one time. The whole area has been restored.

One of the interesting sidelights is what the University of Alaska did when there was development of the Arctic. They developed a whole new set of grasses that are planted in the area which produced some of the best forage for caribou that was ever known. That is why that one herd increased almost six times.

This, at one time, what I just showed you, was a well right here similar to this well. As a matter of fact, it has been totally restored by virtue of the activities of our universities, as they have led the country in rehabilitation of land used for oil and gas development. We have a commitment in every contract for drilling in Alaska to restore the area to its original state or better. There will be no real problem.

In terms of restoration, to date the oil industry has spent over $200 million in restoring the area that is used for oil development. We also have more than $30 million committed to go further, to restore and study the vegetation, make certain everything is going to survive.

We have a problem with regard to gravel. Gravel itself has been removed from drill beds and replaced. This is the most scientifically designed oil and gas development in the world, on Alaska's North Slope. What the opponents would rather have us do is go to Russia, I guess. One of them even suggested that in a debate last year, we should look to Russia. I know Russia is going to produce substantial oil in the future. But there is no question that assertions made that we will be permanently damaging this property is wrong.

As a matter of fact, the permit issued by the Federal Government to use this land states categorically that if and when the permittee desires to abandon the activity authorized by the district engineer, the permittee must restore the area to a condition satisfactory to the engineer. The State of Alaska says:

> All operating areas shall be maintained and on completion of the operation shall be left in a condition satisfactory to the director.

We have absolute control over anyone's ability to abandon an area. They must restore it under Federal and State law.

Where are we, when it comes right down to this? The real problem is—what are we talking about? We are talking about jobs for our people, and not just jobs for Alaskans, by the way. But I believe the experts, in terms of job creation, are America's unions. America's unions are behind us in terms of our desire to open this area for oil and gas exploration: The Teamsters, the Seafarers International Union, the Building Construction Trades, the Iron Workers, Laborers, Operating Engineers, Masons, Sheetmetal Workers, Maritime Workers, Carpenters, Plumbers and Pipefitters.

There is no question in my mind that those people who are interested in the security of the United States, in terms of energy, should look to the Arctic.

I heard the Senator from Massachusetts talk about windmills. I invite him to go to Alaska. We have some windmills in Alaska. They are working fairly well to supply power to very small areas.

He mentioned the United Kingdom and their fuel supply. Forty percent of the United Kingdom's fuel supply comes from natural gas; 32.2 percent comes from petroleum oil; only 1.1 percent comes from renewable energy. Are we to rely on the 1.1 percent for the future of America?

He had a chart here that shows how much land it would take to have the equivalent of this energy reproduced with wind power. It is something one must look at. I will refer to it as soon as it gets here.

One of my predecessors as chairman of the Appropriations Committee, Senator Hatfield, stood here on the floor one day and explained to the Senate why he was voting for the development of this area. He said he hoped never to see the day when one American would have to go overseas to try to protect an area's oil production when that could be produced in the United States, that oil could be produced here in the United States. This is a sound proposition for America, I believe.

The equivalent of Rhode Island and Connecticut both would have to be totally in wind power to equal the daily product that will be produced from this area, roughly 1.4 million barrels of oil a day. People who want to talk about wind power ought to talk about how much land it will take. We are going to take 2,000 acres to drill for oil, on an area that is 1.5 million acres on the Arctic. It would take 3.7 million acres to have wind power sufficient to have the same amount of energy produced on a daily basis.

I should allow other people to speak, as the Senator from California has indicated. I intend to speak a little bit more tomorrow when we come back to the amendment.

I know of nothing in my service in the Senate that represents the issue this is for me because at the time that 1980 bill passed, I went against the other members of my delegation, Congressional delegation, to support getting a bill done. We had been arguing 7 years over how much of Alaska's land should be withdrawn. We finally came to a conclusion and that conclusion is represented by the basic map I have here. All of those areas there, all of them, were withdrawn by President Carter.

The only thing we got out of the whole bill in land guarantees was the guarantee that 1.5 million acres of the Arctic Plain would remain open to oil and gas. It was left open by President Eisenhower. I understand the Senator from California mentioned President Eisenhower. It remained open. It was specifically mentioned in the order that was issued on the Arctic Wildlife Range that it was open to oil and gas. As these withdrawals were made—just think of this.

Think of this: That bill created 13 new national parks and added land to 3 other national parks; it created 9 wildlife refuges and added additional land to another 9 wildlife refuges. And all that Alaskans received, when all of those lands were set aside, was a commitment that these 1.5 million acres would remain open for oil and gas exploration and would not be part of the refuge until that period of oil and gas exploration was completed.

Now, I do not know what other people think, but I have always acted on the basis that Members of the Senate would be bound by the law, that we would follow the law and understand what led to the passage of the law, that we would honor the commitments that were made by our predecessors, and if they were wrong, we would find some way to handle a matter of correcting their wrong without damaging the people who had relied upon the commitment that was made by the United States in a public law.

The people of my State on the North Slope relied upon that commitment that oil and gas exploration would be permitted. We started in 1981 to fulfill that commitment. This is 22 years later, and we are still here arguing against the same people who tried to block the Alaska oil pipeline, and may well block this.

It is a very close vote for everyone. So was the Alaska oil pipeline. That pipeline, as I said in the beginning, was authorized after an action here in the Senate based on a tie vote, which Vice President Agnew broke when he voted for the building of the Alaska oil pipeline.

I hope Senators tomorrow, when we vote, will think about the history of this area, the commitments that have been made to the people of this area by the Senate and by the Congress of the United States, and will vote no on the amendment that has been offered by the Senator from California and the Senator from Connecticut.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, for the benefit of my colleagues, I will not be speaking long at all. I just want to put a few things in the RECORD and wrap up my comments for tonight. It will probably take me 10 minutes—maybe a little longer—and that will be it for me. I know Senator MURKOWSKI and Senator ALEXANDER would like to speak. I see Senator CANTWELL is in the Chamber.

Let me put a few things in the RECORD.

The first thing I want to have printed in the RECORD is a letter from the Alaska Inter-Tribal Council, which represents 187 Alaskan tribes. They oppose drilling in the Alaska National Wildlife Refuge. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA INTER-TRIBAL COUNCIL,
*Anchorage, AK, December 11, 2002.*

DEAR SENATOR: We urge you to reject H.R. 4 and any other proposals to authorize oil exploration and development of the birthplace and nursery of the Porcupine Caribou Herd, the coastal plain of the Arctic National Wildlife Refuge, during the conference committee on the National Energy bill. The very heart of the Gwich'in culture is at stake and their way of life must not be negotiated or traded in any shortsighted schemes to open the last 5% of America's Arctic coast to development when 95% is already open to oil and gas exploration and development.

The Gwich'in continue to live a subsistence-based way of life. The Gwich'in remain firm in resistance of oil and gas development of the birthplace and nursery of the Porcupine Caribou Herd, the coastal plain of the Arctic National Wildlife Refuge—Vadzaii Googii Vi Dehk'it Gwanlii *The Sacred Place Where Life Begins.* The Gwich'in rely upon the *Caribou* to meet their essential physical, cultural, spiritual, economic and social needs. The Gwich'in ancestral way of life is a birthright, to bestow upon their unborn future generations. Oil development of this sacred place will have devastating impacts on the very health and well being of the Gwich'in.

The U.S. Geological Survey concluded that there is only six months of oil in the Arctic Refuge. The future of the Gwich'in must not be jeopardized for such a short-term fix of oil. We believe that there are solutions that would be more appropriate. Our energy policy should emphasize decreasing the demand rather than increasing the supply, of fossil fuels. There are reliable and sensible means of achieving these ends—such as energy conservation, alternative energies and improved energy efficiency—which can reduce our dependence on oil without sacrificing Gwich'in culture and the last intact arctic ecosystem.

This issue is about the basic inherent fundamental human rights of the Gwich'in to continue to live their ancestral way of life. These rights are affirmed by civilized Nations in the international convenants on human rights. Article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights read in part:

"*In no case may a people he deprived of their own means of subsistence.*"

We support the Gwich'in to seek permanent protection of this sacred Arctic Refuge, which is vital to their livelihood. Regardless of how much oil may be in the refuge, it is morally wrong to expect the Gwich'in to sacrifice their way of life to meet this country's energy needs. What will be lost and what is at stake is too high a price to pay.

The American public has consistently defended the rights of the Gwich'in, and the integrity of the Arctic Refuge. We urge you to defend their plea and reject efforts to destroy this essential Sacred Place Where Life Begins.

Sincerely,

MIKE WILLIAMS,
*Chairman,*
*Alaska Inter-Tribal Council.*

Mrs. BOXER. Mr. President, I would also like to have printed in the RECORD an editorial that was published just yesterday in the Los Angeles Times. I think it said it very well. I would like to read part of it, and then I will have it printed in the RECORD. The first thing they do is call attention to the Fish and Wildlife Service. They have a Web site. And the Web site says:

> The Arctic refuge is among the most complete, pristine and undisturbed ecosystems on Earth . . . a combination of habitats, climate and geography unmatched by any other northern conservation area. . . .

And they say:

> The refuge will no longer be complete, pristine or undisturbed if President Bush and [Secretary Gale] Norton have their way.

And they point out that Secretary Norton showed a slide and said:

> This image of flat, white nothingness is what you would see the majority of the year.

The LA Times makes the point that it is really an interesting situation. As a matter of fact, the headline is: "A Curious Commemoration." It says:

> The U.S. Fish and Wildlife Service is proudly celebrating the 100th anniversary of the national wildlife refuge system, which it manages.

Then it just points out how ironic it is that Secretary Norton calls it an "image of flat, white nothingness."

I want to put that in RECORD. I think it is a good editorial. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### A CURIOUS COMMEMORATION

The U.S. Fish and Wildlife Service is proudly celebrating the 100th anniversary of the national wildlife refuge system, which it manages. Theodore Roosevelt created the first refuge, Pelicans Island in Florida, 100 years ago this month to save brown pelicans from hunters who gunned them down for their feathers. The system's 575 refuges today cover 95 million acres and shelter everything from tropical fish to polar bears.

The service is marking the occasion by "showcasing and strengthening the entire agency's programs." It's curious then that the service's ultimate boss, Secretary of the Interior Gale A. Norton, should have asked Congress last week to subject one of the nation's most celebrated refuges to oil and gas exploration and production. Even more curious, Norton painted the Arctic National Wildlife Refuge on Alaska's North Slope as a barren, uninviting place where it would scarcely matter if some tundra was torn up.

Showing House members a slide, Norton said, "This image of flat, white nothingness is what you would see the majority of the year." Never mind that the refuge often teems with birds, fish and wildlife, including the Porcupine caribou herd, polar bears and wolves. Environmentalists call the refuge America's Serengeti because of the richness of its wildlife.

The decision may hang by a single vote. Democratic Sens. Blanche Lambert Lincoln and Mark Pryor, both of Arkansas, Sen. Gordon Smith (R-Ore.) and Sen. Norm Coleman (R-Minn.) are being heavily lobbied to abandon the fragile majority opposed to drilling.

Norton's Appeal Wednesday was that Alaska's Arctic coastal plain (she mostly avoided referring to it as a refuge) could produce more oil than any state. That may sound impressive, but the nation could save more oil and sooner, by raising fuel-economy standards by a few miles per gallon.

Norton said oil companies would be required to use new technology and to drill with little or no damage to the tundra. She did not add that if oil was found, the wells would be linked by collection pipelines that must be maintained in summer and winter. This industrial support infrastructure is what most mars the landscape and creates a hostile environment for wildlife.

The Fish and Wildlife Service makes a compelling case on its own Web site for keeping the refuge as it is: "The Arctic refuge is among the most complete, pristine and undisturbed ecosystems on Earth. . . a combination of habitats, climate and geography unmatched by any other northern conservation area. . ." The refuge will no longer be complete, pristine or undisturbed if President Bush and Norton have their way.

Mrs. BOXER. Mr. President, then there is the question of how much oil is there. Senator STEVENS basically said, anyone who says it is 6 months' worth of oil is not—I don't want to put words in his mouth—telling the truth was the essence of his remarks.

I want to make a point. In the USGS report in 1998, they said there was a 50 percent chance that the amount of economically recoverable oil is 3.25 billion barrels. So I think what we are seeing here is a very different point of view. And CRS estimated that the Alaska wildlife production would range from 200,000 to 1 million barrels daily, and maybe at some point reach 1.9 million barrels a day.

The point is, when Senator STEVENS says people who are saying there is 6 months' worth of oil are being disingenuous, that is just not the case.

I also want to put in the RECORD a paper entitled "Caribou in the Arctic National Wildlife Refuge." It talks about the caribou and what is happening and kind of backs up what was stated here, that the Native peoples are saying the oil activity is driving the caribou herds away. And they explain what has happened to the caribou.

The Senator from Alaska, I certainly respect his point of view, but these are Alaska groups that have this very important discussion about what has happened to the Porcupine caribou herd. I ask unanimous consent that that paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### CARIBOU IN THE ARCTIC NATIONAL WILDLIFE REFUGE

There are two separate caribou herds found in the Arctic Refuge. The Porcupine Caribou herd—named after the Porcupine River found within its range—which numbers about 128,000 and makes long migrations each year between winter habitat in Canada and Alaska south of the Brooks Range, and summer habitat (calving and post-calving) on the Arctic Refuge coastal plain. The second herd is the Central Arctic Herd, which uses the central portion of the North Slope including the area around Prudhoe Bay and the western part of the Refuge, and numbers about 27,000 animals. Almost 30 years of data have shown that the concentrated calving and post-calving area of the Porcupine herd is located within the Refuge's coastal plain nearly every year. Both herds frequently use the northwest portion of the Refuge during the post-calving period for insect relief habitat.

One of the greatest myths concerning caribou is that oil development has caused an increase in the Central Arctic herd's numbers. Before development, the herd contained about 5,000 animals. Today it numbers around 27,000. This increase is largely attributable to several years with mild weather and has nothing to do with development. In truth, the Central Arctic herd's calving activity has shifted away from developed areas to alternative calving grounds with poorer quality habitat.

The Porcupine herd has no alternative calving areas to shift to because of the densities of the herd and the narrowness of the coastal plain within the Arctic Refuge; there are 5 time more caribou in about one-fifth the area compared to Prudhoe Bay. On the few occasions when weather has prevented the Porcupine herd from reaching the coastal plain before calving, calf survival was significantly diminished. The caribou need the coastal plain during the calving and post-calving periods because the core calving area of the Arctic Refuge coastal plain provides the highest quality forage, lowest density of predators, and optimal insect relief. Should they be forced to shift their calving activities away from the region because of oil development, calves would be vulnerable to higher predation and lower quality forage possibly leading to a decline in their numbers. Numerous scientific articles written by leading caribou researchers clearly document that industrial development has resulted in changing caribou movements and distribution within the oil fields displacing caribou from the highest quality habitat.

Mrs. BOXER. Mr. President, in closing my remarks, I have shown the beauty of the wildlife refuge. Now I want to talk about the yield from the wildlife refuge when you compare it to what you could gain in energy with some very simple things we could do.

For example, better tires: We are talking about a 4.3 percent reduction in dependence on foreign oil if we could just get that out of tires. And this chart shows, in the billions of barrels, what could be saved in the same period of time.

Also, if you close the SUV loophole, look at how many billions of barrels you save by 2030. These are all by the year 2030. If we just said that cars would average 35 miles per gallon, look at the fuel economy we would save if that occurred by the year 2013. So by the year 2030, look at this: We could do so much more for our country without giving up one bit of our quality of life, just getting the SUVs to have the same fuel economy as our autos. Every 6 years, you would actually have another ANWR field.

So for people to say we have to drill, we have to drill, we have to drill, I just would tell them, these are just a few ideas that some of us have on how we can avoid drilling in a place that looks like this chart shows, a place that President Eisenhower chose to save.

So I really think, if you look at the several arguments I have laid out—first, the fact is, this is not the way to go about debating the Arctic Wildlife Refuge: a little bit of a sentence in the big budget. That is not right. It deserves a lot more discussion.

This is a God-given, this God-given land. This is precious, and it deserves more debate than we are going to be able to give it tonight and a little bit in the morning. So it makes no sense. It is a magnificent area.

Second, we can get the equivalent way more—way more—than what you could get in the Arctic, by doing some very simple conservation. Just to take this SUV loophole: saying that they get the same mileage as cars, we could reduce our dependence on foreign oil by 16 percent. This reduces it by 2 percent. Let's do it by 16 percent.

If we increase the CAFE, the corporate average fuel economy, to 35 miles per gallon by the year 2013, by the year 2030—listen to this; this will really get you excited if you are listening to this debate—we could cut back on the importation of foreign oil by 43 percent.

So when anyone tells you, we have to drill in a place that looks like—you know what I want to show you, those beautiful pink flowers; here it is—that looks like this, yes, not every month of the year—Washington does not look so great right now, but in a couple of months it is going to look good.

I don't think we want to bring the oil cranes on to the Capitol Grounds, although it kind of looks something like that right now.

I will close by showing some of the wildlife to my friend from Washington. These are so magnificent.

I ask unanimous consent that she be given 10 minutes upon completion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. To be followed by the Senator from Tennessee, if he wishes, 10 minutes after that.

Mr. ALEXANDER. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I close the debate the way I started it and leave it to my good friend to wrap things up. This is what we are talking about. No one could make this up: The polar bear; the muskoxen. Look at this; this is called the chart bird, so we have it on a chart. Quite extraordinary, isn't it? I say to my friends, think about what you are about to do here. Don't have this on your conscience when you could just raise fuel economy and have 10 ANWRs, 20 ANWRs, because when you save this, you save it over and over again.

I hope my amendment will pass. I am very proud that Senators CHAFEE and SNOWE are on the amendment and other Republicans because this is not about politics, this is about saving a God-given gift. That is the way I see it.

I yield the floor and thank my colleagues for their patience.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I commend the Senator from California for her articulate presentation of this issue, not only protecting a very important part of our wildlife refuge system but also for talking about the issue from an energy consumption perspective. Where is the best place for the United States to be investing its time and energy and to get the highest return, particularly at a time when our foreign dependence on oil is very important for us to make those decisions to move forward?

I commend the Senator from California for her time and energy and for her amendment that we will be voting on tomorrow, a very important amendment that, on the one hand, you could say got a lot of attention in a debate last year. This body heard many hours of presentation from a variety of Members and made a decision on that issue. Tomorrow I will support Senator BOXER's amendment, but I question seriously why we have to go to this extent of having Senator BOXER's amendment at all. Why is this issue coming up on a budget resolution when a more appropriate time and place would be for us to take it up as part of our energy discussion, even though we did that last year and decided that it wasn't a priority for us in the Senate?

I support what we are trying to do in protecting the Arctic National Wildlife Refuge because by protecting that wildlife, we are protecting as well a great part of what has been the last great wilderness in the United States. Proponents of drilling in the Arctic Refuge talk about reducing dependence on foreign energy supplies. I also support us focusing on reducing that foreign energy. But the best way to meet that goal is to develop a domestic natural gas resource, particularly looking at Alaska, and also to promote renewable energy technologies and reduce oil consumption through conservation measures.

Alaska is a very important source of domestic energy. Make no mistake about that. The North Slope has trillions of cubic feet of natural gas. We should develop that natural gas on Federal lands, including the National Petroleum Reserve which was set aside for development. I am eager to work with my colleagues, Senator STEVENS and Senator MURKOWSKI and others, to build that gas pipeline to bring natural gas to the marketplace. Building a gas pipeline and developing the NPRA in an environmentally sound manner will create jobs in Alaska and will benefit the Native communities. It will strengthen our overall energy policy.

We also, though, need to develop renewable energy sources, including domestically produced biofuels, and to focus on energy efficiency technologies, some of which I am sure we will be discussing later in an energy bill. These technologies can reduce our dependence on foreign oil sources.

For example, Senator BOXER showed a chart on what could be done by using low-friction tires. That was an interesting chart because we have seen that in focusing on these new cars to help them comply with fuel standards, these new tires could cut gasoline consumption of all U.S. vehicles by 3 percent. That is a savings to our Nation of about 5 billion barrels of oil over the next 50 years. As Senator BOXER pointed out, the reason that number is so important is, it is the same amount, 5 billion barrels over the next 50 years, that the U.S. Geological Survey says can be economically recovered from drilling in ANWR.

Why take what is a national treasure in the last great wilderness for these 5 billion barrels when we can do the same thing by moving to a more efficient energy economy?

I believe through a balanced approach, we can demonstrate our commitment both to wildlife conservation and strengthening energy security.

However, this budget resolution is not a balanced approach. Drilling in the Arctic really is a reversal in America of about 100 years of commitment to conservation. I say that because, most importantly, the resolution would violate our duty as stewards of the Arctic Refuge, in the National Wildlife Refuge System as a major system, and would take away what has been one of our most valuable national treasures.

During this debate, we must consider the number of people who have been involved and how we have been involved over the last 100 years to work to protect the sensitive wildlife habitat in this country and specifically the Arctic Refuge. Senator BOXER showed many pictures demonstrating what that wildlife refuge looks like and how pristine it is today and the wildlife that exists there. Everyone in this body wants to see us continue the Wildlife Refuge System.

Last week, we marked our 100th anniversary of establishing the National Wildlife Refuge System. That was done by President Theodore Roosevelt at Pelican Island—the 100-year anniversary. Through that work, countless Americans have helped build a system of over 500 refuges in every State in the country. Tens of thousands of volunteers, several hundred "friends organizations," scores of partnership organizations have worked closely with the U.S. Fish and Wildlife Service to maintain the integrity of the system.

In Washington State, local volunteers have built and helped protect various lands: Willapa Bay, the Nisqually River, the Hanford Reach of the Columbia River, and many other locations. Americans have worked to build the system because they love wildlife and because there is the trust that we in Congress will be good stewards of these lands.

Unfortunately, that stewardship is being called into question with this budget resolution as an assault on the system as a whole. This budget undermines the work of millions of Americans, including hunters, anglers, wildlife enthusiasts, and many others.

It is very important that the hard work and focus of maintaining our wildlife, not just in the Arctic but all throughout America, be celebrated this week as we have reached this 100th anniversary, and that we support the Boxer amendment tomorrow, to say there is a wiser way for us to preserve and to move forward our energy conservation and security, and that there is a wiser way for us to get off our foreign dependence on oil, and that wiser way will mean making the right investment in natural gas, in technology, in conservation, and in preserving the Arctic Refuge.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that my statement count against the opposition's time on the amendment, which is our side's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I support the Budget Committee's recommendation that there be an instruction to the Energy and Natural Resources Committee, on which, I serve, to permit leasing and drilling for the oil in Alaska.

I listened carefully to what the senior Senator from Alaska told us about history tonight. He reminded us that most recently, in 1980, our country made a decision. Congress debated it here, and President Carter, during his administration, made this decision. He approved of and made both parts of the decision as President. One was to set aside 100 million acres of land in Alaska, an astonishing amount for wilderness area—of which I approved—and then to set aside 1.5 million acres for drilling. That was the decision our country made.

Almost all of our decisions about energy and the environment intersect. They almost always are balanced. In 1980, we decided 100 million acres in Alaska for conservation and 1.5 million acres for drilling. And then we are talking, in this proposal, about 2,000 of those 1.5 million acres that we would drill.

I would not stand here and say there is no environmental burden when we drill for oil. Of course, there is. But I would like to assert that we almost always seek to find a reasonable balance. What is on the other side of the balance? Why do we need the oil? We are being reminded of that in a great many ways today. We are a nation about to go to war. We are a nation where gasoline prices and gas prices are going up in remarkable numbers. That means for us fewer jobs. That means for us cold homes. We know we are a nation that depends upon a reliable supply of energy. We also know that this Alaskan Refuge we are debating tonight has—as the Senator from Alaska reminded us—more reserves than the State of Texas. So it is not incidental, unless somebody wants to call the oil of Texas incidental. I would not.

It is also more than a million barrels of oil a day through the pipeline. By one estimate—the one by the Senator from Alaska—it is 1.4 million a day. So it seems the 1980 balance that this Senate, this Congress, and President Carter made was the right balance, which ought to be honored. A hundred million acres in Alaska for conservation, 1.5 million for drilling, and we will drill on 2,000 of those 1.5 million.

I, too, agree that I am ready to see us become serious in our country about finding a new energy base for our economy. I was pleased with the President's proposal for a hydrogen car. In the Energy Subcommittee, which I chair, we will spend a lot of time on that. But the hydrogen car and a hydrogen-based economy are 20 years away. In the meantime, we need jobs and we need to be able to drive to work. We cannot afford to have energy prices and home heating oil and natural gas prices going up to a level our citizens cannot afford. So we have to strike a reasonable balance. I believe the Budget Committee did that, and I support that.

Second, I want to point out something else the Budget Committee did that hasn't been mentioned in the debate, as far as I am able to tell. The Budget Committee has within it the creation of a new reserve fund for the State grant program of the Land and Water Conservation Fund.

If this budget resolution is passed by the Senate, I, along with Senator SUNUNU of New Hampshire, and Senator STEVENS and Senator MURKOWSKI of Alaska—and I hope many other Senators—will introduce legislation to take the first $250 million of each year's revenues from drilling in this Alaska venture and put it into the State side of the Land and Water Conservation Fund. Let me repeat that. If we produce, by authorizing this drilling for oil in the 2,000 acres, the $1 billion a year that is expected, which should happen in about the year 2005 or 2006, the legislation I propose, along with other Senators, would take the first $250 million and put it into the State side—not the Federal side—of the Land and Water Conservation Fund.

This money is used by States and cities and communities to create neighborhood parks, greenways, and land trusts. In other words, we would be balancing what we are doing. We might be creating some environmental burden, taking some environmental risk, but we would be balancing that by a huge environmental benefit on the other side by helping build numbers of State parks and greenways and land trusts, closer to where people live, near their homes.

The legislation I propose would more than double the Federal dollars, creating critically needed neighborhood parks, trails, and greenways. More important, it would substantially and reliably fund that State grant program, as Congress intended and the President pledged we would do.

The Land and Water Conservation Fund is one of the most popular programs in America with State and local officials. It stems from the recommendations of the Rockefeller Commission, appointed by President Johnson in 1963. When Ronald Reagan was President, he sought to have a followup to the Rockefeller Commission. I was its chairman. We called it the President's Commission on America's Outdoors. It had four Members of Congress as participants. The vice chairman was Gilbert Grovner, president of the National Geographic Society, and it included such distinguished members as Patrick Noonan, who is today president of the Conservation Fund.

We made a number of recommendations in 1985 and 1986 to Congress, to the President, and to the Nation. One of the most important of those recommendations was that we use money from nonrenewable energy sources to create permanent assets for the Land and Water Conservation Fund. This was a conservation commission, and we recognized that we would be drilling for gas and oil, but we wanted to use some of that money to build neighborhood parks.

Twenty years after President Reagan's Commission on America's Outdoors, I still believe in that principle. I believe we should use revenue from oil and gas drilling, and other activities that deplete our natural resources, to fund conservation efforts, and I believe smart development always includes strong environmental stewardship.

The State grant part of the National Park Service Land and Water Conservation Fund provides matching grants that can be used for planning, acquisition, and site development in all 50 States. Many States have actually increased their revenues so that they can match these popular programs. But the State grant program of the Land and Water Conservation Fund has been underfunded by 70 percent, or more, and it has been very unreliable. It has gone up, and it has gone down.

Our cities are in desperate need of more funding for neighborhood parks and recreation areas. It is a nice idea to drive all the way out to Yellowstone if you live in New York City, or in Nashville, but most people cannot drive that far. Eighty percent of the people do their outdoor recreation in the neighborhood where they live. The most important park to them is the park that is somewhere in their neighborhood, and this $250 million a year would help create thousands and thousands of new neighborhood parks, walking trails, and greenways. It would create a source of reliable funding. The funding, as I said, has been volatile and inconsistent. This legislation would make the reserve fund from the ANWR revenues mandatory.

The Arctic National Wildlife Refuge—the land we are discussing that is near there—is owned by all the people, and all should benefit.

By allocating a portion of these revenues, a generous portion, in a mandatory way for the benefit of communities everywhere in America, we would be making sure that we balanced our conservation ethic with our need for energy and oil.

Mr. President, I ask unanimous consent to print in the RECORD a comparison of land and water conservation funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF LAND AND WATER CONSERVATION FUND—$160 MILLION[1] (FY 04 PROPOSED ADMINISTRATION BUDGET) AND AUTHORIZED LEVEL OF $450 MILLION

| State | FY 2004 Admin. | Estimate @ $410 million |
|---|---|---|
| Alabama | $2,584,985 | $6,795,505 |
| Alaska | 1,381,136 | 3,630,049 |
| Arizona | 2,912,142 | 7,655,896 |
| Arkansas | 1,926,581 | 5,064,133 |
| California | 13,510,052 | 35,524,587 |
| Colorado | 2,630,623 | 6,915,630 |
| Connecticut | 2,465,933 | 6,482,745 |
| Delaware | 1,481,806 | 3,894,824 |
| Florida | 6,768,113 | 17,795,546 |
| Georgia | 3,666,264 | 9,638,538 |
| Hawaii | 1,612,710 | 4,239,025 |
| Idaho | 1,533,066 | 4,029,463 |
| Ilinois | 5,437,145 | 14,295,560 |
| Indiana | 3,135,341 | 8,242,683 |
| Iowa | 1,979,392 | 5,202,963 |
| Kansas | 1,975,615 | 5,193,127 |
| Kentucky | 2,295,321 | 6,033,633 |
| Louisiana | 2,671,004 | 7,021,793 |
| Maine | 1,529,729 | 4,020,692 |
| Maryland | 3,119,929 | 8,202,469 |
| Massachusetts | 3,544,075 | 9,317,863 |
| Michigan | 4,581,752 | 12,046,252 |
| Minnesota | 2,739,571 | 7,201,988 |
| Mississippi | 1,899,539 | 4,992,921 |
| Missouri | 2,937,097 | 7,721,351 |
| Montana | 1,416,617 | 3,723,276 |
| Nebraska | 1,689,124 | 4,439,842 |
| Nevada | 1,851,381 | 4,865,585 |
| New Hampshire | 1,577,981 | 4,147,650 |
| New Jersey | 4,348,865 | 11,434,222 |
| New Mexico | 1,733,898 | 4,557,587 |
| New York | 7,982,453 | 20,988,950 |
| North Carolina | 3,612,306 | 9,496,646 |
| North Dakota | 1,388,885 | 3,650,430 |
| Ohio | 5,063,914 | 13,314,119 |
| Oklahoma | 2,223,613 | 5,845,233 |
| Oregon | 2,275,889 | 5,982,773 |
| Pennsylvania | 5,464,786 | 14,368,336 |
| Rhode Island | 1,598,430 | 4,201,527 |
| South Carolina | 2,443,725 | 6,424,064 |
| South Dakota | 1,400,563 | 3,681,106 |
| Tennessee | 2,946,607 | 7,746,330 |
| Texas | 8,160,283 | 21,456,000 |
| Utah | 1,926,824 | 5,064,961 |
| Vermont | 1,358,927 | 3,571,631 |
| Virginia | 3,519,932 | 9,254,038 |
| Washington | 3,190,738 | 8,388,500 |
| West Virginia | 1,686,882 | 4,433,903 |
| Wisconsin | 2,866,580 | 7,535,933 |
| Wyoming | 1,335,704 | 3,510,584 |
| District of Columbia | 240,257 | 631,446 |
| Puerto Rico | 2,163,575 | 5,687,775 |
| Virgin Islands | 49,719 | 130,672 |
| Guam | 62,621 | 164,580 |
| American Samoa | 50,000 | 68,539 |
| Northern Marianas | 50,000 | 73,526 |
| Totals | 156,000,000 | 410,000,000 |

[1] $4 million of Proposed FY 04 Funds are directed toward administration of the program.

Mr. ALEXANDER. Mr. President, it compares on one side the administration's proposals for this budget we are debating. For the year 2004, there is $160 million in President Bush's budget. By my calculation, with full funding of the State side of the Land and Water Conservation Fund, we would go to $450 million. That would mean, for example, in California, instead of having $13 million for neighborhood parks, there would be $35 million, or in Tennessee, instead of $3 million for neighborhood parks, there would be $7.7 million.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Chair informs the Senator he has used the 10 minutes which he was yielded under the previous order. Would the Senator like to ask consent for more time?

Mr. ALEXANDER. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. In Missouri, instead of $3 million, there would be $7.7 million. In Washington State, there is $3 million for neighborhood parks under the President's proposal; this would raise it to $8.3 million.

I call to this body's attention two parts of the budget resolution. The first part has to do with drilling in ANWR. The second part is a new reserve fund that would permit taking the first $250 million of money that comes from the oil drilling and put it in the State grant program for the Land and Water Conservation Fund which would more than double the amount of Federal dollars available for neighborhood parks.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. I thank the Chair. Mr. President, I ask unanimous consent that my statement count against the opposition's time to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, it is actually quite fortuitous I am standing before you tonight. I have not spoken on the floor but once since I have been here in my new role as the junior Senator from Alaska. But I stand before you tonight to do the one thing I have been asked by the residents, the people of Alaska to do, and that is to work for jobs, for a sustainable economy for my State and for my constituents. So to stand tonight to talk about ANWR and what ANWR means not only to my State but to all of America is, as I say, significant because ANWR is about jobs, it is about the economy, it is about economic security, domestic energy production. It is also about Native rights in my home State, and it is about common sense.

I have been listening very closely to the comments that have been made tonight, some by my fellow colleague from Alaska, quite passionately arguing the facts. We have seen some beautiful pictures, and we have seen some numbers thrown around. I think it is so important that we put into perspective what ANWR really is, what it means. To do that, we have to go back a bit in history. We have to look to the history of ANWR.

We have known about ANWR's oil potential since the early 1900s. It was in 1913, 1914 that the U.S. Geological Survey found strong indications of oil. So we have known that oil reserves, strong oil reserves, are on the North Slope.

This area now known as the Arctic National Wildlife Refuge was originally created in 1960 by Executive order under the Eisenhower administration. This Executive order has been pointed to a couple times tonight. It seems that it has been construed that it was recognized by this order that somehow ANWR, the Coastal Plain, should be reserved as some wilderness or should be put off limits. It is important to go back to the language of that Executive order so we understand clearly what President Eisenhower recognized in 1960.

The order states:

> For the purposes of preserving the wildlife, the wilderness, and the recreational values described in northeastern Alaska containing approximately 8.9 million acres, is hereby subject to valid existing withdrawals, withdrawn from all forms of appropriations under the public land laws, including mining, but not the mineral leasing laws.

This is where people are failing to read the rest of that order: "but not the mineral leasing laws."

In 1960, through Executive order, was the first time it was recognized that the potential for mineral and oil was significant on the Coastal Plain.

I have a chart that details exactly what is in the refuge. The Coastal Plain, which is 1.5 million acres, was created in 1980 under ANILCA. The wilderness area in yellow was also set out in ANILCA. When the initial refuge was set up, it was this portion, additional refuge land, which is not wilderness, which was created under section 303 of ANILCA. It added this section.

When we talk about ANWR, the refuge, and the wilderness and the 1002 area, it is important to keep in mind that we are talking about different animals, if you will. The Coastal Plain, the 1002 area, is separate and distinct from the wilderness area that has been created and separate from that refuge.

In 1959, Alaska had become a State with certain rights guaranteed to it under the Statehood Act. Within that act was a recognition by President Eisenhower—again through the Executive order—that the North Slope had vast oil and gas potential and that it should remain available at all times for domestic use.

There was a recognition in 1960 that something was different about the Coastal Plain—a Federal recognition that the oil and gas potential along the plain is too important to lock it up.

Go forward 13 years when Congress authorized through the Trans-Alaska Oil Pipeline Authorization Act the construction of the Trans-Alaska pipeline. This pipeline was to carry up to 2.1 million barrels of oil from the North Slope to the tidewater in Valdez for export to the lower 48. This was the next recognition, if you will, of the potential for reserves in the North Slope.

Our pipeline spans 800 miles from the north of the State all the way down to the southern terminus in Valdez. It goes through some of the most rugged and beautiful country one is ever going to see, and this pipeline carries the oil safely and efficiently without harm to the environment or the wildlife. It survived the biggest earthquakes the designers could have foreseen. We had a 7.1 earthquake in November. It was a construction marvel that pipeline worked the way the designers had envisioned it would.

Our pipeline is an amazing wonder of American ingenuity and spirit. This pipeline has been around for three decades now, and it has been doing a good job. As Senator STEVENS pointed out earlier this evening, our pipeline is half full. We need additional oil deposits to maintain operations.

I have said this is an 800-mile pipeline, but again I think it helps to put things in perspective if one is not from the State of Alaska. This pipeline covers a span of country equal to the distance between Duluth, MN, and New Orleans, LA. To date, it has carried over 14 billion barrels of Alaska oil to the lower 48—day in, day out.

This pipeline was constructed in 1973. We have been transporting oil in it ever since. In 1980, Congress enacted the Alaska National Interest Land Conservation Act, which is commonly known as ANILCA. This bill was a culmination of 5 years' worth of legislative negotiations spanning three separate Congresses. There was an agreement reached, which Senator STEVENS mentioned earlier, between Senator Scoop Jackson of Washington and Senator Paul Tsongas of Massachusetts, two Democrats and two protectors of the environment. The bill included language which was agreed to by Alaska to ensure access to the Coastal Plain for oil and gas exploration.

This is where we get the phrase or why we keep referring to this parcel as the 1002, because it came from section 1002 of ANILCA. It specifically set forth the requirements for exploration and development of oil and gas reserves in this small portion of ANWR, consistent with the protections for wildlife.

With ANILCA, we doubled the size of President Eisenhower's Arctic National Wildlife Range. This was the range initially. We doubled the size by adding the refuge and changed the name to the Arctic National Wildlife Refuge.

Through ANILCA, we put half of the land in refuge, 8 million in wilderness and 1.5 million reserved as an energy bank for the United States. Again, I point out, it is important to mention that the 1002 area is technically not part of the refuge. It lies within the outer boundaries of the refuge, but it is technically not part of it. It is essentially an area in legal limbo waiting for Congress to fulfill the statutory requirements that were set out in section 1002 of ANILCA, and to fulfill the promises that were made to Alaska on statehood.

It is not really in the refuge, but it is definitely not a part of the wilderness, and it is not part of the wilderness by definition or in just the everyday sense of the word.

If one looks up "wilderness" in Webster's, it is defined as an unsettled and uncultivated region. The Coastal Plain does not meet this definition of wilderness, because for years we have had military installations that have been involved in monitoring Soviet and cross polar activity. We have a community. We have the village of Kaktovik which sits right within the 1002 area. These people call the area home. They have their homes there. They have a school there. They have community centers there. They have hospitals. They have a community. This is not a wilderness.

Some of the pictures we have seen lead one to believe there is nothing up there, but when you take your camera, you can look in whatever direction you want to prove your point. So I think we need to keep in mind, let's envision what we have up there. We have made offers to people. If they have not seen ANWR, come up and see what we are talking about. See what the Coastal Plain is. See what drilling looks like in Alaska.

At the outset, I mentioned this also had to do with Native rights issues. Under the Alaska Native Claims Settlement Act, some Alaska Natives were given the right to select lands on the North Slope. A group of Alaska Natives from the North Slope region selected 92,000 acres within the boundaries of the 1002 area specifically for its oil and gas potential. Those Natives who have selected those lands are denied any opportunity to develop. Through the 1971 act of Congress, they were given the right to select those lands. They selected them, but there is nothing further they can do with them. They are being denied the right to do with the land what they feel should be done. If they need jobs and opportunities, we are denying them that opportunity.

This refusal to allow the Natives to use their land is another example of the hand of Government falling upon Natives and Indians in America, because Government knows how to do it best. So that is kind of our preliminary history lesson about ANWR.

Let's get to some of the facts, though, that have been mentioned this evening. We are importing nearly 11 million barrels of oil every day from other countries. Most of them are from countries that are not so very friendly or not so very stable. Alaska is producing 1 million barrels of oil per day, when the pipeline can carry twice that amount. We are wasting this national asset. We have a pipeline that is half full.

Prior to the last gulf war, Alaska produced nearly 2.1 million barrels of oil per day, all of it destined for West Coast ports in the lower 48. Now, rather than move to open a small portion of the Coastal Plain to responsible oil and natural gas development, our opponents are suggesting we can basically conserve our way out of the reduced dependency in an economically responsible manner.

I will be the first to tell my colleagues we must work on our conservation efforts, but we must be realistic about what it is we can and cannot do. I have heard those who state that ANWR is a false choice when compared with higher CAFE standards, that that is the way we need to go. But desiring tougher standards at the expense of more domestic production is the real false choice. It is a false choice because we have to do both. We have to pursue conservation, but we have to pursue increased domestic production if we are going to get our energy situation back on track.

To suggest we do not do any more, that we cut it off, that there is no need for any more oil, that we are going to go to this wonderful hydrogen-based society and we are all going to be able to power our vehicles on something other than gasoline, it is not today, it is not tomorrow, it is probably not 10 years. Having said that, should we not work toward it? Sure, that is fine, but let's keep in mind that we use gasoline for more than powering our vehicles. We use gasoline in a whole host of ways.

I was talking to a group of students this morning. They said, gasoline is used for cars, and if we change the way our vehicles are fueled, surely we will not need to rely on gasoline.

But it is used for home fuel oil, jet fuel, petrochemicals, asphalt, kerosene, lubricants, maritime fuel, other products. If we look at this chart, of the gasoline that we consume, one barrel of oil makes 44.2 gallons of economic essentials. So 44 percent of a barrel of oil is going into the gasoline component. The remainder, 56 percent, is going into all of these other things.

So the kids wanted to know, what are all of these other things? They are plastics, CDs, crayons, contact lenses, panty hose, photographs, roofing material, dentures, shaving cream, perfumes, umbrellas, golf balls, aspirin, bandages, deodorant, tents, footballs.

To suggest we need to cut back on oil because we do not want to have a society that is dependent on oil for our vehicles is one thing. We can look to alternatives for how we might power our vehicles. But we have to recognize we are oil-dependent: 56 percent, 58 percent of the oil we consume in the United States is imported oil. That is not a good place to be, particularly when we can do better domestically. We want to be able to do that.

Alaska has been a proud supplier of 20 percent of this country's oil production for the past 25 years. We produce this oil in the harshest environment imaginable. We do it better and we do it safer and we do it in a more environmentally sound and scientific manner than anywhere on Earth. Every spill on the North Slope is reported. Every drop. If a can of soda pop is dropped, it is reported. We are conscious. We know what is going on. We are being careful and cautious.

The National Academy of Sciences 2 weeks ago released a report on the cumulative impact of North Slope oil development. What did they find about oil spills on the North Slope? No major oil spills had occurred. There was no cumulative effect. The discussion about how to drill and where to drill is moot because we are in a situation where we have essentially a professional environmental community that says no development at all anywhere. They are using ANWR as their rallying cry.

What they are doing by stopping development in ANWR and by saying you cannot go there, they are shutting down not only oil development but human progress. There is a community in Kaktovik, a community on the North Slope in Barrow, existing because of oil. Their school, their hospital, their community exists because they have jobs and a resource base. That is human progress that most would see as positive.

There was an interesting article in the Washington Post a few days back. Phillip Clapp, president of the National Environmental Trust, summed up what today's modern professional environmental movement is about, talking about drilling in ANWR and talking about the technology and whether cumulative impact had been good or bad. He noted, even if new technology has lessened the environment damage, it is not the drilling itself but the other activities, such as road building, housing for workers, the infrastructure needed to support them, that cause damage.

If you think that through, if it is the school, if it is the house, if it is the road that causes the damage, it is not necessarily the drilling. They are doing the drilling fine. The road is that way or the house is blocking the wind and causing snow to drift and that will accumulate and then melt and puddle in the spring; that is a negative change. We are going to have all kinds of problems. By Mr. Clapp's standard, the elementary school in Fayetteville, AR, causes a negative impact.

We have to be realistic. We deal with this not-in-my-backyard syndrome and it seems this NIMBY is now morphing into BANANA, build almost nothing anywhere near anyone. If you carry it further to a little more ludicrous level, you have the term NOPE: not On planet Earth.

We in Alaska are starting to feel cut off from the rest of the world, that the rest of the world or the rest of the country would just as soon lock us up and say nothing, nada, zip, you cannot do anything. You are not responsible enough to carry on development because we are concerned about the environment.

Again, I challenge Members to come up, see the oil development, how we bring oil out of the ground safely every single day and deliver it to the rest of the lower 48. We do a good job. Give us credit.

We had a bit of an example about the technology used on the North Slope now. The comment was made earlier when we first began producing in Prudhoe Bay, the size of the oil fields, the pads, the footprint was bigger, but the technology in the past 30 years has brought us to a remarkable place where we can drill, and for all intents and purposes you do not know we are there. We have a picture that shows when the drill is complete there is a stump put in the ground. That is what you look at at the end. You do not have a huge infrastructure.

I had a meeting this afternoon with an independent oil company working in Alaska, explaining to us some incredible new technology that allows for construction of modules on the tundra, elevated so the tundra is not affected by any warmth or heat coming off the building. These modules are supported on beams not made from ice but inserted in an ice sleeve so when drilling is complete, when the project is complete, they melt the ice, pick everything up, and they are out of there. The technology we have today is so remarkable, so incredible, we can go in, we can do the job, and we can do it in a manner that does not disturb the environment.

The point was made earlier about the size we are talking about. The maps of Alaska do not do justice to the size or the expanse. The development of the Coastal Plain would use an area of land smaller than the Little Rock airport. It was mentioned that in the area of drilling we are looking to do in the 1002 area, six of them would fit within Dulles Airport. Conceptualize this: An area 290 times smaller than Ted Turner's private ranch in New Mexico. I have not been there, but I can visualize it. Or an area the size of George Washington's Mount Vernon when he first inherited the property in 1761.

This is what we are talking about, a tiny sliver on the Arctic Coastal Plain. Yes, we did see lovely pictures taken during the summer when the tundra is abloom. Those flowers do exist, although I don't know, I have seen the purple flowers. But most of the time it looks like the moon. It is white, it is deserted. Most days you cannot tell the sky from the land. This is the world that we are talking about. It is frozen 9 months out of the year. It is windswept. It is bitter cold. It is not hospitable country. Yet small groups of Alaskan Eskimos have chosen to call this home and want to be able to stay there, have decent jobs there. This is what we are talking about when we talk about ANWR.

I was going on about the size of ANWR. It was pointed out to me that the amount of land we need is the same size as the world famous Pinehurst Golf Resort in North Carolina, home to eight world-class golf courses. In fact, a new golf course opens every day in the U.S., which means that the amount of land that we need to produce billions of barrels of oil for the American consumer is gobbled up in just 8 days by golf courses nationwide.

It seems kind of silly to be comparing ANWR and the incredible contribution you are going to be getting from ANWR and its resources to a golf course, but I think it helps to put it in perspective. First, think about the size we are talking about and think about our land use. This is not an area you would want to go and have a round of golf.

Also tonight there has been discussion about the wildlife up in the 1002 area. Since Alaska oil production began nearly three decades ago, the caribou herds have increased an average of 450 percent; duck, geese, and other migratory birds are flourishing. As has been mentioned, there are more caribou in Alaska than there are people. The caribou are doing fine. They hope it is not going to be another bad bug year, but the caribou are thriving.

When we get right down to what ANWR is about to the Alaskan people, it is about economic opportunity; it is about real jobs for them. But I don't stand here and try to suggest that only my State is going to benefit, that the only reason we should open ANWR is so people in the State of Alaska can have jobs. This is jobs for the Nation. This is jobs for America.

By opening the Coastal Plain as intended by President Eisenhower, we would create hundreds of thousands of jobs nationwide, employ thousands of union and nonunion members in many States, and produce $2.1 billion in the first few years alone for the Federal Treasury.

Going back to the jobs I mentioned, it is not just Alaska. There was a study done. It was just completed in Alaska by probably the most reputable analyst in the State, the McDowell Group. They did an assessment of ANWR-developed-related employment throughout the United States. They base their numbers on $36-a-barrel oil. But given that price range throughout the 50 States, it is estimated that a total of 575,000 jobs would be created across the country.

We are talking today, tomorrow, and the following day about the President's economic stimulus plan, the economic growth plan. I am here to tell you, if we want economic growth, if we want economic stimulus, we need jobs. And 575,000 jobs across the country is nothing to shake a stick at.

It is not just jobs on the west coast. Just pick a number here. Pennsylvania: 27,000 jobs; Tennessee—the good Senator was here speaking earlier: 11,000 jobs are estimated to be available in Tennessee.

The sponsor of this amendment, from California—California will see 63,000 jobs. The Senator from Washington was here earlier: 10,000 jobs in Washington.

You can go down the list. There is no State that somehow or other does not stand to gain if we are able to open ANWR.

You say, how are we really getting 10,000 jobs in Washington or 63,000 jobs in California? We are going to need the pipes, the valves, the drill bits, the trucks—everything else that goes along with drilling and opening a new field and connecting these pipes. So these are real.

It is not an accident that this is included in this budget resolution. It is part of the President's priority and agenda because this is about jobs.

To many of the unions across the country, they have truly identified this as a jobs issue and are working very hard on this issue. To many of the families who are struggling, this is a family issue.

We talk about the caribou and we are concerned about the caribou and we care for the wildlife. But the fact is, you have to have money to buy your kids shoes and put food on the table, and only the jobs can provide that.

The other thing about the jobs that will come, they will be real jobs with real wages for people in my State. To hear the opponents of ANWR talk, you would think that they want Alaska to be locked up and to be just this big, beautiful tourist attraction so they can come and visit. That is nice. We want to have visitors to our State. We want people to come up and see Prudhoe Bay. We want them to come and see the good job that we do.

But this thought process implies that they want California or Massachusetts or New York or other States to produce tangible items for our economy. Alaskan residents, my constituents, the jobs they will get are carrying bags for these people when they come to visit as a tourist. Those are not the kinds of jobs that I want for my constituents. That is not the kinds of jobs that Alaskans want. We want real jobs. We want the ability to create real jobs.

It is demeaning and it is unfair to say that Massachusetts can keep its 20,000 petroleum-based jobs; that New Jersey can keep its 27,000 petroleum-industry jobs; and New York can keep its 36,000 petroleum-industry jobs, while Alaska supposedly looks to other alternatives. Why is it OK for everybody else to do it, and yet in Alaska for some reason we are not responsible, we can't handle it, we don't do it right, we need to lock it up and preserve it because it is the last Serengeti?

By opening ANWR, we are trying to save the 11,000 petroleum-industry jobs that we have in Alaska. We want to provide other States with similar opportunities.

When it comes to resource development in Alaska, we are not looking to spoil the environment. We want the environmental safeguards. We want to make sure we do it right. We want to make sure that we, those of us who choose to live there, are going to continue to want to stay there because it is the quality of life that attracts us. We don't want to circumvent any environmental requirements or processes. We want to use the most safe and most clean and most expensive technology available to get this oil out of the ground.

I have lived my whole life in Alaska. I was born there. I am third generation. In fact I am the first person to represent Alaska in the Congress who was actually born in the State. I was actually born during territorial days. I have no desire to see the environment of my State ruined.

My husband came to Alaska because he was attracted by the beauty of the State, by the fishing, by the wildlife. My husband and I are raising two sons who live for hunting and fishing and camping. This is why we are in Alaska. I would be the last person to suggest that we should do anything to ruin our environment.

But I have seen what we can do. I know we can do it right. And we can balance the development with the environment. They are not contradictory terms.

It is difficult to stand here as a new Senator and go over these arguments, but I cannot imagine what it must be like to stand in the senior Senator's shoes, and having had this argument and this discussion and this debate about opening ANWR for the past 20, 25 years, and to hear the same concerns and the same argument and the same discussion, and still our oil is locked up. It is a long time to be talking about this. It is a long time.

If we had been successful—actually, they were successful in 1995, when ANWR passed the Congress, but President Clinton vetoed that ANWR legislation in 1995. If he had not vetoed that, the oil from ANWR would soon be on its way down the existing Alaska oil pipeline in time for who knows what lies ahead.

I have mentioned we have a lot to look forward to in the years ahead, and it is not necessarily an oil-based economy. We have mentioned that the President's initiative, the hydrogen initiative to power our cars, is out there. We are looking forward to that. But we have also talked about the need to continue with our oil reserves for all those other resources and products that we have out there.

I have not touched on the desire, the concern, the request from Alaskans. Alaskans are looking at ANWR and saying: Well, wait a minute. Why is it so difficult? If we are willing to accept the development in our State, why can't we move forward with this?

We listen very well and very closely to the arguments and concerns in other locales. In the Midwest, right now, they are saying: No, don't drill in the Great Lakes. We don't want to do that. And I would say: If you don't want drilling in the Great Lakes, and you are the people who live there, and you say, no, we don't want it in our area, then, no, there is no need to go there.

But in Alaska, we have said: We accept it. We want it. We are here to help. Yet we are being turned down. We are being refused. We are being blocked by outside interests that seem to think they know better than Alaskans about what we need to do.

In Alaska, we do not have this NIMBY syndrome. We are saying: Put it in our backyard. We will accept it. We will be responsible stewards for this environment and for this resource. Let us help you.

We respect and defer to the opinions of those in other parts of the country who do not want drilling near them. All that we ask is that same deference be afforded to us.

I agree with many of my colleagues that we need to increase our use of renewable fuel sources. We have had some good discussions with several Senators about biodiesel, ethanol. But the Senators from those States also need to recognize that in order to grow the crops necessary to make these renewable fuels, they are going to need fertilizers.

Fertilizers come from natural gas. I have been talking, for most of the evening, about oil. But we need to also keep in mind that ANWR has vast deposits of natural gas, as much as 10 trillion cubic feet of natural gas that could be used to mitigate the unusually high natural gas prices we are seeing.

Yesterday we received a letter from the American Farm Bureau Federation. In it the Farm Bureau requests support of environmentally sound energy development in ANWR and supports its inclusion in the Senate budget resolution. They recognize it is critical, it is important, for the farmers of America. If they are going to get the fertilizer they need, they are going to need that natural gas from somewhere. They are projecting ahead; they are anticipating that demand, and asking that we assist with the supply. And ANWR can assist with the supply.

Mr. President, I ask unanimous consent that this letter from the American Farm Bureau be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
*Washington, DC, March 17, 2003.*
Hon. LISA A. MURKOWSKI,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR MURKOWSKI: The American Farm Bureau Federation requests that you support environmentally sound energy development in the Arctic National Wildlife Refuge (ANWR) and support its inclusion in the Senate Budget Resolution.

America's farmers and ranchers utilize numerous energy sources in the most efficient ways possible to grow the products that help feed and clothe the world. Current world circumstances have clearly pointed out this nation's over-reliance of foreign sources to meet our energy needs. American agriculture will spend from $1–2 billion more this year than last and that is just to complete the planting season and to get a crop in the ground. The instability of current energy prices negatively affects each and every aspect of agricultural production. From the fuel we use directly to the natural gas that is turned into fertilizer for crops to the diesel used in the locomotives and barges to transport agricultural commodities to processors and consumers; we are all reliant on affordable energy.

A balanced national energy agenda, complete with new technology advancements, renewable energy allowances and a significant increase in the domestic production of oil and gas supplies will help meet the energy needs of America's growing economy and population while providing a more reliable, affordable and environmentally responsible energy supply.

AFBF supports the environmentally sound energy development in ANWR and urges you to oppose any attempt to remove this language from the budget resolution.

Sincerely,

BOB STALLMAN,
*President.*

Ms. MURKOWSKI. Mr. President, I was commenting a moment ago about the desire or the willingness of Alaskans to take on ANWR development, that we are receptive to it. Earlier, on the floor this evening, the good Senator from California mentioned, and I believe had printed in the RECORD, a statement of opposition to drilling from a tribal entity. I have not seen that. I am not certain from where it came.

But I would like to also have in the RECORD that the Alaska Federation of Natives, which is the federation of all the Natives in the State of Alaska, has passed a resolution in support of the opening of ANWR and urging the Congress "to adopt legislation to open the Coastal Plain area of ANWR to an environmentally responsible program of oil and gas leasing and development." I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA FEDERATION OF NATIVES, INC., BOARD OF DIRECTORS, RESOLUTION 95–05

Whereas, the members of the Alaska Congressional Delegation, as representatives of the people and in their capacity as newly elected Chairmen of the Senate and House Committees having jurisdiction over matters related to Alaska Native people and the management of the energy and natural resources on public lands, have requested the Alaska Federation of Natives' Board of Directors to adopt a resolution in support of the opening of the Coastal Plain; and

Whereas, the Governor of the State of Alaska has requested the Alaska Federation of Natives' Board of Directors to adopt a resolution in support of the opening of the Coastal Plain of ANWR, with a proviso for the protection of the Porcupine Caribou Herd and the subsistence needs for the Native people of Alaska; and

Whereas, the Alaska State Legislature has adopted a resolution calling upon the U.S. Congress to adopt legislation that would open the Coastal Plain of the Arctic National Wildlife Refuge to responsible oil and gas leasing and development, with protection for the Porcupine Caribou Herd and the subsistence needs for the Native people of Alaska; and

Whereas, North Slope oil production has declined from more than two million B/D in 1990, to less than 1.6 million B/D today; and

Whereas, revenues from oil production have been providing about 85 percent of the State's revenues to fund programs to meet the educational, social welfare, and other needs of Alaska's people; and

Whereas, the small 1.5 million acre Coastal Plain study area of ANWR, adjacent of Prudhoe Bay and other producing fields is the nation's best prospect for major new oil and gas discoveries; and

Whereas, opening the Coastal Plain area to an environmentally responsible and carefully regulated program of environmental oil and gas leasing would provide important revenue benefits to the U.S. and to the State of Alaska; and

Whereas, opening the Coastal Plain will create new jobs for Alaska Native people, new contracting opportunities for Native-owned companies, and stimulate the State's local and regional economies: Now, therefore, be it

*Resolved*, That the members of the Board of Directors of the Alaska Federation of Natives calls upon the Congress of the United States to adopt legislation to open the Coastal Plain area of the Arctic National Wildlife Refuge to an environmentally responsible program of oil and gas leasing and development.

Ms. MURKOWSKI. Mr. President, this is, obviously, an issue that generates a lot of passion. We have seen that on the floor this evening. It has generated a lot of facts and figures. I would caution people to look critically at the facts. Make sure they add up.

We have heard discussion from a couple of different individuals tonight about the amount of oil that is out there. And is it a 6-month supply? And, if so, we surely should not open up ANWR.

As was pointed out by my fellow Senator from Alaska, that is assuming there is no other source produced domestically or used domestically. It is an overt effort to skew the facts to one side's advantage.

In a debate such as this, it is critical that we know that our facts are sound, that our science is sound. So I ask people not to be swayed by the emotion. Caribou are beautiful animals, but I can tell you, we are caring for the caribou, our caribou are doing fine, our caribou are multiplying at a wondrous rate, and they are doing it around the areas of development.

So it is important to try to show the rest of the country what ANWR is. But keep in mind, these little, tiny brief snapshots of a flowered field, with beautiful mountains in the background, are not where the 1002 area is that we are intending to drill. We are intending to drill an area that is the size of the Pinehurst Golf Resort in North Carolina, in an area that looks like the Moon.

I appreciate the hour. I appreciate the attention to this issue because in my State there is nothing more important that is happening. I would certainly encourage my colleagues tomorrow to listen intently to the debate.

I hope we move forward on oil and gas exploration along Alaska's Coastal Plain and oppose the Boxer amendment.

I don't see anyone else in the Chamber. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I am proud to join my colleagues as a cosponsor of this amendment, because the provision in the Budget Resolution on the Arctic National Wildlife Refuge, also known more commonly as "ANWR," has no place in this resolution.

There are so many great things about our country. And one of them is the progress made to protect our natural resources, including wildlife refuges such as ANWR. ANWR—which constitutes just five percent of the area of Alaska's North Slope—is the last remaining stretch of the North Slope that is closed by law to oil and gas development. Even if the oil in this small patch there were plentiful, which it is not, the provision in this resolution still would not be the path we want to choose.

The oil in the refuge could supply only a tiny percentage of our needs, and is not worth the likelihood of permanent damage to wildlife in this vital habitat. A recent report from the National Academy of Sciences highlighted the current damage to Alaska's North Slope from energy production. For example, animals have been affected in different ways, including direct mortality and displacement, reduced reproductive rates of birds due to enhanced predator populations, diversion of bowhead whale migrations, and altered distributions and productivity of caribou. Furthermore, the National Academy of Sciences report concluded that while new technologies have reduced some effects from energy production, expansion in new areas is certain to exacerbate existing effects and generate new ones. I see no need to risk an American treasure in an environmentally-damaging hunt for this very limited, unsustainable fossil fuel source.

The long-term solution to our fuel needs is to tap a variety of renewable energy sources, such as ethanol and biodiesel, wind, and biomass, as well as energy efficient technologies such as hydrogen-powered fuel cells.

My continual support for ethanol is only strengthened by the topic on the table right now. Ethanol offers a much more environmentally friendly and economically sustainable energy option than the short-sighted approach embodied by the ANWR drilling plans. Fuel that is 80 percent ethanol—developed over the next decade or two—will dramatically reduce our dependence on fossil and foreign fuels.

Another source of renewable energy is soy diesel. For example, over 30 buses in Cedar Rapids, IA, now run on soy diesel.

The transition to cleaner, domestically-produced fuels offers near and long term benefits, and we must start investing now in these renewable fuels. Pinning our energy hopes on reaping a relatively small amount of oil from an ecologically fragile area is not a long term strategy. It is, in fact, very short-sighted, and will not meaningfully reduce our dependence on foreign oil.

The Department of Energy has estimated that without drilling in the Arctic refuge, we'll import 62 percent of our oil in the year 2020. If we do drill, the department says we'll still be importing 60 percent of our oil in 2020, when ANWR production will reach its peak, according to the Energy Information Agency. Furthermore, according to the U.S. Geological Survey, the Arctic Refuge contains less economically recoverable oil than the U.S. consumes in 6 months. Oil company executives confirm it would take at least 10 years of exploration and development before this oil would reach markets. That's scarcely a compelling case for despoiling this environmental treasure.

And with 10 year build-up, this is not a short term, immediate stimulant for our economy. The revenue won't be seen for years, and it will be a small amount at that! Instead, we should focus on developing new domestic energy sources in this country by supporting the development of renewable fuels.

Further, we shouldn't be authorizing this kind of policy in a budget. Inserting controversial policy changes into a budget measure via reconciliation instructions shortchanges the normal legislative process by limiting debate. This ANWR debacle short circuits the normal legislative process used for consideration of controversial policy issues of this magnitude in the Senate.

I am committed to protecting and preserving our wilderness areas, parks, forests and wildlife. I cherish these resources, and I will continue to do what I can to see that they are protected. I am likewise committed to energy security for our Nation. The only way truly to achieve that goal is with renewable sources of energy available right here in our country.

Because of the concerns I have stated here, I am opposed to the Budget Resolution's reconciliation instructions to the Energy and Natural Resources Committee to write a bill that would open up ANWR so that the Federal Government can receive revenue from drilling in that fragile area. Consequently, I urge my colleagues to join me in voting for this important amendment.

Mr. FEINGOLD. Mr. President, I rise today to support amendment No. 272, which is similar to one I offered in the Budget Committee. It would strike the reconciliation instruction to the Energy Committee contained in the budget resolution before us.

This instruction requires the Energy Committee to produce $2.15 billion by reporting out legislation by May 1, 2003, with the assumption that they open the coastal plain of the Arctic National Wildlife Refuge to oil drilling.

Management of the Arctic Refuge coastal plain has been hotly debated for many years. Some Senators, like myself, believe that this area should be designated as a Federal wilderness area. Other Senators believe that this area should be explored for its oil potential.

I support this amendment because I believe that the fate of the coastal plain of the Arctic Refuge is a question of Federal National Wildlife Refuge management, not budgetary policy. And if a Senator believes that oil reserves which may be located under the coastal plain are needed today or 20 years from now, for reasons of enhancing this country's energy security, then the fate of the refuge is a question of energy policy, not budgetary policy.

No matter where a Senator might consider himself or herself in the discussion over the fate of the refuge—and this issue was debated at length during the Senate's consideration of the energy bill last year—no Senator has said that the primary reason to change the management of the Refuge was because we just needed the revenue.

In fact, the chairman of the Budget Committee, Mr. NICKLES, again stated, when I offered my amendment in committee, that these instructions are included in the budget resolution because Arctic drilling is needed to stimulate the economy, create jobs, and produce oil.

I know there are strongly held views on this topic, and I do not intend here to go into all the reasons why I have concerns about the possibility of oil drilling in the refuge. Other Senators who join in offering this amendment will be making that case.

I feel that the fate of the coastal plain of the Arctic Refuge is too important to become a number in the budget process.

I also think that, for several reasons, Senators who support drilling in the refuge should support this amendment and object to using the budget resolution and reconciliation to achieve that goal.

As Senators know, debate on a reconciliation bill and all amendments, debatable motions, and appeals related to it is limited to a total of 20 hours. After 20 hours, debate ends. Consideration of amendments then may continue without debate.

I am concerned that using a fast track procedure like reconciliation to open the refuge exposes the Senate to criticism that we are using the refuge revenues in part for tax cuts or to authorize new spending programs.

Particularly, the Senate may be accused of dispensing refuge revenues in unrelated accounts to gain political support for refuge drilling. Our constituents may also be concerned that we will have to spend a great deal to implement a drilling program in the Arctic Refuge because much of the infrastructure needed to bring oil from the Refuge to the rest of the country does not exist today.

As well, I am concerned that some Senators are supporting drilling in the refuge because they feel that it can be done in an "environmentally safe" way or they feel that it should be done jointly with energy efficiency, oil savings, and alternative energy programs to reduce our dependence upon foreign oil.

But reconciliation limits the way in which Senators who are concerned about these issues, and who do not serve on the Energy Committee, are able to address those issues on the floor.

The Congressional Budget Act explicitly prohibits the offering of nongermane amendments to a reconciliation bill. If a Senator felt that the Energy Committee's reconciliation bill opening the refuge did not go far enough to regulate environmental impacts associated with Arctic drilling, or to promote alternative energy in light of Arctic drilling, the Senator may not be able to offer amendments on the floor to improve the bill.

Such amendments, which might improve the bill from an environmental standpoint, might well be considered extraneous because they do not raise revenue. I would caution all Members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to think seriously about whether reconciliation serves their interests and their constituents' interests.

Finally, I oppose using reconciliation because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process.

That will not be achieved if reconciliation instruction on the Arctic Refuge is included in the resolution before us. I urge support for the amendment of the Senator from California, Mrs. BOXER.

Ms. COLLINS. Mr. President, I rise today to express my opposition to the inclusion of provisions in the fiscal year 2004 budget resolution that would provide for oil drilling in the Arctic National Wildlife Refuge.

The United States critically needs to reduce its dependence on foreign oil. Some believe we can drill our way to energy independence. That is simply not the case.

If we were today to start drilling in ANWR, our largest remaining domestic oil reserve, we would do almost nothing to decrease our reliance on foreign oil. It is a cold, hard fact: the United States uses about 25 percent of the world's oil, but only possesses 3 percent of the world's known oil reserves.

The Department of Energy has projected that if current trends continue, we will need an additional 5 million barrels of oil per day by 2020. Even under the most optimistic scenarios, ANWR could supply only a small fraction of that amount.

The alternative is to increase energy efficiency and develop alternative technologies. Simply increasing fuel economy standards for automobiles would do far more to reduce our imports of foreign oil than would drilling in the Arctic. Not only that, but it would also save Americans billions of dollars.

Protecting the Arctic National Wildlife Refuge is the right thing to do for the environment. Along with increased fuel efficiency and renewable energy production, protecting the Arctic is also the right thing to do for the economy and for America's energy security. Most important, it is the right thing to do for future generations.

I call on my colleagues to join me in support of removing provisions from the fiscal year 2004 budget resolution that would open ANWR to oil drilling.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senator BOXER's amendment to strike the budget resolution provision opening the Arctic National Wildlife Refuge to oil drilling.

To begin, I do not believe that the ANWR provision should be attached to a budget resolution. ANWR is a prominent national issue, arousing the passions of people of both sides. Regardless of one's view on the issue, the question of whether to open the refuge to drilling warrants an independent debate on the floor of the U.S. Senate.

We must also remember that a majority of Americans—55 percent according to the latest poll—oppose drilling in the refuge. We should not use backdoor techniques to sneak a drilling provision through on a technicality.

The budget bill is simply not the appropriate forum for the Arctic Refuge debate.

As a member of the Energy Committee, I believe the ANWR debate is better addressed in the context of an energy bill.

Now to discuss the provision itself. Proponents of drilling claim that drilling in ANWR will free us from our dependence on oil from the Middle East. This is simply not the case.

The bottom line is that, according to estimates from the United States Geological Survey, the Arctic Refuge would yield only about 6 months' worth of oil.

Facts are, we would have to get the oil over a longer period but would still receive less than a million barrels of oil per day even at peak production.

Furthermore, the oil would not flow for at least 10 years and would do nothing for our current national security situation.

Even the Energy Information Administration, the most optimistic forecaster of ANWR's oil potential, estimates that drilling in ANWR would reduce our oil imports by only 2 percent by 2020. And for a reduction of 2 percent, we would damage a national treasure.

Proponents of drilling would also have us believe that we can drill in ANWR without significant environmental cost. However, as the recent report by the National Academies shows us, even with the newest technologies, oil exploration and development harm the North Slope's Wildlife, ecosystems, and wilderness qualities.

The report tells us that the effects of previous development on the North Slope will remain for centuries, and we know that the oil is a short term supply.

To quote the report, we face an essential trade-off in assessing "whether the benefits derived from oil and gas activities justify acceptance of the inevitable accumulated undesirable effects" that accompany development on the North Slope. My answer to this question is a resounding no, the small benefits are simply not worth the costs.

Development's effects on wildlife warrant more discussion. According to the National Academies' report, oil exploration and development has negatively affected—and will continue to affect—caribou and bowhead whales.

In some developed areas, feeding on garbage has caused population explosions of predators and the local populations of nesting birds can no longer support themselves without immigration from undeveloped areas.

As more and more of the North Slope falls prey to oil development, one has to wonder from where the additional birds will come.

Therefore, while I agree that we are too dependent on foreign oil, and need to reduce that dependence, drilling for oil in the Arctic National Wildlife Refuge is simply not the answer. Drilling would not give us energy security and would carry huge environmental costs.

Reducing oil consumption and increasing Corporate Average Fuel Economy, or CAFE standards, is the better route to energy security.

In contrast to a small, temporary supply available far in the future and including serious environmental consequences, simply raising average fuel economy standards for sport utility vehicles could save us more than a million barrels per day by 2020.

The savings from increasing efficiency would begin sooner than oil from ANWR and, unlike oil from ANWR, the savings would not run out. Raising CAFE standards for all vehicles would save even more oil.

I would like to focus on energy security for a moment. If we truly want to increase our energy independence, it is vital that we understand why we are now so dependent on foreign oil.

The United States contains only 2 percent of the world's oil reserves and only 4 percent of the world population. And yet we consume 25 percent of the oil produced worldwide.

Almost two-thirds of that oil goes to fuel the transportation sector.

Given our current level of consumption in relation to our domestic reserves, it is clear that modest increases in domestic production—as from ANWR—will not solve our energy problems.

Reducing consumption is the key to increasing America's energy security.

Our system of fuel economy standards needs updating. When CAFE standards were created in 1975, the U.S. consumed about 16 million barrels of oil per day and imported a little more than a third of that oil. Today, America consumes about 19 million barrels each day but we now import more than half of that oil.

When fuel economy standards were first implemented, a lower standard was created for light trucks because they were not considered passenger vehicles. At the time, light duty trucks made up a small percentage of vehicles on the road and were primarily used for agriculture and commerce, not as passenger vehicles.

Today, however, SUVs are predominantly passenger vehicles and yet they are still held to a lower fuel economy standard than other cars.

The fuel economy standard for other passenger automobiles has remained constant at 27.5 miles per gallon since 1990, while the standard for SUVs and light trucks has been just 20.7 miles per gallon since 1991. This lower standard is called the "SUV loophole."

When there were few SUVs and light trucks on our roads, the SUV loophole did not affect our national oil consumption. However, with SUVs and light duty trucks now making up almost half of all new vehicles sold, overall fuel economy has reached its lowest level in two decades. We have been moving backwards.

Senator Snowe and I have introduced a bill which would require SUVs and light duty trucks, which are used as passenger vehicles, to meet the same fuel economy standards as other passenger vehicles by 2011.

According to the National Academy of Sciences, automakers can meet the higher standard with existing technologies.

The Feinstein-Snowe bill would save 1 million barrels of oil a day, more than we can expect to recover from ANWR, and, again, these benefits would not run out.

Our legislation would increase SUV fuel economy, reduce oil consumption, and increase energy security. But just closing the SUV loophole is not enough.

The Feinstein-Snowe legislation would also increase the average fuel economy of the Federal Government's fleet of vehicles. With Federal vehicles comprising about one percent of all vehicles sold in the U.S. each year, the Federal Government should set an example and reduce the Federal fleet's fuel consumption.

Increasing fuel economy includes additional benefits. First, increased efficiency will protect consumers from higher gasoline costs. Our bill would save American motorists billions of dollars per year at the pump.

Second, the Feinstein-Snowe bill would fight global warming by preventing about 240 million tons of carbon dioxide from entering the atmosphere each year.

Still, we should also go beyond the Feinstein-Snowe legislation and increase average fuel economy standards for all cars.

Raising average fuel economy standards to 39 miles per gallon, an achievable goal, would save 51 billion barrels of oil over the next 50 years, 5 to 10 times more than what is technically recoverable from ANWR.

So if this were really a debate on our dependence on foreign oil, we would already have passed legislation to improve fuel economy standards.

Drilling in ANWR, on the other hand, would not significantly increase our energy security and would not fight climate change. Because the price of oil is set on the world market and the quantity of oil in ANWR would not affect the world price, drilling in ANWR also would not save consumers any money.

To sum up, drilling in ANWR is simply not worth the price. The Arctic National Wildlife Refuge is a crown jewel of the National Wildlife Refuge system.

ANWR is the only conservation unit in the U.S. encompassing a complete range of arctic ecosystems, and the coastal plain provides essential habitat for many species.

The coastal plain, which proponents of drilling paint as small and insignificant, is the ecological heart of the refuge, the center of wildlife activity, and the calving area of the porcupine caribou herd.

Proponents of drilling would have us risk all of this for a small amount of oil that would not even begin to flow for 10 years and would barely reduce our dependence on foreign oil.

The National Academies' report shows us that we should not consider the drilling provision in isolation. We must consider both the role of the coastal plain in the overall refuge and the cumulative effects of development in surrounding areas.

ANWR is a crucial part of the larger landscape and is now the only sliver of the North Slope coastal plain that the administration is not opening to leasing.

In short, the refuge's coastal plain is too precious, and contains too little oil, for us to allow drilling to take place.

Although the National Academies' report is silent regarding ANWR policy, the chairman of the committee, Dr. Gordon Orians, has said that he hopes the report will inform the debate. The committee's findings should inform our decision. The price of drilling is simply too high.

Future generations will thank us for our foresight in protecting the ANWR coastal plain and its wildlife. They will thank us for finding other avenues to increased energy security.

Ms. MIKULSKI. Mr. President, I rise in support of a patriotic pause amendment to the budget resolution.

America stands on the brink of war. Yet this budget resolution ignores the war and ignores the costs of war. We need to take a patriotic pause and not proceed with huge permanent tax breaks when we don't yet know the cost of this war—or the costs that come after the war, in the rebuilding of Iraq.

This budget resolution calls for a $1.4 trillion tax cut. These are permanent tax breaks that would add to the structural deficit even without war. The patriotic pause amendment states that before we consider tax cuts, we need to ensure the Federal budget addresses our very real national security needs. That means the cost of deploying our troops; the cost of fighting the war; the cost of keeping troops in the region afterward and the cost of rebuilding Iraq.

The budget must also provide for the continuing war on terrorism. It must cover the costs of other conflicts and potential conflicts, such as standing sentry on North Korea. The budget must ensure that we can help our troops and their families face the hardships of deployment. And it must meet the costs of homeland security—and hometown security.

I supported a multilateral approach to confronting Iraq—to enable the world to share the costs and the burden. I believe that because Saddam Hussein is a danger to the world the world should share the burden of defanging him. America must redouble our diplomatic efforts to broaden the coalition of the willing. That means returning to the U.N. to share the costs of the war and the costs of rebuilding Iraq.

In the meantime, the administration must consider the costs of this war. The former White House economic adviser, Lawrence Lindsay, estimated that the war in Iraq could cost $100 to $200 billion. The fact that some of these costs may be hard to predict does not excuse assuming they won't cost anything at all. One thing we know for sure is that the cost is not zero. We must ensure that our national security needs are covered before considering tax cuts. We need to think about national security—and economic security.

I urge my colleagues to join me in supporting a patriotic pause in the budget process.

## MORNING BUSINESS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 30, 2001 in Grand Forks, ND. A 26 year-old man attacked and punched a Saudi Arabian student unconscious in a local bar. The assailant later explained to police that he feared the student might be in Grand Forks training for a future terrorist attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## GIDEON V. WAINWRIGHT

Mr. LEAHY. Mr. President, today marks the 40th anniversary of the Supreme Court's Gideon v. Wainwright decision, which held that all people facing serious criminal charges are entitled to a lawyer, whether they can afford one or not. The anniversary of this watershed moment in American law should be a cause for celebration. Sadly it is not.

Forty years after the Supreme Court ruled that a fair trial requires the right to counsel, people in courtrooms across the country are represented by attorneys who do not have the time, training, or tools to do their jobs. The unfortunate fact is that in some parts of the country, it is better to be rich and guilty than poor and innocent, because the rich will get their competent counsel, but those who are not rich often find their lives placed in the hands of underpaid court-appointed lawyers who are inexperienced, inept, uninterested, or worse.

Just 2 years ago, the Department of Justice declared that public defense in the United States is in a "chronic state of crisis." Around the country there are alarming statistics about the many flaws that continue to plague the criminal justice system. For example, according to the National Legal Aid and Defender Association: In Wisconsin, more than 11,000 people go unrepresented annually because anyone with an annual income of more than $3,000 is deemed able to afford a lawyer. In Bucks County, PA, the public defender office handled 4,173 cases in 1980. In 2000, with the same number of attorneys, the office handled an estimated 8,000 cases. In Lake Charles, LA, the public defender office has only two investigators for the 2,550 new felony cases and 4,000 new misdemeanor cases assigned to the office each year. Indigent clients in Lake Charles typically meet their public defender for the first time an average of 281 days—more than 9 months—after their arrest. In Virginia, a juvenile charged with a felony who cannot afford a lawyer gets an attorney who is paid for the equivalent of only 90 minutes of work because of the $112 per-case fee cap.

The crisis in public defense is not limited to misdemeanor and minor felony cases. I have spoken many times over the past 3 years about the shameful but all too common spectacle of underpaid, underfunded, and incompetent counsel in capital cases.

When people in this country are put on trial for their lives, they deserve to be defended by lawyers who meet reasonable standards of competence, and who have sufficient resources to investigate the facts and prepare thoroughly for trial. As citizens, we expect that of our prosecutors. We ought to expect the same thing of our defense attorneys. Yet in these most important cases, where life or death hangs in the balance, defendants have been represented by sleeping lawyers, drunk lawyers, lawyers under the influence of drugs, lawyers who do not meet or even speak with their client until the eve of trial, and lawyers who refer to their own client with racial slurs.

Part of the problem, I think, lies with some State court judges who do not appear to expect much of anything from criminal defense attorneys, even when they are representing people who are on trial for their lives. Good judges, like good prosecutors, want competent lawyering for both sides. But some judges run for reelection touting the number and speed of death sentences they have handed down. For them, the adversarial system is a hindrance.

The problem of low standards is not confined to elected state judges. Last year, the U.S. Supreme Court held that it was OK for the defendant in a capital murder trial to be represented by the same lawyer who represented the murder victim. Two years ago, a Federal appeals court struggled with the question whether a defense lawyer who slept through most of his client's capital murder trial provided effective assistance of counsel. Fortunately, a majority of the court eventually came to the sensible conclusion that "unconscious counsel equates to no counsel at all."

If Gideon is to have any meaning in the 21st century, the courts must start demanding more of defense lawyers than that they simply show up for the trial and remain awake. At the same time, the people's representatives in the State legislatures and here in Congress must also do their part.

For 3 years, I have been working with colleagues on both sides of the aisle to pass the Innocence Protection Act, a basic, commonsense package of criminal justice reforms. This bill would help make good on Gideon's promise of equal justice in the small but consequential set of cases in which the accused faces a possible death sentence. More specifically, the bill would help States create the systems and pay the price for qualified attorneys in capital cases.

Last year, the Innocence Protection Act won the support of a bipartisan majority of the Senate Judiciary Committee, and more than half the entire House of Representatives. This year, my cosponsors and I are committed to getting the bill signed into law.

The anniversary of Gideon is a time to reflect on how far we have come, and how far we have to go, in ensuring equal justice for all Americans. The United States must do better to protect the rights of its citizens and provide qualified defense counsel to the poor and disadvantaged. It should not take another 40 years to deliver on this basic constitutional guarantee.

* * *

## SUPPORT FOR A MISSILE DEFENSE SYSTEM

Mr. KYL. Mr. President, I would like to submit for the RECORD a recent resolution passed by the Arizona State Legislature declaring its support for a missile defense system. I commend the sponsors and supporters of this resolution for their recognition of the need for the United States to end its vulnerability to a ballistic missile attack by developing and deploying a missile defense system as soon as possible.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### HOUSE CONCURRENT RESOLUTION 2027

Whereas, the people of the State of Arizona view with growing concern the proliferation of nuclear, chemical and biological weapons of mass destruction and the missile delivery capabilities of these weapons in the hands of unstable foreign regimes; and

Whereas, the tragedy of September 11, 2001 shows that America is vulnerable to attack by foreign enemies; and

Whereas, the people of the State of Arizona wish to affirm their support of the United States government in taking all actions necessary to protect the people of America and future generations from attacks by missiles capable of causing mass destruction and loss of American lives: Therefore be it

*Resolved by the House of Representatives of the State of Arizona, the Senate concurring:*

1. That the Members of the Legislature support the President of the United States in directing the considerable scientific and technological capabilities of this nation and in taking all actions necessary to protect the states and their citizens, our allies and our armed forces abroad from the threat of missile attack.

2. That the Members of the Legislature convey to the President and Congress of the United States that a coast-to-coast, effective missile defense system will require the deployment of a robust, multi-layered architecture consisting of integrated land-based, sea-based and space-based capabilities to deter evolving future threats from missiles as weapons of mass destruction and to meet and destroy them when necessary.

3. That the Members of the Legislature appeal to the President and Congress of the United States to plan and fund a missile defense system beyond 2005 that would consolidate technological advancement and expansion from current limited applications.

4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of Congress from the State of Arizona.

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### SENATE CONCURRENT RESOLUTION 1021

Whereas, the people of the State of Arizona view with growing concern the proliferation of nuclear, chemical and biological weapons of mass destruction and the missile delivery capabilities of these weapons in the hands of unstable foreign regimes; and

Whereas, the tragedy of September 11, 2001 shows that America is vulnerable to attack by foreign enemies; and

Whereas, the people of the State of Arizona wish to affirm their support of the United States government in taking all actions necessary to protect the people of America and future generations from attacks by missiles capable of causing mass destruction and loss of American lives: Therefore, be it

*Resolved by the Senate of the State of Arizona, the House of Representatives concurring:*

1. That the Members of the Legislature support the President of the United States in directing the considerable scientific and technological capabilities of this nation and in taking all actions necessary to protect the states and their citizens, our allies and our armed forces abroad from the threat of missile attack.

2. That the Members of the Legislature convey to the President and Congress of the United States that a coast-to-coast, effective missile defense system will require the deployment of a robust, multi-layered architecture consisting of integrated land-based, sea-based and space-based capabilities to deter evolving future threats from missiles as weapons of mass destruction and to meet and destroy them when necessary.

3. That the Members of the Legislature appeal to the President and Congress of the United States to plan and fund a missile defense system beyond 2005 that would consolidate technological advancement and expansion from current limited applications.

4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of Congress from the State of Arizona.

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## FEDERAL EXECUTION OF LOUIS JONES, JR.

Mr. FEINGOLD. Mr. President, I want to take a moment to comment on the execution of Louis Jones, Jr., earlier today by the Federal Government.

Louis Jones was a highly decorated 22-year Army veteran, including service to our nation as an Army Ranger. He rose through the ranks to reach the top of enlisted personnel and retired with an honorable discharge in 1993 as a Master Sergeant. After serving on active duty in the Persian Gulf during Operation Desert Storm/Desert Shield, Mr. Jones returned to the United States and began experiencing symptoms consistent with gulf war syndrome. He exhibited personality and behavior changes, including increased hostility, aggression, and a tendency to fixate irrationally.

In 1995, in a Federal district court in Texas, Louis Jones, Jr., an African-American, was convicted and sentenced to death for the kidnaping and murder of an airwoman at Goodfellow Air Force Base in Lubbock, TX. There is no question that Mr. Jones committed this horrific crime. Mr. Jones did not dispute his guilt. But what Mr. Jones requested, and what I believed he should have had, was further examination of his medical condition and its potential role in the crime he committed.

Evidence of his brain damage was not available at his trial, as scientific research about the effects of exposure to toxins during the gulf war was still in its early stages. Since his trial, however, extensive research on gulf war syndrome and its symptoms has revealed brain damage as one possible result of exposure to toxins during the gulf war. Dr. Robert Haley, one of the Nation's most renowned researchers and experts on gulf war syndrome, has now concluded that Mr. Jones's symptoms were consistent with those of a subset of gulf war syndrome patients who were exposed to particularly toxic chemical agents during the gulf war. Had the jury known of Mr. Jones mental condition and that his condition was the result of service in the gulf war, it is very possible that the jury would have returned a sentence other than death.

It is unconscionable that the Federal Government would execute a gulf war veteran who displayed the symptoms of gulf war syndrome at the time of the crime, but was denied a fair opportunity to use this evidence to argue for a sentence other than death. On the eve of war, and especially on the eve of another war in the Persian Gulf region where more than 200,000 brave American men and women are prepared to make the ultimate sacrifice for their nation, President Bush could have taken a small step for fairness and justice. He could have stayed the execution to allow further medical testing and examination.

I believe that President Bush should have done more. He should not have gone forward with this execution in the face of increasing concerns about the fairness of the Federal death penalty system.

Today, more than 2 years after the U.S. Department of Justice released a survey showing geographic and racial disparities in the Federal death penalty system, we still do not have an explanation of why who lives and who dies in the Federal system appears to relate to the color of the defendant's skin or the region of the country where the defendant is prosecuted. Attorney General Janet Reno was so disturbed by the results of this survey that she ordered a further, in-depth study of the results. Attorney General John Ashcroft pledged to continue that study, but we still await the results.

And while we await the results of this study, we have also learned that the Justice Department appears to be seeking the death penalty more aggressively in Federal cases. Attorney General Ashcroft appears to be pursuing consistency in the application of the Federal death penalty nationwide by seeking it more aggressively in jurisdictions where Federal prosecutors have infrequently requested authorization from the Attorney General to seek the death penalty. In other words, he seems intent on making the Federal system replicative of States that aggressively pursue the death penalty States like Texas, which this week is scheduled to execute its 300th inmate in the modern death penalty era.

I am very concerned that the Attorney General's apparent determination to increase death penalty prosecutions, including sometimes overriding decisions of local prosecutors, increases the risk that the Federal Government could execute an innocent person. Former Federal prosecutors have said that "they need to take every last precaution to avoid the risk of condemning an innocent person to death." Last week I sent a letter to Attorney General Ashcroft expressing my grave concern about these issues and asking him to answer several questions about the Justice Department's decision-making process in death-eligible cases.

There is no punishment in our criminal justice system more worthy of careful review and absolute certainty before we carry it out than capital punishment. Each time the Federal Government carries out the ultimate punishment while so many questions remain unanswered, it erodes confidence in the justice system. The case of Louis Jones, Jr., is no exception. His case is plagued by particularly troubling circumstances that also cast doubt on the fairness of the Federal death penalty system. The existing cracks in our Federal death penalty system seem to be widening, and new ones are appearing, further weakening the foundation of our justice system.

Today, with the execution of Mr. Jones, our Federal criminal justice system has taken a step backward. Our goals of fairness and equal justice under law were not met, and the American people's reason for confidence in our Federal criminal justice system was diminished.

I urge my colleagues to support a temporary freeze on executions to allow a thorough, nationwide review of the fairness of the administration of the death penalty. I urge my colleagues to support the National Death Penalty Moratorium Act.

I ask unanimous consent to print a copy of the above-referenced letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, March 14, 2003.*

Hon. JOHN D. ASHCROFT,
*Attorney General of the United States,*
*Department of Justice, Washington, DC.*

DEAR ATTORNEY GENERAL ASHCROFT: I write to inquire about the decision-making process for determining whether to seek the death penalty in federal capital-eligible cases.

I am concerned about the fairness of the decision-making process, after reading recent news report that indicate you have overridden the recommendation of local federal prosecutors in at least 28 federal death-eligible cases. You appear to be pursuing consistency in the application of the federal death penalty nationwide by seeking it more aggressively in jurisdictions where federal prosecutors have infrequently requested authorization from the Attorney General to seek the death penalty. In other words, you seem intent on making the federal system replicative of states that aggressively pursue the death penalty—states like Texas, which next week is scheduled to execute its 300th inmate in the modern death penalty era.

I am concerned that your apparent determination to increase death penalty prosecutions, including sometimes overriding decisions of local prosecutors, increases the risk that the federal government could execute an innocent person. Former federal prosecutors have said that "they need to take every last precaution to avoid the risk of condemning an innocent person to death." See "In Brooklyn Murder Case, Doubts on Identification," New York Times, Feb. 12, 2003. While you and I may disagree on the fundamental question of whether the federal government should be authorized to use capital punishment, I hope that we can agree that the Constitution and the integrity of our criminal justice system require the fair administration of the death penalty and that only the guilty are convicted.

I join in Senator LEAHY's request in a letter to you dated February 7, 2003, for the following information about the capital case review and decision-making process:

(1) (A) What is the process by which the Department decides whether to accept a U.S. Attorney's recommendation that the death penalty should or should not be sought in a particular case? (B) To what extent are the U.S. Attorney's recommendations afforded deference? (C) In cases in which the death penalty has been sought, does the Department follow the same process and afford the same level of deference in deciding whether to approve a plea or cooperation agreement that requires withdrawal of the notice of intention to seek the death penalty?

(2) (A) Since you became Attorney General in February 2001, how many capital-eligible cases have been submitted to the Department for review? (B) In how many cases has the Department rejected a U.S. Attorney's recommendation not to seek the death penalty, and in what States? (C) In how many cases has the Department rejected a U.S. Attorney's recommendation to seek the death penalty, and in what States? (D) In how many cases in which the death penalty was sought has the Department authorized the U.S. Attorney to enter into a plea or cooperation agreement that requires withdrawal of the notice of intention to seek the death penalty? (E) In how many cases in which the death penalty was sought has the Department overridden the judgment of local federal prosecutors and rejected a plea or cooperation agreement that requires withdrawal of the notice of intention to seek the death penalty?

In addition, I request that you provide responses to the following questions:

(3) (A) Since you became Attorney General in February 2001, in how many cases and in which federal districts have you directed the federal prosecutor to seek the death penalty, even though both the U.S. Attorney and the Capital Case Review Committee made recommendations to decline seeking the death penalty? (B) In how many cases and in which federal districts have you directed the U.S. Attorney to seek the death penalty, where the U.S. Attorney recommended against seeking the death penalty and the Capital Case Review Committee recommended in favor of seeking the death penalty? (C) In how many cases and in which federal districts have you directed the U.S. Attorney to seek the death penalty, where the U.S. Attorney recommended in favor of seeking the death penalty and the Capital Case Review Committee recommended against seeking the death penalty? I note that the Department provided similar information as part of its 2000 survey of the federal death penalty system, and I request that the Department compile this information again and provide it to me. See the Federal Death Penalty System: A Statistical Survey (1988–2000), U.S. Dept. of Justice (Sept. 12, 2000).

(4) "The Attorney General will, of course, retain legal authority as head of the Justice Department to determine in an exceptional case that the death penalty is an appropriate punishment, notwithstanding the United States Attorney's view that it should not be pursued." The Federal Death Penalty System: Supplementary Data, Analysis and Revised Protocols for Capital Case Review, U.S. Dept. of Justice (June 6, 2001), p. 27 (emphasis added). I understand that, as of March 11, 2003, 30 of your 67 death penalty approvals have apparently been such "exceptional cases." (A) How do you account for this amazingly high proportion of cases in which you have forged ahead to seek death despite your own prosecutors' recommendations to the contrary? (B) In how many cases, in which federal districts, and under what circumstances, have you concluded that the case was "exceptional" and exercised your authority to direct U.S. Attorneys to seek the death penalty?

(5) In June 2001, you revised the "death penalty protocols," U.S. Attorneys Manual §9–10.000, et seq., by changing the definition of "substantial federal interest" so as to remove an earlier provision that forbade the Department from relying on the fact that a state has chosen through democratic means not to impose capital punishment. U.S.A.M. §9–10.070. (A) In how many cases and in which federal districts, have you directed U.S. Attorneys to seek the death penalty where the death penalty would be unavailable in a state prosecution? (B) For each of these cases, please state whether the U.S. Attorneys, the Capital Case Review Committee, or you accorded any weight to the unavailability of the death penalty under state law as a reason favoring federal prosecution, or federal pursuit of the death penalty.

(6) The June 2001 revisions to the "death penalty protocols" included adding a provision under which proposed plea bargains in death-eligible cases must be approved by you rather than by the U.S. Attorney. U.S.A.M. §9–10.100. You enacted this modification in an attempt to address the concern that white defendants fare better in the plea bargaining process and are almost twice as likely as African American defendants to enter into plea bargains, thus saving them from a death sentence. (A) In how many cases and in which federal districts, have you denied requests to approve plea bargains, after you have authorized the U.S. Attorney to seek the death penalty? (B) In how many cases and in which federal districts, have you granted requests for such approval? (C) With respect to each of these cases, please provide data on the race and ethnicity of the defendants. (D) With respect to each of the above cases, how many of the proposed plea bargains included a provision requiring the defendant to provide cooperation to the government?

(7) Concern that racial and geographic disparities exist continue to plague the federal death penalty systems. *See. e.g.*, "Death Penalty Cases Raise Race Questions," New York Times, Feb. 13, 2003. In releasing the 2000 survey, then-Attorney General Reno directed the National Institute of Justice to fund research about the use of the federal death penalty. At your confirmation hearing in January 2001, and again in testimony by Deputy Attorney General Larry Thompson before the Senate Judiciary Subcommittee on the Constitution in June 2001, you and the Department expressed your commitment to pursuing such research. (A) Please provide an update as to the status of that research project, including a description of who is conducting the research and when it is expected to be completed.

(B) In your letter to me dated July 25, 2001, and the Department's responses to my written questions following the June 2001 Constitution Subcommittee hearing, you agreed to support researchers in gaining access to the data they will need to conduct this study and expressed your intention to issue guidance to all U.S. Attorneys to cooperate with the researchers, consistent with privacy and sensitive law enforcement issues and grand jury secrecy rules. What instructions have you provided to U.S. Attorneys or Department employees about granting the researchers access to information regarding the investigation and prosecution of potential capital cases? Please provide me with copies of all instructions or guidance you have issued to U.S. Attorneys and Department employees about this issue.

(8) "U.S. Attorneys will be required to submit information, including racial and ethnic data, about potential capital cases, as well as those in which a capital offense is actually being charged." The Federal Death Penalty System: Supplementary Data, Analysis and Revised protocols for Capital Case Review, U.S. Dept. of Justice (June 6, 2001), p. 4. Specifically, the Department has stated that "more complete racial and ethnic data" should be made "available for both actual and potential federal capital cases on a continuing bases." Id. I am pleased that the Department recognizes that there is a need for public disclosure of information about the use of the federal death penalty on a regular basis. I therefore request that the Department publish data on the federal death penalty system that updates the data contained in the survey published by the Department in September 2000, The Federal Death Penalty System: A Statistical Survey (1988–2000), in as complete a form as the 2000 survey. Please let me know the time frame for when this updated survey will be made available.

I look forward to your response.

Sincerely,

RUSSELL D. FEINGOLD,
*United States Senator.*

## PASSING OF PRIVATE FIRST CLASS STRYDER STOUTENBURG

Mr. BAUCUS. Mr. President, I rise today to honor a young man from Missoula, MT, who was killed when the Army helicopter he was riding in crashed in the remote woods of New York State during a training exercise. PFC Stoutenburg was among the 11 people in his 13-person unit killed in the Black Hawk crash. PFC Stoutenburg was only 18 years old.

Like his fellow men and women in uniform, PFC Stoutenburg dedicated his life to defending our country and upholding the principles it was founded upon. As a member of the 10th Mountain Division based at Fort Drum, NY, he trained not only to defend the United States against aggressors but also to uphold our country's greatest values—freedom, liberty, equality, and democracy.

PFC Stoutenburg's sacrifices for his State and country make all of us proud to be Montanans and Americans. He truly did his part to hold the bright torch during the dark night that will guide the way to a brighter day of democracy and stability around the world. His tragic death is a reminder that our freedom is the result of the courageous men and women who everyday face great risk while defending our country.

PFC Stryder Stoutenburg is survived by his mother Jane; maternal grandmother, Joyce Sleep of Dade City, FL; two sisters, Laurel Miller of Middletown, NY, and Joyce Rodriguez of Harrisonburg, VA; and two nieces and two nephews.

## ADDITIONAL STATEMENTS

### ROY ROWE

● Mrs. LINCOLN. Mr. President, I rise to pay tribute to a true American hero from my State—Mr. Roy Rowe of Mena, AR. In the coming weeks, Mr. Rowe will be awarded a Presidential Unit Citation for his service in the U.S. Army during the Second World War, an honor that is richly deserved.

Roy Rowe was inducted into the U.S. Army in October 1942. Serving in the Pacific theater, Mr. Rowe was assigned to the 96th Infantry Division. Over the course of three months beginning in April 1945, the 96th Division landed on the beaches of Okinawa as part of the greatest concentration of land, sea, and air power ever assembled in the Pacific. The battle for Okinawa was the costliest single battle of the Pacific war for both sides. In terms of U.S. casualties, Okinawa was second only to the Battle of the Bulge. Of U.S. Army personnel, 4,436 were killed in action, and 17,343 were wounded. Of U.S. Marines, 2,793 were killed and 13,434 were wounded. Japanese casualties numbered 107,539 killed in action and 10,755 captured. It was a terrible price to pay for both sides, but the result brought the Allied forces to Japan's doorstep and helped to precipitate the war's end in August 1945. I should also note that, following the war's end, the United States and Japan entered into a long period of geopolitical alliance, cultural goodwill, and economic partnership, and to this day we count the Japanese people among our closest friends in the world community—a fortunate result stemming from a long and difficult war.

As rifleman, Roy Rowe fought alongside his fellow soldiers to secure Okinawa as a base for launching an attack on Japan. He was awarded numerous decorations for his service, including the Purple Heart, the Asiatic-Pacific Ribbon, the Philippine Liberation Ribbon, the American Theater of Operation Ribbon, and the Silver Star Medal. Mr. Rowe's service ended in October 1945, three years after it had begun. His is a service record that he can be proud of, and we're proud of him for it. Through his service to his country and his willingness to endure great personal sacrifice to defend our freedoms, Roy Rowe represents the most admirable qualities in the American spirit.

In this new century, in these difficult times, when a new generation of young Americans is taking up arms to defend our freedoms against the threats posed by international terrorism and rogue nations, let's remember Roy Rowe's example of courage, patriotism and selflessness. I am honored to pay tribute to him on the floor of the Senate today.●

### NCAA TOURNAMENT

● Mr. LEAHY. Mr. President, for the past few days my friends and fellow Senators have repeatedly been asking me one question: What in the world is a catamount? Today I am delighted to answer that question by explaining what a catamount is, what it takes to be a catamount and why it is so fitting that the University of Vermont chose the catamount as its mascot.

On Saturday, March 15, the 2003 University of Vermont men's basketball team defined "catamount" for college basketball fans throughout the great State of Vermont and the Nation. These determined young men, from four different countries and nine states, including Vermont, took victory Saturday afternoon against No. 1-seeded Boston University in a close 56-to-55 game, becoming the 2003 American East Conference Men's Basketball Champions and earning themselves a chance to play in the national championship tournament—the "big dance," March Madness—the 2003 NCAA Division I Men's Basketball Championship Tournament. This is the first time the UVM men's basketball team has taken the title and made it to the national tournament in the program's 103-year history.

It is only appropriate that the catamount, a type of cougar known for its athletic ability, including its speed and its ability to jump, is the emblem of these hard-working and talented young men. The catamount was once thought to be extinct from the Green Mountains of Vermont. Like the division title for men's basketball, it had not been seen in Vermont for more than 100 years. But within the last decade, the people of Vermont have started seeing the mountain cat in our beautiful mountains. And it was only a little over a decade ago that the fans of UVM basketball saw the UVM Catamounts come within one game of the division title. One of my former staffers, Bill Bright, played on the team from 1987 to 1991 and was at that game on March 10, 1990. But the title eluded Vermont and Bill Bright.

Last Saturday, the UVM squad proved that catamounts do exist. Their dramatic victory came on a last-second shot by sophomore David Hehn at Boston University's Case Gymnasium. The Burlington Free Press quoted David Hehn after the game as saying: "For all the guys in this room, this is our dream." Vermont was the only team in the Nation this year to win a conference title on their opponent's home court.

Members of my staff, including a senior counsel on the Senate Judiciary Committee and a member of the Catamount's 1981 through 1985 squads, Ed Pagano, gathered last weekend to watch the game on ESPN, and you can be sure we will be watching again Thursday as they play their first game in the NCAA tournament. Many Vermonters, including my good friend Mary Anne Gucciardi—known by many on the UVM squad as "Momma Gooch"—will be clearing their schedules Thursday to watch history in the making in the first round of the tournament.

Coach Tom Brennan, who is in his 17th season with UVM, led these young men to victory. I have had many conversations with Coach Brennan, both personal and professional. He is the cohost of a popular radio show in Vermont. In a Burlington Free Press interview he said, "I just kept believing this day would come, I have been treated so wonderfully at Vermont. . . . To be able to give that back and say 'Here, this is for you' it's the most incredible feeling that I've had in a long, long time."

I find it fitting that the two Vermonters on this year's team were so instrumental in the team's championship run. Sophomore Taylor Coppenrath of West Barnet was given the Reggie Lewis Award for being the America East Player of the Year, and junior Matt Sheftic of Essex Junction won the Kevin Roberson Most Valuable Player Award for his exceptional performance in the America East Tournament.

The conference title means the University of Vermont has secured its first-ever berth in the NCAA Tournament in the competition's 64-year history or, as the Free Press called it, UVM's "First Dance." On Thursday, March 20, they will travel to the University of Utah in Salt Lake City to face the University of Arizona Wildcats. The Wildcats are this year's Pac-10 regular-season champion, and this will be their 19th consecutive NCAA Tournament appearance. Like Ethan Allen and the Green Mountain Boys fighting for our freedom, the Catamounts know the Wildcats are well-groomed for the match, but they are determined to play their best against the goliath Wildcats.

I called Coach Brennan and the team to wish them luck before Saturday's game and again Sunday as they found out who they would be facing in the tournament. The team is excited and energized for their trip to Utah and to face one of the Nation''s top-ranked teams. Coach Brennan says, "We're going to do the very best we can, we're going to enjoy it."

I would like to add that the entire State of Vermont is going to enjoy it. And I would like to thank Coach Brennan, the Athletic Department at UVM, our student-athletes and their families for giving so much to the State and to the fans of Catamount Basketball.•

## TRIBUTE TO THE STUDENTS OF ST. ALBERT THE GREAT SCHOOL AND JAMIE DIEBEL

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to the students of St. Albert the Great School in Louisville, KY.

In September of 2001, 13-year old student Jamie Deibel was diagnosed with leukemia. Jamie was unable to attend school with her classmates all last year since she was frequently in and out of the hospital. Jamie's treatment forced her to lose her hair twice. Even though she will be in treatment until next January, Jamie fortunately feels well enough to attend class at St. Albert's and participate on the volleyball, softball, basketball, and swim teams.

Jamie's friends at St. Albert showed their support for their classmate this week by raising money for the National Childhood Cancer Foundation. In a show of solidarity with Jamie, more than 60 students shaved their heads to donate their hair to Locks of Love. Locks of Love makes wigs for children like Jamie who have lost their hair due to cancer treatments and other reasons. Beauticians from all over Louisville donated their services for this worthwhile cause. Students, teachers, and parents from St. Albert have so far raised over $3,500 and hope to raise at least $5,000 for the National Childhood Cancer Foundation.

I ask that my fellow colleagues join me in honoring Jamie's courage and the gracious efforts of the students from St. Albert to support one of their classmates. I believe we all can learn from St. Albert's example of caring for and serving others. My thoughts and prayers are with Jamie and her classmates.•

## COMMENDING THE ROBERT WOOD JOHNSON FOUNDATION

• Mr. CORZINE. Mr. President, today I recognize The Robert Wood Johnson Foundation in Princeton, NJ, which recently awarded its five billionth grant dollar to improve the health and health care of all Americans.

Established in 1972, The Robert Wood Johnson Foundation is the Nation's largest philanthropy devoted exclusively to health and health care. It concentrates its grantmaking in four goal areas: to assure that all Americans have access to quality health care at reasonable cost; to improve the quality of care and support for people with chronic health conditions; to promote healthy communities and lifestyles; and to reduce the personal, social and economic harm caused by substance abuse.

Since its inception, the Foundation has spearheaded a number of important advances in Nation's health. Currently, 97 percent of all emergency management systems, EMS, use 911 as the universal access number for emergencies. This is the result of a program RWJF launched in the early 1970s to start multi-community emergency medical networks in 32 States. Today, Americans benefit from professional, organized, and effective emergency medical care as a result of this program.

The foundation has also made significant contributions to the nursing and dental professions. It helped to create the fields of nurse practitioners and physician assistants during the early 1970s as part of its effort to increase health care access in the inner cities and rural areas.

All dental students are now trained to treat patients with disabilities, such as cerebral palsy or seizure disorders, building on a foundation-funded training program. The project, Health Care for the Homeless, became a model that was cited when the federal government passed the McKinney Act in 1987, providing Federal funds to improve access to health care for homeless people throughout the country.

The creation of school based health clinics represents another area where RWJF has had a major impact. The foundation's interest was sparked by reports that American teenagers suffered from deteriorating health. Approximately six million adolescents during the mid-1980s suffered from at least one serious health problem. Five million teenagers did not have health insurance. This was an especially alarming figure considering the increase in drug and alcohol abuse and rise in sexually transmitted diseases among adolescents. During the past 12 years, the Robert Wood Johnson Foundation has helped to establish more than 1,100 health centers in schools.

More recently, the foundation has recognized the need to focus increased attention on promoting healthy communities and lifestyles. For example, the recent grant to push the Foundation over the $5 billion threshold went to the Church Health Center in Memphis, TN, which will use its funds to test a model program designed to help people age 50 and older become more physically active. Physical inactivity is one of the greatest health risks for mid-life and older adults, contributing to illnesses and disabilities such as arthritis, cancer, diabetes, heart disease, and stroke.

There are obviously a number of other noteworthy examples of efforts the Foundation has undertaken—from pediatrics to care at the end of life—which continue to result in important positive health outcomes for our citizens.

It is with great pride that I commend The Robert Wood Johnson Foundation for its ongoing commitment to improving health and health care for all Americans. As we in the Congress face the daunting challenge of addressing a number of health care problems in this country, we must continue to draw on the experience and lessons learned from foundations and their grantees, which truly serve as the guideposts for experimentation and innovation.•

## ROSWELL HIGH SCHOOL

• Mr. DOMENICI. Mr. President, I rise to honor the achievements of a New Mexico high school.

Roswell High School has been honored with the esteemed designation of being named one of the top 10 schools in America by the Bill and Melinda Gates Foundation. This great honor is a tribute to the hard work and commitment to excellence demonstrated by the students, parents and families, teachers, staff, and administration of Roswell High School.

In order to qualify for this award, schools must meet very strict criteria. Each school must have both a minority student population and low income rates of 50 percent or higher. In addition, the recipient must have a graduation rate of at least 90 percent with 90 percent of the previous years graduating class attending either a two- or four-year college. I am both honored and privileged to announce that the class of 2001 from Roswell High School had a graduation rate of 96 percent with 90 percent of graduating seniors enrolled in post-secondary education courses. This is truly a laudatory achievement.

Roswell High's students come from many different backgrounds, but they are successful because they have the mind-set that says every student can succeed. They have embraced the differences in their student body, and they have demonstrated that every single student, regardless of background, can and will learn. It takes the dedicated leadership of a good principal, talented teaching corps and engaged parents to achieve this level. The Gates Foundation recognition is a salute to the successful learning environment achieved at Roswell High.

Soon after President Bush took office, he called on Congress to fundamentally change the structure of education, and enact the most sweeping change in education in 35 years. When President Bush signed the No Child Left Behind Act, he began a new era of improved student performance, and introduced us to an educational system that insists on accountability, results, and teacher quality.

Roswell High School has embraced this philosophy and they have taken the lead in their community by insisting on teaching methods that work and taking a stand to get involved and change the expectations we have for our public schools. They deserve to be recognized for their excellence.

One of the most honorable and important duties of government is to educate its children. As our Nation grows, and new generations of leaders emerge, the education they receive early on will reflect in their ability to lead us through tough times, such as the ones currently facing our great country. It is our responsibility to ensure that this new generation is prepared. Their success in the future is a direct reflection on each and every one of us.

Roswell High's student success is also a tribute to this city's long history of a "can do" spirit, deriving from the hearty first settlers on the Chisum Trail, to the rocketry breakthroughs of Robert H. Goddard, to the constant striving of its current leaders to build the best American city possible.

I congratulate Roswell High School. Its commitment to excellence is something that every high school in New Mexico and America should strive to attain.●

## MESSAGE FROM THE HOUSE

At 12:49 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 276L, and the order of the House of January, 8, 2003, the Speaker appoints the following Member of the House of Representatives to the British-American Interparliamentary Group: Mr. PETRI of Wisconsin, Chairman.

The message also announced that pursuant to 22 U.S.C. 276d, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Canada-United States Interparliamentary Group: Mr. HOUSTON of New York, Chairman.

The message further announced that pursuant to 22 U.S.C. 276h, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman.

The message also announced that pursuant to 2 U.S.C. 501(b), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the House Commission on Congressional Mailing Standards: Mr. NEY of Ohio, Chairman; Mr. ADERHOLT of Alabama; Mr. SWEENY of New York; Mr. LARSON of Connecticut; Mr. THOMPSON of Mississippi; and Mr. HOLT of New Jersey.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1612. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rural Utilities Service Specification for voice Frequency Loading Coils" received on March 13, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1613. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Licensing and Inspection Requirements for Dealers of Dogs Intended for Hunting, Breeding, or Security Purposes (Doc. No. 99–087–3)" received on March 13, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1614. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly; Addition of Regulated Area (Doc. No. 02–129–3)" received on March 13, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1615. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Reclassification and Codification of Fully Automated Short-Term incubation Cycle Antimicrobial Susceptibility Devices From Class III to Class II (Doc. No. 97P–0313)" received on March 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1616. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Labeling Requirements for Systemic Antibacterial Drug Products Intended for Human Use (RIN 0910–AB78)" received on March 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1617. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Revision to the General Safety Requirements for Biological Products (RIN 0910–AB51)" received on March 12, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1618. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Ophthalmic Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment (RIN 0910–AA01)" March 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1619. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on March 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1620. A communication from the Vice-Chairman, Federal Election Commission, transmitting, pursuant to law, the Fiscal Year 2004 Budget Request; to the Committee on Rules and Administration.

EC–1621. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Earned Income Credit (RIN 1545–BA34)" received on March 12, 2003; to the Committee on Finance.

EC–1622. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "1259 Transition Rule (Rev. Rule 2003–31, 2003–13, I.R.B.)" received on March 12, 2003; to the Committee on Finance.

EC–1623. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Disallowance of Deductions and Credits for Failure to File Timely Return (1545–AY26)" received on March 12; 2003; to the Committee on Finance.

EC–1624. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interest Rates; underpayments and overpayments" received on March 12, 2003; to the Committee on Finance.

EC–1625. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 1502; Suspension of Losses on Certain Stock Disposition (RIN 1545–BB95)" received on March 12, 2003; to the Committee on Finance.

EC–1626. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendment of 26 CFR 301.6103(n)–1 to Incorporate Taxpayer Browsing Protection Act (1545–BB13)" received on March 12, 2003; to the Committee on Finance.

EC–1627. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled "Operations of Glen Canyon Dam" received on March 17, 2003; to the Committee on Energy and Natural Resources.

EC–1628. A communication from the Assistant General Counsel, Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulations: Affirmation Procurement Program—Acquisition of Products Containing Recovered Materials (1991–AB47)" received on March 17, 2003; to the Committee on Energy and Natural Resources.

EC–1629. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Giddings, Texas (MM Doc. NO.99–331)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1630. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, Fm Broadcast Stations (Jasper, Florida and Tigerton, Wisconsin) (MB Docket No. 02–274; RM–10560 and MB Doc. No. 02–275; RM–10561)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1631. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dickens, Floydada, Rankin, San Diego and Westbrook, Texas) (MB Docket No. 02–258, RM10500; MB Doc. NO.02–259, RM–10501; MB Docket No. 02–262, RM–10504; MB Docket No. 02–264, RM–10505; and MB Docket No. 02–265, RM–10556)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1632. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Crawfordville, Georgia (MB Doc. 02–225)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1633. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Monroe and Luna Pier, Michigan) (MB Doc. No. 02–115)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1634. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Murrietta, Arcadia, Fallbrook, Yucca Valley, and Desert Hot Springs, CA) (MM Doc. No. 01–11)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1635. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Greenwood, Mississippi, Hyannis, Nebraska, and Wall, South Dakota (MB Doc. Nos. 02–209, 02–210, and 0–211)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1636. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Little Rock, AR (MM Docket No. 00–139, RM–9915)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1637. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ridgeway and Rangerly, Colorado (MB Doc. No. 02–118)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1638. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, La Grange, North Carolina (MB Doc. No. 02–110; RM–10406)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1639. A communication from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Blanket Texas (MB Doc. 02–351)" received on March 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1640. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Satellites Home Viewer Improvement Act of 1999: Application of Network Non-Duplication, Syndicated Exclusivity and Sports Blackout Rules to Satellite Retransmission of Broadcast Signals (CS Doc. No. 00–02, FCC 02–287)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1641. A communication from the National Marine Fisheries Service, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Conservation Regulations: Shrimp Fishery Activities; Amendments to Turtle Excluder (TED) (0648–AN62)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1642. A communication from the National Marine Fisheries Service, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Direct Investment Surveys: BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002 (0691–AA44)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1643. A communication from the National Marine Fisheries Service, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Direct Investment Surveys: BE–605, Transactions of U.S. Affiliate, Except A U.S. Banking Affiliate, With Foreign Parent, and BE–605 Bank, Transactions of U.S. Banking Affiliate With Foreign Parent (0691–AA45)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

## PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–68. A petition containing approximately 62,000 signatures forwarded by the Organization For Full Statehood For Puerto Rico; to the Committee on Energy and Natural Resources.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER:

S. 637. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. 638. A bill to repeal the provisions of the September 11th Victim Compensation Fund of 2001 that requires the reduction of a claimant's compensation by the amount of any collateral source compensation payments the claimant is entitled to receive, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. Feingold, Mr. Leahy, Mr. Harkin, Mr. Kennedy, Mr. Bayh, Ms. Cantwell, Mr. Corzine, Mr. Wyden, Ms. Stabenow, Mr. Reed, Mr. Schumer, Mrs. Boxer, and Mr. Kerry):

S. 639. A bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. Hatch, Ms. Mikulski, and Mr. Durbin):

S. 640. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. LINCOLN (for herself, Mr. Smith, and Mr. Miller):

S. 641. A bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments; to the Committee on Armed Services.

By Mr. BAYH:

S. 642. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 643. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mrs. Feinstein, Mr. DeWine, Mrs. Hutchison, Mr. Sessions, and Mr. Grassley):

S. 644. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. Jeffords, Ms. Collins, Mr. Reed, Mr. Kennedy, Mr. Leahy, Mrs. Clinton, Mr. Schumer, Mr. Sarbanes, Mr. Baucus, Mr. Lieberman, and Mr. Kerry):

S. 645. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself, Mr. Daschle, Mr. Bingaman, Ms. Mikulski, Mr. Johnson, and Mr. Sarbanes):

S. 646. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the

Medicare program; to the Committee on Finance.

By Mr. KENNEDY:

S. 647. A bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes; to the Committee on Armed Services.

By Mr. REED (for himself, Mr. ENZI, Mr. JOHNSON, Mr. WARNER, Ms. LANDRIEU, Ms. COLLINS, Mr. INOUYE, and Mr. ROBERTS):

S. 648. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 649. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mrs. CLINTON, Mr. GREGG, Mr. DODD, and Mr. KENNEDY):

S. 650. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD:

S. 651. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. GRAHAM of Florida, Mr. DEWINE, Mrs. FEINSTEIN, Mr. WARNER, Ms. CANTWELL, Mrs. CLINTON, Mr. SMITH, Mr. ROCKEFELLER, Mr. BUNNING, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. KERRY, and Mrs. HUTCHISON):

S. 652. A bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. GRAHAM of Florida):

S. 653. A bill to amend title XVIII of the Social Security Act to increase payments under the medicare program to Puerto Rico hospitals; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. BOND, and Mr. HOLLINGS):

S. 654. A bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes; to the Committee on Finance.

By Mr. BUNNING:

S. 655. A bill to provide for the conveyance of land at Fort Knox, Kentucky, to facilitate the establishment of a State-run cemetery for veterans; to the Committee on Armed Services.

By Mrs. MURRAY:

S.J. Res. 10. A joint resolution authorizing special awards to World War I and World War II veterans of the United States Navy Armed Guard; to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. SCHUMER, Ms. STABENOW, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mr. HARKIN, Mr. FEINGOLD, Mr. SARBANES, Ms. MIKULSKI, Mrs. FEINSTEIN, and Mrs. BOXER):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE:

S. Res. 92. A resolution designating September 17, 2003 as "Constitution Day"; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. FRIST):

S. Res. 93. A resolution commending Jeri Thomson for her service to the United States Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. FRIST):

S. Res. 94. A resolution commending Alfonso C. Lenhardt for his service to the United States Senate; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

S. 158

At the request of Ms. SNOWE, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 158, a bill to amend the Internal Revenue Code of 1986 to expand the depreciation benefits available to small businesses, and for other purposes.

S. 159

At the request of Mrs. BOXER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 159, a bill to require the Federal Communications Commission to allocate additional spectrum for unlicensed use by wireless broadband devices, and for other purposes.

S. 196

At the request of Mr. ALLEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 196, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 250

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 250, a bill to address the international HIV/AIDS pandemic.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 289

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 321

At the request of Mr. MCCAIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 447

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 447, a bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 486

At the request of Mr. DOMENICI, the names of the Senator from Utah (Mr. HATCH), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. SCHUMER), the Senator from Hawaii (Mr. AKAKA), the

Senator from Massachusetts (Mr. KERRY) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 486, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 504

At the request of Mr. ALEXANDER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 516

At the request of Mr. BUNNING, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 518

At the request of Ms. COLLINS, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 538

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 538, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 544

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

S. 582

At the request of Mr. BUNNING, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 598

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 598, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 603

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 603, a bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education.

S. 606

At the request of Mr. GREGG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 606

At the request of Mr. DODD, his name was added as a cosponsor of S. 606, supra.

S. 622

At the request of Mr. GRASSLEY, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Missouri (Mr. BOND) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 634

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 634, a bill to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 6

At the request of Ms. LANDRIEU, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 6, A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel "Chappie" James, the Nation's first African-American four-star general.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as "Financial Literacy for Youth Month".

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 637. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

Mrs. BOXER. Mr. President, today, I am introducing the Health Insurance Tax Relief Act to help our Nation's working families deal with the recent dramatic increases in health care costs. The legislation would allow taxpayers to deduct up to $2000 in out-of-pocket health insurance costs per year.

While this small Federal contribution to assist families with the health care costs they bear will not solve all of the problems in our health care system, it will provide immediate help for working families who have seen health care costs explode. In 2001, the last year for which we have data, the cost of health care for employer sponsored insurance rose 11 percent. To deal with this increase, 75 percent of large employers and 42 percent of small business employers said they were likely to increase employee premium costs.

In addition, according to the Center for Health System Change, employers will likely be raising deductibles and co-payments and perhaps using more coinsurance, where patients pay a percentage of the cost of their care rather than a fixed dollar amount. And, some businesses are dropping health insurance benefits entirely.

This is an issue of fairness. We already provide a tax break for small business owners who provide health insurance, and we also provide one for individuals who are self-employed. But currently there is no provision that allows for employees, who are faced with additional financial responsibility for their premium costs, to take a tax deduction on their out-of-pocket expenses. This legislation rectifies that unfairness and will help families meet rising health care costs.

The need for this legislation is particularly important for employees in small businesses, many of which sought to minimize premium increases by adding or increasing deductibles, copayments and coinsurance. But this shifting of health insurance costs from employers to employees is not limited to small firms. The California Public Employees' Retirement System, CalPERS, the second-largest purchaser of health care after the Federal Government, approved a 25 percent increase in health insurance premiums for 2003. CalPERS provides retirement and health benefit services to more than 1.3 million members and nearly 2,500 employers. These are hard working Americans struggling to make ends meet in a weak economy.

That is why, we should provide some targeted assistance to help families pay for health care. I urge my colleagues to support my legislation.

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By Mr. DURBIN (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, Mr. BAYH, Ms. CANTWELL, Mr. CORZINE, Mr. WYDEN, Ms. STABENOW, Mr. REED, Mr. SCHUMER, Mrs. BOXER, and Mr. KERRY):

S. 639. A bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I rise today to introduce America's Red Rock Wilderness Act. This legislation is in keeping with our Nation's bipartisan commitment to preserve our natural heritage. The preservation of our Nation's vital natural resources will be one of our most important legacies.

Unfortunately, remaining wilderness areas are increasingly threatened and degraded by oil and gas development, mining, claims of rights of way, logging and off-road vehicles. America's Red Rock Wilderness Act will designate 9.1 million acres of land managed by the Bureau of Land Management, BLM, in Utah as wilderness under the Wilderness Act. Wilderness designation will preserve the land's wilderness character, along with the values associated with that wilderness—scenic beauty, solitude, wildlife, geological features, archaeological sites, and other features of scientific, educational, and historical value.

America's Red Rock Wilderness Act will provide wilderness protection for red rock cliffs offering spectacular vistas of rare rock formations, canyons and desert lands, important archaeological sites, and habitat for rare plant and animal species.

Volunteers took detailed inventories of thousands of square miles of BLM land in Utah to help determine which lands should be protected. These volunteers provided extensive documentation to ensure that these areas meet federal wilderness criteria.

The BLM also completed a re-inventory of approximately 6 million acres of Federal land in the same area. The results provide a convincing confirmation that the areas designated for protection under this bill meet Federal wilderness criteria.

For more than twenty years Utah conservationists have been working to add the last great blocks of undeveloped BLM-administered land in Utah to the National Wilderness Preservation System. The lands we propose to protect surround and connect eight of Utah's nine national park, monument and recreation areas. These proposed BLM wilderness areas easily equal their neighboring national parklands in scenic beauty, opportunities for recreation, and ecological importance. Yet, unlike the parks, most of these scenic treasures lack any form of long-term protection.

I'd like to thank all of my colleagues who are original cosponsors of this measure this year, many of whom have supported the bill since it was first introduced. The original cosponsors of the measure are Senators FEINGOLD, LEAHY, HARKIN, KENNEDY, BAYH, CANTWELL, CORZINE, WYDEN, STABENOW, REED, SCHUMER, BOXER, and KERRY. Additionally, I would like to thank The Utah Wilderness Coalition, which includes The Wilderness Society and Sierra Club; The Southern Utah Wilderness Alliance; and all of the other national, regional and local, hard-working groups who, for years, have championed this legislation.

Theodore Roosevelt once stated, "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value." Enactment of this legislation will help us realize Roosevelt's vision. In order to protect these precious resources in Utah for future generations, I urge my colleagues to support America's Red Rock Wilderness Act.

Mr. FEINGOLD. Mr. President, I am very pleased to again join with the Senator from Illinois, Mr. DURBIN, as an original co-sponsor of legislation to designate more than one million acres of Bureau of Land Management, BLM, lands in Utah as wilderness.

I had an opportunity to travel twice to Utah. I viewed firsthand some of the lands that would be designated for wilderness under Senator DURBIN's bill. I was able to view most of the proposed wilderness areas from the air, and was able to enhance my understanding through hikes outside of the Zion National Park on the Dry Creek Bench wilderness unit contained in this proposal and inside the Grand Staircase-Escalante National Monument to Upper Calf Creek Falls. I also viewed the lands proposed for designation in this bill from a river trip down the Colorado River, and in the San Rafael Swell with members of the Emery County government.

I support this legislation, for a few reasons, but most of all because I have personally seen what is at stake, and I know the marvelous resources that Wisconsinites and all Americans own in the BLM lands of Southern Utah.

Second, I support this legislation because I believe it sets the broadest and boldest mark for the lands that should be protected in Southern Utah. I believe that when the Senate considers wilderness legislation it ought to know, as a benchmark, the full measure of those lands which are deserving of wilderness protection. This bill encompasses all the BLM lands of wilderness quality in Utah. Unfortunately, the Senate has not, as we do today, always had the benefit of considering wilderness designations for all of the deserving lands in Southern Utah. During the 104th Congress, I joined with the former Senator from New Jersey, Mr. Bradley, in opposing that Congress's Omnibus Parks legislation. It contained provisions, which were eventually removed, that many in my home state of Wisconsin believed not only designated as wilderness too little of the Bureau of Land Management's holding in Utah deserving of such protection, but also substantively changed the protections afforded designated lands under the Wilderness Act of 1964.

The lands of Southern Utah are very special to the people of Wisconsin. In writing to me over the last few years, my constituents have described these lands as places of solitude, special family moments, and incredible beauty. In December 1997, Ron Raunikar of the Capital Times, a paper in Madison, WI, wrote: "Other remaining wilderness in the U.S. is at first daunting, but then endearing and always a treasure for all Americans. The sensually sculpted slickrock of the Colorado Plateau and windswept crag lines of the Great Basin include some of the last of our country's wilderness which is not fully protected. We must ask our elected officials to redress this circumstance, by enacting legislation which would protect those national lands within the boundaries of Utah. This wilderness is a treasure we can lose only once or a legacy we can be forever proud to bestow to our children."

I believe that the measure being introduced today will accomplish that goal. Identical in its designations to legislation sponsored in the other body by Rep. MAURICE HINCHEY of New York, it is the culmination of more than 17 years and five Congresses of effort in the other body beginning with the legislative work of our recent deceased colleague, the former Congressman from Utah, Mr. Owens.

The measure protects wild lands that really are not done justice by any description in words. In my trip I found widely varied and distinct terrain, remarkable American resources of red rock cliff walls, desert, canyons and gorges which encompass the canyon country of the Colorado Plateau, the Mojave Desert and portions of the Great Basin. The lands also include mountain ranges in western Utah, and stark areas like the Grand Staircase-

Escalante National Monument. These regions appeal to all types of American outdoor interests from hikers and sightseers to hunters.

Phil Haslanger of the Capital Times, answered an important question I am often asked when people want to know why a Senator from Wisconsin would co-sponsor legislation to protect lands in Utah. He wrote on September 13, 1995 simply that "These are not scenes that you could see in Wisconsin. That's part of what makes them special." He continues, and adds what I think is an even more important reason to act to protect these lands than the landscape's uniqueness, "the fight over wilderness lands in Utah is a test case of sorts. The anti-environmental factions in Congress are trying hard to remove restrictions on development in some of the nation's most splendid areas."

Wisconsinites are watching this test cane closely. I believe, that Wisconsinites view the outcome of this fight to save Utah's lands as a sign of where the nation is headed with respect to its stewardship of natural resources. For example, some in my home state believe that among federal lands that comprise the Apostle Islands National Lakeshore and the Nicolet and Chequamegon National Forests there are lands that are deserving of wilderness protection. These federal properties are incredibly important, and they mean a great deal to the people of Wisconsin. Wisconsinites want to know that, should additional lands in Wisconsin be brought forward for wilderness designation, the type of protection they expect from federal law is still available to be extended because it had been properly extended to other places of national significance.

What Haslanger's Capital Times comments make clear is that while some in Congress may express concern about creating new wilderness in Utah, wilderness, as Wisconsinites know, is not created by legislation. Legislation to protect existing wilderness insures that future generations may have an experience on public lands equal to that which is available today. The action of Congress to preserve wild lands by extending the protections of the Wilderness Act of 1964 will publicly codify that expectation and promise.

Third, this legislation has earned my support, and deserves the support of others in this body, because all of the acres that will be protected under this bill are already public lands held in trust by the federal government for the people of the United States. Thus, while they are physically located in Utah, their preservation is important to the citizens of Wisconsin as it is for other Americans.

Finally, I support this bill because I believe that there will likely be action during this Congress to develop consensus legislation to protect the lands contained in this proposal. We all need to be involved in helping to forge that consensus in order to ensure the best stewardship of that land. As many in this body know, the BLM has completed a review of the lands designated in the bill sponsored in the 106th Congress by the Senator from Illinois, Mr. DURBIN, and adjacent areas. BLM has found that 5.8 million acres of lands, slightly more than the acreage of the old bill, meet the criteria for wilderness protection under the Wilderness Act. While the re-inventory is not a formal recommendation to Congress for wilderness designation, it suggests that there are and should be more lands in play as the debate over wilderness protection in Utah moves forward.

I am eager to work with my colleague from Illinois, Mr. DURBIN, to protect these lands. I commend him for introducing this measure.

Mr. HARKIN. Mr. President, I am proud to join my colleagues as a cosponsor of the Redrock Wilderness Act. It designates 9.1 million acres of Federal public lands in Utah, managed by the Bureau of Land Management, as a wilderness area under the 1964 Wilderness Act. Wilderness designation affords lands an extra level of protection—preserving the land in its "wild" state for future generations.

I know that citizens all across America, including many in Iowa, have enjoyed the wilderness in Redrock. Or some folks may never have visited that great place and just want it to be protected because it is so precious.

The redrock canyons of Utah are famous, even to many who have never been there. The dramatic cliff walls, sculpted by wind and water into swirling crimson towers have been captured in stunning photographs. Pink sandstone arches stretch across creek beds and gold-toned crevices slice through massive slabs of rock. These are refreshing sights we must save for generations to come.

And we must preserve Redrock for its invaluable wildlife. For example, some of Utah's last healthy populations of longhorn antelope and bighorn sheep roam this isolated and majestic desert landscape.

Thanks to the Bush administration's rush to turn over public land for energy production, this unspoiled place is now in grave danger. The Interior Department has fast-tracked oil and gas leases and projects, opening the door to habitat destruction, road building, and industrial pollution. These precious lands should not be the target of energy production when we have bountiful sources of renewable energy, including sources from agriculture that can also help farmers and rural communities.

At a time when the administration is willfully neglecting our public lands by rejecting adequate funding for them, proposing oil and gas development in them, and increasing destructive logging practices, we need to protect these areas from such assaults.

Utah's unique Redrock Wilderness area should be designated as wilderness and protected from environmentally destructive activity. I am proud to be a cosponsor of the Redrock Wilderness Act, and urge my colleagues to support this important piece of legislation.

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By Mr. LEAHY (for himself, Mr. HATCH, Ms. MIKULSKI, and Mr. DURBIN):

S. 640. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

Mr. LEAHY. Mr. President, I rise to introduce, with my good friends Senator HATCH, Senator MIKULSKI and Senator DURBIN, the Federal Prosecutors' Retirement Benefit Equity Act of 2003. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people involved in the Federal criminal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as "law enforcement officers", LEOs, under the Federal Employees' Retirement System and the Civil Service Retirement System. The bill would also allow the Attorney General to designate other attorneys employed by the Department of Justice who act primarily as criminal prosecutors as LEO's for purposes of receiving these retirement benefits.

The primary reason for granting enhanced retirement benefits to LEOs is the often dangerous work of law enforcement. Currently, Assistant United States Attorneys, AUSAs, and other Federal prosecutors are not eligible for these enhanced benefits, which are enjoyed by the vast majority of other employees in the criminal justice system. This exclusion is unjustified. The relevant provisions of the United States Code dealing with retirement benefits define an LEO as an employee whose duties are, "primarily the investigation, apprehension, or detention" of individuals suspected or convicted of violating federal law. See 5 U.S.C. §§ 8331(20) & 8401(17). AUSAs and other federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings, all of which fall within the definition of the duties performed by law enforcement officers. Indeed, once a defendant is brought to into the criminal justice system, the person with whom they have the most face-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor.

Although prosecutors do not personally execute arrests, searches and other physically dangerous activities, LEO status is accorded to many criminal justice employees who do not perform such tasks, such as pretrial services officers and probation officers and accountants, cooks and secretaries of the Bureau of Prisons. Moreover, because they are often the most conspicuous representatives of the government in the criminal justice system, Federal prosecutors are natural targets for threats of reprisals by vengeful criminals. Indeed, there are numerous incidents in which assaults and serious death threats have been made against federal prosecutors, sometimes resulting in significant disruption of their personal and family lives.

Only recently a veteran Federal prosecutor in the Western District of Washington was murdered in his home, and, although the crime remains unsolved, based upon the facts of the case the authorities have referred to the crime as a hit. In addition, I have received many other accounts from Federal prosecutors regarding specific threats to which they and their families have been subjected because of the performance of their duties. Federal prosecutors have written to me that they have been forced to relocate themselves and their families due to death threats; that they have been assaulted; that they and their families have been followed by members of criminal organizations; that have been forced to install security systems at their homes and to change their routes to and from the office to protect their safety and the safety of their families.

As our fight against terrorism continues, Federal prosecutors are on the front lines once again as the symbols of our criminal justice system, and unfortunately therefore the targets of those who seek its downfall. Among other tasks, the Attorney General has designated AUSAs to play a major role working with police and Federal agents in each judicial district's Anti-Terrorism Task Force. One Federal prosecutor wrote to me stating that shortly after his name was in the local news as heading his district's Anti-Terrorism Task Force and he had spoken to his family about taking suitable precautions, that his young son came into his bedroom one night holding a hockey stick for protection asking about their safety. Thus, Federal prosecutors and their families will deal more than ever with a level of stress and danger that justifies their being treated as LEOs.

Another example of the danger facing Federal prosecutors appeared in the USA Today earlier this month. That article, which I ask unanimous consent to make part of the CONGRESSIONAL RECORD, reports that United States Attorneys will also be asked to play an advisory role in potential hostilities with Iraq. If there was ever an illustration of the importance of granting Federal prosecutors equal retirement status as their other law enforcement partners, this is it.

Enhanced retirement benefits are also justified by the Federal Government's need for experienced prosecutors to bring ever more sophisticated cases under increasingly complex Federal criminal laws. In recent years, we have seen the growth of complex Federal prosecutions to combat the threats posed by organized crime, drug cartels, terrorist groups and other sophisticated criminals. The prosecution of such difficult cases is best handled by experienced prosecutors. It is therefore in the public interest to provide reasonable financial incentives for talented, experienced prosecutors to remain in government service.

This bill would make Assistant United States Attorneys and other Federal prosecutors designated by the Attorney General eligible for immediate, unreduced retirement benefits at age 50 with 20 years of service. For example, prosecutors who are covered by the Civil Service Retirement System would receive 50 percent of the average of their three highest years' salary. At the same time, it would exempt prosecutors from the mandatory retirement provisions that require other law enforcement officers to retire at age 57. Because the loss of physical strength and agility does not adversely affect a person's ability to function as a prosecutor, there is no reason to mandate early retirement.

Two important features of this bill will contain its costs. First, the bill provides that incumbent Federal prosecutors are themselves responsible for making up the difference in individual contributions owed to the Civil Service Retirement and Disability Fund for their prior service. An incumbent has the choice of making up this difference either by making a payment up front or by accepting a reduction in retirement benefits. Second, government contributions for the prior service of incumbents are made ratably over a ten-year period under this bill. Thus, payments for prior government contributions are spread out to lessen the financial impact. These two provisions will insure that the cost of the bill is kept well within reason.

This bill enjoys broad, grass roots support. When Senator HATCH and I introduced this same bill in the last Congress, I received literally hundreds of letters supporting this bill, sent from over 40 states, District of Columbia and Puerto Rico. The bill also enjoys support in the law enforcement community. The National Association of Assistant United States Attorneys, the Federal Criminal Investigators Association, and the Southern States Police Benevolent Association have all wrote me to voice support for the inclusion of AUSAs in the definition of an LEO. I tried, with Senator HATCH, to include this measure in our Department of Justice Authorization legislation in the last Congress, but the House would not agree to its inclusion in the conference report. I hope that we can work together in both houses to enact the bill in this Congress.

In addition, I know that other Senators, including Senator MIKULSKI, are considering additional measures to expand these same retirement benefits to other Federal employees who perform law enforcement functions, including IRS employees whose primary duty is to collect delinquent taxes. I cosponsored such a measure in the last Congress, and I continue to support and commend her leadership in bringing these matters to the forefront.

For all of these reasons, I am pleased to introduce this legislation with Senators HATCH, MIKULSKI and DURBIN, and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD along with the sectional analysis and the newspaper article to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 640

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Prosecutors Retirement Benefit Equity Act of 2003".

**SEC. 2. INCLUSION OF FEDERAL PROSECUTORS IN THE DEFINITION OF A LAW ENFORCEMENT OFFICER.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by striking "position." and inserting "position and a Federal prosecutor.".

(2) FEDERAL PROSECUTOR DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking "and" at the end;

(B) in paragraph (28), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(29) 'Federal prosecutor' means—

"(A) an assistant United States attorney under section 542 of title 28; or

"(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by adding "and" after "agency;"; and

(C) by adding at the end the following:

"(E) a Federal prosecutor;".

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (33), by striking "and" at the end;

(B) in paragraph (34), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(35) 'Federal prosecutor' means—

"(A) an assistant United States attorney under section 542 of title 28; or

"(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.".

(c) Treatment Under Certain Provisions of Law (Unrelated to Retirement) To Remain Unchanged.—

(1) Original appointments.—Subsections (d) and (e) of section 3307 of title 5, United States Code, are amended by adding at the end of each the following: "The preceding sentence shall not apply in the case of an original appointment of a Federal prosecutor as defined under section 8331(29) or 8401(35).".

(2) Mandatory separation.—Sections 8335(b) and 8425(b) of title 5, United States Code, are amended by adding at the end of each the following: "The preceding provisions of this subsection shall not apply in the case of a Federal prosecutor as defined under section 8331(29) or 8401(35).".

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this Act.

**SEC. 3. PROVISIONS RELATING TO INCUMBENTS.**

(a) Definitions.—In this section, the term—

(1) "Federal prosecutor" means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States; and

(2) "incumbent" means an individual who is serving as a Federal prosecutor on the effective date of this section.

(b) Designated Attorneys.—If the Attorney General of the United States makes any designation of an attorney to meet the definition under subsection (a)(1)(B) for purposes of being an incumbent under this section,—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

(c) Notice Requirement.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this Act; and

(2) the effects of making or not making a timely election under this Act.

(d) Election Available to Incumbents.—

(1) In general.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this Act; or

(B) as if this Act had never been enacted.

(2) Failure to elect.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) Time limitation.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) Limited Retroactive Effect.—

(1) Effect on retirement.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this Act; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this Act had then been in effect.

(2) No other retroactive effect.—Nothing in this Act (including the amendments made by this Act) shall affect any of the terms or conditions of an individual's employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which such individual's election under subsection (d) is made (or is deemed to have been made).

(f) Individual Contributions for Prior Service.—

(1) In general.—An individual who makes an election under subsection (d)(1)(A) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) Effect of not contributing.—If no part of or less than the full amount required. under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) Prior service defined.—For purposes of this section, the term "prior service" means, with respect to any individual who makes an election under subsection (d)(1)(A), service performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(g) Government Contributions for Prior Service.—

(1) In general.—If an incumbent makes an election under subsection (d)(1)(A), the Department of Justice shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) Amount required.—The amount the Department of Justice is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) Contributions to be made ratably.—Government contributions under this subsection on behalf of an incumbent shall be made by the Department of Justice ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (f)(3).

(h) Regulations.—Except as provided under section 4, the Office of Personnel Management shall prescribe regulations necessary to carry out this Act, including provisions under which any interest due on the amount described under subsection (f) shall be determined.

(i) Effective Date.—This section shall take effect 120 days after the date of enactment of this Act.

**SEC. 4. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.**

(a) Definition.—In this section the term "Federal prosecutor" has the meaning given under section 3(a)(1).

(b) Regulations.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, the Attorney General of the United States shall—

(A) consult with the Office of Personnel Management on this Act (including the amendments made by this Act); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) Contents.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries and in trials, appeals, and related court proceedings.

(c) Designations.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this Act (including the amendments made by this Act) shall be at the discretion of the Attorney General of the United States.

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[From the USA Today]

### U.S. ATTORNEYS DISPATCHED TO ADVISE MILITARY

(By Steven Komarow)

KUWAIT CITY.—There could be civilians chained to an Iraqi missile launcher to serve as human shields. Tanks could be parked next to mosques. Chemical weapons plants might also produce medicine.

In a war with Iraq, U.S. commanders could often have an agonizing choice: strike a target and run the risk of killing civilians, and being accused by the rest of the world of committing a war crime, or hold fire and run the risk that Saddam Hussein will still have deadly weapons he can use against U.S. and British troops or neighboring countries.

To help weigh those issues, the Pentagon has dispatched dozens of attorneys to command posts in the region. Their job: help keep the United States legal if President Bush unleashes its fury against Saddam's forces.

Military commanders have long had legal advisers. But more than ever, attorneys are in the teams that choose the strategies, the targets and even the weapons to be used. Lawyers from the Army, Navy, Air Force and Marines will be working around-the-clock to be on hand when targets appear and fast decisions are needed.

With so much of the world skeptical of U.S. intentions, pressure will be high. "The world expects the United States to do the right thing," says Capt. Noah Malgeri, an Army lawyer.

### COLLATERAL DAMAGE

Col. Rocco Lamuro, who runs a course on "targeting law" at Ramstein Air Base in Germany, say that when air power came of age in World War II, the missions would almost always be planned weeks in advance. There weren't any spy satellites sending "real-time" pictures of enemy movements—and thus pushing commanders to make quick decisions on whether to strike. In World War II, there was plenty of time to discuss legalities and debate the potential "collateral damage," the unintentional killing of civilians.

It was also true back then that collateral damage was accepted as an unfortunate but natural part of war. Sixty years ago, "you might send 100 B–17 (bombers) to try to destroy something that's within an acre," Lamuro says. There were no "smart bombs" that could zero in on small targets. It was assumed that many bombs would hit ground far from the target. Today, Lamuro says, "you'd send only one" bomber or missile, and the weapon would be expected to hit its target.

When missiles do go awry, as happened when the United States accidentally struck the Chinese Embassy in Belgrade in May 1999 or when a bomb dropped on Baghdad hit a shelter and killed 408 civilians in 1991, there is alarm worldwide.

What do U.S. military lawyers—who work in offices of each service's Judge Advocate General (made famous by the CBS-TV show JAG)—use to guide them? The Law of Armed Conflict is a set of rules derived primarily from post-World War II Geneva Conventions. Commanders also must follow U.S. law and the top command's rules of engagement.

The rules are not pie-in-the-sky pronouncements. They reflect how battles are fought. They try to protect innocents but recognize the reality of battle. "If you're a priest who's running around blessing people on the battlefield, you're OK," Lamuro says. "If you pick up a gun, you'll get shot. You can't use a technicality to shield yourself."

In most cases, there's little dispute about the legality of clear military targets. A tank on a battlefield is always fair game. A school is not—unless it can be proved that it's used as a military site.

Other cases are less clear, and legal issues aren't the only factors. There is, for instance, the issue of human shields. The 1949 Geneva Convention specifically states that the presence of civilians cannot be used to render a target immune from attack. Just because an enemy has surrounded a weapons depot with civilian volunteers does not make it an illegal target. Even so, Lamuro says, commanders must also worry about "the CNN test." Is the target worth all the loss of innocent life—and the inevitable outcry? Targets such as dams and power plants also are hot-button issues because their destruction would harm civilians. The lawyers would advise they be destroyed only when necessary, Lamuro says. It's practical advice, he says, because the military must be "as concerned with winning the peace as winning the wars."

### INDIVIDUALS

Targeting individuals is an especially difficult issue. A year ago, there were numerous reports that a Predator drone aircraft loaded with Hellfire missiles had the ousted Taliban leader Mohammed Omar in its sights in Afghanistan. But no missile was fired, reportedly on the advice of a lawyer.

It isn't known for sure whether the strike was scrubbed because civilians were nearby or for some other reason. But the incident provoked discussion about whether attorneys have too much influence. Lamuro says it would be wrong "to overstate the lawyers's role." They are advisers, he says. Commanders make the ultimate choice.

One of the hottest legal topics that would be decided only at the highest levels is whether to target Saddam himself. Legally, it could depend on timing: Lawyers say that before a war, he would not be considered a valid military target. U.S. policy also prohibits assassinations of leaders.

If there was a war and Saddam was commanding the Iraqi army, he would be considered a combatant and could be targeted.

If he no longer had that role and allied forces caught him fleeing, the target status might be revoked. Instead, he might be given exile or arrested and charged with war crimes.

Another tenet of the Law of Armed Conflict is that the force used should be proportional to the task. For targeters, that fits neatly into their objective of conserving firepower.

"I look for the minimum number of targets that must be struck to adequately achieve the commander's objective," says one U.S. intelligence officer, who asked that his name not be reported to protect his identity. In the end, neither the lawyers nor the other officers in the targeting teams have the final word on what will be struck.

Air plans are reviewed and approved up the chain of command—again with attorneys on hand—to make sure the individual pieces add up to a war plan that is legally defensible.

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### "FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2003"

### SECTION-BY SECTION ANALYSIS

Sec. 1. Short title. Contains the short title, the "Federal Prosecutors Retirement Benefit Equity Act of 2003."

Sec. 2. Inclusion of Federal prosecutors in the definition of a law enforcement officer. Amends 5 U.S.C. §§8331 and 8401 to extend the enhanced law enforcement officer, "LEO" retirement benefits to Federal prosecutors, defined to include assistant United States attorneys, "AUSAs", and such other attorneys in the Department of Justice as are designated by the Attorney General of the United States. This section also exempts Federal prosecutors from mandatory retirement provisions for LEO's under the civil service laws.

Sec. 3. Provisions relating to incumbents. Governs the treatment of incumbent Federal prosecutors who would be eligible for LEO retirement benefits under this Act. This section requires the Office of Personnel Management to provide notice to incumbents of their rights under this subtitle; allows incumbents to opt out of the LEO retirement program; governs the crediting of prior service by incumbents; and provides for make-up contributions for prior service of incumbents to the Civil Service Retirement and Disability Fund. The section gives incumbents the option of either contributing their own share of any make-up contributions or receiving a proportionally lesser retirement benefit. The section allows the government to contribute its share of any make-up contribution ratably over a ten year period.

Sec. 4. Department of Justice administrative actions. Allows the Attorney General to designate additional Department of Justice attorneys with substantially similar responsibilities, in addition to assistant United States attorneys, as Federal prosecutors for purposes of this Act and thus be eligible for the LEO retirement benefits.

By Mr. DOMENICI:

S. 643. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise to reintroduce a bill that authorizes the Secretary of the Interior to help construct and occupy part of the Hibben Center for Archaeological Research at the University of New Mexico. This bill will help the University of New Mexico finish a state of the art museum facility to store, and display the National Park Service's Chaco Collection.

Let me give you a bit of background. In 1907, Theodore Roosevelt founded the Chaco Canyon Culture National Historical Park in Northwestern New Mexico. The Monument was created to preserve the extensive prehistoric pueblo ruins in Chaco Canyon.

The height of the Chaco culture began in the mid 800's and lasted over 300 years. Dozens of complex multi-storied masonry buildings containing hundreds of rooms were built over that time. These complexes were connected to communities by a network of prehistoric roads. I helped to establish the Chaco Culture National Historic Park to preserve these areas.

Since 1907, the University of New Mexico and the National Park Service have been partners in this area. From 1907 to 1949, the University owned the land within the Park boundaries. During this period, Dr. Frank Hibben excavated in Chaco Canyon and remained interested in the area throughout his long career. The University built a large collection of artifacts that it retains today.

In 1949, the University deeded the land to the Federal Government, and since that time, the University and the Park Service have continued a partnership through a series of memoranda of understanding. Since 1985, the NPS Chaco collections have been housed at University of New Mexico's Maxwell Museum of Anthropology. As both the University of New Mexico and the National Park Service collections have begun to grow, a new home for them is needed.

To this end, Dr. Hibben began planning a new research and curation facility at the University of New Mexico. He asked the Park Service to partner with him on this project, and today, construction of the Hibben Center, a modern, professional facility to house the University of New Mexico's collections as well as the Park Service collections, is a reality.

Dr. Hibben recently passed away, and left the University of New Mexico the funds to assist with this project. The partnership between the Park Service and the University will mean that the Hibben Center will hold a world-class collection of historical artifacts and will facilitate and encourage the study of these important Southwestern collections.

This bill will provide authorization to pay for the Federal share of the improvement costs to the Hibben Center. This bill is long overdue, and will honor both the legacy of Dr. Hibben and the Chaco Culture.

I urge my colleagues to support this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 643

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hibben Center for Archaeological Research Act of 2003".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) when the Chaco Culture National Historical Park was established in 1907 as the Chaco Canyon National Monument, the University of New Mexico owned a significant portion of the land located within the boundaries of the Park;

(2) during the period from the 1920's to 1947, the University of New Mexico conducted archaeological research in the Chaco Culture National Historical Park;

(3) in 1949, the University of New Mexico—

(A) conveyed to the United States all right, title, and interest of the University in and to the land in the Park; and

(B) entered into a memorandum of agreement with the National Park Service establishing a research partnership with the Park;

(4) since 1971, the Chaco Culture National Historical Park, through memoranda of understanding and cooperative agreements with the University of New Mexico, has maintained a research museum collection and archive at the University;

(5) both the Park and the University have large, significant archaeological research collections stored at the University in multiple, inadequate, inaccessible, and cramped repositories; and

(6) insufficient storage at the University makes research on and management, preservation, and conservation of the archaeological research collections difficult.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) HIBBEN CENTER.—The term "Hibben Center" means the Hibben Center for Archaeological Research to be constructed at the University under section 4(a).

(2) PARK.—The term "Park" means the Chaco Culture National Historical Park in the State of New Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TENANT IMPROVEMENT.—The term "tenant improvement" includes—

(A) finishing the interior portion of the Hibben Center leased by the National Park Service under section 4(c)(1); and

(B) installing in that portion of the Hibben Center—

(i) permanent fixtures; and

(ii) portable storage units and other removable objects.

(5) UNIVERSITY.—The term "University" means the University of New Mexico.

**SEC. 4. HIBBEN CENTER FOR ARCHAEOLOGICAL RESEARCH.**

(a) ESTABLISHMENT.—The Secretary may, in cooperation with the University, construct and occupy a portion of the Hibben Center for Archaeological Research at the University.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may provide to the University a grant to pay the Federal share of the construction and related costs for the Hibben Center under paragraph (2).

(2) FEDERAL SHARE.—The Federal share of the construction and related costs for the Hibben Center shall be 37 percent.

(3) LIMITATION.—Amounts provided under paragraph (1) shall not be used to pay any costs to design, construct, and furnish the tenant improvements under subsection (c)(2).

(c) LEASE.—

(1) IN GENERAL.—Before funds made available under section 5 may be expended for construction costs under subsection (b)(1) or for the costs for tenant improvements under paragraph (2), the University shall offer to enter into a long-term lease with the United States that—

(A) provides to the National Park Service space in the Hibben Center for storage, research, and offices; and

(B) is acceptable to the Secretary.

(2) TENANT IMPROVEMENTS.—The Secretary may design, construct, and furnish tenant improvements for, and pay any moving costs relating to, the portion of the Hibben Center leased to the National Park Service under paragraph (1).

(d) COOPERATIVE AGREEMENTS.—To encourage collaborative management of the Chacoan archaeological objects associated with northwestern New Mexico, the Secretary may enter into cooperative agreements with the University, other units of the National Park System, other Federal agencies, and Indian tribes for—

(1) the curation of and conduct of research on artifacts in the museum collection described in section 2(4); and

(2) the development, use, management, and operation of the portion of the Hibben Center leased to the National Park Service under subsection (c)(1).

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated—

(1) to pay the Federal share of the construction costs under section 4(b), $1,574,000; and

(2) to pay the costs of carrying out section 4(c)(2), $2,198,000.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

(c) REVERSION.—If the lease described in section 4(c)(1) is not executed by the date that is 2 years after the date of enactment of this Act, any amounts made available under subsection (a) shall revert to the Treasury of the United States.

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By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mrs. HUTCHISON, Mr. SESSIONS, and Mr. GRASSLEY):

S. 644. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, we have all been devastated by the repeated news flashes of violent crimes being committed against children across the Nation. In June 2002, Elizabeth Smart, a 14 year old from my home State of Utah was kidnapped at gun point from her home in Salt Lake City. Just this past week, the entire Nation rejoiced with the Smart family after Elizabeth was found alive and reunited with her loved ones.

Five year old Samantha Runnion was not so lucky. Just one month after Elizabeth Smart's abduction, Samantha was kidnapped while playing with a neighborhood friend down the street from her home in Stanton, CA. The following day, her body was found along a highway, nearly 50 miles from her home. California authorities have charged Alejandro Avila with Runnion's abduction, sexual assault and murder. Reportedly, Avila was acquitted two years ago of molesting two young girls under the age of 14.

Elizabeth Smart and Samantha Runnion are just two, among many, recent child victims. The list of tragic cases involving minor victims goes on and on.

These horrific incidents illustrate the need for comprehensive legislation—at both the State and national level—to protect our children. We need to ensure that federal and state law enforcement officers have all the tools and resources they need to find, prosecute, and punish those who commit crimes against our youth.

Today, I rise to reintroduce the "Comprehensive Child Protection Act of 2003" which enhances existing laws, investigative tools, criminal penalties and child crime resources in a variety of ways. I introduced this important bill with Senator FEINSTEIN last year, but it failed to go anywhere. My unwavering commitment to this issue compels me to introduce it again this year. Let me elaborate on the Act's specific provisions.

By broadening existing laws, the Act enhances the ability of child victims to pursue and prevail in criminal proceedings against their predators.

First, the Act extends the statute of limitations period that applies to offenses involving the sexual or physical abuse of children under 18 years of age. Current law permits such cases to be brought until the victim reaches the age of 25 years. This amendment will allow meritorious cases of child sexual and physical abuse to be brought up until the date the minor reaches the age of 35 years.

It is well-documented that child abuse victims often do not come forward until years after the abuse occurred. Victims fail to come forward because they fear their disclosures will lead to further humiliation, shame, and even ostracism. Abusers should not benefit from the lasting psychological harms they have inflicted on innocent children.

I believe that there should rarely, if ever, be a time when we say to a victim who has suffered as a child at the hands of an abuser: you have identified your abuser; you have proven the crime; yet the abuser will remain free because you, the victim, waited too long to come forward. Our criminal justice system should be ready to adjudicate all meritorious claims of child abuse. This amendment is meant to recognize that the arm of the law should be long in the prosecution of crimes of this heinous nature.

Second, the Act amends an existing Federal evidentiary rule, Federal Rule of Evidence 414, to permit the admission into evidence of prior offenses involving child molestation, or the possession of sexually explicit materials containing actual or apparent minors. The current evidentiary rule permits such evidence to be admitted only where the victim was under 14 years of age. This amendment extends the rule to apply to any minor—any victim who was under 18 years of age at the time the offense was committed.

In addition, the amendment makes clear that even where an individual possesses what may be virtual, as opposed to actual, child pornography, and therefore, may have a valid defense against prosecution in light of the Supreme Court's recent decision in *Ashcroft* v. *Free Speech Coalition*, 122 S. Ct. 1389 (2002), such evidence is nonetheless admissible under Rule 414. Like the possession of actual child pornography, the possession of virtual child pornography is highly probative evidence that should be admissible in a case involving child molestation or exploitation.

Third, the Act also limits the scope of the common law marital privileges by making them inapplicable in a criminal child abuse case in which the abuser or his or her spouse invokes a privilege to avoid testifying. Where a child abuser is charged with a crime against the child of either spouse, or a child under the custody or control of either spouse, neither the abuser nor his or her spouse should be permitted a marital privilege to avoid providing critical evidence.

The marital privileges exist because we in society believe that forcing a person to testify against his or her spouse, or permitting a spouse to testify about confidential marital communications, may jeopardize a marriage. While we value trusting, harmonious marriages, our societal interest in the proper administration of justice far exceeds our interest in preserving marital harmony where a spouse has chosen a vulnerable, defenseless child in the home as his or her victim. In my view, it is more important to prosecute and punish child abusers than it is to minimize the potential risk to the life of a marriage in which child abuse is occurring.

The Act increases the investigative tools available to law enforcement agencies in several significant ways.

First, the Act amends the DNA Analysis and Backlog Elimination Act by increasing the categories of offenses that are included in the database of convicted offender DNA profiles, the Combined DNA Index System, CODIS. Without question, DNA—which is unique to each individual and maintains its evidentiary integrity for long periods of time—is a valuable investigatory tool. Time and again DNA evidence has aided in solving difficult criminal cases by linking suspects to crimes and by eliminating others.

This Act expands the class of offenses that are included in CODIS by adding all federal felony offenses to the database. Currently, the DNA Analysis and Backlog Elimination Act includes only select Federal offenses. The successful experiences of approximately 19 States, including Utah, which currently authorize the collection of DNA samples for all felony offenses illustrate the need for this extension. These States have solved numerous crimes where DNA has been found—frequently based on an offender's conviction for a nonviolent offense—such as burglary, theft or a narcotics offense.

Remarkably, not all States currently authorize the collection of DNA samples from all types of child offenders. Thus, the Act also expands the definition of qualifying offense to include all state offenses against children, such as those involving child kidnapping or abuse. This expansion will increase law enforcement's ability to solve such crimes where DNA evidence is found.

Second, the Act extends the Federal wiretap statute by adding sex trafficking, sexual abuse, exploitation, and other sex-related offenses as predicate offenses to the statute. As we all know, the Internet is becoming an increasingly popular means by which sexual predators make contact with child victims. Although predators typically initiate a relationship online, they ultimately seek to make personal contact with the child—both over the telephone and through face to face meetings. But as the law exists today, investigators are restricted in their ability to investigate such predators. This provision will enable investigators, who meet the statutory requirements of the Federal wiretap statute, to obtain court authorization to monitor such communications. This amendment will not only aid investigators in obtaining evidence of these crimes, it will also help stop these crimes before a sexual predator makes contact with a child.

To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans. This expanded tool will be particularly useful to investigators who track sexual predators and child pornographers.

The Act also strengthens criminal penalties by extending the supervised release period that applies to certain offenders, increasing the maximum penalties that apply to offenses involving transportation for illegal sexual activity, and directing the United States Sentencing Commission to review the guidelines that apply to criminal offenses with which child predators are frequently charged to determine whether they are sufficiently severe.

The Act grants Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, or sex trafficking offenses. Under current Federal law, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment to the general supervised release statute will not require judges to impose a period of supervised release longer than 5 years; it will simply authorize them to do so where a judge sees fit based on the nature and circumstances of the case.

In my view, if there is any class of offenders on which our criminal justice system should keep a close eye, it is sexual predators. It is well documented that sex offenders are more likely than other violent criminals to commit future crimes. And if there is any class of victims we should seek to protect from repeat offenders, it is those who have been sexually assaulted. They suffer tremendous physical, emotional and psychological injuries. By ensuring that egregious sexual offenders are supervised for longer periods of time, we will increase the chance that they will be deterred from and punished for future criminal acts.

The Act increases the maximum penalties that apply to certain offenses, including sexual offenses that involve the trafficking of children and transportation. Stiffer penalties are needed to punish and deter individuals who commit such offenses.

The Act also directs the United States Sentencing Commission to review the sentencing guidelines that apply to various offenses that apply to kidnappers, sexual abusers and exploiters, to ensure that Federal sentences are sufficiently severe where aggravating circumstances exist, such as where the victim was abducted, injured, killed, or abused by more than one person.

In a number of significant ways, the Act enhances the resources that are available to investigate and prosecute crimes against children.

First, the Act directs the Attorney General to appoint a Deputy Assistant

Attorney General to oversee a new section at the Department of Justice designated to focus solely on crimes against children. Among other things, the new section will be tasked with prosecuting crimes against children, providing guidance and assistance to Federal, State, and local law enforcement agencies and personnel who handle such cases, coordinating efforts with international law enforcement agencies to combat crimes against children, and acting as a liaison with the legislative and judicial branches of government to ensure that adequate attention and resources are focused on protecting our children from predators of all types.

In addition, the Act tasks the new Crimes Against Children section to create an Internet site that consolidates sex offender information which States currently disclose under the Federal reporting act. The Act also direct States that have not developed Internet sites to do so. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Currently, all 50 States have registration statutes that require sex offenders to register and to share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. A national Internet site will enhance the public's ability to find and access information that is already available in the public record, and will protect citizens in States where sex offenders move to try to avoid detection of their past criminal acts. In short, the national Internet site will provide parents and other concerned citizens with essential information about the whereabouts and backgrounds of child abusers, so they can take all necessary steps to protect our Nation's children from harm's way.

The Act also increases resources and funding for the Federal Bureau of Investigation. The recent series of tragic events involving child victims has convinced me that we need to take a more proactive approach to prevent, deter and prosecute child predators of all types—abusers, molesters, pornographers and traffickers. And at the same time, we need to provide our children, the vulnerable victims of such predators, with the support systems they need to recover fully from such horrendous crimes and to assist law enforcement in effectively investigating and prosecuting these crimes.

To this end, the Act directs the FBI to establish a National Crimes Against Children Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the National Response Center is to be established by the FBI, in consultation with the Deputy Assistant Attorney General for the Crimes Against Children Office, it will integrate the resources and expertise of other Federal, State, and local law enforcement agencies, as well as other child serving professionals. By creating and training rapid response teams comprised of federal, state and local prosecutors, investigators, victim witness specialists, mental health and other child serving professionals, the Center will greatly enhance our national response and prevention efforts. The combination of valuable expertise and resources provided by such multi-jurisdictional and multi-disciplinary partnerships will increase the likelihood that law enforcement authorities will successfully identify, prosecute and punish child predators, and that child serving professionals will provide child victims with much needed support.

The "Comprehensive Child Protection Act of 2003" will enhance our ability to combat crimes against children, but it is by no means an end. Congress needs to continue to explore additional ways in which we can improve our ability on a national level to protect our children. Our children fall victim to many of the same crimes we face as adults, and they are also subject to crimes that are specific to childhood, like child abuse and neglect. The effects of such heinous crimes are devastating and often lead to an intergenerational cycle of violence and abuse.

I want to do all I can to ensure that we devote the same intensity of purpose to crimes committed against children, as we do to other serious criminal offenses, such as those involving terrorism. We have no greater resource than our children. I invite the Department of Justice, the Federal Bureau of Investigation and other non governmental entities and professionals who are charged with protecting our children to work with me to improve our Federal laws and to assist States in doing the same.

Mr. DEWINE. Mr. President, I rise today with my colleague from Utah, Senator HATCH, to reintroduce the "Comprehensive Child Protection Act of 2003"—a bill to help protect our Nation's children from child molestation and other forms of abuse. Senator HATCH and I introduced this bill for the first time on September 10, 2002.

Sexual abuse of children is a pervasive and extremely troubling problem in the United States. I learned that over 25 years ago when I was serving as the County Prosecutor in Greene County, Ohio. I saw what this kind of abuse does to innocent, helpless children and how pervasive the crimes are in our communities. In fact, according to the Congressional Research Service, one of every three girls and one of every seven boys will be sexually abused before they reach the age of 18.

Our local police and prosecutors are on the front line in the fight against these criminals, and they deserve credit and our thanks for their hard work. For example, in Greene County recently, a number of child pornographers were identified and prosecuted when local law enforcement carried out a successful Internet sting operation.

Despite successes like this, however, the data suggest that law enforcement is fighting an uphill battle. In 2001 alone, there were over 5,400 registered sex offenders living in my home State of Ohio—an increase of 319 percent over 1998. Equally troubling, many child molesters prey upon dozens of victims before they are reported to law enforcement. Some evade detection for so long because many children never report the abuse. According to the Bureau of Justice Statistics, between 60 percent and 80 percent of child molestations and 69 percent of sexual assaults are never reported to the police. And, according to the Congressional Research Service, of reported sexual assaults, 71 percent of the victims are children.

For these reasons, it is vitally important that Congress do everything in its power to support law enforcement in its efforts to protect our nation's most vulnerable citizens. Enacting the "Comprehensive Child Protection Act of 2003" would be a step in the right direction. By enacting this measure, we would help protect our children from sexual predators, pornographers, and others who abuse children. Among its major provisions, this legislation would: 1. Direct the FBI to establish a new center that creates and trains "rapid response teams" (composed of prosecutors, investigators, and others) to respond promptly to reported crimes against children; 2. Establish a national Internet site that would make sex offender information available to the public in one, easily accessible place. Currently, about 30 states make offender information available to the public online; 3. Authorize the collection of DNA samples from registered sex offenders and the inclusion of these DNA samples in the Combined DNA Index System, or "CODIS;" 4. Permit the prosecution of child abuse offenses until a victim reaches the age of 35 (as opposed to the age of 25 under current law). This provision recognizes that victims of such crimes often do not come forward until years after the abuse, out of shame or a fear of further humiliation; 5. Make it easier for investigators to track sexual predators and child pornographers and make it easier to prosecute criminal child abuse/molestation cases; 6. Create a new section at the Department of Justice to focus solely on crimes against children; and 7. Stiffen penalties for sex-related offenses involving children.

This is a good bill—a bill that would help ensure that our children are protected from some of the most heinous of criminals. It is a bill that would increase the punishment for those criminals. And, it is a bill that, quite simply, is the right thing to do. I encourage my colleagues to join us in cosponsoring this important measure.

Mr. GRASSLEY. Mr. President, today, I again rise in support of the Comprehensive Child Protection Act. I am proud to be standing with Senator Hatch as a co-sponsor of a bill that represents one of the most comprehensive pieces of legislation ever drafted to protect children. The miracle that Elizabeth Smart was found safe and sound, reminds us of how important this bill is.

As a former chairman of the Youth Violence Subcommittee and Ranking Republican on the Subcommittee on Crime and Drugs during the 107th Congress, I have been greatly concerned with the increase in reports of child abductions and murders, so I am glad to be a part of this effort to address this growing problem. In my tenure on the Judiciary Committee, I have long fought for our Nation's children, and have ardently supported laws that bring them and their families greater protection.

This legislation comes at a critical time because we are hearing more and more about children being taken from their homes or schools and abused, or worse, murdered. Our children are a gift to us, are our national treasure, and are our future. We must do all that we can to protect these innocents and give law enforcement every tool possible to ferret out the criminals who would do our children harm. With this legislation, we will be ensuring a greater measure of protection for our children. The miracle that Elizabeth Smart was found safe and sound, reminds us of how important this bill is.

The bill does many important things. First, it helps law enforcement respond immediately to incidents of child abduction, because, as we've seen with the Amber Alert system, time is critical in any abduction case to thwart further injury or harm. The bill creates a National Crimes Against Children Response Center at the FBI that will integrate the resources and expertise of all Federal, State and local law enforcement sources to provide a rapid response for crimes involving child victims. The bill also helps law enforcement by making it possible to get wire taps for suspected sex trafficking and exploitation offenses, and will require that all Federal child sex crimes offenders have their DNA added to the national DNA registry. So the bill will help to centralize information about criminals and crimes, and makes the job of the criminal investigator easier and more accurate through wiretaps and DNA evidence.

The bill also creates a website registry for convicted child sexual offenders so that parents, neighbors, and police know who in their communities is a convicted child predator. This website will supplement registries in all 50 States. This important tool will help families make better and fully informed decisions about their children's safety, and will greatly aid law enforcement's response to reports of child abductions and other offenses against children. The bill also gives new tools to prosecutors and the courts. It extends the statute of limitations for prosecuting child offenders, allows prosecutors to introduce evidence of past child sex crimes in sentencing hearings, removes the so-called "spousal privilege" so that a spouse can't stand silent in the prosecution of the other spouse for child sexual abuse, and increases the maximum sentences and probation periods for child sex offenders. These important tools will make our communities safer by helping to rid them of child predators, and by keeping a tight leash on predators when they get released from prison.

So this bill helps the public know about sexual predators in their communities, improves the nation's ability to respond to child abduction reports, and aids criminal investigators and prosecutors in their efforts to protect the public by identifying and locking-up child predators. I ask my fellow Senators to support this important bill.

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By Mr. LEVIN (for himself, Mr. Jeffords, Ms. Collins, Mr. Reed, Mr. Kennedy, Mr. Leahy, Mrs. Clinton, Mr. Schumer, Mr. Sarbanes, Mr. Baucus, Mr. Lieberman, and Mr. Kerry):

S. 645. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am introducing today along with Senators Collins, Jeffords and others the Brownfields Redevelopment Assistance Act of 2003. As a resident of Michigan I am familiar with the obstacles facing local communities in their attempts to return brownfields sites to productive economic uses. As co-chair of the Senate Smart Growth Task Force I understand the national economic importance of these efforts.

Brownfields are abandoned, idled or under-used industrial and commercial properties where expansion or redevelopment is hindered by real or perceived environmental contamination. More than 450,000 of these sites taint our nation's landscape, inhibiting economic development and posing a threat to human health and the environment. Undeveloped, or underdeveloped, brownfields sites blight communities forcing development onto greenfields where they exacerbate the problems associated with urban sprawl. If brownfields were instead redeveloped they could offer new opportunities for business, housing and open space.

Brownfields redevelopment is a fiscally-sound way to bring investment back to neglected neighborhoods, clean-up the environment, maximize use of existing infrastructure, create jobs and relieve development pressure on our urban fringe and farmlands. My home state of Michigan is a national leader in brownfields redevelopment. For example, the City of Traverse City managed to leverage $662,000 of government brownfields funding to turn a former gas station and junk yard site into a $20 million private investment in a retail, office and parking facility called Radio Center. The City of Ludington used brownfields funding to spur the development of a multi-use retail/office/condominium complex adjacent to a marina. These are only two examples of the many successful efforts by local communities to leverage Federal, State and local money to harness the resources and expertise of the private sector in economic development efforts. The Brownfields Redevelopment Assistance Act of 2003 would open up the possibilities of redevelopment to numerous other communities nationwide.

The Brownfields Redevelopment Assistance Act expands the Department of Commerce's Economic Development Administration, EDA, initiatives to assist communities with brownfields redevelopment. The bill authorizes $60 million annually for five years for brownfields redevelopment. Grant money will be used for purposes including collaborative economic development planning, eco-industrial development and revolving loan funds. By encouraging development in existing communities the brownfields program will strengthen local economies, preserve precious resources and make best use of existing infrastructure. This bill for the first time would provide specific authority and funding to the EDA for these initiatives. The new projects authorized by the bill would complement the existing and successful brownfields efforts of the Environmental Protection Agency, the Department of Commerce and the Department of Housing and Urban Development.

The U.S. Conference of Mayors estimates that redevelopment of all of the brownfields nationwide could generate more than 550,000 additional jobs that would benefit our many economically struggling communities. Cities and States could see as much as $2.4 billion in new tax revenues. The Economic Development Administration has helped distressed communities attract investment, create jobs and strengthen their economies for the last forty years. This bill will build on EDA's success in helping localities improve their infrastructure and help them redevelop their brownfields sites. Communities nationwide have expressed interest in brownfields redevelopment but lack the financial resources necessary to accomplish their goals. This bill is an excellent example of how the Federal Government can be supportive of local economic development projects. The Brownfield Redevelopment Assistance Act of 2003 advances the goals of the smart growth movement by helping create healthier communities and strengthens the economy through federally supportive, locally driven initiatives.

Many organizations support these bills, including the American Institute of Architects, American Planning Association, American Society of Civil Engineers, Enterprise Institute, National Business Incubation Association, National Association of Counties, National Association of Regional Councils, National League of Cities, US Conference of Mayors, National Congress for Community Economic Development, Smart Growth America and others. I ask unanimous consent to have letters endorsing this bill printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill and additional material was ordered to be printed in the RECORD, as follows:

THE ENTERPRISE FOUNDATION,
*Columbia, MD, March 17, 2003.*

Hon. CARL LEVIN,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR LEVIN: The Enterprise Foundation commends you for joining Senator Jeffords in introducing the "Brownfields Redevelopment Assistance Act." Enterprise strongly supports this bill.

Enterprise is a national nonprofit organization that raises resources and channels them to grassroots groups at the local level for affordable housing, economic development and other community revitalization initiatives in distressed urban and rural neighborhoods nationwide. Central to our mission is generating investment in areas suffering from blight, neglect and disinvestment. Brownfields are prime examples of such areas.

Enterprise is engaged in several large-scale brownfield redevelopment efforts around the country. Targeted incentives such as your bill provides would enable Enterprise and others in the private sector to convert more brownfields to productive uses.

By spurring brownfields redevelopment, your bill would direct limited public resources to places that already benefit from existing infrastructure and promote economic investment where it is needed most. The bill epitomizes smart growth and comprehensive community development principles.

Thank you for your leadership on this important issue.

Sincerely,

F. BARTON HARVEY III,
*Chairman of the Board*
*and Chief Executive Officer.*

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SMART GROWTH AMERICA,
*Washington, DC, March 17, 2003.*

Hon. CARL LEVIN,
*Russell Senate Office Building,*
*Washington, DC.*

Hon. SUSAN COLLINS,
*Russell Senate Office Building,*
*Washington, DC.*

Hon. JIM JEFFORDS,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATORS LEVIN, JEFFORDS and COLLINS: Smart Growth America would like to thank you for your leadership on the introduction the Brownfields Redevelopment Assistance Act of 2003. As advocates of smart growth—growth that revitalizes neighborhoods, supports affordable housing, promotes transportation choice, and preserves open space and farmland—we regard brownfields redevelopment as a top priority.

With an estimated 450,000 nationwide, brownfields pose a major barrier to reinvestment in many communities. These parcels are not simply gaps, they are an active blight, pulling down surrounding property values and driving development and investment further away from existing infrastructure.

The Brownfields Redevelopment Assistance Act would supply an additional tool for local communities to return these sites to productive use by providing the Economic Development Administration (EDA) with the authority and dedicated funding to support brownfield redevelopment projects. Specifically, the legislation would authorize the EDA to administer a $60 million per year grant program for targeted assistance to projects that redevelop brownfield sites and promote eco-industrial development.

We believe the Brownfields Redevelopment Assistance will assist communities nationwide in encouraging economic development, removing environmental and public health hazards, promoting neighborhood revitalization, and preserving open space. We support your efforts and look forward to working with you to pass this important legislation.

Sincerely,

DON CHEN,
*Executive Director.*

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NATIONAL CONGRESS FOR
COMMUNITY ECONOMIC DEVELOPMENT,
*Washington, DC, March 17, 2003.*

Hon. CARL LEVIN,
*U.S. Senate, Russell Building,*
*Washington, DC.*

DEAR SENATOR LEVIN: The National Congress for Community Economic Development thanks you for re-introducing The Brownfields Redevelopment Assistance Act of 2003.

We support the efforts of HUD, EPA, and the other agencies that are part of the Brownfields National Partnership. Moving these lands into productive reuse, reducing sprawl, and increasing the tax base will help local economies and improve the quality of life.

As the trade association of America's 3,600 community development corporations, we believe that this bill would help in our efforts to revitalize distressed urban and rural communities.

Sincerely,

CAROL WAYMAN,
*Director of Policy.*

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NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, March 14, 2003.*

Hon. CARL LEVIN,
*Russell Senate Building,*
*Washington, DC.*

DEAR SENATOR LEVIN: On behalf of the nation's elected county officials, I am writing in support of the Brownfields Redevelopment Assistance Act of 2003. This legislation is important to the redevelopment efforts of brownfields sites in communities.

The National Association of Counties (NACo) has been longtime supporter of brownfield site revitalization. After restoring abandoned properties to active use, redeveloped properties contribute to a community's overall economic vitality through business attraction, job creation, and the enhancement of the local tax base. Also, NACo is a strong advocate for the work of the Economic Development Administration, and supports additional federal economic development efforts by the agency.

In particular, NACo appreciates the bill's focus on distressed communities experiencing high levels of unemployment or underemployment, as well as population loss and infrastructure deterioration. Additional federal resources are needed to leverage with local economic development efforts to help alleviate economic distress in many communities across the country.

NACo applauds your efforts towards the restoration and redevelopment of brownfields sites, and offers its full support of this important legislation. Please feel free to contact Cassandra Matthews or Julie Ufner, NACo Associate Legislative Directors, at (202) 393-6226, if you need further information or assistance.

Thank you for your leadership on this matter

Sincerely,

LARRY NAAKE,
*Executive Director.*

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AMERICAN SOCIETY
OF CIVIL ENGINEERS,
*Washington, DC, March 14, 2003.*

Hon. CARL LEVIN,
*Russell Building,*
*Washington, DC.*

DEAR SENATOR LEVIN: I am writing on behalf of the 130,000 members of the American Society of Civil Engineers (ASCE) to let you know of our support for your proposed legislation to expand the brownfields program enacted in 2002 by providing federal assistance for distressed communities under the Public Works and Economic Development Act.

As you already realize, the restoration of brownfields is important to the environmental and industrial health of this nation through the revitalization of many of our blighted areas. In 1995, the General Accounting Office estimated that there were more than 450,000 brownfield properties across America. In 2000, the U.S. Conference of Mayors calculated that redeveloped brownfields could generate 550,000 additional jobs and up to $2.4 billion in new tax revenue for cities nationwide.

ASCE believes that brownfields restoration, properly carried out, limits urban sprawl thereby achieving a balance between economic development, the rights of individual property owners, the public interest, social wants and a healthy environment. Revitalized brownfields reduce the demand for underdeveloped land. As devastated urban land is returned to productive use, the pressure to develop distant open spaces is lessened, thereby mitigating the undesirable effects of sprawl, and such as traffic congestion, and preserving culturally and ecologically valuable land.

If ASCE can assist you in any way to enact this important legislation, please do not hesitate to contact Brian Pallasch at (202) 326-5140 or Michael Charles at (202) 326-5126 in our Washington Office.

Sincerely yours,

THOMAS L. JACKSON,
*President.*

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NATIONAL LEAGUE OF CITIES,
*Washington, DC, March 18, 2003.*

Hon. CARL LEVIN,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR LEVIN: On behalf of over 18,000 municipalities across the country represented by the National League of Cities, I am writing to express our support for the Brownfield Redevelopment Assistance Act of 2003. The benefits of returning contaminated parcels of land to productive use for commerce and industry are extensive. If environmental conditions are improved, brownfields have the potential to contribute to the economic revitalization of many cities. For this reason, the National League of Cities calls on the federal government to implement a policy that allows these sites to serve a viable economic purpose, while ensuring the public's health is maintained.

We believe that eco-industrial development, restoring the employment and tax bases, and bringing new investment to distressed communities are necessary and will move forward with the enactment of your brownfields legislation. We support your efforts to provide the Economic Development Administration with funding and tools that will be vital to creating economic redevelopment in economically distressed communities across the nation.

We look forward to working with you to build bi-partisan support for the Brownfield Redevelopment Act of 2003.

Very truly yours,

DONALD J. BORUT,
*Executive Director.*

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S. 645

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Brownfields Redevelopment Assistance Act of 2003".

**SEC. 2. PURPOSES.**

Consistent with section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121), the purposes of this Act are—

(1) to provide targeted assistance, including planning assistance, for projects that promote—

(A) the redevelopment, restoration, and economic recovery of brownfield sites; and

(B) eco-industrial development; and

(2) through such assistance, to further the goals of restoring the employment and tax bases of, and bringing new income and private investment to, distressed communities that have not participated fully in the economic growth of the United States because of a lack of an adequate private sector tax base to support essential public services and facilities.

**SEC. 3. DEFINITIONS.**

Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (1), (2), and (3) through (10) as paragraphs (2), (3), and (5) through (12), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) BROWNFIELD SITE.—The term 'brownfield site' means a brownfield site (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)) with respect to which an entity has received, or is eligible to receive, funding under section 104(k) of that Act (42 U.S.C. 9604(k)) for site characterization, assessment, or remediation.";

(3) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

"(4) ECO-INDUSTRIAL DEVELOPMENT.—The term 'eco-industrial development' means development conducted in a manner in which businesses cooperate with each other and the local community to efficiently share resources (such as information, materials, water, energy infrastructure, and natural habitat) with the goals of—

"(A) economic gains;

"(B) improved environmental quality; and

"(C) equitable enhancement of human resources in businesses and local communities."; and

(4) by adding at the end the following:

"(13) UNUSED LAND.—The term 'unused land' means any publicly-owned or privately-owned unused, underused, or abandoned land that is not contributing to the quality of life or economic well-being of the community in which the land is located.".

**SEC. 4. COORDINATION.**

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting "(a) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) BROWNFIELD SITE REDEVELOPMENT.—The Secretary shall coordinate activities relating to the redevelopment of brownfield sites and the promotion of eco-industrial development under this Act with other Federal agencies, States, local governments, consortia of local governments, Indian tribes, nonprofit organizations, and public-private partnerships.".

**SEC. 5. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.**

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended—

(1) by redesignating sections 210 through 213 as sections 211 through 214, respectively; and

(2) by inserting after section 209 the following:

**"SEC. 210. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.**

"(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for projects to alleviate or prevent conditions of excessive unemployment, underemployment, blight, and infrastructure deterioration associated with brownfield sites, including projects consisting of—

"(1) the development of public facilities;

"(2) the development of public services;

"(3) business development (including funding of a revolving loan fund);

"(4) planning;

"(5) technical assistance;

"(6) training; and

"(7) the purchase of environmental insurance with respect to an activity described in any of paragraphs (1) through (3).

"(b) CRITERIA FOR GRANTS.—The Secretary may provide a grant for a project under this section only if—

"(1) the Secretary determines that the project will assist the area where the project is or will be located to meet, directly or indirectly, a special need arising from—

"(A) a high level of unemployment or underemployment, or a high proportion of low-income households;

"(B) the existence of blight and infrastructure deterioration;

"(C) dislocations resulting from commercial or industrial restructuring;

"(D) outmigration and population loss, as indicated by—

"(i)(I) depletion of human capital (including young, skilled, or educated populations);

"(II) depletion of financial capital (including firms and investment); or

"(III) a shrinking tax base; and

"(ii) resulting—

"(I) fiscal pressure;

"(II) restricted access to markets; and

"(III) constrained local development potential; or

"(E) the closure or realignment of—

"(i) a military or Department of Energy installation; or

"(ii) any other Federal facility; and

"(2) except in the case of a project consisting of planning or technical assistance—

"(A) the Secretary has approved a comprehensive economic development strategy for the area where the project is or will be located; and

"(B) the project is consistent with the comprehensive economic development strategy.

"(c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by a community, the economy of which is injured by the existence of 1 or more brownfield sites, to assist the community in—

"(1) revitalizing affected areas by—

"(A) diversifying the economy of the community; or

"(B) carrying out industrial or commercial (including mixed use) redevelopment, or eco-industrial development, projects on brownfield sites;

"(2) carrying out development that conserves land by—

"(A) reusing existing facilities and infrastructure;

"(B) reclaiming unused land and abandoned buildings; or

"(C) promoting eco-industrial development, and environmentally responsible development, of brownfield sites; or

"(3) carrying out a collaborative economic development planning process, developed with broad-based and diverse community participation, that addresses the economic repercussions and opportunities posed by the existence of brownfield sites in an area.

"(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY ELIGIBLE RECIPIENT.—

"(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. prec. 3121) is amended by striking the items relating to sections 210 through 213 and inserting the following:

"Sec. 210. Grants for brownfield site redevelopment.
"Sec. 211. Changed project circumstances.
"Sec. 212. Use of funds in projects constructed under projected cost.

"Sec. 213. Reports by recipients.
"Sec. 214. Prohibition on use of funds for attorney's and consultant's fees.".

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

**"SEC. 704. AUTHORIZATION OF APPROPRIATIONS FOR BROWNFIELD SITE REDEVELOPMENT.**

"(a) IN GENERAL.—In addition to amounts made available under section 701, there is authorized to be appropriated to carry out section 210 $60,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

"(b) FEDERAL SHARE.—Notwithstanding section 204, subject to section 205, the Federal share of the cost of activities funded with amounts made available under subsection (a) shall be not more than 75 percent.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. prec. 3121) is amended by adding at the end of the items relating to title VII the following:

"Sec. 704. Authorization of appropriations for brownfield site redevelopment.".

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Ms. COLLINS. Mr. President, the textile mills and tanneries of Maine helped fuel our country's economic growth. But as these industries closed, brownfields replaced once vibrant factories. In many communities across Maine these sites remain a legacy of our industrial history.

Left undeveloped, brownfields pose threats to the public health, environmental quality and economic strength of our communities. But redeveloped, these sites offer opportunities for new industries, job growth and economic development. I am pleased to join Senators LEVIN and JEFFORDS in introducing the Brownfields Redevelopment Assistance Act. This legislation will provide communities with economic development resources to redevelop brownfields and return them to productive uses.

The legislation we are introducing today would provide EDA with increased funding flexibility to help States, local communities, Indian tribes and nonprofit organizations return brownfield sites to productive use. The bill authorizes $60 million each year for five years for brownfields redevelopment. This funding authorized by this bill will result in hundreds of millions of dollars worth of economic benefits for States and local communities through the leveraging of local and State funds and private investments.

The bill gives EDA the authority to provide grants for brownfield redevelopment projects, including: development of public facilities and public services; business development; activities to help communities diversify their economies; and collaborative economic development planning. This will help States and communities facilitate effective economic development planning for brownfield reuse; develop infrastructure necessary to prepare sites for re-entry into the market; and, provide the capital necessary to support new business development.

The decline of the New England textile industry led to the closure of many textile mills throughout the region, including the Bates Mill in the City of Lewiston, ME. The Bates Mill was once the State's largest employer providing more than 5,000 jobs. Economic decline and layoffs left the residents of Lewiston with large abandoned mill buildings that have been a challenge to redevelop. As a small city of 36,000 people, continued support for redeveloping brownfields located in the heart of downtown is critical to the city's future economic vitality. In 1998, the city received a $200,000 grant from the Environmental Protection Agency to help facilitate the cleanup and redevelopment of the one million square foot mill complex. Today, the City has redeveloped about one-third of the mill and created 1,000 new jobs. The City estimates that it will require $54 million to develop the remaining buildings in the Bates Mill Complex. The economic development resources provided in the Brownfields Redevelopment Assistance Act will help Lewiston and other communities across the nation rebuild their communities and create new economic opportunity.

Brownfields redevelopment is a fiscally responsible strategy for strengthening local economies and reusing existing infrastructure while protecting open space. We recycle cans, bottles and newspapers now we must try harder to recycle our land. I am proud to be an original co-sponsor of the bill to aid in this effort.

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By Mr. CORZINE (for himself, Mr. DASCHLE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. JOHNSON, and Mr. SARBANES):

S. 646. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce a very important piece of legislation, the Medicare Mental Health Modernization Act of 2003. I introduce this bill today, along with Representative PETE STARK (D-CA), in fond memory of our former colleague and friend, the late Senator Paul Wellstone. Paul was a crusader in many ways and for many causes; however, we will always remember his commitment to ensuring that all Americans have meaningful and equitable access to mental health treatment.

It is because of Paul's efforts that so many Americans, including many in the Congress, have rallied around the call for parity in the treatment of mental illness. Many of us are all too familiar with the stigma that still surrounds mental illness and the disparities in accessing treatment that permeate the private health insurance market. What many of us do not realize is that these inequities also exist in the Medicare program.

Our Nation's Medicare beneficiaries—our elderly and disabled population—have limited access to mental health services. Medicare restricts the types of mental health services available to beneficiaries and the types of providers who are allowed to offer such care. It also charges higher copayments for mental health services than it does for all other health care. In order to receive mental health care, seniors and the disabled must pay 50 percent of the cost of a visit to their mental health specialist, as opposed to the 20 percent that they pay for other services. Medicare also limits the number of days a beneficiary can receive mental health care in a hospital setting to 190 days over an individual's lifetime.

As we talk about modernizing the Medicare program we must address this problem. The need is glaring. Almost 20 percent of Americans over age 65 have a serious mental disorder. They suffer from depression, Alzheimer's disease, dementia, anxiety, late-life schizophrenia and, all too often, substance abuse. These are serious illnesses that must be treated. Unfortunately, they are often unidentified by primary care physicians, or the appropriate services are simply out of reach. Americans age 65 and older have the highest rate of suicide of any other population in the United States. An alarming 70 percent of elderly suicide victims have visited their primary care doctor in the month prior to committing suicide.

Medicare is also the primary source of health insurance for millions of non-elderly disabled. More than 20 percent of these individuals suffer from mental illness and/or addiction. This very needy population faces the same discrimination in their mental health coverage.

As our population ages, the burden of mental illness on seniors, their families, and the health care system will only continue to increase. Experts estimate that by the year 2030, 15 million people over 65 will have psychiatric disorders, with the number of individuals suffering from Alzheimer's disease doubling. If we do not reform the Medicare program to provide greater access to detection and treatment of mental illness, the cost of not treating these diseases will rapidly escalate. Without the appropriate outpatient mental health services, too many of our seniors are forced into nursing homes and hospitals. If we truly want to modernize Medicare and make it more efficient, we must provide access to these services. Not only will they likely reduce costs in the long-term, but they will also increase Medicare beneficiaries' quality of life.

The Medicare Mental Health Modernization Act takes critical steps to address these issues. First, the bill reduces the 50 percent copayment for mental health services to 20 percent. The proposed 20 percent copayment is the same as the copayment for all other outpatient services in Medicare. Second, the bill would provide access to intensive residential services for those who are suffering from severe mental illness. This will give people with Alzheimer's disease and other serious mental illness the opportunity to be cared for in their homes or in community-based settings. Third, the bill expands the number of qualified mental health professionals eligible to provide services through the Medicare program. This includes licensed professional mental health counselors, clinical social workers, and marriage and family therapists. This expansion of qualified providers is critical to ensuring that seniors throughout the nation, particularly those in rural areas, are able to receive the services they need.

In closing, I urge all of my colleagues to step forward to support the Medicare Mental Health Modernization Act of 2003. It is time for the Medicare program to stop discriminating against seniors and the disabled who are suffering from mental illness.

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By Mr. KENNEDY:

S. 647. A bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes; to the Committee on Armed Services.

Mr. KENNEDY. Mr. President, today I am introducing a bill to close an unfortunate loophole in health insurance coverage for families of Reserve and Guard members who are called up for active duty.

As we face the likelihood of war with Iraq, one hundred and fifty thousand members of the National Guard and the Reserves have been mobilized for service. These soldiers, sailors, marines, and airmen are standing by their country in a time of national emergency. But unless the Congress takes immediate action, too many of the spouses and children of these brave men and women may find the quality of their heath care reduced.

Today's military relies more heavily than ever before on the Reserve and Guard. Currently, over 150,000 National Guard and reserve soldiers, sailors, Marines and airmen have been mobilized. They are spending an average of thirteen times longer on active duty today than compared to a decade ago.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war. At the same time, they must put their lives on hold, dealing with family crises by phone and email. We must do our best to take care of those they have left at home.

During the Vietnam war, only 20 percent of all Army personnel were married. Today over 50 percent of the active military are married. These numbers are even higher in the Guard and Reserves. This service places heavy strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone.

For the Guard and Reservists' families, a recall to active duty brings new bureaucratic challenges. Employers are not required to keep paying the health insurance for reservists while they are deployed. Many guardsmen and reservists may not be able to afford to pay for health care for their families while they are away.

If a guardsman or reservist is activated for more than thirty days, their family is eligible to enroll in the TRICARE program. However, during that first month, the family may not have any health insurance. In addition, if their family doctor does not participate in TRICARE, the family must find a new doctor while coping with all the other demands of the service member's absence. A family with a sick child and a father or mother sent off to war should not have to cope with the added burden of giving up the family doctor they trust.

The bill I am introducing will assure continuity of health insurance coverage for families of Reservists and National Guard personnel called to active duty. Under this bill, these families retain the option of private health insurance coverage during the period of active duty, rather than enrolling in TRICARE.

The bill amends the COBRA coverage rules to specify that loss of employment-based coverage due to active-duty allows them to use the COBRA mechanism to retain their health care coverage. The Federal Government will pay the cost of premiums not covered by employers. This assistance will relieve some of the financial burden on families when the service member leaves a more lucrative private sector job to serve in the military. The Federal Government will also pay the cost of continuing family coverage purchased in the individual insurance market, for those who do not have employment-based coverage.

The cost of the modest additional help for the families of our servicemen will be small, since spouses and children who continue to use their private insurance policies will not be using TRICARE medical services that would otherwise be the government's responsibility.

This bill will not change the health care coverage for service members who will continue to receive health care through the military medical system. Nor will it change the health care coverage for active duty family members who retain TRICARE eligibility and receive health care either through the direct care system or TRICARE network.

When Reservists and members of the National Guard are called to active duty in time of international crisis, they are asked to put their lives on the line for their country. The least we can do for them is assure that their families can continue to receive quality health care without interruption during their absence.

I urge my colleagues to move promptly to enact this legislation.

Mr. President, I ask unanimous consent that a letter of support and the text of the bill be printed in the RECORD.

There being no objection, the letter and the bill was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC March 17, 2003.*

Hon. MITCHELL E. DANIELS, Jr.,
*Director, Office of Management and Budget,*
*Washington, DC.*

DEAR MR. DANIELS: As you prepare the Administration's request for emergency supplemental appropriations, we urge you to consider an important issue facing our National Guard and Reserve Component troops.

Today's military relies more heavily than ever before on these forces. Currently, over 150,000 members of the guard and reserve have been mobilized. They are spending an average of thirteen times longer on active duty than their counterparts a decade ago.

For their families, a recall to active duty brings new bureaucratic challenges. Employers are not required to keep paying for their health insurance coverage while they are deployed, and many of them may not be able to afford to pay for coverage for their families while they are away.

If reservists or guardsmen are activated for more than thirty days, their families are eligible to enroll in the TRICARE program. However, during that first month, the family may not have any health insurance. In addition, their family doctor may not participate in TRICARE, forcing the family to find a new doctor while coping with all the other demands of the service member's absence.

To address this problem, we are introducing bills to assure continuity of health insurance coverage for families of reservists and National Guard personnel called to active duty. Under this bill, these families will retain the option of private health insurance coverage during the period of active duty, rather than enrolling in TRICARE. This bill will not change the health care coverage for the reservists or guardsmen who will continue to be covered by TRICARE during active military service.

The bill modifies the COBRA continuation-of-coverage rules to specify that loss of employment-based converge due to active-duty is a qualifying event for COBRA, so that they can, if they choose, use the COBRA mechanism to retain their health care coverage. The federal government will pay the cost of premiums not covered by employers, as well as the cost of continuing family coverage purchased in the individual market.

We believe this step is important as part of the overall effort to take care of the families of our men and women in uniform. We urge you to include a proposal to provide continuity of health insurance for reservists and guardsmen in the emergency supplemental.

With respect and appreciation, and we look forward to working with you on this issue.

Sincerely,

Edward M. Kennedy,
*United States Senator.*
Michael Capuano,
*United States Representative.*

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S. 647

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEPARTMENT OF DEFENSE PAYMENT FOR CONTINUATION OF NON-TRICARE HEALTH BENEFITS COVERAGE FOR CERTAIN MOBILIZED RESERVES.**

(a) Payment of Premiums.—

(1) Requirement to pay premiums.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

**"§ 1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents**

"(a) Payment of Premiums.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (h).

"(b) Eligible Member.—A member of a reserve component who is called or ordered to active duty for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of this title is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a).

"(c) Qualified Health Benefits Plan Coverage.—For the purposes of this section, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

"(1) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order; and

"(2) on that date, the coverage applied to the member and dependents of the member.

"(d) Applicable Premium.—The applicable premium payable under this section for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.

"(e) Benefits Coverage Continuation Period.—The benefits coverage continuation period under this section for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

"(1) begins on the date of the call or order; and

"(2) ends on the earlier of the date on which—

"(A) the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section;

"(B) the member or the dependents of the member eligible for benefits under the qualified health benefits plan coverage become covered by another health benefits plan that is not TRICARE; or

"(C) the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member.

"(f) Extension of Period of COBRA Coverage.—Notwithstanding any other provision of law—

"(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

"(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

"(g) Special Rule With Respect to Individual Health Insurance Coverage.—With respect to a member of a reserve component described in subsection (b) who was enrolled in individual health insurance coverage (as such term is defined in section 2791(b)(5) of the Public Health Service Act) on the date on which the member was called or ordered to active duty, the health insurance issuer may not—

"(1) decline to offer such coverage to, or deny re-enrollment of, such individual during the benefits coverage continuation period described in subsection (e);

"(2) impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A) of the Public Health Service Act) with respect to the re-enrollment of such member for such coverage during such period; or

"(3) increase the premium rate for re-enrollment of such member under such coverage during such period above the rate that was paid for the coverage prior to the date of such call or order.

"(h) Nonduplication of Benefits.—A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this section is not eligible for benefits under TRICARE during a period of the coverage for which so paid.

"(i) Revocability of Election.—A member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for TRICARE as provided for under this chapter.

"(j) Regulations.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

"1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents.".

(b) Applicability.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department on or after the date of the enactment of this Act.

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By Mr. REED (for himself, Mr. Enzi, Mr. Johnson, Mr. Warner, Ms. Landrieu, Ms. Collins, Mr. Inouye, and Mr. Roberts):

S. 648. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I am pleased to reintroduce the Pharmacy Education Aid Act along with my colleagues, Senator Enzi, Senator Johnson and others. Last year, the Senate recognized and acted to address the growing, nationwide shortage of pharmacists, by creating a demonstration program under the National Health Service Corps whereby pharmacists agree to serve in rural and medically underserved areas in exchange for partial loan repayment. I commend my colleagues for responding in such a strong, bipartisan way to this critically important health care issue. The bill I am introducing today, the Pharmacy Education Aid Act seeks to build on that bipartisan step while taking a multi-faceted approach to the problem of workforce shortages in the pharmacy sector.

The December 2000 Health Resources and Services Administration, HRSA, report, "The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists" concluded that due to the rapid increase in demand for pharmacists and our limited ability to expand the number pharmacy education programs to train more pharmacists, the shortage was unlikely to abate without significant changes to the current system.

Pharmacists represent the third largest and most trusted health professional group in the United States. In 2000, 190,000 pharmacists were in practice. While this figure is expected to grow to 224,500 by 2010, demand for pharmacists is expected to continue to outpace supply.

These shortages, while particularly acute in rural and medically underserved areas, are felt throughout of health care system. A November 2001 GAO report found that, on average, hospitals report 21 percent of their pharmacist positions are currently unfilled. Vacancy rates are even higher in federal health systems, such as the Department of Veterans Affairs, the Department of Defense and the Indian Health Service.

The Pharmacy Education Act seeks to address these chronic shortfalls in the supply and distribution of pharmacists by building upon Title VII of the Public Health Service Act, with particular emphasis on students with the greatest financial need.

In addition to enhancing students' opportunities to pursue an education in pharmacy, the bill also makes available much needed resources to Colleges of Pharmacy to upgrade and expand facilities and laboratory space as well as to recruit and retain talented faculty to educate future generations of pharmacists.

As Congress works to provide a Medicare prescription drug benefit, the need for more pharmacist involvement in health care decision making, including medication therapy management, formulary development and drug utilization review, will be essential, to its long-term success. We must address the pharmacist shortage now. As such, I look forward to working with my colleagues towards expeditious consideration and passage of this timely and important legislation.

I ask unanimous consent that a letter of support be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

*February 21, 2003.*

Hon. JUDD GREGG, EDWARD KENNEDY, BILLY TAUZIN, JOHN DINGELL, MICHAEL BILIRAKIS, SHERROD BROWN.

The undersigned associations and organizations urge you to ensure Americans continue to have access to comprehensive pharmacy services. During the 107th Congress you recognized how important it is to ensure enough pharmacists are available to care for our nation's citizens, especially the most vulnerable. We were very grateful that the House introduced two bills and the senate passed one bill, all addressing the supply and distribution of pharmacists. We request your support for similar legislation that is soon to be introduced during the 108th Congress. Helping the nation's colleges and schools of pharmacy increase their educational capacity is an important way of assuring access to this critical health care professional.

"The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists," released in December 2000 by the Department of Health and Human Service was just a starting point for raising public awareness of the growing demand for pharmacists. The American Hospital Association released a study in April 2002 that showed vacancy rates for pharmacists in hospitals and health systems exceeded that of nurses. Recent pharmacy workforce reports from North Carolina, Oregon and Washington make it clear that there are imbalances in the supply of pharmacists in rural vs. urban areas. These reports, and others acknowledge that, like the general population, the pharmacist workforce is aging, placing communities at risk of losing access to pharmacy services.

Congress, in some recent Medicare drug benefit proposals, increases the demand for pharmacists by recognizing the benefits they bring to health care delivery. Retrospective drug utilization review, formulary development, medication therapy management; and prescribing protocols are some of the mechanisms included in proposed legislation. All these mechanisms are dependent on or directly involve a pharmacist. A Medicare prescription drug benefit will dramatically increase the number of prescriptions dispensed. As a result, pharmacists will serve an increasingly important role in utilization control and medication therapy management. This will only place additional workforce pressure on a health profession already in high demand.

The President also increases the demand for pharmacists with his proposals to expand access to health care and improve health through health promotion activities. Colleges and schools of pharmacy educate and graduate a health care professional that is finding growing practice opportunities across a wide range of clinical and community settings. Supported by public and private grants and funding, colleges and schools of pharmacy are working with community-level health care providers to improve patient safety, boost immunization rates, increase patient compliance for treatments associated with chronic illness, and through health promotion activities, better the health and well being of our nation.

Increasing the supply of pharmacists is not something that can be accomplished overnight. We know that you face many challenges and competing priorities during the 108th congress. your support and leadership will help meet the demand for the services of an exceptionally knowledgeable health care professional and ensure future access. We recommend you accomplish this by developing and passing legislation that will assist the nations' colleges and schools of pharmacy to increase their educational capacity.

Thank you for your continued support of pharmacy education and the pharmacy profession, and for your efforts to improve the health and well being of all Americans.

Academy of Managed Care Pharmacists (AMCP)

American Association of Colleges of Pharmacy (AACP)

American College of Apothecaries (ACA)

American College of Clinical Pharmacy (ACCP)

American Pharmaceutical Association (APhA)

American Society of Consultant Pharmacists (ASCP)

American Society of Health-Systems Pharmacists (AHSP)

Healthcare Distribution Management Association (HDMA)

References: Oregon Health Workforce Project "Pharmacist Workforce 2002: A Sourcebook," December 2002; UNC Cecil G. Sheps Center for Health Services Research "The Pharmacist Workforce in North Carolina," August 2002; Washington Workforce Training and Education Coordinating Board "Health Care Personnel Shortage: Crisis or Opportunity," 2002; GAO–02–137R "Supply of Health Workers"; Department of Health and Human Services "The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists," December 2000; The American Hospital Association, "In Our Hands: How Hospital Leaders Can Build A Thriving Workforce," April 2002; Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics.

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Mr. ENZI. Mr. President, I rise to speak about a bill to address a significant problem in our Nation's healthcare delivery system—the growing shortage of pharmacists. I am joined by my distinguished colleague from Rhode Island, Senator REED, in the introduction of the Pharmacy Education Aid Act of 2003.

Why is the shortage of pharmacists in our Nation such an important concern, and why is this legislation necessary? It is because pharmacists are playing an increasingly important role in the delivery of quality healthcare, and our academic institutions are currently unable to supply the needed pharmacists. This critical link in our healthcare system is being stretched precariously thin. In December 2000, the Secretary of Health and Human Services, HHS, issued a report which confirmed the shortage of licensed pharmacists in this country.

I am particularly concerned about the shortage of pharmacists in rural and frontier areas like Wyoming. According to the HHS study, "a threat to the rural pharmacists supply has more dire implications since in many cases, the pharmacist may be the only available health professional." We must do more to increase the number of pharmacists serving rural areas.

As the HHS study highlighted, we must take action now to expand the pipeline for licensed pharmacists. The Pharmacy Education Aid Act of 2003 will do so by increasing the likelihood that an individual will pursue an education as a pharmacist, that the pharmacy schools will be able to provide them with a quality education, and that pharmacists will work in facilities having the hardest time recruiting them.

What does the shortage of pharmacists mean to many Americans? It means the closure of local pharmacies. It means a decrease in patient counseling and education. It also means an increase in the potential for medication errors.

What will the Pharmacy Education Aid Act mean to many Americans—particularly those in medically underserved areas? It will mean restoring a critical link in their access to quality pharmacy care. It also will mean better healthcare overall.

Last year, the Senate passed this bill unanimously. I look forward to working with my colleagues this year on the speedy passage of this bill out of the Committee on Health, Education, Labor, and Pensions, and by the Senate.

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By Mrs. FEINSTEIN:

S. 649. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes, to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to fund projects within the Irvine Basin.

This bill will authorize up to $19 million in funds in order to cover up to 25 percent of the costs of constructing three water projects in Southern California. Water is an issue of paramount importance in California, and these projects provide innovative examples of ways that we can improve our water quality and increase our water supply.

The first project, called the Natural Treatment System, will build a network of wetlands to filter surface water and urban runoff in the San Diego Creek Watershed and Upper Newport Bay. Based on the performance of a single constructed wetland in the area, we expect the Natural Treatment System to filter out 126,000 pounds of nitrogen and 21,000 pounds of phosphorus from the watershed each year and reduce levels of harmful bacteria such as fecal coliform by as much as 26 percent.

The second project, the Irvine Desalter, will clean brackish groundwater and provide drinking water for between 40,000 and 50,000 people. By allowing the Irvine Basin to access another water source, the desalter will reduce our dependence on imported water and take considerable pressure off of our other water resources.

The final project will construct a regional brine line to dispose of brine directly into the ocean. Like much of California, the Irvine Ranch Water District is a leader in water reclamation and recycling efforts. Buildup of too much salt in the system can hamper these reclamation efforts. The brine line will allow the District to continue its innovative efforts to ensure that water is used more than once while increasing use of brackish water resources.

These projects shows us how California and the West can improve our water situation. Projects like these show us the way forward. I urge my colleagues to support this bill.

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By Mr. DEWINE (for himself, Mrs. CLINTON, Mr. GREGG, Mr. DODD, and Mr. KENNEDY):

S. 650. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I rise today to talk about a very important subject—one that affects parents, doctors, hospitals, nurses and our children each and every day. The subject that I am talking about is the safety and efficacy of the medicines that doctors give our children when they are sick.

Nearly six years ago, I was astonished to learn that close to 80 percent of drugs on the market were not tested for use in children—yet, doctors were prescribing these drugs to our children. Doctors had no choice but to prescribe these drugs for children if they thought the medicines would be helpful. And, sometimes the medicines did help—sometimes a child's pain was relieved, or a child would be able to breathe easier or digest food better because of the medicines the doctors prescribed them. But, even when the drugs do work, an anxious feeling remains among doctors and parents about whether these medicines are safe for children. How are doctors and parents to know for certain which medicines will work if they haven't been tested for safety and efficacy in children?

There are many examples, of situations where drugs have been misprescribed for children because doctors simply weren't aware of the effects these drugs would have on kids. For example, the drug, Neurontin, which is used to treat chronic pain, was given to children without being properly tested, and doctors eventually learned they were under-dosing children by 50 percent. That means children were suffering from pain because they were being under-dosed. They weren't being given the proper dose of medication to relieve their pain.

Another drug, Lithium, which has been prescribed to treat bipolar disorder since 1940 was never tested for long-term use in children until just a few months ago. This is an example of a drug that doctors have been prescribing "off-label" for years, and only now we are finally getting some evidence of its effect in children. According to doctors, the testing of Lithium revealed important information because children who suffer from bipolar disorder cycle between mania and depression quicker than adults, and they can even have signs of both at the same time. Unlike adults, they don't have periods of normalcy. Doctors now know that Lithium can be used to treat bipolar disorder in children.

Doctors have taken a chance in prescribing medicines for children. Doctors tell parents to cut a pill in half or in quarters so it can be given to a child. Doctors use the best information they have to determine how much or what kind of medicines to give a child. That is all they can do when the medicines children need have not been tested for their use.

Doctors and pediatricians should not be left to guess how much medicine our children should receive. And, parents shouldn't have to feel anxious or question whether the half a pill that's been ground up and put in applesauce will still be effective in treating their child—or whether it's even safe for their child to take.

It's been over a year now since the Senate passed and the President signed into law the Best Pharmaceuticals for Children's Act. As many of my colleagues know, that law has been part of a solution—but just a part of a solution—to address the problem I just mentioned. The law provides a six-month patent extension to pharmaceutical companies in exchange for the testing of medicines in children. And, for as long as the bill has been law, the Food and Drug Administration is reporting its success in ensuring that more medicines are tested for use in children. With the incentive provided by Best Pharmaceuticals, companies are seeing the value of studying their drugs in children and are applying for the patent extension.

But, the Best Pharmaceuticals incentive cannot work alone to ensure that medicines in children do not go untested. The incentive in the Best Act was never intended to work alone. When the Best Act became law, there was already a rule on the books that helped ensure that no medicine used to treat children, including vaccines or other biologics, would go untested. Back in 1997, the Food and Drug Administration proposed what is known today as the Pediatric Rule. The Pediatric Rule allowed FDA to require that the drugs the agency felt are important for children are safe, effective, and properly labeled for children.

Unfortunately, the Pediatric Rule has come under legal challenge, with a District Court ruling just a few months ago stating that FDA lacked the statutory authority to require pediatric studies. This was a troubling step backward for children's health—a troubling step at a time when 75 percent of the medicines on the market still aren't tested and labeled for pediatric use. We've made some improvements from the 80 percent of medicines on the market, but 75 percent is still too much. Without the Pediatric Rule, new medicines and biologics coming onto the market are not required to be tested for use in children. Congress needs to make sure that the FDA continues to have every tool—that includes the market incentives and the pediatric rule—available to them to ensure that drugs for children are tested for safety and efficacy and that they are labeled properly.

Everyday that a drug manufacturer chooses not to participate in the incentive program, the number of medicines that go untested for use in children increases. Everyday that we don't have the Pediatric Rule, we sacrifice our children's safety. Medicines that are used by children should be tested for safety and efficacy. That is why Senators CLINTON, GREGG, DODD, and KENNEDY and I are introducing a bill today—the Pediatric Research Equity Act—that would ensure that the Pediatric Rule continues to work alongside the Best Act, so that children will remain on safe footing when it comes to the testing of the medications they use.

Congress needs to make sure the Pediatric Rule stays in place, because right now, the Pediatric Rule and the Best Act incentive work together to ensure that drugs are tested for use in children. As I said already, the Best Act was never intended to substitute the rule, but rather to reinforce and work with the rule. For example, the Pediatric Rule may be invoked in instances where pediatric information is essential, but the patent exclusivity is no longer available.

The Pediatric Rule also applies to biologics, whereas the Best Pharmaceuticals does not. A significant portion of therapeutics used in children, including many cancer treatments, are biological products (products that include a live agent). Because Best Pharmaceuticals does not apply to biologics, the Pediatric Rule is the only way to ensure pediatric labeling.

Finally, the Best Pharmaceuticals is voluntary. For any number of reasons, including insufficient sales, a manufacturer may choose not to conduct the testing necessary to receive additional exclusivity under the Best Act. But, just because a drug manufacturer chooses not to study the drug in children does not mean that drug is not critical to the proper treatment of our children. Without the Pediatric Rule, there is no way to guarantee that a drug that is used in the pediatric population is tested for children's use.

With the establishment of the Pediatric Rule and the financial incentives of the Best Pharmaceuticals law, there has been a dramatic increase in the number of studies that have been undertaken. Let me quote from the Government's Response to Plaintiff's Notice of Reauthorization of FDA Modernization Act. This is the document that the government filed to defend the lawsuit against the Rule: "These two options [the Best Pharmaceuticals for Children Act and the Pediatric Rule] have resulted in a number of drugs being labeled for use in pediatric populations. As of March 31, 2002, 94 applications containing complete or partial pediatric use information had been submitted to the agency. Of these 94 applications, 45 are attributable to the statutory exclusivity provisions. FDA attributes 48 of the 94 applications to the authority of the pediatric rule alone."

The bill that my colleagues and I are introducing today would help maintain that progress—not erode it. Our bill would provide the FDA with the authority it needs to ensure that the medicines children take are studied for safety and efficacy. And, our bill would give FDA this authority in a way so that it does not conflict with the incentives provided in the Best Pharmaceuticals Act.

Our bill would preserve the waiver and deferral process, so that drug companies can get waivers or deferrals for a range of legitimate reasons. Drug companies could get a waiver or deferral of studies for safety or ethical concerns. A drug company could get a waiver or deferral if the pediatric testing would interfere with the drug's availability for adults.

Ultimately, though, our bill would help make certain that children are no longer a therapeutic afterthought by ensuring that all new drugs are studied for pediatric use at the time a drug comes to market. This would put children on a level playing field with adults for the first time. Our children deserve no less, and I encourage my colleagues to join in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 650

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pediatric Research Equity Act of 2003".

**SEC. 2. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.**

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

**"SEC. 505B. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.**

"(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

"(1) IN GENERAL.—A person that submits an application (or supplement to an application)—

"(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration; or

"(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration;

shall submit with the application the assessments described in paragraph (2).

"(2) ASSESSMENTS.—

"(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations for each age group for which the assessment is required, that are adequate—

"(i) to assess the safety and effectiveness of the drug or the biological product for the claimed indications in all relevant pediatric subpopulations; and

"(ii) to support dosing and administration for each pediatric subpopulation for which the drug or the biological product is safe and effective.

"(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—

"(i) IN GENERAL.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

"(ii) EXTRAPOLATION BETWEEN AGE GROUPS.—A study may not be needed in each pediatric age group if data from 1 age group can be extrapolated to another age group.

"(3) DEFERRAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

"(A) the Secretary finds that—

"(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete;

"(ii) pediatric studies should be delayed until additional safety or effectiveness data have been collected; or

"(iii) there is another appropriate reason for deferral; and

"(B) the applicant submits to the Secretary—

"(i) certification of the grounds for deferring the assessments;

"(ii) a description of the planned or ongoing studies; and

"(iii) evidence that the studies are being conducted or will be conducted with due diligence and at the earliest possible time.

"(4) WAIVERS.—

"(A) FULL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection if the applicant certifies and the Secretary finds that—

"(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients is so small or the patients are geographically dispersed);

"(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

"(iii) the drug or biological product—

"(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

"(II) is not likely to be used in a substantial number of pediatric patients.

"(B) PARTIAL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

"(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

"(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

"(iii) the drug or biological product—

"(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

"(II) is not likely to be used by a substantial number of pediatric patients in that age group; or

"(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

"(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation.

"(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

"(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—

"(1) IN GENERAL.—After providing notice in the form of a letter and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may (by order in the form of a letter) require the holder of an approved application for a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a)(2) if the Secretary finds that—

"(A)(i) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

"(ii) the absence of adequate labeling could pose significant risks to pediatric patients; or

"(B)(i) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; and

"(ii) the absence of adequate labeling could pose significant risks to pediatric patients.

"(2) WAIVERS.—

"(A) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under this subsection if the applicant certifies and the Secretary finds that—

"(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed); or

"(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups.

"(B) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

"(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

"(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

"(iii)(I) the drug or biological product—

"(aa) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

"(bb) is not likely to be used in a substantial number of pediatric patients in that age group; and

"(II) the absence of adequate labeling could not pose significant risks to pediatric patients; or

"(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

"(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation.

"(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

"(3) RELATIONSHIP TO OTHER PEDIATRIC PROVISIONS.—

"(A) NO ASSESSMENT WITHOUT WRITTEN REQUEST.—No assessment may be required under paragraph (1) for a drug subject to an approved application under section 505 unless—

"(i) the Secretary has issued a written request for a related pediatric study under section 505A(c) of this Act or section 409I of the Public Health Service Act (42 U.S.C. 284m);

"(ii)(I) if the request was made under section 505A(c)—

"(aa) the recipient of the written request does not agree to the request; or

"(bb) the Secretary does not receive a response as specified under section 505A(d)(4)(A); or

"(II) if the request was made under section 409I of the Public Health Service Act (42 U.S.C. 284m)—

"(aa) the recipient of the written request does not agree to the request; or

"(bb) the Secretary does not receive a response as specified under section 409I(c)(2) of that Act; and

"(iii)(I) the Secretary certifies under subparagraph (B) that there are insufficient funds under sections 409I and 499 of the Public Health Service Act (42 U.S.C. 284m, 290b) to conduct the study; or

"(II) the Secretary publishes in the Federal Register a certification that certifies that—

"(aa) no contract or grant has been awarded under section 409I or 499 of the Public Health Service Act (42 U.S.C. 284m, 290b); and

"(bb) not less than 270 days have passed since the date of a certification under subparagraph (B) that there are sufficient funds to conduct the study.

"(B) NO AGREEMENT TO REQUEST.—Not later than 60 days after determining that no holder will agree to the written request (including a determination that the Secretary has not received a response specified under section 505A(d) of this Act or section 409I of the Public Health Service Act (42 U.S.C. 284m), the Secretary shall certify whether the Secretary has sufficient funds to conduct the study under section 409I or 499 of the Public Health Service Act (42 U.S.C. 284m, 290b), taking into account the prioritization under section 409I.

"(c) MEANINGFUL THERAPEUTIC BENEFIT.—For the purposes of paragraph (4)(A)(iii)(I) and (4)(B)(iii)(I) of subsection (a) and paragraphs (1)(B)(i) and (2)(B)(iii)(I)(aa) of subsection (b), a drug or biological product shall be considered to represent a meaningful therapeutic benefit over existing therapies if the Secretary estimates that—

"(1) if approved, the drug or biological product would represent a significant improvement in the treatment, diagnosis, or prevention of a disease, compared with marketed products adequately labeled for that use in the relevant pediatric population; or

"(2) the drug or biological product is in a class of products or for an indication for which there is a need for additional options.

"(d) SUBMISSION OF ASSESSMENTS.—If a person fails to submit an assessment described in subsection (a)(2), or a request for approval of a pediatric formulation described in subsection (a) or (b), in accordance with applicable provisions of subsections (a) and (b)—

"(1) the drug or biological product that is the subject of the assessment or request may be considered misbranded and subject to relevant enforcement action (except that the drug or biological product shall not be subject to action under section 303); but

"(2) the failure to submit the assessment or request shall not be the basis for a proceeding—

"(A) to withdraw approval for a drug under section 505(e); or

"(B) to revoke the license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262).

"(e) MEETINGS.—Before and during the investigational process for a new drug or biological product, the Secretary shall meet at appropriate times with the sponsor of the new drug or biological product to discuss—

"(1) information that the sponsor submits on plans and timelines for pediatric studies; or

"(2) any planned request by the sponsor for waiver or deferral of pediatric studies.

"(f) SCOPE OF AUTHORITY.—Nothing in this section provides to the Secretary any authority to require a pediatric assessment of any drug or biological product, or any assessment regarding other populations or uses of a drug or biological product, other than the pediatric assessments described in this section.

"(g) ORPHAN DRUGS.—Unless the Secretary requires otherwise by regulation, this section does not apply to any drug for an indication for which orphan designation has been granted under section 526.".

(b) CONFORMING AMENDMENTS.—

(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—

(A) by striking "and (F)" and inserting "(F)"; and

(B) by striking the period at the end and inserting ", and (G) any assessments required under section 505B.".

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(h)) is amended—

(A) in the subsection heading, by striking "REGULATIONS" and inserting "PEDIATRIC RESEARCH REQUIREMENTS"; and

(B) by striking "pursuant to regulations promulgated by the Secretary" and inserting "by a provision of law (including a regulation) other than this section".

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 262(a)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.".

### SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ABBREVIATED NEW DRUG APPLICATION.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended in subparagraphs (A) and (B) of subsection (b)(2) and subparagraphs (A) and (B) of subsection (c)(2) by striking "505(j)(4)(B)" and inserting "505(j)(5)(B)".

(b) PEDIATRIC ADVISORY COMMITTEE.—

(1) Section 505A(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(i)(2)) is amended by striking "Advisory Subcommittee of the Anti-Infective Drugs" each place it appears.

(2) Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note; Public Law 107–109) is amended—

(A) in the section heading, by striking "PHARMACOLOGY";

(B) in subsection (a), by striking "(42 U.S.C. 217a)," and inserting (42 U.S.C. 217a) or other appropriate authority,";

(C) in subsection (b)—

(i) in paragraph (1), by striking "and in consultation with the Director of the National Institutes of Health"; and

(ii) in paragraph (2), by striking "and 505A" and inserting "505A, and 505B"; and

(D) by striking "pharmacology" each place it appears and inserting "therapeutics".

(3) Section 15(a)(2)(A) of the Best Pharmaceuticals for Children Act (115 Stat. 1419) is amended by striking "Pharmacology".

(4) Section 16(1)(C) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355a note; Public Law 107–109) is amended by striking "Advisory Subcommittee of the Anti-Infective Drugs".

(5) Section 17(b)(1) of the Best Pharmaceuticals for Children Act (21 U.S.C.

355b(b)(1)) is amended in the second sentence by striking "Advisory Subcommittee of the Anti-Infective Drugs".

(6) Paragraphs (8), (9), and (11) of section 409I(c) of the Public Health Service Act (42 U.S.C. 284m(c)) are amended by striking "Advisory Subcommittee of the Anti-Infective Drugs" each place it appears.

**SEC. 4. EFFECTIVE DATE.**

(a) In General.—This Act and the amendments made by this Act take effect October 17, 2002.

(b) No Limitation of Authority.—Neither the lack of guidance or regulations to implement this Act or the amendments made by this Act nor the pendency of the process for issuing guidance or regulations shall limit the authority of the Secretary of Health and Human Services under, or defer any requirement under, this Act or those amendments.

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By Mr. ALLARD:

S. 651. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 651

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Trails System Willing Seller Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) In spite of commendable efforts by State and local governments and private volunteer trail groups to develop, operate, and maintain the national scenic and national historic trails designated by Act of Congress in section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)), the rate of progress towards developing and completing the trails is slower than anticipated.

(2) Nine of the twelve national scenic and historic trails designated between 1978 and 1986 are subject to restrictions totally excluding Federal authority for land acquisition outside the exterior boundaries of any federally administered area.

(3) To complete these nine trails as intended by Congress, acquisition authority to secure necessary rights-of-way and historic sites and segments, limited to acquisition from willing sellers only, and specifically excluding the use of condemnation, should be extended to the Secretary of the Federal department administering these trails.

**SEC. 3. SENSE OF THE CONGRESS REGARDING MULTIJURISDICTIONAL AUTHORITY OVER THE NATIONAL TRAILS SYSTEM.**

It is the sense of the Congress that in order to address the problems involving multi-jurisdictional authority over the National Trails System, the Secretary of the Federal department with jurisdiction over a national scenic or historic trail should—

(1) cooperate with appropriate officials of each State and political subdivisions of each State in which the trail is located and private persons with an interest in the trail to pursue the development of the trail; and

(2) be granted sufficient authority to purchase lands and interests in lands from willing sellers that are critical to the completion of the trail.

**SEC. 4. AUTHORITY TO ACQUIRE LANDS FROM WILLING SELLERS FOR CERTAIN TRAILS OF THE NATIONAL TRAILS SYSTEM ACT.**

(a) Intent.—It is the intent of Congress that lands and interests in lands for the nine components of the National Trails System affected by the amendments made by subsection (b) shall only be acquired by the Federal Government from willing sellers.

(b) Limited Acquisition Authority.—

(1) Oregon National Historic Trail.—Paragraph (3) of section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(2) Mormon Pioneer National Historic Trail.—Paragraph (4) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(3) Continental Divide National Scenic Trail.—Paragraph (5) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(4) Lewis and Clark National Historic Trail.—Paragraph (6) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(5) Iditarod National Historic Trail.—Paragraph (7) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(6) North Country National Scenic Trail.—Paragraph (8) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(7) Ice Age National Scenic Trail.—Paragraph (10) of such section is amended by adding at the end the following new sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner thereof.".

(8) Potomac Heritage National Scenic Trail.—Paragraph (11) of such section is amended in the fourth sentence by inserting before the period the following: "except with the consent of the owner thereof.".

(9) Nez Perce National Historic Trail.—Paragraph (14) of such section is amended in the fourth sentence by inserting before the period the following: "except with the consent of the owner thereof.".

(c) Protection for Willing Sellers.—Section 7 of the National Trails System Act (16 U.S.C. 1246) is amended by adding at the end the following new subsection:

"(l) Protection for Willing Sellers.—If the Federal Government fails to make payment in accordance with a contract for the sale of land or an interest in land for one of the national scenic or historic trails designated by section 5(a), the seller may utilize any of the remedies available to the seller under all applicable law, including electing to void the sale.".

(d) Conforming Amendment.—Section 10(c) of the National Trails System Act (16 U.S.C. 1249(c)) is amended—

(1) by striking paragraph (1); and

(2) by striking "(2) Except" and inserting "Except".

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By Mr. CHAFEE (for himself, Mr. Graham of Florida, Mr. DeWine, Mrs. Feinstein, Mr. Warner, Ms. Cantwell, Mrs. Clinton, Mr. Smith, Mr. Rockefeller, Mr. Bunning, Mrs. Murray, Mr. Kennedy, Ms. Landrieu, Mr. Kerry, and Mrs. Hutchison):

S. 652. A bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; to the Committee on Finance.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senators Bob Graham, DeWine, Feinstein, Warner, Cantwell, Smith, Clinton, Bunning, Rockefeller, Murray, Kennedy, Landrieu, Kerry, and Hutchison in introducing the Access to Hospitals Act of 2003. This legislation will freeze Medicaid Disproportionate Share Hospital, DSH, reductions at Fiscal Year 2002 levels, thereby eliminating the scheduled Fiscal Year 2003 drop-off in Federal Medicaid DSH funding. This bill will also provide a growth rate adjustment to help compensate for the increases in the cost of providing care to the most needy and indigent patients.

This legislation is necessary because the Medicaid DSH provision included in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, BIPA, expired on October 1, 2002. This provision provided crucial, but temporary, relief from the deep reductions in State Medicaid allotments that were contained in the Balanced Budget Act of 1997, BBA. With the BIPA provision, Congress recognized that the funding cuts in the BBA could severely undermine health care safety net services throughout our Nation. These payments help reimburse hospitals' costs of treating Medicaid patients, particularly those with complex medical needs, and make it possible for communities to care for those who lack health coverage. At a time when our Nation's uninsured rate continues to climb above 40 million, it makes little sense to be reducing much needed Medicaid DSH payments to safety net hospitals.

Hospitals in Rhode Island will absorb approximately $400 million in reductions as a result of changes made to the Medicare and Medicaid programs in the BBA. Nine out of fifteen hospitals in my State had operating loses in Fiscal Year 2002. After the BBA was enacted, it was predicted that cuts in Federal Medicare and Medicaid payments would cost hospitals in Rhode Island $220 million over five years; however, this estimate has proven to be about $180 million off the mark. Every other State is experiencing similar problems. According to the American Hospital Association, hospitals lost almost $10 million on Medicaid and uninsured patients in 2000. This translates into an estimated loss of more than $42 million over five years. Clearly, more needs to be done to keep our vulnerable safety net hospitals from continuing on this downward spiral.

This legislation represents a common-sense approach that will help prevent the further weakening of our Nation's safety net hospitals and the long-term viability of our health care system.

I urge my colleagues to join me in supporting this important legislation, and ask unanimous consent that the text of legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 652

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Access to Hospitals Act of 2003".

**SEC. 2. CONTINUATION OF MEDICAID DSH ALLOTMENT ADJUSTMENTS UNDER BIPA 2000.**

(a) In General.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f))—

(1) in paragraph (2)—

(A) in the heading, by striking "THROUGH 2002" and inserting "THROUGH 2000";

(B) by striking "ending with fiscal year 2002" and inserting "ending with fiscal year 2000"; and

(C) in the table in such paragraph, by striking the columns labeled "FY 01" and "FY02";

(2) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (4)"; and

(3) in paragraph (4), as added by section 701(a)(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554)—

(A) by striking "FOR FISCAL YEARS 2001 AND 2002" in the heading;

(B) in subparagraph (A), by striking "Notwithstanding paragraph (2), the" and inserting "The";

(C) in subparagraph (C)—

(i) by striking "No Application" and inserting "Application"; and

(ii) by striking "without regard to" and inserting "taking into account".

(b) Increase in Medicaid DSH Allotment for the District of Columbia.—

(1) In general.—Effective for DSH allotments beginning with fiscal year 2003, the item in the table contained in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r–4(f)(2)) for the District of Columbia for the DSH allotment for FY 00 (fiscal year 2000) is amended by striking "32" and inserting "49".

(2) Construction.—Nothing in paragraph (1) shall be construed as preventing the application of section 1923(f)(4) of the Social Security Act (as amended by subsection (a)) to the District of Columbia for fiscal year 2003 and subsequent fiscal years.

(c) Effective Date.—The amendments made by this section shall apply to DSH allotments for fiscal years beginning with fiscal year 2003.

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By Ms. SNOWE (for herself, Mr. Bingaman, Mr. Bond, and Mr. Hollings):

S. 654. A bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the "Medicare Safety Net Act of 2003." I am particularly pleased to introduce this bill with my good friend and colleague, Senator Bingaman. Last year we worked together on this bill, and I am confident that with the modifications that we made to the legislation, we will be able to get it enacted into law.

This legislation will improve Medicare beneficiaries' access to primary care services and preventative treatments by increasing access to Community Health Centers. Community Health Centers, also known as federally qualified health centers, provide care to more than 1 million medically underserved Medicare beneficiaries. In many cases, Community Health Centers are the only source of primary and preventive services to which Medicare beneficiaries have access. This is especially true for people living in America's rural medically underserved areas.

In Maine, nearly 20 percent of all Community Health Center patients are on Medicare, and this figure is expected to rise dramatically in the coming years as 25 percent of health center patients will be aging into Medicare in the upcoming decades.

Besides primary and preventive care services, Community Health Centers provide other crucial services to seniors and the disabled, including treatment of chronic diseases, like diabetes and hypertension, mental health services and prescribed medications. Community Health Centers also provide transportation services or arrange for transportation that allows seniors to access health care in the absence of public transportation or a personal vehicle. In short, Community Health Centers provide the ease of "one-stop health care shopping," meaning that seniors, instead of moving from location to location to receive comprehensive primary health services, typically can receive all of their essential primary care in one place.

The Medicare Safety Net Access Act makes four changes to the Medicare program to ensure that Community Health Centers can fully participate in the Medicare program and provide seniors with the vital services. Ensuring that Medicare pays its fair share is important to the stability of Community Health Centers. While one in five of all Health Center patients in Maine are Medicare beneficiaries, Medicare represents only 17 percent of total Health Center revenues. For Health Centers to remain a viable part of the health care delivery system, we must make changes.

Because Medicare currently does not reimburse health centers for the full cost of providing many vital services, like mammograms, nutrition assistance, laboratory and x-rays, health centers must utilize federal grant funding intended to serve the uninsured to cover these costs. This bill will require that Medicare, like state Medicaid programs, allow health centers to provide all Medicare-covered ambulatory services to Medicare beneficiaries in their communities.

Further, Community Health Centers face many challenges in their fight to remain in business and serve their communities. In rural communities that have Community Health Centers, the health center physicians often continue treating patients when they enter long-term care facilities, such as a nursing home. And while Congress took steps to ensure that the new SNF prospective payment system did not adversely affect this relationship, it was not successful in identifying all of the services that are provided. This bill will add health centers to the current list of providers that can bill for services provided to patients in a hospital or nursing home.

Given the role that Health Centers play in serving low-income and uninsured members of the community, providers often are willing to establish special arrangements with the Health Centers to provide additional assistance to these clients. An example of this type of arrangement is offering a reduced price for laboratory work for clients of a Community Health Center. However, under Federal anti-kickback laws this and other arrangements could be deemed illegal. Given the importance of developing community support for Health Centers and the need to encourage private-public partnerships to ensure that community financial support exists to care for low-income and uninsured individuals, this bill creates a safe harbor under the anti-kickback statute.

The final step that this legislation takes to improve access to primary and preventative services for Medicare beneficiaries is to ensure that Medicare covers a Community Health Center's cost of providing care to Medicare+Choice beneficiaries. While the federal government requires Medicare, under the traditional fee-for-service program, to reimburse health centers for their cost to deliver care to beneficiaries, the same requirement does not exist for Medicare+Choice plans. This bill would require Medicare, like the Medicaid program, to provide wrap-around payments covering the difference between the amount paid to the health center under the managed care arrangement and the amount the health center would have received under traditional Medicare.

By making these four straightforward changes, we will be able to enhance the care that all Medicare beneficiaries receive, especially those living in underserved communities. And we will ensure that Medicare patients are not diluting federal funding intended to help the 41 million Americans that were uninsured in 2001.

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By Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. SCHUMER, Ms. STABENOW, Mrs. CLINTON, Mr. DURBIN, Ms. LANDRIEU, Mr. HARKIN, Mr. FEINGOLD, Mr. SARBANES, Ms. MIKULSKI, Mrs. FEINSTEIN, and Mrs. BOXER):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, today, Senators MURRAY, CANTWELL, CORZINE, DAYTON, DODD, KERRY, LIEBERMAN, SCHUMER, STABENOW, CLINTON, DURBIN, LANDRIEU, HARKIN, FEINGOLD, SARBANES, MIKULSKI, FEINSTEIN, BOXER and I are re-introducing the Equal Rights Amendment to the Constitution. In doing so, we reaffirm our strong commitment to equal rights for men and women.

Adoption of the ERA is essential to guarantee that the freedoms protected by our Constitution apply equally to men and women. From the beginning of our history as a Nation, women have had to wage long and difficult battles to win the rights that men possess automatically because they are male. In 1920, we amended the Constitution to guarantee women the right to vote, and we must do so again to eliminate discrimination against women. A constitutional amendment is necessary to do so, because existing statutory prohibitions against discrimination have clearly failed to give women the assurance of equality with men.

Despite passage of the Equal Pay Act and the Civil Rights Act in the 1960s, discrimination against women continues to permeate the workforce and the vast majority of areas of the economy. Today, women earn less than 75 cents for each dollar earned by men, and the gap is even greater for women of color. In the year 2000, African American women earned just 64 percent of the earnings of white men, and Hispanic women earned only 52 percent. Women with college and professional degrees have achieved advances in a number of professional and managerial occupations in recent years—yet more than 60 percent of working women are still clustered in a narrow range of traditionally female, traditionally low-paying occupations, and female-headed households continue to dominate the bottom rungs of the economic ladder.

The routine discrimination that so many women so often face proves that there is still a need for the ERA today. A bolder effort is clearly needed to enable Congress and the States to live up to our commitment of full equality. The ERA alone cannot remedy all discrimination, but it will clearly strengthen the ongoing efforts of women across the country to obtain equal treatment.

We know from the failed ratification experiences of the past that achieving the ERA's adoption will not be easy. But its extraordinary significance requires us to continue the battle. I urge my colleagues to approve the ERA in this Congress, and join the battle for ratification in the States. Women have waited long enough for full recognition of their equal rights by the Constitution.

I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 11

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.

"SECTION 3. This article shall take effect two years after the date of ratification.".

* * *

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 92—DESIGNATING SEPTEMBER 17, 2003 AS "CONSTITUTION DAY"

Mr. DEWINE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 92

Whereas the Constitution of the United States of America was signed on September 17, 1787, by 39 delegates from 12 States;

Whereas the Constitution was subsequently ratified by each of the original 13 States;

Whereas the Constitution was drafted in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for the citizens of the United States;

Whereas the Constitution has provided the means and structure for this Nation and its citizens to achieve a level of prosperity, liberty, security, and justice that is unparalleled among nations;

Whereas the Constitution's contributions to the welfare of the human race reach far beyond the borders of the United States;

Whereas the Senate continues to strive to preserve and strengthen the values and rights bestowed by the Constitution upon the United States of America and its citizens;

Whereas the preservation of such values and rights in the hearts and minds of American citizens would be advanced by official recognition of the signing of the Constitution: Now, therefore, be it

*Resolved*, That the Senate:

(1) designates September 17, 2003, as "Constitution Day"; and

(2) calls upon the people of the United States to observe the day with appropriate ceremonies and respect.

* * *

### SENATE RESOLUTION 93—COMMENDING JERI THOMSON FOR HER SERVICE TO THE UNITED STATES SENATE

Mr. DASCHLE (for himself and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas Jeri Thomson was elected the thirtieth Secretary of the Senate on July 12, 2001;

Whereas Jeri Thomson served the Senate during a truly historic time and ensured that the Senate continued its work for the country despite experiencing the longest dislocation in the history of the Senate due to the largest bioterrorism attack in our Nation's history;

Whereas Jeri Thomson's dedicated service enabled the Senate to break ground for a new Capitol Visitor Center, ensuring future generations will continue to have safe access to "The People's House"; and

Whereas, as an elected officer, Jeri Thomson has continuously upheld the highest standards of professionalism and, in the tradition of the Senate, has extended her exemplary service to all Members of the Senate and their families: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends Jeri Thomson for her extraordinary contributions to the Senate and her country; and

(2) expresses its deep appreciation for her continuing service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jeri Thomson.

## SENATE RESOLUTION 94—COMMENDING ALFONSO C. LENHARDT FOR HIS SERVICE TO THE UNITED STATES SENATE

Mr. DASCHLE (for himself and Mr. Frist) submitted the following resolution; which was considered and agreed to:

S. Res. 94

Whereas Alfonso C. Lenhardt ("Al") was elected the thirty-sixth Sergeant at Arms and Doorkeeper for the United States Senate and began his service on September 4, 2001;

Whereas Al served in the Senate during exceptional circumstances, keeping the Senate community safe during the most devastating terrorist attack on American soil and during the largest bioterrorism attack in our Nation's history, and enabling the business of democracy to continue;

Whereas Al demonstrably improved the Senate's security and ensured that the Senate will continue its operations in the event of an emergency; and

Whereas the Senate has been privileged to have the benefit of Al's 32 years of service to the United States Army and his quiet, steady professionalism during the historic 18 months he has served this institution: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the extraordinary contributions of Alfonso C. Lenhardt to the Senate and to his country;

(2) expresses to him its deep appreciation for his faithful and outstanding service; and

(3) extends its very best wishes for his future endeavors.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Alfonso C. Lenhardt.

## AMENDMENTS SUBMITTED & PROPOSED

SA 264. Mr. CONRAD (for himself, Mr. Kennedy, and Mr. Corzine) proposed an amendment to the concurrent resolution S .Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

SA 265. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 266. Mr. CONRAD (for himself, Mr. Daschle, Mr. Feingold, Mr. Kennedy, and Mr. Corzine) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 267. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 268. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 269. Mr. FEINGOLD (for himself, Mr. Chafee, and Mr. Carper) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 270. Mr. FEINGOLD (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 271. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 272. Mrs. BOXER (for herself, Mr. Chafee, Mr. Lieberman, Ms. Snowe, Mr. Kerry, Mr. Feingold, Mr. Daschle, Mr. Lautenberg, Mrs. Murray, Mr. Durbin, Mr. Wyden, Ms. Stabenow , Mr. Harkin, Mr. Kennedy, Mr. Edwards, Mr. Bingaman, Mr. Leahy, Mr. Dayton, and Mr. Reid) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 273. Mr. BIDEN (for himself, Mr. Schumer, Mrs. Clinton, Mr. Kerry, Mr. Rockefeller, Mr. Sarbanes, Mr. Johnson, Mr. Lautenberg, Mr. Dayton, Mr. Lieberman, Mr. Leahy, Mrs. Murray, Mr. Bayh, Mr. Corzine, Mr. Bingaman, Mr. Pryor, Ms. Cantwell, and Mr. Kohl) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 274. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 264.** Mr. CONRAD (for himself, Mr. Kennedy, and Mr. Corzine) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

At the end of subtitle A of title II, insert the following:

**"SEC.—. PROTECTING RESOURCES REQUIRED FOR NATIONAL SECURITY AND ECONOMIC RECOVERY.**

(a) Point of Order.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would increase the deficit in any fiscal year, other than one economic growth and jobs creation measure providing significant economic stimulus in 2003 and 2004 which does not increase the deficit over the time period of fiscal years 2005 through 2013 and spending measures related to national or homeland security, until the President submits to the Congress a detailed report on:

(1) the costs of the initial phase of the conflict, maintaining troops in the region, and reconstruction and rebuilding of Iraq; and

(2) how all of these costs fit within the budget plan as a whole.

(b) Waiver and Appeal.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section."

**SA 265.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $36,559,000,000.

On page 3, line 10, increase the amount by $115,685,000,000.

On page 3, line 11, increase the amount by $97,978,000,000.

On page 3, line 12, increase the amount by $77,675,000,000.

On page 3, line 13, increase the amount by $59,192,000,000.

On page 3, line 14, increase the amount by $56,706,000,000.

On page 3, line 15, increase the amount by $55,640,000,000.

On page 3, line 16, increase the amount by $56,036,000,000.

On page 3, line 17, increase the amount by $185,271,000,000.

On page 3, line 18, increase the amount by $278,611,000,000.

On page 3, line 19, increase the amount by $294,654,000,000.

On page 3, line 23, increase the amount by $36,559,000,000.

On page 4, line 1, increase the amount by $115,685,000,000.

On page 4, line 2, increase the amount by $97,978,000,000.

On page 4, line 3, increase the amount by $77,675,000,000.

On page 4, line 4, increase the amount by $59,192,000,000.

On page 4, line 5, increase the amount by $56,706,000,000.

On page 4, line 6, increase the amount by $55,640,000,000.

On page 4, line 7, increase the amount by $56,036,000,000.

On page 4, line 8, increase the amount by $185,271,000,000.

On page 4, line 9, increase the amount by $278,611,000,000.

On page 4, line 10, increase the amount by $294,654,000,000.

On page 4, line 14, decrease the amount by $4,683,000,000.

On page 4, line 15, decrease the amount by $4,408,000,000.

On page 4, line 16, decrease the amount by $14,365,000,000.

On page 4, line 17, decrease the amount by $20,104,000,000.

On page 4, line 18, decrease the amount by $24,928,000,000.

On page 4, line 19, decrease the amount by $29,406,000,000.

On page 4, line 20, decrease the amount by $34,010,000,000.

On page 4, line 21, decrease the amount by $37,638,000,000.

On page 4, line 22, decrease the amount by $43,991,000,000.

On page 4, line 23, decrease the amount by $58,948,000,000.

On page 4, line 24, decrease the amount by $77,733,000,000.

On page 5, line 4, decrease the amount by $4,683,000,000.

On page 5, line 5, decrease the amount by $4,408,000,000.

On page 5, line 6, decrease the amount by $14,365,000,000.

On page 5, line 7, decrease the amount by $20,104,000,000.

On page 5, line 8, decrease the amount by $24,928,000,000.

On page 5, line 9, decrease the amount by $29,406,000,000.

On page 5, line 10, decrease the amount by $34,010,000,000.

On page 5, line 11, decrease the amount by $37,638,000,000.

On page 5, line 12, decrease the amount by $43,991,000,000.

On page 5, line 13, decrease the amount by $58,948,000,000.

On page 5, line 14, decrease the amount by $77,733,000,000.

On page 5, line 17, increase the amount by $41,242,000,000.

On page 5, line 18, increase the amount by $120,093,000,000.

On page 5, line 19, increase the amount by $112,343,000,000.

On page 5, line 20, increase the amount by $97,779,000,000.

On page 5, line 21, increase the amount by $84,120,000,000.

On page 5, line 22, increase the amount by $86,112,000,000.

On page 5, line 23, increase the amount by $89,650,000,000.

On page 5, line 24, increase the amount by $93,674,000,000.

On page 5, line 25, increase the amount by $229,262,000,000.

On page 6, line 1, increase the amount by $337,559,000,000.

On page 6, line 2, increase the amount by $372,387,000,000.

On page 6, line 5, decrease the amount by $41,242,000,000.

On page 6, line 6, decrease the amount by $161,335,000,000.

On page 6, line 7, decrease the amount by $273,678,000,000.

On page 6, line 8, decrease the amount by $371,458,000,000.

On page 6, line 9, decrease the amount by $455,577,000,000.

On page 6, line 10, decrease the amount by $541,689,000,000.

On page 6, line 11, decrease the amount by $631,339,000,000.

On page 6, line 12, decrease the amount by $725,013,000,000.

On page 6, line 13, decrease the amount by $954,275,000,000.

On page 6, line 14, decrease the amount by $1,291,835,000,000.

On page 6, line 15, decrease the amount by $1,664,222,000,000.

On page 6, line 18, decrease the amount by $41,242,000,000.

On page 6, line 19, decrease the amount by $161,335,000,000.

On page 6, line 20, decrease the amount by $273,678,000,000.

On page 6, line 21, decrease the amount by $371,458,000,000.

On page 6, line 22, decrease the amount by $455,577,000,000.

On page 6, line 23, decrease the amount by $541,689,000,000.

On page 6, line 24, decrease the amount by $631,339,000,000.

On page 6, line 25, decrease the amount by $725,013,000,000.

On page 7, line 1, decrease the amount by $954,275,000,000.

On page 7, line 2, decrease the amount by $1,291,835,000,000.

On page 7, line 3, decrease the amount by $1,664,222,000,000.

On page 30, line 23, decrease the amount by $4,380,000,000.

On page 30, line 24, decrease the amount by $4,380,000,000.

On page 31, line 2, decrease the amount by $1,111,000,000.

On page 31, line 3, decrease the amount by $1,111,000,000.

On page 31, line 6, decrease the amount by $4,586,000,000.

On page 31, line 7, decrease the amount by $4,586,000.

On page 31, line 10, decrease the amount by $4,165,000,000.

On page 31, line 11, decrease the amount by $4,165,000,000.

On page 31, line 14, decrease the amount by $3,833,000,000.

On page 31, line 15, decrease the amount by $3,833,000,000.

On page 31, line 18, decrease the amount by $3,698,000,000.

On page 31, line 19, decrease the amount by $3,698,000,000.

On page 31, line 22, decrease the amount by $3,511,000,000.

On page 31, line 23, decrease the amount by $3,511,000,000.

On page 32, line 2, decrease the amount by $2,192,000,000.

On page 32, line 3, decrease the amount by $2,192,000,000.

On page 40, line 2, decrease the amount by $303,000,000.

On page 40, line 3, decrease the amount by $303,000,000.

On page 40, line 6, decrease the amount by $3,297,000,000.

On page 40, line 7, decrease the amount by $3,297,000,000.

On page 40, line 10, decrease the amount by $9,779,000,000.

On page 40, line 11, decrease the amount by $9,779,000,000.

On page 40, line 14, decrease the amount by $15,939,000,000.

On page 40, line 15, decrease the amount by $15,939,000,000.

On page 40, line 18, decrease the amount by $21,095,000,000.

On page 40, line 19, decrease the amount by $21,095,000,000.

On page 40, line 22, decrease the amount by $25,708,000,000.

On page 40, line 23, decrease the amount by $25,708,000,000.

On page 41, line 2, decrease the amount by $30,499,000,000.

On page 41, line 3, decrease the amount by $30,499,000,000.

On page 41, line 6, decrease the amount by $35,446,000,000.

On page 41, line 7, decrease the amount by $35,446,000,000.

On page 41, line 10, decrease the amount by $43,991,000,000.

On page 41, line 11, decrease the amount by $43,991,000,000.

On page 41, line 14, decrease the amount by $58,948,000,000.

On page 41, line 15, decrease the amount by $58,948,000,000.

On page 41, line 18, decrease the amount by $77,733,000,000.

On page 41, line 19, decrease the amount by $77,733,000,000.

On page 45, line 24, decrease the amount by $698,294,000,000.

On page 46, line 1, decrease the amount by $27,476,000,000.

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**SA. 266.** Mr. CONRAD (for himself, Mr. DASCHLE, Mr. FEINGOLD, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3 line 9, decrease the amount by $50,472,000,000.

On page 3 line 10, increase the amount by $118,203,000,000.

On page 3 line 11, increase the amount by $103,103,000,000.

On page 3 line 12, increase the amount by $67,667,000,000.

On page 3 line 13, increase the amount by $48,733,000,000.

On page 3 line 14, increase the amount by $45,877,000,000.

On page 3 line 15, increase the amount by $46,217,000,000.

On page 3 line 16, increase the amount by $51,107,000,000.

On page 3 line 17, increase the amount by $185,171,000,000.

On page 3 line 18, increase the amount by $279,411,000,000.

On page 3 line 19, increase the amount by $296,254,000,000.

On page 3 line 23, decrease the amount by $50,472,000,000.

On page 4 line 1, increase the amount by $118,203,000,000.

On page 4 line 2, increase the amount by $103,103,000,000.

On page 4 line 3, increase the amount by $67,667,000,000.

On page 4 line 4, increase the amount by $48,733,000,000.

On page 4 line 5, increase the amount by $45,877,000,000.

On page 4 line 6, increase the amount by $46,217,000,000.

On page 4 line 7, increase the amount by $51,107,000,000.

On page 4 line 8, increase the amount by $185,171,000,000.

On page 4 line 9, increase the amount by $279,411,000,000.

On page 4 line 10, increase the amount by $296,254,000,000.

On page 4 line 14, increase the amount by $373,000,000.

On page 4 line 15, decrease the amount by $681,000,000.

On page 4 line 16, decrease the amount by $5,789,000,000.

On page 4 line 17, decrease the amount by $10,895,000,000.

On page 4 line 18, decrease the amount by $14,956,000,000.

On page 4 line 19, decrease the amount by $18,291,000,000.

On page 4 line 20, decrease the amount by $21,806,000,000.

On page 4 line 21, decrease the amount by $25,743,000,000.

On page 4 line 22, decrease the amount by $33,540,000,000.

On page 4 line 23, decrease the amount by $59,747,000,000.

On page 4 line 24, decrease the amount by $77,943,000,000.

On page 5 line 4, increase the amount by $373,000,000.

On page 5 line 5, decrease the amount by $681,000,000.

On page 5 line 6, decrease the amount by $5,789,000,000.

On page 5 line 7, decrease the amount by $10,895,000,000.

On page 5 line 8, decrease the amount by $14,956,000,000.

On page 5 line 9, decrease the amount by $18,291,000,000.

On page 5 line 10, decrease the amount by $21,806,000,000.

On page 5 line 11, decrease the amount by $25,743,000,000.

On page 5 line 12, decrease the amount by $33,540,000,000.

On page 5 line 13, decrease the amount by $59,747,000,000.

On page 5 line 14, decrease the amount by $77,943,000,000.

On page 5 line 17, decrease the amount by $50,845,000,000.

On page 5 line 18, increase the amount by $118,884,000,000.

On page 5 line 19, increase the amount by $108,892,000,000.

On page 5 line 20, increase the amount by $78,562,000,000.

On page 5 line 21, increase the amount by $63,689,000,000.

On page 5 line 22, increase the amount by $64,168,000,000.

On page 5 line 23, increase the amount by $68,023,000,000.

On page 5 line 24, increase the amount by $76,850,000,000.

On page 5 line 25, increase the amount by $218,711,000,000.

On page 6 line 1, increase the amount by $339,158,000,000.

On page 6 line 2, increase the amount by $374,197,000,000.

On page 6 line 5, increase the amount by $50,845,000,000.

On page 6 line 6, decrease the amount by $68,038,000,000.

On page 6 line 7, decrease the amount by $176,931,000,000.

On page 6 line 8, decrease the amount by $255,492,000,000.

On page 6 line 9, decrease the amount by $319,181,000,000.

On page 6 line 10, decrease the amount by $383,350,000,000.

On page 6 line 11, decrease the amount by $451,373,000,000.

On page 6 line 12, decrease the amount by $528,223,000,000.

On page 6 line 13, decrease the amount by $746,934,000,000.

On page 6 line 14, decrease the amount by $1,086,092,000,000.

On page 6 line 15, decrease the amount by $1,460,289,000,000.

On page 6 line 18, increase the amount by $50,845,000,000.

On page 6 line 19, decrease the amount by $68,038,000,000.

On page 6 line 20, decrease the amount by $176,931,000,000.

On page 6 line 21, decrease the amount by $255,492,000,000.

On page 6 line 22, decrease the amount by $319,181,000,000.

On page 6 line 23, decrease the amount by $383,350,000,000.

On page 6 line 24, decrease the amount by $451,373,000,000.

On page 6 line 25, decrease the amount by $528,223,000,000.

On page 7 line 1, decrease the amount by $746,934,000,000.

On page 7 line 2, decrease the amount by $1,086,092,000,000.

On page 7 line 3, decrease the amount by $1,460,289,000,000.

On page 32 line 6, increase the amount by $26,000,000.

On page 32 line 7, increase the amount by $26,000,000.

On page 32 line 10, decrease the amount by $11,458,000,000.

On page 32 line 11, decrease the amount by $11,458,000,000.

On page 32 line 14, decrease the amount by $10,901,000,000.

On page 32 line 15, decrease the amount by $10,901,000,000.

On page 40 line 2, increase the amount by $373,000,000.

On page 40 line 3, increase the amount by $373,000,000.

On page 40 line 6, decrease the amount by $681,000,000.

On page 40 line 7, decrease the amount by $681,000,000.

On page 40 line 10, decrease the amount by $5,789,000,000.

On page 40 line 11, decrease the amount by $5,789,000,000.

On page 40 line 14, decrease the amount by $10,895,000,000.

On page 40 line 15, decrease the amount by $10,895,000,000.

On page 40 line 18, decrease the amount by $14,956,000,000.

On page 40 line 19, decrease the amount by $14,956,000,000.

On page 40 line 22, decrease the amount by $18,291,000,000.

On page 40 line 23, decrease the amount by $18,291,000,000.

On page 41 line 2, decrease the amount by $21,806,000,000.

On page 41 line 3, decrease the amount by $21,806,000,000.

On page 41 line 6, decrease the amount by $25,743,000,000.

On page 41 line 7, decrease the amount by $25,743,000,000.

On page 41 line 10, decrease the amount by $33,566,000,000.

On page 41 line 11, decrease the amount by $33,566,000,000.

On page 41 line 4, decrease the amount by $48,289,000,000.

On page 41 line 15, decrease the amount by $48,289,000,000.

On page 41 line 18, decrease the amount by $67,042,000,000.

On page 41 line 19, decrease the amount by $67,042,000,000.

Strike all from line 20 on page 45 through line 2 on page 46.

At the appropriate place, insert the following:

"SEC. XXX. RESERVE FUND TO STRENGTHEN SOCIAL SECURITY.—If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would strengthen Social Security and extend the solvency of the Social Security Trust Funds, the Chairman of the Senate Committee on the Budget may revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution by up to $1,214,000,000,000 in budget authority and outlays for the total of fiscal years 2003 through 2013.

**SA 267.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. 308. FUSION ENERGY RESEARCH.**

(a) FINDINGS.—The Senate finds that—

(1) fusion energy is capable of producing clean, safe, and inexpensive energy;

(2) in January 2003, the President announced an International Thermonuclear Experimental Reactor Initiative to promote the advancement of fusion science;

(3) the contributions of American universities and laboratories to the Department of Energy's Fusion Energy Sciences Program are crucial to the success of the Nation's role in that initiative; and

(4) a letter from the Fusion Energy Sciences Advisory Committee to the Department of Energy referred to the Administration's 2004 budget cuts as "alarming" and "devastating" to the success of that program at Princeton University.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the funding levels in this resolution assume that funding for the Fusion Energy Sciences Program will be increased by $78,000,000, to the authorized level of $335,000,000.

**SA 268.** Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. 308. SOCIAL SECURITY RESTRUCTURING.**

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security "lockbox" would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) Sense of the Senate.—It is the sense of the Senate that the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system.

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**SA 269.** Mr. FEINGOLD (for himself, Mr. Chafee, and Mr. Carper) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 57, lines 3 through 5, strike "as adjusted for any changes in revenues or direct spending assumed by such resolution" and insert "based on laws enacted on the date of adoption of that resolution".

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**SA 270.** Mr. FEINGOLD (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place:

(a) Federal Revenues.—

(1) On page 3, line 10, increase the amount by $10 billion;

(2) On page 3, line 11, increase the amount by $10 billion;

(3) On page 3, line 12, increase the amount by $10 billion;

(4) On page 3, line 13, increase the amount by $10 billion;

(5) On page 3, line 14, increase the amount by $10 billion;

(6) On page 3, line 15, increase the amount by $10 billion;

(7) On page 3, line 16, increase the amount by $10 billion;

(8) On page 3, line 17, increase the amount by $10 billion;

(9) On page 3, line 18, increase the amount by $10 billion; and

(10) On page 3, line 19, increase the amount by $10 billion.

(b) Amounts by Which Revenues Should Be Changed.—

(1) On page 4, line 1, increase the amount by $10 billion;

(2) On page 4, line 2, line 2, increase the amount by $10 billion;

(3) On page 4, line 3, increase the amount by $10 billion;

(4) On page 4, line 4, increase the amount by $10 billion;

(5) On page 4, line 5, increase the amount by $10 billion;

(6) On page 4, line 6, increase the amount by $10 billion;

(7) On page 4, line 7, increase the amount by $10 billion;

(8) On page 4, line 8, increase the amount by $10 billion;

(9) On page 4, line 9, increase the amount by $10 billion; and

(10) On page 4, line 10, increase the amount by $10 billion.

(c) New Budget Authority.—

(1) On page 4, line 15, decrease the amount by $181,000,000;

(2) On page 4, line 16, decrease the amount by $713,000,000;

(3) On page 4, line 17, decrease the amount by $1,329,000,000;

(4) On page 4, line 18, decrease the amount by $1,973,000,000;

(5) On page 4, line 19, decrease the amount by $2,627,000,000;

(6) On page 4, line 20, decrease the amount by $3,320,000,000;

(7) On page 4, line 21, decrease the amount by $4,052,000,000;

(8) On page 4, line 22, decrease the amount by $4,816,000,000;

(9) On page 4, line 23, decrease the amount by $5,619,000,000; and

(10) On page 4, line 24, decrease the amount by $6,465,000,000.

(d) Budget Outlays.—

(1) On page 5, line 5, decrease the amount by $181,000,000;

(2) On page 5, line 6, decrease the amount by $713,000,000;

(3) On page 5, line 7, decrease the amount by $1,329,000,000;

(4) On page 5, line 8, decrease the amount by $1,973,000,000;

(5) On page 5, line 9, decrease the amount by $2,627,000,000;

(6) On page 5, line 10, decrease the amount by $3,320,000,000;

(7) On page 5, line 11, decrease the amount by $4,052,000,000;

(8) On page 5, line 12, decrease the amount by $4,816,000,000;

(9) On page 5, line 13, decrease the amount by $5,619,000,000; and

(10) On page 5, line 14, decrease the amount by $6,465,000,000;

(e) Deficits.—

(1) On page 5, line 18, increase the amount by $10,181,000,000;

(2) On page 5, line 19, increase the amount by $10,713,000,000;

(3) On page 5, line 20, increase the amount by $11,329,000,000;

(4) On page 5, line 21, increase the amount by $11,973,000,000;

(5) On page 5, line 22, increase the amount by $12,627,000,000;

(6) On page 5, line 23, increase the amount by $13,320,000,000;

(7) On page 5, line 24, increase the amount by $14,052,000,000;

(8) On page 5, line 25, increase the amount by $14,816,000,000;

(9) On page 6, line 1, increase the amount by $15,619,000,000;

(10) On page 6, line 2, increase the amount by $16,465,000,000;

(f) Public Debt.—

(1) On page 6, line 6, decrease the amount by $10,181,000,000;

(2) On page 6, line 7, decrease the amount by $20,894,000,000;

(3) On page 6, line 8, decrease the amount by $32,223,000,000;

(4) On page 6, line 9, decrease the amount by $44,196,000,000;

(5) On page 6, line 10, decrease the amount by $56,823,000,000;

(6) On page 6, line 11, decrease the amount by $70,143,000,000;

(7) On page 6, line 12, decrease the amount by $84,195,000,000;

(8) On page 6, line 13, decrease the amount by $99,011,000,000;

(9) On page 6, line 14, decrease the amount by $114,630,000,000; and

(10) On page 6, line 15, decrease the amount by $131,095,000,000.

(g) Debt Held by the Public.—

(1) On page 6, line 19, decrease the amount by $10,181,000,000;

(2) On page 6, line 20, decrease the amount by $20,894,000,000;

(3) On page 6, line 21, decrease the amount by $32,223,000,000;

(4) On page 6, line 22, decrease the amount by $44,196,000,000;

(5) On page 6, line 23, decrease the amount by $56,823,000,000;

(6) On page 6, line 24, decrease the amount by $70,143,000,000;

(7) On page 7, line 25, decrease the amount by $84,195,000,000;

(8) On page 7, line 1, decrease the amount by $99,011,000,000;

(9) On page 7, line 2, decrease the amount by $114,630,000,000; and

(10) On page 7, line 3, decrease the amount by $131,095,000,000;

(h) Net Interest.—

(1) On page 40, line 6, decrease the amount by $181,000,000;

(2) On page 40, line 7, decrease the amount by $181,000,000;

(3) On page 40, line 10, decrease the amount by $713,000,000;

(4) On page 40, line 11, decrease the amount by $713,000,000;

(5) On page 40, line 14, decrease the amount by $1,329,000,000

(6) On page 40, line 15, decrease the amount by $1,329,000,000;

(7) On page 40, line 18, decrease the amount by $1,973,000,000;

(8) On page 40, line 19, decrease the amount by $1,973,000,000;

(9) On page 40, line 22, decrease the amount by $2,627,000,000;

(10) On page 40, line 23, decrease the amount by $2,627,000,000;

(11) On page 41, line 2, decrease the amount by $3,320,000,000;

(12) On page 41, line 3, decrease the amount by $3,320,000,000;

(13) On page 41, line 6, decrease the amount by $4,052,000,000;

(14) On page 41, line 7, decrease the amount by $4,052,000,000;

(15) On page 41, line 10, decrease the amount by $4,816,000,000;

(16) On page 41, line 11, decrease the amount by $4,816,000,000;

(17) On page 41, line 14, decrease the amount by $5,619,000,000;

(18) On page 41, line 15, decrease the amount by $5,619,000,000;

(19) On page 41, line 18, decrease the amount by $6,465,000,000; and

(20) On page 41, line 19, decrease the amount by $6,465,000,000.

(i) Reconsiliation in the Senate.—On page 45, line 24, decrease the amount by $100 billion.

(j) Reserve Fund.—At the appropriate place, insert the following:

**SEC. . RESERVE FUND FOR POSSIBLE MILITARY ACTION AND RECONSTRUCTION IN IRAQ.**

(a) In General.—Upon the favorable reporting of legislation by the Committee on Appropriations of the Senate making discretionary appropriations in excess of the levels assumed in this resolution for expenses for possible military action and reconstruction in Iraq in fiscal years 2003 through 2013, the Committee on the Budget of the Senate may, in consultation with the Chairman and Ranking Member of the appropriate committee, revise the level of total new budget authority and outlays, the functional totals, allocations, discretionary spending limits, and levels of deficits and debt in this resolution by up to $100 billion in budget authority and outlays.

(b) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(c) Effect of Changed Allocations and Aggregates.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(d) Budget Committee Determinations.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate; and

(2) the Chairman of that Committee may make any other necessary adjustments to such levels to carry out this resolution.

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**SA 271.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. 308. FIREARMS AND TERRORISM.**

(a) Finding.—On January 17, 2003, at his confirmation hearing to be Secretary of Homeland Security, Tom Ridge stated, "[W]hen anyone uses a firearm, whether it's the kind of terrorism that we are trying to combat with Al Qaeda and these non-state terrorists, or as a former district attorney involved in the conviction of an individual who used firearms against innocent citizens, regardless of how we define terrorism, that individual and that family felt that they were victims of a terrorist act. Brandishing a firearm in front of anybody under any set of circumstances is a terrorist act and needs to be dealt with.".

(b) Sense of the Senate.—It is the sense of the Senate that the statement of Tom Ridge under subsection (a) accurately describes the link between the use of firearms and acts of terrorism.

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**SA 272.** Mrs. BOXER (for herself, Mr. CHAFEE, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, Mr. FEINGOLD, Mr. DASCHLE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. DURBIN, Mr. WYDEN, Ms. STABENOW, Mr. HARKIN, Mr. KENNEDY, Mr. EDWARDS, Mr. BINGAMAN, Mr. LEAHY, Mr. DAYTON, and Mr. REID) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 45, beginning on line 13, strike subsection (a) (the reconciliation instruction to the Committee on Energy and Natural Resources).

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**SA 273.** Mr. BIDEN (for himself, Mr. SCHUMER, Mrs. CLINTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mr. DAYTON, Mr. LIEBERMAN, Mr. LEAHY, Mrs. MURRAY, Mr. BAYH, Mr. CORZINE, Mr. BINGAMAN, Mr. PRYOR, Ms. CANTWELL, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table as follows:

*Viz:*

On page 3, line 10, increase the amount by $240,000,000.

On page 3, line 11, increase the amount by $500,000,000.

On page 3, line 12, increase the amount by $500,000,000.

On page 3, line 13, increase the amount by $700,000,000.

On page 4, line 1, increase the amount by $240,000,000.

On page 4, line 2, increase the amount by $560,000,000.

On page 4, line 3, increase the amount by $500,000,000.

On page 4, line 4, increase the amount by $700,000,000.

On page 4, line 15, increase the amount by $988,000,000.

On page 4, line 16, decrease the amount by $13,000,000.

On page 4, line 17, decrease the amount by $28,000,000.

On page 4, line 18, decrease the amount by $46,000,000.

On page 4, line 19, decrease the amount by $46,000,000.

On page 4, line 20, decrease the amount by $36,000,000.

On page 4, line 21, decrease the amount by $38,000,000.

On page 4, line 22, decrease the amount by $41,000,000.

On page 4, line 23, decrease the amount by $43,000,000.

On page 4, line 24, decrease the amount by $45,000,000.

On page 5, line 5, increase the amount by $118,000,000.

On page 5, line 6, increase the amount by $267,000,000.

On page 5, line 7, increase the amount by $222,000,000.

On page 5, line 8, increase the amount by $304,000,000.

On page 5, line 9, increase the amount by $410,000,000.

On page 5, line 10, decrease the amount by $36,000,000.

On page 5, line 11, decrease the amount by $38,000,000.

On page 5, line 12, decrease the amount by $41,000,000.

On page 5, line 13, decrease the amount by $43,000,000.

On page 5, line 14, decrease the amount by $45,000,000.

On page 5, line 18, decrease the amount by $122,000,000.

On page 5, line 19, decrease the amount by $293,000,000.

On page 5, line 20, decrease the amount by $278,000,000.

On page 5, line 21, decrease the amount by $396,000,000.

On page 5, line 22, increase the amount by $410,000,000.

On page 5, line 23, decrease the amount by $36,000,000.

On page 5, line 24, decrease the amount by $38,000,000.

On page 5, line 25, decrease the amount by $41,000,000.

On page 6, line 1, decrease the amount by $43,000,000.

On page 6, line 2, decrease the amount by $45,000,000.

On page 6, line 6, decrease the amount by $122,000,000.

On page 6, line 7, decrease the amount by $415,000,000.

On page 6, line 8, decrease the amount by $693,000,000.

On page 6, line 8, decrease the amount by $1,089,000,000.

On page 6, line 10, decrease the amount by $679,000,000.

On page 6, line 11, decrease the amount by $716,000,000.

On page 6, line 12, decrease the amount by $754,000,000.

On page 6, line 13, decrease the amount by $795,000,000.

On page 6, line 14, decrease the amount by $838,000,000.

On page 6, line 15, decrease the amount by $883,000,000.

On page 6, line 19, decrease the amount by $122,000,000.

On page 6, line 20, decrease the amount by $415,000,000.

On page 6, line 21, decrease the amount by $693,000,000.

On page 6, line 22, decrease the amount by $1,089,000,000.

On page 6, line 23, decrease the amount by $679,000,000.

On page 6, line 24, decrease the amount by $716,000,000.

On page 6, line 25, decrease the amount by $754,000,000.

On page 7, line 1, decrease the amount by $795,000,000.

On page 7, line 2, decrease the amount by $838,000,000.

On page 7, line 3, decrease the amount by $883,000,000.

On page 36, line 15, increase the amount by $1,000,000,000.

On page 36, line 16, increase the amount by $120,000,000.

On page 36, line 20, increase the amount by $280,000,000.

On page 36, line 24, increase the amount by $250,000,000.

On page 37, line 3, increase the amount by $350,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $13,000,000.

On page 40, line 11, decrease the amount by $13,000,000.

On page 40, line 14, decrease the amount by $28,000,000.

On page 40, line 15, decrease the amount by $28,000,000.

On page 40, line 18, decrease the amount by $46,000,000.

On page 40, line 19, decrease the amount by $46,000,000.

On page 40, line 22, decrease the amount by $46,000,000.

On page 40, line 23, decrease the amount by $46,000,000.

On page 41, line 2, decrease the amount by $36,000,000.

On page 41, line 3, decrease the amount by $36,000,000.

On page 41, line 6, decrease the amount by $38,000,000.

On page 41, line 7, decrease the amount by $38,000,000.

On page 41, line 10, decrease the amount by $41,000,000.

On page 41, line 11, decrease the amount by $41,000,000.

On page 41, line 14, decrease the amount by $43,000,000.

On page 41, line 15, decrease the amount by $43,000,000.

On page 41, line 18, decrease the amount by $45,000,000.

On page 41, line 19, decrease the amount by $45,000,000.

On page 45, line 24, decrease the amount by $2,000,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $120,000,000.

On page 47, line 15, increase the amount by $280,000,000.

On page 79, after line 22, add the following:

### SEC. 308. FUNDING FOR DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) State and local law enforcement officers provide essential services that preserve and protect our freedom and safety;

(2) with the support of the Community Oriented Policing Services program (referred to in this section as the "COPS program"), State and local law enforcement officers have succeeded in dramatically reducing violent crime;

(3) the COPS program is the only program in the Federal government that provides homeland security resources directly to law enforcement first responders;

(4) on July 15, 2002, the Attorney General stated, "Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates. COPS provides resources that reflect our national priority of terrorism prevention.";

(5) On February 26, 2002, the Attorney General stated, "The COPS program has been a miraculous sort of success. It's one of those things that Congress hopes will happen when it sets up a program.";

(6) the Federal Bureau of Investigation's Assistant Director for the Office of Law Enforcement Coordination has stated, "The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners.";

(7) as a result of the COPS program, State and local law enforcement agencies have received funds for more than 117,000 officers, 87,300 of whom are on the beat, fighting crime, and improving the quality of life in our neighborhoods and schools;

(8) the COPS program has assisted in advancing community policing nationwide;

(9) 86 percent of the Nation is served by a law enforcement agency that has full-time officers engaged in community policing activities;

(10) the continuation and full funding of the COPS program through fiscal year 2009 is supported by several major law enforcement organizations, including—

(A) the International Association of Chiefs of Police;

(B) the International Brotherhood of Police Officers;

(C) the Fraternal Order of Police;

(D) the National Sheriffs' Association;

(E) the National Troopers Coalition;

(F) the Federal Law Enforcement Officers Association;

(G) the National Association of Police Organizations;

(H) the National Organization of Black Law Enforcement Executives;

(I) the Police Executive Research Forum; and

(J) the Major Cities Chiefs;

(11) several studies have concluded that the implementation of community policing as a law enforcement strategy is an important factor in the reduction of crime in our communities;

(12) Congress appropriated $1,050,000,000 for the COPS program for fiscal year 2002 and $928,900,000 for fiscal 2003; and

(13) the President requested $164,000,000 for the COPS program for fiscal year 2004, $886,000,000 less than the amount appropriated for fiscal year 2002.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that an increase of $1,000,000,000 for fiscal year 2004 for the Department of Justice's community oriented policing program will be provided without reduction and consistent with previous appropriated and authorized levels.

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**SA. 274.** Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

### SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security "lockbox" would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9.percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must preserve Social Security's disability and survivors insurance programs;

(C) must not allow the government to invest directly the Social Security trust funds in the stock market;

(D) must not raise Social Security payroll tax rates;

(E) must reduce the pressure on future taxpayers and on other budgetary priorities;

(F) must provide competitive rates of return on Social Security contributions; and

(G) must preserve and strengthen the safety net for vulnerable populations.

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## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on March 20, 2003, in SR–328A at 10:30 a.m. The purpose of this hearing will be to consider the nomination of Vernon Bernard Parker to be Assistant Secretary of Agriculture.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the hearing before the Subcommittee on National Parks of the Committee on Energy and Natural Resources scheduled for March 25 has been modified to include additional agenda items. In addition to the original intent of the hearing, the Subcommittee will receive testimony on S. 634, a bill to amend the National Trails System Act to direct the Secretary of the Interior (Secretary) to study the feasibility of designating the Trail of the Ancients as a national historic trail, and S. 635, a bill to amend the National Trails System Act to direct the Secretary to update the feasibility and suitability studies of four national historic trails, and for other purposes.

The hearing will take place on March 25, 2003, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

### SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 25, at 10:00 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 520, a bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and S. 625 a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, and for other purposes. (Contact: Shelly Randel 202–224–7933 or Jared Stubbs at 202–224–7556).

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 27, at 9:30 a.m. in Room SD–106 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on various electricity proposals including, but not limited to, S. 475, the Electric Transmission and Reliability Enhancement Act of 2003.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on March 26, 2003, in SR–328A at 10 a.m. The purpose of this hearing will be to review the reauthorization of child nutrition programs.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 18, 2003, at 9:30 a.m., in open session to receive testimony on ballistic missile defense in review of the Defense Authorization Request for Fiscal Year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 18, 2003, at 10 a.m., to conduct a hearing on "Proposals To Regulate Illegal Internet Gambling."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 18, 2003, at 9:30 a.m., to hold a hearing on "Diplomacy and the War on Terrorism."

Agenda

*Witnesses*

Panel 1: The Honorable Marc Grossman, Undersecretary for Political Affairs, Department of State, Washington, DC, and The Honorable Grant Green, Undersecretary for Management, Department of State, Washington, DC.

Panel 2: The Honorable J. Cofer Black, Coordinator for Counterterrorism, Department of State, Washington, DC; Mr. Jon Pistole, Deputy Assistance Director of the Counter Intelligence Unit, Federal Bureau of Investigation, Washington, DC; and Juan C. Zarate, Esq., Deputy Assistant Secretary, Executive Office for Terrorist Financing and Financial Crimes, Department of the Treasury, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 18, 2003, at 4 p.m., to hold a hearing on the current hostage situation in Colombia.

Briefer: The Honorable Marc Grossman, Undersecretary for Political Affairs, Department of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled "Small Business Continue to Lose Federal Jobs by the Bundle" and other matters on Tuesday, March 18, 2003, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, March 18, at 11 a.m. to conduct a hearing on the proposed 2004 Fish and Wildlife Service budget. The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it so ordered.

## PRIVILEGE OF THE FLOOR

Mr. CONRAD. Mr. President, I ask unanimous consent that Alisa Blum, Renee Johnson, Mark Kirbabas, Rhonda Sinkfield, Tyler Garrett, Marques Matthews, and Shawn White, all individuals from the Finance Committee staff, be granted the privilege of the floor during the duration of the debate on the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COLUMBIA ORBITER MEMORIAL ACT

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 628 which was introduced by Senator STEVENS and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 628) to require construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

There being no objection, the Senate proceeded to consider the bill.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 628) was read the third time and passed, as follows:

S. 628

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Columbia Orbiter Memorial Act".

**SEC. 2. CONSTRUCTION OF MEMORIAL TO CREW OF COLUMBIA ORBITER AT ARLINGTON NATIONAL CEMETERY.**

(a) CONSTRUCTION REQUIRED.—The Secretary of the Army shall, in consultation with the Administrator of the National Aeronautics and Space Administration, construct at an appropriate place in Arlington National Cemetery, Virginia, a memorial marker honoring the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107.

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by title II of the Department of Defense Appropriations Act, 2003 (Public Law 107-248) under the heading "OPERATION AND MAINTENANCE, ARMY", $500,000 shall be available for the construction of the memorial marker required by subsection (a).

**SEC. 3. DONATIONS FOR MEMORIAL FOR CREW OF COLUMBIA ORBITER.**

(a) AUTHORITY TO ACCEPT DONATIONS.—The Administrator of the National Aeronautics and Space Administration may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the purpose of an appropriate memorial or monument to the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107, whether such memorial or monument is constructed by the Administrator or is the memorial marker required by section 2.

(b) TRANSFER.—(1) The Administrator may transfer to the Secretary of the Army any services, money, or property accepted by the Administrator under subsection (a) for the purpose of the construction of the memorial marker required by section 2.

(2) Any moneys transferred to the Secretary under paragraph (1) shall be merged with amounts in the account referred to in subsection (b) of section 2, and shall be available for the purpose referred to in that subsection.

(c) EXPIRATION OF AUTHORITY.—The authority of the Administrator to accept gifts and donations under subsection (a) shall expire five years after the date of the enactment of this Act.

## COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of House Concurrent Resolution 40 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 40) permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 40) was agreed to.

## COMMENDING JERI THOMSON

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 93 submitted earlier today by Senators DASCHLE and FRIST.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 93) commending Jeri Thomson for her service to the U.S. Senate.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 93) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 93

Whereas Jeri Thomson was elected the thirtieth Secretary of the Senate on July 12, 2001;

Whereas Jeri Thomson served the Senate during a truly historic time and ensured that the Senate continued its work for the country despite experiencing the longest dislocation in the history of the Senate due to the largest bioterrorism attack in our Nation's history;

Whereas Jeri Thomson's dedicated service enabled the Senate to break ground for a new Capitol Visitor Center, ensuring future generations will continue to have safe access to "The People's House"; and

Whereas, as an elected officer, Jeri Thomson has continuously upheld the highest standards of professionalism and, in the tradition of the Senate, has extended her exemplary service to all Members of the Senate and their families: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends Jeri Thomson for her extraordinary contributions to the Senate and her country; and

(2) expresses its deep appreciation for her continuing service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jeri Thomson.

## COMMENDING ALFONSO C. LENHARDT

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 94, submitted earlier today by Senators DASCHLE and FRIST.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 94) commending Alfonso C. Lenhardt for his service to the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 94) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 94

Whereas Alfonso C. Lenhardt ("Al") was elected the thirty-sixth Sergeant at Arms and Doorkeeper for the United States Senate and began his service on September 4, 2001;

Whereas Al served in the Senate during exceptional circumstances, keeping the Senate community safe during the most devastating terrorist attack on American soil and during the largest bioterrorism attack in our Nation's history, and enabling the business of democracy to continue;

Whereas Al demonstrably improved the Senate's security and ensured that the Senate will continue its operations in the event of an emergency; and

Whereas the Senate has been privileged to have the benefit of Al's 32 years of service to the United States Army and his quiet, steady professionalism during the historic 18 months he has served this institution: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the extraordinary contributions of Alfonso C. Lenhardt to the Senate and to his country;

(2) expresses to him its deep appreciation for his faithful and outstanding service; and

(3) extends its very best wishes for his future endeavors.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Alfonso C. Lenhardt.

## STAR PRINT—S. 596

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that S. 596 be star printed with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Ms. MURKOWSKI. Mr. President, in executive session, I ask unanimous consent that the Rules Committee be discharged from further consideration of the following nominations: Michael Toner and Ellen Weintraub.

I further ask consent that the Senate proceed to their consideration, the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed en bloc, as follows:

### FEDERAL ELECTION COMMISSION

Michael E. Toner, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2007.

Ellen L. Weintraub, of Maryland, to be a Member of the Federal Election Commission for a term expiring April 30, 2007.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## APPOINTMENT

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Connecticut (Mr. DODD) as Vice Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 108th Congress.

## ORDERS FOR WEDNESDAY, MARCH 19, 2003

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, March 19. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 23, the concurrent budget resolution; provided further, that there be 30 hours remaining for debate on the resolution, with 15 hours remaining under the control of the chairman of the Budget Committee and 15 hours remaining under the control of the ranking member.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Ms. MURKOWSKI. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the Boxer amendment No. 272 relating to ANWR. Other amendments are anticipated during tomorrow's session. Therefore, rollcall votes will occur throughout tomorrow's session. The majority leader has stated the Senate will finish the budget resolution this week. Therefore, Members should expect late nights and rollcall votes throughout the week.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Ms. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:51 p.m., adjourned until Wednesday, March 19, 2003, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 18, 2003:

### FEDERAL ELECTION COMMISSION

ELLEN L. WEINTRAUB, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2007.

MICHAEL E. TONER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2007.

# HOUSE OF REPRESENTATIVES—*Tuesday, March 18, 2003*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. ADERHOLT).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 18, 2003.*

I hereby appoint the Honorable ROBERT B. ADERHOLT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

## DEPARTMENT OF DEFENSE EXEMPTIONS

Mr. BLUMENAUER. Mr. Speaker, throughout history, nothing has more profound impact on the world than the consequences of war; but as we examine that history, we often see the greatest devastation is in its aftermath, starvation, chaos, instability, retribution, unleashing a chain of events that continues centuries later, as we are currently seeing in the Balkans.

The destructive power of today's military weapons and techniques used to develop them and practice with them can leave in its wake danger for generations to come. The consequences of past military action are not just limited to the mine fields in the Balkans or Asia or Africa. There is a toxic legacy right here in the United States as a result of 2 centuries of testing, training, weapons manufacturing from unexploded bombs to nuclear waste. This affects millions of acres of land, actually in some cases inside city limits to some of the otherwise most pristine countryside in America.

The good news is not only are our Armed Forces the most powerful fighting force the world has ever seen, but they know how to deal with environmental problems. Given the right resources and instructions, they are not just ready, but eager, to do a world-class job of clean up.

The bad news is that as part of its approach to denying problems and avoiding the costs and consequences of its activities, this administration is pursuing policies that would avoid responsibility for environmental impact. For example, just last week the subject of Thursday's hearing in the Committee on Armed Services was a proposal from the administration to exempt the Department of Defense from five key environmental laws from the Clean Air Act to the Endangered Species Act.

These laws not only protect endangered species and eco-systems, they protect the health of people living on and around military bases. If the exemptions were granted, American taxpayers and State and local governments would bear the burden of cleanup costs and face public health risks from toxic contamination resulting from military operations. The evidence shows there is no reasonable case for such exemptions. The environmental laws already allow the Department of Defense to apply for exemptions on a case-by-case basis if they really need it. Both the GAO and EPA Administrator Whitman have testified that environmental laws have not affected military readiness. There is no evidence that the military has ever been refused an exemption from laws that were necessary and that they sought it.

Even with the current environmental laws in place, sadly, the Department of Defense has too often fallen short of the mark on environmental and public health. A critical area that I have been working on deals with unexploded ordnance: the bombs, missiles, shells that are scattered throughout the United States in all 50 States. We have made progress, but we have got a long way to go. We have millions of acres of current or former military installations spread across the 50 States that contain unknown numbers of high-explosive military munitions that failed to explode when dropped or fired or which were buried for disposal.

In 1998, the Defense Science Board found that we were simply ill equipped to address the unexploded ordnance challenge. We have been working with a bipartisan group of men and women in Congress to address this issue. We have been making headway, but we have got a long way to go. If we were to exempt the Pentagon from its responsibility for environmental clean up, it would be absolutely the wrong direction. Congress instead should be funding and encouraging the clean up, not exempting the Department of Defense from environmental laws.

At the current rate of clean up, it is going to take us hundreds of years to be able to solve this problem. And that is at the current rate of funding. The President's budget just cut $400 million from the Department of Defense environmental programs.

Putting off the toxic legacy of past military activities means we must delay the ultimate cleanup, we put more families at risk, and we set a terrible precedent as we ask others to obey environmental laws and respect nature at home and abroad.

In preparing to protect this country, the administration should not give the Department of Defense authority to put at risk the environment that Americans cherish and the clean and healthy communities it demands. As the largest owner of infrastructure in the world, and sadly, as the biggest polluter, the Department of Defense should be setting the best example, not getting permission from Congress to cut corners on the protection of the environment and the health of our community. We should be working together in these troubled times to make our community healthy, safe, and economically secure.

## TAX CUTS AFFECT NEW JERSEY PROGRAMS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, this week, probably tomorrow and Thursday, we will probably have a final vote Thursday on the Republican budget resolution in the House; and I wanted to speak to that resolution today because I think it really sets a terrible precedent for where we are going in terms of spending programs, tax cuts, as well as the economy in general, which as we all know has experienced a major downturn in the last year or so.

My major point is this, that essentially what the President is doing, what the Republicans are doing in this budget is to give huge tax cuts, primarily to wealthy Americans and to

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

corporate interests. As a result of that, there will be a major slash of programs that are important to the average American and also a major increase in the deficit. A few years ago under President Clinton we actually had a surplus with the budget. We were paying down our debt. We were paying back the Social Security and Medicare trust funds. Now the opposite is happening.

With this Republican budget, which the President essentially supports, we are building huge deficits once again. We are borrowing from the Social Security trust fund. We are borrowing from the Medicare trust fund. And those two retirement security programs, basically Social Security and Medicare, the day when they will go broke or will run out of funds will come closer and closer because of the drain on those trust funds and their resources.

But, Mr. Speaker, I was pleased to see that over the weekend, in fact Sunday, in the New York Times there was an editorial that basically says how I feel with regard to the Republican budget and gives some information of which I would like to read certain sections.

It is entitled, "How Tax Cuts Trickle Down." In the beginning it says, Mr. Speaker, "In a sorry effort to protect President Bush's tax cut mania, the Republican leaders of Congress have unveiled proposals for slashing the most basic government programs for years to come. With rationalizations running from tragic to ludicrous, House budgeteers envision cuts of $470 billion in Medicare, Medicaid, education, child care and other vital programs, from transportation to health care, the environment, to science research." And it goes on. And I will go back and give other sections of it, Mr. Speaker.

But I just wanted to give Members an idea of how these Republican cuts in the budget would specifically affect my State of New Jersey. And keep in mind that the only reason these cuts are being made is to pay for tax cuts to wealthy Americans and corporate interests.

An analysis of the President's budget shows drastic cuts in critical services in New Jersey; and the terrifying fact is that the House Republican budget approved last week in the committee, which we will be voting on tomorrow or Thursday, is even worse than the President's budget in this respect in what it slashes.

In New Jersey, the President's budget cuts $9.9 million for after-school programs leaving 14,110 children without after-school services through the 21st Century Community Learning Center's program. The President's budget cuts $1.8 million in teacher-quality funding for New Jersey and cuts funds nationally for grants to improve teacher quality by $80 million.

Now this is the President who has said that no child should be left behind. The President's budget cuts more than $27 million in Federal highway funding for New Jersey. The President's budget slashes clean water funding for New Jersey by more than $20 million this year.

This is so important to my district because my district is primarily along the shore, along the ocean, the Raritan Bay and the Raritan River; and we are dependent on this Federal funding to keep our waters clean and for sewage treatment.

The President's budget cuts more than $3 million in low-income home energy assistance for New Jerseyans and the President's budget cuts more than $4 million in community service block grants which provide local organizations the funds to help reduce poverty, revitalize low-income communities, and provide families with the help they need to become fully self-sufficient.

Now, I could go on and on, Mr. Speaker; but I do not want to keep stressing what is happening in my home State, but I have to say that this is happening all over the country.

Now, why are we doing this? Well, the President says it is because of tax cuts. And if I could go back to the New York Times, they say, "The estimated shortfall," this is the deficit now, "of $2.7 trillion could have been an $890 billion surplus but for the Bush proposal, according to the Congressional Budget Office."

So the fact of the matter is, the reason we will have a deficit because of the President's budget is because of tax cuts. The next $1.4 trillion cut geared to the affluent will average $80,000 a year for millionaires. So what we are seeing, Mr. Speaker, is primarily we are going into deficit and slashing these programs to pay for tax cuts for the wealthy. The President has suggested otherwise, but there is another New York Times article that gives the specifics and I just wanted to read it to you.

It says, "The average tax cut is over $1,000," this is what the President is saying, "because a few rich taxpayers would get such large reductions." For example, for households with incomes over $200,000, the average tax cut is $12,000; but if you are making less money, you will get about $300.

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## HONORING FRANCISCO JAVIER BLANCO

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized during morning hour debates for 5 minutes.

Mr. ACEVEDO-VILÁ. Mr. Speaker, I am here today to recognize Mr. Francisco Javier Blanco, a man whose commitment and service to Puerto Rico and the environment has resulted in countless achievements and a legacy that will last for generations.

Mr. Blanco recently retired as director of the Conservation Trust of Puerto Rico. During his more than 30 years of dedicated service, Mr. Blanco was responsible for guiding the conservation trust through its formation stage and into the impressive organization that exists today.

The Conservation Trust of Puerto Rico, which was created in 1968 through a Memorandum of Understanding between the Interior Department and the Commonwealth Government, is now recognized as a leader among the Nation's land trusts in the area of environmental conservation and preservation.

Under Mr. Blanco's direction, the trust has protected 17,000 acres of land as reserves of incalculable natural, aesthetic, and cultural value. Thanks to the efforts of Mr. Blanco, the trust continues to make significant contributions to protect Puerto Rico's environment and important history. The efforts and commitment of Mr. Blanco have left a legacy for Puerto Rico to enjoy for generations to come, and for that we are grateful.

As Resident Commissioner, I am building upon the strong conservation and historic preservation efforts of Mr. Blanco.

□ 1245

The partnership between the Trust, the Commonwealth of Puerto Rico and the United States Government has brought about important protection and restoration of limited resources on a small island, like Puerto Rico, with a high population density.

Last year, thanks to the support of my colleagues, I was able to designate portions of three rivers in Puerto Rico as wild and scenic. Soon I will introduce legislation that will protect, through a partnership between the Federal Government and the Commonwealth of Puerto Rico, critical water resources in the karst region of Puerto Rico. Furthermore, I will also introduce legislation to designate the El Toro Wilderness Area in the Caribbean National Forest, known in Puerto Rico as El Yunque. These efforts, I am proud to say, are of the spirit and dedication of Francisco Javier Blanco.

Mr. Speaker, I ask for the Chair's consideration in these endeavors, and hope to work with the bipartisan support in Congress to enact these bills into law.

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## THE PRESIDENT'S HEAD START PROPOSAL

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to the order of the House of January 7, 2003, the gentleman from Texas (Mr. RODRIGUEZ) is recognized during morning hour debates for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, I rise today to talk briefly about the President's budget for 2004. One of the specific areas is the area of Head Start.

The President's budget introduced this new Head Start initiative and wages a war on the poor. The Head Start has been working great, despite the fact that we only have funds to represent and only give to about 40 percent of Americans that are out there that are in need. Yet he is choosing to take these resources and decided to put it on the block grant, when right now, on the local control basis, it has been working in a way, and all the studies indicate that the Head Start has been doing a great job.

The administration claims that his proposal will sharpen the focus on school readiness, improve teacher training and mandate a system to assess the success of Head Start programs in preparing children for school. The reality is it is already doing that. Why mess with it? It is a great program.

The intent is to send the money to the States. The reason we started the Head Start program is because the States have been negligent in providing early childhood education. The States have not been responsive in putting in the resources, and I will give my colleagues an example.

Texas, to this day, only funds half-day kindergartens. The rest of the local school districts have to come up with the local property tax in order to provide full-day kindergartens. So when we look at Head Start that has early childhood preparation, this is where the resources need to be. They need to stay there. They have been doing a great job. Let us not mess with it.

In order to address what the administration suggests is uncoordinated efforts, he wants to give this to the Department of Health and Human Services, or take it away from that Department and give it to the Department of Education. The reason it has been with the Department of Health and Human Services is because Head Start is not only an educational program, but it has been there to reach out to the families of these youngsters and also work with them when it comes to the issue of health and providing that early education that is needed to help those parents also address those needs.

When we send that money to the Department of Education, I can already see they are going to be earmarking it to the existing programs that they have and not addressing the specific programs that this program was intended to do.

Under the President's plan, the transition would begin in 2004, and the Department of Education would assume full responsibilities for Head Start, and instead of having the local community do it, we would have 50 State agencies throughout this country with each State having the bureaucracy, and, of course, they would need 16 to 20 percent off the top in order to make that happen. Then they would be looking at providing those resources.

So we must ensure that Head Start continues to provide our children with comprehensive services and that it is strong for parental involvement and parental participation.

One of the key things that this program has resulted in is the studies show that those kids that show up at Head Start do a great deal better than the average youngster in the same category that is not under Head Start, and not only that, but they also found that they are less likely to drop out.

One of the realities is that youngsters who drop out, one of the characteristics is that they fail twice before they reach junior high, and one of the realities is that Head Start has helped them not to fall into that category of failing twice, and being able to get that, as the name implies, a head start in education.

One of the things that we do need to do is provide additional moneys for Head Start, because right now we are only providing 40 percent of those that are eligible to participate for this program, and there is a need for us to provide additional resources.

Besides trying to dismantle the Head Start program, the President also announced in his 2004 budget an increase of only $148 million for Head Start. At the same time that he has identified education as one of his priorities, this is not sufficient money to be able to make this happen. Not only would this tiny increase not cover inflation and reach those kids that are needed in Head Start, but it would also have to turn away over 1,200 children from the existing programs.

Questions must be asked as to the rationale for the initiative and for the transfer. Our concern is that we are transferring a program that has been working well under the Department of Health to another Department that has chosen not to address this problem, and who has chosen not to deal with early childhood education.

The President's 2004 budget proposal also includes legislative proposals to introduce an option available to all States to participate in alternative financing systems and in terms of grants, and so this initiative in terms of these grants are basically to take away from the existing program.

So I want to encourage the Members to really look closely at Head Start because it is a program that has been working. It is a program that has been there for us, and we need to keep that up.

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## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 51 minutes p.m.), the House stood in recess until 2 p.m.

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□ 1400

## AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

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## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Critical moments in the life of any person or any nation, as well as momentous undertakings, Lord God, bring us to our knees before You. We humbly seek Your guidance and rely on Your faithfulness. Be with us in the days and weeks ahead. Bless the Members of this Chamber, all who work here and our guests. Listen to our heartfelt prayers.

We seem to be entering a passageway of darkness which may fill us with fear and anxiety or move us forward with hope and expectation. Bring us safely to the light at the end of the tunnel. For Jews this may recall the Exodus; for Christians, cross and resurrection; for Muslims, a spiritual hijra. Only You, O Lord, can bring good out of evil and gift us with lasting peace; so we turn to You now and forever. Amen.

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## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

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## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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## REPORT ON H. RES. 68, REQUESTING THE PRESIDENT TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES DOCUMENTS RELATING TO IRAQ'S DECLARATION ON ITS WEAPONS OF MASS DESTRUCTION

Mr. SMITH of New Jersey, from the Committee on International Relations, submitted a privileged report (Rept. No. 108–38) on the resolution (H. Res. 68) requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the President's possession relating to Iraq's declaration on its weapons of mass destruction that was provided to the United Nations on December 7, 2002, which was referred to the House Calendar and ordered to be printed.

## THE PRESIDENT'S COMPELLING CASE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last night the President laid out a compelling case for immediate action against Saddam Hussein. After 12 years of denial and deception, trust in his sanity and in his restraint is not an option. The President addressed not only the American people but the Iraqi people, not only our military but its military. And he made it clear that our problem is not with the Iraqi people, that we do not want to harm the Iraqi people, that we will help the Iraqi people rebuild their great country.

Our problem is with Saddam Hussein. He has chosen this moment. He chose to deny and deceive the international community for 12 years. He chose to use chemical and biological weapons on his own people, and he chose to engage in mass murder. Now he has one last choice: go into exile or be removed and disarmed by force. If he chooses force, America and other free nations must forcibly remove him, his murderous regime and his arsenal. Our military will take great care to spare the lives of innocent Iraqis. My hope and prayer is that the Iraqi dictator will take action to do the same.

## POLITICS-AS-USUAL MUST NOT HIJACK AMBER BILL

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, when it comes to protecting our children, this House should never allow politics as usual to stand in the way of action. The House Republican leadership could allow Members to vote today to send legislation strengthening America's Amber Alert to the President. It is time to stop playing politics on this issue. So in a moment I will request unanimous consent to immediately take up the Amber bill in the House. This is the exact same legislation that passed the Senate earlier this year.

Five children have already been rescued with the aid of the Amber Alert in March alone. By passing the Amber bill, we can make this lifesaving program even more effective, but that will only happen soon if we listen to people like Ed Smart and others and stop allowing politics to hijack the Amber bill.

### REQUEST FOR CONSIDERATION OF S. 121, THE NATIONAL AMBER ALERT NETWORK ACT ON TUESDAY, MARCH 18, 2003

Mr. FROST. Mr. Speaker, I ask unanimous consent that as the first order of business on Tuesday, March 18, it shall be in order without intervention of any point of order to consider in the House S. 121, the National Amber Alert Network Act.

The SPEAKER pro tempore (Mr. TERRY). The gentleman has not been recognized for that purpose. The gentleman may proceed with his 1-minute speech under the Speaker's guidelines.

Mr. FROST. Mr. Speaker, I regret the ruling of the Chair. House Republican leaders have prevented us from voting on the Amber bill for over 6 months now and counting. This issue should not be treated like just another horse trade with the Senate. I implore the leaders of this House to let us do the right thing for our children and send the Amber bill to the President this week.

## SADDAM HUSSEIN'S THREAT MUST BE DEALT WITH

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, the debate about Iraq has ended. Saddam Hussein has failed to disarm. Today men and women who have volunteered to protect freedom and liberty stand ready to take action against the corrupt and evil regime of Saddam Hussein. America is not eager to go to war, as we have sought peace through diplomacy for 12 years.

Yet Saddam Hussein is not a peaceful man who can be reasoned with. He is a blood-thirsty dictator willing to kill and torture his own people in the pursuit of power. Saddam has aggressively pursued weapons of mass destruction and harbors and supports terrorists. We cannot wait until another September 11 tragedy before we take action to disarm this threat. Thankfully, we have a President in George W. Bush that clearly understands the threat to the American people. As we face possible conflict and as the father of three sons in the military, I want our troops and their families to know that our prayers are with them and that we are ever thankful for their service and patriotism. May God bless our troops.

## THE BUDGET'S EFFECT ON CHILDREN AND FAMILIES

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today to highlight how the administration's budget leaves children and families behind. As we begin debating this budget, we must remember that the biggest challenge facing American families is how to bridge work and caring for their children and families at the same time. And, Mr. Speaker, as we stand on the brink of preemptive war, this is especially true for the families of our troops, our National Guard and our Reservists. Whether already deployed or waiting for their orders, these brave men and women and their families are wondering how they will make ends meet as their loved ones fulfill their military duty, how will they juggle their work and family responsibilities while fulfilling their Nation's call.

I urge my colleagues to consider the struggles of military families and ask if this fiscal year 2004 budget proposal invests adequately in the programs that help all families balance their work and family responsibilities.

## A DEFINING MOMENT IN HISTORY

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, we are at a defining moment in the history of our Nation and of the world. Last night the President of the United States stood up for the security of our Nation, of our allies, and the world. He said that no longer will tyrannical dictators be allowed to flaunt international will and hold the world hostage with weapons of mass destruction and perhaps give those horrible weapons to terrorists who would not hesitate to use them against innocent civilians. The President has gone the extra mile to achieve a diplomatic solution to the crises in Iraq. The President has worked to build a larger international coalition of the willing to finally end Iraq's refusal to disarm. Our coalition is strong. It is prepared for the task at hand, and it will be victorious.

Our Army is not an Army of conquest, but one of liberation; and as the President said last night, the day of liberation for the Iraqi people is close at hand.

I urge my fellow Americans to keep the men and women of our Armed Forces in their thoughts and prayers as they fight to make America and the world safer.

## LIBERTY WILL PREVAIL

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, last night President George W. Bush spoke with vision and courage and in keeping with the highest ideals of this Nation and its storied history. It is clear that the long nightmare of the Iraqi people is about to come to an end. Diplomacy may have failed, but liberty will prevail.

Saddam Hussein was offered disarmament and peace. He has chosen exile or war.

As our troops labor in encampments across the Middle East, let us, in every form of prayer and petition, labor in prayer on behalf of them, their families, our leaders, and innocent civilians in harm's way in the difficult days that lie ahead.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:00 p.m. today.

## CONDEMNING THE PUNISHMENT OF EXECUTION BY STONING AS A GROSS VIOLATION OF HUMAN RIGHTS

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 26) condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

The Clerk read as follows:

### H. CON. RES. 26

Whereas death by stoning continues to be imposed as a form of punishment in several countries, as documented by the Country Reports on Human Rights Practices of the United States Department of State;

Whereas the brutal sentence of death by stoning is applied to women who have been accused of adultery, some of whom are coerced into prostitution, or even raped;

Whereas execution by stoning is an exceptionally cruel form of punishment that violates internationally accepted standards of human rights, including those set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

Whereas women around the world continue to be disproportionately targeted for discriminatory, inhuman, and cruel punishments by governments who refuse to protect the rights of all their citizens equally;

Whereas in some places stoning has also been invoked as punishment for "blasphemy", thereby suppressing religious freedom and diversity and stifling political dissent;

Whereas, in July 2002, Amnesty International referred to execution by stoning as "a method specifically designed to increase the victim's suffering";

Whereas, in 2002, the European Union, the Secretary General of the Council of Europe, the Australian Government, the Minister of Foreign Affairs and Trade of New Zealand, the President of Mexico, the Congress of the Deputies of Spain, and other world leaders each condemned stoning and called for clemency for individuals sentenced to stoning; and

Whereas, in 2002 there were acquittals or dismissals of sentences to death by stoning: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) condemns the practice of execution by stoning, and calls upon the international community to recognize this practice as a gross violation of human rights;

(2) requests that the President formally communicate this resolution to governments imposing this cruel punishment and urge the suspension of sentences of death by stoning; and

(3) requests that the President direct the Secretary of State to work with the international community toward the repeal of stoning laws and adherence to international standards of human rights.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

□ 1415

### GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 26.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution condemning the punishment of execution by stoning as a gross violation of human rights. I am a proud cosponsor of this resolution, and I commend the gentlewoman from Minnesota (Ms. MCCOLLUM) for her work on this issue. As chairman of the Subcommittee on Africa, I am pleased that the House is taking this action.

Mr. Speaker, there can be no doubt that stoning is a gross violation of human rights. When someone is put to death by stoning, they are guaranteed a slow, painful, cruel death. Stones are carefully chosen so they are large enough to cause maximum pain, but not so large as to kill the condemned immediately.

Stoning brings out the worst in human nature. It may surprise many that this barbaric practice has entered the 21st century, but it has. Sharia law governs family law in a wide range of countries. It is only applied to criminal offenses in a handful of states.

In Nigeria, 12 of the country's 36 states put Sharia criminal law into effect in recent years, displacing Nigeria's secular laws.

The case of Amina Lawal, a young woman sentenced to death by stoning for adultery, has brought international attention to Sharia-mandated stoning. Her case is pending. We all hope she is spared this brutal treatment.

This resolution rightfully condemns the practice of stoning and calls upon the President and Secretary of State to work with their counterparts toward the repeal of stoning laws and adherence to international standards of human rights.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution.

First I would like to congratulate my good friend and colleague, the gentlewoman from Minnesota (Ms. MCCOLLUM), the principal author of this important resolution, for bringing it to our attention. She is a valued member of our committee, and I want to thank her personally for this important initiative.

Mr. Speaker, it is a sad commentary on the 21st century that we have seen the resurgence under Islamic Sharia religious law of the practice of execution by stoning, where an individual is buried up to his or her neck in sand, and witnesses are invited to throw stones until that person is dead, while shouting, "God is great." It is the ultimate oxymoron on the face of this planet that as a human being is buried up to her neck in sand and is pelted with stones, the phrase can be heard "God is great."

The stones in this vile practice are carefully chosen so that they are large enough to cause horrendous pain, but not so large as to kill the condemned individual immediately. Victims of stoning are guaranteed a slow, torture-filled death. Sometimes, Mr. Speaker, their children are forced to watch.

This past year, the world was horrified as mothers were tried, convicted and subjected to this horrible death sentence. The fact that these women have been given the recourse to court appeals does not make the punishment any more acceptable. Execution by stoning violates all international standards of human rights and decency.

We must let the world know, Mr. Speaker, that civilized nations and the United States in particular reject with disgust and horror this form of punishment. I urge all of my colleagues to support H. Con. Res. 26.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me time.

Mr. Speaker, as the condemned, as I think the gentleman from California

(Mr. LANTOS) pointed out so well and it bears repeating, prepare for their execution by stoning, they begin to pray, asking for the inner strength to endure with faith and fortitude what awaits them. They are wrapped head to foot in white shrouds and buried up to their waist, and then the stoning begins. The victims are guaranteed a very difficult and horrific death. In many cases kids have to watch this agonizing death.

Unfortunately, Mr. Speaker, this heinous practice is not limited to Iran, but is employed in so many other countries as well. Under the extremist interpretation of Sharia law, pregnancy alone is considered sufficient evidence to condemn a woman for adultery. Women in these countries who have been raped and want the state to prosecute their case must have no less than four Muslim men testify that they witnessed the assault. Absent these witnesses, these male witnesses, the rape victim has no case. If she cannot prove the rape allegation, she runs the high risk of being charged with adultery, as we all know an offense that is punishable by stoning.

Although this heinous practice is disproportionately used against the female population of these countries, it is also used against men and also used to suppress political dissent and the activities of religious minorities.

H. Con. Res. 26 is a resolution which reflects the full extent of the problem. As such, it calls on the United States and the international community to condemn the practice of execution by stoning as a gross violation of human rights and urges U.S. officials to work with their global counterparts toward the repeal of all stoning laws.

Mr. Speaker, stoning sentences have been commuted in the last year due to the United States' and international pressure. Lives have been saved because we spoke out against this abhorrent practice, a method which, according to Amnesty International, is specifically designed to increase the victim's suffering.

Today we have the ability, I would respectfully submit, to save more lives by rendering our strong support for this resolution. This measure can help deter the application of extreme Sharia law and execution by stoning in emerging nations, such as Afghanistan.

Mr. Speaker, I urge my colleagues to vote for H. Con. Res. 26.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as she may consume to the gentlewoman from Minnesota (Ms. McCOLLUM), the author of this resolution.

Ms. McCOLLUM. Mr. Speaker, today I rise to support House Concurrent Resolution 26, a resolution that I introduced to condemn the punishment of execution by stoning as a gross violation of human rights.

I would like to express my sincere appreciation to the Committee on International Relations for their support and thank my colleagues who have cosponsored this measure.

This issue was first brought to my attention over 1 year ago when I learned of a woman named Safiya Hussaini, who had been sense sentenced to death by stoning in Nigeria solely based on the evidence she was divorced and pregnant. Safiya was convicted of adultery, sentenced to be buried in a pit and pelted with stones until dead.

The authorities ignored her claims that she had been raped. The father of the baby was acquitted of all charges, as the law requires the testimony from four male witnesses to prove him guilty of the same crime, a virtually impossible task.

The international outcry helped save Safiya's life. Her sentence was overturned on a technicality. However, on the day that Safiya was set free, it emerged that another young Nigerian mother had been sentenced to death by stoning, Amina Lawal. She has also been convicted of adultery; her crime, giving birth to a child more than 9 months after divorcing her former husband. Unless Amina's sentence is overturned, she will be stoned to death in a public square as soon as her baby is weaned, about this time next year.

At her trial, Amina had no legal representation. She did not receive an adequate explanation of the charges against her. Frightened and unaware of the consequences of her response, Amina confessed. However, not much of a confession was needed, as her newborn daughter was proof enough to find her guilty of adultery. The man Amina identified as the father of her child denied the charges, and he was set free.

On the day that Amina's case was last heard on appeal, dozens of people crammed into the small village courtroom to observe the proceedings. Amina sat alone on a bench as her daughter slumbered against her back. When the judge announced that Amina would be stoned to death, observers shouted their approval, while Amina clutched her baby and wept.

A court will hear Amina's next appeal on March 25, but it may be a matter of hours or months until they issue a decision. Until then Amina must wait. She is hopeful that her life will be spared, but worries about what might happen to her daughter. If the court determines stoning her to death is justified, it will happen.

Tragically, Amina is only one of a number of individuals who are at risk of being executed by stoning. Laws authorizing this punishment remain on the books in a number of other countries. Until these laws are repealed, many more people could face this inhumane punishment. Women remain particularly at risk for receiving this sentence due to double standards that exist in these laws.

This resolution is important because it will send a message to the most remote corners of the globe that the sentence of stoning, particularly when used as a tool of gender persecution to control women and girls, is far beneath any minimum standard of human rights recognized by this House, by the people of the United States and by the world community.

At the same time this resolution is not intended to be disrespectful to any nation, religion or culture. But I do believe so strongly that the most basic rights of every woman, man and child on this planet must be respected, protected and defended. It is this belief of fundamental human rights that compels me to speak out and encourage my colleagues to join me in the effort to extinguish this brutal punishment from the face of the Earth.

I do not know the women who have been sentenced to death by stoning. I will likely never visit their villages in Africa or the Middle East, but I will stand with them as my sisters, as my fellow citizens of the world. I will work to defend their rights, the most basic human rights we all deserve to enjoy.

Safiya and Amina are just two women in a distant land, far away from us here and far away from my constituents in Minnesota. Nevertheless, these women are targets for abuse and violence, and wherever women are targets for abuse and violence or death simply because they are women, I have an obligation to speak up, speak out and to fight for their rights, because they are my rights and your rights, too.

My home in the State of Minnesota has a strong tradition of defending basic human rights, from former Congressman Don Fraser to the late Senator Paul Wellstone and his wife Sheila. Minnesota also is proud to be the home for the Center for the Victims of Torture, the American Refugee Committee and the Minnesota Advocates for Human Rights. I am proud to stand here today to continue this tradition.

It is high time that the United States join the many nations who have condemned the inhumane punishment of stoning. I am pleased that House leadership has brought this resolution to the floor for its consideration, and I urge all of my colleagues to support this measure, to send a clear and a powerful message to every nation that stoning is an extraordinarily cruel form of punishment, and it must end today.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no additional requests for time, but before yielding back my time, I want to join my colleague from Minnesota in paying tribute to the people of Minnesota for their extraordinary commitment to human rights and to their commitment to protecting victims of torture.

I also want to make an observation concerning the absurdity of the current composition of the United Nations

Commission on Human Rights, where countries serve where the practice of stoning women to death is legal and practiced. This is just one more example of the absurdity of many of these international organizations, pretending to be something totally different from what they are.

☐ 1430

Stoning women to death and serving on the International Commission for Human Rights are incompatible activities, and it is high time we focus on bringing some reality to international organizations.

Mr. Speaker, I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Let me just echo the words of the distinguished gentleman from California (Mr. LANTOS), the ranking member of the Committee on International Relations. It is indeed ironic that Sudan, a country that uses stoning, should serve on the Human Rights Committee of the United Nations. It is even more ironic that Libya should be the current chairman of that committee.

Mr. Speaker, in 1999, along with Colin Powell, I had the opportunity and the privilege of coleading an election-monitoring team to Nigeria for its first democratic elections there in over a decade. After years of military rule, we observed a fair and free election; to wit, firsthand those exercising the simple virtues of democracy was truly inspiring. Along with other election monitors, I came away with great hope for Nigeria's future.

Unfortunately, in the last 3 years, Sharia criminal law has swept through the northern half of Nigeria. The chief prosecutor of a Katsina state in northern Nigeria has even called Sharia law a "dividend of democracy."

Mr. Speaker, since that election, 10,000 Nigerians have died in religiously inspired rioting across that country. Nigeria seems to be on the verge of being torn apart along Muslim-Christian lines. Besides being barbaric and being a gross abuse of human rights, stoning is fueling this religious divide, undermining Nigeria's democratic prospects. Stoning is not a "dividend" of any type of democracy that I know many Nigerians are struggling to establish.

Nigeria is but one country of concern for us. It was only after September 11 that the American public began to learn about the brutal living conditions for women under the Taliban, including being subject to public stonings. Afghanistan remains a fragile state. Many parts of Afghanistan are struggling with the questions of how to govern. This resolution is our message that stoning should have no role in today's Afghanistan, or anywhere else in today's age.

It is important for this body to bring attention to this abysmal practice. This resolution deserves strong support of all Members here.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of H. Con. Res. 26 to condemn execution by stoning as a gross violation of human rights. I want to commend my colleague, Congresswoman BETTY MCCOLLUM for raising awareness of this issue by introducing this resolution. I oppose the death penalty in any instance, and I certainly oppose the cruelty of death by stoning.

Execution by stoning is particularly cruel and discriminatory in that it is often used to punish women for adultery, even in cases where women are victims of coerced prostitution or rape. Women around the world, as well as in the United States, continue to experience horrendous acts of physical and sexual violence against them. It is absolutely unacceptable that some governments would then sanction death as a punishment for being a victim of such violence. Unfortunately, this continues to be the case in some countries.

The United States has a moral obligation to speak out against violence, intolerance, hate, and discrimination throughout the world. Without clear, strong condemnation and action from the United States and all people of conscience, these violations of fundamental human rights will continue to occur.

I urge my colleagues to support this resolution and to take a stand against all human rights abuses.

Mr. ROYCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 26.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROYCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## NICARAGUA PROPERTY DISPUTE SETTLEMENT ACT OF 2003

Mr. BALLENGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 868) to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government.

The Clerk read as follows:

### H.R. 868

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Nicaragua Property Dispute Settlement Act of 2003".

**SEC. 2. CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.**

Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2370a) is amended by adding at the end the following new subsection:

"(i) CERTAIN CLAIMS FOR EXPROPRIATION BY GOVERNMENT OF NICARAGUA.—(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2)

"(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

"(A) in writing; and

"(B) received by the Department of State on or before 120 days after the date specified in paragraph (3) at—

"(i) the headquarters of the Department of State in Washington, D.C.; or

"(ii) the Embassy of the United States of America to Nicaragua.

"(3) The date to which paragraph (2) refers is a date after the enactment of this subsection that is specified by the Secretary of State, in the Secretary's discretion, in a notice published in the Federal Register.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. BALLENGER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BALLENGER).

### GENERAL LEAVE

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, section 527 of the "Foreign Relations Authorization Act, fiscal years 1994 and 1995," sanctions or stops certain U.S. bilateral assistance and U.S. support for assistance from International Financial Institutions for a government of a country that has confiscated a U.S. citizen's property. Nicaragua sadly falls amongst these rules of section 527, but has received Presidential waivers of the sanctions every year since the legislation was enacted.

American citizens have had nearly 12 years to come forward to file property claims with the American embassy. This bill amends section 527 to afford American citizens a reasonable opportunity to file a claim with the American embassy in Managua.

Any American citizen who has not yet filed a property claim with the American embassy will have 120 days after the notice is published in the Federal Register to do so. Any claims already on file or that are filed within the 120-day period can continue to be considered by the State Department in making its annual determination as to whether to apply the waiver or the sanctions authorized under section 527.

This bill would not, however, prevent American citizens from filing property claims after the 120-day period and seeking help from the American embassy in Managua to engage on their behalf with the Government of Nicaragua regarding their claim.

At the same time, the bill sets a date certain that the Nicaraguan government can look to as an end date for registering new property cases for the purpose of the prohibition on assistance currently in law. This will provide important encouragement for the government of President Enrique Bolanos, who is an ally of the United States. Nicaragua is one of the poorest countries in the Western Hemisphere and continued American assistance to Nicaragua is vitally important.

Mr. Speaker, the Government of Nicaragua has incurred $236 million in debt to pay these claims. The Bush administration supports the bill. I also want to thank my friend, the gentleman from Massachusetts (Mr. DELAHUNT), for cosponsoring this bill with me. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in support of this resolution, and I yield myself such time as I may consume.

Mr. Speaker, I first would like to applaud the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, for expediting consideration of this very important bill in support of President Enrique Bolanos and his administration. I also want to acknowledge the two cosponsors of this bill, the gentleman from North Carolina (Mr. BALLENGER) and the gentleman from Massachusetts (Mr. DELAHUNT), my good friend, who has been one of our leaders on all Western Hemisphere affairs.

Mr. Speaker, the world last year witnessed the constitutional and peaceful transfer of power in Nicaragua from one democratically elected president to another. The inauguration of President Bolanos thus represented the further consolidation of democracy in Nicaragua after many decades of authoritarian rule.

Since his inauguration, President Bolanos and his administration have struggled to reinvigorate the Nicaraguan economy, create jobs, reduce widespread poverty, and battle institutionalized corruption. Although the task is daunting, as Nicaragua remains to this day the second poorest country in the Western Hemisphere after despairingly devastated Haiti, it is not insurmountable with the help of allies like the United States.

H.R. 868 reflects our commitment to assisting Nicaragua in meeting its many challenges in a couple of ways. First, the Nicaragua Property Dispute Settlement Act enables us to bolster the efforts of the Nicaraguan administration to address the claims of U.S. citizens who have had property expropriated by previous Nicaraguan administrations. Equally important, our legislation signals our strong support for the new administration as it attempts to purge Nicaraguan institutions of cronyism and corruption.

As we consider H.R. 868, I am confident that President Bolanos is as resolved as we are to strengthen the ties between our two countries by working together on issues of common concern like voting patterns at the United Nations.

I encourage all of my colleagues to support this bill.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), my good friend and distinguished colleague.

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for yielding me this time.

Mr. Speaker, a constituent once asked if minor pieces of legislation that we consider on the suspension calendar actually matter, particularly those that concern foreign nations. My response was that it is important to remember, especially in this era of the Internet and instant communication and CNN, that what might appear to be trivial to us is seen quite differently elsewhere and can have significant long-lasting effects. This bill, for example.

While to some it may seem to be an obscure piece of legislation dealing with a tiny, impoverished nation, one that is not on the Security Council, and given the challenges that we face with the war against terrorism and imminent invasion of Iraq, a distressed economy, a health care crisis, it might even seem to be an afterthought. But it is not an afterthought for the people of Nicaragua, and it should not be an afterthought for the United States. In fact, this bill has the potential to be critically important for Nicaragua's future, for Central America's future and, ultimately, for our own future.

As the gentleman from North Carolina (Mr. BALLENGER) indicated, Nicaragua, after Haiti, is the second poorest nation in the hemisphere. It was battered by years of war. It is a place where the magnitude of corruption by the political leadership has been enormous, especially recent ones. Now Nicaragua finally has a president in Enrique Bolanos, an honest man who genuinely wants to make a difference. This bill can help him and that fragile democracy that he presides over.

As the gentleman from California (Mr. LANTOS) and the gentleman from North Carolina (Mr. BALLENGER) have indicated, current U.S. law prevents us from providing certain kinds of foreign aid to countries that have seized the property of American citizens. Never mind that these seizures occurred under previous governments. Never mind that some of these claimants were not U.S. citizens at the time of the seizures, which I believe violates international law; but that is a debate for another day. This legislation changes that.

As the chairman of the subcommittee indicated, after a certain period of time, new claims will no longer prevent Nicaragua from receiving U.S. aid and will not prevent the United States Government from assisting our fellow citizens who seek and deserve justice, and it will not end the Government of Nicaragua's responsibility to settle these claims. But this bill will do much to nurture Nicaragua's efforts to develop its democracy; and it will encourage a new spirit of respect and cooperation between that impoverished nation and the United States.

Mr. Speaker, I want to commend my friend, my colleague, my chairman, the gentleman from North Carolina (Mr. BALLENGER), for introducing this bill. It is just more evidence of his attention to this hemisphere and his love for its people. He and I do not always agree on how to deal with all of our neighbors, but we do agree that they deserve far more of our attention, and our respect. So I am grateful to him for inviting me to cosponsor this important piece of legislation.

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Mr. Speaker, it is my hope that the passage of this legislation is followed quickly by an increased program of U.S. assistance to Nicaragua, particularly to develop its judicial system and strengthen its legislative body. While I have full confidence in President Bolanos, it is the development of strong democratic institutions that will allow democracy to prosper and flourish in Nicaragua.

Reports speak of a reconstruction program for Iraq in excess of $100 billion. For far too long we have failed to adequately engage in our own neighborhood. We cannot continue to ignore our neighbors in Central America, the Caribbean, and South America. To do so, we do so at our own risk.

Once upon a time, Nicaragua was front and center in our policy debates. That war that many in this Chamber spent enormous time and effort on this floor debating and discussing has faded from our memories, and Nicaragua has receded from the spotlight. However, this modest bill, in a rather nuanced and subtle way, will help Nicaragua move closer to the democracy its people so justly deserve and desire. I urge my colleagues to support it.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and pass the bill, H.R. 868.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BALLENGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## URGING PASSAGE OF RESOLUTION ADDRESSING HUMAN RIGHTS ABUSES IN NORTH KOREA AT 59TH SESSION OF UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 109) urging passage of a resolution addressing human rights abuses in North Korea at the 59th session of the United Nations Commission on Human Rights, and calling on the Government of North Korea to respect and protect the human rights of its citizens, as amended.

The Clerk read as follows:

### H. RES. 109

Whereas the Democratic People's Republic of Korea (in this preamble referred to as "North Korea") is, in the words of the United States Department of State, "a dictatorship under the absolute rule of the Korean Workers' Party" that "prohibits freedom of speech, the press, assembly, and association . . . [and] restricts freedom of religion, citizens' movements, and worker rights";

Whereas according to the State Department, "[t]he [North Korean] Penal Code is Draconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter";

Whereas, as noted in the State Department Country Reports on Human Rights Practices, the North Korean regime executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and school children;

Whereas the North Korean regime subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung which, in the words of the State Department, "approaches the level of a state religion";

Whereas the North Korean regime divides its population into categories, based on perceived loyalty to the Party and the leadership, which determine access to employment, higher education, place of residence, medical facilities, and other resources;

Whereas the North Korean regime attempts to control all information, artistic expression, and academic works inside North Korea and strictly curtails freedom of speech;

Whereas the Government of North Korea holds an estimated 150,000 to 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure;

Whereas according to eyewitness testimony provided to the Committee on International Relations of the House of Representatives by camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons;

Whereas according to eyewitness testimony provided to the Committee on International Relations by a camp survivor, female camp prisoners are not permitted to have children and their newborn babies are routinely and brutally killed by camp authorities;

Whereas according to the State Department "[g]enuine religious freedom does not exist" in North Korea and, in the words of the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities";

Whereas the United States Commission on International Religious Freedom has highlighted "reports that [North Korean] officials have arrested, imprisoned, tortured, and sometimes executed North Korean citizens who were found to have ties with overseas Christian evangelical groups operating across the border in China, as well as those who engaged in such unauthorized religious activities as public religious expression and persuasion";

Whereas according to eyewitness testimony provided to the Committee on International Relations in May 2002, a North Korean prison camp survivor witnessed a group of Christian prisoners being tortured to death in 1990 for refusing to repudiate their faith;

Whereas more than 1,000,000 North Koreans are estimated to have died of starvation since 1995 because of the failure of the centralized agricultural system operated by the Government of North Korea;

Whereas the risk of starvation and the threat of persecution in North Korea have caused many thousands of North Koreans to flee their homeland, primarily into the People's Republic of China;

Whereas the Governments of the People's Republic of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in the People's Republic of China without permission and to forcibly return them to North Korea;

Whereas North Koreans who seek asylum while in the People's Republic of China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea; and

Whereas the 59th session of the United Nations Commission on Human Rights is scheduled to be held in Geneva, Switzerland from March 17 to April 25, 2003: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) urges the Secretary of State to support efforts to draft, introduce, and pass a resolution addressing human rights abuses in North Korea at the 59th session the United Nations Commission on Human Rights;

(2) urges all members of the United Nations Commission on Human Rights to support a resolution addressing human rights abuses in North Korea at the 59th session of the United Nations Commission on Human Rights; and

(3) calls on the Government of the Democratic People's Republic of Korea to respect and protect the human rights of its citizens, such as those recognized in the Universal Declaration of Human Rights.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution.

I thank our cosponsors for being a part of this, including the gentleman from Virginia (Mr. WOLF), the gentleman from Pennsylvania (Mr. PITTS), the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the gentleman from Ohio (Mr. CHABOT), the gentlewoman from Florida (Ms. ROS-LEHTINEN), the gentleman from Nebraska (Mr. BEREUTER), the gentleman from Pennsylvania (Mr. HOEFFEL), the gentleman from Florida (Mr. WEXLER), the gentleman from Massachusetts (Mr. MARKEY), the gentlewoman from Guam (Ms. BORDALLO), the gentleman from Iowa (Mr. LEACH), the gentleman from American Samoa (Mr. FALEOMAVAEGA), the gentleman from California (Mr. GALLEGLY), and the gentleman from Tennessee (Mr. WAMP), a good cross-section of Members, a bipartisan group, supporting House Resolution 109.

Mr. Speaker, the Government of North Korea is an historical anachronism, a totalitarianist Stalinist regime under the control of the Korean Workers Party, the so-called Dear Leader, or Kim Jong-Il, a man who demands godlike reverence and enjoys a decadent, opulent lifestyle while hundreds of thousands of children and their parents starve to death.

His regime, his dictatorship, Mr. Speaker, is one of the worst systematic abusers of human rights in the world today. Inside North Korea, there are no genuine freedoms of speech, religion, or assembly. The penal code imposes a penalty of death for a wide variety of crimes against the revolution, including defection, attempted defection, slander of party policy, listening to foreign broadcasts, and imagine that, one listens to a radio show and one can be charged with crimes against the revolution, and writing letters or possessing printed material that is considered reactionary.

The regime maintains an extensive system, Mr. Speaker, of political prison camps that hold an estimated 200,000 prisoners, including entire families of those suspected of disloyalty toward the dictatorship.

As confirmed by eyewitness testimony presented before the Committee on International Relations last year, camp conditions are horrific. Starvation, overwork, and disease kill most of the camp inmates. Others are used as targets for martial arts practice or as guinea pigs for lethal tests of chemical weapons.

Christians are tortured to death for refusing to renounce their faith in one who is greater than the Dear Leader. Female prisoners are not allowed to bear additional children, and their newborns are routinely and brutally killed before their eyes, usually by smothering or having their necks broken.

Based on reputable reporting, Mr. Speaker, House Resolution 109 recounts the abominable conditions inside North Korea and exhorts the dictatorship in Pyongyang to respect human rights for its citizenry. More immediately, it urges the Department of State to support the introduction and passage of a resolution on human rights abuses in North Korea at the current session of the U.N. Commission on Human Rights in Geneva.

At the State Department's suggestion, we included language that urges other members of the Commission to support that effort. While the Commission has censored numerous countries in recent years, North Korea has inexplicably escaped its notice. We hope that oversight will be corrected during this session.

I want to thank those 19 bipartisan cosponsors, particularly the gentleman from Illinois (Chairman HYDE); the gentleman from Iowa (Mr. LEACH), the chairman of the Subcommittee on Asia and Pacific; and the gentleman from California (Mr. LANTOS), the ranking member of the committee, for their support.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. First, I would like to commend my good friend, the gentleman from New Jersey (Mr. SMITH), the vice-chairman of our committee, for his continued and steadfast leadership on all issues relating to human rights.

The political, human rights and security situation in North Korea is deteriorating rapidly, Mr. Speaker. It is critically important that our Nation have a strategy for addressing the whole host of our concerns with North Korea. We indeed have a crisis on the Korean Peninsula, and the sooner the executive branch engages at the highest levels to deal with that crisis, the better.

When policymakers, journalists, academics, and Members of Congress discuss the North Korean situation, the natural focus of attention is on North Korea's dangerous and destabilizing nuclear and missile programs. North Korea's nuclear program poses a clear and present danger to all civilized nations, particularly with North Korea's increasingly advanced medium- and long-range missile program. But this legitimate focus on North Korean security issues often obscures the horrendous human rights situation in that country.

Mr. Speaker, the United States must develop a comprehensive approach to North Korea, one that allows us to tackle North Korea's weapons of mass destruction and the destruction that North Korea's leaders are imposing on their own people by their human rights policies.

Mr. Speaker, it is evident that the world has no greater abuser of internationally recognized human rights than the Government of North Korea. Over the past 8 years, North Korea's leaders allowed more than 1 million citizens to starve to death rather than to implement economic and agricultural reforms. The children who survive starvation face a life marred by permanent physical and mental disabilities caused by their severe and long-term malnutrition. Meanwhile, the North Korean leader, Kim Jong-Il, imports the finest foods and luxury items for himself and his entourage, living in the lap of luxury in Pyongyang.

Unfortunately, Mr. Speaker, death and destruction are only part of North Korea's pattern of gross violations of human rights. Those citizens who make even the mildest criticisms of the government are immediately imprisoned, tortured, or killed. There is no freedom of assembly, no freedom of worship, no freedom of speech, no political freedom.

In short, Mr. Speaker, North Korea is the worst kind of totalitarian police state. The United States and other civilized nations must make it clear that vast improvements in North Korea's human rights situation must be part of a dialogue with North Korea, and normalization of relations will not occur under current circumstances.

The best way to send that signal from the international community is for the United States to pursue a resolution critical of North Korea's human rights record at the United Nations Human Rights Commission in Geneva. Our resolution urges the administration to undertake this initiative, and I strongly urge all of my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYCE), the distinguished chairman of our Subcommittee on Africa and a leader on issues of human rights relevant to North Korea.

Mr. ROYCE. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in support of this resolution urging the United States to work towards passage of a resolution on North Korean human rights abuses at the U.N. Commission on Human Rights.

I am a cosponsor of this resolution, and I commend the Committee on International Relations vice-chairman, the gentleman from New Jersey (Mr. SMITH), for his attention to this issue. I also want to commend the ranking member, the gentleman from California (Mr. LANTOS), for his attention. Both of these gentlemen have spent much time, have spent much of their careers, trying to focus this body on human rights and to address human rights concerns around this world.

Last year, this House passed legislation, House Concurrent Resolution 213, recognizing the horrific plight of North Korean refugees who risk their lives to escape into China. That legislation at the time included language encouraging the Secretary of State to work to pass a resolution regarding human rights in North Korea at the 59th session of the United Nations Commission on Human Rights. That session began yesterday.

Mr. Speaker, North Korea is one of the worst systemic abusers of human rights in the world today. North Koreans are held hostage to their so-called Dear Leader, Kim Jong-Il. North Koreans are put to death for a very wide variety of crimes against the revolution, as he calls it, including listening to foreign broadcasts or possessing printed material that is considered reactionary by that regime.

The prison camps in that regime hold an estimated 200,000 prisoners. Last year, the Subcommittee on Asia held a hearing to look at the nightmarish conditions in these North Korean prison camps. We heard testimony from North Koreans who had escaped the camps, and these were North Koreans in disfavor with that Stalinist regime, those who had been convicted of "anticriminal acts." They were basically political prisoners.

As we heard their testimony, they reported to us that the inmates in those camps were being slowly worked to death. These were work camps. We heard from North Koreans who witnessed prisoners being gassed as part of a chemical weapons experiment. We also heard testimony from Dr. Norbert Vollersten, a German physician and one of the few Westerners to spend extended time in North Korea. Dr. Vollersten has launched a worldwide campaign to tell anyone who will listen what he witnessed in North Korea. Dr. Vollersten has asked why the world does not hear more and does not know more about what he describes as Nazi-type atrocities that are occurring to North Korean people.

As we know, the North Korean regime uses food as a weapon against its own people, apportioning and withholding resources based on citizens' perceived loyalty to the regime. In many parts of that country, in many counties, whole counties, whole provinces, are perceived not to be loyal enough to receive food aid.

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It is largely an untold story that from 1994 to 1998 at least 2 million North Koreans perished from starvation and related diseases while nearly 50 percent of North Korean children are malnourished to the point that their physical and mental health is compromised. Responsibility for this unparalleled cruelty lies squarely with the regime of Kim Jong Il.

The upcoming session provides an opportunity, the session in the United Nations, for the administration and others throughout the world to focus on these horrific realities in North Korea which have unfortunately been overlooked. And I am convinced that a concerted international focus on the North Korean regime's human rights abuses would advance stability in Northeast Asia. I am hard pressed to see how turning away from this ugly reality is in the interest of anyone but the North Korean regime.

Mr. Speaker, we face a critical challenge on the Korean peninsula. I urge the passage of this timely resolution.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO), my friend and our distinguished colleague, who in the short time she has been with us has already made significant contributions to the work of this body.

Ms. BORDALLO. Mr. Speaker, I want to thank the gentleman from California (Mr. LANTOS) for his very kind words and the gentleman from New Jersey (Mr. SMITH) for their leadership on human rights around the world and in particular for introducing this resolution for which I rise in strong support.

The Korean people are great friends of the United States and have a proud history and a vibrant culture. I, therefore, follow with great sadness the daily oppression suffered by the people of North Korea. Through meeting the many Koreans that come to Guam and by having personally traveled to Korea on many, many occasions, I have come to appreciate how difficult life is under Kim Jong Il's dictatorship.

The United States Commission on International Religious Freedom has described the North Koreans as being amongst the least-free people on this Earth with no personal freedoms or protections for their rights. In their most recent report on the Democratic People's Republic of Korea, the commission said that North Koreans are barely surviving under a regime that denies basic human dignity and lets them starve while pursuing military might and weapons of mass destruction.

Yesterday, Mr. Speaker, the United Nations Commission on Human Rights opened its 59th session in Geneva. Human rights are perhaps the most important issue the international community can address. Human rights is the most important guiding principle underlying the work of the United Nations. The commission must and should address the human rights abuses in North Korea. It is my fervent hope that one day Koreans from both North and South will come to visit my island of Guam in unity and peace.

Mr. Speaker, I urge passage of House Resolution 109. I strongly support it.

Mr. LANTOS. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 109 the bill under consideration.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentlewoman from Guam (Ms. BORDALLO) for her very eloquent remarks and my good friend from California (Mr. LANTOS). We need a very strong show of support by our colleagues today, Mr. Speaker, on behalf of this resolution. The U.N. committee is meeting as we speak. This issue must be brought so the kind of scrutiny and, I would say, condemnation for these egregious abuses of human rights can be brought to the fore. North Korea has a horrific record on human rights; and it is about time the international community said so in one loud voice: no more.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to support H. Res. 109 urging passage of a UN Resolution addressing human rights in North Korea, and to commend my colleague, the Honorable CHRIS SMITH, a true leader on the issue, for introducing this resolution.

The human rights abuses in North Korea are a human tragedy of the worst proportions. Kim Jong Il's prison camp system is a chilling reminder of the methods used by totalitarian dictators to suppress their people. Behind the veil of North Korea's closed society, countless citizens starve to death while the regime continues to spend its limited resources on building nuclear weapons. Public executions are common, newborn babies of prisoners are routinely killed by being smothered or by having their necks broken; and prisoners are used as guinea pigs for chemical weapon experiments.

A truly disturbing tactic of the North Korean regime seeks submission from dissidents by exacting retribution on family members. Persons who resist the regime are punished, but their parents, siblings, and other relatives may also be punished. Many fear for their families particularly if they flee as refugees. According to Human Rights Watch, one man who had suffered years in a political prison camp because of his father's supposed disloyalty and eventual defection feared trying to flee himself. He stated, "I thought it would be all right to lose my own life, but I hated to think that my act might harm my mother and brother."

According to the State Department there continue to be reports of extrajudicial killings and disappearances. The penal code is draconian, and stipulates capital punishment and confiscation of assets for a wide variety of "crimes against the revolution," including defection, attempted defection, slander of the policies of the party or State, listening to foreign broadcasts, writing "reactionary" letters, and possessing reactionary printed matter.

I urge my colleagues to vote for this resolution which would urge the State Department to draft, introduce, and work toward the passage of a resolution addressing human rights abuses in North Korea at the 59th session of the United Nations Commission on Human Rights. The United Nations must highlight the atrocities of the North Korean regime.

Mr. SMITH of New Jersey. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 109, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## TED WEISS FEDERAL BUILDING

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 145) to designate the Federal building located at 290 Broadway in New York, New York, as the "Ted Weiss Federal Building".

The Clerk read as follows:

H.R. 145

**SECTION 1. DESIGNATION.**

The Federal building located at 290 Broadway in New York, New York, shall be known and designated as the "Ted Weiss Federal Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Ted Weiss Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 145 designates the Federal building located at 290 Broadway in New York City as the Ted Weiss Federal Building. Ted Weiss was born in Gava, Hungary, in September of 1927. He and his family fled Eastern Europe to escape Nazi persecution on the last passenger ship to leave Hamburg, Germany, arriving in the United States in 1938.

Ted Weiss graduated from Hoffman High School in South Amboy, New Jersey, in 1946. He served for 1 year in the United States Army. He then went on to earn a bachelor's and a law degree from Syracuse University, graduating in 1952. Ted Weiss became a naturalized citizen in 1953, the same year that he was admitted to the practice of law in New York.

In 1955 Congressman Weiss became an assistant district attorney for New York City and in 1962 was elected to the New York City Council where he was an influential advocate on a number of critical issues. After 15 years of service as a councilman, he was elected to the United States House of Representatives in 1976 for the 95th Congress and was reelected to each of the succeeding seven Congresses. During his tenure in the House, Congressman Weiss diligently served as a leader on the House Banking Committee, as well as on the Committees on Foreign Affairs and Government Operations.

He faithfully served this body and his adopted country until his untimely death in September of 1992. The naming of this Federal building in his honor is a fitting tribute to a respected former colleague.

I want to commend our colleague and former committee member, the gentleman from New York (Mr. NADLER), for his persistence in bringing this legislation, not only this Congress, but in the past Congress. For reasons of schedule and other matters, it was not successfully negotiated through the other body. I hope by bringing it up today and moving it through the House in an expeditious fashion we can receive the same result in the Senate and get this fitting bill to the President of the United States for his signature so that this building may be appropriately named.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank the gentleman from Alaska (Mr. YOUNG); the ranking member, the gentleman from Minnesota (Mr. OBERSTAR); and the gentleman from Ohio (Mr. LATOURETTE), the subcommittee chairman; and the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON), for their bipartisan support and expeditious handling of this bill on behalf of our former colleague, Ted Weiss.

Ted Weiss was my predecessor in this House. Ted Weiss first ran for Congress in 1966. I was a freshman in Columbia College, and I worked on that campaign. He ran on an anti-Vietnam War platform, and he was not successful. But whereas the previous candidate had lost to the incumbent by 2,500 votes, Ted Weiss lost by 61 votes. Two years later in 1976, Ted Weiss was elected to be Congress where we owe him a great debt of thanks for his dedication for increased funding for AIDS research. In fact, Ted Weiss was the sponsor of the very first funds for AIDS research in this House.

He was a staunch supporter for the human rights movement, and he worked to ensure dignity and equality for Vietnam veterans. He was a great supporter of the rights and aid to Vietnam veterans. These were a few of the causes of which Ted was a tireless advocate and worker.

He was born in Hungary, as was mentioned. He escaped with his family on the last ship out of Hungary before World War II. He settled in New Jersey. He graduated from South Amboy High School in 1946. After his service in the Army, he attended Syracuse University, earning both undergraduate and law degrees.

In 1953 Ted entered public service as an assistant district attorney in New York City. He served as assistant D.A. for a number of years. As a matter of interest, he roomed with a friend of his while he was assistant district attorney. The friend went on to become the minority leader of the State Senate in later years.

In 1961 Ted was elected to the New York City Council, being the first reformed Democratic member of the city council and served on the city council until his election to Congress in 1976.

The Almanac of American Politics for many years when it talked about Ted's election to Congress mentioned that he had become so recognized as a tribune of the people that in an open, solidly Democratic seat he was unopposed for an open Democratic seat in the primary. He declared his candidacy and no one else ran. During his tenure in Congress, he was a staunch supporter of civil liberties. His legislative record was built around the service of the Government Operations Committee where he chaired the Subcommittee on Human Resources and Intergovernmental Relations.

He was instrumental in establishing procedures for the timely planned conversion of surplus military bases to peacetime uses. He was the recipient of numerous awards and honors, including the NAACP's National Legislative Award.

It is most fitting and proper that we honor Ted Weiss by designating the Federal building at 290 Broadway as the Ted Weiss Federal Building. It is in what was Congressman Weiss's district. It would be a fitting tribute to his memory and to the great service he rendered to the State of New York and to the United States.

Mr. Speaker, I urge support for H.R. 145. I do hope this time the Senate will not be totally tied up in bureaucracy and we will manage to pass this bill in time. I know of no opposition to the bill. I again thank the other people who have helped with this, including the gentleman from Ohio (Mr. LATOURETTE). Mr. Speaker, I urge the passage of this bill unanimously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MALONEY. Mr. Speaker, I am delighted to join my colleagues in honoring Congressman Ted Weiss and encouraging them to support H.R. 145 to name a federal building in his honor.

Ted Weiss was often referred to as the conscience of the House for his idealism, independence and unwavering commitment to improving the quality of life for all Americans.

He exemplified all the attributes of a great member of Congress—he championed the disadvantaged, stood up for his principles and used the oversight power of Congress to effect real improvement in health care and food safety.

By naming a building in his honor, we will be recognizing his legacy.

Congressman Weiss relished his position as a member of Congress, saying after his election that at last, he was "where the clout is."

Even his strongest critics were impressed by his appetite for hard work, his intellectual honesty and his zest for thorough research.

He was a staunch supporter of civil rights, criticizing the Reagan Administration for its handling of civil rights complaints against schools and colleges.

An unrepentant liberal, Congressman Weiss was best known for his advocacy on health care issues and food safety.

Millions of Americans benefitted from his dedication and keen desire to investigate problems presented to him.

As Chairman of the Subcommittee on Intergovernmental Relations and Human Resources, Congress Weiss had jurisdiction over the Department of Health and Human Services.

He used his position to advocate tougher testing of food additives, stricter government oversight of Federally financed scientific research and new regulations to allow AIDS medication to reach the marketplace quickly.

He was the first to hold Congressional hearings to seriously question the safety of breast implants.

Following the appearance of Acquired Immune Deficiency Syndrome (AIDS) in the early 1980s, he became one of the most active members of Congress in seeking a strong federal response.

His committee was the first to hold hearings on AIDS in 1983.

Eventually he held more than 20 hearings to push the federal government to dedicate more funding and staff to combat the epidemic.

Congressman Ted Weiss brought real humanity and a sense of decency to public office.

He was a dedicated New Yorker who truly cared about the people he served.

For all of the foregoing reasons, I am hopeful that we will recognize the achievements of Congressman Ted Weiss by naming 290 Broadway in his honor.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 145.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 145, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## MORTGAGE SERVICING CLARIFICATION ACT

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 314) to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes.

The Clerk read as follows:

### H.R. 314

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Mortgage Servicing Clarification Act".

**SEC. 2. MORTGAGE SERVICING CLARIFICATION.**

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following new section:

**"§ 818. Mortgage servicer exemption**

"(a) EXEMPTION.—A covered mortgage servicer who, whether by assignment, sale or transfer, becomes the person responsible for servicing federally related mortgage loans secured by first liens that include loans that were in default at the time such person became responsible for the servicing of such federally related mortgage loans shall be exempt from the requirements of section 807(11) in connection with the collection of any debt arising from such defaulted federally related mortgage loans.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) COVERED MORTGAGE SERVICER.—The term 'covered mortgage servicer' means any servicer of federally related mortgage loans secured by first liens—

"(A) who is also debt collector; and

"(B) for whom the collection of delinquent debts is incidental to the servicer's primary function of servicing current federally related mortgage loans.

"(2) FEDERALLY RELATED MORTGAGE LOAN.—The term 'federally related mortgage loan' has the meaning given to such term in section 3(1) of the Real Estate Settlement Procedures Act of 1974, except that, for purposes of this section, such term includes only loans secured by first liens.

"(3) PERSON.—The term 'person' has the meaning given to such term in section 3(5) of the Real Estate Settlement Procedures Act of 1974.

"(4) SERVICER; SERVICING.—The terms 'servicer' and 'servicing' have the meanings given to such terms in section 6(i) of the Real Estate Settlement Procedures Act of 1974.".

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

"818. Mortgage servicer exemption.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from New York (Mr. MEEKS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

### GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 314.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of this bipartisan legislation, H.R. 314. This is the Mortgage Servicing Clarification Act, which I have introduced with my colleague, the gentleman from Pennsylvania (Mr. KANJORSKI).

This carefully written legislation addresses a specific problem for consumers and businesses involved in the mortgage servicing industry by simply clarifying the existing law governing mortgage servicing. This uncontroversial bill enjoys strong bipartisan support and has been approved for consideration under the suspension of the rules by both the chairman and the ranking member of the Committee on Financial Services:

Mr. Speaker, I introduced this bill to fix a problem in the mortgage servicing industry which has hampered the abilities of this industry to serve its clients effectively and to conduct its business efficiently for too long.

□ 1515

Currently, when a mortgage servicing company acquires the rights to service a portfolio of home loans, it is exempt from the unnecessary strictures of the Fair Debt Collection Practices Act under the creditor exemption that was also extended to the originator of the mortgage. The new mortgage servicer is extended this exemption because its relationship to the borrower is more like a relationship between a borrower and a lender than it is like the relationship between a borrower and a true collections agency. The law already recognizes this reality.

However, in the typical loan servicing portfolio transfer, a small percentage of the loans acquired by a new servicer will inevitably be delinquent or technically in default at the time of transfer. These loans are currently treated by the law as being subject to the Fair Debt Collection Practices Act, and subsequently, the new servicers of these loans are required to provide certain form notices, known as Miranda warnings, to the borrower.

The law also currently requires that in every subsequent contact, both written and oral, whether initiated by the servicer or the borrower, the servicer is required to provide a shorter mini-Miranda notice disclosing that the communication is an attempt to collect a debt, and that any information provided by the borrower will be used toward that end.

The purpose of these cookie-cutter warnings is to prevent unscrupulous debt collectors from using false or misleading tactics, such as a phony winning sweepstakes claim, to trick consumers into divulging private financial information or personal details like their home address or their phone number.

The Fair Debt Collections Practices Act has worked extremely well in preventing bad actors in the debt collections business from using lies and deceit to harm consumers, and this legislation would in no way prevent it from continuing to protect American consumers.

However, as I have already mentioned, mortgage servicers are not like debt collectors. Their role to consumers is much more like that of a mortgage originator, and in the context of a mortgage servicing transfer, these Miranda notices are both detrimental to consumers and unnecessary and inefficient for mortgage servicers' operations.

First, the notice misleads the borrower about the nature of the relationship between him- or herself and the new servicer. Unlike true debt collectors, mortgage servicers have a long-term relationship with their client, and these harshly worded notices often have the effect of discouraging a borrower who was slightly late on a mortgage payment from contacting their new servicer for fear that the servicer is a true third-party debt collector. This ends up frustrating the servicer's efforts to work with delinquent borrowers on developing strategies to bring their loans current and keep their credit ratings intact.

A mortgage servicer's biggest hurdle in helping delinquent borrowers to help themselves is getting them on the phone, and these threatening Miranda notices only contribute to that unnecessary fear without doing anything to help the borrower. Additionally, the information protected by the Miranda notices is information already in the servicer's possession. So nothing new is truly protected by requiring these additional legalistic and threatening notices be provided.

Finally, these warnings simply make consumers feel unnecessarily defensive and antagonistic toward their new servicer during the first step of their new association, which can have a chilling effect on the rest of their relationship.

Mortgage servicers typically send these Miranda notices along with a new customer's welcome letter as required by the Real Estate Settlement Procedures Act, and this letter also includes important consumer information about the new servicer and the borrower's monthly payment arrangements. This preliminary contact is the first opportunity that a servicer has to create a positive relationship with a new client, and the harsh language used in the Miranda warning can create animosity between the servicer where none need exist.

Additionally, because the mini-Miranda is required in all subsequent contacts, they can continue for decades, even after customers bring their loans current and keep them that way for years.

H.R. 314 resolves this problem by creating a narrow exemption from Miranda notices for the servicers of federally related first lien mortgages whose primary function is servicing current loans, not collecting third-party debts. It exempts these servicers only from the Miranda notices, leaving all other substantive borrower protections required by the Fair Debt Collections Practices Act in place.

This legislation is consistent with the long-standing recommendation from the Federal Trade Commission to improve the mortgage servicing process. I urge my colleagues on both sides of the aisle to support this bipartisan legislation to improve the mortgage servicing process for both the consumer and for the companies who serve them.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEKS of New York. Mr. Speaker, I yield myself such time as I may consume.

I rise today in strong support of H.R. 314, the Mortgage Servicing Clarification Act. As an original cosponsor of the bill, I would like to thank the gentleman from Pennsylvania (Mr. KANJORSKI) for his leadership on this bill. My thanks also go to the lead Republican sponsor of this legislation, the gentleman from California (Mr. ROYCE), who worked on a bipartisan basis to bring this bill to the floor.

I also want to thank the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, and the gentleman from Massachusetts (Mr. FRANK), the ranking member, and the other cosponsors of the bill from both sides of the aisle for their support and help for bringing this bill to the House floor.

The bill before us is largely technical in nature and seeks to address a change in market practices not anticipated by the original Fair Debt Collections Practices Act. This act is a consumer protection statute which was established in order to protect consumers from deception and abusive practices by third-party debt collectors.

Under the FDCPA, debt collectors are required to give certain notices to debtors regarding the nature and the amount of the delinquent debt. The original intent of this notice was to ensure the debtor understood why the collector was calling and what was owed.

Under the act, collection activities by the original creditors were generally exempt from the FDCPA. However, third parties such as debt collectors are generally considered to be covered and are required to provide such written or oral communications to consumers. These notifications are generally referred to as the Miranda warnings to consumers.

The reason for the bill before the House is to distinguish between mortgage servicers and third-party debt collectors. In the mortgage market, mortgages are bought and sold on a regular basis in order to provide liquidity for lending and better rates for the borrowers. In some cases, originators will keep loans on their books, but will decide to sell the servicing rights to other parties.

This legislation was developed in response to a growing concern that some mortgage servicers were unclear whether these transfers were covered by the FDCPA and what the appropriate communication should be between the mortgage servicer and the consumer. H.R. 314 would clarify this problem by providing a narrow exemption from the requirement to provide Miranda warnings under the FDCPA for a mortgage servicer who acquires responsibility for servicing mortgage by assignment, sale or transfer. Under this exemption, a mortgage servicer would not be required to provide a Miranda warning for any loan that is actually in default at the time of the transfer of servicing rights. This means that the exemption is narrowly drawn so as to affect a small number of mortgages.

In addition, this bill ensures that this exemption only applies to collection activities in connection with these specified loans. As a result, a mortgage servicer cannot use this exemption with respect to other loans which may become in default after the transfer occurs.

I also want to highlight the fact that this bill does not provide an exemption from other substantive borrowers' rights. Rather, this exemption is narrowly drawn to apply only to the Miranda warning which third-party debt collectors are required to give to consumers.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. BACHUS), the chairman of Subcommittee on Financial Institutions and Consumer Credit.

Mr. BACHUS. Mr. Speaker, I want to first commend the gentleman from California (Mr. ROYCE) for introducing this bill. This bill was actually introduced in the last Congress by the gentleman from California and passed almost unanimously. He has enlisted broad support for this bill, both in the committee and from the rank and file. It is also a bill which has bipartisan support. It has people who have sponsored it from both sides of the aisle.

It was drafted to be consistent with the previous recommendations by the Federal Trade Commission to apply the Fair Debt Collection Practices Act protections based on the nature of the overall business conducted by the party to be exempted rather than the status of individual obligations when the party obtained them.

H.R. 314 is actually even narrower than the FTC recommendation. It only exempts mortgage servicers from the Miranda warnings required by section 8071 on original first lien Federal-backed mortgages. All other borrower protections provided by the Fair Debt Collection Practices Act remain in full force.

I want to read a portion of a letter explaining why the Miranda warnings are clearly appropriate for third-party debt collection activities, but they are actually inappropriate for the type of situation addressed in this bill, and that is where a new servicer comes in and takes over the mortgage and the mortgage is in default.

What the letter says, first of all, is that by requiring these Miranda warnings, it actually does two things. It puts borrowers at greater risk in mortgage servicing transfers, and two, it impairs the ability of the new mortgage servicers to establish a strong customer relationship.

This letter was drafted by the gentleman from Pennsylvania (Mr. KANJORSKI), has a signature of the gentlewoman from New York (Mrs. MALONEY), the gentleman from California (Mr. SHERMAN), the gentlewoman from Ohio (Mrs. JONES) and the gentleman from New York (Mr. MEEKS). Of course, the gentleman from New York (Mr. MEEKS) is a cosponsor of the bill. These are all Democrats and all members of the Committee on Financial Services. They say this about the present state of the law and the need for this legislation which the gentleman from California (Mr. ROYCE) is offering.

One, the present Miranda notice misleads the borrower about the nature of the new servicers' relationship. The most important thing a delinquent mortgage borrower can do is call his or her servicer to work out options. The harshly worded warnings actually discourage borrowers from contacting the new servicer out of the fear that the company is simply another debt collector.

Two, the notice "protects borrowers from providing information that the mortgage servicer already has in its possession. Mortgage servicers already possess detailed information about the borrower in the loan files."

Third, the notice hurts customer relationships for the remaining term of the mortgage. The mini-Miranda is required in all subsequent contacts with the borrower, even after the customers have brought their loan current and maintained them that way for years.

In closing, as the gentleman from New York said earlier, mortgages now are transferred. They are assigned. They are bought. It is a normal course of action in a businessplace. When this happens, people need to know whether they are dealing with a debt collector or with their mortgage servicer. This new law will allow that.

So I would urge the membership to endorse this bill with a strong yes vote.

Mr. MEEKS of New York. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself the remaining time.

In closing, I urge all my colleagues to stand up for consumers and help to increase the efficiency of the mortgage servicing industry by supporting this common-sense and bipartisan legislation.

I would, again, like to thank the coauthor of this legislation, the gentleman from Pennsylvania (Mr. KANJORSKI), and thank the gentleman from New York (Mr. MEEKS) and thank the gentleman from Alabama (Mr. BACHUS) for their comments.

□ 1530

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the bill, H.R. 314.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROYCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6 p.m.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess until approximately 6 p.m.

□ 1800

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KOLBE) at 6 p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Concurrent Resolution 26, by the yeas and nays;

H.R. 868, by the yeas and nays;

House Resolution 109, as amended, by the yeas and nays.

Proceedings on H.R. 314 will resume tomorrow.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## CONDEMNING THE PUNISHMENT OF EXECUTION BY STONING AS A GROSS VIOLATION OF HUMAN RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 26.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 26, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 17, as follows:

[Roll No. 65]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly

Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Barton (TX)
Carson (IN)
Combest
Doyle
Fletcher
Fossella
Gephardt
Gordon
Gutierrez
Hinchey
Hulshof
Hyde
Lee
Mollohan
Payne
Slaughter
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KOLBE) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1821

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the remainder of this series will be conducted as 5-minute votes.

## NICARAGUA PROPERTY DISPUTE SETTLEMENT ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 868.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and pass the bill, H.R. 868, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 7, not voting 13, as follows:

[Roll No. 66]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—7

Flake
Gillmor
Goode
Goodlatte
Miller (FL)
Paul
Tancredo

NOT VOTING—13

Barton (TX)
Carson (IN)
Combest
Doyle
Fletcher
Fossella
Gephardt
Gordon
Gutierrez
Hyde
Mollohan
Slaughter
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

☐ 1828

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## URGING PASSAGE OF RESOLUTION ADDRESSING HUMAN RIGHTS ABUSES IN NORTH KOREA AT 59TH SESSION OF UNITED NATIONS COMMISSION ON HUMAN RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 109, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 109, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 1, not voting 14, as follows:

[Roll No. 67]

YEAS—419

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—14

Barton (TX)
Carson (IN)
Collins
Combest
Doyle
Fletcher
Fossella
Gephardt
Gordon
Gutierrez
Hyde
Mollohan
Slaughter
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KOLBE) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

☐ 1836

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote Nos. 65, 66, and 67 due to my attendance at the funeral for former Rochester Mayor Thomas P. Ryan, Jr. and traffic jams caused by the standoff with Mr. Watson on the Mall in Washington, DC. Had I been present, I would have voted "aye" on rollcall vote Nos. 65, 66, and 67.

H. Con. Res. 26, rollcall No. 65, "aye."
H.R. 868, rollcall No. 66, "aye."
H. Res. 109, rollcall No. 67, "aye."

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1114

Mr. KIRK. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island (Mr. KENNEDY) be removed as a cosponsor of H.R. 1114.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## MEDIA ACCOUNTABILITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, recent media interviews, both print and television, have subjected our young troops to questions which in my mind have no business being posed days before possible military action. These interviews are asking questions regarding fratricide, combat deaths, chemical or biological weapons, "personal demons," and "bloody urban fighting." As many of us in the House are veterans, we know the sacrifices that come with service, including the loss of life. Our troops and their commanders know they must focus on the task assigned and the mission objective that must be completed. I believe that focus can be hindered when certain media personalities continue to dredge up these feelings purely for national coverage. We must be mindful that reporting facts is quite different from generating an emotional story for rating purposes.

Today's media has a tremendous amount of access, much more so than they did in Desert Storm. There are 600 journalists embedded in our military operations. I ask that the media let our troops focus on the mission at hand and let them do their job and return home safely.

Mr. Speaker, recent media interviews both print and television have subjected our young troops to questions, which in my mind, have no business being posed days before possible military action.

These interviews are asking questions regarding fratricide, combat deaths, chemical or biological weapons, "personal demons," and "bloody urban fighting." As many of us in the House are veterans, we know the sacrifices that come with service, including the loss of life.

Our troops and their commanders know they must focus on the tasks assigned and the mission objectives that must be completed. I believe that focus can be hindered when certain media personalities continue to dredge up these feelings purely for national coverage.

Let me state that I do not advocate censorship. I do advocate common sense. Providing media access to our troops is necessary to assist in providing accurate information for the American public and to counter false propaganda from other sources seeking to undermine our objectives.

However, we must be mindful that reporting facts is quite different from generating an emotional story for ratings purposes. Today's media has a tremendous amount of access—much more so than during Desert Storm in 1991. There are 600 journalists embedded in our military operations. With that access comes responsibility . . . responsibility to the troops, their families and the public. I ask that the media let our troops focus on the mission at hand, let them do their job and return safely home.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## EXTENDING STATUTE OF LIMITATIONS FOR AUTISM VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, it used to be that one child in 10,000 was autistic. Now it is one in 200. We have had a 50-fold increase in the number of children that are autistic in this country. It is an absolute epidemic.

One of the causes, according to leading scientists around the world, is the mercury that was in children's vaccines. Mercury, can we believe that, being in a child's vaccine? It is toxic to the brain, it causes neurological disorders, and yet we have been using it as a preservative for years and years and years.

One of the things that I am very concerned about is that many of the parents who have autistic children missed the 3-year statute of limitations to file for money to help with their child's damaged brain because they did not even know their child was damaged by mercury, and the thimerosal in these vaccines until the 3-year statute of limitations had expired.

Now, there has been legislation proposed at various times, especially last year in the homeland security bill, which would have eliminated any possibility of those people going to court to get satisfaction for their child's damaged brain. Their child is ruined for life, and they cannot get into the Vaccine Injury Compensation Fund, so there is no recourse.

Mr. Speaker, there is legislation that I have sponsored this year and legislation that Senator FRIST has sponsored in the other body that will deal with this problem. But we have to make absolutely sure that the legislation does open up the process so that these parents will have an opportunity to participate in the Vaccine Injury Compensation Fund, which has $1.8 billion in it right now.

Now, every night I am going to be coming down here reading letters from these parents who have had damaged children. I have thousands of them. It is extremely important that my colleagues and people across this country know what has been going on.

Here is a letter from a lady named Mary Cutler from Brick, New Jersey. She said, "Shortly after my son received his second and third rounds of DTP/Hib at 5 months and 7 months of age and then hepatitis B at 9 months of age, he began to be continually sick with ear infections and diarrhea and was late on meeting his milestones. After he received his first MMR shot at age 15 months, he began to head bang and wake up during the night.

"It was not until 2000 when I came across a report on thimerosal in vaccines and the comparison of the symptoms of mercury poisoning and autism did I find a true answer. My son has been tested. Mercury was found in his body and he has been undergoing chelation treatment for mercury poisoning. We test his urine often and after 2 years of chelation, there is still mercury coming out of his body."

Mercury that in all probability was put in by these shots that children get before they go to school.

"He has since made and continues to make steady improvements," but there is still mercury in him and it is coming out. "He became more and more verbal," and so and so forth.

She ends up by saying, "All of this has come at a great cost, both financially," and they have heavy credit debt and they have had to take out second and third mortgages on their home, "and emotionally to our family. My husband and I have not had a night out or a vacation in years or even been able to get a babysitter.

"Since we did not find out about the vaccine thimerosal ingredient until 2000, the 3-year limitation rule has put us outside the statute of limitations for the current Vaccine Injury Compensation Act. We hope someday our son may live a normal life, but it is a constant worry as to what will happen to him as we age and/or die and we are no longer able to take care of him. The money that autism costs to families and society at large in terms of special education, Social Security, disability, et cetera cannot be ignored or hidden from the general public. Thimerosal/mercury is a known neurotoxin and that the vaccine manufacturers could use it at all and that they still use it especially without looking at the cumulative effects on babies is unconscionable and must be addressed so it does not happen again."

Mr. Speaker, we need to reopen the Vaccine Injury Compensation Fund with a look-back provision for at least 1 year or 18 months so these families will have some recourse. They are losing their homes, they are going bankrupt, there are divorces being caused because they have no recourse and there is nothing they can do about their child's damaged brain. Our society and the pharmaceutical companies that had thimerosal in these vaccines should bear a responsibility, and that is why the Vaccine Injury Compensation Fund, which was designed to protect the pharmaceutical companies as well as to provide a nonadversarial procedure so parents could get financial assistance for their damaged children who were damaged by vaccines, that we need to make sure that it is open to these people who have damaged children, who have been damaged through the mercury that is in the childhood vaccines.

☐ 1845

Children get 26 vaccines before they go to school, vaccinations. Many of them, many of them become autistic. It has gone, as I said before, from 1 in 10,000 to 1 in 200.

This is something our government and our society can no longer ignore.

We must hold the pharmaceutical companies accountable. We can do that with the kind of legislation we have been talking about; that is, to open up the Vaccine Injury Compensation Fund for those families who missed that 3-year window of opportunity.

This is something we cannot forget. We must get on with it. Here are a few pictures of some of these kids that have been damaged.

## DESPITE PENDING WAR WITH IRAQ, BUSINESS AS USUAL IN HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, some would say that the United States House of Representatives has walked away from its constitutional duties under Article I, Section 8, wherein Congress and only Congress, the House and Senate, have the sole authority to declare war; and then, on the eve of the first ever preemptive war in our Nation's history, that the House of Representatives, under the Republican leadership, has slipped into irrelevance, silent and compliant.

Just this evening we have just finished our regular business, three noncontroversial bills, and the Republicans have fled downtown for what they expect to be the largest ever fundraiser in their history, business as usual, while 300,000 of our young men and women sit in the desert wondering what tomorrow or the day after will bring.

They have not been, I must admit, totally irrelevant over the last few weeks. Just last week, tremendous actions were taken here by House Republican leaders. They launched an attack against French fries. After a flurry of activity, hand-wringing, planning, and massing an assault, they wiped out the dread French fries from Capitol Hill. It is rumored that this week they are planning an assault on Russian dressing, and even tomorrow's turkey menu is a potential target. Meanwhile, 300,000 of our young men and women and a few allies sit in the desert wondering what their elected leaders are doing and thinking.

Have we done everything we could for those young men and women? Did we examine and push toward options short of war, war, which should always be only used in an extreme circumstance and a last case? I do not think so. We voted on October 14 on this issue, under pressure of the coming election, and gave the President a blank check. Since then, not one official act by this body has dealt with the issue of the looming war in Iraq.

Have we given all our young men and women everything they need? We spend a lot of time on the defense contractors, their profits and exotic weaponry, but I hear from dads and moms and from some of the troops themselves that they do not have all the things they need. Some of them were sent over there with the wrong camouflage. They got the forest camouflage. Others are worried about the huge number of defective chemical/biological suits which have slipped into the inventory due to the fraud and criminal acts of some of our defense contractors.

Have we served them well in terms of a plan? Have we had discussions here about how the U.S. will conduct this war? Those are scant. Those are all being kept downtown, or at the Pentagon.

Do we have and have we discussed and pushed to hear about an exit strategy? General Shinseki, in a candid moment which Secretary Rumsfeld tried to squash, and Assistant Secretary Wolfowitz demeaned, says he expects we will have to leave 250,000 to 300,000 of our young men and women in that country as an occupying force for quite some time. He said that. They said, oh, no, he is mistaken. He is only the head of the Army. He does not know anything. Then he came up to Capitol Hill again last week, and he repeated that statement. They did not want to hear it. They do not want the American people to hear it.

They do not have an exit strategy; they have a plan, when I cannot get unemployment benefits extended for the people in my State, to pay 2 million members of the Iraqi military and bureaucracy salaries out of the United States Treasury, and to rebuild the country quickly with U.S. defense contractors when I have bridges crumbling in my State.

If we paid half as much attention to the needs of the American people in our States, or the needs of our young men and women, I do not believe that this war would have been such an inevitable result and foregone conclusion.

But the clock ticks towards zero, and the President's ultimatum has 25 hours and 12 minutes yet to run. The Republican leadership has adjourned downtown for a big fundraiser, and the House is going dark.

## IN SUPPORT OF H.R. 837, FUELS SECURITY ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I rise this evening in support of H.R. 837, the renewable fuels agreement.

Mr. Speaker, at the present time U.S. fuel prices are at an all-time high, $3 per gallon in parts of the country, and $2 per gallon in most other parts. We are nearly 60 percent dependent on foreign oil. We currently import 13 million barrels of petroleum a day, and we produce only 6 million barrels per day domestically, so there is a tremendous imbalance there.

The Mideast crisis points up the uncertainty of our fuel supply. The renewable fuels agreement would increase ethanol production to nearly that of Iraq by 2012. Right now, we see by this chart that this is our current ethanol production. This is the amount of fuel that we import from Iraq, and by 2002 we would have ethanol production ramped up to somewhere near what we currently import from Iraq.

The way the ethanol industry is going, I would predict that we will far surpass by 2012 the 7 billion gallons or 7 billion barrels that we are currently importing from Iraq.

Many times agriculture and environmental groups are at odds. This is one case where I hope we are all on the same page, because ethanol production certainly benefits the environment. First of all, it decreases carbon monoxide emissions, which lead to ozone pollution; secondly, it decreases carbon dioxide and methane emissions by as much as 35 percent, which causes global warming.

In 2002, the ethanol industry reduced greenhouse emissions by 4.3 million tons in 1 year, 2002. Then, of course, ethanol does replace MTBE, which has been proven to pollute groundwater, so we think it is a win-win, in many cases.

Another common myth people do not correctly understand is that ethanol somehow is a negative use of energy. In actual fact, we find that ethanol production results in a positive use of energy. For every Btu of energy of fossil fuels used to produce ethanol, we get 1.389 Btus in return, a gain of almost four-tenths of a Btu. By contrast, gasoline, for 1 Btu of energy to produce, yields only eight-tenths of a Btu. MTBE produces roughly 6.75. So this is one area where we actually are increasing the amount of energy that we have available to us.

Implementation of the renewable fuels agreement will result in lower prices at the pump. This, again, is something most people understand; but this legislation, H.R. 837, will create much more flexibility within the refinery industry, which will allow ethanol to be produced at certain places at certain times when it is most cost-effective. Therefore, there will be a reduction in price at the pump.

Renewable fuels legislation will boost the United States' economy. I think this, again, is something people are not aware of. This legislation will reduce crude oil imports by 1.6 billion barrels while cutting the trade deficit by $34 billion over the next 9 years.

Currently the greatest part of our trade deficit has to do with petroleum imports. This will substantially reduce that. Also, this legislation will reduce government payments to farmers by

$5.9 billion while adding $51 billion to the farm economy through 2012. So again, we feel this is a win-win situation.

H.R. 837 will result in roughly 5 percent of our fuel supply coming from ethanol. Actually, there is much greater potential than this 5 percent. In Brazil, for instance, 22 percent of the fuel supply comes from ethanol. We have many automobiles, and fleets of automobiles and trucks in our country that currently use a formulation 85 percent ethanol, so the opportunity is practically limitless here.

Also, we would like to mention biodiesel, which uses soybeans. This has expanded very rapidly.

I urge, Mr. Speaker, passage of H.R. 837. This is part of the energy bill at the present time. If it does not go in the energy bill, we will introduce it and have introduced it as stand-alone legislation. I urge passage of H.R. 837.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–42) on the resolution (H. Res. 147) providing for consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to take the 5 minutes of the gentlewoman from Indiana (Ms. CARSON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## ERRONEOUS JUSTIFICATIONS FOR WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I listened to the President's speech last night. I have no doubt that the President loves this country as much as I do, and he wants to do what is right. My problem with what he said is this: Many of the facts he cites and the things he believes about Iraq and about international law, and I hate to say this, are just plain wrong.

There is a very good article in today's Washington Post buried on page 13 which is entitled "Bush Clings to Dubious Allegations About Iraq," which I will submit for the RECORD. It reminds us of some things we have forgotten.

For instance, does Iraq have nuclear weapons? Is it trying to make them? The President has said that Iraq tried to buy high-strength aluminum tubes to use in machinery to enrich uranium. The International Atomic Energy Commission determined the tubes were for conventional weapons.

The administration has pointed to 30 pounds of fissile material that was being smuggled into Iraq in a taxi from Turkey. It turned out to be less than 3 ounces of nonradioactive metal.

In his State of the Union Address, the President relied on a report that Iraq tried to buy uranium in Niger, in Africa. That turned out to be a forgery, and it was a forgery that the CIA had warned the administration about.

Last week the Vice President said Iraq has "reconstituted nuclear weapons." Later in the same interview, he said that Iraq would get nuclear weapons, and it was only a matter of time. But the International Atomic Energy Commission, which has people on the ground in Iraq, or did until we told them to get out, says that there is no indication of resumed nuclear activities.

Does Iraq have ballistic missiles that can strike Saudi Arabia, Israel, and Turkey, as the President said? U.N. arms inspectors found the missiles, determined they could not fly as far as those three countries, but they ordered them destroyed anyway. The Iraqis destroyed them, but the President said Hussein has ordered continued production, apparently based on nothing more than an electronic intercept where someone said they could build missiles in the future.

Does Iraq have an extensive ongoing weapons program? Well, a graduate student 12 years ago wrote a paper that says so. It was plagiarized by the Blair government and passed on to Secretary Powell and cited in the United Nations as a news-breaking British intelligence document. When I weigh a plagiarized graduate school paper against the U.N. inspector's report, my inclination is to go with the United Nations report.

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But this administration sticks with the plagiarized paper. The President also threw in some misconceptions about international law. He believes that various U.N. resolutions add up to enough authority to go to war. That is not true. When the President takes his oath, he agrees to follow the treaties in article 6, clause II: "This Constitution and all treaties made shall be made under the authority of the United States and shall be the supreme law of the land."

When we go to war in Iraq, we are breaking that law. Now I hope the President, who still has 2 days to do some thinking, will consider drawing back from the brink.

Mr. Speaker, I listened to the President's speech last night. I have no doubt that the President loves this country as much as I do, and wants to do what is right.

My problem with what he said is simply this: many of the facts he cites and the things he believes about Iraq and about international law are—and I hate to say this—just wrong.

There is a good article in the Washington Post today called "Bush Clings to Dubious Allegations About Iraq," which I will submit for the RECORD. It reminds us of some things we have forgotten.

Does Iraq have nuclear weapons? Is it trying to make them?

The President has said that Iraq tried to buy high-strength aluminum tubes to use in machinery to enrich uranium. The International Atomic Energy Commission determined that the tubes were for conventional weapons.

The administration has pointed to 30 pounds of "fissile material" that was being smuggled into Iraq in a taxi from Turkey. It turned out to be less than 3 ounces of nonradioactive metal. In his State of the Union Address, the President relied on a report that Iraq tried to buy uranium in Niger that turned out to be a forgery, and a forgery that the CIA had warned the administration about.

Last weekend, on Meet the Press, Vice President CHENEY said Iraq has "reconstituted nuclear weapons." Later in the same interview, he said Iraq would get nuclear weapons and it was "only a matter of time."

But the International Atomic Energy Commission which has people on the ground in Iraq—or did until we told them they should get out—says "there is no indication of resumed nuclear activities."

Does Iraq have ballistic missiles that can strike Saudi Arabia, Israel, and Turkey, as the President said? U.N. arms inspectors found the missiles, determined that they couldn't fly as far as those three countries, but ordered them destroyed.

The Iraqis destroyed them, but the President says Hussein has ordered their continued production—apparently based on nothing more than an electronic intercept where someone says they could build missiles again in the future.

Does Iraq have an extensive, on-going weapons program? Well, a graduate student wrote a paper that says so and it was plagiarized by the Blair government, and passed on to Secretary Powell and cited as a newsbreaking British intelligence document.

When I weigh a plagiarized grad school paper against the U.N. inspector's report, my inclination is to go with the U.N. inspector's report—but this administration sticks with the plagiarized paper.

The President also threw in some misconceptions about international law in his speech last night. He believes that various U.N. Resolutions add up to enough authority for the U.S. to launch an air and ground invasion of Iraq.

This is not true. When we joined the U.N., we signed a treaty. The treaty says a member state can attack another country under two conditions—when attacked or in imminent danger of attack or when an attack is authorized by the Security Council.

The President said last week that we were going to the Security Council for authority and we'd have a vote "no matter what the Whip count is." Well, we didn't. We didn't because we were going to lose.

Mr. Bush came up here to the Capitol steps on January 20, 2001 and said, "I do solemnly swear that I will faithfully execute the office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States." That's the Oath of Office, friends.

The Constitution he pledged to uphold says, Article 6, Clause 2: "This Constitution . . . and all Treaties made, or which shall be made under the Authority of the United States, shall be the Supreme Law of the Land."

Treaties are the Supreme Law of the Land, on a par with the Constitution. The Constitution says so. We aren't supposed to pick and choose.

We've never before in the history of the United States invaded another country without some kind of immediate provocation. But from now on, under the Bush Doctrine, we're going to invade when we think it's a good idea whether the Security Council agrees or not.

This is a dangerous course—and it's especially dangerous when the information used to decide whom to invade is so very, very bad.

Mr. Speaker, there is still time for the President to pull back from this course of action, to re-examine the so-called "facts" he's relying on and to find another path. Let us pray that he does.

[From the Washington Post, Mar. 18, 2003]

### BUSH CLINGS TO DUBIOUS ALLEGATIONS ABOUT IRAQ

(By Walter Pincus and Dana Milbank)

As the Bush administration prepares to attack Iraq this week, it is doing so on the basis of a number of allegations against Iraqi President Saddam Hussein that have been challenged—and in some cases disproved—by the United Nations, European governments and even U.S. intelligence reports.

For months, President Bush and his top lieutenants have produced a long list of Iraqi offenses, culminating Sunday with Vice President Cheney's assertion that Iraq has "reconstituted nuclear weapons." Previously, administration officials have tied Hussein to al Qaeda, to the Sept. 11, 2001, terrorist attacks, and to an aggressive production of biological and chemical weapons. Bush reiterated many of these charges in his address to the nation last night.

But these assertions are hotly disputed. Some of the administration's evidence—such as Bush's assertion that Iraq sought to purchase uranium—has been refuted by subsequent discoveries. Other claims have been questioned, though their validity can be known only after U.S. forces occupy Iraq.

In outlining his case for war on Sunday, Cheney focused on how much more damage al Qaeda could have done on Sept. 11 "if they'd had a nuclear weapon and detonated it in the middle of one of our cities, or if they had unleashed . . . biological weapons of some kind, smallpox or anthrax." He then tied that to evidence found in Afghanistan of how al Qaeda leaders "have done everything they could to acquire those capabilities over the years."

But in October CIA Director George J. Tenet told Congress that Hussein would not give such weapons to terrorists unless he decided helping "terrorists in conducting a WMD [weapons of mass destruction] attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him."

In his appearance Sunday, on NBC's "Meet the Press," the vice president argued that "we believe [Hussein] has, in fact, reconstituted nuclear weapons." But Cheney contradicted that assertion moments later, saying it was "only a matter of time before he acquires nuclear weapons." Both assertions were contradicted earlier by Mohamed ElBaradei, director general of the International Atomic Energy Agency, who reported that "there is no indication of resumed nuclear activities."

ElBaradei also contradicted Bush and other officials who argued that Iraq had tried to purchase high-strength aluminum tubes to use in centrifuges for uranium enrichment. The IAEA determined that Iraq did not plan to use imported aluminum tubes for enriching uranium and generating nuclear weapons. ElBaradei argued that the tubes were for conventional weapons and "it was highly unlikely" that the tubes could have been used to produce nuclear material.

Cheney on Sunday said ElBaradei was "wrong" about Iraq's nuclear program and questioned the IAEA's credibility.

Earlier this month, ElBaradei said information about Iraq efforts to buy uranium were based on fabricated documents. Further investigation has found that top CIA officials had significant doubts about the veracity of the evidence, linking Iraq to efforts to purchase uranium for nuclear weapons from Niger, but the information ended up as fact in Bush's State of the Union address.

In another embarrassing episode for the administration, Secretary of State Colin L. Powell cited evidence about Iraq's weapons efforts that originally appeared in a British intelligence document. But it later emerged that the British report's evidence was based in part on academic papers and trade publications.

Sometimes information offered by Bush and his top officials is questioned by administration aides. In his March 6 news conference, Bush dismissed Iraq's destruction of its Al Samoud-2 missiles, saying they were being dismantled "even as [Hussein] has ordered the continued production of the very same type of missiles." But the only intelligence was electronic intercepts that had individuals talking about being able to build missiles in the future, according to a senior intelligence analyst.

Last month, Bush spoke about a liberated Iraq showing "the power of freedom to transform that vital region" and said "a new regime in Iraq would serve as a dramatic and inspiring example of freedom for other nations in the region." But a classified State Department report put together by the department's intelligence and research staff and delivered to Powell the same day as Bush's speech questioned that theory, arguing that history runs counter to it.

In his first major speech solely on the Iraqi threat, has October, Bush said, "Iraq possesses ballistic missiles with a likely range of hundreds of miles—far enough to strike Saudi Arabia, Israel, Turkey and other nations—in a region where more than 135,000 American civilians and service members live and work."

Inspectors have found that the Al Samoud-2 missiles can travel less than 200 miles—not far enough to hit the targets Bush named. Iraq has not accounted for 14 medium-range Scud missiles from the 1991 Persian Gulf War, but the administration has not presented any evidence that they still exist.

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## HONORING LEONARD ASH

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Florida (Mr. FEENEY) is recognized for 5 minutes.

Mr. FEENEY. Mr. Speaker, I stand here tonight to honor a fallen hero from America's greatest generation. Leonard Ash was a Marine whose life richly illustrated President Ronald Reagan's observation. President Reagan said, "Some people live their entire life and wonder if they ever made a difference in the world. Marines don't have that problem."

Mr. Ash served in the 4th Marine Division and fought at Iwo Jima. Seventy-five percent of the 4th Marine Division were killed or wounded at Iwo Jima. Mr. Ash belonged to that 75 percent. His leg was nearly blown completely off. But some good emerged from that very dark battle. Iwo Jima's airfields provided a refuge for American bomber crews. As one of the Army Corps pilots observed, "Whenever I land on this island, I thank God and the men who fought for it."

While recuperating, Mr. Ash met Lt. Genoveve Durocher, a Navy nurse who eventually became his wife for 55 years and the mother of his four children. While often overlooked by history, Mrs. Ash and her fellow nurses proudly served our country. They healed and comforted the wounded, and they bravely stood by the side of servicemen who at times were on the threshold of eternity.

On January 31 of this year, 78-year-old Sergeant Major Ash watched a television documentary about protests of America's possible action to liberate Iraq. He scrawled out some notes in response to the anti-war protest that he had just watched. The next day he and his wife, Genoveve, attended an anti-war rally in Port Orange, Florida, near their home and in my district. He brought his notes in case he had an opportunity to speak and many of the protesters against America's participation in liberating Iraq did not want him to speak.

At the rally, one of the protesters yelled that they would rather bomb President Bush than Iraq. At that point Mr. Ash, outraged, clutching his notes, stood up to defend our President and our country. The following is what he intended to say:

"I am sickened at this propaganda against our country. Saddam is a murderous dictator. He has exhibited no remorse or hesitation in killing thousands of his own population with poisonous gases and other hideous means. His intent is to delay his defeat until he is able to use weapons of mass destruction against his enemies, the United States and his Arab neighbors.

"Those old enough to remember the few years prior to World War II should recall Mussolini and Hitler executed similar strategies against neighboring countries. Saddam must be stopped before he is able to deliver weapons of mass destruction into the hands of terrorists.

"Our country is blessed to have Colin Powell, DICK CHENEY, Donald Rumsfeld, and President Bush with their commitment to protect Americans and our allies.

"No one wants war. America has only entered a war because war has already commenced itself upon us. America enters war to protect and to honor the freedoms of this great Nation. That is the duty of the President. America is here today because she has not fallen short and because she is not fearful.

"The time to stand firm is now. My wife and I both dislike war. We have seen it firsthand as Marine sergeant and Navy nurse. We stand here today as witnesses that the freedoms we share today have not come without a grave price."

Mr. Speaker, Mr. Ash never got a chance to finish his speech. After standing up and explaining that he and his wife were World War II veterans, he clutched his heart and he collapsed and he died of a heart attack. But because his proud and loving daughter Annette shared his notes with me, while he was unable to finish his speech, I have had the great honor and privilege of doing it for him.

Mr. Speaker, to my friend, Mr. Ash, who I never met but feel like I know, all I can say is. Job well done, America's good and faithful servant.

## SAVE HEAD START

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I rise today to address a potential problem hidden deep in the President's budget. The budget says that the President is seeking to give States the opportunity to exercise more control over Head Start and that he would like to move responsibility of Head Start from the Department of Health and Human Services to the Department of Education.

Now, this may not seem like a big deal to many listening tonight, but I believe that it will have a damaging effect on our most vulnerable children. They say this change is intended to focus Head Start on school readiness and teacher training.

Well, for those who do not know what Head Start is, that may seem like an admirable goal. Head Start already does that and I agree that these are important goals and should be worked on continuously. Moving the program to the Department of Education will fundamentally alter the philosophy of the program.

Head Start is already a readiness program and more. It is a program that prepares the whole child for life. The program teaches families about proper nutrition. It also provides health and mental health screenings and other important services that many of these children would not have if Head Start did not exist. It is important to remember why we created Head Start to begin with under the War on Poverty. Poor children and the children of working-class families did not have the opportunity to have a preschool experience before going into kindergarten. These were children that often times had never had a physical examination. And we were able to discover that there were children with dyslexia, with learning disabilities, with hearing problems, with sight problems. We caught that in Head Start, and we were able to truly give these young people a chance to be successful.

Prior to Head Start, children were going into school with these deficiencies and getting put in special education classes because they thought they could not learn. President Johnson began Head Start and the War on Poverty because he saw a need to help families prepare their children for school and to break the cycle of poverty that many low-income families fall into.

Head Start has been a tremendous success. Study after study has shown that children who were enrolled in this program were more ready to learn when they entered kindergarten than their counterparts who were not enrolled. In addition, they were less likely to repeat a grade and more likely to graduate from high school; and these same students experienced greater long-term social and economic benefits than those students who were not enrolled in the program. Put simply, this is a program that works.

Instead of fundamentally altering this program, ruining its core philosophy that has guided it over the past 37 years, we should be nurturing it. I am here tonight to urge the President and my fellow Members of Congress to fully fund Head Start, resist the urge to provide funding in the form of block grants, and to keep the program within the Department of Health and Human Services. All of these would strip the program of its effectiveness.

Mr. Speaker, I have received many letters from parents and students who are asking that Congress not make any changes to Head Start. I would like to read you a couple of lines from them. One simply states, "I have 3-year-old twins and a 9-year-old daughter, all of whom have been in Head Start and it has been a wonderful experience for them."

Another says, "It not only taught my daughter her 1–2–3s and ABCs but it also taught her self-esteem." And it concludes, "It has brought my family closer together."

Said another, "I cannot express to you how grateful I am for the life-changing experience Head Start gave to me."

Mr. Speaker, we must not change Head Start. It is too important, and it has helped too many people to improve their lives.

I am not simply speaking about what I heard. I worked in the Head Start program, first as an assistant teacher, then as supervisor of parent involvement and volunteer services where I got parents understanding that they could be in control of their children's educational destiny. These parents become successful parents in the PTA programs once they are transitioned into kindergarten. And that is what it is all about, involving parents in their children's education, helping them to know that they can make their children successful. So we do not want to mess with Head Start. We want to make sure, again, we support and nurture it.

## CONTROL AMERICAN BORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, I rise tonight to add another family to the list of what we are calling "homeland heroes." These are people who have faced incredible odds and very, very difficult times, who live on the border, northern and southern borders of this country, and are really in the middle of a war zone. And I do not use that term just figuratively. The things that are going on on our borders and the way these people are having to deal with them are truly worthy of note here on the floor of the House.

Tonight, I want to bring to the attention of the floor of the House Tom and Betty Jo Kuykendall. They own and operate a ranch only 34 miles from the U.S.-Mexico border of Douglas, Arizona. Their children and grandchildren have stayed in the ranching business and all live on nearby ranch lands.

The Kuykendalls are the heart of a 6-generation ranching family. For over 6 years they have lived in a war zone, as I say. All three of their grandchildren have been either threatened or physically attacked by illegal trespassers on their own property. When I say trespassers, I am not talking about folks who just are out for a Sunday walk. These are people coming across their property from Mexico and coming into the United States illegally.

It has been over the last 6 years that something has happened dramatically and caused a dramatic difference, I should say, in the life-style of the people on that border. There have always been people coming from Mexico across that border, many of them illegal; but they have been in relatively few numbers. They will stop and ask for a job. The Kuykendalls in the past have offered jobs to these folks. They have gone on and come into the interior of the country. But in the last 6 years something has happened.

They are now coming across that border in hundreds, in fact, in thousands. The Border Patrol estimates that over a thousand people cross that border every single night in the area of the Kuykendall ranch. And what happens as a result of it? Well, their property is essentially destroyed. I was privileged to be a guest in their home, the Kuykendalls, and this is not too long ago, just several weeks ago. And, frankly, from their front yard, we could see people crossing their property, people coming into the United States illegally and crossing their property. You can see it any time of the day or night. It is, of course, more evident, more observable in the evening when the numbers become significantly higher than when there are people coming through in the daytime.

The Kuykendalls have had their dog poisoned because it had committed the crime of barking at the illegal trespassers when they came close to the ranch house. So their dog was poisoned. Illegal aliens have been caught trying to steal their horses, vehicles and ATVs on more than one occasion. One of the children's horses was stolen and found 3 days later several miles away.

A group of illegals accosted the Kuykendalls in their truck, beat on the truck and threatened them and ran only when a Border Patrol came on the scene. Some of the illegals who were apprehended were later proven to have criminal records as felons here in the United States, records of crimes ranging from murder to child molestation.

The Kuykendalls have personally observed and photographed drug smugglers crossing their land dressed in dark camouflage clothing and carrying assault rifles. The land itself is littered with discarded plastic bags, water bottles, and clothing items. The Kuykendalls' fences are torn down, gates are destroyed, water lines are cut, and unauthorized trails blazed by illegal immigrants while they trample the range land into bedrock.

These tribulations are typical of what all the ranchers in southern Arizona are experiencing to one degree or another. They suffer from a daily assault on their property and implicit assaults to their safety.

Tom and Betty Jo Kuykendall are trying to earn a living and raise a family by managing a ranch, which is hard work even in the best of circumstances. All of these assaults and intrusions on their property damage their property, cost these ranchers money, money for repairs, for lost cattle, for damaged equipment, money many ranchers simply do not have; and several of their neighbors are now taking up bankruptcy.

The Kuykendalls have lived and worked under these outrageous conditions because we, this government, refuse to take the steps needed to secure our border. Unofficial numbers, as I say, from the Border Patrol say over a thousand cross every evening in that area.

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They know that that is actually a very conservative amount.

I hope that this Congress will take the steps necessary to secure the border. By failing to do so, we are betraying not only the Kuykendalls, but the liberties of every citizen affected by a growing tide of illegal immigration flooding across our borders day after day.

I salute Tom and Betty Jo Kuykendall and their children for their efforts in defense of their land, their property and their way of life and add them to the list of homeland heroes.

## ACTIVE RESERVISTS AND NATIONAL GUARD STUDENT LOAN RELIEF ACT OF 2003

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I rise tonight to speak a little bit about H.R. 1168, which is the Active Reservists and National Guard Student Loan Relief Act of 2003.

As we heard the President speak last night, this country will soon be going to war, and we will soon be sending many young men and young women off to fight for this country. Some of these soldiers who will be fighting in the Middle East and around the world have attended school, have attended college. They have student loans that they owe back to the government, and my legislation is very simple. It does two things.

Once a soldier is activated, there is an automatic deferment of the loan, and the Federal Government will pay and subsidize the interest on that loan. I believe that is the least we can do for the soldiers that are going off and sacrificing. Many of these soldiers have mortgages, car payments, expenses. They are leaving their wives, their children behind, and many of them are taking a cut in pay.

I think it is a very simple piece of legislation. I encourage this body to pass it and include it in the supplemental. This was included and used by the first President Bush during Operation Desert Storm, and I think it should be promised to our troops today.

One example is that if a soldier has $50,000 in loans taken out, that the Federal Government will step in and will save this soldier $2,600 a year. If a person is off, they are away from their family, they are away from their kids, can we please provide a little bit of peace of mind for some of our soldiers who will be over there?

I think the Active Reservists and National Guard Student Loan Relief Act of 2003 has received thus far strong bipartisan support. The liberals, the conservatives and everyone in between have supported this legislation, and I think it is because it is good for the soldiers and it is good for this country, and I think it sets a tone, Mr. Speaker, that we are behind our servicemen and women. We are behind our soldiers, and those of us who have been opposed to the war and those who have been supportive of the war, regardless now, our job is to support our troops, and this is a simple piece of legislation I think where we can put the talk into action and make sure that we provide a little bit of peace of mind for some of the soldiers who have been in college and have student loans.

I encourage this body to pass this piece of legislation, and it really should be included in the supplemental that is going to fund the war.

## FISCALLY CONSERVATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I believe and certainly hope that our Armed Forces will achieve a quick and decisive victory in Iraq, and certainly we all hope that this can be done without the loss of even one American life and very few, if any, and hopefully no innocent Iraqi civilians, but every article we read, every analyst we hear says that winning the peace, the aftermath will be much more difficult than the war itself.

I know that people in the White House, the State Department and the Defense Department have been working on this aftermath plan for many months now. Because of something I heard on a news broadcast last week, I want to briefly discuss this.

Last Wednesday night, as I drove to a meeting here in Washington, I heard on the national news that the Baghdad stock market was booming. The report said prices had gone up more than 50 percent in the last 7 months because investors there feel that the war will be very short and that the U.S. will then spend hundreds of billions of dollars there over the next 10-years or so. Last week, the National Journal, a very nonpartisan publication, said we will spend at least $156 billion in a best-case scenario and as much as $1.9 trillion in a worst-case scenario over the next 10 years in Iraq.

Already, big multinational companies like Halliburton, Bechtel and others are lining up to get part of the pie and to make sure that we spend this money in Iraq. If I and my fellow conservatives, who were so critical of the previous administration about nation-building, do not speak out against this, this will end up being by far the biggest foreign aid program in the history of the world.

The same people who have told us how great the threat from Iraq is also tell us the war will be over with very quickly. Iraq's military budget is only about 2/10 of 1 percent of ours, counting our supplemental appropriations. So this will be about the most lopsided war in history if the mentally sick, evil Saddam Hussein does not back down. Everyone should hope that we achieve a quick and decisive victory, as I said, without the loss of even one American life.

Service in our Nation's Armed Forces is one of the most honorable ways one can serve this Nation. When we put young American soldiers and sailors into harm's way, I know all Americans hope for the best and support our troops. I wish we would get in and get out quickly and bring our troops home as soon as possible.

I have never believed that U.S. foreign policy or military decisions should be dictated or controlled by the United Nations. Yet it is also somewhat inconsistent to say, as some have, that this proves the U.N. is irrelevant and maybe we should get out, but then say we have to go to war because Iraq has violated 16 U.N. resolutions. It is not fair, Mr. Speaker, to the U.S. taxpayers or the U.S. military to place almost the entire burden of enforcing U.N. resolutions on them.

Also, the Congressional Budget Office has predicted we will run deficits of $1.8 trillion over the next 10 years. This is not counting State and local deficits. If we spend hundreds of billions in Iraq over the next decade, we will not be able to meet all our own needs here at home. We have already spent about $25 billion or so just moving our troops, planes, ships and equipment into place. Also, most of our allies are demanding billions for their support.

If we do not become more fiscally conservative, especially in regards to this war, we may have difficulty in paying all our Social Security, Medicare, veterans' and Federal retirements and so forth. We could end up then doing what most governments around the world have already done, and that is a combination of decreasing benefits, raising taxes, or, most likely, inflating our currency, which means pensions will buy less.

Iraq should use their humongous oil wells to rebuild their own country. U.S. taxpayers should not have to pay our bills and theirs, too.

Conservatives have traditionally been the strongest opponents to turning our military into international social workers. Conservatives have also been the strongest opponents of big deficit spending, huge foreign aid programs, nation-building and world government. Most conservatives are against an interventionist foreign policy, but all conservatives unify behind our troops and support the patriotic young men and women who are simply following orders.

However, after this war is over, I hope my fellow conservatives will unite once again and urge that our troops be brought home quickly and that we in the American Congress start putting Americans first once again. Let us achieve victory in Iraq, but not follow that up with the biggest foreign aid program in history.

## PRESIDENT BUSH AND THE REPUBLICANS' BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I rise tonight to discuss President Bush and the House Republicans' proposed budget. As my colleagues may recall, back in the year 2001, President Bush entered his office enjoying a fiscal surplus that no previous President had ever experienced, over $127 billion in that fiscal year alone, a 10-year surplus projected at $5.6 trillion. Our President also took office with an ambitious plan to provide tax cuts, the number of $1.7 trillion.

Democrats warned that a tax cut of this magnitude and time would prove irresponsible. We warned that the tax cuts would reduce the size of the future economy, raise interest rates and prove fiscally unsustainable, but our President chose not to listen. Instead he squandered $1.7 trillion of our Nation's surplus to advance his tax agenda, aiding a very small proportion of Americans, particularly the very wealthy.

By the summer of 2001, before the tragedies of September 11, our economy had begun to slow down, and our 10-year surplus was now down from $5.6 trillion to only $575 billion. I bring this point up because we cannot afford to ignore the connection between the current state of our economy and the President's first round of tax cuts.

Now that our economy is clearly faltering, Republicans would like to offer still more fiscally irresponsible tax cuts. How do Republicans expect to pay for the second round of $1.7 trillion in tax cuts? By cutting the programs that are essential to our collective well-being and the well-being of our families.

The President's budget cuts domestic programs important to our livelihood while enacting tax cuts that will add to our public debt. More specifically, the Bush budget sacrifices the health of our Nation. In fact, 41 million Americans right now have no health insurance. Many of them are Hispanics.

The Bush budget cuts funding for Medicaid coverage for children, low-income seniors and the disabled. The budget also eliminates funding for programs that increase the number of minority health care providers, desperately needed in communities like mine, where we need linguistically and culturally appropriate health care providers.

It is also important to note that the President's budget will only create 190,000 jobs this year, less than the number of jobs that we lost this February. The Bureau of Labor Statistics reports that the U.S. economy lost 308,000 jobs this past month. Latinos are also particularly heavily impacted. In my own district, unemployment rates are far beyond the 9 percent, way above what the national level is at 5.6.

These unemployment rates are outrageous, and our President's solution to create only 190,000 jobs is not even nearly enough where we need to be. The President should focus his budget on funding important Federal programs that create opportunity or self-sufficient jobs for the 8.5 million unemployed Americans, and instead, the President's budget cuts job training and employment programs for dislocated workers. It fails to extend unemployment benefits for the 1 million Americans who cannot access Federal assistance, but are still jobless.

As bad as the President's budget is, I am even more disappointed by the budget that the Republicans want to offer, and the Republican budget resolution requires that almost every authorizing committee cut spending within its jurisdiction, and it fails to explain which programs those will be that will be on the chopping block. I think it is questionable that we somehow implement a 2.9 percent across-the-board cut in these programs without giving us specifics. In reality, what it means is there will be more cuts for veterans, our children and the elderly.

For example, the Republican budget fails to provide any specific funding for a Medicare prescription drug benefit. It provides only $28 billion in new funding over 10 years for all the programs under the jurisdiction of two committees that are responsible for this, for Medicare, the Committee on Ways and Means and Committee on Energy and Commerce. From my own home district it would actually translate into $233.2 million of cuts in Medicare over the next 10 years, and the State of California would lose more than $18 billion.

Let us take a closer look at the Republican's budget and how it will impact education. Republicans, running on the assumption that every program harbors substantial waste and fraud, are requesting the Committee on Education and the Workforce to cut out $10 million from their budget. So what is it going to be, school lunch programs for kids or student loans?

We need to be responsible in our budget deliberations.

□ 1930

## COMMUNICATION FROM THE ATTENDING PHYSICIAN OF THE HOUSE

The SPEAKER pro tempore (Mr. BONNER) laid before the House the following communication from the Attending Physician of the House of Representatives:

U.S. CONGRESS,
*Washington, DC, March 12, 2003.*

Hon. DENNIS J. HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have determined that the grand jury subpoena for documents and testimony issued to me by the Superior Court for the District of Columbia is not consistent with the privileges and rights of the House. Accordingly, I have instructed the Office of General Counsel to move to quash the subpoena.

Sincerely,

DR. JOHN EISOLD,
*Attending Physician.*

## COMMUNICATION FROM THE ASSOCIATE ADMINISTRATOR, HUMAN RESOURCES, OFFICE OF CHIEF ADMINISTRATIVE OFFICER

The SPEAKER pro tempore laid before the House the following communication from Kathy A. Wyszynski, Associate Administrator, Human Resources, Office of the Chief Administrative Officer:

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, HOUSE OF REPRESENTATIVES,
*Washington, DC, March 17, 2003.*

Hon. DENNIS J. HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that the Office of Payroll and Benefits has been served with a subpoena duces tecum issued by the Superior Court of San Bernadino County, California.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

KATHY A. WYSZYNSKI,
*Associate Administrator, Human Resources.*

## RESPONSIBILITIES IN WAR AGAINST IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, Members who were not here during the first Persian Gulf War, the next few days will probably be some of the most serious time that we have served in the House. The consequences of the action of our Nation will be consequences that will go down in history. I think it is a good time this evening for us to sit back and take a look at what are our responsibilities.

What are our responsibilities as Republicans? What are our responsibilities as Democrats? On what issues should we act in a bipartisan fashion? On what issues should we go out and be willing to stand up for the issues, for the very standards that this country stands for? I think in the next 48 hours or so, our country, it is pretty obvious, will engage in a military conflict; and I think it is for the right reasons.

President Bush's speech last night was simple, not a lot of fancy language. It was straightforward. He did not mince any words; but more than anything else, it was appropriate. It spoke of the responsibility of the Commander in Chief. It spoke of the responsibility of the United States of America. It spoke of the responsibility of the allies and the willing coalition that has the gumption, has the foresight to stand up to one of the most vicious men and one of the most vicious regimes in the history of the world. It is time for us to stand united.

When we speak about responsibility, let us talk about what another President thought about responsibility. Let us talk about Bill Clinton, the former President of the United States. He recognized, and whatever issues Members have with Bill Clinton, he recognized what Iraq was about and what Saddam Hussein was about. Unfortunately, in the last few days I think the former President has violated kind of an unspoken rule and that is past Presidents do not interfere or try to interfere or play politics on foreign matters especially at a time of war. But President Clinton and, of course, former President Jimmy Carter have decided to speak out.

But I want to relate to Members and show exactly what President Clinton recognized; he recognized what the responsibility of this Nation was against the horrible regime of Saddam Hussein. This is what Bill Clinton said about it on February, 18, 1998. President Clinton on Saddam Hussein and Saddam's threat: "What if Saddam Hussein fails to comply and we fail to act, or we take some ambiguous third route which gives him yet more opportunities to develop his program of weapons of mass destruction and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude he can go right on and build an arsenal of devastation and destruction." Bill Clinton 1998.

That President recognized the responsibility of this country, and President Bush and his team at the White House have correctly recognized and stood up for the responsibility of this country and our willing allies. I want to talk about what are the responsibilities of the United Nations; what can the United Nations do and what should we expect from the United Nations; and what can they not do or what would be defined as an overexpectation of the capabilities of the United Nations.

Let me say first of all, we have to look at the structure of the United Nations to understand why, when it comes to standing up militarily or taking a tough police action which involves military engagement, we can see why the United Nations the way it is structured cannot possibly come to an agreement on how to do that. They could not come to an agreement in Kosovo where we had clear and resounding agreement on Slobodan Milosevic. They could not come to an agreement on the Cold War or on Somalia. The United Nations, time after time when we take a look at particular actions that require military engagement, the United Nations cannot come to a decision. Why can they not come to a decision? Because of the makeup of the United Nations.

The United Nations has 192 separate countries. The United Nations has chosen to put Libya as head of the Human Rights Commission; and they actually had Iraq to chair the U.N. conference on disarmament. Mr. Speaker, Iraq was chairing the United Nations conference on disarmament. How can we expect much more from the United Nations. The United Nations has failed to act.

The United States and its willing coalition has stood up to its responsibilities. The United Nations, unfortunately, was bulled over, as they always are, in my opinion, in part by the French. And the French, the only success that I have seen in the last month or 6 months or 12 years, frankly, the only success I have seen from the French and the Germans and the Belgians is to successfully isolate themselves.

It is interesting to think that the members of the United Nations like North Korea, Libya, Iraq and Iran consider the French their ally. Who could have ever imagined, who could have ever imagined that the French, the perception out there in the country of renegade nations, that those nations would recognize France as their ally?

We all grew up with the understanding that the French were a democratic society, a society that stood strong with the United States, although the French never really led the battle. Keep in mind in World War II, it was the French, and frankly when we look at it, take a look at where they were. It was the French that adopted the constant policy negotiate, negotiate, negotiate, talk, talk, talk. In World War II some of these countries in

Europe wanted to do everything they could to get rid of Adolph Hitler, except for one thing. They did not want to fight him. They did not want to take him head on.

But back to the United Nations. How can the United Nations function when it is 192 separate countries from 192 different economic levels from a variety of different types of governments within those countries, whether it is democracy, communism, socialism, dictatorship or run by a bunch of thugs like we saw in Somalia? Those 192 different countries have different economic levels and cultural environments that they have adopted over the years, and different treatments of human rights. Take a look at the treatment of women in Iraq or the treatment of children in Iraq and the so-called theory of education in Iraq, and the starvation and prejudice that we see in North Korea; but yet all of those countries are standing members of the United Nations, and I am being told that we can expect the United Nations to come together on an issue of serious consequences such as the engagement of a military conflict? We can understand why it has taken the United Nations 12 years to reach a decision that they cannot reach a decision. The United Nations is in fact on military engagement a paper tiger.

Does the United Nations have an appropriate location and what is their responsibility? One, their responsibility right now at the very beginning, and the responsibility of the French and the responsibility of the Germans and the responsibility of the Belgians, they should all adopt resolutions supporting the troops of the willing coalition. They should all put out a resolution supporting a regime change of Saddam Hussein. The door has closed on the so-called diplomatic relations as stated by the President.

If the Germans and French want to continue what I think were good allies or at least an alliance that withstood a lot of pressures through the years, they need to come out and support the American troops and the troops of their neighbors, the troops of Spain and Italy and the British troops. The French, the Germans, and the Belgians need not go any further to be identified as allies of North Korea, as allies of Libya, as allies of the regime in Iraq, and as allies of Iran. They need to distinguish themselves, and all they have done in the last several months is to isolate themselves in a corner with those rogue countries.

We have had the debate and discussions. We are going to engage in a military conflict, barring some miracle in the next 24 hours. The French, it is time for our allies to stand up. We are not asking for much, they would not give us much, but they at least ought to stand up and support the American troops; and that is the responsibility I think; and I am not asking too much of those allies who I feel this time around, as in the past, have let us down.

But going back to the United Nations, where does the United Nations fit in this puzzle? How can the United Nations be an effective institution? I think they can be an effective institution as long as we focus very narrowly on the responsibilities. Again coming back to the responsibilities, one, responsibilities that they can handle; and, two, responsibilities that they can effectively carry out.

As I have made clear in my statements, the United Nations cannot effectively handle nor can they come to any kind of decision when it comes to military conflict in the world. They just do not have the structure to do it. We cannot have 192 nations with that kind of diversity with those different kinds of governments come to an agreement.

But the United Nations can play a role. What role do I see them play? I see the United Nations as a social institution, as an institution that can probably effectively deliver food to starving countries such as Ethiopia, maybe even help under certain circumstances to deliver what human aid they can to North Korea, what human aid will not go straight to the military, what will go to the people.

I see the United Nations as a social institution which can help facilitate and lead the world's fight against AIDS, and be a leader against breast cancer and prostate cancer and health in general. I think they can be effective in those areas. But it is a huge mistake, and it has been proven in the last several weeks, for us to assume that the United Nations can really play an effective role in standing down a regime like Saddam Hussein.

To me the United Nations is kind of like Chamberlain was in 1938 with Hitler. I have a well-written article, and let me give credit to the author, Alistair Cook. Throughout the ceaseless tide, there was a voice of an old man, Prime Minister Chamberlain, saying instead of taking on Hitler, I believe it is peace for our time. When he made that statement, instead of going to war to stop Hitler from taking Czechoslovakia and other countries, he said, I believe it is time for the peace of our time.

□ 1945

The entire House of Commons applauded. They stood up. They gave him a standing ovation. Only one old grumpy man in the back of the room said much of anything, and he said, "I believe we've suffered a total and unmitigated defeat when we look at somebody like Hitler and say it is, 'Peace for our time. Appease him.'" That grumpy old man happened to be a guy named Churchill. The scene concluded in the autumn of 1938 with the British Prime Minister's effectual signing away of most of Czechoslovakia to Hitler, the appeasement. The rest of it, within months, Hitler went ahead and walked into it and conquered it. "Oh, dear," said Mr. Chamberlain, "he has betrayed my trust. Oh, my gosh, Hitler has betrayed my trust."

What do you think you are dealing with when you are dealing with a Saddam Hussein? That is why in my opinion the United Nations really, I think, have tremendously weakened themselves. I do not see any circumstances whatsoever. I mean, we have a history of 12 years of the United Nations, and I have got a poster over there that shows resolution after resolution after resolution after resolution, appeasement after appeasement after appeasement after appeasement. And where has it gotten us? It has not gotten us anywhere. Frankly, I think, in fact, it has gotten us into a war.

I think if the United Nations would have taken just their first resolution and followed through with what they said they were going to do, if they would have put inspectors in there that really meant something, if they would have enforced that, we could have done it diplomatically. The United Nations probably could have done it during that period of time diplomatically. But instead they adopted the doctrine of appeasement. They adopted the doctrine of the French. Negotiate, negotiate, negotiate, negotiate. Do whatever you can to get rid of the problem except fight it.

The policy that was adopted by the United Nations, the policy that has been adopted by the French and the Germans and the Belgians is the policy of going to the cancer doctor, and when he tells you that you have cancer, you say, "Doctor, I don't want to believe it. I'm going to go out of this room and hope I can talk to some friends about what a horrible thing it is, and it's going to go away on itself. Don't talk to me about cutting my foot off, Doctor. There's got to be some other way to handle this cancer, maybe some warm talk or maybe prayer." Prayer helps, by the way, but it usually does not get rid of the cancer. "Maybe there is some other alternative other than going in there under the knife, Doc, to attack this cancer."

The fact is that had you attacked the cancer when you first went to the doctor, the next time you go to the doctor, it probably would not be all over your body. The fact that here in the United Nations, had the United Nations not let the world down, had the French and the Germans been as insistent on the United Nations enforcing their first resolution as they are insistent on the United States and its allies not enforcing 1441, the 16th or 17th resolution, we would not be here today. We would not have a war.

It amazes me that the French stand out to the world as the peacemakers of the world, as if they are the Chamberlains. Where were they in 1993 and 1994 and 1995 and 1997? By the way, those were years that Saddam Hussein was using mustard gas, nerve gas and anthrax against his own population. Where were the French? Where were the Germans?

I honestly think we could have avoided war today had we tackled that cancer back then, but they did not do it.

The United Nations has, as the President says in dealing with the French, the United Nations has played their hand. They are not fit. They are not structurally designed to do this. They do not have the gumption or the leadership to do this. They cannot get the votes to do this. They are not a military institution. They are not an institution that can issue resolutions and then back it with discipline.

It is kind of like going to school. I knew some teachers that became principals. They were not successful as principals. They were great teachers. In fact, in most cases they were too nice to be a principal. They could not bring it upon themselves, one, to discipline other teachers, and they could not bring it upon themselves, even though we were friends with the principal, we knew we got away with misbehavior because the principal was too nice, he just could not bring it upon himself in this particular case to discipline us. We read that like a clock, just like a clock.

Saddam Hussein can read the United Nations like a clock. It is not complicated, by the way. You figure it out pretty soon. It is like going to the cookie jar. You find out pretty soon whether you are going to get in trouble or not for getting your hand in the cookie jar. If you are not in trouble, you tend to find your hand going to the cookie jar a little more frequently.

I think the United Nations unfortunately, or maybe fortunately, now that I think about that, maybe it is good that this has occurred so we really can figure out what focus the United Nations should take. Maybe it is good in that we can understand, look, we have overassigned the United Nations, we have expected too much from a structure that simply cannot handle the responsibility that is handed to it. With that vision, I think once we resolve this situation in Iraq, there will be other problems. There is going to be the North Koreas. There is going to be the Irans. There are other problems out there. But I think we are best, I guess, situated or to our advantage to approach those problems understanding that the United Nations really should not be the vehicle, the wagon that we put all our gear in and expect the United Nations' horses to be able to pull that wagon up the hill. They cannot do it.

But as I said earlier, there is an appropriate spot for them, to help us in the worldwide fight on AIDS, the worldwide fight on starvation, to help education throughout the world. Those are passive, social science issues that are very, very important to the international community and very, very important, whether my colleagues are Republicans or Democrats, very, very important for the whole world. Our Nation can help in that, but I think the United Nations is appropriate in that location.

I want to switch from the United Nations. I think I have made it pretty clear. I think they have dropped the ball on this. I think it was the Wall Street Journal today, and I may even have a copy of an editorial out of the Wall Street Journal. They are right. The Wall Street Journal said today, "The fighting will likely soon commence, but it is not in fact the start of this war. It is the beginning of the end of the war that began when Saddam Hussein invaded Kuwait on August 2, 1990."

Keep in mind that the reason Saddam Hussein remained in power is not because Bush, Sr., did not want to go into Baghdad, it is because Bush, Sr., frankly listened to the advice and the demand from the United Nations that the regime be left standing; that the only mission out there was to free Kuwait, to push Iraq out of Kuwait, but to leave Saddam. We could not go into Baghdad. People blame the Vice President, DICK CHENEY, whom I think is one of the outstanding leaders of this Nation. People say, "Why didn't you guys kill him 10 years ago?" It is because we listened to the United Nations, and the United Nations insisted, demanded that the United States not go in and kill Saddam Hussein. That was the United Nations. Just another example. They cannot do it.

I am critical of the United Nations, but I also understand. It is kind of like getting mad at a child. You know they misbehaved, but you have also got to look at all the circumstances around it. Does that child have some reason that they cannot behave, that they cannot really control? It is the same thing with the United Nations, structurally the way it is built. You think North Korea? You think Iraq who is head of the disarmament convention, or you think Libya which the United Nations just installed as the head of the Human Rights Commission are going to come to some kind of agreement to restore human rights, for example, in any country in the world?

Let me move off the United Nations and talk about something else. I have heard time and time again, in fact, I was surprised, over the weekend, time and time again I heard commentators who know better talking about the United States' war against Iraq, the United States' effort against Saddam Hussein. The United States. I have heard this so often, it almost makes me ill. The United States acting alone. I used to be a police officer. Somebody asked me the other day, my friend, Fred Cheney, "What is it you took out of your police career? What is it that you took that was the most benefit to you being a police officer?"

I said, "I can't tell you how many times I rolled up to the scene of an accident or rolled up to the scene of a crime, made an assumption as to what happened there only to find out later I was completely wrong once we looked at all the facts." I guess the best case is the Smart case in Utah. Take a look at that. Everybody probably assumed that the deceased suspect was the one who kidnapped her. They found stolen goods in his car, everything pointed to him, so it must be him. Once the facts are looked at more carefully and more carefully, we find out, in fact, that he was an innocent man.

It is the same kind of thing here. Before these journalists start making the statement that the United States goes it alone, or they somehow downplay the fact that the Brits, Tony Blair, who stands up as a profile in courage, they downplay the courage that he has shown, they downplay the United Kingdom as if it is not much of a country, and so the fact that they are joining the United States really is not of much substance because, after all, who is the United Kingdom? The responsibilities, again coming back to that word responsibilities, the responsibilities of the national media and the worldwide media are to look at the facts.

Let me show you the facts on the coalition, the willing coalition, as President Bush puts it. To my left are the member countries that are joining the United States, joining the United Kingdom, joining the Spanish, joining the Italians, joining the Turks, joining the Polish, joining the Hungarians. Look at all of these countries. These countries, even Poland, the Polish are sending 200 troops into this action. You tell me that any of those commentators that talk about the U.S. going it alone or the U.S. and the Brits going it alone, this does not take a lot of intellectual ability to figure out what this coalition is. You can pull this list right off the Internet. Take a look at these countries that are supporting us in our effort. Denmark, Afghanistan. I will just jump around. Hungary, Japan, Lithuania, Nicaragua, Rumania, Turkey, Slovakia, Philippines, Macedonia, South Korea, Iceland, Ethiopia, El Salvador, Colombia, Albania, Australia, they are sending forces in there, Czech Republic, Georgia, Italy, I talked about Italy earlier, the Netherlands, Poland, I talked about them, Spain. This is what that coalition looks like, and the momentum is building by the day. The momentum is building by the day.

Why are these countries doing it? Because they understand the word "responsibility." We cannot afford to shirk our responsibility. We cannot walk away from this fight. This is a cancer you cannot walk away from and hope it is better tomorrow. This is a cancer that you cannot go away and say, if I sleep on it and wake up tomorrow, it is actually going to recede. That cancer is going to go in remission because I simply sleep on it and give it a little time. Give cancer a little time, and it will go backwards. It will go into remission. That is not what happens. You have to reach out and attack it.

I was at a town meeting not too long ago, actually a group meeting, not an official town meeting. Somebody said, the United States, what is our responsibility as a government to protect this government from terrorism, and are they tied together? I said, of course they are tied together. A lot of these people feed from the same trough, frankly. They have the same coffee together. Of course it is tied together. But the fact is in order for us to protect, we cannot have security at every mall in America. We cannot have armored guards and meters and checkpoints when you go to some theater somewhere, you go to a mall, you go to a restaurant somewhere in this country, you go to a football game, a high school football game.

The fact is our responsibility, and frankly, Democrats, it falls on you as well, but our responsibility is to reach out. We cannot defend this country completely. We have got to go out and attack the terrorists, in their field. We cannot sit, and every country in this list to my left understands, you cannot sit and let that cancer grow. We have let Saddam Hussein flaunt his weapons, flaunt the United Nations, flaunt the international community for over 12 years and many, many resolutions.

By the way, I find it somewhat appalling when we talk about responsibility. I listened over the weekend, and I am not trying to be partisan here, but I am talking about facts. Howard Dean stands in front of the Democrats at their convention in California. They give him a standing ovation as he blasts the leadership of this country, as he blasts this antiwar stance. My response to Howard Dean, my response to Martin Sheen, my response to Sheryl Crow and my response to some of these other people is, don't walk away from the cancer. You better figure out how you are going to handle this thing. It will not go into remission on its own.

Frankly, these countries have come together in a willing coalition to do whatever is necessary to take care of the threat that Saddam Hussein has. I think this coalition will come close to the size of the coalition that we had in the first Persian Gulf War.

My particular point here is when you listen to the media, understand clearly, it is not the United States acting alone. It is not the United Kingdom acting alone. It is a coalition of the willing.

I give a lot of credit to our President. I think he has done an admirable job. Anybody that thinks they would like to have his job, look at what he faced in his first term. He comes into an economy that is going south on him. We had two down quarters before he even came into office. He has got an economy that seems to barely be hanging on. He loses a space shuttle on a weekend. He has got the problem with the Middle East, with the Palestinians and the Jewish community fighting. We have got this situation with Iraq. We have got the situation with North Korea. He had the international incident with the Chinese when they went on the aircraft equipment. That is a full-time job. These people that criticize it, I find it interesting that people like Martin Sheen, who has probably had all of 5 minutes' education on foreign affairs and certainly, certainly is not able to access any classified briefings at all that we get or any kind of knowledge on the subject, criticizes our President, has spent, many, many, many times more, same with Howard Dean, criticizing our President than they have Saddam Hussein.

□ 2000

Where is the responsibility? I think it is a freedom, a part of democracy, that we stand up and voice our opinion. I absolutely agree with that. But at some point, it does become unpatriotic.

And let me issue a challenge right now to my colleagues on the Democratic side because frankly I have not heard it on the Republican side, but I am pointing to some of my colleagues on the Democratic side, to Howard Dean, to Martin Sheen, to Sheryl Crow, to some of these movie stars out there that have become all of a sudden experts. Although they are wonderful actresses and actors, they have become experts in foreign affairs, they do become unpatriotic. And mark my words here. They do become unpatriotic when this action begins if they do not support the troops of the United States of America and its allies. They ought to throw that sign they have been carrying or those T-shirts they have been wearing or, in Sheryl Crow's case, that guitar band she likes to wear around; and they ought to throw that in the trash and replace it, Sheryl Crow, with a band that says "I support the troops of the United States of America." And if they cannot find it upon themselves to do that, in my opinion, they have in fact crossed that line from patriotism. Regardless of how they debate the issue, they can still be patriotic. They have crossed that line to be unpatriotic. They have shirked their responsibility. They have dropped their responsibility to this great country.

George W. Bush has done a good job. DICK CHENEY has done a spectacular job. The President leading this team, putting this team together. How could we have been so lucky as to find somebody like Condoleezza Rice? Take a look at Colin Powell. Take a look at Rumsfeld. Take a look at that team. We have got the A-team down there on Pennsylvania Avenue. We have got a team that most countries only dream of; and we have got a team that when it has come time to stand up and accept the responsibility, they do it. And this Congress, frankly, and to the credit on both sides of the aisle, we did it in a bipartisan vote. Although we had some dissent and we heard some very harsh language, especially at the Democratic convention in California, the fact is most of the Democrats and all of the Republicans stood up and supported this.

We are standing up to our responsibility, and it is not the United States going alone. These countries in their own way, even if it is only 200 troops from Poland, in their own way with the resources they have, they have stood up. They stood to be counted, and counted they will be. And every one of these people, the contribution they make to this effort, even as small as it may seem to others, it is big to them; and, frankly, in the overall picture it is very, very important. When we fight a cancer, we had better take all the assistance we can get from every friend we can find.

That is the only way we are going to conquer it. And I want them to know I appreciate it, and any of my colleagues here who have family over there, come from these countries, know people, the next time they see somebody or the ambassador or one of their representatives or just a citizen from this country, they ought to tell them thanks. Not thanks that they came to the assistance of the United States of America, but they ought to thank them for standing up to the responsibility that the entire world ought to be standing up to, that they are filling the void that the United Nations could not stand up to, that they are taking on the issue head-on for the good of their country and for the good of the rest of the world. They are not doing it as a favor to the United States or as a favor to the United Kingdom. They are doing it as an obligation of responsibility to this fine world that we live in.

Now I want to talk about our forces. I am so proud of those young men and women, and not only the young men and women right now that are on the desert floor waiting for the final order, not only the men and women that have now actually instituted in one way or another the beginning of the military action, but also the young men and women, and not just young, by the way, but the men and women of our military forces that are stateside as well. Keep in mind it takes a lot of logistics. It takes a lot of men and women to prepare all of the things.

I was talking to somebody yesterday. I said, just imagine, we have got 250,000 troops out there. Somebody in the United States has to figure out about every other week how to get 250,000 tubes of toothpaste to these people, 250,000 meals times three or probably four a day considering the energy that they are using, how to get the fuel to the trucks. This is a nationwide effort by a lot of citizens of the United States.

I taught a class in Montrose, California, yesterday. I had a young man ask me, and I hear this question quite often, "Are we ever going to see the draft again?" And I think this action that we see today illustrates why the draft will not work. Why will it not work? I said to this young man, "What do you want to be?" He wanted to be a songwriter. Frankly, I think the kid probably will be a songwriter one of these days and probably a pretty good one, but he wanted to be a songwriter. I said, "How would you like to have graduated from college in music, beginning your songwriting career, and the United States Government calls you up and says, 'One, we are not only going to put you in the military but instead of going to the Army band, for example, you are going to be washing trucks or doing something that you cannot stand. We are forcing you to do it and you are going to have to give up 2 years of your life'?"

What we have today is not a force at all like that. Today our force, regardless of the branch of the military, is an all-volunteer force, and our morale is the highest it has been in decades. Our people are serving this country because they want to serve this country; and I know that by far the majority, not all of us on this floor, but the majority of us support these troops 100 percent. And I am embarrassed and I am going to be really embarrassed and angered, by the way, if people like Martin Sheen cannot, and the debate is over, Martin, and Sheryl Crow, who, by the way, a lot of us country music listeners like, and the Dixie Chicks kind of stepped on their own toe last week too, put it aside and support the troops.

Put down the signs, protesters, that are giving more credit to Saddam Hussein and have expressed more hatred towards their own President than they do one the most vicious men in the history of the world, the worst murderer, by the way, who killed more Muslims than any other man in the history of the world. Put down the signs that are supporting him and trashing our own President. Put those signs down and pick up a sign that says to the troops of the United States of America "We are behind you. You are our people, you are our boys, you are our men and women and we support you." Regardless where we stand on the issue of the war, whether or not we like the United Nations or do not like the United Nations, whether or not we like SCOTT MCINNIS or do not like him, whether or not we like the President or do not like the President, the fact is the time has come for every so-called peace protester, although I happen to think the way we secure peace is to make sure we do not let Saddam Hussein out there, the way you stop cancer is to attack it, not to ignore it. But all out there who have carried those signs, I challenge you, and colleagues of mine here on the floor, I challenge each and every one of you to pick up a sign or make a sign tonight that says "We support the troops of the United States of America," whatever those troops need.

Tomorrow many of us will go on with our daily routine, but the real sacrifice is going to be carried by several hundred thousand of our people in the military forces and civilian employees that support them; and we ought to at least take a little time in our day, regardless again of where we stand on the issue, to say thanks, to pat those people on the back and to give them every prayer we can possibly give them, to give them every thought of hope we can give them. Our government and our President and this administration as previous administrations have provided them with the weapons and the assets. We have given them everything they can get out there. But what will get them over the hump, what they really need the most is to know that people at home support them.

Martin Sheen, what do you think it says to our military forces or to those Democrats that stood and applauded at the Democratic convention in California this week, the anti-war attitude of that party, what kind of message do you think it sends over to these people? Put it aside. Stop. Put it aside. And just for a while come out here and help send a word of praise, a word of encouragement, a "go get them" to our forces that, by the way, are the ones that will really make the sacrifice. Most people tomorrow in this country will go to McDonald's; they will go to the grocery store. Their life pretty well will run on pattern, but in the next 2 or 3 days, hopefully not very many but we have to expect there will be some deaths in this engagement and the next few days those people will be sacrificing, and they at least ought to know that the people of America unanimously, not part of the people, but the people of America unanimously support the troops of the United States of America.

Let me move on to another subject that I think is awfully important. I have several times during my comments talked about Saddam Hussein and his vicious regime, and let us not kid ourselves, his sons are as deadly as he is; and I want to just read some of the firsthand experience. A lot of people have come up to me and said, How do you know he is such a vicious guy? That is what some people say. How do you know he has these weapons of mass destruction? For two reasons: One, we have got the proof of the horrible things he has done; and, two, the fact that these weapons that he now says he did not have, he said he did have. But I want to read this comment, and this is from an Iraqi expatriate. The reality of Saddam's Iraq.

This is not a Martin Sheen. This is not a Sheryl Crow. This is not Howard Dean, the ex-Governor of Vermont talking. Those people have never been there. In fact I would bet that Sheryl Crow, Martin Sheen, the Dixie Chicks, some of these people like that have never felt hardship, have never felt hardship like the person that I am talking about. My guess is they have never been on a foreign visit other than playing in a concert somewhere or playing in a movie somewhere. My guess is they have never been on the ground firsthand to witness what this person talks about.

Let us read it: "You will be hardpressed to find a single family in Iraq which has not had a son, a father, or a brother killed, imprisoned, tortured, or disappeared due to Saddam's regime." And I note here not just Saddam but Saddam's regime. The majority of Iraqis inside and outside Iraq support the invasion action because they believe they are the ones that have to live as things are. They believe they are the ones that have to live as things are.

The President, in his speech last night, very accurately said we will liberate the people of Iraq. There are a lot of people like the Martin Sheens and the Sheryl Crows and people like that in the world that are protesting in our own country that have no idea how oppressed those people are. They have no idea how happy those people will be when they see American forces.

Take a look at Afghanistan 2 years ago and take a look at Afghanistan today, the liberation that took place there. Take a look at the people in the villages running up and hugging the soldiers, people offering the soldiers food, applauding them, cheering them. Take a look at Iraq a year from today. As a challenge, take a look at that, where the people will be a year from today versus the oppression that they are under today under this regime. Do my colleagues think we would have gotten there through negotiations with the United Nations? Do my colleagues think we would have gotten there with the French or the Germans or the Belgians that love to negotiate and talk and have coffee and negotiate and talk and have coffee and negotiate and talk and have coffee? No way. They have tried it for 12 years. The Wall Street Journal said very accurately this war started 12 years ago. It is not beginning in the next few days. It started 12 years ago.

And, finally, there is a coalition of countries throughout this world that are willing to stand up and liberate the people that have faced this kind of oppression. Name one other leader in the world that has used mustard gas or nerve gas to wipe out between 5,000 and 50,000 of his own citizens.

I was corrected. Remember Kent State years ago in the Vietnam War and the protests and this country's armed forces, I think it was the National Guard shot, I think, four students at Kent State and the country was outraged. How could a Nation's military kill four people of its own? And yet the very people that I am sure would have been leading the protest, objecting to that kind of action, are the very people that unfortunately, tragically, incorrectly stand by silently as this population of people suffer from the regime of Saddam Hussein.

□ 2015

I am pleased to say that our fine President, our President and this administration and this Congress and this country, is not going to allow that to go on for very many more hours. I did not say years.

I cannot tell you how proud I am to stand here and look to the next generation behind us, to my kids, to the young people, to the people that we serve, and say we are about to end a regime within the next few hours, the next couple of days at the most, 3 days, but certainly within hours. The country of Iraq will be liberated from one of the most horrific animals, one of the most vicious men ever known to mankind.

I wish some of you that were carrying those protest signs, and I wish some of you who had been so vehemently opposed to George W. Bush, personally attacking our President, I wish you could be in this young lady's presence when she finds out, when she gets the word that Saddam Hussein and his regime are dead and gone, that they are out of power. I wish you could be in the family room of some of these people when these families find out that the horrible monster that they have dealt with has been put down by a coalition of the willing, by some people willing to accept the responsibility that this cannot stand, that this cannot continue to go on.

I also hope, those of you that witness this, keep in mind and let your memories keep in mind those people who would not join the willing coalition, those people who stood by and said, leave him alone, we have no right.

Today, in fact, I heard a previous speaker here on the House floor a few minutes ago say that we are violating some international concept he has. In his opinion, from what I drew from his remarks, I am not quoting him, but from what I drew from his remarks, it was let it be. Kind of like the Beatle's song, "Let It Be," to let it go.

Keep in mind, those people that were willing to let this regime stand, that after 12 years of breaking resolution after resolution, after killing tens of thousands, not tens, not hundreds, not thousands, tens of thousands of his own people through poison gas, and these people stood there and talked about, well, let us have another cup of coffee and negotiate, while people like this expatriate's family suffered.

God knows how many people in that country we are going to discover have suffered horrible acts of violence. I read yesterday on the I think it was the AP wire about the shredding machine, one of the torture chambers they have. One of the ways they have of torturing is a shredder. If they are kind, they put you in head first, because it kills you instantly. If they do not want to do that, they put you in feet first, so you know what happens. This kind of stuff we are going to find out.

The Sheryl Crows and the Martin Sheens and the people that are saying we are going to use the Oscar ceremonies to protest the war, I hope you are watching your TV. I hope you are paying as much attention to what Saddam Hussein has done, when the facts come out after we militarily bring down that regime, as the time you have devoted to condemning our President and our team down there on Pennsylvania Avenue, and, in fact, this United States Congress.

Responsibility, that is what it is about. Every one of us in this House was elected to accept responsibility. We have more responsibilities than the average person on the street. But the average person on the street has responsibilities. It is not an overused word. It is not an overused word.

Responsibility is a character. It is a standard of character, in my opinion. Responsibility, acceptance of the responsibility and carrying out the mission of responsibility.

I stand here with a great deal of pride, one acknowledging the responsibility and the great sacrifice our American forces have made. Once again I renew my challenge to every protester, to every Congressman, to every movie star, to every singer, the Sheryl Crows and those out there. I challenge you tomorrow, or as soon as we take that action, for you to stand up and sing a song for the forces of America.

This responsibility that we carry on our shoulders, nobody ever said pulling that wagon up the hill was going to be easy. But it is our responsibility to get that wagon up the hill, and not just for the United States of America, not just for our willing coalition of 30-some countries, but for the world, for the goodness of man. There is no country in the history of the world that has represented more goodness and protected more goodness and accepted the responsibility of helping other people than the United States of America.

This Nation has nothing to apologize for, and I as a United States Congressman will never apologize for the United States of America. I stand here with pride, because I think in part we as Congressmen, although we do not carry, are not there in the field, I would like to be. I wish I were 20-some years younger. I would like to have them drop me in the center of Baghdad. I know many of my colleagues would, too.

In a small way as Congress people, and the administration in a big, big way, a lot of people in this country have stood up to the responsibility, have acknowledged it and have put that pack on their back. They are willing to help get that wagon up the hill. A few have dropped off.

When I went camping as a young man, I always used to get upset with the people that sat by the fire but never helped gather the firewood. A lot of people deserve to sit by the fire, because they have helped get the firewood. It is time for those who have not helped gather the firewood to get out there and get some firewood. Then they, too, can sit by the fire.

But we have an inherent obligation, an inherent obligation, to our generation and to the generations that follow our generation to make sure that tyrants like Saddam Hussein, to the extent that we can stop it, that we carry out the mission of our responsibility, that we carry out the mission of our duty to the United States of America, that we make the people who have fought for decades and generations under the Stars and Stripes, that we carry out our part, that our generation, too, can be spoken of in the future as one of those generations that stood when the challenge came forward and proudly took those colors and proudly took those colors to the next generation and delivered to that generation a country strong in will; a country strong in freedom; a country that represents democracy, the model of democracy; a country that is militarily strong; a country that has a good, solid justice system; a country that has an educational system second to none; a country that has a medical system second to none. Those are big challenges.

In the next few hours we are going to see who is going to be counted, and I hope every person that is listening to me on this floor, I hope every one of us unanimously, not one dissenting vote, unanimously supports the forces of the United States of America in their mission to accept that one word, responsibility.

I hope with Godspeed that all our forces are safe. I hope with Godspeed the citizens of the United States and all of our allies, and, in fact, the whole world, can be freed of this tyrant so we can all live in at least some type of peace.

But from the bottom of my heart, I want to thank all my fellow citizens, and I want to thank those forces that are out there in the time of need and the time of danger that have stood up and accepted that responsibility.

## WEAKNESSES IN THE REPUBLICAN BUDGET RESOLUTION

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I want to thank my good friend from South Carolina for yielding.

Mr. Speaker, I rise to speak about this Republican budget resolution. It is a budget that is a failed economic plan. It proposes $1 trillion in tax cuts, and these are tax cuts in search of an economic purpose.

Fourteen months ago, President Bush proposed a $1.3 trillion tax cut to get this economy moving, to produce jobs. Two and one-half million Americans are without work since that tax cut, four million more Americans are without health care since that tax cut, $1 trillion worth of corporate assets have foreclosed since that tax cut, and 2 million more Americans have moved from the middle class into poverty. That has been the economic impact and economic effect of that tax cut. Now we are offering another tax cut to have exactly the same type of economic impact. It has been a job killer, and also been leveling to the economy.

We are about to vote on a budget in the next few days or weeks. The administration is also simultaneously proposing one of the largest rebuildings of another nation to the tune of about $90 billion request for fighting the war and for rebuilding Iraq. The administration's postwar request would build more housing, rebuild more schools, and go further in providing health care for pregnant women in Iraq than the administration budget does for America's children and America's families.

The Wall Street Journal just as recently as the other day wrote on the postwar plans for Iraq being directed by the new Office of Reconstruction and Humanitarian Assistance in the Pentagon are striking in their scope and intended speed. The administration's plan to rehabilitate the Iraqi school system, for example, envisions the U.S. military forces to secure parts of Iraq and obtain the payroll lists and assess teachers' salaries for all of Iraqi schools, according to a 10-page USAID contract proposal. The contract, officials say, could total $100 million, will cover the cost of five pilot programs for accelerated learning to be launched within 3 months and then rolled out nationwide within 10 months, nationwide being Iraq. Only one-third of the Iraqi children are now enrolled in secondary school, but within a year the contractor will have all children in Iraq back in school.

Their plan also envisions books and other necessary supplies to 4.1 million Iraqi schoolchildren, while 25,000 schools would have all they need to function at a standard level of quality. They will rebuild 25,000 schools in Iraq.

I am not against, if we have to go to war, a reconstruction budget for Iraq, but as I just listed to you what they are planning for the schools and the schoolchildren of Iraq, I want you to note that this administration's budget calls for eliminating 40 specific educational programs here at home. The Star Schools, the Better Quality Teachers Schools, technology for our schools, rural education would be eliminated. Yet we are now talking about rebuilding 25,000 schools in Iraq; 4.1 million children in Iraq would get the basic school supplies. For the record, I think Illinois' children matter as well as Iraq's children.

Again, I want to stress that I believe that Iraq should have a reconstruction budget. I just believe America should also have its reconstruction and rebuilding budget.

Take a look at what the Wall Street Journal says about health care. In health care, there will be a 100 percent guarantee to the population for maternity care. Yet Medicaid will get a $95 billion cut here at home. Today Medicaid provides for one-third of the live births nationally, basic maternity care in this country. We will be proposing a $95 billion cut in Medicaid, and yet 100 percent coverage of maternity care for Iraqi women.

We have 42 million Americans who work full time without health insurance. The budget proposed by the Republican Congress, not a single new dollar to cover the uninsured, which is a cancer on our health care system, yet in a recent article in the Wall Street Journal, 13 million Iraqis will be guaranteed basic health care. What is the plan for the 42 million Americans that work full time without health insurance? Zip, nothing, nada. Nothing for them.

Also in the Wall Street Journal they state a reconstruction plan will have referral hospitals functioning in 21 cities in Iraq, yet America's hospitals in our cities are facing their worst financial crisis in the last 20 years. The Women, Infants and Children Program, which provides basic health care and prenatal care, is in for a 20 percent cut.

Higher education in America, again on education, the budget underfunds Pell grants by more than $500 million, while college costs have gone up.

In housing, recently in the Committee on Financial Services, Secretary of Housing and Urban Development Martinez said that the entire budget for the administration proposes 5,000 new housing units here in America, yet, as the Wall Street Journal notes, there is a bid for 20,000 new homes to be built in Iraq. America, 5,000 new affordable housing units; Iraq, 20,000 new homes.

The LIHEAP proposal for heating for our poor, our elderly, is in for a 20 percent cut, yet we have a proposal on the books for 10 new power plants to be rebuilt in Iraq, and electricity will be restored to 75 percent of its pre-1991 level in Iraq.

□ 2030

The Army Corps of Engineers is having a cut here in America. Yet in the rebuilding plan for Iraq, it calls for the complete reconstruction of the Umm Qasr Port so that it is fully open to cargo traffic. Yet the Corps of Engineers, which is essential to America's security, America's economic growth, it produces jobs for our economy, moves goods and services, they are open for a cut.

Transportation. We will offer help to Iraq to build 3,000 miles of major roads and highways, yet the highway funding in America is cut $6 billion over the next 10 years as proposed by the administration's budget.

Now, as I said to my good colleague from South Carolina, as I asked for this time, I am not in the business of giving my good friends on the other side political advice; but as they plan to look at this budget and vote on this budget, I want them to know that for the American people, their vote on the resolution of the reconstruction of Iraq will also be weighed equally as their vote for this budget. And in this budget our proposals to eliminate 40 education programs that are essential to our children's future and to our families' future, houses, they will not be cut; but only 5,000 new affordable units, compared to 20,000 in Iraq.

My colleagues know that some people could take this down and make it understandable to Americans in a 30-second commercial. I want them to think hard about what they are about to vote on as it relates to America, and again I want to stress my view that I am not against a reconstruction budget for Iraq. I just believe America deserves equal and, as well, the same sense of intensity and the same sense of interest.

As I started off, I talked about the economic impact that we find ourselves in here at home. But as this budget talks about areas of housing, health care, reconstruction for the health care system, the schools, the infrastructure for the housing area, it is a very robust, thorough plan for Iraq. Yet we underfund in each of these areas' basic needs here for America's families, America's economic future, our jobs, our health care, our retirement. We need the same type of reconstruction, the same type of commitment, the same type of energy, the same type of focus that is being focused on the reconstruction plan for Iraq.

So I would just like my colleagues on the other side to think real hard about this budget, to think real hard about the priorities that are laid out in this budget. Because the impact of the first economic plan has been 2½ million Americans without work, 4 more million Americans who have joined the ranks of the uninsured who work full-time, $1 trillion worth of corporate assets that have been foreclosed on. That is the record. And to quote a good friend of mine, a great President, President Ronald Reagan: "Facts are a stubborn thing."

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me tell my colleagues what the Disabled American Veterans think of this budget.

"Has Congress no shame? Is there no honor left in the hallowed halls of our government that you choose to dishonor the sacrifices of our Nation's heroes and rob our programs, health care and disability compensation to pay for tax cuts for the wealthy? You will be reducing benefits and services for disabled veterans at a time when thousands of our service members are in harm's way, fighting terrorists around the world, and thousands more of our sons and daughters are preparing for war against Iraq."

In another letter, the Disabled American Veterans write to the chairman of the Committee on the Budget and say that "you were quoted as saying, 'We're asking tough medicine at a tough time.' You're asking veterans to swallow a bitter pill to remedy an illness of your own making. While we all would like to see taxes reduced when prudent, cutting already underfunded veterans' programs to offset the costs of tax cuts is indefensible and callous. You will be cutting benefits and services for disabled veterans at a time when we have thousands of our service members in harm's way fighting terrorism around the world and when we are sending thousands more of our sons and daughters to fight a war against Iraq."

What does the American Legion say about this budget? "This budget defies common sense. Veterans' pensions and disability compensation are parts of the cost of defending freedom. Our Nation cannot, in good conscience, commit men and women to battle and reduce the meager, yet well-deserved, compensation for those who are wounded. Of all of the citizens who benefit from mandatory Federal funding, none are worthier than those who are disabled today because they risked all of their tomorrows fighting for freedom.

"There are few options available for those who would cut veterans' benefits. Congress could eliminate cost-of-living adjustments, curtail the awarding of disability compensation, roll back the disability ratings or a combination thereof. None of these moves are justified. In fact, any of those cuts would be the highest form of ingratitude this government could inflict and would give moral ammunition to those who would discourage young people from undertaking military service.

"There must be a better way to provide tax relief to the American people than to balance the budget on the backs of disabled veterans. There has to be a better way to promote morale in the armed services than to slight those in whose shoes today's troops might someday be. There is certainly a better way to reduce the Department of Veterans' backlogs of disability claims and veterans waiting up to 2 years for doctors' appointments at VA hospitals."

That is what the American Legion thinks of today's budget.

Now, how did we get to where we are? This is a chart showing the deficits over the past few years starting with President Johnson, Nixon, Ford, Carter, Reagan and Bush. Deficits explode. Under the Clinton administration and the Clinton budget, over the objection of the Republicans, because not a single Republican, House or Senate, voted for the budget that put us on the trajectory of 8 years of fiscal responsibility, going from a huge deficit up to a surplus; and when the present administration came in, we went directly back into huge deficits, most of which happened before September 11, 2001; this trajectory had already started, and with the huge tax cut plan of 2001. And as we can see, for many years to come, deficits projected out.

Now, what is the plan? Well, we see what the plan is. We see when this administration came in, we had a surplus. That is this blue line over here. Now, September 11 was 3 weeks before the end of the fiscal year. In 2001, we had already spent most of Medicare. In 2002, we had spent all of the Medicare surplus, all of the Social Security surplus, and another almost $200 billion. In 2003, we spent all of the Medicare and Social Security surplus and about $300 billion. Deficits as far as the budget goes.

Now, after they passed their so-called growth package, what happened? Well, we see that those tax cuts that ruined the budget were supposed to stimulate the economy. This is the economic growth, President-to-President, starting with Truman, Eisenhower, Eisenhower's second term, Kennedy, Johnson, Johnson, Nixon, Nixon, Ford, Carter, Reagan. We have so far the worst economic growth in over 50 years as a direct result of passing that irresponsible plan.

Now, what do we have as a result of that? We have what had been projected to be a debt paid off. What do we have so far? A debt exploded. As a matter of fact, for a family of four, in January of 2001, in 5 years, the family of four's share of the national debt, $520, was projected. What is it projected to be now? Six to $8,000. Now, that is not free. A family of four's share of the national debt today, $4,500, as I said, going towards zero; in 2008, it will be $6,400 and going up and almost $500 a year, year after year, a family of four's share of the national debt.

Now, this is a time when Medicare and Social Security will be needed. This is a chart of the Medicare surplus and shortfall. We are right now enjoying a surplus in Medicare, the same chart for Social Security. We are enjoying a surplus. In 2017, 2016, 2018, somewhere in there, it will change into a deficit and go into a deficit.

Now, we wonder with deficits this large, we would never be able to pay those. With one-half of the tax cut that has already been implemented, if we had taken the other half and allocated that to Social Security and Medicare, we could have had enough in the trust fund to cover Social Security and Medicare for 75 years.

Now, part of the plan, as the gentleman from Illinois mentioned, involves severe spending cuts to accommodate some of those tax cuts that were made. Medicare cutting $214 billion, Medicaid $93 billion. Every Member of Congress has been hearing from doctors and hospitals about the compensation out of Medicare and Medicaid, that they cannot make ends meet, they are not even covering costs, and here we are responding to that with major cuts in Medicare and Medicaid.

Veterans' benefits are being cut. Food stamps, farm programs are being cut, education programs are being cut. The President went all over the country bragging about No Child Left Behind, and we do not fully fund it. We are billions of dollars short in funding No Child Left Behind.

This is not a responsible budget. As we started off, we had the opportunity to continue, pay off the entire national debt and be in a position where Social Security and Medicare would be funded, and we turned right around and in 1 or 2 years went to the biggest deficits in the history of the United States.

There is one figure where the debt is so large, by the time we get out to 2013, that the interest on the national debt will exceed the entire national budget outside of Social Security, Medicare, and defense. The entire national budget in the plan that was reported by the Republicans just a couple of days ago has in 2013, the entire budget, outside of defense, Social Security and Medicare, the entire budget, that is the FBI, NASA, foreign aid, agriculture, education, everything, $466 billion. They have run up so much debt that the payment on interest on the national debt will be $477 billion.

Mr. Speaker, this budget is so far out of balance that we need to start from scratch.

I thank the gentleman from South Carolina for his hard work in trying to make sense out of a budget that makes no sense at all.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his presentation.

Mr. Speaker, I yield to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman from South Carolina for his leadership and for organizing tonight's Special Order, and I am proud to be a part of it.

In listening to my colleagues, I think it is fair to say in listening to what economists think and others who write about economic issues that the House Republican budget is the most irresponsible budget probably in our Nation's history. It is antijob, antigrowth, and antifamily. It is an irresponsible budget for people who are middle-class families. It is irresponsible for economic growth and overall, irresponsible for this country. As has already been pointed out, it drives up the deficit, incurring the biggest deficit in our Nation's history.

□ 2045

Families understand this. Governments need to understand that long-term deficits are bad. They are bad for the long-term health of this country.

The scope of the cuts that are being proposed by this House Republican budget include child care, funding for public schools, college loans, nutrition programs. It also places massive unfunded mandates on our States at a time when States are facing the worst fiscal crisis since World War II.

When we ask why we are seeing the level of massive cuts, one could say that this is a difficult time in our Nation's history. We are on the precipice of going to war, which we are all concerned about, deeply concerned about. We are very concerned about homeland security.

However, the fact of the matter is that these cuts do not come in relationship to the United States fighting a war, because, in fact, we do not have any numbers yet for the cost of a war. We have a bold plan for reconstructing Iraq, but we still do not have any final numbers in that regard. Also, the cuts are not made in terms of providing additional funding for securing our homeland. Those numbers are not increased.

What are the cuts for? The cuts are for an approximately $1.4 trillion tax cut for the wealthiest Americans. That is an easy comment to make, to say, "the wealthiest Americans." Let us define who we are talking about, who are the beneficiaries of the tax cuts, and who are the people who are going to pay for the tax cut.

Two-thirds of the benefits of the tax cut would flow to the top 5 percent of the population. These are filers who have an average income of about $350,000. The top 1 percent of tax filers, people who have an average income of $1 million, would receive 42 percent of the benefits. People with incomes that exceed $3 million would receive nearly 25 percent of the tax cut benefits. The top .2 percent of tax filers would receive nearly as much from this tax cut as the bottom 90 percent of filers combined.

Tax filers with incomes between $40,000 and $50,000 would receive an average annual benefit of $84. Tax filers with incomes between $30,000 and $40,000 would receive $42. However, those who are millionaires could receive up to $90,000 in a tax cut.

We are all for tax cuts, but it is about who is going to be the beneficiary. These are numbers that anyone could check, and that have been in all of the commentary about the tax cut, about who are going to be the primary beneficiaries.

Now, who is paying the cost of these tax cuts? I think it is important to take a look at this.

We pay for these tax cuts on the backs of disabled veterans, as my colleague, the gentleman from Virginia (Mr. SCOTT), just spoke about minutes ago. Child nutrition programs, school lunch, those are expendable. Also, we are dealing with these tax cuts on the backs of our youngsters who are in school, who are participating in a school lunch program.

Student loans, our youngsters and our families who are struggling to have their families have the opportunity to be able to go to school so they can achieve their economic aspirations, they are paying for these tax cuts.

Regarding child care, I would just take the local paper, the Hartford Current, on Monday, March 17, Hartford, Connecticut. This is already happening in the State of Connecticut. The budget cuts would cut funds for child care, because the States cannot afford to deal with the child care assistance that was promised to people who are moving off of welfare and trying to take care of their families. This budget would make this situation worse.

Food stamps will be cut. Assistance for the elderly and veterans are being cut.

The point is, here, and I think it is important to note, these tax cuts are not free. The bottom issue is about our national priorities, it is about our values. In order to provide tax cuts that average $90,000 a year for millionaires, is that so high a priority that we should cut health care programs, increase the ranks of the uninsured, reduce the cost or limit the availability of student loans, increase hardship among the disabled, poor, poor children, and others to free up room for these massive tax cuts?

That is what is singularly at issue with this budget, House Republican budget, that has been proposed. It flies in the face of all that we believe that we ought to be dealing with as a Nation, because budgets are about choices. We know that there are not unlimited resources, so we have to pick and choose those areas where we think there is a necessity. I submit that the current budget resolution does not, does not deal with the issues that are priority in this country or issues that are priority to the families in this country.

In addition to adding trillions of dollars to the public debt, debt which undermines national savings, investment, growth, jobs, retirement security, the budget does long-term damage to our economy. It compromises our ability to address the most serious challenges that face all of us.

Just this morning, I will make one final comment, this morning I met with firefighters, police officers, people from emergency medical services, hospital personnel to talk about what we are asking them to do, given this time of heightened alert. They told me about their need for resources that are going to help them adequately train volunteers and existing personnel to be able to use the new equipment that they may be getting. One gentleman said very specifically, in extraordinary times we are using conventional mechanisms.

I would just say, if we could say that we are making these cuts to do something to help our first responders to try to meet their obligation and the demand for heightened security, we might be able to think about what kind of trade-offs we are making, but, in fact, we are looking at about $471 billion in cuts to what we have determined as a Nation are entitlements. We have said, as a country, that we believe there are such severe problems in these areas that we should every year make it our responsibility to fund these programs; and we are saying that we are not going to fund these programs, we are going to cut them substantially, and we are going to do it in order to provide the wealthiest 1 percent or 2 percent of the people in this country with tax cuts that will range from $27,000 and $30,000 to $90,000 a year.

These are misplaced priorities. We need to get back to what our fundamental values are in this Nation. That is what tonight's conversation and discussion is all about. I thank my colleagues for the opportunity to participate with them.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my friend and ranking member on the Committee on the Budget for yielding to me to engage in this very important discussion we are having this evening.

Mr. Speaker, as the country is at the precipice of war in Iraq, I am sure all of our House colleagues would join me in extending our best wishes and our thoughts and prayers to the young troops who are answering the call for the defense of our freedoms and liberties in this country.

I have had the opportunity over the last month, month and a half, to attend a lot of the deployment ceremonies back in the Third Congressional District in western Wisconsin based on the call-up of National Guard and Army Reserve units.

I have had a chance to talk to many of these young soldiers as they are being called up. Let me tell the Members, they are very impressive. They are well-trained, well-committed, very patriotic, have a deep love for our country, and are willing to risk their lives for the defense of our security.

As we move forward in the days and weeks and perhaps months ahead, our thoughts and prayers go out to them and their families. We will do everything possible in this Congress to give them the support and resources that they need. In the meantime, business is still being conducted. One of the items of business scheduled for this week is a very important discussion in regard to our national priorities as it relates to the Federal budget.

It has been said that a budget defines where various parties are on certain issues. This follows on the heels of President Bush's budget proposal submitted to us just a few weeks ago that actually calls for the largest budget deficit in our Nation's history. It does not offer any plan on how we bring fiscal discipline and fiscal responsibility back to this place, how we can bring the budget back into balance before the demographic time bomb explodes in this country.

That is the 800-pound gorilla that will not be discussed all this much in the course of this budget debate, but needs to be raised, the fact that we have 80 million of our Americans, the so-called baby boomers, rapidly approaching retirement age and soon to start entering these important programs. There is very little planning on what to do for that inevitability.

We will be offering an alternative budget proposal that brings in fiscal responsibility, fiscal discipline, anticipating this great demographic challenge we face while recognizing the domestic priorities we share in the Democratic Party.

Unfortunately, the Republican budget proposal that will be before us is an Enron-like document with a lot of smoke and mirrors, with a lot of numbers being thrown out there, but with very little basis in reality. Many of the programs that are being discussed for cuts I think the Members in the majority party realize will not happen. It will be an impossibility, because they do drastically underfund crucial education programs and investment in the future of our country, our children, at a time when No Child Left Behind is just now being implemented.

It also underfunds important health care services that our citizens rely upon, close to $250 billion in proposed cuts in the Medicare program in the next 8 years alone, at a time when rural health care providers now are being discriminated against because of the inequities of the reimbursement rates as they exist under current formulas.

It is something that I think there is bipartisan agreement in this Chamber that has to be corrected, but the budget we will be discussing and looking at in the next couple of days does nothing to address those inequities that need to be addressed.

It also calls for, amazingly, close to $16 billion worth of cuts in crucial veterans' health care services at a time when we are about to commit new troops in a major military engagement, a very dangerous operation. The message that sends our Armed Forces I think is the wrong message at the wrong time, because of the lack of commitment in ensuring that we will fund the promises made to the current veterans who are accessing these important veterans' health care programs.

Just to highlight this issue, because it is not just us scrutinizing the budget, but outside organizations, and my friend, the gentleman from Virginia (Mr. SCOTT), already discussed this in his comments earlier, the national commander of the Disabled American Veterans, Edward Heath, Sr., already wrote a letter to the chairman of the Committee on the Budget, the gentleman from Iowa (Mr. NUSSLE), in regard to the concerns his organization has in the Republican budget proposal.

Commander Heath wrote and I quote, "You are quoted as saying 'We are asking tough medicine at a tough time.' You are asking veterans to swallow a bitter pill to remedy an illness of your own making. While we all like to see taxes reduced when prudent, cutting already underfunded veterans' programs to offset the costs of tax cuts is indefensible and callous."

□ 2100

You will be cutting benefits and services for disabled veterans at a time when we have placed thousands of our service members in harm's way, fighting terrorism around the world and when we are sending thousands more of our sons and daughters to fight a war against Iraq.

Now, these are outside groups and organizations that do have a stake in the outcome of these budget debates. These are not mere intellectual exercises to them and their members. They have real impact on other real people in real families in each of our congressional districts. And as our friend from Connecticut (Ms. DELAURO) just highlighted, the reason why we are seeing these types of Draconian budget cuts proposed is in order to jam a $1.4 trillion new tax cut in the budget and try to make sense with that dynamic which, again, I submit will be impossible to do on the backs of veterans throughout the Nation.

What does that leave us then? It leaves us on the philosophy and a position that the majority party in this Congress and apparently many down to the White House are feeling more and more comfortable with each day, and that is the idea of spending and borrowing, spending and borrowing, and running up these massive budget deficits for as long as the eye can see.

As the father of two little boys, I did not come to this Congress 6 years ago to leave a legacy of debt to my children or to the children of this country. What will be proposed this week if that type of economic plan is implemented is nothing short of taxation without representation because it will be on the backs of our children and our grandchildren that will be asked to fund the liabilities that will come from these budget decisions that may be made in the next couple of days.

I could not think of anything more morally irresponsible to do than to create this gigantic budget debt, this huge deficit burden which will fall on the shoulders of our children and grandchildren to deal with when it is their time to take over the leadership of this country. And also, it could not happen at a worse moment.

Unlike the budget deficits that were accumulated during the 1980s and early 1990s, we do not have the luxury of the decade of the 1990s now to reverse track and to rein in fiscal discipline and to bring the budget into balance, and, in fact, start running budget surpluses so we could actually download the National debt. The clock is ticking and time is running out because the boomers are rapidly approaching their retirement in a few short years.

We still have an opportunity to address the economic needs of this Nation. We still have a chance to prove to the American people that we can walk and chew gum at the same time. We can deal with the national security threats, we can support our troops, especially during this time, but we can also address the domestic challenges that exist in this country, so we can give the children the opportunity that many of us had by accessing a quality education and funding No Child Left Behind, so we can protect the natural resources of this country and live up to the promises of veterans and the health care services that they rely upon.

In conclusion, let me just commend my good friend from South Carolina (Mr. SPRATT) and the leadership that he has provided us on the Committee on the Budget. We have had to make tough choices in putting together our own budget alternative. I think it balances the needs between the military commitment that we are currently engaged in with the domestic priorities that we share as Americans while recognizing that there is some room for tax relief in order to stimulate the economy, to get the economy growing again. And a growing economy can help solve a lot of problems that we have in the Nation. And but for his leadership and his honesty, we would not be able to submit, I believe, an honest budget alternative that will, I think, receive wide support within the Democratic Party. So I thank my friend from South Carolina (Mr. SPRATT) for the leadership he has shown, all the hard work that the members of the Committee on the Budget have shown thus far; and, hopefully, we still have time to bring a truly bipartisan budget proposal that does make sense to the current obligations that we face, but also the future obligations that are coming up just around the corner.

Mr. SPRATT. Mr. Speaker, as our previous speakers have said, we stand tonight on the brink of war, the very precipice of war. It may seem untimely to talk about the budget, but it so happens that the budget is the order of business.

We are about to go through the annual process of approving the budget resolution, which is the outline of a budget, an exercise that Congress undertakes about this time every year. But to make our position clear with respect to what is happening elsewhere in the world, let me say when it comes to supporting our troops in the field, our men and women in service, we will be unstinting. We will provide them every dime that they need to do their duty and to see that they are fairly compensated, their families are well provided for.

We speak tonight about the budget deficit because when we get here on the floor, oftentimes we have the debate broken up in so many small pieces it is hard to see the whole. And it has never been more important for everyone to understand the whole, where we are, the situation, the dire situation that we find ourselves in. We are faced with deficits as far out as our forecasts go, and we have a President's budget before us delivered a few weeks ago that offers no solutions. It only makes the problems worse.

This was brought home to me about 10 days ago when I went down to the Congressional Budget Office, which is the neutral nonpartisan budget shop of the Congress. They do good work. And every year by law they are required to give us, within a week or so after the President's budget gets here, their analysis of the President's budget for the forthcoming fiscal year.

Friday a week ago they presented us with an interim analysis. I went down for the briefing, and I picked up the book and turned to the first table in it at the back. I looked across the top line. "On-budget deficits." That means deficits not including Social Security.

This year the expected deficit is $452 billion if we do not include Social Security. Next year, 2004, it is $512 billion. This is the CBO estimate of the President's budget, the CBO estimate of the President's budget, his policies. In 2005 it is $464 billion. Across the line from 2003 to 2013, that is the time frame of this projection, the deficit is no less than $400 billion if you exclude the surplus in Social Security, and by law we have taken Social Security off budget, and I do not think we should include it anymore than any business or any State includes its pension funds in its budget.

I added up everything between 2002, which was the first fiscal year of the Bush administration, and 2013, which was the last year, the last column shown in this budget analysis. The total of the deficits to be incurred in that period comes to $5.138 trillion. Over the next 12 years, over that 12-year period of time, 2002 through 2013, the cumulative sum on budget deficits is $5.138 trillion. I do not know of anybody who thinks we can sustain that course without damaging our economy. When we have huge deficits like this, the government has to go into the capital markets, borrow money, run up the cost of credit. The cost of credit goes up, interest rates go up, stifles growth, costs people who have mortgages and car payments more to make those payments. It will be devastating if we incur deficits of this kind.

That is why we are out here tonight and that is the point we are trying to drive home this week as we take up the budget, because we think we are on a path that we simply cannot sustain or support. With deficits like these that are implied by the President's budget policies, this is, after all, what this summary was, a summary of the President's budget, I can understand why my colleagues on the House Committee on the Budget, the ones across the aisle, the Republicans who chair the committee and run the committee, in effect rejected the President's budget and wrote their own. In fact, they provided $714 billion in additional spending cuts over and above what the President had called for in his budget.

This is a budget of $2.2 trillion. They are adding at least one-third spending cuts that the President did not seek over and above, well, he sought 100 of those. So they are seeking 641 billion additional spending cuts over and above what the President sought, which is effectively rewriting the budget. So I admire them for trying. I admire them for their honesty in saying this budget is not workable; we cannot adopt it. But when I saw the end product, I thought this is in effect the same, will take us to the same destination, maybe by a different route; but their budget will take us down the same route as the President's budget, deeper and deeper into deficits.

Here on this page full of numbers is a summary of their budget, what happens if we adopt the Republican budget, which will be before us tomorrow and the next day and the rest of this week. Reading from their budget documents, the on-budget deficits for 2004 will be $497 billion. That is what happens to the bottom line of the budget if we adopt the budget that the Republicans will present to us this week. The deficit goes to $497.164 billion. The next year is $419 billion. The next year $375 billion. Over this 10-year time frame, and we run our budget numbers out in 10-year time frames so we can see some scope of what we are proposing to do, under their budget policies if they are adopted this week, we will incur over that 10-year period an additional $3.327 trillion in deficits. Here it is. I did not make the numbers up. They are written right here on this piece of paper.

Now, how did we get to this dire situation? Believe it or not, in fiscal year 2000, the Government of the United States had a surplus of $236 billion including Social Security. Now we have got a deficit including Social Security of $287 billion. How did we get here?

Let me take everybody back in time. When the first President Bush left office, he left behind the largest deficit in our Nation's history. And within 3 weeks of arriving at the White House, President Clinton sent Congress a budget that would cut that deficit by more than half over the next 5 years. It was not popular. It was not painless. It passed this House by one vote. Marjorie Mezvinsky cast that vote right there at that voting machine. I can see her doing it now, and it cost her the next election. But it passed the House. It passed the Senate with Vice President Gore's vote alone breaking a tie-breaker and was signed into law by the President.

We were taunted with the charge that this budget would cut the economy off at the knees, mushroom the deficit. Well, within months the economy was up on its feet and running. The deficit was going down every year for 7 straight years, a record; until finally in 1998 for the first time in 30 years, it was in surplus including Social Security and Medicare. The next 2 years we moved all the way to a surplus of $236 billion.

When President Bush came to office this was the context. He inherited an advantage that few Presidents in modern times have enjoyed, a budget that was in surplus. The first year he was in office he inherited the Clinton budget. 2001, he had a surplus of nearly $130 billion. President Bush, when he came to office, was told by his Office of Management and Budget that the surplus over the next 10 years would continue to increase, and he could expect a surplus of $5.6 trillion between 2002 and 2011, $5.6 trillion. A huge advantage. But we warned here that that surplus was based on a blue-sky forecast and there were storm clouds gathering over the economy. And we strongly advised our colleagues on the other side of the aisle not to be reckless with their first round of tax cuts, to have modest tax cuts each year to see if these numbers would truly pan out.

Well, they enacted large tax cuts anyway, tax cuts large enough to take $1.7 trillion out of the surplus. By July of 2001 the economy had taken another $1.6, $1.7 trillion out of the surplus. As a consequence, when the Congressional Budget Office came back to the Hill, as they are required by law to do, and gave us their mid-session review just before we began to put together, put to bed all the appropriations bills, July 2001, the surplus not including Social Security was down to $575 billion. It was no longer over $3 billion excluding Social Security. It was $575 billion, and that included a surplus in Medicare of around $250 billion. So really we only had a surplus then of $200 to $300 billion.

The President, the administration are apt to tell us that the deficit today stems in part from the tragedy of 9–11. There is no question about it. Terrorism has taken a bite out of the budget.

□ 2115

It has taken its toll on the economy, but most of the surplus, as those numbers in July 2001 show, most of the surplus was gone before the terrorists hit New York.

So this is where we find ourselves as we mark up the budget for fiscal 2004. OMB sent us a chart, I do not have a copy of it here, but I can picture it. It says we began by thinking that we had a surplus of $5.6 trillion. We now acknowledge 2 years later that we overstated that surplus by about $3.2 trillion. The real surplus, they say today, adjusted for the economy as it has turned down, is really over this 10-year period, 2002–2011, about $2.5 trillion, but here is the rub.

Congress has enacted policies committing all of this surplus and then some. In fact, if we did not do anything else, we would have a deficit of $129 billion, and this is where we are, with no surplus, so that any additional tax cuts passed by this Congress will go straight to the bottom line. That will be no surplus to offset them. They will add dollar for dollar to the tax cuts.

So what does the President recommend? What does the President recommend, knowing that everything he proposes in additional spending over and above the rate of inflation will go straight to the bottom line and swell the deficit, every tax cut will swell the deficit? He proposes, these are his numbers, OMB, $1.993 trillion of new policies, actions, of which $1.6 trillion is a new tax cut. That racks up $2.1 trillion in additional deficits. All of these are OMB numbers.

Back in 2001, we could say that one could argue for a tax cut, even a tax cut of $1.6 trillion or $1.7 trillion. They could point to a projected surplus of $5.6 trillion and say there is more than enough here, and we should give some of it back to the American people. The problem is, of course, that surplus never obtained. It has not panned out. But we could excuse, I suppose, that first tax cut on grounds that maybe we were a little too easy, too anxious, too eager to bet the budget and blue sky forecast. Chalk it up to lack of due caution. But today, today, we know there is no surplus, so any additional tax cuts we undertake will add to the deficit directly, and in the long run deficits matter.

The administration has tried to come up with some revisionist economics to suggest that deficits do not matter, after years and years of having mainstream economies tell us that they do matter. They matter for several simple reasons.

First of all, when the government goes into private capital markets or the country's capital markets and borrows, they simply run up the cost of credit. They increase the demand, and so the product costs more. Credit costs more.

When we borrow, we simply say to our children that they pay the bill. We are putting it on our Nation's credit card. When they take over as citizens, they pick up the tab. That is what it comes down to. There is a moral question as well as a fiscal and financial question involved.

Deficits do matter, and above all, they raise interest rates, and they stifle growth in the economy, and that hurts everybody, no question about it; hurts the budget, makes it harder to get the budget back on its feet.

As we saw when the gentleman from Virginia (Mr. SCOTT) was up, we can have tax cuts today, but a few years down the road, the interest on the debt that is created by those tax cuts, if we borrow to make up for the revenues that are cut because we do not have sufficient revenues to run the government, we have got more debt; therefore, we have more debt service, more interest to pay, and as a consequence, pretty soon, as citizens, we are all paying a debt tax. We are all paying additional tax to service the national debt, and that is what is happening right here.

So our Republican colleagues got the President's budget, and they recognize this path that it led to, as outlined here in the CBO study, was not a sustainable path, and I give them credit for that, and they undertook to offset the cost of the tax cut. That is where I think they made their mistake in assuming this, that these circumstances on the brink of a war, deep in deficit already, warrant another tax cut. Tax cut when we have to go into the open market and borrow for the money that we give up by the tax cut itself? Does not make a lot of sense to me.

Nevertheless give them credit. They at least tried to offset part of it, but in trying to offset part of it, they have reached out and hurt more groups and more worthy programs than I have ever seen in any single budget yet.

Veterans, everybody's mentioned veterans tonight. I could not believe it when I saw the Republicans' budget and it called for a $15 billion reduction in mandatory spending; that is, entitlement spending for veterans. What kind of entitlement spending do veterans get? They get entitlement spending for veterans' disability compensation, service-connected wounds and injuries, service-connected disabilities. This reconciliation provision that they put in their budget would require us to cut $15 billion out of veterans' disability compensation, and as the gentleman from Wisconsin (Mr. KIND) said, what sort of message is that to send those wonderful young men and women who are serving with such pride and such elán in our forces in the Persian Gulf?

Mr. KIND. Mr. Speaker, would the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, I appreciate our leader on the Committee on the Budget for highlighting what appears to me to be an impossible policy position to take on the eve of war in Iraq, but the question I have for my colleague, in his analysis of the Republican budget proposal, have they allotted a nickel or a dime in regards to the military build-up or military action or the rebuilding that will have to take place in Iraq?

Mr. SPRATT. As large as the deficits are in this budget, I just read them to my colleague, they accumulate $3.2 trillion over the next 10 years. There is nothing in here to pay for the war in Iraq, and there is nothing in here either to pay for our global war against terrorism, the war in Afghanistan and elsewhere.

It is expressly understood that that is a hole that has to be filled later in the year, and probably sooner than later with war just around the corner. Nevertheless, we are moving ahead with the budget, not knowing this enormous item, the size of it, the cost of it, or how it will be paid for and accommodated in this particular budget.

Mr. KIND. Mr. Speaker, if the gentleman would yield for one more question, so I assume we can expect then, when military action is being taken in Iraq, that at some point the administration will submit a supplemental emergency funding request for the operation in Iraq, and typically, when we are dealing with emergency supplementals, are offsets found for those?

Mr. SPRATT. Typically not. That means they will be added to the total amount of spending. It will go straight to the bottom line, because, as I said, there is no surplus anymore to absorb the amount of money that will be needed, $50-, $100 billion, whatever it may be, and that applies also to the cost of an occupation after the war.

The postwar occupation was estimated by the Congressional Budget Office at a cost of $1.8 billion per month to $3.8 billion per month, depending upon the difficulty, the size of the force. We could easily have an occupation force there trying to rebuild Iraq after the war of over 100,000 troops.

General Shinsheki, who last commanded the reconstruction forces in Bosnia, has more experience than anybody. He estimated they needed over 100,000 troops, and that would cost us on the upper end of that estimate. All of this has to be added to the budget.

## DIVISIVE PARTISAN BUDGET

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS. Mr. Speaker, let me just begin by saying if the gentleman from South Carolina (Mr. SPRATT) would like to finish any additional comments, I appreciate his focus tonight on this budget.

Mr. Speaker, we are on the eve of a war in Iraq. We are at a time when we should be coming together as a Nation, and yet I am disappointed to say that this budget that may be on the floor of the House on the very day perhaps that we go to war is a divisive, partisan budget. I would hope the leadership of the House would choose to delay the consideration of this bill for many reasons, not the least of which is it will divide this House when we should be linking arms to support our troops, support the Commander in Chief in our war against Iraq.

This budget has many shortcomings that have been discussed in the last hour, but I would like to say that I think it is an unfair budget, as well as an irresponsible budget. It proposes the largest deficit in the history of the United States. Let me repeat: It proposes the largest deficit in the history of the United States.

In doing so, it asks tremendous sacrifices from some American citizens, including combat-injured, disabled veterans whose compensation and pension checks could be reduced significantly, while, on the other hand, providing lavish tax breaks to some of the wealthiest among us in this country. It seems to me that that budget flies in the face of the principle of shared sacrifice.

I am not here tonight or any night, Mr. Speaker, to attack those who have worked hard, been successful financially, created businesses and jobs, but I would say once America goes to war, it is not fair to ask for sacrifices from our men and women in uniform who are putting their lives on the line in the days ahead to ask for sacrifices from combat-injured World War II, Korean, and Vietnam and Desert Storm veterans and then turn around and say to a constituent in my district that it is okay for a person to make a million dollars a year in dividend income while sitting comfortably in security in their own home in central Texas and not have to pay one dime in taxes on that million dollars of income.

It is not right having the administration propose a billion-and-a-half-dollars cut in military construction appropriations that helps provide housing and day care and quality-of-life programs for our servicemen and women and the families who sacrifice so many times as much as those who wear our Nation's uniform. It is not right to put a burden on hard-working, average-income and low-income families through cuts in education commitments; through dramatic cuts in Medicaid funding, which provides health care for low-income children; through cuts in Medicare, which is important for rural and urban hospitals to provide quality care and Medicare, the program that is so valuable and so necessary to so many senior citizens on fixed incomes.

This is not a budget worthy of support in this House. We should respect the fact that our Nation is about to send its sons and daughters into combat. I will support our Commander in Chief in that effort because I believe we do need to work together to send a clear message to Saddam Hussein and to our soldiers, our servicemen and women in the Iraqi theater that we are behind them, but we do not do that this week by passing a bill that underfunds some military programs such as housing and quality-of-life programs, underfunds Medicare and Medicaid, asks for sacrifice from farmers, senior citizens and young people trying to make a better life for themselves through a college education, while at the same time providing massive tax cuts for the wealthiest Americans who benefit from the sacrifices of average working folks who make up the heart and soul of our military forces.

Mr. Speaker, I urge the leadership of this House to consider pulling down this divisive, partisan budget bill. Let us come back together, put together a bill we can all be proud to support, and, in doing so, keep America unified, keep this Congress unified, and let our servicemen and women know that we are behind them.

## CONGRESSIONAL BLACK CAUCUS' PRINCIPLES ON U.S. MILITARY ACTION IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes.

Mr. CUMMINGS. Mr. Speaker, I would like to insert into the RECORD the Congressional Black Caucus' principles on United States military action in Iraq. They are as follows:

We oppose the unilateral first strike action by the United States without a clearly demonstrated and imminent threat of attack on the United States.

Only Congress has the authority to declare war.

Every diplomatic option must be exhausted.

A unilateral first strike would undermine the moral authority of the United States, result in substantial loss of life, destabilize the Mideast region and undermine the abilities of our Nation to address unmet domestic priorities.

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Further, any post-strike plan for maintaining stability in the region would be costly and would require a long-term commitment.

Mr. Speaker, I rise at a moment when America stands at the brink of war. Our actions in Iraq will define our moral standing in the world for this generation and for generations yet unborn. I have given my oath to do everything within my power to support our men and women in uniform. We have a great American tradition that when we engage in combat, we support our troops. I will fulfill that solemn obligation. However, I also have pledged my commitment to ensure their sacrifice is warranted and just. That obligation does not allow me to remain silent tonight.

Mr. Speaker, the President has declared that he will allow no more time for a negotiated disarmament of Iraq. We all know the terrible consequences of that decision. The stakes are enormous. Many human beings will be harmed and others will die. In the course, American foreign policy could be seriously changed. So before a single shot has been fired, I must again raise what I consider to be the fundamental question about this preemptive war: By what authority, by what right does this Nation justify the taking of life in Iraq?

Mr. Speaker, the American people have created the strongest military force in history. We in this Congress will continue to support our troops. We will continue to ensure that they are the best trained and equipped in the world. Yet as a people, Americans have never subscribed to the proposition that our might makes us right. America has never led by military power alone, but by our devotion to principles and the legitimacy of our mission. And now that principled foundation of our national security has been placed in jeopardy and the legitimacy of our mission, and therefore the credibility of our Nation, is challenged by a significant part of the global community and our own citizens.

The administration regrettably has failed to achieve the U.N. approval and broad-based international support that are critical to achieving our objectives and protecting our men and women in uniform in the Middle East. We have an obligation to ask why the administration has failed to make its case.

If the President's rationale for war were self-evident, a broad-based multinational "coalition of the willing" would have indeed materialized. At the heart of the administration's failure, I am convinced, is the absence of clear and convincing evidence that Iraq poses an imminent threat either to the United States or other nations of the world.

Moreover, Mr. Speaker, the administration has yet to adequately explain the consequences of going to war to the American people. Have we received clear and convincing evidence that the President's decision will not destabilize the Middle East, will not make our defense against terrorism more difficult, and will not undermine our ability to meet the compelling domestic needs of Americans here at home?

Where is the administration's comprehensive plan for the political and economic stability of Iraq once hostilities have ended? Where is the President's evaluation of the cost of military conflict and reconstruction? Where is the President's analysis of the impact upon our economy? Will both affluent Americans and working-class Americans share fairly in that sacrifice?

The answers to these questions raise the classic conflict between whether we pursue questionable international missions or spend the resources for urgent domestic priorities.

Mr. Speaker, that is why we have not yet received the administration's answers to any of these critical questions. Fundamentally, however, the issue of war remains one of morality. Following President Bush's ultimatum last night, the Vatican offered this response, "Whoever decides that all peaceful means that international law has put at our disposition have been exhausted assumes a serious responsibility before God, his conscience and history."

I submit that the heavy weight of this responsibility is shared by the President and every Member of this House; and that realization should give us pause, that we have pursued the right course and that we are doing the right thing by this military action.

So tonight, as I speak, tens of thousands of religious congregations throughout the world, women and men of every faith and tradition, are praying that peace will prevail for the good of our country and the enlightened progress of humanity.

May God protect our men and women in uniform and all the innocents who now stand in harm's way, and bring them safely home. And may God guide America during these dangerous times.

Mr. Speaker, I yield to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I thank the chairman of the Congressional Black Caucus for his leadership in bringing us to the House floor to speak to the American people tonight about the Bush administration's decision to choose war as the best way to make the American people safe. It is a choice which I believe is wrong.

First and foremost, in opposing President Bush's decision, let me say unequivocally I support in every way the men and women of our armed services and the sacrifices they and their families are being asked to make. May God bless each and every one of them in this time of crisis and bring them home safely.

Mr. Speaker, I believe in a strong America. We have more instruments of power than any nation on Earth. However, our greatest source of power is our moral clarity and purpose in how we use our strength. Unfortunately, the Bush administration has failed to understand this.

As our President prepares to unilaterally and preemptively use military force against a nation which is not an imminent threat to us, we may be on the verge of threatening the very international laws and norms which are the foundation of global stability. Many of the consequences of such actions have already become known. America is more isolated than ever and anti-American sentiment is rising globally. However, it is the unknown consequences of this administration's choice for war which will likely be even more dangerous. My single greatest fear is that this war will jeopardize the help we receive from moderate Muslim nations in successfully bringing to justice those who directly attacked us on 9–11 and prevent attacks against Americans at home and abroad against known imminent terrorist threats.

Contrary to the President's force dichotomy that our choice was either war or doing nothing, I believe we do have alternatives to this war. If Iraq was such a threat, we can continue to use robust inspections, sanctions, and a military containment box. There are others that I think are on the list that are much more of an imminent danger to us here in America, but it is clear to the world that this war is not really about Iraq's threats to America.

The world believes that this war is about changing a regime we once supported and a test case for the Bush administration's doctrine of preemption, a doctrine that was not just created after 9–11, but a doctrine that was espoused back in 1991 by many of the same individuals in the Bush II administration during the Bush I administration. So it is not a new doctrine that we have to go by because of 9–11; it is a doctrine that was preached and talked about prior to 9–11 by many members of this administration.

I believe it is a disservice for the strongest Nation in the world to adopt such a doctrine, because it represents a policy of fear and weakness. More importantly, it signals a dangerous devaluation of diplomacy as an instrument of statecraft to the entire world.

Mr. Speaker, there is not a question in my mind that our military will defeat Iraq, but the real question for America and the world is what will come next and what damage to the region and international order will this cause? What will happen in the Arab and Muslim worlds when the U.S. military occupies Iraq in the name of stability? In the end, the question is: Will this make America safer? I believe not. I think we are making a mistake; but may God bless all of the men and women again that are there, that they may return home to their families safely.

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for his statement, and I want to make it clear, as the gentleman has made and all of us will make, that we strongly support our troops. They are our sons, our daughters, our sisters, our brothers, our friends, our fathers, our mothers.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the chairman of the Congressional Black Caucus for yielding, and I also commend the gentleman for the outstanding leadership he has provided and continues to provide not only on this issue but on a myriad of issues affecting this country and affecting our world.

I rise today to discuss the war that is pending, the unfortunate war that we are about seemingly to enter. I make it clear that those men and women who stand ready and are poised and who stand on the front lines and are ready to give every measure of devotion that they have, even in many instances perhaps their lives, are to be commended. They are to be supported. They are to be acknowledged for the tremendous sacrifice they are prepared to make.

I have been told that war is by definition a state of open-armed conflict between nations, states or parties. It is a condition of active antagonism or contention, a concerted effort to combat something injurious. War is also the admission of the failure of diplomacy.

□ 2145

Since the passing of the USA PATRIOT Act of 2001, H.R. 3162, we have provided funding to intercept and to obstruct terrorism, our peace initiative. Unfortunately, recent failures in American diplomacy have impacted the United Nations' ability to work for a peaceful solution.

In my home State of Illinois, the citizens of my district, as in all of America, have made many sacrifices during these difficult times. The greatest sacrifice has been that there are an estimated 100,000 servicemen and women currently stationed at strategic points overseas to ensure the success of this conflict. Many of them are citizens of my district and of the hundreds of other districts across this great Nation.

There are compelling reasons that may have motivated our President to pursue this course of action. First, we have been told that we have the military might, resources readily available and poised at strategic points across the globe to address what is hoped to be a short-term conflict, and that we have the support of allies, Great Britain and Spain.

The noted Greek historian Herodotus once said, "In peace, sons bury fathers, but war violates the order of nature, and fathers bury sons." The loss of human life in efforts of war, regardless of their country of origin, is unacceptable and should be avoided, as all life is sacred.

While military and human resources may have been committed to this effort, the full cost of this war has yet to be disclosed, especially when we do not have the full support of the United Nations for both the war and the subsequent occupation and rebuilding of Iraq. I see no United Nations-supported Marshall Plan on the horizon.

We were told that while we acknowledge the strained relationship with North Korea caused by their blatant confrontational comments and open defiance in the propagation of their own nuclear supremacy agenda, they are not of primary concern. Yet North Korea and its quest for nuclear power is an issue that will haunt us in the future because of our inaction today.

We have also been advised by our President that this war in Iraq is the only means that we as a Nation have to respond to Iraq's 10-year failure to comply with United Nations Security Council resolutions calling for their disarmament after the first Persian Gulf war in 1991. The selection of Iraq was not a matter of revenge, unfounded on any principle, but was within the law as ascribed by United Nations Resolution 1441 and will also aid our efforts in the war on terrorism by accomplishing the removal of Saddam Hussein and his lieutenants. This, we have been told, will also ensure the disbanding, if not destruction, of the terrorist cells that are either located in or are supported by Saddam Hussein and his regime.

Mohandas Gandhi, a man praised and revered for his life of peace, said, "I object to violence because when it appears to do good, the good is only temporary. The evil it does is permanent."

Mr. Speaker, I am not convinced by any shape, form or fashion that invading Iraq, that a preemptive strike by this country is going to net the results that we are hoping for. But I am optimistic, and I still hope. I hope and I pray that somehow or another before there is a grand holocaust, that peace will be found and peace will prevail. But if not, certainly I stand with the men and women, the young persons from my congressional district who are poised and have left home, who are ready to give of themselves and to give of their lives so that there can be hope for peace and the continuation of the kind of freedoms that we have come to enjoy.

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for his very eloquent statement.

I yield to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the Chair of the Congressional Black Caucus for organizing this Special Order and for his leadership, especially for giving us one more chance to discuss this march to this needless and dangerous war. This is a really sad and very somber evening for many of us.

Last September, the Congressional Black Caucus issued five principles on war with Iraq. The principles began by saying: "We oppose a unilateral first-strike action by the United States without a clearly demonstrated and imminent threat of attack on the United States." All these months later, Mr. Speaker, we still have no evidence of an imminent threat to our country. Even the CIA in a declassified report has said that Saddam Hussein is unlikely to use weapons of mass destruction against the United States or our allies unless he himself is under dire threat of attack. We do not face an imminent threat.

The second principle reads, "Only Congress has the authority to declare war." Congress has not declared war. And the Constitution is unyielding on this point.

The third principle states, "Every diplomatic option must be exhausted." Our diplomatic options are not exhausted, although the President's patience apparently is. Through diplomatic engagement and inspections, we have successfully contained and restrained Saddam Hussein. The inspections process is working. It is just not finished yet.

The fourth Congressional Black Caucus principle states, "A unilateral first strike would undermine the moral authority of the United States, result in substantial loss of life, destabilize the Mideast region, and undermine the ability of our Nation to address unmet domestic priorities." All of these concerns are still with us, Mr. Speaker.

The doctrine of preemption and the threat of preemptive war against Iraq do not make us safer. They make us less secure. This doctrine threatens to set a dangerous precedent that might then be cited by other countries, including other nuclear powers, to justify preemptive first strikes against perceived future threats. That is not a world we want to live in, and not an example we want to set. We also risk unleashing new waves of instability and destruction in the Middle East. And no one here questions for a minute that we have not met our priorities here at home. The Bush budget underfunds education, job training, health care, environmental protections, housing and a host of other critical and neglected priorities. And it underfunds all those programs without including one penny to cover the hundreds of billions of dollars that war and occupation in Iraq will cost. That is still to come.

The fifth principle of the Congressional Black Caucus document from last fall reads, "Any post-strike plan for maintaining stability in the region would be costly and would require a long-term commitment." Those facts are still very much with us today. A well-known Yale economist said that reconstruction and occupation in Iraq could cost well over $1 trillion. That is not something the President has acknowledged. It is certainly not in the budget that he has just submitted.

We issued those principles last fall, last September, when the President claimed the unilateral right to attack Iraq with or without United Nations' authority and talked a lot about regime change. After all this time, we have returned to our starting point.

Tonight we are on the eve of a war. We must take this opportunity, and I thank the gentleman from Maryland again for giving us the opportunity to make one last plea.

I want to read excerpts from a letter sent to President Bush by really a great religious leader, the presiding Bishop of the Church of God in Christ, Bishop Gilbert Earl Patterson, and the General Board of the Church of God in Christ, which is the largest African American Christian denomination in the United States of America. Some of the excerpts are:

"Dear President Bush: We write to you as predominantly black clergy, intellectuals and informed laypersons of community-serving churches of the Church of God in Christ to address matters of the deepest gravity, namely, that of war and peace as presented by your statements and those of Vice President RICHARD CHENEY and Secretary of Defense Donald Rumsfeld concerning a preemptive attack upon Iraq.

"We are mindful that war, should it come to pass, will directly affect the safety and well-being of tens of thousands of our fellow citizens in the Armed Forces, of whom significant numbers are ethnic minorities in the enlisted as well as the officers and noncommissioned ranks.

"Our thoughts also extend to the safety and well-being of Iraqi civilians who have not lifted a hand against the United States. We are deeply concerned that critical moral reflection on the prospects of war has been overlooked by some in your administration. We do not advocate a weak America, unable to defend the innocents from tyranny of attack, but a strong America must examine itself before setting off to war."

Bishop Patterson goes on to say, "We would agree that Iraq's President Saddam Hussein has demonstrated aggression against his neighbors in the past, some of which was unopposed, mind you, by the United States Government. We would also agree that if Iraq possessed weapons of mass destruction, this would be a matter of grave concern. In this regard, we believe that the United States' interests are best served by using the existing mechanisms of international law, collaboration and consultation with our allies, and the use of existing United Nations resolutions to support the work of weapons inspectors so they may detect and destroy any weapons of mass destruction found in Iraq.

"However, we do not find any moral justification for a preemptive strike in the absence of an attack or a real threat of an attack against the United States of America. A military strike of this nature puts the United States in the posture of aggressive warfare, not defense, which is precisely the behavior that we, and your administration, deplore in the Iraqi regime.

"Surely our Nation and its leaders can examine their own intentions in light of Holy Scripture before setting their feet upon the blood-soaked path of war whose ultimate outcome is known with certainty only by the Maker of us all."

Mr. Speaker, in closing, I support our troops with all my heart. As a soldier's daughter, I know what their families are feeling now. I hope and pray for the return, the safe return, of our Armed Forces and for the safety of Iraqi civilians who will inevitably be caught in the crossfire of any conflict. And I hope and pray that our Nation finds an alternative to war.

Once again, as Bishop Patterson said, money spent on war to destroy lives could instead be used to save lives by financing the alleviation of the impending famines in Southern Africa, or to provide clean drinking water to enhance the health of hundreds of thousands of poor, defenseless men, women and children throughout that continent. He said that these resources could also be productively directed toward providing treatment and prevention services for those afflicted by the HIV/AIDS holocaust in Africa, the United States and other countries around the world, not to forget the blight and ravages of economic depression in Appalachia and the inner cities of America.

Once again, I just want to say to the gentleman from Maryland and to members of the Congressional Black Caucus, to this body here tonight, that we still have a window of opportunity, a very short window. Tonight we are making one last plea not only on behalf of ourselves, but on behalf of millions of people in our country, millions of people throughout the world who want to see a safe and secure America, who want to see a safe and secure world, who want to turn over to our children a world that is more secure, not less secure.

Mr. CUMMINGS. I want to thank the gentlewoman for her statement. I just want to reiterate that the principles that the gentlewoman stated for the Congressional Black Caucus with regard to war were actually agreed upon by the Congressional Black Caucus back in September. Just approximately 2 weeks ago, the Caucus asked, by way of letter, the President to sit down with us so that we might talk about resolving this Iraq situation without war. The President has not seen fit to meet with us.

It is my honor to yield to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, to the chairman of the Congressional Black Caucus, the gentleman from Maryland (Mr. CUMMINGS), I want to thank him for taking time out in the schedule of the Congress of the United States to allow the members of the Congressional Black Caucus to take the floor to talk about our concerns and to describe our feelings about the preemptive strike that we are poised to carry out as we stand here tonight.

□ 2200

I thank the Chairman because he knows and I know that we are going to be criticized. We are going to be criticized, and there will be those who even call us unpatriotic. We will be criticized. We will be called unpatriotic, and there will be an attempt to intimidate us and say to us that at this point in time we should not raise these questions, we should not talk about our deep feelings and our concerns, we should only support whatever the President is doing.

But I would like to remind those who would criticize us that we are indeed patriotic Americans. As a matter of fact, if we take a look at the history of African Americans in this country, one can only conclude that we are indeed patriotic. We believe in America. We believe in America despite the history of America as it relates to African Americans, despite slavery, despite discrimination, without racism. We stand by America. We have decided that it is our job and our responsibility to make America the kind of place that America can be and it should be, and so we take this floor this evening to try to raise the question how did we get to the point where the President of the United States is issuing an ultimatum to Saddam Hussein in Iraq to be out of that country within 48 hours, he and his sons, or face the consequences of a preemptive strike? How did we get to this point? How did we get to the point where all diplomatic efforts have been abandoned? How did we get to the point where we have some 250,000 to 300,000 young men and women in Kuwait, in Qatar and on the sea awaiting the order to strike? Where did it all break down? How did we lose our allies? What made France and Russia and Germany and even China decide that they could not stand with the President of the United States in a second resolution? What made France say no matter what, they were poised to veto any resolution being described in the way the President of the United States was describing the second resolution?

When we ask the question of how, when, and where did the diplomatic efforts fail, we cannot help but understand that the diplomatic efforts could not work because the case has not been made for preemptive strike. The case has not been made, and there is no documentation as of this date that even Saddam Hussein is harboring weapons of mass destruction.

As we have sent our inspectors there, they have found some things; but we have also discovered that some things that were supposedly in place in Iraq were not in place. We listened very carefully as our Secretary of State described sheds and operations where weapons were being developed only to discover that they were old and dilapidated, full of dust with no electricity. As there was an attempt to document why we had to have this preemptive strike, we found each day that the representations were less than factual. As a matter of fact, our own intelligence community headed by the CIA said that they could not find in Iraq that which was being described by our own Secretary of State, the President of the United States.

Some would say the President moved on this preemptive strike after 9-11, the President was so concerned about terrorism and 9–11 that he decided that he must take some action.

The President of the United States of America had the support of this Congress to take action to find the terrorists, to bring them to the bar of justice. We said yes, Mr. President, 9–11 is a terrible thing. It was a terrible thing. We should not be the victims of terrorism, and we should find those who are responsible. We were told that Osama bin Laden and others were responsible. And we said, we support you, Mr. President. Let us go after Osama bin Laden and Mullah Omar and any of the rest of those leaders leading al Qaeda that were responsible for terrorism.

We are still looking for Osama bin Laden. Where is he, Mr. President? We still do not have Mullah Omar, supposedly one of the high operatives responsible for terrorism. Mr. President, not only do we support finding the terrorists, you have taken a lot of steps above and beyond what some of us even thought should be taken when you moved to change the Constitution of the United States to try to locate folks that supposedly were responsible. You have locked up people. Some of them we still do not know where they are. You have brought folks who still have not been identified with terrorism but are being held, but we have not had a breakthrough. We have not had a breakthrough, and we are worried that the war on terrorism has taken a back seat to a preemptive strike on Saddam Hussein.

Mr. President, you cannot substitute a preemptive strike on Saddam Hussein for finding the terrorists. We want the terrorists to be found. We give you all the support that you need to do that. And, Mr. President, we want the homeland secured. We have given you all the support that you need for homeland security, but we find as of today the terrorists have not been located. Some of our airports are still exposed. We have nuclear power plants that are exposed. We have ports where we have containers that are still coming in that are not inspected; and as of this day, not all of the baggage that goes into the belly of the airplanes that are traveling throughout this country is inspected.

Mr. President, we want to find the terrorists. We want to secure the homeland. We are worried that you have been diverted, that you are about to do this preemptive strike without the documentation.

Yes, we know that Saddam Hussein has done some terrible things. We have been successful in containing him. I do not think that he presents us nearly as much of a problem as North Korea. If we take a look at Kim Jong Il in North Korea, we find that not only has he developed nuclear capability, he has opted out of the nuclear proliferation treaty. He has decided to test missiles. He has challenged us. He has interfered with our airplanes in the sky. What are you going to do about Kim Jong Il? And on top of that, we now discover that Iran has plutonium that could be developed into nuclear capability for weapons of war.

Mr. President, something is wrong with this picture. What is wrong with this picture is this: we are sophisticated enough to know that some of our allies, Pakistan, have nuclear capability and so does India and they could go at each other any day of the week. We also know that Israel has nuclear capability. We also understand that Russia still has nuclear capability. There is too much nuclear capability in the world to talk about focusing our sights on Iraq that still does not have nuclear capability, and we still have not found the weapons of mass destruction.

I know that Saddam Hussein is clever and of course he has been cooperating. The more we push him against the wall, the more he cooperates. Yes, we can now send our planes and we can do the surveillance. Yes, he is now dismantling the Samoud missiles. Yes, he continues to cooperate as we push him against the wall, and the more he cooperates, the more our allies and others say let us continue to do the inspections, let us see if there are weapons of mass destruction. We should not stop in the middle of these inspections.

But there are those who say all of this talk is too late, that you have decided, Mr. President, that it is just a matter of time after issuing the ultimatum that we will move. I am naive enough to believe, I have enough hope, that even at this late date, you have identified that we will move at a time of our choice, that that time will not come. I still hope despite the billions of dollars that we have spent deploying these soldiers that we will bring them home.

We love our soldiers. We support them and we embrace them. Our hearts are torn apart as we see these families torn apart, mothers and fathers leaving the babies. We watched this in the Gulf war only to find that our soldiers came home, many of them had no apartments. They had no homes. They had no furniture. We do not want to replay this. Yes, every country should be able to defend itself, but we are in no danger from Iraq. As a matter of fact, that is probably one of the weakest points on the globe for us to attack. We are not threatened by Saddam Hussein.

Mr. President, I hope that you do not think that with this preemptive strike that somehow this will translate into we have a war on terrorism. It does not. We know the difference, Mr. President. Striking Saddam, striking Iraq is not fighting terrorism. What about our friends in Saudi Arabia who pay for the madrasas and the schools where right-wing fundamentalism is taught? Those madrasas are the breeding grounds for the al Qaeda operation, but, no, they are our friends. We are tied to them because of oil. They are not a democracy. The House of Faud is but a very rich family that has been able to manipulate its way into a friendship and a relationship despite the fact the support and the money comes from Saudi Arabia. The terrorists, all of which have been identified with 9–11, all were born, bred in Saudi Arabia. Our friends that we have aligned ourselves within Pakistan as we have moved into Afghanistan turn out to be those who are supplying North Korea with some of the plutonium and the nuclear capability that they are developing. It does not add up, Mr. President.

What we see and we are witnessing is the mismanagement of America. Someone today criticized Senator DASCHLE because he talked about the diplomatic disaster. Mr. President, it is a diplomatic disaster. We are watching before our very eyes the mismanagement of our beloved country. Our schools are falling apart. You said you wished to leave no child behind, but, Mr. President, you have not funded assistance to education that will have our children in the best possible situations where they can learn. Our health care system has fallen apart. In my city, in my county we are closing healthcare clinics. We are closing hospitals. And the stock market has not performed since before 9–11. What are you doing to stimulate this economy? Mr. President, I do not think the average person will believe that by eliminating the taxes on dividends that somehow it is going to stimulate this economy.

Mr. President, you are not able to tell us what this war is going to cost and what the cleanup, what the revitalization, the reconstruction of Iraq is going to cost. The American people need to know where our dollars are going. The American people need to understand the cost of this war and why.

Mr. President, the worst thing that could happen to us is that you have this preemptive strike, you go into Iraq, occupy it, and we spend billions of dollars after this so-called regime change where we are going to institute democracy, and the terrorists are still operating. When are you going to break up the al Qaeda cells right here in America? When are we going to get with our allies and put together a strong approach to rooting out the terrorists all over the world?

Mr. President, we must raise these questions. We must raise these questions because we are patriots. We are folks who love this country. We are folks who have stood by this country no matter what, and we will continue to stand by this country. We will continue to stand by our soldiers. But, Mr. President, you are going to have to account for the leadership that you are giving, and I say to you and all those who are advising you, be it Wolfowitz, be it Secretary of State Colin Powell, be it Condoleezza Rice, be it Carl Rove, or any of those in the inner circle, you are going to be held responsible for what takes place in this world, what takes place with this preemptive strike, what takes place with our soldiers and our families.

□ 2215

We would like to see this situation resolved in a way that will not cause the body bags to come home. We would like to see this situation resolved in a way that our young people would not be put in harm's way.

It is not too late, Mr. President. We will all stand up and applaud you if you do the courageous thing of saying, yes, we deployed; yes, we spent billions of dollars to do it; but we do not have the allies, we cannot afford the costs, and we cannot afford the loss of lives. I am going to bring our soldiers home.

We will stand with you and praise you and applaud you and say you are a great man. Unless you can do it that way, Mr. President, you are going to have to accept the responsibility.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for her statement. I just want to reiterate something that the distinguished gentlewoman said.

I think every member of the Congressional Black Caucus wants Saddam Hussein to be disarmed. We believe that it can be done through peaceful means. We believe very strongly that we must not just stand on the sidelines and watch our troops go into harm's way and see the Iraqi people come into harm's way. So, we stand up at this last hour.

Mr. Speaker, I am very pleased to yield to the distinguished gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I thank the chairman of the Congressional Black Caucus for yielding. Let me say how proud I am of the outstanding job the gentleman has done in the short time he has been chairing our beloved caucus.

As a member of the Congressional Black Caucus, I thank the gentleman for taking this Special Order. As we have recently celebrated Black History Month, I want to say how proud I am of our troops, all of our troops, white, black, Hispanic, that are there, even some persons who are there to fight who have green cards, who are risking their lives for this country, and they are not even citizens of this country. So I applaud all of our young people who are there to stand up for our country when our Commander in Chief sends them to a place.

As we have just recently celebrated Black History Month, we look at African Americans who were the first to die in this Nation. On March 4, 1770, in the Boston Massacre, Crispus Attucks was the first person to die when those five patriots died at the Boston Massacre, shot down by the British. It was at the Battle of Bunker Hill that Peter Salem, who was a Minuteman, killed the commander of the British troops, the Redcoats, at the Battle of Bunker Hill: Peter Salem, who was a patriot, who I had to graduate from high school and college to find out about these tributes.

We can talk about the 5,000 African Americans who fought in the Revolutionary War. And we go on to the Civil War, where the 54th Regiment, former slaves, who fought valiantly; or the Revolutionary War, where Haiti sent troops in the Battle of Savannah to fight for the independence of the United States against Britain, black men who were former slaves in Haiti came here to fight. So people of color have shed their blood for many years for this country, or the Civil War, as I mentioned, with the 54th Regiment.

When we take the 1898 Spanish-American War, when Teddy Roosevelt and the Rough Riders were about to be annihilated at the Battle of San Juan Hill, it was the Buffalo Soldiers who came and prevented that from happening. Private Johnson and Private Roberts served 181 days in the trenches away from their battalion with 30 German prisoners of war, over a half a year in the trenches in World War I, to get the medal by the French, but not the Americans.

Even recently, Colonel Anderson from New York was on the ill-fated Columbia, one of the seven persons to die in that NASA tragedy, with a man from Israel and a woman who migrated here from India.

So our country is great. So I just wanted to say that we in the Congressional Black Caucus are proud of our history and the history that African Americans have contributed to this country.

But today we stand at the threshold of war with Iraq. It appears that President Bush intends to send our troops into combat without any further attempt at diplomacy and without the support of long-time U.S. allies. In so doing, our Nation will be setting a high-risk precedent wherein we assert the right to engage in preemptive warfare whether or not we are under direct military threat.

What about India and Pakistan? What about if they did a preemptive strike on one another? What about China and Taiwan? What happens then if they follow our lead? We are setting a dangerous precedent.

Then our allies that we are criticizing, Belgium, France and Italy, those who we were trying to bring on our side, like China and Russia, we have lost a lot of diplomacy with this act.

We are opening a door to an era which deemphasizes diplomacy and devalues peaceful solutions through negotiations.

We have been able to contain Saddam Hussein through the use of no-fly zones. More recently we obtained a concession from Iraq which gives us the authority to use our U-2 spy planes, the French Mirage planes and the Russian Antonovs, which monitor daily activities in Iraq.

If the President proceeds with his plan to attack a country without a direct provocation, ours will be a world that is filled with greater fear and danger, greater than ever before in our history. Innocent lives on all sides will be lost. I think it is tragic that we are willing to pay the price of human lives that war extracts when we have not fully explored all diplomatic channels through the United Nations.

As a member of the House Committee on International Relations, I have been directly involved in monitoring elections overseas and helping to resolve very serious conflicts. In South Africa we had a solution where it seemed impossible to reach consensus after years of apartheid and bitter racial divisions, and yet we see people in South Africa living in a new, nonracial Democratic South Africa.

I traveled to Northern Ireland, where generations of violence and animosity have created seemingly insurmountable differences. Yet with great patience and diplomacy, former Senator George Mitchell was able to bring both sides to the table to forge the Good Friday Accords.

In Rwanda, a war-torn country where genocide took place as the world watched, we saw close to 1 million people killed. Opposite sides now live together, peacefully, even some having to share the same home because of coming back and joining together in a house that was previously occupied by the other family, and they are looking forward to democratic elections.

My point is no matter how dire a situation, diplomacy can work. Before we risk the lives of young men and women in uniform, which I support and all of us in the Congressional Black Caucus support 100 percent, as well as the countless citizens in both the Middle East and our own country, should we not do everything in our power to have a peaceful solution to the situation in Iraq?

We know that war takes terrible tolls. Tragically, even as technology advances, incidents of friendly fire where our soldiers are inadvertently killed by our own troops are on the rise. The number of incidents have grown from 3 percent casualties in World War II to over 24 percent in the Persian Gulf War. That number is expected to increase, our own soldiers killed inadvertently by our own weapons. Recently there was the tragedy of Canadian soldiers brought down by mistake.

So, as I conclude, I implore President Bush to reconsider his decision before we make a tragic mistake from which there will be no turning back.

Mr. CUMMINGS. I want to thank the gentleman.

Mr. Speaker, I yield to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Speaker, we really appreciate the gentleman taking the time to inform the people of how important this situation is and that we should not move forward.

Mr. Speaker, I rise today to express my strong concerns about the movement of this country towards war with Iraq. I challenge anybody to say, ED, you are unpatriotic because you are opposing the war.

Mr. Speaker, let me be clear: I support our troops. I served in the military. When my country called, I answered. So I stand here as someone who understands the duty of military service and the willingness to make the ultimate sacrifice for our country, and it is precisely because I do support our troops and their families that I cannot understand the unwillingness to send them into harm's way without a clear and present danger to the people of the United States of America.

It is for that reason that in October 2002 I voted against the authorization to allow the President to use United States Armed Forces in Iraq without prior congressional approval. Nothing has happened since that time which would cause me to change my position.

Some people would say, well, what about the weapons of mass destruction? Well, there are a lot of weapons of mass destruction. When I look at the fact that we have an educational system that is in shambles, to me that is a weapon of mass destruction. When we have 41 million people with no health insurance in the United States of America, to me that is a weapon of mass destruction. When we have people that have no jobs and no way of getting jobs, to me that is a weapon of mass destruction. When we have no prescription drug program for our senior citizens in this Nation, that is a weapon of mass destruction.

So I come tonight to make an appeal, knowing that time is running out. But I hope that we will be able to continue to have some dialogue and that we will be able to bring our troops home.

Yes, I am in support of the troops. Yes, I am in support of the troops' families. And I am hoping we can bring them home without any further delay. We need to continue to discuss this. We need to continue to talk.

I am not convinced that the United States of America is in harm's way. When I listened to experts on terrorism, Tom Ridge, who heads Homeland Security, whom I have tremendous respect for, has indicated that we will place the people of the United States of America in jeopardy because of terrorism if we attack. I think that when we hear the cry coming from experts around the Nation who are pointing this out, and have pointed it out so clearly, we should listen to those experts and to go another way.

So I am hoping and praying that, some way or another, that this situation can be diverted, and that we will not send our people into harm's way.

So as I conclude tonight, Mr. Speaker, I am not willing to risk the lives of Americans at home and abroad to fight a war without clear rationale, a clear purpose and a definite end game. The administration has not made this clear, and I pray the leadership of this Nation will consider and do what is right by bringing our soldiers home.

## GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 2230

## SEEKING AN ALTERNATIVE TO WAR

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished Speaker, and I am delighted to be able to join the chairman of the Congressional Black Caucus and my colleagues in following up on this outstanding Special Order that the gentleman from Maryland (Mr. CUMMINGS) has led and to thank him. I do not think we appropriately thanked him as the time has run out for his wisdom and insight in bringing us together this evening.

This is a very trying time for the chairman in his leadership role and for this Congress, and for him to have the courage to be able to stand up on the floor of the House and convene his colleagues, knowing of the name-calling that is going on in this country, but I think as I have spoken to the gentleman from Maryland (Mr. CUMMINGS) earlier, he has admitted that he is willing to risk affection and admiration to be able to tell the truth and to speak on behalf of the Nation's constituents who are concerned about the direction this Nation has taken and certainly the choices that we are making, choosing war over peace, and actually not choosing life over death.

Mr. Speaker, I wish to say that I rise this evening to really speak to the deafening silence that we have seen occurring in the realm or in the august halls of this particular body, and that is that we have come now to almost the brink of a decision; I will not say the brink of war, I am going to say the brink of a possible decision and yet, this Congress, the 108th Congress, Mr. Speaker, has not taken up the question of a declaration of war. The silence is enormously deafening, I say to my colleagues, for this reason.

The Constitution is clear when it enunciates the powers of this Congress in article I, section 8, along with the duties of imposing and exercising taxes and paying debts and providing for the common defense and general welfare. It announces clearly to declare war and make rules concerning captures on land and water. Somewhat antiquated language, but it is very clear, Mr. Speaker, that this body has a duty and obligation to declare war. The President is the Commander in Chief, and we fully respect and understand that. And as he is the Commander in Chief, he can deploy troops.

Yes, the Congress entered into, or this Nation entered into, the Korean conflict, the Vietnam police action; but because Congress fails to act, it does not abdicate its duty and its responsibility. The one thing America needs to understand is that there is no doubt or any question that if we were under imminent attack, it is clear that the Commander in Chief could defend, along with the armed services, the United States military, this Nation. In fact, the war powers resolution clearly enunciated that perspective by statute, that if any President felt we were under imminent attack, as was indicated to us in October of 2002, that President could engage in the protection of this Nation and report back to the Congress.

Sadly, and maybe graciously, Mr. Speaker, we are not under imminent attack. We were not under imminent attack in the October 2002 debate and, in fact, I would say that our colleagues, our friends, Members of this body and the other body, deserve to redebate this question because, Mr. Speaker, we did not know of the dire circumstances of North Korea. We did not know of its unclassified now state or status, of its ability or potential of, if you will, creating and having nuclear weapons. So now we have our war missiles and our troops focused on Iraq.

Mr. Speaker, I would say to my colleagues that this is the time for this Nation to see this democratic body debate the question of war, up or down, should we declare war against Iraq. We will not harm our troops. We have all stood here and said that we do not divide on our troops. There is no divide. The mission is in question. But we will lay down our lives for our troops as they are ready to lay down their lives for this Nation.

Why castigate those of us who allegedly are accused of being unpatriotic when everyone knows that the armed services comes from all of our respective districts?

So, Mr. Speaker, I think it is important this evening as the time seems to be shortened, I believe it is important to look for, Mr. Speaker, an alternative. There is another way. And I demand, if you will, that this House debate the question that we indict Saddam Hussein, that we leave 50,000 troops and bring the others home, that we seek to put in humanitarian aid, we fight for the Mideast peace, and we fight the war against terrorism; but we find an alternative, because it is better to choose life over death and peace over war.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and March 19 on account of personal business in the district.

Mr. SNYDER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. HYDE (at the request of Mr. DELAY) for today on account of medical reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RYAN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. SESSIONS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today, March 19 and 20.

Mr. OSBORNE, for 5 minutes, today.

Mr. FEENEY, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, March 25.

Mrs. BLACKBURN, for 5 minutes, March 19.

Mr. TANCREDO, for 5 minutes, today.

Mr. KENNEDY of Minnesota, for 5 minutes, March 19.

Mr. DUNCAN, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. SOLIS, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

## ADJOURNMENT

Mr. CUMMINGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 19, 2003, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1183. A letter from the Director, Regulations Policy and Management Staff, Department of Energy, transmitting the Commission's final rule — Electronic Registration [Docket No. RM02-10-000] received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1184. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Presiding Officers at Regulatory Hearings; Confirmation of Effective Date [Docket No. 02N-0251] received February 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1185. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: FuelSolutions Cask System Revision (RIN: 3150-AH13) received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1186. A letter from the Secretary, DHS, Department of Homeland Security, transmitting the Department's final rule — Classified National Security Information (RIN: 1601-AA02) received January 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1187. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Office of Inspector General Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities [Docket No. FR-4742-F-02] (RIN: 2508-AA13) received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1188. A letter from the Director, OPM, Office of Personnel Management, transmitting the Office's final rule — Voluntary Separation Incentive Payments (RIN: 3206-AJ76) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1189. A letter from the Director, OPM, Office of Personnel Management, transmitting the Office's final rule — Federal Long Term Care Insurance Regulation (RIN: 3206-AJ71) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1190. A letter from the Director, OPM, Office of Personnel Management, transmitting the Office's final rule — Administratively Uncontrollable Overtime Pay (RIN: 3206-AJ57) received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1191. A letter from the Director, OGE, Office of Goverment Ethics, transmitting the Office's final rule — Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations (RIN: 3209-AA07) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1192. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Kalamazoo, Saugatuck, MI [CGD09-02-049] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1193. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; White Lake, Whitehall, MI [CGD09-02-048] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1194. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; James River, Newport News, Virginia [CGD05-02-053] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1195. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Cleveland Harbor, Cleveland, OH [CGD09-02-057] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1196. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Red River, Mile 227.5 to 229.5, Shreveport, Louisiana [COTP New Orleans 02-011] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1197. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Hudson River, Pier 25, Manhattan, New York [CGD01-02-112] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1198. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River, Miles 171.5 to 172.5, Marietta, Ohio [COTP Huntington 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1199. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Chesapeake Bay, Hampton Roads, James River, VA [CGD05-02-005] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1200. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Grand River, Grand Haven MI [CGD09-02-071] (RIN:

2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1201. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Chesapeake Bay, Hampton, VA [CGD05-02-050] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1202. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Kalamazoo Lake, Saugatuck, MI [CGD09-02-072] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1203. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Kalamazoo Lake, Saugatuck, MI [CGD09-02-514] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1204. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Thunderfest Powerboat Race, Detroit, MI [CGD09-02-061] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1205. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Festa Italiana Festival 2002, Milwaukee Harbor, Milwaukee, WI [CGD09-02-032] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1206. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Cocos Swim, Cocos Lagoon, Guam [COTP GUAM 02-007] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1207. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 362.0 to 364.0, Above Head of Passes, Natchez, Mississippi [COTP New Orleans 02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1208. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile 174.5 to 176.5, Above Head of Passes, Donaldsonville, Louisiana [COTP New Orleans 02-012] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1209. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile 137.0 to 139.0, Above Head of Passes, Edgard, Louisiana [COTP New Orleans 02-017] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1210. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Maumee River, Toledo, Ohio [CGD09-02-044] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1211. A letter from the Deputy General Counsel, Department of Veteran Affairs, transmitting the Department's final rule — Loan Guaranty: Implementation of Public Law 107-103 (RIN: 2900-AL23) received February 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. House Resolution 68. Resolution requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the President's possession relating to Iraq's declaration on its weapons of mass destruction that was provided to the United Nations on December 7, 2002; adversely (Rept. 108–38). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 874. A bill to establish a program, coordinated by the National Transportation Safety Board, or assistance to families of passengers involved in rail passenger accidents (Rept. 108–39). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 975. A bill to amend title 11 of the United States Code, and for other purposes; with an amendment (Rept. 108–40 Pt. 1).

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 132. Resolution expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes (Rept. 108–41). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 147. Resolution providing for consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes (Rept. 108–42). Referred to the House Calendar.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 1000. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets; with an amendment (Rept. 108–43 Pt. 1) Ordered to be printed.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. H.R. 975 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 975. Referral to the Committee on Financial Services extended for a period ending not later than March 18, 2003.

H.R. 1000. Referral to the Committee on Ways and Means extended for a period ending not later than March 28, 2003.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Texas (for himself, Mr. Conyers, and Mr. Berman):

H.R. 1302. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself and Mr. Tom Davis of Virginia):

H.R. 1303. A bill to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference; to the Committee on the Judiciary.

By Mr. GEORGE MILLER of California (for himself, Mr. Kildee, Mr. Doggett, Mr. Payne, Mr. Andrews, Mr. McDermott, Mr. Farr, Mr. Capuano, Mr. Neal of Massachusetts, Ms. Lee, Mrs. Napolitano, Mr. Towns, Mr. Stark, Mr. Nadler, Ms. Millender-McDonald, Mr. Udall of New Mexico, Mr. Ford, Mr. Olver, Mr. Weiner, Mr. Abercrombie, Mr. Hinchey, Mr. Baca, Mr. Rodriguez, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Etheridge, Ms. Solis, Ms. Eshoo, Mr. Frost, Ms. Carson of Indiana, Mr. Grijalva, Mr. Sanders, Ms. McCollum, Mr. Owens, Ms. Corrine Brown of Florida, Mr. Markey, Mr. Meehan, Mr. Case, Mr. Engel, Mr. Serrano, Ms. Majette, Mr. Wexler, Mr. Green of Texas, Ms. Watson, Ms. Hooley of Oregon, Mr. Peterson of Minnesota, Mr. Cummings, Mr. Holden, Mr. Ryan of Ohio, Ms. Schakowsky, Ms. Lofgren, Mr. Gutierrez, Mr. Oberstar, Mrs. Jones of Ohio, Mr. Evans, Mr. Hoeffel, Mr. Rangel, Mr. Kucinich, Mr. Allen, Mr. Ackerman, Ms. Loretta Sanchez of California, Mrs. Lowey, and Mr. Hinojosa):

H.R. 1304. A bill to make college debt more affordable, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. Pomeroy, Mr. Cox, Mr. Abercrombie, Mr. Akin, Mr. Bachus, Ms. Baldwin, Mr. Ballenger, Mr. Barrett of South Carolina, Mr. Beauprez, Mr. Berry, Mr. Blunt, Mr. Boehner, Mr. Bonilla, Mr. Bonner, Mr. Boswell, Ms. Ginny Brown-Waite of Florida, Mr. Buyer, Mr. Calvert, Mr. Camp, Mr. Cantor, Mr. Capuano, Mr. Coble, Mr. Collins, Mr. Cramer, Mr. Crane, Mr. Crowley, Mr. Culberson, Mr. Cunningham, Mrs. Jo Ann Davis of Virginia, Mr. Lincoln Diaz-Balart of Florida, Mr. Mario Diaz-Balart of Florida, Mr. Doyle, Ms. Dunn, Mrs. Emerson, Mr. Feeney, Mr. Filner, Mr. Foley, Mr. Ford, Mr. Frost, Mr. Garrett of New Jersey, Mr. Gerlach, Mr. Gordon, Ms.

GRANGER, Mr. GRAVES, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HOEFFEL, Mr. HOLDEN, Mr. HULSHOF, Mr. ISRAEL, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. JOHNSON of Illinois, Mr. MCHUGH, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KILDEE, Mr. KING of New York, Mr. KING of Iowa, Mr. KIND, Mr. KOLBE, Mr. LAHOOD, Mr. LAMPSON, Mr. LARSON of Connecticut, Mr. LATHAM, Mr. LATOURETTE, Mr. LOBIONDO, Mr. MANZULLO, Mr. MATSUI, Mr. MCINNIS, Mr. MCCRERY, Mr. MOORE, Mrs. MUSGRAVE, Mr. NEY, Mr. NORWOOD, Mr. OTTER, Mr. PAUL, Mr. PAYNE, Mr. PETRI, Mr. POMBO, Mr. PORTER, Ms. PRYCE of Ohio, Mr. QUINN, Mr. RAHALL, Mr. RANGEL, Mr. REHBERG, Mr. RENZI, Mr. REYES, Mr. REYNOLDS, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Mr. SAXTON, Mr. SCHROCK, Mr. SCOTT of Georgia, Mr. SESSIONS, Mr. SHAW, Mr. SIMMONS, Mr. STRICKLAND, Mr. STUPAK, Mr. SOUDER, Mr. TANCREDO, Mr. TAUZIN, Mr. TERRY, Mr. TOWNS, Mr. TURNER of Texas, Mr. UPTON, Mr. VISCLOSKY, Mr. WALSH, Mr. WEINER, Mr. WEXLER, and Mr. WILSON of South Carolina):

H.R. 1305. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. KILDEE, Mr. DOGGETT, Mr. PAYNE, Mr. ANDREWS, Mr. MCDERMOTT, Mr. FARR, Mr. CAPUANO, Mr. NEAL of Massachusetts, Ms. LEE, Mrs. NAPOLITANO, Mr. TOWNS, Mr. STARK, Mr. NADLER, Ms. MILLENDER-MCDONALD, Mr. UDALL of New Mexico, Mr. FORD, Mr. OLVER, Mr. WEINER, Mr. ABERCROMBIE, Mr. HINCHEY, Mr. BACA, Mr. RODRIGUEZ, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Mr. ETHERIDGE, Ms. SOLIS, Ms. ESHOO, Mr. FROST, Ms. CARSON of Indiana, Mr. GRIJALVA, Mr. SANDERS, Ms. MCCOLLUM, Mr. OWENS, Ms. CORRINE BROWN of Florida, Mr. MARKEY, Mr. MEEHAN, Mr. CASE, Mr. ENGEL, Mr. SERRANO, Ms. MAJETTE, Mr. WEXLER, Mr. GREEN of Texas, Ms. WATSON, Ms. HOOLEY of Oregon, Mr. PETERSON of Minnesota, Mr. CUMMINGS, Mr. HOLDEN, Mr. RYAN of Ohio, Ms. SCHAKOWSKY, Ms. LOFGREN, Mr. GUTIERREZ, Mr. OBERSTAR, Mrs. JONES of Ohio, Mr. EVANS, Mr. HOEFFEL, Mr. RANGEL, Mr. KUCINICH, Mr. ALLEN, Mr. ACKERMAN, Ms. LORETTA SANCHEZ of California, Mrs. LOWEY, and Mr. HINOJOSA):

H.R. 1306. A bill to provide student loan forgiveness to Americans employed in service to the public, and for other purposes; to the Committee on Education and the Workforce.

By Mr. THOMAS:

H.R. 1307. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMAS:

H.R. 1308. A bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. GUTIERREZ, Mr. FILNER, Ms. CORRINE BROWN of Florida, Ms. BERKLEY, Mr. STRICKLAND, Mr. RYAN of Ohio, Mr. REYES, Mr. MICHAUD, Mr. UDALL of New Mexico, and Ms. HOOLEY of Oregon):

H.R. 1309. A bill to amend title 38, United States Code, to provide improved prescription drug benefits for veterans; to the Committee on Veterans' Affairs, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN (for herself, Mr. SANDLIN, Mr. HERGER, Mr. COLLINS, Mr. ENGLISH, Mr. FOLEY, Mr. RAMSTAD, Mr. LEWIS of Kentucky, Mr. JEFFERSON, Mr. MCCRERY, Mr. CAMP, Mr. MCINNIS, Mr. HAYWORTH, Mr. SHAW, and Mr. BRADY of Texas):

H.R. 1310. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Ways and Means.

By Mr. ROSS (for himself, Mr. TOWNS, Mr. MCHUGH, Mr. HOLDEN, Mr. GOODE, Mr. CARSON of Oklahoma, Mr. FROST, Mr. WILSON of South Carolina, Mr. BASS, Mr. LATOURETTE, Mr. POMEROY, Mr. SPRATT, Mr. MATHESON, Mr. FALEOMAVAEGA, Mr. LUCAS of Kentucky, Ms. BORDALLO, Mr. TURNER of Texas, Mr. ABERCROMBIE, Mr. WELDON of Pennsylvania, Mr. ISRAEL, Mr. ANDREWS, and Mr. NEY):

H.R. 1311. A bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department that is suitable to be loaned under the program to rural fire departments; to the Committee on Armed Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H.R. 1312. A bill to make East Kern Airport District in Mojave, California, eligible for airport security improvement assistance from the Transportation Security Administration, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ABERCROMBIE:

H.R. 1313. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1314. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for any class of covered individuals if the coverage or plans include coverage for diagnostic mammography for such class and to amend title XIX of the Social Security Act to provide for coverage of annual screening mammography under the Medicaid Program; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUMENAUER:

H.R. 1315. A bill to direct the Secretary of Transportation to establish a pilot grant program to provide assistance for the capital and startup costs of streetcar development and revitalization; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas:

H.R. 1316. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension; to the Committee on Energy and Commerce.

By Mr. BRADY of Texas:

H.R. 1317. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances; to the Committee on Ways and Means.

By Mr. CROWLEY (for himself, Mr. BISHOP of New York, Mr. ISRAEL, Mr. KING of New York, Mrs. MCCARTHY of New York, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. NADLER, Mr. WEINER, Mr. TOWNS, Mr. OWENS, Ms. VELÁZQUEZ, Mr. FOSSELLA, Mrs. MALONEY, Mr. RANGEL, Mr. SERRANO, Mr. ENGEL, Mrs. LOWEY, Mrs. KELLY, Mr. MCNULTY, Mr. SWEENEY, Mr. BOEHLERT, Mr. MCHUGH, Mr. WALSH, Mr. HINCHEY, Mr. REYNOLDS, Ms. SLAUGHTER, Mr. QUINN, and Mr. HOUGHTON):

H.R. 1318. A bill to name the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, as the "Thomas P. Noonan, Jr., Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mrs. DAVIS of California:

H.R. 1319. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for second opinions; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UPTON (for himself, Mr. TOWNS, Mr. TAUZIN, Mr. BOUCHER, Mr. TERRY, Mr. GREEN of Texas, and Mr. STEARNS):

H.R. 1320. A bill to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts (for himself, Mr. NEAL of Massachusetts, Mr. BOEHLERT, Mr. GOODE, Mr. MCNULTY, Ms. GINNY BROWN-WAITE of Florida, Mr. SCHIFF, Mr. KILDEE, Mr. LATOURETTE, Mr. KLECZKA, Mr. OLVER, Mr. LIPINSKI, Mr. FROST, Ms.

SCHAKOWSKY, Ms. NORTON, Mr. BERRY, and Mr. GORDON):

H.R. 1321. A bill to amend title XVIII of the Social Security Act to limit the penalty for late enrollment under the Medicare Program to 10 percent and twice the period of no enrollment; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIERNEY (for himself, Mr. BROWN of Ohio, Mr. LYNCH, Mr. OBERSTAR, Ms. WOOLSEY, Mr. FRANK of Massachusetts, Mr. SANDERS, Ms. NORTON, Mr. HINCHEY, Mr. CLYBURN, Mr. KILDEE, Mr. KLECZKA, Mr. ABERCROMBIE, Mr. MCNULTY, Mr. BISHOP of New York, Ms. LEE, Mr. KUCINICH, Ms. LORETTA SANCHEZ of California, Mr. GEORGE MILLER of California, Ms. JACKSON-LEE of Texas, Mr. KENNEDY of Rhode Island, and Mr. SERRANO):

H.R. 1322. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits; to the Committee on Education and the Workforce.

By Mr. FROST:

H.R. 1323. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Education and the Workforce.

By Ms. GRANGER (for herself, Mr. EDWARDS, Mr. GOODE, and Mr. BOYD):

H.R. 1324. A bill to amend title 37, United States Code, to provide the Secretary of Defense with the authority to make temporary, emergency adjustments in the rates of the basic allowance for housing for members of the uniformed services in response to a sudden increase in housing costs in a military housing area in the United States; to the Committee on Armed Services.

By Ms. GRANGER:

H.R. 1325. A bill to provide for the inclusion of hazardous duty pay and diving pay in the computation of military retired pay for members of the armed forces with extensive hazardous duty experience, to require a study on the need for a tax credit for businesses that employ members of the National Guard and Reserve, and to require a study on the expansion of the Junior ROTC and similar military programs for young people; to the Committee on Armed Services.

By Mr. JANKLOW (for himself, Ms. ROS-LEHTINEN, Mr. CHABOT, Mr. MARIO DIAZ-BALART of Florida, Mr. MCNULTY, and Mr. PLATTS):

H.R. 1326. A bill to ensure that tax-exempt status and other benefits afforded under Operation Enduring Freedom are also provided to United States Armed Forces personnel in Israel; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas:

H.R. 1327. A bill to amend the Internal Revenue Code of 1986 to exempt certain activities at the State level from the denial of the deduction for lobbying expenditures; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself and Mr. MILLER of Florida):

H.R. 1328. A bill to amend title 38, United States Code, to extend the period over which an individual must make payment to the Secretary of Veterans Affairs to become entitled to educational assistance under the Montgomery GI Bill, to prospectively permit any servicemember to withdraw an election not to enroll under the Montgomery GI Bill, and to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KELLER (for himself, Mr. DAVIS of Florida, Mr. SHAW, Mr. ANDREWS, Mr. FEENEY, Mr. JONES of North Carolina, Mr. DUNCAN, Mr. STUPAK, Mr. FOLEY, Mr. FERGUSON, Mr. HOEKSTRA, Mr. WELDON of Florida, Mrs. KELLY, Mrs. MILLER of Michigan, Mr. SAXTON, Mr. PETRI, and Mr. FROST):

H.R. 1329. A bill to amend the Longshore and Harbor Workers' Compensation Act to clarify the exemption for recreational vessel support employees, and for other purposes; to the Committee on Education and the Workforce.

By Mr. KING of New York (for himself, Mr. LUCAS of Kentucky, Mr. LATOURETTE, Mr. SKELTON, Mrs. MALONEY, Mr. STENHOLM, Mr. TAYLOR of Mississippi, and Mrs. MCCARTHY of New York):

H.R. 1330. A bill to amend the Telemarketing and Consumer Fraud and Abuse Prevention Act to authorize the Federal Trade Commission to issue new rules to establish a requirement that telemarketers shall not make any calls during the hours of 5 p.m. to 7 p.m.; to the Committee on Energy and Commerce.

By Mr. MOORE (for himself, Mr. BURR, Mrs. CAPITO, Mr. TURNER of Texas, Mr. STENHOLM, Mr. SANDLIN, and Ms. MCCARTHY of Missouri):

H.R. 1331. A bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for producing fuel from a nonconventional source; to the Committee on Ways and Means.

By Mr. NUSSLE (for himself, Mr. TANNER, Mr. LEACH, Mr. KING of Iowa, Mr. LATHAM, Mr. BOSWELL, Mr. GILLMOR, Mr. OXLEY, Mr. ROGERS of Michigan, Mr. SULLIVAN, Mr. LEVIN, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1332. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 1333. A bill to clarify the citizenship eligibility for certain members of the Tohono O'odham Nation of Arizona, and for other purposes; to the Committee on the Judiciary.

By Mr. QUINN (for himself, Mr. MEEHAN, Mr. SIMMONS, Mr. MCGOVERN, Mr. PASCRELL, Ms. KAPTUR, Mrs. JONES of Ohio, Mr. BROWN of Ohio, Mr. MCHUGH, and Ms. HART):

H.R. 1334. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH:

H.R. 1335. A bill to establish a program to provide funds for deployment of fuel cell and hydrogen infrastructure at National Parks, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Wisconsin (for himself, Mr. JEFFERSON, Mr. SHAW, Mr. LEWIS of Georgia, Mr. ENGLISH, Mr. TANNER, Mr. FOLEY, Mr. CANTOR, Mr. NEY, Mr. GREEN of Wisconsin, Mr. HAYES, and Mr. RADANOVICH):

H.R. 1336. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes; to the Committee on Ways and Means.

By Mr. SHADEGG:

H.R. 1337. A bill to encourage the development of hydroelectric projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHADEGG (for himself and Mr. ISSA):

H.R. 1338. A bill to amend the Federal Power Act to provide for Federal and State coordination of permitting for electric transmission facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of Michigan:

H.R. 1339. A bill to amend the Internal Revenue Code of 1986 to provide that the deduction for depreciation shall be computed on a neutral cost recovery basis; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. KENNEDY of Rhode Island, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Ms. BERKLEY, Mr. STRICKLAND, Mr. HOLDEN, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mrs. JONES of Ohio, Mr. CARDIN, Mr. GREEN of Texas, Mr. CARSON of Oklahoma, and Mr. MCDERMOTT):

H.R. 1340. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. BURR, Mr. BILIRAKIS, Mr. TOWNS, Mr. DEUTSCH, Ms. CORRINE BROWN of Florida, Mr. MICA, and Mr. FERGUSON):

H.R. 1341. A bill to prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. WILSON of New Mexico (for herself and Mr. KLECZKA):

H.R. 1342. A bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2003; to the Committee on Energy and Commerce.

By Ms. WOOLSEY (for herself, Mr. LAMPSON, Ms. JACKSON-LEE of Texas, Mr. MOORE, Mr. MILLER of North Carolina, Mr. HONDA, and Mr. MATHESON):

H.R. 1343. A bill to establish an energy program for the United States that unlocks the potential of renewable energy and energy efficiency, and for other purposes; to the Committee on Science.

By Mr. PICKERING (for himself, Mr. TURNER of Texas, Mr. NORWOOD, Mr.

PITTS, Mr. JONES of North Carolina, Mr. WAMP, Mrs. CAPITO, Mr. BALLENGER, and Mr. BARTON of Texas):

H.J. Res. 40. A joint resolution proposing an amendment to the Constitution of the United States to guarantee the right to use and recite the Pledge of Allegiance to the Flag and the national motto; to the Committee on the Judiciary.

By Mr. LATOURETTE (for himself, Ms. NORTON, and Mr. ROGERS of Kentucky):

H. Con. Res. 96. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas:

H. Con. Res. 97. Concurrent resolution expressing the sense of the Congress with respect to pulmonary hypertension; to the Committee on Energy and Commerce.

By Mr. RAMSTAD (for himself and Mr. JEFFERSON):

H. Con. Res. 98. Concurrent resolution expressing the sense of Congress relating to a free trade agreement between the United States and Taiwan; to the Committee on Ways and Means.

By Mr. CONYERS:

H. Con. Res. 99. Concurrent resolution directing the Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans; to the Committee on Energy and Commerce.

By Mr. MCCOTTER (for himself, Mr. DINGELL, Mr. UPTON, Mr. STUPAK, Mr. ROGERS of Michigan, Mr. CAMP, Mr. CONYERS, Mr. KNOLLENBERG, Mr. KILDEE, Mr. SMITH of Michigan, Mr. LEVIN, Mr. EHLERS, Ms. KILPATRICK, Mr. HOEKSTRA, Mrs. MILLER of Michigan, Mr. BASS, Mr. GRAVES, Mr. JACKSON of Illinois, Mr. SCHROCK, Mr. QUINN, Mr. OXLEY, Mrs. NORTHUP, Ms. KAPTUR, Mr. FLETCHER, Mr. PORTMAN, Mrs. EMERSON, Ms. MCCOLLUM, and Mr. BROWN of Ohio):

H. Con. Res. 100. Concurrent resolution recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution; to the Committee on Energy and Commerce.

By Mr. NEY:

H. Res. 148. A resolution providing for the expenses of certain committees of the House of Representatives in the One Hundred Eighth Congress; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. SHIMKUS introduced a bill (H.R. 1344) for the relief of Pamela S. Konkel; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. BEAUPREZ.

H.R. 19: Mr. DAVIS of Illinois.

H.R. 20: Mr. ROSS, Ms. MCCARTHY of Missouri, Ms. SCHAKOWSKY, and Mr. MURPHY.

H.R. 23: Mr. DAVIS of Alabama.

H.R. 25: Mr. BRADY of Texas.

H.R. 44: Mr. GARRETT of New Jersey.

H.R. 49: Mr. WU.

H.R. 52: Mr. NEY, Mr. MCCOTTER, and Mr. ENGLISH.

H.R. 57: Mr. PITTS.

H.R. 97: Mr. LAHOOD, Ms. LOFGREN, Mr. ENGLISH, Mr. OBERSTAR, Mr. WAMP, Mr. TURNER of Texas, Mr. JONES of North Carolina, and Mr. HASTINGS of Florida.

H.R. 105: Mr. FILNER.

H.R. 117: Mr. FROST.

H.R. 133: Mr. HOSTETTLER.

H.R. 176: Mr. DREIER, Mr. PAUL, and Mr. SENSENBRENNER.

H.R. 179: Mr. TOOMEY.

H.R. 195: Mr. KING of Iowa.

H.R. 196: Mr. WOLF.

H.R. 224: Mr. TOOMEY.

H.R. 235: Mr. JANKLOW and Mr. TOM DAVIS of Virginia.

H.R. 250: Mr. RANGEL and Ms. SCHAKOWSKY.

H.R. 278: Mr. EVERETT.

H.R. 284: Ms. WATSON, Mr. BALLANCE, Mr. DELAHUNT, Mr. BACA, Mr. REYNOLDS, Mr. ISRAEL, Ms. DEGETTE, Mr. DOOLEY of California, Mr. ISSA, Mr. SWEENEY, Mr. ISTOOK, Mr. SMITH of Michigan, Mr. RENZI, Mr. KILDEE, Mr. ROSS, Mr. SPRATT, Mr. LATOURETTE, Mr. BASS, Mr. SKELTON, Mr. THOMPSON of Mississippi, Mrs. CAPITO, Mr. BERMAN, Mr. HAYWORTH, and Mr. KING of New York.

H.R. 290: Mr. MCNULTY, Mr. GERLACH, Mrs. LOWEY, Mrs. MALONEY, Mr. KILDEE, Mr. WOLF, and Mr. FROST.

H.R. 292: Mr. PORTER.

H.R. 294: Mr. UPTON.

H.R. 296: Mrs. CHRISTENSEN, Mr. WEXLER, Mr. FATTAH, and Mr. BERMAN.

H.R. 300: Mr. LEWIS of Kentucky, Mr. BACHUS, and Mrs. CAPITO.

H.R. 303: Mr. OBERSTAR, Mr. SHIMKUS, Mrs. DAVIS of California, Mr. PORTER, Mr. BOSWELL, Mr. FEENEY, Mr. GONZALEZ, Mr. WELLER, Mr. MORAN of Virginia, and Mr. MATSUI.

H.R. 308: Mr. DAVIS of Illinois.

H.R. 331: Mr. JEFFERSON.

H.R. 339: Mrs. CUBIN, Mr. JANKLOW, and Mr. SMITH of Texas.

H.R. 340: Ms. WATSON and Mr. SENSENBRENNER.

H.R. 343: Mr. MCHUGH.

H.R. 348: Mr. BROWN of Ohio.

H.R. 362: Mr. TURNER of Ohio, Mr. HOUGHTON, Mr. MCGOVERN, Mr. ROSS, Mr. UDALL of Colorado, Mr. WELLER, and Mr. BARRETT of South Carolina.

H.R. 375: Mr. LYNCH and Mr. VITTER.

H.R. 391: Mr. GIBBONS and Mr. BURR.

H.R. 401: Mr. CROWLEY, Mr. FRANK of Massachusetts, Mr. HOEFFEL, and Mrs. MCCARTHY of New York.

H.R. 412: Mr. WAMP, Ms. HARMAN, Mr. ENGLISH, Mr. OBERSTAR, Mr. ALEXANDER, Mr. BALLANCE, Mr. SCOTT of Georgia, Mr. DAVIS of Illinois, Mr. VAN HOLLEN, Mrs. CAPPS, Mr. DOYLE, Mr. BOUCHER, Mr. DINGELL, Mr. DICKS, Mr. DOGGETT, Mr. ABERCROMBIE, Mr. WATT, Mr. MATSUI, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mrs. CHRISTENSEN, Mr. SANDLIN, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. DELAHUNT, Mr. TOWNS, Ms. WATSON, Mr. THOMPSON of Mississippi, Mr. LEVIN, Mr. GORDON, Mr. MORAN of Virginia, Mr. MEEK of Florida, Mrs. MILLER of Michigan, Mr. GIBBONS, Mr. DEUTSCH, Mr. UDALL of Colorado, Mr. SCHROCK, Mr. STARK, Mr. ALLEN, and Ms. LEE.

H.R. 442: Ms. MCCOLLUM and Mr. LAMPSON.

H.R. 450: Mr. FROST and Mr. ENGLISH.

H.R. 466: Mr. HASTINGS of Florida, Mr. CUMMINGS, Mr. MOORE, Ms. LEE, Ms. MCCOLLUM, Mr. MEEKS of New York, Mr. THOMPSON of Mississippi, Mr. COOPER, Mr. CASTLE.

H.R. 495: Mr. SHADEGG.

H.R. 522: Mr. MCINNIS, Mr. EVERETT, Mr. BAIRD, Mr. BOSWELL, and Mr. TIAHRT.

H.R. 527: Mr. GREEN of Wisconsin, Mr. FILNER, Mr. CARDOZA, Mrs. MILLER of Michigan, Mr. HOLDEN, and Mr. UPTON.

H.R. 545: Mrs. MILLER of Michigan.

H.R. 574: Mr. OTTER and Mr. CANNON.

H.R. 577: Mr. CROWLEY, Mr. GORDON, Mr. LUCAS of Kentucky, Mrs. MCCARTHY of New York, and Ms. WOOLSEY.

H.R. 584: Mr. RANGEL and Mr. SCHIFF.

H.R. 588: Mr. PLATTS, Mr. LATHAM, and Mr. ENGLISH.

H.R. 623: Mr. COSTELLO.

H.R. 630: Mr. LEACH.

H.R. 643: Mr. LAMPSON.

H.R. 648: Mr. SULLIVAN, Mr. MILLER of Florida, and Mr. PAUL.

H.R. 677: Mr. HONDA.

H.R. 693: Mr. ISRAEL.

H.R. 699: Mr. OTTER.

H.R. 709: Mr. GIBBONS, Mr. NETHERCUTT, Mr. KENNEDY of Minnesota, and Mr. WELLER.

H.R. 720: Mr. TURNER of Texas, Mr. HASTINGS of Washington, and Mr. HINOJOSA.

H.R. 731: Ms. LEE, Mr. ABERCROMBIE, Mrs. TAUSCHER, Mr. WYNN, Mr. MOORE, Mr. FATTAH, Mr. EVANS, Mr. RUSH, Mr. HINOJOSA, Mr. STARK, Mr. GONZALEZ, Mr. CARSON of Oklahoma, Ms. LORETTA SANCHEZ of California, Ms. WOOLSEY, Mr. FILNER, Ms. CARSON of Indiana, Mr. DAVIS of Illinois, Mr. KILDEE, Mr. ENGLISH, Mr. CROWLEY, Ms. ESHOO, Mr. GEORGE MILLER of California, Mr. WEXLER, Ms. BALDWIN, Mr. ACEVEDO-VILÁ, Mr. CAPUANO, and Mrs. DAVIS of California.

H.R. 735: Mr. EVANS, Mrs. MCCARTHY of New York, Ms. WATSON, Mr. PRICE of North Carolina, and Mr. CANNON.

H.R. 736: Mr. GEORGE MILLER of California and Mr. DOYLE.

H.R. 741: Mr. GORDON and Ms. LINDA T. SÁNCHEZ of California.

H.R. 760: Mr. DOYLE, Mr. ROGERS of Kentucky, Mr. FOLEY, Mr. OTTER, and Mr. BONILLA.

H.R. 768: Mr. LUCAS of Kentucky and Mr. REYNOLDS.

H.R. 774: Mr. GEORGE MILLER of California and Mr. MCGOVERN.

H.R. 776: Mr. MORAN of Virginia, Ms. WOOLSEY, and Ms. CORRINE BROWN of Florida.

H.R. 785: Mr. GREEN of Texas and Mr. HOLT.

H.R. 786: Mr. UPTON.

H.R. 800: Mr. WAMP.

H.R. 803: Mr. UPTON.

H.R. 804: Mr. MARIO DIAZ-BALART of Florida.

H.R. 806: Mr. SHAYS.

H.R. 807: Mr. ENGLISH.

H.R. 811: Ms. WOOLSEY.

H.R. 813: Mr. CARSON of Oklahoma.

H.R. 814: Mr. CONYERS, Mr. MEEHAN, Mr. GREEN of Wisconsin, Mr. MCDERMOTT, Mr. TIAHRT, Mr. STENHOLM, Mr. DEFAZIO, Mr. FORD, Mr. ROSS, Mr. GRIJALVA, Mrs. TAUSCHER, Mrs. EMERSON, Mr. ALLEN, Mr. MCHUGH, Mr. COOPER, and Mr. WEXLER.

H.R. 815: Mr. FRELINGHUYSEN.

H.R. 816: Mr. LEVIN, Mr. SHIMKUS, Mr. SANDLIN, and Mr. BELL.

H.R. 819: Mr. BACA.

H.R. 837: Mr. STENHOLM, Mr. SHIMKUS, Mr. TERRY, Mr. KENNEDY of Minnesota, Mr. BEREUTER, Mr. REHBERG, Mr. MORAN of Kansas, Ms. KAPTUR, Mr. JOHNSON of Illinois, Mr. SMITH of Michigan, Mr. BOSWELL, Mr. THOMPSON of California, Mr. SABO, Mr. BERRY, and Mr. EVANS.

H.R. 839: Mr. CANNON, Mr. WILSON of South Carolina, Mr. CROWLEY, Mr. TANCREDO, and Mr. MILLER of Florida.

H.R. 850: Ms. CORRINE BROWN of Florida and Mr. CARSON of Oklahoma.

H.R. 857: Mr. LINDER, Mrs. LOWEY, Mr. NADLER, and Mr. KILDEE.

H.R. 871: Mr. REHBERG.

H.R. 872: Mr. RAMSTAD.

H.R. 876: Mr. FOLEY, Mr. LATHAM, and Mr. McHUGH.

H.R. 879: Mrs. DAVIS of California and Mr. KILDEE.

H.R. 883: Mr. UDALL of Colorado, Mr. ABERCROMBIE, and Mr. FROST.

H.R. 896: Mr. DAVIS of Illinois and Mr. ABERCROMBIE.

H.R. 919: Ms. McCOLLUM, Ms. LOFGREN, and Mr. ROSS.

H.R. 931: Mr. DEAL of Georgia and Mr. WICKER.

H.R. 933: Ms. LOFGREN.

H.R. 934: Mr. RANGEL and Mr. SANDERS.

H.R. 937: Mr. BEREUTER and Mr. NETHERCUTT.

H.R. 941: Mr. NORWOOD and Mrs. EMERSON.

H.R. 953: Mr. KANJORSKI, Mr. CARDOZA, Mr. WEXLER, and Mr. DAVIS of Alabama.

H.R. 975: Mr. JENKINS, Mr. PLATTS, Mr. NETHERCUTT, Mr. BAKER, Mr. SCHROCK, Mr. RAMSTAD, Mr. SMITH of Texas, Mr. COLE, Mr. OTTER, Mr. ROGERS of Michigan, Mr. BROWN of South Carolina, Mr. WELLER, Ms. GINNY BROWN-WAITE of Florida, Mr. BOEHNER, Mr. HOSTETTLER, Mr. GOODE, Mr. BURTON of Indiana, Mr. WAMP, Mr. SOUDER, Mr. REHBERG, Mr. SWEENEY, Mr. UPTON, Mr. JANKLOW, Mr. LEWIS of Kentucky, Mr. CANTOR, Mr. HOEKSTRA, Mr. FLETCHER, Mr. BONILLA, Mr. BUYER, Mr. AKIN, Mr. BEAUPREZ, Mr. DAVIS of Florida, Mr. GARY G. MILLER of California, Mr. DeMINT, Mr. LINDER, Ms. HOOLEY of Oregon, Mr. KOLBE, and Mr. BEREUTER.

H.R. 977: Mr. GORDON, Mr. TANCREDO, Mr. ABERCROMBIE, Mr. CARDOZA, and Mr. ACEVEDO-VILÁ.

H.R. 980: Mr. WALSH.

H.R. 991: Mr. WALDEN of Oregon, Mr. DOOLEY of California, Mr. CASE, Mr. THOMPSON of California, and Mr. FROST.

H.R. 996: Mr. GOODE, Mrs. JO ANN DAVIS of Virginia, Mr. TURNER of Texas, Mr. NEY, and Mr. FROST.

H.R. 998: Mr. PAUL.

H.R. 1000: Mr. WOLF and Mr. GILLMOR.

H.R. 1007: Ms. LINDA T. SÁNCHEZ of California and Mr. CASE.

H.R. 1021: Ms. CARSON of Indiana and Mr. SANDERS.

H.R. 1038: Ms. DeGETTE.

H.R. 1043: Mr. RANGEL, Mr. MILLER of Florida, and Mr. MENENDEZ.

H.R. 1049: Mr. LUCAS of Kentucky and Mr. BRADLEY of New Hampshire.

H.R. 1052: Mr. LAMPSON, Ms. McCOLLUM, and Ms. BORDALLO.

H.R. 1054: Ms. DUNN.

H.R. 1093: Mr. SIMMONS.

H.R. 1095: Mr. DOOLEY of California, Ms. LINDA T. SÁNCHEZ of California, and Mr. DEAL of Georgia.

H.R. 1097: Mrs. DAVIS of California and Mr. DELAHUNT.

H.R. 1102: Mr. SCOTT of Georgia.

H.R. 1104: Mr. REYNOLDS, Ms. HART, Mrs. BLACKBURN, Mr. ADERHOLT, Mr. ROYCE, Mr. ISAKSON, Mr. LaTOURETTE, Mr. BRADLEY of New Hampshire, Mr. KING of Iowa, Mr. FEENEY, Mr. GILCHREST, Mr. GALLEGLY, Mr. GREENWOOD, Mr. WILSON of South Carolina, Mr. PETRI, Mr. SPRATT, Mr. KENNEDY of Minnesota, Ms. GINNY BROWN-WAITE of Florida, Mr. ROGERS of Michigan, Mr. WAMP, Mr. SWEENEY, Mr. McKEON, Mr. FRANKS of Arizona, and Mr. SULLIVAN.

H.R. 1108: Ms. JACKSON-LEE of Texas, Mr. PAYNE, Mrs. CHRISTENSEN, Ms. NORTON, Ms. WOOLSEY, Mr. JEFFERSON, Mr. HASTINGS of Florida, Ms. SCHAKOWSKY, Mr. RANGEL, and Mr. CLYBURN.

H.R. 1111: Mr. PAUL.

H.R. 1114: Mr. HOUGHTON, Mr. JANKLOW, Mr. ISSA, Mr. NETHERCUTT, Mr. BEREUTER, Mr. BARRETT of South Carolina, Mr. SMITH of Michigan, Mr. TOOMEY, Mr. PEARCE, and Mr. KENNEDY of Minnesota.

H.R. 1125: Mr. WEINER, Mr. McGOVERN, Mr. LUCAS of Kentucky, Mr. RENZI, Mr. ISRAEL, Mr. ACKERMAN, Mr. BROWN of Ohio, Mr. JOHN, and Mr. POMEROY.

H.R. 1126: Mr. TOOMEY and Mr. MILLER of Florida.

H.R. 1146: Mr. SAM JOHNSON of Texas and Mr. SESSIONS.

H.R. 1151: Mr. WOLF.

H.R. 1157: Mr. JEFFERSON, Mr. KUCINICH, Mr. CAPUANO, Ms. McCOLLUM, Ms. NORTON, Mr. GEORGE MILLER of California, Ms. CARSON of Indiana, and Mr. RAHALL.

H.R. 1199: Mr. DAVIS of Tennessee.

H.R. 1212: Ms. CORRINE BROWN of Florida.

H.R. 1219: Mrs. CHRISTENSEN and Ms. LINDA T. SÁNCHEZ of California.

H.R. 1227: Mr. RYAN of Wisconsin and Mr. PENCE.

H.R. 1254: Mr. ROGERS of Michigan.

H.R. 1255: Mr. ROGERS of Michigan.

H.R. 1262: Mr. BACHUS.

H.R. 1265: Mr. KING of Iowa, Mr. MARIO DIAZ-BALART of Florida, and Mr. JOHNSON of Illinois.

H.R. 1275: Mr. ACEVEDO-VILÁ, Mr. ANDREWS, Mr. BECERRA, Mr. BELL, Mr. BERMAN, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. EDWARDS, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HALL, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KILPATRICK, Mr. LANTOS, Mr. MARKEY, Mr. McGOVERN, Mr. McNULTY, Mr. MENENDEZ; Ms. MILLENDER-McDONALD, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Mr. RODRIGUEZ, Ms. ROS-LEHTINEN, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SKELTON, Ms. SOLIS, Mr. TOWNS, Mr. TURNER of Texas, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 1288: Ms. SCHAKOWSKY, Mr. MATSUI, Mr. VITTER, Mrs. CAPITO, Mr. WALSH, Mr. BERMAN, Mr. HOEFFEL, Mr. GRIJALVA, Ms. DeLAURO, Mr. LUCAS of Oklahoma, Mr. KENNEDY of Rhode Island, and Mr. McNULTY.

H.J. Res. 10: Mr. McNULTY.

H.J. Res. 20: Mr. McGOVERN.

H.J. Res. 22: Mr. SAM JOHNSON of Texas.

H. Con. Res. 19: Mrs. JO ANN DAVIS of Virginia, Mr. GORDON, and Mr. SMITH of Washington.

H. Con. Res. 26: Mr. BOYD, Mr. ROTHMAN, and Mr. GEORGE MILLER of California.

H. Con. Res. 78: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, and Mr. WEXLER.

H. Con. Res. 82: Mr. WELDON of Pennsylvania.

H. Con. Res. 89: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. STARK.

H. Con. Res. 91: Mrs. JOHNSON of Connecticut, Mrs. CAPPS, Mr. WAXMAN, Mr. WYNN, Mr. TOWNS, Ms. McCOLLUM, Mr. MORAN of Virginia, Ms. CORRINE BROWN of Florida, Mr. BISHOP of New York, Mr. MATSUI, Mr. BALLANCE, Ms. JACKSON-LEE of Texas, and Mr. OLVER.

H. Res. 12: Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 43: Mr. UDALL of New Mexico.

H. Res. 45: Mr. FOSSELLA, Mr. RAHALL, Mr. KILDEE, Ms. ESHOO, Mr. PORTER, and Mr. ISAKSON.

H. Res. 58: Mr. DINGELL.

H. Res. 108: Mr. ABERCROMBIE, Mr. ENGEL, Mr. BACA, Mr. MATHERSON, and Mr. WEXLER.

H. Res. 112: Mr. KUCINICH and Ms. SCHAKOWSKY.

H. Res. 113: Mr. ISAKSON and Ms. GINNY BROWN-WAITE of Florida.

H. Res. 121: Ms. KILPATRICK and Mr. ROGERS of Michigan.

H. Res. 127: Mr. GARY G. MILLER of California.

H. Res. 132: Mr. ROGERS of Michigan, Mr. CALVERT, Mr. HOBSON, and Mr. REYNOLDS.

H. Res. 137: Mr. DAVIS of Illinois, Mr. McGOVERN, Mr. FILNER, Mr. GUTIERREZ, Mr. BROWN of Ohio, Mr. McNULTY, Ms. CORRINE BROWN of Florida, Ms. WATSON, Ms. McCARTHY of Missouri, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mr. HOLT, MR. HINCHEY, Ms. LINDA T. SÁNCHEZ of California, Mr. SERRANO, Mr. GRIJALVA, Mr. CASE, Mr. HOLDEN, Mr. CAPUANO, Ms. ESHOO, Mr. SIMMONS, Mr. KENNEDY of Rhode Island, Ms. LEE, Mrs. DAVIS of California, Mr. RANGEL, Mr. FROST, Mr. KUCINICH, Mr. TOWNS, Mr. MORAN of Virginia, Mr. ABERCROMBIE, Ms. NORTON, Mr. NADLER, Mr. MEEK of Florida, and Ms. KILPATRICK.

H. Res. 142: Mr. GREEN of Texas, Mr. HALL, Mr. SCHIFF, Mr. LEACH, Ms. BERKELY, Mr. GRIJALVA, Mr. KENNEDY of Rhode Island, Mr. NEAL of Massachusetts, Mr. CRAMER, Ms. CARSON of Indiana, Mr. CASTLE, Mr. McHUGH, Mr. CARSON of Oklahoma, Mr. ENGLISH, and Mr. NETHERCUTT.

H. Res. 143: Mr. GORDON and Mr. FRANK of Massachusetts.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R 1114: Mr. KENNEDY of Rhode Island.

# EXTENSIONS OF REMARKS

## A TRIBUTE TO CHRISTINE RENEE RANDALL

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Christine Renee Randall in recognition of her commitment to helping community members gain new workplace opportunities.

Christine was born and raised in Brooklyn, New York. She is the daughter of two educators, the late Julius T. Randall, Jr., formerly a Director of Cooperative Education, and Ann Knight Randall, an Associate Professor of Library and Information Sciences at Pratt Institute.

She holds a Bachelor of Arts from Howard University, with a major in French and a minor in Public Relations, and received a Master of Business Administration from Hofstra University.

In 2002, Christine joined the Bedford Stuyvesant Restoration Corporation as the Director of the RITE Center, a community technology center in Brooklyn. The Center provides free and low cost technology training for a broad range of community residents, including adolescents, entrepreneurs, and senior citizens. Its goal is to help clients utilize computer technology for job preparation, entrepreneurship training, research, and communications.

Christine believes that 21st Century technology offers incredible workplace opportunities for community residents. She firmly holds that everyone has the potential to learn these new skills. Christine's expertise in marketing and public relations has already yielded fantastic results for the Center. Through new partnerships and outreach activities, she has helped the Center double its attendance in the past year. This accomplishment has already earned recognition and additional support for the RITE Center and the Greater Harlem Real Estate Board Development Fund.

Previously, Christine worked for the Draft Worldwide Advertising Agency and Madison Square Garden. Additionally, she founded Constant Interaction, a marketing consulting firm. She is a member of the Direct Marketing Association, African Americans in Advertising, and the Howard University Alumni Association.

Christine worships at St. Paul's Community Baptist Church and Concord Baptist Church where her family has long established ties.

Mr. Speaker, Christine Renee Randall is dedicated to her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

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## HONORING MARY CAMERON

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Mary Cameron on the occasion of her being selected as a recipient for the 2002 Common Threads Award. Common Threads is a joint venture of the Agricultural Education Foundation, California State University, Fresno's College of Agricultural Sciences and Technology, and AG ONE Foundation. The award is given to women who have made a remarkable and visible contribution to the enhancement of their communities with their time and/or contributions. Honorees must live in Fresno, Kings, Madera, Merced, or Tulare County. They should have past or present roots in agriculture while showing outstanding involvement in a variety of community activities in addition to agriculture. The honorees make a difference with their philanthropic giving while serving as visible and credible role models for other women.

Since 1965, Mary has been involved in hands-on management of the family's Atsma Cameron Dairy. Ms. Cameron was the first woman to serve on the boards of directors for Danish Creamery and Western United Dairymen. Mary's involvement in the community and her fascination in the field of agriculture have sparked the interest of many school children of Kings County during their visits to her dairy. She remains active in dairy and milk promotion and as an advocate for children's nutrition and agriculture awareness.

Mary is active in children's activities, agriculture education, and industry organizations. She has served as a President of the Elliott Elementary P.T.A. and the Kings County Dairywomen, as well as Director for the Danish Creamery, National Dairy Board, and Dairy Management, Inc. Ms. Cameron was also the 4–H Dairy Leader from 1970–1973. She was named Kings County Dairywoman of the Year in 2000 and Agriculturist of the Year in 2001. Mary Cameron is truly an inspiration and role model for many people in agriculture today.

Mr. Speaker, I am pleased to honor Mary Cameron for her exceptional service to the public and her dedication to the California dairy industry. I urge my colleagues to join me in wishing Mary many years of continued success.

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## A PROCLAMATION HONORING THOMAS E. LOUIS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. NEY. Mr. Speaker, Whereas, Thomas E. Louis has exemplified leadership for the International Union of Operating Engineers, Local Union 18; and

Whereas, Thomas E. Louis has demonstrated a steadfast commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Thomas E. Louis has been a dedicated and loyal spokesman for the International Union of Operating Engineers, as a legislative Representative and as appointed by the Governor of Ohio to the State Construction Compliance Council; and

Whereas, Thomas E. Louis is to be commended for his hard work and dedication to the International Union of Operating Engineers, Local 18, serving in many capacities including on the Advisory Board, on the Executive Board, and serving as President; and

Whereas, Thomas E. Louis has long been a dedicated family man. His personal sacrifices of time and energy to family, friends and community are characteristic of a fine gentleman;

Therefore, I join with the many friends and relatives, as well as all the residents of the entire 18th Congressional District, in honoring Thomas E. Louis as he retires after 39 years of service to the people of the International Union of Operating Engineers, Local Union 18.

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## INTRODUCTION OF THE COLLEGE AFFORDABILITY AND LIFETIME SAVINGS ACT

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to submit, with sixty-three of my colleagues in the House, the College Affordability and Lifetime Savings Act.

According to the Department of Education, more than 7 million students will take out a Federal student loan this year to help finance their college education. As tuition costs swell and grant-aid fails to keep pace, students and their families are increasingly turning to loans as the primary mechanism to finance a higher education. While student loans make the college dream a reality for millions, they all too often turn into a nightmare of debt.

Over the past eight years the typical student loan debt has almost doubled to $16,928. In addition, 39 percent of all student borrowers now graduate with unmanageable debt levels. Too many student borrowers struggle to make their monthly loan payments, and many must forgo savings, public service careers, and major purchases.

Borrowing for higher education should be a sound investment for the future, both for the student, and society. Yet, today we are asking far too many students to mortgage their future at too high a cost.

Unfortunately, President Bush and the Republican leadership in Congress have ignored

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the pleas from millions of Americans to make student aid funding a priority. Instead, just at the time when students and their families need help the most to make ends meet, President Bush and the Republican leadership have responded by cutting key student aid programs. Just last week, House Republicans demanded that we finance President Bush's tax cut on the backs of students by cutting $4.7 billion in aid to student borrowers. This could force the typical borrower to pay an additional $170 in student loan taxes over the life of their loans.

This is unacceptable, and we must do better by delivering sound legislation that helps Americans to make the college dream a viable reality.

The College Affordability and Lifetime Savings Act will help ease the burden of student loan debt for millions of Americans. The Act will change the current student loan tax deduction benefit to a tax credit—which will deliver a larger rebate on the interest paid on student loans to borrowers, particularly those who are struggling the most to make ends meet. The savings for the typical borrower who is earning $20,000 a year will more than triple, to $347, in their first year of repayment. The Act will also help expand this benefit to more middle class families, allowing them to claim rebates, too.

I urge you to support the College Affordability and Lifetime Savings Act as a means to ensure that a college investment remains the investment of a lifetime for all Americans.

## RELATIONSHIPS BETWEEN THE UNITED STATES AND TAIWAN

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. STEARNS. Mr. Speaker, my Colleagues and Friends of Taiwan, I want to take a moment to place into the RECORD a traditional oral expression or toast to the long-standing relationship between the United States and Taiwan. The republic of China's Twin Oaks Estate here in Washington, D.C., has been home to nine Ambassadors, as well as a venue for receiving guests of the Republic of China's Representative in the United States. It is a symbol of the abiding friendship between our two nations. Over the last six decades, countless Americans and Chinese friends and Ambassadors have met with members of Congress at Twin Oaks.

On the south side of this wonderful mansion stand one hundred plum trees. The plum blossom, the national flower of The Republic of China, can withstand below freezing temperatures. After enduring this type of physical duress during the winter, in early spring the dark pink plum blossom emerges and blooms, demonstrating a glorious vitality. And so it is with the relationship between Taiwan and the United States of America. No matter how challenging the problems are now or will be; our time-honored relationship will continue to blossom and display this type of resilience. In a larger sense, it will spring eternally regardless of geopolitical pressures.

So Mr. Speaker, the enduring strength of the plum blossom at the Twin Oaks Estate symbolizes our lasting friendship, which has benefited both of our nations for six decades.

## IN MEMORY OF AHMAD R. OLOMI

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to his country and community was extraordinary. Orange County, California, was indeed fortunate to have such a dynamic and dedicated community leader who willingly and unselfishly gave his time and talents to make his community a better place in which to live and work. The individual of whom I speaking is Ahmad Rateb Olomi. He was unexpectedly and tragically taken in an airplane accident over the Arabian Sea on Monday, February 24, 2003, at the age of 45.

Mr. Olomi was born in Afghanistan, and earned his bachelor's degree in Civil Engineering from the University of Engineering and Technology in Lahore, Pakistan. He moved to the United States in 1980. He was hired by Orange County in 1984 and shortly thereafter became a naturalized United States citizen. He worked his way up from Engineering Technician to the position of Senior Civil Engineer. Some of the more notable projects he worked on were Seven Oaks Dam, the Santa Ana River Mainstream Project, and the Laguna Canyon Road State Route 133 realignment. Over his 19 years of service to Orange County, Mr. Olomi developed himself into one of the County's most talented and valued professionals.

In addition to his love for the United States and his community, he never forgot his original homeland. On the day of the tragedy, Mr. Olomi was on a six-month leave of absence from the County of Orange traveling with the Afghan Minister of Mines and Industries to help with the rebuilding of Afghanistan, and the construction of a transnational pipeline project that would pump natural gas and oil from Turkmenistan across Afghanistan and into Pakistan.

Mr. Olomi was also a dedicated family man. He is survived by his wife Roya and children, Yusef and Sahar. He is remembered by his family and friends as a man admired for his integrity, honesty, intelligence and selfless commitment to others. My thoughts and prayers go out to them for their loss.

Mr. Speaker, looking back at Mr. Olomi's life, we see a man dedicated to his family, community, adopted country and original homeland—an American and Afghani whose service led to the betterment of those who had the privilege to come in contact or work with him. Honoring Mr. Olomi's memory is the least we can do today for all that he gave over his lifetime.

## A TRIBUTE TO CAROL YING

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Carol Ying in recognition of her dedication to improving the educational opportunities for the students in her community and enlightening them with her teachings.

Born in Jamaica, West Indies, Carol immigrated to the United States in January 1985. She enrolled in the fifth grade at a private catholic school called St. Augustine-St. Francis Xavier where she won an award for the fifth grader of the year. After three years at the school, she wanted to explore a public school and enrolled in Samuel J. Tilden High School. Again, she excelled in her academics and received a PTA award given to the most outstanding high school freshmen. Her achievements at the High School allowed her to graduate within three years and attend Long Island University. She was a Higher Education Opportunity Program (HEOP) student at the institution.

Carol was always fascinated with mathematics and showed exceptional ability in the subject. Although she started out as a Computer Science major, she would eventually change her major to Mathematics Education. During the summer of freshman year, she discovered that she had a passion for teaching mathematics after teaching a class of high school students. Carol was inspired by the many great math teachers she has encountered in her academic career. After graduating from Long Island University, Carol returned home to teach mathematics at Samuel J. Tilden High School. During her seven years at Tilden High School, she served as a dean for a year as well.

She continued to challenge herself by enrolling in a Master's program at CUNY Brooklyn College, receiving a degree in Mathematics Education. Later, she furthered her academic credentials when she earned a Certificate in Administration and Supervision. In the process, her supervisors and colleagues, who saw her capacity as a leader, encouraged her to do more than teach. This inspired her to pursue a position as an administrator.

Carol is currently working in the New York City public school system as an Assistant Principal at South Shore High School. She is also in charge of supervising the Mathematics Department. Carol is very passionate about her job and enjoys working with students and faculty to advance students' achievements in Mathematics.

Mr. Speaker, Carol Ying is committed to increasing the educational opportunities of members of her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

## HONORING MAXINE MACHADO

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Maxine Machado on the occasion of her being selected as a recipient for the 2002 Common Threads Awards. Common Threads is a joint venture of the Agricultural Education Foundation, California State University, Fresno's College of Agricultural Sciences and Technology, and AG ONE Foundation. The award is given to women who have made a remarkable and visible contribution to the enhancement of their communities with their time and/or contributions. Honorees must live in Fresno, Kings, Madera, Merced, or Tulare County. They should have past or present roots in agriculture while showing outstanding involvement in a variety of community activities in addition to agriculture. The honorees make a difference with their philanthropic giving while serving as visible and credible role models for other women.

Maxine, a native of Los Angeles, California, has always been considered a lifelong "country girl." Farming has played a major role in Maxine's life through good and bad, and she finds her satisfaction in knowing that she helps to feed and clothe our nation and a great part of the world through it. She and her husband, Fred, farm diverse crops and manage a dairy along with their grown children in the Easton area of Fresno County.

Mrs. Machado is an active volunteer in church, political, school, and agricultural activities. Some of Maxine's philanthropic and community involvement includes being the President for the Fresno County Cabrillo Civic Club #10 and the American Union School Parent's Club. She was involved in the St. Jude Catholic Church's Alter Guild and Church Building Fund and C.P.D.E.S. Hall and Holy Ghost Celebration Committees. Mrs. Machado has also been a member of the Fresno County Farm Bureau Women, the Fresno County Republican Women, the American Legion Auxiliary, and the Fresno County Right to Life.

Mr. Speaker, I rise today to recognize Maxine Machado for receiving the 2002 Common Threads Awards. I invite my colleagues to join me in commending Maxine for her commitment to community service and agriculture and in wishing her many years of continued success.

## A PROCLAMATION RECOGNIZING HEATH EMERSON GROGRO

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. NEY. Mr. Speaker, Whereas, Heath Emerson Grogro has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Heath Emerson Grogro has shared his time and talent with the community in which he resides; and

Whereas, Heath Emerson Grogro has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Heath Emerson Grogro must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 403, the residents of Coshocton, and the entire 18th Congressional District in congratulating Heath Emerson Grogro as he receives the Eagle Scout Award.

## INTRODUCTION OF THE COLLEGE OPPORTUNITY FOR A BETTER AMERICA ACT

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to submit, with sixty-three of my colleagues in the House, the College Opportunity for a Better America Act.

Higher education has become more important than ever to ensure America's economic prosperity, national security, and health. Yet, swelling enrollments among low-income and working class families, massive state budget cuts, and rising tuition continue to strain our ability to ensure access to a college education for all Americans.

As a result, increasing numbers of students and their families are relying on debt to finance their college dreams. Over the past eight years the typical student loan debt has nearly doubled to $16,928, with 64 percent of students borrowing to finance their college costs. In addition, nearly two-fifths of all student borrowers graduate with unmanageable debt levels, and as a result, many may seek higher-salaried positions rather than public service careers.

At the same time, severe shortages of highly qualified personnel in many public service sectors, such as teaching, nursing, childcare, and child welfare, threaten the health and well being of our nation.

According to the National Center for Education Statistics, the United States will need more than 2 million new teachers over the next 10 years. In a recent report, the American Hospital Association found that there is a national shortage of 126,000 nurses; just as the number of nursing school graduates decreased by 29 percent between 1995 and 2001. In addition, the number of unfilled child welfare specialists is growing rapidly; while the nation's childcare programs are plagued by high staff turnover, fueled by poor compensation.

We can no longer afford to ignore the growing shortage of a skilled public service workforce. We must invest in our recent graduates to enable more of them to pursue public service careers. The College Opportunity for a Better America Act would take an important step to filling shortages of highly skilled workers in the public service sector by providing up to $17,500 in loan forgiveness for graduates who enter teaching, child care, nursing, child welfare, and other high priority public service careers.

In short, the Act would provide the financial means necessary to attract and retain a highly skilled public service workforce.

America's higher education system has long served as a vehicle to achieve economic prosperity, national security, and an educated citizenry. From our nascent beginnings, when public education served as the means to equalize our society, to the National Defense Act of 1958—which launched many of our federal student aid programs—we have used higher education as a tool to move this country forward.

I strongly urge my colleagues to join me in honoring this tradition by supporting the College Opportunity for a Better America Act. It is an important step to help fill America's critical public service work gap.

## MEDIA ACCOUNTABILITY

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. STEARNS. Mr. Speaker, as we all heard from the President's speech last night, we are regrettably closer to engaging in military action to oust a murderous dictator, Saddam Hussein. At this time, we should focus our thoughts and prayers on the men and women standing in harm's way to liberate a country that has so often in history been a center of culture, innovation, and education.

Our troops are young volunteers serving a country they love, and a foundation of freedom in which they deeply believe. They have many worries, as would any human being in this situation, but they know their jobs and the risks that accompany military service. As an American and a veteran, I have strong, heart-felt feelings and a sense of pride for these young soldiers and airmen willing to fight for a people they do not know and a cause that requires constant vigilance.

It is these feelings I have for troops that led me and a number of my colleagues to openly question recent media interviews that subject these young troops to questions, which in my mind, have no business being posed days before possible military action.

The initial coverage that brought me to the floor today aired on Peter Jennings "World News Tonight," on Monday, March 10. The segment contained interviews with American troops on the Kuwaiti/Iraq border. Specifically, some of the questions focused on hypothetical situations regarding combat, enemy responses, and casualties.

This morning, a USA Today article ran with the headline "As War Looms, Young Soldiers Confront Fear . . . 'Black Hawk Down' scenario among worries" (Many of us remember "Black Hawk Down" was based on the operation to capture Somali warlord Adid.)

These interviews are asking questions regarding fratricide, combat deaths, chemical or biological weapons, "personal demons," and "bloody urban fighting." As many of us in the House are veterans, we know the sacrifices that come with service, including the loss of life. We have heard countless times, as have our troops, what threats may be encountered if we engage Iraq, and, what the risks entail. As such, our young troops do not need to be reminded of those possibilities by individuals who only seek to generate a story. Nor should the family and friends of loved ones serving in the Middle East be subjected to these stories that further exacerbate worries they may already have.

Our men and women serving in these areas are professionals and they know the job they have to do, though it is obviously a job they would prefer to accomplish by other means than force (I would like to add that we in Congress and the President share that desire). Nonetheless, our troops and their commanders know they must focus on the tasks assigned and the mission objectives that must be completed. I believe that focus can be hindered when certain media personalities, who have no comprehensible idea of what it is like to be in the very situation our troops are facing, continue to dredge up these feelings purely for national coverage.

Such coverage does not serve the home front well either. In Florida, we have activated more Guard and Reserve forces than any other state in the union. In my district, I have watched unit after unit depart for destinations unknown in support of Enduring Freedom. These are incredible individuals—as are their families. My thoughts and prayers go to them as well, for they too are sacrificing.

Let me emphatically state for those that may disagree with my remarks that I do not advocate censorship. I do advocate common sense. I believe the media lacks a solid understanding of our military and its mission. Providing media access to our troops is necessary to assist in providing accurate information for the American public and to counter false propaganda from other resources seeking to undermine our objectives. Such access can provide a better understanding and appreciation for what our young people do every single day in service to our country.

However, we must be mindful that reporting facts is quite different from generating an emotional story for ratings purposes. Today's media has a tremendous amount of access—much more so than during Desert Storm in 1991. With that access comes responsibility . . . responsibility to the troops, their families and the public. I ask that the media let our troops focus on the mission at hand, let them do their job and return safely home. Refrain from undermining that focus and the necessary morale . . . just because it might make a good story.

Mr. Speaker, we face challenging times ahead. Our troops need our support, our thoughts, and our prayers. May God bless them and their families and return them home safe.

## TRIBUTE TO JAMIL DADA, 2003 DISTINGUISHED CITIZEN

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the Inland Empire are exceptional. The Inland Empire has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Jamil Dada is one of these individuals. On March 21, 2003, Jamil will be honored by the Boy Scouts of American and will receive the 2003 Distinguished Citizen Good Scout of the Year Award.

Jamil is the Senior Financial Manager for Provident Bank's eleven branches and serves as the manager of Investment Services. In addition to his outstanding professional career, Jamil finds time for numerous community organizations. He serves as Chairman of the Riverside County Workforce Development board which oversees approximately $18 million of federal funding that Riverside County receives for workforce development and job training. His financial experience and integrity led to his appointment to the board by the Riverside County Board of Supervisors.

In addition, Jamil serves as a board member of the Riverside Community College Foundation, the United Way of the Inland Valleys, the Boy Scouts of America Inland Empire Council, the Family Service Association of Western Riverside County and the Magnolia Center Division of the Greater Riverside Chamber of Commerce. He is also a member of the Planned Giving Advisory Board at the University of California, Riverside.

Jamil is a long time member of the Moreno Valley Rotary Club and currently is Vice-Chairman of the Moreno Valley Chamber of Commerce. He is a board member of the Police Activities League and treasurer of the Moreno Valley Substance Abuse Task Force. He is also actively involved as the Vice President of Moreno Valley's largest food pantry, the Community Assistance Program. Jamil has also been instrumental at March Air Reserve Base as an Honorary Commander. He is also the Vice President of the March Air Field Air Museum, Chairman of the Friends of March Field and treasurer of the MARB Forum.

In 1993 the Moreno Valley Hispanic Chamber honored him as their Man of the Year and in 1994 he was Rotarian of the Year for Rotary District 5330 and Moreno Valley's Citizen of the Year in 1997. In 2002 he was the finalist in the Inland Empire Leaders of Distinction.

Jamil has set a standard of excellence and commitment in his work in the community that would be hard to match. His tireless passion for community service has contributed immensely to the betterment of the Inland Empire. His involvement in the community makes me proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he receives the 2003 Distinguished Citizen Good Scout of the Year Award.

## A TRIBUTE TO LUCY SCHWARTZ

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Lucy Schwartz in recognition of her passionate dedication to improving her community through civic participation.

Born in the East New York section of Brooklyn, Lucy was the fourth of five children. A first generation American, both of Lucy's parents were born in Russia.

She began her political activities at the tender age of 15, stuffing envelopes for the American Labor Party (ALP). Later, when her family left the ALP to become Democrats, Lucy began volunteering for the Democratic Party.

Lucy attended Thomas Jefferson High School where she met her husband Murray who she married at age 21. Their first son Stephen was born in 1942 and their second son was born five years later.

Concerned about her children's education, in 1952, Lucy started and became the first president of the parent's association for a brand new elementary school PS 273. Before meeting with the school's principal to discuss a possible parent's association, Lucy purchased a Roberts rules and Order book and received a book from the United Parent's Association on how to start an association. These two books became her bibles.

From 1953 to 1956, Lucy was president of the Boulevard Community Center. During her term, she helped form a nursery school. With the help of Meade Esposito, she also started a youth program in the community center. She would become President of this program as well as the Teenage Day camp at Tilden High School. Lucy, with Meade's assistance, was also a major fundraiser for the United Leukemia Society.

Motivated by the lack of street lightening on Linden Boulevard in Brooklyn and after being ignored by the local district leader, Lucy and her friends in the parent's and tenants' association decided to become more politically active. The group decided to form their own Democratic club, called the Thomas Jefferson Democratic Club. In 1960, the group had their first political victory when Lenny Yoswein was elected to the New York State Assembly. Lucy became the "Mother Hen" of the newly formed Democratic club, mentoring and providing guidance to countless young Democrats, including myself.

The Thomas Jefferson Club has been Lucy's love. She has held several volunteer positions such as the supervisor of the placement of inspectors on polling day, financial secretary, journal chairperson, and chairperson of the annual dinner/dance. In addition to the Club, Lucy also keeps her fellow co-operative owners up to date on current government programs that affect their lives.

When she is not volunteering, Lucy enjoys gardening. She has read extensively on this topic and has developed a green thumb. Wherever Lucy is, you can be sure that there is a green garden growing as well.

Mr. Speaker, Lucy Schwartz has been tireless in her devotion to civic participation and her community. As such, she is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

## HONORING SAYRE McFARLANE MILLER

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Sayre McFarlane Miller on the occasion of her being selected as a recipient for the 2003 Common Threads Award. Common Threads is a joint venture of the Agricultural Education Foundation, California State University, Fresno's College of Agricultural Sciences and Technology, and AG ONE Foundation. The award is given to women who have made a remarkable and visible contribution to the enhancement of their communities with their time and/or contributions. Honorees must live in Fresno, Kings, Madera, Merced, or Tulare County. They should have past or present roots in agriculture while showing outstanding involvement in a variety of community activities in addition to agriculture. The honorees make a difference with their philanthropic giving while serving as visible and credible role models for other women.

Sayre, a partner in the family farm, McFarlane and McFarlane of Clovis, has always believed that "the way to get things done is to put one foot in front of the other every day." from water policy to land use policy, she has held leadership roles in several agricultural, natural resource, and communities activities. She values her involvement as an agricultural representative in the Growth Alternatives Alliance, a land use policy group that developed the Landscape of Choice: Strategies for Improving Patterns of Community Growth.

Mrs. Miller has enjoyed a wide range of community involvement. Some of Sayre's philanthropic and community involvement include sitting on the Fresno Irrigation District and the Kings River Water PAC's Boards of Directors. She has participated in the Association of California Water Agencies, the Fresno Art Museum, the Agricultural Council of California, the San Joaquin River Parkway and Conservation Trust, and St. James Episcopal Cathedral. Sayre cannot say for certain that the discourse of the boardroom surpasses the joy of receiving a Sunday school kindergardner's hug around the knees, but she has loved it all.

Mr. Speaker, I rise today to recognize Sayre McFarlane Miller for receiving the 2002 Common Threads Award. I invite my colleagues to join me in commending Sayre for her commitment to community service and agriculture and in wishing her many years of continued success.

## A PROCLAMATION IN MEMORY OF SANDRA "SANDY" BLESSLEY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. NEY. Mr. Speaker, Whereas, I hereby offer my heartfelt condolences to the family and friends of Sandra "Sandy" Blessley; and

Whereas, Sandra Blessley was a gifted speaker and a Capital Guide for 29 years. Her dedication and love for her work was truly exemplary; after her first stroke she recovered by reciting her tour speech, so that she could return to work; and

Whereas, Mrs. Blessley will certainly be remembered by all those who knew her because of her personal sacrifices of time and energy to family, friends and community; and

Whereas, the understanding and caring to which she gave to others will stand as a monument to a truly fine person. Her life and love gave joy to all who knew her;

Therefore, while I understand how words can't express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Sandra "Sandy" Blessley.

## HONORING JEFF FAUX

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to honor Jeff Faux, who is the founder of the nationally respected Economic Policy Institute. During his long career, he has been a merchant mariner, railroad worker, blueberry farmer, antipoverty official, Labor Department statistician, and instructor at Harvard University.

Jeff Faux used these work experiences to his advantage when undertaking the great task of founding and building the Economic Policy Institute, the nation's only think tank expressly dedicated to examining economic issues from the vantage point of how they affect working families.

Named after the poet Geoffrey Chaucer, Faux grew up in Queens, New York, as an avid reader but an apathetic student. Dropping out of high school, he joined the merchant marine and shipped out to the Caribbean, before realizing that he didn't want to spend the rest of his life that way.

Completing high school years before open enrollment at New York's City University, his wide-ranging reading stood him in good stead when he aced an examination that qualified him for Queens College, in spite of his uneven record in high school. On evenings, weekends, and summers while in college, he worked as a bartender (following his father who had been a charter member of Bartenders Local 164), on a railroad, and in an American Can Factory in Brooklyn.

After he severely injured his back, Faux was treated in Queens General Hospital, sparing him from what might have been a lifetime disability. While hospitalized, he mused that he was, in a sense, the product of public programs—born in a public hospital, educated in public schools, and put back together again in another public hospital. Faux traces lifelong commitment to progressive politics to this period of recuperation and reflection.

Inspired by President John F. Kennedy's New Frontier, Faux moved to Washington, D.C., where he worked, first, for the Bureau of Labor Statistics and, then, for the Arms Control and Disarmament Agency. Meanwhile, he enrolled as a graduate student at George Washington University, doing graduate work in economics.

Moving to the Office of Economic Opportunity (OEO), Faux became one of the originators of a new kind of anti-poverty program: the Community Development Corporation. Modeled after a project initiated by Senator Robert F. Kennedy in the Bedford-Stuyvesant section of Brooklyn, community development corporations promote economic development in low-income areas, from the inner cities to rural America.

Traveling throughout the country, and briefly living with migrant farm workers in Colorado and New Mexico, Faux helped to turn the concept of community development corporations into a national program. He also found the time to participate in the historic Selma-to-Montgomery march for voting rights and to register black voters in Virginia.

In the 1980's, Jeff returned to Washington, D.C. and set about a new mission: founding a progressive think tank that would focus on economic issues. Others involved in the project included Barry Bluestone, Robert Kuttner, Ray Marshall, Robert Reich, and Lester Thurow.

In 1986, the Economic Policy Institute opened its doors, with a staff of Faux, communications director Roger Hickey, an administrative assistant and a graduate research assistant. Originally commissioning papers by academics, EPI build its own capacity with the hiring in 1987 of Larry Mishel as research director. A year later, EPI published the first biennial edition of its signature publication, The State of Working America, which would be researched and written by Mishel and many of the economists who later joined the staff of EPI.

In the later eighties, as a wave of deindustrialization swept over the U.S., EPI helped build the case for plant closing legislation, work that bore fruit in the WARN Act of 1988. A few years later, EPI shaped the debate on the minimum wage, showing that the benefits of raising wages for the poorest workers far outweighed the potential cost in terms of inflation or job loss.

Joining the debate about the North American Free Trade Agreement, EPI explored international issues as well, pioneering the proposal that labor standards be included in trade agreements. On domestic issues, EPI developed a trademark tactic, releasing statements signed by prominent economists supporting increased public investment, opposing the balanced budget amendment, endorsing President Bill Clinton's first budget plan, and opposing President George W. Bush's tax cuts for the very wealthy. Surveys continuously find that EPI is the most widely quoted progressive think tank in the nation's news media.

In 2002, Faux stepped down as president of EPI and assumed a new role as EPI's first Distinguished Fellow. He has begun work on a book about the North American economy.

Today, we thank Jeff for his enormous contribution in improving the well being of working families all across the world.

## HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTH CARE (HEALTH) ACT OF 2003

SPEECH OF

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this legislation. This bill would provide legal protections to HMOs and override all of our efforts to hold them accountable through the Patients' Bill of Rights. Worse, it would restrict patients' rights without actually solving the problems associated with high insurance costs.

The Democratic substitute, which we were prevented from offering, would have taken a comprehensive approach to the malpractice insurance crisis, recognizing the need for both tort reform and insurance reform. Not only would it have prevented frivolous lawsuits, but it would have also required insurance companies to pass their savings on to health care providers, in addition to providing assistance to the physicians and communities who need it the most. Even the CEOs of 4 insurance companies say this bill does not guarantee reduced insurance premiums for doctors.

Capping non-economic damages at $250,000, as this bill does, will disproportionately hurt stay-at-home mothers, children, the elderly and the disabled—people who do not earn enough to show a substantial economic loss. They suffer just as much as a high-paid CEO, yet under this bill, they would receive virtually nothing for their pain and suffering.

I urge my colleagues to do right by these families and oppose this bill. Let's come back and pass a bill that will actually do something to address the malpractice crisis.

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## A TRIBUTE TO PHYLLIS TALIAFERRO

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of Phyllis Taliaferro in recognition of her commitment to providing mental health treatment in the community.

Phyllis is a member of a proud African American family of Taliaferros. The most notable of whom is Booker Taliaferro Washington. Since 1898 Phyllis's family has maintained the Lucy Taliaferro Estate in Colonial Beach, Virginia. Phyllis's great-grandmother purchased the property. Prior to World War II, Phyllis's family moved to Baltimore where she was born. Following the war, Phyllis along with her parents and sister moved to New York.

Phyllis is a graduate of Amityville Memorial High School on Long Island. She earned her bachelor's degree at Morgan State University and received her master's degree in Social Welfare at the State University of New York at Stony Brook. She has also studied at the University of Ghana at Legon and at St. Ann's Psychiatric Hospital in Rosekilde, Sweden. In the United States, she took post-graduate courses at the Lenox Hill Hospital Psychoanalytic Psychotherapy program and at Beth Israel Hospital. She has held faculty positions in the State University of New York Agricultural and Technical College and at Old Westbury and Euro College.

In her professional life, she is focused on improving mental health treatment for women and children. She runs a group for women called "He Ain't All That." She has been honored by the Visiting Nurse Service, the Society for Psychoanalytic Psychotherapy, and the New York Black Psychologists. She is a Past President of the New York Association of Black Psychologists.

Phyllis is also the executive producer of the "The Phyllis Taliaferro Show—The Psychology of Everyday Life" on Brooklyn Community Access Television. Previously, on Starrett City Television, she was a producer and host of "Perceptions and Insights." Additionally, she made frequent appearances on Dr. Jeff's early television show," "A Hipper Shrink" and Dr. Brown's show, "Psych on Call." Phyllis has had guest spots on several radio shows as well as including "The Dr. Watkins Show," "The Gary Byrd Show;" and "Hit It."

In addition to her work in the mental health field, she is actively involved in several local civic organizations. She is a member of the National Women's Political Caucus, the Brooklyn Women's Caucus, the National Political Caucus of Black Women in Politics, and the Central Committee for Al Sharpton. She is also a member of Church Women United and the auxiliary at Kings County Hospital.

Mr. Speaker, Phyllis Taliaferro is dedicated to her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

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## HONORING ANNE HESTER

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Anne Hester on the occasion of her being selected as a recipient for the 2002 Common Threads Award. Common Threads is a joint venture of the Agricultural Education Foundation, California State University, Fresno's College of Agricultural Sciences and Technology, and AG ONE Foundation. The award is given to women who have made a remarkable and visible contribution to the enhancement of their communities with their time and/or contributions. Honorees must live in Fresno, Kings, Madera, Merced, or Tulare County. They should have past or present roots in agriculture while showing outstanding involvement in a variety of community activities in addition to agriculture. The honorees make a difference with their philanthropic giving while serving as visible and credible role models for other women.

Anne married into a 3rd generation farming family, and she and her husband, Gary, are principals in Hester Orchards. Anne has played a major role in her and her husband's diversified orchard crops, nut processing, and farm management companies. She is actively involved in the operation and manages the administrative office.

Anne has been active in many agriculture and education organizations. Mrs. Hester served as chairperson for the Tulare County Farm Bureau and acted as the driving force for its Ag Education, Youth Leadership, Fundraising, and Scholarship committees. She recognized that Ag needed to reach out to student leaders and educate them about agriculture and its importance before they went on in their education. Because of her commitment to youth, Anne was also involved in a program at Farmersville High School where she helped at-risk kids get jobs in an effort to redirect their lives. Mrs. Hester's philanthropic devotion to helping the education of youth and her active involvement in the farming industry make her a significant part of the community.

Mr. Speaker, I am pleased to honor Anne Hester for her superior service to the public and her leadership in the agriculture community. I urge my colleagues to join me in wishing Anne many years of continued success.

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## A PROCLAMATION IN MEMORY OF MARVIN L. LAWVER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. NEY. Mr. Speaker, whereas, I hereby offer my heartfelt condolences to the family and friends of Marvin L. Lawver upon the death of this outstanding person; and

Whereas, Marvin L. Lawver was born November 6, 1925 and in 1943, at the age of 17, Marvin L. Lawver answered his country's call to duty and enlisted in the United States Navy; and

Whereas, during his overseas service, including Pearl Harbor, he became highly decorated earning the American Campaign Medal, Victory Medal, and Asiatic Pacific Area Campaign Medal; and

Whereas, for his service to our country we owe him a debt of gratitude that can never be repaid; and

Whereas, Marvin L. Lawver will certainly be remembered by all those who knew him because of his personal sacrifices of time and energy to family, friends, and community; and

Whereas, the understanding and kindness to which he gave to others will stand as a monument to a truly fine person. His life and love gave joy to all who knew him;

Therefore, I offer this token of profound sympathy to the family and friends of Marvin L. Lawver.

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## HONORING ANGEL GONZALEZ

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. FARR. Mr. Speaker, I rise today to honor one of my youngest and bravest constituents, Angel Gonzalez. Angel is California's

Ambassador to Foresters Champions Across America and the Children's Miracle Network program that honors remarkable children who have triumphed despite severe medical challenges. Today, Angel enjoys the fun and games of most five-year olds, but it wasn't long ago that would have seemed impossible.

Angel was standing with his Grandmother outside the oil change shop where his Mom works in Salinas, California, when a car in one of the service bays suddenly accelerated and crashed through the closed door of the shop. Angel was hit by the car and suffered severe head trauma and internal injuries. After emergency surgery and 10 days in a coma, there were no doubts that Angel was truly a fighter. He pulled through not only because of the good work of his surgeons and nurses, but because of determination and will power. His courage and determination has been crucial in his progress on the long and difficult road of rehabilitation. Over the months, Angel has made remarkable progress, gradually regaining his speech and motor skills. Through the continuing and laborious physical therapy, Angel has maintained his positive attitude and brought a playful approach to the challenges of his continuing recovery.

Angel's recovery is a remarkable testament to his strength and perseverance and the wonderful treatment he received at Salinas Valley Memorial Hospital. As California's Ambassador, Angel has traveled to Washington, DC to bring hope to other children who are fighting for their health, and to recognize the important role that children's hospitals play in providing specialized care for kids. I would like to congratulate Angel on his amazing recovery and his position as an inspiring role model to all people who face adversity. I am honored to be able to recognize the resolve and support of Angel, his family, and their community.

## A TRIBUTE TO LYSTRA MOORE-BESSON

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise to honor of Lystra Moore-Besson in recognition of her contribution to her family and her community.

Lystra was born to Henry and Alice Moore in Trinidad & Tobago. She immigrated to the United States in 1975 to further her education. In 1980 she graduated from Brooklyn College with a Bachelor of Science Degree in Accounting. After graduation, she pursued a career in banking. She is presently Vice-President and Branch Manager of HSBC Bank USA and holds her securities licenses from NASD.

During her twenty years in banking, she has received several awards including the "Chairman's Award for Sales Excellence" at HSBC Bank USA. She also sits on the African American Diversity Sub-Committee for Mentoring and Career Development. Throughout her banking career, she has mentored employees and neighborhood youth, both personally and professionally.

Lystra is deeply involved in her community. She has been a member of the Brooklyn Canarsie Lions Club since 1995. She was elected Treasurer in her first year, a position she still holds. She also serves on the Board of Directors and is the funding co-advisor of the Brooklyn Canarsie Leos Club, which lends its support to the Guide Dog Foundation and the Vacation Camp for the Blind. She is on the Board of Directors of Canarsie By Choice and has supported the Juvenile Diabetes Foundation, National Conference for Community Justice, and National Association for Breast Cancer.

Lystra has also lent her banking expertise to the community through various financial seminars in credit, insurance, investment, and homeowners' information. Small businesses have also benefited from her personal counseling and expertise. Lystra has also participated in several civic causes, working with the Office of Senator John Sampson and helping to elect HILLARY RODHAM CLINTON to the Senate.

Lystra is married to Ian Besson. They have three daughters Habika Zwena, Zakiya, and Tabia, and a grandaughter Lystra Daniella.

Mr. Speaker, Lystra Moore-Besson is devoted to serving her community. As such, she is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

## HONORING ELIZABETH McCABE

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Elizabeth McCabe on the occasion of her being selected as a recipient for the 2002 Common Threads Award. Common Threads is a joint venture of the Agricultural Education Foundation, California State University, Fresno's College of Agricultural Sciences and Technology, and AG ONE Foundation. The award is given to women who have made a remarkable and visible contribution to the enhancement of their communities with their time and/or contributions. Honorees must live in Fresno, Kings, Madera, Merced, or Tulare County. They should have past or present roots in agriculture while showing outstanding involvement in a variety of community activities in addition to agriculture. The honorees make a difference with their philanthropic giving which serving as visible and credible role models for other women.

Mrs. McCabe's life has been dedicated to the growth of agriculture and education. Elizabeth has spent countless hours involved in 4–H Club and Future Farmers of America (FFA) activities. In 1972 she and a friend began the Mission 4–H Club. A leaders for 15 years, Elizabeth assumed the responsibility of making sure the kids traveled to five fairs a year. She is a 20 year member of the Merced Chapter, California Women for Agriculture and served as their President. She remains very active in 4–H, FAA, and California Women for Agriculture activities.

Elizabeth has a great respect for education which is why she works diligently for the Friends of the Library and is a strong supporter of organizations which fund scholarships. She has served as President for the Merced County School Board Association, the United Methodist Women, and as Treasurer for the Merced Senior, Inc. Elizabeth is a leader of philanthropy in her community and a guiding light to all.

Mr. Speaker, I am pleased to honor Elizabeth McCabe for her outstanding service and commitment to education and agriculture. I urge my colleagues to join me in wishing Elizabeth many years of continued success.

## A TRIBUTE TO DOROTHY SWEARENGEN STRONG

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Dorothy Swearengen Strong, a dynamic woman who had committed 45 years to advocating for the educational and developmental needs of African American children, especially in relation to mathematics. Making it a priority to equip at-risk youth with essential mathematics skills, she has worked tirelessly to ensure that all children are prepared to master standards-based mathematics and traditional basic skills simultaneously.

She began teaching in 1958 and has remained true to her philosophy that all children can and must complete Algebra by the end of eighth grade, in addition to attaining four years of college preparatory math by the end of high school. Strong has diligently worked from her vision of high expectations, full access, quality instruction and high achievement for all students. Always innovatively finding new ways to educate. Strong is currently directing and piloting the BiMathematics Project. This program will connect multiple definitions of curriculum faced by school districts, high stakes assessment and key mathematics principles to restructure and consolidate the mathematics curriculum for grades K–12. The project includes extended professional development, parental and community involvement components.

Impressively, Strong had developed and implemented several initiatives aimed at making math both exciting and educational for students. She has coordinated three major Mathematics and Science Motivational Projects with NASA that highlighted the achievements of African American astronauts. In an effort to increase academic achievement for inner-city students, she pioneered the MathCounts Competition, which celebrates their participation in statewide mathematics competitions.

She strives to empower students to always be prepared, be active participants in today's society and become lifelong learners. Leading by example, Strong has devoted many hours as founder and past president to the Benjamin Banneker Association. This Association provides a forum for mathematics educators and mathematicians to discuss learning and teaching math with respect to African American children. She has also developed a series of Bible Mathematics books and a Mathematics Tutor Training Manual to help Black South African students prepare for their University Examination.

Mr. Speaker. It is with great honor that I recognize Dr. Dorothy Swearengen Strong today before Congress. She has been referred to as the Mother of Modern Day Mathematics. Her outstanding leadership and commitment to efficiently educating students makes her more than worthy of receiving our recognition today. I urge that my colleagues join me in honoring this truly remarkable woman.

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## HONORING SEAMAN 1ST CLASS JOSEPH McKENNA, JR.

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. ISRAEL. Mr. Speaker, our veterans have made America the strongest nation on earth. Their stories serve as a reminder of the costs that our nation has endured to ensure peace and freedom. I believe that it is vitally important to acknowledge the commitment and achievement of every veteran who put his or her life on the line to protect this nation.

I want to take this opportunity to share the story and bravery of Seaman 1st Class, Joseph McKenna, Jr., of Melville, New York, a veteran of World War II.

In the spring of 1943, Joseph McKenna was serving as a United States Navy armed guard on the tanker, *MS Panam*. The *Panam* was making a trip from Norfolk to Lake Charles, Louisiana when it developed engine trouble. After becoming separated from the rest of the convoy, a German U-Boat attacked. The first torpedo ripped through the engine room, killing two crew members. The engines were destroyed and water started to rush in.

At the time of the attack Joseph McKenna was on the bridge. His commander, Arley Zinn, met him there and told him to return to the gun deck. At this point, McKenna realized that his buddy, Seaman 1st Class Earl Mayle, was missing and he went to find him. The door to their quarters was shut; it wouldn't budge. McKenna kicked in the bottom panel of the door and, on his hands and knees, made his way through the opening to Mayle, who was wedged under a bunk. Amazingly, McKenna, a man of only one hundred and thirty-two pounds, was able to drag Mayle to what he thought was the safety of the gun deck.

Upon reaching the deck, McKenna was injured when another torpedo stuck the *Panam*. Thankfully, McKenna made it to a lifeboat with Mayle. After floating in the open ocean for six hours, the Coast Guard cutter USS *SC664* finally picked them up.

McKenna lost touch with Mayle for fifty-six years. In 1999, he tracked down Mayle's wife Shirley. She told him that Mayle passed away in 1993. She said that all Earl would speak about was McKenna saving his life. "Thank God for Joe McKenna," Earl would say. "If it wasn't for him I wouldn't be here."

Mr. Speaker, I stand before you to recognize Seaman 1st Class, Joseph McKenna, Jr. In honor of him and his act of bravery, I have flown a flag over the United States Capitol.

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## A TRIBUTE TO JEANETTE TURNER

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in support of Jeanette Turner in recognition of her passionate commitment to her community.

Jeanette was born and raised in Brooklyn New York. Educated in the New York City Public School System, she was able to attend college and pursue a career in nursing through the Higher Education Extension Program. She earned an Associate in Applied Science from the Bellevue School of Nursing of New York City Community College and a Bachelor of Science from Hunter College. She also received a Master of Arts in Nursing from New York University. Additionally, Jeanatte has a certificate from the Alcohol Council of New York Education and Training for Historical Approaches and Current Trends to Substance Abuse.

For more than 20 years, she dedicated herself to providing quality health care for veterans while working in patient services at the New York Harbor Health System of the Department of Veterans Affairs Medical Center. She worked at the Health System from 1977 to 1998. Always recognizing that veterans are individuals with their own unique needs, she emphasized a holistic approach to client care.

Under the leadership of Dr. Thomas B. Horvath, Chief of Staff of the Special Unit, she helped and supervised the implementation of the Mentally Impaired Chemical Abuse (MICA) program. Jeanette was involved in creating all aspects of the program from counseling to job placement. Additionally, she assisted physicians in providing annual physical and psychiatric examinations. Working with the community, Jeanette helped veterans obtain food, clothing, shelter, and financial assistance. Her work with the Veterans Outreach Center made sure that 250 veterans received referrals for veteran's benefits. She also developed a special patient education program and coordinated with the recreational services office to bring live entertainment for veterans, their families, and staff.

Jeanette has been committed to improving the health care of her community in her other professional experiences as well. She served as the Director of Service and Rehabilitation in the Brooklyn office of the American Cancer Society, providing rehabilitation services for families with oncology problems in the tri-state area. At Kings County Hospital, she worked with children in the outpatient pediatric unit, emergency room and on the medical and surgical units.

For her hard work and dedication, Jeanette was awarded the "We Care" Award from Kings County Hospital, a Special Commendation Award from the Acting Director of Kingsboro Psychiatric Center, and a Certification of Excellence from Department of Veterans Affairs. Her chief of staff also nominated her for the "Hands and Heart" Award. In 1996, She was the guest speaker during African American heritage month at the Department of Veterans Affairs; Ryerson Street Outpatient Clinic.

Additionally, she is a member of several community and civil organizations including the Brooklyn Canarsie Lions Club Foundation, Joseph Riley-Blacks in Government Chapter, St. Paul Community Baptist Church, Thomas Jefferson Democratic Club, and Order of Eastern Star Chapter 719—Deborah Grand Chapter.

Mr. Speaker, Jeanette Turner has dedicated her life to improving the health care for children, families and veterans in her community. As such, she is more the worthy of receiving our recognition today and I urge my colleague to join me in honoring this truly remarkable woman.

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## HONORING THE 50TH ANNIVERSARY CELEBRATION OF ST. PAUL'S LUTHERAN CHURCH

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the 50th anniversary of St. Paul's Lutheran Church in Falls Church, Virginia.

Located in the heart of Virginia's 11th Congressional District, St. Paul's goal of centering their faith in Christ was established at the time of their founding. Assembling at George Mason High School in 1953, a small group of men and women gathered together to formally give up their status as a mission of Arlington's Our Savior Lutheran Church and organized their own self-supporting congregation.

Today, St. Paul's has grown from a suburban congregation on the outskirts of Washington, DC, to a large urban congregation. Reflective of the diverse ethnic and cultural backgrounds of the Falls Church community, the congregation stresses warmth and acceptance for all people. Through their numerous Sunday school and adult classes, St. Paul's emphasizes the strengthening of their faith through education, prayer, and service. From its humble beginnings, the church has been successful in serving the community and strengthening their faith through God.

As well as offering education on their faith, St. Paul's also sponsors many fellowship groups and social events. By offering opportunities for members of the church to come together through potluck dinners, Bible study groups, and special holiday events, St. Paul's furthers its dedication to faith in God.

Mr. Speaker, in closing, I extend my warmest congratulations to St. Paul's Lutheran Church on this special occasion. With their commitment to faith and service to their community, the staff and members of St. Paul's are truly role models for us all. I call upon my colleagues to join me in applauding the church's 50 years of excellence.

## 200TH ANNIVERSARY OF THE TOWN OF CHAMBERSBURG INTO A BOROUGH

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. SHUSTER. Mr. Speaker, I rise today to recognize the 200th Anniversary of the incorporation of the Town of Chambersburg into a Borough. Chambersburg, Pennsylvania, the county seat of Franklin County, is a town rich in history. Chambersburg was settled by Benjamin Chambers in 1730. He chose the area because of the promising demographic features of the land, where the Conococheaque Creek and the Falling Spring merged to provide him with the necessary water power to operate a gristmill and a sawmill.

The community of Chambersburg was formally spread out in 1764, extending the land south and east of a fort that was built to provide protection against Indian raids. The epicenter of the town, which served as the crossroads for many travelers, began to grow in size and importance. Due to the number of people that traversed through the area, many businesses began to settle and expand in the valley. These businesses were the start of the promising entrepreneurial, agricultural, and residential area that Chambersburg is today.

In March 1803, the municipal government was established through a state granted charter as a borough. In May of the same year, the town elected the first mayor, the Town Council, a High Constable, and a flour and wood inspector were appointed. A tax duplicate of $550.97 was issued in order to begin providing government services, which at that time were mainly limited to those provided by the courts.

The Borough of Chambersburg is now home to over 17,000 people, many small and medium industrial enterprises, and continues to have strong ties to agricultural endeavors. I am very proud to represent the individuals that make up this vibrant community and would like to again commend the Borough of Chambersburg for its 200th Anniversary.

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## A TRIBUTE TO EVELYN M. DIXSON

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise in honor of the Honorable Evelyn M. Dixson in recognition of her dedication to her community and her enormous contribution to her church.

Evelyn is a member of the Cornerstone Baptist Church, President of the Cornerstone Baptist Church Federal Credit Union, and Chairperson of the Board of Directors of Cornerstone's Sandy F. Ray Senior Housing. Always involved in efforts to improve her community, Mrs. Dixson is a past president of the Brooklyn Club of the National Association of the Negro Business and Professional Women's Clubs, Inc. She also served two four-year terms as the organization's president, which had never been done in the history of the organization. Presently, she is an advisor to the Club.

Evelyn is a former member of the Board of Directors of Elected Officials of New York State and a charter member of the Stuyvesant Heights Lions Clubs International. The club made her a Melvin Jones Fellow, the highest honor one can achieve as a member of the Foundation.

Evelyn was one of the founding members of the Committee for Medgar Evers College and is a member of the Bridge Street A.W.M.E. Community Advisory Board. The Pratt Area Community Council honored Mrs. Dixson by naming one of its affordable housing projects in 1994, "The Evelyn Dixson Houses," which are seven newly rehabilitated buildings in Brooklyn.

In recognition of her many contributions and her participation in the improvement of the Bedford Stuyvesant community, she has received numerous awards, including the Thomas S. Boyland Award for leadership and commitment to the cause of Black Americans from the New York State Association of Black and Puerto Rican Legislators, Inc. She was also honored by Brooklyn Borough President Howard Golden with a Certificate of Achievement for outstanding leadership and service. Other awards include the National Association of Negro Business and Professional Women's Clubs' Sojourner Truth Award, the Salvation Army's Humanitarian and Service Award, and the Key Women of America's Church Woman of the Year award.

Evelyn has also been honored by the Medgar Evers College Women's Center, Lions and Lioness Clubs, Friends of Shaw University, the National Council of Christians and Jews, and the Council of Churches of the City of New York.

A former teacher, she also studied at Bank Street College in New York City and at the New School for Social Research in New York City, specializing in Early Childhood Education. Evelyn was also an executive administrative assistant for the Taxi and Limousine Commission of New York City. One of her most outstanding accomplishments of her professional career was being elected to eight consecutive two-year terms as State Committeewoman (District Leader) of the 56th Assembly District. She was also a delegate to the 1980 National Democratic Convention.

Mr. Speaker, with her numerous awards and professional memberships, Evelyn M. Dixson has shown that she is clearly dedicated to her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

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## HONORING CABRILLO POWER, LLC OF CARLSBAD, CA, FOR EARNING THE WALTER JONES/NOAA EXCELLENCE AWARD FOR EXCELLENCE IN BUSINESS LEADERSHIP

### HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CUNNINGHAM. Mr. Speaker, I am proud to rise today to recognize one of the outstanding businesses in my district, Cabrillo Power, LLC of Carlsbad, CA, for recently earning the Walter Jones/NOAA Excellence award for Excellence in Business Leadership.

The Walter Jones/NOAA Excellence in Business Leadership Award recognizes a business organization that has made significant contributions, "above and beyond the call of duty," to improve or protect the coastal or ocean environment and that demonstrate the ability to balance business interests with environmental needs.

Cabrillo Power owns and operates the Encina Generating Station located along the coast in Carlsbad, California. The Encina Generating Station has been in operation since 1952 and produces nearly 25 percent of San Diego County's electricity supply. Cabrillo Power is also an active partner in the development of a sea water desalination facility which, when built, will be the largest sea water desalination facility in the Western Hemisphere. Cabrillo Power has helped federal, state and local resource managers develop a successful and effective approach to eradicating the highly invasive marine algae from Agua Hedionda Lagoon. Cabrillo Power has a clear impact on the lives of many Californians and seeks to conduct business in a responsible manner. It serves as a stellar model for advancing the goals of the Coastal Zone Management Act.

As a resident of one of San Diego County's coastal communities, I understand the importance of preserving our coastal resources and promoting energy efficiency. Cabrillo Power's proven creative ability to harness technology in their business practices that tempers business and environmental interests led to their selection for this prestigious honor. I applaud Cabrillo Power for its dedication to improving and serving San Diego's coastal community.

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## IN HONOR OF THE TVB BENEFIT VARIETY SHOW 2003

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. NADLER. Mr. Speaker, I rise today to praise the extraordinary efforts of NYU Downtown Hospital and its Chinese Community Partnership for Health program, for all of their work in health education, outreach and case management throughout lower Manhattan. I salute them on the occasion of the fourth annual Hong Kong Television Broadcast Limited Benefit Variety Show, which raises funds for this worthy cause.

Lower Manhattan is a diverse community that welcomes thousands of new immigrants every year, especially to the dynamic neighborhood of Chinatown. NYU Downtown Hospital is the only health care facility in the area and works to guarantee that these immigrants have access to quality health care.

The hospital has numerous successful outreach programs including the Chinese Community Partnership for Health (CCPH) program. The CCPH works to promote health care to all the residents of New York's Chinese community, including the tens of thousands of new residents each year. For ten years, the CCPH has served more than 80,000 garment and restaurant workers, elderly Chinese residents and school children in the Hospital's service area.

The centerpiece of the Partnership program is its health screening activities conducted by specially trained outreach teams that include bilingual nurses with both Eastern and Western healthcare concepts and practices. CCPH helps these immigrants overcome language and cultural barriers which prevent them from receiving the medical assistance they need and deserve.

To help raise funds for this worthy cause, CCPH and NYU Downtown Hospital will host a three-day extravaganza featuring a celebrity gala dinner and culminating in the Benefit Variety Show. Produced by the Hong Kong Television Broadcasts Limited (TVB), the Benefit Variety Show is an annual event in its fourth year that will be held in New York on March 22nd. The festivities are broadcast worldwide, which helps to display New York's tremendous diversity.

Mr. Speaker, in closing, I ask my colleagues to join me in recognizing the many individuals who work tirelessly to make this event an annual success, including Sir Run Run Shaw, Executive Chairman of TVB, George C.K. Liu, Chairman of the Physician Committee, and Hong Kong Superstars Jerry Lamb, Sonija Kwok, Edwin Siu, Joey Yung, Steven Ma, Moses Chan, Ming-Fai Koi, and Christopher Wong. I would also like to recognize the Chinese Consolidated Benevolent Association, who are the grand benefactors of this event and do so much throughout Chinatown to serve and protect the interests of the Chinese community in New York City.

I appreciate all the good work that CCPH does to promote quality health care and I wish them great success with this year's variety show.

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## OPPOSING THE FCC DECISION ON DEREGULATION

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, in the final analysis, America's national security depends heavily on America's economic security—and, especially critical to our economic growth and prosperity in the future is our telecommunications industry.

Telecommunications is very important to my own state of Florida. More than 80,000 Floridians work in telecommunications. Thousands more depend on the industry to maintain their pensions, their retirement savings—to generate the additional income they need to continue as active, contributing members of society.

What hurts the American telecommunications sector, in other words, often generates problems which can only ripple throughout our economy, affecting our national goals and values.

And, that's why I was so disappointed by the decision announced by Federal Communications Commission (FCC) members on February 20—that they had no intention to remove existing restrictions placed on local phone companies nearly seven years ago, restrictions which the chairman of the Energy & Commerce Committee, Mr. TAUZIN, and the Ranking Democrat, Mr. DINGELL, both agree are discouraging new communications investment and new jobs creation.

The best prescription for economic growth and for producing good jobs with a future—for every American who wants to work—is a strong and growing economy. One does not foster investment and jobs creating by perpetuating unneeded regulations and deliberately discouraging new investment, especially new investment.

Congress needs to send the FCC majority a message that when it comes to jobs creation, when it comes to spurring new investment, when it comes to stimulating the broader availability of advanced communications, Congress expects the FCC to vote "yes."

This country can't afford—and, the American people don't deserve—the kind of anti-investment, anti-jobs policies that the FCC has displayed through their ruling against local phone company deregulation.

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## HONORING KALMAN AND DEVORAH STROBEL

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I rise today to congratulate Kalman and Devorah Strobel upon their selection to be the honorees at the 24th Annual Dinner of the Young Israel of Avenue J, in Brooklyn, New York.

Mr. and Mrs. Strobel have truly defined community service. Having given generously of their time, finances, and business acumen, our local Brooklyn neighborhoods have truly been blessed to be the beneficiaries of such selflessness.

Mr. and Mrs. Strobel have played an integral role in the success of the Young Israel for over twenty years as well as many other crucial local Jewish institutions. The Strobel's dedication to Tifereth High School for Special Children is only one example of the breadth and depth of their efforts to better our neighborhoods. Their efforts have provided a guiding light into the true meaning of the Hebrew word "chesed" translated into English as kindness.

Being of a soft spoken nature, Mr. & Mrs. Strobel have proven that actions speak louder than words. Although never ones to seek accolades for their work, the community and the Young Israel will forever be indebted to them.

Addionally, I wish to congratulate the Strobel's children, Suri, Miraty, Rivky, and Meir Eli, and granddaughter Chaya Leah so fortunate to have Kalman and Devorah as their role models.

May you continue to grace our community with your inspiring presence for many years to come.

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## HONORING THE SOUTH LAKE MEMORIAL AMERICAN LEGION AUXILIARY NO. 55

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Ms. GINNY BROWN-WAITE of Florida. Ms. Speaker, I rise today to recognize the South Lake Memorial American Auxiliary #55 on their Anniversary. Sixty-six years ago this Auxiliary was founded by the brave veterans of World War I and has been serving their community ever since.

Most recently, they were recognized as one of the strongest promoters of the "Spinoza Bear Program". This is a compassionate crusade that brings a smile to thousands of grieving children.

Their commitment to public service is renewed every year as they sponsor two young women to attend Girl's State, a wonderful program that has been developed to foster political activism in our nation's youth. They are involved in countless other activities that promote community involvement by their members.

Mr. Speaker, I am proud to call the men and women of the South Lake Memorial American Legion constituents, and I ask that you join with me today to congratulate them on their service to our nation.

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## IN RECOGNITION OF VERONICA NIGH

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Veronica Nigh, a very special young woman who has exemplified the finest qualities of citizenship and leadership. She has been honored with the Award of Distinction as winner of the Cotillion for Achievement Scholarship Program.

The Cotillion for Achievement Award was established in 1986 and is presented annually. Two winners, one male, one female are selected from public and private school seniors attending school in Andrew and Buchanan County, Missouri. Students are evaluated on four criteria, scholastic achievement, extracurricular activities, community involvement and an essay written by the student. This prestigious award has been extended to Veronica.

Veronica has established herself as a well-rounded student. She is involved in numerous activities, including Student Council, FFA, FCCLA, Social Studies Club, National Honors Society, class officer, volleyball, county fair play, the county museum, the County Fair Board, Student Tutors and the District Health Board as a student ambassador. Additionally, she has been honored for her achievements with such awards and distinctions as The National Honor Society Award, Missouri Girls State Minority House Leader, who's who among American high school students, student of the quarter, 1st place on the State Agriculture Literacy Team, 3rd place on the state FFA Agriculture Sales Team, the Washington Leadership Conference, FFA Chapter Star Greenhand, State FFA Creed Speaker, High Honor Roll, Honor Letter and The Missouri FFA Public Speaking Academy First Place Novice Division.

Mr. Speaker, I proudly ask you to join me in commending Veronica Nigh for her many achievements and in wishing her the best of luck in her future.

## TRIBUTE TO SOMERSET, KENTUCKY SOCIAL SECURITY OFFICE

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to commend the staff of the Somerset Social Security Office for their strong, effective, and compassionate service to the people of Kentucky.

Social Security plays an important role in the lives of more Americans than any other federal program. Whether providing a Social Security number for a newborn baby, mailing a check to a retired worker, or helping a disabled individual receive benefits, the Social Security Administration touches the lives of just about everyone.

The field office in my hometown of Somerset, Kentucky, is a shining example for this massive agency. Under the leadership of W.D. Dalton, the staff in Somerset consistently goes beyond the call of duty to provide valuable benefits to the people of Kentucky. Because of their unwavering commitment to helping others, the Social Security Administration recognized the Somerset Office as the Best Level II Field Office in the Atlanta Region for fiscal year 2002.

Mr. Speaker, on behalf of my colleagues and myself, I want to thank the staff at the Somerset Social Security Office for their hard work and dedication to serving the people of Kentucky. These fine Americans are an inspiration to us all, and I salute them for their commitment to helping others.

## IN MEMORY OF THOSE KILLED AND INJURED AT FORT DRUM BLACK HAWK CRASH

### HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McHUGH. Mr. Speaker, I rise today, as I have countless times before on the floor of this House, to talk about something very near and dear to my heart—Fort Drum and the brave men and women of the Army's 10th Mountain Division (Light Infantry), the most frequently deployed division in the U.S. Army today.

When I raise this topic, I take a particular amount of pride in reminding my colleagues that Fort Drum, which is the most modern military facility anywhere in the world, is situated within my upstate New York Congressional District. Since the early 1990s, soldiers from the 10th Mountain Division (LI) have participated in significant operations both at home and abroad, including Hurricane Andrew, the Northeast's Ice Storm of 1998, Somalia, Haiti, Bosnia, Kosovo, Afghanistan and beyond.

I have seen the men and women of the 10th Mountain Division (LI) in action. I have met many of the soldiers one-on-one and have been fortunate to speak with them during visits here at home and while the Division has been deployed around the globe. I am always impressed by their professionalism and the way they do their job without hesitation. The dedication, commitment, and heroism these men and women have is, perhaps, what is most remarkable about Fort Drum.

Last week, people from across the country became familiar with Fort Drum as well. But sadly, our nation learned the importance of this Army post through news reports of a tragic helicopter crash that occurred during a training mission. We were all devastated on last Tuesday afternoon when we learned that a Black Hawk went down killing 11 soldiers and injuring two.

Mr. Speaker, the soldiers who lost their lives on March 11, 2003 in the service of our nation are:

Cpt. Christopher E. Britton, 27, from Ohio, assigned to Headquarters and Headquarters Company, 1st Battalion, 10th Aviation Regiment.

Chief Warrant Officer 3 Kenneth L. Miller, 35, from California assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Staff Sgt. Brian Pavlich, 25, from Port Jervis, NY assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. John L. Eichenlaub, Jr., 24, from South Williamsport, PA assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Sgt. Joshua M. Harapko, 23, from Peoria, Axiz., assigned to Charlie Company, 4th Battalion, 31th Infantry Regiment.

Spc. Lucas V. Tripp, 23, from Aurora, Colo., assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Spc. Barry M. Stephens, 20, from Pinson, Alabama, assigned to Bravo Company, 2nd Battalion, 10th Aviation Regiment.

Pfc. Shawn A. Mayerscik, 22, from Oil City, PA, assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Pfc. Tommy C. Young, 20, from Knoxville, Tenn. assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Pfc. Stryder O. Stoutenburg, 18, from Missoula, Mont. assigned to Charlie Company, 4th Battalion, 31th Infantry Regiment.

Pfc. Andrew D. Stevens, 20, from Rockingham, NH. assigned to Charlie Company, 4th Battalion, 31st Infantry Regiment.

Mr. Speaker, those injured in the crash were:

Spc. Dmitri Petrov and Spc. Edwin A. Mejia, both from Charlie Company, 4th Battalion, 31st Infantry Regiment.

Mr. Speaker, we will continue to pray for these soldiers and their families during this difficult time.

Our nation, the United States Army, and the people of Northern New York stand united with the families of the fallen and injured soldiers. While I know there are no words or deeds that can ever ease the pain and heavy burden the loved ones of these soldiers are experiencing, I want to pay tribute to those who have given their lives to the fullest measure as well as those soldiers injured in the line of duty.

The North Country community has long viewed the soldiers stationed at Fort Drum as much more than just the defenders of our nation. They are our friends and neighbors. The outpouring of care and concern from area residents has been truly extraordinary. It is because we feel this loss, too. I want the injured soldiers and surviving families to know we share their grief and sorrow.

The crash at Fort Drum was not the first introduction Americans have had with the Black Hawk helicopter. Mark Bowden's best-selling book and movie titled "Black Hawk Down: A Story of Modern War" was an account of the American military campaign on the streets of Mogadishu, Somalia when warlords there were wreaking havoc on their own people in 1993. As I have mentioned before, the 10th Mountain Division is the Army's most frequently deployed force, so it's not surprising that elements of the 10th played a significant role in that mission and were featured in the book's after-action report of the difficulties they faced. The title, "Black Hawk Down" comes from the ominous words that echoed from the radio transmissions almost as soon as the operation began.

Whether we are talking about the Black Hawk that went down in Somalia nearly a decade ago, or the crash near Wheeler-Sack Airfield at Fort Drum, we know that things do not always go as planned in war or in warfighting training exercises. And now, as our Armed Forces face another military offensive overseas, the tragic accident at Fort Drum serves as a solemn reminder of the sacrifices our service men and women make on a daily basis. Whether it be in training or in battle, we do not always have the privilege of seeing their acts of heroism carried on CNN or in a motion picture.

Mr. Speaker, I ask my colleagues and all Americans to join me in paying tribute to these men. Let us also acknowledge the rest of the men and women in uniform and express our gratitude for their service to our nation. As they go forward with their assignments, both at home and abroad, they need our support and our prayers.

## HONORING WIDER HORIZON SCHOOL

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to congratulate an outstanding school in the 5th Congressional District of Florida. Educating our Youth is one of the most important challenges that we as a nation face. The founders of Wider Horizons School have embraced this challenge with a vigor and dedication that has left a strong impression on the community which they serve.

On Friday, March 14th, Wider Horizons School will celebrate its 20th Anniversary. Founded in 1983, Wider Horizons was the brain child of two individuals who cut their teeth in the Peace Corps opening schools in the jungles of Peru. Their formula for success includes a focus on independent learning, international field trips, and instruction in Spanish beginning in preschool.

I am proud to call Mr. and Mrs. Domenick constituents. They and their staff serve as examples to us all of what it means to truly be public servants.

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## IN RECOGNITION OF DEVIN GOODLET

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Devin Goodlet, a very special young man who has exemplified the finest qualities of citizenship and leadership. He has been honored with the award of distinction as winner of the Cotillion for Achievement Scholarship Program.

The Cotillion for Achievement Award was established in 1986 and is presented annually. Two winners, one male, one female, are selected from public and private school seniors attending school in Andrew and Buchanan County, Missouri. Students are evaluated on four criteria: scholastic achievement, extracurricular activities, community involvement and an essay written by the student. This prestigious award has been extended to Devin.

Devin has established himself as a well-rounded student. He is involved in numerous activities, including varsity tennis, student government, UMKC leadership seminar, Forum Club, Spanish Club, JCCC Mathcount, Math Olympiad, National Forensics League, Heartland Health Systems, Food Can Drive, Habitat for Humanity, Harvest Food Bank, Multiple Sclerosis Walk for the Cure, United Way penny drive, Missouri State Senate youth forum, 2000 election campaign, doctors day, royal family kids camp, and the Diwali Celebration. Additionally, he has been honored for his achievements with such awards and distinctions as the National Honor Society Award, the National Merit Commendation Award, the Academic Excellence Award, Bright Flight Scholar, the Missouri Math League Award, the ASME Math Competition Award, Duke University Tip Scholar while qualifying for the State tennis competition.

Mr. Speaker, I proudly ask you to join me in commending Devin Goodlet for his many achievements and in wishing him the best of luck in his future.

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## TRIBUTE TO MIDDLESBORO, KENTUCKY SOCIAL SECURITY OFFICE

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. ROGERS of Kentucky. Mr Speaker, I rise today to commend the staff of the Middlesboro Social Security Office for their strong, effective, and compassionate service to the people of Kentucky.

Social Security plays an important role in the lives of more Americans than any other federal program. Whether providing a Social Security number for a newborn baby, mailing a check to a retired worker, or helping a disabled individual receive benefits, the Social Security Administration touches the lives of just about everyone.

The field office in Middlesboro, Kentucky, is a shining example for this massive agency. Under the leadership of Steve Schneider, the staff in Middlesboro consistently goes beyond the call of duty to provide valuable benefits to the people of Kentucky. Because of their unwavering commitment to helping others, the Social Security Administration recognized the Middlesboro Office as the Best Level II Field Office in the Atlanta Region for fiscal year 2002.

Mr. Speaker, on behalf of my colleagues and myself, I want to thank the staff at the Middlesboro Social Security Office for their hard work and dedication to serving the people of Kentucky. These fine Americans are an inspiration to us all, and I salute them for their commitment to helping others.

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## UNIVERSITY OF WISCONSIN-MILWAUKEE QUALIFIES FOR THE SCHOOL'S FIRST NCAA TOURNAMENT

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. KLECZKA. MR. Speaker, On Tuesday, March 11, 2003, the University of Wisconsin-Milwaukee Men's Basketball team qualified for the NCAA tournament by defeating the Butler University Bulldogs. The Panthers (24–7) are making their first-ever appearance in the NCAA Tournament, and gained an automatic berth into the field with a 69–52 win over Butler in the championship game of the Horizon League Tournament. UWM will be seeded number 12 in the West Region of the NCAA Tournament.

This outstanding achievement is a proud moment for the university, alumni, students, and the community. I would like to join with the UWM family in recognizing this enormous accomplishment, and it's with great pride that I offer my congratulations and applaud their efforts.

Tournament MVP Clay Tucker scored a game-high 23 points in leading the No. 2 seed University of Wisconsin-Milwaukee over No. 1 seed Butler University in the championship game. He also had team-high eight rebounds to go with game-bests in assists (4), steals (4), and blocks (2).

UWM's Head Basketball Coach Bruce Pearl coaching talents have been recognized nationally. In the May 1999 issue of Sport Magazine, Coach Pearl was listed as one of the "Five Head Coaches on the Rise," placing him in a group with Paul Hewitt (Georgia Tech), Mike Brey (Notre Dame), and Buzz Peterson (Tennessee).

Before coming to coach the UWM Panthers, Coach Pearl ended 14 years as an assistant at the University of Iowa. Prior to coaching at Iowa, he was an assistant coach at Stanford, and, at the age of 23, was promoted to Associate Head Coach at Stanford. Bruce Pearl helped lay the groundwork for the resurgence in men's basketball at Stanford.

So, I am pleased to join with the University of Wisconsin-Milwaukee to recognize the Men's Basketball Team for their notable play and excitement for the community at large and the State of Wisconsin.

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## TRIBUTE TO COLONEL GARY D. JERAULD

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CRAMER. Mr. Speaker, I rise today to recognize Colonel Gary D. Jerauld upon his retirement after more than 26 years of outstanding service to our country in the United States Army. After his effective retirement date of June 30, 2003, Col. Jerauld will reside in my Congressional district.

Colonel Gary D. Jerauld has distinguished himself throughout his military service in challenging and diverse assignments. Throughout his remarkable career, he has received many medals and awards for his ability to lead by example, encourage excellence from his peers and subordinates, effectively manage the Army's resources, and consistently produce outstanding results. I commend Col. Jerauld for his ability to energize a diverse staff toward a common purpose, setting high standards and inspiring his staff to achieve them.

Colonel Jerauld has been assigned to several key military positions throughout his career, which culminated as the Project Manager for the Tactical Operations Centers (TOCs) and Air and Missile Defense Command and Control Systems (AMDCCS), a position he has held since 1999. It is in this role that Col. Jerauld will leave an enduring mark on the future of our Army.

One example of his unique leadership abilities occurred in March 2000, when he was given the mission: "Restructure A2C2S into an executable program, place the system in the hands of the user now, and field to the First Digitized Division in Fiscal Year 2003." In just over one year, Colonel Jerauld and his team stood up the A2C2S Product Manager position and office, restructured the program, deployed an A2C2S demonstrator system to the 4th Infantry Division, and awarded a competitive contract for system integration. Colonel Jerauld has built a reputation as a Project Manager for delivering quality products to the field in much less time normally required for design, fabrication, and delivery.

Mr. Speaker, on behalf of the people of North Alabama, I congratulate Colonel Jerauld for his 26 years of service to our country and I welcome him to our North Alabama community.

## INTRODUCTION OF H.R. 1309, "VETERANS PRESCRIPTION DRUG BENEFITS ACT OF 2003"

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. EVANS. Mr. Speaker, today I am introducing H.R. 1309, "The Veterans Prescription Drug Benefits Act of 2003", legislation which will provide a revolutionary change in veterans' medical care.

"The Veterans Prescription Drug Benefits Act of 2003" would allow veterans to be the first among America's seniors and disabled people to have a real, meaningful Medicare outpatient drug benefit. If our nation is serious about implementing a drug benefit for seniors, the legislation I am introducing today would speed the availability of a prescription drug benefit and could even result in savings for the Medicare trust fund by allowing VA to employ its considerable prescription drug purchasing and benefit management skills in administering the benefit for veterans who are Medicare eligible. Additionally, this legislation would realign VA health care, allowing VA to concentrate its health care assets on the many veterans who rely upon it for the majority of their care needs.

"The Veterans Prescription Drug Benefits Act of 2003" would, for the first time, allow veterans to bring prescriptions ordered by physicians who are not affiliated with the Department of Veterans Affairs to the VA to be filled. It would also require the Medicare trust fund to pay the cost of this new benefit for veterans who choose it and who are also eligible for Medicare Part A and enrolled in Medicare Part B.

Recently the Secretary of Veterans Affairs has decided to restrict enrollment of higher income veterans to those who were enrolled prior to January 17, 2002. Consequently, this legislation would allow veterans who no longer have the option of receiving a full continuum of health care services to receive subsidized prescription drug coverage from VA.

Providing, this new drug benefit to Medicare eligible veterans could also have the effect of eliminating the enormous queues that have developed as higher income veterans have flooded the system to seek inexpensive prescription drugs. As of the end of January, about 202,000 veterans had waited longer than six months for a first primary care visit or for necessary follow up care. Many of these veterans are likely to be Priority 7 or 8 veterans who constituted more than 75 percent of VA's new users in 2002. Offering these veterans an opportunity for new drug coverage without first obtaining an appointment with a VA provider could have the effect of significantly reducing or entirely eliminating these waiting times. In fiscal year 2002, VA estimates almost 900,000 veterans used the VA health care primarily or exclusively to fill drug prescriptions who would also be likely to take advantage of a new prescription drug benefit.

At the end of 2000, VA's Office of Inspector General (IG) advised "VHA can reduce the cost impact of providing prescriptions to priority group 7 veterans, make additional resources available for veterans healthcare, and enhance the delivery of prescription services to veterans." (Audit of Veterans Health Administration (VHA) Pharmacy Co-Payment Levels and Restrictions on Filling Privately Written Prescriptions for Priority Group 7 Veterans, Report No. 99–00057–4, December 20, 2000) This report suggested that VA could have saved more than $1.3 billion in fiscal year 2001 by eliminating the need for VA to re-examine veterans who have already received examinations and tests to receive prescriptions from private physicians. These savings were projected only for Priority 7 veterans, who were, at that time the group with the lowest priority for care. For all veterans, the IG might project even higher savings.

While cognizant of his IG's finding, Secretary Anthony J. Principi testified before the Committee on Veterans Affairs that he believed that the IG did not factor in the additional costs of new demand for the prescription drug benefit. His response when asked about a prescription drug bill introduced in the 107th Congress by Mr. Wicker was:

> I would like nothing, better than to be able to provide prescriptions for all of our veterans. And I very, very seldom disagree with my IG about cost.
>
> There is no question that the IG is right that we would save money if we did not have to do the medical evaluation, like Mr. Simmons said earlier. . . . I think the doors would come tumbling down by 25 million veterans or whatever percentage are on prescriptions, seeking to get their prescriptions filled at the VA. So I think yes, on the one hand we would save money. But how do you control the workload increase?
>
> If you just increase by 25 percent the number of veterans who are coming to us for prescriptions—and that is not a large number—the bill would be $9.2 billion. Fifty percent, it would be $15.9 billion. Again, where do we get the money?

Offering veterans an opportunity to receive subsidized drug coverage from VA through Medicare and receive the rest of their care from their choice of private providers is one possible solution to the Secretary's dilemma. My bill requires a veteran to choose between a VA benefit and a Medicare benefit. I do not believe it is likely that thousands of satisfied veterans would disenroll from VA to receive this new benefit—those with satisfactory access can receive even cheaper drugs as VA beneficiaries. However, particularly since Priority 8 veterans are being told they can no longer enroll for all health care services and waiting times make access to VA services difficult for some veterans, I believe some lower priority veterans might opt to receive the new Medicare benefit administered by VA. In addition, it would present a new option for subsidized drug coverage to Medicare—eligible veterans that might interest veterans who have never attempted to access the VA system.

My bill also provides an option for veterans who have highly rated service-connected disabilities to have this coverage at VA expense to fill private sector physician written prescriptions. I believe this option might only be attractive to veterans that have serious access problems due to their distance from VA medical centers or other factors that make even the rare visits to physicians necessary for pharmacy refills extremely difficult.

The yearly option to choose one system or the other—Medicare or VA—for health care benefits offers the federal government an opportunity to assess the effect of coordinating multiple eligibilities without compelling veterans to choose between services to which they currently have open access. Because this is a new benefit, veterans' choice to enroll for that benefit would not be easily characterized as a dimunition—but rather would be an enhancement—to existing choices.

Mr. Chairman, I believe the "Veterans Prescription Drug Benefits Act of 2003" offers a solution to many of the problems confronting VA today. It will allow VA to offer some benefit to veterans who have been "locked out" of VA for the indefinite future and a more convenient choice for the many veterans currently in long queues for their first appointment for VA provided health care.

I have letters of support from several of our major service organizations that I would like to insert into the CONGRESSIONAL RECORD.

AMERICAN VETERANS,
*Lanham, MD, March 17, 2003.*

Hon. LANE EVANS,
*Ranking Member, House Veterans' Affairs Committee, Washington, DC.*

DEAR REPRESENTATIVE EVANS: On behalf of the members of AMVETS, I write to express our gratitude and support for your leadership in proposing legislation to permit veterans to obtain prescriptions from veterans' hospitals using prescriptions written by hometown doctors.

Currently, veterans are eligible to receive prescription medications from the VA only if a VA physician prescribes the medication. While insisting that a VA doctor see the patient may not seem like too great an imposition, many of the more than 200,000 veterans waiting over six months for a doctor's appointment are waiting to have a prescription written and filled.

Your legislation would allow VA to fill veterans' prescriptions written by hometown doctors under special circumstances. First, the veteran would accept VA solely for the purpose of filling prescriptions. Second, the veteran would be required to make a copay based on the type of drug treatment requested. And, third, the cost of the prescription would be partially offset through Medicare reimbursement.

This change would provide an avenue for many veterans to receive timely access to prescription drugs and reduce the number of veterans waiting to see a VA physician as well.

Again, we appreciate your creative approach to solving an issue facing many veterans and thank you for taking a very big step toward helping veterans receive access to prescription medications.

Sincerely,

RICHARD A. JONES,
*National Legislative Director.*

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THE AMERICAN LEGION,
*Washington, DC, March 17, 2003.*

Hon. LANE EVANS,
*Ranking Democratic Member, Committee on Veterans Affairs, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR REPRESENTATIVE EVANS: The American Legion looks forward to working with you and your staff on the draft legislation, Veterans Prescription Drug Benefits Act of 2003. This is a proposed new benefit program for Medicare-eligible veterans that choose only to use the Department of Veterans Affairs' (VA's) pharmaceutical services. The legislative intent is to provide a new option for certain Medicare-eligible veterans; however, there are concerns:

The American Legion does not agree with Priority Group 1 veterans paying any enrollment or co-payments for this service.

What is the impact on Medicare-eligible veterans in Priority Groups 2-8 with service-connected medical conditions? Would they have to disenroll to participate in this program? If the Centers for Medicare and Medicaid Services (CMS) funding fails to cover the actual cost of the program, how will VA be reimbursed? Is CMS willing to adopt this as a new Medicare program? Will this be scored as third-party reimbursements, an offset against annual discretionary appropriations? Why must VA collect the enrollment fees and co-payments, transfer these collections to CMS, then CMS transfer funds back to VA?

Will VA be staffed with qualified pharmaceutical personnel to meet increased pharmaceutical demands?

The American Legion applauds your efforts to solve one of many challenges facing the VA health care system. The VA health care system is a comprehensive program that addresses the total range of veterans' health needs. Likewise, Congress must address the overall problem of delivery and demand for services from a growing patient population.

Thank you for your continued leadership on behalf of America's veterans.

Sincerely,

STEVE ROBERTSON,
*Director,*
*National Legislative Commission.*

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BLINDED VETERANS ASSOCIATION,
*Washington DC, March 14, 2003.*

Hon. LANE EVANS,
*Ranking Democratic Member, House Veterans Affair Committee, Cannon House Office Building, Washington, DC.*

DEAR CONGRESSMAN EVANS: On behalf of the Blinded Veterans Association (BVA), the only Congressionally chartered veterans service organization exclusively dedicated to serving the needs of our Nation's blinded veterans, thank you for your initiative to create a prescription drug benefit for veterans. BVA supports your proposed legislation Offering Medicare-eligible veterans an opportunity to fill their non-VA prescriptions at a VA facility in lieu of enrollment into the VA health care system is the right approach to take. Over 900,000 veterans indicate they use the VA system primarily for prescription drugs. BVA believes this bill as written, will alleviate some of the unnecessary waiting time backlog created by veterans scheduling appointments exclusively to receive a prescription from a VA doctor. In many cases, a non-VA physician has previously prescribed the prescription they are seeking. Provision of a funding mechanism that will not further erode the already insufficient funding levels for VA Health Care is the most attractive aspect to this proposal.

VA supports inclusion of Priority 1 veterans in this benefit. Offering a prescription drug benefit to veterans who choose not to fully use the VA health care system because of distance or personal preference, is the right action to take. We caution you to be very clear in your explanation of prescription coverage as an ADDITIONAL benefit that does not take away a Priority 1 veterans access to any other VA service.

Sincerely,

THOMAS H. MILLER,
*Executive Director.*

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MILITARY ORDER
OF THE PURPLE HEART,
*Springfield, VA, March 14, 2003.*

Hon. LANE EVANS,
*Ranking Minority Member, House Committee on Veterans Affairs, Cannon Building, Washington, DC.*

DEAR CONGRESSMAN EVANS: First, on behalf of the members of the Military Order of the Purple Heart (MOPH) I want to thank you for your unwavering support for combat wounded veterans, indeed your support for all veterans.

Second, we are aware that you are going to introduce legislation that would create a prescription drug benefit for veterans. MOPH supports your efforts in this endeavor and looks forward to passage of the legislation.

Respectfully,

WILLIAM A. WROOLIE,
*National Commander.*

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PARALYZED VETERANS OF AMERICA,
*Washington, DC, March 18, 2003.*

Hon. LANE EVANS,
*Ranking Democratic Member, Committee on Veterans' Affairs, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR REPRESENTATIVE EVANS: On behalf of the Paralyzed Veterans of America (PVA), I am writing to offer our support for the "Veterans Prescription Drug Benefits Act of 2003," By providing a new Medicare drug benefit to veterans, your measure would begin to address a vital need and concern of our elderly citizens—the need for affordable pharmaceuticals.

The increasing use of prescription drugs for medical treatment options has revolutionized the provision of medical care. Every year pharmaceuticals represent an ever-growing percentage of health-care expenditures. Medicare has not kept up with this revolution. By providing veterans with this benefit, facilitated through the Department of Veterans Affairs (VA) and ensuring that VA does not spend scarce and inadequate resources, we can begin the process of reflecting the manner in which health care is delivered in this Nation.

This measure, unlike others, would not force the VA alone to bear the burden of addressing this national policy failure. The VA would merely be acting to facilitate a benefit offered to veterans, a benefit that would provide substantial pharmaceutical savings to the federal government because of VA's statutorily mandated discounts. In addition, this measure would reimburse the VA for expenses relating to the implementation of this benefit as well as costs incurred in administering it.

Although veterans seeking treatment for a service-connected condition, and veterans with service-connected disabilities rated at 50 percent or more are expressly exempted from the requirement of enrolling in order to receive care by Medicare benefit, and foregoing their VA health care options are always able to seek treatment for service-connected conditions at VA facilities. Additionally we request that other veterans needing specialized services be afforded access to care.

Again, thank you for introducing the "Veterans Prescription Drug Benefits Act of 2003." We look forward to working with you closely in order to pass, and ultimately enact, this important measure.

Sincerely,

DELATORRO L. MCNEAL
*Executive Director.*

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VIETNAM VETERANS OF AMERICA,
*Silver Spring, MD, March 18, 2003.*

Hon. LANE EVANS,
*Ranking Democrat, Committee on Veterans Affairs, House of Representatives. Cannon House Office Building, Washington, DC.*

DEAR CONGRESSMAN EVANS: Vietnam Veterans of America (VVA) strongly supports the "Veterans Prescription Drug Benefit Act of 2003" that you plan to soon introduce to the House of Representatives.

As you know, VVA reluctantly supported Secretary Principi's decision to temporarily suspend new enrollments of Category 8 veterans only because the Veterans Health Administration (VHA) medical facilities were in such a dire under-funded state. While the approach that you have taken in moving to relieve this pressure might not be what VVA would choose in a perfect world, in the real world of a veterans health care system that is so grossly under funded this is a similarly sensible, responsible, and effective approach to provide relief to the system.

While VVA has not favored such plans to allow VA to so provide pharmaceuticals in the past because they included no way to fully fund VA honoring prescriptions written by non-VA physicians, your proposal does allow for payment of such from both Part A and Part B of Medicare in addition as well as and annual enrollment fee and co-payments that are reasonable. As long as such prescriptions are provided at a net negligible additional cost to the system, VVA does favor this proposal for Medicare eligible veterans who are not service connected disabled.

In regard to the provision that would accord priority group 1 (70 percent or greater service connected disabled) veterans the opportunity to have non-VA prescription drug orders filled by VA via mail fulfillment, VVA favors such mail fulfillment as a convenience for veterans who sometimes have to travel great distances to reach a VHA each time they renew their prescription, imposing a hardship.

As the primary purpose of the Veterans Health Administration is to be a "veterans health care system" and not just a general health care system that happens to be for veterans, VVA urges that you amend this bill at mark up to require that there is a complete physical, including blood draw tests annually performed on at least the Priority 1 veterans covered under this proposal. While VHA continues (inexplicably to VVA) to fail to ensure that a complete military history be taken on every single veteran seeking health care services from VHA, and that VHA clinicians use this key data to do a proper assessment of overall health of the veteran, including conditions or illnesses that may be due to exposures or other factors during his/her military service, there is still a need for VHA to fulfill their responsibilities for medical oversight of significantly and or profoundly disabled veterans.

If this proposed legislation reduces the utilization of VHA services primarily or only to secure pharmaceuticals by only a proportion of the 900,000 veterans reported seeking services for this reason, then it will help relieve the pressure that is crushing the VHA system without leaving any veteran without alternative services.

Again, VVA thanks you for your strong leadership on behalf of America's veterans.

Sincerely,

RICHARD F. WEIDMAN,
*Director of Government Relations.*

## IN RECOGNITION OF CLARK MERSHON

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Clark Mershon, a very special educator who has exemplified the finest qualities of citizenship and leadership. He has been honored as the Missouri Association of Secondary School Principals 2003 Middle School Principal of the Year.

Clark began his teaching career in 1982 at Lebanon Junior High School, as both a teacher and coach and advanced to Principal in 1992. He currently serves as Principal of New Mark Middle School in North Kansas City, Missouri, where he has been since 1997. Clark was given this distinction because of the impact he makes on both staff and students.

The staff of New Mark Middle School commend Clark for his strong leadership shown to teachers, students and community members. His humanity, humility, and sound instructional and organizational skills illustrate the importance of his impact on his school and community.

The student body acknowledges Mr. Clark for his welcoming personality that instills pride, honor and school spirit at New Mark.

Mr. Speaker, I proudly ask you to join me in commending Clark Mershon as the MASSP's Middle School Principal of the Year. Clark exemplifies the qualities of exceptional leader and Principal and we are proud to have him as an educator in the 6th District of Missouri.

## TRUTH SEEKERS SUBSTANCE OUTREACH MINISTRY, INC.

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. PAYNE. Mr. Speaker, it is with great pride that I recognize Truth Seekers Substance Outreach Ministry, Inc. on their 10th anniversary celebration in Newark, New Jersey.

Under the direction of Reverend Lance Abercrombie, Truth Seekers Outreach Ministry began its journey in 1993. Traveling throughout the tri-state area, Reverend Abercrombie and his cousin, Wayne Reynolds, worked to spread the word of how their faith saved them from a life of substance abuse. Becoming incorporated in May of 2000, they have worked hard to refer individuals to detoxification and rehabilitation centers, shelters, as well as other organizations to help assist individuals on their road to a life free of substance abuse.

The Truth Seekers Outreach Ministry, Inc. has reached out to our community to see that those in need are not left behind. They are providing a wonderful service to the many men and women in this country who suffer from substance abuse, by showing them that there is hope and that they can conquer their illness.

Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me in congratulating Truth Seekers Outreach Ministry, Inc. on their 10th anniversary, and wishing them the best for the future.

## TRIBUTE TO SOUTHERN OREGON RADIO PERSONALITY DICK BAILEY ON HIS RETIREMENT FROM THE AIRWAVES

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to my good friend Dick Bailey and congratulate him on his retirement from the airwaves of southern Oregon. Dick's commanding, gravelly voice has been a fixture of KCMX radio in Medford for five years and he will surely be difficult to replace.

Dick Bailey was born on February 4th, 1941, in Winchester, Massachusetts, a sin for which the people of Oregon long ago forgave him when they welcomed him into their warm Western embrace. Dick graduated from Gorham High School in Gorham, Maine, and afterward enlisted in the United States Marine Corps, where he served from 1958 to 1962. He went on to receive a degree from the College of the Sequoias in Visalia, California and also attended the College of the Desert in Palm Desert, California, where he edited the college's first newspaper.

Dick's professional career has been a long and varied one that has taken him to radio and television stations in California, Washington, Alaska, Vermont and of course Oregon over the past 41 years. While in Alaska, he taught broadcasting classes at the University of Alaska. Dick spent several years announcing at the Redwood Acres Speedway and Eureka Speedway in California, as well as the Southern Oregon Speedway. He also announced the Hanford 150 in Hanford, California, and a Canadian-American Race in Vermont. Dick's wandering came to an end when he settled in Shady Cove in Oregon's Jackson Valley, and it is there that he will retire.

During his career, Dick has covered Presidents Ronald Reagan, George Bush the Elder, Bill Clinton and our current President Bush. During President Bush's trip to southern Oregon last year, he provided steady and reliable coverage of the President's visit, which his listeners have come to expect from Dick. For years he has communicated the latest news and happenings around the greater Medford area with clarity and precision. Dick has both a voice made for radio, and no one who has heard him on the airwaves doubts that he found his true calling. Fortunately, he also has a tremendous sense of humor.

Mr. Speaker, Dick Bailey's service to his community did not just come in the form of his news broadcasts. He has also lent his voice to the Jacksonville Christmas Parade and other local activities. Anyone who knows Dick knows of his love of the outdoors, and his service as a member of the Jackson County Parks Commission reflects his desire to preserve the natural beauty of his adopted home. He is an active outdoorsman and has made clear how much he looks forward to the extra time he will have for fishing following his retirement. In the years ahead, the local fish population will have much to fear from Dick as he spends his days casting his line and enjoying the beauty of southern Oregon's waterways.

Mr. Speaker, Dick Bailey will be fondly remembered by his listeners in southern Oregon, just as he'll be missed by his colleagues. Like everyone who has dealt with Dick in a professional capacity, I'm sorry to see him retire, but happy to see him begin the relaxing years of his retirement. Thank you for everything you've given to us, Dick, and best wishes in the years ahead.

## THE EAST KERN AIRPORT DISTRICT IN MOJAVE, CALIFORNIA

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. THOMAS. Mr. Speaker, I rise today to introduce legislation that is necessary to enhance our national security. The East Kern Airport District in Mojave, California, faces unique security threats.

Although it is a General Aviation airport and does not have commercial passengers, the East Kern Airport District is home to high-tech aerospace firms and provides storage to over 300 commercial transport aircraft. These aircraft, which are stored with fifty percent of their fuel tanks full, rest just minutes through the air from several major military installations and downtown Los Angeles.

Since September 11, 2001, the Airport has been seeking funding to address these threats, as it fears a serious act of terrorism. However, the Airport has been repeatedly informed that no security funds are available for its needs because it is classified as a General Aviation airport.

To correct this situation, I am introducing legislation today to ensure that the Undersecretary of Transportation has the authority needed to enhance security at the East Kern Airport District. Very simply, this legislation will allow the Undersecretary to provide up to $300,000 annually to meet the Airport's security costs and up to $1.25 million to reimburse the East Kern Airport District for security costs incurred since September 11, 2001.

I trust that my colleagues and the appropriate Department of Homeland Security officials will recognize the East Kern Airport District's unique situation and work with me to ensure that the Airport is adequately protected.

## RICHARD K. ARMEY ROOM

SPEECH OF

### HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. SENSENBRENNER. Madam Speaker, I rise today to pay tribute to my good friend and former colleague, Former Majority Leader Richard K. Armey. Representative Armey recently retired following 18 years of distinguished service in the House of Representatives, including eight years as the Majority Leader.

From his humble roots in Cando, North Dakota, to his rise in Washington, Dick Armey never drifted from his principles of honesty and integrity. He made life better not only for his constituents in Texas, but for Americans all across this great land. His work in Congress saved taxpayers millions of dollars annually. His sound conservative values renewed America's commitment to the principles of personal freedom and limited government.

As a loyal and dedicated conservative, Dick Armey advocated welfare reform, personal retirement accounts for Social Security, and fundamental reform of the tax code. He specifically supported implementing a flat tax. His persistence to this cause gave it a national platform. This cause continues in his new career at Citizens for a Sound Economy as its Co-Chairman.

It has been a great honor to spend most of my tenure in Congress working with Representative Armey, a fine Southern gentleman and true fiscal conservative. The naming of Room 236 in the U.S. Capitol as the Richard K. Armey room is a deserving tribute for a committed public servant. I will miss my good friend Grumpy, and I wish him and his wife Susan all the best in the future.

## TRIBUTE TO CONNIE BUCHNER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I stand before you today to recognize Connie Buchner of Rocky Ford, Colorado for her decades of service to the United States Postal Service. Connie retired in January after a a thirty-four year career and, as she enjoys her retirement, I would like to highlight her accomplishments before this body of Congress and this nation.

In her thirty-four years with the postal service, Connie has overseen remarkable changes in technology, moving from labor-intensive mail processing to a largely automated workload. Connie also supervised increased security demands following the September 11, 2002 terrorist attacks.

Connie began working for the postal service in 1970 as a letter carrier. She rose through the ranks to become Rocky Ford's postmaster, and also served as the Fowler postmaster for sixteen years. Connie has touched many lives in her long career, and the Rocky Ford community insisted on holding an open house reception to officially send her off into retirement.–

Mr. Speaker, it is a great privilege to recognize Connie Buchner for her thirty-four years of outstanding service to her community. Post Offices are often the lynchpin of small communities, and Connie filled her position with the Postal Service with compassion and efficiency. I am thankful for her service.

## HONORING THOMPSON ENGINEERING

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. BONNER. Mr. Speaker, I rise today to recognize Thompson Engineering, an extraordinary engineering design, environmental, construction inspection and materials testing firm located in Mobile, Alabama. Each year, the Alabama Chapter of the American Council of Engineering Companies honors outstanding engineering achievements with its Engineering Excellence Awards. This year, Thompson Engineering was recognized with the 2003 Engineering Excellence Honor Award by the Alabama Chapter and received national recognition by the American Council of Engineering Companies for its outstanding work as prime design consultant for the Mobile Landing project.

Mobile Landing is a twelve-acre municipal wharf complex on the Mobile River adjacent to the waterfront business and entertainment districts in downtown Mobile, Alabama. The landing provides the citizens of Mobile with a publicly accessible waterfront development including a new ceremonial docking space for large oceangoing vessels; a riverfront pedestrian promenade; an outdoor plaza with amphitheater, bandstand and fountain; parking for vehicles; utilities; security and lighting and landscaped open space.

Thompson Engineering, as the lead design firm, developed the master plan for the project site and provided architectural and engineering design and construction management services for the project. Thompson also provided grant budgeting and management, regulatory permitting and environmental assessment, subsurface exploration, land and hydrographic surveying, and a cultural resources reconnaissance report for the project.

Mr. Speaker, I proudly ask you and my colleagues to join me and the American Council of Engineering Companies in honoring Thompson Engineering for its outstanding work with the Mobile Landing project. The landing and its facilities will prove to be another valuable asset to the City of Mobile, its citizens and visitors provided by Thompson and its talented and distinguished team of designers and contractors. I personally thank and recognize Thompson for its continued dedication to the City of Mobile and the State of Alabama.

## INDIAN POLICE COLLECTING DATA ON CHRISTIANS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, I was disturbed to read an article in the Hindustan Times saying that Indian police are collecting data on Christians in Gujarat. Gujarat is the site of the massacres of Muslims last March in which 2,000 to 5,000 Muslims were killed. Hasn't Gujarat seen enough trouble?

According to the report, the All-India Christian Council submitted a memorandum to the state police chief detailing the survey. The police are seeking information on family sizes, job profiles, sources of funds, and even whether the person is a first-generation Christian and/or has converted. At least 25 Christian institutions have been questioned in just a few days. The article quotes Bishop Gregory of Rajkot as saying that he was asked "about the number of Christians and institutions here." Father Cedric Prakash of the United Christian Forum for Human Rights predicts that "this survey may be a buildup to the anticonversion bill."

India has already outlawed conversions to any religion but Hinduism in two states. Recently the ruling BJP has begun an effort to make that national.

This is outrageous, Mr. Speaker. It is a major violation of religious freedom, which is one of the main pillars of a democracy. Instead, India is again acting like a Hindu fundamentalist theocracy.

In 1997, a Christian festival on the theme "Jesus is the answer" ended when the police fired their guns at it to close it down after they received complaints that the festival was converting people. Missionary Graham Staines and his two sons, ages 8 and 10, were murdered while they slept in their jeep. The murderers surrounded the jeep and chanted "Victory to Hannuman, " according to contemporaneous news reports. None of these people has been held accountable. Now an American missionary, Joseph Cooper, has been expelled from India after being severely beaten by Hindu nationalists.

Since 1998, Christian priests have been murdered, nuns have been raped, churches have been burned as they were in the Old South during segregation, Christian schools and prayer halls have been violently attacked. Since India's independence in 1947, its forces have murdered over 200,000 Christians. They have also murdered over 250,000 Sikhs since 1984, over 85,000 Kashmiri Muslims since 1988, and tens of thousands of Dalits, Bodos, Assainese, Manipuris, Tamils, and other minorities. Many lowercaste Hindus are converting to Christianity and other religions and now the BJP is passing laws to prohibit this.

Mr. Speaker, these are the acts of a theocratic tyranny, not a real democracy. We must impose the sanctions appropriate for a violator of religious freedom. We must also stop our aid and trade with India until it begins to allow the exercise of basic human and religious rights. And we must support selfdetermination for all the people of South Asia as the best way to bring real freedom, peace, stability, and prosperity to that troubled region.

Mr. Speaker, I would like to place the Hindustan Times article into the Record at this time.

[From the Hindustan Times, Mar. 9, 2003]

### Gujarat Christians Allege Survey of Families

(By Rathin Das)

Ahmedabad, March 8.—The Gujarat Police have reportedly started a discreet survey of Christians in some parts of the state, seeking information on family sizes, job profiles and sources of foreign funds. The All-India Christian Council, which submitted a memorandum to the state police chief on Friday, is planning to move the High Court over the issue next week.

State Director General of Police K. Chakravarthy told the Hindustan Times that no statewide survey had been ordered. He added, however, that some information might have been sought from some people on the orders of district police chiefs.

A senior home department official echoed the state police chief. He told the Hindustan Times that no survey of Christians had been ordered. "It may be a survey about foreign funds and its use, but that is applicable for institutions of all communities," he said.

But despite official denials, community leaders alleged that policemen came calling at some houses in Ahmedabad, Sabarkantha, Banaskantha and Kutch districts over the past few days and asked about the antecedents and assets of Christian families.

Community leaders also said at least 25 Christian institutions and families had been questioned over the past few days. Police personnel who visited Christian institutions, they said, wanted information on the number of Christians in the area and other details, like the sources of their funds. Bishop Gregory of Rajkot, who was questioned by the police on Friday, said: "I was asked about the number of Christians and institutions here." The police also asked him to contact the nearest police station if he needed help, Bishop Gregory told this correspondent.

The police have also asked some Christians whether they converted voluntarily or under pressure, and whether they were first-generation Christians.

"This survey may be a build-up to the anti-conversion bill the government wants to introduce in the state assembly during this session," said Father Cedric Prakash of the United Christian Forum for Human Rights.

One church leader in Saurashtra was asked whether Christians would hold demonstrations if the anti-conversion bill is introduced in the assembly, sources said.

Individual Christians are scared to speak to the press as many of them are in government employment. In the wake of the attack on Christians and the burning of churches in the Dangs district around Christmas 1998, the state intelligence department had ordered a similar survey, but abandoned it after a petition was filed in the Gujarat High Court.

Minority report:

July 1998—Copies of the New Testament burnt in a Rajkot school;

Oct 1998—Christian congregation attacked in Vadodara;

Dec 1998—Government threatens to stop grants to Christian schools;

Dec 1998—Churches razed in Dangs district;

Jan 1999—PM visits Dangs, calls for national debate on conversions;

Feb 1999—Secret survey ordered, first of Christians, later of Muslims;

Jan 2000—Government lifts ban on employees joining RSS.

## TRIBUTE TO SUE JONES

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Sue Jones of Pagosa Springs, Colorado for her outstanding service to the citizens of Pagosa Springs and the many student athletes of the Archuleta School District. For the last nineteen years, Sue has helped organize Pagosa Springs' Annual Blow-out charity softball tournament, and I would like to acknowledge her efforts before this body of Congress and this nation.

For eleven years, Sue has been the tournament's director. Each year over thirty teams come from all over the four-corners region to participate in the tournament, generating thousands of dollars for the local economy, in addition to charity contributions. For the first ten years of the tournament, proceeds went to support the Spanish Fiesta Scholarship Fund, then for two years to St. Jude's Children's Hospital. For the last seven years proceeds have gone to local school athletic programs.

Just over the past three years, Sue has raised enough money to allow the Pagosa Springs school athletic department to purchase baseballs, a radar gun, volleyballs, score clocks, weight room equipment, and wrestling shoes. She also contributed to a band competition trip to the Air Force Academy. During the school year, Sue donates countless hours to school athletic programs as a scorekeeper.

Mr. Speaker, it is a great privilege to recognize Sue Jones for her enduring commitment to the boys and girls of Pagosa Springs before this body of Congress and this nation. Sue recognizes the importance of athletic programs and competition in the development of well-rounded and conscientious young citizens. Her energy and service have provided students of the Archuleta School District invaluable support for their athletic dreams.

## THE ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC ON MARCH 12, 2003

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CROWLEY. Mr. Speaker, I rise today to express outrage at the assassination of the Serbian Prime Minister Zoran Djindjic. This assassination represents a hideous and appalling crime that was intended to block reform and democratization endeavors. The United States has strongly endorsed Djindjic's reform-minded approach, his advocacy of democratic values and his struggle to propel Serbia into modern Europe and the Western world of democratic nations.

As a student in Belgrade he was jailed after joining a non-communist student organization protesting against Marshal Tito's communist rule. In the late 1990s, Djindjic emerged as the leading figure in the opposition movement against Yugoslav President Slobodan Milosevic.

Congress had a vital interest in ending Milosevic's dictatorship in Serbia, and Djindjic was instrumental in helping engineer the demise of this evil ruler. Djindjic played a crucial role in the arrest of Milosevic, and he later courageously sent the dictator to the United Nations war crimes tribunal in The Hague. When Milosevic was handed over to the tribunal in 2001, the Prime Minister pushed aside the objections of other senior Serbian politicians, and he was prepared to confront the harsh criticism by Serbian nationalists.

The prosecutors at the United Nations tribunal regarded him as their best hope to deliver fugitive Serbian war criminals indicted by the court. At the time of his tragic death, Djindjic had been preparing to arrest Milorad Lukovic and his associates, some of whom are suspected of committing war crimes and belonging to an underworld group accused of dozens of murders and kidnappings.

By promoting economic and democratic reforms, Djindjic was further instrumental in realizing the U.S. goal of bringing and maintaining stability on the Balkans. Djindjic saw the need for reform and taught his people to understand the demands and rewards of integrating Serbia into the world of peaceloving democracies. He urged the Serbian people to confront and work up its own past in order to manage the difficult task of democracy building. Djindjic understood the challenge to tackle these difficulties instead of denying them even if they are unpleasant. His death represents a major setback to the fight for democratic stability in this important transitional phase.

I express my condolence to the people of Serbia and to Serbian-Americans on the sad and tragic death of Zoran Djindjic, whose courageous endeavors to bring democracy to Serbia must not be forgotten.

## TRIBUTE TO ARTHUR VALENTINE YAROCH

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to the life of Arthur Valentine Yaroch, who passed away March 5, 2003, at the age of 73. Mr. Yaroch, who served with distinction as the director of finance for the City of Mobile under former Mayor Arthur Outlaw, was a pillar of the Mobile community and will be deeply missed.

Art Yaroch, a native of Detroit, was a longtime resident of Mobile and Ono Island. After earning a bachelor's degree in business administration, he worked as a member of the controller's staff at Uniroyal Tire Co. and then as a comptroller with Borden, Inc. Art then moved to Mobile and became the executive vice president of Colonial Sugars.

In March 1989, Art was appointed as the City of Mobile's finance director and resigned at the end of that year. He also served on the board of directors of The Lighthouse, as membership chairman of the Baldwin County Republican Party and as treasurer of the Pleasure Island Republican club. Art Yaroch was a devoted parishioner of St. Thomas by the Sea Catholic Church in Orange Beach where he was an usher and past member of the parish council.

Mr. Speaker, it is my great honor to pay tribute to the life of Art Yaroch. He was my friend and he will be sorely missed by all who knew him. Art is survived by his lovely wife, Isabel; two sons, Arthur and Steven; two daughters, Lauri Ann Grove and Susan Courtney; two brothers; two sisters and eight grandchildren. I would like to extend my prayers and deepest sympathies to his entire family and many friends.

## SAVE THE LIFE OF DEVINDER PAL SINGH BHULLAR

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. TOWNS. Mr. Speaker, Devinder Pal Singh Bhullar is about to be put to death in India for a crime even India admitted he didn't commit.

I thank my friend Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, for bringing this shameful case to my attention. The Council of Khalistan put out a very informative press release on the case.

The chief judge of a three-judge panel from India's Supreme Court found Mr. Bhullar not guilty of the crime of which he was accused, involvement in a bombing. The judge ordered Mr. Bhullar's release. Instead, the Indian government tortured Mr. Bhullar until he signed a fake confession. Now they are trying to put him to death.

Unfortunately, this is just the latest episode in India's abuse of minorities, which has been well documented in Congress by many of my colleagues and me. This brutal atrocity against justice must be stopped.

The Bush Administration should demand Mr. Bhullar's release, or at least a new trial. In addition, they should impose sanctions on India, cut off its aid and trade, and put this Congress on record in support of self-determination for the Sikh Nation of Khalistan and the other 16 minority nations seeking their freedom from India. This should be done in the democratic way, through a free and fair plebiscite. It is time for India to start acting like a democracy, and it can start by sparing the life of Devinder Pal Singh Bhullar.

Mr. Speaker, I would like to enter the Council of Khalistan's press release on Bhullar into the RECORD at this time for the information of my colleagues and the public.

[Council of Khalistan—Press Release, Feb. 25, 2003]

DEVINDER PAL SINGH BHULLAR'S LIFE MUST BE SPARED

INDIAN CONSTITUTION ONLY PROTECTS MAJORITY HINDUS MINORITIES ELIMINATED, DIRECTLY OR BY COURTS

WASHINGTON, D.C.—The impending execution of Devinder Pal Singh Bhullar shows that the Constitution of India only protects the majority Hindu population, according to Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh struggle for independence from India. Dr. Aulakh called on the President of India to stop the execution. Bhullar was accused of a 1993 bomb blast near the Youth Congress office in Delhi in which 20 people were killed. Congress leader M.S. Bitta lost a leg in that attack.

The presiding Judge of a three-Judge bench in the Supreme Court of India found Professor Bhullar, a political activist, 'Not Guilty' and directed that he be released. However, Professor Bhullar was convicted based on a forced confession obtained through torture, which was retracted. On that basis India wants to impose capital punishment on Professor Bhullar. Sajjan Kumar and H.K.L. Bhagat, who personally incited the murder of thousands of Sikhs in Delhi, got off scot-free without any punishment. Even by Indian standards, this is an outrageous miscarriage of justice.

"The Bhullar case is merely the latest example of how India eliminates minorities," said Dr. Aulakh. Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been picked up, tortured, and killed, then their bodies are declared unidentified and secretly cremated. Then Mr. Khalra was murdered in police custody. His body was not given to his family. Similarly, the police murdered former Jathedar of the Akal Takht Gurdev Singh Kaunke. His body was not handed over to his family.

Last spring the Indian police stood aside under orders while militant Hindus murdered 2,000 to 5,000 Muslims in Gujarat. Australian missionary Graham Staines was murdered a few years ago by VHP activists. Staines and his two young sons were burned to death while they slept in their jeep. Their killers surrounded the jeep and chanted "Victory to Hannuman," a Hindu god. After the murder, Staines's widow, who was working with lepers, was expelled from India. No one is ever punished for these atrocities. Nuns have been raped, priests have been murdered, and Christian churches have been burned by the fanatic, fundamentalist Hindu nationalist militants.

"It is clear from these actions that India is not the democracy it claims to be," said Dr. Aulakh. "Instead it is a tyrannical Hindu theocracy where minorities die or disappear," he said. "There is a consistent pattern of Indian government efforts to protect its tyrannical rule over the minorities of South Asia."

The Indian government has murdered over 250,000 Sikhs since 1984, more than 200,000 Christians since 1948, over 85,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. More than 52,000 Sikhs are being held as political prisoners. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. No Sikh representative has ever signed the Indian constitution. The Council of Khalistan is the government pro tempore of Khalistan, the Sikh homeland. The Sikh Nation demands freedom for its homeland, Khalistan.

"Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sinc qua non and India should allow a plebiscite for the freedom of the Sikh Nation and all the nations of South Asia," Dr. Aulakh said.

## TRIBUTE TO CHRISTY WHITNEY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I stand before you today to recognize the leadership of Christy Whitney of Grand Junction, Colorado. For the last ten years, Christy has served as the president and CEO of Hospice and Palliative Care of Western Colorado, an institution dedicated to enhancing quality of life for the seriously ill in Mesa, Delta, Montrose and Ouray counties.

A registered nurse, Christy has recently been elected to serve as a director of the National Hospice and Palliative Care Organization. In her new post, Christy will represent hospice programs nation-wide by working with other organizations that share an interest in end-of-life care. Christy also chairs the National Hospice Work Group, a professional coalition of executives from some of the nation's most innovative hospices. Christy's involvement in national hospice organizations ensures that she is at the cutting edge of education, research and advocacy for the best ideas and models for end-of-life care. Her national leadership is an invaluable asset to her patients in Western Colorado.

Mr. Speaker, it is a great privilege to recognize Christy Whitney for her outstanding commitment to the seriously ill. Her organization serves a vital purpose to the citizens of Western Colorado, and her leadership is a credit to the community she serves. I am honored to recognize her accomplishments before this body of Congress and this nation.

## THE FAILURE OF THE CYPRUS PEACE TALKS

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CROWLEY. Mr. Speaker, I rise today to express my disappointment about the failure of the latest Cyprus peace talks. United Nations Secretary General Kofi Annan carefully worked out an acceptable peace plan which represented a compromise approach. The UN peace plan to reunite Cyprus as a single bicommunal federation enjoyed strong support by the United States, the EU, and the wider international community. This plan would have satisfied the interests of both the Greek Cypriots and the Turkish Cypriots.

I thus applaud Cypriot President Tapas Papadopolous who accepted the UN proposal and was prepared to submit the plan to a separate referendum on March 30. Moreover, immediately after the failure of the negotiations, Papadopolous announced that the Greek Cypriot side will continue its efforts for reaching a solution to the Cypriot issue within the UN framework.

Likewise, I must express my disappointment to the Turkish Cypriot leader Rauf Denktash who was unwilling to settle for a compromise and rejected the plan. I join the international outcry at the Turkish side's obstructive attitude and urge Denktash to reconsider his approach. Indeed, the Turkish intransigence hurts first and foremost Turkey and the Turkish Cypriots themselves. The failure of the unification endeavors complicates Ankara's own efforts to join the European Union as the European Commission warned Turkey on March, 11. The Greek Cypriot part of the island is going to join the EU in May 2004 with or without the Turkish Cypriots. Yet without a deal on the Cyprus issue, Turkey will find itself in a position of not recognizing a member of the European Union.

Public demonstrations by the Turkish-Cypriot opposition in favor of the proposal further express clearly who will be the major victims of the failed talks: the Turkish Cypriots who will be excluded from the benefits of EU membership that the Greek Cypriot side will enjoy.

I conclude in expressing my desire that the United States must remain involved in seeking a just and permanent solution to the Cyprus issue. The Bush administration must therefore put more pressure not only on the Turkish Cypriot leader but also on Turkey to cooperate constructively within the UN framework to realize a negotiated settlement on Cyprus.

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## HONORING A DEDICATED PUBLIC SERVANT, MR. JOHN WIGGINS

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. BONNER. Mr. Speaker, there are many heroes who work night and day, week after week, month after month to keep our neighborhoods, cities, states and this great nation safe and secure. Mr. John Wiggins is one of those heroes. John, at the very young age of 53, is retiring in April after almost 33 years of dedicated service with the Mobile Fire and Rescue Department.

John is the oldest firefighter in the department who actually still fights fires. For more than three decades, he has been able to live out his childhood dream of serving his community as a firefighter. He has seen many changes in firefighting, paramedics and in the department and has raised, and trained, many new recruits and most of the current fire chiefs. John laughs that every time he gets in Ladder Truck 10, which operates out of Gus Rehm Fire Station on Moffett Road in Mobile, "and those lights and siren come on, it's like I'm 20 years old again."

John has also assumed leadership roles with his fellow firefighters. He has been a member of the Mobile Fire Fighters Association Local 1349 since he first joined the fire department and has served as its president for the last four years. He has not only worked for his fellow firefighters but has also worked as president of the City Workers' Coalition to approach City Hall with city workers' work-related concerns.

Mr. Speaker, I proudly ask you and my colleagues to join me in honoring John Wiggins for his many years of commitment to bring safety and security to his community and to his nation through his continued service with the Mobile Fire and Rescue Department. The Department and the City of Mobile are losing a valuable and dedicated servant and leader. However, I am sure that John's wife, Joy, and his children, stepchildren and grandchildren will enjoy spending more time with this hometown hero. I wish John all the best in his retirement years and always.

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## RECOGNIZING THE MATIGNON HIGH SCHOOL BOYS' BASKETBALL TEAM

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. CAPUANO. Mr. Speaker, I rise today to recognize the Matignon Warriors boys' basketball team. On Monday, March 10, 2003, the Warriors defeated the Southeastern Regional Hawks to win the MIAA Division 4 state championship by a score of 78–55. Matignon High School, which is located in North Cambridge, is a cornerstone of the community, and I am proud to honor the members and coaches of the boys' championship basketball team.

I want to take the time to recognize the individuals who make up the state champs, and extend my congratulations on an incredible season: Alex Aiello, Shelby Berleus, Greg Case, Ralph Fevrier, Jimmy Guerrier, Jeff Lerebour, John McMahon, Chris Neil, John Nicoloro, Chris O'Callaghan, Ricky Prosper, AJ Urquhart, Justin Veri, Frank Whitney, Head Coach Joel Burke, Assistant Coaches Ed O'Callaghan, Sean O'Callaghan, Terry Mathews and Mel Story.

I am also including a copy of an article which appeared in the Cambridge Chronicle on March 12, 2003.

WARRIORS WIN DIV. 4 STATE CHAMPIONSHIP

(By Jamie Pote)

The last time the Matignon boys basketball team played at the FleetCenter, coach Joel Burke said the excitement of taking the fabled parquet floor caused his team to lose focus.

Monday afternoon, the Warriors' focus was impeccable. Matignon stormed out to a 27-point halftime lead and coasted to a 78–55 victory over Southeastern Regional to capture the Division 4 state title (there are no Div. 4 teams outside Eastern Mass.).

"In 1997 we were just happy to be here," said Burke, whose team lost to Avon that year. "We were too busy taking pictures and we seemed to have lost our focus. That was my big concern heading into this game—we had to be ready.

"And for sure, we were ready for this game."

Led by seniors John McMahon (29 points) and Chris Neil (19 points), Matignon (21–4) outplayed the Hawks in nearly every facet of the game, including a 20–9 edge in rebounds in the first half.

"We thought if we held them to just one shot that we would be able to keep the game close," Burke said. "We had no idea that this would happen. The court is so big and we just moved the ball all over to the open spots and hit a lot of easy baskets."

In Friday's sectional final, Matignon picked apart Minuteman Tech's 2–2–1 zone defense and led by 39 points at halftime. Southeastern played much of the same defense yesterday and Matignon again picked it apart with baskets in transition. The Warriors also relied on their outside shooting by hitting eight 3-pointers in the game, with seven of those treys coming before halftime.

"When we play on the bigger courts, it's just easier for us to score on transition," Neil said. "It means that we're the team that's most in shape. We're a running team and no one can catch us when they try those gimmick zone defenses, the 2–2–1 or the 1–2–2. We just skip right over that and score so many easy baskets."

Neil set the tone right away for Matignon when he buried a 3-pointer from the right elbow just 30 seconds into the game. Southeastern stayed close over the next few minutes, trailing 10–9, and that's when Matignon blew the game wide open. The Warriors went on a 16–0 run, including three baskets by junior Jimmy Guerrier (12 points).

"We were just getting a lot of great looks," said Burke, whose team led 47–20 at the half. "And the ball was falling in the basket. That's a good team over there and I think some of their early shots that didn't go in just took them out of their game."

Matignon opened the second half with an 11–4 run, sparked by a 3-pointer and layup by Neil and a pair of baskets from McMahon.

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## TRIBUTE TO SONJA HOROSHKO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, it is with much pleasure that I rise today to commend a distinguished artist, Sonja Horoshko of Cortez, Colorado, for expanding the reach of artistic endeavor in Montezuma County and the four-corners region. Sonja is a nationally recognized artist who brings an appreciation for art to diverse communities through her "Drawing Together" workshops. Today, I am honored to pay tribute to her accomplishments before this body of Congress and this nation.

"Drawing Together" encourages individuals, families and communities to create art collectively and with a wide variety of media. In 2001, the National Endowment for the Arts awarded Sonja a Challenge America Grant to present her workshops to four locations in Montezuma County. Eighty-one students, ages eight to sixty-two, participated. This summer a film drawn from one of her pioneering workshops with third grade Butterfly Dancers will be released at Aztec Ruins National Monument in New Mexico.

Since relocating to Montezuma County in 1993, Sonja has become a fixture of the Southwestern Colorado Art Community. She has been an artist in residence at Hovenweep National Monument and has received grants from Colorado Council of the Arts, the Utah Art Council, and the Mesa Verde Museum Association, among others. Internationally, she was invited to participate in the 53rd Conference on World Affairs in 2001, where she participated in panels connecting art to journalism, science, and politics. Sonja's art has also been a platform for activism in Colorado, as she represented the rural voice of Montezuma County at a conference in Denver focusing on critical statewide issues including economic development, tourism, and public health.

Mr. Speaker, I am honored to rise today and recognize Sonja Horoshko before this body of Congress and this nation. Sonja's career models the wide scope and influence of art in all its forms. Her workshops teach artistic expression to communities and individuals, both young and old, encouraging them to tell their own story in their own voice. It is my distinct honor to represent such a fine and creative American in this Congress and to know that there are individuals, like Sonja Horoshko, who constantly strive to create and appreciate beauty in our world.

## IRAQ

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, today, my hopes for peace have given way to the reality of war. Although I agree with President Bush that Saddam Hussein is a dangerous man, I am not convinced that a military attack against Iraq is in the best interest of our nation. For this reason, I voted against a resolution last year that was the equivalent of a declaration of war which authorized the President to launch a military strike to disarm and possibly overthrow Saddam Hussein.

The issue is not whether or not Saddam Hussein is a dangerous dictator who should be disarmed. Just this past Sunday, we marked the fifteenth anniversary of Saddam Hussein's chemical weapons attack on a predominantly Kurdish village in northeastern Iraq where 5,000 civilians died. The international community has an important obligation to ensure that Saddam Hussein cannot repeat his aggression of the past, and as the world's most powerful country, we must be committed to lead. Through U.N. inspections, continued monitoring and increased scrutiny of Baghdad, I think we can meet that responsibility.

Mr. Speaker, we must realize that a possible military attack against Iraq would represent a major shift in American diplomatic and strategic thinking. For nearly fifty years, we relied upon deterrence to check Soviet expansionism. Deterrence brought us victory in the Cold War without having to fight a hot, shooting war under the shadow of nuclear annihilation. That same strategy has kept Iraq at bay for more than a decade. Now that doctrine is on the verge of being discarded.

There are several other critical questions to which we've heard very few answers. We must have a clear plan on how an attack on Iraq would transpire, including identifying our military options, determining our strategy to change the regime, calculating the potential casualties, and estimating how much an operation would cost and how it will be funded.

We must also see a plan to build democratic and free-market institutions in a post-Saddam Iraq. History teaches us that how we win the peace is just as critical as how we win the war. Thus far, these crucial issues have received little attention.

For those of us who counseled a peaceful strategy to disarm Iraq in the months before this point, it is now time to unite in our support for the 300,000 brave men and women in the region. I fervently and completely join the President in the hope and prayer for the safe and quick return of our soldiers to their homes and families.

I know that members of our military serve this nation's ideals and they demonstrate those ideals in their code and in their character. I have seen their love of this country and devotion to the cause of peace and freedom. I know that their mission is dangerous, and I personally thank them for their service. May God bless our troops and their families, and may God bless America.

## INTRODUCTION OF THE MEDICAID SAFETY NET IMPROVEMENT ACT OF 2003

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. KLECZKA. Mr. Speaker, today Congresswoman WILSON and I are introducing the Medicaid Safety Net Improvement Act of 2003. This important legislation would increase the allowed federal Medicaid disproportionate share hospital (DSH) allotment in "extremely low-DSH" states from one percent to three percent of Medicaid program costs.

In the mid-1980s, Congress established the Medicaid DSH program to provide additional funds to certain hospitals that deliver a disproportionate share of health care services to low-income patients, including Medicaid recipients and the uninsured. By providing financial relief to these facilities, this program ensures that all Americans—regardless of ability to pay—have access to critical hospital care.

Unfortunately, due to limitations imposed by the Balanced Budget Act of 1997 (BBA) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), there are significant inequities in how these funds are distributed among states. For 18 states, including the State of Wisconsin, the federal DSH allotments are not allowed to exceed one percent of the state's Medicaid program costs. The average state spends about eight percent of its Medicaid funding on DSH.

This bipartisan legislation would address this inequity by raising the share of federal funds to extremely low-DSH states. The 18 states that would benefit from this proposal include: Alaska, Arkansas, Delaware, Idaho, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, and Wyoming. It is important to note that this bill would not redistribute or reduce the federal DSH allotments in other states.

The Medicaid DSH program plays a tremendous role in the survival of the safety net that serves our most vulnerable populations, particularly the rising number of uninsured Americans, which at last count stands at nearly 42 million. For many hospital facilities, Medicaid DSH is the main reason they are able to keep their doors open. Providing an increase to three percent of Medicaid spending in the allowable DSH allotment would do a great deal to help these low-DSH states support low-income medical care.

I urge my colleagues to cosponsor and support this important legislation.

## SECOND OPINION COVERAGE ACT

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mrs. DAVIS of California. Mr. Speaker, today, I am introducing the Second Opinion Coverage Act of 2003—legislation that will ensure the accessibility and coverage of medical second opinions.

Imagine that your doctor tells you that you must undergo radical surgery that may threaten the use of a limb or leave you with a serious chronic condition. Understandably, you would request a second opinion from another physician. Most health care groups see the value in such requests and provide patients with a second opinion. Besides giving patients much needed peace of mind, second opinions can benefit health plans by reducing the number of invasive procedures and result in better patient care through increased dialogue about treatment options.

However, when I was a member of the California State Assembly, I heard from a number of patients who experienced a glitch in their health care coverage. They noticed the absence of a clear process for obtaining medical second opinions. These patients, many struggling with challenging health conditions, had difficulties obtaining second opinions through their health plans.

After meeting with patients, physicians and health groups, I authored a law in California that guarantees coverage of second opinions. Patients, meeting any one of several qualifying conditions, are entitled to a timely second opinion by a "qualified health care professional," within 72 hours in cases of serious or imminent health threat. When another expert is not available within the provider group or network, the organization will pay for an appropriately qualified doctor outside of the plan. Patients are responsible for the costs of applicable co-payments.

The law in California was a good first step. Unfortunately, this legislation does not cover the almost 5 million Californians enrolled in self-insured, federally regulated health plans. Nationwide, this translates into 67 million persons without guaranteed access to second opinions. This means that one in four insured families are not protected by California's own second opinion law! I believe the time has come to make access to second opinions a national standard.

I urge you, Mr. Speaker, and all of my colleagues to pass this critical legislation quickly into law.

## TRIBUTE TO RUTH STEELE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Ruth Steele of Pueblo, Colorado for her determination and commitment to her community. Ruth is the director of the Dr. Martin Luther King Jr. Holiday Commission and Cultural Center, and has been a tireless activist for African-American interests in Pueblo and throughout Colorado. I am honored to recognize her accomplishments before this body of Congress and this nation.

Ruth graduated from Centennial High School in Pueblo and attended the University of Colorado at Boulder. In the 1950s and 60s she was active in the civil rights movement, registering African-Americans to vote. Since then, she has been a leader for Pueblo's African-American community. She was a legislative aide to state Representatives Wilma Webb and Arie Taylor, and worked to establish a Martin Luther King holiday in Colorado.

Ruth helped found Pueblo's orphanage for African-American children, the renovated Lincoln Home, and the Martin Luther King Cultural Center which she now directs. In the future, Ruth hopes to build a multicultural center next to the Lincoln Home and expand African-American leadership in Pueblo. She has been a strong advocate of quality education for African-American youth and was recently named the Greater Pueblo Chamber of Commerce Citizen of the Year for her service.

Mr. Speaker, it is a great privilege to recognize Ruth Steele before this body of Congress and this nation for her outstanding commitment to the community she calls home. Ruth has worked tirelessly to build bridges between Pueblo's disparate communities. Her leadership is an invaluable asset to her neighbors and fellow citizens.

## INTRODUCTION OF CONSTITUTIONAL AMENDMENT TO PROTECT THE PLEDGE OF ALLEGIANCE AND THE NATIONAL MOTTO

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. PICKERING. Mr. Speaker, I come before the House today to introduce legislation creating a Constitutional Amendment to protect the Pledge of Allegiance and the National Motto.

Last month, the Ninth Circuit Court of Appeals let stand the ruling of a San Francisco Federal Court which proclaimed the Pledge of Allegiance unconstitutional. There have been reports that the next victim of the left's crusade against the historic heritage of our nation could be to challenge the use of our National Motto, "In God We Trust," on our currency.

These are unfortunate assaults on America's tradition of recognizing the role of God in our country's life, and as the foundation of our liberties. Unfortunately, there has been a trend in our courts that has sought to remove every vestige of God from our country, while child pornography is protected.

When our Founding Fathers sought the monumental break between the American people and the British King, they wrote in the Declaration of Independence that they appealed "to the Supreme Judge of the world for the rectitude of our intentions." They appealed to God to judge their moral condition, their uprightness and righteousness in forming our nation. Today, we can forget making any such appeal, for our judges have declared that the mere acknowledgement of God violates our highest national law. My colleagues, those who led our country in years past would be outraged. Those who gave their lives for our independence would be outraged. Those who gave their lives that we might realize the most American dream, that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights," those leaders too would be outraged. Americans who gave their lives to secure our freedoms would be outraged. Americans, who this very day face a war to secure our freedoms and liberate Iraq, are outraged. And friends, I am outraged, too.

The time for action has come. Today, I am introducing legislation that would provide for a Constitutional Amendment to protect the Pledge of Allegiance and the National Motto, "In God We Trust."

Amending the Constitution is never taken lightly, nor should it be. Yet Congress can no longer sit idly while the courts rewrite our nation's history and traditions. This amendment is very clean, clear, concise, and unobtrusive as possible. However, it is very effective and the only way to ensure that the Pledge of Allegiance and the National Motto are protected and preserved.

I urge my colleagues to cosponsor this bill and hope that we can begin the process to move it forward.

## WE THE PEOPLE PROGRAM

### HON. LEONARD L. BOSWELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. BOSWELL. Mr. Speaker, on April 26, 2003, more than 1200 students from across the United States will visit Washington, D.C. to compete in the national finals of the We the People: The Citizen and the Constitution program, an educational program developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Central Academy from Des Moines will represent the State of Iowa in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The three-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for the students to become active, responsible citizens.

The class from Central Academy is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the We the People national finals.

## PERSONAL EXPLANATION

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Ms. SCHAKOWSKY. Mr. Speaker, on Wednesday, March 12, 2003, during rollcall vote No. 56 on H.R. 659 I was unavoidably detained. Had I been present, I would have voted "aye."

## TRIBUTE TO REVEREND DR. THOMAS J. RITTER

### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to acknowledge Reverend Dr. Thomas J. Ritter, whose contributions to Philadelphia have been multi-faceted and unparalleled.

Beyond being a community activist, builder, and leader, Reverend Ritter has served his congregation with the commitment of a dedicated and loving father for 45 years. Reverend Ritter built the Second Macedonia Baptist Church from a small house with six members to a large worship center with over a thousand members with 27 ministries.

Reverend Ritter's wide scope of dedication to Philadelphia spans more than the religious spectrum. He has been very instrumental in the development of many of Philadelphia's new major business centers. Reverend Ritter served as the first executive director of the Opportunities Industrialization Center, an organization which has assisted over 75 urban communities throughout the United States and the world. Additionally, he sits on the board of directors of the Philadelphia Martin Luther King Association for Nonviolence, chairs Philadelphia's Human Relations Commission, and has established a community-based volunteer self-help organization called "Giving of Self Partnership." The list of charitable endeavors that Reverend Ritter is involved in are innumerable.

It is a privilege to recognize a person whose dedicated leadership has enriched the lives of countless individuals in both my district and the nation. I hope that all of my distinguished colleagues will join me in honoring Reverend Dr. Thomas J. Ritter.

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## HONORING REVEREND THOMAS BOND

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the Reverend Thomas Bond for exemplary service to his community. Eighteen years ago, Reverend Bond founded the Wayside Cross Gospel-Rescue Mission in Pueblo, Colorado to serve the area's homeless population. Today, I stand before this body of Congress and this nation to recognize his accomplishments.

With its food, housing, and educational programs, the mission provides a hand up, not a hand-out, for Pueblo's homeless community. In many cases, the mission has helped rebuild lives and reconnect people with families. Reverend Bond provides invaluable assistance to all people, enabling them to overcome the challenges of poverty and lead meaningful lives. He saw a community need and selflessly filled it, donating his time, talent, and energy.

Mr. Speaker, it is a great privilege to recognize Reverend Thomas Bond for his dedication to improving the lives of his fellow citizens. The people of Pueblo are immeasurably enriched by his years of selfless service, and his retirement from work at the mission is a tremendous loss to the southern Colorado community. I wish Reverend Bond well in his retirement.

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## MAKING MORTGAGE INSURANCE PREMIUMS TAX-DEDUCTIBLE

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. RYAN of Wisconsin. Mr. Speaker, today, together with my colleagues on the Ways and Means Committee, Mr. JEFFERSON of Louisiana, Mr. SHAW of Florida, Mr. LEWIS of Georgia, Mr. ENGLISH of Pennsylvania, Mr. TANNER of Tennessee, Mr. FOLEY of Florida, Mr. CANTOR of Virginia; as well as Mr. NEY of Ohio, Mr. GREEN of Wisconsin and Mr. HAYES of North Carolina, Mr. RADANOVICH of California I am introducing legislation that will extend the mortgage interest tax deduction to include mortgage insurance premiums, government and private. This is an important piece of legislation because making mortgage insurance payments tax-deductible will boost homeownership for lower-income, minority and veteran borrowers that typically need mortgage insurance to purchase a home.

It is widely recognized that homeownership helps create stable and safe communities. Thus, the expansion of homeownership has been a longstanding goal of the Federal Government. The Bush Administration announced a goal of 5.5 million new homeowners by the year 2010. To achieve that goal, groups that have typically been unable to purchase homes—young people, low-income, members of minority groups—must be able to participate in the housing market.

Government and private mortgage insurance programs help first-time, low-income and veteran borrowers afford to purchase a home. The VA, FHA, RHA and PMI programs allow buyers to make a down payment of 3 percent or less of the appraised value. Mortgage insurance is a critical factor in allowing middle-income families and minorities to become homeowners. In Wisconsin, approximately 149,000 families held mortgages with either FHA or private mortgage insurance at the end of 2002. Insured mortgages covered nearly 18 percent of home loans originated in Wisconsin in 2001. Insurance, however, covered about 30 percent of the mortgage loans made to Hispanic borrowers in Wisconsin and 28 percent of the loans made to African American borrowers.

In 2001, nationwide, mortgage insurance covered 57 percent of mortgage purchase loans made to African American and Hispanic borrowers and 54 percent of the loans to borrowers with incomes below the median income. The people who use mortgage insurance are policemen, firemen, teachers, and veterans who live in every community throughout the country. Twelve million American families presently use mortgage insurance.

Presently these borrowers cannot deduct the cost of their mortgage insurance payments for Federal tax purposes. If mortgage insurance payments were made deductible, the cost of homeownership would be further reduced for these borrowers, enabling new buyers to get into a home that they might not have been able to afford or to purchase a more valuable home. It is estimated that 300,000 more homeowners per year would result from making these payments tax-deductible.

Extending the tax deduction for home mortgage interest payments to mortgage insurance payments will significantly contribute to making the American dream of owning a home come true for many more of our citizens. Mr. Speaker, I urge my colleagues to support this important legislation and join me in working towards its enactment this year.

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## CYPRUS TALKS

### HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Ms. BERKLEY. Mr. Speaker, last week the world witnessed a tragic setback in the search for a peaceful settlement on the Island of Cyprus. Nearly 30 years after Turkish troops invaded and occupied approximately one-third of the territory of Cyprus, the United Nations' efforts to achieve a negotiated solution appeared to have a real chance for success. U.N. Secretary-General Kofi Annan convened the leaders of the Greek Cypriot and Turkish Cypriot communities to a meeting at the Hague last week, and asked them to agree to hold a democratic vote on the U.N.'s plan to establish a bi-communal federation. The President of the Republic of Cyprus, Tassos Papadopoulos, speaking for the Greek Cypriot community, agreed to the referendum, despite reservations with the details of the plan. Unfortunately, Mr. Rauf Denktash, the Turkish Cypriot leader, rejected it, out-of-hand.

Mr. Denktash's veto of the U.N. peace plan was not only a rejection of the efforts of the world organization, and the interests of its member states, but most importantly, in direct contradiction with the interests of the Turkish Cypriots themselves. This community has recognized that they have the most to gain from reunification, and have strongly supported the U.N. plan, as demonstrated by unprecedented popular expressions of support from within the community. Mr. Denktash has thwarted the will of the people he purports to represent.

The reunification of Cyprus would help to enhance the local and regional stability of this island nation located a little more than a 100 miles from Israel, Lebanon and Syria, to the benefit of all of Cyprus, Turkey, Greece, the U.S., E.U. and the whole world body. Reunification would be a great boon economically to the Turkish Cypriots, as the Greek Cypriot community is about to join the E.U. and command the many political and economic advantages of membership in that community. A settlement would have allowed the Turkish Cypriots to join in those benefits. Failure has condemned them to suffer without.

If the civilian and military leaders in Ankara were serious about achieving a negotiated settlement on Cyprus, they could clearly prevail upon Mr. Denktash to deal in good faith. By doing so, Turkey would not only be helping the Turkish Cypriots, but would be acting in its own self-interest, as Turkey's own bid for E.U. membership hinges to a significant degree on its playing a constructive role in ending the division of Cyprus. On March 4th of this year, the E.U. warned Turkey that "if Cyprus settlement efforts failed, the E.U. would find it very difficult to start accession talks with Turkey" since Turkey would find itself in the untenable position of not only failing to recognize a member of the E.U.—Turkey still does not recognize the Republic of Cyprus—but also occupying militarily part of E.U. territory.

As in any process of negotiations, both sides have to give up something. The Greek Cypriot side has, over the years, made one concession after another in the search for peace. The most recent plan put forward by Secretary General Annan forced the Government of the Republic of Cyprus to make many difficult decisions. Still, at the end of the day, President Papadopoulos—who was just recently elected in free and fair elections—was willing to put the Plan before the people in a democratic manner.

On the other hand, Mr. Denktash, who has been in power for three decades, was unwilling to concede on his demand for two separate states—a goal completely contrary to the reunification favored by the people of Cyprus and the entire world community. Mr. Denktash is apparently afraid of what his own people would say when given a chance to express their views at the ballot box.

This latest setback need not be a fatal one for the peace process of Cyprus. President Papadopoulos has left the door wide open to resuming the process of negotiations. After the Hague meeting, President Papadopoulos said that the Greek Cypriot side will "continue the efforts for reaching a solution to the Cyprus question both before and after Cyprus joins the E.U." Furthermore, on his return from the Hague to Cyprus, Mr. Papadopoulos pledged one more time to "continue the efforts for a Cyprus settlement that would properly serve the interests of both Cyprus communities, Greek Cypriots and Turkish Cypriots," adding that there "are no last chances" for a Cyprus solution.

Our State Department has been clear in expressing its disappointment over Mr. Denktash's rejection of the U.N. referendum proposal, and in voicing hope that the process can resume. But now it's time for our government to put the necessary pressure on Mr. Denktash and the government of Turkey to negotiate in good faith and agree to a referendum. Continued obstructionism by Mr. Denktash should trigger coordinated U.N. sanctions against the Turkish Cypriot leader. The new government of Turkey must recognize its share of responsibility in the current stalemate, and show leadership in guiding Mr. Denktash back to the path of peace. If Turkey refuses to accept that responsibility, and Mr. Denktash continues his intransigence, the government of the U.S. must consider those policy prescriptions, of the highest orders, to bring the parties back to the table. The peace of the region, and the well-being of the Cypriot people, are too important to allow Mr. Denktash to destroy all our hopes for peace.

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## INTRODUCTION OF THE MEDICARE MENTAL HEALTH MODERNIZATION ACT OF 2003

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. STARK. Mr. Speaker, I rise with a group of colleagues to introduce the Medicare Mental Health Modernization Act of 2003. Medicare's mental health coverage is woefully inadequate. Instead of the standard 20 percent coinsurance payment required by beneficiaries, mental health services require a 50 percent co-payment, limited community-based treatments are covered, and there is a cap on mental health hospitalization days. The bill we are introducing today eliminates this blatant mental health discrimination from Medicare and modernizes the Medicare mental health benefit to meet today's standards of care.

In the past, the late Senator Paul Wellstone championed this effort in the U.S. Senate. This year, Senator JON CORZINE has stepped forward to introduce the companion legislation in the Senate. I want to thank Senator CORZINE for his commendable efforts on behalf of this important legislation.

One in five members of our senior population display mental difficulties that are not part of the normal aging process. In primary care settings, over a third of senior citizens demonstrate symptoms of depression and impaired social functioning. Older adults also have the highest rate of suicide of any segment of our population. Furthermore, mental illness is the single largest diagnostic category for Medicare beneficiaries on disability. There is a critical need for effective and accessible mental health care for the Medicare population. Unfortunately, the current structure of Medicare mental health benefits is inadequate and presents multiple barriers to treatment access. This bill addresses these problems.

The Medicare Mental Health Modernization Act is a straightforward bill that improves Medicare's mental health benefits as follows:

It reduces the discriminatory co-payment for outpatient mental health services from 50 to the 20 percent level charged for most other Part B medical services.

It eliminates the arbitrary 190-day lifetime cap on inpatient services in psychiatric hospitals.

It improves beneficiary access to mental health services by including within Medicare a number of community-based residential and intensive outpatient mental health services that characterize today's state-of-the-art clinical practices. The mental health field has undergone many advances over the past several decades. Effective, research-validated interventions have been developed for many of these mental conditions that affect stricken beneficiaries. Most mental conditions no longer require long-term hospitalizations, and can be effectively treated in less restrictive community settings. This bill recognizes these advances in clinical treatment practices and adjusts Medicare's mental health coverage to account for them.

It further improves access to needed mental health services by addressing the shortage of qualified mental health professionals serving older and disabled Americans in rural and other medically underserved areas by allowing state licensed marriage and family therapists and mental health counselors to provide Medicare-covered services. Similarly, it corrects a legislative oversight that will facilitate the provision of mental health services by clinical social workers within skilled nursing facilities.

It requires the Secretary of Health and Human Services to conduct a study to examine whether the Medicare criteria to cover therapeutic services to beneficiaries with Alzheimer's and related cognitive disorders discriminates by being too restrictive.

The push for mental health parity is ongoing. We've made important strides forward for the under–65 population. Twenty-three states have already enacted full mental health parity and the Federal Employees Health Benefits Plan was improved in 2001 to assure that all federal employees are provided mental health parity. Last April, President Bush called for Congress to enact legislation to provide equivalence for private sector health insurance coverage of mental and physical conditions (though he has yet to endorse any legislation to achieve that goal). This year, legislation to enact real mental health parity for those with private health insurance already has the bipartisan support of 180 members in the House and 43 U.S. Senators. I fully support these efforts as well.

What has been too-often missing from this overall mental health parity debate is the fact that the Medicare program continues to fail to meet the mental health needs of America's seniors and those with disabilities. That's why we've introduced the Medicare Mental Health Modernization Act. That's also why this bill has received support from numerous mental health advocacy and provider organizations including: the National Mental Health Association, the American Association of Geriatric Psychiatry, the American Association of Marriage and Family Therapists, the American Counseling Association, the American Mental Health Counselors Association, the American Psychological Association, the National Association of County Mental Health Directors and the National Association of Social Workers.

When Medicare was created in 1965, mental health treatment was very different than it is today. Over the years, Congress has updated Medicare's benefits as the practice of medicine has changed. It is past time for us to take this action with regard to Medicare's currently inadequate mental health benefits. The Medicare Mental Health Modernization Act of 2003 removes discriminatory features from the Medicare mental health benefits and helps facilitate access to up-to-date and affordable mental health services for our elderly and disabled. I encourage my colleagues to support its passage into law.

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## TRIBUTE TO MR. JIM DICK AND WIVK

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. DUNCAN. Mr. Speaker, I rise today to pay tribute to Jim Dick and WIVK, the radio station he created in Knoxville, Tennessee. On Wednesday, March 19, WIVK celebrates its 50th anniversary.

Five decades ago, Jim Dick applied for and received a license from the Federal Communications Commission to build and operate a 1,000–watt AM radio station. At that moment, Dick Broadcasting Company was created.

Jim Dick is certainly a visionary. He was one of the first people in the radio business to understand the importance of broadcasting on the FM dial. He is also one of the most admired and respected businessmen in East Tennessee.

WIVK-AM debuted playing a wide range of music including gospel, country, jazz and others. The station only operated during the daytime hours in the early years. WIVK has grown immensely since then and is now a part of the Las Vegas based Citadel Communications Corporation.

Jim Dick and everyone at WIVK have always supported the community and have given so much to the citizens of their listening area. Almost everyone in East Tennessee relies on WIVK for great country music, timely news and information, as well as radio broadcasts of University of Tennessee football games.

Mr. Speaker, I would like to again congratulate Jim Dick, all of the staff at WIVK, Citadel Communications Corporation and all of those people who have given so much of themselves to make this great radio station the best in the Country. I have also included an article from the Knoxville News-Sentinel that celebrates the 50-year anniversary of WIVK that I would like to call to the attention of my fellow Members and other readers of the RECORD.

[From the Knoxville News-Sentinel, Mar. 16, 2003]

### THE FROG HITS 50: WIVK CELEBRATES HALF A CENTURY OF BROADCASTING

(By Wayne Bledsoe)

Radio station WIVK is as much a part of East Tennessee as UT football and the rush for bread and milk at the first hint of snow.

Through five decades of changing musical tastes, the station has unapologetically played country music and retained an unprecedented share of the listening audience. The station has helped launch the careers of country stars and even influenced the general direction of country music.

"It's hard to come up with another station to compare them to because WIVK is such a standout in the radio community," said Angela King, associate country editor of Radio & Records. "People in the industry say, 'This is a model of how a radio station should be.'"

On Wednesday, March 19, WIVK will celebrate its 50th anniversary with a gala that will include testimonials from stars like Dolly Parton, Kenny Chesney, Kenny Rogers, Travis Tritt, Charlie Daniels and Ray Price. There'll also be stories and reminisces from the station's longtime personalities.

Few would've given the station much hope in 1953 when young radioman Jim Dick put WIVK-AM on the air with $3,000 of his savings. At the time WIVK was just a 1,000-watt station that operated from sunrise to sunset only.

Dick initially rented space on the second floor of Greene's Hardware on North Gay Street and broadcast at 850 on the AM dial. Dick didn't think the location of the station mattered much.

"Absolutely the most important thing I did was to determine who were good people and hired them," said Dick, who is now 84.

Dick's "good people" became regional icons: "Big Jim" Hess, Claude "The Cat" Tomlinson, and later, Bobby Denton, Ed Brantley, Mike Hammond, Mickey Dearstone, Dave Young and other personalities became part of Knoxville's cultural landscape.

In its infancy the station aired programs hosted by gospel music impresario the Rev. J. Bazzel Mull and millionaire grocer Cas Walker, who began broadcasting musical shows in 1929 to promote his grocery stores.

The station also hired A. C. Wilson, one of the city's first black disc jockeys in 1954. Wilson hosted "The Acey Boy Show," which featured jazz and hot rhythm and blues.

"He was a super guy," recalled Dick. "If he hadn't have died, he could've really gone places."

Hess and Tomlinson were the first two disc jockeys to establish themselves at the station with the team "Big Jim" and "Little Alf." The duo's mischief on the air was but a pale shadow of the trickery they pulled off it.

They particularly delighted in playing jokes on Rev. Mull, whose eyesight was so poor he was classed as legally blind. Once Hess and Tomlinson put Mull's car up on blocks just barely off the ground while the preacher and his wife were on the air. When the Mulls attempted to leave the station with Mrs. Mull at the wheel, the car's tires simply spun in the air. Thinking the vehicle was somehow stuck, Mull got out and pushed it, knocking it off the blocks and sending it and Mrs. Mull sailing.

On another occasion the pranksters rigged the studio so that when Mull's program went on the air, what the preacher heard in the studio was Elvis Presley singing "All Shook Up," while the radio audience listened to the gospel number that was actually on the turntable.

One of the pair's jokes riled Mull so badly that he promised to go to Dick and get them fired. But Tomlinson, who was a master mimic and could imitate Dick perfectly, slipped into the boss' office before Mull got there. The preacher's eyesight was so poor, he didn't detect the impersonation, and Tomlinson promised Mull that severe punishment would be dealt to Hess and himself.

"The Rev. J. Bazzel Mull was very important to WIVK's early success," said Dick, who could be both amused and frustrated by his employees' antics.

It wasn't the jokes, though, that finally drove Mull from WIVK; it was a referendum to legalize liquor in Knoxville in the early 1960s.

Both Mull and Cas Walker were vehemently against the measure and campaigned vigorously against it on shows. But Dick read an editorial on the air supporting legal liquor, and his comments were reprinted in the News Sentinel.

The measure passed, and "the next morning Mull was packing up his records and he left the station," Dick remembered.

Rock 'n' roll did serious damage to country music's popularity in the late 1950s and early 1960s. Stations across the country abandoned the format for Top 40. Local country favorite WNOX had already abandoned country music when WIVK followed suit in 1961.

That was about the time a young announcer named Bobby Denton was trying to break into radio.

"I started in radio by announcing drag races from Maryville Drag Strip after school on WSKT," said Denton, who is now officially retired but still serves as a consultant to current WIVK owner Citadel Communications.

Denton became acquainted with Tomlinson, who then persuaded Dick to give Denton a job at WIVK. But Dick was not impressed with his new hire's broadcasting skills.

"He said, 'This guy is so bad we have to get him off the air!'" Denton recalled.

During the station's three years of playing Top 40, they found the field crowded. WNOX and WKGN dominated the Top 40 format, and in 1964, WIVK moved to all-country programming.

In 1965 two pivotal events took place. WIVK was granted permission to increase its AM signal from 1,000 to 50,000 watts and an FM sister station was established. FM's replacement, because of its clearer signal, of the AM radio format was still years away, but Dick had the foresight to promote FM heavily from the outset.

"We would sign off at sunset and say, 'If you just have half a radio, we'll have to say goodnight until tomorrow morning. But if you have a whole radio, you can tune us in at 107.7 FM.'" Dick recalled. "Car dealerships would tell us that people came in wanting to buy a car with a 'whole radio.'" By the mid-1970s, however, FM was the dominant frequency.

With its new, more powerful signal, WIVK-AM shifted into high gear. Longtime morning disc jockey Tomlinson created the characters "Ol' Man Schultz" and simple soul "Lester Longmire." The characters would remain regional favorites for the next 25 years.

The station also began hosting a series of country concerts and championing country performers. In its early days the station had had young singer Dolly Parton performing in its small downstairs auditorium on Cas Walker's program. She had also recorded early demos after hours in the station's studios.

By the mid–1960s the station was beginning to wield enough influence to have a big impact in the country music field. For example, Denton has long been credited with persuading Jerry Lee Lewis to give country music a shot when his rock 'n' roll career was at an ebb.

"We became good friends, and he would come to my house," Denton recalled. "I think I just said 'Jerry Lee, I think if you would record country, people would buy it.'"

Lewis replied that he was country and was a far sight better country singer than some of the current country stars. Shortly thereafter, in 1968, Lewis began a string of country Top 10 hits.

Other stars have credited the station with helping establish their careers. Alabama's Randy Owen has long recounted how he and his wife stopped at the station with the first single recorded by the group, which was then calling itself Wild Country. Owen went inside and asked then-program director Denton if he would take time to listen to the record.

"We listened to it," Denton recalled, "and I said 'That's pretty good!'"

Owen and his wife then drove down Kingston Pike and were on their way to the band's Myrtle Beach base when Denton put the single on the air.

"Randy said he just pulled the car over and started hugging his wife and crying because that was the first time he had ever heard his song on the radio," Denton recalled.

Kenny Rogers' first appearance as a country performer was at one of the station's concerts in 1975.

"He was scared to death," remembered Denton. "He didn't know how the crowd would respond to him."

East Tennessee natives Con Hunley and current superstar Kenny Chesney were also championed early on the station.

Ed Brantley, now WIVK's vice-president and general manager, started at the station in 1973 as a part-time announcer and hosted the station's first call-in talk show, "Sound Off."

"That was when country definitely wasn't the cool format," said Brantley, "but the people who did like it were a solid base."

The "solid base" became even more solid as the decade went on with the station drawing an almost unheard of 20-plus market share. Much of that had to do with the station establishing a solid news department and broadcasting regular weather reports and school closings. In 1978 the station began broadcasting UT football games, which further solidified its audience base.

Some of the WIVK's success was due to its programmers knowing the tastes of the audience. Brantley said the station took chances with several artists who dipped their toes into country. When the Pointer Sisters released the song "Fairytale," WIVK was one of the first to add it to the regular rotation. The station was also an early supporter of Olivia Newton-John's music.

"We played a lot of crossover," said Brantley, "and then with 'Urban Cowboy' it just broke loose."

At that time the station was receiving ratings for its AM and FM stations as one number, sometimes giving it better than a 30-point market share. Typical successful stations in other similar-sized markets were happy when they hit a 10 share.

Through the years a few local stations have challenged WIVK by going with a country format, but none have succeeded.

"Our research showed that it would take a direct competitor five years and $5 million dollars in advertising and promotions to even compete with us," Denton said.

The only time that WIVK–FM seemed vulnerable was when Claude Tomlinson became ill in 1990. During his illness, the station would let Tomlinson broadcast from his home and sometimes his hospital bed.

Tomlinson died in 1991 and was replaced by the team Darren Wilhite and Tim Wall. The duo remained with the station for six years until they were replaced by Andy (Jerry Chistopher Ritchie) and Alison (West) in 1997.

Ritchie said that his and West's goal in coming to such a hugely successful station was to "just not screw it up." They were surprised by the career longevity they encountered.

"It's pleasantly unusual to find anybody who's been at the same station for five years, much less 35," said Ritchie. "It's exciting to find some stability."

In fact, the station's personalities have nearly all been with WIVK for more than five years and have become part of the culture as their predecessors did. Andy and Alison, Gunner, Colleen Addair, Hoss and Jack Ryan are all part of the fabric of East Tennessee.

After the FM station became the dominant vehicle for WIVK, the AM station in 1987 moved to 990–AM, the former frequency of WNOX. In 1992 it shifted to all-talk and news format and became the region's most popular station in that format.

Jim Dick is no longer involved with either station. Dick Broadcasting sold WIVK and 11 other stations to Las Vegas-based Citadel Communications for $300 million in 2000. However, Dick does visit the station and has warm feelings for the people still involved with the project he began 50 years ago.

"I'm very proud of them," says Dick. "Very proud."

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## TRIBUTE TO U.S. ARMY SPECIALIST LUCAS V. TRIPP

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I stand before you today to honor a young man tragically taken from this earth while in the service of his country. U.S. Army Specialist Lucas V. Tripp of Aurora, Colorado was one of ten soldiers killed in the unfortunate Black Hawk helicopter accident near Fort Drum, New York last Tuesday. Those who seek the true meaning of duty, honor, and sacrifice will find it in dedicated servants like Luke Tripp and his fellow soldiers. I am truly humbled to honor them before this body of Congress and this nation.

Luke joined the Army four years ago and, like so many young men and women before him, he saw it as an opportunity to serve our great nation. After enlisting, Luke graduated from boot camp at the top of his class and quickly rose through the ranks, eventually becoming a Black Hawk crew chief and certified flight instructor. Luke could rappel out of a hovering helicopter into a hostile area and repair damaged aircraft, an action that requires stunning bravery. The accident last week occurred as the 13 crew members returned from a training exercise in upstate New York, where they had been preparing for a possible deployment in the case of war. Luke's best friend was the first to reach the crash site and reported that he found Luke heroically shielding one of the two survivors.

Mr. Speaker, I cannot fully express my deep sense of gratitude for the sacrifice of these young soldiers and their families. Throughout our history, men and women in uniform have fought our battles with distinction and courage. At the dawn of this new century, the United States military has once again been called to defend our freedom and ideals against a new and emerging threat. Soldiers like Luke and his crew embody America's determination to lead the world in confronting that threat and I know that their awesome sacrifice will not be in vain. They have done all Americans proud and I know they have the respect and admiration of all of my colleagues here today.

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## IRAQ

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. HOLT. Mr. Speaker, I rise before the House today to question the merits of the mission this Administration will soon ask the brave men and women of our armed forces to undertake. I am sure that our servicemen and women will perform admirably and we all hope they will achieve their objectives quickly and with minimal loss of life, but my reservations about this approaching war remain as strong today as they have ever been.

Although I agree with the President that we must eliminate the threat posed by Saddam Hussein and his weapons of mass destruction, I still believe it is at the least premature, and more likely contrary to our national interest, to launch a military attack against Iraq now. I firmly believe that we could better achieve our objectives in Iraq by building a strong international coalition capable of not only winning the war, but also capable of winning the peace.

When thinking about whether or not we should go to war against Iraq, I find myself returning repeatedly to one basic question. Will American-led military action against Iraq improve the security of the American people against the threat of terrorism and weapons of mass destruction? I believe the answer is no.

I remain concerned that an immediate attack on Iraq would significantly rise the chance of terrorism here at home, while overseas I fear that a cornered Saddam Hussein would release his arsenal of chemical, biological, and possible nuclear weapons on American soldiers or on his neighbors in the region, including Israel. He could also pass them on to terrorists and speed their arrival to American shores. But it is not fear of danger to America that gives us pause. Americans are brave enough to face danger if necessary. However, there is no evidence I have seen either in classified or public briefings that convinces me that this war is necessary now.

Furthermore, even if we prosecute a successful war, which I have no doubt our brave men and women in uniform would, I have questions about our ability to win the post-war peace. A war and subsequent American occupation of Iraq would likely send a destabilizing shockwave throughout the Middle East and ignite violent anti-Americansim, giving rise to future threats to our national security. While I have no doubt that we would successfully depose Saddam Hussein, I am concerned that the act of extinguishing Saddam would inflame, rather than diminish, the terrorist threat to the United States. The ensuring anti-American sentiment could reinvigorate the terrorists' pursuit of the loose nuclear weapons in the former Soviet Union—a greater threat than Iraq, I might add, one that America has largely neglected.

We can and should take the lead in eliminating the threat posed by Saddam Hussein, but this Administration has not made a convincing case to the world that war is necessary. Instead, it has used aggressive rhetoric to wage a diplomatic war on our allies that is straining our international relationships and alienating America from the world. While I do not believe that we need the permission of our allies to take action, I do believe that we need their partnership to be successful in the long run.

In order to be successful, we must lead the world community. But leadership is not simply about acting boldly—it means bringing along others to act boldly with you. We need to disarm and dismantle Saddam's arsenal, but we should do so with the support of the world. This Administration, however, has failed to earn the support of our allies. And so, in place of leadership, we have questions and ultimately instability.

This Administration has yet to explain how military action make Americans more safe, not less. It has also failed to explain to the American public what our responsibilities would be in a post-Saddam Iraq. How will we guarantee the security of our soldiers and the Iraqi people? How will we guarantee the success of a democratic transition? How many hundreds of billions of dollars would it cost to rebuild Iraq?

If the President has determined that military action against Iraq is necessary, I request that he explain first to a joint session of Congress exactly how a war could affect our other international interests, what our plan is for achieving a long-term stabilization of post-conflict Iraq, and approximately how much military action and post-war reconstruction would likely cost. The American people deserve to know the answers to these questions.

Americans are willing to pay any price and bear any burden to advance the American ideals of liberty, equality and peace. However, if a war is not deemed necessary, if it is not indeed a last resort, then the price in dollars and blood is too great:

Since it now appears that arguments against the war are too late, we must turn our attention to working with other countries diplomatically and to prosecuting the war as humanely as possible so that we will be able to pick up the pieces when the fighting is over.

# HOUSE OF REPRESENTATIVES—*Wednesday, March 19, 2003*

The House met at 10 a.m.

The Reverend Willie Davis, Pastor, Second Baptist Church, Las Vegas, Nevada, offered the following prayer:

God, whose aggression is born of love and whose aim is peace, God of revelation and inspiration, from Your Holy Word come instructions about the necessity of vision and statements of encouragement for the entertainment of vision. Help us, O God.

Our world needs a new vision of sovereignty. We need negotiations more than confrontation, cooperation more than conflict, peace rather than war. Help us, Lord.

Our world needs a new vision of freedom. We need no political hostages; free them, Lord. We need no slaves of prejudice; free them Lord. No bond servants of poverty; free them, Lord. No captives of hunger; free them, Lord. No servants of sin; free them, Lord.

Our world needs a new vision of Your redemption. Save us, Lord. Enable us to call on Your name in repentance, to open our hearts to You in commitment, and to bow our knees to You in obedience.

Our prayer is offered in the Name of the One who gives clear visibility and spiritual reality. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 40. Concurrent resolution permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 628. An act to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

The message also announced that pursuant to sections 267h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Connecticut (Mr. DODD) as Vice Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

## WELCOMING REVEREND WILLIE DAVIS

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Reverend Willie Davis from the Second Baptist Church in Las Vegas, Nevada. Pastor Davis has served the Second Baptist Church of Las Vegas since 1978.

Under Reverend Davis's leadership, the membership at Second Baptist Church has more than doubled and the church has improved and expanded services offered to the community. Given the unique work schedules of the residents of Las Vegas, Second Baptist was the first African American congregation to begin an early morning worship service, as well as a live broadcast. It has expanded its facilities to incorporate a new sanctuary with seating for 2,000 people, new classrooms, a small chapel, a pastor's study, and administrative offices. From a tent in the desert, Second Baptist has bloomed into the miracle on Madison Avenue.

The glory of Second Baptist's transformation is reflected in the church's awards-winning choir which will be performing at noon today in HC–8 of the Capitol building, as well as other locations.

It gives me great pride and pleasure that they are here, and it is very fitting that as long as Reverend Davis is here in our Nation's Capitol, along with the choir from Second Baptist, that he give the morning prayer.

## PRESIDENTIAL REPORT PURSUANT TO USE OF FORCE RESOLUTION

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. HASTERT. Mr. Speaker, and for the information of all Members, I am in receipt of a report from the President pursuant to the Use of Force Resolution approved by the Congress last year.

This report summarizes diplomatic and other peaceful means pursued by the United States, cooperating with foreign countries and international organizations to obtain Iraqi compliance with all relevant United Nations Security Council resolutions regarding Iraq.

Pursuant to House Rule XII, I will refer this report to the Committee on International Relations. In addition, for the information of the Members, I will submit the document in its entirety for printing into the CONGRESSIONAL RECORD.

Let me remind Members that this document is pursuant to legislation and the statute that we passed last year. This is not a declaration that we are in any specific type of activity at this time. It only is the pursuit of the statute that was passed last year.

Any further announcement will be shared with the Congress.

THE WHITE HOUSE,
*Washington, March 18, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), and based on information available to me, including that in the enclosed document, I determine that:

(1) reliance by the United States on further diplomatic and other peaceful means alone will neither (A) adequately protect the national security of the United States against the continuing threat posed by Iraq nor (B) likely lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to the Constitution and Public Law 107–243 is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.

Sincerely,

GEORGE W. BUSH.

### REPORT IN CONNECTION WITH PRESIDENTIAL DETERMINATION UNDER PUBLIC LAW 107–243

This report summarizes diplomatic and other peaceful means pursued by the United States, working for more than a dozen years with cooperating foreign countries and international organizations such as the United

Nations, in an intensive effort (1) to protect the national security of the United States, as well as the security of other countries, against the continuing threat posed by Iraqi development and use of weapons of mass destruction, and (2) to obtain Iraqi compliance with all relevant United Nations Security Council (UNSC) resolutions regarding Iraq. Because of the intransigence and defiance of the Iraqi regime, further continuation of these efforts will neither adequately protect the national security of the United States against the continuing threat posed by Iraq nor likely lead to enforcement of all relevant UNSC resolutions regarding Iraq.

This report also explains that a determination to use force against Iraq is fully consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. Indeed, as Congress found when it passed the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243), Iraq continues to harbor and aid international terrorists and terrorist organizations, including organizations that threaten the safety of United States citizens. The use of military force to remove the Iraqi regime is therefore not only consistent with, but is a vital part of, the international war on terrorism.

This document is summary in form rather than a comprehensive and definitive rendition of actions taken and related factual data that would constitute a complete historical record. This document should be considered in light of the information that has been, and will be, furnished to Congress, including the periodic reports consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243).

### 1. THE GULF WAR AND CONDITIONS OF THE CEASE-FIRE

On August 2, 1990, President Saddam Hussein of Iraq initiated the brutal and unprovoked invasion and occupation of Kuwait. The United States and many foreign governments, working together and through the UN, sought by diplomatic and other peaceful means to compel Iraq to withdraw from Kuwait and to establish international peace and security in the region.

President George H.W. Bush's letter transmitted to Congress on January 16, 1991, was accompanied by a report that catalogued the extensive diplomatic, economic, and other peaceful means pursued by the United States to achieve U.S. and UNSC objectives. It details adoption by the UNSC of a dozen resolutions, from Resolution 660 of August 2, 1990, demanding that Iraq withdraw from Kuwait, to Resolution 678 on November 29, 1990, authorizing member states to use all necessary means to "implement Resolution 660," to implement "all subsequent relevant resolutions," and "to restore international peace and security in the area."

Despite extraordinary and concerted efforts by the United States, other countries, and international organizations through diplomacy, multilateral economic sanctions, and other peaceful means to bring about Iraqi compliance with UNSC resolutions, and even after the UN and the United States explicitly informed Iraq that its failure to comply with UNSC resolutions would result in the use of armed force to eject Iraqi forces from Kuwait, Saddam Hussein's regime remained intransigent. The President ordered the U.S. armed forces, working in a coalition with the armed forces of other cooperating countries, to liberate Kuwait. The coalition forces promptly drove Iraqi forces out of Kuwait, set Kuwait free, and moved into southern Iraq.

On April 3, 1991, the UNSC adopted Resolution 687, which established conditions for a cease-fire to suspend hostilities. Among other requirements, UNSCR 687 required Iraq to (1) destroy its chemical and biological weapons and ballistic missiles with ranges greater than 150 km; (2) not use, develop, construct, or acquire biological, chemical, or nuclear weapons and their delivery systems; (3) submit to international inspections to verify compliance; and (4) not commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. On April 6, 1991, Iraq communicated to the UNSC its acceptance of the conditions for the cease-fire.

### 2. IRAQ'S BREACH OF THE CEASE-FIRE CONDITIONS: THREATS TO PEACE AND SECURITY

Since almost the moment it agreed to the conditions of the cease-fire, Iraq has committed repeated and escalating breaches of those conditions. Throughout the first seven years that Iraq accepted inspections, it repeatedly obstructed access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). On two occasions, in 1993 and 1998, Iraq's refusal to comply with its international obligations under the cease-fire led military action by coalition forces. In 1998, under threat of "severest consequences," Iraq signed a Memorandum of Understanding pledging full cooperation with UNSCOM and IAEA and "immediate, unconditional and unrestricted" access for their inspections. In a matter of months, however, the Iraqi regime suspended cooperation, in part as an effort to condition compliance on the lifting of oil sanctions; it ultimately ceased all cooperation, causing the inspectors to leave the country.

On December 17, 1999, after a year with no inspections in Iraq, the UNSC established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) as a successor to UNSCOM, to address unresolved disarmament issues and verify Iraqi compliance with the disarmament required by UNSCR 687 and related resolutions. Iraq refused to allow inspectors to return for yet another three years.

### 3. RECENT DIPLOMATIC AND OTHER PEACEFUL MEANS REJECTED BY IRAQ

On September 12, 2002, the President addressed the United Nations General Assembly on Iraq. He challenged the United Nations to act decisively to deal with Iraq's systematic twelve-year defiance and to compel Iraq's disarmament of the weapons of mass destruction and delivery systems that continue to threaten international peace and security. The White House background paper, "A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations" (September 12, 2002), summarizes Iraq's actions as of the time the President initiated intensified efforts to enforce all relevant UN Resolutions and demonstrates the failure of diplomacy to affect Iraq's conduct: "For more than a decade, Saddam Hussein has deceived and defied the will and resolutions of the United Nations Security Council by, among other things: continuing to seek and develop chemical, biological, and nuclear weapons, and prohibited long-range missiles; brutalizing the Iraqi people, including committing gross human rights violations and crimes against humanity; supporting international terrorism; refusing to release or account for prisoners of war and other missing individuals from the Gulf War era; refusing to return stolen Kuwaiti property; and working to circumvent the UN's economic sanctions."

The President also summarized Iraq's response to a decade of diplomatic efforts and its breach of the cease-fire conditions on October 7, 2002, in an address in Cincinnati, Ohio: "Eleven years ago, as a condition for ending the Persian Gulf War, the Iraqi regime was required to destroy its weapons of mass destruction, to cease all development of such weapons, and to stop all support for terrorist groups. The Iraqi regime has violated all of those obligations. It possesses and produces chemical and biological weapons. It is seeking nuclear weapons. It has given shelter and support to terrorism, and practices terror against its own people. The entire world has witnessed Iraq's eleven-year history of defiance, deception and bad faith."

In response to the President's challenge of September 12, 2002, and after intensive negotiation and diplomacy, the UNSC unanimously adopted UNSCR 1441 on November 8, 2002. The UNSC declared that Iraq "has been and remains in material breach" of its disarmament obligations, but chose to afford Iraq one "final opportunity" to comply. The UNSC again placed the burden on Iraq to comply and disarm and not on the inspectors to try to find what Iraq is concealing. The UNSC made clear that any false statements or omissions in declarations and any failure by Iraq to comply with UNSCR 1441 would constitute a further material breach of Iraq's obligations. Rather than seizing this final opportunity for a peaceful solution by giving full and immediate cooperation, the Hussein regime responded with renewed defiance and deception.

For example, while UNSCR 1441 required that Iraq provide a "currently accurate, full and complete" declaration of all aspects of its weapons of mass destruction ("WMD") and delivery programs, Iraq's Declaration of December 7, 2002, failed to comply with that requirement. The 12,000-page document that Iraq provided was little more than a restatement of old and discredited material. It was incomplete, inaccurate, and composed mostly of recycled information that failed to address any of the outstanding disarmament questions inspectors had previously identified.

In addition, since the passage of UNSCR 1441, Iraq has failed to cooperate fully with inspectors. It delayed until two-and-a-half months after the resumption of inspections UNMOVIC's use of aerial surveillance flights; failed to provide private access to officials for interview by inspectors; intimidated witnesses with threats; undertook massive efforts to deceive and defeat inspectors, including cleanup and transshipment activities at nearly 30 sites; failed to provide numerous documents requested by UNMOVIC; repeatedly provided incomplete or outdated listings of its WMD personnel; and hid documents in homes, including over 2000 pages of Iraqi documents regarding past uranium enrichment programs. In a report dated March 6, 2003, UNMOVIC described over 600 instances in which Iraq had failed to declare fully activities related to its chemical, biological, or missile procurements.

Dr. Hans Blix, Executive Chairman of UNMOVIC, reported to the UNSC on January 27, 2003 that "Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it." Dr. Mohamed El Baradei, Director General of the IAEA, reported that Iraq's declaration of December 7 "did not provide any new information relevant to certain questions that have been outstanding since 1998." Both demonstrated that there was no evidence that Iraq had decided to comply with disarmament obligations. Diplomatic efforts have not affected Iraq's conduct positively. Any temporary changes in Iraq's approach that have occurred over the years have been in response to the threat of use of force.

On February 5, 2003, the Secretary of State delivered a comprehensive presentation to the UNSC using declassified information, including human intelligence reports, communications intercepts and overhead imagery, which demonstrated Iraq's ongoing efforts to pursue WMD programs and conceal them from UN inspectors. The Secretary of State updated that presentation one month later by detailing intelligence reports on continuing efforts by Iraq to maintain and conceal proscribed materials.

Despite the continued resistance by Iraq, the United States has continued to use diplomatic and other peaceful means to achieve complete and total disarmament that would adequately protect the national security of the United States from the threat posed by Iraq and which is required by all relevant UNSC resolutions. On March 7, 2003, the United States, United Kingdom, and Spain presented a draft resolution that would have established for Iraq a March 17 deadline to cooperate fully with disarmament demands. Since the adoption of UNSCR 1441 in November 2002, there have been numerous calls and meetings by President Bush and the Secretary of State with other world leaders to try to find a diplomatic or other peaceful way to disarm Iraq. On March 13, 2003, the U.S. Ambassador to the UN asked for members of the UNSC to consider seriously a British proposal to establish six benchmarks that would be used to measure whether or not the regime in Iraq is coming into full, immediate, and unconditional compliance with the pertinent UN resolutions. On March 16, 2003, the President traveled to the Azores to meet with Portuguese Prime Minister Jose Manuel Durao Barroso, British Prime Minister Tony Blair, and Spanish Prime Minister Jose Maria Aznar to assess the situation and confirm that diplomatic and other peaceful means have been attempted to achieve Iraqi compliance with all relevant UNSC resolutions. Despite these diplomatic and peaceful efforts, Iraq remains in breach of relevant UNSC resolutions and a threat to the United States and other countries. Further diplomatic efforts were suspended reluctantly after, as the President observed on March 17, "some permanent members of the Security Council ha[d] publicly announced they will veto any resolution that compels the disarmament of Iraq."

The lesson learned after twelve years of Iraqi defiance is that the appearance of progress on process is meaningless—what is necessary is immediate, active, and unconditional cooperation in the complete disarmament of Iraq's prohibited weapons. As a result of its repeated failure to cooperate with efforts aimed at actual disarmament, Iraq has retained weapons of mass destruction that it agreed, as an essential condition of the cease-fire in 1991, not to develop or possess. The Secretary of State's February 5, 2003, presentation cited examples, such as Iraq's biological weapons based on anthrax and botulinum toxin, chemical weapons based on mustard and nerve agents, proscribed missiles and unmanned aerial vehicles to deliver weapons of mass destruction, and mobile biological weapons factories. The Secretary of State also discussed with the Security Council Saddam Hussein's efforts to reconstitute Iraq's nuclear weapons program.

The dangers posed by Iraq's weapons of mass destruction and long-range missiles are clear. Saddam Hussein has already used such weapons, repeatedly. He used them against Iranian troops in the 1980s. He used ballistic missiles against civilians during the Gulf War, firing Scud missiles into Israel and Saudi Arabia. He used chemical weapons against the Iraqi people in Northern Iraq. As Congress stated in 1998 in Public Law 105–235, "Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security." Congress concluded in Public Law 105–338 that "[i]t should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime."

In addition, Congress stated in the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), that: "Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations."

Nothing that has occurred in the past twelve years, the past twelve months, the past twelve weeks, or the past twelve days provides any basis for concluding that further diplomatic or other peaceful means will adequately protect the national security of the United States from the continuing threat posed by Iraq or are likely to lead to enforcement of all relevant UNSC resolutions regarding Iraq and the restoration of peace and security in the area.

As the President stated on March 17, "[t]he Iraqi regime has used diplomacy as a ploy to gain time and advantage." Further delay in taking action against Iraq will only serve to give Saddam Hussein's regime additional time to further develop WMD to use against the United States, its citizens, and its allies. The United States and the UN have long demanded immediate, active, and unconditional cooperation by Iraq in the disarmament of its weapons of mass destruction. There is no reason to believe that Iraq will disarm, and cooperate with inspections to verify such disarmament, if the U.S. and the UN employ only diplomacy and other peaceful means.

### 4. USE OF FORCE AGAINST IRAQ IS CONSISTENT WITH THE WAR ON TERROR

In Public Law 107–243, Congress made a number of findings concerning Iraq's support for international terrorism. Among other things, Congress determined that:

Members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq.

Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens.

It is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary.

In addition, the Secretary of State's address to the UN on February 5, 2003 revealed a terrorist training area in northeastern Iraq with ties to Iraqi intelligence and activities of al Qaida affiliates in Baghdad. Public reports indicate that Iraq is currently harboring senior members of a terrorist network led by Abu Musab al-Zarqawi, a close al Qaida associate. In addition, Iraq has provided training in document forgery and explosives to al Qaida. Other terrorist groups have been supported by Iraq over past years.

Iraq has a long history of supporting terrorism, and continues to be a safe haven, transit point, and operational node for groups and individuals who direct violence against the United States and our allies. These actions violate Iraq's obligations under the UNSCR 687 cease-fire not to commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. Iraq has also failed to comply with its cease-fire obligations to disarm and submit to international inspections to verify compliance. In light of these Iraqi activities, the use of force by the United States and other countries against the current Iraqi regime is fully consistent with—indeed, it is an integral part of—the war against international terrorists and terrorist organizations.

Both because Iraq harbors terrorists and because Iraq could share weapons of mass destruction with terrorists who seek them for use against the United States, the use of force to bring Iraq into compliance with its obligations under UNSC resolutions would be a significant contribution to the war on terrorists of global reach. A change in the current Iraqi regime would eliminate an important source of support for international terrorist activities. It would likely also assist efforts to disrupt terrorist networks and capture terrorists around the globe. United States Government personnel operating in Iraq may discover information through Iraqi government documents and interviews with detained Iraqi officials that would identify individuals currently in the United States and abroad who are linked to terrorist organizations.

The use of force against Iraq will directly advance the war on terror, and will be consistent with continuing efforts against international terrorists residing and operating elsewhere in the world. The U.S. armed forces remain engaged in key areas around the world in the prosecution of the war on terrorism. The necessary preparations for and conduct of military operations in Iraq have not diminished the resolve, capability, or activities of the United States to pursue international terrorists to protect our homeland. Nor will the use of military force against Iraq distract civilian departments and agencies of the United States Government from continuing aggressive efforts in combating terrorism, or divert resources from the overall world-wide counter-terrorism effort. Current counter-terrorism investigations and activities will continue during any military conflict, and winning the war on terrorism will remain the top priority for our Government.

Indeed, the United States has made significant progress on other fronts in the war on terror even while Iraq and its threat to the United States and other countries have been a focus of concern. Since November 2002, when deployments of forces to the Gulf were substantially increased, the United States, in cooperation with our allies, has arrested or captured several terrorists and frustrated several terrorist plots. For example, on March 1, 2003, Khalid Shaikh Mohammed was captured in Rawalpindi, Pakistan by Pakistani authorities, with U.S. cooperation. The capture of Sheikh Mohammed, the al Qaida "mastermind" of the September 11th attacks and Osama Bin Laden's senior terrorist attack planner, is a severe blow to al Qaida that will destabilize the terrorist network worldwide. This and other successes make clear that the United States Government remains focused on the war on terror, and that use of force in Iraq is fully consistent with continuing to take necessary actions against terrorists and terrorist organizations.

### 5. CONCLUSION

In the circumstances described above, the President of the United States has the authority—indeed, given the dangers involved, the duty—to use force against Iraq to protect the security of the American people and to compel compliance with UNSC resolutions.

The President has full authority to use the armed forces in Iraq under the U.S. Constitution, including his authority as Commander in Chief of the U.S. armed forces. This authority is supported by explicit statutory authorizations contained in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243).

In addition, U.S. action is consistent with the UN Charter. The UNSC, acting under Chapter VII of the UN Charter, provided that member states, including the United States, have the right to use force in Iraq to maintain or restore international peace and security. The Council authorized the use of force in UNSCR 678 with respect to Iraq in 1990. This resolution—on which the United States has relied continuously and with the full knowledge of the UNSC to use force in 1993, 1996, and 1998 and to enforce the no-fly zones—remains in effect today. In UNSCR 1441, the UNSC unanimously decided again that Iraq has been and remains in material breach of its obligations under relevant resolutions and would face serious consequences if it failed immediately to disarm. And, of course, based on existing facts, including the nature and type of the threat posed by Iraq, the United States may always proceed in the exercise of its inherent right of self defense, recognized in Article 51 of the UN Charter.

Accordingly, the United States has clear authority to use military force against Iraq to assure its national security and to compel Iraq's compliance with applicable UNSC resolutions.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). The Chair will now entertain 10 one-minute addresses to the House from each side of the Chamber.

## SUPPORT OUR PRESIDENT AND OUR TROOPS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, all eyes are on Iraq. Saddam has failed to provide credible evidence to back his bogus claims that he completely disarmed.

Saddam will not tell us about his 26,000 liters of anthrax; 38,000 liters of dangerous toxins; or 500 tons of sarin gas, mustard gas and VX nerve agents. Enough to kill millions of people.

Saddam repeatedly declares he does not have any chemical or biological weapons. Yet he just released them to his men for use against our troops. And he has not disclosed his mobile biological weapons labs or more than 30,000 munitions, including missiles capable of delivering chemical agents.

President Bush said, "Responding to enemies only after they have struck first is not self-defense. It is suicide."

I urge America and this Congress to support our President and our troops. This war is for our freedom and the freedom of the world.

## HONORING SUNIL AGHI

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to remember and honor my good friend, Mr. Sunil Aghi, or Sunny, as he was known by most people.

I first met Sunny when I received a phone call one morning during my first campaign for Congress. Sunny introduced himself. He said that he was Indian; and since my campaign was a campaign of the people, he wanted to get his people, the Indian community, to come and help me win.

When he said Indian, I thought he meant headdress and Native American; but what he meant was the Indo-American community, those who were from India.

Sunny had such energy. He was a leading Indo-American in the political arena. He was a one-man show, putting together fund-raisers, hosting dozens of Congresspeople and Senators, spreading the message of democracy. He believed in democracy and teaching many of us about India, the world's largest democracy.

Sunny passed away last week, survived by his wife, Dimple, and his three young children. And he was young. But as someone said, he managed to wrap many of us here in the Congress and at other State and local levels, people who represent people, he managed to wrap us as a sari does, in his Indianness. Thank you, Sunny, for your life and the life you gave to others.

## PASS BANKRUPTCY REFORM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, our bankruptcy laws are in desperate need of reform. That is why I am a co-sponsor of H.R. 975, the Bankruptcy Reform Bill, up for a vote today.

Last year we had some problems with a similar bill. An unrelated provision was inserted into that bill last year during the conference committee and that provision had nothing to do with protecting consumers or preventing bankruptcy abuse. Instead, it would have sent the right to peaceful protests into bankruptcy. Thanks to the efforts of the gentleman from Wisconsin (Chairman SENSENBRENNER), I am pleased that this year we have a clean bill to consider once again.

I commend the chairman for his tireless efforts to reform our bankruptcy laws, and I urge our colleagues to support this bill to reform the bankruptcy system.

## UNDERSTANDING OUR RIGHTS

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I was pleased to have the opportunity to lead this Congress this morning in the Pledge of Allegiance. And it is a great opportunity for me because as those of us who speak out against the war in Iraq, many times our support for the Nation and support for the Presidency and support for the military are called into question.

On Saturday I had the opportunity to participate in a peace rally at Public Square in the city of Cleveland, and I talked about patriotism and I talked about all those teachers in my high school and college years who said to me, understand the Bill of Rights. Understand you have the right to protest. Understand you have the right to assemble, and understand you have a right to free speech.

□ 1015

My free speech allows me to say to the entire world, to the troops all over this country and all over the world that I support them. I am patriotic. To the whole world I still like peace, I want peace, and I am opposed to the war in Iraq, but I am a great American and I am a patriot.

I thank the Chair for the opportunity to be heard, Mr. Speaker.

## LIBERTY WILL PREVAIL

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, today is a solemn day. History awaits America tonight, and while I would never question the patriotism of anyone who would challenge the wisdom of U.S.

policy exercising their first amendment rights on this floor or in this Nation, I will challenge the wisdom of those who say that we are come upon this moment because of diplomatic failure, that we have come upon this moment because of a failure on the part of the President to lead the world toward consensus.

Let us be clear, Mr. Speaker, the President did not fail. Diplomacy did not fail. The United Nations failed in abdicating its historic role, minted in the aftermath of the Second World War, to be a bulwark against tyranny in the world. The United Nations failed, but as the world awaits our leadership and that of 30 other nations in the coalition of the willing, let us be clear, Mr. Speaker. The United Nations failed, but liberty will prevail.

## EXPRESSING CONCERN OVER HARASSMENT OF SIKH YOUTH

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in concern about a troubling issue. Young Sikh boys are suffering from physical abuse, harassment and verbal taunting in some American schools. This is due to a lack of knowledge of the Sikh faith.

Sikhism is the world's fifth largest religion and has existed in India for more than five centuries. Many Sikhs in India play important roles in both the State and Federal Governments, and Sikhs are an integral part of the Indian American community in this country.

As part of their faith, Sikh men leave their hair uncut and wear turbans. Students see images of the Taliban and mistake Sikh youth for extremists. As a result, many Sikh boys have been harassed. As the Republican cochair of the India Caucus, I ask school administrators to work with members of the Sikh community to educate all young people about the importance of respecting other people's faith. No child should ever fear for their physical safety inside an American school.

In conclusion, may God bless our troops.

## CONSUMER BANKRUPTCY FILINGS IN AMERICA

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, since 1980 consumer bankruptcy filings in America have absolutely quadrupled. Think about that. They have quadrupled, and why is that? Because bankruptcy used to be a term that made people shudder in their boots. Nobody wanted that black mark on their record. No one wanted that stigma. But today too many individuals think that filing for bankruptcy will erase their debt with little or no consequence, and it is high time for Americans to take financial responsibility for the debts that they have acquired.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 holds people accountable for their personal spending habits. If a person has debts and dissolves under Chapter 7, but have sufficient funds to pay off their debt, then clearly they should be required to pay it off, not to have their debt whisked painlessly away by just filing bankruptcy.

In my opinion, the Federal Government should not be in the business of bailing people out of their debt. We should instead be encouraging people to spend within their means and make logical and responsible financial choices, and this bill does just that.

This bill is about being held accountable, and it comes at just the right time. This is common-sense legislation. Bankruptcy abuse needs to stop, and this legislation is a step in the right direction.

## CONGRESS NEEDS TO CLOSE RANKS

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Mr. Speaker, our troops are well-equipped, well-trained and well-led. They are well-led all the way from their noncommissioned officers and officers at the small unit and company and battalion and brigade and division level all the way up to their leader at the top, the Commander in Chief of America's Armed Forces, President George Bush.

They have everything they need for victory except for one ingredient, Mr. Speaker. They need a Congress which quits berating their President, who is their leader, and their mission and closes ranks behind that mission and our President for victory.

## RECREATIONAL MARINE EMPLOYMENT ACT

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, I rise today in support of the Recreational Marine Employment Act, which I recently introduced with broad bipartisan support. Through enactment of this legislation, the recreational marine industry will be able to create thousands of new jobs by ensuring that marinas, boat builders and recreational boaters will not have to pay the unnecessary and exorbitant insurance premiums under the Longshore and Harbor Workers Compensation Act.

Congress never intended that recreational marine jobs be covered under the Longshore Act, which applies to commercial ships, not recreational boats, since individuals who work in the recreational marine industry are already covered under State worker's compensation laws. This legislation will simply clarify that the recreational marine industry is exempt from the Longshore Act.

A recent survey indicated that employers in the recreational marine industry would save an average of $99,000 a year if this legislation passes, and 95 percent of those employers would use the savings to create additional jobs.

This bill would provide the common-sense clarification needed under the Longshore Act. I urge my colleagues to call my office today and sign on as a cosponsor of H.R. 1329.

## WAR ON IRAQ AND YOUNG CONSTITUENTS

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, through all the debate over attacking Iraq, it is important to remember how the threat of the United States attack on Iraq affects our youngest constituents.

Here is a letter that I just received from one such concerned constituent in my district, 7-year-old Nathaniel Smith from Capitola, California.

> Dear Congressman Farr, My name is Nathaniel and I am 7 years old. I just want to say that I do not think the war is a very good idea. War is not a good way to solve problems, and it is a bad thing to happen in the world. It might destroy other people's property like houses and schools. People that are not in the war can die because soldiers might miss.
>
> War is dangerous for nature. The money for war can go to schools. My school, Capitola Elementary, might close because my school does not have enough money. Please do not have a war.
>
> Sincerely, Nathaniel Smith.

This youthful expression of concern eloquently captures the sentiment of so many Americans, young and old.

I would like to add my voice to that of Nathaniel Smith in urging the Commander in Chief who ordered this war to cancel it.

## CONSTITUTION AND WAR IN IRAQ

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a very solemn time for this Nation. It is a solemn time for American families whose young men and women are facing danger in faraway shores. I think it is also a time when we grab hold of a document that has given us comfort for so many centuries, and that is the Constitution, and Mr. Speaker, I believe the Constitution demands that this Congress address the question of going to war with Iraq.

It is delineated in the Constitution that the Congress is the institution to declare war, and so I think it is appropriate, Mr. Speaker, for the President to come to this Congress, similarly as was done in a faraway country with Prime Minister Blair, who discussed this with the Parliament on yesterday, a solemn decision, a question of war and peace, a choice of life over death, options other than war.

Many of these issues can be discussed on behalf of the American people. Let us not be afraid to hear both support and opposition. That is what democracy is all about.

My question is, is this Congress going to remain deadly silent on the question of going to war with Iraq?

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

## CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 417) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 417

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.**

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

**SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.**

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to strongly support this legislation introduced by the gentleman from California (Mr. HUNTER). He has done a superb job of representing his constituents, who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walters Camp, has existed since 1962, and it has provided recreational opportunities to thousands of Americans. In fact, it is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activity.

About 3 years ago the concessionaire was advised by the Fish and Wildlife Service that Walters Camp was inadvertently added to the Cibola Refuge and that corrective legislation was necessary. This is the goal of this measure, to correct this mistake, and there is no opposition to returning the title of this property to the Bureau of Land Management.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER), the author of the bill.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me the time, and I just wanted to say, Mr. Speaker, first, I wanted to give my thanks to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, for his leadership and for understanding how important this bill that deals with a fairly small parcel of land, how important this is to working folks in southern California who need a place to get away from the boss and be with the family and enjoy rock hounding and fishing and canoeing and all the neat things one does on the Colorado River. The chairman, in his usual, very plainspoken and straightforward style, has explained this very well.

This is 140 acres of land, known as Walters Camp, and that is probably named after a gentleman who was a gold miner on the Colorado River at one time. It was a concession that was operated for average folks who could come in and have a great time and rock hound and canoe and fish.

Unfortunately, in the land withdrawal for the Cibola Refuge in 1964, it was mistakenly added into the withdrawal.

□ 1030

Fish and Wildlife have testified on several occasions that it does not have a significant value in terms of wildlife, and so they have no problem with righting this wrong and correcting this mistake.

Mr. Speaker, once again, I thank the gentleman from California (Mr. POMBO), who is doing a superb job of chairing this committee and allowing me to move this bill, bringing it forward; and hopefully we can get the other body to act on it and restore a good measure of outdoor enjoyment to working families in Southern California. I thank the chairman, and I hope that we can pass this with an overwhelming vote.

Mr. POMBO. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I get to my remarks on H.R. 417, this is the first opportunity I have had to be on the floor with the new chairman of the Committee on Resources, and I wanted to welcome the gentleman from California (Mr. POMBO), the new chairman of the Committee on Resources, and say that I look forward to working with the gentleman.

As stated by the previous speakers, the overall purpose of this legislation is to resolve a long-standing error that included a preexisting concession known as Walters Camp within the original 1964 public land withdrawal that created the Cibola National Wildlife Refuge.

In the 107th Congress, the Committee on Resources determined after a lengthy investigation that the inclusion of this concession was a genuine error in the original withdrawal and agreed that this error should be corrected.

H.R. 417 would make that legal adjustment. But just as important, this legislation will also ensure that all title interests to the 140 acres of land revoked from the Cibola Refuge remain public lands under the jurisdiction of the Bureau of Land Management. Allow me to be clear: nothing is being conveyed to the concession operator as part of this legislation. It is simply a transfer of lands from one Federal agency to another.

This legislation has also retained amendments adopted last year by the Committee on Resources to require the Secretary of the Interior to resurvey and conspicuously mark the new adjusted boundaries. These are prudent actions that should help reduce the likelihood of future encroachment by off-road vehicles onto the Cibola Refuge, which has been a growing management concern for the Fish and Wildlife Service.

In closing, H.R. 417 is commonsense legislation. The bill will correct a technical error that could not be resolved administratively. And furthermore, it will help protect fragile refuge habitats without compromising opportunities for outdoor recreation in a remote area. I urge Members to support H.R. 417.

Mr. HUNTER. Mr. Speaker, I would like to thank you for allowing a vote on H.R. 417, necessary to right a past error by the Department of Interior in designating the Cibola National Wildlife Refuge. Mr. Frank Dokter, a former constituent whose family business depends on the outcome of this legislation, testified before this panel last year on a similar bill. Although it passed the House, the Senate unfortunately could not act before the end of the 107th Congress.

Mr. Dokter and his family operate Walter's Camp, a Bureau of Land Management (BLM) concession on land near the lower Colorado River in Imperial County, California, near and within the Cibola Refuge. The facility provides visitors with a family-friendly outdoors experience, which includes camping, hiking, canoeing, fishing, birdwatching and rock-hounding. In an increasingly crowded Southern California, Mr. Dokter and his family have provided a welcome diversion from city life to many of the region's outdoors enthusiasts.

Walter's Camp was first authorized in 1962, and in August 1964, Public Land Order 3442 withdrew 16,627 acres along the Colorado River to create the Refuge. The withdrawal erroneously included the 140.32 acre Walter's Camp, but neither the BLM or the Fish and Wildlife Service immediately recognized the mistake. The BLM continued to renew the original permit, allowing the recreational concession use to continue unbroken until the present time. However, given the discovery of the past mistake, the BLM does not have the authority to continue issuing the concession contracts to Walter's Camp.

The Fish and Wildlife Service and the BLM agree that the land has "insignificant, if any, existing . . . or potential . . . wildlife habitat value," as stated in a Department of Interior memo. Therefor, I have introduced H.R. 417 to correct this mistake and allow the BLM to continue to issue contracts to Walter's Camp.

Mr. Speaker, I offer my sincere recommendation that this land be taken out of the Cibola National Wildlife Refuge, and that Mr. Dokter's family be allowed to continue such a valuable and productive service to our region. Respectfully, I urge my colleagues' support on final passage.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 417.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 699) to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

The Clerk read as follows:

H.R. 699

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER.**

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the State of Idaho and the State of Washington, shall conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer for the purpose of preparing a model of the aquifer and establishing for those States a mutually acceptable understanding of the aquifer as a ground water resource.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings and conclusions of the study by not later than 3 years after the date of the enactment of this Act.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

For conducting the study under this Act there is authorized to be appropriated to the Secretary $3,500,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 699, authored by the gentleman from Washington (Mr. NETHERCUTT), directs the Secretary of the Interior to work with the State of Idaho and the State of Washington to conduct a comprehensive study for the Rathdrum Prairie/Spokane Valley Aquifer by preparing a groundwater model to help establish a mutually acceptable understanding of the aquifer as a groundwater resource. The tools developed by this legislation will help to better coordinate and understand the various factors that influence the quantity and quality of the aquifer and encourage better cooperation between the two States charged with its maintenance operations. I urge adoption of the measure.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 699. This bill simply directs the Secretary of the Interior to conduct a study of the groundwater resources in certain areas of the States of Washington and Idaho. We support this legislation, and I urge my colleagues to do so as well.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I urge adoption of the measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 699.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## SAN GABRIEL RIVER WATERSHED STUDY ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 519) to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

The Clerk read as follows:

H.R. 519

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SAN GABRIEL RIVER WATERSHED STUDY.**

(a) SHORT TITLE.—This section may be cited as the "San Gabriel River Watershed Study Act".

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall conduct a special resource study of the following areas:

(A) The San Gabriel River and its tributaries north of and including the city of Santa Fe Springs.

(B) The San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

(2) STUDY CONDUCT AND COMPLETION.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study conducted under this section.

(3) CONSULTATION WITH FEDERAL, STATE, AND LOCAL GOVERNMENTS.—In conducting the study under this section, the Secretary shall consult with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and other appropriate Federal, State, and local governmental entities.

(4) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider regional flood control and drainage needs and publicly owned infrastructure such as wastewater treatment facilities.

(c) REPORT.—Not later than 3 years after funds are made available for this section, the

Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report on the findings, conclusions, and recommendations of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 519, introduced by the gentlewoman from California (Ms. SOLIS), would authorize the Secretary of the Interior to conduct a special resource study of the San Gabriel River Watershed in the State of California.

While I will defer to the minority and the bill's sponsor to explain the merits of the legislation, I would express that we greatly appreciate the efforts of the bill's sponsors and the minority to address some early concerns about this bill. These concerns were addressed during the last Congress, and the bill successfully passed the body as part of a larger package, although it ultimately did not become law. This bill now enjoys the broad support of both the majority and the minority, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 519, sponsored by the gentlewoman from California (Ms. SOLIS), authorizes the Secretary of the Interior to study the feasibility and suitability of establishing a unit of the National Park System which would include parts of the San Gabriel River, as well as a portion of the San Gabriel Mountains. The study would include parts of Los Angeles County, as well as a part of the City of Los Angeles itself.

During the hearings on this measure held during the previous Congress, the gentlewoman from California (Ms. SOLIS) provided testimony and photographs demonstrating that, although this proposed study area is in the midst of a very urban area, some green space has been preserved and might be appropriate for a park unit.

Clearly, such an urban setting raises conservation and management challenges, and we look forward to the results of this study regarding these issues. I want to take this opportunity to congratulate the gentlewoman from California (Ms. SOLIS) on her legislation and her diligence in moving her bill through the legislative process. She has been extremely patient while working very hard to move the bill forward. I urge Members to approve H.R. 519.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentlewoman for working with us. I also thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Chairman Pombo) and the gentleman from California (Mr. RADANOVICH). When we were discussing the bill last year, we went through different versions of the bill. We did try to accommodate the concerns of all Members who were involved in this effort.

I truly think this is a hallmark because it is a bipartisan bill that was working its way through last year, but unfortunately met some barriers on the Senate side. I know this is something that many people in urban areas are looking for as a model. We hear from Members on both sides of the aisle talking about providing open space in urban areas.

This will hopefully provide some type of relief for over 2 million people that reside along the San Gabriel River. I grew up there as a child and spent many Saturday afternoons and vacations in this area. Something that we like to talk about is the fact that so many people in that area come from largely low-income, underrepresented areas, and do not have the ability or economic means to go to Sequoia, to go to Yosemite, to even go to the beach. Some people in my district have never had the luxury of going to the beach. Their recreation occurs in their particular geographic area.

The San Gabriel Mountains are only 20 minutes away from a lot of the residents that I represent. The gentleman from California (Mr. DREIER) and I have worked on this issue. Many of his constituents feel very strongly about the need to provide open space for all communities. This is a step in the right direction. The Department of the Interior will conduct a study, and hopefully they will come up with some good planning so we can move forward. I thank all of the Members for working with me.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

### GIVE THE AMERICAN PEOPLE FAIR TAXES

Mr. CARTER. Mr. Speaker, over the course of our Presidents' Day work period, I held nine town hall meetings and listened to over 800 of my constituents express their opinions about issues important to them. Time and again they mentioned fair taxes. The American people want an economy that is sound and that can offer them jobs. We can give the people what they want by passing the President's growth plan.

The double taxation of dividends is not only unfair, it is obscene. Every year, nearly 2 million Texans and 35 million Americans are being cheated by their own government. By simply eliminating the second tax, investments will increase, resulting in 2.1 million jobs being created within the next 3 years and could potentially boost the national wealth by nearly $1 trillion.

Instead of giving the American people a $300 payoff, let us give them a real plan, a plan that will result in jobs, a steady economy, and dollars back in the hands of the taxpayers. For those who say we cannot afford the President's growth plan, I say we cannot afford to not pass his plan.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to congratulate my California colleague for all of the hard work the gentlewoman put into this legislation over the past couple of years, thank her again for working with the majority and the minority in order to work this bill out. I think it is a good piece of legislation that deserves the support of the House, and I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 519.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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□ 1045

## GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD on H.R. 417, H.R. 699 and H.R. 519, the three bills just considered.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from California?

There was no objection.

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## ARMED FORCES TAX FAIRNESS ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The Clerk read as follows:

### H.R. 1307

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; REFERENCES.

(a) Short Title.—This Act may be cited as the "Armed Forces Tax Fairness Act of 2003".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) In General.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Members of uniformed services.—

"(A) In general.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services.

"(B) Maximum period of suspension.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

"(C) Qualified official extended duty.—For purposes of this paragraph—

"(i) In general.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

"(ii) Uniformed services.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) Extended duty.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

"(D) Special rules relating to election.—

"(i) Election limited to 1 property at a time.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) Revocation of election.—An election under subparagraph (A) may be revoked at any time.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

### SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) In General.—Paragraph (3) of section 134(b) (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

"(C) Exception for death gratuity adjustments made by law.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.".

(b) Conforming Amendment.—Section 134(b)(3)(A) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) Effective Date.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

### SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) In General.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking "or" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", or" and by adding at the end the following new paragraph:

"(8) qualified military base realignment and closure fringe.".

(b) Qualified Military Base Realignment and Closure Fringe.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Qualified Military Base Realignment and Closure Fringe.—

"(1) In general.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).

"(2) Limitation.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in clause (1) of subsection (c) of such section (as in effect on such date).".

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

### SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) In General.—Subsection (a) of section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting "or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112",

(2) by inserting in the first sentence "or at any time during the period of such contingency operation" after "for purposes of such section",

(3) by inserting "or operation" after "such an area", and

(4) by inserting "or operation" after "such area".

(b) Conforming Amendments.—

(1) Section 7508(d) is amended by inserting "or contingency operation" after "area".

(2) The heading for section 7508 is amended by inserting "**OR CONTINGENCY OPERATION**" after "**COMBAT ZONE**".

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting "or contingency operation" after "combat zone".

(c) Effective Date.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

### SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) In General.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking "or widowers" and inserting ", widowers, ancestors, or lineal descendants".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) In General.—Subsection (b) of section 134 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(4) Clarification of certain benefits.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).".

(b) Conforming Amendments.—

(1) Section 134(b)(3)(A) (as amended by section 102) is further amended by inserting "and paragraph (4)" after "subparagraphs (B) and (C)".

(2) Section 3121(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(3) Section 3306(b)(13) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(4) Section 3401(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) In General.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking "or" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or".

(b) Effective Date.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

### SEC. 9. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) Deduction Allowed.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Paragraph (2) of section 62(a) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

**SEC. 10. PROTECTION OF SOCIAL SECURITY.**

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

This particular provision is called the Armed Forces Tax Fairness Act of 2003, and a couple of examples, I think, will make it quite obvious as to why it is the tax fairness part of the title that we should focus on. As we now know for some years now, you have been able to exclude the capital gain on a home if you lived in that home as your principal residence for 24 months out of a 5-year period. Of course, we all know that the military as to where they live is subject to the exigencies of the world and the need for military personnel to be dispersed sometimes literally around the world. I think it is entirely appropriate to examine this kind of a piece of legislation in the context of where we are vis-a-vis the President's decision to perhaps move militarily against Iraq.

So what this says is that if, in fact, you are not able to meet that 24-months-out-of-5-year period for exclusion from the capital gains, and the reason you are not able to is because you have been transferred away from home on official extended duty during that 5-year period, you would be exempt from that regulation.

There follow a series of other changes in the Tax Code that very much are representative of that kind of approach in treating the military differently because the military does not have the ability at times, the individuals in the military, to control decisions that affect them directly.

That is the purpose of the bill. It is as it was originally introduced. For purposes of determining the above-the-line deduction for overnight travel expenses for military reservists, this bill, as some people know, passed the House twice in the last Congress, and in negotiating with the Senate, the agreement at that time was that the exemption should be up to $1,500 for reservists who serve more than 100 miles away from home. That was an agreement that had been negotiated between the House and the Senate, and this particular bill includes that agreement so that we could reach quick settlement in a conference between the House and the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this suspension bill and congratulate the chairman of the committee for taking the bulbs and baubles and whistles off the Christmas tree that they stacked on this bill initially. I am disappointed that we were not able to do more for our reservists, but I am pleased that we are doing more than they had originally thought on the other side of the aisle. And I am glad to see that we are bringing a clean bill to the floor and that is not bogged down with fish tackle boxes and foreign bettors on horse races.

I do hope during these very sober hours and days that the majority will think more and more about how we can be of assistance to those brave men and women who have volunteered or who are in the Reserve to see what we can do to not only give them political support, but legislatively to give them real support for the dedication that they continuously show not only in defense of this great country, but now in following the mandates of the President.

I would like to say that during time of war, we have become historically accustomed to the fact that we share sacrifices. Soon our chairman will be presenting to us an obscene tax bill that is anything but sacrifice, but would reward the wealthy. I do hope that as the House has caused the committee's leadership to change its mind and try to do things fairly, that we will see a change in attitude as this country is on the brink of war where shared sacrifice means exactly what the President said it would mean, and that is that we all be prepared to give support.

I support the Armed Forces tax fairness bill. I do hope we will see more bills of this kind in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from North Carolina (Mr. JONES), who has a measure included in this bill, which was a separate bill, which is a significant piece of legislation.

Mr. JONES of North Carolina. Mr. Speaker, as Members know, I represent the Third District of North Carolina, which is the home of Camp Lejeune and Cherry Point and Seymour Johnson Air Force Base. A bill that I introduced, H.R. 693, the Military Death Gratuity Improvement Act, I want to thank the chairman and the ranking member for including that bill, or the language from that bill, into this major bill that I think is of great benefit to our men and women in uniform.

□ 1100

I would like to give very briefly the history of this provision because the death gratuity was reaffirmed as a tax free benefit when the Congress amended the Tax Code in 1986; and about a year ago I happened to be driving back to the Congress, and I was listening to a talk show and they were talking about how the fact that our men and women in uniform who received the death gratuity, should they die while serving this Nation, that the families are taxed; and to the chairman and ranking member, this just really bothered my heart, to be honest about it.

So I called my staff and I asked John Weaver if he would look into this, and I thought there must have been some mistake along the way. And actually there was and when the mistake took place was in 1991 when the Congress actually increased the death gratuity from $3,000 to $6,000; and what happened was the Committee on Armed Services did not send the bill to the Committee on Ways and Means, so therefore there was a tax on the second $3,000. And Mr. Speaker and Members of the Congress, as our wonderful men and women in uniform are ready to go to war and to die for this country, I think this is an excellent bill not just because of this provision but because of the other provisions in this major bill that will help our men and women in uniform. So by the passage of this bill today, we are taking the tax off the death gratuity when the government says to the families of those who have lost loved ones that they are receiving this small amount, but yet important amount, of $6,000, that they will not get a bill from the IRS at the end of the year.

So with that I want to thank the chairman and ranking member for including the language from H.R. 693, the Military Death Gratuity Improvement Act, in this bill to help our men and women in uniform. This is just a small portion of the bill, but I thank them very much.

Let me say in closing, Mr. Speaker, to the chairman and the ranking member that the men and women in my district, and again it is Camp Lejeune, Cherry Point, Seymour Johnson Air Force base, are very appreciative of how we have worked together to bring this bill forward to help our men and women in uniform. So with that I thank the chairman for yielding me this time and God bless America.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), an outstanding member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

I want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), ranking member, for developing a process where we could act quickly on this bill. I think this is the first of, I am sure, other actions that we will be able to do as a body to show our support for the men and women that are in harm's way that are ready to answer the call of our Nation. I think all of us want to do everything we can here to support our troops, as today they are ready to act on behalf of our Nation.

I also want to thank the chairman and ranking member for including the provision in here that was brought to our attention from those families of students that are in our military academies. I have the honor of representing Annapolis where the Naval Academy is located. There was a provision in our code that discriminated against families of those that were in the academies in their ability to withdraw moneys from educational savings accounts without penalty. So I want to thank them for including that provision. There are many other provisions in their bill that provide equity for those who serve in our military, and I know all of us are going to show strong support for this legislation. I just really want to express my appreciation to the chairman and ranking member.

Mr. THOMAS. Mr. Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to just make a few comments on H.R. 1307, and of course ask my colleagues to support it.

Last summer I introduced a bill that contained two of the present provisions, very modest. The bill increased the tax-free death benefit from $3,000 to $6,000 to members of our Armed Forces. Second, the bill made a change to allow members of the Armed Forces to have the 5-year rule, the so-called 5-year rule, deferred during the period they are assigned away from their principal residence. What this does is to allow individuals to take advantage of the law that excludes gain on the sale of a residence up to $250,000 or $500,000 per couple and if they resided in the property for 2 of the 5 years preceding the sale, and that was that. The bill passed the House. Both of these provisions are in and are part of H.R. 1307. The bill also expands the definition of "member" to include ancestors and lineal descendants for purposes of certain requirements of tax-exempt veterans organizations. These are all good changes. I recommend them. I support them.

Mr. RANGEL. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services on the Democratic side.

Mr. SKELTON. Mr. Speaker, I appreciate the ranking member recognizing me on this very important bill, the Armed Forces Tax Fairness Act of 2003. So I rise in support of this bill which is much-needed tax relief for our men and women in uniform. And although there was some delay, I am glad that the majority has agreed to remove the extraneous amendments and bring a clean bill to the floor, and we thank them for that. A bill to provide tax relief for brave men and women is not the appropriate vehicle for extraneous amendments.

I hope that this bill will now be able to move forward expeditiously so that our servicemen and women, particularly those in the Guard and Reserve, will be able to receive meaningful and proper tax relief.

Since the end of the Persian Gulf conflict in 1991, our reliance on the Reserve components has steadily increased. In 1993, for example, Reservists and National Guardsmen provided 5.7 million man-days' worth of support to our military. In the wake of the attacks on September 11, 2001, Reservists provided more than 41 million man-days of support to meet military requirements, primarily because of operations Noble Eagle, which of course is protecting the United States, and Enduring Freedom, which was liberating Afghanistan. The demands on our Reservists to participate in military operational missions have more than doubled in recent years.

The global war on terrorism has also increased burden on the Reserves and National Guard. Following the terrorist attacks on September 11, some 85,500 Reserve and National Guardsmen personnel were mobilized for active duty. Thousands were sent to guard our Nation's airports. This provided security for bridges and power plants and water treatment facilities and other important infrastructures that are vital to the American economy. Today, more than 50,000 Reservists still remain mobilized for the global war on terrorism, and almost 20,000 Reservists, and I will say there again, almost 20,000 Reservists face a second year of involuntary active duty.

The last several months have seen the number of mobilized Reservists soar to over 120,000 to meet potential demands for our conflict in Iraq, and these numbers continue to rise daily. Allowing travel expense deductions for Reservists is the least we can do for these brave men and women.

Last year the House and the Senate passed similar tax measures to support the troops. In the waning days of the Congress, the measure was tied up by extraneous provisions, which ultimately led to its demise before adjournment. On the eve of our Nation going to war, and that is what we are going to do, I urge my colleagues to support this measure so that we can move forward in ultimately adopting a bill that will provide significant tax relief for those who wear the uniform of the United States of America.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I agree with the gentleman from Missouri that the House and the Senate have indeed acted, but not in concert and let the RECORD note that the House acted in July and again in October. That perhaps was not enough lead time for the Senate; so we are moving in March, and we believe that may be sufficient lead time for the Senate to be able to act.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), a member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for bringing this very important bill, H.R. 1307, to the floor, the Armed Forces Tax Fairness Act. I am pleased to have played a part in the Committee on Ways and Means and delighted it is here on the floor today.

Our forces will soon be engaging the enemy. We pray for their safety and also for a quick and decisive victory. We have about a quarter of a million of our soldiers, sailors, airmen and Marines poised for combat in the Middle East. In addition, thousands upon thousands of our military personnel are patrolling our skies, protecting key domestic sites, and fighting the war on terror both here at home and abroad. Our military families, active duty, the Reserves, and the National Guard are feeling increased pressure from frequent and longer. deployments. This legislation brings tax relief and fairness to those who are protecting our freedoms.

I would like to focus quickly, if I may, on the Reserve component. One of the most important provisions of this bill would provide a $1,500 above-the-line deduction for their nonreimbursable overnight travel expenses. Let me underscore these travel expenses are not just for casual jaunts. These are for them to do their training required of them by this government so that they will be ready in fact to provide the backup needed for our active duty troops. Many give up time from their families, certainly leaving their loved ones, to be ready to combat the evil that may occur in this country or in fact abroad.

For too long our Reservists have incurred significant out-of-pocket costs associated with traveling to and from their Reserve stations. Our men and women in uniform should not be financially punished for serving their country, and thankfully this legislation fixes that problem. Our men and women in uniform deserve nothing less, and again I reiterate our prayers today go out to all families and particularly those who are in harm's way as they lead freedom in Iraq and certainly lead us away from terror in the United States.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. MCNULTY), an outstanding member of the Committee on Ways and Means.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), my friend and colleague, for yielding me this time.

As I have said many times on this floor, as I get older, I try to keep my priorities straight. And part of that is to remember that had it not been for all of the men and women who have worn the uniform of the United States military through the years, people like me would not have the privilege of going around bragging about how we live in the freest and most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it. And I try not to let a day go by without remembering with deepest gratitude all of those who, like my own brother Bill McNulty, made the supreme sacrifice; and all of those who served and put their lives on the line like the gentleman from New York (Mr. RANGEL), like the gentleman from Texas (Mr. SAM JOHNSON), like other people in this Chamber. Thankfully they came back home and rendered outstanding service in the community and raised beautiful families to carry on in their fine traditions. We all should be deeply grateful for that. And that is why when I get up in the morning, my first two priorities are to thank God for my life, and then veterans for my way of life.

Today more than a quarter of a million brave Americans are overseas poised for military action. Let us remember them in our thoughts and prayers every day. This proposal is a very modest proposal; but it is well earned, it is deserved, and I am deeply grateful to the chairman of the committee and the ranking member for bringing it to the floor. I urge all members to support it.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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Mr. LEVIN. This is an important bill. Many of us regret that it could not have been brought to this floor earlier without provisions that were totally unrelated to its basic purpose. It is important because so many of our Reserve and Guard members today are overseas, along with others, and what this bill says very significantly is that all members of our Armed Forces should be treated with equity and treated with the utmost sensitivity and respect.

The bill is important because we bring it up today at a significant moment. What it says, I think, for all of us, is this: Whatever the disagreements, and there have been and remain such as to the policies and approach of this administration, we here stand fully behind those men and women who are fighting in our armed services.

So I hope that today we will join in support of this bill. It now has a single important purpose, and that is to say to our troops, here and abroad, we stand with you.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. MCNULTY) eloquently indicated that freedom is not free, and that his own brother did not return in paying the ultimate price.

Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Texas (Mr. SAM JOHNSON), who served his country admirably, and did return with an amazing story.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is for our military, and thank goodness we have got it for them all the way through.

Last spring a constituent of mine, Paul Miesse, was researching college savings plans, including the State education plans. His son Kyle, in Junior ROTC, would like to someday apply to the Naval Academy, as well as other schools.

Currently 529 State plans and Coverdell Education Savings Accounts allow people to save for college, and those savings remain untaxed if spent on education costs. It is a responsible thing for parents to save for their children's education, but if the student is smart enough or athletic enough to get a scholarship, then the parents can get their money back from the 529 plan or Coverdell plan penalty free. However, because of an oversight, which is rectified in this bill, military academies do not qualify for that penalty-free rebate of their savings.

I think that when hard-working, patriotic young Americans are rewarded with an appointment to a service academy, we ought not turn around and impose a 10 percent penalty on their parents who diligently saved for their children's education. We should provide the same penalty-free withdrawals for the Zoomie, the Plebe, the Middy or the Cadet as we provide to those who play sports, earn an academic scholarship or pay for school through ROTC.

This change we are making today will ensure that students who attend our U.S. military academies get the same treatment under college savings plans as their peers.

Given that each of us is eligible to make appointments to the United States service academies, I think all of us in Congress have a direct interest in making sure we solve this problem. In fact, there are 50 students in the Third District, my district, at all of the academies at any given time.

I want to thank constituents Paul, Jeanette and Kyle Miesse of Plano, Texas, who brought this issue to my attention. I think our forefathers envisioned that it is people like the Miesses of Texas who really make a difference, and it is our servicemen overseas and in this country who defend this freedom, and that is who we are trying to protect. I urge support of this bill.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, I would like to say that we should feel very proud that we are making this minor adjustment to improve the quality of life by reducing tax liability on men and women in uniform. It is hard for me to believe that as we talk, it is suggested that we are reducing the money for education for those people who are in uniform around the country, those that are dependent on Federal funds to support the localities where the men and women are stationed here in the United States. In addition to that, we are cutting back on aid for our veterans.

I would hope that in the spirit in which we pass this very modest bill, that all of us, Republicans and Democrats, liberals and conservatives, make some spirited effort to not have patriotism just be a flag on the bumper of a car, but to make some special effort to give priorities to those men and women in uniform by making certain that their kids are not denied an opportunity to get an education, and making certain that those who go in and serve, that their benefits are not being reduced.

Having said that, I would like to close on this and indicate that I think it is worthwhile that we get a record vote on this legislation not so much for political reasons, but so that our men and women would know that they would have a unanimous vote by the House of Representatives not only on this bill, but many bills that I hope will come before us where we can differ with the policy, but we will make it unequivocal support for those who volunteer to salute our great flag and our great country.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I want to join in the statement of the gentleman from New York.

Mr. REYES. Mr. Speaker, I am proud to support the members of our Nation's armed services and vote for the Armed Forces Tax Fairness Act that recognizes their contributions to our Nation and our freedom. The men and women of the Armed Forces, more than any other group, deserve to be first in line when Congress considers tax cuts and special exemptions from tax obligations. At a time when so much is being asked of our service members, it is only appropriate that we make this effort.

The Armed Forces Tax Fairness Act will make tax free the entire $6,000 death gratuity paid to survivors of service members killed in the line of duty. The bill also makes payments from the Defense Department's Homeowners Assistance Program tax free.

The bill reduces taxes for some service members who sell their home by making changes to capital gains taxes on the sale of residences. The new rules will be helpful to those who have served on multiple deployments and have therefore lived at their residence for less than 2 of the last 5 years.

Recognizing the important role played by members of the National Guard, especially at this time when they are being called upon to serve abroad and here at home in the fight against terror, the Armed Forces Tax Fairness Act allows members of the National Guard to deduct up to $1,500 in travel, lodging, and meal expenses from their taxable income if they have to travel more than 100 miles to attend National Guard and reserve meetings.

One of the most commonsense provisions of this bill recognizes that when a member of our military is deployed, poised for action but not yet in combat, they should not be preoccupied with meeting IRS deadlines. This bill suspends tax filing rules for service members participating in contingency operations. Currently, such a suspension is only made available to service members in combat.

Other measures in the bill salute past and future service members. One provision ensures that veterans organizations will not lose their tax-exempt status when admitting ancestors and direct descendants of veterans as members, and another provision allows students attending any one of our military service academies to withdraw funds from education savings accounts and qualified tuition programs without having to pay any penalties.

All these measures form a combined message and action of support to our troops at a critical time. I am proud to support the Armed Forces Tax Fairness Act and urge all my colleagues to do the same.

Mr. MEEK of Florida. Mr. Speaker:

It is the soldier, not the reporter, Who has given us freedom of the press.
It is the soldier, not the poet, Who has given us freedom of speech.
It is the soldier, not the organizer, Who has given us freedom to demonstrate.
It is the soldier, Who Salutes the flag, Who serves beneath the flag,
And whose coffin is draped by the flag, Who allows the protestor to burn the flag."
—[Charles M. Province]

I open my remarks with this quote by Charles M. Province by thanking those men and women who continue to serve in the United States military and provide us with the freedoms that we so frequently take for granted. We don't all have to agree about the conditions and terms and politics of war to agree that we have men and women in uniform who are among the finest human beings on this planet. It is fitting that at a time when our thoughts and prayers are most strongly focused on them, that we in the 108th Congress have this opportunity to offer them this small showing of our commitment to them.

According to the U.S. Department of Defense, more than 188,000 members of the National Guard and Reserve are currently mobilized for active duty on top of the many hundreds of thousands of career active duty soldiers. These friends, neighbors, and family members are putting their everyday lives on hold in order to protect us and provide us with more than a sense, but a knowledge of security.

Our military personnel and their families make enough sacrifices. They should not have to further sacrifice tax fairness just because they wear a uniform of the armed services. We need to provide incentives for our military personnel to continue their service to our country. Moreover, we need to provide adequate and fair compensation for our military personnel by ensuring that those men and women are treated fairly and equally under the provisions of the Internal Revenue Code.

I think this bill does just that.

This bill:

Exempts payment to beneficiary of soldiers killed in the line of duty;

Extends the income tax deadline for soldiers deployed overseas for potential action;

Makes it easier for transferred soldiers to be exempted from capital gains taxes on the sale of their homes; and,

Would provide guardsmen and reservist an above-the-line deduction for unreimbursed travel expenses incurred by members of the reserve components, while going to and from training.

These are simply issues of fairness. The Floridians and other fine Americans that take the stand to fight for our country deserve every fair consideration under our tax laws. The Tax Code is complicated enough, and our military should not be penalized for making decisions required because their official assignments. By passing this legislation, we are helping the members of our armed forces so that they will no longer be burdened by out-of-date tax regulations that penalize them even as they are serving our country.

Finally, I'd like to congratulate leadership for bringing this good bill to the floor clean so that we can focus on an issue on which Republicans and Democrats all agree—equity and fairness for members of the uniformed services.

Everyday, both in peacetime and in wartime, the brave men and women of our military work to preserve our freedoms. With this small token, I hope we can preserve some of theirs. I urge the support of this good bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H.R. 878, the Armed Forces Tax Fairness Act of 2003. It has been long overdue that we provide real relief to the men and women who serve in our Armed Forces. Many of the members of the military are minorities, and this bill will help many in my own 18th Congressional District in Houston. More than 200,000 troops are now being employed to the Persian Gulf. In Houston, many soldiers will be called upon to serve on the front lines.

This legislation provides tax relief to the members of our military. Our soldiers are on the frontlines every day, and now as a war with Iraq looms, we are calling upon these men and women to make even greater sacrifices. While I support this legislation, I wanted the bill to focus solely on tax benefits for military personnel and not to be used as a vehicle for special interest tax breaks.

Studies have shown pay rates in the military consistently lag behind comparable jobs in the private sector. I believe that this legislation would help military families as they struggle like so many to pay basic expenses.

The provisions in this legislation would provide tax breaks on home sales, travel expenses, and death benefits. We have ample tax benefits for corporations, it is time to help our officers and enlisted soldiers in the Armed Forces.

Now more than ever, it's important to support America's top-notch Armed Forces. I've always believed that in order for Americans to enjoy the freedom that characterizes our country, and for Texans to be able to fully enjoy the natural beauty and resources of our State, it is crucial for the citizens of the Nation and our State to feel safe.

To achieve this goal, it's vital that we keep America's Armed Forces strong. Throughout the years, I've fought for funding to constantly improve the quality of defense-related activities in my State of Texas.

The importance of national defense is increasing every day, and I will continue to support our Armed Forces—they are the young men and women on the front lines who are called to sacrifice for this great Nation and to preserve our constitutional protections and liberties.

I urge my colleagues to support this bill.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H.R. 1307, the Armed Forces Tax Fairness Act of 2003, as it relates to the members of our armed services—active duty, reserve components, and National Guard personnel serving on active duty. Indeed, this Member would like to commend the Ways and Means Committee Chairman, the distinguished gentleman from California (Mr. THOMAS), for his efforts to craft this very timely legislation which will assist our military personnel.

Across the U.S., men and women serving in active, Reserve, and National Guard units are mobilizing and deploying. Whether for missions at the Nebraska Air National Guard base in Lincoln, in Bosnia, in the Middle East, or elsewhere, these mobilizations and deployments have an immediate impact on families, employers, and communities. Indeed, deployments separate families which have young children. Moms and dads spend their children's birthdays overseas. Husbands and wives miss spending anniversaries together. Men and women leave their places of employment and also their paychecks as they mobilize. In this Member's home state of Nebraska, already 35 percent of the National Guard personnel have been mobilized for active duty.

Today, this body has the opportunity to send these men and women a very much deserved "thank you" for their personal and financial sacrifices by adjusting the tax code to reflect the realities which military personnel and their families face, such as frequent moves and increased child care costs associated with deployments.

The Armed Forces Tax Fairness Act of 2003 is a diverse bill; first and foremost it would provide assistance to men and women serving on military frontlines. For example, H.R. 1307 would amend the Internal Revenue Code to allow military personnel, who are transferred, to utilize the capital gains tax relief on the sale of their home by suspending the running of the present law 5-year rule for a total of 5 years during the time they are assigned away from home. The 5-year rule provides that an individual is not subject to the capital gains taxes for the first $250,000, or for a couple, the first $500,000 on a joint return on the sale of a home if it has been the principal residence for 2 out of the last 5 years. Because military personnel move frequently, they often do not meet the residence requirement. This legislation would suspend the residence requirement when the military personnel are stationed 250 miles from their primary house.

Additionally, H.R. 1307 would allow National Guard members to take an above-the-line deduction of overnight travel expenses associated with their service. This is particularly important for, as an example, Nebraska's National Guard members frequently must travel extensive distances to participate in Guard training and drills.

Other provisions within the legislation would clarify how certain child care expenses shall be treated and would exempt military death gratuity payments from taxes. (Currently, survivors of military personnel receive $6,000 of which $3,000 is taxable.)

Mr. Speaker, this Member strongly urges his colleagues to vote for H.R. 1307 for at least the tax changes aforementioned are quite appropriate.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1307.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1307.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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## TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The Clerk read as follows:

### H.R. 1308

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Tax Relief, Simplification, and Equity Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—ENDING ABUSIVE TAX PRACTICES

Sec. 101. Individual expatriation to avoid tax.
Sec. 102. Suspension of tax-exempt status of terrorist organizations.
Sec. 103. Expressing the sense of the Congress that tax reform is needed to address the issue of corporate expatriation.

TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

Sec. 201. Special rule for members of Foreign Service in determining exclusion of gain from sale of principal residence.
Sec. 202. Tax relief and assistance for families of astronauts who lose their lives on a space mission.

TITLE III—HEALTH PROVISIONS

Sec. 301. Vaccine tax to apply to hepatitis A vaccine.
Sec. 302. Expansion of human clinical trials qualifying for orphan drug credit.

TITLE IV—FOREST CONSERVATION ACTIVITIES

Sec. 401. Pilot project for forest conservation activities.

TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

Sec. 501. Simplification of excise tax imposed on bows and arrows.
Sec. 502. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 503. Repeal of excise tax on fishing tackle boxes.
Sec. 504. Treatment under at-risk rules of publicly traded nonrecourse debt.

TITLE VI—EQUITY FOR FARMERS

Sec. 601. Special rules for livestock sold on account of weather-related conditions.
Sec. 602. Income averaging for farmers not to increase alternative minimum tax.
Sec. 603. Payment of dividends on stock of cooperatives without reducing patronage dividends.

TITLE VII—PROTECTION OF SOCIAL SECURITY

Sec. 701. Protection of social security.

### TITLE I—ENDING ABUSIVE TAX PRACTICES

**SEC. 101. INDIVIDUAL EXPATRIATION TO AVOID TAX.**

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

"(B) the net worth of the individual as of such date is $2,000,000 or more, or

"(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

"(c) EXCEPTIONS.—

"(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

"(2) DUAL CITIZENS.—

"(A) IN GENERAL.—An individual is described in this paragraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

"(ii) the individual has had no substantial contacts with the United States.

“(B) Substantial contacts.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

“(i) was never a resident of the United States (as defined in section 7701(b)),

“(ii) has never held a United States passport, and

“(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

“(3) Certain minors.—An individual is described in this paragraph if—

“(A) the individual became at birth a citizen of the United States,

“(B) neither parent of such individual was a citizen of the United States at the time of such birth,

“(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

“(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.”.

(3) Conforming amendment.—Section 2107(a) is amended to read as follows:

“(a) Treatment of Expatriates.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).”.

(b) Special Rules for Determining When an Individual is no Longer a United States Citizen or Long-Term Resident.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) Special Rules for Determining When an Individual is no Longer a United States Citizen or Long-Term Resident.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

“(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

“(2) provides a statement in accordance with section 6039G.”.

(c) Physical Presence in the United States for More Than 30 Days.—Section 877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

“(g) Physical Presence.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.”.

(d) Transfers Subject to Gift Tax.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

“(6) Transfers of certain stock.—

“(A) In general.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

“(B) Valuation.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

“(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

“(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

“(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

“(II) the total value of the stock of such corporation,then that proportion of the fair market value of the stock of such foreign corporation owned (within the meaning of section 958(a)) by such donor at the time of such transfer, which the fair market value of any assets owned by such foreign corporation and situated in the United States, at the time of such transfer, bears to the total fair market value of all assets owned by such foreign corporation at the time of such transfer, shall be included in the value of such property.

For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.”.

(e) Enhanced Information Reporting From Individuals Losing United States Citizenship.—

(1) In general.—Subsection (a) of section 6039G is amended to read as follows:

“(a) In General.—Notwithstanding 'any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).”.

(2) Information to be provided.—Subsection (b) of section 6039G is amended to read as follows:

“(b) Information To Be Provided.—Information required under subsection (a) shall include—

“(1) the taxpayer's TIN,

“(2) the mailing address of such individual's principal foreign residence,

“(3) the foreign country, in which such individual is residing,

“(4) the foreign country of which such individual is a citizen,

“(5) information detailing the assets and liabilities of such individual,

“(6) the number of days that the individual was present in the United States during the taxable year, and

“(7) such other information as the Secretary may prescribe.”.

(3) Increase in penalty.—Subsection (d) of section 6039G is amended to read as follows:

“(d) Penalty.—If—

“(1) an individual is required to file a statement under subsection (a) for any taxable year, and

“(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.”.

(4) Conforming amendment.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) Effective Date.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

**SEC. 102. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.**

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

“(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

“(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

“(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

“(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

“(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

“(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

“(ii) such Executive order refers to this subsection.

“(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

“(A) begins on the later of—

“(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

“(ii) the date of the enactment of this subsection, and

“(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

“(4) Denial of deduction.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

“(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) Notice of Suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

### SEC. 103. EXPRESSING THE SENSE OF THE CONGRESS THAT TAX REFORM IS NEEDED TO ADDRESS THE ISSUE OF CORPORATE EXPATRIATION.

(a) Findings.—The Congress finds that—

(1) the tax laws of the United States are overly complex;

(2) the tax laws of the United States are among the most burdensome and uncompetitive in the world;

(3) the tax laws of the United States make it difficult for domestically-owned United States companies to compete abroad and in the United States;

(4) a domestically-owned corporation is disadvantaged compared to a United States subsidiary of a foreign-owned corporation; and

(5) international competitiveness is forcing many United States corporations to make a choice they do not want to make–go out of business, sell the business to a foreign competitor, or become a subsidiary of a foreign corporation (i.e., engage in an inversion transaction).

(b) Sense of Congress.—It is the sense of Congress that passage of legislation to fix the underlying problems with our tax laws is essential and should occur as soon as possible, so United States corporations will not face the current pressures to engage in inversion transactions.

## TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

### SEC. 201. SPECIAL RULE FOR MEMBERS OF FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) In General.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Members of foreign service.—

"(A) In general.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the Foreign Service.

"(B) Maximum period of suspension.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

"(C) Qualified official extended duty.—For purposes of this paragraph—

"(i) In general.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

"(ii) Foreign service.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

"(iii) Extended duty.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

"(D) Special rules relating to election.—

"(i) Election limited to 1 property at a time.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) Revocation of election.—An election under subparagraph (A) may be revoked at any time.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

### SEC. 202. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF ASTRONAUTS WHO LOSE THEIR LIVES ON A SPACE MISSION.

(a) Income Tax Relief.—

(1) In general.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

"(5) Relief with respect to astronauts.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.".

(2) Conforming amendments.—

(A) Section 5(b)(1) is amended by inserting ", astronauts," after "Forces".

(B) Section 6013(f)(2)(B) is amended by inserting ", astronauts," after "Forces".

(3) Clerical amendments.—

(A) The heading of section 692 is amended by inserting "**, ASTRONAUTS,**" after "**FORCES**".

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting ", astronauts," after "Forces".

(4) Effective date.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) Death Benefit Relief.—

(1) In general.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

"(4) Relief with respect to astronauts.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission.".

(2) Clerical amendment.—The heading for subsection (i) of section 101 is amended by inserting "or Astronauts" after "Victims".

(3) Effective date.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) Estate Tax Relief.—

(1) In general.—Subsection (b) of section 2201 (defining qualified decedent) is amended by striking "and" at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) any astronaut whose death occurs while on a space mission.".

(2) Clerical amendments.—

(A) The heading of section 2201 is amended by inserting "**, DEATHS OF ASTRONAUTS,**" after "**FORCES**".

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting ", deaths of astronauts," after "Forces".

(3) Effective date.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

## TITLE III—HEALTH PROVISIONS

### SEC. 301. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) In General.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A."

(b) Effective Date.—

(1) Sales, etc.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

### SEC. 302. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) In General.—Paragraph (2) of section 45C(b) (relating to qualified clinical testing expenses) is amended by adding at the end the following new subparagraph:

"(C) Treatment of certain expenses incurred before designation.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed. The preceding sentence shall not apply with respect to any expense incurred after December 31, 2010.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

## TITLE IV—FOREST CONSERVATION ACTIVITIES

### SEC. 401. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) Tax-Exempt Bond Financing.—

(1) In General.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) Qualified forest conservation bond.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is an obligation of the State of Washington or any political subdivision thereof and is issued for the Evergreen Forest Trust, and

(C) such bond is issued before October 1, 2004.

(3) Limitation on aggregate amount issued.—The maximum aggregate face amount of bonds which may be issued under this section shall not exceed $250,000,000.

(4) Qualified project costs.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the Evergreen Forest Trust from an unrelated person of forests and forest land—

(i) which are located in the State of Washington, and

(ii) which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) Special rules.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) Treatment of current refunding bonds.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before October 1, 2004, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) Effective date.—This subsection shall apply to obligations issued after the date of the enactment of this Act.

(b) Items From Qualified Harvesting Activities Not Subject to Tax or Taken Into Account.—

(1) In general.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by the Evergreen Forest Trust shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) Qualified harvesting activity.—For purposes of paragraph (1)—

(A) In general.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by the Evergreen Forest Trust which was acquired with proceeds of qualified forest conservation bonds, and

(ii) pursuant to a qualified conservation plan adopted by the Evergreen Forest Trust.

(B) Exceptions.—

(i) Cessation as qualified organization.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting during any period that the Evergreen Forest Trust is not a qualified organization.

(ii) Exceeding limits on harvesting.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land, or

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack.

(3) Termination.—This subsection shall not apply to any qualified harvesting activity occurring after the date on which there is no outstanding qualified forest conservation bond or any such bond ceases to be a tax-exempt bond.

(4) Partial recapture of benefits if harvesting limit exceeded.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (2)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary, by the sum of the tax benefit attributable to such excess and interest at the underpayment rate under section 6621 for the period of the underpayment.

(c) Definitions.—For purposes of this section—

(1) Qualified conservation plan.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land,

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the Westside Douglas Fir forest type,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat,

(v) enhancing research opportunities in sustainable renewable resource uses, or

(vi) preserving or protecting open space.

(2) Conservation restriction.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the Evergreen Forest Trust to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) Qualified organization.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization organized and operated exclusively for charitable, scientific, or educational purposes including but not limited to acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific, and public benefit of the State of Washington,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has a board of directors that at all times is comprised of 9 members—

(i) at least 2 of whom represent the holders of the conservation restriction described in paragraph (2), and

(ii) at least 2 of whom are public officials,

(E) of which not more than one-third of the members of the board of directors is comprised of individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the Evergreen Forest Trust has a contractual or other financial arrangement,

(F) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation program and any change thereto, and

(G) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) Evergreen forest trust.—The term "Evergreen Forest Trust" means a nonprofit corporation known as the Evergreen Forest Trust which was incorporated on February 25, 2000, under chapter 24.03 of the Revised Code of Washington and which, on May 11, 2001, was recognized as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

(5) Unrelated person.—The term "unrelated person" means a person who is not a related person.

(6) Related person.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it occurs therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

## TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

### SEC. 501. SIMPLIFICATION OF EXCISE TAX IMPOSED ON BOWS AND ARROWS.

(a) Bows.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) Bows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) Archery equipment.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (3),

a tax equal to 11 percent of the price for which so sold.".

(b) Arrows.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Arrows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) Exception.—The tax imposed by subparagraph (A) on an arrow shall not apply if the arrow contains an arrow shaft subject to the tax imposed by paragraph (2).

"(C) Arrow.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) Conforming Amendment.—The heading of section 4161(b)(2) is amended by striking "Arrows.—" and inserting "Arrow components.—".

(d) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the 90th day after the date of the enactment of this Act.

### SEC. 502. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) In General.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) Conforming Amendments.—

(1) The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(2) The heading for section 631(b) is amended by striking "With a Retained Economic Interest".

(c) Effective Date.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

### SEC. 503. REPEAL OF EXCISE TAX ON FISHING TACKLE BOXES.

(a) Repeal.—Paragraph (6) of section 4162(a) (defining sport fishing equipment) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (J) as subparagraphs (C) through (I), respectively.

(b) Effective Date.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act.

### SEC. 504. TREATMENT UNDER AT-RISK RULES OF PUBLICLY TRADED NONRECOURSE DEBT.

(a) In General.—Subparagraph (A) of section 465(b)(6) (relating to qualified nonrecourse financing treated as amount at risk) is amended by striking "share of" and all that follows and inserting "share of—

"(i) any qualified nonrecourse financing which is secured by real property used in such activity, and

"(ii) any other financing which—

"(I) would (but for subparagraph (B)(ii)) be qualified nonrecourse financing,

"(II) is qualified publicly traded debt, and

"(III) is not borrowed by the taxpayer from a person described in subclause (I), (II), or (III) of section 49(a)(1)(D)(iv).".

(b) Qualified Publicly Traded Debt.—Paragraph (6) of section 465(b) is amended by adding at the end the following new subparagraph:

"(F) Qualified publicly traded debt.—For purposes of subparagraph (A), the term 'qualified publicly traded debt' means any debt instrument which is readily tradable on an established securities market. Such term shall not include any debt instrument which has a yield to maturity which equals or exceeds the limitation in section 163(i)(1)(B).".

(c) Effective Date.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

## TITLE VI—EQUITY FOR FARMERS

### SEC. 601. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Rules for Replacement of Involuntarily Converted Livestock.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking "Conditions.—For purposes" and inserting "Conditions.—

"(1) In general.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) Extension of replacement period.—

"(A) In general.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

"(B) Further extension by secretary.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.".

(b) Income Inclusion Rules.—Subsection (e) of section 451 (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

"(3) Special election rules.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.".

(c) Effective Date.—The amendments made by this section shall apply to any taxable year with respect to which the due date (without regard to extensions) for the return is after December 31, 2002.

### SEC. 602. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX.

(a) In General.—Subsection (c) of section 55 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Coordination with income averaging for farmers.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax liability.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

### SEC. 603. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) In General.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

## TITLE VII—PROTECTION OF SOCIAL SECURITY

### SEC. 701. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than title I, section 301, and this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a modest bill that has come to the light of day by virtue of examining those issues, although modest in nature, that have passed the House or the Senate, or both, one or more times, but somehow have never made it to the President's desk for signature.

Other measures in this bill are those measures that raise revenue in ways that those committees responsible for assisting us in determining ways to change the law indicate an appropriate change of the law.

Lastly, there are items which were approved by the committee, notwithstanding the fact they do not raise revenue or they had been approved previously, which merited the committee's voice voting, that is, no recorded vote, and the bill itself passed by a voice vote. If there was a measure that appeared to elicit controversy, that is, it was a recorded vote in committee, then that measure is not included in this particular provision. For example, there was an amendment offered to extend some provisions of the military bill just passed to astronauts who die on space missions. Obviously, that was a voice vote, and it was unanimously agreed to.

There is a modification on the orphan drug credit provision. This particular measure has passed the Committee on Ways and Means twice, it passed the House three times, and it passed the Senate, but, notwithstanding that stellar legislative career, it has never made it to the President's desk for his signature.

There are other items in here which exemplify the fact that brought to our attention over time are provisions of the Tax Code which make absolutely no sense and should not remain in the Tax Code for 1 day longer than our ability to amend it, and, yet, notwithstanding that, remain on the books.

The gentleman from Wisconsin brought us an example which I think is particularly egregious. It has to do with a very modest subject called bows and arrows. As you might guess, some arrows are produced domestically, and some are produced outside the United States. You would think that if someone was going to import the components to assemble an arrow, that is, use foreign parts and U.S. labor, that you would not tax the foreign parts so that they could come in, so the value added would be U.S. to produce that arrow.

But, ironically, it is exactly the opposite. It is the completed arrow, with the foreign labor added, that comes in free of a tax, and the component parts are taxed, which would make it more expensive if you added U.S. labor. That is in direct competition to a U.S. arrow which carries the tax.

Now, how in the world could the Tax Code get that far on its head? You do not want to pursue that questioning, you only want to change it immediately; not so, as some of the media has reported, that we give a tax break to domestic producers of arrows, but that we create a fair and equitable relationship between those arrows composed of foreign components assembled by foreign labor in competition with American arrows composed of American material. It seems to me that the only fair thing is to treat them equally. The Tax Code does not do that, in part or in whole. That is a typical example of one of the modest measures that are included in this provision.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess I rise in support of the bill. The reason I reluctantly say "I guess" is because the Republicans once again have shrewdly put us into a political box by bringing to the floor a provision that provides tax relief for the families of the *Columbia* Shuttle astronauts out of compassion for these families. There is no one in the country, no one in the House, that would not want to support this very, very sensitive provision. But, once again, the Republican leadership has to make things difficult.

I am really amazed and surprised that as we ask for support for this bill, that we have to put tax provisions on this bill to provide relief for those people who make bows and arrows. It is totally unbelievable. If that is not enough, then we have to find out why would we repeal the tax on fishing tackle boxes and provide benefits for livestock sold on account of drought or other weather-related issues?

Why, in God's name, can we not hold sacred just taking care of the families of the shuttle astronauts, and not clobber this bill with stuff that is just nothing more than provisions that people want to provide for their people back home? I have no problem with providing relief for pet projects back home. That is part of our responsibility. But why in the world would we put it on a bill like this?

I will tell you why; so we do not have to debate these things on their merit. There is no one, in my opinion, prepared to explain why they voted against the families of *Columbia* Shuttle astronauts from receiving benefits.

I may have missed something. Thank God they have taken out eliminating taxes on foreign bettors on horse racing. They have taken out repeal of consumer health protection.

But if the Republicans have anything else to say about this bill, and I do hope that they do, please explain to this Member why on this bill they sought to attach unrelated tax benefits for fishing tackle boxes, for removing taxes on bows and arrows, and providing benefits for livestock sold on account of drought or other weather-related conditions.

□ 1130

It would seem to me that if this relief is important enough for the House of Representatives to consider, then out of respect, it should never, never, never have been put on the Suspension Calendar with the Columbian shuttle astronaut bill which puts the Members of the House in the position of having to support stuff that they never would be able to explain because they support the families of the shuttle victims.

Well, I do hope to hear from the other side soon on these other issues.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

Mr. LEVIN. Mr. Speaker, the gentleman from New York (Mr. RANGEL) has explained his reluctant support because of the provision in here that needs to be in here. As I understand it, that positive provision was taken from the other bill and placed in this bill, so we are in a situation where, as to the clearly legitimate provision, we either vote "yes" and pass this or vote "no" because of other provisions and, therefore, bring down what we should be doing.

This is not the way to proceed in a deliberative body where there is also respect for the views of every Member of this institution and the ability of every Member here to be heard, to at least raise the issue of amendments.

So I want to just say a few words about two of the provisions, one relating to individual inversions or those expatriates, people who leave the country to avoid taxes. There is a Senate approach and a House approach. The Senate approach is far superior. What it does essentially is it says to people who leave this country, individuals, we are going to tax you as you leave on all of your unrealized income. The House bill is much weaker. We should have had a chance to present these two alternatives on the floor of the House.

Secondly, let me say a word about the sense of the Congress on the issue of corporate expatriation. The gentleman from Massachusetts (Mr. NEAL) has had a bill here for months that addresses this issue. What this sense of the Congress provision does is essentially to, I think, paper it over and to paper it over incorrectly. Essentially what it says is, to those who engage in corporate expatriation, it is not your fault, it is the fault of the Tax Code. And I do not think we should be giving that kind of, if not approval, a pass to those corporations that escape American taxes by moving a headquarters overseas while often continuing to have a major presence in the U.S.

We can do much better on both individual and corporate inversions expatriations. But what has happened here is we have eliminated our chance to even consider this intelligently and deliberately by putting these provisions in a bill in a way that we cannot vote "no."

So those of us who will vote "yes," in many cases, vote with those limitations.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I am disappointed that we do not have an explanation as to why the fishing tackle boxes and the removal of taxes of bows and arrows and benefits for livestock and an explanation of why those are on this bill, but I guess silence is probably the best explanation that we can possibly come up with, and that is they feel very awkward and embarrassed and ashamed that they would have to resort to a mechanism like this in putting this on the *Columbia* Shuttle victims' bill.

That being what it is, I am not prepared to go home and explain why I voted for these bows and arrows and fishing boxes and livestock. It suffices to say that all of us in our hearts know that the same way the men and women have been heroes for all of us in the Armed Forces, we cannot do enough to pay tribute to the heroes that served the United States and the world by meeting the challenges of outer space, and that forever in our hearts we will remember the families of the *Columbia* Shuttle, and whatever we can ever do in the Congress or anywhere, for that matter, to ease their pain and to show our support, we want the families to know that even if sometimes it means swallowing hard, they can depend on us being there for them as they were there for us.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

This gentleman from California spent, I believe, 3 minutes explaining the bow and arrow provision and why it was included. It was an amendment that was presented to the committee. It is an unfairness in the Tax Code, and it passed by a voice vote, just as the astronaut provision was an amendment to this measure.

Now, I know that in some situations you are damned if you do and damned if you do not. Had we selectively pulled amendments out and included them in the military bill, we would have been criticized, as we were before, that we were placing items on the military bill that, in fact, were not originally on the bill. That is why we are carrying a separate bill in dealing with all of those amendments that passed by voice vote.

I did say in the opening statement one of the provisions, as compared to all of the other provisions that have passed the House, the Senate, and sometimes both multiple times, the livestock provision did not pass the House before. It is a response to a current problem and circumstance. When you lose livestock, you have an ability to deal with an involuntary conversion. The loss of livestock is over the drought.

Now, it is unfortunate that weather does not follow a taxable calendar year. If that were the case and we have 2 years in which to deal with the involuntary compensation and replace the livestock, if that drought which killed the first cow is still present and will kill the second cow, it does not make a whole lot of sense to provide a time frame which encompasses an ongoing drought. So the gentleman from Colorado offered an amendment, accepted by voice vote, that says, let us extend that involuntary conversion to 4 years and not 2. Hopefully, the drought will be over in that 4-year period, and they will be able to get an involuntary conversion for a cow that, because there is no longer a drought, will be able to stay alive.

It seems to me that these provisions are worthy and should move forward.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 1308, the Tax Reform, Simplification and Equity Act, and in particular the provisions which will assist our nation's farmers and ranchers who are suffering from a devastating drought.

Mr. Speaker, this Member is pleased that H.R. 1308 includes an important provision originally introduced by the distinguished gentleman from Colorado (Mr. MCINNIS) which is designed to assist farmers and ranchers suffering from the drought. This Member is a strong supporter and cosponsor of the Ranchers HELP Act, which is included in H.R. 1308. This provision would provide "involuntary conversion" tax relief for producers forced to sell livestock under certain circumstances, such as weather-related conditions. Specifically, the bill would allow producers four years (rather than the current two year limit) after a forced sale to reinvest in livestock without facing capital gains taxes. The Ranchers HELP legislation also would allow the Federal Government the flexibility to extend the amount of time a farmer or rancher can take to restore a herd in certain regions experiencing a drought which lasts more than three years.

It is important for the Federal Government to take actions, where appropriate to help relieve the hardships caused by the severe drought affecting Nebraska and the Great Plains region. The provisions included in this bill are an important step in that direction.

There are two other provisions that should help farmers. Under current law, farmers are allowed to average their income over three years for tax purposes since farm income often fluctuates from year to year. However, farmers who choose this option often fall into the Alternative Minimum Tax (AMT). The provision in H.R. 1308 ensures that farmers are not harmed by the AMT if they elect income averaging. In 1999 and 2000, this provision was included in a tax relief bill passed by the House and the Senate that subsequently was vetoed by then-President Clinton twice.

Another provision will help cooperatives that now face up to three levels of tax penalties. This legislation includes a reduction of one of these levels by providing that patronage dividends of cooperatives will not be reduced by stock dividends to the extent the stock dividends are in addition to amounts otherwise payable.

Mr. Speaker, this Member urges his colleagues to support H.R. 1308, the Tax Reform, Simplification and Equity Act.

Ms. DUNN. Mr. Speaker, I rise today in support of H.R. 1308, the Tax Relief, Simplification, and Equity Act.

Among other items, the bill contains an innovative solution to one of the most difficult challenges we face as policymakers—conserving our land while ensuring that it remains a source of economic activity.

What has been lacking in the Pacific Northwest is cooperation and collaboration between environmentalists, the business community, and local government on how best to solve difficult environmental issues. Until now.

Recently, numerous programs in Washington State have been developed that provide a road map for how everybody can come together to achieve environmental protection.

In particular, numerous conservation groups have been working with large landowners in an attempt to purchase sensitive parcels of land and protect them from development. What they're lacking is access to capital.

This bill will give them tax-exempt bond financing to preserve these lands. In exchange, the land must continue to be used as a productive resource and managed with the input of a diverse group of interests.

In the interest of progress in land conservation, I urge my colleagues to support this bill.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H.R. 1308, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes.

The Clerk read as follows:

### H. RES. 132

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals, in Newdow v. United States Congress (292 F.3d 597; 9th Cir. 2002) (Newdow I), held that the Pledge of Allegiance to the Flag as currently written to include the phrase, "one Nation, under God", unconstitutionally endorses religion, that such phrase was added to the pledge in 1954 only to advance religion in violation of the establishment clause, and that the recitation of the pledge in public schools at the start of every school day coerces students who choose not to recite the pledge into participating in a religious exercise in violation of the establishment clause of the first amendment;

Whereas on February 28, 2003, the Ninth Circuit Court of Appeals amended its ruling in this case, and held (in Newdow II) that a California public school district's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag "impermissibly coerces a religious act" on the part of those students who choose not to recite the pledge and thus violates the establishment clause of the first amendment;

Whereas the ninth circuit's ruling in Newdow II contradicts the clear implication of the holdings in various Supreme Court cases, and the spirit of numerous other Supreme Court cases in which members of the Court have explicitly stated, that the voluntary recitation of the Pledge of Allegiance to the Flag is consistent with the first amendment;

Whereas the phrase, "one Nation, under God", as included in the Pledge of Allegiance to the Flag, reflects the notion that the Nation's founding was largely motivated by and inspired by the Founding Fathers' religious beliefs;

Whereas the Pledge of Allegiance to the Flag is not a prayer or statement of religious faith, and its recitation is not a religious exercise, but rather, it is a patriotic exercise in which one expresses support for the United States and pledges allegiance to the flag, the principles for which the flag stands, and the Nation;

Whereas the House of Representatives recognizes the right of those who do not share the beliefs expressed in the pledge or who do not wish to pledge allegiance to the flag to refrain from its recitation;

Whereas the effect of the ninth circuit's ruling in Newdow II will prohibit the recitation of the pledge at every public school in 9 states, schooling over 9.6 million students, and could lead to the prohibition of, or severe restrictions on, other voluntary speech containing religious references in these classrooms;

Whereas rather than promoting neutrality on the question of religious belief, this decision requires public school districts to adopt a preference against speech containing religious references;

Whereas the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents, such as the Declaration of Independence, the Constitution, and the Gettysburg Address, has been placed into serious doubt by the ninth circuit's decision in Newdow II;

Whereas the ninth circuit's interpretation of the first amendment in Newdow II is clearly inconsistent with the Founders' vision of the establishment clause and the free exercise clause of the first amendment, Supreme Court precedent interpreting the first amendment, and any reasonable interpretation of the first amendment;

Whereas this decision places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District (980 F.2d 437; 7th Cir. 1992), held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance to the Flag in public schools does not violate the establishment clause of the first amendment;

Whereas Congress has consistently supported the Pledge of Allegiance to the Flag by starting each session with its recitation;

Whereas the House of Representatives reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting House Resolution 459 on June 26, 2002, by a vote of 416–3; and

Whereas the Senate reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting Senate Resolution 292 on June 26, 2002, by a vote of 99–0: Now, therefore, be it

*Resolved*, that it is the sense of the House of Representatives that—

(1) the phrase "one Nation, under God," in the Pledge of Allegiance to the Flag reflects that religious faith was central to the Founding Fathers and thus to the founding of the Nation;

(2) the recitation of the Pledge of Allegiance to the Flag, including the phrase, "one Nation, under God," is a patriotic act, not an act or statement of religious faith or belief;

(3) the phrase "one Nation, under God" should remain in the Pledge of Allegiance to the Flag and the practice of voluntarily reciting the pledge in public school classrooms should not only continue but should be encouraged by the policies of Congress, the various States, municipalities, and public school officials;

(4) despite being the school district where the legal challenge to the pledge originated, the Elk Grove Unified School District in Elk Grove, California, should be recognized and commended for their continued support of the Pledge of Allegiance to the Flag;

(5) the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress has created a split among the circuit courts, and is inconsistent with the Supreme Court's interpretation of the first amendment, which indicates that the voluntary recitation of the pledge and similar patriotic expressions is consistent with the first amendment;

(6) the Attorney General should appeal the ruling in Newdow v. United States Congress, and the Supreme Court should review this ruling in order to correct this constitutionally infirm and historically incorrect holding; and

(7) the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 132.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will consider House Resolution 132, which expresses the sense of the House of Representatives that the Ninth Circuit Court of Appeals' recent ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and urges the Attorney General to appeal its decision.

We are here today because the United States Court of Appeals for the Ninth Circuit continues to get it wrong.

On February 28, 2003, as our country continued preparations for what is now an impending war to defend the values upon which our great Nation is founded, the Ninth Circuit refused to rehear the case of Newdow v. U.S. Congress. In Newdow, a three-judge panel of the Ninth Circuit Court of Appeals ruled that the voluntary, voluntary recitation of the Pledge of Allegiance by public school students violates the first amendment because it includes the phrase "one Nation under God." In addition, on February 28, the three-judge panel amended its June 2002 ruling and held that the Elk Grove, California, school district policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag "impermissibly coerces a religious act" on the part of those students who choose not to recite the Pledge and, thus, violates the Establishment Clause of the first amendment.

This second preposterous ruling by the most-often reversed appellate court in the Nation impels us to come to the House floor again to voice our profound disagreement. House Resolution 132 expresses the sense of the House that the phrase "one Nation, under God" should remain in the Pledge of Allegiance and that the Ninth Circuit Court of Appeals ruling in Newdow v. U.S. Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It also urges the Attorney General of the United States to repeal the Ninth Circuit's ruling and urges the President to nominate and the Senate to confirm Federal circuit court judges who will interpret the Constitution consistent with the Constitution's text. House Resolution 132 also encourages school districts across the Nation to continue reciting the Pledge daily and praises the Elk Grove School District for its defense of the Pledge of Allegiance against this specious constitutional challenge.

Since the Pledge of Allegiance is not a prayer nor a statement of religious faith, the recitation of the Pledge is not a religious exercise. Rather, it is a patriotic exercise in which one expresses support for the United States of America and pledges allegiance to the flag, the principles for which the flag stands, and to the Nation. To conclude otherwise is to ignore clear precedent from the Supreme Court.

If this latest ruling is allowed to stand, schoolchildren at every public school in nine States, a total of 9,600,000 students, will be prohibited from reciting the pledge. Furthermore, the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents such as the Declaration of Independence, the Constitution, and the Gettysburg Address has been placed into serious doubt. When one considers how this decision distorts Establishment Clause jurisprudence, the importance of appointing judges who will interpret the Constitution consistent with its text becomes clear.

Congress has consistently supported the Pledge of Allegiance by starting each session of the House with its recitation. The House reaffirmed its support for the Pledge when, on June 27, 2002, it adopted House Resolution 459, which I introduced, by a vote of 416 to three. The House should do the same with House Resolution 132 today.

I am proud to serve as an original cosponsor of this measure, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

□ 1145

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, judges certainly should not be immune from criticism. I mean, healthy debate on the merits of judicial decisions is an important feature of our democracy. But there is a difference between legitimate criticism and overt pressure that threatens judicial independence.

Like all Americans, Members of Congress are free to criticize judicial decisions with which we disagree. Our collective voice should be heard on matters of profound constitutional significance as we, too, are guardians of the Constitution. In fact, I joined most of my colleagues in voting for a resolution during the last Congress that was referenced by the chairman that expressed disapproval of this very decision on the Pledge of Allegiance and urged that it be overturned.

However, I intend to vote present on this current resolution because it does not stop at expressing disapproval; it goes further, in a way that I believe would set an unwise and dangerous precedent.

It is one thing to urge the judicial branch to use the normal process of appellate review to correct an erroneous decision. It is quite another to imply that judges who issue unpopular decisions in particular cases are unfit for office.

Unfortunately, that is what H.R. 132 does. It not only expresses disapproval of the court's reasoning in the Newdow case, but it states that the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

By linking future nominations to a particular ruling with which the proponents disagree, the resolution sends a not-so-subtle message to sitting judges, and in particular to potential nominees, that they had better tailor their constitutional views to those of the congressional majority if they wish to be confirmed. That, I submit, goes far beyond our appropriate constitutional role.

The Framers of the Constitution recognized that an independent judicial branch is an essential guarantor of liberty in any democracy. To understand this, one need only observe those nations with a weak judiciary that is subservient to the political branches. Invariably such nations are democracies in name only. Those who profess fidelity to the Constitution must take great care not to chip away at the independence of the judiciary on which our liberty depends. For that reason, this resolution ought to be rejected.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, our Nation was founded on the idea of freedom of religion, the freedom to believe, the freedom to pray, the freedom to worship any time, anywhere. Today more than ever the people of our Nation need to have faith, a religion, a belief.

James Madison stated in 1825 that "The belief in God All Powerful, wise and good, is so essential to the moral order of the world and to the happiness of man that arguments which enforce it cannot be drawn from too many sources nor adapted with too much solicitude to the different characters and capacities impressed with it."

I believe Madison's statement is accurate, and we as a people should maintain this strong sense of values. We in Congress should do our part by protecting what our forefathers built this Nation on. We should do that today by passing H.R. 132.

Mr. DELAHUNT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this resolution. I rise in opposition because it is wrong in its principles, it is wrong on the stated findings, it is wrong on its facts. Let me just go through them.

First of all, people may very well, everybody has the freedom to disagree with a court decision. All of us have the right to get up and say that. I do not think it is the role of Congress to say that a court decision is wrong. If we disagree as a body with a court decision, then pass a law if it is a question of statutory interpretation, or propose a constitutional amendment if it is a question of constitutional interpretation. That is our role.

The role of the judiciary is, to quote Chief Justice Marshall, to say what the law is. They say what the law is, and we say what the law should be. It is not our role to tell the court it is wrong; it is our role to change the law if we think so. To pass a resolution which has no power except perhaps the power to intimidate judges is wrong and a violation of our constitutional role.

Secondly, this states as fact that recitation of the Pledge of Allegiance to the flag, including the phrase "one Nation under God," is a patriotic act, not an act or statement of religious faith or belief. It certainly is a patriotic act, but it certainly is a statement of religious faith and belief when you say "one Nation under God."

The only way you can get around that conclusion is to say, as the dissenting opinion in the court said, that the phrase "under God" is minor, it is de minimis, it does not mean anything. But that is a sacrilege. Since when is God minor? Are we really going to say in this Chamber that God is minor; that belief in God is a minor question, so minor as to not to be worthy of notice?

That is the only ground on which we could say that asking schoolchildren, in the context of a group recitation of a pledge in a classroom, is not a prayer and an affirmation of belief and a religious conviction. To say that God is minor and "under God" means nothing, I do not think we want to say that. I certainly hope we do not want to say that. Yet, if we say it means something, then the Pledge of Allegiance with that phrase in it is a statement of a religious belief, or at least a statement of a belief in God.

There are religions in this country, Shintoism, Hinduism, that do not believe in one God. There are people who are atheists. It is factually a wrong statement. It says, as a statement of fact, that the court's ruling in this case is inconsistent with the Supreme Court's interpretation of the first amendment. That is demonstrably wrong, and the Supreme Court will say so.

First, the Supreme Court for the last 40 years in its jurisprudence on school prayers has said that we cannot ask schoolchildren to recite a prayer or a belief in God in the classroom setting, even if we allow the dissenters to walk out of the room; but that is exactly what asking them to say the Pledge of Allegiance with that phrase "under God" is. It is exactly consistent with the Supreme Court's last 40 years of jurisprudence and rulings on the school prayer cases. It is, in effect, the school prayer, that as long as you ask schoolchildren to say "one Nation under God." It has all the same pros and cons; and many disagree with the Supreme Court's decisions, but those were its decisions.

In the name of religious liberty, in the name of the separation of powers, in the name of religion, to say that God is not minor, we ought not to pass this resolution and let the Supreme Court uphold or overturn the Court of Appeals decision in Newdow. After that we can worry about a constitutional amendment, which I would propose, and some Members may want to propose. But at this point it is not our function to be correcting a court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise in support of House Resolution 132 expressing the sense of the House that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It is clear that the ninth circuit's amended Newdow ruling contradicts any reasonable interpretation of the first amendment. In a long line of cases, the Supreme Court has interpreted the establishment clause as prohibiting not only compelled participation in religious activity in public schools, but even voluntary religious devotional activity if, under the circumstances, children feel coerced to participate.

These cases, however, were based upon the fact that the activity at issue involved compelled participation in prayers and devotional exercises, as in the cases of School District of Abington Township v. Schemp and Engle v. Vitale; or the practice of graduation prayers at issue in Lee v. Weisman.

In fact, the questionable activity in these cases occurred either just before or just after the recitation of the Pledge. In its review of these cases, however, the court not only failed to question the practice of the voluntary recitation of the Pledge by schoolchildren, but instead explicitly limited its holding to the prayer or devotional exercise.

To have applied these cases to the facts in the Newdow case was incorrect because the Pledge is clearly not a religious statement or prayer; thus, its recitation is not a religious exercise. It is a historical fact that our Nation's founding principles were based upon the Founding Fathers' deeply held religious views. The Pledge of Allegiance simply refers to this fact.

The reasoning and holding of the ninth circuit in Newdow turns historical fact, as well as Supreme Court precedent, on its head. Either the judges were incapable or were unwilling to make this distinction.

Those who do not share the beliefs expressed in the Pledge or those who do not wish to pledge allegiance to the flag have a right to refrain from its recitation. This was recognized by the Supreme Court in the 1943 case of West Virginia Board of Education v. Barnett, in which the mandatory recitation of the Pledge of Allegiance was held unconstitutional under the first amendment's free speech clause.

Indeed, it is a cornerstone of the religious faith that the Founding Fathers held dear that no man can force another to say or believe that which their conscience will not allow. I would hope that no court would issue a ruling that tramples upon this right. However, the ninth circuit in Newdow simply ignored Supreme Court precedent and essentially gave those who do not wish to recite the Pledge, and who possess the right to refrain from reciting the Pledge, a heckler's veto over those who do wish to recite the Pledge.

This ruling also places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District, held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance in public schools does not violate the establishment clause of the first amendment.

I believe that this clearly incorrect first amendment interpretation, as well as the split in the circuits created by the Newdow ruling, warrants an appeal by the Attorney General and Supreme Court review.

I urge my colleagues to approve this resolution so, during this time of international conflict in which our young men and women may be hours away from going to war to fight for those values based upon which our Founding Fathers gave birth to this very Nation, our youngest Americans, our children, may pledge their allegiance to those same values.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson who wrote the Virginia statute for religious freedom which precedes the first amendment to our Constitution.

House Resolution 132 is totally gratuitous, as it will do nothing to change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by resolution. If the judicial branch ultimately finds the Pledge or the motto to be constitutional, then nothing needs to be done; on the other hand, if the Court ultimately finds it to be unconstitutional, then no law that we pass can change that.

Mr. Speaker, I believe the reasoning of the majority opinion in the case was sound. In the case, the appellate court applied three different tests which have been applied in the last 50 years in Supreme Court jurisprudence in evaluating establishment clause cases. One test was whether the phrase "under God" in the Pledge constitutes an endorsement of religion. The majority opinion says that it was an endorsement of one view of religion, monotheism, and therefore was an unconstitutional endorsement.

□ 1200

Another test was whether individuals were coerced into being exposed to a religious message, and the majority concluded that the Pledge was unconstitutional because young children who are compelled to attend school "may not be placed in the dilemma of either participating in a religious ceremony or protesting."

Finally, the court applied the Lemon test, part of which holds that a law violates the Establishment Clause if it has no secular or nonreligious purpose. For example, cases involving a moment of public silence in public schools, some of those laws have been upheld if the law allows silent prayer as one of many activities which can be done in silence; but courts have stricken laws in which a moment of silent prayer is added to existing moments of silence because that law has no secular purpose.

The court concluded, if the 1954 law, which added "under God" to the existing Pledge, had no secular purpose, it was, therefore, unconstitutional.

It is interesting to note the reasoning of the dissent in the Newdow case. The important operative language in the dissent was the following: "Legal world abstractions and ruminations aside, when all is said and done, the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule to be de minimis. The danger that the phrase represents to our first amendment's freedoms is picayune at best."

Unfortunately, Mr. Speaker, our actions in enacting H. Res. 132 may cause the courts to review the sentiments behind "one Nation, under God" because, if the courts look at the importance we apparently affix to the phrase by passing yet another resolution before the judicial branch has even entered final judgment, this attention diminishes the argument that the phrase has de minimis meaning and increases the constitutional vulnerability of the use of that phrase in the Pledge. While one Federal appeals court rejected a call to rehear the controversial ruling that struck down the recitation of the Pledge due to its religious content, the fact remains that this issue is still alive and well; and every resolution we pass chips away at the de minimis argument.

Furthermore, Mr. Speaker, the court may look at this very resolution, understand the Lemon test, and find that today's exercise has no secular purpose and, therefore, adds to the constitutional vulnerability of the Pledge.

Finally, Mr. Speaker, to quote from an editorial that appeared in the Christian Century, a nondenominational Protestant weekly, puts this matter in perspective: "To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit. The government should not link religion and patriotism."

Mr. Speaker, for those reasons I believe we should reject this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. OSE), who represents the area that includes the Elk Grove Unified School District, which is the district from which this case arose.

Mr. OSE. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, the U.S. Ninth Circuit Court of Appeals recently declared it is unconstitutional to say the Pledge of Allegiance, our national recitation and proclamation of patriotism. This ruling is an attack on the history of our Nation and on the display of our patriotic pride.

On Friday, February 28, 2003, the Ninth Circuit Court of Appeals upheld its ruling on Newdow v. U.S. Congress. In its decision, the court declared the phrase "one Nation, under God" to infringe on the Establishment Clause of the first amendment and is therefore unconstitutional to recite within our public schools. This issue hits especially close to home because Newdow v. U.S. Congress originated in the Elk Grove Unified School District, which is located in my district in California.

I would like to recognize the school district for its participation in defending our right to say the Pledge. As the party named in the lawsuit, they have shouldered the burden and the cost for standing up for our community and our Nation. Elk Grove Unified has not waivered in their support of the Pledge of Allegiance and remains an example of true patriotism.

In response to the court's ruling, I authored this resolution reaffirming that the Pledge of Allegiance in its entirety is appropriate and calling upon the Supreme Court to review this ruling in order to correct this infirm and historically incorrect decision. The Ninth Circuit is quite plainly wrong and has failed to represent the values of the people of California and the United States of America.

The origin of this phrase is rumored to have come from a speech delivered on a cold fall day in the aftermath of the one of the bloodiest battles in American history. On November 19, 1863, President Lincoln delivered his famous Gettysburg Address while overlooking the massive graves of the soldiers who died there during that famous battle and said the following:

"It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation, under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the Earth."

Mr. Speaker, there is no better time than today, given the circumstances of our efforts to protect our homeland, that we rise to honor the men and women of the military and reaffirm our patriotism to this great Nation across all generations.

I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and his staff for their assistance on this resolution, for bringing it to the floor in such a timely manner, and I urge Members to support the resolution.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. DELAHUNT), particularly for the leadership that he has given on a number of key issues dealing with the distinctive responsibilities of the three branches of government. H. Res. 132 challenges that interrelatedness and the constitutional structure of the judiciary, the executive, and the legislature. But, Mr. Speaker, I am not going to quarrel with that because as Members of Congress we are designated to represent the people of the United States and to come to voice those expressions. We do so in a tool called a resolution, congressional resolutions. This happens to be H. Res. 132.

Just as I am going to enthusiastically vote for the armed services tax relief that was just recently debated on the floor of the House, gratified of course that it has been eliminated from the baggage of gambling extras, benefits that were given to gamblers, I am likewise going to vote for H. Res. 132.

Mr. Speaker, let me share with you I believe an analysis that for some may hold water. The first amendment guarantees freedom of expression and freedom of religion. To date now this Pledge of Allegiance is a voluntary act that Americans choose to do, voluntarily in places of worship, voluntarily in this Congress, voluntarily in schools; and it should remain that. There is language in here to suggest that we encourage schools to do so. I want the CONGRESSIONAL RECORD to reflect that this is voluntary and no one should be forced to say the Pledge.

But if you do say the Pledge, then I believe out of your freedom of expression and freedom of religion you have every right to say "under God." And for those who desire not to say it, they have every right not to say it.

Equally, I would argue with the proponent legislative listing of irrelevant aspects of this resolution, and that is to suggest that there may be, as we discussed in the Committee on the Judiciary, some litmus test for judges. The President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text. An interesting, benign statement maybe, but irrelevant. Because the courts will do as they desire to do because that is an independent, free branch of government that we should reflect.

Interestingly enough, Mr. Speaker, as we are taking up H. Res. 132, I filed the first day H. Con. Res. 2, to repeal the Iraqi resolution, so that this Congress would not be deadly silent on the question of war. I intend to file today a resolution that will restate the constitutional premise that this Congress has the sole authority to debate the question of war.

It is interesting how my colleagues are selective in what resolutions can come to the floor, constitutional questions, commentary on the acts of other branches of governments. And I believe if we are to be fair and honest in this House, if we are to be truly the people's House, just as I can come to the floor and support this resolution because I believe the first amendment protects it, and I proudly pledge allegiance to the Flag with the language "under

God" even though we have separate branches of government, it seems patently, if you will, disingenuous, and as well hypocritical, for us not to be able to debate questions, constitutional questions that deal with the issue of war. Not that we will be all of one mind. I respect that, Mr. Speaker, because this is a democracy. But certainly as the Prime Minister of England can go to the Parliament on this very somber question, then we can too, Mr. Speaker. We can unshackle ourselves from the fear of disagreeing with each other, and lo and behold we can unshackle ourselves from any commentary that anyone who opposes the particular option that has been chosen, I believe, should be the last option of war is in any way unpatriotic or is in any way not supporting the brave young men and women in the front lines allowing us to be here today.

We know that we are facing troubling times, and we will do it united as a Nation. But it speaks little of what we are fighting for if we cannot come again to the floor of the House and express either our support or our opposition to the question of the option of war being the only option.

I believe, Mr. Speaker, there are many options. There is a third option that we can engage in from putting troops at the front lines, U.N. inspections and indicting Saddam Hussein. But as I rise to support H. Res. 132, let me say, Mr. Speaker, I do it proudly; but I also ask this House to be able to debate a question that will deal with the lives of young men and women and it will be a question of life or death and war or peace.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS) to get back to debating the Pledge of Allegiance and the Newdow ruling.

Mr. LUCAS of Oklahoma. Mr. Speaker, today I rise in support of this resolution and in support of the Pledge of Allegiance.

I believe children in schools across America should start their day in the same way we do here on the floor of the United States House of Representatives, by reciting the Pledge of Allegiance.

Mr. Speaker, the Ninth Circuit's decision is outrageous and has set a dangerous precedent that we cannot allow to continue nationwide. I know of no better way to educate our children about the beliefs we stand for in this great Nation of ours than with the Pledge of Allegiance. The Pledge is an important way of educating our children about the value of patriotism, democracy, a reminder that we are one Nation under God. That is why I believe we need to keep the Pledge in our schools, and as my constituents in Oklahoma would say, keep the judges who do not value the Pledge out of our courts.

Mr. Speaker, my constituents are dumbfounded and angered by the Ninth Circuit's actions. That is why I have introduced legislation immediately after the court's original ruling last year that would amend the U.S. Constitution to protect the right of schools to lead willing students in the recitation of the Pledge. I have reintroduced my Pledge of Allegiance Protection Amendment in this Congress; and while I know, I believe in my heart that the U.S. Supreme Court will overturn this foolish ruling, I urge my colleagues' support for its passage if the Supreme Court upholds the Ninth Circuit Court's atrocious decision.

Mr. Speaker, again, I support this resolution in support of the Pledge.

Mr. DELAHUNT. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BOOZMAN).

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Mr. BOOZMAN. Mr. Speaker, I rise today in support of House Resolution 132. This legislation expresses that the Ninth Circuit Court of Appeals' ruling against the Pledge of Allegiance is inconsistent with the Supreme Court's interpretation of the first amendment.

The Pledge of Allegiance brings together people of different backgrounds in a shared expression of support for our country. Before the start of business in the House of Representatives, my colleagues and I proudly recite the Pledge of Allegiance, just as I proudly said it before every school board meeting back home in my hometown of Rogers, Arkansas.

Our pledge to support our country and the beliefs on which it was founded is an important part of our everyday life. Every time an American turns to the flag to recite the Pledge of Allegiance, they are reminded of all that has been sacrificed in the name of our country and for our freedom.

The U.S. Court of Appeals for the Ninth Circuit outraged people across the country by ruling the phrase "one Nation under God" makes the Pledge of Allegiance unconstitutional. It is unbelievable that a Federal court would rule that the Pledge of Allegiance violates our first amendment.

Mr. Speaker, perhaps now more than ever the need for the unity in America exists. I commend the gentleman from California (Mr. OSE) for bringing this legislation before us, and I urge my colleagues to vote in favor of House Resolution 132.

Mr. STEARNS. Mr. Speaker, unfortunately, in an arrogant stunt, last summer, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God," and places children in the "untenable position of choosing between participating in an exercise with religious content or protesting." This is an obvious instance of political correctness taken to an absurd extreme.

This court clearly shows that it is out of step with the will of the American people, the U.S. Congress, and traditional American values. Religious expression is the fundamental basis of our freedom in this country. At the earliest moment in this nation's history, the pilgrims signed The Mayflower Compact that declared that the voyage across the Atlantic was taken "for the Glory of God" and still today, the Ten Commandments are publicly displayed in the National Archives. In this Nation we have "In God We Trust" on our money, and each day the House of Representatives starts its day by reciting the Pledge of Allegiance. We will continue to do so despite the folly of the 9th Circuit Court.

Mr. FEENEY. Mr. Speaker, I thank you for the opportunity to revise and extend my remarks and submit them into the CONGRESSIONAL RECORD.

I rise in support of H. Res. 132. Fellow Members, in this time of war, I think it is more important than ever to be able to express our patriotic and religious views together in unity and solemnity. The Pledge of Allegiance is a beautiful manifest of the feelings of Americans. We are a religious people. We always have been. America has been such since our inception. Granted, we are a people of diverse religious backgrounds, but being able to express our faith in public without fear of government condemnation or censure is without a doubt, the reason why you and I are standing here today. The desire for religious liberty was what brought the first groups of Americans to our country hundreds of years ago to build this shining "city upon a hill."

Members, I stand in support of the Pledge of Allegiance as did this great body on Flag Day 1954 when the words "Under God" were added. As President Eisenhower, who supported this change, so eloquently stated, "In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war." Eisenhower's words could not be more accurate or more timely. Americans' religious beliefs reach to the core of our being. It is in both times of uncertainty and turmoil, prosperity and blessing that we cling to our beliefs for direction, comfort, guidance and peace. To deny Americans the right to stand together and say the Pledge of Allegiance is to deny the spirit behind the Mayflower Compact, Patrick Henry's great Liberty Speech, the Declaration of Independence, the Gettysburg Address, and all of the other documents that serve as a mission statement of our people.

Members, in this time of war I urge you to support H. Res. 132 to defend the Pledge of Allegiance as a fitting and constitutional written expression for all Americans.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of H. Res. 132, a resolution that expresses Congress's disapproval of the recent 9th Circuit Court of Appeals decision that held that a public school's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance impermissibly coerced a religious act.

A State sponsored religion is unconstitutional, but there is nothing in our founding documents that requires the removal of every reference to God from the public square. Most Americans can make this distinction, which explains the public outcry to the 9th Circuit's misguided decisions.

The faith of our founding fathers was central to the establishment of our Nation and there are references to God in countless public forums. The Declaration of Independence declares that "all men are Created equal, endowed by their creator with certain unalienable rights." The Supreme Court begins each session with the blessing "God save the United States and this honorable court." Congress opens each day with a prayer, through which we seek divine guidance for the tasks before us. Our currency bears the slogan "In God We Trust."

The Pledge of Allegiance is an important affirmation of both our country's faith and patriotism. With our Nation on the brink of war, we must be vigilant in guarding against efforts to strip away the tradition and powerful public expressions of these key values. Instead, we should emphasize our shared heritage, our commitment to freedom, and our rich tradition of national humility before the ultimate author of our liberty. I urge each of my colleagues to vote in favor of H. Res. 132.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers and am prepared to yield back if the gentleman from Massachusetts will do the same.

Mr. DELAHUNT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 132.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## PROVIDING FOR CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 147 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 147

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), my friend and associate, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate on this matter only.

Mr. Speaker, I am exceedingly pleased that tonight we will consider much-needed bankruptcy reform legislation under the direction of a fair and balanced rule that makes a total of five amendments in order, including an amendment in the nature of a substitute sponsored by the gentleman from Michigan (Mr. CONYERS), the ranking member.

I am proud of the tireless and extensive efforts of many Members, including the gentleman from Texas (Mr. SESSIONS), who will be here to address us shortly in the rule on this, and the staff who have put together countless hours toward the passage of this legislation over several years now.

Their efforts allow us to ensure that our bankruptcy laws operate fairly, efficiently and free of abuse. We must end the days when debtors who were able to repay some portion of their debts are allowed to game the system. This bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses by those who can pay their bills.

Congress has spoken on this issue many times before. As we all know, the 105th, the 106th, the 107th Congresses passed legislation addressing bankruptcy reform. In the 105th, the conference report passed the House, but time expired before the Senate voted on a final passage. In the 106th, the conference report received overwhelming bipartisan support in both Chambers; however, President Clinton chose to pocket veto the bill. In the 107th Congress, we came extremely close to final passage of a conference report, but in the end could not finally agree.

So, today, due to the outstanding work and leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER), his committee and so many Members, we have the historic opportunity to make modern bankruptcy reform a reality.

As we debate and vote today, we should keep in mind two important tenets of bankruptcy reform. First, the bankruptcy system should provide the amount of debt relief that an individual needs, no more, no less. Bankruptcy should be a last resort and not a first response to a financial crisis.

One important part of this legislation is known as the homestead provision. Protection of one's homestead is something that is very important to me and, of course, to all my constituents, and to any Member and all their constituents. The homestead provision in this legislation maintains the long-held standard that allows the States to decide if homesteads should be protected, yet prohibits those who would purchase a home before filing bankruptcy as a means to evade creditors.

By tightening our current laws and making it more difficult to escape fraud by declaring bankruptcy, we are expressing no tolerance for those who would game the system to make up for their wrongdoing.

Modern bankruptcy reform has been a long and somewhat arduous journey. It makes the most anticipated result of our work today even more rewarding. It has required not only hard work, but also some difficult decisions on the part of Congress as we know. The result is what I believe to be a carefully balanced package that protects the women, children, family farmers, low-income individuals, and provides access to bankruptcy for all Americans who have a legitimate need.

Today's vote I believe will finally make modern bankruptcy reform a reality, and, Mr. Speaker, I urge my colleagues to vote with me to support this fair rule and the underlying legislation which is long overdue.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SESSIONS) for the purposes of control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes.

Mr. Speaker, this bill purports to improve the Bankruptcy Code by ensuring fairness for debtors and creditors. Unfortunately, this bill envisions fairness as choosing credit card companies over people in dire financial situations. This bill attempts to solve a complex problem with an oversimplified, one-size-fits-all solution when the problem really requires a sophisticated solution.

The rhetoric around H.R. 975 paints a vivid picture of scheming people running up huge debts, buying extravagant houses and expensive cars just before they run to a local bankruptcy court to avoid paying their bills, but the reality is that only 3 percent of the people who file for bankruptcy are these kinds of cheaters.

In order to stop the 3 percent who abuse the system, the bill takes the dramatic sweeping step of harming the 97 percent of people who are forced to seek protection under the Bankruptcy Code because of illnesses, unemployment or divorce. In fact, nearly half the people who file for bankruptcy protection do so because of medical bills and the financial consequences of illness or injury.

Middle-class families are only one serious illness away from financial collapse, and the impact of medical cost is highest on women, families headed by women and older people.

Mr. Speaker, one of the most forceful and persistent proponents of changing the Federal Bankruptcy Code is the credit card industry. We all know that credit card companies send us solicitations by the boatload. They mailed 5 billion of them in 2001. Each of us get three or four a day. They flood the mailboxes with credit card offers and encourage debt, and it is very hard to sympathize with these companies. They are actively, actively creating the problems that they now want this body to fix for them.

Why does this legislation do nothing to address the culpability of credit card companies in the growing numbers of bankruptcies? Nothing in this legislation requires credit card companies to provide adequate information to consumers about the costs of credit. Nothing in the bill addresses the industry's aggressive marketing of credit to students and to young teenagers. Nothing in this bill deals with predatory mortgage loans or the high costs of so-called payday loans.

Douglas Lustig, a bankruptcy attorney in my hometown of Rochester, New York, says that people are not abusing credit cards for extravagances. Rather, he says, most people use credit cards out of necessity. People are forced to use their credit cards to buy food or pay for rent until they get through difficult economic times, and what really breaks my heart is that as unemployment rates rise, this Congress has failed to extend the unemployment benefits in so many households. This is the only recourse that they have. Then if something awful happens to them, and the wife is laid off or the husband diagnosed with cancer, the family then is totally unable to meet its financial burdens, and this bill chooses to make sure that the credit card companies get paid instead of protecting the families and helping them dig out of financial collapse.

What do bankruptcy judges think about this legislation? Judge A. Thomas Small, who recently served as president of the National Conference of Bankruptcy Judges and now is chairing the Federal Bankruptcy Rules Committee, sees problems. He says this measure will fail to block needless bankruptcy cases while making it a lot harder for people who really need bankruptcy relief to get it.

Despite the many years that bankruptcy reform has been discussed by this body, many serious problems persist in this legislation. The rule before this body gags us and limits our right to speak fully about the significant legislation and its real-world effects. Republicans in the House Committee on Rules blocked the consideration of six substantive amendments to this bill. This body has the right to discuss them, to deliberate and to consider the changes they offer.

One amendment would protect the Active Duty members of the Armed Forces, unemployed people who have exhausted their benefits, and victims of terrorism. Another would have prohibited credit card companies from issuing cards to people under the age of 21. A third amendment would place a $125,000 national cap on the homestead exemption without any of the exceptions allowed in the underlying bill. Still another would place reasonable limits on exorbitant retention bonuses, the severance package and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy. A fifth amendment would crack down on the predatory lending practice known as payday lending.

An amendment offered by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and myself would give bankruptcy courts the discretion to provide extra protection for people entitled to alimony or child support, a piece of legislation that we put in back in the days when Jack Brooks was chair of the Committee on the Judiciary. Many of us worked very hard at that time to make sure that child support was the first thing that a spouse had to or person who was paying the support had to discharge. That has changed now.

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The reform legislation elevates the credit card companies to the same categories of child support. Mothers and fathers who are trying to get money for food and clothes for their children will have to compete with the major credit card companies with their legions of lawyers and sophisticated collection departments for the same few dollars.

Mr. Speaker, I will enter this list of amendments left on the floor of the room of the Committee on Rules into the RECORD.

Mr. Speaker, H.R. 975 even fails to hold perpetrators of violence against women's health care clinics accountable for their actions. As part of a coordinated strategy, perpetrators of clinic violence have filed for bankruptcy to avoid paying judgments against them for violation of Federal law. This bill will allow them to discharge these judgments and get away with breaking Federal law and trampling the constitutional rights of women.

This rule and this legislation fail the American people. Years of consideration have not produced bankruptcy reform that the American people deserve, reform that fixes the current problems with a system without causing significantly more harm than this prevents.

Mr. Speaker, we should produce legislation that strikes a balance between risk-taking and responsibility and shelters that 97 percent who deserve the Federal protection. I urge Members to vote against this rule and against H.R. 975.

The previously mentioned list of amendments follows:

### AMENDMENTS REJECTED BY THE HOUSE RULES COMMITTEE DURING CONSIDERATION OF H. RES. 147, THE RULE GOVERNING DEBATE ON H.R. 975, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Amendment No. 5 Offered by Representative Delahunt—the amendment places a $125,000 national cap on the homestead exemption, without any of the exceptions allowed in the underlying bill.

Amendment No. 6 Offered by Representative Delahunt—the amendment places reasonable limits on exorbitant "retention bonuses," severance packages, and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy.

Amendment No. 8 Offered by Representative Jackson-Lee—the amendment cracks down on the predatory lending practice known as "payday lending."

Amendment No. 9 Offered by Representative Waters—the amendment prohibits credit card companies from issuing cards to people under 21 years of age.

Amendment No. 10 Offered by Representative Schakowsky—the amendment excludes unemployed people who have exhausted their benefits, active duty members of the armed forces, and victims of terrorism from the bill's means test provisions.

Amendment No. 11 Offered by Representatives Conyers, Slaughter, and Jackson-Lee—the amendment gives courts the discretion to disapprove an agreement or the discharge of a debt if it would impair a debtor's ability to pay alimony or child support.

Open Rule Motion Offered by Representative Frost—on a party-line vote of 3-9, the Committee rejected Mr. Frost's motion that the House consider H.R. 975 under an open rule, which would have allowed the House to debate all of the amendments Members brought before the Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are talking about bankruptcy today again. We have done this four times. This rule will pass because it is a fair rule. The underlying legislation will pass overwhelmingly because it is great legislation that the American people not only asked for but want. It will help streamline and make better the bankruptcy procedures that are necessary as our courts deal with them, and as people who have gotten into financial trouble deal with the old legislation and find out what a problem it is.

I am proud to be here today to talk about good legislation that is good for the American public, it is good for consumers, and I am very proud of what we are doing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this fair rule and the underlying legislation, H.R. 975. H. Res. 147 is a fair and responsible rule that will allow the House to work its will on the underlying bankruptcy reform bill. It makes in order two amendments sponsored by Democrats, two bipartisan amendments, and an amendment in the nature of a substitute offered by the ranking minority member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS). I urge Members on both sides of the aisle to join me in approving this rule so we can move on to H.R. 975, important bankruptcy reform legislation.

I support providing this bankruptcy protection. I believe that American citizens should be able to gain a fresh start after finding themselves incapable of meeting their obligations. In fact, our Nation has historically understood the importance of providing this protection.

As one individual put it during the congressional debate in the late 19th century, "When an honest man is hopelessly down financially, nothing is gained for the public by keeping him down; but on the contrary, the public good will be promoted by having his assets distributed ratably as far as they will go among his creditors and letting him start anew.".

Today we debate the reform of U.S. bankruptcy law one more time. We should focus on how to ensure that bankruptcy laws follow their intended design, while working to derail the growing trend of using bankruptcy as a means for avoiding the payment of debts, even when those debtors are financially capable of paying off those debts. The question before us is, How can we prevent individuals abusing these protections, while ensuring that bankruptcy relief remains available for those who truly need it?

In 1787, the Founders of this country, some of whom were debtors themselves, recognized the necessity for providing leniency to individuals who are faced with increasing debts. The Founders understood that it was impossible for debtors to work towards paying off their debts while sitting in debtors' prison. I do not, however, believe the Founders would have approved of a system where bankruptcies have increased more than 400 percent in 23 years and represent a cost of $400 to every American family who works hard to meet its own financial responsibilities.

H.R. 975 works both to continue the Founders' vision for bankruptcy protection while curbing the abuses that have plagued the system over the past few decades. Congress should not be in the business of protecting those who wish to use bankruptcy as a financial planning tool, while penalizing hardworking Americans who fall into financial difficulties.

Last year, almost 1.6 million bankruptcy cases were filed in this country. We must ensure that this number is significantly reduced in the future. It is not shameful to file for bankruptcy if one falls on hard times. It is, however, shameful to use bankruptcy as a means of paying one's obligations.

As such, I urge Members to join me in supporting both this rule and the underlying legislation to help restore the legitimacy of this protective tool and to bring commonsense reasoning back to American bankruptcy law. I urge Members to join me in voting for the rule and H.R. 975.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, two amendments rejected by the Committee on Rules which I had hoped to offer illustrate the double standards represented by this bill because wealthy debtors with their lawyers and financial advisors can continue to game the system, and corporate insiders who have managed healthy businesses into bankruptcy can still be awarded with golden parachutes. Meanwhile, people of modest means will be denied a genuine fresh start, and retirees whose pensions and life savings have been wiped out by corporate bankruptcies will get little relief.

My first amendment would have placed reasonable limits on exorbitant retention bonuses, obscene severance packages, and other outlandish payments to corporate insiders whose companies are bankrupt or insolvent; and the amendment would have reserved those assets for the benefit of employees, retirees, and other creditors.

In the State of Massachusetts, Polaroid executives canceled their retirees' health coverage days before filing for bankruptcy and then terminated workers on long-term disability when the company reorganized. At the same time they awarded themselves more than $5 million in various bonuses and incentive payments shortly before filing for bankruptcy and then another $6 million in so-called retention bonuses afterwards.

Of course, this pales in comparison to Enron, where their CEO, Kenneth Lay, received gross profits of $247 million, or Global Crossing where Gary Winnick, their CEO, grossed $512 million, all the while eliminating thousands of jobs and driving their companies into bankruptcy.

My second amendment would have helped eliminate the most notorious abuse of all, the financial planning strategy whereby debtors purchase expensive homes in States with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing, like the convicted Wall Street investment banker who filed bankruptcy while owing some $15 million in debt and fines, but still kept his $5 million mansion complete with 11 bedrooms and 21 bathrooms. Yet while the so-called bankruptcy abuse prevention bill obsesses about whether small debtors can manage to pay $100 a month in Chapter 13, it continues to tolerate this outrageous abuse.

Mr. Speaker, this is not the only exemption that allows the wealthy to shelter their assets. In addition to the million dollar mansion, they can receive a substantial pension, have an IRA up to a million dollars, and own annuities worth additional millions and not worry about it because depending on where they live, these assets are exempt and creditors cannot touch them. This bill does nothing about that.

What message does it send when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? We are creating different classes of debtors, and every fair-minded person should find this unconscionable. This rule should have provided an opportunity to deal with these issues, and I urge my colleagues to oppose the rule and vote down this unfair and one-sided bill.

Mr. Speaker, I rise in opposition to the rule.

The rule fails to allow the House to consider two amendments I had intended to offer to illustrate the double standard represented by this bill: A bill that denies a fresh start to people of modest means while allowing wealthy debtors and corporate insiders to continue to abuse the bankruptcy system.

It was one thing to consider this kind of legislation when our nation was enjoying the prosperity of the 1990s. But this debate takes on a certain surreal quality when we consider the depths of the economic difficulties our country is facing at the moment. With unemployment rising. Growing numbers of working Americans who can't buy health insurance at reasonable rates. Retirees whose pensions and life savings have been wiped out by corporate bankruptcies.

And what are we doing about it? We're helping the credit card companies squeeze a few more pennies out of these same working families. And we're ignoring the massive abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

Some months ago, the Financial Times published an analysis of the profits amassed by top officers and directors of the 25 largest companies to declare bankruptcy during the previous 18 months. According to the report, "in just three years, they grossed about $3.3 billion before their companies went bust, having wiped out hundreds of billions of dollars of shareholder value and nearly 100,000 jobs."

And so, as Global Crossing was losing $9.2 billion and eliminating over 5,000 jobs, its chairman, Gary Winnick, grossed $512 million. While Enron lost $18.8 billion and eliminated 5,500 jobs, its CEO, Kenneth Lay, and the chairman of its energy services subsidiary, Lou Pai, made gross profits of $247 million and $270 million, respectively.

The sources of these windfalls included such now-familiar devices as retention bonuses. Severance payments. Forgiven loans. And dividends on holdings of company stock.

In my corner of the world, Polaroid executives cancelled their retirees' health and life insurance coverage and terminated workers on long-term disability—all while awarding themselves more than $5 million in various bonuses and "incentive" payments before filing for bankruptcy and another $6 million in retention bonuses afterwards. Officers and directors received severance packages while employee severance was terminated. Officers and directors were able to redeem their company stock while employees, forced to put 8 percent of their salaries into the stock option plan, were prohibited .from withdrawing the funds and watched their holdings evaporate. No sooner was the sale of the company completed than the new CEO terminated the retiree pension plan.

What happens to people who lose their livelihood, their savings, and their health coverage? Lots of them wind up unable to pay their debts and forced into bankruptcy. So in fact, we have corporate bankruptcies causing personal bankruptcies. And the only response from Congress has been to push an industry-sponsored bill that would make it harder for these people to get a fresh start. A bill that penalizes the very working families that have been victimized by corporate misconduct, while preserving the loopholes and exemptions that allow corporate insiders to shelter their ill-gotten gains when they declare bankruptcy.

I had sought to offer an amendment that would begin to redress the balance. It would have placed reasonable limits on exorbitant "retention bonuses," severance packages, and other payments to corporate insiders of companies that are bankrupt or insolvent. The amendment would not have prohibited such payments to the extent that they are truly necessary to keep key employees in place. But it would have permitted them only when the court finds that, first, the employee has a bona fide job offer from another business at the same or greater rate of compensation; second, the services provided by the person are essential to the survival of the business; and third, the amount of the payment is not excessive when measured against the amounts paid to nonmanagement employees in the ordinary course of business.

The amendment would have empowered the court to return excessive payments to the bankrupt company, so that these funds can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors. It would have restored some semblance of fairness to this unbalanced bill.

The second amendment I had hoped to offer would have helped eliminate the biggest loophole in the Bankruptcy Code, by placing a meaningful national cap on the homestead exemption.

I say "meaningful," Mr. Speaker, because the $125,000 cap that is currently in the bill is qualified by a series of exemptions that assure that those who engage in flagrant abuse of the bankruptcy system by sheltering homestead assets can continue to do so.

My amendment would have left the cap at $125,000 while eliminating the exemptions for transactions conducted more than 1,215 days preceding the bankruptcy filing and for interests transferred from a debtor's previous principal residence acquired within the same state prior to that time.

The rationale we have been given for the so-called "needs-based" reforms proposed in H.R. 975 is to eliminate abuses of the bankruptcy laws—abuses which proponents of the legislation have characterized as the use of the Bankruptcy Code as a "financial planning tool."

Yet while the bill obsesses about whether small debtors can manage to pay $100 a month in chapter 13, it continues to permit—indeed, it endorses—the most notorious abuse of the consumer bankruptcy system of all: The "financial planning" strategy whereby debtors purchase expensive homes in states with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing.

If we are truly serious about curtailing abuses, it seems to me that this is the place to start. With the owner of the failed Ohio S&L who paid off only a fraction of $300 million in bankruptcy claims while keeping his multi-million-dollar horse ranch in Florida.

Or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines, but still kept his $5 million Florida mansion—complete with 11 bedrooms and 21 baths.

Or the Miami physician with no malpractice insurance, who was named in four separate malpractice actions, filed for bankruptcy protection, and kept a $500,000 home—complete with a 100-foot swimming pool.

Or the movie actor, Burt Reynolds, who declared bankruptcy in 1996, claiming more than $10 million in debt. Reynolds kept a $2.5 million home—appropriately named "Valhalla"—while his creditors received 20 cents on the dollar.

The situation in Florida has become so notorious that one Miami bankruptcy judge told the New York Times, "You could shelter the Taj Mahal in this state and no one could do anything about it."

The sponsors of the bill will claim that they have closed the loophole by putting a cap on the exemption. But the provision is riddled with loopholes that ensure that wealthy debtors who are sophisticated enough to plan ahead will still be able to shelter their assets without ever being subject to the cap. Under the bill, they can purchase a homestead to shelter their non-exempt assets and simply wait the 1,215 days before filing their petition. And the bill expressly permits them to transfer their assets from a previous principal residence into a new one at any time prior to their bankruptcy filing without being subject to the cap, provided that the former residence is located in the same state.

What message does it send, Mr. Speaker, when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? What message does it send when we impose tough repayment plans on working families that are barely making ends meet, while allowing corporate insiders to drive their companies into bankruptcy and pocket millions of dollars in bonuses, severance packages, and other ill-gotten gains?

I urge my colleagues to oppose the rule and vote down this bill.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Massachusetts has been a very active player in this process for a very long time, and he speaks very forcefully about all these rich people who utilize the schemes within the bankruptcy law, but then the gentleman failed his own test when he spoke about millionaires because he moved the test down to a household of $125,000, not a house that a millionaire or some rich corporate executive that the gentleman speaks about would want to protect, but where the average American lives, where the average American who would have a chance to lose their own house in the event of bankruptcy, and that is the sad part about this, is that this clamoring, this beating of the drum about corporate executives and corporations and how bad they are for America and all these rich fat cats, and then the other party takes it out on the average person, and they want more. They want to make sure that literally any person who would have a bankruptcy could lose their house.

The Republican Party disagrees; I disagree. I think that people who are Americans who get up and go to work and are hard working would find this really despicable, to take a person's home because they got into trouble. But now we say oh, no, down to $125,000, not the millionaire. So once again we learn the Democratic Party philosophy, and that is anybody who has a job or house is not protected. Oh, up to $125,000 is. I wonder who has those kinds of houses? The answer is millions of Americans, and that is what the other side of the aisle is out after on the floor of the House of Representative again today if one engages in bankruptcy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I rise in support of the rule and the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act.

□ 1245

This legislation reflects many years of effort by both the House and the Senate to enact bankruptcy reform which protects consumers from having to pick up the tab for irresponsible debtors, debtors who are capable of paying off a significant portion of their debts. There are people who truly have a legitimate need to declare bankruptcy. At times hard-working people come up against special circumstances that are beyond their control. Family illness, disability or the loss of a spouse may necessitate the need to seek relief under our bankruptcy laws. This legislation will protect these individuals.

Too frequently, however, individuals who have the financial ability or earning potential to honor their debts are simply seeking an easy way out of repaying those debts. While this may prove convenient for the debtor, it is not fair to their friends or to their neighbors who are ultimately stuck with the bill. Those who can afford to pay their debts must honor their commitments.

The current economic climate necessitates bankruptcy reform now more than ever. Some individuals and small businesses in this Nation are facing severe financial hardship, hardship that may justify the need to file for bankruptcy. As a result, the bankruptcy system must be reformed to ensure that those with a legitimate need are not adversely affected by those who abuse the system.

Mr. Speaker, the hard-working families in my district in Cincinnati, Ohio, pay far more than they ought to in taxes. They do not need to incur an additional burden created by those who seek to hide from their debts. This bill holds those irresponsible debtors accountable and protects those hard-working families. I urge support of this rule, and I urge support of this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

In response to my colleague and dear friend from Texas, it is not the cap. It is not the cap that disturbs us. The question is, is it a genuine cap, or is it a sham? I suggest that this cap is a sham. There are more loopholes in this particular provision than one can even comprehend. This is not about the individual, the average, middle-class American who earns 25-, 30- or $35,000, but it is about the sophisticated investor, it is about the sophisticated individual who has access to the very best in terms of legal talent and financial advice, who knows how to game the system. We are talking about not $125,000, but about the millions, the millions, that are being prevented from going to legitimate creditors because of this particular exception.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman and I have spoken about this often, as a matter of fact, including in the Committee on the Judiciary. We will still hold on this side of the aisle that if you want to aim at millionaires, then make it to a millionaire level instead of to a middle-class issue, and that is $125,000. I do not get it, and I do not think they do, either. But the American public that loses their home does understand it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. CANNON), a member of the Committee on the Judiciary.

Mr. CANNON. Mr. Speaker, I thank the gentleman from Texas for yielding me the time to talk about this issue.

I would urge support of our Members for this rule and the underlying bill. Over the last three Congresses, the House has passed this bill on six different occasions. We hope that today we can do it for the seventh time. From about the 105th Congress to the present Congress, the House Committee on the Judiciary has held hearings at which more than 130 witnesses have appeared representing nearly every constituency that is affected in the bankruptcy and business community.

H.R. 975 is virtually identical to the bankruptcy reform legislation that the House passed just 4 months ago, which was essentially the bankruptcy conference report, without the so-called Schumer amendment, so we have eliminated that controversy that we had last year. Last year's bankruptcy conference report was the product of nearly a year of extensive negotiations and compromises that were bipartisan and bicameral.

Let me just point out some of the things that this bill does. H.R. 975 consists of a comprehensive package of reform measures pertaining to both consumer and business bankruptcy cases. It improves bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system and by closing loopholes for abuse. It responds to many of the factors contributing to the increase in consumer bankruptcy filings, such as lack of personal financial accountability and ineffective oversight with respect to deterring abuse in the system. It ensures that consumer debtors repay creditors to the maximum that they can afford. It also includes consumer protection reforms that prioritize the payment of spousal and child support, for instance, making sure that the deadbeat parents cannot use bankruptcy to avoid their support responsibilities. It also protects a debtor's retirement pension and educational IRAs for the debtor's children from the claims of creditors. And it requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will be able to make an informed choice about bankruptcy, its alternatives and its consequences. We find that many people today are taking out bankruptcy and then finding out how brutal it is to have done so after the fact.

We have also touched on many other issues. We help family farmers and fishermen who are facing financial distress. This is a program we have reauthorized several times independently last year. We authorize the creation of 28 additional bankruptcy judgeships. One of the things we do that is really quite important is we reduce the systemic risk in the financial marketplace in this enactment, which Federal Reserve Chairman Greenspan has described as "extremely important" for our system today.

In addition to the base bill, we have in the rule a Cannon-Delahunt amendment. If I can speak to that for just a moment, this amendment is identical to H.R. 5525, a bill that our former colleague George Gekas from Pennsylvania introduced in the 107th Congress. This really deals with some of the issues that our colleague from Massachusetts has been pounding on here recently, where we have had Enron, WorldCom, Global Crossing and other corporations that have shown us how bad a company can actually be. This bill would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims that are entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reach-back period for wage claims from 90 days to 180 days.

Secondly, the amendment increases the reach-back period during which fraudulent transfers can be rescinded from 1 year to 2 years and provides that outrageous compensation payments and bonuses and other perks given to a corporation's insiders during the reach-back period which we have now doubled can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

Third, it requires the court to reinstate retiree benefits that a corporate debtor modified within 180 days preceding the bankruptcy filing unless the balance of the equities justifies the modification. This amendment reflects sound bankruptcy policy and will effectuate meaningful reforms.

I hope that the Members of this body will support this rule and the underlying bill and amendment. I would like to thank the gentleman from Massachusetts for working with us on this amendment, which I think is going to be very effective in reaching the core problem of companies and insiders who do illegal, wrongful things and then walk away scot-free with a lot of money. Not only should those people be criminalized, they should be put in jail and their assets taken back and put back in the estate so that employees and creditors can have the benefit of that transaction. I thank the gentleman for his work on this issue.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was very interested in listening to a former speaker cite the concepts of the Founding Fathers. We have been spending a lot of time today utilizing the Constitution, and for this body that is good. Whenever we can attribute part of our debate and reasoning to the Constitution, we are on solid ground. He reminded us of the concept of the debtors' court and the Founding Fathers. Maybe that is all that may be truly accurate in the representation of utilizing the Founding Fathers' purposes.

Yes, they did not want to have a situation where people were victimized by those who did not pay their honest debts. We also know that this country had several States, maybe one in particular, that was founded by exiled or fleeing debtors. Certainly a now prominent member of the United States, meaning the United States family, this State is a thriving, prosperous State today.

All debtors should not be condemned. And the consensus, I believe, that you could interpret the Founding Fathers' concept does not equate to modern times, and that is, the Founding Fathers did not know anything about predatory creditors and usurious rates, interest rates; they did not know that there would be a proliferation of credit cards so that if you were 14 years old, you got a letter; if you were incapacitated in a hospital, they would be soliciting you to get a credit card; or you could be on a college campus barely making ends meet, and they would solicit you for a credit card.

And now this legislation simply puts in documentation individuals who have been preyed upon to get these credit cards now in a situation where we go into the bankruptcy court, we, one, out of this legislation take more discretion away from the judges so that they can ascertain the reasons why you are filing a bankruptcy. You take judicial discretion away from the judges, and you put a means test so that if you have a catastrophic illness, or you are divorced or you are elderly and you lose a loved one, or your spouse and you have fallen upon hard times, there is no way to give discretion to helping you as you file in the bankruptcy court.

Let me assure you that neighbors do not put signs out on the front yard and say, "I am bankrupt, I have filed bankruptcy, I'm proud of it." It is something that we certainly disagree with or are concerned with.

My friends in the credit card industry and the credit union industry have many good points, and to my friends particularly in the credit union industry of which I support enthusiastically and as well, Mr. Speaker, have worked with them and would propose certain aspects to correct their problems, but this legislation fails to protect the parent who needs alimony and child support. It has them grappling and fighting on the ground between high-priced credit card companies, because it dumps all of those particular debts into one pot and has them fighting with each other.

Unfortunately, you can burn up a Planned Parenthood center and hide behind the Bankruptcy Code. I hope that is fixed in the other body.

What we call payday loans, the amendment that I had that we would protect those who, because they have no money, they go to loan sharks on payday, usurious high rates. Their weekly check, they use it, they cannot pay it back, they file bankruptcy, and then those usurious rate people who take advantage of folks who needed an emergency loan at ridiculous rates can go in and press them to pay those ridiculous loans back.

Mr. Speaker, we are not fixing the problem, we are making the problem worse. And how in the world can you expect a single parent, whether it be a mom or dad, to be able to fight equally with the bigshots with a lot of lawyers? When we started this some 4 or 5, 6 years ago, it was noted that the credit card companies paid $40 million in lobbying and campaign contributions to make sure. They are persistent. And here we go again with a big document that does not treat the little guy fairly.

I support the Cannon-Delahunt legislation, and I hope next time we can go even further, because I come from the community where Enron laid off 5,000 employees within 72 hours after they filed bankruptcy and gave out $120 million in bonuses.

What we need to do is to do a step further. I will be offering legislation that makes employees laid off because of the malfeasance of their corporations secured creditors and first in line. And then I will make those who have been laid off, losing their benefits, their health benefits, like a victim in my community who died, because they were getting benefits, they had a catastrophic illness, and because they were laid off by this company, they lost their life.

Mr. Speaker, we can do a better job. Vote down the rule and vote down the bill.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, last year my colleagues and I on the conference committee for the Sarbanes-Oxley Act sent to the President a bill that included tough new criminal penalties for corporate malefactors. I think at that time we took a number of steps that were important. We drastically increased the sentencing guidelines for securities fraud, for document shredding, for mail and wire fraud. I think Congress provided a strong deterrent for many white-collar criminals that would misrepresent the true financial health of their companies.

□ 1300

By passing this legislation, I think we send a serious message to Wall Street and to Main Street that these corporate criminals would be dealt with as harshly as other criminals. I think today Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass this bill, H.R. 975. This bill may not have everything we want in terms of how it is phrased, but included in this bill I think is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth. This is in cases where someone has committed securities law violations or other bad acts, and I think by empowering the government to go after the ill gotten gains that corporate officers who break the law and then tie up those assets in offshore mansions at the expense of parishioners who have been swindled, I think this is an important addition to the law.

Also, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, and I think that protects taxpayers from having to bear the cost of corporate collapses like Enron and WorldCom; and I think it also guards against fraud and abuse by requiring that high-income debtors who have the ability to repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab in the long run.

It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so. For far too long, Americans who have worked hard and paid their bills have been held accountable for their debts but also by debts incurred by those who irresponsibly file for bankruptcy; and I think this long-overdue legislation will reform the critically flawed bankruptcy process and prevent affluent filers from gaming the system and passing on their bad debts to hard-working families, while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer, not a tool for those who could pay their debts, but choose to discharge them instead. By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct a flaw in the current system that encourages people to file for bankruptcy and walk away from debts regardless of whether they are able to repay any portion of what they owe, and it does this while protecting those who truly need protection.

So I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for centuries American bankruptcy law has had the principle that if a person ever gets over their head in debt, they can cash in all their assets, pay off all the debts that they can, and get a fresh start. For policy reasons, a few assets have been historically exempt and a few debts have been historically nondischargeable, especially those that have been incurred by fraud or through abuse of the bankruptcy system. Yet the principle has always been the same, cash in all one has and get a fresh start.

This bill violates the historic principle. People who incur debts because of illness, unemployment, or business failure and have debts they cannot pay off will be denied an opportunity to get a fresh start. They will be stripped of every penny of income after basic expenses such as food and rent without reasonable allowance for unforeseen emergencies such as auto repairs and so forth, which will inevitably come up. People in these circumstances will be in economic slavery for 5 years and probably be worse off at the end of 5 years than they were before. During this time a person over his head in debt has nothing to lose. This bill will deny relief under the traditional bankruptcy laws for at least 5 years.

The bill has no rational measure for determining a person's ability to pay off their debts. It says if they can pay off $10,000 on their debts over 5 years, that is $167 a month, then they are not entitled to a discharge. A person could co-sign a spouse's business loan only to have the spouse die or disappear and with a $50,000 salary find him or herself owing $1 million, unable to even make interest payments, and that person would be denied relief under this bill. This will cause many Americans who have had unforeseen business failures, health problems, or unemployment to find themselves unable to pay their debts and be trapped with no way out.

If our goal, Mr. Speaker, is to create a situation where people are stressed out with nothing to lose and to maximize the chances that a person will totally lose control and terrorize the community or their co-workers, this is it. Just this week in Washington, D.C. we have seen the impact of financial stress. The North Carolina farmer who drove his tractor into the pond near the National Mall was quoted as saying: "I'm broke, busted, I'm out." No one in the community is safer when we have increased the number of our neighbors who have nothing to lose.

Finally, Mr. Speaker, we need to consider the impact this bill will have on small business entrepreneurs. How many will be willing to take a chance on a new business if any failure will result not just in bankruptcy but no relief for the family for 5 years? No bank in the future will lend a business any cash, especially one in financial distress which actually needs the money, without the personal signature of the owner. Long ago we decided that there would be no debtors prisons in America. This bill represents an effort to take a giant step backwards to this bygone era, and I urge my colleagues to reject this bill and the rule.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Rules has been the subject of debate today; and the Committee on Rules met last night to talk about this bankruptcy bill, presented a fair, as they always do, rule to be able to discuss and debate this important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, let me begin by thanking the gentleman from Dallas, Texas (Mr. SESSIONS), my friend, for his spectacular job in so ably handling the management of this rule.

The proverbial "Ground Hog Day" is what comes back to mind. We have been dealing with this issue over and over and over again, and we tried desperately in the waning days of the 107th Congress to move ahead with a conference report on this because everyone agrees the problem that exists out there of abuse of the bankruptcy law needs to be fixed, and we know that members of the Committee on the Judiciary have worked long and hard on this issue, and we appreciate the fact that we have worked in a bipartisan way on the legislation.

But, Mr. Speaker, I am particularly proud of the fact that when we looked at this rule, I know that my friends on the other side of the aisle would like to have an open amendment process with every single proposal that was put forth to the Committee on Rules consider, but quite frankly virtually all of these issues were addressed in the Committee on the Judiciary, and they dealt with these questions, and we have the responsibility of trying to manage as well as we possibly can this floor and at the same time, as I said when I was here last week, working hard to ensure the rights of the minority. I do feel very strongly about that. I feel strongly about it because, as I said when I was here last week, I served for 14 years in the minority and I believe that we need to work as hard as we can to allow as many ideas as there are out there to address these concerns and have a chance to come forward. So that is exactly what we have done.

Mr. Speaker, there were 14 amendments submitted to the Committee on Rules, and I am happy to say that we have two bipartisan amendments that we have made in order and three amendments offered by Democrats, exclusively by Democrats that have been made in order on this issue; and I know yesterday that the gentleman from Texas (Mr. FROST), the ranking minority member, referred to the Gutierrez amendment as a technical amendment. I happen to be very strongly in support of the Gutierrez amendment. I think it is a very important measure. It needs to be addressed, but it is a Democratic amendment.

So, Mr. Speaker, as we try to focus on issues of individual initiative, responsibility for one's actions, while at the same time ensuring that those who are in fact really down and out and need to have as a recourse the filing of bankruptcy, I believe that as we look at those concerns that this legislation, when we pass this rule, will allow for an open discussion of the different alternatives and the proposals that people have, including the gentleman from Michigan's (Mr. CONYERS) substitute, which we have made in order; and then at the end of the day I hope we can pass this and then move ahead and have action taken in the other body and a conference after years and years and years with so much hard work put into this. The gentleman from Illinois (Mr. HYDE), the gentleman from Wisconsin (Mr. SENSENBRENNER), and the others on the Committee on the Judiciary who worked on this finally have a product that the President will be able to sign.

So I thank my friend again for yielding me this time, and I thank him for his superb service on the Committee on Rules; and since I see two other members of the Committee on Rules here, the gentleman from Florida (Mr. HASTINGS) and the gentlewoman from New York (Ms. SLAUGHTER), I also thank them for their fine service on the Committee on Rules as well.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I strongly urge all Members to oppose this rule. Yesterday, Republicans on the Committee on Rules refused to make in order my amendment that would help three categories of individuals who should be given an opportunity to get back on their feet while still being obligated to take responsibility for their debts. Without my amendment, credit card companies will get more consideration than, one, men and women on active duty in uniform; two, victims of terrorism; and, three, unemployed Americans.

As we stand within hours of war, we owe it to our soldiers in uniform to think about their financial vulnerability. My amendment would have made sure that the brave men and women who serve this country will be able to file chapter 7 exempting them from the rigid means test required by H.R. 975. There is a great possibility that the families of many of the men and women who go to war in Iraq will have economic problems. This past Sunday on "60 Minutes," Mrs. Vicky Wessel, whose husband is a Reservist who was sent overseas, summed it up by saying: "Emotionally it's been tough not having a husband around, not having a father for the kids; but financially it's been really difficult because a staff sergeant's pay is a 60 percent cut in pay from what my husband's regular job pays."

There are thousands of families like the Wessels. If we enter war with Iraq, we can expect that some of these families will be forced to file bankruptcy, and they should not be subjected to the means test.

Two, victims of international terrorism. I do not believe anyone would argue that the victims of terrorism should be subject to the means test in the bill. As we all know, many of these families have lost loved ones who were their families' primary breadwinners. After and during all of their grieving, they may find themselves as victims again of economic devastation. Minimally they deserve the protection that chapter 7 bankruptcy affords them.

Third, the unemployed. In today's economy, 10 million unemployed workers want jobs but cannot find them. More than 2 million unemployed workers have run out of their regular State-provided unemployment benefits and the emergency unemployment benefits they received under the temporary Federal program. Many of these workers now have no jobs and no means of support. Two thirds of those filing for bankruptcy report a significant period of unemployment preceding their filing. My amendment would make sure that people who exhaust their unemployment benefits would not be subject to the H.R. 975 means test. We should make sure that people who have lost their jobs through no fault of their own are able to file for chapter 7 bankruptcy. We should make sure they have an opportunity to regain their economic independence.

And finally let me say that we should put the interests of American families, ordinary American families, people in uniform, people who have lost their jobs, people who are victims of terrorism, before the interests of profitable credit card companies.

Oppose this rule. Vote against the underlying bill. It is a bad rule and a worse bill that could not come at a worse time.

□ 1315

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a vigorous debate. We go through this often. There are some nice things I would like to say about two nice gentlemen also. One of them is the gentleman from Illinois (Chairman HYDE), and the other is the gentleman from Wisconsin (Chairman SENSENBRENNER).

These gentleman have ably, carefully taken in the views of witnesses, of thoughts and ideas not only about bankruptcy, but have included in that the thought processes of consumers and normal people and bankruptcy judges. These two gentlemen have worked diligently to make sure that this body, the United States Congress, has a chance to have before it not only good legislation, but legislation that is well thought out.

In particular I would like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his patience, guidance and leadership to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, and also the body of the Committee on Rules, because the gentleman from Wisconsin (Chairman SENSENBRENNER) has done an outstanding job in making sure that today we have a great piece of legislation.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8, rule XX, proceedings will resume on three of the motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 314, by the yeas and nays;

H.R. 417, by the yeas and nays; and

H.R. 699, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

## MORTGAGE SERVICING CLARIFICATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 314.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the bill, H.R. 314, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 68]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt

Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Buyer
Carson (IN)
Cooper
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

□ 1338

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

## CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 417.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Pombo) that the House suspend the rules and pass the bill, H.R. 417, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 69]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha

Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—10

Buyer
Carson (IN)
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Slaughter
Towns
Udall (CO)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood) (during the vote). The Chair would remind all Members there are 2 minutes remaining in this vote.

□ 1346

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

The SPEAKER pro tempore (Mr. Quinn). The pending business is the question of suspending the rules and passing the bill, H.R. 699.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Pombo) that the House suspend the rules and pass the bill, H.R. 699, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 6, not voting 14, as follows:

[Roll No. 70]

### YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—6

Burgess
Coble
Cummings
Flake
Miller (FL)
Paul

### NOT VOTING—14

Buyer
Carson (IN)
Gephardt
Hyde
Jones (NC)
Kilpatrick
Manzullo
Northup
Pitts
Ros-Lehtinen
Royce
Slaughter
Towns
Udall (CO)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would remind the Members that there are 2 minutes remaining in this vote.

□ 1353

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NORTHUP. Mr. Speaker, on rollcall No. 70 I was unavoidably absent. Had I been present, I would have voted "yea."

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 975.

□ 1355

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today is a victory for those Americans who work hard, pay their bills, but are forced to shoulder the debts of those who abuse our bankruptcy system. H.R. 975 restores personal responsibility and integrity to our bankruptcy system by offering a fresh start to those who deserve one, while cracking down on those who do not.

All Americans suffer when people who have the ability to pay their bills do not do so. Just yesterday the Spiegel Group, an entity that owns the famous Spiegel Catalogue and the Eddie Bauer stores, filed for bankruptcy. Why? This company, founded in 1871, began offering credit to its customers under the slogan "We trust the people."

According to one news report, however, the company trusted too many people, and some did not pay their credit card bills. Analysts estimate that the default rate with respect to Spiegel's credit card receivables ranged from 17 to 20 percent.

When businesses hurt, their employees and investors hurt, and our economy suffers. America's bankruptcy system was established to help provide a fresh start for individuals with demonstrated financial need. H.R. 975 maintains this goal by providing relief to those who truly require financial protection as a result of unexpected medical bills, unemployment, or other legitimate needs.

Our bankruptcy system was also established to encourage the reliable collection of debt owed to creditors. The measure we consider today advances both of these objectives and provides a comprehensive framework to promote the integrity of our bankruptcy system.

Take, for example, homestead exemptions. We have all heard about the former corporate executives acquiring or building multibillion-dollar mansions in the very face of those shareholders who are defrauded by such individuals.

I am particularly pleased that this legislation places reasonable monetary limitations on unlimited homestead exemptions which have often been misused by debtors to unfairly evade their financial obligations. This legislation will keep crooked corporate executives from using bankruptcy to shield their mansions and penthouses from the claims of creditors, defrauded shareholders, and employees.

In addition, H.R. 975 includes numerous proconsumer provisions. The bill includes special protection for individuals with spousal and child support claims. In addition to giving these claims the highest priority in regard to payment, it expands the definition of these claims to include obligations that are accruable before or after a bankruptcy case is filed, and requires deadbeat parents to pay those debts even after filing bankruptcy relief.

H.R. 975 exempts from the claims of creditors certain retirement pension funds and educational IRAs for the debtor's children. It mandates that credit lenders give consumer borrowers more disclosure about the adverse consequences of just paying the minimum monthly payment.

The bill requires debtors to receive credit counseling before they can be eligible for bankruptcy relief, so that they will make an informed choice about bankruptcy, its alternatives, and its consequences.

□ 1400

In several significant respects, H.R. 975 helps our Nation's family farmers in financial distress. It makes Chapter 12, a specialized form of bankruptcy relief, a permanent component of the bankruptcy codes. It ensures that more family farmers will be eligible for Chapter 12 by easing some of the income and debt limitations that currently restrict access to this type of bankruptcy relief; and for the first time family fishermen will be eligible to file for relief under Chapter 12.

H.R. 975 authorizes the increases of 28 additional bankruptcy judgeships. According to the Administrative Office of the United States Courts, the workload of bankruptcy judges has increased 52 percent since 1992, which was the last time additional bankruptcy judges were authorized.

Another major reform of H.R. 975 deals with the economic stability of our Nation's financial marketplace. The bill includes provisions intended to reduce systemic risk with respect to the setoff or netting of various financial transactions. Federal Reserve Board Chairman Alan Greenspan has described the enactment of these provisions as being extremely important. Finally, H.R. 975 addresses problems presented by the inconsistent and unpredictable current state of bankruptcy laws concerning the treatment of bankrupt multinational corporations. It largely codifies the Model Law on Cross-Border Insolvency to ensure greater legal certainties for trade and investment, as well as provide for the fair and efficient administration of these cases.

The time for these reforms is long overdue. This body has on six previous occasions passed similar bankruptcy reform bills. It is my hope that today we will again do the right thing and pass this needed bipartisan bankruptcy reform legislation. Perhaps the seventh attempt will prove to be a charm and finally lead to the enactment of these critically important reforms.

Mr. Chairman, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the American people should not be deceived as to who really benefits from this so-called reform because it is not the American consumer. It is not the American taxpayer or the worker who loses his job or someone facing catastrophic medical expenses or the small business entrepreneur who is also hurt by provisions in this bill. No, the big winner here is the credit card industry because passage is going to mean billions of dollars to their bottom line.

The American consumers should understand that the interest rate on their credit card will not decline because of this bill. Over a 12-year period when the Federal fund rate fell from 13.5 percent to 3.5 percent, a line of some 10 percentage points, the average credit card rate actually rose to nearly 18 percent. Furthermore, it is going to cost the American taxpayer $500 million over 5 years to transform the Federal bankruptcy system into a collection agency for the benefit of the credit card industry.

We are going to hear a lot and we have heard during the course of our hearings about personal responsibility. Well, no one disagrees with that particular principle, but it ought to be a two-way street. Whatever happened to creditor responsibility? The former Chair of the Committee on the Judiciary, Henry Hyde, identified some 75 creditor enhancements in this bill. Passage of this legislation will undoubtedly exacerbate the imbalance between creditor and debtor.

A respected consultant for the credit card industry stated that the principle factor in increase in bankruptcies has been the dramatic lowering of loan standards, of underwriting. And every single time we attempted to introduce some reasonable measures to ensure appropriate lending practices, we were defeated by the credit card lobby. And meanwhile, they induced consumers to take on an ever-increasing amounts of debt by inundating the American people with some $5 billion of solicitations yearly. They have increased rates and fees on current accounts often with inadequate or misleading disclosure, and they engage in relentless marketing efforts that target children, the deceased, and in one particular case, even a dog.

Some of the major players such as Providian and MBNA have paid healthy penalties to settle claims regarding late fees and other practices. What has happened, Mr. Chairman, is that the credit card industry has created a culture of debt that is overwhelming millions of Americans, and that is particularly frightening in this extremely precarious economy. So let us be responsible and accountable. Let us defeat this bill because it is not bankruptcy reform. It is a bill that simply bankrupts.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Chairman, I rise in support of this measure and urge its adoption by the House. This reform proceeds from a sound premise. If someone can afford to repay a substantial part of the debts that he owes after accounting for his living costs, he should do so.

The person who can repay debts should not use the complete discharge provisions of Chapter 7 of the Bankruptcy Code. He should be directed into the supervised debt repayment plans contained in Chapter 13 of the Code.

The bill makes this much needed reform. In doing so, it would also relieve the more than $400 annual hidden tax that the typical family pays on account of the widespread misuse of Chapter 7. That amount represents the increased costs of the credit and the higher prices of goods and services that arise from Chapter 7 misuse.

The reform before us will also benefit consumers by requiring that credit card statements clearly state the consequences of only paying the required monthly minimums, and the spouse of a person taking bankruptcy is much better off under this bill than under current law. Today her claims are fifth in priority for claims against the bankruptcy estate, well behind other creditors. Under the bill she will become number one and her claim will receive clear priority. This measure will make long-needed changes in our Nation's bankruptcy law, and it is my pleasure to urge its passage by the House.

Mr. DELAHUNT. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, today thousands of Americans are out of work as a result of the slumping economy and corporate scandals. In my home district in Santa Clara County, unemployment is now over 8½ percent. But rather than help these workers, we are asked to further punish them.

Do not be misled. H.R. 975 is not about preventing spendthrifts from abusing the system. The leading cause of personal bankruptcy is not out-of-control spending. It is unemployment. Two out of three people who file have lost jobs. Half have experienced a serious health problem. Nevertheless, under these so-called reforms, many will be forced into Chapter 13, where more debts will survive and only limited households goods will be protected from repossessions.

Under this bill, seniors, who represent the fastest-growing group of personal bankruptcies, will also suffer. Nearly half of seniors who file bankruptcy do so because of medical expenses. That is not hard to understand. Out-of-pocket health care expenses for seniors increased nearly 50 percent from 1999 to 2001. At the same time, many HMOs have cut prescription drug coverage, and this Congress has still failed to pass a sensible prescription drug plan.

Women who represent the largest group of personal bankruptcies will also suffer. In 1999, over 200,000 women who filed for bankruptcy were owed child support and alimony. While punishing seniors, single mothers, and middle-class Americans, the bill does absolutely nothing to hold big banks and credit card companies accountable for their behavior. It does nothing to protect consumers from predatory lenders. It requires no additional disclosures that make it easier for consumers to understand their debt.

The proponents of this bill say they want to restore personal responsibility and integrity to the bankruptcy system. What their bill really does is punish people who are in financial trouble because they lost a job, have huge medical bills, or cannot get a deadbeat dad to pay child support. These are the people who account for a majority of the personal bankruptcies, not spendthrifts who abuse the system.

No one wants to enter into the bankruptcy court; and most people who do so, do so with a great deal of shame. But I look at those who have a child suffering from cancer, who have been unemployed for a year, and I say to them, there but for the grace of God go you or I.

The bankruptcy system is meant to assist people in that situation, and I think that those in this House who consider themselves to be compassionate conservatives ought to open their hearts to those who file for bankruptcy because of such personally devastating situations. I urge my colleagues to reject this misguided bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if this bill is voted down, we also will have opened up our hearts to corporate crooks who build multimillion dollar mansions on the water in nice places in Florida because the unlimited homestead exemption that is in the current law will be maintained. I do not want to open up my heart to those folks, and that is why this bill ought to pass.

Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his infinite work on this bill and hope that we bring it to fruition today.

Let me just comment on the comments just made recently about the source of most bankruptcy. Most people who take up bankruptcy have legitimate reasons. It is either because of loss of employment; or, secondarily, as the gentlewoman from California (Ms. LOFGREN) mentioned, for medical purposes.

I believe that this bill leaves those people with the same recourse they have, but it is intended to bring to bear the law on those who would use and abuse the bankruptcy system.

The House has worked for nearly 6 years perfecting this legislation, and less than 4 months ago passed virtual identical language by a resounding vote of 244 to 116. When this effort first began, America faced a startling rise in bankruptcy filings. The problem has grown only worse as we have labored to confront ever burgeoning filing and increasingly flagrant abuse of the bankruptcy code. Just last month, the Administrative Office of the United States Courts reported that the number of bankruptcy filings in the latest 1-year period again has broken all previous records. During calendar year 2002, nearly 1.6 million bankruptcy cases were filed, reflecting an increase of approximately 6 percent over the prior year.

The gentleman from Wisconsin (Chairman SENSENBRENNER) and 50 original co-sponsors introduced H.R. 975 on February 27. The bill improves bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system and by ensuring that both debtors and creditors are treated fairly. In addition to consumer business and bankruptcy law reforms, H.R. 975 includes an extensive array of provisions ranging from implementing an entirely new form of bankruptcy relief to deal with the complexities of transnational insolvencies to extending special protections to family farmers and fishermen.

The bill has been carefully through three Congresses, by the Committee of the Judiciary, the House, the other body, three conference committees, and ultimately again in the House. There have been some 18 hearings before the subcommittee which I chair and a full committee, at which more than 130 witnesses have testified.

I challenge any Member of this body to point to another topic which has been so thoroughly and completely examined by Congress.

Everyone here recognizes the problem. No one disputes the severity of the current bankruptcy crisis; but, Mr. Chairman, the time for deliberation is over. The time has come to act. We can no longer expect long-suffering American businesses and consumers to wait for meaningful bankruptcy reform. I urge support for H.R. 975.

☐ 1415

Mr. DELAHUNT. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. NADLER), a member of the committee, the former ranking member on the Subcommittee on Commercial and Administrative Law.

Mr. NADLER. Mr. Chairman, although we have been considering bankruptcy legislation since the end of 1997, this bill has gone through many incarnations, but some things have not changed.

Number 1, there is no bankruptcy crisis. The number of bankruptcy filings have gone way up, but not because, as the proponents of this legislation pretend, mores of changes, no social stigma. The rise in bankruptcy tracks directly, year to year, with the rise in the ratio of debt in society to income.

As the credit card companies have churned out more and more credit and have given it to people who are less and less creditworthy, and people have taken on more and more credit, there are more bankruptcies. People cannot pay their debts. Surprise. In fact, in 1983, before the so-called crisis started, the average debt-to-income ratio of a Chapter 7 filer was .74. In other words, a person filed bankruptcy, the average Chapter 7 filer owed 74 percent of his annual income in debt.

Today, the average Chapter 7 filer owes 125 percent of his annual income in debt. People are more reluctant to file for bankruptcy than they were 20 years ago, not less reluctant, but they are doing it because there is more and more debt, because we have not properly regulated the credit card companies, which are issuing more and more debt not because they are losing money on it, but because they are making money hand over fist. It is the biggest profit center they have, and they have the nerve to come to us and say we should bail them out of their profligacy because they are losing a small percentage of the tons of money they are making, a small percentage of it is slipping through their fingers because of the increase in bankruptcies that they have produced and knowingly produced.

In the last 5 years, many things have happened. The economy has worsened. Whatever the reasons, that is a fact. People are hurting, and more than that, businesses are hurting. This bill will make it much harder for businesses to rescue a going concern. It will make it much harder for a Chapter 11 business to reorganize, much more likely it will be liquidated, and thus it will hurt communities, employees, trade creditors and other businesses.

Making a discharge in bankruptcy more elusive will make it harder for consumers to get a fresh start and continue to make consumer purchases, which is one of the mainstreams of our economy. Household debt has reached record levels. With that come more bankruptcies, but no serious economist would argue that a precipitous drop in consumer spending would help our economy.

Bankruptcy is a trade-off. The safety net encourages risk-taking in business, allows distressed families to remain in the economy, and maintains demand for products businesses must fill to survive. Bankruptcy does not cause default any more than a hospital causes people to be sick.

We have been told that bankruptcy is a free ride. The facts are that it is not a walk in the park. A debtor in Chapter 7 must give up all his nonexempt assets in order to obtain a discharge. Secured debts must be paid, or the property is subject to foreclosure. The bankruptcy remains on the debtor's record for 10 years, and the debtor may not refile for 6 years under current law and 8 under the bill, which is 1 more year than is found in Deuteronomy. Apparently the banks who wrote this bill believe they know better than God on this one.

It can be harder to get a job, an apartment or a loan. As a majority witness who had been indebted told the Committee on the Judiciary a few years ago, had she known the consequences of filing, she might not have done so.

No one believes that people should avoid paying their debts if they can afford to do so. The question, rather, is does this bill make sense? Members should ask themselves why the overwhelming majority of bankruptcy professionals, scholars, trustees, creditor lawyers, corporation lawyers and judges are appalled that Congress is even contemplating this bill.

There is a terrible disconnect between people who actually have to make a system function regardless of their role, whether for creditors or debtors or interests who oppose this bill, and here in Congress, the demands of special interests who have a stake in some provision of this bill are generally viewed as a great idea that requires no further consideration.

Over the years we have heard from, among others, Ken Klee, one of the leading bankruptcy scholars and business bankruptcy lawyers in the country, and the former Republican bankruptcy counsel to the Committee on the Judiciary. He has drafted Supreme Court briefs signed by Members of this House. Ralph Maybe, one of the most respected business bankruptcy lawyers in the country, also testified against the bill.

The late Lawrence King of New York University and editor in chief of the authoritative Colliers on Bankruptcy has testified against this bill. Bob Walschmitt, on behalf of the National Association of Bankruptcy Trustees, and Hank Hildebrandt, on behalf of the National Association of Chapter 13 Trustees, have strongly criticized this bill in testimony, notwithstanding the fact that their organizations do not take formal positions on bills.

We have heard from consumer rights organizations, just about every women's group in the country, child advocacy groups, labor unions, civil rights groups and every national bankruptcy organization in the country that this bill will hurt consumers, families, children, yes, children, employees, minorities and the economy. It will raise costs to the system and disrupt the efficient management of bankruptcy proceedings.

Mr. Chairman, despite the votes in this House, opposition to this bill is hardly marginal. In fact, outside the Beltway opposition is mainstream among the Nation's experts. We have had many hearings over the years, but the considered opinion of people in the position to understand this technical subject matter has been ignored.

Mr. Chairman, I know the leadership is intent on moving this bill. I know it is a priority of the President. We have a responsibility to the country to be deliberative, to take a careful look and to get it right, no matter what the politics.

Many of my colleagues have voted for this bill in the past, but times have changed. The economy has changed. Do not ignore reality. Do not ignore what is going on outside the Beltway. Let us take a fresh look at the facts. Even Members of Congress, Mr. Chairman, are entitled to a fresh start.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. OXLEY), the Chairman of the Committee on Financial Services.

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Let me first recognize and pay tribute to the gentleman from Wisconsin's (Mr. SENSENBRENNER) tenacity in this area. If indeed the gentleman from New York indicated that this is a fresh start for the Members of the House, this is, I guess, our seventh fresh start as we work our way through reform of the Bankruptcy Code.

I had an opportunity to practice law for 9 years, and part of that practice included bankruptcy law, and I was involved in a number of bankruptcy cases, both business bankruptcies and personal bankruptcies, and all of my colleagues are well aware that the Bankruptcy Code that we operate under now was passed in the late 1960s, early 1970s, and which we are now acting under. Anybody who says that the status quo regarding the Bankruptcy Code is acceptable to the American people, to practitioners, to petitioners, to the courts, to our system simply does not understand what a critical situation we are in in regard to the Bankruptcy Code.

So I salute the gentleman from Wisconsin (Mr. SENSENBRENNER) and the Committee on the Judiciary for the hard work that they have done. It may be like deja vu all over again, but it is a worthy cause, and I salute my colleagues for what they have done in putting together a balanced approach that recognizes the rights of the consumer, but at the same time recognizes that abuse of the Bankruptcy Code is rampant, and Congress needs to change that.

I want to pay particular attention to the financial netting provisions of the bill which would reduce risk, especially systemic risk associated with activities in the derivatives market. Derivatives, as many of my colleagues know, has become one of the fundamental management tools that protect mortgages, loans and the full range of savings and investment products.

H.R. 975 brings our bankruptcy laws up to date, thereby making sure that these instruments fully protect our markets from systemic risks and in the event that an entity fails. This provision has been recommended by the President's Working Group on Financial Markets and was indeed our committee's addition to this legislation.

Alan Greenspan, the Treasury Department and all of America's financial regulators are unanimous in their support of these provisions. Chairman Greenspan, on numerous occasions, has stressed the importance of the financial contract netting provisions.

Recently, Chairman Greenspan has stated, "I have repeatedly stated my support for these netting provisions. U.S. businesses have come to rely heavily on derivatives for managing price risk, and netting and collateral agreements are widely used to mitigate the counterparty credit risks that might otherwise limit the effectiveness of derivatives for this purpose. Passage of the netting provisions would address lingering concerns about the enforceability of netting and collateral agreements vis-a-vis an insolvent counterparty."

I would harken the committee's attention to the Enron situation, for example, or the WorldCom situation in which in many cases we have a lot of these derivative contracts that are now in the bankruptcy courts that will allow the bankruptcy judge to use this netting technique to facilitate not only the carrying out of the bankruptcy laws, but also protecting creditors at the same time. It is critically important that the House adopt this legislation.

I also want to indicate my support for the Toomey amendment that will be offered later when the committee goes into the amending process that provides parity for credit unions on the netting provisions.

Mr. Chairman, this is an important piece of legislation. I would ask that the House pass this as we have so many times before.

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

My friend, the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, indicated that this was a bill that would benefit the consumer. I would point out to him that this particular proposal, as drafted, has the support of the American Bankers Association, the United States Chamber of Commerce and American Financial Services Association.

I would suggest they are not protecting the interests of the consumer. That is not their role. They have a responsibility to advocate for their memberships, and I would acknowledge that they have been extremely effective, but those that are opposed to this particular proposal do represent the American consumer. Let me just enumerate some of them: The Consumer Federation of America, the Consumers Union, Foundation for Taxpayer and Consumer Rights, the National Consumer Law Center.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman for his generous yielding of time and want to focus on the fourth amendment that will come before this House dealing with venue shopping.

Most of this bill and most of the controversy is over individuals going bankrupt, but it is also important to the economy of this country that we have corporate bankruptcies run effectively. What my amendment would do is say that if a group of corporations is going bankrupt, they should file their case where they are located. So if, for example, Enron, a mainstay of the Houston community, goes bankrupt, they should file the case in Houston. That way the many small businesses that do business with that company can go to their local court and hope to collect some of what is owed to them.

Just as importantly, it means that the place where the corporation will file its case is set in advance. They realize we are going to go bankrupt; we are in our hometown. Imagine if in some basketball game, as we have in the upcoming March Madness, they did not have to take the referees that were assigned, but rather, one team was allowed to search the whole country and pick the squad of referees that they preferred. We would not end up with fair basketball games.

That is what we have in the area of corporate bankruptcy. Enron was able to scour the country, looking for a bankruptcy court that met the needs of the lawyers involved, met the needs of the executives in control. They went thousands of miles from Houston. They made it almost impossible for local small businesses to even have their case put before the court. They were able to scour the whole country for a forum, a venue that met their interests.

What was their interest? High retention bonuses, high lawyer fees. So we have a circumstance where Enron can scour the country and pick whichever court they feel is going to approve tens of millions, hundreds of millions of dollars in cash payments to the executives.

□ 1430

Fees of $500 an hour to the lawyers involved and hundreds of dollars to the associate lawyers, hundreds to the paralegals. How does this operate from the court's perspective? We have asked our government agencies to behave more like businesses, and they are. They are looking for market share. They are looking for more business, and every bankruptcy court in this country knows that it can get the cases, the juicy cases, the Enron, if only they are hospitable to the company and its lawyers that are declaring bankruptcy.

Today, it is one Eastern State or two that curry favor with the giant corporations going bankrupt. Tomorrow, it may be a Western State. It might be a Southern State. It may not be an entire State; it may be just one district court within that State, trying to gain market share by currying favor. The result is as crazy as if the referees were selected by one of the basketball teams.

I know that my amendment is going to be opposed more on the basis of what will make a particular Member of the other body happy, rather than what is good public policy. But let me warn this House, the competition for bankruptcy business has just begun; and the retention bonuses and fees approved for the Enron case may be just the beginning. Other districts will offer higher and higher retention bonuses, more and more liberal plans.

If Members voted for this bill in 1999, they voted for a bill that included a provision very much like my amendment. If Members do not like the bill, and voted against it in 1999, they will probably be voting for the Democratic substitute, which includes a provision identical to my amendment. So virtually every Member will have voted for provisions on forum shopping. It is a good public policy. We have all voted or will vote for a bill that includes the provision. I think it is critical that we look past the politics and provide for efficient corporate bankruptcies.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to myself.

Mr. Chairman, the remarks of the gentleman from California should not go unanswered. The gentleman gives the impression that the law that is proposed in this bill is a strait jacket that will prevent the shifting of cases around where there is a justification for it. I draw the attention of Members to title 28 of United States Code 1412 relative to change of venue. It says that a district court may transfer a case or proceeding under title 11, which is the bankrupt title, to a district court for another district in the interest of justice or for the convenience of the parties.

So if there is a need to transfer a case out of the court in Delaware, for example, to a court in Houston, the present bankruptcy code allows for that. There have been some courts that are very plugged up and are not able to process bankruptcies quickly. Business is steered away from those courts simply because they have been so plugged up. I believe there is enough flexibility, and there should not be a poison pill that will destroy the delicate balance; and hopefully we will get this bill passed.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act. This legislation promotes personal responsibility and helps prevent bankruptcy abuse.

Bankruptcy filings are at an all-time high. During the 12-month period ending on March 31, 2002, there were 1.5 million bankruptcy filings. When bankruptcy filings increase, every American must pay more for credit, goods and services through higher rates and charges. It is high time that we provide relief to consumers burdened by paying for the debts of others.

A key aspect of H.R. 975 is the retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh-start provisions of Chapter 7 will be granted to those who need them, while debtors who can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

In addition, H.R. 975 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. What these people may not realize is these debts do not disappear. They are passed along in higher charges and rates to hard-working folks who pay their bills on time. H.R. 975 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargeable debts made in the period immediately preceding their filing.

H.R. 975 also helps consumers. For example, this legislation helps children by strengthening the protections in the law that prioritize child support and alimony payments. In addition, H.R. 975 protects consumers from bankruptcy mills that encourage folks to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

Furthermore, H.R. 975 ensures the fair treatment of those that administer our bankruptcy laws. I strongly support the provisions of H.R. 975 that restore fairness and equity to the relationship between the U.S. trustee and private-standing bankruptcy trustees. Specifically, the bill provides that, in certain circumstances after an administrative hearing on the record, private trustees may seek judicial review of U.S. trustee actions related to trustee expenses and trustee removal. This compromise worked out between the U.S. Trustees Office and representatives of the private bankruptcy trustees will ensure fairness for those who dedicate themselves to their duties as private trustees while ensuring that the U.S. trustees is subject to the same checks and balances as other government agencies.

Mr. Chairman, bankruptcy should remain available to folks who truly need it, but those who can afford to repay their debts should repay their debts. H.R. 975 provides bankruptcy relief for those who truly cannot pay, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that H.R. 975 strikes the appropriate balance between these two important goals.

I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his tremendous work on this legislation, and, I might add, for his long-suffering perseverance with this legislation. I urge Members to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. DELAHUNT. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am back on this bill because it is so excruciating to see us deal with this legislative initiative that can be represented to correct the failings in the bankruptcy code, but really should be understood by my colleagues.

I mentioned earlier today that bankruptcy is not a badge of honor. None of our neighbors run to the neighborhood civic meeting and announce that they have declared bankruptcy. Documentation shows that the percentage of individuals declaring bankruptcy are either victims of catastrophic illnesses, elderly persons who have lost their spouses, divorced persons, a huge percentage of women, people who have fallen on hard times.

I have two very wonderful constituents who own the Donald Watkins Clinic in Houston, Texas, who happen to be visiting me today. They work with people who are infected with HIV–AIDS, a devastating disease, fighting for their lives. Just this past week, I visited a shelter for individuals who are indigent with HIV–AIDS. They are in this shelter not because they do not want to work, but because they have lost all of their resources. The Donald Watkins Clinic treats individuals like this. At the shelter I visited with a gentleman who came into the area where I was standing, smiling and excited. Although devastated by HIV–AIDS, he was attempting to seek work so he could support himself. He was not lounging around and being satisfied with the predicament of living in a shelter. He had worked before, he had resources; but because of bad times, he was not able to ensure his livelihood and his support.

This legislation today creates what we call a means test. Interestingly enough, it is mean. What it does is it takes away the discretion of the court to determine whether an individual is legitimate to be in the bankruptcy court. It gives a litmus test, a criteria, a list, so even before someone can get into the court, there is a sign that says no room at the inn. It is an IRS litmus test that indicates for a family of four what they can survive with. Give away the car that gets you back and forth to work. Families cannot have a baby-sitter for 3 hours a week so the wife can go to a second job. That is what this bill does.

I wish my colleagues who support this legislation had not tried to get the cake, the candles, and the birthday party all at once. Why not be considerate of the divorced mother seeking child support or the family-planning clinic bombed, and those who would seek that way to prove their point against choice, being able to hide in the bankruptcy court when people who are seeking damages are maimed and cannot get recovery. That is what this bill is about.

I would love to have a bipartisan legislative initiative that addresses those who are abusive. I happen to believe there should be no cap on the homestead because in Texas, we value our homes as a last resource that anybody will have to protect themselves. We could have worked with this bill if it had been reasonable, or there had been reasonable men and women in this House or body. But, no, we have fallen victim to the special interests, the $40 million, the entreaties by the industry that we have to have it. Now where are we? A $236 deficit, a war that we do not know how much it will cost, a trillion dollars possibly to pay for the war, and a trillion dollar deficit in a decade, and people being laid off by the minute, jobless, and we pass a bankruptcy bill.

The Founding Fathers did not expect that we would make light of a debtors court. They thought we would protect Americans, but here we are. Who knows what may happen to those Reservists who had to leave a job and so now they are down to a single income.

Mr. Chairman, are we going to pass a bill like this that stands in the way of those who are seeking to get themselves in order, business in order, but at the same time there is limited protection to the major companies that file the largest bankruptcies in the Nation, laying off a variety of individuals before they can even get their health benefits and their unemployment benefits?

Mr. Chairman, this is a bad bill. I encourage all Members to vote against it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to clear the confusion that has just arisen. There are several provisions of H.R. 975 which are crucial to the collection of child support during bankruptcy which will fail if this bill goes down.

First, it prioritizes the collection and payment of spousal and child support. The legislation gives spousal and child support the highest priority under bankruptcy law. Current law give these claimants only a seventh-level payment priority. Spousal and child support will remain at seventh level if this bill goes down.

H.R. 975 requires important guidance and information be supplied to child support payments and a notification to State child support agency of a deadbeat parent's bankruptcy filing. That will not happen if this bill goes down.

H.R. 975 protects the name of the debtor's minor child from public disclosure in a bankruptcy case. That is public record if this bill goes down.

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H.R. 975 permits enforcement actions to continue or to be commenced notwithstanding the deadbeat's bankruptcy filing. With the automatic stay under the current law, there cannot be an enforcement action for back child support, and any pending enforcement action is stayed. If this bill goes down, that means enforcement actions will come to a screeching halt.

Finally, H.R. 975 permits child custody and domestic violence proceedings to continue notwithstanding the debtor's filing for bankruptcy protection. Those actions will be stayed if this bill goes down.

This bill does protect women and children and should be passed.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time and for his work on the legislation. As a member of the Committee on the Judiciary, this is the second term I have been here and the second term we have worked to pass bankruptcy reform. Unfortunately it has been attempted for quite a while.

Let us not forget why we have a bankruptcy law in the first place. It is there to help people who need it, people who have no assets or ability to pay their debts. It has been all too often abused, however, by those who do not need it, those who can pay their debts, slick con artists who game the system, irresponsible spenders who ignore the consequences of their actions. The purpose of this bill is to make sure that the consumers are not continuing to be harmed by our bankruptcy laws and to make sure that those who really need our bankruptcy laws have them there to access.

As bankruptcy filings rise, our economy suffers. Filings increased by 150 percent in 2002. That amounts to $110 million per day of losses. The average American family pays more than $500 a year in increased prices as a result of unpaid debt. It is unfair to force responsible Americans to pay that premium. Small business owners will close their doors because debtors avoid payment for goods and services through filing bankruptcy. Americans lose jobs.

I support H.R. 975 because it protects consumers. It helps women and children who will be hurt by the filing of a bankruptcy by the person who is supposed to be paying support, making those debts a priority. The collection and payment of spousal support and child support are a priority under this legislation. It expands also other debts that are owed to the spouse and children and puts them in a priority position. It gives them the highest payment priority under bankruptcy laws. Therefore, children and women are protected. It allows child custody and domestic violence proceedings to continue, once again protecting them from a debtor's bankruptcy filing. It also supports and protects education savings accounts and certain retirement accounts, so it protects families.

Mr. Chairman, finally, this bill closes a huge loophole called the homestead loophole. This bill includes this extremely important provision for fairness. By closing this loophole, Congress continues the work we began last year on corporate responsibility. Under current bankruptcy law, debtors can claim all of the equity of their home and exempt it from the bankruptcy. Some debtors move to certain States that allow this just before filing bankruptcy so that they can buy million-dollar estates and protect those millions of dollars from their bankruptcy filing. H.R. 975 closes this loophole, requires debtors to reside in a State for at least 2 years before claiming that kind of a homestead exemption, and, more importantly, it limits that exemption in many cases to $125,000 so that those millions that they are trying to hide can be used to pay their debts.

Mr. Chairman, this is a just bill. I encourage my colleagues to support it.

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

I think it is important to point out that there was an American Bankruptcy Institute study that showed that while the credit industry estimates it may recover some $4 billion under the rigid standards of the means test, the study indicated that the creditors would only receive $450 million in actual collections. The Executive Office of the United States Trustee within the Justice Department conducted a similar study that reached similar results, estimating that the passage of the bill incorporated within the conference report last year, which is almost identical to the bill that is before us now, would have netted creditors no more than 3 percent of the $400 per household they claim to be losing.

Finally, Mr. Chairman, we have received no evidence, no empirical data whatsoever, that the credit card industry would likely pass on any of the potential savings, albeit minimal, from bankruptcy law changes to the consumer. It would go to the bottom line.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. WATT), ranking member of the Subcommittee on Administrative Law.

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this process has been going on for quite a while. I am one of the people who has been involved with the process from the very beginning.

Before there was a bankruptcy bill, there was a bipartisan consensus, and I was included as part of that bipartisan consensus, that reforms needed to be made to the bankruptcy law. There was no means test in the bill at that time, and there was no bill. There was just a bipartisan consensus that something needed to be done to address the gaming of the bankruptcy system. A number of us were willing to sit down and roll up our sleeves and try to deal with the fact that people were gaming the bankruptcy system.

I was among the people who was the first to concede that there was a problem in the bankruptcy system. Unfortunately, 2 or 3 months into the process, we started to see that some concessions were starting to be made that made this bill really not address the gaming of the system, the games that were being played within the bankruptcy system, in a way that was going to have a fair impact.

First of all, consumer groups and representatives of poor people said, "We are not going to let you do a reform of the bankruptcy system unless you make some concessions to us," and they were a powerful lobbying group. Unfortunately, the people who wanted this bill said to the consumer groups, "We'll give you something if you just keep quiet. What we will give you is a means test that allows people who fall under a certain income level, regardless of whether they are gaming the system or not, we'll let them continue to operate business as usual." So emerging from that kind of compromise was this whole concept of a means test, which has the terrible public policy impact of setting up two parallel bankruptcy systems in our country, one for the poorest of the poor, which I call the paupers' bankruptcy court, and one for the not so poor, which are kind of the higher-income people whose incomes fall above the means test.

Unfortunately, that does not address the gaming of the system. There are people who fall above the means test, who need the benefits of bankruptcy, who are not gaming the system, and there are people above the means test who are gaming the system. But there are also people below the means test who are gaming the system as well as people below the means test who are not gaming the system, who really need the benefit of bankruptcy.

And instead of coming up, rolling up our sleeves and addressing the real problem, which is the gaming of the system, we just abdicated and set up a terrible public policy mechanism here, this paupers' bankruptcy court and the not-so-poor bankruptcy court.

The other concession that got made was that despite the fact that, and I cannot blame this on the chairman of the Committee on the Judiciary. He presides over the Committee on the Judiciary. But this bill got a joint referral to the Committee on Financial Services, and part of the gaming of the system is taking place by credit card companies, and everybody can relate to this. You must get 50 solicitations a month at your home: Let me give you $10,000 or $25,000 worth of credit. You get my credit card, no real monitoring of whether you have the ability to pay. Poorest people, students in college, everybody gets these solicitations, and those people, the credit card companies who are into giving easy credit, are gaming the bankruptcy system in the same way that the people who are filing bankruptcies are gaming the system.

The problem is, yes, we have got a bill, but it does not solve the problem that we set out to solve, which was the gaming of the system.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill is about personal responsibility. It is about plugging loopholes in the Bankruptcy Code that result in the shifting of millions and billions of dollars to people who pay their bills on time. It is going to put more vibrancy in our economy because of the fact that debt that is written off is something that has to be absorbed by corporations and people who hire other people who cannot afford that. I would urge the Members to support this legislation.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 975 the Bankruptcy Reform legislation being considered.

I have heard from credit unions and banks in Tennessee and their message is clear: bankruptcy is all too often used as a first resort, rather than as a last resort. This makes it increasing difficult for them to operate.

In 1998, bankruptcy filings exceeded one million for the first time in our Nation's history. And in 2002 that number increased by 150 percent to 1.5 million. And the upward trend is expected to continue.

H.R. 975 is a compassionate bill: People who seek bankruptcy because of job loss, medical problems, divorce or other personal problems—will be unaffected by this legislation. Those who have the means to repay their debts should do so.

I'd like to thank the Chairman of the Judiciary Committee for his hard work in bringing this to the floor today and I urge my colleagues to support this bill.

Mr. UDALL of New Mexico. Mr. Chairman, thank you for allowing me the opportunity to offer my remarks today regarding H.R. 975, the so-called "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003." The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending.

Equally frustrating is the process. In what is becoming a familiar refrain on the House floor when vitally important legislation comes before us, I strongly object to the rule under which this bill is being debated. Once again the majority has passed a rule stifling debate and blocking serious and substantive amendments. While they have made in order a substitute amendment to be offered by Mr. CONYERS, which I will be supporting, as well as amendments offered by Mr. SHERMAN and Mr. GUTIERREZ, there were an additional 6 amendments worthy of consideration by the entire body of the House of Representatives. This continued smothering of the democratic process by the majority is shameful and needs to stop immediately.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2001, the number of personal bankruptcies had risen to 1.28 million. Last year 1.45 million filings, up 19 percent from the year 2000, marked a record in the number of bankruptcies filed. In my home state of New Mexico, there was a 7.1 percent increase over 2001 filings, which marked the second consecutive year in which the state set a record in the number of bankruptcies filed. With those facts in mind, I strongly support the principle of increased personal responsibility of debt. However, I do not believe that H.R. 975 is the correct way to achieve this goal.

While there are many problems with H.R. 975, I'll name just a few of the more egregious provisions to which I strongly object. H.R. 975 imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on the unemployed, women, Hispanic homeowners, and the elderly. Reform in this bill is skewed towards restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

Mr. Chairman, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year. Taking the 2000 Census figure of 209,128,094 individuals in the United States over the age of 18, that breaks down to 24 unsolicited credit card offers per person per year! I wish this legislation would help break this vicious cycle, but unfortunately it does not.

Mr. Chairman, it is well known that bankruptcies are driven by economic difficulties and I think we would all agree that we find ourselves facing economic difficulties today. Unemployment is higher than it has been in over eight years and we stand on the verge of a war. Today is not the time to pass an extremely harmful bill that will have devastating affects on the most vulnerable individuals in our country.

I would like to reiterate that I strongly support increased responsibility by debtors, but this legislation does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. CROWLEY. Mr. Chairman, I rise in support of the Bankruptcy Abuse Prevention and Consumer Protection Act. I can give my colleagues one reason to support this legislation—fairness. This bill will restore fairness to our Nation's bankruptcy laws for those Americans who work hard and pay their bills on time.

A few days ago, representatives from a number of credit unions came to my office, including Rob Nemeroff of the Melrose Credit Union in Woodside, Queens in my Congressional District. He detailed about how the hard working, middle class people of his credit union—and of my District—continually have to pick up the tab for those who file bankruptcy—whether legitimately, as many do, or irresponsibly, as far too many do. This bill will provide them some fairness—something that my constituents do not often get from this Congress.

This legislation provides fairness to the victims of criminal corporate executives by mandating that these corporate pirates can no longer shield their multi-million dollar homes from defrauded investors seeking to reclaim some of their lost assets. And this bill provides fairness for women and children in their ability to collect child support and alimony obligations. And for those who do file for bankruptcy, this bill includes numerous new protections for them and their families. This bill permits filers to keep their homes and provide health insurance for themselves and their families before taking their assets into account for repayment plans. This bill states that low income debtors will be exempt from many of the provisions of this bill if their median family income is below the average for their state.

This legislation represents a fair, common sense approach towards tackling the important yet complicated issues surrounding the issue of bankruptcy in a way that will benefit those working Americans who pay their bills while providing for those who cannot.

Mr. BLUMENAUER. Mr. Chairman, I support bankruptcy reform. This legislation has followed a tortured path over the last four Congresses. During this time I have voted for reform and tried to make it more fair. While I have some concerns about this latest bill, H.R. 975, and would have preferred to see improvements for further consumer protections against predatory lending and credit card marketing, the federal bankruptcy code must be reformed. Bankruptcy filings have increased from 330,000 in 1980 to more than 1.5 million last year. The cost of waiving debt through bankruptcy proceedings has resulted in higher costs for all consumers.

I have heard from Oregon's credit unions and small businesses who have made a compelling case that current bankruptcy laws result in significant costs for Oregon's businesses and consumers. Flaws in the current system allow higher-income filers to abuse the system by walking away from debts they are capable of repaying. One of many examples detailed how a credit union customer with income in excess of $100,000 per year financed home remodeling on credit cards, then filed Chapter 13 to discharge the credit card debt without having any major change in income status.

We need a cold dose of reality. People should act responsibly and pay their bills when they have the means. I will support federal and state actions against predatory lending and abusive credit practices, but we cannot dismiss personal responsibility. H.R. 975 protects low- to middle-income families, while requiring those that have the ability to repay some or all of their debt to enter into a payment plan. Our bankruptcy laws need to be overhauled and I believe this is an appropriate step forward.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise today in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. I would also like to thank Chairman SENSENBRENNER and the Judiciary Committee for their persistent efforts to make the reforms in H.R. 975 the law of the land.

In the late 1990's, personal bankruptcy filings were rising at a precipitous rate. With a record 1.4 million filings in 1998, up 500 percent from 1980, it had become evident that bankruptcy had lost the social stigma it once held. Rather than an action of last resort, it had evolved into a convenient vehicle to discharge debts through irresponsible financial practices.

Abuse of the bankruptcy system has a negative impact, not only on banks and financial institutions, but on our economy as a whole. In 1998 alone, bankruptcies were estimated to cost the United States approximately $40 billion. I understand and appreciate that there are valid reasons for individuals to file for bankruptcy protections. However, those who take advantage of the system lower the amount of available credit every citizen and raise the cost of credit, goods, and services to all consumers. Bankruptcy should not be a mere convenience or financial planning tool, but should be a safety net for those who genuinely need it.

The rationale behind this legislation is that those with the ability to pay their debts should do so. I believe Chairman SENSENBRENNER has done a good job of ensuring adequate protections remain for those in financial straights due to illness, divorce, or other legitimate reasons. At the same time, H.R. 975 will provide financial education to those who need it, help prevent corporate criminals from hiding their assets, protect those who rely on alimony and child support for survival, and take a significant step toward preventing the abuse of our Nation's bankruptcy laws.

It is time to finally reform our bankruptcy laws. I urge my colleagues to support H.R. 975.

Mr. CONYERS. Mr. Chairman, this country is a much different place than when omnibus bankruptcy reform was first introduced 6 years ago. Today, we face the longest continuous stretch of job declines in more than 50 years; the economy has lost more than 2.5 million jobs in the last 2 years; the stock market is reeling; and we have more than 40 million individuals with no health insurance. And yet, we are once again considering this special interest bill that massively tilts the playing field in the favor of creditors and against the interests of ordinary consumers and workers who are struggling to overcome financial misfortune.

No one should be surprised when I say that the bill is dangerously and fatally flawed. To those who argue the bill only punishes wealthy debtors, I tell them to read how the bill gives creditors massive new rights to bring threatening motions against low income debtors. Read how the bill permits credit card companies to reclaim common household goods which are of little value to them, but very important to the debtor's family. Read how the bill makes it next to impossible for people below the poverty line to keep their house or their car in bankruptcy.

To those who claim the bill protects alimony and child support, I would ask them if they are aware that the bill creates major new categories of nondischargeable debt that complete directly against the collection of child support and alimony payments. Whether they are aware the bill allows landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the woman's physical well being.

To those who assert the bill cracks down on credit card abuse, I would ask if they realize the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled, and nothing to regulate the practice of so-called "subprime" leading to persons with no means or little ability to repay their debts.

To those who suggest the bill fixes the problem of homestead exemption abuse, I would suggest that rather than repeal or even cap the homestead exemption, the bill places only weak obstacles in its place. The bill does nothing to prevent the very worst abuses in the bankruptcy code, such as bilking seniors out of billions of dollars of their life savings.

Last year 1.4 million middle-class individuals filed for bankruptcy. Their average income was less than $25,000, and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it would be a grave mistake to punish these individuals at a time of such great economic uncertainty and reward credit card companies and business lobbyists when corporate greed has already destroyed the lives of millions of American workers.

I urge every member of this body to vote against this special interest bonanza and vote in favor of the interests of ordinary, hard working Americans.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 (H.R. 975). On February 27, 2003, this Member agreed to be an original cosponsor of this legislation. This bill (H.R. 975) is the same, with one major exception, as the bankruptcy reform conference report which was agreed upon by the conferees in the 107th Congress. Specifically, the provision that addressed the nondischargeability of debts for abortion protesters was not included in H.R. 975. The controversy surrounding this provision resulted in the failure of the rule under which the bankruptcy reform conference report was to be considered by the House in the 107th Congress.

A variation of this conference report language on abortion was included in the original Senate-passed bankruptcy bill in the 107th Congress at the initiative of the gentleman from New York (Mr. SCHUMER). It absolutely amazed and discouraged this Member that a supposed nexus between the subject of abortion and bankruptcy was found by this gentleman from New York which effectively doomed bankruptcy reform legislation in the 107th Congress.

It is important to note that bankruptcy reform bills passed both the House and the Senate in the 105th and 106th Congresses. In the 105th Congress, the House passed a bankruptcy reform conference report, while the Senate failed to pass the conference report. In the 106th Congress, former President Bill Clinton pocket vetoed a bankruptcy reform conference report.

First, this Member would thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee for both introducing this bankruptcy legislation and for his efforts in bringing H.R. 975 to the House Floor for consideration.

This Member supports H.R. 975 for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision in H.R. 975 which provides for a means testing (needs-based) formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. Chapter 7 bankruptcy allows a debtor to be discharged of his or hers personal liability for many unsecured debts. In addition, there is no requirement that a Chapter 7 filer repay many of his or her debts. However, Chapter 13 bankruptcy filers commit to repay some portion of his or her debts under a repayment plan.

Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then proceeds to take a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the needs-based test of H.R. 975 will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account to determine whether he or she has the capacity to repay a portion of their debts.

Second, this Member supports the additional monthly expense items that are exempted from consideration under the needs-based test which determines, under H.R. 975, whether a person can file either a Chapter 7 or 13 version of bankruptcy. These expenses include the following: reasonable expenses incurred to maintain the safety of the debtor and debtor's family from domestic violence; an additional food and clothing allowance if demonstrated to be reasonable and necessary; and actual expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Third, this Member supports the permanent extension of Chapter 12 bankruptcy in H.R. 975 since it allows family farmers to reorganize their debts as compared to liquidating their assets. Using the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, its expiration on June 30, 2003, would be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option but to end their operations, it likely will also cause land values to plunge. Such a decrease in value of farmland will affect the ability of family farmers to obtain adequate credit to maintain a viable farm operational. It will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nations farm families. It is clear that the agricultural sector is hurting and by a permanent extension of the Chapter 12 authorization, Congress can avoid one more negative possibility.

Lastly, this Member supports the provision in H.R. 975 which requires that people convicted of a felony or who owe a debt from a securities fraud violation in the five years before filing for bankruptcy cannot claim an unlimited homestead exemption. As of last year, there were only six states, including Texas and Florida, which provided unlimited bankruptcy protection for a person's home. (Nebraska is not one of those six states as it has a maximum homestead exemption of $12,500.) This Member believes that this provision in H.R. 975 is imperative in light of the corporate scandals at Enron and WorldCom in year 2002. For example, this provision would apply to the $7 million penthouse in Houston of Kenneth Lay, the former chairman of Enron, if he both files for personal bankruptcy in the future and owes a debt due to any conviction of securities fraud. In addition, this provision may also be relevant to Scott D. Sullivan, the former chief financial officer of WorldCom, who, as of last year, was building a $15 million mansion in Boca Raton, Florida.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support H.R. 975.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 975

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### *SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title; references; table of contents.*

*TITLE I—NEEDS-BASED BANKRUPTCY*

*Sec. 101. Conversion.*
*Sec. 102. Dismissal or conversion.*
*Sec. 103. Sense of Congress and study.*
*Sec. 104. Notice of alternatives.*
*Sec. 105. Debtor financial management training test program.*
*Sec. 106. Credit counseling.*
*Sec. 107. Schedules of reasonable and necessary expenses.*

*TITLE II—ENHANCED CONSUMER PROTECTION*

*Subtitle A—Penalties for Abusive Creditor Practices*

*Sec. 201. Promotion of alternative dispute resolution.*
*Sec. 202. Effect of discharge.*
*Sec. 203. Discouraging abuse of reaffirmation agreement practices.*
*Sec. 204. Preservation of claims and defenses upon sale of predatory loans.*
*Sec. 205. GAO study and report on reaffirmation agreement process.*

*Subtitle B—Priority Child Support*

*Sec. 211. Definition of domestic support obligation.*
*Sec. 212. Priorities for claims for domestic support obligations.*
*Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.*
*Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.*
*Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.*
*Sec. 216. Continued liability of property.*
*Sec. 217. Protection of domestic support claims against preferential transfer motions.*
*Sec. 218. Disposable income defined.*
*Sec. 219. Collection of child support.*
*Sec. 220. Nondischargeability of certain educational benefits and loans.*

*Subtitle C—Other Consumer Protections*

*Sec. 221. Amendments to discourage abusive bankruptcy filings.*
*Sec. 222. Sense of Congress.*
*Sec. 223. Additional amendments to title 11, United States Code.*
*Sec. 224. Protection of retirement savings in bankruptcy.*
*Sec. 225. Protection of education savings in bankruptcy.*
*Sec. 226. Definitions.*
*Sec. 227. Restrictions on debt relief agencies.*
*Sec. 228. Disclosures.*
*Sec. 229. Requirements for debt relief agencies.*

*Sec. 230. GAO study.*
*Sec. 231. Protection of personally identifiable information.*
*Sec. 232. Consumer privacy ombudsman.*
*Sec. 233. Prohibition on disclosure of name of minor children.*

*TITLE III—DISCOURAGING BANKRUPTCY ABUSE*

*Sec. 301. Reinforcement of the fresh start.*
*Sec. 302. Discouraging bad faith repeat filings.*
*Sec. 303. Curbing abusive filings.*
*Sec. 304. Debtor retention of personal property security.*
*Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.*
*Sec. 306. Giving secured creditors fair treatment in chapter 13.*
*Sec. 307. Domiciliary requirements for exemptions.*
*Sec. 308. Reduction of homestead exemption for fraud.*
*Sec. 309. Protecting secured creditors in chapter 13 cases.*
*Sec. 310. Limitation on luxury goods.*
*Sec. 311. Automatic stay.*
*Sec. 312. Extension of period between bankruptcy discharges.*
*Sec. 313. Definition of household goods and antiques.*
*Sec. 314. Debt incurred to pay nondischargeable debts.*
*Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.*
*Sec. 316. Dismissal for failure to timely file schedules or provide required information.*
*Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.*
*Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.*
*Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.*
*Sec. 320. Prompt relief from stay in individual cases.*
*Sec. 321. Chapter 11 cases filed by individuals.*
*Sec. 322. Limitations on homestead exemption.*
*Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.*
*Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.*
*Sec. 325. United States trustee program filing fee increase.*
*Sec. 326. Sharing of compensation.*
*Sec. 327. Fair valuation of collateral.*
*Sec. 328. Defaults based on nonmonetary obligations.*
*Sec. 329. Clarification of postpetition wages and benefits.*
*Sec. 330. Delay of discharge during pendency of certain proceedings.*

*TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS*

*Subtitle A—General Business Bankruptcy Provisions*

*Sec. 401. Adequate protection for investors.*
*Sec. 402. Meetings of creditors and equity security holders.*
*Sec. 403. Protection of refinance of security interest.*
*Sec. 404. Executory contracts and unexpired leases.*
*Sec. 405. Creditors and equity security holders committees.*
*Sec. 406. Amendment to section 546 of title 11, United States Code.*
*Sec. 407. Amendments to section 330(a) of title 11, United States Code.*
*Sec. 408. Postpetition disclosure and solicitation.*
*Sec. 409. Preferences.*
*Sec. 410. Venue of certain proceedings.*
*Sec. 411. Period for filing plan under chapter 11.*
*Sec. 412. Fees arising from certain ownership interests.*
*Sec. 413. Creditor representation at first meeting of creditors.*
*Sec. 414. Definition of disinterested person.*
*Sec. 415. Factors for compensation of professional persons.*
*Sec. 416. Appointment of elected trustee.*
*Sec. 417. Utility service.*
*Sec. 418. Bankruptcy fees.*
*Sec. 419. More complete information regarding assets of the estate.*

*Subtitle B—Small Business Bankruptcy Provisions*

*Sec. 431. Flexible rules for disclosure statement and plan.*
*Sec. 432. Definitions.*
*Sec. 433. Standard form disclosure statement and plan.*
*Sec. 434. Uniform national reporting requirements.*
*Sec. 435. Uniform reporting rules and forms for small business cases.*
*Sec. 436. Duties in small business cases.*
*Sec. 437. Plan filing and confirmation deadlines.*
*Sec. 438. Plan confirmation deadline.*
*Sec. 439. Duties of the United States trustee.*
*Sec. 440. Scheduling conferences.*
*Sec. 441. Serial filer provisions.*
*Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.*
*Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.*
*Sec. 444. Payment of interest.*
*Sec. 445. Priority for administrative expenses.*
*Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.*
*Sec. 447. Appointment of committee of retired employees.*

*TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS*

*Sec. 501. Petition and proceedings related to petition.*
*Sec. 502. Applicability of other sections to chapter 9.*

*TITLE VI—BANKRUPTCY DATA*

*Sec. 601. Improved bankruptcy statistics.*
*Sec. 602. Uniform rules for the collection of bankruptcy data.*
*Sec. 603. Audit procedures.*
*Sec. 604. Sense of Congress regarding availability of bankruptcy data.*

*TITLE VII—BANKRUPTCY TAX PROVISIONS*

*Sec. 701. Treatment of certain liens.*
*Sec. 702. Treatment of fuel tax claims.*
*Sec. 703. Notice of request for a determination of taxes.*
*Sec. 704. Rate of interest on tax claims.*
*Sec. 705. Priority of tax claims.*
*Sec. 706. Priority property taxes incurred.*
*Sec. 707. No discharge of fraudulent taxes in chapter 13.*
*Sec. 708. No discharge of fraudulent taxes in chapter 11.*
*Sec. 709. Stay of tax proceedings limited to prepetition taxes.*
*Sec. 710. Periodic payment of taxes in chapter 11 cases.*
*Sec. 711. Avoidance of statutory tax liens prohibited.*
*Sec. 712. Payment of taxes in the conduct of business.*
*Sec. 713. Tardily filed priority tax claims.*
*Sec. 714. Income tax returns prepared by tax authorities.*
*Sec. 715. Discharge of the estate's liability for unpaid taxes.*
*Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.*
*Sec. 717. Standards for tax disclosure.*
*Sec. 718. Setoff of tax refunds.*
*Sec. 719. Special provisions related to the treatment of State and local taxes.*
*Sec. 720. Dismissal for failure to timely file tax returns.*

*TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES*

*Sec. 801. Amendment to add chapter 15 to title 11, United States Code.*
*Sec. 802. Other amendments to titles 11 and 28, United States Code.*

*TITLE IX—FINANCIAL CONTRACT PROVISIONS*

*Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.*
*Sec. 902. Authority of the corporation with respect to failed and failing institutions.*
*Sec. 903. Amendments relating to transfers of qualified financial contracts.*
*Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.*
*Sec. 905. Clarifying amendment relating to master agreements.*
*Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.*
*Sec. 907. Bankruptcy law amendments.*
*Sec. 908. Recordkeeping requirements.*
*Sec. 909. Exemptions from contemporaneous execution requirement.*
*Sec. 910. Damage measure.*
*Sec. 911. SIPC stay.*

*TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN*

*Sec. 1001. Permanent reenactment of chapter 12.*
*Sec. 1002. Debt limit increase.*
*Sec. 1003. Certain claims owed to governmental units.*
*Sec. 1004. Definition of family farmer.*
*Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.*
*Sec. 1006. Prohibition of retroactive assessment of disposable income.*
*Sec. 1007. Family fishermen.*

*TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS*

*Sec. 1101. Definitions.*
*Sec. 1102. Disposal of patient records.*
*Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.*
*Sec. 1104. Appointment of ombudsman to act as patient advocate.*
*Sec. 1105. Debtor in possession; duty of trustee to transfer patients.*
*Sec. 1106. Exclusion from program participation not subject to automatic stay.*

*TITLE XII—TECHNICAL AMENDMENTS*

*Sec. 1201. Definitions.*
*Sec. 1202. Adjustment of dollar amounts.*
*Sec. 1203. Extension of time.*
*Sec. 1204. Technical amendments.*
*Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.*
*Sec. 1206. Limitation on compensation of professional persons.*
*Sec. 1207. Effect of conversion.*
*Sec. 1208. Allowance of administrative expenses.*
*Sec. 1209. Exceptions to discharge.*

*Sec. 1210. Effect of discharge.*
*Sec. 1211. Protection against discriminatory treatment.*
*Sec. 1212. Property of the estate.*
*Sec. 1213. Preferences.*
*Sec. 1214. Postpetition transactions.*
*Sec. 1215. Disposition of property of the estate.*
*Sec. 1216. General provisions.*
*Sec. 1217. Abandonment of railroad line.*
*Sec. 1218. Contents of plan.*
*Sec. 1219. Bankruptcy cases and proceedings.*
*Sec. 1220. Knowing disregard of bankruptcy law or rule.*
*Sec. 1221. Transfers made by nonprofit charitable corporations.*
*Sec. 1222. Protection of valid purchase money security interests.*
*Sec. 1223. Bankruptcy Judgeships.*
*Sec. 1224. Compensating trustees.*
*Sec. 1225. Amendment to section 362 of title 11, United States Code.*
*Sec. 1226. Judicial education.*
*Sec. 1227. Reclamation.*
*Sec. 1228. Providing requested tax documents to the court.*
*Sec. 1229. Encouraging creditworthiness.*
*Sec. 1230. Property no longer subject to redemption.*
*Sec. 1231. Trustees.*
*Sec. 1232. Bankruptcy forms.*
*Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.*
*Sec. 1234. Involuntary cases.*
*Sec. 1235. Federal election law fines and penalties as nondischargeable debt.*

### *TITLE XIII—CONSUMER CREDIT DISCLOSURE*

*Sec. 1301. Enhanced disclosures under an open end credit plan.*
*Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.*
*Sec. 1303. Disclosures related to "introductory rates".*
*Sec. 1304. Internet-based credit card solicitations.*
*Sec. 1305. Disclosures related to late payment deadlines and penalties.*
*Sec. 1306. Prohibition on certain actions for failure to incur finance charges.*
*Sec. 1307. Dual use debit card.*
*Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.*
*Sec. 1309. Clarification of clear and conspicuous.*

### *TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS*

*Sec. 1401. Effective date; application of amendments.*

## ***TITLE I—NEEDS-BASED BANKRUPTCY***

### ***SEC. 101. CONVERSION.***

*Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".*

### ***SEC. 102. DISMISSAL OR CONVERSION.***

*(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—*

*(1) by striking the section heading and inserting the following:*

***"§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13";***

*and*

*(2) in subsection (b)—*

*(A) by inserting "(1)" after "(b)";*

*(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—*

*(i) in the first sentence—*

*(I) by striking "but not at the request or suggestion of" and inserting "trustee (or bankruptcy administrator, if any), or";*

*(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title," after "consumer debts"; and*

*(III) by striking "a substantial abuse" and inserting "an abuse"; and*

*(ii) by striking the next to last sentence; and*

*(C) by adding at the end the following:*

*"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—*

*"(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or*

*"(II) $10,000.*

*"(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.*

*"(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.*

*"(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.*

*"(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).*

*"(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.*

*"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—*

*"(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and*

*"(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;*

*divided by 60.*

*"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.*

*"(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.*

*"(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—*

*"(I) documentation for such expense or adjustment to income; and*

*"(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.*

*"(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.*

*"(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—*

*"(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or*

*"(II) $10,000.*

*"(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.*

*"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—*

*"(A) whether the debtor filed the petition in bad faith; or*

*"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.*

*"(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—*

*"(i) a trustee files a motion for dismissal or conversion under this subsection; and*

*"(ii) the court—*

*"(I) grants such motion; and*

*"(II) finds that the action of the attorney for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.*

*"(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—*

*"(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and*

*"(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).*

*"(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—*

*"(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and*

*"(ii) determined that the petition, pleading, or written motion—*

*"(I) is well grounded in fact; and*

*"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).*

*"(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.*

*"(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—*

*"(i) the court does not grant the motion; and*

*"(ii) the court finds that—*

*"(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or*

*"(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.*

*"(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).*

*"(C) For purposes of this paragraph—*

*"(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—*

*"(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and*

*"(II) is engaged in commercial or business activity; and*

*"(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—*

*"(I) a parent corporation; and*

*"(II) any other subsidiary corporation of the parent corporation.*

*"(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—*

*"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;*

*"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or*

*"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.*

*"(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—*

*"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;*

*"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or*

*"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.*

*"(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—*

*"(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or*

*"(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and*

*"(ii) the debtor files a statement under penalty of perjury—*

*"(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and*

*"(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.".*

*(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:*

*"(10A) 'current monthly income'—*

*"(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—*

*"(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or*

*"(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and*

*"(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;".*

*(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—*

*(1) by inserting "(a)" before "The trustee shall—"; and*

*(2) by adding at the end the following:*

*"(b)(1) With respect to a debtor who is an individual in a case under this chapter—*

*"(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and*

*"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.*

*"(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—*

*"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or*

*"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.".*

*(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:*

*"(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.".*

*(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.*

*(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:*

*"(c)(1) In this subsection—*

*"(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and*

*"(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.*

*"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.*

*"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".*

*(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—*

*(1) in paragraph (5), by striking "and" at the end;*

*(2) in paragraph (6), by striking the period and inserting a semicolon; and*

*(3) by inserting after paragraph (6) the following:*

*"(7) the action of the debtor in filing the petition was in good faith;".*

*(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—*

*(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and*

*(2) by striking paragraph (2) and inserting the following:*

*"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—*

*"(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and*

*"(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and*

*"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.*

*"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—*

*"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;*

*"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or*

*"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.".*

*(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—*

*(1) in paragraph (2) by striking "or" at the end;*

*(2) in paragraph (3) by striking the period at the end and inserting "; or"; and*

*(3) by adding at the end the following:*

*"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—*

*"(A) such expenses are reasonable and necessary;*

*"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or*

*"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and*

*"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title; and upon request of any party in interest, files proof that a health insurance policy was purchased.".*

*(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b), and 1325(b)(3)".*

*(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:*

*"(39A) 'median family income' means for any year—*

*"(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and*

*"(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;".*

*(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:*

*"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".*

### *SEC. 103. SENSE OF CONGRESS AND STUDY.*

*(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.*

*(b) STUDY.—*

*(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—*

*(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and*

*(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.*

*(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).*

### *SEC. 104. NOTICE OF ALTERNATIVES.*

*Section 342(b) of title 11, United States Code, is amended to read as follows:*

*"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—*

*"(1) a brief description of—*

*"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and*

*"(B) the types of services available from credit counseling agencies; and*

*"(2) statements specifying that—*

*"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and*

*"(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.".*

### *SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.*

*(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.*

*(b) TEST.—*

*(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).*

*(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.*

*(c) EVALUATION.—*

*(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—*

*(A) the financial management training curriculum and materials developed under subsection (a); and*

*(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.*

*(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.*

### *SEC. 106. CREDIT COUNSELING.*

*(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:*

*"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.*

*"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).*

*"(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall*

*review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.*

*"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—*

*"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);*

*"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and*

*"(iii) is satisfactory to the court.*

*"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.".*

*(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—*

*(1) in paragraph (9), by striking "or" at the end;*

*(2) in paragraph (10), by striking the period and inserting "; or"; and*

*(3) by adding at the end the following:*

*"(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".*

*(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:*

*"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.*

*"(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).*

*"(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".*

*(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—*

*(1) by inserting "(a)" before "The debtor shall—"; and*

*(2) by adding at the end the following:*

*"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—*

*"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and*

*"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".*

*(e) GENERAL PROVISIONS.—*

*(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:*

**"§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses**

*"(a) The clerk shall maintain a publicly available list of—*

*"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and*

*"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.*

*"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:*

*"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.*

*"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.*

*"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.*

*"(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—*

*"(A) has met the standards set forth under this section during such period; and*

*"(B) can satisfy such standards in the future.*

*"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.*

*"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.*

*"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—*

*"(A) have a board of directors the majority of which—*

*"(i) are not employed by such agency; and*

*"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;*

*"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;*

*"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;*

*"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;*

*"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;*

*"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);*

*"(G) demonstrate adequate experience and background in providing credit counseling; and*

*"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.*

*"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—*

*"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—*

*"(A) trained personnel with adequate experience and training in providing effective instruction and services;*

*"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;*

*"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and*

*"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and*

*"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—*

*"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and*

*"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.*

*"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).*

*"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).*

*"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.*

*"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—*

*"(A) any actual damages sustained by the debtor as a result of the violation; and*

*"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".*

*(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:*

*"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".*

*(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:*

*"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.*

*"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".*

### SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

*For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.*

## TITLE II—ENHANCED CONSUMER PROTECTION

### Subtitle A—Penalties for Abusive Creditor Practices

### SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

*(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:*

*"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—*

*"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;*

*"(B) the offer of the debtor under subparagraph (A)—*

*"(i) was made at least 60 days before the date of the filing of the petition; and*

*"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and*

*"(C) no part of the debt under the alternative repayment schedule is nondischargeable.*

*"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—*

*"(A) the creditor unreasonably refused to consider the debtor's proposal; and*

*"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).".*

*(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:*

*"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.".*

### SEC. 202. EFFECT OF DISCHARGE.

*Section 524 of title 11, United States Code, is amended by adding at the end the following:*

*"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.*

*"(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—*

*"(1) such creditor retains a security interest in real property that is the principal residence of the debtor;*

*"(2) such act is in the ordinary course of business between the creditor and the debtor; and*

*"(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.".*

### SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

*(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—*

*(1) in subsection (c), by striking paragraph (2) and inserting the following:*

*"(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;"; and*

*(2) by adding at the end the following:*

*"(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.*

*"(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.*

*"(3) The disclosure statement required under this paragraph shall consist of the following:*

*"(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';*

*"(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';*

*"(C) The 'Amount Reaffirmed', using that term, which shall be—*

*"(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and*

*"(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.*

*"(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—*

*"(i) 'The amount of debt you have agreed to reaffirm'; and*

*"(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.*

*"(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—*

*"(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—*

*"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then*

*"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or*

*"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);*

*"(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—*

*"(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then*

*"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or*

*"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).*

*"(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.*

*"(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.*

*"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—*

*"(i) by making the statement: 'Your first payment in the amount of $ is due on but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;*

*"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or*

*"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.*

*"(I) The following statement: 'Note: When this disclosure refers to what a creditor "may" do, it does not use the word "may" to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.*

*"(J)(i) The following additional statements:*

*"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.*

*"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).*

*"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.*

*"'3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.*

*"'4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.*

*"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.*

*"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.*

*"'7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.*

*"'Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).*

*"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.*

*"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.*

*"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.*

*"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:*

*"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.*

*"(4) The form of such agreement required under this paragraph shall consist of the following:*

*"'Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.*

*"'Brief description of credit agreement:*

*"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:*

*"'Signature: Date:*

*"'Borrower:*

*"'Co-borrower, if also reaffirming these debts:*

*"'Accepted by creditor:*

*"'Date of creditor acceptance:'.*

*"(5) The declaration shall consist of the following:*

*"(A) The following certification:*

*"'Part C: Certification by Debtor's Attorney (If Any).*

*"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.*

*"'Signature of Debtor's Attorney: Date:'.*

*"(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.*

*"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.*

*"(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:*

*"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.*

*"'1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $ , and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $ , leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: .*

*"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.*

*"(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:*

*"'I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.*

*"(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:*

*"'Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:*

*"'I am not represented by an attorney in connection with this reaffirmation agreement.*

*"'I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):*

*"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.*

*"(8) The court order, which may be used to approve such agreement, shall consist of the following:*

*"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.*

*"(l) Notwithstanding any other provision of this title the following shall apply:*

*"(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.*

*"(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.*

*"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.*

*"(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.*

*"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.".*

*(b) LAW ENFORCEMENT.—*

*(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:*

### *"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules*

*"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.*

*"(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—*

*"(1) the United States attorney for each judicial district of the United States; and*

*"(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.*

*"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.*

*"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".*

*(2) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:*

*"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".*

### *SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.*

*Section 363 of title 11, United States Code, is amended—*

*(1) by redesignating subsection (o) as subsection (p), and*

*(2) by inserting after subsection (n) the following:*

*"(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.".*

### *SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.*

*(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—*

*(1) the policies and activities of creditors with respect to reaffirmation agreements; and*

*(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.*

*(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.*

## *Subtitle B—Priority Child Support*

### *SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.*

*Section 101 of title 11, United States Code, is amended—*

*(1) by striking paragraph (12A); and*

*(2) by inserting after paragraph (14) the following:*

*"(14A) 'domestic support obligation' means a debt that accrues before or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—*

*"(A) owed to or recoverable by—*

*"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or*

*"(ii) a governmental unit;*

*"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;*

*"(C) established or subject to establishment before or after the date of the order for relief in a case under this title, by reason of applicable provisions of—*

*"(i) a separation agreement, divorce decree, or property settlement agreement;*

*"(ii) an order of a court of record; or*

*"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and*

*"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;".*

### *SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.*

*Section 507(a) of title 11, United States Code, is amended—*

*(1) by striking paragraph (7);*

*(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;*

*(3) in paragraph (2), as so redesignated, by striking "First" and inserting "Second";*

*(4) in paragraph (3), as so redesignated, by striking "Second" and inserting "Third";*

*(5) in paragraph (4), as so redesignated—*

*(A) by striking "Third" and inserting "Fourth"; and*

*(B) by striking the semicolon at the end and inserting a period;*

*(6) in paragraph (5), as so redesignated, by striking "Fourth" and inserting "Fifth";*

*(7) in paragraph (6), as so redesignated, by striking "Fifth" and inserting "Sixth";*

*(8) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh"; and*

*(9) by inserting before paragraph (2), as so redesignated, the following:*

*"(1) First:*

*"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.*

*"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.*

*"(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.".*

### *SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.*

*Title 11, United States Code, is amended—*

*(1) in section 1129(a), by adding at the end the following:*

*"(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.";*

*(2) in section 1208(c)—*

*(A) in paragraph (8), by striking "or" at the end;*

*(B) in paragraph (9), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";*

*(3) in section 1222(a)—*

*(A) in paragraph (2), by striking "and" at the end;*

*(B) in paragraph (3), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";*

*(4) in section 1222(b)—*

*(A) by redesignating paragraph (11) as paragraph (12); and*

*(B) by inserting after paragraph (10) the following:*

*"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";*

*(5) in section 1225(a)—*

*(A) in paragraph (5), by striking "and" at the end;*

*(B) in paragraph (6), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.";*

*(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan";*

*(7) in section 1307(c)—*

*(A) in paragraph (9), by striking "or" at the end;*

*(B) in paragraph (10), by striking the period at the end and inserting "; or"; and*

*(C) by adding at the end the following:*

*"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";*

*(8) in section 1322(a)—*

*(A) in paragraph (2), by striking "and" at the end;*

*(B) in paragraph (3), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";*

*(9) in section 1322(b)—*

*(A) in paragraph (9), by striking "; and" and inserting a semicolon;*

*(B) by redesignating paragraph (10) as paragraph (11); and*

*(C) inserting after paragraph (9) the following:*

*"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";*

*(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:*

*"(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and";*

*(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan".*

### *SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.*

*Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:*

*"(2) under subsection (a)—*

*"(A) of the commencement or continuation of a civil action or proceeding—*

*"(i) for the establishment of paternity;*

*"(ii) for the establishment or modification of an order for domestic support obligations;*

*"(iii) concerning child custody or visitation;*

*"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or*

*"(v) regarding domestic violence;*

*"(B) of the collection of a domestic support obligation from property that is not property of the estate;*

*"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;*

*"(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;*

*"(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;*

*"(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or*

*"(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;".*

### *SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.*

*Section 523 of title 11, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) by striking paragraph (5) and inserting the following:*

*"(5) for a domestic support obligation;"; and*

*(B) by striking paragraph (18);*

*(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)"; and*

*(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—*

*(A) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";*

*(B) by inserting "or" after "court of record,"; and*

*(C) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon.*

### *SEC. 216. CONTINUED LIABILITY OF PROPERTY.*

*Section 522 of title 11, United States Code, is amended—*

*(1) in subsection (c), by striking paragraph (1) and inserting the following:*

*"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";*

*(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and*

*(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".*

### *SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.*

*Section 547(c)(7) of title 11, United States Code, is amended to read as follows:*

*"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".*

### *SEC. 218. DISPOSABLE INCOME DEFINED.*

*Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date of the filing of the petition" after "dependent of the debtor".*

### *SEC. 219. COLLECTION OF CHILD SUPPORT.*

*(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (8), by striking "and" at the end;*

*(B) in paragraph (9), by striking the period and inserting a semicolon; and*

*(C) by adding at the end the following:*

*"(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and"; and*

*(2) by adding at the end the following:*

*"(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—*

*"(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;*

*"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and*

*"(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;*

*"(B)(i) provide written notice to such State child support enforcement agency of such claim; and*

*"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and*

*"(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—*

*"(i) the granting of the discharge;*

*"(ii) the last recent known address of the debtor;*

*"(iii) the last recent known name and address of the debtor's employer; and*

*"(iv) the name of each creditor that holds a claim that—*

*"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or*

*"(II) was reaffirmed by the debtor under section 524(c).*

*"(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.*

*"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".*

*(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (6), by striking "and" at the end;*

*(B) in paragraph (7), by striking the period and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and*

*(2) by adding at the end the following:*

*"(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—*

*"(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and*

*"(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;*

*"(B)(i) provide written notice to such State child support enforcement agency of such claim; and*

*"(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and*

*"(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—*

*"(i) the granting of the discharge;*

*"(ii) the last recent known address of the debtor;*

*"(iii) the last recent known name and address of the debtor's employer; and*

*"(iv) the name of each creditor that holds a claim that—*

*"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or*

*"(II) was reaffirmed by the debtor under section 524(c).*

*"(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.*

*"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".*

*(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (4), by striking "and" at the end;*

*(B) in paragraph (5), by striking the period and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and*

*(2) by adding at the end the following:*

*"(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—*

*"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and*

*"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;*

*"(B)(i) provide written notice to such State child support enforcement agency of such claim; and*

*"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and*

*"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—*

*"(i) the granting of the discharge;*

*"(ii) the last recent known address of the debtor;*

*"(iii) the last recent known name and address of the debtor's employer; and*

*"(iv) the name of each creditor that holds a claim that—*

*"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or*

*"(II) was reaffirmed by the debtor under section 524(c).*

*"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.*

*"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".*

*(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (4), by striking "and" at the end;*

*(B) in paragraph (5), by striking the period and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and*

*(2) by adding at the end the following:*

*"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—*

*"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and*

*"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;*

*"(B)(i) provide written notice to such State child support enforcement agency of such claim; and*

*"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and*

*"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—*

*"(i) the granting of the discharge;*

*"(ii) the last recent known address of the debtor;*

*"(iii) the last recent known name and address of the debtor's employer; and*

*"(iv) the name of each creditor that holds a claim that—*

*"(I) is not discharged under paragraph (2) or (4) of section 523(a); or*

*"(II) was reaffirmed by the debtor under section 524(c).*

*"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.*

*"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".*

### SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

*Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:*

*"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—*

*"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or*

*"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or*

*"(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;".*

### *Subtitle C—Other Consumer Protections*

### *SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.*

*Section 110 of title 11, United States Code, is amended—*

*(1) in subsection (a)(1), by striking "or an employee of an attorney" and inserting "for the debtor or an employee of such attorney under the direct supervision of such attorney";*

*(2) in subsection (b)—*

*(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—*

*"(A) sign the document for filing; and*

*"(B) print on the document the name and address of that officer, principal, responsible person, or partner."; and*

*(B) by striking paragraph (2) and inserting the following:*

*"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.*

*"(B) The notice under subparagraph (A)—*

*"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;*

*"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and*

*"(iii) shall—*

*"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and*

*"(II) be filed with any document for filing.";*

*(3) in subsection (c)—*

*(A) in paragraph (2)—*

*(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and*

*(ii) by adding at the end the following:*

*"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer."; and*

*(B) by striking paragraph (3);*

*(4) in subsection (d)—*

*(A) by striking "(d)(1)" and inserting "(d)"; and*

*(B) by striking paragraph (2);*

*(5) in subsection (e)—*

*(A) by striking paragraph (2); and*

*(B) by adding at the end the following:*

*"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).*

*"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—*

*"(i) whether—*

*"(I) to file a petition under this title; or*

*"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;*

*"(ii) whether the debtor's debts will be discharged in a case under this title;*

*"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;*

*"(iv) concerning—*

*"(I) the tax consequences of a case brought under this title; or*

*"(II) the dischargeability of tax claims;*

*"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;*

*"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or*

*"(vii) concerning bankruptcy procedures and rights.";*

*(6) in subsection (f)—*

*(A) by striking "(f)(1)" and inserting "(f)"; and*

*(B) by striking paragraph (2);*

*(7) in subsection (g)—*

*(A) by striking "(g)(1)" and inserting "(g)"; and*

*(B) by striking paragraph (2);*

*(8) in subsection (h)—*

*(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;*

*(B) by inserting before paragraph (2), as so redesignated, the following:*

*"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";*

*(C) in paragraph (2), as so redesignated—*

*(i) by striking "Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a" and inserting "A";*

*(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and*

*(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";*

*(D) by striking paragraph (3), as so redesignated, and inserting the following:*

*"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—*

*"(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or*

*"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).*

*"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).*

*"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and*

*(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,";*

*(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:*

*"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—";*

*(10) in subsection (j)—*

*(A) in paragraph (2)—*

*(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";*

*(ii) in subparagraph (B)—*

*(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and*

*(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";*

*(B) by redesignating paragraph (3) as paragraph (4); and*

*(C) by inserting after paragraph (2) the following:*

*"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and*

*(11) by adding at the end the following:*

*"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.*

*"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—*

*"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;*

*"(B) advised the debtor to use a false Social Security account number;*

*"(C) failed to inform the debtor that the debtor was filing for relief under this title; or*

*"(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.*

*"(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.*

*"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.*

*"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".*

### *SEC. 222. SENSE OF CONGRESS.*

*It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.*

### *SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.*

*Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:*

*"(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".*

### *SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.*

*(a) In General.—Section 522 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (2)—*

*(i) in subparagraph (A), by striking "and" at the end;*

*(ii) in subparagraph (B), by striking the period at the end and inserting "; and";*

*(iii) by adding at the end the following:*

*"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and*

*(iv) by striking "(2)(A) any property" and inserting:*

*"(3) Property listed in this paragraph is—*

*"(A) any property";*

*(B) by striking paragraph (1) and inserting:*

*"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";*

*(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";*

*(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";*

*(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";*

*(F) by striking "Such property is—"; and*

*(G) by adding at the end the following:*

*"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:*

*"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.*

*"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—*

*"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and*

*"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or*

*"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.*

*"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.*

*"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.*

*"(ii) A distribution described in this clause is an amount that—*

*"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and*

*"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount."; and*

*(2) in subsection (d)—*

*(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and*

*(B) by adding at the end the following:*

*"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".*

*(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—*

*(1) in paragraph (17), by striking "or" at the end;*

*(2) in paragraph (18), by striking the period and inserting a semicolon; and*

*(3) by inserting after paragraph (18) the following:*

*"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—*

*"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or*

*"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;*

*but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".*

*(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:*

*"(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—*

*"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or*

*"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;*

*but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or".*

*(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:*

*"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".*

*(e) ASSET LIMITATION.—*

*(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:*

*"(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.".*

*(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting "522(n)," after "522(d),".*

### *SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.*

*(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (4), by striking "or" at the end;*

*(B) by redesignating paragraph (5) as paragraph (9); and*

*(C) by inserting after paragraph (4) the following:*

*"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—*

*"(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;*

*"(B) only to the extent that such funds—*

*"(i) are not pledged or promised to any entity in connection with any extension of credit; and*

*"(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and*

*"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;*

*"(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—*

*"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;*

*"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and*

*"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;"; and*

*(2) by adding at the end the following:*

*"(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.".*

(b) Debtor's Duties.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

"(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).".

### SEC. 226. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

"(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;"; and

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) Conforming Amendment.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

#### "§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

### SEC. 228. DISCLOSURES.

(a) Disclosures.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

#### "§ 527. Disclosures

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT

WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

### SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

**"§528. Requirements for debt relief agencies**

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

### SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

### SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

### SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

**"§332. Consumer privacy ombudsman**

"(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

### SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

**"§112. Prohibition on disclosure of name of minor children**

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112" after "section".

## TITLE III —DISCOURAGING BANKRUPTCY ABUSE

### SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

### SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.".

### SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under *this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;*

*"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—*

*"(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or*

*"(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;".*

### ***SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.***

*Title 11, United States Code, is amended—*

*(1) in section 521(a), as so designated by section 106—*

*(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;*

*(B) in paragraph (5), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—*

*"(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or*

*"(B) redeems such property from the security interest pursuant to section 722.*

*If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and*

*(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.*

### ***SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.***

*Title 11, United States Code, is amended—*

*(1) in section 362, as amended by section 106—*

*(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";*

*(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subsection (j) as added by section 106; and*

*(C) by inserting after subsection (g) the following:*

*"(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—*

*"(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and*

*"(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.*

*"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion."; and*

*(2) in section 521, as amended by sections 106 and 225—*

*(A) in subsection (a)(2) by striking "consumer";*

*(B) in subsection (a)(2)(B)—*

*(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and*

*(ii) by striking "forty-five day" and inserting "30-day";*

*(C) in subsection (a)(2)(C) by inserting ", except as provided in section 362(h)" before the semicolon; and*

*(D) by adding at the end the following:*

*"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".*

### ***SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.***

*(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:*

*"(i) the plan provides that—*

*"(I) the holder of such claim retain the lien securing such claim until the earlier of—*

*"(aa) the payment of the underlying debt determined under nonbankruptcy law; or*

*"(bb) discharge under section 1328; and*

*"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".*

*(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:*

*"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".*

*(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—*

*(1) by inserting after paragraph (13) the following:*

*"(13A) 'debtor's principal residence'—*

*"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and*

*"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and*

*(2) by inserting after paragraph (27), the following:*

*"(27A) 'incidental property' means, with respect to a debtor's principal residence—*

*"(A) property commonly conveyed with a principal residence in the area where the real property is located;*

*"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and*

*"(C) all replacements or additions;".*

### ***SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.***

*Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—*

*(1) in subparagraph (A)—*

*(A) by striking "180 days" and inserting "730 days"; and*

*(B) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place"; and*

*(2) by adding at the end the following:*

*"If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).".*

### ***SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.***

*Section 522 of title 11, United States Code, as amended by section 224, is amended—*

*(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and*

*(2) by adding at the end the following:*

*"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—*

*"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;*

*"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;*

*"(3) a burial plot for the debtor or a dependent of the debtor; or*

*"(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;*

*shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".*

### ***SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.***

*(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—*

*(1) in subparagraph (A), by striking "and" at the end;*

*(2) in subparagraph (B)—*

*(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and*

*(B) by striking the period and inserting "; and"; and*

*(3) by adding at the end the following:*

*"(C) with respect to cases converted from chapter 13—*

*"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and*

*"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".*

*(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:*

*"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.*

*"(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.*

*"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.*

*"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.*

*"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".*

*(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—*

*(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—*

*(A) in clause (i), by striking "and" at the end;*

*(B) in clause (ii), by striking "or" at the end and inserting "and"; and*

*(C) by adding at the end the following:*

*"(iii) if—*

*"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and*

*"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".*

*(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:*

*"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—*

*"(A) proposed by the plan to the trustee;*

*"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and*

*"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.*

*"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).*

*"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.*

*"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".*

### *SEC. 310. LIMITATION ON LUXURY GOODS.*

*Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:*

*"(C)(i) for purposes of subparagraph (A)—*

*"(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and*

*"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and*

*"(ii) for purposes of this subparagraph—*

*"(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and*

*"(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".*

### *SEC. 311. AUTOMATIC STAY.*

*(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:*

*"(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;*

*"(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;*

*"(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;".*

*(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:*

*"(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—*

*"(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and*

*"(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.*

*"(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).*

*"(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.*

*"(B) If the court upholds the objection of the lessor filed under subparagraph (A)—*

*"(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and*

*"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.*

*"(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—*

*"(A) subsection (b)(22) shall apply immediately upon failure to file such certification,*

and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

"(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

"(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

"(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

"(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

"(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

"(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

"(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

"(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

"(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

"(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

"(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

"(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

"(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

"(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.".

### SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by inserting after subsection (e) the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

"(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

"(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.".

### SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

"(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

"(i) clothing;

"(ii) furniture;

"(iii) appliances;

"(iv) 1 radio;

"(v) 1 television;

"(vi) 1 VCR;

"(vii) linens;

"(viii) china;

"(ix) crockery;

"(x) kitchenware;

"(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

"(xii) medical equipment and supplies;

"(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

"(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

"(xv) 1 personal computer and related equipment.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor, or any relative of the debtor);

"(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

"(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

### SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);".

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

### SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(C) by adding at the end the following:

"(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

"(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number."; and

(2) by adding at the end the following:

"(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

"(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(3) A notice filed under paragraph (1) may be withdrawn by such entity.

"(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

"(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

"(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

"(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

"(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

"(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

"(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;"; and

(2) by adding at the end the following:

"(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

"(2)(A) The debtor shall provide—

"(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

"(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

"(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

"(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

"(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

"(A) at a reasonable cost; and

"(B) not later than 5 days after such request is filed.

"(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

"(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

"(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

"(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

"(4) in a case under chapter 13—

"(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

"(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

"(g)(1) A statement referred to in subsection (f)(4) shall disclose—

"(A) the amount and sources of the income of the debtor;

"(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

"(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

"(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

"(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

### SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

"(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

"(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

"(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

"(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.".

### SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.".

### SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

### SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

### SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) such 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

### SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) Property of the Estate.—

(1) In general.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

**"§ 1115. Property of the estate**

"(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.".

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) Clerical amendment.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.".

(b) Contents of Plan.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) Confirmation of Plan.—

(1) Requirements relating to value of property.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

"(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.".

(2) Requirement relating to interests in property.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section".

(d) Effect of Confirmation.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor who is an individual"; and

(2) by adding at the end the following:

"(5) In a case in which the debtor is an individual—

"(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

"(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

"(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

"(ii) modification of the plan under section 1127 is not practicable; and".

(e) Modification of Plan.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan *to the extent necessary to take account of any payment of such claim made other than under the plan.*

*“(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).*

*“(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.”.*

### *SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.*

*(a) Exemptions.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:*

*“(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—*

*“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;*

*“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;*

*“(C) a burial plot for the debtor or a dependent of the debtor; or*

*“(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.*

*“(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.*

*“(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.*

*“(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—*

*“(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or*

*“(B) the debtor owes a debt arising from—*

*“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;*

*“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;*

*“(iii) any civil remedy under section 1964 of title 18; or*

*“(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.*

*“(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.”.*

*(b) Adjustment of Dollar Amounts.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting “522(p), 522(q),” after “522(n),”.*

### *SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.*

*Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:*

*“(7) any amount—*

*“(A) withheld by an employer from the wages of employees for payment as contributions—*

*“(i) to—*

*“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;*

*“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or*

*“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or*

*“(ii) to a health insurance plan regulated by State law whether or not subject to such title; or*

*“(B) received by an employer from employees for payment as contributions—*

*“(i) to—*

*“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;*

*“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or*

*“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or*

*“(ii) to a health insurance plan regulated by State law whether or not subject to such title;”.*

### *SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.*

*(a) In General.—Section 1334 of title 28, United States Code, is amended—*

*(1) in subsection (b), by striking “Notwithstanding” and inserting “Except as provided in subsection (e)(2), and notwithstanding”; and*

*(2) by striking subsection (e) and inserting the following:*

*“(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—*

*“(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and*

*“(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.”.*

*(b) Applicability.—This section shall only apply to cases filed after the date of enactment of this Act.*

### *SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.*

*(a) Actions Under Chapter 7 or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:*

*“(1) For a case commenced—*

*“(A) under chapter 7 of title 11, $160; or*

*“(B) under chapter 13 of title 11, $150.”.*

*(b) United States Trustee System Fund.—Section 589a(b) of title 28, United States Code, is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*“(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and*

*“(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;”;*

*(2) in paragraph (2), by striking “one-half” and inserting “three-fourths”; and*

*(3) in paragraph (4), by striking “one-half” and inserting “100 percent”.*

*(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “pursuant to 28 U.S.C. section 1930(b)” and all that follows through “28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title”.*

### *SEC. 326. SHARING OF COMPENSATION.*

*Section 504 of title 11, United States Code, is amended by adding at the end the following:*

*“(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.”.*

### *SEC. 327. FAIR VALUATION OF COLLATERAL.*

*Section 506(a) of title 11, United States Code, is amended by—*

*(1) inserting “(1)” after “(a)”; and*

*(2) by adding at the end the following:*

*“(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.”.*

### *SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.*

*(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: “other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;”; and*

*(B) in paragraph (2)(D), by striking “penalty rate or provision” and inserting “penalty rate or penalty provision”;*

*(2) in subsection (c)—*

*(A) in paragraph (2), by inserting “or” at the end;*

*(B) in paragraph (3), by striking “; or” at the end and inserting a period; and*

*(C) by striking paragraph (4);*

*(3) in subsection (d)—*

*(A) by striking paragraphs (5) through (9); and*

*(B) by redesignating paragraph (10) as paragraph (5); and*

*(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.*

*(b) IMPAIRMENT OF CLAIMS OR, INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—*

*(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) expressly does not require to be cured" before the semicolon at the end;*

*(2) in subparagraph (C), by striking "and" at the end;*

*(3) by redesignating subparagraph (D) as subparagraph (E); and*

*(4) by inserting after subparagraph (C) the following:*

*"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".*

### ***SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.***

*Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:*

*"(A) the actual, necessary costs and expenses of preserving the estate including—*

*"(i) wages, salaries, and commissions for services rendered after the commencement of the case; and*

*"(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;".*

### ***SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.***

*(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—*

*(1) in paragraph (10), by striking "or" at the end;*

*(2) in paragraph (11) by striking the period at the end and inserting "; or"; and*

*(3) by inserting after paragraph (11) the following:*

*"(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—*

*"(A) section 522(q)(1) may be applicable to the debtor; and*

*"(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".*

*(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:*

*"(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—*

*"(i) section 522(q)(1) may be applicable to the debtor; and*

*"(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".*

*(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—*

*(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",*

*(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and*

*(3) by adding at the end the following:*

*"(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—*

*"(1) section 522(q)(1) may be applicable to the debtor; and*

*"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".*

*(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—*

*(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",*

*(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and*

*(3) by adding at the end the following:*

*"(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—*

*"(1) section 522(q)(1) may be applicable to the debtor; and*

*"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".*

## ***TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS***

### ***Subtitle A—General Business Bankruptcy Provisions***

### ***SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.***

*(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:*

*"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;".*

*(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:*

*"(25) under subsection (a), of—*

*"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;*

*"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or*

*"(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".*

### ***SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.***

*Section 341 of title 11, United States Code, is amended by adding at the end the following:*

*"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".*

### ***SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.***

*Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".*

### ***SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.***

*(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:*

*"(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—*

*"(i) the date that is 120 days after the date of the order for relief; or*

*"(ii) the date of the entry of an order confirming a plan.*

*"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.*

*"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".*

*(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".*

### ***SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.***

*(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:*

*"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".*

*(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:*

*"(3) A committee appointed under subsection (a) shall—*

*"(A) provide access to information for creditors who—*

*"(i) hold claims of the kind represented by that committee; and*

*"(ii) are not appointed to the committee;*

*"(B) solicit and receive comments from the creditors described in subparagraph (A); and*

*"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".*

### ***SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.***

*Section 546 of title 11, United States Code, is amended—*

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods" after "consent of a creditor"; and

(3) by adding at the end the following:

"(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, or any successor to such section 7–209.".

### SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.".

### SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

### SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

### SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a debt (excluding a consumer debt) against a noninsider of less than $10,000," after "$5,000".

### SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

### SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

### SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

### SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

### SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

### SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

### SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of the filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.".

### SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

*"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".*

### *SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.*

*(a) In General.—*

*(1) Disclosure.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.*

*(2) Information.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.*

*(b) Purpose.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.*

## *Subtitle B—Small Business Bankruptcy Provisions*

### *SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.*

*Section 1125 of title 11, United States Code, is amended—*

*(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and*

*(2) by striking subsection (f), and inserting the following:*

*"(f) Notwithstanding subsection (b), in a small business case—*

*"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;*

*"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and*

*"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;*

*"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and*

*"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".*

### *SEC. 432. DEFINITIONS.*

*(a) Definitions.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:*

*"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;*

*"(51D) 'small business debtor'—*

*"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and*

*"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".*

*(b) Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".*

*(c) Adjustment of Dollar Amounts.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.*

### *SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.*

*Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—*

*(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and*

*(2) economy and simplicity for debtors.*

### *SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.*

*(a) Reporting Required.—*

*(1) In general.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:*

***"§308. Debtor reporting requirements***

*"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.*

*"(b) A small business debtor shall file periodic financial and other reports containing information including—*

*"(1) the debtor's profitability;*

*"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;*

*"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;*

*"(4)(A) whether the debtor is—*

*"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and*

*"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;*

*"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and*

*"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".*

*(2) Clerical amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:*

*"308. Debtor reporting requirements.".*

*(b) Effective Date.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).*

### *SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.*

*(a) Proposal of Rules and Forms.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—*

*(1) the debtor's profitability;*

*(2) the debtor's cash receipts and disbursements; and*

*(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.*

*(b) Purpose.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—*

*(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;*

*(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and*

*(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.*

### *SEC. 436. DUTIES IN SMALL BUSINESS CASES.*

*(a) Duties in Chapter 11 Cases.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:*

***"§1116. Duties of trustee or debtor in possession in small business cases***

*"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—*

*"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—*

*"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or*

*"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;*

*"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;*

*"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;*

*"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;*

*"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;*

*"(6)(A) timely file tax returns and other required government filings; and*

*"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and*

*"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:*

*"1116. Duties of trustee or debtor in possession in small business cases.".*

### SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

*Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:*

*"(e) In a small business case—*

*"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—*

*"(A) extended as provided by this subsection, after notice and a hearing; or*

*"(B) the court, for cause, orders otherwise;*

*"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and*

*"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—*

*"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;*

*"(B) a new deadline is imposed at the time the extension is granted; and*

*"(C) the order extending time is signed before the existing deadline has expired.".*

### SEC. 438. PLAN CONFIRMATION DEADLINE.

*Section 1129 of title 11, United States Code, is amended by adding at the end the following:*

*"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).".*

### SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

*Section 586(a) of title 28, United States Code, is amended—*

*(1) in paragraph (3)—*

*(A) in subparagraph (G), by striking "and" at the end;*

*(B) by redesignating subparagraph (H) as subparagraph (I); and*

*(C) by inserting after subparagraph (G) the following:*

*"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";*

*(2) in paragraph (5), by striking "and" at the end;*

*(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and*

*(4) by adding at the end the following:*

*"(7) in each of such small business cases—*

*"(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—*

*"(i) begin to investigate the debtor's viability;*

*"(ii) inquire about the debtor's business plan;*

*"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;*

*"(iv) attempt to develop an agreed scheduling order; and*

*"(v) inform the debtor of other obligations;*

*"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and*

*"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and*

*"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".*

### SEC. 440. SCHEDULING CONFERENCES.

*Section 105(d) of title 11, United States Code, is amended—*

*(1) in the matter preceding paragraph (1), by striking ", may"; and*

*(2) by striking paragraph (1) and inserting the following:*

*"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".*

### SEC. 441. SERIAL FILER PROVISIONS.

*Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—*

*(1) in subsection (k), as so redesignated by section 305—*

*(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and*

*(B) by adding at the end the following:*

*"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and*

*(2) by adding at the end the following:*

*"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—*

*"(A) is a debtor in a small business case pending at the time the petition is filed;*

*"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;*

*"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or*

*"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.*

*"(2) Paragraph (1) does not apply—*

*"(A) to an involuntary case involving no collusion by the debtor with creditors; or*

*"(B) to the filing of a petition if—*

*"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and*

*"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".*

### SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

*(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:*

*"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.*

*"(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—*

*"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and*

*"(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—*

*"(i) for which there exists a reasonable justification for the act or omission; and*

*"(ii) that will be cured within a reasonable period of time fixed by the court.*

*"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.*

*"(4) For purposes of this subsection, the term 'cause' includes—*

*"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;*

*"(B) gross mismanagement of the estate;*

*"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;*

*"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;*

*"(E) failure to comply with an order of the court;*

*"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;*

*"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;*

*"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);*

*"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;*

*"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;*

*"(K) failure to pay any fees or charges required under chapter 123 of title 28;*

*"(L) revocation of an order of confirmation under section 1144;*

*"(M) inability to effectuate substantial consummation of a confirmed plan;*

*"(N) material default by the debtor with respect to a confirmed plan;*

*"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and*

*"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.*

*"(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".*

*(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—*

*(1) in paragraph (1), by striking "or" at the end;*

*(2) in paragraph (2), by striking the period at the end and inserting "; or"; and*

*(3) by adding at the end the following:*

*"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".*

### SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

*Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—*

*(1) conduct a study to determine—*

*(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and*

*(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and*

*(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.*

### SEC. 444. PAYMENT OF INTEREST.

*Section 362(d)(3) of title 11, United States Code, is amended—*

*(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and*

*(2) by striking subparagraph (B) and inserting the following:*

*"(B) the debtor has commenced monthly payments that—*

*"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and*

*"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".*

### SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

*Section 503(b) of title 11, United States Code, is amended—*

*(1) in paragraph (5), by striking "and" at the end;*

*(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".*

### SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

*(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—*

*(1) in paragraph (5), by striking "and" at the end;*

*(2) in paragraph (6), by striking the period at the end and inserting "; and"; and*

*(3) by adding after paragraph (6) the following:*

*"(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.".*

*(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—*

*(1) in paragraph (10), by striking "and" at the end; and*

*(2) by adding at the end the following:*

*"(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and".*

*(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:*

*"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;".*

### SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

*Section 1114(d) of title 11, United States Code, is amended—*

*(1) by striking "appoint" and inserting "order the appointment of", and*

*(2) by adding at the end the following: "The United States trustee shall appoint any such committee.".*

## TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

### SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

*(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.*

*(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—*

*(1) by inserting "(a)" before "A voluntary"; and*

*(2) by striking the last sentence and inserting the following:*

*"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".*

### SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

*Section 901(a) of title 11, United States Code, is amended—*

*(1) by inserting "555, 556," after "553,"; and*

*(2) by inserting "559, 560, 561, 562," after "557,".*

## TITLE VI—BANKRUPTCY DATA

### SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

*(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:*

**"§ 159. Bankruptcy statistics**

*"(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').*

*"(b) The Director shall—*

*"(1) compile the statistics referred to in subsection (a);*

*"(2) make the statistics available to the public; and*

*"(3) not later than July 1, 2006, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.*

*"(c) The compilation required under subsection (b) shall—*

*"(1) be itemized, by chapter, with respect to title 11;*

*"(2) be presented in the aggregate and for each district; and*

*"(3) include information concerning—*

*"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;*

*"(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;*

*"(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;*

*"(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;*

*"(E) for cases closed during the reporting period—*

*"(i) the number of cases in which a reaffirmation agreement was filed; and*

*"(ii)(I) the total number of reaffirmation agreements filed;*

*"(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and*

*"(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;*

*"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—*

*"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and*

*"(II) the number of final orders entered determining the value of property securing a claim;*

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.".

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

**"§ 589b. Bankruptcy data**

"(a) Rules.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

"(b) Reports.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) Required Information.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) Final Reports.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) Periodic Reports.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) Clerical Amendment.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

### SEC. 603. AUDIT PROCEDURES.

(a) In General.—

(1) Establishment of procedures.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) Procedures.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) Amendments.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) Amendments to Section 521 of Title 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting "or an auditor serving under section 586(f) of title 28" after "serving in the case".

(d) Amendments to Section 727 of Title 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should

*be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and*

*(2) there should be established a bankruptcy data system in which—*

*(A) a single set of data definitions and forms are used to collect data nationwide; and*

*(B) data for any particular bankruptcy case are aggregated in the same electronic record.*

## *TITLE VII—BANKRUPTCY TAX PROVISIONS*

### *SEC. 701. TREATMENT OF CERTAIN LIENS.*

*(a) Treatment of Certain Liens.—Section 724 of title 11, United States Code, is amended—*

*(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";*

*(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and*

*(3) by adding at the end the following:*

*"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—*

*"(1) exhaust the unencumbered assets of the estate; and*

*"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.*

*"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:*

*"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).*

*"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".*

*(b) Determination of Tax Liability.—Section 505(a)(2) of title 11, United States Code, is amended—*

*(1) in subparagraph (A), by striking "or" at the end;*

*(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and*

*(3) by adding at the end the following:*

*"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".*

### *SEC. 702. TREATMENT OF FUEL TAX CLAIMS.*

*Section 501 of title 11, United States Code, is amended by adding at the end the following:*

*"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.".*

### *SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.*

*Section 505(b) of title 11, United States Code, is amended—*

*(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";*

*(2) by striking "(1) upon payment" and inserting "(A) upon payment";*

*(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";*

*(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";*

*(5) by striking "(2) upon payment" and inserting "(B) upon payment";*

*(6) by striking "(3) upon payment" and inserting "(C) upon payment";*

*(7) by striking "(b)" and inserting "(2)"; and*

*(8) by inserting before paragraph (2), as so designated, the following:*

*"(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—*

*"(i) designate an address for service of requests under this subsection; and*

*"(ii) describe where further information concerning additional requirements for filing such requests may be found.*

*"(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.".*

### *SEC. 704. RATE OF INTEREST ON TAX CLAIMS.*

*(a) In General.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:*

#### *"§511. Rate of interest on tax claims*

*"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.*

*"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".*

*(b) Clerical Amendment.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:*

*"511. Rate of interest on tax claims.".*

### *SEC. 705. PRIORITY OF TAX CLAIMS.*

*Section 507(a)(8) of title 11, United States Code, is amended—*

*(1) in subparagraph (A)—*

*(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of the filing of the petition" after "gross receipts";*

*(B) in clause (i), by striking "for a taxable year ending on or before the date of the filing of the petition"; and*

*(C) by striking clause (ii) and inserting the following:*

*"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—*

*"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and*

*"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days."; and*

*(2) by adding at the end the following:*

*"An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".*

### *SEC. 706. PRIORITY PROPERTY TAXES INCURRED.*

*Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".*

### *SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.*

*Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".*

### *SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.*

*Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:*

*"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—*

*"(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or*

*"(B) for a tax or customs duty with respect to which the debtor—*

*"(i) made a fraudulent return; or*

*"(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.".*

### *SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.*

*Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title".*

### *SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.*

*Section 1129(a)(9) of title 11, United States Code, is amended—*

*(1) in subparagraph (B), by striking "and" at the end;*

*(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—*

*"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;*

*"(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and*

*"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and*

*(3) by adding at the end the following:*

*"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".*

### *SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.*

*Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".*

### *SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.*

*(a) Payment of Taxes Required.—Section 960 of title 28, United States Code, is amended—*

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) Payment of Ad Valorem Taxes Required.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) Request for Payment of Administrative Expense Taxes Eliminated.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) Payment of Taxes and Fees as Secured Claims.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

### SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

### SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

### SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting "the estate," after "misrepresentation,".

### SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) Filing of Prepetition Tax Returns Required for Plan Confirmation.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) Additional Time Permitted for Filing Tax Returns.—

(1) In General.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

**"§ 1308. Filing of prepetition tax returns**

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) Conforming Amendment.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"1308. Filing of prepetition tax returns.".

(c) Dismissal or Conversion on Failure To Comply.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) Timely Filed Claims.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) Rules for Objections to Claims and to Confirmation.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

### SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records,"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

### SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);''.

### SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) In General.—

(1) Special Provisions.—Section 346 of title 11, United States Code, is amended to read as follows:

**"§346. Special provisions related to the treatment of State and local taxes**

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

"(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

"(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

"(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

"(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

"(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

"(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

"(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

"(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(2) Clerical Amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

"346. Special provisions related to the treatment of State and local taxes.''.

(b) Conforming Amendments.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

### SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

"(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

## TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

### SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) In General.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

### "CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.
"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition.
"1516. Presumptions concerning recognition.
"1517. Order granting recognition.
"1518. Subsequent information.
"1519. Relief that may be granted upon filing petition for recognition.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.
"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.

"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

### "§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

## "SUBCHAPTER I—GENERAL PROVISIONS

### "§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

### "§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

### "§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

### "§ 1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

### "§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

### "§ 1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

### "§ 1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

## "SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

### "§ 1509. Right of direct access

"(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

"(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

"(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

"(3) a court in the United States shall grant comity or cooperation to the foreign representative.

"(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

"(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

"(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

### "§ 1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

### "§ 1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

### "§ 1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

### "§ 1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

*“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.*

### “§ 1514. Notification to foreign creditors concerning a case under this title

*“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.*

*“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.*

*“(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—*

*“(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;*

*“(2) indicate whether secured creditors need to file proofs of claim; and*

*“(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.*

*“(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.*

## “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

### “§ 1515. Application for recognition

*“(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.*

*“(b) A petition for recognition shall be accompanied by—*

*“(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;*

*“(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or*

*“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.*

*“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.*

*“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.*

### “§ 1516. Presumptions concerning recognition

*“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.*

*“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.*

*“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.*

### “§ 1517. Order granting recognition

*“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—*

*“(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;*

*“(2) the foreign representative applying for recognition is a person or body; and*

*“(3) the petition meets the requirements of section 1515.*

*“(b) Such foreign proceeding shall be recognized—*

*“(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or*

*“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.*

*“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.*

*“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.*

### “§ 1518. Subsequent information

*“From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—*

*“(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and*

*“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.*

### “§ 1519. Relief that may be granted upon filing petition for recognition

*“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—*

*“(1) staying execution against the debtor's assets;*

*“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and*

*“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).*

*“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.*

*“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.*

*“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.*

*“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.*

*“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.*

### “§ 1520. Effects of recognition of a foreign main proceeding

*“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—*

*“(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;*

*“(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;*

*“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and*

*“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.*

*“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.*

*“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.*

### “§ 1521. Relief that may be granted upon recognition

*“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—*

*“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);*

*“(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);*

*“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);*

*“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;*

*“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;*

*“(6) extending relief granted under section 1519(a); and*

*“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).*

*“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.*

*“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates*

*to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.*

*"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.*

*"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).*

*"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.*

### *"§ 1522. Protection of creditors and other interested persons*

*"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.*

*"(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.*

*"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.*

*"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.*

### *"§ 1523. Actions to avoid acts detrimental to creditors*

*"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).*

*"(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.*

### *"§ 1524. Intervention by a foreign representative*

*"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.*

## *"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES*

### *"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives*

*"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.*

*"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.*

### *"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives*

*"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.*

*"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.*

### *"§ 1527. Forms of cooperation*

*"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—*

*"(1) appointment of a person or body, including an examiner, to act at the direction of the court;*

*"(2) communication of information by any means considered appropriate by the court;*

*"(3) coordination of the administration and supervision of the debtor's assets and affairs;*

*"(4) approval or implementation of agreements concerning the coordination of proceedings; and*

*"(5) coordination of concurrent proceedings regarding the same debtor.*

## *"SUBCHAPTER V—CONCURRENT PROCEEDINGS*

### *"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding*

*"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.*

### *"§ 1529. Coordination of a case under this title and a foreign proceeding*

*"If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:*

*"(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—*

*"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and*

*"(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.*

*"(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—*

*"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and*

*"(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.*

*"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.*

*"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.*

### *"§ 1530. Coordination of more than 1 foreign proceeding*

*"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:*

*"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.*

*"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.*

*"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.*

### *"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding*

*"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.*

### *"§ 1532. Rule of payment in concurrent proceedings*

*"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".*

*(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:*

***"15. Ancillary and Other Cross-Border Cases .......................................... 1501".***

### SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

*(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—*

*(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and*

*(2) by adding at the end the following:*

*"(k) Chapter 15 applies only in a case under such chapter, except that—*

*"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and*

*"(2) section 1509 applies whether or not a case under this title is pending.".*

*(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:*

*"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;*

*"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;".*

*(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—*

*(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—*

*(A) in subparagraph (N), by striking "and" at the end;*

*(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".*

*(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".*

*(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".*

*(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:*

***"§ 1410. Venue of cases ancillary to foreign proceedings***

*"A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—*

*"(1) in which the debtor has its principal place of business or principal assets in the United States;*

*"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or*

*"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".*

*(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—*

*(1) in section 109(b), by striking paragraph (3) and inserting the following:*

*"(3)(A) a foreign insurance company, engaged in such business in the United States; or*

*"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.";*

*(2) in section 303, by striking subsection (k);*

*(3) by striking section 304;*

*(4) in the table of sections for chapter 3 by striking the item relating to section 304;*

*(5) in section 306 by striking ", 304," each place it appears;*

*(6) in section 305(a) by striking paragraph (2) and inserting the following:*

*"(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and*

*"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension."; and*

*(7) in section 508—*

*(A) by striking subsection (a); and*

*(B) in subsection (b), by striking "(b)".*

## TITLE IX—FINANCIAL CONTRACT PROVISIONS

### SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

*(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—*

*(1) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and*

*(2) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".*

*(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:*

*"(ii) SECURITIES CONTRACT.—The term 'securities contract'—*

*"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;*

*"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;*

*"(III) means any option entered into on a national securities exchange relating to foreign currencies;*

*"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;*

*"(V) means any margin loan;*

*"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;*

*"(VII) means any combination of the agreements or transactions referred to in this clause;*

*"(VIII) means any option to enter into any agreement or transaction referred to in this clause;*

*"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and*

*"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".*

*(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:*

*"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—*

*"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;*

*"(II) with respect to a foreign futures commission merchant, a foreign future;*

*"(III) with respect to a leverage transaction merchant, a leverage transaction;*

*"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;*

*"(V) with respect to a commodity options dealer, a commodity option;*

*"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;*

*"(VII) any combination of the agreements or transactions referred to in this clause;*

*"(VIII) any option to enter into any agreement or transaction referred to in this clause;*

*"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or*

*"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".*

*(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:*

*"(iv) FORWARD CONTRACT.—The term 'forward contract' means—*

*"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;*

*"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);*

*"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);*

*"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or*

*"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".*

*(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:*

*"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—*

*"(I) means an agreement, including related terms, which provides for the transfer of one or*

more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(B) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(C) by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

**SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.**

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

**SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.**

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

### SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other *than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and*

*(2) by adding at the end the following new subsection:*

*''(f) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.*

*(c) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—*

*(1) by striking subsection (a) and inserting the following:*

*''(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and*

*(2) by adding at the end the following new subsection:*

*''(h) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.*

*(d) Enforceability of Contracts With Uninsured National Banks, Uninsured Federal Branches and Agencies, Certain Uninsured State Member Banks, and Edge Act Corporations.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—*

*(1) by redesignating section 407 as section 407A; and*

*(2) by inserting after section 406 the following new section:*

### ***"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.***

*''(a) In General.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—*

*''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;*

*''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and*

*''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.*

*''(b) Liability.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.*

*''(c) Regulatory Authority.—*

*''(1) In general.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.*

*''(2) Specific requirement.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.*

*''(d) Definitions.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.*

### ***SEC. 907. BANKRUPTCY LAW AMENDMENTS.***

*(a) Definitions of Forward Contract, Repurchase Agreement, Securities Clearing Agency, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—*

*(1) in section 101—*

*(A) in paragraph (25)—*

*(i) by striking ''means a contract'' and inserting ''means—*

*''(A) a contract'';*

*(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and*

*(iii) by adding at the end the following:*

*''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);*

*''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);*

*''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or*

*''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';*

*(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';*

*(C) by amending paragraph (47) to read as follows:*

*''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—*

*''(A) means—*

*''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;*

*''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);*

*''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);*

*''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered*

*to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or*

*"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and*

*"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";*

*(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and*

*(E) by amending paragraph (53B) to read as follows:*

*"(53B) 'swap agreement'—*

*"(A) means—*

*"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—*

*"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;*

*"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;*

*"(III) a currency swap, option, future, or forward agreement;*

*"(IV) an equity index or equity swap, option, future, or forward agreement;*

*"(V) a debt index or debt swap, option, future, or forward agreement;*

*"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;*

*"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or*

*"(VIII) a weather swap, weather derivative, or weather option;*

*"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—*

*"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and*

*"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;*

*"(iii) any combination of agreements or transactions referred to in this subparagraph;*

*"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;*

*"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or*

*"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and*

*"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";*

*(2) in section 741(7), by striking paragraph (7) and inserting the following:*

*"(7) 'securities contract'—*

*"(A) means—*

*"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;*

*"(ii) any option entered into on a national securities exchange relating to foreign currencies;*

*"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;*

*"(iv) any margin loan;*

*"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;*

*"(vi) any combination of the agreements or transactions referred to in this subparagraph;*

*"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;*

*"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or*

*"(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and*

*"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and*

*(3) in section 761(4)—*

*(A) by striking "or" at the end of subparagraph (D); and*

*(B) by adding at the end the following:*

*"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;*

*"(G) any combination of the agreements or transactions referred to in this paragraph;*

*"(H) any option to enter into an agreement or transaction referred to in this paragraph;*

*"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or*

*"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".*

*(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, is amended—*

*(1) by striking paragraph (22) and inserting the following:*

*"(22) 'financial institution' means—*

*"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or*

*"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";*

*(2) by inserting after paragraph (22) the following:*

*"(22A) 'financial participant' means—*

*"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or*

*"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and*

*(3) by striking paragraph (26) and inserting the following:*

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant"; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§560. Contractual right to liquidate, terminate, or accelerate a swap agreement"**;

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

### "§561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

*"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—*

*"(1) securities contracts, as defined in section 741(7);*

*"(2) commodity contracts, as defined in section 761(4);*

*"(3) forward contracts;*

*"(4) repurchase agreements;*

*"(5) swap agreements; or*

*"(6) master netting agreements,*

*shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.*

*"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.*

*"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—*

*"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and*

*"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).*

*"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—*

*"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or*

*"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.*

*"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.*

*"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".*

*(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:*

*"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".*

*(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:*

### "§767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

*"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".*

*(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:*

### "§753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

*"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".*

*(n) SETOFF.—Section 553 of title 11, United States Code, is amended—*

*(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";*

*(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and*

*(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".*

*(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—*

*(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";*

*(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;*

*(3) in section 546(e), by inserting "financial participant," after "financial institution,";*

*(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";*

*(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";*

*(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";*

*(7) in section 555—*

*(A) by inserting "financial participant," after "financial institution,"; and*

*(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";*

*(8) in section 556, by inserting ", financial participant," after "commodity broker";*

*(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and*

*(10) in section 560, by inserting "or financial participant" after "swap participant".*

*(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—*

*(1) in the table of sections for chapter 5—*

*(A) by amending the items relating to sections 555 and 556 to read as follows:*

*"555. Contractual right to liquidate, terminate, or accelerate a securities contract.*

*"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";*

*and*

*(B) by amending the items relating to sections 559 and 560 to read as follows:*

*"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.*

*"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";*

*and*

*(2) in the table of sections for chapter 7—*

*(A) by inserting after the item relating to section 766 the following:*

*"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";*

*and*

*(B) by inserting after the item relating to section 752 the following:*

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

### SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

### SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

## TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

### SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

### SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

### SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

### SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

### SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

*(1) in subparagraph (A) by striking "or" at the end;*

*(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and*

*(3) by adding at the end the following:*

*"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".*

*(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:*

*"(d) A plan may not be modified under this section—*

*"(1) to increase the amount of any payment due before the plan as modified becomes the plan;*

*"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or*

*"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".*

### SEC. 1007. FAMILY FISHERMEN.

*(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—*

*(1) by inserting after paragraph (7) the following:*

*"(7A) 'commercial fishing operation' means—*

*"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or*

*"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);*

*"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and*

*(2) by inserting after paragraph (19) the following:*

*"(19A) 'family fisherman' means—*

*"(A) an individual or individual and spouse engaged in a commercial fishing operation—*

*"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and*

*"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or*

*"(B) a corporation or partnership—*

*"(i) in which more than 50 percent of the outstanding stock or equity is held by—*

*"(I) 1 family that conducts the commercial fishing operation; or*

*"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and*

*"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;*

*"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and*

*"(III) if such corporation issues stock, such stock is not publicly traded;*

*"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".*

*(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".*

*(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—*

*(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";*

*(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and*

*(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".*

*(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:*

***"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .............. 1201".***

*(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).*

## TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

### SEC. 1101. DEFINITIONS.

*(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—*

*(1) by redesignating paragraph (27A) as paragraph (27B); and*

*(2) by inserting after paragraph (27) the following:*

*"(27A) 'health care business'—*

*"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—*

*"(i) the diagnosis or treatment of injury, deformity, or disease; and*

*"(ii) surgical, drug treatment, psychiatric, or obstetric care; and*

*"(B) includes—*

*"(i) any—*

*"(I) general or specialized hospital;*

*"(II) ancillary ambulatory, emergency, or surgical treatment facility;*

*"(III) hospice;*

*"(IV) home health agency; and*

*"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and*

*"(ii) any long-term care facility, including any—*

*"(I) skilled nursing facility;*

*"(II) intermediate care facility;*

*"(III) assisted living facility;*

*"(IV) home for the aged;*

*"(V) domiciliary care facility; and*

*"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".*

*(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:*

*"(40A) 'patient' means any individual who obtains or receives services from a health care business;*

*"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".*

*(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.*

### SEC. 1102. DISPOSAL OF PATIENT RECORDS.

*(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:*

***"§351. Disposal of patient records***

*"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:*

*"(1) The trustee shall—*

*"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and*

*"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.*

*"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.*

*"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—*

*"(A) if the records are written, shredding or burning the records; or*

*"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".*

*(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:*

*"351. Disposal of patient records.".*

### SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

*Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:*

*"(8) the actual, necessary costs and expenses of closing a health care business incurred by a*

*trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—*

*“(A) in disposing of patient records in accordance with section 351; or*

*“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and”.*

### *SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.*

*(a) Ombudsman To Act as Patient Advocate.—*

*(1) Appointment of ombudsman.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:*

**“§ 333. Appointment of patient care ombudsman**

*“(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.*

*“(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.*

*“(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).*

*“(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).*

*“(b) An ombudsman appointed under subsection (a) shall—*

*“(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;*

*“(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and*

*“(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.*

*“(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.*

*“(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.”.*

*(2) Clerical amendment.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:*

*“333. Appointment of ombudsman.”.*

*(b) Compensation of Ombudsman.—Section 330(a)(1) of title 11, United States Code, is amended—*

*(1) in the matter preceding subparagraph (A), by inserting “an ombudsman appointed under section 333, or” before “a professional person”; and*

*(2) in subparagraph (A), by inserting “ombudsman,” before “professional person”.*

### *SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.*

*(a) In General.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:*

*“(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—*

*“(A) is in the vicinity of the health care business that is closing;*

*“(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and*

*“(C) maintains a reasonable quality of care.”.*

*(b) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking “and (11)” and inserting “(11), and (12)”.*

### *SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.*

*Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:*

*“(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).”.*

## *TITLE XII—TECHNICAL AMENDMENTS*

### *SEC. 1201. DEFINITIONS.*

*Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—*

*(1) by striking “In this title—” and inserting “In this title the following definitions shall apply:”;*

*(2) in each paragraph, by inserting “The term” after the paragraph designation;*

*(3) in paragraph (35)(B), by striking “paragraphs (21B) and (33)(A)” and inserting “paragraphs (23) and (35)”;*

*(4) in each of paragraphs (35A), (38), and (54A), by striking “; and” at the end and inserting a period;*

*(5) in paragraph (51B)—*

*(A) by inserting “who is not a family farmer” after “debtor” the first place it appears; and*

*(B) by striking “thereto having aggregate” and all that follows through the end of the paragraph and inserting a semicolon;*

*(6) by striking paragraph (54) and inserting the following:*

*“(54) The term ‘transfer’ means—*

*“(A) the creation of a lien;*

*“(B) the retention of title as a security interest;*

*“(C) the foreclosure of a debtor’s equity of redemption; or*

*“(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—*

*“(i) property; or*

*“(ii) an interest in property;”;*

*(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and*

*(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.*

### *SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.*

*Section 104 of title 11, United States Code, is amended by inserting “522(f)(3),” after “522(d),” each place it appears.*

### *SEC. 1203. EXTENSION OF TIME.*

*Section 108(c)(2) of title 11, United States Code, is amended by striking “922” and all that follows through “or”, and inserting “922, 1201, or”.*

### *SEC. 1204. TECHNICAL AMENDMENTS.*

*Title 11, United States Code, is amended—*

*(1) in section 109(b)(2), by striking “subsection (c) or (d) of”; and*

*(2) in section 552(b)(1), by striking “product” each place it appears and inserting “products”.*

### *SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.*

*Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking “attorney’s” and inserting “attorneys’ ”.*

### *SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.*

*Section 328(a) of title 11, United States Code, is amended by inserting “on a fixed or percentage fee basis,” after “hourly basis,”.*

### *SEC. 1207. EFFECT OF CONVERSION.*

*Section 348(f)(2) of title 11, United States Code, is amended by inserting “of the estate” after “property” the first place it appears.*

### *SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.*

*Section 503(b)(4) of title 11, United States Code, is amended by inserting “subparagraph (A), (B), (C), (D), or (E) of” before “paragraph (3)”.*

### *SEC. 1209. EXCEPTIONS TO DISCHARGE.*

*Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—*

*(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);*

*(2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, vessel, or aircraft”; and*

*(3) in subsection (e), by striking “a insured” and inserting “an insured”.*

### *SEC. 1210. EFFECT OF DISCHARGE.*

*Section 524(a)(3) of title 11, United States Code, is amended by striking “section 523” and all that follows through “or that” and inserting “section 523, 1228(a)(1), or 1328(a)(1), or that”.*

### *SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.*

*Section 525(c) of title 11, United States Code, is amended—*

*(1) in paragraph (1), by inserting “student” before “grant” the second place it appears; and*

*(2) in paragraph (2), by striking “the program operated under part B, D, or E of” and inserting “any program operated under”.*

### *SEC. 1212. PROPERTY OF THE ESTATE.*

*Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting “365 or” before “542”.*

### *SEC. 1213. PREFERENCES.*

*(a) In General.—Section 547 of title 11, United States Code, as amended by section 201, is amended—*

*(1) in subsection (b), by striking “subsection (c)” and inserting “subsections (c) and (i)”; and*

*(2) by adding at the end the following:*

*“(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the*

*debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.*

*(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.*

### SEC. 1214. POSTPETITION TRANSACTIONS.

*Section 549(c) of title 11, United States Code, is amended—*

*(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;*

*(2) by striking ''such property'' and inserting ''such real property''; and*

*(3) by striking ''the interest'' and inserting ''such interest''.*

### SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

*Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.*

### SEC. 1216. GENERAL PROVISIONS.

*Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.*

### SEC. 1217. ABANDONMENT OF RAILROAD LINE.

*Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.*

### SEC. 1218. CONTENTS OF PLAN.

*Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.*

### SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

*Section 1334(d) of title 28, United States Code, is amended—*

*(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and*

*(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.*

### SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

*Section 156(a) of title 18, United States Code, is amended—*

*(1) in the first undesignated paragraph—*

*(A) by inserting ''(1) the term'' before '''bankruptcy''; and*

*(B) by striking the period at the end and inserting ''; and''; and*

*(2) in the second undesignated paragraph—*

*(A) by inserting ''(2) the term'' before '''document''; and*

*(B) by striking ''this title'' and inserting ''title 11''.*

### SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

*(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—*

*''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and*

*''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.*

*(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:*

*''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.*

*(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:*

*''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.*

*(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.*

*(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.*

### SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

*Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.*

### SEC. 1223. BANKRUPTCY JUDGESHIPS.

*(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 2003''.*

*(b) TEMPORARY JUDGESHIPS.—*

*(1) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:*

*(A) One additional bankruptcy judge for the eastern district of California.*

*(B) Three additional bankruptcy judges for the central district of California.*

*(C) Four additional bankruptcy judges for the district of Delaware.*

*(D) Two additional bankruptcy judges for the southern district of Florida.*

*(E) One additional bankruptcy judge for the southern district of Georgia.*

*(F) Three additional bankruptcy judges for the district of Maryland.*

*(G) One additional bankruptcy judge for the eastern district of Michigan.*

*(H) One additional bankruptcy judge for the southern district of Mississippi.*

*(I) One additional bankruptcy judge for the district of New Jersey.*

*(J) One additional bankruptcy judge for the eastern district of New York.*

*(K) One additional bankruptcy judge for the northern district of New York.*

*(L) One additional bankruptcy judge for the southern district of New York.*

*(M) One additional bankruptcy judge for the eastern district of North Carolina.*

*(N) One additional bankruptcy judge for the eastern district of Pennsylvania.*

*(O) One additional bankruptcy judge for the middle district of Pennsylvania.*

*(P) One additional bankruptcy judge for the district of Puerto Rico.*

*(Q) One additional bankruptcy judge for the western district of Tennessee.*

*(R) One additional bankruptcy judge for the eastern district of Virginia.*

*(S) One additional bankruptcy judge for the district of South Carolina.*

*(T) One additional bankruptcy judge for the district of Nevada.*

*(2) VACANCIES.—*

*(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—*

*(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and*

*(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;*

*shall not be filled.*

*(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—*

*(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and*

*(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;*

*shall not be filled.*

*(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—*

*(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and*

*(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;*

*shall not be filled.*

*(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—*

*(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and*

*(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;*

*shall not be filled.*

*(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—*

*(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and*

*(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;*

*shall not be filled.*

*(c) EXTENSIONS.—*

*(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.*

*(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.*

*(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—*

*(1) in paragraph (1), by striking the first sentence and inserting the following: ''Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of the United States for the circuit in which such district is located.''; and*

*(2) in paragraph (2)—*

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

### SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;".

### SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

### SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

### SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

### SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

### SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

"(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or".

### SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

### SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

### SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

*(2) in subsection (d)—*

*(A) by inserting "(1)" after "(d)"; and*

*(B) by adding at the end the following:*

*"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—*

*"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;*

*"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or*

*"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;*

*and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.*

*"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—*

*"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or*

*"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);*

*then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).*

*"(C) The parties may supplement the certification with a short statement of the basis for the certification.*

*"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.*

*"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".*

*(b) PROCEDURAL RULES.—*

*(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.*

*(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.*

*(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—*

*(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and*

*(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.*

*(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—*

*(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and*

*(B) have attached a copy of such certification.*

*(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—*

*(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and*

*(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.*

*(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.*

### ***SEC. 1234. INVOLUNTARY CASES.***

*(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—*

*(1) in subsection (b)(1), by—*

*(A) inserting "as to liability or amount" after "bona fide dispute"; and*

*(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and*

*(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.*

*(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.*

### ***SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.***

*Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:*

*"(14B) incurred to pay fines or penalties imposed under Federal election law;".*

## ***TITLE XIII—CONSUMER CREDIT DISCLOSURE***

### ***SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.***

*(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:*

*"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).*

*"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).*

*"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: __________.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).*

*"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).*

*"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).*

*"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).*

*"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in*

section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: __________.' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

### SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional *materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—*

*"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;*

*"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and*

*"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.*

*"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.*

*"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—*

*"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and*

*"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—*

*"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or*

*"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.*

*"(D) DEFINITIONS.—In this paragraph—*

*"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and*

*"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.*

*"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".*

*(b) REGULATORY IMPLEMENTATION.—*

*(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.*

*(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—*

*(A) 12 months after the date of enactment of this Act; or*

*(B) 12 months after the date of publication of such final regulations by the Board.*

### SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

*(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:*

*"(7) INTERNET-BASED SOLICITATIONS.—*

*"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—*

*"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and*

*"(ii) the information described in paragraph (6).*

*"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—*

*"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and*

*"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.*

*"(C) DEFINITIONS.—For purposes of this paragraph—*

*"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and*

*"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".*

*(b) REGULATORY IMPLEMENTATION.—*

*(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.*

*(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—*

*(A) 12 months after the date of enactment of this Act; or*

*(B) 12 months after the date of publication of such final regulations by the Board.*

### SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

*(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:*

*"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:*

*"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.*

*"(B) The amount of the late payment fee to be imposed if payment is made after such date.".*

*(b) REGULATORY IMPLEMENTATION.—*

*(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.*

*(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—*

*(A) 12 months after the date of enactment of this Act; or*

*(B) 12 months after the date of publication of such final regulations by the Board.*

### SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

*(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:*

*"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".*

*(b) REGULATORY IMPLEMENTATION.—*

*(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.*

*(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—*

*(A) 12 months after the date of enactment of this Act; or*

*(B) 12 months after the date of publication of such final regulations by the Board.*

### SEC. 1307. DUAL USE DEBIT CARD.

*(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.*

*(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—*

*(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;*

*(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and*

*(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.*

### SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

*(a) STUDY.—*

*(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.*

*(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—*

*(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and*

*(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.*

*(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).*

### *SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.*

*(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.*

*(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).*

*(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.*

## *TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS*

### *SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.*

*(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.*

*(b) APPLICATION OF AMENDMENTS.—*

*(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.*

*(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.*

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–42. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–42.

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Strike section 901 of the bill, as reported, and all that follows through section 905 and insert the following new sections:

### SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Board determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

‘‘(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.’’.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

‘‘(iii) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

‘‘(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

‘‘(II) with respect to a foreign futures commission merchant, a foreign future;

‘‘(III) with respect to a leverage transaction merchant, a leverage transaction;

‘‘(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

‘‘(V) with respect to a commodity options dealer, a commodity option;

‘‘(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

‘‘(VII) any combination of the agreements or transactions referred to in this clause;

‘‘(VIII) any option to enter into any agreement or transaction referred to in this clause;

‘‘(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

‘‘(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.’’.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

‘‘(iii) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

‘‘(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

‘‘(II) with respect to a foreign futures commission merchant, a foreign future;

‘‘(III) with respect to a leverage transaction merchant, a leverage transaction;

‘‘(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by suchclearing organization;

‘‘(V) with respect to a commodity options dealer, a commodity option;

‘‘(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

‘‘(VII) any combination of the agreements or transactions referred to in this clause;

‘‘(VIII) any option to enter into any agreement or transaction referred to in this clause;

‘‘(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

‘‘(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.’’.

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

‘‘(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

‘‘(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

‘‘(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

‘‘(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

‘‘(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

‘‘(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.’’.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

‘‘(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

‘‘(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

‘‘(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

‘‘(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

‘‘(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

‘‘(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.’’.

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

‘‘(v) REPURCHASE AGREEMENT.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

‘‘(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

‘‘(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap.future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

**SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.**

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

**SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.**

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

In the amendment made by section 906(b)(1) of the bill to section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert ", paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act," after "Deposit Insurance Act".

In the amendment made by section 906(b)(2) of the bill, adding a new subsection (f) at the end of section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert ", paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act," after "Deposit Insurance Act".

In the amendment made by section 906(c)(1) of the bill to section 404(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert ", paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act," after "Deposit Insurance Act".

In the amendment made by section 906(c)(2) of the bill, adding a new subsection (h) at the end of section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert ", paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act," after "Deposit Insurance Act".

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, strike "trust company, or receiver" (where such term appears in subparagraph (A) of the paragraph proposed to be inserted) and insert "trust company, federally-insured credit union, or receiver, liquidating agent,".

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, insert "liquidating agent," after "receiver," (the 2d place such term appears in subparagraph (A) of the paragraph proposed to be inserted).

In section 908 of the bill, strike "Section 11(e)(8)" and insert "(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)".

Insert the following new subsection at the end of section 908 of the bill:

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Pennsylvania (Mr. TOOMEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I yield myself such time as I may consume.

I want to discuss briefly the derivative transactions which this amendment addresses. I should point out that with the possible exceptions of mutual funds, derivatives contracts, including over-the-counter derivatives, are perhaps the most important, creative and innovative development in finance in the last 30 years. Derivatives are financial contracts used by parties wishing to hedge the risk of fluctuations in the value of some commodity, often a financial commodity such as interest rates.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. TOOMEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I am happy to support the gentleman's amendment. I think it makes a useful addition to this legislation. Basically it extends the types of protections that are contained in the bill to credit unions. I think that this plugs a loophole. I hope that his amendment is approved.

Mr. TOOMEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member seek the time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–42.

Does any Member in the Chamber seek to offer the amendment?

It is now in order to consider amendment No. 3 printed in House Report 108–42.

AMENDMENT NO. 3 OFFERED BY MR. CANNON

Mr. CANNON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CANNON:

Add at the end the following:

**TITLE —PREVENTING CORPORATE BANKRUPTCY ABUSE**

**SEC. 01. EMPLOYEE WAGE AND BENEFIT PRIORITIES.**

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking "90" and inserting "180", and

(2) in paragraphs (3) and (4) by striking "$4,000" and inserting "$10,000".

**SEC. 02. FRAUDULENT TRANSFERS AND OBLIGATIONS.**

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking "one year" and inserting "2 years",

(2) in subsection (a)—

(A) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "transfer" the 1st place it appears, and

(B) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "obligation" the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking "or" at the end,

(B) in subclause (III) by striking the period at the end and inserting "; or", and

(C) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.".

**SEC. 03. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.**

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

"(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

"(1) modified retiree benefits; and

"(2) was insolvent on the date such benefits were modified; the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.".

**SEC. 04. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 3(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Utah (Mr. CANNON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah (Mr. CANNON).

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Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, Global Crossing, and others. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefits.

Mr. Chairman, I have an amendment made in order by the rule and ask for its immediate consideration.

This amendment, which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, and Global Crossing. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reachback period for wage claims from 90 days to 180 days.

The second provision of the amendment benefits employees and creditors alike. It increases the reachback period during which fraudulent transfers can be rescinded from one to two years and provides that outrageous compensation payments, bonuses and other perks given to a corporation's insiders during the reachback period can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

The third component of this amendment requires the court to reinstate retiree benefits that a corporate debtor modified within the 180-day period preceding the bankruptcy filing, unless the balance of the equities justifies the modification.

These provisions reflect sound bankruptcy policy and effectuate meaningful reforms. I urge my colleagues on both sides of the aisle to support this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I believe this is also a constructive amendment and would hope that the committee would approve it. It increases a wage priority. It strengthens the law to make voidable fraudulent transfers and excessive compensation and also provides better protection for employee health care benefits. All three of these I believe are very good ideas, and I would urge that the amendment be approved.

The CHAIRMAN. Does any Member seek the time in opposition to the amendment offered by the gentleman from Utah?

Mr. CANNON. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I appreciate the gentleman yielding me this time.

I want to commend him and congratulate him for his leadership on this issue. I believe this is a very sound amendment. It is a good initial step, and I would seek the time for the purpose of engaging in a colloquy with my friend, the gentleman from Utah.

Mr. Chairman, by increasing the monetary cap on wage and employee benefit claims and lengthening the reach-back period for wage claims, the amendment increases the likelihood that lower-wage workers would get back some of the money they are owed. That is an excellent start. But at some later point, I hope in time for the House-Senate conference on this bill, I would like us to focus on the treatment of severance payments under current bankruptcy law. Some Courts have held that these payments should be prorated over the entire course of the individual's employment. As a result, only the small fraction of the severance payment that is attributed to the reach-back period may be treated as a priority claim, which unfortunately means that the employees receive much less than the monetary cap. This is a concern I hope we can address.

Would the gentleman be prepared to continue to work together so that this problem might be addressed when the bill goes to conference?

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, I thank the gentleman for his work on the amendment, and I would like to continue to work with him. In particular, I would like to consider how this issue, while it might be clarified, given the complexity of the issue, I would recommend that our subcommittee consider possible solutions either formally perhaps through a hearing process or informally, and I would certainly hope that we could do so in time to fine-tune our amendment while the bill is in conference.

Mr. DELAHUNT. Mr. Chairman, as the gentleman knows, I authored legislation in the last Congress that would address in a more thorough and comprehensive way the effects of corporate bankruptcies on workers and retirees. At our markup on H.R. 975, the gentleman indicated a willingness to explore these questions, and I would ask the gentleman whether he would be willing to schedule hearings beginning in the spring in which we could begin to talk about this overall issue.

Mr. CANNON. Mr. Chairman, I think we have made a good start with this amendment, and it is my intention to schedule hearings as early as possible this year on issues presented by corporate bankruptcies and their impact on workers and retirees and to consider measures that could begin to address the problem in a more systematic way.

Mr. DELAHUNT. Mr. Chairman, again I thank the gentleman for his answers and for his genuine commitment to providing relief for workers and retirees, and possibly we could have a field hearing on this particular initiative on Cape Cod either in May or June sometime.

Mr. Chairman, I am pleased to join with the gentleman from Utah (Mr. CANNON) in offering this amendment. It would restore a modicum of balance to this unfair, unbalanced bill.

The sponsors of the bill say they advocate personal responsibility. Yet the bill does nothing to curb the corporate abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

It does nothing to stop corporate insiders from stripping their companies of their assets, paying themselves exorbitant salaries and bonuses and leaving little or nothing for their workers.

It does nothing to compensate workers whose jobs, pensions, health insurance and life savings have been wiped out by corporate bankruptcies.

The amendment represents a first, modest, effort to restore some balance. To recognize the obligations that an enterprise owes to the working people who have labored to build and sustain it.

The amendment will increase the chances that employees and retirees whose companies collapse into bankruptcy are able to retrieve some portion of what they are owed for back wages and benefits. And it will provide the courts with additional tools to recapture excessive compensation paid to corporate insiders. And I commend the gentleman from Utah for his willingness to offer it.

As the gentleman has explained, this amendment consists of three components. The first increases the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000, and lengthens the reachback period for wage claims from 90 to 180 days. This change increases the likelihood that workers—particularly those at the lower end of the wage scale—would actually see some of the money they are owed.

The second component lengthens the reachback period during which fraudulent transfers can be rescinded, from one year to two years, and provides that certain bonuses and other payments to corporate insiders can be rescinded during this period if they meet certain criteria. This provision gives the bankruptcy courts an additional tool for recapturing excessive compensation paid to officers and directors so that these can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors.

The third component requires the court to reinstate retiree benefits—including health and pension plans—which the company modified within the 180-day period preceding the bankruptcy filing, unless the court finds that the balance of the equities justifies the modification. This provision prevents corporate debtors from evading the requirements of current law by terminating retiree benefit plans on the eve of bankruptcy.

These are good, sensible changes that will help people who lose their livelihood, their savings, and their health coverage. I sincerely appreciate the willingness of the gentleman from Utah to join in this effort. But as I'm sure he would agree, these changes are only a modest step—a baby step—and I hope we can continue to work together to address this issue in a more serious and comprehensive way.

Mr. CANNON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. CANNON).

The amendment was agreed to.

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 108-42.

### AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SHERMAN:
Add at the end the following:

### TITLE —

**SEC. . LOCAL FILING OF BANKRUPTCY CASES.**

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting the following:

"(a) Except";

(2) in paragraph (2), by inserting "as defined in section 101(2)(A) of title 11" after "affiliate"; and

(3) by adding at the end the following:

"(b) For purposes of subsection (a)—

"(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

"(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.".

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

(1) by striking "A" and inserting the following:

"(a) A"; and

(2) by adding at the end the following:

"(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

"(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

"(d) As used in this section—

"(1) the term "district court" includes—

"(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

"(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin

Islands, including any bankruptcy judge of each such court; and

"(2) the term "district" includes the territorial jurisdiction of each such court.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

I had a chance to address the House earlier thanks to the generous time allotment from the gentleman from Massachusetts.

This amendment really puts before us a question. Should we stick with a present system that is favorable to one or two jurisdictions because they have particularly demanding Members both perhaps in this House and certainly in the other House, or should we vote for our own States, for our own districts, and for the greater public interest? The question is where, when a corporation goes bankrupt, should they file their case. One would say, as this amendment says, file where the corporation is located, where the majority of its assets are located and if it is a group of corporations, where the largest of them is located. The present system has a different approach. That approach says that, with some careful planning, the corporation can file anywhere it wants to. If it happens to form a little shell subsidiary in this or that State, then they can file anywhere in that State.

What is the effect of that? It means that when Enron goes bankrupt, owing local businesses in Houston, they have to go to an east coast State to try to present their case. But worse than the inconvenience, this is a situation where referees are selected by one of the teams, and Enron is able to select the jurisdiction that provides for the largest attorney fees and the largest retention bonuses.

Of course the Court could decline to take the case, transfer it back to Houston. But instead, these bankruptcy courts are fighting for business. They are behaving like businesses. They are welcoming additional cases, providing additional fees to their particular courts, and they are not about to send a juicy case back to its legitimate at-home jurisdiction. I ask all Members to vote for this amendment when they come to the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to this amendment. This amendment undoes a carefully crafted compromise that was done during conference with the other body. I want to see a bill passed. Most of the people in this House who voted on this issue want to see a bill passed. I will say very practically that the adoption of the Sherman amendment will make it more difficult for a bill to be passed and signed into law by the President of the United States.

On the merits, there are two reasons why we do not have need to have a change in the venue laws. First of all, title XXVIII, which I referred to during the general debate, gives the district court the opportunity to approve a change of venue to another jurisdiction for the convenience of the parties and the people who have business before the court. This is not a bankruptcy judge that is interested in fees. This is a Federal district judge who is able to order a change in venue. So it is out of the bankruptcy court, and it is into the district court.

The second reason why this amendment is not good policy on the merits is the fact that there are certain jurisdictions where the bankruptcy courts are overloaded. One of the things that people who file for Chapter 11 or Chapter 13 want to see happen is they want to see their reorganizations to be approved quickly so that they could get out of bankruptcy and thus continue on with their business; and if there is a huge backlog in the court, that is going to be delayed and perhaps delayed an inordinate amount of time before the court can get to approving reorganization plans to get the corporation out of bankruptcy. So I think from a practical standpoint, corporations that want to get to Chapter 11 quickly will not go to the overloaded courts. The current venue statute gives them the flexibility of choosing where they are going to file. It ought to be maintained.

Mr. Chairman, I reserve the balance of my time.

Mr. SHERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time.

Talking about the practical impact of the gentleman's amendment, it would end the practice of forum shopping; but even more meaningful, it would provide in very real terms an opportunity for small creditors, for retirees, for shareholders and others to participate in the process itself. Why should a court, with all due respect, in Delaware adjudicate a corporate bankruptcy that wipes out thousands of jobs in Ohio? Why should a judge in New York decide how to divide the spoils of an insolvent corporation in Massachusetts? The bankruptcy business, and it truly is a business, has been a windfall for certain jurisdictions; and they understandably resist any effort to reform the venue rules, but the rest of us ought to protect our constituents from this particular abuse, and I urge support for the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I am pleased to rise to oppose this legislation for a variety of reasons. First of all, Congress should not discriminate against bankruptcy cases. Virtually all of our laws allow cases to be filed either where the company is headquartered, where their assets are, or where it is incorporated. Why would we want to single out bankruptcy cases for discriminatory treatment?

A second point, one made by the gentleman from Wisconsin (Mr. SENSENBRENNER), is our current law is already fair. The law already allows debtors to change the location of where bankruptcy cases are heard by filing a motion to transfer venue. Therefore, this amendment is not necessary to give debtors a fair forum to argue their case. A third point is that 63 percent of bankruptcy judges disagree with the amendment. When surveyed by the Judicial Conference, 63 percent of those surveyed, the bankruptcy judges, oppose changing the rules on where corporations can file bankruptcy. We need to listen to the experts who have to hear these cases every day.

And then there is another fact, Mr. Chairman, and that is that in 1973 Congress voted to restrict options for where bankruptcies could be filed. It was such a failure that Congress repealed the change in 1978. Why would we want to repeal that mistake?

In addition to all of those absolutely valid legal reasons before us today with respect to the bankruptcy laws, there is another reason that the gentleman from Wisconsin (Mr. SENSENBRENNER) has already explained and that is that this whole bankruptcy bill, and we have learned in these debates here today that it has been a long time, has been very carefully negotiated with a compromise. Various new bankruptcy judges have been added where they are needed in order for the courts to be able to keep up their pace in a variety of States across the United States of America.

For all of these absolutely valid reasons in terms of the integrity of the Federal laws of the United States with respect to all of our courts, all of our laws and particularly bankruptcy laws, I would urge everyone in this Chamber to oppose the Sherman amendment when it comes up for a vote.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to the arguments but remind my colleagues when they come for a vote that they should vote for the interests of their own State and for their own constituents, and we should not send a bill to the other body just because we have created it so that one particular Senator will not object, one particular State will not be concerned. We need to pass the best public policy product we can from this House.

□ 1515

Now, what has happened under the present law is the beginning of an abomination. Right now, only 30 percent of the large corporations that have gone bankrupt have filed locally. Virtually none that filed thousands of miles away have been sent back to their locality, and for 70 percent of the large business bankruptcies, you have to go thousands of miles from where the company is headquartered.

Not only is this inconvenient, but it causes a race to the bottom. Today it may be Delaware allowing hundreds of millions of dollars of retention bonuses. Tomorrow it may be California outbidding Delaware for the bankruptcy business by providing more hundreds of millions of dollars of retention bonuses; not $500 per hour fees, but $1,000 fees. And to say that a district court can send the business back is like saying, I am going to walk into a McDonald's, and they are going to tell me that, in the interest of justice, I should go get a salad around the corner from another provider.

Once a court gets the business, they are not going to give it up, and that is why if we are going to have business bankruptcies proceed in a way that is fair to local creditors, fair to local employees and avoid a spiral to the bottom of larger and larger law fees, larger and larger retention bonuses, we need to tell the corporation that they must go to the bankruptcy court in their own local area. It is not a situation where one of the teams gets to pick the referees. That is not a fair system.

So far we have had only minor abominations, only $100 million, $200 million retention bonus packages approved. In the future, as my State fights with the State of the gentleman from Delaware (Mr. CASTLE) for business, maybe my State will approve larger bonuses.

Mr. Chairman, I would say to Members, come to the floor, vote for a sound policy that distributes the bankruptcy work to the place in which the large corporation goes bankrupt. Vote for the interests of your own home constituents. Vote for this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The time of the gentleman from California has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, as I think is known, I disagree on just about every other aspect of this bill, including whether it is desirable at all, with the distinguished chairman, but on this amendment I have to join him in opposition.

There is no good reason to go away in bankruptcy from the normal venue laws, number one, and make bankruptcy an exception to the venue laws in general.

Two, the debtor now can choose several different places; the principal place of incorporation where he has the principal place of business, et cetera.

Three, he can always ask the court to change it.

Four, courts are not businesses. They are not looking for business. They are not looking for volume. In fact, courts in Delaware are sending cases elsewhere because they are overcrowded.

Mr. Chairman, there is no good reason and a lot of harm that will come from adopting this amendment. I urge my colleagues to vote against it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am going to quit while I am ahead. The gentleman from New York agrees with me that this amendment is a bad one. There is no more that I can say but to urge the membership once again to vote against it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

The point of no quorum is considered withdrawn.

Mr. GUTIERREZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CASTLE) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

## MAKING IN ORDER CONSIDERATION OF AMENDMENT NO. 2 DURING FURTHER CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes its consideration of H.R. 975, that I be permitted to offer amendment No. 2 printed in House Report 107–42.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 975.

□ 1520

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, a request for a recorded vote on amendment No. 4 printed in the House Report 108–42 offered by the gentleman from California (Mr. SHERMAN) had been postponed.

Under the order of the House of today, it is now in order to consider amendment No. 2 printed in House Report 108–42.

### AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer Amendment No. 2.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GUTIERREZ:

Subsection (b) of section 1234 (Involuntary Cases) of H.R. 975 is amended by striking "shall not apply with respect to cases commenced under title 11 of the United States Code before such date" and inserting "shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date".

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this noncontroversial amendment changes the effective date on the involuntary bankruptcy provision of H.R. 975, also known as section 1234. My amendment is identical to language that was included in the corresponding provision, section 1233, of H.R. 5745.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GUTIERREZ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is a constructive amendment. I urge the committee to adopt it.

Mr. GUTIERREZ. Mr. Chairman, reclaiming my time, if there is no objection, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone claim the time in opposition?

If not, the question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 108–42.

### AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 5 in the nature of a substitute offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Bankruptcy Abuse Prevention and Consumer Protection Act of 2003”.

### TITLE I—NEEDS-BASED BANKRUPTCY

#### SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

#### SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§ 707. Dismissal of a case or conversion to a case under chapter 13”;**

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”; and

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not” and inserting “or”;

(II) by inserting “, or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,” after “consumer debts”; and

(III) by striking “substantial abuse” and inserting “abuse”; and

(ii) by striking the last sentence and inserting the following:

“(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

“(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

“(B) the debtor filed a petition for the relief in bad faith.

“(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

“(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

“(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

“(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

“(ii) the debtor files a statement under penalty of perjury—

“(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

“(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

“(10A) ‘current monthly income’—

“(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 60-day period ending on—

“(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

“(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

“(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;”.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The trustee shall—”; and

(2) by adding at the end the following:

“(b)(1) With respect to a debtor who is an individual in a case under this chapter—

“(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

“(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

“(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

“(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.”.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

“(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.”.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

"(A) such expenses are reasonable and necessary;

"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.".

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b), and 1325(b)(3)".

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

"(39A) 'median family income' means for any year—

"(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

"(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;".

(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".

### SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.".

### SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

### SEC. 105. CREDIT COUNSELING.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

**"§111. Nonprofit budget and credit counseling agencies; financial management instructional courses**

"(a) The clerk shall maintain a publicly available list of—

"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

"(4) At the conclusion of the applicable probationary period under paragraph (3), the

United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

"(A) have a board of directors the majority of which—

"(i) are not employed by such agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

### SEC. 106. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

## TITLE II—ENHANCED CONSUMER PROTECTION

## Subtitle A—Penalties for Abusive Creditor Practices

### SEC. 201. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

"(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.".

### SEC. 202. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

## Subtitle B—Priority Child Support

### SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;".

### SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as so redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as so redesignated—

(A) by striking "Third" and inserting "Fourth"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as so redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as so redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

"(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.".

### SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.";

(2) in section 1208(c)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(3) in section 1222(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

"(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that

are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan".

### SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

"(iii) concerning child custody or visitation;

"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

"(v) regarding domestic violence;

"(B) of the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

"(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

"(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

"(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

"(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;".

### SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;"; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)"; and

(3) in paragraph (15), as added by Public Law 103-394 (108 Stat. 4133)—

(A) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(B) by inserting "or" after "court of record,"; and

(C) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon.

### SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

### SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

### SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date of the filing of the petition" after "dependent of the debtor".

### SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) Duties of Trustee Under Chapter 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

"(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(b) Duties of Trustee Under Chapter 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(c) Duties of Trustee Under Chapter 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2) or (4) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

## Subtitle C—Other Consumer Protections

### SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person, or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

"(II) be filed with any document for filing.";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer."; and

(B) by striking paragraph (3);

(3) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(4) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(5) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(6) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(7) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as so redesignated—

(i) by striking "Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as so redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,";

(8) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(9) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and

(10) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

"(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

### SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

### SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

### SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) In General.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

“(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or”.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

“(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute ‘disposable income’ under section 1325.”.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

“(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.”.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting “522(n),” after “522(d),”.

### SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “or” at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

“(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

“(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

“(B) only to the extent that such funds—

“(i) are not pledged or promised to any entity in connection with any extension of credit; and

“(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

“(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

“(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

“(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

“(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

“(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;”; and

(2) by adding at the end the following:

“(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.”.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

“(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).”.

### SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

“(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;”;

(2) by inserting after paragraph (4) the following:

“(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;”; and

(3) by inserting after paragraph (12) the following:

“(12A) ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

“(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

“(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

“(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

“(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.”.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting “101(3),” after “sections” each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

#### “§ 526. Restrictions on debt relief agencies

“(a) A debt relief agency shall not—

“(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

“(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

“(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

“(A) the services that such agency will provide to such person; or

“(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

“(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

“(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

“(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

### SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

### "§ 527. Disclosures

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

### SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

**"§ 528. Requirements for debt relief agencies**

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

### SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

### SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

### SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

**"§ 332. Consumer privacy ombudsman**

"(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

### SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

**"§ 112. Prohibition on disclosure of name of minor children**

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112" after "section".

## TITLE III —DISCOURAGING BANKRUPTCY ABUSE

### SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

### SEC. 302. CURBING ABUSIVE FILINGS.

(a) In General.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

"(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;".

### SEC. 303. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(b) Restoring the Foundation for Secured Credit.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 365 days preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 180-day period preceding that filing.".

### SEC. 304. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking "180 days" and inserting "730 days"; and

(B) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place"; and

(2) by adding at the end the following:

"If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).".

### SEC. 305. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and

(2) by adding at the end the following:

"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(3) a burial plot for the debtor or a dependent of the debtor; or

"(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".

### SEC. 306. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) Exemptions.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

"(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

"(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

"(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

"(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

"(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

"(B) the debtor owes a debt arising from—

"(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

"(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

"(iii) any civil remedy under section 1964 of title 18; or

"(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

"(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.".

(b) Adjustment of Dollar Amounts.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting "522(p), 522(q)," after "522(n),".

### SEC. 307. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

"(7) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by an employer from employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title;".

### SEC. 308. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $160; or

"(B) under chapter 13 of title 11, $150.".

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;";

(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b)" and all that follows through "28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

### SEC. 309. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

### SEC. 310. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

### SEC. 311. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and expenses of preserving the estate including—

"(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

"(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;".

### SEC. 312. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (11) the following:

"(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

"(A) section 522(q)(1) may be applicable to the debtor; and

"(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

"(i) section 522(q)(1) may be applicable to the debtor; and

"(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

### SEC. 313. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.

(a) DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.—Section 523(a) of title 11, United States Code, as amended by section 224, is amended—

(1) in paragraph (18) by striking "or" at the end;

(2) in paragraph (19) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor (including any court-ordered damages, fine, penalty, or attorney fee or cost owed by the debtor), that arises from—

"(A) the violation by the debtor of any offense described in section 244 (relating to discrimination against a person wearing the uniform of the Armed Forces), section 245 (relating to federally protected rights), section 247 (relating to damage to religious property; obstruction of persons in the free exercise of religious beliefs), or section 248 (relating to the freedom of access to clinic entrances), of title 18, United States Code;

"(B) an offense under State law that consists of conduct that would be a civil rights crime described in subparagraph (A) of this paragraph; or

"(C) a valid court order enforcing a civil rights law described in subparagraphs (A) or (B) of this paragraph.".

(b) Restitution.—Section 523(a)(13) of title 11, United States Code, is amended by inserting "or under the criminal law of a State" after "title 18".

## TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

### Subtitle A—General Business Bankruptcy Provisions

### SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

### SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

### SEC. 403. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) In General.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

"(iii) The court may extend the time periods specified in this paragraph if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief.".

(b) Exception.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

### SEC. 404. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) Appointment.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) Information.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

### SEC. 405. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.".

### SEC. 406. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

### SEC. 407. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a debt (excluding a consumer debt) against a noninsider of less than $10,000," after "$5,000".

### SEC. 408. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

### SEC. 409. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

### SEC. 410. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

### SEC. 411. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

### SEC. 412. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of the filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.

"(5) The court may extend the time period specified in paragraph (2) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date the assurance of payment was due.".

### SEC. 413. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term "filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

### SEC. 414. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.".

### SEC. 415. ADMINISTRATIVE EXPENSES.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

"(A) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

"(i) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

"(ii) the services provided by the person are essential to the survival of the business; and

"(iii) either—

"(I) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

"(II) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

"(B) a severance payment to an insider of the debtor, unless—

"(i) the payment is part of a program that is generally applicable to all full-time employees; and

"(ii) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

"(C) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case.

"(2) For purposes of paragraph (1)(C), transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition shall be considered outside the ordinary course of business.".

### SEC. 416. PRIORITIES

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3), by striking "$4,000" and inserting "$13,500";

(2) in paragraph (3), striking "90 days" and inserting "180 days";

(3) in paragraph (4)(A), striking "180 days" and inserting "360 days"; and

(4) in paragraph (4)(B)(i), by striking "$4,000" and inserting "$13,500".

### SEC. 417. LOCAL FILING OF BANKRUPTCY CASES.

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting the following:

"(a) Except";

(2) in paragraph (2), by inserting "as defined in section 101(2)(A) of title 11" after "affiliate"; and

(3) by adding at the end the following:

"(b) For purposes of subsection (a)—

"(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

"(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.".

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

(1) by striking "A" and inserting the following:

"(a) A"; and

(2) by adding at the end the following:

"(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

"(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

"(d) As used in this section—

"(1) the term "district court" includes—

"(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

"(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, including any bankruptcy judge of each such court; and

"(2) the term "district" includes the territorial jurisdiction of each such court.".

### SEC. 418. ASSUMPTION AND TERMINATION OF CERTAIN CONTRACTS AND LEASES

(a) ASSUMPTION.—Section 365(c) of title 11, United States Code, is amended—

(1) by inserting "(1) after "(c)";

(2) by redesignating existing paragraphs (1) through (4) as subparagraphs (A) through (D) respectively;

(3) by redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

"(2) A debtor in possession may assume, but may not assign, an executory contract or unexpired lease in the circumstances described in paragraph (1)(A).".

(b) TERMINATION.—Clause (i) of section 365(e)(2)(A) of title 11, United States Code, is amended by inserting "the trustee seeks to assign such contract or lease and" before "applicable law".

## Subtitle B—Small Business Bankruptcy Provisions

### SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

### SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) 'does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.

### SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

### SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

**"§ 308. Debtor reporting requirements**

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

### SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

### SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

**"§ 1116. Duties of trustee or debtor in possession in small business cases**

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.

"(b) The court may extend the time periods specified in paragraphs (1) and (3) of subsection (a) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances that there are beyond the debtor's control that were not foreseeable on the date of the order of relief.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

### SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted;

"(C) the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief; and

"(D) the order extending time is signed before the existing deadline has expired.".

### SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3) or the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief.".

### SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

### SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

### SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

### SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF A TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of the creditors and the estate, if the movement establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if—

"(A) the granting of such relief is not in the best interests of the creditors or the estate; or

"(B) the debtor, or another party in interest, objects and establishes that—

"(i) there is reasonable likelihood that a plan will be confirmed within the time frames established in section 1121(e) and 1129(e) of this title, or if such sections do not apply, within such a reasonable period of time; and

"(ii) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

"(I) for which there exists a reasonable justification for the act or omissions;

"(II) the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief; and

"(III) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

"(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

### SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

### SEC. 444. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding after paragraph (6) the following:

"(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.".

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking "and" at the end; and

(2) by adding at the end the following:

"(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and".

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;".

### SEC. 445. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking "appoint" and inserting "order the appointment of", and

(2) by adding at the end the following: "The United States trustee shall appoint any such committee.".

### SEC. 446. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.".

## TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

### SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

### SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562," after "557,".

## TITLE VI—BANKRUPTCY DATA

### SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

**"§ 159. Bankruptcy statistics**

"(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than July 1, 2006, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;

"(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

"(E) for cases closed during the reporting period—

"(i) the number of cases in which a reaffirmation agreement was filed; and

"(ii)(I) the total number of reaffirmation agreements filed;

"(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders entered determining the value of property securing a claim;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.".

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

**"§ 589b. Bankruptcy data**

"(a) Rules.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

"(b) Reports.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) Required Information.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) Final Reports.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) Periodic Reports.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) Clerical Amendment.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

### SEC. 603. AUDIT PROCEDURES.

(a) In General.—

(1) Establishment of procedures.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) Procedures.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) Amendments.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) Amendments to Section 521 of Title 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting "or an auditor serving under section 586(f) of title 28" after "serving in the case".

(d) Amendments to Section 727 of Title 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

‘‘(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

‘‘(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.**

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

## TITLE VII—ANCILLARY AND OTHER CROSS-BORDER CASES

**SEC. 701. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.**

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

## ‘‘CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

‘‘Sec.
‘‘1501. Purpose and scope of application.

‘‘SUBCHAPTER I—GENERAL PROVISIONS

‘‘1502. Definitions.
‘‘1503. International obligations of the United States.
‘‘1504. Commencement of ancillary case.
‘‘1505. Authorization to act in a foreign country.
‘‘1506. Public policy exception.
‘‘1507. Additional assistance.
‘‘1508. Interpretation.

‘‘SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

‘‘1509. Right of direct access.
‘‘1510. Limited jurisdiction.
‘‘1511. Commencement of case under section 301 or 303.
‘‘1512. Participation of a foreign representative in a case under this title.
‘‘1513. Access of foreign creditors to a case under this title.
‘‘1514. Notification to foreign creditors concerning a case under this title.

‘‘SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

‘‘1515. Application for recognition.
‘‘1516. Presumptions concerning recognition.
‘‘1517. Order granting recognition.
‘‘1518. Subsequent information.
‘‘1519. Relief that may be granted upon filing petition for recognition.
‘‘1520. Effects of recognition of a foreign main proceeding.
‘‘1521. Relief that may be granted upon recognition.
‘‘1522. Protection of creditors and other interested persons.
‘‘1523. Actions to avoid acts detrimental to creditors.
‘‘1524. Intervention by a foreign representative.

‘‘SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

‘‘1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
‘‘1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
‘‘1527. Forms of cooperation.

‘‘SUBCHAPTER V—CONCURRENT PROCEEDINGS

‘‘1528. Commencement of a case under this title after recognition of a foreign main proceeding.
‘‘1529. Coordination of a case under this title and a foreign proceeding.
‘‘1530. Coordination of more than 1 foreign proceeding.
‘‘1531. Presumption of insolvency based on recognition of a foreign main proceeding.
‘‘1532. Rule of payment in concurrent proceedings.

**‘‘§ 1501. Purpose and scope of application**

‘‘(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

‘‘(1) cooperation between—

‘‘(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

‘‘(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

‘‘(2) greater legal certainty for trade and investment;

‘‘(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

‘‘(4) protection and maximization of the value of the debtor's assets; and

‘‘(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

‘‘(b) This chapter applies where—

‘‘(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

‘‘(2) assistance is sought in a foreign country in connection with a case under this title;

‘‘(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

‘‘(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

‘‘(c) This chapter does not apply to—

‘‘(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

‘‘(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

‘‘(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

‘‘(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

‘‘SUBCHAPTER I—GENERAL PROVISIONS

**‘‘§ 1502. Definitions**

‘‘For the purposes of this chapter, the term—

‘‘(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

‘‘(2) ‘establishment’ means any place of operations where the debtor carries out a nontransitory economic activity;

‘‘(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

‘‘(4) ‘foreign main proceeding’ means a foreign proceeding pending in the country where the debtor has the center of its main interests;

‘‘(5) ‘foreign nonmain proceeding’ means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

‘‘(6) ‘trustee’ includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

‘‘(7) ‘recognition’ means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

‘‘(8) ‘within the territorial jurisdiction of the United States’, when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

**‘‘§ 1503. International obligations of the United States**

‘‘To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

**‘‘§ 1504. Commencement of ancillary case**

‘‘A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

**‘‘§ 1505. Authorization to act in a foreign country**

‘‘A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

**‘‘§ 1506. Public policy exception**

‘‘Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

**‘‘§ 1507. Additional assistance**

‘‘(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor's property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

### “§ 1508. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

## “SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

### “§ 1509. Right of direct access

“(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

“(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

“(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

“(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

“(3) a court in the United States shall grant comity or cooperation to the foreign representative.

“(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

“(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

“(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

“(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

### “§ 1510. Limited jurisdiction

“The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

### “§ 1511. Commencement of case under section 301 or 303

“(a) Upon recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

### “§ 1512. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

### “§ 1513. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

### “§ 1514. Notification to foreign creditors concerning a case under this title

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

“(2) indicate whether secured creditors need to file proofs of claim; and

“(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

## “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

### “§ 1515. Application for recognition

“(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

### “§ 1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

### “§ 1517. Order granting recognition

“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

“(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body; and

“(3) the petition meets the requirements of section 1515.

“(b) Such foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

**“§ 1518. Subsequent information**

“From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

**“§ 1519. Relief that may be granted upon filing petition for recognition**

“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor's assets;

“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

**“§ 1520. Effects of recognition of a foreign main proceeding**

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

“(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

**“§ 1521. Relief that may be granted upon recognition**

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

“(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

**“§ 1522. Protection of creditors and other interested persons**

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

**“§ 1523. Actions to avoid acts detrimental to creditors**

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

“(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

**“§ 1524. Intervention by a foreign representative**

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

**“§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives**

“(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

**“§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives**

“(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

“(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

**“§ 1527. Forms of cooperation**

“Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

### "SUBCHAPTER V—CONCURRENT PROCEEDINGS

### "§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

### "§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

"(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

### "§ 1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

### "§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

### "§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

**"15. Ancillary and Other Cross-Border Cases ........................................ 1501".**

### SEC. 702. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(k) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

### "§ 1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

"(3)(A) a foreign insurance company, engaged in such business in the United States; or

"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.";

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking ", 304," each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

"(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension."; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

## TITLE VII—FINANCIAL CONTRACT PROVISIONS

### SEC. 801. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(2) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

``(ii) SECURITIES CONTRACT.—The term 'securities contract'—

``(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

``(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

``(III) means any option entered into on a national securities exchange relating to foreign currencies;

``(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

``(V) means any margin loan;

``(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

``(VII) means any combination of the agreements or transactions referred to in this clause;

``(VIII) means any option to enter into any agreement or transaction referred to in this clause;

``(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

``(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

``(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

``(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

``(II) with respect to a foreign futures commission merchant, a foreign future;

``(III) with respect to a leverage transaction merchant, a leverage transaction;

``(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

``(V) with respect to a commodity options dealer, a commodity option;

``(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

``(VII) any combination of the agreements or transactions referred to in this clause;

``(VIII) any option to enter into any agreement or transaction referred to in this clause;

``(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

``(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

``(iv) FORWARD CONTRACT.—The term 'forward contract' means—

``(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

``(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

``(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

``(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

``(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

``(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

``(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

``(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

``(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

``(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

``(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

``(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

``(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(B) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(C) by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

### SEC. 802. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

### SEC. 803. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(b) Notice to Qualified Financial Contract Counterparties.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(c) Rights Against Receiver and Treatment of Bridge Banks.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Certain rights not enforceable.—

"(i) Receivership.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) Conservatorship.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) Notice.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) Treatment of bridge banks.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

### SEC. 804. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) Disaffirmance or repudiation of qualified financial contracts.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) Savings clause.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 805. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) Treatment of master agreement as one agreement.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

### SEC. 806. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) Definitions.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) Payment.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) Enforceability of Bilateral Netting Contracts.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

**"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.**

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

**SEC. 807. BANKRUPTCY LAW AMENDMENTS.**

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

“(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;”;

(D) in paragraph (48), by inserting “, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,” after “1934”; and

(E) by amending paragraph (53B) to read as follows:

“(53B) ‘swap agreement’—

“(A) means—

“(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

“(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or equity swap, option, future, or forward agreement;

“(V) a debt index or debt swap, option, future, or forward agreement;

“(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

“(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

“(VIII) a weather swap, weather derivative, or weather option;

“(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

“(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

“(iii) any combination of agreements or transactions referred to in this subparagraph;

“(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

“(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

“(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;”;

(2) in section 741(7), by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(ii) any option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(iv) any margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) any combination of the agreements or transactions referred to in this subparagraph;

“(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

“(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;”; and

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

(B) by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) any combination of the agreements or transactions referred to in this paragraph;

“(H) any option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

“(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;”.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

“(22) ‘financial institution’ means—

“(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

“(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;”;

(2) by inserting after paragraph (22) the following:

“(22A) ‘financial participant’ means—

“(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant"; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement"**;

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

### "§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

### "§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

### "§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.
"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

### SEC. 808. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

### SEC. 809. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 810. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 811. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

## TITLE IX—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

### SEC. 901. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

### SEC. 902. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

### SEC. 903. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 904. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

### SEC. 905. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

### SEC. 906. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

### SEC. 907. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

**"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ............... 1201".**

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

## TITLE X—HEALTH CARE AND EMPLOYEE BENEFITS

### SEC. 1001. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

"(i) the diagnosis or treatment of injury, deformity, or disease; and

"(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—

"(i) any—

"(I) general or specialized hospital;

"(II) ancillary ambulatory, emergency, or surgical treatment facility;

"(III) hospice;

"(IV) home health agency; and

"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

"(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any individual who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

### SEC. 1002. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

**"§ 351. Disposal of patient records**

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"351. Disposal of patient records.".

### SEC. 1003. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351: or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business: and".

### SEC. 1004. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

**"§ 333. Appointment of patient care ombudsman**

"(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

"(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

"(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

"(b) An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

"(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

"(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

"(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

"333. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 333, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

### SEC. 1005. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

"(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking "and (11)" and inserting "(11), and (12)".

### SEC. 1006. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).".

## TITLE XI—TECHNICAL AMENDMENTS

### SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A), (38), and (54A), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

### SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

### SEC. 1103. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

### SEC. 1104. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

### SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking "attorney's" and inserting "attorneys' ".

### SEC. 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

### SEC. 1107. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

### SEC. 1108. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

### SEC. 1109. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

### SEC. 1110. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

### SEC. 1111. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

### SEC. 1112. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

### SEC. 1113. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

### SEC. 1114. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

### SEC. 1115. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

### SEC. 1116. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

### SEC. 1117. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1118. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1119. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

### SEC. 1120. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before " 'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before " 'document"; and

(B) by striking "this title" and inserting "title 11".

### SEC. 1121. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan of Reorganization.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) Rule of Construction.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

### SEC. 1122. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGSHIPS.

The following judgeships positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) Two additional bankruptcy judgeships for the southern district of New York.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) One additional bankruptcy judgeship for the district of New Jersey.

(4) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(5) Three additional bankruptcy judgeships for the district of Maryland.

(6) One additional bankruptcy judgeship for the eastern district of North Carolina.

(7) One additional bankruptcy judgeship for the district of South Carolina.

(8) One additional bankruptcy judgeship for the eastern district of Virginia.

(9) Two additional bankruptcy judgeships for the eastern district of Michigan.

(10) Two additional bankruptcy judgeships for the western district of Tennessee.

(11) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(12) Two additional bankruptcy judgeships for the district of Nevada.

(13) One additional bankruptcy judgeship for the district of Utah.

(14) Two additional bankruptcy judgeships for the middle district of Florida.

(15) Two additional bankruptcy judgeships for the southern district of Florida.

(16) Two additional bankruptcy judgeships for the northern district of Georgia.

(17) One additional bankruptcy judgeship for the southern district of Georgia.

### SEC. 1123. TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) Authorization for Additional Temporary Bankruptcy Judgeships.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the district of Puerto Rico.

(2) One additional bankruptcy judgeship for the northern district of New York.

(3) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(4) One additional bankruptcy judgeship for the district of Maryland.

(5) One additional bankruptcy judgeship for the northern district of Mississippi.

(6) One additional bankruptcy judgeship for the southern district of Mississippi.

(7) One additional bankruptcy judgeship for the southern district of Georgia.

(b) VACANCIES.—

(1) IN GENERAL.—The first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under subsection (a) to such office; and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(2) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in paragraph (1), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(c) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years or more after the date of enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeships referred to in this subsection.

### SEC. 1124. TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.

The bankruptcy judgeship presently shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

### SEC. 1125. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(b) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

### SEC. 1126. TECHNICAL AMENDMENTS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking "3" and inserting "4";

(2) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(3) in the item relating to the middle district of Florida, by striking "8" and inserting "10";

(4) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(5) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(6) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(7) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(8) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1";

(9) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(10) in the item relating to the eastern district of Michigan, by striking "4" and inserting "6";

(11) in the item relating to the district of Nevada, by striking "3" and inserting 5";

(12) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(13) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(14) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(15) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(16) in the item relating to the district of Puerto Rico, by striking "2 and inserting "3";

(17) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(18) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";

(19) in the item relating to the district of Utah, by striking "3" and inserting "4"; and

(20) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

### SEC. 1126. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

### SEC. 1126. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;".

### SEC. 1127. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

### SEC. 1128. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

### SEC. 1127. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or

13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

(d) The prohibition against the granting of a discharge in subsection (a) and the prohibition against the confirmation of a plan of reorganization in subsection (b) shall not apply if the debtor is unable to provide such tax documents due to circumstance beyond the debtor s control including the failure of the taxing authority to provide such documents.

### SEC. 1128. ENCOURAGING CREDITWORTHINESS.

(a) Sense of the Congress.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) Study Required.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) Report and Regulations.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

### SEC. 1129. TRUSTEES.

(a) Suspension and Termination of Panel Trustees and Standing Trustees.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) Expenses of Standing Trustees.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

### SEC. 1131. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

### SEC. 1133. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) Appeals.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

"(C) The parties may supplement the certification with a short statement of the basis for the certification.

"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".

(b) Procedural Rules.—

(1) Temporary application.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) Certification.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) Procedure.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) Filing of petition with attachment.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) References in rule 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) Application of rules.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

### SEC. 1134. INVOLUNTARY CASES.

(a) Amendments.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and

(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 1135. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

## TITLE XIII—CONSUMER CREDIT DISCLOSURE

### SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

"(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

"(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

"(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

"(iv) the following statement: 'If your current rate is a temporary introductory rate, your total costs may be higher.'.

"(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.".

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: "In connection with the disclosures referred to in subsections (a) and (b) of section 1637 of this title, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 1635, 1637(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 1610(a)(2) as any of the terms or items referred to in section 1637(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) of this title.".

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding the following:

"(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

"(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: 'Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.'.

"(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.".

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

### SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) INTERNET-BASED SOLICITATIONS.—

"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

### SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

### SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

### SEC. 1310. ISSUANCE OF CREDIT CARDS TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (6) (as added by section 1303 of this title) the following new paragraph:

"(7) APPLICATIONS FROM UNDERAGE CONSUMERS.—

"(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, any consumer who has not attained the age of 21, except in response to a written request or application to the card issuer that meets the requirements of subparagraph (B).

"(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer who has not reached the age of 21 as of the date of submission of the application shall require—

"(i) the signature of the parent or guardian of the consumer indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has reached the age of 21; or

"(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.".

## TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

### SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 20 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this substitute amendment on behalf of the gentleman from Michigan (Mr. CONYERS) to make the bill a truly balanced reform measure by promoting responsibility for both debtors and lenders alike.

Unfortunately, the bill being brought to the floor today is little more than a package of special interest amendments that will distort the bankruptcy system, hurting the most financially desperate families, shut down distressed businesses and do nothing to stop predatory lending or collection practices.

The substitute will make a number of changes to the bill to ensure responsibility, without encouraging abuse of the system by debtors or by creditors.

The substitute replaces the one-size-fits-all means test with a clear standard that takes into account the debtor's real income and real expenses. That is not what the bill does now. The bill before us would calculate a family's ability to repay its debts by looking at income they no longer have and costs of living that some IRS bureaucrat thinks their expenses should be, rather than what their expenses really are.

Since when did the IRS bill collectors become the gold standard for accountability and fairness? This Congress ordered the IRS as part of IRS reform a few years ago to exercise more lenience and flexibility in the use of these collection standards. But in this bill these old standards which we discarded for tax cheats are sacrosanct for debtors.

So what happens if the IRS gets it wrong? What happens if rents in your town or other costs of living do not resemble what the IRS thinks they are? Under this bill you would have to get a lawyer and prove that the IRS is wrong and the cost of living in your town is what it is. You would have to go to court and prove that you will not be receiving the income from the job you lost 6 months ago. If not, you will be presumed to be an abuser of the bankruptcy system.

Who is hardest hit by this? Honest debtors who are in real trouble because they were laid off or for whatever other reason they cannot afford a lawyer. Do you know why? Because people who file for bankruptcy are generally broke.

Our substitute has a sensible test that passed the Senate overwhelmingly in the 105th Congress. This substitute will also provide true protection for children by limiting the ability of creditors to preserve their claims after discharge when, without the bankruptcy court's protection, they will be able to capture funds that should go for support of the debtor's children. Making child support the first priority, as the bill does, will do nothing for children if credit card debt survives bankruptcy to compete with child support obligations. Because the priority does not survive the bankruptcy, Mom has to go to the State court where there are no priorities and compete with the banks' lawyer, which she does not have to do now.

The substitute will also undo changes to Chapter 13 to ensure that debtors who want to enter into a repayment plan will be able to succeed. Changes to Chapter 13, which incorporates the same calculations and IRS standards from the means test, even if you are below the median income, even if you file for Chapter 13 voluntarily, would guarantee that these plans will fail even more often than the 60 percent failure rate that we have now with completely volunteer plans.

The substitute also ensures that unsecured creditors will not be able to use new legal tricks to jump ahead of other creditors.

It also prevents debtors from using bankruptcy court to evade lawful debts for criminal civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions or individuals on the basis of religion, or using force or the threats of force to deprive women of their right to see a doctor.

That is right; we are still suggesting that people that violate the Freedom of Access to Clinic Entrances Act should not be able to use the bankruptcy courts to discharge their debts or to use the courts to evade payments and force people who already have been awarded a judgment to chase them through the bankruptcy system at great expense. That is the rule of law, and that is what this bill should contain.

We should not subordinate the rights of women, of the members of our Armed Forces, of houses of worship or people suffering discrimination just because some banks want to tilt the system in their favor.

Allowing the bankruptcy courts to become a safe haven for people who violate our civil rights laws is inexcusable, even in the cause of providing special benefits to the special interests, which is the chief purpose of this bill.

The substitute also provides enhanced protection for employee benefits in Chapter 11 and salaries, and remedies for corporate wrongdoing in Chapter 11. It is the original version of the amendment offered by the gentleman from Utah (Mr. CANNON) and the gentleman from Massachusetts (Mr. DELAHUNT). Their compromise is an important start, and I was pleased to support it a few minutes ago. Our substitute finishes the job.

The substitute provides bankruptcy courts with flexibility to protect small businesses from premature or unnecessary liquidation so that they can reorganize and continue in business and not lay off their employees. It also closes a loophole in current law by preventing debtors from taking cases to courts far away from where the business is actually conducted. It also protects the rights of debtors to uphold contracts in bankruptcy.

The substitute provides for additional bankruptcy judges according to the most recent needs assessment by the Judicial Conference. We have a crisis in the bankruptcy courts that will only be made worse by the litigation explosion this bill will cause, yet the sponsors of this bill have refused to update it to reflect current needs for judges. That will only result in delay and increased costs for everyone who has a stake in the bankruptcy system, debtors, creditors, everyone.

It also strikes pro-IRS amendments that would elevate the rights of taxing authorities over that of other creditors and debtors. Many of you have probably not taken the time to read title VII of the bill. You should show it to a tax lawyer at home, to someone you trust, and ask them what it does. Is there any rational reason to give taxing authorities more rights than other creditors in bankruptcy?

Is there any reason to shortchange businesses and individuals to pay off the government? Since when did this House become a bunch of cheerleaders for the tax collectors?

The substitute will prevent bankruptcy by providing real disclosure of the borrower's actual credit card debt and the cost of borrowing. A similar amendment was adopted by the Senate in the 105th Congress. The current bill provides only an 800 number and deceptive "examples" of repayment costs, rather than the actual costs of credit to inform the debtor. Is it too much to ask that people should be given the information they need on the costs of interest and fees so they can plan their finances responsibly and avoid bankruptcy? The substitute, unlike the bill, will require that.

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The substitute also protects against corruption of bankruptcy proceedings by deleting amendments that would allow for abusive motions, that would allow for conflicts of interest on the part of investment bankers, that would allow bankruptcy professionals to delay accountability in court for their wrongdoing.

Bankruptcy reform is an important and laudable goal; but it must be balanced and everyone, debtors and creditors alike, must be held accountable. The current bill would encourage abuse of genuinely distressed families and allow credit card companies to continue their abusive practices.

I urge everyone to support the Democratic substitute so that we can have real reform in the bankruptcy system rather than the sham bill before us that simply reaches into the pockets of low- and middle-income people in situations of distress and in 60 or 70 different ways, takes the money out of their pockets and gives it to the big banks and the credit card companies, which is the entire purpose of the bill before us, without the substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Nadler substitute. The Nadler substitute not only makes significant and controversial revisions to H.R. 975, but deletes crucial provisions from the bill, including various provisions intended to provide important consumer protections.

Here are just a few examples of the more than 30 provisions that the Nadler substitute deletes from H.R. 975:

Section 201, which is intended to protect debtors and to promote alternative dispute resolutions with creditors;

section 202, which penalizes creditors who materially violate the discharge injunction;

section 203, which requires heightened disclosures in connection with, and scrutiny of, reaffirmation agreements. This provision, by the way, was added at the insistence of Senator TORRICELLI during the 106th Congress and was fully endorsed by the Clinton administration;

section 311, which attempts to strike a balance between the needs of residential landlords dealing with deadbeat tenants who use bankruptcy to avoid paying rent and giving a financial fresh start to tenants who are willing to cure their rent arrears and to be current on their rental payments. This provision, I should note, was thoroughly negotiated during the 107th Congress by Senator FEINGOLD;

and, all of title VII, which strengthens the ability of State and local taxing authorities to collect taxes. At a time when the States and localities are in such bad shape financially, I do not think we would want to give a bigger pass to bankrupts to avoid paying the taxes that they had accrued and owed.

Worse yet, the Nadler substitute guts the various provisions that were hallmarks of last year's conference report. It replaces H.R. 975's needs-based income expense formula with a completely new, but ill conceived, test that could easily lend itself to manipulation.

The Nadler substitute also essentially eliminates the bill's credit counseling provisions and reduces the reach-back period with respect to the cramdown of claims secured by automobiles, a provision that was extensively negotiated with Senate Democrats during the 107th Congress.

Finally, the Nadler substitute essentially reinstates the so-called Schumer amendment, which will effectively penalize protestors who engage in civil disobedience. This is an extraneous and controversial provision that makes debts arising from the violation of the Freedom of Access to Clinic Entrances Act nondischargeable. Inclusion of this provision will likely kill bankruptcy reform, a fact proven just 4 months ago in the last Congress when a vote on the rule that would have allowed consideration of the bankruptcy conference report which contained a similar provision failed on the floor of the House.

Simply put, a vote for the Nadler substitute is a vote to kill bankruptcy reform legislation, and I urge Members to vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

I rise in opposition to H.R. 975 because it is a harsh, one-sided bill. As we all know, our country is in the midst of a very difficult economic period. According to the Department of Labor's figures, the unemployment rate for February 2003 was 5.8 percent. Mr. Chairman, 308,000 people lost jobs in the last month alone.

In addition, we have larger and larger numbers of military personnel being sent overseas in anticipation of a possible war with Iraq. They sacrifice their time and energy and put their lives at risk for the sake of our country. Many also sacrifice their salaries. Often, Reservists who are called up take a substantial cut in pay. Despite efforts to adjust their finances, some families will not be able to cover all of their costs. Those families may need to turn to the bankruptcy system.

Ninety percent of all bankruptcies are triggered by one of the following three events: job loss, unforeseen medical expenses, or divorce. Yet the rules of this Draconian bill in H.R. 975 are so restrictive that people who really need the system are lumped together with people who have possibly abused the system in the past.

Large numbers of groups oppose H.R. 975, including the AFL-CIO and the United Auto Workers. They are concerned that the harsh changes to Chapter 11 bankruptcies will cost jobs by forcing more businesses into liquidation. In addition, these groups are concerned that the bill's consumer bankruptcy provisions will hurt people because it squeezes families so hard in favor of credit card companies.

Opposition also comes from a whole host of groups concerned about women and children, while supporters of this bill argue that it has a series of provisions to assist women and children. If this were the case, then organizations such as the National Organization for Women, the California Women's Law Center, and the Association for Children for Enforcement of Support would all support the bill. In fact, they all oppose the bill.

Mr. Chairman, H.R. 975 does much more harm than it does good for women and children. One of the worst aspects of this bill is the fact that it places women and children in direct competition with more aggressive creditors such as credit card companies.

H.R. 975 is also opposed by groups concerned about minorities, senior citizens, and victims of crimes. The Leadership Conference on Civil Rights, the National Council of Senior Citizens, and the National Center for Victims of Crime are just a few of the organizations that have spoken out against this piece of legislation.

Minorities are often subjected to discrimination in home mortgage lending and in hiring and firing decisions and are more highly targeted by predatory lending. As a result, minorities will more often be forced to consider the bankruptcy system as a means to stabilize their financial circumstances.

The elderly face increased risk of job loss and catastrophic health care costs, again meaning that more of them will have to explore bankruptcy as a possible option.

As for victims of crimes and torts, the National Organization for Victim Assistance has noted, "More exempted creditors with rights to the same finite amount of resources means lower payments to all. Inevitably, for victim creditors, that means either a smaller return on the restitution owed, or a longer period of repayment, or both."

Most troubling is the fact that this bill, which makes such severe change to debtors' rights under the bankruptcy system, makes almost no changes whatsoever to creditors' rights and responsibilities.

This bill fails to address the fact that credit card companies solicit people who are not creditworthy in the first place. We should be instituting measures to ensure that the credit card companies do their homework before extending credit. We should require parental consent before students under the age of 21 can obtain credit cards, unless there is evidence to show that the student is financially solvent. In fact, the gentlewoman from California (Ms. WATERS) sought to offer an amendment with a very similar goal, but her amendment was rejected by the Committee on Rules.

It is time for Congress to recognize that this bill is too flawed to serve the American people. We must look carefully at the long-term consequences and at the current economic conditions, and then craft any bankruptcy reform legislation in a way that is fair to consumers and creditors. I urge a "no" vote on this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER), the distinguished member of the Committee on the Judiciary.

As I emphasized in my statement earlier today during the general debate on this legislation, the Congress has extensively debated and carefully considered bankruptcy reform legislation over the past 6 years. H.R. 975 represents a consensus, which has sustained overwhelming majorities in both bodies.

The substitute has not been subjected to the same kind of careful consideration from the House that characterizes H.R. 975. It injects an uncertainty into the means test which undercuts the major purpose of the bill, which is to promote uniformity and predictability in the bankruptcy process. Rather than strengthening the integrity of the bankruptcy system and restoring personal responsibility, the substitute endangers these goals. In addition, the substitute contains provisions relating to abortion which are extraneous to bankruptcy, which the House has rejected, and which compromise the objectives of true bankruptcy reform.

Mr. Chairman, we have come too far to turn back now. I appreciate the gentleman's engagement on this issue. However, the substitute truly does take us back. Rather than seizing a historic opportunity to confront a growing problem and restore confidence in a failing system, the substitute merely rearranges the flaws that have drawn us to this point.

Mr. Chairman, I urge a "no" vote on the substitute.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is true, as the distinguished gentleman said a moment ago, that this bill has been before us for a long time. It is not true that it has gotten a consensus. Well, actually it is true that it has gotten a consensus: a consensus of opposition from just about every professional group, every consumer group, every labor group, every women's group, every minority group, every children's welfare group, every professional bankruptcy group, every trustees' group, every Chapter 13 trustees' group, all the judicial groups. They all oppose the bill.

Now, it is true that it has gotten a majority of this House in the past. That is unfortunate. Hopefully we will reconsider that.

For example, the Committee on the Judiciary has received testimony from many sources, most recently from the Commercial Law League of America, the Nation's oldest creditors' rights organization, to the effect that the business provisions in this bill will destroy businesses, especially small businesses. The substitute would correct this problem by giving distressed companies the needed flexibility to reorganize successfully.

Organized labor has also spoken out against the business provisions of this bill because they recognize that a failed reorganization hits workers the hardest. They are the ones who lose their jobs, they are the ones who lose their benefits, they are the ones who see their pensions evaporate.

If you had a large or small business bankruptcy in your district, you know what happens when a company goes under. Preserving value in a company through successful rehabilitation where it is possible benefits everyone: the employees, the creditors, the communities.

This bill, however, imposes rigid and inflexible deadlines on small businesses, especially those dealing with the time in which a company may propose a plan of reorganization. It also places absolute limits on the time in which a business must decide whether to assume or reject a commercial lease, even if they are current in their rent payments. So you cannot wait for the Christmas season to see how you are doing and whether you can survive or not or whether you should throw in the towel. That limit could prove disastrous in cases involving businesses with hundreds of stores. Does anyone know about the K-Mart bankruptcy or the cinema multiplex bankruptcies? How would arbitrary deadlines have affected those cases?

Other arbitrary rules that would force a conversion of a case from reorganization to liquidation are dangerous to our economy and to American small business.

When this bill first appeared in 1997, everyone was singing "Happy Days Are Here Again." There were few fears that massive bankruptcies in our airline industry, the collapse of much of our high-tech industry, the implosion of such market bellweathers as Enron and WorldCom were just over the horizon.

It would be foolhardy for the Members of this House to ignore what is going on in the real world just because this House has adopted this bill in the past. In the case of these business provisions, it could mean the loss of thousands of jobs, the unnecessary liquidation of valuable and still-potentially viable businesses, and the loss of business and value for trade creditors and communities.

Let us take an example from the financial pages. Recently, The New York Times reported that United Airlines was seeking extension on its April 8 deadline for filing a plan of reorganization. They are seeking extension until October 6.

Why are they seeking this extension? According to the report, "The extra time would give United the chance to gauge the consequences of any war with Iraq on the airline industry."

Is there anyone here, other than one of United's competitors, who does not think that that makes sense? Do we want to insist that United file a claim without getting a handle on what is about to happen? Would the Members of this House prefer to just liquidate the whole thing?

According to The Times again, "The Air Transport Association said in a report that a long conflict could prompt the industry to cut 70,000 more jobs on top of the 100,000 lost since the September 11 attacks in 2001. It said several carriers could be forced into bankruptcy along with United and US Airways which have filed for Chapter XI protection last summer."

In fact, an ATA spokesperson was quoted in the London Financial Times just this morning as stating that the war could add another $4 billion to airline losses on top of the $5.7 billion forecast and cut a further 2,200 flights daily. The same spokesperson warned that further deterioration in the industry could make the prospect of "forced nationalization of the industry not unrealistic."

□ 1545

In court papers, United requested an extension of time until October "to avoid premature formulation of a Chapter 11 plan, and to ensure that the formulated plan takes into account the interests of the company, its employees, and its creditors."

Should not the law allow courts to review the facts and decide whether or not such flexibility is, as the Bankruptcy Code has long required, "in the best interests of the creditors and the estate"?

This problem is not confined to United. This morning the Financial Times reported that Standard and Poors has placed 11 other airlines on the credit watch. As a result of the 1991 Gulf War, three major airlines were forced into bankruptcy. Our job is to make the system work better, not to wreck it.

Chapter 11 is a model that other countries, most recently Estonia, are trying to emulate. They look to our system of rehabilitating going concern value where possible as preferable to the emphasis on liquidation and other systems.

Just as the rest of the world is realizing that our system encourages risk-taking, entrepreneurship, and promotes the rehabilitation of distressed businesses, this bill takes our system back in the other direction to force liquidation instead of permitting the flexibility that encourages reorganization and the survival of these businesses.

The substitute that I am offering solves that problem and keeps the current system for these businesses. Perhaps this House could pause long enough to listen to the sound of the market forces before acting to force thousands more companies into liquidation and destroy tens of thousands of jobs. Keep the flexibility in the current system by passing this substitute.

Mr. Chairman, in summary, the alleged reason for this bill, that lots of debtors are taking advantage of the credit card companies and are costing an average consumer $400 a year in higher interest, is sheer nonsense. The reason there are more bankruptcies, studies have shown, is because there is so much credit and too easy credit being given to people who are already head over heels in debt, and people are having too much debt in relation to their income.

If we want to cut down the number of bankruptcies, we should do something about irresponsible extension of credit to people already head over heels in debt. The bill does not do that.

The evidence is that people are more reluctant now to file bankruptcy than they were years ago. The bill ignores that. The bill would force many people into Chapter 13 when they are better served in Chapter 7.

Recently, Professor Staten, whose work for the credit industry provided much of the empirical fodder for this legislation, observed that this legislation would move only about 5 percent of Chapter 7 cases into Chapter 13, and that the legislation would have no effect on the number of bankruptcies. Similarly, according to James Blaine, CEO of the North Carolina State Credit Union, "Charge-offs are well under control at 46/100 of a percent of total loans," less than a half of 1 percent. In other words, 99.5 percent of credit union loans are repaid as promised, and 41.1 percent of charge-offs are related to bankruptcy. Or said another way, just .19 percent, less than 2/10ths of 1 percent, of total credit union loans result in a bankruptcy loss. So taking the high estimate of a 15 percent rate of abuse, the calculation reveals that total losses on loan portfolios are less than 3/100ths of 1 percent.

That should not lead to a draconian bill such as this, a bill that, in addition, cracks down on small businesses and will force many of them into liquidation as opposed to being reorganized.

The substitute keeps some flexibility in the system, enables human judgment to see, on the part of bankruptcy judges, to determine when there is an abuse of the system and a bankruptcy filing must be disallowed and when it should go forward.

Perhaps the worst thing about this bill is the adoption of the IRS rigid guidelines, the adoption of the rigid guidelines that allow no room for any discretion. That is not the way we should write legislation.

Finally, let me simply say that notwithstanding the claims by the consumer credit industry to the contrary, consumer lending is the most profitable enterprise. According to Bloomberg News, CitiGroup, Inc., said "Fourth quarter profit fell 37 percent because of higher loan costs, and the costs of settling claims at the world's biggest financial services company misled customers with biased stock research." But the biggest profit center was the credit cards.

Finally, anyone who thinks that credit card companies, by being able to take more money, to squeeze more money from middle- and low-income people who, because of a job loss or a medical emergency, are in extreme situation and bankruptcy, anyone who thinks they are going to lower the interest rates and save consumers $400 ignores the history of the last 20 years, and ought to purchase the Brooklyn Bridge from people who do not own it.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I appreciate the summary of the summary from the gentleman from New York (Mr. NADLER). I do not think anybody who supports this bill is in the mood to buy the Brooklyn Bridge. The city of New York has that as a tremendous asset and ought to keep it that way.

Seriously, if we look at the list of groups that support this legislation, practically every State retailer federation is in support of changing the bankruptcy laws. These are not banks, these are not credit card companies, these are the people who represent the mom-and-pop stores on the Main Streets in the cities and towns and villages of the United States of America. They are the ones that have to absorb a lot of the debt that is written off in bankruptcy. That means fewer jobs, it means higher prices, and it means a burden on the people who pay their bills as they have agreed to pay their bills.

What this bill does very simply is that for someone who is genuinely down and out and has no chance whatsoever of repaying their debt, it does not change the law at all. They are allowed to go through a Chapter 7 liquidation, get a discharge, and start out afresh. They do get some credit counseling that they do not have under the existing law, and this is counseling that would advise them of the consequences of bankruptcy, as well as advice on how to avoid getting into this pickle again. That credit counseling would go down if the bill goes down.

However, where there is a change in the law for personal bankruptcies are for the people who have the potential of repaying at least some of their debt during the next 5 years. I do not see anything wrong with that. If they can repay some of their debt during the next 5 years, that is their obligation. Why should they pass that debt on to people who pay 100 percent of their bills all the time?

So this is what the issue is. The substitute should be defeated, the bill should pass, and we should provide the essential reforms that have been negotiated out for the last 6 years on this issue.

I urge defeat of the substitute amendment.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the Democratic substitute. This amendment retains the vast majority of the provisions in the underlying bill, while responding to the most egregious and one-sided provisions in the legislation. There are a number of significant differences between our substitute and the underlying bill:

1. Means Test: First and foremost, we fix the rigid one-size-fits-all means test used to determine an individual's eligibility for bankruptcy proceedings. Rather than relying on the debtor's actual cost of living, the bill relies upon IRS collection standards which lay out no specific standards for the deduction of living expenses.

By contrast, the Democratic substitute would modify the means test and require the court to take into account the debtor's actual income and expenses and income. This is based on the same language that passed the Senate overwhelmingly in the 105th Congress.

2. Alimony and Child Support: As the bill presently stands, it is a disaster for single mothers and their children and it will have a particularly harsh impact on the payment of alimony and child support. The basic problem arises from the fact that bankruptcy and insolvency are by definition a zero-sum game. By design, the bill will increase the amount of funds being paid to unsecured creditors, and it therefore should come as no surprise that such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 bankruptcy cases per year involve child support and alimony orders.

The Democratic substitute mitigates this problem by eliminating provisions in the bill concerning luxury good purchases, cash advances, and credit card debt used to pay taxes which place credit card companies on equal footing with alimony and child support payments.

3. Small Business: The Republican bill also imposes a whole host of arbitrary deadlines in small business cases designed to speed up the bankruptcy process. The effect of these changes would be to make it much harder for small businesses to reorganize and stay afloat. That is the last thing our economy needs.

These provisions have drawn the strong opposition of organized labor. For example, the AFL–CIO has learned that the small business provisions will "threaten jobs by placing substantial procedural and substantive barriers in the way of small businesses' access to the protections of Chapter 11 . . . threaten[ing] their overall ability to successfully reorganize."

The substitute allows for the extension of the arbitrary deadlines where it can be shown that the reason for the delay is due to circumstances beyond the control of the small business. Thus, if the reason a deadline cannot be met is because a regulatory process—such as a hearing on an environmental claim—must take place before a plan can be developed, we would give the court discretion to waive the deadline.

4. Credit Card Abuse:

Perhaps the bill's most glaring omission is its failure to address the problem of abusive lending practices. At the same time the legislation responds to every conceivable debtor excess—whether real or imagined—it gives a pass to the transgressions of the credit industry. This despite the fact that we now have 3.5 billion credit card solicitations per year and $1.3 trillion in consumer debt now outstanding.

Our substitute cracks down on the very worst of these abuses, such as soliciting minors who have little ability to pay their debts and failing to disclose clearly on their account statements the total amount and total time it would take to pay off balances if only the minimum amount due was paid each month.

5. Protecting Employee Wages and Benefits in Bankruptcy: The Democratic substitute makes several significant changes to protect employee wages and other benefits in bankruptcy. First, it increases the dollar amount of employee wages and other benefits to $13,500 from $4,650 to take full account of inflation over the last 30 years. Second, it increases the period of time a court may avoid fraudulent transfers to corporate insiders from 1 to 4 years. Given the complexity of these transfers, this is needed to help us protect against future Enron situations.

The Democratic substitute also requires that before business assets are sold in bankruptcy, we learn about the potential adverse impact on employees and retirees health care and pension benefits. All too often corporate bankruptcies become an excuse to void promises of pension and health care benefits, and the Democratic substitute responds to that problem.

6. Use of Bankruptcy to Evade Lawful Debts for Civil Rights Violations: Finally, the Democratic substitute prevents debtors from using the bankruptcy court to evade lawful debts for civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions, or individuals on the basis of religion, or using force or threats to deprive a woman of a right to see a doctor.

Of particular note is the fact that this year's bill drops a provision from the conference report dealing with a very serious problem facing woman as a result of the Bankruptcy Code—the fear that violent and reckless individuals will be able to terrorize and blockade abortion clinics and eliminate their liability from that violence through the bankruptcy process. The Democratic substitute closes that loophole.

For those of the Members who want to support real and balanced bankruptcy reform—without unnecessarily piling on the middle class, single mothers and their children, harming employees, and without giving the credit card industry a complete pass—I urge a "yes" vote on the Democratic substitute.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) will be postponed.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 4 offered by the gentleman from California (Mr. SHERMAN); and amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from California

(Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 269, answered "present" 1, not voting 9, as follows:

[Roll No. 71]

### AYES—155

Abercrombie
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Bishop (GA)
Blumenauer
Bono
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lynch
Majette
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Solis
Spratt
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

### NOES—269

Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### ANSWERED "PRESENT"—1

Ruppersberger

### NOT VOTING—9

Buyer
Carson (IN)
Dunn
Gephardt
Hyde
Ros-Lehtinen
Shuster
Stark
Udall (CO)

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). The Chair will remind Members that there are 2 minutes remaining in this vote.

□ 1617

Messrs. BARTLETT of Maryland, BARRETT of South Carolina, SHAYS, INSLEE, PICKERING, BONILLA, ENGLISH, FRANKS of Arizona, NEY, PORTMAN, DAVIS of Tennessee, HALL, CRAMER and BISHOP of New York and Mrs. JO ANN DAVIS of Virginia, Mr. LUCAS of Kentucky, Mr. DEUTSCH, Ms. SLAUGHTER, Mr. GARRETT of New Jersey, and Mr. TOWNS changed their vote from "aye" to "no."

Ms. McCARTHY of Missouri, Ms. CORRINE BROWN of Florida, Mrs. BONO and Mr. GUTIERREZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON). Pursuant to clause 6 of rule XVIII, the remaining question will be conducted as a 5-minute vote.

### AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 128, noes 296, answered "present" 1, not voting 9, as follows:

[Roll No. 72]

### AYES—128

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Clay
Clyburn
Conyers
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kleczka
Kucinich
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Portman
Price (NC)
Rahall
Rangel
Rodriguez

Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Strickland
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

### NOES—296

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

### ANSWERED "PRESENT"—1

Ruppersberger

### NOT VOTING—9

Buyer
Carson (IN)
Dunn
Gephardt
Hyde
Kaptur
Ros-Lehtinen
Stark
Udall (CO)

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote, 2 minutes remain in this vote.

☐ 1625

Mr. WELLER changed his vote from "aye" to "no."

Mr. INSLEE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. There being no further amendment in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 147, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. JACKSON-LEE of Texas moves to recommit the bill H.R. 975 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Insert after section 220 the following:

**SEC. 220A. PROTECTING ALIMONY AND CHILD SUPPORT PAYMENTS FROM COMPETITION WITH NEW CREDITOR ENTITLEMENTS.**

The amendments made by section 306(b) (limiting cramdowns), by section 310 (presumption of non-discharge status for luxury goods and cash advances), and by section 314 (non-discharge status for credit cards used to pay taxes) of this Act may be waived by the court in any case in which the court determines the amendment involved would impair the ability of the debtor to pay any domestic support obligations (as defined in section 101 of title 11 of the United States Code).

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

☐ 1630

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes in support of her motion to recommit.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is an amendment, whether or not Members are for or against the bill in its present form. I hope Members will consider very closely and very seriously. Interestingly enough, with the economy in the backdrop of the passing of this legislation, more and more citizens being laid off, and more and more individual parents seeking both alimony and child support, this legislation today does not fix the problem.

My amendment provides that a creditor should not receive any greater protections under the bill, with regard to cramdown on car loans, luxury goods purchases, cash advances or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. There are 180,000 individuals who are owing either child support or alimony as we speak, and the number grows, whether it be male or female.

The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to ensure that alimony and child care are protected. Surely this is something that this body could agree on in fairness and equity, and it makes good sense.

What is the rush to judgment to pass this bankruptcy bill in light of the fact that 300,000 people are laid off, a huge growing deficit, and the people of America crying out for some relief, that provides them with opportunities for jobs and survival? This bill needs to be fixed, and it needs to help those who are supporting children on their own, who have experienced a divorce, catastrophic illnesses, whatever causes them to be in need of these monies that they are not able to fight for.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other less aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men and women owing child or spousal support file for bankruptcy each year.

The other side of the aisle will say this is not a problem because they have made child support and alimony the first priority. But the problem still exists. The debtor emerges from bankruptcy. He will be burdened by the massive credit card debts and unsecured car loans, and they cannot be discharged under this bill. Guess who will be left in the dump, and that is those needing alimony and child support with no resources.

Mr. Speaker, I cannot imagine that we would not support repairing this bill. I ask my colleagues to support the motion to recommit.

Mr. Speaker, I offer this amendment to address the bill's adverse impact on the payment of domestic support obligations.

My amendment provides that a creditor should not receive any greater protections under the bill with regard to cramdowns on car loans, luxury good purchases, cash advances, or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to make sure that alimony and child care are protected. Surely this is something that we can all agree is fair and makes good sense.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men owing child or spousal support file for bankruptcy each year.

Now, my colleagues on the other side of the aisle will no doubt claim this is not a problem, because they have made child support and alimony the first priority in bankruptcy. But the problem is that after the debtor emerges from bankruptcy, he will still be burdened by massive credit card debts and unsecured car loans—they can't be discharged any more under the bill. And who do you think the debtor will pay—his credit card company, with high paid lawyers filing all sorts of motions or threats, or his ex-spouse?

Mr. Speaker, I yield to the gentlewoman from New York (Ms. SLAUGHTER) who has historical knowledge about the devastation of leaving language out of the legislation that is in the motion to recommit.

Ms. SLAUGHTER. Mr. Speaker, I would like to give a little history, if I may. I have worked through three legislatures trying to do something about children under the poverty line, the vast majority of them there because alimony was not paid. Indeed, we had a whole phraseology, the deadbeat dad, concerning ourselves with children who had no recourse. We tried a lot of remedies on the county and State levels, and some worked pretty well. But the best thing we did was 9 years ago, we went to the Committee on the Judiciary under Jack Brooks and asked him to make certain that child support took precedence over other debts, including credit cards.

Mr. Speaker, it has made a massive difference in the economic status of children who are the sorrowful price of divorce. For 9 years it has worked well, and I want to say that 9 years ago it was bipartisan, and I think there was not a voice spoken against this raised in the House of Representatives. But suddenly now 9 years later, we decide that credit card companies are more important than our children and where they are going to be able to eat and wear clothes and have a roof over their head.

Mr. Speaker, this matters to a lot of us. Children are going to suffer if credit cards takes precedence over all other debts. I doubt there was a deadbeat dad. I used to think there was someone struggling out there who had to pay his credit card first before he could help out his children. For heaven's sake, let us not go back to that. It has worked for 9 years. It will not hurt the bill. Do not give credit cards the last word in the United States as to who gets to eat. It is outrageous when it comes to children and people who are totally dependent that may have to be sitting about waiting until after the credit card companies, which make enormous amounts of money with their large interest, get taken care of.

Ms. JACKSON-LEE of Texas. Mr. Speaker, do not leave women and children out in the cold. That is why many women's groups oppose this legislation, such as the National Women's Law Center and the Family Law Section of the American Bar Association. We can reform the bankruptcy laws without leaving spouses and children out in the cold. That is what my amendment does. I ask my colleagues to vote "yes" on the motion to recommit, joined by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from New York (Ms. SLAUGHTER), and the gentlewoman from California (Ms. LOFGREN).

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this motion is offered by people who have historically been in opposition to bankruptcy reform. What this bill does is it increases the priority for unpaid child support from seventh priority to first priority, and if the other side of the aisle gets their way and this bill goes down, unpaid child support stays at seventh priority, and that ought to be one reason and one reason alone to vote down this motion to recommit.

The National Child Support Enforcement Association says that these reforms are crucial to the collection of child support during bankruptcy. The motion to recommit creates a major loophole with respect to antifraud provisions. Section 310, which this motion modifies, deals with debtors who are on the eve of filing for bankruptcy who acquire luxury goods and cash advances.

Under this proposal, a debtor could avoid section 310 by asserting that it would impair the debtor's ability to pay a domestic support obligation. The President of the National Child Support Enforcement Association, in dealing with an identical provision in last year's bankruptcy bill, said, "H.R. 333 would provide these children with first priority in the collection of support debt, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings in the payment of child support, and ensure that during the course of a consumer bankruptcy, all support owed to the family would be paid and would be paid timely, and would allow State court actions involving custody and visitation, dissolution of marriage and domestic violence to proceed without interference from bankruptcy court litigation."

Vote "no" on this motion to recommit. A "no" vote is for the protection of children. A "no" vote is for better enforcement of support obligations, and vote "yes" on the bill which increases the priority for unpaid support in bankruptcy to go from seventh priority to first priority.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum period of time within which a vote by electronic device will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 150, noes 276, answered "present" 1, not voting 7, as follows:

[Roll No. 73]

AYES—150

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Clay
Clyburn
Conyers
Cooper
Costello
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Ruppersberger

NOT VOTING—7

Buyer
Carson (IN)
Hyde
Kaptur
Ros-Lehtinen
Royce
Udall (CO)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair would advise all Members that there are 2 minutes remaining in this vote.

☐ 1657

Mr. FORD changed his vote from "aye" to "no."

Mr. MORAN of Virginia and Mr. COSTELLO changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 315, nays 113, answered "present" 1, not voting 5, as follows:

[Roll No. 74]

YEAS—315

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud

Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—113

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Clay
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holden
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Miller (NC)
Miller, George
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rangel
Rodriguez
Roybal-Allard
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Tierney
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

ANSWERED "PRESENT"—1

Ruppersberger

NOT VOTING—5

Buyer
Carson (IN)
Hyde
Ros-Lehtinen
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair reminds Members that there are less than 2 minutes remaining in this vote.

☐ 1705

Mrs. JONES of Ohio changed her vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. HOSTETTLER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 975, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Williams, one of his secretaries.

## PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, due to a personal family commitment on Thursday, March 13, I was not present for rollcall votes 63 and 64. Had I been present, I would have voted "yes" on rollcall number 63 and "no" on rollcall number 64.

## PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR TOTAL INDEPENDENCE OF ANGOLA (UNITA)—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

## FEDERAL OCEAN AND COASTAL ACTIVITIES REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources, the Committee on Science, and the Committee on Transportation and Infrastructure:

*To the Congress of the United States:*

In accordance with section 5 of the Oceans Act of 2000 (33 U.S.C. 857–19), I transmit herewith the first biennial Federal Ocean and Coastal Activities Report as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

## NATIONAL AMBER ALERT LEGISLATION

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. FROST. Mr. Speaker, I would like to read to the House an open letter directed to the House of Representatives signed by Elizabeth Smart, Lois Smart and Ed Smart.

Today, Elizabeth was introduced to the Amber Alert when she asked about a videotape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saved so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help pass it. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand-alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then go to work with you on lobbying the Senate to pass other pending issues for our children.

I will submit the remainder of the letter for the RECORD, signed by Elizabeth Smart, Ed Smart and Lois Smart.

MARCH 18, 2003.

*House of Representatives,*
*Washington, DC 20515.*

AN OPEN LETTER TO THE HOUSE OF REPRESENTATIVES: Thank you very much for your continued support and warm wishes over the past nine months. We especially appreciate all of the representatives who are working together so diligently to pass the National Amber Alert Legislation.

Today, Elizabeth was introduced to the Amber Alert when she asked about a video tape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saves so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help it pass. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then will go to work with you on lobbying the Senate to pass other pending issues for our children.

I wish to apologize to anyone who was offended by my excitement last week. You cannot comprehend the joy and adulation of having your child return. The Amber Alert will make this a reality for countless families. Please don't underestimate the immediacy and power of this legislation!

This is your opportunity to show your leadership for our children. We look forward to seeing you soon.

Sincerely,

EDWARD SMART.
LOIS SMART.
ELIZABETH SMART.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## VACCINE INJURY COMPENSATION FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker and my colleagues, these are the faces of children who have been vaccinated with childhood vaccines that contain a substance called thimerosal. Thousands and thousands and thousands, probably millions of children, but thousands of children have been adversely affected by the thimerosal, which is 50 percent mercury; and these are the faces of children who were normal one day, and after receiving several shots in one day that contained mercury, they very rapidly deteriorated to where they could not talk, they could not look one in the eye, they would flap their arms and run around screaming, and they had chronic constipation and diarrhea alternatively.

These parents of these children and thousands more like them have had a similar experience to my daughter and my grandson. He received nine shots in one day, seven of which contained mercury. He got 40 times the amount of mercury that is tolerable in an adult in 1 day, and within 2 days he was autistic. A very normal child like these were normal children. He was a very happy child, a very talkative child, and he went into silence. When we started getting him out of it finally, he could not talk clearly. He had to have all kinds of speech therapy. He ran around on his toes, flapping his arms, banging his head against the wall like all of these children did. And scientists that we have had before our committee and doctors from throughout the world who are very competent have said that in large part that was caused because by the mercury that was injected into these children from the preservative called thimerasol which was in almost all of the children's vaccinations until just the last 2 or 3 years when we had hearings on this, and, thankfully, most of those vaccines no longer have mercury in them except maybe one which is the flu vaccine for children.

So, Mr. Speaker, if any parents would be watching this, I would like for them to remember to very quickly and very thoroughly look at the insert in the vaccination case when their children are vaccinated and make sure that they do not have an adverse reaction.

The reason I am bringing this up and I am coming down here every night is because there is an attempt by the pharmaceutical companies through Members of Congress to eliminate any possibility of lawsuits against them caused by these vaccinations which had mercury in them.

We have what is called the Vaccine Injury Compensation Fund, which was supposed to be a nonadversarial procedure to compensate these people for damage to their children caused by vaccines; but it has become very adversarial, and it was only a 3-year period within which people had to file. That 3-year period passed before many of these people knew that they could try to get compensation for their child's damage; and as a result, they were left out in the cold. So they filed a class action lawsuit, and there has been an attempt last fall and again this year they are going to attempt to stop those class action lawsuits which would leave these parents out in the cold with no recourse. They are mortgaging their homes. They are going bankrupt. They have no place to go. There is a fund set up to help them, but they cannot get into the fund because that statute has run out and they cannot even go to court to file a class action lawsuit if this language that is in the Senate bill right now is passed into law; and that simply is wrong. We created that fund so those people, those children, could be compensated.

I want to read a letter of a former colleague of ours, Dick Chrysler, who was a Member of this Chamber who has a grandson who is 6 years old that is autistic. He received several vaccinations in the 1997–1999 period, many of which contained the mercury, and here is what his mother said: "He then continued to regress from being alert and happy and beginning to talk to total regression and not talking until after age 3 with speech therapy. He also became a very aggressive child who did not know how to play or interact properly with others." That is what happened to my grandson as well.

"These and many other much more severe behaviors such as seizures with severe breakdowns and explosive behaviors which have caused injury to our other children from broken bones to stitches have become a part of our life due to autism. This has made our life incredibly difficult as one can imagine. As we have taken this past year and a half focusing on whatever treatments we can do to help our son's autism improve and therefore our family's life as well, it has cost us more than we could ever have imagined. Treatments, which have helped but are not covered by any insurance, have amounted to thousands of dollars, and this expense has no end in sight."

□ 1715

Remember, there is a fund out there that they cannot get into. They cannot go to court, and yet the vaccines, they believe, and thousands like them believe, and I believe, and scientists and doctors believe it was caused by the mercury in these vaccines.

Autism does not just affect the poor thousands of children inflicted with this dreadful disease. It affects every person in the world, since ultimately this epidemic is like a chain reaction.

They go on to say 10 to 20 years from now when these are not just little children, who is going to take care of them, especially when we die? This is something that my colleagues and I have to deal with, and we have to deal with it quickly.

## EXPRESSING STRONG OPPOSITION TO THE HOUSE REPUBLICAN BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HONDA) is recognized for 5 minutes.

Mr. HONDA. Mr. Speaker, I rise today to express my strong opposition to the House Republican budget resolution. I believe our national budget should be a statement of our country's values. It should reflect the priorities of the American people for good jobs and safe communities, quality education and access to health care.

Unfortunately, the Republican budget fails to fund these national priorities. The Republican budget has only one clear priority: To fund the President's $1.6 trillion tax cut, and the Republicans fund this tax cut at the expense of the social and economic interests of the American people.

The Republican budget provides $1.6 trillion for the President's tax cut, but only provides $28 billion for a prescription drug plan. This will only cover 1.5 percent of our country's seniors' prescription drug costs over the next 10 years. Any additional funds spent to provide a prescription drug plan would have to come at the expense of other Medicare benefits. So Republicans are essentially offering our seniors the following choice: Prescription drug coverage or benefits. Pick one or the other, but you cannot have both.

The Republican budget cuts $9.7 billion from the mandatory education programs. These include student loan programs and child nutrition programs. In 2004 alone, these cuts could push nearly ½ million poor children out of child nutrition programs. Republicans are eager to fund the President's $1.6 trillion tax cut, but cannot seem to find the funds necessary to provide a school breakfast or lunch for our Nation's low-income children. For many of these children, access to school meals may be the only one assured source of good nutrition each day.

Mr. Speaker, there are millions of Americans today whose parents cannot afford prescription drugs, whose children attend classes in bungalows, because their schools are run down and old. There are millions of Americans who are struggling to find work and provide for their families in the midst of our struggling economy. Yet Republicans are offering us a budget this week that cuts funding for every single domestic priority in order to fund a $1.6 trillion tax cut that will only help a small percentage of Americans. These tax cuts are even more inappropriate when you consider the fact that our country is about to embark on a war that will strain our already weakened financial resources.

Our national budget should be a reflection of our priorities and values. It should be a budget based on making the right choices. Do we make room for more expensive tax cuts, or provide affordable prescription drugs for our Nation's seniors? Do we fund a $1.6 trillion tax cut, or provide school lunches for our Nation's children? Do we focus on modernizing our Nation's schools and providing assistance for unemployed workers, or do we provide tax breaks for the few?

Mr. Speaker, it is clear that the Republicans have chosen the interests of the elite few over the needs of the many. It is clear where their priorities lie.

I urge my colleagues to align their priorities with those of the American people and vote against the Republican budget resolution.

## A PLEA FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to speak for peace one more time, to speak against a rush to war.

Our courageous sons and daughters have been placed in harm's way, and I will continue to support our young men and our young women, but I cannot in good conscience betray the nonviolent principles on which I have worked all my life. I cannot sit in silence when I believe there is still time. It is late, it is very late, it is midnight, but it is not too late for diplomacy, Mr. Speaker.

War with Iraq will not bring peace to the Middle East. It will not make the world a safer or better place, a more loving place. It will not end the strife and hatred that breeds terror. War does not end strife, it sows it. War does not end hatred, it feeds it. War is bloody, war is vicious, it is evil, and it is messy. War destroys the dreams, the hopes, the aspirations and the longings of a people. I believe that war is obsolete.

As a great Nation and a blessed people, we must heed the words of the spiritual, "I am going to lay down my burden, down by the riverside. I ain't going to study war no more."

For those who argue that war is a necessary evil, I say you are half right. War is evil, but it is not necessary. War cannot be a necessary evil, because nonviolence is a necessary good. The two cannot coexist. As Americans, as human beings, as citizens of the world, as moral actors, we must embrace the good and reject the evil.

If we want to create a beloved community, create a beloved world, a world that is at peace with itself, if that is our end, if that is our goal, our means, our way, it must be one of love, one of peace, one of nonviolence.

Gandhi said, "The choice is nonviolence or nonexistence."

America's strength is not in its military might, but in our ideas. American ingenuity, freedom and democracy have conquered the world. It is a battle we did not win with guns or tanks or missiles, but with ideas, with principles, this whole idea of justice and freedom and liberty.

We must use our resources not to make bombs and guns, but to solve the problems that affect humankind. We must feed the stomach, clothe the naked body, educate and stimulate the mind. We must use our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate, to heal and not to kill.

Reverend Dr. Martin Luther King Jr.'s words, many years ago, said, "Take offensive action in behalf of justice to remove the conditions which breed resentment, terror and violence against our great Nation."

This is the direction in which a great Nation and a proud people should move.

War is easy, but peace, peace is hard. When we hurt, when we fear, when we feel vulnerable or hopeless, it is easy to listen to what is most debase within us. It is easy to divide the words into us and them, to fear them, to hate them, to fight them, to kill them.

War is easy, but peace is hard. Peace is right, it is just and it is true, but it is not easy to love thy enemy. No, peace is hard.

Again, Martin Luther King said when he spoke out against the Vietnam War, he said, "War is not the answer. Let us not join those who shout war. These are days which demand wise restraint and calm reasonableness."

He was right then, and the wisdom of those words hold true today. War was not the answer then, and it is not the answer today. It is not the answer in this hour. War is never, never the answer. War is obsolete.

It is my belief, Mr. Speaker, that humankind would rise to a much higher level if we would lay down the tools and instruments of war and violence. It is not too late to stop our rush to war. Let us give peace a chance.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Minnesota (Mr. KENNEDY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## WASTE, FRAUD, ABUSE AND INEFFICIENCY IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I find it hard to understand how anybody could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from Federal contracts, and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector. So while I have read and heard about so much waste and exorbitant spending by the Federal Government that it is hard to surprise me anymore, even I have been shocked and amazed by the spending of the new Transportation Security Administration.

Apparently I am not the only one shocked by this new agency. Michelle Malkin, a nationally syndicated columnist, wrote in a column carried in yesterday's Washington Times and papers across the country, "The Transportation Security Administration is a fiscal black hole and fiscal conservatives ought to be enraged." She said the TSA "is sucking down tax dollars like a bagless Dyson Cyclone vacuum gone berserk."

Ms. Malkin reports that "already the 1-year-old agency has amassed a $3.3 billion budget deficit, and is demanding upward of $6 billion for the current fiscal year."

She wrote in this column, "Never has a single government entity spent so much for so little in such a short time."

It is almost unbelievable to me, Mr. Speaker, that any Federal agency could lose $3.3 billion in its first year in operation. This has to be one for the record books.

A few weeks ago I read in the Washington Post a report of testimony by Kenneth Mead, inspector general of the Transportation Department. He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying they would take applications at a mall in my district, and then no one from the company showed up. I received several calls from angry constituents who showed up at 7 a.m. as the ad had directed and had driven long distances to get there, only to find no one from the company there.

If the TSA had budgeted $107 million, they should have told this company that that was what they would get, instead of allowing a $600 million cost overrun. Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers. Most Federal contracts are sweetheart insider deals in one way or the other, but this one is the most ridiculous I have ever heard of.

Then they hired far too many people. One aviation official told me that TSA now stands for "thousands standing around." I am sure that almost all of the people who have been hired are good, honest, patriotic people, but the TSA has simply hired many thousands more than they need.

I know it is impossible to ever convince any government agency that they have hired even enough people, much less too many. Yet before 9/11, we had about 28,000 or 29,000 screeners. We were told beforehand, before the legislation passed, that we would need to hire about 33,000.

□ 1730

Right after passage, they said they would need about 40,000. Then, a few months later, they went to the staff of an appropriations subcommittee requesting 72,000 employees. There was such an outcry they quickly backed off to 67,000, and then the Committee on Appropriations put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees. So I am told they now have about 66,000 screeners.

I had a screener come to see me at Constituent Day in my district a few weeks ago, and he will have to remain unnamed because I do not want to get him in trouble; but he told me that they have so many screeners at the Knoxville Airport and so many radios that when I walk in the airport, they radio ahead and say Congressman DUNCAN is in the airport, stand up, look busy. It was on the front page of the Knoxville News Sentinel that they were going from about 70 screeners to about 160. I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently, 20 TSA recruiters spent nearly 2 months at a luxury resort in Colorado, a 7-week junket, that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room. The company that ripped the taxpayers off on the screeners' contract, NCS Pearson, has been replaced by the TSA after the obscene cost overrun, but according to Ms. Malkin, the firm still holds several lucrative Federal contracts.

Mr. Speaker, I find it hard to understand how anyone could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse, and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from federal contracts and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector.

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She wrote in this column: "Never has a single government entity spent so much for so little in such a short time."

It is almost unbelievable to me that any federal agency could lose three billion, three hundred million in its first year in operation.

This has to be one for the record books.

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He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying that they would take applications at a mall in my District, and then no one from the company showed up.

I received several calls from angry constituents who showed up at 7 a.m., as the ad had directed, and had driven long distances to get there.

If the TSA had budgeted $107 million, they should have told this company that was what they would get instead of allowing a $600 million cost overrun.

Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers.

Most federal contracts are sweetheart, insider deals in one way or the other, but this one is about the most ridiculous I have ever heard of.

Then they hired far too many people. One aviation official told me that TSA now stands for thousands standing around.

I am sure that almost all the people who have been hired are good, honest, patriotic people. But the TSA has simply hired many thousands more than they need.

I know it is impossible to ever convince any government agency that they have hired even though people much less too many.

Yet, before 9/11 we had about 28,000 or 29,000 screeners. We were told beforehand we would need to have about 33,000. After passage, they said they would need about 40,000—then a couple of months later, they went to the staff of an appropriations subcommittee requesting 72,000.

There was such an outcry, they quickly backed off to 67,000. Then the appropriations Committee put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees, so I am told they now have about 65,000 screeners.

I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently twenty TSA recruiters spent nearly two months at a luxury resort in Colorado—a seven-week junket that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room.

The company that ripped the taxpayers off on the screeners contract, NCS Pearson, has been replaced by TSA, after the obscene cost overrun, but according to Ms. Malkin, "the firm still holds several lucrative federal contracts. These contracts total more than $500 million—including a $140 million deal to manage and operate three national customer-service call centers for federal immigration services."

As Ms. Malkin said: "Deeper into the homeland security money pit we go. Where the traditional watchdogs for limited government are, nobody knows."

## EXCHANGE OF SPECIAL ORDER TIME

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from Ohio (Ms. KAPTUR).

The SPEAKER pro tempore (Mr. BONNER). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

## ALTERNATIVES TO WAR SHOULD BE DEBATED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, many times, many of us are not aware of the very special talents and the very diverse backgrounds Members have in this House. I was moved to listen more than I ever have to the words of the gentleman from Georgia (Mr. LEWIS). For those Members who need to be refreshed in their memories, of course, the gentleman from Georgia (Mr. LEWIS) is one of the valiant soldiers of the civil rights movement, one of the leaders of the civil rights movement, and one of those very privileged persons who had the opportunity to work directly with Dr. Martin Luther King. His words were particularly potent this evening, because he has just led a pilgrimage to Selma, Alabama, to reacknowledge the Selma-to-Montgomery march. The march of March 7, 2003, was to acknowledge the march of March 7, 1965, when Congressman LEWIS's attempt to walk across the bridge for civil rights and the right to vote was stopped by the bloody actions of those in Selma, Alabama. Today we are seeking healing, and he is proudly one that leads a group of Members and others back every year.

So when he speaks about peace, he knows from which he speaks. I believe it might be well for this Congress to pause and this Nation to pause for a moment just to think about the issues of nonviolence and whether or not it shames us or diminishes us to find another option to the option now posed of a war against Iraq.

Mr. Speaker, I frankly believe that we have not consented to a war against Iraq; and I believe this Congress has yet to fully debate this question, a simple question of declaring war against Iraq under article I, section 8. I am asking the Speaker to bring this legislation up.

I believe that we have another option, Mr. Speaker; and it does not again diminish our respect and admiration and acknowledgment of the hundreds of thousands of young men and women already deployed, willing to offer their lives so that we might live free. It respects their choices. It also acknowledges the different strains, stresses, and tribulations that these young people are under. The story of two Marines, male and female, parents of a 2-year-old son who have to leave now, one already gone, one about to leave and writing their will to determine where that child might go.

I believe we have another option because we are united around the fact that Saddam Hussein is a bad actor, a bad leader, a horrific and a heinous actor upon people. So I believe we can find a way to win this effort against the acts that he has perpetrated by using international law. We can, through the United Nations Security Council, convene an international war crimes tribunal and indict him so that the credibility of his government and Mr. Saddam Hussein is diminished. We can leave a coalition of 50,000 troops on the border to ensure that the U.N. inspection process goes forward. We can begin humanitarian aid. We can as well regain or rebegin, regain the prominence of fighting the war against terrorism, and we can reignite the Mideast peace process.

Mr. Speaker, there are options other than war. I would ask this Congress to do its job and not be silenced, debate this question; but I ask the President to review the options in light of the courage of our young men and women and the United States military. We salute them; we praise them. That is why we are owed the duty to render the right decision on their behalf and the people of the United States of America. There is another option. I argue for peace over war. Listen to the words of the gentleman from Georgia (Mr. JOHN LEWIS.) He knows from whence he speaks.

## HONORING EDDY ARNOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a true Tennessee legend and a national treasure. Eddy Arnold is the most successful country music singer of the 20th century. His body of work, including 28 number one singles, spent more weeks at the top of the country music charts than any other artist in the field.

This March, the Country Music Hall of Fame and Museum in Nashville honored the Ambassador of Country Music for donating his personal effects and memorabilia. This selfless donation constituted the largest collection dedicated to a single individual ever received by the museum. The "Tennessee Plowboy" generously offered more than 2,000 photographs, 5,000 radio recordings, tuxedos, guitars, and his coveted Entertainer of the Year Award from 1967.

In a brilliant career that spans 7 decades as a guitarist, songwriter and singer, Eddy Arnold has made immeasurable contributions to the popularity of country music with such hits as "I Hold You in My Heart" and, my favorite, "Make the World Go Away." Now he has made an immeasurable contribution to the Country Music Hall of Fame and Museum. For that, Tennesseans and, no doubt, country music fans across the country, are deeply grateful.

Eddy Arnold, a living country music legend and my constituent, has enhanced his genre and the culture of America. I want to thank him for his dedication to the arts and for his invaluable gifts to the Country Music Hall of Fame and Museum.

## H.R. 1322, A BILL TO PROTECT RETIREE HEALTH BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

Mr. TIERNEY. Mr. Speaker, I rise today in the face of mounting evidence of a national crisis in retiree health care, and I want to announce the reintroduction yesterday of the Emergency Retiree Health Benefits Protection Act, known as H.R. 1322.

Mr. Speaker, H.R. 1322 will stem the tide of post-retirement cutbacks or elimination of health care benefits that have victimized millions of American retirees.

Now, Mr. Speaker, one would think that businesses and business values and basic fairness and, in fact, the law would ensure that retirees could rely on health benefits promised to them by employers. But the case is that increasingly, large profitable employers, even those who enticed employees into early retirement, have now changed and are reneging on their commitment.

These corporate cutbacks in retiree health care have reached intolerable proportions. For too long, working people have been denied health care benefits that were promised upon retirement to the lack of strong laws in this area. The retirees lived up to their end of the bargain, Mr. Speaker, and now the companies must live up to their end.

To renege on these promises jeopardizes the life savings of people who are forced to absorb the precipitous decline in their standard of living and dip into their savings in order to make up for a cut or a cancellation in health benefits. Even worse, retirees with preexisting medical conditions may not be able to obtain or afford any new health coverage at all. As a result, their health declines rapidly and, in some cases, needlessly.

A recent study by the Employment Benefit Research Institute found that a 65-year-old retiree without employment-based insurance may require up to nearly $1.5 million to fund lifetime medical expenses. That is assuming death at the age of 100 and medical inflation of 14 percent annually.

All of this is happening against a precipitous drop in personal savings. According to the AARP, which published "How Americans Save," the United States savings rate has been steadily declining over the last 25 years. The Economic Policy Institute reports that in September and October of 1998, personal savings rates for Americans consisting of contributions to individual savings accounts, as well as employer and personal contributions to 401(k)s and IRAs and similar pension plans, dipped below zero for the first time since the Great Depression. The United States Department of Commerce reports that at the beginning of the 1990s, households saved on average about 8 percent of their disposable income. By 2001, the proportion of income set aside for savings had fallen below 2 percent.

Mr. Speaker, H.R. 1322, the Emergency Retiree Health Benefits Protection Act, would reverse these recent trends and bring common sense and fairness back to retiree health. With certain limited exceptions, the bill would prohibit employers from making post-retirement cancellations or reductions of health benefits that retirees were entitled to when they retired.

In addition, the bill would obligate employers to restore benefits taken away after retirement, unless the employer can demonstrate substantial business hardship if compelled to restore the benefits.

Boosting a profitable bottom line would not qualify as a substantial hardship. While many employers are crying hardship today, Mr. Speaker, the hard truth is that many were aggressively cutting employee benefits in the midst of the economic boom of the 1990s when profits were high.

Basic fairness dictates that we ensure that the promises that have been made to those whose life's efforts have contributed to the great economic prosperity of our Nation are kept. We can ill afford the collapse of private sector retiree health initiatives because retirees no longer have faith in their employers' promises.

Last Congress, this bill garnered national support from retirees across the country. My office received hundreds of testimonials from people affected by these cutbacks, and tonight I want to share three.

From my own district in Massachusetts: Leo Murphy of Ipswich, who is the regional Vice President of the National Association of Retired Sears Employees, which represents 154,000 retirees nationally, has this to say: "H.R. 1322 will ensure that companies don't sell out their retirees whose hard work grew the companies in the first place. We all made plans anticipating our retirement years, and those plans have all been torn apart. Enactment of H.R. 1322 will restore credibility to private sector health care plans and assure that retirees and their families continue to have the health coverage they were promised and worked for all their lives."

From a retiree in Morristown, New Jersey: "What a hardship it has been to see the health coverage I retired with, and fully expected to continue as is, be constantly whittled away. It just isn't fair. Not only is it eating into my pension every year, but my pension has not received a cost of living increase for the past 10 years. Please help us; we are counting on you. And thank you again for caring about us."

And from Wellington, Florida:

"I am writing you concerning retiree benefits. I retired in 1991. Since that time, the company has reneged on promised retiree life insurance. The company has also made the retiree medical plan almost unaffordable by raising premiums far beyond the normal type increase. They have cut averages and cut coverages, they have raised deductibles, and made it pretty obvious that retirees are a liability, and please go away is the preferred method of handling retirees. Legislation is needed to protect retirees from vigilante actions of companies and protect retirees from unscrupulous company executives. Since many companies can no longer act in a trustworthy manner towards retirees, it will take Federal legislation to protect retirees when those retirees are the most vulnerable and least able to provide replacement benefits."

Mr. Speaker, I thank my colleagues for their courtesy, because I have received hundreds of testimonials from these people. Congress should act, and I hope my colleagues will join me in supporting H.R. 1322.

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## WHAT COULD AMERICA DO DIFFERENTLY TO PREPARE FOR ANOTHER SEPTEMBER 11?

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, imagine if we could rewind the tape, we could rewind it back to September 10, 2001. We are sitting around looking at the world. We know that in 1993, the World Trade Center was bombed. We know that 17 Americans were killed when the USS *Cole* was bombed in Yemen. We know that two embassies in Africa have been bombed. We have withdrawn from Somalia.

If it was September 10, 2001, and we were taking a sober assessment of the world, what would we do differently? Particularly what would we do differently as respects the events of September 11?

Mr. Speaker, obviously we cannot rewind the tape ever, but the reality is we are sitting potentially on another September 10 date right now. We have been in this world for a long time. We are looking at a world where Saddam Hussein had 90 days from April, 1991, to disarm after withdrawing from Kuwait and after the U.N. action that we know of as Desert Storm.

We know that in the 12 years that followed April 19, 1991, he flaunted the weapons inspection process. We know that weapons inspectors such as Scott Ritter quit in disgust. We know that it was criticized. We know that he went 4 years without having U.N. weapons inspectors. We know that indeed 17 U.N. resolutions have gone by.

Our President has been very patient with the U.N. diplomatic process. It is too bad that it failed. It is too bad that maybe the U.N. could have stepped forward a little bit stronger during any of the time in the last 12 years, but that did not happen. Maybe the future of the U.N. should be debated in another Chamber at another date.

The reality is Saddam Hussein has chemical and biological weapons, and has tried to get nuclear weapons. We know that he has murdered hundreds of his fellow men. We know that Amnesty International and Human Rights Watch estimates that there is something like 70,000 to 150,000 people who have disappeared in Iraq, which is more than any other country in the world.

We know that in the year 2000 they implemented tongue amputations as a way of dealing with their enemies. We know that he uses torture. We know that he drills people. We know that he rapes people. He films things like this and shows it to family members. We know that, indeed, he has killed some of his own family members.

The message from the United States of America to the people of Iraq is that the enemy of Iraq is not the United States of America; rather, the enemy of Iraq is their own government; very specifically, Saddam Hussein.

We in America stand against oppression. We in America stand for the liberation of the people of Iraq. We in America stand for our own homeland and national security, and we in America stand for our own troops, who at this moment are abroad and ready for action.

I hope that in the 11th hour of this long process Saddam Hussein decides to step forward and save his country as he knows it and to help support another regime. I hope we do not have to pull the trigger; but should we need to do that, we will be successful. We will liberate the people of Iraq. We will do the right thing.

Mr. Speaker, let me close with just saying that on this very critical hour in our history, we all say a prayer for our troops, and we all stand behind our troops. God bless America.

## THE BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. RUPPERSBERGER) is recognized for 5 minutes.

Mr. RUPPERSBERGER. Mr. Speaker, the last few weeks have been a time of solemn reflection and debate in this country. It has been an impassioned and peaceful process with many voices heard, which have again reinforced the United States as the world's greatest democracy.

We owe our system of democracy and self-concern to America's veterans, who have given so much to ensure its legacy. Today our military is once again on the brink of a great sacrifice in the name of security and freedom for America and the rest of the world. Without reservation, it is time for all Americans to come together to support our men and women in uniform and their families back home. Our country's focus must now be on the success of their mission.

I urge every American to join with the Congress and our President to wish our Armed Forces Godspeed and safe return from abroad. However, we must not lose sight of our mission at home, the mission of our police officers, firefighters, and emergency personnel, our first-line responders, in the event of a terrorist attack that might occur.

While our Armed Forces have our full support, the front lines of our homeland and hometown security are our cities, counties, and towns. We must equip our first-line responders the same as we equip our military abroad.

Since the fall of 2001, local governments all over America have had to bear the burden of equipping and training all of our first responders against an unknown threat. My district, which is the Second Congressional District in Maryland, is home to two Army bases, the Port of Baltimore, Baltimore-Washington International Airport, and the 17th largest city in the country. This lack of funding directly affects every community in our metropolitan area.

Last year the Baltimore region alone spent more than $14 million to protect itself. Cities, counties, and towns cannot do it by themselves; they need Federal funding to equip our first-line responders. We must train our first-line responders. We must give them the equipment to protect themselves so that they can protect us in the event that there is a terrorist attack.

Put against a tax cut that equals $117 billion, $3.5 billion is not asking for too much to protect and to give the resources to our front-line responders. I urge my colleagues across the aisle to reconsider their budget priorities so that they better reflect the priorities of the American people as it relates to our protection and our security. We must provide the tools necessary to our first responders that would protect our citizens.

In today's Washington Post, the Secretary of Homeland Security, Tom Ridge, said that the President plans to propose a supplemental Federal budget to pay for more counterterrorism measures. I applaud that; however, for the sake of our country, our citizens, our hometown, our homeland, I hope these counterterrorism measures include more resources for local governments and first responders.

## PROPOSED BUDGET FAILS TO PROVIDE FOR HOMELAND SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Oregon (Ms. HOOLEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. HOOLEY of Oregon. Mr. Speaker, I want to talk about the budget we are going to have tomorrow. A budget needs to reflect what our national priorities are. That is what a budget is all about, making choices.

I want to tell the Members, although I made several attempts, as well as many members of our committee, to make changes in the budget, all of those were defeated. I am going to talk just a minute about one of those issues, and that is homeland defense.

This is a time, Mr. Speaker, when more than ever we need to make sure that our counties and cities and States are well-equipped for our national security. This budget fails to adequately provide for our homeland security. The President said we were $2.2 billion short in homeland security. The Secretary said we were short $2.2 billion for homeland security. Yet this budget leaves that shortfall.

Let me just talk a minute about what is happening in our State. Our State has high unemployment. We are laying off our police and our firefighters. Our young men and women who are in law enforcement are being called up for the National Guard and being sent to the Middle East, and many are already in the Middle East. Our local communities frequently do not have equipment that talks to one another, communicates with one another.

What we are trying to do in this budget and what the Republican budget lacks is the money to make sure that our local police and our local fire departments and our local emergency workers, not only that we have adequate personnel, but that we have the equipment so they can respond if there is a terrorist attack in the United States and in our communities.

I cannot believe that we are going to do a budget at a time like this that does not respond to our local communities and our local States for those people that are going to be the first line of defense.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank my colleague for yielding to me.

Mr. Speaker, this Republican budget resolution is a failed economic plan that proposes $1 trillion in tax cuts in search of an economic purpose. This budget follows President Bush's $1.3 trillion tax cut 14 months ago to get this economy moving and produce jobs. That was the argument behind the original tax cut.

The net result is 2.5 million Americans today are without work who had work prior to that tax cut, and there are 4 million more Americans without health care who prior to that tax cut had health care, 2 million more Americans who have moved from the middle class to poverty prior to that tax cut, and $1 trillion worth of corporate assets have been foreclosed on and hit Chapter 11. That has been the net effect of this tax cut.

Now, what are we about to do? We are about to put our foot on the accelerator 14 months later for another $1 trillion plus tax cut that will have the same effect of lost jobs, lost health care, lost corporations and family dreams, and more and more Americans moving from middle class to poverty.

We need to move the trend the other way. We need an economic plan, not just a tax cut. While we consider this budget, we as a Nation, as one Nation, as one country, are moving closer to war. We also have a plan now for that war and for after that war to rebuild Iraq; in the range of $100 billion they are talking about rebuilding Iraq. The administration's postwar request would build more housing, more schools, and go further in providing health care for pregnant woman in Iraq than this budget provides Americans. The Wall Street journal wrote on Monday that the postwar reconstruction of Iraq is ambitious in scope and speed.

I want to read some of the juxtapositions that are playing here, so as Members on the other side think about their vote, it just does not get glossed over by one fix or two in what we here in this Chamber call the manager's amendment.

Let me read under health care. Medicaid provides insurance coverage for over one-third of the live births nationally here in this country, yet Medicaid is scheduled for a $95 billion cut. In Iraq after the war, maternity care will be guaranteed for 100 percent of the population.

The U.S. budget we are about to vote on does not provide a single dollar of health insurance for the uninsured in this country, where we have 42 million Americans who work full time without health care. In Iraq after the war, 13 million people, half the population, will be guaranteed health care coverage.

Under education, the U.S. budget cuts Head Start for 28,000 children, cuts education spending by 8 percent, zeroes out 40 new programs, like technology, like Star Schools. In Iraq, there will be guaranteed books and supplies and 100 percent enrollment for 4 million schoolchildren in Iraq, with U.S. dollars.

Teacher quality programs in America are cut by $9.3 billion, more than 10 percent, and 25,000 schools in Iraq will be rebuilt and renovated at standard level of quality.

Housing, we only have in this budget enough dollars for 5,000 new affordable housing units; yet in Iraq the plan is for 20,000 new units of housing.

The Army Corps of Engineers is scheduled for a 10 percent cut in this country; yet our plan for Iraq calls for total reconstruction of the Umm Qasr port so it is fully opened for cargo traffic.

□ 1800

That is the plan for Iraq. That is also the plan for America.

Under Transportation, highway funding in America is cut by $6 billion over the next 10 years. In Iraq 3,000 miles of new roads will be rebuilt.

Now, after that juxtaposition, I am not against the reconstruction budget for Iraq. If you want to build democracy, that should be the commitment of our country. The plan for Iraq is robust. The plan for America must be robust.

The plan for Iraq has been thought through in an economic strategy. The plan for America must have the same strategy, the same care for its health care, for its pregnant women. The same care for its schools. The same care for its housing. The same care for its infrastructure.

This budget that we are going to vote on leaves too many Americans behind. Because of the impact of the 2001 tax cut, 2.5 million Americans without jobs, 4 more million Americans without health care, a trillion corporate assets foreclosed on, and 2 more million Americans who have gone from middle class to poverty. One could be cynical enough to think that what I just read about Iraq versus America could be distilled down to 30 seconds.

I want Members to think about this before they vote on this budget. Just papering over the differences on Medicare will not erase the differences between America and Iraq when it comes to our investment in education, health care, housing, our infrastructure. We need a robust plan for America. And this budget falls woefully short as it pertains to our future, our families' future and their children.

Now, I am committed to working, if we win this war, which we will win this war, to the reconstruction of Iraq. I want the same emphasis, the same desire, the same dreams, the same hopes that our President talks passionately about for Iraq for here at home. Because we cannot guarantee 100 percent of pregnant women in Iraq with basic health care for their pregnancy and yet cut $95 billion of Medicaid where one out of every three Americans get their health care as it relates to their child birth. We cannot cut 40 programs, zero them out, Head Start schools, technology schools, teacher quality, and yet guarantee 25,000 new schools will be built in Iraq.

We cannot talk about 25,000 new housing in Iraq and yet only provide the funding for 5,000 new affordable housing in America. That is not a dream for America. That is foreclosing on America's dream.

And I know there are good people with good values on the other side who think hard about what they are doing, and I want them to think hard about the vote that they are going to cast on that budget because they have to go back home and explain how Iraq got moved to the front and their families, their neighbors got moved back. That is not right. We can do better.

It need not be a Democrat-Republican issue. Let us make America first not only around the world but here at home.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from Oregon (Ms. HOOLEY) for her distinguished service in the House, and I thank her for putting together this Special Order.

Mr. Speaker, I rise this evening to talk about what will be coming before the House of Representatives, the House of the people, and that is our Nation's budget. We know that the Federal budget is a very, very thick book of many, many pages with fine print and many, as we say, line items. But at the end of the day what a budget is about is not only a compilation of numbers but it is a statement of the values of the American people.

I have done much budgeting in my day from local government, the county of San Mateo, where we were required, obviously, to balance our budget. I still adhere to that because I think being fiscally responsible is not only necessary but it is the prudent thing to do.

So what is this budget debate going to be about? Both sides of the aisle are really challenged to come up with their best ideas for their vision of our country, of where we are going and what we need in order to get there.

Tonight on the Feast of Saint Joseph, the worker, our country is on the brink of war. And yet the President's budget does not include one dime for that. There is something wrong with that picture. There is something very wrong with that picture.

Let me give you a picture of my congressional district. It is a very distinguished place in our country. It is the home of Stanford University. It is the home of Silicon Valley. In 2 short years everything that was up is now down. We have one of the highest unemployment rates in our Nation. Our State is facing up to a $35 billion deficit. Keep in mind that our State and our local governments represent 12 percent of our national economy.

Now, what are the President and this House proposing in their budget? The same old same old. How many months ago? 18 months ago the President said as the economy was sputtering. We need massive tax cuts. Tax cuts that would go to the wealthiest, the best off in our Nation. It is a legitimate argument that was pitched then about whether that was the best prescription for our Nation's circumstances. I voted against it because I thought at the time that when the sun is shining, that is when you fix the roof. We did not do it. Squandered the surplus.

We now have a different economic condition in our country. Indeed, our country faces even more challenges than we could have ever dreamed of as the first roll of tax cuts went out. So what is contained in this new budget that the President has brought to us and your Republican friends are going to bring to the floor? More tax cuts. I believed it was wrong then; it is certainly wrong now.

Imagine if Winston Churchill, when he was rallying his countrymen to go to war said, And in addition to my rallying you, my countrymen, I am calling for a massive tax cut.

This is a sober time in the life of our Nation and in the families of our Nation. Many have committed their children, their treasury and our Nation's treasury to this war in Iraq. Veterans benefits should not, therefore, be cut. Our Nation's defense needs to be paid for. But the education of those that are serving in Iraq, their children's education should not be cut at home. We do them a disservice. We dishonor them, and we dishonor the future of our country by doing this.

This is not about throwing money at things. This is the responsibility of a great democracy. That is why the Democrats have held the line on education here at home. It is why Democrats recognize that we will not have homeland security unless we fund hometown security. There is something wrong when the firefighters from my district who came in to meet with me just this morning said, because hometown security is not being funded, our positions, our jobs are being eliminated. Now that does not make sense. It is not right.

I keep thinking of what my father used to say when something really got mucked up. He would say, You have made a real mess of this. This is a harsh judgment of my Republican colleagues, but you have made a mess of the economic life of this country, a real mess. We are now back to you have produced a deficit and it is over $300 billion. You will drive the national debt up to at least 5 trillion. The cost of this very tax cut that you are going to bring to the floor in your budget, the cost, the price tag of that alone is $1.6 trillion.

This is not pitting those that have more against those that are average, against those that have even less. This is about the United States of America. We are all in this together. And so the fairness and the responsibility and the fiscal responsibility need to be exercised. It is a budget that leaves the American people wanting. If we cannot fund properly our national defense, our hometown security, education for our children, and the health care of our veterans and those amongst us, then what have we come to? What have we come to?

We have a responsibility not to place these burdens on our children, our grandchildren, and our great-grandchildren. The Democratic budget recognizes that. That is why I am proud to stand next to it. The Republican budget does not.

It is no wonder that those in Republican seats on the other side of the aisle are rising up and saying, This is not fair and we are not going to vote for it. I salute their guts and their courage to do that. Why? Because our Nation's treasures are putting their lives, their courage, their lives on the line some place else on the globe; and we need to stand next to them by honoring their families here at home. That is what this is about.

So, Mr. Speaker, as we come to the floor and speak about what is going to come to us on the floor, there may not be that many people in the country listening, unfortunately. Why? Because legitimately we are preoccupied with the moment when America is going to strike. But whether people notice it or not, whether they notice it or not in terms of our words in this debate, make no mistake about it, it will be felt. It will come home to each individual, each mother, each child, each health clinic, each classroom, each senior center, each lunch program in your grammar schools and our elementary schools.

It will be felt in communities across this country. Why? Because that is what our Nation's budget is about. It is about our democracy. It is about what we value. It is about where we place our priorities. I hope that it is a budget that reflects the best of us and not some bumper sticker. I hope it is a budget that funds what is going to collectively take us into the future. I hope it is a budget that does not shortchange what children eat in their lunch programs, whether they have a classroom that is the right size, whether their teacher is trained and educated the right way, whether those that have served in other wars are honored with the benefits that they receive. I hope it is not a slap in the face to America. That is not what this should be about.

I am proud that the Democratic alternative will take us back to a balanced budget by 2010. I do not think our friends on the other side of the aisle can boast that. It covers the priorities that we believe not only have made our Nation great in the past, what has been given to us, but what we can do for the future of our country.

□ 1815

I thank my colleagues, especially the New Democrats, for taking time this evening to demonstrate the differences, because there is a difference, Mr. Speaker, and, Mr. and Mrs. America, between the two major parties. It is our responsibility to bring our ideas forward and have them be part of the debate in this country about which way is the best way to go. I thank my colleagues, and I especially thank the gentlewoman from Oregon who has brought such leadership to this.

Ms. HOOLEY of Oregon. I yield to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I want to stand by the words of my colleague from California. There are many of us here, especially among the New Democrats, that did vote for the tax cuts going back almost 18 months ago. I come from New York. In New York, we love tax cuts, mainly because we pay so many taxes on the island. But I have some real problems with the budget that we are looking at.

We are supposed to debate this tomorrow, and I hope that we do, but I understand that many of my colleagues on the Republican side are having a real problem with the budget that they saw, and I hope they stand together, because we as a Nation are going through some very, very tough times. America, as I said, is going through some very trying times. The economy is struggling, unemployment unfortunately is up, consumer confidence is down, and our Armed Forces are gearing up to go to war.

Tomorrow possibly, if they can come to an agreement, this body will debate an overall budget for this country that hopefully will address all of these concerns. And I hope it is a good debate. I hope they allow us at least to even put our budget forward. That is what this great place is about, the debates. Then we have the vote. We either win or we lose. But unfortunately around here lately, we are not even allowed to put a substitute up. I am always hopeful.

The two proposals that I have seen, one from the administration and the other from the House Budget Committee, do not come close to addressing our concerns. I am going to have a very hard time going home and telling my constituents that I might be cutting after-school programs, student loans, teacher quality programs, COPS funding.

COPS funding. That should be part of our homeland security. I know in New York City, they are spending an extra $5 million a week. COPS programs, that is helping my community work with my schoolchildren to make sure that the areas are safe, and to get the kids to know them so that they have someone to go to when they need it.

A highway fund. We all know that when we put money into the highways, those are jobs, not only making our infrastructure better, but also it helps the mom-and-pop stores because our construction workers have to eat. Our construction workers, by the way, pay our school bills.

But I have to say, when you try to make room for a back-loaded tax cut plan proposed by the administration that provides a very, very minimal stimulus, I think we have a problem. I cannot go home and tell my constituents that I slashed funding for our veterans. We are on the brink of going to war. We have young men and women overseas getting ready to protect this country, and we are showing our older veterans the compassion by cutting their funding for health care. There is something very, very wrong with that.

I spent my life as a nurse before I came here. I know firsthand that our hospitals across this Nation are struggling to keep their doors open. Yet in the Republican budget we see more slashes for Medicare and Medicaid. There is something very, very wrong with that.

I am one of these people that do not believe in kicking someone when they are down. If this budget passes tomorrow or Friday, we are going to be hurting an awful lot of people.

Again, are we going to have a decent prescription drug plan? Out on Long Island, I have my seniors that cannot even afford to be able to buy their medications. That is wrong. No one should have to go without their medications. I look at things holistically. If you are not giving medications to the patient, they are going to end up in the hospital, and it is going to end up costing more money. Yet in the wisdom of my colleagues on the other side of the floor, they want to cut Medicare reimbursements, they want to make our hospitals have to even cut back more, which means, by the way, they are not going to be able to hire nurses to take care of the patients.

We have to look at things, in my opinion, on how we would run our house. We all have to make sacrifices. We all have mortgages. We all have bills to be paid. We sit down and we look to see what has to be done. But this budget, the Republican budget that is coming out tomorrow, is totally unacceptable.

I think the shame of it is that we are making these cuts so we can make room for a $1.4 trillion tax cut. I do not know. I think the American people, if anybody is watching, would kind of sit around and say, wait a minute. My mother, maybe my grandmother, maybe she needs to go to a nursing home. She needs her prescription drugs. Those are going to be slashed? I do not know. That is not the way you cut a budget.

Then we have the war. We all know most likely that we will be going soon, but there is not one penny in either proposal of the budgets that I have seen for the war or even the cost of rebuilding the economy. Some argue we can address these costs in a supplemental. I understand supplementals. However, these supplementals are becoming like second budgets. If we have any kind of an idea of what something is going to cost, we should budget for it, and we should budget for it now.

I know we are going to go into some debt because of the war, and that to me is good debt. It is good debt mainly because we are protecting this Nation, and we are going to be protecting other nations so that they can have democracy and freedom and freedom from terrorism. We have to look to see what our priorities are.

This body, and I happen to think the Democratic budget substitute is the one that we should be looking at, it puts us back in balance, and that is what we all want. It provides a stimulus package that actually will stimulate the economy. We should have been doing this in January. We should have been stimulating the economy so that we would not have unemployment going up and up and up.

Homeland security. I talk to my schools, I talk to my firemen, I talk to our police officers, I talk to my county executive. They are trying to put plans together, but there is no money there. Most of our States, as I have mentioned before, are already in debt, so they cannot even spend the money. My county is in debt, and we have worked very hard to try and get out of debt, but unfortunately sales are down, so tax revenues coming in are not there.

The Democratic plan also offers a sensible prescription drug proposal.

The other thing is we are going to make sure that the funds are there for our military. This can be achieved by providing a stimulus that is reasonable and targeted to the people who need it the most.

The American people are looking to Congress to pass sensible policies that not only encourage investment, but also increase goods and services. Again, we have to be able to do a number of things here. We have to make sure that we are there to protect our armed services, but we also have to make sure that the country is economically sound. The Democratic proposal can do that. The Republican budget will not.

Unfortunately, the choices before this body suggest policies that do more harm than good. For example, half of the costs associated with President Bush's tax cut involve an elimination of the tax on dividends. To be honest with you, I do not have a problem with that. In better times, I probably would vote for it. I happen to think that in the long term it might be good for this country. It is not good right now. It is not the best bang that we can get for our dollar. I am hoping that we might be able to take this out and address it next year when things are better. This particular provision should be included in a long-term tax reform bill, as I had said. We should debate this at a later time when we can afford it.

A true stimulus plan provides immediate capital to assist an ailing economy. I believe that eliminating the tax on dividends does not provide us with the bang for the buck as we need it, as I said before. And though I understand the need to make sacrifices, and I know the American people understand what sacrifices are, if we want to jump-start the economy, it should not be done by passing bad policy. I want to support a budget that actually stimulates while taking into consideration long-term budget implications. There is no room for political gamesmanship when people lose their retirement savings or their jobs.

Again, I am just going to say, what I saw on the Republican budget, large cuts to education. It cuts my veterans' benefits and health care. My hospital on Long Island for my veterans can barely keep its doors open now. It fails to protect the environment. It fails to make the adequate investment in health care.

I know that we have tough decisions to make, but again, the Democratic plan covers all these issues, makes them fair, and certainly brings hopefully a little bit of sunshine down the road when we can go back into a balanced budget.

I hope the American people get involved in this debate. I hope that they call their Representatives, because the pain that we are going to be feeling not just from the war, but from the cuts on educating our children, taking care of those in the hospital, taking care of those at home, taking care of our seniors, that is not where we should be making cuts.

Ms. HOOLEY of Oregon. I thank the gentlewoman for her thoughts today and for advocating a fiscally responsible budget.

I yield to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, first I want to thank the gentlewoman from Oregon for organizing this hour to talk about a very important subject, the budget. Of the many things that are disturbing about the budget that the President has proposed and the Republicans have proposed here in the House of Representatives, I think perhaps the most disturbing, is the chatter that is coming out of the Republican side of the aisle that deficits do not matter. It used to be that a balanced budget amendment seemed to be required, and now we have sort of decided because it is inconvenient to have to balance the budget that deficits no longer matter.

They have come up with all kinds of fascinating arguments as to why that is. I think the biggest one they focus on is to say that deficits do not really affect interest rates, because that is typically one of the arguments against running deficits is that if the government is gobbling up all the money out there, it is going to drive up interest rates and hurt the overall economy. They point to various points in our history and say that, well, in the 1970s we did not have much in the way of deficits, and we had very high interest rates. In the 1980s we had high deficits and lower interest rates. That is debatable. It seems to me just as an economic matter, if you run deficits over a long period of time, eventually that is going to have a negative effect on interest rates. But even ignoring that point, it is simply true that you cannot run a deficit forever.

The biggest reason that deficits are, in fact, a problem is that they suck up all the money for the future and get us to the point as a country where all we can do is pay the monthly payment, just like someone with a credit card debt that is out of control, where they are simply trying to pay the monthly payment, and the interest keeps racking up. The amount of money that we will spend on interest will accelerate. The amount of deficits we run up on a year-by-year basis will accelerate under the President's budget. Ten, twenty, thirty years from now, we are going to have no money for any priorities, be they Republican, Democrat or whoever.

So if we can at least eliminate one notion, during the debate tomorrow I would hope that someone on the Republican side of the aisle would stand up and say that deficits matter. They are something we should be concerned about, and just because they are inconvenient, we should not turn logic on its head and suddenly say we do not care about them anymore.

The other thing that is truly disturbing about this budget is never in the history of this country have we cut taxes while at the same time going to war. The unrealism of that puts us in huge fiscal jeopardy and puts us in a position where we will not be able to meet our obligations in that war. Keep in mind, we are really about to enter our second war. Al Qaeda declared war on us years before September 11. That war was crystal clear after September 11. So dealing with that challenge was number one. Now we are about to launch a second war in Iraq and we, the Republicans, are telling the American people that we can still cut taxes by hundreds of billions, trillions of dollars.

That is hopelessly unrealistic. We have already seen the impact of it, the lack of funding for homeland security, and we are very concerned about it, the lack of funding for the war in Iraq for that matter. It has not been put on the table as part of this budget, and we know there is going to be a cost. That is very, very unrealistic.

The last thing that is troubling about this budget is it in no way stimulates the short-term economy. The tax cut that is being proposed, only 10 percent of that tax cut will come into being in the first year, right now, when the economy is in trouble. If it were truly stimulative, that is where the money would be. Ninety percent of this tax cut is at least 1 year away, which means it is going to have no impact whatsoever on our economic problems today. Presumably in 2, 3, 4 years, the business cycle will return, and we will have a strong economy, and what is the purpose of the tax cuts then? Certainly it is not stimulative.

That is the overarching problem with this budget. This budget reflects a philosophy that says fundamentally we need to cut the Federal Government dramatically. The tax cut that was passed 18 months ago, or almost 2 years ago now, was bad enough. It set us on a path when fully implemented to dramatically see that reduction. Now to pile on another trillion dollars will put us in a position where we will not be able to fund many priorities.

Again, the Republican majority is being very disingenuous about this. They come before you and they talk about the no child left behind bill, their commitment to education. They talk about a prescription drug benefit. They talk about the need to deal with health care. If you are going to cut taxes by trillions of dollars, you are not going to be able to address those issues. The no child left behind bill is already on pace to be underfunded by $12 billion from what the President said he would do as a starting point. What this shows us is we cannot meet those priorities. The rhetoric talking about them is simply empty.

So one final thing I would ask of the majority in the debate tomorrow is to make that clear to the American people, that this is the choice. Do you want simply to have the largest tax cuts possible, primarily for what they like to refer to as the investor class, which primarily means not most of the people in America? Do you want to have that, or do you want to fund these priorities? Because when the Republicans get up here and talk about a prescription drug benefit and talk about education, understand they have no plan whatsoever to fund it. To the extent it is in there, it is only in there rhetorically. We simply cannot have the tax cuts that they are talking about and fund the priorities that they are talking about.

Let us have an honest choice. Let us honestly assess what our choices are, be fiscally responsible, fund our priorities as they lay out there and not pretend that we can have it all; not pretend that in essence we can spend the same dollar three or four times.

Again, I want to thank the gentlewoman from Oregon for bringing this debate out. Tomorrow I think we will have the opportunity to talk about it further. I would urge us to reject the Republican budget plan.

Ms. HOOLEY of Oregon. I yield to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I rise this evening to talk about the budget resolution we will be asked to consider tomorrow, a budget that I believe is one of misplaced priorities. Just a few hours ago, the gentlewoman from Oregon and I went before the Committee on Rules to urge support for what I believe must be one of our foremost priorities. The gentlewoman from Oregon and I asked that an amendment be declared in order that would provide $2.2 billion in funding to first responders not next year, but immediately, in fiscal year 2003.

I believe that we can and must agree to put aside our differences and fund first responders. It is my sincere hope that we will be able to consider this important amendment on the floor tomorrow. We say first responders are a priority, but as happens all too often in Washington, it is one thing to call an initiative a priority, and it is an entirely different matter to devote the funding required to validate that priority. In this particular case, there is no question that the need is real, immediate and essential.

I represent the First District of New York, the western boundary of which is no more than 40 miles from the border of New York City, clearly one of the most prominent targets for terrorists, and I have spoken with our firefighters throughout our district, our police officers throughout our district, and they recognize that they are ill-equipped to respond. They need training, they need equipment, and the Federal Government must provide the support that they require.

I also come to the floor today to discuss our priorities as a Nation and to talk about how I believe the Republican budget that we will consider tomorrow is a budget of misplaced priorities. As we consider this budget, we have an opportunity to make the right choices for our Nation, choices that will strengthen our families, secure our communities and send us back down the road to economic security. Instead, my colleagues on the other side of the aisle are forcing a vote on a budget that is the antithesis of fiscal responsibility and sends our Nation back to deficits. These deficits stretch out as far as the eye can see, and they squander desperately needed programs for working families.

If the goal of the Republican budget is to provide a shot of adrenalin to our economy, in my opinion this plan falls far short of that goal. The Republican budget puts forth a costly economic growth package with less than 3 percent of the proposed tax cuts occurring this year when it is most needed. On the other hand, the Democratic proposal would provide four times the amount of stimulus provided by the House Republican proposal with $136 billion in targeted tax breaks applicable immediately. These tax breaks will encourage investments by business and help those who are in the greatest need of relief.

Both the Democratic and the Republican budgets would balance by the year 2010. The difference is that the Republican budget would do so by forcing what I believe are unconscionable cuts to key mandatory and discretionary funding programs. The Republican budget would cut important programs such as student loans, veterans' benefits, and school lunch programs by as much as $98 billion over 10 years. Today when so many families are sacrificing and struggling, it is not the time to crack down on veterans, students trying to earn a college diploma and schoolchildren from low-income families who deserve to eat a nutritious meal.

Why do we not try this? If we are going to crack down on anyone, why do we not crack down on corporations that relocate offshore exclusively for the purposes of evading their United States tax obligations?

Further, the Republican budget would undermine domestic appropriations by $244 billion below the amount needed to continue programs at today's level. Passing this budget will hurt working families, children, the elderly, veterans, seniors, and so many others. These types of cuts are difficult to justify under any circumstance. They are impossible to justify when one considers that they result from an irresponsibly large, massive package of tax cuts geared to the very wealthy. Why should we give an additional tax cut to the top 2 to 5 percent of wage earners in this country when doing so requires us to seriously undermine so many important programs, and doing so also imperils the long-term security of Social Security and Medicare?

□ 1830

We need to do the right thing tomorrow and pass a real stimulus package, one that stabilizes our communities by delivering results for small businesses and working families now rather than later. Now is not the time to be forcing damaging budget cuts that undermine the social fabric of our communities just so that we can provide additional tax breaks to those who make the most. Now is the time to act with fiscal responsibility in mind to jump start the economy and to provide lasting investments in our families.

I believe that we know what our priorities should be, and I urge my colleagues to vote for the Democratic budget substitute tomorrow.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague from New York.

I yield to the gentleman from Florida (Mr. DAVIS) who has been working on budgets since we both got here.

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentlewoman from Oregon (Ms. HOOLEY) for yielding.

Tonight the Congress starts its debate as to the budget resolution, which represents a statement by the Nation as to our priorities as a country. On the eve of war, this is a more solemn event than ever, and I think it is fair to say that the United States citizens expected their Congress more so than ever to come together, Democrats and Republicans, the House and Senate, the Congress and the President, on a realistic plan, not politics, not gestures, not symbolism, something that truly represents a plan to keep our country secure and strong and to plan for the future, as we are expected to do as leaders.

What I would like to do tonight is to highlight in what I hope is the most accurate fashion possible the Republican budget resolution and the Democratic budget resolution and along the way to express my opinions in terms of how I think we bring this all together. First of all, I think it is fair to say that the Republican budget resolution has as its centerpiece a tax cut over 10 years in the amount of about $1.3 trillion. This is truly a very significant tax cut. I think it is also fair to say that virtually every Member of Congress serving here today has promised the people that we represent that we intend to enact Medicare coverage of prescription drugs in order to deal with a growing crisis in our country as far as seniors and disabled and other people lacking access to critical prescription drugs. And so both budget resolutions must be measured against that standard.

The Republican budget resolution, it is fair to say, sets aside $28 billion, $28 billion to cover the cost of Medicare coverage for prescription drugs, I might add a very minimal fraction of what the President proposed as that cost. In addition, it is fair to say that the current version of the Republican budget resolution calls for significant cuts in spending, some of which have already been referred to here tonight. These cuts are going to be very difficult to defend to the people at home. They are significant cuts in veterans benefits. They are cuts in student loans. They are cuts in the Medicaid program that States that are struggling to meet their budgets right now are relying upon to furnish a safety net there. They are cuts in funding for the environment. These are significant cuts. Particularly like a State like mine, Florida, these cuts will have real impact on people at home.

Finally, the Republican budget resolution calls for a deficit of $319 billion in the next year, a staggering deficit, one that will bring with it a significant interest cost that every man, woman, and child will be paying in this country as the Federal Government goes deeper into debt. It is also important to point out on the eve of war that the Republican budget resolution provides not a single penny for what we all know will be a very expensive war in Iraq, not to mention perhaps an even more expensive cost of dealing with Iraq after Saddam Hussein has been disarmed, after Saddam Hussein is gone.

I think the weaknesses, the limitations in the Republican budget resolution are terribly self-evident. At a time where I expect the President will surely call upon the Nation to sacrifice, to participate in the commitment our men and women abroad are making and their families are making without them here at home, it is not the priority of our country to call for a $1.3 trillion tax cut. Taking that tax cut is not the type of commitment, not the kind of sacrifice people have in mind in supporting our troops and supporting our President and supporting our Nation. Cutting veterans programs, depriving students who have worked so hard to get through high school the opportunity to go to college, losing students loans, these are not the things that made our country great. This is not what we stand for. This is not what we are fighting about. These are not our priorities.

Let me talk about the Democratic budget resolution and start by saying in fairness to the Republicans, we clearly are in a challenging situation here in terms of how to juggle our competing priorities. The Democratic budget resolution, which I strongly support, represents an attempt to build on the more constructive features of the Republican budget resolution and the more constructive features of the President's budget and then attempts to improve upon them and not to simply criticize them.

So let me highlight some of those points. The first is that the Democratic budget resolution calls for a tax cut of approximately $136 billion compared to $1.3 trillion in the Republican tax cut.

□ 1845

The centerpiece of the Republican tax cut is the elimination of a tax on dividends for some corporations through a very complicated process that will not take effect for some time. That has been presented as a stimulus. I think it is fair to say that is at best a fundamental change in tax policy, and because it has no effect any time soon, it is not really going to stimulate the economy at a time when we need the economy to be stimulated.

In contrast to that, the proposed Democratic budget alternative calls for immediately putting into effect a more accelerated type of depreciation for businesses, an attempt by the Federal Government to say to small businesses, medium-sized businesses across the country, we want to encourage you to invest in your company, buy the equipment you need, make the purchases you need to keep your business going, and you are going to pay less taxes on that as part of our attempt to help stimulate the economy.

The Democratic budget alternative also makes permanent the child care tax credit and the marriage penalty elimination, which benefits a huge number of Americans and will put money in their pockets, which will help stimulate spending and the economy.

On the spending side, the Democratic budget alternative does not make the cuts in veterans' benefits, in student loans, in environmental programs. It keeps those programs continuing. It funds them to take into account growth and inflation. I cannot think of a worse statement of our priorities than to be cutting veteran benefits in the days ahead. The Democratic budget alternative does not do that.

With respect to prescription drug coverage under Medicare, the Republican budget alternative calls for $28 billion. The Democratic budget alternative calls for $528 billion. This is a realistic sum. This is a number that Democrats and Republicans ought to be able to work with. It is not dramatically different than where the President started. It is a higher number. This is an attempt to find common ground to finally do what the politicians have promised people at home for far too long, to begin to cover prescription drugs.

Now, I have to say, this is not the ideal plan. If you are serious about attacking deficits, if you are serious about funding security at home and abroad, this is not the most elaborate, the most generous Medicare prescription drug plan Democrats might offer or this Congress might pass. But it is an attempt to juggle competing priorities. It is an attempt to start a modest Medicare prescription drug plan that, over time, as our country regains peace and prosperity, we can truly fund at the level our seniors deserve.

Another important difference between the Democratic and Republican budget alternatives is homeland security. The Democratic alternative provides 34 billion additional dollars above and beyond the Republican budget alternative for homeland security; $10 billion of that is to the States. In the last couple of days, the Secretary of Homeland Security, Tom Ridge, has ordered Governors throughout the country to go on a heightened state of alert. Security is not free. This will cost money.

Virtually every State in this country, including Florida, is struggling because of the economy, because of deficits in their own budgets. The Federal Government needs to step in as a partner and help provide security. The Federal Government, in my judgment, has been derelict in its duty in not stepping up to the plate and doing this sooner.

This Congress recently missed another opportunity to provide funding for first responders, for equipment and training for police and fire. We cannot make the same mistake again on the eve of war. The Democratic budget alternative provides $34 billion additional above and beyond the Republican budget alternative. This is something Democrats and Republicans should agree on. This is something that every citizen in this country expects.

Finally, let me make two other points. One is that the Democratic budget alternative proposes to bring the country back into a balanced Federal budget by 2010. Deficits do matter. They affect interest rates in the long term. They have a lot to do with the ability of our country to plan for the future, the retirement of the babyboomers, to keep Social Security and Medicare solvent.

Now, if the Democratic budget alternative sounds too good to be true, it is because there are some difficult choices there. Let me close by mentioning a couple of the difficult choices.

The Democratic budget alternative revisits President Bush's last tax cut, which was based on an assumption the economy was going to be growing at a dramatically positive rate, and that we would be enjoying peace and prosperity for years to come.

Well, we know, painfully so, that is not the case. What the Democratic budget alternative does is to freeze the Bush tax cut, President Bush's tax cut, with respect to the highest income earners, in order to generate revenue to pay for homeland security, to pay for the cost of the war in Iraq, to pay for what this country is going to have to do after we successfully disarm Saddam Hussein. These are the priorities of the country. This is what is expected of us.

The other way that the Democratic budget alternative funds security, funds a meaningful prescription drug benefit and achieves a balanced budget by 2010 is to eliminate the repeal of the estate tax. It would say instead what Democrats and Republicans should have agreed upon a long time ago, as proposed by the gentleman from North Dakota (Mr. POMEROY): We will establish immediately a $6 million credit from the estate tax for couples, $3 million per individual, that will result in 98 to 99 percent of American citizens avoiding the estate tax.

The effect of that is, again, to generate the revenue that allows us to keep this country secure and strong and back to a balanced budget so that we can achieve what we have been challenged to face tonight, to support our men and women abroad, to keep our promise to our veterans, and this next generation of veterans serving our country so bravely, and serve our people and get our economy back to the strength it deserves so we can be strong not just abroad, but at home as well.

Mr. Speaker, I thank the gentlewoman for yielding me time.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I am here today because I am deeply concerned about the devastating impact the President's budget could have on working families across this country, particularly at a time when our Nation stands at the very brink of war.

The cuts that are proposed in this budget stand to hurt the very families whose loved ones are overseas preparing to fight this war. Last weekend I had an opportunity to meet with a number of military families whose husbands, whose brothers, sisters and wives are courageously serving our Nation in Afghanistan and the Middle East. They shared with me their thoughts and fears while their loved ones were deployed so many miles away from home.

In addition to expressing the uncertainties that they face, they are also concerned about their children's future. That is why education is a major concern to them. They know that the quality of their children's education is dependent upon some significant Federal support.

Mr. Speaker, the President's budget proposal seeks to cut education funding by more than $10 billion in the next year alone. In my home State of California, where the State budget deficit is expected to exceed $25 billion in 2004, as many as 30,000 teachers, counselors, nurses and administrators are already receiving notices to leave their posts in our children's schools. School districts are slashing a number of positions, and the President's budget provides no direct Federal aid to States to help with this great concern that we have.

At a time when we are sending more servicemen and women to Iraq each day, the very least we can do for them is to ensure that their children are receiving the very best services we can offer, but this budget is failing to meet this promise. While these same families are expressing their concerns as their loved ones are being sent abroad indefinitely to potentially face the perils of war, the very least of their concerns are costly tax cuts.

Mr. Speaker, we have larger priorities at hand. While we are still attempting to assess the costs of the war, our focus should remain on providing for our Nation's military, their families and our national security. It is simply irresponsible to neglect these priorities in favor of sweeping tax cuts, tax cuts that largely fail to benefit the brave men and women we are sending overseas at this very moment.

We understand that at a time of war we may, in fact, face large deficits, but we should not make them greater by supporting a tax package that has at its very heart helping those that at this time need it the least. This is simply the wrong message to be sending not only to working families, but to military families carrying out their commitment to America.

Ms. HOOLEY of Oregon. Mr. Speaker, reclaiming my time, again, the Democratic budget is a fiscally responsible budget that does not cut funds for veterans, that stimulates the economy, that makes sure that our children can go to college, have after-school programs, and the Republican budget does not do that.

## GOING FROM BAD TO WORSE ON THE BUDGET RESOLUTION

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I would like to talk further about the budget. Much has been said, and I will not go over it, that this budget, as we now have our thoughts and prayers with our troops overseas, does not even include any mention of the war, of the cost of the war. It does not include funding for first responders adequately. It does not adequately fund education and special education. It would force cuts to VA benefits.

But let me just address two matters that I think really should be underscored that are failings in this budget. One has to do with Medicare.

I have heard Members on both sides of the aisle speak passionately about the need for prescription medicine coverage, yet the majority's budget resolution contains only $28 billion in new spending, when the lowest estimates for this kind of funding are about $400 billion. In other words, if this is going to happen, it would pull money not out of thin air, but it would pull money out of Medicare, other Medicare programs and out of Medicaid spending. That will not work.

In the area of research and development, our investment in science, research and development is a necessary investment to provide the growth in productivity that is required, that is really postulated for this budget resolution. That growth will not come unless we invest in research and development.

NIH funding, which was previously on a doubling path, the majority seems to think little of the achievements of the NIH researchers in hemophilia, muscular dystrophy, Alzheimer's and all of these other areas. Their budget reduces appropriated health programs by almost 5 percent in 2004.

With the looming war in Iraq, with the continued instability in the Middle East, with the threat of global climate change, you would think we would be increasing our funding for research in carbon reduction in fuels, but the funding for the Department of Energy's Office of Science remains flat. So, these are major shortcomings in the budget.

I see my friend from New York on his feet, and I would be pleased to yield to the gentleman.

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding, and let me thank the gentleman from the other side for accommodating us.

Mr. Speaker, I supported tax cuts in 2001. That was before 9/11. That was before our war on terrorism. That was before a potential war in Iraq. That was before we had new homeland needs. But today the world is different. We have new challenges. We have to make sure that our budgets keep pace with those challenges and are responsible in adapting to those challenges.

We cannot send young people into an unfunded battle in Iraq tonight and slash their veterans benefits when they come home tomorrow by $15 billion. We cannot offer the deepest tax cuts to the very richest and balance budgets on the backs of those who are fighting on our fronts.

I represent some constituents who would benefit greatly by a tax cut at the top brackets. I cannot think of a single one who would come up to me at a Support Our Troops rally or a reservist center and say, "Congressman, I will take my $90,000 tax cut now, and I don't care if veterans have to stand in longer lines, have shortages of beds or can't get into VA hospitals tomorrow."

We all want to engage in shared sacrifice. We are at a critical time in our Nation's history. Our first obligation has to be to our seniors and those fighting for our freedom in Iraq and other dangerous places in the world. We cannot cut their beds, their budgets; we cannot balance tax cuts on their backs.

So I am hopeful that the Members of this body on both sides of the aisle will review these budgets and get back to the real priorities of America, taking care of our senior citizens, taking care of our veterans, making sure that we are meeting our obligations to them, taking care of our children, and making sure that their future is not laced with deficits and that we are not balancing budgets on their backs as well.

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## FINDING SOLUTIONS FOR REDUCING DEBT

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, tonight I would like to follow up the previous Special Order by starting out with some comments on the budget, on spending, on the tremendous deficit that we are leaving to our kids. Then also, I want to, on this eve of the war, finish up with some concerns that I have with such countries as France and Germany and Russia, I think putting our kids at a little greater risk. But first let me react to some of the comments that we have been listening to, that we need to increase spending on some of these important items.

Let me start with the tax cut. When the gentleman from Maryland (Mr. BARTLETT) and I first came to this Congress in 1993, one of the first events was a Democratically controlled House and Senate; and with a new Democrat President, we increased taxes more than taxes have ever been increased in the history of this country. The tax cuts that are being suggested now do not commence to negate that huge tax increase that we had in 1993. But let me talk about trying to attract more voters by suggesting that Congress should spend more money.

For a moment, look at what has happened over the last 10 years of spending history. This is how much we have been increasing spending. As my colleagues can see, fairly level, and it started to go up more and more in 1995, 1996, and 1997, and started taking off in 1998. Discretionary spending of the United States has increased an average of 6.3 percent each year since 1996 and 7.7 percent each year since budget balance was reached in 1998, showing a tremendous increase in the growth of government. And one can just project, if we continue to spend two and three and sometimes four times the rate of inflation, then government takes over; and instead of empowering people in the United States, instead of empowering businesses to encourage them to expand and develop and offer better and more jobs, government has been at the feeding trough to use more of those dollars by increasing taxes across the country.

How do we deal with a situation where we have made our taxes so progressive that the lower-paying 50 percent of income tax payers in this country only pay 1 percent of the total income tax revenues. So we can see, it is easy to suggest that any tax cut is a tax cut for the rich, since the upper 50 percent pay 99 percent. In fact, the upper 10 percent pay almost 84 percent of the total income taxes. So we have put more and more taxes on higher incomes to discourage that kind of effort, and we have put more and more taxes on business. Really, business taxes are a tax that that business, in order to survive, has got to pass on to consumers in the fashion of increased prices for their particular product. So the increased price we pay for any product we buy, part of that is really a hidden tax, because you pay it to business to pay their tax, and they have to charge a price that is going to allow them to survive.

Mr. Speaker, the gentleman from Maryland (Mr. BARTLETT) and I have been trying to convince Congress on both sides ever since we have been here of the unfairness of the increased spending that has resulted in increased borrowing that is going to end up leaving our kids a mortgage. I am a farmer. The gentleman from Maryland (Mr. BARTLETT) is a farmer, plus a scientist; and in the farming community, you try to pay off some of that mortgage so that your kids will have a better chance. Well, right now, we are sort of pretending that our problems today are so great that somehow it justifies going into the huge debt that we are going to leave our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, for the next few moments I would like to continue to direct attention to the spending curve that the gentleman from Michigan (Mr. SMITH) was just talking about. If we look at that curve, we will see that it goes up ever and ever steeper. Now, the gentleman from Michigan (Mr. SMITH) talked about a pretty steady 7.5 percent increase.

Now, one would think with a steady increase that we ought to have a curve that is going up at the same rate, but it does not do that. This is a phenomenon called the "exponential curve." Every time we have an interest rate like this or a growth rate like that, the curve will go up ever steeper and steeper. Now, it is obvious when we look at that curve, it cannot continue because pretty soon it will go right through the ceiling. So it is obvious that sooner or later, and I hope sooner for the sake of our children and our grandchildren, that we have to bring our spending into line so that this curve does not continue to keep going up and up and up and soak up more and more of our gross domestic product.

Now, I would like to for a few moments turn our attention to another curve, another set of curves, and these curves are just some detail-building on the curve that the gentleman showed us. What we have here are three curves. One of them is the gross Federal debt. Now, that is the total amount of money which the Federal Government owes, and we will note a line here in the middle, and that is where we are now. We will notice that that goes through this debt line at about $6.4 trillion. That is the amount of money we owe.

Now, as a matter of fact, we owe more than that now, but that is the amount of money that we owed on the 20th of last month. This debt keeps growing and growing; and right now the Treasury Department is having to move monies around so that they can pay their obligations, because we have already exceeded our debt limit ceiling. So we need to pass a budget resolution soon, because buried in that is a mechanism which will automatically increase the debt limit ceiling to whatever monies the budget would have us spend for the next year.

We will notice that all of the expenditures beyond our current date are extrapolations. They are just guesses of what we are going to be spending in the future. But everything to the left of that are the monies that we have spent, and so those are real numbers.

Now, this gross Federal debt, which more often is referred to as the national debt, that debt is made up of two subparts. One of those is called the debt held by the public, and that is sometimes referred to as simply as the public debt or sometimes it is the Wall Street debt. Now, that is the debt that the Federal Government owes because it has bought securities and bonds; and because it has sold these securities and bonds and so forth, it has gotten money from those. But that is not the only debt that we owe, because we owe another debt which we see started out fairly low and has now been increasing more and more; and this also, as we see, is an exponential kind of a curve, and we will understand why in a moment. This is a debt held by government accounts, it says here. A simpler way to understand that debt is that that is the trust fund surplus debt. That is the debt we owe to trust funds which have accumulated surpluses.

Now, how do we have trust funds that are accumulating surpluses? That is because we are taking monies from the paychecks of people and putting it in trust for them, presumably putting it in trust for them, so that the money will be there later on when they need it and they are retired, like Social Security, like Medicare, like civil service retirement, like railroad retirement. There are about 50-some of these trust funds, and this year we will have about $191 billion surpluses in these trust funds.

Now, more than three-fourths of all of that surplus is in the Social Security trust fund, and it is good there is such a big surplus there, because during the retirement of the baby boomers, we are going to run enormous deficits in Social Security if we do not do something to fix that problem. But that is a discussion for another evening.

Mr. SMITH of Michigan. Mr. Speaker, on the definition of surplus, we say the trust funds have surplus; but actually, what they have is IOUs, so when programs like Medicare become insolvent or have less money coming in than enough to pay promised benefits in 2012, or when the money coming in from Social Security taxes is less than what is adequate to pay promised benefits for Social Security in 2017, all we have when we go to that box is a bunch of IOUs.

So what is government going to do to pay back those IOUs? They are going to increase taxes again, or they are going to cut benefits, or they are going to probably, most likely, increase borrowing again. So they go again and bid up the available money and borrow that money to pay back to make sure we pay Social Security benefits. But even then, by the mid-2030s, the trust funds are going to be gone and the insolvency of many of these programs is going to be devastating in terms of the burden that it puts on our kids.

Mr. BARTLETT of Maryland. Mr. Speaker, that is exactly right. And that is why these are shown as debt. Because although there are surpluses in the trust funds, as the gentleman from Michigan (Mr. SMITH) points out, there are no monies in the trust funds. Because we have a computer in Washington which, when we take some money from your paycheck, presumably put in trust for you, it only momentarily goes in trust for you, and then we almost immediately take that money out; and in its place we put a nonnegotiable bond in there. It is a nonnegotiable security; that is, we cannot negotiate it. It is only a security that can be redeemed by the Federal Government. When the time comes to redeem that, as the gentleman from Michigan points out, our children are then going to have to either increase taxes to get the money or borrow the money and pass that debt on to their children. I hope they do not do that, because I am ashamed that we are passing this debt on to our children.

As we can see, in a few years, in a few years, the debt owed to these trust funds is going to exceed the debt that we owe to what we generally call the Wall Street debt or the public debt.

Now, for about 4 or 5 years, Washington is telling us that we had surpluses and we were balancing the budget. But I want my colleagues to take a look at this gross Federal debt, or the national debt, and notice there never was a moment in time when that debt went down. It kind of flattened out here, we notice; and now it has really picked up the last couple of years. But there never was a time when it went down.

Now, the budget that was balanced is what Washington calls the "unified budget." That is all the money that comes into Washington and all of the money that Washington checks out. But about 10 percent of the money that comes into Washington is money that they have taken from our citizens, presumably to put in trust for our citizens, but instead of putting it in trust for our citizens, we print IOUs and put that in what should be the trust fund, and then we spend that money. So that now it accumulates a debt here.

Now, for every dollar that we took out of the trust fund debt to pay down the public debt, and that is when they say we had a surplus and the debt was going down, that debt did go down. We can see it here.

Mr. SMITH of Michigan. But maybe an analogy, sort of like using one credit card to pay off another credit card. So we borrow money from the trust funds to pay down the public debt, and then a lot of politicians in Washington brag that we are paying down the public debt of the United States, and with muscle-flexing and suggesting that we are going to put the Social Security money in a lockbox, and that lockbox was again nothing but IOUs where the government took the money and used it for a couple of years to pay down the debt or the Wall Street debt or the debt held by the public. That kind of hoodwinking I think has brought about a lot of suspicion of the American people with their Congress and with the White House and with Washington.

Again, if we look at the tremendous growth, how fast we have increased spending of the Federal Government, if we simply went back to where we were 7 years ago, we would have a huge surplus on both the Social Security as well as the extra money coming in from taxes.

So it is a situation I think where we have to ask ourselves the question, Do we want to reduce the debt that we are leaving to our kids? Do we want to do that by increasing taxes? And that is what the Democrat substitute proposal for the budget does; they increase taxes.

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They say, we will go along with the tax breaks for the lower-income; which, as I mentioned before, does not represent very much of the tax revenue coming into the government. But they say, we are not going to go along with the legislation that we passed 2 years ago that gives tax breaks across the board. In effect, it encourages savings, encourages investment, encourages businesses to expand.

So we have to end up making that decision: Are we going to borrow money to pay our way, or are we going to increase taxes to pay our way? I suggest that there are a lot of expenditures of government, and, in fact, this budget, the budget that the Committee on the Budget turned out, says, let us look for waste and fraud and abuse, and figure that we are going to put the responsibility on the different departments of government to seek out that waste and fraud and abuse.

Already we have identified more than enough to accommodate that 1 percent; to say, look, across the board we are at least going to have a 1 percent reduction in this time of war, so we can adequately make sure that we can adequately fund the military budget, the homeland defense budget. Those have been increased at the President's request, suggestion, in both of those areas. Where we have cut back is in other areas.

If we are in a time of war, is it not reasonable to start prioritizing our spending, especially since that kind of traditional increased spending as if there is no problem, do more for this group, more for that group, do more for the old, do more for the young, have midnight basketball games so kids do not get in trouble, that is the kind of spending rampage that we have been on.

What I am suggesting and what the gentleman from Maryland is suggesting is that that kind of spending that ends up having a deficit, let me define my definition for deficit, deficit is the annual overspending. Debt is when you take that annual overspending and add it up to the debt that we have for our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. The gentleman mentioned lockboxes, Mr. Speaker. It might be wise to spend a few moments talking about lockboxes. We have not heard lockboxes mentioned in the last several months. That is because we now have no surpluses.

In terms of the national debt, we never had any surpluses. We had surpluses in terms of the unified budget; but when the unified budget was balanced, the national debt was still going up almost $200 billion a year. That is because it was about $200 billion a year of trust fund monies that we were taking and spending.

What were the lockboxes? They were talked about a whole lot and were very popular. What were they, and what did they do?

The first lockbox was the Social Security lockbox. What that legislation said was that if there is a surplus in Social Security, and of course there is a surplus, and will be for 10 or 12 years in Social Security, if there is a surplus in Social Security, we cannot use that for ordinary spending; we have to use it to pay down the debt. The only debt we could pay down with that is this public debt, so what they did was to take the monies out of the trust fund and to pay down the public debt, but for every $1 of public debt they paid down, they incurred another $1 of trust fund debt. Notice what is happening to these curves. As this one went down, that is the public debt we are paying down, the trust fund debt went up, so the net effect on the debt was zero.

There was another smaller trust fund that was included in the lockbox, and that is the Medicare Trust Fund. We did the same thing with that. But there were 40 or 50 other trust funds that we did not have a lockbox for. They did not amount to a whole lot, but we happily took them and spent them. When we did that, of course, even though we were advertising a balanced budget on the unified budget, the total debt that we owed, the national debt, here called the gross Federal debt, kept going up and up. Obviously, we should not continue to do this forever.

By the way, the gentleman from Michigan (Mr. SMITH) mentioned spending. The question is always asked, if we spend more money for this group or more money on that program, will it help more people? Of course, the answer is always, yes. If we spend more money, it will help more people. But I would submit, Mr. Speaker, that that is the wrong question. The question that needs to be asked is, will spending more money on that program help more people than if we left that money in the private sector?

Money left in the private sector also helps people because it creates capital for creating new businesses and new jobs. In those, government revenues will grow. The question we really need to be asking, whenever there is a suggestion that we increase a current program, is will increasing that program do people more good than saving that money and leaving it in the private sector, where it will create jobs for people who will then have an increased standard of living and who will pay more income tax, and Federal revenues will go up, and our economy will grow?

But we never in this Chamber ask the right question. The question we always ask is, will more money help more people? Of course it will.

Mr. SMITH of Michigan. Mr. Speaker, when we say leave it in the private sector, we say leave it in the pockets of the individuals that earned it. Do not have the kind of taxes on businesses that put our businesses at a competitive disadvantage to businesses that they are competing with in other countries.

That is what we do. Right now we are charging our businesses about 18 percent more tax than the businesses in the other G–7 countries, in the other industrialized countries. So when we talk about this, the tax changes that the President is suggesting that are incorporated in this budget, what can we do to strengthen the economy? What can we do to encourage our businesses to invest and expand and have more and better jobs in this country?

The other tax cuts, some of the other tax cuts, potential tax cuts, maybe should not be considered now; but let us at least look at the kind of tax incentives that can encourage savings and investment and business expansion.

Mr. BARTLETT of Maryland. The gentleman mentioned business taxes, and the fact that businesses really pass that tax on. I would just like to concentrate on that for a moment.

In a very real sense, we cannot tax a business, because that simply becomes part of the cost of doing business. If the business is going to remain in business, if that company is going to remain in business, they have to pass that tax on or they cannot remain in business.

I would like to make the argument, which I think is pretty hard to refute, that business taxes are probably the most regressive tax we have. I know my liberal friends are very fond of business tax, and they would like to increase it. I am not sure they have thought through what happens when we increase business taxes.

Whenever we tax a business, it has to add the cost of that to their goods and services. Now, there is no deduction for that and no exemption from it. So the poorest of the poor, when they go to buy the services or the products of a business, have to pay more for that service or product because we tax the business.

There is another way in which business taxes are very regressive and hurt people, particularly poor people. Another thing that happens when we tax a business is that we have increased their cost of doing business; so now that makes them less competitive with firms in other countries, and they may, in fact, not be able to continue doing business here, and those jobs may end up somewhere else in the world, more and more frequently on the Pacific Rim.

There are some companies today, I say to the gentleman from Maryland (Mr. SMITH), that are doing something that we call inversions. A company, when they look at the regulations that govern them here, when they look at the taxes here, they say, we just cannot stay in business in this climate, so what we are going to do is move our headquarters overseas to some island offshore or something like that. We are going to continue our major operations here, but for tax and regulatory purposes, we are going to move our headquarters overseas somewhere.

The question we are asking ourselves is, how can we punish those people? I think that is exactly the wrong question. The question we ought to be asking is, why are they leaving this country? What is there about our regulatory climate, what is there about our tax structure that is forcing these businesses out of this country? What do we need to do so that we not only keep these businesses in this country, but we attract other businesses to this country?

Do Members not think that that is the question we really ought to be asking here?

Mr. SMITH of Michigan. Mr. Speaker, a survey was done of the businesses that inverted or moved to another country to pay their lower tax rate, but kept their jobs and their operations in this country.

A survey was taken, and for over half of those companies it was a question of going out of business or reducing their expenses and taxes, one of the expenses, reducing that expense by roughly 17 percent that we overcharge compared to other countries, by moving their business overseas.

So absolutely, rather than the suggestion in the Democratic budget that says let us punish those businesses that move their headquarters and their taxing location outside of this country by saying that they cannot move or else they lose a lot of the benefits, and we are not going to buy from them for military use, and we are going to punish them anyway in some form of additional taxes to discourage their moving out of this country, absolutely, I say to the gentleman from Maryland, the right decision is that we cannot put our businesses at a competitive disadvantage because of our gluttony to somehow raise more money through what I call a hidden tax, a very regressive tax like the gentleman suggests; because it says that the lower-income person that has to buy these goods has to pay a tax on this, they have to pay the extra price on the goods to accommodate the high taxes that we have imposed on business.

It is not so, what is the good word, identifiable because it is not so obvious that people are paying another tax to government when they buy this product. It is sort of a hidden tax that has been politically an advantage, some people felt; but in the long run it discourages business expansion, and it discourages the kind of economy and the kind of strongest economy in the world that we have developed in our first 226 years.

So absolutely, it is the wrong way to go. What we should be doing is making our taxes competitive with the taxes in other States, and part of the way to do that is to hold the line on spending.

When the complaint is of cutting spending by 1 percent, the previous special order suggested that Republicans are suggesting a 1 percent cut, no cut. What it is is a slowdown in the increase in spending. Where I come from down on the farm, a cut is when there is less money spent one year than the previous year.

Mr. BARTLETT of Maryland. Mr. Speaker, I say to the gentleman from Maryland (Mr. SMITH), there is a good analogy of this that helps us understand what these Washington cuts are that are really not cuts. We have big cuts, and we are spending more money next year than we did last year in spite of a cut.

It is like our son comes to us, and we are giving him a $5 allowance, and he comes and says, I would like a $10 allowance. But we say, gee, $10 is a little much. Suppose we give you a $7 allowance? So now the son goes and tells his friend, I just had my allowance cut by $3. Obviously the allowance went from $5 up to $7, it went up $2; but relative to his anticipation, his hope that it might be $10, he now has a cut.

Most of Washington's cuts are those kinds of cuts. They are simply a cut in the increase in the rate of spending, increased rate of spending; they are not a cut, or are almost never. Just look at these curves. Almost never do we spend less money this year than we spent last year. So be careful that people define very carefully what they mean by a cut in Washington, because most of the time it is, in fact, not a cut; it is simply not as big a rate of increase as they would like to have seen.

All of the cuts we hear my friends on the other side of the aisle talking about in our budget are that kind of cut. As far as I know, essentially nothing is being cut in the budget. We hope to cut the rate of increase of some of these programs, but as far as I know, essentially nothing is being cut.

Mr. SMITH of Michigan. Mr. Speaker, let us discuss just a little what the imposition that this increased debt that we are leaving our future generations has on the potential of those generations to have a strong economy or strong incomes that they are going to be able to keep and raise their families with.

Right now, servicing the debt, and $6.4 trillion is our current debt, servicing that debt costs approximately $300 billion a year; but interest rates are at record lows right now. So with interest rates, with the government able to borrow some of their money for about 2.7 percent, what if that interest rate goes up? What about when we have economic recovery and there is a greater demand for money?

That interest rate, the interest rate in the early 1980s, was as high as 17 percent; so what if that $300 billion a year paying interest were to quadruple because of higher interest rates in the future? It would devastate those people that are trying to service that huge debt in the next generation, or years from now.

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Mr. SMITH of Michigan. Also, sometime, someplace, somehow future Congresses are going to start thinking that we have to operate more like a family, more like a business, that someplace down the roads we have to start paying this debt down. Nobody is talking about paying the debt down. All they are talking about is, well, maybe the debt right now is manageable and let us put the war on terrorism or whatever happens in Iraq aside for a moment because we are funding that. And I think it is reasonable to borrow more money to fund that effort to make sure our military are well equipped to the best possible degree because we certainly are going to support them. And I think everybody is going to do that. But for the other spending, let us not do business as usual. Let us start looking at the budget. Let us start prioritizing. Let us start slowing down the growth of a lot of government and let us start paying attention to a lot of fraud and abuse.

In fact, just in Medicare alone, GAO estimates that in 1 year there is probably fraud that amounts to between $17 and $19 billion. And when you are spending somebody else's money, it is easy to waste some of that money. So there needs to be the kind of pressure that this body can put on the different bureaucracies to make them look very carefully at how they are spending that money and reduce some of that wasteful spending.

Mr. BARTLETT of Maryland. Mr. Speaker, the gentleman talked about hidden taxes. I would like to talk about the biggest hidden tax of all that most Americans are completely oblivious to.

Now, if this year is like last year, May 10 will be a very special day because that will be Tax Freedom Day. That will be the day that you have finished working so that you can pay all of our Federal, State and local taxes. Now that is quite some weeks for now so you are still working to pay Federal, State and local taxes and will until May 10 of this year, if this year is like last year.

But on May 11 you are not going to be able to work for your family to buy that car or pay something on that tuition bill or to make a mortgage payments on your home. Because for the next 7 weeks, right at 7 weeks, until July 6 every American is going to have to work to pay the cruelest tax of all. It is a hidden tax which is a very regressive tax, and by the way it is a favorite tax of my liberal friends. But it is the most regressive tax we have because the poorest of the poor have to pay that tax. They get no exemption from the tax. They can get no deductions from it. And what is this tax, this big hidden tax that consumes 7 weeks of the working time of every American? It is unfunded Federal mandates.

Now, that is a mouthful, but let us point out what that is. It is a law which we passed in this Congress and, boy, are we fond of doing this, a law which we pass in this Congress which causes a State government or a county government or a city government or a business or your family to spend money that we do not provide. In other words, it is a mandate; but we do not provide any money for the mandate so it is an unfunded Federal mandate. And that consumes the working time of every American for just about 7 weeks out of the year. So you spend about 52 percent of your time working to support government.

If you are in the average community, go out on the street and walk around and look at every fourth person you meet. They work for government at some level.

Now, I would submit that the average American thinks that is just too much government. And if we could resurrect our Founding Fathers and have them see where we are, they would be appalled at what we have done to the dream that they had for this country, where they envisioned a very limited Federal Government, where essentially all of the rights and all of the responsibilities stayed with the citizens in the private sector. We have come an awful long way from that dream, have we not?

Mr. SMITH of Michigan. Mr. Speaker, let me give you an example of a young married couple that have two kids in my congressional district in Michigan. And they were working. They had one job. The husband decided to provide more money for the family. He would go and take at least a half shift for a second job. And so he was upset when he learned that not only does he have to pay more taxes, but under our Tax Code, he was shoved for that additional earning into a higher tax bracket. So we said, look, if you are going to go out and get a second job and earn more money, not only do you have to pay the taxes, the increased taxes because of increased earnings, but we are going to tax you more because you went out and worked harder to do that second job to have more income.

So we have a Tax Code that in many ways discourages what made this country great. And, of course, our Founding Fathers, I agree with the gentleman, would be very upset because we have a Constitution and a Bill of Rights that in effect says that those people that use that learning, that try, that work hard, that save and invest end up better off than those that do not.

And what we have been slipping into for the last 30 years is a more socialistic system where we say if you go out and work harder and save and invest and try and earn more money, we are going to really hit you with high taxes because after all, we need to give, we need to give some of this money to people that need it more, that maybe are unlucky, that maybe did not save and invest. But our system has worked very well not because we are stronger or smarter. It is because we have had the incentive that those that really make the effort and try and invest and save and learn and use that education end off better than those that do not.

And so to change that around and say, look, if you are going to be successful, we are going to punish you more, is not what is going to keep us the strongest economy in the world.

Mr. BARTLETT of Maryland. Mr. Speaker, I would like to come back for a moment to look a little bit more at these trust fund surpluses and the debt that we owe to this trust fund which is big and going to get bigger and bigger. One observation is that our law requires that we accumulate this. I say that because the only thing we can do with these surpluses by law is to invest them in nonnegotiable U.S. securities.

I cannot imagine money laying around Washington that we do not spend. And so if it is invested in nonnegotiable U.S. securities, we are going to spend it.

Now, the fact that we took monies from these trust funds and paid down for a little while some of the publicly held debt, that did a very nice thing for us today. What it did was to reduce our demand for money in the marketplace, and that competition dropped interest rates probably by about 2 percent. So the home you are buying costs you less per month. The car you are buying costs you less per month. The tuition payments you are making for the debt for your children or your debt if you went to school and you are now paying it off that cost you have is less.

But the flip side of that is that what we are accumulating here is the largest intergenerational debt transfer in the history of the world. And although we are living better today because we are taking these trust fund surpluses and spending them and, therefore, we are not borrowing as much in the marketplace, our kids and our grandkids are really going to have to pay for this. Because when it comes their time to run this government, we cannot run it on current revenues. So what we are doing is borrowing from their generation. When it comes their time to run the government, not only are they going to have to run the government on current revenues, but they are going to have to pay back all of the money that we borrowed from their generation.

Now, when I first ran for Congress 11 years ago, I promised I was going to conduct myself so that my kids and my grandkids would not come and spit on my grave because of what I had done to their country. I say to the gentleman, I am trying to do that; but I am not getting as much help here as I hoped I would get when I came here 11 years ago.

Mr. SMITH of Michigan. Because, Mr. Speaker, it is tempting for politicians to come up with more programs, to have more pork barrel projects because the news media puts them on the front page, the television covers them cutting the ribbon for the new jogging trail. So what has happened is you increase the probability that you are going to get reelected if you come up with new programs to help someone with their problems. And once you start spending, if you spend that money for a certain project or a certain arena for a couple of years, it almost becomes an entitlement because they develop the interest and they hire a lobbyist that starts saying, boy, we are really going to scold you if you decide not to continue our funding.

Mr. Speaker, I would like to thank the gentleman from Maryland (Mr. BARTLETT) for joining me tonight in this Special Order. And I would like to begin with some of my particular concerns on the war on Iraq and, of course, the 48 hours are up now; and that means in the next several days I presume there is going to be a more military aggressive insistence that Saddam Hussein gives up those weapons of mass destruction.

Let me start out by saying that Bonnie, my wife, and I will be remembering our troops every night in our prayers and I hope, Mr. Speaker, that everybody in America does the same. These are the best soldiers in the world. They are courageous defenders of our freedom and worthy representatives of the United States of America. I think it has been regrettable that some countries that have traditionally been U.S. allies have not been able to join our coalition to rid Saddam Hussein of devastating weapons.

I am told that I cannot swear on the floor of the House, but I am as mad as Hades about France's actions. France, which the U.S. liberated in World War II, has gone as far as to use its veto to block any U.N. approval of any resolution to support the coalition that would have insisted on the disarmament of Iraq. I think this is unfortunate because they have resulted in putting our young men and women soldiers at risk. We should not be under any illusion that France is acting on its, at least in part, narrow self-interest. The French want a prominent role on the world stage, and they seem to delight in cutting down the United States. But even more importantly, they want to defend some of their profitable extensive contracts and trade relationships that they have bargained with Saddam Hussein and Iraq.

Let me list a few of those interests. According to the CIA World Fact Book, France produces over 22.5 percent of Iraq's imports. In 2001 France became Iraq's largest European trading partner. Roughly 60 French companies do an estimated $1.5 billion in trade with Baghdad annually under the U.N. Oil for Food Program. France's largest oil company, Total Fina Elf, has negotiated a deal to develop one of the world's major oil fields, the Majnoon field, in western Iraq. The Majnoon field purportedly contains up to 30 billion barrels of oil.

Total Fina Elf also negotiated a deal for future oil explorations in Iraq's Nahr Umar field. Both the Majnoon and Nahr Umar fields are estimated to contain as much as 25 percent of Iraq's oil reserves. France's Alcatel Company, a major telecom firm, is negotiating a $76 million contract to rehabilitate Iraq's telephone system.

From 1981 to the year 2001, according to the Stockholm International Peace Research Institute, France was responsible for over 13 percent of Iraq's arms imports. Selling military equipment and arms to Iraq. And this is not a new position for France. It has consistently blocked attempts to bring Iraq into account since the Gulf War in 1991.

□ 1945

In 1995, when there was an effort in the U.N. Security Council finding Saddam in material breach, France opposed it. In 1996, when there was an effort to pass a resolution condemning Saddam Hussein for his slaughter of the Kurds, France opposed it. In 1997, when there was an effort to block travel by Saddam's intelligence and military officials, France opposed it. In 1998, France announced that Iraq was free of all weapons of mass destruction, something that nobody believed and France does not believe today. In 1999, of course, they opposed the creation of UNMOVIC, the existing inspection regime that they now want to say is where we should go and just let them keep going and keep looking. Of course last month, they vowed to veto any resolution authorizing force to disarm Iraq of weapons of mass destruction.

Let me say again. France's opposition to the U.N. resolution sought by the President and Prime Minister Tony Blair appears to have been based somewhat on business considerations. Saddam Hussein, no matter what he has done to his own people, no matter what threat he poses to his neighbors or the world, has been someone France has been able to do business with, and France has certainly not been the only country. But one of our dignitaries suggested that France has sort of acted over the last dozen of so years like the legal counsel for Saddam Hussein. So I am concerned about their motivation.

Here again, there are other countries. We can see that both Germany and Russia have extensive dealings with Iraq that call their motives into question, as far as I am concerned. In Germany's case, direct trade between Germany and Iraq amounts to about $350 million every year, and another $1 billion is reportedly sold through third parties.

It has recently been reported that Saddam Hussein has ordered Iraqi domestic businesses to show preference to German companies as a reward for Germany's firm positive stand in rejecting the launching of a military attack against Iraq. It was also reported that over 101 German companies were present at the Baghdad annual exposition. During the 35th annual Baghdad International Fair just 4 months ago, a German company signed a contract for $80 million for 5,000 cars and spare parts. In 2002, DaimlerChrysler was awarded over $13 million in contracts for German trucks and also spare parts.

German officials are investigating a German corporation accused of illegally channeling weapons to Iraq via Jordan. The equipment in question is used for boring the barrels of large cannons and is allegedly intended for Saddam Hussein's Al Fao supercannon project.

Russia, too, has extensive dealings with Iraq that it wants to protect. For example, according to the CIA World Factbook, Russia controls roughly 5.8 percent of Iraq's annual imports. Under the U.N. oil for food program, Russia's total trade with Iraq was somewhere between $530 million and $1 billion for the 6 months ending in December 2001. According to the Russian Ambassador to Iraq, Vladimir Titorenko, new contracts worth another $200 million under the U.N. oil for food program are to be signed over in the next 3 months. Soviet-era debt, someplace between $7- and $9-billion was generated by arms sales to Iraq during the 1980 to 1988 Iran-Iraq war. Our soldiers will have to face many of these weapons on the battlefield in the coming days.

Russia's LUKoil negotiated a $4 billion, 23-year contract in 1997 to rehabilitate the 15-billion-barrel West Qurna field in southern Iraq. Work on the oilfield was expected to commence upon cancellation of U.N. sanctions on Iraq. The deal is currently on hold, obviously.

In October of 2001, Salvneft, a Russian-Belarus company, negotiated a $52 million service contract to drill at the Tuba field in southern Iraq. In April of 2001, a Russian company received a service contract to drill in the Saddam, Kirkuk, and Bai Hassan fields to rehabilitate the fields and reduce water incursion.

A future $40 billion Iraqi-Russian economic agreement, reportedly signed in 2002, would allow for extensive oil exploration opportunities throughout western Iraq. The proposal calls for 67 new projects over a 10-year time frame to explore and further develop fields in southern Iraq and the Western Desert, including the Suba, Luhais and the West Qurna and Rumaila projects. Additional projects added to the deal include second phase construction of a pipeline running from southern to northern Iraq, and extensive drilling and gas projects. Work on these projects would commence on cancellation of sanctions.

One Russian company over the past few years has signed contracts worth $18 million to repair gas stations in Iraq. The former Soviet Union was the premier supplier of Iraqi arms. From 1981 to 2001, Russia supplied Iraq with 50 percent of its arms.

It is important, Mr. Speaker, for us to understand who our friends are in the world and how they make their decisions. The negotiations over this U.N. resolution has been, I think, a certain lesson on this topic. It is one that will not easily or not quickly, I hope, be forgotten. The challenges ahead of us are great, but make no mistake. If Saddam Hussein were to succeed in developing, in keeping these weapons of mass destruction, the chemical weapons, the biologic catastrophes that could come from the biological weapons and certainly his efforts over the years to try to develop atomic weapons, if that were to be let go undone, it would be tremendously difficult to deal with the other problems that the free world is facing in Iran, in North Korea, let alone the rogue nations with tyrants as dictators that might decide, well, Iraq got away with it and they were able to do great bargaining for themselves. If we develop these weapons, then we are going to be in better shape to threaten, coerce, blackmail, if you will, for better deals for our country.

The challenge ahead is great. The technology and the ability of many of these countries to develop these kind of devastating weapons is now available, almost on the Internet. So I think today it is so important that we strongly support our military troops, that we thank the 30 to 50 countries that have decided, according to Secretary Powell, to support us in this effort. Maybe this is the beginning, but the United States has taken on this responsibility. In past actions through World War I, World War II, all of our wars, the Korean War, even Vietnam, they were all for good humanitarian reasons, to make sure that freedom and justice and the rights of people were helped throughout the world. That is part of what we are going to be going after in the next few days, to try to make sure that not only these weapons in Iraq are disassembled and destroyed, but that we keep other countries from making the same effort and having the same threat on our liberty and freedom.

## REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SMITH of Michigan) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

*To the Congress of the United States:*

I am pleased to transmit herewith a report prepared by my Administration on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2001. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

## CONGRESSIONAL DUTIES IN CONNECTION WITH CIRCUMSTANCES SURROUNDING IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I am delighted to come to the floor this evening to continue a very important discussion that deals with our duties and responsibilities in connection with the circumstances surrounding Iraq.

I begin with a review of the duties that we have. First I pray for our soldiers whose roles are pretty well defined, and I would like to point out that we in the Congress have a duty as well, a constitutional duty, that requires under the Constitution that we alone can decide war. And why is that? Because of Article I, section 8. It is important for us to note that this duty is nondelegable. We cannot pass it off. We cannot turn it back. It can only be done by us. So the question of who decides becomes very important.

On this past Monday, the President of the United States said he has decided that he will begin this war, and that this is a matter that did not require him to consult with Congress, that there was no debate in the Congress, that it was a matter that he has been telling us in innumerable ways on innumerable occasions precisely what he was going to do, and that Saddam Hussein's time has run out, and there are no more options, and that negotiations are futile, and that the United Nations can do what they want, that everybody has to decide in the family of nations, that they are either with us or against us, and that it does not matter whether the inspection régime required by the United Nations has been concluded or not.

□ 2000

It does not matter whether the United Nations approves or disapproves. He has decided what he will do, and he is going to do it. Why war? And why now? A war could be justified only if our national security is threatened. There has not been the case made that that is the present circumstance, and it of course has to be weighed very carefully against the death and the destruction not only that we put in our own military's path but also the innocent people in another country who will likely be killed in the course of this activity. And of course none of this has been debated by the Congress. But what about the tactics of the 43rd President of the United States? He has repeated on more than one occasion that war is the last resort. "My last resort," when everyone knows that it is his first objective. How can he be declaring that war is the last resort, that he has exhausted negotiation when actually he is short-circuiting the whole process?

And then we have the coalition, the fig leaf coalition of the willing, which bears not that much analysis. Who they are and why they are there speaks generally for itself. And then of course we have the central issue here that there is no compelling evidence that Iraq is a current threat to our national security. None. We waited for the grainy photos of the Secretary of State when he was supposed to have conclusively made the case. We have waited for the Secretary of Defense when he was supposed to have conclusively made the case. We waited for the President and the Vice President when they were supposed to have made the case. It was the Vice President who first announced early on that Iraq had nuclear weapons. That turned out to be incorrect; and we have heard little of it, nothing of it since.

Then we had the assertion again by the Vice President of the United States that Iraq was linked to the tragedy of the attack on the United States on September 11. That has never been proven; and little has been made of that so far. Then of course it was asserted that our intelligence linked Iraq to al Qaeda. Not so. That has not happened either. So what we have here is a sorry compendium of misunderstandings, inaccuracies, and public relations gambits that do not do the most democratic government and the most powerful Nation on the planet any credit.

So the President has determined to unleash the dogs of war. He has set the clock ticking toward an unprecedented barrage of destruction that will be dropped upon a nation of 20 million people, a city of 6 million people within that country; and all of us who hold human life precious should watch this clock run down as we lurch toward an unnecessary war that the President seems determined to start.

So for the brave young men and women of our armed services who will be headed into harm's way, we offer them our support and our prayers for their safe return. But we also must be faithful to our duty, a duty entrusted exclusively to the Congress by our Founding Fathers, and that is the solemn duty to decide after thorough consideration amongst us whether or not this great Nation should go to war. So the Constitution's framers emphatically entrusted the decision to the Congress alone. This is not some recently determined statement of constitutional theory. Our Founding Fathers, as we review the debates that they had in writing the Constitution, were adamant that the executive not play a role, although once war began, the executive is the Commander in Chief to implement that decision. And those men who came together over 215 years ago were so intent on excluding the President that they rejected an offer to share the power to declare war between the Congress and the executive. This was debated centuries ago.

I know that some believe that the Congress properly authorized a war against Iraq and a resolution in October, but that is not the case. We have not yet performed our duty. We did enact a resolution that generally authorized the President to fight terrorism and to seek enforcement of previous United Nations resolutions on Iraq, but in reality that resolution bucked the constitutionality conferred on the Congress to the President. It let the President decide to choose when and where and against whom to start a war. It dodged the decision and sought to delegate an authority that is exclusively our own, an authority that cannot be delegated.

The administration argues that legal precedence allowed the Congress to provide an authorization of war that is functionally equivalent to the now rarely used formal declaration of war, which entirely misses the point. It is not the format which is at issue. It is who really decides, and it was clear at that time in the beginning from the congressional debate, from the executive branch statements and from the resolution itself that the diplomatic route would be pursued first by going through the U.N., subsequently in response to a broad national consensus the United States spearheaded with the passage of resolution 1441 that imposed a new inspection regime. The United Nations Security Council went along with the United States, and it was clear last fall that the decision of whether to declare war was being put off at that time unmistakably, and in the months since then it has become increasingly clear that the decision to go to war would turn on two crucial assessments. First, there would be an assessment of the results of the inspection team that was there checking to find out if there were weapons that could be destructive weapons or chemical or biological materials that would be in violation of the terms that had been imposed upon Iraq.

But the second assessment and the ultimate judgment would require weighing the implications of the inspection results and other information about what threat Iraq poses to the United States against the full costs of casualties, of the economic costs, the diplomatic fallout, and the increased terrorism in this country that could result from going to war. Clearly these are not exclusive military judgments reserved for a Commander in Chief. They are precisely the kind of complex national policy judgments that the Founding Fathers conferred very deliberately on the Congress in matters of war and peace. Yet in the present circumstances, the Congress has abdicated any role in that all-important decision. Rather, the entire world has been riveted on whether the American President would decide to declare war. The President has boldly told journalists and Members of Congress alike that it is his decision and his decision alone. This is a perversion of the Constitution of the United States. Even if one argues that the Congress properly exercises constitutional duties and that the President thereby has all the necessary authority to start a war, a fundamental question yet remains: Why war now? The Bush war would have disastrous far-ranging consequences for many years for every American citizen. War is about devastation, destruction, and death.

The American people are not blood thirsty. We want war only if our country is in imminent danger. Otherwise, a war is human and economic costs and moral costs are too great. It robs us of resources urgently needed by America's working families and those less fortunate. Even in terms of national security, an all out war would rob Americans of hundreds of billions of dollars needed for the first line of defense, which is homeland security on which we have made far too little progress since the tragedy of September 11.

As the President repeats his unverified mantra of threats to national security, cities across this land are laying off police officers, firemen, emergency medical service teams, and the so-called first responders to any new terrorist because this administration's "first response" to empty city treasuries have been, briefly, too bad, tough. This is not a partisan spat nor a Washington insiders policy dispute.

The citizens' crusade to stop an immoral war in Iraq has been nothing less than a noble struggle for our Nation's soul, and that struggle has not been particularly successful nor has it been a failure, because all across the Nation, there have been demonstrations, marches, protests, rallies; and I can tell you in the great State of Michigan there have only in the last few days been demonstrations in Detroit and Lansing and Grand Rapids and Traverse City and many other places throughout our state.

So we must commit ourselves to this cause with the same dedication and urgency in which many of us, most of us, strove to stop segregation and to end the Vietnam War, another conflict which finally brought our government to its senses. For the President to repeatedly insist that for him war is a last resort is contradicted by his actions which reveal that war is really his first choice and has been all along. His attempts to make it palatable by badgering, bullying, coercing, bribing countries into a so-called coalition of the willing has been a mere fig leaf transparent to the entire world.

The President has failed to present compelling evidence that Iraq currently is a threat to our national security. One rationale after another has been disproved. The President, the Vice President, the Secretary of Defense have presented a kaleidoscope of ever-changing rationale as they tried to nimbly stay one jump ahead of various truth squads at the United Nations, among skeptical Members of Congress, and among the media and even of its own intelligence agencies, particularly the Central Intelligence Agency.

□ 2015

Americans have borne the burden of war when attacked or actually threatened with great resilience, but America cannot in good conscience start a war so costly in blood and life and treasure on the basis of circumstantial evidence and speculation that sometime in the unspecified future, Iraq may present an actual threat to the United States, because this war against Iraq is a war that will devastate a country of 20 million or 26 million and cause damages that will take decades to undo; a war that will see many American casualties and that could fracture our fragile economy; a war that will destabilize the Middle East and likely beyond; a war that will swell the ranks of terrorist recruits all over the world; a war that will weaken our fight against terrorism at home and abroad, and that will cost hundreds of billions of dollars desperately needed for programs in all of our cities; a war that will set a terrible precedent in a world of growing numbers of nuclear states, where atomic energy supplies can be bought at bazaars, on street corners, in a number of places in the world already, in a world where nations are anxious to get their hands on these ingredients and will do anything to get them, and some, I regret to report, are succeeding.

For any country to launch a preventive war against opponents that are deemed a possible future threat is an improper exercise of the power of war in this country, a war not really wanted by the American people and not desired by many of our military commanders on a personal level, and certainly not among our allies.

Worst of all, it is a war that, as the Central Intelligence Agency admits, will only make it more likely that Saddam Hussein will unleash whatever unconventional weapons he does have against our troops, against Israel and our other allies.

There is no evidence that Saddam seeks to commit suicide. We deterred him from using weapons of mass destruction during Desert Storm. If he faces destruction, however, he may well seek to play the role of Sampson.

Last weekend, several of the Nation's leading papers seemed to suddenly discover all of these grave costs of war in Iraq, in which article after article noted with an air of sudden reportorial discovery that the war would drastically increase the likelihood of Saddam Hussein's use of weapons of mass destruction, and that it would almost certainly escalate dramatically the number of terrorist attacks that could happen in the United States; that many U.S. military commanders fear that it would undermine the real war against terrorism; that there could be extensive casualties among innocent Iraqi civilians who have a great deal of reason to be opposed to Saddam Hussein; and that even following a quick military victory against Saddam Hussein, if there is to be one, we would be mired in an Iraqi quicksand of tribal feuds and guerrilla warfare for decades.

It would have been far more useful to their readers if the media had discovered the costly side of this war ledger months earlier. Instead, like the administration, most of the media focused overwhelmingly over the question of whether it would be preferable to prevent Saddam's use of armaments and remove his regime, as if there were no competing costs on the other side of this ledger that had to be carefully balanced and weighed in deciding whether this would be an action that would result in a net plus for America.

Now, there may be still time for the President to avoid starting the wrong war in the wrong place at the wrong time. There is still time, admittedly precious little, for the American people to speak out against the war that so few of them seem to support.

We should remember the warning of General Anthony Zinni, the Marine Commandant and head of the U.S. Central Command which guards the Middle East, who reminded us that military commanders know the full horrors of war and hesitate to plunge ahead until the national interest is clearly at stake.

On the other hand, the Marine Commandant warned, those who have never worn a uniform or have never seen combat are often the quickest to beat the drums of war.

So the administration will condemn whoever utters them as unpatriotic and partisan, just as the Johnson White House condemned Martin Luther King, Jr.'s questioning of Vietnam. The Bush team has already spread that slander in order to stop the erosion of support for the war as the public learns the truth. Are the military veterans and retired generals opposed to this war unpatriotic? Are the families of those who were killed on September 11 in New York and Pennsylvania who oppose this war partisan? That is outrageous.

I know many of my colleagues in good faith have been convinced that Iraq is a threat to us now, and they are entitled to their opinion, but they have been the target of a Niagara of propaganda, especially with the Vice President of the United States' early insistence that Saddam was involved in the September 11 attacks on the United States, and that he had nuclear weapons, both of these assertions which have long been disavowed by our Intelligence Community, our spy organizations. There have been many other assertions and premises used by the administration to market their product, in the revealing phrase of the White House Chief of Staff, which have crumbled under close scrutiny in the White House Chief of Staff's revealing terms.

So, I would ask this administration to reconsider their view and to ask themselves, almost the entire world is against this war. Every major city in the United States has gone on record in opposition to this war. The United States Conference of Catholic Bishops, the Pope, almost every major Protestant denomination, the American labor movement, the AFL–CIO, 13 million people, the National Association for the Advancement of Colored People have all gone on record against this war.

Leading retired U.S. military commanders, such as General Zinni, General Schwarzkopf in his original views, have voiced opposition to this war. Numerous Active Duty generals have told reporters off the record of their serious concerns about a war at this time against Iraq. General Scowcroft, an adviser to President George Herbert Walker Bush's administration, is against the war. And all of this opposition has arisen before the war has started, before a war has started, an unprecedented phenomenon in our history.

In view of these facts then, it is perhaps just possible that there is something amiss with the President's premises, something unconnected in his logic and his rejection of further efforts to resolve these issues peacefully.

I urge my colleagues to reflect upon these circumstances and join me in continuing to press and urge and pray for our President to find another way to follow the path of peace, for blessed are the peacemakers.

I now yield to the distinguished gentleman from Illinois (Mr. DAVIS), my friend and colleague for many years, even before he became a Member of Congress.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman very much. I want to thank the gentleman from Michigan (Mr. CONYERS) for his steadfastness and his many years of understanding, that sometimes you might have to give out, but you never give up, and even though it appears to be the last minute, right down to the wire, here the gentleman is continuing to speak to the American people, trying to help all of us see the light and see the way. So I thank the gentleman for this opportunity to join with him.

On October 10, 2002, this Congress voted to give the President of the United States broad powers, which he has taken as the right to engage in a unilateral first strike war against Iraq without a clearly demonstrated and imminent threat of attack on the United States.

Our oath of office as Members of Congress, our constitutional charge, the mandate laid upon us by the people does not permit us to delegate the responsibility of engaging the awesome military power of the United States. Our oath of office does not permit us to delegate our responsibilities in placing our fighting men and women on the field of battle.

The Constitution places the power to declare war squarely and solely in the Congress. This issue arises far above partisan politics. President Abraham Lincoln put our Congressional responsibility this way: "We cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down in honor or dishonor to the last generation."

I opposed that resolution, and I remain opposed, because after all of the information I have seen, and after all I have heard, neither I nor a majority of the residents of my district, the Seventh Congressional District of Illinois, are convinced that the war is our only, our best and our most immediate option. We are not convinced that every diplomatic action has been exhausted. In fact, diplomacy and inspections have not exhausted their ultimate potential.

I was not convinced, and I am still not convinced, that the resolution would properly guide us to act cooperatively and legally, through the United Nations, with the agreement and the involvement of the international community.

□ 2030

In fact, it has led us to pursue risky unilateral actions in defiance of international law and the United Nations charter.

As the American people are attempting to make sense of this complex situation, it is the duty of the Congress to ask some hard questions. One, is there an immediate threat to the United States? In my judgment, the answer is no. We have not received evidence of immediate danger. We have not received evidence that Iraq has the means to attack the United States, and we have not received evidence that the danger is greater today than it was last year.

Will the use of military force against Iraq reduce or prevent the spread or use of weapons of mass destruction? All evidence is that Iraq does not possess nuclear weapons today. The use of chemical or biological weapons or the passage of such weapons to terrorist groups would be nothing less than suicide for the current Iraqi leadership.

So I join with the gentleman from Michigan (Mr. CONYERS) in hoping that some way there is some resolve, that there is some sliver of chance, some reaction that might lead us out of this chaos and confusion into a peaceful existence, with the United States of America leading the way.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his thoughtfulness, and I am deeply grateful for him joining me tonight.

It is a pleasure to recognize the gentleman from New York (Mr. OWENS), who has worked in civil rights activity, and is a man of great thoughtfulness and perseverance.

Mr. OWENS. Mr. Speaker, I thank the gentleman for presiding over this Special Order on Iraq. We cannot say too much at this point about America's preemptive strike on Iraq. We are the greatest Nation that ever existed in the history of the world. We are the richest; we are the most powerful. We are also the most democratic. Never have so many people enjoyed democracy and never have so many people had an opportunity to help make decisions. We should not throw away our opportunity to help make this decision. We should not assume that it is all over, that decisions have been made and we cannot stop the war at this point. Or if the war should occur in the next few hours or the next few days, we should not assume that we cannot shorten it, we cannot do the best for our soldiers. The best thing to do for our soldiers is to bring them home safely, to get them out of conflict's way.

War is hell. War is hell. The question is, Do we have to plunge into hell in order to accomplish what we are seeking to accomplish?

I want to go back to where I was last fall when we considered the President's resolution, the resolution authorizing the President to go to war. At that time I said that I still believe that every step we take toward a war with Iraq makes us less safe, not more safe. If we get involved and obsessed with Iraq, it is a bottomless pit that makes us very much more unsafe than we were before. I said at that time that there are other situations existing in the world which we should spend more time on and take care of before we plunge into any kind of long-range involvement with Iraq, and I still say the same is true.

Most people have not bothered to observe the situation closely in Pakistan. Pakistan seems to be off the radar completely, off the agenda. Nobody talks about it. Pakistan is a nation of 180 million people. Most of them are Muslims. Officially they are a Muslim nation. They see themselves as a Muslim nation. Pakistan already has the nuclear bomb. They have nuclear weapons because we trained the Pakistani scientists in this country, and they now have nuclear weapons. They have nuclear weapons. A Muslim nation has nuclear weapons.

Pakistan has always had a positive relationship with the United States, but it has always been a strained relationship. Pakistan has always supported us throughout the entire Cold War. Pakistan supported us against the Russians in Afghanistan. There is a long history of Pakistan's loyalty to the United States.

Yet Pakistan has always been treated like a second-class partner. Pakistan has never been rewarded for its loyalty. When the Cold War was over, we just pulled out. The Afghanistan war, they were very much involved with, and after it was over, we just picked up and left. We have never given them the kind of aid economically that we should have provided. We have never offered them a Marshall Plan. We, at this point in history, even after al Qaeda, and Pakistan has now played a major role in al Qaeda, in the pursuit of al Qaeda and Osama bin Laden, they played a major role. But after all the negotiations of how we are going to go about doing this and what the alliance means, we have ended up giving Pakistan only $300 million in aid. Mr. Speaker, $300 million in aid to Pakistan, already fighting with us against Osama bin Laden, on the border of Afghanistan. On the border of Afghanistan, in great harm, harm's way, $300 million.

Now we are discussing packages with Turkey for $6 billion, just to let our troops pass through to go to Iraq. What do we think the Pakistanis think when they look at that?

Here is why I ask the question: What do you think the Pakistanis think? Because the other element in this is that this Pakistani Government, who has always been our friend, also teeters on the edge of dissolution. The Pakistani situation is very, very tenuous. They have a President who took over as a result of a military coup, but this same President was part of the military that helped us in Afghanistan. This same President presides over a Pakistani secret service intelligence agency. They are the ones who created the Taliban. They created the Taliban as a way of conquering Afghanistan. They are very close to the Taliban.

So when we had the invasion of Afghanistan, there are elements of Pakistan's military and Pakistan's intelligence services who are very unhappy about it, and as Muslims also do not like the idea of Muslims fighting Muslims.

The present government is very anxious. The President and the top officials go nowhere except with top security. They are very aware of the fact that they are in jeopardy. In other words, a coup could take place at any moment in Pakistan, and if a coup takes place and the right wing there, the people who are pro-Osama bin Laden, win, they have the nuclear bomb. Osama will have the nuclear bomb. It is just that dangerous.

Why do I talk about a coup on the eve of attacking Iraq? Because there is a fanatical element involved here which will be triggered at the invasion of Iraq all over the Muslim world. There is a fanatical element which the Pakistani Government may just not be able to contend with. We are in danger of having a coup take place and the nuclear bomb is the worst thing that could happen, nuclear bombs put in position where Osama bin Laden could get them.

I need not talk about the other critical situation in the world: North Korea. That is on the radar screen. People talk about that. We have in North Korea a dictator less known than Saddam Hussein. We do not even understand the machinations of this man's mind and the whole regime that he has managed to perpetuate all of these years. But people who have been there say that the population is fanatically behind him.

This is a population extremely intelligent; they have mastered modern technology. They have some of the best rockets in the world, and they are going on to fashion their own nuclear industry. They already have, they say, a couple of bombs and they are going to start making more. At the same time, they cannot grow enough food to feed their people. What kinds of monsters are these, and what kind of situation do we have when they have the technological confidence that great, but they are not able to feed the people? The people in charge do not even care enough to feed the people, obviously. That is another problem.

So we have those dangers in the world; and as we get obsessed with Iraq and involved with Iraq, which is a problem, Saddam Hussein is a monster. Saddam Hussein is a threat to world order. But Saddam Hussein is not an immediate threat to the United States and probably not an immediate threat to any country because he knows if he attacks anyone in surrounding Arab countries, he will have the whole world come down on him again.

Saddam Hussein, I have no case to make for. The man finances suicide bombers in Palestine. The big question is why? Why did we let him continue to sell oil all over the world so that he could finance suicide bombers in Palestine and continue building his arms industry? Where does he get the money from to continue to build up his arms industry? We talk about weapons of mass destruction. He has a big army. He has a big army with conventional weapons. The money to buy those weapons and to keep that army going has continued to flow, despite the fact that we have sanctions imposed on Iraq. Why did we not enforce the sanctions? What oil barons did we bow to to let them make a profit by not enforcing the sanctions? Why did we not, if France was trafficking in oil and Russia was trafficking, why did we not come down on our partners and really make the sanctions stick? They have never stuck. He has continued to get money, as much as he wants, to do what he wants to do.

People say, well, we are responsible for a lot of deaths of children in Iraq. No. That is ridiculous. He has the money. He does not spend it for the nutrition of children; he does not spend it for medicine. He spends it on building up his weapons and his power, and we let him do it. Why do we have to go all the way to a war, mobilizing 300,000 American troops, when we did not bother to do what we could have done on the seas? We control the sea lanes. We could have stopped the oil from being sold and transmitted all over the world, but we did not.

So there are other solutions, is what I am saying. Why do we have to go into hell? War is hell. If we did not know it was hell, if our imaginations did not tell us that, reading the "Iliad" did not tell us, when I read the "Iliad," I wondered why Homer went to such great lengths to talk about how the spear was plunged in mightily and the blood flowed like rivers, and he had four great descriptions of the horror of war. Well, in those days they did not have any movies. He did not have Spielberg to show him in "Saving Private Ryan." If he did not read the "Iliad," if he did not read any books and could not have his imagination telling him why war is hell, if he did not believe in Nikita Kruschev and the defense of Stalingrad, the facts of history, then we can see Steven Spielberg. It is right there on the screen in "Saving Private Ryan."

Our boys landed at Normandy under those conditions. It is not an exaggeration. War is hell. War was hell in a lot of other places too. War was hell at Gettysburg. The greatest number of American lives lost was lost in the Civil War; 600,000, at Gettysburg, thousands died, the largest number came from New York. But they died; they died for a noble cause at Gettysburg. They died for a noble cause at Normandy. They died for a noble cause in Korea. The North Koreans came brutally down on the South Koreans, and within days they wiped out the city of

Seoul, a brutal onslaught. Millions of people died in the Korean War before the United States forces got involved.

Our armed services and our military might can be put to good use. I like to think of myself as a follower of Martin Luther King. But I am not a pacifist in the sense that I think military force is necessary. There are times that military force is necessary. Thank God we have force. Our professional soldiers are the best in the world. My brother was a sergeant major in the Army for 20, 26 years. We have a very professional group of people now that run the military, and they are determined to do a good job for our Nation. We cannot fault them for the decisions that were made.

The problem is at the top; and the White House and the decision-making here in Washington, it is all wrong and dangerously off course. We are at a pivotal moment in American history, and instead of going one way with our military might and our wealth and our power, and our influence, most people in the world love us. I do not believe Americans are hated by ordinary people anywhere in large numbers.

□ 2045

They think we are as close to heaven as we are ever going to get here on Earth in terms of our way of life, including the political institutions, as well as the supermarkets and the joys of life and so forth.

I would like to conclude with a little piece of poetry here. We have faced difficulties for a long time, since the beginning of the country, of various kinds. We have always overcome those difficulties. Thank God we had Thomas Jefferson to help us get off to a good start. Thank God we had Abraham Lincoln at a critical moment when our Nation was about to fall apart. There is no reason to believe that we will not overcome this time.

All of the Members of Congress and all of our constituents should not throw up our hands in despair and give up. Let us keep talking. Let us keep trying to arouse the public to understand that this is a war we do not need. By going into preemptive war, using our wealth and military power in the wrong way, we are going to set history against us. Instead of guiding history and being the force and civilization which carries mankind to wonders never dreamed of before, we will become the enemy, with a lot of people sniping at our heels, and finally they will put together coalitions and bring down the great American empire. Rome fell because it was arrogant and thought that it could go on and on throwing its power around.

We have at various times in history been delivered from this kind of arrogance and these kinds of mistakes. There was a man who wrote to Thomas Jefferson early in the history of the country who saw what happened when the Constitution was generated. It was always a miracle to him how these savage men, these people in the wilderness, could come together and put together a magnificent government.

His neighbor wrote and said that there was an angel over America. There is an angel in the whirlwind taking care of us. I think we ought to remember that as we go into this difficult, very bloody war. War is bloody, it is not what Good Morning America has been showing us. War is hell. We would like the angels in the whirlwind to come out and deliver us.

Some time ago, I think it was February 28, I do not remember what the occasion was, I wrote Angel in the Whirlwind, actually as a result of a quote that President Bush had made in his inaugural address.

Angel in the Whirlwind,
Tell us where you've been;
Come steer us through the storm,
Halt all this public sin.

Angel in the Whirlwind
Blow forth great truths;
All men are born equal,
Some men die great;
Profiles in courage
Never come too late.

Lincoln in the whirlwind
Blew powerful justice down;
Emancipation Proclamation,
Magnificent declaration,
Plain ordinary sensation,
Transformed to noble creation.

Sailors in the whirlwind
Forsake all ease,
Typhoons still lurk near,
Patriots must not fear.

Angel in the whirlwind,
Jefferson at your side,
Ships ashore at Normandy,
In every boat you ride,
Protect our future fate,
Martin King's posterity
Is waiting at the gate.

Angel in the whirlwind
Wrestle with the terror;
Tornado twisted greed;
Volcanoes belching
Ashes of indifference;
Human kind's highest hope
Strangling on a golden rope;
Merciful empire
That might've been,
Critically infected now
By the virus of public sin;
Giant graves reserved for midget men.

Merciful empire that might have been, or we could still be the merciful empire that saves civilization.

Angel in the whirlwind
Stay to save the brave and free,
Bring back judicial integrity,
Point us toward eternity,
Come steer us through new storms
Angel in the whirlwind.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from New York (Mr. OWENS) for his powerful, intellectual, and passionate discourse. It has helped this discussion immeasurably.

I am pleased to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague on the Committee on the Judiciary in the House of Representatives. From the time she entered the Congress, the gentlewoman from Houston, Texas, has worked at my side on numerous issues and causes, a dear friend of mine.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan, the distinguished gentleman, for having the wisdom to be on the floor of the House in the absence of the acceptance by the leadership of the charge that should be taken up; that is, to be debating the question of war.

I think it should be noted, though everyone is aware of the continuing leadership that the gentleman has given to a myriad of issues fairly, evenhandedly, and seeking justice, that the gentleman rose to the floor at the time that the clock ticked off or ticked out for the threat or the admonishment or the instruction, direction, or directive that was given to Saddam Hussein to leave Iraq and Baghdad in 48 hours; and, of course, the Nation knows that that ended tonight at 8 p.m.

It is appropriate that we are on the floor, because we are filling in the gap of really what the Congress should be doing at this moment; that is, a somber, decided, and deliberative debate on the constitutional question of whether or not this Congress will declare war against Iraq.

Through the course of our interaction, we have pressed the issue of not whether one is for or against this war, but whether or not this Congress has the sole responsibility to declare war.

Frankly, Mr. Speaker, and, frankly, with respect to this debate, I do not believe we should be silenced on this issue. I will tell the gentleman why: because even as America is hovering and preparing for the worst, the Constitution is being shredded. It is being ignored, and it is being taken lightly, because it is clear that the Founding Fathers wrote this document to respect the three branches of government, to recognize that we are strong as a democracy if those three branches are interrelated.

The Constitution does enunciate that the President, whoever that is, is the Commander in Chief and can deploy troops. Many will suggest that a resolution debated in October 2002, satisfied the question. It did not, because it gave more power to the President than has ever been given to any President in the United States, Democratic or Republican, meaning that actions might be able to be perpetrated without coming back to the United States Congress.

Clearly, it is well known that if the Congress does not use its power, it does not give up its power. So going back to the Constitution, whether or not it takes us 6 hours or 24 hours, it is clear that this body could debate that question. It is not, as I said, a question of winning or losing, it is a question of the sanctity of process. A President cannot singly and should not singly take the Nation into war.

I would just use as an example, we are not a parliamentary form of government, but it is interesting that our strongest ally was quite willing to appear before the British Parliament just yesterday and engage in a very open debate on this question. Would it not appear that we could do the same?

Let me just say this, and I will yield to the distinguished gentleman. We have been characterized, those of us who have been persistent in our opposition, and frankly I believe we should remain here in these Chambers until someone recognizes the responsibilities for this Congress to debate this question. But those of us who have raised our voices have been categorized and pushed to the side.

I do not think the media understands democracy, because whenever they present the largeness of this issue, it is a singular drumbeat: We are on the way to war. I assume now after 8 p.m. they are announcing war. It is a shame on them. As they say, it is a mockery on all of our houses; because, frankly, the American people deserve better. They deserve to know the facts, and that there are lucid and intelligent perspectives on both sides of this question.

I am not asking the President to give up everything and to suggest that Saddam Hussein should be given flowers, but I am saying that war should be the last option. I believe there will be a third option. I am appreciative of the gentleman from Michigan (Mr. CONYERS) joining me on filing legislation that again restates the proposition that the Congress has the authority to declare war, and we have filed that bill today.

But we have options, and we will be discussing this in the context of reaching out: One, convene an international tribunal, war crimes tribunal, with the United Nations Security Council and indict Saddam Hussein and his party leaders, and try him for war crimes; two, leave 50,000 troops on the border and bring home at least 200,000 of our young men and women; a vigorous, strong 50,000-person coalition, troops that are in a coalition, vigorously allowing the U.N. inspections to go forward; humanitarian aid now. Reinvigorate the Mideast peace process, fight the war against terrorism, and restore the coalition. These are key elements that could be done.

I believe, Mr. Speaker, that we can do something more than stand in silence. Frightening, deadening silence is appalling for this body that had the likes of the great leaders that we have known that have gone on before us.

I thank the distinguished gentleman for his leadership on this issue. I am not sure if the distinguished gentleman wants to close, but I think that more action is warranted than this Congress seems to have decided to do or the courage to do.

I would think more of all of us that we want to have a debate, whether we vote up or down on the question. I have no interest in suggesting that the victory be mine, but only that the process be real and that we do not give up the duty of this Congress to debate the question of war.

Mr. CONYERS. Mr. Speaker, I want to thank my colleague on the Committee on the Judiciary, the gentlewoman from Texas (Ms. JACKSON-LEE), for her critical analysis of what we can do other than what we are about to do: that this person, Saddam Hussein, should be tried for crimes against humanity in the Hague court, the international criminal court, as Milosevic was and others; and that we could repair even at this late hour from a course that we think is disastrous. I thank the gentlewoman for joining me tonight.

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## THE CENTRAL ISSUE OF IRAQ

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I join my colleague this evening, the gentleman from Texas (Mr. BRADY). He and I for some time have wanted to get together and have a discussion on the House floor with our colleagues and discuss the central issue of Iraq.

As Members know, this evening is a very important point in time in our history. Tonight at 8 o'clock the what I would consider generous offer for Saddam Hussein to take his regime and liberate the country of Iraq expired. I would expect that at any hour from here on forward that the United States and its willing coalition, and I will present to my colleagues that this willing coalition actually today exceeds, exceeds the size of the coalition of the first Persian Gulf War.

This is not the United States acting alone, in contrary to some of the previous speakers that we have heard up here. Contrary to what they are saying, this is not the United States taking on the world; this is the United States and a large part of the free world taking on the horrible regimes of people like Saddam Hussein.

Contrary to what some of the previous speakers said about standing silent, it is the United States of America, it is the United Kingdom, it is the Spanish, it is the Italians, it is the Turks, it is the Netherlands, it is the Polish, it is the Hungarians, it is the Netherlands. I could go on through 45 of those names. These people are not standing silent. They are willing to stand up to a horrible monster, and they are willing to make sure that that horrible monster does not stand down the people of his own country, nor stand down the people of the world. For that, the United States and all of its allies deserve a great deal of credit.

Last night when I addressed this House, I talked about what I felt was patriotic action by citizens of this country and unpatriotic action. It is my feeling that it is certainly within the rights of our Constitution, it is something that people have fought and died for, the freedom of speech. While I disagreed with the likes of people like Martin Sheen, and George Clooney, and the Dixie Chicks, and Cheryl Crow and some of the people like that, although I disagreed with the brash, unjustified, unstudied, uneducated statements that they made, in my opinion, I am exercising my freedom of speech, and I did not take away from them the right to express those feelings.

□ 2100

I do not take away, although I find very hard to swallow, I do not take away from the right of anybody that wants to march in a peace protest or have a sign of protest. I do, however, find it somewhat ironic and somewhat sad that many of these people, including some of my colleagues on this very House floor, spend more time bashing our President who I think has done a remarkable job in the leadership understand a tremendous challenge, spend more time bashing the leadership of the country which has given them all of their privileges than they spend bashing the monster, the man who has killed more Muslims than anyone in the history of the world. That is ironic.

But then again these people, I think there are people that truly believe in this protest. And I think that they are within their rights, and I do not think they are unpatriotic because they march out there. But where they cross the line, where that line is crossed is when our troops engage and it is upon that moment of engagement that every person in this country that protested this, the George Clooneys, the Hollywood superstars, the Sheryl Crows, the Dixie Chicks, ought to drop those signs and ought to be in complete and unanimous support of our troops. And if you are not willing to support the troops of the United States of America, and I will state this again 50 times as I stated this last night and I will say it again now and I will say it till the day I die, if you are not willing to stand for the troops of the American forces, for those young men and women throughout the world that are standing on behalf of the security of this country and our allies, then you are unpatriotic and you have crossed that line. And there is a line between patriotism and being unpatriotic, and that line will be crossed within the next few hours if people like Martin Sheen or Sheryl Crow or George Clooney decide in their own manner, I will not support the troops of the United States of America.

How interesting I see the Oscars, the Academy Awards that are coming up. And by the way for people like Julia Roberts, some of these people that have taken positions, let me tell you, I think they are outstanding actors but, you know, you cannot be a master of all trades. And they certainly are not masters of foreign knowledge or foreign affairs. They ought to stick with acting. And I hear that some of these actors who are amongst the very privileged few of this country, take a look at Hollywood, these are amongst the very privileged few. They get money. They get limousines. They are welcomed at the Academy Awards with red carpet. They are treated. They are spoiled. Anything you want to take a look at. It is not to say they did not earn it. I am not saying they did not earn it. I am just saying they are a very privileged few; and, frankly, those privileges that are then bestowed upon them have been bestowed because they live in the greatest country in the history of the world.

Do you think in Iraq these people, George Clooney, could stand up and criticize the government? Do you think Martin Sheen, Martin Sheen would have been executed by Saddam Hussein a long time ago. Do you see any pictures in the Iraq paper of anybody protesting the policies of Saddam Hussein? Of course you do not.

How interesting that Saddam Hussein says he has free elections in Iraq and in the last election he did not have one "no" vote. Out of the millions of people in Iraq not one "no" vote. Now that ought to tell Martin Sheen something about a democracy. And those people that are going to stand up at the Academy Awards and think it is their God-given duty, not right, not right under the Constitution, but their God-given duty to stand up and not support the troops of the United States and criticize the country that has allowed them to have the privileges that very few in our society ever dream of having, and that is to go to the Academy Awards and get an award and they are going to criticize this country. I find that appalling. I find that so, so disappointing.

But on the other hand, there are a lot of people who do support the troops of the United States of America. I want to show you a commercial. It is titled "Freedom," and I think it is very appropriate. I think it is very appropriate for what I am talking about right now, and that is appreciation of the history of this country, appreciation that the United States of America has done more good for more countries than any other country in the history of the world. This country gives by far more aid dollars than any other country in the world. This country has given more lives of its servicemen and servicepeople than any other country in the world in defense of other countries.

This country is not a conquering country. When the rest of the world gets in trouble, they come to the United States of America. They come to Great Britain. They come to the British and the Spanish. This alliance that we have put together to go in and cut the head off the snake is a coalition that has built respect, that has put the best example forward for the rest of the world. This country is a great country.

I had the privilege today of talking to some college students. What a great generation coming up. And I want to first have my colleague speak for a few moments, but after he speaks I want to go through some of the questions they asked me. They have got so much promise, and they were so proud of this country. And they were not necessarily prowar to be proud of this country. You do not have to be prowar.

I heard the preceding speaker up here talk about war. We should not have war. War is the last resort. Of course war is the last resort. Of course it is. But what recommendation do you have that is going to change things right now? You do not have it. You like to blah, blah, talk, talk, negotiate, negotiate, negotiate some of you people, but the fact is at some point in time somebody has got to have the courage to stand up and attack the cancer. You cannot play around with cancer. You cannot talk it to death. You need to get in. You need to diagnose it. You need to figure out what alternatives you have, but if the facts show up that you have no alternatives left, you better attack cancer. And it is the same thing with people like Saddam Hussein.

Imagine what this world would look like, just for a moment, even if you disagree with what I am saying this evening, tell me what this world would look like in 5 years if the United States stood down from Saddam Hussein. Tell me what the world would look like. Tell me what the world looks like today in Iraq. Tell me about the women in Iraq today. Tell me what privileges they have in that society. Compare it to the privileges given to the Hollywood celebrities at our Academy Awards, for example. Tell me about the health care in Iraq. Tell me about the criminal justice system where they put men through shredders, well, maybe women too. Tell me about the abuses in that. Tell me about the starvation in Iraq. There are a lot of comparisons we can make. And you can be very proud, very proud that we are all lucky enough by sake of birth, we are lucky enough to be citizens of the United States of America, but it comes with a price. We have got to be willing to stand up and defend this flag that stands behind us.

I want to refer over here to my poster to the right of what I said earlier. Freedom. Is it not funny, this is from the former Senator, U.S. Senator Fred Thompson. Freedom. "It is the soldier, not the campus organizer who has given us the freedom to demonstrate." Look at that line. It is the soldier, not the campus organizer who has given us the freedom to demonstrate. It is the soldier not the reporter, not the reporter, it is the soldier, not the reporter who has given us the freedom of press. It is the soldier, not the poet who has given us the freedom of speech. It is the soldier, not the poet who has given us the freedom of speech. It is the soldier who serves under the flag who defends the protesters' right to burn the flag. It is the soldier who stands under the flag and defends the flag that gives those protesters that right to burn the flag. Is it not time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free. Were it not for the brave, there would be no land of the free.

The Martin Sheens of this world, the George Clooneys, the Julia Robertses, the Dixie Chicks, the people that have come out, the Howard Deans of Vermont, people like that, it is time for you to put down those signs of protest. It is time for you to support the troops of the United States of America. And if you fail to support those troops, I mean now, I mean today, this time limit is gone. At any given moment this Nation will engage in a military conflict. And let me repeat it once before I yield to my good friend from the State of Texas. Failure to support the troops of the United States of America by a United States citizen is representative and by definition unpatriotic.

Now, you can call my office all you want. You can be as mad as you want at me; but the fact is I believe in my heart that patriotism is defined right here, allows the campus organizers because of the soldier to have the freedom to demonstrate. Allows the poet the right to freedom of speech. Allows the defenders of the protesters' rights. But once we cross this line, once we ask these 18-, 19-, 20-year-old young men and women to take a weapon and risk the loss of their life, and, mind you, these are voluntary forces over there. This is not the draft. These are voluntary forces, the best fighting force the world has ever known. Once we ask them to stand on our behalf and to put their lives in the line of fire, then, by God, in my opinion you are unpatriotic if you do not support those troops.

Now, I am very pleased this evening that I have a colleague of mine who wished to join me and we wanted to do this as a joint statement. So I am very happy to yield to the gentleman from the State of Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of the gentleman from Colorado (Mr. MCINNIS) on this issue and many other issues. He is a colleague of mine on the House Committee on Ways and Means. He plays a crucial role on a number of issues from tax reform to preserving Social Security and Medicare to trying and open up new markets around the world. But it is his, I think, vision on national security and this war on terrorism that prompted me to be here tonight. I appreciate him allowing me to be part of this program on an evening that I think history will mark as a very important next step in the war on terrorism.

Recently, I had the privilege of attending two rallies for America back in Texas, in my home region. The first one a couple of weeks ago was coordinated by KPRC radio in Houston. Two of the on-air commentators, Chris Baker and Pat Gray, put together a rally just on a week's notice, a mere week's notice, just basically invited the community to come together and support our troops and support this country. It was a remarkable rally. It was a cold and dreary day, not one that attracts a lot of people naturally; but yet in this plaza in downtown Houston there were between 8 and 10,000 Americans there to show their support for this President and support our troops or military men and women. And then last weekend in Woodland, Texas, where I live, not three blocks from where Cathy and I live with our two young boys, we had a rally for America as well. This one was organized by Dr. K.P. Reddy, who is an immigrant from India, a legal immigrant who came here with very little money in his pocket but a desire to live the American dream.

He organized this rally basically to remind America what a remarkable Nation we live in and what remarkable freedoms and blessings we possess. And both of these rallies were to me remarkable because they were just a grass roots outpouring of people who understand the importance of our security to our families and to our Nation.

I had a chance to talk to the groups at both of these rallies and here are the thoughts I shared with them: back home 1,200 miles from here in Washington, D.C., back home in College Station, Texas, is the George Bush Presidential Library Museum. Captured in these magnificent engraved letters high on the granite walls on the museum where each afternoon if you drive past, the beautiful Brazos Valley sun captures these words, and I think they are very appropriate to our time in our Nation. And the words say, "Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand."

As we stand today on the eve of liberating Iraq and striking another blow against international terrorism, thousands of our young men and women stand watch on foreign soil. Our soldiers are on patrol in Bosnia-Hersgovenia, Kosovo and Macedonia. They are hunting al Qaeda terrorists in Afghanistan and the Philippines. They are on patrols in the skies of Iraq and on the seas throughout the world. They are unloading the equipment near Turkey and training in the deserts of Kuwait. These patriots and their families are suffering hardships and making great sacrifices at this Nation's behest.

□ 2115

There is a good chance in the next few hours that we will ask even more of them. Another generation of Americans is standing where duty requires them to stand, and we are standing with them. For all our faults, America remains a good, good country. We did not deserve the attacks of September 11, nor the celebrations that followed in some parts of the world. And as happens in times of crisis, 9/11 brought out the best in America. We sensed a Nation turning back toward what is truly important, our faith, our families and our precious freedom. We saw it in the thousand flags flying, in overflowing hearts and in overflowing churches.

You may recall in his September 20 speech to the Nation, to the joint session of Congress, President Bush spoke for all of us then when he vowed that America would not rest until we had rooted out terrorism around the world. He said that countries harboring terrorists would be treated as terrorist nations themselves; that if you financed terrorists, if you trained terrorists, if you provided them safe harbor in your country, that you would be treated as a terrorist nation yourself. He cautioned wisely that the coming war would be a long one, to be measured in years rather than months.

As we have been reminded repeatedly by the recent al Qaeda attacks in Bali and Kenya, by the audiotape of bin Laden and his second in command predicting more terrorist attacks in America, as we have been reminded in the announcement that American intelligence have quietly thwarted more than 100 separate terrorist efforts, the question is not if America will be attacked again at home, but when and by whom. Instead of crashing airplanes into our downtown buildings, the terrorists of the future may well turn to dangerous chemical and biological weapons, suicide bombers, attempts to poison our air and water, disrupt our energy supply, our electronic commerce, and destroy our economy and the jobs that we and our neighbors rely upon. They will direct these weapons of terrible destruction toward America, because standing as the world's lone superpower also means standing as the world's biggest target. Despite what Hollywood and others are trying so desperately to sell to you, our homeland, our communities, our schools, our neighborhoods and millions of American lives remain at risk as we speak tonight.

We are going to fight this war on terrorism one way or another, either overseas at its source or here at home when it lands right on top of our neighborhoods. We choose overseas, at terrorism's source.

Personally I can tell you that casting a vote for war is the most difficult vote you ever cast. I have a younger brother Matt, who is a medic in the Army. He was deployed to Desert Storm a decade ago. Since then, he and his wife have added two young children to their family, Mattie and Caitland. He recently got word he is headed back to Turkey. Any time you cast a vote that will send your family to war, any time you cast a vote to send anyone's family, anyone's son or daughter, to a war they may not return from, you think hard and you pray hard over it. Yet I know it was the right vote to cast, and Matt feels even more strongly than me.

I am certain because the first responsibility of our government is to defend American citizens. It is not the United Nations' responsibility, it is not France's nor Germany's. It is ours. The Afghanistan campaign was certainly the first step in the war on terrorism, but does anyone believe all terrorism begins and ends in Afghanistan? Does anyone believe there is only one terrorist, Osama bin Laden? Does anyone seriously believe Saddam Hussein has disarmed? Of course not.

By any measure, Saddam Hussein presents a grave threat to the safety, the security and the well-being of Americans here at home. Disarming Iraq and its support for state-sponsored terrorism is the next logical step to secure peace for our families and the world.

I served as a member of the House International Relations Committee for a number of years. Serving on that committee, it became clear to me that terrorism expands according to our willingness to tolerate it. Terrorism expands according to our willingness to accept it. For too long the world has turned a blind eye to terrorism. We have been afraid to confront it. Terrorism has grown strong because the actions of our world leaders never really matched their tough words.

That is over now. That all changed September 11. That all changed with President Bush as our Commander in Chief, and that all changed with a Nation that supports him. For the sake of our community and our security, we have to mean what we say. And for the sake of our children's future, we must follow through on our vow to end terrorism.

We know from experience that America's security at home depends upon our strength in the world. The value of our military to deter attacks and maintain peace depends in great measure on the value of our word. If the United Nations fails, and unfortunately they have as of tonight, although

President Bush has bent over backwards to reach a diplomatic solution, the bottom line is you cannot give someone a backbone. They have to have one themselves. I think the exercise with the United Nations in which we tried so hard proves what global security experts have long suspected. Many nations in the world want terrorism to end, but few want the responsibility of actually doing it. If Saddam Hussein chooses to continue to arm himself and harbor terrorists, then America must act. Words alone are not enough. And when we send U.S. troops overseas, it must be to win and to return home as planned.

President George Washington said, there is nothing so likely to produce peace as to be well prepared to meet an enemy. We know the enemy. We know the difficulty. We know the duty, and we know the strength of America's military men and women, and we will not undermine them here at home. Despite what some believe, as Americans our rush is not for war, it is for peace, a secure peace, so that back in Texas where I live and in communities across America, when our families leave home each morning, they return home safely to us that night. That is not too much to ask. As the United States has shown in every world war, we are fighting not just for our Nation, but for a world free of fear, free from the horrors that fill our television screens too often, free from the threat of weapons of mass destruction which grow and grow each day, free from all that terrorism spawns.

If you think war is expensive, try living in terror. How much would we pay, how much would we give to have prevented the attacks of 9/11? To those who protest the war, I respectfully ask, was September 11 not enough? Was not September 11 enough to convince you this is not a game? This is not politics as usual. This is not Vietnam. This is like no other war. This is the prospect of a holocaust on our shores, on America's shores, among our communities, killing our families, injuring our neighbors, destroying our way of life for generations to come. And all the made-for-media protests, all the petitions and the slick TV ads in the world will not stop the next terrorists from attacking innocent Americans here on our shores again.

By standing tall, by standing firm, I believe President Bush has demonstrated what we all know in our hearts. Leadership is never easy, nor is it always popular, which is why we are so grateful for the nations and the leaders who stand with us, more than 30 of them, the third largest coalition in a century, people who are willing to say to international terrorism, enough. Enough. I am convinced, looking back, if more had stood with us, if France and Germany had put world security ahead of their shortsighted political ambitions, that we may well have disarmed Iraq and exiled Saddam Hussein without a shot being fired. Sadly, we will never know.

In some ways, I do not really worry about those in the free world who question the war. I worry about those in the world of terrorism who question the resolve of the American people. As you may recall, within days after the attacks of September 11, many around the world predicted that America would not have the heart nor the attention span nor the fortitude to mean what we say. They will soon learn they are wrong. No one knows better than Americans that if a nation values anything more than freedom, it will lose its freedom. The irony of it is that if it is comfort or it is money that it values more, it will lose that, too.

I have great faith in the American people. We will stand with President Bush. We will stand with our American military. We will stand where duty requires us to stand.

On the issue of defending America and disarming Saddam Hussein, people often ask, why Iraq and why now? To that, let me yield back to my colleague from Colorado, who speaks so eloquently about the need to defend our America and to secure peace throughout the world.

Mr. McINNIS. Mr. Speaker, I hope the gentleman can stay around here for a while. I think this is a very good discussion. I want to point out something. I was moved by his remarks. On Sunday, there is going to be a special event in this country. On Sunday, we are going to have some of the privileged few of this country attend a ceremony called the Academy Awards. Today throughout the news, I read about how different people that were going to attend or perhaps even receive an Oscar at the Academy Awards were preparing these antiwar, anti-U.S., anti-American troop statements to present.

I want the people that are watching me and my colleagues this evening, on this floor, I want you to keep in mind that on Sunday as these movie actors such as George Clooney or Sean Penn or Julia Roberts or some of these other people, Martin Sheen is probably at the very head of that, as they pull up to the Academy Awards in their white limousines and walk on their red carpet and toast amongst the finest wine in this country, as they are in there on that stage being televised across this country on the Academy Awards, I want you to know that young American men and women could very likely be dying in the battlefield, dying to defend a country, dying to liberate another country, standing up for everything that this Nation believes in, a Nation that with its allies is willing to stand up and meet the challenge, to meet the cancer as it comes.

I will be very, very disappointed, and I hope the rest of America joins me in their disappointment if on Sunday during the Academy Awards that these people, the sponsors of the Academy Awards, the Motion Picture Association, the industry as a whole, if they stand there and allow these very privileged individuals, very privileged few amongst our population, condemn this Nation, condemn this administration, and in essence condemn the forces of the United States while, in fact, we have young men and women dying on those battlefields, and that could commence almost immediately.

Thank goodness there are nations like the United States of America and the British and the Spanish and the Italians and a number of other countries that are willing to stand up when good should rule over evil. They are willing to stand up and take on evil even though it is at the risk of their own life, at the risk of the safety of their own Nation, and how unfortunate that some people in the background who are safe in the foxhole take it upon themselves to come up with theories about how wrong the people that got out of foxhole are.

Again let me go back to the ad that Fred Thompson is running on TV. Freedom. It's the soldier, not the campus organizer, who's given us the freedom to demonstrate. It's the soldier, not the poet, who has given us the freedom of speech. It's the soldier, not the reporter, who's given us the freedom of press. It's the soldier who serves under the flag who defends the protester's right to burn the flag. Isn't it time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free.

Again, for those of you, and I hope that some of you have some correspondence with Hollywood, I hope when you have the Academy Awards and the Oscar things on Sunday, that you can keep in mind, is it not time now to demonstrate that we support our forces of the Americans and our forces of our allies?

□ 2130

The gentleman from Texas (Mr. BRADY) brought up some stuff about the willing coalition, the coalition of the willing. I have heard a lot of propaganda, a lot of propaganda, including the preceding speakers, not my colleague from Texas, but before we got our hour some of the preceding speakers talked about how the United States is doing it alone, how the United States as a super power is going forward and going after poor little old Saddam. Let me say that that is nothing but pure propaganda. The coalition that is willing to stand up to the vicious regime of Iraq and liberate the people of Iraq, that coalition is larger than the coalition we had in the first Persian Gulf war. We do not have 10 other countries joining us. We do not have 15 other countries joining us. We do not even have 20 other countries joining us. We do not have 25. We have 45 other nations, 45 other nations that are willing to stand up and stand up to this threat and put their national defense in line to stop this cancer.

Let me just give an example of a few of them. To my right take a look at this. I will just jump around. Afghanistan, Denmark, Hungary, Japan, Lithuania, Nicaragua, Rumania, Turkey, United Kingdom. The British, they have been tremendous. Tony Blair, a profile in courage. Slovakia, the Philippines, Macedonia, South Korea, Iceland, Ethiopia, El Salvador, Colombia, Albania, Australia, Italy, Georgia, the Netherlands, Poland, Spain. Take a look at these. And I saw an interesting article today by Andrew Sullivan. Let me read this. There are three categories, countries that explicitly support the United States' position; countries that support it but wanted a second resolution, that is the second category; and the third category are the countries that oppose the war against Saddam. In the first camp, we have the United Kingdom, Spain, Denmark, Italy, Lithuania, Poland, Hungary, Rumania, et cetera, et cetera, et cetera. In the first camp those who support the United States and its willing coalition number 45 as of this hour, 45 as of this hour.

In the second camp, supportive, we have the Netherlands, the Czech Republic, Slovenia, and Slovakia. I put those five in a broadly positive column. That makes the total, if we add to the 45, somewhere pushing 50. Then we have the neutral countries, the neutral countries out there in Europe: Ireland, Austria, Finland, Serbia, Switzerland, and Norway. Australia, by the way, has dedicated troops to this. Australia has come strongly into the coalition of the willing.

Then we have the opponents. Let me stress the opponents that we have here, and let us count them on a finger. France, Germany, Belgium, Luxemburg, Sweden, and Greece. By my count we have about six countries that are neutral, six countries that are opposed; and over 45 nations, over 45 nations, have joined with the United States one way or the other to cut the snake off this horrible regime that has in fact enslaved the people of Iraq.

And let me give some examples. Afghanistan, they have pledged their support for the U.S. efforts, may open air space to U.S. military flights, U.S. and all of the allies. Albania, little Albania, offered to send troops, approved the U.S. use of their air space and their bases. Australia sent 2,000 of their elite SAS troops. These SAS troops are amongst the best in the world, 2,000 of them. They have sent fighter jets and they have sent warships to the Gulf. That is Australia. Bahrain, the headquarters of the U.S. Fifth Fleet; Bulgaria offered the use of air space, base and refueling for U.S. war planes, sent 150 troops specializing in chemical and biological warfare decontamination. Croatia, air space and airports open to civilian transport planes from the coalition. The Czech Republic sent noncombat troops specializing in chemical warfare decontamination in response to the U.S. request.

This list goes on and on and on. There are a lot of people out there that realize what we are facing. They understand what the world will look like in 5 years from now if we do not do something about this.

My good friend from the State of Texas mentioned that he regretted the fact that the French and the Germans did not come on board early on in this game, that had they come on board and had they let Iraq know that they meant business, we probably would have been able to resolve this diplomatically. When should they have come on board? They should have come on board 11 years ago. They should have come on board at any time during those 17 separate resolutions.

The French adopted one policy. First of all, they let Iraq know that under no circumstances, no matter what they do, neither the French nor the Germans nor the Belgians will ever attack them with a war. So do not worry about leverage; do not worry about a threat. In the meantime let us negotiate and negotiate and negotiate. It was the French that took the lead in crafting the resolution called 1441 4½ months ago. It was the French that persuaded the Germans and the Belgians for a unanimous vote with the rest of their colleagues at the United Nations, for a unanimous vote, no "no" votes on 1441, and it was the French that were the first ones to back out. It was the French that were the first ones to stand down on enforcement of 1441. Had they stuck to their guns, had Saddam Hussein known that the entire international community including the limited few that now are not part of the coalition, the French, the Germans, and the Belgians, had they known that we were unified, they probably would have resolved this diplomatically. Saddam Hussein really would have disarmed, probably. What kind of message does it send to the rest of the world, to a North Korea or to other countries like Iran or Libya or countries like that when they know that all they have got to do is get a little disagreement going between longtime allies and get one of the sides of that disagreement to say right at the very beginning we will never under any conditions go to war? What kind of leverage does that give to them?

I had a very interesting discussion today with the students, and they asked a number of questions, and I think they should be addressed. I want to just very quickly, briefly talk about them before I turn the floor over to my colleague again. First of all, we had a little discussion on the Hollywood type. I have talked about enough on Hollywood, although I would note that over the weekend the Dixie Chicks who made that very derogatory political cheap shot at our President, who I think has done a tremendous job with Condoleezza Rice, with Colin Powell, with DICK CHENEY, with Don Rumsfeld; but the Dixie Chicks brought it upon themselves on foreign territory to announce that they are disgraced that the President is from the State of Texas.

Let me say what America feels about that. Sales dropped so dramatically after their comment. They had the number one song in the country. It dropped off. Do the Members know what the number two song is after I think a week or 3 days of being out on the charts? A song entitled "Have You Forgotten." As my good friend from the State of Texas's comments were throughout his speech, have you forgotten September 11? Have you forgotten what this country stands for? Have you forgotten what these soldiers have done, the soldiers that have allowed the reporters the freedom of the press, the soldiers that have allowed the poets the freedom of speech, the soldiers that have allowed the protestors in this country the right to protest, protests where they would be immediately executed if they tried to pull that off in Iraq?

And I say to these people, have they forgotten what America is about? Have they forgotten about the greatness of this country, that this country has gone to war more often than any other country for other nations? How many thousands and thousands and thousands of Americans lay in their graves on foreign soils having fought for those other countries? The United States is not a cocky country. The United States does not try to bully people around, but the United States is willing to stand up when it counts. Have we forgotten?

And I venture to say this evening that the majority of Americans have not forgotten, that the majority of Americans understand that the good and the might of this country will in the end prevail for all good and that good will prevail over evil, and I venture to say that most Americans will not take with a grain of salt these movie Hollywood actors on Sunday when they appear at the Academy Awards condemning the United States, condemning the administration, condemning the very privileges that made them the privileged few. I venture to say that the American citizens are eminently proud of those soldiers and sailors and Marines and Coast Guard and the people in this country that are supporting logistically those troops.

The students asked me, What about the human shields? Should we avoid the human shields? My position is this: if the human shields took direction from Saddam Hussein of where to go to provide themselves as human shields, they have crossed that line from being noncombatants to combatants, and, frankly, they are a fair target.

Let me talk very briefly about the question that came up, What if we make the terrorists mad? If we attack Iraq and disarm Saddam Hussein and liberate that country, won't we make other countries mad at us, other terrorists? I said, as a comparison, imagine if we said to the police officers of this country, Before you make an arrest, make sure that you do not make the family of the defendant, the person you are arresting, make sure their families are not mad about the fact that you are arresting them.

What about the preemptive strike? they asked. Do we have a right that this Nation preemptively strike? On September 11 things changed dramatically. First of all, when it comes to terrorism, we can no longer defend this country from terrorism. We cannot put a police officer in every theater. We cannot put a police officer in every restaurant. We cannot guard everything. We have got to reach out and strike at the terrorists that are out there. We have got to go after them. We cannot wait for them to come after us. We cannot play a defensive game. We have to be offensive in our nature when we talk about terrorism. We have to be willing to stand up and take a preemptive strike when we have somebody like Saddam Hussein, who, by the way, took the first preemptive strike when he invaded Iran, took another preemptive strike when he invaded Kuwait, took a preemptive strike when he gassed 60,000 of his own people. His own people, he gassed them, mustard gas, ricin, nerve gas, and I have got a chart of examples. We do not have time this evening, but I have a chart of examples of time after time that he used these weapons of mass destruction against the Iranians, against his own people.

So of course we have the right to go out there, and I said, As a comparison, think of your local police officers. We do not say to our police officers they do not have the right of a preemptive strike. In fact we specifically give them the right to preemptively strike. If they roll up at a bank and there is somebody with a gun or there is somebody anywhere, a domestic dispute, and there is somebody with a gun, we do not ask the police officer to be shot at first before he can under certain conditions. Fire first.

This country has met the highest of standards, and along with its allies do my colleagues think we can put together a coalition of 45 different nations in this world, opposed by only six? That is what we have right now. The governments of six people that have officially cited their opposition. Do my colleagues think we can put that together if we did not meet some pretty high standards, and if the snake and if the regime we are going after was not worthy of these people, sometimes not politically correct in their countries? Take a look at Tony Blair, still having enough guts to stand up and put a stop to the regime of Saddam Hussein.

Let me move on and kind of wrap up because I want to have my colleague, who made what I thought was a very accurate statement, conclude. But I want to just say a couple of things. I really was excited to talk to these students today, and I told these students, our newspapers just by the nature of the business they are in, they print the bad stuff. Young people, my son and daughters are now grown, but they are in their early 20s, and it is very easy for them to be discouraged about what does the future of this country look like, what is my future, the opportunities, myself and my colleagues we have for our family, we have for jobs, for opportunities? We read the papers. It is pretty easy to be discouraged.

But I say to them if they take a look at their generation, first of all, their generation has more opportunities than any other generation in the history of the world and certainly in the history of our country. Their generation is brighter than any generation in the history of this country, and I say to these young people, what is going wrong in our society? What is going right would go through the ceiling of this dome. In other words, what is going right way exceeds what is going wrong. And because of the military strength of this country, because of the strength of the character of the people of this country, because of the dedication and the willingness to sacrifice for freedom, for democracy, for freedom of speech, for the freedoms that we have enjoyed and many, many times taken for granted, because this Nation has met those standards, that is why we are the finest country in the history of the world.

□ 2145

It is not because we have the biggest military machine, but it is because we have that machine that we avoid many fights. It is because people cannot wait to get into this country. I say to people, I say, what other country in the world has immigration problems like this country? You know what? In the United States, you do not see people falling over each other or swimming the Rio Grande to get out of this country. You see people coming into this country any way they can, because of the American dream, because of the American standards of democracy, because of the character of the American people. And at this very hour we are being tested.

We have a regime that believes in murder. We have the worst murderer of Muslim people in the history of the world, who dares the United States to take him on, who dares the United States to tell him he cannot have weapons of mass destruction.

Well, he has called the bluff on the wrong coalition of the willing. Not only has the United States accepted his challenge, in fact the United Nations did not accept the challenge, but the United States did accept the challenge, the British accepted the challenge, the Spanish accepted the challenge, the Italians accepted the challenge. Forty-five countries accepted the challenge to stand up for the character of freedom and democracy and to stand against the terrible regime of a dictatorship which has stolen from the people of Iraq, has stolen from the people of Iraq the basic bill of rights, the basic freedoms they ought to be guaranteed.

I am so proud, and I will conclude with this. I am so, so proud of our forces out there, that voluntarily have entered there; the families, by the way, not just the men and women in the field, but those wonderful wives and husbands who are home managing families, without their spouse, worried about whether their spouse will survive. I am proud of all of you.

We are Americans. We will always be Americans, and America will always stand proud. I would like to yield to my friend from Texas. I thought his comments were most appropriate.

If the gentleman might yield for one moment, I have just been advised that the President of the United States will address the country at 10:15 this evening. I would urge, I am asking everybody, the gentleman from Texas will wrap these comments up in 5 or 10 minutes, I ask that you immediately after the conclusion of these comments, go to your national TV network at 10:15. The President, the leader of our country will address this Nation. This speech is historical. It is imminently important. It is imminently important for all of us to watch that.

I am sorry to interrupt the gentleman.

Mr. BRADY of Texas. I appreciate your leadership, and I think you have really concluded on the right note at the right time.

We are facing history in a war that is so unique. It is unlike any other. I think what some people do not understand is that the international community has ranked those nations around the world who are the champions of state-sponsored terrorism, and have for many years. Of those countries, Iraq has topped that list for many, many years. Their ability and willingness to allow training of terrorists to occur, to allow financing of terrorists to occur, to allow safe haven and transit and medical treatment to those terrorists around the world all place them in a unique situation.

I will tell you that this past weekend we remembered the victims of Saddam

Hussein's terrible chemical weapons attack on the people of Halabja, a city in northern Iraq, and other village attacks in the Al-Anfal campaign.

On March 6, 1988, 15 years ago, the Iraqi Air Force dropped a devastating mix of mustard and nerve gas on citizens in this city. Five thousand of Hussein's own people were killed immediately at his hand, several thousand died later, and an estimated 10,000 people were maimed and still are suffering the effects of this attack. If you wonder if this gentleman is capable of launching an attack, if not today, in the future as he grows stronger, all we need to do is look at his attack on his own people.

With this, I will conclude. I understand that the President's spokesman, Ari Fleischer, has just announced the disarmament of Iraq has begun. The President will address the Nation at 10:15.

I believe we are at this moment in time reflecting on, in the words on the wall of the George Bush Presidential Library in College Station, "Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand."

Tonight, under the President's leadership, yet again we will stand where duty requires us to stand.

## RECESS

The SPEAKER pro tempore (Mr. Bonner). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 50 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2237

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Dreier) at 10 o'clock and 37 minutes p.m.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–44) on the resolution (H. Res. 151) providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–45) on the resolution (H. Res. 152) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hyde (at the request of Mr. DeLay) for today on account of medical reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. Honda) to revise and extend their remarks and include extraneous material:

Mr. DeFazio, for 5 minutes, today.

Mr. Filner, for 5 minutes, today.

Ms. Woolsey, for 5 minutes, today.

Ms. Kaptur, for 5 minutes, today.

Mr. Tierney, for 5 minutes, today.

Mrs. McCarthy of New York, for 5 minutes, today.

Mr. Lynch, for 5 minutes, today.

Ms. Norton, for 5 minutes, today.

Mr. Honda, for 5 minutes, today.

Ms. Eddie Bernice Johnson of Texas, for 5 minutes, today.

Mr. Kucinich, for 5 minutes, today.

Mr. Lewis of Georgia, for 5 minutes, today.

Ms. Lee, for 5 minutes, today.

The following Members (at the request of Mr. Duncan) to revise and extend their remarks and include extraneous material:

Mr. Duncan, for 5 minutes, today.

Mr. Foley, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. Jackson-Lee of Texas, for 5 minutes, today.

Mr. Kingston, for 5 minutes, today.

Mr. Ruppersberger, for 5 minutes, today.

Mr. Holt, for 5 minutes, today.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 628. An Act to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia* Orbiter; to the Committee on Veterans' Affairs; and in addition to the Committee on Science for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until Thursday, March 20, 2003, at 10 a.m.

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## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2002, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Karen McCarthy | 12/10 | 12/12 | New Zealand | | 638.00 | | | | | | 638.00 |
| | 12/13 | 12/16 | Australia | | 993.00 | | | | | | 993.00 |
| | 12/17 | 12/18 | Micronesia | | 180.00 | | | | | | 180.00 |
| | 12/18 | 12/19 | Marshall Islands | | 260.00 | | | | | | 260.00 |

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Committee total |  |  |  |  | 2,071.00 |  |  |  |  |  | 2,071.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Ed Whitfield | 11/24 | 11/29 | Italy |  | 2,080.00 |  | (3) |  |  |  | 2,080.00 |
|  | 11/29 | 12/1 | Greece |  | 236.00 |  | (3) |  |  |  | 236.00 |
|  | 12/1 | 12/2 | Spain |  | 196.00 |  | (3) |  |  |  | 196.00 |
| Hon. Charles F. Bass | 12/2 | 12/4 | Germany |  | 210.00 |  | (3) |  | 426.96 |  | 636.96 |
|  | 12/4 | 12/6 | Italy |  | 832.00 |  | (3) |  |  |  | 832.00 |
| Hon. Nathan Deal | 12/11 | 12/14 | England |  | 1,233.00 |  | (3) |  |  |  | 1,233.00 |
|  | 12/14 | 12/16 | Italy |  | 882.00 |  | (3) |  |  |  | 882.00 |
|  | 12/16 | 12/17 | Switzerland |  | 345.00 |  | (3) |  |  |  | 345.00 |
|  | 12/17 | 12/18 | Netherlands |  | 345.00 |  | (3) |  |  |  | 345.00 |
| Hon. Karen McCarthy | 12/8 | 12/12 | New Zealand [4] |  |  |  |  |  |  |  |  |
|  | 12/12 | 12/16 | Australia [4] |  |  |  |  |  |  |  |  |
|  | 12/16 | 12/19 | Fed. States of Micronesia [4] |  |  |  |  |  |  |  |  |
| Brendan Kelsay, minority staff | 10/29 | 11/2 | China (PRC) |  | 1,239.00 |  | 5,664.50 |  |  |  | 6,903.50 |
| Kelly Cole Zerzan, majority staff | 10/29 | 11/2 | China (PRC) |  | 1,239.00 |  | 5,664.50 |  |  |  | 6,903.50 |
| Hon. Clifford Stearns | 12/2 | 12/4 | Germany |  | 428.00 | 6,791.78 | 6,728.54 |  |  |  | 7,156.54 |
|  | 12/4 | 12/7 | Italy |  | 552.00 |  | 215.38 |  | 479.27 |  | 1,247.65 |
| Ramsen Betfarhad, staff | 12/2 | 12/4 | Germany |  | 428.00 |  | 1,505.91 |  |  |  | 1,933.91 |
|  | 12/4 | 12/7 | Italy |  | 1,248.00 |  |  |  |  |  | 1,248.00 |
| Hon. Rick Boucher | 12/2 | 12/4 | Germany |  | 428.00 |  |  |  |  |  | 428.00 |
| Hon. John Shimkus | 11/22 | 11/24 | Lithuania |  |  |  | 4,846.61 |  |  |  | 4,846.61 |
|  | 11/15 | 11/20 | Turkey |  | 1,357.00 |  |  |  |  |  | 1,357.00 |
|  | 11/20 | 11/22 | Italy |  | 840.00 |  |  |  |  |  | 840.00 |
| Committee total |  |  |  |  | 14,118.00 |  | 24,625.44 |  | 906.23 |  | 39,649.67 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[4] To be requested next quarter. Attachment to follow.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1212. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Switzerland for defense articles and services (Transmittal No. 03-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1213. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services (Transmittal No. 03-09), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the "2003 International Narcotics Control Strategy Report," pursuant to 22 U.S.C. 2291(b)(2); to the Committee on International Relations.

1215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia and Kazakhstan [Transmittal No. DTC 022-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1216. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia, Ukraine and Norway [Transmittal No. DTC 023-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1217. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 024-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1218. A communication from the President of the United States, transmitting a report in consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243); (H. Doc. No. 108—50); to the Committee on International Relations and ordered to be printed.

1219. A communication from the President of the United States, transmitting a resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, in accordance with Condition 9; to the Committee on International Relations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 151. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108–44). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 152. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–45). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mr. WEXLER, Mr. GRAVES, Ms. WATSON, Mr. BROWN of Ohio, and Mr. FALEOMAVAEGA):

H.R. 1345. A bill to provide compensation to members of the reserve components who suffer discrepancies between their military and nonmilitary compensation as a result of being ordered to serve on active duty for a period of more than 30 days, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TURNER of Ohio:

H.R. 1346. A bill to amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency; to the Committee on Government Reform.

By Mr. FILNER:

H.R. 1347. A bill to amend title 38, United States Code, to repeal the requirement that for former prisoners of war to be eligible for Department of Veterans Affairs dental benefits they must have been interned for a specified minimum period of time; to the Committee on Veterans' Affairs.

By Mr. KANJORSKI (for himself and Mr. Jefferson):

H.R. 1348. A bill to assure quality and best value with respect to Federal construction projects by prohibiting the practice known as bid shopping; to the Committee on Government Reform.

By Mr. BURTON of Indiana (for himself, Mr. Pallone, Mr. Sessions, Mr. Paul, Mrs. Jo Ann Davis of Virginia, Mrs. Maloney, Mr. Ford, Mr. Moore, Mr. Ryun of Kansas, Mr. Duncan, Mr. Stenholm, Mr. Thornberry, Mr. Nadler, Mr. Wamp, Mr. Allen, Mr. LaTourette, Mr. Norwood, Mr. Ackerman, Mr. Platts, Ms. Watson, Mrs. Cubin, Mr. Shays, Mr. Gutknecht, Mr. Hostettler, Mr. Hoekstra, Mr. Tancredo, Mr. Toomey, Mr. Turner of Ohio, Mr. Smith of Michigan, Mr. Bartlett of Maryland, and Mr. Jones of North Carolina):

H.R. 1349. A bill to amend the Public Health Service Act with respect to the National Vaccine Injury Compensation Program; to the Committee on Energy and Commerce.

By Mr. CASTLE (for himself, Mr. Boehner, Mr. Ballenger, Mr. McKeon, Mr. Sam Johnson of Texas, Mr. Greenwood, Mr. DeMint, Mrs. Biggert, Mr. Tiberi, Mr. Keller, Mr. Wilson of South Carolina, and Mr. Cole):

H.R. 1350. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ACEVEDO-VILÁ:

H.R. 1351. A bill to amend title XVIII of the Social Security Act to increase payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 1352. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in biomedical research conducted through the National Institutes of Health; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California (for herself, Mr. Issa, Mr. Rodriguez, Mr. Reyes, Mr. Frost, Mr. Filner, and Mr. Cunningham):

H.R. 1353. A bill to authorize the Port Passenger Accelerated Service System (PortPASS) as a permanent program for land border inspection under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. TOM DAVIS of Virginia:

H.R. 1354. A bill to amend section 19 of title 3, United States Code, to include the Secretary of Homeland Security on the list of presidential successors; to the Committee on the Judiciary.

By Ms. DeLAURO (for herself, Mr. Neal of Massachusetts, and Mr. Doggett):

H.R. 1355. A bill to amend the Homeland Security Act of 2002 to clarify that a prohibition on contracting by the Secretary of Homeland Security with foreign incorporated entities applies to contracting with subsidiaries of such entities, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 1356. A bill to encourage the availability and use of motor vehicles that have improved fuel efficiency, in order to reduce the need to import oil into the United States; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH:

H.R. 1357. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Financial Services.

By Mr. ISRAEL (for himself and Mr. Kirk):

H.R. 1358. A bill to amend the Foreign Assistance Act of 1961 to require the Secretary of State to include in the annual Department of State's Country Reports on Human Rights Practices information on the nature and extent of the promotion of violence and hatred in the curriculum of schools in foreign countries, including the promotion of anti-Americanism, anti-Semitism, and racism; to the Committee on International Relations.

By Mr. KENNEDY of Rhode Island (for himself, Ms. Ros-Lehtinen, Ms. Norton, Mr. Kildee, Mr. Platts, Mr. Owens, Ms. Kilpatrick, Mr. Lantos, Mr. Serrano, Mr. Deutsch, Mr. Stark, and Mr. Mario Diaz-Balart of Florida):

H.R. 1359. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McHUGH (for himself, Mr. Davis of Illinois, Mr. Tom Davis of Virginia, and Mr. Burton of Indiana):

H.R. 1360. A bill to amend certain provisions of title 39, United States Code, relating to transportation of mail; to the Committee on Government Reform.

By Mr. MEEK of Florida (for himself, Ms. Ros-Lehtinen, Mr. Boyd, Ms. Corrine Brown of Florida, Ms. Ginny Brown-Waite of Florida, Mr. Bilirakis, Mr. Davis of Florida, Ms. Harris, Mr. Goss, Mr. Foley, Mr. Wexler, Mr. Lincoln Diaz-Balart of Florida, Mr. Deutsch, Mr. Shaw, Mr. Hastings of Florida, Mr. Feeney, and Mr. Mario Diaz-Balart of Florida):

H.R. 1361. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-McDONALD:

H.R. 1362. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself and Mr. Andrews):

H.R. 1363. A bill to prohibit institutions of higher education from unfairly imposing sanctions on student athletes; to the Committee on Education and the Workforce.

By Mr. NADLER:

H.R. 1364. A bill to authorize a national memorial at, or proximate to, the World Trade Center site to commemorate the tragic events of September 11, 2001, to establish the World Trade Center Memorial Advisory Board, and for other purposes; to the Committee on Resources.

By Ms. NORTON:

H.R. 1365. A bill to establish the United States Commission on an Open Society with Security; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. DeFazio, and Mr. Lipinski):

H.R. 1366. A bill to amend title 49, United States Code, to provide relief to the airline industry, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PICKERING (for himself and Mr. Turner of Texas):

H.R. 1367. A bill to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations, and for other purposes; to the Committee on Agriculture.

By Mr. POMBO (for himself, Mr. Schiff, Ms. Eshoo, Ms. Lee, Mr. Filner, Mr. Sherman, Mr. Dooley of California, Mr. Cox, Mr. Rohrabacher, Mr. Issa, Mr. Dreier, Mr. Cardoza, Mr. Nunes, Ms. Watson, Mr. Ose, Mr. Hunter, Mr. Royce, Mrs. Tauscher, Mr. Gallegly, Mr. Stark, Mr. Gary G. Miller of California, Mr. George Miller of California, Mr. Radanovich, Mrs.

NAPOLITANO, Mr. WAXMAN, Ms. SOLIS, Mr. BERMAN, Mr. MCKEON, Ms. HARMAN, Mr. LEWIS of California, Mr. BACA, Mr. DOOLITTLE, Ms. MILLENDER-MCDONALD, Mr. CALVERT, Ms. LINDA T. SÁNCHEZ of California, Mrs. CAPPS, Ms. LORETTA SANCHEZ of California, Ms. ROYBAL-ALLARD, Ms. WOOLSEY, Mrs. BONO, Ms. WATERS, Mr. HONDA, Mr. THOMPSON of California, Ms. PELOSI, Mr. CUNNINGHAM, Mr. MATSUI, Mr. FARR, Mrs. DAVIS of California, Mr. LANTOS, Mr. HERGER, Mr. THOMAS, Mr. BECERRA, and Ms. LOFGREN):

H.R. 1368. A bill to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the "Norman Shumway Post Office Building"; to the Committee on Government Reform.

By Mr. RAMSTAD (for himself, Mr. CRANE, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. SANDLIN, Mrs. JONES of Ohio, Mr. BUYER, and Mr. TAYLOR of Mississippi):

H.R. 1369. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for overnight travel expenses of national guard and reserve members; to the Committee on Ways and Means.

By Mr. WYNN (for himself and Mr. BURR):

H.R. 1370. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH:

H. Con. Res. 101. Concurrent resolution expressing the sense of the Congress that Public Law 107-243, the authorization to use military force against Iraq, is null and void; to the Committee on International Relations.

By Ms. JACKSON-LEE of Texas (for herself and Mr. CONYERS):

H. Con. Res. 102. Concurrent resolution expressing the sense of Congress that Congress has the sole and exclusive power to declare war; to the Committee on International Relations.

By Mr. BEREUTER (for himself, Mr. EMANUEL, Mr. HYDE, Mr. LANTOS, and Mr. WEXLER):

H. Res. 149. A resolution expressing the condolences of the House of Representatives in response to the assassination of Prime Minister Zoran Djindjic of Serbia, and for other purposes; to the Committee on International Relations.

By Mr. RYUN of Kansas (for himself and Mr. BECERRA):

H. Res. 150. A resolution expressing the support of the House of Representatives for the members of the Armed Forces of the United States called upon to engage in possible military action in Iraq; to the Committee on Armed Services.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. LANTOS introduced a bill (H.R. 1371) for the relief of Kuan-Wei Liang and Chun-Mei Hsu-Liang; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. KLECZKA, Ms. WOOLSEY, and Mr. GREEN of Texas.

H.R. 33: Mr. DEAL of Georgia and Mr. HEFLEY.

H.R. 44: Mr. MCHUGH.

H.R. 58: Mr. HONDA, Mr. GRIJALVA, Mr. BOUCHER, Mr. DOGGETT, Mr. LUCAS of Kentucky, Mr. RYAN of Ohio, Mr. FLAKE, Mr. GOODLATTE, and Mr. BISHOP of Georgia.

H.R. 135: Ms. BORDALLO.

H.R. 140: Mr. ISRAEL.

H.R. 141: Mr. WATT.

H.R. 151: Ms. LEE and Mr. STUPAK.

H.R. 218: Mr. DEMINT, Mr. DOOLITTLE, Mr. MURTHA, and Mr. COLE.

H.R. 236: Mr. MOLLOHAN and Mr. UDALL of New Mexico.

H.R. 290: Ms. NORTON and Mr. MCHUGH.

H.R. 294: Mr. GREEN of Wisconsin and Mr. MILLER of Florida.

H.R. 296: Mr. GRIJALVA.

H.R. 303: Mr. BARRETT of South Carolina and Mr. GILCHREST.

H.R. 339: Mr. BOEHNER, Mr. DEMINT, and Mr. HOEKSTRA.

H.R. 348: Mr. DAVIS of Tennessee, Mr. FILNER, Mr. JEFFERSON, Mr. WILSON of South Carolina, Mr. MCCRERY.

H.R. 375: Mr. GILLMOR, Mr. BRADLEY of New Hampshire.

H.R. 450: Mr. MCHUGH and Mrs. JOHNSON of Connecticut.

H.R. 463: Mr. MCINNIS and Mr. FOLEY.

H.R. 466: Mrs. WILSON of New Mexico and Ms. LOFGREN.

H.R. 491: Mr. MICHAUD.

H.R. 496: Mr. MOORE.

H.R. 501: Mr. MCCOTTER.

H.R. 502: Mr. STENHOLM.

H.R. 571: Mr. PETRI, Mr. GRIJALVA, and Mr. POMBO.

H.R. 584: Mr. MORAN of Virginia.

H.R. 594: Mr. CARDOZA, Mr. DEUTSCH, Mr. WEXLER, Mr. MORAN of Virginia, Mr. DAVIS of Florida, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mr. NORWOOD, Mr. ENGEL, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 623: Mr. ABERCROMBIE.

H.R. 661: Mr. ENGLISH.

H.R. 669: Mr. VAN HOLLEN.

H.R. 677: Mr. FARR.

H.R. 714: Mr. ISTOOK and Mr. MORAN of Kansas.

H.R. 728: Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. SESSIONS, and Mr. CANNON.

H.R. 735: Ms. NORTON and Mr. VISCLOSKY.

H.R. 766: Mr. WATT, Mr. FILNER, Mr. DAVIS of Tennessee, and Ms. JACKSON-LEE of Texas.

H.R. 771: Mr. OSE, Mr. WHITFIELD, Mr. KIRK, Mr. PICKERING, and Mr. TERRY.

H.R. 775: Mr. OXLEY.

H.R. 786: Mr. LEWIS of Georgia.

H.R. 791: Mr. RYAN of Wisconsin and Mr. SIMMONS.

H.R. 811: Mrs. JONES of Ohio and Mr. SANDERS.

H.R. 817: Mr. ENGEL and Mrs. MALONEY.

H.R. 834: Mr. BLUMENAUER, Mr. BOSWELL, Mr. BOOZMAN, Mr. EVANS, Mr. DEAL of Georgia, Mr. KING of New York, Mr. PORTER, Ms. BORDALLO, Mr. COLE, Ms. GINNY BROWN-WAITE of Florida, and Mr. ETHERIDGE.

H.R. 839: Mr. VAN HOLLEN, Mr. GRIJALVA, and Mr. TURNER of Ohio.

H.R. 844: Mr. DAVIS of Illinois.

H.R. 854: Mr. GALLEGLY.

H.R. 870: Mr. SAM JOHNSON of Texas.

H.R. 871: Mr. LATHAM.

H.R. 876: Mr. TIAHRT,

H.R. 896: Mr. BRADY of Pennsylvania.

H.R. 898: Mr. WATT.

H.R. 934: Mr. STENHOLM.

H.R. 936: Mr. FROST, Mr. RANGEL, Mr. OLVER, Mr. BERMAN, Mr. NADLER, and Mr. RUSH.

H.R. 946: Mrs. JO ANN DAVIS of Virginia.

H.R. 953: Mr. BELL and Mr. MICHAUD.

H.R. 974: Mr. LAMPSON.

H.R. 983: Ms. WATSON and Mr. HOUGHTON.

H.R. 1023: Mr. BAKER.

H.R. 1029: Ms. SCHAKOWSKY.

H.R. 1068: Ms. SCHAKOWSKY, Mr. BERMAN, Mr. DINGELL, Mrs. MALONEY, Mr. BRADLEY of New Hampshire, Mr. OSBORNE, Mr. MCCOTTER, Mr. THOMPSON of Mississippi, and Mr. WICKER.

H.R. 1072: Mr. CANNON and Mr. SIMMONS.

H.R. 1085: Mr. BISHOP of Utah.

H.R. 1095: Mr. BARTLETT of Maryland.

H.R. 1096: Mr. HINOJOSA.

H.R. 1101: Mrs. JO ANN DAVIS of Virginia.

H.R. 1104: Mr. PLATTS, Mr. VITTER, Mr. MARIO DIAZ-BALART of Florida, and Mr. POMEROY.

H.R. 1118: Mr. SHAYS, Mr. MEEHAN, Mr. KILDEE, Mr. DEFAZIO, Mr. PALLONE, Mrs. EMERSON, Mr. MENENDEZ, Mr. SMITH of Washington, and Mr. ABERCROMBIE.

H.R. 1125: Mr. GOODLATTE, Mr. MCCOTTER, and Mrs. JONES of Ohio.

H.R. 1132: Mr. CUMMINGS, Mr. CROWLEY, Ms. LEE, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Ms. JACKSON-LEE of Texas.

H.R. 1133: Ms. CARSON of Indiana, Mr. MARKEY, Mr. SERRANO, Mr. KILDEE, and Mr. VAN HOLLEN.

H.R. 1157: Mr. MOORE, Ms. SCHAKOWSKY, Mr. ENGEL, and Ms. KILPATRICK.

H.R. 1166: Mrs. CUBIN.

H.R. 1170: Mr. RAMSTAD, Mr. NORWOOD, and Mr. FRANKS of Arizona.

H.R. 1175: Mr. MARIO DIAZ-BALART of Florida.

H.R. 1191: Mr. THOMPSON of Mississippi, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, and Mr. GILLMOR.

H.R. 1192: Ms. ROYBAL-ALLARD.

H.R. 1225: Mr. MCNULTY and Ms. MCCARTHY of Missouri.

H.R. 1231: Mr. BRADLEY of New Hampshire, Mr. MATHESON, Mr. GEORGE MILLER of California, Mr. GRIJALVA, Mr. GREEN of Wisconsin, Ms. GINNY BROWN-WAITE of Florida, Mrs. MCCARTHY of New York, Ms. LOFGREN, Mr. GOODLATTE, Mr. NORWOOD, Mr. FRANKS of Arizona, and Mr. PUTNAM.

H.R. 1258: Mr. BOUCHER.

H.R. 1263: Mr. BACA.

H.R. 1264: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDOZA, Mr. MENENDEZ, and Mr. KILDEE.

H.R. 1290: Ms. BALDWIN.

H.R. 1294: Mr. FROST, Mr. MCDERMOTT, and Mr. CASE.

H.R. 1305: Mr. YOUNG of Alaska and Mr. RYAN of Ohio.

H.R. 1320: Mr. KIRK, Mr. PICKERING, Mr. BASS, and Mr. WHITFIELD.

H.J. Res. 4: Mr. KING of Iowa, Mr. PORTER, and Mr. RENZI.

H.J. Res. 20: Mr. RANGEL.

H.J. Res. 22: Mr. GREEN of Wisconsin and Mr. PLATTS.

H.J. Res. 24: Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SANDERS, Mr. TOWNS, Mr. WU, and Ms. SOLIS.

H.J. Res. 37: Mr. LOBIONDO and Mr. KANJORSKI.

H. Con. Res. 30: Mr. DEUTSCH.

H. Con. Res. 56: Mr. BRADLEY of New Hampshire.

H. Con. Res. 78: Mr. NADLER.

H. Con. Res. 80: Mr. MEEKS of New York, Ms. WATSON, Mrs. NAPOLITANO, and Mr. BLUMENAUER.

H. Res. 141: Mr. FARR and Mr. HASTINGS of Florida.

H. Res. 142: Ms. NORTON.

# SENATE—*Wednesday, March 19, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Charles V. Antonicelli, St. Joseph's Church on Capitol Hill, Washington, DC.

## PRAYER

The guest Chaplain offered the following prayer:

Lord of all hopefulness, we come before You this day to praise You and to thank You for Your countless blessings.

With heavy hearts, dear Lord, we pray for Your peace and Your justice in our world. Help us to be the instruments of Your will. In Isaiah we read, "Put away your misdeeds from before My eyes; cease doing evil; learn to do good. Make justice your aim: redress the wronged."

God Almighty, bless and protect the men and women in this Senate who seek to do Your will. Give them right judgment. Help them to know Your loving presence always.

We ask this in Your holy name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mr. BROWNBACK). The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. Con. Res. 23, the concurrent budget resolution, with 30 hours left for debate on the resolution. Fifteen hours remain under the control of the chairman of the Budget Committee and the ranking member respectively. Pending is the Boxer amendment No. 272 striking the reconciliation instruction to the Energy Committee relating to ANWR. While Senators on both sides of the aisle participated in the debate last night, there are still several Senators wishing to speak on this amendment this morning.

The consideration of other amendments is expected during today's session and rollcall votes will occur throughout the day. The Senate will finish the budget resolution this week. Therefore, Members should expect late nights and rollcall votes for the remainder of the week. I do want to stress to my colleagues that we will finish the budget resolution this week. We have 30 hours for debate and then the voting on the amendments, which is not a part of those hours. Therefore, we really have a challenge over the next 3 days but one that we will step up to and meet.

There is a lot of indecision in terms of potential military action abroad. As we all know, the clock is ticking for a deadline tonight and we will take that into consideration, but we will be focused on the budget over the course of today. It is the Nation's business. The American people expect us to pass a budget. We have certain statutory deadlines that we will meet in this Congress and therefore will finish the budget resolution this week.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, through the Chair to the leader, on the ANWR amendment, we have 40 minutes remaining on this side. The time on the other side is gone. Of course, other time can be yielded, as it will be, to speak on the amendment.

We have a couple of amendments lined up. I spoke to Senator NICKLES last night. The majority leader was present during most of those conversations. We hope to offer another amendment forthwith.

The one question that a number of Members have asked is what is the leader's—I think we all contemplate something happening in the next 24 hours in regard to the situation in Iraq. What is the leader's desire as to a resolution, which I am sure will be forthcoming at that time, as far as Members being able to speak on the resolution?

Mr. FRIST. Mr. President, not knowing what will happen tonight with the President's statement, as the deadline is reached for Saddam Hussein—and I have been working with the Democratic leader—we have a resolution of support and are working through the language that is most appropriate. We will do that over the course of today. Again, I want to be very careful not to anticipate an outcome which is not quite there, but if military action is begun, we would very soon introduce that resolution and give Senators the opportunity to speak. I think we all recognize that if military action is undertaken, although we hope and pray that things will be very shortlived, we do want to make sure Senators have the opportunity to express their support for our troops and for this President, if this engagement begins. So that is underway. We will address that over the course of the day. I do want to make it clear to our colleagues that we will be here this week until we finish the budget.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 23, which the clerk will report.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 23) setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

Pending:

> Boxer amendment No. 272, to prevent consideration of drilling in the Arctic National Wildlife Refuge in a fast-track budget reconciliation bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. REID. Senator CONRAD authorized Senator BOXER to control the final 40 minutes of debate. Do we not have 40 minutes on the amendment?

The PRESIDING OFFICER. Forty-one minutes is controlled by the sponsor.

Mr. REID. Senator CONRAD has authorized me to delegate that 41 minutes to Senator BOXER for allowing other Senators to speak during that 41 minutes.

The PRESIDING OFFICER. The Senator from California.

### AMENDMENT NO. 272

Mrs. BOXER. Mr. President, at this point, I will yield to four people in sequence: Senator BINGAMAN, 10 minutes; Senator DURBIN, 5 minutes; Senator MURRAY, 5 minutes; Senator STABENOW 5 minutes. That will be the total of our speakers and then we will be happy to yield an equivalent amount of time to the other side, if that will be acceptable. These Senators would like to give their short statements and then go back to their committees.

Mr. NICKLES. Reserving the right to object, the Senator is trying to block in how much time?

Mrs. BOXER. Twenty-five minutes.

Mr. NICKLES. Reserving the right to object, let me consult with my colleague from Alaska.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mrs. BOXER. As I understand it, I control 41 minutes of time. Is that correct? Instead of just standing here and speaking myself about this amendment, I have suggested we allow it to go in this sequence and then back to my colleagues on the other side, just for the sake of my colleagues' schedule.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. When I left the floor last evening, I yielded to my colleague from Alaska, Senator MURKOWSKI, and it was my understanding the time would be charged against the bill. Instead, I understand it has been charged against the amendment. I ask the manager of our bill to allocate to us an equal amount of time as remains for the Senator from California under the amendment.

Mr. NICKLES. Mr. President, I am happy to yield to my friend and colleague from Alaska an hour on the bill so he may speak in opposition to the amendment of the Senator from California.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The Senator has that right.

The Senator from California has the floor.

Mrs. BOXER. Mr. President, I yield 10 minutes to a real leader on this issue, Senator BINGAMAN, the top Democrat on the Energy Committee.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 10 minutes.

Mr. BINGAMAN. Mr. President, I very much appreciate the Senator from California yielding me some time to speak and briefly express the point of view that I expressed when we debated this bill last year.

As all of us know, this issue has been a perennial one. It comes back all the time in the Senate and has now for several decades. I rise to support the amendment of the Senator from California. The amendment would strike the provisions from the budget resolution that essentially pave the way for the opening of the Arctic National Wildlife Refuge to oil and gas development.

There are various reasons, both related to national security and related to the environment, that lead me to conclude that I do not support going ahead with oil and gas leasing and development of the Arctic Refuge. The most compelling reason for not opening the refuge is that it will do very little, if anything, to further our national energy security. Not a single drop of oil would come from the Arctic Refuge for at least 7 years and more likely 10 or 12 years.

I urge my colleagues to vote in support of the amendment for the following reasons:

First, drilling in the Arctic Refuge is not an answer to the problem of energy security. This chart is familiar to any who were here during the debate on the energy bill last year. The U.S. Geological Survey estimates the mean economically recoverable oil on Federal lands on the Costal Plain of the Refuge at somewhere between 3.2 and 5.2 billion barrels and that is at prices of somewhere between $20 and $24 per barrel, in 1996 dollars. Clearly, prices are higher today.

The Arctic Refuge would supply no more than 2 percent of America's oil demand in any given year. This chart shows the U.S. oil consumption in million barrels per day. The top line is the total oil demand. Below, the green line, is domestic oil production. The small red line is the ANWR production. Relative to our total consumption it is a small item. It will be at least 7 years, more likely 10 to 12, before there is actual production on the Coastal Plain if we were to vote today to open this area for production. Peak production would not occur for 20 years or more after the initial production started.

Another chart shows the same point in a slightly different way, that drilling in the Arctic Refuge does not address in a significant way our reliance on imported oil. This chart contains information from the Energy Information Administration. The green line indicates the net imports with ANWR production and the blue line is net imports without production from ANWR. According to our own Energy Information Administration, which is part of this administration, they show that production would begin in about 2012 and production from ANWR of oil, any significant oil, would end by about 2025. Then we are right back where we started.

So our dependence on foreign imports to meet our oil demand will continue to grow. It will not grow as much during those years when ANWR is in production, but it will grow a substantial amount. The Energy Information Agency estimates that production from the Arctic Refuge would reduce the net share of foreign oil relied on by consumers from 62 percent to 60 percent by the year 2020. As this chart shows, by 2025 we are right back to no reduction as a result of ANWR production because ANWR production will have largely played out by that time.

Another reason I offer to my colleagues today in support of the amendment, is that a controversy over the Arctic Refuge diverts attention from the real opportunities we have for enhancing domestic energy production. There are other ways we can expand production.

Senator GRASSLEY, Senator BAUCUS, Senator DOMENICI, and I introduced the Energy Tax Incentives Act the other day. Unlike the opening of the Arctic Refuge, this legislation would provide near-term increases in domestic energy production. Not only does the legislation include tax provisions that would help us diversify our energy supply and increase our reliance on renewable sources of energy and enhance energy efficiency, it would also provide specific incentives for increased oil and gas production.

Some would ask, from where is this oil and gas production going to come? I have another chart that makes a point people do not focus on. This is a map of the North Slope of Alaska showing the ANWR area on the right, the 1002 area. It shows the National Petroleum Reserve Alaska, the large tan-colored area on the map. The National Petroleum Reserve Alaska is an area that has begun to be leased by the Department of the Interior. Secretary Babbitt began that process when he was in office. Secretary Norton is proceeding with that. Frankly, I support going ahead with drilling in that area. There is a substantial likelihood of very large energy production from that area. There is a real prospect of increased oil and gas production from the North Slope.

Let me mention gas production. I indicated one of the reasons we should not focus on ANWR is that it is diverting our attention from our other opportunities to deal with our energy needs. One of those great opportunities is to bring the gas production from the North Slope of Alaska, gas that is already being produced and reinjected into the ground, bring that gas down to the Lower 48 States. We tried very hard in the last Congress to pass legislation to streamline the process for getting a pipeline constructed. I strongly support that. We need a pipeline to bring that natural gas to the Lower 48. Anyone who is dependent upon natural gas for home heating today knows the price is high. They are going to notice it even more over the next 2 or 3 months as they get the bills during this period of high natural gas prices. The best opportunity we have to relieve that pressure is building that pipeline to bring Arctic gas down to the Lower 48. That is what we should concentrate on: develop more oil from the National Petroleum Reserve Alaska, bring the gas already produced on the North Slope down to the Lower 48. I hope we can do that.

I also make the point that we need to continue to emphasize developing alternative sources of energy. That is something we will get into in a large way when we debate a new energy bill this Congress, a new proposed energy bill, and we can make the point again.

The solution to our long-term energy problems is not to open the Arctic National Wildlife Refuge to drilling. It is an environmentally sensitive area, one we have determined to keep off bounds, out of bounds, for drilling up until now. I believe that is a sound policy.

In conclusion, there are many reasons why the Coastal Plain of the Arctic National Wildlife Refuge is not needed and should not be drilled for oil and gas. The environmental sensitivity of the area is clearly well recognized by all. Opening the Refuge is not good environmental policy. Equally important, it is far from necessary as part of our national energy policy.

I urge my colleagues to join in opposition to the oil and gas leasing and development of the Arctic National Wildlife Refuge and to support this amendment by the Senator from California.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding Senator BOXER has yielded me 5 minutes.

I say to my colleagues who follow this debate, take a look at this Arctic National Wildlife Refuge. If you look at the National Academy of Sciences' recent report, it is clear that drilling for oil in this wildlife refuge in the far reaches of Alaska is environmentally dangerous. There are some who write that off and say if we get more oil out of it and create some jobs, so what. Frankly, that is irresponsible.

We have a responsibility in this generation to leave to the next generation the natural heritage that we were given. If we are not forced to go to the Arctic National Wildlife Refuge for the survival of the United States or its economy, for goodness' sake, why would we run the risk to endanger this important National Wildlife Refuge that we have protected for over 50 years?

Second, this is as shortsighted as it gets, to suggest the only way to deal with energy security in the United States is for us to start drilling in wildlife refuges, that small part of the world we set aside to protect endangered species, topography, and environment that you cannot find anywhere else on Earth. Now the oil companies tell us: I'm sorry, our energy needs are so substantial, we have to start drilling there?

I say to the young people in America: Following this debate, take a look at the parking lots across America if you want to know what to do about energy. Take a look at the inefficient vehicles we are driving on the road today because this Congress and this country has not shown the leadership to have more efficient cars and trucks in America. We can do it. We have done it in the past. But this bill, this issue, is consistent with what I am afraid is the wrong message to America.

The message in this bill is: We may be minutes away from a war where thousands of American lives are at risk, we may be faced with terrible news for families across America and death in Iraq to innocent Iraqis, but we can still call for a tax cut for the wealthiest people in America. The message in this amendment is: We may face the question and challenge of energy security, but rather than to say to American families, Do your part, buy vehicles that are more efficient, and to Detroit, produce those vehicles—instead of that, no, we are going to drill for oil in a wildlife refuge in Alaska. Is that what America has come to? Is that what we are all about? Don't we expect our leaders to summon us to show our best, to sacrifice for our Nation so we can lead and demonstrate to future generations that we care about our natural heritage, we care about our spirit of national sacrifice?

This is an amendment that should be defeated. The Arctic National Wildlife Refuge should not be drilled. We should not move forward with this exploration. And this bill calling for tax breaks for the wealthiest people in America as we are poised to go to war is a shameful bill. It is something we should not be considering on the floor of the Senate at this moment in our history. This amendment, if I understand it correctly, will not change the budget levels. This amendment failed by only 1 vote, on a party-line vote, in committee. But I believe we will win it now.

Let me begin by saying that the Arctic National Wildlife Refuge provision has no place in the budget. For those who want to propose oil and gas development in this area of the Arctic National Wildlife Refuge, we can debate that in a more appropriate context, such as the energy bill. This important issue should not be snuck into the budget through a legislative back door, but should be debated in an open, honest way through the normal legislative process.

Let me also note that the full Senate has already defeated proposals to drill in the Arctic National Wildlife Refuge, because it is bad policy. We should end this perennial debate once and for all, and move to more reasonable matters that deserve the Senate's attention. There are better, longer-term solutions to our energy crisis than drilling in our few remaining frontier areas, including making automobiles more fuel efficient.

The Refuge is not the answer to energy problems. The most stunning statistic in this whole debate is that the Arctic coastal plain would only yield 6 months' worth of oil for our country; and we wouldn't get it for 10 years. And this is under the most optimistic assumptions.

There is no doubt that we are overdependent on foreign oil in our country. We need to address this issue on multiple fronts, including by exploring alternative sources of energy, such as fuel cells, and by promoting efficiency and thereby reducing consumption. I have talked with coal developers who say that we may be able to use coal to isolate hydrogen for use in fuel cells in automobiles. I have also talked with automobiles researchers, who have told me of myriad existing technologies to improve fuel efficiency in the transportation sector, the largest user of oil.

So to say that the Arctic National Wildlife Refuge is the only answer to our energy questions is completely off-base. In fact, it is not even one of the viable answers, because it holds so little oil compared to what we demand as a country.

The Refuge deserves protection. The 1.5 million-acre coastal plain of the Arctic National Wildlife Refuge is a clear candidate for protection under the Wilderness Act of 1964. That is why I am cosponsoring Senator LIEBERMAN's bill to designate this 1.5 million acre area as wilderness. This swath of land is surrounded on three sides by 8 million acres of land already designated as wilderness.

The Arctic Refuge includes boreal forests, dramatic peaks, and tundra. It features a complete range of arctic and subarctic ecosystems, with an extraordinary assemblage of wildlife. Polar and grizzly bears, wolves, muskoxen, and snow geese are just a few of the more than 200 animal species that use the coastal plain. Also the coastal plain is the most significant on-land polar bear denning habitat in the U.S. In addition, the 155,000 member porcupine caribou herd has used the coastal plain as a calving area for 20,000 years or more. There is no alternative to this sensitive habitat for the caribou herd.

Research has documented the ecological importance of this land, and the effects of oil and gas development there. On March 5, 2003, the National Academy of Sciences released a new report that details the serious, detrimental, and cumulative effects of oil and gas activities on Alaska's North Slope. The report finds numerous effects, including "a large oil spill in marine waters [which border the coastal plain] would likely have substantial accumulating effects on whales and other receptors because [current cleanup efforts are inadequate]." This is especially significant, given that there is an average of 423 oil spills annually on the North Slope.

The report also finds that species population decline, including reduction of some bird species such as black brant, snow geese, eiders and probably some shorebirds, is common in industrial areas in the North Slope.

In an important new discovery, the report finds "climate changes during the past several decades on the North Slope have been unusually rapid." Climate changes can change ice flow and the entire ecosystem of this area.

The report further finds that only about 100 acres—1 percent—of the habitat affected by gravel fill on the North Slope have been restored. The National Academy of Sciences concluded that unless major changes occur, it is unlikely that most disturbed habitat on the North Slope will ever be restored. Because natural recovery in the arctic is slow, effects of unrestored structures are likely to persist for centuries, and will accumulate as new structures are added.

Environmental impacts of oil and gas development are real, and that is why we need to site such activities in a careful, responsible manner.

In conclusion, Aldo Leopold, the long-time Forest Service employee and conservationist said it best in 1949: "Having to squeeze the last drop of utility out of the land has the same desperate finality as having to chop up the furniture to keep warm."

The Arctic Refuge is one of the last, remaining wilderness areas awaiting protection. Let's not destroy it; let's save it. And let's end this perennial debate once and for all. There are better, longer-term solutions to our energy crisis than drilling in our few remaining frontier areas, including making automobiles more fuel-efficient. And if we want to debate energy policy, the budget resolution debate is not the time to do it.

Out of respect for the proper legislative process, and out of respect for the seriousness of this decision in terms of energy and environment issues, and in terms of the impacts on the present and future generations of this country, I urge my colleagues to vote for the Boxer amendment.

Mrs. BOXER. Will the Senator yield his remaining time for a question?

Mr. DURBIN. Yes.

Mrs. BOXER. I wonder if the Senator had seen this chart which shows by the year 2030 how much energy is yielded by these various factors. This would be how much energy we would get from the Arctic Refuge production, 2.38 billion barrels of oil. If we just put better tires on our cars, it would result in better fuel economy, we would save more energy.

If we just closed the SUV loophole, meaning we got those SUVs up to the same mileage as cars, we would save 10 billion barrels. And, by the way, if we did fuel economy, as my friend suggested, up to 35 miles per gallon, which is very modest, look at what it would save: 18 billion barrels. Here is what the Arctic gets us, and we destroy a region that looks like this, instead of going this way.

Mr. DURBIN. I know my time is running out. I just want to say, when you turn to the conservatives in Congress and say: Can't we improve the efficiency of our vehicles? No, that's the heavy hand of Government.

Let me tell you, drilling in the Arctic National Wildlife Refuge is the heavy hand of Government in a part of our world we should be protecting. It is saying to oil companies, make a profit so we don't have to ask American families and automobile manufacturers to do the right thing for our future.

I reserve the remainder of my time.

Mrs. BOXER. Mr. President, I am going to take 1 extra minute off the bill, if I might, to simply send to the desk a letter from Jimmy Carter, former President Jimmy Carter. Last night it was implied by several colleagues—I have their words actually—I will not go through them now—that President Carter supports drilling in the Arctic National Wildlife Refuge. Just to quote from a little bit of his letter, he says:

> We can have the untouched sublime wilderness. Or we can have oil field development. But we cannot have both.
>
> Opening the coastal plain for oil exploration and development would be, despite all the much-vaunted technological promises, severely damaging to wildlife and the ecosystem. And it is inherently fatal to the wilderness qualities of this matchless example of America's natural heritage.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CARTER CENTER,
*Atlanta, GA, February 27, 2002.*

The Honorable SENATOR,
*U.S. Senate, Senate Office Building,*
*Washington, DC.*

DEAR SENATOR: Every decade or so we seem to have a great national debate about whether or not to preserve the very best of our natural heritage. In the 1960s it was over building dams in the Grand Canyon, a desecration comparable to oil drilling in Yosemite or Yellowstone.

Now, an equally significant showdown is over the fate of the coastal plain of the Arctic National Wildlife Refuge, an area first set aside for protection by President Dwight Eisenhower.

Rosalynn and I have crouched on a peninsula in the Beaufort Sea to watch the defensive circling of musk oxen that perceived us as a threat to their young. We have sat in profound wonder on the tundra near the Jago River as 80,000 caribou streamed around and past us in their timeless migration from vital calving grounds on the coastal plain. We have watched dens of wolves, large flocks of Dall Sheep, and isolated polar bears. These phenomena of the untrammeled earth are what lead wildlife experts to characterize the coastal plain as America's Serengeti.

Having raveled extensively in this unique wilderness, I feel very strongly about its incredible natural values. I hope you will not be distracted by the argument that oil exploration and development will have minimal impact because the "footprint" of modern drilling technology will be small amid the 1,500,000 acres of the coastal plain.

This simply is not true. While a precise measurement of the exact acres finally to be covered by drill pads, gravel pits, access roads, air fields and the vast spider-web of pipelines might not exceed 2,000 acres, these acres would be spread across a far wider expanse, covering hundreds of square miles, connected by a network of modern transportation routes. The impacts on the fragile tundra ecosystem, on migratory waterfowl and on other wildlife would be much greater than the claims of the oil drillers.

The point I want to stress to you is that, as with the proposed dams in the Grand Canyon years ago, we face on the Arctic coastal plain a choice about fundamentals. We can have the untouched, sublime wilderness. Or we can have oil field development.

But we cannot have both.

Opening of the coastal plain for oil exploration and development would be, despite all the much-vaunted technological promises, severely damaging to wildlife and the ecosystem. And it is inherently fatal to the wilderness qualities of this matchless example of America's natural heritage.

Through compromises that began more than four decades ago and were concluded when I signed the Alaska National Interest Lands Conservation Act in 1980, 95% of Alaska's North Slope has already been made available for oil exploration or development. We should not sacrifice the last 5%—the area scientists call the "biological heart of the Arctic Refuge"—for a speculative short-term fix of oil a decade from now.

As with previous great environmental debates, this issue has assumed gigantic symbolic stature, as some have elevated it as the alleged "solution" to everything from higher gas prices to terrorist threats.

The truth is we could drill every national park, wildlife refuge, and coastline and still be importing more than half our oil, remaining just as vulnerable to the price fluctuations of the global oil market. By contrast, raising the fuel economy of our cars and trucks would save far more of then we import from the Persian Gulf, reduce greenhouse gas emissions, and save billions for American consumers. To put this in perspective, had the United States continued to conserve oil at the same rate we did from 1976 to 1985, we could have weaned ourselves from Middle East oil fifteen years ago.

I urge you to pass a cleaner and safer energy plan that enhances our security without undermining our nations' great wilderness heritage. Please vote against cloture on any amendment that would authorize oil drilling in any part of the Arctic National Wildlife Refuge coastal plain.

Sincerely,

JIMMY CARTER.

Mrs. BOXER. I now yield 5 minutes to Senator PATTY MURRAY who has also been a tremendous voice for the environment here in the Senate.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mrs. MURRAY. I rise this morning to support the amendment of my colleague from California, Senator BOXER, that will stop this backdoor attempt to drill for oil and gas in the Arctic National Wildlife Refuge.

I spoke several days ago here on the floor of the Senate at great length about what this budget proposal would do, the budget resolution that is before the Senate, and how reckless it is. It ignores the cost of war, it ignores the cost of the aftermath in Iraq, and it underfunds critical priorities here at home such as homeland security, education, and transportation.

But I am appalled that there is something else buried in this massive budget that needs to be removed. The budget now before the Senate actually assumes increased spending that will result from opening ANWR up to exploration and drilling, even though the Senate clearly rejected that last year. Exploration and drilling in ANWR is a controversial issue, and it should be fully debated. But the appropriate place for that debate is on the energy bill which the Senate will consider in the coming months.

Last year, this Senate soundly rejected efforts to open ANWR to exploration and to drilling. This year, proponents of drilling are using a backdoor approach to try to get support for ANWR in this budget reconciliation. The amendment that has been offered by my colleague from California will strike that language and leave the ANWR debate where it belongs, as part of the upcoming debate on an energy bill.

The budget reconciliation process was enacted actually to help us reduce our deficit. That is even more important now that our country is back in red ink. Instead of supporting a process that helps reduce our deficit, proponents of drilling are using it to pass something the Senate rejected last year.

The Arctic National Wildlife Refuge is an important and unique national treasure. It is the only conservation system in North America that protects a complete spectrum of arctic ecosystems. It is the most biologically productive part of the Arctic Refuge. Energy exploration in ANWR would have a significant impact on this unique ecosystem.

I have heard the proponents of this measure argue over the years that energy exploration has become what they call more environmentally friendly. That may be true. But there are significant environmental impacts for this sensitive region. The oil reserves in ANWR, in fact the oil reserves in the entire United States, are not enough to significantly reduce our dependence on foreign oil.

There are ways to reduce our need for foreign oil. My colleague, the Senator from Illinois, spoke about that a moment ago. We can increase the fuel economy of our automobiles and lightweight trucks. We can reduce our need for foreign oil by expanding the use of domestically produced renewable and alternative fuels. We can invest in emerging technologies such as fuel cells and solar electric cars, and we can increase the energy efficiency of our office buildings and homes. Those kinds of strategies will reduce our dependence on foreign oil and protect one of our Nation's most precious resources. That is what we should be focusing on.

I think we should also remember the amount of oil in ANWR is too small to significantly improve our current energy problems. The oil exploration in ANWR will not actually start producing oil for as many as 10 years.

Exploring and drilling for oil and gas in ANWR is not forward thinking. It is a 19th century solution to a 21st century problem. The Senate should soundly reject this backdoor attempt to use the budget process to embrace drilling in the Arctic National Wildlife Refuge when so many in the Senate oppose it. We should debate drilling in ANWR when the Senate energy bill comes up, but we should not make a decision on drilling in this budget resolution.

I urge my colleagues to support this very important amendment by the Senator from California.

Mrs. BOXER. Will the Senator yield her remaining time?

Mrs. MURRAY. I yield my remaining time to the Senator from California.

Mrs. BOXER. I say to my friend, I appreciate her raising the issue of the safety here because in the Prudhoe Bay oil field and the Trans-Alaska we have seen an average 423 spills annually on the North Slope since 1996, and that is according to the Alaska Department of Environmental Conservation. Over 1.7 million gallons of 40 different substances, from acid to waste oil, have been spilled during routine operations from 1996 to 2002. There were 2,958 spills, commonly diesel, crude oil, and hydraulic oil.

My friend is right. Maybe years ago they would have been worse spills, but the fact is there are terrible spills now.

I see that my colleague's time is up. I thank the Senator for participating.

Mr. President, I yield 5 minutes to Senator STABENOW from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for up to 5 minutes.

Ms. STABENOW. Mr. President, first, as I begin, I know I share the feelings of all my colleagues, as we are debating this budget resolution and this important amendment, that our thoughts and prayers go to the men and women who are overseas, our troops who are being placed in harm's way. Regardless of our feelings about the policies that have brought us to this point, we all stand united in supporting our troops. It makes these kinds of debates even more important.

I am very proud to be a cosponsor of this amendment. I commend the Senator from California for her steadfast leadership on this issue, along with a number of colleagues of mine who have consistently stood firm about protecting the Arctic National Wildlife Refuge.

I have been pleased to be a cosponsor of legislation to stop drilling since first coming to the House in 1997. I also am proud to be the author of the ban that we placed on drilling in the Great Lakes, another national treasure. I view this area in Alaska as much of an irreplaceable and fragile natural and national treasure as the Great Lakes. I am very hopeful that today we will, one more time, stop this particular drilling policy from moving forward.

I would like to, once again, speak about some of the same points my colleagues have spoken of because I believe we have to keep repeating them to make it clear what the facts are.

First of all, the Arctic National Wildlife Refuge is, in fact, one of the wildest and most pristine places in the United States. We have an obligation to protect this area for the future, for those who are counting on us to be able to look beyond the immediate time period and look to the future for our country and for our children.

I believe we also have an obligation to stop back-door approaches to this issue. We are seeing, one more time, the drilling in the Arctic National Wildlife Refuge being placed in a bill where it should not be. This is a budget bill. We are focusing on the budget priorities for the next year.

Frankly, we should be debating how much the war is going to cost, and making sure our folks on the front line, and our first responders at home, police and firefighters and emergency workers, have what they need as we enter this very challenging time. Those are the kinds of things we should be debating, not seeing a back-door approach to drilling in the Arctic Wildlife Refuge.

Most importantly, we know that drilling in the wildlife refuge will not result in energy independence. This is talked about all of the time, but it needs to be repeated, that only 2 percent—if we were to drill, we are talking about 2 percent of America's oil demand every year; and it would take at least 10 years to begin to see this brought on to the market.

We are talking about 2 percent rather than focusing on other areas of energy policy that will net alternatives in terms of conservation: alternative vehicles, alternative fuels, all of those kinds of things we know will allow us to become energy independent sooner and more effectively for the long run.

It is impossible for the United States to drill its way to energy security and independence. What we need to have is a debate about the energy policy of the country and how we are going to move forward. And that needs to be done in the energy bill, not in the middle of the budget resolution.

I am concerned when I hear this particular debate tied to Iraq, the serious debate about war and the oil in Iraq. It is important to say that gas prices are determined by global supply and demand factors, as we all know, not by opening one area to drilling.

In addition, Iraq supplies a very small percentage of our U.S. energy needs. According to the EIA, only 1.5 percent of the Nation's energy supply comes from Iraq. Imports from Iraq were banned in 1990 in the wake of the Persian Gulf war, and we obtained no oil from 1991 to 1995—all with no impact on the greatest economic expansion in U.S. history. The fact is, Canada and Mexico together supply more oil to the U.S. than the entire Persian Gulf.

So I encourage my colleagues to join with us in support of this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I thank the Chair.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

The Senator from Montana.

Mr. BURNS. Mr. President, I, on this issue, yield as much time to myself as I shall need. I ask unanimous consent to do that, and that the time come off the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BURNS. Mr. President, I don't know exactly where to begin on this particular subject. But I would like for the American taxpayers to understand one thing: We maintain a strategic oil reserve. It is 700 million barrels of oil that is stored in salt caves in Louisiana. It costs us $175 million a year to maintain the Strategic Petroleum Reserve. I just want the taxpayers to know what they are paying for.

The fact is, part of that oil was purchased by this Government and put in there, but most of it was taken from royalties. They took the oil instead of the money. And that was recovered on the Outer Continental Shelf or from public lands. So it is there: 700 million barrels of oil that costs the taxpayers $180 million a year to maintain.

I suggest that we have a Strategic Petroleum Reserve that is not costing the American people a thing. It is still in the ground in North Dakota, found on public lands, where we cannot get to it. It is found in Montana, on public lands, where we cannot get to it. That is because of organizations that deal primarily in fear, not common sense.

Abraham Lincoln once said: God must have loved the common man because he made so many of us. Then, when we use the same term in the phrase "common sense," that sort of changes the definition a little bit.

That Strategic Petroleum Reserve is also maintained, and it is still in the ground in ANWR. We do not know how big that reserve is. It has been estimated to be anywhere from 5.3 billion barrels upwards. Does it answer the question of our shortage? Does it take care of all of that? No, it does not. We know that. But, on the other hand, it replaces all the oil we buy that is termed "rogue" oil—Iraqi oil that we give hard dollars for and that you contribute to every time you fill your tank at a filling station.

What is that money used for? We have seen it on television every night for the past month and a half. We know what that money is being used for. We give it to a tyrant who uses that money to subsidize families, to entice them to take one of their children and strap dynamite on them and walk onto a bus and blow themselves up, and for the development of weapons of mass destruction, chemical and biological warfare. That is what that money has done.

And yet we sit here today trying again to ban the use of a resource that is not only one of the major underpinnings to our economy, but also takes away from that $180 million a year we spend to maintain that SPR in case of an emergency. That is 90 days. It wouldn't even last 90 days. We would just go through it, bingo. It defies common sense, what we are doing here.

As far as my State of Montana is concerned, I don't know what the impact is. I know during the major exploration and lifting of Prudhoe Bay and the North Slope when it opened up, probably 1,500 families in Montana worked on the North Slope. It provided a lot of jobs. I am not saying that their figure here on the creation of jobs is what some would claim, but it isn't zero, I will guarantee you that. It is going to put a lot of people to work. Maybe jobs only are important to us if they are just in our home state. Maybe it is the welfare of the people if it is just in our State. But the impact it has on Alaska is terrific, on the people who live there, work there, raise their families there, provide services there.

If you wanted to put it to a vote in Alaska, this debate wouldn't even be taking place. The Native Alaskans; ask them, take a vote among them, if we really believe in this 50 percent plus 1. It is their income. This is just about all they have.

What you see of the pictures over there is a result of a 30-day growing season. Any other time I would look with great interest at a photograph that was being displayed last night of the caribou that was out in the water. They had water clear up over their back going into the sea up there. Do you know why they are standing in that water, folks? It is not to cool off. Because they have mosquitos up there that are big enough to turn over your dog tags and check your blood type. That is what they are getting away from. It is a hostile environment.

What are we doing here with the new technology: I mentioned a while ago the jobs of the families who are affected in my State. Those kinds of jobs have moved on. New technology has taken over. We drill differently now. We do it all differently with horizontal drilling practices, with one little area impacted. You may see the wells. It wouldn't be the size of the Chamber of the Senate. It may have a dozen wells. That is the way we do it now. Technology has moved on.

I was interested in the words of my good friend, the Senator from Michigan, and the Senator from California. And by the way, California consumes 12 percent of all of the transportation fuels produced in this country. Yet we cannot drill on the Outer Continental Shelf of California. There is a moratorium on that. There is a moratorium on Florida. They are quick to talk about the Gulf of Mexico and off the coast of Louisiana and Alabama. We can't drill off the east coast, yet Canada does. When you get north of the border, they drill all the way offshore almost to Iceland. If you want to go east of the United States and the Canadian line and the northern territories off Alaska, you have gas and oil production all across Canada. The largest exporter of energy to this country is Canada, both in crude and in gas.

Yet the United States is being denied our own resource in our own country to supply the heat and the transportation fuels for our own people and our own security. And groups would manipulate information on ANWR to deny the American people when common sense tells you it is just the other way. Those of us who live near and some of us on public lands understand what the thinking is.

I will tell you this, as we talk about this total resolution. If you want to see something happen, this President has offered a way to stimulate the economy and to have it going when those young men and young women come home from the gulf and they go back into the workforce. Do you want them to come back into a sluggish economy? Is that what we want to do here? Do we want to take a sluggish economy and pound it down further and have no opportunities for them outside of military life, those reservists and also those who serve in the National Guard?

We are finding out the cost of 50 percent of our force structure and military is at home now and not found on military bases, full-time soldiers, sailors, marines, and airmen. This is a part of that growth package. This is a part of a package that shows immediate return to the American taxpayer and also gives us that security, our own home security, if it is ever needed. What is wrong with finding out how much oil we really have? We can't even explore, let alone lift. And we are doing it based on thinking and facts that do not heed common sense. It is groups, little tiny groups that propagate misinformation and do it on an emotional "green, fuzzy" resolution. That you would deny people a livelihood, deny them food, deny them the basic needs of education and health care in the State of Alaska based on misinformation, that can't make one feel very good.

So if we are looking for job creation, if we are looking for energy security, if we want to do away with this little ticket of $175 million a year just to maintain oil in salt caves, then when you get the bottom line, the answer is pretty clear—let alone the promise that this Congress made to the State of Alaska whenever they passed the land bill there and also created the Alaska National Wildlife Refuge.

By the way, we are breaking that word, too. That rests on the backs of

Congress. So I ask for those who live there, the Natives who were raised there, with their traditions—I will tell you, I don't know if you have ever seen the caribou come across there. The area is not short of wildlife—not from the impact of Prudhoe and North Slope. All the benefits that have gone to Alaska and to America as a result of that tremendous resource—those tremendous reserves, in a part of the world that is fragile, yes; all land is fragile, but it is a land we can take care of and still use the resources it provides.

I ask my colleagues to use some common sense. Go through the same figures I have. If you get a different number, you let me know, because I am just a country boy; I count bushels and heads of livestock. But when you get to the bottom line, it is a plus for America, a plus for our security, a plus for jobs, and it is also a plus for the great State of Alaska.

Our technology has not gotten us to the point where we can safely and economically do in our transportation fuels, using fuel cells and biomass, anything you want to do. That technology is not there yet, folks. If you want to cut off the oil today, you will see how fast this economy would crumble. But you cannot talk economy, you cannot talk numbers, because this is an emotional debate. It is wrong. It is wrong to do it to the State of Alaska, and it is wrong to do it to America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that the Senator from North Dakota yield such time as I may consume.

Mr. CONRAD. I am happy to do so.

Mr. REID. Mr. President, we are doing our best, in accordance with the direction we have gotten from the majority leader, to move this bill along. We are trying. I spoke to the manager of the bill this morning, and we are trying to do that. We want to offer other amendments. We have a couple of minutes left to speak on ANWR. We want to offer other amendments. We were ready to vote on ANWR last night, or this morning, or early this afternoon—anytime. We need to move this legislation along, and we are doing the very best we can, but we have amendments we have to offer.

I hope we have the opportunity to do that. The time is quickly dwindling, and we are doing our best not to have many votes on the vote-athon; but with each day that goes by, it appears there will have to be more because people are not having the opportunity to offer amendments.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time for the comments I am about to make.

The decision whether or not to allow drilling in the Arctic National Wildlife Refuge is a defining moment for national energy and environmental policy.

This debate reflects two divergent views of our Nation's values and future.

We have a choice: Either we can continue building oil wells in environmentally sensitive areas or we can reject the quick fix and broaden our Nation's energy base while honoring our commitment to our natural heritage.

It has become apparent that America depends too heavily on some very undependable foreign sources of oil.

Hostilities in Iraq are just the latest chapter in decades of instability in the Persian Gulf.

Meanwhile, production of oil in Venezuela has been brought to a near standstill because of domestic unrest.

For the sake of our economy, for the sake of national security, and for the sake of our environment, America must reduce its reliance on foreign oil.

But instead of diversifying energy supply, investing in new technologies and promoting efficiency, the Bush administration's priority is to look for the next big domestic oil field.

Last year, the Senate rejected the Republicans' effort to authorize drilling in the Arctic National Wildlife Refuge in comprehensive energy legislation. Now they are back attempting to use the budget resolution to grease a change they couldn't make in the energy bill.

No matter how clever they view this parliamentary sleight of hand, the proponents of drilling in the Arctic Refuge cannot escape the facts.

While endangering one of the most pristine areas in the world, drilling in the Arctic National Wildlife Refuge would do nothing to make our country more energy independent.

We cannot sit silently by while the administration promotes a short-sighted strategy that mortgages one of our most precious and irreplaceable wild spaces for a few months' supply of oil.

Gasoline prices are soaring today. Yet this proposal would add nothing to our oil supply for 10 years.

Even then, the Arctic Refuge would supply our country with no more than 6 months' worth of oil and would reduce our dependence on foreign oil by just 2 percent.

This is not a serious attempt to come to grips with America's long-term energy needs. America cannot drill its way out of this problem.

Ninety-five percent of Alaska's North Slope is already open to drilling and exploration. Even if we drilled in the last 5 percent, even if we drilled in the backyards of every American, we could not satisfy our Nation's appetite for oil.

America produces just 3 percent of the world's oil; yet we consume 25 percent of that supply.

The answer to our energy challenge will not be found in the Arctic Refuge.

The answer will be found in our willingness to encourage American innovation and break the habit of spiraling energy consumption. We have met this test in the past.

In the 1970s, Congress increased fuel efficiency standards and began to encourage the development of renewable fuels.

Today, those fuel efficiency standards save our country the cost of 3 million barrels of oil every day.

That, and a wide range of clean, domestic, renewable energy technologies would dwarf any contribution the Arctic Refuge could make in the future.

Meanwhile, if drilling in the Arctic Refuge is authorized, our lack of vision would come at enormous cost.

According to the administration's own Fish and Wildlife Service, "The Arctic refuge is among the most complete, pristine, and undisturbed ecosystems on Earth . . . a combination of habitats, climate and geography unmatched by any other northern conservation area."

There is no alternative to Arctic National Wildlife Refuge once it is despoiled. But there is an alternative to this reckless proposal:

A true national energy strategy that speaks to our core environmental values while at the same time frees our country from the dictates and uncertain fortunes of foreign oil producers.

Now more than ever, we should be aware of the real cost of dependence on foreign oil.

Now more than ever, we need real answers and serious stewardship to the energy challenges of our Nation's future.

Mr. President, I encourage my colleagues to vote to strike the authorization to drill for oil in the Arctic National Wildlife Refuge from the budget resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. On behalf of Senator CONRAD, I yield 10 minutes to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Nevada for yielding the time to me to talk about the Boxer amendment and talk about the decision we could be making very shortly about the use of oil from the Arctic National Wildlife Refuge.

Mr. President, what happens is, as these debates get going, sometimes we hear statements that are somewhat misconstrued or mistaken. We just heard it suggested on the floor that funds from the purchase of Iraq oil are used to purchase bombs. Nothing could be further from the truth. The fact is, that money is passed through the United Nations to buy food to be distributed to the people of Iraq. There is no way that money can be used to buy bombs. It is important we keep the record straight.

I want so much to see the Boxer amendment prevail, but in order to make the case, apparently, we have to do more than simply justify the fact that if we did not do this, we could find other ways to conserve oil and not have to invade this snow desert, if one has ever seen it. It is one of the most beautiful places in the world, and the last thing we ought to do is turn the Arctic National Wildlife Refuge into an oilfield.

I traveled to Alaska in the aftermath of the Exxon Valdez spill in 1989. At the time, I was chairman of the Transportation Appropriations Subcommittee, so I had jurisdiction over Coast Guard funding. I was also a senior member of the Environment and Public Works Committee. So I had a great deal of interest in the Valdez incident.

What I saw was shocking, stunning almost. Over 11 million gallons of oil spilled into the Prince William Sound. I witnessed beautiful wildlife covered in oil, many dead or dying. I saw workers from the Department of the Interior, the fire service, and others hand wiping oil off birds and other wildlife. It was a devastating tragedy.

The disaster left a major impression on me. I thought about my children, my grandchildren, other people's children, and other people's grandchildren. I never wanted to see the dismay on their faces should they ever witness this tragedy.

To this day, 14 years later, the area remains contaminated with a persistence that has surprised many scientists. Sadly, the optimistic predictions of its recovery proved to be unjustified. Fully 60 percent of the area remains contaminated. Pools of toxic oil are still being found several feet deep.

Ecosystems, such as those in Prince William Sound and the Arctic National Wildlife Refuge, are so fragile, they are such delicate treasures of our Nation.

I had the privilege of visiting the Arctic National Wildlife Refuge at the same time, and I can tell you, from personal experience, that in addition to the damage caused by drilling and oilspills, the debris of human intrusion, acres of rusting pipes and dilapidated structures dishonors America's 100-year-old tradition of protecting remote wild places.

On that visit, I flew in a single-engine plane across to a community called Deadhorse. It is right near Prudhoe Bay. It was troubling to see that area, the tundra littered by refuse left by the same oil companies that now avow they will be good environmental stewards should the Arctic Refuge be open to drilling.

Why would we risk devastating these national treasures? For what gain?

There is a dispute as to whether it is a 6-month oil supply or more that we will see from the Arctic Refuge, but for this short-term gain, what is the long-term risk, the cost?

I believe the long-term damage is too great. Turning this refuge into an oilfield will result in the loss of a national treasure we will never be able to replace. Look at what is happening on the North Slope. The National Research Council's new report shows that oil drilling on the North Slope has drastically reduced the population of nesting birds, such as the snow geese, and seismic exploration has displaced the culturally sacred bowhead whales from their migratory path, according to the National Research Council.

Additional drilling will only compound the stresses on these and the 200 other animal and bird species that inhabit the region.

What would the payoff be for recklessly endangering this national treasure? We would save more oil than we could drill at the Arctic Refuge at the height of production by requiring SUVs to meet the same fuel economy standards as regular cars. We never hear talk about conservation. We never hear talk about everybody pitching in on the eve of a war to economize and use less fuel whenever we can do so.

There is simply no good reason to endanger this fragile Coastal Plain ecosystem.

More than oil is at stake here. Thoreau wrote:

> In wilderness is the preservation of the world.

America and the world need the last remaining wilderness places. The Arctic wilderness is one of those places. It would be unconscionable to despoil it for all time just for a bit of oil. We can find other ways.

I came across an article that tells us about the risk, a risk we are not discussing in pure terms. This is an Internet news report from a service called Ananova. The headline is: "ExxonMobile damages for Valdez spill cut to $4 billion from 5; to appeal." It is going to be appealed further by the ExxonMobile company. They already paid some damages to the Alaskans, some money for cleanup, and some money to the State and Federal governments. But they have yet to pay a dime for punitive damages. This is 1989. We are not talking about recent months or even recent years. Fourteen years ago last month that tragedy took place, and they have not paid, and they do not want to pay. They are going back to court to say, Reduce our damages, even though the court the first time assessed them a $9 billion punitive damage claim. They are working their way down, and maybe they will get it down to nothing one of these days. We ought to stop it right now where it is and not permit this to continue. They just want to get their mitts on the money that comes from that oil drilling, and it is without regard for the consequences.

Mr. President, I ask unanimous consent that this article by Ananova be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Ananova, December 8, 2002]

### EXXONMOBIL DAMAGES FOR VALDEZ SPILL CUT TO $4 BILLION FROM 5; TO APPEAL

A US federal court in the state of Alaska has reduced punitive damages awarded in the 1989 Exxon Valdez oil spill to $4 billion from 5 billion, ExxonMobil Corp said in a statement late on Friday.

The company, which had been hoping for a far greater reduction in damages, said it plans to appeal against the ruling, saying it is excessive and "entirely inconsistent with the law."

ExxonMobil wanted the damages cut to no more than $40 million, a sum which would be "only slightly less than the largest punitive damages award ever approved by any federal appellate court anywhere."

A US appeals court last year sent the case back to the Anchorage District Court with orders to reduce the award to an amount consistent with constitutional limits.

Company officials said ExxonMobil took immediate responsibility for the spill, cleaned it up, and voluntarily compensated those who claimed direct damages.

It also paid $300 million immediately and voluntarily to more than 11,000 Alaskans and businesses affected by the spill, 2.2 billion for the cleanup of Prince William Sound, and another 1 billion to state and federal governments.

[From Environment, April 20, 1995]

### JUDGE VOIDS PORTION OF EXXON FINE

An Alaska state judge, Brian Shortell, ruled that Exxon Corp., did not have to pay $9.7 million in punitive damages to five Alaska native corporations, it was reported March 31. The damages originally had been awarded in recompense for land damage caused by the March 1989 Exxon Valdez oil spill. The ruling had no effect on the $5 billion in punitive damages that Exxon had been ordered to pay to 14,000 Alaskan natives, fishermen and property owners. [See 1994 Environment: Exxon Fined $9.7 Million in 'Valdez' Spill, 1994 Exxon Fined $5 Billion In 'Valdez' Spill; Record Award to fishermen, Natives, 1989 Largest U.S. Oil Spill Fouls Alaska Marine Habitat; Containment Effort Delayed from Onset]

Shortell said that the corporations already had received adequate compensation from the Trans-Alaska Pipeline Liability Fund and a $98 million settlement with Alyeska Pipeline Service Co.

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[Exxon Press Release, November 7, 2001]

### EXXON VALDEZ APPEALS RULING, STUNS ALASKANS

(By Yereth Rosen)

ANCHORAGE, Nov. 7.—Exxon Mobil Corp.'s reprieve on Wednesday from a $5 billion punitive fine stunned and angered Alaskans who had sued the energy giant for punitive damages from the 1989 Valdez oil spill disaster.

The 9th Circuit Court of Appeals ruled that the fine, ordered by a U.S. District Court jury in 1994 at the close of a summer-long civil trial against Exxon was excessive. The court sent the case back to the trial court for assessment of a new fine.

One Alaska Native leader in Cordova, the town that is the center of the Prince William

Sound commercial fishing industry, described a groundswell of anger at the ruling.

"I wouldn't want to be anyone from an oil company in this town today, I'll tell you that," said Bob Henrichs, a Native leader in Cordova.

Anyone associated with Exxon is particularly unwelcome, he said. "They hired a drunk who couldn't get a license to drive a car and turned him loose with an oil tanker," he said.

About 40,000 fishermen, Natives, property owners and others affected by the spill sued Exxon over the disaster. Most of the cases were consolidated and heard at the 1994 trial. Many plaintiffs were counting on payments from the punitive verdict to help heal various problems, including a deteriorating fishing economy.

Now the appeals court ruling has dashed those hopes, said Riki Ott, a Cordova fisherman, marine biologist and environmental activist.

The ruling means that Exxon Mobil may emerge unpunished for the spill, which continues to harm the area's environment and people, Ott said.

"They just go on, business as usual, and try to shove all of us under the carpet by relying on the court system, which favors big corporations," she said. "Exxon has continued to profit off this, and we're all slowly going broke."

SHOCK AND SURPRISE

Sue Aspelund, executive director of Cordova District Fishermen United, said she reacted to the news with "shock and surprise."

The fishermen's group on Wednesday was still trying to figure out what to do next, she said. Henrichs, president of a 500-member tribal organization based in Cordova, said his faith in the court system was shaken by the ruling.

I'd like those judges who made that decision to come up here and confront our people, look us in the eye," he said.

One of the lead attorneys for the spill plaintiffs said he believes the punitive award can be resurrected.

Attorney Brian O'Neill said arguments over the punitive fine will be made again within months before U.S. District Court Judge H. Russel Holland, who presided over the 1994 trial.

"And we'll go back and get the $5 billion. Because I think the process was fair, I think the award was fair," said O'Neill, who presented most of the plaintiffs' case at the trial.

"The thing that I'm sad about and embarrassed about is that it's taken us so long to get here," he said. "It's going to take another year or two longer, but we'll get there."

Meanwhile, Henrichs' organization, the Native Village of Eyak, and other Native groups are pushing for stricter regulation of the trans-Alaska pipeline. The 30-year leases that allow the pipeline to operate on state and federal land are up for renewal in 2004.

Ott is working on a campaign—including a possible new lawsuit against ExxonMobil—to address chronic illnesses that spill cleanup workers said they suffered as a result of working without proper protections.

The 11 million gallon (50 million liter) spill, the worst tanker disaster in U.S. waters, polluted more than 1,200 miles of shoreline and was the deadliest ever to wildlife.

It killed thousands of marine mammals and hundreds of thousands of seabirds, forced the shutdown of fish harvests and, government scientists say, caused lingering damage to fish, bird and mammal populations.

The U.S. District Court jury found that reckless behavior by Exxon and tanker captain Joseph Hazelwood had led to the spill. That verdict paved the way for the punitive fine.

Also during the trial, the jury ordered Exxon to pay $287 million in compensation to commercial fishermen, and the company settled some of the Native compensatory claims before the trials's end.

Mr. LAUTENBERG. Mr. President, we will wrap up this debate in a very short while. We have to look at the full picture. It is not simply getting oil here or taking advantage of an opportunity to go into the Arctic National Wildlife Refuge to search for more opportunities to consume oil at a rate that has never been heard of. We have to step back and take a look into the future as to what we want for our children and their children.

I hope the Boxer amendment will get the support it deserves. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire. Who yields time?

Mr. NICKLES. Mr. President, how much time does the Senator from New Hampshire desire?

Mr. SUNUNU. I had not calculated it. Twenty minutes.

Mr. NICKLES. I yield to the Senator from New Hampshire as much time as he desires.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I thank the Chair. Mr. President, I thank the chairman. As a new Member of the Senate, I bring to this body, as do many of my colleagues, experience having served in what we like to refer to as the "other body," the House of Representatives. Prior to that service, I worked in what we sometimes refer to as the "real world" in manufacturing, having been trained as a mechanical engineer.

Engineers often try to develop solutions to problems by arguing from first principles, and that means simply that you work from the most basic understanding of a problem you wish to address. Once you come to terms with the central element of that problem, you are far better able to craft a meaningful and effective solution.

What the astute listener might ask is: What does this have to do with the Federal budget? And to that I reply, if you really want to put together an effective budget and a meaningful budget that will serve us well, we need to remind ourselves exactly what this budget resolution is for.

As we listen to much of the budget debate, one might understand or come to assume that the budget resolution establishes funding levels for every conceivable Federal program, every line item in the budget; that it rewrote the Tax Code; that it modernized Medicare, all in and of itself without even having the benefit of the President's signature. Of course, this is not the case, even though the rhetoric we hear might suggest otherwise.

So what is the budget resolution? It is simply a blueprint. It is a vision the Congress puts forward of where we imagine our budget priorities should be this year and in future years. We try to set priorities for taxes and for spending, try to estimate what we are going to collect into the Federal coffers, and try to set priorities for modernizing programs like Medicare or Social Security. Above all, it reflects a set of priorities.

For example, listening to the debate this morning, one might get the impression it actually authorizes oil exploration in northern Alaska. That is simply not the case. What the budget resolution as written would do is allow the Senate Energy Committee to write legislation that would then be debated on the Senate floor. It would still have to pass the Senate to allow exploration or production in northern Alaska to take place. The budget simply provides the mechanism allowing that legislation to be written and then later brought to the floor.

Our goal in this debate should be to reflect the right set of priorities in our country. To be sure, this is a $2 trillion budget we are talking about. If I or any of my colleagues were writing a $2 trillion budget, I am sure someone somewhere would find something in that $2 trillion budget they might disagree with, and I understand that. Any Member of the Senate, any citizen of our country, can find something in our Federal budget they are not comfortable with, that they do not like, that they would disagree with, a program they would change. But if we want to do the work of the American people in the Senate, we need to put together that budget blueprint. We need to set those priorities, and I would hope those priorities would be consistent.

As we listen to the debate over the next few days, unfortunately we will hear a lot that is not consistent. We will hear individuals talk about their concern for the Federal deficit, and then they will step forward and vote for an amendment that raises domestic spending and increases the deficit. We will hear individuals raise concerns about the cost of military action at this historic time. But after raising concerns about those costs, those individuals will then step forward and vote for amendments that raise domestic spending.

We will hear Members raise concerns about economic growth, and then instead of stepping forward to propose or support a package that lays the foundation for future economic growth, what will they do? They will step forward and they will vote to raise domestic spending. There is a pattern, to be sure.

We are in challenging and difficult times, and we have work in front of us that will require us to make difficult choices and to set the right priorities for our country.

Why do we need this budget in the first place? We need this budget, as I suggested before, to enable us to get our work done. I talked about the budget allowing the Energy Committee to come forward with legislation crafting a comprehensive energy policy that might include exploration in northern Alaska. The budget will also set an overall limit on discretionary spending. This year, I think the goal put forward in the budget resolution is approximately $784 billion. But we need to set that goal, that cap, that target, so the other spending committees, the Appropriations Committee in particular, can then move the spending bills forward.

This is not insignificant. Last year, we failed to pass a budget in the Senate and we paid for it. We paid for it because as a result we could not get the work of the country done. We ended up completing that work, not in September, October, November, or December of last year, but in January of this year. That is simply wrong. That is why we need a budget. The budget lays the foundation for critical legislation, and not just a comprehensive energy bill. If we want to modernize Medicare, pass a prescription drug benefit for retirees in this country, we are going to need a budget resolution. If we want to pass an economic growth package that helps lay the foundation for job creation in America, we are going to need a budget resolution.

The Senate may well appear chaotic under any circumstances, but without a budget we are even more so. I do think it is important to note the minority in this case has not offered any comprehensive alternative to the budget. We will hear debate and criticism of the pending resolution that is before this body, but no comprehensive alternative. This is similar to last year when the minority, then in the majority, failed to offer and pass a comprehensive budget. As a result, not only were we completing last year's business this past January, but we were unable to pass a prescription drug benefit under Medicare and other work before the Senate was delayed. The budget resolution is critical to being able to get our work done in Congress.

What is in the budget resolution that is before us? What are the priorities we have laid out that have been put together by the hard work of the chairman of the Budget Committee and the members of the Budget Committee? Given the challenge of these times, I think it is a very strong package. The overall spending level, $784 billion, represents a growth in discretionary spending of a little bit less than 4.5 percent.

There is a basic principle at work, and that is we should not be expanding the size and scope of the Federal Government. We should not be increasing domestic spending any faster than an average family budget is increasing.

On the defense side, we all know the challenges we face, the priorities we need to set in defense spending. Defense spending has increased approximately 3.8 percent. Homeland security, where we need to make investments in new technology and new ways of identifying threats to this country, has been increased over 25 percent in order to help first responders—police and firefighters—around the country.

As with defense and homeland security, we have to set priorities throughout the budget. If the Federal spending level is increasing by 4 or 4.5 percent, not every program can receive a 10 or 20 percent increase. Priorities need to be set.

On veterans health care, we step forward to provide an increase of $1 billion in this budget; on education, a 4.5 percent increase, including $1 billion for special education, which is an enormous unfunded Federal mandate on cities and towns around the country. In science, space, and technology research, the budget provides for an additional 5.5 percent over last year. Setting priorities in important areas; that is what putting together a good budget is all about.

This budget will allow us to modernize Medicare, to add a prescription drug benefit to Medicare, something that is essential if we are going to deliver on our commitment to a modernized health care system for our retirees.

As we have heard and will continue to hear over the next couple of days, this budget allows for an economic growth package to help get our economy moving, to help create incentives to entrepreneurs and risk takers across the country to create new economic opportunity and to create new jobs.

I think it is the right set of priorities. I think it makes sense to put together a package that focuses on economic growth. I think it is the right thing to do to make sure we are not expanding the size and scope of the Federal Government any faster than the average family might be expanding its budget.

To be sure, we will hear people argue about the level of spending and we will have amendments to increase Federal spending in a number of areas. The fact of the matter is, we would hear those arguments and have that debate no matter what the spending level in this budget resolution was. If it was at $794 billion, we would have similar amendments to increase Federal spending. If it was at $800 billion, $810 billion, or $820 billion, we would have the same amendments to expand the size and scope of the Federal Government, because some legislators find it more difficult than others to set priorities and to control the size and scope of that spending. Now more than ever we need to set priorities.

We have heard and will continue to hear a lot of discussion in this budget debate about the deficit. It needs to be addressed. We cannot ignore it. In order to do the right thing regarding the deficit, we have to understand why it is there. Why do we have a deficit?

I just talked about spending growth. Growth in spending, expansion of the size and scope of the Federal Government, that alone is responsible for 25 percent of the deficit we have projected for the coming fiscal year and over the coming 10 years.

We had surpluses after a long period of expansion that began in the early 1980s, with a sharp brief interruption in 1991. Revenues increased year after year. We had record revenue growth because we had strong economic growth. That enabled us to balance the budget. Coupled with control of growth in spending, we were able to balance the budget. Some say the surpluses then just provided incentives to ramp up the spending level again. As we have seen over the last 5 or 6 years, the growth in discretionary spending has been at near historic levels.

At the same time, we had unprecedented defense and homeland security needs that had to be dealt with in the wake of September 11. With the recent economic downturn, we have seen unemployment costs increase once again. So new spending has been responsible for about 25 percent of the deficit. An even larger portion, almost half of the deficit, has been caused by the slowdown in the economy and the drop in revenues. This is unfortunate, but we all understand we are in slow economic times.

The result has not been created by tax cuts. Despite the rhetoric, the Tax Relief Act signed into law in 2001 was responsible for less than 25 percent of the deficit we will see in the coming year. It was the slowdown in the economy, cutting Federal revenues by over $150 billion over the last year, that resulted in 50 percent of the deficit we see today. That is why it is important we include in this resolution an allowance for an economic growth package. The economy has slowed down.

We need to understand why it slowed down. It is not because of inflation. It has not been because of a slowdown in consumer spending. American consumer spending has been surprisingly robust over the last 18 months. It has not been a credit squeeze like we had in 1991. This economic slowdown has been driven by and led by a slowdown in business investment. Businesses are reluctant to go out and spend additional capital on improvements to plants and equipment, on improvements of productivity and expansion of their facilities. We know of the slowdown in technology investment. That has led this slowdown in the economy.

If we want to do something about it—and I think we all care about the economic growth in this country—if we want to do something, we have to address the reason for the slowdown, to address the sharp downturn in business investment. That is what the economic package of the President has put forward and what this budget resolution attempts to do.

We have other options. We could do nothing. At the end of the day, if you watch the votes carefully, you will see that there are a number of Members of this body who would just as soon do nothing. They do not support an economic growth package. They will argue they do not want to increase the deficit. That means do nothing, do not spend any additional money, do not put together an economic growth package. I do not think with the economy as slow as it is, the American people want us to say we are going to do nothing to try to get job creation back on track.

We could spend more money and there will be a series of amendments to this budget resolution to do just that. Some will be offered by those who decry the short-term deficit, or the deficit that we have had over the last year. But they will offer amendments to spend more money and ultimately increase the deficit. The idea that we could spend ourselves out of a recession is ridiculous. It is absurd on its face.

We have extended unemployment insurance. That was the right thing to do and it is an important thing to do. But in and of itself, spending more on unemployment insurance will not rekindle economic growth. We need to recognize that in order to create incentives for entrepreneurs and risk takers to spur job creation, we need to look at the Tax Code. That is where the growth package comes forward.

Is it a big package? Relatively speaking, not at all. It represents less than 2.5 percent of our Nation's revenue collections over the next 10 years. But it is focused on making the Tax Code more fair: by getting rid of the double taxation on dividends; by giving small businesses incentives to invest in plants, equipment and the modest increases I spoke of; and by tripling the amount small businesses could expense over time. It tries to deal with the economic slowdown by recognizing the first principles of why the economy has slowed down in the first place.

This budget sets forward a realistic, reasonable and common-sense limit on Federal spending. It sets priorities even within those areas for veterans health care, special education, science and technology, homeland security, and our national defense. It allows us to modernize Medicare and add an important prescription drug benefit. It also sets forward principles for an economic growth package we all know is needed in America.

It is a strong resolution. With all due respect to the chairman of the Budget Committee, it is probably not a perfect resolution. I served for 6 years on the Budget Committee in the House, and I am the first to admit there is no such thing. But it is a strong set of priorities for America. It reflects common sense when you look at the economic realities, the budget realities and the national security realities we have.

America was built on a foundation that rests on individual liberty. From that very first principle comes our country's commitment to property rights, to free markets, and to open trade. As we conclude this debate on the budget in the coming days, I hope our budget resolution will reflect the importance of these ideas; that it will include provisions necessary to strengthen our economy, but that it will balance the needs of our Government with the rights of individuals. These are not just fanciful ideas, but are bedrock principles that enabled America to build the strongest economy the world has ever known. They make us strong today and will keep us strong tomorrow.

Although I am just beginning my service in the Senate, I hope it will be marked by a consistent and enduring commitment to these ideas. I can think of no better way to serve my State and my country.

I yield the floor.

Mr. INHOFE. Mr. President, I rise today to discuss America's national security and the need for American independence from Middle Eastern oil.

America's chronic dependence on foreign oil is a critical national security issue. It not only affects citizens and businesses nationwide, but also has a direct impact on our Nation's ability to fight and win wars. As we prepare to engage in military operations in Iraq, it is important to understand that our forces are highly dependent on foreign oil, much of which comes directly from Iraq. In other words, we are dependent on oil from Iraq to fight a war against Iraq.

During the 1970s energy crisis, America was 36 percent dependent on foreign oil. Today we are 56 percent dependent, and by 2010, we are headed for well more than 60 percent. For the military, it now takes eight times as much oil to meet the needs of each U.S. soldier as it did during World War II. The Department of Defense today accounts for nearly 80 percent of all U.S. government energy use. During the 1991 Persian Gulf war, our 582,000 soldiers consumed 450,000 barrels of petroleum products—four times the daily amount used by the 2 million Allied soldiers that liberated Europe from the Nazis in World War II. Since World War I, the outcome of every war has been influenced by the control of the energy. We are talking about a serious national security issue.

As a result of military operations in Iraq, we must prepare ourselves for the possibility of disruptions in the flow of oil from the Middle East. Iraq has been the fastest growing source for United States oil imports. Shockingly, in the year 2000, $5 billion of American money went to Iraq to buy oil. After September 11, when asked how U.S. dependency on foreign oil relates to our national security, Deputy Secretary of Defense Paul Wolfowitz said that U.S. dependency on foreign oil "is a serious strategic issue. . . . My sense is that [our] dependency is projected to grow, not to decline. . . . it's not only that we would, in a sense, be dependent on Iraqi oil, but the oil as a weapon. The possibility of taking that oil off the market and doing enormous economic damage with it is a serious problem."

It is critical that we develop our own resources and establish our energy independence. Energy Secretary Spencer Abraham has reviewed our national energy policy. He has warned that unless we act now, we will threaten our national security, damage our economic prosperity, and harm our quality of life. Likewise, in both 1995 and 1999, the Secretary of Commerce acknowledged, pursuant to a law directing his assessment, that our oil deficit poses a threat to national security. This threat has been acknowledged by both sides of the aisle.

According to Secretary Abraham, consumption of energy has risen sharply yet production continues to decline. In a report released by the Energy Information Administration, the Department of Energy estimates that oil and gas reserves totaling 1,166 trillion cubic feet are recoverable in the lower 48 states and Alaska. The oil we could recover from three square miles of Alaska alone would allow our Nation to replace the oil we buy from Saudi Arabia for 30 years.

The time to act is now—not for some immediate quick fix, but for the long-term security of America in the years and decades ahead. Our lack of an adequate long-term national energy policy is not a partisan matter. It is a supreme national challenge that cannot be continually ignored without posing an increasing danger to our security and our way of life. Sadly, our Nation has failed for three decades to address this issue properly.

The tired refrain that ANWR "will destroy the environment" is so out of date and out of touch with reality when we have the technology and the know-how to affirmatively protect the environment while meeting an important long-term national security challenge. Additionally, I wish it were required for everyone who is going to be voting on ANWR to take a trip up to the North Slope of Alaska to see what we are really talking about. It is not a pristine wilderness. We are only talking about a very small, a minuscule part of that area up there, and we are talking about an environment where the Eskimos, the local people, are begging us to come in and open it up.

They have estimated that between 5.7 billion and 16 billion barrels of recoverable oil will be found in ANWR's Coastal Plain—up to 16 billion. That equates to over $300 billion worth of American oil. The American people want our country to comprehensively rebuild our military, our defenses and our future security on all fronts. This was true before September 11. It is only more true today. It is time for the Senate to vote, for the Congress to act, and for America to move forward towards true and lasting energy independence.

Mr. SARBANES. Mr. President, I rise in strong support of the amendment introduced by Senator BOXER, which would strike the provisions contained in the pending Budget Resolution that would allow for the commencement of oil exploration and drilling in the Arctic National Wildlife Refuge, ANWR. I am deeply concerned about the irreparable damage these actions would have on this unique and beautiful wilderness.

A mere 6 days ago, the Senate unanimously passed a resolution commemorating the Centennial Anniversary of the Wildlife Refuge System, established by President Theodore Roosevelt in 1903 with the designation of the Pelican Island Reservation on the eastern coast of Florida. According to last week's resolution, which I cosponsored, the Senate "reaffirms its commitment to continued support for the National Wildlife Refuge System, and the conservation of our Nation's rich natural heritage." The language contained in the pending Budget Resolution, which would lead to the disturbance of one of the largest and most pristine components of the Wildlife Refuge System, not only falls far short of this reaffirmation, but explicitly breaks the commitment laid out by President Roosevelt a century ago.

The principal mission of the Wildlife Refuge System, in President Roosevelt's own words, is "keeping for our children's children as a priceless heritage, all of the delicate beauty of the lesser and burly majesty of the mightier forms of wildlife. . . ." Moreover, Roosevelt declared that this mission is founded on the basic principle that "wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unborn generations, whose belongings we have no right to squander." The environmental damage we have seen throughout the country over the past 100 years has strengthened and reaffirmed President Roosevelt's wise foresight in preserving certain areas of beauty and natural significance for present and future generations.

Proponents of drilling in ANWR have claimed that oil exploration activities on the Refuge's fragile coastal plain will result in virtually undetectable environmental impact. However, an extensive, congressionally mandated report released earlier this month by the National Research Council of the National Academies of Science and Engineering makes clear that drilling in ANWR will result in significant damage to the region. According to the report, which examined the cumulative effects of oil and gas exploration and production on Alaska's North Slope over the past three decades, "[r]oads, pads, pipelines, seismic-vehicle tracks, and transmission lines; air, ground, and vessel traffic; drilling activities; landfills, housing, processing facilities, and other industrial infrastructure have compromised wild-land and scenic values over large areas. . . ." Moreover, "climate changes during the past several decades on the North Slope have been unusually rapid," and "noise from exploratory drilling and marine seismic exploration" have disrupted migratory patterns and severely impeded reproductive rates of bowhead whales, caribou, native birds, and other species.

In addition to the major environmental impact that would likely affect ANWR should it be opened for oil and gas exploration, the resulting energy supply would do little to address our growing energy needs. Indeed, ANWR represents only five percent of Alaska's North Slope the remaining ninety-five percent of the North Slope is currently open to oil and gas exploration and production. According to a 1998 U.S. Geological Survey study, the total amount of oil that could be harvested from ANWR would roughly equal the amount of oil consumed by Americans in a 6-month period. Finally, this relatively small supply of oil would do even less to address our immediate energy needs. A 2001 report published by the Congressional Research Service has estimated that American consumers would not begin to benefit from oil recovered from ANWR for at least 10 years.

If we truly want to address the challenge of our country's overwhelming dependence on foreign oil, causing irreparable damage to an area of exquisite beauty in exchange for a small supply of oil and gas is not the manner in which we should proceed. It is my strongly-held belief that we must aggressively pursue sources of renewable energy, as well as turn our focus away from increased production, and toward greater conservation.

Mr. President, attempts to open ANWR to oil and gas exploration are reckless and shortsighted. I urge my colleagues to honor President Theodore Roosevelt's vision by joining me in supporting Senator BOXER's amendment to preserve the integrity and beauty of ANWR.

Mr. LEAHY. Mr. President, the Senate soon will have the opportunity to support an amendment to remove the proposal to increase oil and gas exploration in the Arctic National Wildlife Refuge from the budget reconciliation bill. By tucking away this proposal into the energy section of the reconciliation bill, proponents of this provision would smother the open debate the American public deserves on such a significant and contentious national issue.

Just last Friday, on March 14, we celebrated the 100th anniversary of the creation of the Nation's first Federal bird reserve on Pelican Island, the predecessor of today's refuge system. Today we are debating whether to allow further drilling in the fragile arctic environment, for reasons that do not add up to justify such a step.

Consider how far we have come since President Theodore Roosevelt had the vision to set aside the 5-acre Pelican Island—a small thicket of mangroves off the east coast of Florida—to a system that today totals more than 95 million acres consisting of 540 national wildlife refuges, thousands of small wetlands, and other special management areas. The National Wildlife Refuge System hosts 35,000,000 visitors annually, with the help of 30,000 volunteers. It is home to wildlife of almost every variety in every State of the Union, and some part or parts of the system are within an hour's drive of almost every major city. It would be unwise to sanction the degradation of one of the crown jewels of our refuge system—the Arctic National Wildlife Refuge.

The administration argues that allowing an increase in drilling in the Arctic National Wildlife Refuge would be an integral part of alleviating the Nation's dependence on foreign oil. In reality, drilling in the Arctic Refuge would only provide the equivalent of what the United States consumes in 6 months. Nor would this provision amount to any increase in oil production for at least a decade, or truly enhance our energy security, or lower prices for consumers, or create a significant number of new long-term jobs.

Furthermore, 95 percent of the potential oil reserves of Alaska's North Slope are already designated for potential leasing or open to exploration and drilling. The last 5 percent—the Coastal Plain of the Arctic Refuge—is the only wild stretch of the coast of Alaska's North Slope that remains off limits.

What are the tradeoffs? According to a recent National Academy of Sciences, NAS, report issued just last month, the impacts of current activity already adversely impacted numerous wildlife species in the Arctic Refuge. The NAS documented displacement to the fall migration patterns of bowhead whales due to noise associated from seismic exploration and cited an increased number of predators which adversely affects the reproduction rates in migratory and resident birds, as well as the migration pattern and reproduction rates of one of the greatest caribou herds in North America. The NAS study concluded that expanding oil and gas exploration into the surrounding refuge lands would result in further degradation of soils, vegetation, and aquatic systems in this fragile environment.

Protecting this refuge is our obligation as stewards of this land. As President Theodore Roosevelt, the creator of the refuge system, said: "wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander." Sanctioning these incursions not only would damage the environment today, but it would take away those tangible and inherent values the refuge will provide to future generations—our children and grandchildren.

Last Thursday, March 13, the Senate unanimously approved a resolution marking the Centennial Anniversary of the National Wildlife Refuge System. This week, we have the opportunity to follow that symbolism with a more tangible step in defense of our refuge system, by voting to remove the rider on ANWR oil and gas exploration from the budget reconciliation bill.

Ms. SNOWE. Mr. President, I rise today to support the Boxer-Chafee amendment that has my cosponsorship along with 14 other colleagues. The amendment strikes the reconciliation instructions to the Committee on Energy and Natural Resources that would open up the Arctic National Wildlife Refuge to oil and gas exploration and drilling.

The issue as to whether to open up a pristine and vital habitat refuge for a finite amount of oil is a fundamental policy question that should not have been injected into the budget process, thereby bypassing the Senate committee process. Including the drilling receipts and reconciliation instructions in the budget is a major policy initiative with serious environmental ramifications.

The budget process, with its strict rules for limited debate, is not conducive to adequate consideration of this issue. In fact, opening up the Arctic Refuge proved to be extremely controversial in the 107th Congress and was debated at length during the Senate's consideration of its omnibus energy bill. On April 18, 2002, by a vote of 54 to 46, the Senate defeated a procedural motion to invoke cloture to shut off the debate.

Revenues from oil leases in the Arctic Refuge have been estimated to be $1.2 billion over 10 years. I believe that the budgetary effects of oil leases in the Refuge are incidental compared with the weight of its policy impact. The tradeoffs just don't balance out when considering drilling for a finite supply of oil in the biological heart of Alaska's coastal plain.

Drilling in the Refuge is not the solution to our Nation's current energy problems, and for years the issue has distracted us from the real answers to energy needs. Unfortunately, over the past several years, rather than being serious about offsetting the nation's increasing thirst for oil by increasing the use of alternate and renewable energy sources, we are now more dependent than ever on these foreign oil sources. If we are to be serious about addressing our energy needs, we should be advancing energy efficiency, energy conservation and clean, renewable sources of power so that we can reduce our need for fossil fuels, which is mainly responsible for air pollution and greenhouse gases impacting climate change.

As the storm clouds gather today in the Middle East, we should be putting our energies into becoming more fuel efficient, for instance, by increasing corporate average fuel economy, or CAFE, standards, to close the SUV loophole that currently allows the increasingly popular sport utility vehicles to get only 20.7 miles per gallon while passenger cars must meet a 27.5 mpg standard. Increasing the SUV standard to that of passenger cars would help to eliminate the need to import oil from the most volatile area of the globe.

In addition, based on the estimate provided by the Department of Energy's Energy Information Administration, it would realistically take seven to 12 years from approval to first production of oil, meaning that not a single drop of oil would be available to go to market for 7 to 12 years. In contrast, Paul Portney, Chairman of the National Academies' 2001 Report on CAFE standards, stated at the Joint Commerce and Energy Committees' hearing that year that ". . . increases to fuel efficiency could be made in a few years."

The fact is that, sooner or later, any oil found in ANWR will run out—while increasing CAFE standards will continue to decrease oil usage. It is estimated that one million barrels of oil per day would be saved by the Feinstein-Snowe bill that closes the SUV loophole. Improving the gasoline mileage of the Nation's new vehicles by just three miles per gallon could take less time and could be expected to save more oil than would ultimately be recovered over the lifetime of the finite oil resources in ANWR. The United States Geological Service estimates a 95 percent probability of 4.2 billion barrels of recoverable oil, and a five percent probability of 11.8 billion barrels of recoverable oil.

Interestingly, CAFE increases would keep more greenhouse gases, specifically carbon dioxide—the major cause of climate change—from going into the atmosphere because less gasoline would be used and therefore there would be less vehicle emissions of CO2. In contrast, the process of getting oil out of ANWR will add more greenhouse gases and air pollution because of the oil drilling facilities and processes required for extraction.

Drilling in the Arctic Refuge poses environmental risks by impacting sensitive wildlife habitats. The Refuge is the summer home for thousands of migratory birds; year-round home to muskoxen, fox, wolf and wolverine; and its lagoons support eight species of marine mammals, 62 species of coastal fish, and seven species of freshwater fish. Of note, the Refuge is the calving ground of the Porcupine caribou herd. Much has been said on the Senate floor about the Central Arctic caribou herds in the North Slope drilling area that have greatly increased since the North Slope pipeline was installed, but these caribou have the ability to move south, unlike the Porcupine caribou herd within the Arctic National Wildlife Refuge that have no place to go due to the geological features of the narrow strip of an island-like area in the refuge between the ocean and the mountains.

Again, I would like to reiterate that including drilling receipts and reconciliation instructions in the budget is not the right way to go as it is a major policy initiative with serious environmental ramifications that must be debated fully in the proper forum of committee hearings and subsequent floor and public debates. Consider the National Research Council's recently published report on the effects of drilling in the North Slope of Alaska. It stated that, even though oil companies have greatly improved practices in the Arctic, three decades of drilling along Alaska's North Slope have produced a steady accumulation of harmful environmental and social effects that will probably grow as exploration expands.

Some of the problems, the report said, could last for centuries, both because environmental damage does not heal easily in the area's harsh climate and because it is uneconomical to remove structures or restore damaged areas once drilling is over. I urge my colleagues to vote to strike the language from the budget resolution so that drilling in the Arctic National Wildlife Refuge does not begin.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I ask we take 10 minutes off our side of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President I will speak a couple of minutes about the general budget, and then turn to the ANWR Alaska refuge amendment that is pending that I hope will prevail in a vote in a few years.

I ask unanimous consent Senators CORZINE and CLINTON be added as cosponsors to my ANWR amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I will talk about this budget overall because I listened to my colleague talk about it in a way that, frankly, is stunning because I remember when Republicans wanted a constitutional amendment to balance the budget. Now they are embracing a budget that has deficits as far as the eye can see. If you like deficits as far as the eye can see, you will love this budget and you should vote for it because that is what you are getting.

Mr. SUNUNU. Mr. President, will the Senator yield for a question?

Mrs. BOXER. I will after I am finished, as I listened to my friend talk for quite a few moments.

If you embrace the idea that deficits are a good thing for the country, red ink is a good thing for this country, you will love this budget; go ahead and vote for it and that is fine and we will talk about it when we go home.

If you like the idea that we should ignore an enormous cost that is staring us in the face as our beautiful men and women are standing on the brink of war, if you think this budget should ignore those costs, then you should vote for this budget because this is an Alice-in-Wonderland-type of budget.

The whole country is focused on what is about to happen—but not in this budget. I have seen comments made by friends of mine from the other body on the other side of the aisle that said hurry up and get this through before we have to deal with the costs of the war.

When I hear Senator FRIST say let's push this through fast, that, in my opinion, ties the knot here. The other side wants to get this done very quickly even though it has no costs for the war. The first person who said the war will cost between $100 billion and $200 billion was Larry Lindsey, and as we know, he was shown the door.

Vote for this budget if you think we should ignore the costs of the war. Vote for this budget if you love deficits. If you like breaking promises to our children on No Child Left Behind, cutting afterschool programs and the like, vote for this budget because that is what you are doing.

The President posed for pictures with Senator KENNEDY and Congressman MILLER—No Child Left Behind—and then he fails to fund it.

He is going to kick 50,000 California kids out of afterschool programs, unless we fix it. All through the country, he is going to kick 500,000 to 700,000 kids out of afterschool programs, including kids in New Hampshire and all over our great Nation.

Our kids deserve more than that. If you like the fact that No Child Left Behind is not funded fully, vote for the budget. If you want to cut environmental enforcement, vote for the budget. If you want to fund the highways and transit at a lower level than what we need, vote for the budget.

Especially vote for the budget if you want to give tax breaks to people who earn more than $1 million a year because they will get back $87,000 a year. Definitely vote for this budget if your heart bleeds for those folks who make more than $1 million a year because that is the centerpiece of this budget.

I hope we can change it. We are going to try to change it. We have a few brave souls on the other side of the aisle who agree with us. I don't know how it will turn out. But when I hear people talk about why our country is in so much economic trouble, it started 2 years ago. We lost 2 million jobs because we abandoned fiscal responsibility, we abandoned investment in job-producing investments, we abandoned the principles that led us to the greatest economic recovery in generations. But if you don't want to go back to those good days and stick with these bad days, vote for this budget.

On my time that is remaining, I want to say how excited I am that we actually may pass the Alaska wildlife amendment.

What we have here on this chart is a very simple visual of what we will save from various scenarios on imported oil. I had, yesterday, the percentages.

We see that while ANWR would reduce our reliance on imported oil by 2 percent, if we just did better tires on our cars, which would lead to better fuel economy, we could save 4.3 percent of imported oil. If we closed the SUV loophole and just had the SUVs get the same mileage as cars, we would save 16 percent on the amount of oil we have to import. If we increased our fuel economy by 13—to 35 miles per gallon—which the automobile people say is absolutely possible; we would reduce our dependence on foreign oil by 43 percent.

The alternative is this reduction of dependence on foreign oil by 2 percent. By the way, this wouldn't happen for 8 or 10 years. For everybody who says it is going to happen sooner, that is not what the proof is. The science tells us it will take 8 to 10 years to get it up and running.

This is the alternative, drilling in this God-given area.

I will give the remainder of my time to Senator CONRAD. We are talking about a place that looks like this. Yes, in the winter it is icy. Yes, in the winter there is not much—it doesn't look as beautiful as this, but I don't look as good as I looked when I was young, so that happens sometimes. But the bottom line is, it is a beautiful place.

Here are some other beautiful pictures. We will show you some of the wildlife that we have, this beautiful bird which is the whimbrel—quite beautiful. It is my chart bird, I call it. That is a beautiful example of what we are trying to save.

I will yield the remainder of my time on the resolution to Senator CONRAD and hope my colleagues on both sides will support the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am wondering, I ask my colleague and friend from California who showed those pictures of a beautiful area adjacent to the Brookes Range—I have been there—I wonder, Has the Senator from California visited the 1002 area, the ANWR area?

Mrs. BOXER. I have been to Alaska and I am going back. I haven't been to the 1002 area, but my chief environmental legislative aide took my place on a trip that, unfortunately, I had to cancel 6 months ago, and just said it was absolutely exquisite.

As my friend knows, we have hundreds of wildlife refuges. I have been to a few. I haven't been to them all. But this is God's gift and whether—

Mr. NICKLES. The answer to the question is you have not been there?

Mrs. BOXER. Yes, I stated that clearly in the debate. The last time I was asked this question, people said these photos were——

Mr. NICKLES. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I would like to make a couple of comments. I am going to speak about ANWR momentarily. My friend and colleague from New Mexico, who happens to be chairman of the Energy Committee, wants to speak. But many of us have been to ANWR. The picture the Senator from California shows, the beautiful part, is of Alaska adjacent to the Brookes Range. It is gorgeous. That is not where we are drilling, or proposing to drill.

I will say, there are a couple of people who have been there more than the Senator from Oklahoma and that would be Senator MURKOWSKI and Senator STEVENS. They have been there many times. They know what the 1002 area is. They know the area we are talking about drilling. It is not the beautiful pictures we see that some people are advertising. People are not proposing to drill in those areas.

The area they are proposing to drill on is not nearly as pretty. It is very barren. It looks somewhat like a frozen moonscape area, or frozen Saharan desert, or something like that.

My point is, I see the picture of the caribou. I have seen them. I have been to Prudhoe Bay as well. I have seen a lot of caribou. The caribou happen to like the Prudhoe Bay area and the Alaska oil pipeline. There are a lot of caribou in that area.

I think there is a tradition in the Senate that is being violated and that is that we respect home State Senators, when we are talking about parks or refuges in their States. We usually assume they know best.

I heard Senator MURKOWSKI give an outstanding speech last night that talked about her State and talked about how important this is to her State and our country.

I heard Senator STEVENS, with whom I have had the pleasure of working with for the last 23 years and for whom I have great respect, and he knows this better than anybody. He used to be Solicitor at the Department of the Interior. He goes way back on this issue. He knows more about Alaska than the rest of the Senate combined.

To ignore his comments, or those of the Senator, Ms. MURKOWSKI—or Governor Murkowski—on this issue I think is a serious mistake, especially if people haven't been there. I encourage my colleagues, if they have questions about this area, to go visit it. I think it would be very educational. I think it would be very helpful, especially if we are going to try to dictate exploration in an area smaller than a couple of thousand acres, smaller than Dulles Airport. If we are going to try to mandate they cannot forever drill in those areas, I think we ought to at least go there and visit the area and know, really, what it looks like. If we have not been, I think we ought to defer to the home State Senators for their expertise and advice.

I yield to the chairman of the Energy Committee, Senator DOMENICI, such time as he desires on the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. REID. Will the Senator from New Mexico yield just for a question?

Mr. DOMENICI. Which Senator is going to ask a question?

Mr. REID. The Senator from Nevada.

Mr. DOMENICI. Of course.

Mr. REID. Last night the Senator from New Mexico said he wanted to speak for approximately an hour? How long, just so we can get people ready here.

Mr. DOMENICI. The Senator knows I don't have a notebook full here. I wanted to make sure. One thing I learned, as a Senator, from Senator BYRD is if you want to make a speech, don't agree to the shortest amount of time because, sure enough, you never get what you wanted to say said. I said an hour. I probably will use an hour.

Mr. REID. Thank you very much.

Mr. DOMENICI. I thank the distinguished minority floor leader.

Mr. President, fellow Senators, and more importantly, fellow Americans who might be watching, I am going to have one of my aides turn this chart for a moment. You are going to be able to read the print very easily. It says:

> If ANWR was the size of this chart, the total footprint of any development there would be smaller than the box below.

You see the people running the television here in the Senate have to be very careful because if they are not, you will not even see it. ANWR is as big as this chart. We have done it to scale, all of that blue.

Now, regardless of what is said about what you are going to do to ANWR, let me submit to you that you are going to do it on this little piece, I say to the chairman. Look at this. Can you see it? Maybe I can show the chairman of the Budget Committee. Do you see that little piece there? I don't think you can even see it, that little piece. That is where ANWR is going to have a footprint to produce oil for America.

Can you imagine we are here arguing about whether or not we ought to take this tiny little piece? Here it is. Let me show it to you again. Do you see this, Mr. Chairman? I don't think you can see it from there. That is the size of the footprint. And the whole chart is the size of ANWR.

Now, I can guarantee you, the thousands of Americans who have been writing to their Senators and who joined the Sierra Club to say don't do anything in ANWR have no understanding, have never been told—as a matter of fact, have been told to the contrary—that of this huge wilderness, that is the amount of the footprint which will yield oil for America's future.

I ask the Presiding Officer, are you looking at this chart?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Do you need any assistance to see it?

The PRESIDING OFFICER. I can see it from here.

Mr. DOMENICI. You don't have to answer. As a matter of fact, I am very hopeful that everybody can see it, because you saw beautiful polar bears, you saw fantastic growth everybody is proud of. But can anyone believe that little, tiny footprint is going to affect polar bears in the ANWR wilderness? Can you believe that much property, used to drill oil for America's future, is going to have an impact on America's economic future?

I submit, if the issue had not already been framed, and if, as a matter of fact, Senators had not already been convinced, if they truly started right here on the floor—let's discuss America; let's discuss the amount of oil we have to use each day; let's discuss our future; and now let's take a look at ANWR. If we had not received messages in the mail, if we had not received requests for contributions from those who support keeping ANWR exactly like it is, and not letting us have any of the resources that belong to America—if none of that occurred, we were here in a closed session, all 100 Senators, and those who wanted to say "no drilling" got a day, and I got an hour, they could talk all they wanted, and I would put this chart up and say, "Are you kidding? You don't even want America to take a look at that?"

Now, having said that, it has been said on a number of occasions on the floor there isn't enough oil in ANWR to amount to anything. A few years ago, when I was sitting around and heard somebody say, "America doesn't need this oil," I said to myself, "Who are we kidding? How arrogant about our future are we? We don't need the oil that could be produced from Alaska because it isn't very much oil?"

Well, I started, over the weekend, asking, How much oil is it? How much oil is it in a way that maybe Americans would understand? And I decided we could take a little trip. We could take a trip through America and look at where we are producing oil today, and as we came upon a State that was producing oil, we would decide whether we needed that oil. After all, we are so strong and so arrogant about our economic future that there is a lot of oil America might have we must not need.

Guess what happened. The very first State I came upon was Texas. Texas. As I rode across America and stopped in various States, I stopped in Texas. And what did I find? I went to their Department of Minerals and Resources, and I looked, and I said: Could you help me? I am trying to find out where oil is produced in America and whether we need it or not. And what in the world did I find? ANWR has more oil than Texas. So I surmise we do not need the oil from Texas either. I surmise Texas oil does not amount to that much, because, after all, for comparison purposes, the total reserves in the State of Texas are 5.2 billion barrels. That is data for the year 2000. Let's repeat that. The reserves in the State of Texas for the year 2000 are 5.2 billion barrels.

According to the Energy Information Administration, upon which we as policymakers are basing our decisions, ANWR's oil reserves would range from a low—a low—of 5.7 billion barrels to a high of 16 billion barrels.

Let's repeat it. The reserves in the State of Texas, because that is where I started that sojourn—I would have ended up, had I not found that out in Texas—we did not have to go any further—I would have gone over to New Mexico and found their reserves, and then I would have gone to Oklahoma. But just stopping at Texas, you find the reserves in the State of Texas are estimated to be 5.2 billion barrels. And according to the experts advising the policymakers, the present Congress, and people of America, the reserves for ANWR—from that little, tiny dot—are 5.7 billion barrels for the low estimate, and 16 billion barrels for the high estimate.

I see the distinguished Senator from Alaska in the Chamber. That means, I say to the Senator, if I read it right, that the reserves in your State, just in ANWR, if one uses the most conservative estimates, are equivalent to or more than the State of Texas. And if you use just a middle point, a 50-percent expectancy in terms of reserve estimates, I imagine if you do that, the yield is twice the State of Texas. Twice the State of Texas. If you like this Senator's estimate, it will be twice the State of Texas, it will not be the 5.2 billion barrels because that is the lowest estimate.

Now, I would like, once and for all, whatever has been said in this Senate—with the charts up there about us not needing this, that it is only a speck of the world's production of oil—I would like to submit, we need the production from the State of Texas, and we need an equivalent to the production from the State of Texas which would come from ANWR. America, as rich as we are, as powerful as we are, as willing as we are to say, "We just don't need this. We will buy it from the world. We just don't need American oil. We don't even need as much as Texas produces"—right—"Just forget about it; we will buy it"—we will buy it, all right. And then, as war looms, the case for Arctic oil gets better and better and better.

As we look at America's future, we hear people get on the floor and say: Don't worry about producing more oil; we will just conserve more. Well, we will have an Energy bill here on the floor about when we come back from the April recess. I welcome Senators to come to the floor and tell us how in the world in the future we are not going to have to continue to import huge quantities of oil.

Now, somebody can get up and say: We only want half the automobiles we are driving today 4 years from now and 5 years from now. That is ridiculous. Or: We are going to use hydrogen cars. Of course, we are going to use a few of them each year, and in 20 years we are going to use a bunch of them. What do we do in the meantime?

They will say: Let's use electric cars. We will use them, but how many? Everybody understands the oil consumption is not going to come down dramatically during the next decade to 20 years. And what are we going to be doing? We are going to be depending upon the world for that period of time, and well beyond that, to buy it from the world.

It seems to me that a secondary issue—maybe a primary issue—we are debating in the Senate is jobs for Americans. I regret to tell you that for those who oppose that little tiny piece of this budget resolution called ANWR, they are opposing the biggest job producer this whole bill has in mind. I am more certain that if ANWR is permitted to be developed, when the time comes that it is producing, it will produce more jobs for America than this bill with all its tax provisions and at the same time will produce oil for Americans. This is the estimate given by the experts of the American jobs, high-paying jobs. We are not even including in this the fact that American companies will own it. Americans will be part of the rig operators. Americans will be producing the pipelines.

Here is the estimate of employment that would flow from ANWR. You could vote against all the tax relief if ANWR was coming on board next month. That can't happen because it is a few years away. Here are the jobs: 575,000 full-blown American jobs for American men and women and American executives, and they have to be high paying. For any State that would like to look: for Colorado, there is estimated employment of 8,000; New Jersey, 17,000; California, 63,000 jobs if ANWR comes on. I suppose in the course of things, 63,000 jobs doesn't mean that much for a big State such as California.

Incidentally, if I would have followed that little trip through America to see where the oil was produced and I would have passed right on by Texas, and passed right on by New Mexico, and passed right on by Arizona and a little pinch of Nevada, and ended up in California, and gone to their mineral extraction department and said, how much oil do you produce? guess what I would have found. I would have found that the production in California of crude oil for America is about equivalent to what will be produced from ANWR when it is producing oil for Americans. Think of that.

People look at California and say: Boy, if we didn't have that production from California, where would we be? Isn't that interesting? If we had ANWR on board and producing and we took our little trip through America and ended up in Alaska and somebody would have said to us, well, that is producing about the same as Texas and California, let's just not produce it anymore, what do you think would happen? Do you think anybody would vote for that? I mean, it would be such a ridiculous proposition that we don't need it, even though it is about the equivalent of California and about the same as Texas, that clearly this issue to this Senator reaches the point where you can hardly understand what we are doing on the floor of the Senate with as close a vote as you can possibly get on this issue.

To the two or three Senators who still might have enough courage, enough concern, enough freedom to say I am going to do what is best, I submit that they ought to vote to keep ANWR, keep that marvelous huge wilderness that President Eisenhower is cited as having been instrumental in creating, keep it, and use this tiny piece here to produce oil for generations to come.

There is an excellent review and outlook in the Wall Street Journal this morning called "Drilling for Votes." That is probably what they assume their editorial is doing, it is drilling for votes. It outlines the issues before us. It is rather succinct. It covers what I have just discussed, the insignificance of the probable damage to ANWR. I have tried to depict it in terms of jobs. It discusses that with words. They are wordsmiths, and they have done it in a very exciting, excellent, and forthright manner. They discuss jobs, which I just did. They also discuss what the distinguished chairman of the Budget Committee discussed for just a few moments as to what is the nature of this tiny piece of geography that is part of ANWR. It is not the beautiful parts of this that have been shown in pictures here on the floor. It is discussed in this editorial in words as to what it is. It says:

> This oil would come from a tiny piece of land that is nowhere near the "pristine" mountains shown in the Sierra Club ads. Exploration would be on Alaska's coastal plain, a sliver of tundra that [the Secretary of the Interior] has described aptly as "flat, white nothingness."

The editorial continues:

> Far from pristine, it is the home of the town of Kaktovik, with its people, cars, boats and airplane hangars. The actual drilling footprint would be about 2,000 acres, the size of Washington's Dulles Airport.

I ask unanimous consent that the entirety of this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 19, 2003]

### DRILLING FOR VOTES

If war in Iraq, sky-high oil prices and a moribund energy bill aren't reason enough for the Senate to finally approve drilling in the Arctic, could someone please tell us what is?

The Arctic National Wildlife Refuge is back in the headlines, and the good news is that Senate Republicans are very close to passing a drilling amendment. By attaching ANWR to the Senate budget resolution, they need only 51 votes and can avoid the filibuster threats (and Presidential aspirations) of certain opposition Senators from the Northeast.

The arguments for Arctic drilling haven't changed, but it's worth running through them again. The biggest is the ANWR is a new and important supply of oil. The site is expected to produce 10.4 billion barrels, or 1.4 million barrels a day—the largest single prospect for future oil production in the country. To put this in perspective, the oil-rich states of Texas and California each offer about one million barrels a day. No, ANWR won't provide "energy independence," but it will give a cushion in the event of future oil-supply crises.

This oil would come from a tiny piece of land that is nowhere near the "pristine" mountains shown in those Sierra Club ads. Exploration would be on Alaska's coastal plain, a sliver of tundra that Interior Secretary Gale Norton has aptly described as "flat, white nothingness." Far from pristine, it is home to the town of Kaktovik, with its people, cars, boats and airplane hangars. The actual drilling footprint would be about 2,000 acres, the size of Washington's Dulles Airport.

As for the environmental consequences, we'd point to the recent National Academy of Sciences report on the cumulative effects of drilling in the nearby North Slope. Green groups have spun the report as evidence of eco-calamity, but anyone who reads it knows it shows more or less the opposite.

The report, for instance, found that there had been no major oil spills on the North Slope through operation of oil fields, and that small spills had had no cumulative effects. While some animals had been "affected," the committee could not list any species that were threatened. And it conceded that drilling hadn't led to any large or long-term declines in the much-celebrated caribou herd.

It also noted that new technology had reduced damage to the tundra. Given the report was measuring the effects of 25-year old equipment, and that a Senate bill would require best-technology, we can expect even better results. And the report acknowledged that oil development had resulted in real improvements in schools, health care, housing and other community services for Alaskan communities.

As good as these policy arguments are, the reality is that drilling ultimately hinges on the environmental politics of the Senate. Republicans have 48 sure votes. They need two more, because Vice President Dick Cheney is standing by at his secure, undisclosed location to break a tie. Most of the focus is therefore on a few moderates, Arkansas Democrats Mark Pryor and Blanche Lincoln, and Republicans Gordon Smith and Norm Coleman.

If it's political cover these folks are looking for, they might consider the environmental advantages that would accrue to their home states with a yes vote. For starters, the ANWR plan would divert $2 billion of the $2.15 billion in federal royalties from drilling directly to the states for land and water conservation. A gusher of new oil in Alaska would also reduce the incentive to keep drilling in the lower 48, which has its own environmental costs.

And if these "moderates" are truly on the fence, they could give the Administration the benefit of the doubt, vote to keep ANWR in the Senate budget resolution for now and then fly to Alaska to see the site for themselves. At least if they changed their mind in the final budget later in the year, they'd really know what they were voting against.

We know it is perhaps a forlorn hope that Senators will vote on substance over environmental symbolism. But why not? On the economic and environmental merits, this isn't even a close call.

Mr. DOMENICI. One remaining issue is: How do you drill for oil today, and how did you drill for it 25 years ago or even 30 years ago, when some of the wells were drilled in California—maybe hundreds of the wells were drilled in California and hundreds, maybe thousands of the wells in Texas were drilled? Has America made any strides in changing the way we drill for oil in 15, 20, 25 years?

I can tell you, some of the most dynamic, intelligent engineers in the world have spent years finding out how to drill holes in Mother Earth. As a matter of fact, the expertise in drilling did not just come over these years from people interested in drilling for oil wells. We have had an interest in drilling for many reasons.

Would you believe that the great laboratories of America—Los Alamos, Sandia, Livermore—have had a genuine, abiding piece of their research directed at, how do you drill holes into Mother Earth?

One time, they were experimenting in one of the laboratories in drilling thousands of feet underground to see if they could tap into the geothermal heat pockets. They learned all kinds of things about drilling. Then they had to drill holes as part of the nuclear weapons activities in the deserts of Nevada. Millions of dollars were put into, how do you do it so you don't waste time, so you don't produce a whole bunch of environmental degradation? Couple that with the resources of the energy companies, which wasn't soft; it was pretty big. It was pretty hot stuff. You put it together, and you have the most profound, innovative ways to drill for oil you could ever imagine.

Let me just suggest, if oil is about 400 yards over there and you found it—about four football fields away—and you don't want to touch that ground, you can start here, where I am standing, and you can drill over there in what is called slant drilling. It is done with such precision today that it can take place for yards and yards and yards from the actual point under the earth where you attempt to strike the liquid mineral, or the natural gas. That is what will be used if you are worried about how will you use this tiny piece, the size of Dulles, to go into the hinterland without touching anything.

That is the answer. You will go in when it is frozen, you will do your drilling activity, and when it starts to thaw, you get out and wait until it freezes again, you come back and, frankly, you won't know anything has happened—except that underground you will be moving ahead full speed to make America have more of the oil that is ours, that we own, that we will use for our future.

I have a little picture up here from Science Times. It was covered in the Times. It is called "Hunting For Oil: New Precision, Less Pollution."

I am sure those who have circulated millions and millions of letters and the hundreds of TV ads saying we are going to ruin ANWR—if we take a tiny piece of that property, the size of Dulles, which I have just shown you on the map, and we drill, they are assuming you are going to spoil the earth as you do when you are producing with the conventional drilling of wells.

This is a pictorial of the chronology and the evolution of how you go about drilling today.

Using the latest drilling techniques, oil drilling sites like those in the Alpine Fields of Alaska's North Slope are using cutting edge technology in the hope of reducing environmental damage.

To reduce the damage, recent advances are lessening the industrial impact on the fragile Arctic ecosystem.

They proceed to show you an Alpine Field, Alaska. They show you what is happening. Let me move over here because I described it in not too good a manner a while ago when I said the oil was 400 yards away, four football fields. You could drill from here.

Let's look at this diagram. You see, here is the platform that might be the size of Dulles. Here is the drilling. Here is the oil underground. And you see, way far away, the oil is underground, and it is going to be drilled and come up, and everything is going to be done on this platform. The same here. Here is a giant reservoir underground. It is many yards from where you have set out to manage and control the destiny of the tundra. There you are with this dramatic picture of how, just like a curved straw, you put it underground and maneuver it, and the "milk shake" is way over there, and your little child wants the milk shake, and they sit over here in their bedroom where they are feeling ill, and they just gobble it up from way down in the kitchen, where you don't even have to move the Mix Master that made the ice cream for them. You don't have to take it up to the bedroom. This describes the actual drilling that is taking place.

I told you a while ago that I was going to give you just a shirt-sleeve example, where four football fields over there is where you thought the oil was. I used an example that is way too small. As a matter of fact, 4 miles—not 400 yards, but 4 miles—away is this oil from this drill. It is not yards, not football fields, but miles. How many? Four. Now, you tell me that those who are telling America this will damage this tundra, damage this wilderness, are scurrying to the American people and telling them: Did you know you can set a piece of that aside and 4 miles away you can take oil out of the ground? Pretty fantastic.

As a matter of fact, I am using 4, because my staff told me 4. They have evidence from the science that it is 4. I don't see any reason it could not be more than 4. I don't see why it cannot be 6. In fact, if people want to know, we could go ask the experts how far away it can be. It can be plenty far away.

So no hard feelings. Everybody makes their case. I have been here a long time. I try to make mine. But I guarantee you, this one has me worried. If the Senate cannot say, 1, we need oil; 2, we need American oil; 3, if we have got American oil and we can take it out of the ground, we ought to properly assess the risk, we ought not to just say no. We just established we need it. It should be American, if possible. So, third, we ought to properly assess the risk.

The risk is not properly assessed by saying it is under ANWR, therefore no oil. That is not a risk assessment. That is an arbitrary decision—that in one swath negates the first two propositions of significance and reality. We need oil, and we need American oil.

It is too bad that we do hear in America—and people are fair minded—we should not be using so much oil. I hear that. I am prepared to confront that on the floor of the Senate because, when the energy bill comes up, some people are going to say we are not a very good country because, after all, we use a third of the energy of the world. Who do we think we are? Do you know what I say? I say we need it for our standard of living, but we don't deny it to the other people in the world. We will help them produce more. We will help them produce clean electricity so they can grow. But I am not prepared to say, since we need it for our standard of living—just because we use a disproportionate amount—abandon the oil in Alaska. What does that have to do with it? What does that have to do with whether we are using oil?

Mr. President, the other thing I think Senators and the people of this country ought to look at is, what is oil? It is easy to say we don't need oil, why should we buy so much oil? But oil is our everyday life.

Fellow Americans, do you want to live without cars? Sure, you do. Can you? No, you cannot. I will repeat, would you like to live without cars? Most Americans would say, of course, I love cars, I like them. If you want to say I wish I didn't, I wish I didn't have a car, I ask you, how would you make a living?

Equally important, where would you live? There are two freedoms that are not covered anywhere in the sacred documents of our country that have evolved, and they are about as American as the proverbial apple pie. They are: The freedom to own a house anywhere one can afford it; the yearning to have a house that is your own. We are not going to change that until America is no longer America. The second freedom is to own an automobile or two so you can go where you want when you want.

I respect the fact that Americans say: This is our life. But I regret to tell my fellow Americans, without oil or if oil becomes so ungodly high priced, both of those freedoms will be in jeopardy. There is no question, both of those freedoms will be in jeopardy because we have built our life around those freedoms being reasonably priced. If we make them unreasonably priced and create anger among the American people, and if, in fact, part of the reason the oil is so highly priced is because you did not want to use your own oil because you did not want to touch that little piece of property in ANWR, I surmise people will not think you have a very good excuse. I for one would say you do not have any excuse at all.

I want to recap—and I apologize to the Senate if I have spoken too long and if I have made any misstatements. I do not think I have, but if I have, I will try to correct them.

In summary, it is almost impossible to prove that ANWR will be damaged to any noticeable degree if we produce the oil that is under the footprint the U.S. Government would like to lease so we can determine whether oil is there and how much. It is almost impossible to prove damage.

I am prepared, although this debate will not go on much longer, to take any instrument, any study, any report anybody wants to bring to the floor to the contrary and debate it. If they want to use the Academy of Sciences study that has just reviewed the Prudhoe area, let's debate it. One may find a few sentences in there that are cautionary, but they will find tremendous amounts of information saying those who claim Prudhoe Bay has been significantly damaging are in error, and it produced that other part, Prudhoe, which passed this Senate by one vote and has produced oil for America without which we would really be in trouble. We can debate that issue.

This is so small in comparison to the size of this wilderness, an area in the wilderness for which we are very grateful to whomever structures the underground oil reserves that they put it in this part of ANWR such that the drilling will occur in the area as I have described it: not mountainous and beautiful and full of flowers, but level and barren and frozen in a gigantic piece that looks like part of New Mexico that turned white and froze.

The next is we are not strong enough to throw away this much of our own patrimony. I do not know where I got the word except it is so important to own your own resources that in Spanish-speaking countries, such as Mexico, they call the oil of Mexico "El patrimonio del estado de Mexico," the patrimony of the state. That is how important oil is. This is our patrimony. It belongs to us. For those who say we should not drill in ANWR because somebody went there and said, We just should not touch this wilderness, to me is absolutely ignoring the reality of America's future.

Every other issue I can think of—new technology which will cause a minimalization of environmental degradation, jobs in the future, and every other issue one can think of—is on the side of the last two or three votes deciding to get this done, not for me, but I have nine grandchildren. I hope they can still drive a car and own a house wherever they would like and work hard and give us ample time to make the transition toward other technologies that will make our lives like they are today rather than lock this up for no good reason.

I close by saying the patrimony of Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. Mr. President, I ask to take 5 minutes off the resolution to respond to the Senator from New Mexico. I believe I might pause here for a unanimous consent request. Mr. President, I ask Senator NICKLES, is that correct? Does the Senator wish that I wait while he propounds a unanimous consent request?

Mr. NICKLES. If the Senator will.

Mrs. BOXER. As long as it does not come off my time. I would like to reserve the 5 minutes off the resolution.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to propound a couple unanimous consent requests. I appreciate the cooperation of my colleague.

It is our intention to have a vote on the ANWR amendment at 3 o'clock today. I know there are still some Senators, including Senator MURKOWSKI and Senator STEVENS, who wish to speak on the ANWR amendment, and we will accommodate their request. Also, Senator GRAHAM from South Carolina has an amendment. It would be my intention to send it to the desk so that discussion and debate can occur on that amendment as well. We will not lock in a time for a vote on that amendment, but we may vote on that shortly after the ANWR amendment.

We are also shopping, for the information of our colleagues, for a couple other major amendments. It was my intention, and it is still my intention, to have a vote on the 350 amendment, the size of the growth package, today. I would think that is a major amendment and will require some significant debate. That possibly could happen shortly after the ANWR vote or maybe early afternoon, maybe by 4 or 5 o'clock and have some of that debate between now and that point on the 350 amendment. That amendment is not ready right now.

Mr. President, I ask unanimous consent that the vote in relation to the Boxer amendment No. 272 occur at 3 o'clock today, with no amendments in order to the language to be stricken prior to that vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, just so everyone within the sound of my voice understands, we tried to have the vote earlier than 3 o'clock. The Vice President is going to be here for one reason, and I think that is a powerful reason we are going to have the vote at 3 o'clock. I have no objection to the vote at 3 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, if I may, while the manager of the bill is on the floor, I hope this sense of the Senate—I am happy it is their turn to offer an amendment, and we have no control over what they offer. But I hope, Mr. President, that we will not spend a lot of time on this sense-of-the-Senate amendment and that we can get to another amendment before 3 o'clock. I hope the manager will work with us so we can have Senator GRAHAM debate this amendment as long as he thinks appropriate. We will respond, if necessary. I think this will pass overwhelmingly, with the little knowledge I have of it, and I hope we can get to other amendments.

I say to my friend, we are ready to move forward on a homeland security amendment. We are ready, as we speak, to move forward on an education amendment. We hope we can get to those amendments before too long, recognizing that my friend, the manager of the bill, wants a vote on the best kept secret around here, the $350 million amendment which we will vote on sometime.

Mr. NICKLES. I thank my friend and colleague from Nevada. I have been working with Senator CONRAD, and it is a pleasure to work both with the Senator from Nevada and the Senator from North Dakota. It is my hope and desire to consider a lot of amendments, the serious amendments, the big amendments. I encourage people to give us copies. I have heard there is a desire to have a vote on the Hagel amendment. I have seen some language, but I am not sure which language.

That is maybe changing the Budget Act. So we kind of need to see that in advance. If people will give us these amendments, on both sides, we can try to get these in queue so we can have adequate but not extended debate, so we are not just burning time.

We know there is a limitation on debate. In years past, we have burnt all the time and then we have a very unpleasant vote-arama. I want to avoid that. I know the Senator from North Dakota wants to avoid that. We will cooperate with the managers to try to make that happen.

Mr. REID. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The Senator from California.

Mrs. BOXER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state her inquiry.

Mrs. BOXER. I want to make sure I have my 5 minutes to respond to the hour-long speech of the Senator from New Mexico.

The PRESIDING OFFICER. That unanimous consent request was granted.

### AMENDMENT NO. 279

Mr. NICKLES. Mr. President, I send a sense-of-the-Senate resolution offered by the Senator from South Carolina to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 279.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program)

On page 79, after line 22, add the following:

**SEC. 308. SOCIAL SECURITY RESTRUCTURING.**

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security "lockbox" would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reform, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system.

Mr. NICKLES. I know I gave that amendment to my colleague from Nevada, but I believe the Senator from South Carolina wanted me to call up the sense-of-the-Senate amendment No. 274.

The PRESIDING OFFICER. That is correct.

### AMENDMENT NO. 279, WITHDRAWN

Mr. NICKLES. Mr. President, I ask unanimous consent to withdraw amendment No. 279.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 274

Mr. NICKLES. Mr. President, I send amendment No. 274 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 274.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program)

On page 79, after line 22, add the following:

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(a) FINDINGS.—The Senate finds that—

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(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security "lockbox" would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

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(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must preserve Social Security's disability and survivors insurance programs;

(C) must not allow the government to invest directly the Social Security trust funds in the stock market;

(D) must not raise Social Security payroll tax rates;

(E) must reduce the pressure on future taxpayers and on other budgetary priorities;

(F) must provide competitive rates of return on Social Security contributions; and

(G) must prepare and strengthen the safety net for vulnerable populations.

Mr. NICKLES. Mr. President, for the information of my colleagues, we will have a vote on the ANWR resolution at 3. We will have a vote on the Graham of South Carolina sense-of-the-Senate amendment sometime shortly thereafter. It is my hope and desire that we will get another amendment in queue. I would like to see that amendment be the $350 billion limitation on the growth package. If not, we will work with our colleagues to find another substantive amendment to consider and try to get that in as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I have 7 minutes following the Senator from California. Is that consistent with the way the manager of the bill has been operating the floor? If not, I will withhold.

Mr. NICKLES. If the Senator will yield, that has been done. It is not the best legislative procedure. I would like to follow a better legislative procedure and not stack. In order to manage the floor, Senators should be recognized at the conclusion of a speech, and if my colleague seeks recognition, I will yield to my colleague as soon as the Senator from California concludes her remarks.

The PRESIDING OFFICER. The Senator from California.

### AMENDMENT NO. 272

Mrs. BOXER. Mr. President, the Senator from New Mexico spoke with tremendous conviction about why he wants to drill in the Alaska Wildlife Refuge. He said he had no hard feelings for those people who felt differently, but he said a number of things that deserve to be rebutted, and I am going to do that.

I certainly believe that whether one has an area that looks like this—and my colleagues said this is not a photograph of the area that would be drilled, but they are completely incorrect. This has been mapped. We have exactly where this is on the back of the photograph. It is right in the heart of the refuge. We had this picture last year, which then-Senator Frank Murkowski said was not taken in the refuge area. We had the head of Fish and Wildlife in Alaska phone in, irate, and essentially say, yes, this is exactly where they want to drill, where the caribou are roaming.

So let's get that right. I am not going to stand up in front of pictures that do not apply to make my case. That is ridiculous. I would not do that. That is wrong. It is not a fair way to debate. I want to debate on the merit.

I also have never, ever said in this debate—and I spoke last night, as well as this morning—that people on the other side are doing this because they get campaign contributions from oil and gas companies and other economic interests. I will not do that. I have more respect than that. But, of course, my colleague from New Mexico says the only reason we are fighting for this is that we get contributions from a few environmental organizations. Hogwash. I would like to line up the campaign contributions of the environmental organizations versus the campaign contributions of big oil and gas companies.

Let's just cut it out. The Senate should be above that. I speak from my heart when I say there is an inconsistency with setting aside this beautiful acreage and then saying, oh, well, now we need to drill.

I received a call this morning from former Representative John Seiberling. Last night, his picture was held up by Senator STEVENS. Senator STEVENS said there was a deal cut in 1980 to allow oil drilling. Obviously, I was not in that meeting. The fact is I came to the Congress in 1982, so I missed that by 2 years.

Representative Seiberling phoned us this morning. He was the chairman of the House Subcommittee on Public Lands. He was in that picture, and he said there was no deal to open the Alaska Wildlife Reserve to exploration. So I want to state that for the record, just as last night I talked about the letter from President Jimmy Carter who said he is totally opposed to this drilling, even though he, too, was referred to as being part of this so-called deal.

I also want to show a footprint of the New Jersey Turnpike. Now, my colleagues are going to say: Well, Senator BOXER, what does that have to do with anything? The fact is, this is the same size footprint that the opposition is saying would be the footprint of the oil field that would be allowed in this refuge.

I say to my friends, the way Senator DOMENICI posed it, he had a great big chart and a little dot. Well, what goes on when you drill for oil is not a little dot. That is so obvious; it is kind of silly. If we even take the footprint that they talk about, the 2,000 acres, that is the footprint the size of the New Jersey Turnpike, and I say to anyone who has some common sense, no one would say that what happens on the New Jersey Turnpike does not have an impact on the surrounding community.

I also say to my friend, because he opposes me in a lot of areas—this is my friend from New Mexico. I served on the Budget Committee for years. I have tremendous respect for him, but we disagree. I, with just as much fervor as he, will say to my colleagues today I want them to look at the footprint for offshore oil drilling off the coast of California. It will look really small if the whole coastline is taken into account, but my people in California know it is destructive. How do we know that? We have seen it. We have seen what happens when oil spills. We know that no matter what technology is promised, accidents occur. We have certainly experienced that in Alaska given what has happened in the past from spills, and I put that in the RECORD before.

We know the USGS analysis says that oil in the refuge is scattered in many different areas. It would require multiple fields across the Coastal Plain, 250 miles of roads, 100 miles of pipeline.

The PRESIDING OFFICER (Ms. MURKOWSKI). The time of the Senator has expired.

Mrs. BOXER. Madam President, I ask for 3 additional minutes off the resolution.

The PRESIDING OFFICER. Does the Senator from North Dakota yield 3 minutes?

Mrs. BOXER. I would like 3 additional minutes, if I could, off the resolution, or I could take it off the amendment; it is immaterial.

Mr. CONRAD. We are now in a situation where we have had very extended debate on ANWR. At some point, we have to draw it to a close.

Mrs. BOXER. I will take the time from the amendment.

Mr. CONRAD. That will be fine, if we take it from the amendment.

Mrs. BOXER. That will leave 1 minute, and I will reserve that.

I say to my friend from North Dakota, the Senator from New Mexico had an hour speech and I believe I need to rebut it. We know from USGS we are talking 250 miles of roads, 100 miles of pipeline, airfields, gravel pits, power lines, waste facilities, and other structures. We are talking about this, not coming from the side of those who believe this pristine area ought to be left alone, but from the USGS survey.

John Seiberling says no deal was cut in 1980; Senator STEVENS sees it a different way. People can take away different meanings. But I mention that in the RECORD. When we hear President Carter's name as being part of a deal, and he writes a letter and says he does not want to see drilling here, we ought to set the record straight.

This is a fair debate. But it ought to be based on the facts as the people who were in the room saw it. Senator STEVENS laid out how he felt. John Seiberling phoned and left his phone number. I am sure if Senator STEVENS would like to chat with him, that would be fine with him.

Mr. STEVENS. Who should I call?

Mrs. BOXER. I am happy to answer on your time. May I answer on your time?

Mr. STEVENS. You mentioned my name, thank you very much.

Mrs. BOXER. I am sorry, I have 60 seconds left to rebut an hour-long tirade by someone on the other side who said the reason we are preserving the Arctic is because we received campaign contributions.

I print in the RECORD the facts, a letter from Jimmy Carter who opposes drilling in this area. He talks about it very eloquently.

John Seiberling, then-chairman of the House Subcommittee on Public Lands and National Parks, was in the picture that my friend from Alaska held up last night, and has said absolutely there was no deal cut to drill in this area. It is important we set that record straight.

I correct that. He was not in the picture, but in the meetings that led to the picture. He was the chairman of the House Subcommittee on Public Lands.

Lastly, I ask unanimous consent to have printed in the RECORD a copy of a very important document put together by the Alaska Wilderness League. In it there are comments of the National Research Counsel on the cumulative environmental effects of oil and gas activities on Alaska's North Slope. We keep hearing there is no problem, no problem at all, but there are newspaper reports that say the local people who live up there claim there is a problem with the caribou herds. They are going elsewhere, away from the drilling.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### COMMENTS ON THE NATIONAL RESEARCH COUNCIL REPORT ON THE CUMULATIVE ENVIRONMENTAL EFFECTS OF OIL AND GAS ACTIVITIES ON ALASKA'S NORTH SLOPE

Overall: The report documents significant environmental and cultural effects that have accumulated as the result of three decades of oil development on Alaska's North Slope. Industrial activity has transformed what once was part of the largest intact wilderness area in the United States into a complex of oilfields and their interconnecting roads and pipelines that stretches over 1,000 square miles. Many important effects on animals and vegetation extend well beyond the actual "footprint" of development. New technologies have reduced some effects, but despite this, the committee concluded that expansion into new areas is certain to exacerbate existing effects and generate new ones.

While no economic assessment of the environmental costs of oil development on the North Slope has been done, the report estimates that the costs of removing facilities and restoring habitat will run in the billions of dollars. No money has been set aside for this purpose by either the oil companies or the government. Because natural recovery in the arctic is slow, effects caused by unrestored facilities are likely to persist for centuries.

#### ANIMALS

Bowhead whale migrations have been displaced by the intense noise of seismic exploration offshore. Spilled oil poses a great potential threat to bowhead whales due to their specific morphological characteristics.

The reproductive success of some bird species in the oilfields has been reduced to the point where some oil-field populations are likely maintained only by immigration from more productive "source" habitats elsewhere. An important consequence of this phenomenon is that loss of such "source" habitats can threaten the viability of a population even though most of the habitat occupied by the species in a region remains relatively intact. The location of important source habitat for birds or other species is not well characterized for the North Slope. Thus, the spread of industrial development into new areas could result in unexpected species declines, even though total habitat loss might be modest.

Some denning polar bears have been disturbed by industrial activities. Though limited development offshore has taken place to date, full scale industrial development offshore would displace polar bears and ringed seals from their habitats, increase mortality, and decrease their reproductive success. Predicted climate change is likely to have serious effects on polar bears and ringed seals that will accumulate with those related to oil development.

##### *Caribou*

Although industrial development has not resulted in a long-term decline in the Central Arctic Herd (the herd most affected by current oil development), the Committee concluded that by itself is not a sufficient measure of whether adverse effects have occurred. Female caribou exposed to oilfield activity and infrastructure produced fewer calves, and following years when insect harassment was high, that effect increased, which may have depressed herd size. The spread of industrial activity into other areas that caribou use for calving and relief from insects, especially to the east where the coastal plain is narrower than elsewhere, would likely result in reductions in reproductive success.

The Porcupine herd, which calves in the Arctic National Wildlife Refuge, has the lowest growth capacity of the four arctic herds and the least capacity to resist natural and human-caused stress. Higher insect activity associated with climate warming could counteract any benefits of reduced surface development by increasing the frequency with which caribou encounter infrastructure.

#### DEVELOPMENT "FOOTPRINT"

Development has directly affected 17,000 acres spread across an area roughly the size of the land area of Rhode Island. Of this, 9,000 acres are covered by gravel, excluding TAPS, the Haul Road and facilities in NPRA. The environmental effects of oil development are not limited to the "footprint" (actual area covered by a structure), but occur at distances that vary depending on the environmental component affected, from a few miles (animals), to much farther (visual effects and seismic effects on whales).

#### CLIMATE CHANGE AND NEW TECHNOLOGIES

Climate change will continue to affect the usefulness of many oilfield technologies and how they affect the environment. For example, the length of the winter season when seismic and other off road tundra travel is permitted, and ice roads and pads are constructed, has been steadily decreasing since the 1970's. The coastline of the North Slope is presently eroding at a rate of 8 feet per year, the fastest rate of coastline erosion in the United States, and this will accelerate with climate change.

#### WILDERNESS

Oil development has compromised wilderness values over 1,000 square miles of the North Slope. The potential for further loss is at least as great as what has already occurred as development expands into new areas. Roads, pads, pipelines, seismic vehicle tracks, transmission lines, air, ground and vessel traffic, drilling activities, and other industrial activities and infrastructure have eroded wilderness values over an area that is far larger than the area of direct effects. Most analyses of wilderness effects conducted by the government are cursory, out of date, or both, and none has used new techniques for measuring wilderness values, or attempted to coordinate wilderness assessment or planning among different jurisdictions.

#### ECONOMIC COSTS OF ENVIRONMENTAL EFFECTS

There have been no economic valuation studies of the effects of oil development on the physical biological, or human environment on the North Slope. As a result, the full cost of oil development on Alaska's North Slope has not been assessed, quantified, or incorporated into decisions that affect use of public land. Incorporation of environmental costs into an overall economic assessment of development would alter projections of economically recoverable oil and gas on public land on the North Slope. For example, the U.S. Geological Survey periodically estimates the amount of recoverable oil in various areas of federally owned land on the North Slope. In doing so, the USGS generally projects the amount of oil that is "economically recoverable" from these lands given a particular price of oil and given a set of costs associated with development and transportation. By not fully accounting for environmental costs in its projections, the USGS underestimates the cost of development, which in turn inflates the amount of oil considered economically recoverable at a given market price.

### SPILLS

Hundreds of spills occur each year in the oilfields, but to date they have not been large enough or frequent enough for their effects to have accumulated. Offshore, the industry has not demonstrated the ability to clean up more than a small fraction of oil spilled in marine waters, especially when broken ice is present.

### AIR POLLUTION

Not enough information is available to provide a quantitative baseline of spatial and temporal trends in air quality over long periods across the North Slope, and little research has been done to quantify effects. More than 70,000 tons of NO$_x$ are emitted each year by industrial facilities on the North Slope, along with thousands of tons of sulfur dioxide, carbon monoxide, volatile organic hydrocarbons, and millions of tons of carbon dioxide. Even though air quality meets national ambient air quality standards, it is not clear that those standards are sufficient to protect arctic vegetation.

### LACK OF RESTORATION

Only about 100 acres (1%) of the habitat affected by gravel fill on the North Slope have been restored. The Committee concluded that unless major changes occur, it is unlikely that most disturbed habitat on the North Slope will ever be restored. Because natural recovery in the arctic is slow, effects of unrestored structures are likely to persist for centuries, and will accumulate as new structures are added.

### DECISION-MAKING

Decisions about development on the North Slope have generally been made one case at a time, in the absence of a comprehensive plan and regulatory strategy that identifies the scope, intensity, direction, and consequences of industrial activities judged appropriate and desirable. Similarly, the minimal rehabilitation of disturbed habitat has occurred without an overall plan to identify land-use goals, objectives to achieve them, performance criteria, or monitoring requirements. Little consideration has been given to how future trajectories of development would be viewed by different groups, including North Slope residents. In addition, as indicated above, the full cost of oil development on Alaska's North Slope has not been assessed, quantified, or incorporated into decisions that affect use of public land.

### WINTER OFF-ROAD SEISMIC EXPLORATION AND ICE ROADS

The Committee estimates that more than 32,000 miles of seismic trails, receiver trails, and camp-move trails were created between 1990 and 2001, an annual average of 2,900 miles each year. If current trends continue, some 30,000-line miles will be surveyed on the North Slope over the next decade. These trails produce a serious accumulating visual effect and can damage vegetation and cause erosion. Data do not exist to determine the period that the damage will persist, but some effects are known to have lasted for several decades. Seismic exploration is expanding westward into the western arctic and the foothills, where the hilly topography increases the likelihood that vehicles will damage vegetation. The use of ice roads and pads has increased and will continue to do so, but little information is available on how long effects persist.

### REGULATORY ISSUES

The report did not evaluate the adequacy of existing regulations. However in the course of the review, a number of issues arose. Examples include the following.

#### *Protecting the tundra from winter off road travel*

DNR permits tundra travel for seismic camps where there is an average of 6" of snow and 12" of frozen soil, which the committee concluded are not based on scientific evidence. The only published study of seismic disturbance in relation to snow cover suggests that disturbance occurs at snow depths of 10"–28" of snow. In addition, the use of AVERAGE snowpack and frost thickness by regulatory agencies does not take into account differences in snow cover across different land forms or across the slope.

#### *Restoration*

Fewer than 1% of Corps permits contain restoration requirements, and those don't generally include specific standards, requirements for long term monitoring, or performance criteria. Only 6 of the 1,179 permits issued by the Corps require the re-use of gravel. The Corps does not have an estimate of the area affected by permits it has issued.

#### *Groundwater*

Existing data on groundwater suggests that sub-permafrost groundwater may meet the regulatory definition of a drinking water source more commonly than thought. No testing of groundwater is required prior to waste injection.

#### *Water withdrawals*

Water withdrawals from fish-bearing lakes for purposes such as building ice roads and pads are limited to 15% of the estimated minimum winter water volume. The committee cited the lack of data to support this criterion, which it terms arbitrary. For fishless lakes, there were no restrictions on removal of water as of late 2002; all unfrozen water from such lakes can be drained. The effects of such complete withdrawals have not been evaluated.

Mrs. BOXER. Madam President, it is very important everyone vote. This is a close vote. I don't think this should be in a budget resolution. It is very obvious what the proponents of drilling want to do. They want to get this into reconciliation so those who have deep, strong feelings will not be able to talk at length about it, to stop it. I hope we stop it today.

I reserve 1 minute for closing debate.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, previously I yielded the Senator from Alaska 1 hour on the amendment. Is there any time remaining?

The PRESIDING OFFICER. There is 12 minutes remaining on the amendment.

Mr. NICKLES. I yield to the Senator from Alaska not only those 12 minutes but also such time as he desires on this resolution. I also remind him I told the Senator from Alabama that he would be recognized for a few minutes, as well. I yield to the Senator from Alaska such time as he desires.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am delighted to be here when my friend from California mentions my name and someone I should call. I assume that would be President Carter. President Carter told the House of Representatives not to send him the 1980 bill until after the election. And he waited until after the election, but he did sign it.

The item I read last night is from Jimmy Carter's own record, his own words at the time he signed that bill. It is true, since that time he has campaigned against a provision of the bill that he signed.

We have an amendment introduced now by the Senator from Connecticut to repeal that provision. But that is the first time there has been an amendment to repeal that provision, primarily because the people who were here then who made the commitment to Alaska are all gone. It is sad we have to wait until those people who make commitments to a State that leads to a decision to withdraw over 100 million acres of Alaska land, the one decision we got was we would be able to open up exploration and development on the Arctic coast if we could show there would be no irreparable harm in that area. That was shown with two environmental impact statements.

Later I will make comments about the impact of the provision of the Senator from California with regard to the people of California. I spent a good period of time in California. I was raised there and went to school there—UCLA. I tell the people of California when their price of gasoline goes up, call Senator BOXER. Call her and ask her why she opposes oil coming from Alaska as it used to. For over 20 years we sent oil to California from the same area. Now she refuses to allow us to continue to explore in the area that her two colleagues, Senator Jackson and Senator Tsongas, in 1980, said would be open.

There are pretty flowers all over Alaska in the summertime. I can show the Senator from California a picture of a million acres of golden rod waving in the breeze. It is beautiful. But I can also show a picture again of the tundra. This is what the area she had a picture of looks like most of the time, the tundra, solid, frozen tundra, and we do this in the wintertime. We do not spoil the flowers. We build ice roads across the tundra and drill for oil and gas. It is completed when it is still frozen land.

We did not disturb the caribou. As a matter of fact, here is a good example. I am sorry the Senator from California has not seen fit to come to Alaska and look at the area she talks about. There is the caribou right near Port McIntyre field. That is where they come. They do not look disturbed to me. I have been up there, and there are so many on the runway we had to wait until they decided to leave because they get first call on the runway.

It is time we talk facts. And the fact is, Congress pledged this area would be available for oil and gas exploration. The 1002 area was specifically reserved for oil and gas exploration. It is not wilderness. The Senator from California and others insist on coming out here and saying we want to drill in wilderness. That is not true. It never was wilderness from the time it was withdrawn when I was in the Department of Interior in the 1950s. We specifically allowed oil and gas leasing under the Mineral Leasing Act to continue, although the area was withdrawn from all other forms of entry under public land laws.

As long as the Senator from California mentions whom I should call, she might want to visit with the Eskimos in the Senate gallery. They are part of 100,000 Alaska Natives in favor of drilling in this area. I intend to spell that out in more detail later.

I don't need to call a former President. I know where President Carter stands now, but I knew where he was when I saw him signing the bill. He signed that bill that contained the section 1002, and he gave us the right and approved the offer made by Senator Jackson and Senator Tsongas to me that if we allowed the million acres to be withdrawn, we would continue to have the right to explore in the Arctic.

I yield to my friend, and I reserve the remainder of my time. I will talk right up to the vote and urge Members of the Senate to think about one thing, and that is the value of the oil in our area of Alaska as compared to the continued dependence upon foreign oil in increasing amounts in this country.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the Senator from Alaska for his tremendous leadership on this issue. It is a very important issue to America. I salute the Presiding Officer for her leadership on it. It is so important.

There is no doubt about it; any activity in this area would have minimal environmental impact. This is going to be the most closely watched drilling ever to occur in the world, I suppose. It will be environmentally sound in every possible way, using the newest technology, as Senator DOMENICI said. It will be on land where you can control things better. It will be a minute footprint in these millions of acres of land. It is going to be carefully done.

While we are talking about safely drilling in Alaska, today no one I know of is seriously opposing drilling in the Caspian Sea. No one is opposing the drilling that goes on in Venezuela. We are drilling off the coast of Louisiana, Alabama, and Mississippi, and in the Gulf of Mexico right now, producing oil and gas in a much more high-risk environment than this would ever be. So this is an unbelievable argument to me. It goes against all logic.

This is a minute environmental impact, I suggest. But it represents, without doubt in my mind, the greatest economic growth potential of anything in the President's package or anything we are dealing with on the floor right now. This is an important growth issue for America. The reason is, we are talking about new wealth to America.

Every day, if we do not buy the oil that comes from this region, we will be sending our money to Venezuela and Saudi Arabia and Iraq and whatever other OPEC nation we would be sending it to—a direct sucking sound of American wealth going to foreign nations.

We have had various studies. One said 735,000 jobs would be produced. Another one has come in at 575,000 jobs that would be created.

I want to make one point. These are going to be critical jobs, high-paying jobs in drilling—environmental engineers, pump manufacturing, shipping, transportation, rail, airlines are going to be active, steelworkers, teamsters, and that kind of thing, high-paying jobs. Money will be paid to them out of the money that we would have otherwise sent outside of this country for foreign oil that would not have been paid to American workers. High paid salaries to American workers—it will be missed by us.

So I would say this is big. I will just briefly make this point. How big is it? If we had 575,000 jobs, and they are making higher wages, if they are a spouse who is working, they may be paying more than the figure I would float out, but I suggest these jobs will result in IRS payments to Uncle Sam, Uncle Sugar, of probably $10,000 per job.

You add that up, 575,000 jobs at $10,000 to the tax man of the United States, that turns out to $5.75 billion a year to the Treasury of the United States. Over 10 years that is almost $50 billion.

Are we going to pay this to the "stans," to Russia, Venezuela, Mexico, Iraq, Kuwait, those countries? That is who is getting it now and will be getting it in the future. It is really a tremendous amount.

This does not count the royalties that will be paid by the drilling companies to the United States. They will be paying $10 to $20 billion over the life of this activity.

We have also not forgotten, I hope, that the drilling here, under the legislation as proposed, will result in the payment of $2.5 billion to the Land and Water Conservation Fund for conservation programs in America. I have absolutely no doubt—I know the Presiding Officer shares this—that $2.5 billion will do more environmental good throughout the entire United States than this 2,500-acre footprint of drilling would cause damage in this vast ANWR region of Alaska.

I really believe this is a tremendously important economic issue for America. It is jobs, jobs, jobs. Those of us who are wrestling with a budget in this country that shows declining revenues, it will guarantee increased tax revenues to the United States. We must not allow exaggerated fears to pull us back from this important issue.

It is great to be with the Senator from Alaska, and know he knows this issue so well. I appreciate his leadership. Yes, it is good for Alaska, but it is good for America. We thank you.

The PRESIDING OFFICER. The Senator from North Dakota.

### AMENDMENT NO. 274

Mr. CONRAD. Madam President, I know the Senator from South Carolina has a sense-of-the-Senate amendment. Let me just say I regret that because we have done our level best to stop the practice of offering sense-of-the-Senate amendments on the budget resolution. We have established a point of order against them to try to discourage sense-of-the-Senate amendments. And we have been so far, until this moment, successful on both sides. I just say to my colleagues, if we start down this path, we will be right back to where we were in the past. We are going to be right back to vote-arama. We are going to be right back to a circumstance in which, when all time has expired, we are going to face 30 or 40 or 50 votes and nobody is going to have a chance to explain them. We are going to have Senators, hour after hour after hour, marching down into the well of the Senate to cast votes on issues they have not even had a chance to debate or had a chance to discuss.

I regret very much the sense-of-the-Senate amendment has been put in this queue. I say to my colleagues on the other side, if we start down this path, the same thing is going to happen over here.

Let me say, it is not the fault of the Senator from South Carolina. He has offered an amendment in good faith. We respect that Senator. But the point is a larger question of how we proceed on a budget resolution. Both sides have worked very hard to prevent vote-arama.

We are right now rushing toward that result. I hope everybody thinks very carefully now about the decisions we are making because we are going to reap the whirlwind.

Let me just say this to my colleagues. There is an alternative. The Senator from South Carolina has gotten in the queue. I hope we can work out an agreement on his amendment. I understand staffs on both sides are working on that. If we do not draw the line here, it is Katie bar the door. And we should all understand that.

No. 2, I hope after the Senator from South Carolina has a reasonable time to discuss his amendment, hopefully during that period our staffs can work together and we can reach an accommodation and agreement so the amendment of the Senator can be adopted without a vote. I urge that course on my colleagues on the other side.

Next, that we then move to a debate on another amendment with the ability to come back and finish off on ANWR before the vote that is now scheduled at 3 o'clock. I just hope we all think very carefully, now, in these minutes, before we head down this path, of where it leads. At the same time, on both sides, we discussed trying to reach an agreement on a set number of amendments, those to be debated and those to be in vote-arama.

On our side we are calling a caucus to discuss that very question. I hope the other side—I have already talked to Senator NICKLES about it—will give it close consideration as well, so we avoid this spectacle of vote-arama. But right now colleagues should understand we are headed for the vote-arama of all time, and it will not reflect well on the body, and it probably will not lead to the best results.

With that, I yield the floor and, again, hope my colleagues consider these options.

Mr. GRAHAM of South Carolina addressed the Chair.

Mr. STEVENS. Madam President, will the Senator yield for a moment?

Mr. GRAHAM of South Carolina. Absolutely.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, while the Senator from North Dakota is here, I would like to see if there could be an agreement. I understand we are going off this amendment to delete the ANWR provision in this budget resolution for a little while. I wonder if it would be possible if we could ask unanimous consent that we return to this amendment at 2 o'clock—the vote will be at 3—and the time between 2 and 3 o'clock be equally divided between the two sides.

Mr. CONRAD. I would certainly be open to that. I would want the opinion of the manager and chairman of the committee.

Mr. NICKLES. I have no objection to that. This is a very important amendment. It is one of the reasons why I encouraged our colleagues to bring it up. I knew it was going to take some time. I have no objection to that.

Mr. CONRAD. We have no objection on this side.

Mr. STEVENS. I do offer that unanimous consent request. I point out, I could speak from now until 3 o'clock, if the Senate would like to do that, but I think it is best we go ahead as the leader requests we do. I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Madam President, I have a housekeeping chore. I would like to submit to the clerk a modification to my amendment and ask unanimous consent that the amendment be modified.

No modification is needed, I am told. Thank you.

Madam President, Social Security is not only hard to solve, it is also hard to get before the Senate. So I apologize for the confusion.

I understand the concern of my colleague from North Dakota. But having a bit of time to talk about Social Security I think is very appropriate.

The budget resolution process is a roadmap to make sure we can understand what we are doing as the year progresses in terms of spending and taxes and what provisions to take up and when. I applaud both the Senator from North Dakota and the Senator from Oklahoma for working together to try to make this as painless on the body as possible. But this amendment, hopefully, can be accepted in some form, either voted on or accepted by the body.

If you are going to have a roadmap for America this year or any other year, it is time we start putting Social Security on that roadmap. Social Security is a system that Democrats and Republicans embrace as being vital to the Nation. It is a system that working Americans pay into every year. Millions of Americans receive a substantial part, if not all, of their retirement income from Social Security, after years of paying into the system.

This amendment is part of this roadmap for America that we are talking about. It lays out some findings and some facts that are not Republican spin, not Democratic spin, but come from the Social Security trustees themselves, the people in charge of telling us, in managing the program—"us" being the House and the Senate—the state of affairs with Social Security.

We are on the verge of a war. Only God knows what will happen here shortly. But it is my belief, unless there is some major miracle, we will be involved in hostilities with young men and women in harm's way protecting our freedom. I know one thing every Member of the body can agree on is that these young men and women deserve our support and our prayers if ordered into battle. And they will get that support and those prayers in a bipartisan way because what they are doing is very noble, in my opinion, trying to preserve our freedom and bringing about more stability in the Mideast.

We can argue about the nuances of the diplomacy and lack thereof in some people's opinion that got us to being on the brink of war, but once hostilities begin, I am sure everybody will come together and say a prayer for our troops and support our President the best they can.

That same dynamic needs to exist with Social Security, because there is a big, gaping hole in America's domestic agenda. You can talk about the size of the tax cuts, whether we should have one, whether it should be $750 billion or $350 billion or 30 cents or $2 trillion. Whatever opinion you have, I respect, and I have my own about that; and that is a point of debate.

One thing we need to understand and come together on quickly, in my opinion, is certain facts surrounding Social Security.

In 75 years—I know that seems forever. But my predecessor, Senator Thurmond, turned 100 a few months ago. He is going to be a first-time grandfather. Our State's former junior Senator, now senior Senator, is 81. So in South Carolina, 75 years is not long in politics. It seems forever, but it is not, really.

In 75 years, our trustees, the people in charge of the Social Security trust fund, tell us we will be $25.3 trillion short of the money necessary to pay benefits. I want to repeat that. I know there are a lot of important votes to come on ANWR and tax cuts, and this roadmap is about this year; and we are trying get through this day to make sure we can get on with the business of the Senate. And that is the way politics is, probably to a fault sometimes: getting through this day, getting through this amendment, so we can get on with the next event of the next day. We are in the middle of an international crisis, and our hope is we can get through the coming days as quickly as possible and resolve it.

Time is not on our side in solving Social Security structural problems. You could say: Well, 75 years is a long time. But between now and 75 years from now, for the obligations of the trust fund, and the money to pay those obligations, there will be a $25 trillion gap. And I ask, simply, the following question: Where does the money come from?

People want to know how much the war is going to cost—and the occupation. The truth is, it is going to be billions of dollars over several years. As we try to find out where the money comes from to get us through this day and this year, I hope we will start focusing on, in a bipartisan fashion, where does the money come from to keep Social Security solvent?

Seventy-five years from now, if nothing changes—if all we do is run ads against each other and belittle opportunities to fix it in a partisan way; if the Democratic and the Republican parties stay on track, based on the last campaign cycle, of trying to use the Social Security issue as a way to capture power for the moment—then we are going to allow one of the best programs in the history of the Nation not only to become insolvent but create a financial crisis in this country that we have not experienced, ever.

Another date I would like to point out: In 2042, which seems forever, but it is not, a problem occurs with Social Security. Seventy-five years from now, the unfunded liability in obligation will be $25.3 trillion. But before you get to that point in time, the next major event, according to the trustee report released yesterday, is 2042.

What happens in 2042? In 2042, the amount of money available to pay benefits will be such that benefits will be reduced for the average recipient by 28 percent. I want to say that again. If we do nothing different, if we just collect the same amount of money, and get the same growth rates, in 2042 you are going to reduce benefits for everybody on Social Security by 28 percent. The other option is, according to the trustees, raise payroll taxes of the workforce in existence then by 50 percent. These are two very dramatic and unacceptable options, in my opinion.

Now, in 2042, I doubt if I will be here. But if the history of my State stands the test of time, I will be here because I will turn 100 in 2055. If I can do what my predecessor has done, which I very seriously doubt, I will have another term left. I doubt if that will happen in my case, but somebody is going to be here in 2042 from South Carolina and every other State represented here today.

My hope is that during my time in the Senate, I can join with my colleagues of like mind on both sides of the aisle to make life a little better for the American public, the taxpayer, and those who will be doing the job we are engaged in today a little better than the trustees tell us of what is going to happen in 2042.

I would like to recognize certain Members of this body: Senator GREGG, Senator BREAUX, and many others, Senator Moynihan, a former Member of the Senate, who have brought ideas to the table, have worked in a bipartisan manner, along with President Bush. I compliment President Clinton for putting the issue of Social Security on the table. I didn't particularly like his solution to better growth rates, but he acknowledged that growth rates were a problem. So there is the foundation being laid in the last couple years to do something constructive.

I compliment everybody in this body who has been part of that process. As a Member of the House for four terms, I tried to be a constructive Member dealing with Social Security over there.

The temptation to achieve political power is great when the Senate and the House are so closely divided. Every issue is looked upon as the issue that can get you back in the majority or the issue that may cost you the majority. My concern is that if we have that approach to reforming and solving Social Security—I know the Senator from North Dakota who is managing the minority side of the bill is a fine Member who loves his country as much as I do—if we keep this partisan atmosphere going that has existed in the past and has been bipartisan in the demagoguery, we will run into a problem. So in 2042, I would like us to avoid what is coming our way. The only way to do is to start now.

Another date the Social Security trustees tell us is a very important date is 2018. I have gone from 75 years now to 2042 to 2018. What happens in 2018? In 2018, for the first time in the history of the program, we will pay more in benefits than we collect in taxes. What is going on here? There are a lot of young folks working in the Senate—pages, interns. We are really talking about their future more than anything else.

In 2018, we pay out more in benefits than we collect in taxes. What is wrong with Social Security? Why is it mounting up this unfunded obligation? Why are we beginning to pay more in benefits than we collect in taxes? Why do we have to cut benefits in 2042, and why are we $25 trillion short in the money to pay everybody 75 years from now?

Well, it is not a Republican or a Democratic problem in terms of politics. It is just the way the country has changed. I was born in 1955. In 1950, a few years before I was born, there were 16.5 workers to every retiree. According to the trustees, in 1950, there were 16.5 people working paying Social Security taxes for every retiree. Today there are 3.3 workers to every retiree. Twenty years from now, there are going to be two workers for every retiree. That is not a Republican problem. It is not a Democratic caused problem. That is not because we can't get along up here. That is because the ratios have changed. There is no reason to believe they will go back the other way.

My father and mother are deceased now, but I think in my mother's family there were nine members of her family, and my father had eight. I am not married. I don't have any kids. My sister has one. I sort of reflect what is going on in the world. I hope to help solve the problem later down the road. If I do what Senator Thurmond has done, 23 years from now, I would have my first child. I doubt if that will happen, either.

But as we kind of mark these points in time and make it personal, the problem is that the demographic changes in America have put Social Security at risk. It is nobody's fault, but it is everyone's problem. You cannot keep the program solvent when the ratio has gone from 16.5 workers to 1 in 1950 to 20 years from now being 2 to 1. There is just not enough money coming into the system.

Now, when you talk about Social Security spending and what to do and the idea that we are spending Social Security surpluses to run the Government, you get everybody upset. And they should be. I came to the House in 1995. One of the first things we tried to do was isolate Social Security money surpluses and make sure we did not use the Social Security dollars paid into the system to run the Government. That has been a practice that has been going on for 30 or 40 years. Both parties have engaged in that practice.

Every year we collect more in Social Security taxes than we pay in benefits. That extra money is called surplus. We have borrowed that extra cash, given the trust fund IOUs that have to be redeemed in the future. That has allowed us to grow this Government without a direct tax on people.

That is a bad practice. It is not good government. It is not good business. For several years we have been able to avoid doing that in a bipartisan way.

You remember in the last debate there was the lockbox. Let's put everything related to Social Security in this lockbox. In my last campaign for the Senate, I constantly heard it: If you just left Social Security money alone and you didn't take it out to run the Government, if you kept it in a lockbox and left it alone, most of these problems would go away.

That is not true. As much as you would like to believe that, that is not true. If you took every penny collected from Social Security and you dedicated it totally to the trust fund and totally to the benefits to be paid, you are still $25 trillion short in 75 years. It still runs out of money in 2042. The problem is that two workers paying into the system will not be able to support the massive number of baby boomers coming into the system.

Having said that, I would like to work with my colleagues on both sides of the aisle to do a better job of protecting Social Security. I don't believe there is any party that has been in power for the last 40 years that could look the American public in the eye and say that they have not been guilty of using the surpluses in some fashion for other than Social Security.

In September of last year, I wrote a letter to the Social Security Administration asking 17 questions. Here is one of the questions I asked: Some have proposed a Social Security lockbox; would a lockbox, by itself, extend the solvency of Social Security beyond the year Social Security is expected to become insolvent? In a nutshell they said, the implementation of a Social Security lockbox would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

Having said that, I do believe we should isolate Social Security dollars and dedicate those dollars to the payment of Social Security trust fund obligations. That is just good government. But please do not tell your constituents back home that will fix this problem because it most certainly will not.

After having heard my rendition, there is probably not much good news you have heard yet. The good news: there is a way, in my opinion, to make up the $25 trillion shortfall over 75 years, to change the fact that you will have to reduce benefits by 2042 by 28 percent—that is all the money you will have to pay benefits by then—and to even change the dynamic of paying more out in benefits than you collect in taxes by 2018.

The good news—just like everything else in Washington, there is a bad news/good news part of what I am about to say—is that the growth rates for Social Security, the amount of return you get on your FICA tax dollars or Social Security tax dollars taken out of your paycheck for younger workers, people born in the 1980s, it is less than 2 percent. If you happen to be a minority in this country, born in the 1980s, it is less than 1 percent.

Let me say that again. This is not Lindsey Graham saying that. The Social Security trustees have reported back to me in this letter.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY,
OFFICE OF THE CHIEF ACTUARY,
*Baltimore, MD, September 26, 2002.*
Hon. LINDSEY O. GRAHAM,
*House of Representatives,*
*Washington, DC.*

DEAR MR. GRAHAM: Thank you very much for the opportunity to answer the questions you have posed in your letter of September 6, 2002. The answers below are based on the intermediate assumptions and projections presented in the 2002 Annual Social Security Trustees Report and estimates that we have provided for a number of reform proposals over the past several years.

Many of the questions that you raise are very complex and the answers are subject to considerable uncertainty and even debate. I am providing brief answers reflecting my understanding of these issues based largely on the work done in the Office of the Chief Actuary for the Trustees, the Administration, and the Congress. I hope these responses will be helpful. I look forward to working with you, and Aleix Jarvis and Jessica Efird of your staff in the effort to develop proposals to reform Social Security and restore long-term solvency for the program.

(1) Based on the Social Security Administration's projections, in what year does Social Security begin to pay more out than it takes in?

Answer. Under the current intermediate assumptions of the 2002 Annual Report of the Social Security Board of Trustees to the Congress, and assuming that current law is not changed, we project that annual cash flow for the Social Security program will remain positive through 2016 and will turn negative for calendar year 2017 and later. Annual cash flow is defined here as the excess of income (excluding interest) over expenditures.

(2) Based on the Social Security Administration's projections, in what year is Social Security expected to become insolvent?

Answer. Under the intermediate assumptions, full benefits would continue to be payable after 2016 and part of the way through 2041 by augmenting current revenue from taxes with revenue from redeeming special United States Treasury obligations held by the Trust Funds. During 2041, the theoretical combined Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds are projected to become exhausted and full scheduled benefits would no longer be payable on a timely basis. This condition is referred to as insolvency of the Trust Funds, because available tax revenue would then be sufficient to cover only about 73 percent of the cost of scheduled benefits. In fact, the OASI and DI Trust Funds operate separately and the projected dates of insolvency are 2043 for the OASI Trust Fund and 2028 for the DI Trust Fund. For simplicity of analysis, the date for theoretical combined Trust Funds is usually considered.

(3) Assuming current growth rates remain the same would benefits have to be reduced or taxes increased to keep Social Security from insolvency? If so, how much?

Answer. The intermediate assumptions for the Annual Trustees Reports reflect the Trustees, best judgment about the continuation of current trends in demographic and economic variables like birth rates, death rates, average wage increases and price increases. Assuming the intermediate assumptions of the 2002 Trustees Report are realized, Social Security will require either a reduction in benefit levels or an increase in revenue starting in 2041 for the combined OASDI program (and in 2043 for the OASI program and 2028 for the DI program). If benefits were reduced to meet the shortfall in revenue for the combined program, the reduction would need to be 27 percent starting with the exhaustion of the Trust Fund in 2041 and would rise to 34 percent for 2076. Alternatively, if additional revenue were provided beginning in 2041, revenue equivalent to a payroll tax rate increase of about 3.3 percent (from 12.4 percent under current law to about 15.7 percent) would be needed for the year. The additional revenue needed for 2042 would be equivalent to a payroll tax rate increase of about 4.5 percent. Thereafter the amount of additional revenue needed would gradually rise, reaching an amount equivalent to an increase in the payroll tax rate of about 6.4 percent for 2076. There is, of course, a great variety of ways in which benefits could be reduced or revenue increased for the Social Security program. Many different combinations of provisions to reduce benefits and/or provide increased revenue from taxes could be developed to avoid insolvency of the OASDI Trust Funds throughout the 75-year projection period, and beyond.

(4) If Social Security surpluses were not diverted from the general budget, how would that affect the system? Would it avert a future insolvency?

Answer. I assume you are referring to the fact that for most years in which Social Security has taken in more tax revenue than it has paid out in benefits and other expenses, the rest of the Federal budget has operated in deficit. In these years, the Social Security tax revenue not currently needed for benefit payments has, by law, been invested in securities backed by the full faith and credit of the United States Government. In practice, this revenue has been invested in special issue United States Treasury securities. These securities represent a commitment to redeem these investments, with interest at the market rate, when the Social Security Trust Funds are in need of revenue. Such commitments to the Social Security and Medicare Trust Funds have always been met in the past and should be expected to be met in the future regardless of the fiscal operations of the rest of the Federal Government. Therefore, the trust funds are in no way compromised in their role of maintaining solvency as a result of being invested in special Treasury securities. However, redemption of these Treasury securities held by the Trust Funds does require the Treasury to allocate General Revenue for this purpose, and this allocation must be met by increasing taxes, reducing other federal spending, or increasing borrowing from the public.

(5) Some have proposed a Social Security "lock box." Would a "lock box" by itself extend the solvency of Social Security beyond the year Social Security is expected to become insolvent?

Answer. As suggested above, the Social Security Trust Fund investments represent commitments of the United States Treasury that should be expected to be met when the Trust Funds need to redeem these investments. The implementation of a Social Security "lock box" would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

However, if the effect of a "lock box" were to require that the non-Social-Security Federal budget be in balance or surplus for the years in which Social Security makes investments, then the amount of borrowing from the public might be reduced. In this case the difficulty of generating General Revenue for the redemption of Trust Fund investments in the future would likely be diminished.

(6) How many South Carolinians do you project will be receiving Social Security benefits when the program becomes insolvent? How many South Carolinians currently receive benefits?

Answer: In December of 2001, about 704 thousand South Carolinians were receiving Social Security benefits. This represented about 1.5 percent of all Social Security beneficiaries at that time. If this percentage remains the same in 2041, when the combined Social Security Trust Funds are projected to become exhausted, we estimate that about 1.4 million South Carolinians will be receiving Social Security benefits at that time.

(7) What is the ratio of workers per retiree when the program began, in 1940, 1950, 1960, 1970, 1980, 1990, today, 2010, 2020, 2030, 2040?

Answer: The table below provides the historical and projected numbers of Social Security covered workers and beneficiaries. Ratios of covered workers to beneficiaries are shown both where beneficiaries include all beneficiaries and where beneficiaries are limited to retired workers. The number of beneficiaries was extremely small in 1940, the first year that monthly benefits were payable, because only workers with some work in 1937 through 1939 could qualify. This resulted in a very high ratio of covered workers to beneficiaries at the start of the program, which required several decades to mature.

SOCIAL SECURITY (OASDI) COVERED WORKERS, BENEFICIARIES, AND RATIOS—1940–2080

[In thousands]

| | Beneficiaries | | | Ratio of Covered Workers to— | |
|---|---|---|---|---|---|
| | Covered workers | Retired workers | Total | Retirees | All beneficiaries |
| 1940 .......... | 35,390 | 112 | 222 | 316.0 | 159.4 |
| 1950 .......... | 48,280 | 1,771 | 2,930 | 27.3 | 16.5 |
| 1960 .......... | 72,530 | 8,061 | 14,262 | 9.0 | 5.1 |
| 1970 .......... | 93,090 | 13,349 | 25,186 | 7.0 | 3.7 |
| 1980 .......... | 113,649 | 19,564 | 35,118 | 5.8 | 3.2 |
| 1990 .......... | 133,672 | 24,841 | 39,470 | 5.4 | 3.4 |
| 2002 .......... | 152,461 | 29,123 | 46,239 | 5.2 | 3.3 |
| 2010 .......... | 165,443 | 34,126 | 52,865 | 4.8 | 3.1 |
| 2020 .......... | 172,848 | 48,324 | 68,699 | 3.6 | 2.5 |
| 2030 .......... | 178,131 | 61,740 | 84,070 | 2.9 | 2.1 |
| 2040 .......... | 184,433 | 66,895 | 90,068 | 2.8 | 2.0 |
| 2050 .......... | 189,845 | 69,692 | 94,109 | 2.7 | 2.0 |
| 2060 .......... | 194,568 | 74,937 | 100,177 | 2.6 | 1.9 |
| 2070 .......... | 198,687 | 80,635 | 106,723 | 2.5 | 1.9 |
| 2080 .......... | 202,238 | 85,939 | 112,895 | 2.4 | 1.8 |

Note.—Projections are based on the intermediate assumptions of the 2002 Trustees Report.

(8) What is the sum of the total cash shortfalls that social security is projected to experience from now through 2075, from 2025–2050, and from 2050–2075? (in constant and in present-value dollars)?

Answer. Combining financial values over substantial periods of time is generally done taking into account the "time value of money". This is accomplished by accumulating or discounting the separate annual values with interest to a common date. Values combined in this way are referred to as present values as of the date to which they are accumulated or discounted.

In present-value dollars (discounted at the OASDI Trust Fund interest rate to January 1, 2002) the total net OASDI cash flow for years 2002 through 2076 is projected to be nearly −$4.6 trillion. When the Trust Fund balances of over $1.2 trillion at the beginning of 2002 are added to this value, we get a financial shortfall (or unfunded obligation) for the 75-year period of $3.3 trillion. This unfunded obligation indicates that if an additional $3.3 trillion had been added to the Trust Funds at the beginning of 2002, the program would have had adequate financing to meet the projected cost of benefits scheduled in current law over the next 75 years. It should be noted that if the dollar amount of this unfunded obligation is accumulated with interest to the end of 2076, and then expressed in constant (CPI-indexed) 2002 dollars we get $33 trillion.

The present-value net cash-flow of almost −$4.6 trillion for the pOeriod 2002 through 2076 can be separated into the three 25-year sub-periods:+$0.4 trillion for the period 2002 through 2026, −$2.7 trillion for the period 2027 through 2051, and −$2.3 trillion for the period 2052 through 2076. If only years of negative cash flow are included then the value for the first 25-year sub-period is −$0.5 trillion and the total for the 72-year period is −$5.5 trillion.

Summing constant 2002-dollar values from several different years is equivalent to taking their present value and assuming that the operative real interest rate is zero. This may result in values that are difficult to interpret. Constant-dollar values are generally used for comparing separate values over time rather than for combining them. A comparison of constant-dollar values for a series covering many years is helpful in illustrating the extent of real growth in the series over time. There is no meaningful interpretation of the result from summing constant dollar values from many different years.

Expressing the combined values discussed above in terms of simple sums of constant 2002 dollars (CPI discounted dollars) results in quite different results from present value because much greater weight is placed on more distant future years than would be indicated by current market interest rates. Using this approach produces constant-dollar cash-flow sums of +$0.1 trillion for 2002 through 2026, −$8.6 trillion for 2027 through 2051, −$15.3 trillion for 2052 through 2076, and −$23.8 trillion for the entire 75-year period. The sum for the first 25-year period with only negative values included is −$1.1 trillion. The sum for the 75-year period including only negative annual values is −$24.9 trillion.

(9) As a demographic group, do African-American males receive the same proportional return from the retirement portion of Social Security as other demographic groups?

Answer. Due to the nature of the Social Security program it is difficult to look at retirement benefits in isolation. The payroll tax rate is specified in two components, one for retirement and survivor benefits and the other for disability benefits. In addition, a significant portion of the benefits payable from the retirement and survivor tax, for years after reaching normal retirement age (NRA), is actually attributable to the fact that many become eligible for disability benefits before reaching retirement age. However, there are some observations that we can make.

To understand the tradeoffs, first consider the comparison of returns on retirement and survivors taxes for men and women. Men tend to die younger and have higher career-average earnings than women. These factors tend to make the return on contributions for retired worker benefits alone lower for men than for women. However, most men marry, and many have spouses with lower career earnings who receive spouse or widow benefits based on the earnings and contributions of their husbands. This tends to raise the relative return for contributions made by men. Finally, men have higher disability rates than women and thus are more likely to have a shortened career, lessening their lifetime payroll tax contributions without materially affecting their monthly benefit level when retirement and survivors benefits become payable. Thus, with all these factors taken into account it is less clear whether men get a lower return on their retirement and survivor taxes than do women.

For African-American males the situation is even less clear. Life expectancy for African-American males is lower than for white males. But average career earnings are also lower. These factors have at least partly offsetting effects. Because African-American males have higher death rates, they are also more likely to leave a widow beneficiary if married. Importantly, African-American males are also more likely to become disabled than are white males.

Some recent studies have suggested that African-American males get a lower return from Social Security retirement benefits. But these studies have not sorted out many of the complicating factors mentioned above. In particular, many of these studies consider actual case histories of individuals who work successfully without becoming disabled up to retirement. For such individuals, life expectancy at retirement is clearly greater than for those who have been disabled prior to that time, but these studies use overall population death rates. Because African-American males are relatively more likely to become disabled, this distortion of overstating death rates for those who do not become disabled is relatively large for them. This is a significant shortcoming that causes a disproportionately large understatement in retirement returns for African-American males. We are working on a more complete model that we hope will address these concerns and will inform you of our progress in the future. But for now, the evidence on this question appears to be inconclusive.

(10) What is the average current return on investment for FICA tax contributions for someone born before and after 1948?

Answer. Actuarial Note Number 144 "Internal Real Rates of Return Under the OASDI Program for Hypothetical Workers" authored by Orlo Nichols, Michael Clingman, and Milton Glanz in June 2001 addressed this issue. This note provides extensive estimates of real internal rates of return for a wide variety of cases.

The most representative of these hypothetical cases presented may be the married couple with a husband and a wife, each having medium career earnings. For this case, assuming a realistic earnings scale through the working lifetime, the real internal rate of return was computed to be 3.50 percent for those born in 1920, declining to 2.33 percent for those born in 1943. Assuming that present-law scheduled benefits would be payable in the future with no change in the payroll tax rate, this real rate of return is projected to decline gradually, reaching 2.20 percent for those born in 1964, and then rising gradually as life expectancy rises. However, the current payroll-tax rate is projected to be inadequate to finance scheduled benefits in the long run. Under the hypothetical assumption that payroll tax rates would be increased as needed to finance scheduled benefits in the future, future real rates are return are projected to decline more rapidly, reaching 1.95 percent for those born in 1985 and 1.63 percent for those born in 2004.

In general, real rates of return are higher for married couples with one earner and for workers with low earnings. Rates are generally lower for single workers and for high earners.

(11) Have policy proposals been introduced that keep Social Security from insolvency, allow for personal accounts, and do not change benefits for those already receiving Social Security benefits?

Answer. Absolutely. A number of Congressional proposals would accomplish these goals. At a hearing before the House Ways and Means Committee in June 1999, ten plans were presented by Congressional sponsors. The sponsors of these plans were, Archer/Shaw, Kolbe/Stenholm, Nadler, Moynihan/BKerrey, Gregg/Breaux, PGramm, NSmith, Stark, MSanford, and DeFazio. We estimated that all ten of these proposals would restore solvency for the Social Security program for at least the full 75-year projection period. None of these proposals would reduce benefits for current beneficiaries, but three of them would slow growth in benefits for current recipients by reducing the size of the automatic cost-of-living adjustment (COLA) either directly, or indirectly (through modifying the CPI). Seven of these proposals provided for individual accounts on a voluntary or mandatory basis.

Since 1999 additional proposals have been developed that would meet these criteria, including the Armey/DeMint plan and Models 2 and 3 of the President's Commission to Strengthen Social Security.

(12) Have there been any proposals introduced that would create personal accounts, avert a future insolvency of Social Security, without reducing benefits or increasing taxes? Have there been any proposals without personal accounts introduced that would

avert a future insolvency of Social Security without reducing benefits or increasing taxes?

Answer. The financial shortfalls projected for the Social Security program can only be eliminated by reducing the growth in benefit levels from what is scheduled in current law, or by increasing revenue to the program. In the long-run, additional revenue can be generated by expanding the amount of advance funding either in individual accounts or in the Social Security Trust Funds. All of the proposals mentioned above pursue this approach to some degree. However, creating additional advance funding requires additional revenue for a period of time. This additional revenue may be generated by (1) reducing Social Security benefits paid from the Trust Funds, (2) directly increasing the amount of payroll tax or some other tax, or (3) providing transfers or loans from the General Fund of the Treasury. Whether General Revenue transfers or loans represent an indirect increase in taxes depends on a number of complex factors many of which are generally unknown in the context of Social Security reform, so no definitive answer can be given.

All of the plans that we have analyzed in recent years provide for one or more of the three measures to generate additional revenue both to restore solvency for the Social Security Trust Funds and to provide for additional advance funding. This is true for plans that include individual accounts as well as for those that do not.

Sincerely,

STEPHEN C. GOSS,
*Chief Actuary.*

Mr. GRAHAM of South Carolina. They have laid out the rates of return for people born after 1980.

As I have told you, they are less than 2 percent. Over time, they go down because the problem, over time, gets worse. As you pay into the system as a young worker, the obligations of the system get greater, and there really will be no rate of return. As a matter of fact, by 2042, not only does your money not work for you, it is not enough to pay benefits to people who are already in the system.

Here is the good news. If we could, in a bipartisan fashion, work together, I am confident we could construct a program for younger workers—voluntary in nature—that would allow them to take part of the money they pay into Social Security, invest it in a different system—equity and nonequity, depending on what they want to do—that will dramatically outpace a 1.8 percent return.

Here is what I suggest to you as reality. If you had a business and you wanted to sell an annuity to young people in America, and you laid out the program of that annuity and it mirrored Social Security, nobody in the country would invest in it simply because they can get a better rate of return leaving it in a checking account.

Now, everything about Social Security is not total retirement. There is a component of Social Security that pays for people who have been disabled and injured. That aspect of the program is extremely important also.

But to have a better business view of Social Security is necessary. If we could achieve better growth rates—and the trustees tell us that if you achieve better growth rates, every dollar in additional growth, every time the fund beats that 1.8 or 1.6 rate of return, that extra dollar allows benefits to be paid without raising taxes.

We are going to argue about the tax cut and how to stimulate the economy. I remember in my last campaign, when I presented this idea, the ad was that "Lindsey Graham is going to take your Social Security tax dollars and put them in Enron stock." Well, I didn't wake up one day and think investing in Enron with Social Security was a good idea. That is not what this program is designed to do.

There is bipartisan support for personal accounts, allowing individual Americans the opportunity, if they choose, to invest in plans to get better growth rates. There are visitors here from all over the country, most likely, and I welcome them here. One thing about being a Member of the Senate, or the House, or a Federal employee in any fashion, is that you have the opportunity, if you choose, to invest in the Thrift Savings Plan. It is a pretty good deal. I, as a Senator, can invest up to about $10,000 of my salary into a thrift plan. It is a Government-sponsored plan, administered by the private sector, where I can choose between three or four different investment options, based on the risk I want to take. There are stock funds, mutual funds, bond/stock funds, Treasury notes, which I can choose based on the risk I want to take.

All of these funds are supported by the Government in the sense that we are going to stand behind them and not let them collapse. It is even better than that. The Government puts in 50 cents on the dollar up to the $10,000 I put in, and they do the same for every Federal employee.

I suggest something like that should exist for the average working person in this country because under the current tax system, the average American will pay more in Social Security taxes than in any other form of tax, because this comes out of our paycheck—6.5 percent—no matter what our income is, up to a certain level.

For middle- and low-income workers struggling to get by, 6.5 percent—I think that is the correct number—comes out of your paycheck to go into the Social Security trust fund. For younger workers, we are taking that money from you. We are giving you no options to invest it. We are controlling it for you, and you are going to get that 2 percent—eventually less than 1 percent—over time.

I think that is wrong for the people paying taxes. But here is the big crime of it all: That system locks in failure for Social Security. Some Senate, somehow, someday—if we don't do something relatively soon—is going to be dealing with a trust fund that is $25 trillion short of the money necessary to pay the obligation, and it is going to be dealing with a trust fund from which somebody gets a letter one day saying: That check you got last month will be reduced by 28 percent, and I am sorry we don't have the money to pay you.

I don't know who will be occupying this seat then—I doubt if it will be me—but I would like to take some of that burden off their shoulders and off the working families and the working people in this country, in terms of taking their money and getting a better rate of return for it.

So the hope and purpose of this amendment is to put into the record this year, 2003, let it be said—if there is a record that stands the test of time, let it be said that in 2003 the Senate will soon adopt facts that I think are irrefutable, nonpartisan in nature, that lay out the future of Social Security solvency in a very honest, dramatic, and chilling way.

I congratulate my colleagues who are willing to accept this amendment as part of the roadmap for the budget this year. The facts are real. They are not going to go away unless we make things happen differently.

One thing I remember from President Clinton—and it was a good line—is that the definition of insanity is doing an event the same way and expecting different results. So I think it is insane politically for us to keep this system in place expecting different results to fall out of the sky. They will not fall out of the sky.

Our freedom is about to be strengthened because some young man and woman chose to volunteer to serve their country and risk their life for our freedom. You can debate all you would like whether this is an appropriate thing to do. But they have taken on that sacrifice, and they will accept the order, if given, to go forward. That model is the model that has kept us free for over 200 years—average, everyday Americans who are willing to do their part, willing to risk their sons and daughters, their own lives, to make sure the next generation can have the blessings of liberty that we have enjoyed.

There was an interview I heard today of a family with twin sons serving in the same Marine unit, both of them ready to go tomorrow, if that is the day chosen. The mom and the dad were very worried but bursting with pride about the fact that both of their sons have chosen to serve in the Marine Corps and both of them are on the tip of the spear. What they were trying to tell the commentator was that they are proud of them because they are willing to serve their country and protect their way of life. The parents mentioned the fact that their hope is that life will be better for their kids than it was for them, and that truly is the American dream. That is what keeps us all going, trying to make sure that we pass on to the next generation a future with a possibility, with hard work, to be better than the one we have experienced.

I can say with all the confidence in the world that if we don't act soon, and act decisively, and if we are not willing to sacrifice politically and make some structural reforms to Social Security, we are committing political malpractice, and the future of Social Security is dismal and the ability to maintain the system is going to be unbelievably costly, and you can wind up with a Social Security pension plan and the military, and no money to do anything else. That is what awaits us as a nation.

But I am just as confident that we will rise to the occasion, and I cannot see how right now—it is beyond my ability as a political person to see how all this is going to come together. I am telling you that, based on faith, I know it will. The problems facing our troops—there are so many scenarios that face them in the aftermath of Iraq. There are thousands of different scenarios of "what if that" and "what if that." I can only tell you I have the same faith that at the end of the day we will be successful and at the end of the day the sacrifices will be made.

Unfortunately, some people, most likely, will lose their lives or be injured. We are going to get through this thing at the end of the day stronger rather than weaker. We are doing the right thing.

I have faith in our troops and in our President that the dictator, Saddam Hussein, will be gone soon. I have faith that this body, starting this year—I hope it is this year—will come together to address the looming problems that face Social Security. This amendment lays out those problems. It puts it as part of the road map for this year's budget and, at the end, it encourages all to work together with the President to come up with solutions to avoid raising taxes and cutting benefits. It is a small step that will hopefully get us to the right place one day.

I am standing on the shoulders of people who have gone before me who have addressed problems of Social Security, such as Senator Moynihan and other Senators in this body from both parties. I do not know how long I will be here. Only the Good Lord and the voters know that. I can tell my colleagues one thing for certain: While I am here—I consider it to be an honor to be here—I want to do as many constructive activities for my country as possible. I think one of the best things I can do is to come up with an approach my colleagues from the other side can buy into, which means a give and take, to put in place a plan that begins to turn around the dynamics that are facing Social Security.

The good news is if we work together, if we start now, we can beat this problem, we can solve this problem. The bad news is if we continue to do what we have done for the past decade, we are going to pass on to the next generation of political leaders and taxpayers a dismal picture. I would argue that would be the first time in the history of the country that political leaders passed on a country that was diminished, not enhanced. I am confident we will not be the first ones to make that mistake.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator for his statement. I will take a few moments later to respond. Hopefully, we can get an agreement on the contents of the Senator's amendment. In the meantime, the Senator from Washington has been patiently waiting. I yield her 10 minutes or whatever time she uses.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I will later be offering a very important amendment on the budget resolution. It will fully fund the No Child Left Behind Act, and I will be offering that amendment with Senators KENNEDY, BINGAMAN, KERRY, MIKULSKI, and JOHNSON.

Given the bipartisan support for the No Child Left Behind Act a year ago, I am disappointed that there are still no Republicans who have asked to cosponsor the funding that bill promised to all of our constituents.

A budget is a statement of our priorities. In an environment where we cannot fund everything, we have to make choices based on our values. Even when times are challenging, certainly as they are today, it is important that we continue to fund our children's education and to invest in their future.

This budget that is before the Senate has a meager investment in funding for the No Child Left Behind Act, and it fails our children and fails their future. It actually fails the very promise that Congress and this President made to students just a few years ago.

Leaving no child behind was a very important, noble goal, and it passed with bipartisan support. It was an education reform bill that was set out to say we will leave no child behind. But the Republican budget that is now before this Senate does not even come close to meeting the needs of our students or keeping the important promises of that legislation.

When we passed the No Child Left Behind Act, we passed it based on two commitments. The first was that we would hold schools accountable for their progress—an important promise. But we also had a second commitment that we would provide those schools with the resources to meet those new requirements. We are certainly keeping the first part of that bargain, but this budget suggests that my colleagues on the other side of the aisle do not intend to keep the second part of that promise.

We have to ask why this administration is willing to keep a commitment to come down very hard on low-performing schools, but it is unwilling to keep a commitment to provide the resources that our students need to succeed. Tougher accountability without adequate funding is not reform. Mr. President, that is politics.

I want to talk a few minutes about the ways this budget shortchanges America's students. The budget before us could cut funds for afterschool programs for more than 500,000 latchkey children in this country. That is on top, by the way, of the more than 6 million latchkey children we already are not serving.

This budget leaves 6 million of our most disadvantaged students behind by not providing the title I funding they need.

It also falls short on funding for teacher quality, class-size reduction, English language acquisition, safe and drug-free schools, and rural education.

At a time when we are demanding more than ever from our students, our teachers, and our schools, this budget does not invest in them. Some of my colleagues may argue that this budget increases funding for education, but let's be pretty clear. This budget before us robs Peter to pay Paul to provide that meager increase. Even that increase falls short.

Title I in this budget is underfunded by almost $6 million. This budget assumes the elimination of 46 education programs, including, by the way, rural education, support for small schools, and dropout provisions.

This budget also assumes a $400 million cut in afterschool programs despite the strong evidence that keeping children safe after school reduces juvenile violent crime and prevents children from engaging in risky behaviors.

This budget also freezes most of the other major No Child Left Behind programs, including funding for teacher quality, class-size reduction, bilingual education, and State test development. The Federal Government is not only requiring that States put assessments in place, we are requiring those students pass those assessments. That is where our obligation to provide the funding promised in No Child Left Behind comes in. Students need more tests, they need afterschool programs, tutoring, quality teachers, and small classes to pass those tests.

Given the budget crisis that is occurring in many of our States—my State has a $2.5 billion shortfall with which they are dealing—I think it is unrealistic to expect the States are going to suddenly pick up increased education funding to meet the new Federal mandates that this body passed on to them just a few short years ago.

Setting a high bar is obviously important. We all agree with that. But setting a high bar and failing to give our kids the resources to succeed is simply setting them up for failure. We know what the needs are out there. We know what works to help our children succeed, and I am really dismayed that the level of education funding in this budget is going to leave many of our children behind.

That is why later this afternoon I will be offering my amendment to fully fund the commitments we made, all of us made, in the No Child Left Behind Act. It will provide the resources that parents, teachers, and students are asking for. It will fully fund title I at the level that was agreed upon in the No Child Left Behind Act. It will continue to fund the effort to hire 100,000 fully qualified teachers so we can reduce the size of classes in early grades where our children are struggling to learn the basics, and when they are in a class of 35 or 40 students, they simply cannot get the attention they need to assure that when they move on in to the later grades they have the basic skills they need to be successful.

My amendment will also put a high-quality teacher in every classroom. Every parent knows the most important question you ask when your child comes home from school on the first day is, Who is your teacher? Why is that? Because they want to make sure their child has the best teacher. We promised in the No Child Left Behind Act that we would put a high-quality teacher in every classroom.

This budget fails to fulfill that promise. My amendment will also allow communities to offer more afterschool programs to keep our children safe and in a place where they can learn those high standards that we, at the Federal level, are now requiring. It will give children with limited English proficiency more support to succeed, and it will fund initiatives such as rural education and dropout prevention that this President's budget zeroes out.

We know the needs are there. We know what works to help our children succeed. We need the will of the Members of this Senate to make it happen.

I am out in my State, like every other Senator, and everywhere I go students, teachers, parents, principals, and community leaders come up to me and say: We want the No Child Left Behind Act to succeed. We want our students to be held to high standards. We want our principals, our teachers, and all of our administrators to be held to high standards. But we cannot do it when you rob us of the seriously needed funds to do it. Do not put a Federal mandate on us that is not followed through with the resources.

The amendment I am offering will fulfill the second half of that bill that so many Senators spoke so eloquently to a short time ago.

Two years ago, we started down a road of promising all children in this country a quality education. We did the first part by calling for schools to be more accountable for their progress, but now we are seriously stumbling on the second part, providing the funding so local schools can reach those goals that we set at the national level. I hope we are going to do the right thing, I hope we follow through on the promises that every single Senator in this body made to students several years ago, and I hope my colleagues will join me in supporting this amendment and doing the right thing for our children and our future.

We are at a very critical time in this country. We are facing a possible war in Iraq within hours. I think every American is feeling the anxiety and the angst that all of my constituents are as we move forward. Even at this time, we cannot ignore the anxiety that is happening in our children's classrooms. We need those children to succeed so we can have a strong country in the future. My amendment will assure that we keep that part of the commitment that was such an important part of No Child Left Behind.

I look forward to being able to offer this amendment at some time later this afternoon, and I urge my colleagues to support it. I yield the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Washington for her excellent presentation on this amendment and hope that we can proceed with more substantive amendments as soon as possible and that we can have a healthy debate and then vote on these matters so the body has a chance to indicate their priorities.

I know there are other Senators wishing to discuss matters. I notice the very able senior Senator from South Carolina is in the Chamber. How much time is the Senator seeking?

Mr. HOLLINGS. Is it controlled time?

Mr. CONRAD. Yes, it is controlled time.

Mr. HOLLINGS. Ten minutes.

Mr. CONRAD. I yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina on the Graham of South Carolina amendment.

Mr. HOLLINGS. Mr. President, I have a very high regard for my distinguished junior colleague, but anybody who puts up this particular sense-of-the-Senate resolution relative to Social Security could not possibly be voting for the tax cuts.

I know a majority of our Republican-controlled Budget Committee has voted for the tax cuts. The President is for the tax cuts. Right to the point, we are about to pass a tax cut in this budget resolution.

I want to bring into focus the sham of the so-called resolution of the distinguished junior Senator from South Carolina because he worries about the year 2042 hours before we are going to war and totally disregards the law. I will propose an amendment to strike all after the enacting clause and inserting in lieu thereof the Budget Act, section 13301.

Section 13301 was a very deliberate and discussed matter that we had not only in the Budget Committee, but I had help on both sides of the aisle, and we voted on it 98 to 2. It was signed into law on November 5, 1990, by President George Herbert Walker Bush. It signed into law the Greenspan commission. With this particular Graham of South Carolina resolution, one would think there was no President Bush commission.

President Bush's commission was chaired, I think, by one of our distinguished former Members, the Senator from New York, Mr. Moynihan, who is under the weather and we all pray for his speedy recovery, but we have that commission report on what to do.

This resolution says we really are concerned about Social Security at this particular point but, by passing this resolution, we want everybody to disregard the fact that this day, this week, this year, this budget, we will be spending Social Security trust funds in order to afford a tax cut. That is all it is. It is an absolute sham. They know it, and I know it.

Section 21 of the Greenspan commission said, put this money in a trust off budget. If we had adhered to it, I think we would have about a $1.3 trillion trust fund. The distinguished chairman of the Budget Committee, Senator NICKLES, said we have always taken from the general fund in order to pay for Social Security, but that is not right. I have two pages of the 2003 annual report of the Social Security Commission, page 4 and page 5. I ask unanimous consent that those two pages be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

B. TRUST FUND FINANCIAL OPERATIONS IN 2002

The table below shows the income, expenditures, and assets for the OASI, the DI and the combined OASDI Trust Funds in calendar year 2002.

TABLE II.B1.—SUMMARY OF 2002 TRUST FUND FINANCIAL OPERATIONS

| | Amounts (in billions) | | |
|---|---|---|---|
| | OASI | DI | OASDI |
| Assets at the end of 2001 | $1,071.5 | $141.0 | $1,212.5 |
| Total income in 2002 | 539.7 | 87.4 | 627.1 |
| Net contributions | 455.2 | 77.3 | 532.5 |
| Taxation of benefits | 12.9 | .9 | 13.8 |
| Interest | 71.2 | 9.2 | 80.4 |

TABLE II.B1.—SUMMARY OF 2002 TRUST FUND FINANCIAL OPERATIONS—Continued

| | Amounts (in billions) | | |
|---|---|---|---|
| | OASI | DI | OASDI |
| Transfer from General Fund of the Treasury | .4 | | .4 |
| Total expenditures in 2002 | 393.7 | 67.9 | 461.7 |
| Benefit payments | 388.1 | 65.7 | 453.8 |
| Railroad Retirement financial interchange | 3.5 | .2 | 3.6 |
| Administrative expenses | 2.1 | 2.0 | 4.2 |
| Net increase in assets in 2002 | 146.0 | 19.5 | 165.4 |
| Assets at the end of 2002 | 1,217.5 | 160.5 | 1,378.0 |

Note: Totals do not necessarily equal the sums of rounded components.

In 2002, 85 percent of total trust fund income consisted of net contributions, comprising taxes paid by employees, employers and the self-employed on earnings covered by Social Security. These taxes were paid on covered earnings up to a specified maximum annual amount, which was $84,900 in 2002 and is increased each year automatically (to $87,000 in 2003) as the average wage increases. The tax rates scheduled under current law for 2002 and later are shown in table II.B2.

TABLE II.B2.—TAX RATES FOR 2002 AND LATER

| | OASI | | OASDI |
|---|---|---|---|
| Tax rate for employees and employers, each (in percent) | 5.30 | 0.90 | 6.20 |
| Tax rate for self-employed persons (in percent) | 10.60 | 1.80 | 12.40 |

Two percent of OASDI Trust Fund income came from subjecting up to 50 percent of Social Security benefits above a certain level to Federal personal income taxation, and 13 percent of OASDI income came from interest earned on investment of OASDI Trust Fund reserves. Social Security's assets are invested in interest-bearing securities of the U.S. Government. In 2002 the combined trust fund assets earned interest at an effective annual rate of 6.4 percent. More than 98 percent of expenditures from the combined OASDI Trust Funds in 2002 went to pay retirement, survivor, and disability benefits totaling $453.8 billion. The financial interchange with the Railroad Retirement program resulted in a payment of $3.6 billion from the combined OASDI Trust Funds, or about 0.8 percent of total expenditures. The administrative expenses of the Social Security program were $4.2 billion, or about 0.9 percent of total expenditures.

Assets of the trust funds provide a reserve to pay benefits whenever expenditures exceed income. Assets increased by $165.4 billion 2002 because income to each fund exceeded expenditures, as shown in table II.B1. At the end of 2002, the combined assets of the OASI and the DI Trust Funds were 288 percent of estimated expenditures for 2003.

Mr. HOLLINGS. We can see from the table:

Assets of the trust funds provide a reserve to pay benefits whenever expenditures exceed income. Assets increased by $165.4 billion in 2002 because income to each fund exceeded expenditures—as shown in the table II.B1.

Unlike what Senator NICKLES says at the end of 2002, the combined assets of the OASI and the DI Trust Funds were 288 percent of estimated expenditures for 2003.

This resolution of Senator GRAHAM of South Carolina is just cover for the looting of the Social Security trust fund. As the distinguished Presiding Officer knows, all that is needed to secure the Social Security trust fund is quit spending it on any and every other thing other than Social Security.

Is my time up?

Mr. CONRAD. Would the Senator like additional time?

Mr. HOLLINGS. Yes, I would like additional time, if I can have additional time.

Mr. CONRAD. I yield an additional 10 minutes to the Senator.

Mr. HOLLINGS. The reason I would like additional time is to amend this resolution, and insert section 13301. That is the budget law.

How can we bring into sharp focus that is the law? I have tried by putting different penalties in, but I cannot get the Senate to pass them. We have to quit worrying about the year 2042 and start worrying about today and getting by. Our soldiers in the front lines are ready to go into Iraq, and they are worried about being around this time tomorrow, not 2042.

It is a shame for the Senate to engage in this charade at this hour. We are looting the Social Security trust fund. We are running, this fiscal year, according to the President, $554 billion in the red. That is without the costs of the war, without a supplemental. We ran a deficit last year of $428 billion. That right there is $1 trillion of stimulus into this economy.

They should be ashamed to come here asking for tax reform under the cover of stimulus. No one believes the relief of taxes on dividends will stimulate the economy or the estate tax will stimulate the economy. Those with estates and those with dividends, Bill Gates and several other witnesses, have said that is the wrong course to take. They know it. I know it. You know it.

I had to speak on the initial amendment of my distinguished colleague from South Carolina for whom I have the greatest respect, but we are not going to be able to join in these charades. We have to start paying the bills, including paying for the war, and not engage in tax cuts.

Yesterday, I sent a Dear Colleague letter to everyone in this body about paying for the war. It is very simple. Here we are saying: GI, we want you to go into Iraq and we hope you do not get killed. Then we want you to come back. The reason we want you to come back is because my generation, this Congress, isn't going to pay for it. You are going to have to pay for it. You are not only going to have to fight the war but pay for it.

What do we need in this Congress right now—a tax cut so we can go to Disney World? That is the charade going on here, a few hours before we commit our troops to freedom in Iraq. We ought to sober up.

I am informed by the staff that we have to wait until the end of the consideration to put up the amendment.

Everyone is on notice, I would like to strike all of the "whereases" because that is poppycock. We do not all have to be worried about 2042, today, as we go into Iraq. We ought to cut out the playing of games and get serious around here that we are running the economy into the ground.

I yield back the remainder of my time and I ask that I be able to call the amendment at the proper time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. CONRAD. Mr. President, the manager has the right of recognition.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I hope we have an understanding from the Chair that the managers have the first right of recognition here or we will have a real problem.

The PRESIDING OFFICER. The Chair recognizes the Senator's right.

Mr. CONRAD. The Senators from South Carolina, in describing the problem, are correct. The problem with Social Security is severe. The Social Security trust fund is currently running surpluses. But we all know it is then going to turn to cash deficits. Those are going to become very large cash deficits. This is like falling off the cliff. This is the Social Security Administration's outlook for the Social Security trust fund.

Why is that? Very simply, the baby boom generation will start to retire. They are alive today. They are eligible for Social Security. When they start drawing Social Security, there will be 77 million, about double the number eligible now. When that occurs, we will have a very serious problem on our hands.

The Senator from South Carolina who offers the amendment has correctly described the problem, but he is not dealing with the budget resolution before the Senate. It exacerbates the problem severely.

This chart shows the Social Security and Medicare trust funds. The green bar is the Social Security trust fund; the red bars are the President's tax cuts, both enacted and proposed. One can see very clearly as the Social Security trust fund is running surpluses, the size of the President's tax cut proposals are growing. At the very time the Social Security trust fund turns cash negative, the cost of the President's tax cuts explode.

The result of this is a totally unsustainable plunge into deficits and debt. That is the fundamental problem with the budget resolution before the Senate; it is the fundamental problem with the President's budget before the Senate.

The budget before the Senate takes out of the Social Security trust fund nearly all of the surpluses over the next 10 years. Social Security will run surpluses over the next 10 years of

$2.718 trillion. The mark before us by the chairman takes $2.718 billion of those surpluses and uses it for other purposes, uses it to fund tax cuts, uses it to fund other expenditures.

The Senator from South Carolina said that is not an appropriate way to proceed. I agree. I hope he will consider opposing the budget resolution on that basis.

However, the Senator from South Carolina is also correct to say even if we do not do this, even if we do not raid the Social Security trust fund surplus, we still have a problem. This is a necessary step to stop this raid, but it is not sufficient. It is necessary because if instead of taking these funds and using it for other purposes we were to use that money to pay down debt or to prepay the liability, we would be in a less severe circumstance going forward.

The Senator from South Carolina, who offered the amendment, has referenced a $25 trillion shortfall in Social Security; that is, if you take each year and accumulate it over time. The net present value of those gaps between income and outgo for Social Security is not $25 trillion. The net present value is $3.5 trillion. Yet the President is proposing a tax cut with interest costs of $1.96 trillion, even though we are already in deficit.

Both Senators from South Carolina have revealed the flaw in this budget. We have record deficits now. The President proposes cutting taxes almost $2 trillion with the interest costs included. The result is we are taking virtually every penny—under the President's budget, every penny of the Social Security surplus over the decade, right on the eve of the retirement of the baby boom generation. I remind my colleagues, what earthly sense does this make? At the very time the cost of the Government explodes with the retirement of the baby boom generation, the costs of the President's tax cuts explode, driving us deep, deep into deficits and debt.

I hope this budget resolution falls on the basis that it puts us in a circumstance of ever mounting deficits and debt right at the time the baby boom generation retires.

If there has ever been an illogical, irrational, dangerous budget, this is it. To me, this is it. We are about to make fateful decisions we are going to be living with for a long time. Nobody should be under any illusion about where this is headed. This is headed right off the cliff.

We can either together find some way to restrain both our spending impulses and our tax-cutting impulses or we can wage what we have waged so far, which is a rush to deficits and debt.

It will be a sad day when we wake up from this hangover and from this binge of tax cutting and spending that can only lead one place, and that is to shredding of Social Security and Medicare and most of the rest of Government as we know it.

We have worked with the Senator from South Carolina to try to reach an agreement. I don't know if those modifications have been agreed to. If they have, we are prepared to accept them.

I think Senator CRAIG is perhaps waiting to speak on this matter so I withhold going further. Perhaps the Senator from South Carolina would like to speak further. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I compliment the Senator. I thought that was a fairly eloquent rendition of where we find ourselves. But I would like to add to it and respond to my good friend, really, the senior Senator from South Carolina. If anyone has earned that title, Senator HOLLINGS has. He is the senior Senator from South Carolina.

But there is a difference between what the Senator from North Dakota and the senior Senator from South Carolina were saying that I think is important.

The purpose in my offering this sense-of-the-Senate amendment is to take facts that have been reported by the Social Security Administration and make them part of this year's roadmap when we decide what to do to get through the budget process this year and to remind the Senate and get the Senate to focus on the short- and long-term problems our Nation faces.

"Poppycock." I don't know what it means, but it is often used by my good friend from South Carolina, the senior Senator. It sounds good. Everything he says is intriguing to me, just by his speaking style. But I do want to respond to the gist of what he was saying. The sham and the fraud which I think has been going on, which has been going on for years, is to suggest there is an easy solution. It is to suggest if you just left Social Security alone, didn't use it for tax cuts or didn't use it for spending, everything would be OK. My senior Senator doesn't want to talk about 2042. I do. The reason I want to talk about 2018 and 2042 is I believe the reason I am here today is to pass on to the next generation a country very sound and very fit. If we do not address the problem of having two workers for every retiree, versus 16.5 when I was born, then we are going to fail and commit political malpractice.

I think it is political malpractice to suggest that if you just let Social Security alone, the problem will go away. Here is what the Social Security trustees said about that solution:

> The implementation of a Social Security lockbox would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

As to the Senator from North Dakota, he is telling us, telling me, that now is not the time to cut taxes because of a variety of reasons, and one would be it will put pressure on the Social Security trust fund beyond the pressure that exists today.

People on my side would say that additional spending in the past, when the Democrats were in control, took money out of Social Security to put pressure on the trust fund.

The point is, the current income stream, diverted or not, is not going to save Social Security. We are going to have a $25 trillion shortfall in 75 years. And it does compound on itself. That is the point. The Senator from North Dakota is right. Every day, literally, that we ignore the problem of Social Security, it gets worse by billions. The unfunded liability has grown dramatically as we have been talking, and nobody is going to fix it except people such as us.

Here is why I will support the tax cut. One thing that is for sure, there are two Senators from South Carolina and we are going to cancel each other's vote a lot on taxes. He has his reasons and I have mine. The reason I will vote to cut your taxes is to stimulate the economy.

Where does Social Security money come from? What is the source of Social Security dollars? It is payroll taxes.

Well, who pays payroll taxes? People working.

How do you get a job? Somebody hires you.

How do they pay you? They make a profit.

The economy needs infusion, in my opinion. But I respect the Senator from North Dakota tremendously because he is saying let's put no pressure on Social Security, let's not have a tax cut. I respectfully disagree. I believe a tax cut will help stimulate the economy, making the economy and payroll taxes stronger, not weaker. But I respect him tremendously because he has bought into the big picture. We disagree about what to do today. We may disagree about spending plans tomorrow. But the Senator from North Dakota has bought into the big picture. He understands what faces our Nation.

As we argue about how to fix problems each year with the trust fund, I encourage him to work with me and others to come up with an overall solution that will hit the problem head on. This is a cancer that needs to be treated—and not with a Band-Aid. The problem we are facing as a Nation is we would not have enough money coming into the system, if it was all dedicated, to come close to paying benefits. In 2042—I will mention that date again—28 percent reduction in benefits; 2018, you pay more benefits in taxes. Every day we talk about it, it gets worse.

Having said that, I do believe the Senator from North Dakota and myself will be able to work on a compromise that reflects accurately the facts facing the trust fund, the problem the Nation faces, and we will disagree about this year's budget and how to have a tax cut or not. But I do wish to work with him in the future because I believe he has got it. I believe he understands it.

With that, I will yield 10 minutes to my colleague, Senator CRAIG, from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. CRAIG. Mr. President, I first ask unanimous consent I become a cosponsor of amendment No. 274.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I am pleased to join with the senior Senator from South Carolina on a sense-of-the-Senate amendment expressing that Congress well ought to act sooner rather than later in strengthening our Social Security Program for the long term, for the young men and women today who are beginning to invest in the system and who have grown increasingly to believe it will be unreliable and not there when they get to be of Social Security age.

Why? The statistics have been talked about this morning, but here we are again. Year after year, trustee report after trustee report has been played out, spoken to, shown on the floor of the Senate. Hearings after hearings, month after month in our committee rooms, have given us the same message. Whether it is the junior or senior Senator from South Carolina, they both agree on the outcome. They may disagree on the reasons, but the trustees are always reflecting the graph or the chart that is so effectively displayed here. This comes directly from the Social Security trustee report of 2002 that we are speaking to this morning.

Current retirees and those approaching retirement age are going to get their money. Why? Because Social Security in that sense is solvent. But what we are concerned about, and why we begin to express a degree of urgency about reform for Social Security, is that you do not reform Social Security today for tomorrow, you reform it today for 40 years down the road, or 50 years down the road. It is like an insurance account. We are the board of trustees responsible for establishing and sustaining its actuarial soundness so we do not have to dump large sums of general fund money into it at the last minute to keep it whole.

I think all of us agree with the general understanding and the overlook that the trustees and the studies have shown. Social Security is solid today for our seniors. I am chairman of the Special Committee on Aging. We have spent a lot of time looking at this issue. Some folks take umbrage when they hear that Social Security will be broke. I don't know of anything that would express it differently than this bright red ink that would suggest at about 2020 it breaks beyond the black ink, or the break-even, and it heads into deficit. That is exactly what the junior Senator from South Carolina is talking about and what I am talking about.

Last month, Alan Greenspan of the Federal Reserve was before our Subcommittee on Aging. He was not there to talk about interest rates. He was there to talk about global aging. He testified that the country faced "abrupt and painful" adjustments down the road as related to Social Security if we do not address it sooner rather than later.

He simply meant that baby boomers were going to get cut. In essence, this is what is going to happen: I am a baby boomer. I am afraid my grandkids are going to say to me: Grandpa, we can't afford you anymore. We can't afford a huge bump in our taxes just to pay for your well-being.

And I would not blame them, when we look at the kind of tax scale that will result if you stand here and say there is nothing required now and in the future to deal with this red ink, except leave the trust fund alone, and that in some magical, mythical way you can take it out of the general fund of the Treasury of the United States, and that you don't spend it, or at least you don't borrow it back to Government to spend on other programs until such time as it is necessary and on call and Government can afford to pay for it.

Those are the issues at hand. That is what this resolution is about, to push us forward and into action in the near future, to make the kinds of adjustments that will assure my grandchildren that Social Security is going to be there for them and that grandpa isn't going to break them by demanding they keep Social Security whole, because he did not have the common sense and the good judgment to deal with it in the appropriate fashion.

I hope I do have that common sense and good judgment. Certainly, the group that has been looking at it and the group that reports and talks about insolvency down the road and the need to adjust are doing a great service to this country.

Last November, Peter Fisher, the Under Secretary of Treasury for Domestic Finance, compared the unfunded promises in Social Security and Medicare to those of a spendthrift insurance company unable to make good on its promises.

When I asked Alan Greenspan, well, let's compare Social Security and Medicare and fixing it, he said: Frankly, Social Security is not that difficult. Why? Because you have real figures and exact numbers in a relative sense. You have demographic studies that project the number of people who will come online, and you can make the adjustments for it.

Medicare is tied to a very dynamic health care system. It is growing and changing, and its costs will grow and change. It is a much more difficult task at hand, if you will, than that of us building up the backbone to deal with Social Security.

To his credit, our President appointed the blue-ribbon panel to explore ways of addressing this challenge. The President's bipartisan commission to strengthen Social Security was co-chaired by former Senator Pat Moynihan, our colleague and former Finance Committee chairman. He is an undisputed expert on Social Security, with unique bipartisan credibility.

Now the President's bipartisan commission has come forward with three models to strengthen Social Security. Many of us are studying those models to determine what is the best way to reform not the politically possible, because we are going to have to convince ourselves and the public about reform—and that is what we are about to do, I hope—but what is the right way to reform Social Security, to create the dynamics 30 or 40 years down the road, to assure that young people who are now beginning to invest in it with their hard-earned tax dollars—their withheld dollars from their payroll—to assure that it will be there for them.

This week, the trustees have done their job, and they have done it well. They have talked about it, and they have determined a status quo or do-nothing plan versus a variety of others. The do-nothing plan is what the trustees laid before us on Monday. And the do-nothing plan is the plan represented right here, in all of the bright red ink that is either displayed by my chart or by the chart of the Senator from North Dakota. I think my chart is prettier, but the charts are the same. Democrat or Republican, the figures don't lie, and we can't lie about them.

We both agree that herein lies the problem. A dynamic economy—people working softens it, and that is what this tax cut is about, getting people back to work, putting money in the market, creating jobs. We are going to have to tighten our belt a little bit on the other side. We are going to have to quit spending at the rate we are spending while we are stimulating the economy and putting people back to work. That helps the bottom line and softens the deficit a little bit.

But most economists agree, if you do not give a tax cut, and you continue to spend at the rate you are spending, you are going to have deficits for a long time to come. You can't cut your way out of them. You have to grow the economy and put some money back in the Treasury, and in doing that, for the short term, you strengthen Social Security.

But this is what is true about the long term, and in the long term are people like me at 55, 50, 57 years of age. I am 57. And in a short time we are coming online—62, 65, 67 years of age, eligible for Social Security, being part of that baby boom generation, that tidal wave of people hitting the Social Security system.

The Senator from North Dakota talked about the doubling of the numbers of recipients. That is what this red ink is all about. We need to create dynamics in the system, and change it, and assure that the right kind of investment is going in, that the right kind of energy and multipliers are at work there, to assure that not only is the system going to be there in the long term for me, but, most importantly, that the system is going to be there for the young people who are investing in it today.

I am not alone in condemning the do-nothing plan.

The PRESIDING OFFICER. The Chair wants to inform the Senator he has used 10 minutes.

Mr. GRAHAM of South Carolina. If the Senator would like additional time——

Mr. CRAIG. If I could have an additional 2 minutes to wrap up.

The PRESIDING OFFICER. The Senator may continue.

Mr. CRAIG. Mr. President, I thank the Senator for yielding me the time.

Whether it is former Senator Bob Kerrey, Democrat from Nebraska, whether it is former Senator Pat Moynihan, Democrat from New York, whether it is Republican LARRY CRAIG of Idaho or Republican LINDSEY GRAHAM of South Carolina, the reality is, we all understand we must act now, sooner rather than later, to recreate, strengthen, and ensure the future for a Social Security system that is good for my grandkids to put their money in, that is a sound investment that will yield for them a reasonable supplemental income in their retirement years.

I am not alone in condemning the do-nothing plan. Our former colleague, Senator Bob Kerrey, from Nebraska wrote a letter to another former colleague, Senator Daniel Patrick Moynihan, from New York, on the eve of his assuming the cochairmanship of the President's Commission to Strengthen Social Security. He wrote:

> Dear Pat, In that I have a great and abiding interest in your success on the 2001 Social Security Commission and that I am willing to provide free advice, I offer the following two suggestions:
>
> 1. Start talking about the details of the most popular plan in Washington to fix Social Security. . . . It is called the do-nothing plan. The do-nothing plan discloses no details. . . . Citizens who want to know the rest of the details must look to the Social Security Trustees who will tell them this: The do-nothing plan proposes to cut benefits 25 to 33 percent by 2043.
>
> 2. Wealth should have a goal. . . . Our goal is to eliminate poverty amongst eligible Social Security beneficiaries. By the way, the do-nothing plan will increase poverty rates.

For every year we delay strengthening Social Security, it will only become more difficult to do.

The challenge calling out to this generation in Congress is how to sustain Social Security beyond this generation of retirees without overburdening our children and grandchildren with excessive taxes on their labor or huge cuts in retirement income.

It is not too late. We can still do the right thing. We can save Social Security by embracing the framework provided by the President's Commission and working to strengthen it soon.

David Walker, the Comptroller at the General Accounting Office, testified just this January before the Aging Committee that we have:

> a, window of opportunity to craft a solution that will protect Social Security benefits for the nation's current and near-term retirees, while ensuring that the system will be there for future generations.

We should embrace that window of opportunity for the sake of our children and grandchildren.

As I said: Here we are again. The trustees are trying to get Congress and the public to face the future with confidence and action. The challenge for us is to respond.

That is why the Aging Committee has been and will be holding hearings and briefings this year. We will continue to highlight the work of the—nonpartisan and bipartisan—General Accounting Office, the President's Commission to Strengthen Social Security, the Congressional Research Service, the Congressional Budget Office, and the Social Security trustees.

The call to action begins with understanding what the trustees have told us again this week. The consequences of the do-nothing plan will be devastating for today's workers and tomorrow's retirees.

That is what the study was all about. That is what the commission has been about. That is what this amendment is all about.

I thank the Senator from South Carolina for bringing forward this concurrent resolution, urging us forward now, to begin to act. Hopefully, by 2004, 2005, or 2006, we will have developed the political will to do the right thing for the Social Security system and its future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, if I may, to put a couple things in perspective as we close out the discussion on the amendment, No. 1, I have been able to reach accommodation with the Senator from North Dakota about the language of the amendment. I am willing to accept his changes. I think they are reasonable and helpful.

I encourage my colleagues, we can have disagreements about how to best protect the Social Security trust fund. We can have a debate that we should not cut taxes, that we should make sure that we do nothing in terms of spending or tax cuts that jeopardizes the dollars coming in. That is a legitimate, healthy debate. I believe the best way to protect the trust fund is to create additional jobs and grow the economy so we will have more payroll taxes coming in to shore up the trust fund.

The focus of the amendment is to clarify in this roadmap the status of Social Security, not based on what a Republican thinks or what a Democrat thinks. And here is the summary of that status.

No matter what happens with the current amount of money coming into the system, if it is all protected, or some of it is bled off, if every dollar were to be collected that is going to be paid, it is $25 trillion short to pay bills in the next 75 years. And in 2042, you would have to cut 28 percent of the benefit package or increase taxes by 50 percent. In 2018, you would pay more in benefits than you collect in taxes. Why is that? The amount of money to be dedicated to this system, if it is all left alone, is nowhere near the amount of money to pay the benefits. It is no one's fault. It is not Senator HOLLINGS' fault, and it is not my fault. The problem is we went from 16.5 workers paying into the system in 1950 to 20 years from now having two to one. There are just not enough people paying taxes to take care of the baby boomers.

One thing I am trying to make crystal clear is, there is no easy fix. The demagoguery must stop now. Those who say a tax cut this year or a spending plan next year is the problem with Social Security are missing the boat and engaging in conduct that is going to prevent us from ever finding a solution that works.

My belief is that you grow the economy to help Social Security. The belief of the Senator from North Dakota is that you don't do anything to jeopardize the trust fund this year through a tax cut. I respect that. I just disagree.

I hope if there is a vote in any fashion on this amendment, that my colleagues would allow the product that the Senator from North Dakota and I have come up with to be part of the record because it is vitally important that the Senate incorporate information from the Social Security trustees that tells us exactly the future of Social Security and its status so that there will be something we can agree on and we can start working toward a solution sooner rather than later. If we can't agree on the basis, if we can't put into the budget resolution what the Social Security trustees are telling us about the status of the fund in 2018 and 2042 and the structural problems, if we can't do that because somebody wants to make a point about the tax cuts for political advantage, how in the world are we ever going to solve this problem?

I hope the Senate will overcome the temptation to kind of punch and counterpunch on the debate about taxes or any other debate and put in the record the real facts about Social Security, a record that has been established between myself and the Senator from North Dakota. It would be a great day, a small step forward to finally come to grips with the problems that Social Security faces.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I must say, when I hear the suggestion that cutting taxes now won't affect Social Security in the future, that is no economics that I understand.

Just so we all understand how it works, all the revenue of the Federal Government goes in a pot. All the expenditures come out of that pot. That is the way it works. When you take revenue away from that revenue stream and you already can't pay your bills, guess what. You can't pay your bills in an even more serious way. Any family's economics would tell them that if you are not able to pay your bills now and you go out and cut your income more, you have more bills you can't pay. That is what our friends on the other side are trying to convince people of. I don't think that is going to work.

This is the hard reality of the budget before us. There is over $2.7 trillion of Social Security surplus available in the next 10 years. I believe we ought to take that money and either pay down debt or prepay the liability. That would strengthen Social Security.

The other side has offered a budget that takes virtually every penny of those Social Security surpluses and uses them to pay for tax cuts or other expenditures. That does not help Social Security. That hurts Social Security. That makes the shortfall more serious going forward because we have not taken the resources, those trust fund surpluses, and used it to either pay down debt or prepay the liability.

The other side tries to posture that one side wants to do nothing; the other side wants to do something about economic growth. No. No, I don't believe their program improves economic growth. Why not? Because the tax cuts are not paid for by reducing spending. The tax cuts are paid for by borrowing. You can't borrow your way to prosperity.

Here is the work of the macroeconomic advisers. These are people under contract to the White House and under contract to the Congressional Budget Office to tell us what the effect of various fiscal policies are on economic growth. Do you know what they tell us? If we enact the President's plan, it will actually hurt long-term economic growth. It will hurt economic growth. Why? Because of increased deficits and debt that put a weight on the economy. What is that weight? When you run deficits and debt, that reduces the pool of societal savings, that reduces the money available for investment. That hurts economic growth. That is exactly what the folks who have analyzed this have concluded.

Is the Senator from South Carolina seeking time?

Mr. HOLLINGS. Yes.

Mr. CONRAD. I yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, right to the point, when the distinguished Senator from Idaho was talking about growing out to it, I ask unanimous consent to print page 6 of the budget resolution before us in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal year 2012: – $327,375,000,000.
Fiscal year 2013: – $317,115,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,687,816,000,000.
Fiscal year 2004: $7,269,629,000,000.
Fiscal year 2005: $7,825,005,000,000.
Fiscal year 2006: $8,366,224,000,000.
Fiscal year 2007: $8,885,256,000,000.
Fiscal year 2008: $9,412,708,000,000.
Fiscal year 2009: $9,932,454,000,000.
Fiscal year 2010: $10,443,080,000,000.
Fiscal year 2011: $10,971,657,000,000.
Fiscal year 2012: $11,449,831,000,000.
Fiscal year 2013: $11,919,328,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2003: $3,858,449,000,000.
Fiscal year 2004: $4,184,748,000,000.
Fiscal year 2005: $4,446,730,000,000.
Fiscal year 2006: $4,661,214,000,000.
Fiscal year 2007: $4,828,626,000,000.
Fiscal year 2008: $4,980,020,000,000.
Fiscal year 2009: $5,101,852,000,000.
Fiscal year 2010: $5,190,541,000,000.

Mr. HOLLINGS. On page 6 you will see that the appropriate levels of the public debt are as follows: Fiscal year 2003, $6,687,816,000,000, but for the fiscal year 2013, the public debt is $11,919,328,000,000. So it is an increase of $5.2 trillion. Good gosh, I said "trillion." I was hoping to say "billion." The debt goes up, up, and away. Well, we know what the interest cost is going to be on that. That is going to be in excess of $600 or $700 billion a year. We just can't afford that.

Let me say to the distinguished colleague from South Carolina, again, I was here in the 1970s. I was here in the 1980s. We didn't spend the Social Security trust fund, but we were beginning to drain it at the very end of the 1970s. And we appointed the Greenspan commission, and the Greenspan commission put on a graduated increase in taxes over the years to take care of the baby boomers in the next generation, exactly what my colleague from South Carolina is talking about. We foresaw that. It was supposed to build up these reserves and surpluses. That is exactly what has occurred.

I refer, since it is already in the record, to page 4 of the annual report of the Social Security trust fund that was issued on Monday.

It shows at the end of 2002, we had assets in the Social Security trust of $1.378 trillion. Of course, they have been spending the money on any and everything but Social Security. You can propose plan A, and plan B. You can talk about 2018 and 2042 and all those other funny little things until you are blue in the face. But unless and until you stop spending Social Security moneys on everything but Social Security, none of those plans is going to work—whether you privatize or not. That is why the Congress, under the leadership of President George Herbert Walker Bush, in November of 1990, wrote into law section 13301.

I want to put Section 13301 into the amendment to make it crystal clear. I don't mind some of the whereases—and I understand the Senator from North Dakota wants to try to move things along and accommodate my colleague from South Carolina in taking a sense of the Senate. But there is no way in the world to make that a bill because there is no way to write it. You have to provide what the budget impact is, and everything else like that, and have it appraised. So it remains as a sense of the Senate at the desk. So that we can clear the air from this particular sham, I raise a point of order under section 305 of the Budget Act that sense-of-the-Senate resolutions are nongermane.

The PRESIDING OFFICER. A point of order is not in order at this time. It can only be made when the time of the amendment has been used or yielded back.

Mr. HOLLINGS. Very good. I yield the floor. I think I have made my point. I ask the Chair, is it still a sense-of-the-Senate resolution? What is the form?

The PRESIDING OFFICER. It is a sense-of-the-Senate amendment.

Mr. HOLLINGS. A sense-of-the-Senate amendment. Right, mine would be the sense of the Senate. So I don't know—may I ask unanimous consent, then, to be recognized at the end, not to make a point of order?

I ask unanimous consent that when the time expires, I may be recognized to have considered the amendment, or voted on the amendment that I have at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM of South Carolina. Mr. President, reserving the right to object, I believe an effort is being made between my office and Senator HOLLINGS' to work something out we can all live with. I ask him to take that into consideration. There are negotiations going on as we speak.

Mr. HOLLINGS. Do you object?

The PRESIDING OFFICER. Does the Senator object?

Mr. GRAHAM of South Carolina. No, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, simply put, a couple things: My senior Senator seems to suggest we did something in the 1980s that has made Social Security sound. Social Security has surpluses today, but every day that goes by, those surpluses are not enough to pay the bills that are due and yet to come. Here is what the Social Security Administration told us yesterday: There are 3.3 workers to every retiree in 2002. Twenty years from now, it goes 2 to 1. They told us yesterday that without structural reform—I emphasize again, structural reform does not include leaving Social Security current dollars alone. If you leave every dollar owed to Social Security alone and do nothing else, it still runs out of money in 2042. It is $25 trillion short in 2075. That is not the problem. People who say that are not being forthright about the problem.

Having said that, I join my colleague from South Carolina and the Senator from North Dakota to try to make sure we preserve Social Security, keep it strong and healthy until we can find a structural reform. He has made an argument that cutting taxes reduces the family's income. The point is that payroll taxes are the income for Social Security. We are in a depressed economy right now.

We are trying—at least I am trying—to take some dollars and invest them back into the families and businesses of America, to create additional jobs, to strengthen the revenue flow, and to protect the revenue flow of Social Security.

My friend from North Dakota doesn't believe it will work. I totally respect him. But it is very difficult to be lectured to by some of my friends on the other side of the aisle about needing to be good stewards with taxpayer dollars. I came to Congress in 1994. When I came here, there were deficits as far as the eye could see. We had not balanced the budget in 30 years. We were able to balance the budget and cut taxes twice. Now, because of war, recession, and other problems, we have a debt. The debt, compared to the gross domestic product, is very small as compared to years past. But it is still a debt, and it is a real problem, and we need to work together to solve that debt, and we will.

I am asking my colleagues today, whatever you think about the tax cut, or other proposals that my party may present today or tomorrow, please do not prevent us from having in the RECORD for the country to see the true state of affairs with Social Security. My amendment doesn't fix the problem; it identifies it. I have been able to work with the Senator from North Dakota to put it into the RECORD. Today could be a good day—a day that the Senate agrees on the outyear problems of Social Security and begins to define it in a nonpartisan way or today could be the same old politics, where the political moment prevents us from talking honestly and openly about the looming problem of Social Security.

I am hopeful this will be a different day because, if not, we have lost the opportunity to do something constructive to fix Social Security. I appreciate the Senator from North Dakota working with me. I hope I can reach an agreement with my senior Senator from South Carolina to define the problem in honest terms, without anybody putting their spin on it, because the wording comes from the Social Security Administration. If I fail, I deeply regret the fact that I was not able to achieve this small first step. I am hopeful that, working together, we can achieve this small first step. That is all I know to say.

This is a great exercise in what this country faces. I am trying to use the Social Security trustees' report to define the problem. I don't want the demagoguery of the moment to keep us from doing that, because the country loses in the debate of the moment. There are honest differences. Let's do something constructive and define the problem in the terms given by the Social Security trustees.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, has the Senator from South Carolina now seen the modification suggested by the senior Senator from South Carolina? Is the Senator from South Carolina, at this point, willing to accept the modifications we previously discussed, as well as the modification of the senior Senator from South Carolina?

Mr. GRAHAM of South Carolina. After having reviewed the documents, I am willing to agree to the modifications as offered by my senior Senator and the modification offered by the Senator from North Dakota. I am willing to do that. I think it is a good first step.

Mr. CONRAD. I appreciate that and I think that would be a good outcome. I will soon seek unanimous consent to accept the amendment as modified, and then we will be able to proceed. As you know, at 2 o'clock, we have to turn our attention back to the ANWR discussion.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. Yes, without losing my right to the floor. We are up against the 2 o'clock time limit.

Mr. REID. I would like to get this amendment accepted.

Mr. CONRAD. Would the Senator from South Carolina, including his modification, accept that?

Mr. HOLLINGS. That would be acceptable.

### AMENDMENT NO. 274, AS MODIFIED

Mr. CONRAD. Madam President, I ask unanimous consent that we accept the amendment of the Senator from South Carolina, as modified.

The PRESIDING OFFICER (Mrs. DOLE). The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 79, after line 22, add the following:

**SEC. 308. SOCIAL SECURITY RESTRUCTURING.**

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(D) without structural reform, the Social Security trust fund will be exhausted in 2042, and Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(E) without structural reform, future Congresses may have to raise payroll taxes 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of as much as 16.9 percent by 2042 and 18.9 percent by 2077;

(F) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars or $3,500,000,000 measured in present value terms;

(G) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt or less spending on other federal programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Congress and the American people including seniors, workers, women, minorities, and disabled persons should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must reduce the pressure on future taxpayers and on other budgetary priorities;

(C) must provide benefit levels that adequately reflect individual contributions to the Social Security system.

(D) must preserve and strengthen the safety net for vulnerable populations including the disabled and survivors.

(3) We should honor section 13301 of the Budget Enforcement Act of 1990.

The PRESIDING OFFICER. Will the Senators yield back their time on the amendment?

Mr. CONRAD. Yes, we are prepared to yield back.

The PRESIDING OFFICER. Time is yielded back. The question is on agreeing to amendment No. 274, as modified.

Without objection, the amendment, as modified, is agreed to.

The amendment (No. 274), as modified, was agreed to.

Mr. HOLLINGS. Madam President, the agreement we had that I be recognized now should be vitiated. It is not necessary.

The PRESIDING OFFICER. That is vitiated by this action.

### AMENDMENT NO. 272

Mr. CONRAD. Parliamentary inquiry: Are we now in the circumstance that we are back on the debate on ANWR for 1 hour preceding the vote at 3 o'clock?

The PRESIDING OFFICER. The Senator is correct. Who yields time?

Mr. CONRAD. Time is equally divided during that time?

The PRESIDING OFFICER. The Senator is correct.

Mr. CONRAD. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. STEVENS. Madam President, I believe we have an hour equally divided at this time.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Madam President, I yield such time as my colleague from Alaska, Senator MURKOWSKI, desires. Does she need 10 or 12 minutes?

Ms. MURKOWSKI. Ten minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. I thank the Chair. Madam President, the discussion about ANWR is more than just pictures. It is more than statistics, numbers, and barrels of oil that might be recoverable. ANWR is about real people, real jobs, and real opportunities, and that is what we need to be focusing on. We do not need to get caught up in the hype of the pretty pictures. I will be the first to tell you that my State is absolutely drop-dead gorgeous, and I want to keep it that way. I would not be supporting anything, and I would not be standing on the floor of the Senate suggesting that we should do anything to despoil that.

I want to talk briefly today about three points and what ANWR means to us in Alaska. It is jobs, it is protection of the environment, and it is also about economic security—three commonsense, basic issues.

Let me talk quickly about the environment because it is these attacks that I think first and foremost have kept ANWR from being developed for the past 20-some years, all the concern of the development of oil and gas reserves on the North Slope, on the Coastal Plain. It was intended and identified as early as 1960 by President Eisenhower that this area had great potential for oil exploration and drilling and should be utilized as such.

We do care for the environment. We have shown that through construction of our 800-mile Trans-Alaska pipeline that carries the oil safely, bisecting the State from top to bottom. We have done a darn good job, and the scientific studies and reports, including the National Academy of Sciences' report that came out 2 weeks ago, demonstrate that. We do a good job. We care for our environment in Alaska.

The environment and development are not mutually exclusive terms. We have demonstrated time and again that they are not mutually exclusive. For those who will take the time to visit our oilfields up North, I think they will be amazed at the technology, the innovation we utilize when it comes to the extraction of our natural resources.

The good Senator from New Mexico stood in this Chamber earlier and talked about the directional drilling and the technique that is now available to develop our oil. I think he used the number 4 miles; that we can snake this oil well down across a 4-mile area of terrain. He used the analogy of a child with a straw and a milkshake and that straw could go 4 miles. That is a pretty vivid image. Actually, the good chairman of the Energy Committee is incorrect; we can actually go 6 miles. The technology has come so far in the 30 years since we have been drilling on the North Slope.

We talk about the footprint. The footprint has been described in so many ways. You can fit six of the oil development areas in the size of Dulles Airport. It is the size of the Pinehurst golf course. The visuals are there, but what we need to impress upon people, what we have to impress upon people is that the footprint is practically negligible in the context of the whole Coastal Plain and certainly in the context of the whole of ANWR and even more certainly in the context of the entire scope of our State.

What we are talking about, first of all, is very small. But even if it is small, we still need to do it responsibly, and we do that through the technology. The State of Alaska is the first to make sure the environmental standards are met and the permitting requirements are met. Nobody wants to rape, spoil, or ruin the land.

Madam President, I am third generation Alaskan. I am the first person serving in Congress for the State of Alaska who was actually born in the State. I was born in the territory. I am the last person to suggest we should do anything that would spoil our environment, my environment, the environment in which I choose to raise my family. My boys, my husband, and I live for fishing, hunting, camping, and backpacking. This is the part of Alaska we want to preserve. So let us do it right. We know how to do it right.

I will talk a bit about the jobs. We have talked about jobs repeatedly on this floor. Last night, we demonstrated through the testimony and the charts that we are talking about some 575,000 jobs across the country. We need to remember that when I talk about jobs, I do not want people to think that Alaska is interested in opening up ANWR just because it means jobs and opportunity for my constituents, for the people in my State. It does. It means that, and it means more. It means roads, hospitals, schools, and facilities. It enables people in my State to live, but it also means jobs across America.

As I said, this means 575,000 jobs across the country. If we look at the numbers, they are all over the board: The State of New Jersey, 178,000 jobs; the State of Pennsylvania, 27,000; the State of Ohio, 25,000; the State of Kentucky, 10,000; the State of Texas, 47,000; the State of California, 63,000 jobs. We are talking about real jobs for real Americans across the country.

We are considering the economic stimulus package that the President has put forth. There is no better economic stimulus than jobs and job opportunity. We can provide that for America through ANWR, and they are good-paying jobs.

I made the point last night—and it is compelling—that the job opportunities right now for Alaska are approximately 11,000 jobs within the petroleum industry. If we were to accept this amendment, if we were to strip ANWR from the budget resolution, what these other States would be saying is that it is OK for us to have petroleum-based jobs in our States but, Alaska, we do not want you to have any more. We are cutting you off. In other words, Massachusetts could keep its 20,000 petroleum-based jobs, New Jersey could keep its 27,000 petroleum industry jobs, and New York could keep its 37,000 petroleum industry jobs, while Alaskans should look for alternatives.

The impression I get as an Alaskan, looking from the inside out, is that the lower 48 would just as soon lock us up, not allow us to have good-paying jobs that will feed our families and allow us to live in the State we want to live.

But, no, the jobs we should have are jobs such as carrying the bags for the tourists who come to our State. Yes, we want tourism but we also want real jobs, and these petroleum-based jobs are jobs that are real for Alaskans.

It is one thing if the residents of the State of Alaska said we do not want this and Congress was trying to shove it down their throats, but Alaskans have said yes. We have said we will accept responsible oil development and production in our backyard. We will take it, and we will do it responsibly. We promise we will be responsible.

This gets to my last point, which is economic security and basically plain old common sense. There is kind of an 800-pound gorilla sitting in the Chamber now. We are literally at the brink of war. We do not know what is going to happen in Iraq. We do not know if Saddam Hussein is going to torch the oil fields. We have no idea. What we do know is that in the past several months, we have increased our imported oil from Iraq. We have doubled our imports from Iraq in the past couple of months. We have sent billions of dollars to Iraq. I am not quite sure how the paper trail goes, but I do not think it is too farfetched to assume that we send billions of dollars to Iraq to Saddam Hussein, who in turn sells us the oil that we place in our aircraft or our air carriers and we send our men and our women over to defend no-fly zones, to put them in harm's way, when we could be producing domestically. If that does not keep us awake at night, I do not know what will. It does not make sense at this point in time.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MURKOWSKI. I ask for an additional minute.

Mr. STEVENS. One additional minute.

The PRESIDING OFFICER. The Senator may continue.

Ms. MURKOWSKI. I have placed on each Member's desk a copy of Review & Outlook from the Wall Street Journal that ran this morning. I urge each Member to review that, because it does speak exactly to the issue I addressed.

I conclude by reminding members of some very pertinent facts. ANWR has more oil in it than the State of Texas. These are not made-up facts. This is Department of Interior, USGS. This is not insignificant quantities we are dealing with.

The PRESIDING OFFICER. The Senator has used her minute.

Ms. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. I yield myself 5 minutes.

I ask the Senator from Alaska, is it OK upon my completion of 5 minutes that Senator FEINGOLD address the Senate for 5 minutes, and then we would turn it back to the time of the Senator from Alaska? Is that all right with the Senator?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, let's be clear. Ninety-five percent of Alaska's North Slope is open for drilling. That is a fact. We are talking about the last 5 percent. The debate is whether that should be opened as well.

Clearly, this is going to be a very close vote. I have great respect for the Senators from Alaska, but I would welcome it if they wanted to help preserve the environment in my State.

As far as jobs are concerned, there was a report done by the Joint Economic Committee on March 14, 2002. They issued a report that said there would be 65,000 jobs nationwide by 2020, an employment gain of less than one-tenth of 1 percent of the U.S. workforce, and CRS—that is the Congressional Research Service—Report No. R.S. 21030, October 1, 2001, said under the most likely scenario, full development in the Arctic would result in 60,000 jobs.

I am not one to say 60,000 jobs are no jobs—that is a lot of jobs—but the more than 2 million jobs we have seen go down the drain in the last 2 years, that is a bigger debate.

I also want to make the point that for those of us in California who defend and protect our coastline from oil companies every day of the week, we made a choice. Yes, we know there would be jobs developed there, but it would destroy that coastline and have the potential for horrific accidents and problems because we have experienced those.

So I say to my friends from Alaska, I hope they will understand the people in this country who support keeping this 5 percent of the North Slope in its pristine environment are doing so because we think it is good for the soul of this country, and we believe there are more jobs to be created through other means.

The reason I have this photograph—and it was challenged not by my colleagues from Alaska at all but by others—this is clearly in the development area—and also by Secretary Norton, who is quoted in the newspaper as saying the image of flat white nothingness is what one sees the majority of the year. This is the reason I felt compelled—and I was glad to see my colleague from Alaska say she agrees, it is magnificent, and I wish every Member could have the chance to take a look at this beautiful book, Arctic National Wildlife Refuge: Seasons of Life and Land. It is a photographic journey by this incredible photographer through all the seasons. Some of the most beautiful scenes are in the winter. I know my colleagues cannot see this, but it shows the birds and the snow and all the rest. It is quite beautiful.

I guess beauty is in the eye of the beholder. Maybe Secretary Norton looks at this and comes away with another point of view, and I respect that. I just do not happen to agree with it.

In April—I think it is April 10—there will be an exhibit opened at the Smithsonian on the Mall which will show these photographs, and more. So I hope people will take a chance to look at it, because it is quite breathtaking to see.

I want to reiterate that I printed in the RECORD last night a letter from the Alaska Inter-Tribal Council. They have asked me to make a point of this letter they have written, in which they say:

> We urge you to reject . . . any other proposals to authorize oil exploration and development of the birthplace and nursery of the Porcupine Caribou Herd, the coastal plain and the Arctic National Wildlife Refuge.

They talk about they support the Gwich'ins to seek permanent protection of the Arctic National Wildlife Refuge. I know the Gwich'in people are here. I also know there are other tribal people here as well, and I say that I have met with them many times and have been touched and moved with their testimony. They are very proud the Alaska Inter-Tribal Council that represents 187 tribes is with them, and they asked me specifically to put this letter into the RECORD.

Let me finish by saying the U.S. Fish and Wildlife Service has a beautiful Web site and they say on it:

> The Arctic refuge is among the most complete, pristine and undisturbed ecosystems on Earth . . . a combination of habitats, climate and geography unmatched by any other northern conservation area.

This is a quote from the U.S. Fish and Wildlife Service. This is very clearly the point of view of most people, and I hope that we would honor this God-given treasure today and vote to strip this language from the bill and take a stand in favor of keeping this area pristine.

I look forward to the remarks of Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to support this amendment which is similar to one I offered in the Budget Committee. It would strike the reconciliation instruction to the Energy Committee contained in the budget resolution before us.

This instruction requires the Energy Committee to produce $2.15 billion by reporting out legislation by May 1, 2003, with the assumption that they open the coastal plain of the Arctic National Wildlife Refuge to oil drilling.

Management of the Arctic Refuge Coastal Plain has been hotly debated for many years. Some Senators, like myself, believe that this area should be designated as a Federal wilderness area. Other Senators believe that this area should be explored for its oil potential.

I support this amendment because I believe that the fate of the coastal plain of the Arctic refuge is a question of Federal National Wildlife Refuge management, not budgetary policy. If a Senator believes that oil reserves which may be located under the coastal plain are needed today, or 20 years from now, for reasons of enhancing this country's energy security, then the fate of the refuge is a question of energy policy, not budgetary policy.

No matter where a Senator might consider himself or herself in the discussion over the fate of the refuge, and this issue was debated at length during the Senate's consideration of the energy bill last year, no Senator has said that the primary reason to change the management of the refuge was because we just needed the revenue.

In fact, the chairman of the Budget Committee, Mr. NICKLES, again stated, when I offered my amendment in committee, that these instructions are included in the budget resolution because Arctic drilling is needed to stimulate the economy, create jobs, and produce oil, not for purposes of revenue.

I know there are strongly held views on this topic, and I do not intend here to go into all the reasons why I have concerns about the possibility of oil drilling in the refuge. Other Senators who join in offering this amendment will be making that case and making it effectively.

I feel that the fate of the coastal plain of the Arctic refuge is too important to become a number in the budget process.

I also think that, for several reasons, Senators who support drilling in the refuge should support this amendment and object to using the budget resolution and reconciliation to achieve that goal.

As Senators know, debate on a reconciliation bill and all amendments, debatable motions, and appeals related to it is limited to a total of 20 hours. After 20 hours, debate ends. Consideration of amendments then may continue without any debate.

I am concerned that using a fast track procedure like reconciliation to open the refuge exposes the Senate to criticism that we are using the refuge revenues in part for tax cuts, or to authorize new spending programs.

Particularly, the Senate may be accused of dispensing refuge revenues in unrelated accounts to gain political support for refuge drilling. Our constituents may also be concerned that we will have to spend a great deal to implement a drilling program in the Arctic refuge because much of the infrastructure needed to bring oil from the refuge to the rest of the country does not exist today.

As well, I am concerned that some Senators are supporting drilling in the refuge because they feel that it can be done in an "environmentally safe" way or they feel that it should be done jointly with energy efficiency, oil savings, and alternative energy programs to reduce our dependence upon foreign oil.

Reconciliation limits the way in which Senators who are concerned about these issues, and who do not serve on the Energy Committee, are able to address those issues on the floor. "It" cuts it off. You cannot have a real debate about what should be done. It is simply a budget number.

The Congressional Budget Act explicitly prohibits the offering of nongermane amendments to a reconciliation bill. If a Senator felt that the Energy Committee's reconciliation bill opening the refuge did not go far enough to regulate environmental impacts associated with Arctic drilling, or to promote alternative energy in light of Arctic drilling, the Senator may not be able to offer amendments on the floor to improve the bill.

Such amendments, which might improve the bill from an environmental standpoint, might well be considered extraneous because they do not raise revenue.

I would caution all members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to think seriously about whether reconciliation serves their interests and their constituents' interests.

Finally, I oppose using reconciliation because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process.

That will not be achieved if reconciliation instruction on the Arctic refuge is included in the resolution before us. I urge support for my amendment.

Mr. STEVENS. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the Senator from California could not be more in error about the amount of land on our north arctic shoreline. It is not 95 percent open. There is the naval reserve No. 4. That is 52 percent of the coastline closed. She knows it is closed.

Beyond that, the Senator from California comes in with a letter from the Inter-Tribal Council of Alaska. That is a group of dissidents in Alaska, as far as I am concerned. The 100,000-member group of Alaskans known as the Alaska Federation of Natives—my colleague Senator MURKOWSKI had printed in the RECORD last night their Resolution 9505 absolutely supporting opening of this area to oil and gas drilling.

The main thing is, in 1985 it was drilled pursuant to a law passed in 1980 to drill a test well to see if the area could produce oil and gas. The exact results have been classified, but we know it does have the largest basin on the North American continent. If it is drilled, we expect it to produce enormous amounts of oil. One estimate I have before me is the total expected reserves for oil and gas in nongas liquids from Alaska, not taking into account the price per barrel, is 32.5 billion to 69.36 billion barrels.

When they first told us about the discovery in the Arctic known as Prudhoe Bay, they said the estimate was about a billion barrels. Last year, we produced the 17 billionth barrel, and it is still producing. As a consequence, we face a process of discrimination. We are crying to be treated equally. In California, they have four refuges. Three of them produce oil and gas: Hopper Mountain, Seal Beach, and Sutter. The fourth has a producing well and did not produce until 2000.

The Senator from California says, protect the pristine wildlife refuges. This is an enormous area. Her area is less than 100,000 acres, and they are drilling it. It comes down to the question, How much are you influenced by the extreme environmental movement in the United States?

This comes down to a question of jobs. It is jobs. There are many Alaska Native people in the gallery now. They need jobs. This is their area. This is a chart showing how many of the wildlife refuges in the United States have oil and gas drilling: California has 4, two northern States have 4 each, Illinois has 4, and there are 17 in Louisiana. Louisiana has proved you can have oil and gas drilling and compatible protection of wildlife at the same time.

All we are seeking is to be treated equally. We have a whole series of points that have been made in the last few days. And when I have this debate—there have been a lot of debates here since 1980. The commitment was finally made by two friends of mine who are now deceased, Senator Jackson and Senator Tsongas. After they made their pledge, I helped them to get the whole bill passed, over 100 million acres.

There were newspaper ads: Ted Stevens, come home; you made a mistake. If we lose today, I probably did make a mistake because I trusted the Senate. I trusted the Senate to follow the law. I hope the time comes when other people face the same proposition and they can rest assured.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. Madam President, I am finding the source for the comment I made that Senator STEVENS took issue with that the 5 percent of the North Slope was available for drilling. That comment was made by the Interior Secretary to the Senate in the committee. That statement was made in 1995. I am putting my hands on the exact words.

I yield 5 minutes to the Senator from Connecticut who has been a real leader in this fight, Senator JOE LIEBERMAN.

Mr. LIEBERMAN. Madam President, I thank my friend from California for the steadfast and spirited advocacy she has made of this amendment.

We come in about half an hour to another moment of truth. President Bush said earlier in the week that we were at a moment of truth with regard to Iraq and Saddam Hussein and weapons of mass destruction. I agreed with him. In half an hour we come to a different kind of moment of truth in the long, ongoing battle about whether we will preserve the magnificent natural gift we received from our Creator in the Arctic Refuge known as the American Serengeti and inhabited by so many magnificent species of wildlife, for a very small amount of oil.

This question, this moment of truth also raises the question about whether we will accept a contention of the Bush administration that somehow, by doing this, we are solving America's energy problem. With all respect, there could not be a more ridiculous contention.

The facts are clear. If drilling occurs by the year 2020, our dependence on foreign oil, as a result of the oil from the Arctic Refuge, will be reduced from 62 percent to 60 percent. That is not the road to energy independence.

Those of us on both sides of the aisle, Republicans and Democrats, who oppose drilling in the Arctic Refuge support new domestic energy production, including new fossil fuel energy production. In fact, it is worth pointing out that the previous administration leased more land for energy development than either of the preceding two. But it opposed drilling for oil in the Arctic Refuge. Those decisions need not be hazardous to our environment. They need not destroy precious places. Each must be evaluated in light of the specific environmental consequences of the exploration, and our most important shared environmental treasures must be placed off limits.

The Arctic Refuge, in my opinion, is one such place. We simply would not gain enough in oil or energy independence to justify long-term harm to this place. The facts in that regard are clear. Setting up the intricate infrastructure required to pump oil out of the refuge will despoil the land and its ecosystems forever. After hundreds of pin pricks, the refuge will be in that sense bleeding, its wildlife will be reeling. We will never be able to get it back to where it was.

Supporters of drilling insist on numbers that grossly overestimate the benefits and underestimate the cost. Could the drilling in the refuge coexist with wildlife? Not by a long shot. The USGS, part of the administration, confirmed that development of the refuge would result in substantial environmental destruction.

Do we want to tear up this magnificent piece of America for such a tiny reward, when harnessing American technology to improve conservation and efficiency and developing alternative energy sources could reap many times the benefit? To me, the answer is clear. Oil drilling in the refuge is not a path to energy independence. It is not a path to economic security. It is, in fact, a road to ruin, environmental ruin of this wildlife refuge. The oil that would be gained will come and go in almost no time. But the destruction will last forever.

This is an unsettled time in our Nation's history. People feel insecure about so much—about the war in Iraq, about terrorism, about economic insecurity. It does seem to me that the decision we make today relates to that. There have to be some places, some things, some values, some natural treasures that do not change, that we have to protect, particularly at this moment. This is a place from which we gain strength, from which we gain purpose, from which we gain tranquility. Let us not, in the pressures of the moment, let it be destroyed forever.

I quote, finally, the words of Theodore Roosevelt, who may be considered in his time to be an extreme environmentalist. In 1916 TR said:

> The greatest good for the greatest number applies to the number within the womb of time, compared to which those now alive form but an insignificant fraction. Our duty to the whole, including the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations.

The final sentence from TR, President Teddy Roosevelt:

> The movement for the conservation of wildlife and the larger movement for the conservation of all of our natural resources are essentially democratic in spirit, purpose, and method.

Those are timeless words which come home to us almost a century later as we face the moment of truth for today and for tomorrow in this vote. I urge my colleagues, please support the best of America. Vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield myself just 1 minute while the Senator from Connecticut is here. We have 77 percent of all the wild refuges in the United States in Alaska. We are talking about 2,000 acres out of almost 90 million acres of land.

I don't understand people who stand here and say save this pristine part of the United States. I invite all of them—I will take them up there right now and let them see the Arctic Slope. It is frozen tundra. Look at this map. That shows how much of this area is withdrawn. The Senator from California says it is 95 percent—look at it. If you go from the coast on the Arctic coast of Alaska, it is not open. The only part of Federal land that is really open now is 1.5 million acres that was left open by the Jackson-Tsongas amendment. The rest of it is closed.

I reserve the remainder of my time.

Mrs. BOXER. Parliamentary inquiry: Could you tell me how much time remains on the Senator from Alaska's side and how much on my side?

The PRESIDING OFFICER. The Senator from California has 12 minutes 29 seconds; the Senator from Alaska has 13 ½ minutes.

Mrs. BOXER. I ask the Senator, what is your preference? Senator CHAFEE would like to speak, but if you would like to take some time?

Mr. STEVENS. Madam President, I was waiting for Senator DOMENICI. I think Senator CHAFEE was waiting for time.

Mrs. BOXER. I was just asking my colleague if he preferred Senator DOMENICI to go since he just spoke.

Mr. STEVENS. We will wait.

Mrs. BOXER. I yield 5 minutes for Senator CHAFEE. I want to say he is a leader on this issue, and he is one of six Republicans who signed a letter saying don't deal with this issue in the context of a budget resolution. I look forward to hearing his 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I accepted an offer last August to go to ANWR, to the Arctic National Wildlife Refuge. Since I have been here for 3 years, I have heard a lot of debate about it, and I assumed I heard a lot of exaggeration also. I wanted to go myself and so I accepted the invitation.

I took a bush plane from Fairbanks over the Brooks Range, as you see here. The Brooks Range is very desolate, almost devoid of any sign of life, any sign of vegetation. It is quite a trip over the Brooks Range. As we cleared that mountainous terrain, stretching out before the Arctic Ocean, the Beaufort Sea, was the most gorgeous grasslands, the last thing I expected to see that far north.

We banked around with our bush plane and you can see here where we landed. As we banked in for a landing, scurrying through the brush was a big, brown, cinnamon-colored beast, a grizzly bear.

We got out of our plane and immediately were covered with tremendous amounts of mosquitoes. It was quite an experience. We pulled the nets on our hats over our heads and set up our tents, which we can see here. We had some chow and then that night it snowed. We came on the Brooks Range earlier, and they had no snow on them, but the snow came that night. Thankfully, we never saw another mosquito, so we had the great experience of having mosquitoes but then had 2 days—3 days in order to hike around the area. Every day we would hike for as much as 4 or 5 hours, then come in for lunch, and go out and hike for the afternoon another 4 or 5 hours.

In August, it is just as light at 3 in the afternoon as it is at 3 in the morning, so it is quite an experience that far up.

I will have to say, Senator STEVENS, this is the most beautiful place. I have been in 49 out of 50 States. The only one I have not been in is Hawaii. This is the most beautiful place I have ever been.

Mr. STEVENS. The oilwells are just 25 miles away; does he know that?

Mr. CHAFEE. Yes. I will conclude in that direction. Not only did we see the grizzly bears and one caribou—the caribou migration had gone through, but we did see one caribou—but we saw all kinds of life: Ground squirrels, prairie chickens—I think they call them ptarmigan. We also saw all sorts of birds and saw also the signs of life—musk ox droppings. We didn't see musk ox, but we saw the droppings all over the place. So obviously they had been there. All kinds of caribou droppings were everywhere you went.

What a surprise it was to go this far north and see such beautiful country. It is like the plains of Wyoming or Montana. And it was a great surprise to me.

So all the environmentalists who talk about it being the Serengeti of America, they are right. This is unique. It is special. I urge my colleagues to support the amendment for that reason.

On the trip, we then had an opportunity to go to Prudhoe Bay. And what a change it is, as you go west from the 1002 area, which is where we were camping, to Prudhoe Bay. Before we leave the 1002 area, here we are, as shown on this picture. There I am, my wife Stephanie, the small band of us up there braving the elements, experiencing the 1002 area.

When we went to Prudhoe Bay, it was a change in the topography. It gets much more pockmarked with water. It is a lot different from what we saw here in ANWR. And it seems more suitable for man's incursion and for drilling as you get closer to Prudhoe Bay.

We landed in Prudhoe Bay. We went to the hotel, which was a collection, really, of trailers put together. And the proprietor of the hotel at Prudhoe Bay said: Be careful. There is a grizzly bear in town. His name is Toby. When you walk around, just be careful. You never know. You don't want to surprise him and have him attack you. So just keep your wits about you.

We had a great tour of Prudhoe Bay. And after we left and came back to the States, about 2 months later, I saw, in the New York Times, a little filler article, that Toby was getting into the inn where we were staying and they had to put him down. So it made the New York Times, Toby getting into the inn and having to be put down.

But the point is, there should be places for the Tobys of the world. And then there are other places where we should drill. And, obviously, they are incompatible. No one wanted to harm Toby, but it just came to that.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. Madam President, I yield an additional 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator may continue.

Mr. CHAFEE. I thank the Senator.

Madam President, that is the point. There should be areas of the world for man and drilling, and then there should be areas of the world for the Tobys of the world. And if we are going to proceed with drilling in ANWR, absent any effort at conservation—and many of the Senators who are going to vote in favor of drilling in ANWR did not vote for raising the CAFE standards that would save much more of our resources in natural fuels—that is a bad policy and a wrong direction to go.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am delighted the Senator from Rhode Island has gone to our State and seen it in August. I would invite him to come up and join me right now, and go take a look at that same place.

But what I would really like for him to do is to remember, if I had not changed my vote in 1980, there would have been no refuge at all. It was a wildlife range. My colleague wanted to block it entirely, and I associated myself with Senator Jackson and Senator Tsongas and got the job done, and got it withdrawn, so we could proceed with development. And now the colleagues you have joined want to renege on the commitment that was made to me as a Senator by two distinguished leaders of the Senate, the Senator's father included.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time remains, Madam President?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes; the Senator from California has 6 minutes 13 seconds.

Mr. STEVENS. Madam President, I yield the Senator from New Mexico 5 minutes.

Mr. DOMENICI. Madam President, I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, fellow Senators, I come from New Mexico. New Mexico is right next to Mexico. Mexico has oil underground, God made. Do you know what they call it? They call it their patrimony. It is so important that they claim it is theirs and it is their future—not locked up under the ground—to use. It is their patrimony. In fact, in Spanish, they say: "El patrimonio del pais es el petroleo." That is how important it is.

Now, for all of those who have been here giving speeches about making sure we protect the ANWR wilderness, look at this picture. Look at this picture with me. You see this big, blue picture? I am going to go around the edges for you. Isn't that big?

Senator, do you want to take a look? That is drawn to scale. That is ANWR. Unless you have very good glasses, very good eyes, you can't see, from your seat, where ANWR's drilling sites will be, because it will be that big, Senator. Can you see that little spot?

Mr. CHAFEE. Yes, I can.

Mr. DOMENICI. That is how big the development for oil for America will be out of this wilderness.

Now, anybody who blesses this floor piously about preservation is ignoring the reality. America cannot live without oil. I wish we could.

Alaska is America. Oil in Alaska is our patrimony, just like oil in Mexico is the patrimony of the Republic of Mexico. To say that using that piece of property—see it. I am not sure our TV cameras are showing it to Americans, that is how big it is.

It is now said, that is all you need to drill for oil—to do what?—to produce as much oil as the State of Texas produces. There are even environmentalists who say, in their literature, it is an irrelevant amount of oil, it is not needed.

Well, Madam President, as I crossed America, looking to find comparisons, as soon as I got to Texas, I asked, how much oil is there? They told me, it is almost the exact amount of billions of barrels of reserve as is in this tiny piece of property as big as the properties at Dulles here in Virginia.

So if this is irrelevant to America, I assume we should not have drilled in Texas. How much oil might it produce? About the same amount as California per year. I ask Senator NICKLES, is one to say California's production is not needed? We are so rich and arrogant about our wealth that we can throw away this huge amount of oil? We don't need it for America?

I believe to turn this down is not an insult to Alaska; it is not reneging on something to TED STEVENS; it is an absolute denial to the American people of the increased prospect of reasonably priced oil for the future.

If you are worried about the future high prices of oil and you want to blame someone, I say, blame the vote this afternoon. If this is defeated, you can put it right up there along with any other country that you assume is out to raise prices on the American consumer. Because that vote, denying the right of Americans to produce this oil, will just as assuredly result in the prospect of increased costs of oil to Americans.

I wish we could stand on the floor and say: Americans, we have a plan. We are going to dramatically reduce the number of automobiles.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask the Senator, could I have 1 additional minute?

He said yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me just say, I wish we had a plan that said: In the future, we do not need all this; we do not need all these cars; we can get by with far less. But, frankly, I believe, under any scenario, for the next 25 to 30 years, our children, our way of life, our standard of living, demand that we do right and that we use that tiny piece of real estate without doing damage to this gigantic wilderness to produce energy for our great country.

I thank Senator STEVENS for yielding.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Madam President, parliamentary inquiry: How much time remains on each side, please?

The PRESIDING OFFICER. The Senator from California has 6 minutes 13 seconds; the Senator from Alaska has 7 minutes 25 seconds.

Mrs. BOXER. I would like to retain my time to close debate, if it is all right with the Senator from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield my colleague 2 minutes, Madam President.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Madam President, it has been suggested in the past few minutes and last evening that instead of opening ANWR, we need to look to conservation; we need to discuss CAFE standards; we need to look to alternative fuels.

We need to keep ANWR in context. This is not an either/or debate. These concepts are not mutually exclusive. We have to have increased conservation efforts, of course. That is reasonable. But as the Senator from New Mexico has stated, we will never be entirely free in our reliance on oil, on petroleum products.

When you look at what we get from petroleum products, it is not just the gasoline that goes in our vehicles. That is not the only issue. We use it in our plastics. We use it for Band-Aids, for perfume, for so many things that you can't even imagine. We will continue to need gas. We will continue to need oil. These are necessary for us as a society.

To suggest that we are going to conserve our way out of reliance on petroleum is not reasonable. It is not feasible. We have to accept both. We need the domestic energy sources that only ANWR can provide to us. We have heard it repeated time and time again today and yesterday and in the years throughout the debate, this is where the energy reserves are. We can't deny that. We can't be put off or led astray by looking at nice pictures and thinking that somehow or other in order to preserve this area, we have to give up development.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes 24 seconds. The Senator from California has 6 minutes 13 seconds. Who yields time?

Mr. STEVENS. I yield 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, momentarily we will be voting on the Boxer amendment. I urge my colleagues to vote no. I compliment my colleagues, Senators STEVENS and MURKOWSKI. I listened to the debate last night and today. If people are interested in the facts, they happen to know the facts. They live there. They have been there. A lot of people are pointing out pristine pictures of wildlife.

That is not the 1002 area that would be drilled. I have seen that. We can do drilling in that area in a very environmentally sensitive and sound way. We can do it. Our country happens to need that million barrels per day of domestic oil that can be produced. We need it. If not, we will be buying it from Iraq. We will be buying it from the Middle East. We will be buying it from areas that are a lot more vulnerable than Alaska. This way we can keep the jobs in the United States. This way we can keep production and our dollars in the United States.

We have a tradition in the Senate that we listen to home State Senators in areas that concern their State.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I yield myself an additional minute.

The PRESIDING OFFICER. Does the Senator from Alaska yield?

Mr. STEVENS. Certainly.

Mr. NICKLES. For people who live outside the State and have never been in this area to try to dictate that we should never drill there, without living there, and override and superimpose their will over the two home State Senators, I find to be almost incredible. It is denying Alaska a chance to grow. It is denying our country a chance to grow.

I urge my colleagues to listen to Senator STEVENS, to listen to Senator MURKOWSKI, and let's allow some environmentally safe and sound production that our country desperately needs.

I thank my colleagues from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I ask the Chair to let me know when I have 1 minute left.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. STEVENS. Madam President, this is a diagram of the 1002 area. I pointed out previously that in 1958 there was a well drilled just east of Kaktovik. It is still classified as the result of overwhelming interest by the oil industry after that to conduct seismic in this area. This is the Marsh Creek anticline. East of that area is where this enormous reservoir is. To the west going over to the river, where this is the Prudhoe Bay area, that has all been very prolific. There was a well drilled off shore in Camden Bay. There has been a series of wells drilled offshore. The only well that has been drilled onshore was in 1985.

This is an area, as I said, a million and a half acres that in 1980 was kept open for oil and gas exploration by the Tsongas-Jackson amendment. The balance of this area is wilderness. This has never been wilderness. We heard repeatedly about wilderness.

I have now been here 35 years. I have trusted the Senate quite often. The one time I really trusted Senators was when I decided to work with Senators Tsongas and Jackson to get this bill passed, get it done. We thought we had a substantial concession in the fact that the Arctic Slope would continue to be open for oil and gas exploration as it was intended by President Eisenhower, as it was intended entirely up until 1980.

Through the period of the discussion of this matter, since 1980, I have had a series of Senators tell me, I will be with you if you need me. They know who they are. This is the day that I need them. This vote is going to be very close. It represents a vote that culminates some substantial period of my life because I started working on this area in 1956.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. STEVENS. I will save it.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield 1 minute to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from California. In a short statement I would like to identify what has happened since 1989 when the *Exxon Valdez* ran aground, since the period of time when the court said that ExxonMobil should pay $9 billion in punitive damages for the havoc it created in Prince William Sound. Lest we be fooled that these environmental stewards are going to take good care of our assets, of our natural resources, let's look at what happened.

The fine is now down $4 billion. This is since shortly after 1989. And who is paying the tariff here? Well, the Anchorage Daily News on August 4, 1998, reported "Apparently Delay Pays."

The PRESIDING OFFICER. The Senator has used 1 minute.

Mrs. BOXER. I yield an additional 1 minute.

Mr. LAUTENBERG. Exxon is earning $90,000 an hour, about $2 million a day, or nearly $800 million a year, on the same $5 billion as long as the case drags on. And the money stays in its coffers. They are not even paying for it. In fact, what they are doing is making money, interest on that money which belongs to the citizens of the country and for the protection of our environment.

What we are looking at is a corporate behavior that should be unacceptable under any standard and where they are using this opportunity to cash in on delays by skillful lawyers instead of paying their obligation as it fell upon them through the courts.

It is an outrage. We cannot trust these people to take care of this environment of ours for our children and our grandchildren. I hope the Boxer amendment passes.

Mrs. BOXER. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 5 seconds.

Mrs. BOXER. I would like to be told when I have a minute left.

We are reaching the end of a tough debate. It is a very close vote, no doubt about it. The Vice President, I understand, is on his way over in case it is a tie vote. I want to pick up on something Senator NICKLES said when he kind of cast aspersions on those who live outside of the State of Alaska and are speaking up in favor of this Arctic Wildlife Refuge.

Let me be clear. I come from a State that has millions of acres of wilderness, thousands and thousands of acres of beautiful Federal land. We are very proud of it. We have forests, desert, wetlands, and the rest, including Yosemite National Park. Let me be clear. I welcome the support of my colleagues. I don't shun it. I welcome them to help me preserve those acres for the people of California and the people of the country and, indeed, the people of the world. In our State, we consider these treasures not only to be God-given resources, but we look at them as God-given resources that we, the people of this planet, have to protect.

I am interested in Senator DOMENICI's presentation. It was well done. He has a big chart and he has a dot on the chart. He says: Look at this, it is a dot on this chart. Well, if you go up into space and you look at the Earth, it looks like a little marble. Does that mean we should not care about what happens on God's Earth?

So I think we are getting to the point at which we have to make a choice. Do we want to change the policy and go into this beautiful refuge or do we want to look at other ways to get more energy—I underscore, much more energy?

Look, if we just close the loopholes on SUVs—by the way, I represent a lot of soccer moms and let me tell you, they want their SUVs, and they want to get better fuel economy from them. I live in a community where almost every other car is big because I live in suburbia. They want to have the option to drive those cars and not have to spend $100 every time they fill up the tank. If we were just to close that SUV loophole, we would save, by 2030, 10 billion barrels of oil. This is what we are talking about. That is far more than you would get out of the Arctic. If you moved up the fuel economy just to 35 miles a gallon—listen to this—we would be 43 percent less dependent upon foreign oil. With ANWR, it is 2 percent.

Vote for the Boxer amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

The Senator from Alaska has 1 minute 2 seconds.

Mr. STEVENS. Madam President, again, I think this is the most important vote in the history of my service in the Senate. I worked on this with President Eisenhower. Our people were about ready to go to war. He said in World War II that our ships, our planes, and our tanks must have oil. That will continue on into the future. Opening this area will not give our people oil now but will assure that we have a greater reserve in the future.

My last comment is this. In the time I have served here, many people have made commitments to me, and I have never broken a commitment in my life. I make this commitment: People who vote against this today are voting against me, and I will not forget it.

Mrs. BOXER. Madam President, this is a country of laws, not men. This is a country that treasures its God-given gifts—from the mountains, to the prairies, to the oceans white with foam. God bless America, my home sweet home.

This isn't about us being here for 2 years, or 6 years, or 10 years, or 20, or even 50. We will be gone. But we need to think about the future. We can do more for our troops were we just to increase fuel economy. We will save far more doing that than by drilling in a pristine area that has wildlife that looks like this picture.

Mr. STEVENS. Regular order.

Mrs. BOXER. Madam President, I hope we will stand with the environment and vote for the Boxer amendment.

I yield the floor.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I ask for the yeas and nays on the Boxer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 272. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Wyden

NAYS—48

Akaka
Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Cornyn
Craig
Crapo
Dole
Domenici
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Kyl
Landrieu
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

The amendment (No. 272) was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I have been authorized by the manager of the bill to yield 20 minutes to the Senator from West Virginia, Senator BYRD.

The PRESIDING OFFICER. The Senator from West Virginia.

### AMERICA'S IMAGE IN THE WORLD

Mr. BYRD. Madam President, I believe in this great and beautiful country. I have studied its roots and gloried in the wisdom of its magnificent Constitution and its inimitable history. I have marveled at the wisdom of its Founders and Framers. Generation after generation of Americans has understood the lofty ideals that underlie our great Republic. I have been inspired by the story of their sacrifice and their strength.

But today I weep for my country. I have watched the events of recent months with a heavy, heavy heart.

No more is the image of American one of strong, yet benevolent peacekeeper. The image of America has changed. Around the globe, our friends mistrust us, our word is disputed, our intentions are questioned.

Instead of reasoning with those with whom we disagree, we demand obedience or threaten recrimination. Instead of isolating Saddam Hussein, we seem to have succeeded in isolating ourselves. We proclaim a new doctrine of preemption which is understood by few but feared by many. We say that the United States has the right to turn its firepower on any corner of the globe which might be suspect in the war on terrorism. We assert that right without the sanction of any international body. As a result, the world has become a much more dangerous place.

We flaunt our superpower status with arrogance. We treat U.N. Security Council members like ingrates who offend our princely dignity by lifting their heads from the carpet. Valuable alliances are split. After war has ended, the United States will have to rebuild much more than the country of Iraq. We will have to rebuild America's image around the globe.

The case this administration tries to make to justify its fixation with war is tainted by charges of falsified documents and circumstantial evidence. We cannot convince the world of the necessity of this war for one simple reason: This is not a war of necessity, but a war of choice.

There is no credible information to connect Saddam Hussein to 9/11, at least up to this point. The twin towers fell because a world-wide terrorist group, al Qaida, with cells in over 60 nations, struck at our wealth and our influence by turning our own planes into missiles, one of which would likely have slammed into the dome of this beautiful Capitol except for the brave sacrifice of some of the passengers who were on board that plane.

The brutality seen on September 11th and in other terrorist attacks we have witnessed around the globe are the violent and desperate efforts by extremists to stop the daily encroachment of Western values upon their cultures. That is what we fight. It is a force not confined to territorial borders. It is a shadowy entity with many faces, many names, and many addresses.

But, this administration has directed all of the anger, fear, and grief which emerged from the ashes of the Twin Towers and the twisted metal of the Pentagon towards a tangible villain, one we can see and hate and attack. And villain he is. But he is the wrong villain. And this is the wrong war. If we attack Saddam Hussein, we will probably drive him from power. But the zeal of our friends to assist our global war on terrorism may have already taken flight.

The general unease surrounding this war is not just due to "orange alert." There is a pervasive sense of rush and risk and too many questions unanswered. How long will we be in Iraq? What will be the cost? What is the ultimate mission? How great is the danger at home?

A pall has fallen over the Senate Chamber. We avoid our solemn duty to debate the one topic on the minds of all Americans, even while scores of thousands of our sons and daughters faithfully do their duty in Iraq.

What is happening to this country—my country, your country, our country? When did we become a nation which ignores and berates our friends and calls them irrelevant? When did we decide to risk undermining international order by adopting a radical and doctrinaire approach to using our awesome military might? How can we abandon diplomatic efforts when the turmoil in the world cries out for diplomacy?

Why can this President not seem to see that America's true power lies not in its will to intimidate, but in its ability to inspire?

War appears inevitable. But I continue to hope that the cloud will lift. Perhaps Saddam will yet turn tail and run. Perhaps reason will somehow still prevail. I along with millions, scores of millions of Americans will pray for the safety of our troops, for the innocent civilians—women, children, babies, old and young, crippled, deformed, sick—in Iraq, and for the security of our homeland.

May God continue to bless the United States of America in the troubled days ahead, and may we somehow recapture the vision which for the present eludes us.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Expressions of approval or disapproval are not permitted.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask unanimous consent to use time under the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I observed the comments of the distinguished Senator from West Virginia concerning the events which are about to transpire within the next hour or so, or days. I did not really look forward to coming to the floor and debating the issue. It has been debated. It has been discussed in the media. It has been discussed at every kitchen table in America. But I felt it would be important for me to respond to allegations concerning the United States of America, its status in the world, and, in particular, what happens after this conflict is over, which I do not think we have paid enough attention to, perhaps understandably, because our first and foremost consideration is the welfare of the young men and women we are sending in harm's way.

But to allege that somehow the United States of America has demeaned itself or tarnished its reputation by being involved in liberating the people of Iraq, to me, simply is neither factual nor fair.

The United States of America has involved itself in the effort to disarm Saddam Hussein, and now freedom for the Iraqi people, with the same principles that motivated the United States of America in most of the conflicts we have been involved in, most recently Kosovo and Bosnia, and in which, in both of those cases, the United States national security was not at risk, but what was at risk was our advocacy and willingness to serve and sacrifice on behalf of people who are the victims of oppression and genocide.

We did not go into Bosnia because Mr. Milosevic had weapons of mass destruction. We did not go into Kosovo because ethnic Albanians or others were somehow a threat to the security of the United States. We entered into those conflicts because we could not stand by and watch innocent men, women, and children being slaughtered, raped, and "ethnically cleansed." We found a new phrase for our lexicon: "ethnic cleansing." Ethnic cleansing is a phrase which has incredible implications.

The mission our military is about to embark on is fraught with danger, and it means the loss of brave young American lives. But I also believe it offers the opportunity for a new day for the Iraqi people.

Madam President, there is one thing I am sure of, that we will find the Iraqi people have been the victims of an incredible level of brutalization, terror, murder, and every other kind of disgraceful and distasteful oppression on the part of Saddam Hussein's regime. And contrary to the assertion of the Senator from West Virginia, when the people of Iraq are liberated, we will again have written another chapter in the glorious history of the United States of America, that we will fight for the freedom of other citizens of the world, and we again assert the most glorious phrase, in my view, ever written in the English language; and that is: We hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness.

The people of Iraq, for the first time, will be able to realize those inalienable rights. I am proud of the United States of America. I am proud of the leadership of the President of the United States.

It is not an easy decision to send America's young men and women into harm's way. As I said before, some of them will not be returning. But to somehow assert, as some do, that the people of Iraq and the Middle East are not entitled to those same God-given rights that Americans and people all over the country are, that they do not have those same hopes and dreams and aspirations our own citizens do, to me, is a degree of condescension. I might even use stronger language than that to describe it.

So I respectfully disagree with the remarks of the Senator from West Virginia. I believe the President of the United States has done everything necessary and has exercised every option short of war, which has led us to the point we are today.

I believe that, obviously, we will remove a threat to America's national security because we will find there are still massive amounts of weapons of mass destruction in Iraq.

Although Theodore Roosevelt is my hero and role model, I also, in many ways, am Wilsonian in the respect that America, this great Nation of ours, will again contribute to the freedom and liberty of an oppressed people who otherwise never might enjoy those freedoms.

So perhaps the Senator from West Virginia is right. I do not think so. Events will prove one of us correct in the next few days. But I rely on history as my guide to the future, and history shows us, unequivocally, that this Nation has stood for freedom and democracy, even at the risk and loss of American lives, so that all might enjoy the same privileges or have the opportunity to someday enjoy the same privileges as we do in this noble experiment called the United States of America.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO).

The Senator from Washington.

### AMENDMENT NO. 284

(Purpose: To fully fund the No Child Left Behind Act in 2004 and reduce debt by reducing tax breaks for the wealthiest taxpayers)

Mrs. MURRAY. Mr. President, I send an amendment to the desk on behalf of myself, Senators KENNEDY, HARKIN, BINGAMAN, KERRY, MIKULSKI, JOHNSON, SARBANES, EDWARDS, and CLINTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. JOHNSON, Mr. SARBANES, Mr. EDWARDS, and Mrs. CLINTON proposes an amendment numbered 284.

Mrs. MURRAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mrs. MURRAY. Mr. President, the amendment I offer is the one I spoke about earlier today. Clearly, we are in a very important day in the history of this country, and really of this world, as we wait to find out what is going to happen in Iraq. All of our thoughts and prayers are with the young men and women who wait, as we do, to see what is going to happen. Certainly our country is anxious and on edge, and we all hope they are successful. We all hope this endeavor leaves us where this country needs to be. But certainly a lot else is going on as well.

Here we are on the floor of the Senate debating a budget resolution that has been put forward by the majority party.

I am one of those who come to the Chamber to express my serious concern that the budget before us does not include any funds to pay for the war in Iraq, nor does it pay for the peace we hope will ensue afterwards. We do not know what the cost is going to be. Yet hidden inside this budget is a major tax cut that will make it impossible for us to be able to provide what is important for the country, whether it is a war in Iraq or, as my constituents are worried about, a conflict in North Korea, if one occurs there as well.

Also, in this budget we are looking at tremendous cuts to the education of our young children. It is especially important today, as we face the uncertain future of where we go from here, that we give some certainty to the children in our classrooms, because now more than ever we need to make sure they have a solid education, that they are capable of making it through school with the skills they need so they can help get our economy back on track and make us strong for whatever future conflict the country may find itself in, but also so they can be productive adults.

Not very long ago this body passed a bill called No Child Left Behind. It was a promise from the President and all of us who worked on it that we would put in place for the first time strong accountability rules for the public education system. We would hold schools, teachers, and principals accountable to make sure our students met the high standards we were setting. But that was not all the legislation promised. It also promised that we would fund what was necessary to help our children reach those goals.

It promised that every classroom would have a high-quality teacher. That is a problem in our country today where many teachers are in classrooms where they don't have the skills they need to teach the subjects they are required to teach. It requires in this bill that we have a highly qualified teacher in every classroom. That doesn't just happen. It happens because we make sure the resources are there to do it. Without the money to make that happen, we have passed on an unfunded mandate to the States.

We said in No Child Left Behind that children will be in an environment where they can learn. Far too many children are in classrooms that have 35 or 40 children in first, second, and third grade classrooms. There is no way those children who come to class, many of them in very difficult situations, have the ability to learn basic math, science, English, writing skills because they don't have the time of a teacher when there are too many kids in the classroom. We need to make sure we help provide the resources so we don't set kids up to test but that we actually provide the resources so they are in a small enough classroom with a highly qualified teacher.

The budget before us does not provide funds for this. It only comes through with half of the promise we gave to our children several years ago that we would leave no child behind. It leaves the promise of testing, but it does not fulfill the promise of funding.

The amendment I have sent to the desk will fully fund the No Child Left Behind Act. It says it is a priority of our country that we will not just pass an unfunded mandate on to States but that we will assure that children have afterschool programs so they can get the extra skills they need to catch up and pass the tests we are requiring them to take. It means we will fully fund title I funding so that 6 million of our most disadvantaged students will not be left behind. It provides funds for English language acquisition and safe and drug free schools and, importantly, rural education.

The Presiding Officer knows, as I do, that in many of our rural school districts we have a difficult time attracting qualified teachers. They often leave to go to urban or suburban schools where it is easier to teach. We want to make sure that even if there are only 40 kids in a school building, that they get the same help and instruction and qualified teachers so they can learn the skills they need to pass the tests we have required of them. My amendment will make sure that we fund the rural education programs.

If we don't do this, we are passing an unfunded mandate on to States at a time that they cannot afford to take it. My State legislature is facing a $2.5 billion budget deficit right now. They are struggling to come to some difficult decisions. It is extremely unfair of us at the Federal level to tell them, while they are struggling through these budget decisions, that they now have a new unfunded mandate of making sure children pass tests; otherwise, their schools are failing and not providing the funds to make sure that happens.

Our State legislators do not have the funds to fund a Federal mandate. If we will not follow through with the funding, we cannot keep the first half of No Child Left Behind that says that schools have to be held accountable. I don't want to lower the standards. I don't want to take that accountability away. But I also do not want to pass on an unfunded mandate to schools today when they are struggling with fewer resources because our own State legislatures are having difficulty in these tough economic times giving them the tools they need. I hope we don't fail at No Child Left Behind by not providing funding but providing the mandates.

It will be imperative for this Congress to come back and revisit this if we don't provide the funds because I assure you every school board member—and I was a school board member at one time—will be back here screaming about unfunded mandates. We will end up having to take steps backward in accountability in order to accommodate them. I don't think that is where any Member here wants to go.

The amendment I sent to the desk will help us reach that goal by fully funding the No Child Left Behind Act so we can keep both sides of the promise that we made to the children and to the parents and to the school employees and to the districts across the country that when we said No Child Left Behind, we said accountability, but we also said resources.

I stand here terribly conscious that Senator Wellstone no longer sits behind me because of the tragedy that occurred right before the election of last year. I know if Senator Wellstone were here, he would be walking up and down this aisle yelling about the fact that we can't educate kids on a tin cup budget.

I will tell you, the Republican budget that is before us today is a tin cup budget. It is a budget that does not provide the resources that our young people need in order to be able to learn, in order for teachers to educate our children, and for them to be a success.

It would be a tremendous setback for this country in terms of education if we don't pass this amendment and assure that our schools are funded.

It is a difficult day for all of us to be in the Senate debating these critical issues. We all know that hanging over us is a war that could possibly begin at any time. Our hearts are heavy with what could occur in the next few weeks and months. But it is also a time that we cannot abandon our young children. They are counting on us as the adults to make the right decisions for them and not to forget them in this time of crisis. If we don't pass this amendment and fully fund No Child Left Behind, it will send a message to every child that we have forgotten them. I will not do that. I will work hard every day to make sure we fund the important education structure and give our kids the opportunity to learn and succeed. That is a commitment every one of us should take as a tremendous responsibility.

I know there are other Senators who wish to speak on the amendment. I will yield the floor in a few minutes.

I want to make a few more comments before I do that. I see Senator GREGG is here as well. I know we have to debate what is full funding and what should be our responsibility. But I think the outlines of No Child Left Behind are fairly clear in what our commitment is to young people. If we don't fully fund title I to give disadvantaged students the opportunity to learn, we are requiring them to take a test and not giving them the resources they need, coming from a disadvantaged background, to be able to pass those tests. I think that is a pretty sorry statement in the Senate.

The amendment I am offering has $8.9 billion in funding for Function 500, so it will fully fund the No Child Left Behind Act. As I stated earlier, the programs that it will fully fund are title I, teacher quality, class size, English language acquisition, afterschool centers, and rural education. It also includes sufficient funding to restore the President's cuts that are in the Republican budget before us for programs such as smaller learning communities and dropout prevention programs.

The amendment also includes $8.9 billion for deficit reduction. I think both the education and deficit reduction funding are extremely important right now. This is all taken from the dividend tax cut.

I know we are going to have a tax debate later on, but I have talked to many of my constituents across the State of Washington, and when they are given the choice of whether or not to have a tax cut that actually doesn't benefit many of the residents of the State of Washington or this country or the opportunity to provide a good education for young children who are in school today, they all choose that their money be spent on young children so they can have an opportunity.

Bill Gates is a constituent of mine. He is a wonderful success story. He will benefit tremendously from the tax cut in the Republican budget. But I think he and most of my constituents agree that they would benefit much more from a citizenry that is left behind that is educated and capable of producing and capable of producing another Bill Gates in the future.

If we rob our children of an education, we are also robbing ourselves of future entrepreneurs who can be successful businessmen, businesswomen, and be in walks of life that help create new jobs for the future. It is very shortsighted to not fully fund No Child Left Behind for the future of the country.

We will have other amendments, I know, during this budget debate, to fully fund IDEA. That is an issue this Senate has taken up and talked about many times. We actually had hoped to fully fund IDEA not that long ago, but we were told we had to wait for reauthorization. We are still waiting for the reauthorization bill to come over, and we still have not fully funded IDEA.

I know Senator KENNEDY is on the floor as well. He has been a staunch proponent of fully funding education for our young children and is even concerned about the Pell grants and their funding in this budget. We have many students in college who are struggling to pay their tuition and are finding themselves taking out loans of tremendous size just to get through school, and they are graduating with thousands of dollars in loans. It is really important that we don't leave a generation with huge debt, trying to pay them off, if we want our economy to get back on track.

Senator KENNEDY will talk later on the importance of increasing the Pell grant funding so that we leave fewer students with tremendous loans in the future. I know Senator DODD will be out here also to talk about Head Start and day care and other issues affecting young people.

Let me conclude by saying that there are thousands of young children in this country who are waiting anxiously to see if the U.S. Senate can live up to the obligations of the No Child Left Behind Act that was passed not long ago.

Today, we will have an opportunity with the amendments that I have to let the young kids know that we in this country are ready to stand by them.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that we vote in relation to the Murray amendment at 5 o'clock this evening, with the time until then equally divided. I know my colleague from Washington spoke, but I say the time divided equally on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I am trying to understand the amendment. I have not looked at it totally. The Senator's amendment would increase funding in this education function by $8.9 billion for fiscal year 2004?

Mrs. MURRAY. The Senator is correct.

Mr. NICKLES. We have a 10-year budget. Do you increase funding in 2005 or 2006 or any of the outyears?

Mrs. MURRAY. This just sets the appropriations level for this year and 2004.

Mr. NICKLES. You also increase taxes, or decrease the tax cut—whichever language you want to use—by an amount of how much?

Mrs. MURRAY. The amount in the amendment reduces the tax cut by $17.8 billion.

Mr. NICKLES. Now, what percentage of an increase in the—$8.9 billion is what percent of an increase over the money being spent this year?

Mrs. MURRAY. It is approximately an 8-percent increase.

Mr. NICKLES. My calculation is that it is closer to 40 percent.

Mrs. MURRAY. Well, I am happy to doublecheck to answer the Senator, but I would be astounded—I believe it is an 8-percent increase over the funding level.

Mr. NICKLES. Will the Senator yield further?

Mrs. MURRAY. Yes, absolutely.

Mr. NICKLES. Doesn't your amendment deal only with No Child Left Behind?

Mrs. MURRAY. It ensures that we fully fund No Child Left Behind for fiscal year 2004 and the programs within the No Child Left Behind.

Mr. NICKLES. Correct me if I am wrong, but isn't that figure $23.6 billion, and so you would increase that amount by $8.9 billion, and isn't that closer to 40 percent?

Mrs. MURRAY. You are talking about the overall education funding. I am talking about the No Child Left Behind Act.

Mr. NICKLES. We will have to debate that. I believe I am talking about the No Child Left Behind. I believe you are increasing that by about 40 percent, which is kind of hard to understand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I am happy to yield to my colleague from Massachusetts. I want to clarify that the vote that will occur at 5 o'clock will be on the amendment that I have offered; is that correct?

Mr. NICKLES. On or in relation thereto.

Mrs. MURRAY. No amendments will be in order prior to the vote.

Mr. NICKLES. I am reserving the right to table the amendment, and no amendment prior to that vote. We still would have the option for a motion to table, and if a motion to table wasn't successful, to offer a substitute amendment.

Mrs. MURRAY. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the budget that is before us at this present time is about one basic and fundamental issue, and that is the issue of priorities, the issue of choices, how we are going to allocate scarce resources in this country.

The fact is that the Republican budget has said we will add $1.6 trillion in additional tax breaks, most of which will go to the very wealthy individuals in this country.

The Senator from the State of Washington says, no, let's just take $8.9 billion of that and designate that for the No Child Left Behind Act, and then let's take another $8.9 billion towards reducing the deficit that we are additionally creating with the $1.6 trillion in additional tax reductions.

The question is very simple: Do we want to educate the children of this country, or do we want more tax breaks for the very wealthy? That is the issue before the Senate.

It is going to be clouded up with a lot of other kinds of rhetoric, but it is a choice. Do you want to educate the children, or do you want more tax breaks? That is the issue. That is the issue.

Mr. President, I will use figures from the Department of Education. The Department of Education—this is their document—for the year 2003, the total figure for education is $53 billion. And now the President's request is $53 billion. There it is. That is the Republican President's request on No Child Left Behind—effectively flat funding. Flat funding.

Now, we know the President of the United States worked with the Congress—Republicans and Democrats—to enact the No Child Left Behind Act. That added important reforms and accountability—accountability for the children to perform, accountability of the schools to teach, accountability for the teachers to learn and to be well-qualified, accountability for the parents to become involved, accountability on the local communities to have responsibilities. It also had accountability for the Congress of the United States to fund that program, and this administration has abandoned that accountability. It has abandoned it. The documents from the administration's Department of Education show that.

At this hour, the Senator from Washington is saying: We do not want to abdicate our responsibility. Maybe the administration does, but we do not, and the Senate will have an opportunity at 5 o'clock to indicate whether they prefer to give additional hundreds of millions of dollars to the wealthiest individuals, or to meet our fundamental commitment to children and parents, 55 million of them across this country, and make sure they have a well-qualified teacher in their classrooms, make sure there are going to be after-school programs to assist these children, make sure they have a sound curriculum, make sure that the tests are going to test those children on that curriculum, and that if a child falls behind, they are going to get the supplementary services they need. This is all at a time when the States are in deficit of $90 billion. A third of that money is education; 75 percent of that is for K through 12.

The children are being put through the wringers. They are being put through the wringers in all 50 States. I will not take the time to read from letters from teachers and superintendents of schools or school boards, but that is the message they are sending.

We made a commitment, a promise to those children and to their parents. The choice is very simple: Are we going to meet that commitment in supporting the amendment of the Senator from Washington, or are we going to give additional tax breaks to the wealthiest individuals? It is as simple and fundamental and basic as that, Mr. President, make no mistake about it. I hope later on we will have a chance to do something about that.

Finally, on the President's proposal for education, if we look over the period to the year 2010, with the requests that are being made in the President's budget there are still 5.6 million children left behind. There it is under this administration. I remember when the administration wanted the title "No Child Left Behind," and we talked about that in our conference. As we talked about that, we said: Are we really going to leave children behind, or is this going to be a commitment? It was clear to me that Republicans and Democrats in the conference said: This is going to be a commitment.

Unless we accept the amendment of the Senator from Washington and unless we are going to start on a glidepath towards funding No Child Left Behind, we are going to leave millions of children in this country behind. Which is it, Senate of the United States: billions more for tax breaks for wealthy individuals or investing in the children who are out there tonight, today, this evening, studying hard, trying to make a go of it and finding out that instead of having maybe 15, 18, 20 pupils in a class, this year there are going to be 25 or 30 in it? And we can go down the list. Every Member knows that.

It is a question of priorities, and the Murray amendment is as clear as can be. I hope when the time comes, the amendment will be accepted.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, what is the status of the time?

The PRESIDING OFFICER. The Senator from Oklahoma retains 26 minutes. The Senator from Washington retains 10 minutes 40 seconds.

Mr. GREGG. I ask to be yielded 15 minutes.

Mr. NICKLES. I yield 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GREGG. Mr. President, first, I always enjoy hearing the Senator from Massachusetts and the Senator from Washington discuss education, especially the Senator from Massachusetts. I appreciate the fact we put microphones in the Chamber because that certainly helps me hear him as we go forward.

I wish to start, however, with the question of the budget. I thought I would bring along the budget on education that we passed last year when the Democratic membership controlled the Senate. So I did, and here it is.

You may be asking, Where is it? It did not pass. The budget on education was not even brought to the floor last year. An epiphany has occurred. Suddenly, they are concerned about education. Suddenly, they are interested in education enough to debate it in this budget. But where were they last year? Where were they? They were not on the floor of the Senate promoting a budget to promote education. This is their budget last year on education. A blank page.

We have to go back in history to find out what the position of the membership of the other party is relative to the issue of funding education in comparison with what this President has done.

This President has dramatically increased funding for education, and if we compare his commitment to education to the prior administration's commitment to education in the years when the prior administration proposed education funding, we will see that in the last year of the Clinton administration, there was $42 billion being spent on education. This year, a proposed $66.5 billion is being spent on education by this President.

President Bush's commitment to education has been the second largest factor of increase in the Federal budget over the last 3 years. It has meant real dollars going to the issue of education.

Now let's turn to the question of title I, which is the purpose of this amendment, which is the No Child Left Behind issue. Let's look at all the issues for a moment. Let's compare what the Democratic leadership did when they controlled the Senate versus what we have done under Republican control of the Senate over the last few years.

From the period 2001 to 2004, when we had Republican leadership in the Senate, the red bars reflect increases in education funding for title I, for IDEA, Pell grants, and total discretionary education. Increases from the Democratic side of the aisle during this same period were minuscule; in fact, one was even a negative in the Pell grant area during that same period. There are dramatic increases coming from this President.

Let's look at title I because this is the most stark, dramatic, and I think precise chart we have to reflect what is really being done.

Since the Republicans took control of the Senate and the Congress, we see these huge increases in funding for title I: $1 billion a year since President Bush has been in office. Every year, $1 billion, $1 billion, $1 billion on top of the prior amounts, as compared with 1993 through 1995. In fact, if we went back further, it would be worse coming in from the prior administration. So the commitment has been there.

If we look at the history of title I increases, which is what this amendment is about, and compare what President Clinton did when the Democrats were in control to what President Bush has done since he has been in charge, during the 1994 to 2001 period, over the 8-year period, President Clinton proposed $2.4 billion in increases in title I funding; in 3 years, President Bush has proposed $3.9 billion in increases in funding.

It is very easy to come to the floor in a difficult fiscal time when we are facing a war, when there are a lot of pressures on us because of a deficit, and say you have no responsibility because you do not produce budgets that you are willing to increase spending ad infinitum, which is what this amendment essentially does. It is a little more difficult, however, in a time of deficits, when we are at war, to come forward and actually increase spending, which is exactly what President Bush did.

I note, during this period, 1994 to 2001, we were running surpluses. The opportunity was there to increase spending without a great deal of choice in the area of priorities. Today it is a much tougher situation, and the choices on priorities have been made, and President Bush is committed to that funding.

Now I will go to one other chart, which I find absolutely startling because I think this shows some of these amendments we are going to be getting from the other side, especially on the issue of education, are taking advantage of the fact that the other side does not have to produce a budget.

Let's look back when they did, theoretically, have to produce a budget. Of course, they did not. We could go back to their budget, which was a blank page, but they did produce an appropriations bill, which they never passed. In fact, they never even called it to the floor of the Senate. It took the Republican Congress 2 weeks to pass it. The other side had a whole year. They were not able to do it, but we were able to do it. I will get into the numbers there, but the fact is when they produced their budget, or their appropriations bill, what did they have in their numbers for funding? They had $11.8 billion. What was the authorization level? It was $16 billion. So by their own terms, the last time they had control, the last time they had the opportunity to do the job of governing, they underfunded the title I account by $4 billion—by their terminology, not by mine.

How many children did they silence, to use the term of Senator KENNEDY? How many are added up in that $4 billion figure? I do not know. Personally, I do not think that is a proper way to address it, but if those are the terminologies one is going to use, then what is good for the goose is good for the gander. The fact is they were $4 billion short of their own goal. So a lot of what we are hearing today is tilting with straw dogs when it comes to the issue of how much is being spent and who is spending what.

Let's look a little bit, though, at what this President has done—a 145 percent increase in education funding, as compared with health, as compared with defense, a huge increase.

The argument is being made that title I has not been fully funded because the authorization levels have not been met. That, of course, goes to this chart. If we were to fully fund every bill that has been authorized by this Congress—well, just by our committee—we would be talking trillions of dollars. We all recognize that authorization level is not the level at which we end up. We end up at an appropriated level. And the question becomes: How do different accounts compete within those appropriation accounts? Who is being successful, who is not? Where are the priorities? Where are the choices being made?

The point this chart unalterably makes is that as far as this administration is concerned, the priority is education—a billion dollars of new funding for title I every year since this administration has been in office—in fact, $1.5 billion one year, I think, and $1 billion for special education funding every year since this administration has been in office, which compares rather starkly, as I mentioned, with the Clinton years in the area of title I, where essentially there were very little funding increases. Over 7 years, it was $2.4 billion as compared with $3.9 billion for the Bush administration.

The issue of whether or not this is an unfunded mandate is a total misrepresentation relative to No Child Left Behind. The fact is the funding that is flowing into the States to support No Child Left Behind is flowing in before the States and the communities have an obligation to do things under No Child Left Behind. We are actually prefunding many, if not all, of the obligations which the States are assuming under No Child Left Behind to the extent we ask them to do things.

For example, testing regime. In the State of New Hampshire it costs about $300,000 to produce a test. Under No Child Left Behind, we have asked that instead of testing three grades, they are going to have to test three more grades, a number of more grades, actually, but they do not have to have those tests up and running for awhile. However, we are giving them the money today to design the tests. Not only are we giving them money, but on the average we are giving New Hampshire at least $500,000 to develop new tests. It only costs them $300,000 to do the test. They are making $200,000 per test that they develop, and that is true across the country.

It is also true of the basic funding regime relative to issues, for example, like teachers. We heard a little talk about teachers. The President's commitment for funding for teachers is up 35 percent over what the prior administration did, a $726 million increase coming into this year.

More importantly, under No Child Left Behind, we no longer put strings behind those dollars. We say to the local school districts, instead of having to use this new money, the 35 percent increase in funding for education for teachers and for teacher support, instead of having to use that money to hire more teachers, you, the principal, can make the decision to use that money to hire more teachers, if that is what you need, to pay your best teachers more, if that is what you think is going to get you good teachers to stay there, to give your teachers better education by sending them out to schools and getting supplemental education for them, by giving them technology support. You have the choice. You, the school district, are going to get this extra money. Plus, you are going to get it without strings. You are going to have flexibility as to how to use it so you can make that dollar go further.

So to represent that the teacher side of the No Child Left Behind bill has not only been underfunded but is not being adequately managed is just inaccurate. The fact is, it has been funded, it has been increased, and it is a dramatically more liberal use of the dollars at the discretion of the local school district. I know they are going to get more for the dollars spent.

Now I guess we are going to have time later on—I ask the Chair how much time I have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. GREGG. The record on special education is even more dramatic. Where the Clinton administration essentially flatlined special education for 8 years, this administration has increased it, by historic levels, over a billion dollars a year every year—dramatic increases for special education.

We will get into that. We will get into the issue of the Pell grants, where the numbers are equally stark, where this administration has made huge commitments in comparison to the time when the responsibilities for funding education actually fell into the hands of our colleagues across the aisle. But what we have today, unfortunately, is an attempt to use the lack of responsibility to have to produce a budget to throw out numbers which are irresponsible and claim that they are responsible.

The last budget the Democrats produced on the issue of education was a blank. That is what they brought to the floor on the issue of education last year, whereas the President of the United States stepped up to the plate and increased title I funding by $3.9 billion in 3 years. That is real commitment to the kids of America.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senator DODD be listed as a cosponsor on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I yield 2 minutes to the Senator from Massachusetts and then 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent that the Department of Education's fiscal year 2004 President's budget be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION FISCAL YEAR 2004 PRESIDENT'S BUDGET

[In thousands of dollars

| Office, account, program and activity | DIM | 2002 appropriation | 2003 President's request | 2003 appropriation | 2004 President's request | Change from 2003 appropriation |
|---|---|---|---|---|---|---|
| Contributions (DEOA, section 421) | M | 485 | 0 | 0 | 0 | 0 |
| Outlays | M | 469 | 85 | 0 | 0 | 0 |
| General fund receipts: | | | | | | |
| 1. Perkins loan repayments | M | (39,041) | (50,000) | (50,000) | (50,000) | 0 |
| 2. CHAFL downward reestimate of loan subsidies | M | (27) | (27) | (27) | 0 | 27 |
| Total | ..... | (39,068) | (50,027) | (50,027) | (50,000) | 27 |
| Outlays, Total | ..... | (39,068) | (50,027) | (50,027) | (50,000) | 27 |
| Budget authority total, Education Department | ..... | 55,747,031 | 60,403,502 | 60,962,382 | 63,626,734 | 2,664,352 |
| Discretionary funds | D | [2] 49,505,598 | [2] 50,309,879 | [2] 50,868,759 | [2] 55,383,203 | 4,514,444 |
| Mandatory funds | M | 6,241,433 | 10,093,623 | 10,093,623 | 8,243,531 | (1,850,092) |
| Outlays total, Education Department | ..... | 46,285,284 | 59,379,318 | 59,753,542 | 58,864,922 | (888,620) |
| Discretionary funds | D | 41,305,647 | 50,039,352 | 50,272,152 | 51,170,323 | 898,171 |
| Mandatory funds | M | 4,979,637 | 9,339,966 | 9,481,390 | 7,694,599 | (1,786,791) |

[1] Excludes funds for increased agency pension and annuitant health benefits costs, which are currently paid from a central Office of Personnel Management fund: $23,728 thousand in fiscal year 2003 and $22,528 thousand in fiscal year 2004.

[2] Excludes a total of $15,011,301 thousand in advance appropriations that becomes available on October 1 of the succeeding fiscal year.

[3] Excludes a total of $17,255,301 thousand in advance appropriations that becomes available on October 1 of fiscal year 2004.

Note: Appropriation totals displayed above reflect the total funds provided in the year of appropriation, including advance appropriation amounts that do not become available until the succeeding fiscal year. The total budget authority reflects funds that become available in the fiscal year shown, which includes new amounts provided for that fiscal year and amounts advanced from the prior year's appropriation.

Note. This budget replaces the table prepared when the fiscal year 2004 President's Budget was transmitted to Congress on February 3, 2003, prior to enactment of the fiscal year 2003 appropriation. The fiscal year 2003 appropriation has since been enacted and is included in this table. The fiscal year 2004 President's budget remains the same as requested on February 3.

Mr. KENNEDY. What it shows is the appropriations for 2002, $49 billion; the President's request is $50 billion. They added $400 million. Then the appropriations went up $3 billion because of the activity on the floor of the Senate. The next year the administration asked for $26 million—an increase of 5/100th of one percent. Let us look at the point my good friend, Senator GREGG, left behind. The point he has not disputed is we have 6.2 million children who are left behind. Let's forget what happened to the Republicans, let's forget what happened to the Democrats, and say let's accept the Murray amendment that will include 3 million more children. Let's not argue about the past. Let's argue about the future.

This amendment will increase by 3 million the number of children who will be covered. We have a chance to do that tonight. We have a chance to do that at 5 o'clock. That is what we are asking the Senate to do, instead of having additional tax breaks for the wealthiest individuals in this country.

Put the children first. That is what the Murray amendment would do.

I hope my good friend from New Hampshire will join us hand in hand together and support the Murray amendment, and we will cut in half the number of children being left behind.

Mr. GREGG. Will the Senator from Oklahoma yield a couple of minutes to respond?

Mr. NICKLES. I yield 4 minutes to my colleague.

Mr. GREGG. The Senator from Massachusetts argued it might have credibility and might have legs were it not for the fact there is presently—because of the huge amount of money the President of the United States, George Bush, has put into this account—there is presently unspent title I dollars representing billions.

Mr. KENNEDY. Will the Senator yield?

Mr. GREGG. Is this a question?

Mr. KENNEDY. Yes. The Senator is not surprised on that because they always commit that money in July of the next year. You can use all the charts you want; it is committed and it is expended in July. Everyone understands that.

Mr. GREGG. I appreciate the Senator's question, and I am sure it was a question, although I never really actually heard the question.

But I make the point this is 2001 money, 2 years ago; August has already come and gone for 2001; and 2002 is fast approaching.

The fact is, we are putting so much money in the pipeline so fast because we are prefunding this issue, as we should be, that we are not creating an unfunded mandate. We are actually creating a situation where many States are, for at least the moment, not making money but seeing a significant surplus in the amount of money coming in relationship to the amount of money they are having to spend to reach the goals of No Child Left Behind, which, as we all know, is to give low-income kids a better shot at the American dream by educating them properly.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak for the 4 minutes I was allocated by the Senator from Washington to support the amendment Senator MURRAY and Senator KENNEDY have put forward. I compliment them on the leadership they provide on education issues and this amendment in particular.

I heard my colleague from New Hampshire talk about how we cannot just increase funding ad infinitum, that what this amendment would do is throw out numbers that are irresponsible. That was one of his phrases.

As I understand the amendment, and the reason I am cosponsoring the amendment, this amendment proposes to fully fund the No Child Left Behind Act. All it is saying is we made an agreement on a bipartisan basis. The President participated in that agreement. We told the people of our States and our school districts that we were going to provide a certain level of support to help them implement the No Child Left Behind Act. The budget before the Senate does not do that.

The suggestion is made that the reason it has not done that is because there is surplus money that has come into the State and we prefunded things and they have not been able to spend the money in the pipeline. This is news to the school districts in my State and to the people involved with trying to educate the children in my State. In fact, when I go home, what I hear from people in my State is that we have these new requirements, we need assistance, we need resources. If you want us to train teachers' aides, which we want to do, if you want us to raise the level of qualifications of our teachers, which we want to do, please help. Please come through with the resources that were committed in the No Child Left Behind Act. That is exactly what this amendment tries to do.

The other comment I heard was we cannot fully fund every bill that is authorized in this Congress. That is not what the Senator from Washington and the Senator from Massachusetts are proposing. They are saying, let's just fully fund this bill. Let's take education and recognize that it needs to be a priority.

In this budget resolution, we have over $1.3 trillion in tax cuts. Now, is it too much to say that $8.9 billion of additional funds should go into education? I don't think that is an unreasonable request. I think, clearly, the priorities of the American people would be with us, and they would agree, let's fully fund the No Child Left Behind Act before we start cutting taxes.

We all know we have enormous other expenses that are coming at us as a result of the war that is imminent in Iraq. I certainly intend to support those expenditures, but to suggest that we do not have enough money left to pursue our education funding, to keep the promise we made to the American people at the time the No Child Left Behind Act was signed into law, is very unfortunate.

I participated with the Secretary of Education when he came to my State and had something of a rally in Albuquerque to talk about No Child Left Behind and what a wonderful thing it was for the State. I supported that legislation. I supported it all the way through. I worked with my colleagues to try to be sure it made good sense and fit the circumstances of our State. But I did so always on the assumption that we would then come along and provide the Federal support to the States for local school districts to implement those improvements.

I think it is essential we do that. I think it is essential we adopt the Murray-Kennedy amendment. I hope our colleagues will support this amendment and keep faith with the young people of our country.

Everyone in this body gives speeches talking about how the future lies with the children of the country. We need to do right by them and adopt this amendment and make education a priority in this budget.

The pending budget simply sets the wrong priorities by providing over $1.3 trillion in tax benefits to the wealthiest while cutting education funding.

This budget abandons the promise to leave no child behind by cutting funding for the No Child Left Behind Act—legislation repeatedly embraced by the Administration and passed by a strong bipartisan vote just last Congress—by $700 million.

Under this budget, Title I—the program targeted on districts and schools with large numbers of disadvantaged students—would be approximately $5.8 billion short compared to the levels agreed to on a bipartisan basis in the No Child Left Behind Act. As a result, over 6 million poor children will be left behind.

In addition, over 500,000 children will lose access to after school services under these funding levels.

The budget before us also contemplates eliminating funding for key education programs—again enacted on a bipartisan basis last Congress.

For example, the budget contemplates eliminating funding for the dropout prevention program, at a time when the pressure is greater than ever to push at risk students out so they do not negatively impact school performance.

The budget also contemplates cutting existing programs that provide research-based strategies for schools to improve academic achievement and reduce dropout rates. For example, the smaller communities program provides funds to schools seeking to create personalized learning environments that research proves will increase student academic achievement, reduce dropout rates, and increase school safety. It is exactly the type of reform effort that we endorsed and indeed required in the No Child Left Behind Act. It is the type of program that we should expand, rather than eliminate.

If we truly intend to leave no child behind, education funding—particularly funding for the programs targeted toward the most disadvantaged children—must be our top priority, not our last.

The funding provided in this amendment would achieve that goal by providing funding sufficient to serve another 2 million needy children under the Title I program. In addition, every one of the 10,000 schools currently identified as not meeting the standards provided in the No Child Left Behind Act will be able to implement research-based school reform models.

We also will be able to maintain the current level of after-school services while expanding after school programs to another 1.3 million latchkey children.

We would be able to make substantial contributions to the quality of instruction by providing enough funding to hire 50,000 fully qualified teachers and provide professional development to 200,000 teachers.

Finally, we will be able to continue key programs such as the dropout prevention program and smaller learning communities programs.

This amendment can make a real difference for our states and local districts.

As my colleagues know, State cuts to education caused by "the most ominous fiscal crisis since World War II" make Federal support ever more crucial for local communities. States face a cumulative $80 billion budget deficit, with a dozen States cutting k–12 spending last year and another 11 poised to do so this year.

States and communities across the Nation are being forced to cut services due to increased demands and reduced resources. For example, in Oregon school districts are carving weeks of instruction off the school year. One thousand teacher positions have been lost in Oregon so far this year. The schools in Arkansas, Louisiana, South Dakota, and Colorado are cutting back to a four-day week to trim costs. In Alabama, the schools are being forced to raise the class sizes, cut back extracurricular activities, and lay off 2,000 teachers and support staff. In Kentucky, 1,000 teacher and support positions have been cut and their technology programs have been slashed. In Massachusetts, dozens of school nurses have been laid off.

As a result, it is not a surprise that a bipartisan poll recently demonstrated that a majority of Americans support increased Federal support for education and more voters name education as their top budget priority for next year than any other issue. Education ranks more than 10 points higher than the next 2 highest budget priorities—health care and terrorism/security.

I urge my colleagues to support the amendment and thank my colleagues again for their leadership.

Mr. SARBANES. Mr. President, I express my strong support for the amendment offered by Senators Murray and Kennedy to increase funds for the No Child Left Behind Act by $8.9 billion, fully funding this critical legislation. The amendment also includes $8.9 billion for deficit reduction. Both the education and deficit reduction funding are taken from the dividend tax cut. It is imperative that Congress sends a strong message in support of education that is accompanied by equally strong funding.

The budget resolution we consider today fails to provide sufficient funding for education programs at all levels. Despite the Administration rhetoric that places great importance on improving educational opportunities for all Americans, President Bush's budget underfunds a variety of programs—early childhood education, elementary education, vocational education, and higher education—that are especially important to families given the weak economy.

States are struggling with budget shortfalls, rising student enrollment, and an increasing number of students with limited English proficiency. At the same time, States are working to meet the new requirements of the No Child Left Behind Act. I supported the No Child Left Behind Act because I agreed with its principles—all public school children should be able to achieve and all schools should be held accountable when their students fail to do so. I believed the President when he said education would be a priority. But now we face a budget that does not make education a priority. Instead, we are asked to support a budget that somehow finds the money to provide a tax cut for the wealthiest individuals, but cannot do so for the education of our Nation's children.

This budget provides only a 2 percent overall increase for education programs, and some increases such as those for both Title I and IDEA, are largely paid for with cuts to other valuable education programs. Funding for the No Child Left Behind Act is cut by $700 million below fiscal year 2003 levels. It shortchanges Title I funding by $5.8 billion below the authorized level. Title I could reach only 40 percent of eligible low-income children at this level. This budget also cuts funding for teacher quality programs, after school programs, and eliminates 46 education initiatives.

The No Child Left Behind Act places a variety of new requirements on States and local school districts, including annual standardized testing and increased teacher certification. While we can expect our educators to do all within their power to improve our schools, we cannot expect this landmark legislation to be effective if they are not given the resources to implement these programs. If this amendment passes, over 2 million additional needy children will be served by Title I, after school opportunities would be extended to an additional 1.3 million latchkey kids, and 50,000 new teachers could become fully qualified.

I find it unconscionable that we can consider a tax cut aimed at the wealthiest Americans while purporting to be unable to adequately fund education programs. Now is the time to move beyond the rhetoric and show teachers, parents and students that we are sincere in our efforts to help them. I urge my colleagues to vote in favor of the Murray-Kennedy amendment.

Mr. KERRY. Mr. President, I am pleased to be a cosponsor of Senator MURRAY's amendment to the budget resolution that will fully fund the No Child Left Behind Act. I regret that I will not be present for the vote, but if I were present I would vote for the Murray amendment to increase education funding by $8.9 billion.

Unfortunately, both the budget resolution that we are debating and President Bush's proposed fiscal year 2004 budget do not fulfill the funding commitment that Congress made when we passed the No Child Left Behind Act into law. In fact, the budget resolution contains a $700 million cut in funding for the No Child Left Behind Act compared to the fiscal year 2003 levels.

The budget resolution's title I funding leaves more than 6 million disadvantaged children behind. There is no increase for teacher quality funds, even though nearly 40 percent of title I children are taught by teachers without a college degree in their primary instructional field and our schools will need to hire 2 million new teachers over the next decade. While 6 million latchkey children currently go without afterschool programs, this budget cuts afterschool funding for more than 500,000 children. And it eliminates all funding for rural education, dropout prevention, preparing tomorrow's teachers in technology, and smaller learning communities among other things.

We have said it time and again during debate on No Child Left Behind and since it became law: new reforms and stronger accountability systems are not going to work if we don't provide resources to ensure that all children can learn to high standards. That means providing the full authorized amount of title I funding, it means helping schools meet the major new requirements for teacher quality that the law imposed, and it means increasing not slashing funding for afterschool programs. I hope all of my colleagues can support this important amendment.

Mrs. BOXER. Mr. President, I would first like to thank Senator MURRAY for this critical amendment to deliver on the promise we made to the Nation's children by fully funding the No Child Left Behind Act.

It has been over 1 year since the approval of the No Child Left Behind Act. But we are not fulfilling the promise made in that law and are, in fact, leaving millions of kids behind. The Nation has made little progress toward improving the quality of our children's education. In fact, we have taken a huge step backward by actually cutting funding for the education reform law that was enacted.

The Murray amendment will not only alleviate the fiscal crisis in our schools so that they can provide a high-quality education for our children, but it will provide funding to keep our children safe in afterschool programs.

As the author with Senator ENSIGN of the bipartisan afterschool program that President Bush signed into law as part of the No Child Left Behind Act, I want to emphasize how important the Federal afterschool program is to children and families across America. Dozens of respected, independent studies tell us that afterschool programs keep children safe, reduce crime and drug use, and improve academic performance.

However, despite strong evidence that keeping children safe after school can reduce juvenile crime and prevent children from engaging in risky behaviors, the administration's budget for fiscal year 2004 slashes Federal funding for afterschool programs by 40 percent.

This unprecedented cut would result in over 81,000 children in California and almost 600,000 children nationally being pushed out onto the streets after school. Furthermore, by not fully funding afterschool programs at the level that we promised in the No Child Left Behind Act, we will be leaving over a million more children not just behind, but home alone.

We cannot afford to neglect our commitment to our Nation's children. The time for rhetoric has passed and now it is time to act. It is time to fully fund afterschool programs and the entire No Child Left Behind Act.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 10 minutes and the Senator from Washington has 4 minutes.

Mr. NICKLES. I yield 4 minutes to the Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I congratulate the Senator from New Hampshire and other Senators who have been working hard on the Leave No Child Behind legislation.

I am a new Senator and was not here when it was done. I watched it from a distance as a former Education Secretary, to see how the Federal Government, which contributes about $650 or so out of the $7,000 or so we spend per student in this country on K–12 education, could make a difference.

The principles of flexibility and accountability and the addition of more options for parents and significant additional funding have been a very good bipartisan start. The funding, which is the area at issue today, has been generous.

When I look at my own State of Tennessee, for example, we can always use a little more of the Federal dollars to help do what needs to be done, but the amount that has come in has been very helpful. For example, in fiscal year 2000—and this follows to a great extent what the Senator from New Hampshire said—and then in fiscal year 2001, President Clinton asked for $8 billion and then $8.3 billion. In fiscal year 2000, the Congress appropriated roughly what the President requested, and in fiscal year 2001, it appropriated $8.7 billion. Tennessee got $137 million in fiscal year 2000 and $141 million in fiscal year 2001 for title I funding, the largest federal program that helps low-income children. This is the money that focuses on leaving no child behind.

When President Bush came in, he asked for $9 billion and the Congress appropriated over $10 billion, and the share of title I funding for Tennessee went up to $152 million. In the budget we just finished in January, the President asked for $11 billion, and Congress provided $300 million more, and Tennessee's share went to $164 million. With the newest recommendation from the President, an increase of $1 billion, Tennessee is up to $174 million. These increases in title I funding are moving more rapidly than other parts of the federal budget.

Could it be more? Maybe I will suggest over time we spend more. But we need to recognize these are significant increases in spending to fund the new programs from the Federal Government, while staying within a reasonable budget.

In Nashville last week, I picked up an article about teachers, which you do not see that often, that talked about how much they appreciated the additional federal funding for ESL, English as a second language, and how it was helping and how the new money for this year, which we just finished appropriating a few weeks ago, is making its way into the school system. One of the teachers said this was the first year for major funding and it should really improve services.

So I stand here today to say that I compliment President Bush, and this Senate, and this Congress, for what they have accomplished in the last 2 years—significant increases in funding for title I and the IDEA program over what was being spent when President Bush took office, even in a time when we have a budget under stress and are considering a war. Education funding is growing at a more rapid rate, as it should, I believe, than virtually any other part of the budget. I am glad to see that.

I ask unanimous consent that the article from the Tennessean be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Tennessean, Mar. 17, 2003]

### FEDERAL FUNDING HELPS DEFRAY LOCAL COST OF ESL PROGRAMS

(By Claudette Riley)

Students with limited English skills who enter Tennessee schools will now find classrooms that are better equipped than ever to meet their needs.

This year, the state received more than $2.24 million in federal funding to help public schools meet the needs of students served in English as a Second Language, or ESL, programs.

In recent years, local districts have shouldered the cost of providing the required services, with limited help from state funding or grants.

"This is the first year for major funding. It should really improve services," said Carol Irwin, ESL coordinator for the state Department of Education. "It should put more professional development in place, pay for materials and technology, and hire more tutors and translators."

Tennessee and other states with a steady influx of families from other countries are benefiting from a shift in the way federal ESL funds are allocated. National education officials used census data to determine how much each state would receive for this school year.

"It's made a tremendous difference. We went from a teacher and a half to a teacher with two full-time educational assistants," said Vivian McCord, director of federal projects for Dickson County schools. "We meet with the children on a daily basis now, and they are given tutoring."

Of the $2.24 million in federal funds allocated to Tennessee this year, nearly $1.8 million went directly to school districts, $112,000 was pulled out for administrative costs and another 15%—or $336,000—was awarded as grants to the school systems with the highest need.

"It's just encouraging for districts to know they'll have some financial help," Irwin said. "The districts have been struggling to get this done."

Based on existing numbers, the state will get $2.65 million in federal funding for ESL during the 2003—04 school year and nearly $3 million the next year, officials said.

"The numbers keep rising, and so we're getting more money," Irwin said.

The extra money is welcome news for the state's 138 school districts, many of which have reached deep into their own pockets to put the ESL programs in place.

The federal funding is helping us," said Sayra Hughes, coordinator of ESL for Metro schools, which received nearly $600,000 from the new funding. "It's just an added bonus. It has assisted—the local funding is still there."

The federal funding isn't expected to replace local contributions, but school officials said it would help them provide more staff and better services and materials.

Tennessee has 15,007 students in ESL programs, and 28.5% of them—4,283—are in Metro schools. The district received the largest chunk of the new federal funds.

"We've been able to purchase a lot of additional materials," Hughes said. "We were able to increase the services provided by the tutor translators."

Jan Lanier, chairwoman of the ESL department at Metro's Glencliff High School, said she would like to eventually put in a language laboratory and provide students struggling to learn English with better research materials and bilingual dictionaries.

"We have some, but we don't have enough for every class to have a full set."

While district officials say the extra federal money is welcome, some note that it won't cover the cost of operating ESL programs.

We did have more money this year, but it didn't come close to covering what we spend on staff," said Andy Brummett, director of Lebanon Special School District. "The majority of the money we spend to serve these children is local."

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add Senator REED of Rhode Island as a cosponsor, and I yield him 2 minutes of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, the choice before us is very clear: Are we going to devote $8.9 billion to tax cuts, most of them favoring the very rich, or are we going to devote $8.9 billion to the children and the schools of America? The choice is much more clear since the No Child Left Behind Act was passed because we made significant commitments to improve the quality of education in the United States while imposing significant responsibilities on the schools. The schools are expecting this money. The suggestion that there is a lot of money in the pipeline is interesting, but I would be shocked because that suggests the Department of Education is inept in getting money that is there to the schools that desperately need it.

There are 10,000 identified failing schools in this country. There are scores of children being taught by teachers without a college degree in their primary field of instruction. All of that needs remediation, help, and resources, but instead the budget before us provides billions in tax cuts when our schools desperately need that money.

It is not a question of what we did last year, it is a question of what we will do this year. It is a question of whether we will meet the needs of the American students and whether we will keep the promises of the No Child Left Behind Act. We are not keeping those promises in the budget that is presented to us by the Budget Committee. We should keep those promises, and by doing so, we will do something I believe every American wants more than tax cuts that favor very wealthy Americans. We want to see every child in this country have a decent education, succeed, contribute, and be part of this great country. That is what the Murray amendment does.

The choice before us is clear, compelling, emphatic: Put the money with the schools and the children, and our economy will be better, and our schools and students will be better. We can afford it because if we do not commit the funding to the children, it will go to tax cuts primarily to upper income Americans.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Six minutes for the Senator from Oklahoma, 2 minutes for the Senator from Washington.

Mr. NICKLES. I yield myself 3 minutes.

Mr. President, when we marked up our budget, we put in a couple of billion dollars actually over the President's request. I mentioned to my colleagues then: No matter what we put in, there are going to be amendments on the floor to increase education.

I might show our colleagues—Senator GREGG did this far better than I—education funding under this President as compared to President Clinton has exploded. It has gone up dramatically. Title I, which addresses the issue we have before us on No Child Left Behind—if you look at the rate of growth we have in title I grants, it is a dramatic increase.

The Senator from Washington has an amendment. This might even show it better. It shows that the spending level basically in the last few years, under this President compared to the previous President, has had a dramatic increase. As a percentage, I might mention, it went up in title I percentages of 10.3, 18.1, 12.9, 8.6—big increases.

The Senator from Washington has an amendment that says let's do No Child Left Behind and let's go from $23 billion—let's add another $8.9 billion, which would be a 38.7 percent increase for 1 year. It says $8.9 billion. It doesn't sound like much. Most of the figures we are dealing with are over 10 years. This is 1 year. We only increased nondefense discretionary spending by $10 billion. This is $9 billion for education, and not all education, just part of education. I understand there will be amendments later to deal with IDEA, and we put in an additional $1 billion for IDEA, we put in an additional $1 billion for title I at the request of the chairman of the HELP Committee, who was a strong leader and made an excellent presentation.

No matter what we do, no matter how high the percentage increases we have, even if they are double digits, there are amendments that will say let's do more. This amendment says let's do 38.7 percent more. I think it is irresponsible, and I will urge my colleagues at an appropriate time to support a motion to table the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, we are about to vote on a very important amendment. Not very long ago, the Members of this body voted to pass a bill called No Child Left Behind. The budget that is put forward to us today will leave thousands of children behind if we do not fulfill the commitment we have made.

I have listened to the arguments on the other side. I have seen the charts and graphs. If there is one thing I have learned here in the Senate, it is that you can have a chart or graph to show whatever you want it to show. But what I do know is Senator KENNEDY showed on the chart behind us, 3 million more children in this country. 3 million more children need more funding if they want to meet the obligations of No Child Left Behind; 50,000 fully qualified teachers need to be hired; we need to provide training for 200,000 teachers. The numbers are really clear.

If you look at the Republican budget itself, their document shows 46 programs that have been eliminated in their budget: Adult education, community technology, dropout prevention, elementary and secondary school counseling, foreign language, physical education, rural education, vocational education. These are programs listed in their budget that they cut.

We can put up charts and graphs, but I can tell you one thing: The children in our schools, the parents who take their children there, the teachers who teach there, the community members who work in our schools all know when we pass a bill and say we are going to test our kids at the Federal level and we do not provide the resources to make sure those children can learn, we pass on an unfunded mandate that is irresponsible to our States that are struggling today.

The amendment we are about to vote on fully funds title I. It continues the effort to hire 100,000 qualified teachers. It helps to put high-quality teachers in the classrooms and continues to make sure we fulfill our obligations.

Tougher accountability without adequate reform is not reform, it is politics. We know our children need books, they need teachers, they need the programs, and they need the Federal Government to live up to its responsibility. That is what this amendment does.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oklahoma.

Mr. NICKLES. I yield the remainder of our time to the Senator from New Hampshire.

Mr. GREGG. There have been a lot of representations here, but we need to go back to the fact that on our side of the aisle we had to produce a budget—and we did, something that didn't happen last year from the other side of the aisle relative to bringing it to the floor.

When the other side of the aisle was talking dollars, they were willing to give up on $4 billion relative to children in title I. That was their gap last year in their appropriating bill. For them to come forward this year and say suddenly that gap is an unacceptable event and inappropriate and inconsistent with everything that is right about taking care of our children in this country is truly a bit of an inconsistency, to be kind.

The issue of balancing this against a tax cut I find difficult. Tax cut for the rich? Sixty percent of the people who get the dividends cut, should we actually put it in place, are going to be senior citizens. It is their money. It is their money.

The issue is, how do you prioritize spending? The President of the United States has prioritized spending. He has put education right at the top of his priorities, at a much higher level than President Clinton put it—in fact, at a level so much higher than President Clinton put it that it represents a factor of two or three times what President Clinton did during his time in office.

He has done it at the same time as he has limited overall spending of the Federal Government. The spending on education in this bill significantly exceeds the overall spending of the Federal Government in all accounts except possibly defense, because we are at war. That is a hard commitment, and it translates into real dollars, $1 billion of additional money every year since he has been President for title I, for IDEA, over $3 billion of new money—$3.9 billion—for title I. Those are hard dollars, real dollars, done in a responsible budgeting way.

Mr. President, is my time up?

The PRESIDING OFFICER. Yes. All time has expired.

Mr. GREGG. Mr. President, I yield the floor.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 284.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY), are necessarily absent. I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote no.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Campbell
Cantwell
Carper
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Edwards
Kerry

The motion was agreed to.

Mr. NICKLES. Madam President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, for the information of our colleagues, this is Wednesday night. I ask the Parliamentarian, how many hours are left on both sides?

The PRESIDING OFFICER. On the majority side, there are 10 hours 17 minutes remaining. On the minority side, there are 11 hours 42 minutes remaining.

Mr. NICKLES. For the information of our colleagues, this is Wednesday. We are working very aggressively to finish this bill. I have tried to see if we could not advance a lot of the major amendments, including the 350 amendment. I have been trying to get that up all day. I have not been successful, but I understand we will have that up tomorrow.

Several people have been asking about this amendment. This is the amendment that would reduce the growth package from $725 billion to $350 billion. I suspect we will have votes on that tomorrow. It is my expectation tonight, for the information of my colleagues, as long as the majority leader is willing, we will stay in until midnight tonight. Several people said they did not want to have votes tonight, that they have other things to do.

I have consulted with my friend and colleague from North Dakota who has been a pleasure to work with on this resolution, and we both know we have a lot of amendments with which we need to deal. I urge my colleagues to work with us and not surprise us with their amendments, show us their amendments, and we will see if we can agree to them or work out a time agreement on them and see if we can finish this resolution in a timely, orderly fashion, in a way we would be proud to function. Sometimes the Senate does not do that when we handle budgets.

It would be my expectation that we would stay in at least until midnight tonight and consider several amendments. I believe we now have three amendments in order. Senator KYL has an amendment dealing with the death tax; Senator GRAHAM of Florida has an amendment dealing with prescription drugs; and Senators COLLINS and ROCKEFELLER have an amendment dealing with assistance to States.

We are willing to consider all those amendments and additional amendments tonight. I will yield the floor. It is our expectation there will not be any additional rollcall votes tonight, but that does not mean the Senate will not be considering amendments.

I urge my colleagues, if they have amendments, please work with Senator CONRAD and myself to have those amendments timely considered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me rivet a point that the chairman of the budget committee is making. We have three additional amendments lined up, but we should do more amendments tonight. If we are serious about avoiding a vote-arama at the end, where we do not have a chance to describe amendments, we just have to vote on amendment after amendment, the way to do that is not to do our work now.

I say to some colleagues who have said they have to make a change in amendments, it is not convenient for them to come tonight, if we are going to get this done, they have to put aside convenience and get over here and offer their amendments. There is a limited amount of time remaining to debate and discuss amendments, and people are going to lose their opportunity—let me make that very clear on our side—to have time to debate their amendment. They will get a vote because the rules allow that, but they are going to lose their chance to debate and discuss it. So this is the time, if they want to debate an amendment, to get over here and offer the amendment.

Mr. DORGAN. If my colleague will yield for a question?

Mr. CONRAD. Be happy to yield.

Mr. DORGAN. I ask my colleague, and perhaps Senator NICKLES and the majority leader as well, I fully agree with the notion we need to move along, address these amendments, try to get through this budget resolution, but I also understand, as do most of my colleagues, that the potential of military action is imminent—perhaps hours, perhaps a day, perhaps two days, I do not know, but my expectation would be when military action is commenced and our sons and daughters of America are ordered to military action and in the field, almost every Senator will want to address and discuss that issue. My hope and expectation would be at that moment, when we see what is the most serious decision faced by our country, that is, sending our young men and women to combat, that we would want to leave the budget and have an ample amount of time for every Member of the Senate to address that issue.

I inquire of my colleague and others who are managing this bill whether that interval will be made available to Members of the Senate?

Mr. CONRAD. I respond to my colleague by saying I hope that would be the case if we find ourselves at war, that there would be an ample opportunity for Senators to address that. My own belief is that would be appropriate for the Senate to do, to turn its attention to a state of war. My own belief is it would be inappropriate for us to continue on with business as usual when we have our sons and daughters in harm's way.

I am very hopeful if it comes to that, during this period while we are debating the budget, that it would be set aside for a time so there would be a discussion in the Chamber and the Senators have a chance to express themselves.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I have a couple of objectives. First and foremost will be an appropriate response to military action if our women and men are engaged in combat. There will be an appropriate response in terms of support for our Commander in Chief, as well as the military personnel, which will be discussed on the floor. There will be an opportunity to do that. At this juncture, we do not know when that will occur, if it will occur. In all likelihood, it will occur at some juncture. I think the fact we are hearing from both sides of the aisle that it is important to do—yet the time is uncertain—means I need to go back to the first point the chairman and ranking member made, and that is we have a lot of work to do; that the clock is ticking. The clock is ticking in terms of the budget process itself, in terms of the number of hours on both sides of the aisle. It is critically important that Members of this body come to the floor to offer amendments, to come up with specific language, to debate it and discuss it. That is the reason we are going to be here for the next 6 hours to give that opportunity to Members. We will start in the morning at an early hour in order to fulfill our responsibilities in terms of the budget. That is the plan.

We will finish the budget this week. It may be tomorrow or tomorrow night. It may be Friday morning, it may be Friday afternoon, it may be Friday night, but we will finish this budget this week.

Mr. DORGAN. Will the majority yield for one question?

Mr. FRIST. Yes.

Mr. DORGAN. Madam President, I, of course, think the response by the majority leader is perfectly appropriate. We do want to finish this bill. We ought to make progress and try and get it done. My only inquiry was if there is military action and if, in fact, our soldiers are in the field in hostile action, I agree with my colleague, Senator CONRAD, that I would not want us to be going through a vote-arama for 6, 8, 10, 12 hours with business as usual. I would very much want us, and I think most Members of the Senate would want us, to move off what we are doing and recognize that this Senate will want to express itself on these issues, not to be critical but I think to be supportive, supportive of our troops and supportive of this country's interests. We want this to go well and we want to express ourselves on it.

I am satisfied with the majority leader's response. I wanted to say I feel strongly, as do many others in this Chamber, about the desire to address our support for those troops who are ordered to action, if that is the case.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. As we talked about this morning, a resolution of support for President Bush, and the men and women, our troops, who will be in the field, is being developed in concert with the minority leader, myself, and others. We are working on that language, as the Senator well knows, as we speak.

If and when military action occurs, that will be brought to the floor in short order, with an opportunity to express that very important support.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HARKIN. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to my friend for a question.

Mr. HARKIN. Let me ask a question on process. A lot of us would like to offer amendments. This thing gets plugged up and goes on hour after hour. If the Senator wants to be in until midnight, that is fine. I have an amendment I would like to offer, but should I offer it at 8, 9, 10, 11, or 12? I would like some idea of where I am going to be in the queue, but just to say come and offer amendments is not very conducive to an orderly process. So if there is some kind of queue, will there be time limits put on these amendments so we have some idea of when we should come over to offer our amendments? Since we are not going to have any votes, it would be nice to have some idea of when we could come over and offer our amendments.

Mr. NICKLES. I will be happy to respond. Most of the amendments have been offered on the minority side, and we are happy to consider amendments. I have been urging people to offer amendments dealing with the growth package. We need to find out if the growth package is going to be zero, if it is going to be 350, if it is going to be 725. So I would encourage those amendments. We had those amendments in committee. We ought to have them on the floor. If we are going to have them, let us have them.

I have also encouraged other amendments. Members can work with our colleague, Senator CONRAD, as far as trying to prioritize which amendments might be next on the minority side. I think that would be the likely outcome.

Colleagues on this side have been consulting me as far as who would be next on our side, and so at that point I think we might be better served to begin considering amendments. Right now we have three amendments in the queue. I believe Senator KYL's amendment will not be debated too long tonight, maybe 30 minutes.

Mr. KYL. At most.

Mr. NICKLES. Thirty minutes for his. I believe Senator GRAHAM of Florida is going to discuss the prescription drug amendment. That is a pretty big amendment, a couple hundred billion dollars, I believe, and so that may take a little longer discussion. Then I believe there is also a resolution to be offered by Senator ROCKEFELLER and Senator COLLINS. That may take maybe an hour, maybe less than an hour. We will be available for consideration of additional amendments. We may set aside a lot of amendments tonight and stack those amendments that require a rollcall vote. Maybe most of these will not require a rollcall vote, but we are willing to stack some of these for votes for the convenience of all Members.

Mr. SARBANES. Will the chairman yield on that very point?

Mr. NICKLES. Be happy to.

Mr. SARBANES. When does the chairman intend to vote on the amendments that are going to be offered and considered this evening?

Mr. NICKLES. I would expect that will be tomorrow afternoon. I will make that decision after consulting both the majority leader and the ranking member of the Budget Committee.

Mr. SARBANES. Presumably, then, if it is tomorrow afternoon, there would be added to the list other amendments that will be offered tomorrow morning, is that the procedure?

Mr. NICKLES. That is correct. I say to my colleagues, for their information, I did consult with Senator BREAUX and Senator SNOWE, and I believe they are planning on offering the 350 amendment in the morning. That is a very significant amendment, just so people will know that will also be in the queue tomorrow morning.

Mr. DURBIN. Will the Senator yield for a question?

Mr. NICKLES. Be happy to yield.

Mr. DURBIN. I ask the Senator from Oklahoma, has anyone suggested a time limit on the debate on each of these amendments of no more than half an hour so more amendments can be debated? We know where we are headed. We are going to run out of time and some of the amendments will not even have 1 minute of debate if we are not careful.

Is it possible we could have a unanimous consent request to limit the debate to no more than half an hour on each amendment?

Mr. NICKLES. Responding to my colleague, it depends on the amendment. I don't know if we can agree to a half an hour agreement on an amendment that would increase spending on prescription drugs by $200 billion. That does not fit for a 30-minute discussion. Possibly other amendments might. So we will have to do an amendment-by-amendment basis.

The resolution says each amendment would have up to 2 hours. I am happy to shorten that when appropriate.

The PRESIDING OFFICER. Senator from North Dakota.

Mr. CONRAD. I wonder if, on the next three amendments, we might arrive at a time agreement for the convenience of our colleagues. The Senator from Arizona has been very generous. He has said we can have 30 minutes equally divided, something like that. Would that be appropriate?

Mr. NICKLES. We are not prepared to enter into that on that amendment yet, nor on the Graham amendment. Possibly on the Rockefeller-Collins and possibly after Senator COLLINS' amendment we might agree to some of these. But I don't think we are ready just yet.

Madam President, I yield to the Senator from Arizona for the purpose of introduction of an amendment.

The PRESIDING OFFICER. The Senator from Arizona.

### AMENDMENT NO. 288

Mr. KYL. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 288.

Mr. KYL. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death)

On page 3, line 9, decrease the amount by $200,000,000.

On page 3, line 10, decrease the amount by $5,200,000,000.

On page 3, line 11, decrease the amount by $10,200,000,000.

On page 3, line 12, decrease the amount by $34,600,000,000.

On page 3, line 13, decrease the amount by $31,600,000,000.

On page 3, line 14, decrease the amount by $34,100,000,000.

On page 3, line 15, decrease the amount by $36,600,000,000.

On page 3, line 16, decrease the amount by $31,100,000,000.

On page 3, line 17, decrease the amount by. $33,700,000,000.

On page 3, line 18, decrease the amount by $58,100,000,000.

On page 3, line 19, decrease the amount by $63,900,000,000.

On page 3, line 23, decrease the amount by $200,000,000.

On page 4, line 1, decrease the amount by $5,200,000,000.

On page 4, line 2, decrease the amount by $10,200,000,000.

On page 4, line 3, decrease the amount by $34,600,000,000.

On page 4, line 4, decrease the amount by $31,600,000,000.

On page 4, line 5, decrease the amount by $34,100,000,000.

On page 4, line 6, decrease the amount by $36,600,000,000.

On page 4, line 7, decrease the amount by $31,100,000,000.

On page 4, line 8, decrease the amount by $33,700,000,000.

On page 4, line 9, decrease the amount by $58,100,000,000.

On page 4, line 10, decrease the amount by $63,900,000,000.

On page 41, line 22, decrease the amount by $85,000,000.

On page 41, line 23, decrease the amount by $85,000,000.

On page 42, line 2, decrease the amount by $4,692,000,000.

On page 42, line 3, decrease the amount by $4,692,000,000.

On page 42, line 6, decrease the amount by $9,406,000,000.

On page 42, line 7, decrease the amount by $9,406,000,000.

On page 42, line 10, decrease the amount by $33,617,000,000.

On page 42, line 11, decrease the amount by $33,617,000,000.

On page 42, line 14, decrease the amount by $30,324,000,000.

On page 42, line 15, decrease the amount by $30,324,000,000.

On page 42, line 18, decrease the amount by $32,408,000,000.

On page 42, line 19, decrease the amount by $32,408,000,000.

On page 42, line 22, decrease the amount by $35,018,000,000.

On page 42, line 23, decrease the amount by $35,018,000,000.

On page 43, line 2, decreased the amount by $28,750,000,000.

On page 43, line 3, decreased the amount by $28,750,000,000.

On page 43, line 6, decreased the amount by $2,515,000,000.

On page 43, line 7, decreased the amount by $2,515,000,000.

On page 43, line 10, decreased the amount by $336,000,000.

On page 43, line 11, decreased the amount by $336,000,000.

On page 43, line 14, decreased the amount by $347,000,000.

On page 43, line 15, decreased the amount by $347,000,000.

Mr. KYL. In the spirit of the day, I was going to take 30 minutes. I will take exactly half that time, 15 minutes, and perhaps later we can agree to a time limitation. We certainly should not need a great deal of time on this amendment.

This amendment is very simple. It simply moves forward 1 year the time for repeal of the estate tax or what is known as the death tax. As my colleagues know, we repealed the death tax permanently in the year effective January 1, 2010. This amendment moves that to January 1, 2009.

The reason for this is we can establish the proposition with this amendment that we do need to permanently repeal the estate tax. The budget that has been crafted by Senator NICKLES and his committee has accounted for 3 years of permanent repeal. So that is already accounted for in this budget. This amendment would bring that forward 1 more year, so we would have a total of 4 years of repeal of the estate tax accounted for in our budget.

We would still have to accomplish this, of course, by amendment or legislation. We cannot do it as part of the budget itself. This would create the opportunity for us to do that. That is the reason for my amendment.

Now, there are a lot of reasons we decided to repeal the estate tax, and I don't think we need to repeat all of those tonight. The majority of this body supports repeal of the estate tax. We have passed repeal of the estate tax. There were good reasons for doing so, primarily because it is an unfair tax.

In addition to that, it hurts small business. If you have a business of, say, 25 employees and you have to sell your assets, your equipment, in order to pay your estate taxes, not only have you had to disband your business but you have also put 25 people out of work.

At this time in our economy where we are concerned about joblessness, where we want to create more jobs, not see more jobs disappear, knowing the estate tax is going to be permanently repealed even sooner than we anticipated will help businesses stay alive to provide the jobs and the economic growth we need.

We know by far and away the vast majority of the jobs in this country are created by small business.

There were a number of sponsors of our original repeal. I anticipate we will have a number of sponsors of this amendment.

I ask unanimous consent Senator SESSIONS be added as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Rather than restating all the arguments for repeal, since we have already voted to do that, I will bring my colleagues up to date on some current research about what the American people believe about the estate tax.

A poll was conducted early this year between January 16 and 21. It was a poll of about three times as many people as are ordinarily interviewed. Over 2,500 registered voters were interviewed for this survey by a research company. Its findings ought to be of significant interest to my colleagues.

The bottom line is with respect to the estate tax. The conclusion of the poll is that the American people simply oppose, on principle, the concept of anyone being taxed on the death of their parents or their spouse.

I thought I would share just four specific results from this survey. When it comes to stimulating the economy, the poll confirmed that Americans overwhelmingly believe tax relief is more effective than increases in Government spending. This goes to the general proposition that is being debated between those who believe we should spend more to help our economy and those who believe we should provide tax relief.

The question was, Which is better for the Federal Government to stimulate the economy, increase economic growth, and create new jobs? And they were given two choices. One was the tax cut option, and the other was the spending option. Fully 68 percent chose the tax cut option, whereas only 20 percent said increased Government spending was the best for economic growth and the creation of new jobs.

Two of the subgroups are particularly fascinating. Among Democrats surveyed, the ratio in favor of tax cuts over increased spending is a healthy 2 to 1, 57 percent to 28 percent. I do not have it broken down by State, but among Democrats, if it is 2 to 1, I daresay among Republicans it is even more than that.

Among those with incomes below $30,000, 65 percent back the tax cut approach to improving the economy, while only 19 percent prefer increased Government spending. This is a significant finding in the survey.

If there is going to be a tax cut, the question is, Should everyone get something back or should we wait until we have a budget surplus? In other words, what of this argument that will be contributing to the deficit?

When given a choice of three options, even with the debate about the ballooning deficit, just one in four Americans, 24 percent, believe there should be no tax cuts for anyone until we have a budget surplus. Let me restate that. Only 24 percent of Americans believe it is improper to cut taxes while we have a deficit.

For those who believe the majority of Americans do not want to cut taxes until we are in a surplus situation, this survey demonstrates that is incorrect. Only 24 percent of Americans believe that.

To the third point, tax fairness. This is where we get into the death tax repeal specifically, but it relates to other taxes, too. As a general proposition, one expects people tend to favor taxes on someone else and to oppose taxes that affect them directly. And that is, as a general proposition, true. But what this survey of over 2,500 Americans just a couple of months ago confirms is that there is a very strong consensus that there are a couple of taxes that are absolutely unfair and it does not make any difference what demographic category you are in. Whether you are rich or poor, the overwhelming majority believes there are two taxes that are absolutely unfair, and there is an overwhelming consensus they should be repealed.

What are those two taxes? These are the two at the top of the list to the question, What tax do you think is completely unfair or completely fair? The two taxes people would repeal with the biggest majority are the Social Security benefit tax and the death tax.

Remember the tax that was imposed in the early Clinton years to actually tax Social Security benefits? That is very unpopular. Five percent of the people think it is completely fair; 62 percent think it is completely unfair.

With the death tax, 7 percent think it is completely fair and 62 percent also think that tax is completely unfair. Sixty-two percent of all Americans think it is completely unfair to have a death tax, and only 7 percent think it is completely fair.

All other taxes—marriage penalty tax, long distance phone tax, savings account tax, all the way down to stock dividends, payroll income tax, property tax, gas tax, sales tax, right down the list, and they get increasingly popular. The marriage penalty, 60 percent of Americans think that is completely unfair. We are doing away with that in the tax package we will present as part of the budget. Long distance phone tax, 38 percent of the people think that is unfair. Capital gains tax, 23 percent think it is unfair. Stock dividend, more think it is completely unfair than completely fair, 23 to 21, the payroll tax, and so on. You finally get down to an alcohol and beer tax. That is pretty unpopular. Only 8 percent think that is a bad deal; 57 percent think it is fine. It is pretty much the same number for the cigarette tax.

The bottom line is in this very recent extraordinarily large survey what we find is the two taxes the American people would repeal first and foremost are the tax on Social Security benefits and the estate tax. Fully 62 percent of the American people believe that tax to be completely unfair.

With regard to the death tax in particular, you would think that this would be a tax that rich people would really like to get rid of and poor people would like to keep. After all, by its very nature, if you have a business or family farm or have some wealth to pass on to your heirs, repealing this tax would benefit you more than someone who has absolutely nothing. What does the survey show?

Fully 65 percent of those with incomes below $30,000 believe the death tax is completely unfair. By comparison, a very interesting statistic, only 59 percent of individuals with incomes above $60,000 label the death tax unfair.

Ironically, more people at the lower end of the economic spectrum view this tax as completely unfair than when you get to be higher in the economic spectrum. The fact is, another poll, a Gallup poll, demonstrated the same phenomenon. Even though most people understood that repeal of the death tax would not benefit them personally, an overwhelming majority still favored repeal of the death tax. Why? Because they understand it is unfair.

One of the great things about this country and the American people is they have an innate sense of fairness. Even if something doesn't benefit them directly, they understand if it is wrong they are willing to support its repeal.

There are some other interesting survey results in terms of arguments against the death tax. I thought some of these were fun, and then I will close this out. If you ask certain questions about the death tax, for example, if you remind people that the highest rate of taxation for the death tax is 50 percent, then 79 percent of the people agree that is unfair and the tax should be repealed.

When you remind people that the inheritance tax represents double and triple taxation, again 79 percent believe it should be repealed.

With some of the arguments that are actual statements of fact with respect to the inheritance or estate tax, when reminded of that, the American people are even more strongly in support of its repeal than if they are not reminded of that. Also, when you remind people that the tax is unfair because it singles out those who save and invest, for no reason other than the fact that they became successful and then died—of course, the exact thing we try to teach people, save your money, invest it, try to pass it along to your kids. It is the American dream to make the next generation better off than your generation; if you live the American dream, you get punished. If you are broke, you don't get punished. Of course the American people, when reminded of that, are even stronger in favor of repeal.

The bottom line is every subgroup and fully 58 percent of the electorate as a whole, including, as I said, a majority of every subgroup, would vote for a candidate who advocates repeal of the death tax. Only 32 percent would vote for the candidate who supported maintaining the death tax.

The bottom line of all this research is it seems to me we would not be keeping faith with the American people unless we are willing to move forward the date that the death tax is repealed.

In the interim period of time, we are reducing the rate and we are also increasing the amount of income that is exempted from the inheritance tax. Both are good. But it seems to me, given this fact, that it is not too much to ask my colleagues to accelerate by 1 year the date that the tax is actually repealed. There will be some who say we cannot afford an immediate repeal today. To that I say, if that is your view, fine. That is not what we are doing here. I would prefer to do that.

I think we can compromise and agree that moving the repeal date forward 1 year is both something that is affordable and something that should be done.

This amendment is very straightforward. That is the long and short of it. I think I pointed out the American people would support this. I hope since the Senate has already gone on record by repealing the estate tax in the year 2010, that we would not be bashful about moving that forward by 1 year, to 2009.

I guess my question to the body when we finally bring this to a vote is, Did you mean it when you said we should repeal the estate tax? If so, let's move that repeal date forward by 1 year.

Mr. CONRAD. Mr. President, might I ask the author of this amendment what the cost is?

Mr. KYL. Mr. President, I will try to get the exact number here in just a moment. I am informed that the estimated cost is $46 billion.

Mr. CONRAD. It is $46 billion?

Mr. KYL. Correct.

Mr. CONRAD. Mr. President, I say to my colleague—

Mr. KYL. Might I add one more thing, that, in our amendment, is accounted for within the budget because the money is taken from another account so it is not added on to the expense of the budget.

Mr. CONRAD. That was going to be my next question, if I could, to the Senator. What is the way the Senator pays for this $46 billion?

Mr. KYL. Mr. President, I tell my colleague the function in the budget is No. 920. That is the source of the funding for this amendment.

Mr. CONRAD. Could the Senator tell us what constitutes 920?

Mr. KYL. That is a general fund for Finance Committee action at some specified date in the future.

Mr. CONRAD. I would say to my colleagues and the Senator from Arizona, it strikes me as ill-timed to come before the body and ask for another $46 billion when we are already deep in debt. We now know we are going to be facing deficits this year of $500 billion; the deficits as defined by law of over $300 billion every year for the next 10 years. We are going to be taking virtually every penny of the Social Security surplus under the chairman's mark. Now the Senator offers $46 billion, which he funds by reducing function 920. Function 920, of course, is a general governmental function, which is a popular place to reduce around here.

I say to my colleagues, it seems to me that a wiser course than full repeal, which costs, combined with this amendment, $207 billion over the period of this budget, when we are already running deficits under the chairman's mark of $1.7 trillion, that a wiser course would be, instead of waiting until 2009 to have an elimination of the estate tax, to have people waiting all of that time between now and then and having an exemption of $1 million currently, instead of that, we could go to a $3 million exemption per person, $6 million per couple, have it take effect now, and only cost $33 billion for the whole thing, a fraction of the cost of complete repeal. We would continue to have a functioning estate tax but fundamentally reform it: Change it, don't end it. Change it to say an individual would have $3 million completely sheltered: a family would have $6 million completely sheltered. With planning, they could do substantially more than that and have that effective now, have that effective in the first part of the budget year that we are discussing. That would have a cost of $33 billion instead of the cost of permanent repeal of $207 billion, especially given the fact we are already in deep deficit.

At some point I hope colleagues will begin to consider alternatives, to reform the estate tax, to change it, to make it more fair, and to fundamentally buttress the economic security of the country by not compounding these record deficits we already have.

Mr. DORGAN. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield to my colleague for a question.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. DORGAN. I say to my colleague, Senator CONRAD, I am unfamiliar with this notion of a tax on death. My colleague from Arizona spoke at length about the death tax.

I am wondering, would it not be true that should a Member of the Senate, perhaps a married Member of the Senate, die, God forbid, in the coming week or so, that the spouse of that Member of the Senate would inherit, would have all of their property immediately with the spousal exemption, so that death would incur no tax, there would be no tax?

So if there is a death in which there is no tax—which is the case with respect to the spouses, a 100-percent exemption—and all the property goes to the spouse, with no tax consequence, then exactly what is the death tax the Senator from Arizona is referring to? Is it, in fact, the tax on inherited wealth that exists in our law?

And if it is on inherited wealth, of course, that is a different discussion which we should have. But if it is the death tax—which is a term that was created by pollsters to evoke a certain response—is it not the case that there is not a tax on death, that many deaths in this country means the estate is probated, and all of the assets of that estate go immediately to the spouse, with no tax under any circumstances? Is that not the case?

Mr. CONRAD. That is the case. In fact, there is no death tax in America. That is a good rhetorical line, but there is no tax at death in America. Only 2 percent of estates currently are taxed, and they are taxed because they have amounts of value in the estate of over $1 million.

Now, under current law, in 2009, only three-tenths of 1 percent of estates will be subject to tax. That would mean 99.7 percent of estates would not be taxed.

I might say, under the proposal I am suggesting tonight, we could go to that level next year. Why wait to have estate tax reform? Why not go to a $3 million exemption per person, $6 million per couple, and not wait until 2009?

Mr. NICKLES. Will the Senator yield for a question?

Mr. CONRAD. I want to complete my thought and complete my exchange with my colleague. Then I will be happy to yield.

The thing that strikes me is we have gotten off on a debate here that really is detached from reality. It is detached from reality because the cost of full repeal in the next 10 years is $207 billion. How is that going to be financed? It is going to be financed by borrowing the money. It is going to be financed by taking it out of the Social Security trust fund surpluses. That is how it is going to be financed.

Now, does that make any sense? I would say no. I would say to borrow the money to give a big tax cut to the wealthiest Americans really does not make a whole lot of sense.

Does that mean the current estate tax ought to be retained? No, it should not. It ought to be reformed, not repealed. It ought to be altered, as I suggest, so that a couple could exempt $6 million dollars. That costs a fraction of repeal and would give immediate relief.

I am happy to yield to my colleague.

Mr. DORGAN. If the Senator will yield further for a question, is it not the case that the majority last year passed a tax plan that had the following rather comical circumstance: It said we will sequentially increase the exemption on the estate tax to the point where in 2010 it is repealed, but in the year 2011 it actually comes back again?

And if that is the case—I believe it is—I think historians will look back at this and say, well, who on Earth could have thought of that? Well, they thought of it, all right. That is what they put in the tax bill.

Now, if that is the case, isn't it also the case that the amendment being offered today says let's make it even more farcical: Let's decide we will increase the exemption up until 2009, and we will have a 2-year repeal of the estate tax, to have it come back in 2011?

We laughed a little last year about estate planning. There are going to be a lot of people on life support in 2009 because they have to wait until 2010 to die to get the total exemption, total repeal that was offered by the majority party.

Now they are going to offer a 2-year window for death, apparently, and then the estate tax comes back in 2011. It is the most Byzantine, preposterous amount of nonsense. You would not put 10 people in a room with a six-pack of beer and come out with a worse result than they came out with last year on this estate tax issue.

But to get back on the final point, it was passed as a repeal of the death tax when, in fact, there is no tax on death. There is a tax on inherited wealth.

I ask my colleague, isn't the remaining question for this Senate, do we want to have some basic taxation on the largest estates—on the largest estates—of $1 billion, $10 billion, $20 billion, many of which have never been subjected to any kind of a tax because they were built with inside buildup and built with growth appreciation and have never been subjected to tax?

Is the final argument, final debate, and final question, do we want to retain at least some basis of an estate tax for the very largest estates?

Mr. CONRAD. It would seem to me really almost self-evident that the wiser course here would be immediate reform of the estate tax. Let's go to $3 million for an individual, $6 million for a couple. It would cost $33 billion over the next decade, but that is a fraction of the over $200 billion it would cost to fully repeal it.

My colleague is quite correct, in estates of over $10 million, fully 56 percent of the value of those estates has never been taxed. This is according to a study by Poterba and Weisbenner, that finds that is as a result of unrealized capital gains and as a result of buildup of property values never subjected to tax at all.

So the question is, what is going to be the way we share the tax burden in this country? What is the most fair and equitable way to do that?

I would suggest completely eliminating the estate tax for very wealthy individuals, which is of necessity going to force others—middle-class people, lower-middle-class people—to pay more in order to foot the bill, is not fair. It is not equitable.

It would really make more sense to fundamentally change the estate tax, to give a much larger exemption than we currently have. Currently, it is $1 million. Instead, we should raise that to $3 million for an individual, $6 million for a couple, and do it immediately. It costs a fraction of repealing it all. We would still have wealthy individuals in this country who would have an opportunity to contribute and not shift that tax burden onto middle-income taxpayers.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I am happy to yield to my colleague.

Mr. NICKLES. I thank my friend and colleague.

I heard your proposal that would increase the exemption. I did not hear you address rates. Would you leave the rates at the present 50-percent rate for estates that would be taxed?

Mr. CONRAD. What I just described, I say to the Senator, I don't know if you had a chance to hear.

Mr. NICKLES. I will be happy to look at it.

Mr. CONRAD. It is to have a reform of estate tax. Instead of the $1 million exemption currently, to go to $3 million for an individual, $6 million for a couple. In this calculation, it costs $33 billion. I don't——

Mr. NICKLES. What is the tax rate?

Mr. CONRAD. I was going to get to that.

I think this is at the 50-percent rate. I would certainly be open to an adjustment of that rate as well in order to try to arrive at a conclusion that was equitable and that is not as costly as full repeal.

Mr. NICKLES. I thank the Senator.

Mr. REID. Will the Senator from North Dakota yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. I have been sitting here listening to this debate. Under the proposal offered by the distinguished Senator from Arizona, it is my understanding that Warren Buffet, who is worth $38 billion, I was told——

Mr. CONRAD. How much?

Mr. REID. Worth $38 billion.

Mr. CONRAD. That is real money.

Mr. REID. If he passed away, under this amendment offered by my friend from Arizona, he would pay no estate taxes.

Mr. CONRAD. That is correct. He would pay no estate tax.

Mr. REID. What would happen to his accumulated wealth?

Mr. CONRAD. Well, it would go as directed under his will. I am not privy to what distributions he has determined to make.

Mr. REID. Will the Senator from North Dakota yield for another question?

Mr. CONRAD. I am happy to yield.

Mr. REID. I wanted to confirm that the Senator from North Dakota has listened to Warren Buffett, Bill Gates, Sr., and George Soros. I have heard those three people state that they think it is ridiculous, senseless to have them pay no estate tax. Have you heard these three very wealthy men say this?

Mr. CONRAD. I have. In fact, I have heard all three of those gentlemen and other wealthy individuals—George Soros, of course, who is a multibillionaire; Mr. Buffett, a multibillionaire; Mr. Gates, Sr., I don't think he himself is a multibillionaire, although he is obviously a very wealthy individual—say they believe it is un-American not to have an estate tax; that an estate tax was put in place first of all to raise revenue during a war, interestingly enough. That is how we initially got the estate tax, was to help pay for a war.

Here we are on the brink of another war, and instead of figuring out how to pay for it, we are trying to figure out how to have trillions of dollars of additional tax cuts going primarily to the wealthiest among us. It really is kind of baffling. We are asking young men and women to be prepared to sacrifice everything, and we are prepared to sacrifice nothing, apparently.

There are many wealthy individuals who believe the estate tax ought to be modified. I would strongly support that. I don't think a million-dollar exemption anymore is realistic or very relevant in light of the economy today. I believe it ought to be dramatically increased. I think we ought to go to $3 million for an individual, $6 million for a couple, and we ought to do it now. I would also be open to a reduction in rates. I think 50 percent is too high. But repealing it all is unaffordable, it is unfair, and it is fundamentally a long-term mistake. Why? Because I think it will lead to the concentration of wealth in the hands of fewer and fewer people.

If you look back to the establishment of the estate tax, one of the foremost advocates was a Republican President, Theodore Roosevelt. Theodore Roosevelt said it is a profound social mistake to allow wealth to accumulate in the hands of a handful of people who, by inheritance, become enormously powerful; that our society is a society based on merit and a society based on what an individual achieves, not what they inherit; and that if we want to become like Europe and have inherited wealth assume a greater and greater role in society, then eliminate the estate tax, because in very short order you will have enormous wealth and power accumulate in the hands of a few.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. In my previous question to the Senator from North Dakota, I talked about three very successful men, all of whom are senior citizens. I want to relate to the Senator from North Dakota that about 2 months ago I had dinner in Las Vegas with a man I had never met before. His name is Pierre Omidyar. Pierre is the founder of eBay. As a young man, he had this idea and on his computer developed eBay which is now a fantastically significant part of our economy. It is his. He, in spite of the stock market dropping, is worth $3 or $4 billion. He is 34 years old.

The whole purpose of his dinner with me, just the two of us, was to explain to me how he hoped I would work as hard as I could to make sure the estate tax is not repealed. Here is a man who is happily married, has two little children, and is one of the wealthiest men in America. He is not an old man; he is a very young man. And he believes, as does the Senator from North Dakota, that acquired wealth in large amounts is not good for America.

I don't think I have given this story to the Senator from North Dakota, have I?

Mr. CONRAD. No.

Mr. REID. But if we have these very successful people talking about why they believe it is bad—I have been present when Mr. Gates, Mr. Buffett, and Mr. Soros all talked about their belief that by a roll of the dice, a roulette wheel, they were born in America. They said they could have their entrepreneur genius—those are words I am using, not theirs—and if they were born anyplace but in the United States, it wouldn't amount to much. They believe as a result of their having been born in America, they owe that to America.

The Senator has heard those statements, has he not?

Mr. CONRAD. I have.

Mr. REID. Would the Senator agree that those three older men and the young man have a concept of what the Senator from North Dakota is saying: Change the estate tax, raise it if it is appropriate. I believe it is appropriate. Would the Senator agree that we have tried to do that? We have asked unanimous consent. We have offered amendments that have been defeated. I want the Senator from North Dakota to see if he agrees with me. I think people want the political issue more than they want to change the estate tax. Would the Senator agree with that?

Mr. CONRAD. I hope that is not the case. We have an opportunity now to resolve the estate tax for a long time. If we would reform it without repealing it, we would do something that is important and valuable. At $1 million, the estate tax is biting at much too low a level. Most of us in this Chamber would certainly degree with that statement. The economy has changed. The world has changed. We have not made a significant enough adjustment in the estate tax. We have not modernized the estate tax in a way that makes any sense.

One million, it has been raised to that, but that has not kept pace with what has happened in the real world. As a result, it is putting too much pressure on small farmers and small business people. We could do something right now. We could raise that exemption to $3 million for an individual and $6 million for a couple. With planning, it could be substantially more than that. That would shield the vast majority of small businesses, the vast majority of individuals. At the same time, we would not have the extraordinary cost associated with repeal.

We have to have current events inform our decisions. The hard reality is, we are in record deficit. We have deficits as far as the eye can see. And the situation is going to get worse when the baby boomers retire. From where is the money going to come? If you repeal the estate tax, that burden is going to have to shift somewhere else. It is going to raise taxes on middle-income people. That is where most of the taxes are paid. I don't think that is the appropriate outcome.

I do think we ought to reform it. We ought to raise this. I would even be open to what the chairman of the committee has referenced as the tax rate itself, which at 50 percent seems unreasonably high as well. Perhaps in the time remaining here we might get together and come up with something that would really be a contribution to the country and a valuable change.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I understand it, the Senator from Arizona had offered an amendment. We had discussed, prior to his offering the amendment, that Senator GRAHAM, I, and Senator STABENOW would offer an amendment on prescription drugs. I would ask the manager about the circumstances. Do we need to set aside the amendment that is now pending in order to offer the amendment on prescription drugs for Senator GRAHAM, myself, and Senator STABENOW?

Mr. NICKLES. The Senator is correct. We need to set it aside. I think a couple of us want to speak on the amendment that is pending before we set it aside.

I think the debate has been on the one side for the last 25 minutes.

Mr. DORGAN. I understand. We were told that the presentation of that was going to be 5 minutes, and we were going to move to that amendment. That has not quite happened. I wonder when we might expect to move to this amendment.

Mr. NICKLES. Mr. President, I encourage my colleagues to go through the Chair for parliamentary procedure. I didn't make that point, but I think it is important.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. If the Senator is finished with his inquiry, I yield to the Senator from Alabama 10 minutes. Would that be sufficient?

Mr. SESSIONS. That would be sufficient.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I send a modification to the desk on behalf of Senator KYL, which he failed to file earlier.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. CONRAD. Mr. President, is the Senator proceeding on a modified amendment?

Mr. SESSIONS. My understanding is that it has been agreed to previously.

Mr. CONRAD. There has been no request to modify the amendment.

Mr. SESSIONS. I withdraw that request at this time.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SESSIONS. Mr. President, there is a death tax. I had in my office 2 days ago Professor Harold Apolinsky, from the University of Alabama. He is indeed a brilliant professor. He has dedicated his life to the elimination of the death tax. He says it is an immoral tax. He feels so strongly about it that he has given an incredible amount of his time and effort and resources into seeking its elimination.

I recall just how much of an impact it can have. A lady I know told me the story of her grandfather. President Reagan had been in office in 1981, and they passed an amendment that changed the death tax a little bit.

Do you know what it was then when they changed it? The rate was 70 percent on estates over $175,000. Four Members in this body voted to keep it at that rate. They reduced it to 55 percent. Big deal.

They were home for Christmas and the family was gathered. He had cancer and he was dying, fading fast. She told the story that every morning he asked what day it was. He died at 10 a.m. on January 1, the day the law took effect—his last great act for his family to protect a little bit more of the farm that he had built up over all those years.

I believe we are in agreement on the modification now; is that correct?

Mr. CONRAD. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama has the floor.

AMENDMENT NO. 288, AS MODIFIED

Mr. SESSIONS. Mr. President, I reoffer the modification on behalf of Senator KYL. I think maybe we have an understanding now.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. CONRAD. Reserving the right to object, and we will not object, we are happy to have the amendment modified so that Senator KYL's actual intention is embodied in the amendment. We are happy to allow that modification to be made.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 3, line 9, increase the amount by $115,000,000.

On page 3, line 10, increase the amount by $508,000,000.

On page 3, line 11, increase the amount by $595,000,000.

On page 3, line 12, increase the amount by $783,000,000.

On page 3, line 13, increase the amount by $1,076,000,000.

On page 3, line 14, decrease the amount by $3,909,000,000.

On page 3, line 15, decrease the amount by $12,218,000,000.

On page 3, line 16, decrease the amount by $28,750,000,000.

On page 3, line 17, decrease the amount by $2,515,000,000.

On page 3, line 18, decrease the amount by $336,000,000.

On page 3, line 19, decrease the amount by $347,000,000.

On page 3, line 23, increase the amount by $115,000,000.

On page 4, line 1, increase the amount by $508,000,000.

On page 4, line 2, increase the amount by $595,000,000.

On page 4, line 3, increase the amount by $783,000,000.

On page 4, line 4, increase the amount by $1,076,000,000.

On page 4, line 5, decrease the amount by $3,909,000,000.

On page 4, line 6, decrease the amount by $12,218,000,000.

On page 4, line 7, decrease the amount by $28,750,000,000.

On page 4, line 8, decrease the amount by $2,515,000,000.

On page 4, line 9, decrease the amount by $336,000,000.

On page 4, line 10, decrease the amount by $347,000,000.

On page 4, line 14, increase the amount by $115,000,000.

On page 4, line 15, increase the amount by $508,000,000.

On page 4, line 16, increase the amount by $595,000,000.

On page 4, line 17, increase the amount by $783,000,000.

On page 4, line 18, increase the amount by $1,076,000,000.

On page 4, line 19, decrease the amount by $3,909,000,000.

On page 4, line 20, decrease the amount by $12,218,000,000.

On page 4, line 21, decrease the amount by $28,750,000,000.

On page 4, line 22, decrease the amount by $2,515,000,000.

On page 4, line 23, decrease the amount by $336,000,000.

On page 4, line 24, decrease the amount by $347,000,000.

On page 5, line 4, increase the amount by $115,000,000.

On page 5, line 5, increase the amount by $508,000,000.

On page 5, line 6, increase the amount by $595,000,000.

On page 5, line 7, increase the amount by $783,000,000.

On page 5, line 8, increase the amount by $1,076,000,000.

On page 5, line 9, decrease the amount by $3,909,000,000.

On page 5, line 10, decrease the amount by $12,218,000,000.

On page 5, line 11, decrease the amount by $28,750,000,000.

On page 5, line 12, decrease the amount by $2,515,000,000.

On page 5, line 13, decrease the amount by $336,000,000.

On page 5, line 14, decrease the amount by $347,000,000.

On page 41, line 22, increase the amount by $115,000,000.

On page 41, line 23, increase the amount by $115,000,000.

On page 42, line 2, increase the amount by $508,000,000.

On page 42, line 3, increase the amount by $508,000,000.

On page 42, line 6, increase the amount by $595,000,000.

On page 42, line 7, increase the amount by $595,000,000.

On page 42, line 10, increase the amount by $783,000,000.

On page 42, line 11, increase the amount by $783,000,000.

On page 42, line 14, increase the amount by $1,076,000,000.

On page 42, line 15, increase the amount by $1,076,000,000.

On page 42, line 18, decrease the amount by $3,909,000,000.

On page 42, line 19, decrease the amount by $3,909,000,000.

On page 42, line 22, decrease the amount by $12,218,000,000.

On page 42, line 23, decrease the amount by $12,218,000,000.

On page 43, line 2, decrease the amount by $28,750,000,000.

On page 43, line 3, decrease the amount by $28,750,000,000.

On page 43, line 6, decrease the amount by $2,515,000,000.

On page 43, line 7, decrease the amount by $2,515,000,000.

On page 43, line 10, decrease the amount by $336,000,000.

On page 43, line 11, decrease the amount by $336,000,000.

On page 43, line 14, decrease the amount by $347,000,000.

On page 43, line 15, decrease the amount by $347,000,000.

Mr. SESSIONS. Mr. President, this is a big deal in real life. We are talking about taking half of somebody's accumulated estate. That is a lot. It does happen when people die, and there are professionals out there who do this business, and they try to manipulate and avoid and delay, and sometimes they are successful, sometimes they are not. I want to talk about it in a little bit different vein tonight.

I want to talk about what I think is a major problem in America. I know Senator CONRAD is concerned about it. It is a collapse of smaller businesses and a trend toward larger and larger consolidation of business.

I know an individual in Alabama—I met him at a town hall meeting. He and his father spoke to me. They told me they are paying $5,000 a month for life insurance on their father's life. They own three motels. They would like to expand motels. That $5,000 a month would probably help them buy a fourth motel. But they have to pay it for no other reason than if something happens to their father, they would have to pay an estate tax, and it would come out of their small business and they would lose it.

Remember, this little chain of three motels is competing against Ramada, Holiday Inn, Marriott, and they are getting savaged every generation by a 50-percent tax on what the value of that family's estate is. That tax is not paid by the broadly held corporations, the international corporations. They never pay this tax. Think about it. It is a tax that falls on small businesses and individuals. It does not fall on big businesses.

I know an individual who owns several thousand acres of land. He is very fortunate and very generous with ball teams and schools and charitable organizations and is a wonderful person. Some might say he is wealthy. But the big paper companies own millions of acres of land. They don't ever pay a death tax. He is competing, really, with them.

I know International Paper owns 2 million acres of land. They are never impacted by the death tax.

Ask yourself, why is it that banks in towns all over America are closing? In Mobile, AL, we had four local banks. They are all gone today. One or two came back, but all of them were sold out to the big ones. Why? Because the people who owned them got up in years and they were facing a confiscatory tax on what they had accumulated. They didn't have the cash to pay it. Everything they owned was in the bank, the business they built up. They had to get out and get liquid and create a situation in which they could avoid some taxes, perhaps, and have the cash to pay the tax because if they had to sell off the business all at once to pay the tax, it would collapse.

I am saying, with absolute confidence, this death tax is a driving force behind the collapse of small businesses. Think about funeral homes. I know the occupant of the chair, who is from Tennessee, knows that the people running those funeral homes are usually good business people. As the population grew and more people came to the end of their life, they have done well in their business, but they are then facing the death tax. Maybe they have stock or bought some property, and they may have a home that has appreciated in value. All of a sudden they are looking at a big hit.

Now funeral homes are being brought up by chains—broadly held corporations now have these funeral homes. They will never pay the death tax. It will never impact them.

How do you with a $3 million company compete with Holiday Inn? We want to encourage $50 million companies, $100 million companies, and $200 million companies to compete against billion-dollar companies. We are chopping them off.

A vision I have is that you go out in the woods and there is a little pine tree trying to grow and compete with the taller trees. But just as it breaks in and gets sunlight, somebody comes in and chops the top off and takes half of it. It will never be able to compete.

We are putting them at a disadvantage. It cannot be overcome. I believe it is unhealthy. If we care about small business, about encouraging innovation and competition and growth in America, we need to think about this. So I think there are a lot of reasons we ought to consider the elimination of this tax. It is certainly an unfair tax. People have paid their taxes, and then at the time of their death, they are taxed again in a way that savages the ability of a business to remain competitive.

I note that the taxes are only a percent or two of the income to this Government. It is not critical to our revenue.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. SESSIONS. We voted to eliminate the death tax once before. It is time to complete the job. I support the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I know there are colleagues who want to offer the prescription drug amendment. I will make a few comments on elimination of the death tax.

A couple of people said there is no tax on death. I disagree. I can say that from experience. My father died, and there was a significant death tax. His death was a taxable event. If he had not died, there would not have been a taxable event. To say there is no death tax—maybe it is something the pollsters came up with—is something about which I totally disagree.

Under current law, if you die, if your estate is above a certain amount, your survivors will have to pay a tax. I call that a death tax. It can be called an inheritance tax, an estate tax, whatever one wants to call it.

We did pass an exemption in 1981 that exempted surviving spouses from the death tax. I was one of the principal sponsors of that legislation in 1981. I worked to put that in the big bill. That was one of the big tax bills. I was a freshman Senator and I really wanted to put that in the bill because I learned the hard way.

My father passed away. My mother had five kids, and she inherited a business. The Government came in and said: We want about half of the business. We negotiated, struggled, and agonized. I say we, I was a child. My mother struggled for years over what the size of this company was, how much of it the Government was entitled to—were they entitled to half of it, a third of it. Eventually, something was settled but she had to pay the Government. I guess I did, too. Survivors who wanted to keep the business had to pay a lot of tax. Why? Because my father died. So if somebody says there is not a death tax, I disagree.

They say: We exempt spouses. That does not make any difference. If you want to pass your business on to your son, the Government says: We want half.

Somebody said it only applies to 1 percent or 2 percent of the estates. What tax rate is right? Fifty percent? I appreciate the fact that my colleague from North Dakota said the rate is too high. It is too high. Why would we tax estates, a death tax, in excess of the personal tax rate? The maximum personal tax rate hopefully will soon be 35 percent. The maximum corporate rate is 35 percent. Why should a taxable event caused by death be as much as 50 percent?

Frankly, if we do not extend the law, it could go back to 55 and 60 percent. In present law, the maximum is 50 percent. But if the 2001 law expires—if we go back before we made the changes in 2001, then the maximum tax rate returns to 55 percent, and on a taxable estate between $10 million and $17 million, there is an additional 5 percent surcharge. It will go back to 60 percent.

I hear some colleagues say: We should exempt not just $1 million, but maybe $2 million or $3 million, maybe twice that amount for spouses. But above that, we still would have a rate of 50 percent. That is way too high. Why is that? Why in the world if somebody passes away should the Government take half? If somebody builds a business and let's say they build up the business, and maybe they are employing thousands of people, should the Government come in and take half? Whoever inherited the business has to sell it and pay taxes. The Government wins and the employees lose—they lose their jobs.

What about George Soros? He is a billionaire. Or Mr. Buffett? My guess is—I do not know—my guess is they have foundations, they have great tax accountants, and they were able to set up foundations that do not pay tax, period.

They do not pay tax on their earnings. They are tax exempt, and they do not pay death taxes. They built up these enormous foundations. Great, I am proud of them.

There are a whole lot of people who own family farms and businesses that they are trying to grow and expand, and they are not big enough to hire attorneys and have foundations, and they are liable for a death tax. That hangs as a heavy cloud over a lot of businesses that decide not to grow because they know if they grow, the Government is going to get half.

We did work in 2001 to bring that down. We gradually brought it down to, I think, 45 percent. It goes to zero in the year 2010, and then presumably if we do not pass a bill to change it, by 2011, it will pop back up to 55, maybe even as much as 60 percent.

Senator KYL says let's expand that zero bracket. The resolution before us presumes—presumes—that Congress will extend the provisions in the 2001 tax bill, so it would extend the repeal of the death tax for the year not only 2010, but also 2011 and 2012. Senator KYL's amendment says it should be for the year 2009. That will be 4 years with a zero tax on the taxable event of death.

If somebody says they pay no tax, they do not understand Senator KYL's amendment. They do not understand the law we passed. Senator KYL's amendment and the present law says a taxable event is moved from death to the sale of the property. What does the sale of the property mean? It means capital gains. What is the tax rate on capital gains? It is 20 percent.

Also in that provision we passed in 2001, it says we eliminate or stop the step-up in basis over a certain amount. What does that mean? It means if George Soros has a net worth of $38 billion and he passed away, if he has not paid capital gains on that net worth and there is no step-up in basis and the initial investment was much less than that, then he would be taxed at 20 percent on that incremental value.

Maybe if he had initial investment of, let's say, $18 billion—I doubt it would be that much; maybe a lot less—he would pay 20 percent on the incremental difference between the carryover basis and what it was at the time of sale. If somebody in his company did not sell the business, there would not be a tax.

I like to think of this more in the vernacular of a small business. If a small business wants to pass it on to their kids and the kids do not sell the business, they do not pay a tax. But when and if they do sell, they pay a tax. There would be capital gains on a carried-over basis.

It is interesting, the people who have scored some of these amendments, Joint Tax, sort of forgot to account the offsetting additional income that would be generated from the sale of operations, the capital gains that would be measured.

The law we passed in 2001 says: Let's change the taxable event from death to when the property is sold. If someone receives property as a result of someone's death and they sell it, then they pay capital gains. If they do not sell it, then there is no capital gains. The taxable event would no longer be death; it would be when the property is sold. It makes eminent good sense.

There are other ways of doing this, but the present law in taxing estates and taxing inherited property or taxing a business or a farm or a ranch just makes no sense whatsoever. The big boys are able to figure out ways to get around it through fancy accountants and foundations, and they do not pay the tax. A lot of middle-income people and smaller businesses pay a lot of tax. It really does inhibit their growth.

I compliment my colleague from Arizona for his amendment. I am intrigued by the interest of my colleagues from North Dakota and Nevada in maybe trying to do something. I think we can do something, and we have the opportunity to do it. It will not be done in this bill. We did not put in a reconciliation instruction dealing with this provision, but it is something we can deal with and this Congress ought to deal with. There is some money on the table to make that available. We should have a tax rate on a taxable estate or inherited property in the neighborhood of 20 percent. You might generate some money.

Right now this tax is counterproductive in so many ways. I will give one example. Our business did not grow because we were thinking at that time that the Government would take so much, so why would anybody expand if the Government is going to come in and take it? And how could you pass property on from one generation to another generation to another generation if the Government wanted to come in and take half every time? It just does not work. It is very difficult for a privately held business, if they want to pass it on from the second and third generation, to do so if the Government is going to take half. That business may be more than $3 million. That business may be $20 million. It may be $100 million. Think of some great companies that might be privately held. If the owners pass away, should the Government take half? I do not think so. I would hope not.

I am intrigued by the ideas that different colleagues have.

I encourage an open dialogue. I think my colleague from Arizona is to be complimented for his work in this field. I am intrigued and encouraged by some of the debate I am hearing. I would love to see us come up with a bipartisan, permanent resolution on how to address the estate tax. The present law is not satisfactory. It needs to be amended. It needs to be addressed, and I would love to see this Congress this year pass something we could all be proud of that would be a significant and positive reform for businesses and individuals all across the country.

Mr. REID. Will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield.

Mr. REID. Would the Senator, the manager of the bill for the majority, on the next amendment which will be offered, which will be prescription drugs, allow a time of 40 minutes on each side?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I cannot agree to a 40 minute time limit——

Mr. REID. I withdraw the request.

Mr. NICKLES. On an amendment that deals with $200 billion. That would be so many billion dollars per minute. That might be a little expensive. I will be happy to work with my colleagues.

If no other Senators wish to speak on the underlying amendment, I ask unanimous consent to set aside the pending amendment so an amendment offered by the Senator from North Dakota and the Senator from Florida can be offered at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

### AMENDMENT NO. 294

Mr. DORGAN. Mr. President, I send an amendment to the desk on behalf of myself, Senator GRAHAM of Florida, and Senator STABENOW, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. GRAHAM of Florida, and Ms. STABENOW, proposes an amendment numbered 294.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a meaningful prescription drug benefit in Medicare that is available to all beneficiaries)

On page 3, line 9, increase the amount by $7,580,000.

On page 3, line 10, increase the amount by $23,341,000,000.

On page 3, line 11, increase the amount by $26,169,000,000.

On page 3, line 12, increase the amount by $29,003,000,000.

On page 3, line 13, increase the amount by $32,406,000,000.

On page 3, line 14, increase the amount by $35,710,000,000.

On page 3, line 15, increase the amount by $39,465,000,000.

On page 3, line 16, increase the amount by $43,508,000,000.

On page 3, line 17, increase the amount by $47,687,000,000.

On page 3, line 18, increase the amount by $52,440,000,000.

On page 3, line 19, increase the amount by $58,514,000,000.

On page 3, line 23, increase the amount by $7,589,000,000.

On page 4, line 1, increase the amount by $23,341,000,000.

On page 4, line 2, increase the amount by $26,169,000,000.

On page 4, line 3, increase the amount by $29,003,000,000.

On page 4, line 4, increase the amount by $32,406,000,000.

On page 4, line 5, increase the amount by $35,710,000,000.

On page 4, line 6, increase the amount by $39,465,000,000.

On page 4, line 7, increase the amount by $43,508,000,000.

On page 4, line 8, increase the amount by $47,687,000,000.

On page 4, line 9, increase the amount by $52,440,000,000.

On page 4, line 10, increase the amount by $53,514,000,000.

On page 4, line 14, decrease the amount by $56,000,000.

On page 4, line 15, decrease the amount by $6,750,000,000.

On page 4, line 16, decrease the amount by $12,607,000,000.

On page 4, line 17, decrease the amount by $2,089,000,000.

On page 4, line 18, increase the amount by $11,134,000,000.

On page 4, line 19, increase the amount by $13,388,000,000.

On page 4, line 20, increase the amount by $18,051,000,000.

On page 4, line 21, increase the amount by $23,189,000,000.

On page 4, line 22, increase the amount by $28,020,000,000.

On page 4, line 23, increase the amount by $33,135,000,000.

On page 4, line 24, increase the amount by $39,338,000,000.

On page 5, line 4, decrease the amount by $56,000,000.

On page 5, line 5, decrease the amount by $6,750,000,000.

On page 5, line 6, decrease the amount by $12,607,000,000.

On page 5, line 7, decrease the amount by $2,089,000,000.

On page 5, line 8, increase the amount by $11,134,000,000.

On page 5, line 9, increase the amount by $13,388,000,000.

On page 5, line 10, increase the amount by $18,051,000,000.

On page 5, line 11, increase the amount by $23,189,000,000.

On page 5, line 12, increase the amount by $28,020,000,000.

On page 5, line 13, increase the amount by $33,135,000,000.

On page 5, line 14, increase the amount by $39,338,000,000.

On page 5, line 17, increase the amount by $7,645,000,000.

On page 5, line 18, increase the amount by $30,091,000,000.

On page 5, line 19, increase the amount by $38,776,000,000.

On page 5, line 20, increase the amount by $31,092,000,000.

On page 5, line 21, increase the amount by $21,272,000,000.

On page 5, line 22, increase the amount by $22,322,000,000.

On page 5, line 23, increase the amount by $21,414,000,000.

On page 5, line 24, increase the amount by $20,319,000,000.

On page 5, line 25, increase the amount by $19,667,000,000.

On page 6, line 1, increase the amount by $19,305,000,000.

On page 6, line 2, increase the amount by $19,176,000,000.

On page 6, line 5, decrease the amount by $7,645,000,000.

On page 6, line 6, decrease the amount by $37,737,000,000.

On page 6, line 7, decrease the amount by $76,513,000,000.

On page 6, line 8, decrease the amount by $107,604,000,000.

On page 6, line 9, decrease the amount by $128,877,000,000.

On page 6, line 10, decrease the amount by $151,199,000,000.

On page 6, line 11, decrease the amount by $172,612,000,000.

On page 6, line 12, decrease the amount by $192,931,000,000.

On page 6, line 13, decrease the amount by $212,599,000,000.

On page 6, line 14, decrease the amount by $231,903,000,000.

On page 6, line 15, decrease the amount by $251,080,000,000.

On page 6, line 18, decrease the amount by $7,645,000,000.

On page 6, line 19, decrease the amount by $37,737,000,000.

On page 6, line 20, decrease the amount by $76,513,000,000.

On page 6, line 21, decrease the amount by $107,604,000,000.

On page 6, line 22, decrease the amount by $128,877,000,000.

On page 6, line 23, decrease the amount by $151,199,000,000.

On page 6, line 24, decrease the amount by $172,612,000,000.

On page 6, line 25, decrease the amount by $192,931,000,000.

On page 7, line 1, decrease the amount by $212,599,000,000.

On page 7, line 2, decrease the amount by $231,903,000,000.

On page 7, line 3, decrease the amount by $251,080,000,000.

On page 29, line 6, decrease the amount by $6,000,000,000.

On page 29, line 7, decrease the amount by $6,000,000,000.

On page 29, line 10, decrease the amount by $10,000,000,000.

On page 29, line 11, decrease the amount by $10,000,000,000.

On page 29, line 14, increase the amount by $2,498,000,000.

On page 29, line 15, increase the amount by $2,498,000,000.

On page 29, line 18, increase the amount by $17,195,000,000.

On page 29, line 19, increase the amount by $17,195,000,000.

On page 29, line 22, increase the amount by $20,630,000,000.

On page 29, line 23, increase the amount by $20,630,000,000.

On page 30, line 2, increase the amount by $26,482,000,000.

On page 30, line 3, increase the amount by $26,482,000,000.

On page 30, line 6, increase the amount by $32,751,000,000.

On page 30, line 7, increase the amount by $32,751,000,000.

On page 30, line 10, increase the amount by $38,644,000,000.

On page 30, line 11, increase the amount by $38,644,000,000.

On page 30, line 14, increase the amount by $44,787,000,000.

On page 30, line 15, increase the amount by $44,787,000,000.

On page 30, line 18, increase the amount by $52,013,000,000.

On page 30, line 19, increase the amount by $52,013,000,000.

On page 40, line 2, decrease the amount by $56,000,000.

On page 40, line 3, decrease the amount by $56,000,000.

On page 40, line 6, decrease the amount by $750,000,000.

On page 40, line 7, decrease the amount by $750,000,000.

On page 40, line 10, decrease the amount by $2,607,000,000.

On page 40, line 11, decrease the amount by $2,607,000,000.

On page 40, line 14, decrease the amount by $4,587,000,000.

On page 40, line 15, decrease the amount by $4,587,000,000.

On page 40, line 18, decrease the amount by $6,061,000,000.

On page 40, line 19, decrease the amount by $6,061,000,000.

On page 40, line 22, decrease the amount by $7,242,000,000.

On page 40, line 23, decrease the amount by $7,242,000,000.

On page 41, line 2, decrease the amount by $8,431,000,000.

On page 41, line 3, decrease the amount by $8,431,000,000.

On page 41, line 6, decrease the amount by $9,562,000,000.

On page 41, line 7, decrease the amount by $9,562,000,000.

On page 41, line 10, decrease the amount by $10,624,000,000.

On page 41, line 11, decrease the amount by $10,624,000,000.

On page 41, line 14, decrease the amount by $11,652,000,000.

On page 41, line 15, decrease the amount by $11,652,000,000.

On page 41, line 18, decrease the amount by $12,675,000,000.

On page 41, line 19, decrease the amount by $12,675,000,000.

On page 61, line 12, insert "on an equal basis with respect to benefit level regardless of whether such beneficiaries remain in the traditional medicare fee-for-service program under parts A and B of such title or enroll in a private plan under the medicare program" after "prescription drugs".

On page 61, line 19, strike $400,000,000,000 and insert $619,000,000,000.

Mr. DORGAN. Mr. President, I will describe the general direction of this amendment. I will be followed by my colleague, Senator GRAHAM of Florida, who will talk in greater specifics about the particular approach dealing with a prescription drug benefit in Medicare. Following that, my colleague from Michigan will also speak.

This amendment would increase the amount of money available to put a prescription drug benefit in the Medicare Program. I think we are long past the point where the question is whether we should put a prescription drug benefit in the Medicare Program. The question is no longer whether. I think almost all Members of the Congress agree we ought to do that. The question is how. How do we do it? What kind of a prescription drug benefit do we put in the Medicare Program?

Senior citizens are 12 percent of the population in our country, yet they consume one-third of all prescription drugs. That is important to understand. As people grow older, they have more health challenges. They are able to access these miracle drugs, the new miracle drugs that extend life in so many areas, but miracle drugs produce no miracles if one cannot afford them.

At an age in life when people reach retirement and have diminished income, they discover that they cannot afford to buy the miracle drugs they need, the drugs their doctor prescribes, for someone who may have heart disease, diabetes, and several other maladies. We hear senior citizens say over and over again that they go to the grocery store with a pharmacy in the back, and they have to go to the pharmacy first to find out how much they are going to have left for food because they cannot afford all of their medicine and food.

If we had created Medicare last year, there is no question that we would have included in that Medicare Program a prescription drug benefit. Instead, Congress created it in the 1960s. Most of us were not here then. So there was no prescription drug benefit put in the Medicare Program because most of the lifesaving drugs that are now available were not then in existence. They are now, and senior citizens are living longer and better lives. Part of it is because we have these prescription drugs that can extend life.

So the question is, How do we now modify the Medicare Program to add a benefit for prescription drugs, to help so many senior citizens who simply cannot afford them?

I had a hearing in Dickinson, ND, one evening on the issue of prescription drugs in Medicare. An oncologist told me about his cancer patient, a woman on Medicare who had a mastectomy because of breast cancer. He prescribed a prescription drug for her. He said: You need to take this prescription drug in order to reduce the chances of recurrence of this breast cancer. She said: What will it cost? He told her the cost of the drugs. She said: Doctor, I cannot possibly buy that prescription drug. I have no money. I will just take my chances.

We do not have to do that. Our amendment is very simple. The underlying budget proposed $400 billion for a Medicare prescription drug plan. We propose that the portion of the tax cut in this budget amendment dealing with the tax cut for dividends be used instead of cutting taxes for dividends in the following manner: That $219 billion be provided in this amendment in order to increase above the $400 billion, so we would have then $619 billion for a prescription drug plan in the Medicare Program. The additional $251 billion in savings generated by this amendment would be used to reduce the Federal budget deficit.

We are doing two things: Making more money available so a decent prescription drug plan can be offered, and my colleague from Florida will more adequately describe exactly what kind of a program can be offered for that, and then in addition, reducing the Federal budget deficit.

I will make a couple of additional points. Our amendment also establishes a very important principle for a Medicare prescription drug benefit. Medicare beneficiaries who choose to remain in traditional fee-for-service Medicare should receive the same level of benefit for prescription drugs as do others. The President has proposed something that says we will provide a prescription drug benefit but we will do it only if someone leaves their fee-for-service type of care and goes to an HMO. That is not fair. That is not the right thing to do. Senior citizens ought to be able to go to the doctor of their choice and get the health care they need from the doctor they have always been seeing for their problems. Yet that will not be the case under the President's proposal.

So we say let's increase the amount of money so we can have a reasonable and a good prescription drug benefit in the Medicare Program. Let's do that at the same time we reduce the Federal budget deficit with the other money that we save from this tax change, and let's also establish the principle, as we do in this amendment, that all Medicare beneficiaries ought to have the availability of this prescription drug benefit, even if they choose to stay in a fee-for-service program. That is a very important issue.

Let me make one final point. As is always the case when we debate the budget in the Senate, we are confronted with a series of choices, difficult choices sometimes but nonetheless choices. We can make a decision about that. We can decide that it is far more important, as some have done in the Senate, to exempt dividends from taxation than it is to have a good prescription drug benefit in the Medicare Program. I do not happen to share that choice. I think that is a terrible choice. That is a horrible choice to make in terms of priorities. So with this amendment we make a different choice. We believe that this is one of those circumstances that demands and certainly deserves the attention of the Senate. I think every Senator is on record as saying we ought to do something about this issue of prescription drugs in Medicare, but we have had difficulty trying to find the right approach.

We have all kinds of different plans. What we propose with this amendment is to have sufficient money, $619 billion, to put together a plan of which we can be proud, to put together a plan that works, one that really helps senior citizens and one that does not force them all into managed care or HMO organizations as a price for them to be able to access prescription drugs that they need to continue to lead a good life. That is all this amendment is about. It is a simple choice. It is a lot of money, but it is a simple choice. Let's choose the right thing. Let's choose to do what all of us have said we want to do, and that is to put a good prescription drug plan in the Medicare Program.

My colleague, Senator GRAHAM from Florida, is going to describe in more detail exactly what that program could look like and how that program would work for senior citizens. I am very pleased to have worked with him, as well as the Senator from Michigan, on this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time?

Mr. GRAHAM of Florida. I yield myself such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I offer this amendment with my colleagues from North Dakota and Michigan so that when we come to debate the specifics of a prescription drug benefit for Medicare, we will be able to provide a real benefit, a real benefit with no gimmicks, no gaps, no hidden "gotchas."

Last year, 52 Senators voted for a plan that provides all Medicare beneficiaries with an affordable, comprehensive, and universal drug benefit delivered through Medicare. The proposal offered last year received 52 votes and was very direct. It provided that seniors would pay a $25 per month voluntary premium. This program is not mandatory; seniors will decide for themselves whether they want to participate. There would be no deductible. Seniors would pay no more than a $10 copayment for generic medications and $40 for medically necessary brand-name medications. After $4,000 was paid by the senior out of pocket, Medicare would pay the remaining expenses under a catastrophic position. Special consideration was provided for the lowest income non-Medicaid elderly by picking up all, or a portion of, their monthly premiums and copayments.

The plan we offered last year that received 52 votes, with the inflation and with the change in the demographics of the elderly population, would cost, over the next 10 years, $619 billion. The budget resolution which is before the Senate today would limit the expenditure for a prescription drug benefit to no more than $400 billion. Removed from the $400 billion would be the cost of any other changes to the Medicare system.

Our colleagues on the Budget Committee have adopted the $400 billion from the President's framework for adding a prescription drug benefit to Medicare. It is unclear precisely what we would be buying with $400 billion, but let's talk about what we know of some of the principles of the President's prescription drug plan.

He would provide, for those Medicare beneficiaries in the traditional fee-for-service program, that there would be coverage of prescription drugs for the lowest income—the question mark as to what that demarcation would be. They would receive up to $600 a year for their prescription drug benefits. I point out to the Presiding Officer and my colleagues, the average Medicare beneficiary last year paid $2,100 for their prescription drugs.

Other than the lowest income, there would be no ongoing benefit and there would be a catastrophic benefit at a yet to be specified level. That is what 89 percent of the Medicare beneficiaries—those who have elected to stay in the traditional fee-for-service Medicare—would have available.

Mr. President, 11 percent of the 40 million Medicare beneficiaries are in some form of managed care. Under the President's plan, they would receive a prescription drug benefit, maybe one very similar to the one that 52 Senators voted for last year. We do not have the details to have a clear understanding of what that 11 percent would receive.

The only way you can fit an affordable, comprehensive, universal prescription drug benefit is by not making it universal, not covering seniors who are in the traditional Medicare Program unless they either have very low incomes or very high drug costs. For instance, if the catastrophic level were to be set at $5,000, less than 3 percent of the Medicare beneficiaries would spend that much and therefore be eligible to participate in the catastrophic provisions of the President's plan.

The President's proposal buys a drug benefit for $400 billion by providing a benefit—even that is undefined—only for those seniors who will enroll in some form of managed care. This has been referred to as a plan to herd seniors into managed care because their needs for a prescription drug benefit are so desperate. No one can argue a benefit like the one proposed by President Bush meets the goals of an affordable, universal, comprehensive drug benefit which is what America's seniors need.

The most fundamental reform we can make in the Medicare Program is to offer to all Medicare beneficiaries, including the 89 percent who have elected to enroll in the traditional fee-for-service Medicare, all beneficiaries—those as well as the 11 percent who have currently elected to participate in a managed care program—a universal, comprehensive, affordable prescription drug benefit. Why is this so important? In my opinion, it is so important because it is the fundamental reform which Medicare must make.

Medicare is a program of the 1960s. It is appropriately described as a sickness program. If you are ill enough to require a physician's attention or, even more, require hospitalization, Medicare will pay a substantial proportion of your costs. What Medicare will not pay is the cost to keep you out of the doctor's office and out of the hospital. Why? Because almost every preventive care program has as one of its key elements the use of prescription drugs. These are the modern miracles of medicine. They are almost always required if we are to be able to manage a condition before it becomes critical.

Thus, to have a Medicare Program which makes that fundamental reform from a sickness system to a system that promotes the highest level of health, it must have a prescription drug benefit. Certainly some seniors under the President's proposal will have no choice but to move from their current preference for traditional fee-for-service, where they have the maximum number of choices, into a managed care system, where their choices can be severely restricted.

As my colleague from North Dakota has already said, this debate is about priorities. Is the statement the Senate wants to make that we give greater importance to an oversized tax cut than we do to a real, affordable, comprehensive, and universal drug benefit for all seniors? I think the answer is clear.

In addition to providing adequate funding for a prescription drug benefit, this amendment will also provide $177 billion over the next 10 years for deficit reduction, which would, in fact, become $251 billion for deficit reduction by including the interest cost which we will have to pay for $177 billion over the next 10 years. This is a needed remedy for the rapidly increasing deficits that we have experienced, almost as urgent as the needed benefit of prescription drugs for older Americans.

We are suggesting these two elements, a $219 billion addition to the Medicare account in order to be able to fund an affordable, comprehensive, and universal prescription drug benefit, and $177 billion for deficit reductions—we are suggesting it be paid by a reduction in the provision for tax reductions of $396 billion. That number was not just chosen by accident. That is the amount the President has proposed for his dividend tax cut, making dividends no longer taxable.

I believe the dividend tax cut should be reduced, first because it will do very little to stimulate our sluggish economy, and specifically because it will do very little to benefit America's seniors. I heard earlier today the argument made in support of the elimination of taxation of dividends, that it was a critical matter for America's seniors. Most American seniors will not benefit at all, and the average tax reduction for America's seniors, by eliminating the taxation on dividends, is estimated to be $118 per year.

Contrast that minimal savings for seniors with the savings that seniors will secure through a comprehensive, universal, and affordable prescription drug benefit.

I urge my colleagues to support this amendment. This amendment will not only affect our seniors and our ability to provide them with a reasonable prescription drug benefit, it will also provide Congress the direction required to assure responsible spending of the taxpayers' money. This is a goal, not just for seniors, it is a goal which all Americans deserve.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield one-half hour to the Senator from Michigan, Ms. STABENOW.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Ms. STABENOW. Mr. President, I first commend my friend and colleague from Florida for his ongoing leadership on the issue of Medicare prescription drug coverage. I am very hopeful we will be able to put into place the bill he has described so eloquently that would greatly benefit all older Americans and the disabled. It is my pleasure to join with him and with my distinguished colleague from North Dakota, Mr. DORGAN, as well, who has also been an outspoken leader both on Medicare prescription drugs and also on issues relating to containing costs, opening the borders to Canada, and other issues that would lower prices.

It is my pleasure to join with both of them in what I believe to be one of the most important, if not the most important, amendment we will be addressing to the budget resolution.

As my colleagues have said, the budget resolution is about American priorities and values. We lay out for the year and then project for 10 years what our most important priorities are, just as a family does in their own budget. We on this side of the aisle have argued that, of course, safety and security is critical. Education and the opportunity for young people and adults to have skills and be able to be successful in our society is critically important. Also, health care, the ability to have health care for your family, and the ability for every senior and every disabled person to know that, in fact, Medicare will be strong and will be there for them when they retire when they are eligible, and that it will reflect the way health care is provided today is also important.

We all know today prescription drug coverage is the primary way to provide health care, both for prevention, to be able to stop disease, and be able to monitor and keep us from having to have an operation or be in the hospital. Outpatient prescription drugs are a critical part of the way health care is provided today.

Medicare, which is a great American success story, simply needs to be updated in order to cover prescription drugs. That is what this amendment does. It says that as a value for our families and a priority for Americans, we choose to set aside dollars for a comprehensive, affordable prescription drug benefit for all seniors. We want to do that through Medicare, through strengthening, protecting, and preserving Medicare. It also says when we have to make choices, if we have to choose—as we always have to do in our own budget, in the Federal budget—between another tax cut for those earning millions of dollars a year, or putting dollars in the pockets of our seniors to help pay for their prescription drugs, their medicine, we choose prescription drug coverage for our seniors. We also choose paying down the debt to protect Social Security and Medicare for the future.

This amendment does two very important things: It guarantees that we will have enough resources to do a comprehensive Medicare prescription drug benefit. It also says the debt that is being accumulated by this country is absolutely unacceptable, and we need to be putting money aside to pay down that debt in order to make sure we can keep interest rates low to spur the economy so our families can buy homes and cars and send their children to college and not experience double-digit interest rates. We need to keep that debt down. That also allows us to protect Social Security and Medicare funds for the future for the trust funds. That priority, and a prescription drug coverage priority, is absolutely essential.

We also say something else that is very important. We need to make sure that traditional Medicare that has been there is there regardless of where you live. My great State is a huge State geographically, 9 million people plus. We need to make sure the seniors in Detroit or Marquette or Ironwood or Three Rivers or Benton Harbor or my home in Lansing all have the same ability and the same dependability in terms of Medicare prescription drugs. They will know the premiums are the same, their cost, their ability to choose their own doctor, their ability to choose their own medicines, to go to their own local pharmacy—that should be available regardless of where you live.

One of my great concerns is we have seen, unfortunately, more and more talk about reforming Medicare, which I believe is a code word for privatizing Medicare. All we are seeing leads us to believe that the administration wants to privatize Medicare and require seniors, if they are going to get real health care coverage that includes prescription drugs, to go into private insurance systems; to go into an HMO or another kind of system.

The administration has indicated, if they stay in traditional Medicare where the overwhelming majority of seniors are, they are willing to offer a discount card that the GAO tells us would be about $3.31 savings on a prescription. That is not very much if you are someone who is paying $100 or $150 or $200 for a simple 30-day prescription.

Then they have said: If you accumulate thousands of dollars—we don't know exactly what the number would be, but have catastrophic needs—you would be able to get some kind of help. We don't know at what point they would designate that, but if you want to get real help with prescription drugs, if you want to be covered for prescription drugs, then you would have to go to the private sector to be covered.

That is absolutely unacceptable. Seniors of this country have already chosen between Medicare and going into the private sector. We have that now. We have traditional Medicare and we have something called Medicare+Choice that is a private sector HMO approach. It is your choice as a senior.

In fact, my mother chose to go into an HMO herself in Michigan, and had a good experience, but the Medicare beneficiaries were dropped from that HMO because they decided not to cover them anymore. And that has happened to over 41,000 people just in Michigan.

What we have seen is that when seniors are being given a choice between traditional Medicare and the HMO system, they have already chosen: They have chosen Medicare, traditional Medicare. But for the small percent who chose to go into the private sector, they found it was not dependable. For my own mother, who chose to do that, she found she could not count on it. It was not ultimately available to her. And now, in Michigan, only 2 percent of people who are on Medicare can even qualify, can even find a private insurer that will cover them, and they all are in the eastern part of our State. So if you live in Lansing or Flint or Saginaw or Grand Rapids or on up in Traverse City or on up in the upper peninsula, you don't even have that choice because there is nothing available.

So what we have said in this amendment is that seniors need to know the prescription drug benefit that everybody is talking about should not just be available if you choose a private insurance policy, private insurance model through Medicare; you should have the right to have a choice of traditional Medicare and have the very same prescription drug coverage.

That is what this amendment says. If we want to offer seniors choice, then we need to make sure we offer them a real choice: the choice of Medicare as they know it, Medicare as they have been able to depend upon, as well as the other private sector models that have been proposed by the President and our colleagues.

This amendment, I believe, is exactly what the seniors of America are asking us to do: simply update Medicare, strengthen the system they count on, and make sure they have affordable prescription drug coverage. I strongly support this amendment. I am proud to be cosponsoring this amendment with my colleagues. The dual goal of having Medicare prescription drug coverage and a major payment on the debt is very important.

When we look at who the beneficiaries of Medicare are—our seniors—the majority of them are women. So I speak as one of the women of the Senate to say that the women of this country are counting on Medicare as well as Social Security. This is very real for the older women of our country. They are counting on us to fulfill the real promise of Medicare.

Mr. President, our seniors, as well as everyone who is involved with prescription drugs, are counting on us to do one other thing. I wish to speak to that for a moment. It relates to another amendment I will be offering later on in this debate that needs to be coupled with this amendment, and that is the question of lowering the price of prescription drugs.

We need to update Medicare to cover prescriptions. But at the same time, we need to lower the price through more competition, so that we can afford that coverage and be able to make it available to as many people as possible.

Along with my colleagues, Senator DORGAN and Senator SCHUMER, I am going to be offering an amendment the purpose of which is to reduce prescription drug prices for everyone, with the passage of legislation similar to S. 812, which passed overwhelmingly by the Senate last summer, a bill that contained provisions relating to generic drug reform, reimportation of prescription drugs from Canada—in other words, opening the border to Canada for our citizens—and State authority with respect to Medicaid drug rebate agreements. What that means is supporting our States that are being creative in finding ways to use their authority to lower the prices of prescription drugs for their citizens.

This amendment would take the approximately $7.4 billion minimal of savings through the generic drug reform we passed last summer coupled with any savings—and as yet they have not been able to calculate the savings—that we know would be there from opening the border to Canada, and dropping prices in half. But we would take those dollars and put it into a fund that is already in the budget resolution—a $50 billion fund for the uninsured—and we would add those budget savings to that fund for programs that help individuals and small businesses obtain health insurance.

We know the majority of those without insurance—in fact, we are told that 75 percent of the people who do not have health insurance are working, and they are working for small businesses. So this issue of lowering prices is very important for all businesses, but I would say particularly small businesses, that have seen their premiums—at least in Michigan, we know, according to Michigan Blue Cross and Blue Shield, that premiums for small businesses have doubled, at least, in the last 5 years. And we know, when we look behind those prices, as well as the prices for the Big Three automakers, and for other major employers, that the major reason the price of health care is going up is because of the explosion in the price of prescription drugs. The average retail prescription drug increase for brand names is three times the rate of inflation—three times the rate of inflation. So we have seen an explosion.

By the way, this relates back to Medicare coverage because a majority of those who are uninsured who are paying those prices are our senior citizens. In fact, the people who pay the highest prices in the world today are Americans, predominantly our seniors, who do not have insurance and walk into the local pharmacy and need to buy their medicine. So there is an important partnership here of both Medicare prescription drug coverage and lowering prices for everyone.

Last year, on a bipartisan vote, I was very proud of this body, my colleagues on both sides of the aisle, who joined together to, first of all, tighten up the rules and eliminate loopholes in relation to unadvertised brands, what we call generic drugs, that are supposed to be available when a patent runs out on a brand name. The formulas are supposed to be available so they can be manufactured at a much cheaper price, oftentimes 50 percent, sometimes as much as 70 percent less. We know by having more use of unadvertised brands, and they being more available on the market, we can drop insurance rates, we can drop prescription drug prices for our seniors and for everyone.

We also know if we simply open the border to Canada—I find this whole issue so amazing because we trade with Canada on everything except prescription drugs. In fact, in my great State of Michigan, right now we are seeing truckloads of trash coming in from Canada that we are told we cannot stop from going into Michigan landfills because we have open trade laws. So we can't stop the trash, but we can't bring in prescription drugs that would help our seniors and help our families be able to lower their costs, by bringing in American-made, American-subsidized prescriptions, that are sold in Canada at reduced prices.

That was the second part of what we did last summer, to pass a bill that opened the border. And we know that by doing that, licensed pharmacists could develop business relationships. Whether it is a pharmacist at the hospital, a pharmacist at the local pharmacy, a pharmacist working with health clinics or at a university, they could bring these back and make prescription drugs available. We ought to be doing that. It is very perplexing and frustrating that that is not happening.

In fact, to add insult to injury, the FDA has just informed us in the last week based on pressure from the pharmaceutical industry that not only are they not going to open the border, but they are going to begin enforcing the law against those who help our seniors. Whether it is an insurance company paying for reimbursement, whether it is others helping our seniors to go across the border to get their prescriptions at a lower price, working through a Canadian doctor and pharmacy, the FDA now says they will clamp down on that rather than working with us to open the borders in a safe way. This is the second part of how we lower prices.

The third way we lower prices is by supporting States that have been working to use their group purchasing power to negotiate with the pharmaceutical companies that do business with them on Medicaid, to negotiate with them to provide rebates and discounts for the uninsured in their State. A number of States have done that, and they have all been challenged, unfortunately, by the pharmaceutical industry. We want to make it clear that States have the ability on behalf of their citizens to advocate and to negotiate lower prices. That is the second amendment we will be offering.

Again, we will be offering an amendment that says we will reduce prescription drug prices. We will save dollars for the Federal Government, and then those dollars will be redirected into a fund and put aside to support small businesses to provide health care coverage for their employees.

The budget resolution is about priorities. We all know that. It is about values. It is about who we are as Americans. When I talk with people in Michigan, there is not a higher priority now than health care: Families struggling with the cost of medicine; seniors not having access to prescription drug coverage; businesses trying to figure out how to pay the bill; employees being told their pay will be frozen so their employer can pay the health care costs; those who are losing their jobs finding themselves in a situation where they are losing their health care. We even know that our reservists and members of the National Guard currently serving us in the gulf may find themselves not having health insurance for themselves and their families.

This is an issue that touches each and every one of us. Every year we talk about it. Every session we talk about it. It is complicated. It involves setting priorities on funding. Too much of the time, we set it aside to go on to something else. I hope we will not do that this time, that we will make it clear, through this budget, that Medicare prescription drug coverage, that health care for small businesses and their employees, that lowering the prices of prescription drugs will be a top American priority. We can say, we will wait until next year, we will wait until the next budget resolution, but we can't say, we will wait until next year to get sick, to get cancer, or that a family will wait until next year until grandma or grandpa need a nursing home or their children get sick.

Health care for American families is an urgent matter. It is an urgent matter for everyone. It needs to be an urgent matter for all of us here in the Senate.

I urge my colleagues to support the amendment on Medicare prescription drug coverage, and I urge my colleagues as well to join with us in the amendment to reduce the price of prescription drugs and support our small businesses that are struggling to provide health care for their employees.

I yield back.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. BENNETT. Mr. President, acting as the leader, I yield myself 7 minutes, with the understanding that following me, the Senator from Iowa will be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I have listened to the debate and wanted to make a few observations. I understand the Senator from Iowa is prepared to perhaps be a little more erudite than I. But I have heard personal references, and I must come share a few personal references, not specifically on this amendment but on the subject of Medicare.

The statement has been made that Medicare is a great success story. Medicare is a disaster. Everybody who deals with it understands that except the Congress. We have to understand that Medicare, in order to work properly, is going to have to be overhauled from top to bottom as quickly as possible. Taking the assumption that the present Medicare system is working well and all we need to do is add a little here and add a little there will further compound the disaster.

Let me give two examples that I hope will help illustrate this. The first is a town meeting where a woman came to me and said: Can you do something to fix Medicare?

I said: Well, tell me what the problem is.

She said: I am a professional woman. I am a college graduate. I think I am fairly intelligent. I handle my mother's affairs. My mother is in her eighties. She is on Medicare. I have finally figured out how to deal with Medicare. I throw away everything unopened, and at the end of the month I call the Salt Lake clinic and say: How much do I owe you for my mother? Trying to wade through the paperwork is so daunting, I can't even begin to understand anything they send to me. The assumption that my 85-year-old mother would be able to handle any of it is absurd. I tried. I struggled. I got the manuals. Finally, I discovered the way to deal with Medicare is to throw away everything unopened and once a month call the Salt Lake clinic and say: How much do I owe you for my mother?

This is a family and a circumstance where money is not a problem. Simply coping with the paperwork is overwhelming.

Second example: I have a daughter of whom I am enormously proud. She graduated with her master's degree from George Washington University after her bachelor's at Boston University. She got a job in a nursing home. She is a speech therapist. She is also a very enthusiastic young lady. She called me after about 4 days on the job.

Dad, she said—exploding over the telephone—you are a Senator. You have to fix Medicare.

I said: Now calm down. Tell me what your problem is.

She said: Medicare is a disaster. Medicare is terrible. Let me tell you my experiences.

And she began describing some of the problems she had in giving proper care to the people in this nursing home and always being told, no, you can't do that until you check to see whether or not Medicare will cover it.

She said: I thought that would be a fairly simple thing to find out. So I go down the hall and say: Will Medicare cover this procedure? It takes days to get an answer to that question.

Then she said: Dad, do you know who the highest paid person in this facility is—with a salary higher than the administrator, higher salary than the doctors, higher salary than the nurses, higher salary than any of the health professionals? It is the woman who understands Medicare. She gets paid more than anybody here because that skill is in greater demand and shorter supply than professional medical skills.

She called me back sometime later and said:

> I have had patients die while we waited to get an answer as to whether or not Medicare would cover it. Their family said, "Don't touch my grandmother; don't do anything

until we find out whether Medicare would cover it.”

It was so arcane and difficult to work through all of the paperwork and come up with the answer—well, maybe they would have died anyway; they were old and in a nursing home. People die in nursing homes. But this was a very traumatic experience for my daughter, who was convinced that the kind of therapy she was trained to provide, she was prepared to provide, which could have extended the life of that particular patient.

So as we get carried away with the rhetoric around here about what we have to protect and not protect about Medicare, let us begin to understand the truth about Medicare. Medicare is the best Blue Cross/Blue Shield fee-for-service indemnity plan of the 1960s—frozen in time. We don't practice medicine the way medicine was practiced in the 1960s when Medicare was created. We don't even come close anymore.

Yes, we need a prescription drug benefit because prescription drugs do things now that they had nothing to do with in the 1960s. But instead of pasting it on to the existing circumstance and creating a new set of forms and eligibilities and more demand for that highest paid person in the nursing home, let us as a Congress face the fact that we need to start from a clean sheet of paper, all over again, with all of the money we are putting into it—which is sizable—and say let's create a whole new system. This budget doesn't do that, but this amendment that is being offered will make things worse in that regard.

I only hope that somewhere along the line we can begin to face the fact that Medicare is 40 years old, whereas the practice of medicine is changing so constantly that we could say it is only 40 months old. Let's start with a clean sheet of paper. Let's not try this Band-Aid approach. Let's not just put this here, and put that there, and tell our constituents we are giving them something when, in fact, we are perpetuating an existing problem and ultimately making it worse.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. For the benefit of the people who are waiting to speak, I don't think I will take long on this subject.

I rise because I want to urge my colleagues to vote against the Dorgan amendment when the vote comes up tomorrow. I don't see anything wrong with the issue of Medicare being discussed because it is one of two or three of the most important issues this Congress will deal with. So it is very appropriate to have Medicare very much at the top of the agenda. It is very appropriate to have prescription drugs for seniors, as a part of strengthening and improving Medicare, be very high on the agenda. And it is very high on the agenda.

It is just a question, as it relates to the Dorgan amendment, of whether or not crafting a Medicare prescription drug program ought to be an issue on the budget, or whether you ought to let the will of Congress work and do that through the Senate Finance Committee.

We know Medicare is going to be a very important issue this year, not only because it has been very much an issue in the last election, but because the Senate majority leader has a long-time interest in Medicare and prescription drugs. He told me, as Chairman of the Senate Finance Committee, that he would like to have the Senate Finance Committee put it very high on its agenda and have legislation prepared early for this summer's debate.

The Senate Finance Committee is going to meet that deadline. I hope Senator FRIST will be able to keep his own calendar and bring it up at that particular time. What we are talking about on this issue is whether or not the $400 billion for prescription drugs in the budget resolution is enough and whether or not an extension beyond that $400 billion is needed at this particular time.

I am here to say it is not needed at this particular time for two reasons. One, I think I can show that $400 billion is an ample amount of money to present to the Senate a good prescription drug program; and two, taking money away from tax relief for working men and women, which this amendment does, to spend on Medicare is the wrong thing to do for the long-term benefit of Medicare. Because as the trustees of the Medicare and Social Security Program pointed out in their annual report, you see Medicare in a little worse situation this year than last year because there is less payroll tax coming in because the economy is not doing quite as well as it should be. If we want to preserve the long-term viability of the Medicare trust fund, obviously, the best thing we can do is create jobs. That is what the growth package, the jobs package, that we are going to be working on this spring—tax reduction for working men and women—is all about—the creation of jobs, to have the economy grow, so more payroll taxes will be coming into the Medicare fund.

Let me explain to my colleagues why we should vote this amendment down. I start with the premise that it is long past time for Congress to strengthen and improve the Medicare Program, and the No. 1 way in which we can improve and strengthen Medicare is the enactment of a prescription drug benefit for our Nation's seniors.

We all know that adding prescription drug coverage to the Medicare Program is an expensive endeavor. Given the rapidly rising costs of Medicare and the present challenge we have just to meet our current obligations in the program, adding prescription drug coverage must be done carefully and responsibly. You don't do it by just pulling a figure out of the air, reducing the tax relief package, and putting it over here in the Medicare trust fund.

As I have said, the Medicare trustees reported last year that the program already faces substantial challenges in the not-too-distant future. The Medicare trust fund will begin to run cash deficits in 2013 that grow larger and larger until the fund is bankrupt in the year 2026.

While we are working on adding a drug benefit to Medicare, prescription drug spending has grown an average of almost 15 percent annually from 1995 to the year 2000. And the Congressional Budget Office predicts that Medicare beneficiaries will spend about $1.8 trillion on prescription drugs over the 10-year budget window.

Now, is the $400 billion in the budget resolution before us enough to spend on improving Medicare and adding a prescription drug benefit? Well, first of all, we have to recognize that Congress has come a long way in how much it has allocated to a Medicare drug benefit. For example, in fiscal year 2001, the budget resolution had $40 billion over 5 years for a drug benefit. This budget, as I have said, proposes $400 billion over 10 years and is yet $100 billion more than we had in the last budget resolution, which was for fiscal year 2002, and had $300 billion for prescription drugs over the 10 years.

I say to people on the other side of the aisle that we had a lot of support in arguing for a $300 billion budget figure for prescription drugs in that fiscal year 2002 budget. Many of my friends on the other side of the aisle spoke in favor of that proposal on the Senate floor. These Senators believed then that $300 billion would provide a good drug benefit for seniors and be affordable for taxpayers. Now we are proposing $400 billion for Medicare and for a drug benefit. This amount is certainly adequate for developing a good Medicare drug benefit for our Nation's seniors.

I urge my colleagues to support the $400 billion in funding for Medicare and vote against amendments such as the Dorgan amendment to dramatically increase the cost of that drug benefit.

I ask those very same Senators on the other side of the aisle who may want to support their colleague that if they thought 2 years ago $300 billion was a good figure and they helped us get that passed, then they would think that $400 billion is adequate as we start down this road, a road that is going to lead us to the successful passage of a drug benefit program for seniors.

As for a comparable prescription drug benefit, one of the directions that the Dorgan amendment would give the

Committee on Finance—a requirement that traditional Medicare and whatever enhancement of Medicare we develop for seniors which would give them the right to choose between more than one benefit plan would have comparable prescription drug benefits—I want my colleagues on the other side of the aisle to know I will work with other members of the Finance Committee to make sure Medicare beneficiaries in traditional Medicare have a good prescription drug benefit, as well as those who may choose to go to a new, enhanced plan.

This amendment wants to tie the hands of the members of the Senate Finance Committee. The budget bill is not the place to craft a Medicare prescription drug benefit. That is the jurisdiction of the Senate Finance Committee. The committee will have its opportunity to function under my chairmanship, at the direction of Senator FRIST, our majority leader, who said he did not want to make the mistake of last year when then-majority leader Senator DASCHLE brought the issue right to the floor, bypassing the committee.

We can in this body develop bipartisanship not on the floor of the Senate but in the committees of the Senate. That is no more true than in the Senate Finance Committee which has such a reputation for bipartisanship.

I urge my colleagues to defeat this amendment and let the Finance Committee do its work.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Who yields to the Senator?

Mr. CONRAD. Mr. President, how much how much time is the Senator seeking?

Mr. ROCKEFELLER. There will be, I say to the Senator from North Dakota, three Senators speaking on behalf of the amendment. Forty-five minutes would be an outside number.

Mr. CONRAD. How much time would the Senator from West Virginia like?

Mr. ROCKEFELLER. Eight, nine minutes.

Mr. CONRAD. I yield 10 minutes to the Senator from West Virginia.

Mr. REID. Mr. President, I ask, through the Chair, the Senator from Maine, it is my understanding she has permission from the manager of the bill to have the pending amendment set aside to offer this amendment.

Ms. COLLINS. The Senator is correct.

Mr. REID. I should think that is what should be done now. Does the Democratic manager agree with that?

Mr. CONRAD. That will be the appropriate action to take at this point, if the Senator from Maine will make that request.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from West Virginia, on behalf of the Senator from Maine, the Senator from Oregon, the Senator from Nebraska, and several cosponsors, is sending an amendment to the desk to ask for its consideration. I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

### AMENDMENT NO. 275

Mr. ROCKEFELLER. Mr. President, I call up amendment No. 275 which is already at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, Mrs. CLINTON, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and Mr. COLEMAN, proposes an amendment numbered 275.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate concerning State fiscal relief)

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.**

(a) FINDINGS.—The Senate makes the following findings:

(1) States are experiencing the most severe fiscal crisis since World War II.

(2) States are instituting severe cuts to a variety of vital programs such as health care, child care, education, and other essential services.

(3) According to the Kaiser Commission on Medicaid and the Uninsured, 49 States already have taken actions or plan to cut medicaid before or during the current fiscal year 2003. Medicaid budget proposals in many States would eliminate or curtail health benefits for eligible families and substantially reduce or freeze provider reimbursement rates.

(4) In 2002, at least 13 States reported decreased State investments in their child care assistance programs.

(5) According to a forthcoming analysis of 22 States, at least 1,700,000 people are now at risk of losing their health care coverage under cuts that have already been implemented or proposed.

(6) Fiscal relief would help avoid adding even more Americans to the ranks of the uninsured while preserving the safety net when it is most needed during an economic downturn.

(7) Curtailing the States' need to cut spending and increase taxes is essential for true economic growth.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors. Cosponsors already are myself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, and Mrs. CLINTON. I ask unanimous consent to add Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and the distinguished Presiding Officer, Mr. COLEMAN, as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I will not talk long, although this is an extraordinarily important subject particularly affecting the stimulus package and affecting a lot of people in all of our States.

The sense-of-the-Senate amendment which we put before the Senate now—and it is that, a sense of the Senate—we did the same thing this past July in the form of an amendment, and it received some 75 votes. It was very bipartisan. But this is a sense of the Senate. It is not an amendment per se.

What we are wanting to do is to add no less than $30 billion over the next 12 months for the State stimulus relief package that should be included in any stimulus package. In fact, I would argue it makes no sense to do this without including the amendment which will then find its way to the Finance Committee where we will work with it.

It is interesting, in fact, that there are many who say the primary problem for our economy at this particular point is not the impending war with Iraq, but is, in fact, the plight of our State governments and our Federal Government—the deficits and debt, in the case of the Federal Government, and the deficits, in the case of the States. We have to address the State budget shortfalls in order for any growth package to be at all meaningful. It is not as colorful and does not have as much pizzazz, but it affects incredible numbers of people.

States obviously have to balance their budgets. Senator NELSON from Nebraska will be speaking shortly. He was a Governor, as was I. Nearly every State, if not every State, faces deficits. They are likely to grow in the upcoming year. The deficits are now $70 billion to $85 billion projected for 2004. This is on top of the $50 billion in deficits that the States already have for 2003.

This constitutes a real crisis for them. They cannot print money, and they cannot do what we can do in the Senate: simply go into deficit and go on. They have to take action to close the deficit. Herein is the problem that affects the stimulus package, States, and people.

They have to cut programs or they have to increase revenues—neither important—but one of the difficulties and responsibilities of being a Governor is that you have to make those decisions—either raise revenues, cut programs, or you do both, which is why Governors often are not terribly popular at the end of 8 years.

It is about $1 out of every $8 of expenditures in the budget that these deficits represent. So it is a very large amount of money. Some 38 States, three out of four States, either cut spending in 2002, are projecting to cut spending in 2003, or do both. That is, raise revenues and cut spending.

One cannot talk about stimulating the States' economies without talking about Medicaid. Medicaid and Medicare—Medicare which we have just been discussing—between those two programs, which are both located in the same Government agency, it is a substantially greater amount of money than resides in the Department of Defense. People have to understand this, it is an enormous amount of money in Medicaid and Medicare.

Families USA, which is well respected, recently did a study on the economic impact of Medicaid. I am not talking yet about people. This is the economic impact of Medicaid. One of their key findings was that in the year 2001, which was the last year their research could cover, States spent almost $98 billion on Medicaid. But that was not the whole point. The point was that the Medicaid amount that they spent generated a threefold increase in the economic impact on the 50 States to the tune of $279 billion.

I submit that is called fiscal stimulus of a large magnitude, because it gets into goods and services, increased business activities, and I do not think I have to go on. I am very happy to say that West Virginia was among the 10 States with the highest rate of return for every dollar spent on Medicaid. So for the State that this Senator represents, it was very meaningful.

This amendment specifies that no less than one-half of the amount; that is, $30 billion, allotted for State fiscal relief must be devoted to a temporary increase in the Federal medical assistance percentage, or FMAP. That is what we voted on in July of last year. That is what passed 75 to 24—tremendously bipartisan.

This is a similar structure to the legislation that Senator COLLINS, Senator NELSON of Nebraska, and I introduced recently involving $20 billion. It was a temporary increase in the Federal Medicaid matching rate, as well as increasing funding for the Social Security block grant.

As I indicated, the legislation is very bipartisan. It puts money into Medicaid, but it also puts money into the Social Security block grant, which, quite frankly, is very good because in the Finance Committee we have been discussing welfare reform. We all know there is a shortage of childcare. Governors have the discretion to take that money and spend it on local projects or on childcare or however they might wish. Obviously, there are restrictions.

This is strongly supported by providers and by—well, I will not go into that, but it is strongly supported. It did get 75 votes, and the National Governors Association wants this more than anything else the Congress can provide, with the exception of homeland security. This will then go on to the Finance Committee.

The stimulus that Medicaid provides to the States—aside from the stimulus, there are now 1,700,000 people who will lose their Medicaid if we do nothing about this problem, if we do not increase FMAP, the Medicaid match matter. There is nothing they can do about it. They will simply have to cut more people. I say to my colleagues, they should know that States have already cut a million people off of Medicaid.

Up until this point, if we do nothing they will then cut an additional 1.7 million people off Medicaid. When one does that, one understands that there are about 47 million people on Medicaid in this country and they are people who are vulnerable. It is the second largest item in most States' budgets. It is always, therefore, a target for cuts. It cannot be otherwise, and Governors have to do that.

What I need to say more than anything, and more poignantly hopefully, is that Medicaid is an extraordinary safety net which was set up years ago for our most vulnerable Americans, which includes not only our low-income children and working families but also our disabled and our elderly.

This strikes me as an extraordinarily reasonable amendment. Some may argue that the Federal Government is already spending too much on Medicaid and the States need to do a better job, and I would come back vociferously and say that the States are doing a superb job. In fact, they have done as well or better than the private sector on this matter indeed, as Medicare only spends 2 to 3 percent for overhead costs in the administration of the program, in spite of all the fraud and abuse charges that are thrown at it.

Costs are rising in Medicaid because of prescription drugs and long-term care costs. Those are the two fastest growing items in health care. They both reside in Medicaid at this point. Medicaid has prescription drugs. Medicare does not. And so people seek it out.

In conclusion, this is a sense-of-the-Senate amendment. No less than $30 billion of State fiscal relief should be included in anything which we call a fiscal stimulus or an economic growth package. This is the most important action we could take, and I urge my colleagues to support the amendment.

I yield whatever time she may consume to the distinguished Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank my colleague from West Virginia for his comments. It has been such a pleasure to work with him. He is an eloquent and compassionate advocate for health care for low-income families. I am delighted to be his partner in this regard.

I also acknowledge the hard work of Mr. NELSON, the Senator from Nebraska, and Senator GORDON SMITH of Oregon. The four of us have worked very hard on this initiative for over a year. We are also delighted to have the Presiding Officer's critical support in this initiative.

States from Maine to Nebraska, from West Virginia to Oregon, are facing the most serious budget shortfalls in 50 years. The bipartisan amendment that we are offering tonight takes the first step toward providing States with a measure of much needed fiscal relief.

Regardless of the size of the tax cut, we believe it is imperative that the economic growth package include a significant amount for State fiscal relief. Therefore, our amendment expresses the sense of the Senate that at least $30 billion of the economic growth package be targeted to State fiscal relief over the next 18 months to help our States cope with an aggregate budget shortfall that is nearly four times that size.

This bipartisan amendment has been drafted in a way that is both budget and deficit neutral, and I stress that for the information of my colleagues. It neither increases nor decreases the amount provided for reconciliation in the budget resolution. Therefore, our amendment does not add to the deficit. It does not change the spending caps that are included in this resolution.

The attacks of September 11 on our Nation, coupled with the subsequent recession and resulting unemployment, have placed tremendous and unanticipated strains on Government services and resources. At the same time, the States, which are after all our partners in providing health care, education, and other essential services, are facing a dramatic and unexpected decline in Government revenues at precisely the time when the demand for Government services is the greatest because of the lagging economy.

State budgets are under siege. The combination of increasing demands for services and resources, coupled with the dramatic drop in revenues, is causing a fiscal crisis for States from coast to coast.

The State of Maine, for example, faces a budget shortfall over the next 2 years of approximately $1.2 billion. Let me put that in perspective. The entire budget for Maine is only $5.3 billion, which means it faces a shortfall of more than 20 percent. To put the plight of Maine into perspective, I point out if the Federal Government were facing a 20-percent shortfall, it would have to close a $440 billion budget gap, and it would have to do so under its Constitution without borrowing a single dime. That is the dilemma facing our States.

The States have to balance their budgets. They cannot print more money. They cannot borrow more money. They have to balance their budgets. States have been using rainy day funds, delaying capital projects, cutting spending, increasing taxes. They are doing whatever they can to balance their budgets.

According to a February report by the National Conference on State Legislatures, States have been forced to cut a number of critical programs, ranging from education to corrections. Mr. President, 29 States have imposed across-the-board budget cuts, and at least 24 States are considering tax increases to help close those budget gaps.

Moreover, at a time when the number of people without health insurance is climbing, 49 States have either already taken action to cut their Medicaid Program, or are planning to do so. Medicaid provides medical care for 44 million low-income people nationwide, including 218,000 individuals in my home State. States are cutting benefits, increasing copays, restricting eligibility, or removing poor families from the rolls because of soaring costs and plunging revenues. As a consequence, the National Governors Association estimates as many as 2 million low-income individuals across this country will lose their health care coverage as a result of the loss of Medicaid coverage.

Let me be clear, I am not saying Congress should bail out the States. I am not saying States should not have to make hard choices. I am not saying States should not cut their budgets, that they should not balance their budgets. The States do need to tighten their belts during these austere fiscal times, but the nature and the severity of the fiscal crisis facing our States has convinced me we simply must help. The consequences are too dire, otherwise, and too many very low-income individuals will suffer if we do not step in and help.

That is why I joined in this effort to provide for a temporary increase in the February Medicaid matching rate as well as some flexible funds that go to every State. Specifically, our amendment, which has strong bipartisan support, provides $30 billion to the States, at least half of which would have to be provided through a temporary increase in the Medicaid matching rate.

Our amendment is strongly supported by a host of health care patient and consumer advocacy groups, including the American Hospital Association, the American Health Care Association, the Visiting Nurses Associations of America, the American Dental Association, Families USA, the Child Welfare League of America, the Alzheimer's Association, the National Alliance for the Mentally Ill, the Children's Defense Fund, the Consortium for Citizens with Disabilities, and many other critically important organizations.

The support our proposal has received underscores how important it is we act now to provide assistance to the States at a time when many are looking toward further cuts in their health care programs to help balance their budgets.

We have focused particularly on Medicaid because of our concern about the impact on low-income families in America. But there is another reason it makes sense to target this assistance to the Medicaid Program; that is, Medicaid is the fastest growing component of State budgets.

While State revenues are stagnant or declining in most States, Medicaid costs are increasing at a rate of more than 13 percent a year. My home State of Maine is one of many States that has been forced to consider cuts in its Medicaid Program to compensate for its budget shortfalls.

Legislation enacted as a consequence of our amendment, I stress again, will not free States from making very painful and difficult choices in crafting their budgets for the year. But it will help prevent the most harmful cuts, those that would affect the families who can least afford them, those who are already under strain as we see the number of uninsured continue to climb to 41 million Americans without insurance.

To Maine, our amendment could mean as much as $190 million over the next 18 months for health care and social services that would help our most needy citizens. In other words, this is about helping those who are most vulnerable in our society. In addition, our proposal makes sound economic sense. Putting money into the hands of the States is a good way to stimulate economic growth.

After all, if we cut taxes in Washington only to have taxes increased in State capitals across this country, we will wipe out the good that we do by cutting taxes. We know if we get money into the hands of the States, they will put it directly into the economy, and that is just the kind of stimulus our economy needs.

Congress is most effective when it stands arm in arm, not toe to toe, with our partners, the States. Our States face a crisis of vast and still-expanding dimensions. We need to help. This amendment is a critical step forward in doing just that. I hope we will have another very strong bipartisan vote for our proposal so that we can ensure any fiscal relief is included in any economic growth package that we consider later this year.

I am happy to yield to my colleague from West Virginia.

Mr. ROCKEFELLER. I ask the Senator from Maine, in the summary before the vote tomorrow, opponents will no doubt ask what is our source of funding. That is a fair question to ask, and it has a very easy answer, in this case in a sense-of-the-Senate amendment.

Would the Senator from Maine be willing to clear up for our colleagues how we will pay for this?

Ms. COLLINS. The Senator from West Virginia raises an excellent question. Again, I stress that what our direction to the Finance Committee would say, when you report an economic growth package, fiscal relief up to at least $30 billion should be part of that package.

So our sense-of-the-Senate amendment does not increase the deficit. It does not increase the overall spending in this resolution. It does not increase the budget caps that are in this resolution. All it says is, when an economic growth package is reported by the Finance Committee, it should include the $30 billion in State fiscal relief.

So this proposal is budget neutral and it is deficit neutral. It does not have the impact that might cause some people otherwise to oppose it.

Mr. ROCKEFELLER. I thank the Senator and ask if she would further yield?

Ms. COLLINS. I am happy to yield to my friend.

Mr. ROCKEFELLER. It would be natural, in the nature of this body, for people to come and say—the Senator referred to this in her remarks—you are talking about making available $30 billion to the States; we have enough problems of our own at the Federal Government level. I pointed out in my remarks the recession we are in right now is more a matter, not of war that we are in, but the State situation and the Federal Government situation.

So people would say just let the States go ahead and pay for this. If they have to make cuts, they have to make cuts. It is their fault they are in this kind of situation.

I was wondering how the Senator would reply to that.

Ms. COLLINS. Mr. President, I would respond to that concern in two ways. First of all, the dramatic decline in revenues is not the fault of State governments. It is a product of the lagging economy we are in, and the lingering effects of the attacks on our Nation of September 11. The States have been prudent, have taken appropriate steps, but when you have 49 States, every single State but Wyoming, struggling to close budget gaps, it is clear it is not the result of profligate spending by one or two particular States but, rather, reflects our declining economy or our lagging economy.

What we have here is a confluence of the impact of September 11 and a recession with declining revenues that have caused these budget gaps in 49 States.

A second point is, despite our best efforts, the States are still going to have to make some very painful and difficult choices. In the State of Maine, we are facing a budget gap of over $1 billion. Under our proposal, Maine would get a much welcomed $190 million. There is still a long ways to go.

Our proposal will certainly help the States avoid some of the most harmful cuts, particularly in health care, which is our greatest concern, but it certainly does not mean States are let off the hook in any way.

Mr. ROCKEFELLER. If the Senator will further yield, she leads directly to the question I wanted to ask her. That is, that there are many who have not worked in the bowels of State government, so to speak, who think Medicaid is sort of a gift from the Federal Government to the States. They do not understand that there is a very complex formula wherein all the States have to contribute, the formula is based upon their prosperity, and things of that sort.

So the concept that this is somehow the Federal Government turning over money to the States and there is no cost to them doesn't make any sense, does it?

Ms. COLLINS. The Senator is absolutely correct. Medicaid is a partnership between the Federal Government and our partners, the States, to provide health care to low-income families, the very poor individuals, to those who need it most. Medicaid is the fastest growing component in State budgets. So States certainly are contributing to this program. It has been a successful partnership. We are suggesting a temporary increase over the next 18 months. I hope we will grant that.

I have several letters which I am going to have printed in the RECORD, which talk about protecting the States' ability to provide and deliver this health care, and points out, again, that these are health care services to the most vulnerable Americans we serve.

I ask unanimous consent that a letter from the National Association for Home Care and Hospice be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOMECARE & HOSPICE,
*January 22, 2003.*

Hon. BOB GRAHAM,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the National Association for Home Care & Hospice (NAHC), the nation's largest association representing home care and hospice providers, caregivers and the patients they serve, I am writing to commend you on the introduction of S. 138, the "State Budget Relief Act of 2003."

As you are well aware, the current economic downturn has resulted in drastically lower state tax revenues. Moreover, the number of uninsured continues to grow as more and more people are forced from the labor market. This has resulted in states being forced to cut their Medicaid budgets at the exact time that there is a growing need for services.

Your legislation, by temporarily increasing the Federal Medical Assistance Percentage (FMAP) as a way to direct additional federal funding to state Medicaid programs, will protect states' health care delivery systems and ensure the continuation of health services for the most vulnerable of our population. Without this assistance, many communities will find themselves with providers that are understaffed, have crumbling infrastructures, lack current medical technology, or have reduced or eliminated certain services.

NAHC believes that home health and hospice services remain one of the remedies to the widespread concern over growing health care costs. In recent years, state Medicaid programs have increased their utilization of home and community-based long-term care services in lieu of institutional care through the use of waivers. In fact, the Centers for Medicare and Medicaid Services (CMS) recently reported that Medicaid spending growth levels for home care services more than doubled between 2000 and 2001—from 8.6 percent to 17.3 percent. Some of this trend reflects the growing desire to implement the Supreme Court's Olmstead decision to provide disabled individuals care in the least restrictive setting possible and the Administration's goals as set forth in its "New Freedom Initiative." This desirable trend is at risk of falling victim to the widespread cuts to the Medicaid program that states are being forced to implement due to budget shortfalls.

Once again, thank you for your leadership on this issue. Let me know if there is anything my staff or I can do to ensure the passage of this important legislation.

Sincerely,

VAL J. HALAMANDARIS,
*President.*

Mr. ROCKEFELLER. I thank the Senator from Maine.

Mr. SMITH. Mr. President, I rise today in support of this sense of the Senate amendment to provide funding for State fiscal relief.

States are suffering their worst fiscal crisis in over half a century.

Forty one million Americans live, work, and go to school without health insurance, and that number grows every single day.

I have been a strong supporter of State fiscal relief since the economy began to slow several years ago. Since then, the situation has only gotten worse. This is the third consecutive year of nationwide budget problems for the States.

According to the Kaiser Family Foundation, 49 States and the District of Columbia have taken Medicaid cost-containment action this fiscal year; additional cuts are expected next year as States struggle to fill budget shortfalls of billions of dollars.

States are reducing or freezing provider payments, establishing or strengthening prescription drug cost controls, reducing benefits, increasing co-payments for Medicaid beneficiaries, and most significantly, States are increasing restrictions on eligibility for Medicaid.

What does this mean? Let me be clear: it means that the number of uninsured Americans will continue to grow.

According to the CDC, Medicaid and SCHIP provided coverage for 2 million children and 1 million adults who lost their health coverage last year. In addition to those who did qualify for these programs, many more did not; they joined the ranks of the uninsured. In 2001, 1.4 million people became uninsured, and this number is likely to be even higher for 2002 and 2003.

While we need to strengthen our economy in the long run, it is imperative that we address the immediate economic problems, particularly the state fiscal crisis. State fiscal relief is one of the most effective policies the Congress could and should enact as part of the economic stimulus/growth package.

There is no question that States will spend any additional Federal funds they receive quickly, putting money directly into the economy rather than curtailing economic activity. As many economists have noted, we need to increase demand in the economy—but State budget actions to balance their budgets right now are reducing demand significantly.

This is precisely the wrong medicine at the wrong time for our economy.

Last year, 75 Senators voted to provide State fiscal relief by boosting FMAP payments to States, but in the end, the legislation was not signed into law and State fiscal relief—needed now more than last year—has still not been delivered.

The magnitude of the State fiscal crisis is growing steadily worse. Oregon alone is facing a budget deficit of at least $1 billion in the upcoming fiscal year. Already, one in four Medicaid recipients in Oregon is experiencing service cuts, and more reductions are on the way. Districts in my State have the shortest school year of any schools in the country. Some teachers in my State have even agreed to work for free in order to keep the schools open! And things are so bad for Oregon schools that recently the Doonesbury comic strip dedicated a whole week of comics to the sad state of Oregon school funding.

This proposal would bring almost $331 million to Oregon over the next 18 months, which would go a long way to maintain the fragile health care safety net for vulnerable Oregonians. Bipartisan support for our FMAP proposal has grown steadily. It is supported by groups representing the States, the elderly, the disabled, children, and Oregon's governor Kulongoski, among many, many others. It has support because it is a sound proposal. It provides temporary assistance to States in a very timely and efficient manner.

Several weeks ago, I was in Oregon for a series of town hall meetings with my colleague Ron Wyden. At every stop, we spoke to people who were being affected by the first round of budget cuts. I can tell you, as we listened to these good people tell their stories, there wasn't a dry eye in the house.

The pain is real. We have to do something and we have to do it now, and I urge my colleagues to support this fiscal relief amendment to the budget.

The PRESIDING OFFICER. Who yields time? Does the Senator from West Virginia yield time?

Mr. ROCKEFELLER. How much time, might I ask the Senator, does he require?

Mr. NELSON of Nebraska. I estimate 5 minutes.

Mr. ROCKEFELLER. The Senator is welcome to that.

Mr. NELSON of Nebraska. Mr. President, it is a pleasure to join with my colleague from the State of Maine. We have been working for a long time to bring about help for the States in the area of Medicaid and in the area of welfare reform and social services.

Our amendment makes it clear that the Senate recognizes the partnership between the Federal Government and the States, and is committed to helping the States see their way out of their dire budget situation.

How bad is this budget shortfall? The States are currently experiencing the worst fiscal crisis since World War II. States have accumulated $26 billion in deficits this year on top of $50 billion in deficits from last year. Even greater gaps, reaching upwards of $70 to $85 billion in deficits, are projected for the next fiscal year. It is, in fact, a crisis.

But the budget crisis is more than just numbers and dollars. This is about real people. And the people of our States have been hit hard by the tough economic times. Nearly every State is required to have a balanced budget, even during a recession. The rainy day funds have run dry and funding for programs as critical as Medicaid have been cut to the bone. The only option left for many States is to cut critical programs even further or raise taxes.

Just last year, Nebraska reduced the number of low-income working families that were eligible for assistance with childcare. More than 2,000 Nebraska families have lost childcare assistance as a result of this change. Those hardest hit are families that have managed to stay off welfare for more than 2 years. These families who have slowly but steadily made progress to self-sufficiency may soon find themselves struggling to pay their childcare bills and returning to the welfare rolls. Childcare assistance is integral to any effort to move families from welfare to work and to keeping low-income parents employed. State fiscal relief will protect the progress we have made in welfare reform over the past decade from being undone.

Many of the other cuts are being considered in the areas of education, health care, social services, and corrections.

My office recently received a call from Sharon Walters of Omaha, NE. The message she relayed is a good illustration of how these proposed cuts are affecting real people. She wanted to make sure I know the importance of my efforts to provide State fiscal relief. She represents Bethphage, an organization that provides community-based services for people with disabilities. She was worried because much of their funding comes from Medicaid. Because of so many proposed cuts to the Medicaid program, Bethphage and other programs like theirs, may soon be forced to limit the good work they do if State budgets do not see some relief soon.

State fiscal relief is not only needed to protect education, health care, Medicaid and other social service programs, it is needed to stimulate our economy.

In discussing various jobs and growth proposals with my colleagues this year, I have repeatedly asked them to "Show me the Stimulus" and demonstrate how proposed tax cuts or spending will get our economy back on track.

Although economists differ on the stimulative effect of the varying tax cut proposals, I think there is little question that providing States with fiscal relief would be a boost to the economy. In fact, State fiscal relief may provide more "bang for the buck" than many of the other stimulus proposals being discussed. According to a recent study done by Mark Zandi at economy.com every dollar spent in State fiscal relief will create $1.24 in demand the following year.

At a time when we are trying to get the economy back on track, it would be irresponsible for the Senate to turn its back on this nationwide crisis and do nothing.

It doesn't make much sense to cut taxes in Washington while States are forced to raise them in Lincoln, Des Moines, Topeka, Pierre, Saint Paul, or wherever and other State capitals throughout the United States. State fiscal relief is a commonsense approach to getting our economy back on track. As well, it is the right thing to do. Not only will State fiscal relief shield the people of our States from some of the tough economic times, to some extent, it will also stimulate our economy and return individuals and States alike to financial security.

Again, I thank my colleagues—Senators COLLINS and ROCKEFELLER—for their work on this important effort and urge my colleagues to join us in supporting this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON of Nebraska. I thank my colleagues and thank the Presiding Officer for this time.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield to the distinguished Senator from Maryland 20 minutes.

Mr. SARBANES. At most.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I intend to speak to an amendment which will be offered tomorrow. I take this approach because I am joined in sponsoring this amendment by Senator JEFFORDS, Senator MIKULSKI, and Senator BOB GRAHAM of Florida. And they will, presumably, be able to address the amendment as well on that occasion.

The amendment that we will offer will boost Federal funding for the Clean Water and Safe Drinking Water State Revolving Funds from the level that is recommended in the budget resolution, which is $2.2 billion, to $5.2 billion; $3.2 billion of this for the Clean Water State Revolving Fund and $2 billion for the Safe Drinking Water State Revolving Fund.

Regrettably, the President's budget for fiscal 2004 and the budget resolution severely shortchange the funds needed by State and local governments to upgrade their aging wastewater and drinking water infrastructure.

The President's budget provides only $1.7 billion for both State Revolving Funds, equally split. The budget resolution recommends a somewhat higher figure, a little over $2 billion for both funds, but that is still far short of what is needed.

Despite progress over the last three decades, EPA reports that more than 40 percent of our Nation's lakes, rivers, and streams are still too impaired for fishing or swimming. Discharges from aging and failing sewage systems, urban storm water, and other sources continue to pose serious threats to our Nation's waters, endangering public health and both the fishing and recreational industries.

Of course, as we all realize, population growth and development are placing additional stress on the Nation's water infrastructure and our ability to make sustainable gains in water quality.

Across the Nation, our wastewater and drinking water systems are aging. And, in some cases, systems currently in use were built more than a century ago and have outlived their useful life.

For many communities, current treatment is not sufficient to meet water quality goals. Recent EPA modeling indicates that municipal wastewater treatment facilities in my own State will have to reduce nitrogen discharges by nearly 75 percent to restore the Chesapeake Bay and its tributaries to health.

In April of 2000, the Water Infrastructure Network, a broad coalition of locally elected officials, drinking water and wastewater service providers, State environmental and health administrators, engineers, and environmentalists released a report, "Clean and Safe Water for the 21st Century." This report documented a $23 billion a year shortfall in funding needed to meet national environmental and public health priorities in the Clean Water Act and in the Safe Drinking Water Act. And all of the studies have substantiated this gap. For example, in May of 2002—less than a year ago—the Congressional Budget Office released a report showing very large gaps for clean water needs and drinking water needs over the next 20 years.

The need for additional investment in wastewater and drinking water infrastructure is clearly documented. But States, localities, and private sources cannot meet the funding gap alone. Local communities already pay almost 90 percent of the total cost, or about $60 billion a year, to build, operate, and maintain their drinking water and wastewater systems.

But as Administrator Whitman recently pointed out:

> The magnitude of the challenge America faces is clearly beyond the ability of any one entity to address.

States are currently facing the worst fiscal crisis in 50 years and cannot afford to make new investments in clean water and drinking water infrastructure.

Clearly, water pollution is an interstate problem that requires, in part, a Federal response. In our own case, in Maryland, water flows into the Chesapeake Bay from six States. Other States need to make investments as well in order to clean up the watershed. It is vital that the Federal Government maintain a strong partnership with States and local governments in order to address this major environmental challenge.

The increases provided for in this amendment are the first step necessary to deal with this pressing problem. It represents an investment in the health of Americans and a clean environment, and is, I believe, an investment that will pay substantial dividends.

Wastewater treatment plants not only prevent billions of tons of pollutants from reaching our rivers, lakes, streams, and coasts, they also help prevent waterborne diseases and make waters safe for swimming and fishing. In fact, the Water Infrastructure Network says that clean water supports $50 billion a year in the water-based recreation industry, at least $300 billion a year in coastal tourism, $45 billion annually in commercial fishing and shellfishing, and hundreds of billions of dollars a year in basic manufacturing that relies on clean water.

According to the Water Infrastructure Network, clean rivers, lakes, and coastlines attract investment in local communities and increase land values on or near the water, and that, in turn, creates jobs, adds to the tax base, and improves revenues for local, State, and Federal governments. Some 54,000 community drinking-water systems provide drinking water to more than 250 million Americans. By keeping water supplies free of contaminants that cause disease, these water systems reduce sickness and related health care costs. They reduce absenteeism in the workforce. And they, obviously, add to our quality of life.

Investment in the infrastructure we are talking about here—sewer and water improvements—would also create substantial numbers of jobs through construction. It would provide an impetus to our economy at a time when it needs an impetus.

There is strong support for increased investment in infrastructure. Colleagues on both sides of the aisle have taken a lead on this issue over the years.

The case for the amendment is compelling. Maintaining clean, safe water remains one of our leading national challenges. This budget resolution should not and need not come at the expense of human health or a clean environment. I strongly urge my colleagues, when the amendment is presented, to support it and to begin to address this large funding gap that looms into the future with respect to this very important aspect of our domestic agenda. This is both good environmental policy and good economic policy. Support for this amendment will offer an opportunity to continue to make progress on clean water and safe drinking water. I commend the amendment to my colleagues when it is brought before them at the appropriate time.

Mr. President, I have a number of letters from organizations in support of the amendment. I ask unanimous consent to print them in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, March 19, 2003.*

Subject: Support for the Jeffords/Sarbanes/Mikulski/Graham SFR amendment.

DEAR SENATOR: The National Association of Counties (NACO) supports the Jeffords/Sarbanes/Mikulski/Graham amendment to boost funding for the Clean Water and Safe Drinking Water State Revolving Funds (SRF) from the Fiscal 2003 enacted level of $2.19 billion to $5.2 billion.

Despite progress over the past 30 years, the Environmental Protection Agency reports that more than 40 percent of our nation's lakes, rivers, and streams are still too impaired to be utilized for their intended use. And, discharges from aging and failing sewage systems, urban storm water and other sources continue to pose serious threats to our nation's waters. Population growth and development only place more stress on the nation's water infrastructure and its ability to maintain current standards.

On September 30, 2002, the EPA released a Clean Water and Drinking Water Infrastructure Gap Analysis. This report discovered a $535 billion gap between current spending and projected water and wastewater infrastructure needs over the next 20 years if additional investments are not made.

It is vital that the Federal government work with the state and local governments to prevent this massive projected funding gap and share the burden of maintaining and improving the nation's water infrastructure. An increase in funding for the Clean Water SRF to $2 billion in fiscal year 2004 is the first step necessary to meet these funding requirements.

Additionally, each billion dollars invested in water infrastructure creates an estimated 40,000 jobs. So this amendment is both pro-environmental policy and pro-economic policy. Thank you for offering this timely and important amendment.

Sincerely,

LARRY NAAKE,
*Executive Director.*

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NATIONAL LEAGUE OF CITIES,
*Washington, DC, March 19, 2003.*

Hon. PAUL SARBANES,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR SARBANES: On behalf of the National League of Cities and the 18,000 cities and towns across the nation we represent, we would like to express our support for your efforts, along with those of Senators Mikulski, Graham and Jeffords, to increase funding for the Clean Water and Drinking Water State Revolving Funds.

As you know, our cities and towns are facing a $23 billion funding gap annually to repair and replace aging infrastructure for these critical, but unseen, services, despite annual local expenditures of more than $60 billion for wastewater and drinking water. We also agree that investments in our water and wastewater infrastructure can serve as a job creation component of an economic stimulus initiative.

We applaud and appreciate your efforts and offer any assistance we can to help you attain your objective.

Sincerely,

DON BORUT,
*Executive Director.*

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ASSOCIATION OF
METROPOLITAN WATER AGENCIES,
*Washington, DC, March 19, 2003.*

Hon. PAUL S. SARBANES,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR SARBANES: On behalf of the nation's largest public water suppliers, thank you for your efforts to increase funding for the drinking water and clean water state revolving funds (SRFs) to $5.2 billion in fiscal year 2004. If this increase is appropriated, the benefits will be safer water supplies, cleaner rivers and streams, and a stronger economy.

The Association of Metropolitan Water Agencies represents the nation's largest publicly owned drinking water providers. ANWA's members serve safe drinking water to more than 110 million Americans.

Sources including the Water Infrastructure Network, EPA, GAO and the CBO confirm that water systems face multi-billion-dollar gaps in funding, as water facilities, particularly underground distribution systems, reach the end of their useful lives. According to WIN, the gap between what utilities currently invest and what they will need to invest over the next 20 years is $23 billion per year. Water systems themselves pay the majority of infrastructure costs, but federal help is needed, especially for metropolitan systems.

Twenty-one States provided no assistance to systems serving 100,000 or more people between 1996-2002. Thirteen more States provided assistance to only one or two of these systems. Only a substantial boost in funding will provide the opportunity to better help our nation's largest public water systems.

Thank you for supporting drinking water and wastewater infrastructure funding.

Sincerely,

DIANE VANDE HEI,
*Executive Director.*

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WATER ENVIRONMENT FEDERATION,
*March 19, 2003.*

Hon. PAUL SARBANES (D-MD),
*Washington, DC.*

DEAR SENATOR SARBANES: It is our understanding that you and other Senators plan to offer an amendment during consideration of the FY 2004 Budget Resolution that would substantially increase funds available for the Clean Water and Safe Drinking Water state revolving funds (SRFs). The Water Environment Federation, an organization whose members are directly involved in the implementation of clean water programs, strongly supports this amendment.

The need for increased investment in water infrastructure is well documented. In September 2002, the Environmental Protection Agency released a Clean Water and Safe Drinking Water Infrastructure Gap Analysis which found that there will be a $535 billion gap between current spending and projected needs for water and wastewater infrastructure over the next 20 years if additional investments are not made. In May 2002, the Congressional Budget Office released a report that estimated a spending gap for drinking water between $132 billion and $388 billion over 20 years and the spending gap for drinking water needs at between $70 billion and $362 billion over 20 years.

WEF, founded in 1928, is a not-for-profit technical and educational organization with members from varied disciplines who work toward the WEF vision of preservation and enhancement of the global water environment. The WEF network includes more than 100,000 water quality professionals from 79 Member Associations in 32 countries.

Sincerely,

TIM WILLIAMS,
*Managing Director,*
*Government and Public Affairs.*

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ASSOCIATION OF
METROPOLITAN SEWERAGE AGENCIES,
*Washington, DC, March 19, 2003.*

Hon. PAUL SARBANES,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Hon. JIM JEFFORDS,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

Hon. BARBARA MIKULSKI,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Hon. BOB GRAHAM,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATORS: On behalf of the nearly 300 publicly owned wastewater treatment agency members who provide treatment to a majority of Americans, the Association of Metropolitan Sewerage Agencies (AMSA) offers its support for your amendment to the Fiscal 2004 Budget Resolution. Your amendment would boost funding for the Clean Water State Revolving Fund (CWSRF) from its current funding level of $1.35 billion to $3.5 billion in fiscal year 2004, an increase which AMSA believes would mark an important first step toward developing a long-term, sustainable solution for the wastewater infrastructure funding gap.

As your March 14 Dear Colleague letter aptly states, "It is vital that the Federal government maintain a strong partnership with states and local governments in averting this massive projected funding gap and share in the burden of maintaining and improving the nation's water infrastructure." Your amendment demonstrates that water quality remains a high priority for the 108th Congress and helps bring the significant goal of overcoming the clean water funding gap within reach.

AMSA's overarching goal is to ensure America's clean water progress. Once again, we thank you for your support of the nation's publicly owned treatment works and for your help in meeting this critical national objective. AMSA looks forward to working with you on a long-term, sustainable funding solution for the nation's core wastewater infrastructure. If you have any questions, please contact me at 202/833-2672.

Sincerely,

KEN KIRK,
*Executive Director.*

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ASSOCIATION OF
CALIFORNIA WATER AGENCIES
*Washington, DC, March 19, 2003.*

Hon. PAUL SARBANES,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Hon. JIM JEFFORDS,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

Hon. BARBARA MIKULSKI,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Hon. BOB GRAHAM,
*U.S. Senate Hart Senate Office Building, Washington, DC.*

DEAR SENATORS: The Association of California Water Agencies (ACWA) strongly supports your proposed amendment to the fiscal year 2004 Budget Resolution to increase funding for the Clean Water and Safe Drinking Water State Revolving Funds (SRFs).

Throughout the United States, these programs provide indispensable resources to rural areas and municipalities alike for projects that enable compliance with drinking water standards, protection of waterways, sanitation, environmental preservation and more. The SRFs are the backbone of our water infrastruce, and with increasingly severe demands on water supplies, the Funds will become more important in the years ahead.

Last year the U.S. Environmental Protection Agency acknowledged a multi-billion dollar need for reinvestment in our water infrastructure, and this "funding gap" is the ongoing subject of bipartisan legislation.

ACWA represents 440 public water agencies in California collectively responsible for more than 90 percent of the water delivered for residential and agricultural use.

Thank you for your efforts to increase funding for water infrastructure in the 2004 budget, and we look forward to working with you to advance this worthwhile goal.

Sincerely,

DAVID L. REYNOLDS,
*Director of Federal Relations.*

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AMERICAN SOCIETY OF
CIVIL ENGINEERS,
*Washington, DC, March 19, 2003.*

Hon. PAUL SARBANES,
*Hart Building, Washington, DC.*

DEAR SENATOR SARBANES: I am writing on behalf of the 130,000 members of the American Society of Civil Engineers (ASCE) to support passage of your amendment to increase funding for the Clean Water Act and Safe Drinking Water Act State Revolving Loan Fund (SRF) programs for fiscal year 2004.

Two years ago ASCE released its 2001 Report Card for America's Infrastructure. At that time, we found that the nation's aging wastewater and drinking-water systems received an overall grade of D. These systems are quintessential examples of aged systems that need to be updated. For example, some sewer systems are 100 years old. Many older drinking-water systems are structurally obsolete.

The annual funding shortfall of $11 billion for drinking-water and $12 billion for wastewater only accounts for improvements to the current system and do not even take into consideration the demands of a growing population.

The amendment that you propose would help make an important down payment on the necessary investment in our long-neglected water systems.

If ASCE can be of any assistance in this important endeavor, please do not hesitate to contact Brian Pallasch at 202-326-5140 or Michael Charles at 202-326-5126.

Sincerely yours,

THOMAS L. JACKSON, P.E.,
*President.*

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CONSTRUCTION MANAGEMENT
ASSOCIATION OF AMERICA,
*McLean, VA, March 19, 2003.*

Hon. JAMES M. JEFFORDS,
*U.S. Senate, Washington, DC.*

Hon. BARBARA A. MIKULSKI,
*U.S. Senate, Washington, DC.*

Hon. PAUL S. SARBANES,
*U.S. Senate, Washington, DC.*

Hon. BOB GRAHAM,
*U.S. Senate, Washington, DC.*

DEAR SENATORS JEFFORDS, MIKULSKI, SARBANES, AND GRAHAM: I am writing on behalf of the more than 2,000 members of the Construction Management Association of America (CMAA) to express our strong support for the proposed amendment you plan to offer today during consideration of the FY 2004 Budget Resolution, which would increase funding for the Clean Water and Safe Drinking Water State Revolving Funds (SRF) from the Fiscal 2003 enacted level of $2.2 billion to $5.2 billion.

CMAA is an industry association of firms and professionals who provide program and construction management services to owners in the planning, design and construction of capital projects of all types. CMAA's mission is to "promote professionalism and excellence in the management of the construction process."

As you are well aware, America's water infrastructure systems are aging, deteriorating and demanding attention. Reports show that municipal sewer systems overflow some 40,000 times annually. In addition, approximately 42 million Americans are served by old sewer systems that don't even separate storm water from waste. The need for improvement is clear, and growing.

According to a 2001 report published by The Water Infrastructure Network (WIN), of which CMAA is a member, wastewater systems faced a daunting capital investment shortfall of approximately $12 billion each year over the next two decades. A similar report by the Congressional Budget Office (CBO) concluded in 2002 that "costs to construct, operate, and maintain the nation's water infrastructure can be expected to rise significantly in the future." The CBO conservatively estimated that the needs would be $13 billion annually for wasterwater systems over the next 20 years.

An increase in funding for the Clean Water SRF to $3.2 billion and for the Safe Drinking Water SRF to $2 billion in fiscal year 2004, as proposed in your amendment, would help address this massive water infrastructure funding gap.

Once again, CMAA offers its strongest support for this important amendment and commends you for your leadership in helping to address our nation's water infrastructure funding gap. Should you have any questions or comments, please do not hesitate to contact Elizabeth Aronson, our Director of Government Affairs, at 703/216-3248.

Thank you for the opportunity to comment on this important matter.

Sincerely,

BRUCE D'AGOSTINO,
*Executive Director.*

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THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
*Alexandria, VA, March 18, 2003.*

Hon. PAUL SARBANES,
*U.S. Senate, Washington, DC.*

DEAR SENATOR SARBANES: As you consider the Fiscal Year 2004 Budget Resolution, the Associated General Contractors of America (AGC) urges you to support the Jeffords-Sarbanes-Mikulski-Graham amendment to boost funding for the Clean and Safe Drinking Water State Revolving Funds. The amendment would increase funding from the Fiscal Year 2003 enacted level of $2.19 billion to $5.2 billion.

AGC is proud of the role the construction industry has played in improving water quality. However, the needs facing our nation's wastewater and drinking water systems are tremendous. The EPA reports that more than 40 percent of our nation's lakes, rivers, and streams are still too impaired for fishing or swimming. Discharges from aging and failing sewage systems, urban storm water and other sources continue to pose serious threats to our nation's waters, endangering not only public health, but also fishing and recreation industries. Population growth and development have placed additional stress on the nation's water infrastructure and its ability to sustain the water quality gains realized since the inception of the Clean Water Act. Today, maintaining clean, safe water remains one of our greatest national and global challenges.

In May 2002, the Congressional Budget Office released a report that estimated the spending gap for clean water needs between $132 billion and $388 billion over 20 years and the spending gap for drinking water needs at between $70 billion and $362 billion over 20 years. In September 2002, the EPA released the Clean Water and Drinking Water Infrastructure Gap Analysis which found that there will be a $535 billion gap between current spending and projected needs for water and wastewater infrastructure (combined) over the next 20 years if additional investments are not made. When the analysis was released Administrator Whitman pointed out, ". . .the magnitude of the challenge America faces is clearly beyond the ability of any one entity to address."

The funding included in this amendment will improve our water systems, the environment, and also create tens of thousands of jobs. Please support the Jeffords-Sarbanes-Mikulski-Graham amendment.

Sincerely,

STEPHEN E. SANDHERR,
*Chief Executive Officer.*

Mr. NICKLES. Will the Senator yield for a brief question?

Mr. SARBANES. I am happy to yield.

Mr. NICKLES. I missed the opening part of his comments. Can the Senator tell me how much money is involved and over what period of time?

Mr. SARBANES. The amendment has another $3 billion for these purposes, both for the Clean Water and the Safe Drinking Water State Revolving Funds. These are the moneys that go into the State Revolving Funds. Then, of course, they have to be matched by the States and often the localities. So the amount of money is leveraged significantly beyond what the Federal contribution would be.

Mr. NICKLES. So there would be a total of $3 billion over the 10-year period of time.

Mr. SARBANES. Another $3 billion, that is right.

Mr. NICKLES. I thank my friend. Am I correct it would be offset, reducing the tax reductions that are in the proposal?

Mr. SARBANES. The bill has room in it for $726 billion worth of tax cuts. Obviously, this raises the question of priorities. Is it more important to give these particular tax cuts, which, of course, I believe strongly are heavily weighted towards the wealthy, as opposed to making some investment in programs of this sort? We have to connect the two. I am willing to look at doing reasonable tax cuts, but I think what is in the resolution, as the chairman knows from my statements in committee, is far too excessive. If it were up to me, I would reduce that amount. I would use a limited portion of it to fund some of these priority programs. I would use the remainder of it to hold down the deficit so we are not projecting such large deficits out into the future.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague for offering his amendment. We will consider the amendment tomorrow. We have already had three or four amendments that are in the queue tomorrow. I understand there will be others. We have asked other Senators to come forward tonight to offer their amendments. The Senator from Maryland is doing that and explained it. I appreciate his explanation of the amendment. I am sure we will try to get that in the queue. I know Senator CRAPO has an interest on this issue as well.

It is 8:45, and we have requested colleagues if they had amendments to bring those to the floor. I am concerned about having a vote-arama or having so many people saying: Wait a minute, I didn't have a chance to offer my amendment.

We have been saying all along that we would be in session very late tonight to receive amendments. We will be in session very late tomorrow tonight to dispose of amendments. I would like to see if we can't work out some amendments, accept some amendments, voice vote some amendments, and work toward completing this bill and avoid the crash at the end, the vote-arama where we have votes on amendments without having the slightest idea what is in them. We have done that in the past. That is not a good way to legislate. I would like to avoid that if possible.

I thank my colleague from Maryland for coming late tonight and offering the amendment. I wish more Senators would have. I look forward to working with him tomorrow.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent that at 4 p.m. on Thursday, the Senate proceed to a series of votes in relation to the following amendments: Kyl amendment No. 288; Dorgan amendment No. 294; Rockefeller-Collins amendment No. 275. I further ask unanimous consent that no second-degree amendments be in order to any of the preceding amendments prior to the vote, and that there be 2 minutes for debate equally divided prior to each vote.

Mr. REID. Mr. President, I ask if the Senator will modify his unanimous consent request that there be 10 minutes between the second and third votes.

Mr. NICKLES. Mr. President, I ask unanimous consent to limit the time on the last two amendments to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on September 12, 2001, in New York, NY. Five teenagers attacked an Arab-American candy store owner. The teenagers stopped in front of the small store and asked the owner, who stood in the doorway, "Do you feel sorry for America?" Without waiting for a response, one teen punched the owner, sending him reeling backwards onto the floor, bleeding heavily. The assailants were able to flee from the scene before witnesses could catch them.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ZORAN DJINDJIC

Mr. LEAHY. Mr. President, the cold-blooded assassination of Serbian Prime Minister Zoran Djindjic is a tragedy not only for Serbia, but for the other former Yugoslav republics whose futures are so closely linked. I knew and admired Prime Minister Djindjic from our meetings in Washington, and I want to express my deepest sympathy to his family and to the Serbian people.

Zoran Djindjic was a charismatic and courageous leader who recognized that Serbia's best hope, after years of nationalist-inspired ethnic hatred and war destroyed Yugoslavia and caused the deaths of hundreds of thousands of innocent people, was to follow the path of democracy and the rule of law. This was not an easy choice, as it required confronting the forces of corruption and evil which, despite the overthrow of Slobodan Milosevic, have sought to preserve the status quo.

It was Prime Minister Djindjic who, at considerable personal risk, obtained Milosevic's arrest, after President Kostunica refused to cooperate with the Hague tribunal. Turning over Milosevic was a key step, but Mr. Djindjic understood that it was only the first step toward a formal break with the failed policies of the past.

For the past 3 years, the Congress has provided substantial aid to support economic and political reform in Serbia. However, we have also made clear in legislation and in discussions with Serb officials, that continued cooperation with the Hague prosecutor is essential for continued United States aid to Serbia. There were times in our discussions when Serb officials complained bitterly that the United States and the Hague prosecutor were pressuring them too hard to apprehend and transfer suspected war criminals. In fact, they did so even before the arrest of Milosevic. We responded that while we did not expect them to apprehend all the indictees in Serbia overnight, the United States cannot provide millions of dollars in aid unconditionally to a government that harbors indicted war criminals.

Since the arrest of Milosevic, the Serb Government's cooperation with the Hague tribunal has been sporadic. Mr. Djindjic wanted to move faster, while Mr. Kostunica stood in the way. While some indictees have been turned over, 18 remain at liberty and access to witnesses and documents necessary to the prosecution of these cases has been unsatisfactory. Moreover, there has often been no cooperation until just weeks or days before the deadline in U.S. law for the cutoff of aid.

I mention this because immediately after Prime Minister Djindjic was gunned down some Serb officials blamed his assassination on the pressure exerted on Serbia by the United States and the war crimes prosecutor. I understand that reaction. It is convenient to blame others rather than to acknowledge the difficult but essential task at hand—to remove from the security forces those Milosevic loyalists involved with and protecting organized crime figures and war crimes suspects. But I believe that had the Serb Government moved faster, and more aggressively—as Prime Minister Djindjic urged for the benefit of the Serbian people and the survival of democracy—to arrest those who made no secret of their efforts to thwart reform, this tragedy might have been avoided.

Zoran Djindjic's death has kindled an outpouring of sympathy. Millions of Serbs have taken to the streets to express their support for the policies he fought for. Let us hope that just as millions of Serbs joined together three years ago to oust Milosevic from power, Zoran Djindjic's death will be the catalyst for a renewed and unrelenting effort to destroy the remaining vestiges of the Milosevic era. The United States stands ready to strongly support that effort. There is no alternative, if Serbia is to take its place in today's democratic Europe.

## HONORING AMERICAN SOLDIERS

Mr. ALLEN. Mr. President, I rise to honor our brave soldiers fighting in the global war on terrorism. We recently passed the first anniversary of Operation Anaconda, a critical seven-day military effort within Operation Enduring Freedom that helped break the back of the Taliban and al-Qaida in Afghanistan. It is fitting to take time to remember the sacrifice of the participants in that noble undertaking in the mountains of Afghanistan, and to ask Americans to pray for those who gave their lives. Let us also pause to recall the continuing efforts of our armed forces and civilian national security employees in Operation Enduring Freedom, and in the global war on terrorism. We are profoundly grateful for the sacrifices of all, and offer our prayers and deep gratitude to them and to their families.

On March 1, 2002, Americans went into battle near Gardez, Afghanistan, with Afghan and other allies, to attack al-Qaida and Taliban forces in eastern Afghanistan. Over the course of seven days, our forces engaged and defeated determined terrorist forces throughout mountains and rough terrain, at elevations as high as 12,000 feet, and in temperatures that dropped to 15 degrees Fahrenheit at night.

During Operation Anaconda, American Special Operations Forces combined with elements of the 101st Airborne Division, the 10th Mountain Division, and other aviation and ground units representing several allied nationalities to bring the war begun on September 11, 2001, directly to the terrorists and their supporters.

On March 4, 2002, a small American force came under night attack at a desolate mountain base at Takur Ghar. As a result of the ensuing engagement, seven Americans died. They gave their lives while trying to help each other, in a remote and forbidding place where their duty and their devotion to one another and their families had taken them. These seven Americans—like all Americans, civilian and uniformed, now engaged in the noble effort to end the terrorist threat to our Nation—were volunteers. They didn't have to be on Takur Ghar, but when called they did not hesitate to step forward and say "send me." As a testament to their heroism, at least eight Silver Stars, the Nation's second highest medal for valor, were awarded to participants in the battle along with almost thirty Bronze stars and numerous other awards.

Mr. President, Americans and their allies gave their lives during Operation Anaconda and elsewhere in Afghanistan. Americans and their allies have given their lives in other engagements in Operation Enduring Freedom.

Let us take a moment to reflect upon the sacrifices of those who died on Takur Ghar, and on other remote battlefields in the war on terrorism. Let us rededicate ourselves to ensuring the safety of home and hearth for their families, and for ours. Finally, let the Senate and all Americans show deep gratitude for their unselfish decisions to step forward and say "send me."

## ADDITIONAL STATEMENTS

### TRIBUTE TO NEW HAMPSHIRE POSTAL WORKERS

● Mr. SUNUNU. Mr. President, contrary to popular belief, this motto, which appears on a number of postal buildings, is not the official motto of the United States Postal Service. But it certainly could have been this past winter in the Granite State, where we suffered through some of the coldest temperatures and heaviest snowfalls in recent memory.

In spite of these challenges, Postal Services employees in New Hampshire have achieved record performance. On-time First-Class overnight mail service is at all-time record levels, and customer satisfaction is at 98 percent. In addition, New Hampshire's Postal employees are the safest in the Northeast and among the safest in the nation. Under ordinary working conditions, these achievements would be impressive. When you consider the bone chilling cold and seemingly relentless snows of these past few months, these achievements are even more remarkable and indicative of the dedication and commitment of New Hampshire's Postal employees.

While the New Hampshire District of the United States Postal Service has always been among the national leaders in serving and satisfying their customers, I want to publicly thank each of New Hampshire's 4,000 Postal employees for their tireless efforts, especially over these past few months: the employees are the processing and distribution plants who made sure that the mail was ready for timely dispatch despite the concelled flights and closed roads caused by the inclement weather, the maintenance people who kept the sorting machines running efficiently as well as the employees who maintained the vehicles so that mail could be transported safely and on time; letter carriers that withstood the cold, brutal weather and traversed through mountains of snow to provide delivery to their customers; and the clerks in the post offices who cheerfully greeted customers and gladly handed over mail rendered undeliverable in areas with impassable roads.

I also would like to give a well-deserved thank you to the postal customers in our great state who worked so hard to maintain safe access to their mail receptacles. Clearly, mail service this past winter was a team effort requiring patience and cooperation among and between Postal employees and New Hampshire's Postal customers. Once again, New Hampshire's hardy residents and Postal employees delivered.●

### HONORING THE LOUISVILLE BALLET

● Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize the Louisville Ballet, the State Ballet of Kentucky. Last week, this organization celebrated its 50th anniversary in the performing arts. This occasion was marked by special performances and educational events throughout the week.

This company originally started as a civic ballet company, performing on a production-by-production basis. It was not until 1975, when eight dancers were hired as an ensemble company, that the company achieved professional recognition and status. Now, 50 years later, the Louisville Ballet employs over 30 dancers, occupies the award-winning Louisville Ballet Center, administers the Louisville Ballet School, and reaches over 100,000 people every year. Their reputation for excellence in the arts drew the world-famous dancer Mikhail Baryshnikov to perform with the company for two seasons during the late seventies.

In addition to bringing excellence in performing arts to thousands of ballet fans, the company takes immense pride in its educational outreach programs offered to students. Through in-school, in-theater, and in-studio programs, students gain a behind-the-scenes glimpse of the ballet world, from early production planning basics to viewing a live performance. More importantly, these programs emphasize the importance of physical activity and positive self-esteem.

I appreciate the tradition of excellence created by the Louisville Ballet Company and their efforts to reach out to communities. Please join me in congratulating artistic director Mr. Bruce Simpson and the Louisville Ballet Company and wishing them another wonderful 50 years and beyond.●

### TRIBUTE TO MATTHEW R. DUKSA, SR.

● Mr. DODD. Mr. President, I rise today to celebrate the life of Matthew R. Duksa, Sr., a Connecticut businessman who passed away on November 28, 2002. Mr. Duksa, known as "Mattie" to many of his friends, was born and raised on Oak Bluff Farm, his family's dairy farm in Southington, CT. He graduated from Lewis High School and then attended the Cheshire Academy and the Connecticut College of Commerce in New Haven. Later, he graduated Magna Cum Laude from the McAllister School of Embalming in New York.

In 1949, Mattie opened the Borawski-Duksa Funeral Home in New Britain, CT and began a career providing comfort to families in their darkest hours. In 1952, he established the Newington Memorial Funeral Home in Newington, CT. He served as president of both firms until his death this past November.

Too often we think of community service as some immediate, extraordinary act or some heroic event. But communities are shaped by the daily routines and simple acts of kindness and respect that citizens display each day. Men like Mattie Duksa—who do difficult jobs that need to be done—help to define and reinforce the values of our communities. The businesses they run and the lives they lead affect us all for the better.

Outside his business, Mattie had a well-developed sense of civic duty. He was a Newington volunteer firefighter for 16 years. He served as Director of the Newington Volunteer Ambulance Company. He was Chairman of West Meadow Cemetery Expansion and Building Committee. And he was a proud member of the Organization of Polish Businessmen.

The communities he served came to rely on Mattie's gentle understanding and his spirit. In 1997, the Newington Chamber of Commerce named Mattie "Business Person of the Year." In 2002, the funeral homes he founded were honored as "Family Business of the Year" by the University of Connecticut Family Business Program.

Mattie and his lifetime of service to his community will be missed, but remembered fondly by those who knew him and benefitted from his many contributions. I extend my sympathies to his wife Dottie, his son Matthew, his daughter Diana Duksa-Kurz, and his grandchildren James, Kristy, Johanna, and Jacqueline.●

### HONORING MSGT KATHERINE BARTON

● Mr. BURNS. Madam President, today I rise to honor MSgt. Katherine Barton for her 20 years of service in the U.S. Air Force. She recently retired from the Wilford Hall Medical Center at Lackland Air Force Base, in San Antonio, TX.

Katherine Barton grew up on air force bases all over the country, moving every few years as her father, Lt.

Col. William C. Flannigan, was promoted and reassigned. She enlisted in the Air Force in 1979 and began her distinguished Air Force career as a police officer. In subsequent years she became a supervisor in medical administration, where she continued to perform her duties in an outstanding manner, as well as earning her bachelor's degree in History from the University of Houston.

MSgt. Katherine Barton's service includes Active Duty assignments in New York and Texas, National Guard assignments in Vermont and Texas, and Air Force Reserve assignments in Louisiana and Texas.

MSgt. Katherine Barton and her husband, Keith, are the proud parents of three sons. Like most military families, Keith's support has been instrumental in Katherine's service to her country.

While in the Reserves, MSgt. Katherine Barton has been activated in time of war, not once, but twice; in January 1991 for the gulf war and again in October 2001 for the war on terror. When she was needed most, MSgt. Katherine Barton left her job as a teacher, the comforts of her home, and the arms of a loving family to serve her country.

Madam President, I congratulate MSgt. Katherine Barton for her 20 years of service to our great Nation. Her contributions to the U.S. Air Force and to all Americans she protected will not be forgotten.●

## DAIMLERCHRYSLER

● Mr. LUGAR. Mr. President, I wanted to share with my colleagues the text of a speech delivered by Jürgen E. Schrempp, chairman of the Board of Management DaimlerChrysler AG, on December 2, 2002, at an event sponsored by the Center for Strategic and International Studies. I had the honor and privilege of introducing Mr. Schrempp at this event, and I hope his insights about the automotive industry and about international trade will be helpful as we, as a nation, work to strengthen our economy.

The speech follows.

### THE TRANSATLANTIC PARTNERSHIP

1. Introduction—Senator Lugar, Excellencies, Honored guests, Ladies and Gentlemen, Thank you for your warm welcome. Senator, may I offer my special thanks for your thoughtful and gracious introduction. Your remarks are deeply appreciated, coming as they do from a world leader in the field of foreign affairs. I would also like to thank the good people from the Center for Strategic and International Studies—and specifically Simon Serfaty—for their hard work in making this conference such a success. The value of the CSIS in facilitating dialogue about what route Europe and America should follow, to fulfill their joint destiny, is immeasurable. It's a great pleasure—and a privilege—for me to be with you today. It is also an opportunity to talk about an important, visceral part of my life. That is the relationship between Europe and the United States.

2. A personal view of the United States—I have a very personal view of this connection. My first real contact with America came during the early eighties. I had been appointed chief executive of Euclid, a Daimler-Benz subsidiary operating out of Cleveland, Ohio. The company produced really heavy-duty trucks. And it was my first really heavy-duty job with Daimler-Benz. In this two-year period: I discovered the bottomless hospitality of the American people. I discovered the extent to which my body could produce adrenaline. I came to grips with the reality of America's leadership in world affairs. And I became very aware of our crucial transatlantic links! Links in which DaimlerChrysler now has an extremely healthy self-interest! DaimlerChrysler is, after all, the most significant German-American company.

3. America's role in Europe—From my perspective, the positive impact of American actions on Europe is central in much of what we, as Europeans, have become. One of the highest points I can recall was the role played by the 41st President of the United States, and his team, in unifying Germany. And, of course, ending the Cold War. Never forget: It was the Americans who stood in the vanguard against European communism. From thousands of kilometers away across the Atlantic! I was certainly not surprised. America's warmth and friendship has been a given for a long time. America helped to establish the Berlin relief-corridor after the war. It put in place the Marshall Plan to rehabilitate Europe. And its contribution to the wider freedoms now enjoyed by Europeans has been enormous.

4. The high stakes of alienating the EU from the US—Ladies and Gentlemen, Stakes are high in the complex areas of business and political diplomacy. Especially for the United States and Europe. More than anything, our priority must be to establish truths about one another and build on these. One such truth is that we are totally wedded to the cause of democracy. We are also inextricably bound together by the cause of those freedoms that define our civilization. These are the values that mark us as prime custodians of the free world. These are the values for which we are prepared to fight!

5. Commercial interdependence is the key—But it is not only these strong emotional ties that underpin the transatlantic bridge. Our commercial interdependence is a vital part of that bridge's structure. The United States and the European Union enjoy the world's most significant commercial relationship. They are, quite simply, each other's largest trade and investment partners. Together the United States and the EU account for 40 percent of world GDP as well as 80 percent of global foreign direct investment. It requires very little analysis to establish that this joint relationship is essential. Yet we now need to face a sudden and strange reality. The exceptional goodwill characterizing our historic links, is being tested. Quite seriously, I might add.

6. The DaimlerChrysler example of excellent US/European relations—In this regard I have a real sense of deja vu. Mainly because of my experience at DaimlerChrysler! This merger offers the best example of outstanding transatlantic relations I can think of. Why do I say this? Well, shortly after the deal, global automotive markets began to deteriorate. The highly acclaimed "Merger of the Century" was suddenly under fire. But we stayed calm. We were patient. We held our course. Above all, we believed in ourselves. We had an unshakable sense that we should not meet operational challenges by changing our well-defined strategy. And, by the way, why should we have done so? Mercedes-Benz, the most valuable automotive brand in the world, remains the ultimate benchmark in the luxury segment. Our Commercial Vehicle Division was—and is—by some margin, the world's market leader in trucks, vans and buses. Therefore, we were able to focus on our main operational challenge. That was to implement our turnaround plan at Chrysler. Since then our phenomenal team in Auburn Hills has made outstanding progress. As a result, Chrysler Group earnings for the full-year 2002 will reflect a real turnaround. And on this score, I believe the empowering union of German and American interests was a critical factor. It prevented a deeper financial crisis—similar to those experienced at Chrysler in 1979 and 1991—from occurring. And Chrysler now enjoys the same access to credit markets as the rest of our group. Bearing in mind what happened before, I'm sure many Americans have recently breathed a huge sigh of relief!

7. The practical results of amalgamating Daimler-Benz and Chrysler—You may ask how we turned the corner. Firstly, we combined the very best of our American and German heritages. Then we unlocked the vast potential of our joint experience by working with extraordinary commitment—and loyalty—to one another! I can say with considerable pride that since the merger we have built an enterprise in which America and Germany can have great confidence. We have harmonized processes. We have exchanged components, engines and transmissions and other commodities. For example, we decided that state-of-the-art five-speed automatic Mercedes-Benz transmission units would be manufactured in Kokomo, Indiana—Senator Lugar's home state! It was also decided that, for the benefit of our customers, these units would go into Chrysler vehicles. But this is just the tip of the iceberg. This investment is only part of a 30 to 40 billion dollar, five-year investment plan for North America. It's a plan that will offer optimal security for more than 100,000 employees, well into the future! I should add that, very selectively, we already share expertise and technology for different products. The new Chrysler Crossfire will be the first highly visible result of this policy. It is a breathtaking coupe. With great American design and Mercedes components. The Crossfire will hit the markets next year. At the point where—as we like to say—Route 66 meets the Autobahn. But what we have built together also has substantial global implications. We are now able to develop crucial interests in Asia. Our significant Japanese investment in Mitsubishi Motors and our stake in Hyundai of South Korea are such interests. So is the dynamic commercial vehicle business we are building in the region. Yet this is not all. China has moved into the frame as well. Soon we will have a meaningful, viable operation there. Which is why we can say with pride that ours is a truly global company.

8. Lessons from the DCX experience—Ladies and gentlemen, I would like to share with you what tough times have taught our great company. We have learned one of life's fundamental truths. That success and happiness depend to a great degree on an ability to confront and solve problems. Or challenges, as I prefer to call them. Another fact is absolutely clear to me. Today's positive results have come because Americans and Europeans resolved to capitalize on their differences. We did not succumb to them. We

recovery process. Successful relationships need time for constant review and reaffirmation. Right now, I believe this is of wider and special significance. And, in this context, I feel a strong need for a constructive "time out" in the debate on relations between the US and Europe. There is currently far too much heat and far too little light on the subject! We need to regroup!

9. Potential points of dispute—Before we can do that, however, we have to concede that differences have arisen. The first area of conflict concerns trade. We are predominantly a transatlantic company. But trade restrictions imposed on either side of the Atlantic sometimes have really negative results! I think, for example, of US steel tariffs, and EU penalties in response to the FSC decision. We are simply caught in the crossfire. And our customers as well as employees pay the price. But my purpose in mentioning this is not to apportion blame. It is simply to note that trade restrictions do more harm than good. I therefore agree with the recent statement by President Bush that there is a need to remove tariffs. And non-tariff-based trade barriers. I hasten to add. Let's hope the leaders in charge of trade issues go down this road! There is a second front on which policy differences are always aired. The conflicting views of Europe and the US on global environmental matters have developed into a hot topic. Finally, geopolitical issues have arisen around national security and defense commitments. These discordant views are not restricted to partisan arguments. There are also internal disagreements—on both sides of the Atlantic. And, once again, most differences tend to be about procedure and the degree to which action is implemented. Fundamental objectives are seldom in dispute.

10. The need for openness and honesty—However, the problem seems to be systemic. And in the process, concerns that originate from fear have also emerged. Fear that unilateral rather than multi-lateral action could be taken to secure world peace. I think particularly of polarized policies on Iraq. But I don't want to go into detail on that. I simply want to make one point. Among great friends, such as the US and Europe, we are able to discuss differing views with complete honesty. In the same vein, however, we should do this face-to-face, and privately.

11. Call to intensify result-driven dialogue between the two continents—On the public front there is plenty of talk. Talk about how to revive transatlantic initiatives. But there is nothing that remotely resembles implementation. Let's get past the pussy footing! It's time for meaningful engagement and visible, tangible results. However, this will only come from blunt, hard-nosed implementation! In 1998, I found myself chairing the European section of the Transatlantic Business Dialogue. The TABD was the brainchild of the late Secretary of Commerce, Ron Brown and the former European Commissioner, Martin Bangemann. Founded in 1995, it was initially accepted by CEOs on both sides of the Atlantic with some enthusiasm. I'm even able to say that we achieved some encouraging results. But this organization, in its present form, has been allowed to stagnate. What we now need is dynamic interchange between the two continents. And such a process must take place with mutual commitment and enthusiasm from its transatlantic participants. Particularly herby on the political side. I undertake today that DaimlerChrysler will pursue any initiative along these lines. Provided it leads to sensible, intensified and result-driven work between us.

12. To keep the TABD or introduce a new process—At the very least, we need to reinvent the TABD. Or it may be preferable to start afresh. One thing is certain, however. We need to engage a dynamic group of leaders who should represent politics and business. They must select and tackle important as well as relevant issues. And they must be totally committed to the process of implementation. People who are prepared to roll up their sleeves and get stuck into things! People with a can-do attitude! People not afraid of breaking new ground! People of passion!

13. The need for a highly principled, organized mission—Such a body would be the best platform from which to proceed. And build on what the U.S. and Europe have thus far accomplished together. Which is an extraordinary amount! Take the multilateral institutions that have served us so well over the last 50 years. NATO, the IMF, the World Bank, the World Trade Organization, and the United Nations are among them! Quite clearly, their historic achievements signify an important reality. Now, with the Cold War consigned permanently to the deep freeze, some argue that we no longer have a really big issue to unite us. That instead we hassle over petty details. So I believe we have to find a new, highly principled mission. One that binds our two regions even more closely together! A mission that captures our imagination! Along with the hearts and minds of our global constituencies! In this connection, there are highly complex tasks ahead of us.

14. The priorities of corporations and governments—I refer to the finding of effective solutions for what Kofi Annan calls "problems without passports." This will demand unusual levels of organization! It will also require great determination—and dedicated focus. For instance, we have to find common cause in the war against terror. But this should primarily be directed at preventive action. Never again can the infamy of September 11 be repeated. Joint intelligence sharing and cooperation on the gathering of financial intelligence would be a good start. Another constructive step would be close cooperation on important initiatives like the Nunn-Lugar program. This program is crucial. It offers safeguards against nuclear and scientific material in the former Soviet Union falling into the wrong hands. We generally need to create fresh initiatives to neutralize any other nuclear, biological and chemical agents of destruction. But we need to step up investment in such programs, as well. A second goal must be to bring democracy and economic development to regions that have known too little of both. We need sustainable development to lift people out of poverty and abject subsistence. After all, half the world lives on $2 dollars a day—or less!

15. The need to safeguard and, where necessary, to rebuild civil society—Last year I called for a concerted international effort to rebuild civil society in broken countries like Afghanistan. I repeat that call today. And I do so because dysfunctional countries are much more of a drain on global resources than those that operate efficiently. We must therefore heed the lessons of the past. The investment made in rebuilding Europe has been more than repaid. In hard currency. In the fruits of stability. And—together with the United States—in the development of the most powerful alliance of nations the world has seen. Only through this alliance will we be able to deal with problems that threaten mankind.

16. Problems that endanger the human race—One such diabolical problem is the spread of the HI Virus and AIDS. More than 45 million people worldwide are currently infected with the virus and face a painful, degrading death. In my beloved South Africa this involves 25 percent of the population! At DaimlerChrysler, combating the AIDS pandemic is a priority. It's a priority recognized by the Global Business Coalition on HIV/AIDS. In June this year, at a function in New York, they acknowledged our tremendous South African HIV/AIDS program. And when Kofi Annan handed me their much-coveted award—for Excellence in the Workplace—I was very proud indeed. At the same time I was appointed Chairman of the Global Business Coalition. I welcomed this assignment with a sense of humility—and urgency. For fighting this dread disease—and dealing with the other problems I have mentioned—represent the real challenges of humanity. It's therefore high time to stop playing in the shallow end of our global pool. We need to dive deep! But it is patently obvious that the partnership, between the U.S. and EU is pivotal to any prospect of real success. Together, we hold the key to the health and wealth of the global economy. And that, Ladies and Gentlemen, is an awesome responsibility.

17. Conclusion—We may, realistically, not be able to do everything. But over the past 50 years, Europe and the U.S. have changed the face of the planet. Very much for the better! As partners, I'd back us as winners all over again. Our common ground is solid and fertile. The challenges are irresistible. The need for unity is more essential than ever. The urgency that demands immediate engagement between us is white-hot. And the time for a solemn pledge of trust in one another is precisely right. I thank you.●

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## WALLY CONERLY DAY

● Mr. LOTT. Mr. President, I would like to take this opportunity to recognize and honor an outstanding citizen of Mississippi. On March 5, 2003, Governor Ronnie Musgrove signed a proclamation declaring March 19, 2003 to be officially known as Wally Conerly Day in the State of Mississippi.

Dr. A. Wallace Conerly recently retired from the positions of Vice Chancellor for Health Affairs and Dean of the School of Medicine at the University of Mississippi Medical Center in Jackson.

I have worked closely with Dr. Conerly since he was appointed Dean of the School of Medicine, and I am both proud and grateful that Mississippians can claim Dr. Conerly as one of our own.

While I could spend hours going over Dr. Conerly's record of service and accomplishments in detail, I would like to take a few moments to touch on some of the highlights that are most impressive to me. Dr. Conerly has served as a faculty member of the University of Mississippi Medical Center for the past 30 years. He assumed an appointment as Assistant Vice Chancellor for Health Affairs in 1981 before being appointed as Vice Chancellor for Health Affairs and Dean of the School of Medicine in 1994.

As the chief executive officer of the State's only academic health sciences center, he leads an institution that employs more than 7200 people and has an annual budget of more than $610 million. He is also the chief architect of the Medical Center's ongoing expansion program, the largest in the history of Mississippi higher education. Phase I, completed in 1999 and totaling $211 million, included a new children's hospital, a new women and infant's hospital, a building for the School of Health-Related Professions, an addition to the School of Nursing, a student union, two parking garages and an imaging center. A second $124 million construction phase is currently underway and includes a critical care hospital, a new adult hospital, a classroom addition, a children's hospital addition, and an expansion to the Arthur C. Guyton Research Complex. It has been my honor to work with Dr. Conerly in support of this ambitious endeavor.

Dr. Conerly has served not only the medical community of Mississippi honorably, but also the United States Air Force. For his service, he was the recipient of the United States Air Force Flight Surgeon of the Year Award in 1962 and the United States Air Force Commendation Medal in 1963. He was honorably discharged in 1966 at the rank of major.

As you might imagine, Dr. Conerly is also active in the Jackson community. He has served on the Board of Directors of the American Red Cross, Mississippi Chapter, and the Capital Area United Way. He has been President of the Rotary Club of Jackson and Chairman of the Board of Governors of the University Club. In 2001 the Mississippi Division of the Multiple Sclerosis Society honored Dr. Conerly and the Medical Center with its 2001 Hope Award, an award given annually for outstanding community contributions. He also received Millsaps College's "Alumnus of the Year" award in 2002, and he and his wife were recognized as the 2002 People of Vision by Preserve Sight Mississippi.

As I am sure you can see, Dr. Conerly has distinguished himself both personally and professionally, and he has been a valued asset to Mississippi. His record of service is not only a testament to his professional skill, but also to the quality of his personal character. He is most deserving of having this day named in honor of him, and I felt it was appropriate that I share this brief record of his contributions to Mississippi with all of you here today.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA (UNITA) DECLARED IN EXECUTIVE ORDER 12865 OF SEPTEMBER 26, 1993—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 19, 2003.*

## FIRST BIENNIAL FEDERAL OCEAN AND COASTAL ACTIVITIES REPORT—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

*To The Congress of the United States:*

In accordance with section 5 of the Oceans Act of 2000 (33 U.S.C. 857–19), I transmit herewith the first biennial Federal Ocean and Coastal Activities Report as prepared by my Administration.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 19, 2003.*

## REPORT ON THE PARTICIPATION OF THE UNITED STATES IN THE UNITED NATIONS AND ITS AFFILIATED AGENCIES DURING CALENDAR YEAR 2001—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations;

*To The Congress of the United States:*

I am pleased to transmit herewith a report prepared by my Administration on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2001. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

GEORGE W. BUSH.
THE WHITE HOUSE, *March 19, 2003.*

## MESSAGE FROM THE HOUSE

At 2:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 145. An act to designate the Federal building located at 290 Broadway in New York, New York, as the "Ted Weiss Federal Building".

H.R. 868. An act to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 26. Concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 868. An act to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 26. Concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes; to the Committee on Foreign Relations.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1508. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Insurance of State Banks Chartered as Limited Liability Companies 12 CFR Part 303 (RIN3064–AC53)" received on March 17, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1644. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to amend portions of the regulations governing the halibut fishery under the Western Alaska Community Development Quota (CDQ) Program (0648–AL97)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1645. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Final 2003 Harvest Specifications for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1646. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Final 2003 Harvest Specifications for the Groundfish Fisheries of the Gulf of Alaska" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1647. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Species in the Rock Sole/Flathead Sole/other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1648. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of the directed fishing groundfish with nonpelagic trawl gear in the red king crab saving subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1649. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fishery Closure; Inseason prohibition of directed fishing for Pacific cod in the Western Regulatory Area of Gulf of Alaska (0679)" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1650. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Pacific Cod by Catcher Processors and Catcher Vessels 60 Feet Length Overall and Using Pot Gear in the Bering Sea and Aleutian Islands management area" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1651. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Reduce the Commercial Trip Limit for the Hook-and-Line Fishery for the Gulf Group King Mackerel in the Southern Florida West" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1652. A communication from the Acting Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notice of Open Meeting: The Science Advisory Board—March 18–19, 2003" received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1653. A communication from the Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 G Hz Band, the L–Band, and the 1.6/2.4 G Hz Bands; Review of the Spectrum of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 G HZ (IB Doc. No. 01–185 & 02–364)" received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1654. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report relative to the activities and the progress made in protecting and restoring living marine resources and the habitat of the Chesapeake Bay; to the Committee on Commerce, Science, and Transportation.

EC–1655. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report relative to bluefin tuna for 2001–2002; to the Committee on Commerce, Science, and Transportation.

EC–1656. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report relative to the Feasibility of Accelerating the Intergrated Deepwater System, received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1657. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report relative to grants authorized by the Anadromous Fish Conservation Act of 1965 describing funding to states and other entities for projects that support research on interjurisdictional and anadromous resources, received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1658. A communication from the President of the United States to the President Pro Tempore of the U.S. Senate, transmitting, pursuant to the Authorization for the Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), the report relative to the determination that reliance on diplomatic and other peaceful means alone will neither protect the National Security of the United States nor likely lead to the enforcement of all relevant United Nations Security Council resolutions regarding Iraq and that the United States and other Countries continue to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, received on March 19, 2003; to the Committee on Foreign Relations.

EC–1659. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent United States military personnel and United States individual civilians retained as contractors involved in Plan Columbia; to the Committee on Foreign Relations.

EC–1660. A communication from the Under Secretary of State, Arms Control and International Security, transmitting, pursuant to law, the 28th edition of World Military Expenditures and Arms Transfers (WHEAT), received on March 17, 2003; to the Committee on Foreign Relations.

EC–1661. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, the report relative to funding under FEMA–3170 as a result of the loss of the Space Shuttle Columbia has exceeded $5,000,000, received March 17, 2003; to the Committee on Environment and Public Works.

EC–1662. A communication from the Director, Inland Waterways Users Board, transmitting, pursuant to law, the 2003 Annual Report, received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1663. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Two Larkspurs from Coastal Northern California (1018–AG96)" received on March 13, 2003; to the Committee on Environment and Public Works.

EC–1664. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Sidalcea Keckii (Keck's checkermallow) (1018–AG93)" received on March 13, 2003; to the Committee on Environment and Public Works.

EC–1665. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to the Air Force pursuing (Air Force/Navy) multi-year procurement (MYP) for CC–130J and KC–130J aircraft for fiscal year FY 2003 through 2008; to the Committee on Armed Services.

EC–1666. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the Annual Forces Retirement Home (AFRH) for Fiscal Year 2001; to the Committee on Armed Services.

EC–1667. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Electronic Submission and Processing of Payment Requests (DFARS Case 2002–D001)" received on March 17, 2003; to the Committee on Armed Services.

EC–1668. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report rule entitled "Documentation of Immigrants Under the Immigration and Nationality Act as Amended—Immediate Relative (22 CFR Part 42)" received on March 12, 2003; to the Committee on the Judiciary.

EC–1669. A communication from the General Counsel, Department of Commerce, transmitting, pursuant to law, the report relative to a legislative proposal to restructure the patent fees and adjust trademark fees for the U.S. Patent and Trademark Office (USPTO); to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 164. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement (Rept. No. 108–20).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 212. A bill to authorize the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and for other purposes (Rept. No. 108–21).

From the Committee on Energy and Natural Resources, without amendment:

S. 220. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois (Rept. No. 108–22).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 278. A bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes (Rept. No. 108–23).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 328. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes (Rept. No. 108–24).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 347. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes (Rept. No. 108–25).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 425. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota (Rept. No. 108–26).

H.R. 397. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois (Rept. No. 108–27).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Kenneth M. Ford, of Florida, to be a Member of the National Science Board, National Science Foundation.

*Dario Fernandez-Morera, of Illinois, to be a Member of the National Council on the Humanities.

*Mary Costa, of Tennessee, to be a Member of the National Council on the Arts.

*Makoto Fujimura, of New York, to be a Member of the National Council on the Arts.

*Jerry Pinkney, of New York, to be a Member of the National Council on the Arts.

*Karen Lias Wolff, of Michigan, to be a Member of the National Council on the Arts.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED:

S. 656. A bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence; to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. Lieberman):

S. 657. A bill to amend title IV of the Social Security Act to provide grants to promote responsible fatherhood, to encourage teen pregnancy prevention strategies, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. Dorgan):

S. 658. A bill to extend the authority for Energy Savings Performance Contracts and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. Baucus, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Bennett, Mr. Bond, Mr. Breaux, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Campbell, Mr. Chambliss, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Cornyn, Mr. Crapo, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Ensign, Mr. Enzi, Mr. Frist, Mr. Graham of South Carolina, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Hatch, Mrs. Hutchison, Mr. Inhofe, Mr. Johnson, Mr. Kyl, Ms. Landrieu, Mrs. Lincoln, Mr. Lott, Mr. McConnell, Mr. Miller, Ms. Murkowski, Mr. Nelson of Nebraska, Mr. Nickles, Mr. Reid, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Shelby, Mr. Smith, Mr. Specter, Mr. Stevens, Mr. Sununu, Mr. Talent, and Mr. Thomas):

S. 659. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

By Mr. JOHNSON:

S. 660. A bill to extend limitations on certain provisions of State law under the Fair Credit Reporting Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. Warner, Mr. Sarbanes, Mr. Kennedy, and Mrs. Clinton):

S. 661. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 662. A bill to extend to Nepal certain preferential treatment with respect to apparel articles; to the Committee on Finance.

By Mr. INOUYE:

S. 663. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Baucus, Mr. Grassley, Mr. Rockefeller, Mr. Smith, Mr. Daschle, Mr. Kyl, Mrs. Lincoln, Mr. Thomas, Mr. Kerry, Mr. Bunning, Mrs. Feinstein, Mr. Allen, Mrs. Boxer, Mr. Cochran, Mr. Lieberman, Mrs. Hutchison, Ms. Stabenow, Mr. Ensign, Mr. Bayh, Mr. Allard, Mr. Miller, and Ms. Cantwell):

S. 664. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Baucus, Mr. Roberts, Mr. Brownback, Mrs. Lincoln, Mr. Burns, Mr. Craig, Mr. Crapo, Mr. Fitzgerald, Mr. Johnson, Mr. Hagel, Mr. Miller, Mr. Dorgan, and Mr. Daschle):

S. 665. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fisherman, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. Hatch):

S. 666. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, detection, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Hagel, Mr. Dorgan, Mr. Johnson, and Mr. Daschle):

S. 667. A bill to amend the Food Security Act of 1985 to strengthen payment limitations for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REED (for himself, Mr. Dodd, Mr. Kennedy, and Mrs. Murray):

S. 668. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. Kohl, Mr. Rockefeller, Mrs. Lincoln, Ms. Landrieu, Mr. Breaux, Mr. Bayh, Mr. Johnson, and Mr. Lieberman):

S. 669. A bill to provide more child support money to families leaving welfare, to simplify the rules governing the assignment and distribution of child support collected by States on behalf of children, to improve the collection of child support, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Con. Res. 24. A concurrent resolution concerning a joint meeting of Congress and the culminating year of the commemoration of the 50th anniversary of the Korean War; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 15

At the request of Mr. GREGG, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program.

### S. 138

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

### S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

### S. 202

At the request of Mr. DEWINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

### S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

### S. 300

At the request of Mr. MCCAIN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

### S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 349 , a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

### S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

### S. 371

At the request of Mr. DEWINE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 371, a bill to amend the Public Health Service Act to ensure an adequate supply of vaccines.

### S. 380

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

### S. 437

At the request of Mr. KYL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 437, a bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

### S. 448

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 448, a bill to leave no child behind.

### S. 451

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

### S. 464

At the request of Mr. REID, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

### S. 480

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

### S. 511

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

### S. 530

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 530, a bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

### S. 560

At the request of Mr. CRAIG, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

### S. 569

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

### S. 582

At the request of Mr. BUNNING, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

### S. 623

At the request of Mr. WARNER, the names of the Senator from New Jersey

(Mr. LAUTENBERG) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

### S. 640

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

### S. 650

At the request of Mr. DEWINE, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 650, a bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients.

### S.J. RES. 4

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Arizona (Mr. KYL), the Senator from Nevada (Mr. REID), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

### S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as "National Visiting Nurse Association Week."

### S. RES. 44

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 44, a resolution designating the week beginning February 2, 2003, as "National School Counseling Week."

### S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

### S. RES. 58

At the request of Mr. ALLEN, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Ohio (Mr. DEWINE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 58, a resolution expressing the sense of the Senate that the President should designate the week beginning June 1, 2003, as "National Citizen Soldier Week."

### S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

### AMENDMENT NO. 272

At the request of Mrs. BOXER, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 272 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 274

At the request of Mr. CRAIG, his name was added as a cosponsor of amendment No. 274 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 274

At the request of Mr. HOLLINGS, his name was added as a cosponsor of amendment No. 274 proposed to S. Con. Res. 23, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. DORGAN).

S. 658. A bill to extend the authority for Energy Savings Performance Contracts and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will ensure the continuation of a program that has provided a flexible and cost-effective way to reduce the Federal Government's energy bills.

Since the 1970's Federal Government agencies have been required by law or Executive Order to steadily improve the energy efficiency of Federal buildings. For example, the Energy Policy Act of 1992 set a goal of reducing energy use per square foot by 20 percent in FY 2000 compared to FY 1985. Preliminary data from the Department of Energy indicates that agencies exceeded this goal by 2.7 percent and spent $2.3 billion less for energy in FY 2000 than in FY 1985.

One of the reasons the Federal Government was successful was the availability of an innovative financing method for energy efficiency improvements. In the 1992 Energy Policy Act, Congress created Energy Savings Performance Contracting ESPC, which offered a way to invest in energy savings improvements at no capital cost to the government by leveraging private sector capital.

Under the ESPC authority, private sector companies enter into contracts with Federal agencies to install energy savings equipment and make operational or maintenance changes to improve building efficiency. The companies pay the up-front costs of the energy efficiency improvements and guarantee the agency a fixed amount of cost savings through the life of the contract. The energy service company recoups its investment over time from the energy cost savings. Since 1992, nearly $1.1 billion in private sector capital has been invested in Federal energy improvement projects under ESPCs resulting in hundreds of millions of dollars in permanent savings to the US taxpayer.

Unfortunately the authority for this successful program expires at the end of September 2003. Congress must act quickly to continue ESPC authority.

Our legislation would extend the authority for the ESPC program permanently. The bill also makes several changes designed to improve and expand the program. It adds "water cost savings" as an allowable measure for Energy Savings Performance Contracting for civilian agencies, as they have been for Department of Defense facilities for several years.

The legislation also addresses the problem of improving energy efficiency in a building that has long since passed its useful life and is in constant need of maintenance and repair. To prevent this waste of funds, the legislation would allow Energy Savings Performance Contracting to include the savings anticipated from operation and maintenance efficiencies of a replacement facility. The Department of Energy conducted a feasibility study for replacing a complex of 50 year old army barracks in my State—now used as DOE's Albuquerque operations office. The study demonstrated that the costs savings created by energy, operations and maintenance efficiencies of a new replacement building can pay for the new facility.

These provisions were agreed to last fall by the House and Senate conference committee on the Energy Policy Act of 2002. They are good policy for energy efficiency and for the Federal taxpayer.

In addition, our bill would authorize a pilot program to determine whether the ESPC concept can be applied to non-building projects. About 60 percent of the Federal Government's energy consumption occurs in government vehicles, cars, trucks, ships and air craft. Another 7 percent occurs in energy intensive operations such as irrigation, manufacturing and research activities. Increased efficiency for these activities could yield tremendous savings. This program was discussed favorably at the Energy Committee's March 11 hearing on energy efficiency.

I look forward to working with my cosponsor Senator DORGAN, and other interested Senators to enact this legislation as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 658

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Savings Performance Contracts Amendments Act of 2003".

### SEC. 2. PERMANENT EXTENSION.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

### SEC. 3. COST SAVINGS FROM REPLACEMENT FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

"(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).".

### SEC. 4. ENERGY SAVINGS.

Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means—

"(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

"(iii) the increased efficient use of existing water sources; or

"(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned buildings by reason of the construction and operation of the replacement building or facility.".

### SEC. 5. ENERGY SAVINGS CONTRACT.

Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' means a contract which provides for—

"(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

"(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.".

### SEC. 6. ENERGY OR WATER CONSERVATION MEASURE.

Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4)(42 U.S.C. 8259(4)); or

"(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.".

### SEC. 7. REVIEW.

Within 180 days after the date of the enactment of this Act, the secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulation, and administration obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficient services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

### SEC. 8. PILOT PROGRAM TO EXPAND ENERGY SAVINGS PERFORMANCE CONTRACTS TO NON-BUILDING PROJECTS.

Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287–8287c) is amended by adding at the end the following:

### "SEC. 805. PILOT PROGRAM FOR ENERGY SAVINGS PERFORMANCE CONTRACT INVESTMENTS IN NON-BUILDING ENERGY SAVINGS PROJECTS.

"(a) AUTHORIZATION.—The Secretary of Defense and the heads of other interested Federal agencies are authorized, on a pilot basis, to enter into up to ten energy savings performance contracts under this Title for the purpose of achieving savings, secondary savings, and benefits incidental to those purpose, in non-building energy efficiency improvement projects.

"(b) SELECTION OF PROJECTS.—The Secretary of Energy, in consultation with the Secretary of Defense and the heads of other interested Federal agencies, shall select up to ten contract projects for this pilot program. The projects shall be selected to demonstrate the applicability and benefit of energy savings performance contracting to a range of non-building energy efficiency improvement projects.

"(c) DEFINITIONS.—For the purposes of this section:

"(1) The term 'non-building' means any vehicle, device, or equipment that is transportable under its own power by land, sea, or air and consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device or equipment; or any Federally owned equipment used to generate electricity or transport water.

"(2) The term 'secondary savings', means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to the energy savings performance contract. Such 'secondary savings' may include, but are not limited to, energy and cost savings that result from a reduction in the need for fuel delivery and logistical support. In the case of electric generation equipment, secondary savings may include the benefits of increased efficiency in the production of electricity.

"(d) REPORT.—No later than three years after the enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of this program. Such report shall include: a description of all projects undertaken; the energy and cost savings, secondary savings, other benefits and problems resulting from such projects; and the overall cost-benefit of such projects. The report shall also include recommendations, developed in consultation with those agencies that undertook projects under the program, as to whether the authorization to enter into energy savings performance contract for non-building projects should be extended, expanded, or otherwise modified."

### SEC. 9. UTILITY INCENTIVE PROGRAMS.

Section 546(c)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)(3)) is amended by striking "facilities" and inserting "facilities, equipment and vehicles".

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By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BOND, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. CHAMBLISS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAPO, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHNSON, Mr. KYL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. LOTT, Mr. MCCONNELL, Mr. MILLER, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr.

SHELBY, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, and Mr. THOMAS):

S. 659. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I am pleased to join with Senator BAUCUS in introducing the Protection of Lawful Commerce in Arms Act, on behalf of ourselves and more than half of our colleagues in the United States Senate: Senators ALEXANDER, ALLARD, ALLEN, BENNETT, BOND, BREAUX, BROWNBACK, BUNNING, BURNS, CAMPBELL, CHAMBLISS, COCHRAN, COLEMAN, COLLINS, CORNYN, CRAPO, DOLE, DOMENICI, DORGAN, ENSIGN, ENZI, FRIST, GRAHAM of South Carolina, GRASSLEY, GREGG, HAGEL, HATCH, HUTCHISON, INHOFE, JOHNSON, KYL, LANDRIEU, LINCOLN, LOTT, MCCONNELL, MILLER, MURKOWSKI, NELSON of Nebraska, NICKLES, REID, ROBERTS, SANTORUM, SESSIONS, SHELBY, SMITH, SPECTER, STEVENS, SUNUNU, TALENT, and THOMAS.

This is an extraordinary showing of support for a bill, and I believe it is a testament to the gravity of the threat addressed by the legislation: the abuse of our courts through lawsuits filed to force law-abiding businesses to pay for criminal acts by individuals beyond their control.

The businesses I am talking about are collectively known as the U.S. firearms industry. The lawsuits in question claim that even though these businesses comply with all laws and sell a legitimate product, they should be responsible for the misuse or illegal use of the firearm by a criminal. These actions are pursued with the intent of driving this industry out of business, regardless of the thousands of jobs that would be lost in the process and the impact on citizens across the Nation who would never contemplate committing a crime with a gun.

Let me be clear about this. These lawsuits are not brought by individuals seeking relief for injuries done to them by anyone in the industry. Instead, this is a politically-inspired initiative trying to force social goals through an end-run around the Congress and state legislatures.

The theory on which these lawsuits are based would be laughable, if it weren't so dangerous: to pin the responsibility for a criminal act on an innocent party who wasn't there and had nothing to do with it. They argue that merely by virtue of the fact that a gun was present, those who were part of the commercial distribution chain should be held responsible for the gun's misuse.

This isn't a legal theory—it's just the latest twist in the gun controllers' notion that it's the gun, and not the criminal, that causes crime.

The truth of the matter is that there are millions of firearms in this country today, yet only a tiny fraction of them have ever been used in the commission of a crime. The truth of the matter is that again and again, law-abiding firearm owners are using their guns, often without even firing a shot, to defend life and property. The truth of the matter is that the intent of the user, not the gun, is what determines whether that gun will be used in a crime. The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal gun violence. Furthermore, the burdens it seeks to impose would jeopardize Americans' constitutionally-protected access to firearms for self defense and other lawful uses.

The bill that more than half of the United States Senate has already endorsed is a measured response that would put a stop to this abusive trend without endangering legitimate claims for relief. Let me emphasize that it does not insulate the firearms industry from all lawsuits or deprive legitimate victims of their day in court, as some critics have charged. Indeed, it specifically provides that actions based on the wrongful conduct of those involved in the business of manufacturing and selling firearms—breaches of contract, defects in firearms, negligent entrustment, criminal behavior—would not be affected by this legislation. It is solely directed at stopping frivolous, politically-driven litigation against law-abiding individuals for the misbehavior of criminals over whom they had no control.

The courts of our Nation are supposed to be forums for resolving controversies between citizens and providing relief where warranted, not a mechanism for achieving political ends that are rejected by the people's representatives in Congress and the state legislatures. I hope all our colleagues will join us in taking a measured, principled stand against this abusive litigation by supporting the Protection of Lawful Commerce In Arms Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protection of Lawful Commerce in Arms Act".

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—The Congress finds the following:

(1) Citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms.

(2) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(3) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(4) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(5) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(6) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

### SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought.

### SEC. 4. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ENGAGED IN THE BUSINESS.—The term "engaged in the business" has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term "manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term "qualified product" means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term "qualified civil liability action" means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought;

(iv) an action for breach of contract or warranty in connection with the purchase of the product; or

(v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended.

(B) NEGLIGENT ENTRUSTMENT.—In subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person and others.

(6) SELLER.—The term "seller" means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, consistent with Federal, State, and local law.

(7) STATE.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term "trade association" means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers or sellers of a qualified product.

Mr. BAUCUS. Mr. President, I rise to urge my colleagues to support the Protection of Lawful Commerce in Arms Act that I and my good friend from Idaho, Senator CRAIG, have introduced yesterday. This bill already enjoys strong bipartisan support—Senator CRAIG and I are joined by over 50 other co-sponsors, both Democrat and Republican.

This bill will correct a significant injustice that threatens the viability of a lawful United States industry, the firearms industry. An increasing number of lawsuits are being filed against the firearms industry seeking damages for wrongs committed by third persons who misuse the industry's products. These lawsuits seek to impose liability on lawful businesses for the actions of people over whom the firearms industry has no control.

This is just outrageous. Businesses that comply with all applicable Federal and State laws, that produce a product fit for its intended lawful purpose—be it elk hunting, duck hunting, target shooting or for personal protection—should not be subject to frivolous lawsuits that have only one goal—to put them out of business. This is an unacceptable burden on lawful interstate commerce.

That's why Senator CRAIG and I have introduced the Protection of Lawful Commerce in Arms Act. The bill is carefully tailored to bar actions against firearms manufacturers or dealers that are based solely on the criminal or unlawful misuse of firearms by third parties. The bill would not block legitimate actions against the firearms industry for cases involving defective firearms, breaches of contract, criminal behavior by a firearm manufacturer or seller, or the negligent entrustment of a firearm to an irresponsible person.

This is only fair and right. The U.S. firearms industry serves America's gun owners and sportsmen well, and provides good-paying jobs for many Americans. They shouldn't be penalized just for legally producing or selling a product that functions as designed and intended.

I would ask all of my colleagues to support this important piece of legislation. It is very important that we take up and pass this bill as soon as possible.

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By Mr. SCHUMER (for himself, Mr. WARNER, Mr. SARBANES, Mr. KENNEDY, and Mrs. CLINTON):

S. 661. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 661

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Commuter Benefits Equity Act of 2003".

### SEC. 2. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(1) by striking "$100" in subparagraph (A) and inserting "$190", and

(2) by striking "$175" in subparagraph (B) and inserting "$190".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(1) by striking the last sentence,

(2) by striking "1999" and inserting "2003", and

(3) by striking "1998" and inserting "2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

### SEC. 3. CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

"(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;".

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues in introducing the Commuter Benefits Equity Act of 2003. This measure is another important step forward in our efforts to make transit services more accessible and improve the quality of life for commuters throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impacts, and personal frustration. According to the Texas Transportation Institute, in 2000, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the Nation of $67.5 billion in lost time and wasted fuel, and the problem is growing. One way in which Federal, State, and local governments are responding to this problem is by promoting greater use of transit as a commuting option. The American Public Transportation Association estimates that last year, Americans took over 9.5 billion trips on transit, the highest level in more than 40 years. But we need to do more to encourage people to get out of their cars and onto public transportation.

The Internal Revenue Code currently allows employers to provide a tax-free transit benefit to their employees. Under this "Commuter Choice" program, employers can set aside up to $100 per month of an employee's pretax income to pay for the cost of commuting by public transportation or vanpool. Alternatively, an employer can choose to offer the same amount as a tax-free benefit in addition to an employee's salary. This program is designed to encourage Americans to leave their cars behind when commuting to work.

By all accounts, this program is working. In the Washington area, for example, the Washington Metropolitan Area Transit Authority estimates that over 200,000 commuters take advantage of transit pass programs offered by their employers. That means fewer cars on our congested streets and highways.

Employees of the federal government account for a large percentage of those benefitting from this program in the Washington area. Under an Executive Order, all Federal agencies in the National Capital Region, which includes Montgomery, Prince George's, and Frederick Counties, Maryland, as well as several counties in Northern Virginia, are required to offer this transit benefit to their employees. The Commuter Choice program is now being used by an estimated 130,000 Washington-area Federal employees who are choosing to take transit to work.

However, despite the success of the Commuter Choice program, our tax laws still reflect a bias toward driving. The Internal Revenue Code allows employers to offer a tax-free parking benefit to their employees of up to $190 per month. The striking disparity between the amount allowed for parking—$190 per month—and the amount allowed for transit—$100 per month—undermines our commitment to supporting public transportation use.

The Commuter Benefits Equity Act would address this discrepancy by raising the maximum monthly transit benefit to $190, equal to the parking benefit, and providing that the benefits will be adjusted upward together in future years. The Federal Government should not reward those who drive to work more richly than those who take public transportation. Indeed, since the passage of the Intermodal Surface Transportation Efficiency Act of 1991, Federal transportation policy has endeavored to create a level playing field between highways and transit, favoring neither mode above the other. The Commuter Benefits Equity Act would ensure that our tax laws reflect this balanced approach.

In addition, the Commuter Benefits Equity Act would remedy another inconsistency in current law. Private-sector employers can offer their employees the transit benefit in tandem with the parking benefit, to help employees pay for the costs of parking at transit facilities, commuter rail stations, or other locations which serve public transportation or vanpool commuters. However, under current law, Federal agencies cannot offer a parking benefit to their employees who use park-and-ride lots or other remote parking locations. The Commuter Benefits Equity Act would remove this restriction, allowing Federal employees access to the same benefits enjoyed by their private-sector counterparts.

The Washington Metropolitan Region is home to thousands of Federal employees. It is also one of the Nation's most highly congested areas, ranking fourth in per capita congestion. This area has the third longest average commute time in the country. It is clearly in our interest to support programs which encourage Federal employees to make greater use of public transportation for their commuting needs.

The simple change made by the Commuter Benefits Equity Act would provide a significant benefit to those Federal employees whose commute to work includes parking at a transit facility. For example, a commuter who rides the Metrorail to work and parks at the Rockville park-and-ride lot pays about $45 monthly for parking, on top of the cost of riding the train. A private-sector employee whose employer provides the parking benefit in addition to salary could receive $540 a year tax free to help pay these parking costs. Federal government employees should be allowed the same benefit.

I support the Commuter Benefits Equity Act because it creates parity—parity in the tax code between the parking and transit benefits, and parity for Federal employees with their private-sector counterparts. Both of these improvements will aid our efforts to fight congestion and pollution by supporting public transportation. I encourage my colleagues to join me in supporting the Commuter Benefits Equity Act.

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By Mrs. FEINSTEIN:

S. 662. A bill to extend to Nepal certain preferential treatment with respect to apparel articles; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to grant garment imports from Nepal duty free status in the United States for two years. We have an opportunity the help one of the world's most impoverished countries sustain a vital export industry and promote political and economic stability after years of conflict.

My interest in Nepal goes back over 25 years and I have had the pleasure to travel there and visit with friends on many occasions. The warmth and friendliness of the people and the vitality and richness of the culture are only matched by the beauty of the breathtaking landscape.

Nevertheless, Nepal faces some serious challenges in the years ahead as it attempt to build a prosperous economy and raise the living standards of its people.

It ranks as the 12th poorest country in the world, with a per capita income of $240. Approximately 42 percent of the 24 million people live in poverty. Unemployment stands at 47 percent.

On top of this, Nepal has had to confront a Maoist insurgency which has claimed the lives of more than 7,200 people since 1996 with two thirds of the deaths occurring since November 2001. Estimated to include between 5,000 and 10,000 armed soldiers, the Maoists control between one-quarter and one-half of the country.

As a result of the political instability, for the first time in twenty years Nepal's economy contracted in 2002 by 0.6 percent and tourism, one of the main sources of income, fell by 27 percent. The situation became so dire last year that one advisor to Nepal's king noted that "Nepal is on the verge of becoming a failed state."

Yet there is reason for hope. On January 29, 2003 the Government of Nepal and the Maoist rebels reached a ceasefire agreement, opening the door for negotiations for a permanent end to the conflict. I am hopeful they will be successful. We now have the opportunity to build on the hopes of a peaceful solution to conflict and really make a difference in the lives of the Nepalese people.

Humanitarian and development assistance should be an important part of that effort. But we should also help the Nepalese help themselves and open the U.S. market to a critical export industry. In the end, economic growth and prosperity can best be achieved when Nepal is given the chance to compete and grow in a free and open global marketplace.

Success in that marketplace will lead to a lesser dependence on foreign aid and encourage Nepal to develop other viable export industries.

Since the mid-1980s, garments have emerged as a key part of Nepal's manufacturing sector. The garment industry in Nepal is entirely export oriented and accounts for 40 percent of the foreign exchange earnings. It employs over 100,000 workers half of them women and sustains the livelihood of over 350,000 people. The United States is the largest market for Nepalese garments and accounts for 80–90 percent of Nepal's total exports every year.

Yet, despite Nepal's poverty and the importance of the garment industry and the U.S. market, Nepalese garments are subject to U.S. tariffs of 17–35 percent. This is simply not acceptable and does harm to a country that can least afford it.

I might point out that this tariff rate is in contrast to the European Union, Canada, and Australia which allow or will soon allow Nepalese garments into their markets duty free.

The United States can make a real difference now to sustain the garment industry in Nepal and promote economic growth and higher living standards. My bill is simple and straightforward. It grants duty free status to imports of Nepalese garments and textiles for a two year period. This is the same status granted to participating lesser developed countries under the African Growth and Opportunity Act.

For those of my colleagues who are concerned about the impact that duty free status for Nepalese garments and textiles would have on the domestic industry, it is worth noting that Nepalese garments, at their highest level, accounted for 0.1 percent of all garment and textile imports in the United States generating $29.5 million in revenue.

Nepal is, and will continue to be, a small player in the U.S. garment market, but the importance of the garment industry in Nepal compels us to action.

Let us not miss this chance to help Nepal build a better future for its people and demonstrate to them and the rest of the world the desire of the United States to see developing nations rise from poverty to economic prosperity. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 662

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TREATMENT OF CERTAIN TEXTILES AND APPAREL.**

Notwithstanding any other provision of law, the preferential treatment extended to apparel articles under section 112(b)(3)(B) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(B)) shall also apply to apparel articles that are imported directly into the customs territory of the United States from Nepal in accordance with the provisions set forth in such section as if such articles were articles of a lesser developed beneficiary sub-Saharan African country, if Nepal has satisfied the requirements set forth in section 113 of such Act (19 U.S.C. 3722), except that—

(1) any reference in section 112(b) or section 113 of the African Growth and Opportunity Act to a lesser developed beneficiary sub-Saharan African country or countries) shall be treated as a reference to Nepal; and

(2) such preferential treatment shall apply to apparel articles imported into the customs territory of the United States during the period beginning on October 1, 2003, and ending on September 30, 2005.

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By Mr. INOUYE:

S. 663. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, almost eight years ago, I stood before you to introduce a bill "to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims."

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Last year, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be "fair, just and equitable" to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is "not a gratuity" and that the "settlement was predicated on a credible legal claim." Pottawatomi Nation in Canada, et al. v. United States, Cong. Ref. 94–1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be "fair, just and equitable" to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th Century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal—an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands—some five million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent two weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1933, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the "Wisconsin Band" were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis five million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied "justice would be done." Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was "not fit for snakes to live on."

While some Pottawatomis removed westward, many of the Pottawatomis—particularly the Wisconsin Bank, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Bank vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Bank ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864, 13 Stat. 172, the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949. Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. Sen. Doc. No. 185, 57th Cong., 2d Sess. By the Act of June 21, 1906, 34 Stat. 380, the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine "the[] [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the clamant Indians as directed the provisions of the Act of June 25, 1864."

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britian entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. Hannahville Indian Community v. U.S., No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. Hannahville Indian Community v. U.S., 115 Ct. Cl. 823 (1950). The claim of the Wisconsin band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims court in 1983. Hannahville Indian Community v. United States, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a "fair, just and equitable" resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice—so long delayed—is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every one of the Pottawatomi tribal groups that remain in the United States today.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 663

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.**

(a) Authorization for Payment.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) Payment in Accordance With Stipulation for Recommendation of Settlement.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi Nation in Canada and the United States (referred to in this Act as the "Stipulation for Recommendation of Settlement"); and

(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94-1037X submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509 of title 28, United States Code.

(c) Full Satisfaction of Claims.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

(d) Nonapplicability.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to the payment under subsection (a).

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By Mr. HATCH (for himself, Mr. Baucus, Mr. Grassley, Mr. Rockefeller, Mr. Smith, Mr. Daschle, Mr. Kyl, Mrs. Lincoln, Mr. Thomas, Mr. Kerry, Mr. Bunning, Mrs. Feinstein, Mr. Allen, Mrs. Boxer, Mr. Cochran, Mr. Lieberman, Mrs. Hutchison, Ms. Stabenow, Mr. Ensign, Mr. Bayh, Mr. Allard, Mr. Miller, and Ms. Cantwell):

S. 664. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses; to the Committee on Finance.

Mr. HATCH. Mr. President, I am very pleased to join with my friend and colleague Senator Baucus and a majority of our Finance Committee colleagues from both sides of the aisle today in introducing legislation that would permanently extend and improve the research tax credit.

The 1990s were a great period in American economic history because American workers became more productive. This increase in productivity allowed the economy to continue to grow faster than almost anyone thought possible. Throughout the 1990s, doomsayers said that we had reached the economy's speed limit, but we just kept growing. How did this happen?

The Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, and dozens of leading economists have all heralded the increase in our productivity as a key to those economic good times. A major reason for this increase in productivity, is the flowering of new ideas through research and development. Restoring and increasing that growth is what our bill today is all about.

But why do we need a research tax credit? Are not profitable new ideas their own reward? Is not the promise of future profits from new drug discoveries and new manufacturing techniques its own incentive? Will not companies do large amounts of R&D on their own, without any special tax incentives?

Yes, of course, they will. But they clearly will not do enough. This is because cutting-edge research and development has spillover effects that reach far beyond the company that makes the investment. When companies invent new ideas and new production techniques, those inventions last forever, and help people in the United States and throughout the world. But the company that invests in R&D will only be able to make a sizable profit on its invention for a few years at most. That is because either the patent will expire, or other companies will imitate the new technique and cut the inventor's hoped-for profits.

Now, I am all in favor of vigorous competition—it keeps our companies strong and efficient. But we have to recognize that competition means that innovators will receive only a fraction of the benefits of their innovation. Once the imitators pop up and competition increases, we know that profits will fall, prices will fall, and the benefits of innovation, thankfully, will get passed on to consumers. We need innovation, and fortunately, we have a strong, proven tax incentive that can encourage that innovation. The benefits of innovation reach far beyond the company that invents them. That is why we need to give companies incentives to do more innovation.

I believe the best way to ensure that private-sector investment in research and development continues at the healthy rate needed to fuel productivity gains in the future is to improve and permanently extend the research credit. This tax provision is a proven and a cost-effective incentive to increase private-sector R&D spending.

Studies have shown that the research tax credit significantly increases research and development expenditures. The marginal effect of one dollar of the research credit creates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra R&D spending over the long-run. That, is a good deal for the American taxpayer.

One of the greatest strengths of the research credit has always been that it gave good incentives for more innovation. This year's proposal to extend the credit is no exception. This year, we have added a third way to qualify for the credit, an elective "alternative simplified credit." We propose to base this new alternative credit on how much a company has increased its R&D spending compared to the last three years. Companies will average their R&D spending over the previous three years, and cut that number in half. For every dollar they spend over that amount, they get a 12 percent tax credit. If they spend less than that amount, they get no credit at all. This is why this credit is so effective—it gives benefits to companies that do more, and gives no benefits to companies that do less. That is good tax policy, and good growth policy.

Once again, I want to ask my colleagues to make this credit permanent. I think we all know that this credit is going to be extended, again and again, every few years. It takes time and energy for my colleagues to revisit this issue every few years. Can we not just, once and for all, make this provision permanent? We know this is good policy, and it is one of the most effective tax incentives in the code. As I stated earlier, even under today's permanently temporary credit, every dollar of tax credit is estimated to increase R&D spending by one dollar in the short run and by up to two dollars in the long run. And if we make this permanent, those incentives will only improve.

As it stands, companies have to take account of the fact that Congress could allow the credit lapse for a few months, as it did a number of years ago. So companies hedge their bets, they spend a little less on R&D, and our economy suffers as a result. By contrast, permanence helps planning. The sooner we make this permanent, the sooner companies can begin to enlarge and expand their research and development units, and the sooner their innovations will strengthen economic growth.

A permanent extension of this credit may seem costly in terms of lost revenue. However, when you consider the value that this investment will create for our economy, it is a bargain. In fact, one study estimates that a permanent research credit would result in our Gross Domestic Product increasing by $10 billion after five years and by $31 billion after 20 years.

By making our workers more productive, this credit will also increase wages. That is because study after study shows an iron-clad link between worker productivity and worker wages.

Findings from a study conducted by Coopers & Lybrand show that workers in every state will benefit from higher wages if the research tax credit is made permanent. Payroll increases as a result of gains in productivity stemming from the credit have been estimated to exceed $60 billion over the next 12 years.

My home State of Utah is a good example of how State economies benefit from the research tax credit. Utah is home to a large number of firms that invest a high percentage of their revenue on research and development.

In Utah, five percent of the workers—51,000 people—work in the research-intensive high technology sector. That includes over 10,000 people working just to design computer systems, and over 6,000 producing medical equipment. And there is a lot of R&D taking place outside of Utah's high tech sector.

Just to give one example, more than 7,000 people work in Utah's chemical industry, and workers in that industry benefit from research and development taking place in Utah and throughout the country. Aerospace and the drug and pharmaceutical industries are two more examples of big Utah employer groups that reap the benefits of R&D. And even in the midst of my state's currently weak job market, two industries that increased employment in 2002 were the medical equipment and the scientific research and development services industries.

So, the point I want to make is not that Utah needs to do all of the research in order to reap the benefits of that research. Instead, the point I want to make is that workers in my state will become more productive and earn higher wages both when they invent new ideas, and when they use new ideas, wherever those new ideas come from.

I want Utah companies to be able to buy better manufacturing equipment, more reliable electronics, and have access to more efficient quality control techniques. The workers who use new inventions will get just as many benefits as workers who create those new inventions. And the evidence clearly shows, that the research credit will increase creation.

In short, there are tens of thousands of employees working in Utah's thousands of technology based companies, with tens of thousands more working in other sectors that engage in R&D. Beyond that, practically all of Utah's hundreds of thousands of workers benefit from higher productivity coming from the innovations that researchers both inside and outside of Utah produce. Research and development is clearly the lifeblood of our economy.

During the ten times in the past 20 years that Congress has extended the research credit for a short time, the ostensible reason has been a lack of revenue. The excuse we give to constituents is that we didn't have the money to extend the bill permanently. Ironically, it costs at least as much in terms of lost revenue, in the long run, to enact short-term extensions as it does to extend it permanently.

A permanent research credit has wide support in both the Senate and the House. A few years ago, this body passed by a vote of 98–1 an amendment that would have permanently extended the credit. Unfortunately, all amendments were ultimately stripped from the underlying bill. Moreover, the permanent extension of the credit is a major provision in President Bush's tax plan, and was supported by both former President Clinton and by Al Gore. Again in 2001, this body voted to include a permanent research credit in the President's tax plan.

In conclusion, making the research tax credit permanent will increase the growth rate of our economy. It will mean more and better jobs for American workers. Making the tax credit permanent will speed economic growth. And new technology resulting from American research and development will continue to improve the standard of living for every person in the U.S. and around the world. I look forward to working with my colleagues on the Finance Committee and in the Senate as a whole to create a permanent, improved research and development tax credit.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 664

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment in America Act of 2003".

### SEC. 2. FINDINGS.

Congress finds the following:

(1) Research and development performed in the United States results in quality jobs, better and safer products, increased ownership of technology-based intellectual property, and higher productivity in the United States.

(2) The extent to which companies perform and increase research and development activities in the United States is in part dependent on Federal tax policy.

(3) Congress should make permanent a research and development credit that provides a meaningful incentive to all types of taxpayers.

### SEC. 3. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) Conforming Amendment.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

### SEC. 4. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) In General.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

### SEC. 5. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) In General.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Election of alternative simplified credit.—

"(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) Special rule in case of no qualified research expenses in any of 3 preceding taxable years.—

"(i) Taxpayers to which subparagraph applies.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) Credit rate.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) Election.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(b) Coordination With Election of Alternative Incremental Credit.—

(1) In general.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(2) Transition rule.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I am pleased to again join with my friend, Senator HATCH, and my other colleagues, in introducing legislation to make a permanent commitment to research-intensive businesses in the United States. This legislation is bipartisan and bicameral. A companion bill was introduced in January in the House of Representatives by Congresswoman NANCY JOHNSON and Congressman ROBERT MATSUI.

Every morning we here news of some new product or discovery that promises to make our jobs easier or our lives better. Many of these innovations started with a business decision to hire needed researchers and finance the expensive and long process of research and experimentation. Since 1981, when the R&D tax credit was first enacted, the federal government was a partner in that business endeavor because of the potential spillover benefits to society overall from additional research spending.

Research has shown that a tax credit is a cost-effective way to promote R&D. The General Accounting Office, the Bureau of Labor Statistics, the National Bureau of Economic Research, and others have all found significant evidence that a tax credit stimulates additional domestic R&D spending by U.S. companies. A reported by the Congressional Research Service, CRS, indicates that economists generally agree that, without government support, firm investment in R&D would fall short of the socially optimal amount and thus CRS advocates government policies to boost private sector R&D.

R&D is linked to broader economic and labor benefits. R&D lays the foundation for technological innovation, which, in turn, is an important driving force in long-term economic growth—mainly through its impact on the productivity of capital and labor. We have many times heard testimony from economists, including Federal Research Board Alan Greenspan, that the reason our economy grew at such breakneck speed during the 1990s stemmed from the productivity growth we realized thanks to technological innovations.

There has been a belief that companies would continue to increase their research spending and that the benefits of these investments on the economy and labor markets would continue without end. Unfortunately, that is not the case. New data compiled by Battelle Memorial Institute and R&D Magazine project that for 2003, U.S. company spending on research will be mostly flat for the second year in a row. According to this report, companies plan a 0.1 percent increase in R&D spending in 2003. Spending in 2002 rose a mere 0.3 percent over 2001 levels. This compares to 2001 when R&D spending grew by 5 percent over the previous year. Those numbers should be a wake up call for all of us. As research spending falls, so too will the level of future economic growth.

It is also important to recognize that many of our foreign competitors are offering permanent and generous incentives to firms that attract research dollars to those countries. A 2001 study by the Organization of Economic Co-operation and Development, OECD, ranked the U.S. ninth behind other nations in terms of its incentives for business R&D spending. Countries that provide more generous R&D incentives include Spain, Canada, Portugal, Austria, Australia, Netherlands, France, and Korea. The United Kingdom was added to this list in 2002 when it further expanded its existing R&D incentives program. The continued absence of a long-term U.S. government R&D policy that encourages U.S.-based R&D will undermine the ability of American companies to remain competitive in U.S. and foreign markets. This disparity could limit U.S. competitiveness relative to its trading partners in the long-run.

Also, U.S. workers who are engaged in R&D activities currently benefit from some of the most intellectually stimulating, high-paying, high-skilled jobs in the economy. My own State of Montana is an excellent example of this economic activity. During the 1990s, about 400 establishments provided high-technology services, at an average wage of about $35,000 per year. These jobs paid nearly 80 percent more than the average private sector wage of less than $20,000 per year during the same year. Many of these jobs would never have been created without the assistance of the R&D credit. While there may not be an immediate rush to move all projects and jobs offshore, there has been movement at the margins on those projects that are most cost-sensitive. Once those projects and jobs are gone, it will be many years before companies will have any incentive to bring them back to the United States.

We continue to grapple with the need to stimulate economic growth and advance policies that represent solid long-term investments that will reap benefits for many years to come. Senator HATCH and I repeatedly have pointed to the R&E tax credit as a measure that gives us a good "bang for our buck." I hope this year we can enact a permanent tax credit that is effective and more widely available. I encourage my colleagues to join us in this effort.

As we have in years past, our proposal would make the current research and experimentation tax credit permanent and increase the Alternative Incremental Research Credit, AIRC, rates. This year we take one additional but necessary step.

We propose a new alternative simplified credit that will allow taxpayers to elect to calculate the R&D credit under new computational rules that will eliminate the present-law distortions caused by gross receipts.

There is no good policy reason to make research more expensive for some industries than for others. While the regular R&E tax credit works very well for many companies, as the credit's base period recedes and business cycles change, the current credit is out of reach for some other firms that still incur significant research expenditures. To help solve part of this problem Congress enacted the AIRC in 1996 and now we propose a way to address the rest of that problem.

Under current law, both the regular credit and the AIRC are calculated by reference to a taxpayer's gross receipts, a benchmark that can produce inequities and anomalous results. For example, many taxpayers are no longer able to qualify for the regular credit, despite substantial R&D investments, because their R&D spending relative to gross receipts has not kept pace with the ratio set in the 1984–88 base period, which governs calculation of the regular credit. This can happen, for example, simply where a company's sales increase significantly in the intervening years, where a company enters into an additional line of business that generates additional gross receipts but involves little R&D, or where a company becomes more efficient in its R&D processes.

Our proposal would correct this by allowing taxpayers a straightforward alternative research credit election. Taxpayers could elect, in lieu of the regular credit or the AIRC, a credit that would equal 12 percent of the excess of the taxpayer's current year qualified research expenditures, "QREs", over 50 percent of the taxpayer's average QREs for the 3 preceding years. Unlike the regular credit and the AIRC, this credit calculation does not involve gross receipts.

The R&D tax credit has proven it can be an effective incentive. We need to act to make it a permanent part of the tax code that U.S. businesses can rely on. The best thing we can do for our long-term economic well-being is to stoke the engine of growth—technology, high-wage jobs and productivity. I look forward to working with Sen. HATCH and all my colleagues on this important issue.

I urge my colleagues to support this important piece of legislation.

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By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. BROWNBACK, Mrs. LINCOLN, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. FITZGERALD, Mr. JOHNSON, Mr. HAGEL, Mr. MILLER, Mr. DORGAN, and Mr. DASCHLE):

S. 665. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce, along with my good friend, Senator BAUCUS, to introduce the Tax Empowerment and Relief for

Farmers and Fishermen Act, which I will refer to as the "TERFF Act." I am pleased that Senators ROBERTS, BROWNBACK, LINCOLN, BURNS, CRAIG, CRAPO, FITZGERALD, HAGEL, and DORGAN are joining Senator BAUCUS and me as cosponsors of this important legislation.

I am a farmer, like my father was before me. I understand farming and how policy decisions from Washington impact hardworking farmers, like my son Robin. Before I ran for elected office and after I leave, God willing, I'll still be farming. There is little that I feel more strongly about than providing the agriculture community with the potential to survive and to thrive. As far as I'm concerned, agriculture is my "turf" and as long as I'm in this town, I'll do all I can to serve my friends and neighbors in the agriculture community.

This legislation has already been adopted by the Senate multiple times. In the midst of a serious downturn in the agriculture economy, it seems to me we ought to be doing everything we can to help farmers, and this would provide significant assistance.

First, this legislation includes Farm, Fish, and Ranch Risk Management Accounts. These farmer saving accounts would allow farmers to contribute up to 20 percent of their income in an account, and deduct it in the same year. Farm accounts would be a very important risk management tool that will help farmers put away money when there's actual income, so that, in the bad times, there will be a safety net. This measure has strong bipartisan support and was actually sent to President Clinton, who vetoed it.

In addition, this legislation would exempt Conservation Reserve Program payments from self-employment tax. Under current law, farmers who participate in the CRP are unnecessarily struggling during tax season because of a case pushed by the IRS. The latest 6th Circuit court's ruling treats CRP payments as farm income subject to the additional self-employment tax rate of 15 percent.

Senator BROWNBACK has taken the lead on fixing this problem. This unfair tax not only ignores the intent of Congress in creating the CRP, it discourages farmers from using environmentally pro-active measures. At a time when farmers are struggling to regain their footing economically and do the right thing environmentally, it's important that Congress support them by upholding its promise on CRP.

In addition, Senator LUGAR has led the effort to expand the current program that allows companies to donate to food banks, so that farmers and restaurants can also donate surplus food directly to needy food banks. This will be a win for the farmers and a big win for people who depend on food bank assistance.

In addition, when we passed income averaging for farmers a few years ago, we neglected to take into account the problem of running into the alternative minimum tax, which many farmers are facing now. My bill will fix this growing problem.

My bill also expands opportunities for beginning farmers who are in need of low interest rate loans for capital purchases of farmland and equipment.

Current law permits State authorities to issue tax exempt bonds and to lend the proceeds from the sale of the bonds to beginning farmers and ranchers to finance the cost of acquiring land, buildings and equipment used in a farm or ranch operation.

Unfortunately, aggie bonds are subject to a volume cap and must compete with big industrial projects for bond allocation. Aggie bonds share few similarities to industrial revenue bonds and should not be subject to the volume cap established for industrial revenue bonds.

Insufficient allocation of funding due to the volume cap limits the effectiveness of this program. We can't stand by and allow the next generation of farmers to lose an opportunity to participate in farming because of competition with industry for reduced interest loan rates.

In addition, the IRS recently determined that some cooperatives should be exposed to a regular corporate tax due to the fact that they are using organic value-added practices rather than manufactured value-added practices. This is unfair, and needs to be fixed.

It is also imperative that we not neglect the difficulties many producers are facing in light of persistent drought conditions. Under current law, a producer who loses livestock, or is forced to sell livestock, or is forced to sell livestock, is required to replace that livestock within two years. However, some parts of the country have already experienced two years of drought with no end in sight.

It goes against common sense for these producers to replace livestock until conditions improve. My legislation would extend the 2-year deadline to 4 years.

And of course my package wouldn't be complete without a provision leveling the playing field for ethanol producers.

The Small Ethanol Producer Credit will allow small cooperative producers of ethanol to be able to receive the same tax benefits as large companies. This provision provides cooperatives the ability to elect to pass through small ethanol producer credits to its patron.

The "TERFF" package will do more to reform taxes for the American farmer than any other measure in recent memory. I urge my colleagues to strongly support this measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 665

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Tax Empowerment and Relief for Farmers and Fishermen (TERFF) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.
Sec. 2. Farm, fishing, and ranch risk management accounts.
Sec. 3. Exclusion of rental income from self-employment tax.
Sec. 4. Exclusion of conservation reserve program payments from self-employment tax.
Sec. 5. Exemption of agricultural bonds from private activity bond volume limits.
Sec. 6. Modifications to section 512(b)(13).
Sec. 7. Charitable deduction for contributions of food inventory.
Sec. 8. Coordinate farmers and fishermen income averaging and the alternative minimum tax.
Sec. 9. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 10. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 11. Small ethanol producer credit.
Sec. 12. Payment of dividends on stock of cooperatives without reducing patronage dividends.
Sec. 13. Special rules for livestock sold on account of weather-related conditions.

**SEC. 2. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.**

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by inserting after section 468B the following new section:

**"SEC. 468C. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.**

"(a) DEDUCTION ALLOWED.—In the case of an individual engaged in an eligible farming business or commercial fishing, there shall be allowed as a deduction for any taxable year the amount paid in cash by the taxpayer during the taxable year to a Farm, Fishing, and Ranch Risk Management Account (hereinafter referred to as the 'FFARRM Account').

"(b) LIMITATION.—

"(1) CONTRIBUTIONS.—The amount which a taxpayer may pay into the FFARRM Account for any taxable year shall not exceed 20 percent of so much of the taxable income of the taxpayer (determined without regard to this section) which is attributable (determined in the manner applicable under section 1301) to any eligible farming business or commercial fishing.

"(2) Distributions.—Distributions from a FFARRM Account may not be used to purchase, lease, or finance any new fishing vessel, add capacity to any fishery, or otherwise contribute to the overcapitalization of any fishery. The Secretary of Commerce shall implement regulations to enforce this paragraph.

"(c) Eligible Businesses.—For purposes of this section—

"(1) Eligible farming business.—The term 'eligible farming business' means any farming business (as defined in section 263A(e)(4)) which is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

"(2) Commercial fishing.—The term 'commercial fishing' has the meaning given such term by section (3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) but only if such fishing is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

"(d) FFARRM Account.—For purposes of this section—

"(1) In general.—The term 'FFARRM Account' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

"(D) All income of the trust is distributed currently to the grantor.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(2) Account taxed as grantor trust.—The grantor of a FFARRM Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(e) Inclusion of Amounts Distributed.—

"(1) In general.—Except as provided in paragraph (2), there shall be includible in the gross income of the taxpayer for any taxable year—

"(A) any amount distributed from a FFARRM Account of the taxpayer during such taxable year, and

"(B) any deemed distribution under—

"(i) subsection (f)(1) (relating to deposits not distributed within 5 years),

"(ii) subsection (f)(2) (relating to cessation in eligible farming business), and

"(iii) subparagraph (B) or (C) of subsection (f)(3) (relating to prohibited transactions and pledging account as security).

"(2) Exceptions.—Paragraph (1)(A) shall not apply to—

"(A) any distribution to the extent attributable to income of the Account, and

"(B) the distribution of any contribution paid during a taxable year to a FFARRM Account to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

For purposes of subparagraph (A), distributions shall be treated as first attributable to income and then to other amounts.

"(f) Special Rules.—

"(1) Tax on deposits in account which are not distributed within 5 years.—

"(A) In general.—If, at the close of any taxable year, there is a nonqualified balance in any FFARRM Account—

"(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

"(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

"(B) Nonqualified balance.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

"(C) Ordering rule.—For purposes of this paragraph, distributions from a FFARRM Account (other than distributions of current income) shall be treated as made from deposits in the order in which such deposits were made, beginning with the earliest deposits.

"(2) Cessation in eligible business.—At the close of the first disqualification period after a period for which the taxpayer was engaged in an eligible farming business or commercial fishing, there shall be deemed distributed from the FFARRM Account of the taxpayer an amount equal to the balance in such Account (if any) at the close of such disqualification period. For purposes of the preceding sentence, the term 'disqualification period' means any period of 2 consecutive taxable years for which the taxpayer is not engaged in an eligible farming business or commercial fishing.

"(3) Certain rules to apply.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 220(f)(8) (relating to treatment after death of account holder).

"(B) Section 408(e)(2) (relating to loss of exemption of account where individual engages in prohibited transaction).

"(C) Section 408(e)(4) (relating to effect of pledging account as security).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(4) Time when payments deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a FFARRM Account on the last day of a taxable year if such payment is made on account of such taxable year and is made on or before the due date (without regard to extensions) for filing the return of tax for such taxable year.

"(5) Individual.—For purposes of this section, the term 'individual' shall not include an estate or trust.

"(6) Deduction not allowed for self-employment tax.—The deduction allowable by reason of subsection (a) shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

"(g) Reports.—The trustee of a FFARRM Account shall make such reports regarding such Account to the Secretary and to the person for whose benefit the Account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by such regulations.".

(b) Tax on Excess Contributions.—

(1) Subsection (a) of section 4973 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking "or" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) a FFARRM Account (within the meaning of section 468C(d)), or".

(2) Section 4973 is amended by adding at the end the following new subsection:

"(g) Excess Contributions to FFARRM Accounts.—For purposes of this section, in the case of a FFARRM Account (within the meaning of section 468C(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the Account exceeds the amount which may be contributed to the Account under section 468C(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the FFARRM Account in a distribution to which section 468C(e)(2)(B) applies shall be treated as an amount not contributed.".

(3) The section heading for section 4973 is amended to read as follows:

**"SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN ACCOUNTS, ANNUITIES, ETC.".**

(4) The table of sections for chapter 43 is amended by striking the item relating to section 4973 and inserting the following new item:

"Sec. 4973. Excess contributions to certain accounts, annuities, etc.".

(c) Tax on Prohibited Transactions.—

(1) Subsection (c) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end the following new paragraph:

"(6) Special rule for FFARRM accounts.—A person for whose benefit a FFARRM Account (within the meaning of section 468C(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a FFARRM Account by reason of the application of section 468C(f)(3)(A) to such account.".

(2) Paragraph (1) of section 4975(e) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) a FFARRM Account described in section 468C(d),".

(d) Failure To Provide Reports on FFARRM Accounts.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 468C(g) (relating to FFARRM Accounts),".

(e) Clerical Amendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 468B the following new item:

"Sec. 468C. Farm, Fishing and Ranch Risk Management Accounts.".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 3. EXCLUSION OF RENTAL INCOME FROM SELF-EMPLOYMENT TAX.

(a) Internal Revenue Code.—Section 1402(a)(1)(A) (relating to net earnings from self-employment) is amended by striking "an arrangement" and inserting "a written lease agreement".

(b) Social Security Act.—Section 211(a)(1)(A) of the Social Security Act is amended by striking "an arrangement" and inserting "a written lease agreement".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 4. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SELF-EMPLOYMENT TAX.

(a) Internal Revenue Code.—Section 1402(a)(1) (relating to net earnings from self-employment) is amended by inserting "and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))" after "crop shares".

(b) Social Security Act.—Section 211(a)(1) of the Social Security Act is amended by inserting "and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))" after "crop shares".

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

### SEC. 5. EXEMPTION OF AGRICULTURAL BONDS FROM PRIVATE ACTIVITY BOND VOLUME LIMITS.

(a) In General.—Section 146(g) (relating to exception for certain bonds) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following new paragraph:

"(5) any qualified small issue bond described in section 144(a)(12)(B)(ii).".

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

### SEC. 6. MODIFICATIONS TO SECTION 512(b)(13).

(a) In General.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) Paragraph to apply only to excess payments.—

"(i) In general.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

"(ii) Addition to tax for valuation misstatements.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) Payments subject to binding contract transition rule.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

### SEC. 7. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

"(7) Application of paragraph (3) to certain contributions of food inventory.—For purposes of this section—

"(A) Extension to individuals.—In the case of a charitable contribution of apparently wholesome food—

"(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

"(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

"(B) Limitation on reduction.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

"(C) Determination of basis.—If a taxpayer—

"(i) does not account for inventories under section 471, and

"(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

"(D) Determination of fair market value.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

"(i) without regard to such internal standards or such lack of market and

"(ii) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

"(E) Apparently wholesome food.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

### SEC. 8. COORDINATE FARMERS AND FISHERMEN INCOME AVERAGING AND THE ALTERNATIVE MINIMUM TAX.

(a) In General.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Coordination with income averaging for farmers and fishermen.—Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.".

(b) Allowing Income Averaging for Fishermen.—

(1) In general.—Section 1301(a) is amended by striking "farming business" and inserting "farming business or fishing business".

(2) Definition of elected farm income.—

(A) In general.—Clause (i) of section 1301(b)(1)(A) is amended by inserting "or fishing business" before the semicolon.

(B) Conforming amendment.—Subparagraph (B) of section 1301(b)(1) is amended by inserting "or fishing business" after "farming business" both places it occurs.

(3) Definition of fishing business.—Section 1301(b) is amended by adding at the end the following new paragraph:

"(4) Fishing business.—The term 'fishing business' means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 9. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) In General.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(k) Cooperative Marketing Includes Value-Added Processing Involving Animals.—For purposes of section 521 and this subchapter, the term 'marketing the products of members or other producers' includes feeding the products of members or other producers to cattle, hogs, fish, chickens, or other animals and selling the resulting animals or animal products.".

(b) Conforming Amendment.—Section 521(b) is amended by adding at the end the following new paragraph:

"(7) Cross Reference.—

**"For treatment of value-added processing involving animals, see section 1388(k).".**

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 10. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) In General.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking "or" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) with respect to the initial classification or continuing classification of a cooperative as described in section 521(b) which is exempt from tax under section 521(a), or".

(b) Effective Date.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

### SEC. 11. SMALL ETHANOL PRODUCER CREDIT.

(a) Allocation of Alcohol Fuels Credit to Patrons of a Cooperative.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

"(6) Allocation of small ethanol producer credit to patrons of cooperative.—

"(A) Election to allocate.—

"(i) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) Treatment of organizations and patrons.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

"(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

"(C) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Improvements to Small Ethanol Producer Credit.—

(1) Definition of small ethanol producer.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) Small ethanol producer credit not a passive activity credit.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) Allowing credit against entire regular tax and minimum tax.—

(A) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for small ethanol producer credit.—

"(A) In general.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) Small ethanol producer credit.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) Small ethanol producer credit not added back to income under section 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

**"SEC. 87. ALCOHOL FUEL CREDIT.**

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) Conforming Amendment.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) Cross Reference.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 12. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) In General.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

### SEC. 13. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Rules for Replacement of Involuntarily Converted Livestock.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking "Conditions.—For purposes" and inserting "Conditions.—

"(1) In general.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) Extension of replacement period.—

"(A) In general.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

"(B) Further extension by secretary.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.".

(b) Income Inclusion Rules.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

"(3) Special election rules.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I am pleased to join Chairman Grassley in introducing the Tax Empowerment and Relief for Farmers and Fishermen Act.

Rural America has been experiencing some hard times. Drought, low prices, and an economic downturn have left agricultural producers in dire straits and have left rural economies reeling. Farmers and ranchers are the life blood to rural economies, and when agriculture is hurting, rural America hurts. Small towns are dying, stores on Main Street are closing and farmers are leaving their land.

Congress has worked hard to help our nation's agricultural producers, but with this bill, we are giving them the tools to help themselves. This package includes Farm, Fish, and Ranch Risk Management Accounts, otherwise known as FFARRM Accounts. These farmer savings accounts would allow farmers to contribute up to 20 percent of their income to a savings account, and deduct it in the same year. FFARRM accounts would be a very important risk management tool to help farmers put away money when there's actual income, so that in the really bad times there would be a safety net.

This legislation also reverses unfair IRS decisions on self-employment tax for farmers. Farmers who participate in the Conservation Reserve Program are unnecessarily struggling during tax season because of a case pursued by the IRS. The latest 6th-Circuit Court ruling treats CRP as farm income subject to the additional self-employment tax rate of 15 percent. This unfair tax not only ignores the intent of Congress in creating the CRP, but it also discourages farmers from using environmentally pro-active measures. The bill also includes a provision to reverse an IRS attempt to apply the self-employment tax on farmers' cash rental income.

Also included in the package is a provision to hold farmers harmless from the Alternative Minimum Tax when they use income averaging. When Congress passed income averaging for farmers a few years ago, it neglected to take into account the problem of running into the alternative minimum tax, which many farmers are facing now. This legislation will fix this growing problem.

It also contains an expansion of first-time farmer loans, or Aggie Bonds. This expands opportunities for beginning farmers who need low-interest rate loans for purchases of farmland and equipment. Current law permits state authorities to issue tax-exempt bonds and to lend the proceeds from the sale of the bonds to beginning farmers and ranchers to finance the cost of acquiring land, buildings and equipment used in a farm or ranch operation. Unfortunately, Aggie Bonds are subjected to a volume cap and must compete with big industrial projects for bond allocation. Aggie Bonds share few similarities to Industrial Revenue Bonds and should not be subjected to the volume cap established for IRBs. Insufficient allocation of funding due to the volume cap limits the effectiveness of this program.

Farmer co-op initiatives are also included. Recently the IRS determined that some cooperatives should be exposed to a regular corporate tax due to the fact that they are using organic value-added practices rather than manufactured value-added practices. The bill also would permit small cooperative producers of ethanol to receive the same tax benefits as large companies.

Another important provision provides tax relief for ranchers that are forced to sell their livestock on account of drought. The bill gives producers the time they need to reinvest proceeds tax-free when drought makes it impossible to feed their herds.

I look forward to working with my colleagues to enact this crucial piece of legislation.

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By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 666. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, detection, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, America has a major flaw in its defenses against bioterrorism. Hearings I chaired in the Government Affairs Committee on bioterrorism demonstrated that America has not made a national commitment to research and development of treatments and cures for those who might be exposed to or infected by a biological agent, chemical toxin, or radiological material. Correcting this critical gap is the purpose of legislation we are introducing today.

This legislation is a refined and upgraded version of legislation I introduced last year, S. 1764, December 4, 2001, and S. 3148, October 17, 2002, and I am delighted that Senator HATCH has joined me as the lead cosponsor of the new bill.

Obviously, our first priority must be to attempt to prevent the use of these agents and toxins by terrorists, quickly assess when an attack has occurred, take appropriate public health steps to contain the exposure, stop the spread of contagion, and then detoxify the site. These are all critical functions, but in the end we must recognize that some individuals may be exposed or infected. Then the critical issue is whether we can treat and cure them and prevent death and disability.

In short, we need a diversified portfolio of medicines. In cases where we have ample advance warning of an attack and specific information about the agent, toxin, or material, we may be able to vaccinate the vulnerable population in advance. In other cases, even if we have a vaccine, we might well prefer to use medicines that would quickly stop the progression of the disease or the toxic effects. We also need a powerful capacity quickly to develop new countermeasures where we face a new agent, toxin, or material.

Unfortunately, we are woefully short of vaccines and medicines to treat individuals who are exposed or infected. We have antibiotics that seem to work for most of those infected in the current anthrax attack, but these have not prevented five deaths. We have no effective vaccines or medicines for most other biological agents and chemical toxins we might confront. We have very limited capacity to respond medically to a radiological attack. In some cases we have vaccines to prevent, but no medicines to treat, an agent. We have limited capacity to speed the development of vaccines and medicines to prevent or treat novel agents and toxins not currently known to us.

We have provided, and should continue to provide, direct Federal funding for research and development of new medicines, however, this funding is unlikely to be sufficient. Even with ample Federal funding, many private companies will be reluctant to enter into agreements with government agencies to conduct this research. Other companies would be willing to conduct the research with their own capital and at their own risk but are not able to secure the funding from investors.

The legislation we introduce today would provide incentives for private biotechnology companies to form capital to develop countermeasures—medicines—to prevent, treat and cure victims of bioterror, chemical and radiological attacks. This will enable this industry to become a vital part of the national defense infrastructure and do so for business reasons that make sense for their investors on the bottom line.

Enactment of these incentives is necessary because most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. They must necessarily focus on research that will lead to product sales and revenue and, thus, to an end to their dependence on investor capital. There is no established or predictable market for countermeasures. These concerns are shared by pharmaceutical firms. Investors are justifiably reluctant to fund this research, which will present challenges similar in complexity to AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases.

It is in our national interest to enlist these companies in the development of countermeasures as biotech companies tend to be innovative and nimble and intently focused on the intractable diseases for which no effective medical treatments are available.

The incentives we have proposed are innovative and some may be controversial. We invite everyone who has an interest and a stake in this research to enter into a dialogue about the issue and about the nature and terms of the appropriate incentives. We have attempted to anticipate the many complicated technical and policy issues that this legislation raises. The key focus of our debate should be how, not whether, we address this critical gap in our public health infrastructure and the role that the private sector should play. Millions of Americans will be at risk if we fail to enact legislation to meet this need.

On November 26 of 2001, the Centers for Disease Control issued its interim working draft plan for responding to an outbreak of smallpox. The plan does not call for mass vaccination in advance of a smallpox outbreak because the risk of side effects from the vaccine outweighs the risks of someone actually being exposed to the smallpox virus. At the heart of the plan is a strategy sometimes called "search and containment."

This strategy involves identifying infected individual or individuals with confirmed smallpox, identifying and locating those people who come in contact with that person, and vaccinating those people in outward rings of contact. The goal is to produce a buffer of immune individuals and was shown to prevent smallpox and to ultimately eradicate the outbreak. Priorities would be set on who is vaccinated, perhaps focusing on the outward rings before those at the center of the outbreak. The plan assumes that the smallpox vaccination is effective for persons who have been exposed to the disease as long as the disease has not taken hold.

In practice it may be necessary to set a wide perimeter for these areas because smallpox is highly contagious before it might be diagnosed. There may be many areas subject to search and containment because people in our society travel frequently and widely. Terrorists might trigger attacks in a wide range of locations to multiply the confusion and panic. The most common form of smallpox has a 30 percent mortality rate, but terrorists might be able to obtain supplies of "flat-type" smallpox with a mortality rate of 96 percent and hemorrhagic-type smallpox, which is almost always fatal. For these reasons, the CDC plan accepts the possibility that whole cities or other geographic areas could be cordoned off, letting no one in or out—a quarantine enforced by police or troops.

The plan focuses on enforcement authority through police or National Guard, isolation and quarantine, mandatory medical examinations, and rationing of medicines. It includes a discussion of "population-wide quarantine measures which restrict activities or limit movement of individuals [including] suspension of large public gatherings, closing of public places, restriction on travel [air, rail, water, motor vehicle, and pedestrian], and/or 'cordon sanitaire' [literally a 'sanitary cord' or line around a quarantined area guarded to prevent spread of disease by restricting passage into or out of the area]." The CDC recommends that states update their laws to provide authority for "enforcing quarantine measures" and it recommends that States in "pre-event planning" identify "personnel who can enforce these isolation and quarantine measures, if necessary." Guide C—Isolation and Quarantine, page 17.

On October 23, 2001, the CDC published a "Model State Emergency Health Powers Act." It was prepared by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, in conjunction with the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of City and County Health Officers, and National Association of Attorneys General. A copy of the model law is printed at www.publichealthlaw.net. The law would provide powers to enforce the "compulsory physical separation (including the restriction of movement or confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others." Federal law on this subject is very strong and the Administration can always rely on the President's Constitution authority as Commander in Chief.

Let us try to imagine, however, what it would be like if a quarantine is imposed. Let us assume that there is not enough smallpox vaccine available for use in a large outbreak, that the priority is to vaccinate those in the outward rings of the containment area first, that the available vaccines cannot be quickly deployed inside the quarantined area, that it is not possible to quickly trace and identify all of the individuals who might have been exposed, and/or that public health workers themselves might be infected. We know that there is no medicine to treat those who do become infected. We know the mortality rates. It is not hard to imagine how much force might be necessary to enforce the quarantine. It would be quite unacceptable to permit individuals to leave the quarantined area no matter how much panic had taken hold.

Think about how different this scenario would be if we had medicines that could effectively treat and cure those who become infected by smallpox. We still might implement the CDC plan but a major element of the strategy would be to persuade people to visit their local clinic or hospital to be dispenses their supply of medicine. We could trust that there would be a very high degree of voluntary compliance. This would give us more time, give us options if the containment is not successful, give us options to treat those in the containment area who are infected, and enable us to quell the public panic.

Because we have no medicine to treat those infected by smallpox, we have to be prepared to implement a plan like the one CDC has proposed. Theirs is the only option because our options are so limited. We need to expand our range of options.

We should not be lulled by the apparent successes with Cipro and the strains of anthrax we have seen in the recent attacks. We have not been able to prevent death in some of the patients with late-stage inhalation anthrax and Robert Stevens, Thomas Morris Jr., Joseph Curseen, Kathy Nguyen, and Ottilie Lundgren died. This legislation is named in honor of them. What we needed for them, and did not have, is a drug or vaccine that would treat late stage inhalation anthrax.

As I have said, we need an effective treatment for those who become infected with smallpox. We have a vaccine that effectively prevents smallpox infection, and administering this vaccine within four days of first exposure has been shown to offer some protections against acquiring infection and significant protection against a fatal outcome. The problem is that administering the vaccine in this time frame to all those who might have been exposed may be exceedingly difficult. And once infection has occurred, we have no effective treatment options.

In the last century 500 million people have died of smallpox—more than have from any other infectious diseases—as compared to 320 million deaths in all the wars of the twentieth century. Smallpox was one of the diseases that nearly wiped out the entire Native American population in this hemisphere. The last naturally acquired case of smallpox occurred in Somalia in 1977 and the last case from laboratory exposure was in 1978.

Smallpox is a nasty pathogen, carried in microscopic airborne droplets inhaled by its victims. The first signs are headache, fever, nausea and backache, sometimes convulsions and delirium. Soon, the skin turns scarlet. When the fever lets up, the telltale rash appears—flat red spots that turn into pimples, then big yellow pustules, then scabs. Smallpox also affects the throat and eyes, and inflames the heart, lungs, liver, intestines and other internal organs. Death often came from internal bleeding, or from the organs simply being overwhelmed by the virus. Survivors were left covered with pockmarks—if they were lucky. The unlucky ones were left blind, their eyes permanently clouded over. Nearly one in four victims died. The infection rate is estimated to be 25–40 percent for those who are unvaccinated and a single case can cause 20 or more additional infections.

During the 16th Century, 3.5 million Aztecs—more than half the population died of smallpox during a two-year span after the Spanish army brought the disease to Mexico. Two centuries later, the virus ravaged George Washington's troops at Valley Forge. And it cut a deadly path through the Crow, Dakota, Sioux, Blackfoot, Apache, Comanche and other American Indian tribes, helping to clear the way for white settlers to lay claim to the western plains. The epidemics began to subside with one of medicine's most famous discoveries: the finding by British physician Edward Jenner in 1796 that English milkmaids who were exposed to cowpox, a mild second cousin to smallpox that afflicts cattle, seemed to be protected against the more deadly disease. Jenner's work led to the development of the first vaccine in Western medicine. While later vaccines used either a killed or inactivated form of the virus they were intended to combat, the smallpox vaccine worked in a different way. It relied on a separate, albeit related virus: first cowpox and the vaccinia, a virus of mysterious origins that is believed to be a cowpox derivative. The last American was vaccinated back in the 1970s and half of the U.S. population has never been vaccinated. It is not known how long these vaccines provide protection, but it is estimated that the term is 3 to 5 years.

In an elaborate smallpox biowarfare scenario enacted in February 1999 by the Johns Hopkins Center for Civilian Biodefense Studies, it was projected that within two months 15,000 people had died, epidemics were out of control in fourteen countries, all supplies of smallpox vaccine were depleted, the global economy was on the verge of collapse, and military control and quarantines were in place. Within twelve months it was projected that eighty million people worldwide had died.

A single case of smallpox today would become a global public health threat and it has been estimated that a single smallpox bioterror attack on a single American city would necessitate the vaccination of 30 to 40 million people.

The U.S. government is now in the process of purchasing substantial stocks of the smallpox vaccine. We then face a very difficult decision on deploying the vaccine. We know that some individuals will have an adverse reaction to this vaccine. No one in the United States has been vaccinated against smallpox in twenty-five years. Those that were vaccinated back then may not be protected against the disease today. If we had an effective treatment for those who might become infected by smallpox, we would face much less pressure regarding deploying the vaccine. If we face a smallpox epidemic from a bioterrorism attack, we will have no Cipro to reassure the public and we will be facing a highly contagious disease and epidemic. To be blunt, it will make the current anthrax attack look benign by comparison.

Smallpox is not the only threat. We have seen other epidemics in this century. The 1918 influenza epidemic provides a sobering admonition about the need for research to develop medicines. In two years, a fifth of the world's population was infected. In the United States the 1918 epidemic killed more than 650,000 people in a short period of time and left 20 million seriously ill, one fourth of the entire population. The average lifespan in the U.S. was depressed by ten years. In just one year, the epidemic killed 21 million human beings worldwide—well over twice the number of combat deaths in the whole of World War I. The flu was exceptionally virulent to begin with and it then underwent several sudden and dramatic mutations in its structure. Such mutations can turn flu into a killer because its victims' immune systems have no antibodies to fight off the altered virus. Fatal pneumonia can rapidly develop.

Another deadly toxin, ricin toxin, was of interest to the al-Qaeda terrorist network. At an al-Qaeda safehouse in Saraq Panza, Kabul reporters found instructions for making ricin. The instructions make chilling reading. "A certain amount, equal to a strong dose, will be able to kill an adult, and a dose equal to seven seeds will kill a child," one page reads. Another page says: "Gloves and face mask are essential for the preparation of ricin. Period of death varies from 3 to 5 days minimum, 4 to 14 days maximum." The instructions listed the symptoms of ricin as vomiting, stomach cramps, extreme thirst, bloody diarrhea, throat irritation, respiratory collapse and death.

No specific treatment or vaccine for ricin toxin exists. Ricin is produced easily and inexpensively, highly toxic, and stable in aerosolized form. A large amount of ricin is necessary to infect whole populations—the amount of ricin necessary to cover a 100-km$^2$ area and cause 50 percent lethality, assuming aerosol toxicity of 3 mcg/kg and optimum dispersal conditions, is approximately 4 metric tons, whereas only 1 kg of Bacillus anthracis is required. But it can be used to terrorize a large population with great effect because it is so lethal.

Use of ricin as a terror weapon is not theoretical. In 1991 in Minnesota, 4 members of the Patriots Council, an extremist group that held antigovernment and antitax ideals and advocated the overthrow of the U.S. government, were arrested for plotting to kill a U.S. Marshal with ricin. The ricin was produced in a home laboratory. They planned to mix the ricin with the solvent dimethyl sulfoxide, DMSO, and then smear it on the door handles of the marshal's vehicle. The plan was discovered, and the 4 men were convicted. In 1995, a man entered Canada from Alaska on his way to North Carolina. Canadian custom officials stopped the man and found him in possession of several guns, $98,000, and a container of white powder, which was identified as ricin. In 1997, a man shot his stepson in the face. Investigators discovered a makeshift laboratory in his basement and found agents such as ricin and nicotine sulfate. And, ricin was used by the Bulgarian secret police when they killed Georgi Markov by stabbing him with a poison umbrella as he crossed Waterloo Bridge in 1978.

Going beyond smallpox, influenza, and ricin, we do not have an effective vaccine or treatment for dozens of other deadly and disabling agents and toxins. Here is a partial list of some of the other biological agents and chemical toxins for which we have no effective treatments: clostridium botulinum toxin, botulism, francisella tularensis, tularaemia, Ebola hemorrhagic fever, Marbug hemorrhagic fever, Lassa fever, Julin, Argentine hemorrhagic fever, Coxiella burnetti, Q fever, brucella species, brucellosis, burkholderia mallei, glanders, Venezuelan encephalomyelitis, eastern and western equine encephalomyelitis, epsilon toxin of clostridium perfringens, staphylococcus entretoxin B, salmonella species, shigella dysenteriae, escherichia coli O157:H7, vibrio cholerae, cryptosporidium parvum, nipah virus, hantaviruses, tickborne hemorrhagic fever viruses, tickborne encephalitis virus, yellow fever, nerve agents, tabun, sarin, soman, GF, and VX, blood agents, hydrogen cyanide and cyanogens chloride, blister agents, lewisite, nitrogenadn sulfur mustards, and phosgene oxime, heavy metals, arsenic, lead, and mercury, and volatile toxins, benzene, chloroform, trihalomethanes, pulmonary agents, Phosgene, chlorine, vinly chloride, and incapacitating agents, BZ.

The naturally occurring forms of these agents and toxins are enough to cause concern, but we also know that during the 1980s and 1990s the Soviet Union conducted bioweapons research at forty-seven laboratories and testing sites, employed nearly fifty thousand scientists in the work, and that they developed genetically modified versions of some of these agents and toxins. The goal was to develop an agent or toxin that was particularly virulent or not vulnerable to available antibiotics.

The United States has publicly stated that five countries are developing biological weapons in violation of the Biological Weapons convention, North Korea, Iraq, Iran, Syria, and Libya, and stated that additional countries not yet named, possibly including Russia, China, Israel, Sudan and Egypt, are also doing so as well.

What is so insidious about biological weapons is that in many cases the symptoms resulting from a biological weapons attack would likely take time to develop, so an act of bioterrorism may go undetected for days or weeks. Affected individuals would seek medical attention not from special emergency response teams but in a variety of civilian settings at scattered locations. This means we will need medicines that can treat a late stage of the disease, long after the infection has taken hold.

We must recognize that the distinctive characteristic of biological weapons is that they are living micro-organisms and are thus the only weapons that can continue to proliferate without further assistance once released in a suitable environment.

The lethality of these agents and toxins, and the panic they can cause, is quite frightening. The capacity for terror is nearly beyond comprehension. We do not believe it is necessary to describe the facts here. Our point is simple: we need more than military intelligence, surveillance, and public health capacity. We also need effective medicines. We also need more powerful research tools that will enable us to quickly develop treatments for agents and toxins not on this or any other list.

We need to do whatever it takes to be able to reassure the American people that hospitals and doctors have powerful medicines to treat them if they are exposed to biological agents or toxins, that we can contain an outbreak of an infectious agent, and that there is little to fear. To achieve this objective, we need to rely on the entrepreneurship of the biotechnology industry.

In the summer of 200_, the Defense Science Board completed a study of the countermeasures we have available. It focused on countermeasures—diagnostics, vaccines, and drugs—for the top nineteen bioterror threats, and estimated what we have available today, what we might have available in five years and what we might have available in ten years.

If one assumes that we need diagnostics, vaccines, and drugs for all nineteen of these bioterror threats, we need fifty-seven countermeasures (19 times 3). It found that today we have only one of these fifty-seven countermeasures, a drug for Chlamydia psittaci. It found that in five years we might have twenty of the fifty-seven countermeasures and in ten years we might have thirty-four of the fifty-seven. These are optimistic assessments.

It set reasonable criteria for what constitutes an effective countermeasure. For diagnostics, it said that we are unprepared if our diagnostic takes more than 24 hours, requires confirmatory testing and the patient must be symptomatic. If said we are somewhat prepared if the diagnostic takes 12 to 24 hours, requires confirmatory testing, and works in some cases where the patient is asymptomatic. It said we are only truly prepared if the test takes less than 12 hours, requires no confirmatory testing, and detects the disease when the patient is asymptomatic. It found that we have no diagnostics today that meet the top standard and might have diagnostics for seventeen of the nineteen terror threats in five years and eighteen of the nineteen in ten years.

For vaccines it found that we are unprepared if we have no vaccine. We are partially prepared if we have a vaccine but have production or use limitations. And we are fully prepared if we have a vaccine generally available. It found that we have no vaccines today that meet the top standard and might have vaccines for two of the terror threats in five years and nine in ten years.

For therapeutics it found that we are unprepared if we have no approved treatment. We are partially prepared if we have a treatment available but have production or use limitations. And we are fully prepared if we have a treatment available. It found that we have one treatment that meets the top standard and might have treatments for the same agent in five years and seven treatments in ten years.

Obviously, we are woefully unprepared. The Defense Science Board only focused on the top nineteen threats, and there are many others for which we are also unprepared.

My proposal would supplement direct Federal Government funding of research with incentives that make it possible for private companies to form the capital to conduct this research on their own initiative, utilizing their own capital, and at their own risk—all for good business reasons going to their bottom line.

The U.S. biotechnology industry, approximately 1,300 companies, spent $13.8 billion on research last year. Only 350 of these companies have managed to go public. The industry employs 124,000, Ernest & Young data, people. The top five companies spent an average of $89,000 per employee on research, making it the most research-intensive industry in the world. The industry has 350 products in human clinical trials targeting more than 200 diseases. Losses for the industry were $5.8 billion in 2001, $5.6 billion in 2000, $4.4 billion in 1999, $4.1 billion in 1998, $4.5 billion in 1997, $4.6 billion in 1996, and similar amounts before that. In 2000 fully 38 percent of the public biotech companies had less than 2 years of funding for their research. Only one quarter of the biotech companies in the United States are publicly traded and they tend to be the best funded.

There is a broad range of research that could be undertaken under this legislation. Vaccines could be developed to prevent infection or treat an infection from a bioterror attack. Broad-spectrum antibiotics are needed. Also, promising research has been undertaken on antitoxins that could neutralize the toxins that are released, for example, by anthrax. With anthrax it is the toxins, not the bacteria itself, that cause death. An antitoxin could act like a decoy, attaching itself to sites on cells where active anthrax toxin binds and then combining with normal active forms of the toxin and inactivating them. An antitoxin could block the production of the toxin.

We can rely on the innovativeness of the biotech industry, working in collaboration with academic medical centers, to explore a broad range of innovative approaches. This mobilizes the entire biotechnology industry as a vital component of our national defense against bioterror weapons.

The legislation takes a comprehensive approach to the challenges the biotechnology industry faces in forming capital to conduct research on countermeasures. It includes capital formation tax incentives, guaranteed purchase funds, patent protections, and liability protections. We believe we will have to include each of these types of incentives to ensure that we mobilize the biotechnology industry for this urgent national defense research.

Some of the tax incentives in this legislation, and both of the two patent incentives I have proposed, may be controversial. In our view, we can debate tax or patent policy as long as you want, but let's not lose track of the issue here—development of countermeasures to treat people infected or exposed to lethal and disabling bioterror weapons.

We know that incentives can spur research. In 1983 we enacted the Orphan Drug Act to provide incentives for companies to develop treatments for rare diseases with small potential markets deemed to be unprofitable by the industry. In the decade before this legislation was enacted, fewer than 10 drugs for orphan diseases were developed and these were mostly chance discoveries. Since the Act became law, 218 orphan drugs have been approved and 800 more are in the pipeline. The Act provides 7 years of market exclusivity and a tax credit covering some research costs. The effectiveness of the incentives we have enacted for orphan disease research show us how much we can accomplish when we set a national priority for certain types of research.

The incentives we have proposed differ from those set by the Orphan Drug Act. We need to maintain the effectiveness of the Orphan Drug Act and not undermine it by adding many other disease research targets. In addition, the tax credits for research for orphan drug research have no value for most biotechnology companies because few of them have tax liability with respect to which to claim the credit. This explains why we have not proposed to utilize tax credits to spur countermeasures research. It is also clear that the market for countermeasures is even more speculative than the market for orphan drugs and we need to enact a broader and deeper package of incentives.

The government determines which research is covered by the legislation and which companies qualify for the incentives for this research. No company is entitled to utilize the incentives until the government certifies its eligibility.

These decisions are vested in the Secretary, Department of Homeland Security. In S. 1764, the decisions were vested in the White House Office of Homeland Security, but it is now likely that a Department will be created. I have strongly endorsed that concept and led the effort to enact the legislation forming the new Department.

The legislation confers on the Secretary, in consultation with the Secretary of Defense and Secretary of Health and Human Services, authority to set the list of agents and toxins with respect to which the legislation and incentives applies.

The Secretary determines which agents and toxins present a threat and whether the countermeasures are "more likely" to be developed with the application of the incentives in the legislation. The Secretary may determine that an agent or toxin does not present a threat or that countermeasures are not more likely to be developed with the incentives. It may determine that the government itself should fund the research and development effort and not rely on private companies. The Department is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The legislation includes an illustrative, non-binding list of fifty-four agents and toxins that might be included on the Secretary's list. The decisions of the Secretary are final and are not subject to judicial review.

The Department then must provide information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. It may exempt from publication such information as it deems to be sensitive.

The Department also must specify the government market that will be available when a countermeasure is successfully developed, including the minimum number of dosages that will be purchased, the minimum price per dose, and the timing and number of years projected for such purchases. Authority is provided for the Department to make advance, partial, progress, milestone, or other payments to the manufacturers.

The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure. It must provide information in sufficient detail so that manufacturers and the government may determine when the manufacturer has successfully developed the countermeasure the government needs. If and when the manufacturer has successfully developed the countermeasure, it becomes entitled to the procurement, patent, and liability incentives in the legislation.

Once the list of agents and toxins is set, companies may register with the Department their intent to undertake research and development of a countermeasure to prevent or treat the agent or toxin. This registration is required only for companies that seek to be eligible for the tax, purchase, patent, and liability provisions of the legislation. The registration requirement gives the Department vital information about the research effort and the personnel involved with the research, authorizes inspections and other review of the research effort, and the filing of reports by the company.

The Secretary then may certify that the company is eligible for the tax, purchase, patent, and liability incentives in the legislation. It bases this certification on the qualifications of the company to conduct the countermeasure research. Eligibility for the purchase fund, patent and liability incentives is contingent on successful development of a countermeasure according to the standards set in the legislation, as determined by the Secretary.

The legislation contemplates that a company might well register and seek certification with respect to more than one research project and become eligible for the tax, purchase, patent, and liability incentives for each. There is no policy rationale for limiting a company to one registration and one certification.

This process is similar to the current registration process for research on orphan, rare, diseases. In that case, companies that are certified by the FDA become eligible for both tax and market exclusivity incentives. This process gives the government complete control on the number of registrations and certifications. This gives the government control over the cost and impact of the legislation on private sector research.

The registration and certification process applies to research to develop diagnostics and research tools, not just drugs and vaccines.

Diagnostics are vital because healthcare professionals need to know which agent or toxin has been used in an attack. This enables them to determine which treatment strategy is likely to be most effective. We need quickly to determine which individuals have been exposed or infected, and to separate them from the "worried well." It is likely in an attack that large numbers of individuals who have not been exposed or infected will flood into healthcare facilities seeking treatment. We need to be able to focus on those individuals who are at risk and reassure those who are not at risk.

In terms of research tools, it is possible that we will face biological agents and chemical agents we have never seen before. As I've mentioned, the Soviet Union bioterror research focused in part on use of genetic modification technology to develop agents and toxins that currently-available antibiotics can not treat. Australian researchers accidentally created a modified mousepox virus, which does not affect humans, but it was 100 percent lethal to the mice. Their research focused on trying to make a mouse contraceptive vaccine for pest control. The surprise was that it totally suppressed the "cell-mediated response"—the arm of the immune system that combats viral infection. To make matters worse, the engineered virus also appears unnaturally resistant to attempts to vaccinate the mice. A vaccine that would normally protect mouse strains that are susceptible to the virus only worked in half the mice exposed to the killer version. If bioterrorists created a human version of the virus, vaccination programs would be of limited use. This highlights the drawback of working on vaccines against bioweapons rather than treatments.

With the advances in gene sequencing—genomics—we will know the exact genetic structure of a biological agent. This information in the wrong hands could easily be manipulated to design and possibly grow a lethal new bacterial and viral strains not found in nature. A scientist might be able to mix and match traits from different microorganisms—called recombinant technology—to take a gene that makes a deadly toxin from one strain of bacteria and introduce it into other bacterial strains. Dangerous pathogens or infectious agents could be made more deadly, and relatively benign agents could be designed as major public health problems. Bacteria that cause diseases such as anthrax could be altered in such a way that would make current vaccines or antibiotics against them ineffective. It is even possible that a scientist could develop an organism that develops resistance to antibiotics at an accelerated rate.

This means we need to develop technology—research tools—that will enable us to quickly develop a tailor-made, specific countermeasure to a previously unknown organism or agent. These research tools will enable us to develop a tailor-made vaccine or drug to deploy as a countermeasure against a new threat. The legislation authorizes companies to register and receive a certification making them eligible for the incentives in the bill for this vital research.

The legislation includes four tax incentives to enable biotechnology and pharmaceutical companies to form capital to fund research and development of countermeasures. Companies must irrevocably elect only one of the incentives with regard to the countermeasure research.

Four different tax incentives are available so that companies have flexibility in forming capital to fund the research. Each of the options comes with advantages and limitations that may make it appropriate or inappropriate for a given company or research project. We do not now know fully how investors and capital markets will respond to the different options, but we assume that companies will consult with the investor community about which option will work best for a given research project. Capital markets are diverse and investors have different needs and expectations. Over time these markets and investor expectations evolve. If companies register for more than one research project, they may well utilize different tax incentives for the different projects.

Companies are permitted to undertake a series of discrete and separate research projects and make this election with respect to each project. They may only utilize one of the options with respect to each of these research projects.

The first option is for the company to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. For example, under this arrangement, the research and development tax credits and depreciation deductions for the company may be passed by the corporation through to its partners to be used to offset their individual tax liability. These deductions and credits are then lost to the corporation. This alternative is available only to companies with less than $750,000,000 in paid-in capital.

The second option is for the company to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock held for at least three years. This is a modification of the current Section 1202 where only 50 percent of the gains are not taxed. This provision is adapted from legislation I have introduced, S. 1134, and introduced in the House by Representatives DUNN and MATSUI, H.R. 2383. A similar bill has been introduced by Senator COLLINS, S. 455. This option also is available to small companies.

The third and fourth options grant special tax credits to the company for the research. The first credit is for research conducted by the company and the other for research conducted at a teaching hospital or similar institution. Tax credits are available to any company, but they only are useful to a company with tax liability against which to claim the credit. Very few biotechnology companies receive revenue from product sales and therefore have no tax liability. Companies with revenue may be able to fund the research from retained earnings rather than secure funding from investors.

A company that elects to utilize one of these incentives is not eligible to receive benefits of the Orphan Drug Tax Credit. Companies that can utilize tax credits—companies with taxable income and tax liability—might find the Orphan Credit more valuable. The legislation includes an amendment to the Orphan Credit to correct a defect in the current credit. The amendment has been introduced in the Senate as S. 1341 by Senators HATCH, KENNEDY and JEFFORDS. The amendment simply states that the Credit is available starting the day an application for orphan drug status is filed, not the date the FDA finally acts on it. The amendment was one of many initiatives championed by Lisa J. Raines, who died on September 11 in the plane that hit the Pentagon, and the amendment is named in her honor. As we go forward in the legislative process, I hope we will have an opportunity to speak in more detail about the service of Ms. Raines on behalf of medical research, particularly on rare diseases.

The guaranteed purchase fund, and the patent protections, and liability provisions described below provide an additional incentive for investors and companies to fund the research.

The market for countermeasures is speculative and small. This means that if a company successfully develops a countermeasure, it may not receive sufficient revenue on sales to justify the risk and expense of the research. This is why the legislation establishes a countermeasures purchase fund that will define the market for the products with some specificity before the research begins.

The Secretary will set standards for which countermeasures it will purchase and define the financial terms of the purchase commitment. This will enable companies to evaluate the market potential of its research before it launches into the project. The specifications will need to be set with sufficient specificity so that the company—and its investors—can evaluate the market and with enough flexibility so that it does not inhibit the innovativeness of the researchers. This approach is akin to setting a performance standard for a new military aircraft.

The legislation provides that the Secretary will determine whether the government will purchase more than one product per class. It might make sense—as an incentive—for the government to commit to purchasing more than one product so that many more than one company conducts the research. A winner-take-all system may well intimidate some companies and we may end up without a countermeasure to be purchased. It is also possible that we will find that we need more than one countermeasure because different products are useful for different patients. We may also find that the first product developed is not the most effective.

The purchase commitment for countermeasures is available to any company irrespective of its paid-in capital.

Intellectual property protection of research is essential to biotechnology and pharmaceutical companies for one simple reason: they need to know that if they successfully develop a medical product another company cannot expropriate it. It's a simple matter of incentives.

The patent system has its basis in the U.S. Constitution where the federal government is given the mandate to "promote the Progress of Science and the Useful Arts by securing for a limited time to Authors and Inventors the exclusive right to their respective Writings and Discoveries." In exchange for full disclosure of the terms of their inventions, inventors are granted the right to exclude others from making, using, or selling their inventions for a limited period of time. This quid pro quo provides investors with the incentive to invent. In the absence of the patent law, discoverable inventions would be freely available to anyone who wanted to use them and inventors would not be able to capture the value of their inventions or secure a return on their investments.

The patent system strikes a balance. Companies receive limited protection of their inventions if they are willing to publish the terms of their invention for all to see. At the end of the term of the patent, anyone can practice the invention without any threat of an infringement action. During the term of the patent, competitors can learn from the published description of the invention and may well find a new and distinct patentable invention.

The legislation provides two types of intellectual property protection. The first simply provides that the term of the patent on the countermeasure will be the term of the patent granted by the Patent and Trademark Office without any erosion due to delays in approval of the product by the Food and Drug Administration. The second provides that a company that successfully develops a countermeasure will receive a bonus of two years on the term of any patent held by that company. Companies must elect one of these two protections, but only small biotechnology companies may elect the second protection. Large, profitable pharmaceutical companies may elect only the first of the two options.

The first protection against erosion of the term of the patent is an issue that is partially addressed in current law, the Hatch-Waxman Patent Term Restoration Act. That act provides partial protection against erosion of the term, length, of a patent when there are delays at the FDA in approving a product. The erosion occurs when the PTO issues a patent before the product is approved by the FDA. In these cases, the term of the patent is running but the company cannot market the product. The Hatch-Waxman Act provides some protections against erosion of the term of the patent, but the protections are incomplete. As a result, many companies end up with a patent with a reduced term, sometimes substantially reduced.

The issue of patent term erosion has become more serious due to changes at the PTO in the patent system. The term of a patent used to be fixed at 17 years from the date the patent was granted by the PTO. It made no difference how long it took for the PTO to process the patent application and sometimes the processing took years, even decades. Under this system, there were cases where the patent would issue before final action at the FDA, but there were other cases where the FDA acted to approve a product before the patent was issued. Erosion was an issue, but it did not occur in many cases.

Since 1995 the term of a patent has been set at 20 years from the date of application for the patent. This means that the processing time by the PTO of the application all came while the term of the patent is running. This gives companies a profound incentive to rush the patent through the PTO. Under the old system, companies had the opposite incentive. With patents being issued earlier by the PTO, the issue of erosion of patent term due to delays at the FDA is becoming more serious and more common.

The provision in the legislation simply states that in the case of bioterrorism countermeasures, no erosion in the term of the patent will occur. The term of the patent at the date of FDA approval will be the same as the term of the patent when it was issued by the PTO. There is no extension of the patent, simply protections against erosion. Under the new 20 year term, patents might be more or less than 17 years depending on the processing time at the PTO, and all this legislation says is that whatever term is set by the PTO will govern irrespective of the delays at the FDA. This option is available to any company that successfully develops a countermeasure eligible to be purchased by the fund.

The second option, the bonus patent term, is only available to small companies with less than $750,000,000 in paid-in capital. It provides that a company that successfully develops a countermeasure is entitled to a two-year extension of any patent in its portfolio. This does not apply to any patent of another company bought or transferred in to the countermeasure research company.

I am well aware that this bonus patent term provision will be controversial with some. A company would tend to utilize this option if it owned the patent on a product that still had, or might have, market value at the end of the term of the patent. Because this option is only available to small biotechnology companies, most of whom have no product on the market, in most cases they would be speculating about the value of a product at the end of its patent. The company might apply this provision to a patent that otherwise would be eroded due to FDA delays or it might apply it to a patent that was not eroded. The result might be a patent term that is no longer than the patent term issued by the PTO. It all depends on which companies elect this option and which patent they select. In some cases, the effect of this provision might be to delay the entry onto the market of lower priced generics. This would tend to shift some of the cost of the incentive to develop a countermeasure to insurance companies and patients with an unrelated disease.

My rationale for including the patent bonus in the legislation is simple: I want this legislation to say emphatically that we mean business, we are serious, and we want biotechnology companies to reconfigure their research portfolios to focus in part on development of countermeasures. The other provisions in the legislation are powerful, but they may not be sufficient.

This proposal protects companies willing to take the risks of producing anti-terrorism products for the American public from potential losses incurred from lawsuits alleging adverse reactions to these products. It also preserves the right for plaintiffs to seek recourse for alleged adverse reactions in Federal District Court, with procedural and monetary limitations.

Under the plan, the Secretary of HHS is required to indemnify and defend entities engaged in qualified countermeasure research through execution of "indemnification and defense agreements." This protection is only available for countermeasures purchased under the legislation or to use of such countermeasures as recommended by the Surgeon General in the event of a public health emergency.

The legislation contains a series of provisions designed to enhance countermeasure research.

The legislation provides for accelerated approval by the FDA of countermeasures developed under the legislation. In most cases, the products would clearly qualify for accelerated approval, but the legislation ensures that they will be reviewed under this process.

It provides a statutory basis for the FDA approving countermeasures where human clinical trials are not appropriate or ethical. Rules regarding such products have been promulgated by the FDA.

It grants a limited antitrust exemption for certain cooperative research and development of countermeasures.

It provides incentives for the construction of biologics manufacturing facilities and research to increase the efficiency of current biologics manufacturing facilities.

It enhances the synergy between our for-profit and not for profit biomedical research entities. The Bayh-Dole Act and Stevenson-Wydler Act form the legal framework for mutually beneficially partnerships between academia and industry. My legislation strengthens this synergy and these relationships with two provisions, one to upgrade the basic research infrastructure available to conduct research on countermeasures and the other to increase cooperation between the National Institutes of Health and private companies.

Research on countermeasures necessitates the use of special facilities where biological agents can be handled safely without exposing researchers and the public to danger. Very few academic institutions or private companies can justify or capitalize the construction of these special facilities. The Federal government can facilitate research and development of countermeasures by financing the construction of these facilities for use on a fee-for-service basis. The legislation authorizes appropriations for grants to non-profit and for-profit institutions to construct, maintain, and manage up to ten Biosafety Level 3-4 facilities, or their equivalent, in different regions of the country for use in research to develop countermeasures. BSL 3-4 facilities are ones used for research on indigenous, exotic or dangerous agents with potential for aerosol transmission of disease that may have serious or lethal consequences or where the agents pose high risk of life-threatening disease, aerosol-transmitted lab infections, or related agents with unknown risk of transmission. The Director of the Office and NIH shall issue regulations regarding the qualifications of the researchers who may utilize the facilities. Companies that have registered with and been certified by the Director—to develop countermeasures under Section 5 (d) of the legislation—shall be given priority in the use of the facilities.

The legislation also reauthorizes a very successful NIH-industry partnership program launched in FY 2000 in Public Law 106-113. The funding is for partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures, as defined in Section 3 of the bill, and research tools, as defined in Section 4(d)(3) of the bill. Such grants shall be awarded on a one-for-one matching basis. So far the matching grants have focused on development of medicines to treat malaria, tuberculosis, emerging and resistant infections, and therapeutics for emerging threats. My proposal should be matched by reauthorization of the challenge grant program for these deadly diseases.

The legislation also sets incentives for the development of adjuvents to enhance the potency, and efficacy of antigens in responding to a biological agent.

It requires the new Department to issue annual reports on the effectiveness of this legislation and these incentives, and directs it to host an international conference each year on countermeasure research.

This legislation is carefully calibrated to provide incentives only where they are needed. This accounts for the choices in the legislation about which provisions are available to small biotechnology companies and large pharmaceutical companies.

The legislation makes choices. It sets the priorities. It provides a dose of incentives and seeks a response in the private sector. We are attempting here to do something that has not been done before. This is uncharted territory. And is also an urgent mission.

There may be cases where a countermeasure developed to treat a biological toxin or chemical agent will have applications beyond this use. A broad-spectrum antibiotic capable of treating many different biological agents may well have the capacity to treat naturally occurring diseases.

This same issue arises with the Orphan Drug Act, which provides both tax and FDA approval incentives for companies that develop medicines to treat rare diseases. In some cases these treatments can also be used for larger disease populations. There are few who object to this situation. We have come to the judgment that the urgency of this research is worth the possible additional benefits that might accrue to a company.

In the context of research to develop countermeasures, I do not consider it a problem that a company might find a broader commercial market for a countermeasure. Indeed, it may well be the combination of the incentives in this legislation and these broader markets that drives the successful development of a countermeasure. If our intense focus on developing countermeasures, and research tools, provides benefits for mankind going well beyond terror weapons, we should rejoice. If this research helps us to develop an effective vaccine or treatment for AIDS, we should give the company the Nobel Prize for Medicine. If we do not develop a vaccine or treatment for AIDS, we may see 100 million people die of AIDS. We also have 400 million people infected with malaria and more than a million annual deaths. Millions of children die of diarrhea, cholera and other deadly and disabling diseases. Countermeasures research may deepen our understanding of the immune system and speed development of treatments for cancer and autoimmune diseases. That is not the central purpose of this legislation, but it is an additional rationale for it.

The issue raised by my legislation is very simple: do we want the Federal government to fund and supervise much of the research to develop countermeasures or should we also provide incentives that make it possible for the private sector, at its own expense, and at its own risk, to undertake this research for good business reasons. The Frist-Kennedy law focuses effectively on direct Federal funding and coordination issues, but it does not include sufficient incentives for the private sector to undertake this research on its own initiative. That law and my legislation are perfectly complimentary. We need to enact both to ensure that we are prepared for bioterror attacks.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### BIOLOGICAL, CHEMICAL AND RADIOLOGICAL WEAPONS COUNTERMEASURES RESEARCH ACT OF 2003

SENATORS LIEBERMAN AND HATCH, CONGRESSMEN TOM DAVIS, CAL DOOLEY, CURT WELDON, AND NORM DICKS

The legislation proposes incentives that will enable biotechnology and pharmaceutical companies to take the initiative—for good business reasons—to conduct research to develop countermeasures, including diagnostics, therapeutics, and vaccines, to treat those who might be exposed to or infected by biological, chemical or radiological agents and materials in a terror attack.

The premise of this legislation is that direct government funding of this research is likely to be much more expensive and risky to the government and less likely to produce the countermeasures we need to defend America. Shifting some of the expense and risk of this research to entrepreneurial private sector firms is likely to be less expensive and much more likely to produce the countermeasures we need to protect ourselves in the event of an attack.

For biotechnology companies, incentives for capital formation are needed because most such companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. These companies must focus on research that will lead to product sales and revenue and end their dependence on investor capital. When they are able to form the capital to fund research, biotech companies tend to be innovative and nimble and focused on the intractable diseases for which no effective medical treatments are available. Special research credits for pharmaceutical companies are also needed.

For both biotech and pharmaceutical companies, there is no established or predictable market for these countermeasures. Investors and companies are justifiably reluctant to fund this research, which will present technical challenges similar in complexity to development of effective treatments for AIDS. Investors and companies need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases or from other investments.

President Bush's BioShield initiative is designed to establish a predictable market for these countermeasures. This legislation provides a template for implementation of BioShield and supplements it with additional incentives to ensure that the industry is enthusiastically engaged in this vital research.

The legislation provides tax incentives to enable companies to form capital to conduct the research and tax credits usable by larger companies with tax liability with respect to which to claim the credits. It provides a guaranteed and pre-determined market for the countermeasures and special intellectual property protections to serve as a substitute for a market. Finally, it establishes liability protections for the countermeasures that are developed.

Section 3 of the legislation is drafted as an amendment to the Homeland Security Act of 2002 (HSA)(P.L. 107-296). Section 2 sets forth findings and sections 4-9 are drafted as amendments to other statutes.

1. Setting Research Priorities (Section 1811 of HSA): The Department of Homeland Security sets the countermeasure research priorities in advance. It focuses the priorities on threats for which countermeasures are needed, and with regard to which the incentives make it "more likely" that the private sector will conduct the research to develop countermeasures. It is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The Department then provides information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure.

2. Registration of Companies (Section 1812 of HSA): Biotechnology and pharmaceutical companies register with the Department to become eligible for the incentives in the legislation. They are obligated to provide reports to the Department as requested and be open to inspections. The Department certifies which companies are eligible for the incentives.

Once a company is certified as eligible for the incentives, it becomes eligible for the tax incentives for capital formation, and if it successfully develops a countermeasure that meets the specifications of the Department, it becomes eligible for the procurement, patent, and liability provisions.

3. Diagnostics (Sections 1813 and 1814 of HSA): The incentives apply to development of detection systems and diagnostics, as well as drugs, vaccines and other needed countermeasures.

4. Research Tools (Section 1815 of HSA): A company is also eligible for certification for the tax and patent provisions if it seeks to develop a research tool that will make it possible to quickly develop a countermeasure to a previously unknown agent or toxin, or an agent or toxin not targeted by the Department for research.

5. Capital Formation for Countermeasures Research (Section 1821 of HSA; also section 4 of the legislation): The legislation provides that a company seeking to fund research is eligible to elect from among four tax incentives. The companies are eligible to:

(a). Establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners.

(b). Issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock.

(c). Receive a special tax credit to help fund the research.

(d). Receive a special tax credit for research conducted at a non-profit and academic research institution.

A company must elect only one of these incentives and, if it elects one of these incentives, it is then not eligible to receive benefits under the Orphan Drug Act. The legislation includes amendments (Section 9 of this legislation) to the Orphan Drug Act championed by Senators Hatch, Kennedy and Jeffords (S. 1341). The amendments make the Credit available from the date of the application for Orphan Drug status, not the date the application is approved as provided under current law.

6. Countermeasure Purchase Fund (Section 1822 of HSA): The legislation provides that a company that successfully develops a countermeasure—through FDA approval—is eligible to sell the product to the Federal government at a pre-established price and in a predetermined amount. The company is given notice of the terms of the sale before it commences the research.

7. Intellectual Property Incentives (Section 1823 of HSA; also section 5 of this legislation): The legislation provides that a company that successfully develops a countermeasure is eligible to elect one of two patent incentives. The two alternatives are as follows:

(a). The company is eligible to receive a patent for its invention with a term as long as the term of the patent when it was issued by the Patent and Trademark Office, without any erosion due to delays in the FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital.

(b). The company is eligible to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive for small biotechnology companies with less than $750 million in paid-in capital, or, at the discretion of the Department of Homeland Security, to any firm that successfully develops a countermeasure.

In addition, a company that successfully develops a countermeasure is eligible for a 10-year period of market exclusivity on the countermeasure.

8. Indemnification Protections (Section 1824 of HSA; also Section 10 of the legislation): The legislation provides for indemnifications for liability for the company that successfully develops a countermeasure.

9. Accelerated Approval of Countermeasure (Section 1831 of HSA): The countermeasures are considered for approval by the FDA on a “fast track” basis.

10. Special Approval Standards (Section 6 of this legislation: The countermeasures may be approved in the absence of human clinical trails if such trails are impractical or unethical.

11. Limited Antitrust Exemption (Section 7 of this legislation): Companies are granted a limited exemption from the antitrust laws as they seek to expedite research on countermeasures.

12. Biologics Manufacturing Capacity and Efficiency (Section 1832 and 1833 of HSA; and section 8 of this legislation): Special incentives are incorporated to ensure that manufacturing capacity is available for countermeasures.

13. Strengthening of Biomedical Research Infrastructure (Section 1834 and 1835 of HSA): Authorizes appropriations for grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger (Section 216). Also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures and research tools (Section 217).

14. Annual Report (Section 1841 of HSA): The Department is required to prepare for the Congress an annual report on the implementation of these incentives.

15. International Conference (Section 1842 of HSA): The Department is required to organize an annual international conference on countermeasure research.

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By Mr. GRASSLEY (for himself, Mr. Hagel, Mr. Dorgan, Mr. Johnson, and Mr. Daschle):

S. 667. A bill to amend the Food Security Act of 1985 to strengthen payment limitations for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, the American people recognize the importance of the family farmer to our Nation, and the need to provide an adequate safety net for family farmers. In recent years, however, assistance to farmers has come under increasing scrutiny.

Critics of farm payments have argued that the largest corporate farms reap most of the benefits of these payments. The reality is, over 60 percent of the payments have gone to only 10 percent of our Nation's farmers.

What's more, farm payments that were originally designed to benefit small and medium-sized family farmers have contributed to their own demise. Unlimited farm payments have placed upward pressure on land prices and have contributed to overproduction and lower commodity prices, driving many family farmers off the farm.

The Senate agreed, by an overwhelming vote of 66 to 31, to a bipartisan amendment sponsored by Senators Dorgan and myself to target federal assistance to small and medium-sized family farmers. The amendment would have limited direct and counter-cyclical payments to $75,000. It would have limited gains from marketing loans and LDPs to $150,000, and generic certificates would have been included in this limit. That would have limited farm payments to a combined total of $275,000.

That amendment was critical to family farmers in Iowa. I feel strongly the farm bill failed Iowa when it failed to effectively address the issue of payment limitations. This is our chance to remedy the problem.

This bi-partisan legislation provides a limit of $40,000 for direct payments, $60,000 for counter-cyclical payments, and $175,000 for LDPs and marketing loan gains. The combined limit is $275,000.

I urge my colleagues to support this bi-partisan legislation and to encourage the development of reasonable, legitimate payment limits.

I ask unanimous consent the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 667

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PAYMENT LIMITATIONS.**

Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b)(1), by striking “$40,000” and inserting “$20,000”;

(2) in subsection (c)(1), by striking “$65,000” and inserting “$30,000”;

(3) by striking “(d)” and all that follows through the end of paragraph (1) and inserting the following:

“(d) Limitations on Marketing Loan Gains, Loan Deficiency Payments, and Commodity Certificate Transactions.—

“(1) Loan commodities.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed $87,500:

“(A)(i) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) at a lower level than the original loan rate established for the loan commodity under that subtitle.

“(ii) In the case of settlement of a marketing assistance loan for 1 or more loan commodities under that subtitle by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

“(B) Any loan deficiency payments received for 1 or more loan commodities under that subtitle.

“(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle.”; and

(4) by adding at the end the following:

“(h) Single Farming Operation.—

“(1) In general.—Notwithstanding subsections (b) through (d), subject to paragraph (2), if a person participates only in a single farming operation and receives, directly or indirectly, any payment or gain covered by this section through the operation, the total amount of payments or gains (as applicable) covered by this section that the person may receive during any crop year may not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d).

“(2) Individuals.—The total amount of payments or gains (as applicable) covered by this section that an individual person may receive during any crop year may not exceed $275,000.

“(i) Spouse Equity.—Notwithstanding subsections (b) through (d), except as provided in subsection (e)(2)(C)(i), if an individual and spouse are covered by subsection (e)(2)(C) and receive, directly or indirectly, any payment or gain covered by this section, the total amount of payments or gains (as applicable) covered by this section that the individual and spouse may jointly receive during any crop year may not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d).

"(j) Regulations.—

"(1) In general.—Not later than July 1, 2003, the Secretary shall promulgate regulations—

"(A) to ensure that total payments and gains described in this section made to or through joint operations or multiple entities under the primary control of a person, in combination with the payments and gains received directly by the person, shall not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d);

"(B) in the case of a person that in the aggregate owns, conducts farming operations, or provides custom farming services on land with respect to which the aggregate payments received by the person exceed the applicable dollar amounts specified in subsections (b), (c), and (d), to attribute all payments and gains made to the person on crops produced on the land to—

"(i) a person that rents land for a share of the crop that is less than the usual and customary rate, as determined by the Secretary;

"(ii) a person that provides custom farming services through arrangements under which—

"(I) all or part of the compensation for the services is at risk;

"(II) farm management services are provided by—

"(aa) the same person;

"(bb) an immediate family member; or

"(cc) an entity or individual that has a business relationship that is not an arm's length relationship, as determined by the Secretary; or

"(III) more than ⅔ of all payments received for custom farming services are received by—

"(aa) the same person;

"(bb) an immediate family member; or

"(cc) an entity or individual that has a business relationship that is not an arm's length relationship, as determined by the Secretary; or

"(iii) a person under such other arrangements as the Secretary determines are established to transfer payments from persons that would otherwise exceed the applicable dollar amounts specified in subsections (b), (c), and (d); and

"(C) to ensure that payments attributed under this section to a person other than the direct recipient shall also count toward the limit of the direct recipient.

"(2) Primary control.—The regulations under paragraph (1) shall define 'primary control' to include a joint operation or multiple entity in which a person owns an interest that is greater than the total interests held by other persons that materially participate on a regular, substantial, and continuous basis in the management of the operation or entity.".

**SEC. 2. REGULATIONS.**

(a) In General.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) Procedure.—The promulgation of the regulations and administration of this Act and the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Mr. DORGAN. Mr. President, I rise today to co-sponsor a bill that imposes meaningful farm payment limitations.

A gentleman from Arkansas is the principal landlord of a 61,000-acre farm. Although he serves as president of a tractor dealership with sales over $30 million, this "farmer" received $38 million in farm subsidies over 5 years. Stories like these about corporate farmers who received millions of dollars in Federal agriculture payments undermine support for the real purpose of our farm program: to help family farmers.

What do I mean by family farmers? I am talking about people out there living in a rural community, trying to raise a family and trying to operate a family farm and trying to raise enough food to support themselves. They go to town and buy their supplies, keeping small town life not only viable, but also vibrant. I am talking about a network of food producers scattered across this country that represents, in my judgment, food security for our country.

And this goal of helping family farmers with a safety net in the form of farm program payments during tough times is something that has become much different over a long period of time. It is not the case that we are fighting over farm program payments for family farmers.

But regrettably, millions of dollars of farm payments are not going to small towns and family farms. They are going to big cities and corporate America. They are going to that millionaire farmer in Arkansas, to Ted Turner, and city dwellers who visit their farm twice a year. The biggest operations keep getting the bulk of the farm benefits while the small farmers are getting squeezed out of the rural areas. When this happens, the family farm operation can't compete with the larger enterprises because of the financial disadvantages.

My fear is that if we do not do something about this problem, the American people are going to push back on this issue and say, "This is not why we are paying taxes. We really support family farms. We believe family farms are important for America. But we don't believe we are paying taxes so you can transfer money to the tune of millions, even hundreds of millions, to those who need it least and ought not be getting farm payments."

So I am co-sponsoring this legislation. This bill would impose modest limits on the amount of farm payments that any farm operation can receive in one year. These limits would have virtually no impact on family farms and would strengthen our agriculture program by targeting the payments to these smaller operations.

Here are the limitations that my bill would impose: the bill would limit direct payments to producers to $40,000. Limits on counter-cyclical payments would be $60,000. The bill limits Marketing Loan Gains and Loan Deficiency Payments to $175,000. The overall limit for a farm is $275,000. The limits would save the Federal Government more than $1 billion over 10 years.

In times of budget deficits, government expenditures need to be targeted to those who need it most. Fortune 500 companies aren't the intended targets of farm legislation, family farmers are. Limiting farm payments to those who provide the food security of this country ought to be the farm policy of this country and this legislation is a step in that direction.

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By Mr. REED (for himself, Mr. Dodd, Mr. Kennedy, and Mrs. Murray):

S. 668. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Child Care Quality Incentive Act of 2003.

This legislation seeks to address low child care payment or reimbursement rates. Payment rates determine the level at which States will reimburse child care providers who care for those low-income children who receive a subsidy.

Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. Low payment rates mean limited parental access to quality child care.

Child care providers are also affected when rates are set below the market rate. Low payment rates force child care providers serving low-income children to cut corners in ways that lower the quality of child care such as reducing staff or decreasing salaries and benefits, eliminating professional development opportunities, and forgoing books and other literacy materials. Providers who avoid this route may simply not accept low-income children with subsidies or may even go out of business.

These dilemmas can be avoided if we help states set payment rates that keep pace with the marketplace.

Currently, the Child Care and Development Block Grant, CCDBG, requires States to ensure that their rates are sufficient to "ensure equal access" for eligible families to child care services comparable to those available to non-eligible families in the private market.

CCDBG regulations require states to conduct market rate surveys every other year, but there is no requirement for states to actually use the market rate surveys to set payment rates.

Unfortunately, more than half of the States do not make payment rates based on the 75th percentile, by which families could access care from 75 out of 100 local providers, of a current market survey.

The need for quality child care has never been greater, as our welfare reform policy directs more of our low-income families to find work and our educational policy demands more of our students and schools. Yet, States, due to severe budget crunches, are cutting back on rates and other quality initiatives and restricting eligibility for subsidies.

I am pleased to be joined by Senators Dodd, Kennedy, and Murray in once again introducing the Child Care Quality Incentive Act, which seeks to redouble our child care efforts and renew the child care partnership with the States by providing incentive funding to increase payment rates.

Our legislation establishes a new, mandatory pool of funding under the Child Care and Development Block Grant, CCDBG. This new funding, coupled with mandatory, current market rate surveys, will form the foundation for significant increases in state payment rates for the provision of quality child care.

We have received overwhelming support for this bill from the child care community, including endorsements from USA Child Care, Children's Defense Fund, Catholic Charities of USA, YMCA of USA, the National Child Care Association, and a host of organizations and agencies across the country.

Children are the hope of America, and they need the best of America. We cannot ask working families to choose between paying the rent, buying food, and being able to afford the quality care their children need. We've made a lot of progress in improving the health, safety, and well-being of children in this country. If we are serious about putting parents to work and protecting children, we must invest more in child care help for families.

This year, Congress is slated to reauthorize the Child Care and Development Block Grant. The time for action on rates is now. I urge my colleagues to join Senators Dodd, Kennedy, Murray, and me in this endeavor to improve the quality of child care by cosponsoring the Child Care Quality Incentive Act and working to include its provisions in the CCDBG reauthorization.

I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 668

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Quality Incentive Act of 2003".

### SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress makes the following findings:

(1) Recent research on early brain development reveals that much of a child's growth is determined by early learning and nurturing care. Research also shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater likelihood of long-term economic and social self-sufficiency.

(2) Each day an estimated 13,000,000 children, including 6,000,000 infants and toddlers, spend some part of their day in child care. However, a study in 4 States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that threatens the safety and health of children.

(3) Full-day child care can cost $4,000 to $12,000 per year.

(4) Although Federal assistance is available for child care, funding is severely limited. Even with Federal subsidies, many families cannot afford child care. For families with young children and a monthly income under $1,200, the cost of child care typically consumes 25 percent of their income.

(5) Payment (or reimbursement) rates, which determine the maximum the State will reimburse a child care provider for the care of a child who receives a subsidy, are too low to ensure that quality care is accessible to all families.

(6) Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. In many instances, low payment rates force child care providers serving low-income children to cut corners in ways that impact the quality of care for the children, including reducing the number of staff, eliminating professional development opportunities, and cutting enriching educational activities and services.

(7) Children in low-quality child care are more likely to have delayed reading and language skills, and display more aggression toward other children and adults.

(8) Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, maintain a safe and healthy environment, and purchase basic supplies, children's literature, and developmentally appropriate educational materials.

(b) Purpose.—The purpose of this Act is to improve the quality of, and access to, child care by increasing child care payment rates.

### SEC. 3. PAYMENT RATES.

Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) in subparagraph (A), by striking "to comparable child care services" and inserting "to child care services that are comparable (in terms of quality and types of services provided) to child care services"; and

(3) by inserting after subparagraph (A) the following:

"(B) Payment rates.—

"(i) Surveys.—In order to provide the certification described in subparagraph (A), the State shall conduct statistically valid and reliable market rate surveys (that reflect variations in the cost of child care services by locality), in accordance with such methodology standards as the Secretary shall issue. The State shall conduct the surveys not less often than at 2-year intervals, and use the results of such surveys to implement, not later than 1 year after conducting each survey, payment rates described in subparagraph (A) that ensure equal access to comparable services as required by subparagraph (A).

"(ii) Cost of living adjustments.—The State shall adjust the payment rates at intervals between such surveys to reflect increases in the cost of living, in such manner as the Secretary may specify.

"(iii) Rates for different ages and types of care.—The State shall ensure that the payment rates reflect variations in the cost of providing child care services for children of different ages and providing different types of care.

"(iv) Public dissemination.—The State shall, not later than 30 days after the completion of each survey described in clause (i), make the results of the survey widely available through public means, including posting the results on the Internet.".

### SEC. 4. INCENTIVE GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

(a) Funding.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking "There" and inserting the following:

"(a) Authorization of Appropriations.—There";

(2) in subsection (a), by inserting "(other than section 658H)" after "this subchapter"; and

(3) by adding at the end the following:

"(b) Appropriation of Funds for Grants To Improve the Quality of Child Care.—Out of any funds in the Treasury that are not otherwise appropriated, there is authorized to be appropriated, and there is appropriated $500,000,000 for each of fiscal years 2004 through 2008, for the purpose of making grants under section 658H.".

(b) Use of Block Grant Funds.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (B), by striking "under this subchapter" and inserting "under this subchapter (other than section 658B(b))"; and

(2) in subparagraph (D), by inserting "(other than section 658H)" after "under this subchapter".

(c) Establishment of Program.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended by inserting "(other than section 658H)" after "this subchapter".

(d) Grants To Improve the Quality of Child Care.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting after section 658G the following:

### "SEC. 658H. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

"(a) Authority.—

"(1) In general.—The Secretary shall use the amount appropriated under section 658B(b) for a fiscal year to make grants to eligible States, and Indian tribes and tribal organizations, in accordance with this section.

"(2) Annual payments.—The Secretary shall make an annual payment for such a grant to each eligible State, and for Indian tribes and tribal organizations, out of the corresponding payment or allotment made under subsections (a), (b), and (e) of section 658O from the amount appropriated under section 658B(b).

"(b) ELIGIBLE STATES.—

"(1) IN GENERAL.—In this section, the term 'eligible State' means a State that—

"(A) has conducted a statistically valid survey of the market rates for child care services in the State within the 2 years preceding the date of the submission of an application under paragraph (2); and

"(B) submits an application in accordance with paragraph (2).

"(2) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, in addition to the information required under subparagraph (B), as the Secretary may require.

"(B) INFORMATION REQUIRED.—Each application submitted for a grant under this section shall—

"(i) detail the methodology and results of the State market rates survey conducted pursuant to paragraph (1)(A);

"(ii) describe the State's plan to increase payment rates from the initial baseline determined under clause (i);

"(iii) describe how the State will increase payment rates in accordance with the market survey results, for all types of child care providers who provide services for which assistance is made available under this subchapter;

"(iv) describe how payment rates will be set to reflect the variations in the cost of providing care for children of different ages and different types of care;

"(v) describe how the State will prioritize increasing payment rates for—

"(I) care of higher-than-average quality, such as care by accredited providers or care that includes the provision of comprehensive services;

"(II) care for children with disabilities and children served by child protective services; or

"(III) care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3));

"(vi) describe the State's plan to assure that the State will make the payments on a timely basis and follow the usual and customary market practices with regard to payment for child absentee days; and

"(vii) describe the State's plans for making the results of the survey widely available through public means.

"(3) CONTINUING ELIGIBILITY REQUIREMENT.—

"(A) SECOND AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a second or subsequent annual payment under this section only if the Secretary determines that the State has made progress, through the activities assisted under this subchapter, in maintaining increased payment rates.

"(B) THIRD AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a third or subsequent annual payment under this section only if the State has conducted, at least once every 2 years, an update of the survey described in paragraph (1)(A).

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, the State shall agree to make available State contributions from State sources toward the costs of the activities to be carried out by the State pursuant to subsection (c) in an amount that is not less than 20 percent of such costs.

"(B) DETERMINATION OF STATE CONTRIBUTIONS.—Such State contributions shall be in cash. Amounts provided by the Federal Government may not be included in determining the amount of such State contributions.

"(c) USE OF FUNDS.—

"(1) PRIORITY USE.—An eligible State that receives a grant under this section shall use the funds received to significantly increase the payment rate for the provision of child care assistance in accordance with this subchapter up to the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A).

"(2) ADDITIONAL USES.—An eligible State that demonstrates to the Secretary that the State has achieved a payment rate of the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A) may use funds received under a grant made under this section for any other activity that the State demonstrates to the Secretary will enhance the quality of child care services provided in the State.

"(3) SUPPLEMENT NOT SUPPLANT.—Amounts paid to a State under this section shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this subchapter or any other provision of law.

"(d) EVALUATIONS AND REPORTS.—

"(1) STATE EVALUATIONS.—Each eligible State shall submit to the Secretary, at such time and in such form and manner as the Secretary may require, information regarding the State's efforts to increase payment rates and the impact increased payment rates are having on the quality of child care in the State and the access of parents to high-quality child care in the State.

"(2) REPORTS TO CONGRESS.—The Secretary shall submit biennial reports to Congress on the information described in paragraph (1). Such reports shall include data from the applications submitted under subsection (b)(2) as a baseline for determining the progress of each eligible State in maintaining increased payment rates.

"(e) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall determine the manner in which and the extent to which the provisions of this section apply to Indian tribes and tribal organizations.

"(f) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of reimbursement to providers for subsidized child care.".

(e) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h(a)) is amended by inserting "from funds appropriated under section 658B(a)" after "section 658O".

(f) ALLOTMENT.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A)—

(A) by striking "section 658B" and inserting "section 658B(a)"; and

(B) by inserting "and from the amounts appropriated under section 658B(b) for each fiscal year remaining after reservations under subsection (a)," before "the Secretary shall allot"; and

(2) in subsection (e)—

(A) in paragraph (1), by striking "the allotment under subsection (b)" and inserting "an allotment made under subsection (b)"; and

(B) in paragraph (3), by inserting "corresponding" before "allotment".

## SUBMITTED RESOLUTIONS

### SENATE CONCURRENT RESOLUTION 24—CONCERNING A JOINT MEETING OF CONGRESS AND THE CULMINATING YEAR OF THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE KOREAN WAR

Mr. CAMPBELL submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

Whereas, 50 years ago, nearly 1,800,000 Americans answered the call to defend freedom in South Korea and fought the common foe of communism with 21 allied countries under the banner of the United Nations;

Whereas the United States suffered casualties of 36,577 killed, 103,284 wounded, and 8,166 still missing in action during the Korean War in some of the most horrific conditions in the history of warfare;

Whereas 2003 marks the final year of the United States' 50th Anniversary of the Korean War Commemoration;

Whereas our Korean War veterans did not receive the proper welcome home, thanks, or recognition for selfless service and sacrifice that had been given to veterans of previous wars;

Whereas the bravery and sacrifices of our Korean War veterans and their families and next of kin should be properly honored and recognized, and the American people wish to join in thanking and honoring Korean War veterans and their families;

Whereas it is important to include the history of the Korean War in the curricula of our schools so that future generations will learn about and appreciate the sacrifices of our Korean War heroes; and

Whereas the final year of the 50th Anniversary of the Korean War Commemoration should be recognized by a national effort of programs and activities to officially thank, honor, and welcome home our Korean War veterans, and to officially thank and honor their families and next of kin: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) shall assemble in the Chamber of the House of Representatives on [    ] for the purpose of declaring to the Nation and the world that the American people will never forget our veterans or those who served our Nation on the home front during the Korean War;

(2) designates 2003 as the Year of the Korean War Veteran;

(3) requests the President to issue a proclamation calling on the people of the United States to observe 2003 with appropriate ceremonies and activities to thank, honor, and welcome home our Korean War veterans; and

(4) urges the chief executives of the States, and the chief executives of the political subdivisions of the States, to issue a proclamation calling upon the citizens of such State or political subdivision to "Pause to Remember" our Korean War veterans and their families and next of kin with appropriate ceremonies and activities.

Mr. CAMPBELL. Mr. President, today I rise to call attention to an important milestone in our national history. Fifty-three years ago, armed forces from communist North Korea stormed across the 38th Parallel and brutally invaded South Korea. For the first time in history, a coalition of 21 nations' forces—most of them Americans—rallied under the aegis of the United Nations to join the South Korean Forces in staving off the communist challenge.

In the end, these heroes, fighting courageously under some of the most horrific conditions in the history of warfare, prevailed against the invading forces.

An Armistice ending the hostilities in Korea and forever halting the spread of international communism was signed fifty years ago on 27 July 1953.

During the Korean War approximately 1.8 million Americans fought in places like the Naktong Bulge, the Pusan perimeter, Inchon, Kunu-ri, the "Frozen Chosin", Pork Chop Hill and Heartbreak Ridge.

Nearly 37,000 Americans lost their lives, over 100,000 were wounded, and more than 8,000 were taken prisoner or went missing in action. Some 50 years later, approximately 8166 Americans remain missing in action from the Korean War.

Today, as we face the challenges of a new pending war and international terrorism we look with pride and respect to our Korean War veterans for their example of absolute dedication and sacrifice to the defense of freedom. Our Korean War veterans faced formidable odds and endured harsh and inhumane conditions in furthering our Nation's proud heritage of honor and valor in the face of overwhelming adversity.

As the United States marks the fiftieth Anniversary of the signing of the Armistice that ended the hostilities in South Korea, all Americans must "Pause to Remember" our Korean War veterans and their families and next of kin.

We thank and honor all Korean War veterans with hearts filled with pride. Today, the Republic of Korea stands as a proud testament to the sacrifices of 1.8 million Americans. Today, South Koreans enjoy a thriving economy and taste the fruits of a marvelous democracy. During the year 2003, let all Americans thank and honor our Korean War veterans for serving Freedom and Democracy with such distinction and valor.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 275. Mr. ROCKEFELLER (for himself, Ms. Collins, Mr. Nelson of Nebraska, Mr. Smith, Mr. Schumer, Mr. Edwards, Mrs. Clinton, Mrs. Hutchison, Mr. Bingaman, Mr. Corzine, Ms. Mikulski, Mr. Kohl, Mr. Kerry, Mr. Sarbanes, Mrs. Murray, Ms. Cantwell, Mr. DeWine, and Mr. Coleman) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

SA 276. Mr. SARBANES (for himself, Mr. Jeffords, Ms. Mikulski, and Mr. Graham of Florida) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 278. Mr. BIDEN (for himself, Mr. Schumer, Mrs. Clinton, Mr. Kerry, Mr. Rockefeller, Mr. Sarbanes, Mr. Johnson, Mr. Lautenberg, Mr. Dayton, Mr. Lieberman, Mr. Leahy, Mrs. Murray, Mr. Bayh, Mr. Corzine, Mr. Bingaman, Mr. Pryor, Ms. Cantwell, and Mr. Kohl) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 279. Mr. NICKLES (for Mr. Graham of South Carolina) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 280. Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 281. Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 282. Mr. BROWNBACK (for himself, Mr. Inhofe, Mr. Santorum, Mr. Cornyn, Mr. Sessions, Mr. Thomas, and Mr. Graham of South Carolina) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 283. Mrs. FEINSTEIN (for herself, Mr. Kyl, Mr. Bingaman, Mr. McCain, and Mr. Schumer) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 284. Mrs. MURRAY (for herself, Mr. Kennedy, Mr. Harkin, Mr. Bingaman, Mr. Kerry, Ms. Mikulski, Mr. Johnson, Mr. Sarbanes, Mr. Edwards, Mrs. Clinton, and Mr. Dodd) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 285. Mr. SCHUMER (for himself, Mr. Smith, and Mr. Biden) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 286. Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 287. Mr. SCHUMER (for himself and Ms. Snowe) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 288. Mr. KYL (for himself and Mr. Sessions) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 289. Mr. DODD (for himself, Mr. Lautenberg, and Ms. Landrieu) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 290. Mr. DODD (for himself and Mr. Kerry) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 291. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 292. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 293. Mr. HATCH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 294. Mr. DORGAN (for himself, Mr. Graham of Florida, and Ms. Stabenow) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 295. Mr. DORGAN (for himself, Mr. Kerry, and Ms. Landrieu) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 296. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 297. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 275.** Mr. ROCKEFELLER (for himself, Ms. Collins, Mr. Nelson of Nebraska, Mr. Smith, Mr. Schumer, Mr. Edwards, Mrs. Clinton, Mrs. Hutchison, Mr. Bingaman, Mr. Corzine, Ms. Mikulski, Mr. Kohl, Mr. Kerry, Mr. Sarbanes, Mrs. Murray, Ms. Cantwell, Mr. DeWine, and Mr. Coleman) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

At the appropriate place, insert the following:

**SEC. . SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.**

(a) Findings.—The Senate makes the following findings:

(1) States are experiencing the most severe fiscal crisis since World War II.

(2) States are instituting severe cuts to a variety of vital programs such as health care, child care, education, and other essential services.

(3) According to the Kaiser Commission on Medicaid and the Uninsured, 49 States already have taken actions or plan to cut medicaid before or during the current fiscal year 2003. Medicaid budget proposals in many States would eliminate or curtail health benefits for eligible families and substantially reduce or freeze provider reimbursement rates.

(4) In 2002, at least 13 States reported decreased State investments in their child care assistance programs.

(5) According to a forthcoming analysis of 22 States, at least 1,700,000 people are now at risk of losing their health care coverage under cuts that have already been implemented or proposed.

(6) Fiscal relief would help avoid adding even more Americans to the ranks of the uninsured while preserving the safety net when it is most needed during an economic downturn.

(7) Curtailing the States' need to cut spending and increase taxes is essential for true economic growth.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).

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**SA 276.** Mr. SARBANES (for himself, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3 line 10, increase the amount by $150,000,000.

On page 3 line 11, increase the amount by $451,000,000.

On page 3 line 12, increase the amount by $903,000,000.

On page 3 line 13, increase the amount by $903,000,000.

On page 3 line 14, increase the amount by $451,000,000.

On page 4 line 1, increase the amount by $150,000,000.

On page 4 line 2, increase the amount by $451,000,000.

On page 4 line 3, increase the amount by $903,000,000.

On page 4 line 4, increase the amount by $903,000,000.

On page 4 line 5, increase the amount by $451,000,000.

On page 4 line 15, increase the amount by $3,009,000,000.

On page 5 line 5, increase the amount by $150,000,000.

On page 5 line 6, increase the amount by $451,000,000.

On page 5 line 7, increase the amount by $903,000,000.

On page 5 line 8, increase the amount by $903,000,000.

On page 5 line 9, increase the amount by $451,000,000.

On page 16 line 11, increase the amount by $3,009,000,000.

On page 16 line 12, increase the amount by $150,000,000.

On page 16 line 16, increase the amount by $451,000,000.

On page 16 line 20, increase the amount by $903,000,000.

On page 16 line 24, increase the amount by $903,000,000.

On page 17 line 3, increase the amount by $451,000,000.

On page 45 line 24, decrease the amount by $2,858,000,000.

On page 47 line 5, increase the amount by $3,009,000,000.

On page 47 line 6, increase the amount by $159,000,000.

On page 47 line 15, increase the amount by $451,000,000.

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**SA 277.** Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3 line 10, increase the amount by $13,102,000,000.

On page 3 line 11, increase the amount by $8,650,000,000.

On page 3 line 12, increase the amount by $5,950,000,000.

On page 3 line 13, increase the amount by $2,702,000,000.

On page 3 line 14, increase the amount by $912,000,000.

On page 4 line 1, increase the amount by $13,102,000,000.

On page 4 line 2, increase the amount by $8,650,000,000.

On page 4 line 3, increase the amount by $5,950,000,000.

On page 4 line 4, increase the amount by $2,702,000,000.

On page 4 line 5, increase the amount by $912,000,000.

On page 4 line 15, increase the amount by $15,581,000,000.

On page 4 line 16, increase the amount by $409,000,000.

On page 4 line 17, decrease the amount by $654,000,000.

On page 4 line 18, decrease the amount by $825,000,000.

On page 4 line 19, decrease the amount by $920,000,000.

On page 4 line 20, decrease the amount by $988,000,000.

On page 4 line 21, decrease the amount by $1,048,000,000.

On page 4 line 22, decrease the amount by $1,106,000,000.

On page 4 line 23, decrease the amount by $1,166,000,000.

On page 4 line 24, decrease the amount by $1,228,000,000.

On page 5 line 5, increase the amount by $6,432,000,000.

On page 5 line 6, increase the amount by $3,916,000,000.

On page 5 line 7, increase the amount by $2,231,000,000.

On page 5 line 8, increase the amount by $526,000,000.

On page 5 line 9, decrease the amount by $464,000,000.

On page 5 line 10, decrease the amount by $988,000,000.

On page 5 line 11, decrease the amount by $1,048,000,000.

On page 5 line 12, decrease the amount by $1,106,000,000.

On page 5 line 13, decrease the amount by $1,166,000,000.

On page 5 line 14, decrease the amount by $1,228,000,000.

On page 5 line 18, increase the amount by $6,670,000,000.

On page 5 line 19, increase the amount by $4,734,000,000.

On page 5 line 20, increase the amount by $3,629,000,000.

On page 5 line 21, increase the amount by $2,176,000,000.

On page 5 line 22, increase the amount by $1,376,000,000.

On page 5 line 23, increase the amount by $988,000,000.

On page 5 line 24, increase the amount by $1,048,000,000.

On page 5 line 25, increase the amount by $1,106,000,000.

On page 6 line 1, increase the amount by $1,166,000,000.

On page 6 line 2, increase the amount by $1,228,000,000.

On page 6 line 6, decrease the amount by $6,670,000,000.

On page 6 line 7, decrease the amount by $11,404,000,000.

On page 6 line 8, decrease the amount by $15,032,000,000.

On page 6 line 8, decrease the amount by $17,208,000,000.

On page 6 line 10, decrease the amount by $18,584,000,000.

On page 6 line 11, decrease the amount by $19,573,000,000.

On page 6 line 12, decrease the amount by $20,620,000,000.

On page 6 line 13, decrease the amount by $21,726,000,000.

On page 6 line 14, decrease the amount by $22,892,000,000.

On page 6 line 15, decrease the amount by $24,120,000,000.

On page 6 line 19, decrease the amount by $6,670,000,000.

On page 6 line 20, decrease the amount by $11,404,000,000.

On page 6 line 21, decrease the amount by $15,032,000,000.

On page 6 line 22, decrease the amount by $17,208,000,000.

On page 6 line 23, decrease the amount by $18,584,000,000.

On page 6 line 24, decrease the amount by $19,573,000,000.

On page 6 line 25, decrease the amount by $20,620,000,000.

On page 7 line 1, decrease the amount by $21,726,000,000.

On page 7 line 2, decrease the amount by $22,892,000,000.

On page 7 line 3, decrease the amount by $24,120,000,000.

On page 21 line 23, increase the amount by $3,700,000.

On page 21 line 24, increase the amount by $1,316,000,000.

On page 22 line 3, increase the amount by $1,035,000,000.

On page 22 line 7, increase the amount by $775,000,000.

On page 22 line 11, increase the amount by $451,000,000.

On page 22 line 15, increase the amount by $81,000,000.

On page 23 line 19, increase the amount by $8,000,000,000.

On page 23 line 20, increase the amount by $3,775,000,000.

On page 23 line 24, increase the amount by $1,950,000,000.

On page 24 line 3, increase the amount by $750,000,000.

On page 24 line 7, increase the amount by $375,000,000.

On page 27 line 11, increase the amount by $3,000,000,000.

On page 27 line 12, increase the amount by $660,000,000.

On page 27 line 16, increase the amount by $1,140,000,000.

On page 27 line 20, increase the amount by $1,050,000,000.

On page 27 line 24, increase the amount by $150,000,000.

On page 36 line 15, increase the amount by $1,000,000,000.

On page 36 line 16, increase the amount by $800,000,000.

On page 36 line 20, increase the amount by $200,000,000.

On page 40 line 6, decrease the amount by $119,000,000.

On page 40 line 7, decrease the amount by $119,000,000.

On page 40 line 10, decrease the amount by $409,000,000.

On page 40 line 11, decrease the amount by $409,000,000.

On page 40 line 14, decrease the amount by $654,000,000.

On page 40 line 15, decrease the amount by $654,000,000.

On page 40 line 18, decrease the amount by $825,000,000.

On page 40 line 19, decrease the amount by $825,000,000.

On page 40 line 22, decrease the amount by $920,000,000.

On page 40 line 23, decrease the amount by $920,000,000.

On page 41 line 2, decrease the amount by $988,000,000.

On page 41 line 3, decrease the amount by $988,000,000.

On page 41 line 6, decrease the amount by $1,048,000,000.

On page 41 line 7, decrease the amount by $1,048,000,000.

On page 41 line 10, decrease the amount by $1,106,000,000.

On page 41 line 11, decrease the amount by $1,106,000,000.

On page 41 line 14, decrease the amount by $1,166,000,000.

On page 41 line 15, decrease the amount by $1,166,000,000.

On page 41 line 18, decrease the amount by $1,228,000,000.

On page 41 line 19, decrease the amount by $1,228,000,000.

On page 45 line 24, decrease the amount by $31,316,000,000.

On page 47 line 5, increase the amount by $15,700,000,000.

On page 47 line 6, increase the amount by $6,551,000,000.

On page 47 line 15, increase the amount by $4,325,000,000.

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**SA 278.** Mr. BIDEN (for himself, Mr. SCHUMER, Mrs. CLINTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mr. DAYTON, Mr. LIEBERMAN, Mr. LEAHY, Mrs. MURRAY, Mr. BAYH, Mr. CORZINE, Mr. BINGAMAN, Mr. PRYOR, Ms. CANTWELL, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $240,000,000.

On page 3, line 11, increase the amount by $500,000,000.

On page 3, line 12, increase the amount by $500,000,000.

On page 3, line 13, increase the amount by $700,000,000.

On page 4, line 1, increase the amount by $240,000,000.

On page 4, line 2, increase the amount by $560,000,000.

On page 4, line 3, increase the amount by $500,000,000.

On page 4, line 4, increase the amount by $700,000,000.

On page 4, line 15, increase the amount by $988,000,000.

On page 4, line 16, decrease the amount by $13,000,000.

On page 4, line 17, decrease the amount by $28,000,000.

On page 4, line 18, decrease the amount by $46,000,000.

On page 4, line 19, decrease the amount by $46,000,000.

On page 4, line 20, decrease the amount by $36,000,000.

On page 4, line 21, decrease the amount by $38,000,000.

On page 4, line 22, decrease the amount by $41,000,000.

On page 4, line 23, decrease the amount by $43,000,000.

On page 4, line 24, decrease the amount by $45,000,000.

On page 5, line 5, increase the amount by $118,000,000.

On page 5, line 6, increase the amount by $267,000,000.

On page 5, line 7, increase the amount by $222,000,000.

On page 5, line 8, increase the amount by $304,000,000.

On page 5, line 9, increase the amount by $410,000,000.

On page 5, line 10, decrease the amount by $36,000,000.

On page 5, line 11, decrease the amount by $38,000,000.

On page 5, line 12, decrease the amount by $41,000,000.

On page 5, line 13, decrease the amount by $43,000,000.

On page 5, line 14, decrease the amount by $45,000,000.

On page 5, line 18, increase the amount by $122,000,000.

On page 5, line 19, increase the amount by $293,000,000.

On page 5, line 20, increase the amount by $278,000,000.

On page 5, line 21, increase the amount by $396,000,000.

On page 5, line 22, increase the amount by $410,000,000.

On page 5, line 23, increase the amount by $36,000,000.

On page 5, line 24, increase the amount by $38,000,000.

On page 5, line 25, increase the amount by $41,000,000.

On page 6, line 1, increase the amount by $43,000,000.

On page 6, line 2, increase the amount by $45,000,000.

On page 6, line 6, decrease the amount by $122,000,000.

On page 6, line 7, decrease the amount by $415,000,000.

On page 6, line 8, decrease the amount by $693,000,000.

On page 6, line 8, decrease the amount by $1,089,000,000.

On page 6, line 10, decrease the amount by $679,000,000.

On page 6, line 11, decrease the amount by $716,000,000.

On page 6, line 12, decrease the amount by $754,000,000.

On page 6, line 13, decrease the amount by $795,000,000.

On page 6, line 14, decrease the amount by $838,000,000.

On page 6, line 15, decrease the amount by $883,000,000.

On page 6, line 19, decrease the amount by $122,000,000.

On page 6, line 20, decrease the amount by $415,000,000.

On page 6, line 21, decrease the amount by $693,000,000.

On page 6, line 22, decrease the amount by $1,089,000,000.

On page 6, line 23, decrease the amount by $679,000,000.

On page 6, line 24, decrease the amount by $716,000,000.

On page 6, line 25, decrease the amount by $754,000,000.

On page 7, line 1, decrease the amount by $795,000,000.

On page 7, line 2, decrease the amount by $838,000,000.

On page 7, line 3, decrease the amount by $883,000,000.

On page 36, line 15, increase the amount by $1,000,000,000.

On page 36, line 16, increase the amount by $120,000,000.

On page 36, line 20, increase the amount by $280,000,000.

On page 36, line 24, increase the amount by $250,000,000.

On page 37, line 3, increase the amount by $350,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $13,000,000.

On page 40, line 11, decrease the amount by $13,000,000.

On page 40, line 14, decrease the amount by $28,000,000.

On page 40, line 15, decrease the amount by $28,000,000.

On page 40, line 18, decrease the amount by $46,000,000.

On page 40, line 19, decrease the amount by $46,000,000.

On page 40, line 22, decrease the amount by $46,000,000.

On page 40, line 23, decrease the amount by $46,000,000.

On page 41, line 2, decrease the amount by $36,000,000.

On page 41, line 3, decrease the amount by $36,000,000.

On page 41, line 6, decrease the amount by $38,000,000.

On page 41, line 7, decrease the amount by $38,000,000.

On page 41, line 10, decrease the amount by $41,000,000.

On page 41, line 11, decrease the amount by $41,000,000.

On page 41, line 14, decrease the amount by $43,000,000.

On page 41, line 15, decrease the amount by $43,000,000.

On page 41, line 18, decrease the amount by $45,000,000.

On page 41, line 19, decrease the amount by $45,000,000.

On page 45, line 24, decrease the amount by $2,000,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $120,000,000.

On page 47, line 15, increase the amount by $280,000,000.

On page 79, after line 22, add the following:

### SEC. 308. FUNDING FOR DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) State and local law enforcement officers provide essential services that preserve and protect our freedom and safety;

(2) with the support of the Community Oriented Policing Services program (referred to in this section as the "COPS program"), State and local law enforcement officers have succeeded in dramatically reducing violent crime;

(3) the COPS program is the only program in the Federal government that provides

homeland security resources directly to law enforcement first responders;

(4) on July 15, 2002, the Attorney General stated, "Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates. COPS provides resources that reflect our national priority of terrorism prevention.";

(5) On February 26, 2002, the Attorney General stated, "The COPS program has been a miraculous sort of success. It's one of those things that Congress hopes will happen when it sets up a program.";

(6) the Federal Bureau of Investigation's Assistant Director for the Office of Law Enforcement Coordination has stated, "The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners.";

(7) as a result of the COPS program, State and local law enforcement agencies have received funds for more than 117,000 officers, 87,300 of whom are on the beat, fighting crime, and improving the quality of life in our neighborhoods and schools;

(8) the COPS program has assisted in advancing community policing nationwide;

(9) 86 percent of the Nation is served by a law enforcement agency that has full-time officers engaged in community policing activities;

(10) the continuation and full funding of the COPS program through fiscal year 2009 is supported by several major law enforcement organizations, including—

(A) the International Association of Chiefs of Police;

(B) the International Brotherhood of Police Officers;

(C) the Fraternal Order of Police;

(D) the National Sheriffs' Association;

(E) the National Troopers Coalition;

(F) the Federal Law Enforcement Officers Association;

(G) the National Association of Police Organizations;

(H) the National Organization of Black Law Enforcement Executives;

(I) the Police Executive Research Forum; and

(J) the Major Cities Chiefs;

(11) several studies have concluded that the implementation of community policing as a law enforcement strategy is an important factor in the reduction of crime in our communities;

(12) Congress appropriated $1,050,000,000 for the COPS program for fiscal year 2002 and $928,900,000 for fiscal 2003; and

(13) the President requested $164,000,000 for the COPS program for fiscal year 2004, $886,000,000 less than the amount appropriated for fiscal year 2002.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that an increase of $1,000,000,000 for fiscal year 2004 for the Department of Justice's community oriented policing program will be provided without reduction and consistent with previous appropriated and authorized levels.

**SA 279.** Mr. NICKLES (for Mr. GRAHAM of South Carolina) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 79, after line 22, add the following:

**SEC. 308. SOCIAL SECURITY RESTRUCTURING.**

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security "lockbox" would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system.

**SA 280.** Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolutions S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 10, line 23, increase the amount by $1,115,000,000.

On page 10, line 24, increase the amount by $675,000,000.

On page 11, line 2, increase the amount by $834,000,000.

On page 11, line 3, increase the amount by $830,000,000.

On page 11, line 6, increase the amount by $560,000,000.

On page 11, line 7, increase the amount by $641,000,000.

On page 11, line 10, increase the amount by $294,000,000.

On page 11, line 11, increase the amount by $392,000,000.

On page 11, line 14, increase the amount by $28,000,000.

On page 11, line 15, increase the amount by $130,000,000.

On page 11, line 18, decrease the amount by $242,000,000.

On page 11, line 19, decrease the amount by $130,000,000.

On page 11, line 22, decrease the amount by $505,000,000.

On page 11, line 23, decrease the amount by $397,000,000.

On page 12, line 2, decrease the amount by $767,000,000.

On page 12, line 3, decrease the amount by $656,000,000.

On page 12, line 6, decrease the amount by $1,034,000,000.

On page 12, line 7, decrease the amount by $924,000,000.

On page 12, line 10, decrease the amount by $1,298,000,000.

On page 12, line 11, decrease the amount by $1,188,000,000.

On page 42, line 2, decrease the amount by $1,115,000,000.

On page 42, line 3, decrease the amount by $657,000,000.

On page 42, line 6, decrease the amount by $834,000,000.

On page 42, line 7, decrease the amount by $830,000,000.

On page 42, line 10, decrease the amount by $560,000,000.

On page 42, line 11, decrease the amount by $641,000,000.

On page 42, line 14, decrease the amount by $294,000,000.

On page 42, line 15, decrease the amount by $392,000,000.

On page 42, line 18, decrease the amount by $28,000,000.

On page 42, line 19, decrease the amount by $130,000,000.

On page 42, line 22, increase the amount by $242,000,000.

On page 42, line 23, increase the amount by $130,000,000.

On page 43, line 2, increase the amount by $505,000,000.

On page 43, line 3, increase the amount by $397,000,000.

On page 43, line 6, increase the amount by $767,000,000.

On page 43, line 7, increase the amount by $656,000,000.

On page 43, line 10, increase the amount by $1,034,000,000.

On page 43, line 11, increase the amount by $924,000,000.

On page 43, line 14, increase the amount by $924,000,000.

On page 43, line 15, increase the amount by $1,188,000,000.

**SA 281.** Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States

Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

Federal Revenues:

On page 3, line 10, increase the amount by $376,000,000.

On page 3, line 11, increase the amount by $808,000,000.

On page 3, line 12, increase the amount by $230,000,000.

On page 3, line 13, increase the amount by $102,000,000.

On page 3, line 14, increase the amount by $48,000,000.

On page 3, line 15, increase the amount by $15,000,000.

On page 3, line 16, increase the amount by $7,000,000.

On page 3, line 17, increase the amount by $3,000,000.

On page 3, line 18, increase the amount by $2,000,000.

On page 3, line 19, increase the amount by $1,000,000.

Change in Revenue:

On page 4, line 1, increase the amount by $376,000,000.

On page 4, line 2, increase the amount by $808,000,000.

On page 4, line 3, increase the amount by $230,000,000.

On page 4, line 4, increase the amount by $102,000,000.

On page 4, line 5, increase the amount by $48,000,000.

On page 4, line 6, increase the amount by $15,000,000.

On page 4, line 7, increase the amount by $7,000,000.

On page 4, line 8, increase the amount by $3,000,000.

On page 4, line 9, increase the amount by $2,000,000.

On page 4, line 10, increase the amount by $1,000,000.

New Budget Authority

On page 4, line 15, decrease the amount by $797,000,000.

On page 4, line 16, decrease the amount by $19,000,000.

On page 4, line 17, decrease the amount by $35,000,000.

On page 4, line 18, decrease the amount by $42,000,000.

On page 4, line 19, decrease the amount by $46,000,000.

On page 4, line 20, decrease the amount by $50,000,000.

On page 4, line 21, decrease the amount by $53,000,000.

On page 4, line 22, decrease the amount by $56,000,000.

On page 4, line 23, decrease the amount by $59,000,000.

On page 4, line 24, decrease the amount by $62,000,000.

Budget Outlays

On page 5, line 5, increase the amount by $185,000,000.

On page 5, line 6, increase the amount by $385,000,000.

On page 5, line 7, increase the amount by $80,000,000.

On page 5, line 8, increase the amount by $9,000,000.

On page 5, line 9, decrease the amount by $22,000,000.

On page 5, line 10, decrease the amount by $42,000,000.

On page 5, line 11, decrease the amount by $49,000,000.

On page 5, line 12, decrease the amount by $54,000,000.

On page 5, line 13, decrease the amount by $58,000,000.

On page 5, line 14, decrease the amount by $62,000,000.

On page 5, line 18, increase the amount by $191,000,000.

On page 5, line 19, increase the amount by $423,000,000.

On page 5, line 20, increase the amount by $149,000,000.

On page 5, line 21, increase the amount by $92,000,000.

On page 5, line 22, increase the amount by $70,000,000.

On page 5, line 23, increase the amount by $57,000,000.

On page 5, line 24, increase the amount by $57,000,000.

On page 5, line 25, increase the amount by $58,000,000.

On page 6, line 1, increase the amount by $60,000,000.

On page 6, line 2, increase the amount by $63,000,000.

On page 6, line 6, decrease the amount by $191,000,000.

On page 6, line 7, decrease the amount by $614,000,000.

On page 6, line 8, decrease the amount by $764,000,000.

On page 6, line 9, decrease the amount by $856,000,000.

On page 6, line 10, decrease the amount by $927,000,000.

On page 6, line 11, decrease the amount by $984,000,000.

On page 6, line 12, decrease the amount by $1,040,000,000.

On page 6, line 13, decrease the amount by $1,098,000,000.

On page 6, line 14, decrease the amount by $1,158,000,000.

On page 6, line 15, increase the amount by $1,221,000,000.

Debt Held By Public

On page 6, line 19, increase the amount by $191,000,000.

On page 6, line 20, increase the amount by $614,000,000.

On page 6, line 21, increase the amount by $764,000,000.

On page 6, line 22, increase the amount by $856,000,000.

On page 6, line 23, increase the amount by $927,000,000.

On page 6, line 24, increase the amount by $984,000,000.

On page 6, line 25, increase the amount by $1,040,000,000.

On page 7, line 1, increase the amount by $1,098,000,000.

On page 7, line 2, increase the amount by $1,158,000,000.

On page 7, line 3, increase the amount by $1,221,000,000.

Function BA and OL–150: Int'l Affairs

On page 10, line 23, decrease the amount by $400,000,000.

On page 10, line 24, decrease the amount by $40,000,000.

On page 11, line 3, decrease the amount by $220,000,000.

On page 11, line 7, decrease the amount by $75,000,000.

On page 11, line 11, decrease the amount by $35,000,000.

On page 11, line 15, decrease the amount by $16,000,000.

On page 11, line 19, decrease the amount by $8,000,000.

On page 11, line 23, decrease the amount by $4,000,000.

On page 12, line 3, decrease the amount by $2,000,000.

On page 12, line 7, decrease the amount by $1,000,000.

550: Health

On page 27, line 11, decrease the amount by $400,000,000.

On page 27, line 12, decrease the amount by $148,000,000.

On page 27, line 16, decrease the amount by $184,000,000.

On page 27, line 20, increase the amount by $40,000,000.

On page 27, line 24, increase the amount by $16,000,000.

On page 28, line 3, increase the amount by $8,000,000.

On page 40, line 6, decrease the amount by $3,000,000.

On page 40, line 7, decrease the amount by $3,000,000.

On page 40, line 10, decrease the amount by $19,000,000.

On page 40, line 11, decrease the amount by $19,000,000.

On page 40, line 14, decrease the amount by $35,000,000.

On page 40, line 15, decrease the amount by $35,000,000.

On page 40, line 18, decrease the amount by $42,000,000.

On page 40, line 19, decrease the amount by $42,000,000.

On page 40, line 22, decrease the amount by $46,000,000.

On page 40, line 23, decrease the amount by $46,000,000.

On page 41, line 2, decrease the amount by $50,000,000.

On page 41, line 3, decrease the amount by $50,000,000.

On page 41, line 6, decrease the amount by $53,000,000.

On page 41, line 7, decrease the amount by $53,000,000.

On page 41, line 10, decrease the amount by $56,000,000.

On page 41, line 11, decrease the amount by $56,000,000.

On page 41, line 14, decrease the amount by $59,000,000.

On page 41, line 15, decrease the amount by $59,000,000.

On page 41, line 18, decrease the amount by $62,000,000.

On page 41, line 19, decrease the amount by $62,000,000.

On page 47, line 5, increase the amount by $800,000,000.

On page 47, line 6, increase the amount by $188,000,000.

On page 47, line 15, increase the amount by $404,000,000.

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**SA 282.** Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. SANTORUM, Mr. CORNYN, Mr. SESSIONS, Mr. THOMAS, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

### SEC. 308. FEDERAL AGENCY REVIEW COMMISSION.

It is the sense of the Senate that a commission should be established to review Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.

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**SA 283.** Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mr. MCCAIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, insert the following:

**SEC. . SENSE OF THE SENATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

(a) FINDINGS.—The Senate finds the following:

(1) The control of illegal immigration is a Federal responsibility.

(2) In fiscal year 2002, however, State and local governments spent more than $13,000,000,000 in costs associated with the incarceration of undocumented criminal aliens.

(3) The Federal Government provided $565,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to reimburse State and local governments for these costs.

(4) In fiscal year 2003, the fiscal burden of incarcerating undocumented criminal aliens is likely to grow, however, Congress provided only $250,000,000 to help cover these costs.

(5) The 56 percent cut in fiscal year 2003 funding for SCAAP will place an enormous burden on State and local law enforcement agencies during a time of heightened efforts to secure our homeland.

(6) The Administration did not include funding for SCAAP in its fiscal year 2004 budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the functional totals underlying this resolution on the budget assumes that the State Criminal Alien Assistance Program be funded at $585,000,000 to reimburse State and local law enforcement agencies for the burdens imposed in fiscal year 2003 by the incarceration of undocumented criminal aliens; and

(2) Congress enact a long-term reauthorization of the State Criminal Alien Assistance Program beginning with the authorization of $750,000,000 in fiscal year 2004 to reimburse State and county governments for the burdens undocumented criminal aliens have placed on the local criminal justice system.

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**SA 284.** Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. JOHNSON, Mr. SARBANES, Mr. EDWARDS, Mrs. CLINTON, and Mr. DODD) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 10, increase the amount by $1,018,000,000.

On page 3, line 11, increase the amount by $10,794,000,000.

On page 3, line 12, increase the amount by $2,410,000,000.

On page 3, line 13, increase the amount by $442,000,000.

On page 4, line 1, increase the amount by $1,018,000,000.

On page 4, line 2, increase the amount by $10,794,000,000.

On page 4, line 3, increase the amount by $2,410,000,000.

On page 4, line 4, increase the amount by $442,000,000.

On page 4, line 15, increase the amount by $8,893,000,000.

On page 4, line 16, decrease the amount by $128,000,000.

On page 4, line 17, decrease the amount by $276,000,000.

On page 4, line 18, decrease the amount by $324,000,000.

On page 4, line 19, decrease the amount by $348,000,000.

On page 4, line 20, decrease the amount by $367,000,000.

On page 4, line 21, decrease the amount by $388,000,000.

On page 4, line 22, decrease the amount by $410,000,000.

On page 4, line 23, decrease the amount by $432,000,000.

On page 4, line 24, decrease the amount by $456,000,000.

On page 5, line 5, increase the amount by $611,000,000.

On page 5, line 6, increase the amount by $6,423,000,000.

On page 5, line 7, increase the amount by $1,187,000,000.

On page 5, line 8, decrease the amount by $56,000,000.

On page 5, line 9, decrease the amount by $348,000,000.

On page 5, line 10, decrease the amount by $367,000,000.

On page 5, line 11, decrease the amount by $388,000,000.

On page 5, line 12, decrease the amount by $410,000,000.

On page 5, line 13, decrease the amount by $432,000,000.

On page 5, line 14, decrease the amount by $456,000,000.

On page 5, line 18, increase the amount by $407,000,000.

On page 5, line 19, increase the amount by $4,471,000,000.

On page 5, line 20, increase the amount by $1,223,000,000.

On page 5, line 21, increase the amount by $497,000,000.

On page 5, line 22, increase the amount by $348,000,000.

On page 5, line 23, increase the amount by $367,000,000.

On page 5, line 24, increase the amount by $388,000,000.

On page 5, line 25, increase the amount by $410,000,000.

On page 6, line 1, increase the amount by $432,000,000.

On page 6, line 2, increase the amount by $456,000,000.

On page 6, line 6, decrease the amount by $407,000,000.

On page 6, line 7, decrease the amount by $4,779,000,000.

On page 6, line 8, decrease the amount by $6,002,000,000.

On page 6, line 9, decrease the amount by $6,499,000,000.

On page 6, line 10, decrease the amount by $6,847,000,000.

On page 6, line 11, decrease the amount by $7,215,000,000.

On page 6, line 12, decrease the amount by $7,603,000,000.

On page 6, line 13, decrease the amount by $8,013,000,000.

On page 6, line 14, decrease the amount by $8,446,000,000.

On page 6, line 15, decrease the amount by $8,901,000,000.

On page 6, line 19, decrease the amount by $407,000,000.

On page 6, line 20, decrease the amount by $4,779,000,000.

On page 6, line 21, decrease the amount by $6,002,000,000.

On page 6, line 22, decrease the amount by $6,499,000,000.

On page 6, line 23, decrease the amount by $6,847,000,000.

On page 6, line 24, decrease the amount by $7,215,000,000.

On page 6, line 25, decrease the amount by $7,603,000,000.

On page 7, line 1, decrease the amount by $8,013,000,000.

On page 7, line 2, decrease the amount by $8,446,000,000.

On page 7, line 3, decrease the amount by $8,901,000,000.

On page 25, line 16, increase the amount by $8,900,000,000.

On page 25, line 17, increase the amount by $618,000,000.

On page 25, line 21, increase the amount by $6,551,000,000.

On page 25, line 25, increase the amount by $1,463,000,000.

On page 26, line 4, increase the amount by $268,000,000.

On page 40, line 6, decrease the amount by $7,000,000.

On page 40, line 7, decrease the amount by $7,000,000.

On page 40, line 10, decrease the amount by $128,000,000.

On page 40, line 11, decrease the amount by $128,000,000.

On page 40, line 14, decrease the amount by $276,000,000.

On page 40, line 15, decrease the amount by $276,000,000.

On page 40, line 18, decrease the amount by $324,000,000.

On page 40, line 19, decrease the amount by $324,000,000.

On page 40, line 22, decrease the amount by $348,000,000.

On page 40, line 23, decrease the amount by $348,000,000.

On page 41, line 2, decrease the amount by $367,000,000.

On page 41, line 3, decrease the amount by $367,000,000.

On page 41, line 6, decrease the amount by $388,000,000.

On page 41, line 7, decrease the amount by $388,000,000.

On page 41, line 10, decrease the amount by $410,000,000.

On page 41, line 11, decrease the amount by $410,000,000.

On page 41, line 14, decrease the amount by $432,000,000.

On page 41, line 15, decrease the amount by $432,000,000.

On page 41, line 18, decrease the amount by $456,000,000.

On page 41, line 19, decrease the amount by $456,000,000.

On page 47, line 5, increase the amount by $8,900,000,000.

On page 47, line 6, increase the amount by $618,000,000.

On page 47, line 15, increase the amount by $6,551,000,000.

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**SA 285.** Mr. SCHUMER (for himself, Mr. SMITH, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. . SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) in our increasingly competitive global economy, the attainment of higher education is critical to the economic success of an individual, as evidenced by the fact that, in 1975, college graduates earned an average of 57 percent more than individuals who were only high school graduates, as compared to the fact that, in 2001, college graduates earned an average of 84 percent more than high school graduates;

(2) over the past 20 years, the average cost of college tuition has increased by over 250 percent and is increasing—

(A) at a faster rate than any consumer item, including health care; and

(B) at a rate that is more than twice as fast as the rate of inflation;

(3) despite increases in grant amounts contained in legislation recently enacted by Congress, the value of the maximum Pell Grant has declined 15 percent since 1975 in inflation-adjusted terms, forcing more students to rely on student loans to finance the cost of a higher education;

(4) from fiscal years 1990 to 2000, the demand for student loans rose by 41 percent and the average student loan amount increased by 48.2 percent; and

(5) according to the Department of Education, there is approximately $150,000,000,000 in outstanding student loan debt and students borrowed more during the decade beginning in 1990 than during all of the decades beginning in 1960, 1970, and 1980.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that economic stimulus legislation enacted pursuant to the instructions contained in this concurrent resolution on the budget should include provisions to make higher education affordable, including—

(1) a provision to make permanent the above-the-line deduction for the higher education expenses of a taxpayer and members of the taxpayer's family and to increase such deduction to $8,000 for taxable year 2003 and $12,000 for taxable year 2004 and thereafter; and

(2) a credit against tax of up to $1,500 for each taxable year (indexed for inflation) for interest paid during such taxable year on loans incurred for higher education expenses—

(A) during the first 60 months such payments are required; and

(B) paid by individuals who are not dependents.

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**SA 286.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. . SENSE OF THE SENATE.**

It is the sense of the Senate that the budgetary totals in this concurrent resolution assume that the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42) should be amended to provide compensation for victims killed in the bombing of the World Trade Center in 1993.

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**SA 287.** Mr. SCHUMER (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

**SEC. . SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) the States and their local governments face budget deficits of historic proportions;

(2) the States and their local governments are raising taxes, cutting jobs, and reducing services to address this fiscal crisis;

(3) these actions by the States and their local governments threaten to undo any economic stimulus measures implemented at the Federal level; and

(4) the States and their local governments require adequate funding to meet their responsibilities for homeland security, as well as other Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that economic stimulus legislation enacted pursuant to the instructions contained in this concurrent resolution on the budget should include $40,000,000,000 in direct fiscal assistance provided in a one-time revenue grant to the States and their local governments, as follows:

(1) $20,000,000,000 should be allotted amongst the States.

(2) $20,000,000,000 should be allotted for distribution to the various units of local government within such States.

(3) Such fiscal assistance should be allotted among the States and their units of local government based on a formula which considers size of population and growth in the average annual rate of unemployment during the preceding two years.

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**SA 288.** Mr. KYL (for himself and Mr. SESSIONS) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, decrease the amount by $200,000,000.

On page 3, line 10, decrease the amount by $5,200,000,000.

On page 3, line 11, decrease the amount by $10,200,000,000.

On page 3, line 12, decrease the amount by $34,600,000,000.

On page 3, line 13, decrease the amount by $31,600,000,000.

On page 3, line 14, decrease the amount by $34,100,000,000.

On page 3, line 15, decrease the amount by $36,600,000,000.

On page 3, line 16, decrease the amount by $31,100,000,000.

On page 3, line 17, decrease the amount by $33,700,000,000.

On page 3, line 18, decrease the amount by $58,100,000,000.

On page 3, line 19, decrease the amount by $63,900,000,000.

On page 3, line 23, decrease the amount by $200,000,000.

On page 4, line 1, decrease the amount by $5,200,000,000.

On page 4, line 2, decrease the amount by $10,200,000,000.

On page 4, line 3, decrease the amount by $34,600,000,000.

On page 4, line 4, decrease the amount by $31,600,000,000.

On page 4, line 5, decrease the amount by $34,100,000,000.

On page 4, line 6, decrease the amount by $36,600,000,000.

On page 4, line 7, decrease the amount by $31,100,000,000.

On page 4, line 8, decrease the amount by $33,700,000,000.

On page 4, line 9, decrease the amount by $58,100,000,000.

On page 4, line 10, decrease the amount by $63,900,000,000.

On page 41, line 22, decrease the amount by $85,000,000.

On page 41, line 23, decrease the amount by $85,000,000.

On page 42, line 2, decrease the amount by $4,692,000,000.

On page 42, line 3, decrease the amount by $4,692,000,000.

On page 42, line 6, decrease the amount by $9,406,000,000.

On page 42, line 7, decrease the amount by $9,406,000,000.

On page 42, line 10, decrease the amount by $33,617,000,000.

On page 42, line 11, decrease the amount by $33,617,000,000.

On page 42, line 14, decrease the amount by $30,324,000,000.

On page 42, line 15, decrease the amount by $30,324,000,000.

On page 42, line 18, decrease the amount by $32,408,000,000.

On page 42, line 19, decrease the amount by $32,408,000,000.

On page 42, line 22, decrease the amount by $35,018,000,000.

On page 42, line 23, decrease the amount by $35,018,000,000.

On page 43, line 2, decreased the amount by $28,750,000,000.

On page 43, line 3, decreased the amount by $28,750,000,000.

On page 43, line 6, decreased the amount by $2,515,000,000.

On page 43, line 7, decreased the amount by $2,515,000,000.

On page 43, line 10, decreased the amount by $336,000,000.

On page 43, line 11, decreased the amount by $336,000,000.

On page 43, line 14, decreased the amount by $347,000,000.

On page 43, line 15, decreased the amount by $347,000,000.

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**SA 289.** Mr. DODD (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table, as follows:

On page 3, line 10, increase the amount by $232,000,000.

On page 3, line 11, increase the amount by $9,656,000,000.

On page 3, line 12, increase the amount by $1,512,000,000.

On page 3, line 13, increase the amount by $232,000,000.

On page 4, line 1, increase the amount by $9,656,000,000.

On page 4, line 3, increase the amount by $1,512,000,000.

On page 4, line 4, increase the amount by $232,000,000.

On page 4, line 15, increase the amount by $5,814,000,000.

On page 4, line 16, decrease the amount by $131,000,000.

On page 4, line 17, decrease the amount by $287,000,0000.

On page 4, line 18, decrease the amount by $329,000,000.

On page 4, line 19, decrease the amount by $352,000,000.

On page 4, line 20, decrease the amount by $372,000,000.

On page 4, line 21, decrease the amount by $393,000,000.

On page 4, line 22, decrease the amount by $415,000,000.

On page 4, line 23, decrease the amount by $437,000,000.

On page 4, line 24, decrease the amount by $461,000,000.

On page 5, line 5, increase the amount by $114,000,000.

On page 5, line 6, increase the amount by $4,697,000,000.

On page 5, line 7, increase the amount by $469,000,000.

On page 5, line 8, decrease the amount by $213,000,000.

On page 5, line 9, decrease the amount by $352,000,000.

On page 5, line 10, decrease the amount by $372,000,000.

On page 5, line 11, decrease the amount by $393,000,000.

On page 5, line 12, decrease the amount by $415,000,000.

On page 5, line 13, decrease the amount by $437,000,000.

On page 5, line 14, decrease the amount by $461,000,000.

On page 5, line 18, increase the amount by $118,000,000.

On page 5, line 19, increase the amount by $4,959,000,000.

On page 5, line 20, increase the amount by $1,043,000,000.

On page 5, line 21, increase the amount by $445,000,000.

On page 5, line 22, increase the amount by $352,000,000.

On page 5, line 23, increase the amount by $372,000,000.

On page 5, line 24, increase the amount by $393,000,000.

On page 5, line 25, increase the amount by $415,000,000.

On page 6, line 1, increase the amount by $437,000,000.

On page 6, line 2, increase the amount by $461,000,000.

On page 6, line 6, decrease the amount by $118,000,000.

On page 6, line 7, decrease the amount by $5,077,000,000.

On page 6, line 8, decrease the amount by $6,120,000,000.

On page 6, line 9, decrease the amount by $6,565,000,000.

On page 6, line 10, decrease the amount by $6,917,000,000.

On page 6, line 11, decrease the amount by $7,289,000,000.

On page 6, line 12, decrease the amount by $7,682,000,000.

On page 6, line 13, decrease the amount by $8,096,000,000.

On page 6, line 14, decrease the amount by $8,533,000,000.

On page 6, line 15, decrease the amount by $8,994,000,000.

On page 6, line 19, decrease the amount by $118,000,000.

On page 6, line 20, decrease the amount by $5,077,000,000.

On page 6, line 21, decrease the amount by $6,120,000,000.

On page 6, line 22, decrease the amount by $6,565,000,000.

On page 6, line 23, decrease the amount by $6,917,000,000.

On page 6, line 24, decrease the amount by $7,289,000,000.

On page 6, line 25, decrease the amount by $7,682,000,000.

On page 7, line 1, decrease the amount by $8,096,000,000.

On page 7, line 2, decrease the amount by $8,533,000,000.

On page 7, line 3, decrease the amount by $8,994,000,000.

On page 25, line 16, increase the amount by $5,816,000,000.

On page 25, line 17, increase the amount by $116,000,000.

On page 25, line 21, increase the amount by $4,828,000,000.

On page 25, line 25, increase the amount by $756,000,000.

On page 26, line 4, increase the amount by $116,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $131,000,000.

On page 40, line 11, decrease the amount by $131,000,000.

On page 40, line 14, decrease the amount by $287,000,000.

On page 40, line 15, decrease the amount by $287,000,000.

On page 40, line 18, decrease the amount by $329,000,000.

On page 40, line 19, decrease the amount by $329,000,000.

On page 40, line 22, decrease the amount by $352,000,000.

On page 40, line 23, decrease the amount by $352,000,000.

On page 41, line 2, decrease the amount by $372,000,000.

On page 41, line 3, decrease the amount by $372,000,000.

On page 41, line 6, decrease the amount by $393,000,000.

On page 41, line 7, decrease the amount by $393,000,000.

On page 41, line 10, decrease the amount by $415,000,000.

On page 41, line 11, decrease the amount by $415,000,000.

On page 41, line 14, decrease the amount by $437,000,000.

On page 41, line 15, decrease the amount by $437,000,000.

On page 41, line 18, decrease the amount by $461,000,000.

On page 41, line 19, decrease the amount by $461,000,000.

On page 47, line 5, increase the amount by $5,816,000,000.

On page 47, line 6, increase the amount by $116,000,000.

On page 47, line 15, increase the amount by $4,828,000,000.

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**SA 290.** Mr. DODD (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $116,000,000.

On page 3, line 11, increase the amount by $1,494,000,000.

On page 3, line 12, increase the amount by $576,000,000.

On page 3, line 13, increase the amount by $114,000,000.

On page 4, line 1, increase the amount by $116,000,000.

On page 4, line 2, increase the amount by $1,494,000,000.

On page 4, line 3, increase the amount by $576,000,000.

On page 4, line 4, increase the amount by $114,000,000.

On page 4, line 15, increase the amount by $1,149,000,000.

On page 4, line 16, decrease the amount by $22,000,000.

On page 4, line 17, decrease the amount by $51,000,000.

On page 4, line 18, decrease the amount by $64,000,000.

On page 4, line 19, decrease the amount by $69,000,000.

On page 4, line 20, decrease the amount by $73,000,000.

On page 4, line 21, decrease the amount by $77,000,000.

On page 4, line 22, decrease the amount by $81,000,000.

On page 4, line 23, decrease the amount by $86,000,000.

On page 4, line 24, decrease the amount by $90,000,000.

On page 5, line 5, increase the amount by $57,000,000.

On page 5, line 6, increase the amount by $725,000,000.

On page 5, line 7, increase the amount by $237,000,000.

On page 5, line 8, decrease the amount by $7,000,000.

On page 5, line 9, decrease the amount by $69,000,000.

On page 5, line 10, decrease the amount by $73,000,000.

On page 5, line 11, decrease the amount by $77,000,000.

On page 5, line 12, decrease the amount by $81,000,000.

On page 5, line 13, decrease the amount by $86,000,000.

On page 5, line 14, decrease the amount by $90,000,000.

On page 5, line 18, increase the amount by $59,000,000.

On page 5, line 19, increase the amount by $769,000,000.

On page 5, line 20, increase the amount by $339,000,000.

On page 5, line 21, increase the amount by $121,000,000.

On page 5, line 22, increase the amount by $69,000,000.

On page 5, line 23, increase the amount by $73,000,000.

On page 5, line 24, increase the amount by $77,000,000.

On page 5, line 25, increase the amount by $81,000,000.

On page 6, line 1, increase the amount by $86,000,000.

On page 6, line 2, increase the amount by $90,000,000.

On page 6, line 6, decrease the amount by $59,000,000.

On page 6, line 7, decrease the amount by $828,000,000.

On page 6, line 8, decrease the amount by $1,167,000,000.

On page 6, line 9, decrease the amount by $1,228,000,000.

On page 6, line 10, decrease the amount by $1,357,000,000.

On page 6, line 11, decrease the amount by $1,430,000,000.

On page 6, line 12, decrease the amount by $1,507,000,000.

On page 6, line 13, decrease the amount by $1,589,000,000.

On page 6, line 14, decrease the amount by $1,674,000,000.

On page 6, line 15, decrease the amount by $1,765,000,000.

On page 6, line 19, decrease the amount by $59,000,000.

On page 6, line 20, decrease the amount by $828,000,000.

On page 6, line 21, decrease the amount by $1,167,000,000.

On page 6, line 22, decrease the amount by $1,288,000,000.

On page 6, line 23, decrease the amount by $1,357,000,000.

On page 6, line 24, decrease the amount by $1,430,000,000.

On page 6, line 25, decrease the amount by $1,507,000,000.

On page 7, line 1, decrease the amount by $1,589,000,000.

On page 7, line 2, decrease the amount by $1,674,000,000.

On page 7, line 3, decrease the amount by $1,765,000,000.

On page 25, line 16, increase the amount by $1,150,000,000.

On page 25, line 17, increase the amount by $58,000,000.

On page 25, line 21, increase the amount by $747,000,000.

On page 25, line 25, increase the amount by $288,000,000.

On page 26, line 4, increase the amount by $57,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $22,000,000.

On page 40, line 11, decrease the amount by $22,000,000.

On page 40, line 14, decrease the amount by $51,000,000.

On page 40, line 15, decrease the amount by $51,000,000.

On page 40, line 18, decrease the amount by $64,000,000.

On page 40, line 19, decrease the amount by $64,000,000.

On page 40, line 22, decrease the amount by $69,000,000.

On page 40, line 23, decrease the amount by $69,000,000.

On page 41, line 2, decrease the amount by $73,000,000.

On page 41, line 3, decrease the amount by $73,000,000.

On page 41, line 6, decrease the amount by $77,000,000.

On page 41, line 7, decrease the amount by $77,000,000.

On page 41, line 10, decrease the amount by $81,000,000.

On page 41, line 11, decrease the amount by $81,000,000.

On page 41, line 14, decrease the amount by $86,000,000.

On page 41, line 15, decrease the amount by $86,000,000.

On page 41, line 18, decrease the amount by $90,000,000.

On page 41, line 19, decrease the amount by $90,000,000.

On page 47, line 5, increase the amount by $1,150,000,000.

On page 47, line 6, increase the amount by $58,000,000.

On page 47, line 15, increase the amount by $747,000,000.

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**SA 291.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

**SEC. ___. REPORTS ON LIABILITIES AND FUTURE COSTS.**

Not later than the date the President submits the Federal budget each year, the Director of the Congressional Budget Office shall submit to Congress a report containing—

(1) an estimate of the unfunded liabilities of the Federal Government;

(2) an estimate of the contingent liabilities of Federal programs; and

(3) an accrual-based estimate of the current and future costs of Federal programs.

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**SA 292.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

**SEC. ___. POINT OF ORDER AGAINST UNAUTHORIZED APPROPRIATION.**

It shall not be in order in the Senate to consider any appropriations provision that is an appropriation for an unauthorized program unless there is filed at the desk a letter signed by the chairman of the authorizing committee with jurisdiction over the program stating that the committee does not object to the appropriation and explaining why the program has not been reauthorized.

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**SA 293.** Mr. HATCH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 12, line 19, increase the amount by $110,000,000.

On page 12, line 20, increase the amount by $110,000,000.

On page 79, after line 22, add the following:

**SEC. 308. MANUFACTURING EXTENSION PARTNERSHIP.**

It is the sense of the Senate that the funding levels in this resolution assume that the Manufacturing Extension Partnership of the National Institute of Standards and Technology will be fully funded for fiscal year 2004 at the authorized level of $110,000,000.

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**SA 294.** Mr. DORGAN (for himself, Mr. GRAHAM of Florida, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, increase the amount by $7,589,000,000.

On page 3, line 10, increase the amount by $23,341,000,000.

On page 3, line 11, increase the amount by $26,169,000,000.

On page 3, line 12, increase the amount by $29,003,000,000.

On page 3, line 13, increase the amount by $32,406,000,000.

On page 3, line 14, increase the amount by $35,710,000,000.

On page 3, line 15, increase the amount by $39,465,000,000.

On page 3, line 16, increase the amount by $43,508,000,000.

On page 3, line 17, increase the amount by $47,687,000,000.

On page 3, line 18, increase the amount by $52,440,000,000.

On page 3, line 19, increase the amount by $58,514,000,000.

On page 3, line 23, increase the amount by $7,589,000,000.

On page 4, line 1, increase the amount by $23,341,000,000.

On page 4, line 2, increase the amount by $26,169,000,000.

On page 4, line 3, increase the amount by $29,003,000,000.

On page 4, line 4, increase the amount by $32,406,000,000.

On page 4, line 5, increase the amount by $35,710,000,000.

On page 4, line 6, increase the amount by $39,465;,000,000.

On page 4, line 7, increase the amount by $43,508,000,000.

On page 4, line 8, increase the amount by $47,687,000,000.

On page 4, line 9, increase the amount by $52,440,000,000.

On page 4, line 10, increase the amount by $58,514,000,000.

On page 4, line 14, decrease the amount by $56,000,000.

On page 4, line 15, decrease the amount by $6,750,000,000.

On page 4, line 16, decrease the amount by $12,607,000,000.

On page 4, line 17, decrease the amount by $2,089,000,000.

On page 4, line 18, increase the amount by $11,134,000,000.

On page 4, line 19, increase the amount by $13,388,000,000.

On page 4, line 20, increase the amount by $18,051,000,000.

On page 4, line 21, increase the amount by $23,189,000,000.

On page 4, line 22, increase the amount by $28,020,000,000.

On page 4, line 23, increase the amount by $33,135,000,000.

On page 4, line 24, increase the amount by $39,338,000,000.

On page 5, line 4, decrease the amount by $56,000,000.

On page 5, line 5, decrease the amount by $6,750,000,000.

On page 5, line 6, decrease the amount by $12,607,000,000.

On page 5, line 7, decrease the amount by $2,089,000,000.

On page 5, line 8, increase the amount by $11,134,000,000.

On page 5, line 9, increase the amount by $13,388,000,000.

On page 5, line 10, increase the amount by $18,051,000,000.

On page 5, line 11, increase the amount by $23,189,000,000.

On page 5, line 12, increase the amount by $28,020,000,000.

On page 5, line 13, increase the amount by $33,135,000,000.

On page 5, line 14, increase the amount by $39,338,000,000.

On page 5, line 17, increase the amount by $7,645,000,000.

On page 5, line 18, increase the amount by $30,091,000,000.

On page 5, line 19, increase the amount by $38,776,000,000.

On page 5, line 20, increase the amount by $31,092,000,000.

On page 5, line 21, increase the amount by $21,272,000,000.

On page 5, line 22, increase the amount by $22,322,000,000.

On page 5, line 23, increase the amount by $21,414,000,000.

On page 5, line 24, increase the amount by $20,319,000,000.

On page 5, line 25, increase the amount by $19,667,000,000.

On page 6, line 1, increase the amount by $19,305,000,000.

On page 6, line 2, increase the amount by $19,176,000,000.

On page 6, line 5, decrease the amount by $7,645,000,000.

On page 6, line 6, decrease the amount by $37,737,000,000.

On page 6, line 7, decrease the amount by $76,513,000,000.

On page 6, line 8, decrease the amount by $107,604,000,000.

On page 6, line 9, decrease the amount by $128,877,000,000.

On page 6, line 10, decrease the amount by $151,199,000,000.

On page 6, line 11, decrease the amount by $172,612,000,000.

On page 6, line 12, decrease the amount by $192,931,000,000.

On page 6, line 13, decrease the amount by $212,599,000,000.

On page 6, line 14, decrease the amount by $231,903,000,000.

On page 6, line 15, decrease the amount by $251,080,000,000.

On page 6, line 18, decrease the amount by $7,645,000,000.

On page 6, line 19, decrease the amount by $37,737,000,000.

On page 6, line 20, decrease the amount by $76,513,000,000.

On page 6, line 21, decrease the amount by $107,604,000,000.

On page 6, line 22, decrease the amount by $128,877,000,000.

On page 6, line 23, decrease the amount by $151,199,000,000.

On page 6, line 24, decrease the amount by $172,612,000,000.

On page 6, line 25, decrease the amount by $192,931,000,000.

On page 7, line 1, decrease the amount by $212,599,000,000.

On page 7, line 2, decrease the amount by $231,903,000,000.

On page 7, line 3, decrease the amount by $251,080,000,000.

On page 29, line 6, decrease the amount by $6,000,000,000.

On page 29, line 7, decrease the amount by $6,000,000,000.

On page 29, line 10, decrease the amount by $10,000,000,000.

On page 29, line 11, decrease the amount by $10,000,000,000.

On page 29, line 14, increase the amount by $2,498,000,000.

On page 29, line 15, increase the amount by $2,498,000,000.

On page 29, line 18, increase the amount by $17,195,000,000.

On page 29, line 19, increase the amount by $17,195,000,000.

On page 29, line 22, increase the amount by $20,630,000,000.

On page 29, line 23, increase the amount by $20,630,000,000.

On page 30, line 2, increase the amount by $26,482,000,000.

On page 30, line 3, increase the amount by $26,482,000,000.

On page 30, line 6, increase the amount by $32,751,000,000.

On page 30, line 7, increase the amount by $32,751,000,000.

On page 30, line 10, increase the amount by $38,644,000,000.

On page 30, line 11, increase the amount by $38,644,000,000.

On page 30, line 14, increase the amount by $44,787,000,000.

On page 30, line 15, increase the amount by $44,787,000,000.

On page 30, line 18, increase the amount by $52,013,000,000.

On page 30, line 19, increase the amount by $52,013,000,000.

On page 40, line 2, decrease the amount by $56,000,000.

On page 40, line 3, decrease the amount by $56,000,000.

On page 40, line 6, decrease the amount by $750,000,000.

On page 40, line 7, decrease the amount by $750,000,000.

On page 40, line 10, decrease the amount by $2,607,000,000.

On page 40, line 11, decrease the amount by $2,607,000,000.

On page 40, line 14, decrease the amount by $4,587,000,000.

On page 40, line 15, decrease the amount by $4,587,000,000.

On page 40, line 18, decrease the amount by $6,061,000,000.

On page 40, line 19, decrease the amount by $6,061,000,000.

On page 40, line 22, decrease the amount by $7,242,000,000.

On page 40, line 23, decrease the amount by $7,242,000,000.

On page 41, line 2, decrease the amount by $8,431,000,000.

On page 41, line 3, decrease the amount by $8,431,000,000.

On page 41, line 6, decrease the amount by $9,562,000,000.

On page 41, line 7, decrease the amount by $9,562,000,000.

On page 41, line 10, decrease the amount by $10,624,000,000.

On page 41, line 11, decrease the amount by $10,624,000,000.

On page 41, line 14, decrease the amount by $11,652,000,000.

On page 41, line 15, decrease the amount by $11,652,000,000.

On page 41, line 18, decrease the amount by $12,675,000,000.

On page 41, line 19, decrease the amount by $12,675,000,000.

On page 61, line 12, insert "on an equal basis with respect to benefit level regardless of whether such beneficiaries remain in the traditional medicare fee-for-service program under parts A and B of such title or enroll in a private plan under the medicare program" after "prescription drugs".

On page 61, line 19, strike $400,000,000,000 and insert $619,000,000,000.

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**SA 295.** Mr. DORGAN (for himself, Mr. KERRY, and Mrs. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 14 line 15, increase the amount by $372,000,000.

On page 14 line 16, increase the amount by $45,000,000.

On page 14 line 20, increase the amount by $104,000,000.

On page 14 line 24, increase the amount by $93,000,000.

On page 15 line 3, increase the amount by $130,000,000.

On page 42 line 2, decrease the amount by $372,000,000.

On page 42 line 3, decrease the amount by $45,000,000.

On page 42 line 7, decrease the amount by $104,000,000.

On page 42 line 11, decrease the amount by $93,000,000.

On page 42 line 15, decrease the amount by $130,000,000.

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**SA 296.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

### SEC. 308. RADIO INTEROPERABILITY FOR FIRST RESPONDERS.

(a) STUDY.—It is the sense of the Senate that the Secretary of Commerce, in consultation with the Secretary of Homeland Security, should conduct a study of the need and cost to make the radio systems used by fire departments and emergency medical services agencies interoperable with those used by law enforcement to the extent that interoperability will not interfere with law enforcement operations.

(b) GRANT PROGRAM.—It is the sense of the Senate that Congress should authorize and appropriate $20,000,000 to establish a grant program through which the Secretary of Commerce would award grants to local governments to assist fire departments and emergency medical services agencies to establish radio interoperability.

**SA 297.** Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

**SEC. . POINT OF ORDER REQUIRING THAT THE AMT BE DEALT WITH BEFORE OR SIMULTANEOUSLY WITH OTHER TAX CUTS.**

(a) FINDINGS.—The Senate finds the following:

(1) The American taxpayers are threatened with a looming crisis which is ignored by the President's budget and the budget resolution before the Senate, namely that a rapidly growing number of middle income taxpayers will be subject to the AMT, up from 2,000,000 currently to an estimated 36,000,000 by 2010.

(2) This crisis has come about as a result of two factors—

(A) that the Federal income tax is indexed for inflation, but the AMT is not; and

(B) that President Bush sought and obtained huge new tax cuts in 2001, which he is now seeking to make permanent, without providing for corresponding, permanent adjustments to the AMT.

(3) The President and the architects of this budget resolution refuse to address the AMT on a permanent basis because to do so would be costly and might jeopardize their ability to enact additional tax cuts which primarily benefit the wealthiest taxpayers at the expense of the estimated 85 percent of families with two or more children who will otherwise be affected by the AMT by 2010; the 43 percent of taxpayers with annual incomes between $50,000 and $75,000 who will otherwise be affected by the AMT by 2010; and the 80 percent of taxpayers with annual income between $75,000 and $100,000 who will otherwise be affected by the AMT by 2010.

(4) Congress must begin to address the issue of permanent AMT reform by creating a point of order against further tax cuts that do not include AMT reform.

(b) IN GENERAL.—It shall not be in order in the Senate to consider any bill or joint resolution, including a reconciliation bill or resolution, or any amendment, motion, or conference report thereto, that would allow tax cuts unless such bill, joint resolution, amendment, motion or conference report thereto contains, or Congress has previously enacted, comprehensive legislation that reforms the alternative minimum tax to protect taxpayers with annual incomes under $100,000.

(c) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of $\frac{3}{5}$ of the members, duly chosen and sworn. An affirmative vote of $\frac{3}{5}$ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 19, 2003 at 9:30 a.m. to hold a hearing on Nonproliferation Programs of the Department of State.

*Witnesses*

Panel 1: The Honorable John S. Wolf, Assistant Secretary for Nonproliferation, Department of State, Washington, DC.

Panel 2: The Honorable Rose E. Gottemoeller, Senior Associate, Carnegie Endowment for International Peace, Washington, DC.

The Honorable Charles B. Curtis, President and Chief Operating Officer, Nuclear Threat Initiative, Washington; Dr. Amy E. Smithson, Senior Associate, The Henry L. Stimson Center, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 19, 2003 at 2:30 p.m. to hold a hearing on the Effects and Consequences of an Emerging China.

*Witnesses*

Panel 1: Mr. Randall Schriver, Deputy Assistant Secretary of State for China, Department of State, Washington, DC; Mr. Charles Freeman, Deputy Assistant US Trade Representative, Office of the US Trade Representative, Washington, DC.

Panel 2: Dr. Robert A. Kapp, President, The US-China Business Council, Washington, DC; Ms. Hillary B. Rosen, President and Chief Executive Officer, Recording Industry Association of America, Washington, DC.

Panel 3: Dr. Larry Wortzel, The Heritage Foundation, Washington, DC; Dr. David M. Lampton, Director of Chinese Studies, The Nixon Center, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, March 19, 2003. The following agenda will be considered:

Agenda

S. , Lifespan Respite Care Act.

S. , Pediatric Drugs Research Authority.

S. 15, Biodefense Improvement and Treatment for America Act.

Any nominees that have been cleared for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 19, 2003, at 9:30 a.m., to conduct an oversight hearing on the operations of the Secretary of the Senate and the Architect of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 19, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Indian energy legislation, S. 424, the Tribal Energy self-Sufficiency Act, and S. 522, the Native American Energy Development and Self Determination Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing entitled "Promoting Ethical Regenerative Medicine Research and Prohibiting Immoral Human Reproductive Cloning" on Wednesday, March 19, 2003, at 10:30 a.m. in the Dirksen Senate Office Building Room 226.

Panel I: The Honorable Sam Brownback, United States Senator, [R–KS]; The Honorable Jim R. Langevin, United States Representative, [D–RI–2nd District].

Panel II: Dr. Leon Kass, Addie Clark Harding Professor, The College and the Committee on Social Thought, University of Chicago. Hertog Fellow, American Enterprise Institute, Chicago, IL; Dr. Thomas Murray, President, The Hastings Center, Garrison, NY.

Panel III: Dr. Harold Varmus, President, Memorial Sloan-Kettering Cancer Center, New York City, NY; Dr. Anton-Lewis Usala, Professor, East Carolina University Professor, Greenville, NC; Dr. Micheline Mathews-Roth, Associate Professor of Medicine, Harvard Medical School, Boston, MA; Dr. Paul Berg, Cahill Professor, Department of Biochemistry, Stanford University, Palo Alto, CA.

Panel IV: Mr. James Kelly, Patient Advocate, Granbury, TX; Mr. Gregg Wasson, Patient Advocate, Cotai, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PERSONNEL

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 19, 2003, at 3 p.m., in open session to receive testimony on the National Guard and Reserve Military and Civilian Personnel Programs, in review of the Defense Authorization Request for Fiscal Year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Armed Services Committee be authorized to meet during the Session of the Senate on Wednesday, March 19, 2003, at 9:30 a.m., in open session to receive testimony on acquisition policy and outsourcing issues, in review of the Defense Authorization Request for Fiscal Year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. REED. I ask unanimous consent that a fellow in my office, Denis Borum, be granted the privilege of the floor for purposes of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IDENTITY THEFT PENALTY ENHANCEMENT ACT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 8, S. 153.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 153) to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 153) was read the third time and passed, as follows:

S. 153

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Identity Theft Penalty Enhancement Act”.

**SEC. 2. AGGRAVATED IDENTITY THEFT.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

**“§ 1028A. Aggravated identity theft**

“(a) OFFENSES.—

“(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

“(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

“(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

“(1) a court shall not place on probation any person convicted of a violation of this section;

“(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

“(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

“(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

“(c) DEFINITION.—For purposes of this section, the term ‘felony violation enumerated in subsection (c)’ means any offense that is a felony violation of—

“(1) section 664 (relating to theft from employee benefit plans);

“(2) section 911 (relating to false personation of citizenship);

“(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

“(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

“(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

“(6) any provision contained in chapter 69 (relating to nationality and citizenship);

“(7) any provision contained in chapter 75 (relating to passports and visas);

“(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

“(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

“(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

“(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a-7b(a)) (relating to false statements relating to programs under the Act).”.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

“1028A. Aggravated identity theft.”.

**SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.**

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking “transfers” and inserting “transfers, possesses,”; and

(B) by striking “abet,” and inserting “abet, or in connection with,”;

(2) in subsection (b)(1)(D), by striking “transfer” and inserting “transfer, possession,”;

(3) in subsection (b)(2), by striking “three years” and inserting “5 years”; and

(4) in subsection (b)(4), by inserting after “facilitate” the following: “an act of domestic terrorism (as defined under section 2331(5) of this title) or”.

## KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 24, S. 342.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to making improvements to and reauthorize programs under that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 342) was read the third time and passed, as follows:

S. 342

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Keeping Children and Families Safe Act of 2003”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 101. Findings.

Subtitle A—General Program

Sec. 111. National clearinghouse for information relating to child abuse.

Sec. 112. Research and assistance activities and demonstrations.

Sec. 113. Grants to States and public or private agencies and organizations.
Sec. 114. Grants to States for child abuse and neglect prevention and treatment programs.
Sec. 115. Miscellaneous requirements relating to assistance.
Sec. 116. Authorization of appropriations.
Sec. 117. Reports.
Subtitle B—Community-Based Grants for the Prevention of Child Abuse
Sec. 121. Purpose and authority.
Sec. 122. Eligibility.
Sec. 123. Amount of grant.
Sec. 124. Existing grants.
Sec. 125. Application.
Sec. 126. Local program requirements.
Sec. 127. Performance measures.
Sec. 128. National network for community-based family resource programs.
Sec. 129. Definitions.
Sec. 130. Authorization of appropriations.
Subtitle C—Conforming Amendments
Sec. 141. Conforming amendments.
TITLE II—ADOPTION OPPORTUNITIES
Sec. 201. Congressional findings and declaration of purpose.
Sec. 202. Information and services.
Sec. 203. Study of adoption placements.
Sec. 204. Studies on successful adoptions.
Sec. 205. Authorization of appropriations.
TITLE III—ABANDONED INFANTS ASSISTANCE
Sec. 301. Findings.
Sec. 302. Establishment of local projects.
Sec. 303. Evaluations, study, and reports by Secretary.
Sec. 304. Authorization of appropriations.
Sec. 305. Definitions.
TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT
Sec. 401. State demonstration grants.
Sec. 402. Secretarial responsibilities.
Sec. 403. Evaluation.
Sec. 404. Information and technical assistance centers.
Sec. 405. Authorization of appropriations.
Sec. 406. Grants for State domestic violence coalitions.
Sec. 407. Evaluation and monitoring.
Sec. 408. Family member abuse information and documentation project.
Sec. 409. Model State leadership grants.
Sec. 410. National domestic violence hotline grant.
Sec. 411. Youth education and domestic violence.
Sec. 412. National domestic violence shelter network.
Sec. 413. Demonstration grants for community initiatives.
Sec. 414. Transitional housing assistance.
Sec. 415. Technical and conforming amendments.

## TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

### SEC. 101. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), by striking "close to 1,000,000" and inserting "approximately 900,000";

(2) by redesignating paragraphs (2) through (11) as paragraphs (4) through (13), respectively;

(3) by inserting after paragraph (1) the following:

"(2)(A) more children suffer neglect than any other form of maltreatment; and

"(B) investigations have determined that approximately 63 percent of children who were victims of maltreatment in 2000 suffered neglect, 19 percent suffered physical abuse, 10 percent suffered sexual abuse, and 8 percent suffered emotional maltreatment;

"(3)(A) child abuse can result in the death of a child;

"(B) in 2000, an estimated 1,200 children were counted by child protection services to have died as a result of abuse or neglect; and

"(C) children younger than 1 year old comprised 44 percent of child abuse fatalities and 85 percent of child abuse fatalities were younger than 6 years of age;";

(4) by striking paragraph (4) (as so redesignated), and inserting the following:

"(4)(A) many of these children and their families fail to receive adequate protection and treatment;

"(B) slightly less than half of these children (45 percent in 2000) and their families fail to receive adequate protection or treatment; and

"(C) in fact, approximately 80 percent of all children removed from their homes and placed in foster care in 2000, as a result of an investigation or assessment conducted by the child protective services agency, received no services;";

(5) in paragraph (5) (as so redesignated)—

(A) in subparagraph (A), by striking "organizations" and inserting "community-based organizations";

(B) in subparagraph (D), by striking "ensures" and all that follows through "knowledge," and inserting "recognizes the need for properly trained staff with the qualifications needed"; and

(C) in subparagraph (E), by inserting before the semicolon the following: ", which may impact child rearing patterns, while at the same time, not allowing those differences to enable abuse";

(6) in paragraph (7) (as so redesignated), by striking "this national child and family emergency" and inserting "child abuse and neglect"; and

(7) in paragraph (9) (as so redesignated)—

(A) by striking "intensive" and inserting "needed"; and

(B) by striking "if removal has taken place" and inserting "where appropriate".

### Subtitle A—General Program

### SEC. 111. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) FUNCTIONS.—Section 103(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)) is amended—

(1) in paragraph (1), by striking "all programs," and all that follows through "neglect; and" and inserting "all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect and hold the potential for broad scale implementation and replication;";

(2) in paragraph (2), by striking the period and inserting a semicolon;

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following:

"(2) maintain information about the best practices used for achieving improvements in child protective systems;"; and

(5) by adding at the end the following:

"(4) provide technical assistance upon request that may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under this Act; and

"(5) collect and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel.".

(b) COORDINATION WITH AVAILABLE RESOURCES.—Section 103(c)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)) is amended—

(1) in subparagraph (E), by striking "105(a); and" and inserting "104(a);";

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of abused and neglected children; and".

### SEC. 112. RESEARCH AND ASSISTANCE ACTIVITIES AND DEMONSTRATIONS.

(a) RESEARCH.—Section 104(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), in the first sentence, by inserting ", including longitudinal research," after "interdisciplinary program of research"; and

(B) in subparagraph (B), by inserting before the semicolon the following: ", including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed";

(C) in subparagraph (C)—

(i) by striking "judicial procedures" and inserting "judicial systems, including multidisciplinary, coordinated decisionmaking procedures"; and

(ii) by striking "and" at the end; and

(D) in subparagraph (D)—

(i) in clause (viii), by striking "and" at the end;

(ii) by redesignating clause (ix) as clause (x); and

(iii) by inserting after clause (viii), the following:

"(ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, family structure, household relationship (including the living arrangement of the resident parent and family size), school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year; and";

(E) by redesignating subparagraph (D) as subparagraph (I); and

(F) by inserting after subparagraph (C), the following:

"(D) the evaluation and dissemination of best practices consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (12) of section 106(a);

"(E) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

"(F) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;

"(G) the nature, scope, and practice of voluntary relinquishment for foster care or State guardianship of low income children who need health services, including mental health services;

"(H) the information on the national incidence of child abuse and neglect specified in clauses (i) through (xi) of subparagraph (H); and";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) Not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, and every 2 years thereafter, the Secretary shall provide an opportunity for public comment concerning the priorities proposed under subparagraph (A) and maintain an official record of such public comment.";

(3) by redesignating paragraph (2) as paragraph (4);

(4) by inserting after paragraph (1) the following:

"(2) RESEARCH.—The Secretary shall conduct research on the national incidence of child abuse and neglect, including the information on the national incidence on child abuse and neglect specified in subparagraphs (i) through (ix) of paragraph (1)(I).

"(3) REPORT.—Not later than 4 years after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2).".

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 104(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is amended—

(1) in paragraph (1)—

(A) by striking "nonprofit private agencies and" and inserting "private agencies and community-based"; and

(B) by inserting ", including replicating successful program models," after "programs and activities"; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.".

(c) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by adding at the end the following:

"(e) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may award grants to, and enter into contracts with, States or public or private agencies or organizations (or combinations of such agencies or organizations) for time-limited, demonstration projects for the following:

"(1) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants under this subsection to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(A) for court-ordered, supervised visitation between children and abusing parents; and

"(B) to safely facilitate the exchange of children for visits with noncustodial parents in cases of domestic violence.

"(2) EDUCATION IDENTIFICATION, PREVENTION, AND TREATMENT.—The Secretary may award grants under this subsection to entities for projects that provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(3) RISK AND SAFETY ASSESSMENT TOOLS.—The Secretary may award grants under this subsection to entities for projects that provide for the development of effective and research-based risk and safety assessment tools relating to child abuse and neglect.

"(4) TRAINING.—The Secretary may award grants under this subsection to entities for projects that involve effective and research-based innovative training for mandated child abuse and neglect reporters.

"(5) COMPREHENSIVE ADOLESCENT VICTIM/VICTIMIZER PREVENTION PROGRAMS.—The Secretary may award grants to organizations that demonstrate innovation in preventing child sexual abuse through school-based programs in partnership with parents and community-based organizations to establish a network of trainers who will work with schools to implement the program. The program shall be comprehensive, meet State guidelines for health education, and should reduce child sexual abuse by focusing on prevention for both adolescent victims and victimizers.".

### SEC. 113. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.

(a) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)) is amended—

(1) in the subsection heading, by striking "DEMONSTRATION" and inserting "GRANTS FOR";

(2) in the matter preceding paragraph (1)—

(A) by inserting "States," after "contracts with,";

(B) by striking "nonprofit"; and

(C) by striking "time limited, demonstration";

(3) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "nonprofit";

(B) in subparagraph (A), by striking "law, education, social work, and other relevant fields" and inserting "law enforcement, judiciary, social work and child protection, education, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem,";

(C) in subparagraph (B), by striking "nonprofit" and all that follows through "; and" and inserting "children, youth and family service organizations in order to prevent child abuse and neglect;";

(D) in subparagraph (C), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

"(D) for training to support the enhancement of linkages between child protective service agencies and health care agencies, including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships between child protective service agencies and health care agencies that offer creative approaches to using existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

"(E) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment;

"(F) for the training of personnel regarding the legal duties of such personnel and their responsibilities to protect the legal rights of children and families;

"(G) for improving the training of supervisory and nonsupervisory child welfare workers;

"(H) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, and other public and private welfare agencies to promote child safety, permanence, and family stability;

"(I) for cross training for child protective service workers in effective and research-based methods for recognizing situations of substance abuse, domestic violence, and neglect; and

"(J) for developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professionals and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health care facilities; and

"(ii) the parents of such infants.";

(4) by redesignating paragraph (2) and (3) as paragraphs (3) and (4), respectively;

(5) by inserting after paragraph (1), the following:

"(2) TRIAGE PROCEDURES.—The Secretary may award grants under this subsection to public and private agencies that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, law enforcement agencies, developmental disability agencies, substance abuse treatment entities, health care entities, domestic violence prevention entities, mental health service entities, schools, churches and synagogues, and other community agencies, to allow for the establishment of a triage system that—

"(A) accepts, screens, and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program, or project;

"(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.";

(6) in paragraph (3) (as so redesignated), by striking "nonprofit organizations (such as Parents Anonymous)" and inserting "organizations";

(7) in paragraph (4) (as so redesignated)—

(A) by striking the paragraph heading;

(B) by striking subparagraphs (A) and (C); and

(C) in subparagraph (B)—

(i) by striking "(B) KINSHIP CARE.—" and inserting the following:

"(4) KINSHIP CARE.—

"(A) IN GENERAL.—"; and

(ii) by striking "nonprofit"; and

(8) by adding at the end the following:

"(5) LINKAGES BETWEEN CHILD PROTECTIVE SERVICE AGENCIES AND PUBLIC HEALTH, MENTAL HEALTH, AND DEVELOPMENTAL DISABILITIES AGENCIES.—The Secretary may award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated, in accordance with all applicable Federal and State privacy laws.".

(b) DISCRETIONARY GRANTS.—Section 105(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "subsection (b)" and inserting "subsection (a)";

(2) by striking paragraph (1);

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(4) by inserting after paragraph (2) (as so redesignated), the following:

"(3) Programs based within children's hospitals or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated."; and

(5) in paragraph (4)(D), by striking "nonprofit".

(c) EVALUATION.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(c)) is amended—

(1) in the first sentence, by striking "demonstration";

(2) in the second sentence, by inserting "or contract" after "or as a separate grant"; and

(3) by adding at the end the following: "In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques.".

(d) TECHNICAL AMENDMENT TO HEADING.—The section heading for section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended to read as follows:

**"SEC. 105. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.".**

### SEC. 114. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) DEVELOPMENT AND OPERATION GRANTS.—Section 106(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(a)) is amended—

(1) in paragraph (3)—

(A) by inserting ", including ongoing case monitoring," after "case management"; and

(B) by inserting "and treatment" after "and delivery of services";

(2) in paragraph (4), by striking "improving" and all that follows through "referral systems" and inserting "developing, improving, and implementing risk and safety assessment tools and protocols";

(3) by striking paragraph (7);

(4) by redesignating paragraphs (5), (6), (8), and (9) as paragraphs (6), (8), (9), and (12), respectively;

(5) by inserting after paragraph (4), the following:

"(5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;";

(6) in paragraph (6) (as so redesignated), by striking "opportunities" and all that follows through "system" and inserting "including—

"(A) training regarding effective and research-based practices to promote collaboration with the families;

"(B) training regarding the legal duties of such individuals; and

"(C) personal safety training for case workers;";

(7) by inserting after paragraph (6) (as so redesignated) the following:

"(7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;";

(8) by striking paragraph (9) (as so redesignated), and inserting the following:

"(9) developing and facilitating effective and research-based training protocols for individuals mandated to report child abuse or neglect;

"(10) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption;

"(11) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect;";

(9) in paragraph (12) (as so redesignated), by striking the period and inserting a semicolon; and

(10) by adding at the end the following:

"(13) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems; or

"(14) supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.".

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 106(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "provide notice to the Secretary of any substantive changes" and inserting the following: "provide notice to the Secretary—

"(i) of any substantive changes; and";

(ii) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(ii) any significant changes to how funds provided under this section are used to support the activities which may differ from the activities as described in the current State application.";

(B) in paragraph (2)(A)—

(i) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), and (xiii) as clauses (iv), (vi), (vii), (viii), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi) and (xvii), respectively;

(ii) by inserting after clause (i), the following:

"(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure;

"(iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms;";

(iii) in clause (iv) (as so redesignated), by inserting "risk and" before "safety";

(iv) by inserting after clause (iv) (as so redesignated), the following:

"(v) triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;";

(v) in clause (viii)(II) (as so redesignated), by striking ", having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect" and inserting ", as described in clause (ix)";

(vi) by inserting after clause (viii) (as so redesignated), the following:

"(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;";

(vii) in clause (xiii) (as so redesignated)—

(I) by inserting "who has received training appropriate to the role, and" after "guardian ad litem,"; and

(II) by inserting "who has received training appropriate to that role" after "advocate";

(viii) in clause (xv) (as so redesignated), by striking "to be effective not later than 2 years after the date of enactment of this section";

(ix) in clause (xvi) (as so redesignated)—

(I) by striking "to be effective not later than 2 years after the date of enactment of this section"; and

(II) by striking "and" at the end;

(x) in clause (xvii) (as so redesignated), by striking "clause (xii)" each place that such appears and inserting "clause (xvi)"; and

(xi) by adding at the end the following:

"(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

"(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

"(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers; and

"(xxi) not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, provisions and procedures for requiring criminal background record checks for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household;"; and

(C) in paragraph (2), by adding at the end the following flush sentence:

"Nothing in subparagraph (A) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect.".

(2) LIMITATION.—Section 106(b)(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(3)) is amended by striking "With regard to clauses (v) and (vi) of paragraph (2)(A)" and inserting "With regard to clauses (vi) and (vii) of paragraph (2)(A)".

(c) CITIZEN REVIEW PANELS.—Section 106(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(c)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "and procedures" and inserting ", procedures, and practices"; and

(II) by striking "the agencies" and inserting "State and local child protection system agencies"; and

(ii) in clause (iii)(I), by striking "State" and inserting "State and local"; and

(B) by adding at the end the following:

"(C) PUBLIC OUTREACH.—Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A)."; and

(2) in paragraph (6)—

(A) by striking "public" and inserting "State and the public"; and

(B) by inserting before the period the following: "and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system".

(d) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended by adding at the end the following:

"(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).

"(14) The number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.".

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that describes the extent to which States are implementing the policies and procedures required under section 106(b)(2)(B)(ii) of the Child Abuse Prevention and Treatment Act.

### SEC. 115. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended by adding at the end the following:

"(d) GAO STUDY.—Not later than February 1, 2004, the Comptroller General of the United States shall conduct a survey of a wide range of State and local child protection service systems to evaluate and submit to Congress a report concerning—

"(1) the current training (including cross-training in domestic violence or substance abuse) of child protective service workers in the outcomes for children and to analyze and evaluate the effects of caseloads, compensation, and supervision on staff retention and performance;

"(2) the efficiencies and effectiveness of agencies that provide cross-training with court personnel; and

"(3) recommendations to strengthen child protective service effectiveness to improve outcomes for children.

"(e) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.

"(f) ANNUAL REPORT ON CERTAIN PROGRAMS.—A State that receives funds under section 106(a) shall annually prepare and submit to the Secretary a report describing the manner in which funds provided under this Act, alone or in combination with other Federal funds, were used to address the purposes and achieve the objectives of section 105(a)(4)(B).".

### SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended to read as follows:

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.".

(b) DEMONSTRATION PROJECTS.—Section 112(a)(2)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(2)(B)) is amended—

(1) by striking "Secretary make" and inserting "Secretary shall make"; and

(2) by striking "section 106" and inserting "section 104".

### SEC. 117. REPORTS.

Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106f) is amended by adding at the end the following:

"(c) STUDY AND REPORT RELATING TO CITIZEN REVIEW PANELS.—

"(1) STUDY.—The Secretary shall conduct a study by random sample of the effectiveness of the citizen review panels established under section 106(c).

"(2) REPORT.—Not later than 3 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under paragraph (1).".

## Subtitle B—Community-Based Grants for the Prevention of Child Abuse

### SEC. 121. PURPOSE AND AUTHORITY.

(a) PURPOSE.—Section 201(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(a)(1)) is amended to read as follows:

"(1) to support community-based efforts to develop, operate, expand, enhance, and, where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and".

(b) AUTHORITY.—Section 201(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking "Statewide" and all that follows through the dash, and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, culturally appropriate, and build upon existing strengths-that—";

(B) in subparagraph (F), by striking "and" at the end; and

(C) by striking subparagraph (G) and inserting the following:

"(G) demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and

"(H) provide referrals to early health and developmental services;"; and

(2) in paragraph (4)—

(A) by inserting "through leveraging of funds" after "maximizing funding";

(B) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(C) by striking "family resource and support program" and inserting "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)".

(c) TECHNICAL AMENDMENT TO TITLE HEADING.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116) is amended by striking the heading for such title and inserting the following:

**"TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT".**

### SEC. 122. ELIGIBILITY.

Section 202 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(ii) by striking "family resource and support programs" and all that follows through the semicolon and inserting "programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate);"

(B) in subparagraph (B), by inserting "that exists to strengthen and support families to prevent child abuse and neglect" after "written authority of the State)";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "a network of community-based family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(B) in subparagraph (B)—

(i) by striking "to the network"; and

(ii) by inserting ", and parents with disabilities" before the semicolon;

(C) in subparagraph (C), by striking "to the network"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(B) in subparagraph (B), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(C) in subparagraph (C), by striking "and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)"; and

(D) in subparagraph (D), by inserting ", parents with disabilities," after "children with disabilities".

### SEC. 123. AMOUNT OF GRANT.

Section 203 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b) is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the" and inserting "as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated";

(B) by striking "State lead agency" and inserting "State lead entity"; and

(C) by striking "the lead agency" and inserting "the current lead entity"; and

(2) in subsection (c)(2), by striking "subsection (a)" and inserting "subsection (b)".

### SEC. 124. EXISTING GRANTS.

Section 204 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115c) is repealed.

### SEC. 125. APPLICATION.

Section 205 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116d) is amended—

(1) in paragraph (1), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)";

(2) in paragraph (2)—

(A) by striking "network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)"; and

(B) by striking ", including those funded by programs consolidated under this Act,";

(3) by striking paragraph (3), and inserting the following:

"(3) a description of the inventory of current unmet needs and current community-based and prevention-focused programs and activities to prevent child abuse and neglect, and other family resource services operating in the State;";

(4) in paragraph (4), by striking "State's network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(5) in paragraph (5), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "start up, maintenance, expansion, and redesign of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(6) in paragraph (7), by striking "individual community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(7) in paragraph (8), by striking "community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(8) in paragraph (9), by striking "community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(9) in paragraph (10), by inserting "(where appropriate)" after "members";

(10) in paragraph (11), by striking "prevention-focused, family resource and support program" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect"; and

(11) by redesignating paragraph (13) as paragraph (12).

### SEC. 126. LOCAL PROGRAM REQUIREMENTS.

Section 206(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116e(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "prevention-focused, family resource and support programs" and inserting "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(2) in paragraph (3)(B), by inserting "voluntary home visiting and" after "including"; and

(3) by striking paragraph (6) and inserting the following:

"(6) participate with other community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect in the development, operation and expansion of networks where appropriate.".

### SEC. 127. PERFORMANCE MEASURES.

Section 207 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116f) is amended—

(1) in paragraph (1), by striking "a Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(2) by striking paragraph (3), and inserting the following:

"(3) shall demonstrate that they will have addressed unmet needs identified by the inventory and description of current services required under section 205(3);";

(3) in paragraph (4),

(A) by inserting "and parents with disabilities," after "children with disabilities,"; and

(B) by striking "evaluation of" the first place it appears and all that follows through "under this title" and inserting "evaluation of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, and in the design, operation and evaluation of the networks of such community-based and prevention-focused programs";

(4) in paragraph (5), by striking ", prevention-focused, family resource and support programs" and inserting "and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect";

(5) in paragraph (6), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect"; and

(6) in paragraph (8), by striking "community based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect".

### SEC. 128. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

Section 208(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116g(3)) is amended by striking "Statewide networks of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect".

### SEC. 129. DEFINITIONS.

(a) CHILDREN WITH DISABILITIES.—Section 209(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h(1)) is amended by striking "given such term in section 602(a)(2)" and inserting "given the term 'child with a disability' in section 602(3) or 'infant or toddler with a disability' in section 632(5)".

(b) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—Section 209 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h) is amended by striking paragraphs (3) and (4) and inserting the following:

"(3) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—The term 'community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect' includes organizations such as family resource programs, family support programs, voluntary home visiting programs, respite care programs, parenting education, mutual support programs, and other community programs or networks of such programs that provide activities that are designed to prevent or respond to child abuse and neglect.".

### SEC. 130. AUTHORIZATION OF APPROPRIATIONS.

Section 210 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116i) is amended to read as follows:

### "SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $80,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.".

## Subtitle C—Conforming Amendments

### SEC. 141. CONFORMING AMENDMENTS.

The table of contents of the Child Abuse Prevention and Treatment Act, as contained in section 1(b) of such Act (42 U.S.C. 5101 note), is amended as follows:

(1) By striking the item relating to section 105 and inserting the following:

"Sec. 105. Grants to States and public or private agencies and organizations.".

(2) By striking the item relating to title II and inserting the following:

"TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT".

(3) By striking the item relating to section 204.

## TITLE II—ADOPTION OPPORTUNITIES

### SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) through (4) and inserting the following:

"(1) the number of children in substitute care has increased by nearly 24 percent since 1994, as our Nation's foster care population included more than 565,000 as of September of 2001;

"(2) children entering foster care have complex problems that require intensive services, with many such children having special needs because they are born to mothers who did not receive prenatal care, are born with life threatening conditions or disabilities, are born addicted to alcohol or other drugs, or have been exposed to infection with the etiologic agent for the human immunodeficiency virus;

"(3) each year, thousands of children are in need of placement in permanent, adoptive homes;";

(B) by striking paragraph (6);

(C) by striking paragraph (7)(A) and inserting the following:

"(7)(A) currently, there are 131,000 children waiting for adoption;"; and

(D) by redesignating paragraphs (5), (7), (8), (9), and (10) as paragraphs (4), (5), (6), (7), and (8) respectively; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ", including geographic barriers," after "barriers"; and

(B) in paragraph (2), by striking "a national" and inserting "an Internet-based national".

### SEC. 202. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) by striking the section heading and inserting the following:

### "SEC. 203. INFORMATION AND SERVICES.";

(2) by striking "Sec. 203. (a) The Secretary" and inserting the following:

"(a) In General.—The Secretary";

(3) in subsection (b)—

(A) by inserting "Required Activities.—" after "(b)";

(B) in paragraph (1), by striking "nonprofit" each place that such appears;

(C) in paragraph (2), by striking "nonprofit";

(D) in paragraph (3), by striking "nonprofit";

(E) in paragraph (4), by striking "nonprofit";

(F) in paragraph (6), by striking "study the nature, scope, and effects of" and insert "support";

(G) in paragraph (7), by striking "nonprofit";

(H) in paragraph (9)—

(i) by striking "nonprofit"; and

(ii) by striking "and" at the end;

(I) in paragraph (10)—

(i) by striking "nonprofit"; each place that such appears; and

(ii) by striking the period at the end and inserting "; and"; and

(J) by adding at the end the following:

"(11) provide (directly or by grant to or contract with States, local government entities, or public or private licensed child welfare or adoption agencies) for the implementation of programs that are intended to increase the number of older children (who are in foster care and with the goal of adoption) placed in adoptive families, with a special emphasis on child-specific recruitment strategies, including—

"(A) outreach, public education, or media campaigns to inform the public of the needs and numbers of older youth available for adoption;

"(B) training of personnel in the special needs of older youth and the successful strategies of child-focused, child-specific recruitment efforts; and

"(C) recruitment of prospective families for such children.";

(4) in subsection (c)—

(A) by striking "(c)(1) The Secretary" and inserting the following:

"(c) Services for Families Adopting Special Needs Children.—

"(1) In general.—The Secretary";

(B) by striking "(2) Services" and inserting the following:

"(2) Services.—Services"; and

(C) in paragraph (2)—

(i) by realigning the margins of subparagraphs (A) through (G) accordingly;

(ii) in subparagraph (F), by striking "and" at the end;

(iii) in subparagraph (G), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(H) day treatment; and

"(I) respite care."; and

(D) by striking "nonprofit"; each place that such appears;

(5) in subsection (d)—

(A) by striking "(d)(1) The Secretary" and inserting the following:

"(d) Improving Placement Rate of Children in Foster Care.—

"(1) In general.—The Secretary";

(B) by striking "(2)(A) Each State" and inserting the following:

"(2) Applications; technical and other assistance.—

"(A) Applications.—Each State";

(C) by striking "(B) The Secretary" and inserting the following:

"(B) Technical and other assistance.—The Secretary";

(D) in paragraph (2)(B)—

(i) by realigning the margins of clauses (i) and (ii) accordingly; and

(ii) by striking "nonprofit";

(E) by striking "(3)(A) Payments" and inserting the following:

"(3) Payments.—

"(A) In general.—Payments"; and

(F) by striking "(B) Any payment" and inserting the following:

"(B) Reversion of unused funds.—Any payment"; and

(6) by adding at the end the following:

"(e) Elimination of Barriers to Adoptions Across Jurisdictional Boundaries.—

"(1) In general.—The Secretary shall award grants to, or enter into contracts with, States, local government entities, public or private child welfare or adoption agencies, adoption exchanges, or adoption family groups to carry out initiatives to improve efforts to eliminate barriers to placing children for adoption across jurisdictional boundaries.

"(2) Services to supplement not supplant.—Services provided under grants made under this subsection shall supplement, not supplant, services provided using any other funds made available for the same general purposes including—

"(A) developing a uniform homestudy standard and protocol for acceptance of homestudies between States and jurisdictions;

"(B) developing models of financing cross-jurisdictional placements;

"(C) expanding the capacity of all adoption exchanges to serve increasing numbers of children;

"(D) developing training materials and training social workers on preparing and moving children across State lines; and

"(E) developing and supporting initiative models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.".

### SEC. 203. STUDY OF ADOPTION PLACEMENTS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended—

(1) by striking "The" and inserting "(a) In General.—The";

(2) by striking "of this Act" and inserting "of the Keeping Children and Families Safe Act of 2003";

(3) by striking "to determine the nature" and inserting "to determine—

"(1) the nature";

(4) by striking "which are not licensed" and all that follows through "entity";"; and

(5) by adding at the end the following:

"(2) how interstate placements are being financed across State lines;

"(3) recommendations on best practice models for both interstate and intrastate adoptions; and

"(4) how State policies in defining special needs children differentiate or group similar categories of children.".

### SEC. 204. STUDIES ON SUCCESSFUL ADOPTIONS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended by adding at the end the following:

"(b) Dynamics of Successful Adoption.—The Secretary shall conduct research (directly or by grant to, or contract with, public or private nonprofit research agencies or organizations) about adoption outcomes and the factors affecting those outcomes. The Secretary shall submit a report containing the results of such research to the appropriate committees of the Congress not later than the date that is 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2003.

"(c) INTERJURISDICTIONAL ADOPTION.—Not later than 1 year after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary, in consultation with the Comptroller General, shall submit to the appropriate committees of the Congress a report that contains recommendations for an action plan to facilitate the interjurisdictional adoption of foster children.".

### SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Section 205(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115(a)) is amended to read as follows:

"There are authorized to be appropriated $40,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008 to carry out programs and activities authorized under this subtitle.".

## TITLE III—ABANDONED INFANTS ASSISTANCE

### SEC. 301. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by inserting "studies indicate that a number of factors contribute to" before "the inability of";

(B) by inserting "some" after "inability of";

(C) by striking "who abuse drugs"; and

(D) by striking "care for such infants" and inserting "care for their infants";

(3) by amending paragraph (5) to read as follows:

"(5) appropriate training is needed for personnel working with infants and young children with life-threatening conditions and other special needs, including those who are infected with the human immunodeficiency virus (commonly known as 'HIV'), those who have acquired immune deficiency syndrome (commonly known as 'AIDS'), and those who have been exposed to dangerous drugs;";

(4) by striking paragraphs (6) and (7);

(5) in paragraph (8)—

(A) by striking "such infants and young children" and inserting "infants and young children who are abandoned in hospitals"; and

(B) by inserting "by parents abusing drugs," after "deficiency syndrome,";

(6) in paragraph (9), by striking "comprehensive services" and all that follows through the semicolon at the end and inserting "comprehensive support services for such infants and young children and their families and services to prevent the abandonment of such infants and young children, including foster care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;";

(7) by striking paragraph (11);

(8) by redesignating paragraphs (2), (3), (4), (5), (8), (9), and (10) as paragraphs (1) through (7), respectively; and

(9) by adding at the end the following:

"(8) private, Federal, State, and local resources should be coordinated to establish and maintain services described in paragraph (7) and to ensure the optimal use of all such resources.".

### SEC. 302. ESTABLISHMENT OF LOCAL PROJECTS.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking the section heading and inserting the following:

**"SEC. 101. ESTABLISHMENT OF LOCAL PROJECTS.";**

and

(2) by striking subsection (b) and inserting the following:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to give priority to abandoned infants and young children who—

"(1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus, or have a life-threatening illness or other special medical need; or

"(2) have been perinatally exposed to a dangerous drug.".

### SEC. 303. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

**"SEC. 102. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.**

"(a) EVALUATIONS OF LOCAL PROGRAMS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as a result of such projects.

"(b) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

"(1) IN GENERAL.—The Secretary shall conduct a study for the purpose of determining—

"(A) an estimate of the annual number of infants and young children relinquished, abandoned, or found deceased in the United States and the number of such infants and young children who are infants and young children described in section 101(b);

"(B) an estimate of the annual number of infants and young children who are victims of homicide;

"(C) characteristics and demographics of parents who have abandoned an infant within 1 year of the infant's birth; and

"(D) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for abandoned infants and young children.

"(2) DEADLINE.—Not later than 36 months after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall complete the study required under paragraph (1) and submit to Congress a report describing the findings made as a result of the study.

"(c) EVALUATION.—The Secretary shall evaluate and report on effective methods of intervening before the abandonment of an infant or young child so as to prevent such abandonments, and effective methods for responding to the needs of abandoned infants and young children.".

### SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated $45,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008.

"(2) LIMITATION.—Not more than 5 percent of the amounts appropriated under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "AUTHORIZATION.—" after "(1)" the first place it appears; and

(ii) by striking "this title" and inserting "this Act"; and

(B) in paragraph (2)—

(i) by inserting "LIMITATION.—" after "(2)"; and

(ii) by striking "fiscal year 1991." and inserting "fiscal year 2003."; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) REDESIGNATION.—The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating section 104 as section 302; and

(2) by moving that section 302 to the end of that Act.

### SEC. 305. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

**"SEC. 301. DEFINITIONS.**

"In this Act:

"(1) ABANDONED; ABANDONMENT.—The terms 'abandoned' and 'abandonment', used with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) ACQUIRED IMMUNE DEFICIENCY SYNDROME.—The term 'acquired immune deficiency syndrome' includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

"(3) DANGEROUS DRUG.—The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(4) NATURAL FAMILY.—The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation, with respect to infants and young children covered under this Act.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.".

(b) REPEAL.—Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

## TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

### SEC. 401. STATE DEMONSTRATION GRANTS.

(a) UNDERSERVED POPULATIONS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking "underserved populations," and all that follows and inserting the following: "underserved populations, as defined in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2);".

(b) REPORT.—Section 303(a) of such Act (42 U.S.C. 10402(a)) is amended by adding at the end the following:

"(5) Upon completion of the activities funded by a grant under this title, the State shall submit to the Secretary a report that contains a description of the activities carried out under paragraph (2)(B)(i).''.

(c) CHILDREN WHO WITNESS DOMESTIC VIOLENCE.—Section 303 of such Act (42 U.S.C. 10402) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) For a fiscal year described in section 310(a)(2), the Secretary shall use funds made available under that section to make grants, on a competitive basis, to eligible entities for projects designed to address the needs of children who witness domestic violence, to—

''(1) provide direct services for children who witness domestic violence;

''(2) provide for training for and collaboration among child welfare agencies, domestic violence victim service providers, courts, law enforcement, and other entities; and

''(3) provide for multisystem interventions for children who witness domestic violence.''.

### SEC. 402. SECRETARIAL RESPONSIBILITIES.

Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking ''an employee'' and inserting ''1 or more employees'';

(2) by striking ''of this title.'' and inserting ''of this title, including carrying out evaluation and monitoring under this title.''; and

(3) by striking ''The individual'' and inserting ''Any individual''.

### SEC. 403. EVALUATION.

Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended in the first sentence by striking ''Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter,'' and inserting ''Every 2 years,''.

### SEC. 404. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended by striking subsection (g).

### SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—There are authorized to be appropriated to carry out sections 303 through 311, $175,000,000 for each of fiscal years 2004 through 2008.

''(2) PROJECTS TO ADDRESS NEEDS OF CHILDREN WHO WITNESS DOMESTIC VIOLENCE.—For a fiscal year in which the amounts appropriated under paragraph (1) exceed $150,000,000, the Secretary shall reserve and make available 50 percent of the excess to carry out section 303(c).''.

(b) ALLOCATIONS FOR OTHER PROGRAMS.—Subsections (b), (c), and (d) of section 310 of such Act (42 U.S.C. 10409) are amended by inserting ''(and not reserved under subsection (a)(2))'' after ''each fiscal year''.

(c) GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(g) of such Act (42 U.S.C. 10410(g)) is amended to read as follows:

''(g) FUNDING.—Of the amount appropriated under section 310(a) for a fiscal year (and not reserved under section 310(a)(2)), not less than 10 percent of such amount shall be made available to award grants under this section.''.

### SEC. 406. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended by striking subsection (h).

### SEC. 407. EVALUATION AND MONITORING.

Section 312 of the Family Violence Prevention and Services Act (42 U.S.C. 10412) is amended by adding at the end the following:

''(c) Of the amount appropriated under section 310(a) for each fiscal year (and not reserved under section 310(a)(2)), not more than 2.5 percent shall be used by the Secretary for evaluation, monitoring, and other administrative costs under this title.''.

### SEC. 408. FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT.

Section 313 of the Family Violence Prevention and Services Act (42 U.S.C. 10413) is repealed.

### SEC. 409. MODEL STATE LEADERSHIP GRANTS.

Section 315 of the Family Violence Prevention and Services Act (42 U.S.C. 10415) is repealed.

### SEC. 410. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) DURATION.—Section 316(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(b)) is amended—

(1) by striking ''A grant'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant''; and

(2) by adding at the end the following:

''(2) EXTENSION.—The Secretary may extend the duration of a grant under this section beyond the period described in paragraph (1) if, prior to such extension—

''(A) the entity prepares and submits to the Secretary a report that evaluates the effectiveness of the use of amounts received under the grant for the period described in paragraph (1) and contains any other information the Secretary may prescribe; and

''(B) the report and other appropriate criteria indicate that the entity is successfully operating the hotline in accordance with subsection (a).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(f) of such Act (42 U.S.C. 10416(f)) is repealed.

### SEC. 411. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

Section 317 of the Family Violence Prevention and Services Act (42 U.S.C. 10417) is repealed.

### SEC. 412. NATIONAL DOMESTIC VIOLENCE SHELTER NETWORK.

The Family Violence Prevention and Services Act is amended by inserting after section 316 (42 U.S.C. 10416) the following:

### ''SEC. 317. NATIONAL DOMESTIC VIOLENCE SHELTER NETWORK.

''(a) IN GENERAL.—For a year in which the Secretary makes an amount available under subsection (g)(2), the Secretary shall award a grant to a nonprofit organization to establish and operate a highly secure Internet website (referred to in this section as the 'website') that shall—

''(1) link, to the greatest extent possible, entities consisting of the entity providing the national domestic violence hotline, participating domestic violence shelters in the United States, State and local domestic violence agencies, and other domestic violence organization, so that such entities will be able to connect a victim of domestic violence to the most safe, appropriate, and convenient domestic violence shelter; and

''(2) contain, to the maximum extent practicable, continuously updated information concerning the availability of services and space in domestic violence shelters across the United States.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, a nonprofit organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

''(1) demonstrate the experience of the applicant in successfully developing and managing a technology-based network of domestic violence shelters;

''(2) demonstrate a record of success of the applicant in meeting the needs of domestic violence victims and their families; and

''(3) include a certification that the applicant will—

''(A) implement a high level security system to ensure the confidentiality of the website;

''(B) establish, within 5 years, a website that links the entities described in subsection (a)(1);

''(C) consult with the entities described in subsection (a)(1) in developing and implementing the website and providing Internet connections; and

''(D) otherwise comply with the requirements of this section.

''(c) USE OF GRANT AWARD.—The recipient of a grant award under this section shall—

''(1) collaborate with officials of the Department of Health and Human Services in a manner determined to be appropriate by the Secretary;

''(2) collaborate with the entity providing the national domestic violence hotline in developing and implementing the network;

''(3) ensure that the website is continuously updated and highly secure;

''(4) ensure that the website provides information describing the services of each domestic violence shelter to which the website is linked, including information for individuals with limited English proficiency and information concerning access to medical care, social services, transportation, services for children, and other relevant services;

''(5) ensure that the website provides up-to-the-minute information on available bed space in domestic violence shelters across the United States, to the maximum extent practicable;

''(6) provide training to the staff of the hotline and to staff of the other entities described in subsection (a)(1) regarding how to use the website to best meet the needs of callers;

''(7) provide Internet access, and hardware in necessary cases, to domestic violence shelters in the United States that do not have the appropriate technology for such access, to the maximum extent practicable; and

''(8) ensure that after the third year of the website project, the recipient will develop a plan to expand the sources of funding for the website to include funding from public and private entities, although nothing in this paragraph shall preclude a grant recipient under this section from raising funds from other sources at any time during the 5-year grant period.

''(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require any shelter or service provider, whether public or private, to be linked to the website or to provide information to the recipient of the grant award or to the website.

''(e) DURATION OF GRANT.—The term of a grant awarded under this section shall be 5 years.

''(f) TECHNICAL ASSISTANCE AND OVERSIGHT.—The Secretary shall—

"(1) provide technical assistance, if requested, on developing and managing the website; and

"(2) have access to, and monitor, the website.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out section 316 and this section, $5,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

"(2) CONDITIONS ON APPROPRIATIONS.—Notwithstanding paragraph (1), the Secretary shall make available a portion of the amounts appropriated under paragraph (1) to carry out this section only for any fiscal year for which the amounts appropriated under paragraph (1) exceed $3,000,000.

"(3) ADMINISTRATIVE COSTS.—Of the amount made available to carry out this section for a fiscal year the Secretary may not use more than 2 percent for administrative costs associated with the grant program carried out under this section, of which not more than 5 percent shall be used to assist the entity providing the national domestic violence hotline to participate in the establishment of the website.

"(4) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.".

**SEC. 413. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.**

(a) IN GENERAL.—Section 318(h) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2004 through 2008.".

(b) REGULATIONS.—Section 318 of such Act (42 U.S.C. 10418) is amended by striking subsection (i).

**SEC. 414. TRANSITIONAL HOUSING ASSISTANCE.**

Section 319(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10419(f)) is amended by striking "fiscal year 2001" and inserting "each of fiscal years 2004 through 2008".

**SEC. 415. TECHNICAL AND CONFORMING AMENDMENTS.**

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended—

(1) in section 302(1) (42 U.S.C. 10401(1)) by striking "demonstrate the effectiveness of assisting" and inserting "assist";

(2) in section 303(a) (42 U.S.C. 10402(a))—

(A) in paragraph (2)—

(i) in subparagraph (C), by striking "State domestic violence coalitions knowledgeable individuals and interested organizations" and inserting "State domestic violence coalitions, knowledgeable individuals, and interested organizations"; and

(ii) in subparagraph (F), by adding "and" at the end; and

(B) by aligning the margins of paragraph (4) with the margins of paragraph (3);

(3) in section 303(g) (as so redesignated)—

(A) in the first sentence, by striking "309(4)" and inserting "320"; and

(B) in the second sentence, by striking "309(5)(A)" and inserting "320(5)(A)";

(4) in section 305(b)(2)(A) (42 U.S.C. 10404(b)(2)(A)) by striking "provide for research, and into" and inserting "provide for research into";

(5) by redesignating section 309 as section 320 and moving that section to the end of the Act; and

(6) in section 311(a) (42 U.S.C. 10410(a))—

(A) in paragraph (2)(K), by striking "other criminal justice professionals,;" and inserting "other criminal justice professionals;" and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "family law judges,," and inserting "family law judges,";

(ii) in subparagraph (D), by inserting ", criminal court judges," after "family law judges"; and

(iii) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children" and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children".

## APPOINTMENTS

THE PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, pursuant to Public Law 68–541, as amended by Public Law 102–246, reappoints John W. Kluge, of New York as a member of the Library of Congress Trust Fund Board for a term of five years.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 100–458, reappoints Wiliam E. Cresswell, of Mississippi, to the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, for a six-year term, commencing on October 11, 2002.

The Chair, on behalf of the President of the Senate, and after consultation with the Majority Leader, pursuant to Public Law 106–286, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: The Senator from Kansas, Mr. BROWNBACK; the Senator from Oregon, Mr. SMITH; the Senator from Wyoming, Mr. THOMAS; the Senator from Kansas, Mr. ROBERTS; and the Senator from Nebraska, Mr. HAGEL, Co-Chairman.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 108th Congress: The Senator from Kansas, Mr. BROWNBACK; the Senator from Oregon, Mr. SMITH; the Senator from Texas, Mrs. HUTCHISON; and the Senator from Georgia, Mr. CHAMBLISS.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed immediately to executive session to consider the following nominations on today's executive calendar: Calendar Nos. 62, 63, 64, 65, 66, 67, 68, 69, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

### NOMINATIONS

### DEPARTMENT OF TRANSPORTATION

Ellen G. Engleman, of Indiana, to be Chairman of the National Transportation Safety Board for a term of two years.

Ellen G. Engleman, of Indiana, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2007.

Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2006.

Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2005.

### DEPARTMENT OF HOMELAND SECURITY

Charles E. McQueary, of North Carolina, to be Under Secretary for Science and Technology, Department of Homeland Security.

### DEPARTMENT OF TRANSPORTATION

Jeffrey Shane, of the District of Columbia, to be Under Secretary of Transportation for Policy.

Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

Robert A. Strugell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

### NOMINATIONS PLACED ON THE SECRETARY'S DESK

### COAST GUARD

PN357 Coast Guard nominations (4) beginning Paul S. Szwed, and ending Darell Singleterry, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 25, 2003.

PN297 Coast Guard nomination of Scott Aten, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of February 6, 2003.

PN272 Coast Guard nominations (2) beginning DIANE J. HAUSER, and ending LISA H. DEGROTT, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

PN409 Coast Guard nomination of John P. Nolan, which received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN410 Coast Guard nomination of Christy L. Howard, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN411 Coast Guard nominations (244) beginning Bruce E Graham, and ending Bradford W Youngkin, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN271 Coast Guard nominations (192) beginning Christine K Alexander, and ending Adam M Ziegler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

### FOREIGN SERVICE

PN270 Foreign Service nominations (7) beginning Lyle J. Sebranek, and ending Margaret K. Ting, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

## ORDER OF BUSINESS

Mr. NICKLES. Mr. President, we have agreed to have votes on several pending amendments. I tell my colleagues, I am disappointed we are going to go out of session shortly. We stated our intention to stay in session, stay in business, to receive amendments late into the night, to work to pass and/or to modify, to accept or to come up with second degree amendments. We did not get as many amendments done as I had hoped.

We plan on being on this resolution from 9:30 in the morning until midnight tomorrow. So I do not want colleagues coming to me and saying they did not have a chance to offer their amendment. They had a chance tonight. They will have a chance tomorrow. I am trying to avoid a calamity towards the end called a "vote-athon" that we have had in the past. My colleague from Nevada and I know that is not the way the Senate should work, and we should avoid it if we possibly can.

We are going to be in on the bill tomorrow morning at 9:30. I urge Members, if they have amendments, please share those amendments with us. I have not seen any amendments that are expected to be offered by our colleagues on the other side of the aisle. I would like to see them. We would like to review them. We would like to analyze them. We would like to know what we are voting on.

I urge our colleagues on the other side of the aisle, if they have amendments, please share those with us. Likewise, I say to any of my colleagues, if they have amendments, I would like to share them with the managers on the other side so we can cooperatively work and manage this budget. It is very much the leader's intention and my intention to finish this budget this week.

As with most budgets in the past, I expect we will have a lot of votes. It needs to be done in a way that we know what we are voting on. So I make those editorial comments. Again, I want to thank my colleagues from Nevada and North Dakota. Both have been a pleasure to work with. I hope we will have greater progress in moving amendments.

I mentioned in our unanimous consent request, which has already been agreed upon, we have three votes. My expectation would be that we would have several other votes tacked on in addition to those. I hope we will have substantive amendments.

## ORDERS FOR THURSDAY, MARCH 20, 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Thursday, March 20. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 23, the concurrent budget resolution; provided further that there be 14½ hours remaining for debate on the resolutions with 6½ hours remaining under the control of the chairman of the Budget Committee and 8 hours remaining under the control of the ranking member.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic whip.

Mr. REID. Mr. President, in response to the earlier statements of my dear friend, the distinguished Senator from Oklahoma, we have worked hard the last few days trying to work our way through this very difficult legislation. It is always this way. It is very difficult. The reason we do it this way is it is statutory. We are doing our best.

We stand on the brink of a war. The two leaders have met today to talk about the fact that when this does start, there will be a pause of some time to be determined by the leaders so that Members can speak about what is going on in Iraq. I think I speak for the entire Senate in this regard, as we leave the Senate tonight, our thoughts and our prayers are with the Commander in Chief of the United States military, George Bush, and also with the hundreds of thousands of American troops who are standing ready to go do what is appropriate at this time.

We recognize there are some who feel this is not the right time, but as Americans we always rally around our troops. This time is going to be no different. The minute the first shot is fired, with rare exception, all Americans will be recognizing what we feel here tonight is that there is a strong sense of urgency to making sure that we do the business of this Nation in the Senate and work to complete whatever business is necessary to make sure those people who are fighting for us—lives are going to be lost—have everything they need and more.

As we retire tonight, I think I speak for the entire Senate when I say our thoughts and prayers are with those who have to make this momentous decision, especially the President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Nevada for his comments in support of the President and the troops. We do wish them Godspeed and God's blessing and protection as well.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:15 p.m, adjourned until Thursday, March 20, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate March 19, 2003:

### DEPARTMENT OF STATE

PAMELA J. H. SLUTZ, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

ERIC M. JAVITS, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL JOHN C. ADAMS, 2804
COLONEL CHARLES B. ALLEN, 7338
COLONEL CHARLES A. ANDERSON, 4562
COLONEL OSCAR R. ANDERSON, 5971
COLONEL JOHN R. BARTLEY, 7891
COLONEL KEVIN J. BERGNER, 6581
COLONEL BRUCE A. BERWICK, 6136
COLONEL NOLEN V. BIVENS, 6799
COLONEL DANIEL P. BOLGER, 5269
COLONEL DOYLE D. BROOME JR., 4791
COLONEL ALBERT BRYANT JR., 4261
COLONEL ROBERT L. CASLEN JR., 3474
COLONEL JAMES E. CHAMBERS, 2025
COLONEL BERNARD S. CHAMPOUX, 8048
COLONEL ANTHONY A. CUCOLO III, 7278
COLONEL MICHAEL C. FLOWERS, 4709
COLONEL JEFFREY W. FOLEY, 2406
COLONEL YVES J. FONTAINE, 2513
COLONEL REBECCA S. HALSTEAD, 2319
COLONEL KARL R. HORST, 5501
COLONEL MICHAEL D. JONES, 8227
COLONEL PURL K. KEEN, 3412
COLONEL DAVID B. LACQUEMENT, 3241
COLONEL STANLEY H. LILLIE, 3039
COLONEL THOMAS C. MAFFEY, 5724
COLONEL FRANCIS G. MAHON, 2722
COLONEL JOSEPH E. MARTZ, 5129
COLONEL RAYMOND V. MASON, 6999
COLONEL JOHN F. MULHOLLAND, 5953
COLONEL PATRICK J. OREILLY, 7262
COLONEL MARK V. PHELAN, 9507
COLONEL JOSEPH SCHROEDEL, 2747
COLONEL JOHN E. STERLING JR., 4109
COLONEL RANDOLPH P. STRONG, 2219
COLONEL JAMES L. TERRY, 6451
COLONEL WILLIAM J. TROY, 4572
COLONEL PETER M. VANGJEL, 6018
COLONEL DENNIS L. VIA, 0020
COLONEL JOSEPH L. VOTEL, 9002
COLONEL FRANCIS J. WIERCINSKI, 6785

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) FENTON F. PRIEST III, 5684

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) PETER L. ANDRUS, 0199

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) JAMES M. MCGARRAH, 3828

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) MICHAEL K. LOOSE, 4983
REAR ADM. (LH) ROBERT L. PHILLIPS, 7293

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) ROBERT E. COWLEY III, 2000
REAR ADM. (LH) STEVEN W. MAAS, 3387

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 19, 2003:

### DEPARTMENT OF TRANSPORTATION

ELLEN G. ENGLEMAN, OF INDIANA, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS.

ELLEN G. ENGLEMAN, OF INDIANA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD.

RICHARD F. HEALING, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD.

MARK V. ROSENKER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2005.

### DEPARTMENT OF HOMELAND SECURITY

CHARLES E. MCQUEARY, OF NORTH CAROLINA, TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY.

### DEPARTMENT OF TRANSPORTATION

JEFFREY SHANE, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF TRANSPORTATION FOR POLICY.

EMIL H. FRANKEL, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

ROBERT A. STURGELL, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATIONS BEGINNING CHRISTINE K ALEXANDER AND ENDING ADAM M ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

COAST GUARD NOMINATIONS BEGINNING DIANE J. HAUSER AND ENDING LISA H. DEGROOT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

COAST GUARD NOMINATION OF SCOTT ATEN.

COAST GUARD NOMINATIONS BEGINNING PAUL S. SZWED AND ENDING DARELL SINGLETERRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

COAST GUARD NOMINATION OF JOHN P. NOLAN.

COAST GUARD NOMINATION OF CHRISTY L. HOWARD.

COAST GUARD NOMINATIONS BEGINNING BRUCE E. GRAHAM AND ENDING BRADFORD W YOUNGKIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING LYLE J. SEBRANEK AND ENDING MARGARET K. TING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

# EXTENSIONS OF REMARKS

## HONORING JEANINE MARRINSON

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mrs. Jeanine Marrinson, a community leader, civic activist, loving individual, and a great Floridian. Born originally in Chicago, Marrinson moved to Florida in 1966 and soon began a career of service to her community.

Mrs. Marrinson will long be remembered as an accomplished woman in business and civic affairs. After arriving to South Florida, she and husband Ralph opened the Manor Pines Convalescent Center. Later, she served as president of Designs by Jeanine and fulfilled the role as chief designer of her husband Ralph Marrinson's seven senior care facilities that the couple later opened. Prior to spearheading her own successful business, Mrs. Marrinson was an American Airlines Flight Attendant.

Marrinson made sincere and concerted efforts to give back to the community. She volunteered for a number of organizations, including the YMCA, Kids in Distress, and for a period of more than 25 years the Boys & Girls Club. Remaining dedicated to these causes and helping many less fortunate neighbors, her devotion and commitment serves as an example to us all.

Mr. Speaker, it is truly a special occasion for me to honor Mrs. Jeanine Marrinson. Marrinson's earnest and altruistic values in helping others and becoming involved in the greater Fort Lauderdale community serves as an example to us all. I trust that her amazing legacy will last forever and will be carried on by others who loved her.

Mrs. Marrinson is survived by her husband Ralph Marrinson and her twin brother Jerome Duever of Chicago.

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## IN HONOR OF JESSICA E. WILKES-MOBLEY

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. TOWNS. Mr. Speaker, I rise to honor Jessica Elizabeth Wilkes-Mobley.

Jessica is one of Brooklyn's brightest young stars. She is an honor student, having ranked second in her sophomore class at Catherine McAuley High School. Currently, Jessica is continuing her strong academic showing by remaining on the Principal's list in her junior year.

Her lifelong goal of being a pediatrician was furthered by her participation in the June 2002 National Leadership Forum on Medicine in Chicago. Jessica was also nominated as a National Math Award winner and had her biography published in the 2001 United States Achievement Academy National Awards Yearbook. Jessica was also nominated as a United States National Honor Roll Member and Who's Who Among American High School Students. She is a member of the National Honor Society and the recipient of the St. Johns University Women in Science Society for Mathematics.

Jessica is a member of Our Lady of Charity R.C. Church where she works with the church elders. She is also a member of Youth Discipleship and the Liturgical Dance Group. In addition to her academic studies and church work, Jessica also enjoys reading and cheerleading in her spare time.

Mr. Speaker, Jessica Elizabeth Wilkes-Mobley is truly a young lady who is going places and who is already an academic success story. As such, she is more than worthy of receiving our recognition today.

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## IN MEMORY OF SISTER PEG HYNES

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. ANDREWS. Mr. Speaker, I rise before you today in memory of a very special woman, Sister Peg Hynes.

A friend remembers Sister Peg as "an extraordinary, vibrant, and unforgettable person. With a constant smile she lit up every place she was in with her good nature and good humor. She represented everything good about humanity—an abundance of generosity, selflessness and an abiding love for people of all backgrounds and walks of life. The world is a sadder and emptier place without her."

Margaret Mary "Peg" Hynes was born on June 7, 1933 in Philadelphia, PA, the second of five daughters of Nellie (Burke) and Tom Hynes, who had emigrated from Co. Galway, Ireland. Growing up in North Philadelphia, Peg graduated from St. Columba Elementary School, and John W. Hallahan Catholic Girls' High School, where she was an All-Catholic basketball player and a distinguished honor student.

Peg worked for three years before entering the Sisters of St. Joseph, a religious community in Chestnut Hill, PA in 1954. In the convent she was given the name Sister Francis de Sales. Peg received degrees from Chestnut Hill College and Boston College, then embarked on a 31-year career in education. She was a teacher or principal at various schools, including St. John's in Hillsdale, NJ, Epiphany in Plymouth Meeting, PA, as well as St. Stephen, St. Athanasius, Christ the King, and Norwood-Fontbonne Academy, all in Philadelphia. Her last teaching assignment was Holy Trinity in Washington, DC.

In 1986, Sister Peg Hynes became Executive Director of the Heart of Camden Housing Corporation, a non-profit organization. The Heart of Camden had been established in 1984 by Father Michael Doyle, pastor of Sacred Heart Church in South Camden, to rehabilitate abandoned homes and sell them at cost to poor families in the neighborhood. Camden is one of the poorest cities in the United States, and Father Doyle has described the Heart of Camden's work as "the most difficult housing assignment in the country".

In testimony before the New Jersey State Assembly in 1996, Sister Peg described her mission: "We are attempting to make ours a stable neighborhood by making home ownership available to families who would never qualify for a conventional mortgage. We have a dream, not a dream merely to renovate houses, but to renovate humanity. The goal is to continue to expand our efforts until every ugly eyesore of abandonment in our area has a light in the windows and life within the walls." Under Sister Peg's leadership, the Heart of Camden has helped more than 125 families to achieve the dream of home ownership. She also enlarged the scope of the Heart of Camden to include a counseling center, a food distribution program, a medical clinic, a youth center, and a family resource center.

Sister Peg successfully battled breast cancer twice—in 1982 and in November 2000. Because of health problems, Sister Peg stepped down as Executive Director of the Heart of Camden in October, 2001, and became Development Director, raising funds for the work to be done.

Over the years Sister Peg received many awards and accolades for her work, including the World Habitat Day Award from the United Nations, and the Fannie Mae Award of Excellence. None of these awards pleased her more than the one she received from her Alma Mater, Hallahan High School. Since its opening in 1901, Hallahan has graduated more than 37,000 girls. To celebrate the school's 100th Anniversary, Hallahan established a Hall of Fame, and selected Sister Peg as one of its first inductees.

Sister Peg was proud of her Irish roots. She loved traditional Irish music and enthusiastically participated in ceili dancing. In 1997, she was chosen for the Ring of Honor by the Philadelphia St. Patrick's Day Committee, and proudly helped to lead the annual parade. An athlete in her youth, Peg was an avid sports fan, and enjoyed watching Philadelphia's college and professional basketball and football teams. Having grown up in the shadow of Connie Mack Stadium, however, Sister Peg had a particular fondness for the Philadelphia Phillies baseball team.

Sister Peg was killed in an automobile accident on December 21, 2002. Bishop Nicholas

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

DiMarzio of the Diocese of Camden stated, "Sister Peg's untimely and tragic death is an irreparable loss to the work of the church and the city of Camden. She was known for her work with the Heart of Camden, but it was her own heart that she will be remembered for—a heart that made a place for Christ and all those she served in His name."

Mr. Speaker, please join me in honoring the memory of Sister Peg Hynes. Her dedication to assisting others was unparalleled, and she will be sorely missed.

## CONGRATULATIONS TO DUNBAR HIGH SCHOOL AND COACH ROBERT HUGHES ON 5-A BASKETBALL CHAMPIONSHIP

### HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. FROST. Mr. Speaker, I want to recognize and congratulate the remarkable Dunbar High School boys basketball team and their legendary coach Robert Hughes for winning the 2003 Texas Division 4–A championship.

Throughout the championship tournament, sports fans across Texas eagerly followed the Dunbar team to see if Coach Hughes would win his fifth state championship just weeks after setting the national record for the most wins by a high school basketball coach. An outstanding group of student athletes from Fort Worth made sure we weren't disappointed.

The championship game pitted Dunbar, the top seed, against No. 2 seed Oxen High School. Led by outstanding play from Jeremis Smith, Lance Jackson, Dominique Williams, Jeff Muriel and other Wildcats, Dunbar came from behind to win the second championship in Dunbar's school history.

With the excitement of the tournament behind us, talk is turning to whether Coach Hughes will return for his 46th season of coaching. The Dunbar players, many of whom are returning next season and who desperately want to play for the title again in Austin, have made it very clear that they want Coach Hughes back on the bench. And all of us who greatly admire everything Coach Hughes has accomplished on the court and to help countless young peoples' lives also hope to see him back next year.

## PERSONAL EXPLANATION

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. LEE. Mr. Speaker, on March 18, 2003, during rollcall vote No. 65 on H. Con. Res. 26 I was unavoidably detained. Had I been present, I would have voted "yea."

## INTRODUCING THE AVIATION INDUSTRY STABILIZATION ACT OF 2003

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. OBERSTAR. Mr. Speaker, today I have introduced the "Aviation Industry Stabilization Act." The bill addresses the burdens placed on the industry by the terrorist attacks on September 11, the increased security required in response to the attacks, and additional burdens the industry will face if there is a war with Iraq.

Although the events of September 11 were directed at our Nation as a whole, the airlines were used as the weapons of attack and, as a result, have incurred a disproportionate share of the costs of the attack.

The effects of September 11 on the aviation industry were direct and far-reaching. Commercial airliners were totally grounded for several days and realized no revenues while incurring hundreds of millions of dollars in expenses. Even after the industry resumed flying, passenger traffic has not fully recovered because of public anxiety that the airlines could again become a weapon for terrorists. The events of September 11 have also added to the industry's expenses, including a billion dollars a year in increased insurance costs, and loss of substantial revenues because of security limitations on the carriage of freight and mail. In addition, we have required increased security for the aviation system after September 11. Although it was our intent that the general public pay most of these added costs, and that the new Transportation Security Administration take over many security functions, we have not fully compensated the airlines for the added costs involved in functions they continue to perform, such as screening catering facilities, checking documents, screening passengers and persons with access to aircraft, and cockpit door retrofit.

The costs of a war with Iraq will also fall disproportionately on the airlines. A war with Iraq is likely to add substantially to the industry's financial distress, including increased fuel costs (fuel is approximately 15 percent of the airlines' total costs), loss of revenue from the reluctance of passengers to fly—especially in the trans-Atlantic service—and the need of our military to use the airlines' aircraft to carry troops and equipment to the war zone.

Shortly after September 11, Congress responded to the aviation industry's financial problems by passing a $15 billion package of direct assistance and loans. Even with this assistance, the Air Transport Association (ATA) states that passenger carriers reported over $10 billion in 2002 net losses. ATA forecasts $6.7 billion in net losses of 2003 if the United States does not go to war with Iraq. However, if the United States does go to war with Iraq, ATA forecasts that airline net losses for 2003 will be $10.7 billion to $13 billion.

The costs of September 11 have fallen not only on airline creditors and stockholders, but also on their employees. Airline workers have suffered unprecedented job loss and economic uncertainty. Some 100,000 airline employees are out of work or facing imminent lay-off. The ATA forecasts another 70,000 layoffs if there is a war with Iraq. And, with two major airlines in bankruptcy, and more likely to follow, the staggering job losses may grow.

Mr. Speaker, we must act now to stem the tremendous costs of September 11 that are continuing to be imposed on the airlines and their hard-working employees, and the even greater costs and revenue losses that are likely once the war with Iraq commences. The airlines have already shouldered, and are continuing to shoulder a disproportionate share of the costs of September 11. We must not force them to bear a disproportionate share of the direct and indirect costs of a war with Iraq. We must act now to provide airlines with stable, low cost war risk insurance from the federal government, relief from security burdens that are the responsibility of the entire country, and assistance in coping with any major increase in fuel costs and any loss of traffic, resulting from a war with Iraq.

Specifically, my bill provides:

WAR RISK INSURANCE

A permanent limitation on airline liability for third party damages (i.e. injuries to people in a building or on the ground) from acts of terrorism to $100 million, and extends existing war risk policies until December 31, 2007 at premiums no higher than now.

FUEL PRICES

Loan Guarantees: Reopens the federal loan program established by the Air Transportation and System Stabilization Act (Pub. L. 107–42) and dedicates $3 billion of the $10 billion program to federal guarantees for loans or for lines of credit, or direct lines of credit for carriers to purchase fuel. In other words, the program authorizes ATSB to issue a loan guarantee, or issue a line of credit directly to carrier or to guarantee a line of credit issued to a carrier by a third party.

Strategic Petroleum Reserve: Requires the Secretary of Energy to draw down not less than 500,000 barrels per day of petroleum from the Strategic Petroleum Reserve (SPR) to offset dislocation or price spikes in the jet fuel market due to a possible war with Iraq.

AIR CARRIER REIMBURSEMENT

Air Traffic Losses: Authorizes the Department of Transportation to reimburse, subject to appropriations, an air carrier for any financial losses that the DOT determines are attributable to the loss of air traffic due to a war with Iraq.

Security-Related Activities: Directs the TSA, within available resources, to reimburse air carriers and airports for screening related activities they are still performing, such as catering, document checks, and screening of passengers and persons having access to aircraft. In addition, directs the TSA to reimburse such entities for the provision of space. The bill also directs the TSA to reimburse air carriers for the costs of strengthening cockpit doors.

Civil Reserve Air Fleet: Ensures that air carriers participating in the civil reserve air fleet program are compensated for positioning, depositioning, and other ferry portions of such missions. During the gulf war, many air carriers performing CRAF missions lost revenue from the lack of return flight traffic.

Mr. Speaker, my bill recognizes the ongoing plight of the aviation industry, for the costs imposed upon them by the terrorist attacks of September 11, the increased security necessitated by the attack, and the likely war with Iraq. National security is the responsibility of the entire nation; disproportionment costs should not be imposed on the industry that happens to be the means of terrorist attacks.

I urge my colleagues to join me in working to pass this important legislation.

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## HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

SPEECH OF

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Mr. ETHERIDGE. Mr. Speaker, I rise today in opposition to H.R. 5, the Republican medical malpractice bill, and the process by which it is being debated in this House.

Today, the House will pass H.R. 5, a bill to impose caps on damages that may be awarded for medical malpractice, defective products, and other health related wrongdoings. Like many Members of this House, I am concerned about the rising cost of medical malpractice insurance and its impact on physicians and their patients, but H.R. 5 is not the right medicine for this national problem.

I oppose H.R. 5 because it will not reduce medical malpractice premiums. What's more, it protects manufacturers of defective pharmaceutical and medical equipment from product liability actions, and overturns North Carolina state law.

Years of experience prove that limiting patient rights to seek legal remedies for medical malpractice will not reduce insurance rates for doctors or hospitals. We've heard a lot of debate on this floor today about California's law that caps damage awards in medical malpractice cases at $250,000. Supporters of H.R. 5 misses the point in this debate, Mr. Speaker. Instead of dealing with the real issue here, which involves insurance rates, the Republican Majority is turning this serious issue into a political football at the expense of patients.

H.R. 5 also limits the ability of injured persons to bring suits against pharmaceutical companies, HMOs, nursing homes, and medical device manufacturers, thus setting a dangerous precedent allowing these entities to escape the law in even the most severe cases of neglect and abuse.

Finally, H.R. 5 undermines North Carolina's patients protection statutes, which are some of the strongest in the nation.

My colleagues Mr. DINGELL and Mr. CONYERS have drafted an alternative amendment to H.R. 5. This alternative will help courts weed out frivolous lawsuits without restricting the rights of legitimate claims, repeal the federal anti-trust exemption for medical malpractice insurance companies, thereby increasing competition and lowering premiums, and provide targeted assistance directly to physicians, hospitals, and communities in medical malpractice crisis areas. Finally, the alternative establishes an independent advisory commission to examine and recommend long-term solutions to this important issue. Unfortunately, the Republican Leadership has denied us an opportunity to offer this alternative.

Mr. Speaker, the issue of a insurance is an important one. Yet, it seems that the Republican Majority has forgotten one of the key tenets of the Hippocratic oath—do no harm or injustice. H.R. 5 will without a doubt harm America's patients. I urge all of my colleagues to vote against H.R. 5 and to support the motion to recommit the bill.

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## TRIBUTE TO MRS. ANNIE MAE AARON ON HER 95TH BIRTHDAY

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today with great pride to recognize Mrs. Annie Mae Aaron who will soon observe her 95th birthday.

Born on April 24, 1908, Mrs. Aaron was aware at an early age of the importance family, faith, freedom, and education. Though she was struck with polio at the age of three, through her faith in God, and self-reliance, she recovered from this illness to lead a full and productive life of distinction. She Attended Edward Waters College in Jacksonville, Florida and graduated in the class of 1930. She was a teacher in the public school system of Florida, teaching in E.O. Douglas high school in Sebring.

In 1939, Mrs. Aaron made her home in West Palm Beach Florida where she was the Sunday school secretary at Payne Chapel A.M.E. Church. She was a marketing representative for the Afro American Insurance Company. She married J.E. Aaron of Sebring in 1941 and they enjoyed a long happy union until his death in 1974.

Mrs. Aaron's greatest contribution to her community and to her country is through her family—her children that she reared—and preschool age children of others whom she mentored. She produced seven sons and two daughters. Four of her sons served honorably in the United States Army, three of whom served in combat zones during hostilities. Rudy rose to the rank of Sergeant and served in the Army Signal Corps in the Korean War. Samuel achieved to the rank of Regular Army Major and was an Army aviator during two tours in the Vietnam War. He is a high-ranking official with the Federal Aviation Administration. A third son, Eugene, advanced to the rank of Regular Army Captain and served in Wurzburg, Germany with the Third Infantry Division as a Tank platoon commander during the height of the Cold War. He was also an advisory to South Vietnamese in the Vietnam War. He is now a State Department Foreign Service Officer, who has completed diplomatic assignments in four countries. Patrick served in the United States Army in Alaska in the Signal Corps, Mrs. Aaron's daughters are also serving their communities in significant ways. Both have chosen to become teachers in their native Florida, following in the large footprints of their mother. Priscilla is a Business teacher at Sebring High School in Highlands County. Ruth is a Mathematics Instructor in the Seminole County Community College.

Some sons have distinguished themselves in non-military areas as well. Joseph is an expert chemist and enjoyed a long 20-year career with the Department of Energy. James is a passionate lawyer, using his knowledge and skill of the law to increase justice in his community. During his life, Robert used his hands in many trades, mainly the construction crafts. Lastly, one of the children that she mentored as a pre-school student, Water, is a Medical Doctor. Indeed Mrs. Aaron has contributed much to Sebring, the state of Florida and America.

In addition to organizing and serving as president of the Women's Club, a community service organization, Mrs. Aaron was an advisor to the Girl Scouts. She is still a vibrant presence in Mt. Zion A.M.E. Church in Sebring, Florida. Mrs. Aaron's life is the very model of what is possible in a free and open democratic society and it is in keeping with the culture and highest traditions of what it means to be an American. Mr. Speaker I know that my colleagues here in the U.S. House of Representatives join me today in saluting Mrs. Aaron and wishing her continued health and happiness in the years to come.

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## CONGRESSIONAL RESOLUTION SUPPORTING THE EDUCATIONAL VALUE OF STUDENT TRAVEL

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. NORTON. Mr. Speaker, whereas travel is a vital component of the educational experience for Americans of all ages;

Whereas, the Washington, DC area is an area rich in American history and is visited by students nationwide;

Whereas many school boards across the country are reluctant to approve student trips to Washington, DC and other historic areas due to the attack on the World Trade Center, Washington, DC and Pennsylvania and the fear of additional attacks;

Whereas many U.S. students will not be able to experience landmarks and monuments celebrating American democracy, political figures and scientific achievement;

Whereas the absence of student travel to our nation's historic sites will leave a vital gap in the education of America's youth;

Whereas America's youth must be cognizant of American history to understand fully the concepts and responsibilities of democracy and citizenship;

Now, therefore, be it resolved by the Senate and the United States House of Representatives of the United States in Congress assembled, that student travel is a vital component of the educational process and should be encouraged so that Americans, young and old, can participate in travel, the perfect freedom.

## LIEUTENANT GOVERNOR TONI JENNINGS

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker I rise today to congratulate Florida's new Lieutenant Governor, Toni Jennings, who was appointed Monday by Florida Governor Jeb Bush.

I served with Toni in the Florida State Senate and I know from working with her in that capacity what a dedicated public servant she is.

A Florida native and the first woman to hold this post in Florida's history, Toni brings a wealth of legislative knowledge and dedication to the State of Florida with her to the Executive Branch.

Toni was the youngest woman ever elected to the State Legislature when she took office in 1976 at the age of 27. In 1980, she was elected to the Florida Senate where in 1996 she became the first woman ever elected as President of the Florida Senate. In 2000 she became the first senator ever to be elected to two consecutive terms as Senate President. Senators trusted Toni. The House leadership trusted Toni and the voters trusted Toni.

She was also the first woman Minority Leader in either house of the legislature serving two terms, from 1983–84 and from 1986–88 while in the Senate.

A former fifth-grade teacher, Toni was a strong champion of education issues in the Senate and earned a reputation as such. Toni instilled in every senator that there were no "Ds" or "Rs" in TEAM.

I am proud to say she's the Lieutenant Governor of my state and I know Florida is lucky to have her. Congratulations, Toni.

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## SUPPORTING WORKERS

### HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. BROWN of Ohio. Mr. Speaker, I rise to recognize the courage and strength of legal immigrant workers who immigrated to the United States to make life better. Throughout their struggles, they were filled with the promised optimism and freedom inherent in the American dream.

Today marks the two year anniversary of a unique American struggle. On March 19, 2001, Chinese Daily News workers, mostly immigrants from Taiwan, voted to select The Newspaper Guild of the Communications Workers of America to represent them for purposes of collective bargaining and to help them develop a more cohesive voice at work. I commend the tireless efforts of these workers as they continue to wrestle the overwhelming resources of a foreign employer committed to silencing their voices and thwarting their right to organize under U.S. labor law. This is unacceptable.

Foreign employers should not be given leeway to further erode the organizing rights of U.S. workers. Chinese Daily News employees put their faith in America and in U.S. labor law. At this pivotal juncture in our history, we should recognize the faith and allegiance of those legal immigrants who subscribe to our rule of law. These workers deserve our support. I urge management of the Chinese Daily News to sit down with the affected workers and immediately settle their differences.

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## REMEMBERING WILMA MUSGROVE

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ROS-LEHTINEN. Mr. Speaker, pioneer aviation wife and South Dade avocado farmer, Wilma "Billie" Musgrove, died on March 6th in the arms of her son at the age of 86 after suffering several strokes. Born of Dutch parents in Holland, Michigan, she celebrated Tulip Time and the sand dunes and beaches of Lake Michigan. She caught the eye of aviator Lester E. Musgrove and married him when she was 16 years old. She followed her barnstorming husband across the United States to air shows, wing walker exhibitions, air races and crop-dusting jobs. While Lester served in the U.S. Army Air Corps at the start of WWII, Billie raised their son, Bob, in Grand Rapids and worked their new property in South Dade.

After the war, the couple started their Redland avocado grove and they watched Bob grow to become a pilot. Billie purchased an air boat to hunt in the Everglades and enjoyed preparing feasts from her catches for family and friends.

Billie had a great love of the organ and piano which led her to entertain at Sunniland's Flame Restaurant and Homestead's Capri Restaurant with big band era favorites. A great joy was her immediate past presidency of South Florida's Organ Belles club and Light Aircraft Flyer's Association. Travels around the world added to her wonderful life.

Billie touched many lives and leaves great memories with those who were fortunate to know her. She will be sorely missed but always remembered with love. My heartfelt sympathies go out to her family for their tremendous loss.

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## THE CITIZEN AND THE CONSTITUTION PROGRAM

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. SHUSTER. Mr. Speaker, I rise today to inform my colleagues that on April 26, 2003, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of the We the People: The Citizen and the Constitution program. This educational program is developed specifically to teach young people more about the Constitution and the Bill of Rights and is administered by the Center for Civic Education. The program is funded by the U.S. Department of Education by an act of Congress.

I am proud to announce that the class from Indiana Area High School from Indiana will represent the state of Pennsylvania in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Indiana Area High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck as they participate in the We the People national finals.

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## SUPPORT RANCHER DROUGHT TAX RELIEF

### HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mrs. CUBIN. Mr. Speaker, our Tax Code is unfairly penalizing livestock producers during the present drought that is affecting a large area of this great country. Under current law, ranchers who were forced to sell their cattle because of the drought are limited to a time period of just 2 years before they either have to pay taxes on that sale—or buy new livestock—even though the drought persists. The problem is, we are now in the third year of this drought, and there's no end in sight—experts have called this the worst drought in a century in many parts of the West, including my home, Wyoming. In fact, it is so bad out West that we had a city in Wyoming actually run out of water last summer. If the cities are out of water, imagine how hard it is for ranchers to raise their livestock on drought-ravaged land.

A good first step to help drought-stricken ranchers is to extend the period of time we allow for them to weather the drought. That's why I support the McInnis amendment in H.R. 1308, the Tax Relief, Simplification, and Equity Act of 2003, which would allow ranchers an additional 2 years to either replace their herd or pay a capital gains tax. The impact on the Treasury would be small, but the impact on Wyoming ranchers is huge. It is the difference between sinking and swimming. The 2-year limit in current law is unworkable in our present situation and serves as a disincentive to those who raise this valuable commodity that feeds millions of people. A poorly designed Tax Code should not force these small business men and women to choose between closing their doors or paying their tax bill.

Mr. Speaker, these are desperate times for our agricultural community, and they demand our attention. This change can provide hope to those who are on the verge of closing the barn doors for good. I yield back the balance of my time.

## HONORING THE LIFE OF STEPHEN PETER LYNCH

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. HYDE. Mr. Speaker, it is with deep regret and sorrow that I announce to the House the passing of a good friend and former staff member, Stephen Peter Lynch.

Steve was a native of New Bedford, Massachusetts, the whaling and textile capital of the world. He was a Vietnam War Era Veteran and was recommended for the Seventh Army Commendation Medal. After his honorable discharge in 1970, he attended Saint Louis University in pursuit of a post-graduate degree in Political Science. He was a seasoned Capitol Hill staffer for almost thirty years and was an active member in the Irish community, along with many other civic efforts.

Steve's work on Capitol Hill began in the fall of 1973, where he served as a research assistant to the Judiciary Committee's Subcommittee on Criminal Justice. There, his research on the Federal Rules of Evidence and the development of Special Prosecutor legislation were to hold the key to his work on Capitol Hill for the remainder of his professional career. In addition to his research duties, he also assisted in the investigations of the firing of Special Prosecutor Archibald Cox, the pardon of President Richard M. Nixon, and the subsequent attempt to reopen the pardon investigation. This work also included being a special assistant to the Subcommittee Chairman on the impeachment investigation of Richard Nixon and serving as a Committee representative to the staff and security force of Governor Nelson A. Rockefeller during his Vice Presidential confirmation hearings.

His other service on Capitol Hill included: Staff Director on the Regulatory Agencies and Export Opportunities Subcommittees of the House Committee on Small Business (1975–1983); Minority Professional Staff Member on the Subcommittee on Export Opportunities and Special Small Business Problems, House Committee on Small Business (1984–1991); House Committee on Small Business, Minority Staff Director (1991–1993); and House Committee on Small Business, Majority Director of Special Projects (1994–1996).

In 1998, after a short retirement, Steve returned to Capitol Hill to serve on the House Judiciary Committee's staff on the Impeachment investigation of President Clinton, where he conducted research analysis and acted as the archivist for the Committee until 2001. His consummate knowledge of the history of the Nixon investigation made him invaluable to the committee.

As an active member of the Saint Patrick's Day Parade Committee of Washington, D.C. since 1983, Steve was instrumental in getting many prominent individuals to serve as parade Grand Marshal, including House Speaker Thomas "Tip" O'Neill (1986), the First Lady of the American Theater, Helen Hays (1987), and the Lord Mayor of Dublin, Carmencita Hederman (1988). As Chairman of the Parade Committee (2000–2002), Steve expanded the parade's visibility nationally. He began by having a web site created, reorganizing and expanding the Committee, and establishing the office of Chairman Emeritus in tribute to past parole chairmen and naming Cecilia Farley as the first Emeritus.

Steve's participation in the Irish-American community went beyond his parade activities. He was a founding member of the American Foundation for Irish Heritage with the late John O'Beirne. Since 1990, Steve served as Secretary on the Board of Directors. The American Foundation for Irish Heritage was instrumental in getting Congressional legislation passed to designate March as "Irish-American Heritage Month" by Presidential Proclamation.

In addition to pursuing his Irish roots, Steve also shared his love for people and history by volunteering with other organizations. He served as co-chairman of the Friends of the Negro League Baseball Players Association, as well as historian for the Capitol Hill Philatelic Society.

Steve passed away on March 9, 2003, at his home in Takoma Park, Maryland. He is survived by his sister, Diana L. Coyne; his niece, Elizabeth Coyne; his nephew, Michael Coyne; brother-in-law, Jay Coyne, and half-brother, Frank Lynch.

All of us who knew Steve enjoyed his warm and caring spirit. We will miss him. I conclude with the old Irish Blessing:

May the road rise up to meet you;
May the wind be always at your back,
May the sun shine warm upon your face,
And the rains fall soft upon your fields,
And until we meet again,
May God hold you in the palm of His hand.

Godspeed, old friend.

## PERSONAL EXPLANATION

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 65, 66 and 67. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "yes" on rollcall numbers 65, 66 and 67.

## HONORING PHILLIP HALLE

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mr. Phillip Halle, a community leader, political activist, loving family man, and a great Floridian. Born originally in New York, Mr. Halle moved to Florida after practicing law in New York City for many years.

Mr. Halle will be long remembered by residents of Plantation for his staunch commitment to civic affairs in the town and in the greater region of South Florida. Over the years, Halle fulfilled numerous civic posts. As a prominent member of the Lauderdale West community in Plantation, Halle served as their representative to the city and to the Broward County Commission.

In addition to representing his local community, Phillip Halle was once named chairman of the Broward County Consumer Protection Board and the Sanitary and Health Control Board. Clearly, Halle felt passionate about serving his community and helping his neighbors.

Halle volunteered his time and resources to various causes, including acting as president emeritus of the Broward Coalition of Condominiums, a group representing 67 condominium groups, and being director of the Jewish National Fund, B'nai B'rith, and Temple Beth Israel.

Mr. Speaker, it is truly a special occasion for me to honor Mr. Halle. His earnest efforts to assist his neighbors and be active in the community serves as an example to us all. His enthusiasm and dedication to many causes will be a legacy that stands to last forever.

Mr. Halle is survived by his wife of 71 years, Kate Halle, along with son Michael Halle and daughter Gilda Siegel, in addition to seven grandchildren and 10 great grandchildren.

## HONORING THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE MEN'S BASKETBALL TEAM

### HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. TAYLOR. Mr. Speaker, I rise today in proud recognition of the University of North Carolina at Asheville Men's Basketball Team. In the University's rich seventy-six year history, the 2002–2003 Men's Basketball Team is the first to represent the school in the NCAA Tournament.

This accomplishment was achieved through the incredible effort the men's team demonstrated during the Big South Conference Tournament. The team had three consecutive wins and defeated Radford University, 85–71, to clinch the Big South Conference title.

Not only did the men's team win their division championship, but they continue to represent the school well in the NCAA Tournament. The UNC-A Men's Team, on Tuesday, March 18, 2003, defeated Texas Southern, 92–84.

This proud moment in the University's history could not have been achieved without the leadership and effort of several individuals. Coach Eddie Biedenbach and his assistant coaches, Thomas Nash and Nicholas McDevitt, have done an incredible job guiding these outstanding men. In addition, the support of Chancellor James Mullen, Athletic Director Dr. Joni Comstock and her staff, and Drs. Eric Iovacchini and Kevan Frazier with the Office of Student Affairs have been instrumental in the success of the program.

Finally, I would like to mention the Senior leadership of the men's basketball team. Andre Smith, Alex Kragel, and Ben McGonagil have devoted themselves to this team, to this effort, and to this University. On behalf of North Carolina's Eleventh District, I would like to congratulate the team, the staff, and the student body on their success, both present and future.

## SECURING PEACE THROUGH SHARED SACRIFICE

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. RANGEL. Mr. Speaker, as we stand on the brink of an invasion of Iraq, we must ask ourselves if there are better ways to secure long-lasting peace and prosperity in the Middle East.

I invite you to read excerpts of my remarks against an invasion of Iraq and in support of national service that I delivered Sunday, March 9, 2003 at Riverside Church. I was really moved by the sermon delivered by the Reverend Dr. James Forbes, Jr. that morning. The reading from the Bible was the parable of the weeds in the wheat field. It tells how the weeds will be destroyed but only after the weeds and the wheat grow up together and the wheat is allowed to mature. It was a great analogy as we take a look at a world today—a world that would have us believe that the weeds would be Saddam Hussein and that some are saying we have to destroy the entire wheat field in order to get him.

#### UNDERSTANDING THE POWER OF THE PEOPLE

Every minute of every day of every year that we live is actually part of history. We never really perceive what it is we do, how important it is, what we could have done or what we didn't do, until that day is over.

Well, I can share with you now that I was not excited about that trip. I didn't intend to walk and I asked Percy why didn't he walk down there if he felt so excited about this? But he said no and set it up with Andrew Young and John Lewis. I was running for office and he said how important it would be at least for me to go down and have my picture taken.

Well, having my picture taken seemed like it made a lot of sense. So I got a roundtrip ticket, and took my cashmere coat, my Stingy Brim hat, my Florsheim shoes, and went down there to have my picture taken.

I had bad feet so I knew I wasn't going to march. But when the rain started coming. I saw these poor farmers, sharecroppers and young people just finding plastic to wrap their feet in. I heard them start singing the hymns and the civil rights songs. When I saw and heard all this, I knew that I just could not return to the airport. So I switched my shoes with someone that was coming back to New York, got his sneakers (kept my cashmere coat, however) and started that march from Selma to Montgomery.

I cursed every step of the way of that march, wondering why in the world was I marching with no cameras, no TV, no reporters, in the darkness with a group of white Southern guardsman allegedly there to protect me. But it was only after that event was over that I fully recognized the power of Dr. Martin Luther King and fully understood the power of people who believed that they could make a difference.

How little did I know in marching in that march that, as a result, Americans who had been treated as a fraction of a man would be given the power to vote in the Deep South. It was a country where lives could be taken through lynchings, where people could be beaten to death and segregated, and people would say there's nothing that we could do about it. This march, and the subsequent incidents with dogs, allowed the best of America to come out—and not only turn it around, but provide for a kid from Lennox Avenue to succeed the late and the great Adam Clayton Powell. It allowed me to be here today and say that as a result of that Voting Rights Act, we now have 39 African-American men and women serving in the House of Representatives. God is good.

It means that no matter how many weeds are growing that, if we are strong enough to be the wheat to provide the light, there is no sense in giving up on this country. It's all that we got.

We are the country. It is not just those people who come to Washington. It is us who decide just how strong we're going to be or how frightened we're going to be, or show silent we will be against the injustices that are taking place under our flag.

#### AN UNJUST AND UNWISE INVASION

On September the 11th, when enemies of the United States struck the World Trade Center, I think all Americans put aside whether they were Republican or Democrats, liberals or conservatives. For the first time in our history we felt the pain of hatred attacking us, and the things that we believed in. For the first time in my congressional career, New York City members were treated as members of Congress, and not merely as members of the New York delegation. We sang, "God Bless America" and said, under the President's leadership, that wherever this threat had come from, we were prepared to do whatever was necessary so that we would never feel the pain the way we did then.

However, soon the President started talking about "the axis of evil." He spoke about North Korea, Iran, and Iraq. And somewhere along the line, it was forgotten that our attackers were funded and had come from Saudi Arabia. Also lost was the fact that Osama bin Laden was the person we were searching for. Somehow the message got blurred. Soon, the President started connecting—without facts—Osama bin Laden with some force on television. And before you knew it. Saddam Hussein was transformed into the link to the tragedy that befell us at the Trade Center.

Let me tell you, I have listened to President Bush privately and publicly. I have heard from the CIA and the FBI. And I can tell you without fear of contradiction that the President of the United States, has not given one scintilla of evidence to connect the actions of Saddam Hussein with the tragedies that struck us here in New York City, And, if Colin Powell, the CIA, and the FBI have evidence that Saddam Hussein possesses weapons of mass destruction, why in the heck didn't they give it to the U.N. inspectors so they could get these weapons out?

I want to make it abundantly clear that what I learned on Lennox Avenue applies to me today. If somebody is around the corner waiting to hit me in the head with a pipe, I want him taken out right away. Preemptive strikes don't bother me. But for this great country, without any evidence that we're in imminent danger, to select a developing country that's defenseless against our power, and deliver in ultimatum that they must show evidence of how they disposed weapons of mass destruction, or we will drop bombs on them until they're sensless—3,000 high tech bombs in 48 hours—that's not the great America that I'm proud to be a part of.

An attack against Iraq would be the first time that our country has ever struck another country without provocation. Doing so, we will lose the moral authority to tell other countries that God made us to live and work together. If Pakistan and India decide that they don't trust each other, if the Taiwanese and the Chinese don't trust each other, if the North Koreans fear that they're going to be attacked by South Korea, do they also have the right to a preemptive attack? What international body could we appeal to in good faith and say that they were wrong?

They tell me that there will be little collateral damage, but how much is "little" when you're talking about the lives of people? They tell me we have the technology to reduce the loss of life of Iraq's people—mothers and children, innocent people. But if we have that technology to determine where the innocent people are in Iraq, why couldn't we use that technology to locate the weapons?

#### LET'S TALK ABOUT OIL

Why Iraq? Why now? Why the rush? At the end of the day, the question has to be: Will we in New York, will we in the United States, will we on this planet, feel any safer after bombing Iraq senseless?

It goes beyond Iraq or weapons of mass destruction. It has to, because we know as a fact that weapons of mass destruction are in North Korea. And take my word for it, these people in North Korea are the meanest people in the world. I know. I've dealt with them. You can't imagine people starving to death in North Korea, with 40,000 American troops in South Korea, being isolated by their former friends, the Russians, who have collapsed, the Chinese, who look at them suspiciously, the Japanese, who have had problems with them historically. The only thing they got are these dangerous weapons which they're selling, and we are saying that we got to negotiate with them while we bomb Saddam Hussein.

It would seem to me if we're prepared to go to the international community to contain North Korea, that that is the least we can do for civilization and the United Nations to contain Saddam Hussein.

But let's think about it, because we have to be practical about it. There ain't no oil in North Korea.

Now, let's talk about oil, because some of my colleagues in Washington may be listening to me here, not just because I'm at The Riverside Church, but because C-Span is here, and we like to watch each other. So, to my colleagues that may be watching, let's talk about oil. For years we have been addicted and dependent on foreign oil and gasoline. 55-percent of the oil that we consume today comes from foreign countries. We have been promising ourselves since the days of sweater-wearing Jimmy Carter that we were going to do better. But each year we import more and more oil from abroad.

Any economist will tell you—and those of you that came to church late may have seen some of them on TV this morning—that the one thing that could possibly turn this economy around would be cheaper oil prices. That, if the price of oil continues to rise, then what we know in our community to be a recession could become a depression for us and a recession for other people in this country.

The largest reservoirs of oil are in this region, with Iraq controlling most of it. But the countries in the region that do have oil have joined together in order to make certain that they keep the price of oil high so that they would get an income. They have decided that they will control the supply of oil from the region in order to get what they think would be a fair price for oil.

Now, the President of the United States has said to me privately and, if you listen to him carefully, he has said it publicly, that we have to have as our first mission to seize the oil wells in Iraq. That we will be sending airborne troops there to prevent Saddam Hussein from destroying them. Once we seize those oil fields, he has said, we will bring in American and European technology. To do what? To develop the full potential of the production of oil in this area. By doing this, he shatters the restriction on the supply of oil that OPEC has put on and shatters any idea that the reduction in the supply of oil would increase the price of oil.

Is the President saying this so that America would no longer have to depend on Middle Eastern heads of nations for higher oil prices? Is he saying this in order to get us out of the recession? Is he saying this because we are so dependent on foreign oil that we would want a stable supply?

No. The President doesn't say that at all. This is what the President says. We have to increase the supply of oil out of Iraq so that we can get the money to restore peace and harmony to the people of Iraq to build their schools and to give them health care. That is what the President is saying that we must do.

The President is also saying something else. He is saying that after we liberate Iraq—and, there is no indication that we're going to met with kids and women with little American flags waving for us—but after we liberate Iraq, that that will be the beginning of bringing democracy to all of the countries in the region.

Now, I don't know that much about the Islamic faith, but I hardly think they're waiting for born-again Bush to be bringing his type of democracy to that area.

If we hit Saddam Hussein, he will want to be remembered by the people in the region. Knowing that they are no friends of Israel in the region, it would seem to me that we're jeopardizing our friends and brothers and sisters in Israel from a preemptive strike by Iraq. Since they can't reach us, they will reach for our best friend, Israel. Israel will be forced to strike back with force—one, to show that she can sustain the hostility from the region and, two, because of the internal politics that exist between the hawks and the doves there. You tell me how it will not be perceived as the United States and Israel not having a "holy war," especially with our President saying he's going to bring democracy to the region of the Muslim states there.

Instead of us bringing a sense of peace and confidence, we're creating an atmosphere that could be chaotic as Americans go to the Middle East and Americans go abroad.

THE BURDEN MUST BE CARRIED BY ALL

Now, whenever a nation, a community or your home is in danger, it seems to me that we all have an obligation—if we've enjoyed the benefits of living in this great nation—to say, "What can we do to help?" But there's a strange atmosphere that exists in Washington, that people talk about war without talking about the sacrifices of war. You don't have to be in combat, you don't have to be shot, to understand that not all of the people who go to Iraq are coming back—that families suffer the pain of losing their loved ones, and that you're going to kill people whose lives you have no right to take away.

It reminds me so much when I was in P.S. 89, where there were groups of people that would say, "Let's fight. Someone said something about your mamma. Someone offended your sister. Let's go fight. I'll hold your coat." You know.

We got a lot of people in Washington that want to hold people's coats.

I listen to these people talking about how we should have taken out Saddam Hussein a long time ago. "We have to teach these people a lesson. We have to demonstrate the power of the United States. We have to force the United Nations to respect us." But we do this by sending people into harm's way.

There has never been a war in which we have not said that, at least in terms of financing it, that we're going to have to pay for it through taxes. Yet this President has said, through Rumsfeld, that we can have two and three wars going on at the same time. We already have troops in Korea, Japan, Europe and Afghanistan. We're sending troops to Colombia and the Philippines. We're deploying 300,000 troops in Iraq. God knows how many more it will take for the occupation of Iraq. The President has asked for $90 billion to pay for the first month of the invasion while advocating a $674 billion tax cut for the wealthiest people in the United States.

When you take a look at who the liberators will be, who will be put in harm's way, it won't be the sons and daughters of members of Congress or the President's cabinet. It won't be the rich and affluent who insist that we "take them out now." No. It will be good Americans, patriotic Americans, who evaluated the economic situation in this country, and decided that the military gave them a better shake than they could get in the private sector.

And so they, like me and so many others, go into the Army. When the flag goes up, they salute it because they made a contract to fight—if they were called on. Don't tell me that they'll be checking out who is in the foxhole to see whether they were drafted or volunteered. Don't tell me that, in this great country, only those who can't do better economically should be forced to carry the burden of being killed in war. I refuse to accept that.

So some people have accused me of introducing legislation to reinstitute the draft just to embarrass the President or because I am against the war. Others say I did it to deter people from talking about going to war because of concern that their loved ones would be placed in harm's way.

And I tell them, "You're darned right, those are some of the reasons why I introduced it."

It makes sense to me that, if we're going to determine that we're going to attack a nation, if we're going to determine that we're going to take a preemptive strike, if we're going to determine that no matter what the United Nations says, that we will go it alone, we have to find out who "we" are. And the closer that "we" are to our families, the less likely we are to say that we're going to war.

We have a situation where the President believes that God has given him a mandate to attack Iraq. It seems that there is nothing that Saddam Hussein could ever have done to prevent war. It went beyond Saddam Hussein showing where the weapons are or proving that there are no weapons. This President is bent on getting rid of Saddam Hussein; the goal is to take him out.

And so, as people were ridiculing me, I got a call from the senior senator from South Carolina. He told me, "Charlie, I am so sick and tired of all this minority stuff." He said, "While it is true that minorities find themselves in the service and in harm's way more than the general population, while it is true that they seek safe haven from the economic oppression in the military, what about some of my constituents. No one ever talks about them."

Poor whites in rural areas face the same challenges. They love the uniform and the opportunity to serve. But it doesn't mean that they want to carry the full burden of fighting wars all over the world. He told me about the National Guard. We have 800,000 people, dedicated people, in the Guard. Many of them have already served their full careers in the military, and they have decided to live the rest of their lives in South Carolina. So they join the reserve. They join the police department. They join the fire department. They want to increase their skills in the military reserves. They want promotions. They want to increase their pensions. But they have been called up, not once, not twice, but three times. We've been pulling up the reserves, breaking up marriages, breaking up families, causing people to lose homes, and pull kids from schools.

He said that it was time that the burden of fighting wars be not restricted to those people who find themselves without financial or political influence. So Senator Fritz Hollings introduced my draft bill in the other chamber.

MAKE HISTORY—LET YOUR VOICE BE HEARD

I didn't believe that my bad feet and me could make any difference in bringing about the Voting Rights Act. Sometimes, some of you may believe that the power of the United States is just so overwhelming that your voices can't be heard. But let me say this to you: At some time, at some place, somebody may just ask you, "When your country decided that it was going to have a preemptive strike against a weak, undeveloped country to prove a point, did you say anything? Did you do anything? DId you demonstrate?"

We have a responsibility as Americans not to wait for things to happen, but to be involved in those happening things. We are America. We are history. Your voice really counts.

The silence has been deafening. Why? No one wants to challenge a President after the attack of September 11, 2001. No one wants to be perceived as being unpatriotic. No one wants to be perceived as if they are not supporting our brave men and women that are stationed in the Middle East.

But I tell you what. Your support of me has given me the power and the incentive, not to be classified as a profile in courage, but to represent your sentiment as you have expressed it—at the Riverside Church, in front of the United Nations, all over New York, and as we see it all over the country. You just can't be blinded by your own prejudice when the whole nation is saying that we will not be safer if we attack Iraq.

## IN HONOR OF LILLY COX-KELLAR

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. TOWNS. Mr. Speaker, I rise today to honor Lilly Cox-Kellar for her significant contributions in business, as a community leader and family stalwart. Ms. Cox-Kellar has been a powerhouse of innovation and commitment, her discipline and hard work has led to a record achievement of many "firsts" for an African American who opened the doors for so many others.

Just to highlight a few of her accomplishments, Lilly was the first African American to be hired at the American Federation of Television and Radio Artists (AFTRA) where she worked as Executive Secretary to the Treasurer. She was the first minority to hold a position with Hirshe, Rotman and Druck, an international public relations firm. As a Human Resources and Benefits Specialist, she was the first minority staff person recruited by Cogan, Berlin and Weill, a major Wall Street firm with a national staff of more than two thousand employees. As Director of Chapter Relations for the National Audubon Society, Lilly was responsible for the administrative oversight of more than five hundred chapters nationwide. In the majority of these position, she was afforded the opportunity to hire additional African Americans. In addition, to her management and human resources skills, Lilly worked as a housing consultant to First Baptist Church of Crown Heights, Church of St. Mark Episcopal, Bridge Street A.W.M.E. Church, Berean Missionary Baptist Church, Harlem Congregations for Community Improvement and Northeast Brooklyn HDFC/Wayside Baptist Church to develop 524 units of senior housing. However, Lilly felt she could do more.

Lilly ventured out on her own and opened LWC & Associates, a housing development consulting firm, which evolved into the current LWC Management Corp., now a real estate management and development corporation. Through this multi-faceted company working primarily with churches and community-based organizations, over $56 million worth of housing has been developed for senior citizens, low and moderate income persons and families, and the formerly homeless. She is most gratified when housing is developed for senior citizens and the homeless. In her effort to promote housing development, she also owns Brisa Builders Corporation, a general contracting/construction manager firm. Her firm is currently involved with 230 units of senior housing under construction in Manhattan and Brooklyn.

Lilly, as a person of deep convictions, is grounded in her faith and family. She believes in the spirit of "community" and "having a quality education" for our youth. She is a lifetime member of the NAACP, committed exclusively to their educational programs. Lilly also shares her wealth of knowledge and information regularly as she develops, directs and facilitates workshops, seminars and other training for non-profit organizations, boards of directors and volunteers. Lilly has also served as a guest lecturer at the Harvard Divinity School, lecturing on "The Urban Church and Community Development."

Mr. Speaker, I ask my colleagues to join me in honoring Lilly Cox-Kellar for her leadership specifically with community based development and the many other contributions to her community. Her endeavors and accomplishments deserve our praise and appreciation.

## IN HONOR OF LISA TEALER

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Lisa Tealer, as she is inducted into the San Mateo County Women's Hall of Fame.

Lisa Tealer is a dedicated advocate for health and diversity issues. She is a Certified Aerobic Instructor for Large Women and founded A-Body-Positive Fitness Facility for women of all sizes and fitness levels. She has hosted special classes and seminars on various topics of benefit to women and has given numerous presentations and demonstrations on issues ranging from expanding diversity in fitness to bridging the multi-ethnic healthcare gap.

Lisa Tealer has displayed extraordinary leadership skills in business as well. She manages the Pharmacological Sciences Division in the Department of Assay Services at Genentech, has ten years experience managing a technical service operation at Genentech, and four years experience as a health club owner in San Mateo. She was the first Chairperson of Genentech's African Americans in Biotechnology Employees Association. She designed the Diversity Action Plan which was presented to the CEO and Executive Committee of Genentech and she has initiated many diversity efforts in the areas of recruitment and development.

Mr. Speaker, I ask my colleagues to join me in honoring Lisa Tealer as she is inducted into the San Mateo County Women's Hall of Fame.

## TRIBUTE TO CARL GOSS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Carl Goss of Pueblo, Colorado on the occasion of his ninetieth birthday. A true Colorado native, Carl was born on April 1, 1913. As Carl celebrates this impressive milestone in his life, I would like to honor him and his accomplishments before this body of Congress and this nation.

Carl's grandparents came to Colorado from the east, settling on a ranch in Pueblo. After ninety years raising cattle, you could say that ranching runs deep in his blood. He worked on farms in New Mexico before returning to Pueblo to run the Hatchett Ranch for thirty years. Carl has always been proud of his Hereford cattle, even winning adulation at the Stock Show for his "Pen of Ten" calves. He has been an active member of the Colorado Cattlemen's Association, the Pueblo County Stockmen's Association, Central Christian Church, and the Pueblo Historical Society.

Even more than his accomplishments, I know Carl is proud of his family. He has two daughters, Susan and Norma; four grandchildren, Carl, Matt, Megan and Rachel; and a great grandson, Alex. His family values his honesty, compassion, and generosity. They are truly blessed to have Carl in their lives.

Mr. Speaker, I am privileged to stand today before this body of Congress and this nation to wish Carl Goss a very happy ninetieth birthday. Carl's lifetime of experiences is an invaluable resource for his family, friends, and all of us in Colorado. Happy Birthday, Carl. I wish you all the best!

## CONDEMNING THE PUNISHMENT OF EXECUTION BY STONING AS A GROSS VIOLATION OF HUMAN RIGHTS

SPEECH OF

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise to voice my full support for H. Con. Res. 26—Condemning the Punishment of Execution by Stoning as a Gross Violation of Human Rights.

Civilized countries and organizations the world over have universally condemned this form of punishment. The European Union, the Australian government, the president of Mexico, the Spanish parliament, and the New Zealand government, have all condemned stoning and asked for clemency for those persons sentenced to this cruel form of punishment. Amnesty International has reported that execution by stoning is designed to increase the victim's suffering.

Mr. Speaker, as if all the above are not reason enough to support this measure, there is another aspect of this stoning as a form of punishment that makes it particularly troubling. Reports indicate that where this form of punishment is used, it is generally applied disproportionately to women, women who have been accused of adultery. These victims, these women, are guiltier of being women than guilty of having committed a crime. Mr. Speaker, some of these women are forced into prostitution, and others have even been raped.

In other instances stoning has been used as a means of suppressing religious freedom and stifling political debate.

In our own country, I am proud of the work that we have done to protect women against violence. The previous administration created the White House Office for Women Initiatives and Outreach to serve as a liaison between the White House and women's organizations, with a presidentially appointed director. This establishment of this office recognized the special needs to communicate better with women to address their issues. In 2000, the Violence Protection Act reauthorized programs designed to, among other purposes, stop sexual assault on campuses, offer transitional housing for victims of domestic abuse, and assist victims of violence.

Mr. Speaker, I urged passage of this bill, as America must continue to serve as a beacon of hope in the world to those who seek freedom and to escape from political prosecution. This is a responsibility that we in this chamber must hold dear and must never forget or forsake.

## HONORING RETIRING ACADIA PARISH SHERIFF KENNETH GOSS

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. JOHN. Mr. Speaker, the long and successful career of a good friend is drawing to a close. On June 30, 2004, after 20 years in his current office and over 40 years in law enforcement, Acadia Parish Sheriff Ken Goss will retire.

Sheriff Goss' distinguished career in law enforcement is known and respected across Louisiana. He has been a leader, innovator and enforcer his entire career, consistently keeping his department on the cutting edge of law enforcement while maintaining the respect of his peers and those in the community he serves.

He has received numerous awards and accolades from both his colleagues and his constituents, affirming his dedication to his community and his intense desire to constantly improve the safety of our neighbors. His long career has also incorporated service in the Louisiana Sheriffs' Association, including a term as president of the organization. Moreover, Sheriff Goss serves as a member of the Board of Directors of the National Sheriffs' Association.

He is dedicated to the young people in our community. Throughout his tenure, Sheriff Goss has implemented or expanded programs such as DARE, Mentoring Programs, the School Resource Officer Program, ACAMP—a summer camp for 8–10 year olds, and Basic Training—a summer program for 7th and 8th graders.

He has grown the Acadia Parish Sheriffs Office to 130 deputies and the Detective Division to 8 deputies in the Criminal Investigation Division. True to his desire to constantly improve as the resources allow, numerous programs within Sheriff Goss' department from narcotics to emergency response and communications have been enhanced to meet the needs of our community.

Sheriff Goss is an example to local law enforcers across the country. After 40 years in law enforcement in Acadiana, his record of accomplishment is unparalleled. I wish Sheriff Goss well in his retirement, and I speak for our community when I offer him my humble thanks for his lifetime of dedication to our safety.

## IN HONOR OF SUSAN FERREN

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Susan Ferren, as she is inducted into the San Mateo County Women's Hall of Fame.

Susan Ferren is a manager in San Mateo County's Human Services Agency and for the past 12 years has dedicated herself to improving health in San Mateo County. In addition to her job at the Human Services Agency, Susan Ferren is a Marriage and Family Therapist Intern and is working toward obtaining her license. She also works as a Crisis Therapist at Mills/Peninsula Hospital.

Susan Ferren has initiated and managed many innovative programs to address family violence and children's welfare. She is cochair of the Family Self-Sufficiency Policy Team which helps families achieve stability and independence, and a site coordinator for the Fatherhood Project. She serves on the board of directors of Sor Juana Ines and has given many hours of volunteer time to several community service agencies.

Susan Ferren is a mentor to interns at the Human Services Agency and gives generously of her time and talents to nurture them. A single parent, she is justifiably proud of her extraordinary son and daughter. She's been a Cub Scout Leader, a Sunday School Teacher, a Room Parent, a PTA Vice President and a Team Mother for several sports teams.

Mr. Speaker, I ask my colleagues to join me in honoring Susan Ferren as she is inducted into the San Mateo County Women's Hall of Fame.

## TRIBUTE TO DOUG WINTER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor veteran Doug Winter of Paonia, Colorado. It is my privilege to recognize Doug as he prepares to assume the role of State Commander of the Colorado American Legion. Doug believes deeply in our great nation and has demonstrated his dedication and commitment to his country through his service, endurance, and sacrifice in the United States Marine Corps as a battery gunner sergeant. Now, as he prepares to take on his new role as State Commander, I would like to honor Doug's service before this body of Congress and this nation.

Since his service in Vietnam, Doug has demonstrated a deep commitment to his fellow veterans. Thirteen years ago, Doug joined Paonia Post 97 of the American Legion. Since then, he has served as adjutant commander, commander and first vice commander of Post 97, and as District 11 junior and senior vice commander. Doug understands that the completion of military service does not mean the end of a serviceman's responsibility to his fellow veterans. He reaffirms his commitment to his country and his fellow veterans daily, through his work with the Colorado American Legion.

Mr. Speaker, in this time of international uncertainty, our veterans provide a firm foundation for our nation. It is an honor to rise today and recognize Doug Winter before this body of Congress and this nation for his service to this country and dedication to his fellow veterans. For the first time in 25 years, the Colorado American Legion will have a leader from the Western Slope, and it is my distinct honor to represent such a fine American as Doug Winter in this Congress.

## SECURE AND FAST ENTRY AT THE BORDER ACT OF 2003 (SAFE BORDER)

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mrs. DAVIS of California. Mr. Speaker, I rise today to discuss an opportunity to strengthen national security, promote bi-national commerce, and provide assistance to our dedicated agents at the border.

My district touches the U.S.-Mexico border. Because of this proximity, ports of entry play a vital role in our area's economic and social life. Thousands of San Diego and Tijuana residents cross the border every day as commuters, shoppers, or visitors, illustrating the growing global connection between our neighboring countries. Unfortunately, our border infrastructure has not kept pace with the booming traffic volume, and travelers frequently encounter delays and congestion at the border.

The tragic events of September 11 further intensified these challenges along the border. Increased security measures severely over-extended inspection resources and waits lasting up to several hours became commonplace. Ports of entry in other states that had not previously encountered significant delays realized that they were not well equipped to handle future volume growth. This climate raised the need for innovative methods that meld security measures with more efficient practices. For some of my constituents, the answer came in the form of a dedicated commuter lane program called SENTRI.

SENTRI, which stands for Secure Electronic Network for Travelers' Rapid Inspection, accepts only low-risk travelers who pass both an extensive background check to verify their eligibility and a thorough inspection of their vehicle. After passing through these steps, travelers receive the privilege of using an exclusive lane to cross the border into the United States.

Since its introduction, SENTRI has quickly demonstrated its ability to reduce wait times without compromising border security. Border waits often lasted an hour or more before SENTRI, but now average only 5 to 15 minutes for enrollees. Travelers in other lanes also benefit because the prescreened SENTRI crossers move swiftly through the border, reducing the number of motorists using general commuter lanes. Expediting inspections through SENTRI is actually helping to improve border security, as Customs and Border Patrol agents can focus more attention on nonscreened drivers and passengers. Additionally, those travelers in SENTRI lanes have a 50 percent greater probability of being referred to secondary inspection than those in regular lanes due to built in random selection. As a result of embedded security measures, statistics show an extremely low rate of fraud among renewal participants. Simply put, SENTRI lanes are more efficient and better inspected than regular commuter lanes.

Unfortunately, SENTRI has become a victim of its own success. SENTRI needs a greater investment of resources to keep up with the current and future demand. Enrollment increased by more than 100 percent after September 11 and, currently, prospective applicants must wait approximately 8 months. I believe that if we want innovative programs like SENTRI to work, we must provide them with the tools and resources they need to succeed. This is why I am re-introducing the Secure and Fast Entry at the Border Act or SAFE Border Act.

The SAFE Border Act recognizes the contribution of SENTRI to border security and the agents who administer the program. My bill ensures the continuity of SENTRI as the Immigration and Naturalization Service and Customs Department transition into the Department of Homeland Security, and reinforces recent agency action by permanently extending the SENTRI renewal period from 1 to 2 years—enabling border agents to process new applicants and reduce the current enrollment wait. SAFE Border also recommends the appointment of dedicated SENTRI staff to expedite application processing, encourages the creation of a dedicated commuter lane for prescreened, low-risk pedestrian crossers, and promotes the integration of technology at SENTRI sites for increased access at participating ports of entry.

Our agents at the border shoulder an enormous responsibility every day. I believe we owe them the appropriate resources and support they need to carry out their duties. The SAFE Border Act, as a result, increases security by enabling more people to be prescreened and allowing border agents to focus more attention on other border crossers.

Our nation's economic and overall security is heavily linked to smooth and secure border crossings. The SAFE Border Act provides a way for trusted travelers to cross the border securely and quickly.

I urge my colleagues in Congress to act quickly in passing the SAFE Border Act into law.

## TRIBUTE TO DR. WALLACE CONERLY

### HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. WICKER. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to my home state of Mississippi are exceptional.

Dr. A. Wallace Conerly has devoted his career to public service. A native of Tylertown, Mississippi, Dr. Conerly graduated from Millsaps College in 1957, and went on to receive his M.D. from Tulane University in 1960. He served six years in the United States Air Force until his honorable discharge with the rank of Major. Since 1973, Wally has dedicated his time to the University of Mississippi Medical Center in Jackson, Mississippi.

He held the title of Assistant Vice Chancellor for 13 years until obtaining the title of Chief Executive Officer in 1994. As the CEO of the state's only academic health sciences center, he leads an institution of 7200 employees with an annual budget of more than $610,000,000.

Dr. Conerly has directed a $335 million building program, the largest in the history of higher education in Mississippi, including a new children's hospital, a new women and infant's hospital, a new 256 bed adult hospital and a critical care hospital, along with a host of new facilities for the School of Nursing, the School of Health Related Professions and the Medical Center complex.

He created a campus-wide Office of Research in 1998 to further enhance the Medical Center's research mission. Since that time, grants and contracts awarded to the Medical Center have more than tripled—from approximately $12 million to more than $40 Million annually. He spearheaded the Medical Center's efforts to get national Heart, Lung and Blood Institute funding for the Jackson Heat Study, the project that will follow cardiovascular risk factors in African-Americans for decades.

Wally Conerly has worked hard to make the Medical Center a more diverse environment. He has expanded the institution's efforts to recruit and retain minority students. He was successful in securing funding for 12 full scholarships designated for African-American students in the School of Medicine. The scholarships, worth approximately $25,000 annually to the student, also have helped keep these promising young students in Mississippi—where they are now more likely to practice. Wally also has worked to increase the Medical Center's number of minority employees at the professional level through aggressive recruitment efforts. Currently, 35 percent of UMC's employees in that category are minorities; approximately 45 percent of the Medical Center's total work force is minority. In 2001, Minority Access, Inc. recognized the Medical Center as a "National Role Model Institution" for these achievements. Dr. Conerly has enriched the lives of Mississippians and enhanced the national prominence of the Medical Center resulting in better health care for our citizens.

In August 2002, Secretary of Health and Human Services Tommy Thompson appointed Dr. Conerly to a four-year term on the Board of Regents of the National Library of Medicine. He is the first Mississippian to serve on the prestigious body. Dr. Conerly has served on the Board of Directors of the American Red Cross, Mississippi Chapter and the Capital Area United Way. He is past president of the Rotary Club of Jackson and past chairman of the Board of Governors of the University Club. He is on the boards of the Metro Jackson Chamber of Commerce, Junior Achievement, the Jackson Medical Education District, the Community Bank and is a member of the Community Advisory Council of the Junior League of Jackson. In 2001, the Mississippi Division of the Multiple Sclerosis Society honored Dr. Conerly with the Hope Award. He also received Millsaps College's "Alumnus of the Year" award in 2002, and he and his wife Frances Bryan Conerly were recognized as the 2002 People of Vision by Preserve Sight Mississippi. Wally and Frances are the proud parents of two sons, Al and Charlie.

Mr. Speaker, I would like to commend this extraordinary man and my dear friend for his superior service and thank him for his strong commitment to helping the citizens of Mississippi.

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## IN HONOR OF LENNIE ROBERTS

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a great American and a most distinguished Californian, Lenore (Lennie) Roberts, as she is inducted into the San Mateo County Women's Hall of Fame.

Ms. Roberts has been named to the Hall of Fame for her success in protecting "much of the open space that makes the San Francisco Peninsula a uniquely beautiful place to live and work."

I founded the Women's Hall of Fame in 1984 to honor women who have made major contributions to our community and our country. Lennie Roberts is the personification of those we honor; she is intelligent, fair, effective, trusted, and articulate. The Peninsula would not be the place it is today without Lennie and her extraordinary work.

Lennie Roberts has a unique vision which extends beyond the limits of San Mateo County. In addition to her work with the Committee for Green Foothills, she serves as a member of the Yosemite Association Board of Trustees and helped form the Yosemite Fund Council of Directors, and is a member of the Citizens Advisory Commission for the Golden Gate National Recreation Area.

Among Lennie Roberts' many achievements were the passage of Measure A which protects San Mateo County's rural coastal area from urban sprawl and her successful fight to prevent a giant freeway from being built on the coastside.

Mr. Speaker, I ask my colleagues to join me in honoring this great and good woman. Lennie Roberts is one of the most exceptional, effective and respected leaders in our community and through her commitment and professionalism, she has made our communities and our country a better place for all.

## TRIBUTE TO VOLUNTEER FIRE DEPARTMENT OF NORWOOD-REDVALE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise before this body of Congress and this nation today to recognize the men and women of the Norwood-Redvale Volunteer Fire Department of Norwood, Colorado. Their heroic efforts are responsible for saving the lives and homes of many in my state, and it is my honor to pay tribute to their efforts today.

On the night of December 29, 2002, there was a fire in a home south of Norwood. Although the home is occupied, there was no one present when the blaze started. The quick actions of the Norwood-Redvale Volunteer Fire Department saved the house, which sustained only minimal smoke damage. Almost the entire fire department responded, including four engines and the ambulance crew, adding up to more than fifteen VFD members on the scene who spent more than three long hours battling the flames.

Mr. Speaker, it is with great pride that I rise to recognize the Norwood-Redvale Volunteer Fire Department before this body of Congress and this nation. Their selfless and capable service is a credit to themselves and their families, and their dedication to community is a great asset to their neighbors and countrymen. I personally thank them for their efforts.

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## URGING PASSAGE OF RESOLUTION ADDRESSING HUMAN RIGHTS ABUSES IN NORTH KOREA AT 59TH SESSION OF UNITED NATIONS COMMISSION ON HUMAN RIGHTS

SPEECH OF

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 18, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Res. 109.

North Korea has been in the news lately for a number of reasons. In recent months, it has expelled U.N. monitors, withdrawn from the Nuclear Nonproliferation Treaty and restarted a nuclear reactor.

In addition, North Korea may have the worst human-rights record in Asia. The regime prohibits freedom of speech, religion, the press, assembly, association, citizens' movements and workers' rights. There are an estimated 150,000 to 200,000 political prisoners in work camps. Accounts by refugees and defectors indicate that inmates are subject to forced labor, beatings, torture and executions.

The United Nations Commission on Human Rights convened in Geneva this week and is scheduled to be in session until April 25th. This year one of its most challenging issues will be to determine whether to hold North Korea accountable for its poor human rights records.

I strongly support H. Res. 109, which urges the Commission to pass a resolution addressing human rights abuses in North Korea, and calls on the government of North Korea to respect and protect the human rights of its citizens. if passed by the Commission, it would be a critical first step by member states of the United Nations in demonstrating a multi-national commitment to human rights.

In 1981, North Korea ratified two treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. By ratifying these treaties, North Korea officially affirmed its commitment to internationally recognized human rights and standards. Although no single diplomatic initiative can begin to resolve North Korea's human rights abuses, this Resolution would be an important first step in bringing this issue to the world's attention.

In closing, I would like to remind my colleagues on both sides of the aisle, that on February 11, 2002, we passed, by an overwhelming vote of 402 to 6, a Resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights.

Libya has failed to demonstrate that it does not support international terrorism. It has also failed to demonstrate that it has abandoned its quest for weapons of mass destruction. To reward these failures with an important and prestigious appointment makes a mockery of what this Commission stands for.

That being said, if the Commission manages to persuade North Korea to open itself up to visits by U.N. human rights experts and other international observers, this would be a significant accomplishment. I urge all members of the United Nations to work towards this goal and urge my colleagues to support this Resolution.

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## HONORING THE LIFE OF ACADIANA VETERAN LESTER J. GUIDRY

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. JOHN. Mr. Speaker, our community lost a dedicated servant on February 20, 2003. Lester J. Guidry, Commander of American Legion Post 69, lost his battle with cancer. Mr. Guidry was a tireless advocate for Acadiana's Veterans, often serving as their voice in the community.

Mr. Guidry was a veteran of the Korean War, serving with the 25th Infantry Division, 35th Regiment, 1st Battalion, Able Company. He was awarded the Purple Heart for wounds he sustained in battle in 1951. Back on the home front, Mr. Guidry became a mountaineering instructor with the U.S. Air Force Academy in Colorado Springs. For 25 years, he taught our young cadets the specifics of winter survival, mountaineering safety and awareness.

Upon his return home to Acadiana, Mr. Guidry became a project coordinator working on behalf of Korean War Veterans. He was tireless in his efforts to help these veterans secure the service medals and accolades they were due.

I knew Lester Guidry well. He constantly interacted with my office on behalf of our local veterans, insuring that cases were tended to and information was located. In 2002, he visited with me in Washington, DC during his trip to retrieve pieces of the damaged Pentagon for display at memorials across Acadiana.

Mr. Guidry's passion for life and service was both inspirational and contagious. He was persistent in his task, making service to our local veterans and their memory his mission in life. I believe he accomplished his mission.

He fought for the ideals he believed in until his final days. He labored to remind of us that "freedom is never free," and that service to country should be recognized and never forgotten. He was an example of patriotism for our community, he touched countless lives in our area and across the country, and he will be sorely missed.

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## IN HONOR OF NORA RAZON

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Nora Razon, as she is named a San Mateo County Young Woman of Excellence.

Nora Razon is a young woman of tremendous insight and dedication. She took initiative in conceiving of and founding her own organization at Carlmont High School, Chicanas Healing Injustice, Sexism, Prejudice and Animosity (C.H.I.S.P.A.). This organization empowers Latino youth through participation in school and extracurricular activities dealing with the healing of injustice and animosity within and towards the Latino community. Under her direction, C.H.I.S.P.A. has evolved into one of the most successful and well-attended clubs at Carlmont High School.

Nora Razon's leadership has been likewise valuable in East Palo Alto's College Track, a non-profit organization which assists motivated young people from socioeconomically disadvantaged neighborhoods to recognize their full potential and to attend a four-year university of their choosing. She has been credited with helping turn College Track "from a good idea into a successful entity."

Nora Razon is a senior leader in the East Palo Alto chapter of Youth United for Community Action and an active four-year participant in Youth Community Service. She is the Youth Representative on the San Mateo County Commission on Aging, a member of the Student Council, and a mentor to her peers through Carlmont's SOS Program designed to mediate conflicts that arise within the student body.

Mr. Speaker, I ask my colleagues to join me in honoring Nora Razon as she is named a San Mateo County Young Woman of Excellence.

## THE CHILD HEALTHCARE CRISIS RELIEF ACT

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. KENNEDY of Rhode Island. Mr. Speaker, our Nation has been blessed for more than two centuries. At no time in the history of mankind has a society prospered like ours has. Through an industrious spirit, a deep sense of entrepreneurship, and a land teeming with natural resources and human talent, we have created a nation that is the dream of those in the world who lack our good fortune. We have led the world in the area of biotechnology and medical research for almost an entire century. There is no place else on Earth where people flock by the thousands to obtain the best that the arts and sciences of medicine have to offer.

With that said, there has been, however, a well kept secret regarding our nation's healthcare system, which was only recently brought to light by former United States Surgeon General Dr. David Satcher. In his landmark 1999 report, Mental Health: A Report of the Surgeon General, Dr. Satcher describes the crisis faced by our Nation's children who suffer from mental illness. According to this report, one out of every five children in America suffers from a diagnosable mental disorder, yet only one-third of them receive mental healthcare treatment.

Part of the reason for this alarming statistic is that mental health services specific to children are in very short supply. I hear time and time again the frustrations of pediatricians who cannot find available mental healthcare professionals for their patients who require psychological evaluations. There are many parents in our nation who are forced to relinquish custody of their disturbed children because outpatient psychiatric services are either not available or the wait for an appointment is weeks to months away. In my own state of Rhode Island, a physician affiliated with a leading psychiatric children's hospital told me recently that on any given day, up to one-third of the hospitalized youth could be home if only outpatient services were available.

That is why today Congresswoman ILEANA ROS-LEHTINEN and I are introducing the Child Healthcare Crisis Relief Act. This is a bill designed to help alleviate the paucity of mental health services for our Nation's youth by providing incentives for mental healthcare workers to specialize in the treatment of children and adolescents.

The statistics are quite startling:

13,700,000 of America's children and adolescents have a diagnosable mental disorder.

There are 6,000,000 to 9,000,000 children and adolescents in the United States who meet the definition of having a serious emotional disturbance.

Approximately 5 to 9 percent of children and adolescents in the United States meet the definition of extreme functional impairment.

The demand for the services of child and adolescent psychiatry is projected to increase by 100 percent between 1995 and 2020.

There are approximately 513 students for each school counselor in United States schools. This ratio is more than double the recommended ratio of 250 students for each school counselor.

The Child Healthcare Crisis Relief Act creates incentives to help recruit and retain child mental health professionals providing direct clinical care, and to improve, expand, or help create programs to train child mental health professionals through the following mechanism:

Loan repayment and scholarships for child mental health and school-based service professionals to help pay back educational loans.

Grants to graduate schools to provide for internships and field placements in child mental health services.

Grants to help with pre-service and in-service training of paraprofessionals who work in clinical mental health settings for children.

Grants to graduate schools to help develop and expand child and adolescent mental health programs.

This bill also allows for an increase in the number of Child and Adolescent Psychiatrists under the Medicare Graduate Medical Education Program and extends the board eligibility period for residents and fellows from four years to six years.

The Child Healthcare Crisis Relief Act is not only about providing incentives for health care workers, it is also a bill about expanding treatment options for children in need. Expanding treatment options expands the opportunities that children with mental health concerns have to grow and become happy and productive members of our society.

Children who do not receive adequate treatment for mental health problems start out in life with an albatross around their necks with significantly reduced opportunities. These children have a high probability of becoming involved with illicit substances, dropping out of school, and committing felonies including homicide. Just as tragic, many of these children will never make it into adulthood because of suicide.

The hope and the potential for endless possibilities that we, as a people, attribute to children are diminished with each child struggling with mental illness who does not receive adequate treatment. We may choose not to see their struggle out of ignorance or fear, but as an old English proverb says: "We never know the worth of water 'til the well is dry".

Mr. Speaker, we cannot in good conscience sit back and allow the well to dry up when we know how to find a spring that can feed it. I, therefore, ask my colleagues to lend their support for my Child Healthcare Crisis Relief Act.

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## ROBERT KELLY, SR., HONORED BY SCRANTON HEBREW DAY SCHOOL

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the honoring of Robert T. Kelly, Sr., by the Scranton Hebrew Day School at the school's 55th anniversary dinner on March 23, 2003. Because he has been both a community leader and a very generous benefactor as a trustee of the Harry and Jeanette Weinberg Foundation, the school will present him with its Special Recognition Award.

Mr. Kelly is a graduate of the University of Scranton, where he was also awarded a Master of Business Administration degree. The university has also presented him with an honorary Doctor of Laws degree.

A member of the advisory board of directors of the First Liberty Bank and Trust Company, Mr. Kelly is a former member of the board of trustees of the University of Scranton and served in a similar capacity with Mercy Health Systems, Northeast Region. He is currently a member of the American and Pennsylvania Institutes of Certified Public Accountants, the Country Club of Scranton and the Johns Hopkins Club of Baltimore.

Mr. Kelly has been one of the Weinberg Foundation's trustees since 1990 and currently serves as a trustee emeritus, having been succeeded as a trustee by his son Timothy P. Kelly.

An intimate of philanthropist Harry Weinberg since the 1950s when Mr. Weinberg operated the Scranton Transit Company, Mr. Kelly was designated a trustee by Mr. Weinberg to assist in the running of the foundation after his death. Mr. Weinberg passed away in 1990 at the age of 82. At that time, the foundation possessed assets worth nearly $1 billion. It currently distributes more than $95 million annually to the needy around the world and is considered to be one of the top 25 philanthropic trusts in the United States.

Mr. Kelly and his wife, the former Rose Marie Simoncelli, reside in Jessup and are the proud parents of four children, Timothy and Mary Louise, both of Waverly; Attorney Robert Jr. of Clarks Green; and Dr. Patricia Kelly-Holmes of South Bend, Indiana.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the honor being accorded to Mr. Robert T. Kelly, Sr., by the Scranton Hebrew Day School, and I wish him and his family all the best.

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## HONORING ELIZABETH McKENNA

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Elizabeth McKenna, as she is named a San Mateo County Young Woman of Excellence.

As President of Best Buddies, an international organization that provides students with intellectual disabilities the opportunity to develop one-on-one friendships with other students at their high school, Elizabeth McKenna devotes extraordinary time and energy to improving her school and community. She organizes and publicizes meetings, pairs up mentors and mentees, and ensures all aspects of the program run smoothly. Her chapter was the proud recipient of the "Chapter of the Month" award at a recent Bay Area chapter meeting. In addition to her involvement in Best Buddies, she also finds time to volunteer weekly with Service Commission and the

Interact Club and to be a member of the Dance Team and Dance Ensemble at Hillsdale High School.

Elizabeth McKenna excels in her academic pursuits as well. She is a lead trial attorney with Hillsdale High School's Mock Trial team and played an instrumental role in bringing her team to the 2002 California State Finals, where they placed second. She is a staff writer for her high school newspaper and has been playing the piano since the fifth grade and she maintains an excellent grade point average while juggling multiple Advanced Placement and Honors courses.

Mr. Speaker, I ask my colleagues to join me in honoring, Elizabeth McKenna as she is named a San Mateo County Young Woman of Excellence.

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## INTRODUCTION OF THE UNITED STATES COMMISSION ON AN OPEN SOCIETY WITH SECURITY ACT

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. NORTON. Mr. Speaker, today, I introduce the United States Commission on an Open Society and Security Act, expressing an idea I have been working on since well before 9–11. For years now before our eyes, parts of our open society have gradually been closed down because of fear of terrorism. Such actions have accelerated and with war coming now, even more so. For example, Pennsylvania Avenue has just been closed to pedestrians, isolating the country's most visible landmark from the American people and connection to the President. The bill I introduce today would begin a systematic investigation that takes full account of the importance of maintaining our democratic traditions while responding adequately to the real and substantial threats terrorism poses.

These years in our history will be remembered by the rise of terrorism in the world and in this country. As a result, American society faces new and unprecedented challenges. We must provide ever-higher levels of security for our people and public spaces while maintaining a free and open democratic society. As yet, our country has no systematic process or strategy for meeting these challenges.

When we have been faced with unprecedented and perplexing issues in the past, we have had the good sense to investigate them deeply and to move to resolve them. Examples include the Warren Commission following the assassination of President John F. Kennedy and the Kerner Commission following riotous uprisings that swept American cities in the 1960's and 1970's.

The problems associated with worldwide terrorism are of similar importance and dimension. The Act requires that a commission be presidentially appointed which, to be useful in meeting the multiple problems raised, would have a careful balance of members representative of a cross section of disciplines. To date, questions of security most often have been left to security and military experts. They are indispensable participants, but they cannot alone resolve all the issues raised by terrorism in an open society. In order to strike the balance required by our traditions, constitution and laws, a cross cutting group representing our best and wisest minds needs to be working at the same table.

With only existing tools and thinking, we have been left to muddle through, using blunt 19th century approaches, such as crude blockades and other denials of access, or risking the right to privacy with the misapplication of the latest technology. The threat of terrorism to our democratic society is too serious to be left to ad hoc problem-solving. Such approaches are often as inadequate as they are menacing.

We can do better, but only if we recognize and then come to grips with the complexities associated with maintaining a society with free and open access in a world characterized by unprecedented terrorism. The place to begin is with a high-level presidential commission of wise men and women expert in an array of disciplines who can help chart the new course that will be required to protect both our people and our precious democratic institutions and traditions.

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## JIM THORPE DAY AT THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. MCINTYRE. Mr. Speaker, today I rise to pay tribute to Jim Thorpe Day at the University of North Carolina at Pembroke. Jim Thorpe was one of the greatest athletes in the world, a man of courage, patriotism and fair play.

Jim Thorpe, the only American athlete to excel in three major sports as an amateur and as a professional, accomplished more than any other athlete of his time. The Sac and Fox Indian played professional baseball, football and won Olympic gold medals in both the pentathlon and the decathlon. His Olympic performance earned him the title of the "greatest athlete in the world" from Sweden's King Gustav V. His feats on the football field led him to the 1911 and 1912 All-American football teams and ultimately as the first president of the American Professional Football Association. In 1950, the Associated Press named Thorpe the greatest All-Around Male Athlete and America's Greatest Football Player of the half-century.

Born in 1887 into the Sac and Fox Indian Tribe, Jim Thorpe grew up on a reservation in Oklahoma. As a teenager, Thorpe enrolled at the Indian Industrial School in Carlisle, PA, where he became a football All-American and led his team to numerous victories. In between seasons, Thorpe gained international fame at the Stockholm Olympics, returning to the United States with two gold medals in track and field. Thorpe played six major league baseball seasons with the New York Giants, Cincinnati Reds and the Boston Braves and ultimately returned to football to play for the Canton Bulldogs. With Thorpe's leadership, the Bulldogs were recognized as the "world champion" for 1916, 1917 and 1919.

Mr. Speaker, almost a century has passed since Jim Thorpe amazed the world with his athletic talent, and he is still known as the greatest athlete in the world. Jim Thorpe Day in North Carolina is an appropriate tribute to this heroic athlete, and I encourage all to acknowledge his admirable accomplishments.

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## IN HONOR OF CAROL YOUNG-HOLT

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Carol Young-Holt, as she is inducted into the San Mateo County Women's Hall of Fame.

Carol Young-Holt is a model for success in academics, professional development and nonprofit management. As the Coordinator of the South Coast Collaborative (SCC), a grassroots organization, she has united members of the South Coast area into a community of equal partners and initiated a multitude of programs for community development and enhancement. She has secured over a million dollars of funding for local projects and has designed a community development plan that among other things, developed a strong community leadership program for Spanish-speaking residents. She also established the first local positions for mental health and community outreach workers. The change in the South Coast community since she became Coordinator has been described as a "Renaissance for both the English and Spanish-speaking communities."

Aside from her remarkable work through the SCC, Carol Young-Holt has lectured at Stanford University, directed the prestigious Bing Nursery School Child Development Laboratory School, and created an innovative child development teaching and management program with Foothill and Cañada Community Colleges. She is the publisher of many seminal articles, was director of a national multimedia-training program for early childhood educators and served as a program consultant for federal government Head Start programs.

Mr. Speaker, I ask my colleagues to join me in honoring Carol Young-Holt as she is inducted into the San Mateo County Women's Hall of Fame.

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## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 20, 2003 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 21

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the science and technology program and the role of Department of Defense laboratories.

SR–325

### MARCH 25

9:30 a.m.

Armed Services

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on homeland defense; to be followed by closed hearings in SH–219.

SH–216

Foreign Relations

To hold hearings to examine the qualifications of NATO enlargement.

SD–419

Joint Economic Committee

To hold hearings to examine Medicare's financial crisis, focusing on the long-term financial viability of the program, proposals to add a prescription drug benefit and other reforms.

SD–628

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Alfred Plamann, of California, to be a Member of the Board of Directors of the National Consumer Cooperative Bank, and Thomas Waters Grant, of New York, Noe Hinojosa, Jr., of Texas, and William Robert Timken, Jr., of Ohio, each to be a Director of the Securities Investor Protection Corporation.

SD–538

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Energy's Office of Environmental Management, and Office of Civilian Radioactive Waste Management.

SD–192

Finance

To hold hearings to examine the Enron situation, focusing on the Joint Committee on Taxation investigation on compensation-related issues.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine the Washington Teachers' Union, focusing on union member protections.

SD–430

Appropriations

Homeland Security Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Homeland Security.

SD–106

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to examine S. 520, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho, and S. 625, to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon.

SD–366

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold oversight hearings to examine National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails, and S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System, S. 634, to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail, and S. 635, to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails.

SD–366

### MARCH 26

9:30 a.m.

Environment and Public Works

To hold hearings to examine the nominations of Ricky Dale James, of Missouri, and Rear Adm. Nicholas Augustus Prahl, National Oceanic and Atmospheric Administration, both to be a Member of the Mississippi River Commission, and Richard W. Moore, of Alabama, to be Inspector General, Tennessee Valley Authority.

SD–406

Health, Education, Labor, and Pensions

Business meeting to consider proposed legislation entitled "Caring for Children Act of 2003", proposed legislation entitled "Genetics Information Nondiscrimination Act of 2003", and other pending calendar business.

SD–430

Judiciary

To hold hearings to examine the nominations of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit, Cecilia M. Altonaga, to be United States District Judge for the Southern District of Florida, Richard D. Bennett, to be United States District Judge for the District of Maryland, Dee D. Drell, to be United States District Judge for the Western District of Louisiana, J. Leon Holmes, to be United States District Judge for the Eastern District of Arkansas, and Susan G. Braden, of the District of Columbia, and Charles F. Lettow, of Virginia, each to be a Judge of the United States Court of Federal Claims.

SD–226

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the reauthorization of child nutritionprograms.

SR–328A

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Air Force.

SD–192

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.

SH–216

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine issues uncovered as a result of the Blue Ribbon Panel's report of findings on Aerial Fire Fighting Safety and responses to the report.

SD–366

Armed Services

SeaPower Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on Navy shipbuilding programs.

SR–222

Appropriations

Transportation, Treasury and General Government Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of the Treasury.

SD–138

2:30 p.m.

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings to examine global energy security issues.

SD–106

Armed Services

Strategic Forces Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the Department of Energy Office of Environmental Management and Office of Legacy Management.

SR–222

### MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

Energy and Natural Resources

To hold hearings to examine certain proposals with respect to electricity, including S. 475, to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from whole electric competition, and restore investor confidence in the electric industry.

SD–106

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Education.
SD–192

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine health care transmission of global AIDS in Africa.
SD–430

2:30 p.m.
Foreign Relations
To resume hearings to examine the qualifications for NATO enlargement.
SD–419

APRIL 1

2:30 p.m.
Armed Services
SeaPower Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on Navy and Marine Corps development and procurement priorities.
SR–232A

APRIL 2

10 a.m.
Indian Affairs
To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.
SR–485

APRIL 8

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Mammography Quality Standards Act.
SD–430

# HOUSE OF REPRESENTATIVES—*Thursday, March 20, 2003*

The House met at 10 a.m.

The Reverend David K. Stewart, Pastor, First United Methodist Church, Wayne, Michigan, offered the following prayer:

I dedicate this prayer this morning to a dear, dear friend who went to be the with the Lord on Monday, Delynn Roehrs of Beaverton, Michigan, a powerful woman in the Lord. Let us pray.

Dear Father in Heaven, Creator of heaven and Earth, You are the Lord of history. As it says in Daniel 2, when the mystery of King Nebuchadnezzar's dream was revealed to Daniel:

"Praise be to You, God, forever and ever;

"Wisdom and power are Yours.

"You change time and season;

"You set up kings and depose them.

"You give wisdom to the wise and knowledge to the discerning.

"You reveal deep and hidden things;

"You know what lies in darkness, and light dwells with You."

Give us wisdom and power. Make known to us the wisdom we ask of You for our deliberations today. May we know and do Your will.

In conflict, may we be Your instrument of justice and not the object of Your wrath. May we make the effort to live in peace with all.

We pray for wisdom that we might practice frugality and prudence balanced with compassion and vision, that our actions today and in the future will constitute a blessed inheritance for our children and succeeding generations.

This we pray in the name of the Lord, Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. QUINN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUINN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Tennessee (Mrs. BLACKBURN) come forward and lead the House in the Pledge of Allegiance.

Mrs. BLACKBURN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 153. An act to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

S. 342. An act to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes.

The message also announced that pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the One Hundred Eighth Congress—

The Senator from Kansas (Mr. BROWNBACK);

The Senator from Oregon (Mr. SMITH);

The Senator from Texas (Mrs. HUTCHISON); and

The Senator from Georgia (Mr. CHAMBLISS).

The message also announced that pursuant to Public Law 100-458, the Chair, on behalf of the Majority Leader, reappoints William E. Cresswell, of Mississippi, to the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, for a six-year term, commencing on October 11, 2002.

The message also announced that pursuant to Public Law 68-541, as amended by Public Law 102-246, the Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, reappoints John W. Kluge, of New York, as a member of the Library of Congress Trust Fund Board for a term of five years.

The message also announced that pursuant to Public Law 106-286, the Chair, on behalf of the President of the Senate, and after consultation with the Majority Leader, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China:

The Senator from Kansas (Mr. BROWNBACK).

The Senator from Oregon (Mr. SMITH).

The Senator from Wyoming (Mrs. THOMAS).

The Senator from Kansas (Mr. ROBERTS).

The Senator from Nebraska (Mr. HAGEL), Chairman.

## INTRODUCING REVEREND DAVID K. STEWART

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute.)

Mr. BOOZMAN. Mr. Speaker, I rise today to recognize our guest chaplain, Pastor Dave Stewart of Wayne, Michigan. Although Pastor Dave is not my constituent, he happens to be the father of my office manager, Liz Yeager.

Pastor Dave is an energetic man who has led a full life. Although he began his working career in public service, he decided to pursue a life in the ministry at age 34. Since then, Pastor Dave has served seven different United Methodist churches throughout Michigan. He is currently the senior pastor at First United Methodist Church of Wayne.

Pastor Dave also has a big heart. Throughout the years he and his wife Ellen, son Kirk and daughter Elizabeth have opened their home to many friends and adopted family. Pastor Dave's faith in the Lord gives him an eternal outlook that encourages him to face each day with energy and joy. This is evident in the way he loves those around him.

Mr. Speaker, it has been my sincere pleasure to have Pastor Dave open the House in prayer.

Mr. McCOTTER. Mr. Speaker, will the gentleman yield?

Mr. BOOZMAN. I yield to the gentleman from Michigan.

Mr. McCOTTER. Mr. Speaker, I rise today to recognize our guest chaplain, Pastor Dave Stewart, who is a constituent of mine, from Wayne, Michigan, and I would just like to say he has been a tremendous asset to the community, and it has been an honor to have him here today.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GOODLATTE). The Chair will entertain five 1-minute requests on each side of the aisle.

## DIGNITY AND RESPECT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, with the war to disarm Saddam Hussein having begun, our thoughts and prayers are with our troops and all the people of that region, hoping that this brutal tyrant will be disarmed and removed with minimal impact on innocent civilians.

We are seeing the rise of protesters, some of them even protesting against capitalism according to their placards, and although we respect the right of protesters to peacefully protest, and we fight and die to preserve these freedoms, the freedom of speech and religion, press, assembly, as well as to protest, we must remember that our freedoms were not won with poster paint. They were won by the blood of patriots, those willing to sacrifice and risk their lives to give us and preserve our freedoms.

Let us treat each other with dignity and respect even though we disagree, but let us also be grateful to our veterans and those putting their lives in harm's way for their service to our country as they fight to protect and provide freedom for us and others around the world.

## HONORING DR. BURTON GRANT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I rise today to honor Dr. Burton Grant and the Hope Clinic for Women. In March 1983, a group of concerned citizens in middle Tennessee sought to give the growing number of women who sought abortions another option to an unplanned pregnancy.

Dr. Burton Grant, a well-respected radiation oncologist, led the group in providing a compassionate and viable alternative for women facing one of the most important decisions of their lives.

Today the clinic has helped more than 19,000 women. In the past 2 years, Dr. Grant has enabled this haven of empathy and safety to become a licensed medical facility offering services such as obstetrical ultrasound and pregnancy and STD testing.

The Hope Clinic is a fully fledged alternative to the abortion clinics. Without Dr. Grant's endorsement, his integrity and his impeccable reputation, this clinic would never have reached its full potential as a beacon of hope in the middle Tennessee community.

As the Hope Clinic for Women celebrates its 20th anniversary, it is with deep appreciation that I honor Dr. Grant and his service to the Nation.

## HOPE AND PRAY FOR SWIFT SUCCESS

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, today our Nation is at war. I know the pain of war. On August 9, 1970, my brother William F. McNulty, a medical corpsman, was in the fields of Quang Nam Province in Vietnam patching up his buddies when he stepped on a land mine and lost his life. My family has lived with the pain of that loss every day since then, as have the residents of our small community of Green Island, New York.

It would be my hope that no other family would have to endure that kind of pain, but that would be unrealistic. Some will. All I can do today is hope and pray for the swift success of our troops in their noble mission. May they return home soon and safely, knowing that they have liberated the people of Iraq from a reign of terror which they have endured for more than a quarter of a century.

## PRAYER FOR LASTING PEACE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I would join my colleague from New York in the heartfelt prayer that those who have been sent into harm's way will return safely and successfully following the liberation of Iraq, and, Mr. Speaker, I would make this point today as we gather in the people's House.

Honest differences and reasoned dissent are welcome, but no one in camouflage today in the deserts of Kuwait or Iraq recognize bipartisan affiliation, and to those who would come to the floor to attempt to score partisan points in the midst of conflict, I would suggest that mission is sorely mistaken.

We stand as one today, as Americans behind those in military service. We pray for their success, we pray for our Nation, and we pray that, the war is a brutal and nasty business, we hope this war will truly lend and lead to a lasting peace.

□ 1015

## UNIFYING VOICE OF THANKSGIVING

(Mr. ANDREWS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I rise as one who supported very strongly the resolution to authorize the use of force in Iraq. I know many patriotic Americans vigorously disagree with that position. I hope out of that vigorous disagreement today will come the unifying voice of thanksgiving because I rise to say thank you to the young men and women, all of whom are volunteers, wearing the uniform of this country. Whether they are directly engaged in the war or not, we should thank you.

To those at home who have been left behind, who will ache with their hearts when they see the empty place at the dinner table, or the arms that cannot hold the young son or daughter, we should say thank you. And to all of the employees, civilian and otherwise, in the private sector who helped to equip, arm and train our forces, we should say thank you.

There is serious disagreement in our country as to which way to go, we all feel strongly, but let us feel even more strongly today in the unity of thanksgiving for those serving the sacrifice of our great country.

## THANKING OUR SERVICE MEN AND WOMEN

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to recognize the great service to our Nation being performed by our men and women in uniform. The service men and women of the Third Infantry Division from Ft. Stewart, Georgia, are among those who have been called to duty in order to promote freedom. Following the proud and valiant tradition of their predecessors who earned the names "Iron Fist" and "Rock of the Marne," these men and women are standing at the forefront of our forces deployed in the Persian Gulf region. Their mission is to return liberty to the people of Iraq and to secure freedom and safety to all those under the shadow of Saddam Hussein's weapons of mass destruction.

The Third Infantry Division is the most rapidly deployable armored division in the United States Army. The Third Infantry led the way in our efforts in Iraq 12 years ago. Today, a new group of young Americans wear the division patch and stand in the Kuwaiti sand fighting on behalf of our country.

The men and women not only drive, but and maintain and organize, the tanks, the Howitzers, and the helicopters of the Third Infantry Division representing the highest traditions of the United States Army. As a neighbor of these fine soldiers from Ft. Stewart, I am proud to offer the thanks of the

American people whom they are fighting to protect.

## SUPPORTING RIGHT TO ASSEMBLE AND PROTEST

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, yesterday I had the pleasure of leading the Pledge of Allegiance to the flag on behalf of this Congress. This morning I stand again as a strong patriot. I say on behalf of all of the people of the United States of America, to the military troops across this world who are fighting on our behalf, thank you.

I have said prayers day after day and as late as this morning on their behalf and that of their families. But as a patriot, I still think I have the ability and right to step up and say I think this war is not what we should be engaged in. I support the Presidency, I support the troops, but I also support the right to speak out, to assemble and protest.

Mr. Speaker, I say to the American public and those across the world that there are those of us who believe we should not be engaged in war; but those across the borders working on our behalf, we hold them in high esteem, and pray that they will return home safely.

## CONGRATULATING INDIANA TEAMS COMPETING IN MARCH MADNESS

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, I rise to congratulate the five Indiana teams competing in March Madness.

Mr. Speaker, for many, this is the best sporting day of the year, the commencement of "March Madness." I rise to congratulate the five teams from the State of Indiana; IUPUI, Butler University, Indiana University, Purdue University, and the University of Notre Dame for their advancement to compete in the NCAA Men's Basketball Championship.

As some of you may know, the NCAA Headquarters and the Hall of Champion is located in my hometown of Indianapolis. I wish to commend Myles Brand on an excellent job as the NCAA president.

The Butler Bulldogs, coached by Todd Lickliter, were winners of the Horizon League's regular-season crown, ending the season with a 25–5 record. This earned them an at-large bid to the tournament. Congratulations of Coach Lickliter and the Bulldog players for their outstanding season. I wish the Bulldogs good luck as they face the No. 5 seed of the East bracket, Mississippi State, this Friday.

Indiana University of Bloomington, IN, the runner-up of last years championship, has also advanced to the NCAA Championship. Congratulations to Coach Mike Davis and the Hoosiers, who will play the 10th seeded Alabama Crimson Tide this Friday.

I wish to extend my heartfelt congratulations to all of the Indiana schools competing in the NCAA tournament. You have made us proud!

I especially want to congratulate IUPUI and Butler University which reside in my hometown of Indianapolis.

Congratulations to Coach Ron Hunter who led the IUPUI Jaguars to a 66–64 victory over the Valparaiso Crusaders, earning an automatic bid to the tournament as champions of the Mid-Continent Conference. I would also like to congratulate the Jaguar players for their excellent performance and wish them luck as they take on the No. 1 seed of the Midwest bracket, Kentucky this Friday.

Mr. DOGGETT. Mr. Speaker, will the gentlewoman yield?

Ms. CARSON of Indiana. I yield to the gentleman from Texas.

### A PRAYER FOR PEACE

Mr. DOGGETT. Mr. Speaker, today in this troubled world, many of us are moved to prayer and sober reflection. We lift up our voices for the safety of America's sons and daughters bravely executing their orders in the Persian Gulf, for the many innocent civilians who join them in harm's way, for the many patriots for peace in this country, may they express their well-justified concerns in ways that unite more Americans in our shared concern for humanity, rather than acting in ways that reinforce fear and alienation.

Our democracy is stronger when it respects the views of all people.

"I normally, and I still do, support our military and the fine work they are doing. . . . But I cannot support a failed foreign policy." [House floor speech, April 28, 1999] Those words of the Republican Majority Leader, the gentleman from Texas (Mr. DELAY), during the Kosovo military action have never been more appropriate than today.

While many can be certain to take credit for the swift military victory that may ensue, this Administration must also accept responsibility for the cost of conflict in blood, in money, and insecurity to our families. It may take decades to undue the damage to our safety wrought by misguided policies and failed diplomacy.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to clause 8 of rule XX, proceedings will resume on approving the Journal and on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

On the Journal, de novo;

H.R. 1307, by the yeas and nays; and

H. Res. 132, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUINN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 49, answered "present" 2, not voting 10, as follows:

[Roll No. 75]

YEAS—373

Abercrombie
Ackerman
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Hall
Harman
Harris
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)

King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler

Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sandlin
Saxton
Schiff
Schrock

Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

### NAYS—49

Aderholt
Allen
Baldwin
Brady (PA)
Brown (OH)
Capuano
Costello
Crane
DeFazio
English
Filner
Fossella
Gutierrez
Gutknecht
Hart
Hastings (FL)
Hefley

Hinchey
Holt
Jackson-Lee (TX)
Johnson, E. B.
Kennedy (MN)
Kucinich
Lewis (GA)
LoBiondo
McDermott
McGovern
Miller, George
Moran (KS)
Oberstar
Olver
Peterson (MN)
Ramstad

Sabo
Sanchez, Loretta
Schakowsky
Scott (VA)
Slaughter
Stark
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Visclosky
Weller
Wu

### ANSWERED "PRESENT"—2

Carson (IN)
Tancredo

### NOT VOTING—10

Buyer
Conyers
Davis (AL)
Delahunt

Gephardt
Hyde
Pickering
Sanders

Udall (CO)
Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GOODLATTE) (during the vote). Members are advised that 2 minutes remain on this vote.

☐ 1041

Mr. TAYLOR of Mississippi changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the remainder of this series will be conducted as 5-minute votes.

## ARMED FORCES TAX FAIRNESS ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1307.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1307, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 76]

### YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)

Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin

Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson

Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos

Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)

Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman

Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—12

Ballenger
Buyer
DeLay
Gephardt
Hyde
Kleczka
Skelton
Towns
Udall (CO)
Whitfield
Wilson (NM)
Young (AK)

The SPEAKER pro tempore (Mr. GOODLATTE) (during the vote). Members are advised they have 2 minutes remaining to vote.

□ 1051

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. WILSON of New Mexico. Mr. Speaker, on rollcall No. 76, I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. WHITFIELD. Mr. Speaker, on rollcall No. 76, I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. KLECZKA. Mr. Speaker, on rollcall No. 76, I wish to be recorded as voting "yea." Had I been present, I would have voted "yea."

Mr. SKELTON. Mr. Speaker, on rollcall No. 76, I was unavoidably detained outside the House Chamber and was unable to cast a vote in favor of H.R. 1307, the Armed Forces Tax Fairness Act. Had I been present, I would have voted "yea."

## SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 132.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 132, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 7, answered "present" 15, not voting 12, as follows:

[Roll No. 77]

YEAS—400

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Combest
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—7

Ackerman
Frank (MA)
Honda
McDermott
Nadler
Scott (VA)
Stark

ANSWERED "PRESENT"—15

Ballance
Berman
Blumenauer
Capuano
Conyers
Delahunt
Hinchey
Lofgren
Miller, George
Olver
Payne
Sánchez, Linda T.
Schakowsky
Waters
Watt

NOT VOTING—12

Bonilla
Buyer
Collins
Cox
DeLay
Dreier
Gephardt
Herger
Hyde
Renzi
Udall (CO)
Young (AK)

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining to vote.

□ 1059

Ms. SCHAKOWSKY changed her vote from "yea" to "present."

Ms. McCARTHY of Missouri changed her vote from "present" to "yea."

Mr. ACKERMAN changed his vote from "present" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1100

## RECESS

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 a.m.), the House stood in recess subject to the call of the Chair.

□ 1230

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILLMOR) at 12 o'clock and 30 minutes p.m.

## PROVIDING FOR CONSIDERATION OF H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 151 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 151

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013. The first reading of the concurrent resolution shall be dispensed with. All points of order against consideration of the concurrent resolution are waived. General debate shall not exceed three hours, with two hours of general debate confined to the congressional budget equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and one hour of general debate on the subject of economic goals and policies equally divided and controlled by Representative Saxton of New Jersey and Representative Stark of California or their designees. After general debate the concurrent resolution shall be considered for amendment under the five-minute rule. The amendment in the nature of a substitute specified in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The concurrent resolution, as amended, shall be considered as read. No further amendment shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in the report are waived except that the adoption of a further amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. After the conclusion of consideration of the concurrent resolution for further amendment, and a final period of general debate, which shall not exceed 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the Committee shall rise and report the concurrent resolution, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion except amendments offered by the chairman of the Committee on the Budget pursuant to section 305(a)(5) of the Congressional Budget Act of 1974 to achieve mathematical consistency. The concurrent resolution shall not be subject to a demand for division of the question of its adoption.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 151 is a structured rule providing 3 hours of general debate with 2 hours equally divided and controlled by the chairman and ranking member of the Committee on the Budget, and 1 hour on economic goals and policies equally divided and controlled by the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. STARK).

The rule waives all points of order against consideration of the concurrent resolution. It further provides that the amendment in the nature of a substitute specified in Part A of the Committee on Rules report accompanying the resolution shall be considered as adopted in the House and in the Committee of the Whole.

The rule makes in order only those amendments printed in Part B of the Committee on Rules report which may be offered only in the order printed in the report. Said amendments may be offered only by a Member designated in the report, shall be considered read, shall be debatable for 1 hour equally divided and controlled by an opponent and a proponent, and shall not be subject to amendment.

The rule waives all points of order against the amendments printed in the report, except that the adoption of a further amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment.

Resolution 151 also provides, upon the conclusion of consideration of the concurrent resolution for amendment, for a final period of general debate not to exceed 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Finally, the rule permits the chairman of the Committee on the Budget to offer amendments in the House to achieve mathematical consistency and provides that the concurrent resolution shall not be subject to a demand for a division of the question of its adoption.

Mr. Speaker, as the House takes up the proposed Federal budget for fiscal year 2004, it does so with two overriding objectives in mind: to successfully complete the war we have just begun in Iraq, and to revitalize our Nation's economy today while building a firm foundation for long-term economic growth.

The budget resolution passed by the Committee on the Budget reflects these realities and does so in a time of extraordinary fiscal strain. The members of the Committee on the Budget are to be commended for completing their work in a timely manner.

This budget resolution, of course, is only the first step in the long process by which Congress sets the Nation's spending and revenue policies. Much hard work remains to be done by the various committees of jurisdiction, and the Committee on the Budget has, in large measure, left those committees the flexibility to make decisions on specific programs and priorities.

Mr. Speaker, make no mistake about it, the challenges before us in this area are great, and we are not alone. State and local governments all across the country are struggling to tighten their belts, and we must do the same thing here in Washington, D.C. Hard choices are inevitable, and no Member is likely to get everything he or she would like to see in this budget resolution, but we must act, and we must act now. All of us learned a painful lesson this last year about the consequences of allowing the budget process to break down.

Mr. Speaker, House Concurrent Resolution 95 provides for a Federal budget of $2.22 trillion, an increase of 2.9 percent or $62 billion over the current fiscal year. It puts the Nation back on a path to a balanced budget, which would be achieved by the year 2012, 9 years from now, with the projected budget surplus of $21 billion that year.

Although there will be ample time during general debate to highlight key provisions of the resolution, I am particularly pleased to advise my colleagues that the proposed manager's amendment to the resolution reinstates the reserve fund for Medicare, which puts, in essence, a fence around the $400 billion to fund Medicare modernization and prescription drug coverage for older Americans.

In closing, Mr. Speaker, let me remind Members that the budget resolution is only a blueprint in the broadest sense. The details will take shape in coming months, but the sooner we can complete this blueprint and move on to the hard work of enacting its various components, the better off we will be. Neither the war in Iraq nor the urgent work of economic recovery can afford to be hindered simply because the budget resolution is not perfect in the eyes of every Member of Congress.

Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying concurrent resolution on the budget.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is something in politics called having a tin ear. That means being totally oblivious to everything around you.

Right now we have troops in the field, a war has begun, and we should be doing everything we can to speak with one voice and achieve national unity. Yet the Republican leadership insists at this moment in bringing to the floor one of the most partisan, divisive issues of the entire year. I question their judgment and their timing. I would hope that we would move fairly quickly today to a resolution supporting our troops in the field. Unfortunately, our Republican friends prefer to have on the floor a matter of high partisanship which will divide this Congress.

Like all of my colleagues, Republicans as well as Democrats, and like the American people themselves, I fully support our troops. I hope and pray that they will accomplish their mission as quickly and safely as possible.

For that reason, Mr. Speaker, I have argued that we should not be considering this bill today. Republicans have offered a budget that is as partisan as it is divisive, as dishonest as it is dangerous to the country, and, at a time like this, when the United States Congress should be demonstrating its unity to the world, I fear that bringing it to the floor guarantees a divisive debate.

But that is what Republican leaders have done today. And unfortunately, there is no minimizing the differences between the Democratic and Republican budgets. The Democratic budget alternatives offered by the Committee on the Budget ranking member, the gentleman from South Carolina (Mr. SPRATT), is a responsible plan to strengthen national security and restore economic growth and fiscal responsibility. It tightens Federal spending and balances the budget using honest accounting, but it still meets priorities like defense, education, and health care, and it does more for homeland security than the Republican budget does.

There are two other budget alternatives offered by groups of Democrats: the Blue Dogs on one hand, and the Congressional Black Caucus and Progressive Caucus on the other. They are worthwhile, and I am glad that they are in order under this rule.

The Republican budget stands in stark contrast, Mr. Speaker. The Republican budget is intellectually dishonest, morally indefensible, and just plain bad for our economy and our Nation. It explodes the deficit and raises the death tax on all Americans. It shortchanges homeland security to pay for tax breaks for millionaires, and it proves once again just how out of touch House Republicans truly are.

At a time which this Nation must come together, Republicans offer a budget that will pull us apart. Simply put, the Republican budget separates Americans into two categories: winners and losers. The winners are the wealthiest few who get hundreds of billions of dollars in tax breaks; the losers are everyone else, the people who have to sacrifice to pay for those tax breaks for the wealthiest few.

To paraphrase Winston Churchill, never have so many been asked to sacrifice for so few.

Mr. Speaker, the Republican budget skimps on homeland security. It slashes priorities like education and health care. It shortchanges veterans and farmers, and it still explodes the deficits. That is because the Republican budget is a shameless work of fiction. It calls for draconian cuts, cuts in priorities like veterans' benefits, student loans, and law enforcement, and still gives massive tax breaks to the wealthiest. But it requires the tax breaks to be enacted by April 11 and gives Republicans until July 11 to make the spending cuts.

Mr. Speaker, when you get your dessert before you eat your spinach, you never eat your spinach. Any American parent can tell us that, and so can anyone else who has watched the Republican budget charade drive up the deficit over the past few years. As the gentleman from Texas (Mr. STENHOLM), the foremost proponent of fiscal responsibility in this House, told us yesterday in the Committee on Rules, the tax cuts will be enacted, and the spending cuts will be abandoned, and the deficit will continue to explode.

Why are Republicans foisting this dangerous budget on America and on our economy? Mr. Speaker, for one simple reason: because they stubbornly insist on giving massive tax breaks to the wealthiest few.

They say that to govern is to choose. Well, take a look at the consequences of the choices Republicans have made in this budget. American troops are at war, but Republicans chose to shortchange the veterans who defended this Nation in past years and to give tax breaks to millionaires. That is why the Veterans of Foreign Wars opposes the Republican budget. Republicans chose to slash education, and to give tax breaks to millionaires. They chose to cut health care for children and seniors on Medicaid, and to give tax breaks to millionaires.

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They chose to cut assistance to farmers and to give tax breaks to millionaires. That is why the conservative Farm Bureau opposes the Republican budget. Republicans are even shortchanging homeland security; and once again, they are making sure millionaires get all the tax breaks they want.

Mr. Speaker, despite all these cruel cuts, cuts that touch almost all Americans and their families, this Republican budget still explodes the deficit. All the budget gimmicks and phony accounting in the world, what President Bush once called fuzzy math, cannot hide that truth.

All in all, the Republicans are proposing an economic horror show at a time when Americans are still suffering from the latest Republican recession. Since President Bush took office, 2.5 million Americans have lost their jobs in the private sector, the surplus has gone, and last year's deficit was $317 billion.

But Republicans refuse to face that fact, so they propose a budget that would actually harm the economy by driving the Nation deeper into debt, raising the debt tax on all Americans and their children, and increasing families' mortgage payments and credit card bills.

Moreover, this Republican budget does not account for how we are going to pay for a war with Iraq that has begun. So yesterday in the Committee on Rules the gentleman from Missouri (Mr. SKELTON), the top Democrat on the Committee on Armed Services, offered an amendment to set aside $20 billion in a contingency fund to begin paying for the war. But Republican leaders refused to allow the House to vote on it.

Mr. Speaker, from veterans and farmers to students and seniors, this budget asks almost everyone in America to sacrifice. Everyone, that is, but the millionaires who get the big tax breaks. That is not just wrong; it is fiscally irresponsible. It is bad for the economy, and it is bad for America.

Mr. Speaker, as I said at the beginning, we are one country and we are one Congress, especially when our troops are risking their lives abroad to protect us here at home. I am very disappointed that the Republican budget fails to demonstrate that.

I urge my colleagues to reject the Republican budget and vote for the Democratic alternative offered by the gentleman from South Carolina (Mr. SPRATT), and join Democrats in restoring fiscal responsibility and protecting the economy against more of the same failed Republican economic policies.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I rise in support of this rule. I urge all of my colleagues on both sides of the aisle to join me in supporting House Resolution 151, which provides for the consideration of the fiscal year 2004 budget resolution.

H. Res. 151 is a conventional rule for consideration of the annual budget resolution, and it provides for the consideration of four amendments in the nature of a substitute, including the so-called Blue Dog budget, the Progressive and Black Caucus budget, the Republican Study Committee's budget, and the minority leader's budget.

I want to commend my friend and colleague, the chairman of the Committee on the Budget, the gentleman from Iowa (Mr. NUSSLE), for crafting a budget that understands that we have an obligation to, first and foremost, fund our Armed Forces and protect the people of the United States; second, strengthen the American economy; and, third, maintain our commitment to priorities such as education, health care, welfare reform, while ensuring long-term fiscal responsibility.

To protect the United States, our budget must fund both homeland security and national defense priorities. Since World War II, the United States has been the world leader in freedom and democracy. As this leader, we have the responsibility of defending these principles throughout the world.

Our commitment, however, is sustained through the perseverance and strength of our Nation's military. Without the efforts of these heroes, our Nation could not possibly be the bastion of freedom and democracy it is today. We cannot possibly expect these individuals and our Nation to continue to bear this responsibility without providing the absolute best possible equipment for the task at hand. This budget provides that funding. It allocates funding for the Department of Defense to continue the mission to eliminate terrorism across the world, increases military personnel pay for our Armed Forces, and targets funding to ensure the deployment of our national ballistic missile defense.

In terms of homeland security, I am pleased that our budget provides $890 million in funding for Project Bioshield to secure vaccines against bioterrorism attacks, $3.35 billion for first responder training and equipment, and billions more to improve security and assess future threats to our Nation's airports, nuclear power plants, water facilities, and telecommunications networks.

Second, it is clear that our economy remains sluggish and that our budget must stimulate growth and get our fellow Americans back to work. To achieve this, our budget includes President Bush's jobs and economic growth plan, including an accelerated reduction in the marriage penalty, an increase in the child tax credit, and an overall acceleration of all tax rate cuts.

I always welcome this debate because it will speak volumes about the differing opinions on the role of the Federal Government in the lives of the American people. We continue to believe that individuals make much better choices with their money than the government can. At this time, not only am I certain that the American people will make better choices with their money, but that returning it to them will also help promote investment and increase consumer spending, which will in turn enhance our economy.

In its entirety, our budget is a commonsense plan to provide security for the American people by funding domestic and international security, invigorating the American economy, returning funds to the American people, strengthening Social Security, and reaffirming our recent successful welfare reforms.

Mr. Speaker, this is a fair rule. I urge my colleagues to support the rule so we may begin the debate on the multiple budget options before the House today.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, this is a time that budgets should reflect our Nation's priorities. This irresponsible budget fails to do that and certainly fails to reflect the priorities of my district. This budget is opposed by the Farm Bureau and by many veterans groups. Why? Because it cuts money to both farmers and veterans. Why does it make those cuts? In order to give tax cuts to people that make over $300,000 a year.

I do not have any problem with people making over $300,000 a year. The problem is, we are running a huge deficit. This is not the time to make those kinds of tax cuts. This budget fails our children. Not only does it pass on an incredible amount of debt to future generations; it fails to invest in our future through education. Why does it do this? To give tax cuts to the wealthiest.

This is a bad rule which fails to make in order simple amendments designed to improve it. During committee, I attempted to get more money in for our veterans. This is not the time to cut their health care; this is not the time to cut their compensation.

I also went to the Committee on Rules and I said, we need to address a couple of issues in this budget. Actually, we need to address a lot of them, but I addressed one: homeland security. This is not the time to be chintzy about homeland security; this is a time to make sure our communities and our States have the money they need to secure our future.

I said, this budget needs to provide for IDEA. This is a promise we made 28 years ago to our schools. This budget does not do that. Why does it not do that? Because it wanted to give money to the wealthiest.

The Republican budget is irresponsible. Please vote for the Democratic budget, and I urge my colleagues to defeat the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Mississippi (Mr. WICKER), a member of the Committee on the Budget.

Mr. WICKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, indeed, I am a member of the Budget Committee. It is my first year on this committee and my ninth year on the Appropriations Committee. Certainly I am pleased with the progress that we have made during my 8 years of service in the Congress in terms of what we have been able to do on the budget.

In 1995, a Democrat President came before this Congress and proposed deficits as far as the eye could see: the first decade, deficits of $200 billion a year; then $300 billion a year every year after that. We Republicans said that we could do it differently. We said we could make the tough choices, and we enacted a budget resolution in 1995 to say that we would balance the budget in 7 years.

We had a little good luck with the economy, I think in large part because of our tax cuts that we gave to the American people, and we were able to balance the budget in half that time. Now, this day, in 2003, we are facing deficits.

So what happened between those successful days of surpluses and the budget deficit that we are facing right now? The main thing that happened to our budget to put us back into deficits is, frankly, the terrorist attack of 9–11, 2001. That one event, Mr. Speaker, cost us $80 billion in additional expenditures in one fiscal year alone, and an additional $200 billion, approximately, in lost revenue. So it is no wonder that that hit to our economy has cost us the surplus, and that we are back into deficits.

Of course, we are experiencing a recession now, and we have to address that, also. It has been another part of this deficit.

But this debate today, as provided for under the rule, Mr. Speaker, will be very instructive. I just want to point out to my colleagues, Mr. Speaker, that everyone today will want to come down to the floor and decry deficit spending. We will not hear one single Member of this House of Representatives come to the floor today and advocate deficits or say they like deficits.

The big difference in the debate, as provided for under this rule, is how we propose to tackle the problem. Today—this budget debate—is one of the best opportunities to see the differences between the two political parties on this issue. My friend, the gentleman from Georgia who spoke just a few moments ago, is exactly correct on this. It is very instructive because it represents two very different philosophies of spending.

With all due respect, my Democrat friends will present proposals today that say they want to attack the deficit problem by enacting higher taxes and higher spending. I say that with all due respect. It is their political philosophy and it is simply a fact.

On the other hand, the House Republican budget that I support today, presents a plan to balance the Federal budget in 9 years. How do we do that? We do that the way we always try to do it, by keeping the pressure on to hold down Federal expenditures and the rate of growth of Federal spending, and by boosting the economy by reducing the tax burden on hardworking Americans.

Some people have said that our budget is too austere, that it does not spend enough money. We will have that debate today. But I would like for my colleagues, Mr. Speaker, to look at this chart about where spending has been under the 8 years of Republican majorities and where it will go under the budget resolution. This spending trend of non-Social Security mandatory outlays in billions of dollars shows that this very austere budget will still amount to quite an increase in Federal expenditures.

Mr. Speaker, let's not let anyone tell us that we are actually cutting Federal spending in anything we do today. The question is simply, What is the rate of growth and who will grow it at a larger rate? Our budget grows the total Federal budget at a rate of 3.1 percent for next year. I say, Mr. Speaker, that is an adequate figure, considering the fact that we are going to have to spend more money on national defense and that we are in a recession and we need to give the American taxpayer more of their money back in the form of tax cuts to stimulate the economy.

Mr. Speaker, I congratulate my chairman, the gentleman from Iowa (Chairman NUSSLE), on this budget. I thank him for working with me as a new member of the Committee, and certainly I intend to support this budget resolution. I ask each of my colleagues to join in a "yes" vote on the rule and also on the Republican budget proposal.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the preceding speaker asked what were the differences between the surpluses piled up during the second half of the Clinton Presidency and the deficits piled up during the first 2 years of the Bush Presidency.

True, there was a terrible attack on our country, and we have had to pay quite a bit because of the consequences of that. But I would suggest that the $1 trillion tax cut forced through by the new administration is the main reason why we face the deficits we have today. The $1 trillion, which primarily benefited the wealthy, forced through by the new administration, is the primary reason why we have the large deficits we have today, rather than the surpluses enjoyed during the Clinton Presidency.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

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Mr. EDWARDS. Mr. Speaker, I am saddened and deeply disappointed that this divisive, partisan budget bill is being brought up on a day when we Americans should be coming together to show support for our soldiers and troops, servicemen and women in Iraq. Young Americans are fighting for our country even as we speak. They are in harm's way and deserve our full attention and support today.

Instead the Republican House leadership has us debating a partisan bill that cuts taxes for the wealthiest Americans who sit safely here at home and astonishingly pays for those tax cuts by cutting benefits to war-wounded veterans.

To do so at any time would be wrong. To do so during the first 4 hours of our war in Iraq is shameful. Is the altar of dividend tax cuts so sacred to our House Republican leadership that it is even willing to cut veterans' benefits by over $28 billion on the day our future veterans are risking their lives for our country?

Tax cuts for the wealthy, paid for by benefit cuts to veterans, is this the new Republican model for the long time-honored American tradition of shared sacrifice in time of war?

Mr. Speaker, I hope my colleagues will pay attention to the words of the national commander of the Disabled American Veterans, the honored and distinguished Edward R. Heath, Senior. This is what he said just 3 days ago in his letter to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House.

"Has Congress no shame? Is there no honor left in the hallowed halls of our government, that you choose to dishonor the sacrifices of our Nation's heroes and rob our programs, health care and disability compensation to pay for tax cuts for the wealthy?"

Mr. Heath also went on to say that, Mr. Speaker, this budget dishonors the service of millions of service-connected disabled veterans, including combat-disabled veterans, and seriously erodes the Nation's commitment to care for its defenders.

"I urge you," Commander Heath said to the Speaker, "to reconsider the inequitable and ill-advised course proposed in the committee's partisan budget proposal."

I believe, Mr. Speaker, the sentiments expressed by the national commander of the Disabled American Veterans reflects the values of Americans everywhere.

I understand that in this budget last night or so they made a fig leaf change so that now they are only cutting veterans' benefits by $28 billion rather than $30 billion. I think Mr. Heath and our veterans all across this land of ours will recognize that as nothing but a political fig leaf, and that fig leaf will not work.

We ought to be supporting our veterans and servicemen and women today, not cutting their benefits in a divisive debate.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 30 seconds to just briefly respond to the gentleman that just spoke.

In the manager's amendment that we will adopt, when we adopt the rule in discretionary spending for veterans, we provide a 6.1 percent increase, which has doubled, as my friend from Mississippi said, the overall budget. The mandatory spending in the manager's amendment that we will adopt, that calls for a spending increase of 7.5 percent for our veterans. So we respond to the needs of those that have made our country as free as it is.

Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I suspect that every budget proposal is somewhat partisan, but I hope we would try so that it would not be that.

I congratulate the gentleman from South Carolina (Mr. SPRATT). I think we are moving in the right direction. First let me just briefly, Mr. Speaker, represent what we have done in terms of veterans' benefits.

Spending has grown 51.7 percent since our first budget in the majority for an average growth of 6.1 percent each year. That is almost three times the rate of inflation representing the dedication, hopefully of both parties, to take care of our veterans.

Let me now talk about the important issue of what we have been doing on spending. As my colleagues can see by this chart, discretionary spending increases have averaged 6.3 percent each year since 1996 and 7.7 percent each year in increased spending since 1998. So we should be concerned with the dramatic growth in spending.

What has this done to the total debt of this country? We are looking at the total debt of this country going to $10 trillion in the next 10 years. The question, Mr. Speaker, is how do we control the debt? Do we increase taxes to control the debt we are leaving to our kids and our grandkids, or do we do it by cutting back on spending?

This budget that the Republicans are suggesting says let us start holding the line and slow down the increase on spending, and if anybody does not believe there is at least 1 percent of fraud and abuse and waste in government spending, then they are mistaken. As a person that has worked in the administration, I will guarantee my colleagues we can save on percent.

Let us move ahead with this Republican budget. The gentleman from South Carolina's (Mr. SPRATT) budget, according to the Committee on the Budget, increases taxes by $126 to $128 billion. Even the Blue Dog budget increases taxes by something around $124 billion between 2006 and 2011. So let us not reduce deficits with tax increases, let us do it with holding a line on spending, Mr. Speaker.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Texas for yielding me the time.

We had a well-known Missourian named Mark Twain who once said, "The more you explain it to me, the more I don't understand it."

A few moments ago my friend and colleague from Georgia (Mr. LINDER) spoke about this budget taking care of the military. I have the privilege of serving on the Committee on Armed Services, which is a hard-working and, I might say, very bipartisan committee, but also I might point out, Mr. Speaker, we are at war.

Last night were the opening volleys to bring down Saddam Hussein, and yesterday I appeared before the Committee on Rules to ask for an amendment to recognize the fact that we would soon be at war and would soon have expenses for the aftermath in the country of Iraq.

Sadly, the Committee on Rules did not accept my ability to offer an amendment. I offered an amendment which would establish a $20 billion reserve fund. This was done back during the initial era of the war on terrorism, and I chose a modest amount, a $20 billion amount, for this reserve fund because it was estimated that it would cover a 5-month occupation and a 1-month conflict. Hopefully, that will be the case. In all probability, it will be much longer than that.

We have war-related costs, and this budget does not accept the fact or recognize the fact that we need to pay for this war. We are telling the American people, should this budget be passed, that there will be no money, no reserve fund, no dollars, no war-related costs that would help the troops, the ships, the fliers in working toward a victory. It would provide no humanitarian assistance for the inevitable flow of refugees, nothing to establish a transitional government. As a matter of fact, Mr. Speaker, some analysts believe that the American costs could exceed $100 billion, and yet my amendment was for a mere $20 billion to recognize reality.

We are in a war. This budget should recognize that. This budget should have allowed an amendment to be offered in that case. The Committee on Rules was wrong not to make my amendment in order. I am saddened by that fact. They failed to include it in this provision, and consequently, Mr. Speaker, I will ask my colleagues in this Chamber to vote against the resolution.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), a member of the Committee on Rules.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank first the gentleman from California (Mr. DREIER) for leading the effort, as he has in so many times before, to ensure that the minority party is well represented in this rules process.

Of the four amendments made in order under this rule, three of them are Democrat amendments. In fact, each of the Democrat amendments is an amendment in the nature of a substitute, giving the minority the opportunity to make wholesale changes to the budget.

I would also like to thank the gentleman from Iowa (Mr. NUSSLE) and the entire Committee on the Budget for their tireless efforts to make tough decisions and put our budget back on the road to surplus. Under their leadership, the United States will again see surpluses in the Federal budget.

As we begin the disarmament and liberation of Iraq, this budget provides a substantial funding increase for the Armed Forces, funding which will continue to ensure that our brave men and women in uniform remain the best trained and best equipped in the world.

The President and the Committee on the Budget have also correctly identified the need to increase funding for homeland security, including funding for the Nation's first responders. The budget will work to ensure the safety of Americans at home and abroad.

If the budget is accepted today by the House, and I hope it will, we will also send a message to the American people that we are tired of government waste and abuse by requiring Federal dollars be used in the most efficient way to bring safety to the Nation and to perform the government's responsibilities.

Mr. Speaker, this is a good budget, and it is a fair rule, a very fair rule in fact. I ask my colleagues to support both the rule and the underlying legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), the ranking Democrat on the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I rise to correct the RECORD. It was said here that we raise taxes in our budget proposal. The truth of the matter is we open the proposal to reduce taxes to give hard-working Americans a tax rebate of about $60 billion. This time it will go to the millions who did not get it the last time and who are likely to spend it and give this economy a boost.

We also provide for expensing of purchases made by small businesses in the year of purchase, and we provide a 50 percent bonus to larger firms. Corporations who make investments in plant equipment this year, 50 percent of it can be written off. That is in our bill.

Furthermore, we take, instead of repealing the estate tax in 2011, we provide for the Pomeroy estate tax provision, which gives Americans immediate estate tax relief. That is a $33 billion reduction, too.

The only thing we do is freeze the top two brackets, the very highest top brackets. We do not raise them. We simply freeze them in place. They can get the cuts they have gotten today, but until we get the budget back in balance, we would suspend those, but the tax effects, at best, are a wash. We are not raising taxes in our budget resolution.

Mr. HASTINGS of Washington. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Washington (Mr. HASTINGS) has 11 minutes remaining. The gentleman from Texas has 12½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I would observe it looks like my friend from Texas has more requests for time than I have. So I will reserve my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, in 2001 I was 1 of only 28 Democrats to support the President's tax cuts, 1 of 9 to support his economic stimulus package. I will continue to support tax cuts that truly stimulate our economy and spur investment, but I believe that the Republican budget before us today and the sweeping magnitude and breadth and depth of tax cuts to the most affluent at the cost of the most urgent national needs is irresponsible.

The Republican plan allows U.S. troops to go into a war today and then slashes their veterans' benefits by billions when they return tomorrow because their budget needs those billions from veterans to fund a $90,000 tax cut per millionaire.

Mr. Speaker, I represent some affluent areas. I represent people who are millionaires. They are good, hard-working people, but I cannot imagine a single one of them coming up to me and saying, give me my $90,000 tax cut today, and I do not care about those soldiers who are fighting for my freedoms and safety in Iraq.

□ 1315

I do not care if they have to go without their veterans benefits tomorrow; I want mine now.

Mr. Speaker, that is precisely what this budget does. This budget could eliminate enrollment for 158,000 veterans, necessitate 400,000 fewer hospital-bed days, reduce the number of nurses by 8,700. For veterans, it means longer waits and higher premiums.

The alternative is the moderate Blue Dog budget. It repeals the marriage penalty. It makes estate tax relief immediate and permanent. It accelerates middle-class and small business tax cuts, but it provides for our local first responders. It offers seniors an initial prescription drug benefit. It stays within the President's own discretionary spending levels. It achieves $2 trillion less debt than the President's plan over 10 years. What it asks is that those who are at the highest tax bracket simply postpone their tax cuts until the war is paid for, until our veterans benefits are secured, until this budget is back on the path towards balance.

Mr. Speaker, for our national security today, for our homeland security today, for our veterans' health and economic security tomorrow, let us pass the moderate Blue Dog budget. Let us not balance this budget on the backs of people fighting on desert fronts.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I listen to my colleagues on the other side of the aisle, and I am amazed at some of the things that they have said today. The gentleman from Mississippi blamed the entire deficit in this budget on September 11. There is no truth in that. The fact of the matter is, if it was not for the tax cut that the Republicans put in place in the last session of Congress, there would not be a deficit.

The deficit is being created primarily because of the constant effort on their part to put in place tax cuts that primarily benefit the very wealthy and special corporate interests. Then I heard the gentleman from Florida say the budget puts us back on the road to surplus. They are creating a deficit, and they are saying they are creating a surplus. There is purposeful activity in creating the deficit by the kinds of tax cuts they put in place and the way they frame this budget.

They are taking a situation where a few years ago we had a surplus that was done on a bipartisan basis under President Clinton with a Republican House and a Democratic Senate; but nonetheless, it was done because we felt we had to balance the budget. Now the opposite is happening. They are creating a huge deficit.

Then another Member on the other side of the aisle said we have to have these tax cuts because we do not want to put all of the burden on the taxpayers. What about our children, grandchildren, and future generations? What about the fact that we are borrowing this money to pay for the deficit from Social Security and Medicare, and that these programs are going to run dry in the future when our children and grandchildren have to deal with the problem? That is the most irresponsible thing I have ever seen.

This is a radical proposal by the Republican leadership here. This is not common sense. This is the most radical budget that I have ever seen in the 15 years that I have been here. They are basically shifting the burden. They are shifting the burden to future generations. It should not be allowed. They should say what they are doing, and they are not.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I rise in opposition to this rule. I have to say, I am appalled that we even have this bill on the floor today. We are now in the first 24 hours of a war against Iraq, and I think that Congress should present a unified front supporting our men and women in harm's way.

But no, the Republicans decide this is a great time to slip through a budget while people are watching the Iraq situation and may not pay attention to the big tax cuts for the very wealthy, may not pay attention to the cuts in education, veterans benefits, and in other critical domestic programs. Well, if they want to have this bruising and controversial debate, let us have at it.

First of all, this budget is designed to protect a $396 billion corporate dividend tax cut that benefits the wealthy. Let us look at the State of Maryland. The average 1 percent of earners in Maryland would get a tax break of $30,000; 24 percent of couples would get zero. And 43 percent of couples and singles would receive less than $100 from this tax break. So when the other side says it is a big tax break for the American people, no. It is a big tax break for the very wealthy.

In order to give the wealthy this tax break, what we find out is they cut critical programs. They have cut veterans programs by $15 billion. That is kind of ironic when we are at war. We are sending men and women into war, and they are cutting benefits to the veterans who have already made that sacrifice. What do they cut? They cut compensation for service-oriented disabilities. They cut burial benefits, Montgomery GI bill benefits, and rehabilitation benefits.

The Democratic budget, on the other hand, provides $16 billion more than the Republicans for our veterans. Do not let them wave the flag unless they are willing to put some money there. Do not just believe me, believe the veterans organizations. The Disabled American Veterans, the Paralyzed Veterans of America, and the American Legion have all issued statements opposing the Republican budget.

Then they give us a prescription drug plan on the cheap so they can give a big tax cut to the wealthy. They give $400 billion for prescription drugs. We give $528 billion. We keep seniors in Medicare; they say they have to go to an HMO.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, we are united in our prayers for the success and safety of our men and women in combat. The powers that be have brought to this floor a highly divisive budget resolution. This budget resolution is designed to enrich the rich at the expense of economic growth for all America. It means larger budget deficits, higher interest rates, larger trade deficits. It will take capital out of the private sector and away from business investments while underinvesting in education and infrastructure.

But I rise to address another point, another flaw in this budget resolution; and I will do so with an analogy to a credit card advertisement that we are all familiar with.

Allowing corporations to get out of paying American taxes just by renting a hotel room in the Bahamas, $4 billion; ending taxes on all dividends, $385 billion; ending the estate tax even on the largest estates, $662 billion; knowing Members can pass the entire cost of all of this to future generations, priceless. RepubliCard, it is everything the super rich want it to be.

Also available, the new Deficit Express Card soon with a $4.2 trillion credit limit. The Deficit Express Card, do not leave the House without it.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, I rise today to express my strong opposition to the House Republican budget resolution. I believe our national budget should be a statement of our country's values. It should reflect the priorities of the American people for good jobs, safe communities, quality education, and access to health care.

Unfortunately, the Republican budget fails to fund these national priorities. The Republican budget has only one clear priority, to fund the President's $1.6 trillion tax cut. The Republicans fund this tax cut at the expense of the social and economic interests of the American people. Republicans are offering us a budget today that cuts funding for every single domestic priority in order to fund a $1.6 trillion tax cut that will only help a small percentage of Americans. These tax cuts are even more inappropriate when we consider the fact that our country is engaged in a war that will strain our already weakened financial resources.

Democrats, on the other hand, will be offering a variety of alternative budgets today that reflect the priorities of the American people. We will push for tax provisions that will help the backbone of our economy, small businesses and working families, while providing the necessary resources for quality health care and education for all Americans.

While I do not fully endorse all of the Democratic alternatives, each is far better than the Republican budget resolution. So today Democrats step up to the plate with superior alternatives while Republicans offer a Bush-league budget.

Mr. Speaker, it is clear that the Republicans have chosen the interest of the elite few over the needs of the many. It is clear where their priorities lie. I urge Members to align their priorities with those of the American people and vote for the Democratic budget resolution.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are ready to proceed to consideration of this rule. The rule lays out three different Democratic alternatives. Unfortunately, the Committee on Rules chose not to make in order some very important amendments, specifically the amendment offered by the gentleman from Missouri (Mr. SKELTON). We all support the troops. It is time for us to put our money where our mouth is. Unfortunately, this budget resolution does not provide any money for the ongoing war in Iraq. The Skelton amendment should have been made in order. It is regrettable the other side of the aisle did not give the House the opportunity to do what we all should be doing today.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

□ 1330

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and of the budget which will come forward from the Committee on the Budget. This is a wartime budget. Our Nation has been at war since September 11 of 2001. President Bush has made that very clear. And then, of course, last night that war expanded to our challenge of taking on Saddam Hussein.

This rule is a very fair and balanced rule. I see having just walked into the Chamber my good friend the gentleman from Texas (Mr. STENHOLM). His substitute will be made in order. We will have a substitute for the gentleman from Pennsylvania (Mr. TOOMEY) and the Republican Study Committee. We will have the Progressive Caucus substitute that will be made in order. We will, of course, have the gentleman from South Carolina's (Mr. SPRATT) substitute.

I will say to my friends that not since 1987, that is 16 years ago, have we seen the Committee on Rules under either Republicans or Democrats make in order a provision which allowed for anything other than a complete substitute. And so the rule that we are going to be voting on in just a few minutes follows that 16-year tradition again under both Democrats and Republicans.

Mr. Speaker, I totally agree with the concept of the Skelton amendment. The gentleman from Missouri (Mr. SKELTON), the ranking minority member of the Committee on Armed Services, is one of the most respected Members of this House, and I believe very strongly in what it is that he wants to do here.

We know that once we get this budget behind us, we are going to be dealing with a supplemental appropriations bill. It is no secret at all. It has been talked about as a measure which will range somewhere between 80- and $100 billion. We know that it will take a great deal of resources to win this war and obviously to rebuild Iraq. It is our hope that we will be able to see a lot of help in that effort, not just from the U.S. taxpayer.

We know that there are tremendous oil resources in Iraq. We also know that the multinational coalition that is now supportive of the President is even larger than the 28-nation coalition that existed under President Bush No. 41 to liberate the people of Kuwait 12 years ago. And so as we see this coalition build to 35, 40 more nations, it is our hope that those nations will join in the rebuilding effort of Iraq.

That is why I believe that the message behind the gentleman from Missouri's very thoughtful amendment, while not made in order under this measure because we make substitute budgets in order, is a message which is important, it has resonated, and I strongly support the idea behind it. I can assure him that we will address this issue.

As we look, Mr. Speaker, at the budget itself, there are so many things that have been said, I do not have any charts showing credit cards or anything like that, but I will say that this is a budget that is focused on the situation that really created the economic challenge that we face over and above the war on terrorism and now our going to war with Saddam Hussein, and that happens to be the issue of economic growth.

The economic downturn began in the last two quarters of the year 2000. I will say that again, Mr. Speaker. The economic downturn began in the last two quarters of the year 2000, before the last Presidential election. Since that time we have been able to put into place President Bush's tax bill. That reduction in the tax burden dealing with issues like encouraging investment, the marriage tax penalty, those sorts of issues, based on the assessment of virtually every economist, mitigated the downturn that we have seen in the economy, meaning that without President Bush's tax plan, the tax reduction measure, the economic downturn would have been much worse than what we have gone through.

We went through two quarters of negative economic growth, meaning an economic recession last year, in 2001, and since that time we have seen growth that is not nearly what it should be. We enjoyed tremendous economic growth following the implementation of our tax measures in the mid to late 1990s, and I am happy to say that we have an opportunity to lay the groundwork for that to happen again. That is why the provision that is provided for in this budget for $724 billion of tax reductions is a provision which will encourage economic growth.

Why is it that we are going into deficit spending? Well, yes, we have had to increase the spending on the war. Since September 11 we have had to expend over $100 billion in the war on terrorism alone. But the fact of the matter is, Mr. Speaker, we have this challenge because of economic growth which is not strong enough. Anyone who looks at what it will take to get us growing the economy again realizes that you do not increase taxes at a time of an economic slowdown; what you do is you cut taxes.

I hope very much that we will be able to maintain and have intact the President's economic growth package, but I have a proposal which I hope we can include with that, and this budget makes provisions for that, which will make the President's package even better. It is a provision which would cut the top rate on capital gains from 20 percent down to 10 percent prospectively, meaning for new investment. It would say, Mr. Speaker, to people who are considering investing today, who may be waiting on the sidelines, that they would have an opportunity when the new investment that they would embark upon appreciates of having a rate that is cut from 20 percent down to 10 percent, from 35 percent to 20 percent for corporations. That kind of incentive for new investment is just what we need. That is the kind of tax reduction which will provide an important stimulant to the economy.

As we look at the overall quest to ensure that we have funding for a wide range of priorities, including education, including veterans, I have heard people talk about so many of these cuts that we are facing that are going to hurt working Americans and those who are at the lower end of the economic spectrum, and it is just not true.

We are focusing with a provision that we have in this rule on the issue of Medicare. I feel very strongly about the need to address a concern that I have in my State for the reimbursement to hospitals for the disproportionate share on Medicaid funding for the tremendous burden that they have carried. It is my hope that within the guidelines of this budget that we will be able to address those very important priorities that are out there.

Mr. Speaker, this is a very fair rule. I want to praise my colleague from Washington State (Mr. HASTINGS). He has worked day and night on the Committee on Rules. We worked until late last night fashioning this rule, and just the other night he was not able to be in the Committee on Rules because he was working until 1:30 in the morning on this budget in the Committee on the Budget. He is our representative from the Committee on Rules to the Committee on the Budget. He has done a great job in working on the budget, establishing our priorities, recognizing that this is a wartime budget, and at the same time moving us on the road towards economic growth and fiscal responsibility. He has also done a good job in fashioning, putting together and supporting and managing this rule.

Mr. Speaker, it is a rule which allows, as the gentleman from Texas (Mr. FROST) correctly said, for three options from Democrats to be considered, the gentleman from South Carolina (Mr. SPRATT), the Black Caucus/Progressive Caucus substitute, and the so-called Blue Dog package that the gentleman from Texas (Mr. STENHOLM) has brought forward. I think it is the right thing for us to do, to have a full airing. We are going to do that.

This is one of the most solemn days in our Nation's history as we have begun this war, but at the same time no better signal could be sent to the rest of the world that the United States of America stands strong and ready and determined to continue with the greatest experiment in individual liberty known to man, that being the United States of America.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the chairman for the kind words that he gave me.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 4 MADE IN ORDER TO H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that during consideration of H. Con. Res. 95 pursuant to House Resolution 151, the amendment numbered 4 in House Report 108–44 may be considered as modified by the form that I have placed at the desk.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment in the nature of a substitute No. 4 printed in part B of House Report 108–44 offered by Mr. Spratt:

Strike section 204 and insert the following:

**SEC. 204. CONTINGENCY PROCEDURE FOR SURFACE TRANSPORTATION.**

(a) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—In the House, if the Committee on Transportation and Infrastructure reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $39,233,000,000,
(2) for fiscal year 2005: $39,998,000,000,
(3) for fiscal year 2006: $40,841,000,000,
(4) for fiscal year 2007: $41,684,000,000, or
(5) for fiscal year 2008: $42,605,000,000,

the chairman of the Committee on the Budget may adjust the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2004 and for the period of fiscal years 2004 through 2008 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation.

(b) ADJUSTMENT FOR OUTLAYS.—In the House, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $38,594,000,000 for fiscal year 2004, for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).

Mr. SPRATT (during the reading). Mr. Speaker, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from South Carolina?

Mr. NUSSLE. Mr. Speaker, reserving the right to object, and I will not object, I rise only to take a moment to thank my colleague and ranking member from South Carolina for his work in trying to conform this important provision within both of our budgets. We may have some disagreement throughout the day here on a number of provisions, but procedurally we usually have an esprit de corps and unanimity. In this instance I will not object. This is an appropriate thing for the gentleman to do. I made a similar manager's amendment at Rules last night, and this allows us to conform the budget, so I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

## GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that Members have 7 legislative days to revise and extend their remarks with regard to the budget we are about to consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

## CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

The SPEAKER pro tempore. Pursuant to House Resolution 151 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, H. Con. Res. 95.

□ 1340

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, with Mr. GILLMOR in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Pursuant to the rule, the concurrent resolution is considered as having been read the first time.

General debate shall not exceed 3 hours, with 2 hours confined to the congressional budget, equally divided and controlled by the chairman and ranking member of the Committee on the Budget, and 1 hour on the subject of economic goals and policies, equally divided and controlled by the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. STARK).

The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 1 hour of debate on the congressional budget.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Chairman, I yield myself such time as I may consume.

I would like to begin by thanking our staff from the Committee on the Budget. They have worked enormously hard to bring us to this point in time where we are able to come to the floor to talk about the budget. Usually we reserve this to the end of the debate, but I just want to thank them because we are at a very unique time in our history. It requires some difficult choices. It requires us to analyze the situation very carefully. We have good people that work for us in both the majority and minority. I want to thank them for the work that they do. They have been asked to do a job, they do it, they do it well, and we find ourselves on the floor ready to debate the bill on time and ready to debate the budget within the procedure that we laid out at the beginning of the year.

Similarly, we ask young men and women overseas to do a job today. They are doing it in fine fashion. They represent us well. They represent our hopes and our dreams. They represent our freedom. They represent America. We are proud of our troops. We are proud of the job that they do, and we are proud that they do the job without blinking an eye, without any hesitation.

I believe they would ask the same of us here today, that while there are certainly trials and tribulations that confound us around the world today, that we do our work, that we are not distracted by a tyrant in Baghdad, and we are not distracted by terrorism around the world. It would be very easy to be distracted by that. It would be very easy to suggest, let's maybe wait for another day. But I think what America demands is that we continue the work of freedom, we continue the work of democracy. That is what they are fighting for, and that is what we need to do as well.

Mr. Chairman, we are at war. I did not have to practice that part of the speech because we were at war even before last night. We are at war against international terrorism. The President determined that soon after September 11, 2001. That war continues. The fact that we opened up another front last night and that we will continue to pursue that front should not deter us, and we need to plan for it within our budgets. We need to take that into consideration as we debate this budget here today. So we are debating a wartime budget at a time during very difficult economic challenges and at a time when we face deficits for this foreseeable future.

□ 1345

None of us, at least most of us, do not want deficits. In fact, I said in my very first opening statement at the committee this year that I do not like deficits, I do not want deficits, and I will not pretend to this body, to my colleagues, to the President, to the Senate, or to my constituents at home that deficits do not matter. However, we are faced with that; and all of the yelling and screaming and all of the finger-pointing in the world and all of the things that might go on here today will not change that fact, and in fact no one today is bringing forth a budget that balances today or even this year or even next year.

In fact, none of the budgets before us balance, and there is a reason. Because this did not just happen overnight. While there are some who will come here today and blame and finger-point and suggest that the surpluses disappeared because of tax cuts, I would suggest that there are many reasons, many reasons why we face deficits here today.

It is true that just 2 years ago we faced surpluses and we decided to do something about that. We made a very deliberate decision that when Washington has more resources than it needs to meet those challenges in peace time at that time, that it is appropriate to say let us get the economy going again. Remember where we were, the economy was sluggish. President Bush came into office facing a recession. So we decided we were going to reduce taxes and certainly the tax reduction did reduce the surplus. That is represented by this blue amount.

But spending and the economy took most of the surplus and spending on what? An emergency. September 11, 2001, the emergency facing New York, the emergency facing the Pentagon, the emergency facing the airlines, the emergency facing homeland security. In an appropriate bipartisan response, every one of us came to the floor and said it is time to increase spending for those very appropriate purposes. And in addition to that in a bipartisan way, we came to the floor and said we need to cut taxes even further in order to stimulate the economy because the preattack recession got worse. So cheerfully, as a body, we decided it was time to spend a little bit more, stimulate the economy; and as a result, the tax cut took part of it, the spending took part of it, but the economic changes, the economy, the gut punch that each one of us faced whether it was home savings, whether it was increased prices around the kitchen table we had to deal with, whether it was just balancing our own budget around our kitchen table with our family, each one of us was affected by what happened in September of 2001, and certainly it affected our budget.

So we can finger-point, and we can talk about the past, and we can talk about Reagan and Clinton and Bush and, I do not know, maybe somebody even mentioned Roosevelt here today. The fact of the matter is that we are in deficit and we have to do something about it. But we do not start behind the eight ball. We build upon some huge amounts of spending.

Let me show what we have been doing the last 10 years around here. Cheerfully, and again oftentimes in a bipartisan way, look at the spending, each year increasing. In 1993 when President Clinton took office, we had a $1.4 trillion budget. What are we proposing today? $2.1 trillion, a 50 percent increase just since 1993, 4.5 percent each year. So when people go home and they start talking about how kids are going to be thrown out in the street and education is going to be cut and health care is going to be ruined, please remember that before we even talk about this year's budget, we have been increasing spending steadily during that period of time, and I will tell my colleagues when it really took off. When it really took off was when we got to balance in 1998.

Let me show what I mean by that. If we take the spending that we control every year, called discretionary spending or the spending from the appropriation bills, discretionary spending was holding its own, holding its own as we tried to get to balance since we became the majority, and then at 1998 all of a sudden look at it take off. In 1998 we had about $511 billion spent on discretionary spending, and just this last year in the bill that we just finished a month ago, we were at $768 billion, or an average of 7.7 percent each year since we reached balance. So when people talk about how, oh, boy, this cut is going to be tough or there might be ways that this could hurt folks or, boy, there is not a lot of waste, fraud abuse or excess, please remember that we build upon a huge base of spending in discretionary.

Let us look at some of the individual programs. I have heard a lot of talk lately about how Medicare is being devastated by this budget, budgets that were proposed, budgets that we will vote on here today, and budgets that we will consider. Since 1995 when the Republicans took the majority of Congress, we have increased spending for Medicare 56 percent. Was that appropriate? Yes. No one is suggesting it was not, but when people talk about how Medicare is being devastated, it is not because of the spending that Medicare is in trouble. It is because the way the program operates. I can tell you in Iowa people are very happy with Medicare; so to suggest that all we need to do is add more money into Medicare and everything will be fine does not recognize that Iowa does not get a fair shake from Medicare. Many other States, Wisconsin and others, do not get a fair shake from Medicare. So to suggest that all we need to do is pile more money on to Medicare, do not touch the program, just add more benefits and everything will be fine is sticking our heads in the sand. It will not work. But again we build upon some huge increases.

I have heard Governors suggest that Medicaid is in trouble and how the Federal Government has not done its fair share with regard to Medicaid. Look at the Medicaid budget since we became the majority in 1995. It was $89 billion of our budget. Today it has increased 77 percent since we became the majority. We have supported the health care for the poor and the disabled in this country to the point now where again we will continue in this budget to increase Medicaid.

Let us look at education because oftentimes education is used in a partisan way to suggest we do not care about children. Education spending under the Republican majority has doubled. It has doubled. Special education has tripled as a result of the Republican majority again as we move into this budget. This is what we build upon. There are accomplishments that we should be proud of. But when people whine and complain and suggest we are not spending enough, can we ask the question, what did we get for this? Which is why last year we said we need some accountability within our system and not just pour more money into it.

I have a number of very important constituents in my district who are veterans who before last night did their part to defend America and give us the ability to stand here today in peace and freedom in this country and debate issues of importance. And what have we done for them? Again, we build upon some important accomplishments. Spending has grown 40 percent since we reached balanced budget, an average of 6.9 percent each year. This budget will continue that trend with a 7 percent increase for veterans healthcare spending.

So let us look at what the budget is going to do. First of all, I want to put it into context. There is no question that we have three important issues as we come to the table today to discuss the budget, and some of these are even bipartisan, believe it or not. Number one is protecting America. There is not a person who is going to come to the floor today who does not feel that that is the most important thing that we do, and I compliment all of the budgets with regard to that issue. When it comes to homeland security, when it comes to national defense, certainly there will always be those who say we can do more. In fact, there has even been a few who have suggested that there is a lot of waste within the Pentagon, and I would concur with that. But at this time in our history where our men and women are in the battlefields of Kuwait and Iraq and Saudi Arabia, we need to make sure that we support them; and each one of the budgets that comes here today does just that. It also supports homeland security.

The second most important issue that we have is making sure the economy gets growing again, making sure folks have a job. Because while we are going to talk a lot today about the Federal budget, we all know that the most important budget to each and every one of us is the one that I debate with my wife around my kitchen table and that my colleagues may debate with their families around their kitchen table and our constituents debate with their families around their kitchen table when they are trying to figure out how to pay the phone bill and the light bill and the college tuition and buy the clothes for their kids and the washer that breaks down or whatever it might be. That is the budget that matters; and if one does not have a job and if the economy is not growing in their household, it does not matter what we are debating.

Get a fancy chart. It does not matter what the fancy chart says if one's checkbook does not balance. So unless our budget puts as a top priority getting the economy to grow and create jobs, we have failed, in my estimation, and that is why the most important second issue that we put forth today is getting the economy to grow. It used to be a slogan. I remember hearing it a few years back: "It's the economy, stupid." Maybe that was not an appropriate way to say it, but the point of the matter was important. Make sure the economy is taken care of.

The third issue, and it is an important one as we look forward into the future because again I think there is bipartisan support for this as well, and that is fiscal responsibility. We have all given spellbinding speeches about how the government cannot spend more than it takes in. But do my colleagues know what? There are some times when that has to happen, and by and large we agree when those times are. When there is a war. I do not think anybody begrudges anybody to borrow some money to do that. We have got to take care of business, and we will spend anything it takes to make sure we win and our folks have the right equipment and the right training. The second time we do it is when our country is under attack. Homeland security, again, each and every one of us came down here and cast a vote in support of homeland security spending even though it caused deficits. And there is another time we would do it, and that is when we have a recession or an economic downturn, and both parties during their histories have had to make that challenge. So while we are faced with those challenges, we still want to keep our eye on that fiscal responsibility.

So how do we do it in this budget? We ask a simple thing. We say out of the billions of dollars that we spend around here, do the Members think we could find a penny on the dollar? Most people back home in Iowa tell me I bet we could find a nickel on the dollar. In fact, we have heard amazing stories of people who are deceased getting checks from the Veterans Administration. We have even heard of Social Security recipients who are overseas that we send a check to. We have heard about food stamps that have been stolen. We have heard about all sorts of crazy things involving credit cards at the Pentagon where people have been using it for their own personal expenses.

Tell me there is not a penny on the dollar. Tell me that the earned income tax credit has not been abused. Tell me that Medicare, according to the General Accounting Office, has not had overpayments and erroneous payments. Tell me that at the end of the year bureaucrats do not run in to their boss and say, You know what? We have got extra money in our budget. We had better use it or we are going to lose it. And what we do in this budget is we say each and every committee can find that, and is it not now the time to find it when every State and every family and every business is doing the exact same thing? The Federal Government cannot do that too?

So fiscal responsibility is an important part of it. But we are still going to hear people come to the floor today and talk about deep and devastating, "excruciating" was a word I have heard recently, deep and excruciating cuts. Let me show the Members what our budget does. First of all, total budget, here is our budget. This is where we actually are, and look what happens under the budget. It goes up every single year in total spending. So the total budget is not cut.

Let us look at another area. Let us look at non-Social Security mandatory spending. What is that? That is Medicare and all the other, what we call, entitlements or automatic spending. Does that get cut? Every year it has been going up. Every year under the budget it continues to go up.

□ 1400

All right. Well that is not cut.

Let us look at Medicare maybe, see if Medicare is cut. Under our budget, every year it goes up. In our budget it continues. In fact, we say let us modernize it and put in, for the fourth year in a row, a Republican version of a prescription drug package. We are the only body that has passed one, and we will do it again this year, to make sure we modernize the program and make sure that reimbursements and other modernizations for the Medicare program help ensure its seriousness as a health care delivery program for years into the future. So Medicare is not cut.

Well, all right, let us look at total discretionary spending, which includes defense and homeland security. No, that is not cut. Every year it has gone up. In fact, look what happens here. Huge increases. It looks like it slows down here.

Why does it slow down? Because this is where the budget asks for some relief. It says this first year, outside of defense and homeland security and veterans, we just want to look for a little bit of waste, just a little bit of waste.

If there is a Member of Congress that goes home to tell their constituents that there is not any waste in Washington, I want you to ask them if they have read the volumes of General Accounting Office reports that indicate billions of dollars of waste, or the inspector generals that work for the departments that have identified billions of dollars of waste, or if they have talked to the Congressional Budget Office or held hearings on this in committees, because until they do that, do not tell people that there is not wasteful Washington spending. We know there is. For the first time in quite a while, we go after it.

Are we looking to cut some spending there? Yes. But do not believe that we are going to throw people out on the street. You do not have to do that in order to find the waste within the program. Everybody has heard about the $500 hammers and the toilet seats in the Pentagon and all those kinds of crazy programs that we hear about all the time. That is what we are asking people to go find, a penny on the dollar. That is not that much to ask, when we are at the same time running the kinds of deficits we find ourselves in.

So protecting America, that is first; getting the economy to grow, that is an important second thing to do; third, let us do it in a fiscally responsible way. I believe if we build on those three functions, without raising taxes, without huge spending increases, I think we can get this under control, support our troops in the Gulf right now and around the world defending our freedom, and do so in a way that is fiscally responsible, and gets us back to balance in a very reasonable time.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, my colleague calls this a wartime budget, but everyone should understand there is nothing in this budget to pay for the war in Iraq that is now underway. There is not even anything in this budget to pay for the war against global terrorism which is being waged in places like Afghanistan.

The administration deliberately omitted any provision for those costs in this budget for various reasons. They claim that they could not estimate accurately what those costs are likely to be, but we all know that there will be what we call in this House a supplemental appropriation coming, and it will run into billions of dollars, maybe 50- to $100 billion for the war in Iraq itself, and after that the postwar occupation will cost, the CBO says, between $1.8 billion a month and $3.8 billion a month.

We have a huge, huge cost item that is not included here. I say that because everyone should understand that there is no surplus left in this budget. My friends, proposing a tax cut now that is as large as the last tax cut we undertook in 2001 will only drive the bottom line of the budget deeper and deeper by the proposals they have made here.

Two years ago, we had the happy circumstance of a budget that was $5.6 trillion in surplus, or so we were told by our forecasters at the Office of Management and Budget in the Bush administration. Two years later, we open this budget season on a somber note, not just being at war, that is a grave situation, but that $5.6 trillion surplus, according to the Office of Management and Budget, is gone.

First of all, they said we overstated the surplus by at least $3.2 billion. The real surplus was not $5.6. We are now told it is about $2.4 trillion over the time period 2002 through 2011. Of that $2.4 trillion, OMB tells us $2.5 trillion has already been committed, mostly to tax cuts undertaken in 2001, and, to some extent, to defense spending increases and other spending increases. But, in any event, the surplus is gone.

We are actually in deficit as we stand here, and everybody is on notice that every dollar of additional tax reduction that you decree in this budget resolution will go straight to the bottom line. It will go straight into the deficit and add to the deficit, dollar for dollar. Knowing this, there is no way around it. What our Republican colleagues propose is they propose another $1.35 trillion in tax reductions, tax cuts, which will go straight to the bottom line and add to the deficit.

Here is the situation: This is the first table in CBO's analysis of a couple of weeks ago of the President's budget, which was sent to us about a month ago. Strikingly, if you add from 2002, the first fiscal year that the Bush administration was in office, through 2013, which is the last year in our 10-year budget time frame, the total amount of deficits that the Bush administration's fiscal policies will yield is $5.158 trillion. That is what they propose to add to this national debt under the Bush administration.

Now, my Republican colleagues, and I will give them part credit, saw this number, and I think they could not stomach it themselves, $5.158 billion under the Bush administration's fiscal policies. They undertook to provide some offsets. They did not give up the tax cut. No, they went with the full tax cut, or slightly less, but they undertook to come up with some offsets.

The first thing they proposed to do was to tell the Committee on Ways and Means, which has jurisdiction over Medicare, and the Committee on Energy and Commerce, which has jurisdiction over Medicaid, cut $372 billion out of those two programs.

They have now relented and backed off their own proposal. They reduced the instruction to the Committee on Ways and Means from $262 billion to about $62 billion, and they have reduced the instruction to the Committee on Energy and Commerce from $110 billion to $107 billion. But both of those cuts could come out of the two health care entitlements that we have in this country that so many people, maybe from 50- to 60 million to 80- to 90 million people, are dependent on. That is what they propose to do.

This budget says a lot about priorities. What happens with the rest of the budget in order to make room for this tax cut?

In saying it is a wartime budget, they attempt to make room in the rest of the budget, at least partially, to offset this enormous tax cut of $1.350 trillion. What does that mean? That means they cut with abandon, left and right. They cut our young, our children, in terms of education; they cut our seniors in terms of Medicare and Medicaid; and they cut some of the most worthy citizens in our society, the sick and disabled veterans. They put an instruction in this budget, which I cannot believe, and neither can any veterans' organization in America, to cut $15 billion out of veterans' disability compensation and some $12 billion to $13 billion out of veterans' health care facilities. They cut education by $40 billion below what is necessary just to keep it level with inflation. They cut Medicaid, as I said.

All of this is necessary to accommodate their tax cut. It is not necessary because of the budget circumstances we find ourselves in. This is self-inflicted pain. Yes, it will be painful if these cults are made, you had better believe it, but they are not necessary. You do not have to make them.

To prove it we have come up with a budget resolution about a better bottom line. We get to a surplus in the year 2010. It takes them until 2012 to get to a surplus. In the process of getting there, we have a lower deficit every year than they do, we accumulate $851 billion over 10 years less in national debt than they do, and we adequately provide for education. We do not eviscerate Medicare, we do not cut Medicaid, because it is already strained as it is, and we certainly do not cut our veterans in a time of war, or any time, for that matter, by $30 billion in just mindless cuts.

So there is an alternate way. There is a better budget. It is a fiscally more responsible budget, and it meets the obligations we have. Members of this House today have a stark choice, a clear choice, in terms of values, in terms of fiscal responsibility. The right vote is our budget resolution.

Mr. NUSSLE. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong opposition to this resolution. The Federal budget reflects our priorities. It demonstrates our values, our commitments to those less fortunate in our society, and our ideas for building a better America for our children and our grandchildren.

The Republican budget resolution before us today makes a mockery of these ideals. It would not spur economic growth, it would underfund the country's critical challenges, and it would lead to chronic deficits for the foreseeable future.

Mr. Chairman, I must say I find it incredulous that this resolution is before us today. Just last night hostilities began against Iraq. We are asking our men and women in uniform to make incredible sacrifices, including leaving their families behind, to serve their country. Sadly, we worry that some may make the ultimate sacrifice. But where is the sacrifice from those who benefit from these tax cuts? Many of them are the wealthiest in our society. This is shameful.

The Republican resolution embraces the administration's irresponsible tax cut package that will not encourage economic growth, and this country simply cannot afford it. These provisions are ill-considered and so unfair to the vast majority of working American families. They should be rejected.

Mr. Chairman, I say this as one who has often voted for tax cuts, including the last tax bill. I believed then and I believe now there were many excellent provisions in that measure, but we were also in a very different time.

The huge surpluses have morphed into huge deficits, and we are now in a war on terrorism and in Iraq, both of which will have huge mounting costs. The cost of the war in Iraq is not even mentioned in this budget. And our domestic challenges, prescription drugs, education, veterans' health care, are still unmet.

We should not proceed with more tax cuts while we face chronic deficits and critical unmet domestic and international challenges.

Mr. Chairman, I want to say something to my moderate Republican friends. Many of you have spoken convincingly on this floor about the dangers of unchecked deficit spending and the irresponsibility of passing these costs on to our children. We have worked together on countless issues, like funding for schools, protecting our environment and addressing rural health care issues. I know you are all deeply committed to meeting the needs of this country, and doing so in a fiscally responsible manner.

I do not see how you can support this budget. The tax cuts called for in this budget will bring endless deficits, robbing us of our ability to meet our country's needs now and for the foreseeable future.

We can do better. We need to reject this Republican budget today.

I believe that the Spratt substitute meets the priorities that our country values. The tax cuts are targeted to those which will jump-start our economy. Programs are funded, education and veterans' health care and the environment, that the people of this country need and demand, and this is done in a fiscally responsible manner.

Mr. Chairman, I urge all my colleagues to reject the Republican budget and to vote for and support the Spratt substitute.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, now that the military campaign to disarm Saddam Hussein has begun, our thoughts and prayers go out to the young men and women in uniform as well as to their families. May they complete their mission quickly and decisively so they can return home soon and safe.

Yet here we are today in this Chamber to consider a fantasy budget. It is ludicrous for the House leadership to move forward with this budget debate by ignoring the issue of the day, Iraq, and the cost of that campaign, merely to lock in huge tax cuts and offer unrealistic spending cuts to health care, education and veterans' services.

□ 1415

We know the proposed Draconian cuts will not happen, but we also know that the President will send an emergency supplemental spending request for Iraq shortly to us and demand that a check be sent back immediately, and it will be, because we all do support our troops during this time.

But this is the classic recipe for exploding budget deficits as far as the eye can see; it's the height of fiscal irresponsibility occurring at exactly the wrong moment during our Nation's history when 80 million of our Americans, the so-called baby boomers, are rapidly approaching retirement age, a demographic time bomb ready to explode. That is why the Republican budget proposal, in effect, constitutes taxation without representation, because it will be our children and our grandchildren who will be asked to pay for this fiscal mess. I couldn't think of doing anything more unfair to them.

As the father of two little boys, I did not come to this Congress to leave a legacy of debt for them or future generations to climb out of. Our Democratic alternative, however, anticipates this demographic time bomb by achieving balance by 2010, while offering an economic stimulus plan now, which is fair, quick, and responsible. It supports our troops, but it also supports our Nation's veterans, our seniors, and our children's education programs.

So I urge my colleagues to support the Democratic substitute. I would call on the leadership in the House to pull their budget resolution so that we can have an honest debate with honest figures, factoring in the cost of the Iraq operation. I encourage my colleagues to support the substitute.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Chairman, this budget resolution is a failed economic plan.

Fourteen months ago, this body passed a tax cut worth $1 trillion, a little over $1 trillion; and the net result has been 2.5 million Americans without work, 4 million Americans without health insurance, nearly $1 trillion worth of corporate assets have been foreclosed on, and 2 million more Americans have left the middle class for poverty. That is the net economic result and the economic effect felt by America's families.

In this budget resolution, Members of this body will be asked to vote for only 5,000 new units for affordable housing here in America. Yet, 3 weeks from now, 4 weeks from now in the reconstruction budget for Iraq, we will provide 20,000 units in Iraq. This budget calls for no new spending for health care for the uninsured who work full-time in America, yet the Iraqi reconstruction will call for $13 million, half the population of Iraq, to have basic health care, 100 percent maternity coverage; yet we cut Medicare and Medicaid in this budget resolution. In the area of education, the Iraqi reconstruction calls for 25,000 new schools to be rebuilt, yet we zero out 40 programs here in America.

I will support and work towards the reconstruction and funding for the reconstruction of Iraq because it is the right thing to do after this war when it is over, and we will win it successfully. But I want that same commitment, that same emphasis for here at home. Iraq matters; Illinois matters and the people there.

We need an economic plan that invests in America, our education, our health care, and puts our fiscal house back in order. That is what the proposal from my good colleague, the gentleman from South Carolina (Mr. SPRATT), has, is an economic plan that is balanced. It seizes the future by investing in the right areas of health care, education, and the environment, puts our fiscal house back in order so we can meet the needs of our retirement and our plans for the future.

What we are about to do today is the wrong choice for America's future. We will be asked in the next 3 weeks to do right by what we need to do in Iraq. Let us be balanced in our approach.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the gentleman for yielding me this time. I would like to thank the gentleman for all of his hard work and his leadership during these very trying times.

Mr. Chairman, when we as a House pass a budget, we are outlining our priorities as a House and a Nation. Sadly, this irresponsible budget fails to accurately reflect the priorities of my constituents or of this Nation.

This is an irresponsible budget that passes on our problems and our deficits to our children and our grandchildren while, at the same time, failing to invest in our children and grandchildren by underfunding education.

Last Congress we were all speaking about the importance of children and education. We said, we do not want to leave a child behind, and yet that is exactly what this budget does. We cannot shortchange this priority; we must invest in our children.

This budget also shortchanges our veterans. Our veterans have made great personal sacrifices, and we have a responsibility to serve our retired military personnel, just as they served our country. At a time when we have sent our men and women into harm's way, what better way to honor their service and to show them how valued they are than by treating their predecessors with respect and dignity. Not one soldier who puts his or her life on the line should have to worry about whether he or she will get health care when he or she returns from battle.

Finally, this is a budget that fails to adequately protect our homeland security. Our first responders, our police, our fire, our emergency personnel should be our priority; but they are not a priority in this budget.

Mr. Chairman, I urge my colleagues on both sides of the aisle to stand up for our children, to stand up for our veterans, and to stand up for the safety of our communities. Show us what your priorities are. Support the Spratt amendment and oppose the underlying bill.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Chairman, today we have before us one of the most irresponsible budgets I have seen. Republicans have made their priorities crystal clear. Their number one priority in this budget is making room for a $1.35 trillion tax cut that will benefit the very wealthiest of Americans. They are doing this at the expense of programs that constitute the very safety net of this country and on the backs of hardworking Americans.

This careless Republican budget will have dire ramifications for many. Republicans cut most education programs by 8.3 percent. They reduced the maximum Pell grant award. They do not provide enough money for a meaningful prescription drug benefit. They cut funding for the National Institutes of Health by over $3 billion, and would reduce Medicaid spending by $163 billion. This is irresponsible.

To make matters worse, at this very moment, this country is at war. We have nearly a quarter million servicemembers deployed near Iraq. Despite this, Republicans have proposed $14.6 billion in cuts to veterans programs. We must stop neglecting the health care needs of our veterans. We promised to eliminate the VA case backlog that is currently at a point near crisis. We must deliver the quality health care that was promised to those who have served to protect American lives and interests around the world.

For far too long, the Federal Government has turned its back on our Nation's veterans and the promises made to them. The cuts proposed in the Republican budget for essential veterans programs are unconscionable. The Democratic alternative addresses the rising demand for veterans health care by providing more funding than the President's budget and the House Republican budget in each of the next 10 years, a total of $4.3 billion above the President's budget and $16.2 billion more than the House Republican budget.

It is clear that the Republican budget in no way honors our commitment to the health of our veterans. Today's men and women in the service, today's men and women in uniform, today's men and women in Iraq are tomorrow's veterans. Will the promises we made today be empty tomorrow?

When the government makes promises to ensure the health of our veterans, it ought to keep them. For that reason, we should vote "no" for this Republican budget resolution and "yes" for the Democratic alternative.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I rise in opposition to this budget resolution, the most irresponsible budget in our Nation's history.

The budget is antijobs, antigrowth, antifamilies. It adds almost $3 trillion to the public debt. It undermines our Nation's savings, investment, growth, jobs, and retirement security, and will do serious long-term damage to our economy, compromising our ability to address the most serious challenges that face us.

And it does this all in the name of $1.4 trillion in tax cuts for the wealthiest Americans and corporations, two-thirds of which would flow to people who have an income above $350,000. These tax cuts are paid for on the backs of disabled veterans, nutrition programs, children participating in the school lunch program, college loan assistance, $670 billion in cuts vital to services that people in this country are interested in.

This administration also seriously endangers the public health by starving agencies that are responsible for protecting our environment, funding that is needed in order to enforce our environmental laws. It cuts Superfund cleanup, water quality, clean air, water funding, cuts of $3.1 billion in all.

This administration continues to undermine the credibility of our environmental statutes by failing to enforce vital environmental requirements. Penalties for violations of environmental laws have decreased precipitously since the Bush administration took office, with the amount of the average penalty dropping by more than half.

Mr. Chairman, asthma is currently the most common chronic disease in children. The EPA conservatively estimates that 15,000 premature deaths occur each year due to the exposure to air pollution. The National Resources Defense Council puts the number at 60,000. That tells us that environmental protection matters, that this budget and these cuts have real consequences for every American family and child. By putting a $1.4 trillion tax cut ahead of the public health, this budget will have catastrophic effects on pollution enforcement efforts. It does not reflect our values as a Nation and our priorities as a people. I urge my colleagues to oppose it.

Mr. NUSSLE. Mr. Chairman, as I said, we built our budget upon three principles, the first of which is protecting America.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. THORNBERRY) to discuss that issue.

Mr. THORNBERRY. Mr. Chairman, I thank the chairman and commend him for the amazing job he is doing in a difficult situation.

Mr. Chairman, today, of course, our thoughts and our prayers and our admiration are with those young men and women who are in the Middle East, risking their lives to help make us and the rest of the world more secure. We have absolutely the finest military in the world, and I have no doubt that they will make the most of the tools that we help provide them to do their job.

Part of our job today is to begin to work to support them for the fiscal year 2004. Now, that is not an easy thing to do, because obviously, there is a lot going on in the world. We continue to fight the war on terrorism on several different fronts; and of course, we have the military activity in Iraq today.

So for us to predict ahead exactly what the military situation is going to be or what the homeland security situation is going to be in 2004 is not an easy thing to do. But what this budget does is to fully support, completely support the request of the President for defense and homeland security.

Now, it may be that extra funding is required for homeland security or defense when we get there. We have heard folks on the other side talk a lot about supplementals for 2003, but what we are focused on now is what is the appropriate amount in this budget to help keep America secure for 2004, given what we know now.

□ 1430

This budget supports the President. It is important to say that no amount of money can guarantee absolute safety. I am afraid, Mr. Chairman, that there is sometimes a tendency for us in Congress to spread money around liberally.

However, part of our responsibility, particularly with homeland security, is to make sure that money can be used well and effectively and really makes us safer; not just replacing one dollar with another dollar, but really makes us safer. So that is what this budget tries to do. It tries to advance three important goals with national security: to win the war on terrorism, to protect America's homeland, and to help prepare for future challenges.

First, of course, the war on terrorism is on the forefront of our minds with the operations in Iraq and the continuing efforts to deal with terrorists all around the world. This budget makes a clear commitment supporting the President to make sure that we provide our Nation with the best-trained, best-equipped, most effective military force anywhere in the world.

It allocates $380 billion for the Department of Defense. That is an increase of $15 billion over this year. It includes a substantial pay raise for our military. It includes substantial increases for operation and maintenance. It includes substantial increases for the weapons systems we buy. As a matter of fact, it is the highest procurement budget ever in the history of the country. It includes nearly $10 billion to help us develop and deploy defenses against ballistic missiles.

We have already seen in the Iraq conflict missiles of various ranges, and the threat that that can pose. Of course, there are other places in the world where that is important.

As pointed out, this budget does not include the direct operational costs of military engagement in Iraq because this is the 2004 budget. We will probably have a supplemental to deal with the 2003 costs here, but this is giving us the baseline for 2004.

A second goal is to help protect America's homeland. There is more than $40 billion here to help do that. It includes things like programs to buy vaccines for smallpox and anthrax and other sorts of biological warfare.

It includes $1.7 billion to help improve our border safety, which is absolutely critical to homeland security. It continues to put money into the Transportation Security Administration for air travel and other things, to make sure that our air travel and other transportation systems are safe.

It includes $3.5 billion in first responder training and equipment. There are other programs not included in the $3.5 billion, for example, in the Department of Justice, in the Centers for Disease Control, that also help local folks be ready to make our country safer. Again, this budget supports the President's request to try to use money smartly to make sure that we are really safer.

Thirdly, it helps to prepare for future challenges. With all that is going on in the world, we have to remember that there are other challenges ahead. We cannot see them clearly, but we know we have to do the research and development and training and testing and joint exercises for the military that help us prepare for that future day. So there is $61.8 billion for military research and development.

Overall, Mr. Chairman, for today and tomorrow, this budget helps make America safer.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we, too, fully fund homeland security. By the best of our reckoning, we are providing at least $24 billion over and above the increase that the President is providing. It is allocated among lots of different functions: community and regional development, the Justice Department. We have identified and also specified in a sense of the Congress that we have $24 billion there.

In addition, we have put into our budget resolution the stimulus proposal that we made on January 6 of this year. If it were adopted, there would be $10 billion for the States to undertake homeland security projects in places like seaports, which were woefully underprovided for.

In addition, Mr. Chairman, I would point out to everyone that in doing our budget, we have left a contingency reserve of $54 billion. It could be used for lots of things; but it could be used, among other things, for homeland defense and for national defense generally, if and when a supplemental comes.

I want to make it clear there is very, very little difference between us when it comes to national security, not at a time like this. We are fully providing for homeland security, and then some, in particular.

Mr. Chairman, I yield 2½ minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Chairman, I thank the gentleman from South Carolina for yielding time to me.

I am acutely aware, Mr. Chairman, that we are debating a budget at a time when the attention of this country is diverted thousands of miles abroad. It is a reality that much of what we say here today will be drowned out by the drumbeat of attention around the war.

However, it is my opinion that what we do and say today will not permanently go unnoticed. There will be a time when the attention of our constituents comes back home to the shores of the United States of America. When that time comes, I would submit to my friends on the other side of the aisle, they will not understand what it is that this budget seeks to do.

They will not understand that this budget asks us to cut a quarter billion dollars from Medicare at a time when the health of our seniors requires that Medicare be strengthened and not weakened. They will not understand cutting $100 billion from Medicaid at a time when our States are crying out for relief. They will not understand a budget that breaks a promissory note to our children by cutting funding for No Child Left Behind. They will not understand a budget that breaks faith with our veterans in a time of war by cutting $15 billion for veterans programs. They will not understand a budget that cuts the thread of the safety net at a time when millions of Americans are struggling through economic anxiety.

In short, Mr. Chairman, in a climate when so many of our people would have us do more to relieve their struggle, this budget would have us do less. There are undoubtedly some who think a wartime budget is incapable of being generous to the American people, but I would say in response that the forcefulness of our international will must be matched by the force of our commitment to the needs of our own people.

Our constituents will not reward this body if the reconstruction of another country is allowed to crowd out the pressing need to reconstruct this country and to make it whole.

There are reasoned arguments, Mr. Chairman, on behalf of all the Democratic alternatives today, but I would submit in conclusion that there is no argument that reflects this country's values that can fully be made on behalf of the Republican majority budget today. It is wrong, stunningly wrong, in its lack of ambition for the American people. It is wrong in its lack of compassion for those who are struggling in our society. It is wrong at wartime, just as it is in peacetime.

This budget leaves far too many Americans behind. It leaves far too many Americans, it leaves far too many States, who are struggling to fend for themselves. I would say this, Mr. Chairman: no country can be truly strong when too many of its people are weak. That is the obligation of this Congress today.

Mr. NUSSLE. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, in Washington sometimes people define cuts not as less money than the year before, but as decreases in anticipated increases. The gentleman who just spoke has issued yet a new one, that is, if we used to have a draft of a budget that possibly found some savings, now we can come and claim that as a cut. We are not cutting Medicare; we are increasing it.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN) to continue the discussion on national defense.

Mr. RYUN of Kansas. Mr. Chairman, I thank the chairman for his hard work on this budget.

I rise in support of the Republican budget passed by the Committee on the Budget because this budget has the right priorities. Every dollar spent by the Federal Government during these challenging economic times should be very carefully evaluated. When times are tight, we must prioritize, rooting out waste and abuse of government spending.

This budget holds the total spending increase to 3.1 percent. This is a modest increase that leads back to balance in 9 years. While I believe we could root out even more waste in Federal spending to maintain greater fiscal discipline, this budget takes a responsible step to keep us from passing even more debt to our children and to our grandchildren.

Especially at this time in our Nation's history, we are all too aware that a strong defense is necessary for the survival of our freedom. Key to our defense are the brave men and women who serve in our Armed Forces. We must retain our most experienced personnel and compensate them accordingly. This budget provides $98.6 billion for pay and benefits. It will allow for pay raises ranging from 2 percent to 6.5 percent, targeted by rank and years of experience.

As we are becoming aware of new threats to the safety here at home, we must ensure that new defenses are developed. This budget meets the President's request for $9.1 billion for the Missile Defense Agency to begin the development of defenses against long-range ballistic missile threats. This would provide a near-term defense against North Korean missiles.

Why is this critical? North Korea has already threatened our inspectors from the International Atomic Energy Agency and resumed missile testing. The CIA has reported that the Koreans are working on a missile that could hit the west coast of the United States, and they are widely suspected of beginning the process of taking the spent fuel rods from the reactor to extract plutonium.

It is clear that the need for missile defense is no longer in the realm of hypothetical. Developments like these missiles make a missile defense system critical to ensuring and securing our future. The Republican budget puts us on path to develop a missile defense system for next year.

I urge my colleagues to support this fiscally sound policy and support this particular bill.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Chairman, I thank the chairman for his hard work on this budget this year. I know it was a difficult time to have to face the budget restraints at this time.

Mr. Chairman, I rise today in support of the budget on veterans affairs for fiscal year 2004. As a member of both the Committee on Veterans' Affairs and the Committee on the Budget, I am pleased to lend my support to a budget resolution that fulfills America's promise to her veterans. There are currently 26 million veterans living in this country. This budget clearly reflects our solid commitment to them.

This resolution on the budget accepts the President's increase in funding providing an increase of $1.6 billion or 6.1 percent over last year. This represents the largest annual increase ever proposed by a President.

The Department of Veterans Affairs operates the largest direct health care delivery system in the country. Managing the large increase in the demands for veterans' health care services has consistently been the Department of Veterans Affairs greatest challenge. This budget meets the challenge as it accepts the President's request of $25.2 billion, an increase of $1.3 billion, or an increase of 5.6 percent in funding for veterans health care benefits.

Mr. Chairman, we should not let the other side of the aisle lead us to believe that we are leaving our veterans out. The number one commitment for my service in Congress is to look after the veterans and their families.

To achieve primary care access standards that compliment the quality standards of veterans health care, this budget allows for a sharper focus in the veterans health care system. Waiting times for an appointment at a VA medical clinic are as long as 1 year in some areas. Secretary Principi has pledged that this backlog for medical care will be eliminated by 2004.

Mr. Chairman, let us give the Secretary an opportunity to bring accountability to this organization.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say to my friend, the gentleman from South Carolina (Mr. BROWN), that this resolution on the floor calls for $15 billion in cost reduction of the veterans health care system. It also calls for a $15 billion decrease in mandatory programs, which means veterans' disability compensation.

We can argue over what is an increase or decrease, but every veterans organization in this town thinks that they are being hit and hit hard by this budget resolution. There is no doubt about it; it is still about a $28 billion or $29 billion hit after the minor modification the gentleman made to make this resolution presentable.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the very distinguished ranking Democrat on the Committee on the Budget for his tireless work in putting together a responsible budget.

We did not have a lot to work with, Mr. Chairman, because the other side has already taken nearly $2 trillion off the table in the tax cuts they have already enacted. That is why we could not come up with a budget that was responsible last year. We have come up with a budget this year that is the best that America can do under the circumstances.

Let me compare the two budgets. In the first place, in our budget, the Democrats achieve a balanced budget by 2010, 2 years earlier than the Republican budget. More importantly, Republicans incur $821 billion more of public debt than the Democratic budget. Which is the party of fiscal responsibility?

The Democratic budget has a fair, a fast-acting, and a fiscally responsible stimulus. None of these criteria is true for the Republican so-called economic growth package. In fact, less than 5 percent of the Republican economic growth package even occurs this year, when we are in a recession, when we need the stimulus. It does not happen. Yet our budget costs one-sixth as much as the Republican so-called economic growth package. We have $136 billion going straight into the economy this year, as opposed to only $42 billion from the Republican budget.

□ 1445

This is what people want to know. What is the budget going to do for me and my family? How is it going to help me get a job and be able to contribute back to this economy?

The Bipartisan Joint Economic Committee says that, in fact, the Democratic economic stimulus package, at one-sixth the cost, would generate 1,122,000 more jobs; the Republican budget half as much. For one-sixth the cost we generate twice as many jobs.

Many people have talked about the Medicare prescription drug issue. I think as people look at the Republican plan, they are going to see this is not an acceptable plan. We have a plan that, in fact, will provide prescription drug benefits to people who truly need them at a cost they can afford.

The last major area where we have a vastly different budget policy is in what we call nondefense domestic discretionary spending. That is the American people would take the big hit under the Republican budget. The President's budget already cut over $100 billion from the current services level over the next decade. This budget comes in and doubles that, $265 billion coming from the current services level right now. What does that mean? Let us go beyond the numbers. Let us look at the faces, the faces of the people that deserve and need help, veterans, poor mothers and kids on Medicaid, students' loans, retirees' pension cuts. This is what we are going to hear about in the debate. This is what is important. Pass the Democrat's budget proposal.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT), a member of the committee.

Mr. GARRETT of New Jersey. Mr. Chairman, I rise in support of this budget. The Committee on the Budget has passed a resolution that strikes the balance between the needs and the desires of this House and of the people of this country to provide for a better quality of life for all of us.

Since September 11, we have realized the threat of terrorism, a threat that is so great and so different than any before us. It knows no boundaries with regard to where it will strike and what time, and it certainly places no value on human life, and today, for that reason, we must step forward and address that threat.

After the vicious attack of September 11, we realized that we had to take immediate action to close the gaps in our homeland defense. We had to unify our efforts from the national to the State, county and local efforts, and this budget resolution takes a long step in getting that job done.

What this resolution does do is fully funds the President's request to defend our Nation against further terrorist attack. What this resolution does do is provide $41 billion in total homeland security funding.

As part of that effort, what the resolution does is provide in the budget $3.5 billion in funding. That is a $3 billion increase to ensure that every first responder is trained and has the equipment necessary to get the job done. More specifically, in the resolution it provides $500 million in grants to first responders so that they will have the equipment necessary should they have to respond to a terroristic threat, and the bill would also provide $500 million for State and local law enforcement with regard to terrorism prevention initiatives as well.

Moving closer to home, in New Jersey, we have just 10 miles from Bergen County a nuclear power plant. This resolution provides us with $619 million in an effort to protect our nuclear power plants across the Nation because we know there are nuclear power plants, if they were ever struck, would have a devastating impact on all citizens.

Mr. Chairman, I would just in closing say that we must move ahead on this resolution. Support this resolution. Protect the quality of life and homeland security for all Americans.

Mr. Chairman, I rise in support of the House budget resolution for fiscal year 2004. Last week, in the early morning hours, I along with my fellow colleagues on the House Budget Committee passed a resolution that strikes a balance among America's competing demands, weigh desires against needs and sets a plan to fund programs that improve the quality of life for all Americans.

Since September 11, our country has realized the threat of a new wave of terrorism. A threat so great that it knows no boundary to whom or where it strikes and places no value on human life. And today, we are still at risk to this new and changing threat. This is a war, the likes of which no nation has ever faced before.

To protect our communities and neighborhoods, we must continue to take the necessary steps to develop a national, State, and local strategy for homeland security. Mr. Chairman, the fiscal year 2004 budget that is before us is committed to making our homeland safe.

Homeland security is an important priority and our budget fully funds President Bush's request to defend our Nation against further terrorist attacks. By providing $41 billion in total homeland security spending, this budget provides the newly created Department of Homeland Security and related agencies with all the resources necessary to protect our homeland from terrorist attacks.

As part of our continued commitment to America's First Responders, our budget proposes $3.5 billion—a $3 billion increase over fiscal year 2003, to ensure every first responder is properly trained and equipped. Mr. Chairman, this budget provides a significant increase for the nearly 3 million State and local First Responders who regularly put their lives on the line day after day to protect the lives of others and make our country safer.

More specifically, we have provided $500 million in grants to firefighters for health and safety equipment and vehicles as they prepare to respond to possible future terrorist incidents. And we have also included an additional $500 million for State and local law enforcement terrorism prevention initiatives. Finally, there is $181 million for the Citizen Corps initiative to engage individuals in helping communities prevent, prepare for and respond to disasters of all kinds, including terrorist attacks.

Our nuclear power plants if struck would also prove devastating to all citizens. This budget provides $619 million in an effort to protect our nuclear power plants across the country, including Indian Point Nuclear Plant less than 10 miles from Bergen County, NJ.

Mr. Chairman, our budget also provides the Coast Guard with $5.7 billion—an increase of $503 million to ensure that they have the adequate resources necessary to better protect our ports, cargo, and coastal areas. Mr. Chairman, when it comes to securing our homeland, the Coast Guard serves a vital and significant mission. In this post-September 11 world, where only 2 percent of the cargo that enters our ports is actually screened, we have created a budget that fully supports our Coast Guard as a component of the National Strategy for Homeland Security.

Specifically, this budget provides $65 million to deploy six new Maritime Safety and Security Teams to respond to terrorist threats or incidents in domestic ports and waterways and $20 million to hire additional personnel for search and rescue and shore based command centers.

Mr. Chairman, for all of the cargo that enters the Ports of Newark and Elizabeth, in New Jersey, the third largest in the United States and the premier port on the eastern seaboard, I strongly urge my fellow colleagues in the House to support this budget.

As we continue to be engaged in the newest and most difficult war of the 21st century, it has become a day to day responsibility that we are ready on a permanent basis to protect our country. And we owe it to every national, State, and local homeland security employee, as well as ourselves and our families that we give them the support they need to protect America.

After the vicious attacks of September 11, 2001, we realize we had to take immediate action to close the gaps in our defenses on land, sea and in the air. We had to unify our homeland security efforts under one roof and under one chain of command. To meet the ever changing threat, we had to be able to immediately deploy the men and women of the homeland security department wherever and whenever they were needed.

Mr. Chairman, this budget does just that. There is no doubt in my mind that by working together, demonstrating courage and a strong moral character we will prevail in this war against terror.

Mr. SPRATT. Mr. Chairman, I yield 15 minutes to the gentleman from California (Mr. THOMPSON), and I ask unanimous consent that he be permitted to yield blocks of time.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. THOMPSON of California. Mr. Chairman, I yield myself such time as I may consume. I thank the gentleman from South Carolina (Mr. SPRATT) for the time, and for his good work on this budget. It is a matter of economic security.

Mr. Chairman, I believe that the easiest way that we can ensure economic security to this Nation is to pass a budget that actually balances. The other side will argue that theirs does, but we know that it does not, not unless we use the Social Security Trust Fund to pay down the debt, and that is not really balancing. It is breaking a promise to the American people and raiding a priority to pay for a select tax expenditure.

In this time of sacrifice, we are debating the passage of a budget that increases the debt and takes money away from programs that help our most deserving, our seniors and our veterans.

This budget cuts almost $107 billion from the Medicaid program and $62 billion from the Medicare program, and in this time of war, this budget cuts our veterans programs by $30 billion.

I received a letter today from one of my constituents, Florence Newton from Humboldt County, California, a retired marine, who sent me an article that talks about the 7-month wait for veterans to get an appointment with the VA, and she asks is there not something we can do about this? She describes the situation with one word, unconscionable, and she is right. It is unconscionable that we are slashing these critical programs, and it is even more unconscionable that we are doing so to finance a $1.6 trillion tax expenditure.

Today, the Blue Dogs will introduce an alternative that does balance the budget and does so without raiding Social Security. It adopts the spending level in the President's budget proposal, reserves money for the Medicare prescription drug program, provides immediate and targeted tax relief to all taxpayers, particularly those middle-class families, and it has $1.35 trillion less debt than the Republican budget, reducing the amount of money we spend on paying interest on the debt, which currently costs us $1 billion a day, reducing it by $250 billion.

It acknowledges the fact that we are a Nation at war. It pays for the war, and it provides funding, $24 billion for our veterans programs. This means funding for discretionary veterans programs like the VA Health Care Program, the service-connected disabilities and burial benefits, all of which are cut drastically by the Republican proposal that is on the floor today.

The Blue Dog budget responds to the concerns of constituents like Florence Newton, who are finding our financial affairs and the resulting shortage in services to be unconscionable. I am proud to stand behind the Blue Dog alternative which provides this Nation with the economic certainty it needs in these uncertain times and into the future.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. SCOTT), a distinguished new Member of the House that spent 20 years on the appropriations committee in Georgia balancing their budget.

Mr. SCOTT of Georgia. Mr. Chairman, I certainly appreciate those kind words that the gentleman had to say.

It is very important for us to understand exactly where we are right now, and let me start by setting the stage of my remarks by sharing with my colleagues the words of William Shakespeare, who said in Julius Caesar, when Julius Caeser was being stabbed, he said, "O, Brutus, yours is the meanest cut of all." That is what these veterans are saying today.

To my friends from the Republican Party and their alternative in their budget, it is the meanest cut of all, to cut our veterans at this time, at this day, at this hour when we are watching television and we see over in the Middle East where our men and women in uniform are putting their lives on the line, and what are we doing here? What is the Republican answer to that, to our military veterans? To cut them by $15 billion. Indeed, the meanest cut of all.

My colleagues talk about conservative compassionism. I am here to tell my colleagues, this is not conservative compassionism. This is downright conservative meanness. It is mean to cut our military and our veterans, by any amount. They need help.

Fifteen billion dollars is going to eliminate 200,000 of our veterans off the rolls. It is going to fold and close up 400,000 hospital beds. That is meanness. We need to turn it around and follow our Blue Dog coalition budget, which is very responsible. We are not cutting the budget for Veterans Affairs by $15 billion. No. We are adding to that by $24 billion. That is what the American people want, and at no time is it better to send the right message.

I conclude my remarks by simply saying, what better time is there to stand and give our veterans respect than at this important moment in our history?

Mr. Chairman, the Nussle budget focuses on fiscally irresponsible tax cuts, while failing to address priorities and commitments to working families, the elderly, and veteran. What concerns me is that future generations will pay for the deficits created by this budget, while our veteran's will pay now.

On Monday the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans called on Congress to scrap proposed budget cuts in disability compensation, pensions, and healthcare to offset the costs of tax breaks and huge spending increases on defense and homeland security.

The Nussle budget cuts approximately $15.1 billion from veterans programs, of which $844 is cut from veterans health care programs. This could eliminate enrollment for 168,000 veterans, necessitate 400,000 fewer hospital bed days of care, or reduce the number of nurses by 8,700.

Further, according to the VA's own national data, over 200,000 veterans are waiting 6 months or more just to get in the VA Medical System and it can take over 18 for certain types of specialty treatments.

Our Nation cannot commit men and women to fight overseas while reducing the health care and benefits that our veterans have earned risking their lives serving their country.

It is unbelievable that the Nussle budget cuts funding for veterans' programs to offset the costs of tax cuts for the wealthy.

The Blue Dog budget, which I support, contains $24 billion more funding for veterans programs than the Nussle budget. It contains $9 billion more for discretionary veterans programs such as VA health care, and does not require the Veterans Affairs Committee to reduce spending on veterans benefits and other mandatory veterans programs by $15 billion as the Nussle budget would do.

I support the President and his efforts to oust Saddam Hussein from power. I want to give him as much support as possible to help pay for this conflict. This budget resolution contains no funding for a military conflict with Iraq or the post-conflict occupation and reconstruction costs that will follow.

The costs of the war with Iraq will largely be borne by the United States taxpayer and prudent fiscal policy requires that these costs must be included within the budget resolution.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCHROCK), a member of the committee.

Mr. SCHROCK. Mr. Chairman, I thank the gentleman from Iowa (Mr. NUSSLE) for the magnificent job he has done in putting this budget resolution together.

Mr. Chairman, the House Republican budget recognizes that the single most important defense investment we can make is in our military personnel, the men and women of our Armed Forces. That is why our budget includes initiatives to allow the Department of Defense to continue to recruit, train and retain the highest-quality personnel in the world.

Our budget assumes $98.6 billion for paying benefits. The increase funds a range of military pay increases from 2 percent to 6.5 percent targeted by rank and years of service. This initiative is intended to retain DOD's most experienced personnel. For our Green Berets and other elite units who play a critical role in the war against terrorism, our budget provides $4.5 billion, which is a 47 percent increase.

Our budget also provides for full funding of health care benefits for Active Duty members, retirees and their dependents.

Our budget provides for an array of quality-of-life initiatives for our military personnel, including improving military housing. For many years military housing has been one of the trouble spots in the defense budget with inadequate housing and substantial out-of-pocket costs to our service personnel, but our budget continues the efforts that the administration has made over the past 2 years to improve conditions by providing for $1.2 billion to build and renovate 44 barracks with 13,000 living spaces.

There is $167 million to construct and modernize seven medical treatment centers and $87 million for two new elementary schools for dependents, as well as for school renovations.

Our budget also reduces out-of-pocket housing costs from 7.5 percent to 3.5 percent for personnel living in private housing, and last, these costs are scheduled to drop to zero in fiscal year 2005.

Mr. THOMPSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), an esteemed Blue Dog colleague and former first lieutenant with the 101st Airborne in Vietnam.

Mr. BOYD. Mr. Chairman, I want to thank my friend and colleague from California for yielding me the time.

Mr. Chairman, I rise in strong opposition to the Republican budget and in support of the Blue Dog alternative. I would like to discuss three major problems with the Republican budget that we have before us.

First of all, I want to talk about Medicaid. I think most of my colleagues have seen this chart. These are reconciliation instructions included in the Republican budget which would require the Committee on Energy and

Commerce to cut $107 billion, $107 billion over the next decade out of Medicaid.

I have talked to some of my hospital folks and began to ask questions about where these cuts may come from, and they believe that the major portion of those cuts will have to come out of an account we call the disproportionate share for hospitals, that is, DSH payments, which are payments made to our hospitals who are providing the major portion of indigent care.

There are 86 hospitals in Florida which receive DSH payments for a total of $221 million. Many of those are rural hospitals, 27 of them. All 27 of those rural hospitals in Florida, for the most part, are in financial trouble, and I believe and the hospitals believe that that account will have to be cut by some 80 percent to meet these reconciliation instructions.

If that is not bad enough, let us look at the farm bill that this Congress just enacted last year. We are telling farmers now and consumers, forget what we did last year, let the farm bill debate begin again. This budget requires the House Committee on Agriculture to cut about $18.6 billion out of programs that were enacted last year in the farm bill. What will be cut? Nutrition programs that provide food for those less fortunate, or will we cut it out of the record low margins that the farmers are getting in the marketplace now?

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Mr. Chairman, we are trying hard in this country to keep a viable agricultural industry so we can produce our own food and fiber and not put ourselves in the situation that we are in with oil. That is what will happen if we abandon this farm bill.

Third, what we are doing to veterans is not acceptable. Many of my Republican colleagues have said we are just slowing down the growth. That is malarkey. That would be true if the number of people being treated in the veterans hospitals was not going to explode in the next decade, but we know it is. Today, within 24 hours of the time our troops have invaded Iraq, we are standing on the floor with a budget that cuts billions of dollars out of current veterans programs. It is unconscionable. I ask Members to reject the Republican budget and support the Blue Dog budget, which is responsible on the spending side and gets us into balance by 2009.

Mr. NUSSLE. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I have to scratch my head and wonder out loud how, when we increase the veterans budget in our budget 6.1 percent, the other side of the aisle can call that a cut, yet that is what Member after Member comes to the floor and says.

Mr. Chairman, I yield 6 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on the Budget, to discuss the second important plank of our budget, and that is economic growth and job creation.

Mr. PORTMAN. Mr. Chairman, the gentleman from Texas (Mr. THORNBERRY) and I have spoken about the fact that this budget protects our country, our national defense, and our homeland security. And nothing is more important this afternoon, as this is a very critical time in the Persian Gulf. Our troops are committed, and we are committed to them.

However, this budget meets another challenge, and that is the challenge of strengthening the American economy and creating new jobs. Promoting growth in this economy and getting people back to work is a top priority of ours, and it is reflected in this budget. That is why it provides for policies that create an economic environment for boosting both long-term and short-term growth. In particular, the budget leaves room for President Bush's jobs and economic growth plan to strengthen the economy by providing an immediate stimulus to help struggling American workers and by laying the groundwork to promote long-term, sustainable growth in our Nation's economy.

A Member on the other side of the aisle called this growth package irresponsible. We do not think it is irresponsible to bolster household finances or encourage consumer spending. We do not think it is irresponsible to promote investment because it leads to job creation, and we do not think it is irresponsible to help the unemployed get back to work. That is what this budget does.

Mr. Chairman, 2 years ago we passed tax relief that not only put money back in people's pockets, but it slowed an advancing recession that President Bush inherited. The 2001 tax relief plan made that recession the mildest in history, and it created 1.5 million new jobs. Without the leadership this Congress showed on a bipartisan basis and this President showed, the recession and the job loss would have been far worse when America came under attack on September 11, 2001.

Now in this budget we provide for the President's economic growth package which will create new jobs and sustain growth. The plan accelerates the reductions in personal income tax rates, the marriage penalty relief in the 2001 tax cuts. It accelerates the child tax credits from 2001. It increases small business expensing, and it eliminates the unfair double taxation of dividend income.

Experts generally agree that this proposal will boost stock prices dramatically. Some say 7 percent, some say 20 percent. The fact is, we are going to add significantly to the value of our stock market, which helps all of us as Americans, including half of all American families now invested in the market. It helps the economy in general.

Economists also say it is going to lower unemployment rates for the next several years. In fact, the average of private forecasters' estimates show the President's plan will result in more than 1 million new jobs by the end of next year. It goes without saying that America is still dealing with the aftermath of the September 11 terrorist attacks and with the continued uncertainty on the international front, including in Iraq today. Our economy is not performing as it should, and too many Americans are out of work.

This budget resolution is responsive because it helps get the economy going again; and when that happens, revenues grow. It happened in the 1960s under the leadership of President John Kennedy, and it happened in the 1980s with President Reagan's tax relief plan because it was pro-growth.

Here is a chart which indicates the Reagan-era revenues. Look at this, from 1982 until 1989, the dramatic increase in revenues. Again 1960s, 1980s. That is what we are trying to replicate now.

Mr. Chairman, with the growth package, we are also going to be able to be sure we can afford these tax cuts. I have heard Members say we cannot afford them; it is good to have growth tax packages, but we cannot afford it. This is an interesting chart. This is a static analysis, meaning it shows absolutely no impact of the tax relief, which has countered everything we have seen in history.

When we provide that incentive for job creation, it increases revenue. It helps the budget, but this assumes none of that happens. Just to have the tax relief in place, this is the difference. The red on the chart shows what the budget would be like with the tax relief taken out altogether. No tax relief at all. The green shows the impact of all this pro-growth tax policy, again on a static analysis. As Members can see, it is a very small difference. The tax relief is not crowding out additional spending, it is growing the economy so we can get people back to work and grow our revenues.

Mr. Chairman, I would like to encourage Members on the other side of the aisle to listen to one of their former colleagues, currently a Governor in the State of New Mexico. Bill Richardson, who was also a member of the Clinton cabinet, has a plan for his State that restrains spending; and, yes, it reduces tax. Why? Because he knows it is going to help his State's economy and in the end help in terms of revenues. He has said and he offers this as free advice to his fellow Democrats. He said, "We Democrats need to stop talking about class warfare and distribution of wealth. We need to start talking about economic growth, and reducing taxes puts us on the road to economic growth." I think he is right. I always liked Bill Richardson, and now I know why. Well put.

Mr. Chairman, this is a responsible budget because it protects our country and because it grows the economy, gets the economy back on track and creates jobs.

Mr. THOMPSON of California. Mr. Chairman, I yield myself such time as I may consume.

The national chairman of the Disabled American Veterans wrote the gentleman from Illinois (Mr. HASTERT) and he said, "Has Congress no shame? Is there no honor left in the hallowed halls of our government that you choose to dishonor the sacrifices of our Nation's heroes and rob our programs, health care and disability compensation, to pay for tax cuts for the wealthy?"

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP), who represents a number of veterans at Fort Benning, Georgia.

Mr. BISHOP of Georgia. Mr. Chairman, I rise in strong support of the Blue Dog budget, a fair and balanced alternative to the harsh and misguided priorities of the Republican budget. The Blue Dog budget is fiscally responsible, combining spending restraint and budget enforcement to balance the budget and set us on a path to growth. The Blue Dog budget is balanced, protects Social Security, contains less debt than the Republican budget, and includes a reserve fund for the war in Iraq.

Make no mistake about it, the Blue Dog budget gives Americans more than the Republican budget, and it does so responsibly. It gives $10.4 billion more for discretionary programs in fiscal year 2004; $130 billion more for non-Medicare health care programs, primarily Medicaid; $30 billion more for education and training programs; more agriculture spending for commodity programs, conservation, crop insurance and nutrition programs; and $24 billion more for veterans programs than the Republican budget. All this with reasonable and fair tax cuts that cost only half as much as the Republican budget. For example, it speeds up the child tax credit, eliminates the marriage penalty, exempts $6 million per couple from the death tax, delays cuts for the two highest tax brackets.

The Blue Dog budget helps Americans with substantially less debt than the Republican budget without the deep cuts in important programs that help Americans and strengthen our position in these uncertain economic times. I urge Members to support the Blue Dog budget. It is a better budget. Reject the Republican budget. It is not good for America, and it is especially not good for America today in these uncertain economic times.

Mr. NUSSLE. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, just to respond to the points on the veterans' issues. First of all, we increase discretionary spending 6.1 percent on veterans, we increase the mandatory spending 7 percent, and they call that a cut. They ask us to honor veterans. In fact, in this country we honor veterans so much that we paid 5,500 of them benefits after they were dead. That is how much we honor veterans. That is why we need to look at every program for waste and abuse.

Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, as part of this budget, the President's job and economic growth plan is designed to strengthen the economy and allow Americans to keep more of their own money to spend, save, and invest. And I know my constituents in my district know how to spend their money better than we do in Washington.

The President's plan also calls for speeding up the tax relief passed in 2001 so families get the benefits of those tax cuts today, ending the unfair double taxation on dividends, giving small businesses incentives to grow, and providing help for unemployed Americans.

Let me read some statistics on the President's growth plan that has been dynamically scored. In this budget, the economy would enjoy an annual average of 837,000 new jobs from 2004 to 2013, with 997,000 and 1.03 million jobs in 2004 and 2005 respectively; an annual average of $69 billion in additional GDP from 2004 through 2013, with an increase of $84 billion in GDP in 2004 alone; an average of $120 billion in additional disposable income from 2004 through 2013. And also in 2004 through 2013, if we talk about the dividend plan alone, we are talking about 69 percent in job growth, a 72 percent increase in GDP growth, $50 billion, and a 64 percent increase in additional disposable income.

Mr. Chairman, this budget is the right budget for the country and this stimulus package is the right package for growth and economic prosperity.

Mr. THOMPSON of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Chairman, I applaud the Committee on Rules for making in order the Blue Dog budget alternative, and I urge Members on the other side of the aisle to take this opportunity to support a responsible budget. By allowing the Blue Dogs to offer our budget substitute, the Republican leadership has finally acknowledged that the House needs to have an honest debate on a sensible alternative to the majority's unrealistic and irresponsible budget resolution.

The Republican budget operates under the fiction that our country can afford a tax cut of $1.35 trillion as the United States embarks upon a necessary mission to liberate Iraq. The attempt to proceed with new tax cuts during a time of war is without precedent in American history, and for good reason.

The Republican budget resolution does not take into account our country's current economic and military situation. It is stubbornly stuck in the past. In their delusional attempt to provide new tax cuts while fighting a war and simultaneously attempting to balance the budget, the majority will succeed only in a failed attempt to balance the budget on the backs of our Nation's senior citizens, our veterans, our students, our farmers, our economically disadvantaged. How in the world the majority can propose spending cuts in veterans health care during a time of war is beyond me, and the Veterans of Foreign Wars and the Paralyzed Veterans of America share my amazement.

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Our good friend indicated that they were doing everything for veterans. It is very funny that the veterans organizations do not agree with it and do not adopt that posture. The Blue Dog substitute will balance the Federal budget in 10 years without relying on the Social Security surplus and without sacrificing our Nation's veterans and our seniors. At the same time, the Blue Dogs provide both immediate and long-term tax relief to American taxpayers. This relief consists largely of an acceleration of cuts already scheduled. Further, the Blue Dogs are committed to sticking with the President's overall funding levels for defense and nondefense discretionary spending.

I urge my colleagues on the other side of the aisle to join the Blue Dogs in our effort to support the President and support his total funding levels. I urge every Member of the House to support the reasonable, responsible Blue Dog budget alternative.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BONNER), a member of the committee.

Mr. BONNER. Mr. Chairman, I rise in strong support of the budget resolution. Let me commend the gentleman from Iowa for his hard work in developing this budget. The product of his effort is bold and innovative, and it deserves our support. Economic growth is the cornerstone of our Republican budget. Too many Americans, too many of my constituents in south Alabama, are struggling to make ends meet. This budget works to grow our economy and to get unemployed Americans back to work.

We assume the President's jobs and economic growth package because it provides an immediate boost to our struggling American workers, and it lays the groundwork for the long-term, sustainable growth of our Nation's economy.

The President's tax cuts were always intended to promote long-term, sustainable growth. Our budget calls for accelerating these tax cuts, because taxpayers and the economy deserve this extra support now. These tax cuts would allow workers to keep more of their hard-earned money to spend as they see fit. With more disposable income, it will be these workers who will propel our economy back to a state of sustained health and growth.

I am particularly glad to note that the 2001 tax cuts would be made permanent, allowing us to avoid a de facto tax increase in the year 2010.

Mr. Chairman, there are plenty of reasons to support this budget. I think one of the most compelling reasons, however, is that it provides the right medicine at the right time to create jobs and get our economy growing again.

Mr. THOMPSON of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), ranking member of the Permanent Select Committee on Intelligence.

Ms. HARMAN. I thank the gentleman from California for yielding me this time.

Mr. Chairman, at this time I am guessing that most Americans are watching events unfold in Iraq on their television sets. These are the events they should be watching, not this debate on a budget that does not even include expenses for the war and the reconstruction effort in Iraq. If I had my way, we would be talking about that war all day today, or if we were debating a budget, we would be debating a wartime budget that called on us to make real sacrifices. That is not what we are doing. We are debating a set of resolutions, the best of which by far is the Blue Dog resolution, and I rise to support it.

I represent smart constituents. They know that money does not grow on trees. They do not want a tax cut, and they are not asking for it. They do not want trillion-dollar budget deficits, and they certainly are not asking for them. Indeed, in contrast to the yawn of a response the administration gave to projected deficits, my constituents understand the serious fiscal consequences of hemorrhaging red ink.

Rather than punt this issue to future generations as the Committee on the Budget proposes, families in my district, like families everywhere, expect Democrats and Republicans to sit down together and make tough choices on what our government can afford now and what we must defer.

That is where the Blue Dogs come in. Frankly, the Blue Dogs are one of the few groups around this place that have the integrity and expertise to present a credible budget alternative. The Blue Dog budget makes reasonable and fiscally prudent assumptions about spending and tax policy and achieves a budget surplus by 2009. It is fair and fiscally responsible, and I am very proud to support it.

The Blue Dogs have long been leaders in the fight for a balanced and fiscally responsible budget. They have made the hard decisions expected of policymakers, and we have the welts to show for it. I urge my colleagues to support the Blue Dog budget proposal which will be offered later in this debate.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. MCCOTTER), a member of the committee.

Mr. MCCOTTER. Mr. Chairman, we cannot quantify the cost of our freedom; however, in passing a budget we must calculate the cost of our homeland security and our household security. To fulfil this duty, we are best guided by the verities of our history. A war runs a deficit, and, with determination, we retain our freedom and inevitably regain our prosperity. Truly our Nation's homeland security and household security are best served by budgetary balance born out of fiscal discipline. But sadly there come moments when time connives and fate conspires to preclude us from budgetary balance, and we must sacrifice in the present to strengthen our future.

Mr. Chairman, our Nation has been at war since September 11, a war on terror of which Operation Iraqi Freedom is the most recent theater. It has been, is and will continue to be a struggle of momentous sacrifice, yet we will prevail, and we will prosper.

This budget, which restores us to balance in 9 years, will speed our path to peace and prosperity. For after each year of this budget, our deficit diminishes, our homeland security increases, and our household security increases. Yes, this is a difficult budget for these difficult times because it is a war budget in a time of war. Mr. Chairman, to preserve and promote our Nation's security, opportunity and prosperity, I urge its passage.

Mr. THOMPSON of California. Mr. Chairman, I yield myself the balance of my time.

I just want to reiterate my support for the Blue Dog budget, a budget that is balanced, it reduces the debt, and provides a reasonable level of services to our veterans and our seniors. Unlike the majority budget, it does it without robbing from Social Security, Medicare and the veterans programs. I urge everybody on both sides of the aisle to vote for the Blue Dog budget.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. I thank the gentleman very much for yielding me this time.

Mr. Chairman, today in Northampton, Massachusetts, they are having problems funding a homeless shelter for veterans. As we watched the morning headline and the evening newscast, we are struck by the brave commitment of our men and women on the borders of Iraq and perhaps, as I speak, within the borders of Iraq as they prepare for an all-out invasion of Iraq. At a moment like this when we are watching this commitment, it is important to think of the significant and personal sacrifices these brave men and women are making. But at the same time that we are creating hundreds of thousands of new veterans through their distinguished service, the Congress today debates a Republican budget that mandates cuts in veterans programs.

I talk to these folks at the Northampton VA, I meet with them regularly, and they point out there simply is less money every year in the VA for honoring the commitment we made to our soldiers.

I know that the Republicans today through another manager's amendment, only because when they went back to their membership, the membership said to them, "what are you thinking of," that they have added in this amendment a few more dollars in an attempt to ameliorate some of their cuts. But the compelling truth is that this nominal increase will quickly be overcome by more than 2 percent in annual cuts in the years following. According to the Congressional Budget Office, their spending on veterans' health care and benefits is not enough to maintain purchasing power, which simply means real cuts in veterans programs.

As the National Commander of the Disabled American Veterans said of this budget being proposed by the majority Republican Party in this Congress, "This budget dishonors the service of millions of service-connected disabled veterans, including combat-disabled veterans, and seriously erodes the Nation's commitment to care for its defenders."

Stand strong today for the Democratic proposal. Honor the commitment we made to our veterans and vote down this Republican budget proposal.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
*Washington, DC, March 20, 2003.*

AMERICAN LEGION DECLARES SPRATT BUDGET "BETTER APPROACH"

DEAR COLLEAGUE: The Republican budget that will be considered on the floor today cuts discretionary funding for veterans health care below the level needed to maintain purchasing power at the 2003 level by a total of $14.2 billion over ten years. Their budget also directs the Veterans' Affairs Committee to cut $14.6 billion from mandatory benefit payments to veterans, including compensation for service-connected disabilities, burial benefits, and veterans education benefits.

Unlike the Republican budget, the Democratic alternative rejects any cuts to veterans' benefits over the next ten years. And it addresses the rising demand for veterans health care by funding veterans' health programs, including medical research and construction, at $2 billion above the level needed to maintain purchasing power at the 2003 level over the next ten years. For 2004, the Democratic budget provides $633 million more for veterans programs than the Republican plan, and it provides $30.3 billion more for veterans than the House Republican budget over ten years. The American Legion calls the Democratic alternative "a much better approach toward reaching a balanced budget".

The four groups—Disabled American Veterans, AMVETS, Paralyzed Veterans of America, and the Veterans of Foreign Wars—that assess the needs of veterans and the funding they believe is required to meet those needs, known as The Independent Budget, have reviewed the Republican plan and the Democratic alternative and have concluded that the Democratic alternative "represents a solid step forward in meeting the very real needs of veterans".

I have attached these letters and ask that you give them your attention before you vote on the Budget Resolution today.

Sincerely,

JOHN M. SPRATT, Jr.
*Ranking Member.*

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MARCH 19, 2003.

THE INDEPENDENT BUDGET

A BUDGET FOR VETERANS BY VETERANS

Hon. JOHN M. SPRATT, Jr.,
*Ranking Member, Committee on the Budget, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR REPRESENTATIVE SPRATT: On behalf of the co-authors of the Independent Budget, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and the Veterans of Foreign Wars, we are writing to offer our appreciation for introducing the Democratic Alternative to the Budget Committee's Budget Resolution, H. Con. Res. 95. Although this Alternative Budget Resolution does not provide all the resources for veterans' health care that we feel are necessary, it does recommend $1.1 billion in additional discretionary spending in FY 2004, and $17 billion more over the course of 10 years. In addition, and perhaps most importantly, the Alternative Budget Resolution does not include the draconian cuts to Department of Veterans Affairs (VA) mandatory programs that are contained in H. Con. Res. 95.

To require deep cuts in VA mandatory programs, $463 million in FY 2004 and $15 billion over ten years, that are called for in H. Con. Res. 95 is unconscionable. We do not consider payments to wartime-disabled veterans, pensions to the poorest disabled veterans, burial benefits and G.I. Bill benefits for soldiers returning from Afghanistan to be "fraud, waste and abuse." These would be the very programs directly affected by the Budget Resolution approved by the Committee. In addition, we note that H. Con. Res. 95 provides fewer discretionary dollars in FY 2004 than was recommended by the Administration. We are all on record as recommending close to $2 billion in additional funding, above the $1.3 billion recommended by the Administration, for VA health care, and we find it difficult to see how H. Con. Res. 95 can even match the President's inadequate request.

Again, we applaud your efforts to negate the cuts in VA mandatory programs and provide $1.1 billion in discretionary spending above H. Con. Res. 95 in FY 2004, and $17 billion more over the course of 10 years. Although not meeting The Independent Budget recommendation for VA health care, the Democratic Alternative Budget Resolution represents a solid step forward in meeting the very real needs of veterans, and those who will soon be veterans.

Sincerely,

RICK JONES,
*National Legislative Director, AMVETS.*
JOSEPH A. VIOLANTE,
*National Legislative Director, Disabled American Veterans.*
RICHARD B. FULLER,
*National Legislative Director, Paralyzed Veterans of America.*
DENNIS CULLINAN,
*National Legislative Director, Veterans of Foreign Wars of the United States.*

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THE AMERICAN LEGION,
*Washington, DC, March 19, 2003.*

Hon. JAMES A. NUSSLE,
*Chairman, Committee on the Budget, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The American Legion is deeply troubled by the impact H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, would have on veterans, especially severely service-connected disabled veterans, and their families. Forced budgetary reductions in mandatory and discretionary funding is not in the best interest of disabled veterans, recently separated veterans, and active-duty service members entitled to certain VA benefits that are funded by mandatory appropriations. Therefore, The American Legion must oppose H. Con. Res. 95 passed by the Committee.

Representative Spratt, the Committee's Ranking Democratic Member, shared with The American Legion and other veterans' service organizations the Democratic Alternative. After careful review, The American Legion agrees the alternative is a much better approach toward reaching a balanced budget.

The American Legion is also aware that the Blue Dog Coalition and the Congressional Black Caucus may also offer alternatives as well. Although The American Legion has not seen these proposals, it is clear there is much work to be done before final passage of the Budget Resolution for FY 2004, especially one that treats earned benefits of American veterans fairly.

Veterans did not cause the budgetary shortfalls and should not be financially penalized in the name of fiscal responsibility. Much has been said that all Americans must be willing to make sacrifices to eliminate the budget deficit—severely service-connected disabled veterans have already made significant, personal sacrifices for their earned entitlements.

Sincerely,

STEVE ROBERTSON,
*Director,*
*National Legislative Commission.*

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[From the Washington Post, Mar. 20, 2003]

CHANGES AT VA VEX ADVOCATES FOR HOMELESS

(By Edward Walsh)

John F. Downing doesn't understand why he was turned down for federal funds.

Eighteen months ago, he took over a successful program that every night provides shelter and counseling to as many as 120 homeless veterans in western Massachusetts. When United Veterans of America, where he is the executive director, applied last year for renewal of a federal grant that subsidizes the cost of half of the 120 beds at the facility, he thought it would sail through. It didn't, leaving Downing angry and perplexed.

"The whole thing is preposterous to us," he said.

Peter H. Dougherty understands why Downing is miffed. As director of homeless programs at the Department of Veterans Affairs, Dougherty is positioned at the other end of the bureaucratic process that decides such matters. But while Dougherty has sympathy for the complaints from Massachusetts, from where he sits in Washington, the VA's program for homeless veterans is doing just fine.

"I don't blame them, but in the meantime thousands more homeless vets are getting service," Dougherty said. Recent research suggests that veterans account for about 23 percent, or 460,000 of the 2 million adults who experience homelessness over the course of a year.

These competing perspectives—one from the nation's capital, the other from Northampton, Mass.—are the result of policy decisions that had nothing to do with the 60 beds that Downing is fighting to preserve. The private facility on the grounds of a VA medical center in Northampton was not so much rejected for renewed federal funding as it fell victim to vastly increased competition for a limited amount of money that the VA made available for the homeless veterans program.

The key step that threatens the federal subsidy to half of the beds at the facility was the VA's decision to merge two programs for homeless veterans into one. Two years ago, the VA received 67 requests for the operating subsidies, known as the "per diem only program," and approved 53 of the applications. The grants provided $19 per bed per night to help run homeless shelters.

But in the most recent round of awards of operating subsidies, announced in December, 252 private agencies, including United Veterans of America, sought help from the VA, but again only 53 were approved. More than one third of the applicants had previously operated with help from the other VA homeless program that was merged with the per diem only program. There was also a sharp increase in interest in the program, with 125 new agencies for the first time seeking a VA operating subsidy.

More than half of the homeless shelters that applied for renewal of existing VA subsidies were turned down in the latest round. This has led to suspicions among some that the administration gave preference to shelters run by "faith-based" organizations, furthering President Bush's goal of boosting the role of such organizations. The VA added to this impression by boasting, in its announcement of the new awards, that more than 40 percent of the recipients were faith-based organizations.

But Dougherty and other VA officials deny that faith-based organizations were given any advantage.

"What we're doing is what the administration asked for, and that is to have a level playing field," Dougherty said. When per diem only subsidies were awarded in 2000, faith-based organizations accounted for 35 percent of the recipients, he said.

But the "level playing field" meant that homeless programs already operating with VA subsidies also did not receive any special consideration, although Dougherty said the panels of VA officials who made the selections would be aware if an application was for a renewal and would probably factor that into their decisions.

VA officials defend the decision to merge the two homeless programs. Under the second program, known as Health Care for Homeless Veterans, VA medical facilities contracted with local residential facilities to take in homeless veterans. But officials said that program was more expensive, costing an average of $39 per day per veteran, than the per diem only subsidies and essentially served the same population.

"We looked to see if there were any distinctions between veterans in both programs," said Gay Koerber, VA's associate chief consultant for health care for homeless veterans. "There was no difference in their health problems, substance abuse problems; they were about the same age. Based on that, it seemed much more cost-effective to shift resources into the per diem program."

Koerber and Dougherty also note that, under a variety of VA programs, the number of beds available continues to grow and that the operating subsidy is scheduled to increase from $19 to $26.95 a day. The other 60 beds at the Northampton facility, for example, continue to be supported under a VA program designed to enlarge the number of beds available nationwide.

Downing and others have complained that not a single application from Massachusetts was approved by the VA in the latest round, but, according to Koerber, the agency is helping to operate 247 beds for homeless veterans in the state (not counting the 60 that will lose the subsidy at the end of this month), the fourth-highest total among the 50 states.

All of this is scant comfort to Downing, who views the program from Northampton, not Washington.

"I have a commitment to veterans and to this facility to keep as many people safe and sober as we can," he said. "Our issue has been we don't want to put anybody back on the streets."

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MARIO DIAZ-BALART), a member of the committee.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, first I would like to commend the gentleman from Iowa on this great budget resolution that adheres to the principles that this Chamber has been speaking about forever, fiscal discipline, tax relief, and job creation. This budget resolution includes President Bush's job growth plan, which provides immediate help for Americans who are facing very difficult economic times right now, and also lays the groundwork for strong and sustained economic growth in the future. This plan will boost job growth by 2.1 million jobs over the next 3 years. In my home State alone, Florida, it will create 54,000 jobs in 2004, and almost 250,000 jobs will be created over the next 4 years. Small businesses, sometimes an entity that is forgotten so much in these conversations, will receive tax cuts averaging over $2,000 under this budget, this plan.

The long-term tax incentives will not only help job growth, but it will also create, as I said before, long-term financial security for all Americans in our wonderful country.

I keep hearing about this Blue Dog budget, but this Blue Dog Democratic alternative increases taxes, increases taxes on Americans that are struggling right now to pay their rent, to pay their mortgage, to keep their jobs. It increases taxes to hire more bureaucrats. They may call it a Blue Dog plan, but when you take off the dressing, it is just a dog. Increasing taxes in America in this day and age will do nothing to help the economy. It will slow down economic growth.

That is why this plan, the Republican plan, makes so much sense. It is the right plan for the right time. It is one that will increase jobs, not decrease; that will lower taxes on working Americans, lower taxes on small businesses, not increase taxes to hire more bureaucrats here in Washington.

It is time to bring common sense. This budget does so.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Chairman, a few years ago, we were asked to pass the budget, the Republican budget. We passed it. This is the economic growth over the last few years. We got the lowest economic growth that we have gotten in 50 years. We also have a budget that creates new debt.

This is the surplus and deficit over the past few years. You will notice it under Reagan and Bush; the Clinton budget, which was passed without any Republican help; President Bush came in, and we are back down into deficit.

This is called a wartime budget. Unfortunately, there is no wartime money in the budget.

How bad do deficits have to get?

This is a chart that shows where the interest on the national debt has gone. Interest on the national debt, if the Republicans had not messed up the budget, would have gone to zero by the end of this budget deficit. The red line is the interest on the national debt under the Republican plan. To put it in perspective, the blue line is the entire nondefense discretionary budget. Instead of going to zero, we are going to be spending more on interest on the national debt than we are spending on everything in government.

□ 1530

Because of the deficits we are cutting education. The 12 percent increase over the past few years, this budget is a cut in education. We are talking about cuts not only in the veterans benefits that we had but also cuts in education, cuts in safe and drug-free schools, afterschool programs, education for homeless children, vocational education, 28,000 Head Start students not being educated under the Head Start program.

At a time when States are increasing their tuitions, we are cutting Pell grants. We are cutting student loans and school lunches. We are also not funding No Child Left Behind. The President went all over the country talking about No Child Left Behind and the amount of money that was authorized to be spent. Unfortunately, we are not even spending on No Child Left Behind what we spent last year.

Look at the difference in what we are spending. In order to take pay cuts for the wealthy, we have run up a huge debt, cut veterans benefits, cut education. That is the wrong priority. We should fund veterans and education first and then consider tax cuts second. We have got the wrong priorities. Education is the right priority.

Mr. NUSSLE. Mr. Chairman, could I inquire how much time is remaining on both sides.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Iowa has 11¼ minutes remaining. The gentleman from South Carolina has 11½ minutes remaining.

Mr. NUSSLE. Mr. Chairman, that sounds pretty close. It is about as balanced as any of the budgets.

Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, today as we embark on a new chapter in the war against terror, I want to return to a crucial theme for this budget, which is homeland security. That goes to the heart of national security, and it also goes to the heart of economic security since by far the biggest setback we could have to our economy, for another setback, which would be another major terrorist attack.

This budget includes a substantial increase for the protection of our Nation's infrastructure, $829 million, for instance, a more than 300 percent increase for the Department of Homeland Security's Information Analysis and Infrastructure Protection which will provide new capabilities in the war against terror by mapping intelligence and threat information about the Nation's potential vulnerabilities. That includes $500 million to assess the Nation's critical infrastructure and to ensure that our highest-priority vulnerabilities are properly addressed. This is important everywhere, including my home State of Louisiana. We have a vast amount of critical infrastructure there, including some of the most active ports in the world and a large portion of the strategic petroleum reserve, infrastructure that transports a huge percentage of the Nation's oil and gas needs and so much more. Terrorist attacks to any of these facilities would be devastating to my State and, indeed, the entire Nation.

So in this time of war, in this time of threat, providing for our military and protecting our homeland first and foremost are top priorities. This budget does both of those. It protects our economy also as a result, and I urge my fellow Members to support this strong budget.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time.

Unfortunately, this Republican budget is likely to force the Committee on Transportation and Infrastructure to slash the pensions of 34,000 Coast Guard retirees and 645,000 railroad retirees and their dependents and cut the relief provided to families of the victims of September 11.

Who in this House believes that we should cut the September 11 Victims' Compensation Fund to finance tax cuts for the rich? As a Nation at war, who believes that the men and women of the Coast Guard protecting our shores, ensuring the safe passage of U.S. Navy ships in the Persian Gulf should be worrying that Congress might cut their retirement?

This budget shows a callous disregard for the families of the victims of September 11, the men and women of the Coast Guard, railroad retirees, as well as the infrastructure needs of this country.

The budget resolution directs the Committee on Transportation and Infrastructure to cut $3.7 billion for mandatory programs over the 10 years and to find savings from waste, fraud, and abuse and produce greater efficiency. Those platitudes may make for good rhetoric, but the policies will have devastating effect on the retirees and on the families of the victims of September 11. The Congressional Budget Office says 90 percent of the programs of the Committee on Transportation and Infrastructure's mandatory accounts include the September 11 Victims' Compensation Fund, Coast Guard retirement pay, railroad retirement pensions, and unemployment compensation for railroad workers. Is that where we are supposed to find waste, fraud, and abuse?

The Victims' Compensation Fund makes payments to the victims who were injured and the families of those who were killed in the September 11 attacks. Mr. Chairman, no one in this Chamber can possibly ever forget the tragedy of September 11, and I hope the families are beginning to put their lives back together again. How in good conscience can we retreat from the solemn commitment made on this floor to help them rebuild their lives?

I commit to them that I will oppose this Republican budget plan that will cut their funding. Similarly, the 36,000 Coast Guard officers and their enlisted personnel and the 34,000 Coast Guard retirees, we pledge to them on our side that we will oppose this budget resolution and its cuts in Coast Guard retirement pay.

Coast Guard cutters, as we debate this budget resolution, are on combat patrol with the U.S. Navy, securing the shipping lanes and the safe passage of Navy ships in the Persian Gulf and the Mediterranean. At home the Coast Guard continues to protect our shores and our ports. Just this week the Secretary of Homeland Security initiated Operation Liberty Shield, increased security at our ports, protect infrastructure, key assets. The Coast Guard under Operation Liberty Shield is increasing its patrols of waterways, escorts of ferries and cruise ships, sea marshals on board vessels of high interest. We get more out of our investment in the Coast Guard than virtually any other agency of the Federal Government. Why should we make them worry about this Republican effort to cut retirement pay?

Mr. Chairman, I rise in strong opposition to H. Con. Res. 95, the FY2004 Budget Resolution. Regrettably, this Republican Budget is likely to force the Transportation Committee to slash the pensions of 34,000 Coast Guard retirees and 645,000 railroad retirees and their dependents, and cut the relief provided to families of the victims of September 11th. Who in this House believes that we should cut the September 11th Victims' Compensation Fund to finance more tax cuts for the rich? With the Nation now at war, who in this House believes that the men and women of the Coast Guard, who are protecting our shores and ensuring the safe passage of U.S. Navy ships in the Persian Gulf, should be worrying that this Congress may cut their retirement? This Budget displays a callous disregard for the families of the victims of September 11th, the men and women of the Coast Guard, railroad retirees, as well as the infrastructure needs of this country.

Section 201 of the Republican Budget Resolution directs the Committee on Transportation and Infrastructure to cut $3.7 billion from its mandatory programs over the next 10 years. We are told to find these savings from "waste, fraud, and abuse" and to produce greater efficiency in our programs. While these platitudes of "waste, fraud, and abuse" make for good rhetoric, these policies will have a devastating effect on these retirees and the families of the victims of the September 11th attack.

The Congressional Budget Office says that 90 percent of the Transportation Committee's funding of mandatory programs includes these three:

The September 11th Victims' Compensation Fund,

Coast Guard retirement pay; and

Railroad retirement pensions and unemployment compensation for railroad workers.

And this is where we're expected to find "waste, fraud, and abuse"?

The September 11th Victims' Compensation Fund makes payments to the victims who were injured and the families of those who were killed in the September 11th terrorist attacks. Mr. Chairman, no one in this chamber will forget the tragedy of September 11th. I can only hope that families of the victims of September 11th have begun to put their lives back together. How can we, in good conscience, retreat from our solemn commitment to help them rebuild their lives? I commit to them now that I will oppose this Republican plan that could cut funding from the families of the victims of September 11th.

Similarly, I commit to the men and women of the Coast Guard, both the 36,000 Coast Guard officers and enlisted personnel and the 34,000 Coast Guard retirees, that I will strongly oppose this Republican Budget Resolution and its likely cuts in Coast Guard retired pay.

As we debate this Budget Resolution, Coast Guard cutters are on combat patrol with the U.S. Navy to help secure shipping lanes and the safe passage of Navy ships in the Persian Gulf and the Mediterranean. At home the Coast Guard continues to protect our shores and ports. On Monday, March 17, the Secretary of Homeland Security initiated Operation LIBERTY SHIELD to increase security at our Nation's borders and protect our critical infrastructure and key assets. Under Operation LIBERTY SHIELD, the Coast Guard is increasing patrols of major U.S. ports and waterways, increasing its escorts of ferries and cruise ships, providing armed Sea Marshals onboard every high interest vessel arriving at or departing from U.S. ports, and enforcing security zones in and around critical infrastructure sites in key ports and petroleum facilities close to large coastal communities. In addition to its military and homeland security missions, the Coast Guard continues its search-and-rescue mission—responding to nearly 37,000 calls and saving 3,654 lives in 2002—and many other missions. The Coast Guard has long been stretched thin, but has always been ready—"Semper Paratus"—to answer the call. I have always maintained that the public gets more out of its investment in the Coast Guard than virtually any other government service. The enlisted men and women and officers of the Coast Guard should not have to worry about this Republican effort to cut their retirement pay.

The Republican Budget Resolution also is likely to result in significant cuts to railroad workers' retirement and unemployment compensation programs. Railroad workers, unlike other workers, are not covered by the Social Security system. They have their own retirement program. Last Congress, the bipartisan leadership of the Transportation Committee, with the strong support of rail unions, railroads, and rail retirees and their dependents, introduced H.R. 1140, a bill to revise the railroad retirement program to restore rail worker benefits and decrease railroad payroll taxes. The House overwhelmingly passed this legislation, by a vote of 383–33, and it became law. Today, the Republican Budget Resolution forces the Transportation Committee to consider changing this Act to cut railroad worker retirement benefits and unemployment compensation. I commit to the 248,000 rail workers and the 645,000 rail retirees and their dependents that I will fight any attempt to roll back the benefits so recently restored to you.

Beyond these devastating cuts required by the reconciliation instructions, this Budget Resolution does little to meet our infrastructure investment needs. For the reauthorization of the Transportation Equity Act for the 21st Century (TEA 21), the Transportation and Infrastructure Committee urged the Budget Committee to provide $50 billion in budget authority for highway, highway safety, and transit programs. In its letter to the Budget Committee, 74 of the 75 Members of the Transportation Committee stated that we must provide this level of funding in FY2004 to maintain our surface transportation systems and have any hope of improving the overall condition of the Nation's highway and transit systems.

Regrettably, this Budget Resolution provides $39 billion for these programs—little more than the status quo for TEA 21 reauthorization. Through the vigorous efforts of the bipartisan leadership of this Committee, the Resolution also provides a reserve fund that would allow for additional allocations if this or other legislation includes increases in Highway Trust Fund receipts. Although this does provide the Transportation Committee with the opportunity to address this issue at a later date, this Resolution does nothing to address our enormous highway and transit infrastructure needs in the fiscal year ahead.

Moreover, the Republican Resolution cuts the amount of highway and transit funding that actually may be obligated in FY2004 below the CBO baseline. Specifically, the Republican Budget Resolution assumes a cut in the transit program of $98 million in FY2004 and $2.5 billion over the next six years. This cut is directly contrary to TEA 21's goal of modal balance. Under TEA 21 we significantly increased transit funding by guaranteeing $36 billion for transit. As a result of this increased investment, transit ridership has added 1.6 billion riders—more than 900,000 new riders each day—over the last five years. This transit renaissance could be threatened by these cuts in transit funding.

At a time when our Nation's infrastructure faces huge unmet safety and security needs, congestion is crippling our cities, and our economy has lost 2.5 million jobs in the past two years, the Republican Budget Resolution cuts these vital programs that could address infrastructure security needs and congestion problems and create family-wage jobs to grow our economy. Instead, it provides more than $1 trillion of new tax cuts.

This Budget Resolution reflects more than misplaced priorities. It is an assault on working men and women from the Coast Guard to the Maintenance of Way railroad employees.

Mr. Chairman, I strongly oppose the Republican Budget Resolution and urge my colleagues to vote "no".

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), a member of the committee.

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of this budget resolution. With America at war and with families having to make tough decisions around their kitchen tables, should we not in Congress at least be expected to make smart decisions to promote economic growth and to take a stand against waste and fraud?

Many across the aisle oppose this budget and attack the tax relief. But, Mr. Chairman, less than 5 percent of this budget is about tax relief; 95 percent of this budget is about spending, 3 percent more, more, than last year. Unfortunately, much of it continues to be waste and fraud. The Department of Housing and Urban Development made $2.6 billion in section 8 overpayments, 7 percent of their entire budget just lost. That is enough money to pay the downpayment for 300,000 people to get into their first homes.

The Medicare program paid out $13.3 billion in 1 year to people who did not even qualify. That is enough money this year to pay one third of the cost of a prescription drug benefit for our seniors.

The list goes on. Social Security pays benefits to dead people. Twenty-three percent of the people having their student loans discharged due to disability actually hold jobs. The National Park Service spent $800,000 on an outhouse, and it does not even work. In the real world when people lose this much money, they are fired or they go to jail. In Washington it is just an excuse to ask for even more money next year.

Mr. Chairman, there are a thousand ways we can save money in Washington without cutting any needed services and without raising taxes on our hardworking families and our men and women in uniform. People should quit trying to fool the American people into thinking otherwise. If we fail to endorse this budget and just promote even more government spending without reform, we are simply sanctioning fraud. What an insult to the American people.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise today in opposition to the Republican budget and in support of the alternative budget being offered by my colleague from South Carolina (Mr. SPRATT).

Mr. Chairman, the 10-year $5.6 trillion unified budget surplus projected less than 2 years ago is gone, completely gone, thanks in large part to the Bush tax cuts mainly benefiting upper-bracket taxpayers. Now the Republicans offer a budget with over a $2 trillion deficit for the same 10-year period, $4.4 trillion if we exclude the Social Security trust fund. That is a fiscal reversal of almost $8 trillion.

Unfortunately, in the face of the worst fiscal reversal in this Nation's history, the Republicans' response is to propose more of the same failed policies. Finding themselves in a hole, their message seems to be: just keep digging.

The Republicans' budget proposes $1.3 trillion in new tax cuts, every penny of it funded by increased government debt. The result, Mr. Chairman, is that the Republican budget would provide the worst of both worlds. We would go over the cliff fiscally, while at the same time radically reducing money available for education, the environment, transportation, healthcare, and law enforcement.

At a time when our veterans are waiting 6 months for an appointment at VA hospitals, the Republican budget would cut compensation for service-connected disabilities and education benefits by $15 billion and veterans healthcare funding by another $14 billion over the next 10 years.

As the National Commander of the Disabled American Veterans said in a letter to Speaker HASTERT, "Has Congress no shame? Is there no honor left in the hallowed halls of our government that you choose to dishonor the sacrifices of our Nation's heroes and rob our programs, healthcare and disability compensation, to pay for tax cuts for the wealthy?"

The Republican budget not only fails to fund No Child Left Behind, the bipartisan education program enacted a year ago; it actually would require cuts in school lunch programs and in student loans. The Republicans mandate billions in cuts from appropriated health programs, but do not say where the ax would fall. From major disease research at the National Institutes of Health? From community health centers. There would be $2.5 billion in cuts required next year alone. From where?

The Republican budget does not even keep up with inflation in funding for homeland security. And what new money is proposed is largely offset by cuts in law enforcement programs on which our police and other first responders have depended in years past. The Democratic alternative provides $10 billion for the States immediately for homeland security, as provided in our economic stimulus plan. The Republican budget does not contain one dime of this funding.

Mr. Chairman, the Democratic budget has its priorities straight. A fast-acting and effective economic stimulus, a serious prescription drug plan, protection of veterans benefits, prudent investments in education and homeland security, and all of this with $821 billion less in deficits and debt than the Republican proposal. The Democratic alternative is realistic and responsible, fair and fiscally sound, and I urge colleagues to support it.

Mr. NUSSLE. Mr. Chairman, I yield myself 15 seconds.

I have been looking through my budget, and I cannot find one of the facts that the gentleman just stated. Not one of the cuts he just stated is in my budget document. I have looked through there. I cannot find them. I do not know where the gentleman is coming up with these numbers.

I will say this, though: the person I would like to introduce next to speak basically wrote title II, which is our reconciliation construction regarding waste, fraud, and abuse, asking the committees to go out and look for those instances of waste, fraud, and abuse, ways that we can find deficiencies within this budget, and that is the very distinguished gentlewoman from Florida (Ms. Ginny Brown-Waite).

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. Ginny Brown-Waite).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, first of all, I would like to thank the gentleman from Iowa (Mr. Nussle), the chairman, for working so hard on this budget. I have had lengthy discussions with him about my concerns for protecting Medicare and veterans. The spending cuts that were in the original budget that we passed out of the Committee on the Budget concerned me deeply. He listened and I am very pleased with the results.

Most Americans agree that Medicare must be reformed. The 38-year-old program benefit package is outdated and actually insufficient for most seniors' needs. The current program lacks much-needed prescription drug coverage, leaving many seniors to choose between food and drugs. I know. I represent many of those seniors. The Republican budget begins the process of reforming the outdated Medicare system. It includes a historic proposal to provide $400 billion over 10 years to update the Medicare benefits package and also provide a prescription drug benefit. Additionally, I have worked with the committee and the Republican leadership to ensure that Medicare is untouched by across-the-board cuts. The constituents of the fifth congressional district have also expressed a great concern that the veterans healthcare system is broken.

□ 1545

I have constituents in my district who are being forced to wait up to 16 months for an appointment to see a physician, and in some of the counties it is up to 18 months. Last year, in fiscal year 2003, there was a 12 percent increase in the VA medical care funding, yet the waiting times have not substantially improved. The system must be fixed.

Additionally, this budget provides for an increase in veterans' discretionary spending of 6.1 percent over fiscal year 2003, as well as a 7.5 percent increase in mandatory outlays. We are working to ensure that these resources are adequately and geographically spread so that we meet the needs of seniors.

I urge my colleagues to vote in favor of increasing the spending on veterans' health care and protecting those who have always been willing to protect us. The budget works for seniors, and I urge support.

Cutting 1 cent on the dollar for other agencies in fraud, waste and abuse is very, very achievable. Let us not say that we cannot find the savings. We deserve, for the sake of the taxpayers, to at least try.

Mr. SPRATT. Mr. Chairman, I yield myself 1 minute, before yielding to the gentleman from Tennessee (Mr. Ford), to respond to our distinguished chairman, who wants to know where all these cuts we are alleging come from.

They come from the budget documents. His budget calls on the Committee on Energy and Commerce, for example, to reduce spending by $107,359,000,000. The only thing they can take that out of is the Medicaid program.

He calls on the Committee on Government Reform, which has jurisdiction over the Federal Employees Health Benefits Plan and the Civil Service Retirement Plan, to effect cuts in those programs of $38,319,000,000 to achieve savings.

They are there. If you look at function 550 in this budget, which is the health function, if you look at the level of funding, it is $2.4 billion below what is necessary to maintain purchasing power. We say "current services." That has got to come out of some of the organizations like NIH who get their funding from this particular function of the budget. It is there. No question about it.

Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. Ford).

Mr. FORD. Mr. Chairman, out of respect to the chairman, I know he wants 2 minutes to close, I will just take a minute. I will be very brief.

Mr. Chairman, one of the reasons I think that sometimes we find ourselves as a body not taken as seriously as we would like to be taken is because of exercises like this. We have heard over and over again from colleagues on one side of the aisle and colleagues on this side.

The Nation is focused on the war we are faced with right now. There is obviously going to be an enormous cost associated with that war.

Second, most people across the country are focused on local and State government challenges. Many State governments are facing enormous budget shortfalls, it has been estimated some $70 billion in current year shortfalls across the country. That number has grown by 50 percent, Mr. Chairman, in just the last 3 months.

If we are serious about helping States and serious about helping people get back up on their feet, serious about helping this economy move in the right direction, let us be honest. We are not paying for the war, and my friends on the other side of the aisle pretend that they cannot even contemplate a model that can give us scenarios for how much this war will cost. That is disingenuous, it is wrong, and it is unfair to the American people.

Two, you do very little for your hospitals, your schools. People mention Medicare and Medicaid. For those watching at home, that means those hospitals in your States will not get the amounts of money that they need to ensure that people are covered and that people are treated.

For those teachers and those of you who have kids in public schools, that means that bill we bragged about, the No Child Left Behind Act, we will not have the money to fund it. All of the promises about homeland security, it takes money to pay for these things.

The difference between our budget and theirs is simple: We set a different set of priorities than they have set.

I hope my friends on the other side of the aisle at the end of day can at least be honest and say to those of us on this side and to the American people that your priorities are vastly and radically different than ours. We believe States should be helped, we believe that the war should be paid for, and we believe we should balance the budget. Your priorities are different, and you owe it to the American people to tell them the truth.

Mr. NUSSLE. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let us just go to the bottom line and look at the differences between the two proposals that will be the chief proposals before the House when we vote tonight on the budget resolutions, the Democratic proposal and the Republican proposal.

As anyone who can see this chart can easily see, under our budget in every year from 2004, next year, through 2013, the Democratic budget has a lower deficit than the Republican budget, and by a significant margin.

What is more, every year our bottom line gets better and better and better, until in the year 2010 we are in unified balance. All accounts included, we have no more deficit by the year 2010. And we do not get there with improbable, unlikely spending cuts of the kind you have heard mentioned on the floor today. We get there with good, solid economics and with complete fairness to things that are important to us. It is a huge difference.

But this tells it all: Over that 10-year period of time, the cumulative difference between us and them, between Republicans and Democrats, between our resolution and their resolution, is $913 billion less public debt. So as we move from a deficit to a surplus, we accumulate $913 billion less debt than do the Republicans in their resolution. That is an enormous difference, particularly for anybody who says that deficits matter.

We insist that deficits do matter. This administration has taken a different attitude. The Director of Management and Budget says we should not start hyperventilating over all these deficits. We think they matter. We think in the long run they affect the growth of our economy, they affect jobs and things that matter to people, they affect the interest we have to pay on our national debt.

This is the difference between us and them. By 2010, we are in balance. It takes them until 2012 to get there. Along the way we accumulate $913 billion less debt. But what is most important is ours is feasible and credible and probable; theirs is infeasible, unlikely, and, to my way of thinking, unbelievable.

The Republican budget presents us with two choices: We will either have devastating cuts, in which event they may get to balance in 2012, or those cuts will not be achieved, in which event the deficit itself will have done devastating damage.

That is the choice before us, and that is why the Democratic balanced budget resolution is far and away the better choice for everybody in this House.

Mr. NUSSLE. Mr. Chairman, I yield the balance of my time to my friend, the gentleman from Connecticut (Mr. SHAYS), the very distinguished vice chairman of the Committee on the Budget, to close the debate.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Connecticut is recognized for 5½ minutes.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I think if we were honest with each other, we would say we do not like any of our budgets, because we would like them to be balanced today, but that, regretfully, is not possible. But in comparing the budgets, I prefer the budget that we are presenting.

I prefer it because in our budget we are protecting America, we are increasing our defense budget, we are increasing our homeland security budget. In our budget, most importantly, and you do not see it to the extent you need to in our colleagues' budgets, we are strengthening the economy and creating new jobs. In our budget, we are providing fiscal responsibility.

One of the things I found most curious in the debate in the committee last week was that when we added up all the dollars that were spent in amendments offered by our Democratic colleagues, they amounted to over $1 trillion. Now, they would say to you what they did is they eliminated our tax cuts, and, in some cases, increased taxes to pay for their $1 trillion of new spending over the next 10 years.

When we came to Washington, a number of us said we wanted to get our country's financial house in order and balance the Federal budget and not grow this government. But what we see in the other budget is a growing of the government.

Mr. Chairman, what is disappointing to me is that when we have seen their amendments, both last week and this week, we have not seen any effort to reduce spending but increase it. And when we see what we do, what we are having to defend, I am embarrassed that it seems so difficult to defend. We have to defend a 1 percent cut in discretionary spending over this year's budget for just 1 year. Then we allow the budget to go up in the second year, we allow it to go up in the third year, we allow it to go up in the fourth year. The logic, though, is if you can make cuts in 1 year, they have benefit in terms of reducing spending for 10 years. I am proud of that.

But when our colleagues talk about the savings we are making, they add up all 10 years and then imply that it happens all in 1 year, or they say we are going to cut 1 percent every year, and we are not allowing the budgets to grow.

We want to slow the growth in the budgets next year, and then we are going to allow them to grow in the second year, allow them to grow in the third year, allow them to grow in the fourth year, allow them to grow in the fifth year, allow them to grow in the sixth year, allow them to grow in the seventh year, allow them to grow in the eighth year, allow them to grow in the ninth year, and allow them to grow in the tenth year.

But we are having to defend a 1-cent-per-dollar cut next year in some programs, but we are not cutting defense, homeland security, Medicare or Social Security, and we have also agreed that veterans' spending is going to go up.

So, for me, I am having a difficult time, because I would have liked our budget to have reduced spending more. But this is what we can agree to.

Now, when we talk about the 1 percent reduction, what we are looking at is waste, fraud, abuse and mismanagement. You mean to tell me there is not 1 cent on a dollar of waste, fraud, abuse and mismanagement in our government? You could not look at anyone with a straight face and tell them that.

I happen to have served on the Committee on Government Reform, for 16 years. I love that committee. We look at waste, fraud and abuse, and we attempt and are successful in many ways in getting reform. But it is taking too long. We need the authorizers to do a better job of looking at waste, fraud and abuse now, and we need the appropriators to do so as well.

Mr. Chairman, on my desk are hundreds of GAO reports. These are just for a few months. Financial Management Service:, Significant Weaknesses In Computer Control Continue. You could save millions of dollars there.

Weak Controls Result In Improper and Wasteful Purchases at FAA. You can save money there.

Medicaid Financial Management: Better Oversight Of State Claims For Federal Reimbursement Needed.

I love this one. Medicare Home Health Care. Payments To Home Health Agencies Are Considerably Higher Than Costs.

U.S. Postal Service: Deteriorating Financial Outlook Increases Need For Transformation. We have got to do those things.

Now, DOD has to be looked at as well, and that is one way we can help pay for all the needs that we have in DOD. Overpayments Continue, And Management And Accounting Issues Remain. Defense Inventory: Control Weaknesses Leave Restricted And Hazardous Excess Property Vulnerable To Improper Use, Loss And Theft.

These are just a few of the hundreds on my desk. This is just GAO. What about the Inspector General's reports? We could fill up this whole table. This is literally the tip of the iceberg.

So, I am proud of our budget, because it is better than the budget we are seeing, but, Lord knows, it could be even better.

I encourage my colleagues to vote out our budget resolution. Let us get our country's financial house in order, and let us have the needed tax cuts that will generate the economic activity that will grow this economy. We want to protect America, strengthen the economy, and have fiscal responsibility. Our budget does that.

The CHAIRMAN pro tempore. The gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. STARK) each will control 30 minutes on the subject of economic goals and policies.

Is the gentleman from Wisconsin (Mr. RYAN) a designee of the gentleman from New Jersey (Mr. SAXTON)?

Mr. RYAN of Wisconsin. I am, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. RYAN) will control the time of the gentleman from New Jersey (Mr. SAXTON).

The Chair recognizes the gentleman from Wisconsin (Mr. RYAN).

□ 1600

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I thank the distinguished gentleman for yielding the time, and I thank the chairman of the Committee on the Budget, the vice chairman, and the Members from both sides for the work that they are doing.

Let us face it. Every one of us can come here and every one of us would do it differently, but I would like to address something that has been talked about quite a bit and lend some perspective.

There was a movie known as the American President, and in it Michael Douglas played the American President, and in it there is a great line. Michael Douglas was being attacked for a very difficult decision he had made as President of the United States. He called a press conference, he stood before the media, and he says, "America has serious problems, and we need serious people to solve them."

So for one second I would like to be a serious person and talk about the fundamental foundation of the beginning of what we must do; that is, the reconciliation language regarding waste, fraud, and abuse.

We have to in America prioritize our spending and slow the growth in that spending, or we are going to spend ourselves into a position that we cannot afford, either our citizens or ourselves. And it is an appropriate first step, as this budget recognizes, to go through these agencies and look for the reduction in the rate of growth, it is a reduction in the rate of growth, and find that funding wherever possible where there has been waste, where there has been fraud, or where there has been abuse.

And we in this Congress already have set one precedent. There is a program that is off limits, so to speak, in this budget called Medicaid, but when we established the Medicaid program and experienced waste and fraud and abuse in that program, particularly fraud, this Congress, years ago, established that we would offset from the Federal 65 percent match, the amount of money that was found to have been fraudulently spent by the State that administers the program. From the time that was implemented, the rate of fraud went down, which ensured that the money going into Medicaid was going where it should be, and that is to benefit those most in need.

We need to establish the same mechanism in every department of the Federal Government. If there is an accountability for the allowance of waste, for the allowance of fraud, or for abuse, with no consequence in the future, then it will continue. I commend the committee, and I commend the chairman.

Mr. STARK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, last night, President Bush started the war against Iraq, a war that offends the vast majority of moral and religious groups in the world. Most major religious organizations, the Vatican, Muslim, Buddhist, Jewish, Protestant religious groups, oppose his war on moral grounds. Over 80 percent of the nations in the world oppose the war on ethical and moral grounds.

But now that Bush has created this disaster to cover up his failed diplomatic, social, and economic agenda, it is up to Congress to find ways to support our troops overseas, and support them we must. For President Bush talks the talk of support for our troops while he and Republican leaders fail to walk the walk. In reality, they trash the future lives here at home for our brave servicemen and women today.

How do George Bush and his Republican henchmen mistreat our troops? Well, let me counts the ways. They are all outlined in the Republican budget before us today. Even though Bush may lie from time to time, the figures in his budget reveal his true intentions, and here they are.

First, there is no money for our troops to fight this war of his, no money, period. So much for Republican support for our troops.

Second, troops. Watch out if you come home as a veteran, because Bush and his Republican allies are cutting $15 billion from veterans' benefits, a fine thank you for your service. When you return from war, no health care at the VA hospital? Do not turn to Medicaid or Medicare for help. Bush and his Republican allies are cutting more than $160 billion from these vital health care programs as well. These cuts mean over 5 million children will lose their health coverage benefits. Benefits will be reduced by 30 percent for the children lucky enough to remain in Medicaid, which, by the way, may have to drop its prescription drug coverage altogether.

Now, Republicans talk about a Medicare drug benefit, but they do not budget funds to provide it, and a million elderly nursing home residents could be put out on the streets. So much for the parents of our military.

Now, for our soldiers, sailors, airmen, and marines, got kids? Do not look for help from Bush. His budget takes child care away from 30,000 children, kicks 570,000 kids out of after-school programs, eliminates Head Start for 28,000 children, and prevents a half a million poor children from getting free and reduced-price school meals. Even if your kids are lucky enough to get to school, they will be left shortchanged by Bush's $9.5 billion cut to education that was needed to assure his oftentouted plan to leave no child behind. Clearly, that campaign is history.

Need help with housing when you get back? Too bad. The President cuts housing subsidies for 75,000 families.

Having trouble finding a job in the Bush recession? Sorry. Republicans do nothing in this budget to extend unemployment benefits for those who cannot find jobs. At least his daddy and Ronnie Reagan extended unemployment benefits for over 33 weeks.

Say your war takes a long time and you want to retire when you come home. Forget about Social Security and Medicare. Bush took the money to fund those programs and gave it away as $1.5 trillion in tax cuts to the very richest Americans, 80 percent of those cuts going to people with incomes over 100 grand a year. The only servicemen and women I know who are making that much are working two night jobs.

So there you have it. The President starts a war to eliminate terror, knowing that it will only increase terrorist attacks at home. He tries to disarm a nation with no proven weapons of mass destruction, and he ignores a far worse threat of North Korea's nuclear weapons. He orders the assassination of an inhumane dictator to cover up the fact that he cannot find bin Laden, and then tells us in Congress to support the troops while he dishonors their very future by giving America's resources away to a small, rich cadre of Republican officeholders and campaign contributors.

Mr. Chairman, you do not praise a person for driving home drunk and avoiding an accident. You do not praise an A grade awarded to a child who cheats to get it. And thus, we should not support the war program of a President which defies every moral and ethical standard set by religious and government leaders around the world.

If you truly want to support and honor our servicemen and women, vote against this antiveteran, antichild, anti-Christian, "Bush-league" Republican budget.

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. DUNCAN). The Chair would remind all Members that although remarks in debate may level criticism against the policies of the President, still, remarks in debate must avoid personality and, therefore, may not include personal accusations such as lying.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself 15 seconds.

This is the period of debate where the Joint Economic Committee takes over to discuss the Humphrey-Hawkins period of debate, which is supposed to be about monetary policy. I see from my colleague, the last speaker, we are going to move beyond monetary policy, I guess. So in that spirit, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I thank the gentleman for his introduction.

Now, one of the realities that we must recognize as we debate our budget are the realities of today's economy and those facing our municipalities, our cities, and our States, and our families today. The reality is that when we have this economic slowdown, all of those entities that I just mentioned have made tough decisions to cut their budgets. I hear about families doing it all the time. The city of Omaha has done it, the State of Nebraska has done it. But yet when we are in the Federal

Government, because we do not have a balanced budget amendment, heck, we just sit there and say, spend, spend more, give away all the money at a time of economic slowdown, at a time when we have to protect American citizens.

So I am proud to stand in support of a budget that recognizes those realities today that face American families, that face our municipalities, that face our States, and make the same tough decisions that they have. I am proud that this budget, the Republican budget, controls spending. Yes, I would like to see it control spending even more. There is a lot of areas of this budget that I, frankly, do not think we are restraining the spending. In fact, I believe that the budget for veterans, actually we are increasing veterans spending under this proposed Republican budget.

But what we are asking for in this budget, we are asking agencies to save taxpayers' money, just as Americans are sitting down at their tables trying to find ways to save money in their family budgets. And our economic growth is contingent upon responsible spending in all sectors of our economy: business, personal spending, and government.

Now, this budget protects the fiscal soundness of our government and incorporates cost-cutting provisions that will pay dividends well into the future. Through responsible tax cuts, we are returning the power back to the people.

Mr. STARK. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding me this time.

I was listening to my colleagues say that this was the Joint Economic Committee, and we are supposed to talk about monetary policy, and I want to return us to monetary policy, because I am kind of reflecting back to when I first ran for Congress in 1992. That was the year that deficits were approximately $130 billion, $140 billion. All of my Republican opponents, colleagues, economists, everybody at that time was telling me that there was something sinister about budget deficits, and I could not quite understand what their preoccupation was. But I did realize over a period of time that it was projected that the budget deficit for 1993 and 1994 was going to keep going up, and at that time, the maximum budget deficit that anybody was projecting was $260 billion. It was sacrilegious for anybody to think that we ought to be projecting a $260 billion budget deficit.

So it is kind of amazing to me now that I could see a Republican budget for the year 2004 project a $319 billion deficit.

I was talking to a reporter before I came over here and he said, well, are you all talking about war today? I said, no, we are debating the budget. He said, oh, you are talking about money for the war? And I said, no, there is not a dime of money for the war that we are fighting in the budgets that anybody has proposed today, except for the defense spending, which would be there even if we were not fighting a war.

Well, over time I came to understand that when you have those kinds of budget deficits every year accumulating, they keep adding into the national debt, and when you have a national debt, you have to pay interest on that national debt. So to see a Republican budget that in the outyears, 2009, 2010, projects that we will be paying $250 plus billion in interest only on the national debt, it does not take much for me to understand, well, if I had that $250 billion in my budget, I could do something with it, like pay for education and health care and things that are important to our country's future.

☐ 1615

That is the microbasis that I want to talk about.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, we do not know how much the war is going to cost. The war just got started, and it is not over yet. When we know how long it will have lasted, then we will know how much it will have cost. Then we will be able to budget for it.

Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the majority budget resolution today. Mr. Chairman, I love being in Congress. It is a place of unbounded personalities and unbounded debate and enthusiasm. But today is the first day that I have been called a henchman and anti-Christian all in the same speech, simply because I believe that in this struggling economy that we should speed tax relief to working families, small businesses, and family farms.

Or perhaps it is because I believe that once we set aside the spending, a historic increase in military spending for defense, once we set aside our commitment to our veterans, our commitment to our seniors, and even our commitment to seniors' health care in Medicare, that what is left behind, Mr. Chairman, I suppose I earn those monikers because I believe that we could find one penny out of all of the remaining spending in waste, fraud, and abuse.

I come from a heartland district that serves most of eastern Indiana here in Washington, D.C. One of the maxims that we Hoosiers have endorsed since a Californian rode to the White House on that message in 1980 was that government is too big and it spends too much.

I believe the overwhelming majority of the American people believe that today, from the storied days of the Grace Commission to the present moment, the Republican vision of government has not been a vision of hardship for families or cuts in education. The truth of it has been about meeting our public obligations while sharpening our pencils and trying to serve the interests of taxpayers in the long term.

Those who doubt that the provisions of the Republican budget that call for the finding of one cent out of every dollar, outside defense, homeland security, Medicare, and Social Security, cannot happen ought to look at some research on government spending. According to the GAO, the Federal Government right now cannot account for $17.3 billion that it spent in 2001.

Also, according to the Government Accounting Office, they are currently refusing to certify the government's own accounting books because, in an almost Enron-like statement, they say the bookkeeping is too poor by the Federal Government to do that.

In fact, the Federal Government made nearly $20 billion in overpayments on contracts, according to their own records. In department after department we find examples, not always through malfeasance and misfeasance, but oftentimes through mistake and error and sometimes negligence, we find ample evidence of waste and abuse.

The Republican budget is about taking a penny out of a dollar out of those nonessential programs, because government is too big and does spend too much.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would note that there is $1.8 billion being cut from the Medicaid contributions to the State of Indiana, which I am sure the previous speaker supports.

Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means, who knows all too well what it is to fight in a war with real bullets, unlike the White House and the current Republican administration.

Mr. RANGEL. Mr. Chairman, I want to thank the gentleman from California (Mr. STARK) for giving me this opportunity to address the House in probably the saddest day that I have had in my career, to be a Member of Congress and to not be able to respond to my constituents, and indeed, to so many people in our great Nation, as to how we find ourselves in the situation we do today.

What is even more remarkable is how we can debate putting together a budget and say that we have to wait until the war gets started good or the war is over, and then we will be able to come back and fit it into the budget. It is almost like saying that we would like to give prescription drugs and hospital assistance, but we do not know how many people are going to be sick. We would like to give prisons and cops and security, but we really do not know how many people are going to commit crimes, so wait until it is all over and then trust us, we will come back.

Another problem that I have today is that so many of my colleagues find it very, very difficult to understand that we come together in our hearts, and wanting to make certain that no young person that is in our military today will ever have any reason to challenge that this United States Congress appreciates them for their dedication, their loyalty, and that we are prepared to do anything and everything that we can for them to have the security in knowing that we are all Americans together and nothing, not Republicans and not Democrats, not liberals and not conservatives, is going to breach this bond that we have a constitutional and moral right to have.

I have been involved in a lot of debates as to when American troops should be introduced into harm's way. I was not here when they went into the Dominican Republic. God knows I was not here when they went into Korea. I was not even here when they had a vote on the Tonkin Gulf resolution.

I was here and I heard debate on Kosovo. I was here and heard debate on Haiti and the Persian Gulf. We had Democrat and Republican Presidents, and we had serious differences of opinion. Most of the time, at the conclusion of these debates, we praised each other and expressed support that it was intellectually and politically the right thing for the Republic and a great Nation like ours to do. Nobody accused someone of being unpatriotic because they differed with the President, whether he was Republican or Democrat.

Today I hope, Mr. Chairman, that we are not going to challenge each other as to who loves our country and who respects our flag the most; but we concentrate on the fact that those that are placed in harm's way, they do not have the opportunity to debate which war they support or which war they are against. They do not have the opportunity to make the decisions. When the decision is made, they have to go; and we have to be there for them.

I suspect if the gauge of patriotism was gauged not on how many flags we had stuck on your automobiles but, rather, how patriotic we were in wanting to help the troops, that we would be here and we would be coming here saying how many members of our family have we encouraged to join up and to volunteer and to get involved in this thing, not only to bring democracy to Iraq but to bring democracy to the region.

I would suspect that if we were all as patriotic as sometimes I hear the words said, that we would reflect this not only in the budget, but we would be talking about expanded services for our veterans, for our warriors, for those people who would want to expand and join the Reserves and join the National Guard.

I would suspect that if we did not have this attitude that "we will hold your coat, you go ahead and fight," but we were really saying, we appreciate what you are doing, that we would say, "and when you come home we are not going to treat you just as disabled veterans or sick veterans or veterans without homes, we are going to treat you as the heroes that you are for what you have done for us."

I would find it awkward when my veterans come home from Iraq to tell them that what I was really debating on the floor was how much money could we really take out; that I would be saying what we were trying to do on your behalf would be to have a $1.5 trillion tax cut because we want to stimulate the economy; that what we were doing was trying to cut back a budget, to cut back health care, to cut back housing.

I would find it difficult to explain how the thought of terrorism would have this Congress so petrified that instead of doing the things that we have been sent down here to do, we are cutting back in spending, we are cutting back in taxes, and we are cutting back in being those things that we are asking people to fight for, that is, a country where everyone has an opportunity to decent health care, a decent education.

I am going to be just as critical of this President as I can; but more than that, I am going to be just as supportive as this Congress allows me to be supporting those programs that allow them to get back home healthy and safe and to be able to be discharged and knowing that we are going to protect those rights.

I hope when that flag goes up we recognize one thing, that no one has a right to say that someone is less patriotic because they did not support every intrusion that a Congress has made or a President has decided of our men and women into a foreign country.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

I would just like to point out that veterans spending has increased in this majority budget. Discretionary veterans spending goes up by $1.6 billion, and mandatory spending goes up by $2.3 billion, about a $4 billion increase in veterans spending.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding time to me.

I just want to say, when the Republicans took over the Congress in 1995 and became the majority party, they started working on our budgets. Probably since then almost every single Democrat has voted against every single budget, it is fair to say. It is always because of the seniors, it is because of veterans, it is because of the children, it is because of the teachers, because of education, because save the whales, killing baby seals. It does not matter. If they want to vote no, they find good reasons to vote no.

The reality is that despite all the gloom and doom, here is the Medicaid budget under the Republican majority. It has grown by 76 percent. Here is the transportation budget. Under Republican control, it has grown by 76 percent. Here is the veterans benefits. Under Republican control, it has grown by 51 percent.

Why is that important, Mr. Chairman? Because not one Democrat voted for it. Here they are coming down to the floor saying, we are the champions of this, we are the champions of that, yet they have voted against all the budgets that increase the spending.

Here is Medicare. There is a 56 percent under Republican control, an increase. Where are the Democrat votes? They are voting no on every single budget ever since our majority has taken over.

Here comes another budget. We are going to increase some of these very important areas for our seniors, for our national security, for our homeland security, for our troops overseas. Again, where are the Democrats? It is the same parade we have been seeing nearly 10 years now: voting no, scaring the people back home, scaring the vulnerable members of our society by saying these budgets do horrible things.

The reality is that the budget takes care of the critical needs of our society. It takes care of defense, it takes care of Social Security, it takes care of homeland security, it takes care of unemployment. Yet the Democrats are focused in on the fact that we are asking some very wasteful government bureaucracy to reduce their budgets by one cent, one penny on the dollar.

We do that routinely to Americans back home. As families, as taxpayers, we often have to cut our budget. I find it unbelievable, and only in this town are people suggesting that bureaucracy cannot find one cent on one dollar outside of these very critical areas.

The CHAIRMAN pro tempore (Mr. DUNCAN). The Committee will rise informally.

The SPEAKER pro tempore (Mr. PENCE) assumed the Chair.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

## CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

The Committee resumed its sitting.

□ 1630

Mr. STARK. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY), who is fighting Republican efforts to cut $13 billion in Medicaid funds from the State of New York.

Mrs. MALONEY. Mr. Chairman, I thank the gentleman from California (Mr. STARK) for yielding me the time and for his leadership.

Today is a solemn day, but as Americans focus on our Armed Forces abroad, here at home we face an unprecedented moment in our budget history. Never before has Congress tried to pay for a war and at the same time pass a massive tax cut. This budget also compromises future economic stability because it is so demographically blind.

If we cannot plan to address the debt now, how are we going to keep our promises to the elderly when the baby-boom generation retires? The fiscal policies of the President enacted by the Republican Congress will impose a massive deficit burden on our children and our grandchildren.

In 2000 we had not only eliminated the deficit, President Bush inherited a surplus of over $230 billion a year, but now the projected deficit is over $300 billion for this year alone, and at the close of fiscal year 2002, the government debt stood at $6.2 trillion.

The President's own numbers show that were we to enact his programs as proposed, we would grow this debt by $2.1 trillion from 2002 to 2011, and that is before we begin to account for the war. And we know that former economic adviser to the President, Lawrence Lindsey, estimated the war would cost over $100 billion.

We have learned that we cannot have guns and butter without negatively affecting the economy, yet the Republican budget pushes ahead with a massive long-term tax cut before we finance the war.

At the same time, they grow the deficit, the Republican budget manages to cut vital programs, including health care, Medicare, Medicaid, housing, school lunches and veterans' benefits. The impact of these Federal cuts will be magnified by the States where budgets are unbalanced, forcing additional reductions in services and local tax increases.

The Republican budget does absolutely nothing to help the States. The Democratic budget does. This irresponsible budget has long-term consequences. I disagree with the administration. Deficits do matter. Over time, the debt will lower economic growth and increase interest rates. The effect will be a hidden tax increase on our constituents in the form of higher interest rates on mortgages, credit cards and car loans.

I urge a no vote on the Republican budget and a yes vote on the responsible Democratic budget.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to distinguished gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, we have been through this budget process, and I serve on the Committee on the Budget, and we have worked through a very deliberative process where there can be legitimate disagreement over how we fund these priorities, but the bottom line is this.

This country has suffered a national emergency through September 11. We are engaged in war at this time, and we have come out of a recession that has put tremendous pressures on our revenues, but there are some in this Chamber who think that Washington should be exempt from belt-tightening when every school board, every municipality, every State in America is going through the same process. Just because we print the money does not mean that we should not have to find savings.

There are people on both sides of the aisle, Mr. Chairman, who want to work towards a responsible way to save Social Security, to save Medicare. As a young Member of this Congress, I believe we have to think beyond the next election and beyond the next budget to do those kinds of things, but if we cannot find 1 percent savings, then we will never, ever be able to tell the American people that we can take the giant leaps to reform those huge programs.

The gentleman managing the floor for the other side on this debate has labeled some of us in this Chamber as henchmen for supporting our President's crusade to liberate Iraq. He has accused the President of ordering the assassination of Saddam Hussein to cover up for the fact that we have yet to find bin Laden, although we have disrupted al Qaeda. I resent that, Mr. Speaker, and I think that he should take his tongue-in-cheek tirade back to Baghdad where some of his colleagues have trod in the past. It is unacceptable when our young men and women are at war to have those kinds of character assassinations. To label Members of this body as henchmen, to go after the character of our President who has led this Nation through so much, goes above and beyond legitimate disagreement over the priorities that this budget should have, and it is unacceptable, and it should not stand.

Mr. STARK. Mr. Chairman, I think the previous speaker was a little confused.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT) who has been to Baghdad recently and has also served in the military, but also recognizes that the State of Washington is going to lose $1.7 billion in Medicaid funds if this budget were to pass.

Mr. MCDERMOTT. Mr. Chairman, I thank the gentleman from California for yielding me the time.

When the gentleman from Iowa (Mr. NUSSLE) heard I was coming over here, he said, are you bringing your walnut shells? Are we playing the shell game again over here? I said, no, I have got a new thing that came from the White House. It is a rubber stamp. It says "official rubber stamp." I approve of everything George Bush does.

Now that is what we have on here on the floor. You are not henchmen. You are just a rubber-stamp bunch.

What is awesome about this day is we are going to war. Maybe that message we just got in here was the war message, I do not know, from the President, but Iraq is a country where 60 percent of the people get their food through the Oil-for-Food Program. We have now told the United Nations take their people out, there is no longer any way to feed 60 percent of the 24 million people in Iraq.

They are your responsibility now. You have taken that on by saying, we are going to bring you democracy. Democracy is a pretty empty thing if you have got an empty stomach. So you are going to have to come up with some money to pay for the food program. There is not one thin dime in here.

My colleagues know that the Lord Jesus Christ went up on the Sermon on the Mount there, and he gave this sermon and said that you should feed the poor. That is in Matthew, Matthew 26, I believe, and my colleagues all know that. All good Christians know that. We are all Christians in this country, are we not? We ought to have some money in here figuring out how we are going to pay for those people.

It is not just the Iraqis that are going to be in trouble. In Eritrea, the world food program will be out in 2 months. Burundi has enough for another 4 weeks. The beans are gone in Liberia, and by the end of May they will have no cereal. There are 1,000 refugees in Guinea with nothing after August 10.

This is a budget where we put 400- and I do not know how many billions of dollars into the defense budget, but there is not a thin dime in here for the people of Iraq. We are saying, oh, we are bringing in democracy, oh, yes. Those people in Afghanistan learned about our democracy. The first year we did not authorize anything. Then we coughed up $300 million after a while. The U.N. said they needed $10 billion. We put in $300 million. The next year we are about $270- or $290-, and we refused to make any long-term commitments. This is a country where we spent $4.5 billion bombing them, and we can only come up with $300 million a year to rebuild them. Tell me how the Sermon on the Mount figures into that. Do my colleagues think that is what Jesus would want us to be doing?

The fact is that the President of Afghanistan came over here, Karzai. He went to the White House very shortly ago, last week or the week before, begging for money because he is broke. We gave him $50 million in OPEC money, but said, by the way, $35 million has to go to build a hotel.

Mr. RYAN of Wisconsin. Mr. Chairman, I am not sure how to respond to all that other than just to say I yield 1 minute to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER of Ohio. Mr. Chairman, I want to congratulate the gentleman from Iowa (Mr. NUSSLE) for his leadership. I commend him for taking on the task of restraining spending and making certain that we move back to fiscal responsibility.

With the war on terrorism and our struggling economy, our projected budget deficits are staggering. Throughout our country, State, local, community governments and businesses are cutting their budgets to respond to declining revenues. Americans expect us to do the same.

Only the Federal Government tries to put together a budget where it looks to see how much it is going to spend first and then looks to revenues, and to some Members of this body the Federal Government can never spend enough.

This budget asked certain Federal agencies to find 1 percent in savings in waste, fraud and abuse and efficiencies. It is amazing today that we would have a discussion over an argument over 1 penny in a dollar. There is not an agency in our government, there is not an organization that we have that cannot find 1 percent in waste and efficiency even in good times. In the times that we are in, it is certainly essential that we put forth the effort.

Mr. STARK. Mr. Chairman, could I inquire of the Chair how much time remains on both sides?

The CHAIRMAN pro tempore (Mr. DUNCAN). The gentleman from California (Mr. STARK) has 10 minutes remaining. The gentleman from Wisconsin (Mr. RYAN) has 17½ minutes remaining.

Mr. STARK. Mr. Chairman, could I inquire of the distinguished gentleman how many speakers he has?

Mr. RYAN of Wisconsin. We have enough speakers to fill up the time. Would the gentleman like us to catch up?

Mr. STARK. Sure.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, today I rise in strong support of the majority budget resolution. Some critics across the aisle believe that the only answer to our Nation's challenges is to take a larger slice of the family income pie. This budget works to increase the size of that pie by growing the economy.

At a time of war, it is irresponsible to do anything else, but to get economic growth, to get better jobs, to get better wages, to get families and small businesses to risk their time and their savings on that new software idea, that transmission repair shop, they must have tax relief, and they need real and permanent tax relief.

Our plan does just that. The Democrat plan, more taxes, more waste, more fraud, more spending, more big government.

Mr. Chairman, it is not just faith that we have, but historical evidence that tax relief works. When President Reagan lowered tax rates in the 1980s, real economic growth averaged 3.2 percent a year, and Federal revenues actually increased, increased by 20 percent. President Kennedy reduced tax rates in the 1960s, and we experienced several years of 5 percent economic growth. The same is true of tax relief in the 1920s.

Some of the colleagues across the aisle criticize this budget because they do not believe it grows government fast enough. This budget is growing the government by 3 percent, almost twice the rate of inflation, but more importantly, it helps American families pay for their programs.

Forty-six million married couples would keep $1,700 more of what they earn. That is enough to pay two mortgage payments. That is a housing program. Thirty-four million families with children would keep an additional $1,500, enough to purchase a personal computer. That is an education program. Six million single mothers would keep $541, enough to purchase a month of day care. That is a child care program.

Mr. Chairman, contrary to what our colleagues across the aisle believe with their budget, we cannot tax our way into prosperity. We cannot spend our way into prosperity. We cannot sue our way into prosperity. We can only grow our way into prosperity.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me the time.

I would like to tell my colleagues on actually both sides of the aisle that none of us are rubber stamps over here. We are actual human beings and Members of Congress. We do not rubber-stamp what the President wants or does not want us to do.

I would also like to say to my colleagues, and, if I may, to the people of Iraq, we will stay with you to not only feed you in the interim.

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would remind all Members that remarks are to be addressed to the Chair.

Mr. GILCHREST. Mr. Chairman, to give a man a fish, he eats a day. To teach a man how to fish, he will eat for the rest of his life, and the oil in Iraq will be used to improve the quality of life for people in Iraq.

□ 1645

Mr. Chairman, this has been one of the best, well-planned operations in the history of the world. It has been open for debate for months and months and months; and, yes, we support our troops in Iraq. The United States Government's major role is to defend this country, but also to ensure that those in need are taken care of: those that are hungry, the sick, the infirm, the homeless, and the children. And what is the government's role as far as the economy is concerned? The government's role as far as the economy is to create a structure that stimulates economic productivity in the private sector. Support the resolution.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, if the enemies of America had a plan to slowly undermine our country and sap our economic vitality, I think it might look a lot like the plan that underlies this resolution. With bombs dropping, missiles flying, and America's brave sons and daughters in the desert preparing to march against the tyrant, Saddam Hussein, the Republican leadership buries its head in the sand, offering a budget that does not even include the costs of this war or the rebuilding and occupation, which may go on for decades, in a land as volatile as the oil beneath it.

I spent more on a cup of coffee this morning than the Republicans have included in this budget for the war—a war that every American is watching and praying about and that is unfolding as we speak.

Of course, the last Republican to estimate the cost of war, the President's top economic adviser, Lawrence Lindsey, was fired for his efforts, even though he gave a low-ball figure of a mere $200 billion. This represents part of a deliberate strategy by this Administration to hide from the American people the true cost in blood, money, and insecurity of its reckless, new, preemptive-strike policy.

The deliberate choice to ignore the war in this budget is similar to the President's decision to ignore the last war in the budget he just proposed to us. He forgot to include any money for Afghanistan this year, absolutely nothing. Yesterday's priority and headlines, are today's forgotten footnotes.

It is not that the Republican leadership is intentionally harming our people. It is just that they are so blinded by their rigid ideology and lack of new ideas that all they can offer our people in this hour of need is more tax breaks for the few. How else can we explain the recent declaration of the Republican leader, the gentleman from Texas (Mr. DELAY), that "nothing is more important in the face of war than cutting taxes."

Today with so many staring death right in the face, is there really nothing more important than cutting taxes?

While our Defense Secretary may deride our traditional allies as "old Europe," some of us yearn for the old America, an America that when it confronted war understood the importance of shared sacrifice from all of our people, that did not say to some, go risk your life in defense of our country, and to the rest, you risk having to get a bigger pocketbook for more tax breaks; an America that did not say, we will borrow all of the money from those who pour in their Social Security and Medicare tax dollars, we will borrow from them in order to grant tax breaks to a few.

This is a Republican leadership that is AWOL on observing the duty to pay for America's needs. It is our children who will suffer from it.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, today of all days, there is no greater priority than protecting Americans, supporting our troops, and supporting our Commander in Chief. In the face of unprecedented threats to our domestic and international security, this wartime budget ensures that we can win the war on terrorism, and at the same time it protects our homeland from future challenges by providing for the new Department of Homeland Security.

It also strengthens our economic security. By leaving more money in the hands of the people who earn it, we encourage Americans to invest in their families and communities, to create jobs and grow the economy.

Finally, this budget also continues our commitment to our seniors by providing for a prescription drug benefit.

Mr. Chairman, this resolution will defend our Nation. It will grow our economy. It will protect our seniors, and it will place our Nation's budget back on the path of balance. I urge this House to pass this budget resolution.

Mr. STARK. Mr. Chairman, I yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I find it very surprising that the leaders of the House would schedule this important national debate today during the first 24 hours of the Nation's war against Iraq. We should be standing in respectful solidarity with the brave men and women carrying out this very difficult and dangerous assignment in Iraq.

Yet the budget before us presents two features that leap out as nothing less than bizarre given the military action under way. First, nowhere in the budget is there any cost provided for the waging of this war or the U.S. taxpayer dollars that will be spent in Iraq when we have prevailed, spent to safeguard the democratic transformation of Iraq, spent to safeguard the welfare of the Iraqi people. What will it cost? $100 billion, $110 billion, $120 billion. Nobody knows. We cannot know on the first day of military action, but we all know it is not going to be cheap. It will cost, and it will cost a lot. Yet the budget plan before us which runs deficits for the next 10 years does not reserve a penny for these costs.

The second aspect of this budget is even worse in light of the mission under way in Iraq. $28 billion is cut over the next 10 years from the budget of veterans affairs. The ultimate impact will be reduce veterans health care services, force cuts in disability benefits for those permanently disabled while serving our Nation's military. Today we have young men and women with their lives on the line. It is wrong, absolutely wrong to cut the health benefits and the disability benefits of those that have served our Nation in the military.

Later today this House is going to consider a resolution of words supporting our troops. Support of words will not provide the health care our veterans need, fund the disability checks of those forced to live with the wounds of battle. Resolutions of support offered while imposing cutbacks in veterans benefits and disability benefits ring hollow, indeed, and, in fact, represent the most hypocritical act I have seen while serving in this Congress. Our Nation's troops deserve so much better. Reject those veterans cuts; reject this budget.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out, the veterans budget increases in this budget. The discretionary budget increases by 6 percent; the mandatory budget increases by 7 percent. We increase veterans spending in this budget.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, the gentleman from Washington (Mr. MCDERMOTT) mentioned Jesus Christ in this budget, and I kind of think Jesus Christ would have liked it. In our house we always had a saying, if 10 percent was good enough for God, 10 percent ought to be good enough for the government; and this budget is going to save millions of Americans billions of dollars over the next 10 years because it puts in place a new, lower 10 percent rate, and that is a good thing when we leave money in the pockets of American taxpayers.

Mr. Chairman, I rise to support this budget and am pleased that it includes funding for tax relief by the President. Implementation of the President's economic growth package would create thousands of jobs and reduce taxes for 1.7 million Tennessee taxpayers, many of who are family and small business owners. Indeed, it is important to note without enacting this package, an additional 1.4 million taxpayers will have to pay the alternative minimum tax. This tax was originally enacted in the 1960s to preserve fairness in the code; but over the last 10 years, this tax has started to affect many middle-class families. Over the next 10 years, these families would have to pay more than $37 billion in extra taxes. I am sure they will not think that is fair, and I am sure they will not be happy with the other side of the aisle who are blocking reform because they do not think we can save even a penny on a dollar of waste, fraud, and abuse in this budget.

The President's growth package raises the exemption level of the AMT to save these taxpayers from these additional costs. Mr. Chairman, I know this House wants to provide tax relief to the families of America, especially in this time of economic uncertainty.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, the President and the majority have put us on a budgetary equivalent of automatic pilot. No matter what the Nation faces in emergencies, wars and ups and downs of the economic cycle, only tax cuts for the rich remain stable.

Denials and delusions have taken over the majority. They now tell us that the Bush tax cuts are the only thing that saved us from a worst economy. That must be magic then, because the tax cuts have not gone into effect, only the rebate has and that ought to be called the Democratic tax cut.

This budget cheats each and every other American except wealthy Americans. The only people who have sacrificed for this country since September 10, 2001, were those who died in New York and the Pentagon and those who are now serving as Reservists abroad.

Mr. Chairman, we have to show that we can do more than what this administration has done for the last 2 years, which is to give us 2.5 million jobs lost. We must not approve a budget where the only sacred cows are not citizens, seniors or children, but tax cuts for the wealthy. Vote for the Democratic alternative.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this hour of debate is dedicated to the Joint Economic Committee to talk about the economy, so I would like to spend a few moments to do just that.

Our economy is in trouble. Just in the last month of February, we lost 308,000 jobs. That is one of the sharpest drops in recent history. The unemployment rate at this time stands at 5.8 percent. While this is relatively low by historical standards, it is high by recent history. Unemployment was only 4 percent as recently as the year 2000.

□ 1700

Mr. Chairman, there are three parts of our economy by definition, consumption, investment and government spending. Consumption is relatively high in this country: retail sales, new refinancings on homes, car purchasing. It is why our economy grew at 2.75 percentage points last year. Government spending, even though you would not hear it from the other side, is at an all-time high. Investment on the other hand, Mr. Chairman, has declined in this economy. In fact, investment spending in this economy has declined for eight consecutive quarters, for 2 years.

What are we going to do about it? That is an important question, and that is a question that is addressed and answered in this budget.

Mr. Chairman, there are two schools of thought here in Washington. One school of thought we are seeing on the other side of the aisle is that we just need to spend more money, and that way we will grow the economy. Let me review that for a moment here with this chart, and let me explain why more government spending does not create jobs.

Number one, to spend a dollar the government first must tax or borrow that dollar from an individual or business. Second, that individual or business now has 1 less dollar to spend or invest. Third, the government then spends that dollar. But, fourth, there is no net effect in economic activity. Government spending goes up by a buck, personal private spending goes down by a buck.

What is the alternative vision to that, Mr. Chairman? The alternative vision is to create jobs and promote economic growth by reducing taxes. How does that happen? How does this work? Number one, the higher taxes are, the less incentive there is to work or invest. It is an economic principle that economists from the left and the right agree upon. For example, an individual will invest more money when their after-tax income on each dollar invested is 80 cents than they would likely invest if their after-tax income is 50 cents. Put another way, if half of your money goes to taxes, you have less of an incentive to work and invest. If more of your money goes into your own pocket, you have a higher incentive effect to work and invest. More investment means more capital to expand, create businesses and to grow jobs. So new and expanded businesses means new jobs. That is why the net effect of reducing taxes in this budget will create jobs.

What kind of tax cuts are we talking about? How many new jobs are we looking at? To give you a quick preview of what Americans are looking at in the President's economic growth package, in the economic growth package that is accommodated in this budget, it is basically this. Under the President's proposal to speed up tax relief, 92 million American taxpayers would receive, on average, tax cuts of over $1,000 in this year alone. Forty-six million married couples would receive an average tax cut of $1,716. Thirty-four million families with children would benefit from an average tax cut of $1,473. Six million single women with children would receive an average tax cut of $541. Thirteen million elderly taxpayers would receive an average tax cut of $1,384. Twenty-three million small business owners would receive tax cuts averaging $2,042. For example, a typical family of four with two income earners earning a combined $39,000 in income would receive a total of $1,100 in tax relief and would wipe out their Federal tax liability.

Mr. Chairman, how many jobs is this going to create? This is something that has been a topic of discussion for quite a while this year, and there are a lot of estimates on this point. According to conservative estimates by the Council of Economic Advisers, this plan will generate 2.1 million jobs over the next 3 years. According to other estimates, like the Business Roundtable, they put that figure at about 3 million new jobs at the end of the year. Macroeconomic Policy Advisers from St. Louis estimates that this economic growth package would increase new jobs, create brand new jobs, to the tune of 2 million new jobs by the end of 2004.

This is what it is all about, Mr. Chairman. The reason we went into deficit is because people went from working and paying taxes to getting laid off and collecting unemployment. Sixty-eight percent of the loss of the surplus that occurred last year alone occurred because of this. We realize more spending is necessary to fight the war on terrorism, to win the war in Iraq, but we also realize that if we can get people back to work, the most moral economic policy is getting a person a job. It is becoming good economic policy, it is good fiscal policy, because if a person has a job, they are paying taxes, and they are bringing more money to the Federal Government.

An issue that often comes around when we are talking about the tax bill is dividends. I would like to shed some light on why we are trying to repeal the double taxation of dividends. It is no secret if you go around this country and talk to manufacturers, talk to farmers, talk to small business men and women, that we are in global competition, that we are under pressure from trade from China, from Mexico, from other areas. One area where our Nation is so uncompetitive is in the area of taxes. When you take a look at how dividends are taxed, it is done basically like this. First a company makes money, and then it pays taxes on that money. Then if it wants to share its earnings with its owners, its shareholders, it passes that on to its shareholders in the form of a dividend. But in this country, that dividend gets taxed again. And so we have double taxation on dividends, which actually looks at about 60 to 70 percent of every dollar moving through our economy.

To put it another way, Mr. Chairman, we tax dividend income higher than any other industrialized country in the world except for Japan. Looking at this chart here, which shows us basically a list of all the industrialized countries in the world, the United States of America taxes dividend income more than any other country except for Japan. I would not want to be Japan because they are entering their second decade of recession right now.

What is accomplished by repealing the double taxation on dividends? Who benefits? This is a discussion that we have heard a lot. Mostly who benefits by repealing the double taxation on dividends are senior citizens. Half of all Americans who receive dividend income are senior citizens, and half of all seniors in America receive dividends. But more than just that. The people who own stocks, half of all households in America own shares in the stock market. People who have pension plans, people who have 401(k) plans, people who have IRAs will benefit from this because by repealing the double tax on dividends, you are increasing the after-tax rate of return on investment. What that means is you are increasing the value of all equities in the stock market. This is why economists from all over the spectrum, liberal and conservative, are telling us that if we repeal the double tax on dividends, we will increase the value of the stock market by anywhere from 7 to 20 percent. Imagine that, a 20 percent increase in the value of stock markets.

Mr. Chairman, we all heard the stories about seniors who have seen their savings portfolio wiped out by the losses in the stock market that have occurred over the last year or two. We have seen the stories where pensioners, where people getting close to retirement have seen their retirement go away to the point they have to go back to work or work longer than they had planned. If we can do something that would actually improve the value of people's pension funds, IRAs, the stock market, that would be a good thing, I would think.

And so, Mr. Chairman, that is why it is important to do this kind of economic policy. If we repeal the double tax on dividends, not only will we help senior citizens, not only will we help revive the stock market, not only will we help get people their jobs back and grow the economy, but we will also help restore good corporate governance to our Nation's corporations.

One of the reasons why the stock market declined so much in this past year is because of all that corporate malfeasance that occurred. One of the reasons why we have bad decision-making in America's boardrooms is because in our Tax Code is an incentive to actually grow your corporation through borrowing, through debt financing, rather than honestly through equity growth. What I mean when I say that is we give companies a tax break if they borrow and borrow and borrow to grow their companies. And when we go into tough times, like a recession, what happens is these companies go bankrupt. That is one of the reasons why WorldCom, Global Crossing and all of these companies went bankrupt. But if we give companies an incentive to share the wealth with their shareholders, to grow their companies honestly through equity, we can strike a blow for good corporate governance.

For many reasons, this is why this economic growth plan makes sense. The most important reason, Mr. Chairman, why we are trying to pass this budget is, number one, protect our priorities, win the war on terrorism, win the war in Iraq, and get people their jobs back. The best way to get this economy growing is to let people keep more of what they earn and allow businesses to keep more of what they make.

One of the other great provisions in this tax bill is the fact that we lower the small business tax rate down to the level of large corporations. What we do not see that is being offered later in the budgets that are the alternative budgets, the Blue Dog budget, the Spratt budget, is that they raise taxes. They actually raise taxes on small businesses. What we are doing here is recognizing the fact that today, this very day, we are taxing small businesses at a higher tax rate than we tax large corporations in America. And so what we are simply trying to do is lower the tax rates on small businesses, not below the tax rate that large corporations pay, but down to the tax rate that large corporations pay.

I urge a "yes" vote on this budget, Mr. Chairman.

Mr. Chairman, I yield back the balance of my time.

Mr. STARK. Mr. Chairman, I am delighted to yield 2 minutes to the distinguished gentleman from Michigan (Mr. LEVIN), who understands that Michigan is going to lose almost $3 billion in funds for SCHIP and Medicaid under the Republican budget.

Mr. LEVIN. Mr. Chairman, we have heard the siren song again, but let us look at the facts. First of all, as to veterans, this is undeniable, and I want to read it: The reconciliation instructions in the Republican plan require $14.6 billion in unspecified reductions in veterans' benefits. This $14.6 billion cut represents a cut of 3.8 percent in mandatory spending below the levels in current law, and we are doing this on this day.

Secondly, as to the income figures, for families with incomes below $75,000, they are not going to receive this big boon as stated in terms of the dividend tax cut. They will receive an average tax benefit of $42. And for the families that are in the middle 20 percent, the average is not in the thousands under the tax cut of the Republicans, but only $246.

So what has happened here? A party that once said they had the mantle of fiscal responsibility, they are sacrificing that on the altar of irresponsible tax cuts; deficits not as far as the eye can see, but further than the eye can see. In the long run, all will be hurt except the very wealthy as interest rates go up, and, therefore, it impacts on our houses and our cars and everything we buy; in the short run, kids and their education, veterans, as I mentioned, people who need health care, and all of us who need homeland security.

This is an irresponsible budget and digs a deeper and deeper hole of deficits. We have some sound alternatives. Let us vote for them.

The CHAIRMAN pro tempore (Mr. DUNCAN). The gentleman from California (Mr. STARK) has 1½ minutes remaining.

Mr. STARK. Mr. Chairman, before I yield a final minute to the ranking member of the Committee on the Budget, I would like to use part of my 30 seconds to just suggest to the Chair and thank him for his kind and considerate presiding this afternoon. I know that could only come from a gentleman with whom I served, John Duncan, Sr., for many years the ranking member of the Committee on Ways and Means. I always say that fruit does not fall very far from the tree. Thank you, Mr. Chairman.

I am going to leave it to the gentleman from South Carolina (Mr. SPRATT) with the remaining time to discuss again the tax cut. It is too bad we do not talk more about 42 million uninsured Americans and children without education and the things that are being buried by this recent war talk.

Mr. Chairman, I yield the balance of my time to the gentleman from South Carolina (Mr. SPRATT).

The CHAIRMAN pro tempore. The gentleman from South Carolina (Mr. SPRATT) is recognized for 1 minute.

Mr. SPRATT. Mr. Chairman, quickly let me commend to the gentleman's reading an excellent piece of work done by the Joint Economic Committee staff called an Economic Policy Brief, and in particular to page 8, because if you will turn here, we will see that the JEC staff have run these same numbers through several established mathematical economic models, including two that are used prominently by the White House.

According to these models, the Democratic alternative will add 1.6 percentage points to GDP growth in 2003. The Bush alternative, at six times the cost, would yield 1.1 percent growth.

Our proposal would yield or generate 1,122,000 jobs. Theirs, at six times the cost, would generate 600,000 jobs.

If you go down to economy.com, you will find the same results. Our proposal generates, according to their model, 1,150,000 jobs for a $138 billion impact this year; theirs, for $726 billion, generates 640,000 jobs.

□ 1715

Here it is, very carefully worked out, using established models. In fact, Macroeconomic Advisors are retained by the CEA. We beat them two to one for one sixth of the cost in job generation and GDP growth.

The CHAIRMAN pro tempore (Mr. DUNCAN). All time for general debate on the resolution has expired.

Pursuant to the rule, the concurrent resolution shall be considered for amendment under the 5-minute rule. The amendment printed in part A of House Report 108-44 is adopted and the concurrent resolution, as amended, is considered read.

The text of House Concurrent Resolution 95, as amended pursuant to House Resolution 151, is as follows:

H. CON. RES. 95

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.**

(a) DECLARATION.—The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 are hereby set forth.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2004.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Major functional categories.

TITLE II—RECONCILIATION

Sec. 201. Reconciliation in the House of Representatives.

TITLE III—RESERVE FUNDS AND CONTINGENCY PROCEDURE
Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates
Sec. 301. Reserve fund for medicare modernization and prescription drugs.
Sec. 302. Reserve fund for medicaid.
Sec. 303. Reserve fund for bioshield.
Subtitle B—Contingency Procedure for Legislation Not Assumed in Budget Aggregates
Sec. 311. Contingency procedure for surface transportation.
Subtitle C—Implementation
Sec. 321. Application and effect of changes in allocations and aggregates.
TITLE IV—BUDGET ENFORCEMENT
Sec. 401. Restrictions on advance appropriations in the House.Enforcement Act of 1990.
Sec. 402. Compliance with section 13301 of the Budget Enforcement Act of 1990.

## TITLE I—RECOMMENDED LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2003 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2003: $1,323,729,000,000.
Fiscal year 2004: $1,350,138,000,000.
Fiscal year 2005: $1,519,267,000,000.
Fiscal year 2006: $1,662,729,000,000.
Fiscal year 2007: $1,793,142,000,000.
Fiscal year 2008: $1,902,740,000,000.
Fiscal year 2009: $2,017,385,000,000.
Fiscal year 2010: $2,130,867,000,000.
Fiscal year 2011: $2,235,796,000,000.
Fiscal year 2012: $2,364,426,000,000.
Fiscal year 2013: $2,502,635,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2003: $36,105,000,000.
Fiscal year 2004: $116,232,000,000.
Fiscal year 2005: $97,759,000,000.
Fiscal year 2006: $77,943,000,000.
Fiscal year 2007: $60,024,000,000.
Fiscal year 2008: $60,237,000,000.
Fiscal year 2009: $60,945,000,000.
Fiscal year 2010: $62,175,000,000.
Fiscal year 2011: $191,700,000,000.
Fiscal year 2012: $285,353,000,000.
Fiscal year 2013: $301,575,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2003: $1,790,046,000,000.
Fiscal year 2004: $1,838,519,000,000.
Fiscal year 2005: $1,952,639,000,000.
Fiscal year 2006: $2,076,319,000,000.
Fiscal year 2007: $2,177,306,000,000.
Fiscal year 2008: $2,282,248,000,000.
Fiscal year 2009: $2,383,491,000,000.
Fiscal year 2010: $2,481,237,000,000.
Fiscal year 2011: $2,597,191,000,000.
Fiscal year 2012: $2,704,406,000,000.
Fiscal year 2013: $2,832,479,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2003: $1,776,895,000,000.
Fiscal year 2004: $1,847,887,000,000.
Fiscal year 2005: $1,943,164,000,000.
Fiscal year 2006: $2,045,680,000,000.
Fiscal year 2007: $2,139,077,000,000.
Fiscal year 2008: $2,244,487,000,000.
Fiscal year 2009: $2,350,662,000,000.
Fiscal year 2010: $2,451,698,000,000.
Fiscal year 2011: $2,574,381,000,000.
Fiscal year 2012: $2,667,177,000,000.
Fiscal year 2013: $2,803,936,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2003: $453,166,000,000.
Fiscal year 2004: $497,749,000,000.
Fiscal year 2005: $423,897,000,000.
Fiscal year 2006: $382,951,000,000.
Fiscal year 2007: $345,935,000,000.
Fiscal year 2008: $341,747,000,000.
Fiscal year 2009: $333,277,000,000.
Fiscal year 2010: $320,831,000,000.
Fiscal year 2011: $338,585,000,000.
Fiscal year 2012: $302,751,000,000.
Fiscal year 2013: $301,301,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,687,000,000,000.
Fiscal year 2004: $7,264,000,000,000.
Fiscal year 2005: $7,794,000,000,000.
Fiscal year 2006: $8,302,000,000,000.
Fiscal year 2007: $8,777,000,000,000.
Fiscal year 2008: $9,251,000,000,000.
Fiscal year 2009: $9,719,000,000,000.
Fiscal year 2010: $10,179,000,000,000.
Fiscal year 2011: $10,660,000,000,000.
Fiscal year 2012: $11,112,000,000,000.
Fiscal year 2013: $11,564,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2003: $3,858,000,000,000.
Fiscal year 2004: $4,179,000,000,000.
Fiscal year 2005: $4,416,000,000,000.
Fiscal year 2006: $4,597,000,000,000.
Fiscal year 2007: $4,720,000,000,000.
Fiscal year 2008: $4,819,000,000,000.
Fiscal year 2009: $4,889,000,000,000.
Fiscal year 2010: $4,926,000,000,000.
Fiscal year 2011: $4,963,000,000,000.
Fiscal year 2012: $4,949,000,000,000.
Fiscal year 2013: $4,918,000,000,000.

### SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2003 through 2013 for each major functional category are:

(1) National Defense (050):

Fiscal year 2003:
(A) New budget authority, $392,494,000,000.
(B) Outlays, $386,229,000,000.
Fiscal year 2004:
(A) New budget authority, $400,546,000,000.
(B) Outlays, $400,916,000,000.
Fiscal year 2005:
(A) New budget authority, $420,071,000,000.
(B) Outlays, $414,237,000,000.
Fiscal year 2006:
(A) New budget authority, $440,185,000,000.
(B) Outlays, $426,011,000,000.
Fiscal year 2007:
(A) New budget authority, $460,435,000,000.
(B) Outlays, $438,656,000,000.
Fiscal year 2008:
(A) New budget authority, $480,886,000,000.
(B) Outlays, $462,861,000,000.
Fiscal year 2009:
(A) New budget authority, $494,067,000,000.
(B) Outlays, $480,650,000,000.
Fiscal year 2010:
(A) New budget authority, $507,840,000,000.
(B) Outlays, $497,348,000,000.
Fiscal year 2011:
(A) New budget authority, $522,103,000,000.
(B) Outlays, $516,338,000,000.
Fiscal year 2012:
(A) New budget authority, $536,531,000,000.
(B) Outlays, $523,884,000,000.
Fiscal year 2013:
(A) New budget authority, $551,323,000,000.
(B) Outlays, $543,541,000,000.

(2) International Affairs (150):

Fiscal year 2003:
(A) New budget authority, $22,506,000,000.
(B) Outlays, $19,283,000,000.
Fiscal year 2004:
(A) New budget authority, $24,750,000,000.
(B) Outlays, $23,654,000,000.
Fiscal year 2005:
(A) New budget authority, $28,631,000,000.
(B) Outlays, $24,090,000,000.
Fiscal year 2006:
(A) New budget authority, $31,090,000,000.
(B) Outlays, $25,557,000,000.
Fiscal year 2007:
(A) New budget authority, $32,271,000,000.
(B) Outlays, $27,344,000,000.
Fiscal year 2008:
(A) New budget authority, $33,120,000,000.
(B) Outlays, $28,303,000,000.
Fiscal year 2009:
(A) New budget authority, $33,775,000,000.
(B) Outlays, $29,284,000,000.
Fiscal year 2010:
(A) New budget authority, $34,466,000,000.
(B) Outlays, $30,078,000,000.
Fiscal year 2011:
(A) New budget authority, $35,315,000,000.
(B) Outlays, $30,916,000,000.
Fiscal year 2012:
(A) New budget authority, $36,148,000,000.
(B) Outlays, $31,716,000,000.
Fiscal year 2013:
(A) New budget authority, $37,006,000,000.
(B) Outlays, $32,576,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 2003:
(A) New budget authority, $23,153,000,000.
(B) Outlays, $21,556,000,000.
Fiscal year 2004:
(A) New budget authority, $22,771,000,000.
(B) Outlays, $22,348,000,000.
Fiscal year 2005:
(A) New budget authority, $23,591,000,000.
(B) Outlays, $23,082,000,000.
Fiscal year 2006:
(A) New budget authority, $24,344,000,000.
(B) Outlays, $23,690,000,000.
Fiscal year 2007:
(A) New budget authority, $25,153,000,000.
(B) Outlays, $24,425,000,000.
Fiscal year 2008:
(A) New budget authority, $25,899,000,000.
(B) Outlays, $25,127,000,000.
Fiscal year 2009:
(A) New budget authority, $26,504,000,000.
(B) Outlays, $25,799,000,000.
Fiscal year 2010:
(A) New budget authority, $27,140,000,000.
(B) Outlays, $26,435,000,000.
Fiscal year 2011:
(A) New budget authority, $27,800,000,000.
(B) Outlays, $27,079,000,000.
Fiscal year 2012:
(A) New budget authority, $28,464,000,000.
(B) Outlays, $27,735,000,000.
Fiscal year 2013:
(A) New budget authority, $29,134,000,000.
(B) Outlays, $28,393,000,000.

(4) Energy (270):

Fiscal year 2003:
(A) New budget authority, $2,074,000,000.
(B) Outlays, $439,000,000.
Fiscal year 2004:
(A) New budget authority, $2,583,000,000.
(B) Outlays, $928,000,000.
Fiscal year 2005:

(A) New budget authority, $2,707,000,000.

(B) Outlays, $961,000,000.

Fiscal year 2006:

(A) New budget authority, $2,609,000,000.

(B) Outlays, $1,244,000,000.

Fiscal year 2007:

(A) New budget authority, $2,431,000,000.

(B) Outlays, $1,022,000,000.

Fiscal year 2008:

(A) New budget authority, $2,988,000,000.

(B) Outlays, $1,400,000,000.

Fiscal year 2009:

(A) New budget authority, $2,977,000,000.

(B) Outlays, $1,660,000,000.

Fiscal year 2010:

(A) New budget authority, $3,085,000,000.

(B) Outlays, $1,781,000,000.

Fiscal year 2011:

(A) New budget authority, $3,181,000,000.

(B) Outlays, $1,955,000,000.

Fiscal year 2012:

(A) New budget authority, $3,288,000,000.

(B) Outlays, $2,316,000,000.

Fiscal year 2013:

(A) New budget authority, $3,401,000,000.

(B) Outlays, $2,293,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2003:

(A) New budget authority, $30,816,000,000.

(B) Outlays, $28,940,000,000.

Fiscal year 2004:

(A) New budget authority, $29,240,000,000.

(B) Outlays, $29,868,000,000.

Fiscal year 2005:

(A) New budget authority, $30,253,000,000.

(B) Outlays, $30,276,000,000.

Fiscal year 2006:

(A) New budget authority, $30,945,000,000.

(B) Outlays, $31,203,000,000.

Fiscal year 2007:

(A) New budget authority, $31,453,000,000.

(B) Outlays, $31,335,000,000.

Fiscal year 2008:

(A) New budget authority, $32,230,000,000.

(B) Outlays, $31,713,000,000.

Fiscal year 2009:

(A) New budget authority, $33,463,000,000.

(B) Outlays, $32,843,000,000.

Fiscal year 2010:

(A) New budget authority, $34,432,000,000.

(B) Outlays, $33,768,000,000.

Fiscal year 2011:

(A) New budget authority, $35,438,000,000.

(B) Outlays, $34,752,000,000.

Fiscal year 2012:

(A) New budget authority, $36,354,000,000.

(B) Outlays, $35,626,000,000.

Fiscal year 2013:

(A) New budget authority, $37,251,000,000.

(B) Outlays, $36,600,000,000.

(6) Agriculture (350):

Fiscal year 2003:

(A) New budget authority, $24,418,000,000.

(B) Outlays, $23,365,000,000.

Fiscal year 2004:

(A) New budget authority, $24,192,000,000.

(B) Outlays, $23,363,000,000.

Fiscal year 2005:

(A) New budget authority, $26,481,000,000.

(B) Outlays, $25,205,000,000.

Fiscal year 2006:

(A) New budget authority, $26,197,000,000.

(B) Outlays, $25,000,000,000.

Fiscal year 2007:

(A) New budget authority, $25,567,000,000.

(B) Outlays, $24,430,000,000.

Fiscal year 2008:

(A) New budget authority, $24,607,000,000.

(B) Outlays, $23,543,000,000.

Fiscal year 2009:

(A) New budget authority, $24,998,000,000.

(B) Outlays, $24,091,000,000.

Fiscal year 2010:

(A) New budget authority, $24,293,000,000.

(B) Outlays, $23,526,000,000.

Fiscal year 2011:

(A) New budget authority, $23,781,000,000.

(B) Outlays, $23,030,000,000.

Fiscal year 2012:

(A) New budget authority, $23,390,000,000.

(B) Outlays, $22,654,000,000.

Fiscal year 2013:

(A) New budget authority, $23,155,000,000.

(B) Outlays, $22,413,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2003:

(A) New budget authority, $8,812,000,000.

(B) Outlays, $5,881,000,000.

Fiscal year 2004:

(A) New budget authority, $7,405,000,000.

(B) Outlays, $3,494,000,000.

Fiscal year 2005:

(A) New budget authority, $8,637,000,000.

(B) Outlays, $3,957,000,000.

Fiscal year 2006:

(A) New budget authority, $8,151,000,000.

(B) Outlays, $2,965,000,000.

Fiscal year 2007:

(A) New budget authority, $9,171,000,000.

(B) Outlays, $3,103,000,000.

Fiscal year 2008:

(A) New budget authority, $8,635,000,000.

(B) Outlays, $1,970,000,000.

Fiscal year 2009:

(A) New budget authority, $8,774,000,000.

(B) Outlays, $1,982,000,000.

Fiscal year 2010:

(A) New budget authority, $8,750,000,000.

(B) Outlays, $1,545,000,000.

Fiscal year 2011:

(A) New budget authority, $8,952,000,000.

(B) Outlays, $1,141,000,000.

Fiscal year 2012:

(A) New budget authority, $9,042,000,000.

(B) Outlays, $828,000,000.

Fiscal year 2013:

(A) New budget authority, $9,259,000,000.

(B) Outlays, $1,056,000,000.

(8) Transportation (400):

Fiscal year 2003:

(A) New budget authority, $64,091,000,000.

(B) Outlays, $67,847,000,000.

Fiscal year 2004:

(A) New budget authority, $65,430,000,000.

(B) Outlays, $69,225,000,000.

Fiscal year 2005:

(A) New budget authority, $65,806,000,000.

(B) Outlays, $66,917,000,000.

Fiscal year 2006:

(A) New budget authority, $66,718,000,000.

(B) Outlays, $66,538,000,000.

Fiscal year 2007:

(A) New budget authority, $67,726,000,000.

(B) Outlays, $67,264,000,000.

Fiscal year 2008:

(A) New budget authority, $68,692,000,000.

(B) Outlays, $68,297,000,000.

Fiscal year 2009:

(A) New budget authority, $69,881,000,000.

(B) Outlays, $69,552,000,000.

Fiscal year 2010:

(A) New budget authority, $71,084,000,000.

(B) Outlays, $70,915,000,000.

Fiscal year 2011:

(A) New budget authority, $72,789,000,000.

(B) Outlays, $72,410,000,000.

Fiscal year 2012:

(A) New budget authority, $74,498,000,000.

(B) Outlays, $74,004,000,000.

Fiscal year 2013:

(A) New budget authority, $76,283,000,000.

(B) Outlays, $75,640,000,000.

(9) Community and Regional Development (450):

Fiscal year 2003:

(A) New budget authority, $12,251,000,000.

(B) Outlays, $15,994,000,000.

Fiscal year 2004:

(A) New budget authority, $14,137,000,000.

(B) Outlays, $15,923,000,000.

Fiscal year 2005:

(A) New budget authority, $14,356,000,000.

(B) Outlays, $15,991,000,000.

Fiscal year 2006:

(A) New budget authority, $14,647,000,000.

(B) Outlays, $15,119,000,000.

Fiscal year 2007:

(A) New budget authority, $14,968,000,000.

(B) Outlays, $14,918,000,000.

Fiscal year 2008:

(A) New budget authority, $15,351,000,000.

(B) Outlays, $14,500,000,000.

Fiscal year 2009:

(A) New budget authority, $15,702,000,000.

(B) Outlays, $14,803,000,000.

Fiscal year 2010:

(A) New budget authority, $16,076,000,000.

(B) Outlays, $15,146,000,000.

Fiscal year 2011:

(A) New budget authority, $16,468,000,000.

(B) Outlays, $15,524,000,000.

Fiscal year 2012:

(A) New budget authority, $16,858,000,000.

(B) Outlays, $15,892,000,000.

Fiscal year 2013:

(A) New budget authority, $17,256,000,000.

(B) Outlays, $16,288,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2003:

(A) New budget authority, $86,169,000,000.

(B) Outlays, $81,340,000,000.

Fiscal year 2004:

(A) New budget authority, $84,748,000,000.

(B) Outlays, $85,706,000,000.

Fiscal year 2005:

(A) New budget authority, $84,381,000,000.

(B) Outlays, $83,598,000,000.

Fiscal year 2006:

(A) New budget authority, $86,670,000,000.

(B) Outlays, $84,639,000,000.

Fiscal year 2007:

(A) New budget authority, $88,650,000,000.

(B) Outlays, $86,417,000,000.

Fiscal year 2008:

(A) New budget authority, $90,811,000,000.

(B) Outlays, $88,355,000,000.

Fiscal year 2009:

(A) New budget authority, $92,393,000,000.

(B) Outlays, $90,486,000,000.

Fiscal year 2010:

(A) New budget authority, $93,935,000,000.

(B) Outlays, $92,170,000,000.

Fiscal year 2011:

(A) New budget authority, $95,832,000,000.

(B) Outlays, $93,936,000,000.

Fiscal year 2012:

(A) New budget authority, $97,635,000,000.

(B) Outlays, $95,713,000,000.

Fiscal year 2013:

(A) New budget authority, $99,536,000,000.

(B) Outlays, $97,602,000,000.

(11) Health (550):

Fiscal year 2003:

(A) New budget authority, $221,878,000,000.

(B) Outlays, $218,021,000,000.

Fiscal year 2004:

(A) New budget authority, $235,103,000,000.

(B) Outlays, $235,479,000,000.

Fiscal year 2005:

(A) New budget authority, $248,663,000,000.

(B) Outlays, $248,358,000,000.

Fiscal year 2006:

(A) New budget authority, $265,462,000,000.

(B) Outlays, $264,949,000,000.

Fiscal year 2007:

(A) New budget authority, $284,237,000,000.

(B) Outlays, $283,363,000,000.

Fiscal year 2008:

(A) New budget authority, $303,780,000,000.

(B) Outlays, $302,637,000,000.

Fiscal year 2009:
(A) New budget authority, $324,153,000,000.
(B) Outlays, $322,870,000,000.
Fiscal year 2010:
(A) New budget authority, $345,696,000,000.
(B) Outlays, $344,412,000,000.
Fiscal year 2011:
(A) New budget authority, $370,681,000,000.
(B) Outlays, $369,399,000,000.
Fiscal year 2012:
(A) New budget authority, $395,391,000,000.
(B) Outlays, $394,133,000,000.
Fiscal year 2013:
(A) New budget authority, $423,754,000,000.
(B) Outlays, $422,447,000,000.
(12) Medicare (570):
Fiscal year 2003:
(A) New budget authority, $248,586,000,000.
(B) Outlays, $248,434,000,000.
Fiscal year 2004:
(A) New budget authority, $266,538,000,000.
(B) Outlays, $266,865,000,000.
Fiscal year 2005:
(A) New budget authority, $282,932,000,000.
(B) Outlays, $285,912,000,000.
Fiscal year 2006:
(A) New budget authority, $322,237,000,000.
(B) Outlays, $319,017,000,000.
Fiscal year 2007:
(A) New budget authority, $344,656,000,000.
(B) Outlays, $344,943,000,000.
Fiscal year 2008:
(A) New budget authority, $370,545,000,000.
(B) Outlays, $370,436,000,000.
Fiscal year 2009:
(A) New budget authority, $396,931,000,000.
(B) Outlays, $396,685,000,000.
Fiscal year 2010:
(A) New budget authority, $424,989,000,000.
(B) Outlays, $425,263,000,000.
Fiscal year 2011:
(A) New budget authority, $452,618,000,000.
(B) Outlays, $455,994,000,000.
Fiscal year 2012:
(A) New budget authority, $489,873,000,000.
(B) Outlays, $486,064,000,000.
Fiscal year 2013:
(A) New budget authority, $528,586,000,000.
(B) Outlays, $528,861,000,000.
(13) Income Security (600):
Fiscal year 2003:
(A) New budget authority, $326,588,000,000.
(B) Outlays, $334,373,000,000.
Fiscal year 2004:
(A) New budget authority, $315,485,000,000.
(B) Outlays, $321,120,000,000.
Fiscal year 2005:
(A) New budget authority, $325,921,000,000.
(B) Outlays, $329,359,000,000.
Fiscal year 2006:
(A) New budget authority, $331,772,000,000.
(B) Outlays, $334,216,000,000.
Fiscal year 2007:
(A) New budget authority, $336,386,000,000.
(B) Outlays, $338,308,000,000.
Fiscal year 2008:
(A) New budget authority, $344,748,000,000.
(B) Outlays, $345,993,000,000.
Fiscal year 2009:
(A) New budget authority, $352,988,000,000.
(B) Outlays, $353,901,000,000.
Fiscal year 2010:
(A) New budget authority, $360,370,000,000.
(B) Outlays, $361,147,000,000.
Fiscal year 2011:
(A) New budget authority, $374,372,000,000.
(B) Outlays, $375,115,000,000.
Fiscal year 2012:
(A) New budget authority, $377,623,000,000.
(B) Outlays, $378,358,000,000.
Fiscal year 2013:
(A) New budget authority, $391,496,000,000.
(B) Outlays, $392,351,000,000.
(14) Social Security (650):
Fiscal year 2003:
(A) New budget authority, $13,255,000,000.
(B) Outlays, $13,255,000,000.
Fiscal year 2004:
(A) New budget authority, $14,223,000,000.
(B) Outlays, $14,222,000,000.
Fiscal year 2005:
(A) New budget authority, $15,330,000,000.
(B) Outlays, $15,330,000,000.
Fiscal year 2006:
(A) New budget authority, $16,451,000,000.
(B) Outlays, $16,451,000,000.
Fiscal year 2007:
(A) New budget authority, $17,975,000,000.
(B) Outlays, $17,975,000,000.
Fiscal year 2008:
(A) New budget authority, $19,827,000,000.
(B) Outlays, $19,827,000,000.
Fiscal year 2009:
(A) New budget authority, $21,982,000,000.
(B) Outlays, $21,982,000,000.
Fiscal year 2010:
(A) New budget authority, $24,357,000,000.
(B) Outlays, $24,357,000,000.
Fiscal year 2011:
(A) New budget authority, $28,235,000,000.
(B) Outlays, $28,235,000,000.
Fiscal year 2012:
(A) New budget authority, $31,450,000,000.
(B) Outlays, $31,450,000,000.
Fiscal year 2013:
(A) New budget authority, $34,481,000,000.
(B) Outlays, $34,481,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2003:
(A) New budget authority, $57,597,000,000.
(B) Outlays, $57,486,000,000.
Fiscal year 2004:
(A) New budget authority, $61,567,000,000.
(B) Outlays, $61,119,000,000.
Fiscal year 2005:
(A) New budget authority, $65,847,000,000.
(B) Outlays, $65,632,000,000.
Fiscal year 2006:
(A) New budget authority, $64,000,000,000.
(B) Outlays, $63,830,000,000.
Fiscal year 2007:
(A) New budget authority, $62,348,000,000.
(B) Outlays, $62,074,000,000.
Fiscal year 2008:
(A) New budget authority, $65,696,000,000.
(B) Outlays, $65,557,000,000.
Fiscal year 2009:
(A) New budget authority, $66,939,000,000.
(B) Outlays, $66,695,000,000.
Fiscal year 2010:
(A) New budget authority, $68,222,000,000.
(B) Outlays, $67,938,000,000.
Fiscal year 2011:
(A) New budget authority, $72,714,000,000.
(B) Outlays, $72,418,000,000.
Fiscal year 2012:
(A) New budget authority, $69,867,000,000.
(B) Outlays, $69,477,000,000.
Fiscal year 2013:
(A) New budget authority, $74,518,000,000.
(B) Outlays, $74,198,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $37,313,000,000.
(B) Outlays, $40,898,000,000.
Fiscal year 2005:
(A) New budget authority, $37,676,000,000.
(B) Outlays, $39,007,000,000.
Fiscal year 2006:
(A) New budget authority, $37,586,000,000.
(B) Outlays, $38,030,000,000.
Fiscal year 2007:
(A) New budget authority, $37,966,000,000.
(B) Outlays, $37,862,000,000.
Fiscal year 2008:
(A) New budget authority, $38,884,000,000.
(B) Outlays, $38,639,000,000.
Fiscal year 2009:
(A) New budget authority, $39,846,000,000.
(B) Outlays, $39,669,000,000.
Fiscal year 2010:
(A) New budget authority, $40,891,000,000.
(B) Outlays, $40,703,000,000.
Fiscal year 2011:
(A) New budget authority, $42,160,000,000.
(B) Outlays, $41,855,000,000.
Fiscal year 2012:
(A) New budget authority, $43,459,000,000.
(B) Outlays, $43,131,000,000.
Fiscal year 2013:
(A) New budget authority, $44,808,000,000.
(B) Outlays, $44,471,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,178,000,000.
(B) Outlays, $18,103,000,000.
Fiscal year 2004:
(A) New budget authority, $19,779,000,000.
(B) Outlays, $19,597,000,000.
Fiscal year 2005:
(A) New budget authority, $20,038,000,000.
(B) Outlays, $20,226,000,000.
Fiscal year 2006:
(A) New budget authority, $19,672,000,000.
(B) Outlays, $19,731,000,000.
Fiscal year 2007:
(A) New budget authority, $19,976,000,000.
(B) Outlays, $19,737,000,000.
Fiscal year 2008:
(A) New budget authority, $19,789,000,000.
(B) Outlays, $19,584,000,000.
Fiscal year 2009:
(A) New budget authority, $20,208,000,000.
(B) Outlays, $19,800,000,000.
Fiscal year 2010:
(A) New budget authority, $20,620,000,000.
(B) Outlays, $20,175,000,000.
Fiscal year 2011:
(A) New budget authority, $21,342,000,000.
(B) Outlays, $20,874,000,000.
Fiscal year 2012:
(A) New budget authority, $22,090,000,000.
(B) Outlays, $21,751,000,000.
Fiscal year 2013:
(A) New budget authority, $22,881,000,000.
(B) Outlays, $22,374,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $239,741,000,000.
(B) Outlays, $239,741,000,000.
Fiscal year 2004:
(A) New budget authority, $256,670,000,000.
(B) Outlays, $256,670,000,000.
Fiscal year 2005:
(A) New budget authority, $303,916,000,000.
(B) Outlays, $303,916,000,000.
Fiscal year 2006:
(A) New budget authority, $342,042,000,000.
(B) Outlays, $342,042,000,000.
Fiscal year 2007:
(A) New budget authority, $367,472,000,000.
(B) Outlays, $367,472,000,000.
Fiscal year 2008:
(A) New budget authority, $389,300,000,000.
(B) Outlays, $389,300,000,000.
Fiscal year 2009:
(A) New budget authority, $410,519,000,000.
(B) Outlays, $410,519,000,000.
Fiscal year 2010:
(A) New budget authority, $429,676,000,000.
(B) Outlays, $429,676,000,000.
Fiscal year 2011:
(A) New budget authority, $450,251,000,000.
(B) Outlays, $450,251,000,000.
Fiscal year 2012:
(A) New budget authority, $471,470,000,000.
(B) Outlays, $471,470,000,000.
Fiscal year 2013:
(A) New budget authority, $489,580,000,000.

(B) Outlays, $489,580,000,000.
(19) Allowances (920):
Fiscal year 2003:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2004:
(A) New budget authority, −$1,067,000,000.
(B) Outlays, −$614,000,000.
Fiscal year 2005:
(A) New budget authority, $0.
(B) Outlays, −$292,000,000.
Fiscal year 2006:
(A) New budget authority, $0.
(B) Outlays, −$93,000,000.
Fiscal year 2007:
(A) New budget authority, $0.
(B) Outlays, −$36,000,000.
Fiscal year 2008:
(A) New budget authority, $0.
(B) Outlays, −$15,000,000.
Fiscal year 2009:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2010:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2011:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2012:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2013:
(A) New budget authority, $0.
(B) Outlays, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2003:
(A) New budget authority, −$41,104,000,000.
(B) Outlays, −$41,104,000,000.
Fiscal year 2004:
(A) New budget authority, −$42,894,000,000.
(B) Outlays, −$42,894,000,000.
Fiscal year 2005:
(A) New budget authority, −$52,598,000,000.
(B) Outlays, −$52,598,000,000.
Fiscal year 2006:
(A) New budget authority, −$54,459,000,000.
(B) Outlays, −$54,459,000,000.
Fiscal year 2007:
(A) New budget authority, −$51,535,000,000.
(B) Outlays, −$51,535,000,000.
Fiscal year 2008:
(A) New budget authority, −$53,540,000,000.
(B) Outlays, −$53,540,000,000.
Fiscal year 2009:
(A) New budget authority, −$52,609,000,000.
(B) Outlays, −$52,609,000,000.
Fiscal year 2010:
(A) New budget authority, −$54,685,000,000.
(B) Outlays, −$54,685,000,000.
Fiscal year 2011:
(A) New budget authority, −$56,841,000,000.
(B) Outlays, −$56,841,000,000.
Fiscal year 2012:
(A) New budget authority, −$59,025,000,000.
(B) Outlays, −$59,025,000,000.
Fiscal year 2013:
(A) New budget authority, −$61,229,000,000.
(B) Outlays, −$61,229,000,000.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) Submission Providing for Economic Growth and Tax Simplification and Fairness.—

(1) In general.—Not later than April 11, 2003, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) Instructions.—

(A) Committee on ways and means.—The House Committee on Ways and Means shall report changes in law within its jurisdiction sufficient to—

(1) reduce the total level of revenues by not more than: $35,420,000,000 for fiscal year 2003, $112,785,000,000 for fiscal year 2004, $387,719,000,000 for the period of fiscal years 2004 through 2008, and $662,874,000,000 for the period of fiscal years 2004 through 2013; and

(2) increase the level of direct spending for that committee by $4,380,000,000 in outlays for fiscal year 2003, $1,111,000,000 in outlays for fiscal year 2004, $17,393,000,000 in outlays for the period of fiscal years 2004 through 2008, and $23,096,000,000 in outlays for the period of fiscal years 2004 through 2013.

(B) Committee on education and the workforce.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to increase the level of direct spending for that committee by $3,600,000,000 in new budget authority for fiscal year 2003 and outlays flowing therefrom.

(b) Submissions Providing for the Elimination of Waste, Fraud, and Abuse in Mandatory Programs.—

(1) Findings and purpose.—(A) The Congress finds that—

(i) the Inspector General of the Department of Education has found that nearly 23 percent of recipients whose loans were discharged due to disability claims were gainfully employed;

(ii) based on data provided by the Office of Management and Budget, the House Committee on the Budget estimates that more than $8 billion in erroneous earned income tax payments are made each year;

(iii) the Office of Management and Budget estimates that erroneous payments for food stamps account for almost 9 percent of total benefits;

(iv) mismanagement of more than $3 billion in trust funds controlled by the Bureau of Indian Affairs led the Congress to take extraordinary measures to regain control of the these funds;

(v) in its Semiannual Reports to Congress, the Inspector General of the Office of Personnel Management has documented numerous instances of the Government continuing to make electronic payments for retirement benefits through the Civil Service Retirement System after the death of the eligible annuitants; and

(vi) numerous other examples of waste, fraud, and abuse are reported regularly by government watchdog agencies.

(B) It is, therefore, the purpose of this subsection to utilize the reconciliation process to eliminate waste, fraud, and abuse in mandatory programs.

(2) In general.—Not later than July 18, 2003, the House committees named in paragraph (3) shall submit their recommendations to the House Committee on the Budget to carry out this subsection. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(3) Instructions.—

(A) Committee on agriculture.—The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $600,000,000 in outlays for fiscal year 2004, $5,532,000,000 in outlays for the period of fiscal years 2004 through 2008, and $18,618,000,000 in outlays for the period of fiscal years 2004 through 2013.

(B) Committee on education and the workforce.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $261,000,000 in outlays for fiscal year 2004, $2,596,000,000 in outlays for the period of fiscal years 2004 through 2008, and $9,421,000,000 in outlays for the period of fiscal years 2004 through 2013.

(C) Committee on energy and commerce.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $2,397,000,000 in outlays for fiscal year 2004, $25,265,000,000 in outlays for the period of fiscal years 2004 through 2008, and $107,359,000,000 in outlays for the period of fiscal years 2004 through 2013.

(D) Committee on financial services.—The House Committee on Financial Services shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $62,000,000 in outlays for fiscal year 2004, $678,000,000 in outlays for the period of fiscal years 2004 through 2008, and $2,864,000,000 in outlays for the period of fiscal years 2004 through 2013.

(E) Committee on government reform.—The House Committee on Government Reform shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,072,000,000 in outlays for fiscal year 2004, $10,371,000,000 in outlays for the period of fiscal years 2004 through 2008, and $38,319,000,000 in outlays for the period of fiscal years 2004 through 2013. For the purposes of this subparagraph and section 310 of the Congressional Budget Act of 1974, a reduction in outlays submitted pursuant to this subparagraph that results from changes in programs within the jurisdiction of other committees shall count as a reduction in outlays for the Committee on Government Reform.

(F) Committee on house administration.—The House Committee on House Administration shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $4,000,000 in outlays for fiscal year 2004, $26,000,000 in outlays for the period of fiscal years 2004 through 2008, and $88,000,000 in outlays for the period of fiscal years 2004 through 2013.

(G) Committee on international relations.—The House Committee on International Relations shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $157,000,000 in outlays for fiscal year 2004, $1,293,000,000 in outlays for the period of fiscal years 2004 through 2008, and $4,468,000,000 in outlays for the period of fiscal years 2004 through 2013.

(H) Committee on the Judiciary.—The House Committee on the Judiciary shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $86,000,000 in outlays for fiscal year 2004, $727,000,000 in outlays for the period of fiscal years 2004 through 2008, and $2,404,000,000 in outlays for the period of fiscal years 2004 through 2013.

(I) Committee on resources.—The House Committee on Resources shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $40,000,000 in outlays for fiscal year 2004, $345,000,000 in outlays for the period of fiscal years 2004 through 2008, and $1,105,000,000 in outlays for the period of fiscal years 2004 through 2013.

(J) Committee on Science.—The House Committee on Science shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,000,000 in outlays for fiscal year 2004, $6,000,000 in outlays for the period of fiscal years 2004 through 2008, and $15,000,000 in outlays for the period of fiscal years 2004 through 2013.

(K) Committee on Transportation and Infrastructure.—The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $114,000,000 in outlays for fiscal year 2004, $1,099,000,000 in outlays for the period of fiscal years 2004 through 2008, and $3,702,000,000 in outlays for the period of fiscal years 2004 through 2013.

(L) Committee on Veterans' Affairs.—The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $449,000,000 in outlays for fiscal year 2004, $4,221,000,000 in outlays for the period of fiscal years 2004 through 2008, and $14,626,000,000 in outlays for the period of fiscal years 2004 through 2013.

(M) Committee on Ways and Means.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,971,000,000 in outlays for fiscal year 2004, $17,704,000,000 in outlays for the period of fiscal years 2004 through 2008, and $61,547,000,000 in outlays for the period of fiscal years 2004 through 2013.

## TITLE III—RESERVE FUNDS AND CONTINGENCY PROCEDURE

### Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates

### SEC. 301. RESERVE FUND FOR MEDICARE MODERNIZATION AND PRESCRIPTION DRUGS.

(a) In General.—In the House, if the Committee on Ways and Means or the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides a prescription drug benefit and modernizes medicare, and provides adjustments to the medicare program on a fee-for-service, capitated, or other basis, the chairman of the Committee on the Budget may revise the appropriate committee allocations described in subsection (c) for such committees and other appropriate levels in this resolution by the amount provided by that measure for that purpose, but not to exceed $7,500,000,000 in new budget authority and $7,500,000,000 in outlays for fiscal year 2004 and $400,000,000,000 in new budget authority and $400,000,000,000 in outlays for the period of fiscal years 2004 through 2013.

(b) Application.—After the consideration of any measure for which an adjustment is made pursuant to subsection (a), the chairman of the Committee on the Budget shall make any further appropriate adjustments in allocations and budget aggregates.

(c) Special Rule.—In the House, there shall be a separate section 302(a) allocation to the appropriate committees for medicare. For purposes of enforcing such separate allocation under section 302(f) of the Congressional Budget Act of 1974, the "first fiscal year" and the "total of fiscal years" shall be deemed to refer to fiscal year 2004 and the total of fiscal years 2004 through 2013 included in the joint explanatory statement of managers accompanying this resolution, respectively. Such separate allocation shall be the exclusive allocation for medicare under section 302(a) of such Act.

### SEC. 302. RESERVE FUND FOR MEDICAID.

In the House, if the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that—

(1) modernizes medicaid and the State Children's Health Insurance Program (SCHIP), and

(2) reduces new budget authority and outlays flowing therefrom by $9,010,000,000 for fiscal years 2009 through 2013,

the chairman of the Committee on the Budget may increase allocations of new budget authority and outlays for that committee (and make other appropriate changes in budgetary aggregates) by the amount provided by that measure for that purpose, but not to exceed $3,258,000,000 in new budget authority and outlays for fiscal year 2004 and $8,944,000,000 in new budget authority and outlays for the period of fiscal years 2004 through 2008.

### SEC. 303. RESERVE FUND FOR BIOSHIELD.

In the House, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures and—

(1) such measure provides new budget authority to carry out such program; or

(2) such measure authorizes discretionary new budget authority to carry out such program and the Committee on Appropriations reports a bill or joint resolution that provides new budget authority to carry out such program,

the chairman of the Committee on the Budget may revise the allocations for the committee providing such new budget authority, and other appropriate levels in this resolution, by the amount provided for that purpose, but, in the case of a measure described in paragraph (1), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom and $3,418,000,000 in new budget authority for the period of fiscal years 2004 through 2008 and outlays flowing therefrom or, in the case of a measure described in paragraph (2), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom. Notwithstanding the preceding sentence, the total such revision for fiscal year 2004 may not exceed $890,000,000 in new budget authority and outlays flowing therefrom.

### Subtitle B—Contingency Procedure for Legislation Not Assumed in Budget Aggregates

### SEC. 311. CONTINGENCY PROCEDURE FOR SURFACE TRANSPORTATION.

(a) Committee on Transportation and Infrastructure.—In the House, if the Committee on Transportation and Infrastructure reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $39,135,000,000,

(2) for fiscal year 2005: $39,786,000,000,

(3) for fiscal year 2006: $40,502,000,000,

(4) for fiscal year 2007: $41,219,000,000, or

(5) for fiscal year 2008: $42,002,000,000,

the chairman of the Committee on the Budget may adjust the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2004 and for the period of fiscal years 2004 through 2008 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation.

(b) Adjustment for Outlays.—In the House, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $38,496,000,000 for fiscal year 2004, for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).

### Subtitle C—Implementation

### SEC. 321. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) Effect of Changed Allocations and Aggregates.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) Budget Committee Determinations.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

(d) Enforcement in the House.—In the House, for the purpose of enforcing this concurrent resolution, sections 302(f) and 311(a) of the Congressional Budget Act of 1974 shall apply to fiscal year 2004 and the total for fiscal year 2004 and the four ensuing fiscal years.

## TITLE IV—BUDGET ENFORCEMENT

### SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS IN THE HOUSE.

(a) In General.—(1) In the House, except as provided in subsection (b), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(2) Managers on the part of the House may not agree to a Senate amendment that would violate paragraph (1) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(b) Exception.—In the House, an advance appropriation may be provided for fiscal year

2005 and fiscal years 2005 and 2006 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $23,178,000,000 in new budget authority.

(c) DEFINITION.—In this section, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available for any fiscal year after 2004.

### SEC. 402. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.

(a) IN GENERAL.—In the House, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.

(b) SPECIAL RULE.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.

The CHAIRMAN pro tempore. No further amendment is in order except the amendments printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by the Member designated in the report, shall be considered read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

After conclusion of consideration of the concurrent resolution for amendment, there shall be a final period of general debate which shall not exceed 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

It is now in order to consider amendment No. 1 printed in House report 108–44.

### PART B AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HILL

Mr. HILL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part B amendment No. 1 in the nature of a substitute offered by Mr. HILL:

Strike all after the resolving clause and insert the following:

### SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

(a) DECLARATION.—The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate levels for fiscal years 2005 through 2013 are hereby set forth.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2004.
TITLE I—RECOMMENDED LEVELS AND AMOUNTS
Sec. 101. Recommended levels and amounts.
Sec. 102. Homeland security.
Sec. 103. Major functional categories.
TITLE II—RECONCILIATION
Sec. 201. Reconciliation in the House of Representatives.
Sec. 202. Increase in debt limit contingent upon plan to restore balanced budget.
Sec. 203. Review of budget outlook.
TITLE III—RESERVE FUNDS AND ENFORCEMENT
Subtitle A—Reserve Funds
Sec. 301. Reserve fund for homeland security.
Sec. 302. Reserve fund for the costs of military operations in iraq.
Sec. 303. Reserve fund for additional mandatory funding for existing health and employment programs which provide assistance to States and individuals.
Sec. 304. Reserve fund for surface transportation.
Sec. 305. Reserve fund for bioshield.
Sec. 306. Reserve fund for permanent extension of tax cuts; medicare.
Subtitle B—Enforcement
Sec. 311. Point of order against certain legislation reducing the surplus or increasing the deficit after fiscal year 2008.
Sec. 312. Application and effect of changes in allocations and aggregates.
Sec. 313. Discretionary spending limits in the House.
Sec. 314. Emergency legislation.
Sec. 315. Pay-as-you-go point of order in the House.
Sec. 316. Disclosure of effect of legislation on the public debt.
Sec. 317. Disclosure of interest costs.
Sec. 318. Dynamic scoring of tax legislation.
TITLE IV—SENSE OF CONGRESS PROVISIONS
Sec. 401. Sense of Congress regarding budget enforcement.
Sec. 402. Sense of Congress on tax reform.

## TITLE I—RECOMMENDED LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2004 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2004: $1,441,770,000,000.
Fiscal year 2005: $1,604,926,000,000.
Fiscal year 2006: $1,746,972,000,000.
Fiscal year 2007: $1,863,966,000,000.
Fiscal year 2008: $1,981,577,000,000.
Fiscal year 2009: $2,099,530,000,000.
Fiscal year 2010: $2,226,842,000,000.
Fiscal year 2011: $2,460,796,000,000.
Fiscal year 2012: $2,637,779,000,000.
Fiscal year 2013: $2,778,210,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2004: $30,600,000,000.
Fiscal year 2005: $12,100,000,000.
Fiscal year 2006: −$6,300,000,000.
Fiscal year 2007: −$10,800,000,000.
Fiscal year 2008: −$18,600,000,000.
Fiscal year 2009: −$21,200,000,000.
Fiscal year 2010: −$33,800,000,000.
Fiscal year 2011: −$33,300,000,000.
Fiscal year 2012: $0.
Fiscal year 2013: $0.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2004: $1,843,018,000,000.
Fiscal year 2005: $1,951,195,000,000.
Fiscal year 2006: $2,071,194,000,000.
Fiscal year 2007: $2,171,250,000,000.
Fiscal year 2008: $2,276,515,000,000.
Fiscal year 2009: $2,373,830,000,000.
Fiscal year 2010: $2,472,581,000,000.
Fiscal year 2011: $2,585,874,000,000.
Fiscal year 2012: $2,662,041,000,000.
Fiscal year 2013: $2,768,930,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2004: $1,851,551,000,000.
Fiscal year 2005: $1,942,306,000.000.
Fiscal year 2006: $2,045,298,000,000.
Fiscal year 2007: $2,140,438,000,000.
Fiscal year 2008: $2,249,176,000,000.
Fiscal year 2009: $2,355,806,000,000.
Fiscal year 2010: $2,461,760,000,000.
Fiscal year 2011: $2,586,165,000,000.
Fiscal year 2012: $2,653,413,000,000.
Fiscal year 2013: $2,776,371,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2004: $409,781,000,000.
Fiscal year 2005: $337,380,000,000.
Fiscal year 2006: $298,326,000,000.
Fiscal year 2007: $276,472,000,000.
Fiscal year 2008: $267,599,000,000.
Fiscal year 2009: $256,276,000,000.
Fiscal year 2010: $234,918,000,000.
Fiscal year 2011: $125,369,000,000.
Fiscal year 2012: $15,634,000,000.
Fiscal year 2013: $ − 1,839,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 2004: $7,179,838,000,000.
Fiscal year 2005: $7,621,902,000,000.
Fiscal year 2006: $8,048,310,000,000.
Fiscal year 2007: $8,457,629,000,000.
Fiscal year 2008: $8,861,982,000,000.
Fiscal year 2009: $9,258,280,000,000.
Fiscal year 2010: $9,637,286,000,000.
Fiscal year 2011: $9,911,600,000,000.
Fiscal year 2012: $10,082,375,000,000.
Fiscal year 2013: $10,239,283,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2004: $4,072,838,000,000.
Fiscal year 2005: $4,221,902,000,000.
Fiscal year 2006: $4,321,310,000,000.
Fiscal year 2007: $4,378,629,000,000.
Fiscal year 2008: $4,406,982,000,000.
Fiscal year 2009: $4,404,280,000,000.
Fiscal year 2010: $4,361,286,000,000.
Fiscal year 2011: $4,191,600,000,000.
Fiscal year 2012: $3,895,375,000,000.
Fiscal year 2013: $3,568,283,000,000.

### SEC. 102. HOMELAND SECURITY.

The Congress determines and declares that the appropriate levels of new budget authority for fiscal year 2004 for Homeland Security are as follows:

(1) New budget authority, $41,035,000,000.

### SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2004 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2004:
(A) New budget authority, $400,476,000,000.
(B) Outlays, $400,882,000,000.
Fiscal year 2005:
(A) New budget authority, $420,071,000,000.
(B) Outlays, $414,205,000,000.
Fiscal year 2006:
(A) New budget authority, $440,185,000,000.
(B) Outlays, $426,007,000,000.
Fiscal year 2007:
(A) New budget authority, $460,435,000,000.
(B) Outlays, $438,656,000,000.
Fiscal year 2008:
(A) New budget authority, $480,886,000,000.
(B) Outlays, $462,861,000,000.
Fiscal year 2009:
(A) New budget authority, $494,067,000,000.
(B) Outlays, $480,650,000,000.
Fiscal year 2010:
(A) New budget authority, $507,840,000,000.
(B) Outlays, $497,348,000,000.
Fiscal year 2011:
(A) New budget authority, $522,103,000,000.
(B) Outlays, $516,338,000,000.
Fiscal year 2012:
(A) New budget authority, $536,531,000,000.
(B) Outlays, $523,884,000,000.
(A) New budget authority, $551,323,000,000.
(B) Outlays, $543,541,000,000.

(2) International Affairs (150):
Fiscal year 2004:
(A) New budget authority, $25,681,000,000.
(B) Outlays, $24,207,000,000.
Fiscal year 2005:
(A) New budget authority, $29,734,000,000.
(B) Outlays, $24,917,000,000.
Fiscal year 2006:
(A) New budget authority, $32,308,000,000.
(B) Outlays, $26,539,000,000.
Fiscal year 2007:
(A) New budget authority, $33,603,000,000.
(B) Outlays, $28,464,000,000.
Fiscal year 2008:
(A) New budget authority, $34,611,000,000.
(B) Outlays, $29,604,000,000.
Fiscal year 2009:
(A) New budget authority, $35,413,000,000.
(B) Outlays, $30,733,000,000.
Fiscal year 2010:
(A) New budget authority, $36,258,000,000.
(B) Outlays, $31,689,000,000.
Fiscal year 2011:
(A) New budget authority, $37,136,000,000.
(B) Outlays, $32,565,000,000.
Fiscal year 2012:
(A) New budget authority, $38,005,000,000.
(B) Outlays, $33,408,000,000.
Fiscal year 2013:
(A) New budget authority, $38,885,000,000.
(B) Outlays, $34,298,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2004:
(A) New budget authority, $23,503,000,000.
(B) Outlays, $22,678,000,000.
Fiscal year 2005:
(A) New budget authority, $24,330,000,000.
(B) Outlays, $23,618,000,000.
Fiscal year 2006:
(A) New budget authority, $25,112,000,000.
(B) Outlays, $24,316,000,000.
Fiscal year 2007:
(A) New budget authority, $25,949,000,000.
(B) Outlays, $25,097,000,000.
Fiscal year 2008:
(A) New budget authority, $26,722,000,000.
(B) Outlays, $25,833,000,000.
Fiscal year 2009:
(A) New budget authority, $27,350,000,000.
(B) Outlays, $26,528,000,000.
Fiscal year 2010:
(A) New budget authority, $28,006,000,000.
(B) Outlays, $27,183,000,000.
Fiscal year 2011:
(A) New budget authority, $28,687,000,000.
(B) Outlays, $27,847,000,000.
Fiscal year 2012:
(A) New budget authority, $29,372,000,000.
(B) Outlays, $28,520,000,000.
Fiscal year 2013:
(A) New budget authority, $30,062,000,000.
(B) Outlays, $29,198,000,000.

(4) Energy (270):
Fiscal year 2004:
(A) New budget authority, $2,690,000,000.
(B) Outlays, $959,000,000.
Fiscal year 2005:
(A) New budget authority, $2,828,000,000.
(B) Outlays, $1,020,000,000.
Fiscal year 2006:
(A) New budget authority, $2,741,000,000.
(B) Outlays, $1,322,000,000.
Fiscal year 2007:
(A) New budget authority, $2,559,000,000.
(B) Outlays, $1,097,000,000.
Fiscal year 2008:
(A) New budget authority, $3,100,000,000.
(B) Outlays, $1,446,000,000.
Fiscal year 2009:
(A) New budget authority, $3,111,000,000.
(B) Outlays, $1,712,000,000.
Fiscal year 2010:
(A) New budget authority, $3,218,000,000.
(B) Outlays, $1,823,000,000.
Fiscal year 2011:
(A) New budget authority, $3,319,000,000.
(B) Outlays, $2,006,000,000.
Fiscal year 2012:
(A) New budget authority, $3,430,000,000.
(B) Outlays, $2,386,000,000.
Fiscal year 2013:
(A) New budget authority, $3,547,000,000.
(B) Outlays, $2,359,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 2004:
(A) New budget authority, $30,237,000,000.
(B) Outlays, $30,357,000,000.
Fiscal year 2005:
(A) New budget authority, $31,084,000,000.
(B) Outlays, $30,996,000,000.
Fiscal year 2006:
(A) New budget authority, $31,824,000,000.
(B) Outlays, $31,998,000,000.
Fiscal year 2007:
(A) New budget authority, $32,384,000,000.
(B) Outlays, $32,168,000,000.
Fiscal year 2008:
(A) New budget authority, $33,240,000,000.
(B) Outlays, $32,612,000,000.
Fiscal year 2009:
(A) New budget authority, $34,577,000,000.
(B) Outlays, $33,835,000,000.
Fiscal year 2010:
(A) New budget authority, $35,647,000,000.
(B) Outlays, $34,857,000,000.
Fiscal year 2011:
(A) New budget authority, $36,684,000,000.
(B) Outlays, $35,870,000,000.
Fiscal year 2012:
(A) New budget authority, $37,629,000,000.
(B) Outlays, $36,772,000,000.
Fiscal year 2013:
(A) New budget authority, $38,549,000,000.
(B) Outlays, $37,769,000,000.

(6) Agriculture (350):
Fiscal year 2004:
(A) New budget authority, $24,629,000,000.
(B) Outlays, $23,693,000,000.
Fiscal year 2005:
(A) New budget authority, $27,028,000,000.
(B) Outlays, $25,695,000,000.
Fiscal year 2006:
(A) New budget authority, $26,841,000,000.
(B) Outlays, $25,587,000,000.
Fiscal year 2007:
(A) New budget authority, $26,296,000,000.
(B) Outlays, $25,103,000,000.
Fiscal year 2008:
(A) New budget authority, $25,494,000,000.
(B) Outlays, $24,368,000,000.
Fiscal year 2009:
(A) New budget authority, $26,079,000,000.
(B) Outlays, $25,111,000,000.
Fiscal year 2010:
(A) New budget authority, $25,531,000,000.
(B) Outlays, $24,701,000,000.
Fiscal year 2011:
(A) New budget authority, $24,971,000,000.
(B) Outlays, $24,157,000,000.
Fiscal year 2012:
(A) New budget authority, $24,550,000,000.
(B) Outlays, $23,752,000,000.
Fiscal year 2013:
(A) New budget authority, $24,267,000,000.
(B) Outlays, $23,472,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 2004:
(A) New budget authority, $7,513,000,000.
(B) Outlays, $3,630,000,000.
Fiscal year 2005:
(A) New budget authority, $8,778,000,000.
(B) Outlays, $4,132,000,000.
Fiscal year 2006:
(A) New budget authority, $8,337,000,000.
(B) Outlays, $3,193,000,000.
Fiscal year 2007:
(A) New budget authority, $8,670,000,000.
(B) Outlays, $2,708,000,000.
Fiscal year 2008:
(A) New budget authority, $8,798,000,000.
(B) Outlays, $2,300,000,000.
Fiscal year 2009:
(A) New budget authority, $9,013,000,000.
(B) Outlays, $2,448,000,000.
Fiscal year 2010:
(A) New budget authority, $9,065,000,000.
(B) Outlays, $2,168,000,000.
Fiscal year 2011:
(A) New budget authority, $9,262,000,000.
(B) Outlays, $1,786,000,000.
Fiscal year 2012:
(A) New budget authority, $9,347,000,000.
(B) Outlays, $1,508,000,000.
Fiscal year 2013:
(A) New budget authority, $9,556,000,000.
(B) Outlays, $1,731,000,000.

(8) Transportation (400):
Fiscal year 2004:
(A) New budget authority, $59,741,000,000.
(B) Outlays, $68,763,000,000.
Fiscal year 2005:
(A) New budget authority, $64,072,000,000.
(B) Outlays, $66,422,000,000.
Fiscal year 2006:
(A) New budget authority, $64,454,000,000.
(B) Outlays, $66,283,000,000.
Fiscal year 2007:
(A) New budget authority, $64,948,000,000.
(B) Outlays, $67,388,000,000.
Fiscal year 2008:
(A) New budget authority, $65,521,000,000.
(B) Outlays, $68,758,000,000.
Fiscal year 2009:
(A) New budget authority, $66,303,000,000.
(B) Outlays, $70,299,000,000.
Fiscal year 2010:
(A) New budget authority, $67,104,000,000.
(B) Outlays, $71,902,000,000.
Fiscal year 2011:
(A) New budget authority, $67,947,000,000.
(B) Outlays, $73,629,000,000.
Fiscal year 2012:
(A) New budget authority, $68,819,000,000.
(B) Outlays, $75,449,000,000.
Fiscal year 2013:
(A) New budget authority, $69,726,000,000.
(B) Outlays, $77,306,000,000.

(9) Community and Regional Development (450):

Fiscal year 2004:
(A) New budget authority, $14,435,000,000.
(B) Outlays, $16,085,000,000.
Fiscal year 2005:
(A) New budget authority, $14,628,000,000.
(B) Outlays, $16,231,000,000.
Fiscal year 2006:
(A) New budget authority, $14,929,000,000.
(B) Outlays, $15,385,000,000.
Fiscal year 2007:
(A) New budget authority, $15,259,000,000.
(B) Outlays, $15,174,000,000.
Fiscal year 2008:
(A) New budget authority, $15,652,000,000.
(B) Outlays, $14,756,000,000.
Fiscal year 2009:
(A) New budget authority, $16,019,000,000.
(B) Outlays, $15,065,000,000.
Fiscal year 2010:
(A) New budget authority, $16,406,000,000.
(B) Outlays, $15,414,000,000.
Fiscal year 2011:
(A) New budget authority, $16,806,000,000.
(B) Outlays, $15,800,000,000.
Fiscal year 2012:
(A) New budget authority, $17,205,000,000.
(B) Outlays, $16,176,000,000.
Fiscal year 2013:
(A) New budget authority, $17,610,000,000.
(B) Outlays, $16,579,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2004:
(A) New budget authority, $88,575,000,000.
(B) Outlays, $85,634,000,000.
Fiscal year 2005:
(A) New budget authority, $87,080,000,000.
(B) Outlays, $84,690,000,000.
Fiscal year 2006:
(A) New budget authority, $89,410,000,000.
(B) Outlays, $86,920,000,000.
Fiscal year 2007:
(A) New budget authority, $91,519,000,000.
(B) Outlays, $88,896,000,000.
Fiscal year 2008:
(A) New budget authority, $93,852,000,000.
(B) Outlays, $91,029,000,000.
Fiscal year 2009:
(A) New budget authority, $95,607,000,000.
(B) Outlays, $93,322,000,000.
Fiscal year 2010:
(A) New budget authority, $97,323,000,000.
(B) Outlays, $95,187,000,000.
Fiscal year 2011:
(A) New budget authority, $99,277,000,000.
(B) Outlays, $97,003,000,000.
Fiscal year 2012:
(A) New budget authority, $101,142,000,000.
(B) Outlays, $98,838,000,000.
Fiscal year 2013:
(A) New budget authority, $103,094,000,000.
(B) Outlays, $100,775,000,000.
(11) Health (550):
Fiscal year 2004:
(A) New budget authority, $240,084,000,000.
(B) Outlays, $239,946,000,000.
Fiscal year 2005:
(A) New budget authority, $252,037,000,000.
(B) Outlays, $251,380,000,000.
Fiscal year 2006:
(A) New budget authority, $269,598,000,000.
(B) Outlays, $268,807,000,000.
Fiscal year 2007:
(A) New budget authority, $290,285,000,000.
(B) Outlays, $288,983,000,000.
Fiscal year 2008:
(A) New budget authority, $312,078,000,000.
(B) Outlays, $310,553,000,000.
Fiscal year 2009:
(A) New budget authority, $335,314,000,000.
(B) Outlays, $333,819,000,000.
Fiscal year 2010:
(A) New budget authority, $361,218,000,000.
(B) Outlays; $359,731,000,000.
Fiscal year 2011:
(A) New budget authority, $389,078,000,000.
(B) Outlays, $387,597,000,000.
Fiscal year 2012:
(A) New budget authority, $419,498,000,000.
(B) Outlays, $418,027,000,000.
Fiscal year 2013:
(A) New budget authority, $452,918,000,000.
(B) Outlays, $451,354,000,000.
(12) Medicare (570):
Fiscal year 2004:
(A) New budget authority, $265,111,000,000.
(B) Outlays, $265,376,000,000.
Fiscal year 2005:
(A) New budget authority, $282,929,000,000.
(B) Outlays, $285,877,000,000.
Fiscal year 2006:
(A) New budget authority, $322,160,000,000.
(B) Outlays, $318,921,000,000.
Fiscal year 2007:
(A) New budget authority, $344,455,000,000.
(B) Outlays, $344,725,000,000.
Fiscal year 2008:
(A) New budget authority, $370,178,000,000.
(B) Outlays, $370,053,000,000.
Fiscal year 2009:
(A) New budget authority, $396,532,000,000.
(B) Outlays, $396,271,000,000.
Fiscal year 2010:
(A) New budget authority, $423,768,000,000.
(B) Outlays, $424,026,000,000.
Fiscal year 2011:
(A) New budget authority, $455,875,000,000.
(B) Outlays, $459,232,000,000.
Fiscal year 2012:
(A) New budget authority, $490,601,000,000.
(B) Outlays, $486,775,000,000.
Fiscal year 2013:
(A) New budget authority, $526,303,000,000.
(B) Outlays, $526,559,000,000.
(13) Income Security (600):
Fiscal year 2004:
(A) New budget authority, $318,262,000,000.
(B) Outlays, $323,329,000,000.
Fiscal year 2005:
(A) New budget authority, $326,674,000,000.
(B) Outlays, $329,937,000,000.
Fiscal year 2006:
(A) New budget authority, $334,563,000,000.
(B) Outlays, $337,028,000,000.
Fiscal year 2007:
(A) New budget authority, $340,873,000,000.
(B) Outlays, $342,609,000,000.
Fiscal year 2008:
(A) New budget authority, $352,461,000,000.
(B) Outlays, $353,378,000,000.
Fiscal year 2009:
(A) New budget authority, $363,361,000,000.
(B) Outlays, $364,102,000,000.
Fiscal year 2010:
(A) New budget authority, $375,471,000,000.
(B) Outlays, $376,077,000,000.
Fiscal year 2011:
(A) New budget authority, $392,310,000,000.
(B) Outlays, $392,878,000,000.
Fiscal year 2012:
(A) New budget authority, $383,486,000,000.
(B) Outlays, $384,054,000,000.
Fiscal year 2013:
(A) New budget authority, $398,184,000,000.
(B) Outlays, $398,881,000,000.
(14) Social Security (650):
Fiscal year 2004:
(A) New budget authority, $14,544,000,000.
(B) Outlays, $14.502,000,000.
Fiscal year 2005:
(A) New budget authority, $15,612,000,000.
(B) Outlays, $15,597,000,000.
Fiscal year 2006:
(A) New budget authority, $16,689,000,000.
(B) Outlays, $16,698,000,000.
Fiscal year 2007:
(A) New budget authority, $18,174,000,000.
(B) Outlays, $18,182,000,000.
Fiscal year 2008:
(A) New budget authority, $19,999,000,000.
(B) Outlays, $20,005,000,000.
Fiscal year 2009:
(A) New budget authority, $22,156,000,000.
(B) Outlays, $22,157,000,000.
Fiscal year 2010:
(A) New budget authority, $24,536,000,000.
(B) Outlays, $24,535,000,000.
Fiscal year 2011:
(A) New budget authority, $28,416,000,000.
(B) Outlays, $28,416,000,000.
Fiscal year 2012:
(A) New budget authority, $31,635,000,000.
(B) Outlays, $31,634,000,000.
Fiscal year 2013:
(A) New budget authority, $34,670,000,000.
(B) Outlays, $34,670,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2004:
(A) New budget authority, $61,978,000,000.
(B) Outlays, $61,522,000,000.
Fiscal year 2005:
(A) New budget authority, $67,365,000,000.
(B) Outlays, $66,612,000,000.
Fiscal year 2006:
(A) New budget authority, $65,644,000,000.
(B) Outlays, $65,215,000,000.
Fiscal year 2007:
(A) New budget authority, $64,128,000,000.
(B) Outlays, $63,680,000,000.
Fiscal year 2008:
(A) New budget authority, $67,928,000,000.
(B) Outlays, $67,654,000,000.
Fiscal year 2009:
(A) New budget authority, $69,550,000,000.
(B) Outlays, $69,192,000,000.
Fiscal year 2010:
(A) New budget authority, $71,275,000,000.
(B) Outlays, $70,868,000,000.
Fiscal year 2011:
(A) New budget authority, $75,962,000,000.
(B) Outlays, $75,539,000,000.
Fiscal year 2012:
(A) New budget authority, $72,923,000,000.
(B) Outlays, $72,399,000,000.
Fiscal year 2013:
(A) New budget authority, $77,755,000,000.
(B) Outlays, $77,329,000,000.
(16) Administration of Justice (750):
Fiscal year 2004:
(A) New budget authority, $37,742,000,000.
(B) Outlays, $40,902,000,000.
Fiscal year 2005:
(A) New budget authority, $37,977,000,000.
(B) Outlays, $39,271,000,000.
Fiscal year 2006:
(A) New budget authority, $37,938,000,000.
(B) Outlays, $38,318,000,000.
Fiscal year 2007:
(A) New budget authority, $38,334,000,000.
(B) Outlays, $38,164,000,000.
Fiscal year 2008:
(A) New budget authority, $39,299,000,000.
(B) Outlays, $38,984,000,000.
Fiscal year 2009:
(A) New budget authority, $40,306,000,000.
(B) Outlays, $40,059,000,000.
Fiscal year 2010:
(A) New budget authority, $41,406,000,000.
(B) Outlays, $41,148,000,000.
Fiscal year 2011:
(A) New budget authority, $42,682,000,000.
(B) Outlays, $42,304,000,000.
Fiscal year 2012:
(A) New budget authority, $44,015,000,000.
(B) Outlays, $43,590,000,000.
Fiscal year 2013:
(A) New budget authority, $45,355,000,000.
(B) Outlays, $44,938,000,000.
(17) General Government (800):
Fiscal year 2004:
(A) New budget authority, $20,208,000,000.
(B) Outlays, $19,776,000,000.

Fiscal year 2005:
(A) New budget authority, $20,643,000,000.
(B) Outlays, $20,677,000,000.
Fiscal year 2006:
(A) New budget authority, $20,410,000,000.
(B) Outlays, $20,381,000,000.
Fiscal year 2007:
(A) New budget authority, $20,842,000,000.
(B) Outlays, $20,533,000,000.
Fiscal year 2008:
(A) New budget authority, $20,920,000,000.
(B) Outlays, $20,646,000,000.
Fiscal year 2009:
(A) New budget authority, $21,619,000,000.
(B) Outlays, $21,138,000,000.
Fiscal year 2010:
(A) New budget authority, $22,361,000,000.
(B) Outlays, $21,835,000,000.
Fiscal year 2011:
(A) New budget authority, $21,110,000,000.
(B) Outlays, $22,560,000,000.
Fiscal year 2012:
(A) New budget authority, $23,905,000,000.
(B) Outlays, $23,489,000,000.
Fiscal year 2013:
(A) New budget authority, $24,714,000,000.
(B) Outlays, $24,121,000,000.
(18) Net Interest (900):
Fiscal year 2004:
(A) New budget authority, $253,189,000,000.
(B) Outlays, $254,890,000,000.
Fiscal year 2005:
(A) New budget authority, $293,834,000,000.
(B) Outlays, $296,538,000,000.
Fiscal year 2006:
(A) New budget authority, $325,488,000,000.
(B) Outlays, $329,817,000,000.
Fiscal year 2007:
(A) New budget authority, $344,743,000,000.
(B) Outlays, $351,017,000,000.
Fiscal year 2008:
(A) New budget authority, $360,529,000,000.
(B) Outlays, $369,089,000,000.
Fiscal year 2009:
(A) New budget authority, $375,129,000,000.
(B) Outlays, $386,360,000,000.
Fiscal year 2010:
(A) New budget authority, $387,388,000,000.
(B) Outlays, $401,485,000,000.
Fiscal year 2011:
(A) New budget authority, $397,483,000,000.
(B) Outlays, $414,520,000,000.
Fiscal year 2012:
(A) New budget authority, $401,388,000,000.
(B) Outlays, $422,797,000,000.
Fiscal year 2013:
(A) New budget authority, $397,817,000,000.
(B) Outlays, $425,508,000,000.
(19) Allowances (920):
Fiscal year 2004:
(A) New budget authority, $0.0
(B) Outlays, $0.0
Fiscal year 2005:
(A) New budget authority, $0.0
(B) Outlays, $0.0
Fiscal year 2006:
(A) New budget authority, $0.0
(B) Outlays, $0.0
Fiscal year 2007:
(A) New budget authority, $0.0
(B) Outlays, $0.0
Fiscal year 2008:
(A) New budget authority, $0.0
(B) Outlays, $0.0
Fiscal year 2009:
(A) New budget authority, −$1,116,000,000.
(B) Outlays, −$435,000,000.
Fiscal year 2010:
(A) New budget authority, −$2,255,000,000.
(B) Outlays, −$1,232,000,000.
Fiscal year 2011:
(A) New budget authority, −$3,712,000,000.
(B) Outlays, −$2,360,000,000.
Fiscal year 2012:
(A) New budget authority, −$5,082,000,000.
(B) Outlays, −$3,687,000,000.
Fiscal year 2013:
(A) New budget authority, −$6,437,000,000.
(B) Outlays, −$5,040,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2004:
(A) New budget authority, −$45,580,000,000.
(B) Outlays, −$45,580,000,000.
Fiscal year 2005:
(A) New budget authority, −$55,509,000,000.
(B) Outlays, −$55,509,000,000.
Fiscal year 2006:
(A) New budget authority, −$57,437,000,000.
(B) Outlays, −$57,437,000,000.
Fiscal year 2007:
(A) New budget authority, −$52,206,000,000.
(B) Outlays, −$52,206,000,000.
Fiscal year 2008:
(A) New budget authority, −$54,753,000,000.
(B) Outlays, −$54,753,000,000.
Fiscal year 2009:
(A) New budget authority, −$56,560,000,000.
(B) Outlays, −$56,560,000,000.
Fiscal year 2010:
(A) New budget authority, −$58,985,000,000.
(B) Outlays, −$58,985,000,000.
Fiscal year 2011:
(A) New budget authority, −$61,522,000,000.
(B) Outlays, −$61,522,000,000.
Fiscal year 2012:
(A) New budget authority, −$66,358,000,000.
(B) Outlays, −$66,358,000,000.
Fiscal year 2013:
(A) New budget authority, −$68,977,000,000.
(B) Outlays, −$68,977,000,000.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) SUBMISSION PROVIDING ECONOMIC GROWTH.—(1) The House Committee on Ways and Means shall report to the House a reconciliation bill not later than April 11, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce the total level of revenues by not more than: $46,700,000,000 for the period of fiscal years 2003 and 2004 and increase the total level of revenues by not more than $49,900,000,000 for the period of fiscal years 2004 through 2013.

(2) It is the sense of the Congress that in complying with the instructions set forth in paragraph (1) the Committee on Ways and Means should provide immediate tax relief and economic stimulus by accelerating tax relief for middle-class families through increases in the child tax credit, marriage penalty relief, and reductions in individual income tax rates, provide incentives for business investment, provide immediate and permanent estate tax relief and defer tax relief for individual taxpayers with incomes above $140,000 until the budget is in balance and national security threats have been addressed.

(b) SUBMISSIONS REGARDING MEDICARE REFORM AND PRESCRIPTION DRUGS.—Not later than July 18, 2003, the committees named in this subsection shall submit their recommendations to the Committee on the Budget of the House. After receiving those recommendations, the Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revisions.

(1) COMMITTEE ON ENERGY AND COMMERCE.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction that reform medicare and provide a prescription drug benefit, such that the total level of direct spending for that committee does not exceed: $6,000,000,000 in outlays for fiscal year 2004 and $400,000,000,000 in outlays in fiscal years 2004 through 2013.

(2) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction that reform medicare and provide a prescription drug benefit, such that the total level of direct spending for that committee does not exceed: $6,000,000,000 in outlays for fiscal year 2004 and $400,000,000,000 in outlays in fiscal years 2004 through 2013.

### SEC. 202. INCREASE IN DEBT LIMIT CONTINGENT UPON PLAN TO RESTORE BALANCED BUDGET.

(a) TEMPORARY INCREASE IN STATUTORY DEBT LIMIT.—The Committee on Ways and Means of the House shall report a bill as soon as practicable, but not later than April 11, 2003, that consists solely of changes in laws within its jurisdiction to increase the statutory debt limit by $150,000,000,000.

(b) POINT OF ORDER.—(1) Except as provided by subsection (a) or paragraph (2), it shall not be in order in the House to consider any bill, joint resolution, amendment, or conference report that includes any provision that increases the limit on the public debt by more than $100,000,000,000.

(2) Paragraph (1) shall not apply in the House if—

(A) the chairman of the Committee on the Budget of the House has made the certification described in section 203 that the unified budget will be in balance by fiscal year 2009; or

(B) the President has submitted to Congress a declaration that such increase is necessary to finance costs of a military conflict or address an imminent threat to national security, but which shall not exceed the amount of the adjustment under section 302 for the costs of military operations in Iraq.

### SEC. 203. REVIEW OF BUDGET OUTLOOK.

(a) IN GENERAL.—If, in the report released pursuant to section 202 of the Congressional Budget Act of 1974, entitled the Budget and Economic Outlook Update (for fiscal years 2004 through 2013), the Director of the Congressional Budget Office projects that the unified budget of the United States for fiscal year 2009 will be in balance, then the chairman of the Committee on the Budget of the House is authorized to certify that the budget is projected to meet the goals of a balanced budget.

(b) CALCULATING DISCRETIONARY SPENDING BASELINE.—Notwithstanding any other provision of law, the Director of the Congressional Budget Office shall use the discretionary spending levels set forth in this resolution, including any adjustments to such levels as a result of the implementation of any reserve funds set forth in this resolution to calculate the discretionary spending baseline.

## TITLE III—RESERVE FUNDS AND ENFORCEMENT

## Subtitle A—Reserve Funds

### SEC. 301. RESERVE FUND FOR HOMELAND SECURITY.

(a) IN GENERAL.—In the House, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for the Department of Homeland Security and if the Secretary of Homeland Security so requests, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security should—

(1) conduct a homeland security needs assessment in consultation with all Federal agencies with responsibilities for homeland security and State and local governments; and

(2) submit a report to Congress with additional funding requests, if any, identified in the needs assessment, and that such report should also include a compilation of the needs assessments submitted by State and local governments.

### SEC. 302. RESERVE FUND FOR THE COSTS OF MILITARY OPERATIONS IN IRAQ.

In the House, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for the costs of military operations in Iraq, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose.

### SEC. 303. RESERVE FUND FOR ADDITIONAL MANDATORY FUNDING FOR EXISTING HEALTH AND EMPLOYMENT PROGRAMS WHICH PROVIDE ASSISTANCE TO STATES AND INDIVIDUALS.

In the House, if the Committee on Energy and Commerce, the Committee on Education and the Workforce, or the Committee on Ways and Means reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for additional mandatory funding for existing health and employment programs which provide assistance to States and individuals, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose, but such revision shall not exceed $12,500,000,000 in new budget authority for the period of fiscal years 2003 through 2008 and outlays flowing therefrom.

### SEC. 304. RESERVE FUND FOR SURFACE TRANSPORTATION.

(a) In General.—In the House, if the Committee on Transportation and Infrastructure reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $30,340,000,000,

(2) for fiscal year 2005: $30,998,000,000,

(3) for fiscal year 2006: $31,707,000,000,

(4) for fiscal year 2007: $32,436,000,000, or

(5) for fiscal year 2008: $33,190,000,000,

and the amount of such excess in each such year is offset by reductions in the deficit caused by such legislation or any previously enacted legislation that changes direct spending from, or receipts subsequently appropriated to, the Highway Trust Fund, the chairman of the Committee on the Budget may increase the allocation of new budget authority for such committee by the amount of such excess for fiscal year 2004 and by the total amount of such excesses for the period of fiscal years 2004 through 2008 and make the necessary offsetting adjustments in the appropriate budget aggregates and allocations.

(b) Committee on Appropriations.—In the House, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes obligation limitations that, in total, are in excess of $38,496,000,000 for fiscal year 2004, but not to exceed the amount of such excess that was offset pursuant to subsection (a), for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays for such fiscal year for the Committee on Appropriations by the amount of outlays that corresponds to such excess obligation limitations.

### SEC. 305. RESERVE FUND FOR BIOSHIELD.

In the House, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures and—

(1) such measure provides new budget authority to carry out such program; or

(2) such measure authorizes discretionary new budget authority to carry out such program and the Committee on Appropriations reports a bill or joint resolution that provides new budget authority to carry out such program,

the chairman of the Committee on the Budget may revise the allocations for the committee providing such new budget authority, and other appropriate levels in this resolution, by the amount provided for that purpose, but, in the case of a measure described in paragraph (1), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom and $3,418,000,000 in new budget authority for the period of fiscal years 2004 through 2008 and outlays flowing therefrom or, in the case of a measure described in paragraph (2), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom. Notwithstanding the preceding sentence, the total such revision for fiscal year 2004 may not exceed $890,000,000 in new budget authority and outlays flowing therefrom.

### SEC. 306. RESERVE FUND FOR PERMANENT EXTENSION OF TAX CUTS; MEDICARE.

In the House, notwithstanding section 311 of this resolution, if the Committee on Ways and Means reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that makes the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 permanent or provides additional resources for a medicare prescription drug benefit in excess of $400,000,000,000 over the period of fiscal years 2004 through 2013, and if the chairman on the Committee on the Budget certifies that the enactment of such legislation would not cause or increase an on-budget deficit in 2013, then the chairman on the Committee on the Budget shall revise allocations to accommodate such legislation and make other necessary adjustments.

## Subtitle B—Enforcement

### SEC. 311. POINT OF ORDER AGAINST CERTAIN LEGISLATION REDUCING THE SURPLUS OR INCREASING THE DEFICIT AFTER FISCAL YEAR 2008.

(a) Point of Order.—It shall not be in order in the House to consider any bill, joint resolution, amendment, or conference report that includes any provision that first provides new budget authority or a decrease in revenues for any fiscal year after fiscal year 2008 through fiscal year 2013 that would decrease the surplus or increase the deficit for any fiscal year.

(b) Exception.—Subsection (a) shall not apply if the chairman of the Committee on the Budget of the House certifies, based on estimates prepared by the Director of the Congressional Budget Office, that Congress has enacted legislation restoring 75-year solvency of the Federal Old Age and Survivors Disability Insurance Trust Fund and legislation extending the solvency of the Hospital Insurance Trust Fund for 20 years.

### SEC. 312. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) Effect of Changed Allocations and Aggregates.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) Budget Committee Determinations.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

### SEC. 313. DISCRETIONARY SPENDING LIMITS IN THE HOUSE.

(a) Point of Order.—It shall not be in order in the House to consider any bill or joint resolution, or amendment thereto, that provides new budget authority that would cause the discretionary spending limits to be exceeded for any fiscal year.

(b) Discretionary Spending Limits.—In the House and as used in this section, the term "discretionary spending limit" means—

(8) with respect to fiscal year 2004—

(A) for the defense category: $399,683,000,000 in new budget authority and $389,746,000,000 in outlays;

(B) for the nondefense category: $392,517,000,000 in new budget authority and $429,054,000,000 in outlays;

(9) with respect to fiscal year 2005—

(A) for the defense category: $420,019,000,000 in new budget authority and $409,737,000,000 in outlays;

(B) for the nondefense category: $393,481,000,000 in new budget authority and $440,264,000,000 in outlays;

(10) with respect to fiscal year 2006—

(A) for the defense category: $440,044,000,000 in new budget authority and $422,808,000,000 in outlays;

(B) for the nondefense category: $402,256,000,000 in new budget authority and $446,992,000,000;

(11) with respect to fiscal year 2007—

(A) for the defense category: $460,309,000,000 in new budget authority and $436,164,000,000 in outlays;

(B) for the nondefense category: $412,091,000,000 in new budget authority and $455,236,000,000;

(12) with respect to fiscal year 2008—

(A) for the defense category: $480,747,000,000 in new budget authority and $460,190,000,000 in outlays;

(B) for the nondefense category: $494,853,000,000 in new budget authority and $465,710,000,000;

as adjusted in conformance with subsection (c).

(c) ADJUSTMENTS.—

(1) IN GENERAL.—

(A) CHAIRMAN.—After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority. The chairman of the Committee on the Budget may also make appropriate adjustments for the reserve funds set forth in sections 301, 302, and 303.

(B) MATTERS TO BE ADJUSTED.—The adjustments referred to in subparagraph (A) are to be made to—

(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974; and

(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(2) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in paragraph (1) shall be—

(A) an amount provided and designated as an emergency requirement pursuant to section 314;

(B) an amount appropriated for homeland security as provided in section 301;

(C) an amount appropriated for military operations in Iraq as provided in section 302; and

(D) an amount provided for transportation under section 304.

(3) APPLICATION OF ADJUSTMENTS.—The adjustments made for legislation pursuant to paragraph (1) shall—

(A) apply while that legislation is under consideration;

(B) take effect upon the enactment of that legislation; and

(C) be published in the Congressional Record as soon as practicable.

(4) APPLICATION OF THIS SECTION.—The provisions of this section shall apply to legislation providing new budget authority for fiscal years 2003 through 2008.

(d) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—(1) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of this section.

(2)(A) This subsection shall apply only to the House of Representatives.

(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

(E) The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

### SEC. 314. EMERGENCY LEGISLATION.

(a) AUTHORITY TO DESIGNATE.—If a provision of direct spending or receipts legislation is enacted or if appropriations for discretionary accounts are enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement for the purpose of this resolution.

(b) DESIGNATIONS.—

(1) GUIDANCE.—If a provision of legislation is designated as an emergency requirement under subsection (a), the committee report and any statement of managers accompanying that legislation shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

(2) CRITERIA.—

(A) IN GENERAL.—The criteria to be considered in determining whether a proposed expenditure or tax change is an emergency requirement are that the expenditure or tax change is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(3) JUSTIFICATION FOR USE OF DESIGNATION.—When an emergency designation is proposed in any bill, joint resolution, or conference report thereon, the committee report and the statement of managers accompanying a conference report, as the case may be, shall provide a written justification of why the provision meets the criteria set forth in paragraph (2).

(c) DEFINITIONS.—In this section, the terms "direct spending", "receipts", and "appropriations for discretionary accounts" means any provision of a bill, joint resolution, amendment, motion or conference report that provides direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) SEPARATE HOUSE VOTE ON EMERGENCY DESIGNATION.—(1) In the House, in the consideration of any measure for amendment in the Committee of the Whole containing any emergency spending designation, it shall always be in order unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such emergency spending designation from the portion of the bill then open to amendment.

(2) The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of House of Representatives a separate item identifying all waivers of points of order relating to emergency spending designations, listed by bill or joint resolution number and the subject matter of that measure.

(e) COMMITTEE NOTIFICATION OF EMERGENCY LEGISLATION.—Whenever the Committee on Appropriations or any other committee of either House (including a committee of conference) reports any bill or joint resolution that provides budget authority for any emergency, the report accompanying that bill or joint resolution (or the joint explanatory statement of managers in the case of a conference report on any such bill or joint resolution) shall identify all provisions that provide budget authority and the outlays flowing therefrom for such emergency and include a statement of the reasons why such budget authority meets the definition of an emergency pursuant to the guidelines described in subsection (b).

(f) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(g) EXCEPTION FOR DEFENSE AND HOMELAND SECURITY SPENDING.—Subsection (d) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category and for homeland security programs.

### SEC. 315. PAY-AS-YOU-GO POINT OF ORDER IN THE HOUSE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the House to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term "applicable time period" means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget;

(B) any reconciliation bill reported pursuant to section 201 of this resolution;

(C) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; or

(D) any legislation for which an adjustment is made under section 302.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget as adjusted for any changes in revenues or direct spending assumed by such resolution; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) APPEALS.—Appeals in the House from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be.

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House.

(d) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—(1) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of this section.

(2)(A) This subsection shall apply only to the House of Representatives.

(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

(E) The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

(e) SUNSET.—This section shall expire on September 30, 2008.

### SEC. 316. DISCLOSURE OF EFFECT OF LEGISLATION ON THE PUBLIC DEBT.

Each report of a committee of the House on a public bill or public joint resolution shall contain an estimate by the committee of the amount the public debt would be increased (including related debt service costs) in carrying out the bill or joint resolution in the fiscal year in which it is reported and in the 5-fiscal year period beginning with such fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years).

### SEC. 317. DISCLOSURE OF INTEREST COSTS.

Whenever a committee of either House of Congress reports to its House legislation providing new budget authority or providing an increase or decrease in revenues or tax expenditures, the report accompanying that bill or joint resolution shall contain a projection by the Congressional Budget Office of the cost of the debt servicing that would be caused by such measure for such fiscal year (or fiscal years) and each of the 4 ensuing fiscal years.

### SEC. 318. DYNAMIC SCORING OF TAX LEGISLATION.

Any report of the Committee on Ways and Means of the House of any bill or joint resolution reported by that committee that proposes to amend the Internal Revenue Code of 1986 and which report includes an estimate prepared by the Joint Committee on Internal Revenue Taxation pursuant to clause 2(h)(2) of the Rules of the House of Representatives shall also contain an estimate prepared by the Congressional Budget Office regarding the macroeconomic effect of any increase or decrease in the estimated budget deficit resulting from such bill or joint resolution.

## TITLE IV—SENSE OF CONGRESS PROVISIONS

### SEC. 401. SENSE OF CONGRESS REGARDING BUDGET ENFORCEMENT.

It is the sense of Congress that legislation should be enacted enforcing this resolution by—

(1) setting discretionary spending limits for budget authority and outlays at the levels set forth in this resolution for each of the next 5 fiscal years;

(2) reinstating the pay-as-you-go rules set forth in section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for the next 10 fiscal years;

(3) requiring separate votes to exceed such discretionary spending limits or to waive such pay-as-you-go rules;

(4) establishing a definition for emergency spending and requiring a justification for emergency spending requests and legislation; and

(5) establishing expedited rescission authority regarding congressional votes on rescission submitted by the President and reducing discretionary spending limits to reflect savings from any rescissions enacted into law.

### SEC. 402. SENSE OF CONGRESS ON TAX REFORM.

It is the sense of Congress that the Committee on Ways and Means should—

(1) work with the Secretary of the Treasury to draft legislation reforming the Internal Revenue Code of 1986 in a revenue-neutral manner to improve savings and investment; and

(2) consider changes that address the treatment of dividends and retirement savings, corporate tax avoidance, and simplification of the tax laws.

The CHAIRMAN pro tempore. Pursuant to House Resolution 151, the gentleman from Indiana (Mr. HILL) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. HILL).

Mr. HILL. Mr. Chairman, I yield to myself as much time as I may consume.

Mr. Chairman, the Blue Dog plan that we are offering today combines short-term economic stimulus and immediate tax relief for all taxpayers with long-term fiscal discipline to balance the budget by 2009 and return to saving the Social Security surplus by 2013. The Blue Dog budget has nearly $2 trillion less debt than the President's budget from the year 2003 to 2013. The Blue Dog budget calls for tough spending limits by adopting the President's overall spending levels but does not rely on unreasonable or unrealistic spending cuts from the President's proposal.

The Blue Dog budget will hold Congress accountable for the increase in the debt tax by limiting increases in the debt limit and requiring regular votes by Congress to raise the debt limit until the budget is on the path towards balance.

We strongly support the President in the war on terrorism and in keeping a strong defense. Our budget provides the President with everything he requested for defense and homeland security and sets aside a reserve fund for additional funding for homeland security if the administration requests it. The Blue Dog budget is good policy, plain and simple. For every $1,000 each taxpayer sends to Washington, an income tax roughly $180 goes to pay the interest on our national debt. The Blue Dog budget reduces that burden while the Republican budget increases that burden. That is what we call the "debt tax." Eighteen percent of the Federal budget, over $2,500 per person, over $4,000 per family, and it only gets worse if we follow their plan. Bob Dole called it the stealth tax in 1996. It was mentioned in a 1995 Republican-authored resolution, and it was referenced in the first plank of the 1994 Republican Contract with America.

The debt tax is money that goes towards nothing, and it is a tax that cannot be repealed. It does not make our Nation stronger. It does not make health care more affordable. It does not make our schools better. It does not provide more jobs, and it surely does not make our economy more robust.

It is time to get back on the track towards balancing the Federal budget. We cannot and should not send our troops, our brave men and women, into battle, then saddle them with the bill. It is not the right thing to do, and everybody in this body knows it. The Blue Dog budget will restore fiscal responsibility, stability, and accountability to Federal budgeting process. A great American from the great State of Tennessee once said that no nation has ever been free, strong, and broke.

Mr. Chairman, I reserve the balance of my time.

Mr. NUSSLE. Mr. Chairman, I yield such time as I may consume. I respectfully claim the time in opposition.

Mr. Chairman, obviously I support the work of the committee, the underlying resolution, the budget resolution that is forwarded today. I want to thank the Blue Dog Coalition for coming forth with yet another budget proposal this year. I believe this is a consistent track record for the Blue Dogs in providing a budget resolution for consideration. We will disagree with that budget here today as they disagree with our budget, but I want to start by complimenting them because even last year at a time when the minority did not come forward with a caucus position, the Blue Dogs did. And the so-called Blue Dogs in this instance have done so again and I want to respect that. Only people who have actually gone through the process of writing a budget know how difficult that task can be in making some of the choices one has to make in order to arrive at this.

I disagree with their approach, however, for a number of reasons. First of all, I do not believe what they are putting forward supports our economy. I believe what we need right now is a growth package. The President has put that forward. We indicated that the second most important part of our budget is providing growth to the economy to create jobs. We believe we need tax simplification. We believe we need tax reform. We believe we need to lower the tax on the American people at a time of recession, not just for the sake of lowering taxes but because we know, we have seen this happen in the past many times in history where when we reduce the tax burden on America, when we reduce it particularly to a level at or below the average of taxes and revenues compared to the gross domestic product, that that does have a growth effect, a stimulative effect, on the economy.

And so while we will agree today on national defense and homeland security, probably the biggest departure we will see between these two budgets is regarding growth in the economy and creating jobs. We just happen to believe on our side that getting a growth package through to create jobs is vitally important. We are also going to have a semantical debate here today. I do not want to throw gasoline on the fire, so I am going to try not to. But I have to say that if we are not going to continue an already-reduced reduction in taxes, I mean I do not know what we call that. I know many on my side have come down here and I know it makes my friends in the Blue Dog Coalition cringe when they hear it when we have heard on our side that that be explained as a tax increase, but you might be able to understand why you cringe when you see us cringe when a reduction in the anticipated increase is called a cut.

And time after time today we have seen Members come to the floor on the other side of the aisle and explain that we are making excruciating cuts in veterans and education and Medicare and Medicaid and all sorts of different programs when in fact that is simply not the case. One not only cannot find it within our budget document, but in fact that is not the choice that we request. What we request is that we go through the budget and we look for waste, fraud, and abuse and places where we have been spending money we did not have to, and we do not have all of them but these are just some examples that you do not ask us to go after: Foreign Assistance, the Effectiveness and Accountability of Problems Common to U.S. Programs, Taking Strategic Approach for DOD and the Acquisition of Services, Implementation of an Electronic Benefit Transfer System in the Food Stamp Program, IRS's Efforts to Improve Compliance with the Employment Tax.

I mean, all of these save money. All of these find places where we are just not doing a good job. All of these ought to be a hearing. All of these ought to be a place where we can introduce legislation and we can say that is not a cut. To go through this and to actually look at the General Accounting Office, and we pay them a lot of money. Talk about waste. If you are going to hire people to go through the programs from the General Accounting Office and then you do not even listen to them, my friend, the comptroller general, would not like my saying this, but why do we hire these folks to give us these good ideas of places we can reduce spending, not cutting benefits, not cutting services, not closing nursing homes, not cutting off senior citizens, not eliminating Meals on Wheels or food stamps or school lunches or, oh, my goodness, all of the things that people have come down here wringing their hands about today, but just going through here: Controlling the Weakness in Property Vulnerable to Improper Use, Loss and Theft. There is a real partisan issue, theft. I mean if we are stealing things from agencies, from departments, and I have heard everything from a 61-inch television; I mean, come on.

Does that balance the budget? No. We are not suggesting that alone balances the budget, but we have got to start somewhere.

I could go on. The Deteriorating Financial Outlook and the Need for Transformation in the Postal Service, Medicare, Medicaid, FAA. Here is one, let us see, Significant Weakness in the Computer Controls. And, in fact, I believe we spent $8 million trying to get the Department of Agriculture to go to a new computer system; and guess what, after I think 8 years and $8 million, they found out they could not go to the new system. So we just spent $8 million for nothing on that. Defense Acquisitions, Debt Collection, Food Stamps. Again, there is another one. But if we even look at food stamps, people will say we are somehow throwing the poor out in the street. Medicare, here we go again. Boy, do not touch Medicare, though. Do not even look there. Heaven forbid. It must be a perfect program. Just add more benefits, and it will be fine. I mean, we could go on and on. They are replete. I have got a whole pile over on this side. You do not look at that. And that is an important area where we believe it is time to challenge the committees to do the work to find the savings.

Last but not least, I believe that it is time that we do something together around here, and that is enforce the budget. I know that we are going to disagree today on a number of these topics. The thing that is so frustrating is when time after time Members, and it happens in the Blue Dogs, it happens on our side as well, where we come down here, we talk about our budgets and then during the appropriations process we blow through those things. We find different ways to come through the process without holding to the budget that we agreed to. I would hope that my friends in the Blue Dog Coalition more than anybody else, and I know they do, believe that once we have a budget, it is time to enforce it because if we cannot even enforce that, having this debate today is going to be meaningless.

So as I started off with today, we do not support just allowing these tax cuts to expire. We happen to believe that does increase the tax burden. We want to make sure that we have spending restraint. You claim to do it with interest payments; but we want to do it with actual spending, not just with interest payments; and we want to make sure that we figure out a way to grow the economy and create jobs. And for those reasons I respectfully oppose the Blue Dog budget, but wish them congratulations on actually creating one which is something that many people around here claim they want to do, but do not always accomplish.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I appreciate the gentleman's yielding, but I want to use a portion of my time commending him, but I wanted to ask the gentleman a question.

Mr. NUSSLE. What?

Mr. STENHOLM. I will when it comes my time, but I will do it on my own time, but I am curious because it seems to me over the last 8 years you talk about your party has been in control. So all of the points that you make with the blue books, why have we not done it?

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Mr. NUSSLE. Mr. Chairman, reclaiming my time, I can tell the gentleman why. It is a frustration of mine, and it is the reason why I put the budget out that I did this year.

When we got to surplus, and we have seen the chart, when we got to balancing and began going into surplus, particularly into discretionary spending, all of us around here very cheerfully started getting into a bidding war. We could do a little better than you in education, you could do a little better than us in health care. We went on and on and on.

Look at the charts in any of those categories. Once 1998 happened, as my friend knows, we could not say no to anything. It was very difficult to try to control that. That is just the discretionary side, which, as the gentleman knows, is only one-quarter of the budget.

On the mandatory side, think of the last time in a partisan or bipartisan way that we tried to take on an entitlement and even tried to control spending. My friend has quite a bit of control or interest in agriculture, as do I. I sit on a committee that has jurisdiction over Medicare and welfare. We did it in welfare and had some real success.

I just want us to start looking at that process again. That is the reason in this budget I challenge the committees. I do not do it myself. I do not try and tell my good friend on the Committee on Agriculture exactly where that ought to come from. But I do challenge him to look at the reports on food stamps and others and say, can we not do a better job?

Mr. STENHOLM. Mr. Chairman, if the gentleman would yield further, I do not want to leave the impression that the Blue Dog budget is doing anything more than spending what President Bush has asked the Congress to spend, not 1 penny more.

We sometimes get the rhetoric around here, you would think we are big spenders in our budget. We are spending what the President has asked us to spend, and no more.

Mr. Chairman, I thank the gentleman for yielding.

Mr. NUSSLE. Mr. Chairman, reclaiming my time, that is a good point. But that is just the first year. We believe that we need to continue to control that spending in the outyears as well.

We also believe, and that is the reason why the budget was presented the way it was, that the President had some areas where we could control. This was true with President Clinton, President Reagan, President Bush, with all of them.

Congress is responsible for controlling spending under Article I of the Constitution. We like to blame the fellow down the street, but, more often than not, it is the people that we look at every day in the mirror that can do the best job at controlling spending.

As I say, I compliment the gentleman and my friends for putting together a budget. We respectfully disagree with that budget for the reasons that I state.

Mr. Chairman, I would like to hear more from my friends in the coalition.

Mr. Chairman, I reserve the balance of my time.

Mr. HILL. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, today I rise to urge my colleagues to support the Blue Dog budget plan, a fiscally responsible proposal that recognizes America's priorities at a time when our country is at war and our Nation is in debt.

The budget resolution before us today is seriously flawed. It is a step in the wrong direction that ignores the realities we are facing as a Nation. The Blue Dog budget, on the other hand, recognizes the costs of waging war, addresses the state of our struggling economy, and answers the needs of ordinary Americans across the Nation.

As we speak, men and women in uniform are fighting to disarm Iraq and are battling al Qaeda in Afghanistan. Hundreds of thousands are now serving their country after being called up, leaving their jobs and their families, many on short notice and at great financial and personal costs. Our troops are indeed making huge sacrifices.

But what about the average American who is not on Active Duty or in the Reserves? How have the rest of us been called upon to make our own contribution to the security and prosperity of the United States? The budget resolution before us includes a host of large tax cuts weighted heavily toward America's wealthiest families. Certainly this cannot be the sacrifice we are expected to make.

In every other conflict since the Civil War, the Commander in Chief has called for an increase in revenues to meet the national defense. Will we be the first generation since the Civil War to reduce revenue during wartime?

Over the last 2 years we have lost almost 2 million jobs. How can we afford to consider large and long-term cuts that will neither improve our defense, stimulate our economy, nor help those most in need?

Many of us who supported tax cuts when we were at peace and enjoying historic surpluses must now oppose any fiscally irresponsible budget with even larger cuts, now that we are at war and spiraling into severe debt. I must ask, where have all the fiscal conservatives gone? Where have they fled from the majority party?

In addition to the much-needed stimulus, the Blue Dog plan prioritizes national defense and homeland security. These priorities are fully funded at levels requested by the President.

While we provide strong support for our national defense and homeland security, we must not turn our backs on important domestic priorities. The American people are begging for a budget that invests in education, health care, and includes a Medicare prescription drug benefit. The Blue Dog plan responds to Americans across the country and provides a $400 billion plan for prescription drugs over the next 10 years.

Mr. Chairman, this plan, the Blue Dog plan, will provide for our defense and homeland security needs, it will provide a vital economic stimulus and sustainable tax relief for ordinary Americans, and the plan will move our country forward with investments in health, education and other domestic priorities. Our plan will accomplish these goals and achieve $2 trillion less in debt than the administration's plan over the next 10 years.

Americans are a proud and generous people, more than willing to sacrifice for a worthy cause. If, instead, we give ourselves a gift no other war generation has given themselves, we will denude our ability to defend the homeland, or shift the costs to the next generation.

Mr. HILL. Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. MICHAUD), a new Member, and a fine one at that.

Mr. MICHAUD. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in strong support of the Blue Dog budget. As a cochair of the Blue Dog Caucus, I was proud to work with my colleagues on this fine proposal. In my 22 years as a State legislator in Maine, I have always delivered a balanced budget, and I can tell you that the Blue Dog budget is a great budget.

My time is brief, so I just want to make three vital points about the Blue Dog approach.

First, this budget is balanced. We achieve a $15 billion surplus by the year 2009, and we have $2 trillion less in debt over the next 10 years than the President's budget.

Today we spend 18 cents of every dollar on servicing our debt. What a waste of money. This is a debt tax that every American pays, 18 cents on every hard-earned dollar.

We balance the budget and control the debt. The Blue Dog approach reduces waste, and it lowers the taxes that we all pay. Now, that is a tax cut that we all can agree on.

Second, this budget is fair. It funds defense at the same level as the President, it gives tax relief to everyone, and it includes $60 billion in immediate economic stimulus, including desperately needed assistance to States, States like the State of Maine, which the Committee on the Budget does not provide for.

Third, this budget is just. The Committee on the Budget resolution cuts mandatory spending in many areas. One of the most unconscionable cuts is a $15 billion reduction for veteran programs. On the very day we go to war, how can we vote to neglect our veterans like this?

Not only does the Blue Dog budget restore these cuts, but it also restores other funding to vital domestic programs like education, child care, dislocated workers programs and homeland security, and it does all of this within a balanced budget.

I say to my colleagues that this is not a party issue, it is not a political issue. This is about keeping our commitments, investing in our priorities and meeting our responsibilities.

I urge my colleagues on both sides of the aisle to reach across the line that sometimes divides us and unite today for a budget that is balanced, that is fair and that is just.

Mr. HILL. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Tennessee (Mr. TANNER), a great American.

Mr. TANNER. Mr. Chairman, the Blue Dog budget is based on a very simple premise that basically says that our generation needs to be willing to have the courage to pay the bills that we are incurring and not pass this staggering debt on to our children.

As hard as this may be to imagine, we the people of the United States of America owe $6.4 trillion. If we follow the budget plan that the majority has put forward, that number will balloon to $10 trillion, and our country will be unable to meet its obligations. Can you imagine the richest country on Earth dead broke?

Eight months ago Congress increased the debt ceiling by $450 billion to pay for additional spending and tax cuts. Now the Treasury Department has notified us that we have reached this new debt limit, and it will have to be increased in the coming weeks.

It gets even worse. The Congressional Budget Office recently reported that the deficit for this year will be $287 billion, and that is without paying any cost of the war that has begun in Iraq. They also predicted over the next 10 years another $2 trillion of debt will be piled onto what we have already incurred.

Last year taxpayers in this country paid an accrued $332 billion in interest on revenues of $1.8 trillion. That amounts to a Federal debt tax on American families of 18 cents on every dollar. Said another way, we have an 18 percent mortgage on this country, and it is growing.

Notwithstanding the moral arguments of what we are doing to the next generation of Americans, at some point, in order to make the public investment needed to keep a world-class military, a healthy and educated workforce, and the bricks-and-mortar infrastructure that enables private enterprise in this country to flourish, we must stop deficit spending.

People since the dawn of civilization have tried to borrow themselves rich. It never worked then, and it will not work now, and it will not work in the future. That is exactly the prescription that the Republicans are asking us to follow; we can borrow ourselves rich. It will never happen.

We must stop the hemorrhaging, the hemorrhaging, from the Federal Treasury, because it is bleeding from every pore of our body. Any rational person understands that this business plan for our country is not a tenable plan and cannot be sustained over time.

Now, here we are debating today what direction our country will take. This plan includes no cuts in the veterans' programs that some have talked about. But it does something else. At this moment when our men and women in uniform are in battle, they are the only people in this society being asked to sacrifice anything, anything, and that is absolutely unfair. It is not only unfair, it is immoral. So what we have done in the Blue Dog plan is we have asked the most financially well-to-do people in this country to defer the additional tax cuts they get in addition to everybody else under our plan, we have asked them to defer their additional tax cuts in order to help pay for this war so that we do not continue to dig this hole deeper.

Now, I agree with the gentleman from Iowa (Mr. NUSSLE) on one thing: When you say in Washington, and only in Washington, that an increase is considered a cut because it is not a projected increase, then it is considered a cut here, that is baloney, and I agree with the gentleman. I will also tell the gentleman that when you try to accuse somebody of raising taxes on a tax cut that is not yet effective, that is equally political baloney, and everybody knows it.

I just would say this: Something has got to be done. We cannot continue down this road of debt, more debt and more debt. And if we do not do something about it, we have completely abdicated our responsibility not only to our country today, but to our country tomorrow. That is why I would urge every Member who worries about the financial condition of this country and its ability to maintain the world-class military that we all desire and all of the other things I have talked about, please consider voting for and supporting the Blue Dog budget.

☐ 1745

Mr. HILL. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR), the strongest voice in this House about the era of Federal budget deficits.

Mr. TAYLOR of Mississippi. Mr. Chairman, before anyone thinks that I am trying to impress upon them that I am a biblical scholar, I will tell my colleagues I am not, but I happened to listen to one Sunday evening. His name is Father Dennis Carver, and he was in Pass Christian, Mississippi. He was talking about a civilization called the Babylonians. They were apparently a very prosperous civilization, but one of the things that was unique about them is that for the sake of their prosperity, they would literally take their children, put them on an alter, and slit their throats.

Although the gentleman from Iowa's budget does not quite do that, I will say that it is fair to say that we are burdening our children with so much debt that they cannot possibly hope to attain the sort of lifestyle that we have, or remain the world's greatest Nation.

In 1994, the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget, gave a speech on this House floor bemoaning the fact that at the time, every American man, woman, and child was $17,000 in debt as a portion of the national debt. The Republicans took over in 1995. I had hoped things would get better. But since 1995 through today, that same statistic is that every American man, woman, and child is now in debt $22,000. The Republicans have been in charge, the Republican Party. I had hoped they were truly fiscal conservatives. They have proven otherwise.

If we look at American history, during every single war in American history, and I challenge all of my colleagues to question me on this and look it up for themselves, in every other war in American history, they raised taxes to pay for that war. They took the attitude that those of us who were fortunate enough not to be in the front lines, not to be shot at, not to watch our comrades maimed, ought to at least be willing to pay for that. But there is a difference. Only this generation of Americans is saying that we are going to fight a war, we are going to occupy the nation of Iraq for at least 10 years, with a starting force of 100,000 people as occupiers, but, by the way, we are going to stick these young people in this room and the young people back in Mississippi, the young people in Texas, we are going to stick them with the bill, knowing that they will never have a chance to recover from that and they will continue to squander at least $1 billion a day every day of our lives as a Nation on interest on that debt.

The gentleman from Texas (Mr. STENHOLM) and other members of the Blue Dog Coalition have done an admirable job of saying, we have to do better. And I have to tell my colleagues, I am going to vote for the Blue Dog budget, but I would have been willing to vote for any budget that freezes all of the tax cuts, because it is simply not fair.

Two years ago, the gentleman from Iowa and others came to this floor and said the President's tax breaks would not increase the national debt. I say to my colleagues they were $802 billion wrong. At what point do they admit to their mistakes, and at what point do they stop the bleeding?

The Federal debt is still growing. On February 28, 2003, the public debt was $6,445,790,102,794.08.

The public debt has increased by more than $802 billion since Congress passed the President's first budget plan on May 9, 2001. The debt grew $442,337,086,210.23 in the 12 months from February 28, 2002 to February 28, 2003.

There is no surplus except in trust funds. In the first four months of fiscal year 2003, the Treasury reported a budget deficit of $97.6 billion. However, the trust funds for Social Security, Medicare, military retirement, and federal employees retirement collected $90.2 billion in surpluses to fund future benefits. Outside these trust funds, the federal government ran a deficit of $187.8 billion.

During fiscal year 2002, Social Security added $159 billion to its surplus, and the trust funds for Medicare, military retirement, and federal employee retirement added to total of $68 billion in surplus funds. Outside those trust funds, the federal government ran a deficit of $386 billion. The Congressional Budget Office reported that fiscal year 2002 had the largest percentage decrease in revenues in 56 years and the largest percentage increase in spending in 20 years.

We spend almost one billion dollars per day on interest. The Treasury spent $332.5 billion on interest on the debt in fiscal year 2002. Military spending totaled $332.1 billion, slightly less than the interest expense, despite a 14 percent increase to fight the war on terrorism. Medicare spending totaled $256 billion, $77 billion less than we spent on interest.

Mr. NUSSLE. Mr. Chairman, I yield myself 2½ minutes just to show my colleague from Mississippi, who does care about this; I do not begrudge him that at all. I just want to let him know that I also share in the concern over debt. But since he was slightly partisan about the issue, let me show my colleagues my chart that shows the difference between what the Democratic Congresses did versus the Republican Congresses.

We were the ones who paid down the national debt by almost half a trillion dollars until we hit this last crisis in 2001 involving the economy, involving the emergency spending, involving what happened with homeland security. Mr. Chairman, if my colleagues want to raise it to a partisan level of whose debt is whose, I can show my colleagues a chart that compares with the gentleman's partisan chart.

What I would rather do is say, look, we are in this together now. I can show a chart that goes back to Reagan. I can show a chart that goes back to Clinton. We can have a history lesson here all day long. We can yell and scream and point fingers at who did what.

Look, we are in a mess. My colleagues did not do it; I did not do it. I mean, there are three huge factors. We had emergency spending that no one, no one would have ever anticipated. What a huge economic sucker gut punch as a result of a recession that was made worse after 2001 and the terrorist attacks. Was there a component part of that of reducing taxes? Yes. We disagree. We deliberately reduced taxes at a time of huge surpluses because, yes, we were paying off the national debt, paid off over a half a trillion dollars of national debt.

So if my colleagues want to come down and point fingers and talk about the past, I can show my colleagues Reagan charts and Clinton charts and things like that.

I think we should talk about the future and what we are going to do about it. The Democrats have a plan. I compliment that plan, even though I disagree with it, because it does begin to address those issues. I have what we believe is a better plan. But let us talk about our plan and let us look forward. If my colleagues want to continue to point fingers on how we got here, my colleagues can take up the time for the substitute to do just that, but I believe we ought to focus on the future and what we are going to do about it.

Mr. HILL. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Chairman, America is at war, and the Blue Dog budget reflects this new reality.

Our plan strengthens national defense, improves homeland security, all in the context of a responsible budget.

I have always tried to support my colleagues on the other side of the aisle when they were right, but today their budget is all wrong.

In an effort to squeeze the President's tax cut package into their budget, our Republican colleagues have proposed spending levels below the President's that are highly unlikely to be attainable in the current climate of war and the need to protect the homeland from terrorism. And even after cutting the President's budget, the Republican budget continues to dig the deficit hole deeper, saddling the taxpayers of this country with a national debt of over $11.5 trillion in 2013. That is an increase of $5.1 trillion in debt in the next 10 years. That means every American taxpayer will owe approximately $5,100 every year just to pay the interest on the national debt. That is a debt tax that cannot be repealed.

In contrast, the Blue Dog budget is a realistic effort to control runaway Federal spending. It adopts the spending recommendations of our President. The Republican budget, on the other hand, turns its back on their own President's spending recommendations for veterans benefits, Medicare, Social Security, agriculture, and education.

The Blue Dog budget puts us back on a path to a unified balance by 2009 and restores the Social Security lockbox by 2013, a very significant year, because in that year, for the first time, the Social Security Administration projects that our government will begin paying out more each month in benefits than we received in payroll taxes.

By contrast, the Republican budget never restores the Social Security lockbox, turning their back on a promise made to America's seniors.

Since the Blue Dog budget adopts the total spending levels in the President's budget, my colleagues may be asking, what does the Blue Dog budget do differently than the Republican budget? It differs in one significant respect. It recognizes that long-term national security requires long-term fiscal responsibility. No nation has ever been strong and broke.

When our budget policies show that our current tax and spending plans will lead our Nation to ever-increasing debt, we are weakening our ability to respond to national security threats. At this very moment, while young men and women in uniform are courageously fighting the enemy in the deserts of Iraq, we are charging the financial cost of the war to the Federal Government's credit card. Who in this Chamber can explain to the American people why we are charging the cost of this war to the very generation that is now fighting this war? The Blue Dogs believe our generation should pay for this war.

Our Republican friends say, deficits no longer matter, and tax cuts will stimulate the economy, and tax revenues will return. We tried that in 2001 and what did we get? We saw the economy decline and a $5 trillion surplus disappear into thin air.

The Blue Dogs invite our Republican friends not to bet the whole farm on an ideologically driven supply-side economic theory, but join us in accelerating the marginal tax relief, accelerating the child tax credit, accelerating the elimination of the marriage penalty; but in the name of fiscal responsibility and national security, we should not accelerate the tax cuts for those families who have over $170,000 a year in income. Surely the top 3 percent of America's families will be proud to share in the patriotism of making this small sacrifice as those young men and women are doing in Iraq today.

We know that we should not ask those men and women in uniform to pay for the war we have called on them to fight. I invite all true fiscal conservatives to support the Blue Dog budget.

Mr. HILL. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time. I will be very brief.

I have a great deal of admiration for the gentleman from Iowa (Mr. NUSSLE), the chairman of the committee. He has brought a budget resolution to the floor that his leadership has allowed him to bring, and they think they can get 218 votes out of the Republican caucus. What is wrong with that? I will tell my colleagues what is wrong with that and what the American people will say is wrong with that, and that is that the American people expect this Congress to set its priorities and to pay for those priorities, and that is something that we have been unwilling to do in the last couple of years.

What do I mean by that? It means that we have to have discipline on the spending side. We had that in 1997 when we, in a bipartisan way, sat down with the administration, which was in Democratic hands, and we sat down with the Republican-controlled Senate and House and made an agreement to set spending caps, and we made an agreement to get this budget into balance by 2003, and we did it 3 years ahead of schedule.

So I would encourage my colleagues to vote for the Blue Dog budget and reject the Republican budget.

Mr. HILL. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time.

I want to announce and show the audience here in the Chamber that the Concord Coalition, which is a national watchdog organization on the budget, issued a press statement today; and I want to just quote briefly from that:

"The Blue Dog budget does the best job of balancing short term concerns with long term fiscal discipline. The Blue Dog budget is clearly superior to the alternatives. It strikes a prudent balance among competing priorities by restraining spending and limiting newer expanded tax cuts to those that have an immediate impact and minimum long term cost."

□ 1800

I hope we will set aside partisanship and listen to a respected, objective organization, the national coalition, and approve the Blue Dog budget.

Mr. Chairman, as a member of the Committee on the Budget, I commend the gentleman from Iowa (Chairman Nussle) for his commitment to providing a balanced budget and for acknowledging that debt and deficits do matter.

The Committee on the Budget passed a budget last week on a party line vote. At least it was an honest budget. It said that in order for us to pass huge tax cuts when we are already projecting deficits as far as the eye can see, we must pass spending cuts. In deference to Mr. Chairman over here, he would say, find savings in all functions of government. So please understand it that way.

Over $100 billion below the President's request for discretionary spending, $262 billion in Medicare cuts are finding savings, $110 billion in Medicaid cuts are savings, $19 billion in agriculture cuts are savings, $39 billion in government employees' pensions, and $15 billion in veterans benefits at a time that we are going to war, when our domestic security is threatened and our States and local governments are in financial crisis. That is the problem with this budget, Mr. Chairman: The reductions proposed simply are not reality.

Everyone here remembers last year's appropriations process. We just completed it last month. Congress ended up spending, or appropriating, $12 billion more than the President's recommended levels. This budget proposes cuts in the President's austere request. This budget, simply for that reason, I believe, with all respect to the chairman and the committee, is not reality.

Look at what has happened the last weeks. In the face of an outright revolt on many of these cuts, what did the majority do? They restored some of the so-called spending cuts, or savings, that were found, about $200 billion in Medicare over 10 years. That is what is going to happen more and more. That is why I believe we simply cannot meet the spending levels proposed, with all respect, by the majority's budget.

This budget, because of its emphasis on tax cuts, never, I repeat, never, gets us to on-budget balance. Instead, it increases gross debt by over $5 trillion over the next 10 years. The structural deficits in this budget, Mr. Chairman, will explode gross interest payments to $3.8 trillion during the next decade. Interest, as has already been mentioned, it is the most wasteful spending we have because it commits our future generations in this country, our children and grandchildren, to paying something, a tax, what we call a debt tax.

The gentleman from Indiana (Mr. HILL) indicated that Senator DOLE called this a stealth tax. We call it a debt tax. It is a tax that can never be repealed because it is the interest of service on the national debt.

The Blue Dog budget cuts taxes. It provides an income tax cut for all taxpayers. It immediately eliminates the marriage penalty, accelerates the child tax credit, and on and on. Listen to the Concord Coalition, the objective voice here, endorsing the Blue Dog budget.

Mr. HILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I rise to support the budget of the Blue Dogs, which I think handles our short-term needs and our long-term concerns.

Mr. HILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to compliment the gentleman from Iowa for his hard work on the committee, and to thank him for allowing the Blue Dogs to make this presentation here today.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I have waited 24 years for this day to shuck the tax-and-spend Democratic label and transfer it to the Republican borrow-and-spend label. I say this with a smile on my face; and I am one of those that believe when I am pointing the finger of partisanship, there are always three pointing back at me. I will take the three best shots of the gentleman from Iowa (Mr. NUSSLE), but I insist the gentleman takes my one at this time.

The gentleman said we have a difference between our two philosophies today. This chart shows it. Our budget is the green budget. The yellow budget I ran against in 1978 because I thought deficit spending was bad. I voted for the Reagan tax cuts; and this is what we got, following the same economic theory that we once again are being asked to support today.

I am for the green. The Blue Dog budget will accomplish that based on the estimates. The gentleman's budget today will keep us in Social Security for the remainder of the 10 years the gentleman is talking about.

I commend the gentleman from Iowa (Mr. NUSSLE), as the gentleman from Indiana (Mr. HILL) did. The budget he brought out of committee was an honest budget. It told this conference and this Congress and the American people that if they want tax cuts, they have to pay for them. They have got to do the spending cuts that they suggested.

However, the gentleman's own conference said, no. As I told the gentleman privately, and I will say publicly, if the gentleman would reconcile the cuts in a public manner on this floor first and then go to the tax cuts, he would have some support on this side. But I am skeptical, when they bring a budget that even their own conference will not support to the floor on the spending cuts, but yet we are going to have a tax cut on the floor in a very short period of time, that this is what we are going to get.

Our budget balances without using Social Security by 2013. As the gentleman from Tennessee (Mr. TANNER) said a moment ago, it is immoral what this Congress, these last few Congresses, are doing to our children and grandchildren.

When we talk about spending cuts, I have heard it explained that in the agricultural function it is just 1 percent. But let me remind all of us, we took 2 years writing the farm bill that passed with two-thirds support, equally divided Democrats and Republicans, and the President signed it. We stayed within the budget that they asked us to last year.

Anyone that suggests we can make the cuts that the gentleman is suggesting, assuming that it passes, without reopening the farm bill and rewriting it, is totally misinformed as to what the facts are regarding the authorizing of various programs.

I find it very interesting that today in the Committee on the Judiciary we were supposed to have passing out a constitutional amendment to balance the budget. As many know, I am for it. I am a cosponsor of it. One of the happiest days in my life was when we passed it on this floor; one of the saddest days was when it went down by one vote in the Senate.

Had that passed in the Senate, they could not bring their budget to the floor today. The only budget we will vote on today is this budget right here, the blue one, the Blue Dog line, that shows that we will balance without using Social Security in 2013. They could not do it had we had a constitutional restraint. Yet some on the gentleman's side have the audacity to suggest that the budget is a good one; but yet we want to have a constitutional amendment to require us to do what we are not willing to do when we have a chance of doing it.

In 1999 the Republican leadership issued a statement pledging to protect the Social Security surplus: "As leaders of the House of Representatives, we will not schedule any legislation that spends one penny of the Social Security trust fund. This leadership is committed to ending the 30-year raid on seniors and paying down the debt."

We could not help 9-11-01, and we cannot help the fact that our economy has gone south, but we can stop digging the hole deeper as of today. That is what the Blue Dog budget does. It is the only budget that stops digging the hole deeper.

Now, one area we cut below the President, and our spending levels, I repeat, in this budget we do not spend one penny more than President Bush asked us to spend, one penny; but there is one area we want to cut below the President. We want to cut $420 billion out of the President's budget and somewhat less out of the chairman's budget for interest on the national debt. They can bring out all of the blue books, they have been there when the gentleman's party has been in charge, and some of us on this side would like to work with them. But they constantly and consistently deny us that opportunity, which, if they pass their budget today, once again, they deny us the opportunity.

We had a better budget 2 years ago. The economic situation of this country would not be as bad. I ask Members to support the Blue Dog budget.

Mr. NUSSLE. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman, Mr. Chairman. I have enormous respect for the gentleman from Texas and for my friends for writing a budget, because writing a budget in Washington, D.C. for the Federal Government is not maybe the most challenging job in Washington, but it does have its moments of challenges.

Probably one of the biggest challenges in writing a budget, as my friends know, is when we have to explain to politicians who get elected by saying yes that sometimes we have to say no, or sometimes we have to do things that are difficult.

There is no question that when I wrote the original draft of this budget, I asked my colleagues to do something that was difficult. It maybe was more difficult than I had either the right to ask or the ability to ask; but I asked it, not because I thought it was easy, but because I thought it was important for us to at least begin the debate.

Particularly in Medicare, that is a debate that I recognize probably as being difficult maybe more than most Members because I have spent the last 12 years being stung by attacks from opponents back home who, in years where we did nothing to Medicare, were able to come up with phantom votes here and there suggesting that somehow, again, as a Republican, I think maybe just because I registered to vote as a Republican, that somehow I was cutting Medicare. It must be something that is just automatic when you become a Republican, it seems, these days.

But it could not be further from the truth. When it comes to our budgets in Medicare and so many of these programs, as my friends know, particularly since 1998, we have just been spending money around here like it is going out of style in every category. We almost cannot name a category that has gone down by any significant portion over the last 5 years, in particular, since we got the balance.

So it was not so much that I was saying cut, but I was saying slow down. That is all I was trying to say was slow down. That is what I was trying to say in Medicare was slow down. We had put $400 billion in. I asked them to look for that waste within Medicare. We know it is there. I have three great examples that came out of those blue books we were talking about.

The Medicare program pays as much as eight times, just think about this, I would say to my friends, eight times the cost of any other Federal agency when we pay for the same drugs and medical supplies. I do not know, maybe double would be a reasonable level; but eight times does not make much sense to me.

Medicare provides overpayments of $12.1 billion in 1 year. All right? That is just another example.

In 2002, it was estimated that improper, and that is in addition to overpayments, we are talking about just plain improper, fraudulent payments under Medicare were estimated at $13 billion. Let me quickly do the math: 13, 12, that is 25. We do not even know what the cost of the drugs are, but that is $25 billion in 1 year, as an example.

I do not know about the other Members, but that pays for a lot of prescription drugs for seniors. Just in the first year of the drug benefit that almost all of us support, we are only talking about $7 billion as a drug benefit. That is just the first year of the phase-in. That is three times, almost four times, the amount of the initial drug benefit we waste in the Medicare program. That is before we even talk about reimbursements.

My friend, the gentleman from Texas, and I have been laboring on the Rural Health Care Coalition since I think the day the gentleman walked in this place, and certainly the day I walked in. Medicare is not serving our seniors because of a crazy reimbursement system that has been out there. But we come down here to the well and we say, oh, gosh, do not touch that, it is Medicare.

Heaven forbid we would try and do something around here in any of these programs in order to try to control them, because around here in Washington our level of compassion and concern has been equal to the amount of money we are willing to put into the program.

So instead of saying to Medicare, the Defense Department, agriculture, I do not care what it is, instead of saying, where did that $13 billion go; we are not going to give it to you again next year until you find it, instead, what we say is, oh, quick, quick, let us pass a budget that puts in $400 billion more.

Let us hurry up and do that because heaven forbid we would look at a senior citizen straight in the eye and say, Do you know what? The program is not working as well as it should. It is not doing the job we promised; it is wasting money.

So that is what I was asking for. The gentleman is right, I did not get the votes for that. We will live to have that discussion another day because my guess is that in order for the actual bill to come to the floor, we are going to have to make some of those adjustments.

I could go on. That is the most politically sensitive one in the bunch. I could go on and on through less politically sensitive issues. But what I am asking us to do, and it is article 1 of the Constitution that I believe gives us that responsibility. The gentleman showed a chart that defines it by President. I could show a chart, and I know we are talking about the partisan jabs. I could show a chart that showed the exact same figures but showed them under Republican and Democratic Congresses.

□ 1815

It does not matter, as I said to my friend from Mississippi, it does not matter what happened in the past. It matters what we look to do in the future. My colleagues have got a plan. We disagree with it because it does not, we do not believe, do the one thing that we believe can help us here the most, and that is stimulate the growth in the economy that brings in so much of the revenue that we need.

The second thing it really does not do, and we disagree with the President on this, mostly not because we disagree with the President, but because it is our job to control spending. If we do not do it by the time the bill gets to his desk, it is not going to get done, and so that is why we asked for the waste, fraud and abuse within these reconciliation instructions.

Last but not least, and I think my friend wants us to yield, the balanced budget amendment, and I am a cosponsor and have been and voted for it. The one problem with a balanced budget amendment, of course, is it takes about 8 years to get it into place, and what we said in 1995 and what we are both saying here today in a bipartisan way, regardless of our plan, let us just do it. Forget about the amendment for a second. Let us do it. Let us actually go in and balance it as opposed to just saying that we ought to have a constitutional amendment to do it.

The one thing the balanced budget amendment does provide is an exception. Two things actually. One is national emergency, and certainly I think September 11, obviously we in a bipartisan way agree that that is a national emergency; and the second is war, and clearly, we are in a war. So while I support that, I think we ought to just do it.

We put ourselves on a path under both of our plans, but we believe ours is a better path, and that is the reason.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I would just say there are 35 Blue Dogs that stand ready to work with the gentleman's side on every one of the issues in the blue books that my colleague had up. If we would have the same spirit on those issues that we have had by allowing us to have this 1 hour this year, which we were not allowed to have last year, we would have made a lot of progress on this.

The fact that my colleagues were kind enough this year to allow the Blue Dogs to have 1 hour of debate so we can have this discussion, we do think it is a better plan, but it is up to the will of the majority of the House as to whether our plan is better than my colleagues. We will stand by the will of the majority.

Mr. NUSSLE. Mr. Chairman, I thank the gentleman from Texas for his comments.

As I say, I respectfully oppose the gentleman's and the Blue Dogs' substitute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. HILL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HILL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 254, not voting 6, as follows:

[Roll No. 78]

AYES—174

Abercrombie
Ackerman
Alexander
Andrews
Baca
Baird
Ballance
Becerra
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boyd
Brown (OH)
Brown, Corrine
Capps
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hastings (FL)
Hayes
Hill
Hinchey
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kilpatrick
Kind
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lofgren
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Ortiz
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Shimkus
Simpson
Slaughter
Smith (MI)
Snyder
Solis
Spratt
Stark
Stenholm
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wu
Wynn

NOES—254

Aderholt
Akin
Allen
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Evans
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoeffel
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jackson (IL)
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
Lantos
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McDermott
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Osborne
Ose
Otter
Owens
Oxley
Paul
Payne
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—6

Buyer
Gephardt
Hyde
Reynolds
Thornberry
Udall (CO)

The CHAIRMAN pro tempore (Mr. SHIMKUS) (during the vote). The Chair advises Members there are 2 minutes remaining in this vote.

□ 1838

Messrs. EVERETT, TURNER of Ohio, FRANKS of Arizona, FERGUSON, ENGLISH and GILCHREST changed their vote from "aye" to "no."

Messrs. GUTIERREZ, EDWARDS, COSTELLO and Mrs. BONO changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. SMITH of Washington. Mr. Chairman, on House rollcall vote 78, on the Hill Substitute to H. Con. Res. 95, I mistakenly cast my vote as a "no". I intended to vote "aye" and support the Hill substitute.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House Report 108–44.

### PART B AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part B Amendment No. 2 in the Nature of a Substitute offered by Mr. TOOMEY:

Strike all after the resolving clause and insert the following:

### SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2002.

The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 are hereby set forth.

## TITLE I—RECOMMENDED LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2003 through 2013.

(1) Federal Revenues.—For the purpose of enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal Year 2003: $1,323,729,000,000.
Fiscal year 2004: $1,340,138,000,000.
Fiscal year 2005: $1,504,267,000,000.
Fiscal year 2006: $1,642,729,000,000.
Fiscal year 2007: $1,768,142,000,000.
Fiscal year 2008: $1,872,740,000,000.
Fiscal year 2009: $1,985,385,000,000.
Fiscal year 2010: $2,095,867,000,000.
Fiscal year 2011: $2,198,796,000,000.
Fiscal year 2012: $2,324,426,000,000.
Fiscal year 2013: $2,460,635,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2003: $36,105,000,000.
Fiscal year 2004: $126,232,000,000.
Fiscal year 2005: $112,759,000,000.
Fiscal year 2006: $97,943,000,000.
Fiscal year 2007: $85,024,000,000.
Fiscal year 2008: $90,237,000,000.
Fiscal year 2009: $92,945,000,000.
Fiscal year 2010: $97,175,000,000.
Fiscal year 2011: $228,700,000,000.
Fiscal year 2012: $325,353,000,000.
Fiscal year 2013: $343,575,000,000.

(2) New budget authority.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2003: $1,790,046,000,000.
Fiscal year 2004: $1,811,096,000,000.
Fiscal year 2005: $1,888,755,000,000.
Fiscal year 2006: $1,961,833,000,000.
Fiscal year 2007: $2,019,225,000,000.
Fiscal year 2008: $2,072,926,000,000.
Fiscal year 2009: $2,144,679,000,000.
Fiscal year 2010: $2,209,760,000,000.
Fiscal year 2011: $2,297,614,000,000.
Fiscal year 2012: $2,371,644,000,000.
Fiscal year 2013: $2,463,897,000,000.

(3) Budget outlays.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2003: $1,776,895,000,000.
Fiscal year 2004: $1,824,619,000,000.
Fiscal year 2005: $1,880,352,000,000.
Fiscal year 2006: $1,931,043,000,000.
Fiscal year 2007: $1,979,840,000,000.
Fiscal year 2008: $2,033,924,000,000.
Fiscal year 2009: $2,110,335,000,000.
Fiscal year 2010: $2,178,746,000,000.
Fiscal year 2011: $2,272,784,000,000.
Fiscal year 2012: $2,333,379,000,000.
Fiscal year 2013: $2,433,558,000,000.

(4) Deficits (on-budget).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2003: $453,166,000,000.
Fiscal year 2004: $484,481,000,000.
Fiscal year 2005: $376,085,000,000.
Fiscal year 2006: $288,314,000,000.
Fiscal year 2007: $211,698,000,000.
Fiscal year 2008: $161,184,000,000.
Fiscal year 2009: $124,950,000,000.
Fiscal year 2010: $82,879,000,000.
Fiscal year 2011: $73,988,000,000.
Fiscal year 2012: $8,953,000,000.
Fiscal year 2013: $−27,077,000,000.

(5) Debt subject to limit.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,687,000,000.
Fiscal year 2004: $7,242,000,000.
Fiscal year 2005: $7,740,000,000.
Fiscal year 2006: $8,203,000,000.
Fiscal year 2007: $8,636,000,000.
Fiscal year 2008: $9,047,000,000.
Fiscal year 2009: $9,462,000,000.
Fiscal year 2010: $9,856,000,000.
Fiscal year 2011: $10,266,000,000.
Fiscal year 2012: $10,643,000,000.
Fiscal year 2013: $11,010,000,000.

(6) Debt held by the public.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2003: $3,858,000,000.
Fiscal year 2004: $4,157,000,000.
Fiscal year 2005: $4,362,000,000.
Fiscal year 2006: $4,498,000,000.
Fiscal year 2007: $4,579,000,000.
Fiscal year 2008: $4,615,000,000.
Fiscal year 2009: $4,631,000,000.
Fiscal year 2010: $4,604,000,000.
Fiscal year 2011: $4,569,000,000.
Fiscal year 2012: $4,480,000,000.
Fiscal year 2013: $4,364,000,000.

### SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2003 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2003:
(A) New budget authority, $392,494,000,000.
(B) Outlays, $386,229,000,000.
Fiscal year 2004:
(A) New budget authority, $400,546,000,000.
(B) Outlays, $400,916,000,000.
Fiscal year 2005:
(A) New budget authority, $420,071,000,000.
(B) Outlays, $414,237,000,000.
Fiscal year 2006:
(A) New budget authority, $440,185,000,000.
(B) Outlays, $426,011,000,000.
Fiscal year 2007:
(A) New budget authority, $460,435,000,000.
(B) Outlays, $438,656,000,000.
Fiscal year 2008:
(A) New budget authority, $480,886,000,000.
(B) Outlays, $462,861,000,000.
Fiscal year 2009:
(A) New budget authority, $494,067,000,000.
(B) Outlays, $480,650,000,000.
Fiscal year 2010:
(A) New budget authority, $507,840,000,000.
(B) Outlays, $497,348,000,000.
Fiscal year 2011:
(A) New budget authority, $522,103,000,000.
(B) Outlays, $516,338,000,000.
Fiscal year 2012:
(A) New budget authority, $536,531,000,000.
(B) Outlays, $523,884,000,000.
Fiscal year 2013:
(A) New budget authority, $551,323,000,000.
(B) Outlays, $543,541,000,000.

(2) International Affairs (150):
Fiscal year 2003:
(A) New budget authority, $22,506,000,000.
(B) Outlays, $19,283,000,000.
Fiscal year 2004:
(A) New budget authority, $24,747,000,000.
(B) Outlays, $23,676,000,000.
Fiscal year 2005:
(A) New budget authority, $28,626,000,000.
(B) Outlays, $24,128,000,000.
Fiscal year 2006:
(A) New budget authority, $31,082,000,000.
(B) Outlays, $25,608,000,000.
Fiscal year 2007:
(A) New budget authority, $32,262,000,000.
(B) Outlays, $27,409,000,000.
Fiscal year 2008:
(A) New budget authority, $33,107,000,000.
(B) Outlays, $28,389,000,000.
Fiscal year 2009:
(A) New budget authority, $33,759,000,000.
(B) Outlays, $29,398,000,000.
Fiscal year 2010:
(A) New budget authority, $34,445,000,000.
(B) Outlays, $30,221,000,000.
Fiscal year 2011:
(A) New budget authority, $35,294,000,000.
(B) Outlays, $31,065,000,000.
Fiscal year 2012:
(A) New budget authority, $36,128,000,000.
(B) Outlays, $31,873,000,000.
Fiscal year 2013:
(A) New budget authority, $36,985,000,000.
(B) Outlays, $32,737,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2003:
(A) New budget authority, $23,153,000,000.
(B) Outlays, $21,556,000,000.
Fiscal year 2004:
(A) New budget authority, $22,771,000,000.
(B) Outlays, $22,348,000,000.
Fiscal year 2005:
(A) New budget authority, $23,591,000,000.
(B) Outlays, $23,082,000,000.
Fiscal year 2006:
(A) New budget authority, $24,344,000,000.
(B) Outlays, $23,690,000,000.
Fiscal year 2007:
(A) New budget authority, $25,153,000,000.
(B) Outlays, $24,425,000,000.
Fiscal year 2008:
(A) New budget authority, $25,899,000,000.
(B) Outlays, $25,127,000,000.
Fiscal year 2009:
(A) New budget authority, $26,503,000,000.
(B) Outlays, $25,799,000,000.
Fiscal year 2010:
(A) New budget authority, $27,140,000,000.
(B) Outlays, $26,435,000,000.
Fiscal year 2011:
(A) New budget authority, $27,800,000,000.
(B) Outlays, $27,079,000,000.
Fiscal year 2012:
(A) New budget authority, $28,464,000,000.
(B) Outlays, $27,735,000,000.
Fiscal year 2013:
(A) New budget authority, $29,134,000,000.

(B) Outlays, $28,393,000,000.
(4) Energy (270):
Fiscal year 2003:
(A) New budget authority, $2,074,000,000.
(B) Outlays, $439,000,000.
Fiscal year 2004:
(A) New budget authority, $2,583,000,000.
(B) Outlays, $929,000,000.
Fiscal year 2005:
(A) New budget authority, $2,707,000,000.
(B) Outlays, $962,000,000.
Fiscal year 2006:
(A) New budget authority, $2,609,000,000.
(B) Outlays, $1,245,000,000.
Fiscal year 2007:
(A) New budget authority, $2,431,000,000.
(B) Outlays, $1,023,000,000.
Fiscal year 2008:
(A) New budget authority, $2,988,000,000.
(B) Outlays, $1,402,000,000.
Fiscal year 2009:
(A) New budget authority, $2,977,000,000.
(B) Outlays, $1,663,000,000.
Fiscal year 2010:
(A) New budget authority, $3,085,000,000.
(B) Outlays, $1,784,000,000.
Fiscal year 2011:
(A) New budget authority, $3,182,000,000.
(B) Outlays, $1,957,000,000.
Fiscal year 2012:
(A) New budget authority, $3,289,000,000.
(B) Outlays, $2,319,000,000.
Fiscal year 2013:
(A) New budget authority, $3,402,000,000.
(B) Outlays, $2,295,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 2003:
(A) New budget authority, $30,816,000,000.
(B) Outlays, $28,940,000,000.
Fiscal year 2004:
(A) New budget authority, $29,237,000,000.
(B) Outlays, $29,866,000,000.
Fiscal year 2005:
(A) New budget authority, $30,250,000,000.
(B) Outlays, $30,274,000,000.
Fiscal year 2006:
(A) New budget authority, $30,940,000,000.
(B) Outlays, $31,199,000,000.
Fiscal year 2007:
(A) New budget authority, $31,448,000,000.
(B) Outlays, $31,331,000,000.
Fiscal year 2008:
(A) New budget authority, $32,224,000,000.
(B) Outlays, $31,706,000,000.
Fiscal year 2009:
(A) New budget authority, $33,454,000,000.
(B) Outlays, $32,835,000,000.
Fiscal year 2010:
(A) New budget authority, $34,421,000,000.
(B) Outlays, $33,757,000,000.
Fiscal year 2011:
(A) New budget authority, $35,427,000,000.
(B) Outlays, $34,741,000,000.
Fiscal year 2012:
(A) New budget authority, $36,343,000,000.
(B) Outlays, $35,615,000,000.
Fiscal year 2013:
(A) New budget authority, $37,240,000,000.
(B) Outlays, $36,590,000,000.
(6) Agriculture (350):
Fiscal year 2003:
(A) New budget authority, $24,418,000,000.
(B) Outlays, $23,365,000,000.
Fiscal year 2004:
(A) New budget authority, $23,966,000,000.
(B) Outlays, $23,356,000,000.
Fiscal year 2005:
(A) New budget authority, $26,144,000,000.
(B) Outlays, $25,194,000,000.
Fiscal year 2006:
(A) New budget authority, $25,799,000,000.
(B) Outlays, $24,987,000,000.
Fiscal year 2007:
(A) New budget authority, $25,113,000,000.
(B) Outlays, $24,415,000,000.
Fiscal year 2008:
(A) New budget authority, $24,035,000,000.
(B) Outlays, $23,523,000,000.
Fiscal year 2009:
(A) New budget authority, $24,239,000,000.
(B) Outlays, $24,066,000,000.
Fiscal year 2010:
(A) New budget authority, $23,427,000,000.
(B) Outlays, $23,496,000,000.
Fiscal year 2011:
(A) New budget authority, $22,985,000,000.
(B) Outlays, $23,002,000,000.
Fiscal year 2012:
(A) New budget authority, $22,651,000,000.
(B) Outlays, $22,627,000,000.
Fiscal year 2013:
(A) New budget authority, $22,433,000,000.
(B) Outlays, $22,388,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2003:
(A) New budget authority, $8,812,000,000.
(B) Outlays, $5,881,000,000.
Fiscal year 2004:
(A) New budget authority, $7,401,000,000.
(B) Outlays, $3,587,000,000.
Fiscal year 2005:
(A) New budget authority, $8,633,000,000.
(B) Outlays, $4,059,000,000.
Fiscal year 2006:
(A) New budget authority, $8,145,000,000.
(B) Outlays, $3,130,000,000.
Fiscal year 2007:
(A) New budget authority, $9,166,000,000.
(B) Outlays, $3,365,000,000.
Fiscal year 2008:
(A) New budget authority, $8,628,000,000.
(B) Outlays, $2,355,000,000.
Fiscal year 2009:
(A) New budget authority, $8,763,000,000.
(B) Outlays, $2,486,000,000.
Fiscal year 2010:
(A) New budget authority, $8,737,000,000.
(B) Outlays, $2,208,000,000.
Fiscal year 2011:
(A) New budget authority, $8,939,000,000.
(B) Outlays, $1,858,000,000.
Fiscal year 2012:
(A) New budget authority, $9,029,000,000.
(B) Outlays, $1,610,000,000.
Fiscal year 2013:
(A) New budget authority, $9,247,000,000.
(B) Outlays, $1,840,000,000.
(8) Transportation (400):
Fiscal year 2003:
(A) New budget authority, $64,091,000,000.
(B) Outlays, $67,847,000,000.
Fiscal year 2004:
(A) New budget authority, $65,416,000,000.
(B) Outlays, $73,832,000,000.
Fiscal year 2005:
(A) New budget authority, $65,785,000,000.
(B) Outlays, $69,861,000,000.
Fiscal year 2006:
(A) New budget authority, $66,691,000,000.
(B) Outlays, $68,369,000,000.
Fiscal year 2007:
(A) New budget authority, $67,693,000,000.
(B) Outlays, $68,293,000,000.
Fiscal year 2008:
(A) New budget authority, $68,647,000,000.
(B) Outlays, $68,700,000,000.
Fiscal year 2009:
(A) New budget authority, $69,825,000,000.
(B) Outlays, $69,604,000,000.
Fiscal year 2010:
(A) New budget authority, $71,016,000,000.
(B) Outlays, $71,021,000,000.
Fiscal year 2011:
(A) New budget authority, $72,723,000,000.
(B) Outlays, $72,573,000,000.
Fiscal year 2012:
(A) New budget authority, $74,432,000,000.
(B) Outlays, $74,228,000,000.
Fiscal year 2013:
(A) New budget authority, $76,218,000,000.
(B) Outlays, $75,924,000,000.
(9) Community and Regional Development (450):
Fiscal year 2003:
(A) New budget authority, $12,251,000,000.
(B) Outlays, $15,994,000,000.
Fiscal year 2004:
(A) New budget authority, $14,137,000,000.
(B) Outlays, $15,923,000,000.
Fiscal year 2005:
(A) New budget authority, $14,355,000,000.
(B) Outlays, $15,990,000,000.
Fiscal year 2006:
(A) New budget authority, $14,647,000,000.
(B) Outlays, $15,120,000,000.
Fiscal year 2007:
(A) New budget authority, $14,968,000,000.
(B) Outlays, $14,918,000,000.
Fiscal year 2008:
(A) New budget authority, $15,350,000,000.
(B) Outlays, $14,500,000,000.
Fiscal year 2009:
(A) New budget authority, $15,701,000,000.
(B) Outlays, $14,802,000,000.
Fiscal year 2010:
(A) New budget authority, $16,075,000,000.
(B) Outlays, $15,146,000,000.
Fiscal year 2011:
(A) New budget authority, $16,467,000,000.
(B) Outlays, $15,524,000,000.
Fiscal year 2012:
(A) New budget authority, $16,857,000,000.
(B) Outlays, $15,892,000,000.
Fiscal year 2013:
(A) New budget authority, $17,255,000,000.
(B) Outlays, $16,288,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2003:
(A) New budget authority, $86,169,000,000.
(B) Outlays, $81,340,000,000.
Fiscal year 2004:
(A) New budget authority, $84,744,000,000.
(B) Outlays, $85,702,000,000.
Fiscal year 2005:
(A) New budget authority, $84,376,000,000.
(B) Outlays, $83,593,000,000.
Fiscal year 2006:
(A) New budget authority, $86,663,000,000.
(B) Outlays, $84,632,000,000.
Fiscal year 2007:
(A) New budget authority, $88,640,000,000.
(B) Outlays, $86,408,000,000.
Fiscal year 2008:
(A) New budget authority, $90,799,000,000.
(B) Outlays, $88,343,000,000.
Fiscal year 2009:
(A) New budget authority, $92,377,000,000.
(B) Outlays, $90,470,000,000.
Fiscal year 2010:
(A) New budget authority, $93,915,000,000.
(B) Outlays, $92,151,000,000.
Fiscal year 2011:
(A) New budget authority, $95,812,000,000.
(B) Outlays, $93,918,000,000.
Fiscal year 2012:
(A) New budget authority, $97,615,000,000.
(B) Outlays, $95,694,000,000.
Fiscal year 2013:
(A) New budget authority, $99,516,000,000.
(B) Outlays, $97,583,000,000.
(11) Health (550):
Fiscal year 2003:
(A) New budget authority, $221,878,000,000.
(B) Outlays, $218,021,000,000.
Fiscal year 2004:
(A) New budget authority, $235,033,000,000.
(B) Outlays, $235,408,000,000.
Fiscal year 2005:
(A) New budget authority, $248,561,000,000.
(B) Outlays, $248,255,000,000.

Fiscal year 2006:
(A) New budget authority, $265,324,000,000.
(B) Outlays, $264,811,000,000.
Fiscal year 2007:
(A) New budget authority, $284,054,000,000.
(B) Outlays, $283,181,000,000.
Fiscal year 2008:
(A) New budget authority, $303,513,000,000.
(B) Outlays, $302,371,000,000.
Fiscal year 2009:
(A) New budget authority, $323,793,000,000.
(B) Outlays, $322,510,000,000.
Fiscal year 2010:
(A) New budget authority, $345,221,000,000.
(B) Outlays, $343,935,000,000.
Fiscal year 2011:
(A) New budget authority, $370,172,000,000.
(B) Outlays, $368,888,000,000.
Fiscal year 2012:
(A) New budget authority, $394,838,000,000.
(B) Outlays, $393,580,000,000.
Fiscal year 2013:
(A) New budget authority, $423,165,000,000.
(B) Outlays, $421,858,000,000.
(12) Medicare (570):
Fiscal year 2003:
(A) New budget authority, $248,586,000,000.
(B) Outlays, $248,434,000,000.
Fiscal year 2004:
(A) New budget authority, $261,298,000,000.
(B) Outlays, $261,621,000,000.
Fiscal year 2005:
(A) New budget authority, $275,475,000,000.
(B) Outlays, $278,402,000,000.
Fiscal year 2006:
(A) New budget authority, $312,447,000,000.
(B) Outlays, $309,300,000,000.
Fiscal year 2007:
(A) New budget authority, $332,020,000,000.
(B) Outlays, $332,299,000,000.
Fiscal year 2008:
(A) New budget authority, $352,392,000,000.
(B) Outlays, $352,287,000,000.
Fiscal year 2009:
(A) New budget authority, $372,165,000,000.
(B) Outlays, $371,929,000,000.
Fiscal year 2010:
(A) New budget authority, $392,052,000,000.
(B) Outlays, $392,309,000,000.
Fiscal year 2011:
(A) New budget authority, $420,691,000,000.
(B) Outlays, $423,880,000,000.
Fiscal year 2012:
(A) New budget authority, $453,915,000,000.
(B) Outlays, $450,312,000,000.
Fiscal year 2013:
(A) New budget authority, $490,497,000,000.
(B) Outlays, $490,754,000,000.
(13) Income Security (600):
Fiscal year 2003:
(A) New budget authority, $326,588,000,000.
(B) Outlays, $334,373,000,000.
Fiscal year 2004:
(A) New budget authority, $315,939,000,000.
(B) Outlays, $321,576,000,000.
Fiscal year 2005:
(A) New budget authority, $326,452,000,000.
(B) Outlays, $329,892,000,000.
Fiscal year 2006:
(A) New budget authority, $332,440,000,000.
(B) Outlays, $334,883,000,000.
Fiscal year 2007:
(A) New budget authority, $337,235,000,000.
(B) Outlays, $339,157,000,000.
Fiscal year 2008:
(A) New budget authority, $345,904,000,000.
(B) Outlays, $347,149,000,000.
Fiscal year 2009:
(A) New budget authority, $354,493,000,000.
(B) Outlays, $355,411,000,000.
Fiscal year 2010:
(A) New budget authority, $362,278,000,000.
(B) Outlays, $363,059,000,000.
Fiscal year 2011:
(A) New budget authority, $376,326,000,000.
(B) Outlays, $377,070,000,000.
Fiscal year 2012:
(A) New budget authority, $379,667,000,000.
(B) Outlays, $380,403,000,000.
Fiscal year 2013:
(A) New budget authority, $393,564,000,000.
(B) Outlays, $394,420,000,000.
(14) Social Security (650):
Fiscal year 2003:
(A) New budget authority, $13,255,000,000.
(B) Outlays, $13,255,000,000.
Fiscal year 2004:
(A) New budget authority, $14,223,000,000.
(B) Outlays, $14,222,000,000.
Fiscal year 2005:
(A) New budget authority, $15,330,000,000.
(B) Outlays, $15,330,000,000.
Fiscal year 2006:
(A) New budget authority, $16,451,000,000.
(B) Outlays, $16,451,000,000.
Fiscal year 2007:
(A) New budget authority, $17,975,000,000.
(B) Outlays, $17,975,000,000.
Fiscal year 2008:
(A) New budget authority, $19,827,000,000.
(B) Outlays, $19,827,000,000.
Fiscal year 2009:
(A) New budget authority, $21,982,000,000.
(B) Outlays, $21,982,000,000.
Fiscal year 2010:
(A) New budget authority, $24,357,000,000.
(B) Outlays, $24,357,000,000.
Fiscal year 2011:
(A) New budget authority, $28,235,000,000.
(B) Outlays, $28,235,000,000.
Fiscal year 2012:
(A) New budget authority, $31,450,000,000.
(B) Outlays, $31,450,000,000.
Fiscal year 2013:
(A) New budget authority, $34,481,000,000.
(B) Outlays, $34,481,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2003:
(A) New budget authority, $57,597,000,000.
(B) Outlays, $57,486,000,000.
Fiscal year 2004:
(A) New budget authority, $60,710,000,000.
(B) Outlays, $60,692,000,000.
Fiscal year 2005:
(A) New budget authority, $65,827,000,000.
(B) Outlays, $65,329,000,000.
Fiscal year 2006:
(A) New budget authority, $63,976,000,000.
(B) Outlays, $63,720,000,000.
Fiscal year 2007:
(A) New budget authority, $62,320,000,000.
(B) Outlays, $62,014,000,000.
Fiscal year 2008:
(A) New budget authority, $65,655,000,000.
(B) Outlays, $65,502,000,000.
Fiscal year 2009:
(A) New budget authority, $66,888,000,000.
(B) Outlays, $66,644,000,000.
Fiscal year 2010:
(A) New budget authority, $68,158,000,000.
(B) Outlays, $67,874,000,000.
Fiscal year 2011:
(A) New budget authority, $72,646,000,000.
(B) Outlays, $72,350,000,000.
Fiscal year 2012:
(A) New budget authority, $69,805,000,000.
(B) Outlays, $69,416,000,000.
Fiscal year 2013:
(A) New budget authority, $74,452,000,000.
(B) Outlays, $74,132,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $37,310,000,000.
(B) Outlays, $40,895,000,000.
Fiscal year 2005:
(A) New budget authority, $37,673,000,000.
(B) Outlays, $39,003,000,000.
Fiscal year 2006:
(A) New budget authority, $37,581,000,000.
(B) Outlays, $38,026,000,000.
Fiscal year 2007:
(A) New budget authority, $37,963,000,000.
(B) Outlays, $37,859,000,000.
Fiscal year 2008:
(A) New budget authority, $38,880,000,000.
(B) Outlays, $38,633,000,000.
Fiscal year 2009:
(A) New budget authority, $39,839,000,000.
(B) Outlays, $39,662,000,000.
Fiscal year 2010:
(A) New budget authority, $40,884,000,000.
(B) Outlays, $40,696,000,000.
Fiscal year 2011:
(A) New budget authority, $42,152,000,000.
(B) Outlays, $41,847,000,000.
Fiscal year 2012:
(A) New budget authority, $43,451,000,000.
(B) Outlays, $43,124,000,000.
Fiscal year 2013:
(A) New budget authority, $44,800,000,000.
(B) Outlays, $44,464,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,178,000,000.
(B) Outlays, $18,103,000,000.
Fiscal year 2004:
(A) New budget authority, $19,768,000,000.
(B) Outlays, $19,586,000,000.
Fiscal year 2005:
(A) New budget authority, $20,025,000,000.
(B) Outlays, $20,213,000,000.
Fiscal year 2006:
(A) New budget authority, $19,654,000,000.
(B) Outlays, $19,713,000,000.
Fiscal year 2007:
(A) New budget authority, $19,955,000,000.
(B) Outlays, $19,716,000,000.
Fiscal year 2008:
(A) New budget authority, $19,760,000,000.
(B) Outlays, $19,552,000,000.
Fiscal year 2009:
(A) New budget authority, $20,168,000,000.
(B) Outlays, $19,761,000,000.
Fiscal year 2010:
(A) New budget authority, $20,572,000,000.
(B) Outlays, $20,127,000,000.
Fiscal year 2011:
(A) New budget authority, $21,294,000,000.
(B) Outlays, $20,826,000,000.
Fiscal year 2012:
(A) New budget authority, $22,039,000,000.
(B) Outlays, $21,700,000,000.
Fiscal year 2013:
(A) New budget authority, $22,829,000,000.
(B) Outlays, $22,323,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $239,741,000,000.
(B) Outlays, $239,741,000,000.
Fiscal year 2004:
(A) New budget authority, $256,367,000,000.
(B) Outlays, $256,367,000,000.
Fiscal year 2005:
(A) New budget authority, $301,918,000,000.
(B) Outlays, $301,918,000,000.
Fiscal year 2006:
(A) New budget authority, $336,172,000,000.
(B) Outlays, $336,172,000,000.
Fiscal year 2007:
(A) New budget authority, $355,442,000,000.
(B) Outlays, $355,442,000,000.
Fiscal year 2008:
(A) New budget authority, $368,985,000,000.
(B) Outlays, $368,985,000,000.
Fiscal year 2009:
(A) New budget authority, $379,976,000,000.
(B) Outlays, $379,976,000,000.
Fiscal year 2010:
(A) New budget authority, $387,382,000,000.

(B) Outlays, $387,382,000,000.

Fiscal year 2011:

(A) New budget authority, $394,728,000,000.

(B) Outlays, $394,728,000,000.

Fiscal year 2012:

(A) New budget authority, $401,288,000,000.

(B) Outlays, $401,288,000,000.

Fiscal year 2013:

(A) New budget authority, $403,084,000,000.

(B) Outlays, $403,084,000,000.

(19) Allowances (920):

Fiscal year 2003:

(A) New budget authority, $0.

(B) Outlays, $0.

Fiscal year 2004:

(A) New budget authority, −$25,986,000,000.

(B) Outlays, −$26,781,000,000.

Fiscal year 2005:

(A) New budget authority, −$58,705,000,000.

(B) Outlays, −$61,030,000,000.

Fiscal year 2006:

(A) New budget authority, −$103,450,000,000.

(B) Outlays, −$106,165,000,000.

Fiscal year 2007:

(A) New budget authority, −$134,939,000,000.

(B) Outlays, −$137,938,000,000.

Fiscal year 2008:

(A) New budget authority, −$172,108,000,000.

(B) Outlays, −$174,839,000,000.

Fiscal year 2009:

(A) New budget authority, −$184,626,000,000.

(B) Outlays, −$187,639,000,000.

Fiscal year 2010:

(A) New budget authority, −$197,329,000,000.

(B) Outlays, −$200,631,000,000.

Fiscal year 2011:

(A) New budget authority, −$213,132,000,000.

(B) Outlays, −$216,854,000,000.

Fiscal year 2012:

(A) New budget authority, −$227,647,000,000.

(B) Outlays, −$230,847,000,000.

Fiscal year 2013:

(A) New budget authority, −$244,708,000,000.

(B) Outlays, −$248,504,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 2003:

(A) New budget authority, −$41,104,000,000.

(B) Outlays, −$41,104,000,000.

Fiscal year 2004:

(A) New budget authority, −$42,894,000,000.

(B) Outlays, −$42,894,000,000.

Fiscal year 2005:

(A) New budget authority, −$52,598,000,000.

(B) Outlays, −$52,598,000,000.

Fiscal year 2006:

(A) New budget authority, −$54,459,000,000.

(B) Outlays, −$54,459,000,000.

Fiscal year 2007:

(A) New budget authority, −$51,535,000,000.

(B) Outlays, −$51,535,000,000.

Fiscal year 2008:

(A) New budget authority, −$53,540,000,000.

(B) Outlays, −$53,540,000,000.

Fiscal year 2009:

(A) New budget authority, −$52,609,000,000.

(B) Outlays, −$52,609,000,000.

Fiscal year 2010:

(A) New budget authority, −$54,685,000,000.

(B) Outlays, −$54,685,000,000.

Fiscal year 2011:

(A) New budget authority, −$56,841,000,000.

(B) Outlays, −$56,841,000,000.

Fiscal year 2012:

(A) New budget authority, −$59,025,000,000.

(B) Outlays, −$59,025,000,000.

Fiscal year 2013:

(A) New budget authority, −$61,229,000,000.

(B) Outlays, −$61,229,000,000.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) SUBMISSION PROVIDING FOR ECONOMIC GROWTH AND TAX SIMPLIFICATION AND FAIRNESS.—

(1) IN GENERAL.—Not later than April 11, 2003, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) INSTRUCTIONS.—

(A) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in law within its jurisdiction sufficient to—

(1) reduce the total level of revenues by not more than: $35,420,000,000 for fiscal year 2003, $126,232,000,000 for fiscal year 2004, $512,195,000,000 for the period of fiscal years 2004 through 2008, and $1,599,943,000,000 for the period of fiscal years 2004 through 2013; and

(2) increase the level of direct spending for that committee by $4,380,000,000 in outlays for fiscal year 2003, $1,111,000,000 in outlays for fiscal year 2004, $17,393,000,000 in outlays for the period of fiscal years 2004 through 2008, and $23,096,000,000 in outlays for the period of fiscal years 2004 through 2013.

(B) COMMITTEE ON EDUCATION AND THE WORKFORCE.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to increase the level of direct spending for that committee by $3,600,000,000 in new budget authority for fiscal year 2003 and outlays flowing therefrom.

(b) SUBMISSIONS PROVIDING FOR THE ELIMINATION OF WASTE, FRAUD, AND ABUSE IN MANDATORY PROGRAMS.—

(1) IN GENERAL.—Not later than July 18, 2003, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) INSTRUCTIONS.—

(A) COMMITTEE ON AGRICULTURE.—The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,409,000,000 in outlays for fiscal year 2004, $17,622,000,000 in outlays for the period of fiscal years 2004 through 2008, and $50,718,000,000 in outlays for the period of fiscal years 2004 through 2013.

(B) COMMITTEE ON EDUCATION AND THE WORKFORCE.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $613,000,000 in outlays for fiscal year 2004, $8,276,000,000 in outlays for the period of fiscal years 2004 through 2008, and $25,665,000,000 in outlays for the period of fiscal years 2004 through 2013.

(C) COMMITTEE ON ENERGY AND COMMERCE.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $3,160,000,000 in outlays for fiscal year 2004, $80,495,000,000 in outlays for the period of fiscal years 2004 through 2008, and $292,506,000,000 in outlays for the period of fiscal years 2004 through 2013.

(D) COMMITTEE ON FINANCIAL SERVICES.—The House Committee on Financial Services shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $30,000,000 in new budget authority for fiscal year 2004, $390,000,000 in new budget authority for the period of fiscal years 2004 through 2008, and $381,000,000 in new budget authority for the period of fiscal years 2004 through 2013.

(E) COMMITTEE ON GOVERNMENT REFORM.—The House Committee on Government Reform shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $2,518,000,000 in outlays for fiscal year 2004, $33,042,000,000 in outlays for the period of fiscal years 2004 through 2008, and $104,405,000,000 in outlays for the period of fiscal years 2004 through 2013.

(F) COMMITTEE ON HOUSE ADMINISTRATION.—The House Committee on House Administration shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $11,000,000 in outlays for fiscal year 2004, $87,000,000 in outlays for the period of fiscal years 2004 through 2008, and $241,000,000 in outlays for the period of fiscal years 2004 through 2013.

(G) COMMITTEE ON INTERNATIONAL RELATIONS.—The House Committee on International Relations shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $367,000,000 in outlays for fiscal year 2004, $4,124,000,000 in outlays for the period of fiscal years 2004 through 2008, and $12,183,000,000 in outlays for the period of fiscal years 2004 through 2013.

(H) COMMITTEE ON THE JUDICIARY.—The House Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $201,000,000 in outlays for fiscal year 2004, $2,317,000,000 in outlays for the period of fiscal years 2004 through 2008, and $6,548,000,000 in outlays for the period of fiscal years 2004 through 2013.

(I) COMMITTEE ON RESOURCES.—The House Committee on Resources shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $91,000,000 in outlays for fiscal year 2004, $1,095,000,000 in outlays for the period of fiscal years 2004 through 2008, and $3,008,000,000 in outlays for the period of fiscal years 2004 through 2013.

(J) COMMITTEE ON SCIENCE.—The House Committee on Science shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $2,000,000 in outlays for fiscal year 2004, $19,000,000 in outlays for the period of fiscal years 2004 through 2008, and $40,000,000 in outlays for the period of fiscal years 2004 through 2013.

(K) COMMITTEE ON SMALL BUSINESS.—The House Committee on Small Business shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $0 in outlays for fiscal year 2004, $0 in outlays for the period of fiscal years 2004 through 2008, and $0 in outlays for the period of fiscal years 2004 through 2013.

(L) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The House Committee on

Transportation and Infrastructure shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $438,000,000 in outlays for fiscal year 2004, $5,563,000,000 in outlays for the period of fiscal years 2004 through 2008, and $16,104,000,000 in outlays for the period of fiscal years 2004 through 2013.

(M) COMMITTEE ON VETERANS' AFFAIRS.—The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $1,056,000,000 in outlays for fiscal year 2004, $13,449,000,000 in outlays for the period of fiscal years 2004 through 2008, and $39,848,000,000 in outlays for the period of fiscal years 2004 through 2013.

(N) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction that provide direct spending sufficient to reduce the level of direct spending for that committee by $8,514,000,000 in outlays for fiscal year 2004, $73,579,000,000 in outlays for the period of fiscal years 2004 through 2008, and $292,553,000,000 in outlays for the period of fiscal years 2004 through 2013.

## TITLE III—RESERVE FUNDS

## Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates

### SEC. 301. RESERVE FUND FOR MEDICAID.

In the House, if the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that—

(1) modernizes medicaid and the State Children's Health Insurance Program (SCHIP), and

(2) reduces new budget authority and outlays flowing therefrom by $9,010,000,000 for fiscal years 2009 through 2013,

the chairman of the Committee on the Budget may increase allocations of new budget authority and outlays for that committee (and make other appropriate changes in budgetary aggregates) by the amount provided by that measure for that purpose, but not to exceed $3,258,000,000 in new budget authority and outlays for fiscal year 2004 and $8,944,000,000 in new budget authority and outlays for the period of fiscal years 2004 through 2008.

### SEC. 302. RESERVE FUND FOR BIOSHIELD.

In the House, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures and—

(1) such measure provides new budget authority to carry out such program; or

(2) such measure authorizes discretionary new budget authority to carry out such program and the Committee on Appropriations reports a bill or joint resolution that provides new budget authority to carry out such program,

the chairman of the Committee on the Budget may revise the allocations for the committee providing such new budget authority, and other appropriate levels in this resolution, by the amount provided for that purpose, but, in the case of a measure described in paragraph (1), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom and $3,418,000,000 in new budget authority for the period of fiscal years 2004 through 2008 and outlays flowing therefrom or, in the case of a measure described in paragraph (2), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom. Notwithstanding the preceding sentence, the total such revision for fiscal year 2004 may not exceed $890,000,000 in new budget authority and outlays flowing therefrom.

### SEC. 303. RESERVE FUND FOR RETIREMENT SECURITY.

Whenever the Committee on Ways and Means of the House reports a bill or joint resolution, or an amendment thereto is offered (in the House), or a conference report thereon is submitted that enhances retirement security through structural programmatic reform and the creation of personal retirement accounts, provided that such accounts are funded from the taxes currently collected for the purpose of the Federal Old-Age and Survivors Insurance Program, the chairman of the Committee on the Budget may—

(1) increase the appropriate allocations and aggregates of new budget authority and outlays by the amount of new budget authority provided by such measure (and outlays flowing therefrom) for that purpose;

(2) reduce the revenue aggregates by the amount of the revenue loss resulting from that measure for that purpose; and

(3) make all other appropriate and conforming adjustments.

## Subtitle B—Implementation of Reserve Funds

### SEC. 311. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

## TITLE IV—BUDGET ENFORCEMENT

### SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS IN THE HOUSE.

(a) IN GENERAL.—(1) In the House, except as provided in subsection (b), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(2) Managers on the part of the House may not agree to a Senate amendment that would violate paragraph (1) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(b) EXCEPTION.—In the House, an advance appropriation may be provided for fiscal year 2005 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $23,178,000,000 in new budget authority.

(c) DEFINITION.—In this section, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available for any fiscal year after 2004.

### SEC. 402. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.

(a) IN GENERAL.—In the House, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.

(b) SPECIAL RULE.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.

### SEC. 403. ACTION PURSUANT TO SECTION 302(b)(1) OF THE CONGRESSIONAL BUDGET ACT.

(a) COMPLIANCE.—When complying with Section 302(b)(1) of the Congressional Budget Act of 1974, the Committee on Appropriations of each House shall consult with the Committee on Appropriations of the other House to ensure that the allocation of budget outlays and new budget authority among each Committee's subcommittees are identical.

(b) REPORT.—The Committee on Appropriations of each House shall report to its House when it determines that the report made by the Committee pursuant to Section 301(b) of the Congressional Budget Act of 1974 and the report made by the Committee on Appropriations of the other House pursuant to the same provision contain identical allocations of budget outlays and new budget authority among each Committee's subcommittees.

(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new discretionary budget authority for Fiscal Year 2004 allocated to the Committee on Appropriations unless and until the Committee on Appropriations of that House has made the report required under paragraph (b) of this Section.

### SEC. 404. CHANGES IN ALLOCATIONS AND AGGREGATES RESULTING FROM REALISTIC SCORING OF MEASURES AFFECTING REVENUES.

(a) Whenever the House considers a bill, joint resolution, amendment, motion or conference report, including measures filed in compliance with Section 4 of this Concurrent Resolution, that propose to change federal revenues the impact of such measure on federal revenues shall be calculated by the Joint Committee on Taxation in a manner that takes into account:

(1) the impact of the proposed revenue changes on:

i. Gross Domestic Product, including the growth rate for the Gross Domestic Product;

ii. Total Domestic Employment;

iii. Gross Private Domestic Investment;

iv. General Price Index;

v. Interest Rates; and

vi. Other economic variables

(2) the impact on Federal Revenue of the changes in economic variables analyzed under subpart (1) of this paragraph.

(b) the Chairman of the Committee on the Budget may make any necessary,changes to allocations and aggregates in order to conform this Concurrent Resolution with the determinations made by the Joint Committee on Taxation pursuant to paragraph (a) of this Section.

### SEC. 405. PROMOTION OF ECONOMIC GROWTH AND COMPLIANCE WITH SECTION 201(a) OF THIS CONCURRENT RESOLUTION.

When reporting to the House reconciliation measures in compliance with Section 201(a) of this Concurrent Resolution, the Ways and Means Committee shall not report legislation, which:

(1) proposes to provide a graduated or phased-in reduction over time in:

(a) Individual income tax rates,

(b) Corporate tax rates, or

(c) The rate of taxes collected on the proceeds from investments, including taxes collected on capital gains; or

(2) conditions any changes in tax law upon the achievement of some level of:

(a) Federal Revenue,

(b) Federal Surplus, or

(c) Level of Public Debt.

### SEC. 406. PROHIBITION ON USING REVENUE INCREASES TO COMPLY WITH BUDGET ALLOCATIONS AND AGGREGATES.

(a) For the purpose of enforcing this Concurrent Resolution in the House, the Chairman of the Committee on the Budget shall not take into account the provisions of any piece of legislation which propose to increase revenue or offsetting collections if the net effect of the bill is to increase the level of revenue or offsetting collections beyond the level assumed in this Concurrent Resolution.

(b) Paragraph (a) of this Section shall not apply to any provision of a piece of legislation that proposes a new or increased fee for the receipt of a defined benefit or service (including insurance coverage) by the person or entity paying the fee.

### SEC. 407. CRITERIA FOR ADJUSTMENTS TO ALLOCATIONS AND AGGREGATES FROM USE OF THE "EMERGENCY" DESIGNATION.

(A) Guidance.—In making a designation of a provision of legislation as an emergency requirement under section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the committee report and any statement of managers accompanying that legislation shall analyze whether a proposed emergency requirement meets the definition of an "emergency" set out in paragraph (b) of this Section.

(b) The term "emergency" means a situation that—

(1) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the preventions or mitigation of, or response to, loss of life or property, or a threat to national security; and

(2) is unanticipated, which means that the underlying situation is sudden, urgent, unforeseen, and temporary.

(c) In General.—It shall not be in order in the House of Representatives to consider any bill, joint resolution, or conference report that contains an emergency designation under section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 unless the proposed emergency requirement meets the definition of an "emergency" set out in paragraph (b) of this Section.

(d) Enforcement in the House of Representatives.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (c) of this section.

(e) Disposition of Points of Order in the House.—As disposition of a point of order under paragraph (c) or paragraph (d) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the point of order. A question of consideration under this section shall be debatable for 10 minutes by the Member initiating the point of order and for 10 minutes by an opponent of the point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

(f) Effect on Amendment in Order as Original Text in the House.— The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

## TITLE V—SENSES OF CONGRESS

### SEC. 501. SENSE OF CONGRESS REGARDING ELIMINATION OF CERTAIN PROGRAMS TO ACHIEVE BUDGET GOALS.

(a) Congress finds that—

(1) The Concurrent Resolution on the Budget for Fiscal Year 2004 should achieve the following key goals:

(A) ensure adequate funding is available for essential government programs, in particular

(B) defense and homeland security;

(C) Foster greater economic growth and increased domestic employment by eliminating those provisions in the tax code (these provisions include, but are not limited to, the double taxation of corporate dividends, the taxation of capital gains, the limitations on expensing, the phased-in rather than immediate reduction of personal income tax rates, and the alternative minimum tax) that discourage economic growth and job creation;

(D) Bring the Federal budget back into balance as soon as possible; (2) The Federal Government spends billions of dollars each year on programs and projects that are of marginal value to the country as a whole. (3) Funding for these lower priority programs should be viewed in light of the goals of this Concurrent Resolution and whether or not continued funding of these programs advances or hinders the achievement of these goals.

(4) This Concurrent Resolution assumes that funding for many lower priority programs will be reduced or eliminated in order to increase funding for defense and homeland security while at the same time controlling overall spending.

(b) It is the sense of Congress that the following programs should be eliminated:

(1) Title X Family Planning;

(2) Corporation for Public Broadcasting;

(3) National Endowment for the Arts;

(4) Legal Services Corporation; and

(5) Advanced Technology Program.

### SEC. 502. SENSE OF CONGRESS REGARDING THE ABOLISHMENT OF OBSOLETE AGENCIES AND THE FEDERAL SUNSET ACT OF 2003.

(a) Congress finds that—

(1) The National Commission on the Public Service's recent report, "Urgent Business For America: Revitalizing The Federal Government For The 21st Century," states that government missions are so widely dispersed among so many agencies that no coherent management is possible. The report also states that fragmentation leaves many gaps, inconsistencies, and inefficiencies in government oversight and results in an unacceptable level of public health protection.

(2) According to the Commission, there are: more than 35 food safety laws administered by 12 different federal agencies; 541 clean air, water, and waste programs in 29 federal agencies; 50 different programs to aid the homeless in eight different federal agencies; and 27 teen pregnancy programs operated in nine federal agencies; and 90 early childhood programs scattered among 11 federal agencies.

(3) According to the General Accounting Office, there are 163 programs with a job training or employment function, 64 welfare programs of a similar nature, and more than 500 urban aid programs.

(4) GAO also indicates 13 agencies coordinate 342 economic development programs, but there is very little or no coordination between them. This situation had created a bureaucracy so complex that many local communities stop applying for economic assistance. At the same time, the General Accounting Office reports that these programs often serve as nothing more than funnels for pork, have "no significant effect" on the economy, and cost as much as $307,000 to create each job.

(5) In 1976, Colorado became the first state to implement a sunset mechanism. Today, about half of the nation's states have some sort of sunset mechanism in effect to monitor their legislative branch agencies. On the Federal level, the United States Senate in 1978 overwhelmingly passed legislation to sunset most of the federal government agencies by a vote of 87–1.

(6) In Texas, "sunsetting" has eliminated 44 agencies and saved the taxpayers $720 million compared with expenditures of $16.94 million for the Sunset Commission. Based on these estimates, for every dollar spent on the Sunset process, the State has received about $42.50 in return.

(b) It is the Sense of Congress that

The House of Representatives should adopt H.R. 1227, The Abolishment of Obsolete Agencies and Federal Sunset Act of 2003.

The CHAIRMAN pro tempore. Pursuant to House Resolution 151, the gentleman from Pennsylvania (Mr. Toomey) and the gentleman from Iowa (Mr. Nussle) each will control 30 minutes.

Mr. NUSSLE. Mr. Chairman, I ask unanimous consent that the time in opposition be divided evenly between the gentleman from South Carolina (Mr. Spratt) and myself.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. SPRATT. Mr. Chairman, reserving the right to object, and I will not object, I am completely agreeable. That procedure has been our custom and practice in the past.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. Toomey).

Mr. TOOMEY. Mr. Chairman, I yield 5½ minutes to myself.

Mr. Chairman, I would like to begin by commending the gentleman from Iowa (Chairman NUSSLE) for the outstanding work the gentleman has done. The gentleman has worked very hard. Our committee has worked very hard, and the budget is a good budget. But I believe the alternative budget that I am going to describe right now and that the Republican Study Committee is putting forward is a better budget. I want to go over the highlights of the differences and engage in this discussion about the alternatives.

Let us look at the major differences. The big difference between the Republican Study Committee budget and the committee budget are three.

First, we provide more tax relief. We provide more tax relief than the committee budget does, we provide more tax relief than any of the alternative budgets do.

Number two, we actually cut some spending. Now the committee's budget cuts the rate of growth of spending. Our budget actually cuts nondefense, not homeland security discretionary spending.

The third thing is we run smaller deficits and we get back to a balanced budget faster than any other budget, including faster than the Blue Dog budget that we just heard a lot of discussion about. We do it in 4 years, faster than any other, and that is not accounting for the faster economic growth that would result from our budget package. Let me run through these three areas.

First on the tax front, we recognize in this budget that we are still overtaxed. The fact is that Federal taxes consume about 21 percent of national income, and total taxes from all government in our country is over a third of national income. This is well above the post-war average high. The fact is we are not undertaxed; we are still overtaxed. Many of our constituents are facing tax increases at the State and local levels. They need to have that off-set, and we can do that in our budget.

Our budget accommodates the President's entire growth package; and that is critical because we need to get this economy growing again, so we accommodate the elimination of the double taxation of dividends. This would end a great inequity in our tax system, a bias in our current code, a bias that, frankly, falls disproportionately on older Americans; and it would also stimulate economic growth.

□ 1845

If we follow the wisdom of the President's proposal and eliminate the double taxation on dividends, it has a number of positive effects for our economy. It would immediately result in higher equity prices, which is a good start. The current tax also increases the cost of capital. By lowering the cost of capital, we encourage capital formation. It also would reduce the current distortion of the allocation of capital. Abolishing the double taxation will over time release billions of dollars for more productive investment.

The bottom line is the President's proposal encourages saving and investment and capital formation, and that helps sustain economic growth. That is why we need to do it.

We also need to accelerate the phase-in of marginal tax rate reductions. When you lower marginal income tax rates, you increase the incentive to save and work and invest, and when you increase the incentives, you get more savings and work and investment. If we delay this any further, we just postpone the beneficial effects.

In our budget, we accommodate the President's entire tax relief package. Then we do something more. We do not specify exactly what that would have to be, but, Mr. Chairman, it would be large enough to accommodate a 50 percent reduction in capital gains rates, and that would also significantly encourage economic growth. That kind of capital formation is a precondition for strong economic growth.

On the spending side, as I said earlier, ours is the only budget that makes some real cuts in spending. On the discretionary side, we do not cut defense spending. We use the same number that the President has proposed and the same number that the committee has proposed. We recognize this obligation. We recognize that we are at war. We do not cut homeland security funding. On the mandatory spending side, we do not touch Social Security at all, we make no changes, and we do not actually cut anything in mandatory spending, although we do restrain the rate of growth. What we actually do cut is in nondefense, non-homeland security discretionary spending.

Why is it important to get this spending under control? Because, Mr. Chairman, total government spending is the real measure of the burden that the government imposes on our economy. More than deficits, more than the debt, it is the total amount of money that the government sucks out of the private sector, whether it does it by borrowing or whether it does it by confiscating people's money, that is the measure of the misallocation of capital. We all know there are a lot of vital programs that have to be funded, but on the margin we know that this spending occurs through a political process where Members are spending money to try to get reelected. It is not the allocation of capital that individual consumers and businesses would allocate for stronger economic growth.

The other problem with too much spending is the enormous waste. We have heard a discussion about that earlier, but the government cannot even account for over $17 billion in spending in 2001. The Federal Government acknowledges $20 billion in overpayments. The list of ridiculous misspent money, missing money, overpayments is a very long and a very embarrassing list, frankly. We are never going to wring that waste out of government until we impose some spending discipline.

The fact is government Federal spending, discretionary spending, total spending has been growing at several times the rate of inflation, and now is the time to rein that in. If we cannot rein that in now, Mr. Chairman, when can we rein that in?

The net budgetary effects of our budget is greater tax relief, modest spending discipline, and as a result we run smaller deficits for shorter periods of time, and we get back to a balance faster than any other budget proposal.

I heard the Blue Dogs come down on this floor and talk about how much they want to balance this budget, how quickly they want to do that, why they want to do that. I am glad to hear that. I look forward to their voting for our budget because it gets to a balance faster than any others.

The other point I would make is that there can be no doubt that our combination of lower taxes and less spending would lead to stronger economic growth.

Mr. Chairman, I reserve the balance of my time.

Mr. NUSSLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me start by commending the gentleman from Iowa. It is always a tough duty to try to carry a budget through the House.

I have a couple of questions. Can the chairman of the Committee on the Budget confirm that the reconciliation instructions clarify how the Committee on Government Reform will be credited with savings resulting from legislation that it submits to the Committee on the Budget?

Mr. NUSSLE. If the gentleman will yield, the gentleman is correct.

Mr. TOM DAVIS of Virginia. Does this language ensure that the Committee on Government Reform will receive full credit for any savings it reports that are consistent with its reconciliation instructions?

Mr. NUSSLE. The gentleman is correct.

Mr. TOM DAVIS of Virginia. Can the gentleman confirm that the Committee on Government Reform may write legislation that also achieves significant savings in discretionary programs?

Mr. NUSSLE. That is correct.

Mr. TOM DAVIS of Virginia. And can the chairman also confirm that it is possible to meet the savings targets within the budget resolution without making any changes to Federal retirement annuities paid to participants in the Civil Service Retirement System, FERS, the Federal Employees Retirement System, and the Federal Employees Health Benefits Program?

Mr. NUSSLE. I believe that is correct.

Mr. TOM DAVIS of Virginia. I thank the chairman for that clarification.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, my constituents find it very difficult to understand why at these times that we have economic uncertainty, that we are at war, we have large deficits and we are considering a reckless new tax cut. This amendment is even worse than the underlying bill. I oppose the underlying budget, and I oppose this amendment.

Mr. Chairman, budgets speak to choice. What is important? I am frustrated with this new proposition that every budget priority should take a back seat to tax cuts. What is more important, funding for homeland security or tax cuts? Fiscal responsibility or tax cuts? Protecting Social Security or tax cuts? Prescription drugs for our seniors or tax cuts? Adequate funding for veterans' health and disability benefits or tax cuts? Keeping children nutrition programs or tax cuts? Adequate funding for education or tax cuts?

At a time that we are facing large deficits, it seems to me that we could find a lot better use for $1.3 trillion for tax cuts that primarily benefit the wealthy.

This plan digs a deeper hole in our Federal budget. We should treat the Federal budget with no less consideration than we would treat our own family home budget. This budget digs a deep hole in our Federal budget. It cuts vital programs that help the people in our society we have pledged to assist, our veterans, our children, our parents. It puts more pressure on our States and cities who are already under the fiscal gun, and it shows exactly the wrong kind of budget priorities.

Our budget should speak to our priorities. We must do better. We should approve the budget resolution offered by the gentleman from South Carolina (Mr. SPRATT) that is more fiscally responsible, provides for a modest tax cut targeted to stimulate immediate growth in our economy, and provides adequate resources for prescription drugs for our seniors, education for our children, and homeland defense for all Americans.

I urge my colleagues to vote against the Toomey amendment and the underlying budget resolution and support the Spratt amendment.

Mr. TOOMEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Chairman, I rise today to lend my strong support to the Republican Study Committee budget. As chairman of the RSC, I am very proud of this budget that we have produced, and I want to thank the gentleman from Pennsylvania (Mr. TOOMEY) for all his hard work on this. It reins in the astronomical spending increases we have had over the past few years and brings us back to balance in just 4 years. No other budget achieves balance as quickly as this one does.

When I came to Washington as part of the revolutionary class of 1995, we were determined and extremely serious to balance the budget and get us back on track, which we did. We were successful in doing that for the first few years, but lately we have presided over some of the biggest increases in spending in U.S. history. In the last 7 years, nondefense discretionary spending has grown 66 percent. The fiscal year 2003 budget alone was a 9 percent increase in discretionary spending from the year before. I do not know of any family's budget in this country that has had the good fortune to increase 9 percent in 2003. So why should the Federal Government continue spending increases in this amount?

This RSC budget holds the government to responsible increases that will not grow faster than inflation or the family budget. Our budget proposal achieves a 1 percent savings by looking for waste, fraud and abuse and eliminating it from the Federal Government. That is only 1 penny out of every dollar. We hear folks continue to say it is impossible to find that amount of money, that amount of waste, in the government.

I would like Members to take a look at this chart. Thirty-five food safety laws administered by 12 different agencies; 541 clean air, water, waste programs; 50 programs for the homeless in 8 different Federal agencies; 163 different job training employment programs; 64 welfare programs; 500 urban aid. It goes on. You can see for yourself there is a lot there that could be simplified. Most estimates indicate there are tens of billions of dollars wasted every year. Last year alone, there were estimated to be $13.3 billion in improper payments under Medicare.

It is time Congress gets serious about reining in wasteful spending and getting our budget under control. That is what we were sent here to do. That is what the American people expect us to do. They want us to stop the business as usual and stop the excuses.

(By unanimous consent, Mr. HASTERT was allowed to speak out of order.)

### NOTICE OF IRAQ WAR BRIEFINGS

Mr. HASTERT. Mr. Chairman, for the information of all Members, I want to report that there will be two classified Members-only briefings regarding Iraq tonight and tomorrow. First, tonight, at 7:40 p.m., Secretary Rumsfeld will brief all Members in the Armed Services Committee hearing room located in 2118 of the Rayburn Office Building.

In addition, tomorrow, Friday, at 10:45 a.m., officials from the Department of Defense, the Department of State and the Joint Chiefs of Staff will provide this briefing also. This briefing will take place at the 2118 Rayburn location as well.

I encourage all Members to attend both these important briefings, tonight and tomorrow, so that they have the latest information prior to returning to their districts.

Members will be alerted to any further details via the e-mail whip notice system.

Mr. NUSSLE. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman for his hard work on the budget.

As the gentleman knows, the manager's amendment on the budget resolution includes reconciliation instructions to the Committee on Agriculture for savings in mandatory programs. To clarify for my colleagues and farmers and ranchers who follow this process, I would like to ask the distinguished chairman of the Committee on the Budget about the reconciliation instructions.

Mr. NUSSLE. If the gentleman will yield, I would be happy to respond.

Mr. OSBORNE. It is my understanding that the Committee on the Budget will work with the Committee on Agriculture to identify specific proposals that eliminate waste, fraud and inefficiencies so that any reductions do not come from farm programs and the crop insurance program. Is that the chairman of the Committee on the Budget's understanding?

Mr. NUSSLE. That is my understanding. The budget is intended to protect farm programs and the crop insurance program. Our committee will work with the chairman and other members of the Committee on Agriculture such as yourself to ensure that we protect critical farm programs and the crop insurance program. This includes an adequate funding level for programs authorized under last year's farm bill.

Mr. OSBORNE. I thank the chairman of the Committee on the Budget for his responses to my inquiries. As I understand what the chairman is saying, the Committee on Agriculture should look to eliminating waste, fraud and abuse, and that he will work to see that there are no reductions in the current farm program and crop insurance program other than those attributable to waste, fraud and abuse.

Mr. NUSSLE. The gentleman is correct. I appreciate his help and support in this endeavor.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

I would simply say that these colloquies we are hearing on the House floor indicate how difficult it is going to be to achieve the kind of reconciliation cuts that have been directed to various committees. We see the committee people coming out here and saying, You are not going to cut this, are you? You are not going to cut that, are you? You are not going to cut government pensions, for goodness sakes. We will correct the procurement system and save $43 billion.

That is why I find it hard to take this budget at face value. I am sorry, but that is way I approach it.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Mr. Chairman, I thank the gentleman from South Carolina for his leadership on this budget. I rise in opposition to the Toomey amendment. But before I do that, Mr. Chairman, I would like to first offer my prayers and support for all of our brave soldiers currently serving in Iraq and the surrounding regions.

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Mr. Chairman, the Toomey amendment would provide less discretionary spending than the Republican budget resolution, which means that his amendment would keep this Nation in deficit spending far past 2007. With respect to the underlying bill, our Nation is fighting an expensive war, the costs of which are yet unknown. Thus it is unconscionable that this body would take up a budget resolution that would propose cuts in key domestic programs.

According to the National Urban League, this budget resolution clearly shows how policy can affect the gap in black and white wealth accumulation. First, the biggest tax expenditure in the Federal Government is the deduction of health insurance. African Americans do not get access to this credit, as one third of African Americans get health insurance through Medicare. Thus this budget resolution on the House floor proposes to cut $300 billion out of minority communities through Medicare cuts. Over the next 10 years, this budget resolution would cut also as much as $470 billion in programs such as Medicare, Medicaid, education, and veterans benefits. In fact, the Republican Party's budget resolution drastically cuts domestic programs by $244 billion below the amount needed to maintain the FY 2003 funding levels.

I believe we owe the American people that we must take care of their affordable health care needs, and I believe the Democratic substitute amendment and budget offered by the gentleman from South Carolina (Mr. SPRATT) does exactly that. My constituents want their benefits under Medicare and Medicaid protected. Therefore, Mr. Chairman, this budget resolution offered by the gentleman from South Carolina (Mr. SPRATT) would increase the resources for homeland security and first responders.

I say vote for the Spratt amendment and vote "no" on the Republican budget.

Mr. TOOMEY. Mr. Chairman, I yield myself 30 seconds to respond and correct what I think was a misstatement.

The fact is the cuts in spending in our Republican Study Committee budget did not result in larger deficits. They result in smaller deficits because we have got less spending, and that means less debt, and that means we get back into balance faster than any other budget that will be considered today; and I am looking forward to the enthusiastic support of the Blue Dogs, who feel very strongly about getting back into balance.

Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time.

And I thank the gentleman from Pennsylvania on this for his work on this alternative budget, and I offer it my full support. It is said that we simply cannot cut anymore and that the Nussle budget that we have, a lot of people are saying it cuts too deeply. This is simply wrong. When we look across the board and we look at what we have done as Republicans, frankly, over the past 8 years, since 1996, the first year of the first Republican budget, we have increased spending for all cabinet agencies substantially, much more so than inflation. Inflation has been about 21 percent since 1996. The Agriculture Department has gone up 27.5 percent; Commerce, 40.2 percent; Energy, 34.4; HHS, 94.7; HUD, 52.6; Interior, 45 percent since 1996. The State Department has gone up 68 percent; Labor Department, 23.8; Defense Department, 43.7. And how about education? It is always said we do not spend enough on education. Try a 131.9 percent increase since 1996.

And we say we cannot cut anything. We say we cannot find waste, fraud, and abuse, 1 percent of it. Come on. Let us get serious. We just passed an omnibus bill a couple of weeks ago that had items like $3.1 million for the Inventors Hall of Fame that I did not even know we had, or how about $750,000 for the Baseball Hall of Fame? The Rock and Roll Hall of Fame got $350,000. What are we doing? $800,000 to the Grammy Foundation. That now is part of the baseline. We are adding to that and we keep adding and adding and adding and adding. Where does it end? We have got to get some fiscal sanity, and that is what the Toomey budget does. This brings our budget back into balance faster than any other budget plan outlined, in 4 years.

We know that there is a lot of waste, fraud, and abuse out there. More than $8 billion has gone out in erroneous earned income tax credit payments. There is mismanagement of over $3 billion in the Bureau of Indian Affairs trust funds, over $2 billion in erroneous food stamp payments. Two years ago there was over $1 billion in unissued medical bills for Veterans Health Administration. The list goes on and on and on. We can cut more. We can actually give tax cuts and cut spending and come into balance much faster than the budget outlined by the Democrats and the Republicans in the majority. I urge support of the Toomey amendment, the Toomey plan.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Before yielding to the gentleman from North Carolina (Mr. ETHERIDGE), let me quote from a letter that was written to Speaker HASTERT by the head of the Paralyzed Veterans of America. He said, "We do not consider payments toward disabled veterans, pensions for the poorest disabled veterans, and GI benefits for soldiers returning from Afghanistan to be waste, fraud, and abuse."

Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment and to the underlying Republican budget resolution and in support of the Spratt substitute that will be up shortly. The Federal budget is a statement of our Nation's priorities. It is where we put our national resources to meet our Nation's most important needs. Unfortunately, this budget has fundamental flaws and has misplaced priorities that I think shortchange the American people. Instead of investing in a strong, more prosperous America for years to come, the Republican budget neglects our economy, explodes the national debt, undermines key investments in homeland security, education, health care, and continues to spend Social Security trust funds. All of these priorities are sacrificed for another large tax cut for the wealthiest Americans. I guess it means we take from the many to give to the few.

I am most disappointed in the Republicans cuts in education, however. Prior to my service in this body, I served as the superintendent of schools for my home State of North Carolina, and I sought this office because the Republican majority under Newt Gingrich targeted public education in America, and I said I was coming to this House to fight to stop it. We have made a great deal of progress on changing the dialogue on this critical issue, but unfortunately the rhetoric is a lot more pro-education than the record.

Last Congress the President of the United States signed into law the No Child Left Behind Act, which promised to start new investments to improve schools in this country; but before teachers, students and parents get a chance to figure out the tough requirements that we passed, and, yes, I voted for that legislation, under this new law the administration has failed to fund its own program; and the fact is that this budget underfunds it with the consent of the administration, totality so far by about $20 billion to No Child Left Behind. I cannot and I will not agree to these outrageous cuts in education.

Mr. Chairman, the Republican budget's $400 million cut eliminates afterschool initiatives in my home county for children, about 11,000 of them. It cuts teacher quality programs for every State in this country. For the State of North Carolina, $1.7 million. For the great universities and colleges we have in this country that are training our future leaders, it will cut Pell grants in these programs to make a difference; Cutting the Perkins loans money that makes a difference, having children who transfer from community college to university. This budget cuts $765 million for COPS, et cetera, et cetera.

Finally, Mr. Chairman, probably the worst example of misplaced priorities in this budget is the shameful treatment of our children of our fighting men and women. As we all know, right now Americans, men and women, are now putting up a proud fight on the other side of the world, and yet in this budget we are cutting Impact Aid to schools in this very budget that they have proposed. That is wrong. The Observer in my home county said a 14.5 percent cut will eliminate $173 million that helps pay for books and classrooms for these children, and that is absolutely wrong. We can do better.

Mr. NUSSLE. Mr. Chairman, I yield myself 3 minutes for the purposes of entering into a brief colloquy with the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the Committee on Transportation and Infrastructure, and I yield to him for that purpose.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the chairman for yielding.

I rise in support of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year of 2004. First, I would like to thank the gentleman from Iowa (Mr. NUSSLE) for his willingness to work in partnership with me to ensure that this budget resolution lays the groundwork for a successful reauthorization of highway and transit programs. I am pleased that this resolution includes a contingency procedure for surface transportation, which will provide the flexibility we need to reauthorize our highway and transit programs. Under this contingency procedure, spending from the Highway Trust Fund for highway and transit programs will be increased above baseline levels to the extent that Highway Trust Fund receipts are increased. For every dollar increase in Highway Trust Fund receipts, a dollar increase in budget authority for highway and transit programs will be permitted. This contingency procedure is a necessary first step in our efforts to meet the infrastructure investment needs of our Nation's highways, bridges, and transit systems.

I have three concerns with the resolution I hope can be worked out in conference. First, the baseline level assumed in the resolution for the trust fund share of transit programs is frozen at the fiscal year 2003-enacted level. The reason that has been given for this assumption is uncertainty over the solvency of the transit account of the Highway Trust Fund. I want to assure the chairman that my committee intends to restructure transit programs such that the solvency of the transit account will be ensured. This restructuring, which is also proposed in the President's budget, will allow the transit account of the Highway Trust Fund to support increased spending levels.

Second, I am concerned that the resolution allocates just $3.378 billion each year for the airport improvement program. This is below the President's request and significantly below what will be needed to meet our airport capital needs when we reauthorize aviation programs later this year.

Finally, I believe the reconciliation instructions for the Committee on Transportation and Infrastructure are based on unrealistic assumptions. Most of the mandatory spending under my committee's jurisdiction results from Coast Guard and railroad industry retirement programs. I do not agree with the assumption in the resolution that these programs can be cut.

I hope to continue working cooperatively with the chairman on these concerns as the resolution goes to conference with the Senate. I would like to ask the chairman of the Committee on the Budget if he will continue to work with me to address these concerns.

Mr. NUSSLE. Mr. Chairman, first of all, I thank the very distinguished chairman of the Committee on Transportation and Infrastructure for his work in getting us to this point in time. Obviously there are a number of challenges. I will continue to work with him and members of his committee as we go to conference. We have a huge issue this year, as the gentleman knows. It is going to fall on his committee. We have challenges we need to meet in all of the transportation needs of our country. So, yes, I would be happy to work with the chairman as we move to conference on this issue, and I appreciate his support of our resolution.

Mr. YOUNG of Alaska. Mr. Chairman, again I thank the chairman for his work and working with me and trying to work through these important issues. I do believe we need a budget, and he has a tremendous task in front of him. He has done all he could for my area of transportation, and I urge support for this resolution.

Mr. NUSSLE. Mr. Chairman, I ask unanimous consent that the remaining 9 minutes be yielded to the gentleman from South Carolina (Mr. SPRATT) as long as he does not give me another zinger here.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I yield 2½ minutes to the gentleman from Maine (Mr. ALLEN).

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Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to oppose the Toomey plan, which I find even worse, if possible, than the majority Republican plan. I have been doing this now for 7 years, and every year the sense of unreality grows greater as I see charts and graphs on the other side that bear, in my opinion, very little relation to reality. The charts and graphs this year, the budgets proposed, both of the Republican budgets, seem to me totally unrealistic. The charts are misleading in an astonishing number of respects.

We are dealing with what can only be called voodoo economics. But we have to ask ourselves, among all the numbers, what is really going on here? Well, if you set aside all the numbers, and you look at all the different changes that are being made, two things are going on.

The Republican majority is determined, absolutely determined, to shift the burden of government from the Federal level to the State and local level. This is an effort to cut taxes at the Federal level and increase them at the State and local level. It is an effort to reduce the amount of money that the Federal Government provides States and municipalities for environmental issues, for health care, for education, in order to diminish the size of the Federal Government. That is it. That is what is going on. That is number one.

Number two, the second effort that is being made by the majority here is to make sure that the burden of taxation in this country is reduced from those at the upper income levels, so that it burdens those at middle income levels more than it has in the past. The way of doing this, of course, is to give little, bitty tax cuts to people in the middle of the income scale, and to give massive tax cuts to people at the upper end of the income scale. The reason for doing this, I would add, is the other side believes in a flat tax, but they do not want to argue a flat tax; they simply want to arrive there.

Look at a couple of the charts. We have heard over and over again how much ordinary citizens will benefit from eliminating the tax on dividends. Look at the chart. Here is the tax benefit. This is designed to show how people at different income groups will benefit.

Let us skip all of those who earn less than $100,000, because even if they are just below $100,000, households will only get about $300 a year. If you earn between $100,000 and $200,000, you get $885. If you earn between $100,000 and $200,000 a year, you get a total of $885. But if you move up the scale to where you are earning around $1 million, that is where the benefit comes. Then you get an average tax benefit, annually, of $45,000. That is why everything the other side says about averages makes no sense.

Then they say we need to accelerate the tax cuts passed last year and make them permanent. The same deal. If you earn between, pick a different category, pick between $200,000 and $500,000 a year, you get $2,000 a year. Below that it is not much. But if your household takes in about $1 million a year, it is $63,000 a year.

There is no moral justification for stripping this much money out of the Federal Government, cutting education, cutting veterans' benefits, in order to give tax cuts to the richest people in the country. It is an outrage.

Mr. TOOMEY. Mr. Chairman, I yield myself 30 seconds to respond to the previous speaker, just to observe that under the budget that we are proposing, the Republican Study Committee, and under the President's tax plan, a family of four making $35,000 a year would pay nothing in federal income taxes. Zero. In fact, the top 50 percent of wage earners in America pay 96 percent of all Federal income taxes. When you lower taxes, it is just hard not to lower the taxes on the people who are actually paying the taxes.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Chairman, I am glad the gentleman challenged that statement, because we are hearing a lot of rhetoric here that does not track.

I continually hear from my constituents that we need to rein in runaway Federal spending. Do you know what? They are right. More government spending does not necessarily make our economy better. When we are at war, and we are, this is the exact time when we should be reducing spending, cutting taxes and getting the economy back on track.

When a family sits down to manage their monthly budget, they have to prioritize what is best for them at that time in their lives, and they usually make a list of needs and wants. A need is not the same thing as a want. For a family, a need is a roof over their head or food on the table. A want could be dinner out at a restaurant or a movie. So you fund first things first. Then whatever is left over at the end lets you fund the wants. You cannot just spend, spend, spend and hope you have enough to cover the tab.

The same needs to be done with the Federal budget. During these difficult times, when we are at war, when we need to spur the economy, we must differentiate between the needs and wants. We cannot just spend, spend, spend.

Our first need is to protect our country, so that means we fully fund defense. While this budget does not devote a full 4 percent of gross domestic product to the national security as I would prefer, it does meet the President's request for homeland security funding.

I will tell you something: This Toomey budget funds defense higher than domestic spending for the first time in many years. I think, because of our situation, we need it. Our Constitution requires us to provide for a common defense. Let us not shirk that responsibility.

Another priority is to help the economy rebound. It is a proven fact that when people can keep more of their own money, the economy grows. That is why we lower taxes. When entrepreneurs have more money, they can use that capital to hire more employees, buy more equipment or expand their business.

This economy could use a turnaround, and letting people keep more of their own money will help our economy grow.

Frankly, I am a bit disappointed in the Republican Study Committee budget because it does not do more to rein in Federal spending. However, I think most would agree, this is a good compromise for this time.

Look, this budget makes tough choices; but that is why we are elected, to make tough choices. The good people of my district sent me here because they wanted a smarter, more efficient government, and the Republican Study Committee budget is a step in the right direction; increasing defense, lowering taxes and reining in runaway government spending. It is the right thing to do.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the budget that we have put forth by the Republican majority is almost an unbelievable exercise in fiscal irresponsibility. On the very first day of the war that we are now fighting, the majority party introduced a budget resolution that does not provide 1 cent, not 1 cent, to prosecute this war. This budget resolution contains more than $1 trillion in tax cuts that would benefit very few Americans, while endangering Social Security and Medicare.

I offered an amendment to the budget resolution to express the sense of the Congress that no new tax cuts should be passed until the Health, Social Security and Medicare Trust Funds are secured, but I was, of course, denied the opportunity to offer the amendment here tonight.

When we take a look at what is before us, when so many things are uncertain, I believe we need to pause before we pass into law huge, permanent tax cuts paid for by shortchanging essential programs, such as Medicare, education, veterans and funding for first responders. Right now we do not even know how long the war may last or what it might cost. It is irresponsible to pass a budget without taking all information into account.

If you take a look just the part on the veterans, the majority party cuts $14.2 billion over the next 10 years in benefits such as compensation for service-connected disabilities, burial benefits and GI education benefits. They are cut in this. What kind of message does that send to our troops fighting overseas? The fighting troops today are the veterans of tomorrow.

The Republican plan also fails to provide necessary homeland defense for State and local communities. It is just as important to provide homeland defense resources, training and staff for our local firefighters, EMTs, police officers and medical workers as it is to equip our troops overseas.

The Democratic substitute we will have a chance to vote on later tonight will provide $34 billion in extra money, new money, over the next 10 years for homeland security. In fact, $10 billion of this money would go to our States and local communities, right now this year.

I would urge a no vote on the budget resolution of the Republican Party as it is fiscally irresponsible. Vote no on the Toomey substitute, and support the Democratic substitute.

Mr. TOOMEY. Mr. Chairman, before yielding to the gentleman from New Jersey, I yield myself such time as I may consume to observe that although our budget grows spending every year, total spending grows, it grows at a slower rate than the alternative budgets, and that is why we are able to get back to balance faster than any other budgets, and why I look forward to the Blue Dog support, and that is why the Americans for Tax Reform and Citizens Against Government Waste have endorsed the Republican Study Committee budget.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today in support of the proposed amendment offered by my friend the gentleman from Pennsylvania (Mr. TOOMEY).

As elected officials, we are sent here and are supposed to be responsible to the people that send us to office, but government spending has ballooned out of control, and it is the people back home in our districts who are the ones forced to foot the bill.

Over the last 7 years, discretionary spending has grown at an average rate of 3.5 times the rate of inflation. I do not know anyone back in my district who has seen their family budget go up at such rates time and time again. Spending is growing at a rate faster than the family budgets. It must stop.

Right now people back in our districts are turning on their TVs, they are seeing our men and women, our sons and daughters, our friends and neighbors in harm's way. We are engaged in a war on terrorism. We are still experiencing the aftermath of 9/11 as it affects our economy.

So we are asking our families to tighten their belts because of that. We are asking county governments, State governments to do more with less. Is it not the responsibility of us here in Washington to lead then by example, to do the same thing, maybe to even take one step further?

We can give a lot of examples, and you have heard some already, about the waste in government: Over $8 billion in erroneous earned income tax payments; I think someone else mentioned around $13.3 billion on Medicare; around $1 billion under the veterans' programs.

Let me say, cutting wasteful spending is not enough. We in Congress must take the next step and actually begin to make the tough decisions we were sent here for in the first place.

Every single program that we vote on has someone behind it that supports it and likes that program. But we are elected to Congress to make those tough choices, to do what is the first priority of us in Congress, to make sure that our folks back at home are safe, that this is a secure Nation, and that our men and women and troops overseas have the supplies, equipment and training necessary to get the job done.

We cannot do less than sending them a responsible budget. Our children, our neighbors and our troops, they are dependent on us.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, the administration's budget cuts highway construction by $2.5 billion below this year's budget and slashes funding necessary to keep Amtrak running. The official House Republican budget cuts the discretionary transportation programs by 22 percent below the 2003 budget enacted just a month ago. The proposal before us is even worse.

The administration claims to be committed to economic growth and jobs, but this administration has the worst job growth record since Herbert Hoover. In fact, the administration's record is job loss, not growth; nearly 2 million non-farm payroll jobs lost in 2 years. On average, that is 73,000 jobs lost for every one of the 26 months of this administration. Yet cuts in transportation spending loses even more jobs tacked onto that miserable Republican economic record.

The Republican Party is only concerned about tax cuts for the already wealthy. When the economy is doing well, cut taxes for the already wealthy. When the economy is in recession, cut taxes for the already wealthy. When we are at peace, cut taxes for the already wealthy. Now while we are at war, cut taxes for the already wealthy.

Their highest priority is tax cuts for the already wealthy. They are not paying for their war, not reducing their deficits and debt, not keeping their promises to leave no child behind, not providing health care for veterans and the elderly.

Mr. Chairman, the already wealthy do not need more tax cuts. Vote no on this Republican budget and support the Democratic substitute.

Mr. TOOMEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I am proud to support the balanced budget alternative offered by my friend, the gentleman from Pennsylvania (Mr. TOOMEY).

□ 1930

The Toomey budget offers several key priorities for the Nation at this time of war and economic uncertainty.

The people of Colorado sent me here to rein in out-of-control government spending, to cut taxes, and to get government off their backs. Instead of spending the people's money like there is no tomorrow, we ought to provide real leadership and real solutions to demonstrate responsible fiscal discipline.

Mr. Chairman, just as it is our duty to protect American families from cowardly acts of terrorism, it is also our duty to protect the well-being of American families by balancing the budget to grow the American economy. It is our duty to protect the people's wallets by allowing taxpayers to keep more of their hard-earned dollars. I do not want to mortgage the future of working families because we cannot say no to a government that is far too big and spends far too much. The American people will be proud of the Toomey budget because it keeps President Bush's tax cuts intact, while balancing the budget in a realistic 4-year time frame.

I ask my fellow Members of Congress to stand up and to do the right thing for America. Let us not shirk our responsibilities to future generations. Please join me in supporting the Toomey budget amendment in the nature of a substitute.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, both Republican budget resolutions, the leadership resolution and the Toomey alternative, give us high deficits, high interest rates, and increased trade deficits. They take capital out of the capital markets and make it unavailable for private business investment, thus resulting in slower economic growth.

Now, to sell anything that bad, one needs a commercial. This morning I brought such a commercial to the floor, but marketing experts tell us a commercial requires repetition. So here, once again, is a commercial on behalf of both Republican budget resolutions:

Allowing corporations to skip out on their American taxes just by renting a hotel room in the Bahamas: $4 billion. Ending taxes on dividends: $385 billion. Ending the estate tax, even for the largest estates: $662 billion. Knowing you can pass the entire cost to future generations: Priceless.

RepubliCard: It is everything the super-wealthy want it to be.

Also available, the Deficit Express Card, now with a $4.2 trillion credit limit. The Deficit Express Card: Don't leave the House without it.

Mr. TOOMEY. Mr. Chairman, I yield myself 15 seconds to respond to the creative and very amusing account from my good friend who just spoke about this. However, I would remind him that if he is very concerned about the size of the deficit and the magnitude of the debt, then he will vote for the RSC budget, the Toomey budget, because that is the one that gets us back to balance quickest; that is the one with the smallest deficits and the least debt.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, we are at war, and I think most taxpayers understand you spend what it takes to win a war. We are in a recession as well, and taxpayers understand you spend what it takes to keep people in their jobs and to create new jobs for those who have lost them. But what taxpayers do not understand and will not accept is when we use it either to go on a spending spree that keeps us from balancing the budget, or keeps us from paying down our debt, or keeps us sending pork home to America and taking it out of their tax dollars.

This budget supports a strong national defense, promotes new jobs in a stronger economy, but it holds the line on spending. It says, let us tighten our belts in Washington; let us start to balance the budgets sooner than other budgets, and let us get people back to work.

This budget also includes a Federal sunset act, an encouragement for Congress to pass a bill to balance obsolete agencies, to eliminate duplication among our agencies, and to begin asking agencies to put up or shut up; to produce, to succeed, to support our taxpayers. What we are trying to do is conserve our dollars, identify wasteful spending within our agencies and within our programs so that we have enough dollars for a secure America, for health care, for education, and to send dollars back home.

Mr. Chairman, I support this budget. It makes a lot of sense, and perhaps because it makes sense is why it is getting so much resistance here in Washington.

Mr. SPRATT. Mr. Chairman, I have no further requests for time, and I yield myself the remaining time.

I would just say in conclusion that if the Members of this House want to vote for a budget that gets us back in balance without balancing the budget on the backs of our children, our elderly, or our most worthy citizens, and our sick and disabled veterans; if they want to get back into balance by the year 2010, we present a budget, our own alternative, which takes us there steadily every year with a lower and lower deficit and accumulates $931 billion less in new public debt than the Republican budget.

So I would say that those who are conservative, those who want to vote for a fiscally responsible and conservative fiscal policy will have that opportunity, and I encourage my colleagues to vote for the House democratic alternative as something that achieves my colleagues' objectives.

Mr. Chairman, I yield back the balance of my time.

Mr. TOOMEY. Mr. Chairman, I yield myself 15 seconds to respond to the gentleman from North Carolina by observing that the Democrat substitute has more spending, has higher taxes, and it has larger deficits for longer than the substitute that we are debating at this point.

Mr. SPRATT. Mr. Chairman, if the gentleman will yield, he is incorrect on all accounts, including the assignment to me to North Carolina. I am from South Carolina.

Mr. TOOMEY. Mr. Chairman, I apologize to the gentleman from South Carolina. That was the one mistake I just made.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Chairman, I rise in strong support of the alternative budget resolution proposed by the Republican Study Committee.

I think sometimes we get into the details of these budgets and take a look at it just on a year-to-year basis, but I think it might be helpful for us to step back just a little bit, to step back to a time when I was only 2 years old. What was the tax burden on the average family in the year 1950? In 1950, you have a mom and a dad and 2 kids, and dad would go out and earn a dollar bill. Out of that dollar bill, 3 pennies of it would go for direct State, Federal, and local taxes.

Now, about 4 years ago, what happened? Mom and dad and 2 kids. Dad goes out to earn a dollar. Now we go from 3 cents to 38 cents tax on that average American family. That average American family is paying more in taxes than they are for what they pay for food and clothing and shelter combined.

In one generation we have come a long way in the growth of big government, and at a time when State and local governments and families all across the country are tightening their belts, it is time for the Federal Government to do the same thing.

The Republican Study Committee budget freezes total discretionary spending for 1 year. That is not too unreasonable considering it grew 9 percent this last year.

One of the reasons, Mr. Chairman, my constituents sent me here was to take a look at the idea of reducing not only the size, but the scope of Federal Government, and that is the debate we should be having. It is important to get rid of wasteful spending, but it is even more important that we take a look at actually reducing the scope of some of the things that we are trying to do.

When we are talking more tax on a family than 38 percent, more than they pay for food, clothing, and shelter, we are not talking about a safety net anymore, we are talking about excessive government.

Mr. TOOMEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Toomey amendment to the budget resolution. I congratulate our chairman, the gentleman from Iowa (Mr. NUSSLE), on presenting a wonderful budget to this Congress. But indeed, there is even a better budget, and that is one that presents less government and more freedom.

Now, many people criticize this budget. They said there is not enough government spending involved in this budget. But, Mr. Chairman, over the last 5 years, we have increased VA, HUD and Independent Agencies 35.7 percent; Commerce and Justice 32.3 percent; Transportation, 79.7 percent; Education, 132 percent, and the list goes on.

How much government is enough? Does anything good happen in America that does not result from a government program? And if not, perhaps we should just double these budgets every year, or perhaps even triple them.

But let me tell my colleagues, since I have been on the face of the planet, the Federal budget has grown seven times faster than the family budget. If the family budget grew as fast as the government budget, right now that family budget would be at $79,059, instead of $51,407.

Mr. Chairman, if all of these government programs did us so much good, then perhaps we ought to look at increasing the funding for each and every one. But instead we know that HUD has spent $2.6 billion in Section 8 overpayments out of $31 billion. The National Park Service spends $800,000 for an outhouse, and it does not even work. And the list goes on and on and on.

I believe, Mr. Chairman, particularly at a time of war, and when families, hard-working American families, are having to make tough economic decisions around their kitchen table, should they not at least expect their Congress to make smart decisions? I do not think anything less should be expected out of this body. We can indeed save money without cutting needed programs and without raising taxes on the American people.

Mr. TOOMEY. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Nussle budget, but in stronger support of the RSC Toomey budget. Let me make it clear why.

This Congress, year in and year out, faces the challenge of setting a budget for our Nation, but it seems to me this year we are divorced from reality. The reality of this Nation is that in the last 7 years, nondefense discretionary spending has grown by a staggering 66 percent. Over the past 7 years, discretionary spending has grown at three and a half times the rate of inflation. In fiscal year 2003 alone, we increase spending by 9 percent over the previous year in 1 year only.

Enough is enough. The reality is that across America, local governments, State governments, city governments, county governments are making real dollar cuts in their spending.

Now, to its credit, the Nussle budget says, we ought to scale back. It walls off certain areas, but it says we ought to at least have a 1 percent cut in some areas where we can achieve that. But the rest of the budget spends too much money.

Let us look at what we have been doing in spending. Since 1996, agricultural spending is up 27.5 percent; Commerce Department, 40.2; Energy, 34.4; HHS, a staggering 94 percent; and Education, 131.9 percent. I could go on and on.

Mr. Chairman, I was here in 1995 when we enacted real spending restraint in this Congress. We did not actually stop the growth of spending, but we sure slowed it down. What is lacking now is discipline.

I was a participant in those hearings when we went across America and we asked the American people, can you do with less government? And they looked us in the eye and they said, yes. They said, so long as the restraint in spending, the cuts which we are asking them to make, were evenly distributed across our society so that all programs took some hits, they were willing to do it.

We face a slowed economy, and we face a war. It is time for the Congress to exercise discipline. It is time for the Congress to lead. The Toomey budget does that. It says that these are not normal times. It says that we can, in fact, do with a little less.

I want to draw a parallel to American businesses. Every one of us here knows businesses back home, every one of us knows the key to business. What is the key to business in America? It is year after year doing more with less. What has made America's economy boom in the last few years leading up to the recent situation? I will tell my colleagues what made it boom. It was improvements in efficiency. It is doing more with less.

□ 1945

Yet that is a concept that we do not even think about in government. Is it impossible for us to do more with less in the government? I suggest it is not, and I strongly support the budget of the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I yield myself the balance of my time.

I would just make the following observation, Mr. Chairman. Most of us on both sides of the aisle talk a pretty good game about fiscal discipline. Here is the opportunity to walk the walk.

This substitute budget slows down the growth rate of government spending. It has more in tax cuts to get this economy growing again. It reaches a balance faster than any other budget that is considered today on the floor. It does so within 4 years. It is endorsed by Americans for Tax Reform and Citizens Against Government Waste.

For any of our colleagues who are serious about getting our deficit under control, I urge a "yes" vote on this substitute.

Mr. FRANKS of Arizona. Mr. Chairman, I rise today in support of the Republican Study Committee Budget Substitute. Former President Reagan said it best when he said, "government does nothing as well or as economically as the private sector." These are trying times and our Nation faces serious challenges in the coming months. With that in mind, it is irresponsible to fund projects that deter or deviate from the original intent of government. Instead, we must plan ahead and put forth our best effort to return to a balanced budget.

The RSC Budget includes all of President Bush's economic growth package, tax fairness proposals and balances the budget in 4 years. Four years. With the decreases in capital gains taxes, we will create over 1 million new jobs. There is no better time to return hard-earned money back to the American people. And I have no doubt that any effort to remain fiscally responsible will help boost economic growth.

In 1950, we were paying 2 percent of our money to the government. Today, that figure has skyrocketed to 30 percent. A 28 percent increase. In 2001, the Federal Government made $20 billion in overpayments. Not to mention that it cannot account for another $17.3 billion. Should not the American people be permitted to spend their money as they choose? How can we expect the people of this country to tighten their belt, when we cannot impose strict fiscal discipline on ourselves?

The RSC Budget includes a reserve fund for Social Security reform. Under the current system, nearly $6 trillion would be needed just to repay the trust fund. According to the Social Security Administration, it will take only about $7 trillion to fix the system permanently. Our baby boomers deserve a secure retirement. They paid for it.

This budget retains the President's defense spending numbers and the President's funding levels for homeland security—crucial now, when our courageous military heroes are depending on our support.

It is time to return to an era of economic prosperity. Time to put an end to reckless Federal spending. Men and women in our military are sacrificing their lives for our country. We have the power to do the same in Congress by making our own sacrifices to cut back on wasteful spending and balance the budget. There is no more appropriate time to do so than now. Having said that, I commend Mr. Toomey for introducing the best budget that he possibly could at this historic time in our Nation's history.

Ms. KILPATRICK. Mr. Chairman, I rise in opposition to the gentleman's amendment, and in support of the CBC and Democratic Alternative budgets.

I didn't think a budget resolution could be much worse than the one produced by the Majority, but then I see the amendment offered by the gentleman from Pennsylvania. This amendment calls for more tax cuts and more cuts in nondefense and non-homeland security spending.

Like the parent resolution offered by the Majority leadership, the budget cuts called for in the gentleman's alternative are just unrealistic. In fact, the $1.6 trillion tax cut proposed by the gentleman's alternative, requires that domestic spending be cut by an additional $8 billion.

The budgets proposed by Republican Study Conference and the Majority leadership will force authorizing committees to reduce eligibility requirements and benefits for people programs that service our children, veterans, farmers, federal workers and more.

Like the parent resolution, the RSC amendment provides more tax cuts for the wealthy that are bound to continue to take our economy down the glide path of additional deficits. What I don't understand is why our distinguished majority rightly calls on all Americans to support the war effort in Iraq, but is not willing to pay for its costs. That is a major disconnect.

The Democratic and CBC alternative budgets offer targeted tax cuts that are designed to stimulate the economy and produce real jobs. Up to a million jobs will be produced by the Democratic Alternative in 2003. The Majority's plan, on the other hand, creates only 190,000 jobs in 2003.

The CBC and Democratic Alternative budgets provide more money for Medicare prescription drugs. The Democratic Alternative sets aside $528 billion in new money for a prescription drug program. We deliver and the President's party doesn't.

The Democratic Alternative and Black Caucus budgets invest in education and training. These increases will enable Congress to increase funding for the "No Child Left Behind Act."

The Democratic and CBC Alternatives protect our men and women in war; they advance the security needs of our homeland; they increase our investment in human capital and the nation's infrastructure. And they do so in a fiscally responsible way.

Soon we will be asked to redevelop and rebuild Iraq. We will be asked to pass appropriations that will develop and modernize that country's health care delivery system, repair and build 3,000 miles of major thoroughfares; upgrade the country's maritime ports, build classrooms and provide student supplies; provide 20,000 units of housing; rebuild the country's financial system; establish a potable water delivery system; and more.

It is ironic that this administration and the majority party in this Chamber will be asking us to spend billions to invest in redeveloping the infrastructure in Iraq while it simultaneously cuts back our investment in American cities, states and individual human capital. The Members on the other side of the aisle may be able to explain that to their constituents, but I know I won't be able to explain it to mine.

I urge my colleagues to vote "no" on the gentleman's amendment and support the CBC and Democratic Alternatives budget resolutions.

The CHAIRMAN pro tempore (Mr. GOODLATTE). The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. TOOMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 342, not voting 12, as follows:

[Roll No. 79]

AYES—80

Aderholt
Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bishop (UT)
Blackburn

Blunt
Boehner
Brady (TX)
Burgess
Burton (IN)
Cannon
Cantor
Carter
Chabot
Cole
Cox
Crane
Cubin
Culberson
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Goode
Goodlatte
Green (WI)
Hayworth
Hensarling
Herger
Hoekstra
Istook
Johnson, Sam
Keller
King (IA)
Kingston
Linder
Manzullo
Miller (FL)
Miller, Gary
Musgrave
Myrick
Norwood
Otter
Paul
Pence
Pitts
Pombo
Radanovich
Rehberg
Rohrabacher
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Tiahrt
Tiberi
Toomey
Weller
Wilson (SC)

### NOES—342

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chocola
Clay
Clyburn
Coble
Collins
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—12

Buyer
Combest
Gephardt
Hyde
John
Kennedy (RI)
King (NY)
Lipinski
Smith (MI)
Thornberry
Udall (CO)
Vitter

□ 2015

Messrs. GUTKNECHT, CONYERS, BRADLEY of New Hampshire, BONNER, SABO and Mrs. NORTHUP changed their vote from "aye" to "no."

Mr. MANZULLO changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. VITTER. Mr. Chairman, during Rollcall Vote 79, I was detained at a briefing from Secretary Rumsfeld on the war with Iraq. Had I been present, I would have voted "no."

Mr. KENNEDY of Rhode Island. Mr. Chairman, on rollcall No. 79 I was receiving a briefing on the war in Iraq with Secretary Rumsfeld and General Meyers. That occurred simultaneously with this rollcall.

Had I been present, I would have voted "no."

The CHAIRMAN pro tempore (Mr. GOODLATTE). It is now in order to consider amendment No. 3 printed in House Report 108-44.

### PART B AMENDMENT NO. 3 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CUMMINGS

Mr. CUMMINGS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part B Amendment No. 3 in the nature of a substitute offered by Mr. CUMMINGS:

Strike all after the resolving clause and insert the following:

### SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate budgetary levels for fiscal years 2005 through 2013 are hereby set forth.

## TITLE I—RECOMMENDED LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2004 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2004: $1,510,400,000,000.
Fiscal year 2005: $1,684,600,000,000.
Fiscal year 2006: $1,831,800,000,000.
Fiscal year 2007: $1,958,300,000,000.
Fiscal year 2008: $2,075,100,000,000.
Fiscal year 2009: $2,197,800,000,000.
Fiscal year 2010: $2,327,500,000,000.
Fiscal year 2011: $2,511,600,000,000.
Fiscal year 2012: $2,707,700,000,000.
Fiscal year 2013: $2,863,500,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 2004: $44,000,000,000.
Fiscal year 2005: $67,600,000,000.
Fiscal year 2006: $91,100,000,000.
Fiscal year 2007: $105,100,000,000.
Fiscal year 2008: $112,100,000,000.
Fiscal year 2009: $119,500,000,000.
Fiscal year 2010: $134,500,000,000.
Fiscal year 2011: $84,100,000,000.
Fiscal year 2012: $57,900,000,000.
Fiscal year 2013: $59,300,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2004: $1,836,900,000,000.
Fiscal year 2005: $1,958,700,000,000.
Fiscal year 2006: $2,064,900,000,000.
Fiscal year 2007: $2,165,700,000,000.
Fiscal year 2008: $2,264,700,000,000.
Fiscal year 2009: $2,370,400,000,000.
Fiscal year 2010: $2,483,400,000,000.
Fiscal year 2011: $2,546,000,000,000.
Fiscal year 2012: $2,588,100,000,000.
Fiscal year 2013: $2,699,400,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2004: $1,883,200,000,000.
Fiscal year 2005: $2,002,100,000,000.
Fiscal year 2006: $2,100,900,000,000.
Fiscal year 2007: $2,198,100,000,000.
Fiscal year 2008: $2,298,800,000,000.
Fiscal year 2009: $2,404,600,000,000.
Fiscal year 2010: $2,517,900,000,000.
Fiscal year 2011: $2,589,500,000,000.
Fiscal year 2012: $2,620,000,000,000.
Fiscal year 2013: $2,735,800,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2004: −$372,800,000,000,000.

Fiscal year 2005: −$317,500,000,000,000.
Fiscal year 2006: −$269,100,000,000,000.
Fiscal year 2007: −$239,800,000,000,000.
Fiscal year 2008: −$223,700,000,000,000.
Fiscal year 2009: $2,197,800,000,000.
Fiscal year 2010: $2,327,500,000,000.
Fiscal year 2011: $2,511,600,000,000.
Fiscal year 2012: $2,707,700,000,000.
Fiscal year 2013: $2,863,500,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2004: $4,013,000,000,000.
Fiscal year 2005: $4,013,000,000,000.
Fiscal year 2006: $4,013,000,000,000.
Fiscal year 2007: $4,013,000,000,000.
Fiscal year 2008: $4,013,000,000,000.
Fiscal year 2009: $4,013,000,000,000.
Fiscal year 2010: $4,013,000,000,000.
Fiscal year 2011: $4,013,000,000,000.
Fiscal year 2012: $4,013,000,000,000.
Fiscal year 2013: $4,013,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2004: $4,013,000,000,000.
Fiscal year 2005: $4,013,000,000,000.
Fiscal year 2006: $4,013,000,000,000.
Fiscal year 2007: $4,013,000,000,000.
Fiscal year 2008: $4,013,000,000,000.
Fiscal year 2009: $4,013,000,000,000.
Fiscal year 2010: $4,013,000,000,000.
Fiscal year 2011: $4,013,000,000,000.
Fiscal year 2012: $4,013,000,000,000.
Fiscal year 2013: $4,013,000,000,000.

### SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2004 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2004:
(A) New budget authority, $387,995,000,000.
(B) Outlays, $392,432,000,000.
Fiscal year 2005:
(A) New budget authority, $396,195,000,000.
(B) Outlays, $395,258,000,000.
Fiscal year 2006:
(A) New budget authority, $406,277,000,000.
(B) Outlays, $396,882,000,000.
Fiscal year 2007:
(A) New budget authority, $416,078,000,000.
(B) Outlays, $399,277,000,000.
Fiscal year 2008:
(A) New budget authority, $427,500,000,000.
(B) Outlays, $414,028,000,000.
Fiscal year 2009:
(A) New budget authority, $441,936,000,000.
(B) Outlays, $429,648,000,000.
Fiscal year 2010:
(A) New budget authority, $453,276,000,000.
(B) Outlays, $444,073,000,000.
Fiscal year 2011:
(A) New budget authority, $464,893,000,000.
(B) Outlays, $460,513,000,000.
Fiscal year 2012:
(A) New budget authority, $476,777,000,000.
(B) Outlays, $465,494,000,000.
Fiscal year 2013:
(A) New budget authority, $488,991,000,000.
(B) Outlays, $482,639,000,000.

(2) International Affairs (150):
Fiscal year 2004:
(A) New budget authority, $34,681,000,000.
(B) Outlays, $32,946,950,000.
Fiscal year 2005:
(A) New budget authority, $35,374,000,000.
(B) Outlays, $33,605,889,000.
Fiscal year 2006:
(A) New budget authority, $36,081,480,000.
(B) Outlays, $34,277,406,000.
Fiscal year 2007:
(A) New budget authority, $36,803,109,000.
(B) Outlays, $34,962,954,000.
Fiscal year 2008:
(A) New budget authority, $37,539,171,000.
(B) Outlays, $35,662,213,000.
Fiscal year 2009:
(A) New budget authority, $38,289,854,000.
(B) Outlays, $37,524,057,000.
Fiscal year 2010:
(A) New budget authority, $39,055,651,000.
(B) Outlays, $38,274,538,000.
Fiscal year 2011:
(A) New budget authority, $39,836,764,000.
(B) Outlays, $39,040,029,000.
Fiscal year 2012:
(A) New budget authority, $40,606,499,000.
(B) Outlays, $39,794,370,000.
Fiscal year 2013:
(A) New budget authority, $41,418,638,000.
(B) Outlays, $40,590,256,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2004:
(A) New budget authority, $23,900,000,000.
(B) Outlays, $22,705,000,000.
Fiscal year 2005:
(A) New budget authority, $24,410,000,000.
(B) Outlays, $23,189,500,000.
Fiscal year 2006:
(A) New budget authority, $24,970,000,000.
(B) Outlays, $23,721,500,000.
Fiscal year 2007:
(A) New budget authority, $25,540,000,000.
(B) Outlays, $24,263,000,000.
Fiscal year 2008:
(A) New budget authority, $26,160,000,000.
(B) Outlays, $24,852,000,000.
Fiscal year 2009:
(A) New budget authority, $26,780,000,000.
(B) Outlays, $25,441,000,000.
Fiscal year 2010:
(A) New budget authority, $27,430,000,000.
(B) Outlays, $26,058,500,000.
Fiscal year 2011:
(A) New budget authority, $28,100,000,000.
(B) Outlays, $26,695,000,000.
Fiscal year 2012:
(A) New budget authority, $28,780,000,000.
(B) Outlays, $27,371,000,000.
Fiscal year 2013:
(A) New budget authority, $29,460,000,000.
(B) Outlays, $27,987,000,000.

(4) Energy (270):
Fiscal year 2004:
(A) New budget authority, $3,118,500,000.
(B) Outlays, $2,962,575,000.
Fiscal year 2005:
(A) New budget authority, $3,273,600,000.
(B) Outlays, $3,109,920,000.
Fiscal year 2006:
(A) New budget authority, $3,181,200,000.
(B) Outlays, $3,022,140,000.
Fiscal year 2007:
(A) New budget authority, $2,984,300,000.
(B) Outlays, $2,835,085,000.
Fiscal year 2008:
(A) New budget authority, $3,583,800,000.
(B) Outlays, $3,404,610,000.
Fiscal year 2009:
(A) New budget authority, $3,600,300,000.
(B) Outlays, $3,420,285,000.
Fiscal year 2010:
(A) New budget authority, $3,722,400,000.
(B) Outlays, $3,536,280,000.
Fiscal year 2011:
(A) New budget authority, $3,836,800,000.
(B) Outlays, $3,644,960,000.
Fiscal year 2012:
(A) New budget authority, $3,963,300,000.
(B) Outlays, $3,765,135,000.
Fiscal year 2013:
(A) New budget authority, $4,096,400,000.
(B) Outlays, $3,891,580,000.

(5) Natural Resources and Environment (300):
Fiscal year 2004:
(A) New budget authority, $31,440,000,000.
(B) Outlays, $30,811,000,000.
Fiscal year 2005:
(A) New budget authority, $32,383,000,000.
(B) Outlays, $31,735,000,000.
Fiscal year 2006:
(A) New budget authority, $33,355,000,000.
(B) Outlays, $32,688,000,000.
Fiscal year 2007:
(A) New budget authority, $34,355,000,000.
(B) Outlays, $33,666,000,000.
Fiscal year 2008:
(A) New budget authority, $35,386,000,000.
(B) Outlays, $34,678,000,000.
Fiscal year 2009:
(A) New budget authority, $36,448,000,000.
(B) Outlays, $35,719,000,000.
Fiscal year 2010:
(A) New budget authority, $37,541,000,000.
(B) Outlays, $36,790,000,000.
Fiscal year 2011:
(A) New budget authority, $38,668,000,000.
(B) Outlays, $37,595,000,000.
Fiscal year 2012:
(A) New budget authority, $39,827,000,000.
(B) Outlays, $39,030,000,000.
Fiscal year 2013:
(A) New budget authority, $41,022,000,000.
(B) Outlays, $40,202,000,000.

(6) Agriculture (350):
Fiscal year 2004:
(A) New budget authority, $20,212,000,000.
(B) Outlays, $19,808,000,000.
Fiscal year 2005:
(A) New budget authority, $20,616,000,000.
(B) Outlays, $20,204,000,000.
Fiscal year 2006:
(A) New budget authority, $21,028,000,000.
(B) Outlays, $20,608,000,000.
Fiscal year 2007:
(A) New budget authority, $21,448,000,000.
(B) Outlays, $21,020,000,000.
Fiscal year 2008:
(A) New budget authority, $21,876,000,000.
(B) Outlays, $21,439,000,000.
Fiscal year 2009:
(A) New budget authority, $22,313,000,000.
(B) Outlays, $21,867,000,000.
Fiscal year 2010:
(A) New budget authority, $22,759,000,000.
(B) Outlays, $22,304,000,000.
Fiscal year 2011:
(A) New budget authority, $23,214,000,000.
(B) Outlays, $22,750,000,000.
Fiscal year 2012:
(A) New budget authority, $23,678,000,000.
(B) Outlays, $23,205,000,000.
Fiscal year 2013:
(A) New budget authority, $24,151,000,000.
(B) Outlays, $24,634,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 2004:
(A) New budget authority, $7,678,650,000.
(B) Outlays, $7,514,500,000.
Fiscal year 2005:
(A) New budget authority, $7,821,300,000.
(B) Outlays, $7,664,900,000.
Fiscal year 2006:
(A) New budget authority, $7,977,700,000.
(B) Outlays, $7,818,100,000.
Fiscal year 2007:
(A) New budget authority, $8,137,300,000.
(B) Outlays, $7,974,600,000.
Fiscal year 2008:
(A) New budget authority, $8,300,000,000.
(B) Outlays, $8,139,000,000.
Fiscal year 2009:
(A) New budget authority, $8,466,000,000.
(B) Outlays, $8,296,700,000.
Fiscal year 2010:
(A) New budget authority, $8,635,300,000.
(B) Outlays, $8,462,600,000.
Fiscal year 2011:

(A) New budget authority, $8,808,000,000.

(B) Outlays, $8,631,800,000.

Fiscal year 2012:

(A) New budget authority, $8,984,200,000.

(B) Outlays, $8,804,500,000.

Fiscal year 2013:

(A) New budget authority, $9,163,900,000.

(B) Outlays, $8,480,600,000.

(8) Transportation (400):

Fiscal year 2004:

(A) New budget authority, $99,839,000,000.

(B) Outlays, $90,363,000,000.

Fiscal year 2005:

(A) New budget authority, $66,202,000,000.

(B) Outlays, $80,760,000,000.

Fiscal year 2006:

(A) New budget authority, $67,815,000,000.

(B) Outlays, $70,393,000,000.

Fiscal year 2007:

(A) New budget authority, $69,429,000,000.

(B) Outlays, $69,316,000,000.

Fiscal year 2008:

(A) New budget authority, $71,057,000,000.

(B) Outlays, $69,950,000,000.

Fiscal year 2009:

(A) New budget authority, $72,746,000,000.

(B) Outlays, $71,307,000,000.

Fiscal year 2010:

(A) New budget authority, $74,503,000,000.

(B) Outlays, $72,938,000,000.

Fiscal year 2011:

(A) New budget authority, $76,340,000,000.

(B) Outlays, $74,694,000,000.

Fiscal year 2012:

(A) New budget authority, $78,208,000,000.

(B) Outlays, $76,544,000,000.

Fiscal year 2013:

(A) New budget authority, $80,112,000,000.

(B) Outlays, $78,431,000,000.

(9) Community and Regional Development (450):

Fiscal year 2004:

(A) New budget authority, $14,723,000,000.

(B) Outlays, $14,429,000,000.

Fiscal year 2005:

(A) New budget authority, $15,017,000,000.

(B) Outlays, $14,717,000,000.

Fiscal year 2006:

(A) New budget authority, $15,317,000,000.

(B) Outlays, $15,011,000,000.

Fiscal year 2007:

(A) New budget authority, $15,623,000,000.

(B) Outlays, $15,311,000,000.

Fiscal year 2008:

(A) New budget authority, $15,935,000,000.

(B) Outlays, $15,616,000,000.

Fiscal year 2009:

(A) New budget authority, $16,254,000,000.

(B) Outlays, $15,929,000,000.

Fiscal year 2010:

(A) New budget authority, $16,579,000,000.

(B) Outlays, $16,247,000,000.

Fiscal year 2011:

(A) New budget authority, $16,911,000,000.

(B) Outlays, $16,573,000,000.

Fiscal year 2012:

(A) New budget authority, $17,249,000,000.

(B) Outlays, $16,904,000,000.

Fiscal year 2013:

(A) New budget authority, $17,594,000,000.

(B) Outlays, $17,242,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2004:

(A) New budget authority, $107,000,000,000.

(B) Outlays, $104,860,000,000.

Fiscal year 2005:

(A) New budget authority, $117,700,000,000.

(B) Outlays, $115,346,000,000.

Fiscal year 2006:

(A) New budget authority, $129,470,000,000.

(B) Outlays, $126,881,000,000.

Fiscal year 2007:

(A) New budget authority, $142,417,000,000.

(B) Outlays, $139,569,000,000.

Fiscal year 2008:

(A) New budget authority, $156,658,000,000.

(B) Outlays, $153,325,000,000.

Fiscal year 2009:

(A) New budget authority, $172,223,000,000.

(B) Outlays, $160,775,000,000.

Fiscal year 2010:

(A) New budget authority, $189,445,000,000.

(B) Outlays, $185,657,000,000.

Fiscal year 2011:

(A) New budget authority, $208,389,000,000.

(B) Outlays, $204,222,000,000.

Fiscal year 2012:

(A) New budget authority, $229,227,000,000.

(B) Outlays, $224,643,000,000.

Fiscal year 2013:

(A) New budget authority, $252,149,000,000.

(B) Outlays, $247,107,000,000.

(11) Health (550):

Fiscal year 2004:

(A) New budget authority, $242,955,000,000.

(B) Outlays, $238,096,000,000.

Fiscal year 2005:

(A) New budget authority, $247,814,000,000.

(B) Outlays, $242,858,000,000.

Fiscal year 2006:

(A) New budget authority, $252,770,000,000.

(B) Outlays, $257,825,000,000.

Fiscal year 2007:

(A) New budget authority, $257,825,000,000.

(B) Outlays, $252,669,000,000.

Fiscal year 2008:

(A) New budget authority, $262,981,000,000.

(B) Outlays, $257,722,000,000.

Fiscal year 2009:

(A) New budget authority, $268,240,000,000.

(B) Outlays, $262,876,000,000.

Fiscal year 2010:

(A) New budget authority, $273,604,000,000.

(B) Outlays, $268,132,000,000.

Fiscal year 2011:

(A) New budget authority, $279,076,000,000.

(B) Outlays, $273,495,000,000.

Fiscal year 2012:

(A) New budget authority, $284,657,000,000.

(B) Outlays, $278,964,000,000.

Fiscal year 2013:

(A) New budget authority, $290,350,000,000.

(B) Outlays, $284,543,000,000.

(12) Medicare (570):

Fiscal year 2004:

(A) New budget authority, $250,955,000,000.

(B) Outlays, $250,955,000,000.

Fiscal year 2005:

(A) New budget authority, $265,608,000,000.

(B) Outlays, $260,608,000,000.

Fiscal year 2006:

(A) New budget authority, $292,411,000,000.

(B) Outlays, $292,411,000,000.

Fiscal year 2007:

(A) New budget authority, $313,160,000,000.

(B) Outlays, $313,160,000,000.

Fiscal year 2008:

(A) New budget authority, $336,365,000,000.

(B) Outlays, $336,365,000,000.

Fiscal year 2009:

(A) New budget authority, $351,278,000,000.

(B) Outlays, $351,278,000,000.

Fiscal year 2010:

(A) New budget authority, $377,120,000,000.

(B) Outlays, $377,120,000,000.

Fiscal year 2011:

(A) New budget authority, $403,968,000,000.

(B) Outlays, $403,968,000,000.

Fiscal year 2012:

(A) New budget authority, $403,507,000,000.

(B) Outlays, $403,507,000,000.

Fiscal year 2013:

(A) New budget authority, $460,889,000,000.

(B) Outlays, $460,889,000,000.

(13) Income Security (600):

Fiscal year 2004:

(A) New budget authority, $367,050,000,000.

(B) Outlays, $359,709,000,000.

Fiscal year 2005:

(A) New budget authority, $374,391,000,000.

(B) Outlays, $366,903,000,000.

Fiscal year 2006:

(A) New budget authority, $381,879,000,000.

(B) Outlays, $374,241,000,000.

Fiscal year 2007:

(A) New budget authority, $389,517,000,000.

(B) Outlays, $381,727,000,000.

Fiscal year 2008:

(A) New budget authority, $397,307,000,000.

(B) Outlays, $389,361,000,000.

Fiscal year 2009:

(A) New budget authority, $405,253,000,000.

(B) Outlays, $397,148,000,000.

Fiscal year 2010:

(A) New budget authority, $413,358,000,000.

(B) Outlays, $405,091,000,000.

Fiscal year 2011:

(A) New budget authority, $421,625,000,000.

(B) Outlays, $413,192,000,000.

Fiscal year 2012:

(A) New budget authority, $430,058,000,000.

(B) Outlays, $421,457,000,000.

Fiscal year 2013:

(A) New budget authority, $438,659,000,000.

(B) Outlays, $429,886,000,000.

(14) Social Security (650):

Fiscal year 2004:

(A) New budget authority, $501,146,000,000.

(B) Outlays, $498,679,000,000.

Fiscal year 2005:

(A) New budget authority, $521,499,000,000.

(B) Outlays, $518,672,000,000.

Fiscal year 2006:

(A) New budget authority, $546,735,000,000.

(B) Outlays, $543,640,000,000.

Fiscal year 2007:

(A) New budget authority, $575,008,000,000.

(B) Outlays, $571,621,000,000.

Fiscal year 2008:

(A) New budget authority, $606,071,000,000.

(B) Outlays, $602,300,000,000.

Fiscal year 2009:

(A) New budget authority, $641,105,000,000.

(B) Outlays, $636,939,000,000.

Fiscal year 2010:

(A) New budget authority, $679,322,000,000.

(B) Outlays, $674,852,000,000.

Fiscal year 2011:

(A) New budget authority, $720,505,000,000.

(B) Outlays, $715,645,000,000.

Fiscal year 2012:

(A) New budget authority, $766,154,000,000.

(B) Outlays, $760,812,000,000.

Fiscal year 2013:

(A) New budget authority, $816,195,000,000.

(B) Outlays, $810,363,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2004:

(A) New budget authority, $64,916,000,000.

(B) Outlays, $63,618,000,000.

Fiscal year 2005:

(A) New budget authority, $66,863,000,000.

(B) Outlays, $65,526,000,000.

Fiscal year 2006:

(A) New budget authority, $68,869,000,000.

(B) Outlays, $67,492,000,000.

Fiscal year 2007:

(A) New budget authority, $70,935,000,000.

(B) Outlays, $69,516,000,000.

Fiscal year 2008:

(A) New budget authority, $73,063,000,000.

(B) Outlays, $71,575,000,000.

Fiscal year 2009:

(A) New budget authority, $75,255,000,000.

(B) Outlays, $73,750,000,000.

Fiscal year 2010:

(A) New budget authority, $77,513,000,000.

(B) Outlays, $75,963,000,000.

Fiscal year 2011:

(A) New budget authority, $79,838,000,000.

(B) Outlays, $78,241,000,000.

Fiscal year 2012:
(A) New budget authority, $82,234,000,000.
(B) Outlays, $80,589,000,000.
Fiscal year 2013:
(A) New budget authority, $84,701,000,000.
(B) Outlays, $83,007,000,000.
(16) Administration of Justice (750):
Fiscal year 2004:
(A) New budget authority, $40,787,000,000.
(B) Outlays, $39,971,260,000.
Fiscal year 2005:
(A) New budget authority, $40,957,000,000.
(B) Outlays, $40,137,860,000.
Fiscal year 2006:
(A) New budget authority, $41,212,000,000.
(B) Outlays, $40,387,760,000.
Fiscal year 2007:
(A) New budget authority, $41,552,000,000.
(B) Outlays, $40,720,960,000.
Fiscal year 2008:
(A) New budget authority, $41,977,000,000.
(B) Outlays, $41,137,460,000.
Fiscal year 2009:
(A) New budget authority, $46,429,000,000.
(B) Outlays, $45,500,420,000.
Fiscal year 2010:
(A) New budget authority, $47,871,000,000.
(B) Outlays, $46,913,500,000.
Fiscal year 2011:
(A) New budget authority, $49,367,000,000.
(B) Outlays, $48,379,660,000.
Fiscal year 2012:
(A) New budget authority, $50,894,000,000.
(B) Outlays, $49,876,120,000.
Fiscal year 2013:
(A) New budget authority, $52,477,000,000.
(B) Outlays, $51,427,460,000.
(17) General Government (800):
Fiscal year 2004:
(A) New budget authority, $19,768,000,000.
(B) Outlays, $19,586,000,000.
Fiscal year 2005:
(A) New budget authority, $20,025,000,000.
(B) Outlays, $20,213,000,000.
Fiscal year 2006:
(A) New budget authority, $19,654,000,000.
(B) Outlays, $19,713,000,000.
Fiscal year 2007:
(A) New budget authority, $19,955,000,000.
(B) Outlays, $19,716,000,000.
Fiscal year 2008:
(A) New budget authority, $19,766,000,000.
(B) Outlays, $19,552,000,000.
Fiscal year 2009:
(A) New budget authority, $20,168,000,000.
(B) Outlays, $19,761,000,000.
Fiscal year 2010:
(A) New budget authority, $20,572,000,000.
(B) Outlays, $20,127,000,000.
Fiscal year 2011:
(A) New budget authority, $21,294,000,000.
(B) Outlays, $20,826,000,000.
Fiscal year 2012:
(A) New budget authority, $22,039,000,000.
(B) Outlays, $21,700,000,000.
Fiscal year 2013:
(A) New budget authority, $22,829,000,000.
(B) Outlays, $22,323,000,000.
(18) Net Interest (900):
Fiscal year 2004:
(A) New budget authority, $255,938,000,000.
(B) Outlays, $255,938,000,000.
Fiscal year 2005:
(A) New budget authority, $307,866,000,000.
(B) Outlays, $307,866,000,000.
Fiscal year 2006:
(A) New budget authority, $345,708,000,000.
(B) Outlays, $345,708,000,000.
Fiscal year 2007:
(A) New budget authority, $372,992,000,000.
(B) Outlays, $372,992,000,000.
Fiscal year 2008:
(A) New budget authority, $400,172,000,000.
(B) Outlays, $400,172,000,000.
Fiscal year 2009:
(A) New budget authority, $425,477,000,000.
(B) Outlays, $425,477,000,000.
Fiscal year 2010:
(A) New budget authority, $452,793,000,000.
(B) Outlays, $452,793,000,000.
Fiscal year 2011:
(A) New budget authority, $478,544,000,000.
(B) Outlays, $478,544,000,000.
Fiscal year 2012:
(A) New budget authority, $504,010,000,000.
(B) Outlays, $504,010,000,000.
Fiscal year 2013:
(A) New budget authority, $529,542,000,000.
(B) Outlays, $529,542,000,000.
(19) Allowances (920):
Fiscal year 2004:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2005:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2006:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2007:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2008:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2009:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2010:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2011:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2012:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2013:
(A) New budget authority, $0.
(B) Outlays, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2004:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2005:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2006:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2007:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2008:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2009:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2010:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2011:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2012:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2013:
(A) New budget authority, $0.
(B) Outlays, $0.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) SUBMISSIONS.—Not later than June 1, 2003, the House committees named in subsection (b) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive changes.

(b) INSTRUCTIONS.—

(1) COMMITTEE ON ENERGY AND COMMERCE.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to increase the level of direct spending for that committee by $1,043,000,000,000 in outlays for the period of fiscal years 2004 through 2008 and $6,118,000,000,000 in outlays for the period of fiscal years 2004 through 2013.

(2) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in law within its jurisdiction sufficient to increase the total level of revenues by not more than: $16,000,000,000 for fiscal year 2004, $1,677,500,000,000 for the period of fiscal years 2004 through 2008, and $6,712,500,000,000 for the period of fiscal years 2004 through 2013.

The CHAIRMAN pro tempore. Pursuant to House Resolution 151, the gentleman from Maryland (Mr. CUMMINGS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. OWENS) who was the architect of the Congressional Black Caucus and the Congressional Progressive Caucus resolution.

Mr. OWENS. Mr. Chairman, I would like to first congratulate the leadership of the Congressional Black Caucus and the Congressional Progressive Caucus for the agreement to produce this joint budget.

Our troops are in the field now, and we are going to support those troops. The best way we can support our troops is to try to bring them home by policy changes, not in body bags, but bring them home smiling on their feet. We also would like to support their families. This is a budget which we call "Leave No Families Behind."

Mr. Chairman, 35 percent of the members of the Army are African American. Two-thirds of the fighting force in Iraq, on the borders of Iraq, are members of working families. We want to take care of the families of the people who fight for America, and that is the gist of this budget. It is a budget for working families.

We have stayed within the requirements of the majority. Our current budget is $1.836 trillion. We have begun by adopting the Rangel shared sacrifice freeze on tax cuts, and this generated a revenue base of $1.5 trillion. This has allowed the Congressional Black Caucus and the Congressional Progressive Caucus to offer our current budget of $1.8 trillion. Our budget projections reached a low deficit of $72.9 billion in the year 2011, and we offer a surplus of $87.7 billion in the years 2012 and $127.7 billion in 2013.

It is the strong and overriding belief of the Congressional Black Caucus and the Congressional Progressive Caucus that the budget and appropriations processes are the highest importance to our constituencies who make up the great majority of Americans. Budget priorities speak in a language of numbers and dollars that tell the people we represent how important their concerns and their welfare are to us. This budget was prepared against the backdrop of a recession at a time when the gap between the rich and the poor is greater in the United States than in any other Nation.

A recent report of the Federal Reserve states that the median net worth of white families went up 17 percent to $120,900, while the median net worth for minority families during the same 3-year period went down 4.5 percent to $17,000. The difference between $17,000 and $120,000 is a stark difference. Working families of all ethnic groups are included in this great gap between rich and poor, the white working families as well as minority working families.

A key component of this budget is a stimulus package which addresses the needs of all working families with proposals for extended unemployment and health care benefits immediately, and also for creating jobs as rapidly as possible. This budget also continues to focus on certain unique needs of African American and minority communities.

Mr. Chairman, I thank all Members and staff, especially Jacqueline Ellis of my staff, who worked so diligently on producing this alternative budget.

Mr. CUMMINGS. Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I claim the time in opposition to the CBC/CPC substitute.

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) is recognized for 30 minutes.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this substitute because our reading is it raises taxes and increases spending, does not provide enough for defense, and fails to reach balance sooner. Having said that, the gentleman from Iowa (Mr. NUSSLE) wanted me to say that he knows the amount of time and effort that was put into this budget and also knows that there are important issues that will be brought out in this debate that this Chamber needs to hear.

So with that, I will just compliment my colleagues on working on this budget, say it is not a budget that we can support, but we look forward to listening to the debate.

Mr. Chairman, I reserve the balance of my time.

Mr. CUMMINGS. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH), the chairman of the Congressional Progressive Caucus.

Mr. KUCINICH. Mr. Chairman, I am proud to participate with the gentleman from Maryland (Mr. CUMMINGS) and the CBC in the drafting of this CBC/Progressive Caucus budget; and I am honored to be here with my co-chair, the gentlewoman from California (Ms. LEE), and I thank the gentleman from New York (Mr. OWENS) for the fine work that he did in this regard.

I rise in support of the CBC/Progressive Caucus budget. This is the only budget that funds universal single-payer health care. This is the only budget that fully stimulates the economy with a $300 billion economic stimulus package. This is the only budget that fully funds education. This is the only budget that fully funds transportation. This is the only budget that fully funds housing, and the only budget that fully funds veterans programs, and the only budget that fully funds the HIV-AIDS international support programs.

The CBC/Progressive Caucus budget calls on Congress to implement H.R. 676, Medicare For All. This legislation is a single-payer, universal health care plan which will guarantee access to health care, guarantee a universal high standard of care, and lower health care costs.

Earlier this month, it was reported that 75 million Americans went without health insurance in 2001 or 2002. Our failing economy and rising health care costs are failing working families who make up the majority of the uninsured Americans. While costs continue to go up, we are not getting what we are paying for. Government expenditures account for 60 percent of total health care costs. Our government spends more money per person than countries that provide universal health care. Our citizens are so close to paying for a universal health care system, but so far from getting it.

Medicare For All would first improve the Medicare program by adding coverage for all medically necessary health services, including prescription drugs. During a transition period, Medicare would subsume other health programs like Medicaid and, finally, all Americans in nongovernment programs.

It has been estimated that Medicare For All could be paid for with the same amount of money that is currently in the system. Under Medicare For All, employers would maintain a contribution to employee health care in the form of a phased-in payroll tax. This payroll tax would be less than what employers now pay on the average. And unlike current skyrocketing health care costs, this contribution would remain stable. Medicare For All would help employers by eliminating the costs associated with providing private health care coverage, including annual negotiations, annual premium increases, and administrative tasks.

Patients would benefit because co-payments, premiums, deductibles and out-of-pocket payments would be eliminated for medically necessary services. Under this plan, patients would receive a card that would guarantee two things they do not now have: access to the health care they need and a universal, best standard of medical care. This would help to eliminate disparities in health care between whites and minorities.

It is time for Congress to stop trimming around the edges of the health care system. Workers, retirees, and employers are suffering together from the burdens of illnesses and increasing costs. Congress must budget for a real solution, that is, Medicare For All that is in this budget.

Mr. Chairman, I thank the gentleman from Maryland (Mr. CUMMINGS) and the gentlewoman from California (Ms. LEE) for this opportunity to participate.

Mr. CUMMINGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in opposition to the Republican budget resolution and in support of the joint Congressional Black Caucus and Progressive Caucus budget alternative. This alternative budget, entitled the Leave No Family Behind Budget Act, focuses national attention on spending on priorities that benefit all Americans.

It does this by funding key domestic priorities which address the needs of middle-income and working families, while fully supporting the national defense and protection of our homeland. These priorities include education, health care, housing, child care, transportation, worker safety and protection, and business development. It would immediately repeal tax cuts for the upper-income brackets and would implement tax cuts for all families earning less than $50,000 per year.

The CBC and the Progressive Caucus budget proposal involves several balanced components. It provides Medicare For All, it provides a $300 billion economic stimulus package which includes an extension of unemployment insurance, and implements state revenue sharing; and it yields a balanced budget by 2008, at least 4 years earlier than the Republican budget.

This fiscally responsible budget freezes the 2001 tax cut in order to generate greater revenue.

□ 2030

As such, our budget provides $528 billion for a Medicare prescription drug benefit and restores the deep cuts in education by increasing funding by $20 billion over the Republican budget proposal. This means more funding for after-school programs, Head Start, Pell grants, child care programs, TRIO, Gear Up and the Leave No Child Behind Act. This means a prescription drug benefit that our seniors so desperately need.

Mr. Chairman, our budget alternative is feasible, balanced and fiscally responsible. It will get our country on the road to recovery while funding meaningful national priorities for our children, for our seniors, for our veterans and for our communities. It reflects the guiding principle that as a Nation we must come together and share the sacrifice that is required to strengthen our economy and put us on a better fiscal footing.

Unfortunately, the Republican budget is devoid of any recognition of this required sacrifice, because it provides $1.4 trillion in tax cuts to the top 1 percent of American taxpayers. I say sacrifice this tax cut, restore funding for crucial domestic programs, and get our country back on the road to economic recovery. I have to admit that I am astonished that at a time when our economy is struggling, the Republicans continue to pursue tax breaks for the affluent at any cost. Their plan is both astounding and irresponsible. The Republican budget resolution would only prolong our country's economic downturn at a time when we need the greatest investment in our infrastructure and in our people.

Mr. Chairman, in these difficult and troubling times, we have a tremendous responsibility as a Congress to protect and provide for the needs of all Americans. But I and many of my colleagues believe that the Republican budget plan callously throws that responsibility aside. The Republican-proposed $1.4 trillion tax cut is a reckless measure to pursue at this time, especially as we face war in Iraq and a continued war on terror to defend our homeland and our hometowns.

The Republicans and the President claim that tax cuts will serve to stimulate our economy, but the evidence does not support this assertion. The trickle-down tax cuts of 20 years ago did not revitalize our economy, and similar tax cuts today will not fare better. In fact, the CBO estimates that the Republican budget will add $1.7 trillion in deficits over the next 10 years after completely depleting the surplus of the Medicare and Social Security Trust Funds.

The Republican budget balances itself on the backs of Americans who can least afford it. It cuts Medicare by $214 billion over the next 10 years, Medicaid by $95 billion, veterans programs by $15 billion, while giving a meager prescription drug benefit of $28 billion to our deserving seniors. These cuts are unthinkable, and I urge my colleagues on both sides of the aisle to reject such recklessness.

Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me first thank the chair of the Congressional Black Caucus for his leadership; also my colleagues the gentleman from New York (Mr. OWENS), the gentleman from Ohio (Mr. KUCINICH); and also to my staff, Julie, and all of our staffs who really worked many long hours to craft this very fair and balanced budget.

I rise in strong support of this budget, which really does provide a dramatic alternative to the Republican budget. As a member of the Congressional Black Caucus' executive committee, and also as cochair of the Progressive Caucus, I am doubly pleased to be a cosponsor of this joint alternative budget, which, in my opinion, represents the best alternative on the floor today.

Mr. Chairman, we are united today in our opposition to the irresponsible, unfair and warped priorities as expressed in the Republican budget. We cannot and we will not support a budget that spends more on defective technology than on school construction, safe drinking water, vocational education and the fight against HIV and AIDS combined. We cannot and will not support a budget that eliminates vital support for programs such as HOPE VI, the Public Housing Drug Elimination Program and brownfields redevelopment. We cannot and will not support a budget which slashes after-school programs, the school lunch program, veterans' benefits, housing programs, school loan programs, and ignores our Nation's vital need for a meaningful economic stimulus, including relief to the unemployed. Above all, we cannot and we will not support a budget that puts lavish and massive tax cuts for the wealthiest Americans above everything else, thereby mortgaging our children's future.

What we can and what we will support, however, is this reasonable and fair alternative. Our budget provides a real, fast-acting economic stimulus which includes $180 billion for payroll tax relief, $50 billion for Federal revenue-sharing with States, and $50 billion for infrastructure investment. Our budget provides health care for every single American, a benefit that no other budget offers.

Our budget also goes well beyond the Republicans' rhetorical commitment to education by providing serious resources. It fully funds the Leave No Child Behind Act, invests in substantial school construction, our Nation's teachers, vocational education and student loan programs. It also provides critical resources to our Nation's community development and housing programs. It creates a national housing trust fund, restores the administration's cuts to eliminate the Public Housing Drug Elimination Program, and it provides over $1 billion for economic and community development.

In addition to funding critical programs at home, our bill also commits substantial increases in funding toward fighting the HIV/AIDS pandemic abroad and commits $1.2 billion over the President's reconstruction efforts in Afghanistan.

How can our budget really afford to fund these priorities? It is really very simple. Instead of tax handouts to the wealthy, our budget freezes the tax cuts passed in 2001, closes corporate tax loopholes, and really does ignore President Bush's new tax cut proposals. In short, our budget has its priorities straight.

I encourage our colleagues to join me in supporting our budget. Let us support our troops tonight, Mr. Chairman, by passing this budget that says in no uncertain terms that we intend to bring you home to a country that places your economic security as our highest priority. I thank the chair of the Congressional Black Caucus, the gentleman from New York (Mr. OWENS) and the gentleman from Ohio (Mr. KUCINICH) for this alternative and for their hard work.

Mr. CUMMINGS. Mr. Chairman, I yield 2¼ minutes to the distinguished gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the GOP budget sends the message loud and clear: Weapons and tax cuts are more important than people. That is bad public policy. I know it, my constituents in Marin and Sonoma Counties in California know it, and most of the people in the United States agree. It is time to look at the entire picture and put together a budget that provides support to all American families, including the men and women in our military. That is why I rise today in support of the Progressive/Black Caucus budget. Our budget includes support that American families need and support that American families deserve.

Our budget includes affordable health care, because by providing universal access for a high standard of health care, no parent will have to worry about taking their child to a doctor when that child is ill. Our budget recognizes that real support includes educational opportunities for every kid. It is not enough to pay lip service to the importance of education. Instead, this budget makes a firm commitment to provide $20 billion more for school construction, for teachers, for student loans and vocational education programs. No family, military or otherwise, will ever feel supported if their children are not receiving a top-notch education.

Speaking of the military, our budget recognizes that real support includes comprehensive care for members of our military when they return home as veterans. This budget recognizes that it is not enough to provide servicemen and women with bombs and missiles while they serve and then ignore the sacrifices they have made to protect our country when they return home. That is why the Progressive/Black Caucus budget provides over $3 billion more for funding of veterans programs than President Bush. We do not just support our troops with bombs and missiles, we support them along with all American families with access to quality health care and quality schools.

I urge my colleagues to join us in providing true support for our families by voting for the Owens-Cummings-Kucinich-Lee substitute.

Mr. CUMMINGS. Mr. Chairman, I yield 2¾ minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the Cummings-Owens-Kucinich-Lee substitute. The Republican budget contains no specific Medicare or Medicaid cuts, but the fact is it mandates a 1 percent cut in all mandatory spending, which translates to approximately 10-year cuts in Medicare and Medicaid of $215 billion and $93 billion respectively. For Illinois, this means 10-year Medicare cuts of approximately $10 billion and Medicaid cuts of more than $3 billion for the same period. Estimated cuts for my district alone are at least $1.4 billion; cuts in public housing, cuts in education, cuts in veterans' health care, cuts in Justice Department programs.

With the Republican budget, I am afraid that all of the bloodshed we shall see will not be in Iraq. All I am hearing about this budget is cut, cut, cut. I am afraid that when all you do is cut, cut, cut, all that you are going to get is blood, blood, blood. The blood of the American people will be on the hands of those who held the knife.

There are more than 2 million people in jails and prisons throughout the United States. More than 600,000 of them are being released each year. This poses a real threat and a real problem to many communities, especially low-income areas where they come from and return. The Justice Department reports that the cost of crime to victims is $450 billion annually. The proposed Republican House budget cuts Justice programs $4.1 billion below the amount needed to keep up with inflation and $881 million below the President's proposed budget. The Cummings-Owens-Kucinich-Lee budget restores the funding level back up to $3.4 billion for Justice programs and to expand reentry programs for nonviolent ex-offenders to help these individuals transition back into normal life, to get housing or jobs, social service help, to be reconciled with their families and communities, and to cut down on the recidivism rate, which is almost 50 percent.

This is a good budget, a responsible budget, and a problem-solving budget. I am pleased to support the Cummings-Owens-Lee-Kucinich amendment.

Mr. SHAYS. Mr. Chairman, while we obviously have some disagreements with our colleagues on the other side of the aisle on the budgets and what our budget does, I understand my colleague has a number of speakers. We obviously do not have a number. I would be happy to transfer 10 minutes of our time to be controlled by the gentleman so he has an additional 10 minutes to control.

The CHAIRMAN pro tempore (Mr. GOODLATTE). Without objection, the gentleman from Maryland (Mr. CUMMINGS) will control 10 additional minutes.

There was no objection.

Mr. CUMMINGS. I thank the gentleman for yielding that time to us.

Mr. Chairman, how much time do we have left with our 10 minutes?

The CHAIRMAN pro tempore. Counting the additional 10 minutes, the gentleman has 20 minutes remaining.

Mr. CUMMINGS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, in his speech to the Nation on Monday, the President said, "War has no certainty but the certainty of sacrifice." Many in our country are sacrificing. That list begins with the hundreds of thousands of brave young men and women who as we speak are putting their very lives on the line in Iraq out of a sense of duty to their country. But there is one small group of Americans who are not only not being asked to sacrifice, but get huge new benefits in the Republican budget. That would be the millionaires, the richest of the rich, who get most of the $1.4 trillion tax cut in this Republican budget. Warren Buffett, who opposes tax cuts, would get $300 million just from elimination of the stock dividend taxes.

Sacrifice, it seems, is only for the little people. The children sacrifice. Head Start is cut. Health insurance, college loans, school lunch programs are cut. Veterans are asked to sacrifice, again. Veterans disability, education and health care benefits, cut. Seniors, cuts in Medicaid for nursing home care, and forget a meaningful prescription drug benefit under Medicare. Not enough money in the Republican budget.

□ 2045

Homeland Security, for crying out loud, a pathetic .8 percent increase, even more when we are at orange alert and even though only when 2 percent of containers are inspected at ports.

The country is hurting from a struggling economy and war, but this Republican budget shamefully pours salt in the wound. A vote for the Congressional Black Caucus/Progressive Caucus budget is a vote for America's working families.

Mr. CUMMINGS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, the Republican budget is simply unfair and unrealistic. My colleagues on the other side of the aisle have sacrificed prudence for politics. Long-term planning for short-term gain. How else can we explain $1.3 trillion in tax cuts, most of which are given to the most privileged at a time when our schools are crumbling, our veterans are being deprived of the healthcare that they need, and a $348 billion deficit.

The Republicans have proposed cutting $51 billion for the State Children's Health Insurance Program, depriving 5.3 million children of health insurance; cutting $2 billion for the Ryan White programs, depriving people living with AIDS, medical care, and social support they need; cutting $1.5 billion for community health centers, eliminating health care for millions of low-income and uninsured people; eliminating the section 8 program that provides housing for over 300 million low-income families. Even the President's No Child Left Behind education bill, which he constantly touts as a major success, is cut by 8 percent below the inactive level of funding year 2003. Homeland Security is not properly funded. As a matter of fact, it is severely underfunded, putting our police officers, firefighters, and all of our first responders in danger. Where is the compassion that the President promised during his campaign?

I support the Congressional Black Caucus/Progressive Caucus alternative budget because it truly provides relief to Americans and it provides a stimulus to help the economy get back on its feet. Our budget provides healthcare for all Americans. It provides for vital infrastructure improvements throughout the Nation which provide jobs and protect America from potential terrorist threats. It provides $3.5 billion in relief to those inflicted with HIV/AIDS throughout the world, and importantly it provides our men and women in uniform the resources they need. It is indeed a balanced budget that does not burden our children with debt. We must resist this Republican budget, and I am going to urge my colleagues to support this alternative.

In conclusion, the Republican budget is an unjust and shameful budget. If Congress enacts this budget, many Americans will be harmed.

Finally, Mr. Chairman, my constituents have been paying attention to what has been going on with this preemptive strike; and when they heard about the billions of dollars offered to Turkey and other countries in exchange for their support, they said to me, Ms. WATERS, I thought we were broke. I thought we were in deficit. I thought we had no money. Where are you getting the billions of dollars from for Turkey and other countries that you are offering to them simply if they will support this preemptive strike?

Mr. CUMMINGS. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding me this time.

Throughout the time that I have been a Member of Congress, it is always the Congressional Black Caucus that has come forward with a budget that has priorities in it that describe the aspirations that I have for this Nation: the aspirations for quality health care, for education, for economic opportunity, foreclosing of the gap between the richest and the poor, between black and white. It is the Congressional Black Caucus budget that has always been the aspirational budget and again this evening, Mr. Chairman. It is the Congressional Black Caucus budget which among all of the budgets is the best budget that has been to the floor.

In a multitrillion dollar budget, there is always going to be some parts, various things in anybody's budget that everybody can agree to. But this is the best budget that we will debate this evening. It is the most honest budget that we will debate this evening because we say point blank to the American people what my constituents are saying to me over and over again: How in the world can we be cutting taxes? How can we be cutting taxes and spending from deficit spending? How can we be cutting taxes for the richest people in America when we are going to war? And my constituents ask me that all the time. I do not have any answer for them, and some of us are honest enough to say to our constituents we think this is a bad tax cut policy. It makes no sense to turn around and cut taxes and then have a Republican budget that essentially has all of our discretionary spending in every year that we are 10 years out being funded with deficit spending. That is outrageous. That is outrageous.

So this budget is honest. It sets the aspiration for universal healthcare and coverage for all American citizens. It does not play games with it; and I submit that if we pass just the health care part of this budget, there would be so substantial a savings in our health care industry that we would see the benefit of it just from healthier people, from people getting preventative health care rather than rushing to emergency rooms and getting their health care in the most expensive and least efficient manner. That is what we have forced our people to do in this country. We aspire to a better America. That is what this budget does, and I ask my colleagues to support it.

Mr. CUMMINGS. Mr. Chairman, I want to thank the gentleman.

Mr. Chairman, I yield 3½ minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Chairman, let me first thank the gentleman from Connecticut who has so graciously yielded time for us to express ourselves in this august Chamber, as well as the Congressional Black Caucus and the Progressive Caucus under the leadership of the gentleman from Ohio (Mr. KUCINICH) and the gentlewoman from California (Ms. LEE) and of course the gentleman from Baltimore, Maryland (Mr. CUMMINGS) and to the gentleman from New York (Mr. OWENS), the architect that put it all together.

When Governor Bush was running for President, one would think that he picked up a Democratic National Committee Campaign piece of literature. He was for education, Leave No Child Behind, prescription drugs; and when he was appointed to office by the United States Supreme Court and he got there, he had a substantial surplus in the budget, the Social Security trust fund and the Medicare trust fund. It looked like it was on its way to full recovery. But the programs that he had promised, instead of getting that, what we did get was a $1.3 trillion tax cut, most all of which went to the wealthiest Americans in our country. As a result, as we stand here today, the surplus is gone. We have no prescription drugs. We expect devastating cuts in the Republican budget. And one thing that we did not know was that we would be in war. Of course we do not like talking about that because Republicans say if one talks about money and how much the war cost that one is preempting the President from declaring the war; but now that the bombs are dropping, I assume somewhere before this debate is over, somebody would be slipping some papers to us saying what the estimated cost of the war is.

Our budget says that this is the patriotic budget. This is the antiterrorist budget. This is a budget that protects our young people on the field by saying the President did not know, I do not think he knew, that he was going onto declare war before his budget, before his 1.5 trillion tax cuts. So, therefore, what we are saying from a tax policy is let us freeze everything. Let us just put a stop to the tax cuts, a stop to the flooding of our deficit, and just take a look at what America should be all about and adopt this budget as one that is the budget of patriotism, a budget that tells the terrorists that we believe that as the President is concerned with liberating and bringing democracy to Iraq, as the President has a concern about bringing democracy to the region, as the President has a concern to capture the oil fields, increase the production, and get the revenue to improve the education and health care of the people in Iraq, that the antiterrorist patriotic budget says that we have the same commitment and a stronger commitment to the people in the United States of America to provide the health care, the affordable housing, the education to make us more productive so that we can protect this democracy.

We want to give our men and women that are fighting in the Middle East all the protection that they have today; and when they come home, we will be there to say that we fought against cutting their budgets for veterans benefits, for health benefits, and for education benefits. Vote for the patriotic budget. That is the one that is on the floor now.

Mr. CUMMINGS. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I rise in opposition to the Republican 2004 budget with its $1.3 trillion tax cuts and heavy burdens on States and territories and of course in strong support for the CBC/Progressive Caucus alternative budget. The Owens-Cummings-Kucinich-Lee CBC/Progressive Caucus substitute advances the principles of family, hard work, inclusiveness, and national solidarity by calling for increased Federal assistance for education, health care, housing, child care, and business development. It represents the values and moral principles that have made America great.

As Chair of the Health Braintrust of the CBC, I am particularly pleased that this budget reverses many of the cuts in the President's budget which are seen as an attack on programs which would address the health needs of minorities and women. Our budget also calls for the implementation of a single-payer universal health care plan which will guarantee high-standard health care at a lower cost to every person living in the United States, its territories, and commonwealths.

My colleagues, the issue of health disparities for minorities continues to be worse. Last year the Institute of Medicine released a landmark report entitled "Unequal Treatment; Confronting Racial and Ethnic Disparities in Health Care," which documented key findings in areas of health care where minorities receive less than adequate care and recommended various policy changes. These recommendations are reflected in the CBC/Progressive Caucus budget, and they include increasing the budget of the Office of Minority Health, the budget of the National Center for Minority Health and Health Disparities research at the National Institutes of Health, increasing the budget of the Office of Civil Rights to reverse the low-priority status that this important office has in addressing racial and ethnic disparities in health care. It also provides increases for the health professions, including the Health Careers Opportunity program and provides scholarships and loan repayments in order to address the startling underrepresentation of people of color in the health professions.

Mr. Chairman, we have an opportunity to begin to address a number of important problems facing the majority of our constituents, while at the same time providing the resources needed to support our troops and defend our homeland.

□ 2100

Let us not give tax cuts to those who do not need them. Let us invest in the American people, as this CBC Progressive Caucus budget does.

I urge my colleagues to reject the Republican budget and support the Owens-Cummings-Kucinich-Lee alternative.

Mr. Chairman, I rise in opposition to the Republican fiscal year 2004 budget resolution and in strong support of the CBC/Progressive Caucus alternative budget. At a time when our country is facing serious threats of terrorism, as well as waging war on Iraq, my colleagues on the other side of the isle are ignoring current economic problems by continuing to incorporate $1.3 trillion in additional tax cuts while continuing to place additional burdens on the cash-strapped states.

The Owens/Cummings/Kucinich/Lee CBC/Progressive Caucus Substitute advances the principles of family, hard work, inclusiveness and national solidarity by calling for increased federal assistance for education, health-care, housing, childcare and business development. The CBC/CPC Alternative Budget represents the values and moral principles that have made America great.

As the Chair of the CBC Health Braintrust, I am particularly pleased that the CBC/CPC reverses many of the cuts in the President's budget which were seen as an attack on programs to address the health needs of minorities and women. Our budget also calls for the implementation of a single-payer universal health care plan, which will guarantee high standard health care at a lower cost to every person living in the United States, its territories and Commonwealths.

My colleagues, the issue of health disparities for minorities continues to be worse than ever. Minorities are a quarter of our population, but make-up two-thirds of all new AIDS cases. African American infant mortality is twice that of whites. Diabetes afflicts Hispanics twice as often as whites. And African American men suffer prostates cancer at a rate twice that of white men.

Last year, the Institute of Medicine, IOM, released a landmark report entitled: Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care which documented key findings areas in health care where minorities receive less than adequate care and recommended various policy changes to eliminate these unacceptable disparities.

These recommendations included specific funding increases, which the CBC/CPC budget proposes. They include increasing the budget of the Office of Minority Health; the budget of the National Center for Minority Health and Health Disparities at the National Institute of Health and increasing the budget of the Office of Civil Rights at the Departments of HHS to reverse the low-priority status that this important office in addressing racial and ethnic disparities in health care. We also provide increases for funding for Initiatives for Health Professions including the Health Careers Opportunity program, and to provide scholarship and loan repayment relief in order to address the startling under representation of ethnic and minority groups in the health professions.

Mr. Chairman, we have an opportunity to begin to address a number of the major problems facing the majority of our constituents while at the same time provide the resources needed to support our troops and defend our homeland. We can only do this however if we do not follow the wrong lead of our majority colleagues and cut taxes for people who don't need it at a time when we must increase spending.

I urge my colleagues to reject the Republican budget and support the Owens/Cummings/Kucinich/Lee alternative budget.

Mr. CUMMINGS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I would like to thank the gentleman from Maryland, the chairman of the Congressional Black Caucus, for yielding time.

Mr. Chairman, I rise in strong opposition to the Republican budget resolution tonight, and I strongly endorse the Congressional Black Caucus-Progressive Caucus budget resolution and our Democratic alternative.

Immediately after the Republicans passed their budget out of committee, one of the first groups that I heard from to object to their proposal was the American Legion. Representing America's honorable veterans, the American Legion stated that, "The budget defies common sense. There must be a better way to provide tax relief to the American people than to balance the budget on the backs of disabled veterans."

Disabled American Veterans call the House Committee on the Budget budget "indefensible and callous." They represent nearly 1.3 million disabled veterans in the country, and they believe the Republican budget asks veterans to "swallow a bitter pill to remedy an illness of their own making."

Republicans are calling for a $15 billion cut in veteran benefits over the next 10 years. Over $800 million will be cut in health care programs for veterans next year alone. These budget cuts will impact a very large population in my own district.

I would like to just let the Members know in my own district we have over 28,000 veterans from all former wars that are still alive that reside in my district. Many are minority veterans. Mr. Chairman, 1.4 million of those veterans live in the Los Angeles County area; 2.3 million of those veterans live in the State of California.

We must keep in mind that among our troops being sent abroad right now are many young men and women representing our State of California. I know that, because I had an opportunity to meet with many of them in my district. I met three of them, three young women, two Asian women and one Latino. One was a student enrolled in college, telling me that her dream was to come back and become a teacher. The other two were in their profession. They almost had tears in their eyes, telling me that they had actually joined up to be in the Reserve unit, not knowing they would now be faced with something that was unimaginable. I pray for them, and I pray for their families.

Mr. Chairman, I know that what we are doing here tonight is very exemplary, by supporting the Black Caucus budget, the Progressive Caucus and the Democratic alternative, because we care about families, we care about the very people that are spending their time this evening defending our Nation.

Mr. CUMMINGS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me time.

First of all, let me thank the proponents of this budget. As the world watches, as the Nation watches, I believe most Americans as they pray for the troops are wondering whether or not we are caring for them and their needs.

I thank the distinguished chairman of the Congressional Black Caucus, but I also thank the proponents and writers and authors of this legislation, particularly the gentleman from New York (Mr. OWENS), the gentleman from Ohio (Mr. KUCINICH), the gentlewoman from California (Ms. LEE) and any number of individuals, and, as I said, the gentleman from Maryland (Chairman CUMMINGS).

This is a budget that addresses the pain of America. It realizes that it is extremely unrealistic, Mr. Chairman, with the war looming, the needs of home-front security, to give, as the Republican budget wants to do, $726 billion in tax cuts to 1 percent of America. One percent of the rich of America will be getting the big chunk of the Republican budget.

What a tragedy that as our firefighters are laid off, police persons are not being paid and EMS services are cut back, we cannot find the good reason to have a bipartisan budget.

The Congressional Black Caucus budget and the Progressive Caucus budget deals with the pain of America. It provides additional funds for job training and family services. It ensures that education is prioritized, and it really does support No Child Left Behind.

In addition, when we talk about defense, we have unique initiatives; a defense school readiness initiative, which provides for communications equipment and training to public schools; a strategic language and culture initiative that funds higher education initiatives for the study of key languages.

Then we deal with unemployment insurance for the thousands of individuals laid off. We give them an extension in unemployment. Mr. Chairman, let me tell you, we are going to be laying off Americans.

Then with respect to health care, we believe in funding Medicaid so that the least of those who cannot get into our various health facilities will be able to do so. And we support our veterans. We do not throw them out in the street because they do not have the money.

Mr. Chairman, I would simply say that America is looking to this Congress tonight to be receptive to their pain and their need. Who will stand with us and vote for this legislation? I ask my colleagues to vote for this budget and vote against the Republican budget.

Mr. CUMMINGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I thank the Chairman of the Congressional Black Caucus for yielding me time, and especially for his leadership.

Mr. Chairman, I rise in support of the Congressional Black Caucus and Congressional Progressive Caucus budget, which I am proud to support.

Mr. CUMMINGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to take a moment to say that there are a lot of people suffering in our Nation tonight.

The Congressional Black Caucus and the Progressive Caucus believe very strongly that we must have a very balanced approach to addressing our budget concerns. On the one hand, we must be clear to protect ourselves against terrorism, and we must be clear with regard to supporting our troops. On the other hand, Mr. Chairman, we must be clear in taking care of the people who have worked so hard to make this Nation the Nation that it is.

We must work hard, Mr. Chairman, and this is what the Congressional Black Caucus and Progressive Caucus budget does, to help folks like Mr. Shapiro in Baltimore, who said he had been working for years on a prescription drug program, but give me something that is meaningful, because I am about to die. But maybe you can do this for my fellow people in my housing project. Or perhaps it is for the little girl in the eighth grade at West Baltimore Middle School in my district, who still is reading from a textbook where Jimmy Carter is still President. Or it might be the students who are in the honors class at another school in my district, who have no microscopes on their desks, but they are supposed to go on and become great biologists. Then the question becomes, are we taking care of all of our people?

I have often said that we have to protect ourselves from the outside, but we have to be very careful that we do not implode from the inside.

So the fact is that the Congressional Black Caucus and the Progressive Caucus have presented a budget tonight which is one that takes care of our health needs. It is one that truly leaves no family behind. It is one that makes sure that the young people at Morgan State University in Baltimore, where we have to let go 1,000 students every year because they do not have the money, it makes sure that they have the Pell grants that they need.

So, Mr. Chairman, I would urge the House to support the Black Caucus-Progressive Caucus budget.

Mr. Chairman, I want to thank my good friend the gentleman from Connecticut (Mr. SHAYS) for yielding part of his time to us. We really appreciate it.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say that we appreciate the work that went into the Congressional Black Caucus and Progressive Caucus substitute. We understand that they, more than most Members in this House of Representatives, know that there are people suffering tonight. So we do not dispute that fact.

But we believe that the best way to help people who are suffering is first to protect America at home and abroad with a strong national defense and a strong Department of Homeland Security, to strengthen the economy, and create jobs, and to be fiscally responsible. We really believe that is the best way to help people who are suffering.

Mr. Chairman, I think my colleague and I would both agree that we would like to have a budget that is balanced today. We might come to a different conclusion as to why we have gotten to this point. The economy has slowed; I believe that September 11, a day that I will remember in infamy, had something to do with it; and we believe that the best way to get us out of this kind of lull in our economy is to provide an economic engine, which we believe are tax cuts.

So we are providing an increase in defense spending, homeland security, Social Security, Medicare and veterans. We are asking for a 1 percent reduction, a penny on the dollar, this year, in discretionary and mandatory programs. We think this 1 cent on the dollar for 1 year is something that we can do as mature and responsible Members of the Congress. Lord knows our political colleagues in the statehouses and in local communities are having to make much more difficult decisions.

I would conclude by saying that when I hear references of who is getting the taxes, we acknowledge this: That the people who pay taxes get the tax cuts. That is true. Five percent of the American people pay 50 percent of the taxes, and 50 percent of the American people pay 96.5 percent of the taxes, and they get the tax cut. But we also know when they get this tax cut, they use it to invest in America and create jobs for all Americans.

I know we have another budget to consider, so I will conclude my remarks. I appreciate the dialogue that has taken place on the floor tonight.

Mr. Chairman, I urge my colleagues to not support this budget substitute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. GOODLATTE). All time for debate has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Maryland (Mr. CUMMINGS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. CUMMINGS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 340, not voting 9, as follows:

[Roll No. 80]

AYES—85

Ackerman
Baldwin
Ballance
Becerra
Berman
Bishop (GA)
Brady (PA)
Brown, Corrine
Capuano
Carson (IN)
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (IL)
DeFazio
Delahunt
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hinojosa
Honda
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kilpatrick
Kucinich
Lee
Lewis (GA)
Lofgren
Majette
Maloney
Markey
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Payne
Pelosi
Rangel
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Slaughter
Solis
Stark
Thompson (MS)
Tierney
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wynn

NOES—340

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito

Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

### NOT VOTING—9

Buyer
Dooley (CA)
Gephardt
Hyde
Lipinski
Mollohan
Thornberry
Towns
Udall (CO)

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain on this vote.

□ 2132

Ms. McCOLLUM and Messrs. UDALL of New Mexico, HEFLEY, CANNON, KANJORSKI, PALLONE, and SAXTON changed their vote from "aye" to "no."

Mrs. JONES of Ohio and Ms. MAJETTE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 in the nature of a substitute printed in House Report 108-44, as modified by the special order of today.

### PART B AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer amendment No. 4 in the nature of a substitute, as modified.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute, as modified.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Part B Amendment No. 4 in the nature of a substitute, as modified, offered by Mr. SPRATT:

Strike all after the resolving clause and insert the following:

### SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

The Congress declares that the concurrent resolution on the budget for fiscal year 2004 is hereby established and that the appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 are hereby set forth.

## TITLE I—RECOMMENDED LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2003 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2003: $1,272,734,000,000.
Fiscal year 2004: $1,482,270,000,000.
Fiscal year 2005: $1,612,826,000,000.
Fiscal year 2006: $1,753,572,000,000.
Fiscal year 2007: $1,871,037,000,000.
Fiscal year 2008: $1,988,889,000,000.
Fiscal year 2009: $2,106,276,000,000.
Fiscal year 2010: $2,234,002,000,000.
Fiscal year 2011: $2,454,496,000,000.
Fiscal year 2012: $2,638,779,000,000.
Fiscal year 2013: $2,779,210,000,000.

(B)(i) The amounts by which the aggregate levels of Federal revenues should be reduced for the following fiscal years are as follows:

Fiscal year 2003: $87,100,000,000.
Fiscal year 2005: $4,200,000,000.
Fiscal year 2012: $11,000,000,000.
Fiscal year 2013: $25,000,000,000.

(ii) The amounts by which the aggregate levels of Federal revenues should be increased for the following fiscal years are as follows:

Fiscal year 2004: $15,900,000,000.
Fiscal year 2006: $12,900,000,000.
Fiscal year 2007: $17,871,000,000.
Fiscal year 2008: $25,912,000,000.
Fiscal year 2009: $27,946,000,000.
Fiscal year 2010: $40,960,000,000.
Fiscal year 2011: $27,000,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2003: $1,831,543,000,000.
Fiscal year 2004: $1,867,617,000,000
Fiscal year 2005: $1,977,048,000,000.
Fiscal year 2006: $2,105,672,000,000.
Fiscal year 2007: $2,222,302,000,000.
Fiscal year 2008: $2,336,955,000,000.
Fiscal year 2009: $2,442,555,000,000.
Fiscal year 2010: $2,550,402,000,000.
Fiscal year 2011: $2,681,736,000,000.
Fiscal year 2012: $2,770,347,000,000.
Fiscal year 2013: $2,869,957,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2003: $1,818,315,000,000.
Fiscal year 2004: $1,858,102,000,000.
Fiscal year 2005: $1,963,008,000,000.
Fiscal year 2006: $2,071,052,000,000.
Fiscal year 2007: $2,184,699,000,000.
Fiscal year 2008: $2,300,905,000,000.
Fiscal year 2009: $2,413,004,000,000.
Fiscal year 2010: $2,525,322,000,000.
Fiscal year 2011: $2,663,603,000,000.
Fiscal year 2012: $2,737,816,000,000.
Fiscal year 2013: $2,873,559,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2003: $545,581,000,000.
Fiscal year 2004: $375,832,000,000.
Fiscal year 2005: $350,182,000,000.
Fiscal year 2006: $317,480,000,000.
Fiscal year 2007: $313,662,000,000.
Fiscal year 2008: $312,016,000,000.
Fiscal year 2009: $306,728,000,000.
Fiscal year 2010: $291,320,000,000.
Fiscal year 2011: $209,108,000,000.
Fiscal year 2012: $99,037,000,000.
Fiscal year 2013: $94,349,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,783,510,000,000.
Fiscal year 2004: $7,238,529,000,000.
Fiscal year 2005: $7,695,289,000,000.
Fiscal year 2006: $8,140,057,000,000.
Fiscal year 2007: $8,582,792,000,000.
Fiscal year 2008: $9,027,564,000,000.
Fiscal year 2009: $9,468,646,000,000.
Fiscal year 2010: $9,898,898,000,000.
Fiscal year 2011: $10,250,582,000,000.
Fiscal year 2012: $10,498,763,000,000.
Fiscal year 2013: $10,743,438,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2003: $3,954,143,000,000.
Fiscal year 2004: $4,153,648,000,000.
Fiscal year 2005: $4,317,014,000,000.
Fiscal year 2006: $4,435,047,000,000.
Fiscal year 2007: $4,526,162,000,000.
Fiscal year 2008: $4,594,876,000,000.

Fiscal year 2009: $4,638,044,000,000.
Fiscal year 2010: $4,646,359,000,000.
Fiscal year 2011: $4,553,659,000,000.
Fiscal year 2012: $4,335,482,000,000.
Fiscal year 2013: $4,097,406,000,000.

**SEC. 102. MAJOR FUNCTIONAL CATEGORIES.**

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2003 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2003:
(A) New budget authority, $392,494,000,000.
(B) Outlays, $386,229,000,000.
Fiscal year 2004:
(A) New budget authority, $400,546,000,000.
(B) Outlays, $400,916,000,000.
Fiscal year 2005:
(A) New budget authority, $420,071,000,000.
(B) Outlays, $414,237,000,000.
Fiscal year 2006:
(A) New budget authority, $440,185,000,000.
(B) Outlays, $426,011,000,000.
Fiscal year 2007:
(A) New budget authority, $460,435,000,000.
(B) Outlays, $438,656,000,000.
Fiscal year 2008:
(A) New budget authority, $480,886,000,000.
(B) Outlays, $462,861,000,000.
Fiscal year 2009:
(A) New budget authority, $490,817,000,000.
(B) Outlays, $478,499,000,000.
Fiscal year 2010:
(A) New budget authority, $500,590,000,000.
(B) Outlays, $491,801,000,000.
Fiscal year 2011:
(A) New budget authority, $511,603,000,000.
(B) Outlays, $507,486,000,000.
Fiscal year 2012:
(A) New budget authority, $522,781,000,000.
(B) Outlays, $511,780,000,000.
Fiscal year 2013:
(A) New budget authority, $534,323,000,000.
(B) Outlays, $528,178,000,000.

(2) International Affairs (150):
Fiscal year 2003:
(A) New budget authority, $22,506,000,000.
(B) Outlays, $19,283,000,000.
Fiscal year 2004:
(A) New budget authority, $24,873,000,000.
(B) Outlays, $23,808,000,000.
Fiscal year 2005:
(A) New budget authority, $28,822,000,000.
(B) Outlays, $24,283,000,000.
Fiscal year 2006:
(A) New budget authority, $31,349,000,000.
(B) Outlays, $25,799,000,000.
Fiscal year 2007:
(A) New budget authority, $32,591,000,000.
(B) Outlays, $27,646,000,000.
Fiscal year 2008:
(A) New budget authority, $33,557,000,000.
(B) Outlays, $28,719,000,000.
Fiscal year 2009:
(A) New budget authority, $34,329,000,000.
(B) Outlays, $29,818,000,000.
Fiscal year 2010:
(A) New budget authority, $35,150,000,000.
(B) Outlays, $30,743,000,000.
Fiscal year 2011:
(A) New budget authority, $36,001,000,000.
(B) Outlays, $31,590,000,000.
Fiscal year 2012:
(A) New budget authority, $36,845,000,000.
(B) Outlays, $32,408,000,000.
Fiscal year 2013:
(A) New budget authority, $37,699,000,000.
(B) Outlays, $33,274,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2003:
(A) New budget authority, $23,153,000,000.
(B) Outlays, $21,556,000,000.
Fiscal year 2004:
(A) New budget authority, $23,525,000,000.
(B) Outlays, $22,848,000,000.
Fiscal year 2005:
(A) New budget authority, $24,330,000,000.
(B) Outlays, $23,618,000,000.
Fiscal year 2006:
(A) New budget authority, $25,112,000,000.
(B) Outlays, $24,316,000,000.
Fiscal year 2007:
(A) New budget authority, $25,949,000,000.
(B) Outlays, $25,097,000,000.
Fiscal year 2008:
(A) New budget authority, $26,722,000,000.
(B) Outlays, $25,833,000,000.
Fiscal year 2009:
(A) New budget authority, $27,350,000,000.
(B) Outlays, $26,528,000,000.
Fiscal year 2010:
(A) New budget authority, $28,006,000,000.
(B) Outlays, $27,183,000,000.
Fiscal year 2011:
(A) New budget authority, $28,687,000,000.
(B) Outlays, $27,847,000,000.
Fiscal year 2012:
(A) New budget authority, $29,372,000,000.
(B) Outlays, $28,520,000,000.
Fiscal year 2013:
(A) New budget authority, $30,062,000,000.
(B) Outlays, $29,198,000,000.

(4) Energy (270)
Fiscal year 2003:
(A) New budget authority, $2,074,000,000.
(B) Outlays, $439,000,000.
Fiscal year 2004:
(A) New budget authority, $2,587,000,000.
(B) Outlays, $929,000,000.
Fiscal year 2005:
(A) New budget authority, $2,710,000,000.
(B) Outlays, $962,000,000.
Fiscal year 2006:
(A) New budget authority, $2,613,000,000.
(B) Outlays, $1,245,000,000.
Fiscal year 2007:
(A) New budget authority, $2,432,000,000.
(B) Outlays, $1,023,000,000.
Fiscal year 2008:
(A) New budget authority, $2,988,000,000.
(B) Outlays, $1,402,000,000.
Fiscal year 2009:
(A) New budget authority, $2,977,000,000.
(B) Outlays, $1,663,000,000.
Fiscal year 2010:
(A) New budget authority, $3,085,000,000.
(B) Outlays, $1,784,000,000.
Fiscal year 2011:
(A) New budget authority, $3,182,000,000.
(B) Outlays, $1,957,000,000.
Fiscal year 2012:
(A) New budget authority, $3,289,000,000.
(B) Outlays, $2,319,000,000.
Fiscal year 2013:
(A) New budget authority, $3,402,000,000.
(B) Outlays, $2,295,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 2003:
(A) New budget authority, $30,816,000,000.
(B) Outlays, $28,940,000,000.
Fiscal year 2004:
(A) New budget authority, $32,894,000,000.
(B) Outlays, $31,212,000,000.
Fiscal year 2005:
(A) New budget authority, $33,589,000,000.
(B) Outlays, $32,403,000,000.
Fiscal year 2006:
(A) New budget authority, $34,567,000,000.
(B) Outlays, $33,991,000,000.
Fiscal year 2007:
(A) New budget authority, $35,393,000,000.
(B) Outlays, $34,735,000,000.
Fiscal year 2008:
(A) New budget authority, $36,272,000,000.
(B) Outlays, $35,424,000,000.
Fiscal year 2009:
(A) New budget authority, $37,690,000,000.
(B) Outlays, $36,735,000,000.
Fiscal year 2010:
(A) New budget authority, $38,838,000,000.
(B) Outlays, $37,845,000,000.
Fiscal year 2011:
(A) New budget authority, $39,958,000,000.
(B) Outlays, $38,956,000,000.
Fiscal year 2012:
(A) New budget authority, $40,980,000,000.
(B) Outlays, $39,945,000,000.
Fiscal year 2013:
(A) New budget authority, $42,003,000,000.
(B) Outlays, $41,032,000,000.

(6) Agriculture (350):
Fiscal year 2003:
(A) New budget authority, $24,418,000,000.
(B) Outlays, $23,365,000,000.
Fiscal year 2004:
(A) New budget authority, $25,212,000,000.
(B) Outlays, $23,909,000,000.
Fiscal year 2005:
(A) New budget authority, $27,272,000,000.
(B) Outlays, $26,047,000,000.
Fiscal year 2006:
(A) New budget authority, $27,129,000,000.
(B) Outlays, $25,934,000,000.
Fiscal year 2007:
(A) New budget authority, $26,681,000,000.
(B) Outlays, $25,521,000,000.
Fiscal year 2008:
(A) New budget authority, $25,911,000,000.
(B) Outlays, $24,772,000,000.
Fiscal year 2009:
(A) New budget authority, $26,510,000,000.
(B) Outlays, $25,534,000,000.
Fiscal year 2010:
(A) New budget authority, $25,979,000,000.
(B) Outlays, $25,136,000,000.
Fiscal year 2011:
(A) New budget authority, $25,441,000,000.
(B) Outlays, $24,617,000,000.
Fiscal year 2012:
(A) New budget authority, $25,038,000,000.
(B) Outlays, $24,230,000,000.
Fiscal year 2013:
(A) New budget authority, $24,777,000,000.
(B) Outlays, $23,695,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 2003:
(A) New budget authority, $8,812,000,000.
(B) Outlays, $5,881,000,000.
Fiscal year 2004:
(A) New budget authority, $7,513,000,000.
(B) Outlays, $3,588,000,000.
Fiscal year 2005:
(A) New budget authority, $8,795,000,000.
(B) Outlays, $4,062,000,000.
Fiscal year 2006:
(A) New budget authority, $8,795,000,000.
(B) Outlays, $3,580,000,000.
Fiscal year 2007:
(A) New budget authority, $8,687,000,000.
(B) Outlays, $3,365,000,000.
Fiscal year 2008:
(A) New budget authority, $8,798,000,000.
(B) Outlays, $2,575,000,000.
Fiscal year 2009:
(A) New budget authority, $9,013,000,000.
(B) Outlays, $2,723,000,000.
Fiscal year 2010:
(A) New budget authority, $9,065,000,000.
(B) Outlays, $2,468,000,000.
Fiscal year 2011:
(A) New budget authority, $9,262,000,000.
(B) Outlays, $2,086,000,000.
Fiscal year 2012:
(A) New budget authority, $9,347,000,000.
(B) Outlays, $1,708,000,000.
Fiscal year 2013:
(A) New budget authority, $9,556,000,000.
(B) Outlays, $1,878,000,000.

(8) Transportation (400):
Fiscal year 2003:

(A) New budget authority, $64,091,000,000.

(B) Outlays, $67,847,000,000.

Fiscal year 2004:

(A) New budget authority, $66,467,000,000.

(B) Outlays, $69,384,000,000.

Fiscal year 2005:

(A) New budget authority, $67,565,000,000.

(B) Outlays, $68,819,000,000.

Fiscal year 2006:

(A) New budget authority, $68,782,000,000.

(B) Outlays, $69,399,000,000.

Fiscal year 2007:

(A) New budget authority, $70,053,000,000.

(B) Outlays, $70,731,000,000.

Fiscal year 2008:

(A) New budget authority, $71,238,000,000.

(B) Outlays, $72,328,000,000.

Fiscal year 2009:

(A) New budget authority, $72,512,000,000.

(B) Outlays, $74,025,000,000.

Fiscal year 2010:

(A) New budget authority, $73,783,000,000.

(B) Outlays, $75,812,000,000.

Fiscal year 2011:

(A) New budget authority, $75,585,000,000.

(B) Outlays, $77,692,000,000.

Fiscal year 2012:

(A) New budget authority, $77,386,000,000.

(B) Outlays, $79,690,000,000.

Fiscal year 2013:

(A) New budget authority, $79,265,000,000.

(B) Outlays, $81,732,000,000.

(9) Community and Regional Development (450):

Fiscal year 2003:

(A) New budget authority, $12,251,000,000.

(B) Outlays, $15,994,000,000.

Fiscal year 2004:

(A) New budget authority, $14,935,000,000.

(B) Outlays, $16,205,000,000.

Fiscal year 2005:

(A) New budget authority, $15,128,000,000.

(B) Outlays, $16,479,000,000.

Fiscal year 2006:

(A) New budget authority, $15,429,000,000.

(B) Outlays, $15,754,000,000.

Fiscal year 2007:

(A) New budget authority, $15,759,000,000.

(B) Outlays, $15,674,000,000.

Fiscal year 2008:

(A) New budget authority, $16,152,000,000.

(B) Outlays, $15,256,000,000.

Fiscal year 2009:

(A) New budget authority, $16,519,000,000.

(B) Outlays, $15,565,000,000.

Fiscal year 2010:

(A) New budget authority, $16,906,000,000.

(B) Outlays, $15,914,000,000.

Fiscal year 2011:

(A) New budget authority, $17,306,000,000.

(B) Outlays, $16,300,000,000.

Fiscal year 2012:

(A) New budget authority, $17,705,000,000.

(B) Outlays, $16,676,000,000.

Fiscal year 2013:

(A) New budget authority, $18,110,000,000.

(B) Outlays, $17,079,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2003:

(A) New budget authority, $82,699,000,000.

(B) Outlays, $81,455,000,000.

Fiscal year 2004:

(A) New budget authority, $89,231,000,000.

(B) Outlays, $86,741,000,000.

Fiscal year 2005:

(A) New budget authority, $90,187,000,000.

(B) Outlays, $90,153,000,000.

Fiscal year 2006:

(A) New budget authority, $92,372,000,000.

(B) Outlays, $91,751,000,000.

Fiscal year 2007:

(A) New budget authority, $94,186,000,000.

(B) Outlays, $93,333,000,000.

Fiscal year 2008:

(A) New budget authority, $96,078,000,000.

(B) Outlays, $95,182,000,000.

Fiscal year 2009:

(A) New budget authority, $98,047,000,000.

(B) Outlays, $97,090,000,000.

Fiscal year 2010:

(A) New budget authority, $100,149,000,000.

(B) Outlays, $99,155,000,000.

Fiscal year 2011:

(A) New budget authority, $102,497,000,000.

(B) Outlays, $101,344,000,000.

Fiscal year 2012:

(A) New budget authority, $104,761,000,000.

(B) Outlays, $103,610,000,000.

Fiscal year 2013:

(A) New budget authority, $107,105,000,000.

(B) Outlays, $105,956,000,000.

(11) Health (550):

Fiscal year 2003:

(A) New budget authority, $231,653,000,000.

(B) Outlays, $227,796,000,000.

Fiscal year 2004:

(A) New budget authority, $238,353,000,000.

(B) Outlays, $236,574,000,000.

Fiscal year 2005:

(A) New budget authority, $253,424,000,000.

(B) Outlays, $253,184,000,000.

Fiscal year 2006:

(A) New budget authority, $271,423,000,000.

(B) Outlays, $270,524,000,000.

Fiscal year 2007:

(A) New budget authority, $292,423,000,000.

(B) Outlays, $290,938,000,000.

Fiscal year 2008:

(A) New budget authority, $314,333,000,000.

(B) Outlays, $312,907,000,000.

Fiscal year 2009:

(A) New budget authority, $337,338,000,000.

(B) Outlays, $335,970,000,000.

Fiscal year 2010:

(A) New budget authority, $363,412,000,000.

(B) Outlays, $360,992,000,000.

Fiscal year 2011:

(A) New budget authority, $391,476,000,000.

(B) Outlays, $389,861,000,000.

Fiscal year 2012:

(A) New budget authority, $422,084,000,000.

(B) Outlays, $420,023,000,000.

Fiscal year 2013:

(A) New budget authority, $455,673,000,000.

(B) Outlays, $453,522,000,000.

(12) Medicare (570):

Fiscal year 2003:

(A) New budget authority, $248,586,000,000.

(B) Outlays, $248,434,000,000.

Fiscal year 2004:

(A) New budget authority, $261,750,000,000.

(B) Outlays, $262,022,000,000.

Fiscal year 2005:

(A) New budget authority, $276,023,000,000.

(B) Outlays, $278,953,000,000.

Fiscal year 2006:

(A) New budget authority, $319,263,000,000.

(B) Outlays, $316,006,000,000.

Fiscal year 2007:

(A) New budget authority, $351,571,000,000.

(B) Outlays, $351,822,000,000.

Fiscal year 2008:

(A) New budget authority, $379,712,000,000.

(B) Outlays, $379,565,000,000.

Fiscal year 2009:

(A) New budget authority, $409,822,000,000.

(B) Outlays, $409,553,000,000.

Fiscal year 2010:

(A) New budget authority, $441,465,000,000.

(B) Outlays, $442,719,000,000.

Fiscal year 2011:

(A) New budget authority, $484,282,000,000.

(B) Outlays, $487,635,000,000.

Fiscal year 2012:

(A) New budget authority, $522,221,000,000.

(B) Outlays, $518,390,000,000.

Fiscal year 2013:

(A) New budget authority, $565,545,000,000.

(B) Outlays, $565,794,000,000.

(13) Income Security (600):

Fiscal year 2003:

(A) New budget authority, $322,074,000,000.

(B) Outlays, $329,797,000,000.

Fiscal year 2004:

(A) New budget authority, $322,458,000,000.

(B) Outlays, $324,488,000,000.

Fiscal year 2005:

(A) New budget authority, $332,172,000,000.

(B) Outlays, $333,684,000,000.

Fiscal year 2006:

(A) New budget authority, $340,968,000,000.

(B) Outlays, $342,304,000,000.

Fiscal year 2007:

(A) New budget authority, $349,004,000,000.

(B) Outlays, $350,185,000,000.

Fiscal year 2008:

(A) New budget authority, $362,022,000,000.

(B) Outlays, $362,757,000,000.

Fiscal year 2009:

(A) New budget authority, $373,427,000,000.

(B) Outlays, $374,367,000,000.

Fiscal year 2010:

(A) New budget authority, $386,204,000,000.

(B) Outlays, $387,392,000,000.

Fiscal year 2011:

(A) New budget authority, $403,672,000,000.

(B) Outlays, $404,893,000,000.

Fiscal year 2012:

(A) New budget authority, $395,443,000,000.

(B) Outlays, $396,952,000,000.

Fiscal year 2013:

(A) New budget authority, $410,730,000,000.

(B) Outlays, $412,578,000,000.

(14) Social Security (650):

Fiscal year 2003:

(A) New budget authority, $13,255,000,000.

(B) Outlays, $13,255,000,000.

Fiscal year 2004:

(A) New budget authority, $14,345,000,000.

(B) Outlays, $14,282,000,000.

Fiscal year 2005:

(A) New budget authority, $15,467,000,000.

(B) Outlays, $15,431,000,000.

Fiscal year 2006:

(A) New budget authority, $16,591,000,000.

(B) Outlays, $16,568,000,000.

Fiscal year 2007:

(A) New budget authority, $18,117,000,000.

(B) Outlays, $18,099,000,000.

Fiscal year 2008:

(A) New budget authority, $20,011,000,000.

(B) Outlays, $19,994,000,000.

Fiscal year 2009:

(A) New budget authority, $22,213,000,000.

(B) Outlays, $22,197,000,000.

Fiscal year 2010:

(A) New budget authority, $24,511,000,000.

(B) Outlays, $24,494,000,000.

Fiscal year 2011:

(A) New budget authority, $28,395,000,000.

(B) Outlays, $28,376,000,000.

Fiscal year 2012:

(A) New budget authority, $31,615,000,000.

(B) Outlays, $31,596,000,000.

Fiscal year 2013:

(A) New budget authority, $34,679,000,000.

(B) Outlays, $34,660,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2003:

(A) New budget authority, $57,597,000,000.

(B) Outlays, $57,486,000,000.

Fiscal year 2004:

(A) New budget authority, $62,200,000,000.

(B) Outlays, $61,665,000,000.

Fiscal year 2005:

(A) New budget authority, $67,684,000,000.

(B) Outlays, $66,860,000,000.

Fiscal year 2006:

(A) New budget authority, $65,814,000,000.

(B) Outlays, $65,606,000,000.

Fiscal year 2007:

(A) New budget authority, $64,709,000,000.
(B) Outlays, $64,288,000,000.
Fiscal year 2008:
(A) New budget authority, $68,810,000,000.
(B) Outlays, $68,612,000,000.
Fiscal year 2009:
(A) New budget authority, $70,492,000,000.
(B) Outlays, $70,236,000,000.
Fiscal year 2010:
(A) New budget authority, $72,282,000,000.
(B) Outlays, $71,975,000,000.
Fiscal year 2011:
(A) New budget authority, $77,034,000,000.
(B) Outlays, $76,712,000,000.
Fiscal year 2012:
(A) New budget authority, $74,059,000,000.
(B) Outlays, $73,550,000,000.
Fiscal year 2013:
(A) New budget authority, $78,960,000,000.
(B) Outlays, $78,515,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $41,193,000,000.
(B) Outlays, $40,631,000,000.
Fiscal year 2005:
(A) New budget authority, $39,934,000,000.
(B) Outlays, $40,424,000,000.
Fiscal year 2006:
(A) New budget authority, $40,192,000,000.
(B) Outlays, $40,133,000,000.
Fiscal year 2007:
(A) New budget authority, $40,927,000,000.
(B) Outlays, $40,510,000,000.
Fiscal year 2008:
(A) New budget authority, $42,140,000,000.
(B) Outlays, $41,668,000,000.
Fiscal year 2009:
(A) New budget authority, $43,421,000,000.
(B) Outlays, $42,905,000,000.
Fiscal year 2010:
(A) New budget authority, $44,752,000,000.
(B) Outlays, $44,211,000,000.
Fiscal year 2011:
(A) New budget authority, $46,131,000,000.
(B) Outlays, $45,577,000,000.
Fiscal year 2012:
(A) New budget authority, $47,556,000,000.
(B) Outlays, $46,971,000,000.
Fiscal year 2013:
(A) New budget authority, $48,987,000,000.
(B) Outlays, $48,414,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,178,000,000.
(B) Outlays, $18,103,000,000.
Fiscal year 2004:
(A) New budget authority, $20,255,000,000.
(B) Outlays, $19,820,000,000.
Fiscal year 2005:
(A) New budget authority, $20,643,000,000.
(B) Outlays, $20,677,000,000.
Fiscal year 2006:
(A) New budget authority, $20,410,000,000.
(B) Outlays, $20,381,000,000.
Fiscal year 2007:
(A) New budget authority, $20,842,000,000.
(B) Outlays, $20,533,000,000.
Fiscal year 2008:
(A) New budget authority, $20,920,000,000.
(B) Outlays, $20,646,000,000.
Fiscal year 2009:
(A) New budget authority, $21,619,000,000.
(B) Outlays, $21,138,000,000.
Fiscal year 2010:
(A) New budget authority, $22,361,000,000.
(B) Outlays, $21,835,000,000.
Fiscal year 2011:
(A) New budget authority, $23,110,000,000.
(B) Outlays, $22,560,000,000.
Fiscal year 2012:
(A) New budget authority, $23,905,000,000.
(B) Outlays, $23,489,000,000.
Fiscal year 2013:
(A) New budget authority, $24,714,000,000.
(B) Outlays, $24,121,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $240,447,000,000.
(B) Outlays, $240,447,000,000.
Fiscal year 2004:
(A) New budget authority, $257,374,000,000.
(B) Outlays, $257,374,000,000.
Fiscal year 2005:
(A) New budget authority, $300,930,000,000.
(B) Outlays, $300,930,000,000.
Fiscal year 2006:
(A) New budget authority, $335,137,000,000.
(B) Outlays, $335,137,000,000.
Fiscal year 2007:
(A) New budget authority, $357,478,000,000.
(B) Outlays, $357,478,000,000.
Fiscal year 2008:
(A) New budget authority, $377,426,000,000.
(B) Outlays, $377,426,000,000.
Fiscal year 2009:
(A) New budget authority, $396,894,000,000.
(B) Outlays, $396,894,000,000.
Fiscal year 2010:
(A) New budget authority, $414,220,000,000.
(B) Outlays, $414,220,000,000.
Fiscal year 2011:
(A) New budget authority, $430,321,000,000.
(B) Outlays, $430,321,000,000.
Fiscal year 2012:
(A) New budget authority, $442,545,000,000.
(B) Outlays, $442,545,000,000.
Fiscal year 2013:
(A) New budget authority, $449,801,000,000.
(B) Outlays, $449,801,000,000.
(19) Allowances (920):
Fiscal year 2003:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $39,000,000,000.
Fiscal year 2004:
(A) New budget authority, $4,800,000,000.
(B) Outlays, $4,800,000,000.
Fiscal year 2005:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,900,000,000.
Fiscal year 2006:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $4,000,000,000.
Fiscal year 2007:
(A) New budget authority, $6,600,000,000.
(B) Outlays, $6,600,000,000.
Fiscal year 2008:
(A) New budget authority, $6,519,000,000.
(B) Outlays, $6,519,000,000.
Fiscal year 2009:
(A) New budget authority, $4,174,000,000.
(B) Outlays, $4,174,000,000.
Fiscal year 2010:
(A) New budget authority, $4,329,000,000.
(B) Outlays, $4,329,000,000.
Fiscal year 2011:
(A) New budget authority, $4,634,000,000.
(B) Outlays, $4,634,000,000.
Fiscal year 2012:
(A) New budget authority, $2,440,000,000.
(B) Outlays, $2,440,000,000.
Fiscal year 2013:
(A) New budget authority, $2,796,000,000.
(B) Outlays, $2,796,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2003:
(A) New budget authority, −$41,104,000,000.
(B) Outlays, −$41,104,000,000.
(A) New budget authority, −$42,894,000,000.
(B) Outlays, −$42,894,000,000.
Fiscal year 2005:
(A) New budget authority, −$52,598,000,000.
(B) Outlays, −$52,598,000,000.
Fiscal year 2006:
(A) New budget authority, −$54,459,000,000.
(B) Outlays, −$54,459,000,000.
Fiscal year 2007:
(A) New budget authority, −$51,535,000,000.
(B) Outlays, −$51,535,000,000.
Fiscal year 2008:
(A) New budget authority, −$53,540,000,000.
(B) Outlays, −$53,540,000,000.
Fiscal year 2009:
(A) New budget authority, −$52,609,000,000.
(B) Outlays, −$52,609,000,000.
Fiscal year 2010:
(A) New budget authority, −$54,685,000,000.
(B) Outlays, −$54,685,000,000.
Fiscal year 2011:
(A) New budget authority, −$56,841,000,000.
(B) Outlays, −$56,841,000,000.
Fiscal year 2012:
(A) New budget authority, −$59,025,000,000.
(B) Outlays, −$59,025,000,000.
Fiscal year 2013:
(A) New budget authority, −$61,229,000,000.
(B) Outlays, −$61,229,000,000.

## TITLE II—RESERVE FUNDS

### SEC. 201. RESERVE FUND FOR MEDICARE PRESCRIPTION DRUGS.

(a) MEDICARE PRESCRIPTION DRUG BENEFIT.—In the House, if the Committee on Ways and Means, the Committee on Energy and Commerce, or both committees report a bill, or an amendment is offered thereto or a conference report thereon is submitted, which provides a prescription drug benefit under the medicare program that is voluntary, equitable, comprehensive, affordable, dependable, protects beneficiary access to drugs, and is cost effective, the chairman of the Committee on the Budget shall revise allocations and adjust aggregates in this resolution by the amount provided by that measure for that purpose, subject to section 203.

(b) DEFINITIONS.—As used in this section:

(1) The term "equitable" means that all medicare beneficiaries shall receive comprehensive prescription drug coverage and that coverage shall be accessible to all beneficiaries regardless of where they live.

(2) The term "comprehensive, affordable, and dependable" means that all beneficiaries shall have access to a drug benefit that contains a defined benefit and premium and coverage at all levels of drug spending, is administered through a stable and dependable delivery system so that beneficiaries will not lose coverage or face significant premium increases from one year to the next, and provides additional assistance with premiums and cost sharing to low-income beneficiaries.

(3) The term "protects beneficiary access to drugs" means that the benefit shall include coverage for all medically necessary drugs and shall preserve access to local pharmacies.

(4) The term "cost effective" means that the benefit shall include measures that lower the cost of prescription drugs and not include measures that would encourage employers to drop existing retiree coverage.

### SEC. 202. RESERVE FUND FOR HEALTH INSURANCE COVERAGE FOR THE UNINSURED.

In the House, if the Committee on Ways and Means, the Committee on Energy and Commerce, or both committees report a bill, or an amendment is offered thereto or a conference report thereon is submitted, that would provide affordable, comprehensive health insurance coverage to the uninsured and builds upon and strengthens public and private coverage, including preventing the erosion of existing coverage under medicaid, the chairman of the Committee on the Budget shall revise allocations and adjust aggregates and in this resolution by the amount provided by that measure for that purpose, subject to section 203.

### SEC. 203. TOTAL ADJUSTMENTS TO ALLOW FOR MEDICARE PRESCRIPTION DRUG BENEFIT AND HEALTH INSURANCE COVERAGE.

The total of adjustments allowed under sections 201 and 202 shall not increase the cumulative deficit or decrease the cumulative surplus (whether by changes in revenues or direct spending) by more than $131,000,000,000 for the period of fiscal years 2004 through 2008 and $528,000,000,000 for the period of fiscal years 2004 through 2013, excluding interest.

### SEC. 204. CONTINGENCY PROCEDURE FOR SURFACE TRANSPORTATION.

(a) Committee on Transportation and Infrastructure.—In the House, if the Committee on Transportation and Infrastructure reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $39,233,000,000,

(2) for fiscal year 2005: $39,998,000,000,

(3) for fiscal year 2006: $40,841,000,000,

(4) for fiscal year 2007: $41,684,000,000, or

(5) for fiscal year 2008: $42,605,000,000,

the chairman of the Committee on the Budget may adjust the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2004 and for the period of fiscal years 2004 through 2008 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation.

(b) Adjustment for Outlays.—In the House, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $38,594,000,000 for fiscal year 2004, for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).

## TITLE III—SENSE OF CONGRESS PROVISIONS

### SEC. 301. SENSE OF THE CONGRESS REGARDING FUNDING FOR HOMELAND SECURITY.

(a) Findings.—Congress finds that—

(1) the President's budget includes a total of $41.3 billion for all homeland security activities for 2004, including mandatory, discretionary, and fee-funded activities;

(2) the President's current budget does not contain any additional funding for 2003 for homeland security beyond what has already been provided; and

(3) there is need for additional homeland security resources for 2003, 2004, and subsequent years in order to protect our country against terrorist attacks.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) this resolution provides $10 billion in additional homeland security funding for 2003, and a total of $24 billion in additional homeland security funding in the years 2004-13, for a total of $34 billion above the President's request over the time period covered by this resolution; and

(2) this funding provides the resources needed to train and equip our first responders, strengthen the security of the Nation's transportation system and other critical infrastructure, increase the preparedness of our public health system, and secure our borders.

### SEC. 302. SENSE OF THE CONGRESS REGARDING THE CONSERVATION SPENDING CATEGORY.

(a) Findings.—Congress finds that—

(1) the fiscal year 2001 Interior Appropriations Act (P.L. 106-291), which established a separate discretionary spending category for land conservation and natural resource protection programs for the fiscal years 2001 through 2006, passed by large margins in both the House and the Senate;

(2) in establishing a separate conservation spending category, Congress recognized the chronic underfunding of programs that protect and enhance public lands, wildlife habitats, urban parks, historic and cultural landmarks, and coastal ecosystems; and

(3) the expiration of the provisions of law defining and enforcing the conservation spending category was not due to a lack of Congressional support for the programs included in the category or a loss of desire to set aside dedicated funds for those programs.

(b) Sense of Congress.—It is the sense of the Congress that any law establishing new caps on discretionary spending should include a separate conservation spending category for fiscal years 2004, 2005, and 2006 and that total funding for that category for each of those fiscal years should be set at the levels established in P.L. 106-291.

### SEC. 303. SENSE OF THE CONGRESS REGARDING CONTINGENCY AND PRIORITY RESERVE.

(a) Findings.—Congress finds that this budget resolution provides a total of $54 billion of unallocated funds that have been counted as though spent, including the consequent cost of debt service.

(b) Sense of the Congress.—It is the sense of Congress that the $54 billion reserve in this resolution should be considered to provide funding for any contingencies and priorities that may arise.

The CHAIRMAN pro tempore. Pursuant to House Resolution 151, the gentleman from South Carolina (Mr. Spratt) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. Spratt).

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. Hoyer).

Mr. HOYER. Mr. Chairman, we have had two responsible alternatives offered. Mr. Chairman, this substitute should pass, and it should pass with an overwhelming number of votes from both sides of the aisle. Why? Because it is the fiscally responsible alternative that remains on this floor.

The Republican budget is an appalling betrayal of America's values and fails to meet our Nation's priorities. We really have to wonder, how does this Republican Party define compassion? By taking hot lunches out of the mouths of poor schoolchildren? By forcing the elderly out of nursing homes as the result of Medicaid cuts? By skimping on a prescription drug benefit for seniors? By slashing veterans health care on the very day, on the very day that our brave Armed Forces have begun the battle to disarm Saddam Hussein?

It is clear that the President's irresponsible $1.4 trillion tax plan and the GOP's blind allegiance to it would be an albatross around the necks of the American people, as well as future generations.

To pay for it, the House GOP proposes to cut funding for Medicaid, student loans, scientific research, food stamps, education, and veterans benefits. Too often, those of us privileged to serve here speak in terms of billions or trillions. Well, tonight, Mr. Chairman, let us put a human face on these proposed budget cuts.

More than 90 students at the Eva Turner Elementary School in Waldorf, Maryland, who receive hot meals under the lunch program could have those meals eliminated.

Ervin Coleman of Prince George's County, who recently was forced to rely on Medicaid to cover the cost of his medical care, may not have that option under the Republican budget.

Rubin Hairston of Calvert County receives $654 a month in Social Security benefits, but his prescription drug cost is $519. He simply cannot afford all his medication. The meager funding set aside for a drug benefit in this budget offers him little hope of relief.

I ask Members, is that a budget that reflects America's values? Is that a budget that meets America's priorities? Mr. Chairman, the American people want and deserve better. That is precisely what this Democratic budget alternative gives them.

First and foremost, our budget includes our entire stimulus plan, which would jumpstart the economy, provide tax relief, and create 1 million new jobs. Our budget provides more funding for homeland security, $34 billion for safety here at home; more funding for education; and more funding for the environment, veterans, and other priorities. We also provide at least 35 percent more for prescription drugs.

Finally, our budget matches the President's defense request, protects Social Security, and achieves balance by 2010. Democrats urge all Americans to examine our budget and ask themselves which budget reflects America's values and meets our needs. The answer is clear.

The Republican budget is nothing more than a cynical, calculated political document designed solely to provide huge tax cuts to the most affluent. It will continue the deficit spiral and pass the debt along to the brave young men and women who are now in harm's way. That is not moral, it is not fiscally responsible, and it is pitiful policy.

I urge all of my colleagues to support the Democratic budget for America and for generations to come.

The CHAIRMAN pro tempore. Does the gentleman from Connecticut (Mr. SHAYS) claim time in opposition?

Mr. SHAYS. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman is recognized.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment, this substitute. We have come forward with a budget that provides significant increases in defense, homeland security, Social Security, Medicare, veterans benefits. We ask for a 1 percent cut in discretionary spending for 1 year, one cent on the dollar. When our States and local communities are having to make 5 and 10 percent cuts to their budget, we are asking 1 percent; and then we allow our budget to go up each and every year after that.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, the tax cut in the Republican proposal for 2004 is a tax cut of $1.4 trillion, which is very close to the cost of the war effort. I find that not only to be interesting, but something that we need to take a look at very, very closely.

I think, when all is said and done on all of these different budget proposals, the one thing I think is absolutely sure is we have reverse socialism. What we are doing here is redistributing the wealth of this country to the top. JOHN MCCAIN was right-on when he said that 3½ weeks ago.

We have been accused on this side of the aisle year after year of trying to manipulate the budget, to manufacture the budget, so the money is going to be shifted down to those people who are making less than $50,000 a year. This is not the case over the next 10 years. We have a redistributing of the dollar upward. That is a fact of life. Yet what we have done at the same time, not because one side of the aisle thinks more of the veterans of this country than the other, but in order to fit it into their budget, what they had to do is nickel and dime the veterans, who have already put their lives on the line. Yet we send young men and women to war. What guarantee are we going to give them when they come back that their benefits are going to be intact?

Mr. SHAYS. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), who, I would just point out, without embarrassing my colleague, is an American hero, and someone who can speak very clearly about what our men and women are going through.

Mr. CUNNINGHAM. Mr. Chairman, I did not know if I was going to vote for this budget, but after the partisan rancor that I just heard on this floor, I am going to vote for it. It is despicable.

Talk about hurting veterans, talk about cutting Social Security. In 1993 when they had the White House, the House, and the Senate, what did they do? They spoke and talked about tax breaks for the middle class, tax breaks for the middle class. What did they do? They had the highest tax in the history of this Nation. They cut the COLAs of veterans. They cut the COLAs of our active duty military.

□ 2145

Where you said you were going to decrease the tax for the middle class, you increased the tax for the middle class. You took and utilized every dime out of the Social Security Trust Fund, and you had the gall, you have the gall to stand up here and accuse us of only for the rich.

Not a single Clinton budget after you controlled the White House, the House and the Senate ever passed this body or the other body. We brought up those budgets so that the Democrats would have to vote on them. They were so bad, and you know how many Democrats voted for it? Three. That is a fact because I will tell the gentleman, I thought we were going to have a debate, not a finger-pointing thing here tonight, and I had not planned even on speaking until I heard the speakers speak before me, and I had questions about our budget, but not after the rancor that I have heard on this floor.

You did in 1993 raise taxes. You did cut veterans' COLAs. You cut military COLAs. You raised the tax on the middle class, and now you stand here and say, oh, we want to balance a budget, and that we are responsible for the surplus, but not a single one of your policies ever passed when you had the leadership.

It is sickening to listen to this debate. The gentleman that is speaking here, normally I would and I would say even tonight his language has been honorary, and the different budgets that he has presented has been honorary, and I appreciate that, but for those that will sit up here and point fingers and say how mean the Republicans are because they want to cut veterans' COLAs or they want to hurt things is absolutely ridiculous.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

I would like to say that in 1993 we passed a budget. We took the deficit then in the budget, $290 billion, down every year for the next 7 years until it reached a surplus in the year 2000 of $236 billion, an exact polar opposite of what is happening right now.

Nobody in this House stands in greater admiration of the gentleman from California's (Mr. CUNNINGHAM) record in the military than I do and my personal like for the man, but I think we have to acknowledge that these fellow veterans, four different groups, have all come out in unmitigated condemnation of this budget because of what it does to veterans' benefits, and nobody shows greater indignation than the Paralyzed Veterans of America who wrote the Speaker saying, we do not consider payments to war-disabled veterans, pensions for the poorest disabled veterans and GI benefits for soldiers returning from Afghanistan to be waste, fraud and abuse.

Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, my colleague from California may not like what Democrats are saying about the Republican budget, so let us listen to what others are saying about that budget.

Unconscionable, that is what four veterans organizations called the Republican budget. Callous, that is how the American Legion, Disabled American Veterans and Veterans of Foreign Wars describe the Republican budget. Perhaps Edward Heath, Sr., the national commander of the Disabled American Veterans, said it best when he said this: "Mr. Speaker, this budget dishonors the service of millions of service-connected disabled veterans, including combat-disabled veterans. Is there no honor left in the hallowed halls of our government?" Well said, Commander Heath.

In just a few minutes we are going to be voting to support our troops. I must say, Mr. Chairman, to my Republican colleagues, what an odd way to support our troops when we are also going to be voting tonight, at least they are going to be voting, to cut veterans' benefits and services by $28 billion.

I would say that our veterans and our troops would appreciate it more if we supported them with our deeds, not our words, and that is why I am going to support the Spratt substitute, because the American Legion said it is a better approach. Not only does it not cut veterans' benefits, it keeps our commitments to veterans. It invests in our children's future rather than borrowing from it.

The Spratt budget, the Democratic budget, creates jobs, not deficits, for as far as the eye can see. We should vote for the Spratt budget. We should listen to the voice of the veteran leaders of America and say no to the callous budget of the Republican Party.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I rise to support the Democratic budget and oppose the Republican budget.

When Bill Clinton left office, we had record surpluses of $200 billion, and in two short years, we have a deficit of $300 billion, deficits as far as the eye can see.

Yes, there was a downturn in the economy. Yes, 9/11 caused part of it, but a large part of it were those tax cuts. What are the Republicans giving us now? More tax cuts for the wealthy as far as the eye can see.

Never in American history has there been a proposal for tax cuts at the time of war. This is so fiscally irresponsible that I just cannot believe it. We are leaving a legacy of debt to our children and our grandchildren, and the Republicans want to give us deeper and deeper and deeper debt and dig us deeper into a hole.

There is no economic growth in the Republican budget. There is no real drug plan in the Republican budget. The Democratic budget has $128 million more for prescription drugs, $34 billion more for homeland security. The Republican budget gives us cuts to veterans and schools and Medicaid and to our senior citizens.

The Democratic budget is responsible. The Republican budget subordinates all other priorities to additional lavish tax cuts. Vote for the Democratic budget.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank my distinguished ranking member for yielding me the time.

We have talked a lot about what is in the budget. I would like to talk about two things that are not in the budget. The first particularly should be of interest to people who live in Washington State, my home State, Tennessee, Texas, Nevada, Wisconsin, Florida or South Dakota.

Residents of those seven States are unjustly treated in the Tax Code, and this budget does nothing to correct it. Those States rely on sales tax to fund their State governments, but they are not allowed to deduct their sales tax from their Federal tax return as one is allowed to deduct their State income tax.

What that does is it disadvantages our State. The Federal Government essentially tells our States how we should tax our citizens. I believe it is an issue of State rights.

The Democratic Party introduced an amendment to the budget bill to fix this. Regrettably, the other side voted that down.

The second thing that is not made allowance for in this budget is fixing the Medicare payment imbalance. Forty-seven percent of physicians in my home State, in Washington, will not see new Medicare patients. Why? Because the fee-for-service rates under Medicare are unjust. This is the case in the Committee on the Budget chairman's home State of Iowa.

We had an opportunity to provide language in this bill to fix it. We managed to provide language to protect tax cuts, but we do not seem to be able to provide language to protect people for tax fairness, and we do not seem to be able to provide language to assure fair Medicare compensation rates.

I urge the people from those States to ask their Representatives, why have they left us out in the cold? Why have they not solved the sales tax inequity? Why have they not fixed the imbalance in Medicare payments?

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the distinguished chair of our caucus.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me the time and for his work.

The budget is more than a series of numbers. It is about priorities and values and visions and commitments. It is about the kind of America we want to build. It is about the kind of Nation we want to bequeath to our children. It is about the future.

Will we have a future of debts and deficits or a future with a balanced budget? Will we have a future where seniors have access to the medications they need, or one where they will have to choose between life-saving prescriptions and putting food on the table? Will we have a future where every child gets the education he or she deserves, or one where many children arrive into adulthood unprepared for the jobs and challenges of the 21st century? Will we have a future where Medicare and Social Security are there for our retirees, or one where the funding runs out? Will we have a future where our cities and States have funding they need to hire, train and supply our local first responders, our first line of defense against terrorism, or will we leave them and their communities defenseless? Will we have a future where our veterans have all of the benefits and services they need and deserve, or will we have a future where their sacrifices go unappreciated?

On every single count, the Democratic plan provides a future where the priorities and values of the American people are met and fulfilled, and on every single count the Republican budget shortchanges these priorities of the American people by sacrificing them on the altar of a massive round of additional tax breaks and tax cuts. Their budget makes no fiscal sense, it makes no moral sense, and it makes no practical sense.

We are, as I speak, as we debate, at war. Our men and women in uniform are fighting for our way of life, and we all stand behind them in their mission, but the Republican budget cuts $14.6 billion from mandatory veterans' benefits, including disability, burial benefits, pensions, rehabilitation, housing and education, and that is a disgrace, a disgrace. Our soldiers are fighting to protect our way of life, and Democrats believe we have a duty to protect them.

Fiscally irresponsible tax breaks are not the answer to every problem. I believe our way of life is about more than just tax giveaways. Our way of life is about educating our children, taking care of the needs of our seniors, and building an America we can all be proud of.

The Democratic budget takes care of these priorities. The Republican budget does not. It is that clear, it is that simple, and the choice for Members is to vote for a future with promise and hope, or vote for a future with massive debt and broken commitments.

I urge my colleagues to look into their hearts, make the right choice and support the Democratic alternative.

Mr. SHAYS. Mr. Chairman, I yield 4 minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Chairman, I thank the gentleman from Connecticut for yielding me the time, and I want to agree with my friend from New Jersey, the previous speaker. This debate is about where our priorities are, and a budget is about where our priorities are in government, and we just have a disagreement on the floor of the House of Representatives. We have it year after year after year.

Clearly, my friends on the Democrat side of the aisle are willing to accept higher taxes so that Federal spending can increase at a faster and faster rate. That is their viewpoint. We, on the other hand, believe that tax restraint brings about economic growth and jobs, and that is a lot of what this debate is about tonight.

I have heard debate on this bill throughout the afternoon and evening, and I have heard things like the Republican budget slashes spending, we are taking hot meals away from schoolchildren, we are taking needed benefits away from our citizens, we are denying health care. Someone just said we are leaving people out in the cold. These are the very same arguments that we have heard year after year after year, debate after debate, on the budget resolution.

□ 2200

I would submit to my colleagues that hot meals have not been taken away from school children, benefits have not been taken away from our citizens, we have not denied health care or left people out in the cold.

With regard to slashing spending, I would like Members to look at chart number 26 which shows spending trends. Since I became a Member of this Congress in 1995, spending has gone up at a quite remarkable rate. All we are asking with regard to discretionary spending from the year 2003 to the year 2004 is just a very, very modest breather. After that, discretionary spending continues to increase at a pace which probably would embarrass some of our conservatives. But this is the definition of slashing spending for some of our colleagues. So we need to decide if that is exactly what this is.

Moving to the next chart, a statement was made about the Clinton tax increase, and I hope Members can see this. I have a different view and I have a different recollection about the Clinton tax increase and the result of it. When I got to Congress in the winter of 1995, President Clinton, who had just presided over a very large tax increase, came before the Congress and proposed his budget. I did not see a balanced budget at the end of that rainbow. I saw deficits as indicated on this line as far as the eye could see. As a matter of fact, under the Clinton budget after tax increases, the deficit would have gone up to $288 billion per year.

Now Republicans in the House of Representatives and the Senate felt we could do a better job, and part of that solution was tax reductions. Indeed, we did reduce taxes. And guess what. We said we will balance the budget by restraining spending, by making some of those tough decisions which other people criticized as slashing and leaving people out in the cold. Lo and behold, in a shorter time than we even predicted, we had a balanced budget.

Looking at the last chart, we seek tax reduction for one reason and one reason only, to grow this economy. I want to remind Members of a time when we were spending a larger percentage of the gross domestic product on national defense than we are today, a larger percentage of the economy than we are having to do in this Iraq situation, and that was in 1981 and 1982 when President Reagan ushered in a very meaningful tax cut for the American people. Did we have to slash programs? As a matter of fact, revenue grew almost every year after the Reagan tax cuts because the economy grew. That is what we are trying to do with our tax policy here.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Chairman, will the gentleman put up the chart that was up earlier showing Clintonomics versus the last chart and agree that perhaps spending grew in those years because revenue for the government grew as well, and perhaps that President and this Congress, Democrats and Republicans, did a darn good job of helping the economy to grow. Can the gentleman concede that point?

Mr. WICKER. Reclaiming my time, I would concede this, that President Clinton raised taxes and the very next year he was up here proposing deficits as far as the eye could see.

When we cut taxes, as President Reagan did, the economy grows. These are simply the facts. Revenues to the government grew because people had jobs and they were working. I urge a defeat of this Democrat proposal, and a "yes" vote on final passage.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, let me follow up on what the gentleman from Mississippi (Mr. WICKER) stated. I was here in 1993, and I voted for that. It was the hardest vote I ever made, but it worked. And it was not because of the Republican majorities in 1995. It was because of a bipartisan effort that we had a balanced budget and surpluses in the late 1990s. Now they are gone.

That is why I rise in opposition to the Republican budget and support the Spratt substitute amendment. This Republican budget does not provide enough. We know what we are going to have to pay for the military campaign in Iraq, which could range as high as $100 billion, and which programs will have to be cut to underwrite that $100 billion. What we know about this budget is it contains a monstrous tax cut that is paid for out of the expense of almost everything, including veterans, the war effort, prescription drugs for seniors. Let me repeat that. This tax cut affects some of the most critical entitlement programs, school lunches, student loans, veterans programs, and Medicaid and Medicare.

In my own committee, we are asked to cut $107 billion out of Medicaid and literally give pennies to prescription drugs to seniors. That is why the Spratt substitute is so good.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just to walk down memory lane, during the Clinton years, we created 21 million jobs. So far, during the Bush years, we have seen 2.5 million private sector jobs disappear. In December 2000 before President Clinton left office and President Bush took office, there were 5.17 million people unemployed. This year in January 2003, it is 8.4 million unemployed.

We can go down the list. Real GDP during the Clinton years increased at a rate of 6.3 percent from 1993 through 2000. So far it has increased at a rate of 1.5 percent, and the budget every year from 1993 onward, the bottom line of the budget, the so-called deficit got better and better and better under that budget that we adopted in 1993. It went from a record deficit of $290 billion in 1992 to $255 billion the next year, $203 billion the next year, $164 billion in 1995, $107 billion in 1996, $22 billion in 1997, and balanced for the first time in 30 years in 1998. That was a record of that period of time and the result of that tough budget vote that we took in 1993.

Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, immoral. Immoral is the only word I can find to describe the Republican budget that is being forced down our throats this evening.

As we go to war, this Republican package includes exactly zero dollars towards the war effort. This budget includes exactly zero dollars to bolster our troops in Iraq and throughout the Middle East. And for our veterans, this Republican budget cuts funding for veterans disability pensions and veterans health care.

The Disabled American Veterans asked the question: Has Congress no shame? Unfortunately, as long as Republicans control this institution and force these types of budgets onto the American people, the answer is no, this Republican Congress has no shame.

Mr. Chairman, that is why I believe this budget is immoral, and that is the only word I can find to describe it. Tax cuts for the rich, cuts to veterans' pensions and health care and nothing for our troops. I say vote down this immoral Republican budget.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know it is getting late. It is 10 p.m., but words like "immoral" and not providing money to our troops is just over the edge. Our troops are going to get all the money they need to do whatever they have to do to protect themselves and achieve their objective. There is no one here doubts that issue. Not one Member. To suggest otherwise, I think particularly tonight, is inappropriate. I do not think that we need to go there.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Chairman, the gentleman from Connecticut (Mr. SHAYS) said that States are having to make cuts, and you do not see why it is not possible that we in this Congress cannot take a 1 percent across-the-board cut.

I could accept that, but the only problem is where the gentleman did not cite the difference between the States and us is that they are not parading around talking about tax cuts in Tennessee, Connecticut, Michigan, Florida and New Mexico.

Mr. SHAYS. Reclaiming my time, I understand there is an objection to the tax cuts. I understand that debate is going to be one in which we will disagree. We happen to believe that tax cuts generate economic activity. We have an honest disagreement on that issue.

I am just saying in this debate tonight when our men and women are fighting to even suggest for a moment that our troops are not going to get all of the resources they need is simply going over the edge. I would just suggest that we both know that we need to provide our men and women with everything they need, and our job is to make sure it is never a fair fight, that we always have the advantage, and we have done that.

I think the gentleman would acknowledge that this side of the aisle has continually put more money into the defense budget. That is what we continue to do today. I just would make this point. Our men and women are going to get whatever they need, and we are going to have a supplemental that impacts this budget, not next year's budget. They will get whatever they need to do their job and win this war.

We have disagreements. Our disagreements are we are putting more money in defense and homeland security. We believe a meaningful tax cut, one that is noticeable and large, will strengthen the economy and create jobs; and we believe that a 1 percent cut on nondefense, nonhomeland security discretionary spending, 1 percent for 1 year will make sense. What my colleague from South Carolina did not point out is during the late 1990s, we slowed the growth in spending for 2, almost 3, years, and then allowed it to go up again. We believe that is why our budget balanced. We are going to have disagreements on that.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to enthusiastically support the Spratt substitute amendment on the budget because of its commitment to child care, education, Medicare and Medicaid, and because it helps ease the pain of working Americans.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise today in opposition to the Republican's proposed budget resolution for fiscal year 2004 and in support of the Spratt substitute amendment. If passed, the budget resolution currently before the House would require the Committee on Education and the Workforce to cut mandatory spending programs under its jurisdiction by $269 million for fiscal year 2004 and $2.675 billion for fiscal years 2004 through 2008. This is completely unacceptable. Education is the key to success.

The Federal cuts come at a time when States are facing a severe budget crisis. According to the National Governors' Association, States face a combined $80 billion budget shortfall for fiscal year 2004 in addition to a $30 billion shortfall for the current fiscal year.

In my State of Texas, they are suffering from at least a $10 billion shortfall in this 2-year period.

As I see it, all of these cuts to essential educational programs are being made only to benefit the wealthiest Americans—the top 1%—through tax cuts. The President and the Republican party insist on cutting taxes far beyond any reasonable amount at a time when we are at war with Iraq and will need to occupy Iraq for years to come to maintain the peace and rebuild the country. They are acting irresponsibly by failing to include the projected cost of the war and its aftermath in this current budget resolution. The cost of the war alone has been estimated at anywhere from $70 billion to $200 billion, according to the Administration's former economic advisor, Lawrence Lindsay.

The Republican budget also cuts $28 billion in health care and disability benefits for military veterans again to pay for tax cuts for the wealthiest Americans less than 24 hours after sending our forces into battle. They should be ashamed of themselves. It is unconscionable for the Republicans to be cutting taxes and reducing social services programs at a time when the United States has a large and growing deficit, our states are in crises, and we are at war with Iraq. History will not be kind when it judges the Republicans' actions.

There is a far better alternative budget. Congressman SPRATT's Democratic substitute offers real economic stimulus and job creation. It proposes responsible tax policy by continuing the implementation of middle-income tax cuts, such as the increased child tax credit, and by freezing tax cuts for the top two income tax brackets. The Spratt substitute meets our nation's domestic needs by providing over $200 billion more in domestic investments than the Republican budget. It fully funds priority investments such as No Child Left Behind, IDEA, veteran's benefits, children's services, public health, transportation, environmental programs and agricultural programs. This alternative also invests in health care and a strong prescription drug plan by providing at least $20 billion to cover the uninsured and at least $528 billion for a prescription drug program under Medicare, while allowing senior citizens to stay with their current doctors. Finally, the Spratt alternative budget invests in Homeland Security and defense funding by increasing resources for Homeland Defense and by giving $20 billion more to First Responders than they would receive under the Republican Budget. In short, the Spratt Budget provides for America's needs, the needs of our people and strengthens our economy. It is a sound, reasonable budget blueprint, and we should support it.

Mr. Chairman, the Republicans' proposed budget resolution is inherently flawed. It hurts the education system in the United States. It harms children's programs. It damages small businesses, which are the strength of the U.S. economy, and it insults our veterans and our troops fighting in Iraq. I strongly urge my colleagues to support the Spratt substitute and oppose the irresponsible, illogical, and ill-advised Republican budget resolution.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, the gentleman from Connecticut (Mr. SHAYS) mentioned not tonight, we do not walk the talk about what is happening to our veterans and military tonight. What better time to pull the covers off and show exactly what this Republican Party is doing for our veterans.

☐ 2215

How in the name of any degree of decency and respect can we, on a day that will certainly live in infamy in the hearts of veterans, on a day and a time that we are sending our men and women into battle, what reward do we want to give our veterans who had to remember a day in infamy 60 years ago? What do we want to give them? A $17 billion cut for veterans.

I represent the State of Georgia. I say to my friends in the Republican Party, and I want you to know that every weekend I go home that my office is lined with veterans with tears in their eyes, saying, how could they be so mean? Every year in campaigns my Republican friends run around the country, and they talk about conservative compassion. This is not conservative compassion. This is downright conservative meanness. These veterans do not appreciate it. This is why I say, let us support the Democratic budget.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, as a Democrat who voted for the 2001 Bush tax cut, I am here tonight to say that I would never support a vote for this Republican budget proposal. The Republican budget completely abandons the goal of a balanced budget. It embraces deficits and debt. It slashes critical programs for our working families, and it is fiscally irresponsible. The Republican budget would mean a cut of hundreds of millions of dollars from Nevada's hospitals and health care providers due to cuts in Medicare and Medicaid. Nevada already has a health care crisis. We cannot afford these cuts in medical care for our elderly and our poor.

The Republican budget eliminates after-school programs for over 2,900 children in Nevada. Southern Nevada has one of the highest dropout rates in the country. Abandoning these kids who are struggling to stay in school would be a disaster. The Republican budget cuts almost 8 percent from highway funding. In Nevada, the fastest-growing State in the country, this translates into a $16 million cut and represents a loss of more than 760 construction jobs for Nevada.

At a time that our Nation is going to war, the Republican budget cuts $28 million from the veterans budget. I urge all of my colleagues to support the Spratt proposal and not the Republican budget debacle.

Mr. SHAYS. Mr. Chairman, I yield 4 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, there are words we should remember. There are quotes worth quoting again. Here is one:

"If we are to prevail in the long run, we must expand the long-run strength of our economy. We must move along the path to a higher rate of growth and full employment.

"For this would mean tens of billions of dollars more for each year in production, profits, wages and public revenues. It would mean an end to the persistent slack which has kept our unemployment at or above 5 percent for 61 of the past 62 months."

"To achieve these greater gains, one step, above all, is essential, the enactment this year of a substantial reduction and revision in Federal income taxes.

"For it is increasingly clear, to those in government, business and labor who are responsible for our economy's success, that our obsolete tax system exerts too heavy a drag on private purchasing power, profits and employment. Designed to check inflation in early years, it now checks growth instead. It discourages extra effort and risk. It distorts the use of resources. It invites recurrent recessions, depresses our Federal revenues, and causes chronic budget deficits."

"This net reduction in tax liabilities will increase the purchasing power of American families and business enterprises in every tax bracket, with the greatest increase going to our low-income consumers. It will, in addition, encourage the initiative and risk-taking on which our free system depends, induce more investment, production and capacity use, help provide the 2 million new jobs we need every year, and reinforce the American principle of additional reward for additional effort."

Mr. Chairman, there are Democrats that we should quote, there are Democratic words that we should remember, and those that I have just quoted came from the Democratic President of the United States, John Fitzgerald Kennedy, in his State of the Union message in 1963.

There is a contemporary Democrat who offers to his party also very good advice. It, of course, is Democrat Bill Richardson from the State of New Mexico, who says that "reducing taxes," and this year he is talking about, this is not in 1963, he is talking about 2003, "reducing taxes puts us on the road to economic growth." His plan reduces New Mexico's income tax by 40 percent, from the current 8.2 percent to 4.9 percent. He agrees that his plan sounds sort of like the Bush tax-cutting agenda.

All I am saying, Mr. Chairman, is this. There was a time when the Democratic Party could be counted on to do the right thing for the government, to do the right thing regardless of whether or not you could make a class envy debate out of this thing. They knew it was the right thing to do. It was the right thing to do when the President of the United States said so in 1963, it is the right thing to do today when the Democratic Governor of New Mexico says to do it, and I encourage this body to do it by striking down this substitute and supporting the underlying amendment.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Chairman, I would remind my good friend the gentleman from Colorado (Mr. TANCREDO) that Governor Richardson in New Mexico, we applaud him for what he has done.

There are many on this side who believe that tax cuts should be a viable part of any stimulus plan. The only problem is the tax cut that you propose we do not believe will actually stimulate very much, nor will it help us to achieve the balanced budgets that my friend the gentleman from Connecticut (Mr. SHAYS) claims he wants, and I believe that he actually wants, even though he was a bit condescending when he told me to shut up a few seconds ago.

I will say this to my friend, Bill Richardson and other Governors across this Nation, Bill Richardson was here a few days ago along with Governor Bush and another Governor, talking about Medicaid dollars and complaining to this Congress that the cuts we are imposing on his hospitals in his State as well as Governor Bush's State and other States are far too onerous.

All we ask on this side is that we be honest about the moment we face. Many of us on this side have rallied behind this President and our Commander in Chief in this effort against Iraq and this war on terrorism. I resent my friend the gentleman from California (Mr. CUNNINGHAM), for whom I have great affection, for some of the words. I understand the passion sometimes, it happens to me, it gets to us and perhaps allows our words to get away from us. I am sure he did not mean some of the personal things he said this evening.

Our budget, I believe, we believe, is better for the country than yours. It is about priorities. Next election cycle we will see who is right, but I can tell this to the gentleman from Connecticut, I want to win this war, I want to see this economy grow, and I can assure you that everyone on this side of the aisle wants that as well. We just think our budget is better.

Mr. SPRATT. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, here is the dilemma we are faced with. If this budget passes and becomes real, which I doubt, it will be devastating to our children and their education, to our seniors and their security, and to some of the most worthy citizens we know, sick and disabled veterans. On the other hand, if it passes and does not become real, if those cuts are not actually made, then it will devastate the bottom line of our budget.

Those of us who have been here a long time can tell you how intractable deep deficits can become. For 15 years we struggled to get ourselves in surplus, and in 2 years we have blown it. That is why we are out here intensely tonight fighting. Important principles are at stake.

I have to say to my colleague and wonderful friend, the gentleman from Connecticut (Mr. SHAYS), when I first saw this budget on the day of markup, I said, "It ain't on the level. I can't take it at face value." The better I understand it, the less credence I give it. I honestly think it is just a clever device for passing another round of tax cuts as large as the last, $1.35 trillion, despite the fact that this time there is no surplus. It goes straight to the bottom line and increases the deficit.

Here the numbers are displayed on this chart. If you want a choice between us and them, here it is, Mr. Chairman. Here it is, colleagues. Our budget every year has a lower and lower deficit until the year 2010 when it is no longer in deficit, it is in surplus. We put the budget back in surplus. That is our driving purpose. The first parameter we set for ourselves was we are going to get to balance in a reasonable period of time, and that date turned out to be 2010.

If you compare the Republican chart, you will see they do not get to balance until the year 2012, 2 years later, and that depends, Mr. Chairman, on some stupendous cost-cutting around here. I have been here 20 years. I just do not think that they are going to be able to accomplish it.

I heard these colloquies over here on the House floor. The gentleman from Virginia (Mr. TOM DAVIS), one of the ablest Members of this House, chairman of the Committee on Government Reform, he had a colloquy that, in effect, said, you don't expect me really to get $40 billion out of government retirement pensions, do you? The answer was basically, no, you've got other mandatory programs. You can reform procurement, for example, and save $40 billion.

Give me a break. That is not going to happen. This is a serious, serious effort and exercise, because if we are wrong here, we will live with the consequences for a long, long time.

We have before us a real choice to this budget which we have brought to the House floor from the House Budget

Committee. We have got a choice that is a far better choice, the Democratic substitute. It is a fiscally sound choice because our budget balances in 2010; theirs balances in 2012. Our budget racks up less debt during that 10-year time frame, $913 billion less debt, and, listen to this, $1.647 trillion less debt than the President's budget.

Our budget is fair and sensible. The Democratic budget weighs priorities. The Republican budget wreaks havoc. Indeed, much of our budget is devoted to restoring the damage the Republican budget does.

The Republican budget cuts education and training by $60 billion. It flat-funds Leave No Child Behind, even though the authorizing act calls for $9 billion next year. We restore that cut and add to the education function.

The Republican resolution wipes out Justice Department programs like community policing. We can all attest to its effectiveness. It drops and cuts out Byrne grants. It drops level funding for these Justice Department programs by $35 billion. Do you know who you are cutting when you are doing that? The famous first responders. These people that we talk about, but do so little for, they are the victims. We do not stand for that in our budget. We restore those programs because we think this is the first line of homeland defense, and we put $24 billion more in our budget than they do for homeland security.

We have heard it charged on the floor today that our budget increases spending. Let me just lay that argument to rest once and for all with a chart that is taken straight from the numbers in our budget. As you can see, this year we are spending about 20.4 percent total spending of GDP. Following the path laid down by our budget, that will decline to 19.1 percent of GDP in 2013. In the years 2004 through 2013, the 10-year time frame of this budget, our spending will grow by 4.6 percent over that 10-year period of time. That will be the annual rate of growth. That is less than the GDP nominal growth rate.

Let me finally say that our bill also has in it something that is critically important. We have got a weak, wobbly economy. We have got in our bill the stimulus package, which we think is an excellent package. It was offered by us on January 6 of this year. We say, let us enact it. Let us help those who are unemployed, let us give this economy a kick, let us give those who are likely to spend it a rebate straight to their pockets. It will be spent on the economy. Let us give small businesses extra expensing. Let us help large businesses by saying, if you will do something in 2003, we will give you a 50 percent depreciation.

It is dramatic, it is bold, and when you compare it by any of the established economic models, we get two to three times the results in GDP growth and job creation that the Republicans get for spending six times as much money in their jobs and growth package.

We have a real choice, a stark choice today, and far better the choice is our Democratic substitute. Vote for the Spratt substitute. Vote for the Democratic substitute. It is the best choice by far.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to this Democrat budget. I find it fascinating that we have so much angst about the deficit on this side of the aisle. I have a lot of angst about the deficit. I do not want to leave our children a legacy of debt. I have a 1-year-old. I want to leave them a legacy of freedom and opportunity. But, Mr. Chairman, the tax relief in the Republican package accounts for less than 5 percent of this budget.

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If there is so much angst over the deficit, why does the Democrat budget not focus on 95 percent of the problem, which is spending? Our budget increases spending, increases it by 3 percent. How much is enough? Over 5 years we have increased the VA, HUD, and independent agencies by 35.7 percent, Transportation by almost 80 percent, HHS by 96 percent. If every Government program was so great for the American people, why do we not simply double these budgets? Why do we not triple these budgets? Why do we not quadruple the budgets? Why do we not tell the American people to quit sending us State, local, and Federal taxes of 40 percent? Why do they not just send it all to us?

The point we are making is that good things can be done perhaps outside of this Government. I mean, the Democrats talk and accuse us of cutting programs. It is their budget that cuts education programs. It is their budget that cuts housing programs because in our budget we help American families pay for their programs. Our budget is going to allow 46 million married couples to keep over $1,700 more of what they earn. That is enough to pay two mortgage payments. That is a housing program and the Democrat budget cuts it.

Under our budget, 34 million families with children would keep an additional $1,500, enough to purchase a personal computer for their children. That is an education program and the Democrat budget cuts it. Six million single mothers would keep $541. That is enough to purchase a month of daycare. That is a childcare program. And the Democrat budget cuts it.

Mr. Chairman, we cannot tax our way into prosperity, spend our way into prosperity, or sue our way into prosperity; and we need to reject this Democrat budget.

Mr. SPRATT. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), the distinguished Democratic leader.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time and for his distinguished leadership in putting together the Spratt proposal this evening.

I rise in strong support of the Spratt budget resolution and in opposition to the Republican budget on the floor tonight. I want to congratulate the gentleman from South Carolina (Mr. SPRATT) for his great leadership. I also want to commend the gentleman from New York (Mr. OWENS) for his leadership on the Congressional Black Caucus budget and the gentleman from Texas (Mr. STENHOLM) for his leadership on the Blue Dog budget. All three of these Democratic budgets are far superior to the Republican proposal.

I believe, Mr. Chairman, that our Federal budget should be a statement of our national values. We should allocate our resources to those proposals that are important to us.

Let me ask my colleagues, is it a statement of your values to cut funding in the education of our children in order to give a tax cut to the wealthiest in America? I did not think so. America's children deserve better.

Is it a statement of your values to give a meager drug prescription benefit and cut nursing home care to America's seniors while giving the most of the tax breaks to those who need it least? I did not think so either. America's seniors deserve better.

Is it a statement of your values to cut funding for America's disabled veterans and not include one penny for a war budget as we send our young men and women into harm's way? America's veterans and servicemen and women deserve better.

Is it a statement of your values to underfund Homeland Security while we are on high alert? The American people deserve better.

The Republican budget is clearly not a statement of our national values. It explodes the deficit, fails to create jobs, and fails to invest in the education and health care initiatives that this country needs for long-term economic growth.

I commend the gentleman from South Carolina (Mr. SPRATT) for his masterful leadership in developing a Democratic budget that creates jobs, in fact, 1 million new jobs this year. The Spratt proposal balances the budget, sparks economic growth, funds the priorities of working families, education for their children, prescription drugs for their parents and grandparents, health care for our veterans, and resources for the police and firefighters who protect our communities.

This Democratic budget invests in our children. The Republican budget indebts them. This Democratic budget gives the American people the responsible budget they deserve. The Republican budget is reckless and irresponsible. On every measure important to working families, the Democratic budget is better.

We will fight this unconscionable Republican budget at every opportunity. I urge my colleagues to vote "yes" on Spratt.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time.

It is getting late. I know we are going to have a 2-hour dialogue of strong support for our men and women in battle. I would like to conclude by making a number of points, but not using all my time.

First, there is really no one I respect more on either side of the aisle than the gentleman from South Carolina (Mr. SPRATT), and I appreciate the graciousness in which he does his business and the conviction with which he expresses it and the work that he and his staff and his members do.

My comments are meant to just explain differences and not to describe character; but when we were debating this bill last week, we looked at amendments to the budget that only increase spending. We did not see any Democratic amendment that cuts spending. Admittedly, they reduce the tax cuts and therefore added more taxes than we would have. That is true. But there was $1 trillion of more spending, and I would submit that during the 20 years that my colleague talks about serving in this Congress, the only time he ever saw Congress balance the budget was under a Republican Congress. He never saw it happen under a Democratic Congress. He never saw a debt paid back under a Democratic Congress. So I understand that we have clearly been very proud of the fact that we on the Republican side of the aisle, working with Democrats, balanced the budget and started to pay down debt and now we have gone in a different direction.

It does not surprise me, though. The economy has slowed down. We had a horrific attack on September 11, 2001, that I think most people know had an impact on the budget. Ten percent of our gross domestic product came to a standstill with the airline industry and tourism. So we all understand that. We just have a difference in how we generate economic activity because both sides recognize that we ultimately balance the budget by growing this economy and getting more revenue. That is what we know happened. And the difference is a 1 percent reduction in mandatory and discretionary nondefense, nonhomeland security, non-Social Security, non-Medicare that we think is something that grown men and women can do. And when my colleagues on that side of the aisle ascribe a cut in a particular part of the budget, what they had to do was they had to assume that we were going to cut more than 1 percent and where we were going to make that cut was in the particular area they wanted.

The disadvantage we have is that we decided to allow the appropriators to make that decision, unlike what we did in the Committee on the Budget I was on a few years ago in 1996 and 1997 where we specified those cuts, we said the appropriators can make those decisions, and I am absolutely certain that in most instances described on the other side of the aisle, those cuts would not be made there. That is what I believe because we are talking about a 1 percent cut in 1 year and then we allow the budget to grow the next year and the next year and the next year and the next year. Nine years we allow it to grow, but our logic is make the reductions this year because then we see benefit in all the years that follow.

Maybe it is hard here, but when I was in the Statehouse and on the Committee on Appropriations for 13 years, we sometimes had to reduce the budget by 5 percent or more; and what we did is we sat down with the department heads and said, This is what we have got to do, where would you like the cuts to be? We met with our version of GAO and said, Where do you think it should be? Our version of the Inspector Generals, and we put it all together, and we came down with where we thought the cuts should be. A 1 percent reduction 1 year is what we are asking for.

So with that, Mr. Chairman, I would just say we do want to protect America. We do want to increase the defense budget and homeland security, and we do. We do want to strengthen the economy and create jobs. We do it by a tax cut. On the other side of the aisle, you do it by spending increases and a much smaller tax cut, and we ultimately want to balance the budget and now your budget will balance 2 years sooner under a static model. We believe under a dynamic model when we restrain spending and we have tax cuts, we will see it balance sooner.

We saw that happen in 1990. We did not get credit in 1990 when we had our 7-year plan to balance the budget. The CBO would not give us credit, but we balanced it in 3 years, 4 years sooner than we thought.

You may not agree with what I have said, but that is the reality as we see it, and that is the differences we have, and they are honest disagreements; but the one thing we do not have a disagreement on, and that is what I was trying to explain to my colleague. Our men and women are going to get whatever they need to win whatever war they are fighting and to make sure it is never a fair battle. On that Republicans and Democrats are totally and completely united. Totally and completely.

Mr. EVANS. Mr. Chairman, I rise in strong support of the budget proposed by the gentleman from South Carolina, Mr. SPRATT. The Republican majority of the House Budget Committee approved a federal budget reducing funding for veterans' health care and benefit programs by nearly $25 billion. The actual spending impact of these cuts would be even greater.

Over a ten-year period the GOP is proposing a cut of almost $9 billion in veterans' health care—an average of more than $900 million less than the President has proposed per year. For other veterans' benefits, including cash payments to veterans disabled by military service, the Republican budget calls for a $15 billion cut in spending from current levels during the next ten years.

In sharp contrast to the Republican's proposal, the Committee on Veterans Affairs, on a bipartisan basis, recommended adding $3 billion to the President's budget next year for veteran discretionary programs including medical care and research, construction, and programs that fund the administrative costs of other important benefits such as compensation, pension, and education programs. A group of Veterans Service Organizations who support the Independent Budget also recommend an increase over the President's budget of almost that much.

The Republicans also spurned other efforts to increase funding for the nation's veterans. An amendment in the Budget Committee offered by DARLENE HOOLEY to add $1 billion for veterans' health care and restore cuts in mandatory programs was voted down on a largely party-line vote.

Passing the Republican's budget will mean serious problems for veterans' health care. Among them, Congress will have to seriously consider the new copayments and enrollment fees proposed by the Bush Administration in order to keep the system operating in the next fiscal year. Some of these proposals include retaining the ineligibility for new Priority 8 veterans for VA health care services indefinitely, requiring Priority 7 and 8 veterans to have an annual enrollment fee in addition to increased copayments for pharmaceutical drugs and primary care and providing only veterans with highly rated service-connected disabilities (more than 70 percent) VA Nursing Home care.

In addition, passage of the Republican's budget would mean there would be no additional funds available to implement the Homeless Veterans Comprehensive Assistance Act to work toward the goal of elimination chronic homelessness in a decade. It would also mean that the current exercise Capital Assets Realignment for Enhanced Services (CARES) that VA is undertaking to assess the best use of its physical infrastructure will become a "de facto" closure commission with no ability to respond to veterans' needs for primary care, long-term care, and mental health projected by its own models. There would be little money leftover for any of the system's desperately needed construction projects.

As serious as the problems for health care would be, the implications of the scheduled cuts for veterans' benefits would be even worse. The Administration's Budget for 2004 makes no provision for additional service-connected disability benefits resulting from the present war with Iraq. As we know from the last war in the Persian Gulf, war results in adverse health effects and justifiable claims for service connected disability compensation. It does acknowledge the expected increase in veteran's claims and an expected worsening of the disabilities of some service-connected veterans. Under these circumstances, cuts in mandatory spending can only be made by cutting benefits to veterans with service-connected disabilities.

Ninety percent of the mandatory spending the Budget Committee proposes to cut is from cash payments to service disabled veterans, low-income wartime veterans and their survivors. I do not believe that as our young men and women are fighting in Iraq and defending freedom in other parts of the world, we should pass a budget which will not fully compensate them for any disabilities they acquire during, or as a result of, that service.

Other programs funded with mandatory spending are the Montgomery G.I. Bill education benefits, vocational rehabilitation and independent living programs for service-disabled veterans, subsidies for VA home loans and insurance for service-disabled veterans and funds to provide headstones, markers and flags for decreased veterans.

As our Nation enters a war certain to result in disability and death for young Americans, the Budget Committee's proposed requires the House Committee on Veterans' Affairs to make permanent cuts in the benefits paid to those disabled by virtue of their service to our Nation. These cuts must be made, so that our government can afford to provide a tax cut which will benefit only the wealthiest Americans, many of whom have never served in the military.

In contrast, Mr. SPRATT's amendment would restore the cut for benefits and health care and add $200 million to the VA health care budget.

I ask you now, who deserves to receive the benefits of the national treasury—America's disabled veterans or America's millionaires? I urge my colleagues to vote for the Spratt amendment.

Mr. KLECZKA. Mr. Chairman, at a time when our federal budget faces huge deficits and we are engaged in a large military campaign halfway around the globe, now is not the time to slash taxes. Never in the history of our country have we fought a major war and cut taxes at the same time. Yet that is exactly what the Republican budget resolution does. These serious times demand that we act prudently, and that means we must pass a budget that meets our financial obligations.

The Republican budget makes permanent the $1.35 trillion tax cut passed in 2001, at a cost of $523 billion. It also implements the $694 billion "Growth" bill, the centerpiece of which is the elimination of the dividend tax. This plan will fail to spark an economic turnaround because it applies to only 25% of the population and less than 5% of the benefits take place this year when the economy needs it the most. According to the non-partisan Congressional Budget Office, a similar tax cut proposed by the Administration would add $2.2 trillion in deficits over the next 5 years.

Because the first priority of the Republican budget is to cut taxes, programs dedicated to health care, education, and the environment suffer drastic cuts. To make room for tax cuts, at least $265 billion over ten years is slashed from programs like veterans' benefits, loans for college students, school lunch programs, and Medicaid.

Most concerning is that we really don't know how much the military operations and our occupation of Iraq will cost, but we do know that the U.S. alone will carry the tremendous burden of that responsibility. Estimates vary widely, and the lowest, most optimistic figure is $80 billion. With that enormous figure added to this year's deficit of $304 billion, common sense dictates that we refrain from additional tax cuts and return fiscal sanity to the budget process.

I urge my colleagues to support the Democratic budget alternative, which offers a sound, practical way to stimulate economic activity while paying down the debt and saving critical social programs. The Democratic proposal includes $136 billion in tax cuts and targeted investments this year. At less than one-sixth the cost of the Republican "Growth" bill, the plan allows the budget to recover while giving the economy the immediate boost it so desperately needs.

The Democratic alternative ensures that critical social services will continue to be provided at their current levels by restoring the cuts made in the Republican Resolution. It also provides $528 billion in new money for a Medicare prescription drug benefit, while the Republican proposal only offers $128 billion. The Democratic measure allocates $34 billion more for homeland security and $60 billion more for education over the next ten years, adds $10 billion more to help working families with child care over five years, and protects funding for Low Income Heating Energy Assistance Program, Women Infants and Children Nutrition, housing programs and other important initiatives.

If we pass another round of irresponsibly large tax cuts, government deficits will spiral out of control, especially as war increases our overall spending. We cannot saddle our children and grandchildren with this debt—we must decide now to adhere to the principals of fiscal responsibility.

Mr. VAN HOLLEN. Mr. Chairman, we take up this budget debate at a moment of great national challenge. The men and women of our armed forces have begun military action in Iraq. We wish them a swift and successful end to hostilities with a minimum loss of life on all sides. At this moment, when they are demonstrating such courage and sacrifice, we here at home must make responsible decisions about the kind of America we want for them and our children. The decisions we make tonight will affect the well being of our troops and all Americans for years to come. We must make important decisions about the future economic health of our nation and what investments we decide to make for the common good.

We need to adopt an economic plan that will put America back to work and a budget that reflects the priorities of the American people. Just as each family must make tough decisions about their own household budgets, so must we make tough decisions for our entire American family. How we decide to invest our collective resources should tell us a lot about what we care about as a people and who we are. The budgets and economic plans we adopt should reflect the values and priorities of the American people.

Mr. Chairman, I have listened carefully to the people in my district. I think I understand their priorities. And I believe that what they care about is what every American cares about. They want a country where every child has the opportunity to get a great start in life with a first rate education. They want a country where every American has access to quality health care. They want an America where there is a job for every individual ready to roll up their sleeves and go to work. And they want to know that their government is taking all reasonable steps to protect our homeland and be prepared to respond to national emergencies. These are the simple things we want for our families, our neighbors and our fellow Americans.

We are a great nation. We can do these things. Unfortunately, the Republican budget before us does not begin to meet the needs and priorities of our Nation.

Mr. Chairman, just a short time ago I had the privilege of sitting in this chamber when the President gave his State of the Union address. At the outset of his speech, he made the following statement: "We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents and other generations."

Unfortunately, neither the budget submitted by the President nor the Republican Budget Committee proposal before us today passes that test. In fact the budget before us today does exactly what the President says he does not want to do. It does ignore our problems and, if we don't fix those problems we will be simply passing the buck to future Congresses, future Presidents, and future generations.

Look at education. Last year, with great fanfare, the President signed the Leave No Child Behind bill at the White House. Yet the ink was barely dry before the administration submitted a budget that fell well short of the promised funding. Well, when you leave the funding behind, you leave millions of children behind with nothing but broken promises. And the Republican proposal falls $9 billion short—almost 25 percent—of the funds authorized. That is a terrible message to send to our school children and teachers.

Look at health care. The Republican budget contains no meaningful proposal to address the problem of the 41 million Americans who have no health insurance. Apparently the Republican budget proposes to leave this problem to future Congresses and generations.

How about domestic security? The Republican's proposed budget ignores many of the needs outlined by the agency heads at the U.S. Customs Service, the Coast Guard, the Department of Energy and elsewhere. They have said they need far more resources to meet the threat than what is proposed in the Republican budget.

So what have the House Republicans proposed? What is their top domestic priority? Another huge tax cut that overwhelmingly benefits the super wealthy. Like the President, the

House Republicans have decided that the most pressing domestic problem—the one issue that cannot wait—is that the super wealthy are paying too much in taxes. That comes on the heels of the $1.4 trillion tax cut from 2001 that disproportionately benefits the very wealthy.

And what will be the result of the Republican tax cut plan directed mostly to the wealthy? Even administration officials have conceded that it will do virtually nothing to stimulate the economy right now. The real result will be rivers of red ink and rising interest rates. The Republican plan would result in a $324 billion deficit this year and lead to one of the sharpest reversals in America's fiscal fortunes in history. And that doesn't even include one penny of the cost of the ongoing war with Iraq and its aftermath. The President's policies would take us from a projected $5.6 trillion surplus over 10 years to a projected $2.1 trillion deficit. The Republican Budget Committee proposal masks these long-term deficits by calling for huge and unrealistic cuts. The actual result of their tax cut proposals will be exploding deficits.

Who's going to pick up the tab for this growing mountain of debt? The American people of course. It's simple. There are only two ways to deal with it in the long run. Either we substantially raise taxes on the next generation or we dramatically cut the areas of largest expenditure—Social Security and Medicare. Already, funds from the Social Security trust fund are going to pay for the President's last round of tax cuts. Remember that "lock box?" Well, the lock has been picked and the raid is on. The Republican budget plan makes the problem even worse. It is a guided missile aimed at the heart of Social Security. And its not just money in the trust fund that will be lost; we will also lose the trust of the American people.

So, Mr. Chairman, I am very concerned with the reckless economic course proposed in the Republican budget. It does exactly what the President said in his State of the Union that he does not want to do—it ignores our very real current needs, and passes on the burdens of huge tax cuts to Social Security, Medicare and future Congresses and generations. I believe the Republican budget plan is out of touch with the true hopes and aspirations of the American people.

We have an obligation to confront our needs squarely now. We need to talk straight to the American people. The Democratic budget alternatives we are debating tonight all reflect the values and priorities of the American people better than the Republican plan. They correct the serious defects in the proposed Republican budget. All of them provide a great national investment in education, health care, homeland security, and prescription drug coverage for seniors. And they all do so without running up the huge deficits and debt contained in the Republican plan.

One shortcoming in the Democratic plans, however, is that—although they all provide a greater investment in our children's education than the Republican proposal, none of them reach the full level of funding promised in the Leave No Child Behind legislation. Full funding for Leave No Child Behind, IDEA and the other educational commitments we have made must be a top priority. I will continue to press for a budget that keeps all the promises we have made America's children.

While I am disappointed that the Democratic alternatives do not provide for full funding of these educational commitments, they come far closer than the Republican proposal. They also meet many other needs that are neglected in the Republican budget. I hope this Congress will adopt an economic plan and a budget that reflects the true priorities of the American people and does not pass the buck to future generations.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I support the Democratic budget and I reject the Republican budget.

The Democratic Budget invests in education and training. Our budget provides $3.2 billion more for education and training than the GOP budget in FY 2004 alone. Over the next 10 years the Democratic budget provides $44 billion more than the GOP budget. These budget increases mean increased funding for No Child Left Behind programs which reduce class sizes and provide advanced training for teachers.

The Democratic Budget also invests more in discretionary health care programs than the GOP Budget. The Democratic budget provides $2.9 billion more for discretionary health care in FY 2004, and $27.8 billion more over the next 10 years than the Republican Budget. Programs such as health professions training, rural health programs, Ryan White AIDS activities, and Healthy Start will be the direct beneficiaries of the Democratic Budget proposal.

The Democratic Budget is also preferable to the GOP Budget in Veterans' Health Care. The Democratic Budget provides $23 billion more than the GOP budget over the next 10 years for Veterans' programs. It provides $17 billion more for discretionary veterans' programs. It provides $15 billion more for mandatory veterans' programs—where the GOP budget cuts $15 billion from mandatory veterans' programs.

Finally, the Democrats budget call for spending $34 billion more than the GOP budget on Homeland Security over the next 11 years. On the other hand, the GOP budget freezes homeland security funding at the 2003 level. The Democratic budget, for example, would ensure that $3.5 billion in desperately-needed new money would be available for police officers, firefighters and emergency medical personnel. The GOP budget does not.

Mr. SHAYS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from South Carolina (Mr. SPRATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 236, not voting 6, as follows:

[Roll No. 81]

AYES—192

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—236

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella

Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jackson (IL)
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Buyer
Gephardt
Hyde
Lipinski
Thornberry
Udall (CO)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 2305

Mr. BURGESS and Mr. SOUDER changed their vote from "aye" to "no."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, had come to no resolution thereon.

## HOPES AND PRAYERS FOR STEVE BUYER, MEMBER OF CONGRESS, AND HIS FAMILY AS HE DEPARTS FOR MILITARY DUTY

(Mr. HASTERT asked and was given permission to address the House for 1 minute.)

Mr. HASTERT. Mr. Speaker, I would like to read into the RECORD a letter that I received today.

"Dear Mr. Speaker: I have been called to active duty in the United States Army. Pending further orders, I request immediate indefinite leave of the United States House of Representatives to accommodate my military duties.

"Respectfully, Steve Buyer, Member of Congress."

Mr. Speaker and my colleagues, the resolution we are considering affects one of our own today and may affect others in the near future. Our hopes and prayers are with STEVE and his family as he prepares to depart for Iraq.

## OUR DUTY TO PROTECT AMERICA

Mr. HASTERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Illinois is recognized?

There was no objection.

Mr. HASTERT. Mr. Speaker, we will be considering a very important resolution before us this evening. I rise in strong support of that resolution, and I expect that all of my colleagues would vote for it.

Our men and women in uniform are now engaged in an important conflict in the country of Iraq. We are engaged with 30-some other nations, and it involves certainly a tyrant who has defined himself over the last 20 years.

Like my colleagues, I remember the day of September 11, 2001. I remember standing in the front of my office waiting to get a call from the Vice President and looking and watching an unfamiliar phenomenon, a roll of black smoke going across the mall that I can look down from my window and see. And I asked one of my staff, I said, find out; that black smoke is not supposed to be there. A minute and a half later they came in and said, well, the third plane had gone into the Pentagon.

Little beknownst to me and the rest of us at that time, there was a fourth plane involved, and 9 or 10 or 11 brave young men and women brought that plane down into an empty field in southern Pennsylvania. We know now that if it had not been for the actions of those people, that plane would have been in the west front of the Capitol.

That being said, many of us visited right after the World Trade Center. We had walked the halls of the Pentagon and visited those folks who helped pull their comrades out, some to safety, some beyond help. We talked to the families who lost their folks in the Pentagon, the World Trade Towers; we passed some extraordinary legislation.

But this country suffered a huge loss that day. I think I speak for all of us when I say that that is something that we do not want to see visited upon this Nation again. We know that in Iraq Saddam Hussein has weapons of mass destruction. We know that he has a nexus to al Qaeda, and we know that that training has been going on over an extended period of time. I believe that it is our duty, this Nation's duty, to protect our Nation and to make sure that that is not visited upon this Nation ever again.

The men and women whom we are about to salute and wish well tonight and send our best thoughts and prayers to are doing a job that nobody wants to do. Nobody wishes this to have to happen. But in the tradition of this Nation, in the tradition of keeping this country free, and in the tradition of trying to stabilize the Middle East, we are doing this job. We are doing it with 30 other nations who have decided this is the right thing to do.

Mr. Speaker, as we go through this very sober debate tonight, I would ask for your positive consideration and positive vote.

## COMMUNICATION FROM THE HONORABLE STEVE BUYER, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable STEVE BUYER, Member of Congress:

HOUSE OF REPRESENTATIVES,
*March 20, 2003.*

Hon. DENNIS HASTERT,
*Speaker, House of Representatives, H-232, The Capitol, Washington, DC.*

DEAR MR. SPEAKER: I have been called to active duty in the United States Army. Pending further orders, I request immediate indefinite leave of the House of Representatives to accommodate my military duties.

Respectfully,

STEVE BUYER,
*Member of Congress*

## EXPRESSING SUPPORT AND APPRECIATION FOR THE PRESIDENT AND MEMBERS OF THE ARMED FORCES PARTICIPATING IN OPERATION IRAQI FREEDOM

Mr. HUNTER. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 104) expressing the support and appreciation of the Nation for the President and the members of the Armed Forces who are participating in Operation Iraqi Freedom, and ask unanimous consent for its immediate consideration pursuant to the following order:

Debate on the concurrent resolution shall be limited to 2 hours, equally divided and controlled by myself and the gentleman from Missouri (Mr. SKELTON), and the previous question shall be considered as ordered on the concurrent resolution to final adoption, without intervening motion or demand for a division of the question.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, has rightly reminded us tonight of the events of 9/11. I think all of us remember the time that we stood together singing "God Bless America" on the steps of this Capitol, unified in recognizing that what is involved here is bigger than us as individuals or as political parties, and how we joined with near unanimity in supporting the President on the war on terrorism.

□ 2315

Thanks to the good efforts of the gentleman from California (Mr. HUNTER), we did this once again about 10 days ago, when he offered his resolution, H.J. Res. 27, "commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism." At that time I rose, along with many colleagues, to support that resolution honoring our service members and to commend the gentleman from California (Mr. HUNTER) for an effort that brought us together, rather than splitting us apart.

I doubt that we can offer too many resolutions for our servicemen and servicewomen, so I understand the gentleman's interest in offering a further resolution tonight. I would like nothing more than to see a similar unanimous vote in support of that resolution.

I would ask the gentleman under my reservation, since we have not yet even had this resolution printed for our review, if he is familiar with a resolution commending our troops that was authored by Senators FRIST and WARNER and Senators DASCHLE and LEVIN, and which was passed unanimously today in the United States Senate?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, is the gentleman asking me if I am aware that the other body passed a resolution?

Mr. DOGGETT. Yes.

Mr. HUNTER. Yes.

Mr. DOGGETT. Is it correct that the gentleman's resolution is not the same as resolution S. Con. Res. 26?

Mr. HUNTER. That is true.

Mr. DOGGETT. I believe the gentleman's resolution omits clause 5 of Senate resolution S. Con. Res. 26, which says that the Congress "joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, and those still missing from that conflict, including Captain Scott Speicher of the United States Navy".

Would the gentleman be open to amending his resolution to include that language from clause 5 of the Senate Con. Res. 26?

Mr. HUNTER. If the gentleman will yield further, yes, we would be open to including it.

Mr. DOGGETT. The gentleman would be open to including that language?

Mr. Speaker, I ask unanimous consent to add clause 5 of the Senate version, S. Con. Res. 26.

Mr. HUNTER. Mr. Speaker, I would retract that and tell the gentleman that I would not be open to that. Would the gentleman yield further?

Mr. DOGGETT. Let me just ask, and then I will be very brief, because I know it is late and the gentleman wishes to proceed.

The Senate, I am sure, acted, and not every word did I agree with, but they did act unanimously. It was good enough for the majority leader, Senator FRIST and Senator WARNER, chairman of the Armed Services Committee. Could we not dispense with this debate and simply take up, with the gentleman's approval, the entire Senate resolution and adopt it, and have every one of us saying not only the same thing in this House chamber but saying the same thing throughout the Capitol, that with one voice, we, the House and Senate, approve and applaud and support our troops?

Mr. HUNTER. If the gentleman will continue to yield, Mr. Speaker, I just want to advise the gentleman that I read not only the resolution that was offered by the other body in 1991, but also our resolution. We had a different resolution at that point, also.

I would just say to the gentleman that I think that the Members of this body have made a very fine statement, a very heartfelt statement commending our troops. I think it says the right thing. I applaud the gentleman for other things that he would like to see in a resolution. I think reasonable minds can differ.

I would hope that the gentleman would, in the spirit of bipartisan support for people that wear the uniform of the United States, not ask us to have precisely the same words as the other body, and simply spend a few minutes and go home. I would hope the gentleman would allow us to have our own resolution to express our own heartfelt support for those people, and let this body work its will.

Mr. DOGGETT. Mr. Speaker, I respect the gentleman. Continuing under my reservation very briefly, it just seems to me we have heard so much about the need for us to speak with one voice that we could speak with one voice and do it promptly by taking verbatim what was good enough for Senators FRIST and WARNER.

But let me ask the gentleman one other question, since he talks about acting with unanimity. The gentleman has three enacting clauses in his resolution. Clause two commends the Members of the United States Armed Forces; Clause three commends their families. I think there is unanimous agreement for both of these.

Would the gentleman be open under his unanimous consent agreement to our proceeding now by unanimous consent to approve those two clauses, so that we could concentrate our debate in the only area that we have any difference, which are the words that the gentleman uses to approve the President's action with his first-strike policy in clause one?

Mr. HUNTER. No.

Mr. DOGGETT. Just one final question. The draft of this resolution, and I know there have been changes going on all night, but the draft that we Democrats were asked to approve late this afternoon was a little like the President's recent budget on Afghanistan, which he forgot to fund. The resolution draft we were offered as praising the troops largely forgot the troops.

I was wondering if the gentleman would have any objection to my putting into the RECORD the resolution draft that we were given this afternoon and asked to approve, which did not include in the "whereas" clauses much of anything about our servicemembers other than the first and last paragraphs. Most all of it seems to be about the President.

Mr. HUNTER. If the gentleman will continue to yield, Mr. Speaker, let me just say to the gentleman that we have some excellent commendations in this particular resolution.

Mr. DOGGETT. Added at our request, for the troops.

Mr. HUNTER. Let me finish my statement, if I might.

We commend the President as Commander in Chief. That is something we did in 1991. Under the Constitution, he leads this military force. We commend the Members of the United States Armed Forces. We commend the families. We give them our sincere gratitude and appreciation.

I would think that any Member reading this resolution, and I would ask all Members to read it since the gentleman has called it into question, would agree that this resolution is an excellent resolution, and that it does all the things that we want to do. It would lead us all to wonder why the gentleman somehow wants it to say something else or follow some other example. It does not make a lot of sense.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman. I will save the rest of my remarks for the debate.

Mr. HUNTER. I will look forward to that.

Mr. DOGGETT. I ask unanimous consent to include in the RECORD, Mr. Speaker, this type of unanimous consent request, which seeks only to place in the RECORD the draft of the resolution we Democrats were asked to concur in this afternoon, that it might be made part of the record so all could see it.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

Mr. THOMAS. I reserve the right to object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) is recognized under his reservation of objection.

Mr. THOMAS. Mr. Speaker, the gentleman from Texas, as any Member, has the right to place any material under extension of remarks in another area of parliamentary procedure of this body. Is that correct?

The SPEAKER pro tempore. The gentleman makes clear why the Chair should entertain only one unanimous consent request at a time.

Mr. THOMAS. Mr. Speaker, the gentleman has the right to place in the RECORD at another point in the proceedings. Since he has that right, which cannot be removed, I object to doing it at this time.

Mr. DOGGETT. Mr. Speaker, it being apparent that the decision of 99 Members of the United States Senate is inadequate for some in this House, that they will not accept even placing in the RECORD at this point, at a very appropriate and proper point, the resolution they offered us, which treated the troops almost as an afterthought, since the goal was not to applaud the troops but the President; and recognizing their refusal to let us approve now unanimously what we all agreed to, that the Members of the Armed Forces and their families deserve commendation, even if we disagree with the civilian, political decision to institute a new first-strike policy, which will actually endanger our families, I recognize little ability to reach unanimity; and I will raise the rest of my concerns about the Administration's unfortunate new policy, which places so many in harm's way, in the course of the debate.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. KUCINICH) may be heard under his reservation.

Mr. KUCINICH. Mr. Speaker, I would say to the gentleman from California (Mr. HUNTER), we are all patriots and we all want to support the troops, including our colleague. We all want to support their families.

In hopes of trying to come to an agreement here, I am wondering if the gentleman would be willing to modify his unanimous consent request to include a more neutral resolution which supports the troops, as we all do, for their valiant and dedicated work, consistently performing in a professional manner; and which supports the families at this time of difficulty and trial?

Since I think unanimously there is a way that we can all agree on this, would the gentleman be prepared to support House Concurrent Resolution 105, which I left at the desk and which is at the desk there, which is a resolution that supports the troops, but does not require Members to agree with the policy in Iraq?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I just want to say to the gentleman and to the gentleman who just spoke, there are hundreds of thousands of Americans in uniform putting themselves in very difficult positions for our freedom tonight. If they are watching this procedure, they are probably wondering, what in the heck are those guys doing? We have a commending vehicle.

Mr. KUCINICH. Mr. Speaker, I reclaim my time.

The SPEAKER pro tempore. The gentleman from Ohio controls the time.

Mr. HUNTER. I guess what I am saying is the answer is no to the gentleman from Ohio.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. KUCINICH) controls the time.

Mr. KUCINICH. To the gentleman, and he is a gentleman, I would like to say that we all agree that we want to support the troops. This resolution, however, or at least half of it, is not about the troops. At least half of it is about the war in Iraq, which is a matter of contention. We understand that. There are 133 Members of this House who voted against the Iraq resolution.

The gentleman has made his decision, and I regret the decision, which I think unfortunately politicizes what is really a very important resolution to support the troops. I think it lets politics get beyond the water's edge, Mr. Speaker. I do not think my good friend really intends to do that.

I have a question to ask my good friend. Mr. Speaker, in looking at this resolution, I would like to call attention to page 3 of the resolution. I just want to understand, would the gentleman be prepared to amend his unanimous consent request to eliminate any references in this resolution to 9–11, since no credible evidence has ever been presented that would link Iraq to 9–11, so that this Congress would not be put in a position when something really has not been decided, we have not had a commission that has made that decision?

The media has not really had an investigation that has decided that Iraq is connected to 9–11, this Congress has not made that association, yet this resolution does make that association. Would the gentleman be prepared to delete that reference in order to make this resolution something that would be more palatable?

Mr. HUNTER. If the gentleman will continue to yield, Mr. Speaker, first, that restates the President's letter.

Second, a second point I would make to the gentleman is that we have been working, Democrats and Republicans, to put this resolution together. My colleague, the ranking member of the Committee on Armed Services, has been working on it. The gentleman's leadership has been working on it. The product that we have before us is a product of both sides.

I would just say to the gentleman if he has a disagreement with it and he thinks that it does not state his position, I would urge the gentleman to take time in this debate in the next several hours and explain his position; but nonetheless, let the rest of us in this House work our will and give our commendation to the troops. Obviously, we would all write it differently.

Mr. KUCINICH. Mr. Speaker, I think the gentleman is correct. I think this House should be able to give a commendation to the troops.

Mr. Speaker, I will withdraw my reservation of objection in the hopes that in the course of the debate we can clarify that while we all support the troops, there are many of us who have reservations about the wording of this resolution and it going beyond support for the troops.

Mr. HUNTER. I look forward to the gentleman's statement.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

□ 2330

Mr. FRANK OF Massachusetts. Mr. Speaker, I was glad to hear the gentleman from California respond to the gentleman from Ohio when the gentleman from Ohio referred to that part of the resolution which quotes the President's letter and said he disagreed with it in effect.

The response from the gentleman from California was that simply factually recounts the President's letter. If, in fact, he is saying this is not necessarily by this body an endorsement of that, but simply a recognition of the fact that the President says it, and this is on the record, I think that would help us advance this.

So I appreciate the gentleman from California having made that point that

that particular phrase that the gentleman from Ohio mentioned is not the wording of this House. It is a reference to a fact that the President said that, and it does not reflect one way or the other what individual Members might think.

Mr. KUCINICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the concurrent resolution will be so considered.

There was no objection.

The text of H. Con. Res. 104 is as follows:

H. CON. RES. 104

Whereas the United States Armed Forces, a total force comprised of active, National Guard, and Reserve personnel, are now undertaking courageous and determined operations against the forces of Saddam Hussein's regime;

Whereas the Senate and House of Representatives and the American people have the greatest pride in the members of the Armed Forces and strongly support them;

Whereas the Iraq Liberation Act of 1998 (Public Law 105–338) stated that it should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime;

Whereas on October 16, 2002, the President signed into law House Joint Resolution 114 of the 107th Congress, the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), which provides congressional authorization for the use of military force against Iraq;

Whereas the United Nations Security Council, in Security Council Resolution 1441, adopted on November 8, 2002, voted unanimously that Iraq "...will face serious consequences as a result of its continued violations of its obligations" to disarm in accordance with all relevant United Nations resolutions;

Whereas Iraq remains in material breach of the relevant United Nations resolutions;

Whereas the United States has assembled and deployed an allied military coalition to apply pressure on Saddam Hussein to comply with the relevant United Nations resolutions;

Whereas on March 18, 2003, the President transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate the President's determination, consistent with the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), that reliance by the United States on further diplomatic and other peaceful means alone will neither adequately protect the national security of the United States against the continuing threat posed by Iraq nor likely lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq, and that the President's use of military force against Iraq is consistent with necessary ongoing efforts by the United States and other countries against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001;

Whereas on the evening of March 17, 2003, the President of the United States issued Saddam Hussein and his sons a final ultimatum to leave Iraq within 48 hours or face United States military intervention;

Whereas, when Saddam Hussein failed to comply, the President ordered United States Armed Forces to commence military operations against the forces of Saddam Hussein during the evening of March 19, 2003, under the code name of Operation Iraqi Freedom, in order to liberate Iraq, remove Saddam Hussein from power, and neutralize Iraq's weapons of mass destruction;

Whereas the United States Armed Forces and allied forces are performing their missions with great courage and distinction in carrying out air, land, and sea attacks against Iraqi military targets; and

Whereas the ability of the Armed Forces to successfully perform their mission requires the support of their nation, community, and families: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress expresses the unequivocal support and appreciation of the Nation—

(1) to the President as Commander-in-Chief for his firm leadership and decisive action in the conduct of military operations in Iraq as part of the on-going Global War on Terrorism;

(2) to the members of the United States Armed Forces serving in Operation Iraqi Freedom, who are carrying out their missions with excellence, patriotism, and bravery; and

(3) to the families of the United States military personnel serving in Operation Iraqi Freedom, who are providing support and prayers for their loved ones currently engaged in military operations in Iraq.

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 60 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

As I rise today, this country is embarked on a very noble endeavor. Last evening, military forces of the United States and our coalition allies commenced military operations to liberate the country of Iraq.

This is indeed a historic moment. Operation Iraqi Freedom marks the culmination of nearly 13 years of U.S. action in Iraq. Commencing with Iraq's invasion of Kuwait on August 2, 1990, through Operations Desert Shield and Desert Storm, through the coalition enforcement of the northern and southern no-fly zones, to Operation Desert Fox and beyond, the United States and our allies have for over a decade been required to deal with the deceit, brutality and duplicity of Saddam Hussein, both diplomatically and militarily.

Today Saddam's moment of truth has arrived. The path to his downfall began when the Congress passed and President Clinton signed the Iraq Liberation Act of 1998, making it the policy of this Nation to support efforts to remove Saddam's regime from power and to promote a democratic government in Iraq. It continued last fall when Congress passed and President Bush signed House Joint Resolution 114 authorizing the use of military force in Iraq should it become necessary.

Since the passage of that resolution, President Bush has undertaken herculean efforts to avoid a conflict. The President aggressively pursued the unanimous passage of U.N. Security Council Resolution 1441, calling for Iraq to disarm or face grave consequences. Subsequently, the President has exhausted every diplomatic means available to make the United Nations Security Council enforce 1441 to no avail.

Today, the time for diplomacy has passed.

Mr. Speaker, the resolution before us today does three things. First, it expresses the support and appreciation of our Nation to the President for his firm leadership and decisive action in the conduct of the military operations currently underway in Iraq. It is because of his wisdom and judgment that Iraq will soon be a free Nation, a Nation without weapons of mass destruction, a Nation that will become a full and peaceful participant in the international community.

Second, this resolution expresses the support and appreciation of a Nation to our men and women in uniform. A few short weeks ago, the gentleman from Missouri (Mr. SKELTON) and I brought forward H.J. Res. 27 commending the members of our Armed Forces and their families for the dedication to duty and service to country that they demonstrate each and every day around the world. Today we bring forward this resolution to show our support, admiration and thanks for the nearly 230,000 soldiers, sailors, airmen, marines and coast guardsmen who are participating in Operation Iraqi Freedom. Because of their dedication and devotion to duty, Operation Iraqi Freedom will be a success.

Finally, this resolution expresses support for the families who wait at home for their loved ones who have undertaken this mission. Without the love and support of the families, our military personnel could not focus on the serious task at hand in Iraq, and I want to express a special thanks to the families of those serving in Operation Iraqi Freedom. Their sacrifice will not be in vain.

Mr. Speaker, I urge my colleagues to show our support for our men and women in uniform by supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

This is a solemn moment for this body. We are here this evening representing Americans all across our land, and we are here to say on their behalf thank you to the young men and women who wear the uniform today, just as those veterans have done in yesteryear.

I appreciate the Speaker mentioning to this body that our colleague and friend the gentleman from Indiana (Mr. BUYER) has been called to Active Duty. We will remember him in our thoughts and prayers, just like we do every soldier, sailor, airman and marine who represents us in this struggle for freedom and the end of a regime that could cause great harm to the free world.

It is too bad that we have to have a resolution for our young men and women when they are in danger. Maybe we ought to pass one when there is a time for peace, when there is no conflict or a threat of conflict. It was the British poet Rudyard Kipling that put it so well in his poem "Tommy" when he said, It's Tommy this and Tommy that and throw them out the brute, but savior of his country when the guns begin to shoot.

I think we should show respect and thanks and appreciation to those who wear the uniform, who are trained daily, working daily, and, when they are called upon as they are now, be ready.

So I thank the gentleman from California (Mr. HUNTER), my good friend and chairman, for his efforts. We have worked so well, as we did on a previous resolution just a few days ago, and sadly, the process by which we find ourselves here tonight has not met with full understanding. Nevertheless, we are here to commend those troops for what they are about to do and what they are doing on the field of battle this evening.

We unite as Americans in support of our troops, who are the truest expression of what this country stands for: courage, strength, compassion. They are the finest sons, daughters we have to offer the world as defenders of freedom, both in the United States of America, for the Iraqi people, as well as for those who love freedom across this globe.

I urge my colleagues to support this resolution. We will have a number of speakers, and as a result thereof, I will cut my remarks short, and I thank the gentleman from California for his efforts in this behalf.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield myself 2 minutes to respond to my friend from Missouri.

Mr. Speaker, I want to commend the gentleman from Missouri (Mr. SKELTON) and all the members of our Committee on Armed Services, Republican and Democrat, who work every day to support the people in uniform who are protecting American freedom around the world.

Mr. Speaker, this great instrument of freedom, our Armed Forces, have saved the world and liberated hundreds of millions of people in three major conflicts, World War I, World War II and, of course, the Cold War that involved several smaller wars, smaller battles, that I call Vietnam and Korea, and we have liberated hundreds of millions of people.

The real product of our Army and our Navy and our Marine Corps and our Air Force is freedom, and shortly we are going to be liberating 23 million more people, Mr. Speaker.

Mr. Speaker, in that great book about Korea, it was called the Bridges of Toko-Ri, by James Michener, if my colleagues have read that book, watched that movie, they may recall that the hero was a carrier pilot, flew out and hit a set of bridges in Toko-Ri that they had gone after day after day and lost a lot of people, and in the end that pilot did not come back. The commander of that carrier air group stood on the deck of the carrier when it was clear he would not return and neither would those people who were sent out to rescue him, and he asked, where does America get these people who will join the U.S. Armed Forces and put themselves in a very dangerous position, in this case go off on a mission, fly into enemy territory, hit a very heavily defended target and come back and try to find that little postage stamp called an American aircraft carrier? Then he answered his own question: They come from the cities and the towns and the villages of this country, and they always have, and as long as they continue to come, we are going to be a free Nation.

Mr. Speaker, one of those people comes from Shelbina, Missouri.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM), who was the top gun in Vietnam, nominated for the Congressional Medal of Honor, and a guy whose heart always travels with people that wear the uniform of the United States.

Mr. CUNNINGHAM. Mr. Speaker, I have thought a lot about this resolution. I do not think any of us can speak adequately on our feelings to our men and women that serve us today. They are today not only in Iraq, but in Afghanistan and all over this world, and they go a long way to protect our families and our country.

Over 40 nations have joined the leadership of the United States, and they also send their sons and their daughters and their family members so that terrorism will stay there instead of here.

My friends, like the gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. JOHNSON), the gentleman from Indiana (Mr. BUYER), they know the fears of Private Ryan and We Were Soldiers and Glory, and I guarantee my colleagues the families do, too.

My mom cried when I was shot down. An officer told her that I had been shot down, and she passed out, and they took her to the hospital before she even knew that I was okay. In my district and in my colleagues' districts, I bet them, there are children right now weeping for their parents.

This is an important resolution. I hate to see the partisanship, that things come up. I know different people believe certain ways, but let us not do it here. This is so important.

I know when we were overseas, many of us, it was important. I did not care if it was President Johnson, I did not care if it was President Clinton, all I wanted to know was that the Congress was behind us, that they would support us and that the Congress would support our leaders because they had to make the decisions that kept us alive or not.

Mr. SKELTON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding time and for his distinguished service on the committee and to our country, and I also commend the gentleman from California (Mr. HUNTER).

In the previous day, a couple of weeks ago, we had a very fine resolution on the floor that they proposed that was worthy of the troops that we were honoring. I wish we had that resolution before us today.

Nonetheless, Mr. Speaker, I rise in support of this resolution which, in part, honors our courageous men and women in uniform. I disagree with the policy that took us to this war. I dispute some of the arguments used in favor of this resolution, and I am disappointed in some of the provisions in it, but even those objections cannot overcome the pride and appreciation that I have in our troops and the message that I want them to hear from us tonight of our support for them.

Tonight the thoughts and prayers of all Americans are with our military forces and their families. I think we should be honoring the military wherever they serve in our country tonight because they are all brave, courageous, patriotic and willing to make the sacrifice for our country.

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Mr. Speaker, I certainly think we could have done better in this resolution, but do not let that stand in Members' way for us to give a resounding vote of support of appreciation and pride for our men and women in uniform.

Tonight we learned of the first casualties of this war. Sixteen American and British Marines have died in a tragic helicopter accident in Kuwait. I hope it is a comfort to the families who lost their loved ones that so many people mourn their loss and are praying for them at this sad time. There is no heavier burden for a President and no more solemn choice for this Nation than to send our young men and women into battle.

As Commander in Chief, President Bush has made that difficult decision. Despite our policy decisions, as Americans we stand behind our men and women in uniform. As Congress, charged by the U.S. Constitution with providing for the common defense, we pledge today to our Armed Forces and their families, they will have the support they need in this dangerous and difficult time, both to win the war and to secure the peace.

In recent weeks I have met with some of these courageous men and women. We have all been meeting with them over time; but as the war drew near, it was more poignant. I traveled with the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services, to Whiteman Air Force Base in Missouri to meet with the B–2 crews that may soon be engaged over Iraq. They were again brave and patriotic. Everyone respected the gentleman from Missouri (Mr. SKELTON), as Members can imagine; and everyone recognized what a great patriot he is in our country.

Three weeks ago, along with the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Ohio (Mr. HOBSON), I traveled to Kuwait, Qatar, and Turkey to meet with the soldiers, sailors, airmen and Marines now risking their lives in Iraq. We brought with us Members' good wishes of appreciation and pride, and thanked them for their patriotism, courage and, willingness to make the ultimate sacrifice.

Our men and women in uniform are an inspiration. They have waved goodbye to their husbands, wives, and children; and they endure daily hardships over many months to enhance America's diplomatic leverage. They are focused on their mission, motivated by a profound love of country and prepared, yes, to make the ultimate sacrifice. They are the best-trained, best-equipped and best-led military force the world has ever seen; and every American is eternally indebted to these patriots.

During our visit to the Persian Gulf, we met a young soldier named Captain Jennifer Schulke of Fort Bliss, Texas. She commands a Patriot missile battery in Kuwait. With the precision and ease of an engineer, she described for us the capability of the weapons system she commands. But she spoke with even greater pride of something else, about her daughter back home. Her daughter will be 2 years old on March 27, and on her birthday her mother will be serving in a country halfway around the world. Captain Schulke is one of the countless mothers and fathers, husband and wives and sons and daughters in uniform making sacrifices American families can only begin to imagine. I thought of her today when we heard of the Scud attacks and the Patriot response. It is people like Captain Schulke who inspire us and insist that we must support our men and women in uniform.

Today we pray for their swift and safe return into the loving arms of their families. When they come home, we will honor them for the heroes they are. And if they do not come home, we will support their families and honor their heroic deeds. We also honor our men and women in uniform by proving ourselves worthy of their sacrifice when we uphold the democratic values they defend with their very lives.

As we protect and defend the American people, we must also protect and defend the Constitution and the civil liberties contained therein which we cherish. And we must treat honest debate for what it is, an expression of patriotism, not a violation of it. Open discussion of the great task before us does not give comfort to America's adversaries. No, on the contrary, it gives comfort and confidence to the American people who look to Congress to uphold the immutable values and ideals that define our American democracy.

Today, America's sons and daughters preparing to go into Iraq have answered the call of their country. In the days to come, let us build a future worthy of their sacrifice. May God bless our courageous forces and their brave families. May God bless America.

Mr. HUNTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this resolution to the floor.

Even though the hour is late, Members are willing to stay here because it is so important for the House of Representatives to express our support for our men and women in uniform, our troops in harm's way now, and as the minority leader said, those troops anywhere in the world and at home. And also to support their families for the sacrifices that they are making. It is tough on the families, probably tougher on the families than any other people. We are also here to commend the President for his strong leadership in bringing us to where we are today.

Our men and women in uniform need to understand why they are fighting and why they are risking their lives, and understand that this House supports them in that because in order to risk their lives, they have to understand that they are doing it for the right reasons.

Last night began a challenging time for our country as our Armed Forces went on the march against tyranny. It also signaled the time for our country to come together with singleness of purpose and speak with a single voice.

Under our Constitution, America speaks through the United States Congress, and last year we spoke out boldly and strongly from both political parties. We let the world know that the defenders of freedom are not going to allow the world's leading purveyor and practitioner of terror continue to spread his grip of fear.

Today, Congress is set to speak again for the American people. We want to honor the men and women of our Armed Forces who are conducting their mission with the utmost honor and courage as they defend our democracy.

We salute every person taking risks to confront terrorism and tyranny to expand the frontiers of freedom, and we salute the President for showing the world the power of strong, moral leadership.

We know that Saddam Hussein is seeking the means to murder millions in just a single moment, and he is consumed with hatred for America. We know that the war on terrorism will be fought here at home unless we summon the will to confront evil before it attacks. Free democratic nations must be willing to stop his evil aspirations. He is not a man with whom we can confer, consult, or convince. He is not a man we can trust. He has violated 17 United Nations resolutions. He is in material breach of multiple U.N. resolutions, and he has ignored the final ultimatum by the President of the United States.

Saddam Hussein once agreed to end his missile program. He agreed to stop building chemical weapons. He agreed to stop developing biological weapons. He agreed to end his nuclear weapons program. He agreed to stop brutalizing and oppressing his people. He agreed to do many, many other things; but every promise he made was a lie. Every agreement was a devious swindle. Every commitment was an expedient falsehood.

It was all a devilish strategy designed to escape accountability for past crimes and to buy the time to develop weapons for even greater crimes against humanity.

He turned the regime's resources to the awful purpose of developing terror weapons to spread the cruelty and oppression beyond his own borders. He welcomes terrorists to sanctuary and support within his own borders.

During the years that Saddam Hussein slow-walked the United Nations through his series of deceptions, his regime systematically brutalized the Iraqi people. He tortures children to punish their parents. He executes members of his government to enforce obedience. We can never know how many faceless victims have screamed out their last words to the uncaring ears of Saddam Hussein's torturers.

As a member of England's Labour Party recently laid out in chilling detail earlier this week, Saddam Hussein is a diabolical prodigy in the craft of evil. This member spoke of Iraqi citizens who witnessed men being forced into a machine intended to shred plastic. The men who went in head first were, in a tragic sense, the fortunate ones. The men who were sent to their death feet first, their final words were anguished screams for mercy. She told of women raped as Saddam Hussein's torturers made their husbands watch.

This is wickedness that by the grace of God the people of America will never know. We have not cornered the market on morality, but our policy of intervention to force an end to this evil is clearly a just cause, a worthy war and a principled stand.

Fortunately, President Bush is proceeding with courage and boldness. He is leading with moral clarity. He is fighting principled battles, and he is not backing down. We have to give President Bush our full support as he confronts this evil, and our men and women in uniform as they confront this evil.

This vote to support our Commander in Chief and our courageous troops in battle sends the right message that we are denying Saddam Hussein the power to take additional lives. We believe that in the teeth of terrorism, America must continue exporting the values, democratic institutions, and patterns of conduct that have built the strongest and fairest system of government and the most free society the world has ever seen.

We feel very deeply for all of the people trapped within autocratic regimes and born with repressive governments. And as defenders of freedom, we also owe the besieged people of Iraq the same hope we supplied to the people of Germany nearly 6 decades ago.

In the battle between freedom and terrorist tyranny, there is no middle ground. We look to the day, far off though it may be, when every person comes into this world with the full promise of their God-given rights upheld by the government of their birthplace. This is a bold vision and a noble goal, but the potential of the American people is not constrained by the timid boundaries of conventional thinking. We are called to far more than that. And due to the excellence and patriotism and bravery of our soldiers and their families, and the courage of the President with moral purpose, the liberation of Iraq has begun.

May God bless our President, may God bless our troops, may God bless our Nation.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, the war to remove the grave threat posed by Saddam Hussein and his regime's weapons of mass destruction has begun. Throughout this mission, the men and women of our Armed Forces will have the unwavering support of Congress and the American people. I thank the leadership of both parties for bringing this important resolution to the floor.

Today, this House speaks with one clear voice to America's allies and adversaries alike. We stand united in strong support of our troops.

My wife, Army Major General Kathy Frost, Commander of the Army Air Force Exchange Service, recently visited our troops in four Persian Gulf countries. She has shared with me their absolute commitment to everything asked of them by our country to complete this mission.

I also wish to recognize the thousands of American civilians, such as the AAFES employees, who are providing vital support to our troops in the Persian Gulf. The work of these civilians is essential to the success of this mission, and they, too, deserve our gratitude for taking the enormous risk to work in what is now a combat zone.

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Our troops will succeed in carrying out this mission. Like all Americans, I hope and pray they do so as safely and quickly as possible.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LEWIS), chairman of the appropriations Subcommittee on Defense and a guy who works every day on behalf of folks in uniform.

Mr. LEWIS of California. Mr. Speaker, I rise really to express my deep appreciation for both the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) for the fabulous job they do on behalf of the men and women who make up our Armed Forces. The gentleman from California (Mr. HUNTER) and I have talked about the fact that I am very proud at this moment in our history to have the privilege to chair the subcommittee of appropriations that does the funding for the men and women who are now serving us overseas.

This evening we will have before us a budget that is probably the finest budget in terms of national security that I have seen in all the years I have been in Congress, and we will have the opportunity in that budget to express our strong support for those men and women who are doing this work on our behalf and on behalf of freedom in the Middle East this evening.

But particularly relative to this resolution are these two gentlemen, the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER), who have come together to provide a vehicle for us to express our deep appreciation, our deepest appreciation, for the work that they are about. Indeed, it is America's challenge to preserve freedom and provide leadership for freedom in the world. The men and women who are serving us this evening who we are praising by way of this resolution are right at the point of the strength of America as we go out carrying forward that responsibility we have to be the world's force for peace as well as for freedom. I thank them so much for what they are doing.

I appreciate the gentleman yielding me this time.

Mr. SKELTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I rise in strong support of our troops.

Mr. Speaker, I rise in support of the concurrent resolution. We are now at a state of war with Iraq. Regardless of how we as individuals may feel about the President's decision to go to war, it is imperative that we support the men and women who are in Iraq now and who have put their lives in harm's way.

Over the last few months, we as a nation have engaged in a vigorous discussion concerning our policy toward Iraq. During this time, many people have expressed a differing view from the President's concerning Iraq.

No one should ever mistake our open society for weakness of spirit and resolve. I support our American and allied troops, and I pray for a swift and decisive conclusion with as few casualties as possible.

When the fighting concludes, and if Iraqi President Saddam Hussein and his top officials survive the war, I have introduced a resolution with the gentleman from Pennsylvania, Mr. WELDON, which calls for the establishment of a U.N. war crimes tribunal to investigate and try them for crimes against humanity, genocide and other criminal violations of international law. I have little doubt that such a tribunal is justified. There is an enormous amount of irrefutable evidence that Saddam and his top officials ordered Iraqi soldiers to commit atrocities against their own population and against others, including American soldiers during the 1991 Gulf War.

Our immediate focus after the fighting stops must be to stabilize Iraq and the entire Middle East region. After the war the United States and our international partners must help Iraq transition to a democratic republic that respects the rule of law and human rights. I also look forward to working with the President to ensure that Iraq has the help it needs to transition to a democratic republic that respects the rule of law and human rights.

The weeks ahead will be difficult ones, but I know Americans will join me in supporting our troops who are in harm's way. I also know that all of us want a swift conclusion to this conflict with as little loss of life as possible.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, we all wanted diplomacy to find a peaceful solution, and now we all want our troops home as quickly and safely as possible. The enemy should understand that it can take no comfort in the disagreement we have had with President Bush on the wisdom of a unilateral war in Iraq. Once our President sends our men and women into harm's way, we will do everything possible to support our troops abroad and their families here at home.

I share the sadness and concern for our fighting men and women and the people of Iraq. I join my colleagues and Californians in wanting to ensure our troops are safe, innocent civilians casualties are avoided, Saddam is disarmed, and the world community is engaged in rebuilding a democratic Iraq.

When I was in the Persian Gulf earlier this year, I saw many of the men and women who will win this war for America. They are young, they are smart, and they are ready. To the men and women of the Armed Forces, especially those from Travis Air Force Base and Reserve and National Guard units from throughout California and the Bay area, you have the unwavering support of this Congress and the American people. To the families of these brave men and women, let me tell you that your sacrifice is tremendous, and we are praying for your loved ones' safe return.

Now the only exit strategy that remains is victory. I am confident that day will come soon. God bless our troops and God bless America.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT), who is the chairman of the Subcommittee on Projection Forces.

Mr. BARTLETT of Maryland. Mr. Speaker, however much we may disagree in the Congress and the country about how we got to this moment in time, here we are. Americans are engaged in battle to disarm Saddam Hussein of his weapons of mass destruction and to free the Iraqi people from his reign of terror. The world must know all Americans stand behind President George W. Bush in his role as Commander in Chief. The world must also know that all Americans stand united in support of our magnificent military personnel who are now in harm's way. Victory is certain. I believe it is important that we all pray and ask for God's guidance and assistance that victory come swiftly and with as little loss of life as possible, both American and Iraqi.

I believe the surest path to peace is through strength. Americans are a peaceful people, but evil exists. This is a time when the evil of Saddam Hussein and the threat he poses must be defeated with military force. It is right and proper that we appeal to God, for we need His help to move beyond war and achieve the goal of a free and prosperous Iraq that will be a model for the Middle East and the world.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, on April 28, 1999, the now majority leader addressed the House of Representatives with these solemn words:

"Mr. Speaker, this is a very difficult speech for me to give because I normally, and I still do, support our military and the fine work that they are doing. But I cannot support a failed foreign policy." I quote this, Mr. Speaker, not in criticism and not for any political purpose, but because these words express my feelings tonight, just as they expressed the majority leader's when our troops were in Kosovo, a policy I supported, just as he supports the war in Iraq.

Each and every word of praise and support for our troops in this resolution I wholeheartedly endorse. As a mother, every expression of gratitude and prayer for their families I embrace. But as one who believes that this preemptive war that put these brave patriots in harm's way is unwise and unnecessary, I cannot in good conscience support a resolution that unequivocally endorses that action. I deeply love my country, and without reservation the men and women who wear our uniform, but regretfully, will not be able to support this resolution.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, as a parent of three sons who are in the military, I rise in support of the resolution being offered by the gentleman from California (Mr. HUNTER), chairman of the Committee on Armed Services.

In particular, I had the opportunity just last month of going on a delegation to visit our troops in Kuwait. It was an extraordinary opportunity. The delegation was led by the gentleman from Georgia (Mr. COLLINS). We went to encourage the troops, but actually while I was there, they encouraged me. We saw the troops of the 82nd Airborne, the 3rd Infantry Division, neighbors of mine from Fort Stewart, Georgia; I was able to see the troops from the 1st Marine Division.

At each stop we were encouraged by the high morale of the troops. We could see that they had the best equipment in the world. They have the best training in the world. They have the finest military leaders in the world. My greatest concern for the troops was the threat of chemical and biological weapons.

I want to thank the gentleman from New Jersey (Mr. SAXTON), chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities. Yesterday we had a presentation which revealed to us the extraordinary technology which is being provided our troops, the lightweight protective gear, the wonderful modern gas masks, the 20,000 chemical detection devices. Each one of our troops is well protected against chemical and biological weapons.

We have 44 allies involved in the coalition that is facing Saddam Hussein at this time. In the Persian Gulf there were 41. Two countries in particular I want to thank. I have had the opportunity to be with Ambassador Elena Poptodorova of Bulgaria. Bulgaria has provided troops. It is providing the first American air base in the history of their country at Burgas. I also thank Ambassador Sorin Ducaru of Romania. I met with him 2 days ago. It is just extraordinary the services they are providing as they support the war against terrorism and the war against Saddam Hussein.

I conclude, God bless our troops.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, the United States is at war. We have one Armed Forces, one Commander in Chief, one Nation. There are questions to be asked about how we came to this moment, about the diplomacy, about the relationships with our allies, about the shifting rationales we have been offered for war. These are serious issues. They should and will be debated here by historians and scholars in the months and years ahead.

Today is not a time for that debate. There are hundreds and thousands of young men and women in harm's way, my neighbors and yours. Our attention should be focused on those young men and women, the success of their mission, and their safe return.

I had the fortunate experience of serving in the White House. I know firsthand what a solitary and difficult decision it is for a President to send our Armed Forces into harm's way. I well remember some Members of this body, in the midst of conflict, attacking the President, the Commander in Chief, even as he worked day and night to complete a mission to bring our servicemen and women home safely. It was wrong then. It would be wrong now.

I for one will not do that to our President, to our Commander in Chief. I want him to succeed. We should all want him to succeed. So long as our troops are engaged, we should suspend the debate over how and why, focus on the mission, unite as a country in prayer and resolve, hope for a speedy resolution of this war, with a minimum of loss. God bless America.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I want to say a word to the courageous men and women in uniform and a word to the courageous men and women of the United States Congress. First, I think we should remember September 11 because the greatest generation on whose shoulders we stand today were incredibly encouraged by the bravery and the sacrifice following September 11 when we were struck in our homeland. They were encouraged because they realized that their children and grandchildren had what it takes, that we were actually willing to answer our call to courage in our generation, and that we were willing to sacrifice.

Today's men and women in uniform around the world are standing in the gap between a threat and our civilian population, and we all thank them for that.

When I was growing up, it was almost all Active Duty career men and women in the military. Today it is the Guard and the Reserves, and they are all deployed, and they leave their jobs and they go and they serve, and they did not know this moment was going to come, but they are ready and willing.

I sent off the 181st earlier this week from Chattanooga, Tennessee, and wives and parents were all there. They have got guts, and we appreciate them so very much.

But let me say something quickly to this body. I have been around long enough to know, I do not know what the next election is going to bring except probably a real close election, and I do not know who is going to be President. I was raised in the Cold War, but I am raising my children in a hot war. This is not the only time that we are going to be on the floor addressing problems like this. We are going to be back. I do not know who is going to be President, but I hope that the tradition of us meeting at the water's edge when it comes to our national security is carried on, because this institution and that tradition is bigger than either party or any Member, and we must continue to stand together for freedom in the United States Congress.

Mr. SKELTON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I stand in strong support of our troops and our families.

Mr. Speaker, at this moment my prayers and thoughts are with the service men and women who are braving the fierceness of battle in the deserts of Iraq. My best wishes are with them and their families for a safe return home. I have no doubt that they will be victorious in their undertaking and perform their duties honorably and bravely.

I have a particularly soft spot in my heart for the service men and women serving in Michigan's National Guard and reserve units that are now activated to duty. They are providing a myriad of services and tasks on behalf of the war effort and in service to our nation.

The politics of war should stop when the first shot is fired and when the men and women who make up our armed forces move into the field of battle. Some Members in this chamber have taken exception to the Administration's handling of the Iraq crisis, and I include myself among those who have had strong reservations about our road to war. If this were a simple resolution expressing our support and best wishes for the safe return of our troops, it would have my complete and unquestioning support. As a Member of the House Appropriations Committee, I will do everything I can to make sure that our troops are provided with the equipment and resources necessary to ensure their safety and support their families.

But I have strong reservations about the course of action that took us into our present state of war. My position on this war has been plainly clear since the beginning, when the Administration first proposed using preemptive action against Iraq. I supported working through the United Nations and our allies and using all diplomatic means possible to disarm Saddam Hussein. I do not feel that the President stayed true to this path and exhausted all diplomatic means available. Therefore, I could not in good, moral conscious, vote "yes" for this resolution because it represents an affirmation of the policy of pre-emption. I strongly disagree with the application of a pre-emptive doctrine. It is counter to our values as a democratic nation and our American tradition.

Now that we are committed, our troops are bound to perform their mission effectively and destroy the Iraqi war machine. As they pursue their objective, they will encounter many perils as the war follows its course. I share with the President the wish that their job will be completed swiftly so that they will soon be returning home to their loved ones.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, tonight I rise with a heavy heart in strong support of our troops. My thoughts and prayers are with them, and I pray for their safe return. As a soldier's daughter, my heart also goes out to their families. I know they anxiously await their return home.

America's Armed Forces put their lives on the line and their sacrifices should never be forgotten. That is why just 2 weeks ago I voted in favor of H.J. Res. 27, which recognized and commended the continuing dedication and selfless service of members of the Armed Forces and their families. In spite of our policy differences, I do support our young men and women in uniform.

□ 0015

But what I cannot support, though, is this resolution that endorses war against Iraq. I believed and still believe that diplomatic alternatives existed, the inspections process was working. Keeping our troops out of harm's way has been and remains first and foremost on my mind and in my heart. May God protect them and return them safely home.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS), who was a fighter pilot in the Persian Gulf and in Vietnam.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to add my voice to the many voices who are commending the troops of our Nation and our allies as they undertake the task of liberating the people of Iraq and removing the danger that Iraq's illegal weapons present to the world. It is unfortunate that Saddam Hussein did not take the opportunity given to him for the past 12 years to simply comply with the demands of the world and peacefully disarm. However, the decision to ignore the world will ultimately be a tragedy, mostly for Saddam Hussein.

Over the next few days we are going to find out just how fortunate we are to have our young men and women on the front lines. The bravery of our troops has already been demonstrated in the last 24 hours. A courageous 117 pilots have struck deep into Iraq with minimal support in some of the first air strikes of this war. Marines and soldiers alike in Kuwait have engaged the enemy in Iraq, and freedom for Iraq is closer today than ever before.

Mr. Speaker, in many ways this is the beginning of the end for many different people. For the Iraqi people, it is the beginning of the end of 20 years of oppression and tyranny; and for terrorists another haven for training and planning attacks is coming to an end. For the men and women of our Armed Forces, 12 years of constant deployment to contain a tyrant is coming to an end.

The men and women of our Armed Forces will demonstrate to the world the courage of our Nation, and they will show that the United States will not tolerate appeasement that keeps tyrants in power and endangers the entire world. I urge my colleagues to support this resolution.

May God bless our leaders. May God bless our troops, and may God bless this great Nation.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as we gather tonight, hundreds of thousands of Americans and allied troops are risking their safety to protect ours. They are courageously confronting Saddam Hussein and the danger his regime poses to the world, and we have the utmost confidence that their victory will be sure and swift. I pledge my full support to these brave men and women and my firm commitment to providing whatever resources may be necessary to back their critical mission. Just as importantly, I want to thank the loved ones these soldiers have left at home for their sacrifice during these difficult times.

Sadly, the deaths tonight of 16 Marines and British troops in a helicopter crash in Kuwait remind us of the great and constant risk our servicemen and women are facing. I offer my deepest condolences to their families in their time of grief. Above all, I express the gratitude of every American for the brave patriots who have been called upon to defend freedom and security.

May God be with each and every one of our troops as we all pray for their protection in combat and a quick and safe return home.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Rhode Island (Mr. LANGEVIN) for his great service to the Committee on Armed Services.

I yield 3 minutes to the gentleman from Virginia (Mr. SCHROCK), another gentleman with great military expertise.

Mr. SCHROCK. Mr. Speaker, as the representative of the Navy's Atlantic fleet and nearly 100,000 active duty servicemen and women, I am pleased to rise to honor our brave men and women in uniform. The piers in Norfolk stand empty tonight and thousands of families are risking their loved ones, but we pray along with them that their loved ones have a successful and safe mission and that they can return home as soon as their mission is complete.

Fortunately, our enemies do not often witness the strength of the U.S. military firsthand, but Saddam Hussein's regime is learning of that strength tonight. It is the men and women of our armed services that give us that strength. Their resolute training, their unwaivering bravery, and their steeled resolve will bring a quick and decisive end to this conflict. These men and women have volunteered to fight and put their lives at risk to ensure our freedom and to liberate those held back by the chains of tyranny. These men and women represent the best that America has to offer, and we must stand united behind them and our Nation's leadership.

I thank the gentleman from California, whose son is an active duty Marine Corps officer and the gentleman from Missouri whose son is an active duty naval officer for bringing this resolution to us, and I urge its swift passage.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I rise today as a Member of this body who was privileged to serve my country as an officer in the United States Navy. In that roll as chief psychiatrist at the Long Beach Naval Station at the height of the Vietnam War, it was my duty to evaluate and treat seaman and Marines returning from combat. I saw their pain.

I wish it to be clearly understood that I have the utmost respect and appreciation for the courage, tenacity, and dedication of those currently serving in Iraq and elsewhere. But, Mr. Speaker, war is not a partisan matter. The leadership should be ashamed of bringing this resolution to the floor. Everyone here wants to support an honest and straightforward resolution to support our troops. Do not give us a disingenuous and deceptive resolution that confuses the issue by asking us to endorse the Bush doctrine that sent our troops to war. I for one will not be forced to praise the President's reckless decisions when what I want to do is praise the troops. I cannot endorse the administration's policy of unilateral military action without international sanctions. This war of choice undermines the international order and endangers our Republic.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I thank the distinguished chairman and ranking member. I appreciate this opportunity, and I rise really for two specific reasons. First, on behalf of those I represent in the Sixth Congressional District of Georgia, I want to rise to express my appreciation and my support for this resolution, the men and women whom it honors, the parents who raised them, and the Commander in Chief who today leads them.

And, secondly, I rise to pay tribute in memory of my best friend, Captain Jackson Elliot Cox, who died in 1967 in Vietnam. He died at a time when America's Congress was divided over another conflict at another time. He died and gave the last full measure of his life on behalf of this country so this body could do its work just as those men and women are doing today in the sands of Iraq and in the Middle East.

So before at this early stage we divide ourselves over words, I hope we will unite ourselves over the praise of these young men, these young women, their families that raised them, and the President that leads them. This resolution is important to all in America, but it is most important to those who tonight serve us while we have the freedom to debate, to vote, and to participate in the greatest democracy in the history of the world, the United States of America.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, what a great opportunity we had tonight for all of us to unequivocally endorse and praise those brave young men and women who are prepared at any time to put their lives on the line and put themselves in harm's way for the interests of the United States of America.

My training in the military dictated to me that when that flag goes up, we salute it. When you are in the military, you do not have the options of determining which is a right war, which is a moral war, and which is any other type of war that one likes or dislike. You do what you are told, and you fight for this great country.

As Members of Congress, however, we had an opportunity to forge a resolution that would not have any doubt about our unequivocal support for our men and women not just tonight but as long as we are able to serve in this great body for this great country. But somehow we sought not to do this. Somehow, as the majority leader said on different occasions, we wanted to mix policy with praise. Our fighting men and women do not have an opportunity to deal with policy; and yet this is what we are asked to do, as the majority leader said, that we must congratulate and express the unequivocal support and appreciation of the Nation for a President who brought us where we are today. I do not like where we are today. I did not vote or support how we got where we are today. I am prepared to salute the Commander in Chief because he is in charge today, but why do you put me in the position that it even looks as though I am not supporting our men and women? Because I reserve the right as a Member of this body to disagree with this President or any other President as long as I am elected to serve my constituents.

I am happy that I will have other occasions to show in a more vocal way my unequivocal support for our brave fighting men and women.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KLINE), a gentleman with great experience in the U.S. Marine Corps.

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to speak in favor of this resolution to commend our troops and to show our complete support for them. The men and women engaged in the struggle against the war on terrorism face a difficult challenge, and we have seen it tonight with the loss of 16 servicemen. Whether directly involved in combat or serving in support roles, these brave individuals are responsible for providing protection to our allies and freedom to the people of Iraq.

There are those who may have debated the United States's role in this conflict, and fairly so. But now is a time to rise above this debate and send one clear message to the men and women of our Armed Forces. These troops need to know that we support what they are doing. If we express doubt as to the validity and purpose and importance of what they are doing, I am afraid our support will sound hollow to their ears. Our message to these troops is one of gratitude for what they have done and what they will continue to do to advance the cause of peace and protect our national security. Our prayer tonight is one for fortitude that they can persevere throughout the battle and return safely to their families and their loved ones.

We commend our troops for their service, and we pray for their safety.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, Abdul Henderson was called up as a Marine Reserve to go to Iraq. I am hoping and praying that he was not aboard that helicopter. As soon as I leave these

Chambers, I will make a call out to Los Angeles.

He is the son of one of my employees. We saw him off. I support and I honor our troops for they are following commands, and I think the most honorable thing we can do is take them out of harm's way.

□ 0030

There is no way I can support this resolution because it speaks to a war that I feel is unnecessary and unjustifiable.

Even after we succeed in Iraq, is America going to be any safer? Because I remember the President talking about the Axis of Evil, Iran and North Korea. So I pray every day for our troops and their families. And let us do the right thing. Never, ever again should America do a preemptive strike. Why do we not do what we need to do, and that is go after Osama bin Laden, who has been proven to be an effective terrorist.

Bring our men and women home, and let us honor them so they can come back to their families.

God bless America.

Mr. HUNTER. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I congratulate the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this resolution to the floor.

Mr. Speaker, in early February, the Speaker asked five of us to travel to the Middle East, first stopping in Kurdistan, on into Uzbekistan. We attempted to get into Afghanistan, but, due to bad weather, we were unable to; and also on into Kuwait city.

The purpose of that trip was to deliver a message from the Congress of the United States about the support that we have for Enduring Freedom and for the operation that is going on that they are carrying out today.

On our visit to each of the stops, we had four ways of expressing our gratitude. One, we had banners, banners that had inscribed the words from the President's State of the Union Address, when he addressed the troops and said, you believe in America, and America believes in you. Those banners were signed by hundreds of people, not just Members of Congress, but people from across the country who visited here in Washington. Each of those banners was signed by the Commander in Chief.

Another way that we had of expressing the gratitude of the Congress was a video, a 10-minute video which began with the Speaker of the House delivering a message personally, the Commanding General of Fort Benning, Georgia, people from the PX, people from the streets, also the gentlewoman from California (Ms. HARMAN), the gentleman from Georgia (Mr. BISHOP), Vice President DICK CHENEY, and ending by a message from the Commander in Chief, President Bush.

The third way that we expressed our gratitude from the Congress was with a flag. We presented each stop, each unit that we visited, with a flag that had been previously flown over the Capitol of the United States.

Five of us were traveling; the gentleman from New Jersey (Mr. PASCRELL), the gentleman from Massachusetts (Mr. CAPUANO), the gentleman from Alabama (Mr. EVERETT), the gentleman from South Carolina (Mr. WILSON) and myself. Never once did we identify ourselves at any stop as other than Members of Congress. We did not carry a label by party, just Members of Congress, to express our gratitude.

The fourth way was there in person, to personally deliver the message. We never heard one complaint, and we shook the hands of thousands of men and women in uniform. Not one complaint, but a lot of fine compliments to the Congress and to the Commander in Chief. Proud to serve both.

But to our surprise in Uzbekistan, as we were presenting these gifts and expressions of gratitude of the Congress, they had a gift for the Congress. They had a flag that they had flown over the air base, K-2 in Uzbekistan, a forward operation base for Enduring Freedom. But not only did they fly it over the base, they put it aboard a C-130 gunship and flew it over Afghanistan, because they wanted to express to us their gratitude for what we do as Congress and for our Commander in Chief.

Should we not be doing that today in the same fashion that the five of us traveled, as Members of Congress; not by party label, just Members of Congress, proud to be so, and proud of our soldiers and our airmen, our sailors, our marines, our Coast Guard.

God bless each and every one, and God bless our Commander in Chief.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. TURNER), the ranking member of the new Select Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, tonight American soldiers are crossing the deserts of Iraq to disarm Saddam Hussein. It is a mission that will present unknown dangers to our young men and women in uniform. They go not as conquerors, but as liberators. They seek no sovereignty over the Iraqi people, but seek to grant the opportunity for freedom and democracy to an oppressed people.

Their mission is to disarm Saddam Hussein in accordance with the mandate of the United Nations Resolution 1441. Some would say that the task of disarmament might be accomplished without force, but none would deny that the threat of the use of force is the only credible tool in dealing with a dictator who has for 12 years defied the requirements of the resolutions of the United Nations.

Our Nation vigorously sought to unite the world in this cause. Though some of our allies failed to face the reality of a brutal dictator who seeks to accumulate weapons of mass destruction, we are joined tonight by over 40 nations to confront this dictator who controls a nation that possesses the wealth to achieve his goals of military dominance.

The policy of containment and mutual deterrence that worked successfully in the 20th century is not a strategy for security against the threats of weapons of mass destruction in the 21st century.

We join together tonight in deep gratitude for the brave young men and women who courageously face the dangers of our mission. They join a long line of patriots who have given us the opportunity to live in peace and prosperity. May God bless and protect them, and may His hand guide them in the pursuit of the cause of freedom and justice for all.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, some Members of this United States Congress support President Bush's preemptive strike against Iraq. Some Members have done their elected and patriotic duty and raised questions about the President's diplomatic failure and inability to resolve this conflict peacefully. However, every Member of Congress, Democrats and Republicans alike, strongly support our men and women in uniform.

Why, then, could our Republican Members not agree to a clean-cut, clearly worded resolution of support for our soldiers? The Republican leadership chose to politicize this moment in history with a politically worded resolution designed to trap the opposition into supporting a war that we do not support. They have cheapened this debate by trying to use this resolution to legitimize this war. This war is neither legitimate nor necessary.

No matter, our troops are in harm's way. We support our soldiers and their families and will do everything in our power to make sure our men and women in uniform are honored and respected as they bravely serve our country. And when they return home, my office and my staff are always available to our men and women in uniform, and we will work very hard for them.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, 50,000 marines and sailors who call San Diego home are officially at war, and I respect their courage and the skills they bring in defending our freedom. I have met with many of these families and with those who advocate on behalf of them, the ombudspeople who volunteer every day to ensure that parents and spouses and children get the support they need in times of peace and in times of war.

I supported the resolution 2 weeks ago, and I will support it again tonight, because my support overrides honest differences that I and many of my constituents have in the course that we have taken.

Jessica, whose fiance is a marine in the Gulf, sent in an article from San Diego today: "Nobody wants war, but the troops need our support. They have the toughest job. I get to sleep in my bed tonight."

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, oh, freedom; oh freedom. I pledge my unequivocal support for the Armed Forces of the United States of America. I, too, have visited troops in Germany, Italy, Kosovo, Qatar, Bahrain and Hawaii.

I have attended deployments of two units from the 11th Congressional District of Ohio. Their mothers and fathers asked me, why are we going to war, and why in Iraq? I could not answer their question, but I, too, gave them a flag, and asked them to bring it back to me safely.

Oh, freedom; oh, freedom. Freedom includes the right to have free speech. Thank God I am free to speak in opposition to this resolution.

Oh, freedom; oh, freedom. The young men and women of the Armed Forces, God bless you, God keep you, God surround you with his love. Oh, freedom; oh, freedom.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my very distinguished colleague, the gentleman from Missouri (Mr. SKELTON), who, as he brings his distinguished service to this House, also is the distinguished father of a son who is serving tonight as we have this debate.

Mr. Speaker, I rise tonight in support of this resolution; not because I like every single word that is in it, but the words that mean the most to me this evening are those that relate to and are connected to the treasures of our Nation, the sons and the daughters that are in harm's way this evening.

They are the sons, they are the daughters; they are fathers, they are mothers; they are grandsons, they are granddaughters; they are nephews, they are nieces; and they are really the beloved of our Nation.

I have raised questions about what would bring us to war. I stand in opposition to preemption, but tonight I do not believe is the night for that debate. We had it before; I think we will have it again.

Our troops who wear the flag on their uniform may very well, some of them, come home with a flag draped around their coffin. So, tonight I think our entire Nation genuflects and prays for every single one of them.

Let God watch over them and bring them home safely to the families who gave birth to them, to the families that love them, and to the families that had to bid farewell to them.

God bless them, and God help us.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, this is a very sad day. I weep for my country tonight. I am sorry, very sorry, that we have arrived at this point.

□ 0045

Tonight I think the world is a much more dangerous place for all humankind.

I want to make it clear that I support all of our young men and women who are in harm's way, and I pray and I pray for their safe return.

But tonight, Mr. Speaker, I want to speak for peace. War is bloody and messy. It destroys the hopes, the dreams, and aspirations of a people. In all good conscience, I cannot and will not vote for a resolution that supports and endorses a failed policy that led us to war. War is never the answer. War is obsolete.

The struggle for peace is as old as the dawn of history and as fresh as the morning dew. The struggle for peace is a struggle that lasts for more than 1 day, 1 week, 1 year, or more than a lifetime. But we must struggle.

Is it possible, is it too much to ask? Maybe it is possible for humankind to evolve to a much higher level and lay down the tools of hate, violence, and war. If we want to create a beloved community, a community that is at peace with itself, if that is our end, if that is our goal, then our way must be one of love, one of nonviolence, one of peace.

Tonight, Mr. Speaker, I ask God's blessing on our soldiers, and may God bless our little planet we call Earth.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in support of this resolution.

Today Congress stands in support of our Commander in Chief and our men and women in uniform. Tonight I join with all Americans in sending my thoughts and prayers to the men and women of our Armed Forces and their families. These brave soldiers have been entrusted with the ultimate responsibility of defending our freedom, and for this they have our unconditional support.

Citizens of my State know all too well the sacrifices that are made in times like this. In my home State of Connecticut, 35 percent of all National Guard and Army reserve troops have already been deployed to not only Iraq, but throughout the world, the third highest amount of any State in the Union.

We do not know what the days ahead for us will bring, yet it is the sincerest hope of every American that this conflict will be finished quickly and successfully. We hope there will be minimum casualties to our military and to the people of Iraq, and we will continue to pray for the safe return of these men and women to their families and their loved ones.

This is a time for all Americans to join together, to let our troops know that we support them fully and completely, and that they are in our hearts.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, we gather here for a well-deserved tribute to our troops in the Middle East. Yet just before this, we were debating the President's budget which cruelly cut $25 billion of veterans benefits, including disabled veterans. Is this how Republicans would honor those who have made great sacrifices in defense of our country? Is that how they would boost the morale of our current troops? Every major veterans organization has denounced these cuts as unconscionable, but now the pending business before us is a little bit different.

So I rise to reject these efforts to piggyback support for President Bush's dangerous policies on to a simple, but deserved, resolution supporting our troops. I trust the American people to see through this attempt to coerce endorsement of his "preventive war" doctrine.

I fully support our troops and offer my prayers for their safe return. I am an Army veteran myself; I care deeply about their well-being. And precisely for that reason, I cannot in good conscience vote for tonight's resolution, a carefully crafted document to force endorsement of President Bush's doctrine of preventive war, allowing him to attack countries whenever or wherever he chooses. I will not provide support for such a dangerous doctrine.

For years to come, it will unnecessarily put current and future members of our Armed Forces in harm's way, even when our national security is not really threatened.

Mr. Speaker, President Bush is about to unleash the dogs of war. He has set the clock ticking toward an unprecedented barrage of destruction dropped on a city of 6 million human beings. The barrage is oddly named the days of "shock and awe." All Americans who hold human life precious should watch the clock run down, not with "awe" but with fear and trembling. The sad truth is that we are lurching towards an unnecessary war that President Bush seems determined to launch.

Apparently, therefore, the brave young men and women of our Armed Forces are about to head into harm's way. We all offer them our support as they try to do their duty, and we send our prayers for their safe return. But we must also be faithful to our duty, a duty entrusted exclusively to the Congress by our Founding Fathers. That is the solemn duty to decide whether the United States should go to war.

The Constitution's framers emphatically entrusted that decision to the Congress alone. They were adamant that the Executive not play a role—although once war began the Executive is the Commander-in-Chief to implement that decision. The Framers were so intent on excluding the President that they rejected an offer to share the power to declare war between the Congress and the Executive.

I know that President Bush, and many of my colleagues believe that the Congress properly authorized war against Iraq last Fall, pursuant to Article 1, Section 8 of the Constitution. I respectfully disagree. We have not performed our duty yet. Last fall Congress enacted a resolution that generally authorized the president to fight terrorism and to seek enforcement of previous U.N. Resolutions on Iraq. But in reality, that resolution bucked the duty constitutionally conferred on Congress to the President. It let the President decide to choose when and where and against whom to start a war. In short, it dodged the decision and sought to delegate an authority that may not be delegated.

The administration's supporters argue that legal precedents allow the Congress to provide an authorization of war that is functionally equivalent to the now rarely-used formal Declaration of War. That entirely misses the point. It is not the format which is at issue; it is "who decides?"

It was clear, at that time, from the congressional debate, from Executive Branch statements, and from the resolution itself that the diplomatic route would be pursued first, by going through the U.N. Subsequently, in response to a broad national consensus, the U.S. spearheaded U.N. Security Council passage of Resolution 1441 that imposed a new inspection regime. In other words, it was clear last fall that the decision of whether to declare war was being put off for a later date.

In the months since then, it has become increasingly clear that the decision on going to war would turn on two crucial assessments. The first would be an assessment of the results of that inspection program.

The second assessment, and the ultimate judgment, would require weighing the implications of the inspection results and other information about what threat Iraq poses to the U.S. against the full costs—fiscal, diplomatic, casualties and increased terrorism—of going to war. Clearly these are not military judgments for a Commander-in-Chief. They are precisely the kind of complex national policy judgments that the Founding Fathers conferred on the Congress in matters of war and peace.

Yet in the present circumstances, the Congress has abdicated any role in that fateful decision. The entire world has been riveted on whether the American President would decide to declare war against Iraq. President Bush has brazenly told journalists and Members of Congress alike that it is his decision, and his decision alone. This is a perversion of the Constitution.

Even if one argues that Congress properly exercised its constitutional duties, and that the President thereby has all necessary authority to start a war the fundamental questions remain. "Why war?" "Why now?" And most importantly, "Will waging war in Iraq make us more secure or less secure?"

Bush's war would have disastrous consequences for every American. War is about devastation, destruction and death. The American people are not bloodthirsty. We want war only if our country is in imminent danger. Otherwise, a war's human and economic costs are too great. The human devastation of death, injury and destruction is obvious. In addition, it will rob us of resources urgently needed by America's working families and less fortunate.

Even in terms of national security, an all-out war will rob Americans of hundreds of billions of dollars needed for the first line of defense in homeland security, on which we have made far too little progress since the tragedy of 9/11. As the President repeats his unverified mantra of "threats to national security," cities across this land are laying off police, firemen, and emergency medical services teams—the so-call "first responders" to any new terrorist attack. They must do so because this Administration's "first response" to empty city treasuries across America has been one word: "Tough."

This is not merely a partisan spat, nor a Washington insiders' policy dispute. The citizens' crusade to stop an immoral war in Iraq has been nothing less than a noble struggle for our Nation's soul. Thus far, that struggle has not succeeded. But we will not give up. We must commit ourselves to stopping hostilities and re-weaving the torn fabric of international organizations with the same dedication and urgency with which we strove to stop segregation and the Vietnam war, and finally brought our Government to its senses.

President Bush repeatedly insists that for him "war is a last resort." But his actions reveal that war was really his first choice, all along. His attempts to make it politically palatable by badgering, bullying and bribing countries into a counterfeit coalition have been a mere fig leaf transparent to the entire world.

President Bush has failed to present compelling evidence that Iraq currently is a threat to our national security. One rationale after another has been disproved. The President, Vice President and Secretary of Defense have presented a kaleidoscope of ever-changing rationale as they tried to stay one jump ahead of "truth squads" exposing their disinformation—at the U.N., among skeptical Members of Congress and the media, and even in their own intelligence agencies.

Americans have readily borne the burden of war when attacked or actually threatened. But America cannot, in good conscience, start a war so costly in blood and treasure simply on the basis of circumstantial evidence and speculation that, sometime in the unspecified future, Iraq may present an actual threat to the U.S.

Bush's war against Iraq is:

A war that will devastate a country of 26 million and cause damage that will take years to undo;

A war that will see many American casualties, and that could fracture our fragile economy;

A war that will destabilize the Middle East;

A war that will swell the ranks of terrorist recruits;

A war that will weaken our fight against terrorism, at home and abroad, and that will cost billions of dollars desperately needed for programs in Detroit and other cities;

A war that will set a terrible precedent, in a world of growing numbers of nuclear states, for any country to launch a preventive war against opponents deemed a possible future threat; and

A war not really wanted by the American people, our military commanders or our allies.

Worst of all, it is a war that, as the CIA admits, will only make it more likely that Saddam would unleash whatever unconventional weapons he does have against our troops, Israel and our other allies. There is no evidence Saddam seeks to commit suicide. We deterred him from using weapons of mass destruction during Desert Storm. If he faces destruction, however, Saddam may well seek to play Sampson and pull down the Temple for lethal revenge.

Last weekend, several of the Nation's leading newspapers seemed to suddenly discover all of these grave costs of war in Iraq. Article after article reported with an air of sudden discovery that:

The war would drastically increase the likelihood of Saddam's using weapons of mass destruction;

That it would almost certainly escalate dramatically terrorist attacks against Americans;

That many U.S. military commanders feared it would undermine the real war against terrorism;

That there could be extensive casualties among innocent Iraqi civilians; and

That, even following a quick "military victory" against Saddam, we could be mired in an Iraqi quicksand of tribal feuds and guerrilla warfare for years.

I took cold comfort from the irony of the media's belated "discoveries." It would have been far more useful to their readers if the media had discovered this costly side of the war ledger months earlier. Instead, like the Administration, most media coverage focused only on whether, absent other concerns, it was desirable to prevent Saddam's pursuit of armaments and remove his regime—as if there were no competing costs on the other side of the ledger to be carefully weighed in deciding whether war would be a net plus for America.

There is still time for President Bush to avoid starting the wrong war, in the wrong place, at the wrong time. There is still time—but precious little time—for the American people to speak out against a war that few of them support. If the war commences, there is time for it to be brought to a rapid end and a reversion to diplomatic efforts and enhanced inspections.

We should remember the warning of General Anthony Zinni. A distinguished Marine Commandant and head of U.S. Central Command, which guards the Middle East, Zinni reminded us that military commanders know the full horrors of war and hesitate to plunge ahead unless the national interest is clearly at stake. On the other hand, Zinni warned, those who have never worn a uniform or seen combat often are the quickest to beat the drums of war.

Those are harsh words. The administration will condemn whoever utters them as partisan and unpatriotic—just as the Johnson White House condemned King's questioning of Vietnam. The Bush team has already spread that slander, in order to stop erosion of support for the war as the public learns the truth. Are the military veterans and retired generals opposed to this war unpatriotic? Are families of those who were killed on 9/11 and who oppose this war partisan? That is outrageous.

I know many of my colleagues have in good faith been convinced that Iraq is a threat to us now. But they have been the target of a Niagara of propaganda, especially the Vice President's early insistence that Saddam was involved in 9/11 and that Saddam had nuclear weapons now—both of which claims have long been disavowed by our intelligence community. Many other assertions and premises used by the administration to "market their product," in the revealing phrase of the White House Chief of staff, have crumbled under close scrutiny.

I would ask my colleagues who support the war to reconsider their view in light of these facts:

Almost the entire world is strongly against this war; this includes the majority of the citizens of even those countries formally part of the "coalition";

Every major city in America has gone on record against this war;

The U.S. Conference of Catholic Bishops, almost every major Protestant denomination, the American Labor movement and the NAACP are against this war;

Leading retired U.S. military commanders such as General Zinni, and General Schwarzkopf—in his original unvarnished views—have voiced opposition to this war;

Numerous active duty generals have told reporters off the record of their concerns about a war against Iraq; and

General Scowcroft, who was also President George Herbert Walker Bush's National Security Advisory is against this war.

And all of this opposition has arisen even before the war has started—an unprecedented phenomenon in human history. In view of these facts, I ask whether it is just possible that there is something amiss with the President's premises with his logic, and with his rejection of further effort to resolve the issues peacefully.

I urge my colleague to reflect on these powerful facts and join me in pressing President Bush to find another way—to follow the path of peace. As the Bible teaches, "Blessed are the Peacemakers."

Mr. SKELTON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, as a veteran I stand behind our troops, and I ask everyone to get together in the form of solidarity.

Mr. Speaker, several months ago, when we voted on the President's Iraq resolution, we all hoped war could be avoided, even though most of us believed deep down that it was a forgone conclusion. It was just a matter of when. Well, the day we all knew would come upon us. As we speak the U.S. Army 7th Calvary has engaged the enemy inside Iraq.

This is a difficult dilemma. We hope and pray that Saddam does not have any weapons of mass destruction to use against our troops. My faith teaches me that only those who are without sin should cast the first stone in conflict. We have cast the stone, and we'll just have to wait and see what the effects will be.

However, Mr. Speaker, none of that is important anymore. The most important issue we face as any war begins is how we are going to support our brave men and women in uniform. No matter how we feel about the prospect of waging war at this time, we must stand solidly behind our troops. Hundreds of soldiers from my district have already deployed. Thousands more from the Inland Empire and across California are heading to the Persian Gulf region. Even more Californians are serving our Nation in the Army, Navy, Air Force and Marines all over the World. It saddens me to think that some of these men and women will not return home to their mothers and fathers, to their sons and daughters, to their husbands and wives.

We can support our troops by keeping the promises we have made to our veterans, and by providing them with the benefits and healthcare that they have earned through their services to our Nation.

Mr. Speaker, as I think about the lives that may be lost in the coming days and weeks, I ask myself one question. Could this situation have been avoided? Although I cannot answer this question with 100 percent certainty, I have always believed that there was a diplomatic solution to the Iraq crisis. I believed that when I voted for a resolution in October authorizing the President to use our armed forces in support of any U.N. resolution mandating the disarmament of Saddam Hussein. Mr. Speaker, I still believe that now. Unfortunately, the diplomatic window is closed. Diplomacy no longer seems to be an option.

But I want my colleagues to hear me when I say this. Now is not the time to debate misguided or unsuccessful policies. Now is the time to come together and support our brave men and women in uniform. We must let them and their families know that we appreciate their sacrifice. Let us rally around our troops and show the world that our Nation stands united. I hope the unity that Members on both sides of the aisle are showing tonight sends a strong signal to our troops. We are thinking of you and praying for you.

Mr. Speaker, I do have one request. I ask my constituents, and every American, to light a candle and pray for our troops and pray for all the innocent victims of this war.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, at times of great stress, great patriots rise to the occasion. Tonight there are young Americans who are rising to the occasion as they traverse across the desert sands of Iraq, as they soar across the unfriendly skies of Iraq, as they serve on naval ships. Tonight their families have risen to the occasion, as they sadly note the empty place at the dinner table, the bedtime story not read to a young son or daughter, or as they stare at the photograph on the mantel piece and wish that he or she were at home with them.

I know that every Member who has spoken tonight is a great patriot. Every Member who has spoken on both sides loves their country. And I know that many feel a sincere sense of doubt about some of the words that are in tonight's resolution. I would implore every Member, though, to try to rise to the occasion and rise above the words and rise to a symbol of unity that says to every one of these young men and women that their interests are our prime interests. I would ask every Member to support this resolution.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from New Jersey (Mr. ANDREWS) for his great work on the committee.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST), who was a distinguished Marine rifleman in Vietnam.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him and the gentleman from Missouri (Mr. SKELTON), my good friend, the two of them, for bringing this resolution to the floor.

We all remember the words of Thomas Jefferson: "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable rights and among these are life, liberty, and the pursuit of happiness."

And we remember the words of Abraham Lincoln: "With malice toward none, with charity for all, let us work together to bind up the Nation's wounds."

And another century passing by, we remember Martin Luther King, Jr. and his dream that little children will not be judged by the color of their skin, but by the content of their character.

This great Nation of ours has seen periods of great joy, wretched despair, and great sacrifice. And still, we come, children of democracy, again here tonight to find our place in history. Our young men and women, once again on the front lines of history, once again in anticipation of great joy, although for some there will be wretched despair because some will not come home, we give them our praise and support for the sacrifice that they are now enduring as they bear the greatest burden of preserving and restoring freedom during this present crisis.

Mr. Speaker, I would like to close with a very familiar poem by a Canadian soldier during World War I who did not make it home:

"In Flanders fields the poppies blow
Between the crosses, row by row
That mark our place; and in the sky

The larks, still bravely singing, fly
Scarce heard amid the guns below.

"We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields."

Those who lie in Flanders fields said,
"Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields."

The Americans in the Middle East are bearing the burden of the present crisis, and we come here tonight to mix and to mingle and to speak and to have differences, but the unity of this Congress, the unity of this Nation will linger for decades to come.

I stand here tonight to support the resolution.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, it is sadly too late for truth to be the first casualty of this war, because we have already had brave people killed. But truth is taking a beating tonight.

We had the floor manager of this bill object to efforts to democratize the process and give Members more choice to make real votes in the name of letting the House work its will. He blocked unanimous consent requests that would have allowed amendments, that would have allowed separated votes, theoretically in the name of democracy. We had another gentleman from California come and say, "let us not make this partisan," in defense of a resolution that is very partisan, that is drafted in a way that will minimize, rather than maximize, the goal Members pretend to want to be in favor of.

We have had Members who savaged Bill Clinton during the war in Kosovo, now announcing their convergence to the doctrine that once the guns start, the President is untouchable. Why? To use the unanimous admiration felt in this House for our troops for political purposes.

The gentleman from California who is managing the bill asked before, he said, people will be watching and they will say to us on the Democratic side, what are you doing? I will tell them what we were trying to do. We were trying to stop the Republicans from taking the troops politically hostage to serve the President's political purposes. We were trying not to allow the support that is unanimously felt for the troops, the admiration for their courage, the sympathy for the plight that their families are in; we did not want that used to puff up support that does not exist for decisions made by the President.

Sadly, we failed, because the majority used its control of this body, and so Members were put in an unfortunate position. But let us be very clear. Had the majority wanted to do it, there would have been a unanimous vote in this House, every Member voting, in support of the troops. The resolution, those parts of it that support the troops would have been unanimous. Unfortunately, partisanship has resulted in what will be a diminution in the vote that is cast for the support for the troops.

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Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I thank the distinguished ranking leader for yielding time to me.

I stand with great pride and respect in support of this resolution. I support our brave and courageous troops. I support their mission and their Commander in Chief. It is very difficult for me to stand here and say I support the troops and not their mission, and not the Commander in Chief that sent them in harm's way.

Mr. Speaker, we did not ask for this war. It was brought to us unexpectedly, without warning, savagely, tragically by terrorist suicide bombers, terrorists who are desperately trying to get their hands on weapons of mass destruction. Biological and chemical weapons, biological and chemical weapons are being manufactured by the tens of thousands of tons by Saddam Hussein of Iraq. What other choice would we have?

The least this Congress can do on a night when we are losing our military men, with their lives on the line, is to stand here together, Democrat and Republican, and support this resolution, and send a proud message to our men and women in uniform that we are here to stand with them, and stand in the evil day, and stand.

God bless America, God bless our troops, and thank God that we have got these courageous men and women who are willing to put their lives on the line. It is with great pride that I stand here to support this very worthwhile and important resolution.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair will remind all Members that there is a rumbling of noise out in the aisles, and ask Members to keep their conversations down or remove them to the cloakroom.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentleman for bringing this resolution to the body. I salute the comments of the gentleman just prior to me. I appreciate the observations.

The Second Congressional District of New Mexico is home to the Stealth fighters, the ones who launched the attacks last night. I know personally some of the men and women of that unit, and recognize and know personally some of the National Guard and Reserve troops who are called up. I recognize the sacrifices of their family.

In 1967, I won the lottery. As a result of winning the draft lottery, I went for 3½ years into Vietnam, from the period of 1971 to 1974. I watched personally as a political discussion devolved into disrespect and disregard for what our troops were doing there: the insults, the spitting on, the disrespect that was given to our troops that emanated from a political discussion.

I hope that political discussion does not take the same road now; for even today when I see those Vietnam veterans who were disregarded so much on their return, their simple greeting is, welcome home, brother; and it is done with tears in the eyes of people who faced death every day.

I served at that time without regard for who my Commander in Chief was as far as a politician, but instead, of the duty that I was called to perform. I think our young men and women today are doing the same thing. I respect the sacrifices that their families make; I respect the sacrifices that they themselves make. I ask that we keep them in our prayers.

I support the resolution, and I thank the gentleman for bringing it.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

For the sacrifices of our sons and daughters in uniform and that of their families, no mere resolution or series of resolutions suffices to express our gratitude.

Because the support for our troops is so very strong and the justification for the administration's reckless first-strike doctrine is so very weak, this resolution relies on the pride that all of us feel for our troops in order to carry this weak policy, this faulty and unworthy policy that is so faulty it cannot stand on its own merits, it has to be clumped with the sacrifices of the men and women who serve America tonight in the Persian Gulf.

Just as this administration has failed completely to provide the slightest link between Saddam Hussein and 9–11, this resolution mistakenly links the invasion of Iraq to the war on terrorism. I support that war. I recognize that containment and disarmament may not end all wars, but they are clearly superior to the new first-strike policy that risks wars without end.

This resolution could have been the one the Senate adopted today by 99 votes. It was good enough for Majority Leader FRIST, it was good enough for JOHN WARNER, but it did not go to the extremes that our colleagues want.

We could have all accepted my request that we approve by unanimous consent support for our troops and families, but they did not have that in mind. They want this back-door approval. We will not be intimidated into silence. If we were to do that, we would be abandoning the very democracy we are pledged to serve and that they tonight defend.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, 12 years ago I helped welcome home 235,000 Army soldiers from my district who had fought in Desert Storm. I saw firsthand how much it meant to them, to those brave Americans, that our Nation respected their service to country; and that is why I join my colleagues tonight in strong support of this resolution.

But, Mr. Speaker, I am concerned that a majority of my colleagues in less than 1 hour after this vote will support a budget resolution that the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars have called "callous and unconscionable" in its treatment of veterans.

Today's troops are tomorrow's veterans. They will watch our deeds even more than our words. So in the spirit of supporting our troops, I propose that we reduce this morning the proposed dividend tax cut by less than 10 percent so we do not have to cut veterans services by $8 billion. Let us honor today's troops and tomorrow's veterans with our words and our deeds.

Mr. SKELTON. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, Members will hear me say nothing tonight other than that we have the bravest, the most valiant, the most courageous young men and women in the world standing for our freedom.

But what I will say, Mr. Speaker, is that there is a need to speak the truth. The first truth is that we have lost brave young men and women already, and my deepest sympathy and affection and love for those families. I know full well the burying of young men and women who served in the United States military. I sat at the funeral of one in my constituency, and the family still mourns.

So I rise tonight to stand on the side of peace over war and life over death. I remind this Congress that we are best when we understand what freedom is all about. Democracy is more than words; it is practice. So I agree with Hubert Humphrey when he said, what we need are critical lovers of America, patriots who express their faith in their country by working to improve it.

I stand before the Members to say that I commend and express the gratitude of the Nation to all Members of the United States Armed Forces, whether on active duty, in the National Guard, or in the Reserves, and the civilian employees who support their efforts, as well as the men and women of civilian national security agencies who are participating in the military operations of the Persian Gulf region, for their professional excellence, dedicated patriotism, and exemplary bravery.

Mr. Speaker, I will stand undivided in commending the brave men and women tonight, but I will also go to my death for the right to stand to save lives. I would clearly remind those who feel we are dividing the caucus, the Nation, the world, to be reminded that my voice is hoarse but my spirit is not broken; for I remind Members of Secretary of Defense Robert McNamara, who wished that he had been able to stand more than 30 years ago to be able to save the lives of 58,000 brave young men and women in the Vietnam War. There are Vietnam veterans, and some came home, thank God. But I would rather be able to say that I stand, as I said, for life over death.

I thank Members for democracy that allows variety. You will never hear me say an unkind word of the Commander in Chief. I stand undivided and in support of the troops of the United States of America.

First and foremost, whether our valiant men and women of the United States Military are away from home to fight a war, to protect a peace, or to enforce disarmament, they will have the full support of the U.S. Congress. We will take every possible step to ensure that they are protected from potential attacks and a difficult environment, that they have the support they need to do their jobs effectively and efficiently, and that we bring them home safely as soon as practicable. I cite my support by referring to Sen. Con. Res. 26.

The Congress: Commends and expresses the gratitude of the Nation to all members of the United States Armed Forces (whether on active duty, in the National Guard, or in the Reserves) and the civilian employees who support their efforts, as well as the men and women of civilian national security agencies who are participating in the military operations in the Persian Gulf region for their professional excellence, dedicated patriotism and exemplary bravery;

Commends and expresses the gratitude of the Nation to the family members of soldiers, sailors, airmen, Marines and civilians serving in operations against Iraq who have borne the burden of sacrifice and separation from their loved ones;

Expresses its deep condolences to the families of brave Americans who have lost their lives in this noble undertaking, over many year, against Iraq;

Joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, those still missing from that conflict, including Captain Scott Speicher, USN, and the thousands of Americans who have lost their lives in terrorist attacks over the years, and in the Global War on Terrorism

I continue to cite my support by referring to H. Con. Res. 104.

Whereas the United States Armed Forces, a total force comprised of active, National Guard, and Reserve personnel, are now undertaking courageous and determined operations against the forces of Saddam Hussein's regime;

Whereas the Senate and House of Representatives and the American people have the greatest pride in the members of the Armed Forces and strongly support them;

Whereas the United States Armed Forces and allied forces are performing their missions with great courage;

Whereas the ability of the Armed Forces to successfully perform their mission requires the support of their nation, community, and families: Be it

*Resolved by the House of Representatives*, That the Congress expresses the unequivocal support and appreciation of the Nation:

To the President as Commander-in-Chief for his firm leadership [in the] ongoing Global War on Terrorism: to the members of the United States Armed Forces serving in Operation Iraqi Freedom, who are carrying out their missions with excellence, patriot-ism, and bravery; and to the families of the United States military personnel serving in Operation Iraqi Freedom, who are providing support and prayers for their loved ones currently engaged in military operations in Iraq.

When history is recorded as I stand on this floor tonight, my words will note that I stand undivided from the troops. I have nothing but the greatest honor, respect, and admiration for their courage and their unselfishness.

May God have mercy on their families, and bless them in this time of challenge. And may God give all of our troops the fortitude, strength, and resolve to get their jobs done and then to get back home to their loved ones.

And for those whom we will never see again, they will remain heroes . . . throughout time, never forgotten, Partiots until the end.

God bless them, and God Bless the United States of America.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE), who has a son in the United States Navy.

Mrs. MUSGRAVE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as I sat last night in front of the TV, I could not take my eyes off of the images that I was seeing because, as a mother, I was thinking of my son. The gentlemen know that a mother's love is different than a father's love.

As I sat there, I thought of my grandmother, who sent two young sons off to war. I thought of my uncle, who was missing in action for over 13 months; of how the family felt when they did not know whether he was dead or alive. I thought of my brother-in-law, who served in Korea. I thought of him because that, as you know, is the forgotten war. I thought of my brother who served in Germany.

I thought of the heroes among us in this Chamber, the veterans that we love and we honor. I thought of when I first shook the hand of the gentleman from Texas (Mr. SAM JOHNSON). When I found out why his hand was crippled, I thought of how I wanted to kiss his hand and honor him.

Tonight, with a mother's heart, I want to say, God bless each one of the young men and women who are serving us. God bless their families that have made the sacrifice. When we are away from our loved ones, we want to hold them; and we are holding them in our hearts.

Today I got an e-mail from John, and it touched me. Let me just share it with you:

"Hey, everyone, I just wanted to drop an e-mail to you to let you know I am doing great and that I am safe and sound. Here on the ship, the spirits are high. Everyone is going about their business like we do every day. Everyone here is united in the spirit of what we are doing. It gives us a sense of how important our job really is. All the late hours, all the things we put up with, are now justified.

"Just wanted to give you a quick update and thank you for your thoughts and your prayers."

Tonight my thoughts and prayers are with our Commander in Chief. I pray that the Lord would give him wisdom. I pray for the team that he has surrounded himself with. I pray for the families whose young people are serving.

I want to give a clear message to every one of those young men and young women: never again in this Nation should we tell anyone who is serving that we do not appreciate what they have done, because we appreciate every one of them. We love them and we hold them in our hearts tonight. God willing they will come home so we can hold them in our arms again.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, of the over 200,000 men and women who are in and around Iraq this evening, I want to just touch on one person who was highlighted today in the New York Times, Captain Cynthia Brito from Woodside, Queens, my hometown. She is the daughter of Ecuadoran immigrants Angel Brito, a limousine driver, and his wife Ines, a jewelry worker.

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Captain Brito is a graduate from Fordham University in the Bronx, and she is serving as a dentist in the Army in the 561st Medical Company of V Corps.

Captain Brito represents the best of the men and women who are fighting on our behalf on the front lines. She is the daughter of immigrants, a female officer in a male-dominated Army, and a dentist with medical training. We know that she will be on the front line.

So much this evening has been said about the war, and I do not think enough has been said about our young men and women troops fighting over there. These mostly young men and women like Captain Brito are the ones truly making the sacrifice for our country.

Men, women, white, African American, Latino, Asian, Christian, Jews and Muslims, they are all the faces of this country. Our prayers go out to each and every one of them this evening and to all their families, especially to Cynthia Brito, who makes all of us proud.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, let me say to the troops, to our troops overseas and everywhere in the world, thank you. I thank them for their bravery, thank them for their courage, thank them for believing in this Nation, thank them for being willing to give their life for our freedom. We love them, we support them, and I am sure that is all 535 Members of Congress.

As I look at this resolution, to me it is like a contract, and if a person signs a contract, that means they agree with everything in the contract. I do not agree with the doctrine of preemptive strike. Therefore, as to page 4, line 4 through 7, I disagree, and therefore, I cannot sign on to this contract.

I really wanted to sign on to and vote for this resolution, and we had an opportunity to speak as one Congress, House-Senate alike, sending the same message. That is unity. What a great opportunity we had. What a great opportunity we missed.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I stand tonight in support of this resolution not because I agree with the decisions that have brought us to this moment, but because I love, honor and revere those brave young Americans who are fighting for us even as we sit in this Chamber at this late hour.

I am troubled tonight because I believe one way we honor our current troops fighting in Iraq and around the world is to honor those who have served before them, our veterans, veterans like my brother who turned 79 years old last week and who served our Nation in World War II.

Very soon the vast majority of us will vote for this resolution to honor our troops, as we should. I am troubled that soon thereafter many of my colleagues in this Chamber will cast another vote, a vote that will cut $28 billion from veterans' benefits. I am puzzled that so many would salute the troops with one hand and vote to cut $28 billion from veterans' benefits with the other hand.

I urge my colleagues to vote yes for this resolution and to vote no for the budget resolution.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, last October I thought that it was absolutely necessary to disarm Saddam Hussein. I still think so, but I thought then and I think now that Saddam could have been disarmed without resort to war. So I voted against the resolution giving the President complete authority to use military force at his sole discretion.

Now our country is at war and our young people in harm's way. I unequivocally support our troops in their valiant role, and I, therefore, support this resolution.

This resolution expresses support for our troops and for their families and for the President's leadership "in the conduct of military operations in Iraq," and only for his conduct of those military operations. It does not, as some have said, express support for the President's decision to resort to war or for the administration's diplomacy that has led us to war.

Our troops and their families deserve our support, and I will express my support for them by voting for this resolution.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I disagree with this war, but I will always support our brave men and women in uniform and their families. They must be treated with dignity and respect, both while the battles are being fought and when they come home.

This means that our soldiers have the best military equipment and protective gear and that their families are cared for while they are away. The children and spouses of our military must not be on welfare rolls, and they must not have to survive off of food stamps or live in substandard homes.

The families of reservists and the National Guard should not suffer economically while their loved ones are called up for Active Duty. The families of enlisted soldiers must have salaries adequate to lift them out of poverty, and the United States must fulfill its promises by providing all necessary care and promised benefits to our enlisted and Reserve military personnel as active members and as veterans.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MEEK), who is a member of the Committee on Armed Services.

Mr. MEEK of Florida. Mr. Speaker, I am proud to stand here tonight to endorse this resolution, but I must say that this resolution has language like many pieces of legislation that moves through the body of this Congress. There is language in it that I do not agree with, and I am glad that I am able to state that as an American, but I think it is important that we remember that boys and girls, I mean teenagers, I also mean mothers and fathers, I also mean sons and daughters, are getting sand in their teeth right now defending our country, and I think it is important we send a very strong message to not only their families, but to their loved ones that this Congress stands firmly behind them.

I respect the Members that are going to vote for the resolution. I respect the Members that are not going to vote for this resolution, and I commend their patriotism for standing up for what they believe in, but I think it is imperative that we remember that we must have resolutions that every Member of this Congress can vote for because we are all patriots, and we all believe in the American way, and it is important that American families understand that we are together and united always when it comes down to defending this country.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise in support of this resolution.

I do not necessarily agree with every word of the resolution, but how many times have all of us voted for bills and resolutions that we do not agree with 100 percent? We have to make a choice, and I choose to support our troops. That is clearly the thrust of this resolution, to support the brave men and women that do us all proud.

War is never easy. War should always be a last resort, and while we can question the policies of any administration, the men and women that go to preserve freedom for our great country, we owe them our deepest gratitude.

I think it is very fitting that the Congress show our brave men and women that we strongly support them and that we join hands regardless of how some of us may feel about policy.

I voted to give the President the authority, and I think that now is the time to stand behind our President, to stand behind our troops and to move forward with one voice. Support the resolution.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise this morning to honor the men and women of our armed services by supporting the support the troops resolution.

I believe the time has come for Americans to put aside our differences concerning Operation Iraqi Freedom and to stand together to show solidarity for the men and women in our Armed Forces. It is time for all Americans to show their support for the mothers and fathers, the sons and daughters and friends and loved ones who are serving our Nation and defending our freedom.

Our Nation, at the guidance of our President, is facing the inevitable action in Iraq. War is something that we would never dream of for our children to see or to hear. There comes a time, however, when we must unite together and show the enemy that we will stand up for our freedoms, freedoms that our forefathers fought for and won, and we will fight to ensure that the United States remains a beacon of hope and freedom that brightens the world.

One woman in my district, Judith Allen of Denton, Texas, has done her part. After saying good-bye to her son, Private Joseph Paul Terrace, who is part of the Army's 101st Airborne Division, Judith formed the Military Support Group of Denton, Texas. The group is open to families and friends with loved ones in the Armed Forces.

Judith's son answered the call to duty and said in a recent interview with the Denton Record Chronicle, "Nobody actually wants to go to war, but they want to do their job, and they want to keep people safe, and we realize how much a real threat things are these days."

In my home county of Denton, Texas, county Judge Mary Horn and her husband Jim have a son also named Jim who is now in an undisclosed region in the Gulf. Keith Self, a man who was in the Republican primary with me in our six-way primary last spring, we were opposed during the primary, but we became friends and have remained friends since that time. Lieutenant Colonel Self was recalled to Active Duty and now serves in an undisclosed location in the Gulf.

My own son Mike serves in the Air National Guard in Fort Worth, Texas. While he has not been called into Active Duty, part of his unit has and is now in an undisclosed location in the Gulf.

I do not believe that in our ordinary life we think about the sacrifices that our U.S. military personnel make, from the hardship of time away from families and children to the hundreds of reservists who unselfishly answer the call to duty. These men and women protect our borders, shield our skies, guard our country, believe in America and support our President. These brave souls will march the same steps of previous generations who gave of their lives to defend our homeland and to secure the blessings of liberty for our country and for generations to come.

While our troops and allies exemplify the true spirit of patriotism, we, the citizens at home, must remain united for freedom and show the world we believe in liberty more than the horror of allowing a deadly dictator to threaten the security of liberty.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BOSWELL), an Army veteran and distinguished Member of this body.

Mr. BOSWELL. Mr. Speaker, it is a pleasure for me to come and stand before my colleagues this evening, and regardless of how we got here, I think the time has come that we ought to stand together for the troops, and so I appreciate the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this to the floor.

I have to reflect on some things, as many of us have done, veterans here, as many of us are, and the lack of support for the two times I went to Vietnam. I was reflecting on that this last Monday when I went to three different communities to activate troops, went off from Fort Riley and will go to the Middle East.

I looked at the faces of the men and women and the uniform, and I realized how much I appreciated when that gymnasium in these three different towns, three different locations, that was packed to the walls, the support of the families and the community was so meaningful and so special and so appreciated.

☐ 0130

So I support the resolution, and I encourage Members to support it, to support our men and women in uniform. God bless America.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from California (Mr. HUNTER), the chairman of the Committee on Armed Services, and the gentleman from Missouri (Mr. SKELTON), the ranking member, for bringing this resolution to the floor to express our support for our citizen soldiers, all of our men and women who proudly wear the uniform of our armed services, as they are now in harm's way fighting the war against terror in Iraq.

Mr. Speaker, I am not here to debate the substance of the merits of the war, but only to express our support, especially for the families and loved ones who anxiously wait and wonder if their husbands, wives, brothers and sisters, mothers or fathers, aunts and uncles and friends will return from the war.

As a Vietnam veteran, nothing warms the hearts and minds of our soldiers, sailors, airmen or Marines more than to know that we here in this Chamber support and pray for their welfare, knowing that at any moment our men and women in the military walk a very thin line between life and death.

Mr. Speaker, the words of Martin Luther King, Jr., ring well in my ears tonight. He said, "In the end, we will not remember the words of our enemies, but the silence of our friends."

Mr. Speaker, God bless our men and women in the Armed Forces.

Mr. Speaker, I thank the distinguished Chairman of the Armed Services Committee (Mr. HUNTER) and our senior ranking member, Mr. SKELTON, for bringing this resolution to the floor, to express our fullest support for our citizens-soldiers—all our men and women who proudly wear the uniforms of our armed services, as they are now in harm's way fighting the war in Iraq.

I am not here to debate the substance or the merits of the war, but only to express our support especially for the families and loved ones who anxiously wait and wonder if their husbands and wives, fathers, mothers, brothers and sisters, uncles and aunts and friends will return from the war.

As a Vietnam veteran, Mr. Speaker, nothing warms the hearts and minds of our soldiers, our sailors, our marines and our airmen more than to know that we here in this Chamber support and pray for their welfare—knowing that any moment our men and women in the military walk a very thin line between life and death.

Mr. Speaker, the words of Rev. Martin Luther King, Jr. rings well in my ears tonight. He said, "In the end, we will not remember the words of our enemies, but the silence of our friends."

Mr. Speaker, as the most powerful military power in the world, we need to also be reminded of a statement made centuries ago by Thucydides who said, "Of all manifestations of power, restraint impresses most men."

Mr. Speaker, God bless our men and women in the armed forces.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, there is one thing we all agree upon, we are grateful to our troops and their families. We respect the men and women in our Armed Forces, and we admire their patriotism and bravery. We all recognize that no matter what the policy disagreements about the steps that took us to this day of invasion, our troops are doing their duty and putting their bodies on the line for our country. They are in our prayers, and we all hope for a speedy conclusion and a safe return for each of them.

How fine it would have been if the right-wingers in charge of this House had put aside their partisanship for just this evening and agreed to write a clean resolution that supported our troops; but no. One can always count on them to try to wedge an issue, divide people and make partisan what should be purely American.

There are plenty of things in this resolution that are just not true, but I am going to vote for it because of clause 2 and 3. I do support and appreciate our Armed Forces and their families. I cannot say the same thing about the gentleman from Texas (Mr. DELAY) and the rest of the Republican leaders who once again have proven by their actions this evening that they are more interested in partisan advantage for their party than unity and success for our country. They dishonor our soldiers, sailors, airmen and Marines who are the real patriots we seek to honor by this resolution.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just say to the gentleman from Missouri (Mr. SKELTON) and ranking member on the Committee on Armed Services, that I would hope that the gentleman would discourage Members like the Member who just spoke from using this time when we are supposed to be commending our troops from demeaning other Members of this House.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I had this and I was not going to use it. I am on the same side as the gentleman. I am in the minority of my party on this issue. But I want to tell Members that they cannot have it both ways. On December 13, 1995, our troops were deployed. Our troops were deployed in Bosnia. They were deployed for the purposes of keeping the peace. They were successful. Thousands of people were being killed. The gentleman remembers that, and our troops were deployed for the purpose of keeping the peace pursuant to an agreement by President Clinton and others in the NATO alliance.

There was a resolution on the floor. That resolution was a very brief resolution and it had one resolved clause, just one and it said this: That the House of Representatives unequivocally supports the men and women of the United States Armed Forces who are carrying out their mission in support of peace in Bosnia and Herzegovina with professional excellence, dedicated patriotism, and exemplary bravery.

The gentleman from California (Mr. HUNTER) voted "no" on that resolution. The gentleman from Texas (Mr. DELAY) voted "no" on that resolution. The gentleman from Georgia (Mr. COLLINS), who spoke earlier, voted "no" on that resolution. The gentleman from California (Mr. CUNNINGHAM), who talked about the troops, voted "no" on that resolution.

I am with my friend on the substance, but when the gentlewoman from California (Ms. LOFGREN) gets up and makes her statement and she is criticized, remember December 13, 1995.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR), a distinguished member of the Committee on Armed Services.

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman from Missouri (Mr. SKELTON) for yielding me this time.

To the point on Bosnia, a lot of us had misgivings. I remember going there fully intent on finding kids to tell me it was a bad idea. I met a kid from Ocean Springs, Mississippi. I regret that I cannot remember his first name. His last name is Rhodes. I asked him should we be here. It was a couple of weeks before Thanksgiving. It was snowing and crummy. It is 80 degrees in Ocean Springs, and it is 18 degrees in Bosnia.

And the kid said, Yeah. I was dumbfounded. I said, Why? He said because I am keeping women from getting raped. I am keeping children from getting murdered. I am keeping old folks from getting drug out into the street and getting tortured at night. That is why I joined the United States Army, to be a good guy.

Tonight we vote to commend the 250,000 young Americans, just like Private Rhodes, who are doing the very same thing.

To my colleagues, I would say every other generation of Americans, check the record, every other generation of Americans voted to pay the cost of those wars right then and not stick the young Private Rhodeses with that bill. Let us not be the first generation of Americans that after we welcome the Private Rhodeses home, stick them with the bill from this war.

I am going to vote for the resolution because it is exactly right, but I am going to vote against their budget because they are sticking those 250,000 young Americans and their children with this bill. That is inexcusable. Let us vote for the troops. Let us vote to pay the bill. Those of us fortunate enough not to be on the front lines, not to watch our buddies lose an arm or leg, their vision, not to watch our buddies die, at least ought to be willing to pay the bill for this war right now and not stick our kids with it.

In the past 2 years, we have run up $802 billion worth of debt. That is no prize to hand those kids when they come home. Let us support the troops and pay for this war right now. Let us be honest with the American people and leave them a Nation that is worthy of their sacrifice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair reminds all Members to turn off their electronic devices.

Mr. SKELTON. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, Robert Kennedy once remarked, "All of us, from the wealthiest and most powerful men, to the weakest and hungriest children, share one precious possession, the name American."

So tonight as our brave men and women in uniform fight for freedom and our security half a world away, we come here not as Democrats or Republicans, but as Americans, Americans united as one in support of our Armed Forces, and for the success of the cause for which they willingly risk their lives.

That cause, liberty and freedom from fear, inspired our Founding Fathers 227 years ago, and guides our action today. It is a measure of our Nation's greatness that when freedom's call came at this hour, the finest, best-trained, most skilled and best-equipped military in the history of the world answered the call as previous generations have done.

Our thoughts and prayers are with our troops and with the troops of our allies, four of whom also lost their lives this night, and our thoughts as well are with the families who wait. We are with you. We honor you; we honor your sacrifice. We hail your courage, and we pray for your safe return.

We are confident that the Iraqi people who have been terrorized for so long under Saddam Hussein's brutal reign will soon throw off the shackles of tyranny and see that your mission has always been one of liberation and not of aggression. There should be no doubt we shall win this war, and we must win the peace that will follow. We are committed to a liberated and free Iraq where individual Iraqis can decide their own fate, where basic human rights and the rule of law are respected, and where that nation's tremendous resources are the property of a proud Iraqi people, and not plundered by an international criminal who has killed his own people and who continues to threaten the security of the region and the world.

Saddam Hussein believed, like other dictators and despots who pockmark history, that our democratic debate was evidence of disunity and weakness. He was wrong.

In fact, as all of us who are privileged to serve here know, that ability to debate, that ability to disagree, that ability to want options is what makes America so strong, so envied.

Tonight we stand as one behind our brave Armed Forces. No matter the votes, we stand as one and pray for a quick end to this conflict and to the safe return of our brave men and women and the brave men and women of every nation who will fight in those sands.

May God protect our men and women. May God give wisdom to our Commander in Chief, and may God continue to bless America.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I rise tonight in support of the resolution honoring our troops, their families and our President. It is time that we unite in this recognition and recognize the sacrifice that all pay for our freedom.

I am reminded of two boyhood friends who served in Vietnam, but did not return, Emery Manor Smith, a fine young man, a good friend and a great neighbor. Also I am reminded of another friend, Joe Berry, another great friend and neighbor. I am reminded of a nephew who served in the first Gulf War, Scott Baker, and I honor him tonight for his service to America. I have a neighbor, Adam Ivy, who currently serves in the Gulf as a United States Marine. He serves proudly to protect America from a dictator who would inflict enormous pain and suffering, and to free the people of Iraq.

□ 0145

Tonight we need to unite as one in support of our troops, in support of their families and in support of our President. I believe, and I am sure you agree, we live in the greatest Nation in the world. It is time that we honor those who protect our freedom. May God bless America.

Mr. SKELTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of our troops, but on principle must vote against the resolution.

Mr. Speaker, I rise today to express my heartfelt support for our men and women who are currently engaged in war with Iraq. Although I disagree with this war, and the policies that have brought us to this point—our troops deserve the full support of America. The more than 200,000 courageous men and women in Iraq represent the best of America. They have made the ultimate sacrifice to serve their country and protect and defend freedom.

The troops are ordinary men and women who are doing extraordinary things. Many of our service people have left family behind to fulfill their commitment to serve. The men and women of our armed services epitomise the biblical proverb: "No greater love is there than one who would lay down his/her life for their fellow man."

I want to assure the families of our service men and women that I stand fully behind them. In addition, I will do everything that I can to ensure that they have the best equipment and resources necessary to carry out their mission and provide for their safe return.

While I have no doubt that America will prevail militarily. It is my hope and expectation that we will redouble our efforts to seek collective, nonmilitary solutions to these critical issues. Also, as we engage in war I hope that we take every effort to minimize collateral damage to civilians and innocent people.

Again, I want to commend and honor the outstanding men and women of our armed services who are carrying out their orders with great distinction.

Mr. SKELTON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I rise in support of the resolution and stand 1,000 percent behind our brave and selfless men and women in uniform.

Mr. Speaker, I rise in support of the resolution.

At this decisive moment in history, all Americans stand 1000 percent behind our brave and selfless men and women in uniform.

I have no doubt America will achieve a military victory in Iraq. The road after that will be long, and require sustained commitment along with the support of our allies.

No one can predict fully the course of world events as this war begins, so we must draw our strength from one another. This is a time for reflection, and kindness to one another.

I extend deepest respect to all the people of our community country who have open discussed and not shirked from their responsibilities as free citizens in addressing how best to defeat rising terrorism around the world. Your voices will shape a wiser course for the future.

May the God that creates and sustains us all protect the world's children for a general of peace to come.

Mr. SKELTON. May I inquire of the Chair how many minutes we have remaining on each side?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Missouri (Mr. SKELTON) has 7½ minutes remaining, and the gentleman from California (Mr. HUNTER) has 17 minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

As I mentioned earlier in the evening, this is a solemn moment. I wish I had the eloquence of diction to sway everyone within hearing distance to vote for this resolution. However, in my mind it is one that speaks loudly and clearly about the young men and young women who wear the uniform today, many of whom will be in harm's way very soon. They are all not Active Duty. We have 212,000 National Guard and reservists called up; 26,000 are in the Gulf area. Our hearts and thoughts are with them.

Earlier in the evening the gentleman from Maryland (Mr. GILCHREST) quoted that famous poem that came out of the First World War, Flanders Fields. Part of that poem reads:

To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

Every generation, it seems, has thrown the torch of freedom to hold it high. The generation today that stands guard for Americans wherever they may be, fighting terrorists or in the Gulf, are the ones that are holding that torch high today. We salute them and thank them.

Mr. Speaker, I urge everyone in this body to support this resolution. I give a special thanks to the gentleman from California (Mr. HUNTER), the chairman, a veteran of the Army, the Vietnam conflict, for his courtesy and help in putting this resolution to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, it is a privilege to address the House tonight, especially this night. I suspicion that many of us came here because, as we would put it, we love this Nation. We love America. As I sit here and listened to this debate on this resolution tonight, it also crossed my mind that this is a resolution about that very thing, about loving America.

Let me tell my colleagues a story about what loving America really is. I have some childhood friends back home in Colorado, Karen and Leon Palmer. I went to grade school and high school with them. They dated. They got married. They had but one son. His name is Matthew. Matthew got an appointment and has graduated from the Air Force Academy in Colorado Springs and is now a pilot in the United States Air Force. In fact, he may be one of the brave pilots that engaged Saddam Hussein just last evening.

When I came back here to be sworn in for my very first time in Congress, this 108th Congress, Matthew's mother Karen came by my house and she gave me a picture of Matthew inside the cockpit of his F-16. She could tell that this action that has now been joined might be coming. She looked at me and she said, "Bob, please take care of Matthew. Keep him safe. Keep him well equipped. I would love to have him come home, but," she said, and this is what love is, "more than that, I love this Nation, and I love the ideals of this Nation, and I love what this Nation is willing to protect. If I have to sacrifice my only son for the sake of this Nation and for the sake of liberty, Leon and I are prepared to do that."

Mr. Speaker, there is no greater love than that.

There has been enough partisanship in this body tonight. We ought to check our partisanship at the doors of this great Chamber and vote in support of this resolution about love and about freedom and support our troops.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I offer my prayers, heartfelt sentiments and unwavering support to our American soldiers who are facing enemy fire in a faraway land. I also offer my prayers and my support to their families who eagerly await their safe return. However, I do not support the dastardly attempt by my Republican colleagues to demean our love and concern for our soldiers by shamelessly attempting to transfix our focus from them onto the narrow-minded and misguided policies of their Commander in Chief.

Mr. Speaker, Scripture says in the book of Proverbs 29:2, "When the righteous rule, the people rejoice. But when a wicked man rules, the people groan." Thousands of my fellow Americans are on the streets this night, on the streets of this Nation, protesting this unjust war. They groan because they do not understand and I do not understand why we are at war.

Mr. Speaker, I respectfully cannot support this resolution as written.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding me this time. One of the age-old realities of politics is that old men sit in judgment and send young men off to war, some to die. Today we have young men and women fighting in the Gulf, fighting for our country. As with many of my colleagues, I have reservations, I have disagreements, I have questions. But I think at this moment in time, it is important that we put aside those questions, disagreements and questions, if you will, about how we got to this point, to unify behind these young men and women and let them know that they have our full support, because we indeed are sending them off to fight and perhaps die.

So this evening, despite those reservations I may have, I am going to support this resolution. I hope my colleagues will do so as well and present to the world a united front of America, 100 percent behind our young men and women in harm's way. God bless these young men and women, and God bless America.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am disappointed. I had hoped that this time, that this resolution which was brought forward this evening would bring us together as a House, and perhaps after having some partisan work and working on a policy, budget policy, which often divides us, we would come together and find some common ground in commending our troops and commending our President.

I think anybody who must be watching this from overseas must be wondering at this point, what is in this resolution that so many Members have come out from the Democrat side to condemn? I thought it might be good to go through the resolution, because this resolution is extremely similar to the resolution that we passed in 1991 after we took our first action in Iraq.

What did we do here? The whereas clauses talk about the fact that there was an Iraq Liberation Act of 1998 in which we stated it would be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein and to promote the emergence of a democratic government to replace that regime. That vote passed, Mr. Speaker, overwhelmingly, Democrat and Republican. It also states that on October 16, 2002, the President signed into law House Joint Resolution 114 of the 107th Congress, the authorization, and I would say this clearly for my colleagues, many of whom probably voted against this, but nonetheless it was the authorization for the use of military force against Iraq. Incidentally, Mr. Speaker, that vote passed 296–133. It passed overwhelmingly. It passed more overwhelmingly than the vote that we passed in 1991.

So what was so wrong with this resolution? This resolution followed the law, the steps that we took under the law, under United Nations resolution and under our own law that brought us to the culmination of this event in which it was necessary for the United States to interject force into the Iraq theater. We talked about Security Council Resolution 1441, now well known to most Members of this body that voted unanimously that Iraq will face serious consequences as a result of its continued violations of its obligations to disarm in accordance with all relevant United Nations resolutions.

It also said that Iraq remained in material breach of the relevant United Nations resolutions. That was clearly stated by the reports that were adopted by the United Nations. It was in material breach, and Saddam Hussein is in material breach of his obligations.

So just like the resolution in 1991, we followed the law. We followed this trail of steps, very patient steps that the United States took, including acts that were signed by a Democrat President, stating that it was our policy to bring about a free Iraq. That is what we state in this resolution that you think is so poorly worded.

What else did we do? When you get down to the meat of the resolution, and we talk about what it actually says, let us go to the resolved clause. First I want to go to the resolved clause that we passed in 1991 regarding the President and the troops and their families. We said in 1991 that we acclaim the President for his decisive leadership, unerring judgment and sound decisions. We say in this resolution, Mr. Speaker, that we express our support and appreciation to the President as Commander in Chief for his firm leadership and decisive action in the conduct of military operations in Iraq as part of the ongoing global war on terrorism.

□ 0200

Now, many of the faces that I see here who are condemning this resolution were thanking Mr. Rumsfeld a few hours ago for the clear judgment that is being shown by this administration in prosecuting this war. I had many Members come up to me from the Democrat side who said he was doing the right thing. They said we were lucky to have a person of that capability. We are lucky to have a team like this team that President George Bush has put together. So we commended our President because he is the Commander in Chief. We commended him in 1991. We commend him tonight.

What else did we do? In 1991 we expressed our highest commendation and sincerest appreciation to the members of the United States Armed Forces and other members of the international coalition who participated in Operation Desert Storm and have demonstrated exceptional bravery, dedication and professionalism.

Where is the trick language in this that you object to so much?

And what did we do in this resolution? We said that we express our appreciation "to the members of the United States Armed Forces serving in Operation Iraqi Freedom," the present operation, "who are carrying out their missions with excellence, patriotism, and bravery." Where is the trick language there? Where is the double meaning?

Now we go to the families, and we say in this resolution "to the families of the United States military personnel serving in Operation Iraqi Freedom, who are providing support and prayers for their loved ones currently engaged in military operations in Iraq." We give the unequivocal support and appreciation of the Nation. That is what we do in this.

What did we do in 1991? We said almost the same thing, and we conveyed our deepest sympathy and condolences to the families and friends of the United States and coalition forces who had been injured or killed during that operation.

So, Mr. Speaker, this resolution is extremely similar to the resolution that we passed in 1991, I might add, with a Democrat Congress, those words that I read to you about the President exercising unerring judgment even though many of the Democratic leadership had voted against this operation in a much closer vote, incidentally, than the vote to allow force that we took this fall. So they talked about his judgment, and many of them have talked privately about his good judgment in the present operation when we are referring to the present President.

The President and his team have done an excellent job. So maybe what we are really talking about is the cause. The many Members who I think did not represent a majority of the Democrat Party who came out here could have worked this resolution if they wanted it to say we do not really believe in the cause, but I do not think a majority of the Democrat Party wanted to say that because I do not think they believe it. I think they do believe in the cause. Do the Members know something else, Mr. Speaker? I think the people we are commending that we have been talking about all night believe in this cause, and maybe that is the difference between those people, those people wearing the uniform of the United States, and the people who wanted to use this forum to continue to debate this policy.

The facts are this body believes in this cause. We have given permission to the President to use our most valuable asset, our most precious resource, our Armed Forces, to ensure that this just cause is carried out. And, Mr. Speaker, since we have all given our foreign policy statements here tonight, maybe we should listen to the foreign policy statement of a Marine leader just before he took his people across that line, and I want to read a statement that was issued to every member of the First Marine Division before they went into operation today. It comes from the commanding general, J.N. Mattis, and this is what he states. Even though I am sure some Members of the other side could take exception to his language, this is his position:

"For decades Saddam Hussein has tortured, imprisoned, raped, and murdered the Iraqi people, invaded neighboring countries without provocation, and threatened the world with weapons of mass destruction. The time has come to end his reign of terror. On your young shoulders rest the hopes of mankind.

"When I give you the word, together we will cross the line of departure close with those forces that choose to fight and destroy them. Our fight is not with the Iraqi people nor is it with members of the Iraqi Army who choose to surrender. While we move swiftly and aggressively against those who resist, we will treat all others with decency, demonstrating chivalry and soldierly compassion for people who have endured a lifetime under Saddam's oppression.

"Chemical attack, treachery, and the use of the innocent as human shields can be expected as can other unethical tactics. Take it all in stride. Be the hunter, not the hunted. Never allow your unit to be caught with its guard down. Use good judgment and act in the best interests of our Nation.

"You are part of the world's most feared and trusted force. Engage your brain before you engage your weapon. Share your courage with each other as we enter the uncertain terrain north of the Line of Departure. Keep faith in your comrades on your left and right and Marine air overhead. Fight with a happy heart and a strong spirit.

"For the mission's sake, our country's sake, and the sake of the men who carried the Division's colors in past battles, who fought for life and never lost their nerve, carry out your mission and keep your honor clean. Demonstrate to the world that there is 'No Better Friend, No Worse Enemy' than a United States Marine."

Ladies and gentlemen, those people that wear the uniform do not have the disagreement with this resolution that so many Members from the other side had tonight. They know this is a good cause. They believe in this cause. They share this cause. They also believe that they have a great President leading them.

May God bless them. May God bless America.

Mr. SKELTON. Mr. Speaker, I thank my friend from California for his eloquent statement.

Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise in favor of this resolution to support our men and women in harm's way serving this country.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Some discussion has been held tonight regarding foreign policy. Let me say my foreign policy. I speak of the valor and the courage and the dedication of young men and young women who are protecting freedom and safety of our country and of the free world, whether they be on the outskirts of Iraq or in Afghanistan or wherever they may be in this world. I hope everyone will see themselves clear to support and vote for this resolution so we can say thanks to those brave souls of America. We have lost some, as was recently said this evening, whose families will grieve, but it is for us to carry on and say thank you.

Mr. Speaker, the great Roman orator once said that gratitude is the greatest of all virtues, and I hope tonight by this vote we can express our gratitude and exhibit that virtue by voting for this resolution.

Mr. TOWNS. Mr. Speaker, this evening I rise in strong support of the work that our U.S. Armed Forces are doing in Iraq and throughout the Middle East. However, I cannot support the resolution offered by my friend, Mr. Hunter. I truly believe that war is not the answer to this question facing the world community.

I truly believe that Saddam Hussein is an evil dictator and should not be allowed to oppress his people or threaten the rest of the world. Having said that, I would note that we should have given diplomacy a chance to work and more importantly, given the inspectors a chance to do their job to avert this military action.

As a New Yorker, no one understands the reality of terrorism more than me and the people of Brooklyn; we all lost family and friends that day and were all thankful for the outpouring of support we received from the nation and the world in wake of the September 11th tragedies. Having said that, after seeing my city attacked with my own eyes that day I believe that the actions of this administration are wrong and shortsighted.

Once again, Mr. Speaker I stand with our troops this evening, but cannot commend those who would not work with the world community to find a peaceful solution to the problems that face our ever-shrinking world.

Tonight I say thank you to our troops and know that I am praying for their safe return to America, but cannot vote for this resolution because I do not believe this to be a just war.

Mr. KUCINICH. Mr. Speaker, I support the brave young men and women who are following orders that have placed them in harm's way. I hope and pray for their safe return. My thoughts and prayers are with them, their families and loved ones in this difficult time.

While I will always support the troops, I cannot support this mission. Last night, the President ordered an unprovoked aggressive attack against Iraq in violation of American traditions of defensive war.

This war is wrong. As a nation we must come together to support the troops, but continue to challenge the policy that has put them at grave risk.

Mr. SANDERS. Mr. Speaker, I am voting for this resolution because, like every American, I want to see all of our troops come home safely and want to show my support for them and their families. I also want to see this war ended as quickly as possible, with a minimum of Iraqi casualties.

I am disturbed, however, about the partisan nature of this resolution. Instead of simply indicating our support for the troops, this resolution has language in it which some might suggest indicates support for the policies of the President which have led us to where we are today. Let me be very clear. I do not support those policies. I do not support the concept of "preemptive war." I do not support a foreign policy which undermines the United Nations, and which alienates us from virtually all of our allies. I believe that all of these actions create a horrendous precedent which makes our country and our planet less safe, which could well result in more terrorism, not less terrorism. I voted against giving the President the authority to go to war in Iraq and I believe that history will determine that was the right vote.

Saddam Hussein is an evil dictator but I believe that, with the support of the international community and the United Nations, he could be contained and his weapons of mass destruction could be removed from him—without war and without killing and at a fraction of the cost that this war and occupation will cost. I also believe that with enforced and prolonged inspections, and with a strong commitment to human rights, the international community could bring democracy to Iraq.

Mr. Speaker, let us not forget the phenomenon of "blow-back," or unintended consequences. The U.S., the most powerful military force on earth, will surely win this war in short order, but I'm not so sure that this victory will seem quite so clean and positive five years from now. I'm not so sure that the American occupation of Iraq will have all of the positive results that some think.

Let me conclude by expressing my outrage about how, at a time when young men and women are in the line of fire in Iraq, the Republican leadership, on this very night, is voting to cut the benefits of our veterans. On one hand we vote to "support the troops," while on the other hand we vote to deny health care and other promised benefits to those veterans who fought in the first Persian Gulf War, or Vietnam, or Korea or World War II. What hypocrisy! Yes. We apparently have billions available for tax breaks for the rich, but not enough to keep the promises we made to our veterans.

Mr. BLUMENAUER. Mr. Speaker, I strongly support the American men and women in uniform and their families who are providing key support and bearing such a heavy burden. Congress stands in solidarity with those given such a somber responsibility. This resolution is testimony to that unity.

My vote on this resolution affirms my support for our troops, but should not be mistaken as an affirmation of the administration's foreign policies and diplomatic efforts, which I find wanting.

Mr. DEFAZIO. Mr. Speaker, nearly 250,000 men and women serving in the United States Armed Forces are deployed in Operation Iraqi Freedom. We have just had notice of the first casualties with the crash of a Marine helicopter. I would like to convey my condolences to their families; my heart and prayers are with them at this difficult time.

With the consideration of this resolution, I and every other Member of the United States House of Representatives wish to honor the courage and service of all our troops to this nation. Our thoughts and prayers are with them for their prompt and safe return home to their families.

The House of Representatives could have better demonstrated support this evening for members of the Armed Forces past and present during deliberation and votes on the Budget resolution. The resolution that just passed will cut veterans benefits and fails to fulfill the commitment to lifelong care and care of dependents made to our young men and women at the time of enlistment. I voted against the Republican budget Resolution that mandated the cuts in veterans benefits. Instead I voted for an alternative budget resolution that would have fully funded veterans programs and met our nation's obligation to those who have served selflessly in defense of our freedoms.

I will vote for this resolution to further demonstrate my support for our young men and women in the armed forces. I only wish that all those who join me in this vote had demonstrated a similar commitment when it came to full funding for veterans programs. In casting my aye vote for the troops, I want to note that I would have offered a motion to strike the whereas clause beginning at the bottom of page 2 extending to the top of page 3. I also find that the assertion at the end of line 6 ending on line 7 (p. 4) is not supported by any facts released by the CIA or other intelligence agencies and was, in fact, debunked in a publicly released CIA document last fall.

I have previously made known my concerns with the new policies of pre-emptive and preventative war. I have also spoken of the failure of the United States Congress to fulfill its duty under Article I Section 8, the duty to debate and declare war. Now, as we mourn the first casualties and honor our soldiers still on the front lines, is not the time to continue that debate despite the concerns I expressed earlier. However, there will come a day in the not too distant future when the House will no longer be able to avoid its duties.

Mr. ROTHMAN. Mr. Speaker, I rise to offer my support for our troops and for this resolution.

First and foremost my heart and prayers are with the brave men and women of our Armed Forces who right now are engaged in a dangerous, but necessary war to rid the world of an evil dictator who threatens the world with his weapons of mass destruction. Our troops are courageously risking their lives for, not only the freedom and security of the people of the United States, but for the people of Iraq, and the entire world.

For 12 years, the United States and United Nations have called on Saddam Hussein to destroy his weapons of mass destruction. The U.N. passed 16 resolutions ordering him to do so. He has chosen not to comply. His history of using weapons of mass destruction, plus the likelihood that he could give these weapons of mass destruction to his agents in the U.S. or to terrorist organizations to use against Americans at home or abroad make him a clear and present danger to America.

The risks of this war are great, but the risks of not going to war to disarm Saddam Hussein now are far greater. With September 11 very much in my mind, I believe that our government must be proactive in protecting our people and our homeland.

I am mindful of, and have had extensive discussions with, the many people of good faith in my district who oppose taking action against Saddam Hussein at this point in time. I have great respect for them and for their strongly held views. But I hope that all Americans will join me today in supporting our troops as these brave young Americans place themselves in harm's way on behalf of our nation.

I pray for the safety of the brave men and women in our armed forces and for the innocent Iraqi people. I look forward to the elimination of Saddam's weapons of mass destruction and to the liberation of the Iraqi people from this murderous, sadistic dictator.

May God bless our troops and may God continue to bless the United States of America.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in strong support of H. Con. Res. 104.

The security of our Nation and the freedoms we enjoy will not be held hostage by a brutal dictator or terrorists whose only aim is to destroy our way of life. We will not live in fear.

The very real threat of an attack on America by terrorists who would use weapons of mass destruction cannot be left to chance. This risk is too great.

In the face of such threats, our current military action in Iraq, with our allies, is warranted.

As many of my colleagues have said before me this evening: Saddam Hussein must be stopped. His arsenal of terror must be eliminated. The terrorist networks with whom he allies himself must be destroyed. America must and will lead the free world to disarm Saddam Hussein and stop terrorism.

We have a duty to protect our people, and this we will do with courage and conviction.

This is the call to action our young men and women in uniform have heard, and for their sacrifices, we owe them our gratitude, our prayers and all of America's support.

Our Commander in Chief has given our brave, young soldiers their orders. They are following those orders with precision, professionalism, compassion and courage. At the end of this battle, the world will be a safer place without Hussein, his anthrax, toxins and nerve gas, or the terrorists he aids and abets.

Our troops now go into battle to defend our Nation and protect our children's future.

As those of us who have seen war know, the price of freedom is paid for by the sacrifices of those who serve. Their courage is our inspiration.

We wish them Godspeed, swift victory, and safe return.

Ms. HARMAN. Mr. Speaker, as I vote for this resolution tonight, I am mindful that many of my constituents remain opposed to United States action in Iraq, and believe it reflects an abuse of United States power which unnecessarily risks human life and sets us on a dangerous path for the future.

I want to explain to those constituents, whose views are heartfelt and well intended, why I respectfully disagree.

The President's decision to use force to remove Saddam Hussein from power and eliminate his WMD was, indeed, controversial. I had hoped diplomacy would succeed, and that, even if it failed, the threat of imminent force would cause the Iraqi regime to seek exile.

One day, when we look back to write the history of these past months, we will undoubtedly conclude that there were many mistakes—some by the United States, many by our allies in the United Nations, and critical ones by Hussein and the leadership of Iraq. And we will learn from those mistakes.

But this resolution does not debate the issue of whether we should have gone to war. It merely expresses support and appreciation for those commanding the war, including the President as Commander in Chief, and for our young heroes, those in uniform, who are courageously and skillfully carrying out their assigned missions.

Mr. Speaker, we must not make the mistake we made during and after the Vietnam war. This time, let's support the women and men serving in our Armed Forces—and, as importantly, welcome them home with open arms.

Mr. KIND. Mr. Speaker, I rise today in support of this resolution commending our brave men and women of the armed services. I wish them Godspeed and a quick and decisive victory so they can return home soon and safe.

America is the greatest democracy the world has ever known. The advent of a new century has brought new threats and new terrors never before imagined that threaten our cherished freedoms and liberties. Fortunately, we have some of the finest citizens of our country who choose to serve to defend those cherished liberties, even at times, by giving their last full measure of their lives. They do it for their country, they do it for their families, and they do it for their buddies in the foxhole next to them, and thank God they do it well. Each generation has faced its own unique challenges and has risen to address them. Now it's our turn and I am confident that the current generation of servicemen and servicewomen will perform honorably and successfully. We are so very proud of them.

With military action to disarm Saddam Hussein just underway, my thoughts and prayers are with these men and women, as well as their families. Over 2,200 members of the Wisconsin Air and Army National Guard are serving on active duty as well as many Reservists from across the Badger State. Our appreciation not only goes out to them but also to their families and their employers for their support and sacrifice during these challenging times.

I want to particularly express my appreciation to the members and families of the Wisconsin Army National Guard's 229th Engineer Company out of Prairie du Chien and Platteville under the command of Capt. Robert Pruitt, the 829th Engineer Detachment out of Richland Center under the command of Capt. Kurt Geilfuss, and the 1158th Transportation Company with members from Tomah and Black River Falls under the leadership of 1LT Jason Stebbins, and Army Reserve's 652nd Engineer Company out of Ellsworth under the command of Capt. Dean Kasparek. These units have been activated and deployed. They can take great pride in knowing that they are part of the greatest military force the world has ever known and that they have the support of a grateful nation. We owe them a debt of gratitude that can never be repaid.

I also want to thank Maj. Gen. Al Wilkening, the Wisconsin Adjunct General and LTC Tim Donovan of the Wisconsin Army National Guard, along with Col. Mike Stazak, commander of Ft. McCoy, Army Reserve Total Force Training Center and his staff in western Wisconsin. The people of Wisconsin are proud of their service and the service of all the men and women of our armed services during this important time in our Nation's history.

As our military effort continues, I and other members of Congress will work to ensure that our service men and women have all the resources necessary to fulfill their mission. My thoughts and prayers are with those serving our country, as well as their families. America is firmly behind our troops and we're all hoping to see them home safe, secure, and soon.

May God bless our troops during this difficult time and may God continue to bless the United States of America.

Ms. ROYBAL-ALLARD. Mr. Speaker, I, like many of my colleagues, worked to keep America's sons and daughters out of harm's way and to protect the innocent civilians of Iraq by encouraging the continuation of U.N. inspections and diplomatic efforts to gain the support of the United Nations Security Council.

I am deeply disappointed that the President instead has chosen to begin military action. But the fact is, since the decision was made to go to war, we must do everything in our power to support and protect our troops and to prevent civilian casualties.

I, like all Americans, am deeply grateful for the patriotism of our troops, their courage and the sacrifices they are willing to make. I join all Americans in praying for their prompt and safe return home to America and to their families.

Since September 11, 2001, Congress has worked in a bipartisan fashion to provide the tools necessary for our military forces to accomplish the difficult tasks given to them. I have supported these efforts because our fighting men and women deserve the very best. With our troops now engaged in conflict, Congress and the President must make certain that our armed force continue to promptly receive the necessary resource to end the war and to secure the peace when the conflict ends.

As the wife of a former Marine and as the stepmother of a proud member of the Army, I also want to thank our country's military families who share fully in the sacrifices of our military personnel. I will work with congressional leaders to continue to address the particular needs of these families during these difficult times and work to insure that full veteran benefits are available to them when they return.

The United States must continue diplomacy to bring together the broadest coalition to aid our efforts during and after the military conflict. America will need the support of our allies to help the people of Iraq rebuild their country.

Mr. Speaker, tonight our prayers and thoughts for our troops and innocent Iraqi civilians are perhaps best expressed by the American poet, Longfellow, who wrote so poignantly:

Our hearts, our hopes are all with thee.
Our hearts, our hopes our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee—are all with thee.

Mr. MICHAUD. Mr. Speaker, I rise tonight in support of this resolution that expresses our appreciation for our Armed Forces and their families. As a proud member of the Veterans Committee, I have worked to champion the causes of our brave men and women in uniform every day. As we enter a time of peril for our troops, and a time of concern in the hearts of their loved ones, it is important that the Congress is steadfast in our support.

I do have reservations, however, about the full content of this resolution. It mixes a statement of support for our troops, a sentiment that unites this Congress and our Nation, with support for the policies and plans of the administration—policies that remain controversial in this body and among many Americans.

It is the right—indeed, it is the duty—of elected representatives in a Democracy to question, to debate, and to voice the concerns of their constitutes. This resolution seeks to suppress all such concerns in a cynical act of politics, by forcing members either to vote in favor of all of the policies, or risk showing disdain for the troops. This kind of politicking has no place in what should be a pure and genuine expression of national unity.

I am voting for this resolution tonight because the sacrifice of our troops and their families deserves to be honored. But I object to the way in which this was brought forward, and I hope that this body will show a greater regard for all of the voices in our Nation in the future.

Mr. MILLER of Florida. Mr. Speaker, I rise today in support of H. Con. Res. 104, a measure to honor our men and women in uniform and the families who support them.

Mr. Speaker, the meaning of this resolution strikes close to home because many men and women from my district are currently deployed overseas or they are in the cue to be deployed. There must be a remarkable level of stress associated with deployment. Uncertainty can be the largest contributor to this anxiety. Uncertain where they will be sent, uncertain as to what they will see. But rest assured, Mr. Speaker, there is no uncertainty in what they must do.

I know first hand that those airmen from the Air Force Special Operations Command, based at Hurburt Field, are of the best trained, best equipped members in our United States Armed Forces. They go hand in hand with the Rangers who trained at Camp Rudder in the Northwest Florida swamps, the sailors who trained at Pensacola Naval Air Station and Whiting field, the Air Force Reservists from Duke Field and the airmen from the 33rd Fighter Wing, the Nomads, from Eglin Air Force Base.

These are the faces of our forces in Iraq. These men and women, mothers and fathers, daughters and sons, are the people who have volunteered to defend our freedom wherever a defense is needed. They protect the very fabric that gives protestors the right to protest, the editorialist the right to editorialize and the security where we can move about our day, completing our routine duties, without fear of oppression or persecution based on our simple, God-given rights.

As you, Mr. Speaker, I've seen many object to our efforts to liberate Iraq. I am deeply troubled by their lack of understanding as to what our troops are battling but at the same time I am proud of our Nation and the beacon of light we shine around the world—that those objections are permitted. Nobody here expects everyone to agree with every policy implemented. But I have yet to see a single protest against the Iraqi regime in downtown Baghdad. I would highly doubt the citizens in Iraq are truly comfortable with living a life of terror at the hands of their own government. I doubt they move about their daily routines without fear of persecution. I know they cannot assemble to oppose the government or publicize their written thoughts that run contrary to the views of the ruling regime.

Mr. Speaker, we here in the United States, Western Europe and scores of other countries are fortunate to live in a land where life, liberty and the pursuit of happiness are abundant, and I would submit, taken for granted. I look forward to the Iraqi people living in the same type of land and I thank the troops for bringing them to our welcoming arms.

May God bless and protect our men and women in Uniform and continue to bless the United States of America.

Mr. REYES. Mr. Speaker, as we speak and assemble on the floor of the House tonight, young men and women of our Armed Forces are ready to pay the ultimate sacrifice in the service of our Nation. Indeed, 12 American and four British soldiers died when their U.S. Marine helicopter crashed in Kuwait just hours ago. My condolences and prayers are with their families at this most difficult time.

About 3,600 of the troops honorably serving in the Persian Gulf today are from Fort Bliss in my own district. I have been fortunate and honored to meet many of them and their families. These men and women have already shown their remarkable abilities, manning Patriot missile battalions that successfully defended Kuwait and allied troops against Iraqi Scud missiles earlier today. I am very proud to represent these brave and capable soldiers. My thoughts and prayers are with them as they face the dangers and uncertainties of war. And my thoughts and prayers extend to their families as well, who must anxiously await their loved ones' safe return. The mothers and fathers, sons and daughters, wives and husbands, and brothers and sisters of our service members are making sacrifices of their own, and enduring a challenging time. They deserve our recognition and appreciation.

I commend all the members of our Armed Forces serving in Operation Iraqi Freedom for their patriotism, bravery, and professionalism. I also wish to express my appreciation to the British and Australian troops who are fighting alongside Americans in combat, and to the personnel from other allied countries who are providing support to our forces.

I support our Government's efforts to prosecute this war swiftly and successfully, with a minimum of military and civilian causalities. Our soldiers deserve our fullest support, and they can count on me for that for however long this war may last.

Mr. HONDA. Mr. Speaker, I rise today to express my strong support for the men and women of our armed services. These courageous Americans are putting their lives on the line in order to serve our country, and I pray that they succeed swiftly in their mission and return home safely.

I also want to express my support for the families of our troops, who are patiently awaiting their return with heavy hearts. My thoughts and prayers go out to you during these difficult times.

While I fully support our troops, I am frustrated and deeply disappointed by the resolution that we are being asked to consider tonight. I vehemently disagree with the President's decision to abandon a diplomatic solution to disarm Saddam Hussein, and cannot support a resolution that endorses that decision.

I was proud to support H.J. Res. 27 two weeks ago, a resolution commending the service of our Armed Forces. However, it is with a heavy heart that I must oppose the resolution we have before us tonight.

Mr. KLECZKA. Mr. Speaker, I back this resolution because of my complete support and admiration of the brave men and women in our armed services. Each of us owes a debt of gratitude to these selfless individuals who have put themselves in harm's way in service of our Nation. Like many of my fellow Americans, I still disagree with the process that brought us to this juncture and my vote here does not represent any change in that belief. But I pray for a quick end to this conflict and for the safe return of all of our men and women in uniform.

Mr. SHUSTER. Mr. Speaker, I rise tonight in support of H. Con. Res. 104. It is very fitting that we honor those men and women who tonight are making the world a safer place. Their mission is legal and, more importantly, just. I am certain they will succeed in changing an evil regime, they will succeed in eliminating dangerous chemical and biological weapons, and they will succeed in liberating the people of Iraq.

Our thoughts and prayers must also go out to the families of our troops. Their sacrifice is great and must be acknowledged.

There is no greater love than the love of a family, so as a nation, as family America, we must send our love to families whose members are in harm's way defending our freedom.

And finally recognizing our President for his leadership, his strength, his decency and his commitment to the American people.

I hope and pray for a swift and safe return for all of our troops. May God bless our military and their families. And may God bless America.

Mr. HOLT. Mr. Speaker, I am pleased to vote to support our brave armed forces. I will vote for this resolution. My thoughts and prayers are with the men and women in uniform who are serving our country in the Persian Gulf and elsewhere. They will, without doubt, perform admirably. While I am disappointed that this resolution contains dubious and politically opportunistic language regarding Iraq and the war on terrorism, that cannot stop me from endorsing the valor and dedication of our troops. Although I remain concerned that this war will make our country less instead of more safe, I deeply respect the personal sacrifice and commitment of our armed forces. Our democracy permits and even encourages disagreement, but it cannot tolerate disrespect towards our men and women in uniform.

Mr. PAUL. Mr. Speaker, as we vote today to commend our troops, I would like to take the opportunity to express my personal support for our brave men and women in uniform who are in harm's way, and to hope for their safe return home after a victory on the battlefield.

The time for debate over the wisdom of going to war has passed. Although I was unsuccessful in arguing that such a war be undertaken only after the passage of a constitutionally-enacted Declaration of War, it is time now for us to line up behind our troops. As a Vietnam era veteran of the U.S. Air Force I understand how important it is to troop morale that each and every fighting person know all Americans stand behind them.

Once this war has ended we should seriously reconsider the direction of our foreign policy. The American people have seen the ineffectiveness of our reliance upon our so-called "NATO allies" and the United Nations. Hopefully this will lead us to reconsider our role in these organizations. I hope this will be the last time Americans fight under the color of U.N. resolutions. Once this war is completed I hope we will reassess our foreign entanglements, return to the traditional U.S. foreign policy of non-intervention, and return to the standard of our own national security.

For now all such foreign policy debates are on hold, and I hope all Americans will join in supporting our troops in the successful completion of their mission.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to voice my unequivocal support of our men and women in uniform currently participating in Operation Iraqi Freedom. I would also like to thank my colleague Chairman HUNTER for bringing this important and timely resolution to the floor.

As we speak, our armed forces are beginning the second day of their quest to end the reign of one of the most diabolical tyrants the world has ever known. As they advance on their objective, the professionalism and abilities of our troops are obvious. These brave men and women—so far from home—bear upon their shoulders the task of keeping the world safe so that the rest of us can enjoy the comforts of freedom.

While no one doubts that ultimate success will be theirs, the dangers our troops face are all too real. Not long ago we received the sad news that a helicopter crash has claimed the lives of 12 U.S. Marines and 4 British soldiers. It is unlikely these casualties will be the last, but we are comforted in the knowledge that the sacrifices they have made will help make the world a safer place.

Saddam Hussien had ample opportunity to join the peace-loving nations of the world, but he refused at every turn. Thus, if falls to our troops to finally put an end to his murderous regime. Earlier today they crossed the line of departure, and are now closing with those enemy forces that chose to put up resistance. But more important than the fear they bring to the allies of Saddam is the hope they bring to the Iraqi people, who soon will see their great and ancient civilization flourish once again.

As for Saddam, he will experience for a second time that there is no great friend, no worse enemy than a member of the U.S. military.

Mr. RAMSTAD. Mr. Speaker, I rise today to support our brave troops in harm's way, as they fight to disarm Saddam Hussein of his weapons of mass destruction.

My gratitude and prayers are with the 270,000 brave American troops at war to protect the American people, including 2,512 Minnesota National Guard and Reserve Troops.

Mr. Speaker, politics stops when war starts. It's time for all members of this body to take off their political hats and put on their American hats in support of our troops. At time of war, there are no Republicans, no Democrats and no Independents, only Americans.

As Americans, we have the will power and the staying power to accomplish this mission and bring our troops home safely.

Thanks to our brave troops, I am confident we will be successful at disarming this brutal and murderous dictator of his weapoons of mass destruciton. And for that, Mr. Speaker, they deserve our deepest gratitude, respect and prayers.

May God bless our troops and our Commander-in-Chief, and may God bless America!

Ms. CORRINE BROWN of Florida. Mr. Speaker, I stand 100% behind our troops. The brave men and women in uniform who have volunteered to defend our country are in my thoughts, and in my prayers. I pledge to work to ensure that they have all the resources necessary to help them accomplish their mission quickly and safely so that they can return home to their families.

I also pray for the family members who sent their loved ones into harm's way to protect the freedom that every American enjoys. They are to be commended for their sacrifice and unwavering support for our troops.

My home state of Florida has sent over 5,000 Reserve and National Guard personnel to Iraq with the full understanding that not all of them would return to their families and loved ones, and my heart goes out to these brave Floridians.

Every member of our Armed Forces deserves our deep and unending gratitude for their professionalism and commitment to the ideals of this great country.

For the record, I would like to express my support for the second and third Whereas clause of the resolution we are currently debating, and I would like to submit Congressman HASTINGS' Resolution support the troops which I support in its entirety.

May God continue to bless America.

H. CON. RES.—

Whereas the valiant and dedicated members of the United States Armed Forces consistently perform in an exceptionally professional manner befitting an all-volunteer military force;

Whereas the members of Reserve and National Guard components of the Armed Forces consistently demonstrate their readiness and ability to respond and deploy quickly to become an integral part of the active components;

Whereas the families of the active and reserve forces provide exceptional and unwavering support for deployed forces;

Whereas the valiant members of the military forces of the allies of the United States share common goals and objectives with the United States in the war on terrorism and the war with Iraq; and

Whereas all citizens of the United States and the allies of the United States have demonstrated a show of unity in the aftermath of the terrorist attacks of September 11, 2001, and against the threat to global security and crimes against humanity posed by Iraqi President Saddam Hussein: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of Congress that—

(1) each member of the Armed Forces of the United States be commended for serving with such distinction and professionalism;

(2) the family members of members of the Armed Forces of the United States be commended for their special role in providing support for the members of the Armed Forces;

(3) each allied service member be commended for serving with such distinction and professionalism; and

(4) all citizens of the United States pay homage to the members of the Armed Forces and their families and to allied service members and their families.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the order of the House earlier this legislative day, the previous question is ordered on the concurrent resolution.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

The SPEAKER pro tempore. Pursuant to House Resolution 151 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, H. Con. Res. 95.

□ 0210

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, with Mr. ISAKSON (Chairman pro tempore) in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier this legislative day, amendment No. 4 printed in part B of House Report 108–44, as modified, offered by the gentleman from South Carolina (Mr. SPRATT) had been disposed of.

It is now in order for a period of final debate on the concurrent resolution.

The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 10 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Chairman, I will close our side of the debate, and I only have one speaker. I believe I have that opportunity to do so; so I allow the gentleman from South Carolina (Mr. SPRATT) to go first.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

I rise to claim my time and make a closing statement.

Mr. Chairman, this is not just another partisan vote. This is a pivotal vote with long-lasting consequences, and I urge everybody to ponder those consequences and beg everyone's indulgence at this hour to make just a few comments. When I came to this House 20 years ago, the Government was deep in debt. Over the 1980s the national debt tripled. It took us almost 20 years to rid the Government's budget of deficits. It took Gramm-Rudman-Hollings, which passed in 1985, the Budget Summit Agreement in 1990, the Clinton Budget of 1993, and the Balanced Budget Agreement of 1997.

These efforts finally bore fruit. After we passed the Clinton act in 1993, each year thereafter for 7 straight years, the bottom line of the budget got better to the point where in 1993 for the first time in 30 years the budget was in balance.

□ 0215

Mr. Bush took office with an advantage few Presidents in recent times have enjoyed. He had a surplus, a big-time surplus. The Office of Management and Budget, OMB, estimated from 2002 through 2011, the surplus would be $5.6 trillion.

Based on that projection and over the admonitions of many of us, Mr. Bush requested and Congress passed $1.35 trillion in tax cuts. Now, just 2 years later, that $5.6 trillion surplus is gone. That is what CBO and OMB told us when we opened the budget season in January of this year.

OMB told us that it had overstated the surplus. Adjusting it for what we now know about the economy, they said the adjusted surplus is not $5.6 trillion from 2002 through 2011, it is more like $2.4 trillion, and, more than that, about $2.5 trillion has already been committed in new tax cuts and newly legislated spending, much of it for national defense. This means that any new tax cuts we pass will go straight to the bottom line. They will add dollar for dollar to the deficit.

In 2001, you could rationalize an enormous tax cut on the grounds that we had an enormous surplus, but you cannot do that anymore. Nevertheless, the President sent us a budget this year requesting another $1.6 trillion in tax cuts, another round of tax reduction, as large as the last, with only a few modest offsets in it. All of it goes to the bottom line. When CBO did its analysis of the President's budget, it saw nothing but deficits, on-budget deficits, totaling over $5 trillion between now and 2013.

The chairman of the Committee on the Budget and his colleagues embraced the President's tax cuts. They totaled some $1.6 trillion, but they pared them down a bit, and then they went looking for offsets. They weren't able to identify specific spending offsets, so they settled on just across-the-board percentage cuts to entitlement spending under the jurisdiction of 14 different committees. Initially they asked for $470 billion in entitlement spending. They settled later for less because they needed the votes to get it passed on their side of the aisle.

Today we have some $262 billion in entitlement cuts entailed by this budget resolution. These will come out of programs within the jurisdiction of the Committee on Ways and Means, that is Medicare; and the Committee on Energy and Commerce, that is Medicaid, $107 billion.

So if you vote for this resolution, you should know that you are still voting very possibly to cut Medicare by $62 billion, Medicaid by $107 billion, government pensions and railroad retirement by over $40 billion, veterans' disability benefits by $15 billion, school lunches and student loans by nearly $10 billion, and all of this is occasioned by the fact that you want to go forward with this tax cut of $1.3 trillion to $1.4 trillion. Because without it, the budget will be in balance between 2008 and 2010, if you just let the spending increase each year at the level of current service.

You should also know that this resolution calls for limits on domestic discretionary spending that will make it lower than inflation or current services by $244 billion over the next 10 years. It has been claimed on this House floor that these were just cuts of 1 percent, but when you provide for a big increase in international affairs, $51 billion is what the President sought over 10 years, and another big increase in homeland security, the rest of the accounts in discretionary spending have to be squeezed, and by our calculations they are squeezed easily by 6 percent.

That may not seem crippling, but look what is happening to education in this budget. Education is brought in $50 billion below inflation. At this level we will never fully fund Leave No Child Behind; we will never get close to sharing our fair share of IDEA. That is true for other programs throughout the discretionary accounts. Veterans' health care, for example, it is cut by $13 billion to $15 billion, although today right now it has more veterans than it can say grace over to care for.

Mr. Chairman, I deeply doubt that these cuts will ever be achieved. Let us not forget what happened last year. We only passed 2 of 13 appropriations bills in 2002, did not finish the last 11 until a few weeks ago, and those were hard to pass because they had spending restraints on them that are a lot less challenging than what this bill will call for.

So what happens if the cuts are not achieved? The deficit goes higher, we stack up a mountain of debt. But, unlike the 1980s, we are right now on the eve of the retirement of the baby-boomers, and that will make the task of turning these deficits around more intractable and difficult than ever, believe me.

So, before you vote for this resolution, you should ask yourself if you want to take this gamble. You should know that even if all the mandatory and discretionary spending cuts are achieved, which is very, very unlikely, this budget will not be in balance until 2012, a long time from now, and between now and then this budget will accumulate more than $1 trillion of additional debt. And in voting for this resolution, keep in mind, you are voting to raise the ceiling on the national debt.

So, what happens if we do not vote for this resolution? What happens if we vote it down tonight? Well, the default option is not really that bad. If you forego the tax cuts and you can also forego the spending cuts, you can put the budget back in balance by 2008. If you believe in balanced budget, if you think deficits are a menace, that is not a bad outcome. I suggest to you it is a lot better outcome than the budget resolution before us.

Vote no on the budget resolution. Let us go back to the drawing board.

Mr. Chairman, I yield back the balance of my time.

Mr. NUSSLE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we always hear a lot about history whenever the Democrats come to the floor to talk about the budget, and it is in part because they do not want to talk about the future. They really just want to talk about history. They want to redefine it, they want to recapture it, they want to put it in new context constantly.

How did we get here? Because of a war, because of a national emergency, and because of an economy that has been in recession, and we have to address all of those needs today. We have to have a plan for the future.

Just like we commended our troops tonight, it is time to do our job. Yes, it is late. Yes, there are people who are asked to do much harder work than we are asked to do. But it is time to do our part in all of this. This budget is just the first step.

I have heard people tonight on both sides of the aisle talk about all sorts of devastating things that might happen, devastating things that will happen, all sorts of policies that will flow from this budget that has not even passed yet, that has not even been conferenced with the Senate yet. We do not know where this process will end up, but I will guarantee you one thing: At the end of the day, no one will like it. No one will think it is a perfect budget. I can attest to that, because even though when I started this process I kind of liked what I wrote, by the end of it, I am not even sure I will recognize all of the details that are in this budget.

Why is that? Because 435 people in this body and 100 in the other body write the budget. This is not the Nussle budget, it is not the President's budget, it is not the Blue Dogs' or the Republican Study Committee's or the moderates' or the conservatives'. It is nobody's budget unless we get it done.

Why is it important for us to get it done? Because just last year we did not get it done. We passed one in the House, the other body did not pass a budget, and what happened? Gridlock, breakdown, 7 months of wrangling on the floor over 13 appropriations bills that only attributed one-third of all of the spending that Congress does and the Federal Government participates in. Seven months we spent over just one-third of the budget because of total budget breakdown.

So we need to pass a budget. We need a conference report. We need to have a plan. And what should that plan say? Well, we believe it needs three things:

Number one, it is not negotiable. We must protect America. That means strong national defense and homeland security that gives us the kind of security we need to have to ensure that we can protect freedom at home and freedom around the world.

Number two, we must strengthen the economy and create jobs. A person without a job is not paying any taxes, and a person who is not paying any taxes, more than anything else, knows that they are not able to make ends meet. A person with a job, that is the most important thing we can do is to get people back to work.

So, yes, we reduce taxes. Yes, we take on taxes, because they are too complicated, they are too high, they are too onerous, and it has gone on too long. We have got to do something about taxes. The President has put a plan on the table. Yes, we incorporate that plan in our budget, but it is a first step to getting us back to work as a country.

The third area is fiscal responsibility. Now, I have heard the gentleman from South Carolina, whom I greatly respect, say that we will not achieve these cuts. He is right. We are not going to achieve these cuts, because they are not cuts. How can you cut when you are only decreasing anticipated increases on the one hand, and, on the other hand, when it is waste?

Why is it in America, for some reason in Washington, that whenever an agency or department or program wastes money, we rush in and give it more?

GAO, our General Accounting Office, if you want to talk about waste, we hire great people who put together reams and volumes and all sorts of reports; defense acquisitions, financial management, FAA, Medicaid, Medicare, U.S. Postal Service, food stamp program, tax administration. It goes on and on and on in waste.

We are paying dead people benefits under the Veterans Administration. We are sending dead people checks under Social Security. There are folks in the Lorton prison that are getting benefits under welfare still. And this is under a reformed welfare system.

People will come up to me and say, "Gosh, do you know what is really tough? We cannot find that waste. We are having a real tough time." And our friends on the other side are saying, "You are cutting, throwing children in the street. People will be kicked out of nursing homes."

We are after this. This is what we are after. We want to find the waste, fraud and abuse within our system. Is it going to be hard? You bet, because for 5 years we have not been doing it.

Five years ago we reached a balanced budget. Why? Because the Republicans took the majority. We put in a 7-year plan to balance the budget. We got there 4 years earlier than we said because the economy was growing, and we controlled spending. But when we got to balance, we stopped working on spending. We have got to get back to working on the spending side of the budget.

So, this is where I end here tonight with a quote. It is kind of an interesting quote, apropos for tonight, I believe. The quote is, "We shall, therefore, neither postpone our tax cut plans nor cut into essential national security programs. This administration is determined to protect America's security and survival, and we are also determined to step up its economic growth. I think we must do both."

President Kennedy said that in 1962. Let us do that job again tonight. Let us vote on the budget.

Ms. WOOLSEY. Mr. Chairman, I rise today to highlight how the administration's budget leaves children and families behind. As we begin debate on the FY2004 Federal budget, we must remember that the biggest challenge facing American families is how to bridge their responsibilities between work and caring for their families.

Our children and our families need our help now, more than ever, as this country is involved in a pre-emptive war with Iraq; this is especially true today for the families of our troops, national guard and reservists.

Whether already deployed, or waiting for their orders, these brave men and women and their families are wondering how they'll make ends meet as they fulfill their military duty. How will they juggle their work and family responsibilities as well as their Nation's call?

What we need is a budget that invests adequately in the programs and safety net that help all families balance work and family responsibilities.

That's why it's bad policy that the Republican budget cuts many crucial programs that help parents and children.

For instance, under the President's FY2004 plan after-school programs are cut by nearly $400 million and cuts necessary funding for the Children's Health Insurance Program (CHIP). Under the President's budget, CHIP will be jeopardized by a plan to merge it with Medicaid programs through a new block grant.

States will have unprecedented latitude to scale back coverage of necessary care for children, impose substantial cost-sharing requirements on low-income families, and put many children in a position to have no coverage for their health care.

Child care services—which provide care so parents can work knowing their kids are safe—are also being cut. Only 1 in 7 children eligible for Federal child care assistance currently receive the funding they need. Under the President's plan a funding freeze will mean approximately 30,000 low-income children lose child care help in 2004.

Programs such as Head Start will also suffer. Head Start, the premiere early childhood program for disadvantaged preschoolers would be dismantled and sent to the States, without the performance standards that are the core of the program's success.

Mr. Chairman, this budget fails to provide the support that many of our working families depend on to give their children the best possible care. Families need this financial and emotional support to keep it all together. In fact, it seems that whatever we do in this fast-paced competitive society requires a balancing act.

All families can use a little help, yet, families are told that this is their own "personal problem"—although most everyone experiences it—and "don't look to Washington for help, the Federal Government has other priorities" such as a $400 billion defense budget to champion or a $675 billion tax break for the wealthiest few.

What I propose is that we need a common vision of how to assist the struggling families of our country. A balancing act would recognize that there is no more important job than parenting.

A balancing act would give parents the opportunity to stay at home for at least the first three months after a birth, or an adoption, without the loss of income or employment.

A balancing act would see that when parents go back to work they would have access to quality child care.

A balancing act would provide voluntary universal pre-school for every three- and four-year old.

A balancing act would ensure that all children are cared for . . . . not just during the school day, but after school as well. Instead of kids hanging out in the street with lesson in drugs, alcohol and early pregnancy, let's have safe places and enriching experiences available for our kids . . . places where they want to be . . . where they are safe and where they now they are cared about.

A balancing act would address the sad fact that in too many families, breakfast is a casualty of the new economy and our fast paced life. When kids go to school on an empty stomach, they can't learn.

And finally, a balancing act would extend benefits to part time workers. Whether an employee works 40 hours or less, their contribution to the company is just as great. All parents, and their families deserve to be protected against illness and loss of employment.

Mr. Chairman, our first priority in this budget must be helping working families find a balance between their work and home responsibilities. I encourage my colleagues to remember children and families as we debate the FY2004 Budget.

Mr. BACA. Mr. Chairman, if Republicans are trying to send a message with this budget, the bright neon lights spell "working families don't count." This is a budget of missed opportunities, misguided plans and misplaced priorities. This budget does not even account for the war, and reduces or eliminates benefits to the same brave soldiers that are waging that war as we speak.

This budget is missing any serious recognition of the devastating economic downturn our Nation has suffered during this administration or of the severe budget crisis facing the states.

The budget fails to invest in what matters most to American working families:

It does nothing to rebuild or modernize our schools. It does nothing to improve our nation's aging transportation system.

It does nothing to patch the holes in our homeland security framework.

It does nothing to stem the relentless loss of jobs in our nation's manufacturing and industrial base.

It does nothing to create new jobs.

Small businesses form the entrepreneurial backbone of our Nation's economy. Most new jobs in this country come from businesses started only from a little seed money and a big dream. Yet, this budget cuts the very Small Business Administration programs that help keep the American Dream alive.

This dream is being lived, at this very moment, by the hard working owners of countless Section 8A-small businesses. These businesses provide services to our government that are often less expensive and higher quality than many large corporations.

We must oppose a budget that bundles small business contracts together into larger contracts that only multinational and large corporations will be able to bid on.

This budget also does nothing to solve our Nation's crippling health care crisis, which means high cost and little coverage to working families. It also means a consistent 15 percent yearly cost increase to employers who are becoming less willing to pay for their workers' health care.

This budget leaves behind the $9 billion in funding that President Bush promised for education. This budget leaves behind 40 percent of the funding for after school programs, 26 percent of the funding to migrant education programs, 43 percent of the funding for high school equivalency programs, 13 percent of early education programs, and the list goes on.

I wish my Republican colleagues understood that it is neither apathy nor laziness that makes people poor and creates under-performing schools. Even where the budget seeks new funds for neglected priorities, the approach to solving the problem is deeply flawed and the conditions are unfair and counterproductive.

During a time of corporate scandals, Republicans choose instead to go after labor unions. The Department of Labor is even increasing its funding to audit, investigate, and prosecute labor unions. It increased its funding by closing down the United States Employment Service.

During a time of state budget shortfalls that are forcing deep cuts to education, this budget instead redirects critical education funding to private school vouchers so that he can begin to privatize public education.

During a time of soaring energy prices, the Republican budget freezes funding for the Low Income Home Energy Assistance Program, so our seniors can bake in the summer and freeze in the winter.

Seniors will be forced to leave Medicare to get a prescription drug care benefit, only to be covered by HMOs that will provide less care for more money.

Our seniors are concerned that this budget puts the long-term solvency of social security in serious jeopardy.

This budget will have a record of $1.8 million deficit over the next 10 years. This reckless deficit must be paid off, but how? Republicans hope to indebt our Nation to the point where we have no choice but to privatize Social Security. We must strengthen Social Security—not privatize it!

The current state of our economy demands investments to help people, but Republicans are instead squandering the funds on tax cuts. The resources that the budget seeks fall well short of basic needs—a direct result of the President's obsession with butchering the tax code and wringing from it trillions in tax breaks for the wealthiest. Tax breaks that are breaking the backs of our State budgets. According to the Center on Budget and Policy Priorities, the President tucked 11 tax cut proposals in his budget that would have disastrous effects on State budgets. Talk about kicking someone when they are down!

The tax cuts will cost the States $64 billion in revenues over the next 10 years. Those are $64 billion dollars that would have funded our police and funded our schools. Eleven States have cut their spending on K–12 education, delaying much-needed renovation and construction, eliminating preschool and after-school programs and, in some places, cutting days from the school week. Nineteen States have cut higher education spending, forcing cancellation of classes and tuition hikes.

Eighteen States have cut their welfare programs, even though the rolls are rising for the first time since passage of the 1966 welfare reform law. The number of States with waiting lists for child care assistance has grown, and the waits are getting longer. In seven States, eligibility for child care aid has been tightened significantly, and five States have hiked parent fees.

Twelve States are cutting Medicaid. At least 1 million people, largely in working poor families, will lose their health care coverage if these cuts are fully implemented. Another 1 million are experiencing cuts in coverage and benefits.

Many States have implemented or are considering tax increases to raise revenues. Among the 34 governors who have submitted 2004 budgets, 16—Republicans and Democrats—have called for increases in taxes and fees. Three are proposing personal income tax hikes, seven recommend sales tax increases or an end to sales tax exemptions, five propose corporate tax hikes and three are considering various other fees and levies. Ironically, these State tax hikes, many of which will hit low- and moderate-income residents, may offset any Federal cuts.

This budget and the tax cuts are clear examples of how Republicans want to shift the tax burden of our Nation from the rich to the working class.

Around this time last year, I led a successful effort to restore food stamp benefits to legal permanent residents. Although the President signed the law, this budget does not fund our commitment to keeping all lawful residents of our Nation fed. We cannot approve monumental reforms that bring hope to people's hearts and then coldly deny the funding for these very same programs.

I urge my colleagues to oppose this budget. It's a budget that sends its message—in bright neon lights—"real people don't matter."

Mr. LANGEVIN. Mr. Chairman, I rise today in strong opposition to this budget resolution, which undermines our long-term fiscal health and severely hampers our ability to meet critical domestic needs and foreign responsibilities.

I stand united with the President and my colleagues on both sides of the aisle in our commitment to win the war against Iraq and take all necessary steps to defeat terrorism and preserve national security both at home and abroad. However, despite the many new security and economic challenges confronting us, the war and our homeland protection efforts should not, and need not, shortchange our domestic priorities. We can win the war against Iraq and terrorism without raiding Social Security and Medicare and without increasing the national debt. Yet, this Republican budget resolution would accomplish just the opposite.

Two years ago, the administration and Congress were looking covetously at a staggering $5.6 trillion cumulative surplus through 2010. At the time, Congress was continually reassured by the administration that we could afford an enormous tax cut, ensure the solvency of Social Security and Medicare, pay down the national debt, fund our domestic priorities and still have a large reserve fund for unanticipated emergencies. Like many of my colleagues, I cautioned the administration at the time that its budget and enormous tax cut were based on unrealistic surplus projections that would never materialize.

Earlier this year, the Congressional Budget Office (CBO) confirmed that in less than 2 years the 10-year projected surplus has been erased. While portions of this decline are a result of our efforts to defeat terrorism and preserve national security both at home and abroad, the depletion of the surplus to date was largely caused by the fiscally irresponsible policies of 2001. The additional $1.3 trillion in tax cuts, much of which are due to excluding dividends from taxation, that the administration and the Republican leadership propose would only worsen our current situation and lead us further down the path of mounting deficits and escalating public debt.

To pay for the additional tax cuts, the Republican's budget resolution would raid the entire $2.2 trillion Social Security trust fund to cover deficits in the rest of the Federal budget over the next 10 years. Moreover, the projections used to frame this budget are overly optimistic. They do not include the cost of the administration's plan to permanently extend several expiring tax cuts, which would add $100 billion to the deficit between 2004 and 2013. In addition, this budget omits the cost of extending relief from the selling individual Alternative Minimum Tax (AMT) beyond 2005. Without AMT relief, the number of taxpayers subject to it will soar from 2 million today to over 43 million by 2013. The projections also leave out an assessment of the enormous cost of the current war and the subsequent costs of occupation, which could last for a number of years.

The disappearance of the 10-year surplus compels us to consider not just a 1-year but also a long-term budget plan. Congress and the American people have the right to know how the Republican Leadership proposes to restore fiscal discipline while enacting additional multi-year tax cuts, boosting spending for the military, and meeting commitments to a growing number of retirees. Furthermore, I find it incredibly irresponsible that the majority continues to pursue large tax cuts while shortchanging important domestic priorities. Congress should devise budgetary rules that make tax cuts contingent on the realization of specified targets for the budget surplus and the Federal debt. Unfortunately, this budget fails on all those accounts.

Moreover, this budget would cut domestic appropriations by $244 billion over 10 years below the amount needed to maintain services at the 2003 level. Remarkably, the funding levels in this budget are $115.3 billion lower than the level in the President's budget, which many Members—on both sides of the aisle—thought was too low. Further, it would require cuts of $265 billion over 10 years in programs such as Medicaid, veterans' benefits, student loans, housing assistance and pensions and benefits for Federal employee. This budget also fails to provide funds for necessary infrastructure improvements or help hard-pressed states and localities. Meanwhile, it provides an inadequate prescription drug benefit, and underfunds other key priorities without reaching balance until 2012.

Instead, I plan to support the Democratic alternative that would eliminate the unfair, costly tax cuts for the rich, and would provide targeted tax rebates to working families, as well as additional funding for expanded unemployment benefits for laid off workers, assistance for states and localities, and necessary infrastructure projects. It would also provide greater funding for Medicare prescription drugs, education, housing, homeland security and other vital domestic programs. This alternative would provide an immediate boost to the economy and create thousands of jobs, without aggravating our long-term deficits.

The need to respond to new short-term needs is no excuse for ignoring the long-term problems we already have. Ultimately, deficits do matter. It is time that we all take the deteriorating budget outlook seriously. We need to ensure that the burden of today's fiscal policies is not placed on the shoulders of our children and grandchildren. This is a matter of fiscal stewardship and generational responsibility, and we must address it without delay.

I urge my colleagues to reject this misguided budget and to develop one that will ensure security at home and abroad, without dramatically increasing our debt, borrowing against Social Security and Medicare, or abandoning our commitments to children, workers, senior citizens and all Americans.

Mr. MARKEY. Mr. Chairman, today we are brought to the floor of this House as America's young men and women are at war in Iraq. The American people expect their elected representatives to address how much this war will cost and how much securing our hometowns will cost in our continuing war against terrorism as well. Instead, the Bush administration is asking this Congress to treat as its highest budget priority the lifting of that very onerous burden felt by the wealthiest of Americans—the double taxation of dividends. We all know what a huge burden double taxation of dividends imposes on the wealthiest Americans. Apparently Republican Party leaders in Washington feel that failing to lift this burden from the shoulders of the rich would be too great a sacrifice, even in wartime. For them, lifting the burden of double taxation of dividends is:

More important than paying for a war in Iraq and the subsequent rebuilding of Iraq.

More important than paying for security at our ports, airports, and nuclear power plants; and

More important than providing affordable health care and medicine to our grandparents.

Last night, President Bush officially created a whole new group of 250,000 war veterans—yet he does not even have enough money in his budget to take care of this country's obligations to veterans of the first Persian Gulf War, the Vietnam War, the Korean War, or World War II.

Never before has a President cut taxes in the face of war. According to the New York Times, the Civil War gave birth to an estate tax and World War II expanded the income tax. But during the war in Iraq the Bush administration plans to cut taxes by a total of nearly $2 trillion over the next 10 years.

This tax cut for the rich is a fiscal MOAB [Mother of All Bombs], pointed right at the heart of the Federal budget.

Mr. BLUMENAUER. Mr. Chairman, it seems that each year I've been in Congress, the Republican budget proposal is further and further removed from the needs and expressed wishes of the American public. This year follows that disturbing trend. Fundamental priorities and long-term fiscal stability are sacrificed for the sake of continued tax cuts.

This budget puts into place a framework that will fail to meet our needs. It ignores funding requirements for our operations overseas, our actions in Iraq and a commitment to rebuild and stabilize Afghanistan. Worst of all it ignores real problems here at home. There is no meaningful assistance for the 47 states, including mine, that are in serious financial difficulty, to say nothing of the unmet needs for transportation, environmental cleanup and "hometown" security.

We must look at this current budget as an opportunity, despite the fact that we are now at war and our economy continues to stumble. We have a choice whether we want deficits as far as the eye can see. We have a choice whether we want to provide tax cuts to the detriment of education, healthcare and the environment. The Democratic budget alternatives we are voting on today are far better in addressing these choices.

The Democratic budget alternatives:

Invest in our communities, which creates jobs, provides needed infrastructure improvements for transportation and water, and cleans up the environment;

Help state and local governments cope with their current budget crises and provides money for "hometown" security and the first responders that protect our communities;

Provide increased funding for discretionary healthcare programs and education, reducing classroom sizes and providing advanced teacher training—proposals President Bush promised but the Republicans refuse to fund; and

Offer tax cuts and reforms that are much more affordable and equitable. They repeal the marriage penalty, provide immediate and permanent estate tax relief that increases the family exclusion level to $6 million, and accelerate the child tax credit to $800 per child. Other tax cuts would be deferred if the budget remains in deficit because of the war in Iraq or other factors.

My constituents and the American people understand that these are extraordinary times. They are willing to make the sacrifices necessary to protect our communities, to educate our children, and to clean our environment. We have an opportunity to help families become safer, healthier, and more economically secure. The Democratic budget alternatives seize this opportunity.

Mr. FILNER. Mr. Chairman, I rise to voice my concern about the budget resolution before use today. As a Member of the House Veterans' Affairs Committee, I am especially concerned about the amount of funding included in the budget resolution for our Nation's veterans.

This Republican budget is woefully short of what is needed, and I urge my colleagues to support the Democratic budget alternative. Our alternative provides $32 billion more than the Republican budget over the next 10 years for veterans. This means providing $17 billion more for veterans' health care and rejecting the Republican cut of $15 billion for mandatory veterans' programs, programs like service-connected disability compensation, pensions, survivors' benefits, vocational rehabilitation, educational and burial benefits. I cannot imagine even thinking about cuts to compensation for our disabled veterans!

The Democratic budget is supported by the authors of the Independent Budget, a budget created by veterans' service organizations who are on the front lines and in a position to know exactly what is needed. They call the Democratic alternative "a solid step forward in meeting the very real needs of veterans".

This morning I attended the joint Senate and House VA Committee hearing, where we heard views on the budget from the Vietnam Veterans of America, the American Ex-Prisoners of War, the Military Officers Association of American, and AMVETS. I must report that for much of the hearing, there were only two Members present to receive the veterans testimony.

On the day following the beginning of the war with Iraq, it is hard to believe that most of the Members of the VA Committee were too busy to attend this hearing about funding for our veterans' programs. Perhaps our Republican colleagues were reworking their original budget resolution, working to respond to the outcries from veterans and the public about their original budget resolution. But the final result before us today is still woefully inadequate.

Mr. Chairman, as we send our young men and women to war in Iraq, certain to result in disability for some young Americans, we unfortunately are simultaneously sending the message that Congress is not concerned about their future as veterans! This is unconscionable.

Why does the Republican budget proposal fail to fund veterans programs at the level recommended by the Independent Budget? I am sad that it is largely because Congress is poised to give a tax break to the wealthiest Americans.

Who deserves to receive the benefits of the national treasury—America's disabled veterans or America's millionaires?

I urge my colleagues to reject this budget resolution.

Mr. WEXLER. Mr. Chairman, I find it deeply troubling that as this country prepares for war and unites in support for our troops, the House Republicans would push forward a deeply partisan, environmentally destructive budget, hoping that a nation focused on war abroad will not notice this domestic attack.

This outrageous budget cuts more from crucial environmental programs than even the President's proposals. Without bothering to explain where these cuts will come from, House Republicans slashed more than 10 percent for the 2004 environmental funding, over 3 billion dollars. Incredibly, these cuts continue through the next ten years, providing for less than minimally required to maintain the existing levels of enforcement and environmental protections Americans rely on to protect our health and natural world.

Perhaps most deplorably, this proposed budget dictates our nation's environmental policy for the near future. It is a back-door way to open one of America's most precious wilderness areas to oil drilling. My Republican colleagues claim that this budget is 'silent' about oil drilling in the Arctic. If this budget is silent, it is certainly not neutral. The $1.1 billion cut over 10 years will all but force the federal government to use income from oil drilling in ANWR to reconcile deep funding cuts to balance their budget.

While Secretary Norton may think that the Arctic National Wildlife Refuge is "an area of flat, white nothingness," my constituents understand that the Refuge is an unique, irreplaceable coastal plain and home to more than 100 specifes of wildlife and birds whose habitat would be undeniably devastated by this reckless drilling. The Arctic National Wildlife Refuge is a gem of the national wildlife system, created over one hundred years ago by Teddy Roosevelt, and the area of proposed drilling, Area 1002, is the ecological heart of the refuge.

Slipping ANWR "silently" into this budget is dishonorable procedure and dangerous environmental policy. I urge my colleagues to oppose this handout to big oil companies and to support the Spratt substitute, which will protect an invaluable American treasure.

Mr. CRENSHAW. Mr. Chairman, You can tell a lot about a family by looking at their checkbook. The same is true of our nation. This budget reflects our priorities by investing in Defense, Homeland Security, the economy, and programs supporting our most vulnerable populations. The number one responsibility of the federal government is to protect American lives.

Under this budget, our military men and women will have the best and most modern equipment, better pay, better housing, and better Veterans Benefits—$62 billion dollars. That's $4 billion more than the previous year.

In my district of Jacksonville, the USS *John F. Kennedy* is undergoing an extensive maintenance rehabilitation period. There are many other aging ships within our fleet that require this type of depot level maintenance. This budget provides $5.3 billion for intermediation and depot level ship maintenance—an additional $500 million over last year's levels. This budget is a responsible investment in Jacksonville as a national security asset.

Included in the 2004 Military Construction request is $115.7 million for the acquisition of Blount Island. The Marines operate their maritime pre-positioning force from this location. Sixteen ships loaded with a brigade's worth of equipment from light armored vehicles to the Meals Ready to Eat are maintained on a routine basis at this location. The Maritime Prepositioning Force floats in certain geographical locations around the world to reduce time required to deploy Marine forces. Currently 11 of these 16 ships have off-loaded their Jacksonville maintained equipment in Kuwait for the Marines use in the liberation of Iraq.

Under this budget, the federal government is on a 9-year-track toward balance and we remove tax code obstacles that stand in the way of growing our economy.

I urge my colleagues to vote for this budget resolution, not just because it protects Americans, not just because it restrains spending, not just because it targets waste, fraud, and abuse, not just because it removes barriers to economic growth . . .

Vote for it because somewhere in my hometown of Jacksonville, there's a family that will sit around their kitchen table tonight, and they will talk about how much money is in the checking account and they will talk about when their bills are due.

They are making responsible decisions and expect nothing less from us.

This budget blueprint will protect that family, it will let that family keep a little more money to pay a bill, buy new clothes, or save for their children's education.

Vote for this budget because it's what's right for America.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I rise today to commend the House Budget Committee and Chairman NUSSLE's leadership in crafting a Budget Resolution that epitomizes fiscal discipline and brings important tax relief and job creation to hard working American families. This Resolution will also protect Americans both here and abroad as we continue to face the challenges of the War on Terrorism.

It is too common in this chamber that Members talk about reducing spending, creating jobs, protecting Americans and providing common sense tax relief without a willingness to make the important changes. Unfortunately, rhetoric does not produce results.

This Budget Resolution symbolizes a strong commitment to make the needed reforms in spending that this body has been promising. This resolution is fiscally responsible and outlines a plan to balance the budget in nine years, while bringing important tax relief to American families.

This Resolution calls for a one percent reduction in growth, except for social security, defense, Medicare and Veterans and homeland security funding. By no means is this approach radical. This Budget Resolution allocates $200 billion over the next 10 years for Medicare with an additional $400 billion for Medicare modernization and prescription drug coverage. Veterans spending will increase by $844 million in Fiscal Year 2004. Education, Defense, Homeland Security and many other agencies will receive significant increases under this plan.

A one percent reduction in growth will allow for the elimination of waste, fraud and inefficiencies that consistently plagues federal spending. Locating this abuse is no great challenge for most agency budgets and eliminating it should be our obligation.

The Budget Resolution also provides for sound growth policy that will stimulate our economy, provide jobs to Americans and reduce the tax burden on American families. For example, the budget resolution assumes the 2001 tax cuts are made permanent and accommodates the entire growth plan proposed by President Bush.

President Bush's growth plan is vital to stimulating our weak economy and creating jobs for Americans. This includes the permanent elimination of the marriage penalty tax, the death tax and the double taxation of dividends.

The elimination of the double taxation of dividends, alone, will provide an average of 500,000 jobs a year and will greatly help the 52 percent of Americans—half of which are seniors—that are invested in the stock market.

The President's Growth Plan will also provide job opportunities to unemployed Americans throughout the nation. In Florida, alone, 248,500 jobs will be created over the next four years as a direct result to the policies of President Bush's Growth Plan.

Small businesses—the foundation of America's economy—would also receive important tax savings under President's Growth Package. In fact, 23 million small businesses will receive tax cuts averaging $2,042 under this plan.

Unfortunately, the only plans the Democrats are offering would spend irresponsibly and raise taxes. This is not only an injustice to the American economy, but a great injustice to American families that rely on tax relief during rough economic times.

I came to Congress promising my constituents that I would support tax relief and the concept of fiscal discipline. There is no piece of legislation that outlines a plan that accurately adheres to these principles better than the Budget Resolution we have before us.

Todays vote will clearly indicate who restrains spending and provides tax relief and who only talks about it. I look forward to sending a clear message to America that the days of rhetoric are over—we are going to control spending, provide tax relief to hard-working families and open the door to employment opportunities for millions of Americans.

Mr. UDALL of New Mexico. Mr. Chairman, I rise today in opposition to the Majority's fiscal year 2004 Budget Resolution because this resolution is unrealistic in reflecting the spending realities that our nation will face. Never in the history of our country has a Congress or a President dared to reward the wealthiest at a time of recession and war while asking the rest of America for painful sacrifice. If you believe seniors, veterans, and children are the problem, then the Majority has a budget solution for you. This shameful plan cuts funding for nearly every federal program, while at the same time making way for excessive tax cuts that will explode the deficit further and do nothing to help our economy.

This Budget Resolution contains deep and widespread cuts in every basic domestic program except Social Security and military retirement. The budget would require congressional committees to cut mandatory programs by $470 billion over the next ten years. The cuts are reminiscent of those proposed by former House Speaker Newt Gingrich in 1995 and included in the Contract with America budget legislation that former President Clinton vetoed that year.

While requiring deep cuts in domestic programs, the budget makes room for most for the President's large tax-cut package, including $1.4 trillion in tax cuts through 2013. The tax cuts in the "growth" package alone would cost $725 billion over ten years and would, according to the Tax Policy Center, result in tax reductions averaging $90,000 each in 2003 for those Americans who have incomes of more than $1 million. Unfortunately, 35 percent of New Mexico taxpayers would get no tax cut at all under the Bush plan, and 53 percent of New Mexico taxpayers would get a cut of less than $100.

Mr. Chairman, according to official projections by the Congressional Budget Office, budget deficits will turn to surpluses by 2008 if Congress refrains from enacting any further tax cuts or program increases, with the budget running a net surplus of $0.6 trillion over the period from 2003 through 2013. As is widely recognized, however, these projections are too optimistic: they do not include the large and inevitable cost of providing relief from the exploding scope of the Alternative Minimum Tax; they include no allowance for a war with Iraq; and they assume that various "temporary" tax credits will expire on schedule even though Congress nearly always extends them. Reflecting the cost of these three omitted items adds approximately $1 trillion in deficits over ten years.

The most reprehensible component of the House budget, as with its Senate counterpart, is that as the United States has begun "Operation Iraqi Freedom" neither measure sets aside one penny for this war with Iraq. The Bush administration has resolutely refused to offer cost estimates of war or early reconstruction despite requests from those on both sides of the aisle. Leaders in both parties have expressed increasing frustration that the potential bill for war and rebuilding Iraq still remain a mystery.

Mr. Chairman, with nearly a quarter of a million young Americans crossing the Iraqi border this House is on the verge of approving a nightmare budget that sets aside no money for this effort. Instead of sticking our heads in the budgetary sand and ignoring the war's price tag, we need to be honest with American taxpayers and ourselves. To pass a budget plan including large tax cuts without attempting even to estimate the war and postwar reconstruction costs is breathtakingly irresponsible.

I oppose the Majority's Budget Resolution because: It Fails to Promote Economic Growth—Instead of Creating Both Short-Term & Long-Term Economic Growth.

It Fails to Provide a Meaningful Prescription Drug Plan—Instead of Investing in An Affordable Medicare Prescription Drug Benefit, Available to All Seniors.

It Embraces Fiscally Irresponsible Tax Cuts Totaling $1.35 Trillion—Instead of Embracing Responsible Budgeting.

It Makes Substantial Cuts to National Priorities—like Education and Health Care—Instead of Funding Key National Priorities like the "Leave No Child Behind Act".

It Cuts Veterans' Benefits and Freezes Homeland Security Funding—Instead of Providing For Our Veterans and Giving Our First Responders the Tools they Need to Protect Our Homeland.

In closing, Mr. Chairman, as I said earlier we should be honest with the American taxpayers and with ourselves that the responsible thing to do is not pass this budget until we have the war supplemental figures before us and can reach consensus on other key federal programs.

Mr. STARK. Chairman, I rise in strong opposition to H.R. 975. This bankruptcy bill is touted as reform. But, it is actually a wolf in sheep's clothing intended to allow credit card companies and other lenders to gouge consumers when they are most vulnerable.

Republicans are giving this gift to the big credit card companies in the midst of this difficult recession, making it harder for working families to seek shelter from the common financial emergency of a lost job or lack of health coverage. In fact, 90% of all bankruptcies are filed for these very reasons. It's hard to see the abuse in these real instances of need, especially when many Americans live paycheck to paycheck.

Yet, this Republican legislation makes it more difficult for those Americans forced into bankruptcy—a disproportionate number whom are women and minorities—to seek this protection. In fact, the bill requires the debtor in some cases to have to take on big corporate lenders in court to prove they are worthy of bankruptcy, forcing them to bear legal expenses they can't afford. In addition, this bill also allows creditors to threaten debtors with costly litigation that will in turn force many families to needlessly give up their legal rights.

In their continuing compassion, the Republicans have crafted this so-called reform so that a parent seeking to collect child support from an estranged spouse that's declared bankruptcy will have to fight it out with creditors to receive payment. Meanwhile, this bill makes it easier for those seeking bankruptcy protection to lose their homes or be evicted by their landlords. Yet, those with million dollar mansions will be able to keep their homes even while seeking the same bankruptcy protection. Nothing like a fair shake for America's working families.

Finally, Mr. Chairman, with all of the perks they've awarded to the big credit card companies, Republicans have done nothing to ensure that they are held accountable. There is nothing in this bill that stops the abusive, predatory lending that lands too many Americans in bankruptcy in the first place.

I urge my colleagues to vote down this anti consumer bill. Now is not the time to turn the tables on America's working families. Vote no on H.R. 975.

Mr. DINGELL. Mr. Chairman, the lengths to which my Republican colleagues will go to in order to help out their fat-cat buddies will never cease to amaze me. We are considering a budget resolution today that is so bad and so draconian that the Republican leadership is having trouble convincing some of their own rank and file to support it.

I am outraged, Mr. Chairman, absolutely outraged that at a time when this nation is at war, my Republican colleagues are attempting to cut funding for veterans. Have they no shame? Mr. Speaker, these men and women were willing to risk their lives for this nation and many lost limbs in the process. My colleagues on the other side of the aisle would repay these most patriotic of Americans by slashing $15 billion from the Veteran's Administration budget over the next 10 years. Of course, since 96 percent of the VA's discretionary budget goes to pay for the healthcare of those who served this Nation, this means that we are reducing enrollment, reducing hospital days of care and reducing nursing staff. This is how the Republican leadership gives their thanks to our veterans.

At recent hearings, I expressed skepticism about the President's "budget-neutral" proposal to convert Medicaid to a block grant. Not only would this proposal leave States at risk if Medicaid costs rose, but I warned that it was a prelude to Congressional cuts in the program. The ink was not even dry on the President's proposal before the House Republicans are now requiring $100 billion cut in the program. As State budgets are being squeezed, the notion of reducing Federal spending on Medicaid is an astonishingly bad idea.

Although our Republican colleagues appear to have backed off their threat to slash Medicare to the bone, no one should be mistaken that this is the last we will hear of it. For years, Republicans have sought to do away with Medicare and Social Security—most recently under the guise of privatization. Medicare and Social Security remain primary targets for Republican ideologues and tax-cutters, and we must remain ever vigilant to protect these vital programs.

Mr. Chairman, this budget also fails to protect the environment. In fact, it cuts FY 04 funding by more than 10 percent. And over the next 10 years, it slashes environmental spending by more than 11 percent. What does this mean? Well, it could mean cuts for clean water, which is a logical choice since the Bush Administration seems hell bent on dismantling the Clean Water Act and selling off our rivers to hydroelectric companies. It likely means cuts for brownfields redevelopment. Of course, my Republican colleagues try to soften this blow by opening the Arctic National Wildlife Refuge to drilling, which they say will increase federal receipts by $2.1 billion over the next 10 years. I am not certain how my friends on the other side of the aisle intend to do this, since some cooler heads in the Senate stripped the ANWR provision out of their budget yesterday.

Just two years ago, President Bush signed into law the No Child Left Behind Act, which was lauded by Democrats and Republicans alike. At the time that the bill was signed, the President and Congressional Republicans made a commitment to American families and their children that the programs in that bill would be funded at proper levels so that our public schools would not be placed in financial straight jackets. For two years that promise has gone unfulfilled, and this budget not only continues that dangerous trend, but actually cuts education funding. Mr. Speaker, Congressional Republicans have gone even further in their cuts than the President did in his budget, slashing spending by 8 percent. Let me give you a specific, Mr. Speaker. If this budget passes, more than 22,000 kids in my home state of Michigan will quite literally be left out in the cold. These kids will be left without any after-school services. Let me ask, is this what compassionate conservatism is all about?

Mr. Chairman, the cuts don't stop there. This sham of a budget drastically cuts our agriculture programs. Our farmers are the lifeblood of this great Nation. How do we show them our support? Well, my colleagues on the other side of the aisle thank our farmers by slashing agriculture programs by $763 million in FY 04. What this means in real terms is that conservation, nutrition, rural development and producer payment programs would be cut by more than 25 percent over their authorized amounts. These draconian cuts are neither justified nor sustainable. Again, that is not the end of the agriculture cuts. The Republican budget requires that the Agriculture Committee cut nearly $20 billion in direct spending over the next 10 years. This means more cuts to our family farmers by slashing funding to farm loan programs, conservation programs, rural development, forestry and research.

All of this leads to a very logical question, Mr. Speaker: why are my Republican colleagues doing this? Why are they gutting programs that help America's working families? Well, Mr. Speaker, they are doing this to accommodate more tax cuts for the wealthiest Americans. Yes, the goal of this budget is to allow the President to push through more of his irresponsible tax cuts. Make no mistake: these tax cuts will not stimulate the economy and will not help middle class Americans. In fact, in my home state of Michigan, about 50 percent of taxpayers would get less than $100 under the President's plan, and 30 percent would get no tax cut at all. Of course, this all leaves open the possibility that local communities will have to raise taxes because my Republican colleagues expect them to bear the burden of homeland security costs. This rascality is just another ploy for my Republican colleagues to help out their fat-cat corporate friends and leave the American people out in the cold.

Mr. Chairman, I would be remiss if I neglected to mention the cost of this current war with Iraq. We don't know how much the war will cost, and we have no idea how much it will cost to rebuild Iraq after the war. The Republican budget does not include one penny to pay for our troops currently overseas or the costs of reconstructing Iraq. Mr. Speaker, is this really the time to be centering the entire budget around tax cuts? I think not. This is a sham and an outrage.

Mr. Chairman, the Democratic budget provides members with a reasonable and responsible alternative and I would strongly encourage my colleagues on both sides of the aisle to support it. Our budget is centered around a stimulus plan that provides both long term and short term economic growth—creating 1 million new jobs this year alone. The Democratic budget is responsible, balancing the budget by 2010 without unrealistic spending cuts. The Democratic budget gives schools the funding they need to implement No Child Left Behind, and more importantly, the funding they need to properly prepare our kids for the future. The Democratic budget provides $32 billion over the next 10 years for Veterans healthcare. Mr. Speaker, making sure those who were willing to give their lives for this country are taken care of needs to be a priority. It is, quite simply, the right thing to do. At this time of war, the Democratic budget adequately invests in Homeland Security by providing $32 billion more than Republicans over the next 10 years—ensuring $3.5 billion in desperately needed new money for first responders. The Democratic budget also provides an adequate prescription drug benefit so our senior citizens don't have to choose between groceries and filling a prescription.

I would ask my colleagues, all of my colleagues, to reject the Republican budget and support the Democratic substitute.

Ms. KILPATRICK. Mr. Chairman, as we are now unfortunately engaged in an assault on Iraq, I pray for the safety of our American servicemen and women engaged in that military campaign and hope for their safe return. As we debate this budget resolution to fund programs for the defense and investment in our country I am very troubled by the harmful consequences for the budget cuts called for in this document.

This budget resolution partially reflects our current priority to protect the men and women of our fighting forces. It is only a partial measure because we need to see the supplemental appropriations request before we really know what the defense budget is. Looking beyond defense, this resolution is a travesty to the Americans who live within these borders.

High priority programs like Medicaid, education, veterans benefits, federal employee pension benefits, prescription drug benefits, law enforcement, food stamps are targeted under this budget resolution.

The majority says the cut backs total represent a 1 percent across-the-board cut. But because the Republican budget mirrors the President's request for defense, they impose a 2.9 percent cut on nondefense spending.

This is a guns and caviar budget.

The budget resolution says these cuts will come from eliminating waste, fraud and abuse. That's hogwash; it cannot be found. The resolution instructs the authorizing Committees to do the dirty work. The Committees will be asked to pony up $470 billion in direct spending program cuts over 10 years. When measured against a 10-year mandatory spending projection of $15.6 trillion that amounts to a 3 percent cut.

The only way to accommodate a cut of this magnitude is to cut benefit levels or restrict eligibility for benefits for human service programs that service our children, elderly, veterans, farmers, federal workers and more.

This budget could push nearly half a million poor children out of child nutrition programs.

In the field of health care, the Republican budget does not provide any significant funding for a Medicare Prescription Drug Program—only $28 billion. With that, you might be able to provide every senior with a bottle or two of aspirin each year.

The Resolution doesn't tell Congress to specifically cut funding for Medicare and Medicaid in order to provide a prescription drug program. It tells the Ways and Means and the Energy and Commerce Committees to do the dirty work. So if the Republicans want to deliver on their promise of a $400 billion prescription drug program, the two committees will have to find a combined total of $372 billion in program cuts.

Under this budget resolution seniors lose out in two ways. They get little or no prescription drug benefit and they will see their coverage under Medicare and Medicaid reduced. They will lose out because here are the options available for getting to the numbers called for in the Republican budget resolution:

Cut physician reimbursement by a third, saving $215 billion. If we go that route, it will only encourage doctors to stop seeing Medicare and Medicaid patients.

Eliminate hospital payments for medical education and cost of uncompensated care, saving $200 billion. That will be devastating to urban hospitals in Detroit and other inner cities, which are on the brink of financial collapse as it is.

Terminate home health benefits under Medicare. That will yield $207 billion. Or do away with skilled nursing home benefits . . . that will save $187 billion.

We can save $51 billion by taking health care services away from 5.3 million low income kids under the State Children Health Insurance Program.

This is a resolution that says to the wealthy, you don't have to pay the cost of this war against Iraq. We'll give the bill to seniors, children, disabled Americans, the sick, the hungry and to generations not yet born. There is no sacrifice being asked of those who can afford it the most. Make no mistake about it. The $382 billion dividend tax cut will do nothing to stimulate the economy. It most benefits those who financially benefit the most in our society.

And that's not just my view. It's a view point shared by the Disabled American Veterans. Ed Heath, National Commander of the DAV, says—and I quote—"Cutting already under funded veterans' programs to offset the costs of tax cuts is undefensible and callous."

I have been critical of the President's budget and foreign policies. Why, after all, are we conducting a war that we are not willing to pay for. The President is sending a message that we can extend our global military reach without any sacrifice and still afford a tax cut that will largely benefit the top one percent of Americans. This budget document echoes what the Administration has been saying: "We can have it all."

Well, we can't have it all if it means breaking a contract with federal workers by cutting their pension health benefits;

if it means breaking the contract that we have with our seniors to cut back on Medicaid and Medicare health coverage;

if it means reneging on a promise to provide seniors with a meaningful prescription drug benefit;

if it turns our back on disability benefits and health care for our veterans;

if it means denying opportunities to our children by cutting back on health programs, Head Start, and Pell Grants.

This budget resolution is nothing but a series of broken promises. All the alternatives being considered today represent a better way, and I am going to support them. With an America at war, we need to act with some fiscally responsibility. The Republican budget does not meet that test. This budget benefits the investment class with a dividend tax cut at the expense of programs that serve everyday Americans. It divides us as a country and worsens our economic position.

Mr. BILIRAKIS. Mr. Chairman, I rise in very reluctant support of H. Con. Res. 95 because I believe that the cuts contained in the budget resolution, particularly as they relate to healthcare and veterans issues, will have dire consequences for a substantial portion of our nation. However, I will support the budget resolution today to ensure that this process moves forward. I know that last year Congress was unable to pass a budget resolution, and it greatly harmed our ability to move forward and to the work of the American people. It's critical that the House move the budget process forward, with the hope that the Senate will do its share and also pass a budget, which will trigger a conference. It is my hope that after today we will be one step closer to creating a fairer budget that maintains fiscal discipline while still meeting the needs of our constituents.

As a four-year veteran, I have always worked hard to be a vocal advocate for veterans throughout my congressional career. I strongly oppose the provisions in H. Con. Res. 95 that call for approximately $15 billion in mandatory spending programs for veterans. These programs include compensation for service-connected disabilities, survivor benefits and veterans' education benefits. I do not believe that forced budgetary reductions in these important mandatory spending programs are in the best interest of disabled veterans and their families.

While I will vote in favor of H. Con. Res. 95 in order to get the bill into conference with the Senate, I want to make it perfectly clear that I will not support the conference report on the budget resolution or any deeming resolution if it contains these or similar reductions in veterans' mandatory spending and does not provide sufficient funding for veterans' health care programs. Nor will I support the conference report if it contains significant reductions in Medicare funding. Moreover, if the conference report contains these types of reduction, I will do everything in my power to overturn them.

What kind of message are we sending to the men and women currently serving in our Armed Forces, especially those in Iraq, when we cut funding for programs that benefit our nation's current veterans? I want to remind my colleagues of a quote by our first Commander-in-Chief George Washington: "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation." We must support the brave men and women who have sacrificed so much to keep our nation free.

The Medicaid cuts contained in this budget can not be sustained. The cuts will seriously damage a program depended upon by our most vulnerable citizens. Waste, fraud, and abuse, particularly abuse, do exist but we must have time to excise these problems, without being forced into mandatory programmatic reductions. Also, we must realize that each of our States will be particularly hit hard by these cuts.

Mr. Chairman, I do believe that we can strike a balance that will provide tax relief to American families, fund our national priorities, while still achieving a balanced budget. I refuse, however, to do so on the backs of some of our nation's most vulnerable citizens; and I declare that I will consider myself bound by this resolution should the House and Senate fail to pass a joint budget resolution.

Mr. SMITH of Texas. Mr. Chairman, as war begins in Iraq, Americans are rallying behind our Armed Forces. It is an extraordinary show of support for some of the finest men and women in America. They deserve our support and our gratitude.

Our soldiers confront the gravest threat of our time: the combination of rogue regimes, weapons of mass destruction and the forces of global terrorism. The cause of peace will prevail when terrorists lose a wealthy patron and protector—Saddam Hussein.

There is little doubt that Hussein will be fully disarmed. And the means of his disarmament will be carried out by the United States Army, Navy, Air Force and Marines. These are four institutions so identified with their commitment to honor, duty and country that words can never adequately convey their importance to the survival of freedom . . . to the survival of the United States of America.

On the eve of the war, Marine Major-General J.N. Mattis explained the mission to his Corps. They are words every American soldier in the Persian Gulf can embrace.

General Mattis said:

> On your young shoulders rest the hopes of mankind. . . . Our fight is not with the Iraqi people, nor is it with members of the Iraqi army who chose to surrender. While we will move swiftly and aggressively against those who resist, we will treat all others with decency, demonstrating chivalry and soldierly compassion for people who have endured a lifetime under Saddam's oppression. . . .
>
> For the mission's sake, our country's sake, and the sake of the men who carried the Division's colors in past battle—who fought for life and never lost their nerve—carry out your mission and keep your honor clean. Demonstrate to the world there is "No Better Friend, No Worse Enemy" than a U.S. Marine.

General Mattis deserves an enduring "Semper Fi" for inspiring our soldiers. We hope and pray for their safe return home.

Mrs. WILSON of New Mexico. Mr. Chairman, I have four priorities for this budget; creating an environment for job creation, providing for the common defense, making quality health care more affordable, and improving education. I also want all these things must be done in a way that gets us back to a balanced budget within a reasonable period of time. The resolution we will pass tonight is tough medicine and doesn't do all it needs to do.

I believe that this budget will create jobs and stimulate the economy. By leaving room for significant tax relief we can leave extra dollars in the pockets of millions of Americans. I support tax relief, particularly for small businesses that create jobs and I applaud the chairman for his work.

During this time of war, this budget does a great job funding our national defense, both military spending and homeland security. This budget goes a long way toward making all Americans more secure. I am very concerned that even with the manager's changes, it sorely underfunds our veterans programs.

Inroads have been made so this budget begins to address issues regarding the affordability of Health Care. When this budget was introduced it had spending levels in Medicare that were unworkable. Because of these cuts, I felt it necessary to introduce my own amendment that was not accepted by the House Rules Committee to provide more than $375 billion additional dollars for Medicare and other Health programs over the next 10 years. Changes made in the Medicare accounts since its introduction have relieved many of my concerns. I hope that the conference report will completely fix the funding of healthcare as it relates to Medicaid.

The most difficult part of this budget for me to accept is the lack of commitment to education. Just last year we passed the landmark legislation, "No Child Left Behind." I feel that this budget does not meet the promises we made in that legislation. The amendment that I proposed would have increased the budget authority on education by more than $70 billion over 10 years. I urge the conferees to renew our commitment to education and fund education at least to the President's level.

I will vote for this budget, but my support comes cautiously. Last year we didn't have a budget and it created great difficulty in getting the appropriations done. We need to move this process forward building on the progress we have made in the last twenty-four hours. While I will support this budget today, I will not support a conference report that does not adequately support our veterans, keep our promises on education, create jobs, and improve our Nation's health system. I ask that the conferees make these important improvements before our final vote on this budget later this year.

Ms. MAJETTE. Mr. Chairman, I would like to take this opportunity to explain why I voted for those budget alternatives I supported today. The passage of the budget resolution today represents the culmination of a long and arduous process involving 435 members of Congress and their often divergent views and priorities. As each member of Congress represents a unique constituency, each with its own concerns, it is entirely fitting that alternatives be considered and debated before the final federal budget is passed by this body.

This budget outlines the manner in which our shared national resources will be allocated for the year, and, as such, the resolution must be a statement of both our immediate needs as well as our long-term priorities. Consequently, the budget process requires each of us to make tough choices when deciding how much to burden American families with taxes as well as how to allocate these limited resources to different categories of needs.

The budget process often results in choices between imperfect alternatives that do not necessarily completely reflect any one member's priorities. In deciding which alternative to support, I balanced two primary priorities: my ardent desire to limit our spending's impact on the future, and my sincere belief that spending should be focused on programs that provide real investments in the future.

To realize our long term goals, we ought to minimize our long-term debts. In doing so, we will allow our children to pay for their dreams without being saddled with our realities.

I would like to bequeath to our children a world where we have tackled the problems of our day and provided them unfettered access to the tools they'll need tomorrow. If we are determined to spend our precious resources now (rather than saving them for our children's use) it is reasonable that we devote a large portion of these resources to the betterment of our children's future.

Perhaps the most future-oriented use of a taxpayer's money is to invest in exploration of our world through research. Scientific inquiry, by its very nature, offers no guarantees; the paths of discovery are rife with pitfalls and stumbles. As the explosion of the Columbia tragically reminded us, exploring the unknown is never easy. It is often painful. In the end, however, scientific inquiry offers us our best hope that the world can be a better place.

Through government assistance, some of the greatest minds of our time are working to find cures for the disease that plague us, young and old, rich and poor alike. Failing to fund these initiatives robs our children of their hopes for a better world. One day in the future, these scientists will discover a cure for cancer, a vaccine for AIDS, and a better method for reaching further into the galaxy. We must continue to make their efforts a priority—they are exploring for all of us.

As we consider our nation's priorities, we must be absolutely certain that we fully fund education initiatives. Education is the ultimate mechanism for allowing social mobility by leveling the playing field of opportunity. The United States continues to be a beacon of hope for other nations as a place where anyone, regardless of socioeconomic background, race or parentage, is limited only by his or her dreams; a place where everyone can achieve their goals. Our promise as a nation rests on maintaining this ideal. As Thomas Jefferson once stated, "If the condition of man is to be progressively ameliorated, as we fondly hope and believe, education is to be the chief instrument in effecting it."

My preference today was to vote for a budget that is both fiscally responsible and that focuses the Public's resources on those programs for which we can expect the greatest return on our investment. After considering the alternatives, I voted in favor of more than one alternative.

The Blue-Dog budget provides a fiscally responsible alternative. As presented, this plan would have reduced the national debt by $1.35 trillion, compared to the budget which passed. This reduction would have resulted in $250 billion less in taxes that our children would have to pay simply to pay the interest on this debt. While limiting the debt burden on our children, this alternative would also have cut taxes and focused resources to educational investments including student-loan and child nutrition programs.

The budget committee's ranking member, Mr. SPRATT, offered a budget which is a powerful statement of priorities and would have continued to fund our nation's important commitments to job creation, social security and medicare. This budget would have ensured that education and science programs be allocated the necessary funding to ensure that our nation continues to be a leader in the information age. It also would have allowed our children to meet the challenges of the future with the resources necessary to face them.

Though none of the budget alternatives I supported passed, I look forward to working with my colleagues to continue to establish our priorities in the weeks and months ahead. It is crucial that as we do so we remember where we are going. If we are truly committed to social equality and to leaving no child behind, we must provide our children with the tools necessary to create an even better world than the entirely too dangerous one in which we now find ourselves. If we endeavor to better understand our world through research, we give hope to our children that they will not be afflicted by the ailments that we suffer today and we give them the legacy of vision to look beyond that which is not imaginable. Finally, we must not bind our children with debt if we hope to allow them to rise above our own accomplishments.

Mrs.. MCCARTHY of New York. Mr. Chairman, I rise in opposition to H. Con. Res. 95 because it fails to meet the challenges confronting our country. We need a balanced approach to fiscal responsibility that treats the national budget just like a household budget.

America is going through very trying times. The economy is struggling unemployment is up, consumer confidence is down and our Armed Forces are at war. H. Con. Res. 95 fails to address these concerns because it embraces an inflated and fiscally irresponsible tax cut plan totaling $1.4 trillion. These tax cuts accommodate all of President Bush's proposals, but they would not provide the stimulus we need to jumpstart our economy. However, including all of them in this budget forces us to make deep cuts in heavily relied upon programs.

I cannot go home and tell my constituents that I cut after-school programs, student loans, teacher quality programs, and COPS funding to make room for inflated tax cut plan that has no immediate impact on our economy.

I also cannot go home and tell my constituents that I slashed $265 billion in mandatory spending, placed an increased burden upon cash-strapped States, reduced investments in highway construction, and only partially funded programs under the No Child Left Behind Act so we can make room for a back-loaded tax plan that crowds out important programs.

And don't forget our ongoing war in Iraq. There is not one penny in this proposal that budgets for the war or the cost of rebuilding the economy.

Some argue we can address these costs in a supplemental. However, supplementals are becoming more like 2nd budgets. If we have an idea of what something is going to cost, we should budget accordingly for it now. We should not be playing games with the numbers.

This body should pass a budget that: Puts us back in balance; provides a tax stimulus that actually stimulates; secures our Homeland; offers a sensible prescription drug proposal; and sufficiently funds our military.

Although I understand the need to make sacrifices if we want to jumpstart the economy, they shouldn't be made by passing bad policy.

That is why I supported Democratic substitute. This budget projects a balanced budget in FY 2010, but does so with $500 billion less public debt than the committee-reported resolution. Unlike the resolution, the substitute does not cut domestic discretionary spending below the level needed to keep pace with inflation and does not contain any cuts in mandatory spending. Furthermore, the substitute provides a tax stimulus proposal that stimulates now.

Another important contrast is the prescription drug provisions contained in each budget proposal. The Democratic substitute provides $528 billion in new funds over 10 years for a prescription drug benefit. The resolution, by contrast, establishes a $400 billion "reserve fund" for Medicare prescription drugs and Medicare modernization. Why create a reserve fund instead of budgeting for a prescription drug proposal today?

Reserve funds do not solve the problems confronting this country. We need specific budget allocations for specific problems. Generally addressing problems at a later time in a reserve fund simply dances around the issue.

I want to support a budget that actually stimulates while taking into consideration long-term budget implications. There is no room for political gamesmanship when people lose their retirement savings, or their jobs.

Mr. HOUGHTON. Mr. Chairman, I rise in opposition to H. Con. Res. 95. I do so reluctantly.

I respect the President.

I admire the Speaker more than I can say.

I think JIM NUSSLE has done an extraordinary job under impossible conditions.

But I am going to oppose the Nussle bill because I think it moves us in the wrong direction.

There are strong arguments against my position, such as: This is only a step in a long process; the conference report is where the real vote is cast; and we must be loyal to the President and to the troops overseas.

But, Mr. Chairman, I don't think that being loyal to the President or our troops in the Persian Gulf—or for that matter to all the other citizens—is really an issue here.

This is a democratic process with which we work—and I know there are party pressures, and I know we need a budget—but this particular budget is not particularly helpful in solving our problems.

At the very least I feel that we should wait until the President submits his "supplemental" request—based on what he feels the military will need. This will be, I assume, a rather large number.

Also the issue of timing is critical. The expense budget which we will vote on is inherently tied to the tax reduction program. This scares me. Together the numbers are not right—the timing is bad. I ask myself—

How can we vote to adversely impact medical and education expenses in a war atmosphere?

How can we see our revenues collapsing in front of us and then consider a tax reduction bill which, while somewhat stimulating to our economy, will further deplete revenues?

For me this package, I'm sorry to say, doesn't hang together.

I just think we can do better.

I hope we can do better—so that I can soon vote for a program which does right by us as a country long term, stimulates our economy short term—and keeps faith with the families of our troops in the Persian Gulf.

Mrs. BROWN of Florida. This irresponsible Republican budget needs to be sent back to the drawing board. The war in Iraq is no reason to ignore the needs of this country. This budget cuts programs for our neediest citizens, while rewarding the wealthiest with huge tax cuts. It is particularly disturbing that at the very moment we send our young men and women into harms way, we fund the veterans budget at a level that keeps these national heroes waiting 12 months to see a doctor. This Congress can always seem to find plenty of money for tax cuts, but when it comes to veterans healthcare, we have nothing but lip service.

This Republican budget is bad for America, and bad for my home State of Florida which is suffering badly from the one-two punch of the Bush Brothers. The President's budget:

Cuts $20 million for After School Programs in Florida; cuts $3.7 million in Teacher Quality

Funding for Florida; cuts $40 million in transportation funding for Florida; cuts $38 million from Election Reform efforts in Florida; cuts $16.5 million in Clean Water Funding for Florida; cuts $4.3 million from Community Service Block Grants in Florida; cuts $1.2 million in Energy Assistance Programs; and cuts $765 million for the COPS program, which put 7,280 new officers on Florida's streets.

All this while his brother Governor Jeb Bush slashes funding for state education and health programs, squeezes Medicaid resources to pay for Capital Gains Tax Cuts, and uses money meant for Local First Responders to pad his budget shortfalls.

This Republican budget was written for their political contributions, and not for the people of this country with real needs. Reject this sham budget, and support the CBC/Progressive budget. It's the right budget for every American.

Mr. SWEENEY. Mr. Chairman, it is with great regret that I voted to support the fiscal year 2004 House Budget Resolution. I did so because I appreciate the value of moving the process along towards a Concurrent Resolution with the Senate. I will not vote for a final Concurrent Budget Resolution that contains the same levels of funding as the House Budget Resolution.

It is my full expectation the cuts to Medicaid and Veterans programs will be restored in the final Concurrent Resolution. It is my intention to support a final Resolution that makes these programs whole again. New York hospitals face a Medicaid cut of $1 billion from New York State. It would be unthinkable for my hospitals to face a deep cut on the federal level at the same time. They have survived the 1997 Balanced Budget Agreement cuts, but can stand no more. One of the hospitals in my district is already scheduled to close and I simply can't afford to lose another one.

I support the goal of a balanced budget and have even cosponsored the Balanced Budget Act, but a balance is just that: matching the merits on both sides. Indeed there is some waste in the current programs and it is time for everyone to do some belt tightening, but the current cuts cannot stand.

Mr. BEREUTER. Mr. Chairman, this Member rises to express his reluctant and temporary support for H. Con. Res. 95, the House Budget Resolution.

Mr. Chairman, our country is facing a difficult fiscal situation and this budget resolution sets a framework for this Congress to carefully proceed over the next ten years. While the budget resolution reserves revenue to finance the full range of the tax cuts proposed by the President, this Member adamantly believes the proposed tax cut is too large and, in fact, this Member will not vote for such a large tax cut when the House separately votes on that issue.

There are three reasons this Member is opposed to this large tax cut. First, it is fiscally irresponsible. Second, in the economic sense, eliminating the tax on dividends is not the best way to quickly and effectively stimulate the economy. Tax cuts for middle-income Americans and small businesses is far more effective, and eliminating the tax on dividends may in fact drain money from capital goods to dividends for the corporate leaders' pocketbooks through their large stock holdings in their company. And third, the elimination of the tax on dividends as a major part of this tax cut package is not equitable, because a very high percentage of tax relief would go to a small percentage of taxpayers.

The elimination or substantial reduction of the tax on dividends, which results in an estimated reduction in tax revenue of more than an estimated $100 billion per year, is simply not sound fiscal policy—especially given the estimated size of the deficit, the unknown costs of the war in Iraq, the war on terrorism, and the costs of homeland security measures.

If the budget protects Medicare from huge cuts, as it must, and increases even more the revenues for veterans programs, it would cause impossibly large cuts in the rest of the discretionary budget. This cut in the remainder of the domestic programs required by this budget proposal is too severe even when the savings from the elimination of waste, fraud and abuse is taken into account.

Mr. Chairman, it is time to do what the other body is considering—responsibly cut back the size of the huge tax cut. It is this Member's hope that the conference agreement on the budget will follow the Senate's lead and decrease the funds held in reserve to finance a tax cut. If the conference report comes back to the House with the same fiscally unsound level of tax cuts and substantially the same level of tax cuts related to eliminating the tax on dividends, this Member will vote "no" on the conference report. It is fiscally irresponsible and inequitable to middle-income taxpayers, and the proposal to eliminate taxes on dividends will not give us the immediate economic stimulation our country needs.

Mr. Chairman, in closing, this Member votes "aye" on this budget proposal in order to move the process along. As we learned from last year's inaction on the budget by the other body, the passage of a budget resolution is critically important as the first step in the annual appropriations process that funds the U.S. Government and provides invaluable services to our constituents. As a result, this Member cannot in good conscience vote to stop or stall the process at this early stage. However, be assured that this Member will follow-up on his commitment to vote "no" on the conference report if the level of tax cuts is not decreased and the huge amount dedicated to eliminating the tax on dividends is not dropped or very substantially reduced.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise reluctantly to support the budget resolution before us today. While the budget before us makes great strides to control spending and reduce the deficit, I am afraid the Veterans Administration will not have the necessary resources to take care of our nation's veterans. I know that many of my Virginia congressional colleagues share these same concerns as well.

While I fully recognize that no budget is perfect, I hope we can all agree that providing health care to our nation's veterans should be the last place we look to reduce spending. Perhaps it would be more appropriate for us to review our spending on foreign aid before we ask our veterans to sacrifice yet again for their country. At a time when our country has soldiers deployed in Iraq in defense of freedom, it is important that we do not leave behind the men and women who have served our country in the past.

I will vote for this budget, however, because I believe it is vital that we keep the budget process moving. Further delaying the budget could negatively impact defense, homeland security, and other important government functions. As we all know, by failing to pass a budget resolution last year, the Senate caused a train wreck in the appropriations process. The House and the Senate never agreed on a common budget, which left the respective appropriations committees working from two different, irreconcilable sets of numbers. That resulted in Congress working on appropriations bills in January—bills that should have been completed last September. With America now at war, we cannot allow that to happen again.

It is my hope that the final product will be improved, so that I will be able to support the final budget conference report.

Mr. WAXMAN. Mr. Chairman, I rise in strong opposition to the Republican budget resolution. There are many reasons to oppose this budget, but I am going to concentrate on just one.

This resolution quite simply pays for tax cuts that benefit the wealthy by cutting programs for seniors and disabled people who are most in need of help in meeting their medical expenses.

The original version of this resolution was quite explicit: it required massive cuts in both the Medicare and Medicaid programs. Facing an uproar from beneficiaries and providers alike, what have our Republican colleagues done. They have responded by concentrating all of the cuts on Medicaid, the program that serves the neediest seniors and disabled beneficiaries, as well as millions of poor children.

They think they can fool people by doing this. But millions of America's seniors—widows living on Social Security, people in nursing homes, seniors living on modest budgets—are totally dependent on the additional assistance they get from Medicaid so Medicare can work for them. They know what these cuts mean. They need the help they get with their Medicare premiums and cost-sharing. They need Medicaid coverage of prescription drugs.

And they know that Medicaid is the only source of payment for long-term care services—both nursing home care and home and community based services. It is Medicaid payments that nursing homes rely on—to pay staff, to maintain quality, to provide services.

Medicaid is a critical payer for hospitals, community health centers, clinics and providers that serve the disabled, the low-income, the uninsured, and seniors.

Two-thirds of the dollars we spend in Medicaid go to seniors and disabled people, the very same population served by Medicare. These beneficiaries need both programs. And we all know our States are in desperate need of additional funds to maintain Medicaid coverage and services.

This budget responds to this crisis by slashing Medicaid instead of helping, by turning our backs on millions of disabled people, kids, and low-income seniors instead of assisting them.

This budget responds with a proposed cut in Medicaid twice as big as any reduction made by any previous Congress.

The Republicans have responded to the charge that they were financing their tax cuts on the backs of seniors and the disabled by financing them on the backs of the POOR seniors and disabled.

This budget will cripple our States, it will add to the numbers of uninsured, and it will be devastating for millions of Medicare beneficiaries who need extra help.

If the majority passes this budget, it will show the true colors of the Republican party. It will show a lack of caring for the most vulnerable of our seniors, for the disabled, for poor kids and their moms, for the institutions in this country who try to deliver health care to them, and to the States that are struggling to provide for them.

We should defeat this budget.

Mr. NUSSLE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. ISAKSON). All time for debate having expired, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. ISAKSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, pursuant to House Resolution 151, he reported the concurrent resolution, as amended by the adoption of that resolution, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the concurrent resolution, as amended.

Under clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 and 9 of rule XX, this 15-minute vote on House Concurrent Resolution 95, the budget resolution, will be followed by a 5-minute vote on House Current Resolution 104 regarding Operation Iraqi Freedom.

The vote was taken by electronic device, and there were—yeas 215, nays 212, not voting 8, as follows:

[Roll No. 82]

YEAS—215

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—212

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bartlett (MD)
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Whitfield
Woolsey
Wu
Wynn

NOT VOTING—8

Buyer
Gordon
Lipinski
McCarthy (MO)
Saxton
Snyder
Thornberry
Udall (CO)

□ 0254

Mr. COMBEST and Mr. HALL of Texas changed their votes from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

## EXPRESSING SUPPORT AND APPRECIATION FOR THE PRESIDENT AND MEMBERS OF THE ARMED SERVICES PARTICIPATING IN OPERATION IRAQI FREEDOM

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of agreeing to the concurrent resolution, H. Con. Res. 104, on which further proceedings were postponed.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on agreeing to the concurrent resolution, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 392, nays 11, answered "present" 22, not voting 10, as follows:

[Roll No. 83]

YEAS—392

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis

Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Conyers
Honda
Jones (OH)
Lee
McDermott
Rangel
Scott (VA)
Stark
Towns
Waters
Watson

ANSWERED "PRESENT"—22

Brown (OH)
Brown, Corrine
Carson (IN)
Clay
Cummings
Davis (IL)
Doggett
Farr
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kilpatrick
Kucinich
Lewis (GA)
Meeks (NY)
Owens
Paul
Payne
Rush
Sabo
Schakowsky
Watt

NOT VOTING—10

Buyer
Gordon
Lantos
Lipinski
McCarthy (MO)
Rogers (MI)
Saxton
Snyder
Thornberry
Udall (CO)

☐ 0302

Mr. PAYNE changed his vote from "nay" to "present."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 1104, CHILD ABDUCTION PREVENTION ACT

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 24 to grant a rule which could limit the amendment process for floor consideration of H.R. 1104, the Child Abduction Prevention Act of 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and 1 copy of a brief explanation of the amendment to the Committee on Rules in Room H-312 of the Capitol by noon on Tuesday, March 25, 2003. Members should draft their amendments to the bill as reported by the Committee on the Judiciary on March 18, 2003, which is expected to be filed on Tuesday, March 25, 2003.

Members are also advised that the text should be available for their review on the Websites of the Committee on the Judiciary and the Committee on Rules by Friday, March 21, 2003.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate form. Members also should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I wish to inquire of the majority leader the schedule for the balance of the week and next week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I would be glad to yield to the distinguished majority leader who worked just a little too hard tonight.

Mr. DELAY. Mr. Speaker, I have to say that I no longer have to whip these folks like the gentleman does, and our whip was really working hard tonight and did a great job.

I appreciate the gentleman from Maryland yielding to me, Mr. Speaker.

If the gentleman would continue to yield, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices early next week. Any votes called on these bills will be rolled until 6:30 p.m. on Tuesday.

On Wednesday, we expect to consider several additional bills under suspension of the rules before moving to legislation to create a compensation fund for first responders who receive the smallpox vaccine. While this legislation has not yet been introduced, I tell my friend from Maryland the Committee on Energy and Commerce, the Committee on the Judiciary and the Committee on Education and the Workforce have been working diligently to arrive at a compromise that I believe all Members will be able to support.

On Thursday, we will consider two bills addressing child abuse, as we head into April, which is designated as Child Abuse Prevention Month. H.R. 1104, the Child Abduction Prevention Act, would extend the Justice Department's Amber Alert system to a nationwide program. It also eliminates the statute of limitations for child abduction and sex crimes, prohibits pretrial release in cases of rape and child kidnapping, provides for a mandatory minimum sentence for child kidnapping, and establishes a two strikes and you are out requirement for child sex offenders.

H.R. 14, the Keeping Children and Families Safe Act, will reauthorize and modify the Child Abuse Prevention Treatment Act and related programs to prevent child abuse and family violence, and to protect and treat abused and neglected children and victims of family violence.

I thank the gentleman for yielding to me. I will be happy to answer any of his questions.

Mr. HOYER. Mr. Speaker, I thank the distinguished leader for that information.

First, Mr. Leader, I presume we have concluded all of our work this week; is that correct?

Mr. DELAY. If the gentleman would yield, the gentleman is correct. I failed to say that we have completed the work of the House for the week and will not return until Tuesday.

Mr. HOYER. I know all the Members thank the gentleman for that information.

I will ask the gentleman, next Friday, does the gentleman expect to be in session next Friday, or could the Members expect not to be in session next Friday?

Mr. DELAY. No, we do not expect to be in session on next Friday.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

Does the gentleman anticipate that the tax bill will be marked up by the Committee on Ways and Means next week, and then can we anticipate it on the floor the following week?

Mr. DELAY. If the gentleman would continue to yield, the Committee on Ways and Means, as the gentleman knows, has held a series of hearings on various components of the President's economic growth package. Now that the House has passed the budget resolution, I expect that the committee will move forward very soon in this important legislation, and I would certainly like to have it considered by the House before the Easter recess.

Mr. HOYER. Mr. Speaker, the gentleman talked about the committees, but the energy bill, when can we expect the full committee to take action on that bill, and when does the gentleman expect it to come to the floor?

Mr. DELAY. If the gentleman would continue to yield, as the distinguished minority whip knows, the proposal that the House passed in the last Congress had provisions from more than half a dozen committees. We are again working to coordinate the work of various committees to ensure that we can quickly get a bill through the House. At least one committee began the markup process for that bill last week, and I know the others are moving forward as fast as they can, and many of them are marking up next week. I would hope that all the committees involved in this important legislation on energy would complete their work in time so that we can have the bill on the floor prior to the Easter recess.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and, Mr. Speaker, I have no further questions of the leader, and I appreciate his giving us the schedule.

## ADJOURNMENT TO MONDAY, MARCH 24, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, March 24, 2003.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

## HOUR OF MEETING ON TUESDAY, MARCH 25, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 24, that it adjourn to meet at 12:30 p.m. on Tuesday, March 25, 2003, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## CONFISCATING AND VESTING CERTAIN IRAQI PROPERTY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-51)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have taken additional steps with respect to the national emergency declared in Executive Order 12722 of August 2, 1990, by exercising my statutory authority to confiscate and vest certain property of the Government of Iraq and its agencies, instrumentalities, or controlled entities.

Consistent with section 203(a)(1)(C) of IEEPA, 50 U.S.C. 1702(a)(1)(C), as added by section 106 of the USA PATRIOT ACT, Public Law 107-56, I have ordered that certain blocked funds held in the United States in accounts in the name of the Government of Iraq, the Central Bank of Iraq, Rafidain Bank, Rasheed Bank, or the State Organization for Marketing Oil are hereby confiscated and vested in the Department of the Treasury. I have made exceptions for any such funds that are subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoy equivalent privileges and immunities under the laws of the United States, and are or have been used for diplomatic or consular purposes. In addition, such amounts that, as of the date of the order, are subject to post-judgment writs of execution or attachment in aid of execution of judgments pursuant to section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107-297) are not being vested, provided that, upon satisfaction of the judgments on which such writs are based, any remainder of such excepted amounts shall, without further action, be confiscated and vested.

I have delegated to the Secretary of the Treasury authority to undertake all other action of the President and all functions of the President set forth in section 203(a)(1)(C) of IEEPA with respect to any and all property of the Government of Iraq, including its agencies, instrumentalities, or controlled entities, and to take additional steps, including the promulgation of rules and regulations as may be necessary to carry out the purposes of this order.

I am enclosing a copy of the Executive Order I have issued, which is effective immediately.

I have exercised these authorities in furtherance of Executive Orders 12722 and 12724 with respect to the unusual and extraordinary threat to our national security and foreign policy posed by the policies and actions of the Government of Iraq. I intend that such vested property should be used to assist the Iraqi people and to assist in the reconstruction of Iraq, and have determined that such use would be in the interest of and for the benefit of the United States.

The power to vest assets of a foreign government with which the United States is engaged in armed hostilities is one that has been recognized for many decades. This power is being used here because it is clearly in the interests of the United States to have these funds available for use in rebuilding Iraq and launching that country on the path to speedy economic recovery. In addition, this authority is being invoked in a limited way, designed to minimize harm to third parties and to respect existing court orders as much as possible.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 20, 2003.*

## RECONSTRUCTION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. McDERMOTT. Mr. Speaker, as the Bush-Cheney-Rumsfeld war has begun, we must now turn our attention to the reconstruction. As we discuss the budget today, we must keep some facts in mind.

In a country where 60 percent of the people are entirely dependent on the Oil-for-Food Program run by the United Nations, which was ended 2 days ago, we are preparing to spend $12 billion a month bombing and $65 million for food, water, sanitation, shelter and health.

We have accepted full responsibility for the people of Iraq as of this day. We did the same for Afghanistan. We promised back in October of 2001, Bush and Blair said the conflict will not end, we will not walk away as the outside world has done before. The fact is we spent $6.5 billion bombing Afghanistan, and $300 million was all we would commit for the first year. Mr. Karzai was in this country the other day begging for aid. He got $50 million, and we told him $35 million has to go to build a hospital.

I will include in the RECORD an article by George Monbiot.

### A SCAR ON THE CONSCIENCE OF THE WORLD

### LEFT BEHIND TO STARVE—A HUMANITARIAN DISASTER IS ENGULFING AFRICA AS CASH IS POURED INTO THE WAR WITH IRAQ AND ITS AFTERMATH

(By George Monbiot)

There is surely no more obvious symptom of the corruption of western politics than the disproportion between the money available for sustaining life and the money available for terminating it. We could, I think, expect that, if they were asked to vote on the matter, most of the citizens of the rich world would demand that their governments spend as much on humanitarian aid as they spend on developing new means of killing people. But the military-industrial complex is a beast which becomes both fiercer and greedier the more it is fed.

As the United States prepares to spend some $12 billion a month on bombing the Iraqis, it has so far offered only $65 million to provide them with food, water, sanitation, shelter and treatment for the injuries they are likely to receive. A confidential U.N. contingency plan for Iraq, which was leaked in January, suggests that the war could expose around one million children to "risk of death from malnutrition." It warns that "the collapse of essential services in Iraq could lead to a humanitarian emergency of proportions well beyond the capacity of U.N. agencies and other aid organizations." Around 60 percent of the population is entirely dependent on the oil for food programme, administered by the Iraqi government. This scheme was suspended by the U.N. yesterday, leaving the Iraqis reliant on foreign aid. The money pledged so far is enough to sustain the Iraqies for less than a fortnight.

It is hard to believe, however, that the U.S. Government will leave them to starve once it has captured their country. For the weeks or months during which Iraq dominates the news, the U.S. will be obliged to defend them from the most immediate impacts of the institutional collapse its war will cause. Afterwards, like the people of Afghanistan, the Iraqis will be first forgotten by the media and then deserted by those who promised to support them.

But even before the first troops cross the border, the impending war has caused a global humanitarian crisis. As donor countries set aside their aid budgets to save both themselves and the United States from embarrassment under the camera lights in Baghdad, they have all but ceased to provide money to other nations. The world, as a result, could soon be confronted by a humanitarian funding crisis graver than any since the end of the Second World War.

Every year, in November, the U.N. agencies which deal with disasters launch what they call a "consolidated appeal" for each of the countries suffering a "complex emergency". They expect to receive the money they request by May of the following year. The payments and promises they have extracted so far chart the collapse of international concern for the people of almost every nation except Iraq.

In Eritrea, for example, the drought is so severe that the water table has fallen by ten metres. Most of the nation's crops have failed and grain prices have doubled. Seventy percent of its 3.3 million people are now classified as vulnerable to famine. The United Nations has asked the rich countries for $163 million to help them. It has received $4 million, or 2.5 percent of the money it requested.

Burundi, where almost one-sixth of the inhabitants have been forced out of their homes by conflict and natural disasters, and which is now officially listed as the third poorest nation on earth, has received 3 percent of its U.N. request. Liberia, where rebels have rendered much of the western part of the country uninhabitable, forcing some 500,000 people out of their homes, has been given 1.2 percent: Sierra Leone, where lassa fever is now rampaging through the refugee camps, has received 1 percent; and Guinea, which has recently taken 82,000 refugees from Cote d'Ivoire, 0.4 percent. Somalia, Sudan and the Democratic Republic of Congo have all received less than 6 percent.

Much of the money for these invisible countries has come from donor nations with relatively small economies, such as Sweden, Norway, Canada and Ireland. "The state of Africa", Tony Blair told his party conference in October 2001, "is a scar on the conscience of the world, but if the world focused on it, we could heal it". Well, let it now be a scar on the conscience of Tony Blair.

As a result of this unprecedented failure by the rich nations to cough up, the people of the forgotten countries will, very soon, begin to starve to death. The U.N. has warned that "a break in supplies" to Eritrea "is now inevitable". The World Food Programs has started feeding fewer people there, but will run out of food within two months. In Burundi it can, it says, continue feeding people "for another four weeks". Beans will run out in Liberia this month; cereals in May. One hundred thousand refugees in Guinea could find themselves without food by August. Yet neither of the two governments which are about to launch a "humanitarian war" appear to be concerned by the impending humanitarian catastrophes in the world's poorest nations.

The aid crisis is now so serious that it is restricting disaster relief even in nations which are considered by the major powers to be geopolitically important. The U.N. agencies have so far received just 2.9 percent of their request for Palestine, and 8.4 percent of the money they need in Afghanistan.

The latter figure is, in light of the repeated promises made by the nations prosecuting the war there, extraordinary. "To the Afghan people we make this commitment," Blair pledged during the same speech in October 2001. "The conflict will not be the end. We will not walk away, as the outside world has done so many times before." Three months later, the U.N. estimated that Afghanistan would need at least $10 billion for reconstruction over the following five years. The U.S., which had just spent $4.5 billion on bombing the country, offered $300 million for the first year and refused to make any commitment for subsequent years. This year, George Bush "forgot" to produce an aid budget for Afghanistan, until he was forced to provide another $300 million by Congress.

The government, which has an annual budget of just $460 million—or around half of what the U.S., still spends every month on chasing remnants of Al qaeda through the mountains—is effectively bankrupt. At the beginning of this month the Afghan president, Hamid Karzai, flew to Washington to beg George Bush for more money. He was given $50 million, $35 million of which the U.S., insists is spent on the construction of a five-star hotel in Kabul. Karzai, in other words, has discovered what the people of Iraq will soon find out: generosity dries up when you are yesterday's news.

If, somehow, you are still suffering from the delusion that this war is to be fought for the sake of the Iraqi people, I would invite you to consider the record of the prosecuting nations. We may believe that George Bush and Tony Blair have the interests of foreigners at heart only when they spend more on feeding them than they spend on killing them.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. DELAY) for today until 11 p.m. on account of medical reasons.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 153. An act to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

□ 0311

## ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 11 minutes a.m.), under its previous order, the House adjourned until Monday, March 24, 2003, at 2 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1220. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Mexican Fruit Fly; Treatments [Docket No. 02-129-2] received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1221. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Mexican Fruit Fly; Addition of Regulated Area [Docket No. 02-129-3] received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1222. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Licensing and Inspection Requirements for Dealers of Dogs Intended for Hunting, Breeding, or Security Purposes [Docket No. 99-087-3] received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1223. A letter from the Aciting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitive Services, Department of Education, transmitting the Department's final rule — Experimental and Innovative Training — received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1224. A letter from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule — Civil Penalties Under ERISA Section 502(c)(7) and Conforming Technical Changes on Civil Penalties Under ERISA Sections 502(c)(2), 502(c)(5) and 502(c)(6)(RIN: 1210-AA91, RIN: 1210-AA93) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1225. A letter from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule — Final Rule Relating to Notice of Blackout Periods to Participants and Beneficiaries (RIN: 1210-AA90) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1226. A letter from the Director, Corporate Policy and Research Dept., Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received March 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1227. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Energy Information Administration's Annual Energy Review 2001, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

1228. A letter from the Director, National Center on Minority Health and Health Disparities, NIH, Department of Health and Human Services, transmitting the FY 2001 Annual Report on Health Disparities Research of the National Institutes of Health, pursuant to 42 U.S.C. 299a—1 Public Law 106—525, section 903 (a)(6); to the Committee on Energy and Commerce.

1229. A letter from the Director, National Center on Minority Health and Health Disparities, NIH, Department of Health and Human Services, transmitting a Strategic Research Plan and Budget to Reduce and Ultimately Eliminate Health Disparities for FY 2002-2006, pursuant to 42 U.S.C. 287c—31 Public Law 106—525, section 105; to the Committee on Energy and Commerce.

1230. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — New Animal Drugs; Phenylbutazone; Extralabel Animal Drug Use; Order of Prohibition [Docket No. 03N-0024] received March 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1231. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits [WV055-6025a; FRL-7449-4] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1232. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations (Blanket, TX) [MB Docket No. 02-351; RM-10601] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1233. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Little Rock, AR) [MM Docket No. 00-139; RM-9915] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1234. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ridgway and Rangely, CO) [MB Docket No. 02-118; RM-10394] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1235. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Rose Hill and La Grange, NC) [MB Docket No. 02-110; RM-10406] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1236. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Greenwood, MS [MB Docket No. 02-209; RM10512]; Hyannis, NE [MB Docket No. 02-210; RM-10510]; Wall,SD [MB Docket No. 02-211; RM-10511] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1237. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Murrieta, Arcadia, Fallbrook, Yucca Valley, and Desert Hot Springs, CA) [MM Docket No. 01-11; RM-10027, RM-10322] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1238. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Monroe and Luna Pier, MI) [MB Docket No. 02-115; RM-10427] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1239. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Crawfordville, GA) [MB Docket No. 02-225; RM-10517] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1240. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dickens, TX) [MB Docket No. 02-258; RM-10500]; (Floydada, Texas) [MB Docket No. 02-259; RM-10501]; (Rankin, Texas) [MB Docket No. 02-262; RM-10504]; (San Diego, Texas) [MB Docket No. 02-264; RM-10505]; (Westbrook, Texas) [MB Docket No. 02-265; RM-10556] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1241. A letter from the Senior Legal Advisory to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Jasper, FL [MB Docket No. 02-274; RM-10560]; Tigerton, WI [MB Docket No. 02-275; RM-10561]) received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1242. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Madisonville and College Station, Giddings, and Bay City, Columbus, Edna, Garwood, Palacios and Sheridan, TX) [MM Docket No. 99-331; RM-9728, RM-9847, RM-9848] received March 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1243. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Source Material Reporting Under International Agreements (RIN: 3150-AH10) received March 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1244. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification pursuant to Section 1203 (d) of the Cooperative Threat Reduction Act of 1993 and the the FREEDOM Support Act (Public Law 102-511); to the Committee on International Relations.

1245. A letter from the Under Secretary, Acquisition, Technology and Logistics, Department of Defense, transmitting the Department's inventory of activities that are not inherently governmental functions as required by Section 2 of the Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105-270; to the Committee on Government Reform.

1246. A letter from the Attorney General, Department of Justice, transmitting the Semiannual Management Report to Congress for April 1, 2002 through September 30, 2002, and the Inspector General's Semiannual Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

1247. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting a copy of the Department's Commercial Activities Inventory for Fiscal Year 2002; to the Committee on Government Reform.

1248. A letter from the Director, Federal Emergency Management Agency, transmitting notification that effective March 1, 2003, the Director resigned; to the Committee on Government Reform.

1249. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Abandoned Mine Land Reclamation Notices (RIN: 1029-AB99) received February 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1250. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Global Ocean Data Assimilation Experiment (GODAE) [Docket No. 021202295-2295-01] received February 24, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1251. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No. 021212306-2306-01; I.D. 021403] received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1252. A letter from the Chief Scout Executive and President, Boy Scouts of America, transmitting the Boy Scouts of America 2002 report to the Nation, pursuant to 36 U.S.C. 28; to the Committee on the Judiciary.

1253. A letter from the General Counsel, Department of Commerce, transmitting the Department's legislative proposal to restructure the patent fees and adjust trademark fees for the U.S. Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

1254. A letter from the Director, Regulations and Forms Services Division, INS, Department of Justice, transmitting the Department's final rule — Abbreviation or Waiver of Training for State or Local Law Enforcement Officers Authorized to Enforce Immigration Law During a Mass Influx of Aliens [INS No. 2241-02] (RIN: 1115-AG84) received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1255. A letter from the Director, Regulations and Forms Services, INS, Department of Justice, transmitting the Department's final rule — Removal of Visa and Passport Waiver for Certain Permanent Residents of Canda and Bermuda [INS No. 2202-02] (RIN: 1115-AG68) received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1256. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Admission and Orientation Program: Removal From Rules [BOP-1110-1] (RIN: 1120-AB08) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1257. A letter from the Director, Regulations and Forms Services Division, INS, Department of Justice, transmitting the Department's final rule — Automated Inspection Services--Extension of Enrollment Period [INS No. 2256-03] (RIN: 1115-AG94) received March 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1258. A letter from the Director, Regulations and Forms Services, INS, Department of Justice, transmitting the Department's final rule — Release of Information Regarding Immigration and Naturalization Service Detainees in Non-Federal Facilities [INS No. 2203-02] (RIN: 1115-AG67) received January 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1259. A letter from the Director, Regulations and Forms Services, INS, Department of Justice, transmitting the Department's final rule — Establishment of a $3 Immigration User Fee for Certain Commercial Vessel Passengers Previously Exempt [INS No. 2180-01] (RIN: 1115-AG47) received January 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1260. A letter from the General Counsel, Department of Justice, transmitting the Department's final rule — Aliens and Nationality; Homeland Security; Reorganization of Regulations [EOIR No. 137F; AG Order No. 2662-2003] (RIN:1125-AA42) received March 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1261. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Documentation of Immigrants — Elimination of Extended Visa Validity Benefits under Section 154 Pub. L. 101-649 — received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1262. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Documentation of Immigrants Under the Immigration and Nationality Act, as Amended — Issuance of New or Replacement Visas (RIN: 1400-AB39) received March 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1263. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Miss America Pageant, Atlantic City, New Jersey [COTP Philadelphia-02-005] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1264. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Industrial Canal, one-quarter mile north and south of the Almonaster Bridge, New Orleans, Louisiana [COTP New Orleans-02-018] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1265. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 52.0 to 53.0, Cape Girardeau, MO [COTP Paducah, KY 02-006] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1266. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Atchafalaya River, Port of Morgan City, Morgan City, LA [COTP Morgan City-02-005] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1267. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Mississippi Sound, Pascagoula, Mississippi [COTP Mobile-02-017] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1268. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Mile 90.0 to 91.0, Wheeling, West Virginia [COTP Pittsburgh-02-014] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1269. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones; Coast Guard Activities New York [CGD01-02-103] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1270. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone: All water within 100 ft of the M/F FUJI MARU while transiting Apra Harbor and while moored at Hotel Wharf, Port Authority of Guam, Territory of Guam [COTP GUAM-02-016] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1271. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones: Port of New York/New Jersey [CGD01-02-120] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1272. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Ashley River, Charleston, SC [CGD07-03-018] received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1273. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Monongahela River, Mile Marker 0.0 to Mile 1.3 and Allegheny River Mile Marker 0.0 to Mile Marker 0.5, Pittsburgh, PA [COTP Pittsburgh-02-020] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1274. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Allegheny

River Mile Marker 0.0 to Mile Marker 0.3, Pittsburgh, Pennsylvania [COTP Pittsburgh-02-021] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1275. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Monongahela River Mile: 22.5 to 23.5 [COTP Pittsburgh-02-015] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1276. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone, Chickahominy River, Williamsburg, Virginia [CGD05-02-045] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1277. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety zone: 4th of July Celebration, Marblehead, Massachusetts [CGD1-02-080] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1278. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety zone; Triathlon Swim, Hudson River, Ulster Landing, NY [CGD01-02-081] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1279. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Strategic Booming Exercise in Absecon Inlet, New Jersey [COTP Philadelphia-02-002] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1280. A letter from the Chief, Regulations and Administration Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone Regulation: Horn Island Sea Buoy (HI) at the entrance to Horn Island Pass in the Gulf of Mexico to Bayou Casotte, Mississippi [COTP Mobile, AL 02-009] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1281. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Fourth of July Fireworks, Lake City, MN [COTP St. Louis, MO-02-011] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1282. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway (GICW), Mile Marker 210 to 225 (EHL), Fort Walton Beach, Florida [COTP Mobile-02-013] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1283. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: First Night Summer Best Fireworks, Dorchester Bay, Dorchester, MA [CGD01-02-097] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1284. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Yankee Homecoming Fireworks, Cashman Park, Newburyport, MA [CGD01-02-095] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1285. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zone: Boston's Fourth of July Esplanade Events, Charles River Esplanade, Boston, Massachusetts [CDG01-02-088] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1286. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules [Docket No. FAA-2001-8690] (RIN: 2120-AG74) received March 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1287. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Pioneer Dock, Kachemak Bay, Homer, Alaska [COTP Western Alaska 02-008] (RIN: 2115-AA97) received February 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1288. A letter from the Trial Attorney, FRA, Department of Transportation, transmitting the Department's final rule — Conforming the Federal Railroad Administration's Accident/Incident Reporting Requirements to the Occupational Safety and Health Administration's Revised Reporting Requirements; Other Amendments [Docket No. FRA-2002-13221, Notice No. 2] (RIN: 2130-AB51) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1289. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Coast Guard Board for Correction of Military Records; Procedural Regulation [OST Docket No. 2002-13439; Notice 2002-1](RIN: 2105-AD19) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1290. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Scientific and Technical Reports (RIN: 2700-AC33) received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1291. A letter from the Deputy General Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, transmitting the Department's final rule — Appeals Regulations: Title for Members of the Board of Veterans' Appeals (RIN: 2900-AK62) received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1292. A letter from the Deputy General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Provision of Drugs and Medicines to Certain Veterans in State Homes (RIN: 2900-AJ34) received March 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1293. A letter from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting the Department's final rule — Deferral of Duty on Large Yachts Imported for Sale [T.D. 03-14] (RIN: 1515-AC58) received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1294. A letter from the Acting Director, Statutory Import Programs Staff, Department of Commerce, transmitting the Department's final rule — Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program [Docket No. 991228350-2301-04] (RIN: 0625-AA57) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1295. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 2003-24] received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1296. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit or abatement; determination of correct tax liability [Rev. Proc. 2003-25] received March 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1297. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Areas in which rulings will not be issued (domestic areas) [Rev. Proc. 2003-3, 2003-1] received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1298. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Amendment of 26 CFR Section 301.6103(n)-1 to Incorporate Taxpayer Browsing Protection Act [TD 9044] (RIN: 1545-BB13) received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1299. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Earned income credit for taxable years beginning after December 31, 1978 [TD 9045] (RIN: 1545-BA34) received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1300. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Interest rates; underpayments and overpayments (Rev. Rul. 2003-30) received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1301. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Disallowance of Deductions and Credits for Failure to File Timely Return [TD 9043] (RIN: 1545-AY26) received March 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1302. A letter from the General Counsel, Department of Defense, transmitting the Department's legislative proposal entitled, "To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes"; jointly to the Committees on

Armed Services, Transportation and Infrastructure, Energy and Commerce, Resources, Ways and Means, Government Reform, the Judiciary, Veterans' Affairs, Financial Services, Science, Education and the Workforce, International Relations, the Budget, and

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## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DREIER (for himself, Ms. ESHOO, Mr. OSE, Mr. SMITH of Washington, Mr. UPTON, Mr. HONDA, Mr. COX, Mr. DOOLEY of California, Mr. SESSIONS, Mr. MCINTYRE, Mr. TOM DAVIS of Virginia, Ms. LOFGREN, Mr. SMITH of Texas, Mr. THOMPSON of California, Mr. HOUGHTON, Ms. HARMAN, Mr. OTTER, and Mr. GOODLATTE):

H.R. 1372. A bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, and to require a study on the economic impact of broad-based employee stock option plans, and for other purposes; to the Committee on Financial Services.

By Mr. DEMINT (for himself, Mr. BOEHNER, Mr. HOEKSTRA, Mrs. MUSGRAVE, and Mr. FEENEY):

H.R. 1373. A bill to provide options to States to innovate and improve the education of children with disabilities by expanding the choices for students and parents under the Individuals with Disabilities Education Act; to the Committee on Education and the Workforce.

By Mr. EVANS (for himself, Mr. ORTIZ, Mr. RYAN of Ohio, Mr. FILNER, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, Ms. HOOLEY of Oregon, Mr. REYES, Mr. STRICKLAND, Mrs. DAVIS of California, Mrs. JONES of Ohio, Ms. LEE, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. KENNEDY of Rhode Island, Mr. FALEOMAVAEGA, Mr. ETHERIDGE, Mr. FROST, Ms. WOOLSEY, Mr. BROWN of Ohio, Ms. KAPTUR, Mr. MCGOVERN, Mr. KILDEE, Mr. GRIJALVA, Mr. BISHOP of New York, Mr. EDWARDS, Mr. SANDERS, Ms. DELAURO, Mr. MICHAUD, and Ms. WATERS):

H.R. 1374. A bill to amend chapter 1606 of title 10, United States Code, to increase the amount of basic educational assistance for members of the Selected Reserve, and for other purposes; to the Committee on Armed Services.

By Mrs. CAPITO (for herself, Mr. OXLEY, Mr. BACHUS, and Mr. ROSS):

H.R. 1375. A bill to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Financial Services.

By Mr. SMITH of New Jersey (for himself, Mr. FRANK of Massachusetts, Mr. LEACH, Mr. LANTOS, Mr. SHAYS, Mr. BACHUS, and Mrs. MALONEY):

H.R. 1376. A bill to improve the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative; to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER (for himself, Mr. LEWIS of Georgia, Mr. HOUGHTON, Mr. MCNULTY, Mr. FARR, Mr. STUPAK, and Mr. HINCHEY):

H.R. 1377. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER:

H.R. 1378. A bill to amend part E of title IV of the Social Security Act to increase payments to States for expenditures for short term training of staff of certain child welfare agencies; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 1379. A bill to freeze the price of gasoline pending analysis by the Secretary of Energy of fluctuations in such price; to the Committee on Energy and Commerce.

By Mr. SESSIONS (for himself, Mr. FOLEY, Mr. TIAHRT, Mr. SULLIVAN, Mr. SHIMKUS, Mr. HALL, Mr. SAM JOHNSON of Texas, Mr. LAHOOD, Mr. SHADEGG, Mr. SWEENEY, Mr. TIBERI, Mr. ENGLISH, Mr. CANNON, Mrs. MYRICK, Mr. LINDER, Mr. MEEKS of New York, Mr. TOOMEY, Mr. SMITH of Texas, Mr. MARIO DIAZ-BALART of Florida, Mr. HENSARLING, Ms. DUNN, Mr. RENZI, Mr. BRADY of Texas, Mr. DREIER, and Mr. FLETCHER):

H.R. 1380. A bill to suspend the excise tax on aviation fuel used in commercial aviation during the period of hostilities with Iraq; to the Committee on Ways and Means.

By Mr. HINOJOSA (for himself, Mr. SERRANO, Mr. LYNCH, Mr. TOWNS, Mr. GRIJALVA, Mr. CUMMINGS, Mr. ACEVEDO-VILÁ, Mr. ABERCROMBIE, Ms. NORTON, Mr. REYES, Mr. SNYDER, Mr. DINGELL, Mrs. MILLER of Michigan, Mr. ORTIZ, Mr. TIERNEY, Mr. ANDREWS, Mr. HONDA, Mr. WAXMAN, Mrs. NAPOLITANO, Mr. MENENDEZ, Mr. RODRIGUEZ, Ms. VELÁZQUEZ, Mr. PASTOR, Mr. BACA, Ms. ROYBAL-ALLARD, Mr. CARDOZA, Ms. LINDA T. SÁNCHEZ of California, Mr. FROST, Mr. STARK, Mr. RUSH, and Mr. BECERRA):

H.R. 1381. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to allow leave for individuals who provide living organ donations; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 1382. A bill to amend title XVIII of the Social Security Act to improve the regulatory operation of the Emergency Medical Treatment and Labor Act (EMTALA); to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE (for himself and Mr. CASE):

H.R. 1383. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1384. A bill to amend the Railroad Retirement Act of 1974 to eliminate a limitation on benefits; to the Committee on Transportation and Infrastructure.

By Mr. BACA:

H.R. 1385. A bill to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research; to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BONILLA:

H.R. 1386. A bill to amend part D of title III of the Public Health Service Act to authorize grants and loan guarantees for health centers to enable the centers to fund capital needs projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BRADY of Pennsylvania:

H.R. 1387. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program; to the Committee on Small Business.

By Mr. COLLINS:

H.R. 1388. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program for surgical first assisting services of certified registered nurse first assistants; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY (for himself, Mr. FOSSELLA, Mr. BISHOP of New York, Mr. KING of New York, Mrs. MCCARTHY of New York, Mr. ENGEL, Mr. TOWNS, Mr. HOUGHTON, Mr. WEINER, Mrs. MALONEY, Mr. CAPUANO, Mr. OWENS, Mr. RANGEL, Mr. EMANUEL, Ms. WATERS, Mr. MEEKS of New York, Mr. HINCHEY, Mr. NADLER, Mr. BELL, and Mrs. LOWEY):

H.R. 1389. A bill to enhance the ability of first responders to respond to incidents of terrorism and for certain other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Science, the Judiciary, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California:

H.R. 1390. A bill to establish a pilot program to encourage certification of teachers in low-income, low-performing public elementary and secondary schools by the National Board for Professional Teaching Standards, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FRELINGHUYSEN:

H.R. 1391. A bill to extend the deadline under the Federal Power Act for commencement of construction of the Mt. Hope Waterpower project (FERC Project No. 9401), and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUNTER (for himself, Mrs. JO ANN DAVIS of Virginia, Mr. OTTER, Mr. WALDEN of Oregon, Mrs. MYRICK, Mr. BARTLETT of Maryland, Mr. DOOLITTLE, and Mr. COBLE):

H.R. 1392. A bill to require inspection of all cargo on commercial trucks and vessels entering the United States; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JANKLOW (for himself, Ms. Ros-Lehtinen, Mr. Chabot, Mr. Mario Diaz-Balart of Florida, Mr. McNulty, and Mr. Platts):

H.R. 1393. A bill to ensure that tax-exempt status and other benefits afforded under Operation Enduring Freedom are also provided to United States Armed Forces personnel in Israel; to the Committee on Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mrs. Emerson, Mr. Burgess, Mr. Frost, Mr. Owens, Mr. Case, Ms. Jackson-Lee of Texas, Ms. Norton, Mr. Baker, Ms. McCollum, and Ms. Millender-McDonald):

H.R. 1394. A bill to amend title 49, United States Code, to authorize programs and activities to promote intermodal transportation of passengers, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LARSON of Connecticut:

H.R. 1395. A bill to provide for the establishment of research, development, demonstration, and commercial application programs for fuel cell and hydrogen production, delivery, and storage technologies for transportation and stationary applications; to the Committee on Science.

By Mr. MARKEY (for himself and Mr. Larson of Connecticut):

H.R. 1396. A bill to allocate spectrum for the enhancement of wireless telecommunications, and to invest wireless spectrum auction proceeds for the military preparedness and educational preparedness of the United States for the digital era, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. McCARTHY of New York (for herself and Mr. Andrews):

H.R. 1397. A bill to amend the Employee Retirement Income Security Act of 1974 to ensure that employees are not improperly disqualified from benefits under pension plans and welfare plans based on the misclassification or reclassification of their status; to the Committee on Education and the Workforce.

By Ms. McCOLLUM:

H.R. 1398. A bill to amend the Individuals with Disabilities Education Act to fully fund 40 percent of the average per pupil expenditure for programs under part B of that Act; to the Committee on Education and the Workforce.

By Mr. McINNIS:

H.R. 1399. A bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; to the Committee on Resources.

By Mr. ALLEN (for himself, Mr. Brown of Ohio, Mr. Berry, Ms. Schakowsky, Mr. Conyers, Ms. Roybal-Allard, Mr. Stark, Ms. Corrine Brown of Florida, Mr. Serrano, Mr. Waxman, Mr. Kleczka, Mr. Pallone, Mrs. McCarthy of New York, Ms. Norton, Mr. Kennedy of Rhode Island, Mr. Hinchey, Mr. Pastor, Mr. Case, Ms. Woolsey, Mr. Green of Texas, Mrs. Maloney, Mr. Oberstar, Mr. Frost, Mr. Wexler, Mr. Sabo, Mr. Nadler, Mr. McNulty, Mr. Michaud, and Mr. Kucinich):

H.R. 1400. A bill to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD:

H.R. 1401. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ORTIZ (for himself, Mr. Reyes, Mr. Frost, Mr. Gonzalez, Mr. Pastor, and Mr. Hinojosa):

H.R. 1402. A bill to designate a United States courthouse in Brownsville, Texas, as the "Garza-Vela United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 1403. A bill to remove the exemption with respect to Pakistan from the prohibition on assistance to a country whose elected head of government was deposed by decree or military coup; to the Committee on International Relations.

By Mr. PAUL:

H.R. 1404. A bill to direct the Secretary of Defense to present a ribbon of appropriate design to all persons who, while a member of the Armed Forces serving on active duty, were exposed to ionizing radiation as a result of participation in a test of atomic weapons; to the Committee on Armed Services.

By Mr. PAUL:

H.R. 1405. A bill to disqualify certain persons from receiving Federal funds; to the Committee on Government Reform.

By Mr. PETERSON of Pennsylvania (for himself, Mr. Pomeroy, Mr. Platts, Ms. Hart, Mrs. Johnson of Connecticut, Mr. Bishop of Utah, Mrs. Northup, Mr. Murphy, Mr. Gerlach, Mr. Shuster, Mrs. Emerson, Mr. English, Mr. Toomey, Mrs. Capito, Mr. Greenwood, Mr. Hoeffel, Mr. Cardin, and Mr. Murtha):

H.R. 1406. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Energy and Commerce.

By Mr. SESSIONS:

H.R. 1407. A bill to amend title 40, United States Code, to enhance security at executive and judicial branch facilities by requiring locksmiths who provide locksmith services at such a facility to be credentialed, which includes undergoing a criminal history background check; to the Committee on Government Reform.

By Mr. TAYLOR of North Carolina (for himself, Mr. Carson of Oklahoma, and Mr. Jones of North Carolina):

H.R. 1408. A bill to provide for the consideration of a petition for Federal Recognition of the Lumbee Indians of Robeson and adjoining counties, and for other purposes; to the Committee on Resources.

By Mr. TAYLOR of North Carolina (for himself, Mr. Jones of North Carolina, Mr. Kildee, and Mr. Carson of Oklahoma):

H.R. 1409. A bill to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes; to the Committee on Resources.

By Mr. TOWNS:

H.R. 1410. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Education and the Workforce.

By Mr. WYNN:

H.R. 1411. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to extend from three months to twelve months the period after release of a member of the Armed Forces from active duty during which the member is protected from mortgage foreclosure under that Act; to the Committee on Veterans' Affairs.

By Mr. EVANS:

H.J. Res. 41. A joint resolution disapproving the rule submitted to Congress by the Department of Veterans Affairs on January 22, 2003, with the title "VA Acquisition Regulation: Simplified Acquisition Procedures for Health-Care Resources"; to the Committee on Veterans' Affairs, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. Duncan, Mr. Tancredo, and Mr. Goode):

H.J. Res. 42. A joint resolution proposing an amendment to the Constitution of the United States to deny United States citizenship to individuals born in the United States to parents who are neither United States citizens nor persons who owe permanent allegiance to the United States; to the Committee on the Judiciary.

By Mr. HASTINGS of Florida (for himself, Mr. Frank of Massachusetts, Mrs. Jones of Ohio, Mr. Hoeffel, Mr. Israel, Ms. Carson of Indiana, Mr. Peterson of Minnesota, Mr. Pomeroy, Ms. McCollum, Ms. Berkley, Ms. Jackson-Lee of Texas, Mr. Ney, Mr. DeFazio, Mr. Camp, Mr. McIntyre, Mr. Sweeney, Mr. Murtha, Ms. Slaughter, Mr. Ruppersberger, Mr. Lampson, Mr. Doyle, Mr. Davis of Florida, Mr. Lewis of Georgia, Mr. Bishop of Georgia, Mr. Scott of Virginia, Mr. Wynn, Mr. Meek of Florida, Mr. Boswell, Mr. Becerra, Mr. Tancredo, Mrs. Napolitano, Mr. Gilchrest, Mr. Wexler, Mr. Frost, Mr. Costello, Mr. Dicks, Mr. Kleczka, Mr. Clyburn, Mr. Thompson of Mississippi, Mr. Inslee, Mr. Ballance, Mr. Michaud, Mr. Rothman, Mr. Crowley, Mr. Cummings, Ms. Lofgren, Mr. Serrano, Ms. Kilpatrick, Ms. Watson, Mr. Tierney, Mr. Brown of Ohio, Mr. Pascrell, Mr. McGovern, Mr. Scott of Georgia, Mr. Owens, Mr. Rangel, Ms. Velázquez, Mr. Levin, Mr. Evans, Mr. McDermott, Ms. Corrine Brown of Florida, Mr. Sanders, Mr. Davis of Illinois, Mr. Capuano, Mr. Meeks of New York, Mr. Hoyer, Mrs. Tauscher, Mr. Abercrombie, Mr.

Payne, Mr. Nadler, Mr. Stark, Mr. Davis of Alabama, and Mr. Kildee):

H. Con. Res. 103. Concurrent resolution expressing the sense of Congress concerning support to members of the United States Armed Forces and allied military forces engaged in the war on terrorism, and the war with Iraq; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUNTER:

H. Con. Res. 104. Concurrent resolution expressing the support and appreciation of the Nation for the President and the members of the Armed Forces who are participating in Operation Iraqi Freedom; considered and agreed to.

By Mr. KUCINICH (for himself and Mr. Conyers):

H. Con. Res. 105. Concurrent resolution expressing the sense of Congress concerning support to members of the United States Armed Forces and allied military forces engaged in the war on terrorism and the war with Iraq; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHABOT (for himself and Mr. Portman):

H. Con. Res. 106. Concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes; to the Committee on Government Reform.

By Mr. GREEN of Texas (for himself, Mr. Nethercutt, Ms. DeGette, Mr. Capuano, Ms. Norton, Mr. McNulty, Mr. Pallone, Mr. Fossella, Mr. Frost, Mr. Ackerman, Mr. Becerra, Mr. Schiff, Mr. Rahall, Mr. Frank of Massachusetts, Mr. Owens, Mr. Baca, Mr. Kildee, Mr. Gordon, Mr. Costello, Mr. Cunningham, Mr. Turner of Texas, Mrs. Kelly, Mr. Goodlatte, Mr. Gallegly, Mr. Hinojosa, Mr. Foley, Mr. LaHood, Mr. Rangel, Mr. Lipinski, Mr. Ryan of Ohio, Ms. Schakowsky, Mr. McIntyre, Mr. Berman, Mr. Lampson, Mr. McHugh, Mr. Van Hollen, and Mr. Brady of Pennsylvania):

H. Con. Res. 107. Concurrent resolution urging increased Federal funding for juvenile (Type 1) diabetes research; to the Committee on Energy and Commerce.

By Mr. GREEN of Wisconsin:

H. Con. Res. 108. Concurrent resolution encouraging corporations to contribute to faith-based organizations; to the Committee on Energy and Commerce.

By Mr. SHADEGG (for himself, Mr. Gibbons, Mr. Bartlett of Maryland, Mr. Barrett of South Carolina, Mr. Taylor of North Carolina, Mr. Gillmor, Mr. Akin, Mr. McNulty, Mr. Isakson, Mr. Otter, Mr. Gutknecht, Ms. Hart, Mr. Sessions, Mrs. Myrick, Mr. Wilson of South Carolina, Mr. Hoekstra, Mr. Manzullo, Mr. Pickering, Mr. Ryan of Ohio, Mr. Jones of North Carolina, Mr. Towns, Mr. Grijalva, Mr. Boozman, Mr. Franks of Arizona, Ms. Dunn, Mr. Moran of Kansas, Mr. Flake, Mr. Shays, Mr. Gilchrest, and Mr. Renzi):

H. Con. Res. 109. Concurrent resolution expressing the sense of the Congress regarding the Blue Star Banner and the Gold Star; to the Committee on Armed Services.

By Mr. AKIN (for himself, Mr. Goode, Mr. Bartlett of Maryland, Mr. Jones of North Carolina, Mr. King of Iowa, Mr. Hayes, Mrs. Jo Ann Davis of Virginia, Mr. Beauprez, Ms. Corrine Brown of Florida, Mr. Manzullo, Mr. Aderholt, Mr. Tiahrt, Mr. Pitts, Mr. Ryun of Kansas, Mrs. Myrick, Mr. Weldon of Florida, Mr. Bishop of Utah, Mr. Barrett of South Carolina, Mr. Miller of Florida, Ms. Ros-Lehtinen, Mr. Gingrey, Mr. Terry, and Mr. Souder):

H. Res. 153. A resolution recognizing the public need for fasting and prayer in order to secure the blessings and protection of Providence for the people of the United States and our Armed Forces during the conflict in Iraq and under the threat of terrorism at home; to the Committee on Government Reform.

By Mr. GALLEGLY:

H. Res. 154. A resolution commending the Prime Minister of Great Britain for his stalwart leadership and unwavering support of the United States in the effort to disarm Saddam Hussein of weapons of mass destruction and free the Iraqi people of the scourge of brutal dictatorship; to the Committee on International Relations.

By Mr. MEEKS of New York (for himself, Mr. Fattah, and Mr. Payne):

H. Res. 155. A resolution concerning the formation of the African Union; to the Committee on International Relations.

By Mr. ROGERS of Michigan (for himself and Mrs. Tauscher):

H. Res. 156. A resolution recognizing the goals and objectives of the Intelligent Transportation Systems Caucus; to the Committee on Transportation and Infrastructure.

By Mr. UDALL of New Mexico (for himself, Ms. Kaptur, Mr. Rohrabacher, Mr. Smith of New Jersey, and Mr. Wolf):

H. Res. 157. A resolution expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet; to the Committee on International Relations.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. Sessions.

H.R. 20: Mr. Stark, Ms. DeLauro, Mr. George Miller of California, Mr. Blumenauer, and Ms. Berkley.

H.R. 21: Mr. Platts, Mr. King of New York, and Mr. Latham.

H.R. 22: Mr. Hefley.

H.R. 33: Mr. LaTourette and Mr. Oxley.

H.R. 44: Mr. Hastings of Washington.

H.R. 73: Ms. Hart, Mr. Nadler, Mr. Weller, and Mr. Berman.

H.R. 74: Mr. Porter.

H.R. 126: Mr. Payne, Mr. Kildee, and Mr. Brown of Ohio.

H.R. 135: Mr. Isakson and Mr. Pastor.

H.R. 141: Mr. Ballenger.

H.R. 173: Mr. Kennedy of Rhode Island, Mr. Green of Wisconsin, Ms. Lofgren, Mr. Platts, Mr. Baird, Mr. Sanders, and Mr. Akin.

H.R. 217: Mrs. Kelly, Ms. Norton, and Ms. Woolsey.

H.R. 218: Mr. Smith of New Jersey, Mr. Shaw, Mr. Evans, and Mr. Feeney.

H.R. 221: Mr. Filner, Mr. Delahunt, Mr. Ackerman, Mr. Abercrombie, Mr. Engel, Ms. Kilpatrick, Mr. Lewis of Georgia, Mr. Markey, Mrs. McCarthy of New York, Mr. Meehan, Ms. Norton, Mr. Hastings of Florida, Mr. Frank of Massachusetts, Ms. Lofgren, Mrs. Maloney, Mr. Pallone, Mr. Deutsch, Mr. Holt, Mr. Wynn, Mr. Van Hollen, and Mr. Scott of Virginia.

H.R. 235: Mr. Goodlatte, Mr. Foley, Mr. Herger, Mr. Feeney, Mr. Manzullo, Mr. Weller, Mr. Brady of Texas, Mr. Lincoln Diaz-Balart of Florida, and Mr. Burgess.

H.R. 253: Mr. Petri and Mr. Frost.

H.R. 284: Mr. LoBiondo, Mr. Murphy, Mr. McHugh, Ms. Eshoo, Mr. Hayes, Mr. Hefley, and Ms. Roybal-Allard.

H.R. 286: Mr. Kolbe and Mr. Isakson.

H.R. 303: Mr. Schrock, Mr. Lucas of Oklahoma, Mr. Tauzin, Mr. Burns, and Mr. Bishop of New York.

H.R. 313: Mr. Costello and Mr. Boucher.

H.R. 328: Mr. Udall of Colorado, Mr. Nadler, Mr. Schiff, Mr. Brady of Pennsylvania, Mr. Matsui, Ms. Eddie Bernice Johnson of Texas, Ms. Schakowsky, Mr. George Miller of California, and Mr. Rogers of Michigan.

H.R. 348: Ms. Carson of Indiana, Mr. Michaud, Mr. Platts, and Mr. Jenkins.

H.R. 387: Mr. Flake.

H.R. 401: Mr. Cantor and Mr. Israel.

H.R. 412: Mr. Case, Mr. Baird, and Mr. Simpson.

H.R. 423: Mr. Hostettler.

H.R. 424: Mr. Hostettler.

H.R. 432: Mr. Davis of Illinois.

H.R. 434: Mr. Ramstad, Mr. Hostettler, Mr. Lucas of Kentucky, Mr. Hayes, and Mr. Hastings of Washington.

H.R. 450: Mr. Sanders and Mr. Tiahrt.

H.R. 466: Mr. Garrett of New Jersey, Ms. Eshoo, and Ms. DeLauro.

H.R. 489: Mr. Taylor of North Carolina and Mr. Deal of Georgia.

H.R. 495: Mr. Flake.

H.R. 501: Mr. Weldon of Pennsylvania and Mr. McIntyre.

H.R. 515: Mr. Bell.

H.R. 522: Mr. Moran of Kansas, Mr. Goodlatte, Mr. Holden, Mr. McGovern, and Mr. Tauzin.

H.R. 527: Mrs. McCarthy of New York and Mr. Isakson.

H.R. 528: Mr. Towns and Mr. Waxman.

H.R. 548: Mr. Strickland, Mr. Bradley of New Hampshire, Mr. Wamp, Mr. Barrett of South Carolina, and Mr. Rogers of Kentucky.

H.R. 568: Mr. Boehlert.

H.R. 569: Mr. Rush.

H.R. 583: Mr. Forbes, Mr. Wilson of South Carolina, Mr. Pearce, Mr. Akin, Mr. Bilirakis, Mr. Barton of Texas, Mr. Burton of Indiana, Mr. Doolittle, Mr. Hostettler, Mr. Kingston, Mr. Miller of Florida, Mr. Ney, Mr. Renzi, Mr. Rohrabacher, Mr. Terry, Mr. Tom Davis of Virginia, Mr. Tiahrt, Mr. Ryan of Wisconsin, and Mrs. Bono.

H.R. 584: Mr. LoBiondo, Mr. Stupak, and Mr. Akin.

H.R. 586: Mr. Scott of Virginia.

H.R. 612: Mr. Mario Diaz-Balart of Florida.

H.R. 613: Ms. Millender-McDonald.

H.R. 614: Ms. Millender-McDonald.

H.R. 623: Mr. Young of Alaska, and Mr. Boyd.

H.R. 648: Mr. Lewis of Kentucky.

H.R. 660: Mr. Tiberi, Mr. Weldon of Pennsylvania, Mr. Barrett of South Carolina, and Mr. Gary G. Miller of California.

H.R. 664: Mr. Wu, Ms. Solis, Mr. Berman, Mr. Honda, Mr. Rothman, and Mr. Menendez.

H.R. 668: Mr. Hoeffel.

H.R. 673: Mr. LaTourette.

H.R. 678: Mr. Ross.

H.R. 683: Mr. Israel.

H.R. 684: Mr. Hefley and Mr. Tiahrt.

H.R. 706: Mr. Nadler.

H.R. 709: Mr. Goode, Mr. Brady of Pennsylvania, Mr. Tiahrt, Mr. Young of Florida, Mr. Carson of Oklahoma, Mrs. Miller of Michigan, and Mr. Gillmor.

H.R. 715: Mr. Gordon and Mr. Conyers.

H.R. 721: Mr. Doyle and Mr. LaHood.

H.R. 735: Mr. Costello, Mr. Pastor, Mr. Bradley of New Hampshire, Mr. Baker, Mr. Kanjorski, Mr. Menendez, Mr. Andrews, Mr. Engel, and Mr. Frank of Massachusetts.

H.R. 759: Mr. Otter, Mr. Coble, and Mr. Hastings of Washington.

H.R. 765: Mr. Gordon.

H.R. 767: Mr. Houghton and Mr. Weller.

H.R. 768: Mr. Tiahrt.

H.R. 770: Mr. Rush and Mr. Ryan of Ohio.

H.R. 771: Mr. Moran of Kansas.

H.R. 775: Mr. Baker, Mr. King of Iowa, and Mr. Deal of Georgia.

H.R. 776: Mr. Wexler.

H.R. 780: Mr. Brady of Pennsylvania.

H.R. 785: Mr. Green of Wisconsin.

H.R. 786: Ms. Woolsey and Mr. Abercrombie.

H.R. 792: Mr. Murphy, Mr. Sherman, Mrs. McCarthy of New York, Mr. Hoeffel, Mr. Bartlett of Maryland, Mr. Simmons, Mr. Berman, Mr. Olver, Mr. Davis of Tennessee, and Mr. Mario Diaz-Balart of Florida.

H.R. 808: Mr. Terry, Mr. Blunt, and Mr. Weller.

H.R. 814: Mr. Pascrell, Mr. Carson of Oklahoma, Mr. Sabo, Ms. Berkley, Mr. Gutknecht, and Mr. Sullivan.

H.R. 815: Mr. Towns.

H.R. 823: Mr. Walsh, Mr. Weiner, Mr. Sanders, Mr. Schiff, and Ms. Baldwin.

H.R. 839: Mr. Foley.

H.R. 871: Mr. Oxley.

H.R. 872: Mr. Foley and Mr. Feeney.

H.R. 876: Mr. DeMint, Mr. Leach, and Mr. Shuster.

H.R. 879: Mr. Schrock and Mr. Green of Texas.

H.R. 882: Mr. Shimkus, Mr. Ramstad, and Mrs. Myrick.

H.R. 883: Mr. Boyd.

H.R. 898: Mr. Carson of Oklahoma, Mr. Miller of North Carolina, Mr. DeFazio, Mr. Faleomavaega, and Ms. Loretta Sanchez of California.

H.R. 919: Mr. Hayes, Mr. Carson of Oklahoma, Mr. Larsen of Washington, Mr. Neal of Massachusetts, Mr. Upton, Mr. Rahall, and Mr. Beauprez.

H.R. 920: Ms. Bordallo, Mr. Davis of Illinois, Mr. Lampson, Ms. Millender-McDonald, Mr. Filner, and Ms. Waters.

H.R. 931: Mr. Bonner, Mr. Rohrabacher, Mr. Wilson of South Carolina, and Mr. Weldon of Pennsylvania.

H.R. 932: Mr. Stupak, Mr. Oberstar, Ms. Norton, Mr. McHugh, Mr. Abercrombie, Mr. Scott of Virginia, Mr. Whitfield, Mr. Saxton, and Ms. Lee.

H.R. 933: Mr. Schiff.

H.R. 935: Ms. Schakowsky, Ms. Baldwin, Mr. Shays, Mr. Holt, and Mr. Frank of Massachusetts.

H.R. 936: Mr. McNulty and Mr. Waxman.

H.R. 953: Ms. Kaptur.

H.R. 961: Mr. Nussle.

H.R. 967: Mr. Case, Mr. Ackerman, Mr. Platts, and Mr. Carson of Oklahoma.

H.R. 970: Mr. Wicker, Mr. McDermott, Mr. Moran of Virginia, Mr. Frost, Mr. Murtha, Mr. Manzullo, Mr. Van Hollen, and Mr. Miller of North Carolina.

H.R. 976: Mr. Sanders.

H.R. 977: Mr. Baca.

H.R. 1007: Ms. Millender-McDonald, Ms. Lofgren, Ms. Watson, Mr. Honda, Ms. Roybal-Allard, Ms. Eshoo, Mrs. Davis of California, Ms. Woolsey, and Mr. Farr.

H.R. 1032: Mr. Camp.

H.R. 1036: Mr. Rohrabacher, Mr. Quinn, Mr. Cooper, and Mr. Gilchrest.

H.R. 1046: Mr. Wexler, Mr. Davis of Illinois, Mr. Capuano, Mr. Rahall, Mr. Hill, and Mr. Carson of Oklahoma.

H.R. 1054: Mr. Peterson of Minnesota.

H.R. 1057: Mr. Mario Diaz-Balart of Florida, Ms. Loretta Sanchez of California, Mr. Hobson, and Mr. Bishop of New York.

H.R. 1063: Mr. Cunningham and Mr. Souder.

H.R. 1066: Mr. Stark.

H.R. 1068: Mr. Platts, Mr. Filner, Mr. Bell, Mr. Deal of Georgia, Mr. Ramstad, and Mr. Gutknecht.

H.R. 1070: Mr. Brown of Ohio, Mr. Beauprez, and Ms. Ginny Brown-Waite of Florida.

H.R. 1072: Mr. Hefley, Mr. Foley, and Mr. Culberson.

H.R. 1077: Mr. Schiff.

H.R. 1085: Mr. Burgess.

H.R. 1098: Mr. Gibbons.

H.R. 1105: Mr. McGovern.

H.R. 1110: Mr. Etheridge and Mr. Lucas of Kentucky.

H.R. 1115: Mr. Flake.

H.R. 1118: Mr. Ross, Ms. Berkley, and Mr. Sullivan.

H.R. 1136: Mr. Baird.

H.R. 1157: Mr. Delahunt, Mr. Brown of Ohio, Mr. Bartlett of Maryland, Mr. Lantos, and Mr. Kildee.

H.R. 1170: Mr. Lewis of Kentucky.

H.R. 1177: Ms. Ginny Brown-Waite of Florida and Mr. Reynolds.

H.R. 1185: Ms. Norton and Mr. Frost.

H.R. 1213: Mr. Doyle.

H.R. 1225: Mr. Sessions, Mr. Toomey, Mr. Hastings of Florida, Mr. Boucher, Mr. Jefferson, Mr. Israel, Mr. Scott of Georgia, Mr. Duncan, Mr. Pastor, Mr. Lewis of Kentucky, Mrs. Capito, Ms. Berkley, Mr. LaTourette, and Mr. Ballenger.

H.R. 1227: Mr. Barton of Texas.

H.R. 1234: Mr. Souder.

H.R. 1236: Mr. Bradley of New Hampshire.

H.R. 1240: Mr. Nadler and Mr. McGovern.

H.R. 1241: Mr. Berman.

H.R. 1242: Ms. Corrine Brown of Florida, Mr. Hinchey, Mr. Frost, Mr. Capuano, Ms. Woolsey, Mr. Grijalva. Ms. Millender-McDonald, Ms. Schakowsky, and Ms. Jackson-Lee of Texas.

H.R. 1246: Ms. Lee, and Ms. Norton.

H.R. 1252: Mr. Doolittle, Mr. Paul, Mrs. Musgrave, and Mr. Taylor of North Carolina.

H.R. 1260: Mr. Otter.

H.R. 1264: Ms. Roybal-Allard, Mr. Reyes, Ms. Velázquez, Mr. Hinojosa, Mr. Pastor, Mr. Grijalva, Ms. Linda T. Sánchez of California, Mr. Becerra, and Mr. Costello.

H.R. 1266: Mr. Ehlers.

H.R. 1267: Mr. Nadler, Mr. Berman, Mr. Sanders, Mr. Towns, Mr. Israel, and Mr. Acevedo-Vilá.

H.R. 1270: Mr. Deal of Georgia.

H.R. 1282: Mr. Israel, Mr. Abercrombie, Mr. Weiner, Mr. Barton of Texas, and Mr. Andrews.

H.R. 1288: Mrs. Christensen, Mr. Goodlatte, Mr. Hefley, Mr. Tiberi, Mr. Smith of New Jersey, Mr. Schiff, Mr. Jones of North Carolina, Mr. Ackerman, Mr. Nadler, Mr. Duncan, Mrs. Jo Ann Davis of Virginia, Mr. Mica, Mr. Costello, and Mr. Gordon.

H.R. 1294: Mr. Kildee and Mr. Grijalva.

H.R. 1313: Mr. Case.

H.R. 1337: Mr. Towns and Mr. Wynn.

H.R. 1343: Mr. Baird and Ms. Eddie Bernice Johnson of Texas.

H.R. 1357: Mr. Gutierrez and Ms. Kaptur.

H.J. Res. 4: Mr. Murphy.

H.J. Res. 28: Mr. Cummings, Mr. Conyers, Mr. Watt, Mr. Rush, and Mr. Kucinich.

H.J. Res. 29: Mr. Cummings and Mr. Watt.

H.J. Res. 30: Mr. Cummings, Mr. Deutsch, Mr. Watt, Mrs. Christensen, Mr. Rush, Ms. Schakowsky, Mr. Conyers, Mr. Grijalva, Mr. Kucinich, and Ms. Lee.

H. Con. Res. 37: Mr. Tom Davis of Virginia.

H. Con. Res. 50: Mr. Akin and Mrs. Jo Ann Davis of Virginia.

H. Con. Res. 59: Mr. Davis of Alabama.

H. Con. Res. 80: Mr. Brown of Ohio and Mr. McNulty.

H. Con. Res. 86: Mr. Honda, Mr. Delahunt, Mr. Pallone, Mr. Sabo, and Mr. McNulty.

H. Con. Res. 98: Mr. Wexler, Mr. Sessions, Mr. McNulty, Mr. Deutsch, Ms. Carson of Indiana, and Mr. Souder.

H. Res. 21: Mr. Bishop of New York, Mr. Evans, Mr. Matsui, Ms. Loretta Sanchez of California, Mr. Kennedy of Rhode Island, Mrs. Napolitano, Mr. Brady of Pennsylvania, Mr. Lantos, Mr. Case, Mr. Reyes, and Mr. Sherman.

H. Res. 49: Mr. Kirk, Mr. English, Mr. Carter, and Ms. Schakowsky.

H. Res. 59: Mr. Blunt.

H. Res. 108: Mr. Foley and Mr. Baird.

H. Res. 113: Mr. Terry.

H. Res. 118: Mr. Sessions, Ms. Baldwin, Mrs. Myrick, Ms. Ginny Brown-Waite of Florida, and Ms. DeLauro.

H. Res. 121: Mr. Dingell.

H. Res. 133: Mr. Miller of Florida.

# SENATE—*Thursday, March 20, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Charles V. Antonicelli, St. Joseph's Church on Capitol Hill, Washington, DC.

## PRAYER

The guest Chaplain offered the following prayer:

Lord God of power and might, we praise You this day for the life You have given us.

In these difficult days we ask for Your guidance and protection, dear Lord. In a special way, we ask You to protect the men and women of our Armed Forces. Keep them safe from harm and return them to us safely.

In the words of Psalm 40 we pray, "Lord, graciously rescue me! Come quickly to help me, Lord! Put to shame and confound all who seek to take my life. Turn back in disgrace those who desire my ruin. But may all who seek You rejoice and be glad in You."

Heavenly Father, we ask Your blessing on the women and men of this Senate as they are called upon to make difficult decisions which affect many lives. Grant them Your wisdom and compassion.

We ask this in Your holy name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 20, 2003.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. JOHN E. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

## SCHEDULE

Mr. FRIST. Mr. President, the Senate will resume consideration of S. Con. Res. 23, the concurrent budget resolution this morning, with a total of 14½ hours left for debate on the resolution, 6½ hours remaining under the control of the chairman of the Budget Committee and 8 hours remaining under the control of the ranking member.

In view of the military action taking place in Iraq, the Senate will consider today a resolution of support for President Bush and the troops. The final wording on the resolution itself is being worked out by Members on both sides of the aisle.

I had an opportunity to talk to the majority leader a few minutes ago and we discussed the wording of the resolution. By late this morning or early afternoon the specific wording will be worked out.

I envision sufficient time for Senators to speak. A number of Senators have expressed their desire to speak in support of our troops, and we will accommodate that. Senators will be advised as to the time for this discussion and debate as well as when the vote on the resolution of support will take place later this morning or early afternoon after we have had a time for Members on both sides of the aisle to discuss the appropriate timing for that.

Both today and tomorrow will be very busy. We will complete action on the budget resolution this week. In order to provide adequate time for people to both express their support and at the same time finish the budget resolution this week, we will be in very late tonight, and I would assume tomorrow, and late tomorrow night, and possibly go into Saturday. Again, we will finish the budget resolution this week.

There are currently three amendments pending: The Kyl amendment regarding the estate tax, the Durbin amendment regarding a prescription drug benefit, and the Rockefeller and Collins amendment regarding aid to States. Under the previous order, the votes on these amendments will be stacked to occur at 4 o'clock today. Those votes will be the first votes today. There may be other votes stacked as well depending on what amendments are offered over the course of the morning.

We were here late last tonight. Again, I make the appeal that people file their amendments and talk to the chairman and ranking member, the managers of this important piece of legislation, so we can progress within the time elements that have been laid out, the 14½ hours remaining for debate on the resolution.

Mr. NICKLES. Will the majority leader yield?

Mr. FRIST. Yes, indeed.

Mr. NICKLES. I concur with what the leader said and also with my colleagues both from Nevada and North Dakota. I encourage colleagues if they do have amendments to please share those with us. We have three amendments in the queue. We are happy to look at amendments. We may be able to accept some amendments. We may want some modifications and may want to have some substitutes. However, I would like to avoid, if possible, the vote-arama. I don't think it makes the Senate look very good. There are 14½ hours remaining on the resolution. I would like people to have a chance to be able to debate their amendment. Even so, I encourage Senators, if they have amendments, let us look at them before they send their amendments to the desk. We want to be able to look at those amendments on both sides. I encourage colleagues on this side, if they have amendments, the Senator from North Dakota is entitled to look at those amendments. But they can have a chance to debate those amendments, have some debate time throughout the day. I expect we will have a lot of votes today and a lot of votes tomorrow. Colleagues should be aware. Also, they should be prepared, if necessary, to stay on Saturday for a lot of votes. I hope and expect we could conclude either very late tonight or sometime tomorrow but, if necessary, on Saturday.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I say to the majority leader, I think it is inappropriate to proceed with business as usual when a war has begun. That sends the wrong message to the country. It is not what the Senate should be doing.

I am the ranking member of the Budget Committee and I would very much, just as the chairman, like to complete work on the budget resolution quickly. But I have to say that I don't think that is the priority at this moment. At this moment, I think the Senate ought to be talking about

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

events that are unfolding half the world away that have our young men and women at risk and that have us engaged in a military conflict that is enormously consequential to the fight of this Nation.

I understand the resolution is not yet ready. So I think for some time this morning we could be on the schedule we agreed to last night. But I think after that time, to just proceed with debating the budget and talking about pay-go and talking about this amendment and that amendment is going to look awfully strange to the American people when our troops are engaged in battle.

Mr. FRIST. Mr. President, we do have a challenge but we have a challenge to pay appropriate respect for our troops and that is the purpose of having a resolution, which is a joint resolution, for which I pray and hope we have 100-percent support.

During debate on that resolution, I want to give everyone the opportunity to express that support, although I will also say whatever happens over the next several days, and it is likely to go on through next week, there will be ample opportunity, I believe—and I will make ample opportunity over the ensuing weeks—for people to express support.

We have a challenge now that we will finish the budget resolution this week. So we have the budget resolution and we will have this resolution of support and we will be able to do both. I think the budget is very important—how all taxpayer dollars are spent for military, for defense, for homeland security, for education, for health care. That is our responsibility. We have people listening right now, people are at work, working in convenience stores, they are working in banks, they are showing up for work, and there are reporters outside. The Nation's business must keep going.

Our responsibility as Senators is to develop a budget that gives some priorities. We have done a good job to date. To walk away from that responsibility at this point is simply irresponsible. That is why, as majority leader, I say we are going to stay here and we are going to do the Nation's business. That is our responsibility and you will see that fulfilled. We do have the challenge of being able to do both.

I look forward to working with the minority leader and the managers of this particular bill to be able to accomplish that. I am confident we will be able to do that. We have been working on the resolution in support of our troops for several days with the minority leader's staff. We have made real progress. It expresses strong support, I believe, and the sense of this body. We will look forward, hopefully this afternoon, to bringing that to the floor and being able to give that opportunity for people to speak.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. Con. Res. 23, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 23) setting forth the congressional budget for the U.S. Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

Pending:

Kyl modified amendment No. 288, to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

Dorgan amendment No. 294, to provide a meaningful prescription drug benefit in Medicare that is available to all beneficiaries.

Rockefeller amendment No. 275, to express the sense of the Senate concerning State fiscal relief.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like the attention of the majority leader, if I could, before he leaves the floor, to say to him nobody is suggesting we walk away from our responsibility to do the budget. But the fact is, that does not have to be done today or tomorrow. We have plenty of time before the budget deadline is reached. That is not until the middle of April.

When we talk about responsibility here, we have no higher responsibility than the defense of this Nation. I tell you, the thing that is on the minds of my constituents, the thing that is on the minds of virtually every American, is not the budget resolution. The thing that is on the minds of the American people today is the fact that we have a quarter of a million troops engaged in a battle that is incredibly consequential to this Nation. I wish to register my strong disagreement with business as usual in the Senate when we are at war.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, let me respond and say there is a difference, I believe, in that I believe we express strong support for our troops, for our Commander in Chief especially; that we can do that and at the same time carry on our responsibility. It is a difference in approach. I guess that is why the last Congress, under other leadership, failed to pass a budget. Look where it got us—where the first 40 days of this particular Congress, we had to clean up a process which was left because of that same prioritization, that a budget is not important. We believe that a budget is important, that it prioritizes the needs of defense, of health care, of education. Thus, under this leadership, we are going to proceed with the budget. We are going to pass that budget resolution. We are not going to delay. Now I am beginning to sense a little bit that we want to delay the budget, put it off a week, a month, a year, or maybe into the next Congress. It is simply not going to happen. We are going to proceed. We have 14½ hours on this budget. We are not going to pay respect to the fact that some people say the budget is just not important now. We believe that budget is important.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, there is no suggestion from this Senator that the budget is not important. I believe it is critically important. Harking back to last year has no relevance to this moment. We are at war, and to spend time in the Senate today on something other than that strikes me as wholly inappropriate.

We are not talking about not getting to the budget. Nobody wants a budget resolution, I think, any more than this Senator. I have spent my entire career in the Senate on the Budget Committee. I want a budget resolution. We are at war and here we are talking about pay-go.

Virtually every American is rivetted on what is happening to this Nation on the brink of conflict. In fact, we are beyond the brink. It started last night. Our President addressed the Nation at 10:15 last night.

I hope there is a reconsideration because this Senator is going to be extraordinarily disappointed in this Chamber if we are conducting business as usual while this Nation is going to war.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CONRAD. I yield time to Senator REID.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, my concern is this: First, understand, I was the first Democrat to break ranks with the majority at that time to support the first President Bush. I voted this time to support President Bush. I have said good things about the President. I have done my very best to work this budget resolution through.

But I would say to my friend and anyone who is listening—the majority leader has left—it appears to me—and I want the Senator from North Dakota to listen to this—it appears to me that maybe there is a rush to go through the budget because maybe people are going to start asking questions about how much this war is costing. There is not a single penny in this budget that deals with the war, not a penny. Do you think that might be one reason for rushing through this budget? Don't you think we should know the cost of the war?

I will bet right now they have prepared, at the White House, a supplemental emergency appropriations bill for tens of billions of dollars. I have heard it is $100 billion. Yet we are marching through with the tax cuts to satisfy the wealthy of this country. That is what this budget thing is all about. That is why we are going to work Fridays and Saturdays. I am happy to work Friday and Saturday. I will put my credentials up against anyone as far as moving legislation, including this budget bill. But I ask a question to the ranking member of the Budget Committee: Is there one dollar in this budget that reflects the cost of the war that is going on as we speak?

Before I came here, I watched on television an aircraft carrier. Planes were being catapulted off it, then dropping bombs. Do we know how much that costs? Do we know how much the reconstruction of Iraq is going to cost? Is there a penny in this budget that reflects that?

Mr. CONRAD. The Senator asked the question. There is no money. As the Senator knows, there is no money in this budget for the conflict. There is no money in this budget for the occupation. There is no money in this budget for the reconstruction. There is no money in this budget for humanitarian assistance.

But I think there is a larger question. That is, our troops are now engaged. For us to conduct business as usual here just strikes me as totally and wholly inappropriate.

I am the ranking member of the Budget Committee. I have been there my entire time in the Senate. I am in my 17th year. For us not to be discussing our Nation at war has the priorities all wrong. Yes, the budget is important. Yes, we ought to do a budget resolution. But we have lots of time to accomplish that. We can do that next week. We completed most of the debate on the budget already, but, unfortunately, a big chunk is missing.

If we want to talk about supporting the troops in the field, we ought to do it tangibly by putting dollars in the budget. There aren't any.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I yield.

Mr. REID. Is the Senator telling me and anyone within the sound of my voice that in this huge budget that is now before the Senate, that has tax cuts over $1 trillion over the next 10 years, for the war in Iraq that is now going on there is not a penny of money for the war in this budget?

Mr. CONRAD. There is not a penny. We have been told the reason there is not a penny is that when the budget was done, operations had not commenced. Well, operations have commenced. The President spoke to the Nation last night and made clear that we are at war.

I hope cooler heads are going to prevail. We need to think very carefully about what we do as an institution when we have a quarter of a million Americans' lives on the line.

What should be the discussion in this Chamber? Should it be the pay-go provisions of the budget? Should it be the reconciliation instructions in the budget resolution? Or should it be the question of war and peace? Should it be the question of supporting our troops in the field? Should it be a question of sending a clear message that our country is united behind our forces, no matter what our positions were on the wisdom of engaging in this conflict? That ought to be the priority we discuss.

I must say I think this is an extraordinary moment, that the suggestion is we just have business as usual in the Senate. I find it totally and wholly inappropriate.

Mr. REID. Could I ask the ranking member of the committee another question? The Senator has stated on at least two occasions this morning that there is not 5 cents in this budget to support the troops for the war that is going on in Iraq. Now we have heard statements for months about we are there to free the Iraqi people, and that we are going to supply food and medicine and everything else necessary to take care of the reconstruction of the country of Iraq. The Senator has heard those questions, has he not?

Mr. CONRAD. Yes.

Mr. REID. Would it not seem to the Senator, as it does to me, that in preparation for reconstructing Iraq there must be some budget numbers floating around down at the White House someplace? Would you think that is a fair statement?

Mr. CONRAD. We know there are. We know there are estimates of $65 to $95 billion.

Mr. REID. Is there one penny in this budget dealing with the reconstruction of Iraq?

Mr. CONRAD. No, there is nothing for reconstruction. There is nothing for the conflict. There is nothing for any part of it.

Let me say this for the Senator, if I could. We have been told a budget request will come next week for that. That is fine. It just seems to me it ought to be part of the budget. It is an odd circumstance to do a budget but leave a big part of the expenditures out of that budget. But what strikes me even more dramatically, much more dramatically than that, is we are not discussing our troops in the field. We are not discussing the fact we have gone to war.

Now, goodness, the budget is important, but it is not the thing that is on the minds of the American people this morning. What is on the minds of the American people this morning is this Chamber sending a signal of support for our forces. They have been ordered to go into harm's way. We have an obligation to send a signal that we back them. Whatever our position is on the wisdom of this course, that is not the point at the moment. The point at the moment ought to be we support our forces in the field. That ought to be the discussion that is going on in this Chamber, not a discussion of pay-go or reconciliation. That is not to say we don't go to the budget quickly and in a timely way. Absolutely. But goodness—

Mr. REID. Will the Senator yield.

Mr. CONRAD. Yes.

Mr. REID. The Senator from Nevada has the largest military airplane fighter training facility for the Air Force in the world, Nellis Air Force Base, with 10,000 people stationed there. I have been there. I have talked to the commanding general of this large force. Hundreds and hundreds of people have left Nellis for the Middle East. People have trained there. They have families in Nevada. Their kids go to school in Nevada. Fallon, 400 miles away, is a very large naval air training center, Fallon Naval Air Station. And there it is the same thing—Top Gun is there. Hundreds and hundreds of people from Fallon are now in the Middle East. That aircraft carrier I watched before I came in here—I can almost guarantee you those people taking off in those airplanes were trained at Fallon. They also have children going to school in Churchill County. They also have wives and husbands who are there waiting for their return.

In addition to that, we have a very large ammunition depot at Hawthorne and it has gotten real busy because they are bringing ammunition out of there, hauling it to the Middle East. In addition to that, we have large Guard and Reserve components. We have over 1,000 Guard and Reserve people who have been called up and are gone. Their families are gone. Some of them don't know how they are going to make the rental payments, their house payments. What I hear from the Senator from North Dakota is that maybe the Senator from Nevada sometime during the day should give a speech talking about the people in Nevada who have sacrificed to protect my freedom, my family's freedom. Is that what the Senator is saying?

Mr. CONRAD. I think if we would look back in the history of this Chamber, when America goes to war, the Senate turns its attention to that fact, that confrontation, and sends a signal of our support for the troops in the field. That is just the most basic, I would say, of values, that that is what we should be talking about. That is what we should be discussing, and the budget we can talk about later. We can talk about it tomorrow or the next day. But today we ought to be talking about what is going on, what is on the minds of the American people.

I urge my colleagues—I know the leader indicated we would go to a resolution at some point today. That is fine. I would just hope we would go to morning business so people could have a chance to discuss their feelings about our troops in the field.

The Senator has indicated he has large bases in his State. I have large bases in mine. Minot Air Force Base, home to our B–52s, one of just two B–52 bases in the country, Grand Forks Air Force Base, one of the three core tanker bases for the United States, those are the places that are providing the air bridge to Iraq half a world away. We have thousands of troops engaged from North Dakota. We have large components of our National Guard which have been called up as well.

I tell you, I just don't feel comfortable, honestly, talking about the budget on this day at this moment.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

The ACTING PRESIDENT pro tempore. Does the Senator yield?

Mr. CONRAD. The Senator from New York is here. He has an amendment that is relevant to the question, the matter of homeland security. I will yield—how much time does the Senator seek?

Mr. SCHUMER. I would say 30 minutes.

Mr. CONRAD. I yield 30 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 30 minutes.

AMENDMENT NO. 299

Mr. SCHUMER. Mr. President, before I begin, I ask unanimous consent that the pending amendments be set aside and I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and others, proposes an amendment numbered 299.

Mr. SCHUMER. I ask unanimous consent the amendment be considered as read.

Mr. NICKLES. I object.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Yes.

Mr. NICKLES. I object.

Mr. REID. I say to my friend, he has been told not to offer the amendment.

Mr. SCHUMER. I could not hear the Senator.

Mr. REID. There was no one from the majority on the floor when the Senator offered his amendment.

Mr. NICKLES. For the information of my colleague from New York, we would be happy to have——

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleague, it takes unanimous consent. We have amendments that are pending, so we have to set those amendments aside. We wish to review amendments before we do that. I am happy to have my colleague from New York begin discussing his amendment. We will review the amendment at some point. I am sure we will be happy to have the amendment sent to the desk—just not yet.

Mr. SCHUMER. Then I would imagine that we just—the chairman of the Budget Committee was off the floor. We had gotten unanimous consent to put this amendment forward. I take it we should just speak on the amendment.

Mr. NICKLES. Mr. President, I do not believe the amendment should be pending.

The ACTING PRESIDENT pro tempore. The amendment has been laid down.

Mr. NICKLES. I ask unanimous consent the amendment be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. I say to my colleague from New York again, just to make sure we understand, we are trying to respect each other as far as management of the bill. I will be happy to work with the Senator on the amendment. I thank my colleague.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from New York.

Mr. SCHUMER. I thank the Chair. This amendment is relevant, of course, to our new circumstances since last night, but I would just want to address my colleagues in the Senate on the circumstances of last night for a few minutes before getting to the amendment, because the President spoke to the American people. He said hostilities are commenced.

I would just leave three thoughts as we begin on the era of this war. First is a prayer.

First, Mr. President, as I listened to the chaplain from St. Joseph's give the prayer and we said the pledge, I think every one of us who was here felt a renewed depth and meaning to both the prayer and the pledge, given the times we are in.

I would like to just add my prayer. My prayer is a simple one: It is that our military action is swift and decisive, with a minimum of casualties, both military and civilian. And my prayer, of course, goes to the soldiers, first and foremost, who are now in the Iraqi theater. They are continuing a grand American tradition, a tradition where civilians have laid down their jobs and then defended this country when the Commander in Chief thought they should.

I have been to several of the debarkation ceremonies at Fort Drum and Canandaigua, on Long Island, as soldiers have boarded planes to go over to the Middle East. Because so many of our soldiers are now reservists and Army National Guard, they are a little older. They are every bit as trained and seasoned as the enlisted men and women, and I know our generals have complete confidence in them, as I do.

But you see them with their families—not only with their parents, whom we have always seen with our soldiers, but in much greater frequency with their husbands and wives and their children. And we know the butterflies that are in all the stomachs as they prepare to leave. I look in their faces as they leave, and I am humbled and proud of them. My prayers are with them. We all pray for them.

Again, we pray that the military action is swift and decisive and there be very few casualties, both military and civilian. The military, of course, I have spoken of. But I pray there are few civilian casualties. The war we are waging is not a war against the Iraqi people. It is a war aimed at the leadership of Iraq. The average Iraqi citizens—a husband or a wife, a mother or a father, a child, a son or a daughter—have the same loves and cares and worries in many ways that all the rest of the citizens of the world have. We pray that the number of casualties among the civilians is small.

So that is the prayer of which the guest Chaplain from St. Peter's reminded me.

Then we said the pledge to the flag. Our flag is a flag of unity. Now is the time for unity, for all of us to back our soldiers. There have been many different views held, with great passion, on what we should do in Iraq; there is no question about that. Every one of us here, on both sides of the aisle, might have scripted things differently. I, for one, have said I hoped we could get more international support. But if every one of us just said, "Only our plan, or nothing," we would be paralyzed. I believe Saddam Hussein has to be disarmed and removed from power. That is why I supported the President in his resolution. Now I believe is a time for unity. Now is a time for us to be backing up our troops. Now is a time that the President becomes Commander in Chief and that unity is called for.

I just add one caveat: Freedom is what we are fighting for. Not everyone will feel the call for unity that I think is incumbent upon all of us in this body as leaders of this country, and some will continue to dissent. I hope we respect that dissent. In my State, there are many people whose views are heartfelt. They are different from mine. They are different from yours. They are probably different from the views of most of us in this Chamber. And the right to dissent is what we are fighting for. It is part of this tradition. I hope we are mindful of that, as well.

Then one other thought. As I said, I pray that the military action is swift and decisive and that our victory comes quickly. Let us hope we can sow a wise peace in Iraq as well. Let us hope there can be a democratic Iraq despite the fact there are so many ethnic divisions. Let us hope we can bring democracy to the Middle East, a place starved for freedom, a place starved for individual choice, a place starved for prosperity.

Let us hope the people of the Middle East, the Iraqi people, like everyone else, want to bring stability and a good life to them and their families. The beauty of a democracy is that you can strive to help your family and help yourself and at the same time you help the whole country. Unfortunately, the peoples of the Middle East—many of them—have not been fed a diet of food, clothing, and shelter but have been fed a diet of propaganda and hatred, which dictators often use to feed their people when they cannot provide a system of freedom, democratically and economically, that provides food. Let's hope that can change as well.

So, Mr. President, we are in a new era. I realized this in my city from the time 9/11 happened. I put this flag on, on 9/12, in memory of all those who were then missing and the thousands who proved to be lost, gone. I met their families. I just met with some yesterday. I know the holes in their hearts, the sadness, frustration, and anger they feel. But we cannot forget them. We cannot forget what happened.

I will wear this flag, God willing, this very one, every day for the rest of my life to think of them, to remind me that whatever our views here are, we have to do something to stop the scourge of terrorism, which will grow and grow and grow if we do nothing.

Now, on to the amendment I would like to discuss, I realize it is not pending before us, but it is a relevant amendment. I, like my colleague from North Dakota, like my colleague from Nevada, hope we will have a full discussion about supporting our troops and the impending war. I have had an opportunity to express some of my views. I have limited them because I know the leadership wants to move forward, at least at this point, with this amendment. But this amendment at least has some relevance.

The amendment is one that deals with homeland security. It is an amendment that deals, in my judgment at least, with an unfulfilled need in the budget, the need to protect our homeland.

The whole world has changed since 9/11. We know that. We all have different views, again, as to how we ought to adapt to that change, but we cannot just ignore it. I think that is clear. History teaches us that.

One of the things we have to learn and adjust to do is protect our homeland. You cannot win the war on terror, in my opinion, with just an offense; you need a defense. Like any good sports team, like, say, the Syracuse Orangemen, who are playing in the NCAA, you need a good offense and a good defense.

There has been a great deal of focus on the offense. I do not think there has been enough focus on the defense because terrorists, unfortunately, are going to be with us for a while. The new technology that has blessed our lives and changed our country, that has created a lot of the prosperity we have seen in the last few decades, has an evil underside, and that is that small groups of bad people can use that technology to do huge damage in our homeland, damage we never imagined could be done until 2 years ago. That fact is going to be with us not just for 2 or 3 years, it is going to be with us for decades. And even if, God willing, we were to get rid of al-Qaida, and get rid of Saddam and his cronies who lead Iraq right now, there will be new terrorists who will come up.

We have to protect our homeland. The odds are we will not be able to catch up to every new terrorist group that starts. The sad fact is, you can be in a cave anywhere in this world and if you have a wireless connection to the Internet, you can learn a whole lot about America. Then even a small group united together can do real damage here. So we have to look at every one of our weak pressure points and tighten them up.

You can't just be content to fight a war overseas. To preserve and to protect our country, we must protect it at home. We have to try to think ahead of the terrorists. We have to try to think where they will hit us so that we can prevent that from happening. The list is a long one. There are probably places that no one has even thought of that we are weak in and where we need protection. But we have to do it.

I make one other point. We can't delay. It is a huge undertaking. That is true. The terrorists will look to our weaknesses. That is true. If we strengthen air security, they will look to rail. If we strengthen rail security, they will look to ports. If we deal with bioterrorism, they will look at cyberterrorism. Because of the information revolution, they have access to everything about America. It is all on the Internet. We will not stop the Internet. So we have to tighten up, and tightening up costs money.

This budget does not acknowledge that reality. That is the fundamental problem. I am honored and privileged to introduce this amendment with my colleague from New York, as well as the help of the ranking member of the Budget Committee, Senator CONRAD, our minority leader Senator DASCHLE, Senator LIEBERMAN, and Senator BYRD. A large number of our Democratic caucus participated in crafting it.

This budget resolution is the first step, but we are going to continue to fight on the supplemental appropriation that comes up and throughout the year because we believe homeland security is an imperative for America. We believe we have to do something about it, and we can't wait. The horrible feeling that so many of us had on September 12, mostly for the loss and the danger and damage, but also it already came into our minds, what if we had done this, what if we had done that? As we learned more, there were lots more what ifs that were asked. We don't want a second terrorist incident to occur and we are saying "what if" again. This amendment is intended to make the likelihood of those what ifs much lower. It is an attempt to diminish it.

Let me explain what the amendment does. It provides an additional $88 billion for fiscal years 2003 to 2013 for homeland security over and above the current proposed 2004 budget, including $5 billion in the immediate 2003 funding for first responders, port, border, and transportation security. That is a limited amount of money, but remember we only have half a year left. We don't want to waste money. We want it spent wisely. We thought this was about the maximum amount in this fiscal year, where everything is just getting started up in homeland security, that people could use.

For 2004, the proposed budget would spend about $380 billion on defense—I support that, I support our troops—but we are only spending $37.7 billion on homeland security. We can do better than that. We should do better. I hope this amendment will be a bipartisan one in that regard. It is fully offset, and it provides a little deficit reduction as well.

Mr. NICKLES. Will the Senator yield?

Mr. SCHUMER. I am happy to yield to my colleague for the purpose of a question.

Mr. NICKLES. How much of an increase did you have in 2004? I heard $88 billion over the life of the bill.

Mr. SCHUMER. In 2003, it is $5 billion. In 2004, it is approximately 6.5.

Mr. NICKLES. I have no objection to my colleague sending the amendment to the desk.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the amendment be sent to the desk.

Mr. NICKLES. To further clarify for all of our colleagues, we wish to review amendments. That was the problem. I appreciate the cooperation of my colleague.

Mr. SCHUMER. I thank my friend from Oklahoma. I know that is what he wanted to do. We had brought it to the desk, and I had asked unanimous consent because I thought they had seen it and approved it. I appreciate that.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mrs. CLINTON, Mr. DASCHLE, Mr. FEINGOLD, Mr. LEAHY, Mr. BINGAMAN, Mrs. MURRAY, Mr. LIEBERMAN, Mr. KENNEDY, and Mr. LAUTENBERG, proposes an amendment numbered 299.

The amendment is as follows:

(Purpose: To provide immediate assistance to meet pressing homeland security needs by providing funding in 2003 for first responders, port security, bioterrorism preparedness and prevention, border security and transit security, the FBI; to restore the elimination of funding of the COPS program, firefighter equipment grants, Byrne Grants and Local Law enforcement grants; to provide a sustained commitment of resources for homeland security needs without reducing funding to other key domestic law enforcement and public safety priorities; and to reduce the deficit)

On page 3 line 9, increase the amount by $3,643,000,000.

On page 3 line 10, increase the amount by $8,681,000,000.

On page 3 line 11, increase the amount by $13,500,000,000.

On page 3 line 12, increase the amount by $14,996,000,000.

On page 3 line 13, increase the amount by $15,892,000,000.

On page 3 line 14, increase the amount by $16,602,000,000.

On page 3 line 15, increase the amount by $16,769,000,000.

On page 3 line 16, increase the amount by $16,853,000,000.

On page 3 line 17, increase the amount by $16,993,000,000.

On page 3 line 18, increase the amount by $17,268,000,000.

On page 3 line 19, increase the amount by $17,314,000,000.

On page 3 line 23, increase the amount by $3,643,000,000.

On page 4 line 1, increase the amount by $8,681,000,000.

On page 4 line 2, increase the amount by $13,500,000,000.

On page 4 line 3, increase the amount by $14,996,000,000.

On page 4 line 4, increase the amount by $15,892,000,000.

On page 4 line 5, increase the amount by $16,602,000,000.

On page 4 line 6, increase the amount by $16,769,000,000.

On page 4 line 7, increase the amount by $16,853,000,000.

On page 4 line 8, increase the amount by $16,993,000,000.

On page 4 line 9, increase the amount by $17,268,000,000.

On page 4 line 10, increase the amount by $17,314,000,000.

On page 4 line 14, increase the amount by $4,987,000,000.

On page 4 line 15, increase the amount by $6,395,000,000.

On page 4 line 16, increase the amount by $8,189,000,000.

On page 4 line 17, increase the amount by $7,316,000,000.

On page 4 line 18, increase the amount by $7,902,000,000.

On page 4 line 19, increase the amount by $6,425,000,000.

On page 4 line 20, increase the amount by $5,927,000,000.

On page 4 line 21, increase the amount by $5,498,000,000.

On page 4 line 22, increase the amount by $5,090,000,000.

On page 4 line 23, increase the amount by $4,344,000,000.

On page 4 line 24, increase the amount by $3,480,000,000.

On page 5 line 4, increase the amount by $1,809,000,000.

On page 5 line 5, increase the amount by $4,210,000,000.

On page 5 line 6, increase the amount by $6,298,000,000.

On page 5 line 7 increase the amount by $6,610,000,000.

On page 5 line 8, increase the amount by $6,577,000,000.

On page 5 line 9, increase the amount by $6,410,000,000.

On page 5 line 10, increase the amount by $5,932,000,000.

On page 5 line 11, increase the amount by $5,382,000,000.

On page 5 line 12, increase the amount by $4,827,000,000.

On page 5 line 13, increase the amount by $4,302,000,000.

On page 5 line 14, increase the amount by $3,618,000,000.

On page 5 line 17, increase the amount by $1,834,000,000.

On page 5 line 18, increase the amount by $4,471,000,000.

On page 5 line 19, increase the amount by $7,202,000,000.

On page 5 line 20, increase the amount by $8,386,000,000.

On page 5 line 21, increase the amount by $9,315,000,000.

On page 5 line 22, increase the amount by $10,192,000,000.

On page 5 line 23, increase the amount by $10,837,000,000.

On page 5 line 24, increase the amount by $11,471,000,000.

On page 5 line 25, increase the amount by $12,166,000,000.

On page 6 line 1, increase the amount by $12,966,000,000.

On page 6 line 2, increase the amount by $13,696,000,000.

On page 6 line 5, decrease the amount by $1,834,000,000.

On page 6 line 6, decrease the amount by $6,306,000,000.

On page 6 line 7, decrease the amount by $13,508,000,000.

On page 6 line 8, decrease the amount by $21,894,000,000.

On page 6 line 8, decrease the amount by $31,209,000,000.

On page 6 line 10, decrease the amount by $41,401,000,000.

On page 6 line 11, decrease the amount by $52,238,000,000.

On page 6 line 12, decrease the amount by $63,708,000,000.

On page 6 line 13, decrease the amount by $75,874,000,000.

On page 6 line 14, decrease the amount by $88,840,000,000.

On page 6 line 15, decrease the amount by $102,536,000,000.

On page 6 line 18, decrease the amount by $1,834,000,000.

On page 6 line 19, decrease the amount by $6,306,000,000.

On page 6 line 20, decrease the amount by $13,508,000,000.

On page 6 line 21, decrease the amount by $21,894,000,000.

On page 6 line 22, decrease the amount by $31,209,000,000.

On page 6 line 23, decrease the amount by $41,401,000,000.

On page 6 line 24, decrease the amount by $52,238,000,000.

On page 6 line 25, decrease the amount by $63,708,000,000.

On page 7 line 1, decrease the amount by $75,874,000,000.

On page 7 line 2, decrease the amount by $88,840,000,000.

On page 7 line 3, decrease the amount by $102,536,000,000.

On page 21 line 19, increase the amount by $550,000,000.

On page 21 line 20, increase the amount by $139,000,000.

On page 21 line 23, increase the amount by $1,125,000,000.

On page 21 line 24, increase the amount by $631,000,000.

On page 22 line 2, increase the amount by $1,550,000,000.

On page 22 line 3, increase the amount by $1,182,000,000.

On page 22 line 6, increase the amount by $1,550,000,000.

On page 22 line 7, increase the amount by $1,426,000,000.

On page 22 line 10, increase the amount by $1,550,000,000.

On page 22 line 11, increase the amount by $1,529,000,000.

On page 22 line 14, increase the amount by $1,550,000,000.

On page 22 line 15, increase the amount by $1,550,000,000.

On page 22 line 18, increase the amount by $1,550,000,000.

On page 22 line 19, increase the amount by $1,550,000,000.

On page 22 line 22, increase the amount by $1,550,000,000.

On page 22 line 23, increase the amount by $1,550,000,000.

On page 23 line 2, increase the amount by $1,600,000,000.

On page 23 line 3, increase the amount by $1,579,000,000.

On page 23 line 6, increase the amount by $1,650,000,000.

On page 23 line 7, increase the amount by $1,662,000,000.

On page 23 line 10, increase the amount by $1,575,000,000.

On page 23 line 11, increase the amount by $1,624,000,000.

On page 23 line 15, increase the amount by $3,500,000,000.

On page 23 line 16, increase the amount by $1,225,000,000.

On page 23 line 19, increase the amount by $3,262,000,000.

On page 23 line 20, increase the amount by $2,841,000,000.

On page 23 line 23, increase the amount by $4,712,000,000.

On page 23 line 24, increase the amount by $3,790,000,000.

On page 24 line 2, increase the amount by $4,251,000,000.

On page 24 line 3, increase the amount by $3,922,000,000.

On page 24 line 6, increase the amount by $4,490,000,000.

On page 24 line 7, increase the amount by $4,017,000,000.

On page 24 line 10, increase the amount by $4,330,000,000.

On page 24 line 11, increase the amount by $4,347,000,000.

On page 24 line 14, increase the amount by $4,372,000,000.

On page 24 line 15, increase the amount by $4,411,000,000.

On page 24 line 18, increase the amount by $4,515,000,000.

On page 24 line 19, increase the amount by $4,435,000,000.

On page 24 line 22, increase the amount by $4,659,000,000.

On page 24 line 23, increase the amount by $4,457,000,000.

On page 25 line 2, increase the amount by $4,503,000,000.

On page 25 line 3, increase the amount by $4,530,000,000.

On page 25 line 6, increase the amount by $4,548,000,000.

On page 25 line 7, increase the amount by $4,578,000,000.

On page 27 line 7, increase the amount by $500,000,000.

On page 27 line 8, increase the amount by $110,000,000.

On page 27 line 11, increase the amount by $800,000,000.

On page 27 line 12, increase the amount by $366,000,000.

On page 27 line 15, increase the amount by $500,000,000.

On page 27 line 16, increase the amount by $589,000,000.

On page 27 line 19, increase the amount by $500,000,000.

On page 27 line 20, increase the amount by $605,000,000.

On page 27 line 23, increase the amount by $500,000,000.

On page 27 line 24, increase the amount by $515,000,000.

On page 28 line 2, increase the amount by $500,000,000.

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On page 28 line 18, increase the amount by $500,000,000.

On page 28 line 19, increase the amount by $500,000,000.

On page 28 line 22, increase the amount by $400,000,000.

On page 28 line 23, increase the amount by $478,000,000.

On page 36 line 11, increase the amount by $450,000,000.

On page 36 line 12, increase the amount by $348,000,000.

On page 36 line 15, increase the amount by $1,339,000,000.

On page 36 line 16, increase the amount by $503,000,000.

On page 36 line 19, increase the amount by $1,880,000,000.

On page 36 line 20, increase the amount by $1,190,000,000.

On page 36 line 23, increase the amount by $1,902,000,000.

On page 36 line 24, increase the amount by $1,544,000,000.

On page 37 line 2, increase the amount by $1,921,000,000.

On page 37 line 3, increase the amount by $1,885,000,000.

On page 37 line 6, increase the amount by $1,936,000,000.

On page 37 line 7, increase the amount by $1,904,000,000.

On page 37 line 10, increase the amount by $1,957,000,000.

On page 37 line 11, increase the amount by $1,923,000,000.

On page 37 line 14, increase the amount by $1,978,000,000.

On page 37 line 15, increase the amount by $1,942,000,000.

On page 37 line 18, increase the amount by $2,001,000,000.

On page 37 line 19, increase the amount by $1,961,000,000.

On page 37 line 22, increase the amount by $2,024,000,000.

On page 37 line 23, increase the amount by $1,983,000,000.

On page 38 line 2, increase the amount by $1,996,000,000.

On page 38 line 3, increase the amount by $1,977,000,000.

On page 40 line 2, decrease the amount by $13,000,000.

On page 40 line 3, decrease the amount by $13,000,000.

On page 40 line 6, decrease the amount by $131,000,000.

On page 40 line 7, decrease the amount by $131,000,000.

On page 40 line 10, decrease the amount by $453,000,000.

On page 40 line 11, decrease the amount by $453,000,000.

On page 40 line 14, decrease the amount by $887,000,000.

On page 40 line 15, decrease the amount by $887,000,000.

On page 40 line 18, decrease the amount by $1,369,000,000.

On page 40 line 19, decrease the amount by $1,369,000,000.

On page 40 line 22, decrease the amount by $1,891,000,000.

On page 40 line 23, decrease the amount by $1,891,000,000.

On page 41 line 2, decrease the amount by $2,452,000,000.

On page 41 line 3, decrease the amount by $2,452,000,000.

On page 41 line 6, decrease the amount by $3,045,000,000.

On page 41 line 7, decrease the amount by $3,045,000,000.

On page 41 line 10, decrease the amount by $3,670,000,000.

On page 41 line 11, decrease the amount by $3,670,000,000.

On page 41 line 14, decrease the amount by $4,333,000,000.

On page 41 line 15, decrease the amount by $4,333,000,000.

On page 41 line 18, decrease the amount by $5,039,000,000.

On page 41 line 19, decrease the amount by $5,039,000,000.

On page 46 line 20, increase the amount by $5,000,000,000.

On page 46 line 21, increase the amount by $1,822,000,000.

On page 47 line 5, increase the amount by $6,526,000,000.

On page 47 line 6, increase the amount by $4,341,000,000.

On page 47 line 14, increase the amount by $8,642,000,000.

On page 47 line 15, increase the amount by $6,750,000,000.

Mr. SCHUMER. Madam President, the first part of this amendment deals with homeland security. The additional homeland security requirements on every one of our localities are enormous. Just yesterday, the mayor of my city, Mayor Bloomberg, and Secretary Tom Ridge announced that the administration would be seeking additional funding for homeland security in the next supplemental budget. That is a great first step. I hope there are sufficient resources to deal with the problem, particularly with the first responders who are definitely suffering.

Since September 11, the Congress has worked with the administration in a bipartisan fashion in many ways. I hope this homeland security issue can become a bipartisan one as well. But it does involve spending the dollars necessary. Words alone will not bring the homeland security that our people need.

Let's first go to first responders. I know in New York City, first responders are stretched as far as they can be. Like most other places, we have fiscal problems. So the number, for instance, of police officers is 4,000 lower than it was before. Many other agencies have fewer people working. In all instances, our police, firefighters, being the patriotic people they are, have a high proportion in the reserves, so we are losing people going overseas to fight for us. At the same time, there are huge new responsibilities. For instance, the many bridges and tunnels of New York City, the many buildings, houses of worship have to be guarded more carefully. That takes a huge expense. That is during normal times. In addition to all of those expenses, our police chief, Commissioner Kelly, set up something, with Mayor Bloomberg, called Operation Atlas to deal with wartime. It is another $5 million a week. The mayor wisely said that he was not going to cut back on security if we didn't get Federal help for it, but it is stretching the people of our city and the first responders of our city. That is true with the brave firefighters. That is true with other first responders. It is true with the hospital staff who have to prepare for, God forbid, a bioterrorist attack. Everywhere we look, there are new needs. It is not just in New York City.

I have an article from yesterday's Rochester Democratic Chronicle, the leading paper in Rochester. It talks about Rochester. It is a middle-size city. It has about 230,000 people in the city, close to a million in the greater metropolitan area—800,000. The city has its own burdens, as does every city. It is on Lake Ontario, which is pretty much unguarded. It is near the Canadian border. It is a little bit east of Lackawanna, which is near Buffalo, where the cell was found.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rochester Democratic Chronicle, Mar. 19, 2003]

### ROCHESTER AREA PREPARES FOR WAR BY TIGHTENING SECURITY

(By Michael Wentzel)

The approach of war and a new plan to protect the nation from terrorist attacks means increased surveillance and awareness in the Rochester area.

With tight security already in place, some said no operational changes would occur following the launch Tuesday of Operation Liberty Shield, the Department of Homeland Security's new defense plan.

But there were additional patrols and checks at the Greater Rochester International Airport. Monroe County will expand water supply inspections. Department of Homeland Security officials began asking more questions at Canadian border crossings.

"We're following the directive of the government to elevate our awareness levels," said Mark Cavanaugh, University of Rochester's director of environmental health and safety. "We're prepared, and we're telling our people to be prepared."

#### AIRPORT

One of the few visible signs locally of tougher security—roadblocks on the terminal access road at the Greater Rochester International Airport—went up about 4:45 p.m. Tuesday. Security guards will conduct spot checks of vehicles, looking for signs of a terrorist threat, said David Bassett, the federal security director at the airport.

Travelers may also notice more deputies and bomb-sniffing dogs in the terminal and passenger screeners who are more attentive.

Airport director Terrance Slaybaugh said air travelers still need to arrive at least 75 minutes early to clear security at the airport.

Slaybaugh said the county has opted to use Pinkerton security guards, not sheriff's deputies, at the roadblocks because of "manpower, staffing availability, cost." A deputy is to be stationed with the guards while roadblocks are active, he said.

#### WATER BORDER

Dick Metzger, Monroe County Water Authority's director of production, said security patrols, water supply inspections and water quality sampling will increase.

"We're taking all kinds of efforts to make sure the water quality is proper and the quantity is always going to be there," Metzger said.

The city has a plan to protect reservoirs if there is an increased security threat, said Edward Doherty, city commissioner of environmental sciences. Doherty declined to reveal the details for security reasons.

"Obviously it's something we have to be concerned about, but we don't really see it as a high-level risk," Doherty said.

Officials at City Hall reported no changes in security measures. Monroe County officials also reported no obvious changes in security at their facilities. The county emergency operations center, which might be used to respond to a terrorist threat, has not been activated.

The Department of Homeland Security increased surveillance and monitoring of checkpoints along the New York-Canadian border Tuesday.

As a result, customs and border protection officers will ask more questions of travelers wishing to enter the country, said Janet Rapaport, spokeswoman for Customs and Border Protection, a branch of the Department of Homeland Security. And more agents will patrol the border between major points of entry, she said.

#### GINNA, KODAK

No new measures were announced at the Ginna nuclear power plant, where security forces have been on heightened alert since Sept. 11, 2001.

"If any changes are recommended by (federal) agencies, we will take appropriate action," the plant's owner, Rochester Gas and Electric Corp., said in a statement.

Eastman Kodak Co., manufactures chemicals at Kodak Park for a variety of uses in photography, radiology and imaging-related businesses. The company "is not at liberty" to discuss security, spokesman Jim Blamphin said, but Kodak has done a complete review and update of all crisis management plans.

#### FOOD SUPPLY

Concerns about a terrorist attack on agriculture has been around since Sept. 11, 2001.

Wyoming County Sheriff Ronald Ely said deputies are still taking more care to patrol around dairy farms in the wake of milk tampering problems over the past two years.

Wayne County Sheriff Richard Pisciotti said patrols are also on alert after the theft of liquid fertilizer from various New York state farms.

Francois Lachance, manager at Star of the West Milling Co. in Churchville, said there is a greater awareness of nonemployees on company property.

Trucks have always been specially sealed before they leave the plant.

UR's researchers who use radioactive materials have been reminded that security is more important now than ever, said Andrew Karam, the university's radiation safety officer. UR has locked more areas and restricted use of keys.

#### FEDERAL BUILDING

U.S. Marshal Peter Lawrence, whose office is in charge of safe-guarding the Kenneth B. Keating Federal Building on State Street, said nothing new was planned as of Tuesday.

Lawrence said there was nothing in the new security environment that would cause officials to impede lawful, peaceful demonstrations at the federal building, scene of anti-war protests.

#### CITY SCHOOLS

City school principals Tuesday will meet with school staff to inform them of new security measures and let them know what measures will be taken if the alert is bumped higher.

At the current level, all planned field trips must be reapproved, surveillance is increased, security at after-school activities is increased and principals are required to stay on campus throughout the day.

Mr. SCHUMER. I thank the Chair. Madam President, this article talks about what Rochester has to do. It talks about the airport and how they need new security and are dealing with new security at the airport. It talks about the border.

Again, Rochester is on the border. There is Lake Ontario, but like many cities in the Northeast and Middle West, it shares a border or is close to a border with Canada. It talks about some miles east of Rochester is the Ginna nuclear power plant. It has to be protected. We cannot leave it open the way it was before.

Kodak, the largest employer in Rochester, uses huge amounts of chemicals that are flammable. Rochester is doing what it can to protect Kodak.

The food supply: We have a lot of farming areas in that part of our State, very prosperous, very fertile farms. People are worried, our authorities are worried about the food supply and food tampering. So they are looking at that area.

The Federal building, which houses some judges and other offices and law enforcement, has to be guarded. The State of my friend from Oklahoma was hit several years ago. We cannot leave our Federal buildings unguarded. We learned our lesson.

City schools: This is just the city government.

We then have the hospitals. We have everything the private sector is doing. This scenario in Rochester is a typical city. It could be any city repeated anywhere in our country.

What help is Rochester getting for all these extra burdens? Rochester is getting virtually no extra help. We know one of three things will happen, none of them good. Either the city, because it does not have the money, will not do everything it can for security—that is the least good choice; security must come first—or other services will be undersupplied and no help.

If you are a citizen in New York City, Rochester, Buffalo, or any other place, you certainly do not want to be made safer from terrorists but be made less safe from the criminals. If you are a citizen, you want to make sure your firefighters know how to deal with terrorism—biological or chemical, God forbid, if it should come—but you do not want to be made less safe from the scourge of fire. That is the second choice.

The third choice is the city does both and then has to raise the property tax, which God knows is high enough.

It seems to me if there were ever a Federal responsibility, it is here for our first responders.

What do we propose to do in this amendment? We propose to support our first responders throughout the country in a measured but important way. The bill provides $35 billion over the proposed budget plan's funding level for the fiscal years 2003 to 2013 to provide first responder grants to States and localities to be used for hiring, for equipping, for training first responders, as well as covering related overtime costs.

The amendment includes an additional $3.5 billion for first responder grants for fiscal year 2003 to ensure that cities and States can get needed funds immediately.

On September 11, 2001, we know these first responders in New York City and elsewhere put their lives on the line to serve their country, just as our Armed Forces do. It is a different way, but they are brave and need help, and we should be backing them up just as we back up our soldiers.

Next, in terms of first responders, we restore the cuts to law enforcement and to firefighters. The State and local law enforcement agencies deserve an increased commitment from the Federal Government, and this amendment restores $10 billion in cuts to State and local law enforcement and fire programs. The COPS Program, which is so important in bringing about security, is restored. The fire program—I see my colleague from Connecticut on the floor. He was instrumental in bringing up the fire program. That is vital. Byrne grants, that is part of this amendment. All of the Byrne grants are restored, and other areas.

I know there will be individual amendments on this issue. My colleague from New York and I are offering individual amendments on different parts of these issues that will be debated and voted on later. But this amendment has it all in one package. If my colleagues are for helping first responders throughout the country, this amendment is important. We do not just deal with personnel. We deal with equipment. Our police, fire, and emergency workers need new equipment. They have to guard, just as the soldiers do, against biological and chemical weaponry.

Again, the local cupboard is bare. The cities, the States do not have money to do this. Are we going to delay the safety of our citizens for several years, or is the Federal Government going to step up to the plate in terms of its responsibility?

Again, I am delighted that Secretary Ridge announced that the supplemental appropriations will contain new dollars, but how many? Is it enough? Is it similar to this amendment which, as I said, will be drawn tightly but mindful of real needs?

The amendment increases the much needed funding for firefighters, hiring, and equipment, including the FIRE and SAFER Acts, by providing $11 billion over 10 years. So on first responders, this bill is carefully drawn but does the job. It is certainly adequate, and it is what we need. It is a very fine first start.

I hope we will not repeat the mistake of either not funding these programs or funding them in a small way, mainly by taking money out of existing programs which does not make it any easier for our police departments, our fire departments, or anybody else.

There are other areas that need help in terms of homeland security as well. Our first responders are extremely important, and they get the majority of the money that we have proposed here, but there are lots of Federal responsibilities as well.

Port security, for instance, is an issue that I have become very concerned about and interested in. How could terrorists strike? As I mentioned earlier, they can strike in a myriad of ways, and they are going to look at our weak pressure points. One thing they could do is smuggle something in a ship, in a container that comes by our ports: the worst case scenario, a nuclear bomb.

I have talked long about that dreadful possibility and what we can do about it. My friend from South Carolina, Senator HOLLINGS, has been a leader on this issue in terms of making sure we know what is in the containers and that someone cannot sneak something in. I have been fighting for nuclear detection devices that could be attached to every crane that loads or unloads a container. We need both.

Again, we are underfunding port security rather dramatically. The amendment does these two things on port security, as well as several other things. As we know, in the Budget Act we cannot lay out the specifics but we know it will go a long way.

The PRESIDING OFFICER. The Senator has used 30 minutes.

Mr. SCHUMER. I ask for an additional 10 minutes from my colleague.

Mr. CONRAD. I yield an additional 10 minutes to the Senator from New York.

Mr. SCHUMER. I thank my friend from North Dakota.

So we have an additional $500 million in 2003, an additional $625 million in 2004, and we total $7.8 billion over the 10-year period that we are adding things on.

Right now, only 2 percent of the cargo containers are screened. Not every container is going to be screened. We know some of them are more suspicious than others. But most experts say it has to go up along with our ability to both track containers that come in and then secure them so nobody can come in after we know what is in the container, if it loads, say, in Rotterdam, and then someone sneaks something else in—to make sure that does not happen.

Another issue is rail and transit security. Many of our cities have large tunnels in which terrorists could do some dastardly actions. Our own Penn Station in New York City is a classic example. It is almost a mile of tunnel with no egress, poor ventilation, thousands of people on commuter trains during rush hour going in or going out, from the whole northeast area, not just from New York. We have to do something about that.

We have to do more to deal with truck security. Again, a method of choice of terrorists has been to take hazardous material, place it on a truck and then explode it. Of all places, Brazil has a good system using GPS and assigned routes. They can tell immediately if a truck goes off track, if it is a hazardous material truck. We do not do that. The Brazilians, by the way, have saved money by implementing this because the number of stolen trucks has greatly decreased.

The bottom line is that there are many other places in transportation security that is not air and that is not rail, where we have to be more secure. This amendment proposes a $5 billion increase for the TSA's budget to start doing these things.

Those of us from Washington State to Maine who share the border with Canada know how unguarded it is. We have been proud of our unguarded border. The Canadian Government does its best to cooperate, but we do not have close to the number of personnel and detection devices that are needed to make the northern border secure. The southern border needs help as well, but not close to the amount that the northern border does. The number of personnel in my State, which shares several hundred miles of border with Canada, is small and not enough.

We have to do more. The detection devices that have worked rather successfully on the southern border are not installed. Then border security needs other help because of commerce that cities such as Buffalo and Detroit and Seattle-Tacoma have with Canada. We need all kinds of new computer systems so we can check trucks quickly. We want to have both commerce and security, and we can if we provide the dollars.

If the dollars are not provided, you are either going to have weak security or you are going to have to go the old route and try to inspect so many trucks that the traffic is backed up at the border for hours, the economy suffers, and the number of jobs decline. So we have to do that as well.

The amendment provides $8.2 billion over 10 years for border security, $450 million in this remaining 6 months of the fiscal year.

The FBI, that is another place where homeland security matters. The FBI was in poor shape in terms of counterterrorism before 9/11. It is trying to move quickly, but it needs more help.

The computer system is still almost laughable. I have had lengthy discussions with Director Mueller. They are trying their best, they are working hard, but we should not have money be a barrier to them doing what they need to do.

Intelligence gathering, we are rearranging those agencies and restructuring them to make the synapse between domestic and foreign intelligence less of a barrier. That is a great idea. It takes dollars. While the leadership says the FBI has all the money they need, go talk to the people in the ranks, they do not think so. So we add an additional billion dollars in funding for the FBI to hire new personnel, particularly analysts and translators, and upgrade critical infrastructure.

Bioterrorism, this is a place where we have made some progress but not enough. Aside from the money our first responders need in terms of local government, in terms of hospitals—we are asking so many hospitals to do the job in terms of bioterrorism. I do not have a problem with that. I do not think there has to be a new Federal agency, but it takes dollars to store the vaccines; to do the training about how to administer the various programs; to do the training, how to spot the illnesses. With bioterrorism, we know early detection is vital. The amendment provides $5.7 billion for bioterrorism initiatives to improve the public health sector's ability to prepare for disasters and local governments' ability to cover the cost.

Finally, threat assessment and critical infrastructure assessment, the amendment provides a billion dollars so we can know what we are doing and we can stay ahead of other potential weak pressure points that we do not know about now. Critical infrastructure such as chemical plants and nuclear powerplants and water infrastructure, they need to be protected. We are not sure even how to do it. We have had no blueprint and it is being done differently in different States, with varying degrees of success. The Federal Government has to be more involved. So we provide a billion dollars to conduct an assessment of the relative threat levels in coordination with intelligence and to begin to prepare to protect these areas.

Here, our first responder money will play in because it will not be Federal people who do this. It will be local people. But they need to know what to do.

I will have more to say later, but this is a basic outline of our proposal. There is large help for first responders, $38 billion over 10 years, an immediate shot in the arm in 2003 and then large funding levels in 2004; help in the other areas where we need help.

We have not covered everything, but we have covered a lot. As we work through the appropriations process, we will hope to refine them.

In conclusion, I ask my colleagues to look at this amendment. I ask them to ask themselves if we have done enough on homeland security. I ask them to answer the infamous "what if" question. How many of us want to be here the morning after, God forbid, another attack on our homeland and say, what if? This amendment prevents that what if. It goes a long way to preventing that what if. I hope it will receive broad and bipartisan support.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SCHUMER. I yield the floor.

Mr. CONRAD. Madam President, I yield 20 minutes to the Senator from New York, Mrs. CLINTON.

Mrs. CLINTON. I thank the ranking member on the Budget Committee, and I thank my colleague and partner from New York for the Herculean effort he has undertaken on behalf of the cause of homeland security. Senator SCHUMER and I, of course, have been personally impacted by the need for enhanced security in a very horrific way because of the events of September 11 and the ongoing threats posed to New York City and other communities throughout our State where terrorist cells are under surveillance and finally discovered in Lackawanna, NY, where people are arrested in Syracuse, NY, for their likely connections with the funding of organizations that support terrorism. I don't think it is a coincidence or an accident that the two Senators from New York would be standing here in the Senate advocating as strongly as we can for the Schumer-Clinton homeland security amendment to this budget.

Before my words of support to the specifics that the amendment contains, I am somewhat concerned that as we meet here today, our men and women are in harm's way in the Persian Gulf. I believe we should be suspending action on the budget. We should be focusing in this Chamber, as families and citizens across America are focusing on their television sets, on the Internet, on what is by far the most important issue confronting us: the execution of this war. We hope it will be a decisive and overwhelmingly successful effort accomplished as quickly as possible, with a minimum loss of life. I know the thoughts and prayers of all of us go out to those wearing the military uniform of our Nation and their families, their loved ones, who are praying for them.

I certainly, like all my colleagues, have had the great and high privilege of meeting and being with these young men and women. They are by far the best prepared, equipped, and motivated military in the history of the world. We are all very proud of their skill, their training, and their courage. We should not only continue to do everything possible to support them at this time, but it would be appropriate for us to suspend action on the budget, especially, I must add, because I don't know that we are fully able to debate and pass a budget at this moment in history.

It seems quite odd to me, while we are commenced upon a war, we have no funding for that war in this budget. We have no money for the proposed reconstruction of Iraq that has been discussed in the administration. We have no money for whatever other consequences—intended or unintended—that might flow from the action begun last evening.

Unfortunately, history will judge us harshly, because we are moving forward on parallel tracks to debate and vote on a budget that does not take account of the most overwhelming challenge we are facing. What is wrong with this picture? It makes absolutely no sense. I am stunned that we are, on the one hand, holding our hearts and our breath while we listen and see what is happening thousands of miles away that will have a direct effect not just on the lives of our brave men and women in the military who are fighting this battle, but will have a direct effect on every single American—that we are making decisions without having the information. We are being asked to vote on a budget that does not even pay for this war.

I find this truly unbelievable. But that is the choice of this leadership, and therefore we have to go along as though this were business as usual. Let's just get up and debate a budget that does not even pay for the war that is going on now. I am sorry, I find that hard to explain to myself, and I find it impossible to explain to my constituents.

Then I pick up the Wall Street Journal, and there is an article, apparently sourced from people within the administration, that contracts are being let for the reconstruction of Iraq, and in it—I am sure Americans would be interested to hear—our Government is to guarantee health care to Iraqis. We are going to guarantee good schools to Iraqi schoolchildren. We are going to build highways. We are going to build powerplants. I don't know that any of us would argue with that noble goal, but we are letting contracts, as we speak, for American businesses to undertake this contracting work.

When are we going to provide for every American? It is certainly not in this budget we are debating. When are we going to provide good schools and the facilities our children deserve? It is not in this budget we are debating. When are we going to make sure we have our transportation needs met in our country, in every part of our country? It is not in this budget we are debating.

Madam President, there are a lot of unanswered questions that deserve an answer. But one of those has to do with this amendment that is currently before the Senate. If you look at this budget, not only are we not even attempting to fund the war, but we do not adequately fund the second front of the war: namely, the threat of terrorism right here on our shores.

We have to cover the costs of this war, and we should be honest about it. There are choices to be made. Apparently this body, under its current leadership, wants to avoid those choices. They do not want the American people to know that coming down the road in a couple of days, or a week at most, there is going to be a supplemental to pay for the war. Will it be $65 billion, $95 billion? We do not know. It is going to come to the Senate, and of course we will debate it, but why aren't we being honest with ourselves and with the rest of America? Put the costs of this war in this budget.

The choices we are asking Senators to make are going to have a direct impact on the choices Americans can make. We already know this budget is hurtling us into deficits as far as the eye can see. I have never seen such fiscal irresponsibility passed on to the backs of our children. The young people, 18, 19, 20-year-old soldiers over there fighting for us, are the ones who will pay for this irresponsibility. I find that absolutely unbelievable.

There are a lot of questions to be asked and answered, but certainly among our priorities, if we intend to go forward with this budget which does not account for the war, which does not make the hard choices that Americans have to live with, then certainly we had better make sure we are funding homeland security because the one thing all of the security experts agree on is that, yes, we will win, but we will also reap the whirlwind. There will be additional terrorist activities here at home and on Americans around the world, and we have to be prepared.

These homeland security costs should be not only included but increased because right now they are being borne by cities and counties and States that are in deficit themselves. They do not have any revenues. The economy is flat. There is no money coming in. They are laying off firefighters. They are closing police stations.

Our hospitals are wondering whether they are going to be able to continue to take in the ambulances that come to the emergency entrance or whether they are going to have to divert them because their funding is under so much pressure.

Yesterday my colleague and I, Senator SCHUMER, met with the mayor of New York. Everybody knows there is not any better prepared city in the world than New York and everybody knows there is not any city under more stress and more potential for terrorism than New York. God bless our firefighters and our police officers and our emergency workers. They are on 12-hour shifts on, 12-hour shifts off. Every time the threat level increases in America as a whole, it goes up even higher in New York.

The operation that New York City has put into effect to try to prevent terrorism, called Operation Atlas, is spending $5 million a week. We are already cutting $2.5 billion out of the New York City budget. We are going to have to cut even more, according to the mayor. But what choice do we have? New York is a global city, not only an American city. It is where the United Nations is. It is where so much else happens. Our mayor and our police and fire and other emergency workers are doing a tremendous job, but we cannot continue to shoulder these costs on our own.

Our national security and our homeland security needs should be in this budget. We should be putting into this budget the cost of the war in the Persian Gulf and the cost of defending ourselves in New York and across America.

If we are going forward, business as usual, with a very unusual budget that does not fairly lay out the costs and the choices before the American people, then the very least we can do is, in a bipartisan way, resoundingly pass the Schumer-Clinton amendment. This amendment restores cuts to important traditional first responder programs. It sets aside $8 billion for each of the next 10 years. And it does something that is desperately needed in this budget when it comes to homeland security: It does not take money away from existing law enforcement and firefighting programs and move it over into another category and say, guess what, we have now provided homeland security. That is the oldest shell game in the world.

This budget cuts the COPS Program, cuts the local law enforcement block grant, cuts the Byrne memorial program, cuts the FIRE Act, cuts the SAFER Act. I don't think we in good conscience can cut the programs that keep the police on the street, the firefighters in the firehouse to do what they have to do every day, and then turn around and, with their additional responsibilities, claim we have given them the resources for these new burdens and challenges. These resources must come in addition to and not at the expense of these other critically necessary law enforcement and firefighting programs.

As we go through this and look at the specific programs, we have tried to increase the programs that keep the operations going day to day and to provide the additional funding that is necessary. Let me give one example.

In fiscal year 2002, Congress appropriated $360 million for the FIRE Act. The FIRE Act is a program that assists fire departments in protecting local communities. Those communities may use it for training, equipment, and additional staffing. It has been a Godsend to both professional and volunteer fire departments across New York and across America.

As to the $360 million appropriated, there are more than $2 billion in requests from fire departments for this funding—six times the amount appropriated. Yet the proposed budget provides only $500 million for the FIRE Act for fiscal year 2004. The Schumer-Clinton amendment would add $250 million, so we could at least try a little harder to meet the legitimate requests of fire departments.

Currently, two-thirds of our Nation's fire departments do not even meet the standards for adequate staffing. I don't think this Congress would ever allow our Army to engage in a war with two-thirds of its divisions understaffed. Incredibly, that is exactly what we are asking our firefighters to do.

This amendment also provides additional funding for bioterrorism preparedness and prevention. The budget provides a mere $400 million for these critical needs. Even with the funding that we offered last year under the leadership of Senators KENNEDY and FRIST, that is not enough. Many local and State public health departments do not have the facilities or the equipment to perform routine surveillance or epidemiological investigation, or do the lab work to identify any kind of foreign matter. At the same time, we have loaded the burden of the smallpox vaccination effort on top of everything else public health departments are supposed to be doing, again without adequate funding.

I asked at several counties in my State, what are the tradeoffs? That is what happens at the local community. We can have this debate and pretend there are no tradeoffs, that we are not going to pay for the law, that we are going to cut funding for local law enforcement and firefighters and let somebody else worry about it. We will be the Senate that cuts taxes so they have to be raised at the local level or else local communities have to do without essential services.

I asked about the tradeoffs in one county, Onondaga County, where Syracuse is. In order to deal with the smallpox vaccination challenge, they have had to go out and cut all their other programs. They had to cut the Maternal and Child Health Program; they had to cut the women's health examination program; they had to cut the regular examinations and screenings for breast cancer and cervical cancer; they have had to cut pediatric dental visits and preschool and early intervention family services.

Nobody is saying we do not want to be prepared in the horrific event of a smallpox terrorist attack, but don't we also want to take care of our maternal child and health needs? Our children's dental needs? Why are we putting ourselves into making these false choices?

I will tell you why. Because the other side is intent upon this huge tax cut no matter what the war costs, no matter what homeland security needs are, no matter what the choices are. I have to say I am no great historian, but I think history will look back on this moment and will, if not shaking its head and scratching its chin, certainly wonder how on Earth, at a time of an international crisis for America's leadership, we would unilaterally decide to drive our economy and this Government into the deficit ditch.

That is for my friends on the other side of the aisle to answer. I don't have an answer. I find it unbelievable that it is even a question we have to be addressing at this moment in time.

There is much to be done that would at least try to interject some common sense, some reality into this budget.

But under any objective assessment of where we stand in the world right now, this budget should be a nonstarter. It should be withdrawn from the floor. Every one of us should be saying: My goodness, we have higher obligations. How can we keep faith with those young men and women who are on the front lines for us? How can we keep faith with those young men and women who are on the front lines at home for us? How can we continue to provide the quality of life and economic opportunity that is expected in our country?

We are in danger of being the first generation of Americans to leave our children worse off than we were. Mark my words, no generation of Americans has ever done that. We are about to do that. We are about to load onto the backs of our children and those lucky enough to have grandchildren the unknowable costs of military actions that may be necessary to protect our freedoms; the unknowable costs of ongoing security to protect us here at home; and the very certain costs of providing quality, affordable health care and quality education and decent transportation—to say nothing of keeping faith with Social Security and Medicare.

This is a very solemn moment, and it is not only solemn because of what is happening in the Persian Gulf; it is solemn because of the extraordinary commitment of this Senate leadership to take action that will not stand the test of time.

But, if we go forward on this budget, I hope we will, in a bipartisan way, not only increase our homeland security amount, but I will be offering a domestic defense fund based on nearly 18 months of work. It would go into the Department of Homeland Security to get money directly to first responders, to put money directly to places of high threat such as New York and Washington, and money into a flexible fund that can be drawn down by communities.

The PRESIDING OFFICER. The Senator has used 20 minutes.

Mrs. CLINTON. I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Does the Senator from North Dakota yield?

Mr. CONRAD. I am happy to yield an additional 5 minutes to the Senator from New York.

Mrs. CLINTON. I thank the Senator from North Dakota.

Mr. President, this domestic defense fund would lift the budget cap for fiscal year 2003 when we finally do get the supplemental that I am sure will be presented to us in the very near future. And it would send a clear message that we are not going to wait on this budget to get money out to our first responders to relieve the necessary costs of our local communities; we are going to try to get that money out when it is needed. Operation Atlas is going on right now in New York City. Operation Liberty Shield is going on right now in America. We can't wait until the end of the year for the ordinary budget process to work to get money out, to make us safer, to give the tools to defend us to our firefighters and our police officers.

This is a solemn time. Not only are my heartfelt feelings and prayers going out to those brave young men and women, but in good conscience I want to be sure we are doing what we should be doing. And with all respect, I don't think we should be doing business as usual. I do not think we should be considering a budget that is as devoid of reality as is this one. That sends a terrible message that here we are making flowery speeches, talking about our prayers and our best wishes for our men and women in uniform, and decimating—decimating—our ability to respond to the inevitable, unpredictable consequences of the action we have commenced. We owe more to the next generation. I hope we will decide to put aside previously existing ideological and partisan positions and come together in this Senate, as we are coming together in this country, on behalf of the military and on behalf of the country they are fighting to defend.

I thank the Chair. I yield the floor.

Mr. LIEBERMAN. Mr. President, I come to the floor to say that I am proud to be a cosponsor of this vital amendment for more homeland security funding being introduced by Senator SCHUMER. And I come to talk about the necessity of making hard choices.

I know this administration can make hard choices. I know it because in taking military action against Saddam Hussein's regime in Iraq, that is precisely what the President has done made a difficult but necessary decision for the sake of America's security.

Unfortunately, I don't see the same willingness to make hard choices here at home, particularly when it comes to our budget and our economy. On Sunday, I saw Vice President CHENEY on Meet the Press and he said something that stuck in my mind. The Vice President was asked why his administration wouldn't reconsider the unaffordable, unfair, and unfocused tax cuts that it pushed through in 2001, not to mention the new tax cuts called for this year, when we have so many other national needs: the cost of military action against Iraq, the cost of rebuilding the Nation after war, the cost of investing in homeland security, just to name three.

His response was telling. He said that Presidents don't have the luxury of doing only one thing at a time, that this administration has many "balls in the air," and that President Bush must tend to the economy even as he works to defend our national security.

I agree with the Vice President on the premise—but could not disagree more strongly on the implication. Yes, Presidents must do more than one thing at a time, and our best Presidents always have. President Lincoln did. President Roosevelt did. President Kennedy did. But by putting the tax cut, which is itself an ineffective prescription for our economic woes, before every other priority, this administration isn't multitasking. It's unitasking. It's sacrificing every other critical mission and priority to one ideological pet project—unfocused, unfair, and irresponsible tax cuts.

As a result, our national cupboard has been raided. We have no resources left to shore up Social Security, pay down the debt, provide our seniors with the prescription drug benefit they need, or invest in the landmark education reform plan we promised our teachers and students. No money left to make smart investments and strategic tax cuts to spur growth. Not even enough money left to pay for homeland security, even though right here at home we are under unprecedented attack from an aggressive, unpredictable, and undeterrable new enemy against which we remain dangerously vulnerable.

The casual question, which might not sound fit for the Senate floor, is: "What gives?"

And the unacceptable answer is: "Nothing gives." Tax cuts that help a select few Americans, tax cuts designed before September 11th, before the prospect of an expensive military action against Iraq and an expensive peace to follow, before Americans started losing jobs in the hundreds of thousands, trump everything else. No, with all these needs and demands, the President will hold onto his tax cut, come hell or high water.

Mr. President, that is worse than a failure of arithmetic, as President Clinton called it. It is a failure of understanding. A failure of principle. A failure of priorities.

Sadly, this administration has taken to believing that everything in its economic policy is absolute. Everything is extreme. There is no room left for learning. No room for pragmatic adjustment. No room for the critical needs of the American people. Today I want to discuss some of those needs—our urgent domestic defense priorities and how they can and must be paid for in this budget.

Mr. President, America has the greatest military in the world, and that is because we have paid for it. Over the last half century, we have worked together across party lines and every other division to invest in our Armed Forces and the men and women who dedicate their lives to the common defense. We are truly, to recall President Kennedy, willing to pay any price and bear any burden to deter and defeat foreign threats.

If we want the best domestic defenses, we will have to pay for them, too. But consider this. In its budget proposal for next year, the administration recommended a $19 billion increase in defense spending—an increase I support. But in the very same budget proposal, the administration only called for $300 million more than they expected spending this year on our homeland defenses, which are far less prepared to protect our people today than the Pentagon is.

This amendment would begin to correct that shortsighted shortfall. In the fiscal year 2003 budget, it would provide $5 billion above current levels in funding for our first responders, for port security, for bioterrorism preparedness, and for border security. I am supporting more funding both as part of this resolution and in the supplemental when it comes before the Senate—particularly for our first responders.

In fiscal year 2004, Senator SCHUMER's amendment would provide $6.5 billion over the President's proposal for police, firefighters, and public health professionals, port security, bioterrorism preparedness, border security, transportation security, critical infrastructure protection, and more. All told, this amendment would invest $88 billion in the urgent domestic defense improvements we need to make between now and 2013—a long-term vision of rising to meet and beat these threats, not shrink from them.

Independently, last month I called for an increased homeland security investment in next year's budget of $16 billion over the President's proposal, which is what I have concluded is necessary to begin doing all this vital work. So I see this amendment not as a complete number, but as significant progress in the right direction.

Let me talk now about a few of the urgent needs that this amendment will help address.

First, first responders. Just this Monday, I attended the legislative conference of the International Association of Firefighters, and I must say that, though these brave men and women are always ready to take on a challenge and rise to meet danger, our firefighters, police officers, and other first responders are tired. They are tired of lacking the resources to hire new people, get advanced training, and buy state-of-the-art technology, all of which are urgently needed to fight terrorism.

Can't we come together now and get this done?

Mr. President, it is downright irresponsible that the President's budget for next year would provide no new money for first responders. The President's proposal would make the same total $3.5 billion investment next year as was made this year. And even that is deceptive, because at the same time the budget would slash other funding for local law enforcement and emergency preparedness.

This amendment would restore COPS and other local law enforcement programs in fiscal year 2004. It would provide the money for training, equipment, and qualified personnel. And it would call for $5 billion in funding this year—in an fiscal year 2003 supplemental the bulk of which would go to our first responders.

There is a real crisis out there. We need to help our police officers, firefighters, emergency medical technicians and other first responders meet it.

I believe the investment we make in our first responders needs to start by passing the SAFER Act, sponsored by my dear friends Senators DODD and WARNER which I am proud to cosponsor. That bill would provide more than $7.5 billion over 7 years so our communities can hire the firefighters they need. It is critical, it is bipartisan, and it should pass. This budget amendment we are discussing today would provide a good start in fiscal year 2004 for the bill.

But that is just a beginning. First responders need advanced training, specifically in detecting and protecting against chemical, biological, radiological, and nuclear weapons. This amendment will provide more of the resources they need to get them that training.

First responders need better equipment. On September 11th, the New Jersey State Police grew so frustrated at their inability to contact New York City authorities that they had to take a boat across the Hudson River and find a police commander at Ground Zero. And as we know, New York City firefighters tragically lost their lives because their communications equipment was not what it needed to be. This amendment will provide the resources to start to get first responders all over the country the communications equipment they need to prevent similar problems from occurring when they face emergencies.

This amendment gives our local first responders—who are also our first preventers of terrorist attacks—more of the resources they urgently need to guard against terrorism.

As we work to strengthen our local first responders' capabilities, we need to dramatically improve transportation security nationwide. The type of attack we suffered on September 11th was, of course, of a very particular and unexpected nature. In its wake, improving the security of air travel has received substantial attention and substantial funding. And we have made serious progress in the skies.

But just as terrorists constantly change their means and mode of attack, the TSA must broaden its scope of defense—and rapidly. But under the President's proposal and this budget resolution, TSA's appropriation is actually decreased for next year—which will make it difficult to keep pace with their current responsibilities, much less take on new ones. This amendment would give the agency critical resources so that TSA could begin expanding its focus to other critical transportation security needs including roads, rails, bridges, tunnels, and subways.

Let me give you another example—port security. Homeland security experts widely acknowledge that our ports are among the most vulnerable points in our homeland defenses. About 7 million containers arrive at these ports each year, but a tiny percentage are searched. Any one could become a vehicle to smuggle in a dangerous weapon, or even terrorists themselves.

Again, this costs money to fix. The Coast Guard has estimated that it will take $4.4 billion to improve basic physical security at the Nation's ports, starting with close to $1 billion the first year.

Yet the administration's budget proposal provided no new money in port security grants—and this budget resolution largely ignores the physical security of our ports. In an effort to jumpstart these vital improvements, I have called for $1.2 billion in port security grants for fiscal year 2004. This amendment will start moving us toward that goal.

We must also invest more to permanently protect our critical infrastructure—our financial, transportation and communications networks, our energy systems and water supplies, chemical plants and hazardous materials, emergency services and public health systems. Eighty-five percent of these networks and facilities are under the control of the private sector. Though plenty of lip service has been given to this priority by the Department of Homeland Security, actual progress has been exceedingly slow. That's largely a question of leadership, but it's happened in part because the financial commitment has not been forthcoming.

This can't wait. That is why this week I have sent a letter to Homeland Security Secretary Ridge outlining a series of urgent questions I believe he and his Department must answer so that we can begin seeing results, and better protecting our Nation's nervous system, its circulatory system, its respiratory system, and all its vital organs without delay.

Finally, let me address one other crucial area of investment which receives vastly too little funding in this budget resolution—protecting ourselves against biological attack.

Some of the most chilling scenarios posed by homeland security experts are those that envision the use of diseases as weapons. We are depending on our public health network to help prepare for, protect against, and if necessary respond to such assaults. Yet in this budget, our health providers aren't being provided anywhere near adequate resources to do the job as well as they must do it. This amendment will provide a critical infusion to start improving these capabilities.

On the floor today I have only mentioned a discrete set of the gaps we must close to protect the American people. There are many more, and still more gaps we have yet to identify are likely to rear their heads in the months to come.

We are at war against terrorism. Let's not frustrate and condemn to failure those whose job it is to protect us—many of whom risk their lives—by failing to provide them the resources they need to meet and beat the threats.

Whether our protectors work for the Department of Homeland Security or for the local fire department, they deserve not only our gratitude and our respect. They deserve the ability to rise to this challenge, the resources and the tools to do the job. We depend upon them for our safety. Surely they should be able to depend upon us for support.

Let's put the safety of us all before the wallets of the few. Let's invest in our homeland defense.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield myself such time as I need.

I do feel the need to make comments that when I got up this morning I had no idea I would need to make. I have listened to the debate in the Chamber this morning, and I think there are some corrections that need to be made for my colleagues and the people of America. We have made it sound as if we are debating an emergency supplemental budget. We are not. We are debating the regular budget of the United States of America for the next year, the year that begins October 1, 2004—not yesterday, not today, October 1, 2004. We have been working on this all year because it is the regular budget. It is not the emergency supplemental budget. This is our regular work.

Why are we doing our regular work? We are doing our regular work because we are expecting America to do its regular work today. Everyone would like to be listening to the radio or the television or picking up the latest news, however they possibly can, but for most of America that is not possible because they are doing their job. They are making America work. They are making sure that the planes are flying, the trains are moving, the trucks are going, the manufacturing is happening.

Why is that important? Because those are the jobs that are providing the materials to keep America safe. Those are the people doing the jobs that help us live our everyday lives and to fight a war. America is not supposed to stop working today. We are not supposed to stop working today. We will do an emergency supplemental budget. I have heard the people here say we should be working on that this minute. How many people here know how long that war is going to go on? By tomorrow we will have a better idea. By Monday we will have an even better idea.

Now, somebody said there is not a penny in this budget for this war. Maybe there should have been a penny in the last budget for this war—the budget that never got done on this floor. That budget should have considered this war.

Well, instead we went ahead and we did an appropriation. But we didn't do the appropriation last October 1 when the statute says we are supposed to have it done. We did not do that until the end of January. We did not get the conference done until February. And the President was not able to sign the bill until February 20. That is when we got last year's work done because we did not do our regular work on the time schedule that we are required—required by statute—to do. The statute says we will finish this budget by April 15. That does not just mean the debate in this Chamber, that means the conference committee and the final approval by April 15. Who knows how long that will take. But we need to do our regular work just as we expect everybody else in this country to do their regular work. It is essential to the operation of this great country.

We will get an emergency supplemental budget. An emergency supplemental budget is different from this budget. This budget is a 10-year budget. We are trying to anticipate the needs of the country for 10 years and put a little plan out there so that we can plan for 10 years. An emergency supplemental bill is for an emergency that is happening at the time of the debate of the emergency. It is supposed to cover it to the best of our ability at that time.

Now, we do not do very well in our budgeting process. We got to spend a lot of time last year getting on corporations in this country for bad accounting. Well, I am the only accountant in the Senate, and I do not think the corporations are the only ones that should have been embarrassed. When I look at this budgeting process, I am delighted I got to be on the Budget Committee this year. I have had comments on the budget before, and there are some changes that need to be made. They can't be made until we do the regular work of passing this regular budget, but there are things on which we need to be working.

Usually budgets are divided into categories. They are not just one type of a budget. There is usually a capital budget, where you plan for the buildings, the maintenance, and the replacement. We do not do that. We do everything as though it were a one-time cost. But that is another topic for another time.

I have talked a lot in this Chamber about the need to reduce the national debt. We do have a national debt, a scary national debt that was scarier before; it will be scarier yet to come. We can see that from what we know about the dollars. But it is important for us—and both sides agree—that we need to balance the budget as soon as we can and we need to pay down the national debt as soon as we can to have better security in this country.

One of the difficulties when we debated the balanced budget constitutional amendment 6 years ago when I first got here—it was the first debate I was in. People will recall that we did not pass a constitutional amendment to balance the budget, that we lost that by one vote. There were some provisions in there for emergencies. This would be one of those emergencies.

But when we are paying down the national debt, it can be done in a rather simple manner if we start with a small amount, plan it into the budget, and then when we reduce that national debt by that amount, just like you make a house payment—and this needs to be done over a 30-year period just like a house payment—when you make that payment, you do not spend the interest you saved.

You add that interest to the payment and make the payment bigger. Then you can start, as with a house payment, with a relatively small amount, and wind up with making a big payment in the end. It is pretty difficult. I would like to have some charts to show that.

But when I have talked about that, and the fact that we could pay off the national debt in a 30-year period, I have also mentioned there are emergencies. Emergencies would work just like a house loan as well. Emergencies would be that second mortgage you have to take out every once in a while. It would not be a 30-year loan plan; it would have to be a short-loan plan, but it would have to be taken care of, too.

On our budgeting, I want to talk about emergencies because another pet peeve of mine with emergencies is, we know in this country every year there will be about $6 billion spent on emergencies. Some of them are drought, some of them are tornadoes. There are lots of different kinds of disasters that happen in this country.

We do not know where disasters will happen. We cannot prevent disasters from happening. But we know those disasters are going to cost about $6 billion. It is something we ought to build into the budget. I am hoping I can sell 51 people on doing that.

War is different. It isn't something we know will happen each and every year. It is something that happens once in a while. We would prefer if it never happened.

There were comments that in this budget there isn't a dime for this war.

I have explained why there isn't. But I do want to point out to the people of America, when we sent those troops over there, we sent them with supplies, we sent them with ammunition, we sent them with arms. That is the best equipped army we have ever had in the field in the history of the United States. You cannot send them there without paying for it. So getting them there, having them equipped, having them in a war is included in what we have done.

Now, how long it lasts, and what happens afterwards, we are going to get a supplemental budget on that. But we are not going to get the supplemental budget today. Hopefully, they will hold off a day or two, at least, to see what kind of a war we have over there. Daily, the ability to predict will be better, the ability to predict the expense will be better. That is why we do emergency supplemental budgets.

We just had an amendment that was offered that deals with homeland security and some additional expenses on that. We started putting that in as a specific item this year. We have been doing homeland security for the history of the country, but because of September 11, that became ever more critical and we needed to have a department for homeland security. We escalated homeland security to the point of having its own department with its own security.

Now, for those of my colleagues, or anyone else who might be listening, you will recall we spent an awful lot of time, last year, talking about the need for homeland security. And it got delayed and it got delayed and it got filibustered and it got delayed. And now the side that delayed it is trying to look as if they are the prime homeland security folks. It is not fair.

We can try and outspend each other to try to show we are more dedicated to homeland security than the other side. I think the way the debate has gone in the past shows how that works.

We do have a department for homeland security. The Department of Homeland Security has said what moneys they think are needed. That is in the package. As the alerts change, we may get supplementary requests on homeland security. We will have to respond to those. Hopefully, they will not get built into the budget as an every-year expense, just like war.

One of the reasons we budget for war through an emergency supplemental budget is because we do not want it built into the base. We do not want the American people to anticipate we are going to have war every year, and it is going to be the same cost. That is not good budgeting. The regular budget has the regular items in it that you do on a regular basis. It isn't a war budget. Wars are not done on a regular basis in a regular way for a regular expense, and hopefully they never will.

Now, on homeland security, there were some comments about the need to do more for the cities and the counties and the States. I want to do more for the cities and the counties and the States.

I used to be a mayor. I was the mayor of a boomtown in Wyoming that just about quadrupled in size while I was mayor. There were a lot of things that had to be taken care of, additional sewer, water, streets, basic things, increasing the fire department, increasing the police department. I did not do that on my own. The community did not do it on its own. It had help. It had help from the bottom to the State.

The Feds did not get into it much. That is because every expense in this country is not a Federal expense. Some of the expenses are a local expense. The benefits go to the people at the local level. The people at the local level understand those benefits better. They provide for them, for the most part, themselves. I kind of object to us giving people the impression that we do that.

I know the cities and the counties and the States are hurting out there. We want to work with them to make things as easy as possible. But that should not make the budget the prime spot for bailing everything out. Yes, we have a responsibility. Yes, we need to take care of it. But we talk about these things as though the Federal Government were the prime supplier of everything.

Education is the most important thing after defense. But education is one of those areas where we try to make it look like we do a lot, and like we could do a lot more. And we can. But we used to provide about 7 percent of the money. I think we are up to about 8.6 percent now of the money that is spent for schools. It is really the people paying the taxes to their schools who get the schools. And we add a little bit to it. A lot of it is some new programs we think are pretty fancy and sound good, and we think they will help education.

But with that 8.6 percent that we provide for education, we force more than 50 percent of the paperwork. We keep them so busy doing paperwork, they cannot do the job of working with the kids they ought to be doing.

Now, we tried to change that in the No Child Left Behind legislation. I think we made a good start on it. There is more that we can do. There is more that we will do at the Federal level. But I wish we would not give everybody the impression that the Federal Government provides everything because it leads them to expecting the Federal Government to provide everything, when, in fact, they ought to be giving themselves more credit for the job they are doing. And looking around their community—I don't care how big of a city you are in, I don't care if you are in New York City—there is still a community, the people you know around you.

I think one of the things that happened with September 11 is that sense of community increased. People suddenly became more interested in their neighbors and helping their neighbors.

There is a tremendous amount that can be done with community. That is where it starts. We are beginning to get the impression that the Federal Government prints the money so the Federal Government can provide all of the money that is necessary. We could, if we wanted to, go broke. So we have to solve the problems at all levels and not immediately escalate every cost to a Federal cost.

The final thing that has been brought up a number of times over the last day, and particularly today, is the economic package the President has suggested. There have been comments that we should not be doing an economic package. Of course, they don't like to call it an economic package. There are no ideas for stimulus coming from the people calling it a tax cut. They don't want to talk about the economic package right now.

Let me tell you what the budget process is. The budget process is where we say what the goals are for the next year for the regular operation of the country—not the emergency, not the war, the regular operation. One of the things we have said is that the economy is down. We need to do whatever we can to boost that economy. It is one of the things we have to worry about. It is one of the things we in Congress have to worry about.

How do you go about doing that? Well, one of the things is to do a budget. A budget is not a vote on the economic package. The budget is the vote on the possibilities we have for the next year. It sets down rules that govern how we will pass legislation the rest of this year. I don't want anybody to get the impression that we are passing an economic package this week. We need to pass the budget so the consideration of an economic package can go on. We need to pass that. But the real debate on the economic package comes when the economic package comes up.

If we chip away at it here and chip away at it there and put it into other things that we think are our priorities, then we have limited the possibilities for a solid economic plan for America. Most of that tactic is designed to get to the rhetoric that the tax cut will go to the rich.

It is a plan to get jobs, and jobs will go to everybody—not just new jobs, but keeping the job they have now. That is really the biggest concern people have. Those who have a job want to make sure they keep it. Those who do not want to make sure they have one.

That is what we want to do with an economic plan. We are trying to figure out the best possible economic plan we can put together. The President has said it needs to be $726 billion. I think we have $698 billion in the package, but that is an upper limit, not an actual package, not the final result. What we need to do is pass the regular budget so we can do the regular authorization work and the regular debate so we can get to appropriations by October 1. That is how long of a timeframe we are working on.

Why do we need to work on it now? Why should we, like the rest of America, keep working today? Because we have a job to do that includes this budget, a whole bunch of authorization bills, and then finally 13 appropriations bills. Now 13 appropriations bills normally take us 1 to 2 weeks per bill. So you can see if we are going to have that done by what the statute says, October 1, what the administration is relying on of October 1, we need to be meeting a timeframe right now. Statutorily it says this has to be done by April 15. That is just the budget part. That isn't where we even get to what the dollars per specific item are.

Last year we didn't have a budget. That kept us from getting the authorizations done. That kept us from getting the appropriations done timely. We didn't get them voted on until the end of July. We didn't get them conferenced until February, and we did not get them signed until February 20, which was very shortly after the conference was done. That is the earliest the President could sign them, February 20. People are talking about how No Child Left Behind doesn't have enough money. Well, how would they know whether they have enough money or not? None of it was released until February 20.

We cannot get in that position again. This Budget Committee is determined to make sure we will get it done in a timely manner and that as soon as there is a supplemental budget—and I do hope it is a couple of days into this so there is a better indication of how long it is going to take, what it is going to cost, how much damage has been done over there—then we will seriously look at that supplemental bill. But in the meantime, like the rest of America, I hope we will keep on doing our regular work while they do their regular work, so America and the war can be successful.

I yield the floor and retain the remainder of the time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, having been delegated authority by Senator CONRAD, I yield 20 minutes off the amendment to the Senator from North Dakota, Mr. DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me respond to a few of the things said this morning and also talk generally about the budget resolution. This budget resolution has been called an economic package, something focusing on jobs. In fact, this budget resolution doesn't add up. It cannot possibly be serious in its attempt to address what is happening and what is wrong in this country.

Let me use one chart to show what kind of a resolution we have before us. Skyrocketing deficits as far as the eye can see, a virtual ocean of red ink as far as the eye can see. I want to ask a question with respect to a budget proposal that comes to the floor at this moment in our history that says our major priority is a long-term permanent tax cut, and the most significant part of that priority is to exempt dividends from taxation. The implication of that, of course, is to say, in terms of our values, let's decide to keep taxing work but exempt investment. So let's tax work but exempt investment. I don't understand that.

But I especially don't understand it when there is a single U.S. soldier in the mountains of Afghanistan or a single U.S. soldier in the sands in Iraq, that we in this country would not say we are prepared to spend whatever is necessary of our tax dollars to support those soldiers. We must do our part.

Yesterday I was in a hearing in the Defense Appropriations Subcommittee. The Chief of Staff of the Army was testifying, along with the Secretary of the Army. I was asking the various questions my friend and colleague from Wyoming just discussed. What are some of these things going to cost. I fully understand we don't know exactly what is going to happen with respect to Iraq and what that will cost. I don't understand why there are not in this budget provisions to pay for the war on terrorism.

We know that is an ongoing war that began a couple years ago, and it is going to go on for a long while. And you know that the Defense Department is now taking money out of its other accounts in order to cover its costs for a war on terrorism. They know that war will continue in the next fiscal year. But they won't request money for it at this point in the budget before us.

We know that American presence will continue in Afghanistan in the next fiscal year. But the request for money for that will not be in this budget.

You can make a pretty decent case that we don't know what it is going to cost with respect to Iraq.

You cannot make a case that the war on terrorism and the efforts in Afghanistan should not be part of this budget. Of course they should. I understand that sometime—I think it is anticipated in the next 24 hours—we are going to receive a supplemental budget request—I am told it is somewhere in the neighborhood of between $70 billion and $100 billion—asking for that amount of additional money. We are told, although that has been put together in the Department of Defense and elsewhere, they do not intend to show it to us in Congress until we finish our discussions about the Federal budget.

I do not understand that. People keep saying this place should be run like a business. Is this the way you run a business? If a board of directors is making critical financial decisions about the company and you say, Oh, by the way, there is another very big piece out there, $60 billion to $70 billion to $100 billion, but we are not going to tell you what it is, we are not going to send it to you until you have actually completed your budget for next year, that is preposterous. Everyone knows that. It does not make any sense.

We have an economic plan in this country that is just not working. Mr. President, 2.5 million people have lost their jobs in the last couple of years. Our economy is sputtering. What used to be a strong, vibrant, growing economy is now an economy that is sputtering, not doing well at all, with people losing their jobs and budget surpluses turned to budget deficits.

It does not matter that we should spend time here talking about who did what. What matters is we should spend time talking about how do we fix what is wrong and how do we put our country back on track. And on the edge of war with Iraq, we are told in this budget document today, tomorrow, and this weekend apparently, that the highest priority is for us to enact very large permanent tax cuts, the most significant part of which is an exemption for taxes on dividends.

I, for the life of me, do not understand that. Is that doing our part in a national emergency? Is that doing our part? Is that a message to the American soldiers: You go risk your lives, but we will not support you with our tax dollars? What we will do is spend money and charge it, and you come back, having risked your life, and you also inherit the burden of paying the taxes to support it because we would not do it. That is not fair. That is not right. That is not doing our part.

Again, as long as there are soldiers in Afghanistan or soldiers going into Iraq, we ought not be doing this. We ought to put together a budget that adds up.

I just came from a hearing this morning, I say to my colleague from Wyoming, on appropriations for the Forest Service. Does my colleague know what they did to the Forest Service? We had massive problems with forest fires all around the country last year. They are deciding to cut the number of firefighters by much more than one-half. Does anybody think that is justifiable? Of course it is not justifiable. It is gimmicks and games. We do not have any intention of cutting the number of firefighters who fight forest fires in half.

When those fires rage across this country in America's forests, as they have in the last several years, we have a proposal to cut the number of firefighters in the Forest Service in half? I do not understand that. Are Mr. Daniels and those at the OMB with these tiny little pencils and microscopic eyeglasses not able to think at all? Are they the ones everyone says know the cost of everything and the value of nothing? Where on Earth is the value system in proposals such as this? I just do not understand it.

This country, at this moment, owes it to the men and women who are prepared to wage war for America to be honest as we approach these budgets. This budget is not an appropriate budget at all. We have an economy that is in desperate trouble and soldiers about to fight, and we are telling them: Oh, by the way, it is our intention to spend money we do not have on things we do not need and charge you the balance, and, by the way, we have the biggest amount of expenditure that is coming up, but we won't tell anybody what it is because we want to wait until we get the budget done, and then we will get a $100 billion bill and let you gnash your teeth over that. By the way, a fair amount of that should have been in this budget for the next fiscal year, but we do not want to tell you what that cost is either because in the next fiscal year we will give you another surprise and ask you to pass that on an emergency basis.

That is no way to budget. It is no way to run a business and no way to run a Government, and everybody understands it.

Because my colleague mentioned the No Child Left Behind Act, I cannot help but respond to that issue with respect to budgeting, expenditures, and cost. The basic notion of the President's proposal of no child left behind is accountability. Schools should be accountable for that which they spend to educate America's children. I agree with that. But we passed legislation saying no child left behind with the implied comments of everyone, including the President, that they would fund that which was necessary to make it work. The No Child Left Behind Act was enacted, but the President left the funding behind.

I introduced legislation in the Congress to say there ought to be a moratorium on the deadlines in that legislation until two things happen: One, we have the funding to make that work; and, two, until we see the implementation of that with the flexibility that is necessary, so that we do not have the same template put over a rural school in a small town in Wyoming and North Dakota as is put over a school in an inner city that has different needs. I will give an example.

If you have a great teacher—I mean a great teacher—teaching in his or her minor, who has taught in it for 12 years, does a terrific job, teaches children very well, do we really believe we ought to tell that school district that does not have the money, by the way, that it must hire a teacher in their major to replace a teacher who teaches very well in that teacher's minor and is producing students who are well educated? Is that what we want? Or do we want basic flexibility? I think we want basic flexibility.

I came from a school with 4 grades, 40 kids, and I graduated in a high school class of 9. If someone came to that high school and said every class taught needs to be taught by the teacher in the teacher's major, that school district does not have anywhere near the capability to make that happen. So we need to make that work, but it will not work with respect to this kind of budget dealing with education. The needs are not meeting the implied promises given when we passed that legislation.

Let me mention a couple of other issues with respect to the economy. I wish, and all Americans wish, this economy were growing, and growing rapidly, expanding so jobs and opportunities would exist for all Americans. That, regrettably, has not been the case.

About 2 years ago, the President proposed a $1.7 trillion tax cut, and some of us said: Things are good, times are good, we see big budget surpluses in the Federal Government, but we ought to be a bit conservative. Maybe we ought not jump to have permanent tax cuts of $1.7 trillion over the 10-year period. Maybe what we ought to do is be a bit more conservative and do it incrementally. They said: No, the President wants it this way and had the votes to make it happen. So we did.

What happened after that vote was taken and we had this permanent large tax cut? The first thing that happened was we discovered we were in a recession and less revenue was coming into the Federal Government. Second, on September 11, we had a devastating terrorist attack against our country. Then we had the most significant corporate scandals in a long time. At the same time we were fighting a war against terrorism, the stock market collapsed and the tech bubble burst. All of these came to the same intersection at the same time, dramatically affecting this country's economy.

What was intended to be large budget surpluses in our future became very large budget deficits that are growing and growing worse. What is the response to that, even as we have additional foreign policy challenges, a war with Iraq, very serious problems in North Korea, and a continued war with respect to terrorism and dramatic new needs with respect to homeland security? What is the response? The response by the majority party and the President is to bring the budget to the floor of the Senate and say none of that matters; what matters is we have more large permanent tax cuts. That is not doing our part for national security. It is not doing our part, in my judgment, to support our soldiers.

We would be wise to put together a budget that adds up, one that works, one that invests in the future, and one that says to the American soldiers: You are not the only ones fighting this war. This country is behind you, and we are doing our part.

We are not going to send you off to battle and then bring you home to pay the bill. That ought to be our responsibility. This budget resolution is wrong and everyone knows it.

We are going to have a whole series of votes on choices because, after all, budgets are simply a series of choices. Let me describe, for example, one other choice.

I am going to offer an amendment relating to our country's trade deficit. We not only have the largest budget deficits in history at this moment, we also have the largest trade deficit in history—$470 billion in 2002.

Every single day, seven days a week, nearly $1.5 billion more in goods are brought into this country than we ship out. Think of that.

One can make a case on the budget deficit that perhaps that is a deficit we owe to ourselves. One cannot make that case with the trade deficit. That is a deficit we owe to other countries and one that we will inevitably repay with a lower standard of living unless we resolve these trade issues.

We now have a $103 billion trade deficit with China. So you would think that our government has a good number of people working to address that huge deficit. Guess again. We have just 19 people in the Market Access and Compliance Section at the Department of Commerce, whose job it is to pry open these foreign markets in China that are closed to U.S. producers. We have a $103 billion trade deficit with China, and we have 19 people working on it. We have a $70 billion trade deficit with Japan. It has been that way every year as long as we can remember. We have 10 people working down at Market Access and Compliance trying to pry open markets in Japan.

We have a thirteen billion dollar deficit with Korea. We have two and three-fourths people—that is what they say, two and three-fourths, working to deal with trade barriers to U.S. products in the Korean market. I do not know how one gets three-fourths of a person. I guess when you are dealing with trade, the laws of nature don't apply.

With Europe, we have an $82 billion trade deficit, and only 15 people working on that.

Despite our debate about budgets and all of the mantra and chanting that goes on about economic growth, our country is not going to do well unless we straighten out this trade mess. The manufacturing sector cannot be decimated in the strongest economy on Earth without serious consequences in the long term. Jobs cannot be shipped overseas, as well as factories, and a dismantling of the manufacturing sector, which is exactly what is happening in our country, without having very substantial problems.

The reason I mention all this is I am going to offer an amendment that adds money to Market Access and Compliance, which says: Let us address the trade issues by demanding, by requiring, and by having the people to fight for the open markets overseas for our producers. We do not do that. We are weak-kneed in this country. We lack backbone and spine to deal with these trade issues.

I will give you a couple of examples. We had trade negotiators negotiate with China. This is an example of a bad agreement. Our trade negotiators negotiated with China and they agreed that after a phase-in of some years, China would be allowed to impose tariffs on U.S. automobiles sold in China 10 times the amount of tariffs that we would impose on any Chinese automobiles sold in the United States. Think of that. Our negotiators agreed to that. I think that is nuts.

How about Korea? Anybody know how many cars we sent to Korea last year? The United States of America shipped 2,800 cars to the country of Korea. How many Korean cars were shipped to the United States? Over 600,000 cars came from Korea to the United States. We shipped 2,800 back. Want to know why? Is it because Koreans do not want to drive American cars? Absolutely not. It is because the Korean Government does not want American cars, so we have one-way trade and that means our jobs are gone and there is this decimation of our manufacturing capacity. It has to stop.

I am going to offer an amendment, and we are going to see if people care about the issue of trade and supporting America's manufacturers. We are going to see who wants to stop this nonsense of shipping jobs overseas so that 14-year-olds can work 14 hours a day and get paid 14 cents an hour so that U.S. workers are told you have to compete with that, and if you cannot compete with it in Pittsburgh, Philadelphia, Los Angeles, or Fargo, then those jobs are going to be gone permanently. That is not fair trade.

Any budget that we pass is going to be irrelevant in the context of this country's economic problems if it does not address the basic trade imbalance of $470 billion in one year.

Thirty years ago, we had a $3 billion trade deficit in one quarter, and it was considered a crisis. These days we cannot get anybody to look at this. But countless people are impacted by it; the people who woke up this morning who did not have to dress for work because their jobs are gone. They had to tell their family: I am a hard worker, I do good work, but my manufacturing plant was moved overseas and I no longer have a job.

Millions of people have experienced that, and they are told by too many in this Congress and too many others who fight for bad trade policies that they have to compete in circumstances where fair competition does not exist.

So I am going to offer an amendment with respect to market access and compliance, saying if we have a $470 billion trade deficit, we ought to have a lot of folks prying open these foreign markets, and dealing with unfair trade practices.

The fact is, we hardly have anybody working on it. There are a bunch of people going off making goofy agreements on behalf of this country, selling out American farmers and selling out manufacturers because they do not care very much, and then when the agreement is done, even if it is a bad agreement, if there is some ability to enforce it, we do not have anybody who wants to enforce it anyway.

I ask for 5 additional minutes by unanimous consent.

The PRESIDING OFFICER. The Senator has used his 20 minutes.

Mr. REID. By the authority of the ranking member, Senator LAUTENBERG is to be recognized for up to 20 minutes, time off the resolution. Senator NICKLES does not want the amendment offered. It takes unanimous consent to just speak about the amendment.

Mr. DORGAN. I ask unanimous consent to proceed for 5 additional minutes.

Mr. REID. That would be fine, but I would like the Senator from New Jersey, who has waited some time to be recognized—Senator ENZI, the Senator is going to be recognized for 5 more minutes, followed by Senator LAUTENBERG to be recognized for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I will probably not use all the 5 minutes. I know my colleague wishes to speak.

There are so many other issues of choices, especially bad choices, with respect to these budget resolutions we are discussing.

The budget resolution brought to us from the committee has large, biting, permanent budget deficits. It includes very large tax cuts. At a time when we are asking this country to sacrifice, especially with its sons and daughters, at a time when we are sending America's sons and daughters to war, this Congress is saying we will have our sons and daughters make tough choices, but we will not make tough choices. It is not the fair thing to do. I do not want those soldiers to come back to bear the burden of the costs of a war we would not cover.

A little over a year ago, I was in Afghanistan. I recall visiting on the edge of Afghanistan an old Soviet airbase. I believe it was called Kanabad. At that Soviet airbase, we had soldiers. At that point, there were still a lot of activities in Afghanistan when we fought the Taliban and kicked the Taliban out of Afghanistan. We were then searching for al-Qaida and Osama bin Laden. When I visited that base and spoke to the soldiers, the men and women living in a tent city were walking around in mud up to their ankles, snow, conditions that were not good, but I could see the pride in their eyes. They understood why they were there. They understood what they were doing for their country, and they were proud of it, and this country is proud of them.

They are still in Afghanistan. Fortunately, the fighting does not present itself these days so much in Afghanistan. We have been remarkably successful in Afghanistan and hopefully we will restore the new government under Mr. Karzai. The fact is, we still have troops in Afghanistan. We are prepared to move troops into Iraq. Some are perhaps there, others perhaps in a day or so. It seems to me our obligation to those, especially the mostly young men and women who have been taken from this country, away from their families, and who said, "let me serve, I will go," who are risking their lives for this country, our obligation is to be talking about the realities of what this country faces. To say to those soldiers the sacrifice is not only yours, it is a national sacrifice.

When someone asks, What do you do for the war, you say I get a dividend tax exemption? We had Warren Buffett come to the Congress a week and a half ago. He is the second richest man in the world. He said: If you provide a tax exemption for dividends, which is in this resolution, I will actually benefit to the tune of about $400 million a year. He said: But it won't make any sense for the country. It will not help the economy and I don't support it.

Why on Earth would we be doing this when we ought to be supporting our troops? When the troops are doing their part, in my judgment, we must do ours. We should support them with our tax dollars, even as they support us with their lives. That is what these discussions are about.

The reason I decided to speak about this, my colleague said we do not have any idea what any of this costs. Nonsense. We all know better than that. Of course we know what it will cost. We do not know the details. We know what the war against terrorism has cost.

I was told yesterday by the Department of the Army in an open hearing that amount of money to prosecute the war against terrorism has been taken out of the regular accounts because they have not been provided for and they will be in an emergency supplemental, but the war on terrorism is not a temporary event and it ought to be part of the regular budget. We know what is going to happen in Afghanistan. We will have troops there. We know what that will cost. It ought to be part of this budget and planning. We know it will cost some money; it already has in Iraq. But the administration is deliberately at this point deciding not to allow anyone to see those numbers and they will not discuss them until we pass this budget.

Why? I think we understand why. It will be a very big number. It is something we ought to be considering here, in my judgment.

I asked the Chief of Staff of the Army, General Shinseki, about it yesterday. I didn't press him because he got in very hot water a couple weeks ago. The published reports were that there were people in the Pentagon who wanted heads to roll because General Shinseki answered the question, What is this going to cost? He got in real trouble.

It seems to me we ought to deal with all the facts and come up with a budget that adds up and works.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 20 minutes.

Mr. LAUTENBERG. Mr. President, I rise to talk about an amendment I plan to offer when the opportunity presents itself. My amendment establishes a reserve fund for national and homeland security. My amendment is cosponsored by Senators CONRAD and SCHUMER as well.

This budget reminds me of a movie I saw some time ago, not intending to present any humor, but it is precise in what it says: "Show Me The Money." Everyone understood immediately what they were talking about. Here we are, searching for the money to pay for our defense needs and the war with Iraq. It is nowhere to be found.

I was the ranking member of the Budget Committee for several years. There is one thing you learned on that committee, simply wishing for money does not make it appear. This must come as a shock to people who in their regular lives try to set money aside for future expenses such as mortgages or tuition or rent or real estate taxes. We all have to budget for our critical needs.

The war with Iraq has started. We see the pictures of our troops and you wonder how they put up with the heat and the dust, the threat to their lives, the ominous presence, perhaps, of chemicals or biological weapons. There is plenty to think about. But for God's sake, we ought to think here about how we provide the money to prosecute that war. It has to sound strange to people listening to what is said in the Senate this morning.

We have an obligation to tell the American people how much and where the money is going to come from to finance the war and to finance our domestic security needs. At critical moments in history such as this, we ought to be truthful with the American people about what it is we are doing.

The truth is, this budget does not provide the funding to prosecute our war with Iraq. It is a simple equation. We are shortchanging national security spending and the costs of the war in order to protect a tax break, largely for the wealthiest.

I want people to understand. We are going to prosecute the war, and we are going to do it fully, but we ought to tell the truth to the American people about how we are going to pay for it. The money to pay for this war is not provided in any place we look. It is a tax cut that people understand is going to the wealthiest among us. I want everyone to know the money that would be used to prosecute this war is going to go to another priority; that is, a tax cut for the wealthiest. A tax cut that, as we heard from the Senator from North Dakota, a tax cut people with wealth typically do not need, and I can tell you most of them do not want it when they recognize it comes from the very foundation of our strength in this country.

The Senate GOP plan ignores the cost of war. We are going to look at a supplemental, which is in addition to the budget, that was not planned for. But with less than a wink of an eye, everyone knows the war otherwise will not be prosecuted out of the funds available for the Defense Department. That is what we are looking at. From $60 billion to $95 billion is expected to be requested in a supplemental plan. The present Senate budget plan does not provide for any of it.

My friends in the business world are people who run big companies, some of them little companies, but they run organizations and they know how important it is to fund your critical needs.

My amendment corrects a major problem with this budget. My colleagues may not realize that the Senate Republican budget resolution actually cuts defense spending by $103 billion below the President's request.

We have heard a great deal of talk about patriotism from the other side of the aisle. We have even seen it raised in the ugliest of fashions, in an election where a triple amputee who lost his limbs in Vietnam was accused of lacking patriotism and lost the election. Imagine, a triple amputee, a man left with one arm, the legs are gone, one arm is gone, and he is accused of being unpatriotic. Language flows loosely around here at times.

We have heard a lot about putting national security and homeland first above all, and at times when the defense budget was being prepared it was suggested if you challenged it, if you voiced some concern about it, if you questioned the tactic being used, there was an implied criticism that you were not being loyal, that you might be like the French. Talk is loose here.

I served in another war, a long time ago, and they used to have a slogan "loose lips sink ships." Boy, we would not have a lot of ships afloat here.

When you examine the details of this budget, it is apparent that it is tax cuts for the rich that have the highest priority. In fact, this budget cuts national security funding in order to provide those tax cuts to the wealthy.

I had a business career before I came here. Thank goodness for the American opportunity, we succeeded beyond our wildest dreams. We were three poor kids from working-class families in Patterson, NJ. The company did very well. Today a company that we started employs 40,000 people.

Mr. President, it is obvious that a company with that kind of growth, that kind of success, produced some wealth for the founders. It did. And I can tell you I do not want a tax cut for myself and I don't think people in my position ought to have tax cuts right now. America has been good enough to us that we do not need the tax cut. We need a strong country. We need a harmonious population where people know they are being treated fairly and that we are not putting everything else aside so we can give a tax cut to people who neither need it and in most cases don't want it.

There are sleight of hand maneuvers in this budget. If you look at the years 2004 through 2008, the Republican budget projects defense spending at the level requested by the President. But in the last 5 years of the budget window, from 2009 through 2013, the Republican budget resolution actually cuts $103 billion below the levels CBO, the Congressional Budget Office, estimates would be required just to maintain defense spending in real terms at the level the President proposed. During those latter 5 years, where is that missing $103 billion going? The answer is—I don't want to be repetitive, but this is so hard to understand, so impossible to conceive that we have to say it a lot because it does not get through. But maybe, just maybe, the American people will hear this clearly enough to say:

> Hey, listen, I have heard some pretty good presentations this morning.

I am discounting mine. I am talking about others here.

> They keep talking about this tax cut for the wealthy.

That is what we are talking about, Mr. and Mrs. American citizen. That is what we are talking about. The tax cut in this bill over 10 years will cost this country $1.4 trillion.

Are we cutting defense for this tax cut? Whom does that help? Let's look at the facts about the President's tax proposal. Almost half of all tax filers, 49 percent of them, would receive tax cuts of less than $100. That doesn't do much for people's standard of living.

The average tax cut for the bottom 80 percent of tax filers would be $226. That is the average tax cut. By contrast, the top 1 percent of tax filers would receive an average tax cut of $24,100. But those who are at the tippy top, with incomes of more than $1 million, would get tax cuts averaging $90,200. That could make a difference in one's standard of living, but not for those folks, they are already living at that scale. That is why I call it skewed towards the wealthy.

As for another part of the tax cut proposal, the dividend tax cut, nearly 70 percent of the benefits would flow to the top 5 percent of our tax filers, and the top 1 percent would receive 46 percent of the benefits—1 percent would receive 46 percent of the benefits, nearly half of the benefit to the top 1 percent.

So the priorities are quite clear: Tax cuts for the wealthy first; national security, when it comes to the money, further down the list. That is just plain wrong.

There is a reason it is being handled that way. I do not suggest lack of patriotism, lack of loyalty, lack of conviction on this war. I just know that in the planning, in the machinations that go toward developing the budget, what happens is someone says: Hey, guys, do you know what happens? If we don't get that tax cut in the total package, we are not going to get it. It is just not going to happen. It's a lot easier to get money for the war, a lot easier to get money for our defense, homeland defense needs. We can get that in supplementals or other places. A tax cut, we had better get that now, while we can.

The President laid out his request for accomplishing these goals. But what did the Senate Republican budget do? It sacrificed funding for national security in order to provide tax cuts for the rich, as I explained. The process took over. To make matters worse, this budget ignores the fact that we have gone to war. Every one of us is glued to the news, whether it is the papers or television or radio or whatever it is; we want to know what is happening with our troops. We worry. We heard about a Black Hawk helicopter that went down. I know I must speak for everybody. We are holding our breath until we learn that those who were carried in that helicopter were rescued.

The White House has told the press that it will happen, that we are going to need the money. Again, I used to be ranking member of the Budget Committee, so I know my colleagues on that committee read the newspaper.

The administration is about to send up a war supplemental request to us of between $60 and $95 billion. It is not in the budget, it is supplemental. It is extra. You can make the case pretty easily. It is one thing to make the case because of the need. It is another thing to make the case because you want to put the funds that are available in a lot of rich persons' pockets.

This war and its aftermath will cost a lot of money. Estimates are that the reconstruction of Iraq could cost $30 billion over 10 years. Every year of Iraqi occupation could cost between $17 billion and $46 billion. As far as this budget is concerned, apparently it doesn't see any of it happening. So we ignore the war in the budget, we cut national security spending. Why? Simply because it seems, in the eyes of the administration, the most important agenda is to provide tax cuts to the wealthiest Americans at the cost of other priorities.

My amendment makes it clear that tax cuts should not take priority over every other need. My amendment restores the 2009 through 2013 national security cuts in the budget resolution. The amendment moves $103 billion in budget authority and $88 billion in outlays into a reserve fund for national security and homeland security. To offset the cost of this critical reserve fund, my amendment simply goes to the tax cut and reduces it by $88 billion during the same period, so we can take that cash from the tax cut—again, most of it going to the wealthiest—and put it into the most vital need we have right now, and that is to make sure that every penny we can put together to make sure our people in the field, those who are fighting, know we will do everything we must by way of financing to make sure they have every tool available, they have all the protections they need. That is where to put the money.

We are faced with a clear choice. My amendment says our Nation's national security is far more important than tax cuts for the wealthy. I hope when we have a chance to present the amendment, my colleagues will support voting for national and homeland security by voting for the amendment.

In the war I fought in a long time ago, we used to talk to the public about what they had to do to prosecute the war, to provide for our defenses.

This poster shows its age by the way the characters are drawn. It says: "BUY WAR BONDS." I think they were $25 at their least price. It said: Everybody has to kick in. Everybody has to do their share. Do what you can to help us conduct ourselves in our defense as proudly, as forcefully, as we can. That is what it is about.

And here we are ashamed to ask the richest among us to sacrifice their $90,000 on a $1 million income? Wait, make more money. Warren Buffet addressed a group of Senators the other day, and he said: I love paying taxes because every time I pay taxes, it means there is more money left in my pocket. Pretty simple. And that is how we ought to face our responsibilities now: Tell the truth to the American people, I say to my colleagues on the other side. Tell the truth about how you plan to use the money that otherwise would currently be available to prosecute the war.

Maybe we would not even have to do a supplemental. There are times when we are mystified by the arguments presented on one side or the other. I am sure that happens with our Republican friends when it is a Democratic proposal. The fact is, these figures that are generated here have been reviewed by the distinguished committees of people who study budgets as a professional thing, as an organizational commitment. They tell us: Look, all you have to do is look at the lines, look at the years.

Right now, everything looks OK. Get out to about 2007, and you see what happens. The President's budget is one thing; in the Senate GOP plan—that is, the budgeteer's, the majority's plan in the Budget Committee—they have something else. They show they cannot meet the President's number.

The tragedy of this kind of a debate is that we have to confront one another. I believe this is a time when the last thing on the list of priorities ought to be tax cuts going largely to the wealthiest among us.

Let's stand up and do what is right. Let's send all that we have right now: Commit it, reserve it, make it such that it cannot be touched anyplace else.

I hope when we have a chance to review the amendment, we will see the thought has prevailed that says: Hey, they could be right on this one. Let's send it all into our defense needs which are so heavy right now.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. I thank my colleague.

Mr. President, as the daughter of a veteran and the granddaughter of two grandfathers who served in the war, and the mother of two small boys, I want to say how proud I am of the men and women who serve in our Armed Forces in this great country, those who go to the front lines to defend the freedoms and the conveniences we enjoy here every day.

They have done a tremendous job, and they continue to do a tremendous job. I want them to all know that our thoughts and prayers and, more importantly, our pride is with each and every one of them as they perform a mission on our behalf.

I also rise today on behalf of the men and women who serve our Nation as members of the National Guard and Reserves, who are out there today, as well, defending our rights and our freedoms.

I am going to discuss an amendment that I will offer, when the time becomes appropriate, with Senator LANDRIEU, with a tremendous amount of help and background from many other Senators who have worked on this issue, particularly Senator LEAHY—an amendment that will bring members of the National Guard and Reserve into the TRICARE health care program.

Currently, Guard and Reserve families cannot enroll in the TRICARE program unless the Guard or Reserve member is activated with orders lasting over 30 days.

Our amendment would allow members of the Guard and Reserves, as well as their families, to sign up for TRICARE health care coverage at any time regardless of whether the Guard or Reserve is activated.

This amendment is paid for by reducing the size of the proposed tax cut by $20.3 billion over 10 years. Specifically, these numbers are backed up by a GAO report on this subject that was authorized by the fiscal year 2002 National Defense Authorization Act. And the study was completed in September of 2002. So we have the numbers to back up what we want to do on behalf of these incredible men and women in the National Guard and Reserves, who deserve the support of health care, as do their families.

In recent years, our Nation has increasingly looked to our volunteer reservists and guardsmen for our defense and peacekeeping needs, requiring them to leave their jobs and families in defense of our Nation.

Arkansas has sent over 2,000 Guard and Reserve members to contribute to the war on Iraq and the war on terrorism. They are among over 212,000 Guard and Reserve members who have been activated nationwide.

Given the scope of their sacrifices, I do not think it is too much to ask their fellow Americans to sacrifice as well by accepting a smaller tax cut.

Currently, over 20 percent of this Nation's Guard and Reserve soldiers lack health care coverage when they are not on active duty. That number is much greater in a State such as Arkansas where our overall numbers of uninsured are much greater than the national percentage.

In this time of increased dependence upon the members of our National Guard and Reserves, it is imperative we increase benefits for them and their families for when they are not on active duty.

I also want to acknowledge this amendment only provides funding for this program. It does not begin to detail how the extended TRICARE benefits should be structured. That test would be left up, and should be left up, to the Senate Armed Services Committee and the Senate Defense Appropriations Subcommittee.

I am also aware that many Senators have been working, for some time, on the details of how to structure and provide these benefits. I hope my budget amendment will complement their efforts by solely allocating the necessary budget authority to provide these benefits to our Guard and Reserve members.

I look to the leadership of Senators LEAHY and DEWINE and DASCHLE, as well as both the chairmen and ranking members of the Senate Armed Services Committee and the Senate Defense Appropriations Subcommittee, to develop the specifics of how these benefits will be provided.

I am also aware that this amendment will only provide an estimate of the cost of providing these benefits. In fact, some estimates state that providing these benefits will cost much less than this amendment would provide. I hope that is the case.

Nonetheless, this Nation's National Guard and Reserve members and their families deserve these benefits now.

I was drawn into this by a recent visit from our National Guard and Reserve units in Arkansas. A human resource officer brought to me the fact that many of these individuals—Mr. President, I ask unanimous consent for an additional 2 minutes.

Mr. CONRAD. Mr. President, I yield another 2 minutes to the Senator from Arkansas off the resolution.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, on a visit with our National Guard and Reserves, a human resource officer came to me and said: Do you realize that when these individuals are called up to active duty, we can't activate them because they have not had the proper medical care? These are individuals who have signed on the dotted line and said they are willing to go and defend this country. Yet in their private lives they cannot afford or have access to the appropriate health care that keeps them at a health care level that we could actually activate them when we need them.

This amendment is just the tip of the iceberg with respect to this Nation's overwhelming amount of uninsured families. Statistics show us that one in five Americans do not have any form of health coverage at all.

Congress must address the larger problem of uninsured families across this Nation, but the absolute least we can do is to provide full coverage to America's National Guard and Reserves and their families.

The time is right. And this is the right policy and the right priority for our men and women serving in the Guard and the Reserves.

Mr. President, I would also like to add Senator PRYOR as a cosponsor to this amendment when we are prepared to offer it.

I say to all those Americans listening, we all must make contributions. It is not too much to ask of our fellow Americans to delay a larger tax cut in order to provide the necessary health care that these individuals need to be called up to serve.

Mr. REID. Will the Senator from North Dakota yield me 5 minutes to have a colloquy with the Senator from Arizona?

Mr. CONRAD. We can have that understanding, and then we will come back to Senator BROWNBACK for a time he desires.

Mr. BROWNBACK. That is acceptable.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I listened to the speech of the Senator from Arkansas, talking about the men and women in the armed services. What I want to focus on for a minute is my son. One of my boys married a beautiful young woman and they have two of my grandchildren. I have gotten to know her sister Megan. Megan is a brilliant young woman, graduated Jefferson High School, which is a school for the academically talented, has more merit scholars than any high school in America. She is a graduate of MIT, another great scientific institution. This young woman is now in the gulf, an officer on a destroyer. She is trained to be the person who gives the direction to fire missiles.

Things have changed since the Vietnam war, the Korean conflict, the Second World War. Women are now heavily engaged in actions that are military in nature. When we speak of the men and women of the armed services, I can't help but focus on Megan. She is married. Her husband is getting ready to go to medical school. He is here. His wife is in harm's way in the Middle East. My conscience has been quirked by the very fine statement of the Senator from Arkansas when she referred on more than one occasion to the men and women of the armed services because the men and women of our armed services are the Megans of the world. They are standing side by side of the men doing anything that a man can do. I congratulate the Senator for the amendment she will offer and her contribution to the Senate, not only with this amendment but what she does every day.

Mrs. LINCOLN. I thank the Senator from Nevada for his comments.

It is so important for us to realize that these men and women in the Reserves and the National Guard are leaving their families. They are leaving their careers, their jobs. The least we can do is provide for them the ability to provide for their families the kind of health care they need.

One of the most outrageous stories I heard was from our reservists in Arkansas who said: We had to spend unbelievable amounts of money just to get these individuals up to the health care level where we could actually activate them. These are people who have offered themselves and have pledged that they would leave their families, they would leave what they have worked their entire lives to build to go and defend our country. There is absolutely no reason that we cannot provide for them the ability to provide for their families and for themselves the health care they need to be ready when the time comes and we call on them.

I thank the Senator from Nevada. For all of my colleagues listening to this debate, I do not think it is too much to ask for the rest of Americans of what we can do for those being called on more and more to serve this country. That is the National Guard and the Reserves.

Mr. ENZI. Mr. President, I yield 15 minutes to the Senator from Kansas to introduce an amendment.

### AMENDMENT NO. 282

Mr. BROWNBACK. Mr. President, I want to propose an amendment at the desk. I ask unanimous consent that the pending business be set aside so I may introduce an amendment.

Mr. CONRAD. Mr. President, I would be constrained to object at this point because what we are doing is allowing Members to speak on their amendments on both sides but not actually present their amendments at this point. That has been what we have been doing back and forth all day today, as Members have come and spoken on their amendments but not actually sent them to the desk, with the exception of Senator SCHUMER who had an amendment on homeland security. So I am contrained to object at this point. The Senator is completely able to go ahead and make his presentation. I would have to object at this point.

Mr. ENZI. It was my understanding that we were going to go back and forth on the introduction. It was our turn to have an introduction of an amendment. That is why we did that. We will wait for the introduction.

Mr. CONRAD. We are trying to go back and forth with respect to speakers and with respect to the opportunity to address amendments, but not formally enter them at this point.

The PRESIDING OFFICER. Objection is heard.

The Senator from Kansas.

Mr. BROWNBACK. I hope once we are able to present the amendment that it will be accepted. We have floated it by both sides and it has been vetted as well. I hope it will be accepted.

I will be sending an amendment to the desk that will express the sense of Senate that a commission be established to provide a real means of addressing and eliminating Government waste in domestic agencies and programs within agencies. The Federal Government needs such a commission. We don't need one like the ones we have had in the past that don't have any teeth to them, that simply report but there is never a vote taken on what the commission puts forward. This one will be different in that respect. Indeed, at a time of economic uncertainty and of war, it is imperative that the Government demonstrate real fiscal responsibility and accountability in Federal spending. Whether it is corporate America or the U.S. Government, fiscal accountability is paramount.

With the devastating collapses we have had in corporate America, with Enron and WorldCom and others last year, we have seen what happens in the corporate world when fiscal accountability grows lax. Let's take steps now to avoid the same pitfalls at the Federal Government level. Let us ensure public trust by opening the books of Federal domestic agencies and programs within agencies, making changes and reforms where necessary, in order to ensure that hard-earned taxpayer dollars are being spent wisely.

Fiscal accountability is what my amendment to the budget resolution is all about. Over the years we have established many useful measuring sticks for fiscal accountability in Federal spending. The Government Performance Result Act, GPRA, comes to mind. However, what measuring sticks such as GPRA lack is an effective means to implement their useful findings. What this resolution calls for is a commission that would incorporate the Federal Government's existing accountability measuring sticks to perform additional research of its own and provide the Congress with legislation, which we would vote on to either accept or reject as a whole, to implement its recommendations or not to accept them.

In a few days I will be reintroducing bipartisan legislation that creates such a commission. The bipartisan Commission on the Accountability and Review of Federal Agencies, CARFA Act, would fulfill what is addressed by this resolution. It is bipartisan. Senator MILLER from Georgia is a cosponsor, and I hope to add a number of others on this bill in the near term.

I wish to speak for a minute about the CARFA Act. The CARFA Act provides Congress with a viable proven model to eliminate Government waste and inefficiency. It is modeled after the successful Base Realignment and Closure Commission. CARFA will incorporate the findings of past measuring sticks such as GPRA and will give them teeth. This program will focus on domestic discretionary spending. It will not be focused on military or entitlement programs. It is domestic discretionary programs. Where past commissions and reports failed in that they had no real means by which Congress could implement their findings and recommendations, CARFA will succeed.

The scope of review called for by this resolution entails domestic agencies and programs within agencies. I want to emphasize that point. Where BRAC is already in existence and has gone through several rounds in rooting out waste in the Department of Defense and consolidating resources to make them more useful, more viable, CARFA would review Federal domestic agencies and programs within agencies using a narrow set of criteria which should produce significant results and do what BRAC did, consolidating our dollars in more efficient uses in high-priority areas.

Over the proposed commission's 2-year review, the commission focused on two particular areas.

One, duplicative: Where two or more agencies or programs are performing similar functions which can be consolidated or streamlined into a single agency or program, the commission would recommend that the agency or program be realigned. We do not need duplication within the Federal Government.

Second, wasteful or inefficient: Where the commission finds an agency or program to have wasted Federal funds by low-priority spending, it would recommend that such an agency or program be realigned or eliminated.

Three, outdated, irrelevant, or failed programs: We have those within the Federal Government. Where the commission finds that an agency or program has completed its intended purpose—I do not think we ever think about that, that a program actually completes its intended purpose, but it happens and we keep spending in the program—has become irrelevant, or has failed to meet its objectives—it was designed properly in the sense that the people at the time had the best of intentions in the design of the program, but it simply did not work to meet the needs at that time—and it would recommend the elimination of such an agency or program.

Such a commission, upon completion of its 2-year review, would submit to Congress both its recommendations for the realignment and elimination of domestic agencies and programs, and proposed legislation to implement these recommendations.

The Congress would then consider the commission's proposed legislation in an expedited manner, with input from the committees under whose jurisdiction the affected agencies or programs fall. Following the committee's comment period, the proposed legislation would be brought to the floor of each Chamber for debate and a single vote, up or down, without amendment, one vote.

If we are going to get serious about priority spending during this critical time in our Nation's history, if we want to get the most use out of every taxpayer dollar that comes to Washington, such a commission is clearly needed.

As in any bureaucracy, inefficiency or low-priority use of taxpayer dollars is often a serious threat to the credibility of an agency or a program, much less the legislative bodies that create and sustain them. We must be certain the money we spend is not just allocated in a certain way just because we have historically spent it that way.

I do not know of anything that drives my constituents more nuts than to see wasteful Federal spending or programs that have accomplished their purposes but the money is still being spent. There are people who come up to me and say: I do not mind paying my taxes, but it drives me nuts to see the money poorly spent. If I am going to work hard to earn this money, I want it to be wisely spent. Too often there are examples of that not occurring.

Priorities do change and our spending must change with them. The CARFA Act is crafted to take these changes into account. Whether one is conservative or liberal or in between, surely we can all agree that low-priority use of taxpayer dollars is an unacceptable strain on hard-working Americans and on our economy. It is certainly no way to operate a business. Yet I feel, as do many of my colleagues, that we continually fail to get the most out of every taxpayer dollar that comes to Washington.

Let's change that. CARFA is about maximizing the benefit of all Federal funds. Funds saved through this legislation could be used to pay down the national debt or be channeled to higher congressional priorities.

It is my hope this body will agree to this amendment and then proceed to consider and enact the CARFA Act. Truly, this will provide a real tool at the service of the Federal Government to better prioritize spending and shift funds from less beneficial to more beneficial areas. All of us surely support such a move.

I believe Americans would greatly benefit from such a commission which has the real potential to help us truly root out inefficiency in the Federal Government in such a way that we can more fully realize the benefits of all Federal funds. That is the spirit of this amendment and the CARFA Act.

I urge my colleagues to join me in this effort, to vote for this amendment, to adopt it as part of the budget resolution and to show support for the CARFA Act of 2003 by becoming original cosponsors of this important legislation.

Mr. President, as we debate the budget, this is exactly what we need to be doing: Finding ways we can prioritize and make sure our spending is efficient.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, I yield 10 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, as such time I am allowed to offer an amendment, I intend to offer an amendment on behalf of myself and Senator CORZINE. This is an amendment I actually offered in the Budget Committee. I thought we had a good debate on it. It goes to the heart of what is happening at this moment on which so many Americans are focusing and on which so many people in the world are focusing.

This Nation has gone to war with Iraq. Our thoughts are first and foremost with the men and women who serve our country in the Armed Forces. While we debated the wisdom of going to war with Iraq, and I personally have questioned whether it is a good idea, there can be no debate or doubt about the dedication of our troops and devotion to our country or the honor they do us through their sacrifice. We all hope in earnest for a speedy victory and for the safe and quick return of those men and women.

If we fail to prepare in this budget for the fact of this war in Iraq, we will be engaging in wishful thinking. Worse, we will be failing to think at all. The notion that this budget does not provide anything for this enormous undertaking that is occurring is really troubling and really is not what you can call honest budgeting.

I will concede no one is really certain how much the war with Iraq will actually cost, but we can be certain this war will be far from free. In an interview with the Wall Street Journal, the President's former adviser for economic policy, Lawrence Lindsey, estimated the cost of the war would be $100 billion to $200 billion. According to the Congressional Budget Office estimates, the initial deployment of troops and equipment would cost about $14 billion; the first month of combat would cost $10 billion, and then with each subsequent month of combat costing $8 billion per month. To return troops and equipment to their home bases after the war some people believe would cost $9 billion, and any postwar occupation of Iraq would cost between $1 billion and $4 billion, Mr. President, per month—per month.

Using CBO's figures, if we make some ballpark assumptions that active military combat will last for 2½ months and that the following reconstruction and occupation would last another 2 years, we are talking about something between $69 billion and $141 billion.

The Center for Strategic and Budgetary Assessments estimates that the cost of combat from 1 to 6 months would be $18 billion to $85 billion, and the cost of reconstruction for 5 years would range from $25 billion to $105 billion. Adding all the potential costs identified by the center, it would lead to total cost estimates ranging on the low end from $129 billion to $683 billion on the high end.

Plainly, we are talking about a major enterprise, and obviously it is one for which we should budget.

The amendment I offer on behalf of myself and the senior Senator from New Jersey will create a reserve fund to set aside $100 billion.

That is an amount well within the range of the available estimates I was highlighting in order to fund this military action and reconstruction in Iraq. We pay for this action by reducing the amount that we would budget for cutting taxes in the period covered by the budget resolution—a simple proposition. The amount of $100 billion would be put in a reserve fund so we can honestly estimate a budget for the war in Iraq, and that would come out of the tax cut that is contemplated.

When we are conducting a war, the budget must reflect it. We cannot blithely go along as if this were a time for business as usual. We should budget responsibly for what is happening right before our eyes.

When I am able to actually offer this amendment, I will strongly urge my colleagues to support this amendment. The American people will be extremely supportive, obviously, of our troops in this effort as it is conducted. What they will not understand, though, is if we pretend that this will cost nothing, that we will pass a budget in the midst of this war effort pretending that the war in Iraq will not be an expensive proposition. We owe them that. We owe them honesty at this historical and very significant moment, and we must set aside a reasonable estimate of funds to cover the cost of this enormous undertaking.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I yield myself 1 minute.

Mr. President, I explained earlier why the emergency supplemental was not a part of the regular budget process. I want to share one paragraph from a CRS report:

> Based on an examination of previous CRS reviews of funding for wars and other major military operations, it appears, with one possible exception, that Presidents have not requested and Congress has not provided funding for wars in advance of the start of operations. Rather, administrations have requested funding after operations have begun and Congress has subsequently appropriated money to meet specific documented budget requirements.

I yield the floor, reserving the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. FEINGOLD. Mr. President, I ask for 30 seconds to respond to the Senator from Wyoming.

Mr. CONRAD. Yes. I yield 1 minute to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in response to the Senator's remarks, the reason these wars were not budgeted for in the past is that they were obviously not foreseen. They occurred after the budget resolution occurred. We have known about this war and the imminent reality of it for some time. We are actually seeing it undertaken as we speak, and we are doing the budget resolution right now. There simply is no hard and fast rule against being honest in budgeting. That is all we are calling for, and this is an appropriate occasion when we can and should budget for the war.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I salute the Senator from Wisconsin. I think it is absolutely bizarre that we have the budget before us and we have nothing to pay for the war in that budget. The reason given was that operations had not commenced. Well, operations have commenced. And not to set aside funds for the war makes no earthly sense. How can that possibly be defended? We are at war. We have already spent tens of billions of dollars on that conflict, and now to suggest we put our head in the sand and say there is nothing going on defies reality, defies common sense.

I very much hope the amendment of the Senator from Wisconsin is adopted.

I yield 5 minutes to the Senator from the State of Maryland.

Ms. MIKULSKI. Mr. President, America is at war. Our priority must be to keep America and Americans safe, both at home and abroad. I look forward to supporting a supplemental budget to pay for the war and to pay for homeland security, and I also voted to reserve the money to do that. That is why I supported the "patriotic pause" that said no tax cuts until we know the cost of the war.

We know Americans are fighting overseas. The U.S. military should know they have the entire Nation behind them to make sure they have the best weapons, the best strategies, and the best support for their families while they are overseas. We also stand up for what America stands for. That means strengthening the safety net for those who need it the most. That means standing up for America's families.

We also need to recognize that families are hurting. We have a weak economy. People are going into debt to put their kids through school; affordable health insurance. Some families are facing extraordinary challenges because they care for a loved one who has a chronic condition: a parent with Alzheimer's, a child with autism, a son with cerebral palsy, a spouse with multiple sclerosis.

These families struggle every day to take care of their loved ones. They face a tremendous emotional and financial burden. It is not the job of the Federal Government to help them with their emotional burden, but I believe it is the job of the United States of America to help them with their financial responsibility. For those who are giving care, I believe we should give care. I want to give help to those who practice self-help.

Therefore, I will be offering an amendment to provide a tax credit for up to $5,000 for family caregivers, or those needing care who have caregiving expenses. This would cost $3.5 billion a year. My tax credit would pay for the prescription drugs, medical bills, or medical management for juvenile diabetics, the medical bills, or other care needed if a person has someone they are caring for with Parkinson's disease. My amendment would help people with multiple chronic conditions. We are not talking about hay fever, though that is disruptive. We are talking about juvenile diabetes. We are talking about autism. We are talking about multiple sclerosis, people who are unable to perform their activities of daily living, who are severely cognitively impaired, or children with such complex medical conditions they require medical management and coordination of care.

Why is this needed? Well, in 2000, over 125 million people had chronic conditions. One in five Americans have multiple chronic conditions. Eighteen million children in this country have chronic physical, developmental, or other conditions that impede their ability to live full lives. Almost 4 million Americans have mental retardation or another severe developmental disability. If the work of family caregivers was replaced with paid services, it would cost the Federal Government close to $200 billion a year.

Family caregivers face many demands, emotional, physical, and financial stress. They have stresses with their families, with their marriage, the stress of 36-hour days. They pay the high cost of medication, physical therapy, durable medical equipment such as wheelchairs, daycare for children with special needs, and medical bills from care with specialists.

People with serious chronic conditions pay for their health care by either making gradual medical payments over time or using money from savings, mutual funds, or other assets.

Families struggle to make ends meet. Let me give an example. A woman in Potomac, MD, was caring for her husband who had a debilitating neurological disease. There was no treatment or cure. Her husband could no longer talk, walk, or feed himself. The family received no financial help. She worked full time to support his full-time home care. She herself is in her early 60s. She sure could have used that tax credit.

Or as the mother of two children in Parkville, MD, one of her children is a 4-year-old boy with autism. This family has relied on volunteers from local colleges to assist with respite care for their son. This mother has not been able to return to work because of the amount of time needed to care for her two young children. She has two masters degrees in education.

Or like the Maryland woman who cared for a parent with Alzhemer's disease who worked 25 hours per week to pay someone to care for her mother while she worked to have health insurance for herself; saw her own income go from a high of $40,000 a year to a low of $6,000 a year. A tax credit could have helped her with home health care and respite care for her mother.

I think my amendment speaks for itself, but I try to speak for the families where we need to give help to those who are practicing self-help.

I ask unanimous consent that a list of organizations supporting this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Who supports BAM's Amendment:

Autism Society of America, Cystic Fibrosis Foundation, National Organization for Rare Disorders, Easter Seals, United Cerebral Palsy Associations, Arc of the United States, National Health Council, National Council on the Aging, Paralyzed Veterans of America, Family Voices, National Respite Coalition, National Family Caregivers Association, and the National Alliance for Caregiving.

Ms. MIKULSKI. One of my first milestones in the Senate was the enactment of the Spousal Anti-Impoverishment Act to change the cruel rules of Medicaid so that families would not have to go bankrupt before Medicaid would pay for nursing home care for a spouse. The spouse living in the community could keep the family home, keep a car, and keep some income each month to live on. This has helped one million people.

But this was a down payment. Not much has been done since then except the National Family Caregiver Support Program and long-term care insurance for Federal employees. I was proud to sponsor and work on both of these important measures and a bipartisan basis to get them signed into law.

Now it is time to make the family caregivers who are the backbone of the long term care system in this country a priority in the Federal law books and the tax code.

I urge my colleagues to get behind our Nation's family caregivers and vote for this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Maryland for her excellent amendment. We appreciate very much her presentation and the thoughtfulness and the energy that she has put into this amendment. I hope my colleagues will pay close attention to what she has offered.

Next, I am going to yield 30 minutes to the senior Senator from South Carolina. Let me say that if there was an award in this body for Mr. Fiscal Responsibility, it would be the senior Senator from South Carolina. In the time I have been in the Senate, nobody has been more serious, more dedicated to balancing budgets, to paying down debt than the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the leader from North Dakota. He has led our Budget Committee and done an outstanding job. The kudos belong to him for fiscal responsibility, and the responsibility in the position he has as the ranking member, to try to get the group together on a consensus, which is next to impossible, but he does the job.

I have three amendments at the desk, and I understand we are not introducing amendments, so I will address hastily comments on all three.

The first, of course, is the port security amendment for $1 billion a year for 2 years. It is focused, not Pepto-Bismol homeland security of $80 billion over 10-some years. I have talked to Senators on both sides of the aisle. They want to finance what we passed unanimously—all 100 Senators—earlier last year for port security.

Right to the point, Osama owns several vessels. His teams landed and blew up the Embassies in Nairobi and Dar es Salaam. His crews were on planes flown into the World Trade Center and the Pentagon. He could just as easily have two or three crews get on an Exxon tanker going up the Delaware River to deliver a tankerful of oil, throw the captain overboard and that tanker aground, and that would close down the eastern seaboard for at least 1 year.

I could go into it, but the amendment is worked out and in detail. I ask unanimous consent to have printed in the Record the details of the amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Hollings Seaport Security Amendment to the Budget Resolution

Amendment would add one billion annually, over the next two years, to the Federal Budget. The one billion will be spent as follows:

Maritime Administration (610 million):

450 million—for grants to ports and waterfront facilities to help ensure compliance with federally approved security plans.

150 million—for grants to states, local municipalities and other entities to help comply with Federal area security plans and to provide grants to responders for port security contingency response.

10 million—to be used in conjunction with the Federal Law Enforcement Training Center to help develop a seaport security training curriculum to provide training to Federal and State law enforcement personnel, and to certify private security personnel working at seaports.

Coast Guard (160 million):

50 million—for port security assessments.

50 million—for the establishment and operation of multi-agency task force to coordinate and evaluate maritime information in order to identify and respond to security threats.

40 million—to help implement the Automated Identification System (AIS) and other tracking systems designed to actively track and monitor vessels operating in U.S. waters.

20 million—for additional Coast Guard port security vessels.

The Border and Transportation Security Directorate (230 million):

100 million—to Customs for the installation of screening equipment, and to be used to help develop new technologies to help develop and prototype screening and detection equipment at U.S. ports.

100 million—to TSA and Customs; 50 million each, to evaluate and implement cargo security programs.

30 million—for the Transportation Security Administration (TSA) to develop and implement the Transportation Worker ID Card, and to conduct criminal background checks of transportation workers who work in secure areas or who work with sensitive cargo or information.

Mr. HOLLINGS. I thank the distinguish Chair.

The second concerns paying for the war. At the very beginning of this session, the first week of January, I introduced a bill to pay for the war in Iraq. I read a book about the fiscal dilemmas we faced each time there was a war, and I say to my distinguished colleague from Wyoming, each time our leaders paid for the war. During the Civil War they put a tax on dividends. The party of Lincoln did that. In World War I, they went up to a 77 percent marginal tax rate to pay for that war; in World War II, a 94 percent rate; in the Korean war, 91 percent. In Vietnam—that is when President Johnson, who has been abused in history but he is the one who wanted to pay for guns and butter—he balanced the budget, paying for both guns and butter, in 1968 to 1969. That was the last time in the history of this Congress we balanced the budget. We paid for the war in Vietnam.

Now, of course, we come to the war on Iraq. Unlike the Civil War where we had put taxes on dividends, here, there is no tomorrow; like drunken sailors, we come up to this chamber and say we are not going to pay for the war.

My particular measure on the desk is a reserve fund of $100 billion. Larry Lindsey, the President's former chief economic advisor, said the war will cost between $100 and $200 billion, but that is up to the Finance Committee to figure out. You have to put your money where your mouth is. I think a better way to pay is with new money. We cannot just forgo this program or that program. We need a value-added tax of 2 percent dedicated to paying just for that war in Iraq. It would take the IRS a solid year until they fashioned the tax and we could start collecting it. But it is a very enforceable tax. Every industrialized country has had one. We had hearings before the Finance Committee back in the 1980s about a value-added tax. We almost adopted it then.

We ought to get serious and get off the deficit bandwagon we are on now. That is what disturbs me. The Commander in Chief, the President of the United States, says in time of war we run deficits. Then, just the other day, in a speech to the nation, he said that "Americans understand the costs of conflict because we have paid them in the past. War has no certainty except the certainty of sacrifice."

The point is, we must have sacrifice; yet that is not being followed through, by any manner or means, with respect to paying for the war. Now is the time for this body to sober up and realize we are running horrendous deficits.

What we have right now is the certainty of sacrifice, for everyone except the Commander in Chief and us in Congress. What we are saying to that GI going into Iraq tonight is: We hope you don't get hurt. We hope you don't get killed because we want you to hurry back. Why? Because we are going to give you the bill. We are not going to pay for the war. The fellow who fights the war is going to have to pay for the war because we need a tax cut. We are going to Disney World. We are not going to have any sacrifice.

They are all running around here with flags on their lapels. So I put section 6 into my bill when I introduced it, which says that if members vote against it, they will be prohibited from wearing the flags in their lapels.

Now when the President leads you to deficits by saying, in time of war we can run deficits, we are playing a game. He says that so in the election next year, you can say, "I voted for tax cuts." That is our dilemma.

The other side talks about the need for tax cuts so we can see economic growth and growth and growth; but my third amendment is to stop the tax cuts.

You can see in this budget before the Senate, the only growth we have is in the national debt. It goes from $6.687 trillion in fiscal year 2003, to $11.919 trillion in fiscal year 2013. It goes up, up, and away by $5.2 trillion. I was here when we did not even have a $1 trillion deficit. President Reagan started this tax cut nonsense with voodoo I, and we immediately had a recession. Dave Stockman wrote in his book "The Triumph of Politics," we should have canceled the tax cut in November 1981, and we did not. He said the President did not do what he should have done.

Then we had voodoo II, the year before last, with President Bush's tax cut. On June 1, 2001, we had surpluses. Then we passed the tax cut, voodoo II, on June 8, and by July 1 we had a deficit. By September 10, 2001—one day before September 11 we had a deficit. We were in the red by $99 billion, so don't blame the deficits on September 11.

We were already in deficits, and voodoo II caused it. Now we seem to get no education in the third kick of a mule, so to speak. We are on course just for the pollsters and buying the election next year with more tax cuts. That is why I resist what some members are trying to do by cutting the tax cut down to $350 billion.

Do you know what that means to this particular Senator? I was with Phil Gramm and Warren Rudman on Gramm-Rudman-Hollings, and our particular initiative called for the reduction of the deficit each year by $35 billion. Here they want me to vote to increase the deficit each year by $35 billion for 10 years, or $350 billion.

What will happen is we will pass it in the Senate, it will get over to the conference, they will fix it, it will be back up to $700 billion-and-something. You will have the votes. You have the majority.

I ask unanimous consent to have "budget realities" printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS' BUDGET REALITIES

| Pres. and year | U.S. budget (outlays) (in billions) | Borrowed trust funds (billions) | Unified deficit with trust funds (billions) | Actual deficit without trust funds (billions) | National debt (billions) | Annual increases in spending for interest (billions) |
|---|---|---|---|---|---|---|
| Truman: | | | | | | |
| 1947 | 34.5 | −9.9 | 4.0 | +13.9 | 257.1 | |
| 1948 | 29.8 | 6.7 | 11.8 | +5.1 | 252.0 | |
| 1949 | 38.8 | 1.2 | 0.6 | −0.6 | 252.6 | |
| 1950 | 42.6 | 1.2 | −3.1 | −4.3 | 256.9 | |
| 1951 | 45.5 | 4.5 | 6.1 | +1.6 | 255.3 | |
| 1952 | 67.7 | 2.3 | −1.5 | −3.8 | 259.1 | |
| Eisenhower: | | | | | | |
| 1953 | 76.1 | 0.4 | −6.5 | −6.9 | 266.0 | |
| 1954 | 70.9 | 3.6 | −1.2 | −4.8 | 270.8 | |
| 1955 | 68.4 | 0.6 | −3.0 | −3.6 | 274.4 | |
| 1956 | 70.6 | 2.2 | 3.9 | +1.7 | 272.7 | |
| 1957 | 76.6 | 3.0 | 3.4 | +0.4 | 272.3 | |
| 1958 | 82.4 | 4.6 | −2.8 | −7.4 | 279.7 | |
| 1959 | 92.1 | −5.0 | −12.8 | −7.8 | 287.5 | |
| 1960 | 92.2 | 3.3 | 0.3 | −3.0 | 290.5 | |
| Kennedy: | | | | | | |
| 1961 | 97.7 | −1.2 | −3.3 | −2.1 | 292.6 | |
| 1962 | 106.8 | 3.2 | −7.1 | −10.3 | 302.9 | 9.1 |
| Johnson: | | | | | | |
| 1963 | 111.3 | 2.6 | −4.8 | −7.4 | 310.3 | 9.9 |
| 1964 | 118.5 | −0.1 | −5.9 | −5.8 | 316.1 | 10.7 |
| 1965 | 118.2 | 4.8 | −1.4 | −6.2 | 322.3 | 11.3 |
| 1966 | 134.5 | 2.5 | −3.7 | −6.2 | 328.5 | 12.0 |
| 1967 | 157.5 | 3.3 | −8.6 | −11.9 | 340.4 | 13.4 |
| 1968 | 178.1 | 3.1 | −25.2 | −28.3 | 368.7 | 14.6 |
| Nixon: | | | | | | |
| 1969 | 183.6 | 0.3 | 3.2 | +2.9 | 365.8 | 16.6 |
| 1970 | 195.6 | 12.3 | −2.8 | −15.1 | 380.9 | 19.3 |
| 1971 | 210.2 | 4.3 | −23.0 | −27.3 | 408.2 | 21.0 |
| 1972 | 230.7 | 4.3 | −23.4 | −27.7 | 435.9 | 21.8 |
| 1973 | 245.7 | 15.5 | −14.9 | −30.4 | 466.3 | 24.2 |
| 1974 | 269.4 | 11.5 | −6.1 | −17.6 | 483.9 | 29.3 |
| Ford: | | | | | | |
| 1975 | 332.3 | 4.8 | −53.2 | −58.0 | 541.9 | 32.7 |
| 1976 | 371.8 | 13.4 | −73.7 | −87.1 | 629.0 | 37.1 |
| Carter: | | | | | | |
| 1977 | 409.2 | 23.7 | −53.7 | −77.4 | 706.4 | 41.9 |
| 1978 | 458.7 | 11.0 | −59.2 | −70.2 | 776.6 | 48.7 |
| 1979 | 504.0 | 12.2 | −40.7 | −52.9 | 829.5 | 59.9 |
| 1980 | 590.9 | 5.8 | −73.8 | −79.6 | 909.1 | 74.8 |
| Reagan: | | | | | | |
| 1981 | 678.2 | 6.7 | −79.0 | −85.7 | 994.8 | 95.5 |
| 1982 | 745.8 | 14.5 | −128.0 | −142.5 | 1,137.3 | 117.2 |
| 1983 | 808.4 | 26.6 | −207.8 | −234.4 | 1,371.7 | 128.7 |
| 1984 | 851.9 | 7.6 | −185.4 | −193.0 | 1,564.7 | 153.9 |
| 1985 | 946.4 | 40.5 | −212.3 | −252.8 | 1,817.5 | 178.9 |
| 1986 | 990.5 | 81.9 | −221.2 | −303.1 | 2,120.6 | 190.3 |
| 1987 | 1,004.1 | 75.7 | −149.8 | −225.5 | 2,346.1 | 195.3 |
| 1988 | 1,064.5 | 100.0 | −155.2 | −255.2 | 2,601.3 | 214.1 |
| Bush: | | | | | | |
| 1989 | 1,143.7 | 114.2 | −152.5 | −266.7 | 2,868.3 | 240.9 |
| 1990 | 1,253.2 | 117.4 | −221.2 | −338.6 | 3,206.6 | 264.7 |
| 1991 | 1,324.4 | 122.5 | −269.4 | −391.9 | 3,598.5 | 285.5 |
| 1992 | 1,381.7 | 113.2 | −290.4 | −403.6 | 4,002.1 | 292.3 |
| Clinton: | | | | | | |
| 1993 | 1,409.5 | 94.2 | −255.1 | −349.3 | 4,351.4 | 292.5 |
| 1994 | 1,461.9 | 89.0 | −203.3 | −292.3 | 4,643.7 | 296.3 |
| 1995 | 1,515.8 | 113.3 | −164.0 | −277.2 | 4,921.0 | 332.4 |
| 1996 | 1,560.6 | 153.4 | −107.5 | −260.9 | 5,181.9 | 344.0 |
| 1997 | 1,601.3 | 165.8 | −22.0 | −187.8 | 5,369.7 | 355.8 |
| 1998 | 1,652.6 | 178.2 | 69.2 | −109.0 | 5,478.7 | 363.8 |
| 1999 | 1,703.0 | 251.8 | 124.4 | −127.4 | 5,606.1 | 353.5 |
| 2000 | 1,789.0 | 258.9 | 236.2 | −22.7 | 5,628.8 | 362.0 |
| Bush: | | | | | | |
| 2001 | 1,863.9 | 268.2 | 127.1 | −141.1 | 5,769.9 | 359.5 |
| 2002 | 2,011.0 | 270.7 | −157.8 | −428.5 | 6,198.4 | 332.5 |
| 2003 | 2,137.0 | 222.6 | 246.0 | 468.6 | 6,667.0 | 323.0 |

Note.—Historical Tables, Budget of the U.S. Government; Beginning in 1962, CBO's The Budget and Economic Outlook: Fiscal Years 2004–2013, January 2003.

Mr. HOLLINGS. If you take the years from 1945, from President Truman down through President Ford, 30 years, to 1975, you will find the aggregate total of all deficits at $358 billion. That is for 30 years, six Presidents, the cost of World War II, the cost of Korea, the cost of Vietnam. All throughout that and all the deficits, it was only $358 billion. Last year the deficit was, in 1 year, $428 billion. Here in my hand is the President's budget. I ask unanimous consent to have printed in the RECORD the last page in here, page 332.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE S–14.—FEDERAL GOVERNMENT FINANCING AND DEBT

[In billions of dollars]

| Function | 2002 actual | Estimates |  |  |  |  |  |
|---|---|---|---|---|---|---|---|
|  |  | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
| Debt outstanding, end of year: |  |  |  |  |  |  |  |
| Gross Federal debt: |  |  |  |  |  |  |  |
| Debt issued by Treasury | 6.171 | 6,725 | 7,294 | 7,811 | 8,327 | 8,832 | 9,363 |
| Debt issued by other agencies | 27 | 27 | 27 | 26 | 26 | 26 | 25 |
| Total, gross Federal debt | 6.198 | 6,752 | 7,321 | 7,837 | 8,353 | 8,858 | 9,388 |
| Held by: |  |  |  |  |  |  |  |
| Debt held by Government accounts | 2,658 | 2,874 | 3,155 | 3,451 | 3,751 | 4,061 | 4,385 |
| Debt held by the public | 3,540 | 3,878 | 4,166 | 4,387 | 4,603 | 4,797 | 5,003 |

Mr. HOLLINGS. On page 332, the President projects we will have a deficit next year of $569 billion. He says this year we will end up with a $554 billion deficit. That $554 billion doesn't include the $100 billion for Iraq. So you can see we are up around $600 or $700 billion.

I used to say Strom Thurmond and I are home free. But I think my newest distinguished colleague from South Carolina will have to pay for it. I will not have to pay for it. I am not worried about it, and everything else like that. We can retire, get our pension, go on home and be quiet. But you cannot do it in good conscience when you come to Government to do the job of the people, and they trust you, they want you to look out for the needs of the country, not the needs of the campaign. That is what we are all engaged in here.

People are giving up their lives for us, for what we believe in, for what we legislate, and for the command we give them to go to war. We ought at least to pay for the war on the one hand. And we ought to ensure the peace economically for our children and grandchildren, not by tax cuts, but somehow, somewhere, to pay for these budgets.

I would like to get Government on a pay-as-you-go basis. I remember when Alan Greenspan went down with a team to President Clinton and he said you are going to have to raise taxes. In 1993 we raised taxes. We cut the spending and we raised taxes on Social Security, we raised taxes on gasoline, we raised taxes on the highest bracket. And we had 8 years of the finest and strongest economy.

Now we come here and want to sell the idea of tax cuts are going to give growth. We know that with $428 billion and $554 billion in deficits, that's really almost a trillion dollars in stimulus, and that is without the cost of the war. What gives here?

We have to sober up and get off this deficit barleycorn we are drinking like drunken sailors around here, like there is no tomorrow, like we don't have to pay for the war. There is no sacrifice for us.

We go to the schoolchildren in America and we say there is one thing certain about war, it is sacrifice. But then we come up with the pollsters and say we have to get reelected so we want to go ahead next year to say we cut taxes.

So there we are. I am not for that $350 billion compromise or whatever it is. I admire the people who are trying to work out the compromise, but that is totally misleading to the American people, that somehow the burden is too great on estate taxes. We have had people come here, George Soros, Bill Gates, and the others come who are paying the estate taxes. They come and say don't worry about it. That is not really too big a burden.

With respect to dividends, in the market in New York there is a dichotomy, a difference up there with respect to whether or not we ought to lift the taxes on dividends. But if they would talk about seniors, they would say senior are double taxed on their Social Security. I pay the tax on Social Security and when I receive the benefit, I pay the tax on that Social Security benefit. That is double taxation. Eighty percent of seniors in America depend for the major part of their income on Social Security. So if it's seniors we have in mind we want to look out for, then look out for, not the rich seniors, but the poor seniors, 80 percent of the seniors, because they are not in that top bracket that is worried about estate taxes and everything else of that kind.

I really appreciate the distinguished Senator from North Dakota yielding me this time. I wanted to be able, in a deliberate fashion talk about these amendments, because when we get to that 1 minute a side rule I will not be able to.

I have a very judicious amendment on port security, where we would just fund it for 2 years. We voted 100 to nothing, all Republicans and all Democrats, with respect to port security.

I think we ought to pay for the war. We are not raising the taxes here and we are not telling them how to do it in the Finance Committee. The Budget Committee can't do that. But we can do the amount. And I think we ought not to have any more tax cuts.

I yield the remainder of my time to the distinguished Senator from North Dakota, with my gratitude. I appreciate it very much.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from North Dakota.

Mr. CONRAD. I thank the senior Senator from South Carolina for his leadership. One of the people who inspired me to run for the Senate was the Senator from South Carolina. I don't think I have ever told the Senator that. But when the Senator from South Carolina was running for President of the United States, our former Governor, Bill Guy, endorsed Senator HOLLINGS.

Mr. HOLLINGS. My friend.

Mr. CONRAD. Bill Guy was a very close friend of my family and somebody who has been a mentor to me in public service.

Bill Guy was a balanced budget Democrat. He believed in balanced budgets and he believed in fiscal responsibility. He was proud to stand with the Senator from South Carolina during that time of dramatically rising deficits. To him it was a threat to the economic security of the country and he thought the Senator from South Carolina had the best plan.

I think if anybody looks back objectively at that time, one will see in fact the Senator from South Carolina did have the best plan. If it had been adopted at the time we would have avoided much of the debt now facing the country.

Mr. HOLLINGS. If the distinguished Senator will yield, I really am grateful to him. The truth is, more than a balanced budget, we need balanced Senators. The distinguished Senator from North Dakota is just that. He has that even temper in how he approached it, and therefore has been far more effective because I have been wailing and crying without effect for years. But I will continue on, trying my best, thank you very much.

Mr. CONRAD. I thank the Senator. And I can only say, I have been completely ineffective at stopping what I think is a rush to deficits and debt and, ultimately, decline.

I believe it is profoundly wrong—profoundly wrong—to run up these budget deficits. Unfortunately, the budget that the President of the United States sent to us and the budget that has come out of the committee will dramatically increase our budget deficits.

As the Senator has indicated, we are going to have a deficit, if the President's budget is adopted, of over $500 billion this year and will never have a budget deficit below $400 billion any year for the rest of this decade under the budget the President sent us. Under the budget that has come out of the committee, we will never have a deficit under $300 billion.

On this chart is the President's budget. One can see we have red ink as far as the eye can see, over $500 billion this year, over $400 billion in every year for the rest of this decade.

Here is what happens to the gross Federal debt. The gross Federal debt is going to go from $6 trillion, in 2002, and is going to reach $12 trillion by the end of this budget period. That is the consequence of the President's budget.

What I think should sober us all is that the cost of the President's tax cuts explodes at exactly the time the cost to the Federal Government of the retirement of the baby boom generation explodes—deficits and debt.

These are not my projections. These are official reports of the Congressional Budget Office and the President's own budget documents.

Here is the President's own budget document as shown right here. This is the long-term outlook if the President's policies are adopted. It shows that we are in the sweet spot now. This is where we are now. And although these are record deficits, the biggest in dollar terms we have ever had, if we adopt his policies, it is going to get much worse because, as I indicated, the cost of his tax cuts explodes at the very time the cost of the retirement of the baby boom generation explodes.

That is not a projection. We know baby boomers have been born. They are alive today. They are eligible for Social Security and Medicare. There are going to be 77 million of them—about double the number we have eligible today. That is what we face as a consequence of this budget. I think it will be a significant mistake.

I want to, for a moment, discuss an amendment I will be offering for our colleagues to deal with the promise the Federal Government made on IDEA; that is, the Individuals With Disabilities Act. We made a promise to local governments that the Federal Government would fund 40 percent of the cost. It was a promise we have never kept. As a result, property taxes are higher in every jurisdiction of America.

I will offer an amendment to keep the promise of IDEA, and to pay for it, and to pay for it by reducing the tax cuts that are part of this legislation.

The legislation before us has $1.4 trillion in tax cuts. The associated interest costs another almost $300 billion. So the total cost of this tax cut, in this measure, is $1.7 trillion. The legislation I will offer to keep the promise on IDEA is a fraction of that, a small fraction of that—around $70 billion over the next 10 years.

The Federal Government made a promise, when the legislation was adopted, that we would fund 40 percent of the cost. My colleagues know that we are only doing about half as much as we promised.

What does that mean? That means the local districts get stuck with the bill. That means pressure is put on local property taxes. In my own State, now the annual property tax is about 2.5 percent of the value of the property. That is a very burdensome tax. In part, it is a result of our not keeping a promise and shoving the burden off on local school districts. That is not something we should do. If we make a commitment, we ought to keep it.

I am going to give our colleagues a chance to keep the promise that was made on IDEA, and to fund it out of the tax cut. We are still operating under an agreement in which we are discussing amendments but not sending them to the desk at this point. We will do that at an appropriate time. But I wanted to alert my colleagues that I am going to offer an amendment on IDEA. I am going to offer it in a way that is paid for. I am going to offer it in a way that is not at the top end of the range, by any means. It is going to have a cost of between $70 and $80 billion over 10 years. We will pay for it by reducing the $1.4 trillion tax cut.

A budget is about choices. A budget is about priorities. I believe that ought to be a priority for this body and for this country. I believe we ought to keep the promise that was made to local school districts when the legislation was passed. I believe we ought to rejigger the priorities of the budget resolution that is before us, reduce the size of the tax cut, keep the promise of IDEA, and take pressure off local property taxes because that is exactly where the burden is borne when the Federal Government does not keep its promise.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield 5 minutes off the resolution to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, I share Senator CONRAD's desire that we do more for IDEA. Under President Bush, we have done more than ever. We also need reform of IDEA. If we listen to our teachers, principals, and school people, they will tell us that the Federal laws are driving them crazy, undermining their ability to discipline. We need some reform at the same time we put in some additional money. We have a chance to do that this year.

What I want to express my concern about is this manufactured issue about the supplemental and that we cannot proceed with our budget without knowing what the supplemental is going to be. We have a budget law that says we have to have this done by April 15. We cannot sit around here and wait forever.

I would just like to remind everybody how we got here.

Last fall, in this body and the House—we voted 77 to 23 in this Senate to authorize the President of the United States to use force, if he deemed fit, to protect the security of the United States.

After great care and every option being pursued, the President has concluded that we should use force. I am not aware that a single one of those 77 Senators wishes to change their vote.

I also note that at that time the Democrats controlled this body. And at that time, while we voted to authorize the President to act, we debated the cost. We talked about the cost a great deal. People had all kinds of ideas about the cost. And when we voted to authorize him to act, we knew there would be a cost.

We also knew our budget was not in balance and the effect of the war would be to exacerbate the debt that we had. Nobody had any doubt about that. Nobody has any doubt about that today.

In the Armed Services Committee, of which I am a member, we voted to proceed with an authorization bill. We will have an authorization bill that sets our spending criteria for next year, with a limit that we pass here. We are going to have a nice increase in the baseline for defense next year, with far greater increases than ever occurred under President Clinton and the Democratic leadership here. Suggesting we are not doing enough for defense—we are having a nice, solid, significant increase. I wish it could be more. In our circumstances, it is the best we can do.

So we know we are going to fund the budget. We are going to fund this war. And we know how we are going to do it; and that is, by a supplemental.

Now, for example, Turkey is still waffling around, to some degree, about whether or not we can come through there in pursuing this war.

There are a lot of uncertainties out there. It is not fair to expect that the President can walk in here today and give us an accurate total about how much this war is going to cost. We certainly ought not to fail to meet our April 15 deadline of passing a budget based on that objection. We are going to fund this war, and we should fund this war completely. We are going to do it by a supplemental. Everybody knows it. It is nothing more than a delaying tactic for them to claim that we should not proceed with the budget until the supplemental is done.

In fact, who knows, we could have a supplemental even after the war is over, but we probably need it sooner so we can make sure our funding stream continues apace.

Historically, we have never budgeted the cost of a war. The Congressional Research Service has done a report. They report:

> Presidents have not requested and Congress has not approved funding for wars in advance of the start of operations. Rather, administrations have requested funding after the operations have begun, and Congress has

> subsequently appropriated money to meet the specific documented budgetary requirements.

It goes on to say:

> Congress has provided the executive branch with considerable flexibility in financing military operations in advance of specific congressional action on appropriations.

So this is just an excuse. This is just a political gimmick that we know is going on. We know this supplemental is going to be significant. We have known that from the very beginning. I don't believe we ought to be deterred from completing our statutorily required duty, and that is to produce a budget waiting on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. NICKLES. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. CONRAD. Mr. President, I am happy to yield 5 minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, a little later this afternoon we will consider a resolution supporting the men and women in uniform waging the war with Iraq. Many Members will come and express their sentiments. It is appropriate, and this is the right moment to do it. When the first shot is fired, the political debate should start to take a back seat to our solidarity and commitment to standing behind these men and women who have their lives on the line. We hope this conflict is short lived, that it is successful, and that they come home safe with their mission accomplished. Our thoughts and prayers are not only with them but with the innocent people of Iraq, many of whom have been victims of the terrorism of Saddam Hussein and his repressive regime.

There is another part of this conflict that needs to be addressed. We will also stand with the President, with the administration to provide the money that is necessary to wage the war. There is no doubt about that. This Congress will vote to give the men and women the resources they need to come home safely and quickly. Of course, the question posed to us is, How will you pay for it?

It is ironic that we are debating a budget resolution today that contains zero for the war in Iraq. I am sure many people are puzzled when they step back and reflect. We have known the troop buildup was expensive. We know the war itself is expensive, perhaps the cost of occupation afterwards. Why don't we budget for this? Why don't we plan for it? Some have said: We don't appropriate money for possibilities. We appropriate money for real needs.

This is a real need. We have to be honest. We have allies in this effort, primarily Great Britain, but there aren't many countries, if any, coming forward with troops in the field or money to pay for the cost of this undertaking. That is why I come today in support of an amendment which will be offered later by Senator RUSS FEINGOLD of Wisconsin. It is an important amendment because basically what Senator FEINGOLD is saying is, over the next 10 years we will be setting aside $10 billion a year to pay for the cost of the war in Iraq; $100 billion is not an unreasonable pricetag. The lowest pricetag we have had for the war is about $26 billion, and the most expensive is way beyond Senator FEINGOLD's suggested amendment.

I am not suggesting we won't appropriate this money; we will. But we should at this point do not only the patriotic thing but the responsible thing and set aside the money we will need to pay for the war.

If we don't, I can tell you what is going to happen. It is going to go into a tax cut proposed by the President for the wealthiest people in this country. What is more important, that we meet our obligation to our men and women in uniform not just with rhetoric but with a pledge of money to pay for the resources they need to win or that we provide a tax cut for the wealthiest people in America? That should not even be a choice at this moment.

We have to remember we are spending about $700 million a month right now on the war on terrorism. I commend the efforts of the Senator from Alaska, Mr. STEVENS, during the Clinton administration to have the Defense Department budget for ongoing contingencies such as the conflict in Bosnia and the no-fly zones in Iraq. These were ongoing conflicts with expected costs that were not budgeted, and the Senator from Alaska insisted on honest budgeting. That is what the Senator from Wisconsin, Mr. FEINGOLD, is insisting today.

The administration may send up a supplemental appropriation bill as early as next week. That really begs the question, Why does the White House refuse to send up estimates of the cost of the war this week and insist that we pass this budget resolution without one penny for the war in Iraq?

To a lot of people who are watching the debate, this may seem like some procedural hassle over accounting techniques. It is more. If we don't set aside the funds for the war in Iraq, those funds will come out of programs for education and health care and critical domestic needs. I will support the amendment by the Senator from Wisconsin, but I hope all those who stand in solidarity with America's troops in Iraq will also stand in solidarity when it comes to honest budgeting to pay for the cost of the war so that our men and women in uniform can be successful and come home safely and as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, would the Senator mind if Senator BROWNBACK sent his amendment to the desk? He was ready to offer the amendment last night and did not. He has already spoken on the amendment. We agreed to allow Senator SCHUMER to send his amendment to the desk. Can we send his amendment to the desk?

Mr. CONRAD. I would if we can get agreement to send Senator FEINGOLD's amendment as well.

Mr. NICKLES. I have not looked at it. Let me look at his amendment.

Mr. CONRAD. Why don't we do that, and if we can get agreement on that, we will be happy to agree to Senator BROWNBACK sending his amendment to the desk as well.

Mr. NICKLES. Mr. President, Senator BROWNBACK has an amendment. I believe it is at the desk. I ask unanimous consent we set aside the pending amendment for consideration of the Brownback amendment, and following that, I ask consent to set aside the Brownback amendment to have the Feingold amendment be considered.

Mr. CONRAD. Reserving the right to object, what will that do to the sequence of votes? We would not want the Schumer amendment to lose its position; that we would vote on that prior to the Brownback amendment.

Mr. NICKLES. That is correct. There is also a Cochran amendment that will be offered as an alternative to the Schumer amendment. I would like to have that voted on adjacent to the Schumer amendment, but we have not sent that to the desk yet. The Schumer amendment is in the queue. This would put the Brownback amendment in the queue, and it would also put the Feingold amendment in the queue.

At some point, I will be asking consent for Senator COCHRAN's amendment, and I will ask consent to have it considered adjacent to the Schumer amendment.

Mr. CONRAD. Fair enough.

Mr. NICKLES. For the time being, I am asking consent for the Brownback amendment to be considered and then the Feingold amendment. I understand from the Parliamentarian he has two amendments. I am not sure which one the Senator requested to be sent to the desk.

Mr. CONRAD. It would be the amendment which Senator FEINGOLD discussed, which is the amendment for a $100 billion war reserve fund so that the war is paid for and the resources are available in this budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 282

The PRESIDING OFFICER. The clerk will report the Brownback amendment.

The legislative clerk read as follows:

> The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. INHOFE, Mr. SANTORUM, and Mr. CORNYN, proposes an amendment numbered 282.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that a commission be established to review the efficiency of Federal agencies)

On page 79, after line 22, add the following:

**SEC. 308. FEDERAL AGENCY REVIEW COMMISSION.**

It is the sense of the Senate that a commission should be established to review Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.

### AMENDMENT NO. 270

The PRESIDING OFFICER. The clerk will now report the Feingold amendment.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. CORZINE, proposes an amendment numbered 270.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to set aside a reserve fund for possible military action and reconsturction in Iraq)

(a) FEDERAL REVENUES.—

(1) On page 3, line 10, increase the amount by $10 billion;

(2) On page 3, line 11, increase the amount by $10 billion;

(3) On page 3, line 12, increase the amount by $10 billion;

(4) On page 3, line 13, increase the amount by $10 billion;

(5) On page 3, line 14, increase the amount by $10 billion;

(6) On page 3, line 15, increase the amount by $10 billion;

(7) On page 3, line 16, increase the amount by $10 billion;

(8) On page 3, line 17, increase the amount by $10 billion;

(9) On page 3, line 18, increase the amount by $10 billion; and

(10) On page 3, line 19, increase the amount by $10 billion.

(b) AMOUNTS BY WHICH REVENUES SHOULD BE CHANGED.—

(1) On page 4, line 1, increase the amount by $10 billion;

(2) On page 4, line 2, increase the amount by $10 billion;

(3) On page 4, line 3, increase the amount by $10 billion;

(4) On page 4, line 4, increase the amount by $10 billion;

(5) On page 4, line 5, increase the amount by $10 billion;

(6) On page 4, line 6, increase the amount by $10 billion;

(7) On page 4, line 7, increase the amount by $10 billion;

(8) On page 4, line 8, increase the amount by $10 billion;

(9) On page 4, line 9, increase the amount by $10 billion; and

(10) On page 4, line 10, increase the amount by $10 billion.

(c) NEW BUDGET AUTHORITY.—

(1) On page 4, line 15, decrease the amount by $181,000,000;

(2) On page 4, line 16, decrease the amount by $713,000,000;

(3) On page 4, line 17, decrease the amount by $1,329,000,000;

(4) On page 4, line 18, decrease the amount by $1,973,000,000;

(5) On page 4, line 19, decrease the amount by $2,627,000,000;

(6) On page 4, line 20, decrease the amount by $3,320,000,000;

(7) On page 4, line 21, decrease the amount by $4,052,000,000;

(8) On page 4, line 22, decrease the amount by $4,816,000,000;

(9) On page 4, line 23, decrease the amount by $5,619,000,000; and

(10) On page 4, line 24, decrease the amount by $6,465,000,000.

(d) BUDGET OUTLAYS.—

(1) On page 5, line 5, decrease the amount by $181,000,000;

(2) On page 5, line 6, decrease the amount by $713,000,000;

(3) On page 5, line 7, decrease the amount by $1,329,000,000;

(4) On page 5, line 8, decrease the amount by $1,973,000,000;

(5) On page 5, line 9, decrease the amount by $2,627,000,000;

(6) On page 5, line 10, decrease the amount by $3,320,000,000;

(7) On page 5, line 11, decrease the amount by $4,052,000,000;

(8) On page 5, line 12, decrease the amount by $4,816,000,000;

(9) On page 5, line 13, decrease the amount by $5,619,000,000; and

(10) On page 5, line 14, decrease the amount by $6,465,000,000.

(e) DEFICITS.—

(1) On page 5, line 18, increase the amount by $10,181,000,000;

(2) On page 5, line 19, increase the amount by $10,713,000,000;

(3) On page 5, line 20, increase the amount by $11,329,000,000;

(4) On page 5, line 21, increase the amount by $11,973,000,000;

(5) On page 5, line 22, increase the amount by $12,627,000,000;

(6) On page 5, line 23, increase the amount by $13,320,000,000;

(7) On page 5, line 24, increase the amount by $14,052,000,000;

(8) On page 5, line 25, increase the amount by $14,816,000,000;

(9) On page 6, line 1, increase the amount by $15,619,000,000; and

(10) On page 6, line 2, increase the amount by $16,465,000,000.

(f) PUBLIC DEBT.—

(1) On page 6, line 6, decrease the amount by $10,181,000,000;

(2) On page 6, line 7, decrease the amount by $20,894,000,000;

(3) On page 6, line 8, decrease the amount by $32,223,000,000;

(4) On page 6, line 9, decrease the amount by $44,196,000,000;

(5) On page 6, line 10, decrease the amount by $56,823,000,000;

(6) On page 6, line 11, decrease the amount by $70,143,000,000;

(7) On page 6, line 12, decrease the amount by $84,195,000,000;

(8) On page 6, line 13, decrease the amount by $99,011,000,000;

(9) On page 6, line 14, decrease the amount by $114,630,000,000; and

(10) On page 6, line 15, decrease the amount by $131,095,000,000.

(g) DEBT HELD BY THE PUBLIC.—

(1) On page 6, line 19, decrease the amount by $10,181,000,000;

(2) On page 6, line 20, decrease the amount by $20,894,000,000;

(3) On page 6, line 21, decrease the amount by $32,223,000,000;

(4) On page 6, line 22, decrease the amount by $44,196,000,000;

(5) On page 6, line 23, decrease the amount by $56,823,000,000;

(6) On page 6, line 24, decrease the amount by $70,143,000,000;

(7) On page 6, line 25, decrease the amount by $84,195,000,000;

(8) On page 7, line 1, decrease the amount by $99,011,000,000;

(9) On page 7, line 2, decrease the amount by $114,630,000,000; and

(10) On page 7, line 3, decrease the amount by $131,095,000,000.

(h) NET INTEREST.—

(1) On page 40, line 6, decrease the amount by $181,000,000;

(2) On page 40, line 7, decrease the amount by $181,000,000;

(3) On page 40, line 10, decrease the amount by $713,000,000;

(4) On page 40, line 11, decrease the amount by $713,000,000;

(5) On page 40, line 14, decrease the amount by $1,329,000,000;

(6) On page 40, line 15, decrease the amount by $1,329,000,000;

(7) On page 40, line 18, decrease the amount by $1,973,000,000;

(8) On page 40, line 19, decrease the amount by $1,973,000,000;

(9) On page 40, line 22, decrease the amount by $2,627,000,000;

(10) On page 40, line 23, decrease the amount by $2,627,000,000;

(11) On page 41, line 2, decrease the amount by $3,320,000,000;

(12) On page 41, line 3, decrease the amount by $3,320,000,000;

(13) On page 41, line 6, decrease the amount by $4,052,000,000;

(14) On page 41, line 7, decrease the amount by $4,052,000,000;

(15) On page 41, line 10, decrease the amount by $4,816,000,000;

(16) On page 41, line 11, decrease the amount by $4,816,000,000;

(17) On page 41, line 14, decrease the amount by $5,619,000,000;

(18) On page 41, line 15, decrease the amount by $5,619,000,000;

(19) On page 41, line 18, decrease the amount by $6,465,000,000; and

(20) On page 41, line 19, decrease the amount by $6,465,000,000.

(i) RECONCILIATION IN THE SENATE.—On page 45, line 24, decrease the amount by $100 billion.

(j) RESERVE FUND.—At the appropriate place, insert the following:

**SEC. . RESERVE FUND FOR POSSIBLE MILITARY ACTION AND RECONSTRUCTION IN IRAQ.**

(a) IN GENERAL.—Upon the favorable reporting of legislation by the Committee on Appropriations of the Senate making discretionary appropriations in excess of the levels assumed in this resolution for expenses for possible military action and reconstruction in Iraq in fiscal years 2003 through 2013, the Committee on the Budget of the Senate may, in consultation with the Chairman and Ranking Member of the appropriate committee, revise the level of total new budget authority and outlays, the functional totals, allocations, discretionary spending limits, and levels of deficits and debt in this resolution by up to $100 billion in budget authority and outlays.

(b) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(c) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(d) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate; and

(2) the Chairman of that Committee may make any other necessary adjustments to such levels to carry out this resolution.

Mr. NICKLES. Parliamentary inquiry. How much time——

Mr. CONRAD. What was that last request, if I can inquire? I missed that last request.

Mr. NICKLES. I am inquiring how much time I have left on the resolution.

Mr. CONRAD. Before that.

Mr. NICKLES. I asked that the reading of the amendment be dispensed with.

Mr. CONRAD. Both have been dispensed with?

The PRESIDING OFFICER. Both amendments are pending.

Mr. NICKLES. We set aside the Brownback amendment, and now the Feingold amendment is the pending amendment.

Mr. President, I inquire of the Parliamentarian, how much time do I have remaining on the resolution?

The PRESIDING OFFICER. Five hours and 45 minutes.

Mr. NICKLES. I yield back the remainder of my time on the resolution.

The PRESIDING OFFICER. The Senator's time is yielded back.

Mr. CONRAD. Mr. President, I think it is good we have a few more amendments in the queue. I ask Senator NICKLES and the staff to review the other amendments and maybe we can get those lined up. We will improve the operations if we can get those lined up. I thank the chairman for his courtesy.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first, there has now been agreement on a resolution with respect to Iraq. At least we had a caucus and there is agreement on the wording of the resolution. I hope very much we get on with that sometime soon.

I personally think it is surrealistic to be talking about other issues and not talking about Iraq. I hope when we get on to the discussion of the war with Iraq, not for the purpose of delay, because we could dispense with that discussion hopefully throughout the day and perhaps tomorrow morning go back to the budget and complete the budget by early next week, which is long in advance of when we need to finish it, but to have our country at war and not be discussing that when the resolution has now been completed strikes many of us as incongruous.

With that said, we are still on the budget. Let me go to the question of the amendment I have already announced I will send to the desk.

The amendment I will be offering is on funding IDEA. We see that in 2002 and 2003, we enacted $2.5 billion. Full funding for that period would be $24.4 billion. When we say "full funding," that is not really full funding. That is funding the commitment the Federal Government made to provide 40 percent of the cost of that legislation, a commitment that we have never kept. As a result, we forced up local property taxes all across the country.

The budget that has come before us in 2002 is far short of meeting the Federal commitment in 2003 and in 2004.

The chairman of the committee has indicated they increased IDEA—and they did, that is absolutely correct—by $1 billion. That is a move in the right direction, and we applaud it. But we are still so far below what we promised when we passed the legislation. I say to my colleagues, when the Federal Government tells the States and all these local units all across the country, we are passing this legislation and as part of the bargain we will fund 40 percent of it—40 percent—and then we never come anywhere close, that is not a good way for the Federal Government to do business. That damages our credibility and it also forces local jurisdictions to raise local property taxes.

The budget we have before us on education is the smallest increase we have seen in 8 years. There are increases, absolutely; that is true. There is an increase. Our colleagues on the other side like to concentrate on those areas that have increases. They often do not say they have funded many of those increases with corresponding cuts. The overall increase is $1.1 billion, and that is by far the lowest increase for education in 8 years.

My own strong belief is education is the priority. After defending the Nation, which is our No. 1 priority—that is our No. 1 responsibility—I believe education is right at the head of the line. Maybe I believe that because I was raised by my grandparents.

My grandmother was a schoolteacher, and my grandfather, who only had an eighth grade education, had profound respect for education. Certainly my grandmother did. She drummed it into all of our heads: If you want to make the most of your opportunity in life, get the best education you can.

My grandparents were deadly serious about it. They were so serious. They were middle-income people, but they made sure they set aside funds to help every one of their grandchildren, 13 grandchildren, get an advanced degree. Not just a college degree, but every single one an advanced degree because they saw education as the way to open the door to opportunity. That is what we ought to be doing with our education funding. This budget doesn't do it. This budget puts the priority, the overwhelming priority, on tax cuts. Of the money above baseline in this budget, 74 percent is for tax cuts; 74 percent of the money above the baseline.

That is above the normal spending and the normal taxes. Seventy-four percent of the change above baseline is for tax cuts. That is the priority in this budget. I do not think that is the right priority.

I hope my colleagues will give serious consideration to this amendment. It costs $73 billion over 10 years, and it is paid for by reducing the $1.4 trillion tax cut by a like amount.

Mr. REID. Will the Senator yield?

Mr. CONRAD. I will yield to the Senator from Nevada. As I do, let me say how much I appreciate the partnership of the Senator from Nevada in this endeavor of working on a budget resolution. His patience and willingness to work with others to try to accomplish legislative results are legendary in the Chamber. We appreciate very much his hard work.

Mr. REID. Mr. President, I want to speak while there is not a lot of activity on the Senate floor because it will become hectic. There are a few hours remaining on this resolution, and then we have the Iraq resolution, which will be forthcoming soon.

I speak for the entire Democratic caucus about our ranking member on the Budget Committee. He is a very modest man. He and I came to the Senate together. His parents were killed in an automobile accident caused by a drunk driver. He was raised by his grandparents. His parents and his grandparents must be smiling broadly now to see the contribution he has made to our country. The biggest contribution he has made is allowing the Democratic Senators with whom he has served to better understand the fiscal situation of this country at any given time.

The Senator from North Dakota is recognized as the person in the Senate who knows the numbers. He believes very strongly that deficit spending is bad, that the debt that was in existence when he came to the Senate had to be downsized, and working with the prior administration, that was accomplished. In fact, the debt was being paid down. These past months, he has also articulated so well how it is not good for the country to again have these huge deficits.

So I again say on behalf of the entire Democratic caucus how much we all appreciate the work, the guidance, and the direction the Senator from North Dakota has given us. As a result of the education I have received from him about the financial matters of this country, I better understand what is going on in the economy of this country. I extend my appreciation to the Senator for that education.

One of the areas I was totally naive about was the agricultural problems of this country. There are a number of Senators who come from agricultural States. I have learned to listen to and admire the direction I have received from other Senators on both sides of the aisle regarding agriculture, but no one has done more to educate me on issues relating to the American farmer than the Senator from North Dakota.

I have received rewards in recent years for voting with American farmers. In Nevada, we do not have a lot of agriculture. We produce quite a bit of alfalfa just simply because the growing season is so long. We grow a lot of onions. We are the largest producer of white onions in the United States, but basically our agricultural output is very small.

So for me to be part of the army to move forward to protect the family farm is something that I have learned from the Senator from North Dakota.

For these and many others reasons, while there is a little bit of down time, I want to let the Senator know how much I appreciate his friendship and his leadership on the issues of fiscal constraint, the general economy of this Nation and the world, agriculture, and so many other things on which his great mind has been able to assist me in being able to be a better Senator.

Mr. CONRAD. I thank the Senator from Nevada for his kind remarks.

I will take this moment to alert our colleagues, who may be listening back in their offices, of the circumstance we face. The other side now has yielded back all of their time. We are down to some 5 hours—might I inquire of the Chair how much time we have on this side?

The PRESIDING OFFICER. Five hours 9 minutes.

Mr. CONRAD. Five hours 9 minutes. I thank the Chair. So we have just over 5 hours remaining. I alert my colleagues and their staffs that if they have amendments they want to offer, this is their chance. Time is going to run out, and then we will vote on the amendments that are pending at the time until we have disposed of all of those amendments. So if people want to have a chance to debate and discuss their amendments, time is running out. This is their chance. I urge my colleagues to take advantage of that opportunity.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, in these moments while we are asking colleagues to come to the floor to offer their amendments—and I understand a Senator is on his way to the floor—I also understand we may be turning to the resolution on Iraq at 2. Instead of having this time wasted, I thought I would review, from my perspective, what has happened to our budget condition over the last several years, where we are headed, and why it alarms me so much.

My colleagues will recall that 2 years ago we were told there were going to be $5.6 trillion of surpluses over the next decade. It was in that context that President Bush sent Congress a budget that had a $1.7 trillion or $1.8 trillion tax cut. He said at the time that he would only be taking 1 of every 4 surplus dollars for tax reduction, and he said he would still be able to fund a strong buildup for national defense, that he would be able to fund the priorities of education and health care, that he would be able to have a maximum paydown of the national debt, in fact he would be able to virtually eliminate the national debt, and that he would also be able to protect the trust funds of Social Security and Medicare.

Unfortunately, that proved to be overly optimistic. Many warned at that time that it was unwise to be betting on a 10-year forecast, that you cannot count on a 10-year forecast. You cannot bet the ranch on the revenue coming in as anticipated.

We all know what has happened. With the tax cut implemented at the time, with the economic slowdown, with the attack on America, with the additional tax cuts proposed by the President because now he has proposed an additional $1.6 trillion of tax cuts, and with the associated interest costs, the total cost of those tax cuts would be $1.96 trillion. When that is put together, we are back in the deficit ditch and by over $2 trillion.

Where did the money go? Over this period, most of it went to the tax cuts, both those that had been implemented and those proposed. The second biggest chunk of the money, 27 percent, went to additional spending as a result of the attack on the country. Virtually all of this has increased defense spending and additional homeland security spending. The next biggest chunk is revenue coming in below expectations not related to the tax cut—in other words, the total revenue below what we would have had without the tax cuts and without the overestimations of revenue.

The revenue change is 64 percent, but only about two-thirds of that is from the tax cut. The other is from the models not predicting accurately what revenue would be raised for various levels of economic activity. The smallest sliver, the smallest part, is the economic downturn.

Most alarming is the long-term outlook. The long-term outlook, according to the President's own analysis, from his analytical perspectives, page 43 of his budget document, shows what happens if we implement the President's proposals for spending and tax cuts.

What one sees should alarm everyone. It shows these are the good times with respect to deficits. The deficits we are running now are record amounts. We have never had a budget deficit over $290 billion, even including Social Security, not over $370 billion. This year we will have a budget deficit of over $500 billion.

This chart shows—and again it is from the President's own analysis—the situation will get much worse as the baby boom generation starts to retire because they will put pressure, of course, on Medicare and Social Security, programs for which they are eligible, programs on which they are counting, and we are going to have over 75 million people who are in that baby boom generation. That will double the number of people eligible for those programs.

Look what happens then. If we adopt the President's policy, his tax cuts, and his spending policy, when the baby boom generation retires, according to the President's own documents, the deficits absolutely explode.

Is this a course we should be on? I don't think so. This is a course for deficits and debt that is utterly unsustainable. This is a course that I believe, and I predict today, will lead to dramatic cuts in Medicare, in Social Security, and in virtually every other part of the Government.

I am the first to acknowledge there are items in the Government we should cut. There is waste in Government, there is fraud in Government, there is abuse in Government, no question about that. But we have been hunting waste, fraud, and abuse a long time, and we will need to continue that, and we will need to do a much better job of it because where we are headed is totally unsustainable.

If anyone doubts this will lead to massive cuts in Medicare and Social Security, look at the House budget resolution. It proposes $470 billion of cuts in mandatory programs. That is Medicare and that is Medicaid. It proposes another over $200 billion of cuts in domestic discretionary programs that are not defense related.

The course we are on is a disaster for this country, of mounting deficit, of mounting debt, right before the baby boom generation retires. And this is the sweet spot because right now the trust funds, especially the Social Security trust fund, are generating billions of dollars. This year alone there are $160 billion of surplus and we are taking every dime of it under the President's proposal and using it to pay for tax cuts and other expenses of Government.

Some people say that does not matter; the trust fund is still whole because it is being credited with the amount of money coming in. It is true, the trust fund is being credited. It is also true that the only way those pledges, those IOUs, are going to be paid back, is if we have sufficient resources to do so at the time those bonds come due. That depends on the size of the economy. That depends on the strength of the economy. That depends on the economic growth we experience between now and then. This is something upon which many agree. That is a fundamental truth that our ability to redeem those obligations depends on the size of the economy, depends on how good a job we have done growing the economy in the interval.

That goes to the question, How do we best secure economic growth? This is where we have a profound difference. Many on our side believe it is best done by providing a stimulus to the economy now, and the stimulus can be either tax cuts or additional spending. Either one of them provides stimulus. There are many economic models that suggest spending is actually somewhat superior to a tax cut because all of the spending dollars go into the economy. When you do a tax cut, some of the dollars go into the economy but some are saved.

To the extent they are saved, that does not provide immediate stimulus.

Our friends on the other side believe the most effective way is tax cuts, that tax cuts will encourage greater economic activity. I say to them, on a factual basis, it is clear spending and tax cuts, either one, stimulate the economy.

All of that has to be in a context. The context is, What is the long-term balance of revenues and expenditures? When you have an imbalance, when you are spending more than you are taking in, you run deficits. Deficits over time have a negative effect on the economy. Why? Because when you run budget deficits, the Federal Government has to borrow money. When the Federal Government borrows money, it is in competition with the private sector for borrowing money and that puts upward pressure on interest rates, especially at a time of economic growth.

We have looked at what the President calls a growth package. Not only have we looked at it but economists we respect have looked at it and they have concluded, and many of us have concluded, it does not promote growth. It will actually inhibit growth. Why? Because the tax cuts are not paid for. They are not paid for by spending reductions under the President's plan. They are paid for by borrowing the money. That means increasing the deficit, increasing the debt.

It is the dead weight of those deficits and debt that are harmful to economic growth. I say harmful, because to the extent you run budget deficits, that reduces the pool of societal savings, that reduces the pool of money available for investment, and you have to have investment to grow.

Many believe the President's plan is not a plan of economic growth, that it is a plan that will hurt economic growth because it will explode deficits and debt. That is not the only problem with the President's plan. It will force choices in the future that will require deep cuts in Medicare, in Social Security, in funding for education, in funding for law enforcement because there is no other possible outcome when, if you adopt the President's plan, you run deficits of this magnitude.

This is not Kent Conrad's chart or the Democrats' chart; this is the President's chart.

What he says is: If you adopt my policies, you never escape from deficit. And the deficits, once we get past this period when the trust funds of Social Security and Medicare are producing surpluses and those trust funds turn cash negative, which will happen in the next decade, the deficits will explode. The debt will explode and a future Congress and a future President will then face truly difficult choices.

I thank my colleagues for their patience in listening to this. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SESSIONS. Mr. President, I notice the two leaders are here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent with respect to amendment No. 294, that the names be reversed and Senator GRAHAM of Florida appear first as the one proposing the amendment with Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. FRIST. Mr. President, the Democratic leader and I have been in discussion on a resolution in support of the President and the Armed Forces of the United States. We are now prepared to offer that resolution and allow the full Senate to express its support.

As people have watched the course of today, we are all aware that there is a lot of activity going on in Iraq as we speak and we believe it is very important that Members be given appropriate time to express that support and thus believe this resolution is a wonderful way for us to send a signal, today, of that support.

I know a number of Members will come to the floor to express that support over the next couple of hours. They will be making brief remarks. Over the course of the coming days, we will have ample opportunity to expand upon those remarks. Senators, clearly, will want to speak on the resolution, but I do want to encourage people to keep their remarks short so we can eventually get to the vote as early today as possible to express that support with the full support of the Senate.

We have talked back and forth as to whether we need specific time limits, in terms of how much time to spend on this particular resolution. We have agreed not to have strict time limits because we do want to give everybody that opportunity. But we have agreed we will have a vote on this resolution of support for our troops today. Again, it is imperative, I believe, that the Senate express its support today through this resolution.

We will resume the budget resolution following the conclusion of the resolution of support. There are about 5 hours, I believe, remaining on the budget resolution; therefore, we will finish that resolution this week and we will talk a little bit more back and forth in a few minutes about what our expectations are for later tonight and tomorrow.

I know the managers on both sides of the aisle have encouraged Members to submit their amendments. I hope Senators are listening and working with the chairman and ranking member so we can have an orderly process. Although we have all tried on both sides to avoid a vote-athon, there is going to be a vote-athon tomorrow. But we want to have an orderly process. To do that, we want to make sure we have those amendments this afternoon so we can go through and prioritize and then be able to plan for tomorrow.

Before I formally call up the resolution, I yield to the Democratic leader for his comments.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me simply add that it is our hope we can have a vote at about the time that the votes have been called this afternoon. We have a cluster of votes on the budget resolution that will be voted upon at around 4 o'clock. My hope would be that we could have a vote on this resolution as we have those votes as well, providing an opportunity for Senators on both sides. I assume time will be controlled by Senators Warner and Levin or their designees and that we will alternate back and forth until that time. Senators, then, would have the opportunity to continue to express themselves after these votes, either on the resolution supporting our troops or in support of amendments that will be offered during the vote-athon beginning tomorrow.

I think this is as reasonable and as prudent a way possible with which to address the challenges that we face as we close out this week. We have worked in good faith on both sides in drafting a resolution that I hope will enjoy unanimous support within the Senate. I think it deserves that depth and breadth of support. I am proud to be a cosponsor.

I think if we can accommodate the need to address the resolution, as the distinguished majority leader has suggested, if everybody keeps their remarks relatively brief, we will have ample time as the days unfold to come back and express ourselves again.

I hope to set the example. With that, I am going to yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I thank the Democratic leader because all of us know we are trying to accomplish a lot this week. We have been able to work together in an orderly way thus far this week. It will get increasingly hectic over the next 48 hours. We have an orderly process which would mean the resolution will be introduced now. Over the next several hours we will have ample opportunity for people to make their initial remarks of support. We have a series of votes that begins at 4 o'clock today. As the distinguished Democratic leader said, our intention is to follow those votes with this vote on the resolution for support.

Following whenever that vote is—and again I encourage our colleagues to keep remarks short so we can get to that vote because that is the real signal that we send out from the Senate once we actually vote on that resolution—following that resolution we will come back to the budget and continue the excellent debate, focusing on various amendments today and tonight. We will be here late tonight. There has been time yielded back, from our side, to facilitate that process.

I think what we would like to do—it really depends on how the afternoon and night goes—is to begin the series of votes after all time is exhausted, which would be sometime late tomorrow morning. Again, I do not know exactly what the time would be like. And then it really depends on how many votes we have as part of the so-called vote-arama. It is our intention to finish this budget this week.

As I said this morning, if it is Thursday, Friday, or Saturday, it is important, we all believe, to complete this budget this week.

That is a rough outline of how we would like to see things play over the next 48 hours.

## COMMENDING THE PRESIDENT AND THE ARMED FORCES OF THE UNITED STATES OF AMERICA

Mr. FRIST. Mr. President, with that, I ask unanimous consent that the Senate now proceed to the consideration of the resolution which is at the desk.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 95) commending the President and the Armed Forces of the United States of America.

The Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I will keep my opening remarks short, as well, to restate the support that the resolution addresses very directly, which is, support for the President of the United States as Commander in Chief, for our troops, for the military families, for the civilian families, in support of our military.

The President has ordered the first salvos in Operation Iraqi Freedom. It was a moment that all of us had hoped to be able to avoid. We prayed for peace. We worked for peace. But the Iraqi regime chose a different destiny.

Now our mission is clear: to use the full might of the American military to disarm Saddam Hussein and liberate the Iraqi people from his oppressive rule.

American warships and planes have been employed to attack enemy targets throughout Iraq, and hundreds of thousands of American troops are fighting their way across the Iraqi border. Our men and women in uniform are in harm's way. They are engaged in battle as we speak. We all pray for their safety and for their success.

I am confident of their victory, and I am confident it will come at the earliest possible moment. Ours is the best equipped, the best trained military in the world. They know they have a job to do. They know how to do it, and they know how to do it with extraordinary skill. And as they do, they have the full support of this body and the American people behind them.

I also applaud the President of the United States, who has shown bold leadership and strong leadership and visionary leadership over the last several months. Our prayers are with him. Through tremendous diplomacy, he has assembled more than 30 countries to join us in this cause. We are grateful for his leadership and the support of our allies.

And to the families of our men and women in uniform, I know they are concerned about the safety of their loved ones. The President and Congress are concerned, too. We are doing all we can to ensure your loved ones return home as quickly and as safely as possible. America is grateful for your sacrifice.

This war is justified by our own laws, by international laws, and by the laws of nature, which state all people are created equal and with a right to live in liberty.

Let there be no mistake, we are defending our own liberty. We have already seen what terrorists can do with the combined power of only three jet aircraft. We are now at war so we will not ever see what terrorists will do if supplied with weapons of mass destruction by Saddam Hussein.

We also fight to liberate the Iraqi people. For those in Iraq who have suffered daily terror from this oppressive tyrant, for those who have survived torture and imprisonment, for those who have watched family members die in agony from chemical weapons, their moment of freedom is near.

For those who will defend this dying regime, the moment of reckoning has come.

Mr. President, I welcome the strong bipartisan support that this resolution has and will receive. It is an honor to stand here side by side with my colleague, the Democratic leader, to send a clear message to those brave Americans who are risking their lives for us on the battlefield: Our prayers are with you. Godspeed toward victory.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I commend the distinguished majority leader for his remarks and for the leadership he has shown as we have come to the floor on this historic occasion.

Last night, the President announced to the Nation that the disarmament campaign against Iraq had begun.

It is the duty of the Senate to address our most solemn decisions now as a nation. As a veteran, I know there is no more important or grave decision than whether we send our sons and daughters into armed conflict.

Once our President makes the decision to commit to the use of force, the Congress has always come together to speak with one voice, for one purpose: to support the efforts of our troops, and to pray for their courage, their success, and their safe and quick return home.

With pride and resolve, we do so again today.

We may have had differences of opinion about what brought us to this point, but the President of the United States is the Commander in Chief, and today we unite behind him as well.

Saddam Hussein is a menace to his own people, and a threat to the peace and stability of the entire region.

As our soldiers risk their own lives to secure the lives and liberty of others, we pledge to repay their courage by guaranteeing that we will spare no resource and no effort to ensure that nothing stands between them and victory.

Recently, within the last couple of weeks, I visited Sturgis, SD, the home of the members of the 109th Engineering Battalion. Its members had just been mobilized and sent to the Persian Gulf.

As American families have done since the birth of our Nation when our country has been called to war, fathers and mothers said goodbye to their children in uniform, and sons and daughters watched as their parents left home for battlefields.

Once again, the families of our troops are left with prayers, and hopes, and the pride that the men and women they love are serving their country and serving the cause of peace and liberty.

One thousand members of the 28th Bomb Wing from Ellsworth Air Force Base in my home State are engaged in the Persian Gulf today. Several thousand more South Dakotans have been activated in what is now the most robust callup in our State's history. We are proud to have one of the highest proportions of deployed troops in the country. It makes sense that so many South Dakotans have volunteered to serve. We are a State of small towns and old neighbors. And when you grow up in a small town, you learn early that your future is bound to those around you. You learn early that if you do not do your part, someone else has to pick up the slack. And you learn early that all we value about our homes and our lives cannot be created or maintained by leaving the work to someone else.

Soldiers and sailors, airmen and marines, go into battle today driven by that wisdom. As they begin the dangerous work of disarming Saddam Hussein and liberating the people of Iraq, their courage rides on the values of small towns and old neighbors. Our country—generation after generation—has been defended by the same willingness to sacrifice.

Today, our bravest men and women are called upon to carry forward the proud tradition of the American Armed Forces. They are making a more peaceful world for all children—for their own and for the children of Iraq.

History will long remember their service. They have our support, our devotion, and our gratitude.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that the time on our side be managed by Senator WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. Mr. President, I announce that the ranking member of the Armed Services Committee, Senator LEVIN, will be our manager. I ask unanimous consent that the time between now and the time the votes are cast on the amendments pending be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, before our distinguished leaders depart the floor, I wish to say as one Senator, I am very proud that the differences have been reconciled and that this resolution bears both of your distinguished names and that we will strive to have unity in this Chamber and to have a very constructive and clear debate as a message to the men and women of the armed forces, their families and, indeed, the whole world.

Mr. LEVIN. If the Senator from Virginia will yield, I want to add a similar thought. I wish all of our troops could see the two of you standing together here. I had no doubt we would unite in support of our troops when the time came, and that is exactly what is happening. This picture is a very eloquent statement about the unity of the Congress once we are committed to combat.

Mr. WARNER. Mr. President, I ask unanimous consent to proceed under the time allocated to the distinguished majority leader, which I am privileged to manager.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WARNER. Mr. President, I recognize that I have the opportunity to work on this debate with my distinguished colleague, Senator LEVIN. We have served together, now, this is our 25th year on the Senate Armed Services Committee. I say to my colleague, I know of no debate of greater significance than the one we are about to undertake at a critical hour not only in the history of the United States but the history of the world.

It would be helpful if I were to undertake to read the resolution that is at the desk that hopefully will be voted on by the Senate in a very short period of time after all Senators have had the opportunity to express themselves.

The resolution is entitled "Commending the President and the Armed Forces of the United States of America," submitted by Senators FRIST, DASCHLE, WARNER and LEVIN.

Whereas Saddam Hussein has failed to comply with United Nations Security Council resolutions 678, 686, 687, 688, 707, 715, 949, 1051, 1060, 1115, 1134, 1137, 1154, 1194, 1205, 1284, and 1441;

The most historic of all, in my judgment, resolution 1441, which received the unanimous vote of all Security Council members, 15—

Whereas the military action now underway against Iraq is lawful and fully authorized by the Congress in Sec. 3(a) of Public Law 107–243, which passed the Senate on October 10, 2002, by a vote of 77–23, and which passed the House of Representatives on that same date by a vote of 296–133;

Whereas more than 225,000 men and women of the United States Armed Forces are now involved in conflict against Iraq;

Whereas over 200,000 members of the Reserves and National Guard have been called to active duty for the conflict against Iraq and other purposes; and

Whereas the Congress and the American people have the greatest pride in the men and women of the United States Armed Forces, and the civilian personnel supporting them, and strongly support them in their efforts;

Now therefore be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that Congress—

(1) commends and supports the efforts and leadership of the President, as Commander in Chief, in the conflict against Iraq;

(2) commends, and expenses the gratitude of the Nation to all members of the United States Armed Forces (whether on active duty, in the National Guard, or in the Reserves) and the civilian employees who support their efforts, as well as the men and women of civilian national security agencies who are participating in the military operations in the Persian Gulf region, for their professional excellence, dedicated patriotism and exemplary bravery;

(3) commends and expresses the gratitude of the Nation to the family members of soldiers, sailors, airmen, Marines and civilians serving in operations against Iraq who have borne the burden of sacrifice and separation from their loved ones;

(4) expresses its deep condolences to the families of brave Americans who have lost their lives in this noble undertaking, over many years, against Iraq;

(5) joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, those still missing from that conflict, including Captain Scott Speicher, USN, and the thousands of Americans who have lost

their lives in terrorist attacks over the years, and in the Global War in Terrorism; and

(6) expresses sincere gratitude to British Prime Minister Tony Blair and his government for their courageous and steadfast support, as well as gratitude to other allied nations for their military support, logistical support, and other assistance in the campaign against Saddam Hussein's regime.

Mr. President, today in Iraq, in Afghanistan, on the high seas, at the far corners of the world, and here at home, our forces, active duty and reserve components alike, are confronting the oppression, tyranny, and terrorism that plagues and threatens the world and our Nation. I am so enormously proud of our military and their leaders who fashioned a force unlike any the world has ever known, a force capable of delivering overwhelming might anytime, anywhere, if necessary.

Just weeks ago my distinguished colleague, Senator LEVIN, and I, together with Senator ROBERTS and Senator ROCKEFELLER, were privileged to visit many of these troops in that region, Qatar, Kuwait, and other areas. A disciplined force this is, able to employ measured steps in an honorable and decent manner to ensure that everything possible is done to provide for the humanitarian and security needs of an innocent people, the people of Iraq. Truly the force has never seen an opportunity such as this, and it is under the command not only of our President but of officers of the United States, Great Britain, Australia, and indeed more.

A decision to commit our sons and daughters to combat is never an easy one. Clearly, our President anguished over this decision. I was privileged to meet with him, with the leadership here just days ago. Clearly, he showed his steadfastness, his courage, his wisdom, his very balanced thinking, as he conducted himself with the advice of others, to reach this decision, which he did last night.

We in the Congress debated this solemn responsibility to authorize the use of force last October. We took our constitutional responsibility seriously. We thoroughly examined the circumstances and voted overwhelmingly, 77 to 23, to authorize the Commander in Chief to use military force if, and only if, he determined that all diplomatic efforts to peacefully disarm Saddam Hussein's Iraqi regime had been fulfilled. I personally think he did that and did it brilliantly.

Those efforts, unfortunately, did not result in a Security Council resolution of unity, as it did with 15 votes in October.

The Security Council became deadlocked for reasons we all know. It is important to note, however, that our President expended extraordinary efforts to bring this clear and growing threat to the attention of the United Nations and to try to build that consensus for a unified way to proceed.

The United Nations was unable to step up to its responsibilities of enforcing its own mandates largely because of the intransigence of a very few nations to block any form of meaningful enforcement of these U.N. Security Council resolutions. The failure of the United Nations to step up to its responsibilities is most unfortunate, for the United Nations at this time in its long history of over 50 years is facing a challenge unlike any before, with the proliferation of weapons of mass destruction, particularly those of nuclear weapons on the Korean peninsula, Iran, and other areas of the world. This could have been their finest hour.

Our President has stepped up to his responsibilities to protect the American people from a grave and growing threat to our national security. Ultimately, the President's constitutional responsibility is to the American people. He made the determination that Saddam Hussein, armed with weapons of mass destruction, is an imminent threat to the security of the people of this Nation and, indeed, other nations.

His most sacred responsibility is to protect the American people. The Congress, as a coequal branch of Government, has fulfilled, in my judgment, its constitutional responsibilities by giving the President the authority he needs to do so.

Now the effort has begun to liberate Iraq, restore a secure environment, and ultimately bring a lasting peace with justice and representative democratic principles to a land that has known little peace throughout its history. Our forces are capable of helping Iraqis realize this dream. I have no doubt our forces will conduct themselves in a very responsible way. Our forces, supported by countless civilian employees and by families and loved ones back home, and joined by forces and support from many other nations—over 30, Mr. President—as a coalition to liberate Iraq, will prevail.

We are all hopeful that this operation can be conducted with minimum loss of life, with minimum casualties, with minimum destruction and hardship. We must await that outcome. We must be prepared, however, for a broad and concerted effort that may take longer and involve more sacrifice than some have predicted. We cannot and will not waiver from our resolve to bring freedom and hope to this troubled Nation and to rid the world of this threat to regional and global security.

I, again, salute our men and women in uniform, their families, and those who support them in this noble effort. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield as much time as Senator REID needs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, today in the Senate—it does not happen very often—we speak with one voice. Now that the military effort to disarm Saddam Hussein and remove his brutal regime from power has started, it is important that we, the Senate, Democrats and Republicans, express our unified support for our troops.

I personally am very proud of the Nevada sons and daughters who have been deployed to the Middle East as part of Operation Iraqi Freedom. Nevada has, I believe, the finest military aviation training facilities in the world. That is not something that is just provincial in nature. We have the great Nellis Air Force Base and the Fallon Naval Air Station, plus we have the Indian Springs Air Force Base where the drones are kept, where people train with those unmanned vehicles.

Nellis Air Force Base has a special place in my heart because Bill Nellis was from my hometown of Searchlight, NV, a very small town in size and the number of people who live there. Bill Nellis served in World War II and became a hero. His body now lies in a military cemetery in Belgium, but all of us in Nevada know where Nellis Air Force Base got its name. His family is still there and very proud of the fact that this great training facility for the Air Force is named after Bill Nellis of Searchlight.

The Fallon Naval Air Station is also where we train aviators. These two bases—to show the size of the State of Nevada—are 400 miles apart. One is the premier training facility for our Air Force, and the other, Fallon naval air training facility, is a premier training facility for our naval pilots—Top Gun. It is a rural community 65 miles out of Reno, NV.

These pilots—hundreds from Nellis and other personnel critical to our mission in Iraq—are right now serving on the front lines. Hundreds who trained at Fallon are there also.

When I see those Navy fighters taking off on carriers in the gulf, as I did this morning before I came to work, there is no question in my mind that they were trained at Fallon.

Nevada's Guard and Reserve troops are also playing a significant role, more than 1,000 from Nevada's Guard and Reserve. Nevada's percentage of Guard and Reserve callups and deployments is one of the highest in the Nation. This is, of course, a hardship to the communities, the cities, and the towns from where they come. It is a hardship on the employers and families they leave behind.

I also recognize the honor that is associated with this hardship and this sacrifice. Our Guard units, for example, have a specially trained unit to handle prisoners of war. They have been called up. They also have one of the only Blackhawk-equipped medical evacuation teams. It is understandable why they have been called up. There are many other specialities that are needed in the gulf, and Secretary Rumsfeld has called them up. They are heroes. They are talented.

There are other heroes in Nevada, and they are the families who remain behind. Children who are going to school in Nevada have mothers, fathers, brothers, and sisters half a world away and hoping and praying they come home but not really knowing if that, in fact, will happen.

The sacrifice that many of these families are making so our forces will prevail cannot be overstated. In many cases, the lead income earner or main caretaker is in the desert right now either pursuing Saddam Hussein or maybe even trying to track down al-Qaida operatives.

I try but I am not sure I fully understand the hardship the families are enduring. This Congress and communities all over America stand with the families and will help in any way we can until their loved ones return. We pray for the safe and speedy return of our soldiers, sailors, airmen, and marines.

We understand as a Congress that war entails risk; that the American military is the best fighting force ever assembled.

I have to take a pause here and commend and applaud the chairman and ranking member of the Armed Services Committee who have worked together as partners for many years now developing the military that is now serving in the Middle East. They are two fine Senators. There are no two men in the Senate for whom I have more respect than the distinguished Senator from Virginia and my longtime friend, the Senator from Michigan. I had the pleasure and honor of coming to Congress with his brother. I have said this to Senator LEVIN on a number of occasions. The first time I ever met CARL LEVIN, I said: I came to Washington with your brother, Sandy.

He said: Yes, Sandy is my brother, but he is also my best friend.

This is the kind of man we have working with us in the minority. I again commend and applaud the two of them.

Mr. WARNER. Mr. President, will the Senator yield a moment? I remember so well when we had last year's authorization bill on the floor. The distinguished Senator from Michigan and I time and again sought Senator REID's assistance to keep that bill going, to reconcile issues such as health care, current receipts, the BRAC process, and other very strong issues. So the Senator has been a full honorary member of the Armed Services Committee.

Mr. REID. I thank my friend from Virginia. As I said, we in Congress understand the risks that war entails. The American military, as I have said before—parting a little off the subject by complimenting my two friends—is the best fighting force ever assembled. We owe a lot of that to these two men. I am confident that the men and women of our armed services, with the help of British and Australian soldiers, will bring about a decisive victory. Let us hope this can be achieved swiftly and with minimal casualties.

Mr. President, I will do everything in my power to ensure that Congress fully funds and supports the needs of our troops as this conflict proceeds.

As American troops are engaged in war in Iraq, as well as elsewhere around the world, in our ongoing war against terrorists, and defending our interests and allies, we think also of previous generations who served our Nation faithfully and proudly to protect American lives, liberties and values. To all of our veterans, in Nevada and around the country, I say, "Thank you for your service." And I reassure you that I will continue to make sure our Nation honors our commitment to you.

We are so fortunate to live in a Nation that promises fundamental freedom like the freedom of speech and freedom of belief. Those who have served in the United States Armed Forces in past years and those who serve today have fought to guarantee the rights we hold dear. Thanks to their service and sacrifice, Americans can express opinions even if they disagree with the Government without fear of being harassed, arrested, tortured or murdered. This is a fundamental difference that separates our American democracy from regimes like the Taliban which we ousted from Afghanistan or dictators like Saddam Hussein whom we will remove from Iraq.

So we all appreciate, value and will fight to defend the right of all of us—American citizens and those of us in public service—to speak freely. Regardless of whether Americans agree or disagree with the decision to go to war or how the administration has conducted its foreign policy, we share patriotic feelings. That is what patriotism is about. And I want our troops to know that we all support them completely.

Americans also stand united with our Commander-in-Chief, President George Bush, as he leads the Nation through this difficult period. I will continue to support his efforts to build and strengthen our coalition to assist with post-war reconstruction in Iraq.

But today let me re-emphasize that we stand united, and we speak with one voice, in supporting our troops and working for the swift and decisive defeat of Saddam Hussein. I am confident more peaceful times lie ahead. Certainly, peace and freedom lie on the horizon for the Iraqi people.

Mr. LEVIN. Before the Senator from Nevada leaves, I add my thanks to him not just for his very kind words but, as Senator WARNER said, for his absolutely invaluable leadership on this floor year after year. We were able to get a bill passed last year, in good measure, because of his ability to get us to the point where we could resolve differences among Members to get to votes. One particular instance that I hope the Senator will always be remembered for—at least he will in our minds, I know—is his leadership to make sure that the veterans who are disabled are able to get a disability pension, particularly if they are severely disabled, at the same time they get a retirement benefit.

The absurd result that we had veterans who were severely disabled who lost their disability benefit at the same time their pension became available to them was wrong. It was corrected by this Senate, in large measure because of the leadership of Senator REID. That is one of the many monuments to his leadership that hopefully will be remembered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield such time as he may consume to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I rise to join my colleagues in support of this resolution. I commend the President and our troops, including civilians and national security personnel. I believe it is important, once the conflict has begun, that there be full support for our troops in the field.

Resolutions were passed by both this body and the House of Representatives by overwhelming majorities. I respect those who have disagreed with the action of the Congress and with the action of the President, however, once the Nation moves forward under our constitutional process, where in a representative democracy the Congress votes and authorizes the President as Commander in Chief of the Armed Forces to move ahead, we should support this action.

It is regrettable there was not a united UN because had that been done, I think it might have been possible to back Saddam Hussein down. I had an opportunity to meet with Saddam Hussein for more than an hour back in 1990, and while he is venal and brutal, I do not think he is insane or suicidal. However, the international dance and delay was such that he thought he could wear us down.

Once the United States had more than 200,000 troops in the field, we were constrained by weather factors and our personnel were threatened by chemical and biological attacks, and so we simply had to move. Every action on Saddam's part was a delay. So whether there was agreement or disagreement up to this point, now is the time for unified American action.

This resolution commends Prime Minister Tony Blair and his government, and I believe the coalition of the willing will be doing the work really of the entire free world. It is our hope and expectation that the efforts will be swift and the casualties will be held to a minimum. With success I hope that those who have dissented in the United Nations will come forward because victory will be ours on the battlefield. However, that is not sufficient. Iraq must be rebuilt and our international alliances must be reinstated.

This is the first step today, by having a strong vote, hopefully a unanimous vote, in supporting our troops and supporting the action of the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield myself 4 minutes.

Mr. President, last month a number of us were fortunate enough to visit our troops in Kuwait, Qatar, and other places in the area. As Senator WARNER said, he, Senator ROBERTS, Senator ROCKEFELLER, and I had that opportunity. What an extraordinarily dedicated, and motivated professional group of men and women they are; what representatives of America and the values that we stand for they are; how well trained and equipped they are; how extraordinarily high their morale was and is; and how determined this Congress is, I know now, to give them our total support.

In the course of that visit, I met with a group of about 20 Marines from Michigan at Camp Commando. One young Marine asked me what was going on back home with the antiwar demonstrations. I could tell by the demeanor of the other Marines, both men and women, that this was a matter on the minds of a number of them.

I told them that those demonstrating back home were carrying out and exercising a right which is something we all cherish. As a matter of fact, they were exercising the very freedoms that our Armed Forces have protected throughout our history. I told them we had a vigorous debate in the Senate last fall about the wisdom of initiating an attack against Saddam Hussein if we were unable to persuade the world community, acting through the United Nations, to authorize and support such an attack. I told them that, in the end, a majority of both Houses of the Congress voted to authorize the President to use military force with or without that explicit authority of the United Nations.

I told them that our democracy functions through debate and decision, and that the decision to give the President this authority was democratically arrived at. Finally and most importantly, I told these Marines I was confident that, after the debate in Congress about the wisdom of instituting an attack without the support of the world community through the United Nations, if hostilities should start, those who have such different views will come together and will rally behind them and give them the full support they deserve.

My prediction that we would come together if hostilities ever began, despite differences over the wisdom of the policy of proceeding without U.N. authority, has now come true.

We stand here together, shoulder to shoulder, whichever side of that particular issue we voted on, to support the men and women who are now in harm's way. We saw just a very visual and visible example of that a few minutes ago when the majority and Democratic leaders literally stood shoulder to shoulder here in the well of the Senate as they both presented a resolution of support of our troops and then indicated they were going to work hard for its passage.

The visit we had was quite an extraordinary visit. The men and women we visited understood fully what we were telling them about the nobility of this system of government of ours and how they represented that nobility by putting their lives on the line. I am pleased to have helped draft this resolution. I am pleased to add my voice and my vote to it.

The hostilities have begun. The democratic debate has occurred. The men and women of our Armed Forces have the unified support of the Nation they love and for which they willingly serve and for which they risk their all. To them I can only say they are in the prayers of every American and that we all hope for a speedy conclusion to this war with the minimal number of casualties and that they return home to their loved ones as soon as possible.

I yield the floor.

Mr. WARNER. Mr. President, I yield such time as our distinguished colleague from Oklahoma may require.

I might also say Senators ENSIGN, BURNS, the Presiding Officer Senator ALEXANDER, Senator KAY BAILEY HUTCHISON, and Senator ALLARD, we are looking forward to their coming to the floor, in that sequence, on our side. We will alternate with my colleague. I alert my colleagues, this debate is moving right along and we are anxious to keep it going.

Mr. LEVIN. I similarly indicate Senator BINGAMAN and then Senator BILL NELSON would be recognized on this side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, for a moment let me build on something the distinguished Senator from Michigan said talking about our troops. Having been on the Senate Armed Services Committee and having been chairman of the Senate Armed Services Subcommittee on Readiness for a number of years, I have had a chance to talk to troops all over the world in all kinds of circumstances. Never have I seen such a commitment as is out there right now by these young troops.

I remember not long ago I was at a hospital where they were sending injured from Afghanistan. Without exception, each one of the injured troops—some sailors, some marines, some airmen, some Army—all said they were anxious to get back to their units. One young lady, whose name was Stennis—I remember her name because she was on the USS *Stennis*—a young sailor who got tangled up in a refueling line. It pulled her off to a free fall all the way down into the ocean, crushing both of her lungs. She was a very small person. She made it. She lived. She was in the hospital. Her words were these: I want to get well to get back to my units, and I want to make a career out of the U.S. Navy.

When I look at our distinguished chairman of the committee, Senator WARNER, who was Secretary of the Navy, I can assure you we have never had sailors more committed than we have today. That is what is happening right now.

I am pleased we are beyond the point of talking about objections. There are three major objections that various individuals are trying to voice. One was: We cannot do anything without allies. We are glad to realize we have allies. We have some 45 nations supporting us in this effort to get rid of this terrorist, Saddam Hussein. But even if we weren't, we remember Grenada, Panama, we remember 1986 when Ronald Reagan was President and when Qadhafi had blown up a building, killing some of our soldiers. We did not have overflight permission, and President Reagan sent in F-111s and pounded Libya, and we have not heard from Qadhafi since.

The smoking gun argument, we all understand that what we are faced with, with Saddam Hussein—not Iraq, but Saddam Hussein—is an ability to do things that would not maybe kill 100 or 200 people but maybe a million people. Rich Butler, probably the most revered of the former weapons inspectors, said one warhead like they have in Iraq filled with 140 liters of VX gas could kill a million people. We have to reprogram ourselves and think in those terms.

If you did need a smoking gun—which we did not have to have—if you did, last night we learned there are smoking guns. He had denied he had the very missiles he sent over and used last night.

The last argument was there had to be a link with Osama bin Laden. We have to again reprogram ourselves because what we are dealing with now is a terrorist. This is not a war on Iraq, it is a liberation of the Iraqi people who have been oppressed and tortured for decades. There is a war involved. It is not a war on Iraq, it is a war against terrorism. This war was declared by our President at 8:30 in the evening on the fateful September 11. He said this is a war on terrorism. You go after the biggest terrorists.

A lot of people do not think of Saddam Hussein as a terrorist, but if you measure the severity of terrorism by the number of people someone has tortured or murdered, certainly no one can hold a candle to Saddam Hussein. In 1983, Human Rights Watch and Amnesty International documented that he executed 8,000 of his own Kurdish citizens aged 13 and older. In 1985, it is reported they executed 315 children between the ages of 8 and 17. In 1988—we all remember this very well because that is when he set a record. We believe it is an all-time record that holds to this day. He murdered, in one day, 5,000 of his own citizens using a chemical that produces the most torturous kind of death, where your eyeballs are fried and your lungs are actually fried. There was mustard gas and other chemicals. That was in 1988. Then they talked about the 60 villages—Human Rights Watch—attacked with mustard gas. Women, children, it did not make any difference.

In 1990, Amnesty International listed 38 new methods of torture used by Saddam Hussein including mock execution, piercing of the hands with electric drills, electric shocks, sexual abuse, lowering the victims into baths of acid.

Then in 1999, at a peaceful demonstration, security forces fired into a crowd of protesters, killing hundreds of civilians, including women and children. In the year 2000, they were looking for a new way to punish those who might be suspected of saying something about Saddam Hussein. They had been sending them into prison, but the prisons were full, so the new method was to pull the tongue out and tear the tongue off.

In 1991, with a person I think very highly of, we made the first trip into Kuwait. It was so close after the war was over that they did not know the war was over and the fires were still going in the oil fields. The guns were still being fired. Alexander Haig, I, and a guy named Sauda Saba who was the Ambassador from Kuwait to the United States of America, we went in there to see what it was like. Sauda Saba had his 7-year-old daughter with him. He was of royalty. We went to their house where we found out that Saddam Hussein had used his house as one of the headquarters. We went through the house and found that the young 7-year-old girl's bedroom had been used as a torture chamber. We found body parts and hair stuck to the walls.

I don't believe there is a terrorist anywhere who could be more dangerous than Saddam Hussein. That is what this is all about. This is not a war on Iraq, it is the liberation of the people of Iraq. I honestly believe the dancing in the streets after Afghanistan will not hold a candle to the dancing in the streets we will see not just in Baghdad, but in all the oppressed surrounding nations.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 3 minutes to Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I appreciate my colleague from Michigan yielding me 3 minutes to speak briefly on this issue.

War in Iraq is underway. It is appropriate that we in the Senate suspend our other work to observe the start of this very serious undertaking. I am very glad to support the resolution the majority leader and the Democratic leader have come together on in stating our solidarity with our servicemen and servicewomen.

We want the brave men and women who wear the American uniform and who have been sent to this region on behalf of our country to know they have the complete, unwavering support of the Senate.

I also state my sincere hope, and the sincere hope, I am sure, of all of us, that this conflict will be short lived and that our mission will be accomplished with the fewest possible casualties to our countrymen and to the noncombatants in Iraq.

Prior to the announcement by President Bush on Monday that he had determined to begin a military action this week, many of us expressed our disagreement with the policy and action of the President. In my case, and I am sure in all cases, those opinions were honestly arrived at and were strongly felt. But at this point, now with the war having begun, our focus needs to be on prevailing in this conflict. None of us doubts that we will in fact prevail. I join with all other Senators in the fervent hope that the war will be short, the lives lost on both sides will be few. I further hope that out of this we will arrive at a just and peaceful and prosperous future for the Iraqi people and for the region and for the entire world.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Virginia.

Mr. WARNER. At this time I yield as much time to Senator ENSIGN as he may require.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the distinguished chairman of the Armed Services Committee for yielding time. I appreciate his great service to this country leading that important committee.

I rise today to talk about the situation in Iraq. There are some people to pay tribute to. It is important that we as Senators show our troops what they mean to us. It is important that all Americans show the people in uniform how much we appreciate what they are doing, and also to show their families how much we appreciate what they are doing.

I want to start by sharing a thought about a great leader who has shown what it means, in the face of adversity, to lead our country through a difficult time. That leader is our President, George W. Bush. I am very proud that he is, indeed, our Commander-in-Chief at this time. I have heard from so many service men and women how proud they are right now, not only to be Americans, but proud that he is our Commander-in-Chief during this difficult time—not only for the war on Iraq, but for the global war on terrorism, which we are still engaged in and probably will be for some time.

I also want to say thank you as an American to a great friend; somebody who is defining what it means to be a statesman. That is Tony Blair from Great Britain. Tony Blair obviously leads the equivalent of what would be a different party than mine. But Tony Blair has shown, in the face of incredible public opposition, and especially opposition within his own party, what it means to stand up and be a leader. Leaders are expected to lead, and Tony Blair and George W. Bush are doing exactly that right now.

I also thank and take pride in Nellis Air Force Base and the people stationed there, and the people stationed at Fallon Naval Air Station, and also the Nevada National Guard, all of whom have sent people to the Middle East to engage in this conflict. We as Nevadans say thank you for their service, and take great pride in that they are over there, serving our country and protecting our people.

I also think it is appropriate for us, whenever possible, as Americans, to adopt the families of our service men and women. Back in 1991 my brother-in-law was sent over to the Persian Gulf. He was stationed in Bahrain during the Persian Gulf War. I remember it was a very stressful time for my sister because she could not have any contact with him. She had no idea where he was, what he was doing. It was incredibly difficult for her, as it was for many other families. That is what a lot of families of our service men and women are going through right now, the uncertainty of whether their loved ones are going to be coming home or not. We all in this country need to wrap our arms around them and also lift them up in prayer, when we rise in the morning or go to bed at night, when we get on our knees and look to the Almighty.

There is no question that America has the finest military in the entire world. Nobody's military might is anywhere close to what we have today. But I remind all Americans that no matter how strong our military is, without divine providence—as the entire history of our country has recognized—without divine providence, it doesn't matter how superior your military is. That is not enough to prevail in a war. As Abraham Lincoln said during the Civil War, when asked which side of the conflict God was on, he replied: I don't know. I just want to try to be on God's side.

I think it would be easy for us as Americans to be arrogant and proud and boastful about how great we are and how right we think we are. I think the appropriate approach is for us to go and pray we are right, and look to what the morals are that we stand for and the principles on which this country was founded. If we apply those principles, those principles that I believe were handed down by the Almighty, then we will be on His side.

I believe we are in a just cause. It is time we stand up and support the men and women in uniform and do everything we can as individuals to let them know, while they are there, that they are in our thoughts and our prayers. And then, when they come home, we should never, ever again allow what happened in this country when our troops came home from Vietnam. Whenever our troops come home from now on, they should be celebrated, held high as heroes, because we owe our very freedoms to the sacrifices they are willing to make.

I stand with other Senators today to say to our troops: Thank you. Godspeed. And God bless.

I yield the floor.

Mr. WARNER. Mr. President, I thank the Senator from Nevada for his remarks, most particularly the concluding remarks about that period during Vietnam. It was my privilege to serve along with the men and women in that period as Secretary of the Navy. I remember so well how they were received back home, in sharp contrast to the generation in which I had a modest association in World War II. With open arms were they welcomed home. I share your sentiments.

I yield the floor.

Mr. LEVIN. I yield 5 minutes to Senator BILL NELSON.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I have gone around to the National Guard units that have been activated in my State of Florida, and I have gone to the Reserve units, merely representing our grateful Nation. These people have gone off to war, seeing tearful spouses, with the uncertainty of their economic future. And that economic uncertainty is not only from their standpoint as a guard or reservist, but it is also from their employer's standpoint. And yet we see a unity and a coming together that is part of the strength of the character of us as a people.

It is with profound gratitude and humility that I express my support for this resolution for a fighting force of men and women who are not only in the military all over the world but who are civilian as well.

In fact, some of our civilian agencies today were in Iraq, prior to the military units arriving there, along with other clandestine military units performing enormous intelligence functions for us. It is a profound gratefulness that this Nation expresses to our military and civilians.

I particularly wish to call to the attention of the Senate paragraph (5). Paragraph (5) of the resolution states that Congress:

> Joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, still those missing from that conflict, including Captain Scott Speicher, United States Navy, and the thousands of Americans who have lost their lives in terrorist attacks over the years, and in the Global War on terrorism. . . .

I take the time to call paragraph (5) to the attention of the Senate because of CPT Scott Speicher, the first American pilot shot down on the first night of the gulf war. Through a series of mistakes, we said he was dead. He was listed as "killed in action."

Years later, the Department of Defense changed his status to "missing in action." And years later, the Department of Defense changed his status to "missing, captured," which is "POW."

I have seen the early evidence, which has been made public, that a defector, who was corroborated—indeed, he passed a lie detector test, as well as being corroborated on other evidence—actually drove Speicher from near the crash site to a place near a hospital, and picked him out of a lineup of photographs.

I have seen more recent information from a variety of sources that leads me to believe that Scott Speicher is alive. That opinion, by the way, is shared by my colleague, Senator PAT ROBERTS of Kansas, now the chairman of the Intelligence Committee, who has been, along with former Senator Bob Smith, unrelenting—all of us—in the pursuit of a clarification on the status of Scott Speicher.

It is my opinion he is alive. So we have gone to our commanders, and they have assured us, we have gone to the civilian agencies, and they have assured us: Scott Speicher is at the top of their list of priorities as we are now going into Iraq, to go and find him.

And, oh, what a day that would be, if he is alive, and if America can correct the mistake that our DOD made and bring that American pilot home.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON of Florida. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. On my time, Mr. President, I commend my colleague, a strong member of the Senate Armed Services Committee, and Senator PAT ROBERTS, likewise, who is on our committee, and Senator SMITH, a former member of the committee.

These three Senators have involved our committee in this as well. And, I think, heretofore, the Intelligence Committee has taken a very active role.

Senator LEVIN and I are both appreciative of their efforts on this issue on behalf of the committee. We thank them.

I yield such time to the Senator from Montana as he may require.

Mr. LEVIN. Mr. President, I wonder if the Senator will yield, just for a unanimous consent request.

I ask unanimous consent that after the Senator has concluded, Senator KENNEDY then be recognized for 6 minutes.

Let me add my thanks also to Senator NELSON of Florida for the incredible tenacity he has shown supporting Captain Speicher.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts will be recognized for 6 minutes following the Senator from Montana.

The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Virginia. Yes, we have been conversing and friends ever since the day I got here, he being an old forest firefighter in Montana when he was younger, and his hair was dark. He was a dashing young man on an adventure West.

We have also discussed this subject a lot of times in private conversations. Whether it has been on the Big Horn River or on a golf course, I have always enjoyed those discussions.

I gave much thought on what I was going to say today. The Senator and I also shared the same uniform, the U.S. Marine Corps, at different times however. He was a good deal ahead of me.

We know what goes through the minds of the young men and women who are confronted with war. Of all the options we have in the world, war is the absolute last one. For our young men and women over there, they have to carry the responsibility.

But the real weight may be on the shoulders of our Commander in Chief and on the Prime Minister of England, Mr. Blair, for they have stood strong for what is right.

We can also call this the commitment of America. It is a commitment to our history. Looking in our history books, we see man can be ruled by many things, by weapons, by sheer military power, by biological weapons, and chemical weapons.

But 9/11 taught us something else, that we can be ruled by fear. Fear is still the greatest motivator of man. Americans have always accepted a certain level of risk for freedom. Sometimes we have accepted a high level of risk for freedom. And we are called upon to do that again. It is not a great option, but it is one that America has assumed the responsibility of since the birth of this country over 200 years ago.

Mr. President, 9/11 proved, that we can be ruled by fear. Even a sniper in the Washington area was a reminder that, again, we are curtailed and ruled by fear. It was by only one person, that person not known. But this one is known.

We commend the President. We pray for our troops as they carry out a great tradition. Diplomatically, the timing is never right. It is never right. But I would say this: We could kick this can down the road. Maybe we could have kicked the can down the road in 1940. Would we have forgotten Pearl Harbor as fast as we think some people have forgotten the Twin Towers? No matter what we do, some generation of America is going to have to deal with this cruel man.

We stand in support. We stand in prayer for those who lead, those who commit, and those who do.

I yield the floor.

Mr. WARNER. Mr. President, the hour of 4 o'clock, at which time the votes begin on the budget resolution, is fast approaching. I have several Senators indicating a desire to speak on my side. I ask them to limit their remarks now to about 3½ minutes, thereabouts. I think the Senator from Massachusetts should be recognized.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 6 minutes.

Mr. KENNEDY. Mr. President, the best of America—our men and women in uniform—are now in harm's way in a distant land. Our prayers go with them in the skies and mountains and deserts and cities of Iraq. Fathers and sons—mothers and daughters—brothers and sisters—friends and neighbors and fellow Americans—they are all our heroes. So many are still in the dawn of life as they risk their lives for our country and our ideals. We pray for the success of their mission and their quick and safe return to their families and to a proud and to a grateful nation.

Many Americans, including many of us in Congress, opposed this war. But today and throughout this conflict, we are united in support of the men and women of our Armed Forces. We pledge to do all we can to support them.

We honor them for their patriotism, their courage, their willingness to endure hardship and sacrifice and to give the last full measure of devotion to the country they love and the country that loves them. In the eloquent words of the Navy Hymn:

O Trinity of love and power!
Our brethren shield in danger's hour;
From rock to tempest, fire and foe,
Protect them wheresoe'er they go.

Our thoughts and our heartfelt prayers are also with our President, as he makes the difficult decisions that will determine the course and success of the war that now begins. May God's wisdom guide our President and protect him in the days that lie ahead.

In Massachusetts, we especially honor and remember the thousands of men and women on active duty from communities throughout our state who are now at war, and the thousands as well who have been activated from the Reserve and the National Guard—from the Barnes and The Otis Air National Guard Bases, from the Westover Air Reserve Base, from Camp Edwards, from the Devens Reserve Forces Training Area, from so many other places in our State. We pray for them all, and we admire them for their dedication to our country and their brave service.

President Bush spoke for all Americans last night in expressing support for our forces. He is right to prepare our country for what may be a long and difficult struggle, and he is right to do his best to safeguard the innocent people of Iraq. We join our President in pledging our commitment to victory—to disarm Saddam and to bring freedom and opportunity to all the people of Iraq.

In Congress, we will do all we can to give our servicemen and women the complete and full support they must have in order to prevail in this war and come safely home. We will do all we can to care for their families while they are apart. We will do all we can to protect the American people on the home front. We will do all we can to help the people of Iraq, and enable them to rebuild and renew their ancient land and rejoin the family of nations. And we will continue in the years to come to do all we can here at home to uphold the same great fundamental values for which our troops are now risking their lives—for opportunity and hope—for liberty and justice for all.

In his great poem, "Abraham Lincoln Walks at Midnight," Vachel Lindsay wrote:

It is portentous, and a thing of state,
That here at midnight, in our little town
A mourning figure walks, and will not rest,
Near the old court-house pacing up and down,
Or by his homestead, or in shadowed yards
He lingers where his children used to play,
Or through the market, on the well-worn stones
He stalks until the dawn-stars burn away.

A bronzed, lank man! His suit of ancient black,
A famous high top-hat and plain worn shawl
Make him the quaint great figure that men love,
The prairie-lawyer, master of us all.

He cannot sleep upon his hillside now.
He is among us—as in times before!
And we who toss and lie awake for long
Breathe deep, and start, to see him pass the door.

His head is bowed. He thinks on men and kings.
Yea, when the sick world cries, how can he sleep?
Too many peasants fight, they know not why,
Too many homesteads in black terror weep.

The sins of all the war-lords burn his heart.
He sees the dreadnaughts scouring every main.
He carries on his shawl-wrapped shoulders now
The bitterness, the folly and the pain.

He cannot rest until a spirit-dawn
Shall come—the shining hope of Europe free:
The league of sober folk, the Workers' Earth,
Bringing long peace to Cornland, Alp and Sea.

It breaks his heart that kings must murder still,
That all his hours of travail here for men
Seem yet in vain. And who will bring white peace
That he may sleep upon his hill again?

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Senator from Virginia.

Mr. WARNER. I ask the Senator if he could limit his remarks to about 3½ minutes.

Mr. ALEXANDER. I thank the Senator. Last night, most Americans stayed up late watching for news of the war. Most Senators did, too. This morning, many Americans got up and said a little prayer for the men and women who will be fighting overseas for our country. I suspect most Senators did as well.

Today, most Americans went about their jobs and the Senate did, too, but our discussions about the budget and our everyday jobs seem a little less important today compared to what our men and women overseas and our Commander in Chief are doing. We pause today to try to show in a united voice the same respect for our President and our men and women who are fighting overseas and our civilians who are involved, to show the same respect for them that they show for our country. The President has shown real courage. He has told us news we really don't want to hear, and he has been calm. He has used restraint, and he has been determined. But today, we think especially of our Armed Forces.

Tennesseans have a rich history of serving in the armed services. We are the Volunteer State. We earned that name in the War of 1812, in the Mexican War and ever since, and the tradition continues today. Twenty thousand men and women from Fort Campbell have been deployed in the vicinity of Iraq, and another thousand active duty military personnel from across the State as well. More than 4,000 Tennesseans from more than 80 Reserve and National Guard units have been called up. They come from units like the 134th Air Refueling Wing from McGhee Tyson; K company, 3rd Battalion, 23rd Marines in Memphis; and the 3397th U.S. Army Garrison of Chattanooga. They are protecting us from a great threat, and we are grateful to them.

I hope and trust that we speak with a united voice, not just for this one day. I think of Larry Joyce, who sought me out in Chicago in 1995. He was a Vietnam veteran. His son Casey was killed in Somalia while serving in our armed services. He wanted to make sure that I or anyone else who might serve in public life remembered the lessons of Vietnam and Somalia. They were these: First, have a clear objective. Second, have more than enough force to win. And third, have the stomach to see any military action we undertake all the way through to the end.

Mr. President, we have a clear objective. By 77 to 23, we voted to give the President the authority he exercises today. We would disarm Saddam Hussein, liberate Iraq, and help rebuild a strong democratic Iraq.

No. 2, we have more than sufficient force to win, maybe more force than has ever been assembled in a military action.

The question that remains is whether we, not our armed services, but whether we in the Congress and the American people have what we did not have in Vietnam and what we did not have in Somalia, which is the stomach to see our mission all the way through to the end.

I rise today to join in expressing bipartisan support to our President and our Armed Forces and to hope and trust that we will have the stomach to see this mission all the way through to the end.

Mr. President, I ask unanimous consent that my name be added as an original cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. SCHUMER. Mr. President, I thank my colleague for yielding time. I was on the floor as we began the session this morning. We had the prayer and the pledge, and of course this morning the prayer, by the pastor of St. Joseph's in our neighborhood here in Washington, and the pledge had renewed and deep meaning.

In terms of the prayer, I pray, too, Mr. President. I pray that our military action in Iraq is swift, is decisive, is successful, and I pray that the number of casualties, both military and civilian, is small.

I am deeply grateful—we all are deeply grateful—to the soldiers who are overseas. I spoke to departing guardsmen and enlisted men throughout my State of New York, in Canandaigua, Fort Drum, and on Long Island. When I addressed them, I had a lump in my throat because of their sacrifice, their bravery, their humanity, and because so many of them were there with their families before they were getting on planes to go to the Middle East.

They are part of a grand tradition, a tradition of young men and young women who are willing to sacrifice for the rest of us, and we pray for them. I think all Americans join in that prayer.

We have so many different views on the issues of the day and on the action in Iraq, but what always happens in this country in time of war is unity and prayer for our fighting men and women occur, and I believe that is what is happening now in this country.

One last point. I have been asked by so many of my fellow New Yorkers what should they do, being that we have been in the epicenter of terrorism. I say to my fellow New Yorkers, first, you cannot be too careful. If there is anything untoward, report it to authorities. Second, our intelligence, our ability to deal with al-Qaida and other terrorist groups, has vastly improved since September 10, 2001, and I believe New Yorkers should continue to go about their duties, their jobs, their businesses, their daily lives. I gave the advice to my wife and daughters who live in New York City to continue going about their life, and I give that advice to all New Yorkers as well.

Again, we hope and pray for a quick, decisive, successful military action in Iraq and for minimal casualties, military and civilian.

I yield whatever time I have remaining to my colleague from Michigan.

Ms. MIKULSKI. I am proud to rise in support of the resolution supporting our troops.

America is now at war. My thoughts are with our troops. Our men and women in uniform have my steadfast support. They have my respect, my admiration, and my gratitude.

Americans have differences over the path that led us to war. Yet Americans are united in support of our men and women in uniform. Each and every member of our military is part of the American family. Their service is a tremendous sacrifice and great risk. These are ordinary men and women called on to act in an extraordinary way. Whatever their nation asks them to do, they will do with bravery, fortitude, and gallantry. All Americans owe them a debt of gratitude.

The military doesn't just need our thanks; they need our help. We must support them not only with words, but with deeds. That means ensuring that our troops have the best training and equipment. That means standing up for military families. They are facing long separations and terrible worries about the safety of their loved ones. They shouldn't also be facing financial worries. So while we are talking about tax cuts for Joe Billionaire, let's not forget GI Joe and Jane.

I believe the war started the right way: targeting Saddam Hussein and members of his regime in their bunkers. Saddam Hussein is our enemy, not the people of Iraq.

Let's not forget why we are at this point: The fault lies squarely with Saddam Hussein. Saddam is dangerous and duplicitous. As part of the gulf war cease-fire agreement, he committed to destroy his weapons of mass destruction. For the past twelve years, Saddam Husssein has ignored UN resolutions by rebuilding his illegal weapons programs. Resolution 1441 gave Saddam Hussein a final opportunity to destroy any prohibited weapons of mass destruction or missiles; to fully report on Iraq's weapons of mass destruction programs; and to cooperate with inspectors to verify compliance.

I have consistently called for robust multinational action to disarm Iraq. Saddam Hussein is a danger to the world, so the world should share the burden of confronting the Iraqi threat. I appreciate the help and support of other nations, including Great Britain, Australia, and Poland. Other countries are allowing access to territory and airspace, providing logistical and intelligence support, or playing other noncombat roles.

America must continue diplomacy, even as we continue the war, to expand the coalition of the willing to share the burden of war and to share the responsibility and the economic cost of rebuilding Iraq.

Now that America is at war, our troops must know: I am on their side. The American people are on their side. The thoughts and prayers of the American people are with the men and women of our military, and with their families.

God bless our troops, and God bless America.

Mr. SARBANES. Mr. President, with the commencement of engagement by U.S. military forces in Iraq, we stand united in support of the men and women of our Armed Forces. These young men and women representing the best of America are entering into harm's way in a distant land. Whatever our differences on policy, we speak with one voice in supporting our troops. I have no doubt that our military forces will be successful, although we do not now know how quickly or at what cost.

As do all Marylanders, indeed all Americans, I pray for the safety of our troops and join my colleagues in pledging to them our commitment for the necessary resources and support.

These brave men and women and their families are in our thoughts and in our prayers. We wish them Godspeed, and their prompt and safe return to our shores.

I yield the floor.

Mr. HARKIN. Mr. President, my thoughts and prayers are with Iowa families who have loved ones serving their country in the Middle East. When faced with the difficult and sometimes terrible duty of war, the men and women of our armed services have never let us down. We have the best trained soldiers, the best technology, and the best military commanders in the world. I have full confidence in their performance. My hope is for a swift conclusion and a lasting peace in the entire region. It is also my deep hope that innocent civilians in Iraq and the rest of the Middle East suffer a minimum of harm.

I know the views in the country have been divided as to the need for and the wisdom of this war. Right now, we need to support the men and women who are serving this country. This war and the reconstruction work that follows will not be easy and many of our troops may bravely face risks. They are doing their duty and sacrificing for our security. We need to keep them all in our thoughts and prayers and be fully behind them. That is something on which we can all agree.

Right now, over 3,200 Iowans are serving: 2,200 in the National Guard, 1,760 are overseas, and over 1,000 in our Reserves here and abroad. We are proud of our Iowa, that Iowans are protecting our homeland.

In my home State of Iowa, I know there have been some concerns about our vulnerable areas in this time of Washington. I want Iowans to know I will be working with my fellow Senators to ensure our homeland is protected. As our Governor, Tom Vilsack, said today, it will take the resources of our Federal Government to keep our communities safe. I intend to work to make sure Iowans and all Americans have the protections we need here at home.

Mr. DODD. Mr. President, I rise to express my support for the tens of thousands of brave Americans who are risking their lives at this very hour in a distant land to try to bring some peace and stability to a nation that has been ravaged by a dictator.

Late last night the President of the United States ordered United States forces to begin attacks on Iraqi installations. There are currently almost 300,000 American service men and women in the Persian Gulf region. Several thousand are from my State of Connecticut, and they are doing their part. There are 1,500 members of the Connecticut National Guard, of which I was a member. It seems like hundreds of years ago, but I was a member of that National Guard in my home State. There are 750 deployed to the Middle East, and another 750 activated to participate in homeland security and related responsibilities. The results are 530 sons and daughters serving in the Army who are active members and reservists, 310 in the Air Force, and dozens of police officers and firefighters called to active duty, putting additional pressures on the homeland security issues.

I thank each and every one of them for their service to our State, to our country, and for freedom. I say to them I am proud and honored to represent them in the Senate.

As is always the case, these young men and women stand ready to obey the orders of the Commander in Chief to take up arms and risk their lives in the defense of all Americans and the values of freedom, liberty, and democracy. I greatly admire the courage and professionalism of our service men and women who are now engaged in this dangerous conflict far away from their homes and their loved ones.

Americans stand as one in support of these brave individuals. I express my gratitude to the family members of our soldiers, sailors, marines, and members of the Coast Guard. They, more than anyone, understand the sacrifices involved in the service of our Nation.

War is a treacherous endeavor and we all pray for their safe return. I am confident in the days and weeks ahead America and the U.S. Congress will continue to provide our service men and women the support they deserve and they may need.

Last fall, I supported President Bush's decision to go to the United Nations and seek the support of the U.N. members to resolve the threat posed by Iraqi weapons of mass destruction and supported the deployment of U.S. weapons inspectors to Iraq to verify peaceful disarmament. I wanted the diplomatic efforts to succeed. I believe President Bush did, as well. Unfortunately, Saddam Hussein obviously did not.

While there may have been differing opinions on some aspects of our policy toward Iraq, there has been no disagreement that Saddam Hussein is anything but a cruel and murderous tyrant. At a very critical juncture Saddam Hussein chose to impede the work of the inspectors and at every fork of the road he squandered opportunities for peaceful disarmament presented by the international community. Time has run out and we thus find ourselves in this situation.

My hope is as we begin the reconstruction process, it will be a sense of cooperation internationally on reconstruction. We cannot do this alone. We have to reach out even to those we have had disagreements with to help rebuild Iraq and build the peace and stability of the region. That is critically important for America's security for the 21st century.

I regret we did not have more time to discuss this and express our views and thoughts. I do not minimize the importance of the budget debate, but this discussion would trump any discussion of a budget issue. Unfortunately, that time is not allocated.

Saddam Hussein must bear full responsibility for what is about to befall him. He brought it upon himself. I have no sympathy for his plight. The real tragedy is that others may have to suffer for his sins although I am confident that American soldiers will make every effort, use every means of intelligence, and employ all available technology to minimize civilian casualties.

Would that Saddam Hussein had shown the same regard for his people that our forces will. His record has been the opposite. This murderous tyrant has routinely had his own people tortured, raped, beaten, and executed. In 1988, he ordered the use of chemical weapons against the Iraqi people, killing 5,000 men, women, and children in a single day. Now, he may be ordering his elite troops to use the city of Baghdad as a fortress a human fortress endangering the lives of countless Iraqi civilians.

It is my hope that United States military action will not only free the world of the dangers posed by Saddam Hussein's weapons of mass destruction, but provide an opportunity for the Iraqi people to free themselves from 30 years of tyranny and oppression, to begin a new chapter in the history of their country.

The current military action may only last a few days or a few weeks. But in the end, I have no doubt that our American service men and women will prevail in this conflict. However, after we emerge successfully from our military conflict with Saddam Hussein, another challenge will face us: The task of establishing a free and stable Iraq. In many ways this is an even more important battle than the one currently ongoing in the deserts of Iraq. And it is a battle that we should not "wage" alone. An international coalition of friends, allies, and U.N. humanitarian organizations must be mobilized to share the costs and responsibility for providing humanitarian relief to the Iraqi people, and the larger and more complex reconstruction of Iraqi society.

The United States is not the only nation that has a stake in rebuilding Iraq. The entire world has a huge stake in getting this right. For only an Iraq that is strong, free, and democratic—only an Iraq that respects the rights of all its citizens, only an Iraq that respects the territorial integrity of its neighbors can be counted on to contribute to building a Middle East that is stable and prosperous. That is why I am confident that whatever our past differences may have been, our friends and allies at the United Nations will join with us in this effort.

Once again let me express my thanks to the American men and women who have put themselves at risk for each one of us. Let me also thank the service members from other nations who have joined with our forces in this endeavor. And let me offer one more prayer for their swift and safe return home once their mission is complete.

Mr. KOHL. Mr. President, I rise today to join my colleagues and all of America in expressing pride in and gratitude to our men and women in uniform. With one voice this Congress honors our troops, and with one mind we pray for their safe return.

Last night, as we all watched from the safety of our living rooms, our military went to war. Our soldiers, sailors, marines, and airmen have left their home country and their home fires to face unknown danger and even death. We cannot be proud enough of these courageous men and women who fight for freedom in Iraq. We cannot be grateful enough to these Americans who are willing to risk their lives for our security.

We have so many people to thank today: Our Active Duty forces who have made it their life work to protect and defend us; our citizen soldiers, the Reserves, and the National Guard who have left jobs in offices and on factory floors, kissed children and spouses goodbye, and donned the uniform of our armed services; our troops' families who daily endure the hardships of military life and today worry and wait for their loved ones to come home.

In my State of Wisconsin we have had over 2,200 men and women called up for service in the National Guard and an additional 1,357 mobilized from the Reserves, more people than at any time since the Berlin crisis.

I make special mention of them because they trained in relative anonymity during times of peace. It is only in times of conflict that communities discover how many of their friends and neighbors serve their country quietly, year in and year out. In times of crises they are notable at their absence at scout meetings, church pews, and parent-teacher conferences.

Last Monday I was fortunate enough to observe the 1158 transportation company at Beloit, WI, as they bravely headed off, leaving behind spouses, children, families, and friends. These soldiers had little time to put their affairs in order before being ordered into harm's way. But there were no complaints and no grumbling.

The families I met were concerned about the future, were ready to deal with the personal and financial difficulties.

I was struck to see young children bravely saying goodbye to their parents, without knowing what the future might bring. These youngsters did not ask for this war and did not understand it, but they, too, are making sacrifices for our security. Our soldiers are ready and willing to do their duty. They understand better than anyone else that freedom is not free. They are ready to pay that price today and every day.

Our soldiers represent the best of the American people and American ideals. While many of us will talk about patriotism and service today, no words can do justice to the burden they have chosen to bear.

So our hearts, our prayers, and our deepest gratitude go out to them today.

Mr. ROCKEFELLER. The President has announced that military operations to disarm and liberate Iraq have begun. For those of us who have taken an oath to uphold and defend the Constitution, entering into war is one of the most somber moments we face.

When the President sends our troops to battle, the stakes are unmistakably clear: our courageous troops are preparing to risk everything so that our society can continue to live in freedom. At a time like this, our Nation should come together as one to support our troops in battle, and to support the Commander in Chief.

This military action responds to the growing threat to America and our allies posed by Saddam Hussein and his weapons of mass destruction. Here at home and around the world, we have debated how best to disarm Saddam. After 12 years of diplomacy, and 17 different U.N. resolutions, Saddam remains a serious threat to the peace and stability of the region, and to the safety of Americans and our allies.

I, like most of my colleagues, believed we could not live with this threat to America's security. And so I voted last October to give the President authority to make one final attempt to disarm Saddam through the U.N.—to give diplomacy one last chance to work—and to resort to forcible disarmament if that failed.

Five months after we passed our congressional resolution, and 4 months after the U.N. Security Council unanimously passed resolution 1441, Saddam has still refused to disarm.

Now the President has decided, drawing on the authority granted him by the Constitution, by the Congress, and by a series of U.N. resolutions, to send our troops into battle—to forcibly disarm Iraq, end Saddam's rule of terror, and allow the oppressed Iraqi people to have a better life.

And it is our responsibility, here in America, to come together to show our troops, who are fighting to protect our freedoms, that they have all our support, and that we are praying for a quick and successful campaign.

I had the opportunity to visit our troops last month in Kuwait, Qatar, and Afghanistan, and had the privilege to meet our fine young West Virginians serving there. I am always impressed by the commitment and professionalism of our Armed Forces—the brave enlisted men and women who have dedicated their skills and energy to safeguarding America's vital national interests, the officer crops who have honed the most awesome fighting machine the world has ever seen, and the reservists and national guardsmen who willingly disrupt their civilian lives when their country needs them.

To witness their dedication and skill, and their willingness to risk everything to defend the greater good of our Nation, is to be reminded, just as we learned on that fateful September 11, that heroes still walk among us. The Americans who have volunteered to serve in our Nation's Armed Forces are some of the finest individuals our society produces, and we are all in their debt.

We West Virginians have always been particularly proud that while we are a small State, we contribute a significant share of America's Armed Forces. I have here a list of the West Virginia Reserve and National Guard units that have been called up for service overseas in the past 2 years. I realize I can't read the entire list, but I would like to note that it encompasses 28 units based in West Virginia and nearly 2500 servicemembers, as well as thousands of Active Duty servicemembers who hail from West Virginia. I ask unanimous consent to have this list printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WEST VIRGINIA NATIONAL GUARD & RESERVE UNITS MOBILIZED SINCE SEPTEMBER 11, 2001

1. 157th Military Police Company, Martinsburg, WV, 124 personnel.
2. 152nd Military Police Detachment, Moorefield, WV, 45 personnel.
3. 1257th Transportation Company, Huntington, WV, 167 personnel.
4. 463rd Engineer Battalion Detachment 2, Wheeling, WV, 50 personnel.
5. 554th Adjutant General Company, Ripley, WV, 18 personnel.
6. 111th Engineer Group Headquarters, Headquarters Company, St. Albans, 88 personnel.
7. 119th Engineer Company, Clarksburg, WV, 159 personnel.
8. Detachment 1 1st Battalion 80th Regiment 3rd Brigade, Kingwood, WV, 32 personnel.
9. Army National Guard Special Operations Detachment E, Moorefield, WV, 27 personnel.
10. Army National Guard Special Operation Detachment 3, Charleston, WV, 1 personnel.
11. Special Operations Detachment, Europe Forward 2, Kingwood, WV, 1 personnel.
12. State Area Command West Virginia Detachment 6, Charles Town, WV, 1 personnel.
13. State Area Command West Virginia Army National Guard Headquarters, Charleston, WV, 1 personnel.
14. 1092nd Engineer Battalion, Parkersburg, WV, 522 personnel.
15. 1863rd Transportation Company, Oak Hill, WV, 68 personnel.
16. 156th Military Police Department, Monaville, WV, 45 personnel.
17. 261st Ordnance Company 1st Platoon Medical Lift, Charleston, WV, 44 personnel.
18. 261st Ordinance Company Detachment 1 Ammunition Modular, Kenova, WV, 12 personnel.

19. 261st Ordnance Company Detachment 2, Kenova, WV, 12 personnel.

20. 321st Ordnance Battalion Headquarters Headquarters Company, Charleston, WV, 52 personnel.

21. 363rd Military Police Company Combat Support Group, Grafton, WV, 180 personnel.

22. 459th Engineer Company Heavy Boat Detachment 1, Bridgeport, WV, 10 personnel.

23. 459th Engineer Company Detachment 3, Bridgeport, WV, 173 personnel.

24. 304th Military Police Company, Bluefield, WV 180 personnel.

25. 351st Ordnance Company, Romney, WV, 153 personnel.

26. 811th Ordnance Company, Rainelle, WV, 118 personnel.

27. 2nd Division Special Forces Battalion 19th Special Forces Group 1st Special Forces, Camp Dawson, WV, 9 personnel.

28. 300th Chemical Company, Morgantown, WV, 113 personnel.

Mr. ROCKEFELLER. A war will always involve risk and uncertainty. That is especially the case when we are dealing with a dangerous dictator like Saddam Hussein, who has used illegal; weapons before, and who knows that in this instance, war will not end until he is removed.

We should never be over-confident, and must go into this knowing that our troops will face real risks. But we can take heart that never, in the history of mankind, have there been Armed Forces better prepared to meet the challenges that come their way.

In skill, in technological sophistication, and in fighting spirit, our troops continue to set new benchmarks the world has never seen. Never in modern history has there been a fighting force so clearly superior to all its competitors.

We now stand at an important threshold in our Nation's history, and our national security. The proliferation of weapons of mass destruction has altered America's security forever. Before 2001, we believed that we could only be threatened by another superpower—and the demise of the Soviet Union made us think that threats to America's homeland had more or less vanished. On September 11, we learned how wrong we were.

In the coming years, the spread of weapons of mass destruction—to rogue governments, and to terrorist groups in the developing world—will be America's most important national security challenge. And increasingly, the focus of our diplomacy and defense alliances will shift away from our traditional focus on Europe to respond to these emerging threats from developing countries in Asia, in Africa, and even in Latin America.

Indeed, that is already the case today: besides Iraq, the biggest security threats currently facing America aren't major power rivalries but illegal proliferation of weapons of mass destruction by states such as North Korea and Iran. This threat isn't unique to the United States—but our global leadership role makes us a particularly tempting target for the disaffected and resentful.

We cannot allow foreign terrorist or rogue states to threaten our society with weapons of mass destruction. Terrorism and proliferation can be stopped, but to do so will require a concerted, sustained strategy, rather than ad hoc, relative efforts.

And it will require broad international support—the kind that helped us win the cold war—rather than working alone, or begin dismissive of our allies because they haven't yet recognized the magnitude of the shared threat.

War is always a tragedy. To put human lives at risk—both military and civilian—can only be considered when all other reasonable options have failed.

And in that regard, the significance of this conflict is not just in disarming Iraq. While that is the primary goal, this mission also demonstrates to the world that the spread of weapons of mass destruction is such a grave threat to our security that we Americans are prepared to use the full force of our military—our fine and brave men and women in uniform—to stop it.

And we are joined in that understanding by the British, and the Australians, and the poles, and many, many allies around the world.

Perhaps some other countries haven't reached that understanding yet. Or they continue to believe the diplomatic processes developed for a cold war environment must be maintained at all costs. But this new threat must be addressed.

If our troops find chemicals or biological weapons in Iraq—and I am confident they will—it will demonstrate to the skeptics around the world that we were right about the threat, and that we had to take action before these illegal weapons were used. And I hold out great hope that a swift victory in Iraq will pave the way for the U.S. and our allies to come together around a strategy to deal with the spread of weapons of mass destruction elsewhere.

I hope, too, that a swift victory in Iraq will provide an opportunity for the U.S. and our allies to come together to support the reconstruction and rehabilitation of Iraq. As the President has said, we bear no ill-will to the Iraqi people, only to the brutal and corrupt regime that governs them. The reconstruction of Iraq will be a long, costly complicated task, but a vital one—for it will ensure that Iraqis, now and in the future, will understand that America and its allies have come as liberators, not conquerors.

Those are longer-term concerns, and we will have to attend to them. For now, though, we must focus on the task at hand, which is the prompt, safe and humane execution of the military operation the President has commenced.

I join my fellow West Virginians in telling our troops they have our support, our gratitude, and our prayers. They represent the best of our society, and we know they will perform in a manner that makes us all proud.

Mrs. FEINSTEIN. Mr. President, I rise today with America at war against the dictatorship of Saddam Hussein, to vote in favor of the concurrent resolution introduced by my colleagues, commending the President and America's Armed Forces.

This is a moment of utmost seriousness and solemnity, without doubt the most critical time of my decade in the Senate.

During this difficult time, America and the world must know that this Chamber stands firmly united behind our men and women in harm's way, men and women willing to make the ultimate sacrifice in defense of our liberties and our lives. Our hopes and our prayers are with them and their families.

I would also like to recognize those now engaged in combat from my home State of California.

More than 102,000 Californians have been sent to the gulf from every branch of the military—Army, Air Force, Navy, Coast Guard, and Marines, along with 13,000 reservists. This is the largest number of Americans from any State fighting in this war.

And while many people in California are opposed to this war, I would urge all of them to unite behind these courageous men and women and their families here at home.

I have had questions about how we got to this point. I would have done it a different way, and I will have more to say about that at the appropriate time.

But now, as we unite behind our military and our Commander in Chief, the United States must be prepared for the long term. Winning the war will mark but the first step.

Once the shooting stops and the dust clears, we must be equally committed to winning the peace in Iraq, and to see that longstanding ethnic rivalries not be allowed to surface. Failure to do so would, at the very least, negate any military success.

This means, of course, that the United States must take the lead in rebuilding the Iraqi nation, in stabilizing its new government, in providing interim security to prevent the emergence of tribal hostilities, and to see that Iraq is no longer a producer of weapons of mass destruction.

Winning the peace in Iraq is absolutely critical. Indeed, winning the peace means: reducing the likelihood of a possible clash of civilizations, pitting the United States and our allies against the Muslim world; reducing the incidence of renewed terrorist attacks, both here and abroad; increasing the chances of achieving lasting peace in the Middle East—of resolving the Israeli-Palestinian crisis; allowing us to recommit ourselves to the still uncertain future of Afghanistan and the government of Hamid Karzai; and ensuring that the United States will persevere, sooner rather than later, in the overall war on terror.

So, as the courageous men and women of the American military set out to remove Saddam Hussein from power, risking their very lives for us and the liberties we must never take for granted, the focus of our thoughts and our prayers are with them.

We wish them every success and a speedy return home to their families. For those that may fall in battle and pay the highest price, however, their sacrifice must never be forgotten.

And the best way to honor them is by winning the peace in Iraq—by helping the Iraqi people rebuild their lives, and by demonstrating to Muslims everywhere that the United States, while a powerful nation, is also motivated by a sincere desire to one day see the entire world safe, prosperous, and free.

This, after all, is what this conflict is all about, and why we must prevail.

Mr. CONRAD. Mr. President, as this conflict begins, all of us pray for a swift and decisive victory, and the safety of our brave men and women in battle.

North Dakota has sent thousands of sons and daughters to wage this fight at home and abroad, including more National Guard members per capita than any other State.

Along with the men and women from the airbases in Minot and Grand Forks, North Dakotans will bear a heavy burden in this conflict.

I know they will be strong. I pray they will be safe.

I have great confidence that the fourteen B-52s deployed from Minot Air Force Base and their crews will turn in a brilliant performance, once again demonstrating the awesome power and effectiveness of these reliable planes and their expert crews. B-52s made a huge contribution to our success in Afghanistan, helping to turn the tide quickly against the terrorists. They were decisive in the last gulf war, and I know they will again play a key role.

The Grand Forks base is operating at a greater tempo than at any time in its history, flying its massive tankers and providing the air bridge that allows our forces to operate against an enemy halfway around the world.

Our National Guard members have been called up to bases inside the United States, ready to support operations on the ground, and we hope, the operations that will be necessary after a victory. The Guard units have been drawn from Fargo, Bismarck, Grand Forks, Edgeley, Grafton, Rugby, Wishek, Cando, Carrington, Mayville, Oakes, and Wahpeton. There is hardly a town in my State that has not seen at least one of its citizens called up to serve. They have left their jobs and their families to do their duty in defense of the Nation.

I could not be more proud of the tremendous contribution the men and women of my State are making, their dedication and their patriotism.

I had hoped for a peaceful solution, but today we are at war. Like all Americans, my thoughts and prayers will be with our troops and our allies in the difficult hours to come. My greatest hope is that the conflict will be settled quickly, with minimal loss of life, and that stability will be restored to the region.

As the conflict continues, I stand with my colleagues united behind our troops here at home and overseas. With my family and my colleagues I pray for the men and women who now stand in harm's way. May they be granted a swift victory, and may the sacrifices of this war lead to a safer and more peaceful world.

Mr. ENZI. Mr. President, On Monday, March 17, the attention of the world was focused on Washington, DC and the White House. The President was about to speak to the Nation about Saddam Hussein and the refusal of the Government of Iraq to live up to its signed agreements and the resolutions of the United Nations to eliminate their stock of weapons of mass destruction. In the 15 or so minutes that followed, our President made clear his determination to take action and resolve the situation in Iraq. He said he was going to end forever the evil presence of a dictator in Iraq who had done nothing during his reign but abuse his power as he pursued his dreams of glory and increased power and prestige while showing little regard for the health and welfare of his own people.

As the President spoke with passion and conviction on the need to rid the world of Hussein's dictatorship, he cut through the rhetoric and the misleading positions and promises that had been so often heard during the past few years. He made it clear that this was an ultimatum of more than words—action was sure to follow if his words were left unheeded. He did everything he could to make it abundantly clear to Saddam Hussein and the people of the world that such evil would not be allowed to stand. He stated a final deadline.

Soon after he spoke, the movement of our troops intensified as an international coalition took up their positions surrounding Iraq as we all waited for Saddam Hussein's response. There could be only one acceptable response to the President's message. Saddam had to leave Iraq, relinquish his power, and take his sons and family with him. Anything less would be unacceptable.

Now we have our answer. A deadline has been set which has come and gone. In response our troops are now advancing into Iraq and heading for its capital of Baghdad. A series of events that began years ago with our defense of Kuwait will now end where it must—with the removal of Saddam Hussein and an end to his brutal dictatorship.

As our troops head further into Iraq, they will be heading into unknown dangers and trouble that cannot be accurately predicted, though they have been trained and will be prepared for it.

Will Saddam Hussein try to use chemical weapons to prolong his hold on power? What has he hidden from the team of inspectors that he may now want to unleash? These and so many other questions will be in the minds of our troops as they come closer and closer to Iraq's capital city. The rewards that will come with our success will be great. But, as we know from our past experiences, the sacrifices that may lie ahead may be equally as great.

War is a very dangerous business and Wyoming is no stranger to the kind of sacrifice it sometimes requires from those who serve in our military. Down through the years, the people of Wyoming have always answered the call to protect and preserve the peace and answer the threat of any enemy of our Nation, wherever it has led them. Many paid the ultimate price.

In 1991, when Saddam Hussein decided to attack Kuwait and drain that country of its supplies and resources, our Armed Forces were there to respond to the cry for help that came from Kuwait.

Joining in as part of that effort was one of Wyoming's own, Manuel Davila. Manuel was a brave young man, a father, and a nice guy who had a kind word for everyone he met. He was the kind of person you would want on your side if there were tough times ahead. There were tough times on the horizon as this battle began and we were fortunate to have brave men and women like Manuel on our side.

I watched Manuel grow up because he came from my home town. He loved his life and he loved Wyoming. But he loved freedom more. When he was called on to bring the freedoms he loved to people he had never met, he did not hesitate. He traded his beloved blue skies and mountaintops of Wyoming for the flat dessert and skies darkened by Saddam Hussein's desperate attempts to delay the end of his occupation by setting every oil well he could on fire. He traded the sweet smell of Wyoming's clean mountain air for the use of a gas mask and the threat of exposure to the Iraqi war machine's stock of gas and chemical weapons.

Sadly, he was one who didn't come home from that war. But he did leave behind a legacy of standing up for what you believe in, keeping your word, and never allowing evil to win by failing to act or by doing so little in response it was as if you did nothing at all.

Then came September 11, and another round of attacks by a madman fueled by hatred and a mad desire for power. Once again we looked to our sons and daughters to respond and to end the threat of terrorism once and for all. The bravest and best of Wyoming and many other States were soon on the front lines, ready to put their training into action. As they did, one of the first lost was Jonn J. Edmunds, a young man from Cheyenne, who was killed as our Nation took action against those who supported and planned the terrorist attacks of that terrible day.

Now, as we stand here together in prayerful support of our Armed Forces, I have no doubt that Manuel and Jonn and all the others who have served so bravely in our military over the years would be proud of their comrades and their liberation of Iraq which is finally at hand.

Soon Iraq will be welcomed back into the family of nations and the rights so cherished by our Nation and our people will be part of the daily routine in Iraq, too. By our actions we are showing the world that the rights with which we are endowed by our Creator, the rights to life, liberty, and the pursuit of happiness, which are a part of our own Declaration of Independence, were intended to be claimed not just by the people of our own Nation. They are to be rightfully claimed by people all over the world as well.

As we wait for today's news from Iraq, we are fully aware of the seriousness of the challenge that lies before us—its difficulty and its magnitude. For the first time since I was a young boy we are facing an enemy who is faceless and nameless and may have operatives who sympathize with him who may strike us on our own soil. With the exception of Pearl Harbor, we have never faced that kind of a threat in our lives. September 11 changed that and we must now all be more vigilant for in a very real sense we are all part of the war effort—just as we were in the days of World War II.

As the effort to remove the tyranny of Saddam Hussein continues, the fate of both our nations hangs in the balance. The degree of our success in what we set out to do and the aftermath as we work to bring a lasting peace to Iraq will speak volumes to the world about our ability to walk our talk.

When this war is over and Iraq is free, we will have sent a message to all those who would deny their people the basic rights of human existence. The world will no longer tolerate their abuse of power and their refusal to acknowledge or respond to the needs of their people. We will also have ended the regime of a dictator and eliminated his stock of weapons of mass destruction. We will have taken a strong, decisive action which will help to increase the security of our Nation and the world.

Ronald Reagan once said that "Some people live an entire lifetime and wonder if they have ever made a difference in the world. The marines don't have that problem."

Neither does the Army, the Navy, the Air Force, the Coast Guard or the Merchant Marine. Through their brave and courageous actions on behalf of the people of Iraq, they will do for that country what they did for the people of Kuwait. They will give them their country and their lives back. They will give them the chance to dream again about a better future for their children. They will give those who live under oppression around the world a real reason to hope that someday things will be better for them in their own country.

We all know what brave, remarkable people our soldiers are. They don't see any limits to what they can do because they will never quit until the job is done and the war is won. We owe them each a debt we will never be able to repay. We can never forget that it is because of them—and not us—that the rights enumerated in our Constitution are guaranteed. Whether it is freedom of religion, the press, or freedom of speech, it has always been the efforts of our soldiers that have provided us with a platform from which to speak, and the ability to exercise these and all our rights. Even those who have spoken out against their efforts have our soldiers to thank for their right to do.

Tonight, when we spend those last few minutes tucking our children into bed, I hope we all take a moment to comfort our children and our grandchildren, and to assure them that things will be all right someday soon. Make sure they know they can sleep peacefully tonight and in the nights to come, because the brave men and women of this Nation, our sons and daughters—and perhaps their own sisters and brothers—are ever vigilant, on guard and have taken a stand on our behalf. We can take a great deal of pride in them all.

As a member of the Senate, I have always been very proud of the way we come together whenever we are faced by a threat, or forced to use our nation's military to answer an attack or address a wrong. As our young men and women head into battle, I know I won't be the only one who will bow his head to pray.

May God bless and protect the men and women of our Armed Forces. May He watch over the Iraqi people and keep them safe from harm as we fight to liberate their country and bring them freedom and peace—a just peace that will recognize their rights and ensure that they have food, medicine, and the essentials of life that have been denied them for too long. May our victory be swift so their wait for relief will not be long. And may all our loved ones return home safely, and in peace.

Mr. CORZINE. Mr. President, I rise to join my colleagues and the Nation in a strong and unequivocal expression of support for the courageous men and women of the United States military, who now defend America's values in the Persian Gulf.

This expression is far more than a personal expression. It is an expression of the feelings of the people of New Jersey—many who are mothers, fathers, brothers, sisters, and spouses of those in harm's way. For all of us, these brave individuals are in our hearts and prayers.

Mr. President, today our Nation is united. United in support for our Nation's military. United in appreciation for the bravery and sacrifice of our service men and women, and their loved ones. United in our unshakable commitment to victory, a victory, with the grace of God, that will be achieved with maximum speed and minimum casualties.

Mr. President, we Americans obviously had our differences as we moved on the path that got us to this point. There are many reservations I could express and people more thoughtful than myself have done so. But in our democracy, there is a time for differences and a time for debate. That said, there comes a time to end debate and unite. That time is now. That unity is without regard to party, ideology, or philosophy. We all stand together as members of the great American family.

Mr. President, the United States military is unrivaled in its power and its competence. In that strength, I am confident that we will succeed in our mission. A mission to free the Iraqi people. A mission to help ensure that our Nation can live in peace, without the threat of weapons of mass destruction falling into the hands of madmen and terrorists.

So, Mr. President, on behalf of all New Jerseyans and in company with all Americans, let me again express my deep appreciation to the courageous Americans who are putting their lives on the line, and for their loved ones. They are America's heroes. Their Nation will support them every step of the way until the day comes, as we pray it will, when these hostilities are complete.

Mr. VOINOVICH. Mr. President, today, our hearts and prayers go out to those people in the Armed Forces who are fighting the war in Iraq. This morning, I put on this orange ribbon I wore when I was Governor of the State of Ohio during Desert Storm. I am going to continue to wear it during the war in Iraq to remind me and others that our men and women are in harm's way, and I will continue to wear it until they return.

Ms. SNOWE. Mr. President, as we stand here today on the Senate floor, America's finest citizens and the world's greatest military men and women have been called upon in the cause of disarming Saddam Hussein.

These are Americans who willingly serve this country, who knowingly place themselves in harm's way to defend our Nation, and who are ready to do the jobs for which they have trained. These men and women in the Armed Services and intelligence community are unmatched in their professionalism and skill, and I have no doubt that they will prevail.

As I said on the House floor in 1991, on behalf of the authorization of what would become Operation Desert Storm, "the magnitude of the vote I now face is greater than any other I have or likely will cast." I was proven wrong on October 9, when I cast a vote of equal gravity and solemnity, authorizing the President to use force in the disarmament of Saddam Hussein.

In the days since that vote, while President Bush pursued a course of diplomacy, Saddam Hussein instead pursued a course of deceit. Under the terms of UN Resolution 1441, approved unanimously by the Security Council, Hussein determined the course upon which we have now embarked by refusing to fully and immediately disarm. Armed conflict was not the hope of anyone among us. Now that it regrettably has become a necessary reality, we stand united in support of our troops who once again will be on the vanguard in service to freedom and the protection of all those nations that embrace this noble ideal.

I have had the great privilege to meet countless soldiers, sailors, airmen and women, and veterans during my quarter-century tenure in Congress. We are grateful because we know that they are the bulwark behind which we stand, and against which our enemies strain. And we are in awe because we cannot fully comprehend their ability to so completely substitute the concept of "self" with the virtue of selflessness.

Today, the realities of war weigh heavily on our hearts, and the focus of all our prayers is now with our men and women in uniform. In the protection of freedom, the disarming of Saddam Hussein, and the liberation of the people of Iraq, American sons and daughters may well make the ultimate sacrifice. That they would undertake that risk for our Nation and the world overwhelms the words available to honor their extraordinary spirit and courage.

The best we can hope to do is to come together, behind our Commander in Chief and all of our troops, with nothing but the greatest pride in their courage and the strongest support for their mission. A freed Iraq, a world free of the tyranny of Saddam Hussein and his weapons of mass destruction, and a menacing cloud lifted from the heartland of a troubled region—none of these would be possible without those men and women who put their lives at risk for the greater good.

It is for them that we pass this resolution and pray for safe return. May God bless all those who wear the uniform of our armed forces, and my God bless the United States of America.

Mr. ROBERTS. Mr. President, as a citizen, Senator, and former marine, my hopes and prayers are with the troops and their families. I returned just a few weeks ago from the Persian Gulf and will be going back as soon as possible. I went to the region to assess whether the war fighters in the field were armed with the best intelligence possible to fight and win a battle against Saddam Hussein. Take my word for it, our soldiers, sailors, airmen, and marines are ready. They will take care of business consistent with American values. They will take care of each other. When they return, they will receive the accolades of a greateful nation.

The operation in Iraq is a component of the war against terrorism. We depend on our men and women in uniform to keep the terror plotters and operators far off our shores, away from our families, communities, and our Nation. That is quite a responsibility. I can not imagine a more important mission.

I support the resolution under consideration, and I am pleased it mentions those who have yet to return home from the original conflict in 1991, most notably Navy Captain Scott Speicher. I am also pleased that colleagues have come to the chamber not to argue about Iraq, rather to proclaim support for our service personnel.

The debate ended last October with a 77-to-23 vote to permit a military option, should one be needed, in the case of the Baghdad regime. In passing H.J. Res. 114, Congress specifically authorized the President to "use the Armed Forces of the United States in order to—(1) defend the national security of the United States against the continuing threat posed by Iraq; and (2) enforce all relevant United Nations Council resolutions regarding Iraq." This action was, of course, in addition to the Iraq Liberation Act, which Congress passed and President Clinton signed into law October 31, 1988. That act clearly states the United States should foster regime change in Iraq. The House passed that bill by a vote of 360 to 38, with 157 Democrats joining 202 Republicans. Lastly, on November 8, 2002, the U.N. Security Council passed Resolution 1441 which gave Iraq one last opportunity to comply with its disarmament obligations.

A few months later, the Director of Central Intelligence declared "Iraq has in place an active effort to deceive the U.N. inspectors and deny them access. This effort is directed by the highest levels of the Iraqi regime. Baghdad has given clear directions to its operational forces to hide banned materials in their possession." Let's be candid on the issue of compliance. The truth is that no amount of U–2 surveillance flights nor increase in the number of inspectors would have solved the problem of Saddam Hussein and weapons of mass destruction. Now I don't want war. Nobody wants war. The fact is, however, we are already at war. Over the last two decades, 5,700 Americans have lost their lives as a result of the kind of terrorist activity Saddam Hussein supports. I recall that the Marine Barracks in Lebanon, Pan Am 103, Khobar Towers, the embassy bombings in Kenya and Tanzania, the USS *Cole*, and of course, September 11, 2001. Only after the latter tragedy, did we begin to fight back.

So I say to our troops and their families, thank you and I support you. You are freedom's best hope.

Ms. CANTWELL. Mr. President, I come to the floor this afternoon to express, on behalf of Washington State, our prayers and thoughts for the men and women of the United States armed forces that have now been called to duty in service of their country.

I am proud to join my colleagues in the Senate and Americans throughout the country to come together to support our troops and pray that their mission is completed quickly, effectively, and with minimal casualties.

America's deepest hope is for a swift conclusion to this war to liberate Iraq and protect the world from its weapons of mass destruction.

In Washington State, we are proud to be the home to thousands of troops from our State that are currently serving our country in this conflict.

The men and women of the USS *Abraham Lincoln*, homeported in Everett, WA, have been deployed in the region since last summer and are a critical element of our efforts as a launching stage for air operations, including 50 missions over Southern Iraq just yesterday.

Air operations will depend heavily on tanker aircraft, many of which are based in Spokane, WA's Fairchild Air Force Base. And almost all air missions will be dependent upon the critical support of EA–6 radar jammers and P–3 aircraft, many of which are based in Naval Air Station Whidbey Island in Oak Harbor, WA.

In the ground operations, troops from Fort Lewis, near Tacoma, WA, will be providing critical infantry support. And cargo planes from McChord Air Force Base, also near Tacoma, have and will continue to be crucial in providing transportation support.

We also recognize the important sacrifices being made by the National Guard and reserve units in our State that have been activated, leaving jobs and livelihoods behind to serve the call to duty.

And let us not forget the parents, wives, husbands, friends and children of the men and women of our armed forces, whose support—in the face of fear and anxiety—is admirable and inspirational.

We are enormously proud of our fellow Washingtonians that are serving the Nation. Along with men and women from all 50 States serving in the military, these brave and courageous Americans have volunteered to put their lives on the line to defend the security of our country and the stability of our world.

Our prayers are with them, and we look forward to their speedy success and return home.

I have tremendous confidence in the men and women of our armed services to bring this conflict to a successful conclusion.

Yet, this support for the effort is accompanied by a deep sense of anxiety and concern.

Nobody wants war.

The death, destruction and misery of war are things that we should never ignore and we cannot forget. When our troops are called to defend our Nation and international peace, we do so with a heavy heart but strong confidence that we will prevail.

In reaching our objective of disarmament, we must not forget the plight of the Iraqi people.

Iraqi civilians have been victims of a brutal, harsh and inhumane dictator that has not only stripped away political liberty and free expression, but has combined the tactics of torture, deprivation and murder to maintain his terrible regime.

We must soberly recognize that the Iraqi people will be innocent victims of this conflict, and we must remain dedicated to doing everything in our power to ensure their safety and, ultimately, liberation.

Importantly, this dedication must extend beyond military success. We, in this Chamber, must recognize that the prospect of creating a stable, post-Saddam Iraq will be a huge, expensive and politically volatile endeavor.

This will not be easy, especially given the historic rivalries among Iraq's Kurdish, Shiite and Sunni population.

However, whatever the costs and whatever the commitment, we owe it to ourselves and the world to ensure that the liberation of Iraq our troops are fighting for is not wasted away by a failed post-war strategy.

Our troops are answering the call of duty.

As our hearts go out to their families and loved ones, we are a Nation that is profoundly grateful for their courage, dedication and sense of mission.

We know that our troops will meet the challenge that they have been given.

Mr. LAUTENBERG. I rise in support of S. Res. 95, which commends our Armed Forces.

The war with Iraq is underway. I regret that diplomatic efforts to disarm Saddam Hussein have failed. I regret that diplomatic efforts to build a broader coalition of nations willing to join us in military action have also fallen short.

But the task force before us now is to pledge our unqualified support for our courageous young men and women on the battlefield; to do whatever is needed to ensure they have every advantage now that the fighting has commended.

I was in the Army during World War II and served in Europe. As a veteran, I know how important it is for our Air Force personnel; and our soldiers and sailors to know that we feel close to them and they are constantly in our thoughts.

Winston Churchill said: "We shall not escape our dangers by recoiling from them." So we send our young men and women in uniform—each one a volunteer—to Iraq and to other distant places such as Afghanistan.

They fight to protect us, and they fight to free other people they don't know from cruelty and savage oppression.

Our troops are the best trained and best equipped in history. We have no doubt that they will prevail in their mission to oust Iraq's brutal dictator, eliminate Iraq's dangerous arsenal, and make the world a safer place.

War may be necessary, and war may be right. But it is never good. So we hope that this campaign to rid the world of Saddam Hussein and his murderous cohorts will be quick and decisive. We hope that there will be little collateral damage and as few casualties as possible, both among our troops and among innocent Iraqi noncombatants. We hope that our brave young men and women in uniform will return home to their families safely, and as soon as possible.

Once we win the war in Iraq, we will have to secure the peace. That will be the best way we can honor our troops.

Even as we engage in the fighting today, we have to start planning for what comes tomorrow. That will require a steadfastness of purpose equal to what our troops are displaying as we speak. The task will not be easy. All people, all nations have the same tendency: we judge ourselves by our intentions; we judge others by their actions. We know that our intentions are noble; many others, however—including some of our long-standing allies—only see our actions and they condemn them. It is imperative that once the shooting stops, we do whatever is necessary to build a free, open, and democratic Iraq at peace with itself, its neighbors, and the world.

So, no matter the length of the battle, no matter how demanding the war, we face some years of concerted effort after the guns have fallen silent. We have to be prepared to lead the world in peace with the same vigor and purpose as our troops are currently demonstrating. I'm certain America is up to the task and we will prove to the world that our intentions are honorable.

Mr. McCONNELL. Mr. President, last night, President Bush ordered America's military to disarm Saddam Hussein, eliminate his weapons of mass destruction, and liberate the oppressed people of Iraq. The American people stand united behind the Commander-in-Chief and the men and women who defend our Nation.

For 12 years, the United States and a broad coalition of nations exhausted diplomatic means to contain and undermine Saddam Hussein's dangerous and tyrannical regime in order to end the threat posed by his pursuit of weapons of mass destruction. For 12 years, patient diplomacy yielded only persistent Iraqi intransigence and disobedience of international law. For 12 years, Saddam Hussein flagrantly violated United Nations Security Council Resolutions, making a mockery of that body by feverishly continuing his pursuit of chemical, biological, and nuclear weapons.

We have made every effort to avoid war, but diplomacy has finally run its course. Those who suggest that the United States is to blame for the failure of diplomatic efforts to disarm Hussein could not be further from the truth. The responsibility for this war rests squarely on the shoulders of Saddam Hussein, a ruthless tyrant whose disregard for the edicts of the United Nations is matched only by his disregard for the lives and interests of his own people.

It is clear that Saddam Hussein does not understand the language of diplomacy, but only the language of military force. What the United Nations failed to accomplish with 12 years of toothless diplomacy, the United States and a broad coalition of allied nations must now accomplish with just application of military force. On Monday, President Bush noted succinctly: "The United Nations Security Council has not lived up to its responsibilities, so we will rise to ours."

Truly, we must not let the world's most dangerous dictators acquire the world's most dangerous weapons. Unless tyrants like Hussein are disarmed, deterred, or destroyed, the use of weapons of mass murder against the United States and our allies is not a question of if, but of when. As President Bush said to the Nation last night, "We will meet that threat now with our Army, Air Force, Navy, Coast Guard and Marines, so that we do not have to meet it later with armies of firefighters and police and doctors on the streets of our cities."

From Afghanistan and Albania to the United Kingdom and Uzbekistan, governments throughout the world have publicly committed to providing substantive support, military and otherwise, to our efforts to disarm Hussein by force. Many other nations have quietly offered material support for our efforts to liberate the oppressed people of Iraq. Indeed, this multilateral coalition is larger than that formed in support of Operation Desert Storm during the 1991 Persian Gulf War. The members of this broad coalition, many of which have suffered under oppressive authorization rule in the past, understand the danger of living at the mercy of tyrannical regimes that threaten peace and stability with weapons of mass murder.

Like all Americans, I hope and pray for the safety of our troops who fight so that we may remain free. I am proud to represent tens of thousands of Kentuckians who will participate in military operations overseas, as well as the thousands of Kentuckians in the National Guard and Reserves who have been activated to play critical roles in defending our homeland. My thoughts and prayers are with them and their families. These Kentuckians, led by the 101st Airborne, Air Assault, division based at Fort Campbell, KY, will defend our freedom and security with honor and dignity.

Just as our ongoing operations in the war against terrorism will require patience and perseverance, so too will this effort to liberate the Iraqi people. But we are resolved as a nation to carry out our mission in support of peace, stability, and freedom. We are certain that our cause is just, and necessary. As our military fights to protect America, to disarm Hussein, and to provide security in an unstable region, the liberation of the people of Iraq draws near. Unique in its place in the world, the United States does not fight wars of empire and expansionism. Rather, we fight for the protection of our liberty, and for the liberty of others. And just as in France in 1944, or Afghanistan in 2001, long-oppressed civilians—who have suffered under the brutal reign of Saddam Hussein—will soon experience the benevolence of the American people and their own inalienable right to live in freedom.

I am grateful for President Bush's steady leadership as Commander-in-Chief, and I have no doubt that our military men and women are the finest in the world and will defend our Nation with skill, precision, courage, and honor. May God bless America. And may He bless our soldiers in harm's way.

Ms. MURKOWSKI. Mr. President, as our Nation is engaged in confrontation with Saddam Hussein and his Iraqi-regime, I join with my colleagues in offering my gratitude and support for our troops, both here and overseas.

None of us desire the use of force. Yet, as history has repeatedly taught us, the failure to confront a menacing tyranny today can lead to far greater devastation tomorrow. Had British Prime Minister Neville Chamberlain stood fast against Nazi Germany's 1938 demand to dismember Czechoslovakia in exchange for "peace in our time," the lives of 50 million people could have been saved.

I salute the brave men and women of the U.S. Armed Forces who are willing to place their lives on the line to protect our freedoms. My thoughts and prayers are with the friends and families who remain behind, praying their loved ones not be harmed.

The dangers facing our troops are many. Will the Iraqi army quickly surrender? Will chemical and biological weapons be used? How long will this military campaign take? In addition, our service members must contend with the scorching heat of the desert; the blinding conditions of sand storms; and the logistical nightmares of crossing the Tigris and Euphrates Rivers.

We can feel better knowing our troops are prepared for all contingencies and have been trained to meet whatever challenges Saddam and his regime may throw their way.

Our troops hail from all fifty States; our territories and insular possessions. Every Member of Congress is impacted.

During the first Gulf War in 1991, one Alaskan was killed: Sergeant David Douthit, a 24-year-old from Soldotna. Alaskans are currently participating in Northern and Southern Watch, enforcing the no-fly zones in Iraq. They are in Afghanistan for Operation Enduring Freedom. They are in South Korea participating in the annual Foal Eagle military exercises.

Unit 210 of the Kulis Air National Guard in Alaska has been activated and is awaiting deployment to the Middle East as part of an elite rescue squad. This is a group of everyday Americans—bankers, economists, and teachers—who are serving their Nation at a time of war. May no harm come to them.

There is no question that Saddam Hussein is a brutal dictator. He has killed thousands of his own people. He has used chemical weapons against the Kurdish population. He imprisons and tortures political opponents and subjects Iraqi citizens to beatings, starvation, mutilation and rape.

As the President put it when declaring the 4-hour deadline, the day of liberation for the Iraqi people is near.

American troops are in Iraq to secure our Nation from the threat posed by Saddam Hussein. He repeatedly failed to disarm and chose to ignore his obligations to the international community. The time has come for him to leave.

An enormous burden is now placed on the shoulders of our Armed Forces. Together, with allies from over 40 member nations who are supporting this effort, we seek to eliminate the weapons and facilities that Saddam should have destroyed 12 years ago. Now, we will finally ensure that the United States and our allies do not face the threat of chemical, biological or nuclear attack from those who would seek to harm us.

Like so many who came before them, these brave men and women are placing their lives on the line to secure our freedom and protect our ideals and liberties. They have my undying thanks and support.

Mr. BUNNING. Mr. President, I rise in support of S. Res. 95. As the United States and her allies begin the campaign to defend the world against the tyrannical rule of Iraq's dictator Saddam Hussein, we must all rally behind our Commander in Chief and Old Glory.

The military action underway in Iraq is both just and lawful. We must rise and stand for humanity and help liberate the Iraqi people. After months of deception and noncompliance from the Iraqi regime about their weapons of mass destruction, the United States and over 30 allies decided to take military action to enforce United Nations resolution 1441 and disarm Saddam. Along with an overwhelming bipartisan majority of my colleagues in the Senate, I voted in favor of authorizing this use of force last fall.

The brave men and women of our Armed Forces come from all across our great Nation, but I wish to specifically recognize the vital role that Kentucky is playing in this noble effort to disarm Saddam. I am confident that the 101st Airborne Screaming Eagles, 5th Special Forces Group, and 160th Special Operations Aviation Regiment will continue to make Fort Campbell, KY, and our great Nation proud.

Thousands of our soldiers now in the Middle East completed vital and comprehensive training at Fort Knox. Fort Knox is the Home of Mounted Warfare where tank training is performed and perfected. These soldiers who trained at Fort Knox in mostly Abrams tanks are now on the front lines against the Iraqi Republican Guard. I guarantee our tank soldiers will prevail.

Also, our men and women at the Bluegrass Army Depot in Richmond, KY, continue to make sure that our troops have the munitions they need to defeat the enemy. Thousands of enlisted and reserve troops from Kentucky have answered their Nation's call to duty. From the Bluegrass Army Depot, they load munitions onto trains which end up in guns and the weapons systems of our ground forces and air power. They are helping freedom ring throughout the world.

It is also important to thank our civilian workforce on our military bases and those who indirectly support the military and war effort. They play a key role in ensuring our installations are maintained and our soldiers are housed and fed and given the support they need to secure our freedoms. Their work and contribution must not be overlooked.

This resolution reinforces that now is the time for America to be united and show our unconditional support for our troops and their mission. Freedom and democracy do not come easy and our soldiers are willing to sacrifice even their own lives to ensure that future generations will have the opportunity to embrace such concepts as liberty and human rights and lead the world to more peaceful and secure days.

We all hope and pray our troops come back safely and quickly after successfully disarming Saddam's brutal regime and liberating the Iraqi people. The cause of our military and allies is noble and just. Our thoughts and prayers are also with the family and loved ones of our soldiers. God bless them all.

Mr. PRYOR. Mr. President, yesterday our mission to disarm the Iraqi regime began. It is my hope that our actions will deliver the people of Iraq from a brutal dictator and help bring peace and stability to a volatile region.

Our commanders in the field have developed an operations plan that will maximize the power of our forces, and I have no doubts about their capabilities to successfully achieve their military objectives.

I commend the President for promptly addressing the Nation last night. It is important that he continues to keep Congress and the public informed of our military actions and the status of our mission. And I agree with his assessment that we should not view this war in terms of timetables. To speculate at this point would be counterproductive. Rather, we should view this conflict in terms of meeting our strategic and tactical goals.

As a Senator and member of the Armed Services Committee, I stand ready to work with my colleagues and the President to provide any and all support possible to ensure the success of our military forces conducting these operations.

Our Nation is a nation of diverse views, ideologies, and opinions. We might not all agree on how or why we arrived at this point; nonetheless, we must come together as a country and support those service men and women who are currently risking life and limb.

As we stand here today, over 300,000 United States military personnel, including a number of Arkansans, are forward deployed in Iraq, Kuwait, Afghanistan, Turkey, and the waters and skies all around the world and at bases around the country. They put themselves in harm's way not for personal aggrandizement or advancement, but for immense love of country, liberty, and family. If they can hear me today, I say be assured, for the American people are behind you.

When appearing before the Senate Armed Services Committee a few weeks ago, GEN John Keane, Vice Chief of Staff for the U.S. Army, testified to the courage of our military personnel. He said when asked what their greatest challenge was, his division commanders replied "keeping our soldiers from being too brave." We owe these men and women overseas and at home not only our gratitude, but also our very existence as the only country on Earth committed to promoting and spreading the ideals of democracy. Our military has kept us safe for over 200 years. We cannot thank them enough.

Just as we should thank our military overseas and at home, we should thank our first responders that protect our hometowns. Firefighters, police, and health care personnel risk their lives and sacrifice precious time with their families every day to keep us safe from those who would try to do us harm. Their commitment and contributions to national security and homeland security should not be forgotten.

Mr. President, I urge all Americans to pray for our troops, their families, and our President as we defend our Nation and the world from those that seek to do us harm.

Mr. FEINGOLD. Mr. President, last October, I voted against the resolution authorizing the use of force in Iraq and believe it was right that, in recent months, the country debated the wisdom of using military action against Iraq at this time. But the commencement of military action unites us as we focus on our ongoing support for our troops. I am confident in their abilities and I hope for their safe and quick return to their families. Even more so now that this action has begun, my thoughts, and the thoughts of all Americans, are with our service men and women, and with their families.

I am pleased that the Senate is taking this opportunity to formally go on record in support of our brave men and women in uniform with this resolution.

The dedicated men and women of our military spend time away from their homes and families in different parts of the country and the world, and, too often, are placed into harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their selfless service.

The war in Iraq and the fight against terrorism are turning upside down the lives of tens of thousands of Active Duty, National Guard, and Reserve personnel and their families. These men and women seek to do their duty to our country and honor commitments to their families, and, in the case of the National Guard and Reserves, to their employers. As of March 19, more than 212,000 National Guard and Reserve personnel were on Active Duty.

Some Wisconsinites are facing the latest in a series of multiple activations and deployments for family members. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

We owe it to our military personnel and their families to do everything that we can to support them in this difficult time. I will continue to work to ensure that our troops and their families have the resources that they need, both to combat our adversaries and to provide for their families, during this tumultuous time and when they return home.

Ms. COLLINS. Mr. President, I rise today to express my strong and unconditional support for our troops currently engaged in disarming Iraq. As the war continues to progress, I have every confidence in their capabilities, their courage, and their patriotism. I am pleased to support the resolution before us, and believe it will send a message to all the world that the Congress is united in support of our young men and women in the Gulf.

On many occasions in recent months, this institution has debated the threat posed by Saddam Hussein and Iraq's weapons of mass destruction. Individual Senators have made honest arguments expressing widely differing points of view on this issue. Now that our troops are engaged against the forces of Saddam Hussein, however, we must speak with one voice.

It is my hope and expectation that this war will be short, and that our victory will be decisive. Our military is the best-equipped and best-trained force that the world has ever seen. As Maine's representative on the Senate Armed Services Committee, it has been my privilege to work side-by-side with military leaders to ensure that this is the case. If there is any message we could send to members of the Iraqi military, it would be to express the futility of resistance. The President has been clear, that we come not as conquerors, but as liberators. Our military superiority is overwhelming, and our forces will not stop until Iraq is disarmed.

Of course, there is very little certainty in combat. In the fog of war, there are innumerable factors that might affect the course of battle. Our leadership has worked to anticipate and prepare for whatever eventualities might develop. I suspect in the coming days we will be receiving conflicting reports, confusing media accounts, and distorted descriptions of the battlefield. However, one thing should be unmistakable . . . our troops will receive whatever support they need to bring this conflict to a rapid and successful end.

We also need to send a message to other forces in this world that seek to do us harm. They might believe that, because so many of our forces are engaged in the Middle East, we have left ourselves vulnerable. The administration has moved the Homeland Security Advisory to Orange, indicating that we are at high risk of terrorist attack. Gordon England, the Deputy Secretary of Homeland Security, has assured me that our Nation is taking almost unprecedented steps to protect our critical infrastructure, to identify potential terrorist threats, and to secure potential targets. Certainly, we do have some difficult days ahead.

However, we are working to deter, detect, and, if necessary, respond decisively to any terrorist attack.

I also want to say a word to the families of those men and women currently in harm's way in the Middle East. They truly carry a heavy burden, and I want to express my personal and heartfelt appreciation for the sacrifices that they make. No war comes without cost. While our military leaders will do everything they can to minimize the danger our troops will face, there is still much risk and danger. To the wives, husbands, children, and parents of troops, I thank you for your bravery and your strength. You and your loved ones deserve our admiration, our respect, and our appreciation.

When I came to the Senate over 6 years ago, I could not have imagined this moment. We lived in a different world then. In the coming months, we will debate how we came to this conflict, and how we need to proceed. Historians will study this period in our history very closely. There will be time to place this war in its proper context. Today, however, as our troops stand in harm's way, I only want to show my unwavering support for our troops, thank them for their service, and express my hope for their safe return.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first, may I inquire of the Presiding Officer the amount of time in control of the Senator from Virginia and the amount of time in control of the Senator from Michigan?

The PRESIDING OFFICER. The Senator from Virginia has 9 minutes 13 seconds. The Senator from Michigan has 18 minutes 1 second.

Mr. WARNER. Senator LEVIN and I have now sought to advise our leadership on the ever-growing number of Senators anxious to speak. They, I presume, will consider how we will add more time to this debate now or during another period. I wish to put Senators on notice that we have the Senator from Texas, Mrs. HUTCHISON, awaiting recognition, followed by the Senator from Colorado, Mr. ALLARD, and then the Senator from Arizona, Mr. MCCAIN.

I am going to do the very best I can to get the time to accommodate these Senators, and I see other Senators present on my side.

Mrs. BOXER. Will the Senator yield for a question?

I thank my friend for working to accommodate as many Senators who would like to speak. I do not think it is necessary for us to make long speeches—3, 4, 5 minutes—but I do believe it is very important and we have a responsibility to do so. To the extent the Senator from Virginia and the Senator from Michigan can work together to add some time, it would be most appreciated.

Mr. LEVIN. Will the Senator from Virginia—has the Senator been yielded to already?

Mr. WARNER. The Senator from Texas is to be recognized next.

Mr. LEVIN. Will the Senator from Texas yield for an inquiry?

Mr. WARNER. I have to ask it be on your time.

Mr. LEVIN. On my time. I have the following Senators on our side who are here and indicated they wish to speak: Senator DORGAN, Senator DAYTON, Senator REED who is in the cloakroom, Senator BOXER, Senator BAUCUS, Senator BYRD. So there is no way we are going to be able to complete even the people who are here, much less additional people who wish to speak and who come to the floor, and still have a vote on this resolution immediately after the three votes that are currently scheduled.

So I join my good friend from Virginia in asking the leadership as to how they wish us to address this problem at this time.

I have 19 minutes left before 4 o'clock—how many minutes?

The PRESIDING OFFICER. Seventeen minutes.

Mr. LEVIN. Seventeen minutes. If I talk longer, it will be 16 minutes. I have 17 minutes before the first vote begins, but there is no time set on the resolution itself we are debating; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. If the leadership can give us guidance in how they want to handle this.

Mr. WARNER. I join in that request. I also have Senator COLEMAN, Senator HATCH, the Senator from Alaska, the Senator from North Carolina, and the number is growing.

Mr. BYRD. Will the distinguished Senator yield for a question?

Mr. WARNER. Yes.

Mr. BYRD. Would it be possible to move the 4 o'clock vote, say, to 4:30 in order to get these speeches ahead of the vote? It could be included in the series of votes.

Mr. WARNER. Mr. President, I say to our distinguished colleague from West Virginia, both Senator LEVIN and I have put that to our respective leadership.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, this resolution we are talking about today is for those brave men and women who are in harms way as we speak, close to midnight their time, far across the oceans. America's thoughts and prayers are with each and every one of them—Active Duty, Reserve, Guard, Americans, and our loyal allies.

September 11, 2001, was a brutal wake-up call for our Nation, one that our President refuses to ignore. By disarming and liberating Iraq, these troops are working to prevent a 9/11 with a weapon of mass destruction. Today we are entering a new phase in the campaign to root out terrorism wherever it is bred.

How did we get to this point? In 1993, terrorists bombed the World Trade Center, killing 6 people, wounding more than 1,000.

In 1996, terrorists bombed the U.S. military living quarters at Khobar Towers, Saudi Arabia, killing 19 brave Americans and wounding scores more.

In 1998, followers of Osama bin Laden attacked U.S. embassies in Kenya and Tanzania, killing and wounding hundreds.

In 2000, bin Laden followers attacked the USS *Cole* in a harbor in Yemen, killing 17 sailors and wounding 39 more.

But sadly, it took 4 hijacked airplanes being turned into weapons of mass destruction and the loss of nearly 3,000 lives for us to respond, and this time the terrorists and those who harbor them will know the United States of America is resolved to preserve our freedom.

Our President will not waiver. Congress will not waiver in our support of our President and our troops.

There are those in this world who hate America and what it stands for. They despise our love for freedom, our passion for democracy, and our tolerance of other religions and beliefs. Their hatred led them to recklessly kill thousands of innocent civilians in our country and abroad.

September 11 brought a sea change in our national security strategy. We now know that deterrence alone is not enough. Our new strategy in this new kind of war articulates a policy of preemption. It is when we fail to act or fail to lead that our enemies strike.

The President has said we will not give Saddam Hussein the opportunity to attack. The Iraqi dictator seeks to make weapons of mass destruction, and those weapons would find their way into the hands of terrorists. So coalition forces from our allied nations are on the ground with us in Iraq, and we commend them for their bravery and their unwavering loyalty to our Nation and their pursuit of freedom.

For 12 long years, Saddam Hussein has treated the world with lies and contempt. Diplomacy, sanctions, and 17 U.N. resolutions failed to do the job. His brutal campaign for decades against his neighbors, his own people, and the world is coming to an end as we speak because brave men and women are doing the job for us.

The men and women on the front lines in Iraq, the anxious families waiting back home, and the thousands of National Guard and Reserve forces who have been called to duty must count on the American public to stand by their side until the very end. We will not fail them.

In Congress, we must ensure our Armed Forces have every resource necessary for a swift and successful campaign. We will not fail to provide. It is our duty, as the beacon of freedom for the world, to ensure that Saddam Hussein's brutal reign comes to an end. This is our tribute to those in the past who fought for the liberty we enjoy, and it is our commitment to pass the torch of freedom to future generations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I anticipate that we will soon have a unanimous consent request about timing, but until that is finished might I suggest that the Senator from Michigan recognize another of his speakers.

Mr. DASCHLE. If I could just interject.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Perhaps I can at least describe what we are anticipating as the unanimous consent request. I think we are about ready to propound it. There have been a number of Senators who have indicated to the two managers that they wish to address the resolution. We are prepared to accommodate all of those requests. We would then ask for unanimous consent that the votes that are currently scheduled for 4 be moved back to 5 to accommodate the additional time allocated for discussion of the resolution. At that point, we would then vote on the amendments, in addition to the resolution.

Following those votes, we would still allow Senators to speak, either to the resolution in support of the troops or to the resolution relating to the budget in both amendment as well as in general comment, so that throughout the evening Senators could still be accommodated to speak to the resolutions, either one.

I hope that we could entertain a unanimous consent request that all those speeches which are made on the resolution in support of the troops appear in the RECORD prior to the vote so that the RECORD will read appropriately. That would be our intent, and I would hope that all Senators would be prepared to accommodate that request.

Mr. WARNER. Mr. President, I have before me a proposed unanimous consent request. I will now make that request.

I ask unanimous consent that the vote on the adoption of this resolution occur at the hour of 5 today; provided further that debate between 4 and 5 be equally divided as provided earlier. Further, I ask that the previously scheduled stacked votes occur beginning immediately following the vote on the adoption of this resolution, S. Con. Res. 26, with no amendments in order to the resolution or preamble.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that following the votes Senators be recognized for purposes of making additional statements; that the time throughout the evening be equally divided and that their speeches appear in the RECORD prior to the vote cast on the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, I will recommend that the distinguished Democratic leader's unanimous consent be accepted, but I would like to speak with my leader before agreeing to it.

The PRESIDING OFFICER. The objection is heard.

Mr. WARNER. Mr. President, I wish to announce that on my side, the following Senators have indicated the desire to speak. I will be in the Chamber to accommodate them as best I can within the 30 minutes that I have remaining: Senators ALLARD, MCCAIN, COLEMAN, HATCH, STEVENS, DOLE, DOMENICI.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will read the list of Senators on this side so that everyone will know who will be speaking before the vote on the resolution under the unanimous consent that was just adopted, and then who would come afterwards with their statements on the resolution being put in the RECORD before that: Senator DORGAN would be recognized for 5 minutes, Senator DAYTON for 5 minutes, Senator JACK REED for 5 minutes, Senator BOXER for 6 minutes, Senator BAUCUS for 7 minutes, Senator BYRD for 15 minutes. If my math is correct, all of those could be accommodated prior to the vote at 5.

I notice the Parliamentarian has been adding up those numbers, and I am wondering if my math is correct.

After the vote, if my math is correct, Senator LANDRIEU and Senator BIDEN would then be recognized on this side, and any other Democrats who wish to speak can come after the resolution, after those two Senators.

Is the Senator correct that all of those I named up to Senator BYRD could be accommodated with the times indicated prior to the vote at 5?

The PRESIDING OFFICER. The Senator allocated 43 minutes, which appears to fit within the timeframe now allowed.

Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, America makes no more difficult decision than that which asks its sons and daughters to go to war, and those who are in harm's way as we speak need to know that our country is united in support of them. Our thoughts and prayers go to those soldiers who have answered the call for our country. Our thoughts and prayers go to their families.

In my State, we have two Air Force bases, international guard. We have the highest rate of deployment. Almost 30 percent of all Guard and Reserves are now deployed in North Dakota under a callup. I am enormously proud of what they are contributing to this country and to its national defense. They and their families need to understand our united support for them.

To the people of Iraq, we need to say that we have no quarrel with the people of Iraq, and we pray also for the safety of those innocent noncombatants inside the country of Iraq.

I wish with all my heart that the people of free nations, working through the United Nations, would have been able to find a diplomatic solution to require the disarmament of Saddam Hussein, but that was not possible. So our Nation now will take action to disarm this dictator.

In the sometimes lonely and dark hours when America is challenged, I think of the words of Thomas Wolfe in his great novel. He talked about the peculiar quality of the American soul. He said Americans have an indestructible belief, a quenchless hope, a boundless optimism, that something good is sure to happen.

Let us hope and pray through this conflict something good will happen. As we do, let us express our profound gratitude for those who nurture, protect, and risk their lives for freedom. It will be and should be left to another day to talk about what should have been done a decade or two ago, what could have been done long ago to avoid this intersection of war and strife.

The question is, How do we, in the free world, prevent the emergence of more dictators, tyrants, and terrorists who threaten America's liberty? That is a long and difficult discussion for other days.

For today, all of us from every philosophy in every corner of our country say to those in harm's way and who serve our country: We are proud of you; America is united in support of what you are doing.

I yield the floor and I retain the remainder of my time.

Mr. WARNER. I yield 3 minutes to the Senator from Colorado.

Mr. ALLARD. Mr. President, last night at 10:15 p.m. eastern standard time, President Bush announced to the Nation that the war to rid Iraq of weapons of mass destruction had begun. It was a solemn moment that reminded us that diplomacy was no longer an option.

I recall the President's comments that you cannot have peace when you have to deal with a leader who is not peaceful.

It also meant the men and women of our Armed Forces were now going to be committed to battle. The resolution before the Senate commands and supports the efforts and leadership of the

President as Commander in Chief in the conflict against Iraq. The resolution recognizes the contribution of our defense forces and expresses support for the thousands of soldiers, sailors, airmen, marines, and coast guardsmen who have been mobilized, deployed, and are now fighting to defend the security of our Nation. I strongly support the resolution and believe it deserves the Senate's unanimous support.

Today our Nation demands much of our military. Our forces continue to fight in Afghanistan, assist forces in Yemen, Djibouti, and Georgia, and defend our homeland. Now they have taken on a new mission, the liberation of Iraq.

Despite many hardships, our military members have extended forward and embraced our country's call to arms. Over the last month, 5,000 soldiers from Fort Carson, CO, have been sent to confront Iraqi oppression and terrorism. The soldiers have embraced their duty and are now serving their country with pride and determination. We cannot forget the valuable contribution of reservists and National Guardsmen. Many of these service men and women have left their careers and their families to answer our Nation's call to arms. Over 3,000 Coloradans in the Reserves and National Guard have extended forward and they have responded with determination. They are committed to defending our Nation and deserve our support. We ought to recognize their employers who have recognized at the workplace that they are dedicated to protecting freedom in America and are making sacrifices while their workforce serves this country overseas.

We should not forget the families of our men and women in uniform. They have watched as their loved ones were sent overseas to defend our country. They made sacrifices and deserve our support as they fight and make sacrifices for freedom.

Today our men and women in uniform are in harm's way. They are fighting for the safety and security of all Americans. I believe it is imperative we express our support for their efforts. I ask for God's blessing for America.

Mr. LEVIN. I yield 5 minutes to Senator DAYTON.

Mr. DAYTON. Winston Churchill once advised:

> In War: Resolution. In Defeat: Defiance. In Victory: Magnanimity. In Peace: Good Will.

I add to that, before war, honest debate.

That fundamental right of the first amendment to debate, to agree and disagree is the difference between our democracy and Saddam Hussein's dictatorship. The measure of our free country is not how well our country tolerates agreement but, rather, how well they accept disagreement.

Now, however, the time for this debate is passed. Our country is at war and our Armed Forces are fighting life-and-death battles against Iraqi troops. The President has made that momentous decision, and I will support him, his military command, and the brave American troops who are carrying out his orders.

In war: Resolution. Let us in the Senate resolve to provide whatever is needed to win the war as quickly and decisively as possible and then replenish our military arsenals so we quickly regain our great strength to protect and defend our country again.

In victory: Magnanimity. There is no question that our Armed Forces will win this war for our country, for the Iraqi people and for, I pray, the ultimate benefit of the world. I pray the courageous Americans who will win that victory, many of them young men and women less than half our age, may return safely home.

Let us who are at home now begin the practice of magnanimity, magnanimity toward the people of Iraq who did not take up arms against us, magnanimity toward their past suffering and future needs.

Occupation is not magnanimous; the Marshall Plan was magnanimous. We have the obligation and the opportunity to be magnanimous and generous toward the people of Iraq and Afghanistan. In doing so, we can showcase our way of life, our economic and technical know-how, and our humanity. We should match each year the increase in our military spending with that same increase in an international recovery fund. Both are key to our national security.

In peace: Good will. Our leaders must become again the lead practitioners and worldwide promoters of good will. They can allow themselves no more derisive and destructive reactions to whoever does not see our way, not to the leaders and people of other nations, not to the leaders and representatives of the international organizations, not to our fellow American citizens.

We must resume our leadership of the world on the path toward international security, prosperity, peace, and good will. That is our greatest challenge. That must be our ultimate victory.

I reserve the remainder of my time and yield to the Senator from Michigan.

Mr. WARNER. Mr. President, I yield 3½ minutes to the Senator from Minnesota.

Mr. COLEMAN. Mr. President, this is a profound moment in all our lives. Words are inadequate, so I will be brief. It is an honor to speak right after my friend and colleague, the distinguished senior Senator from Minnesota, and to join with him in support of our men and women on the front lines, in support of the President's decision to commence military action to disarm Iraq.

In this Chamber it is often said the foreign policy debate ends at the water's edge. This resolution makes clear that debate on the use of force in Iraq ends with the firing of the first weapon. I support our troops and military families to the utmost, praying for their safety, and working with them to achieve the mission our Commander in Chief has given them.

This situation represents a balance of risks. War is always costly in human terms on all sides. But the threats of terrorism, mass destruction, are also real. The dangerous nature of the world we now live in was brought home to us by the events of September 11. That reality requires us to act decisively when we are threatened, rather than simply to wait and hope for the best. I agree with the President that it is better to send soldiers into battle than to send police, ambulance drivers, and firefighters to the site of future terrorist attacks.

My firm belief is that our Nation is blessed with responsible, principled leadership. Our military is as courageous as it is capable. Our goals in this conflict are both clear and just. Now we are committed and we must carry on our duty to the end.

It has been said that courage is fear that has said its prayers. May we all offer our support and praise to our troops, military leaders, and our President until the dangerous days are over. Our hearts and prayers are with all the women and men in harm's way in the Middle East today, and with their families.

I ran across this quotation from Thomas Paine from his pamphlet Common Sense, written in 1776:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; it is dearness only that gives every thing its value. Heaven knows how to put a proper price on its goods; and it would be strange indeed if so celestial an article as Freedom should not be highly rated.

No one wanted this to come to war. But it is here. I am proud to join with my colleagues on both sides of the aisle in support of our men and women, in support of our Commander in Chief, in support of our families. Our prayers are with all of them.

Mr. LEVIN. Mr. President, I yield 5 minutes to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. REED. Mr. President, once again, America has placed its fate and its future in the hands of young American fighting men and fighting women. Both our future and our faith could not be in stronger, more decent, and more qualified hands. We are here today, united in our support for these extraordinary soldiers, sailors, airmen, marines, and Coastguardsmen, all of them superbly trained, faithful to their uniforms, and also faithful to those who served before them—an unbroken legacy of courage and commitment to this Nation.

I take a moment to recognize particularly those many individuals from my State of Rhode Island. First, the thousands who are serving on active duty in units in all of our services, and then, also, our National Guard and Reserve forces, because in this conflict the National Guard and Reserve are playing a critical role. Rhode Island has 648 Guard men and women and Reserve members who are stationed throughout the globe.

Many members of the National Guard 143rd Airlift Wing Security Forces and Communications have been deployed to Southwest Asia. They have been joined by the Air National Guard's 281st Combat Communications Group, the Air National Guard's 282nd Combat Communications Squadron and the Air National Guard's 102nd Information Warfare Squadron. The Guard 143rd Airlift Wing Aerial Port Squadron is in Turkey and members of the Rhode Island Air National Guard headquarters are in Kyrgzstan and Turkey.

Rhode Islanders are also protecting the homefront while war is waged in the Middle East. The Army National Guard's 1207th Transportation Company is at Fort Dix, New Jersey. The Army National Guard's 118th Military Police Battalion, 119th Military Police Company, and 115th Military Police Company are at Fort Drum, New York. And the Marine Reserves, General Support Motor Transport Company and the Army National Guard's 1st Battalion, 103rd Field Artillery Brigade are providing security in Rhode Island.

All of these men and women have been called to the colors, have responded, and will serve magnificently.

The battle has begun. The battle will be pursued vigorously to a complete victory. I have every confidence in that. Part of my confidence stems from the privilege of having served with the leaders of our Army who, today, are commanding the forces that are sent against Iraq. Both as classmates and contemporaries at West Point, I had the privilege of knowing GEN Chuck Swannack who commands the 82nd; Dave Petraeus, the 101st Commander; and also General Hagenbeck, who commanded the 10th so well in Afghanistan.

I know because these men are superb professionals, because they are committed to getting the job done and making sure their soldiers come home. We will be successful.

Today, we are united in our support and our admiration for the forces who serve this country so well.

I yield the remainder of my time.

Mr. WARNER. I yield 4½ minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, the war to disarm Saddam Hussein and liberate the Iraqi people has begun. Many Americans feel we have waited a long time for this just war to come; many feel we haven't waited long enough. But the Iraqi people have waited for far too long, suffered for far too long and the world has for too long failed to come to grips with the consequences of Saddam Hussein's acquisition of an arsenal of terror. The wait is over; the liberation of the Iraqi people is underway; and the world is witnessing the end of one of the most horrible regimes in modern history, and with it the end of the threat Iraq has for too long posed to its people, its neighbors, and the world.

There has been no rush to war. That the United States exhausted diplomacy is evident in both the 12-year history of our dealings with Iraq since the first Gulf War and the 6 month effort at the Security Council to build consensus on the need to disarm Iraq. There will be plenty of time to discuss the American diplomatic campaign that preceded the war once military action is over. There is no cause to do so today. We stand united in our support for our armed forces and confident in the swift victory that we pray will be theirs.

One of America's finest traditions is our ability to draw together in support of our men and women in uniform when they are actively engaged in the defense of our freedom. American forces in the Iraq theater fight not for narrow interests or for reasons of national pride. American soldiers, sailors, airmen, and Marines are engaged in combat today so that our people do not live in a world in which tyrants armed with weapons of horror hold free nations hostage, and in doing so threaten freedom itself.

Our armed forces fight to disarm and destroy a regime that has proven not only that it will continue to stockpile weapons of mass destruction, but that it will use them. Our military fights to uphold the demands of the United Nations Security Council for Iraq's disarmament, even though some in that body shirk their own obligations to hold Iraq to account for its defiance. Our men and women fight so that the Iraqi people no longer live in terror but have cause to believe, as Americans believe, that liberty's blessings are not the prerogative of a lucky few, but the inalienable right of all mankind.

The liberty we cherish, and in which we want all people to share, has a price. Young Americans are paying it tonight in Iraq—not out of any grand design for empire, not for oil, not out of dislike for the Iraqi people, but for love—love of America, love for her founding principles, love for her way of life, and love for the greatness that history has judged to be hers not because of riches or power, but because of her abiding commitment to the cause of human freedom.

America is great not because of what she has done for herself, but because of what she has done for others. In another age, we helped liberate Europe from Hitler's tyranny, and ended Japanese imperialism in Asia. In extraordinary acts of generosity, we helped rebuild Europe and Japan and transform former enemies into the closest of allies. I believe the liberation of Iraq will be judged by history to be of similar nobility.

Many of us remember parents and grandparents who served in the Second World War as our "greatest generation." Another generation of heroes is being forged from the ruins of the attacks of September 11th. Just as Pearl Harbor opened the eyes of America to the grave peril beyond her shores, so have the terrorists who attacked us roused in America the conviction that we will never again suffer such infamy.

Nearly a century ago, President Woodrow Wilson issued a rousing call to make the world safe for democracy. Americans, and the world, did not rise to the challenge, and the bloodiest century in the history of humanity ensued. The President has ordered American forces into action in Iraq to help make America, and the world, safe from another such century, when tyrants are empowered by technology to inflict the sort of devastation from which free nations might not recover—a capability that puts freedom itself in peril. America, the greatest of free nations, will not take that risk.

I wish American forces in Iraq every hope for rapid victory. They fight for love of freedom—a love which is invincible. The world is better for their courage and dedication. Victory will be ours—and all honor will be theirs. God bless them and may humanity honor their sacrifice.

Mr. WARNER. We go to the other side.

The PRESIDING OFFICER (Mr. FITZGERALD). Who yields time?

Mr. LEVIN. Mr. President, I yield 6 minutes to the Senator from California.

Mr. WARNER. Mr. President, may I address the Senate with regard to the remaining speakers on my side of the aisle to alert them? We have next the Senator from Alaska, Mr. STEVENS, followed by the Senator from Utah, Mr. HATCH, the Senator from New Mexico, Mr. DOMENICI, the Senator from Arizona, Mr. KYL, the Senator from North Carolina, Mrs. DOLE, and the Senator from Texas, Mr. CORNYN.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, as military action begins in Iraq, I send my strong support, as a Senator, as a mother, as a grandmother, to our sons and daughters who are carrying out the mission asked of them.

Military personnel from my State of California are a lead contributor in this effort. They include marines from Camp Pendleton and Twentynine Palms, carrier groups from San Diego, and Air Force personnel from Travis Air Force Base.

There are many more soldiers, sailors, airmen, and marines from throughout California serving us today, including 6,100 Guard and reservists who have recently been activated. Thousands of California families are impacted.

From my seat on the Senate Foreign Relations Committee, I have followed the issue of Iraq very closely. And for the past several months, my view was that we should build a worldwide coalition to disarm Iraq, a worldwide coalition that would truly be partners in name, in action, and in cost-sharing. That is why I was so proud to support Senator LEVIN's resolution to authorize force with the backing of the United Nations. While this amendment was defeated in the Senate, I believe it called attention to the importance of working with a large coalition of allies.

As one who has recently voted twice to give a President—a Republican President and a Democratic President—the right to use force, I believe war should always be the last resort. I voted to give President Bush the authority to go to war against al-Qaida, and for President Clinton to use military force against Slobodan Milosevic.

In this case, in Iraq, I supported intrusive inspections backed by a united coalition as the best way to achieve Iraqi disarmament. While the U.N. inspectors asked to continue their work, that was not to be. So that debate is behind us. I do want to say, the need to work with our allies in postwar Iraq is very important because we want to lift—we want to lift—the physical burden off the shoulders of our men and women and share that burden. And we want to, of course, try to share the cost burden as well.

Like all Americans, I hope and I pray that hostilities end soon and that casualties are minimal. And like all Americans, I very much hope that democracy in Iraq will take root. Last night, I saw an interview with a young man who is a soldier in the Army, and he was as eloquent on this same point as any statement I had ever heard, eloquent in his simplicity, in expressing his hope for this mission.

Congress is supporting our troops from the minute they went in. I believe one way we can demonstrate that is to ensure that the lives of both parents of dual-military families with small children are not unnecessarily put at risk. I raised this issue with the Secretary of Defense in February, and I am awaiting a response from him. Senator BEN NELSON is also working on this issue as well as other quality-of-life issues for our military. We must be mindful of the impact on a child when both parents are put in harm's way. I believe we can make sure they are not both placed in harm's way. I will work to make sure of that.

I also intend to work to provide additional funding for four important programs.

First, we need to increase funding for impact aid programs to help school districts with military families. Our children of military families need attention now. They must have attention now. And we are not fulfilling our responsibility to our military families if those children do not get help.

Gandhi once said: If there is to be peace in the world, it must begin with the children. So we must never, ever forget the children. We have heard from many military families struggling to pay for daycare and other expenses who have one family member deployed from home. We have heard from them that they are having a very hard time.

Next, I think we need to help with homeland defense. Clearly, everyone has told us—from the CIA to the FBI to Secretary Ridge—that the probability has now greatly increased that we will be facing more problems here at home. That is why I am supporting the Schumer amendment, when we get back to the budget, to reimburse our States for this burden.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Governor of California, pointing out these incredible expenses the States are having because of firefighters and police and emergency workers working overtime.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOVERNOR GRAY DAVIS,
*March 20, 2003.*

Hon. BARBARA BOXER,
*U.S. Senate, Hart Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER: I understand that the United States Senate may take up an amendment tomorrow to the Fiscal Year 2004 Budget Resolution to substantially increase funding for state and local first responders. As you are aware, an increase in funding is critical to our efforts to protect Californians and I appreciate your support for these efforts.

As Governor, my first job is to provide for the safety of all Californians. Thanks to our first responders, Californians are safer than at any time since September 10, 2001. For 18 months, California has been hard at work preparing for all emergency contingencies.

As you know, since September 11th, the state has spent hundreds of millions of additional dollars to prepare for and prevent a terrorist attack. Even in the best of times, this is a burden that would require a strong federal partnership; in the face of the fiscal problems that states across the nation now face, that partnership is critical to state and local first responder preparedness.

Governors across the nation are extremely disappointed that the dollars for first responder activities we expected this year are not forthcoming. With passage of this homeland security amendment to the Budget Resolution, Congress can ensure that funding for equipment and training for those in the front lines of this battle is robust in the next fiscal year.

Governors, Democrats and Republicans alike, have worked hard to protect and safeguard their residents against terrorist attacks—but we need a strong federal partnership to fully realize this goal.

Thank you for all your work toward ensuring the safety of all Americans.

Sincerely,

GRAY DAVIS.

Mrs. BOXER. And last, Mr. President, I hope we will be able to work on the development of a missile defense system for our airplanes, our commercial airplanes, which are facing the danger of shoulder-fired missiles.

Many people throughout California have asked me, what can they do to support our troops? The Department of Defense has provided some excellent ideas that can be accessed on the official DOD Web site, DefenseLINK. I think it would be good for those who want to do something now to get on that Web site. We have a link on our Web site as well. The ideas are there on how to send a virtual thank-you card to our troops, how to provide them with telephone calling cards. These are things that will make their lives much better.

The PRESIDING OFFICER. The Senator has used 6 minutes.

Mrs. BOXER. Mr. President, I ask for 15 seconds, if I might.

Mr. LEVIN. Mr. President, I yield the Senator 15 additional seconds.

Mrs. BOXER. Mr. President, let's do everything we can for our troops and everything we can to protect our homeland. And let us all pray for our men and women in uniform, and for their families, and for wisdom for all those who send them forward into battle.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield 2 to 3 minutes to our distinguished colleague from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I will be brief.

I am proud to stand here with this former marine, my great friend from Virginia, Senator WARNER, as I recall the phrase, "From the halls of Montezuma to the shores of Tripoli."

I believe the President has the authority. We all pledged, ourselves, when we were sworn into Federal office, to defend this country against enemies foreign and domestic.

He has taken action—firm action—to protect us against enemies. The freedom of Iraq, the freedom of the people of Iraq, is the goal of this effort we are undertaking. But it is being done by free men and women—young women, young men of this generation. They have talked about our generation being the Greatest Generation. These young men and women are all volunteers. They have gone out there in harm's way to protect us and to carry out their pledge to the people of the United States. I support them for that.

I only add one comment. I keep hearing people talk about overtime, and getting money to pay people here whc are working so long and working overtime in cities and various functions. Those men and women over there are not getting paid overtime.

I think it is time we started thinking about some voluntarism in the United States right here at home, volunteers to help this country get through this period. When our men and women are over there, they are volunteers, they are not getting any extra pay for what they are doing.

I think we should recognize the concept that every one of us should volunteer more of our time to help our country in this period.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 7 minutes to Senator BAUCUS.

Mr. WARNER. Mr. President, will the Senator yield for a minute for purposes of recognition of the Senator from Mississippi, who wishes to put a statement in the Record?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I thank the Senator for yielding.

Mr. President, I call the attention of the Senate to the fact that back in my State of Mississippi, our legislature is in session, and our State senate has adopted Senate Concurrent Resolution No. 605, under the leadership of our Lieutenant Governor, as presiding officer of that body, Amy Tuck. And the president pro tempore is Travis Little.

The operative clauses are:

> That we do hereby declare our complete support for and our great pride in the Armed Forces of the United States, particularly the men and women from the State of Mississippi, both in the Middle East and elsewhere, who are participating in and supporting military operations. . . .

And it goes on to say:

> That we do hereby express our support of President George W. Bush and the President's cabinet for their courage and decision to remove Saddam Hussein from power.

There are whereas clauses in another part of that resolution.

Mr. President, I ask unanimous consent that the entire concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION NO. 605

Whereas, events in Iraq have reached the final days of decision, and at the direction of the President of the United States, the Armed Forces of the United States are poised to launch military operations with our allies against Saddam Hussein and his forces in Iraq; and

Whereas, among the forces participating in this mobilization under Operation Enduring Freedom are many members of the regular United States Army, Navy, Marines, Air Force, Coast Guard, Reserves and National Guard who are residents or natives of the State of Mississippi who are being deployed, including 182 female and 2,056 male soldiers in the Mississippi Army and Air National Guard already deployed, with a total number of 3,662 dependents recorded for those deployed; and

Whereas, the dictatorship of Iraq has continued to develop weapons of mass destruction in violation of United Nations Security Council Resolution 1441; the dictator, Saddam Hussein, has demonstrated a willingness to use weapons of mass destruction against neighboring nations and the citizens of Iraq. Saddam Hussein threatens the Middle East and the global economy with the threat to use weapons of mass destruction; and

Whereas, the United States of America has the sovereign authority to use force in assuring its own national security. Recognizing the threat to our country, the United States Congress voted overwhelmingly last year to support the use of force against Iraq, and that duty falls to President George W. Bush as Commander-in-Chief of the Armed Forces; and

Whereas, Mississippians understand the costs of conflict because we have paid them in the past, and we again accept that responsibility. The men and women of the Armed Forces of the United States will be the guardians of civilization as we know it. War has no certainty except the certainty of sacrifice, yet the only way to reduce the harm and duration of war is to apply the full force and might of our military; and

Whereas, it is our earnest prayer that the job be done well and swiftly and that the return home to family and friends be safe and soon: Now, therefore, be it

*Resolved by the Senate of the State of Mississippi, (the House of Representatives concurring therein)*, That we do hereby declare our complete support for and our great pride in the Armed Forces of the United States, particularly the men and women from the State of Mississippi, both in the Middle East and elsewhere, who are participating in and supporting military operations against Saddam Hussein and his forces in Iraq, and we pray for the quick and successful conclusion of their important mission and for their safe and sound return home; be it further

*Resolved*, That we do hereby express our support of President George W. Bush and the President's cabinet for their courage and decision to remove Saddam Hussein from power; and be it further

*Resolved*, That this resolution be sent to the President of the United States, the Secretary of Defense, the Secretary of Homeland Security, Major General James H. Lipscomb III-Mississippi National Guard, the Commanding General-American Military Forces-Operation Enduring Freedom and to members of Mississippi's congressional delegation, and be made available to the Capitol Press Corps.

Mr. WARNER. Mr. President, I thank the Senator from Mississippi and the Senator from Montana.

I ask unanimous consent that the Senator from Alaska, Mr. STEVENS, be added as a cosponsor of the pending resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. This is a solemn day for our Nation. I rise today to add my voice to the chorus of support and prayers that are being sent from this Chamber to our brave and heroic troops in the deserts of Iraq. The men and women who are serving the country on the front lines are sons and daughters, brothers and sisters, and mothers and fathers. Their heroic military service is helping bring an end to a brutal regime and reducing terrorist threats by stopping those who provide assistance to terrorist operations. I know they will be successful in their mission.

While many differences of opinion were expressed about the way this war came to be, the time for debate has ended. We now remain steadfast in support of our troops. And we must look to tomorrow and the massive rebuilding that will be needed following military actions. It is important that we continue to work with our allies to build a stronger coalition of support. We will need our friends in the coming days and weeks.

And we must also focus on providing our troops with all the assistance and resources they need. With that in mind, I would like to take a moment to urge support of the "Armed Forces Tax Fairness Act of 2003." The House passed this important bill today. And it passed smoothly out of the Finance Committee weeks ago. It very much ties in with the remarks of the Senator from Alaska, that our valiant men and women overseas don't get overtime pay. And the very least we can do is voluntary work and other ways to help our troops this bill fits into that suggestion.

In this time of war, I can think of nothing more appropriate than passing a bill that is dedicated to providing assistance to those who serve in our armed forces. In addition, our bill encourages more women and men across the country to join our armed forces.

There are many, many brave men and women from my state of Montana who are playing a pivotal role in Iraq. Following the events of September 11, members of the 120th Fighter Wing of the Montana Air National Guard were called to secure the skies of the no-fly zone over Iraq. Their bravery will once again be seen in the current operation.

I want to help members of 120th Fighter Wing, and every other member of our armed forces. We can do this by passing the Armed Forces Tax Fairness Act.

Let me describe some of the key provisions.

Under our current tax code, if a member of the armed forces dies while on active duty, the federal government pays the surviving spouse a small death benefit of $6,000. The entire amount should be excluded from taxable income. However, because of a glitch in the law, only half is excluded. Our legislation corrects this by excluding the entire $6,000 payment.

Just last week, one of our soldiers from Montana, Private First Class Stryder Stoutenburg, was tragically killed during a Blackhawk helicopter crash. A native of Missoula, Private First Class Stoutenburg was only 18 years old. His mother will receive the death benefit payment, but will be taxed on half of it. She has already lost so much. It is unfair to also take away part of the small compensation she is receiving.

Another provision of this bill would ensure that military members who are frequently required to move from town to town and country to country, are not punished with capital gains taxes when they sell their homes. Under current law, an individual must live in their house for 2 of 5 years in order to qualify for capital gains taxes exclusion. This isn't feasible for many in the armed forces and our bill would eliminate the 2-year requirement.

A third provision seeks to take a financial burden off of our men and women who serve in the National Guard and the Reserves. Many reservists must travel away from home for weekend drills and wind up spending a substantial amount of money for overnight travel and lodging.

In fact, for many of our younger, more junior reservists, the expenses exceed their take home pay for the weekend. Our bill would allow them to deduct these expenses from their taxes, even if the expenses do not exceed the 2 percent floor.

In addition to providing financial assistance, this bill will not add to the deficit since it's completely offset in two ways. First, we improve the collection of unpaid taxes from people who have renounced their American citizenship in order to avoid future U.S. taxes. Second, we extend certain IRS user fees. These are modest, sensible changes. In fact, in the case of expatriates, the offset seems especially timely.

There is no better time than today to pass legislation that will allow our military personnel to fight for our country, not have to fight the tax code. I know that the thoughts of every single Member of Congress go out to the troops who are risking their lives. We pray for their fast and safe return home. I'm hopeful for quick passage of this bill that will provide needed tax relief for our troops.

I thank Members who contributed to the development of the bill: Senators LEVIN and WARNER of the Armed Services Committee, Senator LANDRIEU, Senator JOHNSON, Senator HARKIN. And especially I thank Chairman GRASSLEY of the Fiance Committee who I have enjoyed working with and who, once again, in this case has helped us to develop an important piece of bipartisan tax legislation.

I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that the pending resolution be considered as a Senate resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I recognize the distinguished Senator from New Mexico for a period of 3 minutes.

Mr. LEVIN. If the Senator from New Mexico would yield for a request, I ask unanimous consent that after the Senator from New Mexico has completed, Senator BYRD then be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. I ask the Senator from Montana if he would place the Senator from New Mexico's name on the various military and veterans bills.

Mr. BAUCUS. I make that request.

Mr. DOMENICI. Mr. President, today is a day, as I see it, to be thankful, to have hope, and to pray. I stand before the Senate thankful for our freedom and for the thousands of American young men and women, husbands and wives, sons and daughters, who are volunteers in the U.S. military, especially for those who are serving in combat in Iraq. I thank each of them for their service and for volunteering to protect us and to protect freedom in faraway lands.

I think it is also important to thank their parents, their grandparents, and their spouses for their sacrifice as they wait for their loved ones who are overseas giving of themselves to save the world from a tyrant in possession of weapons of mass destruction. These brave men and women are there to protect us and protect the neighbors of Iraq from the scourge of a tyrant who has violated international rules and failed to disarm. Our men and women, joined by others from around the world, will see to it that he is disarmed. In doing that, they will be doing a very important duty, and they will be giving us the most important gift we can have, to be contributors to freedom in that part of the world and in our own country for the future.

Last night, airplanes from Holloman Air Force Base, NM, were the planes that did the initial strikes on Baghdad. They were far away from their home in Holloman Air Force Base, NM. They are the F-117 stealth fighters. They have been joined in that theater of war by men and women from our two other military bases, the air bases at Cannon and Kirtland. They are also joined by units of the New Mexico National Guard and Reserve.

On behalf of all of those military personnel, their relatives and friends, as one of their Senators from New Mexico, I thank them. I congratulate them for their willingness to fight for freedom and for the generosity of being volunteers to keep America safe and free.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. DOMENICI. I yield the floor.

Mr. LEVIN. Mr. President, Senator BYRD graciously agreed to yield 2 of his 15 minutes to the Senator from South Dakota. It will be very clear to the body as to why that was such an important and gracious act on the part of Senator BYRD.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank Senator LEVIN and my colleague, Senator BYRD.

Mr. President, I rise today to express my strong support for the men and women serving in our Armed Forces in the war on Iraq. I join with my colleagues in the Senate and with the American people in conveying our gratitude to each of them for their willingness to courageously serve our Nation.

Now that the war has begun, it is time for all Americans to come together to support our military. While we had hoped a diplomatic solution could be found so that we could avoid the use of force, it now appears that military action is imminent. I will do all that I can to assure that our troops have the resources they need to complete their mission quickly, efficiently, and with as little loss of life as possible.

Be they active duty or members of the National Guard or Reserves, our Armed Forces are the best equipped, best trained fighting force in the history of the world. Despite our preparedness, this may not be a quick and easy war. The Iraqi Army, if it chooses to fight, remains a formidable force. But let there be no doubt that our military will achieve its mission. We will disarm Saddam Hussein. We will end his brutal dictatorship, and we will liberate the Iraqi people.

We should not forget that we are fighting this war not only to ensure that Saddam Hussein never again is able to use weapons of mass destruction, but also to give the 22 million Iraqi people the chance to build a democracy and to live in freedom. Our goals are noble, and the actions of our military are just.

Finally, to the families whose sons and daughters, fathers and mothers have been deployed to the Middle East, I want to say that you and your loved ones are in our prayers. As a father with a son serving as a sergeant in the 101st Airborne, now in the Iraqi theater, I understand the mix of pride and fear that family members are feeling at this time. I wear my blue star with pride. They should find comfort in the fact that they are not alone; our entire Nation is with them during these difficult moments.

Mr. President, I thank my colleagues for the opportunity to address the Senate on this timely and important matter and to offer my thanks, prayers, and gratitude to our Armed Forces.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I can think of no one in this body who is more appropriate to bring this debate to a close, or near to a close, than Senator JOHNSON of South Dakota whose son is serving with such honor and distinction and who brings such pride to his family. I thank the Senator for sharing with us the emotions I know he feels at this very moment as a father.

Mr. WARNER. Mr. President, may I also join my colleague and express how grateful we are he came to the floor with a great sense of emotion and humility and, the final sentence with which he concluded, his pride in his son. I commend the Senator.

I should note that the son of a member of the senior staff of the Senate Armed Services Committee, COL Chuck Alsup, who is with me in the Chamber, leaves today as a military man to join the forces in the gulf.

We will have the Senator from North Carolina address us for 2½ minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. I thank the Chair. To date, nearly 40,000 men and women from North Carolina's military bases have been deployed for duty in Operation Iraqi Freedom.

Last month, as a new member of the Senate Armed Services Committee, I visited three of our military installations in North Carolina. I have always had the greatest respect and admiration for the brave men and women who dedicate their lives to defending our freedoms. It was particularly important to me to visit our armed forces personnel at this critical moment in our history and to tell them how much I appreciate what they do for us, for our country, each and every day.

At Seymour Johnson Air Force Base, at Cherry Point Marine Corps Air Station, and at Fort Bragg, I was moved by the dedication, the commitment, the patriotism of the members of our armed forces and their families. They make me proud and thankful to be an American.

In a recent interview, my husband, Bob, was asked about his service in World War II—about being part of "the Greatest Generation." He responded that it is the men and women of our military today who are the greatest generation. I agree with him completely. We have the best equipped, most capable, most courageous military force in the world.

I remember my first day, 12 years ago, as president of the American Red Cross, walking into my new office to find a letter from Colin Powell, then-Chairman of the Joint Chiefs of Staff. One of the oldest Red Cross assistance programs, the Armed Forces Emergency Services, was in jeopardy due to a lack of donor interest. I promised Colin Powell right then and there that we would do whatever it took to preserve that program for our men and women in uniform—and we did.

Many people do not realize that wherever our military goes, the Red Cross goes with them to provide support and services, delivering 4,000 emergency messages a day to our military men and women. On that first day on my job, during the Persian Gulf war, our thoughts and prayers were with the Red Cross and our armed forces.

Shortly after the war ended, I traveled to the Persian Gulf to thank the Red Crossers for their work and to deliver humanitarian aid to Kuwait. Even now, I can clearly recall the horror of Saddam Hussein's occupation of that country—oil fields burning, a hospital where scores of children had died because doctors and nurses fled the country to escape the horrors of Saddam Hussein and his forces. I put a call out, right then and there, for doctors and nurses to come to Kuwait through Red Cross sponsorship—and about 50 American medical personnel responded immediately.

Saddam Hussein is a dangerous man who continues to pose a threat to the region's stability, to his own people, and to the American people through his sponsorship of terror. Right now, he's passing weapons of mass destruction to Iraqi troops—weapons he claimed not to have. He would gladly pass these weapons to terrorists to use against America.

President Bush exhausted every option before resorting to military force.

It is time to free the people of Iraq from Saddam Hussein's terror, to remove his weapons of mass destruction, to help Iraq establish democracy.

I have the highest confidence in our Armed Forces, and I know they will complete the mission they are called to accomplish. As we go forward, my thoughts and prayers will constantly be with our Commander in Chief, with these men and women and their families, with the Iraqi people, and with all those on the front lines of this war.

May God bless them all, and may God bless this great land of the free and home of the brave—America.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I grant the Senator from Utah 2 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased to stand here and support our young men and women in the Middle East and the efforts they are making to defend our Nation and, of course, defend against terrorism and to end the intolerant behavior and leadership of Saddam Hussein.

Last night we began a war that will end Saddam Hussein's threat to his own people, to the Middle East, and to this country. It was a time we chose, and a historic moment for the United States, the Middle East, and the world.

Today, as we vote in support of S. Res. 95, our prayers go with our brave soldiers, marines, airmen, and sailors. I am proud to say that this includes over 3,000 of my fellow Utahns.

Every attempt was made to find a diplomatic way to disarm Iraq, to make Iraq comply with commitments it began to violate shortly after the first gulf war in 1991. And so, in many ways, the war with Iraq never ended in 1991. A condition of ending the conflict was full and transparent disarmament, and Saddam Hussein has never—never—complied with that condition. Iraq never complied, over a decade of insistence by the international community, over a decade of frustrated inspections regimes, over a decade of resolutions by the United Nations, all of which have been ignored by Iraq. All of them. Throughout this time, the United States has worked with the United Nations. We supported all 17 resolutions. We supported not just what was written, but was intended. We supported not just the words, but the actions they demanded. We wanted resolutions with resolve.

As I said, I believe this administration made every attempt to find a solution without resorting to force. Every attempt, that is, except a commitment to perpetuating the dangerous belief that force would never be an option. Another nation, France, declared that it would veto any resolution requiring the use of force now. That nation did so, arguing it rejected the "logic of war." I have read the history of Saddam Hussein and his dictatorship in Iraq. I have concluded that Saddam Hussein has never—never—changed his behavior unless confronted with the threat of force. For France to reject the "logic of war" in trying to compel Saddam Hussein's disarmament, it was willfully ignoring this fundamental fact of Saddam Hussein. France is ignoring history; it is ignoring logic.

President Bush said on Monday night that "we are now acting because the risks of inaction would be far greater." I support the President, and I support this rationale.

In Saddam Hussein's Iraq, there remain unaccounted vast amounts of chemical and biological weapons. This is a fact documented, not by some hawks in or out of the U.S. Government but by the international community. In Saddam Hussein, there is a long and established history of association with, and support for, terrorists. All those within reach of a television or newspaper saw, within the past weeks, Palestinian terrorist groups doling out Saddam's largesse. Saddam has trained terrorists, funded suicide operations, and allowed members of al-Qaida to live in his tightly controlled Iraq.

Some opponents of the President's policy have suggested that he failed to make the case that Saddam Hussein caused the attacks on September 11. These critics are disingenuous: The administration has never made this claim. It has asserted, and I believe them, that elements of al-Qaida have been in Iraq since September 11. As we learn more, I also believe that the history of al-Qaida will reveal a long association with Saddam Hussein's Iraq, going back years, and being developed in Iraq, Sudan and Pakistan.

I have said this before. Association is not causation, I know. But when it comes to regimes hiding weapons of mass destruction and harboring terrorist organizations dedicated to our doom, I say this: Association is reason enough for alarm, reason enough for action. The President said it clearly last on Monday night:

> Responding to such enemies only after they have struck first is not self-defense, it is suicide.

I commend his administration for searching for every possible solution short of war. That this was not possible does not mean they did not work earnestly and assiduously to avoid conflict. The effort does not guarantee the result. It does not guarantee support of the U.N. Security Council.

On that Security Council, China would rather see a nuclear Korean peninsula than a passive U.S. presence in South Korea. I have seen how Russia would rather see genocide in the Balkans—and Chechnya—than NATO success there. France would rather reject the "logic of war" in responding to a dictator who has never been motivated by anything other than the threat of force. These countries have their own self-interest, whether we like it or not. They stand down when outlaw regimes stand defiant with their illicit weapons of mass murder.

I thank God for the patience, wisdom and courage of this administration. I believe I join all my colleagues as we offer our thoughts and prayers for the members of the American military, their families, our allies, and the people of Iraq, who will soon be free of a despicable, murderous regime that has kept the world fearful for far too long. And last night, I prayed to God that our mission in Iraq is blessed with providence and His protection. To our brave military I say: Godspeed and safe home.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, following the distinguished Senator from West Virginia, the Senator from Virginia will recognize Senator KYL for 2 minutes and then in rotation the Senator from Georgia, Mr. CHAMBLISS, for 2 minutes. That results in all the time under my control being expired.

Mr. LEVIN. Mr. President, I yield 13 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from Michigan, Mr. LEVIN, for his courtesy, his characteristic accommodative spirit. I also thank the distinguished Senator from Virginia for his characteristic courtesy always. I thank those who have written this resolution.

Months of uncertainty over the fate of Iraq ended with the first U.S. air strikes on Baghdad. Today, regardless of where any of us stand on the decision to go to war, we are all Americans, and our thoughts and prayers go out to the men and women of the U.S. military who have been called to battle in a foreign land.

Few doubt the outcome of this war. The fate of Iraq is sealed. The United States, with its awesome military might, is virtually certain to prevail decisively. But the fate of the individual soldiers, sailors, airmen, Marines, and Coast Guardsmen who will carry the battle to Iraq is far less certain. We pray that every man and woman engaged in the war will return home safely and soon.

Our troops will face intense dangers as the mission to unseat Saddam Hussein proceeds. When our airplanes penetrate the sky above Iraq to deliver computer-guided bombs to their targets, and our ground troops begin their armored charge through the deserts of Iraq, our men and women in uniform surely know that one unlucky shot could send their families into mourning for a fallen patriot.

There are unknown perils as well. We do not know if Iraqi civilians will unite to repel a foreign enemy from their homes. We do not know if Iraq's military will lure us into bloody, house-to-house fighting. We do not know if Saddam Hussein will use chemical or biological weapons against our forces. I pray that the sons and daughters of the United States will never face these grave risks to their safety.

More than 225,000 U.S. troops are now involved. True to its traditions of service to our country, West Virginia continues to have the highest per capita rates of participation in our armed forces. Thousands of West Virginians are now carrying out missions to defeat Saddam Hussein, protect our homeland, and root out terrorists in Afghanistan.

Thirty-three different units of the National Guard and military reserves based in the Mountain State are now activated. The 459th Engineer Company, based in Bridgeport, must now be readying to bridge the ancient Tigris and Euphrates Rivers. The 1092nd Engineer Battalion, based in Parkersburg, has been called to duty and might soon join in that effort. The 130th and 167th Airlift Wings are using their cargo aircraft to move men and materiel to where they are needed. West Virginians attached to the 363rd, 157th, and 304th Military Police Companies, out of Grafton, Martinsburg, and Bluefield, stand ready to maintain law and order in places far distant from their homes and families. These are but a few of the multitude of tasks now being carried out by West Virginia mountaineers in service to our country.

The men and women of these military units, like the rest of our troops, did not join the armed forces to fight Saddam Hussein. They did not ask to be sent to the harsh climes of the Arabian desert. Our troops volunteered to serve our country and uphold our Constitution. They are to be commended for their dedication to our country.

I stand foursquare behind our soldiers, sailors, airmen and Marines. I urge every American to pray for our troops, and pray that they will return safely from those faraway sands, to the loving arms of their families. I will do everything in my power as a member of the Appropriations Committee, and as a member of the Armed Services Committee to provide our troops with the funds that are needed to ensure their safety.

I do not agree with every word of this resolution. I have strong reservations that the new doctrine of preemption does not meet the test of international law. I have strong reservations about the assertion that the Congress has "fully authorized" this war against Iraq. I do not believe that Congress can cede its constitutional power to declare war to the President of the United States.

I have questions about our long-term strategy for the reconstruction of Iraq, the plans to democratize the Middle East, and the application of the preemptive doctrine that has led the United States to war in 2003.

But I have no question about the ability of our military to deliver a crushing blow to whatever army might stand in their way in Iraq. I have no question that our armed forces will carry out their mission with honor and resolve. I have no question that our Nation has the obligation to finish the job and destroy whatever chemical, biological, and radiological weapons that Saddam Hussein possess.

Last night, in his address to the Nation, the President said that "our forces will be coming home as soon as their work is done." I support these words by the President, for they speak to the millions of Americans who now wonder when their loved ones might return home. This is the ultimate measure of support that our Government can give to our military servicemen and women.

We do not know how long this war might last, or how long our troops might occupy Iraq after our victory. We should not rule out the possibility that Saddam Hussein could flee at anytime during the course of the battle, precluding further carnage. In the coming days, the television news is sure to show pictures of smart bombs dropping on targets, and perhaps grainy, nighttime images of our troops moving to take their objectives. These sanitized images do not reflect the true cost of war. They cannot hope to convey the perils that our military will encounter as the war continues. But I hope the words spoken on the floor of the Senate today will convey the deep and abiding support of every Member of this body for the men and women of the United States military serving in the Persian Gulf.

I close by referring to those words by Longfellow in "The Building of the Ship":

Thou, too, sail, on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what forge and what a heat
Were shaped the anchors of thy hope!
Fear not each sudden sound and shock,
'Tis of the wave and not the rock;
'Tis but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with three,—are all with thee!

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I yield 2 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, last night leading elements of our coalition forces began to rid the land and the people of Iraq of the oppression of Saddam Hussein and eliminate the threat he poses to the rest of the world.

Throughout our history, our Nation has experienced moments that have defined our spirit, our cause.

We really do hold "these truths to be self evident. * * * That all men are created equal," that all "men are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness." This applies to the innocent Iraqis who have been brutalized by a cruel and morally bankrupt regime as much as it applies to the citizens of our Nation who deserve to be free of Saddam Hussein's threats.

In the past, Americans have crossed oceans to free subjugated peoples and protect ourselves. On more than one occasion in the past century, our friends on the European continent have required our intercession and our sacrifice to extricate them from the foul pit of regional war, and genocide perpetrated by the evil men of those times.

Our experience of war on our own soil also brought with it defining moments. On July 2, 1863, in a field outside of a little town in Pennsylvania called Gettysburg, a young Colonel named Joshua Lawrence Chamberlain addressed a group of his men, men of the 20th Maine, who were about to play a pivotal role in the success of the Union forces in that horrible battle. For his part in this battle, he was awarded the Congressional Medal of Honor.

Though no exact record of his words exist, the following has been attributed to him, and I believe it reflects our motive, our mission, and the attitude of our men and women who are now in harm's way. He said to the assembled group: "We all volunteered to fight for the Union * * * ours is a different kind of army. * * * If you look back through history, you will see men fighting for pay, women, some other kind of loot * * * they fight for land or power * * * because a king leads them or because they like killing. We are here for something new—this has not happened much in the history of the world—We are an army out to set other men free."

To those who do not agree with us right now, to those who believe that the threat posed by Saddam Hussein is not worth the effort or the cost required to remove him, I offer the words of one of the great philosophers of liberty. The Englishman John Stuart Mill wrote: "War is an ugly thing, but not the ugliest of things. The decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth war is much worse. The person who has nothing for which he is willing to fight, nothing which is more important than his own personal safety, is a miserable creature and has no chance of being free unless made and kept so by the exertions of better men than himself."

Mr. President, I call upon everyone to pray for our troops; to pray for their safety, to pray that the battle will be quick, and that their families will see them home again soon. I call upon the country to pray, too, for the innocent civilians of Iraq and the citizens of nearby nations whom Saddam seeks to harm; that all of them as much as we may be protected from his evil designs.

Mr. LEVIN. How much time remains?

The PRESIDING OFFICER. The Senator has 4½ minutes.

Mr. LEVIN. I yield 2 minutes to the Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in support to the resolution before the Senate.

The President has now started an operation that we had all hoped to avoid. Now that battle has begun, we must win the war and win the peace.

There has been considerable disagreement leading up to this moment—in this chamber, in this country, and throughout the world. Many people have very strong feelings about the military operation in Iraq, and they have expressed those feelings.

The debate has been vigorous. But now that American forces are in combat, our soldiers should not doubt our support for them.

We stand firmly behind the men and women of our military. They have volunteered to serve their country. We are proud of their service, and we admire their courage. During this difficult time, our thoughts and prayers are with them and the families who await their return.

My State of Washington is home to thousands of soldiers, sailors and airmen. I have had the privilege of meeting many of them—at Fort Lewis, Fairchild Air Force Base, McChord Air Force base, Whidbey Naval Air Station, Everett Naval Station, Bremerton Naval Station, the Bangor Sub base, and our Coast Guard stations.

Some of Washington State's finest are now serving in the Middle East, and may be seeing combat. I have no doubt they will distinguish themselves in carrying out their missions.

Many of these soldiers have family back in Washington State. Throughout my state and across the nation, families are anxious, knowing that their loved ones are in military action.

We take comfort in knowing that America's soldiers are the best-trained, best-equipped, and most capable fighting force the world has ever known. They will carry out this dangerous mission, and they will prevail. We are proud of their dedication and courage, and we all pray for their safe and swift return.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the distinguished Senator from Georgia, and I understand the Senator desires to speak and will yield to the Senator from South Carolina.

Mr. CHAMBLISS. Mr. President, I thank Senator LEVIN for his leadership on this resolution and on this issue.

Last night, the Liberty Bell of freedom and democracy began to ring again. Last night, the United States of America headed down a path of freeing the people of Iraq from the cruel dictator, Saddam Hussein. I don't know how long President Bush or Prime Minister Blair will be in office, but this has to be the most difficult decision that they have made or will ever make. But I commend them for their courage and their leadership. No one wants to see war. But there are times in our country, in the history of our country, when military conflict is necessary to ensure that America and Americans are safe and secure.

I am very proud of all the Active Duty, Reserve and Guard personnel from my State who have been deployed from 8 of the 13 military installations in Georgia. We wish them Godspeed, a successful and quick victory, and wish that they come home safely, sound and soon.

I am privileged to yield the remainder of my time to the only member of the Reserve serving in the Senate, my good friend from South Carolina, LINDSEY GRAHAM.

Mr. GRAHAM of South Carolina. I thank the Senator for yielding.

Mr. President, there is a better day coming. It is a cloudy day right now. We are worried about our families and our troops, but there is a bright day coming. Our American servicemen will give freedom to Iraq, make us more secure. They are a blend of who we are: Rich, poor, black, white, Jew, Gentile, all mixed up into the American military. The strength of our military is they are an optimistic bunch. They are fighting for causes greater than their self-interest. That is why we will win.

Mr. LEVIN. How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes 44 seconds.

Mr. LEVIN. I yield 1 minute to Senator LANDRIEU and 1 minute to Senator STABENOW.

Ms. LANDRIEU. Mr. President, less than 24 hours ago, President Bush, our Commander in Chief, issued orders to begin military actions to disarm Saddam Hussein and his totalitarian regime. War is never our first choice, but it is sometimes a necessary last choice. As a mature democracy, we prefer to settle disputes peacefully and use diplomacy whenever possible. But sometimes, disputes cannot be settled peacefully. Force must be used to defend against threats to our freedom and liberate an oppressed people. That is what we are doing in Iraq. I want to express my support for our men and women in uniform and this course of action.

I wish to offer my wholehearted and unwavering support for those serving in our Armed Forces. The men and women serving our country in the military symbolize the best America has to offer. They are dedicated to the defense of our Constitution and willing to make the ultimate sacrifice, if necessary, to protect the Constitution for every American. More importantly, they volunteer to do so. They are well-trained and ready to defend our way of life and improve the lives of Iraqis. Along with the people of Louisiana, I will be praying for our troops and their families. I wish our men and women safety in their missions and a quick return home.

Barksdale—B-52s and A-10s from the 2d Bomb Wing and 917th Air Wing are making great contributions in Iraq, Afghanistan, and Guam. I am so proud of Barksdale's leadership, pilots, flight crews, and their families.

Fort Polk is the premiere light armored training center in the world. Our Army will succeed in Iraq because it trained for victory at Fort Polk. Currently, 4,000 men and women of the 2d Armored Cavalry are working to liberate Iraq, and I could not be more proud. Their families should also be proud.

Louisiana has 14,000 Air and Army National Guardsmen; 2,400 are currently deployed, and many are in Iraq and Afghanistan. Many Guardsmen have been activated three times since September 11. In the last 18 months, they have seen little of their families, but they have done much for their country. These proud warriors have served above and beyond the call of duty.

Belle Chasse is the premiere Joint Reserve Base for the Marine Reserve, Navy Reserve, Air Force Reserve, and Air National Guard. Belle Chasse has contributed A-10s, Cobras, F-15s, and F-18s; pilots and crews to the war on terrorism. These men and women, too, have been called up a number of times. They have served valiantly and with distinction.

In closing, I want to thank our allies who have joined us to defend our shores, bring liberty to the people of Iraq, and root out terrorism. British Prime Minister Tony Blair risked his political career to do what is right for world security. I want to tell him that the American people appreciate his courage. Australia is committing forces, and we are grateful. Additionally, Eastern European countries like Romania, Bulgaria, and Poland have been staunch supporters of disarming Saddam Hussein. They have done so because not long ago they lived under dictators. They have recently experienced the sweet breaths of freedom, and they want the Iraqi people to experience the same. God bless our troops.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President,. I thank my esteemed colleague and leader, Senator CARL LEVIN.

With the first shots fired last night, I rise today to talk about the need to support our troops now fighting in the gulf, as well as those on duty around the world.

From that freezing winter in Valley Forge to the baking heat and swirling dust storms of the gulf today, our men and women in uniform have shown over and over the hardships they are ready to endure in service to their country.

They are all in our thoughts and prayers. And we pray this ends quickly and with little loss of life.

I have met with many of these men and women and their commanders and have been impressed with their professionalism, training, and sense of duty and sacrifice.

From my home State of Michigan, the men and women of the 127th Air National Guard Wing in Selfridge, the 110th Fighter Wing in Battle Creek and the Combat Readiness Training Center in Alpena have been mobilized and deployed to bases around the world, including Kuwait, Saudi Arabia, the United Arab Emirates, South West Asia, and Turkey.

Army National Guard and Reserve unites from Owosso, Taylor, Grand Ledge, Grayling, Sault Ste. Marie, Midland, Pontiac, Three Rivers, Augusta, Selfridge, and Ypsilanti have all been mobilized and are awaiting their deployment orders.

Many of these men and women leave families and well-paying jobs behind, creating hardships for themselves and their family just so they can serve their Nation.

As the sole remaining superpower, we are asking a tremendous amount of our Armed Forces today. When we look around the globe, the numbers are staggering.

Right now about 225,000 troops are deployed in the Mideast—with more on the way.

But, again, as the sole remaining superpower we still have responsibilities around the globe.

We still have 38,000 Active Duty troops in Korea, nearly 40,000 in Japan, more than 100,00 permanently stationed in Europe, and about 50,000 sailors and soldiers afloat on ships in foreign waters.

In fact, according to the Department of Defense, the U.S. military is operating in more places around the globe than at any time in its history, including World War II, with a military presence in about 140 nations.

These men and women in uniform need to know their Nation will do everything in its power to give them the support they need to do their jobs—and also that gratitude for their sacrifice they will have our support when they come home as well.

General George C. Marshall, who oversaw the movement of forces in Europe and the Pacific in World War II, knew that the morale of the troops is crucial if the Armed Forces are to be effective. He once said:

> It is not enough to fight. It is the spirit which we bring to the fight that decides the issue. It is morale that wins victories.

I agree.

And I believe one of the things we must do in this Congress to ensure high morale among our 2.3 million men and women in uniform, including Active, Reserve and Guard units, is to show them we are treating the 25 million veterans who came before them, including about 875,000 from Michigan, with the respect a grateful nation owes them.

One thing I would like to see is a change of policy so that our 600,000 disabled men and women who wore their country's uniform could collect both full pensions and disability benefits.

I also want to make sure our veterans have access to the best possible health care by fully funding the Veterans Affairs health care system.

If you cared enough to wear the uniform, you should be guaranteed high-quality, uniform care.

We also need to eliminate bottlenecks at the Veterans Administration for veterans who need prescription drugs.

Finally, we need to pass legislation creating tax fairness for military personnel.

We need to send to the President S. 351 that would address long-overdue tax reforms for National Guard and Reserve personnel.

We also need to remember that in the world after 9-11, our first responders are now also a crucial part of our national security, and they need our full support as well.

They were then, and remain now, on the front lines of hometown defense in this new war against terrorism.

For the past several months I have been traveling throughout Michigan meeting with the public safety officials who have been given the mission of trying to prevent an attack—or be first on the scene to save lives if one occurs.

In nine meetings from Michigan's Upper Peninsula to Detroit, I heard the same message over and over:

> Help us get the training, personnel and equipment we need to protect the people we need to protect, and help us meet our obligations in the face of these new threats to our communities.

Mr. President, I hope we will do just that as soon as possible.

This Sunday I will participate in a special ceremony that puts this all in perspective for me. This Sunday I meet with an American hero of World War II to present him a long overdue and richly deserved Bronze Star.

His name is Sergeant Herbert Munford and his story is inspiring.

Sergeant Munford had already earned a Silver Star at the Battle of the Bulge. Of the 385 men in his company when the battle began, only 18 were standing at the end—the rest killed, captured, or wounded.

Months later, SGT Munford's platoon was scouting along the Rhine, looking for a place to cross in advance of General George S. Patton's 3rd Army.

A German machine gun nest opened up on the platoon. SGT Munford made a run for some tall grass, hoping to hide himself while he circled around behind the machine gun.

He was shot in the hip as he was making his run out in the open. But he still managed to make it into the tall grass, circle behind the machine gun nest and take it out.

And what does SGT Munford say today about his heroic act. Well, he jokes about it. He called being shot in the hip his "million dollar wound."

Why? Well, in his own words SGT Munford says:

> I can't swim. I didn't know how I was going to get across the Rhine in the first place. I was sent back to be treated for my wound and when I got back about two days later, Patton had taken the Rhine and built a bridge so I could just walk across.

What modesty! And keep in mind, that German bullet is still lodged in his hip today.

And his story doesn't end there. SGT Munford went on to win an Oak Leaf Cluster for his Bronze Star for bravery under fire in Korea.

I tell this story, because I think SGT Munford's story, like the stories of so many of our veterans, shows the great patriotic tradition of our Nation—a tradition that is on display today in the Gulf and around the world.

And when I meet with SGT Munford on Sunday—and he's standing there with his family and fellow veterans—I want to be able to look each and every one of them in the eye and tell them in this time of conflict this Nation is doing all it can to support our present military personnel serving in the Gulf and other duty stations around the globe. And that we stand behind our veterans of past wars as well.

I want them to know that we are committed to the proposition that those who answered the call to duty will never need to call out for help due to indifference.

I want them to know that those who sacrifice for their country will return to a country ready to sacrifice for them as well.

And I want them to know that those who wear the uniform of this Nation with honor, will themselves be honored long after that uniform has been put away and the guns gone silent.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, is there any time remaining?

The PRESIDING OFFICER. Eleven seconds.

Mr. LEVIN. The men and women we have now placed in harm's way are carrying the prayers of every single Member of this body and every single man, woman, and child in this Nation. They are carrying on in the greatest traditions of the American military. We thank them.

Mr. WARNER. Mr. President, this has been a historic debate, fully participated in by many Senators. I am privileged to be a part of that debate. I again salute the distinguished majority leader and the Democratic leader for drawing up this resolution. The Senate has spoken.

As we conclude this historic debate, which conclusively states the support of the Senate behind our President, our men and women in uniform and their families, I believe it is appropriate to include as part of this record the speech given to the British Parliament on March 18, 2003 requesting authority to use British forces alongside American forces in the liberation of the people of Iraq, by the Prime Minister, the Honorable Tony Blair, whom I and others view as Churchill II. My colleagues will recall that Prime Minister Blair was specifically mentioned in the text of this resolution I read earlier. This was a purposeful reflection of our great esteem for this courageous leader who has stood so firm arm-in-arm with America. His request to use force was not a popular motion, but he prevailed. The following is the text of his speech and I commend it to my colleagues. I ask unanimous consent to print the speech in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### TONY BLAIR'S SPEECH

I beg to move the motion standing on the order paper in my name and those of my right honourable friends.

At the outset I say: it is right that this house debate this issue and pass judgment. That is the democracy that is our right but that others struggle for in vain.

And again I say: I do not disrespect the views of those in opposition to mine.

This is a tough choice. But it is also a stark one: to stand British troops down and turn back; or to hold firm to the course we have set.

I believe we must hold firm.

The question most often posed is not why does it matter? But why does it matter so much? Here we are, the government with its most serious test, its majority at risk, the first cabinet resignation over an issue of policy. The main parties divided.

People who agree on everything else, disagree on this and likewise, those who never agree on anything, finding common cause. The country and parliament reflect each other, a debate that, as time has gone on has become less bitter but not less grave.

So: why does it matter so much? Because the outcome of this issue will now determine more than the fate of the Iraqi regime and more than the future of the Iraqi people, for so long brutalized by Saddam. It will determine the way Britain and the world confront the central security threat of the 21st century; the development of the UN; the relationship between Europe and the U.S. the relations within the EU and the way the U.S. engages with the rest of the world. It will determine the pattern of international politics for the next generation.

But first, Iraq and its WMD.

In April 1991, after the Gulf war, Iraq was given 15 days to provide a full and final declaration of all its WMD.

Saddam had used the weapons against Iran, against his own people, causing thousands of deaths. He had had plans to use them against allied forces. It became clear after the Gulf war that the WMD ambitions of Iraq were far more extensive than hitherto thought. This issue was identified by the UN as one for urgent remedy. UNSCOM, the weapons inspection team, was set up. They were expected to complete their task following declaration at the end of April 1991.

The declaration when it came was false—a blanket denial of the programme, other than in a very tentative form. So the 12-year game began.

The inspectors probed. Finally in March 1992, Iraq admitted it had previously undeclared WMD but said it had destroyed them. It gave another full and final declaration. Again the inspectors probed but found little.

In October 1994, Iraq stopped cooperating with UNSCOM altogether. Military action was threatened. Inspections resumed. In

March 1995, in an effort to rid Iraq of the inspectors, a further full and final declaration of WMD was made. By July 1995, Iraq was forced to admit that too was false. In August they provided yet another full and final declaration.

Then, a week later, Saddam's son-in-law, Hussein Kamal, defected to Jordan. He disclosed a far more extensive BW (biological weapons) programme and for the first time said Iraq had weaponised the programme; something Saddam had always strenuously denied. All this had been happening whilst the inspectors were in Iraq. Kamal also revealed Iraq's crash programme to produce a nuclear weapon in 1990.

Iraq was forced then to release documents which showed just how extensive those programmes were. In November 1995, Jordan intercepted prohibited components for missiles that could be used for WMD.

In June 1996, a further full and final declaration was made. That too turned out to be false. In June 1997, inspectors were barred from specific sites.

In September 1997, another full and final declaration was made. Also false. Meanwhile the inspectors discovered VX nerve agent production equipment, something always denied by the Iraqis.

In October 1997, the U.S. and the U.K. threatened military action if Iraq refused to comply with the inspectors. But obstruction continued.

Finally, under threat of action, in February 1998, Kofi Annan went to Baghdad and negotiated a memorandum with Saddam to allow inspections to continue. They did. For a few months.

In August, cooperation was suspended.

In December the inspectors left. Their final report is a withering indictment of Saddam's lies, deception and obstruction, with large quantities of WMD remained unaccounted for.

The U.S. and the U.K. then, in December 1998, undertook Desert Fox, a targeted bombing campaign to degrade as much of the Iraqi WMD facilities as we could.

In 1999, a new inspections team, UNMOVIC, was set up. But Saddam refused to allow them to enter Iraq.

So there they stayed, in limbo, until after resolution 1441 when last November they were allowed to return.

What is the claim of Saddam today? Why exactly the same claim as before: that he has no WMD.

Indeed we are asked to believe that after seven years of obstruction and non-compliance finally resulting in the inspectors leaving in 1998, seven years in which he hid his programme, built it up even whilst inspection teams were in Iraq, that after they left he then voluntarily decided to do what he had consistently refused to do under coercion.

When the inspectors left in 1998, they left unaccounted for: 10,000 litres of anthrax; a far reaching VX nerve agent programme; up to 6,500 chemical munitions; at least 80 of mustard gas, possibly more than ten times that amount; unquantifiable amounts of sarin, botulinum toxin and a host of other biological poisons; an entire Scud missile programme.

We are now seriously asked to accept that in the last few years, contrary to all history, contrary to all intelligence, he decided unilaterally to destroy the weapons. Such a claim is palpably absurd.

1441 is a very clear resolution. It lays down a final opportunity for Saddam to disarm. It rehearses the fact that he has been, for years in material breach of 17 separate UN resolutions. It says that this time compliance must be full, unconditional and immediate. The first step is a full and final declaration of all WMD to be given on 8 December.

I want to go through all the events since then—the house is familiar with them—but this much is accepted by all members of the UNSC: the 8 December declaration is false. That in itself is a material breach. Iraq has made some concessions to cooperation but no-one disputes it is not fully cooperating. Iraq continues to deny it has any WMD, though no serious intelligence service anywhere in the world believes them.

On 7 March, the inspectors published a remarkable document. It is 173 pages long, detailing all the unanswered questions about Iraq's WMD. It lists 29 different areas where they have been unable to obtain information. For example, on VX it says: "Documentation available to UNMOVIC suggests that Iraq at least had had far reaching plans to weaponise VX . . .

"Mustard constituted an important part (about 70%) of Iraq's CW arsenal . . . 550 mustard filled shells and up to 450 mustard filled aerial bombs unaccounted for . . . additional uncertainty with respect of 6526 aerial bombs, corresponding to approximately 1000 tonnes of agent, predominantly mustard.

"Based on unaccounted for growth media, Iraq's potential production of anthrax could have been in the range of about 15,000 to 25,000 litres . . . Based on all the available evidence, the strong presumption is that about 10,000 litres of anthrax was not destroyed and may still exist."

On this basis, had we meant what we said in resolution 1441, the security council should have convened and condemned Iraq as in material breach.

What is perfectly clear is that Saddam is playing the same old games in the same old way. Yes there are concessions. But fundamental change of heart or mind.

But the inspectors indicated there was at least some cooperation; and the world rightly hesitated over war. We therefore approached a second resolution in this way.

We laid down an ultimatum calling upon Saddam to come into line with resolution 1441 or be in material breach. Not an unreasonable proposition, given the history.

But still countries hesitated: how do we know how to judge full cooperation?

We then worked on a further compromise. We consulted the inspectors and drew up five tests based on the document they published on 7 March. Tests like interviews with 30 scientists outside of Iraq; production of the anthrax or documentation showing its destruction.

The inspectors added another test: that Saddam should publicly call on Iraqis to cooperate with them. So we constructed this framework: that Saddam should be given a specified time to fulfill all six tests to show full cooperation; that if he did so the inspectors could then set out a forward work programme and that if he failed to do so, action would follow. So clear benchmarks; plus a clear ultimatum. I defy anyone to describe that as an unreasonable position.

Last Monday, we were getting somewhere with it. We very nearly had majority agreement and I thank the Chilean President particularly for the constructive way he approached the issue.

There were debates about the length of the ultimatum. But the basic construct was gathering support.

Then, on Monday night, France said it would veto a second resolution whatever the circumstances. Then France denounced the six tests. Later that day, Iraq rejected them. Still, we continued to negotiate.

Last Friday, France said they could not accept any ultimatum. On Monday, we made final efforts to secure agreement. But they remain utterly opposed to anything which lays down an ultimatum authorizing action in the event of non-compliance by Saddam.

Just consider the position we are asked to adopt. Those on the security council opposed to us say they want Saddam to disarm but will not countenance any new resolution that authorizes force in the event of non-compliance.

That is their position. No to any ultimatum; no to any resolution that stipulates that failure to comply will lead to military action.

So we must demand he disarm but relinquish any concept of a threat if he doesn't. From December 1998 to December 2002, no UN inspector was allowed to inspect anything in Iraq. For four years, not a thing.

What changed his mind? The threat of force. From December to January and then from January through to February, concessions were made.

What changed his mind? The threat of force. And what makes him now issue invitations to the inspectors, discover documents he said he never had, produce evidence of weapons supposed to be non-existent, destroy missiles he said he would keep? The imminence of force.

The only persuasive power to which he responds is 250,00 allied troops on his doorstep.

And yet when the fact is so obvious that it is staring us in the face, we are told that any resolution that authorizes force will be vetoed. Not just opposed. Vetoed. Blocked.

The way ahead was so clear. It was for the UN to pass a second resolution setting out benchmarks for compliance; with an ultimatum that if they were ignored, action would follow.

The tragedy is that had such a resolution been issued, he might just have complied. Because the only route to peace with someone like Saddam Hussein is diplomacy backed by force.

Yet the moment we proposed the benchmarks, canvassed support for an ultimatum, there was an immediate recourse to the language of the veto.

And now the world has to learn the lesson all over again that weakness in the face of a threat from a tyrant, is the surest way not to peace but war.

Looking back over 12 years, we have been victims of our own desire to placate the implacable, to persuade towards reason the utterly unreasonable, to hope that there was some genuine intent to do good in a regime whose mind is in fact evil. Now the very length of time counts against us. You've waited 12 years. Why not wait a little longer?

And indeed we have.

1441 gave a final opportunity. The first test was the 8th of December. He failed it. But still we waited. Until January 27, the first inspection report that showed the absence of full cooperation. Another breach. And still we waited.

Until February 14 and then February 28 with concessions, according to the old familiar routine, tossed to us to whet our appetite for hope and further waiting. But still noone, not the inspectors nor any member of the security council, not any half-way rational observer, believes Saddam is cooperating fully or unconditionally or immediately.

Our fault has not been impatience.

The truth is our patience should have been exhausted weeks and months and years ago. Even now, when if the world united and gave him an ultimatum: comply or face forcible disarmament, he might just do it, the world hesitates and in that hesitation he senses the weakness and therefore continues to defy.

What would any tyrannical regime possessing WMD think viewing the history of the world's diplomatic dance with Saddam? That our capacity to pass firm resolutions is only matched by our feebleness in implementing them.

That is why this indulgence has to stop. Because it is dangerous. It is dangerous if such regimes disbelieve us.

Dangerous if they think they can use our weakness, our hesitation, even the natural urges of our democracy towards peace, against us.

Dangerous because one day they will mistake our innate revulsion against war for permanent incapacity; when in fact, pushed to the limit, we will act. But then when we act, after years of pretence, the action will have to be harder, bigger, more total in its impact. Iraq in not the only regime with WMD. But back away now from this confrontation and future conflicts will be infinitely worse and more devastating.

But, of course, in a sense, any fair observer does not really dispute that Iraq is in breach and that 1441 implies action in such circumstances. The real problem is that, underneath, people dispute that Iraq is a threat; dispute the link between terrorism and WMD; dispute the whole basis of our assertion that the two together constitute a fundamental assault on our way of life.

There are glib and sometimes foolish comparisons with the 1930s. No one here is an appeaser. But the only relevant point of analogy is that with history, we know what happened. We can look back and say: there's the time; that was the moment; for example, when Czechoslovakia was swallowed up by the Nazis—that's when we should have acted.

But it wasn't clear at the time. In fact at the time, many people thought such a fear fanciful. Worse, put forward in bad faith by warmongers. Listen to this editorial—from a paper I'm pleased to say with a different position today—but written in late 1938 after Munich when by now, you would have thought the world was tumultuous in its desire to act.

"Be glad in your hearts. Give thanks to your God. People of Britain, your children are safe. Your husbands and your sons will not march to war. Peace is a victory for all mankind. And now let us go back to our own affairs. We have had enough of those menaces, conjured up from the continent to confuse us."

Naturally should Hitler appear again in the same form, we would know what to do. But the point is that history doesn't declare the future to us so plainly. Each time is different and the present must be judged without the benefit of hindsight.

So let me explain the nature of this threat as I see it.

The threat today is not that of the 1930s. It's not big powers going to war with each other. The ravages which fundamentalist political ideology inflicted on the 20th century are memories. The Cold War is over. Europe is at peace, if not always diplomatically.

But the world is ever more interdependent. Stock markets and economies rise and fall together. Confidence is the key to prosperity. Insecurity spreads like contagion. So people crave stability and order.

The threat is chaos. And there are two begetters of chaos. Tyrannical regimes with WMD and extreme terrorist groups who profess a perverted and false view of Islam.

Let me tell the house what I know. I know that there are some countries or groups within countries that are proliferating and trading in WMD, especially nuclear weapons technology.

I know there are companies, individuals, some former scientists on nuclear weapons programmes, selling their equipment or expertise.

I know there are several countries—mostly dictatorships with highly repressive regimes—desperately trying to acquire chemical weapons, biological weapons or, in particular, nuclear weapons capability. Some of these countries are now a short time away from having a serviceable nuclear weapon. This activity is not diminishing. It is increasing.

We all know that there are terrorist cells now operating in most major countries. Just as in the last two years, around 20 different nations have suffered serious terrorist outrages. Thousands have died in them.

The purpose of terrorism lies not just in the violent act itself. It is in producing terror. It sets out to inflame, to divide, to produce consequences which they then use to justify further terror.

Round the world it now poisons the changes of political progress: in the Middle East; in Kashmir; in Chechnya; in Africa.

The removal of the Taliban in Afghanistan dealt it a blow. But is has not gone away.

And these two threats have different motives and different origins but they share one basic common view: they detest the freedom, democracy and tolerance that are the hallmarks of our way of life.

At the moment, I accept that association between them is loose. But it is hardening.

And the possibility of the two coming together—of terrorist groups in possession of WMD, even of a so-called dirty radiological bomb is now, in my judgment, a real and present danger.

And let us recall: what was shocking about September 11 was not just the slaughter of the innocent; but the knowledge that had the terrorists been able to, there would have been not 3,000 innocent dead, but 30,000 or 300,000 and the more the suffering, the greater the terrorists' rejoicing.

Three kilograms of VX from a rocket launcher would contaminate a quarter of a square kilometer of a city.

Millions of lethal doses are contained in one liter of Anthrax. 10,000 liters are unaccounted for. 11 September has changed the psychology of America. It should have changed the psychology of the world. Of course Iraq is not the only part of this threat. But it is the test of whether we treat the threat seriously.

Faced with it, the world should unite. The UN should be the focus, both of diplomacy and of action. That is what 1441 said. That was the deal. And I say to you to break it now, to will the ends but not the means that would do more damage in the long term to the UN than any other course.

To fall back into the lassitude of the last 12 years, to talk, to discuss, to debate but never act; to declare our will but not enforce it; to combine strong language with weak intentions, a worse outcome than never speaking at all.

And then, when the threat returns from Iraq or elsewhere, who will believe us? What price our credibility with the next tyrant? No wonder Japan and South Korea, next to North Korea, has issued such strong statements of support.

I have come to the conclusion after much reluctance that the greater danger to the UN is inaction: that to pass resolution 1441 and then refuse to enforce it would do the most deadly damage to the UN's future strength, confirming it as an instrument of diplomacy but not of action, forcing nations down the very unilateralist path we wish to avoid.

But there will be, in any event, no sound future for the UN, no guarantee against the repetition of these events, unless we recognise the urgent need for a political agenda we can unite upon.

What we have witnessed is indeed the consequence of Europe and the United States dividing from each other. Not all of Europe—Spain, Italy, Holland, Denmark, Portugal—have all strongly supported us. And not a majority of Europe if we include, as we should, Europe's new members who will accede next year, all 10 of whom have been in our support.

But the paralysis of the UN has been born out of the division there is. And at the heart of it has been the concept of a world in which there are rival poles of power. The U.S. and its allies in one corner. France, Germany, Russia and its allies in the other. I do not believe that all of these nations intend such an outcome. But that is what now faces us.

I believe such a vision to be misguided and profoundly dangerous. I know why it arises. There is resentment of U.S. predominance.

There is fear of U.S. unilateralism. People ask: do the U.S. listen to us and our preoccupations? And there is perhaps a lack of full understanding of U.S. preoccupations after 11th September. I know all of this. But the way to deal with it is not rivalry but partnership. Partners are not servants but neither are they rivals. I tell you what Europe should have said last September to the U.S. With one voice it should have said: we understand your strategic anxiety over terrorism and WMD and we will help you meet it.

We will mean what we say in any UN resolution we pass and will back it with action if Saddam fails to disarm voluntarily; but in return we ask two things of you: that the U.S. should choose the UN path and you should recognise the fundamental overriding importance of re-starting the MEPP (Middle East Peace Process), which we will hold you to.

I do not believe there is any other issue with the same power to re-unite the world community than progress on the issues of Israel and Palestine. Of course there is cynicism about recent announcements. But the U.S. is now committed, and, I believe genuinely, to the roadmap for peace, designed in consultation with the UN. It will now be presented to the parties as Abu Mazen is confirmed in office, hopefully today.

All of us are now signed up to its vision: a state of Israel, recognised and accepted by all the world, and a viable Palestinian state. And that should be part of a larger global agenda. On poverty and sustainable development. On democracy and human rights. On the good governance of nations.

That is why what happens after any conflict in Iraq is of such critical significance.

Here again there is a chance to unify around the UN. Let me make it clear.

There should be a new UN resolution following any conflict providing not just for humanitarian help but also for the administration and governance of Iraq. That must now be done under proper UN authorisation.

It should protect totally the territorial integrity of Iraq. And let the oil revenues—

which people falsely claim we want to seize—be put in a trust fund for the Iraqi people administered through the UN.

And let the future government of Iraq be given the chance to begin the process of uniting the nation's disparate groups, on a democratic basis, respecting human rights, as indeed the fledgling democracy in Northern Iraq—protected from Saddam for 12 years by British and American pilots in the no-fly zone—has done so remarkably.

And the moment that a new government is in place—willing to disarm Iraq of WMD—for which its people have no need or purpose—then let sanctions be lifted in their entirety.

I have never put our justification for action as regime change. We have to act within the terms set out in resolution 1441. That is our legal base.

But it is the reason, I say frankly, why if we do act we should do so with a clear conscience and strong heart.

I accept fully that those opposed to this course of action share my detestation of Saddam. Who could not? Iraq is a wealthy country that in 1978, the year before Saddam seized power, was richer than Portugal or Malaysia.

Today it is impoverished, 60 percent of its population dependent on food aid.

Thousands of children die needlessly every year from lack of food and medicine.

Four million people out of a population of just over 20 million are in exile.

The brutality of the repression—the death and torture camps, the barbaric prisons for political opponents, the routine beatings for anyone or their families suspected of disloyalty well documented.

Just last week, someone slandering Saddam was tied to a lamp post in a street in Baghdad, his tongue cut out, mutilized and left to bleed to death, as a warning to others.

I recall a few weeks ago talking to an Iraqi exile and saying to her that I understood how grim it must be under the lash of Saddam.

"But you don't," she replied. "You cannot. You do not know what it is like to live in perpetual fear."

and she is right. We take our freedom for granted. But imagine not to be able to speak or discuss or debate or even question the society you live in. To see friends and family taken away and never daring to complain. To suffer the humility of failing courage in face of pitiless terror. That is how the Iraqi people live. Leave Saddam in place and that is how they will continue to live.

We must face the consequences of the actions we advocate. For me, that means all the dangers of war. But for others, opposed to this course, it means—let us be clear—that the Iraqi people, whose only true hope of liberation lies in the removal of Saddam, for them, the darkness will close back over them again; and he will be free to take his revenge upon those he must know wish him gone.

And if this house now demands that at this moment, faced with this threat from this regime, that British troops are pulled back, that we turn away at the point of reckoning, and that is what it means—what then?

What will Saddam feel? Strengthened beyond measure. What will the other states who tyrannise their people, the terrorists who threaten our existence, what will they take from that? That the will confronting them is decaying and feeble.

Who will celebrate and who will weep?

And if our plea is for America to work with others, to be good as well as powerful allies, will our retreat make them multilateralist? Or will it not rather be the biggest impulse to unilateralism there could ever be. And what of the UN and the future of Iraq and the Middle East peace plan, devoid of our influence, stripped of our insistence?

This house wanted this decision. Well it has it. Those are the choices. And in this dilemma, no choice is perfect, no cause ideal.

But on this decision hangs the fate of many things.

Of whether we summon the strength to recognise this global challenge of the 21st century and meet it.

Of the Iraqi people, groaning under years of dictatorship.

Of our armed forces—brave men and women of whom we can feel proud, whose morale is high and whose purpose is clear.

Of the institutions and alliances that will shape our world for years to come."

I can think of many things, of whether we summon the strength to recognise the global challenge of the 21st century and beat it, of the Iraqi people groaning under years of dictatorship, of our armed forces—brave men and women whom we can feel proud, whose morale is high and whose purpose is clear—of the institutions and alliances that shape our world for years to come.

To retreat now, I believe, would put at hazard all that we hold dearest, in turn the UN back into a talking shop, stifle the first steps of progress in the Middle East; leave the Iraqi people to the mercy of events on which we would have relinquished all power to influence for the better.

Tell our allies that at the very moment of action, at the very moment when they need our determination that Britain faltered. I will not be a party to such a course. This is not the time to falter. This is the time for this house, not just this government or indeed this prime minister, but for this house to give a lead, to show that we will stand up for what we know to be right, to show that we will confront the tyrannies and dictatorships and terrorists who put our way of life at risk, to show at the moment of decision that we have the courage to do the right thing.

I beg to move the motion.

Mr. WARNER. Mr. President, resolutions, such as the one before us, are not possible without a dedicated, bi-partisan effort. Our staffs have worked hard and well together over the past few days to help members craft this resolution. I want to especially recognize and thank Steve Biegun of the Majority Leader's Office, Dennis McDonough of the Democratic Leader's Office, and Judy Ansley, Rick DeBobes and Chuck Alsup of the Armed Services Committee staff, for their efforts in helping draft this important resolution.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Has all time expired?

Mr. LEVIN. May I make a unanimous consent request.

I ask unanimous consent Senator LANDRIEU be added as a cosponsor, and every Member of the Senate who chooses to, who wants their name added, be allowed to do so, and even though it comes after the vote, that it appear that it occurred before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I specifically ask the Senator from New Mexico be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. FRIST. I will close on leader time.

Mr. President, I welcome the strong bipartisan support and the bipartisan spirit in which this debate has been conducted today, the bipartisan support over the last several hours of remarks. American soldiers, American sailors, and airmen are fighting to end the regime of one of the world's worst tyrants.

Our men and women in uniform are in harm's way. They are engaged in battle as we speak. Let us pray for their safety and their success.

I am confident of their victory, and I am confident that it will occur at the earliest possible moment. In passing this resolution, the Senate says to the men and women who wear our Nation's uniform and to their families: We are grateful for your sacrifice.

As they act to free the Iraqi people from Saddam Hussein's oppressive regime, let there be no mistake—they are defending our own liberty as well.

Again I ask in this vote we send a clear message to those brave Americans who are risking their lives for us on the battlefield. Our prayers are with you. Godspeed toward victory.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necesarily absent due to a family medical matter.

I further announce that, if present and voting, the Senator from Georgia (Mr. MILLER) would vote "aye".

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray

Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—1

Miller

The resolution (S. Res. 95) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 95

Whereas Saddam Hussein has failed to comply with United Nations Security Council Resolutions 678, 686, 587, 688, 707, 715, 949, 1051, 1060, 1115, 1134, 1137, 1154, 1194, 1205, 1284, and 1441;

Whereas the military action now underway against Iraq is lawful and fully authorized by the Congress in Sec. 3(a) of Public Law 107–243, which passed the Senate on October 10, 2002, by a vote of 77–23, and which passed the House of Representatives on that same date by a vote of 296–133;

Whereas more than 225,000 men and women of the United States Armed Forces are now involved in conflict against Iraq;

Whereas over 200,000 members of the Reserves and National Guard have been called to active duty for the conflict against Iraq and other purposes; and

Whereas the Senate and the American people have the greatest pride in the men and women of the United States Armed Forces, and the civilian personnel supporting them, and strongly support them in their efforts: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends and supports the efforts and leadership of the President, as Commander in Chief, in the conflict against Iraq;

(2) commends, and expresses the gratitude of the Nation to all members of the United States Armed Forces (whether on active duty, in the National Guard, or in the Reserves) and the civilian employees who support their efforts, as well as the men and women of civilian national security agencies who are participating in the military operations in the Persian Gulf region, for their professional excellence, dedicated patriotism and exemplary bravery;

(3) commends and expresses the gratitude of the Nation to the family members of soldiers, sailors, airmen, Marines and civilians serving in operations against Iraq who have borne the burden of sacrifice and separation from their loves ones;

(4) expresses its deep condolences to the families of brave Americans who have lost their lives in this noble undertaking, over many years, against Iraq;

(5) joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, those still missing from that conflict, including Captain Scott Speicher, USN, and the thousands of Americans who have lost their lives in terrorist attacks over the years, and in the Global War on Terrorism; and

(6) expresses sincere gratitude to British Prime Minister Tony Blair and his government for their courageous and steadfast support, as well as gratitude to other allied nations for their military support, logistical support, and other assistance in the campaign against Saddam Hussein's regime.

## CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. Con. Res. 23.

### AMENDMENT NO. 288, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there are 2 minutes evenly divided on the Kyl amendment No. 288, as modified. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Kyl amendment would move up the time of making permanent the elimination of the estate tax by 1 year. That costs $46 billion. The Senator has proposed paying for it by cutting the Finance Committee jurisdiction. That means cutting Medicare, Medicaid, Temporary Assistance for Needy Families, the State Health Improvement Program, and the earned-income tax credit.

This is the wrong way to go. We ought to reform the estate tax, not repeal it. I hope my colleagues will resist the Kyl amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, what my distinguished colleague just told you is absolutely false. If it were true, then I would not support the amendment.

Our amendment cuts from the discretionary funding across the board. There is no Medicare. There is no Medicaid. There is no Social Security. We would not do that. That would be foolish. It would not be prudent. We are not doing that.

All this does is advance by 1 year the repeal of the death tax. We repealed it permanently in this body, starting with the year 2010. All this amendment does is start it in the year 2009. That is all it does. Since we have already adopted the permanent repeal, I hope my colleagues will support moving this up by 1 year.

Mr. CONRAD. Mr. President, the Senator yesterday said he took it from the Finance Committee jurisdiction for mandatory spending. That is what the record shows. That is where it comes from.

Mr. KYL. Mr. President, since the distinguished Senator from North Dakota intruded into the time, let me reiterate, this funding is from function 920, across-the-board discretionary funding. That is the fact. There is no Medicare, Medicaid, or Social Security offset, period.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. Regular order.

Mr. NICKLES. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 288, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent due to a family medical matter.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lincoln
Lott
Lugar
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Murray
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow

NOT VOTING—1

Miller

The amendment (No. 288), as modified, was agreed to.

### AMENDMENT NO. 294

The PRESIDING OFFICER. There are now 2 minutes evenly divided on the Graham of Florida amendment.

Who yields time?

Mr. GRAHAM. Mr. President, we are about to take the Medicare vote of the year 2003. Last year, the Senate cast 52 votes for the plan that this amendment would allow us to consider again. It failed with 52 votes because we were operating under a budget resolution which required us to have 60 votes.

This amendment will allow us to pass the same prescription drug plan that a majority of Senators wanted to do a year ago. The alternative, if we do not pass this amendment, is going to be to adopt the President's prescription drug plan which will require seniors to be in HMOs in order to have access to prescription drugs. I don't believe that is what this Senate wants to do.

The amendment I offer will do two things. It will add $219 billion to the Medicare account; it will put $177 billion over the next 10 years toward deficit reduction. That is a responsible program that will secure a good Medicare prescription drug benefit and make a significant contribution toward deficit reduction.

I close by thanking my colleagues Senator DORGAN and Senator STABENOW for their great assistance.

Mr. SARBANES. Mr. President, I rise in support of an amendment offered by Senators GRAHAM, DORGAN, STABENOW, and others that would increase funding in the budget resolution by $220 billion for a Medicare prescription drug benefit, providing a total of $620 billion for a comprehensive benefit. This amendment would also reduce the tax cut by nearly $400 billion and reduce the deficit by $250 billion.

According to a study by the Kaiser Family Foundation, 38 percent of seniors and disabled Americans have no prescription drug coverage whatsoever. Instead of finding ways to help these individuals and improve access to care for those with coverage, President Bush has proposed pushing Medicare beneficiaries into private health plans as a means of receiving drug coverage. And the level of coverage that could be provided under this scenario is questionable. Given the history of the Medicare+Choice program, many of my colleagues and I are skeptical that such a proposal would be successful. Many private insurers have withdrawn from the Medicare program or severely limited service areas in recent years. Of those who have remained, many plans have decreased prescription drug benefits and other benefits so much so that they offer little or no advantage over the traditional Medicare fee-for-service program. It is unclear how the President's proposal will avoid similar problems.

This amendment would increase funding in the budget resolution for a prescription drug benefit in the Medicare Program that is available to all beneficiaries. In addition, it specifies that prescription drugs should be provided on an equal basis with respect to benefit level regardless of whether beneficiaries remain in the traditional Medicare fee-for-service program or enroll in a private plan like those proposed by the administration. This is consistent with the approach that the supporters of this amendment and I favor. We have been working toward legislation that would create an affordable, comprehensive, and voluntary Medicare drug benefit and lower costs for all Americans by increasing access to lower priced drugs.

It is clear that even this additional funding would not completely meet the needs of Medicare beneficiaries. A recent Congressional Budget Office estimate suggests spending for prescription drugs by and on behalf of Medicare beneficiaries would total $1.84 trillion over the next 10-year period. However, this amendment moves us much closer to meeting the needs of Medicare beneficiaries while simultaneously reducing the deficit.

Our Nation is facing serious challenges at home and abroad. And we know that challenging times often require sacrifice. We must ask ourselves who will bear the brunt of these sacrifices. Are we going to spread them evenly? Or will we force those who have worked hard to make the United States the great Nation that it is to carry an unnecessarily heavy load? I fail to see how it is appropriate, at this time, to pass a tax benefit that benefits the wealthiest Americans without providing adequate resources to provide a prescription drug benefit for Medicare beneficiaries. Our older Americans and the disabled individuals who rely on Medicare deserve more than this budget resolution provides. I strongly urge my colleagues to support the Graham-Dorgan-Stabenow amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask my colleagues to oppose this amendment, not because Medicare is not a very legitimate subject of discussion; it is. The difference between this year and last year, last year we did not have a budget resolution. The process this year is a very orderly process toward getting us a prescription drug program as part of Medicare. That very orderly process is, first of all, to have a budget resolution. It is a very orderly process. We are going to have a budget resolution this year. We are going to have $100 billion more for Medicare/prescription drugs than the last time we debated this.

Most of the people on the other side of the aisle 2 years ago helped us get a $300 billion figure. We have a $400 billion figure. We have a Senate majority leader who is committed to the committee process working. Out of the Finance Committee in June, we will produce a good prescription drug program for the Senate to debate this summer.

I urge Members to vote against the amendment. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER), is necessarily absent, due to a family medical matter.

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—55

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Miller

The motion was agreed to.

The PRESIDING OFFICER. There are now 2 minutes equally divided on the Rockefeller amendment.

The majority leader.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, I will give everybody an outline of what we can expect over the next 24 hours before we begin what will be the last vote of the evening.

Following this next vote, which will begin shortly, there will be approximately 5 hours remaining for consideration of the budget resolution. Our plans are that we will stay in session tonight. The chairman and ranking member will remain this evening to debate the amendments with others, and to participate in that debate until all time has expired.

The plan will be to reconvene tomorrow at 9:30 in the morning. And it will be a long day. At 9:30 we will begin our rollcall votes, a series of rollcall votes. I know the two managers are committed to try to make this an orderly process as we complete the budget resolution. That, in part, means they need to have all amendments, and they will accomplish an ordering of those amendments so we can start right in at 9:30 and start clicking through the amendments at the appropriate speed tomorrow.

I do ask Members to notify the managers if they intend to offer an amendment during the voting sequence tomorrow. Once the voting begins tomorrow, we will remain until the budget resolution is completed.

I thank all Members for their real cooperation today. Again, it was a challenging day for all of us. And it has worked out almost perfectly, seamlessly in many ways, as we were able to recognize the service of our military personnel and the President of the United States and at the same time continue the budgeting process.

Mr. DASCHLE. Will the majority leader yield for a question?

I know that before the agreement was reached regarding the resolution on our troops, we had made a promise that those who could not speak prior to the vote could have the opportunity to speak as soon as these votes have been completed.

The majority leader did not mention that, but I assume that has not changed. I asked earlier whether we could ensure that those comments would be printed in the RECORD prior to the vote, as well. If that could be accommodated, that would be helpful.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, indeed, those statements, written and oral statements, will appear at the appropriate place in the RECORD.

Also, we would encourage people tonight to take advantage of the fact that we are going to be here in session. We have agreed that that time will be on the budget, the 5 hours that are remaining. I think it is 5 hours. And people are welcome to speak tonight.

Again, I remind people they will have other opportunities to express themselves on support for the troops, as well.

Mr. NICKLES. Will the majority leader yield?

Mr. FRIST. Yes.

Mr. NICKLES. I just request of the majority leader if we might start the votes at 9:45 instead of 9:30 to accommodate one of our Members. I also request of our colleagues, I know some people—Senator CONRAD and I do not want vote-aramas. And I hate for anybody to come back and say: I have not had a chance to debate my amendment. We will be here tonight to discuss amendments, and we will work together to schedule amendments according to Senators' wishes. But we need to see copies of the amendments in advance, and then we will try to schedule the amendments. We will work energetically—as soon as we get copies of amendments—to work out some of these amendments, maybe accept some amendments if we have some advance notification. We are going to try to be as cooperative as possible.

So my first request would be, hopefully, to move the first rollcall vote to 9:45. And then I just urge our colleagues, if they wish to debate their amendments tonight, please do so. And if not, I request that they submit us copies of the amendments as early as possible so we can do some work on those amendments tonight.

Mr. SARBANES. Will the majority leader yield?

Mr. FRIST. Mr. President, with regard to the 9:45 start, the surgeon in me says we ought to start at 8 o'clock, but we will start at 9:45.

Mr. NICKLES. I thank the leader.

Mr. FRIST. Was there a second request?

Mr. NICKLES. No.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. FRIST. Yes.

Mr. SARBANES. Do I understand correctly, from the exchange that just took place, immediately after this vote there will be an order to make statements with respect to the resolution that was passed just a short while ago?

Mr. FRIST. Mr. President, it is in order to do so. But I will turn to the two managers of the bill to respond to that. If statements are made, part of the 5 hours will be used up for the statements.

Mr. CONRAD. If the majority leader will yield, let me attempt to make a clarification because I do not think we want a misunderstanding on this question.

The majority side has yielded back all of their time. I have something like 4½ hours remaining on this side. But the way the rules work, there are three pending amendments, and the Republican side gets half on each of those amendments.

My understanding is—and I think it is the appropriate inclusion here—that time on the war resolution from your side would come off your amendment time, not off my time.

Mr. FRIST. Mr. President, that is correct.

Mr. CONRAD. I thank the Senator.

I say to my colleagues on our side, if I may, please understand that when they say there is 4½ hours left, there is 4½ hours left in total. Even though they have given back all of their time, because there are three amendments pending, they get half of the time on each of those amendments. So we do not have 4½ hours. We have much less than that left potentially.

We have significant amendments to debate. I know there are colleagues who would like to speak, still, on the war resolution. We will attempt to accommodate them. But my intention is to give them 2 minutes each because otherwise we are not going to have time to debate very consequential amendments with respect to reducing the size of the tax cut, with respect to the transportation infrastructure amendment that is very significant, with respect to other amendments that are pending, Senator HARKIN's IDEA amendment, and others.

So we are going to have to use a lot of discipline and forbearance for people to have an opportunity to debate very consequential items and discuss the war.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. I ask a question of the majority leader.

In light of the statement Senator CONRAD just made, would it not be possible to have, say, an hour, after this vote, for the making of statements on the resolution unrelated to taking time away from consideration of the budget?

This is an important resolution. There are many Members who did not get a chance before the vote to make a statement. It seems to me a reasonable accommodation in light of what the ranking member of the committee has just stated.

Mr. NICKLES. Will the leader yield?

Mr. FRIST. I will yield in 1 second.

A discussion with the Democratic leader and myself today was under the understanding—again, no unanimous consent agreement—under the understanding that if people were going to be talking about the Iraq resolution, time would be coming off the time on the budget.

Let me also clarify the earlier statement. If our side is speaking on the Iraq resolution, it will come out of the 2 ½ hours of our time. If your side is speaking on the Iraq resolution, it will come out of your time.

I yield to the Senator from Oklahoma.

Mr. NICKLES. I wanted to make that clarification. For the information of our colleagues, I guess theoretically we could spend a lot of time talking about amendments pending and not allow time to be discussed on Iraq. That is not our intention. I will be happy to share time with my colleague from North Dakota and others who wish to speak on Iraq. We will be here until midnight. If people want to speak longer on amendments, I am happy to do that, too. I want to be as accommodating as possible but still try to complete this resolution by tomorrow night. I will be happy to yield some time if it would help some of our colleagues.

Mr. SARBANES. If the Senator will yield on that point, we are, obviously, on a track to complete this budget resolution. As I understood it, the 3 hours of debate from 2 to 5 before the vote on the resolution did not come out of the time on the budget; is that correct?

Mr. NICKLES. The Senator is correct.

Mr. SARBANES. All I am suggesting is given there are some additional Members who wish to speak, that we have another hour after this vote unrelated to time on the budget resolution to discuss the support for our troops resolution.

Mr. NICKLES. I would be happy to, out of the time we have in the bank, you might say, for the amendments, to allow Members to speak up to an hour on the Iraq resolution, if they so desire. I don't want to yield all of it, but I will be happy to do that. I don't think that is going to be necessary. I will be happy to work with our colleagues.

Mr. SARBANES. It seems to me that this is a matter of such consequence.

Mr. STEVENS. You should have been here this afternoon.

Mr. SARBANES. I was here this afternoon, in response to my colleague who raised that point. There was a very long list of people wishing to speak. There wasn't time to speak within the time that was allotted.

The PRESIDING OFFICER. The majority leader controls the time.

Mr. FRIST. Let's have regular order.

AMENDMENT NO. 275

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote on amendment No. 275. Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to add Senators LANDRIEU, SPECTER, JOHNSON, and DAYTON as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. This amendment is a simple sense-of-the-Senate amendment. That is all it is. It asks that there be no less than $30 billion over the next 18 months of which half must be for Medicaid to be given to the States for fiscal relief within the stimulus package.

Our States are broke. Quite frankly, the $98 billion that States spend on Medicaid today actually turns into $280 billion of fiscal stimulus. So it is fiscal stimulus. If we don't do this, 1,700,000 more people will lose their Medicaid, lose their health care. They are our most vulnerable citizens. I ask that our colleagues support this amendment offered by Senator COLLINS, Senator NELSON, and myself.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EDWARDS. Mr. President, I want to say just a few words in support of the amendment, No. 275, offered by my friend Senator ROCKEFELLER on behalf of Senators COLLINS, Senator BEN NELSON, Senator CLINTON, Senator SCHUMER, myself and others. This amendment is extraordinarily important for our homeland security, our families, and our entire economy.

This amendment says that any economic growth package has got to include at least $30 billion for State fiscal relief. I think that is exactly right. I have offered a bill that would provide $50 billion in relief. At this time, in the context of the budget resolution, this amendment—at least $30 billion—is the most important thing we can do.

With our troops at war today, their security is first on everybody's minds today. Our thoughts and prayers are with these men and women who are risking their lives for our freedom and safety even as we speak.

At the same time, we are also thinking about security here at home. We know there is a real risk of an attack now that we are at war. Just as we must always make sure our troops on the frontlines abroad have what they need, we also need to make sure our troops on the frontlines at home have what they need. And the troops on the frontlines at home are our police and our firefighters. They need the best protective gear, the best bomb detection equipment, the best emergency training, and the best communications systems in the world.

They aren't getting that right now. And one reason they aren't getting it is that States can't afford to provide aid because of their deficits. We are seeing the largest State fiscal crisis since World War II—deficits of over $100 billion. And with those shortfalls, States just cannot afford to hire more first responders or give them the training and equipment they need. And that is a huge mistake.

So we need fiscal relief so States and local governments can provide for first responders. My bill would set aside $10 billion for that.

But fiscal relief is about more than homeland security. It is about our entire economy.

Virtually every American has felt this economic downturn. They have felt it from North Carolina to Nevada, from the biggest cities to the smallest towns. They have felt it in convenience stores, in factories, in hospitals—they have felt it everywhere. Two million jobs lost, wages down, stock market down—and the list goes on. All Americans deserve a better economy than we have got right now.

Now, the state fiscal crisis is seriously hurting our economy. Here is what is happening. Let's say you are a governor, and you are facing a massive deficit. In North Carolina, we have a deficit of close to $1.7 billion. What do you do? You can't print money like a President can. You can't borrow like a President can. You have only two choices. You can raise taxes—property taxes or income taxes or sales taxes. Or else you can cut spending on priorities like homeland security, education, and health care. Or you can do a little of both.

States are already calling for $14 billion in tax increases. Portland, OR, will likely cut 5 weeks from its school year. Hundreds of California nursing homes may go bankrupt. In Florida, 26,000 low-income people may lose medical coverage.

So this economic downturn hurts our families. They pay more in taxes, or they get less from their schools, their hospitals, their police forces. Or both—they pay more and get less.

At the same time, our whole economy gets hurt. At a time when we should be investing more, tax hikes and education cuts mean we end up investing less. According to the Center on Budget and Policy Priorities, the state spending cuts and tax increases now likely will make our economy 1 percent smaller. That is 1 percent of our economy, gone because of the fiscal crisis. And according to the Center on Budget, "The only way this blow to the economy can be mitigated is through federal fiscal relief for the states."

Now, it is unthinkable to offer nothing for the States right now. This fiscal crisis was caused by the current economic downturn, and now this fiscal crisis is making the current economic downturn even worse. The only way out is to stop the crisis with fiscal relief.

As I have said before, I believe we can and must pay for this fiscal relief over the long term. It would be irresponsible not to do that. And the way to pay for it over the long run is to cut wasteful spending, close needless loopholes, and roll back some of the tax cuts for the very wealthiest Americans.

This relief is hugely important, and I urge my colleagues to support it. I have actually offered a State fiscal relief package that provides $50 billion in aid to States, and I am hopeful that we can get some action on that package. Passing this amendment is the first and most important step we can take to ending a fiscal crisis that benefits nobody.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, this bipartisan sense-of-the-Senate resolution would help ensure that any economic growth package includes $30 billion in desperately needed fiscal aid to the States. Half of the money would have to be used for the Medicaid Program which has been severely cut. Forty-nine States are facing budget shortfalls.

This approach would have no impact on the deficit. It would not change the caps in this resolution. I urge my colleagues to vote yes on the Rockefeller, Collins, Nelson, and Smith amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 275. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent due to a family medical matter.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 19, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—80

Akaka
Alexander
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee

Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Voinovich
Warner
Wyden

NAYS—19

Allard
Allen
Craig
Crapo
Ensign
Enzi
Graham (SC)
Gregg
Inhofe
Kyl
Lott
McCain
McConnell
Nickles
Santorum
Sessions
Shelby
Sununu
Thomas

NOT VOTING—1

Miller

The amendment (No. 275) was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. There are 4 hours 52 minutes remaining on the resolution, with time controlled by the Senator from North Dakota.

Mr. SARBANES. Will the Senator yield me a few minutes?

Mr. CONRAD. I am more than pleased to yield 2 minutes to the Senator from Maryland.

Mr. SARBANES. I appreciate that very much. In light of the discussion that was earlier held, my own view is that we should have allowed more time to talk about the resolution with respect to Iraq straight out, without mixing it into the budget resolution problem. It is obviously the issue facing the country. I think Members wanted to address it, and I do not believe it ought to be truncated. But I understand the difficult position in which the able Senator from North Dakota, who has done such an excellent job in terms of his efforts on the budget resolution, now finds himself. So I will try to limit my time in that regard. I thank the ranking member for his courtesy.

(The remarks of Mr. SARBANES are printed in today's RECORD in the debate on S. Res. 95.)

Mr. CONRAD. I yield to the Senator from Connecticut.

How much time is the Senator seeking?

Mr. DODD. Four minutes.

Mr. CONRAD. I yield 4 minutes to the Senator from Connecticut, who has been very patiently waiting.

Mr. DODD. I yield to my colleague from Iowa.

Mr. HARKIN. If I could have 2 minutes.

Mr. CONRAD. I yield 2 minutes to the Senator from Iowa.

Mr. HARKIN. I thank my colleague.

(The remarks of Mr. HARKIN are printed in today's RECORD in the debate on S. Res. 95.)

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I join first of all with my colleague from Maryland in expressing some regret we have to ask unanimous consent to have remarks added to the RECORD here at a moment like this when 300,000 Americans in uniform are presently engaged in conflict in the Middle East. I would have thought, like he, there would be a little more time for everyone to express our strong sense of support to these men and women rather than to find ourselves limited because of the budget debate; that more time would have been allocated. Given the seriousness of this situation, I would be hard pressed to think of another situation in recent times that is as serious as this. It would certainly command the attention and time of this institution.

Having said that, I add my words of commendation for my friend and colleague from North Dakota. He has done a magnificent job and we are all extremely proud of the work he and his staff have done in trying to fashion together a budget debate that allows for a meaningful discussion of the important issues that are included in this budget discussion.

I, like many, regret we have not had a chance to talk about and include in the budget debate, obviously, the issue of the cost of the conflict in the Middle East, the cost of reconstruction—not because we necessarily disagree with it at all; in fact, I supported the resolution last fall—but it ought to be part of the debate and discussion of the budget. Those matters have to be left for another day as we go through this budget resolution.

(The remarks of Mr. DODD are printed in today's RECORD in the debate on S. Res. 95.)

Mr. CONRAD. Mr. President, I agree completely with the Senator from Connecticut. I deeply regret the decision was not made to spend this day discussing the war. I said this morning, I find it very difficult to understand, as much as I value the budget and the budget process, after spending my entire time in the Senate on the Budget Committee. That is not, frankly, the focus of the attention of the American people today. The war is the focus of the attention of the American people today and we should have spent this entire day on the war. We should have put off the budget discussion and the budget debate until later.

The majority refused to do that. The majority insisted the budget was the priority and we would have limited time to discuss the war. That is a mistake. It is not right. That is where we are.

The Senator from Wisconsin is seeking time, and I yield 3 minutes to the Senator from Wisconsin.

(The remarks of Mr. KOHL are printed in today's RECORD in the debate on S. Res. 95.)

Mr. CONRAD. I thank the Senator from Wisconsin. I thank him very much for his patience. Again, I want to express my regret that we are forced into this circumstance of limiting time on such a consequential subject. But the rules unfortunately dictate the circumstance we are in, and the unwillingness of the other side to give us an extended time for discussion; instead to be locked into the budget discussion, which is regrettable.

The Senator from Louisiana has also been extraordinarily patient, not just today but for several days. He has an amendment that is one of the most consequential to come before the body on this subject. So I apologize to the Senator from Louisiana. He has been, as always, a gentleman. How much time would the Senator seek?

Mr. BREAUX. Can I have 10 minutes?

Mr. CONRAD. I am happy to yield 10 minutes to the Senator from Louisiana. If he would like additional time, we will do that as well.

Mr. BREAUX. Mr. President, I thank the ranking member. I thank him not only for yielding and his nice comments about what we are attempting to do, but I also congratulate him on the very difficult job of serving as ranking member on the Senate Budget Committee. This is a very difficult job. He has handled it with a great deal of finesse and maturity and understanding about the intricacies of the budget process.

Mr. CONRAD. I thank the Senator.

### AMENDMENT NO. 339

Mr. BREAUX. Mr. President, I have an amendment at the desk and ask it be reported.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Mr. BREAUX. I ask the amendment be set aside and ask the amendment at the desk be reported.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself, Ms. SNOWE, Mr. BAUCUS, and Mr. VOINOVICH, proposes an amendment numbered 339.

Mr. BREAUX. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce tax cuts by $375 billion and to reduce projected deficits by $464 billion)

On page 3, line 9, increase the amount by $10,433,000,000.

On page 3, line 10, increase the amount by $33,015,000,000.

On page 3, line 11, increase the amount by $27,962,000,000.

On page 3, line 12, increase the amount by $22,167,000,000.

On page 3, line 13, increase the amount by $16,893,000,000.

On page 3, line 14, increase the amount by $16,183,000,000.

On page 3, line 15, increase the amount by $15,879,000,000.

On page 3, line 16, increase the amount by $15,992,000,000.

On page 3, line 17, increase the amount by $52,874,000,000.

On page 3, line 18, increase the amount by $79,512,000,000.

On page 3, line 19, increase the amount by $84,090,000,000.

On page 3, line 23, increase the amount by $10,433,000,000.

On page 4, line 1, increase the amount by $33,015,000,000.

On page 4, line 2, increase the amount by $27,962,000,000.

On page 4, line 3, increase the amount by $22,167,000,000.

On page 4, line 4, increase the amount by $16,893,000,000.

On page 4, line 5, increase the amount by $16,183,000,000.

On page 4, line 6, increase the amount by $15,879,000,000.

On page 4, line 7, increase the amount by $15,992,000,000.

On page 4, line 8, increase the amount by $52,874,000,000.

On page 4, line 9, increase the amount by $79,512,000,000.

On page 4, line 10, increase the amount by $84,090,000,000.

On page 4, line 14, decrease the amount by $77,000,000.

On page 4, line 15, decrease the amount by $899,000,000.

On page 4, line 16, decrease the amount by $2,687,000,000.

On page 4, line 17, decrease the amount by $4,364,000,000.

On page 4, line 18, decrease the amount by $5,762,000,000.

On page 4, line 19, decrease the amount by $7,003,000,000.

On page 4, line 20, decrease the amount by $8,294,000,000.

On page 4, line 21, decrease the amount by $9,640,000,000.

On page 4, line 22, decrease the amount by $12,035,000,000.

On page 4, line 23, decrease the amount by $16,276,000,000.

On page 4, line 24, decrease the amount by $21,605,000,000.

On page 5, line 4, decrease the amount by $77,000,000.

On page 5, line 5, decrease the amount by $899,000,000.

On page 5, line 6, decrease the amount by $2,687,000,000.

On page 5, line 7, decrease the amount by $4,364,000,000.

On page 5, line 8, decrease the amount by $5,762,000,000.

On page 5, line 9, decrease the amount by $7,003,000,000.

On page 5, line 10, decrease the amount by $8,294,000,000.

On page 5, line 11, decrease the amount by $9,640,000,000.

On page 5, line 12, decrease the amount by $12,035,000,000.

On page 5, line 13, decrease the amount by $16,276,000,000.

On page 5, line 14, decrease the amount by $21,605,000,000.

On page 5, line 17, increase the amount by $10,511,000,000.

On page 5, line 18, increase the amount by $33,914,000,000.

On page 5, line 19, increase the amount by $30,648,000,000.

On page 5, line 20, increase the amount by $26,532,000,000.

On page 5, line 21, increase the amount by $22,654,000,000.

On page 5, line 22, increase the amount by $23,186,000,000.

On page 5, line 23, increase the amount by $24,173,000,000.

On page 5, line 24, increase the amount by $23,632,000,000.

On page 5, line 25, increase the amount by $64,909,000,000.

On page 6, line 1, increase the amount by $95,788,000,000.

On page 6, line 2, increase the amount by $105,696,000,000.

On page 6, line 5, decrease the amount by $10,511,000,000.

On page 6, line 6, decrease the amount by $44,425,000,000.

On page 6, line 7, decrease the amount by $75,073,000,000.

On page 6, line 8, decrease the amount by $101,605,000,000.

On page 6, line 9, decrease the amount by $124,259,000,000.

On page 6, line 10, decrease the amount by $147,445,000,000.

On page 6, line 11, decrease the amount by $171,619,000,000.

On page 6, line 12, decrease the amount by $197,250,000,000.

On page 6, line 13, decrease the amount by $262,159,000,000.

On page 6, line 14, decrease the amount by $357,947,000,000.

On page 6, line 15, decrease the amount by $463,643,000,000.

On page 6, line 18, decrease the amount by $10,511,000,000.

On page 6, line 19, decrease the amount by $44,425,000,000.

On page 6, line 20, decrease the amount by $75,073,000,000.

On page 6, line 21, decrease the amount by $101,605,000,000.

On page 6, line 22, decrease the amount by $124,259,000,000.

On page 6, line 23, decrease the amount by $147,445,000,000.

On page 6, line 24, decrease the amount by $171,619,000,000.

On page 6, line 25, decrease the amount by $197,250,000,000.

On page 7, line 1, decrease the amount by $262,159,000,000.

On page 7, line 2, decrease the amount by $357,947,000,000.

On page 7, line 3, decrease the amount by $463,643,000,000.

On page 40, line 2, decrease the amount by $77,000,000.

On page 40, line 3, decrease the amount by $77,000,000.

On page 40, line 6, decrease the amount by $899,000,000.

On page 40, line 7, decrease the amount by $899,000,000.

On page 40, line 10, decrease the amount by $2,687,000,000.

On page 40, line 11, decrease the amount by $2,687,000,000.

On page 40, line 14, decrease the amount by $4,364,000,000.

On page 40, line 15, decrease the amount by $4.364,000,000.

On page 40, line 18, decrease the amount by $5,762,000,000.

On page 40, line 19, decrease the amount by $5,762,000,000.

On page 40, line 22, decrease the amount by $7,003,000,000.

On page 40, line 23, decrease the amount by $7,003,000,000.

On page 41, line 2, decrease the amount by $8,294,000,000.

On page 41, line 3, decrease the amount by $8,294,000,000.

On page 41, line 6, decrease the amount by $9,640,000,000.

On page 41, line 7, decrease the amount by $9,640,000,000.

On page 41, line 10, decrease the amount by $12,035,000,000.

On page 41, line 11, decrease the amount by $12,035,000,000.

On page 41, line 14, decrease the amount by $16,276,000,000.

On page 41, line 15, decrease the amount by $16,276,000,000.

On page 41, line 18, decrease the amount by $21,605,000,000.

On page 41, line 19, decrease the amount by $21,605,000,000.

On page 45, line 24, decrease the amount by $375,000,000,000.

Mr. BREAUX. This amendment I have sent to the desk is on behalf of our colleague on the Republican side, Senator SNOWE; on behalf of the ranking member of the Senate Finance Committee, Senator BAUCUS; and also on behalf of our Republican colleague, Senator VOINOVICH from Ohio.

I remember that a great Chinese philosopher once said: May you live in interesting times.

I would also add today that we are actually living in very confusing times.

The bombs began to drop on the country of Iraq last night. We have over 200,000 men and women engaged in a war in a far off country. We have a country that is presently on orange alert, the second highest in our country's history. We have a war, and we do not know how long it is going to last, whether it be 4 days or 4 weeks or 4 months. We have a war and we have no concept of how much it is going to cost. We have estimates from $50 billion, $60 billion, $100 billion, depending on how long the conflict lasts.

We have a financial situation in this country where we have a $300 billion deficit that is now facing us in the short term. Yet we have a budget recommending that we now take the action of cutting revenues to pay for the cost of the war by about $1.36 trillion, of which the budget request adds $726 billion be protected by the process of budget reconciliation which would prevent any effort to filibuster that, on behalf of our Republican colleagues.

In addition, we all know in this Congress we are faced with additional costs in health care, particularly in the Medicare Program where we are attempting to add a prescription drug benefit plan to a Medicare Program which is desperately in need of additional funds. We have all of our Governors and all of 50 States saying how they do not have enough revenues to adequately run their State Medicaid Program.

Indeed, it is not only interesting times, it is very confusing times in the sense of trying to rationalize how we as a nation, with the pending demands we have on our society, financial demands that are legitimate and pressing, especially the conduct of a war in the country of Iraq, and at the same time we are asking to cut revenues by a total of $1.36 trillion.

I remember back when we looked at the last major tax reduction and tax cut in this country, back in the year 2001. We passed and ultimately enacted a $1.35 trillion tax cut. Times were different. Times were not as confusing. In those days we had a $5.6 trillion surplus. We had $5.6 trillion more in the Federal Treasury than we needed to operate and serve the people of this country. When you have a surplus of that magnitude, it is appropriate that you give some of the money back to the taxpayers of this country. We had a surplus. We were not at war. Conditions were different. Times were different. They were not confusing. We knew what we were facing.

Today that has changed, completely, totally, 180 degrees. We are at war, Medicare is on the verge of collapse, Medicaid is in fact collapsing, and we have a deficit, not a surplus. Yet we are faced today with a proposal that says in those conditions, one of the most important things we can do is cut revenues, and cut revenues not by an insignificant amount but, rather, by a total of $1.36 trillion over the next 10 years.

I know of only a small number of people who say that makes common sense. What business that is in debt and losing money would declare a dividend? What government that is facing war, and in fact is in war, with a net deficit of over $300 billion in 1 year, would say we need less revenues to meet our demands when in fact just the opposite is true: That is the issue that is facing us.

Some Members on the Republican side of the aisle think the number of the tax cut at $726 billion in this budget under reconciliation protection is just the right number. There are some on our side who think, no, we should have no tax cut until we know what the costs and demands are in our society. They would suggest we should have a zero tax cut until we know the cost of the war, and how much we are going to need for Medicare and prescription drugs and Medicaid, and how much we are going to have to pay for homeland security. They take the position that until we know those answers, we should not be reducing and cutting and slashing the revenues that we need to run Government.

Tax cuts are popular, but they also have to be realistic. Tax cuts are not free. We do not just eliminate $726 billion in revenue and think it is going to come out of the sky. In fact, we have to pay for it. And to pay for provisions in this legislation is simply adding to the deficit of this country at a time of great demands and at a time when we do not know what the future holds.

I think that is not good policy. I would prefer no tax cut at this time, but that is not politically possible. So what my colleagues and friends, in a bipartisan fashion, have tried to do is to say there must be some meeting of the minds, somewhere in the middle, between $726 billion in tax cuts and zero in tax cuts. That is why two Democrats and two Republicans—who have worked weeks and weeks together to come up with this—are now presenting this amendment to our colleagues in the Senate.

We have met with economists. We have met with tax experts. We have met with the Chairman of the Federal Reserve, Alan Greenspan, to get his ideas and to get his suggestions about what we need to do.

What we have before the Senate now is a reflection of that. It is the only bipartisan amendment being offered that I think has a realistic chance of passing. It is clear in my mind, for those on my side of the aisle who would prefer zero in tax cuts, that if they do not vote for this amendment, with a $350 billion tax cut, they in effect are voting for a $726 billion tax cut. Because it is clear in my mind, and I think in the minds of others, that if our amendment does not pass, the tax cut that remains is $726 billion.

I know for those who say, I don't want any, it is difficult for them to vote for $350 billion. But let me say to them, what they are doing, in doing that, is reducing the tax cut by a substantial amount and a significant amount. In fact, they would be reducing the tax cut by $375 billion by voting for our amendment. They would be reducing the Federal deficit by $464 billion. That is not insignificant. It should be more, but this is what we have the potential, and the political reality, of accomplishing.

So for those on my side, it is very important to understand, if this amendment does not pass, the likelihood of what passes is much larger and increases the deficit substantially. By voting for our amendment, you have a chance to reduce the Federal deficit by $464 billion over the next 10 years. That is real progress for people who believe in economic balanced budgets.

It is, in fact, the conservative thing to do, I say to my Republican colleagues, because you don't spend money you don't have. Whether it is for a tax cut or whether it is for some spending program, they both have the same results. We have to pay for them.

So I think what we offer today is an amendment that should, hopefully, find comfort and support from both sides of the aisle. That is what we have attempted to do. And that is what this amendment, in fact, does.

I know some would like a much larger tax cut, but in looking at what we have offered, I think it does represent a tax cut, so that we in the Finance Committee, and later in the full body, will be able to craft something that has meaning, that really adds stimulus to the economy. And we would support that. That type of program can pass with a significant number of Democratic votes joining with our Republican colleagues in a bipartisan fashion.

It should not be all or nothing. That is too risky. It is too irresponsible. So what my colleagues and I have offered together is a compromise, a bipartisan compromise, which I think makes a great deal of sense for everyone who is concerned about the future of this country.

It is difficult in challenging times. These are confusing times. These are uncertain times. And in these times, I would suggest the right course of action is to be a little more conservative with how we spend our Nation's money, as we prepare to face obligations which no one can be certain how large or for how long they are going to continue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. Mr. President, I yield time, on behalf of the ranking member, to the distinguished Senator from Maine, Ms. SNOWE.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Senator for yielding.

Mr. President and Members of the Senate, these obviously are very difficult times and, obviously, the point at which we find ourselves in trying to reconcile some of the more significant issues that are incorporated in this budget resolution.

As the Senator from Louisiana indicated, several of us have been working across the political aisle—with the Senator from Montana and the Senator from Ohio—to reconcile some of the issues with respect to the central question in this budget resolution in terms of the extent to which we should have a growth package—what type, what size, and what should be included in that growth package.

Obviously, the policy will not be determined in the budget resolution. But certainly we can determine the size that could dictate ultimately the policy in the days and weeks ahead.

I appreciate our ability to work across the political aisle to help craft this amendment. As the Senator from Louisiana indicated, it is an amendment that will reduce the size of the tax cut from $726 billion to $350 billion. And the remaining $376 billion would be applied towards deficit reduction. Through this alone, we would achieve $86 billion savings in interest costs.

I happen to believe this is a responsible, well balanced approach that will both stimulate our economy in the short term and protect our economy from the effects of unnecessary deficits in the long term. That is particularly important because when we compound future deficits, we raise the likelihood we will drive up long-term interest rates.

I understand the challenges of bringing forth a budget resolution. First, I commend the chairman of the Budget Committee, in his new position as chairman, for having the persistence and the determination, as well as the dedication, to bring this budget resolution before the Senate.

I commend him for his tireless work in forging and producing the budget we have debated on the floor this week. As a former member of the Budget Committee, I know what goes into this process. I also know that Senator NICKLES wants what we did not have last year, which was a budget resolution. It is critical because it imposes structure and discipline and defines the priorities in Federal expenditures.

That is a fundamental responsibility of Congress. That is why it is so critical and instrumental to get it done, to pass a budget resolution, so we can advance the budget process that ultimately will determine the policy as well as the appropriations, so we do not have what we had this year. This year, the first month and a half was devoted to the unfinished business of the last Congress—half of the domestic budget—because we had failed to pass a budget resolution. So that is important.

That is why I and the Senator from Louisiana, the Senator from Montana, and the Senator from Ohio worked together, because we understood, in order to pass a bipartisan budget resolution, it was also important to focus on some of the issues that would divide us. One of those questions was, of course, on the size of the growth plan as proposed by the President.

I commend the President for his leadership in initiating the debate on the necessity of stimulating our economy. I happen to share his belief that we should take steps to rejuvenate this sluggish economy, to try to do what we can in the short term to strengthen the economy.

I also happen to believe that our budget resolution has to bear the stamp of the totality of the extraordinary historic events and times in which we live. In the last 2 years, it has been an extraordinary transformation for America, in the aftermath of the most horrific event, the devastating attack on American soil, the ongoing war on terrorism, the initiation of military action in Iraq and more than 250,000 troops poised for potential war. We also have grave concerns about the nuclear proliferation on the Korean peninsula. All of these global uncertainties have cast a dark shadow over a domestic economy that was already on shaky ground even before September 11. The events of September 11 catapulted an already shaky economy into a recession.

Indeed, over the past year our Nation's economy has only grown worse. The economy grew at an anemic .7 percent in the fourth quarter, the weakest quarterly gain since the end of the recession, and just last month 308,000 people joined the unemployment rolls, bringing our unemployment to an 8-year high. Since the recession began, we now have lost more than 2.3 million jobs in the private sector. Without question, we need to have a stimulus package to address the short-term, immediate economy.

As Allen Sinai said, chief economist for Decision Economics, the fiscal stimulus is "absolutely essential" because the U.S. and world economies are struggling.

In short, failing to act now by passing an immediate growth package in this budget is to risk contributing to a jobless recovery or incurring a double dip recession. We cannot afford to wait until our military action in Iraq is concluded.

This is the right time. This is the right vehicle for action. We can always debate further issues later. But we will never be able to turn the clock back to jump-start the economy.

When we were involved in deliberations about a stimulus package in 2002, we had numerous discussions with Chairman Greenspan and other experts. The one thing we did hear was this: If you want to effect the short-term behavior of the economy, you have to do it as soon as possible to have the maximum impact on short-term behavior. So we cannot afford to lose time. I believe we should have a growth package in this budget. At the same time, given these unprecedented times and the confluence of circumstances on which they are defined, whether it is the economic uncertainties, the war in Iraq, the projection of higher and higher budget deficits, the domestic fiscal challenges that lurk on the horizon because of Social Security and Medicare, our responsibility to carefully evaluate the impact of any tax reduction and spending increases in this budget is that much greater.

That is the context in which we must shape this budget. These are realities that we cannot afford to ignore. Indeed, our projected Federal deficit for this fiscal year is now estimated to be $246 billion. That is an increase of 54 percent. That is without any new spending or tax cuts. There were only 3 other years in the last 32 years in which we saw higher deficit levels in terms of real dollars. What is required in this budget resolution is careful calibration, if we are to produce short-term benefits for our economy without jeopardizing long-term fiscal responsibility and economic growth.

Let there be no mistake, just as the need for short-term economic stimulus is compelling, so, too, is the need to return to balanced budgets and, indeed, surpluses as soon as possible.

I have been in Congress, both the House and Senate, for 25 years. I have seen how difficult it is to achieve a balanced budget. After all, it took 18 years of my career before we saw the realization, the accomplishment of a balanced budget amendment. We all cheered on the success, that for the first time we were able to escape the chronic budget deficits that had characterized the budgetary process for decades. Then a year later we were able to have the first on-budget surplus. We have been able to have 4 years of surpluses from 1998 to 2001. I don't want that to be an anomaly. I want deficits to be an anomaly.

As I said, over the last two decades, I saw the progression of the deficits. I saw the progression of various procedures and how we were going to attack deficits, from Gramm-Rudman-Hollings to every other mechanism. There were those who said we should not have a balanced budget because they said it was a gimmick. I said, if it was a gimmick, we would have passed it a long time ago. It wasn't a gimmick. It worked.

We cannot risk the impact of undue deficits in the long term because those chronic deficits drive up interest rates. That is going to stymie our ability to do what we need to do for future generations. It will diminish our ability to address the problems associated with Social Security and Medicare.

That is how I am approaching this economic growth question in the budget resolution. What will stimulate the economy today versus what will not? And for those measures in this package, and the funding measure that we are including in this budget resolution are not strong, immediate, and of limited duration, if they truly have merit in their own right, then they should be paid for as we go.

We need to ask ourselves in this current circumstance, can we really afford to deficit finance nonstimulative proposals? Maybe we could do it in a different time or place, but not now.

It all comes back to setting priorities. That is what we said time and again in all those years that we were fighting for a balanced budget that was accomplished right here in the Senate back in 1996. That is what we talked about, establishing priorities, getting our fiscal house in order. Now that is what we need to do in this budget resolution. We have to draw lines, and we have to draw distinctions.

What I am saying tonight is, if those proposals that are nonstimulative to change our tax structure are part of a long-term economic growth plan or are part of tax reform, those proposals should be fully paid for so as to not exacerbate our future economic situation and lead to greater problems down the road. That is not my view. It is the prevalent view among economists—Chairman Greenspan and so many others across the board—because we are dealing with so many challenges and crises simultaneously.

How much can we afford to do now? How much? How much is too much? Should it be $726 billion? Should it be a trillion? Should it be $2 trillion? We have to draw lines. That is why I am here tonight. That is why I reached across party lines, to work together so we can pass a bipartisan budget resolution that reaches a consensus on this key issue of whether or not we should have a growth plan, and, if so, how much can we afford to do now?

I drew the line on what was stimulus versus nonstimulus. We need to have a carefully calibrated growth plan that is limited, of short duration, to have an immediate impact on the economy and that will not have a negative impact on long-term interest rates.

I looked at the outyears because I wanted to get exactly a snapshot of where we are today and where we are going in 2013. All I can see down the road are deficits as far as the eye can see. We have deficits every year. We have deficits through 2013, the year in which we will also have the onset of 77 million baby boomers retiring. So we will have a convergence of not only that massive wave of retirement that will impact Social Security and Medicare, but we will also continue to have deficits.

I looked at the projections by CBO. What I found were interesting facts. CBO projects a return to surpluses in 2008. But let it be clear, the assumptions do not account for real budget costs—the war in Iraq, tax cuts, prescription drugs, more spending on defense and homeland security, all national imperatives.

In fact, CBO's baseline assumes real discretionary spending will remain constant. That certainly contravenes the recent trends of around 8 percent growth in spending. According to the Brookings Institute, it said:

> Such assumption implies real outlays will fall by 9 percent relative to population, and by 20 percent relative to gross domestic product over the next decade.

I do not think anybody seriously believes that is realistic. Putting these costs into the budget, we could have a deficit this year of over $300 billion and next year it could approach $400 billion. If we anticipate a supplemental of $100 billion or more in the short term, that will push our deficit near 4 percent of GDP, and that will be a historical high. I have heard time and again these deficits represent a minimal amount as a percentage of the GDP. I heard those arguments through the eighties. I heard them in the nineties. How much is too high? Today it is 2 percent. Tomorrow it will be 3 percent. With the supplemental next week, it could be 4 percent.

Why are we not focusing on how we can return to a balanced budget as soon as possible? Are balanced budgets no longer part of the political and economic lexicon? We should be devoting our time to figuring out, given all these exigencies, extenuating circumstances which, without question, need to be funded, how much can we do now in terms of a tax cut? We had a tax cut in 2001. We had a tax cut in 2002, and in my entire career, I have supported tax cuts, but now we are looking at multiple challenges on the horizon that demand significant Federal expenditures.

Therefore, I say, let's be prudent, let's be proportional, let's be practical, and target the growth plan to $350 billion that would be sufficient to have an effect on the short-term economy to turn this economy around.

Some people say wait until after the conflict with Iraq is over. If you have a weak economy, we have no way of prognosticating the future in terms of what the economy will look like in the aftermath of Iraq. We may have fundamentals strong enough that we can rebound. Certainly Chairman Greenspan has indicated he thinks that will be the case. If not, we do not want to take the risk, particularly because it affects the well-being of the American people and particularly those who have lost their jobs. So let's put something in place now. Mr. President, $350 billion seems to me to be a right size approach to do that for the short term.

Some people say that is just splitting the difference, 726, 350, it is half a loaf. It is splitting the difference. It is the moderate's approach to splitting it in half. It is not about splitting the difference, it is about making a distinction. It is making a distinction between what is a stimulus and what is not, what we can pay for now and what we can pay for in the future. That is the difference, and that happens to be a major difference.

Finally, when I look to the future, I think we all share the concern about the fact that we now have reverted back to using the surplus of the Social Security trust fund to mask the size of the true deficit. As I said earlier, we broke that chronic pattern of bad fiscal behavior. We were able to finally realize that moment where we could say that we no longer use the surpluses from the Social Security trust fund.

We know why we are in this situation today. No one questions that. The question is, how do we get back to where we were? That is my concern. When I look at the long-term projections, when I look at the fact that in the year 2013, we will be using $2.5 trillion in the Social Security trust fund surpluses to mask the true condition of the bottom line, that is of concern. That should be a concern to all of us, particularly at a time in which we will see as well the first wave of baby boomers retiring.

These are serious times. We cannot afford to diminish our ability to strengthen Social Security and Medicare. We have looked to this next decade, the decade we are in, as a window of opportunity to return to surpluses to prepare us for the future challenges. But as we have seen over the last 18 months, we can see how projections dramatically change and opportunities have evaporated. We know we had a $5.6 trillion surplus just 2 years ago, but we also understand what happened on September 11 that transformed this country. We obviously had to address emergencies, homeland security, the war on terrorism, and 68 percent of the surpluses were evaporated as a result of the declining economy.

So I do believe we need to have a growth plan, but we must exercise caution so that we do not aggravate the long-term picture and threaten our ability to address long-term priorities.

We have to be cautious because when you have fluctuations, and as the ones that have been as dramatic as they have been over the last few years, it can increase or it can decrease the amount of revenues that are available for other programs and certainly can decrease the amount of revenues coming in to the Federal Treasury.

Just a 1-percent fluctuation in the GDP can decrease tax receipts by $120 billion over 5 years and increase outlays by $52 billion over 5 years—just a 1-percent change. Think of where we have been in terms of economic growth and the fluctuations that have occurred.

That is why I think we have to be prudent. The President was right to offer a growth plan, but I think we cannot ignore the impact of all the challenges we face. If we step back and take the long view, I do believe we have to make a decision in terms of how much we can afford to do now, and what we need to do is to stimulate the short-term economy. What we cannot afford to do, without paying for it, without adding to the deficit, is advancing long-term economic growth plans, tax reform, nonstimulative proposals.

I hope my colleagues will give this very serious consideration in support of this amendment. I do not offer this lightly. I have taken this responsibility very seriously. I happen to believe it is important to get a strong bipartisan budget resolution with the right size number for a stimulus plan, a figure that will help us get a budget on a timely basis, a number that will help us to stimulate the economy.

I happen to believe the amendment we are offering today strikes the right balance. It represents the most effective way, I believe, that we can advance a growth plan that can achieve the strongest possible support but, more importantly, have the maximum effect on our economy without affecting the long-term future. We know these are extraordinary times, but I hope we will not abandon our goals for fiscal discipline. I hope we will not compound the outlook, the chronic future budget deficits, and diminish our ability to address and finance our security in Medicare. We need to lift the economy but without adding to future deterioration.

I hope we are not retreating in the notion that we can never return to balanced budgets. I hope we will concentrate on the goal of returning to balanced budgets as soon as it is possible. I hope we can begin now.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). Who yields time on the amendment?

Mr. CONRAD. Mr. President, how much time is the Senator seeking?

Mr. VOINOVICH. I seek 15 minutes.

Mr. CONRAD. I yield 15 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, before I address the merits of this amendment, I commend the chairman of the Budget Committee for his successful efforts to bring a budget resolution to the floor. I would like to particularly commend the chairman for including several important budget reform initiatives that will control spending and impact the soaring deficit: Extension of supermajority enforcement, reestablishment of discretionary spending limits in the Senate, reestablishment of restrictions on advance appropriations in the Senate, providing a clear definition of emergency legislation, reestablishment of the pay-as-you-go point of order in the Senate. Those are good things, but I must say I take issue with the reconciliation instructions contained in the budget resolution. As much as I oppose deficit spending, I also oppose deficit tax reduction, and these reconciliation instructions have the opposite effect of the budget reforms in the resolution.

I say to my colleagues this evening that we are on the edge of a serious crisis in terms of our Federal budget. In the past decade, conservatives worked hard to return the Federal Government to a balanced budget. For a short time after hand-to-hand combat, we met our goal for 2 years in 1999 and 2000. We balanced the budget without raiding the Social Security surplus. We had an on-budget surplus. That means we did not use Social Security in 1999. In 2000, again we did not use Social Security and we had a true on-budget surplus of $87 billion. Ever since 2000, we have been increasing our budget deficit to the extent that if the budget deficit for 2003 is projected, it will be $408 billion, the largest budget deficit we have experienced in the Senate.

Unfortunately, as I said, our balancing the budget was short lived. Today, instead of reducing our $6.2 trillion national debt, we are expanding it. In 2001, we suffered an on-budget deficit of $33 billion. In 2002, we suffered an on-budget deficit of $314 billion. CBO now projects that if Congress were to go home and not legislate any further—and that does not include costs associated with the economic stimulus, a drug benefit for Medicare, or the war—we would suffer an on-budget deficit, as I mentioned, of $408 billion. It is clear that increased discretionary spending has led to these exploding Federal deficits.

This discretionary spending reached a post-cold-war low in 1995 of $502 billion. At the current rate of growth, discretionary spending will exceed $1 trillion in fiscal year 2008. In terms of deficits, the future does not look very good. CBO recently prepared an analysis of OMB's budget proposals and, according to this report, if these proposals are enacted, we can expect a whopping on-budget deficit of $452 billion in fiscal year 2003, which does not include costs associated with war, and $512 billion in fiscal year 2004. Again, that does not include the costs associated with the war.

The fact of the matter is that in 2003 and 2004, if we include Social Security, we are going to be borrowing over half a trillion dollars to run our Government.

Currently, as I said, we have a $6.2 trillion debt. The administration has recently asked Congress to again raise the debt ceiling. I am sure they are reluctant to come over here and ask us to raise the debt ceiling at the same time we are talking about a $726 million reduction in taxes.

The current Federal debt represents an obligation of more than $21,000 for each man, woman, and child in the United States, including the Budget chairman's new grandson Nicholas and my new granddaughter Emily. Under CBO's baseline, again, assuming Congress goes home and does not legislate anymore for the next 10 years and spending grows at inflation, we will reach a total debt of $8.7 trillion by 2008 and $9.7 trillion by 2012. However, under current policy assumptions, which include costs associated with economic stimulus and a drug benefit for Medicare, but not the war, OMB's budget projects Federal debt will exceed $9.3 trillion by 2008. The President's budget did not even include a projection for debt of 10 years.

I say to my colleagues that debt does matter. Every dollar we add to the Federal debt today must be repaid in the future with interest, and there is no way around it.

I am also concerned about the seemingly new message which minimizes the importance and effect of the debt. In contrast, Federal Reserve Chairman Greenspan has consistently stated that all things being equal, a declining level of Federal debt is desirable because it holds down long-term interest rates, thereby lowering the cost of capital and elevating private investments.

Even the proponents of using the debt-to-GDP ratio as a measure of fiscal responsibility must acknowledge our current situation is not good. As recently as 2000, we had a surplus-to-GDP ratio of 2.4 percent. In 2001, when we passed the last stimulus package, the ratio of deficit to GDP was only 1.5 percent. Currently, CBO estimates the GDP ratio for 2003 will be 3 percent and could go higher. We have doubled that percentage in 1 year without including the cost of the war.

In January, Federal Reserve Chairman Alan Greenspan described the effort to bring deficits under control and decisions needed to maintain fiscal discipline. He said: Achieving a satisfactory budget posture will depend on ensuring that the new initiatives are consistent with our longer run budgetary deficits. As you craft the budget strategy for the coming years, you may want to consider provisions that in some way would limit decreasing tax and spending initiatives if specified targets for the budget surplus and Federal debt were to be satisfied.

In other words, in putting our budgets together, we have to look down the road to the day of reckoning when the baby boomers retire and we are in a position where we can take care of their retirements.

Many foreign investors believe budget deficits demonstrate the relative strength of an economy. In addition, they believe this ratio gives a fair idea of Government policies and political aspects of the individual nation's monetary systems. Consequently, the Maastrich Treaty requires the EU countries not to exceed a debt-to-GDP ratio of 3 percent. When the costs of the anticipated supplemental spending related to the war are added, the current budget deficit will exceed 3 percent of GDP in 2004.

The U.S. Federal budget would demonstrate less fiscal discipline than European nations are imposing on themselves. This change in perception would tend to increase interest costs for Federal borrowing since the United States finances a large portion of its debt held by the public through the sale of T-bills. And it will become progressively more difficult to finance continued deficits or pay future Social Security benefits.

That being said, and despite my concerns regarding the expanding national debt, I think most agree that some economic stimulus is needed to provide a shot in the arm to our economy, although many economists, including Alan Greenspan, have said the problem is geopolitical, that after the cloud of a war is over our economy will move forward.

Stimulus, I believe, is still needed. But not $700 billion worth of stimulus. Our amendment calls for $350 billion in stimulus. And realistically, tax cuts larger than $350 billion appear to have very little support on either side of the Hill. It might not be possible to pass any stimulus proposal if the pricetag is too large. The all or nothing approach could rob us of the opportunity to give business the stimulus it needs. That is unacceptable. We need to cooperate and enact a $350 billion stimulus package and get the economy moving as rapidly as possible.

I say to the Presiding Officer, when I was Governor of Ohio, if I suggested a $700 billion package of tax reductions to the legislature and they came back to me and said on a bipartisan basis, we will give you $350 billion, I would have taken it and ran. We believe that $350 billion will cover what is needed to help rev up the economy, especially given the fact we will be borrowing each and every dollar used for the tax cut.

Reconciliation instructions at the $350 billion level provide the financing committee the ability to enact one large tax reform proposal, several small reforms, or a combination of medium and small reforms. It is reasonable to expect future economic growth within 10 years would begin to pay for the cost of tax reforms limited to $350 billion.

It is also important to note our amendment does not preclude Congress from passing a larger economic stimulus package this year. It just says we need to pay for it.

We should honor the principle embodied in pay-go. If people want more than $350 billion in tax reductions, pay for them with offsets. Even proponents of dynamic scoring can see it would take much longer than 10 years for economic growth to begin to pay for tax reductions of more than $350 billion. Although many have agreed to vote for final passage of the budget resolution, I can guarantee we will not support a package larger than $350 billion.

The Senate should also clearly recognize bipartisanship is the best stimulus we can provide the American people at this time. The Senate did not even consider a budget resolution on the floor last year. It led to partisan gridlock and failure to enact appropriations bills before the end of the 107th Congress. Major programs, including many related to homeland security, were left in limbo. We must not repeat this mistake. The Senate, the administration, and the American people are best served through bipartisan support for budgetary initiatives.

The people are watching us. They want to see us work together. We are at a time of war. Given the current economic and geopolitical climate, we should avoid excessive partisanship which breeds uncertainty and discourages business investment. Enacting a budget resolution with only a one or two vote margin tells financial markets that Congress is likely to drag out the whole process, including reducing taxes and passing appropriations bills when they are needed. In contrast, enacting a budget resolution with strong bipartisan support will signal stability, tell financial markets that Congress is likely to manage Federal finances efficiently and effectively, and encourage business investment.

Additionally, I think it is very important that we act in a unified manner, supporting the President due to the war. I disagree strongly with my Republican colleagues who maintain that not passing the President's larger package will look bad for him. I don't agree with that. Instead, I believe passing a $350 billion package with strong bipartisan support will be looked upon very favorably by the American public, that the Congress and the President can work together to move things ahead on a bipartisan basis.

Let's send a signal to Wall Street, Main Street, and the rest of the world that during this time of crisis we are able to overcome our differences and unify behind fiscal policies with a broad base of support.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, I ask unanimous consent that the time yielded to Senators BREAUX, SNOWE, and VOINOVICH be taken from the amendment time rather than the resolution time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Just to comment, first, I respect very much my colleagues, Senator BREAUX, Senator SNOWE, Senator VOINOVICH, and Senator BAUCUS for offering this amendment. They come from a centrist tradition of the Senate of which I was long a member before I got into this position, and it is really no longer appropriate for me to be part of that group. I have enormous respect for them. I thank them.

The Senator from Montana is seeking 15 minutes off the amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BENNETT. Will the Senator yield?

The PRESIDING OFFICER. Seven minutes remain.

Mr. BENNETT. How much time would be available on the amendment for those who are opposed to the amendment?

The PRESIDING OFFICER. One hour.

Mr. BENNETT. I ask unanimous consent that I be allowed to speak following the Senator from Montana in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Might I revise my request. There are only 7 minutes; we take 7 minutes off the amendment and give an additional 8 minutes off the resolution so the Senator from Montana would have 15 minutes.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to join my fellow colleagues, Senators BREAUX, SNOWE and VOINOVICH, in support of this important amendment that works to reach a middle ground.

This is a bipartisan amendment and will allow Congress to pass a responsible economic stimulus package, a package that will provide a real boost to the economy while not burdening our future generations with skyrocketing deficits.

The budget resolution we are debating today includes a "reconciliation" instruction for the Finance Committee to reduce revenues by up to $725 billion over 10 years.

This is the same amount of the President's economic stimulus package. And while I support tax cuts and have worked closely with the President in the past to enact tax cuts, I am very concerned by the size of his current package.

First, we are at war and the immediate and long term costs of the conflict and reconstruction are unknown. Our economy is sluggish and we face rising unemployment. This is not the time to enact a package of tax cuts as large as the President has suggested.

I recognize that the economy needs a shot in the arm. So I have joined my fellow Senators in offering this amendment to keep a stimulus package at $350 billion. And ensure that the $375 billion which is saved goes toward deficit reducing measures.

Our amendment does not dictate what tax cuts should be passed out of the Finance Committee. It simply reduces the size of the tax cut. And I believe if this amendment is not passed, the Federal budget and the U.S. economy will be hurt significantly.

As my colleagues know well, "reconciliation" instructions ensure that any legislation that is reported out by a Committee pursuant to those instructions enjoys special privileges when it is brought to the Senate floor.

That means that the legislation only needs a simple majority of 51 votes to pass. In contrast, without reconciliation protection, legislation takes a supermajority of 60 votes to pass.

Legislation under reconciliation instructions is also protected from nongermane amendments. Such amendments can create serious obstacles to the passage of legislation. But passage of a non-germane amendment to reconciliation legislation requires a supermajority of 60 votes. And this is usually difficult to achieve.

What these special privileges really mean is that reconciliation legislation is more likely to pass the Senate.

Unfortunately, passing legislation to reduce revenues by $725 billion would hurt our budget and our economy. I believe the budget resolution should not instruct the Finance Committee to make $725 billion of tax cuts.

Why do I believe $725 billion of tax cuts is inappropriate? The most serious problem is that this enormous tax cut is not paid for. The Federal budget is facing huge annual deficits.

This is happening at the worst possible time. In a few short years, the huge baby boom generation will begin to retire. The added costs for Social Security, Medicare and Medicaid will put a huge amount of additional stress on our budget. And on our economy too.

With these budgetary and economic pressures looming, we should be running surpluses—not deficits—as soon as the economy returns to full employment in the near-term. We should be retiring debt, not creating it when the economy is at full employment.

If this amendment does not pass, we are going to add an additional $375 billion in debt and deficits during the next ten years. This is during a period when the economy should be at full employment.

What difference does it make if we run large deficits when the economy is at full employment?

The answer is that large deficits eat up savings that would otherwise be used by businesses to invest in new plant and equipment. Without these investments, the economy will grow more slowly. And our future standard of living will be reduced. As well as the standard of living of our children and grandchildren.

Once the economy is at full employment, large deficits will also cause long-term interest rates to go up. This will increase the cost of mortgages. And car loans. This will hurt the consumer. But it also will hurt the economy. Because people will buy fewer homes and cars.

The simple truth is this. We cannot afford to increase Federal budget deficits by an additional $375 billion. If anything, we should reduce deficits, not add to them.

With the concerns about the costs of a war and growing deficits, many of you may be asking why aren't we trying to eliminate the entire $725 billion package?

The answer is that right now, the economy is not at full employment. That means that we need to encourage more spending. More spending will stimulate more production. And that will increase employment and return economic growth to its full potential.

The $350 billion of tax cuts that we are leaving intact, therefore, should be used for tax cuts and program initiatives that would increase spending right now.

And, the incentives to encourage more spending must also be temporary. Once the economy returns to full employment, the decrease in savings that would result from the increase in consumption will reduce investment. And that will lower our standard of living in the long-run.

Again, I want to emphasize that we do not dictate what the tax cuts should be—we simply say the amount should be lower. But I believe there are three specific areas we should consider to effectively stimulate the economy in the short-run.

First, probably the best short-run stimulus is increasing aid to state governments on a one-time basis. The recession and subsequent weak economy has severely reduced state revenues. States are facing budget deficits in the upcoming fiscal year of $70 to $85 billion.

Unlike the Federal Government, almost all states have annual balanced budget requirements. So even though the economy is weak, States must lay off workers, cut spending programs, and increase taxes in order to balance their budgets.

These actions make the economy even weaker. They also reduce important services that state governments provide.

There is a remedy, however. By increasing Federal aid to states, states can avoid layoffs. Avoid cutting programs. And avoid increasing taxes. In contrast, any attempts by Congress that lack a state relief component will ultimately fail to stimulate the economy. Because efforts to spur the economy will fail if, at the same time, states are forced to raise taxes, cut spending, and eliminate jobs.

Increased aid to state governments should only be made on a temporary basis, however. Once the economy improves, the increased aid must stop.

Second, cutting taxes on households who are likely to spend those tax cuts quickly effectively stimulates the economy. The President's plan includes an acceleration of many of the tax cuts that were enacted in 2001.

I fully support acceleration of some of the tax cuts that are primarily directed to those taxpayers who will spend most of the tax cuts they receive. Such as accelerating the reductions in the marriage penalty or the increases in the child tax credit.

But, a portion of America's households will not receive any benefit at all under the President's plan. Therefore, I believe we also need to accelerate the reduction of marriage penalties for households receiving the earned income tax credit. And we also need to accelerate the refundable portion of the child tax credit from the 2001 tax cut.

Acceleration of these tax cuts will give the economy a boost in the short run. But without increasing deficits in the long-run. Because the revenue losses are in the years when the acceleration takes place. There is no revenue loss in the years after that.

Third, we can stimulate the economy by completely eliminating the income tax on the first $3,000 of wages. This proposal also puts money into the hands of taxpayers who will spend it. Especially if we make it refundable. Which will provide a tax cut to the 30 million Americans who are left out of the President's program.

These are just three ways to stimulate the economy—aid to the states, acceleration of some tax cuts, and elimination of income tax on the first $3,000 of wages. Needless to say, there are other proposals that we should consider. Some of these other proposals include increased funding for highway construction, health insurance tax credits for businesses, and allowing small businesses to deduct more of their investments in plant and equipment.

A reconciliation instruction of $350 billion of tax cuts to the Finance Committee can be used for several types of economic stimulus without increasing long-run deficits. But we cannot add to that a larger tax cut that will increase long-run deficits. That would weaken our economy. We cannot let that happen.

Therefore, I urge my colleagues to support this amendment.

Mr. President, while I have the floor, I also want to say that I will be proposing another amendment this evening, or tomorrow.

My amendment is a very simple amendment. It would clarify the Medicare reserve fund language to say that beneficiaries who choose to remain in the current fee-for-service program which, I might add, is 89 percent of all seniors right now should get the same drug benefit as those who choose to enroll in a private plan.

Let's put aside the question of whether $400 billion is enough for an adequate drug benefit. Having spent a lot of time reviewing the cost of different benefit levels, I know that $400 billion buys a rather paltry benefit.

But whatever benefit level we can afford with that amount, we should make sure that the same benefit is available to seniors who choose to stay in the fee-for-service program as those who enroll in an HMO, a PPO or any other sort of private plan in Medicare.

I believe that is the commitment many of us have made to our seniors, and that is the commitment we ought to fulfill.

Earlier this month, President Bush unveiled his vision for Medicare reform. I am pleased that he doubled the amount of money he is willing to spend on a prescription drug benefit over what he proposed last year.

But I am concerned that the President's vision for reform is to privatize the program. He would give a comprehensive drug benefit to seniors who enroll in private plans. But those who choose to stay where they are now, in the fee-for-service program, would get only a discount card and catastrophic coverage.

That is not something I am willing to support. Let me explain why.

First, we already know that private plans have had difficulties serving the Medicare population. Many of my colleagues may recall that the reason Medicare was created in the first place was because so many seniors were ill-served by the private market. About half of the elderly were uninsured in 1965. Because of Medicare, now nearly all elderly are covered.

More recently, since Medicare+ Choice was created in 1997 to expand private plan options in Medicare, we have seen a dramatic drop in the number of HMOs participating in the program. And as a result, an estimated 2.4 million beneficiaries have lost their health plan.

As you can see by this chart, only 875 counties across the country currently have a Medicare managed care plan. That is out of a total of 3,200 counties. So more than 2,300 counties don't have access to managed care plans or PPOs.

Looking at this map, I might add that the counties without these plans are predominantly rural.

And it is not that plans are underpaid, as some might try to argue. The average payment to Medicare+Choice plans is currently 104 percent of local fee-for-service costs. That figure doesn't tell the whole story, but it does suggest that simply increasing payments will not draw private plans into rural areas.

My own state of Montana is a good example. The floor payment for Medicare+Choice plans in Montana is 128 percent of local fee-for-service costs. Yet, we don't have any HMOs or PPOs in my state.

Let me repeat that: despite a payment rate that is 28 percent higher than traditional Medicare, private health plans are still not serving Montana seniors.

All this leads me to the second reason I do not support the President's proposal it doesn't save any money. Moving beneficiaries into private plans will not save the program for the next generation and will do nothing to address Medicare solvency.

We can all talk about coordination of care, disease management, and the potential efficiencies private plans might be able to achieve. But at the end of the day, private health plans are subject to the same cost pressures affecting the entire health care system. Just look at the Federal Employees Health Benefits Plan, FEHB. This plan serves federal employees, retirees, and their dependents and has been held up as a model for Medicare reform. Yet we find that FEHB premiums have increased, on average, by more than 10 percent each year in the last 5 years. Far faster than Medicare's per capita costs.

Third, and finally, I don't support a differential drug benefit, because it is just not fair to make beneficiaries move into a private plan to get a drug benefit. In Montana, virtually all beneficiaries are in traditional Medicare. That means, in order for them to get a drug benefit, they would need to drop their supplemental coverage and enroll in a private plan accepting all the restrictions, preferred networks, and coverage limitations that come along with the plan.

For a senior who may be older, used to what she currently has, and to anyone with a chronic health condition, this is a frightening proposition.

As the chairman of the Energy and Commerce Committee, Mr. TAUZIN so aptly said recently, "You couldn't move my own mother out of Medicare without a bulldozer. She trusts it, believes in it. It's served her well."

That is the case with millions of seniors around the country. They like what they have now, and they want to stay there. They need a drug benefit, they have been pressing Congress to act for months, years now, and they don't believe they should have to swallow such far-reaching reforms to get the help they need. And the more we delay, the more expensive it gets to provide this benefit.

In the 4 years that Congress has been seriously debating Medicare prescription drugs, we have considered a range of options. And we've seen the CBO scores for these proposals go up and up as we've taken longer and longer to act.

While there are differences in the bills we have debated, they all have one thing in common. They would offer all seniors the same level of drug benefit if they chose to enroll in the new benefit. Not just private plan or HMO enrollees, but all beneficiaries.

In closing, I would like to point out that 90 Members of the Senate who are here today voted in favor of legislation last summer that would uphold this principle.

I think we should keep the commitment we made last summer. I am happy to work with the administration and my colleagues across the aisle on ways to improve and increase private plan participation in Medicare. But we need to make sure that the benefit is provided in full to fee-for-service beneficiaries as well as private plan enrollees.

For the sake of America's seniors, particularly the oldest, the sickest, and the most frail, and for the sake of America's rural seniors, I urge adoption of this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is to be recognized.

Mr. BENNETT. Thank you, Mr. President. I yield myself such time as I may consume.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I have been very interested in the discussions we have had up until now. I think there are several things that need to be said. Even though they have been said before, they need to be stressed again.

With respect to the projections that are made about the future, and the numbers we are looking at, the one thing we can be sure about, with respect to the projections, is they are wrong. What we cannot be sure of is whether they are wrong on the high side or the low side. But we can be sure they are wrong.

We also can be sure they will be adjusted, revised, and issued with the same pronouncement of certainty a year from now. They will be different a year from now, but we will be told: These are the numbers.

The second thing I think we need to understand as we enter this debate is the nature of the recession we have just gone through. I have referred it to as the first recession of the information age.

The recession in 1990–1991, I believe, was the last recession of the industrial age. That is why this recession is so different from any others we have had.

I want to make it very clear, we are not currently in a recession. The press talks as if we are. I have heard speeches on the floor saying: This is the worst economy in 50 years. This is not the worst economy in 50 years. This is not close to the worst economy that we have had in this last half century, in any way.

It is different. It feels different. For some people, it feels terrible. For other people, these are booming times. If you are in the housing business right now, you say: What recession? Because housing has been booming all through the recession period.

If you look at the unemployment rate—when I went to school, I was taught in economics that 6 percent unemployment was full employment, that you could not get below 6 percent unemployment without causing strains in the economy. We proved that wrong in the 1990s. We got down to the point where we thought 3 percent unemployment was normal.

Well, we hit 6 percent unemployment as a result of the recent recession. We are now backing off from that number. The last number was 5.7 percent.

If we were to take the economic numbers that currently apply to the United States and transport them to Germany, the Germans would feel they were in the strongest recovery they could imagine, because unemployment there is double digits.

Last year—a sluggish year, a year that Alan Greenspan referred to as a “soft patch”—we grew at 2.7 percent of GDP. The Germans are not growing. The Japanese are not growing. The French are not growing. They would be delighted to have our numbers. And they are clearly not nearly as bad as people are talking about them. But they are a soft patch. And the soft patch is too soft, and it is going on too long. And we need to address the question of what we do about it.

I have said, this is the first recession of the information age. It is not a recession driven by inventory imbalances which usually has signaled a recession in the industrial age. This recession was created by overinvestment, something that in the industrial age we never saw. And, indeed, as an investment recession, it has to be dealt with with an investment solution.

We saw the excitement, almost to the point of “tulip time,” that occurred in the late 1990s. I say “tulip time” to refer to the great tulip mania of the Dutch in the Middle Ages, where the price of a tulip bulb rose so high, as people thought tulips would always continue to increase in value, that families would mortgage their farms, sell everything they had, to buy a single bulb, in the hope they could sell that bulb to somebody else for more money later on. When the tulip mania burst, the economy of Holland was damaged for close to a century, as they had to deal with it.

Well, that is an overstatement of what we went through in the late 1990s, but we went through a fascination with dot-coms and with high-tech companies and IPOs, where we had an investment bubble. And the bubble burst. When it burst, we had a tremendous decrease in what economists refer to as “the wealth effect,” as Wall Street saw a correction to that overenthusiasm of the time. It was not brought about by a traditional business cycle. It was brought about by a new kind of overexuberance in the business cycle.

The Wall Street numbers were inflated improperly. They had to come down. But when they came down, the confidence was lost, the wealth effect was gone, and people who had overinvested then decided they were going to stop investing.

So we had an investment-led recession for the first time. As that recession was coming, but before it hit, we had the projection of a $5.6 trillion surplus over the next 10 years. That was given to us by the same models that now talk about deficits as far as the eye can see. They were not bad people who made those decisions. The models worked themselves out. The problem was, the assumptions that went into the models, seemingly logical at the time they were made, produced that kind of a situation.

What happened to the surplus? We have heard a lot of rhetoric about who is responsible for destroying the surplus. Some of the rhetoric has been quite political. Let's just look at the same numbers for the $5.6 trillion surplus and say, all right, as we feed in current numbers, what happened to the surplus?

This in dark blue is the Bush tax cut. Yes, that was done deliberately on the grounds that the surplus could afford it. The surplus said we should bring taxes down. I will talk about that in a moment.

The gray over here, light blue, depending on what you see it as, 45 percent of the loss of the $5.6 trillion surplus is the weak economy and changes in the estimates. In other words, these estimates were made before we realized where we were in the excesses of the 1990s. And as the economy contracted and people changed the estimates, obviously, while the tax cut represented 25 percent of the surplus, and that was done deliberately, this hit us because we didn't make the right calculations. To be sure and to be fair to the people who made the calculations, they did not anticipate September 11. They did not anticipate all of the shock waves that came out of that situation. They did not anticipate what would happen when the economy hit the investment recession to which I referred.

The red represents increased spending, increased spending at 28 percent. We have spent more than the tax cut. Some of that, again, we did not anticipate. We did not anticipate we would have to spend $40 billion to rebuild New York. We did not anticipate we were going to have to spend the amount of money that we have spent in homeland security. We did not anticipate all of the other. But a lot of that spending came out of the mentality that, gee, we have a $5.6 trillion surplus; we can spend a little more here and we can spend a little more there. And a little more here and a little more there turned out to be a lot more when added to the problems. And this is what we get.

Now let's put it in 2004 because we have had a lot of rhetoric about this particular fiscal year and the budget we are facing. Here are the same numbers with respect to the projections that were made for the surplus for fiscal year 2004. The Bush tax cut for that original projection of the surplus: 19 percent. It is a smaller percentage of the deficit for 2004 than it is for the 10-year. The weak economy: 51 percent. It is a bigger number affecting 2004 than it does the 10-year picture. Increased spending, 24 percent; and then other tax relief becomes a bigger issue.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BENNETT. I am happy to.

Mr. CONRAD. On the previous chart, if you could go back to that for a moment, might I just ask, is the President's additional proposed tax increase included in that chart?

Mr. BENNETT. No. This is the tax increase that was enacted.

Mr. CONRAD. That is the tax increase already passed and implemented?

Mr. BENNETT. That is correct.

Mr. CONRAD. If I could inquire of the Senator, if the additional proposed tax increase by the President were added to that chart, can the Senator tell us then what one would see in terms of the calculation of the disappearance of the surplus and what is the primary culprit?

Mr. BENNETT. I happen to have another chart. I will get to that if the Senator will be patient. I appreciate his willingness to listen.

Back to 2004, we see once again the impact of the soft patch. We see that if we are going to look at this and say, what can we do to get this money back, the first thing we can do, the best thing we can do, is get rid of this. Fifty-one percent of the whole comes from the weak economy. Another good thing we can do is hold down this: 24 percent comes from increased spending.

For those who said, we will solve our deficit problem if we just repeal the tax cut—and we have heard that rhetoric on the floor—no, that is the least effective way to get this back where it belongs. I am glad people who have said let's repeal the tax cut are backing away from that position.

Here is another way of demonstrating how the projections went wrong and the impact of the spending. These were the revenues in that boom time. And then we began to see the revenues start to slack off just as outlays that were increasing at one level began to increase very sharply. Here again is the responsibility of where we are.

Here is the chart answering the question about the impact of the President's growth plan. This shows the total taxes that will be paid in the next 11 years, $29.3 trillion. And the President's growth plan says we will have $725 billion, or 2.4 percent of that amount, that will come out of the overall pie. If you add the $725 billion to the $29.3 trillion that will still be paid, you come up with $30 trillion. It is obvious that the $30 trillion is a nice round figure, which will be wrong. It will once again be wrong on the high side or wrong on the low side, but no one with any certainty can look out 11 years and add up the exact amount of tax revenue that will come in. It is simply not humanly possible.

The best estimate that can be made says: Well, it will be, and it is rounded off, at $30 trillion. So you take $30 trillion, and we are talking about 2.4 percent of that.

The net effect of this over the next 11 years is, if I might use a phrase we are all familiar with, within the margin of error. It is clear that the estimate of what this will be cannot be that close, to a 2.4 percent accuracy. It is within the margin of error. We are not talking about a major impact. Seven hundred twenty-four billion sounds like a huge amount of money, and of course it is. But when it is stretched out over 11 years and when it is compared to $30 trillion, then you put it in perspective.

Many people say: Why should we be cutting taxes at all? Let's err on the prudent side and get that money in.

The fact is, of course, that we cannot assume that if we set the tax burden at a certain level, the economy will yield that kind of tax revenue.

I was in Ireland with a group of my colleagues last summer, and the Irish economy was booming, growing more rapidly than any other economy in Europe. We said to the Prime Minister of Ireland: To what do you attribute your growth? He said: We attribute it to the fact we cut our corporate tax rate to 10 percent, and we immediately started booming.

I will concede immediately that is a simplistic answer and there must have been other reasons involved, but I will not concede that the decision to cut the corporate tax rate to 10 percent was a trivial one or that it did not have a major impact on seeing that the Irish economy became the strongest economy in Europe.

I think it is not an accident that they have the lowest tax rates and the highest rate of growth. I think there is some correlation between those two, while conceding that there are other aspects.

Let's look at the historic tax burden we have had in the United States measured in the only way that really makes any sense; that is, as a percentage of the economy. For those who say: Oh, no, that does not matter, let me repeat again a personal experience that I think demonstrates it does matter.

As I have said before, before I came to the Senate, I ran a business. When I was hired as the CEO of that business, the total debt of the business was $75,000. When I stepped down as the CEO of that business prior to running for the Senate, the total debt of that business was $7.5 million. If you are going to measure my stewardship by the size of the debt, you can say Bennett was a lousy steward and we are good to get rid of him because he took a little tiny debt of $75,000 and ran it up to $7.5 million, and now we have to pay off that debt and he left us in this terrible hole.

Let me add a few more facts. When I took over as the CEO of the company, they were doing about $300,000 a year in total business; $75,000 in debt represented 25 percent of the sales and, indeed, threatened the survival of the business because the business could not service a $75,000 debt on $300,000 in sales. Indeed, the business was losing money at $300,000 a year in sales and could not survive unless we did something.

When I stepped down as the CEO of the business, we were doing over $75 million in sales, and the $7.5 million in debt represented 10 percent of the sales instead of 25 percent of the sales. Furthermore, we were earning enough money, our margins were strong enough that we had over $7 million in the bank.

You say: Why didn't you pay off the debt? Because the debt represented primarily mortgages on real estate that had prepayment penalties on them. We had borrowed the money to build the facility. We needed to run the business, and it was cheaper for us to earn interest on the money in the bank than it was to pay the prepayment penalty on the mortgage.

I frankly think I did a pretty good job at that company. I think my stewardship was proper, if you measure it solely on the basis of the debt, though I took a $75,000 debt and ran it up to $7.5 million. If you take the total value of the company, it was failing, and at the point of extinction with a $75,000 debt, it had a market cap of $200 million or $300 million with the $7.5 million debt.

Applying that same principle, and I think it is legitimate to do so, we should look at our debt now not in terms of how big is it in numbers, but how big is it with respect to the size of the economy, and it is now at a level with respect to the size of the economy less than it was at the time of the Eisenhower administration.

The highest point of our debt as a percentage of gross national product was in 1945 at the end of the Second World War. We were running a total debt of close to 1½ times the size of the economy. Adding in the Social Security trust funds and all of the rest of it, it is about 60 percent. We are way below a level that at one time in our history we demonstrated we could survive with.

Putting that same calculation to the issue of taxation, here is a demonstration of taxes as a percentage of GDP. We have drawn a line at 20 percent of GDP. When did taxes get higher than 20 percent in our history? Once back in 1945, again responding to the Second World War when we had a debt that was three times GDP, and we immediately brought the taxes down to 15 percent and started to see the economy growing in such a fashion that the debt started coming down in dramatic fashion as a percentage of GDP.

With the tremendous surge of tax revenue that came primarily as a function of the high-tech run up in the late nineties and the realization from capital gains when, in this Chamber, we cut the capital gains tax rate so people started cashing in their dot-com stocks and paying enormous capital gains revenues to the Treasury, even though the rate went down, the rate went down but the realizations went up. We saw, once again, for the first time since the Second World War the total tax take as a percentage of GDP go above 20 percent.

To me that was the more compelling argument than the one that even the President made when he said: We are taking too much of your money; we need to give it back to you. I said how does it fit overall in the economic pattern?

Historically, when the tax take begins to get up to this 20-percent line, it is a signal that you have too much burden on the economy and you need to bring the tax take down below 20 percent. That is why I supported the President's decision and supported the President's position in the Tax Code that said: OK, let's bring it down.

You always see tax revenues drop in a time of recession. We had the tax cut, and then it was followed by the recession. This is the estimate of what will happen under current law if we do not do something about making the tax cut permanent. We will be in a historic area until the tax cut expires and goes back up, at which point we will bounce back over 20 percent of GDP.

I want GDP to grow more rapidly than Government expenditures. If GDP grows more rapidly than Government expenditures, we have no need to worry about the future. But if it does not, we cannot tax our way to prosperity. We cannot tax our way to a balanced budget.

There have been a lot of quotations of Alan Greenspan around here. I happen to be a great Greenspan supporter. Sometimes I am a little surprised to think I can understand him. I have been in the Senate now 10 years and on the Banking Committee, and he has appeared before us every year. I am on the Joint Economic Committee, and he appears there every year. For the first few years, I did not break the code, but I think I am now beginning to understand Greenspan speak.

This is a point he made to a group of us that I think is essential to this debate: You can set expenditures at almost any level you want. You cannot set revenues at any level you want. Revenues are a function of the economy, and if you do something wrong in fiscal policy that causes the economy to fail, you are not going to get the revenues you may project.

One can, on the spending side, commit themselves to long-term, built-in obligations that they cannot then cover if the revenues are not there. This is the ominous number on this chart. If we can get the revenues back up by getting the economy back up, back to the first chart—get this part of it solved, the weakness in the economy—then we will be just fine.

Now we come to the amendment. After all of the presentation, we come to the question of how big should the growth package be? Should it cost $724 billion over 11 years or can we get rid of this part of the softness for only $350 billion over the next 11 years? I think that is the wrong question to ask because it is a mathematical question to which there is no correct answer.

As I said at the beginning, all of these projections are wrong. All of them will be revised. No one can, with certainty, make a prediction of what is going to happen in 11 years in this economy and be anywhere near close. So the question to ask is, Will the proposals the President has made actually produce a structural change within the economy that has a chance of dealing with the softness in the economy?

I go back to the other thing I said, which is this particular recession was an investment recession. So the fundamental question to ask is, Will the proposals the President has made address the investment side of the soft patch we are in?

Well, we had a tax cut. Part of it addressed the consumer side and we thought: that is going to stimulate the economy. We sent out checks, 300 bucks for everybody who had filed a tax return. We discovered that it was not stimulative. Why not? Because it was aimed at the consumer side. It was not aimed at the investment side. And it did not produce any major structural change to give us the kind of growth we needed. It did not even hit the consumer side to the point that we projected because many consumers we now know did not spend it. They used it to pay down personal debt, which is a very logical thing for many people to do. But it upset all of the projections we made of what would happen.

So as I see it, the President's proposal has two big groups. The first group is a collection of tax cuts: the marriage tax penalty, the elimination of the death tax, the child credit. That is about half of the $720 billion that we are talking about. I think those are all salutary. I think those will all help, and I am prepared to vote for them.

Then we come to the other half, which is the elimination of the double taxation on dividends. If we pass this amendment, the conventional wisdom is that the elimination of double taxation on dividends is dead, that it will never come out of the Finance Committee.

Let me focus on why the passage of the President's proposal with respect to the elimination of double taxation on dividends will go directly to the heart of the softness on this chart and why it is the investment solution to deal with an investment recession.

If we go back to the excesses of the late 1990s and look at them now historically, we find that one of the things that drove the excesses on the stock market, and indeed got us into trouble as far as corporate management is concerned, was the tremendous desire to drive up stock prices. Stock prices were driven up by driving up earnings estimates. Enron, WorldCom, and the rest of these companies did everything they could to create the notion that they had tremendous earnings. They drove it up partly by leverage. Leverage, by definition, means borrowing, and they were borrowing because they could deduct the interest. They could get the money, they could deduct the interest, they could produce the leverage, and in the case of Enron they could lie about it. Make no mistake, there was tremendous greed and chicanery going on, but the whole system was geared towards debt as the primary source of capital.

If you go to the equity market and try to entice people to give you sound equity investments, you have to say to them, we cannot pay you a return on your investment because dividends are taxed at an effective 60-percent rate, so your only return on investment will be if you can sell your shares to somebody else at a higher price than you bought them. Sound like tulips? Yes, there is some similarity. The greater fool theory—the bigger fool theory: I buy this stock hoping that there is a bigger fool than me out there who I can sell it to at a higher price.

That is not really the way the stock market works, but that is the way it seemed to work in the late 1990s. Remember when Alan Greenspan warned us against irrational exuberance in the stock market? The Dow was at 6,000. Today, it is over 8,000, and we are saying it is the worst economy in 50 years. It got to 12,000 before tulip time finally hit and it backed down.

If we change the situation so a company can go to the equity market and say, if you give us equity capital instead of going to the debt market to get debt capital, we can give you a return on your equity capital that will only be taxed once, we can give you a return that will make it logical for you to hang in with us over the long term, even if the stock does not go up immediately in the short term, you can hold the investment because you are going to get your dividends and your dividends are only going to be taxed once. This is a structural change that the economy badly needs. This is a structural change, once again to quote the guru that has been talked about, that Alan Greenspan has endorsed as good for the economy. This is a structural change that can begin to address the question of the weaknesses in the economy that can have long-term consequences. And this is a structural change that will make us more competitive with the rest of the world because the rest of the world does not tax dividends at the same rate we do.

That is what this debate really should be about. It should not be about numbers: Is 350 too little or is 350 too much? Is 724 too big or is 724 too little? It should be about whether these proposals work. I believe they will.

If we have identified that they will work, then the question is, How much money do we need to put in the budget to allow them to go forward?

So the number comes after the decision of whether the program makes sense rather than the number driving the program. In my opinion, this is a gamble well worth taking.

Back to the total tax take that we are talking about, where the 2.4 percent of the estimate is within the margin of error, this is not a serious gamble. In my opinion, if one were to say, OK, we are going to cut this in half at 350 so the 2.4 percent goes down to 1.2 percent, that is really what we are talking about, 1.2 percent of a $30 trillion pie when the evidence is overwhelming, in my view, that the dividend thing will work.

How does it have to work in order to pay for itself? It has to make the economy 1.2-percent more efficient. The studies out of the business roundtable from the econometric model down at the University of Maryland say this will add 2 points to GDP growth. What will happen to this $30 trillion pie if it grows at 2 points higher than the present estimate? It is a gamble worth taking. That is why I oppose this amendment.

Mr. CONRAD. I yield myself such time as I may consume.

Mr. President, the reason I inquired of the Senator what his chart depicted was that he has only shown the tax cut advocated by the President that has already been implemented. He did not show the additional effect of the tax cut the President has proposed, which is even larger than the one that has already been implemented.

He showed on his chart that 25 percent of the $5.6 trillion surplus went to the President's first tax cut. He does not talk about the additional tax cut that costs $1.9 trillion when you add the associated interest costs.

Second point: On the Senator's chart he attributes the additional interest cost of the tax cut to spending. Any fair allocation of the additional interest costs from the tax cut has to be attributed to the tax cut, not to spending.

Those two things change the picture quite dramatically. What we see is, over the decade, if you take the President's tax cuts already implemented and the tax cuts proposed, and attribute the interest costs of the tax cuts to the tax cuts, the biggest culprit in the disappearance of the surplus, and in fact, moving to deficit, is the tax cuts.

The Senator makes a very important point on what will work. The Senator believes the additional tax cuts the President has proposed will help grow the economy. I don't believe it. Not only don't I believe it, but a whole group of economists do not believe it.

This chart is the work of Macroeconomic Advisors. These folks are under contract to the White House, they are under contract to the Congressional Budget Office to do macroeconomic analysis. What they have concluded is the President's plan will give a short boost—this is the green line—if you do nothing; the black line is if you do the President's policy. After 2004, they say the President's plan will actually reduce growth from what we would have if we did nothing. Why? Because they say, as Chairman Greenspan has said, you will get a crowding out effect because the President's tax cuts are not financed by cutting spending, they are financed by borrowing the money.

You cannot borrow your way to prosperity. What happens when you borrow the money is you reduce the pool of societal savings; you reduce the amount of money available for investment; you reduce economic growth.

Let's talk about real world tests of that theory. In the 1980s, we had a real world test of the notion of running deficits and having tax cuts and that would spur the economy.

Let me finish, and I will be more than happy to yield.

Mr. BENNETT. I just want to talk about your chart.

Mr. CONRAD. Let me complete this thought, and I will be happy to talk about this chart or your chart or other charts.

In the 1980s, we tried the big tax cut, the big deficits. In the 1990s, we tried the alternative, which was to eliminate deficits and to have restraint, to reduce spending, actually increase revenues.

I have a chart that shows the long-term spending revenue. This is a very important debate to have. The red line shows spending from 1981 projected out to 2018. The red line is spending as a percentage of GDP, which the Senator from Utah indicated is an appropriate way to judge these things. I agree entirely. The blue line is the revenue line.

In the 1980s, we had an enormous gap with big budget deficits. Spending went up to over 23 percent of gross domestic product. In 1993, we passed a plan to bring down spending and to raise revenue. We did them both. The economy was weak. When we did that plan, we were told by the other side it would crater the economy. We were told: You are going to increase deficits; you are going to decrease economic growth. I can remember the debate in the Senate so well, being told it would crater the economy.

They were wrong. We raised revenue, we cut spending, and we helped a surge of economic growth unprecedented in our history, the longest period of sustained economic growth in U.S. history, the lowest unemployment in 30 years, the lowest inflation in 30 years. We turned deficits into surpluses, and we did it the old-fashioned way; we got revenue above expenditures.

Now look at what happened. Our friends are showing the chart. It is true, revenue collapsed. Part of that is the tax cuts. It is true that spending has gone up. Why has spending gone up? Where did the spending go? In 2001, 73 percent of the increase in spending went to national defense. We all supported it. Fifteen percent of the increased spending went to homeland security. We all supported it. And 7 percent went to New York City relief. We had to rebuild New York. We all supported it.

In 2002, 55 percent of the increase went to national defense, 21 percent to homeland security, 19 percent to rebuilding New York; 95 percent of the spending increase in those 2 years was national defense, homeland security, rebuilding New York.

In 2003, 73 percent is defense, 15 percent is homeland security, and 88 percent of the spending increase went for the purposes of homeland defense and national defense.

That is where the money has gone. We all supported it. The question is, How are we going to pay for it? What my colleagues are proposing is to keep the revenue line down below the spending line for the entire rest of this decade.

The reason that is so dangerous, in this Senator's opinion, is this decade is like no other in our economic history. What is coming is not a projection. What is coming is the retirement of the baby boom generation that is going to double the number of people eligible for Social Security and Medicare. It will explode the cost to the Federal Government of those two programs.

Those programs right now are throwing off big cash surpluses in their trust funds, but in the next decade they start to go cash negative. When they do, that is the very time the President's tax cut, which is the red bar—the trust fund is green, and blue is Medicare-Social Security surplus, the red is the President's tax cut—the very time the costs explode, the costs of tax cuts explode, leading to deficits totally unsustainable.

We just got released today the results of the Federal Open Market Committee meeting of January 28 and 29. There is a lag before the releasing of the results of the meeting. Here is what the report says: A number of members expressed the hope that the legislation would not encompass provisions that would lead to permanently large Federal deficits with negative consequences for the economy over the longer term.

That is precisely what is wrong with the President's plan and wrong with the budget plan from the committee. It is going to lead to large budget deficits over time. That is going to hurt economic growth. Don't take my word for it. The deficits in the budget resolution are right here. They are large and continuing. The President's own documents go out to 2050 and they show these are the good times. Even though they are record budget deficits now, his own documents, page 43 of "analytical perspectives," show the deficits now are the good times because, as you go forward and adopt the President's policy, the cost of the tax cuts explodes at the very time the cost of the retirement of the baby boomers explodes and you have deficits of such enormous size: 10 percent, 11 percent of GDP, 2 ½ times what they are today. That is totally unsustainable.

The conclusion of many economists is those tax cuts will actually hurt economic growth. It is the dead weight of those deficits and debt that will hurt economic growth. The fundamental reason is the President's tax cuts are not offset by spending reductions. He is not proposing offsetting them by spending reductions. He is proposing increases in spending. I do not fault him for that. He is talking about increasing defense—we have to do it; increasing homeland security—we have to do it. But we have to pay for it. If we do not, on the eve of the retirement of the baby boom generation we will saddle this country with so much deficit and so much debt that it will serve as a dead weight on this economy and it will inhibit, it will limit, it will reduce the pool of societal savings, and it will reduce the amount of money available for investment.

I am not going to take longer. I could go on, on this subject, for a long time. But I am happy to respond to an inquiry from my colleague.

Mr. BENNETT. Mr. President, if the Senator will put back the one chart, I would like to address that chart. The one which the Senator quotes as coming from the President.

Mr. CONRAD. Yes—no, this is not from the President. This is from Macroeconomic Advisers, which is under contract to the White House and under contract to CBO.

Mr. BENNETT. Under contract to the White House.

Mr. CONRAD. Yes.

Mr. BENNETT. First, let me say, in another time and place, and I know others wish to speak, I think the Senator and I could explore this at some greater depth. I agree with him absolutely that the problem is ahead in the retirement years of the baby boomers. The place where we differ is whether this proposal the President has put before us will prepare us for a more efficient economy in that period and thereby give us the strength we need or whether it will do damage. The Senator obviously believes this proposal will damage the economy. I, obviously, believe it will better the economy.

As long as we are quoting economists back and forth, I once again say that Alan Greenspan has endorsed the dividend thing as a logical long-term structural change.

Mr. CONRAD. Could I just say on that point, you have to read very carefully what Chairman Greenspan said. He said the dividend proposal, as long as it is revenue neutral—not financed by borrowing—is good for the economy. If it is financed by borrowing, it is not good for the economy.

Mr. BENNETT. When Mr. GREENspan comes before the Joint Economic Committee, I will explore that with him in depth, so we can get it nailed down.

The point I want to make off the Senator's chart, where he has the black line demonstrating the impact of the President's policy and the green line representing the base, he shows the President's policy would indeed produce a significant beneficial change in 2004.

The question, of course, is whether or not the projections beyond that are reliable. Once again, my experience in this body is that everything gets changed year to year, as you go forward. To get us out of this soft patch we are in, it would be very nice to have that kind of a spike in 2004.

But even if we accept the chart exactly as it is presented, is it not true that the black line ends up, long-term, above the green line? That in the years out there, it shows the long-term impact of the President's proposed policy is a better economic result than the baseline, and that, if it is true, is the argument I am making that the long-term structural change of the President's proposal will give us, long term, a healthier economy, and long term is where the Senator and I both agree the problem lies.

With that, I do not want to prolong this. I have taken up too much of the Senate's time on it and I appreciate the indulgence of my colleagues as I have gone on. I appreciate the openness and candor and expertise of the Senator from North Dakota.

Mr. CONRAD. I have enjoyed this debate. Let me just say to my colleague, I wish I had—I am asking my staff to get it, but I do not want to interrupt the discussion any further.

Let me just say the text of the analysis from Macroeconomic Advisers makes clear they believe the long-term impact is negative. Because of the crowding-out effect, because it is borrowed money, it is because that reduces the pool of societal savings. I have loads of other economic analysis that concludes the same thing. It is what I believe. I think it is a mistake. That is where we differ.

I am not going to interfere any further in this other discussion we promised people they could have. How much time is the Senator seeking?

Mr. BOND. I ask for 20 minutes.

Mr. CONRAD. I yield 20 minutes to the distinguished Senator from Missouri.

Mr. BOND. Mr. President, let me express my sincere thanks to my good friend from the Dakotas, and thank him for the work he has done on the Budget Committee as the ranking member. I thank my friend from Oklahoma, the chairman of the Budget Committee, as we are seeing that being on the Budget Committee is one of the most thankless jobs around. You have to read economic analysis, tons and tons of pages, and 50-year economic analyses. Then you come out with a bill that is a series of numbers. It is all supposed to work out. Then people like me come along and try to change it. It is with some experience on the Budget Committee that I express my appreciation for the work that has been done.

Mr. CONRAD. I thank the Senator.

AMENDMENT NO. 358

Mr. BOND. Today, along with a number of my colleagues, I want to address an amendment which is at the desk, amendment No. 358 to the Senate budget resolution. I am very pleased to be joined in this by Senator REID of Nevada, Senator INHOFE, Senator JEFFORDS—all three from the EPW committee—as well as Senators SHELBY, SARBANES, WARNER, MURRAY, MURKOWSKI, BYRD, CHAFEE, FEINSTEIN, COLLINS, SPECTER, LEVIN, LOTT, REED of Rhode Island, and BROWNBACK.

This amendment would increase the budget allocations to $255 billion for highway infrastructure, and $56.5 billion for mass transit needs over the 6-year period fiscal year 2004 to fiscal year 2009.

Before these numbers startle some of my colleagues and good friends, like my friends on the Budget Committee, let me remind my colleagues we are not abandoning the "user pays" concept of the Highway Trust Fund. In fact, over the past several years, a great deal of money has been stolen or diverted out of the Highway Trust Fund, paid in by highway users, that rightfully should have gone for road improvements.

For example, highway users started paying a 2.5 cent tax in 1990 with the Omnibus Budget Reconciliation Act of 1990 that never went to road improvements. It went to the general fund instead. The tax even grew to as high as 6.8 cents in 1994 and 1995, and over the years, highway users have paid well over $40 billion—that is a conservative estimate—$40 billion which never went into the highway trust fund.

In addition, the highway trust fund lost revenues as a result of alternative fuel vehicles. I support alternative fuel vehicles, whether they run on hydrogen or electricity or some other form of energy. But we also must remember that these alternatively fueled vehicles travel on the roads. They use the roads. They crowd the roads. They are, in fact, burdens on the roads. And they must somehow pay some share, just as those vehicles fueled by gas or diesel pay for a share.

Some very significant constituents have spoken out about the needs for the highway trust fund. I have letters of support, that I will offer later, from affiliated labor unions engaged in transportation, construction, and the broader Transportation Construction Coalition, the Highway Users Alliance, the U.S. Chamber of Commerce, the National Governors Association, and others.

I daresay we have all heard from our respective State transportation officials, our metropolitan planning organizations, from our labor unions, our friends in the transportation industries, and others about the needs. But perhaps more importantly, we have all seen the congestion, the potholes covered with steel plates, the bridges down to one lane.

If any of you who have done what I have done, and had an open meeting in a townhall forum in the last several months as we came up on the reauthorization of TEA–21, you have heard that our citizens are concerned about inadequate transportation. They are really chafing at the bit because in too many areas our country is strangling.

Now, we have all waited in traffic, hoped our car's alignment would not be permanently damaged, and looked down through a bridge to see the water below.

We have also comforted far too many friends and families who have lost loved ones because of unsafe roads or bridges. I still correspond with families who have made getting decent highways their cause to remember a loved one who was killed because of an inadequate highway system with too much traffic on it.

Our Nation has some needs. This little chart shows in red what the President proposed in his budget. What the Budget Committee has come out with is shown in green. And what this Bond-Reid amendment would do is shown in blue. As you can see, these start going up a little bit.

You may ask, what is this big yellow line way up here above all of them, even well above the blue line? Well, it is simply this administration's own estimate of the cost simply to maintain the current system; that is, not to get it any better. Just to keep it as it is, we should be spending this much, as shown in yellow. Right now, this budget has us spending what is shown in the green. We really need to get up at least to this high, as shown in the blue, so we can begin to try to keep up with the needs.

We know our Nation's transportation needs are staggering and our constrained transportation system is costing our country a whole lot of time and money. We know it is time to do something about it.

The transportation system is a lifeline of our country and our economy. I was a student of American history. The economic history of America really began when railroads tied together this

Nation and brought it as a whole economic unit. Railroads were the tie that bound us together in the 19th century. In the 20th century, it became the highway system. The highway system provides mobility. It provides transportation for economic activities. It, in essence, brings jobs.

I can tell you, in the years I spent as Governor of Missouri, I spent an awful lot of time working on economic development. It was one of my top priorities. And I could see, economic development was going by where the roads went. If you build a good four-lane road, jobs will go there.

Jobs and economic opportunity require good transportation. Not all jobs. We have e-mail and telecommunications. But distribution requires a good transportation system.

I can tell you, for the 21st century, it is not only good railroads, it is not only good roads and highways, it is good transportation systems, it is good air transportation, it is good water transportation, and it is good mass transportation that is going to be essential for our growth.

Looking at the road side of it, in my home State of Missouri the problems are diverse and complex. To highlight just a few of the glaring examples: Commercial truck traffic is expected to increase 89 percent by the year 2020. The cities of St. Louis and Kansas City spend over $1 billion each year on costs associated with traffic congestion. Fatalities on Missouri highways are considerably higher than the national average—nearly 7,000 people were killed between 1995 and 2000 on our highways.

How will this broad range of problems be adequately and appropriately addressed? The answer simply is investment—investment in the future of our Nation's surface transportation to promote safety, to increase employment, to decrease congestion, and to enhance security.

In order to meet these needs, Federal, State, and local government investment will have to be significantly increased. Our amendment we offer today will allow it to do so at a very modest rate compared to the true needs, but without raising gas taxes and diesel taxes at this time.

I want to emphasize to my colleagues, this transportation responsibility is a duty of the Federal Government. Road building is one activity that the Government should administer but in coordination with the private sector and other levels of government. If we do not want the responsibility at the national level, or if we are unwilling to fund it, then let's quit calling our I–70s, our I–80s, our I–5s, our I–95s, and our other interstates by those names.

When President Dwight Eisenhower first proposed the interstate highways, if I remember correctly—I was a youngster at the time—our Nation's defense was the primary focus, the national defense highway system.

Now terrorism threatening our homeland requires an adequate defense network to get the people, the law enforcement, the military, to prevent actions, to bring in responders where there is an action, to give people a means away from an area of danger. These all require good roads and highways.

To demonstrate the enormity of this crucial task of relieving congestion and building highway infrastructure, we have to examine the costs involved. A report by the Nation's State transportation officials found that $92 billion will be needed on an annual basis just to maintain the current conditions of highways and to keep traffic from getting worse.

However, if our goal were to be as I think it should be—to improve significantly the overall condition of U.S. highways, enhancing safety standards, reducing traffic congestion; a goal that I think is critical to the protection of American lives as well as our economy, the study showed that more would be needed, a total of $125 billion annually.

Now, those figures do not even include the additional $19 billion in capital investments required each year to maintain existing road conditions and service levels. Clearly, this will be a massive and expensive effort.

Increased funding for transportation will also have other beneficial effects. It creates jobs at a time when many businesses around the country are heading in the reverse and are contracting. The added investment for transportation will serve to directly stimulate the economy. Every billion dollars of investment is 47,000 jobs.

Naturally, this will contribute to the prosperity of American communities by bringing a wide variety of benefits to people in every State and every location across the country. The increased investments in roads will help satisfy many of our needs currently and for the future.

Unfortunately, the administration's 2004 budget provides allocations that remain wholly inadequate for conquering the ever-growing needs of the people who use our Nation's transportation infrastructure. It is the status quo funding.

Again, our amendment will increase spending authority on highways to $255 billion and on mass transit to $56.5 billion over the 6-year life of the TEA–21 reauthorization bill. As my colleagues know, a budget resolution amendment is all about numbers and not about specific requirements. However, I will offer some ideas and thoughts because there is a menu of sources and options, so you can understand where that money comes from.

Let me go over a few of the aspects. The $255 billion increase over the budget, where does that come from: 5.2 cents on the ethanol tax incentive fix, something the Finance Committee is going to work on; spending down the trust fund balances. This was proposed by the President in his budget, and it is proposed in the Budget Committee's markup that we extend that. We provide interest credit on the balances, and we restore a lost $8 billion in TEA–21; $8 billion just disappeared from the trust fund. We put that back. We maintain the historic relationship between contract authority and obligation limitations. I will forgo a description of the contract authority and obligation limits. I don't think it is necessary to add further confusion at this point. But let me say we straighten out the problem that the underlying budget amendment has.

Then we ought to have fair share funding for alternative fuel vehicles—electric hybrids, natural gas, recognizing the loss to the fund for these vehicles which pay little or nothing into the trust fund but cause the same damage to roadways. This is vitally important, as is cracking down on tax evasion and compliance initiatives, dealing with those who avoid the taxes or otherwise have been excluded from paying for their use of our roads and highways.

This increased investment authorized by our amendment will decrease congestion, enhance security, help to create jobs, stimulate the economy, and, most importantly, will save American lives by improving safety on the highways.

These are the highway-related fatalities in thousands, beginning with 39.3 thousand in 1992, reaching as high as 42.1 thousand in 1996, and again in 2001, over 40,000 people killed in each of these years, too many of them because of inadequate highways. It is not an option to stand idle in the wake of these conditions.

I urge my colleagues to support our amendment. I ask unanimous consent to print letters of endorsement for this proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 18, 2003.

DEAR SENATOR: As the Senate begins debate on the Fiscal Year (FY) 2004 Budget Resolution, the 28 national associations and labor unions working together in the Transportation Construction Coalition urge inclusion of the highest level possible for investment in highway and public transportation infrastructure programs. This is particularly critical, as later this year the Congress must work to reauthorize the Transportation Equity Act for the 21st Century (TEA–21).

Unlike many federal initiatives, investment in improved transportation infrastructure provides tangible benefits that impact the safety and quality of life for every American on a daily basis. An efficient transportation infrastructure system is also a key component of national security and emergency response activities.

The U.S. Department of Transportation (USDOT) surface transportation Conditions and Performance Report just sent to Congress provides data clearly showing that a $375 billion federal investment in the federal-aid highway and public transportation network is necessary over FY 2004–2009. This federal share is the amount necessary to begin the process reducing highway deaths and injuries, and the traffic congestion that is costing the nation $67 billion per year in lost productivity and wasted motor fuel.

The USDOT report shows that a $50 billion per year federal highway investment is necessary to simply maintain the current physical conditions and system performance of the nation's highways and bridges. A $12 to $14 billion annual investment in public transportation, the report suggests, is necessary to meet our pubic transportation needs. To actually improve these vital facilities, greater levels of investments are necessary.

The bipartisan leadership of the Senate Environment and Public Works Committee (EPW)—and perhaps other senators—will offer amendments to increase transportation funding in the FY 2004 Budget Resolution. We urge you to support the Senate EPW amendment, which would provide a very significant step forward toward meeting the needs identified by the USDOT through the TEA-21 reauthorization process.

Sincerely,

The Transportation Construction Coalition.

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National Heavy
& Highway Alliance,
*Washington, DC, March 18, 2003.*

Dear Senator: During the debate on the Fiscal Year 2004 budget resolution, there is likely to be an amendment offered by the bipartisan leadership of the Senate Environment and Public Works Committee. The purpose of the amendment will be to increase spending for the federal-aid highway program from FY 2004 to 2009 to a $255 billion investment level. In addition, the amendment will also increase federal transit spending to the $55 billion level over the same time period.

Given the recent US Department of Transportation's Conditions and Performance Report, the proposed amendment seriously begins to address our country's surface transportation needs. The funding level contained in the Senate Budget Committee's resolution is completely inadequate to either maintain or improve our highway and transit infrastructure systems as reflected in the DOT Report. We commend the leadership of the Senate Environment and Public Works Committee for realistically addressing the critical surface transportation needs in our country.

We strongly urge you to support the higher investment levels in the proposed amendment to help stimulate our economy and to create jobs.

Sincerely,

Raymond J. Poupore,
*Executive Director.*

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National Governors Association,
*Washington, DC, March 19, 2003.*

Hon. Bill Frist,
*Majority Leader, U.S. Senate,*
*The Capitol, Washington, DC.*

Hon. Thomas A. Daschle,
*Democratic Leader, U.S. Senate,*
*The Capitol, Washington, DC.*

Dear Senator Frist and Senator Daschle: As you debate the fiscal year (FY) 2004 budget resolution, the nation's Governors would like to reiterate the importance of adequate transportation funding levels. The nation's Governors support growth in Highway Trust Fund revenues and an increased federal funding commitment to transportation to enable states to maintain safe, secure, and reliable highway and transit systems. Decisions made during consideration of the pending FY 2004 budget resolution will have irreversible impacts on our nation's transportation infrastructure as Congress moves to consideration of the transportation reauthorization legislation later this year.

Transportation infrastructure is the engine that powers our economy. Investments in surface transportation and highway projects provide greater returns than any other area of government spending. In fact, for every $1 billion of federal highway investment, 42,000 jobs are generated. The transportation industry accounts for 11 percent of the nation's economic activity, and accounts for one out of every five dollars of total household spending.

TEA-21 significantly increased investment in our nation's transportation system by increasing funding levels to help meet our transportation needs. Historically, however, investment levels in surface transportation have been insufficient to meet the growing transportation needs of our country. In order to maintain the transportation system now in place and address myriad pressing needs, revenues invested in surface transportation must be increased.

On behalf of the nation's Governors, we thank you for your leadership and attention to the transportation needs of our country.

Sincerely,

Paul E. Patton,
Dirk Kempthorne,
*Governors.*

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The Associated General
Contractors of America,
*Alexandria, VA, March 19, 2003.*

Hon. Harry Reid,
*U.S. Senate, Senate Hart Building,*
*Washington, DC.*

Dear Senator Reid: As the Senate debates the Fiscal Year 2004 budget resolution, the Associated General Contractors of America (AGC) urges you to support the Bond-Reid-Inhofe-Jeffords amendment to increase highway and transit funding in the legislation. The amendment would allow highway funding to be increased to $255 billion and transit funding to $56 billion over the six years in the upcoming reauthorization of the Transportation Equity Act for the 21st Century (TEA-21).

The importance of substantially increasing funding for our surface transportation programs is well documented. A report by the American Association of State Highway and Transportation Officials (AASHTO) found that the current $65 billioin annual level of highway investment by all levels of government will have to increase by 42 percent, to $92 billion annually, to keep highways in their current condition, including keeping traffic congestion from getting worse.

The AASHTO report found that it would take nearly doubling current highway investments, to $125 billion annually, to imporove significantly overall conditions of the nation's highways, including improvements in safety and reduction in traffic congestion.

To begin addressing these documented needs we must boost investment in the highway and transit programs. The Bond-Reid-Inhofe-Jeffords amendment will help address the investment shortfall. AGC urges you to suppoort this amendment, which will enable us to address the needs and improve our highway and transit systems.

Sincerely,

Peter J. Loughlin,
*Executive Director,*
*Governmental Affairs & Federal Markets.*

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American Road & Transportation
Builders Association,
*March 19, 2003.*

Dear Senator: Thursday, March 20, the U.S. Senate will start debate and then cast votes that will determine the level of surface transportation program funding that will be included in the FY 2004 Budget Resolution. This will be the first important vote in Congress this year on future highway and transit investment. The funding levels adopted in the Budget Resolution will likely frame the parameters for the Senate TEA-21 reauthorization bill that will authorize annual federal highway and transit investment levels through 2009.

The bipartisan leadership of the Senate Environment & Public Works Committee and other transportation supporters will offer an amendment during the Thursday morning debate that would boost the Budget Committee's recommended highway funding contract authority level by at least $49 billion over six years. The Bond-Reid-Inhofe-Jeffords Amendment would set total highway investment over FY 2004–FY 2009 at $255 billion—an average $42.5 billion annually. The amendment would set transit investment over the period at $56.3 billion—or an average of 9.4 billion annually. This amendment would go a long way toward closing the $13 billion per year "maintain existing conditions and performance" federal highway investment gap and transit needs detailed in the U.S. Department of Transportation's 2002 report to Congress.

The federal highway and transit program should be considered one of the nation's most important weapons in the fight to improve public health and safety. Forty-two thousand Americans die each year on America's roads. Over 3 million Americans are injured annually in motor vehicle crashes. Traffic accidents are the leading cause of death of Americans 6 to 28 years of age and result in more permanently disabling injuries to young Americans than to any other type of accident.

These grim statistics should be an outrage to every American. Particularly when poor roadway conditions or outdated alignments are a factor in nearly one-third, or 14,000, of those deaths annually, according to the U.S. Department of Transportation. This unacceptable safety performance can be addressed by upgrading the overall conditions of our highway system, by increasing overall surface transportation capacity, building more forgiving roads, and targeting road and bridge improvements that have documented positive cost-benefit ratios.

Motor vehicle crashes cost American society more than $230 billion each year, according to the National Highway Traffic Safety Administration. That's more than six times what the federal government is investing in highway and public transportation improvements this year.

Without surface transportation capability additions, traffic congestions will also continue to increase in all major U.S. urban communities, according to the Texas Transportation Institute's 2002 Urban Mobility Report. The economic cost to the nation in lost productivity and wasted motor fuel caused by traffic gridlock will grow from $67.5 billion in 2000, to almost $100 billion by 2009.

> Please vote for American jobs, safety and mobility by increasing transportation investment in the FY 2004 Budget Resolution. We urge you to co-sponsor and vote for the bipartisan Bond-Reid-Inhofe-Jeffords Amendment to the FY 2004 Budget Resolution. Thank you.
>
> Sincerely,
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> ———.

Mr. INHOFE. Mr. President, I come to the floor to ask my colleagues to support the Bond-Reid amendment to S. Con. Res. 23 which increases funding for highways to $255 billion and increases funding for transit to $56.5 billion. The amendment does not assume a tax increase. Nor do I take lightly that I am asking my colleagues to increase spending. Let me be very clear on this next point. This amendment does not have to mean deficit spending. There are choices we as a body can make to offset the increased spending. I share the same reservations that many of my colleagues do about deficit spending.

Normally, I would be down here urging you to vote against any such amendment. I would like you to consider the following before you make up your mind on this amendment.

The primary purposes of federal spending are to support a strong national defense and to invest in and maintain a strong national infrastructure.

Unfortunately, we are coming out of an extended period in which we neglected defense spending and we are now having to play catch up. During the Clinton administration, 1993–2001, defense spending was $407 billion under the rate of inflation. Yet during that same period, government spending increased. This increased spending went to domestic programs. I personally believe that, given this wartime environment, those domestic programs should now shoulder an across the board cut. I am not here to make that argument today, but rather to discuss the importance of increased transportation spending.

Projected highway trust fund receipts do not support the level of spending in the amendment. However, we need to be honest in our analysis and recognize that the lag in trust fund receipts is temporary because of a slow economy and a sharp increase in the cost of fuel. Once the economy recovers and gas prices stabilize, receipt will increase above the current projections. Additionally, we need to get the revenue currently lost to the trust fund from users of the system who do not pay their fair share.

As much as it pains me to say this, this budget resolution fails to provide sufficient funding to maintain our nation's infrastructure, much less improve it. The Federal Highway Administration's, FHWA, recent 2002 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance report states the following:

> . . . maintaining the overall conditions and performance of highways and bridges at current levels would require significantly more investment by all levels of government. . . . the average annual investment [needs] to be . . . 17.5 percent larger.

The resolution before us sets spending at $30.5 billion in FY04, increases it to $35.1 billion in FY05 and then flat lines it at that level through FY09, for an average investment of $34.3 billion per year. This represents a significant shortfall of over $80 billion from 2004 to 2009 to simply maintain the existing system.

Again, quoting from the Conditions and Performance report:

> Despite the historic investments in highway infrastructure and improving conditions on many roads and bridges, operational performance—the use of that infrastructure—has steadily deteriorated over the past decade. In 1987, for example, a trip that would take 20 minutes during non-congested periods required, on average, 25.8 minutes under congested conditions. By 2000, the same trip under congested conditions required 30.2 minutes, or an additional 4.4 minutes.

Colleagues, this resolution simply does not adequately address the needs. The Bond-Reid amendment sets a reasonable spending level of $39.2 billion in FY04 and moves us in a direction that at least maintains existing infrastructure.

My colleagues on the Budget Committee will argue that this amendment breaks the link between user fees and highway spending because it does not assume an increase in gas taxes. That is not correct. We can pay for this increased spending as I will outline. In the final analysis, the relevant Committees and this body will determine the best ways to pay for this amendment if we choose to do so.

I will now talk about how we can increase spending on transportation and pay for it without increasing the deficit.

First, the trust fund needs to be reimbursed the $8 billion in highway user fees that were transferred to the general fund during the drafting of TEA21. Those were dollars paid by highway users and should be used on highway infrastructure. This is a moral issue. When the motorist pays the gas tax at the pump, they rightly expect that the dollars they pay in taxes will be used for transportation infrastructure. We broke faith with them when we allowed the $8 billion transfer to the general fund.

Furthermore, we as a nation have made some policy choices to encourage the use of certain fuels that cost the highway trust money. Most of us understand that the 5.2 cent tax incentive for ethanol use comes directly from the highway trust fund because ethanol users do not pay the full 18.4 cents per gallon. I believe most would agree that the highway trust fund should be compensated for this amount which is estimated to be over $9 billion. A vehicle that uses an alternative fuel creates the same wear and tear on the system as a gasoline powered vehicle.

Additionally, there is a national policy to encourage the purchase of hybrid and electric vehicles. While these vehicles address an important policy goal of promoting clean burning transportation, they also cost the highway trust fund money. They either pay a limited amount of fuel taxes because their vehicles are hybrids, or in the case of electric vehicles they do not use gasoline at all and thus do not pay anything into the highway trust fund. Yet the highway trust fund is expected to pay for the infrastructure for their use. Currently there are 640,000 hybrid vehicles on the road. It is estimated that by 2009 there will be 5 million. This is going to be a real problem in the future in terms of how we fund transportation infrastructure. It is irresponsible to not address this before it becomes a crisis. We need to work now on coming up with a fair mechanism whereby the highway trust fund is compensated for these vehicles using the highway system. I believe that could result in up to $10 billion of new revenue into the trust fund.

Indexing the current gas tax to inflation would result in about a one-half cent increase per year and yield $17 billion from 2004–2009.

Additional options include:

Interest on the trust fund cash balance—$3 billion plus;

Fuel Tax Evasion Measures—$6 billion;

Lost interest on the $8.1 billion transfer—$2 billion;

Retroactive Interest on TEA-21 cash balance, 1991–2003, $4.5 billion;

Bonding—$30 billion, American Association of State Highway Officials;

Clinton Gas Tax Increase Paid into General Fund—over $40 billion.

On this last option, I realize it is not feasible, but that does not take away the fact that this money belongs to the highway trust fund.

Added together, these ideas generate more than enough to offset the increased spending proposed by this amendment.

Again, I oppose deficit spending and will not ask my colleagues to do so. If I did not believe that there was a way to get this spending without increasing the deficit, I would not be down here today asking you to vote for it. Personally, I support across the board cuts to pay for the amendment, but again, I recognize others do not share my feelings on this and so I have given several very viable options from which to choose.

Finally, I realize that in times of economic downturn and the war, Senators are hesitant to further increase spending. I don't think my reputation around here is that of someone who goes out of his way to increase government spending. I would hope that most recognize that I am a strong advocate of slowing down the rate of government spending and in most cases I favor cutting spending. In this instance, I believe it is the right thing to increase spending because we cannot strengthen our economy unless we have an efficient transportation system. In order to improve our transportation system we need to invest significantly more than is assumed by this budget resolution.

Today's vote is the first step in drafting a bill that will govern how and where our transportation dollars are spent. If we short change ourselves today we won't get a bill that improves transportation or adds to the national economy. I ask you give the Environment and Public Works Committee the head room we need to write a bill.

Support the Bond-Reid amendment and know that it can be done without increasing the deficit by using some of the above mentioned options.

Mr. SHELBY. Mr. President, I rise in support of the amendment offered by Senator BOND which I am pleased to cosponsor along with a number of my colleagues. This bipartisan amendment would increase highway spending to $255 billion and transit spending to $56.5 billion over the next 6 years.

This amendment is essential to provide for continued growth in the Federal investment in mass transit and highway infrastructure across the country. Together, these increases will ensure that much needed resources are in place to help meet our Nation's staggering surface transportation needs.

The Transportation Equity Act for the 21st Century, TEA–21, expires on September 30, 2003, and as we move forward, it is important that we maintain our commitment to improving the nation's transportation systems. I believe it is critical that we invest significantly in transportation funding in order to address the growing demand for new and safer roads and new and better transit systems for all communities. Our transportation systems connect America.

Continued investment in these areas helps to relieve congestion, stimulate the economy, improve productivity and generally enhance the quality and safety of our highways and transit systems.

Federal, State and local investment in our Nation's transportation infrastructure is vitally important to a growing economy. The U.S. Chamber of Commerce has estimated that each $1 billion invested in transportation creates 47,500 jobs.

Additionally, the Federal investment that we are proposing today will leverage State and local dollars, as well as generate significant private investment in local communities all over this country.

This amendment provides additional resources necessary to maintain the gains that have been made in mass transportation and highway infrastructure development. Recognizing these benefits, since 1982, transit has been allocated 20 percent of all new surface transportation funding. This amendment will assure that this balance in funding between highways and mass transit is continued.

Under this amendment, in fiscal year 2009, transit would be allocated 20 percent of total amount of highway and transit funding. This is particularly important because we have seen evidence that improvements in mass transit have stimulated economic growth and enhanced the quality of life for millions of Americans.

This amendment provides funding to assure that the highway and transit infrastructure is in place to allow our economy to continue to grow. I urge my colleagues to support adoption of this amendment.

Mr. BYRD. Mr. President, I am pleased to join with several of my colleagues to offer an amendment to boost transportation funding for the 6-year period to be covered by the next highway bill.

The enactment of a new surface transportation bill will be a mammoth task for the 108th Congress. No group of Senators is more familiar with the depth of this challenge than the principal cosponsors of this amendment.

In my more than 56 years in elected office, I have always served in a legislative body. I served in the West Virginia House of Delegates and the West Virginia Senate. I served three terms in the U.S. House of Representatives before joining the Senate roughly 45 years ago. Over all those years, I have been called on to vote on thousands of amendments. As such, I learned a long time ago to take careful note, not just of the substance of each amendment, but also who is offering it.

As such, I ask all Senators to take careful note of the principal cosponsors of this amendment. They include the chairman and ranking member of the Environment and Public Works Committee; the chairman and ranking member of that committee's Subcommittee on Surface Transportation; the chairman and ranking member of the Banking, Housing, and Urban Affairs Committee; the ranking member of the Appropriations Committee; and, the chairman and ranking member of the Transportation Appropriations Subcommittee.

What unites all these Senators is an acute knowledge of the challenges that stand in front of us as we seek to reauthorize the TEA–21 law. What also unites us is an acute knowledge of the true needs of our transportation system, whether it is the need to renew our aging highway infrastructure or expand the capacity of our mass transit systems. While we are required to reauthorize every 6 years, many of us face these issues every year. Indeed, both Senators BOND and REID, in addition to their authorizing responsibilities, serve with me on Senator SHELBY's and Senator MURRAY's Transportation Appropriations Subcommittee. Just last month, we all worked together to reject the Bush administration's attempt to cut highway spending by some $8.6 billion. We were successful in restoring almost every penny of that cut.

But when we assess the current conditions of our highway system and the growing demands our society places on that system, each one of us knows that holding steady at the current level of funding is simply not adequate. And that is what brings this bipartisan group of Senators to the floor today. Together, we are offering an amendment to substantially boost our level of investment in both highways and mass transit. And we ask all Senators to join with us in this effort.

In a just a few weeks time, the Environment and Public Works Committee and the Banking Committee will begin in earnest to draft their portions of the surface transportation bill. During that time, I expect that each of my fellow Senators will be approaching the chairman and ranking member of these committees to articulate the most critical transportation needs for their states. For some Senators, their focus will be deteriorating highway bridges; for others it will be alternative fuel buses, or the widening of existing highways or the construction of new highways. Some Senators will be focused on the need to provide seismic retrofits of bridges near earthquake faults while other Senators will be looking for new commuter rail lines or even ferry terminals.

No matter what the transportation needs are in their State, I implore each and every Senator to reflect seriously on these needs before they come to the floor and vote against this amendment.

Much has been said over the last week about the need for this budget resolution to be based on the true budgetary realities that we face as a nation. We need to focus on the real world cost of the war. We need to focus on the real costs of a meaningful prescription drug benefit for our Medicare recipients.

Here are some other real world facts that we must attend to:

Approximately 30 percent of the bridges along our Nation's highway system are either structurally deficient or functionally obsolete.

It would require $42 billion more in annual investment to actually make progress to improve the conditions of our Nation's highways. Put another way, if we continue as a nation to provide only inflationary increases in the current rate of highway spending, the condition of our Nation's highways will just continue to deteriorate.

These are not the observations of Robert C. Byrd—they are the observations of the Bush administration's own report on the Condition and Performance of our National Transportation System.

We must face these realities head on as we draft the next surface transportation bill. And to do so, we are going to need more resources—far more resources than are called for under the budget resolution we are currently debating.

So I urge all Senators to join with me and the leadership of both the transportation authorizing committees and the transportation appropriations subcommittee in setting us on a path where we can make meaningful improvements to our highway and transit systems. I commend the bipartisan leadership of the transportation authorizing committees and I intend to stand with them as we seek to advance the cause of our Nation's mobility and prosperity.

Mr. REED. Mr. President, I want to voice my strong support for the Bond-Reid amendment to ensure that we invest in our transportation infrastructure.

Time and again, in our daily lives and in the news we hear and see that our Nation's roads and transit systems are crowded. On our way to work or on our way to visit family, we spend countless hours stuck in traffic or waiting for a bus.

But this congestion is more than just a personal inconvenience. Indeed, we know from studies by the Texas Transportation Institute and others that traffic congestion costs our economy $67.5 billion every year. That's billions in lost productivity.

Sadly, the budget resolution before us fails to provide the resources needed to meet these demands. It even fails to meet the level of funding that the administration's own Department of Transportation believes is necessary if one reads the DoT's report on the conditions and performance of our Nation's highways and transit systems.

Fortunately, the bipartisan amendment offered by the Senate's leaders on transportation policy would ensure that we have the resources to maintain and modernize our roads, bridges, and transit systems.

By providing a total of $255 billion for highways and $56.5 billion for transit, this amendment makes sure we have the resources to repair aging bridges and improve transit service.

Last year, as the chairman of the subcommittee with jurisdiction over our Nation's transit programs, we heard repeatedly from witnesses who represented transit systems of all sizes from all over the country about the success of TEA–21. When I asked why TEA–21 was successful, every witness had the same answer: resources. It was the resources that brought fast, environmentally sound transit to growing cities like Denver and helped transit attain the highest growth rate of any mode of transportation. This amendment will ensure that we continue this success.

In addition, during a time of economic uncertainty, this amendment means jobs and a great stimulus to our economy. Indeed, an estimated 47,000 well-paying jobs are created for each $1 billion we invest in transportation.

I want to thank my colleagues, Senators Bond, Reid, Shelby, and Sarbanes, for their leadership on this amendment. I look forward to its passage and preservation in conference with the House.

Mrs. MURRAY. Mr. President, a few days ago I spoke about the serious concerns I had with the budget resolution that was proposed by the new majority. One of the areas where the resolution before us falls woefully short is transportation funding. We have an opportunity before us to increase funding for Federal highway and transit programs by adopting the Bond/Reid amendment.

As all Senators know, this year the Congress is scheduled to reauthorize the Transportation Equity Act for the 21st Century also known as the TEA–21. This bill includes resources not just for highways, but for highway safety and mass transit. This will be an enormous task for four separate Senate authorizing committees and will require a great deal of resources if we are to be able to develop a consensus package that will get on and off the Senate floor.

What we do in this budget resolution will set the stage for TEA–21 reauthorization and demonstrate to the American people just how committed we are to investing in our nation's transportation infrastructure; to reducing congestion and improving the environment in our cities; to making our transportation system safer; and to putting people back to work. Simply put, the budget resolution as currently written simply doesn't do enough.

The amendment before us would increase the highway program to $255 billion and the transit program to $56.5 billion over the next 6 years. The Federal Highway Administration's own "Conditions and Performance Report" states that in order to improve our aging transportation infrastructure we should be investing an additional $42 billion in highways and bridges and $20 billion in mass transit each year.

The benefits of increasing transportation funding are multifaceted. First and most importantly, increased transportation investment will help stimulate our struggling economy since every billion dollars of highway funding generates 47,500 jobs and every dollar in transit investment generates $6 more in economic returns. I don't know about your State, but in my home State of Washington, we can use every bit of economic stimulus that we can get because Washington State was ranked either first or second in the Nation's unemployment rate for much of the last two years and we have lost a staggering 74,000 jobs in the last 18 months.

Second, improving our nation's highways and transit systems will also mean that Americans will spend less time in traffic and more time with their families and loved ones. And the people of Washington State—particularly in the Everett to Seattle corridor—know something about congestion and the toll it takes on family life and the pocketbook since this area is ranked third in the nation in congestion. Nationwide, the value of travel delay and wasted fuel that occurs in congested traffic is estimated at over $67 billion annually.

And finally, every year over 40,000 Americans die on our Nation's roads and highways—we need to continue to invest in transportation to make sure our infrastructure is safe; that trucks and vehicles meet safety standards; and that Americans drive responsibly by wearing their seatbelts and without the influence of drugs or alcohol.

We have much work ahead of us as we move forward with TEA–21 reauthorization. We have an opportunity to help our economy by creating good transportation jobs and to improve the quality of life for millions of Americans by ensuring that we have a transportation system that is safe and efficient. I urge my colleagues to support the Bond-Reid amendment.

Mr. REID. I ask unanimous consent that Senator Ben Nelson be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, the Senator from Vermont is seeking time. I propose that he take 15 minutes off the amendment of the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Vermont off of which amendment?

Mr. CONRAD. The Bond amendment.

The PRESIDING OFFICER. The Bond amendment is not pending.

Mr. CONRAD. I don't think it makes much difference. Does it make a difference to you, Mr. Chairman? I took Senator Bond's time off the resolution. I am not sure it makes much difference, whichever one is top on your list there.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in support of the Bond-Reid transportation amendment. This is probably the most important amendment we will vote on in the next few days, as far as really doing something meaningful to our economy.

I urge my colleagues to vote in favor of the bipartisan Bond-Reid amendment on transportation offered by the chairman of the Transportation Subcommittee—Senator BOND—and the ranking member, Senator HARRY REID and myself.

I appreciate the strong leadership in this effort provided on the Republican side by Senators INHOFE, BOND, SHELBY and many others.

On the Democrat side, Senator, HARRY REID has done a tremendous job. I want to note that Senator SARBANES has taken the lead on transit with Senator SHELBY.

The Bond-Reid amendment will allow the Congress to write a strong transportation bill which, in part, can address many of the administration's ideas for enhancing the mobility and security of our transportation modes.

The chairman of the full EPW Committee, Chairman INHOFE, supports this effort, as do I as ranking member of the EPW Committee.

The chairman and ranking member of the Banking Committee, Senators SHELBY and SARBANES, with jurisdiction over transit issues, also support this amendment.

This amendment allows us to enhance the security of our vital transportation networks, to better protect against the unexpected, and to enhance the mobility of our citizens and commerce.

This amendment will also create hundreds of thousands of jobs and allow Congress to fund important transportation components—such as intelligent transportation systems—to better monitor and move people during rush hours, and during emergencies. This is real economic stimulus. More than anything else we are doing.

These funds can also be used to facilitate secure and efficient international border crossings and fund administration security proposals.

This will be important for States sharing borders with Canada or Mexico, such as my home State of Vermont.

President Eisenhower saw our highways as important to the national defense—and the economy—and it appears that this Administration will recommend provisions to the Congress which they see as critical.

A report by the Nation's State transportation official found that Federal, State, and local governments must significantly increase investment in highways and bridges to improve safety, enhance security, relieve congestion, and protect bridges and harbors.

According to that national study, we must invest $92 billion annually to just to maintain current conditions, and improving the system's conditions and performance would cost $125 billion annually.

This bipartisan amendment will increase the highway program to $255 billion over the next 6 years and will proportionately increase transit investments to $56.5 billion.

This amendment will thus significantly increase the number of well-paying construction jobs and improve the safety and security of our citizens.

This amendment is the first step toward a strong bipartisan effort to revitalize our Nation's economy through investments in transportation.

The spending that we authorize today will help Vermont and all our States, keep pace with road and bridge repair, transit demand and improved safety and security needs. We will supplement this spending by attracting private capital to expand freight capacity and relieve congestion.

I hope we can pass this amendment with the support of all of my colleagues.

I yield the floor.

Mr. SARBANES. Mr. President, as ranking member of the Senate Committee on Banking, Housing and Urban Affairs, which was jurisdiction over the Federal transit program, I am pleased to join in this effort with Chairman SHELBY and Senator JACK REED, ranking member of the Housing and Transportation Subcommittee, as well as my colleagues on the Enviroment and Public Works Committee, Senators BOND, REID, INHOFE, and JEFFORDS, and my other colleagues who support this important amendment.

As has already been noted, the Transportation Equity Act for the 21st Century, known as TEA-21, will expire on September 30 of this year. This Congress will have the opportunity to craft legislation that will shape America's surface transportation system for the next decade and beyond. The decisions we make will be critically important to our Nation's future economic strength, the quality of our environment, and our national security. Therefore, as we consider this budget resolution, and engage in the debate about how best to use our limited Federal resources, I believe it is appropriate to take a few moments to consider what is contained in this budget resolution, what this amendment seeks to accomplish, and the importance of our surface transportation system for America's future.

Unfortunately, the budget resolution before us does not come close to making the necessary investment in surface transportation. Instead, the budget as written would actually cut the highway program next year, grow funding somewhat the following year, and then flat-line the program for the remainder of the authorization period. The budget's numbers for transit call for annual increases below the President's projected rate of inflation, not to mention the projected ridership growth. This budget calls for only $206 billion for highways and $46 billion for transit over the next 6 years, far less than what is needed. I am deeply concerned that this budget would move us backward, not forward, in our efforts to meet the mobility needs of the Nation.

This amendment would grow these programs by $49 billion and $10.5 billion respectively over what is included in the budget resolution, increasing investment in our highway program to $255 billion over the next 6 years, and our transit program to $56.5 billion. By growing our investment, we will not only help to preserve and maintain the systems that we have in place, we will begin to make progress toward improvement. Further, by the end of the next reauthorization cycle, surface transportation investment will reach its goal of a 4 to 1 balance between highways and transit. This goal was established in TEA-21, and this amendment reaffirms that decision.

The transportation needs of this Nation are significant, as more and more communities find themselves confronting the problems of traffic congestion and delay. According to the Texas Transportation Institute, in the year 2000, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the nation of $67.5 billion in lost time and wasted fuel. As these figures show, congestion has a real economic cost to the nation, in addition to the psychological and social costs of spending hours each day sitting in traffic. It is clear that we must increase the capacity of our transportation infrastructure to handle the growing demands for mobility of both people and goods to keep our economy moving.

Investment in our transportation infrastructure has other economic benefits as well. According to the U.S. Chamber of Commerce, each $1 billion invested in transportation infrastructure creates 47,500 jobs. At a time when our economy is struggling, investing in transportation is one of the smartest actions that government can take. Increased investment creates jobs today and leads to economic growth tomorrow.

Let me take a few moments to focus on the transit program, which I have a particular interest in as the ranking member of the Banking Committee. During the last Congress, that Committee, along with the Housing and Transportation Subcommittee, chaired by my colleague Senator REED, held a series of eight hearings to begin laying the groundwork for the reauthorization. What those hearings clearly demonstrated is that investing in transportation, particularly public transportation, pays off in terms of economic, environmental, and mobility benefits for our nation.

TEA-21's increased investment in transit stimulated a surge in transit ridership. As Federal Transit Administrator Jennifer Dorn testified last April: "Transit has experienced the highest percentage of ridership growth among all modes of surface transportation, growing over 28 percent between 1993 and 2001."

Of course, the benefits of TEA–21's investment are broader than increased ridership. The economic development impact of transit is becoming more and more apparent as new systems have come into service under TEA–21. For example, the Banking Committee heard testimony that over $1 billion has been invested in private development along Dallas's existing and future light rail lines, raising nearby property values and supporting thousands of jobs. We learned that BellSouth relocated almost ten thousand employees from scattered sites in suburban Atlanta to three downtown buildings near MARTA rail stations, in part because, in the words of BellSouth Vice President Herschel Abbott, commuting by transit "saves employees time. It saves employees money. It saves wear and tear on the employees' spirit." And that has real returns for their employer.

Transit is about more than our economic life; it is also about our quality of life. During the Committee's hearings, we heard a great deal about the importance of transit to our senior citizens, young people, the disabled, and others who rely on transit for their daily mobility needs. Several of our witnesses observed that the increased investment in transit and paratransit services under TEA–21 has provided the crucial link between home and a job, a school, or a doctor's office, for millions of people who might otherwise have been unable to participate fully in the life of their communities.

And transit can be a lifetime in other ways as well, as we discovered on September 11, 2001. We heard testimony during our hearings about the efforts made by transit operators on that day to move thousands of people quickly and safely out of city centers. As more and more Americans are using public transportation, it is clear that transit must be a vital component of any city's evacuation plan.

While September 11 showed the importance of transit in responding to an emergency, it also raised our awareness of the unique challenges transit faces in the safety and security area, as several witnesses discussed. Transit agencies are taking great pains to improve the security of their systems, but these efforts are not without cost.

It is clear to me that we will have to greatly increase Federal support for transportation to help local communities make the investments in infrastructure and system preservation that will be required to move America into the 21st century. The Department of Transportation has identified $14 billion per year in capital needs simply to maintain the conditions and performance of our transit systems—$20 billion is needed to improve conditions and performance. Other estimates show an even greater need. A report by the Nation's State transportation officials estimated that an annual investment of $19 billion is needed just to maintain our transit systems at their current levels, and $44 billion would be needed to improve conditions and performance. According to the same study, almost $100 billion is needed annually just to maintain the current condition of our nation's roads and bridges. Failure to make the needed investment will result in the continued deterioration of our existing infrastructure.

As we debate the priorities of this Nation in the context of this Budget Resolution, I urge my colleagues to be mindful of a comment that Dr. Beverly Scott, then General Manager of the Rhode Island Public Transportation Authority, made before the Banking Committee on April 25, 2002, regarding the reauthorization of TEA–21. Dr. Scott said: "As Americans, mobility is one of the greatest and most precious freedoms that we enjoy. This basic cornerstone of American life—who can or cannot get from place to place; how we plan and conduct our daily lives, the choices we make about what we do, and even more importantly, what we can do—are hanging in the balance." That is what is at stake here. This Congress will shape the future of transportation in America, which will have a very real impact on every one of our citizens. Passage of this amendment is essential if we are to keep America moving. I urge my colleagues to join me in supporting it.

Mr. BAUCUS. Mr. President, I rise today to support the amendment to increase highway and transit spending levels in the budget resolution.

Increasing transportation spending is an important objective. Highway investments create jobs, increase the productivity of our economy, and improve the quality of life for all Americans. In Montana, its our lifeblood. We count on highway money for our economic development and we count on transit money to give our rural areas access to goods and services and people.

In 1998 Congress passed one of the most successful and bipartisan bills in recent memory—the "Transportation Equity Act for the 21st Century", better known as "TEA–21." I am honored to have been an author of that piece of legislation and I look forward to working on the next reauthorization act.

TEA–21 passed overwhelmingly in 1997 because there was a 40 percent increase, on average, in funding. So, even if some states got a lower percentage of funds than their neighbor, everyone brought home more dollars than under ISTEA. That 40 percent increase was primarily derived by the transfer of the 4.3 cent gas tax from the general fund to the Highway Trust Fund, the new budgetary treatment for highways and the "protected" status of the Highway Trust Fund.

We are hoping to build on the success of TEA–21 by ensuring that our Budget Resolution can accommodate higher levels of spending for highways and transit. These higher levels of spending will enable the successor to TEA–21 to become law.

In order to pass a TEA–21 reauthorization bill, we will need more money. Increasing funds into the Highway Trust Fund is the sole responsibility of the Senate Finance Committee. Senator GRASSLEY and I have been working very hard to find ways to increase funding for both highways and transit. We are absolutely committed to growing the programs without raising taxes.

I can't emphasize enough that the single principal feature of any new highway reauthorization bill has to be its increased funding for the program, something that will help all States and all citizens. Our first step is this blueprint for our budget.

The Finance Committee believes that the levels included in this amendment to the Budget Resolution can be reached. $255 billion for Highways and $56.5 billion for transit over 6 years can be achieved without raising taxes. I know this because over the past 3 months finding this money has been a priority for myself and my chairman, Senator GRASSLEY.

Let me sum up by saying that the Senate Finance Committee has the responsibility to figure out how to grow the highway and transit programs. We believe that we can come up with increased funding for both highways and transit. We can do it without raising taxes. This amendment gives us the room to achieve that.

I urge all my colleagues on both sides of the aisle to vote yes for increased investment in infrastructure. I say both sides of the aisle because, as I've said in the past, there are no Democratic roads or Republican bridges. We will all benefit from this investment. We should all support it.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, being authorized by the ranking member of the committee, I will speak on the amendment that is almost pending, we thought it was pending, whatever.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. The Bond amendment.

This is a really fantastic proposal of the Senator from Missouri. It is sponsored by the chairman of the committee, Senator INHOFE; the ranking member, Senator JEFFORDS; the chairman of the subcommittee on transportation, Senator BOND; the ranking member of the subcommittee, the Senator from Nevada; the chairman of the full Banking Committee which handles transit matters, Senator SHELBY; the ranking member of the Banking Committee, Senator SARBANES; and many others.

I thank my friend from Missouri, Senator BOND, for his work on this amendment. He has shown great leadership. I am pleased to join him in sponsoring this bipartisan highway and transit amendment.

This amendment represents an important step in the reauthorization of the country's surface transportation system. We made significant gains over the life of TEA–21, and we must keep this momentum as we move forward. Despite these gains in TEA–21, there is much that remains to be done.

This budget debate is about choices, and I understand that. I also understand that we need to prioritize given these perilous times. I firmly believe that a well-maintained transportation infrastructure is a foundation for a healthy, vibrant national economy.

Our Nation's surface transportation system is critical to the free flow of citizens and the free flow of commerce.

This amendment adds an additional $50 billion for highways and $10 billion for transit over the next 6 years. The Federal Highway Administration's 2002 Conditions and Performance Report estimates that the annual Federal investment in roads must increase by 17 percent per year simply to maintain the Nation's existing highway and bridge system.

I will not take a lot of time, but the Senator from Louisiana, who is on the floor, has brought to my office on two separate occasions people from Louisiana who have desperate needs for transportation improvement. It is critical that we get more money for programs that can meet the demands of the folks from Louisiana and the folks from Nevada. It can only be done if this amendment is adopted. I hope it does.

Improving the system will cost more than the report of the estimates of Federal investment of roads needing to be increased by 17 percent. This administration calculates current Federal investment must increase by as much as 65 percent to basically improve our Federal infrastructure as it relates to highway.

As the Senator from Missouri has indicated with his charts, safety is still a serious problem. When 45,000 people a year are being killed on the roads, I think that says it all. In addition to the people who are killed, we have people who are paraplegic, quadriplegic, people who are hurt in many different ways in automobile accidents that are caused because of unsafe highways.

According to the Department of Transportation, our Nation's fatality rate per million vehicle miles traveled has decreased, but the number of fatalities has increased, with the disproportionate share of these occurring on rural roads. We really do not give any attention to speak of to rural roads.

In addition to the personal tragedy associated with traffic accidents, accidents cost an estimated $137 billion per year in property losses, losses in productivity, and medical costs.

System maintenance costs do not include the cost to improve the system's access and mobility to allow for the efficient and timely flow of citizens and commerce throughout the country.

America's congestion problems continue to get worse. The Texas Transportation Institute estimates this year residents in the top 75 metropolitan areas will lose more than 3.6 billion hours due to traffic congestion and $67 billion in wasted time and fuel.

The problems in Washington, DC, are legendary, but as a result of the man with the tractor in the reflecting pool, it took one of my friends traveling from over the bridge in Virginia 2½ hours to get to work because of the added congestion because of the tractor in the reflecting pool. Traffic in Washington, DC, and the rest of the country is in deep trouble.

The Governor of the State of Nevada, a friend of mine by the name of Kenny Guinn, has written a letter dated yesterday. He is a Republican Governor. He supports this amendment. It is important because the population of the State of Nevada has increased during the past 10 years by 64 percent, and this problem is going to continue to grow.

We in Nevada are not depending on the Federal Government alone to satisfy the needs of highways. In fact, the State of Nevada spends more by some $40 million than the Federal Government. This is very rare. The Governor of the State of Nevada fully endorses this amendment.

I ask unanimous consent that the letter dated March 19 from Gov. Kenny Guinn, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
*Las Vegas, NV, March 19, 2003.*

Hon. HARRY REID,
*Assistant Minority Leader, S–321, The Capitol, Washington, DC.*

DEAR SENATOR REID: I am writing to express my support for your efforts to increase funding for the federal highway and transit program to $255 billion and $55 billion over the next five years. The amendment you along with a bipartisan group of eight senators have proposed to the Senate Budget Resolution is critical to Nevada's continued economic vitality.

As you know, our state has experienced the largest growth rate in the nation. The population of Nevada is currently estimated to grow to 2.44 million residents by 2005, a 64% increase from 1994. These new residents have put unprecedented demands on Nevada's transportation infrastructure.

The federal highway and transit programs have been critical in our ability to meet these demands. While we could not have kept pace with our transportation needs without the federal program, Nevada has not shirked its responsibilities either. Nevada's revenue derived from our own citizens has risen from $279.5 million to $365.7 million in 2002. This 31% increase in revenue from state sources is in addition to the $234.7 million Nevada received in federal funds in 2002. Nevada's local jurisdictions have stepped up to the plate with self-imposed taxes to supplement the state and federal contribution, as well. Just this past year Washoe and Clark County voters approved increased local taxes to pay for transportation needs.

Under TEA–21 Nevada has experienced a steady increase in federal funds that has kept pace with our own contributions. Without similar expansion under the coming reauthorization bill we will fall behind, endangering our economic future with clogged highways, compromised traffic safety, and decreased air quality.

Thank you again for your support of Nevada's transportation needs.

Sincerely,

KENNY C. GUINN,
*Governor.*

Mr. REID. Mr. President, I indicated that the chairman of the Banking Committee, Senator SHELBY, and the ranking member, Senator SARBANES, have also approved this legislation. The reason they do so is because they are responsible for the transit aspect of the highway bill.

In years past, we divided the money we get on highways; 20 percent of it basically goes to transit. Why? For every person who is riding on a train, that is that much less traffic congestion and burden on our highways. It has worked well for decades. We need to continue that.

This amendment recognizes additional highway capacity alone will not solve the problems of congestion; therefore, we should provide Americans with other transportation options such as transit. It is part of important congestion relief. It is also a lifeline for millions of Americans to health care, to jobs, and to schools.

Nevada is an example. Ten years ago, for us to talk about needing transit money would have been unheard of. But now we are badly in need of it. We are building the only commercial monorail that will go from the airport up and down the strip which will save millions of hours in travel time and make it a much easier trip from the airport to the many vacation spots along the Las Vegas strip and downtown.

We have duty to every American to invest in a balanced transportation system. That is what this amendment is about. I ask for the support of the Senate. This is a bipartisan measure, and I hope it has a strong bipartisan vote tomorrow. I appreciate very much the Senator from North Dakota yielding me the time.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to speak on both the economic package and the highway bill, but I see my friend and colleague from Louisiana. Does she wish to speak?

Ms. LANDRIEU. I wish to offer an amendment.

Mr. NICKLES. We will be happy to have you discuss it, but prefer you not send it to the desk immediately.

I yield to my friend and colleague before speaking.

Mr. CONRAD. Will the Senator yield for a moment so I can thank the Senator for his courtesy in doing that? That is a gracious act, especially at this time of night. I appreciate it very much.

The PRESIDING OFFICER. Who yields time to the Senator from Louisiana?

Mr. CONRAD. I yield time.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair. Mr. President, I rise to discuss an amendment I plan to offer. First, I thank the leadership, particularly the Senator from Oklahoma for his gracious yielding because the time is getting very late tonight and there are other colleagues on the floor who wish to speak briefly on some amendments about which they feel strongly. As we try to offer these amendments and state our case, we realize these votes will take place tomorrow. I thank my colleague from Oklahoma for his leadership and my colleague from North Dakota.

First, I have somewhat mixed feelings about offering this amendment or any amendment tonight. I was in the minority of Senators who believed we should have taken a break from this discussion at least for the next couple of days as this war is raging in Iraq. Literally, as we speak, all, I would venture to say, of the television sets in this Nation and many around the world and radios and Internet communication are focused on this extraordinary undertaking that is underway as we speak and 250,000 of our finest citizens are mobilized and en route—land forces, air forces—in the battle. I was hoping we could take some time and come back to this early next week when we had a better sense. But as the Senate, in its will, decided to move forward, I wanted to come forward and at least offer one amendment, not that all the others are not significant and relevant and most certainly part of this debate, but this particular amendment actually affects the lives, safety, equipment, and strategy of the war we are fighting.

The amendment I hope to have voted on tomorrow and will discuss just briefly is very simple. It will add $1 billion to the underlying budget resolution providing an extra billion dollars of the $400 billion that is in the budget for defense. So it is a minor increase in the scheme of things but very important to the beneficiaries of this amendment.

Those beneficiaries, of course, are all the citizens of the United States, the citizens of Iraq, and the citizens of our coalition, as well as the people it directly affects, which are the Guard and Reserve, Guard and Reserve members who have been called up to stand alongside the Active Duty.

I ask unanimous consent to have several letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. IKE SKELTON,
*House of Representatives, Washington, DC.*

DEAR CONGRESSMAN SKELTON: In response to your letter of 29 January 2003, we are providing a combined Navy and Marine Corps list of our unfunded "Naval" programs to which additional funding could be applied. While we are grateful for and have benefited from the increased resources recently provided by the President and the Congress, there still remain additional shortfalls that are detailed herein.

The Department's FY 2004 Budget continues to focus on our new defense strategy and emergent challenges of the 21st Century. The resources contained in this budget go far in helping both services to maintain heightened readiness in uncertain times, to provide further investment in transformational programs, and to take care of our Sailors, Marines and their families. However, the road to attaining our shipbuilding and aircraft procurement program goals remains exceptionally challenging. Additionally, the Global War on Terrorism and current operations incident to the Iraqi question continue to stretch our resources in many areas.

For FY 2004, Naval unfunded programs total $6.5 billion. These unfunded items are listed under Enclosure (1) for Navy programs and Enclosure (2) for Marine Corps programs. As you know, the items identified on these lists are important to the long-term efficacy of our Navy/Marine corps Team.

If we may be of any further assistance, please let us know.

Sincerely,

VERN CLARK,
*Admiral, U.S. Navy,*
*Chief of Naval Operations.*
MICHAEL W. HAGEE,
*General, U.S. Marine Corps, Commandant of the Marine Corps.*

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EXECUTIVE SUMMARY

The Army National Guard (ARNG) plays a key role in the defense of our Nation. Whether responding to Combatant Commander's requirements worldwide, answering our Nation's Homeland Security requirements, or helping communities respond to natural disasters, the Army National Guard remains an integral part of our Nation's defense strategy. Citizen-soldiers of the ARNG are trained, experienced, and motivated. Within our ranks are some of the finest Americans the country has to offer. In order to keep them trained and ready they require Full Time Support (FTS), modernized equipment that is compatible with the active Army, up-to-date facilities to maintain equipment and train at, and additional training time and resources to remain relevant as a viable force in the full Spectrum of Operations. Readiness is our focus as we stretch every dollar to maximize efficiency and effectiveness.

The Fiscal Year 2004 Budget Request supports peacetime operational levels and provides $5.514B to train, educate, and prepare military personnel (MPA Budget Activity 8); $4.211B in operations and training support; and $168M for construction acquisition, and rehabilitation of facilities. This request represents a program (above cost and price increases) of $102.2M or 1.9% in the MPA BA 8 appropriation; a program decrease of $125M or −3.0% in the Operations and Maintenance Army National Guard (OMNG) appropriation; and a program decrease of $73M or −30% in the Military Construction Army National Guard (MCNG) appropriation.

The Department has focused resources on Operations & Maintenance, Collective Training and Sustainment Restoration Maintenance (SRM) and has taken risk in Base Operations. Within Pay and Allowances the budget provides for the statutory requirements for Inactive Duty Training and Annual Training, continued progress towards the goal of 85% Duty MOSQ, and Special Training to bring ARNG capabilities in support of the Combatant Commanders.

The Army National Guard has received recent increases in our Total Obligation Authority. We are grateful to the Congress and to the Army for these increases, proving that we are all part of the same team. However, much remains to be done. There are several specific requirements that must be met in order to continue to keep our soldiers ready as the Global War on Terrorism continues. Attached are lists of our top personnel, readiness and transformation shortfalls and our top twenty-five equipment needs.

The nation asks a grant deal of its citizen-soldiers. Before we put them in harm's way, it is our responsibility to ensure that our soldiers receive the best possible training, are maneuvering in the most current aircraft and armored combat vehicles, and are armed with the most lethal weapons systems. Our ability to be ready when called upon by the American people is, and will always be, our top priority and our bottom line.

ROGER C. SCHULTZ,
*Lieutenant General,*
*Director, Army National Guard.*

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SECRETARY OF THE AIR FORCE,
*Washington, February 21, 2003.*

Hon. JOHN W. WARNER,
*Chairman, Committee on Armed Services,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Department's FY04 budget reflects an efficient and effective investment of resources designed to sustain our forces and enhance our capabilities for the future. The budget will help fight and win the war against terrorism, continue transforming the service to meet the challenges of this century, and provide for recruiting and retaining of a quality fighting force to meet the commitments of this nation. We need your support for these objectives and for the budget we have proposed to achieve these goals. The Unfunded Priority List (UPL) that I forward today complements these objectives, but in no sense is an alternative to the fundamental priorities of our President's Budget request. We ask that, as you consider the list, you remain mindful of the context in which it is presented.

Our list emphasizes programs already planned that can be brought forward plus a number of areas where additional investment can be helpful. In any budget there is a need to balance investment and thus to balance risk, so there will always be areas where additional funding can be effectively applied. With this in mind, we have been careful to assure that the list consists of proposals that can be executed in a timely manner and that will not disrupt the program we have laid out in the President's Budget or the Future Years Defense Plan. For the military construction entry, we have included an additional list which provides the project detail. However, we do not address unbudgeted costs related to Operation Noble Eagle, Operation Enduring Freedom, or other emerging costs of the Global War on Terrorism, recognizing that a supplemental request which brings together a Department-wide estimate is the more appropriate vehicle for presenting these requirements. Finally, we have included two items that address the need we have to recapitalize our aging tanker force. We are in the process of working issues associated with a potential lease of tankers and will inform the Congress of that outcome as soon as it is decided. The list reflects the costs required to implement that lease and an alternative, if the lease is not approved, that brings forward dollars to accelerate a buy of new tanker aircraft.

We thank you for the opportunity to provide you our UPL. Our Armed Forces are winning the war on terrorism and through your diligence and assistance we eagerly look forward to launching into the 2nd century of powered air and space flight.

A similar letter has been sent to the Ranking Minority Member of your Committee.

Sincerely,

JAMES G. ROCHE.

Ms. LANDRIEU. It is shocking what has come to my attention as a former member of the Armed Services Committee and now as a member of the Appropriations Committee: The lack of equipment, the lack of money in this budget to fund their current operations.

This amendment asks to take a billion dollars away from a tax cut that I think could give an extra billion dollars and transfer that room in this budget to add a billion dollars for the Guard and the Reserves.

I have a couple of facts that might help people understand why this is so critical and why I really believe we should—and hope we can do this in a bipartisan way—take this positive step. In 1990, there were 2.5 million men and women in the Active Forces of the United States. Today, there are only 1.4 million. The Reserve and Guard make up a larger portion of our fighting force than ever before in the history of the world. There are 860,000 men and women in the Guard and Reserve. They are from the States of my colleagues, as well as my own State. We all know and have people on our staffs, in our families, our neighbors, who signed up basically to be weekend soldiers and weekend warriors, but they have ended up being regular warriors because of the transformation that is occurring. The transformation is that the Active and Reserve units of this Nation are playing a vital role in our protection, not just on the weekends, not just in training but in the real-life battles. They are as much a part of this war that is underway tonight as our actives.

As a member of the Armed Services Committee, I am mindful that we are going through a great transformation in our military. It is something that is supported in a bipartisan way and that this country supports. It is like trying to turn a large aircraft carrier around. It cannot be done right away. It cannot be done quickly, but if directions need to be changed, that directional change needs to be ratcheted so you can go in a different direction. We are trying to move our forces in a different direction because we are no longer fighting World War II. We have done that. We have been there. We did it and we won. We are now fighting an international war on terrorism and it takes quick mobility, lethal action, smart bombs, strategic guidance missile systems, stealth, unmanned vehicles. It takes a different makeup of our Armed Forces.

When we fought World War II, we had months to get ready to fight. We had months to build up. Today, we do not know where the attack is going to come. It came to New York City on September 11. It might come to Washington, DC, tomorrow morning. It might come to San Francisco next week. We have to move immediately. So we do not have the luxury of building up for 12 months or 18 months as we did in New Orleans when for 2 years we built the best boats that were built that won World War II, the Higgins boats. We do not have that luxury.

So we are restructuring our force in a wise and smart way, which is to say that we will count on our Reserve units. They are not in the Active, so it is a cost-effective way to keep our strength up. We have to give them helmets and rifles. We have to give them helicopters that fly. We have to give them training dollars.

We are underfunding our Guard and Reserve. In fact, there are two units that are actually in transit tonight, a Virginia unit and a Georgia unit, and I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STRATEGIC EQUIPMENT, WEAPONS, AND TECHNOLOGY NEEDS OF THE NATIONAL GUARD AND RESERVE SERVING IN AFGHANISTAN AND IRAQ

| Service—System | Cost |
|---|---|
| Air Force Reserve: | |
| WC-130J Radar—Upgrades Reserve Radar to specifications needed by Active forces | $50,000,000 |
| F-16 LITENING II AT Upgrade Modification—Provides Reserve Tactical Fighters with same radar upgrades as active forces; reserve fighters flying same missions | 16,200,000 |
| F-16 LITENING II AT Pod Procurement—Provides Reserve Tactical Fighters with same radar upgrades as active forces; reserve fighters flying same missions | 14,400,000 |
| A-10 TARGETING PODS—Provides Reserve Tactical Fighters with same radar upgrades as active forces; reserve fighters flying same missions | 48,000,000 |
| B-52 TARGETING PODS—Provides Reserve B-52s with same radar upgrades as active B-52s; performing same missions | 4,800,000 |
| TACTICAL RADIOS—Provides radio upgrades for interoperability with active forces | 14,900,000 |
| Land Mobile Radio Infrastructure | 12,000,000 |
| Total | 160,300,000 |
| Navy Reserve: | |
| VAW-78—EC-2 Squadron—Funding Prohibits decommissioning in FY05 of this currently deployed unit | 10,160,000 |
| VFA-203—F/A-18 Squadron—Funding Prohibits decommissioning in FY04 of this currently deployed unit | 20,110,000 |
| Littoral Surveillance System—Procures one additional system to upgrade port surveillance by Navy Reserve | 14,500,000 |
| F/A-18 Advanced Targeting FLIR—Procures radars for 5 squadrons to make compatible with Active Navy | 14,700,000 |
| P-3 Aircraft Improvement Program (AIP)—Would upgrade 28 of 42 Reserve P-3s to have same capabilities as Actives; AIP allows P-3s to better operate against surface combatants and improve surveillance and targeting | 29,700,000 |
| P-3 Block Modification Upgrade Program (BMUP)—Brings all Reserve P-3s into compliance with each other, not Actives—gives all Reserve P-3s similar computers and acoustics sensors | 33,000,000 |
| F/A-18 ECP 560 Precision Guided Munitions Upgrade—Provides 1 Reserve F/A Squadron with precision guided munitions similar to Active F-18. | 33,240,000 |
| CBR-D Equipment Storage and Logistics—Funds shortfall of 10,000 bio-chem suits for Navy Reservists | 8,000,000 |
| Total | 163,410,000 |
| Army Reserve: | |
| High Frequency Radios (Interoperability for Special Ops Reservists) | 57,138,816 |
| M-4 Rifles | 1,200,000 |
| M-16 Rifles | 1,200,000 |
| Tactical Electrical Power (5-60KW)TQG | 5,404,000 |
| Tactical Electrical Power (3KW)TQG | 3,000,000 |
| Truck Tractor Line Haul | 12,420,000 |
| Improved Ribbon Bridge | 22,400,000 |
| Truck Cargo PLS 10X10 M1075 (T40999) | 6,936,000 |
| Trailer PLS 8X20 M1075 (T93761) | 1,320,000 |
| Spreader Bituminous Module PLS 2500 Gal. (S13546) | 2,080,000 |
| Mixer Concrete | 1,375,000 |
| Dump Body Module | 3,496,000 |
| Engineer Mission Module Water Distributor | 9,630,000 |
| Airborne/Air Assault Scraper (S30039) | 7,575,000 |
| Distributor Water Self-Propelled 2500 Gal. | 2,970,000 |
| Truck Transporter Common Bridge (CBT) (T91308) | 8,360,000 |
| Truck Dump 20 Ton | 7,215,000 |
| Generator Smoke Mechanical | 11,667,600 |
| Tent Expandable Modular (Surgical) | 729,000 |
| Total | 166,116,416 |

STRATEGIC EQUIPMENT, WEAPONS, AND TECHNOLOGY NEEDS OF THE NATIONAL GUARD AND RESERVE SERVING IN AFGHANISTAN AND IRAQ—Continued

| Service—System | Cost |
|---|---|
| Army National Guard: | |
| Black Hawk Helicopters | 223,200,000 |
| SINCGARS (Radio Systems) | 34,900,000 |
| Air National Guard: | |
| F–16 Targeting Pods | 35,100,000 |
| A–10 Targeting Pods | 70,200,000 |
| C–130H2 AN/APN–241 Radar | 24,500,000 |
| F–15 AIFF/IFF (Data Link Systems) | 31,300,000 |
| F–15 220E Engine Kits | 98,000,000 |
| Total | 517,200,000 |
| Marine Corps Reserve: | |
| Reserve Training Center Vehicle Maintenance Facility, Mobile, AL | 8,000,000 |
| Reserve Tank Maintenance Facility, Columbia, South Carolina | 3,800,000 |
| Reserve Training Center Vehicle Maintenance Facility, Camp Lejeune, NC | 8,100,000 |
| Uniform and Equipment needs | 13,200,000 |
| Weapons System Repairs | 7,300,000 |
| Total | 40,400,000 |
| Grand total | 1,047,426,416 |

Ms. LANDRIEU. There is an EC-2 squadron out of Virginia that is in transit, and an F–18 squadron out of Georgia in transit. In the current budget, they have been decommissioned because there is no money in the current budget for these troops that are en route to fight the battle that is being waged.

There is something wrong, and what is wrong is we are underfunding our Guard and Reserve. Perhaps we are putting too much of an emphasis on tax cuts and not enough of an emphasis on the strength that this country needs at this time, and sharing those resources with the Guard and Reserve and plussing them up.

In addition, when the Guard and Reserve members go, they leave their jobs behind, they take a cut in pay, and unfortunately they do not get the same benefits that many of our Active do. This has to change if we are going to ask them to serve not just on the weekends, not just once every couple of years, these units have been out there—some of them are on their fourth rotation.

I just want to discuss my amendment, to vote on it at the appropriate time, whenever the leadership thinks we can take a few minutes. I hope we can take quite a long time to discuss this, but I know there are other important amendments. I do not know what could be more important than trying to make a few tweaks to this major budget resolution that might send not only a positive signal, but it would actually back up in real meaningful terms the resolution that we voted on 99 to 0 a few hours ago that said we love our troops, we support our troops, our prayers are with our troops. Then let us send some money to our troops, particularly to our Guard and Reserve. This billion dollars would go a long way.

We went through the unfunded list. This is a list that the Guard and Reserve say, look, we desperately need this money. We have listed it in a priority. This is not luxury. These are things we actually need. To upgrade the Air Force Reserve, let me give an example. This is a $48 million item to provide the Reserve tactical fight territories, the fighters that we see in the battle as we are watching the televisions, they need the same radar upgrades as the Active Forces. The fighter planes for Active have one kind of radar, and then the Reserve fighters do not have the same radar. So when we say let's keep our troops out of harm's way, one thing that would help is to have the same sophisticated radar that our Reserve and our National Guardsmen are using as are the Actives. That would be one smart way to keep them out of harm's way.

If we were talking about $100 billion, if we were talking about $50 billion, if we were talking about a lot of money, I would say maybe we do not have it. But, most certainly, if we are talking about trillions of dollars of tax cuts, we could find $1 billion to make a slight adjustment to pay and put some money up for our Guard and Reserve.

I know the leadership is probably going to come back and say we have plans, we are going to put this money in the supplemental. I realize there are other times that we could potentially do this, but I would make two arguments: One, in the past, the rule has been that we do not put new items in the supplemental. This is sort of ongoing items that are funded. You run out of them so you are sort of supplementing it because you are not going to make it through the end of the year. While we anticipate a very large supplemental, I think it would be very meaningful if we would think about making an adjustment right now for the thousands of Guard and Reserve that need this help and support.

I finish by asking my colleagues to look at this chart. These are two of our young men. In this list I am holding up of things that are unfunded, some of our units need helmets. Some of our units need biological and chemical covering. Because of the way we have designed a lot of these suits, if they are used once they have to be thrown away. Then they need a new one.

If they get attacked and one is contaminated, they are going to have to come home because we cannot leave them out there without suits. So this is not only about doing what is right and fair, this is about keeping our strength in the battlefield, funding the items that help protect them and keep our forces safe and being true to the amendments that we speak about on the floor.

For too long, the Guard and Reserve have received hand-me-downs from the Active component. Maybe there was a time that was appropriate because they served as supplemental, but now they are carrying a big weight, and they are doing it magnificently and at great personal sacrifice to their businesses, to their communities, and to their families, because in many instances their pay goes down.

Let us invest in our Guard and Reserves and make sure we are giving them what they need and to honor our commitment to them and to win future battles. We need the Guard and Reserve. Let's give them their rifles, their helmets, and their tactical equipment so we can, as we know we will, win this war.

Let's remember that when the fighting is over in Iraq and Afghanistan, the Guard and Reserve will be there for us, protecting us. Let's give them the tools they need to succeed.

Before I yield the floor, let me spend 1 minute supporting my colleague who will be coming up next, the Senator from Delaware, who is about to offer what I think might be the best amendment of all in terms of balancing the needs to boost our economy, to restrain spending, as well as to give the people of this Nation the tax relief that will help get this economy moving again. The Senator from Delaware will offer an amendment. I am proud to add my name as a cosponsor. The Concord Coalition has looked at all the proposals—the President's proposal, this proposal, that proposal, the leadership proposal—and today they came out and supported Senator CARPER's amendment. I think he should be very proud of that. They said this would put us on the path back to economic development, restraint on spending, fiscal discipline, and hopefully prosper, giving us the strength we need to win the wars ahead.

This may not be the only one we have to fight and win in the next few months and years ahead. We should reserve our financial strength to be able to make sure we win the war first and then do that which is necessary to protect our freedoms and give us strength.

I yield the floor and I add my name as a cosponsor to the next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I yield myself such time on the Breaux amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Most agree we need to do something to grow the economy. There are different ideas, and I compliment my colleagues for some of the ideas. We have some very good ideas on both sides. Maybe we can come up with some of the best. I wish to talk about our plan a little bit and also make a couple of comments on the highway bill, as well.

We are dealing with a budget. We have a deficit, and a lot of people ask, why do we have a deficit? Revenues have declined, and declined substantially. In the year 2000 revenues were over $2 trillion, and last year they were $1.85 trillion. That is a reduction of $175 billion. If you look at the history of the United States, almost every year there has been some increase. Hardly ever have we seen a decrease 2 years in a row. That is a decrease together of 9 percent. That is a reason we have a deficit, coupled with the fact expenditures are up. Revenues went down 9 percent and expenditures went up by 12 percent. I am not casting blame. That is the situation and where we are today.

Right now we spend more than we take in. That is a $160 billion difference and the projection is worse for this year.

How do we get this number to grow? This is a real reduction. What caused that? We look at gross domestic production and the economy really declined. It started declining in the year 2000. We had robust economic growth through the mid-1990s. In 1997, when we reduced the capital gains tax from 28 percent to 20 percent, that created an economic explosion that helped the stock market and helped the economy grow. More companies were paying more bonuses and the economy had a robust growth.

Chairman Greenspan said it is irrational exuberance because the market climbed precipitously. It started falling in the year 2000 and we had negative three quarters which is called a recession, the last part of 2000; it fell down in the first three quarters of 2001. It was negative so we had recession. It bounced up in 2002, but still very soft.

If you look at what happened in the stock market, there was a lot of reduction of wealth in NASDAQ which was up to 5,000 in March of 2000, and by December of 2000 it was half that amount, less than 3,000; 2,800 I believe. NASDAQ fell about half in the last 9 months of 2000.

Again I am not faulting anyone, but there was a precipitous decline in wealth, precipitous decline in market value and, to some extent, that continued in the year 2001, particularly after September 11.

Add those things together and the market falls, revenues fall, we have a big deficit. 2001 caused a lot of increase in expenditures, helping those people who needed help and rebuilding our cities and the Pentagon, and so on, the war on terrorism. A lot happened to cause enormous deficits.

Most of us ask, what can we do to improve this? How can we turn the economy around? I mentioned in 1997 we reduced the capital gains rate, we had a very positive increase of revenues to the Government even when we reduced taxes. So we are trying to think, what can we do now to help the economy? That certainly worked in 1997. I don't think anyone disputes that. What can we do in the year 2003 that might help the economy?

I think we should eliminate the double taxation of dividends. People sometimes who maybe do not follow the economic markets, tax policy, and so on, are shocked when I say, did you know we tax dividends twice? We tax dividends higher in the United States than any other country in the world but Japan, and Japan and the United States are taxed about the same. Higher than anyone. The effective rate is about 70 percent. The corporate rate is 35 percent. Individual rates could be 38.6 or 35 percent or 27 percent, but the combined rate, if it is 35 percent and the individual rate is 30 percent, is 65 percent. That is two-thirds of the money going to Government. So if a corporation makes money and they want to distribute to their owners, the Government gets two-thirds and the owners get one-third. That is not a big deal. That discourages investment. Who wants to invest in a company if that is what they get back? I owned and operated a company. It does not make sense to distribute earnings in the form of dividends. The Government would be the primary beneficiary, the owner would be the secondary beneficiary. That did not make good sense.

The President is proposing eliminating double taxation of dividends. That is exactly right. We would be closer to other countries. It is embarrassing to me to see we tax dividends at a rate greater than the French, greater than Hungary, greater than the Czech Republic, greater than Greece. It is time for a change.

People whom I respect, what do they say? Charles Schwab says:

> I can't think of any other tax policy that would, at one stroke, be more beneficial to ordinary investors. The impact [of dividend relief] would be enormous.

I think he is right. I don't think he was doing that for personal interest.

Here is the analysis by several analysts in their projection of what they think, by eliminating double taxation of dividends, how much the market might rise. A lot of well-respected individuals—Lehman Brothers—say anywhere from 5 percent to about 15 percent. Most said it would be a positive benefit to the market.

Alan Greenspan testified:

> In my judgment, the elimination of the double taxation of dividends will be helpful to everybody. There is no question that this particular program will be, net, a benefit to virtually everybody over the long run, and that is one of the reasons I strongly support it.

That was in his testimony before the House on February 12 of this year.

So I just make those comments. I hate to see a proposal that is before us—I should not say that. I welcome the alternatives that are offered by my friends and colleagues, that are supporting the so-called $350 billion proposal. The tax reduction in the 350 proposal is really $323.3 billion. The balance of that is additional refundable tax credits; in other words, the Government is writing a check.

I am afraid, if that amendment is agreed to, and we will be voting on it tomorrow—I have great respect for my colleagues, Senators BREAUX, VOINOVICH, SNOWE, who offered this amendment, Senator BAUCUS. I have great respect for them and served with them for many years in my Senate career and have the pleasure of serving with them on the Finance Committee. The Finance Committee will take whatever number we give them out of the budget, and they will fashion together a growth package.

I am afraid if we went with a growth package that is limited to tax reduction of $323 billion, we will not be able to do this dividend proposal, we will not be able to follow the advice of Mr. Greenspan and Mr. Schwab and many others who really think this would help grow the economy. I don't want to take the growth out of the growth package. I do want us to be innovative enough to say, wait a minute, if we can change tax policy and grow the economy, let's do it. If you find effective tax rates anywhere above 60 percent, that is very suffocating to economic growth. It dampens it to such an extent, a lot of people say, why make the investment? Why would people invest, if they are primarily interested in dividends, if they realize the complicated and very heavy burden of taxation that is in the present law? Especially when you can invest in other countries and the taxation rate is not nearly as high.

Now we have such an international investment system, with the home PC, you can invest anywhere in the world any time of the day you want. It is wonderful, the opportunities we have in the United States. You don't have to invest in the United States.

What has really happened as a result, people realize the economic consequences of investing in companies that pay large portions of their proceeds in dividends, so they shy away from those companies, in many cases, and go towards what we would call growth stocks, stocks that do not pay dividends but they have greater growing potential. They may be more volatile, may be a little more risky, but the taxation rate on those companies—not on distribution of dividends, it is on capital gains—taxed at 20 percent. It is not double taxed. Capital gains would be capped at 20 percent, about half the rate of dividends. So you have a real encouragement. Frankly, you have had an explosion in growth of those companies vis-a-vis the companies that pay dividends.

Why should we disadvantage companies that distribute the benefits of their earnings to their owners through the form of cash?

I think the administration is right on target. I think they have come up with a good proposal that would benefit, not just investors, not just the people who own a lot of stock, they would benefit the fireman, benefit the policeman, the teacher, the civil servant, they would benefit anybody who happened to have money in a retirement fund that happens to invest in stocks. And most all retirement funds do.

So, let's do something to help the teachers and the firemen and let's do something that would help government employees and other people, individuals, to help grow the economy. When we do that, we will see the stock market grow and we will see capital gains being paid again; we will see more revenues coming into the Government; we will see more investment, more jobs created.

It is estimated that this proposal on dividends alone would create well over a million jobs—I think 1.4 million jobs just in the first year.

Also, on family relief, there are a couple of packages we have. We have the investment proposal, and I want to talk about that primarily. Also, the package we have that the administration proposed and that we are hopeful will be reported out of the Finance Committee—again, we don't write the bill on the floor. I think some people think we do that in the budget. We do not, unless Senator CONRAD and I can come up with an amendment and change the way we do business. We just give the Finance Committee an instruction. But the instruction we are hoping to give would allow them to eliminate double taxation of dividends and also provide what I would call small business and family relief. We would do, I think, some wonderful, long overdue things that would help grow the economy. We would tax individuals no more than we tax corporations.

Why in the world would we tax individuals at a rate about 10 percent higher than we tax corporations? We do that today. We will not if we are able to pass this package.

Why in the world would we have heavy taxes on families? The proposal we have before us would provide tax relief to 92 million taxpayers. It is very profamily.

We would have marriage penalty relief that would benefit 42 million couples. Marriage penalty relief—somebody says, what are you doing? We are taking the individual tax rate of 15 percent—and individuals who have taxable income of $28,000 pay 15 percent. Above that, they pay 27 percent. We are saying, why don't we double that for a couple. The present law doesn't do that. So we expand the 15 percent bracket for couples from about $46,000 to $56,800. What is the impact of that? That means that for a couple, a married couple, if they have a combined income up to $56,800, their tax rate is 15 percent. That will save them about $1,222.

Think about that. I heard somebody say about the tax proposal, I know the bulk of this goes for the wealthy. That is not correct. That is very significant tax relief for a lot of married couples today. $1,200, if they have combined income up to $56,000. If they have two kids, they get an additional tax credit per child. The present law is $600; we would accelerate that to $1,000 per child.

My daughter just gave birth to a new son, my grandson Nicholas. They will be able to get a $1,000 tax credit for Nicholas and that's true for every child in America—$1,000. That is significant. If you have four kids, that is $4,000 somebody wouldn't be paying taxes on. They will be able to use that money for their education, for their health care, for taking care of them. This is very family friendly. I think it is also very friendly for growing the economy.

We also provide expensing for small business. I used to own and operate a small business. I had a janitorial service with my wife, and that was a small business. We would be able to expense things, not amortize them. That is a positive thing. That means you get to recoup your investment over a very short period of time—actually, immediately. Up to $75,000 you get to expense it, not write it off over years. It makes sense to write it off in the year you write the check, rather than spread it over several years. It makes you more likely to make the investment, which means you would make more investments and create more jobs. It is a very positive, progrowth, probusiness change.

If you look at several of these provisions in the President's package, I think they would help the economy, help the stock market, help small businesses, help American families. They would help taxpayers.

If we cut it in half, I am afraid we will not be able to do the things either for the family or do the things for investment. We will not be able to grow the economy. We won't be able to create jobs. I am afraid if we cut the package in half, we would basically be taking the growth out of the growth package. It might be some tax relief, but the net result would be, I am afraid, you wouldn't get much growth.

You say: Why is that. $350 billion sounds like a lot of money. Over this 10-year period—and that is what we are talking about—the Federal Government is estimated to take in $28 trillion. So if you talk about $350 billion over $28 trillion, that is a very small percentage. We are proposing you need to have a little more if you are really going to have an impact on the economy.

Is it too much? Is 725? Well, $725 billion is really not the tax cut. The real tax cut portion is $698 billion—again, spread out over 10.

Somebody will say, Wait a minute, your budget proposal is more. The President had $1.5 trillion; you have $1.3 trillion. What we are reconciling is this $698 billion. By reconciling, for those who are not familiar with Senate language, that means we are telling the Finance Committee: Report out a bill that would do such-and-such. We didn't say put the entire package over the next 10 years, this $1.3 trillion in the package. We are telling the Finance Committee, take about half of it and make it law this year because we want to grow the economy this year; we want to do it now. Part of the tax cut could be done anytime up to the year 2010. Because we are basically just extending present law.

We have several years to do that. This needs to be done now. This needs to be done now because we need to create jobs now.

So I just mention that. I have the greatest respect for my colleagues, some of whom are sincere deficit hawks, and they believe maybe if we did this, we might not be good for the deficit. I think we need to do something more aggressive to help grow the economy.

We have a legitimate difference of opinion. I have great respect for their opinion. I have great respect for colleagues who have different ideas. We have had proposals that will be considered tomorrow, or we have already had them on the floor, from $100 billion, to more than that, $350 billion, $700 billion—you name it. There may be someone who has it for more.

I think the President has a pretty good balance. I encourage my colleagues to not vote for the amendment which would cut the growth package in half.

### AMENDMENT NO. 358

Mr. President, I wish to make a couple of other comments.

My friend and colleague, Senator BOND, discussed an amendment dealing with transportation. He talked about highways. Frankly, every Member of Congress—probably every elected official in any elected capacity—happens to be a friend of highways.

If you are in a city council, someone is talking to you about roads; if you are the mayor of Minneapolis or St. Paul, people are talking to you about roads. If you are in State government, you spend half your time talking about highways.

I used to be in the State senate. They ran me off. But everybody is concerned about highways. Everybody is concerned about infrastructure. And they are right. And particularly after a harsh winter, roads are particularly bad.

We are all concerned about bad roads. Somebody was talking about the commutes take too long. Part of it is because of the bad roads. There is a lot of truth in everything that is said. We have a lot of compelling infrastructure needs.

But I have some reservations about the amendment offered by my colleague from Missouri, and, frankly, my colleague from Oklahoma, for whom I have the greatest respect, and other people who are supporting this. I think they are as well intended as anybody you will find. But I am concerned about what I am afraid the amendment would do.

It would move us away from the idea of user taxes to pay for roads. That is a tradition that we have had certainly since Eisenhower, since we started building the Interstate System. Since we have had a Federal highway program, we have had gasoline taxes pay for highways. And then we take off a percentage of gasoline taxes to pay for mass transit. But basically it is the user fees that pay for the expansion of the program.

And looking back, I remember debating, in 1982 or 1983—I think there was a nickel-a-gallon gasoline tax, and we had a filibuster that lasted right before Christmas. It was over whether or not there would be a nickel-a-gallon gasoline tax increase. I was opposing it at that time, thinking the States should have to have the right if they wanted to do it, the State should have the option, not a Federal mandate. I lost that debate, but it was a long and interesting debate. But I can see the demand by people who want to have more highways built, and maybe a Federal gasoline tax, and so on.

I am a lot more sympathetic now to listening to the demands. People say: We want more for highways. I certainly want to listen to them, but I think they should be paid by gasoline taxes.

Some people are proposing that we now have a significant infusion of general revenue funds to pay for highways. You might say: Why are you opposed to that? Because there is no limit as to how much that would cost the Federal Government. There is no limit to the demand for more money for highways, absolutely no limit, no limit whatsoever.

You could take any program before us, and you could multiply it by five, and somebody could legitimately say that is not enough—legitimately because there are a lot of demands. You can take these figures and multiply them. There are a lot of demands for more highways.

But, to me, it is a serious mistake and maybe a budget breach. If you say we are going to use general revenues to pay for highways, then a lot of people think, if it comes from the Federal Government, it doesn't cost anything. It doesn't cost you anything because it is from the Federal Government—especially if you have a highway formula that says 80 percent of it comes from the Federal Government and only 20 percent comes from the State.

So the States may decide: let's raise gasoline prices because we want to get four times as much from the Federal Government. You think about that. We have not done that in the past.

Now, we made some changes. I look back. In 1990—guess what—the Federal program for highways was $10 billion. Today, it is over $30 billion. This is 12 years later, and we are spending three times what we spent in 1990.

In 1997, we were spending less than $20 billion, $18.7 billion. Today, we are spending over $30 billion. That was just about 5, 6 years ago that we were spending $18.7 billion. Now we are spending over $30 billion.

Congress even changed the formula when we had gasoline revenues going up. We did, and the economy was really going well. Frankly, when the economy is going well, you have more highway usage, and you have more money coming into the trust funds. So the fund formulas were altered to allow the highways to get more of that money more immediately. I supported that. It seemed good. More money was coming in, so let them have it. It is a user fee. Let the user fee apply.

But the formula also said, if the highway funds decline, they will be reduced. That was agreed to. That is part of law. That was part of the agreement. Well, guess what? Revenues declined, and then everybody said: No. Whoa. We can't take a decline. And so, in the last year's appropriations bill—actually this year; we just passed it in January—it said, instead of going down, according to law, what, to $24 billion, it came in at $31.6 billion. It was supposed to go down to $24 billion. Congress said: No, no, no. We don't want to have a reduction of that percentage even though we agreed to it. We decided to put more money in more quickly, but we were supposed to reduce it if it started falling.

Highway revenues started falling because of different reasons, maybe because of terrorism or gasoline prices, but the total money coming into the fund went down. But Congress said: No. Let's spend more money. So we went from $31.3 billion.

The administration requested $29.3 billion in 2004. And I will tell you, as the chairman of the Budget Committee, we squeezed every way we could. We came up with: Can we squeeze the trust fund down quicker? Can we move some money into the trust fund that should have been in there? Yes, we found some gasohol money going into general revenue funds. We put that in. That was about $700 million per year. We did some other things.

If it is a legitimate user fee concept, I am willing to consider it. I think there are vehicles driving around today that are tax exempt, that do not pay taxes, and, by golly, they ought to pay a tax. They are tearing up the road like everybody else. Some of them Senator BOND alluded to that I agree with. Some have new technology and maybe Congress tried to encourage that by saying they will be tax exempt. But I don't think they should be, if they are tearing up the road.

We have some cases where maybe even some groups do not pay highway taxes and they are on the highway. Let's stop that. They are using the highways. They should pay for them. Some people in my State will not like me saying that because we have a lot of individuals who are doing that today. So let's close whatever loopholes we can and get whatever money could come into the highway fund as a result.

But the proposal that is before us now, that we will be voting on—and it may well pass; I can count votes around here probably as good as some—would increase that $31 billion program. The President's request was $29 billion. We were able to scrape it around and come out with, what, $32.1 billion. That is about the best we can do out of the money that is coming into the fund.

I am open to ideas. If we can do better, I am happy to consider that. We put in language that says, if we in the Finance Committee raise more money one way or another through a user fee, whatever they would do, great, they get the money. Power to them. If they raise gasoline prices, they index gasoline prices, they put on an excise tax on tires, whatever the committee might do, if they close the loophole because they find out certain groups are on tax-exempt vehicles that ought to be paying taxes, power to them. Whatever they can get, they should come in.

And maybe we have underestimated it. The Finance Committee does a great job or the Ways and Means Committee. If they can find more ways of closing loopholes, power to them; they get 100 percent of the money.

But the proposal we have before us now just basically let's you increase that by about $8 billion. Let's take that $32 billion and make it a $40 billion program. It increases costs over what we have proposed in the first 6 years of our budget, about almost $60 billion for 6 years. Our budget is a 10-year budget. But for the first 6 years, it is about $10 billion a year.

Now, that is a big increase: $10 billion a year being highways and mass transit. That is a big increase. And it is not paid for by gasoline taxes. It is basically paid for by an increase in the deficit. And maybe even worse than that, it breaks this tradition of paying for roads and highways through user fees.

I will say again, the reason why I am speaking very strongly about this is that I think that is a terrible precedent to set. If we are going to be general funding highways, we are opening ourselves up to unlimited demands on Federal money, especially if you stay with the 80-to-20 ratio. The 80-to-20 ratio is 80 percent the Federal Government and 20 percent States. And there is no limit to the demands at that kind of ratio.

If we are going to be paying 80 percent of the cost, you are going to do general revenue funds, I will tell you right now, Congress will be besieged with more requests and put in more general revenue funds.

I understand the highway lobby is powerful. I understand they are out in the Halls. I understand they have lots of cosponsors. I understand they are making phone calls: We need this to get our road; we need this to get a better ratio for our State, our State has been a donor State for years.

I want to see that corrected. Some people see this as a solution for correcting it. If you go general revenue funds, we will regret it. At least if you have a user fee concept, it is limiting the growth of the program because there is a negative on raising gasoline taxes. People can see it, and they are having a hard time paying their gasoline prices right now, with gas line prices at $1.75 and $2, in some cases.

Maybe the war in Iraq will go well and can be over soon. I hope and pray that it does. God bless our troops and our leaders. They are doing a fantastic job. If that happens, my guess is oil prices will come tumbling down as will gasoline prices, and maybe then it will be more palatable to be raising gasoline taxes.

If my colleagues vote for a gasoline tax increase, power to them. I hope every dime of it goes into highways. But to get something started where you end up having about 25 percent of highways being built with general revenue funds, I think would be a mistake. I also don't think the President will sign the bill. So I mention these things. It is important for us to pass a highway bill and to get it passed.

I make a commitment to work with my friends and colleagues, Senator INHOFE and Senator BOND, others who have a very strong interest in this. I want to work with them. I want a good highway bill to be signed by the President, and I would like to think that we would put one on his desk that would be responsible as well.

I am afraid that the bill we have before us, going from basically $10 billion in 1990 to $18 billion in 1997 and now we are at $31, $32 billion, to try to jump that up immediately at 40 with general revenue funds is wrong. If we do it through some other type of a user fee, that might be more palatable.

I encourage my colleagues. I don't think this is really sustainable, if we don't do something different. I know there is some flexibility among some of the proponents. I commit that I will work with them to try to come up with something that will be agreeable, sustainable, and something that can be signed.

I mention those reservations with the greatest respect to the proponents. I will urge my colleagues to vote no on the amendment tomorrow.

I apologize to my colleague from Delaware because he has been waiting for a few minutes. I didn't mean to speak at that length, but I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I will take a couple of minutes. I apologize for this, but it is important for the RECORD that we address the famous chart my colleague has shown over and over on the comparison of corporate tax rates. We have seen several references to this chart that is entitled "United States, Second Highest in the World Combined Corporate and Dividend Taxes."

The chart says that the U.S. has a tax rate of 70 percent, second only to Japan. My colleague and my friend, the Senator from Oklahoma, has referred to this chart so often that I decided to go off and do a little independent research on that chart.

Let me tell you what I found. First, let's look at corporate taxes alone. When we look at corporate taxes alone this is for 2000 as a percentage of GDP, which Senator BENNETT said is the appropriate way of looking at it—a much different picture emerges about where we fit in.

This is from OECD, the international scorekeeper. What they have found is the United States ranks 22nd out of 29 in effective corporate tax rates. The Senator from Oklahoma shows nominal tax rates, the tax rate that appears in the Tax Code. We all know that is not what people actually pay. When you look at what they actually pay, you see a much different picture: 22nd out of 29 in effective corporate tax rates as a percentage of gross domestic product. We are down here, 22nd out of 29.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I will.

Mr. NICKLES. That is percentage of GDP. We have a much bigger percent of GDP, but a tax rate is a tax rate.

I ran a corporation. When I made profits, I paid that rate. Maybe somebody was able to figure out some Enron-type schemes and things. This corporation didn't. Most corporations, a lot of corporations do not. I wanted to make sure, the percentage GDP, because we have the largest GDP in the world, I don't think is the relevant type of analysis to use.

Mr. CONRAD. Well, I respect my colleague's view. Let me just say, this is how OECD does the scorekeeping on effective tax rate comparisons, what people are actually paying. This is their conclusion about where the United States fits in.

Let me continue because the Senator raises an important point. There is an implication that we have a competitive problem because our tax rate is so high.

The fact is, as this chart shows, over 40 years, corporate taxes have fallen as a share of our economy but risen for other industrial economies. This line shows the United States. We have gone from an effective rate as a percentage of GDP of 4 percent, which is a way of giving an accurate comparison between countries with different levels of GDP. Ours has gone down dramatically. Other OECD countries have gone up over the 40 years.

The Senator from Oklahoma's chart and the arguments he made suggest that all corporate income is taxed at the maximum corporate and individual tax rates. This goes to the Senator's question. I hope the chairman will listen to this. At least a quarter of corporate profits are not taxed at all because of various tax preferences. That translates into a zero-percent effective tax rate. Another half of corporate income is taxed once at the corporate level, but not taxed again because it goes to pension funds and other stockholders who do not pay individual income taxes. That again lowers it. The Senator is showing nominal tax rates, not effective tax rates.

Finally, the chart being used assumes that all corporate income goes to individuals in the top individual tax bracket at the Federal, State, and local level. In recent years, corporations have used stock buybacks to convert their profits into individual capital gains which have an effective tax rate of less than 10 percent.

How can it be at 10 percent when the capital gains rate we all know is double that? The reason for that is the deferral that is inherent in capital gains which gives you a much lower effective tax rate than the nominal tax rate.

I say this because it is important to have in the RECORD that this notion that we have a 70-percent rate on corporate profits is not accurate. That is not the effective tax rate. It is nowhere near that. And if one compares corporate taxes in this country to other countries on a fair comparison basis, we are not a high tax jurisdiction. We just are not. I offer that for the RECORD.

The Senator from Delaware has been extraordinarily patient. How much time would he like?

Mr. CARPER. Two hours? Ten minutes would be just fine.

Mr. CONRAD. I yield 10 minutes to the Senator from Delaware.

Mr. CARPER. Mr. President, a couple of weeks ago Senator BLANCHE LINCOLN of Arkansas invited several of us Democratic Senators to a briefing in her office on Capitol Hill. She also invited several Members of the House of Representatives who are Democrats. There were several of them in the room. They call themselves Blue Dog Democrats.

The Blue Dog Democrats, for those who have not heard that term before, tend to be budget hawks. They believe balanced budgets do matter, and the idea of running chronic budget deficits year after year is not good for this country. In fact, it is very troublesome for this country. Blue Dogs are willing to take tough votes on defense spending, nondefense spending, entitlement spending, and taxes as well to get us closer to a balanced budget.

I served for 10 years in the House of Representatives and as Governor of Delaware. I guess I was a Blue Dog before we had Blue Dogs. I believe I am today.

Tomorrow a number of us, including a Republican, Senator LINCOLN CHAFEE, Senator MARY LANDRIEU, Senator DIANNE FEINSTEIN, and I will offer a budget alternative that is modeled after the approach offered by the Blue Dog Democrats in the House of Representatives which was voted on earlier this evening and I understand received about 170, 175 votes. It fell short, but it was a respectable showing. I want to talk about the provisions of that approach and why I think it makes sense.

A number of my colleagues talked tonight about the need to stimulate the economy and the need to do so in part with tax policy. In the alternative we will propose tomorrow, we do just that. Those who want to effect the 10-percent rate cut to accelerate it, we do that, in fact, this year. Those who want to accelerate the 27-percent tax bracket cut, we accelerate that this year. Those who want to expand and increase the child credit, we do that this year.

To those people who would like to allow small businesses to expense not just $25,000 in investments they make but $75,000, we let them do that this year to encourage that kind of investment.

To those who want to eliminate the marriage tax penalty—we did that in Delaware when I was Governor—we would do that immediately under the proposal that will be before us.

We raise the exclusion for the estate tax to $6 million for a couple, and we do that this year, effective immediately, and leave it at that rate.

Those are some of the provisions we do right now. It would have an immediate impact, and I think a very positive impact on the economy at this time.

For those people who happen to be in the 10-percent bracket, they would realize some tax savings, but so would those people whose income is not just $15,000 or $20,000 but $150,000. They would realize a savings, too, by accelerating the tax cut for those in the 27-percent bracket. We are not just helping people in the middle-income portion of the spectrum, but it also helps people at the top of the income spectrum.

What we do not do in our approach is reduce further the 35-percent rates and the rate to the 38.6 rate, the top two rates. We defer those cuts until two things happen: One, we pay for the war in Iraq; and, two, until we have actually balanced the budget. That is what we do on the taxing side. That is what was offered in the House of Representatives this evening as well.

On the spending side, what we have done is to essentially embrace the discretionary spending numbers proposed by the President. In the House of Representatives, the Blue Dogs took the President's defense discretionary numbers and put that in their proposal. In the Senate, we elected in our version of our budget alternative to take the defense numbers proposed by the Budget Committee. They are a bit less than the President's proposal, I think, by about $85 billion over a 10-year period of time. But we embrace the numbers from the committee itself.

We then take that roughly $85 billion and use those moneys to add to the domestic discretionary spending side to help pay for No Child Left Behind, to help meet some of the health care needs in this country, and to help meet some of the agricultural needs in this country. It is roughly $80 billion to $85 billion. It would shift from the defense side to the nondefense discretionary side.

Even at the end of that, we would still be spending above the baseline of more than the rate of inflation over the next 10 years for defense and a little less than the baseline in our domestic discretionary spending. But I like the balance a little bit better than what was debated and voted on in the House earlier tonight.

The third piece we address is budget controls. I will focus on one, but there are actually several others that are included in the measure we will offer tomorrow.

Pay-go: The concept is if a Senator or a House Member wants to cut taxes, or a Senator or House Member wants to raise spending in a way that makes the deficit larger, they have to figure out a way to pay for that so it is budget neutral starting now, not starting next week or not starting next month but starting now.

In our alternative, in our substitute, pay-go provisions become effective now. They are reinstated now. If anyone wants to increase spending, they are free to have at it. If they do, they have to offset it by cutting spending somewhere else, or if they cut taxes in one area, they have to raise taxes in another area or do something on the spending side to offset that.

We have budget controls that address issues of emergency spending and other provisions as well. I will not go into all those tonight because it is late. That is an important component of what we are trying to do.

Let me sum up. We reduce taxes, we do a number of things that have an effect immediately this year, but we pay for them. The overall effect of the tax reduction over 10 years is roughly $100 billion, $115 billion. Most of that is loaded in the first year or two.

We provide real spending restraint both on the defense side and on the nondefense discretionary side, and we put in place budget controls, some of which have been allowed to lapse. We put them back into effect to strengthen in the way they ought to be effective.

Today it is March 20. The day is almost over. During the course of this day, we will pay as a nation in interest on the national debt roughly $1 billion. That is not principal; that is interest on our debt, $1 billion. We will pay that tomorrow, the next day, and the next day after that.

We are a nation marching off to war. Tonight we have tens of thousands of young men and women on the march in a war I hope is mercifully brief for both sides. There is a great irony here as we are sending tens of thousands of our young people marching off to war. We are actually talking about reducing the revenues available to finance that war, to mobilize the troops, the cost of the war, the postwar occupation, and instead of raising the revenue and the means of financing the war, we are taking away those resources, which sits logic on its head, at least for me.

As we send those tens of thousands of young men and women marching off to war, their parents and grandparents are on a different kind of march, but a march nonetheless, with a different destination. It is called retirement, and the baby boomers, which I am one, are on the march and starting at roughly the end of this decade and throughout the course of the next decade.

The impact that is going to have on Social Security, Medicare, and other spending is the boomers, as they march off into their golden years, will create a financial burden that we are not even a little bit prepared to address.

My fear is if we take the course that has been proposed by the administration and is incorporated in this budget resolution, we will have not really been consistent with what the President said in his State of the Union Message.

I think one of the finest statements he said in his State of the Union Message is when he said the American people, our Government, should not pass on the problems of today to the next President, to the next Congress, or to the next generation.

I am afraid this is exactly what we are prepared to do with respect to the way we spend our money and the way we meet our financial obligations. We do not have to do that. We can do the right thing.

I have been looking for months for an approach that I could believe in and say let's do this because it is the right thing to do. This is the right thing to do.

I thank those who join me in offering this substitute tomorrow. I especially thank the Concord Coalition for embracing it today and the Blue Dog Democrats for giving us the inspiration in the first place. I yield back my time.

Mrs. FEINSTEIN. Mr. President, I rise in support of a bipartisan, fiscally responsible budget amendment, which I have sponsored with Senators TOM CARPER and LINCOLN CHAFEE.

Our amendment would provide immediate tax relief to every taxpayer in this country, while balancing the budget 4 years earlier than the resolution currently being considered.

Instead of driving the Nation further into debt, our budget would cost $50 billion over 10 years—a fraction of the $1.7 trillion the underlying resolution would add to the deficit over the next decade.

Our budget corrects for the Budget Committee's low discretionary spending limits after 2008 by recognizing the need, at a minimum, to increase domestic discretionary spending with inflation. In contrast, the Budget Committee's mark would increase those limits by an average of only 1.5 percent after 2008, a rate of increase which is simply unrealistic.

Were it not for that needed adjustment to discretionary spending, our budget would actually increase revenue due to a 10-year net surplus on the tax side.

Many members of this Chamber have expressed concerns about pursuing a $726 billion tax cut at a time of massive projected budget deficits and rising uncertainty about the cost of the war with Iraq.

In fact, neither the administration's budget, nor the one currently being considered, nor our budget for that matter, includes funding to cover the cost of a war with Iraq, despite estimates that range from $60 billion to $100 billion or more.

The added cost of this conflict could push our budget deficit this year to over $500 billion, if the surplus in the Social Security Trust Fund is not included. Although no proposed budget accounts for the cost of the war in Iraq, our budget proposal faces the reality of significant new costs head-on by bringing us back to balance quickly.

I share the concerns of many of my colleagues, and I believe our primary responsibility is to pass a budget that meets our nation's long-term needs. And this is what our amendment seeks to do.

Why do I support this amendment? Our budget accepts the discretionary spending limits laid out in President Bush's budget proposal. Despite concerns about the impact of those limits on many critical priorities, I have agreed to those spending limits in an effort to support a realistic compromise which addresses our fiscal needs conservatively.

I believe that without real bipartisan compromise, it will prove impossible to return to a balanced budget.

Therefore, I join with Senators CARPER and CHAFEE today, because we all value fiscal responsibility and recognize the need for balanced budgets.

I must state clearly, however, that this budget does include a $10 billion reserve fund for homeland security in fiscal year 2004, and does not commit to the specific programmatic cuts detailed in the President's Budget.

The Carper/Chafee/Feinstein budget keeps those elements of the President's proposed tax cut that would benefit all Americans and stimulate the economy. It would:

Immediately expand the 10 percent income tax bracket from $6,000 to $7,000; Accelerate cuts to the 27 percent tax bracket from 2004 to 2003; Increase the child tax credit from $600 to $700; and Accelerate marriage penalty relief from 2005 to 2003.

Our budget also includes:

Immediately increase the individual estate tax exemption to $3 million per individual and $6 million per couple—something not included in the budget which was reported out of Committee. This would exempt all but one percent of estates from any tax liability whatsoever.

Increase small business expensing limits from $25,000 to $75,000, allowing them to make needed capital improvements and expand their operations.

All of those cuts are retroactive to January 1, 2003, and would immediately put money in every taxpayer's pocket.

This budget amendment would pay for these tax cuts in part by freezing planned reductions to the top two tax rates—the rates that apply to adjusted gross incomes above $143,500 for individuals.

Yet even those who pay taxes at this rate would receive tax relief—from the expansion of the 10 percent bracket, marriage penalty reduction, a larger child tax credit, and a cut to the 27 percent bracket.

This budget does not increase taxes for any American, but instead is a balanced blueprint designed to promote fiscal responsibility.

When I came to the Senate in 1992, we faced a record budget deficit of $290 billion, a record which we will almost certainly surpass this year.

After securing commitments from Senate moderates in the Centrist Coalition, we were able to hold the line on new spending and further tax cuts. Those efforts paid off in 1998, when the Federal Government returned to surplus for the first time since the Johnson Administration.

It was no coincidence that the path back to surplus, and the following three years of consecutive surpluses, coincided with the greatest period of economic expansion in American history.

The single biggest impediment to returning to similar rates of economic growth, however, is the tremendous uncertainty facing the United States.

While we now face a war in Iraq and ongoing stand-off in North Korea, we can do a better job in managing our domestic economy.

Pushing through a $726 billion tax cut now would only increase deficits and uncertainty, and would lead to a spike in long-term interest rates as we take on trillions in new debt.

I urge my colleagues to support this budget. It is a compromise which makes sense.

By adopting this budget amendment, we can bring the budget back into balance in six years, stop raiding the Social Security Trust Fund in ten, and forego nearly $2 trillion in new debt by 2013.

The alternative, which does not recognize our current fiscal crisis, will only make future compromises all the more difficult.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. CORZINE. I yield myself up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I had a statement earlier today, but I would like to briefly say that I am pleased my colleagues passed the supporting resolution today for our troops. We need a strong and unequivocal expression of support for the courageous men and women who are fighting for our values and defending America tonight in the Persian Gulf. It is important to say that this is an expression that is far more than just a personal expression. It is an expression of feelings that the people of New Jersey—I see my colleague from New Jersey, Senator LAUTENBERG, is in the Chamber as well, and I know both of us feel powerfully for the mothers, the fathers, the brothers, the sisters, the spouses all of those who have loved ones in harm's way, that we strongly stand with them, and the people across this country do as well.

The gist of my statement is that no matter how we may have felt and debated and deliberated these issues, our united view is unshakable as we go forward.

Mr. President, I rise to speak about an amendment I would like to bring up tomorrow. It would increase funding for environmental protection and natural resource conservation, reduce pollution, and improve America's quality of life.

If I had my druthers, we would all be dealing with a "patriotic pause," as far as I am concerned, until we were able to get a better handle on some of the costs. It seems incongruous to me that as our men and women are sacrificing on the ground in the Middle East, we are unwilling to think about and factor in those costs in this budget process as we go forward. I think it is particularly unusual to understand that maybe as soon as next week we will get a supplemental that covers this, and it may be literally hundreds of billions of dollars of expenditures that are not considered in the context of a budget that is already estimated at $300 billion on a unified basis, on an on-budget basis, and on an off-budget basis $400 billion.

It is hard for me to understand, but I am a realist. It is a quarter of 11 at night, and we will be debating amendments that make a real expression about what our budget is about, our priorities. I think it is absolutely essential that the budget process be about difficult choices and an expression of those choices.

For millions of Americans, and certainly for myself, I strongly believe we cannot neglect the environment and our natural resources, and our budget should reflect that importance. I ask my colleagues to consider in that vein that the President's fiscal year 2004 budget request increases discretionary spending at an average rate of 4 percent for all discretionary spending. But with respect to his requests with regard to the environment and conservation issues, the President's budget actually cuts spending on the environment.

By the way, in the House budget resolution—that is where we will be negotiating when we go to conference—that is a cut of $1.3 billion relative to the enacted levels in fiscal year 2003.

Fortunately, the Senate resolution does restore some of that, but in my view we could do a lot better, and we should do a lot better. My amendment is a simple 1-year amendment to improve that, to meet that 4 percent discretionary standard that might be how we are looking at other spending.

In dollar terms, my amendment would increase our investment in environmental protection and resource conservation by up to $30.4 billion. That is $2.4 billion above what the President has asked for and $1.1 billion over the Senate resolution. The spending is offset by a corresponding reduction in the size of the tax cut.

By adopting this amendment, the Senate would make a strong statement that even in these difficult times we have not lost the desire, the faith, the will, to provide for environmental protection and natural resource conservation. They are really continuing important priorities of the American people.

By adopting this amendment, the Senate would make it possible to fund a number of very vital environmental programs. I will itemize a couple. The amendment funds clean water and drinking water State revolving funds—something that is important for economic expansion—at a combined level of $3 billion. It is only about $800 million over the level that is asked for in the budget resolution. This money flows directly to the State loan funds and will be used to build sewage treatment plants and water purification facilities, an important part of our infrastructure.

Forty percent of our Nation's lakes and rivers still do not meet the goal of the Clean Water Act of being fishable and swimmable. It is about 80 percent in New Jersey.

While my amendment will not get us all the way there, it goes a long way to close the gap between where people estimate we should be over the next 25 years and the $535 billion expenditure it will take to get us there.

Second, my amendment will also fully fund efforts to enforce environmental laws, clean up toxic waste dumps, and redevelop abandoned brownfield sites. Superfund is critical to my home State. My colleague from New Jersey has been one of the most articulate advocates in making sure we fully fund Superfund. He was one of the original authors of building this law in our Nation. We have 111 Superfund sites in New Jersey, most of any in the Nation. Forty-nine States have Superfund sites. One in four Americans lives within a mile of a Superfund site. That is a real health issue, a quality of life issue, and it is one that needs to be addressed.

There are lots of ways to go. We are cutting down the number of cleanup sites. Two years ago, we had 87 Superfund cleanups in a year. It has dropped below 40 now. We need to do better. We need to work at this now.

Of course, there are brownfield sites in every State in the Nation. We were all very proud that we passed the Brownfields Revitalization and Environmental Restoration Act of 2001, but getting around to funding that at authorized levels has not happened. My amendment would make this possible in fiscal year 2004. The amendment would fund important natural resource conservation programs, conservation programs that fight sprawl, protect open space, and improve quality of life for all Americans.

We have a long tradition of valuing and fighting to protect parks, wildlands, wildlife, open spaces, recreation resources, and cultural treasures. This is important to the heart and soul of this country, special places that need to be addressed.

Several years ago, as we entered the 21st century, we started the Conservation Trust Fund that would fund land and water conservation programs in a way that the toolbox would be available across the country to work on these issues—the sprawl, taking in parklands, and protecting our shorelines. It is unfortunate that we are not adequately dealing with this issue that will impact every American's life.

So I hope we can consider this amendment. It is funded, as I suggested, out of the tax cuts, and we can do a lot to really improve our society with relatively minimal expenditures in such an overwhelmingly large budget.

By adopting my amendment, the Senate will boost vital environmental protection and natural resource conservation programs. It will mean cleaner water, more Superfund sites and brownfields cleaned up, and more acres of open space and wildlife habitat protected. I hope the Senate will affirm this commitment to the environment as an important funding priority in our budget. I look forward to bringing up this amendment for debate tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield myself such time as I may consume, probably less than 20 minutes. I ask unanimous consent that I be given that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I rise to talk now about an amendment I intend to offer with Senators BOXER, CORZINE, REED of Rhode Island, SARBANES, and MURRAY as cosponsors. This amendment would add funding that is critical to the Superfund program. My colleague and friend, Senator CORZINE, just talked about his intention to offer an amendment that is going to help us maintain a quality of environment that he and I feel is necessary for America.

I appreciate one part of that because this budget falls short of protecting Americans from deadly toxins in their communities. Too many communities in this country live near toxins left behind by polluting industries. Each day we delay cleanups is another day we expose families to poisonous chemicals. The numbers are alarming: 70 million people in this country live within 4 miles of a Superfund site and 10 million of the people exposed to the chemicals at those sites are children, the most defenseless among us. Ten million children who must eat their meals, brush their teeth and sleep within a few miles of harmful poisons that will persist in their soil and ground water for decades and longer. Children are the most vulnerable among us to arsenic and DDT and brain-damaging heavy metals such as lead and mercury found at the contaminated sites.

On March 3, just 2 weeks ago, the EPA announced the latest scientific data that show small children have a tenfold higher risk of developing cancer when exposed to chemicals than do adults. Across the Nation, each site cleanup—and we have successfully cleaned up over 800 so far—reduces those threats to our children: threats of cancer, learning disabilities, and other chronic and painful health problems.

This amendment enables the equivalent of 28 additional sites a year to be cleaned up, allowing thousands more families to get out from underneath the shadow of living next to a toxic dump. An extra 25 sites may not sound like a lot unless you and your family live next door to an empty lot laced with arsenic and dioxin.

This amendment would eventually close the gap between the program's need and what has been budgeted. This amendment assumes reinstatement of the original structure and guiding principle of Superfund and assumes the restoration of minimal taxes to get that job done. For example, in the case of the oil industry, the tax would be less than 10 cents a barrel for every 42 gallons of oil. This is a small investment for the large dividends it would pay. The end result would be measured in thousands of happier and healthier children and families.

The amendment will permit the addition of $300 million to the Superfund reserve each year for 10 years. That is less than the approximately $350 million the Congressional Research Service estimates the budget will fall short of when it tries to meet next year's projected needs for Superfund cleanup, but it is close.

At the same time, by making the polluter pay, this amendment increases total Federal revenues by well over $1 billion a year for the next 10 years, contributing to the deficit reduction and helping to lower the public debt.

The Superfund needs new life injected into it because this administration has significantly slowed the pace of cleanups, cutting the rates in half. It is time Congress and the administration stopped refusing to force polluters to pay. They are the ones who ought to pay for it. They did it. They spoiled the Earth and the area, and they ought to pay for this.

No other American President, Democrat or Republican, has ever said that taxpayers, not polluters, should pay to clean up their toxic mess, and neither should this one. President Ronald Reagan understood the importance of the Superfund trust fund in making the polluter pay. In 1986, not only did he reauthorize the original Superfund tax, he approved two in Superfund taxes, a tax on imported chemical derivatives, and corporate income tax of .12 percent on taxable income above $2 million.

Reinstating the polluter-pays principle is fair, it has a proven record of working, and I would urge my colleagues to support this good governance amendment.

I have one more short amendment to discuss, an amendment I will offer on behalf of myself and Senator ROBERT BYRD to adequately fund our national passenger rail system, Amtrak, at $1.8 billion.

As it stands now, the budget before the Senate assumes that funding level of only $900 million for Amtrak. That is about half of what the railroad needs. That would be a devastating cut. The funding in this fiscal year 2004 budget is nearly 22 percent lower than this year's level. Without question, it would result in the bankruptcy of our national passenger railroad system halfway through the fiscal year 2004.

This Senate cannot stand idly by and allow this budget to bankrupt Amtrak. Amtrak is critical to our Nation's transportation system. We have a new president, an impressive fellow, CEO at Amtrak, David Gunn. David Gunn has demonstrated his ability to find commonsense solutions to tough problems, particularly around rail and transit. We should give Mr. Gunn the tools he needs to put Amtrak back on the track. Everyone feels confident he has the capability of doing that if we give him the tools.

In many areas across the Nation, rail is as important to the transportation system as aviation. Amtrak is critical to business and the economy in many communities and improves the quality of life for many Americans who use rail as an alternative to traffic jams on highways and the headaches we find now at the airport.

In the days following the September 11 attacks, our entire aviation system was shut down. The unbelievable took place. It was never conceived something could happen in our aviation system that would shut the whole thing down across the country. But it did. Rail served as a critical alternative for those who otherwise would have been stranded.

Now, many passengers have shifted to rail on a more permanent basis. In fact, more people take the train to New York from Washington than catch a flight each day. September 11, 2001, showed us we need to maintain an intermodal transportation system. We cannot put all our resources into aviation, and we cannot put all of our resources into highways. If we want a 21st century transportation system, we must invest in Amtrak and passenger rail. My amendment would provide Amtrak with the $1.8 billion that has been requested by the Amtrak board of directors. This is the funding level that will ensure the trains run in 2004 and beyond. This is also the funding sorely needed for capital investments to improve infrastructure and improve the system's reliability. These capital investments are also needed to help Amtrak lower its operating costs. We cannot continue to let them run a railroad held together by duct tape. Without Amtrak, congestion on the roads and in the skies would be substantially worse. Amtrak helps to remove 18,000 cars a day from the congested Northeast corridor between Philadelphia and New York, and 27,000 cars a day between New York and Boston. Everyone knows if there were that many more cars on the road, it would be impossible to travel on these highways.

But Amtrak does more than alleviate congestion in densely populated highway and air corridors. In many cases, Amtrak also provides residents of small rural towns with their only form of intercity transportation. Each year, some 22 million passengers depend on Amtrak for transportation between urban centers and rural locations. Amtrak provides service in 45 of the 50 States. This country of ours, this most advanced Nation in the world, needs a world-class passenger rail service. We can already board a high-speed train from New York's Penn Station and arrive in Washington in less than 3 hours. That is city to city. It is without the hassle and the problems one takes going to the airports these days.

But we should also be able to take a high-speed train from Atlanta to Charlotte or Miami. We should be able to travel from Los Angeles to San Francisco or St. Louis to Chicago by high-speed rail.

September 11 and the lingering terrorist threat shows us that we need a viable alternative to aviation for intercity travel. But the budget before us would cripple our Nation's passenger rail system.

Once again, I look to my colleagues to think the problem through thoroughly, to recognize even if Amtrak is not a primary mode of transportation in their State, that it is part of the national network that we have to have in a society as advanced and as crowded as ours has gotten to be.

I hope we will have the support for passenger rail and support for Amtrak.

I thank the President, the occupant of the chair, for his indulgence of this wee hour of the night. I thank my colleague from Washington, also, for permitting me to talk about my amendments.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise at this late hour to address an amendment that will be offered tomorrow dealing with the issue of workforce training. I applaud both of my colleagues from New Jersey for being here at this late hour to articulate a variety of needs in Superfund cleanup and infrastructure.

I would like to address an issue about our human infrastructure and our investment in job training and education at a time when we have in the Northwest are experiencing some of the highest unemployment in the country, over 7 percent in the States of Washington, Oregon, and Alaska, and a very high average national unemployment rate.

The question we are debating on the floor this week is how do we move forward with a budget resolution and what should our priorities be? I am here tonight to advocate that our priorities should be about a program that will help put people back to work by making sure they have the skills that are necessary in today's economy.

While we hear a lot about the high unemployment, we also know from employers that they can't find the skill level that they are looking for in the workplace among the employees out there today. Why do they say that? We know for a fact that there are thousands of jobs in our State in the health care field that cannot be filled. There are thousands of jobs in the Information Technology field, but people can't be hired because the skill level just isn't there. Yet we have 110,000 dislocated workers in my State of Washington who would love to have those jobs.

It is about matching those unemployed workers with job opportunities that employers would like to give them. The missing ingredient is funding, as we have in the past, adequate levels of job training dollars to train workers to meet the skills gap.

People consider this issue and think: Isn't this about whether we help an individual worker? And it is. It is about retooling the American workforce. It is about retooling our workforce in an information age economy. But it is also about helping our national economy. Think of it for a second. What happens when you help re-train somebody and they upgrade their skills, as we have done in Washington State?

I know a woman who was working, employed in the timber industry. She went back to a community college, was re-trained, got an Information Technology job, and made twice as much money. That was good for her but what was also good was that firm that hired her found a needed employee to help improve the productivity and bottom line of that company. That bottom line productivity and improvement in that company also helped our local economy. It produced a better output and a better general economy for the State. So by investing in workforce training we are actually helping our entire national economy.

Why at a time with high unemployment, why at a time when our economy is transitioning and we are trying to come up with a budget that will stimulate growth for the future, would we cut such an economic development tool as job training? I know there will be some people tomorrow who will say we are not really cutting programs, instead we are actually just moving the dollars around.

Earlier in this year we also heard that there were carryover funds to fund these job training program. However, my State has spent those dollars. They have actually committed those dollars to retrain people and upgrade their skills. We will hear tomorrow that, no, the money is there. But, what is really happening is that we are actually decreasing the money to fund important programs like the dislocated worker program or adult training program by as much as $678 million dollars. The President FY 04 budget proposal simply transfers dollars from other existing job training accounts and consolidates them into one adult training account under the Workforce Investment Act and calls that an increase. We are really robbing Peter to pay Paul. What I would like to be advocating is that those job training dollars need to be increased beyond prior years. What we should be talking about is, not the 2002 level, but a much higher level in 2004, if we want to reap the benefits of having a fully employed workforce. That should be our goal.

I would even advocate we ought to be looking at the GI bill for job training and education this year as we reauthorize WIA and the Higher Education Act. That is the best way for us to keep our competitive edge in a global economy.

Think about it. What is going to happen? I have been in the private sector. I hired lots of people for a high-tech firm. What is going to happen when you as an employer can't find the workforce because they are not skilled? You don't stop looking. You can't. You have to ship products. You have to develop your services. You go find the workforce wherever they exist. In this case they might be foreign workers.

What we are really saying tomorrow is this: By cutting the workforce dollars by this budget proposal, we are really saying we would rather have foreign skilled workers in nursing, in Information Technology and other professions. Let foreign workers take these jobs rather than helping American workers to fill these jobs.

I don't think that is what we want. We want to put the best foot forward in an economy that is changing, where companies have to compete in a global environment. Any company will tell you that their workforce has to be robust. By robust they mean well educated and ready to shift to new products and services as they meet the competition from other companies in a world that is changing much more rapidly.

Even in the best of economic times, I would say we should be greatly increasing our investment in the workforce. In bad economic times, we ought to be filling that gap in an even much more aggressive fashion, to make sure we do not fall behind and that more of these jobs do not go, either overseas internationally because the skill level isn't here, or to foreign workers who are coming into our country on green cards and filling these jobs because they are the skilled workers.

Tomorrow we have an important opportunity, with this workforce development amendment I will be offering, to say to people in this country that it is not just a tax cut to the wealthiest Americans that will get our economy growing. I disagree with that. But even if you do make some of those tax cuts to those brackets, you have to be saying to Americans who are unemployed and unable to find work at a time when employers are saying I can't find the workers either, when the health care industry is saying there are thousands of nursing jobs to be filled or there are thousands of Information Technology jobs, just give me the skills and we will hire them. We need to be making that investment.

So I hope that my colleagues will join me tomorrow in supporting this very important amendment, to make the right priorities and the right decisions about where our workforce, our economy needs to go in the future.

Mr. SMITH. Mr. President, I rise today to introduce a sense-of-the Senate amendment regarding the uninsured. Last week was Cover the Uninsured Week, a week dedicated to focusing attention on the plight of the millions of uninsured Americans. This week, I want to continue the momentum from this historic event by talking about the uninsured in the context of the Federal budget.

We have all heard the statistics: more than 41 million Americans do not have health insurance. Forty-one million people. We have heard the number so many times that it seems to have lost its impact. But let's look at that number more closely. Forty-one million people—that is about one in six nonelderly Americans from every conceivable walk of life: children, pregnant women, parents, single adults, full time workers, self-employed individuals, and students.

These 41 million people include those who have lost their jobs as the economy has worsened. It includes people who work hard for small companies that can't afford to offer health benefits to employees. It includes people who work for companies that offer health benefits, but who can't afford their share of the premium. I think most Americans would be surprised to know that more than 80 percent of all uninsured children and adults live in families where there is at least one working adult. Most of the uninsured—two thirds of them—go without health insurance for more than 6 months.

I learned another sobering statistic last week: almost 75 million Americans were insured for at least some time over the past 2 years. That is almost one of every three Americans under age 65.

I don't know about what all this means to you, but to me, this spells crisis. Our health care system is in crisis, and it is up to us to fix it.

Last month, Senator CLINTON and I called on our colleagues on the Budget Committee to provide real dollars to cover the uninsured. While in the end the Senate Budget Committee did set aside a reserve fund of $50 billion to cover the uninsured over the next 10 years, I just don't think this is enough to make a sizeable dent in a problem of this magnitude.

The sense of the Senate before you today asks the Senate to make it a priority to expand access to health care coverage in the United States. It asks that, to the extent that additional funds are made available, a significant portion of these funds should be dedicated to expanding access to health care coverage so that fewer Americans have to live without health care coverage, and the safety net is protected and strengthened.

Americans are losing their jobs as the economic downturn continues, without the benefit of any economic stimulus legislation from us in Congress. There can be no doubt what will happen this year—it has already begun. Through no fault of their own, many employers will have to raise copayments and premiums, while reducing benefits . . . if they are able to continue to offer insurance to their employees at all. The bottom line is that this year, more people will lose their health insurance.

These facts and figures should disturb all who see them. But behind every single one of those 41 million people is a face and a story. And as I travel around Oregon for townhalls with my friend and colleague Ron Wyden, we look into the faces of the uninsured, and we hear their stories, and we see their pain.

While the stories are always different—and many of them are tragic—the circumstances that have brought them to these places are often similar. The loss of a job. An increase in insurance premiums. A serious illness. Unavoidable circumstances that could happen to any one of us.

I urge my colleagues to support this amendment, and ask you to join the growing coalition as we struggle to cover the uninsured.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment offered by the Senator from South Carolina to increase funding to our Nation's ports.

This amendment will provide more funding to help all ports prevent a future terrorist attack. It will provide $1 billion annually for the next 2 years—an increase of $2 billion total.

We all know U.S. seaports are a gaping hole in our Nation's system of defense against terrorism. We have beefed up security at our airports, but as our Nation fights a war in Iraq, we are not doing enough to increase the security of our seaports.

Last year, Congress approved legislation, the Maritime Transportation Security Act, sponsored by Senators FRITZ HOLLINGS, BOB GRAHAM, and others designed to increase security at our ports.

In my view, this legislation was a good first step, but our ports remain extremely vulnerable to attack. One reason our ports are still vulnerable is that the Federal Government has not provided them with enough money to enable them to increase security.

For example, the Coast Guard has estimated that the present value cost of complying with existing and upcoming international and national security requirements will be about $6 billion over 10 years. The 10-year present value cost for facility security will be $4.4 billion and the cost to comply with section 102 of the Maritime Transportation Security Act alone will be $477 million.

These figures do not account for the funds that will be needed to pay for additional security measures that can and should be taken to protect against a terrorist attack at or through our ports.

Thus, I am very concerned that, apart from some specific projects and earmarks, Congress has appropriated less than $400 million for seaport security grants since September 11, 2001. I was disappointed to see that President Bush has not requested a single dime for seaport security grants in his fiscal year 2004 budget.

We also need to provide greater support to the Federal agencies enforcing our border security laws. Coast Guard, Customs, and TSA need additional funds for port security vessels, new screening and detection equipments, and cargo security programs, and to implement an identification card program.

Port security is a crucial national security issue—like immigration and other border security functions. We need to ensure that more of the money to protect our borders is used to safeguard our ports. We simply cannot leave the Nation's ports in the lurch, forced to pay the bill to protect our citizens from terrorism.

I am particularly concerned that California's ports are not getting enough funds to help prevent a terrorist attack.

For example, California ports have received about $16.405 million from the seaport security grant program established by Congress after the September 11 terrorist attack—about 18 percent of the money available. However, according to the Bureau of Transportation Statistics, California ports handle almost 50 percent of maritime container imports.

In other words, if international terrorists overseas put a "dirty bomb" in a container, the odds are 50–50 that this container would pass through a California port. Mr. President, $16 million is simply not enough to stop such an attack—especially now when we are on the brink of war.

I hope the Department of Homeland Security will ensure that California ports receive their fair share of port security grants in future allocations. However, this Congress can and must do more.

I will soon be introducing legislation that takes a comprehensive approach to port security and focuses our limited resources where they are needed most. Among other things, the bill would do the following:

Update our criminal code to ensure that terrorists who strike at us at or through our seaports can be appropriately prosecuted and punished;

Create a container profiling plan that would concentrate on identifying high-risk cargo early in the shipping process; and

Secure the international supply chain by requiring the government to come up with a plan to inspect containers overseas, before they arrive in the United States—once a weapon of mass destruction in a container reaches the United States, it is too late.

Mr. President, I visited two ports last year, Hong Kong and Los Angeles/Long Beach, and I learned firsthand how difficult it is to protect our Nation from an attack through a seaport.

According to the U.S. Bureau of Transportation Statistics, about 13 million containers, 20-foot equivalent units, came into U.S. ports in 2002. However, only about 2 or 3 percent of these containers are inspected. This translates into millions of tons of cargo moving through our ports with no real scrutiny, any one of which could contain an explosive or weapon of mass destruction.

If attacked, casualties at our ports and surrounding cities could run in the thousands and our Nation's economy could be brought to a standstill. Just imagine if a container holding up to 60,000 pounds of explosives slips undetected into a harbor and is detonated—blowing up a ship, a bridge, or even an entire seaport.

Or worse, picture a nuclear device or radiological "dirty bomb"—no bigger than a suitcase—installed in a container, shipped to the United States, and exploded at a port or somewhere within the interior of our country.

Beyond the human toll, such an attack would mean that every container in the system would have to be inspected to ensure that there wasn't another bomb out there—grinding our economy to a halt. One estimate suggests that it would take 6 months to screen all of the containers in the system on any given day. So we must do everything in our power to prevent an attack from happening in the first place.

Simply put, more funding is of critical importance when you consider the October 2002 report by former Senators Gary Hart and Warren Rudman. The followup Hart-Rudman report points out, "Only the tiniest percentage of containers, ships, trucks, and trains that enter the United States each day are subject to examination—and a weapon of mass destruction could well be hidden among this cargo."

The report recommends revising transportation security because "the vulnerabilities are greater and the stakes are higher in the sea and land modes than in commercial aviation. Systems such as those used in the aviation sector, which start from the assumption that every passenger and every bag of luggage poses an equal risk, must give way to more intelligence-driven and layered security approaches that emphasize prescreening and monitoring based on risk-criteria."

The bottom line: We must do a better job of profiling and inspecting cargo that could put our Nation and our citizens at risk. This will take time, money, and cooperation from industry—but it is a necessary and critical part of our homeland security effort.

A year and a half has passed since our Nation was struck by terrorists from the sky. We can't afford to wait for a similar—or potentially greater—tragedy to provide adequate funds for port security.

I yield the floor.

Mr. GRASSLEY. Mr. President, I start by congratulating the chairman of the Budget Committee, Senator NICKLES, on his fine work.

One of the reasons for the problems of last session was the absence, for the first time in a generation, of a budget resolution. Chairman NICKLES has carried the President's budget to the floor and been a loyal lieutenant for our Commander in Chief. It looks as if much of the President's budget may remain intact, but it is also true that the budget will change somewhat.

Let me make it clear. I support the President's budget, including the tax cut number and the growth package.

I believe we need a bold response to the flagging economy. It is our obligation to the folks that sent us here. We need to respond. Both sides agree on that need, as do the centrists, led by Senators BREAUX and SNOWE. Where the Democratic caucus, the Republican caucus, and the centrists differ is on the number we allocate for growth proposals.

The debate we have this afternoon is about that number. Really, though, the debate is about whether we should be bold, cautious, or timid. The President and most of the Republican caucus want to be bold. We want American businesses, small and large, to grow. We want every American who wants a job to be able to get a job. We don't want to take any chances.

The Democratic leadership's proposed growth package yields a net tax increase of $11.7 billion. That package also contains new spending of $118.7 billion. I call that a timid response to the flagging economy.

Now, let's turn to the Breaux-Snowe-Baucus-Voinovich amendment. I understand the concerns of my friends from the Centrist Coalition. They are worried about long-term deficits. I am too.

I am more worried about the spending side of the ledger. The Centrists are focusing on the tax cut side only. It is important that the Centrists' amendment does place the tax cut reduction into deficit reduction. There is, however, no guarantee that the $375 billion will not be spent in subsequent amendments on this resolution.

Senators BREAUX and SNOWE have a long history of trying to secure bipartisan consensus. In 2001, they, along with Senator BAUCUS, were critical supporters of the bipartisan tax relief package. They are widely known for their efforts to find bipartisan consensus on Medicare. I will be looking to this group when we take up Medicare legislation later this year.

Senators BREAUX and SNOWE suggest that the middle ground is splitting the difference between the President's number of $726 billion and the Democratic leadership's position.

I am opposed to this amendment because we need more than $350 billion to do the job the right way. Don't get me wrong. If $350 billion is the number, that is the number the Finance Committee will work with. The Finance Committee will develop the best package we can.

My point is that the Finance Committee can do more growth incentives with a number above $350 billion.

Now, some view the net $350 billion as a vote against the President's proposal to eliminate the double taxation of dividends.

I support the President's proposal to eliminate the double taxation of dividends. It is good tax policy and it is good economic policy.

This vote is not about the dividends proposal. The Finance Committee, in its bipartisan way, will decide the composition of the growth package.

To my moderate friends, let me say something in conclusion. No matter where the number ends up, I expect Senator BAUCUS and I will produce a bipartisan growth package.

The Breaux-Snowe amendment, while well intentioned, does not provide the Finance Committee with the tools necessary to do the job of delivering a bold growth package to the American people.

### AMENDMENT NO. 363

Mr. DASCHLE. Mr. President, I want to bring to the attention of the Senate the critical shortfall in funding for the Indian Health Service, IHS—a shortfall addressed by an amendment I intend to offer tomorrow.

Through treaties and Federal statute, the Federal Government has promised to provide health care to American Indians and Alaska Natives. In the Indian health amendments of 1992, Congress specifically pledged to "assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy."

Sadly, we haven't even come close to honoring this commitment. The IHS is the only source of health care for many Indians, and is required to provide it, yet funding has never been adequate. The chronic underfunding has only grown worse in recent years, as appropriations have failed to keep up with the steep rise in private health care spending.

The results are startling and disturbing. While per capita health care spending for the general U.S. population is about $4,400, the Indian Health Service spends only about $1,800 per person on individual health care services. The Government also spends considerably less on health care for Indians than it spends for Medicare beneficiaries, Medicaid recipients, and veterans.

This level of funding is woefully inadequate to meet the health care needs of Native Americans—who have a lower life expectancy than other Americans, and disproportionately suffer from a number of serious medical problems. Indians have higher rates of diabetes, heart disease, sudden infant death syndrome (SIDS), and tuberculosis. There is also a great need for substance abuse and mental health services.

More funds are needed if the IHS is to provide necessary health care services to Indians. The current shortage of funds is having serious consequences. Native Americans are often denied care that most of us take for granted and, in many cases, would consider essential. They can be required to endure long waits before seeing a doctor and may be unable to obtain a referral to see a specialist. Sometimes lack of funds means care is postponed until Indians are literally at risk of losing their lives or their limbs. Other Indians receive no care at all.

This rationing of care means that all too often Indians are forced to wait until their medical conditions become more serious—and more difficult to treat—before they may access health care. This is a situation none of us would find acceptable, yet this is the reality in Indian country.

Last year, Gregg Bourland and Harold Frazier, then the chairman and vice chairman of the Cheyenne River Sioux Tribe in South Dakota, sent a letter to the IHS. This is how they described the situation in Eagle Butte:

> In January and February 2002, the Eagle Butte Service Unit on the Cheyenne River Sioux reservation has been swamped with children with Influenza A, RSV [Respiratory Syntactical Virus], and one fatal case of meningitis. There are only three doctors on duty, one Physician Assistant, and one Nurse Practitioner. The only pediatrician is the Clinical Director who will not see any patients, even though there is a serious need for the services of a pediatrician. Several of these children have presented with breathing problems, high fever, and severe vomiting. The average waiting time at the clinic has been four and six hours. The average time at the emergency room is similar. Most babies have been sent home without any testing to determine what they have and with nothing but cough syrup and Tylenol. In at least three cases, the baby was sent home after these long waits two or more times with cough syrup, only to be life-flighted soon thereafter because the child could not breathe. The children were all diagnosed by the non-IHS hospital with RSV [Respiratory Syntactical Virus]. No babies have died yet, but the Tribe sees no justification for waiting until this happens when these viruses are completely diagnosable and treatable.

I couldn't agree more. It is absolutely unacceptable to put the lives of these children at risk. And we can do something to help. On more than one occasion, I have heard horror stories of pregnant mothers delivering children in circumstances that no expectant mother or child should have to endure.

For example, right now the Service Unit at Eagle Butte in South Dakota does not have an obstetrician. The Eagle Butte Service Unit is funded at 44 percent of the need calculated by the Indian Health Service. The facility has a birthing room and 22 beds, but there are only two to three doctors to staff the clinic, hospital and emergency room. Naturally, as a result, many children and expecting mothers do not receive the care they need and deserve. Due to budget constraints, the IHS policy is to allow only one ultrasound per pregnancy. The visiting obstetrician is available only every couple of weeks.

The story of Brayden Robert Thompson points out how dangerous this situation is. On March 3, 2002, Brayden's mother was in labor with a full-term, perfectly healthy baby. Brayden's umbilical cord was wrapped around his neck, but, without ultrasound, that went undetected. The available medical staff didn't know what to do about his lowered heartbeat, abnormal urinalysis or the fact that his mother was not feeling well. Despite the symptoms, IHS refused to provide an ultrasound or to send her to Pierre to see an obstetrician. Brayden was stillborn. This tragic death was completely preventable, but tough choices are being made every day at IHS facilities throughout the country because there simply isn't enough money to provide the care that every American deserves.

The Pine Ridge Indian Reservation in my State of South Dakota built a beautiful new hospital and health care center. In many ways, they are equipped to provide state-of-the-art, coordinated care. But they cannot retain health care professionals because of low payment schedules and inadequate training opportunities for local people. Their shiny new labor and delivery rooms, surgery rooms and even dental chairs stand empty, and individuals on the reservation are forced to travel long distances to receive these vital services. This also is the case on the neighboring Rosebud Indian Reservation.

This is not solely an Indian issue. This is a community issue. It affects surrounding rural community hospitals, ambulance services, and other health care providers who work with IHS. For example, the Lake Andes-Wagner ambulance district in southeastern South Dakota is facing financial disaster, in part because they have not been reimbursed properly by the Indian Health Service. This ambulance service offers emergency transport for citizens of Charles Mix County and Yankton Sioux tribal members, since the Wagner IHS hospital cannot afford to operate its own service. If this ambulance service shuts down, what will these residents—Indian and non-Indian—do when they face an emergency?

Bennett County hospital in the southwestern part of the South Dakota is located between the Pine Ridge and Rosebud Indian Reservations, and suffers similar IHS reimbursement problems, as do other non-IHS providers in South Dakota and throughout rural America. From 1998 to 2001, the most recent year for which IHS has data, IHS contract denials have increased 75 percent.

In his budget request for the next fiscal year, the President requested only $1.99 billion for clinical services for Indians. This represents only a small increase over what the President requested for fiscal year 2003, and virtually no increase over what was finally included in the omnibus appropriations bill. We can and must do better.

The amendment I am proposing would increase funding for clinical services by $2.9 billion over the President's request for fiscal year 2004. It is the minimal amount that is necessary to provide basic health care to the current IHS user population. The full cost over the next 10 years would be $38.7 billion. The amendment also devotes an equal amount to deficit reduction, all offset by a corresponding decrease in the top tax rate reduction.

The amendment is cosponsored by Senators INOUYE, BINGAMAN, DORGAN, MURRAY, WYDEN, JOHNSON, LEAHY, CANTWELL, REID, and KENNEDY. It is also supported by a wide range of health organizations, native and non-native.

This budget resolution is a test of this Nation's priorities. Some will say that it doesn't matter, that it is purely symbolic. But the whole point of the budget resolution is to establish an enforceable fiscal framework and make room in our budget for needs that we believe are worthy of our national attention.

I know there are some in this body who honestly believe that it is more important to eliminate the taxation of stock dividends—or accelerate huge tax cuts for our Nation's wealthiest citizens than to provide Native Americans the health care they have been promised but denied. Some defend that position by saying that someday, somehow, these Native Americans will benefit from the tax cuts extended to others, that the benefit will "trickle down" to them. It is their right to take that position, but they could not be more wrong.

A woman going into labor cannot wait for economic benefits to trickle down to her. A child in respiratory distress cannot wait, either. How is it possible that we can afford to delve deeper into debt to fund additional tax cuts for those doing relatively well in this country, but we cannot afford to dedicate a small fraction of that amount to fund the most basic health care services for some of the poorest people in America who have been guaranteed that care?

We must not tolerate this situation any longer.

The problem is real; the solution is simple. Give the Indian Health Service the funds it needs to provide Native Americans the health benefits they were promised. Yes, it will require a slight decrease in the reduction of the top tax rate. But those top-bracket taxpayers will still get the benefit of every other rate reduction and every other tax break available to them, and almost 2 million Native Americans will have health care coverage.

I ask unanimous consent that letters from the National Indian Health Board and Friends of Indian Health be printed in the RECORD at the close of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL INDIAN HEALTH BOARD,
*Washington, DC, March 18, 2003.*

DEAR SENATE MEMBER: On behalf of the National Indian Health Board, we are writing to urge your support of a floor amendment providing a $2.9 billion increase over the President's FY 2004 funding request to enhance the Indian Health Service (IHS) clinical services budget. Further, we urge you to participate in the floor discussion and join other American Indian and Alaska Native health advocates on both sides of the aisle as we work together to educate other Senate members about the health needs in Indian Country and how the $2.9 billion increase to IHS clinical services would save many lives.

While we understand the difficult decisions the United States government is facing regarding the FY 2004 budget due to military action in Iraq, a sluggish economy and the war on terrorism, it is equally important that the federal government honor its trust responsibility to American Indians and Alaska Natives by ensuring that IHS has adequate funding to meet basic health care needs. Adoption of an increase in the clinical services budget of the Indian Health Service of $2.9 billion for FY 2004 will move us one critical step closer to that goal.

Medical care for American Indians and Alaska Natives is currently rationed, which has created a health care crisis. Patients are faced with a "life or limb" test that dictates whether they may or may not receive IHS health services. In most situations, unless their lives are immediately threatened or they risk the loss of a limb, their treatment is deferred for higher priority cases.

Additionally, local health care providers outside of the IHS system feel the consequences of this lack of funding. Because IHS is so under-funded and is often unable to offer the full range of necessary care, the agency contracts with local hospitals and other health care facilities and often is unable to reimburse these non-IHS facilities for the services they provide, resulting in serious budget shortfalls for the contract facilities.

Once again, we urge you to join members on both sides of the aisle in supporting this $2.9 billion increase as we work towards eliminating the health disparities plaguing Indian Country. I hope I can count on your support, and should you require further information, please contact J.T. Petherick, National Indian Health Board Deputy Director of Legislative Affairs at (202) 742-4262 or by e-mail at *jpetherick@nihb.org*. We look forward to working with you to address the health challenges facing American Indian and Alaska Native communities.

Sincerely,

JULIA DAVIS-WHEELER,
*Chairperson, National Indian Health Board.*

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FRIENDS OF INDIAN HEALTH,
*March 20, 2003.*

DEAR SENATOR: Our organizations are writing to urge you to support the Daschle budget amendment to S. Con. Res. 23 that calls for increasing funding for FY 04 for Indian Health Services clinical services.

The state of Indian health is at a crisis level and appears to be worsening compared to all other races in the nation. According to mortality data collected by the IHS, between FY 1997–1999, death rates for American Indians/Alaska Natives (AI/AN) from diabetes, cancer, suicide and injuries rose significantly. These increases have resulted in an overall increase in the death rate for AI/ANs while rates for all other Americans have been dropping. This health disparity gap will likely continue unless access to treatment and preventive services are significantly improved.

An increase of $2.9 billion would allow the IHS to restore lost services. Since 1992, due to budget shortfalls, the IHS has experienced an almost 20% loss of spending power. Repeated failures to fund mandatory costs for population growth and inflation, have resulted in the tribes, urban Indian programs and the IHS absorbing close to three-quarters of $1 billion in program costs. As a result our organizations have seen decreases in important primary care services including:

A 37% decline in well child services between FY 1992–97

A 35% decline in physical exams between FY 1994–97 and,

A 26% reduction in people receiving dental services between FY 1992–99.

We believe that in order to meet the health care needs of the AI/AN population, the FY 2004 budget resolution must include realistic funding levels to restore clinical and preventive services and attract a viable workforce of health care providers.

Thank you for your consideration of this matter of vital importance to America's Indians. We hope we can count on your support, and please let us know if we may assist your efforts. If you have any questions or need more information on this issue please contact Judy Sherman at *shermanj@ada.org* or (202) 789-5164.

Sincerely,

American Academy of Ophthalmology; American Academy of Pediatrics; American Association of Colleges of Nursing; American Association of Colleges of Pharmacy; American College of Obstetricians and Gynecologists; American Dental Association; American Dental Education Association; American Diabetes Association; American Optometric Association; American Podiatric Medical Association; American Psychiatric Association; American Psychological Association; American Public Health Association; Association on American Indian Affairs, National Kidney Foundation.

Mr. INOUYE. Mr. President, I rise in support of the amendment proposed by my leader, the Senator from South Dakota.

I think it is important to review briefly the history that brought us to this point today.

A few hundred years ago, before the first Europeans landed on the shores of what is now the United States, the Indian nations exercised dominion and control over 550 million acres of the land which became America.

By the time of the Revolutionary War, relations with the Indian tribes were well established, and it was the Native people of this land who provided food to General George Washington and his troops that sustained them throughout the harsh winter at Valley Forge.

Native warriors fought beside the revolutionary soldiers, and their valuable contributions to the success of the war for independence was widely chronicled.

Later, as our Founding Fathers undertook the task of developing a constitution for a new Nation, it was the governmental structure of the Iroquois Confederacy that they chose as the model for our democracy and the foundation of our government.

In contemporary times, more Indian men and women, on a per capita basis, have put on the uniform of our country and placed themselves in harm's way in defense of our country than any other ethnic group.

This dedication to a nation that has many sad and sorry chapters in its history of relations with the Native people of this land is remarkable.

Nonetheless, Indian people have served in the Armed Forces of the United States in greater numbers than any other segment of the population, on a per capita basis, in World War II, the Korean War, the Vietnam War, the Gulf War and Desert Storm, and in every military action in which our country has been engaged in modern times.

These are the people whose ancestors ceded 500 million acres of land to America, in exchange for certain fundamental commitments on the part of the United States, including the provision of health care.

So, as has been observed more than once in this Chamber, the Native people of the United States has paid their dues.

They have sacrificed their sons and daughters, mothers and fathers, uncles and aunts in the defense of our Nation.

And through their treaties with the United States, and their cession of millions of acres of land to the United States, the Native people of this land purchased the first prepaid health plan in America.

The question that we are confronted with today is: What promises did the United States make to the Native people of America in treaties and what responsibilities did the United States undertake in subsequently enacted Federal laws, and how do those commitments measure up to what is provided to other Americans today in the arena of health care services?

I believe that the reason my colleague from South Dakota has come forward today with his amendment is that he sees in his home State of South Dakota the same dynamic that we see across Indian country—a health care system that is woefully underfunded and alarmingly understaffed, with facilities that are in such a state of disrepair that many of them have been condemned.

As a veteran and as ranking member of the Defense Appropriations subcommittee, I have had the opportunity to compare the investments our Nation makes in the health care provided to our veterans, to our men and women in active duty service and their dependent, and to our Federal employees.

I think these comparative expenditures should interest our colleagues—for they tell the story and paint a dramatic picture of disparities that are so large and frankly, so shocking, that we would be negligent and irresponsible were we to fail to address them.

Let's look at veterans. The Veterans' Administration expended $5,214 for medical care for each eligible veteran in 2001. In 1999, Medicare expended $5,915 per eligible Medicare enrollee.

The average medical expenditure in the United States on a per capita basis in 1999 was $5,065 per patient.

For Medicaid enrollees, $3,879 was expended for each eligible Medicaid patient in 1998.

For inmates in Federal prisons, $3,803 were expended for health care services provided to each inmate in 1999.

Just a little less—$3,725—was provided to Federal employees in 1999 for health care services under an eligible Federal health care plan.

Compare all of these figures with that provided to patients of the Indian Health Service in 2002—a shocking $1,914 per patient for medical care and $619 for nonmedical care such as preventive health care services.

So if you are an Indian person and you are in need of health care services, you would have twice as much provided for your health care as a Federal prison inmate than you would as a law-abiding Native citizen of the United States.

If you were a veteran, 60 percent more would be dedicated to providing health care to you, and if you were eligible for Medicare, the percentage would be even higher.

This is the relative nature of the manner in which we carry out our commitments to the Native people of this land.

Now let's look at some health statistics of the Native American population. If you are an Indian or an Alaska Native, the likelihood that you will die from diabetes is 390 percent higher than for other Americans.

As a Native person, your chances of dying from tuberculosis are 500 percent higher than other Americans.

And if you are a newborn or an infant Native child, your mortality rate is 25 percent higher than other infants.

Rates of cardiovascular disease are twice those for the general public and they continue to increase while the incidence of cardiovascular disease is going down amongst the general population.

To complete this picture, we also need to look at the health care system that is designed to serve the needs of Native people.

Health care in Native America is provided through the Indian Health Service system of hospitals and clinics, through tribally operated hospitals and clinics, through urban Indian health care programs, and through government contracts with private hospitals and health care providers.

In some of the most heavily populated areas of Indian country, particularly California, Oregon, and Washington State, there are no Indian Health Service hospitals and clinics, so Native people in those states must rely on either a tribal health care system or on contract health care services.

But because of the severe constraints that have been imposed on funds available for the purchase of contract health care services, those who must seek care outside the Indian Health Service system have to prove that their condition is either life-threatening or that they may lose a limb in the absence of treatment.

So if you have severe diabetes and resultant kidney damage, for example, as a Native person you wouldn't be eligible for kidney dialysis until you were at death's door. Physicians would instruct us that by that time, it is often too late to save the life of a patient.

In this category alone, there is a shortfall of $20.6 million of what is needed for contract health care services.

To bring the 55 most poorly funded tribal health care systems up to 40 percent of the identified health care needs, it would require $34 million.

And to bring tribal communities across the Nation up to just 60 percent of the identified health care needs, it would require $388 million.

The Indian Health Service is also charged with providing safe water and sanitation facilities for Indian communities, but there is a $1.753 billion backlog in sanitation facilities.

For basic primary health care services—services which most Americans take for granted because their access is unlimited—for Native people the need that is unmet is $6.336 billion.

For Indian people suffering from cancer, the health care service need that is currently unmet is $294 million.

For those Native patients with heart disease, the unmet need for health care services is $369 million.

Native Americans with diabetes have an unmet need for health care treatment of $452 million.

I could go on and on with such tragic statistics—and if they were just numbers it might be a different matter—but each of these statistics represents thousands of Native people who are going without the most fundamental health care.

These are the people who have given this country their land so that we could build a new nation.

These are the people who have sacrificed their lives in the defense of our country.

These are the people who have given the most and who are in turn, provided the least.

Most of the Indian Health Service hospitals are over 30 years old. They are so badly in need of repair and replacement that the minimum unmet need is $610 million.

Year after year, the costs associated with providing care—salaries of doctors and nurses and other health care professionals serving Indian country—fail to keep pace with those employed in the Department of Defense and Veterans' Administration health care systems, or with medical inflation rates.

Not surprisingly, these valued professionals leave Indian country for more pay, better working conditions, and as caring people—for the promise that the patients they see on a daily basis won't have to wait until their lives are hanging in the balance before they can receive care.

If treaties mean anything—and the U.S. Supreme Court has repeatedly held that treaties are the highest laws of the land—then this Nation has not only a moral duty but a legal obligation to fulfill its treaty commitments to the Native people of this land.

And I think that these numbers make it abundantly clear why the amendment proposed by my friend from South Dakota is conservative.

It won't meet all of the health care needs in Indian country, but it would be a good beginning in addressing conditions that are devastating and tragic by any measure—conditions which portray a shameful picture that a benevolent and prosperous nation appears to care so little about its First Americans.

Mrs. MURRAY. Mr. President, I strongly support Senator DASCHLE's amendment to increase funds for the Indian Health Service's clinical services by $2.9 billion. I believe access to good health care services is a basic human right. This is especially true for Native Americans, for whom the Federal Government has the trust responsibility to deliver health care services. But statistics tell us that when it comes to ensuring good health for Native Americans, we are failing.

The Indian Health Care Improvement Act, S. 212, which I cosponsored last year, includes some sobering statistics. The bill reads, "In death rates for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher." This is unacceptable.

When I meet with tribes from Washington State and around the country, improving access to health care for underserved populations—from neo-natal care for pregnant women to care for elders—almost always comes up. I understand that narrowing the health gap that exists between Native Americans and non-natives is a complex challenge. Good health care for Native Americans depends in part on decreasing poverty and unemployment, improving education, strengthening economic development, and overcoming physical and cultural barriers to accessing good health care.

But it also depends on adequate resources, and I believe we must do more in this area. In 2003, medical inflation exceeded 12 percent in the Pacific Northwest. With medical inflation in the double digits and growing Native American populations, we cannot accept cuts to the Indian Health Service. Nor can we accept only minimal increases in funding for IHS programs year after year.

But that is what this Budget Committee has proposed, in keeping with President Bush's 2004 budget request. This Budget Resolution assumes no discretionary increases in funding for IHS. The Bush Administration has asked for an increase of only 2 percent for IHS clinical services. This is woefully inadequate.

I urge my colleagues to support this amendment to increase funding to ensure good health care for Native Americans. This amendment to the budget resolution will provide an increase of $2.9 billion for IHS clinical services in fiscal year 2004 and a $40 billion increase over the next ten years. The cost of these increases for the Indian Health Service is paid for by a decrease in the proposed tax cut.

The Daschle amendment provides a crucial first step towards securing increased appropriations for Indian health care. Over 90,000 Indian people in the Northwest, and more than 1.5 million Native Americans nationwide, depend on IHS funds and services. We can no longer let down American Indians by continuing to under-fund vital health care services. I hope my colleagues will support this amendment.

Mr. BUNNING. Mr. President, I rise to express my support for the budget resolution.

First I would like to say that it is nice to actually have a budget on the floor in the Senate. We didn't ever get to vote on one last year, and I would like to compliment Chairman NICKLES on moving this resolution swiftly through the budget committee and to the Senate floor.

We have to remember that part of our responsibility to our constituents is not to just listen to and be their voice in Washington.

We also have to respect and follow the traditions, rules and processes of our duties that have been entrusted to us.

Whether it is following the committee process to get a bill to the floor, or allowing an up or down vote on a president's judicial nominee, we have to remember that the Senate is only as great as those who serve in it.

I think the Senate suffered last year when for the first time in nearly three decades we did not even consider a budget resolution.

It then took us almost a full year to get all of our work done. We didn't pass last year's appropriations bills until just 2 months ago.

Last year we failed and we have to improve. The result was a broken process that limped along for months and months. This year we have to do better and I believe we will.

We face a tough budget for 2004. While I am happy the budget resolution before us balances the budget within 10 years, we do face some large deficits in the near term.

These large deficits primarily occur because we have had a steep decline in revenue.

Contrary to what some of my colleagues try to argue, our revenue problems are caused by a weak economy and not tax cuts.

The evidence is overwhelming that tax cuts stimulate the economy. They create jobs, and increase economic activity, that leads to more revenue.

And that is why we need tax cuts now—to get the economy out of a rut and to help improve the budget forecast.

If American businesses are not generating profits, if American workers are not working, the result is a lot less money coming into the Federal Government through various taxes.

Decreased tax receipts do not mean taxes are too low; they mean the economy is too slow. We cannot make these budget numbers look better in the long term without a strong economy.

Many of my friends argue against tax cuts and at the same time complain about falling revenues.

If they really want to increase federal receipts and provide more funding for their favorite programs, tax cuts are the answer.

Our budget committee, under the leadership of chairman NICKLES, has crafted a strong budget.

Besides this budget outlining our federal spending priorities, it also addresses one of the most important challenges facing our country today—strengthening the economy.

At its core, this budget recognizes that we must grow our economy. That is why the budget committee chose to include a jobs and growth package at the very core of this budget and to include that package in reconciliation.

We have a fundamental responsibility to the American people to make this economy stronger and to return it to a growth pattern we have enjoyed in the past.

Many here have expressed concerns for our men and women who are fighting for our freedoms and to liberate the people of Iraq.

We all pray for their safety and their quick return home to their loved ones. But in addition to our responsibility to do what we can to insure their safety overseas, we must also focus upon our responsibilities to them when they return.

While we continue to pray for a quick and decisive end to this war, we have to think about what our soldiers and sailors will have to come home to.

An economy with an unemployment rate of 5.8 percent is not good enough. An economy that's barely growing is not good enough.

We have to do better. We have to make sure they have choices and opportunities in the American job market that will allow them to support themselves and their families.

It is not going to do us any good to win the war and lose the economy. We have to do both at the same time.

We have to get this economy moving and Americans working. And the jobs and growth package included in this budget resolution is the answer to our economic troubles.

The council of economic advisors estimates that this economic growth plan will create 510,000 new jobs in 2003 and another 891,000 new jobs by the end of 2004.

The business roundtable estimates that around 3.5 million jobs will be created over that same time frame.

Between these two estimates, that is 1.5 million to 3.5 million Americans that will not be working over the next two years if we eliminate the President's growth package from this budget.

The majority of the Budget Committee believe strongly in the wisdom of this jobs and growth package. And that is why we provided for the package under the special procedures of reconciliation.

Through the accelerated procedures provided by reconciliation, we will be able to enact changes to help our economy sooner rather than later. The faster we can implement these policies, the better it will be for all of us.

While the details of any growth package will be determined by the Senate Finance Committee, I hope that any bill that comes out of that committee, on which I serve, will include many, if not all, of the proposals that have been put forward by President Bush.

High on the list are the acceleration of a number of proposals we passed in 2001 which are scheduled to totally phase-in and become effective in later years.

The President's plan will immediately increase the child tax credit to $1000. This will benefit over 25 million American families—342,000 of them in Kentucky.

The President's plan will accelerate the expansion of the 10 percent tax bracket—which benefits all American taxpayers. Over 69 million taxpayers will benefit from this provision, including 879,000 Kentuckians.

Over 35 million married couples—almost 500,000 of them in Kentucky—will benefit from the President's acceleration of marriage penalty relief.

We also accelerate the reduction of the marginal tax rates. It is estimated this will provide 28 million taxpayers with a tax cut—including the 85 percent of America's small businesses which pay personal income taxes rather than corporate taxes.

Approximately 79 percent of the tax relief provided by accelerating the reduction in the top bracket to 35 percent would go to small business owners. As my colleagues are aware, it is the entrepreneurs and small business owners which create two-thirds of the new jobs in the United States.

Another component of the President's jobs and growth package is the elimination of the double taxation of dividends.

This could be the most effective provision of all of the President's proposals contained in the President's budget. But because of the usual class warfare mantra from its opponents, it may be the toughest to sell.

Half of all households in America own stock and 50 percent of all dividend income goes to our country's seniors. So a reduction in the tax rate that dividends face—currently in the range of a 60 to 70 percent marginal rate—could have a real impact on our economy by allowing more dollars to be spent by consumers.

This reduction in the double taxation of dividends not only assists current dividend recipients, but it assists all who own stock.

Some private-sector estimates indicate that market increases from this proposal could be up to 20 percent. This would be welcome news to Americans who have been hard hit by the loss of about $7 trillion in the value of U.S. stocks since March 2000.

An added bonus to eliminating the double taxation is the change it will have on the debt-to-equity ratios of American businesses.

Treasury Secretary Snow estimates we could see changes in the debt-to-equity ratios in the range of 5 to 8 percent. This movement of corporations toward the use of more equity and less debt would leave them less vulnerable to economic downturns.

And before we hear the usual cries from the opponent's of the President's tax relief package—who say we are raiding the Social Security Trust Fund to pay for tax cuts for the rich—let me set the record straight.

As the law requires, we invest social security funds in government bonds which are the safest and most reliable investment out there.

These bonds are kept in a secure facility in Clarksburg, WV. And no one has shown up there to grab these bonds and hand them out to the rich. That is just a bogus claim.

The President's growth package is just that—an economic growth package. We recently passed an extension of unemployment benefits and President Bush signed that into law. While this may provide a quick—yet short—stimulus to the economy, what we really need is a long-term jobs and economic growth plan.

We cannot spend our way into prosperity. We have seen governments try this and fail. It may make some of us feel good to write check after check from the government, that is simply the wrong approach.

Governments don't create jobs and wealth. Free individuals with an idea and a source of capital create jobs and wealth.

We can grow ourselves into prosperity. We have done it before. The fundamental question is: Who knows better what is good for Americans—the Federal Government or the American people?

The strength of the American economy is not from the government and more Federal programs. It is the American people—the workers, entrepreneurs, investors, and risk takers—who keep the American dream alive.

It is better to allow Americans to keep more of their money to make spending, savings and investment decisions. We cannot decide here what job skills different people need, or what new equipment companies should purchase, or how to organize a small business' growth plan.

The Federal Government cannot make these investments for them. Big brother does not know best. We in Congress do not know what investments will best suit the particular interests of American families, entrepreneurs and business owners.

But what we can do is allow Americans to have access to more of the money they work for and earn. And then we have to trust them to make the necessary decisions within the economy to invest and create more jobs.

But to do this, we need to pass this budget resolution with its jobs and economic growth package in tact. And therefore, I urge my colleagues to support this resolution as it was passed by the Budget Committee.

Finally, I want to say a few words about the Medicare prescription drug benefit provision in the resolution.

We all agree that Medicare is an important program. It provides health coverage to 41 million Americans, including almost 630,000 Kentuckians.

When Medicare was created back in 1966, it ensured that seniors would be able to receive health care coverage. However, medicine has advanced so rapidly and prescription drugs play a major role in the health care of many. For years, Congress has debated various proposals for adding a drug benefit to Medicare. So far, we haven't gotten the job done. I am hopeful this year will be different for several reasons.

First, our seniors need our help now more than ever. They shouldn't have to make tough decisions about which prescriptions they can afford to fill each month, or whether or not they should divide pills or skip meals.

This is one of the biggest issues we hear about from our constituents. There are a lot of Kentuckians who would benefit. Almost 144,000 seniors in Kentucky are below 200 percent of poverty, and almost 58,000 are below the poverty level.

Second, this budget resolution sets aside $400 billion over the next 10 years to create a medicare drug program. This is a great increase over what the President proposed before and shows his dedication to this issue.

In fact, the President proposed $153 billion for Medicare prescription drugs in his fiscal year 2002 budget.

For fiscal year 2003, this number increased to $190 billion.

And for fiscal year 2004, President Bush has more than doubled last year's amount to $400 billion.

For Congress's part, this $400 billion figure is also a substantial increase.

In the fiscal year 2001 budget resolution, we set aside $40 billion over five years for a Medicare prescription drug benefit.

In the fiscal year 2002 budget resolution, Congress allocated $300 billion over 10 years.

Of course, last year, we didn't pass a budget. And, this year, we have set aside $400 billion over 10 years.

Third, the finance committee will be allowed to consider and report a bill to the floor this year. And I am hopeful we can avoid many of the problems we encountered last year.

Last year we voted on four prescription drug proposals. But because the bill didn't come from the finance committee as it should have, all these proposals required 60 votes to pass. Needless to say, none came close.

Also, these four proposals ranged widely in price from as low as $295 billion to over $600 billion. The tri-partisan plan, which I and many of my colleagues voted for, was estimated to cost $370 billion over 10 years.

We have a real chance for a bipartisan effort this year. An overwhelming majority in this body have indicated their support for a Medicare prescription drug benefit.

I urge my colleagues to vote for this resolution. It will create jobs if we can pass it with the President's job and tax package in tact. And the Medicare prescription drug benefit package it includes is what seniors not only need, but what they deserve.

The PRESIDING OFFICER (Mr. TALENT). Who yields time?

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I yield to my colleague.

Mr. CONRAD. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. I thank my colleague from North Dakota.

We have now completed the debate and discussion time for consideration of the budget resolution. The statute calls for 50 hours. We have yielded back a few hours, but for the most part we have probably spent some 40-odd hours on the floor of the Senate debating and discussing various amendments. It has been a very high level debate. We considered several amendments. We have adopted amendments. We have agreed to adopt additional amendments.

Unfortunately, as sometimes happens in budget resolutions, when we conclude the scheduled time for debate, the 50 hours, we have not dealt with all the pending amendments. We still have many amendments. Sometimes that leads to a lot of votes. So tomorrow we will begin that. We will begin it at 9:45.

I urge all my colleagues to be here and, for the most part, to stay on the floor. We will work with all of our colleagues who have amendments filed or pending or feel that they are compelled to offer amendments. We encourage them not to. But knowing a little history, I would expect a lot of rollcall votes tomorrow. I will say on behalf of colleagues on my side and others, we will be happy to work with colleagues. I would hope that maybe we could get some amendments accepted by voice vote, or maybe the sponsors of the amendment might decide it might be a better time to offer their amendment at another date for which we would give them great credit and applause. Regardless, I expect that we would have a lot of votes beginning at 9:45 tomorrow morning.

I expect the time for the votes will be limited to 10 minutes for the information of our colleagues. We will provide periodic breaks for individuals so they can have maybe some chance for us to regroup and reconsider the order and priority of amendments.

Mr. President, I ask unanimous consent that 9:45 the Senate proceed to votes in relation to the following amendments in the order mentioned: Schumer amendment No. 299; Cochran on homeland security; Feingold on war reserve; Lautenberg on defense; Hollings on no tax cut; Sarbanes on a water related amendment; Crapo on a water related amendment; Conrad on IDEA, Gregg on IDEA; and Senator MIKULSKI on long-term care.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank my colleague, Senator CONRAD. He has been a pleasure to work with through the first several days of this resolution. I expect that we might have a long day tomorrow. I hope not. But we will be in as long as necessary to complete this resolution, and I encourage all of our colleagues, tomorrow is a good day to attend if you want to improve your voting record. It is not a good day to miss if you want to have a good voting record for the year.

Mr. CONRAD. Mr. President, let me thank my colleague, the chairman of the committee. He has been gracious throughout this process and a gentleman. I have very much enjoyed working with him.

The fact is, now we have over 90 amendments pending at the desk—I think 93. At 10 minutes apiece, that is over 15 hours of voting, and that is if we voted every 10 minutes. We all know that won't occur. So we would be talking about a very long day tomorrow.

I will just send a message out to any of our colleagues or any of their staffs who are listening, to those who have amendments pending: If this is something that you think is a good idea but you really don't need to do now, that you could offer on an appropriations bill or some other vehicle, we encourage you to do that.

This is a very difficult process. I think the record is 34 votes in a day. I remember that day. I think the chairman remembers that day. It was not pretty. I don't look forward to a replication. But that is what the rules are. That is where we are. The only way it is going to be better is if we use restraint. I just hope colleagues and staffs are listening and that tomorrow restraint is demonstrated. We don't need to vote on every one of these 93 amendments.

The chairman and I will work diligently to try to clear amendments, to get agreement on amendments, to work through amendments that could be accepted. We ask our colleagues, we implore them to work with us tomorrow, to avoid this being an unpleasant and unproductive experience.

Again, I thank the chairman and our colleagues who have worked cooperatively today to make progress.

Mr. NICKLES. Mr. President, I thank my friend and colleague, the ranking member of the Budget Committee. He is exactly right. There are 90-some amendments. I would hope most of them would not be called up, and I hope the balance will be voice voted, and maybe we will have a couple rollcall votes and finish at decent hour.

I would like the Senate to conduct itself in a way that we would be proud. In years past that has not always been the case, when we are doing these rapid fire amendments.

## MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS COUNTERMEASURES RESEARCH ACT

Mr. HATCH. Mr. President, I rise to speak about my cosponsorship, with Senator LIEBERMAN, of the bipartisan Biological, Chemical, and Radiological Weapons Countermeasures Research Act of 2003. Senator LIEBERMAN and I also offered similar legislation, S. 3148, in the 107th Congress.

I think that when our colleagues, the administration, academic biomedical researchers, patient advocacy organizations, and the general public study the ambitious set of incentives contained in the Lieberman-Hatch bill, they will conclude that this measure can materially improve our national security. If adopted, this legislation will allow the families of Utah and in our sister states across America to live with a greater measure of safety.

Although this is a complex piece of legislation, its goal is simple. The Lieberman-Hatch bill will establish a unique public-private sector relationship that will result in stimulating the private sector to increase its scope and pace of research and development activities for a wide range of medical products intended to deter and respond to acts of biological, chemical, or radiological terrorism.

Senator LIEBERMAN and I believe that the best way to discourage and prevent acts of bioterrorism is to be able to demonstrate our capacity to develop, produce, and distribute biological, chemical, and radiological weapons countermeasures.

In short, if our medicine chest is full and we show the world that we have the ability to rapidly discover new countermeasures, we will decrease the likelihood of ever having to deploy these countermeasures in the first place. For example, in the last 18 months we have made great strides in ramping up production of, and our capacity to distribute, smallpox vaccine. In fact, few, in any, countries could respond more effectively than the United States to the introduction of smallpox. Our enemies in Baghdad and those hiding in mountains of Afghanistan might do more harm to themselves and their neighbors if a worldwide smallpox outbreak occurs.

Unfortunately, there are dozens, and perhaps many more, biological and chemical threats for which we have no adequate response. As well, this latest outbreak of antibiotic- and antiviral-resistant pneumonia points out the need to develop responses to new public health threats whether they are spread intentionally or naturally. This bill tries to create a new paradigm for the development of vital bioterrorism countermeasures that could also serve as a model for stimulating private sector drug discovery activities in other important areas such as cancer, heart disease, and infectious and rare diseases.

Senator LIEBERMAN and I praise the work that has already been done to help our nation meet this new type of threat. Senators BYRD, STEVENS, SPECTER, and HARKIN made available a substantial amount of new resources immediately in the aftermath of the September 11th and the October, 2001 anthrax attacks.

Last year, Senators GREGG, KENNEDY, and FRIST led the effort to pass important bioterrorism legislation to improve the public health infrastructure so that our country can better respond to public health emergencies.

The Bush administration is currently working closely with Congress on the Project BioShield program. We salute these efforts. We are pleased that the Administration is now embracing the concept of a guaranteed market that was part of last year's Lieberman-Hatch bill, S. 3148. We urge the Administration and Congress to adopt other critical features of Lieberman-Hatch.

The Lieberman-Hatch bill is a bold attempt to move the ball closer to the goal line. Our bill attempts to complement all the previous efforts to build up the capacity for public sector responses with a set of incentives designed to unleash the creative genius and substantial resources of the private sector actors within our Nation's biomedical research enterprise.

Let me quickly summarize the major features of the bill.

The Department of Homeland Security sets the countermeasures research agenda so that firms know beforehand the research targets. Interested companies register with DHS and become obligated to report their activities and subject their plants to inspection.

The legislation allows a participating company seeking to fund eligible research to elect from among four types of tax incentives. First, we provide for the establishment of R&D limited partnerships. Second, we create the authority for qualified firms to issue a new class of stock that would be subject to no capital gains tax. Third, we create a new tax credit to help fund the research. Fourth, we allow for a special tax credit for research conducted at non-profit and academic research institutions.

Anyone familiar with the current dismal financial state of affairs within the biotechnology industry will understand the attraction of these tax provisions. Many struggling firms might find it prudent to explore the benefits of adjusting their research portfolios to include countermeasure research and development.

The legislation authorizes funding for a program whereby companies successfully developing countermeasures that secure FDA approval can be guaranteed a market at a pre-negotiated price and pre-negotiated quantities.

Our legislation also contains some fundamental revisions in pharmaceutical intellectual property laws. As author of the Drug Price Competition and Patent Term Restoration Act of 1984, I hold these provisions near and dear.

Essentially, the bill adopts a policy of day-for-day patent term restoration for each day lost during FDA review. Under the current provisions of the 1984 Hatch-Waxman law, no patent may be restored by more than five years and then only if the effective patent term does not exceed 14 years regardless of whether the FDA review takes longer than five years.

The legislation also grants a ten year period of marketing exclusivity for any approved countermeasure, regardless of a product's patent status. This means that FDA could not approve a competitor product until that period expires. This provision operates in parallel with patent protections and serves as a floor time period during which generic versions of the pioneer countermeasure product could enter the market. Current U.S. law only provides for a five year marketing exclusivity period while most European Union countries and Japan already provide a ten year marketing exclusivity period.

The Lieberman-Hatch bill also allows certain types of biotechnology companies, specifically those with less than $750 million in paid-in capital, to extend any patent by two years if the firms successfully develop a countermeasure.

I can tell you that these substantial changes in the area of intellectual property will get a positive reaction in corporate boardrooms; resources will flow in the direction of products eligible for these new intellectual property protections and products will be developed to help our country respond to bioterrorist threats.

In addition to the guaranteed market provisions, targeted tax breaks, and intellectual property incentives, the Lieberman-Hatch legislation also contains liability provisions; accelerated FDA approval procedures, and a limited antitrust exemption.

In summary, the Lieberman-Hatch bill contains an array of incentives designed to spur a robust response from the private pharmaceutical sector. If we are going to increase our ability to defend the American homeland, we need to be certain that both the public and private sectors' are fully engaged. That is exactly what our bill will help accomplish by unleashing the energy and resources of those private sector firms engaged in biomedical research and development.

I urge all of my colleagues and others with an interest in homeland security to study the bipartisan Lieberman-Hatch Biological, Chemical, and Radiological Weapons Countermeasures Research Act of 2003. I believe that when our legislation is examined, it will attract broad and strong bipartisan support.

Let me close by commending my friend from Connecticut, Senator JOE LIEBERMAN, for his vision, energy, and leadership in this critically important area. I would also like to commend the efforts of our bipartisan group of partners in the House, Congressmen TOM DAVIS, CAL DOOLEY, CURT WELDON, and NORM DICKS.

## HONORING FRAN AGNES

Mrs. MURRAY. Mr. President, at this hour, the men and women of our Armed Forces face great dangers in the Middle East. We are thinking of them and praying for them in the challenges they encounter. As a nation, we have faced many conflicts before, and we have relied upon the bravery, skill, and honor of our military personnel.

Today I am honored to share with my colleagues and with the American people the example of a remarkable man named Fran Agnes, who served his country and his fellow veterans and their families for many decades.

I know his name is familiar to many of my colleagues and to anyone who has worked on veterans issues. I am sad to report that Fran Agnes passed away on February 9 of this year. He was surrounded by his loving family.

I suspect that if Fran were here today at the start of this new war, he would say, "Make sure we are prepared to take care of the soldiers, sailors, and airmen we send over there. They need to know, and their families need to know, that we will be there for them."

Today, I want to pay tribute to Fran Agnes and discuss a bill that bears his name. I am especially honored that Fran's family members and friends are here in Washington, DC, today.

I don't recall exactly when or where I met Fran, but it is a sure bet that he walked up to me, shook my hand, smiled, and said: "You don't know me, but I'm Fran Agnes and I want to help you help veterans."

Boy, he wasn't kidding. As I look at the things Fran worked on over the years, that is exactly what he did.

For example, 7 or 8 years ago Fran started talking to me about the importance of making honor guards available at the funerals of veterans. We talked about the nearly 30,000 World War II veterans who pass away every month—who take with them an important part of our history. Fran was upset that we as a nation were allowing veterans to be laid to rest without the appropriate honors.

We discovered that the military was relying more and more on volunteers to perform funeral honors. And more often than not, the volunteers themselves were older veterans who struggled to meet the demand. We found case after case of families all across the country who couldn't find an honor guard to present a flag with the words "On behalf of a grateful nation" at the funeral service of a veteran. We even had a case at Arlington National Cemetery where a local family could not secure an honor guard for a veteran.

Fran asked me to get involved in the issue. We worked together to come up with legislation to require the Department of Defense to provide honor guards for veterans' funerals. We worked with the American Ex-Prisoners of War. Fran was an enthusiastic member of the organization and served as its national commander. We built a coalition of veterans service organizations in support of the legislation. Senator PAUL SARBANES, Senator FRANK MURKOWSKI, and Congressman LANE EVANS joined the effort and provided important leadership.

The Department of Defense opposed our legislation. With Fran's encouragement, we set out to address the DoD's concerns. Ultimately, we offered an amendment to the Defense authorization bill, and it was agreed to unanimously. Similar legislation passed the House of Representatives. Together, we succeeded in changing the law and ensuring the Department of Defense would provide honor guards when requested by a veteran's family. Fran Agnes raised this issue and touched a nerve all across our country. And he helped change the law for veterans. That is just one example of Fran's service.

Fran was also the visionary leader behind the campaign to create the Takoma National Cemetery for Washington's veterans. He was its greatest champion, and I worked closely with him to authorize and build it. Fran loved Takoma. Washington State veterans are proud that when Fran was taken from us last month, the Takoma National Cemetery was there to welcome him home with full military honors.

Fran Agnes lived a life of service to his family, to his fellow veterans and to his community. He coached Little League baseball for 20 years. He was responsible for building ballfields for young Washingtonians in both the Spokane and Everett areas. He was involved in both the Elks and the Eagles.

I was fortunate to know and work with Fran Agnes. I was blessed by his support and friendship. Washington State is a stronger community because of Fran Agnes, and veterans in my State had no greater friend or advocate than Fran.

As I mentioned, Fran passed away on February 9, 2003, with his loved ones at his side. At his service a few days later, his family was joined by the veterans community, the State of Washington, and a truly grateful nation to pay tribute to Fran as he was laid to rest in his beloved Takoma National Cemetery.

Secretary of Veterans Affairs Tony Principi sent a moving letter to Fran's wife Marlene Agnes. The letter from Secretary Principi states, "Fran's service to America is legend in the veterans' community. He and all the men and women of his generation will long be remembered for their monumental struggle and decisive victory. However, Fran's service and sacrifice at Bataan, and later as a prisoner of war, were as great as any American has ever been asked to endure."

I ask unanimous consent that the full letter appear in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Several years ago, my father passed away. He, too, was a World War II veteran. It wasn't until after my father's death that we discovered his letters and writings from the war. My father was like most veterans of his generation who did not talk about their experiences. Fran was like that, too. I saw Fran many times over the years. He came to Washington with the American Ex-Prisoners of War. I saw him at veterans events all over my State. If I attended a veterans event, you can bet Fran would be there—proudly wearing the maroon coat of the American Ex-Prisoners of War.

In all the time Fran and I spent together, he never asked me to do anything for himself. It was always things for other veterans and their families. He asked me to help the widows of our veterans. He asked me to support the POWs' lawsuit against the Japanese companies that profited from slave labor during World War II. He would ask about helping another veteran who might be having a problem with the VA.

Fran Agnes did not boast of his service. He didn't complain to me about injuries or problems from his time as a prisoner of war. Fran would call my office just to check in. He usually didn't have a request. He would just call and say, "I know you're working for us. Keep it up."

Because Fran, like so many veterans, did not boast of his own accomplishments, I want to share them with the Senate today. I cannot let this moment pass without sharing some of the things about Fran that he didn't talk about.

Fran Agnes was born in 1922 in North Dakota. His father was an Irish immigrant who moved the family to Wenatchee, WA, for a WPA job during the Great Depression.

Fran graduated from high school and enlisted to join the war effort. In 1941, he was stationed with the 20th Pursuit Squadron in the Philippines. He was captured early in 1942.

Fran Agnes endured the Bataan Death March—a 100-mile forced march conducted without food or water. During the march, men would drop out of column due to fatigue, dehydration, illness, and injury. This "disobedience" would cause the Japanese guards to rush up, shouting commands in Japanese to get back in the group. When that approach failed, shots would ring out, killing those who would not or could not rise.

Many of those failing to obey the order to march were killed instantly by sword-wielding Japanese soldiers who were guarding the men on the march. Seventy thousand Americans were forced on the Bataan Death March. Only 54,000 made it to the Japanese prisoner-of-war camps that awaited the survivors. Fran turned 20 years old on the Bataan Death March. He survived and was detained at Camp O'Donnell, which was used as a holding station.

Most prisoners stayed there for about 50 days. Eventually, it would house 50,000 men. Conditions there were grossly underequipped for the volume of men passing through its gates. For example, there were only two water spigots available for all the prisoners. The men were fed tiny portions once a day.

Fran spent 6 months at Camp O'Donnell before being moved to Camp Cabanatuan. Fran spent an additional year at that camp. He worked mostly in the hospital—helping other POWs survive their imprisonment.

Finally, Fran was transferred to Japan where he was kept at the Hiro Hata POW camp and forced to work slave labor. He was held 30 miles from Hiroshima. He would later describe the atomic bomb that signaled the end of World War II and the end of his 3½ years of captivity.

On September 2, 1945, the men at the Hiro Hata prison camp conducted a liberation ceremony. The men gathered together and sang "The Star Spangled Banner." Fran Agnes returned home to the United States weighing approximately 100 pounds.

Most of us can only imagine the horror that men like Fran Agnes endured as prisoners of war at the hands of the Japanese. After a short stint back at home in Wenatchee, Fran re-enlisted with the Army Air Corps before it became the Air Force. He served in the Air Force for two decades and retired at the rank of Captain. Fran worked for Washington State for 25 years.

Fran had a big family as well. In addition to his wife Marlene, he had three daughters: Rose, Sonya, and Kathleen. I spent a few minutes with Fran's daughters yesterday, and in each of them, I was reminded of their father. Fran also had two sons, David and Gregory, as well as 13 grandchildren and 5 great-grandchildren.

Fran was involved in numerous veterans service organizations, particularly the American Ex-Prisoners of War, which is holding its winter meeting here in Washington, DC, this week. Fran served as national commander of the American Ex-POWs in 1990 and 1991. He was also chairman of the Governor's Advisory Action Committee in Washington State. Fran was chairman of the Tahoma National Cemetery Group in Washington.

I think it is appropriate that we memorialize Fran's many sacrifices and his great service to our Nation. Today, I have asked my staff to work with the

Tahoma National Cemetery, with the Agnes family, and with the Washington veterans community to discuss naming an appropriate place at Tahoma after Fran Agnes.

In addition, I call upon my Senate colleagues to join me in support of the Francis W. Agnes Prisoner of War Benefits Act of 2003. This legislation clarifies who is eligible for POW benefits through the VA and ensures our POWs can receive care for a number of ailments related to their captivity. The legislation is important to all POWs, and a similar measure has been introduced in the House of Representatives.

Fran wouldn't ask us to single out his fellow Pacific theatre POWs for health care, but I know he would take special pride in the passage of this legislation because it is so important to our prisoners of war who survived such harsh treatment at the hands of the Japanese in World War II. I encourage all of my colleagues in the Senate to support the Francis W. Agnes Prisoner of War Benefits Act of 2003.

Fran Agnes was a great American. I was blessed to know him and work with him. Veterans everywhere were blessed to have him as a fellow soldier and airman. With his passing, it is time we acknowledge his service and commit his memory to our history as an example to us all.

Even though I can't call upon him for his guidance and support, Fran will always be there for me. After all the time we spent together—and all the efforts we worked on together—I feel that I know what he would want me to do. And I pledge to continue to work very closely with veterans from my State and with his family to build on his legacy.

I hope this tribute captures for the Senate the many contributions of a true patriot. Mr. President, Fran Agnes called himself a survivor. We—those who knew him and his life of service to others—call him an inspiration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
VETERANS AFFAIRS,
*Washington, DC, February 13, 2003.*

Mrs. MARLENE AGNES,
*Everett, Washington.*

DEAR MRS. AGNES: On behalf of America's 25 million veterans, please accept my sincerest condolences on the death of your husband, Fran. Although I am aware that mere words cannot ease your sorrow, or that of your children and grandchildren, be certain that my thoughts and prayers are with you.

Fran's service to America is legend in the veterans' community. He and all the men and women of his generation who answered America's call during World War II, will be long remembered for their monumental struggle and decisive victory. However, Fran's service and sacrifice at Bataan, and later as a prisoner of war, were as great as any American has ever been asked to endure.

Fran was an American patriot who served his country twice-over. Once in a uniform of its military services, and once-again as a pillar of the Nation's veterans constituency. As National Commander of America's Ex Prisoners of War, Fran's leadership bore the same indelible hallmarks that distinguished his wartime service . . . exemplary ability, great honor, unfailing courage, and true compassion. His contributions at once strengthened our Republic and enriched the lives of its citizen-soldiers who, like him, had borne the burden of captivity.

Quite simply, Fran was an ordinary American who served in extraordinary ways. He represented the best of what it means to be an American, and our Nation is lessened by his passing.

Mrs. Agnes, we who were privileged to know Fran, mourn with you and your family.

Sincerely yours,

ANTHONY J. PRINCIPI.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 24, 2000 in Allentown, PA. A 24-year-old man, Michael Gambler, shot a 15-year-old at a party after the teen touched him on the arm. According to witnesses, partygoers suggested the teen was gay and teased the victim and Gambler prior to the shooting. After the teen touched his arm, Gambler retrieved a shotgun and shot the victim in the forehead.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ASSASSINATION OF SERBIAN PRIME MINISTER ZORAN DJINDJIC

Mr. LIEBERMAN. Mr. President, I rise to honor a man of courage, conviction and integrity who was recently taken from his people and this world in the most brutal and shocking of circumstances.

On Wednesday, March 12, Serbian Prime Minister Zoran Djindjic was slain in Belgrade, assassinated, gunned down, leaving his Belgrade office. He was, tragically, only 50 years old, and was taken from us long before his time. To his wife Rizica and his two young children, Jovana and Luka, I extend my deepest condolences.

I had the pleasure of meeting Prime Minister Djindjic in 2001, during a visit to Belgrade. He was best known to Americans and the international community for his central role in the downfall of former Yugoslav dictator, Slobodan Milosevic, in October 2000. It was Djindjic who, in 2001, took the principled decision to render Milosevic to the War Crimes Tribunal in The Hague, where he is at this moment facing trial for genocide and crimes against humanity.

It was this courage, this stand for integrity, that won Prime Minister Djindjic not only the respect of the international community, but the love and admiration of the people of Serbia, whom he helped to free from the grips of dictatorship, oppression, and cruelty.

Prime Minister Djindjic was someone who fought for the needs of his people. He devoted his life to the fight for progress, reform, and democracy, and a better life for the people of Serbia. Ultimately, he gave his life for that fight.

He was imprisoned for his activities as a student dissident against the repressive Communist Yugoslav regime in the 1970s, but this did not diminish his zeal. In 1989, Djindjic, along with a group of dissident writers and intellectuals, founded the Serbian Democratic Party. One year later, he was elected its chairman, and in 1994, its president. In the 1990s, as a member and a leader of Serbia's Parliament, he remained at the forefront of the dissident movement, resisting the oppression of a new generation of post-Communist dictators, this time bent on ethnic cleansing and genocide.

As his courage grew, so did the people's respect for him. In 1996, the people of Belgrade freely elected him the first non-Communist mayor sine World War II. It was in that position that he built the popular base and credibility that served him so well in the historical role he was about to play, in the downfall of Slobodan Milosevic. Djindjic was one of the chief strategists behind the September 24, 2002, Yugoslav Presidential elections and the October 5, 2000, uprising that resulted in Milosevic's overthrow. In December 2000, he led the Democratic Opposition of Serbia—a coalition of 18 parties spanning a broad range of the political spectrum—into Serbia's parliamentary elections, and won an impressive 65 percent of the popular vote. The DOS elected Djindjic to be Prime Minister of Serbia on January 25, 2001.

That popularity speaks well of Zoran Djindjic, but it speaks volumes about the people of Serbia. After years—decades—of Communist and fascist dictatorship, the spirit of the Serbian people arose valiant, triumphant because the desire for freedom cannot be crushed. Prime Minister Djindjic was, in a large sense, the embodiment of their determination, their yearning to be free. Each time this man spoke of freedom and liberty, of reform and democracy, the people of Serbia supported him, sustained him, elevated him to lead them, and followed them into the brighter future that he hoped fervently to help them build.

It appears that it was, ultimately, his pledge and his actions to stamp out corruption and widespread organized crime that brought him into the assassin's sights.

In February, a truck swerved from its lane, headed directly for the motorcade carrying the Prime Minister, and narrowly missed. Prime Minister Djindjic very well could have been killed. Djindjic himself suggested that the incident might be the handiwork of members of organized crime rings, which flourished under Miloservic and remain linked to him to this day.

Just as he did not permit prison to diminish his energy, Prime Minister Djindjic did not let this danger impede him or dim his spirit. He pressed on, valiantly, in his campaign against the crime and corruption that corrodes his society.

The news of the Prime Minister's death has been a tremendous shock, not only to the people of Serbia, but to the entire region. President Stjepan Mesic of Croatia has rightly described the assassination as "an act of madness," and raised concerns that this assassination will "slow down [Serbia's] progress towards democracy."

I certainly understand the Croatian President's concern. It would be a dishonor to the memory of Prime Minister Djindjic were his fears to be realized. After centuries of conflict and decades of oppression and crippling violence, Serbia and the entire Balkan region have made remarkable strides toward peace, democracy, economic development, and a better life for the people of all nations in the region. The United States has played a crucial role in furthering that progress. For the past 10 years, in Bosnia Hercegovina, in Kosovo, the United States has fought—diplomatically and militarily—to stop the forces of oppression and genocide, and to support the forces of liberty and democracy.

There can be no greater way to remember this man than to ensure that his death will not be in vain, that his life's work will continue. And so, I urge all of us who are friends and supporters of democracy, and those who fight for it, to redouble our commitment to and solidarity with those who stand, as Prime Minister Djindjic did, for a better, freer, more democratic future for the people of Serbia.

## THE CHILD SUPPORT DISTRIBUTION ACT

Mr. KOHL. Mr. President, I rise today to state my strong support for the Child Support Distribution Act of 2003, which Senator SNOWE and I introduced yesterday. I want to thank Senator SNOWE for continuing to work with me over the years on this important issue.

This bill takes significant steps toward ensuring that children receive the child support money they are owed and deserve. In fiscal year 2001, the public child support system collected child support payments for only 44 percent of its total caseload, up from 19 percent in 1995. Obviously, we still need to improve, but States are making real progress. It is time for Congress to take the next step and help States overcome a major obstacle to collecting child support for families.

There are many reasons why noncustodial parents may not be paying support for their children. Some are not able to pay because they don't have jobs or have fallen on hard times. Others may not pay because they are unfairly prevented from spending time with their children.

But other fathers don't pay because the public system actually discourages them from paying. Under current law, $2.2 billion in child support is retained every year by the State and Federal Governments as repayment for welfare benefits—rather than delivered to the children to whom it is owed. Fifty-six percent of that amount is for families who have left welfare. Since the money doesn't benefit their kids, fathers are discouraged from paying support. And mothers have no incentive to push for payment since the support doesn't go to them.

The current rules withhold a key source of income for low-income families that could help them maintain self-sufficiency. For low-income working families receiving child support, that support is the second-largest source of income for those families, after wages, according to the Urban Institute, a nonpartisan organization that studies social and governance issues. Families who receive child support can often avoid going on welfare. When low-income working families get child support, but not welfare, child support makes up 35 percent of their income.

It is time for Congress to change this system and encourage States to distribute more child support to families. My home State of Wisconsin has already been doing this for several years and is seeing great results. In 1997, I worked with my State to institute an innovative program of passing through child support payments directly to families. An evaluation of the Wisconsin program clearly shows that when child support payments are delivered to families, noncustodial parents are more apt to pay, and to pay more. In addition, Wisconsin has found that, overall, this policy does not increase government costs. That makes sense because "passing through" support payments to families means they have more of their own resources, and are less apt to depend on public help to meet other needs such as food, transportation or child care.

We now have a key opportunity to encourage all States to follow Wisconsin's example. This legislation gives States options and strong incentives to send more child support directly to families who are working their way off—or are already off—public assistance. Not only will this create the right incentives for noncustodial parents to pay, but it will also simplify the job for States, who currently face an administrative nightmare in following the complicated rules of the current system.

We know that creating the right incentives for noncustodial parents to pay support and increasing collections has long-term benefits. People who can count on child support are more likely to stay in jobs and stay off public assistance.

This legislation finally brings the Child Support Enforcement program into the post-welfare reform era, shifting its focus from recovering welfare costs to increasing child support to families so they can sustain work and maintain self-sufficiency. After all, it is only fair that if we are asking parents to move off welfare, stay off welfare, and take financial responsibility for their families, then we in Congress must make sure that child support payments actually go to the families to whom they are owed and who are working so hard to succeed.

I am pleased that there has been widespread bipartisan support for this legislation. In 2000, a House version of this bill passed by an overwhelming bipartisan vote of 405 to 18. Our legislation was also included in last year's TANF reauthorization bill that passed out of the Senate Finance Committee with bipartisan support.

In addition, I am pleased that the administration and the House of Representatives both included child support provisions in their TANF reauthorization legislation. However, while those provisions are an important first step in the process, I am concerned that both the House bill and the administration's proposal fall short in reforming child support. Their approach would not benefit all States equally, has more limited benefits for families who are currently on TANF, and imposes fees on some low-income families. I hope as the TANF reauthorization process continues, we can all work together to address these concerns and ensure that all children receive the support they are owed and deserve.

We must keep this bipartisan momentum going in this Congress. It is time that we finally make child support meaningful for families, and make sure that children get they support they need and deserve.

## PIONEER NATIONAL HISTORIC TRAILS STUDIES ACT

Mr. HATCH. Mr. President, I rise today to introduce the Pioneer National Historic Trails Studies Act. This bill would require the National Park Service to study the Pony Express, the Oregon, the California, and the Mormon National Historic Trails and make recommendations to Congress on possible additions to these trails that were used by the early pioneers of the West.

For various reasons, early settlers often used routes to arrive in the West which were variations of the main routes now recognized as National Historic Trails. These routes were used by large numbers of westward pioneers. Since the enactment of the National Trails System Act in 1968, support has been building to broaden the law to include alternate routes that branch off the main trails. The Pioneer National Historic Trails Studies Act allows for the feasibility study and designation of side trails and variant routes taken by pioneers otherwise associated with the main trails.

These trails are the highways of our history. They are central to the great story of the West. But unfortunately, because of the confining "point to point" wording now found in the Trails Act, many crucial parts of the story are not being told. Not every pioneer embarked on his journey from Omaha or Independence, and not every great or tragic event took place along the main routes. To the contrary, tens of thousands of settlers set out from other places, and many of the memorable, if not most important, events occurred along historical side roads and alternate routes that were chosen because of inclement weather, lack of water, and conflicts with Native American tribes, among other reasons.

Since the original passage of the National Trails System Act, the Park Service has conducted endless hours of research, and now has a more accurate picture of the story of our Western pioneers. There has been a great deal of support shown by State and local communities which want to broaden the act to include this new knowledge. However, the Park Service has determined that legislation is required to do this. The Pioneer National Historic Trails Studies Act will enable the Park Service to identify those routes most worthy of being included in our trails system. This legislation will highlight our Western history, and it will do so without any infringement of the rights of private property owners.

Mr. President, I thank the Senate for the opportunity to address this important issue today, and I urge my colleagues to support this legislation.

## TEACHING OF AMERICAN HISTORY AND CIVICS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the text of a speech I gave before the Heritage Foundation on March 14 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### REMARKS OF SENATOR LAMAR ALEXANDER

### PUTTING THE TEACHING OF AMERICAN HISTORY AND CIVICS BACK INTO OUR CLASSROOMS

### OUT OF MANY, ONE: E PLURIBUS UNUM

I am glad to have this privilege to come to Heritage today to talk about the two subjects I care about the most: the education of our children and the principles that unite us as Americans. I salute Heritage for providing public forums on issues that are important to our nation.

At a time when we are asking young Americans to give their lives to defend our values, we are doing a poor job of teaching just what those values are.

That is why, last week, in my maiden address—we still call it that in the United States Senate—I proposed ways to put the teaching of American history and civics back in our schools so our children can grow up learning what it means to be an American.

The Senate will hold hearings on April 10 on my proposal. The proposal is to create Presidential Academies for Teachers of American History and Civics and Congressional Academies for students of American history and Civics—residential summer academies at which teachers can learn better how to teach, and outstanding students can learn more about the key events, persons and ideas that shaped the institutions and democratic heritage of the United States of America.

Today I want to discuss, first, why America is exceptional—not always better than other countries, but in important ways different; second, how the teaching and learning of American history and civics has declined and why; and, finally, why the three Latin words that were the first motto of our nation, E Pluribus Unum, are still in the right order—Out of Many, One—even though some are trying mightily to turn them around to say that we are "Many, out of One." In other words, in the United States of America, I believe unity still trumps diversity.

### YOU CAN'T BECOME JAPANESE

Now to do this, I want to ask for your help.

So, will you please imagine that we are in a federal courtroom in Nashville, where I was on October 2001. It is naturalization day. The room is filled with anxious persons, talking among themselves in halting English. They are obviously with their families and closest friends. They are neatly dressed, but for the most part, not so well dressed.

Most faces are radiant. Only a few faces are white. There are 77 persons from 22 countries who have passed their exams, learned English, passed a test about American government, survived a character investigation, paid their taxes and waited in line for five years to be a citizen of the United States.

The bailiff shouts, "God Save this Honorable court," and the judge, Aleta Trauger walks in. She asks each of the applicants to stand.

Now—here is where I need your help.

I will be Judge Trauger.

I want you to be the 77 new citizens.

Will you please stand, actually stand, raise your right hand, and repeat after me. I want you to listen carefully to this oath.

"I, and state your name.

"Hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, of whom or which I have heretofore been a subject or citizen:

"That I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic;

"That I will bear true faith and allegiance to the same;

"That I will bear arms on behalf of the United States when required by the law;

"That I will perform noncombatant service in the Armed Forces of the United States when required by the law;

"That I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion:

"So help me God."

You may be seated. Thank you for doing that.

Now, that is quite an oath.

Sounds like it might have been written by some rowdy patriots in Philadelphia or Williamsburg, and I wonder if anything like that could be written into law today?

Judge Trauger then addressed the new citizens in Nashville with these words:

"You are now an American citizen. On behalf of your fellow countrymen, I congratulate you. You have studied hard and achieved much. You know more about the matters of citizenship than many of us born into it. Even so, I would like to speak to you for a few minutes about what I think it means to be an American citizen," she said.

Continuing to quote, "Americans, unlike many other people, are not Americans simply because of accidents of geography or centuries of tradition. Instead, we Americans based our citizenship on our foundation of shared ideals and ideas brought from many countries, races, religions and cultures."

The judge said, "We are Americans because we also share certain fundamental beliefs. We are bound together by the unique set of principles set forth in documents that created and continue to define this nation. We find our heritage and inspiration in the profound words of the Declaration of Independence: 'All people are created equal and endowed with unalienable right' to life, liberty and the pursuit of happiness.' We pledge allegiance to the Republic as one nation under God, indivisible, with liberty and justice for all. But the greatest expression of our national identity is the constitution of the United States which established the responsibilities and rights that go with citizenship." And the judge continued.

These were the words that fall day in 2001 of Judge Aleta Trauger to 77 incredibly happy new citizens, their families and friends in the Nashville courthouse.

This happens almost every month, in almost every federal courthouse. That same year, about 900,000 new citizens took this oath and heard words like this.

Judge Trauger, may I say, is not some right wing, super patriotic extremist nominated for the federal bench by the Bush White House. She was appointed by a Democratic president.

But Democrats as well as Republicans—almost all of us as Americans—agree with what Judge Trauger's exposition of what it means to be an American.

For example, after 9/11 President Bush spoke of the American character.

Former vice-president Al Gore said the next day we "must defend the values that bind us together."

Judge Trauger, the President and the former vice-president were invoking a creed of ideas and values in which most of us believe. "It has been our fate as a nation," the historian Richard Hofstader wrote, "not to HAVE ideologies but to BE one."

Those who love and hate the United States love and hate us not so much for what we do but for who we are.

And it IS different being an American. One major difference is how you get to be an American, just as those citizens did.

You can't become Japanese by moving to Japan and taking some oath.

A Turk with great difficulty might immigrate to Germany and become a citizen, but he will find himself described as a Turk living in Germany, not as a German.

Because of their Pakistani roots, the family of the recently arrested Al Qaeda leader, Khalid Shaikh Mohammed, could not become Kuwaiti when they moved to Kuwait.

But if a Japanese, or a Turk or a Pakistani came to America and wanted to be a citizen, they would have to take that oath to become an American. And they do that based not on race, creed or color but by taking an oath and pledging allegiance to a common set of principles.

### WHAT HAPPENED TO OUR COMMON CULTURE?

What principles?

Judge Trauger mentioned most of them.

Until recently in our country, most people learned these principles in school, in their churches, at home, from the media, in patriotic celebrations that were a part of everyday life.

Thomas Jefferson spent his retirement evenings at Monticello teaching overnight guests what he had in mind when he helped create America.

Other founders took extensive notes and wrote long letters explaining what it means to be an American.

At the Alamo, Col. William Barrett Travis appealed for help simply "in the name of the American Character."

Former American Federation of Teachers President Albert Shanker, said that the public school "was invented to teach immigrant children the three Rs and what it means to be an American with the hope they would then go home and teach their parents."

Diane Ravitch reminds us that McGuffey's reader sold 120 million copies and helped to create a common culture of literature, patriotic speeches and historical references.

President Roosevelt made sure those who charged the beaches of Normandy knew they were fighting for Four Freedoms.

But then things changed, for a variety of reasons.

One reason was that McCarthyism gave "Americanism" a sour taste.

The Vietnam War and other challenges to authority questioned prevailing attitudes including our founding principles.

The end of the Cold War removed a preoccupation with who we were not, making it less important to consider who we are.

And our history textbooks, which had done a good job of teaching some traditional history, left out a lot. The contribution of Spanish explorers was undervalued. The diseases those explorers brought with them that devastated Native Americans was rarely mentioned.

No Tennessee history book taught me about men like Kunta Kinte, the seventh generation ancestor of Alex Haley, a Tennessean who won a Pulitzer Prize for his family story, Roots, the struggle for freedom and equality.

There was very little mention of men like my ancestor John Rankin, a conductor in the underground railway, and about the slave-catchers from Kentucky who tried to assassinate him.

And finally, the largest number of new Americans in our country's history came to our shores—and in the last few years, the prevailing notion became let's just celebrate all those cultures, and we forgot to remind new Americans of the principles that have always united our many, new cultures.

### OSAMA BIN LADEN AND GEORGE WASHINGTON

So, just at a time when there should have been an acceleration in the teaching and learning of American history and civics—it declined.

In Dr. Ravitch's words, instead of incomplete history and simplistic patriotism, we went to the other extreme—"Public schools with an adversary culture that emphasized the nation's warts and diminished its genuine accomplishments."

So imagine the plight of teachers. Assaulted by simplistic patriotism on one side and multiculturalism on the other, teachers dove for cover, textbooks became sanitized and boring, and we've seen the embarrassing results.

Christopher Hitchens, in a 1998 article in Harper's, summarizes the evidence:

59 percent of 4th graders do not know why Pilgrims and Puritans first voyaged to America.

68 percent of 4th graders can't name the first 13 colonies.

90 percent of 8th graders can't recount anything about the debates of the constitutional convention.

Today, three quarters of 4th, 8th and 12th graders—this is according to the National Assessment of Educational Progress—are not proficient in civics knowledge and one third of them do not have basic knowledge, making one third of our students "civic illiterates."

Children are not learning American history and civics because they are not being taught it, or at least they are not being taught it well. American history has been watered down and civics is too often dropped entirely from the curriculum.

Today, more than half the states don't have a requirement for students to take a course—even for one semester—in American government.

The results of this are evident everywhere in American life.

For example, some federal judges—who seem not to know that the first Congress enacted both the first amendment and paid the first senate chaplain—these judges are unable to reconcile our religious traditions with the separation of church and state—producing absurd decisions like the one removing "under God" from the pledge of allegiance.

A United States Congresswoman actually says that "Osama Bin Laden and these non-nation state fighters with religious purposes are very similar to those kinds of atypical revolutionaries that helped to cast off the British crown."

Schools remove the names of George Washington and Thomas Jefferson because it is discovered they owned slaves, without remembering they also created a country whose principles led to the inevitable end of that horrible practice.

And, according to the Princeton Review, our presidential debates (and I participated in these) are now conducted at a sixth or seventh grade vocabulary level as compared with the Lincoln—Douglas debates in the 1850's which were conducted at a level of vocabulary expected of high school seniors.

### TRUST CLASSROOM TEACHERS

So, to help put the teaching of American history and civics back in its rightful place in our schools, I have proposed that we create Presidential Academies for Teachers of American History and Civics and Congressional Academies for Students of American History and Civics.

These residential academies would operate in the summer for two weeks for teachers and four weeks for students. Their purpose would be to inspire better teaching and more learning of these subjects.

The idea for these academies is based primarily upon my trust and respect for classroom teachers.

I believe that if, for example, 200 Tennessee teachers come together for two weeks in the summer to discuss how to do a more complete, inspiring and effective job of teaching American history and civics, they will light up their classrooms with their enthusiasm during the next year.

In the same way, good students who spend a month with such teachers will go back to their classrooms not only inspired themselves but serving as good examples for other students.

I know this works because I have seen it happen before. Tennessee's Governors' summer schools for teachers and students were the best education spending, dollar for dollar, our state has ever done. Teacher after teacher, student after student told me these schools literally changed their lives. There are more than 100 such Governor's schools in 28 states, almost all with great experiences.

Our pilot program would start with 12 Presidential Academies for Teachers and 12 Congressional Academies for students. We'd spend $25 million a year for four years and see if it worked. The schools would be sponsored by educational institutions. The grants would be awarded for two years at a time by the National Endowment for the Humanities after a peer review process. Each grant would be subject to rigorous review after three years to see if the program is worth continuing.

This is not only something that will work; it is something parents want. A Public Agenda survey showed that 84 percent of parents with school age children said they believe that the United States is a special country, and they want schools to convey the belief to their children by teaching about its heroes and traditions.

President Bush has taken leadership in this. He created a "We the People Program" to develop curriculum and sponsor lectures on American history and civics. He is also sponsoring a White House forum on the subject soon.

Last year the Senate authorized $100 million to schools for the teaching of traditional American history and civics. A dozen senators, including the Democratic Whip, Harry Reid of Nevada, have joined in sponsoring our legislation. Congressman Roger Wicker and colleagues in the House of Representatives have introduced it there.

I have one more thing I need to say.

I want to read you one sentence from my so-called "maiden speech" to the Senate last week, because it elicited what one newspaper described as "harsh criticism from the civil rights community."

This is the sentence: "Some of our national leaders have celebrated multiculturalism and bilingualism and diversity at a time when there should have been more emphasis on a common culture and learning English and unity."

There are some real differences of opinion reflected in the criticism I got for saying that.

Some believe that America is just another country, and that it is embarrassing for us to claim it is truly exceptional.

Some believe it is old fashioned and wrong to try to define the principles that unite us as Americans because in the past it led us to excesses such as McCarthyism, because it can seem exclusionary and that we would be better off just being comfortable as descendants of wherever we came from.

Most important, we have not been able to put behind us the memory that the ancestors of some of us who didn't come for the same reasons most did. Native Americans were already here, and the ancestors of most African-Americans, like Kunta Kinte, were captured in their villages, transported in the stinking bellies of slave ships to this country and sold into bondage. It is hard to put that out of one's memory.

WHY UNITY TRUMPS DIVERSITY

Here is what I believe.

I believe that America's variety and diversity is a magnificent strength. I have always sought that in my own life and for my children.

But diversity is not our greatest strength.

Jerusalem is diverse.

The Balkans are diverse.

The greatest challenge we face in Iraq is not winning a war but turning diversity into unity after the war.

The greatest accomplishment of the United States of America, after establishing freedom and democracy, is that we've found a way to take all our magnificent variety and diversity and unite as one country.

I preside a great deal as a freshman senator. Engraved above the Senate president's chair, for every C-SPAN viewer to see, are the three Latin words that form the original motto of our country, E Pluribus Unum—Out of many, one.

It is NOT many, out of one.

As Samuel Huntington has observed, if it were many out of one, we would be the United Nations, not the United States of America.

"PLEDGE PLUS THREE"

Now, since 9/11, there has been a different tone in our country. The terrorists focused their cross hairs on the ideas that unite us—forcing us to remind ourselves of those principles, to examine and define them, and to celebrate them.

President Bush has been the lead teacher, literally taking us back to school on television about what it means to be an American.

We should join our President in this National discussion.

One way would be for each school to start each day the way the Senate does—with the Pledge of Allegiance, followed by a teacher or student saying in his or her own words for three minutes "what it means to be an American." It would be a daily lesson in American history and civics for the whole school.

When I decided to run for the Senate a year ago, I was a member of the faculty at Harvard's school of government, teaching a course in "The American Character and America's Government."

The students and I were trying to figure out if there is "an American way" to solve tough public policy problems.

It was easy for us to define the principles that unite us, such as: liberty, equal opportunity, rule of law, laissez faire, individualism, e pluribus unum, the separation of church and state.

But applying those principles to real problems turned out to be hard work. The Senate was reminded of this yesterday when we debated partial birth abortion: it was the liberty of a woman versus the life of a baby.

We see these conflicts of principle when we discuss President Bush's faith-based charity proposal because on the one hand, "In God We Trust," but on the other hand, we don't trust government with God.

I want the federal government to pay for scholarships that would follow children to any accredited school—public, private or religious. To me that is equal opportunity. To the National Education Association it is the violation of separation of church and state and of the principle of e pluribus unum.

As Samuel Huntington has written, most of our politics is about conflicts among principles that unite us—and about disappointments that occur when we try to live up to our greatest dreams." "All men are created equal," we say, but there is still racism in America. "We will pay any price, bear any burden to defend freedom," President Kennedy said, but we didn't go to Rwanda, and there is a great debate about going to Iraq.

If the conflicts among these principles and our disappointment in not reaching them is what most of our politics and government are about—then we had better get busy teaching them again.

My best student in my last class at Harvard was Natalia Kubay. She had grown up in Ukraine, married a Peace Corps worker and moved to Boston. She was waiting for her citizenship. Her enthusiasm for her new country was so great that it infected all of us who were privileged to be in the classroom with her. She hopes one day, after she is a citizen, to run for office and serve in government.

Natalia is proud of her family and her native country. When she takes the oath of a naturalized citizen in the federal courthouse in Boston, as you did today, she will be living in this nation of immigrants, proud of where she came from, but prouder to be able to say, "We are all Americans."

Thank you.

Mr. STEVENS. Mr. President, I would like to take this opportunity to commemorate the 47th anniversary of Tunisia's independence.

Since the establishment of the Republic of Tunisia, it has made significant progress in the areas of social and economic development, transparency of the electoral process, respect for human rights, and the promotion of women's rights.

As the Bush administration recently stated, Tunisia has become a force for tolerance and moderation in the region.

It has been a vital partner with the United States in our efforts to facilitate dialogue in the Arab world. This role has become increasingly important in this turbulent time.

I would also like to express my appreciation for Tunisia's continued support and cooperation in the fight against terrorism.

By working together against this common enemy, we will eliminate the threat of terrorism and ensure international peace and security.

Our shared commitments towards this end will only serve to strengthen our relations in the future.

I hope my colleagues will join me in congratulating the government and people of Tunisia on the occasion of their 47th anniversary of independence.

## ADDITIONAL STATEMENTS

### IN CELEBRATION OF THURGOOD MARSHALL AWARD RECIPIENT DALE MINAMI

• Mrs. BOXER. Mr. President, I take this opportunity to recognize Dale Minami, the 2003 recipient of the American Bar Association's Thurgood Marshall Award.

Mr. Minami has had a successful law practice in San Francisco for many years. Additionally, for over 30 years, Mr. Minami has worked tirelessly to promote civil liberties and social justice. He has selflessly provided pro bono legal representation to minorities and disadvantaged communities. Because of his dedication, Mr. Minami has become an accomplished leader in the national civil rights community.

Among his many accomplishments in the courtroom, Mr. Minami is known for successfully reopening the landmark Supreme Court cases of Fred Korematsu, Gordon Hirabayashi, and Minoru Yasui. The Supreme Court subsequently overturned their convictions for refusal to be interned during WWII.

Mr. Minami cofounded the Asian Law Caucus, the first Asian Pacific legal service organization in the Nation, established in 1972. Mr. Minami also helped establish the Asian American Bar Association of the Greater Bay Area in 1976, the first Asian American Bar Association in the country. Additionally, he helped found the Asian Pacific Bar of California. He has also taught and lectured at various colleges and universities and has spoken widely across our country.

Mr. Minami has also been involved in developing public policy and legislation. He has volunteered his time on numerous boards and commissions, including California's Fair Employment and Housing Commission, the California Attorney General's Asian Pacific Advisory Committee, and the Civil Liberties Public Education Fund Commission. I am pleased and honored to say that Mr. Minami also served as a member of my Judicial Screening Committee, from 1993 to 1996. Mr. Minami did an outstanding job on the committee, and his contributions were invaluable. He has been a successful advocate for increasing the selection of African Americans, Latinos, Native Americans, and Asian Americans for executive and judicial appointments at both State and Federal levels.

Dale Minami embodies the legacy of Thurgood Marshall. I commend him for his dedication, hard work, and many achievements in the areas of civil liberties and social justice and wish him well in all future endeavors. He is the kind of person who makes my State and our country a better place. •

## COMMEMORATING THE 47TH ANNIVERSARY OF TUNISIA'S INDEPENDENCE

Mr. INOUYE. Mr. President, today, Tunisia commemorates the 47th anniversary of its independence from France. Our two countries share a long friendship that began in 1797, when Tunisia was one of the first countries to sign a Treaty of Peace and Friendship with the United States. In 1956, when Tunisia gained independence from France, the United States was one of the first countries to recognize Tunisia's independence. This long relationship has served as the backdrop for our increased cooperation in the efforts to combat international terrorism. Our shared commitments to peace, security, and stability in the world will remain the most important principles guiding our relationship throughout the 21st century.

I am pleased by Tunisia's commitment to further strengthen the democratic values that our two countries share as the foundation for free and open societies, and I am confident its leaders will continue to work toward promoting greater political freedom and respect for human rights throughout the region.

I wish the Tunisian people the best as they celebrate their country's successful transition from colony to republic. I look forward to many more years of cooperation and friendship between the United States and Tunisia.

## HONORING DR. GEORGE V. IRONS, SR.'S INDUCTION INTO THE ALABAMA MEN'S HALL OF FAME

• Mr. SESSIONS. I rise today to honor Dr. George V. Irons, Sr.'s induction into the Alabama Men's Hall of Fame. Dr. Irons was Distinguished Professor of History and Political Science at Samford University for 43 years and a prominent civic leader. As a professor, he taught 17 students who became university presidents—a record in American education.

Dr. Irons was also one of Alabama's true athletic greats—the only University of Alabama track field athlete ever inducted into the prestigious Alabama Sports Hall of Fame. He is also the only person inducted by both Alabama Sports Hall of Fame and the Alabama Men's Hall of Fame.

While a student at the University of Alabama, he was spotted by Coach Hank Crisp running across the campus because he was late to class. Coach Crisp promptly put him on the track team where he set a collegiate record the first time he pulled on a Crimson Tide uniform. Remarkably, his records still stand today.

Before the days of the million-dollar band at major football games, halftime entertainment consisted of a sport called road racing. After laps in the stadium runners would speed over a hill-and-dale course, about 4 miles, finishing as the halftime show. In this realm, his feats have been heralded by as the greatest of his era.

The Men's Hall of Fame was created by the Alabama Legislature in 1987 to honor posthumously those men who in their chosen professions have made national and international impact for the betterment of humanity. Past inductees include some of America's most distinguished leaders: Warner Von Braun, famed scientist who developed rockets which propelled American astronauts to the Moon; George Washington Carver, botanist who mutated plants to create vital food sources throughout the South; and James A. "Brother" Bryan, who gave sacrificially to fellow Alabamians during some of the severest economic times.

Its most recent inductee, Dr. Irons, joined the Howard College (now Samford University) staff in 1933, the depth of the Great Depression. On his first day the College President asked him to report to the bank to try to stop mortgage foreclosure on the school. At this time, the school owed over a half million dollars. Dr. Irons' personality and persuasion on behalf of the college won the day, saving the school from foreclosure. During difficult economic times, he often taught for the salary of an IOU and in his spare time he coached the college track team and fired the dorm furnace.

In 1962 he received Freedom Foundation's George Washington Medal of Honor for his speech: "Freedom, America's Weapon of Might." It was broadcast worldwide on the U.S. Armed. Forces Network. He was the first Alabamians to win this award. He also distinguished himself through military service in World War II and was a respected leader in civic, social, and professional organizations.

Dr. Irons was elected to the Alabama Men's Hall of Fame as the representative of the entire 20th Century. J.L.M. Curry, former Congresswoman and ambassador whose statue as one of Alabama's two representatives in the Capitol's Statuary Hall collection, was elected for the nineteenth century.

It is good this revered Hall of Fame honors those heroes who celebrate the best of our past. I am hopeful that Dr. Irons' life as an athlete, university educator, military serviceman, and community leader will continue to serve as an inspiration for future generations.•

## JAMIL DADA, RECIPIENT OF THE BOY SCOUTS OF AMERICA FIVE NATIONS DISTRICT 2003 DISTINGUISHED CITIZEN GOOD SCOUT OF THE YEAR AWARD

• Mrs. BOXER. Mr. President, I would like to take this moment to reflect on the exceptional work of Jamil Dada, who will be honored by the Boy Scouts of America's Five Nations District with its 2003 Distinguished Citizen Good Scout of the Year Award on March 21, 2003.

Jamil Dada is exceptionally qualified for this award, with a strong record of serving others in his community in Riverside County and the broader region. His contributions to both local and regional community organizations have made a significant difference to countless Californians.

Mr. Dada's most prominent role is that of chairperson for the Riverside County Workforce Development Board, working to ensure a healthy, well-trained workforce for the county. In addition, Mr. Dada devotes his time as a board member for the Boy Scouts of America Inland Empire Council, the Family Service Association of Western Riverside County, the Magnolia Center Division of the Greater Riverside Chamber of Commerce, the Police Activities League in Moreno Valley, the Planned Giving Advisory Board of UC Riverside, the Riverside Community College Foundation, and the United Way of the Inland Valleys.

In the city of Moreno Valley, he demonstrates his broad capacity for leadership as the vice chairman of the Moreno Valley Chamber of Commerce, the treasurer of the Moreno Valley Substance Abuse Task Force, and vice president of the Community Assistance Program, which provides food to those in need.

Mr. Dada is also an Honorary Commander at March Air Reserve Base, where he serves as vice president of the March Field Air Museum, chairman of the Friends of March Field, and treasurer of the March Air Reserve Base Forum.

It is clear that Jamil Dada is an outstandingly active, concerned citizen, and I am extremely proud to extend my sincere congratulations to him on this much deserved recognition from the Boy Scouts of America Five Nations District.

I send my best wishes for a memorable celebration of Jamil Dada's accomplishments and for his continued success.•

## CELEBRATING NATIONAL SAFE PLACE WEEK

• Mr. CRAIG. Mr. President, as our country faces imminent war with Iraq, and current events of the day may turn our attention overseas, it is essential to remember the ongoing battle that many of our young citizens face each day here at home. Our youth are the future of this Nation and must be protected. We not only value the young people of this country, but recognize that they are capable individuals and can take an active role in creating a healthier living situation.

I come to the Senate floor today to talk about a tremendous initiative between the public and private sector that has been reaching out to youth for 20 years: Project Safe Place. I am pleased that the Senate unanimously adopted S. Res. 70, a resolution introduced by Senator DIANE FEINSTEIN and myself to designate the week of March 16, 2003, as National Safe Place Week, in recognition of this partnership.

Over the past 20 years, Project Safe Place has acted as an outreach effort of the YMCA Center for Youth Alternatives—a short-term shelter for youth at risk. Nearly 64,000 young people have received help at over 12,200 designated Safe Place locations. Young people can easily recognize a safe place under a well-known symbol of safety for in-crisis youth. The success of the program, beginning in Louisville, KY, has prompted the implementation of this youth shelter outreach program in over 100 cities throughout the United States. Even though the program has already been established in 41 States across the country, there are still too many communities that don't know about this valuable youth resource.

Safe Place is a nationally acclaimed program that is easily implemented in communities across the country. This program unites the business sector, volunteers, and youth service agencies in a community to provide temporary safe havens for youth in crisis. I urge all my colleagues: if your State does not already have a Safe Place organization, please consider facilitating this worthwhile resource so that young people who are abused, neglected, or whose futures are jeopardized by physical or emotional trauma will have access to immediate help and safety in their community.

National Safe Place Week celebrates that outstanding program and honors the efforts of thousands of dedicated Safe Place volunteers who selflessly devote time and resources to protect our Nation's young people. I hope this commemoration helps to raise awareness of the number of troubled young people in our Nation and provides more youth and their families with the knowledge that help is often right in their own neighborhood.•

## IN MEMORY OF DOROTHY SHANNON

• Mr. FEINGOLD. Mr. President, a precious friend of mine and of progressive causes passed away earlier this week. Dorothy Shannon died early on the morning of Wednesday, March 19, 2003. She was 85.

Dorothy was one of the dearest friends anyone could have. She was a fiercely loyal Democrat who was a long-time, prominent fixture in the Wisconsin political scene when I first ran for public office over 20 years ago. As it was to so many candidates, Dorothy's support, and that of her husband Ted, was crucial to me in that first campaign, and they have been staunch supporters and advisors ever since.

Growing up in a union household in Toledo, OH, during the Great Depression, Dorothy's activism came naturally to her. She came out of the Roosevelt Democratic tradition, and it stayed with her. She would remind me to "be a Democrat, like Franklin Delano Roosevelt."

After her serving in the Navy during World War II, she earned her masters in early childhood education at Yale, where she met and married Ted. They moved to Madison in 1950 and had lived there ever since.

As Dorothy told national columnist John Nichols, it did not take her and Ted long to get involved in Democratic politics. She recalled how one day, when they were living in university housing, a young fellow named Bill Proxmire knocked on their door, and asked them to sign up to join the Wisconsin Democratic Party. Ted and Dorothy joined Bill Proxmire and a few other hardy souls, that included such future notables as Carl Thompson, Jim and Ruth Doyle, and Gaylord Nelson. They formed the core of what was to become the modern Wisconsin Democratic Party. Ted and Dorothy helped put Bill Proxmire and Gaylord Nelson in the U.S. Senate, as they helped me over three decades later.

Long before I ran for the U.S. Senate, though, Ted and Dorothy helped me win in my first race, for the Wisconsin State Senate, and they were at every event I ever had for the next 20 years. No matter what the weather, no matter what their health was, they were always there, always encouraging me.

Dorothy's commitment to progressive causes inspired many, and in the early 1980s, Democrats in Dane County made her their cochair, along with a friend of hers, Jim and Ruth Doyle's son. This past January, 20 years later, Dorothy attended the inauguration of the Doyles' son, Jim Doyle, as Governor of Wisconsin.

As was noted in her obituary, Dorothy chaired the Mondale-Ferraro Presidential campaign in Dane County, and she was credited with helping to organize the largest public rally in support of the Democratic ticket that year.

I was at that rally. I remember it well. Everyone who was there will remember it for the rest of their lives. It was a remarkable outpouring of energy, idealism, and hope for the future, and as such it was the perfect embodiment of Dorothy's qualities.

John Nichols reported that last August, at an antiwar rally and march in Madison, Dorothy was seated in the middle of the crowd. He noted that "when the crowd prepared to parade off to Vilas Park, several folks said goodbye to the white-haired activist. 'Goodbye?' asked Shannon. 'Oh, no, I'm ready to march.'" As Nichols wrote, "Dorothy Shannon was always ready to march. And rally. And campaign."

No matter what the progressive cause or issue, Dorothy was there. She was steadfast in her commitment, and it extended well beyond party politics. She served on the Middleton Plan Commission, and was active in the League of Women Voters, the University League, and Friends of Pheasant Branch.

It is still hard for me to fully grasp Dorothy's passing. I have known Ted and Dorothy Shannon for half of my life. And that is how we all thought of them. Ted and Dorothy. We always said their two names as one word. If you wanted to mention just one of them, it took a little effort. It slowed up the conversation.

Now, Dorothy is gone, and conversations will be slowed all around Wisconsin.

I offer my deepest condolences to Ted and his family. I will always remember Dorothy, my dear friend, and cherished supporter.•

## UVM CENTER MATT SHEFTIC CENTERS HIS PRIORITIES ON HIS FAMILY

• Mr. LEAHY. Mr. President, today I pay tribute to a young Vermonter whose priorities are in the right place. Matt Sheftic is the center for the University of Vermont basketball team, the first Catamounts team to reach the NCAA tournament.

Before choosing to play basketball for Coach Tom Brennan, Matt was a standout for the Essex Junction Hornets, leading them to the 1998 Vermont State Championship. He was a first team all-state selection twice, and in 1999 was named Vermont's Mr. Basketball by the Burlington Free Press, and was Vermont's Gatorade Player of the Year. At UVM, he also serves his country as a member of the U.S. Army ROTC program.

Aside from his successes on the basketball court, in the classroom, and in the ROTC program, Matt is first and foremost dedicated to his family. When his sister Lauren battled an unexpected serious illness, Matt left the basketball team to help care for her. His priorities speak volumes about him as an outstanding young man, about the closeness of the Sheftic family, and about the wonderful job his parents have done raising him.

Matt Sheftic's story is told in an article by Joe Burris in the March 20 edition of the Boston Globe. Today, in honor of Matt Sheftic and his family, and in memory of Lauren Sheftic, I ask that the article "For Vermont's Sheftic, family came first" be printed into the RECORD.

The article follows:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 20, 2003]

### COMEBACK PLAYER; FOR VERMONT'S SHEFTIC, FAMILY CAME FIRST

(By Joe Burris)

BURLINGTON, VT.—Big men get nervous, too. Vermont center Matt Sheftic—a 22-year-old junior with Jack Sikma's shooting touch and Paul Bunyan's body—stood on the sideline moments before the Catamounts' America East final against Boston University, pondering how he would play in the biggest game of his career. Worry set in; Sheftic's melon-sized calves trembled.

But he knew it wasn't too late to dial heaven. As he often does during the national anthem, Sheftic called upon his sister Lauren—who died in 2001 at age 18 from a brain aneurysm after a courageous struggle that lasted nearly a year—and asked if she would loan him "the strength she showed" for the next two hours.

Sheftic missed his first shot, with 18:04 left. With 17:25 left, he turned the ball over. In fact, he didn't score until the 11:01 mark of the first half, on his second shot of the game. By then Vermont had raced out to a double-digit lead and Sheftic began to settle; legs that once trembled became sturdy enough to help carry his team.

With 8:33 left, he scored on an up-and-under post move. BU left him open at the top of the key with 5:43 left and he capitalized with a basket. He scored two more soft-stroke baskets to finish the first half with 10 points on 5-for-10 shooting.

Over the last 9:41, when BU rallied and subsequently forged ahead, Sheftic was the Catamounts' go-to guy, scoring 8 points. His poise helped keep Vermont close in a contest at a time when the partisan BU crowd was loudest.

"After I hit a couple shots, I really settled down and I started to get my confidence, and all of my nervousness in my legs just left," said Sheftic.

Vermont's David Hehn won it for the Catamounts with a fadeaway baseline basket with 5.6 seconds left, but Sheftic was named most outstanding player, scoring 23 points on 10-for-17 shooting and adding 6 boards to lead UVM to its first NCAA Tournament bid. The Catamounts are the 16th seed in the West and will meet top-seeded Arizona in Salt Lake City today.

"I was just thinking that she was with me at the [high school] state championship game, and just how awesome it would have been for her to be there for [last Saturday's] game," said Sheftic about Lauren, who was three years younger. "But I knew she was watching anyway, and I really felt like she was there with me."

For Sheftic, his involvement with Vermont basketball this season is a far cry from last season. He enters today's Arizona game as the team's second-leading scorer (10.8 points per game) and rebounder (6.4 rebounds) and is third with 54 assists. The Essex Junction, Vt., resident who chose to stay home rather than accept lures from big-name programs such as Providence and Southern California has led UVM in scoring in five games and in rebounding in six. Moreover, the 6-foot-8-inch, 260-pound widebody has been a team leader. He has helped to alleviate pressure from other players—including sophomore Taylor Coppenrath, the America East Player of the Year.

"We had a situation where when somebody said something about Taylor, that he wasn't that good, Sheftic became his big brother and his protector," said coach Tom Brennan. "It was really a neat thing to watch."

"I don't know if I've consciously taken it upon myself to be a leader," said Sheftic. "I try to help out the team wherever I can."

Last season, Sheftic didn't play at all.

Lauren took ill during winter 2000. Sheftic, the oldest of five children and the only male, endured the 2000–01 season, but during the fall of last year, weeks before the start of the season, he decided to take a redshirt to spend more time with his ailing sister.

"It was really an unbelievable time for me," said Sheftic. "Thinking back on it now, it was like a dream, a nightmare. My sister ended up with a brain aneurysm and was really sick, and we had a really tough season the previous year, when we finished 12–17. I'm a business major, and my classes are really tough.

"Making a decision to leave the team, it just became too much for me. I just felt totally overloaded. I felt like I was drowning, like I couldn't get up to the surface to breathe with my school work, going back and forth to the hospital, trying to help my family out, trying to be there for my parents.

"You just didn't know what was going to happen. Phone calls from my mother would range from, 'Lauren's making great progress today,' to 'We took 10 steps back today, she's sick again.' It was an emotional roller coaster I was on, as well as the season, just trying to get up for games, when I felt like all my emotions were with my sister."

Sheftic went to Brennan's office and relayed his desire to sit out the season. "He was looking across at me and saying, 'T.B., I just can't do it,' " said Brennan. "They were very, very close, and it really ripped his heart out. He told me, 'I really need to spend time with her. Basketball doesn't mean as much to me.' "

During his sister's battle, he battled his own sense of grief while helping his three youngest sisters cope. Then, he said, his sister suffered her biggest setback.

"She went in to get a routine shunt in her head, which is a procedure where they drain pressure in her head," Sheftic said. "And when they went to drill into her head, they hit her brain with the drill, and it caused another brain aneurysm. So almost a year later, we were in the exact same spot.

"We had to make a decision. My mom had spent every single day of her recovery with Lauren. And one day [before the surgery], Lauren told her that if anything like this happened again she didn't want to do it again, because it was so painful for her and such a long road." Sheftic was at his sister's bedside when she died shortly after the surgery.

"I think my family has become so much more important to me," said Sheftic. "Family is always important, but I don't know: You sometimes start to take your family for granted. They'd be at my basketball games and I loved the support, but I guess you don't realize how good it is to go home until you've gone through some kind of adversity with your family."

Sheftic returned this season and picked up where he left off as a sophomore, when he averaged 10 points per game. In his first game back, he recorded a double-double: 20 points and 10 boards against Eastern Michigan. That was followed by a 22-point, six-assist contest against Albany, where he went 10 for 10 from the floor.

"Sheftic as a recruit was a star. When we got Sheftic, it was like, 'Wow, this is a tremendous recruit,' " said Brennan. "And yet he has never said, 'I need the ball more. You're not running plays for me.' He has fit in really well since he's been back."

Said Sheftic: "Feeling as much pain as I did that year, I'm so much more thankful and appreciative of having good times and friends and family, and these games mean everything to me."•

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## TAYLOR COPPENRATH, PRIDE OF WEST BARNET, VERMONT

• Mr. LEAHY. Mr. President, today I salute a key member of the first University of Vermont men's basketball team ever to participate in the NCAA Tournament. Taylor Coppenrath is the Vermont version of Larry Bird, a smalltown boy who found huge success on the basketball court.

Taylor's basketball excellence has transformed his hometown, tiny West Barnet, VT, into perhaps, on a per capita basis, our State's most basketball-crazy town, and with good reason. During his career at St. Johnsbury Academy, Taylor did not make the varsity squad until his junior year, but when he finally arrived, his presence was felt. Taylor was named Vermont's 2000 Player of the Year by USA Today and Gatorade, and Mr. Basketball by the Burlington Free Press.

When Taylor joined Coach Tom Brennan's University of Vermont Catamounts, he had an immediate impact, and was named the 2002 America East Rookie of the Year, and earned All-America East, second team honors. During this season, he was named the Kevin Roberson America East Player of the Year, an honor appropriately named for one of UVM's all time greatest players. Taylor has attracted national attention, including a mention on ESPN.com's The Radar Screen. An opposing coach, Tim Welsh of Providence College said of Taylor, "I'm glad we only have to play him once this year."

Taylor Coppenrath's story is perhaps best told by award-winning writer Sam Hemingway of the Burlington Free Press in his column of Wednesday, March 19. I ask that the column "Basketball Star Makes West Barnet Proud" be printed into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### BASKETBALL STAR COPPENRATH MAKES W. BARNET PROUD

[From the Burlington Free Press]

(By Sam Hemingway)

Shortly after 3 p.m. Thursday, the quiet hamlet of West Barnet will grow even quieter.

Sharon Roy will put her small, seldom-used black-and-white television on the counter at the West Barnet General Store and see whether she can capture WCAX-TV Channel 3 on the screen.

Meg Clayton has a better plan. Her good friends, the Coppenraths, have a satellite dish, and because they'll be away in Utah, she intends to stop by and "check on their cat" for a couple of hours.

Over at the Barnet School, the afternoon in-service session for teachers should end in time for the staff to check out the cable television hook-up installed at the school this week.

The focus of all this television attention: hometown hero Taylor Coppenrath. The 6-foot, 8-inch forward will be on network television, leading the University of Vermont men's basketball team in its first-ever NCAA appearance, against the University of Arizona.

The funny thing is, no one in these parts really saw this day coming five years ago. The funnier thing is that, now that it's happening, no one's that surprised about it.

"He's such a sweetie," said Karen Stewart, the principal of Barnet School. "He was always very mellow, very easy going."

He still is. Neighbor Liddy Roberts recalled how, last year, Coppenrath and her son, Jimmy, were home on spring break and spent a whole day making an igloo for a youngster in town albeit one big enough for Coppenrath to stand up inside.

"And, of course, he and Jimmy had to go out and cook up some hot dogs inside the igloo afterward," she said.

Under that unassuming exterior lurks the heart of a lion, however.

As a kid, Coppenrath played so hard at recess, some teachers said, the school created the Taylor Coppenrath Rule: If you come in from recess soaked in sweat like he did, make sure you have a set of dry clothes to put on afterward.

Name a game, and Coppenrath was ready to play it. Games filled the idle hours for kids in the village, none more so than basketball. The sound of a bouncing basketball often echoed through town from dawn to dusk.

Sometimes the games involved Coppenrath and his two best friends, Clayton's son Chris and Roberts' son Jimmy. Other times, it drew in entire families, passers-by, anyone who wanted to play.

"We even had family tournaments," said George Coppenrath, Taylor's father. "You had mothers, fathers, sons, daughters, all bumping and shoving each other out there. It was fun."

Basketball became such a fixture in West Barnet that six years ago a paved, full-sized basketball court with two backboards and hoops was built smack dab in the middle of the village.

Still, the chances of a small-town kid from Vermont making a big splash in Division 1 college basketball are as remote as West Barnet itself, tucked into the hills 15 miles southwest of St. Johnsbury.

Coppenrath, who kept growing taller throughout high school, was a late-blooming star. He didn't make the varsity at St. Johnsbury Academy until his junior year, a year after his two West Barnet buddies had made the team.

Only as a senior did he finally receive the recognition he deserved: Vermont's Gatorade Player of the Year, The Burlington Free Press' Mr. Basketball and a full scholarship from UVM. This winter he led the Catamounts in scoring and was named the player of the year in the America East basketball conference.

How crazy is this town for basketball now? George Coppenrath has taken to making video tapes of UVM games and leaving them at the two stores in town for people to borrow and watch.

Tuesday, all of the West Barnet General Store's copies were out on loan.●

## RECOGNITION OF COACH JOHN McDONNELL AND THE UNIVERSITY OF ARKANSAS TRACK AND FIELD PROGRAM

Mrs. LINCOLN. Mr. President, on behalf of all Arkansans, I want to congratulate the University of Arkansas Razorback Track and Field program on their 17th NCAA Indoor Track and Field championship this past weekend at the Randal Tyson Track Center in Fayetteville, AR. This is the program's 37th overall NCAA crown under the direction of Head Coach John McDonnell. At the University of Arkansas, Coach McDonnell has led his teams to more national championships, triple crowns and conference titles than any other coach in history. His most extraordinary accomplishment is winning 29 consecutive conference cross country championships. He has coached 20 Olympians and over 140 athletes to All-American status. We celebrate Coach John McDonnell's success at the University of Arkansas and his continued dedication to the Razorback Track and Field and Cross Country programs.

## MESSAGE FROM THE PRESIDENT

## REPORT RELATIVE TO THE ADDITIONAL STEPS TAKEN WITH RESPECT TO THE NATIONAL EMERGENCY WHICH WAS DECLARED IN EXECUTIVE ORDER 12722 OF AUGUST 2, 1990 BY EXERCISING THE STATUTORY AUTHORITY TO CONFISCATE AND VEST CERTAIN PROPERTY OF THE GOVERNMENT OF IRAQ—PM 28

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have taken additional steps with respect to the national emergency declared in Executive Order 12722 of August 2, 1990, by exercising my statutory authority to confiscate and vest certain property of the Government of Iraq and its agencies, instrumentalities, or controlled entities.

Consistent with section 203(a)(1)(C) of IEEPA, 50 U.S.C. 1702(a)(1)(C), as added by section 106 of the USA PATRIOT ACT, Public Law 107-56, I have ordered that certain blocked funds held in the United States in accounts in the name of the Government of Iraq, the Central Bank of Iraq, Rafidain Bank, Rasheed Bank, or the State Organization for Marketing Oil are hereby confiscated and vested in the Department of the Treasury. I have made exceptions for any such funds that are subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoy equivalent privileges and immunities under the laws of the United States, and are or have been used for diplomatic or consular purposes. In addition, such amounts that, as of the date of the order, are subject to post-judgment writs of execution or attachment in aid of execution of judgments pursuant to section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107-297) are not being vested, provided that, upon satisfaction of the judgments on which such writs are based, any reminder of such expected amounts shall, without further action, be confiscated and vested.

I have delegated to the Secretary of the Treasury authority to undertake all other action of the President and all functions of the President set forth in section 203(a)(1)(C) of IEEPA with respect to any and all property of the Government of Iraq, including its agencies, instrumentalities, or controlled entities, and to take additional steps, including the promulgation of rules and regulations as may be necessary to carry out the purposes of this order.

I am enclosing a copy of the Executive Order I have issued, which is effective immediately.

I have exercised these authorities in furtherance of Executive Orders 12722 and 12724 with respect to the unusual and extraordinary threat to our national security and foreign policy posed by the policies and actions of the Government of Iraq. I intend that such vested property should be used to assist the Iraqi people and to assist in the reconstruction of Iraq, and have determined that such use would be in the interest of and for the benefit of the United States.

The power to vest assets of a foreign government with which the United States is engaged in armed hostilities is one that has been recognized for many decades. This power is being used here because it is clearly in the interests of the United States to have these funds available for use in rebuilding Iraq and launching that country on the path to speedy economic recovery. In addition, this authority is being invoked in a limited way, designed to minimize harm to third parties and to respect existing court orders as much as possible.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 20, 2003.*

## MESSAGE FROM THE HOUSE

At 2:54 p.m., a message from the House of Representatives, was delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 314. An act to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes.

H.R. 417. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 519. An act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

H.R. 699. An act to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

H.R. 975. An act to amend title 11 of the United States Code, and for other purposes.

H.R. 1307. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 314. An act to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 417. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; to the Committee on Energy and Natural Resources.

H.R. 519. An act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 699. An act to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington; to the Committee on Energy and Natural Resources.

## MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

H.R. 975. An act to amend title 11 of the United States Code, and for other purposes.

H.R. 1047. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1670. A communication from the Director, Financial Management, General Accounting Office, transmitting, pursuant to law, the Fiscal Year 2002 Annual Report of the Comptrollers' General Retirement System; to the Committee on Governmental Affairs.

EC–1671. A communication from the Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the Fiscal Year 2002 Annual Report for the National Archives and Records Administration; to the Committee on Governmental Affairs.

EC–1672. A communication from the Chairman, United States Merit Systems Protection Board, transmitting, pursuant to law, the report entitled "The Federal Selection Interview: Unrealized Potential" received on March 17, 2003; to the Committee on Governmental Affairs .

EC–1673. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the report of the fourth edition of the Commission's Strategic Plan and the Performance Plan for fiscal year (FY) 2002, received on March 17, 2003; to the Committee on Governmental Affairs .

EC–1674. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the Commercial Activity Report for the Broadcasting Board of Governors (BBG), received on March 17, 2003; to the Committee on Governmental Affairs.

EC–1675. A communication from the Secretary of State, transmitting, pursuant to law, the Department of State Performance and Accountability Report for Fiscal Year 2002, received on March 17, 2003; to the Committee on Governmental Affairs.

EC–1676. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Federal Energy Regulatory Commission's Fiscal Year 2002 Performance Report, received on March 17, 2003; to the Committee on Governmental Affairs .

EC–1677. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report relative to surplus real property transferred for public health purposes, received on March 17, 2003; to the Committee on Governmental Affairs.

EC–1678. A communication from the Chairman, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Equal Opportunity Commission's Government Performance and Results Act Fiscal Year 2002 Annual Program Performance Report, received on March 17, 2003; to the Committee on Governmental Affairs.

EC–1679. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the Annual Report regarding the implementation of the Government in the Sunshine Act for Calendar Year 2002, received on March 12, 2003; to the Committee on Governmental Affairs.

EC–1680. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report relative to a plan ensuring the elimination, to the maximum extent practicable, of unwarranted disparities in the pay and benefits of employees being transferred to the Department of Homeland Security (DHS), received on March 12, 2003; to the Committee on Governmental Affairs.

EC–1681. A communication from the Comptroller General, General Accounting Office, transmitting, pursuant to law, a list of General Accounting Office reports for the month of January 2003; to the Committee on Governmental Affairs.

EC–1682. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Federal Maritime Commission's Annual Program Performance Report covering Fiscal Year 2002, received on March 17, 2003; to the Committee on Governmental Affairs.

EC–1683. A communication from the Chairman and President, Export-Import Bank, transmitting, the 2003 annual report for the Export-Import Bank's Sub-Saharan African Initiative, received on March 12, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1684. A communication from the Director, Regulations and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Listing of Color Additives Exempt from Certification; Mica-Based (Pearlescent Pigments; Confirmation of Effective Date) (Doc . No. 00C–1321)" received on March 17, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1685. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Parts 560–575—Authorization of Certain Humanitarian Activities by Nongovernmental Organizations in Iraq and Iran" received on March 17, 2003; to the Committee on Foreign Relations.

EC–1686. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cuban Assets Control Regulations: Family and Educational Travel-Related Transactions, Remittance of Inherited Funds, Activities of Cuban Nationals in the United States, Support for the Cuban People, Humanitarian Projects, and Technical Amendments" received on March 18, 2003; to the Committee on Foreign Relations.

EC–1687. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Andean Trade Promotion and Drug Eradication Act (1515–AD19)" received on March 18, 2003; to the Committee on Finance .

EC–1688. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Trade Benefits Under the African Growth and Opportunity Act (RIN 1515–AD20)" received on March 17, 2003; to the Committee on Finance.

EC–1689. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Compliance with Inflation Adjustment Act (RIN 1515–AD25)" received on March 17, 2003; to the Committee on Finance.

EC–1690. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Trade Benefits Under Caribbean Basin Economic Recovery Act (RIN 1515–AD22)" received on March 17, 2003; to the Committee on Finance.

EC–1691. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled

"Entry of Certain Steel Products (RIN 1515–AD15)" received on March 17, 2003; to the Committee on Finance.

EC–1692. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Deferral of Duty on Large Yachts Imported For Sale (RIN 1515–AC58)" received on March 17, 2003; to the Committee on Finance.

EC–1693. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report relative to options for sustaining the space launch industrial base and developing an integrated, long-range, and adequately funded plan for assuring access to space by the United States, received on March 19, 2003; to the Committee on Armed Services.

EC–1694. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report relative to certification that Armenia, Azerbaijan, Georgia, Kyrgyzstan, Tajikistan, and Uzbekistan are committed to the courses of action described in section 1203(d) of the cooperative Threat Reduction Act of 1993, received on March 18, 2003; to the Committee on Armed Services.

EC–1695. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri (FRL 7467–8)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1696. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri (FRL 7468–1)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1697. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri (FRL 7468–4)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1698. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, Bay Area Air Quality Management District, and San Joaquin Valley Unified Air Pollution Control District (FRL 7460–6)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1699. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the Arizona State Implementation Plans, Arizona Department of Environmental Quality (FRL 7460–9)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1700. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and San Joaquin Valley Unified Air Pollution Control District (FRL 7460–5)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1701. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Mendocino County Air Quality Management District, and Monterey Bay Unified Air Pollution Control District (FRL 7456–6)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1702. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, Imperial County Air Pollution Control District (FRL 7460–8)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1703. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "State Implementation Plan Revisions to Particulate Matter, California—San Joaquin Valley (FRL 7470–6)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1704. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulations (FRL 7470–2)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1705. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Determination of Endangered Status for the Sonoma County District Population Segment of the California Tiger Salamander (1018–AI61)" received on March 18, 2003; to the Committee on Environment and Public Works.

EC–1706. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imazethapyr; Pesticide Tolerance (FRL7294–1)" received on March 18, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1707. A communication from the Board of Director, National Railroad Retirement Investment Board, transmitting, pursuant to law, the Annual Management report on operations and financial condition; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1708. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, the calendar year 2002 annual report, received on March 18, 2003; to the Committee on Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 671. An original bill to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes (Rept. No. 108–28).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 48. A resolution designating April 2003 as "Financial Literacy for Youth Month":

By Mr. HATCH, from the Committee on the Judiciary, with an amendment and with a preamble:

S. Res. 52. A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 58. A resolution expressing the sense of the Senate that the President should designate the week beginning June 1, 2003, as "National Citizen Soldier Week".

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 330. A bill to further the protection and recognition of veterans' memorials, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

James V. Selna, of California, to be United States District Judge for the Central District of California.

Theresa Lazar Springmann, of Indiana, to be United States District Judge for the Northern District of Indiana.

Cormac J. Carney, of California, to be United States District Judge for the Central District of California.

Philip P. Simon, of Indiana, to be United States District Judge for the Northern District of Indiana.

Gregory A. White, of Ohio, to be United States Attorney for the Northern District of Ohio for the term of four years.

Thomas Dyson Hurlburt, Jr., of Florida, to be United States Marshal for the Middle District of Florida for the term of four years.

Christina Pharo, of Florida, to be United States Marshal for the Southern District of Florida for the term of four years.

Dennis Arthur Williamson, of Florida, to be United States Marshal for the Northern District of Florida for the term of four years.

Richard Zenos Winget, of Nevada, to be United States Marshal for the District of Nevada for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER (for herself, Mr. REID, and Mr. BAUCUS):

S. 670. A bill to designate the United States courthouse located at 95 Seventh Street in San Francisco, California, as the "James R. Browning United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 671. An original bill to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. ENSIGN:

S. 672. A bill to require a 50 hour workweek for Federal prison inmates and to establish a grant program for mandatory drug testing, and for other purposes; to the Committee on the Judiciary.

By Mr. BOND:

S. 673. A bill to amend part D of title III of the Public Health Service Act to authorize grants and loan guarantees for health centers to enable the centers to fund capital needs projects, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. SANTORUM, Mr. SARBANES, Mr. EDWARDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. DODD, and Ms. MIKULSKI):

S. 674. A bill to amend the National Maritime Heritage Act of 1994 to reaffirm and revise the designation of America's National Maritime Museum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAPO, and Mr. KYL):

S. 675. A bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BAUCUS (for himself, Mr. CRAIG, Mr. BAYH, and Mr. ROCKEFELLER):

S. 676. A bill to establish a WTO Dispute Settlement Review Commission, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 677. A bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. DASCHLE, Mr. JEFFORDS, Mr. INOUYE, Ms. MIKULSKI, and Mr. SARBANES):

S. 678. A bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself, Mr. KOHL, Mr. BINGAMAN, Mr. BAUCUS, Mrs. CLINTON, Ms. STABENOW, Mr. EDWARDS, Mr. SARBANES, Mrs. MURRAY, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mr. DURBIN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. HOLLINGS, Mr. NELSON of Nebraska, Ms. MIKULSKI, Mr. BAYH, Ms. CANTWELL, Mr. DORGAN, Mr. CONRAD, Mrs. FEINSTEIN, Mr. CORZINE, Mr. CARPER, Mr. JEFFORDS, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. SMITH, Mr. DAYTON, Mr. AKAKA, Mr. REED, Mr. BREAUX, Mr. NELSON of Florida, Mr. HARKIN, Mr. SCHUMER, Mrs. BOXER, Mr. DODD, Mr. SPECTER, Ms. LANDRIEU, Mr. DASCHLE, Mr. BYRD, Mr. LAUTENBERG, Mr. PRYOR, Mrs. LINCOLN, and Mr. REID):

S. 679. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

By Mr. HATCH:

S. 680. A bill to amend the Internal Revenue Code of 1986 to enhance book donations and literacy; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. WARNER, Mr. LEVIN, Mr. MCCONNELL, Mr. REID, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, and Mr. WYDEN):

S. Res. 95. A resolution commending the President and the Armed Forces of the United States of America; considered and agreed to.

By Mr. BOND (for himself and Mr. HOLLINGS):

S. Res. 96. A resolution to express the sense of the Senate that the Federal investment in programs that provide health care services to uninsured and low-income individuals in medically underserved areas be increased in order to double access to health care over the next 5 years; to the Committee on Appropriations.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Con. Res. 25. A concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes; to the Committee on the Judiciary.

By Ms. LANDRIEU (for herself, Mr. HAGEL, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SPECTER, Mr. BINGAMAN, Mr. INOUYE, and Mr. BREAUX):

S. Con. Res. 26. A concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND (for himself, Ms. LANDRIEU, Mr. HAGEL, and Mr. FITZGERALD):

S. Con. Res. 27. A concurrent resolution urging the President to request the United States International Trade Commission to take certain actions with respect to the temporary safeguards on imports of certain steel products, and for other purposes; to the Committee on Finance.

## ADDITIONAL COSPONSORS

### S. 32

At the request of Mr. KYL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 32, a bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West.

### S. 56

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

### S. 138

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

### S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

### S. 153

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 153, a bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

### S. 157

At the request of Mr. CORZINE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 157, a bill to help protect the public against the threat of chemical attacks.

S. 170

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 170, a bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and further purposes.

S. 251

At the request of Mr. LOTT, the names of the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 271

At the request of Mr. SMITH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 289

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 303

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 303, a bill to prohibit human cloning and protect stem cell research.

S. 328

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 328, a bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 385

At the request of Mr. DASCHLE, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 385, a bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes.

S. 451

At the request of Ms. SNOWE, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Ohio (Mr. DEWINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 470

At the request of Mr. SARBANES, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 501

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 501, a bill to provide a grant program for gifted and talented students, and for other purposes.

S. 504

At the request of Mr. ALEXANDER, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 539

At the request of Mr. DOMENICI, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 539, a bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes.

S. 580

At the request of Mr. LUGAR, the names of the Senator from Arizona (Mr. KYL), the Senator from Nebraska (Mr. HAGEL) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 580, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia.

S. 595

At the request of Mr. HATCH, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 604

At the request of Mr. BAYH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 604, a bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes.

S. 605

At the request of Mr. SMITH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 605, a bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008.

S. 647

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Minnesota (Mr. DAYTON) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 647, a bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

S.J. RES. 4

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

### S.J. RES. 8

At the request of Mr. BROWNBACK, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S.J. Res. 8, a joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

### S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

### S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

### S. CON. RES. 15

At the request of Mr. ALLEN, the names of the Senator from Virginia (Mr. WARNER), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. MILLER), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. Con. Res. 15, a concurrent resolution commemorating the 140th anniversary of the issuance of the Emancipation Proclamation.

### S. RES. 44

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 44, a resolution designating the week beginning February 2, 2003, as "National School Counseling Week".

### S. RES. 48

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

### AMENDMENT NO. 270

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 270 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 275

At the request of Mr. ROCKEFELLER, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Pennsylvania (Mr. SPECTER), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 275 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 276

At the request of Mr. SARBANES, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), the Senator from Michigan (Ms. STABENOW), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KERRY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 276 intended to be proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 278

At the request of Mr. BIDEN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Vermont (Mr. JEFFORDS), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nevada (Mr. REID), the Senator from Michigan (Ms. STABENOW) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of amendment No. 278 intended to be proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 282

At the request of Mr. BROWNBACK, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of amendment No. 282 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 283

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 283 intended to be proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 285

At the request of Mr. SCHUMER, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 285 intended to be proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

### AMENDMENT NO. 294

At the request of Mr. DORGAN, his name and the names of the Senator from New York (Mrs. CLINTON) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 294 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER (for herself, Mr. REID, and Mr. BAUCUS):

S. 670. A bill to designate the United States courthouse located at 95 Seventh Street in San Francisco, California, as the "James R. Browning United States Courthouse"; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am reintroducing legislation today to name the courthouse at 95 Seventh Street in San Francisco, California, as the "James R. Browning United States Courthouse."

Judge Browning was appointed to the court by President Kennedy and has spent 40 years as a circuit judge on the Court of Appeals for the Ninth Circuit. For twelve of those years, he served as Chief Judge. As chief judge, Judge Browning reorganized and modernized the administration of the Ninth Circuit. Now, he is on Senior Status.

He is originally from Montana and graduated from Montana State University in 1938 and from Montana University Law School in 1941, achieving the highest scholastic record in his class and serving as editor-in-chief of the law review. Before being appointed to the Court, Judge Browning served in the U.S. Army and worked for Department of Justice and in private practice.

I can think of no more appropriate honor for Judge Browning than to place his name on the courthouse building where he has worked for 40 years.

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By Mr. ENSIGN:

S. 672. A bill to require a 50 hour workweek for Federal prison inmates and to establish a grant program for mandatory drug testing, and for other purposes; to the Committee on the Judiciary.

Mr. ENSIGN. Mr. President, I rise today to introduce the Mandatory Prisoner Work and Drug Testing Act of 2003. This legislation is the continuation of work I did while in the House of Representatives to rein in the undeserved privileges that are currently given to Federal prisoners.

Today's criminal justice system is failing, partly because of what happens, or more specifically, doesn't happen, once convicted criminals arrive in prison. What prisoners are doing is watching cable television, getting high on drugs, lifting weights, and learning to be better criminals. What they are not doing is working and paying back their victims. That's not justice.

The purpose of the Mandatory Prisoner Work and Drug Testing Act is to help establish a Federal prison system that provides discipline and rehabilitation for our Nation's prisoners and requires that they make restitution to their victims.

First, this legislation requires that all Federal prison inmates have a 50-hour work week. Job training, educational and life skills preparation study will also be mandated under this provision. Current federal law does not mandate a minimum work week for the 100,000 inmates in the Federal prison system. Sadly, the average workday for a prisoner in the United States is 6.8 hours. This is absolutely unacceptable. American taxpayers should not have to work full-time to provide rest and relaxation for our nation's prisoners.

Federal prisoners would be paid for the work they do, but their pay would be divided and dispersed in the following manner: 25 percent would offset the cost of prisoner incarceration, 25 percent would go to victim restitution, 25 percent would be made available to the inmate for necessary costs of incarceration, 10 percent would be placed in a non-interest bearing account to be paid to the inmate upon release, and the remaining 15 percent would go to states and local jurisdictions that operate correctional facilities which have similar programs.

Second, this legislation requires the Bureau of Prisons to establish a zero-tolerance policy for the use or possession of illegal contraband. A drug-free environment is essential to any hopes of rehabilitation for our federal prison inmates. Under these provisions, inmates would be subject to random searches and inspections for drugs not less than 12 times each year. Federal prisons would be required to offer residential drug treatment for all inmates. And finally, any employee hired to work in a federal prison would undergo a mandatory drug test, and all employees would be subject to random testing at least twice each year.

I understand that many State and local prisons would also be interested in starting programs to get a drug-free prison, and for that reason have included a new grant program. Any State or unit of local government may apply for grants if they meet the same drug-testing requirements that are mandated for federal prisons under this legislation.

Third, the Mandatory Prisoner Work and Drug Treatment Act includes a requirement that all inmates in the Federal prison system participate in a boot camp for not less than four weeks. This boot camp program would include strict discipline, physical training, and hard labor to deter crime and promote successful integration or reintegration of the offender into the prison community. Those prisoners that choose not to participate or are physically unable to participate are required to be confined to their cells for not less than 23 hours per day during the duration that they would otherwise be spending in this program and be allowed only those privileges that are granted under Federal law.

These boot camps work. In fact, the Federal Bureau of Prisons already supports two such programs, one for men and one for women. These programs place inmates in highly structured, spartan environments where they undergo physical training and labor-intensive work assignments, coupled with education and vocational training, substance abuse treatment, and life skills programs. They focus on promoting positive changes in inmates' behavior, including responsible decision-making, self-direction and positive self-image. In fact, boot camps have worked so well that over 30 states now have them in place.

Finally, this legislation will further restrict inmates' activities and possessions. Under this legislation inmates would not be allowed to possess or smoke tobacco, view or read pornographic or sexually explicit material, or view cable television that is not educational in nature. Inmates would not be allowed to possess microwave ovens, hot plates, toaster ovens, televisions, or VCRs. They would not be allowed to listen to music that contains lyrics that are violent, vulgar, sexually explicit, glamorize gang membership or activities, demean women, or disrespect law enforcement. We have to remember that these individuals are in Federal prison to be punished for a crime they committed. There is no reason for inmates to be given the same, or better, privileges than law-abiding citizens have. No one can tell me that an inmate has to have cable television when many law-abiding, taxpaying families cannot afford such a perk.

We need to work to ensure that our nation's criminals understand the gravity of the crimes they committed. I understand that many of our nation's jails and prisons use activities like weight lifting as rewards for their inmates. My legislation does not restrict that kind of activity. This legislation simply states that it is no longer acceptable for our nation's inmates to leisurely go about their day instead of working to pay for the crimes they committed. It is time that our government send a clear message to the victims of these crimes that these criminals will pay, and that restitution, to the maximum extent possible, will be made.

Quite simply, we need to stop the revolving doors of our prison system. A study released in June, 2002, by the U.S. Department of Justice found that among nearly 300,000 prisoners released in 15 states in 1994, 67.5 percent were rearrested within three years. It is my hope that if Federal prisoners were required to work and given drug treatment, instead of perks like cable television and weight training time, these individuals would be deterred from committing another crime and returning to prison.

I hope that my colleagues will support this legislation and help me in getting it passed this year.

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By Mr. BOND:

S. 673. A bill to amend part D of title III of the Public Health Service Act to authorize grants and loan guarantees for health centers to enable the centers to fund capital needs projects, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I rise today to introduce an important piece of new legislation to help an essential part of our health care safety net—our Nation's health centers—serve the uninsured and medically-underserved.

The Building Better Health Centers Act will promote health centers' mission of providing care to anyone who needs it by getting rid of an artificial distinction existing in current law. Right now, federal grant dollars to health centers can be used for most things a health center needs to do—including salaries, supplies, and basic upkeep. But federal grants to health centers cannot be used for one of the most critical and expensive needs a health center, or any business or nonprofit organizations, will ever face—capital improvements.

Unless we correct this silly distinction, many of our health centers are destined to be shackled to slowly deteriorating facilities. Over time, this will sap their ability to provide care. If we are serious about maximizing health centers' ability to deal with our health care access needs, we must allow Federal grant dollars to be used to meet our health centers' capital needs.

I've been down here on the Senate floor many times to talk about health centers, but let me cover the basics once again. Health centers—which include community health centers, migrant health centers, homeless health centers, and public housing health centers—address the health care access problem by providing primary care service in thousands of rural and urban medically-underserved communities throughout the United States.

And as we all know, the health care access problem remains a serious issue in our country. Many health care experts believe that Americans' lack of access to basic health services is our single most pressing health care problem. Nearly 50 million Americans do not have access to a primary care provider, whether they are insured or not. In addition, over 41 million Americans lack health insurance and have difficulty accessing care due to the inability to pay.

Health centers help fill part of this void. More than 3,400 health center clinics nationwide provide basic health care services to more than 12 million Americans, almost 8 million minorities, nearly 850,000 farmworkers, and almost 750,000 homeless individuals each year. The care they provide has been repeatedly shown by studies to be high-quality and cost-effective. In fact, health centers are one of the best health care bargains around—the average yearly cost for a health center patient is just over one dollar per day.

I believe that one of the most effective ways to address our health care access problem is by dramatically expanding access to health centers. And I am pleased to report a strong consensus is developing to do exactly that. The Senate has voted in support of a proposal I have made with Sen. HOLLINGS to double access to health centers by doubling funding over a five-year period. In addition, President Bush has proposed that we double the number of people that health centers care in the years ahead.

But over the next few years, as we hopefully see additional resources flow to health centers, we will increasingly encounter problems that stem from an artificial distinction we see in current law. As I mentioned, Federal health center grants are currently allowed to be used for most purposes—including salaries for health professionals and administrators, medical supplies, basic upkeep of clinic facilities, even lease payments if the health center rents. But they simply cannot be used for capital improvements.

This means that unless health centers can find some other way to finance their capital needs—and I will talk in a moment about the significant barriers they face in doing this—major projects that could provide substantial benefit to patients will never happen.

It means that an urban community health center that has been slowly expanding staff and services over many years until it's bursting at the seams of its modest two-story building will have to continue to find ways to cope, even if that prevents additionally-needed expansion or even if upkeep costs on the old building begin to spiral out-of-control.

It means that a rural community health center in an area desperately in need of dental services may not be able to expand the facility and purchase dental chairs, X-ray machines and other major dental equipment needed for the desired expansion into dental services.

It means that even if Federal Government is willing to commit grant funds to open a new health center in one of the hundreds of underserved communities nationwide which lacks any health care professionals for miles around, the new center may never come to be due to lack of funding for a facility in which to house it.

This is more than theory—the evidence shows that many existing health centers operate in facilities that desperately need renovation or modernization. Approximately one of every three health centers reside in a building more than 30 years old, and one of every eight operate out of a facility-more than half a century old.

Moreover, a recent survey of health centers in 12 states showed that more than two-thirds of health centers had a specifically-identified need to renovate, expand, or replace their current facility. The average cost of a needed capital project was $1.8 million, and the needs ranged from "small" projects of $400,000 to major $5 million efforts. The survey demonstrates that there may be as much as $1.2 billion in unmet capital needs in our nation's health centers.

And that is just for existing health centers. As I mentioned, hundreds of medically-underserved areas lack—and could desperately use—the services of a health center. This further shows the need for new facilities—and more capital—as we expand access to new communities.

So what about possible sources of capital? There are plenty of ways—in theory—that health centers might be able to get money for capital improvements. Businesses—large and small—do it all the time. So do other nonprofit organizations like universities and hospitals. They use built-up equity. They take out loans. They float bonds. They raise money through private donations as part of a capital campaign.

But unfortunately, health centers just aren't quite like most other businesses or nonprofits, and many times these options are unrealistic as a way to provide the entire cost of a major project.

Health centers simply don't have loads of cash in the bank. The revenue these clinics are able to cobble together from federal grants, low-income patients, Medicaid, private donations, and other health insurers is typically all put back into to patient care.

Health centers already work hard to maximize the money they can raise through private donations and non-Federal grant sources. In fact, an average of 9 percent of health center revenue comes from these sources. Most of this private and public funding is used to meet operating expenses, and it is difficult to go back to the same sources to request further donations for capital needs. In fundraising, health centers also face a huge disadvantage compared to nonprofit organizations like universities and hospitals because health centers lack a natural middle- and upper-class donor base. And raising private funds is particularly hard in isolated rural areas that are often quite poor and which can have the most dire health care access problems.

Finally, health centers have difficulties obtaining private loans for capital needs for a variety of reasons. The high number of uninsured patients health centers treat and the poor reimbursement rates received from most Medicaid programs mean health centers rarely have significant operating margins. Without these margins, banks are leery about loans because they don't feel assured that a health center will have sufficient cash flow to successfully manage loan payments. Banks are made even more nervous by the high proportion of health center revenue that comes from sometimes-unreliable government sources—such as the health centers' grant funding and Medicine and Medicaid reimbursements.

So what should we do? This isn't exactly rocket science. We have a need—many health centers require significant help to build or maintain adequate facilities because they can't raise the money or obtain the loans themselves. And we have an existing law that prevents the federal government from using health center funding to do exactly that.

We simply need to get rid of the artificial distinction we have right now and allow our health center grant dollars to go to further the health center mission in the best way possible—and that is going to mean at times that we should support some new construction or major renovation projects. If a crumbling building is constantly in need of repair, is soaking up money, and is reducing the number of patients a health center can reach out to, the Federal Government should help with the major renovation or the new construction needed.

The Building Better Health Centers Act authorizes the Federal Government to make grants to health centers for facility construction, modernization, replacement, and major equipment purchases. If our goal is to help health centers provide high-quality care to as many uninsured and medically-underserved people as possible, we need to get rid of barriers to doing that, including capital barriers.

Beyond just the possibility of grant funding, the bill goes further and permits the Federal Government to guarantee loans made by a bank or another private lender to a health center to construct, replace, modernize, or expand a health center facility. This loan guarantee is an additional tool that will help allay the fears of banks and other private lenders by limiting their exposure if a health center defaults on a loan. An additional advantage of loan guarantees is that you can stretch funds farther. When guaranteeing a $1 million loan, the Federal Government need only set aside a much smaller amount of appropriated money—perhaps only a twelfth to a tenth of the loan total—to insure against that loan's possible default. This multiplier factor means that for every dollar appropriated for this purpose, many dollars worth of loans can be guaranteed.

There is actually tremendous potential for these two new options—the facility grants and the facility loan guarantees—to work together. Sharing in up-front costs through grant funding, and helping further by guaranteeing a loan that covers the remainder of a project's cost may well be the best approach. This will balance the need to make sure specific projects get enough grant funding to make them realistic and the need to spread capital assistance among as many projects as possible.

Let me try to respond in advance to a few potential criticism of this legislation. First, to those who simply think on principle that the government should stay out of private-sector bricks and mortar projects, I would say we're already at least halfway pregnant. In just about every appropriations bill, we have dozens if not hundreds of specific projects earmarked for major building or renovation projects.

Some might worry that the potential large costs of construction projects could get out of hand and squeeze out funding actually used for patient care. But let me point out that we limit capital assistance to five percent of all health center funding. Based on this year's funding level, this would mean up to $75 million for facility grants and loan guarantees. Because the loan guarantee program would allow some of this money to be stretched, this level of support could easily mean help for more than $200 million in health center capital projects. But the main point is that capital projects are absolutely limited to five-percent of health center funding, which prevents any possible runaway spending.

Finally, we should ask ourselves whether or not Federal assistance is going to give a free pass to communities, which really should be expected to help out with public-minded projects like the construction or renovation of a health center. In my bill, local communities are expected to help. No more than 90 percent of the total costs of a major project can come from Federal sources—and this is the absolute upper limit. Much more likely are evenly-shared costs or situations in which federal support represents a minority of the capital investment. This bill does not give local areas a free ride.

The quick rationale for this bill is simple. Many health centers are hampered in their efforts to provide health care to the medically-underserved by inadequate facilities. It doesn't make sense to help these vital community clinics only with day-to-day expenses if their building is literally crumbling around them.

I urge my colleagues to join me in supporting this legislation. I look forward to working with my colleagues in the Senate and on the Health, Education, Labor, and Pensions Committee to aggressively help our nation's health centers meet their dire capital needs by making this bill law.

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By Ms. COLLINS (for herself, Mr. SANTORUM, Mr. SARBANES, Mr. EDWARDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. DODD, and Ms. MIKULSKI):

S. 674. A bill to amend the National Maritime Heritage Act of 1994 to reaffirm and revise the designation of America's National Maritime Museum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. COLLINS. Mr. President, I am pleased to be introducing America's National Maritime Museum Designation Act of 2003. This legislation would designate an additional 19 maritime museums as "America's National Maritime Museums" nationwide. Maritime Museums are dedicated to advancing maritime and nautical science by fostering the exchange of maritime information and experience and by promoting advances in nautical education.

The America's National Maritime Museum designation would include a commitment on the part of each institution toward accomplishing a coordinated education initiative, resources management program, awareness campaign, and heritage grants program. Maritime museums in America are dedicated to illuminating humankind's experience with the sea and the events that shaped the course and progress of civilization.

Museum collections are composed of hundreds of thousands of maritime items, including ship models, scrimshaw, maritime paintings, decorative arts, intricately carved figureheads, working steam engines, and much more. Maritime museums offer a variety of learning experiences for children and adults through hands-on workshops and programs that focus on maritime history.

Maritime lecture series offer an opportunity to learn about the history and lore of the sea from some of the Nation's leading maritime experts. Visitors learn the broad concept of sea power—the historic and modern importance of the sea in matters commercial, military, economic, political, artistic, and social.

The legislation that I am proposing would help museums better interpret maritime and social history to the public using their extensive collections of artifacts, exhibits and expertise. These programs and facilities are used by schools, civic organizations, genealogists, maritime scholars, and the visiting public, thus, serving students of all ages.

I urge all members of the Senate to join me in support of The America's National Maritime Museum Designation Act of 2003.

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By Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAPO, and Mr. KYL):

S. 675. A bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Mr. ENSIGN. Mr. President, I rise today to introduce legislation to instruct the Joint Committee on Taxation and the Congressional Budget Office to employ dynamic scoring models, alongside static scoring when estimating the fiscal effect of tax policy changes.

For too long, Congress has debated tax changes without considering how those changes might affect the economy.

The current method, static scoring, assumes tax cuts or tax hikes have no effect on how taxpayers work, save and invest their money. Not surprisingly, experience shows this assumption is completely off-base. The idea that tax relief and investment incentives strengthen our economy is not new to the 21st Century.

On April 15, 1986, President Reagan talked about the positive effect of tax relief on economic growth. He stated:

> Whatever you want to call it, supply side economics or incentive economics . . . it's launching the American economy into a new era of growth and opportunity. . . . Our basic ingredients for a tax package have not changed: tax rate reductions, thresholds high enough so hard-working Americans aren't pushed relentlessly into higher brackets, some long-overdue tax relief for America's families, and investment incentives for business. . . .

What President Reagan stated so eloquently in 1986 holds true today. Economic growth is more easily achieved in an atmosphere where more Americans are able to save and invest their money. Tax relief provides economic growth, and when we draft legislation, we should understand not just the cost of tax relief to the Federal budget, but also the benefits that tax relief provides to the economy and the long-term increase in revenues to the federal government that tax relief can provide.

The current static estimates that we use imply that tax policy changes have no effect on our economy, never produce higher or lower revenues and never cause resources to shift within our federal budget. This is simply incorrect. Tax policy changes can have a huge impact on our economy.

The belief that tax policy changes directly impact our economy is not just a Republican ideal.

In 1962, President John F. Kennedy remarked:

> It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough jobs or enough profits.

Tax relief provides jobs and profits, no matter who is in the White House and no matter who holds the majority in Congress. It is time that Congress looks at the real world implications of our tax policy before we decide the overall cost and how much relief we can afford to give to American families.

The debate on dynamic versus static scoring may sound like an inside-the-Beltway squabble, but as I have said today, the decision on how to estimate revenues does have important real world implications.

For example, better revenue estimating methods would make it easier to implement tax rate reductions. This would put more money into the pockets of taxpayers, which would have a very real positive effect on our economy.

Another example, shifting to a more simple, fair tax code would be less difficult if revenue estimators were allowed to consider the positive impact of tax reform on economic performance. Clearly a simplified tax code would affect each and every tax paying American.

American families face the challenge of paying their tax burden; providing food, clothing and shelter for their children; and must work even harder to have money leftover so they can afford to pay their medical bills, enjoy a family vacation, save for education costs, or put money away for retirement.

We know that when government takes money away from working families, it stifles growth. We also know that when the government gives money back to the working families that earned it, we encourage growth.

I should clarify that this legislation does not negate the Congress' use of the currently used static scoring model. This bill simply directs OMB and the Joint Tax Committee to use both static and dynamic scoring.

This will create a system that will allow Congress a slide-by-slide analysis of both scoring methods. In a Washington Post editorial on January 31, it was suggested that dynamic scoring could be useful as a way to present tax or spending policies as an additional alternative scenario. The editorial states that it would do no harm to the traditional way that CBO goes about its job to set up a dual scoring method. This is not, as some of my colleagues on the other side of the aisle have suggested, "fantasyland scoring."

By using both static and dynamic scoring methods, Mr. President, through time we will all understand which approach is more realistic, and only then, I believe, can we then confidently do away with the antiquated, unrealistic static model we use today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 675

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SENSE OF CONGRESS.

It is the sense of Congress that it is necessary to ensure that Congress is presented with reliable information from the Congressional Budget Office and the Joint Committee on Taxation as to the dynamic macroeconomic feedback effects to changes in Federal law and the probable behavioral responses of taxpayers, businesses, and other parties to such changes. Specifically, the Congress intends that, while not excluding any other estimating method, dynamic estimating techniques shall also be used in estimating the fiscal impact of proposals to change Federal laws, to the extent that data are available to permit estimates to be made in such a manner.

### SEC. 2. ESTIMATES OF THE JOINT COMMITTEE ON TAXATION.

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Joint Committee on Taxation of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Joint Committee on Taxation determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of $250,000,000 in any fiscal year.

### SEC. 3. ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE.

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Congressional Budget Office of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Congressional Budget Office determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of $250,000,000 in any fiscal year.

### SEC. 4. DISCLOSURE OF ASSUMPTIONS.

Any report to Congress or the public made by the Joint Committee on Taxation or the Congressional Budget Office that contains an estimate made under this Act of the effect that any legislation will have on revenues shall be accompanied by—

(1) a written statement fully disclosing the economic, technical, and behavioral assumptions that were made in producing that estimate, and

(2) the static fiscal estimate made with respect to the same legislation and a written statement of the economic, technical, and behavioral assumptions that were made in producing that estimate.

### SEC. 5. CONTRACTING AUTHORITY.

In performing the tasks specified in this Act, the Joint Committee on Taxation and the Congressional Budget Office may, subject to the availability of appropriations, enter into contracts with universities or other private or public organizations to perform such estimations or to develop protocols and models for making such estimates.

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By Mr. BAUCUS (for himself, Mr. CRAIG, Mr. BAYH, and Mr. ROCKEFELLER):

S. 676. A bill to establish a WTO Dispute Settlement Review Commission, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to offer, along with Senator CRAIG, much needed trade legislation. I also want to thank Senators BAYH and ROCKEFELLER for their support for this legislation.

The bill that we are introducing would create a Commission to review decisions of the World Trade Organization.

Why is this legislation necessary? Simply put—we must ensure that the United States is getting the benefit of the agreements we negotiated.

WTO panels have handed down several decisions recently that go well beyond the scope of their authority. These decisions have had a wide-ranging impact, undermining our ability to use antidumping and safeguard laws and calling major portions of the U.S. tax code into question.

Most recently, the WTO ruled that the so-called "Byrd Amendment" violates WTO rules. In fact, the Byrd Amendment simply takes duties collected on unfairly traded products out of the U.S. Treasury and redistributes them to companies and workers hurt by that unfair trade.

The Byrd Amendment adds no burden whatsoever on imports. But despite this, a WTO panel has inexplicably ruled that this law imposes an impermissible penalty for dumping.

I would note here that the Administration has proposed repealing the Byrd Amendment. I strongly oppose that. And so does an overwhelming majority of the Senate.

In fact, last month 70 Senators sent a letter to the President in support of this important law.

Another area that I have great concerns about involves the softwood lumber dispute. The WTO currently found that Canada subsidizes its lumber industry, and I applaud that decision.

But then the WTO undercut the benefits of that decision. They ruled that when determining a market price, Commerce must use the subsidy-distorted Canadian timber prices rather than the market-based U.S. prices. This practice is wholly inconsistent with previous WTO practice.

We need to start seriously examining why it is that we are losing these and other cases.

In my view, it is because WTO panels have ceased intepreting our trade agreements and have begun legislating. Instead of following the rules, they are flouting the rules. And they are substituting their own judgment in place of carefully negotiated principles.

In the process, they are eroding U.S. trade laws, taking away rights the U.S. bargained for, and imposing new obligations we never agreed to accept.

Just as troubling, they are doing so mostly under the radar of Congress and the American public.

The purpose of the legislation Senator CRAIG and I are proposing is to open the performance of WTO panels to public debate.

Under the legislation, the President, in consultation with Congress, would create a Commission by appointing 5 retired federal appellate judges to serve 5-year terms.

The Commission would review WTO decisions adverse to the United States to examine whether the panelists have exceeded their authority. The Commissioners would then report their findings to Congress.

Increasing the transparency of the WTO in this manner is entirely consistent with the Administration's stated objectives. It would also allow us to discuss openly and fairly whether the WTO is working as it should.

The legislation offers something for everyone. If the Commission finds that the WTO is applying the rules properly it will silence critics—and perhaps earn converts.

But if the WTO is in fact straying beyond the carefully negotiated boundaries of our trade agreements, Congress needs to have the oversight in place so that we can remedy the situation.

I understand and support the need for a global trading system. But we need to ensure that the WTO is respecting the limits of its authority and honestly applying the rules under which it operates.

I hope that my colleagues will join me in helping to pass this important legislation.

I ask unanimous consent that the text bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 676

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "World Trade Organization Dispute Settlement Review Commission Act".

(b) FINDINGS.—Congress finds the following:

(1) The United States joined the World Trade Organization (in this Act referred to as the "WTO") as an original member with the goal of creating an improved global trading system and providing expanded economic opportunities for United States firms and workers, while preserving United States sovereignty.

(2) The American people must receive assurances that United States sovereignty will be protected, and United States interests will be advanced, within the global trading system which the WTO will oversee.

(3) The WTO's dispute settlement rules are meant to enhance the likelihood that governments will observe their WTO obligations. These dispute settlement rules will help ensure that the United States will reap the full benefits of its participation in the WTO.

(4) United States support for the WTO depends on obtaining mutual trade benefits through the openness of foreign markets and the maintenance of effective United States and WTO remedies against unfair and otherwise harmful trade practices.

(5) Congress passed the Uruguay Round Agreements Act based on its understanding that effective trade remedies would not be eroded. These remedies are essential to continue the process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture.

(6) In particular, WTO dispute panels and the Appellate Body should—

(A) operate with fairness and in an impartial manner;

(B) not add to the obligations, or diminish the rights, of WTO members under the Uruguay Round Agreements; and

(C) observe the terms of reference and any applicable WTO standard of review.

(c) PURPOSE.—It is the purpose of this Act to provide for the establishment of the WTO Dispute Settlement Review Commission to achieve the objectives described in subsection (b)(6).

### SEC. 2. DEFINITIONS.

In this Act:

(1) ADVERSE FINDING.—The term "adverse finding" means—

(A) in a panel or Appellate Body proceeding initiated against the United States, a finding by the panel or the Appellate Body that, any law or regulation of, or application thereof by, the United States, or any State, is inconsistent with the obligations of the United States under a Uruguay Round Agreement (or nullifies or impairs benefits accruing to a WTO member under such an Agreement); or

(B) in a panel or Appellate Body proceeding in which the United States is a complaining party, any finding by the panel or the Appellate Body that a measure of the party complained against is not inconsistent with that party's obligations under a Uruguay Round Agreement (or does not nullify or impair benefits accruing to the United States under such an Agreement).

(2) AFFIRMATIVE REPORT.—The term "affirmative report" means a report described in section 234(b)(2) which contains affirmative determinations made by the Commission under paragraph (3) of section 4(a).

(3) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established by the Dispute Settlement Body pursuant to Article 17.1 of the Dispute Settlement Understanding.

(4) DISPUTE SETTLEMENT BODY.—The term "Dispute Settlement Body" means the Dispute Settlement Body established pursuant to the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT PANEL; PANEL.—The terms "dispute settlement panel" and "panel" mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(6) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(7) TERMS OF REFERENCE.—The term "terms of reference" has the meaning given such term in the Dispute Settlement Understanding.

(8) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(9) URUGUAY ROUND AGREEMENT.—The term "Uruguay Round Agreement" means any of the Agreements described in section 101(d) of the Uruguay Round Agreements Act.

(10) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(11) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

### SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the World Trade Organization Dispute Settlement Review Commission (in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 5 members, all of whom shall be retired judges of the Federal judicial circuits, and who shall be appointed by the President, after consultation with the Majority Leader and Minority Leader of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the chairman and ranking member of the Committee on Ways and Means of the House of Representatives, and the chairman and ranking member of the Committee on Finance of the Senate.

(2) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members of the Commission first appointed shall each be appointed for a term of 5 years.

(2) SUBSEQUENT TERMS.—After the initial 5-year term, 3 members of the Commission shall be appointed for terms of 3 years and the remaining 2 members shall be appointed for terms of 2 years.

(3) VACANCIES.—

(A) IN GENERAL.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment and shall be subject to the same conditions as the original appointment.

(B) UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—The Commission shall meet subsequently at the call of the chairperson.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among its members.

(g) AFFIRMATIVE DETERMINATIONS.—An affirmative vote by a majority of the members of the Commission shall be required for any affirmative determination by the Commission under section 4.

**SEC. 4. DUTIES OF THE COMMISSION.**

(a) REVIEW OF WORLD TRADE ORGANIZATION DISPUTE SETTLEMENT REPORTS.—

(1) IN GENERAL.—The Commission shall review—

(A) all reports of dispute settlement panels or the Apellate Body of the WTO in proceedings initiated by other parties to the WTO that are adverse to the United States and that are adopted by the Dispute Settlement Body; and

(B) upon request of the Trade Representative, the chairman or ranking member of the Committee on Ways and Means of the House of Representatives, or the chairman or ranking member of the Committee on Finance of the Senate, any other report of a dispute settlement panel, or the Appellate Body that is adopted by the Dispute Settlement Body.

(2) SCOPE OF REVIEW.—In the case of a report described in paragraph (1), the Commission shall conduct a complete review and determine whether the panel or Appellate Body, as the case may be—

(A) exceeded its authority or its terms of reference;

(B) added to the obligations, or diminished the rights of the United States under the Uruguay Round Agreement that is the subject of the report;

(C) acted arbitrarily or capriciously, engaged in misconduct, or demonstrably departed from the procedures specified for panels and Appellate Bodies in the applicable Uruguay Round Agreement; and

(D) deviated from the applicable standard of review, including in antidumping, countervailing duty, and other unfair trade remedy cases, the standard of review set forth in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994.

(3) AFFIRMATIVE DETERMINATION.—If the Commission makes an affirmative determination with respect to the action of a panel or an Appellate Body under subparagraph (A), (B), (C), or (D) of paragraph (2), the Commission shall determine whether the action of the panel or Appellate Body materially affected the outcome of the report of the panel or Appellate Body.

(b) DETERMINATION; REPORT.—

(1) DETERMINATION.—Not later than 120 days after the date that a report of a panel or Appellate Body described in subsection (a) is adopted by the Dispute Settlement Body, the Commission shall make a written determination with respect to matters described in subsection (a) (2) and (3).

(2) REPORTS.—The Commission shall report the determination described in paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

**SEC. 5. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold any hearings, sit and act at any time and place, take any testimony, and receive any evidence as the Commission considers advisable to carry out the purposes of this Act. The Commission shall provide reasonable notice of a hearing held pursuant to this subsection.

(b) INFORMATION FROM INTERESTED PARTIES AND FEDERAL AGENCIES.—

(1) NOTICE OF PANEL OR APPELLATE BODY REPORT.—The Trade Representative shall advise the Commission not later than 5 days after the date the Dispute Settlement Body adopts the report of a panel or Appellate Body that is adverse to the United States and shall immediately publish notice of that advice in the Federal Register, along with notice of an opportunity for interested parties to submit comments to the Commission.

(2) SUBMISSIONS AND REQUESTS FOR INFORMATION.—Any interested party may submit comments to the Commission regarding the panel or Appellate Body report. The Commission may also secure directly from any Federal department or agency any information the Commission considers necessary to carry out the provisions of this Act. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish the requested information to the Commission.

(3) ACCESS TO PANEL AND APPELLATE BODY DOCUMENTS.—

(A) IN GENERAL.—The Trade Representative shall make available to the Commission all submissions and relevant documents relating to the panel or Appellate Body report, including any information contained in submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government.

(B) PUBLIC ACCESS.—Any document which the Trade Representative submits to the Commission shall be available to the public, except information which is identified as proprietary or confidential.

(4) ASSISTANCE FROM FEDERAL AGENCIES; CONFIDENTIALITY.—

(A) ADMINISTRATIVE ASSISTANCE.—Any agency or department of the United States that is designated by the President shall provide administrative services, funds, facilities, staff, or other support services to the Commission to assist the Commission with the performance of the Commission's functions.

(B) CONFIDENTIALITY.—The Commission shall protect from disclosure any document or information submitted to it by a department or agency of the United States which the agency or department requests be kept confidential. The Commission shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

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By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 677. A bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today I introduce the "Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2003." I introduced a similar bill in the 107th Congress. I am confident that the 108th Congress will quickly pass this bill on to the President for his signature so that we can continue to celebrate this special place.

My bill improves upon my earlier efforts designating the park.

The Black Canyon of the Gunnison Gorge is a national treasure to be enjoyed by all. The park's combination of geological wonders and diverse wildlife make it one of the most unique natural areas in North America.

The first person to survey the canyon, Abraham Lincoln Fellows, noted in 1901, "our surroundings were of the wildest possible description. The roar of the water . . . was constantly in our ears, and the walls of the canyon, towering half mile in height above us, were seemingly vertical." Similarly, today, visitors can enjoy hiking the deep gorge to the Gunnison River raging below, or look overhead to marvel at eagles and peregrine falcons soaring in the sky.

This bill modifies the legislative boundary of the Gunnison Gorge National Conservation Area allowing even greater access to the park's many recreational opportunities including boating, fishing, and hiking.

This important legislation would expand the National Park by 2,725 acres, for a total of 33,025 acres. The Conservation area will be increased by 5,700 acres, for a total of 63,425 acres. In total this bill adds approximately 8,400 acres to provide habitat for several listed, threatened, endangered and BLM sensitive species including, the Bald Eagle, the River Otter, Delta Lomation, and Clay-Loving Buckwheat.

Furthermore, I have added specific language to ensure that the Bureau of Reclamation retains its traditional jurisdiction over water and water delivery systems.

This legislation helps preserve a unique national resource and a source of national pride.

I urge quick passage of this important bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2003".

### SEC. 2. BLACK CANYON OF THE GUNNISON NATIONAL PARK BOUNDARY REVISION.

(a) ESTABLISHMENT.—Section 4(a) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-2(a)) is amended—

(1) by striking "There is hereby established" and inserting the following:

"(1) IN GENERAL.—There is established"; and

(2) by adding at the end the following:

"(2) BOUNDARY REVISION.—The boundary of the Park is revised to include the addition of not more than 2,725 acres, as depicted on the map entitled 'Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications' and dated January 21, 2003.".

(b) ADMINISTRATION.—Section 4(b) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-2(b)) is amended—

(1) by striking "Upon" and inserting the following:

"(1) LAND TRANSFER.—

"(A) IN GENERAL.—On"; and

(2) by striking "The Secretary shall" and inserting the following:

"(B) ADDITIONAL LAND.—On the date of enactment of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2003, the Secretary shall transfer the land under the jurisdiction of the Bureau of Land Management identified as 'Tract C' on the map described in subsection (a)(2) to the administrative jurisdiction of the National Park Service for inclusion in the Park.

"(2) AUTHORITY.—The Secretary shall".

### SEC. 3. GRAZING PRIVILEGES AT BLACK CANYON OF THE GUNNISON NATIONAL PARK.

Section 4(e) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-2(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) TRANSFER.—If land authorized for grazing under subparagraph (A) is exchanged for private land under this Act, the Secretary shall transfer any grazing privileges to the private land acquired in the exchange in accordance with this section."; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "and" at the end;

(B) by redesignating subparagraph (B) as subparagraph (D);

(C) by inserting after subparagraph (A) the following:

"(B) with respect to the permit or lease issued to LeValley Ranch Ltd., a partnership, for the lifetime of the 2 limited partners as of October 21, 1999;

"(C) with respect to the permit or lease issued to Sanburg Herefords, L.L.P., a partnership, for the lifetime of the 2 general partners as of October 21, 1999; and"; and

(D) in subparagraph (D) (as redesignated by subparagraph (B))—

(i) by striking "partnership, corporation, or" in each place it appears and inserting "corporation or"; and

(ii) by striking "subparagraph (A)" and inserting "subparagraphs (A), (B), or (C)".

### SEC. 4. ACQUISITION OF LAND.

(a) AUTHORITY TO ACQUIRE LAND.—Section 5(a)(1) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-3(a)(1)) is amended by inserting "or the map described in section 4(a)(2)" after "the Map".

(b) METHOD OF ACQUISITION.—

(1) IN GENERAL.—Land or interest in land acquired under the amendments made by this Act shall be made in accordance with section 5(a)(2)(A) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-3(a)(2)(A)).

(2) CONSENT.—No land or interest in land may be acquired without the consent of the landowner.

### SEC. 5. GUNNISON GORGE NATIONAL CONSERVATION AREA BOUNDARY REVISION.

Section 7(a) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff-5(a)) is amended—

(1) by striking "(a) IN GENERAL.—There is established" and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established"; and

(2) by adding at the end the following:

"(2) BOUNDARY REVISION.—The boundary of the Conservation Area is revised to include the addition of not more than 7,100 acres, as depicted on the map entitled 'Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications' and dated January 21, 2003.".

### SEC. 6. ACCESS TO WATER DELIVERY FACILITIES.

The Commissioner of Reclamation shall retain administrative jurisdiction over, and access to, land, facilities, and roads of the Bureau of Reclamation in the East Portal area and the Crystal Dam area, as depicted on the map identified in section 4(a)(2) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (as added by section 2(a)(2)) for the maintenance, repair, construction, replacement, and operation of any facilities relating to the delivery of water under the jurisdiction of the Bureau to users of the water (as of the date of enactment of this Act).

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By Mr. AKAKA (for himself, Ms. COLLINS, Mr. DASCHLE, Mr. JEFFORDS, Mr. INOUYE, Ms. MIKULSKI, and Mr. SARBANES):

S. 678. A bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Postmasters Equity Act of 2003, and I am pleased to have Senators COLLINS, DASCHLE, JEFFORDS, INOUYE, MIKULSKI, and SARBANES join me as original cosponsors. Our bill modifies legislation I offered in the 107th Congress. That bill, S. 177, the Postmasters Fairness Act, enjoyed the bipartisan support of 49 members of the U.S. Senate. Its House companion bill, H.R. 250, had 291 cosponsors.

The measure I introduce today differs from its predecessor in that it provides postmasters the option of fact finding rather than binding arbitration if the postmasters management associations and the Postal Service are unable to reach agreement on specific issues. Fact finding would allow for an unbiased review of the issues in dispute and the issuance of non-binding recommendations. The measure would also define the term postmaster for the first time.

Extending the option of fact finding to postmasters will enable them to take a more active and constructive role in managing their individual post offices and discussing compensation issues with the Postal Service. The Postal Reorganization Act of 1970 created a consultative process for postmasters and other non-union postal employees to negotiate pay and benefits. However, under the current system, postmasters have seen an erosion of their role in improving the quality of mail services to postal patrons and managing their local post offices. This has been particularly true for postmasters responsible for small and medium sized post offices where they serve as front line managers. These circumstances are among factors contributing to the decline in the number of postmasters since the reorganization of the Postal Service over three decades ago.

At the present time, postmasters lack recourse when consultation fails, and my bill extends to our Nation's postmasters what is currently enjoyed by postal supervisors. While postal supervisors have the same consultation process as postmasters, the supervisors also have fact finding, which provides them with greater ability to negotiate with USPS management.

The Postal Service estimates that each day seven million customers transact business at post offices. We expect timely delivery of the mail, six days a week, and the Postal Service does not disappoint us. Given the regularity of mail delivery and the number of Americans visiting post offices daily, it is no wonder that we have come to view our neighborhood post offices as cornerstones of our communities. In fact, many of our towns and cities have developed around a post office where the postmaster served as the town's only link to the federal government.

Our Nation's postmasters are on the front line to ensure that the mail gets delivered in a timely manner, and they help fuel the infrastructure that continues to boost the performance ratings of the Postal Service. Postmasters have enabled us to communicate with one another since the dawn of this great republic. I urge my colleagues to join me in showing their support for our Nation's postmasters by cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 678

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Postmaster Equity Act of 2003".

**SEC. 2. POSTMASTERS AND POSTMASTERS ORGANIZATIONS.**

(a) In General.—Section 1004 of title 39, United States Code, is amended—

(1) in subsection (a), by inserting ", postmaster," after "supervisory" both places it appears;

(2) in subsection (b)—

(A) in the first sentence, by inserting ", postmaster," after "supervisory"; and

(B) in the second sentence—

(i) by striking "or that a managerial organization (other than an organization representing supervisors)" and insert "that a postmaster organization represents a substantial percentage of postmasters (as defined under subsection (j)(3)), or that a managerial organization (other than an organization representing supervisors or postmasters)"; and

(ii) by striking "relating to supervisory" and inserting "relating to supervisory, postmasters,";

(3) in subsection (c)(1), by inserting ", and the Postal Service and the postmasters organization (or organizations)," after "supervisors' organization";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "the supervisors' organization" both places it appears;

(ii) in subparagraph (B), by striking "organization" and inserting "organizations"; and

(iii) in subparagraph (C), by striking "organization" and inserting "organizations";

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization"; and

(ii) in subparagraph (B), by striking "organization" and inserting "organizations";

(C) in paragraph (3)—

(i) in subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization"; and

(ii) in subparagraph (B), by striking "organization" and inserting "organizations"; and

(D) in paragraph (4), by inserting ", and the Postal Service and the postmasters organization (or organizations),";

(5) in subsections (e)—

(A) in paragraph (1), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization";

(B) in paragraph (2), by inserting ", the postmasters organization (or organizations)," after "The Postal Service"; and

(C) in paragraph (3), by inserting "and the postmasters organization (or organizations)" after "supervisors' organizations";

(6) in subsection (h)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (2) the following:

"(3) 'postmasters organization' means, with respect to a calendar year, any organization whose membership on June 30th of the preceding year included not less than 20 percent of all individuals employed as postmasters on that date; and

"(4) 'postmaster' means an individual who is the manager-in-charge, with or without the assistance of subordinate managers or supervisors, the operations of a post office."; and

(7) by redesignating subsection (h) as subsection (j), and inserting after subsection (g) the following:

"(h)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the postmasters organization (or organizations), believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (in this subsection referred to as the 'panel') concerning such matter.

"(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. The postmasters organization (or organizations) and the Postal Service shall each designate 1 individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first 2 individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the 2 individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

"(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the postmasters organization (or organizations) for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

"(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

"(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the postmasters organization (or organizations) agree to a longer period. The panel shall hear from the Postal Service and the postmasters organization (or organizations) in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the postmasters organization (or organizations), with the Service to be responsible for one-half the costs and the postmasters organization (or organizations) to be responsible for the remainder.

"(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the postmasters organization (or organizations) its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

"(i) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the postmasters organization (or organizations) may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (h)(2) of this section. The panel shall make recommendations to Congress for changes in this title as it finds appropriate.".

(b) Technical and Conforming Amendment.—

(1) Section heading.—The section heading for section 1004 of title 39, United States Code, is amended to read as follows:

**"§ 1004. Supervisory, postmaster, and other managerial organizations".**

(2) Table of sections.—The table of sections for chapter 10 of title 39, United States Code, is amended by striking the item relating to section 1004 and inserting the following:

"1004. Supervisory, postmaster, and other managerial organizations.".

**SEC. 3. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

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By Mr. BIDEN (for himself, Mr. Kohl, Mr. Bingaman, Mr. Baucus, Mrs. Clinton, Ms. Stabenow, Mr. Edwards, Mr. Sarbanes, Mrs. Murray, Mr. Kerry, Mr. Leahy, Mr. Levin, Mr. Durbin, Mr. Lieberman, Mr. Kennedy, Mr. Hollings, Mr. Nelson of Nebraska, Ms. Mikulski, Mr. Bayh, Ms. Cantwell, Mr. Dorgan, Mr. Conrad, Mrs. Feinstein, Mr. Corzine, Mr. Carper, Mr. Jeffords, Mr. Johnson, Mr. Rockefeller, Mr. Smith, Mr. Dayton, Mr. Akaka, Mr. Reed, Mr. Breaux, Mr. Nelson of Florida, Mr. Harkin, Mr. Schumer, Mrs. Boxer, Mr. Dodd, Mr. Specter, Ms. Landrieu, Mr. Daschle, Mr. Byrd, Mr. Lautenberg, Mr. Pryor, Mrs. Lincoln, and Mr. Reid):

S. 679. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce legislation to reauthorize the COPS program through 2009.

Since September 11, our local police have been asked to do more for their communities than ever before. Walk the beat. Be on guard against terrorists. Secure critical infrastructures.

And gather intelligence on future terrorist acts when possible. Washington has a role in securing the homeland, but the burdens fall heaviest on our local communities.

There are more than 700.000 police officers and sheriffs in the country, compared with nearly 11,000 FBI agents. It is our local police chiefs and sheriffs who are called upon more and more to protect us against the new threats from abroad. We had a sobering reminder this week. As President Bush braced the Nation for war in Iraq, Homeland Security Director Tom Ridge ratcheted our alert level back up to orange and called all 50 governors to request that they provide an increased police presence at airports.

Our mayors and police chiefs are hurting. Local budgets are incredibly tight—some communities have been forced to lay officers off, or to consider freeing criminals before their sentences are up, to cut costs. Even before 9/11, it was clear that the crime drop of the nineties was coming to a close. Last winter, the FBI reported that crime jumped for the second straight year. The FBI has had to necessarily refocus its resources. Recently, the Washington Post reported that the FBI has plans to "mobilize as many as 5,000 agents to guard against terrorist attacks" during hostilities with Iraq. The FBI's criminal surveillance operations "would be temporarily suspended." Local police will be called upon to pick up the slack once the FBI is forced to pull almost half of its agents out of traditional crime-fighting work.

The fight to secure our streets does not end with preventing terrorism. Crime is up again. The newest figures tell us the historic crime drop the nation experienced during the 1990s is over. Property crimes—offenses that tend to jump in a week economy—are rising particularly fast. The FBI recently reported a 4 percent hike in burglaries and motor vehicle thefts last year alone. Where fighting violent crime and bank robberies used to be among the FBI's highest priorities, the FBI is now focused on counterterrorism efforts. Increasingly, local police departments, statewide crimefighting task forces and drugfighting projects are being told by the Bush administration that they are on their own when it comes to fighting crime.

What's worse, all of this is happening during a time of unprecedented economic hardship in our cities and States. States are facing dramatic budgetary shortfalls. A new report finds that budget gaps for State governments soared by nearly 50 percent in the past three months and state legislatures face a minimum $68.5 billion budget shortfall for the coming fiscal year. Mayors nationwide report that cities spent $2.6 billion through the end of last year on new security costs.

The response of the administration to these concerns has been disappointing. This year, for the second budget cycle in a row, the President proposes to eliminate the COPS hiring program. COPS is the only initiative in the entire Federal Government that targets its resources directly towards police. There is no middleman. There is very little red tape. Police chiefs report they have never worked with such a responsive, effective Federal program. And yet the administration wants to shut it down.

Since we created COPS as part of the 1994 Crime Bill, the program has awarded grants to hire and redeploy 117,000 police officers to the streets. 87,300 are on the beat. In the most recent year of hiring grants, 2002, 4,400 officers were hired or redeployed.

The President's budget gives several justifications for shutting down COPS. First, the administration claims the program doesn't work, that it hasn't cut crime. That is a curious assertion. Crime dropped for seven straight years after COPS resources began to be put to use in cities and towns. There was a 28 percent drop in crime from 1994 to 2000.

Two studies support the assertion that COPS grants help cut crime. One, released just this past November by the American Society of Criminology, found that COPS hiring grants have "resulted in significant reductions in local crime rates." In 2000, the Urban Institute concluded that COPS has had a "broad national impact" on the levels and styles of policing, and that it provided "significant support for the adoption of community policing around the country."

It's not just criminologists and think tanks who agree with me that COPS works. Leading law enforcement officials share the view. Last year, our friend and former colleague Attorney General Ashcroft called COPS a "miraculous sort of success." He said, "it's one of those things that Congress hopes will happen when it sets up a program." At a conference last July, the Attorney General endorsed the theory that COPS cuts crime. "Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates," he noted.

The administration offers a second reason for wanting to eliminate COPS: The disparity between "officers hired" and "officers funded". Because COPS has funded 117,000 cops, but only 87,000 are on the street, the President argues, the program is not accountable. That assertion overlooks the operations of the Office of Community Policing Services. Few Federal programs operate with as much oversight and internal review as does COPS. The disparity that seems to so concern the Administration is simple to explain: It takes time to hire a new cop. Once COPS awards a hiring grant, it can take anywhere from six to eighteen months to find, hire, train and deploy the new officer. There is no accounting problem. It is good public policy for police departments to take the appropriate amount of time to find suitable candidates for new community policing positions, and this discrepancy between officers funded and officers hired is the result.

Post 9/11, COPS is about much more than fighting crime. It's about homeland security. The Attorney General again said it best last July when he noted that "COPS provides resources that reflect our national priority of terrorism prevention." The new assistant director at the FBI in charge of coordinating with local law enforcement agreed: "The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners." These aren't my words. They're the words of the top cops.

COPS does not just hire new officers. It requires these officers to practice community policing. Community policing is a philosophy that gives more power to line officers. They get assigned to fixed geographic areas. This decision-making power and neighborhood familiarity can be invaluable in a crisis, when relationships with community residents and the ability to make quick decisions is critical. Community relationships that come from COPS can also help unearth intelligence about potential terrorist actions.

By taking cops out of their cars and having them walk the streets, police officers get to know the residents of the neighborhood where they're assigned. This has proven extremely effective at building trust and partnership between local police and the residents they protect. Community residents consistently sing the praises of community policing. It pays dividends by creating a climate in which neighborhood residents partner with police, not only providing police with valuable information about criminal activity in their neighborhood, but restoring overall confidence in the criminal justice system.

We need to continue the COPS program. The Justice Department reports that for the past several grant-making cycles, demand for new police hiring grants has outstripped available funds by a factor of almost three to one. To meet this need, the legislation I introduce today authorizes $600 million per year over the next 6 years, enough to hire up to 50,000 more officers. We have made this portion of the program more flexible: up to half of these hiring dollars can be used to help police departments retain those community police officers currently on payroll. In another change from current law, a portion of these funds can be used for officer training and education.

We make a key change to the current COPS program in the bill I introduce today. In response to the needs of first responders across the country, the bill authorizes a new, permanent COPS Overtime Program. This initiative, funded at up to $150 million per year for 6 years, will help ease the homeland security burdens faced by police departments across the country by reimbursing local police departments for the homeland security overtime expenses they incur. I was pleased that the Appropriations Committee included a 1-year, $60 million version of this program in the recently-passed omnibus appropriations bill. The permanent COPS Overtime Program in this bill builds on that appropriations provision.

The legislation also provides funding for new technologies, so law enforcement can have access to the latest high-tech crime fighting equipment to keep pace with today's sophisticated criminals. Also included are funds to help local district attorneys hire more community prosecutors. These prosecutors will expand the community justice concept and engage the entire community in preventing and fighting crime. The statistics we have on community prosecutions are quite promising, and we should increase the funds available to local prosecutors, a piece of our criminal justice puzzle that has too often gone overlooked.

I would like to thank the men and women of law enforcement for their service and heroism during these difficult times. They are up to the challenge, but we should support them any way we can. The bill I introduced today gives local police the support they deserve. I look forward to working with my colleagues to continue the COPS program.

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By Mr. HATCH:

S. 680. A bill to amend the Internal Revenue Code of 1986 to enhance book donations and literacy; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce legislation designed to clarify and enhance the charitable contribution tax deduction for donations of excess book inventory for educational purposes. This proposal would simplify a complex area of the current law and eliminate significant roadblocks that now stand in the way of businesses with excess book inventory to donating those books to schools, libraries, and literacy programs, where they are much needed.

Unfortunately, our current tax law contains a major flaw when it comes to the donation of books that are excess inventory for publishers or booksellers. The tax benefits for donating such books to schools or libraries are often no greater than those of sending the books to the landfill. And, since it is generally cheaper and faster for a company to simply send the books to the dump, rather than go through the trouble and cost of finding donees, and of packing, storing, and shipping the books, it often ends up being more cost effective and easier for companies to truck the books to a landfill or recycling center.

While there are provisions in the current law where a larger deduction is available for the donation of excess books, many companies have found that the complexity and uncertainty of dealing with the requirements, regulations, and possible Internal Revenue Service challenges of the higher deduction serve as a real disincentive to making a contribution.

This is a sad situation, when one considers that many, if not most, of these books would be warmly welcomed by schools, libraries, and literacy programs.

The heart of the problem is that under the current law, the higher deduction requires that the donated books be used only for the care of the needy, the sick, or infants. This requirement makes it difficult for schools to qualify as donees and also frequently prohibits libraries and adult literacy programs from receiving such deductions. This is because these schools, libraries, and literacy programs often serve those who are not needy or are over the age of 18. Further complicating the issue, the valuation of donated book inventory has been the subject of ongoing disputes between taxpayers and the IRS. The tax code should not contain obstacles that provide disincentives to charitable donations of books that can enhance learning.

The bill I am introducing today addresses the obstacles of donating excess book inventory by providing a simple and clear rule whereby any donation of book inventory to a qualified school, library, or literacy program is eligible for the enhanced deduction. This means that booksellers and publishers would receive a higher tax benefit for donating the books rather than throwing them away and would thus be encouraged to go to the extra trouble and expense of seeking out qualified donees and making the contributions.

My home State of Utah, like the rest of the Nation, has a problem with illiteracy. According to the National Institute for Literacy, between 21 and 23 percent of the adult population of the United States, about 44 million people, are only at Level 1 literacy, meaning they can read a little but not well enough to fill out an application, read a food label, or read a simple story to a child. Another 25 to 28 percent of the adult population, or between 45 and 50 million people, are estimated to be at Level 2 literacy, meaning they can usually can perform more complex tasks such as comparing, contrasting, or integrating pieces of information but usually not higher level reading and problem-solving skills. Literacy experts tell us that adults with skills at Levels 1 and 2 lack a sufficient foundation of basic skills to function successfully in our society.

While this bill is not a cure-all for the tragedy of illiteracy, it will increase access to books, both for adults and for children. Our tax code should not encourage the destruction of perfectly good books while schools, libraries, and literacy programs go begging for them.

The Senate is already on record in unanimous support of this bill. During the floor debate on the Economic Growth and Tax Relief Reconciliation Act of 2001, I offered this proposal as an amendment, which was accepted without opposition. Unfortunately, the provision was dropped in the conference with the House. Moreover, the Finance Committee has also approved this provision, having included it in S. 476, the CARE Act, which is currently pending on the Senate calendar.

The Joint Committee on Taxation estimates this provision would decrease revenues to the Treasury by $283 million over a ten-year period. This estimate helps demonstrate the extent of the value of the books that are currently being discarded that could be utilized to help America's adults and children.

I hope our colleagues will join us in supporting this bill. It is wrong for our tax code to encourage book publishers to send books to the landfill instead of to the library. Let's correct this problem.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 680

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES.**

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

"(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

"(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

"(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

"(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

"(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

"(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

"(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

"(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

"(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

"(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

"(II) the donee will use the books in its educational programs.

"(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

"(I) determined using the same printing and edition,

"(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

"(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 95—COMMENDING THE PRESIDENT AND THE ARMED FORCES OF THE UNITED STATES OF AMERICA

Mr. FRIST (for himself, Mr. DASCHLE, Mr. WARNER, Mr. LEVIN, Mr. MCCONNELL, Mr. REID, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 95

Whereas Saddam Hussein has failed to comply with United Nations Security Council Resolutions 678, 686, 687, 688, 707, 715, 949, 1051, 1060, 1115, 1134, 1137, 1154, 1194, 1205, 1284, and 1441;

Whereas the military action now underway against Iraq is lawful and fully authorized by the Congress in Sec. 3(a) of Public Law 107-243, which passed the Senate on October 10, 2002, by a vote of 77–23, and which passed the House of Representatives on that same date by a vote of 296–133;

Whereas more than 225,000 men and women of the United States Armed Forces are now involved in conflict against Iraq;

Whereas over 200,000 members of the Reserves and National Guard have been called to active duty for the conflict against Iraq and other purposes; and

Whereas the Senate and the American people have the greatest pride in the men and women of the United States Armed Forces, and the civilian personnel supporting them, and strongly support them in their efforts: Now, therefore, be it

*Resolved* That the Senate—

(1) commends and supports the efforts and leadership of the President, as Commander in Chief, in the conflict against Iraq;

(2) commends, and expresses the gratitude of the Nation to all members of the United States Armed Forces (whether on active duty, in the National Guard, or in the Reserves) and the civilian employees who support their efforts, as well as the men and women of civilian national security agencies who are participating in the military operations in the Persian Gulf region, for their professional excellence, dedicated patriotism and exemplary bravery;

(3) commends and expresses the gratitude of the Nation to the family members of soldiers, sailors, airmen, Marines and civilians serving in operations against Iraq who have borne the burden of sacrifice and separation from their loves ones;

(4) expresses its deep condolences to the families of brave Americans who have lost their lives in this noble undertaking, over many years, against Iraq;

(5) joins all Americans in remembering those who lost their lives during Operation Desert Shield and Operation Desert Storm in 1991, those still missing from that conflict, including Captain Scott Speicher, USN, and the thousands of Americans who have lost their lives in terrorist attacks over the years, and in the Global War on Terrorism; and

(6) expresses sincere gratitude to British Prime Minister Tony Blair and his government for their courageous and steadfast support, as well as gratitude to other allied nations for their military support, logistical support, and other assistance in the campaign against Saddam Hussein's regime.

## SENATE RESOLUTION 96—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL INVESTMENT IN PROGRAMS THAT PROVIDE HEALTH CARE SERVICES TO UNINSURED AND LOW-INCOME INDIVIDUALS IN MEDICALLY UNDERSERVED AREAS BE INCREASED IN ORDER TO DOUBLE ACCESS TO HEALTH CARE OVER THE NEXT 5 YEARS

Mr. BOND (for himself and Mr. HOLLINGS) submitted the following resolution; which was referred to the Committee on Appropriations.

S. RES. 96

Whereas the uninsured population in the United States is approximately 43,000,000 and is estimated to reach over 53,000,000 people by 2007;

Whereas nearly 80 percent of the uninsured population are members of working families who cannot afford health insurance or cannot access employer-provided health insurance plans;

Whereas minority populations, rural residents, and single-parent families represent a disproportionate number of the uninsured population;

Whereas the problem of health care access for the uninsured population is compounded in many urban and rural communities by a lack of providers who are available to serve both insured and uninsured populations;

Whereas community, migrant, homeless, and public housing health centers have proven uniquely qualified to address the lack of adequate health care services for uninsured populations, serving more than 5,000,000 uninsured patients in 2002;

Whereas health centers care for nearly 14,000,000 patients, including nearly 9,000,000 minorities, nearly 850,000 farmworkers, and almost 750,000 homeless individuals each year;

Whereas health centers provide cost-effective comprehensive primary and preventive care to uninsured individuals for nearly $1.00 per day, or $425 annually, and help to reduce the inappropriate use of costly emergency rooms and inpatient hospital care;

Whereas current resources only allow health centers to serve 12 percent of the Nation's 43,000,000 uninsured individuals;

Whereas past investments to increase health center access have resulted in better health, an improved quality of life for all Americans, and a reduction in national health care expenditures;

Whereas Congress has already begun to increase access to health care services for uninsured and low-income people in advance of health care coverage proposals by expanding the availability of services at community, migrant, homeless, and public housing health centers; and

Whereas the President has proposed to double the number of people served by health centers: Now, therefore, be it

*Resolved*,

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the "Resolution to Expand Access to Community Health Centers (REACH) Initiative".

**SEC. 2. SENSE OF THE SENATE.**

It is the sense of the Senate that appropriations for consolidated health centers under section 330 of the Public Health Service Act (42 U.S.C. 254b) should be increased by 100 percent over 5 fiscal years, ending in 2006, in order to double the number of individuals who receive health care services at community, migrant, homeless, and public housing health centers.

Mr. BOND. Mr. President, I rise today to introduce important legislation, the Resolution to Expand Access to Community Health Centers, or the REACH Initiative. This resolution will continue to expand access to health care for the medically underserved by doubling funding for our nation's community health centers. I am joined in this effort by my good friend from South Carolina, Senator HOLLINGS.

The goal of the REACH Initiative is simple—to make sure more people have access to health care. During the last session of Congress we set out an ambitious plan to double the federal funding for community health centers by 2006. Congress responded by increasing the funding for the program and now we are calling on Congress to continue this effort and complete the doubling plan.

Health centers are already helping millions of Americans get health care. But they can still help millions more—pregnant women, children, and anyone else who desperately needs care. The REACH Initiative will allow another 10 million women, children, and others in need to receive care at health centers by 2006. And since we began this effort, we've already increased the number of health center patients by nearly 3 million, and increased federal funding by nearly 30 percent. We're on track, we just need to stay there; and that's just what this resolution will do—keep us on track to double this important program.

Simply put, we must achieve the goal of the REACH Initiative—and we can and should make it happen.

Let me close with what this Initiative means in human terms.

The REACH Initiative will help make sure that a young woman who has just found out she is pregnant but does not have health insurance has a place to get prenatal care so she does not risk her health and the baby's health by waiting until late in the pregnancy.

The REACH Initiative will help make sure that a 6-year-old boy who is living in a deep rural Missouri community, a community that otherwise would not have any health care providers at all, has a place to get regular checkups so he can stay healthy at home and in school.

The REACH Initiative will help make sure a young couple without any place to go will be able to get their infant daughter immunized to protect her from a variety of dreaded disease.

These Americans, and millions like them, are the reasons why we must make the REACH Initiative a reality. I invite my colleagues to join me as a cosponsor of this resolution. If we work together, we can make a difference and deliver care to those who are in the greatest need.

## SENATE CONCURRENT RESOLUTION 25—RECOGNIZING AND HONORING AMERICA'S JEWISH COMMUNITY ON THE OCCASION OF ITS 350TH ANNIVERSARY, SUPPORTING THE DESIGNATION OF AN "AMERICAN JEWISH HISTORY MONTH", AND FOR OTHER PURPOSES

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 25

Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America's first Jewish community in New Amsterdam, now New York City;

Whereas America welcomed Jews among the millions of immigrants that streamed through our Nation's history;

Whereas the waves of Jewish immigrants arriving in America helped shape our Nation;

Whereas the American Jewish community has been intimately involved in our Nation's civic, social, economic, and cultural life;

Whereas the American Jewish community has sought to actualize the broad principles of liberty and justice that are enshrined in the Constitution of the United States;

Whereas the American Jewish community is an equal participant in the religious life of our Nation;

Whereas American Jews have fought valiantly for the United States in every one of our Nation's military struggles, from the American Revolution to Operation Enduring Freedom;

Whereas not less than 16 American Jews have received the Medal of Honor;

Whereas 2004 marks the 350th anniversary of the American Jewish community;

Whereas the Library of Congress, the National Archives and Records Administration, the American Jewish Historical Society, and the Jacob Rader Marcus Center of the American Jewish Archives have formed "The Commission for Commemorating 350 Years of American Jewish History" (referred to in this resolution as the "Commission") to mark this historic milestone;

Whereas the Commission will use the combined resources of its participants to promote the celebration of the Jewish experience in the United States throughout 2004; and

Whereas the Commission is designating September 2004 as "American Jewish History Month": Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) recognizes—

(A) the 350th anniversary of the American Jewish community; and

(B) "The Commission for Commemorating 350 Years of American Jewish History" and its efforts to plan, coordinate, and execute commemorative events celebrating 350 years of American Jewish history;

(2) supports the designation of an "American Jewish History Month"; and

(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

## SENATE CONCURRENT RESOLUTION 26—CONDEMNING THE PUNISHMENT OF EXECUTION BY STONING AS A GROSS VIOLATION OF HUMAN RIGHTS, AND FOR OTHER PURPOSES

Ms. LANDRIEU (for herself, Mr. HAGEL, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SPECTER, Mr. BINGAMAN, Mr. INOUYE, and Mr. BREAUX) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 26

Whereas execution by stoning is an exceptionally cruel form of punishment that violates internationally accepted standards of human rights, including those set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

Whereas women around the world continue to be targeted disproportionately for cruel, discriminatory, and inhuman punishments by governments that refuse to protect equally the rights of all their citizens;

Whereas the brutal sentence of execution by stoning is pronounced in many countries on women who have been accused of adultery, a charge that is brought even against victims of coerced prostitution or rape;

Whereas in some places execution by stoning has been invoked as punishment for "blasphemy," thereby suppressing religious freedom and diversity and stifling political dissent;

Whereas, in July 2002, Amnesty International referred to execution by stoning as "a method specifically designed to increase the victim's suffering";

Whereas, in 2002, the European Union, the Secretary General of the Council of Europe, the Government of Australia, the Minister of Foreign Affairs and Trade of New Zealand, the President of Mexico, the Congress of Deputies of Spain, and other world leaders all condemned execution by stoning and called for clemency for individuals sentenced to stoning; and

Whereas, according to the Country Reports on Human Rights Practices of the Department of State, the sentence of execution by stoning continues to be imposed in several countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) condemns the practice of execution by stoning as a gross violation of human rights and appeals to the international community to end the practice;

(2) requests the President formally to communicate this resolution to governments that permit this cruel punishment and to urge the termination of execution by stoning; and

(3) requests the President to direct the Secretary of State to work with the international community to promote adherence

to international standards of human rights and repeal laws that permit execution by stoning.

Ms. LANDRIEU. Mr. President, I rise today to submit a Concurrent Resolution to condemn executions by stoning.

Death by stoning is an exceptionally cruel form of execution. It violates internationally accepted standards of human rights, including the Universal Declaration of Human Rights and the UN Convention Against Torture. Amnesty International has noted that stoning is "a method specifically designed to increase the victim's suffering." Unfortunately, the laws of Iran, Pakistan, Malaysia, Nigeria, and several other countries permit this cruel and unusual punishment. It must be eliminated from every corner of the globe.

As those who work on women's issues have learned all too well, women around the world are subjected disproportionately to cruel, discriminatory, and inhuman punishments. Frequently their governments cannot or will not provide equal protection of the law to all their citizens—especially women and girls. In several countries, women can be sentenced to execution by stoning for "adultery," even in cases of coerced prostitution or rape. In some places, stoning has been invoked as punishment for "blasphemy," suppressing religious freedom and stifling political dissent.

The Concurrent Resolution which I have introduced would condemn execution by stoning, appeal for an end to the practice, and request the President to urge other nations' governments to terminate that cruel form of execution. If adopted by the Senate, this measure, together with Concurrent Resolution 26 just passed unanimously by the House, would put both houses of Congress on the record as firmly opposing stonings.

I urge my colleagues to join the eight original co-sponsors and me in supporting this humanitarian measure.

## SENATE CONCURRENT RESOLUTION 27—URGING THE PRESIDENT TO REQUEST THE UNITED STATES INTERNATIONAL TRADE COMMISSION TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE TEMPORARY SAFEGUARDS ON IMPORTS OF CERTAIN STEEL PRODUCTS, AND FOR OTHER PURPOSES

Mr. BOND (for himself, Ms. Landrieu, Mr. Hagel, and Mr. Fitzgerald) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 27

Whereas, on March 5, 2002, the President, upon investigation and recommendation by the United States International Trade Commission, proclaimed temporary tariff increases and tariff-rate quotas on certain steel imports;

Whereas neither the President nor the United States International Trade Commission could have fully anticipated the positive or negative effects of the temporary safeguards proclaimed on March 5, 2002;

Whereas steel-consuming manufacturers and fabricators across the United States have reported that the safeguard tariffs and tariff-rate quotas have contributed to substantial price increases, disrupted the availability of input steel, and negatively impacted the ability of the manufacturers and fabricators to compete in the global marketplace;

Whereas ports of entry across the United States have experienced losses of revenue as a result of the tariff increases and the tariff-rate quotas;

Whereas both a strong domestic steel industry and a strong domestic manufacturing base are vital to our national defense and economic security; and

Whereas section 204 of the Trade Act of 1974 requires that the United States International Trade Commission "shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition"; and

Whereas the United States International Trade Commission is required to submit a report on this monitoring to the President and Congress not later than September 20, 2003: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) recognizes that a strong domestic steel industry and a strong domestic manufacturing base are vital to national defense and economic security; and

(2) urges the President to request the United States International Trade Commission, in addition to fulfilling the monitoring and reporting requirements under section 204 of the Trade Act of 1974, to monitor and report on the impact that temporary tariff increases and tariff-rate quotas on certain steel imports have had on steel-consuming industries and ports of entry in the United States.

## AMENDMENTS SUBMITTED & PROPOSED

SA 298. Ms. CANTWELL submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table.

SA 299. Mr. SCHUMER (for himself, Mrs. Clinton, Mr. Daschle, Mr. Feingold, Mr. Leahy, Mr. Bingaman, Mrs. Murray, Mr. Lieberman, Mr. Kennedy, Mr. Lautenberg, Mr. Sarbanes, Mr. Harkin, Ms. Mikulski, Mr. Levin, Mr. Kerry, Mr. Corzine, Mr. Durbin, Mr. Biden, Mrs. Boxer, and Ms. Stabenow) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 300. Mr. LAUTENBERG (for himself and Mr. Schumer) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 301. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 302. Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 303. Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 304. Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 305. Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 306. Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 307. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 308. Mr. BINGAMAN (for himself, Mr. Lugar, Mrs. Lincoln, Mr. Corzine, Ms. Landrieu, and Mrs. Murray) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 309. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 310. Mr. REED (for himself, Ms. Collins, Mr. Kerry, Mr. Kennedy, Mr. Corzine, Mr. Sarbanes, Mr. Leahy, Ms. Cantwell, Ms. Mikulski, Mrs. Clinton, Mr. Rockefeller, Mr. Edwards, Mr. Jeffords, Mr. Daschle, Mr. Schumer, Mr. Lautenberg, Ms. Landrieu, Mr. Bingaman, Mr. Reid, Mr. Dodd, Mr. Levin, Mr. Pryor, Mr. Dayton, Mr. Harkin, and Mr. Dorgan) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 311. Mr. KENNEDY (for himself, Mr. Dodd, Mr. Daschle, Mr. Feingold, Mr. Bingaman, Mrs. Murray, Mr. Reed, and Ms. Cantwell) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 312. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 313. Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 314. Mr. INHOFE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 315. Mr. KENNEDY (for himself, Mr. Sarbanes, Mr. Reed, Mr. Durbin, Mrs. Clinton, and Ms. Cantwell) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 316. Mrs. MURRAY (for herself, Mr. Kennedy, and Mr. Harkin) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 317. Mr. CRAPO submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 318. Mr. LEAHY (for himself, Mr. Daschle, Mr. Reid, Mr. Biden, Mr. Schumer, Mrs. Clinton, and Mr. Dayton) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 319. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 320. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 321. Mr. SCHUMER (for himself and Mrs. Clinton) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 322. Mr. FEINGOLD (for himself and Mr. Harkin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 323. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 324. Mrs. LINCOLN (for herself, Ms. Landrieu, and Mr. Pryor) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 325. Mrs. CLINTON (for herself, Mr. Schumer, and Mr. Dodd) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 326. Mr. LEVIN (for himself and Mr. Hatch) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 327. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 328. Mr. WYDEN (for himself, Mr. Kyl, Mr. Bingaman, Mrs. Murray, Mr. Johnson, Mr. Kerry, and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 329. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 330. Mr. CARPER (for himself, Mr. Chafee, and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 331. Mr. CORZINE (for himself, Mr. Kerry, Mr. Lautenberg, Mrs. Murray, Mrs. Clinton, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 332. Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 333. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 334. Mr. DODD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 335. Mr. BINGAMAN (for himself, Mr. Kerry, Mr. Dodd, Mr. Daschle, Mr. Kennedy, Mr. Rockefeller, and Mr. Corzine) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 336. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 337. Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 338. Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 339. Mr. BREAUX (for himself, Ms. Snowe, Mr. Baucus, and Mr. Voinovich) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra.

SA 340. Mr. KOHL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 341. Mr. REID submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 342. Mr. REID submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 343. Mr. HOLLINGS (for himself, Mrs. Boxer, Mr. Sarbanes, and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 344. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 345. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 346. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 347. Mr. LUGAR (for himself, Mrs. Feinstein, Mr. DeWine, Mr. Hagel, Mr. Chafee, Mr. Smith, Mr. Jeffords, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 348. Mr. BAUCUS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 349. Ms. MIKULSKI (for herself, Ms. Landrieu, Mrs. Clinton, Mrs. Murray, Mr. Kennedy, Mr. Sarbanes, and Mr. Johnson) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 350. Mrs. CLINTON (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 351. Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 352. Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 353. Mr. SMITH (for himself and Mrs. Clinton) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 354. Mr. DEWINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 355. Mr. DeWINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 356. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 357. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 358. Mr. BOND (for himself, Mr. Reid, Mr. Inhofe , Mr. Jeffords, Mr. Shelby, Mr. Sarbanes, Mr. Byrd, Mrs. Murray, Mr. Chafee, Mr. Warner, Mr. Specter, Ms. Murkowski, Mr. Lott, Ms. Collins, Mr. Reed, Mrs. Feinstein, Mr. Levin, Mr. Brownback, and Mr. Nelson, of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 359. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 360. Ms. LANDRIEU (for herself and Mr. Kennedy) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 361. Mr. DASCHLE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 362. Ms. COLLINS (for herself, Mr. Reed, Mr. Bond, and Ms. Mikulski) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 363. Mr. DASCHLE (for himself, Mr. Inouye, Mr. Bingaman, Mr. Dorgan, Mrs. Murray, Mr. Wyden, Mr. Johnson, Mr. Leahy, Ms. Cantwell , Mr. Reid, Mr. Kennedy, and Mr. Lieberman) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 364. Mr. LAUTENBERG (for himself and Mr. Byrd) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 365. Mr. McCONNELL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 366. Mrs. MURRAY (for herself and Mr. Leahy) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 367. Mr. CORZINE (for himself, Mr. Kerry, Mr. Lautenberg, Mrs. Murray, Mrs. Clinton, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 298.** Ms. CANTWELL submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $174,000,000.

On page 3, line 11, increase the amount by $782,000,000.

On page 3, line 12, increase the amount by $258,000,000.

On page 3, line 13, increase the amount by $68,000,000.

On page 3, line 14, increase the amount by $34,000,000.

On page 3, line 15, increase the amount by $40,000,000.

On page 4, line 1, increase the amount by $174,000,000.

On page 4, line 2, increase the amount by $782,000,000.

On page 4, line 3, increase the amount by $258,000,000.

On page 4, line 4, increase the amount by $68,000,000.

On page 4, line 5, increase the amount by $34,000,000.

On page 4, line 6, increase the amount by $40,000,000.

On page 4, line 15, increase the amount by $676,000,000.

On page 4, line 16, decrease the amount by $14,000,000.

On page 4, line 17, decrease the amount by $29,000,000.

On page 4, line 18, decrease the amount by $36,000,000.

On page 4, line 19, decrease the amount by $39,000,000.

On page 4, line 20, decrease the amount by $42,000,000.

On page 4, line 21, decrease the amount by $45,000,000.

On page 4, line 22, decrease the amount by $48,000,000.

On page 4, line 23, decrease the amount by $50,000,000.

On page 4, line 24, decrease the amount by $53,000,000.

On page 5, line 5, increase the amount by $85,000,000.

On page 5, line 6, increase the amount by $377,000.000.

On page 5, line 7, increase the amount by $100,000,000.

On page 5, line 8, decrease the amount by $2,000,000.

On page 5, line 9, decrease the amount by $22,000,000.

On page 5, line 10, decrease the amount by $22,000,000.

On page 5, line 11, decrease the amount by $45,000,000.

On page 5, line 12, decrease the amount by $48,000,000.

On page 5, line 13, decrease the amount by $50,000,000.

On page 5, line 14, decrease the amount by $53,000,000.

On page 5, line 18, increase the amount by $89,000,000.

On page 5, line 19, increase the amount by $455,000,000.

On page 5, line 20, increase the amount by $158,000,000.

On page 5, line 21, increase the amount by $70,000,000.

On page 5, line 22, increase the amount by $56,000,000.

On page 5, line 23, increase the amount by $62,000,000.

On page 5, line 24, increase the amount by $45,000,000.

On page 5, line 25, increase the amount by $48,000,000.

On page 6, line 1, increase the amount by $50,000,000.

On page 6, line 2, increase the amount by $53,000,000.

On page 6, line 6, decrease the amount by $89,000,000.

On page 6, line 7, decrease the amount by $494,000,000.

On page 6, line 8, decrease the amount by $652,000,000.

On page 6, line 9, decrease the amount by $721,000,000.

On page 6, line 10, decrease the amount by $777,000,000.

On page 6, line 11, decrease the amount by $840,000,000.

On page 6, line 12, decrease the amount by $885,000,000.

On page 6, line 13, decrease the amount by $932,000,000.

On page 6, line 14, decrease the amount by $983,000,000.

On page 6, line 15, decrease the amount by $1,036,000,000.

On page 6, line 19, decrease the amount by $89,000,000.

On page 6, line 20, decrease the amount by $494,000,000.

On page 6, line 21, decrease the amount by $652,000,000.

On page 6, line 22, decrease the amount by $721,000,000.

On page 6, line 23, decrease the amount by $777,000,000.

On page 6, line 24, decrease the amount by $840,000,000.

On page 6, line 25, decrease the amount by $885,000,000.

On page 7, line 1, decrease the amount by $932,000,000.

On page 7, line 2, decrease the amount by $983,000,000.

On page 7, line 3, decrease the amount by $1,036,000,000.

On page 25, line 16, increase the amount by $678,000,000.

On page 25, line 17, increase the amount by $87,000,000.

On page 25, line 21, increase the amount by $391,000,000.

On page 25, line 25, increase the amount by $129,000,000.

On page 26, line 4, increase the amount by $34,000,000.

On page 26, line 8, increase the amount by $17,000,000.

On page 26, line 12, increase the amount by $20,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $14,000,000.

On page 40, line 11, decrease the amount by $14,000,000.

On page 40, line 14, decrease the amount by $29,000,000.

On page 40, line 15, decrease the amount by $29,000,000.

On page 40, line 18, decrease the amount by $36,000,000.

On page 40, line 19, decrease the amount by $36,000,000.

On page 40, line 22, decrease the amount by $39,000,000.

On page 40, line 23, decrease the amount by $39,000,000.

On page 41, line 2, decrease the amount by $42,000,000.

On page 41, line 3, decrease the amount by $42,000,000.

On page 41, line 6, decrease the amount by $45,000,000.

On page 41, line 7, decrease the amount by $45,000,000.

On page 41, line 10, decrease the amount by $48,000,000.

On page 41, line 11, decrease the amount by $48,000,000.

On page 41, line 14, decrease the amount by $50,000,000.

On page 41, line 15, decrease the amount by $50,000,000.

On page 41, line 18, decrease the amount by $53,000,000.

On page 41, line 19, decrease the amount by $53,000,000.

On page 47, line 5, increase the amount by $675,000,000.

On page 47, line 6, increase the amount by $87,000,000.

On page 47, line 15, increase the amount by $391,000,000.

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**SA 299.** Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. DASCHLE, Mr. FEINGOLD, Mr. LEAHY, Mr. BINGAMAN, Mrs. MURRAY, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. SARBANES, Mr. HARKIN, Ms. MIKULSKI, Mr. LEVIN, Mr. KERRY, Mr. CORZINE, Mr. DURBIN, Mr. BIDEN, Mrs. BOXER, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, increase the amount by $3,643,000,000.

On page 3, line 10, increase the amount by $8,681,000,000.

On page 3, line 11, increase the amount by $13,500,000,000.

On page 3, line 12, increase the amount by $14,996,000,000.

On page 3, line 13, increase the amount by $15,892,000,000.

On page 3, line 14, increase the amount by $16,602,000,000.

On page 3, line 15, increase the amount by $16,769,000,000.

On page 3, line 16, increase the amount by $16,853,000,000.

On page 3, line 17, increase the amount by $16,993,000,000.

On page 3, line 18, increase the amount by $17,268,000,000.

On page 3, line 19, increase the amount by $17,314,000,000.

On page 3, line 23, increase the amount by $3,643,000,000.

On page 4, line 1, increase the amount by $8,681,000,000.

On page 4, line 2, increase the amount by $13,500,000,000.

On page 4, line 3, increase the amount by $14,996,000,000.

On page 4, line 4, increase the amount by $15,892,000,000.

On page 4, line 5, increase the amount by $16,602,000,000.

On page 4, line 6, increase the amount by $16,769,000,000.

On page 4, line 7, increase the amount by $16,853,000,000.

On page 4, line 8, increase the amount by $16,993,000,000.

On page 4, line 9, increase the amount by $17,268,000,000.

On page 4, line 10, increase the amount by $17,314,000,000.

On page 4, line 14, increase the amount by $4,987,000,000.

On page 4, line 15, increase the amount by $6,395,000,000.

On page 4, line 16, increase the amount by $8,189,000,000.

On page 4, line 17, increase the amount by $7,316,000,000.

On page 4, line 18, increase the amount by $7,092,000,000.

On page 4, line 19, increase the amount by $6,425,000,000.

On page 4, line 20, increase the amount by $5,927,000,000.

On page 4, line 21, increase the amount by $5,498,000,000.

On page 4, line 22, increase the amount by $5,090,000,000.

On page 4, line 23, increase the amount by $4,344,000,000.

On page 4, line 24, increase the amount by $3,480,000,000.

On page 4, line 4, increase the amount by $1,809,000,000.

On page 5, line 5, increase the amount by $4,210,000,000.

On page 5, line 6, increase the amount by $6,298,000,000.

On page 5, line 7, increase the amount by $6,610,000,000.

On page 5, line 8, increase the amount by $6,577,000,000.

On page 5, line 9, increase the amount by $6,410,000,000.

On page 5, line 10, increase the amount by $5,932,000,000.

On page 5, line 11, increase the amount by $5,382,000,000.

On page 5, line 12, increase the amount by $4,827,000,000.

On page 5, line 13, increase the amount by $4,302,000,000.

On page 5, line 14, increase the amount by $3,618,000,000.

On page 5, line 17, increase the amount by $1,834,000,000.

On page 5, line 18, increase the amount by $4,471,000,000.

On page 5, line 19, increase the amount by $7,202,000,000.

On page 5, line 20, increase the amount by $8,386,000,000.

On page 5, line 21, increase the amount by $9,315,000,000.

On page 5, line 22, increase the amount by $10,192,000,000.

On page 5, line 23, increase the amount by $10,837,000,000.

On page 5, line 24, increase the amount by $11,471,000,000.

On page 5, line 25, increase the amount by $12,166,000,000.

On page 6, line 1, increase the amount by $12,966,000,000.

On page 6, line 2, increase the amount by $13,696,000,000.

On page 6, line 5, decrease the amount by $1,834,,000,000.

On page 6, line 6, decrease the amount by $6,306,000,000.

On page 6, line 7, decrease the amount by $13,508,000,000.

On page 6, line 8, decrease the amount by $21,894,000,000.

On page 6, line 8, decrease the amount by $31,209,000,000.

On page 6, line 10, decrease the amount by $41,401,000,000.

On page 6, line 11, decrease the amount by $52.238,000,000.

On page 6, line 12, decrease the amount by $63,708,000,000.

On page 6, line 13, decrease the amount by $75,874,000,000.

On page 6, line 14, decrease the amount by $88,840,000,000.

On page 6, line 15, decrease the amount by $102,536,000,000.

On page 6, line 18, decrease the amount by $1,834,000,000.

On page 6, line 19, decrease the amount by $6,306,000,000.

On page 6, line 20, decrease the amount by $13,508,000,000.

On page 6, line 21, decrease the amount by $21,894,000,000.

On page 6, line 22, decrease the amount by $31,209,000,000.

On page 6, line 23, decrease the amount by $41,401,000,000.

On page 6, line 24, decrease the amount by $52,238,000,000.

On page 6, line 25, decrease the amount by $63,708,000,000.

On page 7, line 1, decrease the amount by $75,874,000,000.

On page 7, line 2, decrease the amount by $88,840,000,000.

On page 7, line 3, decrease the amount by $102,536,000,000.

On page 21, line 19, increase the amount by $550,000,000.

On page 21, line 20, increase the amount by $139,000,000.

On page 21, line 23, increase the amount by $1,125,000,000.

On page 21, line 24, increase the amount by $631,000,000.

On page 22, line 2, increase the amount by $1,550,000,000.

On page 22, line 3, increase the amount by $1,182,000,000.

On page 22, line 6, increase the amount by $1,550,000,000.

On page 22, line 7, increase the amount by $1,426,000,000.

On page 22, line 10, increase the amount by $1,550,000,000.

On page 22, line 11, increase the amount by $1,529,000,000.

On page 22, line 14, increase the amount by $1,550,000,000.

On page 22, line 15, increase the amount by $1,550,000,000.

On page 22, line 18, increase the amount by $1,550,000,000.

On page 22, line 9, increase the amount by $1,550,000,000.

On page 22, line 22, increase the amount by $1,550,000,000.

On page 22, line 23, increase the amount by $1,550,000,000.

On page 23, line 2, increase the amount by $1,600,000,000.

On page 23, line 3, increase the amount by $1,579,000,000.

On page 23, line 6, increase the amount by $1,650,000,000.

On page 23, line 7, increase the amount by $1,662,000,000.

On page 23, line 10, increase the amount by $1,575,000,000.

On page 23, line 11, increase the amount by $1,624,000,000.

On page 23, line 15, increase the amount by $3,500,000,000.

On page 23, line 16, increase the amount by $1,225,000,000.

On page 23, line 19, increase the amount by $3,262,000,000.

On page 23, line 20, increase the amount by $2,841,000,000.

On page 23, line 23, increase the amount by $4,712,000,000.

On page 23, line 24, increase the amount by $3,790,000,000.

On page 24, line 2, increase the amount by $4,251,000,000.

On page 24, line 3, increase the amount by $3,922,000,000.

On page 24, line 6, increase the amount by $4,490,000,000.

On page 24, line 7, increase the amount by $4,017,000,000.

On page 24, line 10, increase the amount by $4,330,000,000.

On page 24, line 11, increase the amount by $4,347,000,000.

On page 24, line 14, increase the amount by $4,372,000,000.

On page 24, line 15, increase the amount by $4,411,000,000.

On page 24, line 18, increase the amount by $4,515,000,000.

On page 24, line 19, increase the amount by $4,435,000,000.

On page 24, line 22, increase the amount by $4,659,000,000.

On page 24, line 23, increase the amount by $4,457,000,000.

On page 25, line 2, increase the amount by $4,503,000,000.

On page 25, line 3, increase the amount by $4,530,000,000.

On page 25, line 6, increase the amount by $4,548,000,000.

On page 25, line 7, increase the amount by $4,578,000,000.

On page 27, line 7, increase the amount by $500,000,000.

On page 27, line 8, increase the amount by $110,000,000.

On page 27, line 11, increase the amount by $800,000,000.

On page 27, line 12, increase the amount by $366,000,000.

On page 27, line 15, increase the amount by $500,000,000.

On page 27, line 16, increase the amount by $589,000,000.

On page 27, line 19, increase the amount by $500,000,000.

On page 27, line 20, increase the amount by $605,000,000.

On page 27, line 23, increase the amount by $500,000,000.

On page 27, line 24, increase the amount by $515,000,000.

On page 28, line 2, increase the amount by $500,000,000.

On page 28, line 3, increase the amount by $500,000,000.

On page 28, line 6, increase the amount by $500,000,000.

On page 28, line 7, increase the amount by $500,000,000.

On page 28, line 10, increase the amount by $500,000,000.

On page 28, line 11, increase the amount by $500,000,000.

On page 28, line 14, increase the amount by $500,000,000.

On page 28, line 15, increase the amount by $500,000,000.

On page 28, line 18, increase the amount by $500,000,000.

On page 28, line 19, increase the amount by $500,000,000.

On page 28, line 22, increase the amount by $400,000,000.

On page 28, line 23, increase the amount by $478,000,000.

On page 36, line 11, increase the amount by $450,000,000.

On page 36, line 12, increase the amount by $348,000,000.

On page 36, line 15, increase the amount by $1,339,000,000.

On page 36, line 16, increase the amount by $503,000,000.

On page 36, line 19, increase the amount by $1,880,000,000.

On page 36, line 20, increase the amount by $1,190,000,000.

On page 36, line 23, increase the amount by $1,902,000,000.

On page 36, line 24, increase the amount by $1,544,000,000.

On page 37, line 2, increase the amount by $1,921,000,000.

On page 37, line 3, increase the amount by $1,885,000,000.

On page 37, line 6, increase the amount by $1,936,000,000.

On page 37, line 7, increase the amount by $1,904,000,000.

On page 37, line 10, increase the amount by $1,957,000,000.

On page 37, line 11, increase the amount by $1,923,000,000.

On page 37, line 14, increase the amount by $1,978,000,000.

On page 37, line 15, increase the amount by $1,942,000,000.

On page 37, line 18, increase the amount by $2,001,000,000.

On page 37, line 19, increase the amount by $1,961,000,000.

On page 37, line 22, increase the amount by $2,024,000,000.

On page 37, line 23, increase the amount by $1,983,000,000.

On page 38, line 2, increase the amount by $1,996,000,000.

On page 38, line 3, increase the amount by $1,977,000,000.

On page 40, line 2, decrease the amount by $13,000,000.

On page 40, line 3, decrease the amount by $13,000,000.

On page 40, line 6, decrease the amount by $131,000,000.

On page 40, line 7, decrease the amount by $131,000,000.

On page 40, line 10, decrease the amount by $453,000,000.

On page 40, line 11, decrease the amount by $453,000,000.

On page 40, line 14, decrease the amount by $887,000,000.

On page 40, line 15, decrease the amount by $887,000,000.

On page 40, line 18, decrease the amount by $1,369,000,000.

On page 40, line 19, decrease the amount by $1,369,000,000.

On page 40, line 22, decrease the amount by $1,891,000,000.

On page 40, line 23, decrease the amount by $1,891,000,000.

On page 41, line 2, decrease the amount by $2,452,000,000.

On page 41, line 3, decrease the amount by $2,452,000,000.

On page 41, line 6, decrease the amount by $3,045,000,000.

On page 41, line 7, decrease the amount by $3,045,000,000.

On page 41, line 10, decrease the amount by $3,670,000,000.

On page 41, line 11, decrease the amount by $3,670,000,000.

On page 41, line 14, decrease the amount by $4,333,000,000.

On page 41, line 15, decrease the amount by $4,333,000,000.

On page 41, line 18, decrease the amount by $5,039,000,000.

On page 41, line 19, decrease the amount by $5,039,000,000.

On page 46, line 20, increase the amount by $5,000,000,000.

On page 46, line 21, increase the amount by $1,822,000,000.

On page 47, line 5, increase the amount by $6,526,000,000.

On page 47, line 6, increase the amount by $4,341,000,000.

On page 47, line 14, increase the amount by $8,642,000,000.

On page 47, line 15, increase the amount by $6,750,000,000.

**SA 300.** Mr. LAUTENBERG (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of Subtitle B of Title II, insert the following: "Sec. . Reserve Fund for National Security.—In the Senate, the Chairman of the Committee on the Budget may increase aggregates, functional totals, allocations, and other appropriate levels in this resolution by up to $103.500 billion in Budget Authority and $88.036 billion in Outlays for fiscal years 2004 through 2013 for a bill, joint resolution, amendment, or conference report providing additional resources for defense or homeland security."

On page 45, line 24, decrease the amount by $88,036,000,000.

On page 3, line 15, increase the amount by $4,303,000,000.

On page 3, line 16, increase the amount by $11,094,000,000.

On page 3, line 17, increase the amount by $17,704,000,000.

On page 3, line 18, increase the amount by $24,209,000,000.

On page 3, line 19, increase the amount by $30,726,000,000.

On page 4, line 6, increase the amount by $4,303,000,000.

On page 4, line 7, increase the amount by $11,094,000,000.

On page 4, line 8, increase the amount by $17,704,000,000.

On page 4, line 9, increase the amount by $24,209,000,000.

On page 4, line 10, increase the amount by $30,726,000,000.

On page 4, line 20, increase the amount by $6,500,000,000.

On page 4, line 21, increase the amount by $14,500,000,000.

On page 4, line 22, increase the amount by $21,000,000,000.

On page 4, line 23, increase the amount by $27,500,000,000.

On page 4, line 24, increase the amount by $34,000,000,000.

On page 5, line 10, increase the amount by $4,303,000,000.

On page 5, line 11, increase the amount by $11,094,000,000.

On page 5, line 12, increase the amount by $17,704,000,000.

On page 5, line 13, increase the amount by $24,209,000,000.

On page 5, line 14, increase the amount by $30,726,000,000.

On page 42, line 22, increase the amount by $6,500,000,000.

On page 42, line 23, increase the amount by $4,303,000,000.

On page 43, line 2, increase the amount by $14,500,000,000.

On page 43, line 3, increase the amount by $11,094,000,000.

On page 43, line 6, increase the amount by $21,000,000,000.

On page 43, line 7, increase the amount by $17,704,000,000.

On page 43, line 10, increase the amount by $27,500,000,000.

On page 43, line 11, increase the amount by $24,209,000,000.

On page 43, line 14, increase the amount by $34,000,000,000.

On page 43, line 15, increase the amount by $30,726,000,000.

**SA 301.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 45, line 24, decrease the amount by $1,040,000,000.

On page 3, line 10, increase the amount by $400,000,000.

On page 3, line 11, increase the amount by $375,000,000.

On page 3, line 12, increase the amount by $175, 000,000.

On page 3, line 13, increase the amount by $50,000,000.

On page 3, line 14, increase the amount by $25,000,000.

On page 3, line 15, increase the amount by $,15,000,000.

On page 4, line 1, increase the amount by $400,000,000.

On page 4, line 2, increase the amount by $375,000,000.

On page 4, line 3, increase the amount by $175,000,000.

On page 4, line 4, increase the amount by $50,000,000.

On page 4, line 5, increase the amount by $25,000,000.

On page 4, line 6, increase the amount by $15,000,000.

On page 4, line 15, increase the amount by $1,047,426,416.

On page 5, line 5, increase the amount by $400,000,000.

On page 5, line 6, increase the amount by $375,000,000.

On page 5, line 7, increase the amount by $175,000,000.

On page 5, line 8, increase the amount by $50,000,000.

On page 5, line 9, increase the amount by $25,000,000.

On page 5, line 10, increase the amount by $15,000,000.

On page 9, line 2, increase the amount by $1,047,426,416.

On page 9, line 3, increase the amount by $400,000,000.

On page 9, line 7, increase the amount by $375,000,000.

On page 9, line 11, increase the amount by $175,000,000.

On page 9, line 15, increase the amount by $50,000,000.

On page 9, line 19, increase the amount by $25,000,000.

On page 9, line 23, increase the amount by $15,000,000.

On page 47, line 5, increase the amount by $1,047,426,416.

On page 47, line 6, increase the amount by $400,000,000.

On page 47, line 15, increase the amount by $375,000,000.

**SA 302.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $96,000,000.

On page 3, line 11, increase the amount by $224,000,000.

On page 3, line 12, increase the amount by $200,000,000.

On page 3, line 13, increase the amount by $280,000,000.

On page 4, line 1, increase the amount by $96,000,000.

On page 4, line 2, increase the amount by $224,000,000.

On page 4, line 3, increase the amount by $200,000,000.

On page 4, line 4, increase the amount by $280,000,000.

On page 4, line 15, increase the amount by $399,000,000.

On page 4, line 16, decrease the amount by $5,000,000.

On page 4, line 17, decrease the amount by $11,000,000.

On page 4, line 18, decrease the amount by $19,000,000.

On page 4, line 19, decrease the amount by $23,000,000.

On page 4, line 20, decrease the amount by $25,000,000.

On page 4, line 21, decrease the amount by $26,000,000.

On page 4, line 22, decrease the amount by $28,000,000.

On page 4, line 23, decrease the amount by $29,000,000.

On page 4, line 24, decrease the amount by $31,000,000.

On page 5, line 5, increase the amount by $47,000,000.

On page 5, line 6, increase the amount by $107,000,000.

On page 5, line 7, increase the amount by $89,000,000.

On page 5, line 8, increase the amount by $121,000,000.

On page 5, line 9, decrease the amount by $23,000,000.

On page 5, line 10, decrease the amount by $25,000,000

On page 5, line 11, decrease the amount by $26,000,000.

On page 5, line 12, decrease the amount by $28,000,000.

On page 5, line 13, decrease the amount by $29,000,000.

On page 5, line 14, decrease the amount by $31,000,000.

On page 5, line 18, increase the amount by $49,000,000.

On page 5, line 19, increase the amount by $117,000,000.

On page 5, line 20, increase the amount by $111,000,000.

On page 5, line 21, increase the amount by $159,000,000.

On page 5, line 22, increase the amount by $23,000,000.

On page 5, line 23, increase the amount by $25,000,000.

On page 5, line 24, increase the amount by $26,000,000.

On page 5, line 25, increase the amount by $28,000,000.

On page 6, line 1, increase the amount by $29,000,000.

On page 6, line 2, increase the amount by $31,000,000.

On page 6, line 6, decrease the amount by $49,000,000.

On page 6, line 7, decrease the amount by $166,000,000.

On page 6, line 8, decrease the amount by $277,000,000.

On page 6, line 9, decrease the amount by $436,000,000.

On page 6, line 10, decrease the amount by $459,000,000.

On page 6, line 11, decrease the amount by $484,000,000.

On page 6, line 12, decrease the amount by $510,000,000.

On page 6, line 13, decrease the amount by $537,000,000.

On page 6, line 14, decrease the amount by $566,000,000.

On page 6, line 15, decrease the amount by $597,000,000.

On page 6, line 19, decrease the amount by $49,000,000.

On page 6, line 20, decrease the amount by $166,000,000.

On page 6, line 21, decrease the amount by $277,000,000.

On page 6, line 22, decrease the amount by $436,000,000.

On page 6, line 23, decrease the amount by $459,000,000.

On page 6, line 24, decrease the amount by $484,000,000.

On page 6, line 25, decrease the amount by $510,000,000.

On page 7, line 1, decrease the amount by $537,000,000.

On page 7, line 2, decrease the amount by $566,000,000.

On page 7, line 3, decrease the amount by $597,000,000.

On page 23, line 19, increase the amount by $400,000,000.

On page 23, line 20, increase the amount by $48,000,000.

On page 23, line 24, increase the amount by $112,000,000.

On page 24, line 3, increase the amount by $100,000,000.

On page 24, line 7, increase the amount by $140,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $5,000,000.

On page 40, line 11, decrease the amount by $5,000,000.

On page 40, line 14, decrease the amount by $11,000,000.

On page 40, line 15, decrease the amount by $11,000,000.

On page 40, line 18, decrease the amount by $19,000,000.

On page 40, line 19, decrease the amount by $19,000,000.

On page 40, line 22, decrease the amount by $23,000,000.

On page 40, line 23, decrease the amount by $23,000,000.

On page 41, line 2, decrease the amount by $25,000,000.

On page 41, line 3, decrease the amount by $25,000,000.

On page 41, line 6, decrease the amount by $26,000,000.

On page 41, line 7, decrease the amount by $26,000,000.

On page 41, line 10, decrease the amount by $28,000,000.

On page 41, line 11, decrease the amount by $28,000,000.

On page 41, line 14, decrease the amount by $29,000,000.

On page 41, line 15, decrease the amount by $29,000,000.

On page 41, line 18, decrease the amount by $31,000,000.

On page 41, line 19, decrease the amount by $31,000,000.

On page 47, line 5, increase the amount by $400,000,000.

On page 47, line 6, increase the amount by $48,000,000.

On page 47, line 15, increase the amount by $112,000,000.

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**SA 303.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $120,000,000.

On page 3, line 11, increase the amount by $280,000,000.

On page 3, line 12, increase the amount by $250,000,000.

On page 3, line 13, increase the amount by $350,000,000.

On page 4, line 1, increase the amount by $120,000,000.

On page 4, line 2, increase the amount by $280,000,000.

On page 4, line 3, increase the amount by $250,000,000.

On page 4, line 4, increase the amount by $350,000,000.

On page 4, line 15, increase the amount by $499,000,000.

On page 4, line 16, decrease the amount by $6,000,000.

On page 4, line 17, decrease the amount by $14,000,000.

On page 4, line 18, decrease the amount by $23,000,000.

On page 4, line 19, decrease the amount by $29,000,000.

On page 4, line 20, decrease the amount by $31,000,000.

On page 4, line 21, decrease the amount by $33,000,000.

On page 4, line 22, decrease the amount by $34,000,000.

On page 4, line 23, decrease the amount by $36,000,000.

On page 4, line 24, decrease the amount by $38,000,000.

On page 5, line 5, increase the amount by $59,000,000.

On page 5, line 6, increase the amount by $134,000,000.

On page 5, line 7, increase the amount by $111,000,000.

On page 5, line 8, increase the amount by $152,000,000.

On page 5, line 9, decrease the amount by $29,000,000.

On page 5, line 10, decrease the amount by $31,000,000.

On page 5, line 11, decrease the amount by $33,000,000.

On page 5, line 12, decrease the amount by $34,000,000.

On page 5, line 13, decrease the amount by $36,000,000.

On page 5, line 14, decrease the amount by $38,000,000.

On page 5, line 18, increase the amount by $61,000,000.

On page 5, line 19, increase the amount by $146,000,000.

On page 5, line 20, increase the amount by $139,000,000.

On page 5, line 21, increase the amount by $198,000,000.

On page 5, line 22, increase the amount by $29,000,000.

On page 5, line 23, increase the amount by $31,000,000.

On page 5, line 24, increase the amount by $33,000,000.

On page 5, line 25, increase the amount by $34,000,000.

On page 6, line 1, increase the amount by $36,000,000.

On page 6, line 2, increase the amount by $38,000,000.

On page 6, line 6, decrease the amount by $61,000,000.

On page 6, line 7, decrease the amount by $207,000,000.

On page 6, line 8, decrease the amount by $346,000,000.

On page 6, line 9, decrease the amount by $545,000,000.

On page 6, line 10, decrease the amount by $574,000,000.

On page 6, line 11, decrease the amount by $605,000,000.

On page 6, line 12, decrease the amount by $637,000,000.

On page 6, line 13, decrease the amount by $672,000,000.

On page 6, line 14, decrease the amount by $708,000,000.

On page 6, line 15, decrease the amount by $746,000,000.

On page 6, line 19, decrease the amount by $61,000,000.

On page 6, line 20, decrease the amount by $207,000,000.

On page 6, line 21, decrease the amount by $346,000,000.

On page 6, line 22, decrease the amount by $545,000,000.

On page 6, line 23, decrease the amount by $574,000,000.

On page 6, line 24, decrease the amount by $605,000,000.

On page 6, line 25, decrease the amount by $637,000,000.

On page 7, line 1, decrease the amount by $672,000,000.

On page 7, line 2, decrease the amount by $708,000,000.

On page 7, line 3, decrease the amount by $746,000,000.

On page 23, line 19, increase the amount by $500,000,000.

On page 23, line 20, increase the amount by $60,000,000.

On page 23, line 24, increase the amount by $140,000,000.

On page 24, line 3, increase the amount by $125,000,000.

On page 24, line 7, increase the amount by $175,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $6,000,000.

On page 40, line 11, decrease the amount by $6,000,000.

On page 40, line 14, decrease the amount by $14,000,000.

On page 40, line 15, decrease the amount by $14,000,000.

On page 40, line 18, decrease the amount by $23,000,000.

On page 40, line 19, decrease the amount by $23,000,000.

On page 40, line 22, decrease the amount by $29,000,000.

On page 40, line 23, decrease the amount by $29,000,000.

On page 41, line 2, decrease the amount by $31,000,000.

On page 41, line 3, decrease the amount by $31,000,000.

On page 41, line 6, decrease the amount by $33,000,000.

On page 41, line 7, decrease the amount by $33,000,000.

On page 41, line 10, decrease the amount by $34,000,000.

On page 41, line 11, decrease the amount by $34,000,000.

On page 41, line 14, decrease the amount by $36,000,000.

On page 41, line 15, decrease the amount by $36,000,000.

On page 41, line 18, decrease the amount by $38,000,000.

On page 41, line 19, decrease the amount by $38,000,000.

On page 47, line 5, increase the amount by $500,000,000.

On page 47, line 6, increase the amount by $60,000,000.

On page 47, line 15, increase the amount by $140,000,000.

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**SA 304.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $240,000,000.

On page 3, line 11, increase the amount by $560,000,000.

On page 3, line 12, increase the amount by $500,000,000.

On page 3, line 13, increase the amount by $700,000,000.

On page 4, line 1, increase the amount by $240,000,000.

On page 4, line 2, increase the amount by $500,000,000.

On page 4, line 3, increase the amount by $500,000,000.

On page 4, line 4, increase the amount by $700,000,000.

On page 4, line 15, increase the amount by $998,000,000.

On page 4, line 16, decrease the amount by $13,000,000.

On page 4, line 17, decrease the amount by $28,000,000.

On page 4, line 18, decrease the amount by $46,000,000.

On page 4, line 19, decrease the amount by $58,000,000.

On page 4, line 20, decrease the amount by $62,000,000.

On page 4, line 21, decrease the amount by $65,000,000.

On page 4, line 22, decrease the amount by $62,000,000.

On page 4, line 23, decrease the amount by $73,000,000.

On page 4, line 24, decrease the amount by $76,000,000.

On page 5, line 5, increase the amount by $118,000,000.

On page 5, line 6, increase the amount by $267,000,000.

On page 5, line 7, increase the amount by $222,000,000.

On page 5, line 8, increase the amount by $304,000,000.

On page 5, line 9, decrease the amount by $58,000,000.

On page 5, line 10, decrease the amount by $62,000,000.

On page 5, line 11, decrease the amount by $65,000,000.

On page 5, line 12, decrease the amount by $69,000,000.

On page 5, line 13, decrease the amount by $73,000,000.

On page 5, line 14, decrease the amount by $76,000,000.

On page 5, line 18, increase the amount by $122,000,000.

On page 5, line 19, increase the amount by $293,000,000.

On page 5, line 20, increase the amount by $278,000,000.

On page 5, line 21, increase the amount by $396,000,000.

On page 5, line 22, increase the amount by $58,000,000.

On page 5, line 23, increase the amount by $62,000,000.

On page 5, line 24, increase the amount by $65,000,000.

On page 5, line 25, increase the amount by $69,000,000.

On page 6, line 1, increase the amount by $73,000,000.

On page 6, line 2, increase the amount by $76,000,000.

On page 6, line 6, decrease the amount by $122,000,000.

On page 6, line 7, decrease the amount by $415,000,000.

On page 6, line 8, decrease the amount by $693,000,000.

On page 6, line 9, decrease the amount by $1,089,000,000.

On page 6, line 10, decrease the amount by $1,148,000,000.

On page 6, line 11, decrease the amount by $1,210,000,000.

On page 6, line 12, decrease the amount by $1,275,000,000.

On page 6, line 13, decrease the amount by $1,344,000,000.

On page 6, line 14, decrease the amount by $1,416,000,000.

On page 6, line 15, decrease the amount by $1,493,000,000.

On page 6, line 19, decrease the amount by $122,000,000.

On page 6, line 20, decrease the amount by $415,000,000.

On page 6, line 21, decrease the amount by $693,000,000.

On page 6, line 22, decrease the amount by $1,089,000,000.

On page 6, line 23, decrease the amount by $1,148,000,000.

On page 6, line 24, decrease the amount by $1,210,000,000.

On page 6, line 25, decrease the amount by $1,275,000,000.

On page 7, line 1, decrease the amount by $1,344,000,000.

On page 7, line 2, decrease the amount by $1,416,000,000.

On page 7, line 3, decrease the amount by $1,493,000,000.

On page 23, line 19, increase the amount by $1,000,000,000.

On page 23, line 20, increase the amount by $120,000,000.

On page 23, line 24, increase the amount by $280,000,000.

On page 24, line 3, increase the amount by $250,000,000.

On page 24, line 7, increase the amount by $350,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $13,000,000.

On page 40, line 11, decrease the amount by $13,000,000.

On page 40, line 14, decrease the amount by $28,000,000.

On page 40, line 15, decrease the amount by $28,000,000.

On page 40, line 18, decrease the amount by $46,000,000.

On page 40, line 19, decrease the amount by $46,000,000.

On page 40, line 22, decrease the amount by $58,000,000.

On page 40, line 23, decrease the amount by $58,000,000.

On page 41, line 2, decrease the amount by $62,000,000.

On page 41, line 3, decrease the amount by $62,000,000.

On page 41, line 6, decrease the amount by $65,000,000.

On page 41, line 7, decrease the amount by $65,000,000.

On page 41, line 10, decrease the amount by $69,000,000.

On page 41, line 11, decrease the amount by $69,000,000.

On page 41, line 14, decrease the amount by $73,000,000.

On page 41, line 15, decrease the amount by $73,000,000.

On page 41, line 18, decrease the amount by $76,000,000.

On page 41, line 19, decrease the amount by $76,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $120,000,000.

On page 47, line 15, increase the amount by $280,000,000.

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**SA 305.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $4,900,000,000.

On page 3, line 10, increase the amount by $4,900,000,000.

On page 3, line 11, increase the amount by $2,800,000,000.

On page 3, line 12, increase the amount by $1,400,000,000.

On page 3, line 23, increase the amount by $4,900,000,000.

On page 4, line 1, increase the amount by $4,900,000,000.

On page 4, line 2, increase the amount by $2,800,000,000.

On page 4, line 3, increase the amount by $1,400,000,000.

On page 4, line 14, increase the amount by $6,982,000,000.

On page 4, line 15, decrease the amount by $115,000,000.

On page 4, line 16, decrease the amount by $256,000,000.

On page 4, line 17, decrease the amount by $349,000,000.

On page 4, line 18, decrease the amount by $395,000,000.

On page 4, line 19, decrease the amount by $422,000,000.

On page 4, line 20, decrease the amount by $450,000,000.

On page 4, line 21, decrease the amount by $477,000,000.

On page 4, line 22, increase the amount by $503,000,000.

On page 4, line 23, decrease the amount by $530,000,000.

On page 4, line 24, decrease the amount by $562,000,000.

On page 5, line 4, increase the amount by $2,432,000,000.

On page 5, line 5, increase the amount by $2,335,000,000.

On page 5, line 6, increase the amount by $1,144,000,000.

On page 5, line 7, increase the amount by $351,000,000.

On page 5, line 8, decrease the amount by $395,000,000.

On page 5, line 9, decrease the amount by $422,000,000.

On page 5, line 10, decrease the amount by $450,000,000.

On page 5, line 11, decrease the amount by $477,000,000.

On page 5, line 12, decrease the amount by $503,000,000.

On page 5, line 13, decrease the amount by $530,000,000.

On page 5, line 14, decrease the amount by $562,000,000.

On page 5, line 17, increase the amount by $2,468,000,000.

On page 5, line 18, increase the amount by $2,565,000,000.

On page 5, line 19, increase the amount by $1,656,000,000.

On page 5, line 20, increase the amount by $1,049,000,000.

On page 5, line 21, increase the amount by $395,000,000.

On page 5, line 22, increase the amount by $422,000,000.

On page 5, line 23, increase the amount by $450,000,000.

On page 5, line 24, increase the amount by $477,000,000.

On page 5, line 25, increase the amount by $503,000,000.

On page 6, line 1, increase the amount by $530,000,000.

On page 6, line 2, increase the amount by $562,000,000.

On page 6, line 5, decrease the amount by $2,468,000,000.

On page 6, line 6, decrease the amount by $5,033,000,000.

On page 6, line 7, decrease the amount by $6,690,000,000.

On page 6, line 8, decrease the amount by $7,739,000,000.

On page 6, line 9, decrease the amount by $8,134,000,000.

On page 6, line 10, decrease the amount by $8,556,000,000.

On page 6, line 11, decrease the amount by $9,006,000,000.

On page 6, line 12, decrease the amount by $9,483,000,000.

On page 6, line 13, decrease the amount by $9,986,000,000.

On page 6, line 14, decrease the amount by $10,516,000,000.

On page 6, line 15, decrease the amount by $11,078,000,000.

On page 6, line 18, decrease the amount by $2,468,000,000.

On page 6, line 19, decrease the amount by $5,033,000,000.

On page 6, line 20, decrease the amount by $6,690,000,000.

On page 6, line 21, decrease the amount by $7,739,000,000.

On page 6, line 22, decrease the amount by $8,134,000,000.

On page 6, line 23, decrease the amount by $8,556,000,000.

On page 6, line 24, decrease the amount by $9,006,000,000.

On page 6, line 25, decrease the amount by $9,483,000,000.

On page 7, line 1, decrease the amount by $9,986,000,000.

On page 7, line 2, decrease the amount by $10,516,000,000.

On page 7, line 3, decrease the amount by $11,078,000,000.

On page 23, line 15, increase the amount by $7,000,000,000.

On page 23, line 16, increase the amount by $2,450,000,000.

On page 23, line 20, increase the amount by $2,450,000,000.

On page 23, line 24, increase the amount by $1,400,000,000.

On page 24, line 3, increase the amount by $700,000,000.

On page 40, line 2, decrease the amount by $18,000,000.

On page 40, line 3, decrease the amount by $18,000,000.

On page 40, line 6, decrease the amount by $115,000,000.

On page 40, line 7, decrease the amount by $115,000,000.

On page 40, line 10, decrease the amount by $256,000,000.

On page 40, line 11, decrease the amount by $256,000,000.

On page 40, line 14, decrease the amount by $349,000,000.

On page 40, line 15, decrease the amount by $349,000,000.

On page 40, line 18, decrease the amount by $395,000,000.

On page 40, line 19, decrease the amount by $395,000,000.

On page 40, line 22, decrease the amount by $422,000,000.

On page 40, line 23, decrease the amount by $422,000,000.

On page 41, line 2, decrease the amount by $450,000,000.

On page 41, line 3, decrease the amount by $450,000,000.

On page 41, line 6, decrease the amount by $477,000,000.

On page 41, line 7, decrease the amount by $477,000,000.

On page 41, line 10, decrease the amount by $503,000,000.

On page 41, line 11, decrease the amount by $503,000,000.

On page 41, line 14, decrease the amount by $530,000,000.

On page 41, line 15, decrease the amount by $530,000,000.

On page 41, line 18, decrease the amount by $562,000,000.

On page 41, line 19, decrease the amount by $562,000,000.

On page 46, line 20, increase the amount by $7,000,000,000.

On page 46, line 21, increase the amount by $2,450,000,000.

On page 47, line 6, increase the amount by $2,450,000,000.

On page 47, line 15, increase the amount by $1,400,000,000.

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**SA 306.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $120,000,000.

On page 3, line 11, increase the amount by $280,000,000.

On page 3, line 12, increase the amount by $250,000,000.

On page 3, line 13, increase the amount by $350,000,000.

On page 4, line 1, increase the amount by $120,000,000.

On page 4, line 2, increase the amount by $280,000,000.

On page 4, line 3, increase the amount by $250,000,000.

On page 4, line 4, increase the amount by $350,000,000.

On page 4, line 15, increase the amount by $499,000,000.

On page 4, line 16, decrease the amount by $6,000,000.

On page 4, line 17, decrease the amount by $14,000,000.

On page 4, line 18, decrease the amount by $23,000,000.

On page 4, line 19, decrease the amount by $29,000,000.

On page 4, line 20, decrease the amount by $31,000,000.

On page 4, line 21, decrease the amount by $33,000,000.

On page 4, line 22, decrease the amount by $34,000,000.

On page 4, line 23, decrease the amount by $36,000,000.

On page 4, line 24, decrease the amount by $38,000,000.

On page 5, line 5, increase the amount by $59,000,000.

On page 5, line 6, increase the amount by $134,000,000.

On page 5, line 7, increase the amount by $111,000,000.

On page 5, line 8, increase the amount by $152,000,000.

On page 5, line 9, decrease the amount by $29,000,000.

On page 5, line 10, decrease the amount by $31,000,000.

On page 5, line 11, decrease the amount by $33,000,000.

On page 5, line 12, decrease the amount by $34,000,000.

On page 5, line 13, decrease the amount by $36,000,000.

On page 5, line 14, decrease the amount by $38,000,000.

On page 5, line 18, increase the amount by $61,000,000.

On page 5, line 19, increase the amount by $146,000,000.

On page 5, line 20, increase the amount by $139,000,000.

On page 5, line 21, increase the amount by $198,000,000.

On page 5, line 22, increase the amount by $29,000,000.

On page 5, line 23, increase the amount by $31,000,000.

On page 5, line 24, increase the amount by $33,000,000.

On page 5, line 25, increase the amount by $34,000,000.

On page 6, line 1, increase the amount by $36,000,000.

On page 6, line 2, increase the amount by $38,000,000.

On page 6, line 6, decrease the amount by $61,000,000.

On page 6, line 7, decrease the amount by $207,000,000.

On page 6, line 8, decrease the amount by $346,000,000.

On page 6, line 9, decrease the amount by $545,000,000.

On page 6, line 10, decrease the amount by $574,000,000.

On page 6, line 11, decrease the amount by $605,000,000.

On page 6, line 12, decrease the amount by $637,000,000.

On page 6, line 13, decrease the amount by $672,000,000.

On page 6, line 14, decrease the amount by $708,000,000.

On page 6, line 15, decrease the amount by $746,000,000.

On page 6, line 19, decrease the amount by $61,000,000.

On page 6, line 20, decrease the amount by $207,000,000.

On page 6, line 21, decrease the amount by $346,000,000.

On page 6, line 22, decrease the amount by $545,000,000.

On page 6, line 23, decrease the amount by $574,000,000.

On page 6, line 24, decrease the amount by $605,000,000.

On page 6, line 25, decrease the amount by $637,000,000.

On page 7, line 1, decrease the amount by $672,000,000.

On page 7, line 2, decrease the amount by $708,000,000.

On page 7, line 3, decrease the amount by $746,000,000.

On page 23, line 19, increase the amount by $500,000,000.

On page 23, line 20, increase the amount by $60,000,000.

On page 23, line 24, increase the amount by $140,000,000.

On page 24, line 3, increase the amount by $125,000,000.

On page 24, line 7, increase the amount by $175,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $6,000,000.

On page 40, line 11, decrease the amount by $6,000,000.

On page 40, line 14, decrease the amount by $14,000,000.

On page 40, line 15, decrease the amount by $14,000,000.

On page 40, line 18, decrease the amount by $23,000,000.

On page 40, line 19, decrease the amount by $23,000,000.

On page 40, line 22, decrease the amount by $29,000,000.

On page 40, line 23, decrease the amount by $29,000,000.

On page 41, line 2, decrease the amount by $31,000,000.

On page 41, line 3, decrease the amount by $31,000,000.

On page 41, line 6, decrease the amount by $33,000,000.

On page 41, line 7, decrease the amount by $33,000,000.

On page 41, line 10, decrease the amount by $34,000,000.

On page 41, line 11, decrease the amount by $34,000,000.

On page 41, line 14, decrease the amount by $36,000,000.

On page 41, line 15, decrease the amount by $36,000,000.

On page 41, line 18, decrease the amount by $38,000,000.

On page 41, line 19, decrease the amount by $38,000,000.

On page 47, line 5, increase the amount by $500,000,000.

On page 47, line 6, increase the amount by $60,000,000.

On page 47, line 15, increase the amount by $140,000,000.

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**SA 307.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 7 and all that follows through page 64, line 2.

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**SA 308.** Mr. BINGAMAN (for himself, Mr. LUGAR, Mrs. LINCOLN, Mr. CORZINE, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 62, line 5, insert before the close parentheses the following: "and including a measure providing for coverage of pregnant women under the State Children's Health Insurance Program".

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**SA 309.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 63, beginning on line 12, strike "through" and all that follows through "rates" on line 14.

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**SA 310.** Mr. REED (for himself, Ms. COLLINS, Mr. KERRY, Mr. KENNEDY, Mr. CORZINE, Mr. SARBANES, Mr. LEAHY, Ms. CANTWELL, Ms. MIKULSKI, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. EDWARDS, Mr. JEFFORDS, Mr. DASCHLE, Mr. SCHUMER, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. BINGAMAN, Mr. REID, Mr. DODD, Mr. LEVIN, Mr. PRYOR, Mr. DAYTON, Mr. HARKIN, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $975,000,000.

On page 3, line 11, increase the amount by $299,000,000.

On page 3, line 12, increase the amount by $26,000,000.

On page 4, line 1, increase the amount by $975,000,000.

On page 4, line 2, increase the amount by $299,000,000.

On page 4, line 3, increase the amount by $26,000,000.

On page 4, line 15, increase the amount by $1,300,000,000.

On page 5, line 5, increase the amount by $975,000,000.

On page 5, line 6, increase the amount by $299,000,000.

On page 5, line 7, increase the amount by $26,000,000.

On page 31, line 2, increase the amount by $1,300,000,000.

On page 31, line 3, increase the amount by $975,000,000.

On page 31, line 7, increase the amount by $299,000,000.

On page 31, line 11, increase the amount by $26,000,000.

On page 45, line 24, decrease the amount by $1,300,000,000.

On page 47, line 5, increase the amount by $1,300,000,000.

On page 47, line 6, increase the amount by $975,000,000.

On page 47, line 15, increase the amount by $299,000,000.

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**SA 311.** Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. FEINGOLD, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table, as follows:

On page 3, line 10, increase the amount by $590,000,000.

On page 3, line 11, increase the amount by $2,302,000,000.

On page 3, line 12, increase the amount by $59,000,000.

On page 4, line 1, increase the amount by $590,000,000.

On page 4, line 2, increase the amount by $2,302,000,000.

On page 4, line 3, increase the amount by $59,000,000.

On page 4, line 15, increase the amount by $1,796,000,000.

On page 4, line 16, decrease the amount by $34,000,000.

On page 4, line 17, decrease the amount by $61,000,000.

On page 4, line 18, decrease the amount by $66,000,000.

On page 4, line 19, decrease the amount by $70,000,000.

On page 4, line 20, decrease the amount by $74,000,000.

On page 4, line 21, decrease the amount by $78,000,000.

On page 4, line 22, decrease the amount by $83,000,000.

On page 4, line 23, decrease the amount by $87,000,000.

On page 4, line 24, decrease the amount by $92,000,000.

On page 5, line 5, increase the amount by $356,000,000.

On page 5, line 6, increase the amount by $1,370,000,000.

On page 5, line 7, decrease the amount by $25,000,000.

On page 5, line 8, decrease the amount by $66,000,000.

On page 5, line 9, decrease the amount by $70,000,000.

On page 5, line 10, decrease the amount by $74,000,000.

On page 5, line 11, decrease the amount by $78,000,000.

On page 5, line 12, decrease the amount by $83,000,000.

On page 5, line 13, decrease the amount by $87,000,000.

On page 5, line 14, decrease the amount by $92,000,000.

On page 5, line 18, increase the amount by $234,000,000.

On page 5, line 19, increase the amount by $932,000,000.

On page 5, line 20, increase the amount by $84,000,000.

On page 5, line 21, increase the amount by $66,000,000.

On page 5, line 22, increase the amount by $90,000,000.

On page 5, line 23, increase the amount by $74,000,000.

On page 5, line 24, increase the amount by $78,000,000.

On page 5, line 25, increase the amount by $83,000,000.

On page 6, line 1, increase the amount by $87,000,000.

On page 6, line 2, increase the amount by $92,000,000.

On page 6, line 6, decrease the amount by $234,000,000.

On page 6, line 7, decrease the amount by $1,166,000,000.

On page 6, line 8, decrease the amount by $1,250,000,000.

On page 6, line 9, decrease the amount by $1,316,000,000.

On page 6, line 10, decrease the amount by $1,386,000,000.

On page 6, line 11, decrease the amount by $1,460,000,000.

On page 6, line 12, decrease the amount by $1,538,000,000.

On page 6, line 13, decrease the amount by $1,621,000,000.

On page 6, line 14, decrease the amount by $1,708,000,000.

On page 6, line 15, decrease the amount by $1,800,000,000.

On page 6, line 19, decrease the amount by $234,000,000.

On page 6, line 20, decrease the amount by $1,166,000,000.

On page 6, line 21, decrease the amount by $1,250,000,000.

On page 6, line 22, decrease the amount by $1,316,000,000.

On page 6, line 23, decrease the amount by $1,386,000,000.

On page 6, line 24, decrease the amount by $1,460,000,000.

On page 6, line 25, decrease the amount by $1,538,000,000.

On page 7, line 1, decrease the amount by $1,621,000,000.

On page 7, line 2, decrease the amount by $1,708,000,000.

On page 7, line 3, increase the amount by $1,800,000,000.

On page 25, line 16, decrease the amount by $1,800,000,000.

On page 25, line 17, increase the amount by $360,000,000.

On page 25, line 21, increase the amount by $1,404,000,000.

On page 25, line 25, increase the amount by $36,000,000.

On page 40, line 6, decrease the amount by $4,000,000.

On page 40, line 7, decrease the amount by $4,000,000.

On page 40, line 13, decrease the amount by $34,000,000.

On page 40, line 11, decrease the amount by $34,000,000.

On page 40, line 14, decrease the amount by $61,000,000.

On page 40, line 15, decrease the amount by $61,000,000.

On page 40, line 18, decrease the amount by $66,000,000.

On page 40, line 19, decrease the amount by $66,000,000.

On page 40, line 22, decrease the amount by $70,000,000.

On page 40, line 23, decrease the amount by $70,000,000.

On page 41, line 2, decrease the amount by $74,000,000.

On page 41, line 3, decrease the amount by $74,000,000.

On page 41, line 6, decrease the amount by $78,000,000.

On page 41, line 7, decrease the amount by $78,000,000.

On page 41, line 10, decrease the amount by $83,000,000.

On page 41, line 11, decrease the amount by $83,000,000.

On page 41, line 14, decrease the amount by $89,000,000.

On page 41, line 15, decrease the amount by $87,000,000.

On page 41, line 18, decrease the amount by $92,000,000.

On page 41, line 19, decrease the amount by $92,000,000.

On page 47, line 5, increase the amount by $1,800,000,000.

On page 47, line 6, increase the amount by $360,000,000.

On page 47, line 15, increase the amount by $1,404,000,000.

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**SA 312.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,081,000,000.

On page 3, line 11, increase the amount by $1,349,000,000.

On page 3, line 12, increase the amount by $1,443,000,000.

On page 3, line 13, increase the amount by $1,505,000,000.

On page 3, line 14, increase the amount by $1,568,000,000.

On page 3, line 15, increase the amount by $1,620,000,000.

On page 3, line 16, increase the amount by $1,667,000,000.

On page 3, line 17, increase the amount by $1,721,000,000.

On page 3, line 18, increase the amount by $1,777,000,000.

On page 3, line 19, increase the amount by $1,833,000,000.

On page 4, line 1, increase the amount by $1,081,000,000.

On page 4, line 2, increase the amount by $1,349,000,000.

On page 4, line 3, increase the amount by $1,443,000,000.

On page 4, line 4, increase the amount by $1,505,000,000.

On page 4, line 5, increase the amount by $1,568,000,000.

On page 4, line 6, increase the amount by $1,620,000,000.

On page 4, line 7, increase the amount by $1,667,000,000.

On page 4, line 8, increase the amount by $1,721,000,000.

On page 4, line 9, increase the amount by $1,777,000,000.

On page 4, line 10, increase the amount by $1,833,000,000.

On page 4, line 15, increase the amount by $282,000,000.

On page 4, line 16, increase the amount by $224,000,000.

On page 4, line 17, increase the amount by $152,000,000.

On page 4, line 18, increase the amount by $75,000,000.

On page 4, line 19, decrease the amount by $6,000,000.

On page 4, line 20, decrease the amount by $94,000,000.

On page 4, line 21, decrease the amount by $191,000,000.

On page 4, line 22, decrease the amount by $294,000,000.

On page 4, line 23, decrease the amount by $405,000,000.

On page 4, line 24, decrease the amount by $526,000,000.

On page 5, line 5, increase the amount by $57,000,000.

On page 5, line 6, increase the amount by $104,000,000.

On page 5, line 7, increase the amount by $92,000,000.

On page 5, line 8, increase the amount by $45,000,000.

On page 5, line 9, increase the amount by $21,000,000.

On page 5, line 10, decrease the amount by $109,000,000.

On page 5, line 11, decrease the amount by $206,000,000.

On page 5, line 12, decrease the amount by $309,000,000.

On page 5, line 13, decrease the amount by $420,000,000.

On page 5, line 14, decrease the amount by $541,000,000.

On page 5, line 18, increase the amount by $1,024,000,000.

On page 5, line 19, increase the amount by $1,245,000,000.

On page 5, line 20, increase the amount by $1,351,000,000.

On page 5, line 21, increase the amount by $1,460,000,000.

On page 5, line 22, increase the amount by $1,589,000,000.

On page 5, line 23, increase the amount by $1,729,000,000.

On page 5, line 24, increase the amount by $1,873,000,000.

On page 5, line 25, increase the amount by $2,030,000,000.

On page 6, line 1, increase the amount by $2,197,000,000.

On page 6, line 2, increase the amount by $2,374,000,000.

On page 6, line 6, decrease the amount by $1,024,000,000.

On page 6, line 7, decrease the amount by $2,269,000,000.

On page 6, line 8, decrease the amount by $3,620,000,000.

On page 6, line 8, decrease the amount by $5,080,000,000.

On page 6, line 10, decrease the amount by $6,669,000,000.

On page 6, line 11, decrease the amount by $8,399,000,000.

On page 6, line 12, decrease the amount by $10,271,000,000.

On page 6, line 13, decrease the amount by $12,301,000,000.

On page 6, line 14, decrease the amount by $14,498,000,000.

On page 6, line 15, decrease the amount by $16,872,000,000.

On page 6, line 19, decrease the amount by $1,024,000,000.

On page 6, line 20, decrease the amount by $2,269,000,000.

On page 6, line 21, decrease the amount by $3,620,000,000.

On page 6, line 22, decrease the amount by $5,080,000,000.

On page 6, line 23, decrease the amount by $6,669,000,000.

On page 6, line 24, decrease the amount by $8,399,000,000.

On page 6, line 25, decrease the amount by $10,271,000,000.

On page 7, line 1, decrease the amount by $12,301,000,000.

On page 7, line 2, decrease the amount by $14,498,000,000.

On page 7, line 3, decrease the amount by $16,872,000,000.

On page 16, line 11, increase the amount by $300,000,000.

On page 16, line 12, increase the amount by $75,000,000.

On page 16, line 15, increase the amount by $300,000,000.

On page 16, line 16, increase the amount by $180,000,000.

On page 16, line 19, increase the amount by $300,000,000.

On page 16, line 20, increase the amount by $240,000,000.

On page 16, line 23, increase the amount by $300,000,000.

On page 16, line 24, increase the amount by $270,000,000.

On page 17, line 2, increase the amount by $300,000,000.

On page 17, line 3, increase the amount by $285,000,000.

On page 17, line 6, increase the amount by $300,000,000.

On page 17, line 7, increase the amount by $285,000,000.

On page 17, line 10, increase the amount by $300,000,000.

On page 17, line 11, increase the amount by $285,000,000.

On page 17, line 14, increase the amount by $300,000,000.

On page 17, line 15, increase the amount by $285,000,000.

On page 17, line 18, increase the amount by $300,000,000.

On page 17, line 19, increase the amount by $285,000,000.

On page 17, line 22, increase the amount by $300,000,000.

On page 17, line 23, increase the amount by $285,000,000.

On page 40, line 6, decrease the amount by $18,000,000.

On page 40, line 7, decrease the amount by $18,000,000.

On page 40, line 10, decrease the amount by $76,000,000.

On page 40, line 11, decrease the amount by $76,000,000.

On page 40, line 14, decrease the amount by $148,000,000.

On page 40, line 15, decrease the amount by $148,000,000.

On page 40, line 18, decrease the amount by $225,000,000.

On page 40, line 19, decrease the amount by $225,000,000.

On page 40, line 22, decrease the amount by $306,000,000.

On page 40, line 23, decrease the amount by $306,000,000.

On page 41, line 2, decrease the amount by $394,000,000.

On page 41, line 3, decrease the amount by $394,000,000.

On page 41, line 6, decrease the amount by $491,000,000.

On page 41, line 7, decrease the amount by $491,000,000.

On page 41, line 10, decrease the amount by $594,000,000.

On page 41, line 11, decrease the amount by $594,000,000.

On page 41, line 14, decrease the amount by $705,000,000.

On page 41, line 15, decrease the amount by $705,000,000.

On page 41, line 18, decrease the amount by $826,000,000.

On page 41, line 19, decrease the amount by $826,000,000.

On page 47, line 5, increase the amount by $300,000,000.

On page 47, line 6, increase the amount by $75,000,000.

On page 47, line 14, increase the amount by $300,000,000.

On page 47, line 15, increase the amount by $180,000,000.

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**SA 313.** Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 45, strike beginning with line 20 through page 46, line 2.

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**SA 314.** Mr. INHOFE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 25, line 16, increase the amount by $1,694,400,000.

On page 25, line 17, increase the amount by $1,524,960,000.

On page 25, line 21, increase the amount by $67,776,000.

On page 25, line 25, increase the amount by $50,832,000.

On page 26, line 4, increase the amount by $33,888,000.

On page 26, line 8, increase the amount by $16,944,000.

On page 42, line 2, decrease the amount by $1,694,400,000.

On page 42, line 3, decrease the amount by $1,524,960,000.

On page 42, line 7, decrease the amount by $67,776,000.

On page 42, line 11, decrease the amount by $50,832,000.

On page 42, line 15, decrease the amount by $33,888,000.

On page 42, line 19, decrease the amount by $16,944,000.

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**SA 315.** Mr. KENNEDY (for himself, Mr. SARBANES, Mr. REED, Mr. DURBIN, Mrs. CLINTON, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $6,525,000,000.

On page 3, line 10, increase the amount by $9,895,000,000.

On page 3, line 11, increase the amount by $90,000,000.

On page 3, line 12, increase the amount by $45,000,000.

On page 3, line 13, increase the amount by $10,000,000.

On page 3, line 14, increase the amount by $10,000,000.

On page 3, line 15, increase the amount by $15,000,000.

On page 3, line 16, increase the amount by $45,000,000.

On page 3, line 23, increase the amount by $6,525,000,000.

On page 4, line 1, increase the amount by $9,895,000,000.

On page 4, line 2, increase the amount by $90,000,000.

On page 4, line 3, increase the amount by $45,000,000.

On page 4, line 4, increase the amount by $10,000,000.

On page 4, line 5, increase the amount by $10,000,000.

On page 4, line 6, increase the amount by $15,000,000.

On page 4, line 7, increase the amount by $45,000,000.

On page 4, line 14, increase the amount by $6,525,000,000.

On page 4, line 15, increase the amount by $9,773,000,000.

On page 4, line 16, decrease the amount by $8,000,000.

On page 4, line 17, decrease the amount by $12,000,000.

On page 4, line 18, decrease the amount by $15,000,000.

On page 4, line 19, decrease the amount by $16,000,000.

On page 4, line 20, decrease the amount by $18,000,000.

On page 4, line 21, decrease the amount by $21,000,000.

On page 4, line 22, decrease the amount by $23,000,000.

On page 4, line 23, decrease the amount by $24,000,000.

On page 4, line 24, decrease the amount by $25,000,000.

On page 5, line 4, increase the amount by $6,525,000,000.

On page 5, line 5, increase the amount by $9,773,000,000.

On page 5, line 6, decrease the amount by $8,000,000.

On page 5, line 7, decrease the amount by $12,000,000.

On page 5, line 8, decrease the amount by $15,000,000.

On page 5, line 9, decrease the amount by $16,000,000.

On page 5, line 10, decrease the amount by $18,000,000.

On page 5, line 11, increase the amount by $21,000,000.

On page 5, line 12, decrease the amount by $23,000,000.

On page 5, line 13, decrease the amount by $24,000,000.

On page 5, line 14, decrease the amount by $25,000,000.

On page 5, line 18, increase the amount by $122,000,000.

On page 5, line 19, increase the amount by $98,000,000.

On page 5, line 20, increase the amount by $57,000,000.

On page 5, line 21, increase the amount by $25,000,000.

On page 5, line 22, increase the amount by $26,000,000.

On page 5, line 23, increase the amount by $33,000,000.

On page 5, line 24, increase the amount by $66,000,000.

On page 5, line 25, increase the amount by $23,000,000.

On page 6, line 1, increase the amount by $24,000,000.

On page 6, line 2, increase the amount by $25,000,000.

On page 6, line 6, decrease the amount by $122,000,000.

On page 6, line 7, decrease the amount by $220,000,000.

On page 6, line 8, decrease the amount by $277,000,000.

On page 6, line 9, decrease the amount by $302,000,000.

On page 6, line 10, decrease the amount by $328,000,000.

On page 6, line 11, decrease the amount by $361,000,000.

On page 6, line 12, decrease the amount by $427,000,000.

On page 6, line 13, decrease the amount by $450,000,000.

On page 6, line 14, decrease the amount by $474,000,000.

On page 6, line 15, decrease the amount by $499,000,000.

On page 6, line 19, decrease the amount by $122,000,000.

On page 6, line 20, decrease the amount by $220,000,000.

On page 6, line 21, decrease the amount by $277,000,000.

On page 6, line 22, decrease the amount by $302,000,000.

On page 6, line 23, decrease the amount by $328,000,000.

On page 6, line 24, decrease the amount by $361,000,000.

On page 6, line 25, decrease the amount by $427,000,000.

On page 7, line 1, decrease the amount by $450,000,000.

On page 7, line 2, decrease the amount by $474,000,000.

On page 7, line 3, decrease the amount by $499,000,000.

On page 30, line 23, increase the amount by $6,525,000,000.

On page 30, line 24, increase the amount by $6,525,000,000.

On page 31, line 2, increase the amount by $9,775,000,000.

On page 31, line 3, increase the amount by $9,775,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $8,000,000.

On page 40, line 11, decrease the amount by $8,000,000.

On page 40, line 14, decrease the amount by $12,000,000.

On page 40, line 15, decrease the amount by $12,000,000.

On page 40, line 18, decrease the amount by $15,000,000.

On page 40, line 19, decrease the amount by $15,000,000.

On page 40, line 22, decrease the amount by $16,000,000.

On page 40, line 23, decrease the amount by $16,000,000.

On page 41, line 2, decrease the amount by $18,000,000.

On page 41, line 3, decrease the amount by $18,000,000.

On page 41, line 6, decrease the amount by $21,000,000.

On page 41, line 7, decrease the amount by $21,000,000.

On page 41, line 10, decrease the amount by $23,000,000.

On page 41, line 11, decrease the amount by $23,000,000.

On page 41, line 14, decrease the amount by $24,000,000.

On page 41, line 15, decrease the amount by $24,000,000.

On page 41, line 18, decrease the amount by $25,000,000.

On page 41, line 19, decrease the amount by $25,000,000.

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**SA 316.** Mrs. MURRAY (for herself, Mr. KENNEDY, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,018,000,000.

On page 3, line 11, increase the amount by $10,794,000,000.

On page 3, line 12, increase the amount by $2,410,000,000.

On page 3, line 13, increase the amount by $442,000,000.

On page 4, line 1, increase the amount by $1,018,000,000.

On page 4, line 2, increase the amount by $10,794,000,000.

On page 4, line 3, increase the amount by $2,410,000,000.

On page 4, line 4, increase the amount by $442,000,000.

On page 4, line 15, increase the amount by $8,893,000,000.

On page 4, line 16, decrease the amount by $128,000,000.

On page 4, line 17, decrease the amount by $276,000,000.

On page 4, line 18, decrease the amount by $324,000,000.

On page 4, line 19, decrease the amount by $348,000,000.

On page 4, line 20, decrease the amount by $367,000,000.

On page 4, line 21, decrease the amount by $388,000,000.

On page 4, line 22, decrease the amount by $410,000,000.

On page 4, line 23, decrease the amount by $432,000,000.

On page 4, line 24, decrease the amount by $456,000,000.

On page 5, line 5, increase the amount by $611,000,000.

On page 5, line 6, increase the amount by $6,423,000,000.

On page 5, line 7, increase the amount by $1,187,000,000.

On page 5, line 8, decrease the amount by $56,000,000.

On page 5, line 9, decrease the amount by $348,000,000.

On page 5, line 10, decrease the amount by $367,000,000.

On page 5, line 11, decrease the amount by $388,000,000.

On page 5, line 12, decrease the amount by $410,000,000.

On page 5, line 13, decrease the amount by $432,000,000.

On page 5, line 14, decrease the amount by $456,000,000.

On page 5, line 18, increase the amount by $407,000,000.

On page 5, line 19, increase the amount by $4,371,000,000.

On page 5, line 20, increase the amount by $1,223,000,000.

On page 5, line 21, increase the amount by $497,000,000.

On page 5, line 22, increase the amount by $348,000,000.

On page 5, line 23, increase the amount by $367,000,000.

On page 5, line 24, increase the amount by $388,000,000.

On page 5, line 25, increase the amount by $410,000,000.

On page 6, line 1, increase the amount by $432,000,000.

On page 6, line 2, increase the amount by $456,000,000.

On page 6, line 6, decrease the amount by $407,000,000.

On page 6, line 7, decrease the amount by $4,779,000,000.

On page 6, line 8, decrease the amount by $6,002,000,000.

On page 6, line 9, decrease the amount by $6,499,000,000.

On page 6, line 10, decrease the amount by $6,847,000,000.

On page 6, line 11, decrease the amount by $7,215,000,000.

On page 6, line 12, decrease the amount by $7,603,000,000.

On page 6, line 13, decrease the amount by $8,013,000,000.

On page 6, line 14, decrease the amount by $8,446,000,000.

On page 6, line 15, decrease the amount by $8,901,000,000.

On page 6, line 19, decrease the amount by $407,000,000.

On page 6, line 20, decrease the amount by $4,779,000,000.

On page 6, line 21, decrease the amount by $6,002,000,000.

On page 6, line 22, decrease the amount by $6,499,000,000.

On page 6, line 23, decrease the amount by $6,847,000,000.

On page 6, line 24, decrease the amount by $7,215,000,000.

On page 6, line 25, decrease the amount by $7,603,000,000.

On page 7, line 1, decrease the amount by $8,013,000,000.

On page 7, line 2, decrease the amount by $8,446,000,000.

On page 7, line 3, decrease the amount by $8,901,000,000.

On page 25, line 16, increase the amount by $8,900,000,000.

On page 25, line 17, increase the amount by $618,000,000.

On page 25, line 21, increase the amount by $6,551,000,000.

On page 25, line 25, increase the amount by $1,403,000,000.

On page 26, line 4, increase the amount by $268,000,000.

On page 40, line 6, decrease the amount by $7,000,000.

On page 40, line 7, decrease the amount by $7,000,000.

On page 40, line 10, decrease the amount by $128,000,000.

On page 40, line 11, decrease the amount by $128,000,000.

On page 40, line 14, decrease the amount by $276,000,000.

On page 40, line 15, decrease the amount by $276,000,000.

On page 40, line 18, decrease the amount by $324,000,000.

On page 40, line 19, decrease the amount by $324,000,000.

On page 40, line 22, decrease the amount by $348,000,000.

On page 40, line 23, decrease the amount by $348,000,000.

On page 41, line 2, decrease the amount by $367,000,000.

On page 41, line 3, decrease the amount by $367,000,000.

On page 41, line 6, decrease the amount by $388,000,000.

On page 41, line 7, decrease the amount by $388,000,000.

On page 41, line 10, decrease the amount by $410,000,000.

On page 41, line 11, decrease the amount by $410,000,000.

On page 41, line 14, decrease the amount by $432,000,000.

On page 41, line 15, decrease the amount by $432,000,000.

On page 41, line 18, decrease the amount by $456,000,000.

On page 41, line 19, decrease the amount by $456,000,000.

On page 47, line 5, increase the amount by $8,900,000,000.

On page 47, line 6, increase the amount by $618,000,000.

On page 47, line 15, increase the amount by $6,551,000,000.

At the end of title III, insert the following:

**SEC. . SENSE OF THE SENATE ON FULL FUNDING FOR THE NO CHILD LEFT BEHIND ACT.**

It the sense of the Senate that the budgetary totals in this resolution assume full funding for the No Child Left Behind Act in 2004, including providing the $18,500,000,000 for title I that is authorized in the No Child Left Behind Act.

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**SA 317.** Mr. CRAPO submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 16, line 11, increase the amount by $3,009,000,000.

On page 16, line 12, increase the amount by $150,000,000.

On page 16, line 16, increase the amount by $451,000,000.

On page 16, line 20, increase the amount by $903,000,000.

On page 16, line 24, increase the amount by $903,000,000.

On page 17, line 3, increase the amount by $451,000,000.

On page 42, line 2, decrease the amount by $3,009,000,000.

On page 42, line 3, decrease the amount by $150,000,000.

On page 42, line 7, decrease the amount by $451,000,000.

On page 42, line 11, decrease the amount by $903,000,000.

On page 42, line 15, decrease the amount by $903,000,000.

On page 42, line 19, decrease the amount by $451,000,000.

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**SA 318.** Mr. LEAHY (for himself, Mr. DASCHLE, Mr. REID, Mr. BIDEN, Mr. SCHUMER, Mrs. CLINTON, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $2,100,000,000.

On page 3, line 11, increase the amount by $2,100,000,000.

On page 3, line 12, increase the amount by $1,200,000,000.

On page 3, line 13, increase the amount by $600,000,000.

On page 4, line 1, increase the amount by $2,100,000,000.

On page 4, line 2, increase the amount by $2,100,000,000.

On page 4, line 3, increase the amount by $1,200,000,000.

On page 4, line 4, increase the amount by $600,000,000.

On page 4, line 15, increase the amount by $2,981,000,000.

On page 4, line 16, decrease the amount by $75,000,000.

On page 4, line 17, decrease the amount by $127,000,000.

On page 4, line 18, decrease the amount by $162,000,000.

On page 4, line 19, decrease the amount by $179,000,000.

On page 4, line 20, decrease the amount by $190,000,000.

On page 4, line 21, decrease the amount by $201,000,000.

On page 4, line 22, decrease the amount by $212,000,000.

On page 4, line 23, decrease the amount by $224,000,000.

On page 4, line 24, decrease the amount by $236,000,000.

On page 5, line 5, increase the amount by $1,031,000,000.

On page 5, line 6, increase the amount by $975,000,000.

On page 5, line 7, increase the amount by $473,000,000.

On page 5, line 8, increase the amount by $138,000,000.

On page 5, line 9, decrease the amount by $179,000,000.

On page 5, line 10, decrease the amount by $190,000,000.

On page 5, line 11, decrease the amount by $201,000,000.

On page 5, line 12, decrease the amount by $212,000,000.

On page 5, line 13, decrease the amount by $224,000,000.

On page 5, line 14, decrease the amount by $236,000,000.

On page 5, line 18, increase the amount by $1,069,000,000.

On page 5, line 19, increase the amount by $1,125,000,000.

On page 5, line 20, increase the amount by $727,000,000.

On page 5, line 21, increase the amount by $462,000,000.

On page 5, line 22, increase the amount by $179,000,000.

On page 5, line 23, increase the amount by $190,000,000.

On page 5, line 24, increase the amount by $201,000,000.

On page 5, line 25, increase the amount by $212,000,000.

On page 6, line 1, increase the amount by $224,000,000.

On page 6, line 2, increase the amount by $238,000,000.

On page 6, line 6, decrease the amount by $1,069,000,000.

On page 6, line 7, decrease the amount by $2,194,000,000.

On page 6, line 8, decrease the amount by $2,921,000,000.

On page 6, line 8, decrease the amount by $3,383,000,000.

On page 6, line 10, decrease the amount by $3,562,000,000.

On page 6, line 11, decrease the amount by $3,752,000,000.

On page 6, line 12, decrease the amount by $3,953,000,000.

On page 6, line 13, decrease the amount by $4,165,000,000.

On page 6, line 14, decrease the amount by $4,389,000,000.

On page 6, line 15, decrease the amount by $4,625,000,000.

On page 6, line 19, decrease the amount by $1,069,000,000.

On page 6, line 20, decrease the amount by $2,194,000,000.

On page 6, line 21, decrease the amount by $2,921,000,000.

On page 6, line 22, decrease the amount by $3,383,000,000.

On page 6, line 23, decrease the amount by $3,562,000,000.

On page 6, line 24, decrease the amount by $3,752,000,000.

On page 6, line 25, decrease the amount by $3,953,000,000.

On page 7, line 1, decrease the amount by $4,165,000,000.

On page 7, line 2, decrease the amount by $4,389,000,000.

On page 7, line 3, decrease the amount by $4,625,000,000.

On page 36, line 15, increase the amount by $3,000,000,000.

On page 36, line 16, increase the amount by $1,050,000,000.

On page 36, line 20, increase the amount by $1,050,000,000.

On page 36, line 24, increase the amount by $600,000,000.

On page 37, line 3, increase the amount by $300,000,000.

On page 40, line 6, decrease the amount by $19,000,000.

On page 40, line 7, decrease the amount by $19,000,000.

On page 40, line 10, decrease the amount by $75,000,000.

On page 40, line 11, decrease the amount by $75,000,000.

On page 40, line 14, decrease the amount by $127,000,000.

On page 40, line 15, decrease the amount by $127,000,000.

On page 40, line 18, decrease the amount by $162,000,000.

On page 40, line 19, decrease the amount by $162,000,000.

On page 40, line 22, decrease the amount by $179,000,000.

On page 40, line 23, decrease the amount by $179,000,000.

On page 41, line 2, decrease the amount by $190,000,000.

On page 41, line 3, decrease the amount by $190,000,000.

On page 41, line 6, decrease the amount by $201,000,000.

On page 41, line 7, decrease the amount by $201,000,000.

On page 41, line 10, decrease the amount by $212,000,000.

On page 41, line 11, decrease the amount by $212,000,000.

On page 41, line 14, decrease the amount by $224,000,000.

On page 41, line 15, decrease the amount by $224,000,000.

On page 41, line 18, decrease the amount by $236,000,000.

On page 41, line 19, decrease the amount by $236,000,000.

On page 45, line 24, decrease the amount by $6,000,000,000.

On page 47, line 5, increase the amount by $3,000,000,000.

On page 47, line 6, increase the amount by $1,050,000,000.

On page 47, line 15, increase the amount by $1,050,000,000.

On page 79, after line 22, add the following:

### SEC. 308. PROVIDING GRANTS TO SUPPORT FIRST RESPONDERS IN THEIR EFFORTS TO PROTECT HOMELAND SECURITY AND PREVENT AND RESPOND TO ACTS OF TERRORISM.

(a) FINDINGS.—The Senate finds that—

(1) since the terrorist attacks of September 11, 2001, our Nation has asked State and local first responders (firefighters, law enforcement officers, and emergency personnel) to defend Americans as never before on the front lines in the war against terrorism;

(2) on March 17, 2003, the Department of Homeland Security, in consultation with the Homeland Security Council, raised the national threat level from an "Elevated" to "High" risk of terrorist attack (Level Orange) because the intelligence community believes that terrorists will attempt multiple attacks against United States and Coalition targets worldwide in the event of a military campaign against Saddam Hussein led by the United States;

(3) Level Orange indicates a high probability of a terrorist attack and requires additional precautions by first responders at public events;

(4) this is the third time since the Federal Homeland Security Advisory System was created on March 12, 2002, that State and local first responders have been kept on Orange Alert, including—

(A) September 10 to September 24, 2002;

(B) February 7 to February 27, 2003;

(5) notwithstanding the periods listed under paragraph (4), the Nation has continuously been at Yellow Alert (an "elevated" threat level declared when there is a significant risk of terrorist attacks), which has required increased surveillance of critical locations for State and local first responders;

(6) the National Governors' Association estimates that States incurred about $7,000,000,000 in homeland security costs in the past year for State and local first responders; and

(7) as a result of the elevated and high national threat alerts and other Federal homeland security requirements, State and local governments have been subject to unfunded Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the funding levels in this resolution assume a total of at least $6,500,000,000 for fiscal year 2004 for the Office of Domestic Preparedness through the Department of Homeland Security to provide direct funds to support first responders nationwide in their efforts to protect homeland security and to prevent and respond to acts of terrorism.

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**SA 319.** Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $38,000,000.

On page 3, line 10, increase the amount by $130,000,000.

On page 3, line 11, increase the amount by $153,000,000.

On page 3, line 12, increase the amount by $268,000,000.

On page 3, line 13, increase the amount by $321,000,000.

On page 3, line 14, increase the amount by $385,000,000.

On page 3, line 15, increase the amount by $460,000,000.

On page 3, line 16, increase the amount by $551,000,000.

On page 3, line 17, increase the amount by $658,000,000.

On page 3, line 18, increase the amount by $785,000,000.

On page 3, line 19, increase the amount by $936,000,000.

On page 3, line 23, increase the amount by $38,000,000.

On page 4, line 1, increase the amount by $130,000,000.

On page 4, line 2, increase the amount by $153,000,000.

On page 4, line 3, increase the amount by $268,000,000.

On page 4, line 4, increase the amount by $321,000,000.

On page 4, line 5, increase the amount by $385,000,000.

On page 4, line 6, increase the amount by $460,000,000.

On page 4, line 7, increase the amount by $551,000,000.

On page 4, line 8, increase the amount by $658,000,000.

On page 4, line 9, increase the amount by $785,000,000.

On page 4, line 10, increase the amount by $936,000,000.

On page 4, line 15, increase the amount by $272,000,000.

On page 4, line 16, increase the amount by $269,000,000.

On page 4, line 17, increase the amount by $269,000,000.

On page 4, line 18, increase the amount by $267,000,000.

On page 4, line 19, increase the amount by $262,000,000.

On page 4, line 20, increase the amount by $253,000,000.

On page 4, line 21, increase the amount by $240,000,000.

On page 4, line 22, decrease the amount by $220,000,000.

On page 4, line 23, decrease the amount by $193,000,000.

On page 4, line 24, decrease the amount by $156,000,000.

On page 5, line 5, increase the amount by $11,000,000.

On page 5, line 6, increase the amount by $187,000,000.

On page 5, line 7, increase the amount by $255,000,000.

On page 5, line 8, increase the amount by $267,000,000.

On page 5, line 9, increase the amount by $262,000,000.

On page 5, line 10, increase the amount by $253,000,000.

On page 5, line 11, increase the amount by $240,000,000.

On page 5, line 12, decrease the amount by $220,000,000.

On page 5, line 13, decrease the amount by $193,000,000.

On page 5, line 14, decrease the amount by $156,000,000.

On page 5, line 17, decrease the amount by $38,000,000.

On page 5, line 18, decrease the amount by $119,000,000.

On page 5, line 19, increase the amount by $34,000,000.

On page 5, line 20, decrease the amount by $13,000,000.

On page 5, line 21, decrease the amount by $54,000,000.

On page 5, line 22, decrease the amount by $123,000,000.

On page 5, line 23, decrease the amount by $207,000,000.

On page 5, line 24, decrease the amount by $311,000,000.

On page 5, line 25, decrease the amount by $438,000,000.

On page 6, line 1, decrease the amount by $592,000,000.

On page 6, line 2, decrease the amount by $780,000,000.

On page 6, line 5, decrease the amount by $38,000,000.

On page 6, line 6, decrease the amount by $157,000,000.

On page 6, line 7, decrease the amount by $124,000,000.

On page 6, line 8, decrease the amount by $137,000,000.

On page 6, line 8, decrease the amount by $191,000,000.

On page 6, line 10, decrease the amount by $314,000,000.

On page 6, line 11, decrease the amount by $520,000,000.

On page 6, line 12, decrease the amount by $832,000,000.

On page 6, line 13, decrease the amount by $1,270,000,000.

On page 6, line 14, decrease the amount by $1,862,000,000.

On page 6, line 15, decrease the amount by $2,642,000,000.

On page 6, line 18, decrease the amount by $38,000,000.

On page 6, line 19, decrease the amount by $157,000,000.

On page 6, line 20, decrease the amount by $124,000,000.

On page 6, line 21, decrease the amount by $137,000,000.

On page 6, line 22, decrease the amount by $191,000,000.

On page 6, line 23, decrease the amount by $314,000,000.

On page 6, line 24, decrease the amount by $520,000,000.

On page 6, line 25, decrease the amount by $832,000,000.

On page 7, line 1, decrease the amount by $1,270,000,000.

On page 7, line 2, decrease the amount by $1,862,000,000.

On page 7, line 3, decrease the amount by $2,642,000,000.

On page 25, line 16, increase the amount by $275,000,000.

On page 25, line 17, increase the amount by $14,000,000.

On page 25, line 20, increase the amount by $275,000,000.

On page 25, line 21, increase the amount by $193,000,000.

On page 25, line 24, increase the amount by $275,000,000.

On page 25, line 25, increase the amount by $261,000,000.

On page 26, line 3, increase the amount by $275,000,000.

On page 26, line 4, increase the amount by $275,000,000.

On page 26, line 7, increase the amount by $275,000,000.

On page 26, line 8, increase the amount by $275,000,000.

On page 26, line 11, increase the amount by $275,000,000.

On page 26, line 12, increase the amount by $275,000,000.

On page 26, line 15, increase the amount by $275,000,000.

On page 26, line 16, increase the amount by $275,000,000.

On page 26, line 19, increase the amount by $275,000,000.

On page 26, line 20, increase the amount by $275,000,000.

On page 26, line 23, increase the amount by $275,000,000.

On page 26, line 24, increase the amount by $275,000,000.

On page 27, line 2, increase the amount by $275,000,000.

On page 27, line 3, increase the amount by $275,000,000.

On page 40, line 6, decrease the amount by $3,000,000.

On page 40, line 7, decrease the amount by $3,000,000.

On page 40, line 10, decrease the amount by $6,000,000.

On page 40, line 11, decrease the amount by $6,000,000.

On page 40, line 14, decrease the amount by $6,000,000.

On page 40, line 15, decrease the amount by $6,000,000.

On page 40, line 18, decrease the amount by $8,000,000.

On page 40, line 19, decrease the amount by $8,000,000.

On page 40, line 22, decrease the amount by $13,000,000.

On page 40, line 23, decrease the amount by $13,000,000.

On page 41, line 2, decrease the amount by $22,000,000.

On page 41, line 3, decrease the amount by $22,000,000.

On page 41, line 6, decrease the amount by $35,000,000.

On page 41, line 7, decrease the amount by $35,000,000.

On page 41, line 10, decrease the amount by $55,000,000.

On page 41, line 11, decrease the amount by $55,000,000.

On page 41, line 14, decrease the amount by $82,000,000.

On page 41, line 15, decrease the amount by $82,000,000.

On page 41, line 18, decrease the amount by $119,000,000.

On page 41, line 19, decrease the amount by $119,000,000.

On page 47, line 5, increase the amount by $275,000,000.

On page 47, line 6, increase the amount by $14,000,000.

On page 47, line 14, increase the amount by $275,000,000.

On page 47, line 15, increase the amount by $193,000,000.

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**SA 320.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 end for fiscal year 2005 through 2013; which was ordered to lie on the table, as follows:

On page 3, line 10, increase the amount by $1,081,000,000.

On page 3, line 11, increase the amount by $1,349,000,000.

On page 3, line 12, increase the amount by $1,443,000,000.

On page 3, line 13, increase the amount by $1,505,000,000.

On page 3, line 14, increase the amount by $1,568,000,000.

On page 3, line 15, increase the amount by $1,620,000,000.

On page 3, line 16, increase the amount by $1,667,000,000.

On page 3, line 17, increase the amount by $1,721,000,000.

On page 3, line 18, increase the amount by $1,777,000,000.

On page 3, line 19, increase the amount by $1,833,000,000.

On page 4, line 1, increase the amount by $1,081,000,000.

On page 4, line 2, increase the amount by $1,349,000,000.

On page 4, line 3, increase the amount by $1,443,000,000.

On page 4, line 4, increase the amount by $1,505,000,000.

On page 4, line 5, increase the amount by $1,568,000,000.

On page 4, line 6, increase the amount by $1,620,000,000.

On page 4, line 7, increase the amount by $1,667,000,000.

On page 4, line 8, increase the amount by $1,721,000,000.

On page 4, line 9, increase the amount by $1,777,000,000.

On page 4, line 10, increase the amount by $1,833,000,000.

On page 4, line 15, increase the amount by $282,000,000.

On page 4, line 16, increase the amount by $224,000,000.

On page 4, line 17, increase the amount by $152,000,000.

On page 4, line 18, increase the amount by $75,000,000.

On page 4, line 19, decrease the amount by $6,000,000.

On page 4, line 20, decrease the amount by $94,000,000.

On page 4, line 21, decrease the amount by $191,000,000.

On page 4, line 22, decrease the amount by $294,000,000.

On page 4, line 23, decrease the amount by $405,000,000.

On page 4, line 24, decrease the amount by $526,000,000.

On page 5, line 5, increase the amount by $57,000,000.

On page 5, line 6, increase the amount by $104,000,000.

On page 5, line 7, increase the amount by $92,000,000.

On page 5, line 8, increase the amount by $45,000,000.

On page 5, line 9, decrease the amount by 21,000,000.

On page 5, line 10, decrease the amount by $109,000,000.

On page 5, line 11, decrease the amount by $206,000,000.

On page 5, line 12, decrease the amount by $309,000,000.

On page 5, line 13, decrease the amount by $420,000,000.

On page 5, line 14, decrease the amount by $541,000,000.

On page 5, line 18, increase the amount by $1,024,000,000.

On page 5, line 19, increase the amount by $1,245,000,000.

On page 5, line 20, increase the amount by $1,351,000,000.

On page 5, line 21, increase the amount by $1,460,000,000.

On page 5, line 22, increase the amount by $1,589,000,000.

On page 5, line 23, increase the amount by $1,729,000,000.

On page 5, line 24, increase the amount by $1,873,000,000.

On page 5, line 25, increase the amount by $2,030,000,000.

On page 6, line 1, increase the amount by $2,197,000,000.

On page 6, line 2, increase the amount by $2,374,000,000.

On page 6, line 6, decrease the amount by $1,024,000,000.

On page 6, line 7, decrease the amount by $2,269,000,000.

On page 6, line 8, decrease the amount by $3,620,000,000.

On page 6, line 8, decrease the amount by $5,080,000,000.

On page 6, line 10, decrease the amount by $6,669,000,000.

On page 6, line 11, decrease the amount by $8,399,000,000.

On page 6, line 12, decrease the amount by $10,271,000,000.

On page 6, line 13, decrease the amount by $12,301,000,000.

On page 6, line 14, decrease the amount by $14,498,000,000.

On page 6, line 15, decrease the amount by $16,872,000,000.

On page 6, line 19, decrease the amount by $1,024,000,000.

On page 6, line 20, decrease the amount by $2,269,000,000.

On page 6, line 21, decrease the amount by $3,620,000,000.

On page 6, line 22, decrease the amount by $5,080,000,000.

On page 6, line 23, decrease the amount by $6,669,000,000.

On page 6, line 24, decrease the amount by $8,399,000,000.

On page 6, line 25, decrease the amount by $10,271,000,000.

On page 7, line 1, decrease the amount by $12,301,000,000.

On page 7, line 2, decrease the amount by $14,498,000,000.

On page 7, line 3, decrease the amount by $16,872,000,000.

On page 16, line 11, increase the amount by $300,000,000.

On page 16, line 12, increase the amount by $75,000,000.

On page 16, line 15, increase the amount by $300,000,000.

On page 16, line 16, increase the amount by $180,000,000.

On page 16, line 19, increase the amount by $300,000,000.

On page 16, line 20, increase the amount by $240,000,000.

On page 16, line 23, increase the amount by $300,000,000.

On page 16, line 24, increase the amount by $270,000,000.

On page 17, line 2, increase the amount by $300,000,000.

On page 17, line 3, increase the amount by $285,000,000.

On page 17, line 6, increase the amount by $300,000,000.

On page 17, line 7, increase the amount by $285,000,000.

On page 17, line 10, increase the amount by $300,000,000.

On page 17, line 11, increase the amount by $285,000,000.

On page 17, line 14, increase the amount by $300,000,000.

On page 17, line 15, increase the amount by $285,000,000.

On page 17, line 18, increase the amount by $300,000,000.

On page 17, line 19, increase the amount by $285,000,000.

On page 17, line 22, increase the amount by $300,000,000.

On page 17, line 23, increase the amount by $285,000,000.

On page 40, line 6, decrease the amount by $18,000,000.

On page 40, line 7, decrease the amount by $18,000,000.

On page 40, line 10, decrease the amount by $76,000,000.

On page 40, line 11, decrease the amount by $76,000,000.

On page 40, line 14, decrease the amount by $148,000,000.

On page 40, line 15, decrease the amount by $148,000,000.

On page 40, line 18, decrease the amount by $225,000,000.

On page 40, line 19, decrease the amount by $225,000,000.

On page 40, line 22, decrease the amount by $306,000,000.

On page 40, line 23, decrease the amount by $306,000,000.

On page 41, line 2, decrease the amount by $394,000,000.

On page 41, line 3, decrease the amount by $394,000,000.

On page 41, line 6, decrease the amount by $491,000,000.

On page 41, line 7, decrease the amount by $491,000,000.

On page 41, line 10, decrease the amount by $594,000,000.

On page 41, line 11, decrease the amount by $594,000,000.

On page 41, line 14, decrease the amount by $705,000,000.

On page 41, line 15, decrease the amount by $705,000,000.

On page 41, line 18, decrease the amount by $826,000,000.

On page 41, line 19, decrease the amount by $826,000,000.

On page 47, line 5, increase the amount by $300,000,000.

On page 47, line 6, increase the amount by $75,000,000.

On page 47, line 14, increase the amount by $300,000,000.

On page 47, line 15, increase the amount by $180,000,000.

On page 79, after line 22, add the following:

**SEC. 308. SENSE OF THE SENATE ON SUPERFUND.**

(a) FINDINGS.—The Senate finds that—

(1) the most contaminated, toxic sites in the country are cleaned up through the Superfund Program;

(2) the President's budget assumes sharp reductions in the number of Superfund sites to be cleaned up during fiscal year 2004; and

(3) this resolution provides a significant increase in funding for the Superfund Program for each of the fiscal years 2004 through 2013.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that funding under this resolution assumes that the Federal Government will keep its commitment to the American people to clean up contaminated sites by sufficiently funding the Superfund program to enable a significant increase in the number of toxic waste sites cleaned up during each of the fiscal years 2004 through 2013.

**SA 321.** Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 21, line 23, increase the amount by $50,000,000.

On page 21, line 24, increase the amount by $50,000,000.

On page 79, line 22, insert the following:

**SEC. . INCREASED FUNDING FOR ESSENTIAL AIR SERVICE.**

The budgetary levels in this resolution assume that an additional $50,000,000 will be provided for the Essential Air Service of the Department of Transportation to be derived by reducing any revenue reductions assumed in this resolution.

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**SA 322.** Mr. FEINGOLD (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 57, lines 3 through 5, strike "as adjusted for any changes in revenues or direct spending assumed by such resolution" and insert "based on laws enacted on the date of adoption of that resolution as adjusted for up to $350 billion in revenues or direct spending assumed by section 104 of this resolution".

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**SA 323.** Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $34,000,000.

On page 3, line 11, increase the amount by $10,000,000.

On page 4, line 1, increase the amount by $34,000,000.

On page 4, line 2, increase the amount by $10,000,000.

On page 4, line 15, increase the amount by $22,000,000.

On page 4, line 16, decrease the amount by $1,000,000.

On page 4, line 17, decrease the amount by $1,000,000.

On page 4, line 18, decrease the amount by $1,000,000.

On page 4, line 19, decrease the amount by $1,000,000.

On page 4, line 20, decrease the amount by $1,000,000.

On page 4, line 21, decrease the amount by $2,000,000.

On page 4, line 22, decrease the amount by $2,000,000.

On page 4, line 23, decrease the amount by $2,000,000.

On page 4, line 24, decrease the amount by $2,000,000.

On page 5, line 5, increase the amount by $17,000,000.

On page 5, line 6, increase the amount by $4,000,000.

On page 5, line 7, decrease the amount by $1,000,000.

On page 5, line 8, decrease the amount by $1,000,000.

On page 5, line 9, decrease the amount by $1,000,000.

On page 5, line 10, decrease the amount by $1,000,000.

On page 5, line 11, decrease the amount by $2,000,000.

On page 5, line 12, decrease the amount by $2,000,000.

On page 5, line 13, decrease the amount by $2,000,000.

On page 5, line 14, decrease the amount by $2,000,000.

On page 5, line 18, increase the amount by $17,000,000.

On page 5, line 19, increase the amount by $6,000,000.

On page 5, line 20, increase the amount by $1,000,000.

On page 5, line 21, increase the amount by $1,000,000.

On page 5, line 22, increase the amount by $1,000,000.

On page 5, line 23, increase the amount by $1,000,000.

On page 5, line 24, increase the amount by $1,000,000.

On page 5, line 25, increase the amount by $2,000,000.

On page 6, line 1, increase the amount by $2,000,000.

On page 6, line 2, increase the amount by $2,000,000.

On page 6, line 6, decrease the amount by $17,000,000.

On page 6, line 7, decrease the amount by $23,000,000.

On page 6, line 8, decrease the amount by $24,000,000.

On page 6, line 9, decrease the amount by $26,000,000.

On page 6, line 10, decrease the amount by $27,000,000.

On page 6, line 11, decrease the amount by $28,000,000.

On page 6, line 12, decrease the amount by $30,000,000.

On page 6, line 13, decrease the amount by $31,000,000.

On page 6, line 14, decrease the amount by $33,000,000.

On page 6, line 15, decrease the amount by $35,000,000.

On page 6, line 19, decrease the amount by $17,000,000.

On page 6, line 20, decrease the amount by $23,000,000.

On page 6, line 21, decrease the amount by $24,000,000.

On page 6, line 22, decrease the amount by $26,000,000.

On page 6, line 23, decrease the amount by $27,000,000.

On page 6, line 24, decrease the amount by $28,000,000.

On page 6, line 25, decrease the amount by $30,000,000.

On page 7, line 1, decrease the amount by $31,000,000.

On page 7, line 2, decrease the amount by $33,000,000.

On page 7, line 3, decrease the amount by $35,000,000.

On page 20, line 2, increase the amount by $22,000,000.

On page 20, line 3, increase the amount by $17,000,000.

On page 20, line 7, increase the amount by $15,000,000.

On page 40, line 10, decrease the amount by $1,000,000.

On page 40, line 11, decrease the amount by $1,000,000.

On page 40, line 14, decrease the amount by $1,000,000.

On page 40, line 15, decrease the amount by $1,000,000.

On page 40, line 18, decrease the amount by $1,000,000.

On page 40, line 19, decrease the amount by $1,000,000.

On page 40, line 22, decrease the amount by $1,000,000.

On page 40, line 23, decrease the amount by $1,000,000.

On page 41, line 2, decrease the amount by $1,000,000.

On page 41, line 3, decrease the amount by $1,000,000.

On page 41, line 6, decrease the amount by $2,000,000.

On page 41, line 7, decrease the amount by $2,000,000.

On page 41, line 10, decrease the amount by $2,000,000.

On page 41, line 11, decrease the amount by $2,000,000.

On page 41, line 14, decrease the amount by $2,000,000.

On page 41, line 15, decrease the amount by $2,000,000.

On page 41, line 18, decrease the amount by $2,000,000.

On page 41, line 19, decrease the amount by $2,000,000.

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**SA 324.** Mrs. LINCOLN (for herself, Ms. LANDRIEU, and Mr. PRYOR) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 45, line 24, decrease the amount by $20,279,000,000.

On page 3, line 10, increase the amount by $343,000,000.

On page 3, line 11, increase the amount by $919,000,000.

On page 3, line 12, increase the amount by $1,604,000,000.

On page 3, line 13, increase the amount by $1,968,000,000.

On page 3, line 14, increase the amount by $2,151,000,000.

On page 3, line 15, increase the amount by $2,311,000,000.

On page 3, line 16, increase the amount by $2,475,000,000.

On page 3, line 17, increase the amount by $2,648,000,000.

On page 3, line 18, increase the amount by $2,832,000,000.

On page 3, line 19, increase the amount by $3,028,000,000.

On page 4, line 1, increase the amount by $343,000,000.

On page 4, line 2, increase the amount by $919,000,000.

On page 4, line 3, increase the amount by $1,604,000,000.

On page 4, line 4, increase the amount by $1,968,000,000.

On page 4, line 5, increase the amount by $2,151,000,000.

On page 4, line 6, increase the amount by $2,311,000,000.

On page 4, line 7, increase the amount by $2,475,000,000.

On page 4, line 8, increase the amount by $2,648,000,000.

On page 4, line 9, increase the amount by $2,832,000,000.

On page 4, line 10, increase the amount by $3,028,000,000.

On page 4, line 15, increase the amount by $426,000,000.

On page 4, line 16, increase the amount by $1,055,000,000.

On page 4, line 17, increase the amount by $1,768,000,000.

On page 4, line 18, increase the amount by $2,059,000,000.

On page 4, line 19, increase the amount by $2,205,000,000.

On page 4, line 20, increase the amount by $2,360,000,000.

On page 4, line 21, increase the amount by $2,525,000,000.

On page 4, line 22, increase the amount by $2,701,000,000.

On page 4, line 23, increase the amount by $2,888,000,000.

On page 4, line 24, increase the amount by $3,088,000,000.

On page 5, line 5, increase the amount by $343,000,000.

On page 5, line 6, increase the amount by $919,000,000.

On page 5, line 7, increase the amount by $1,604,000,000.

On page 5, line 8, increase the amount by $1,968,000,000.

On page 5, line 9, increase the amount by $2,151,000,000.

On page 5, line 10, increase the amount by $2,311,000,000.

On page 5, line 11, increase the amount by $2,475,000,000.

On page 5, line 12, increase the amount by $2,648,000,000.

On page 5, line 13, increase the amount by $2,832,000,000.

On page 5, line 14, increase the amount by $3,028,000,000.

On page 9, line 2, increase the amount by $426,000,000.

On page 9, line 3, increase the amount by $343,000,000.

On page 9, line 6, increase the amount by $1,055,000,000.

On page 9, line 7, increase the amount by $919,000,000.

On page 9, line 10, increase the amount by $1,768,000,000.

On page 9, line 11, increase the amount by $1,604,000,000.

On page 9, line 14, increase the amount by $2,059,000,000.

On page 9, line 15, increase the amount by $1,968,000,000.

On page 9, line 18, increase the amount by $2,205,000,000.

On page 9, line 19, increase the amount by $2,151,000,000.

On page 9, line 22, increase the amount by $2,360,000,000.

On page 9, line 23, increase the amount by $2,311,000,000.

On page 10, line 2, increase the amount by $2,525,000,000.

On page 10, line 3, increase the amount by $2,475,000,000.

On page 10, line 6, increase the amount by $2,701,000,000.

On page 10, line 7, increase the amount by $.2,648,000,000

On page 10, line 10, increase the amount by $2,888,000,000.

On page 10, line 11, increase the amount by $2,832,000,000.

On page 10, line 14, increase the amount by $3,088,000,000.

On page 10, line 15, increase the amount by $3,028,000,000.

On page 47, line 5, increase the amount by $426,000,000.

On page 47, line 6, increase the amount by $343,000,000.

On page 47, line 14, increase the amount by $1,055,000,000.

On page 47, line 15, increase the amount by $919,000,000.

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**SA 325.** Mrs. CLINTON (for herself, Mr. SCHUMER, and Mr. DODD) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 12, line 19, decrease the amount by $5,668,000.

On page 12, line 20, decrease the amount by $2,551,000.

On page 12, line 24, decrease the amount by $2,267,000.

On page 13, line 3, decrease the amount by $680,000.

On page 13, line 7, decrease the amount by $113,000.

On page 13, line 11, decrease the amount by $57,000.

On page 18, line 5, increase the amount by $5,668,000.

On page 18, line 7, increase the amount by $2,551,000.

On page 18, line 11, increase the amount by $2,267,000.

On page 18, line 15, increase the amount by $680,000.

On page 18, line 19, increase the amount by $113,000.

On page 18, line 23, increase the amount by $57,000.

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**SA 326.** Mr. LEVIN (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

**SEC. . SENSE OF THE SENATE CONCERNING FUNDING FOR DRUG TREATMENT PROGRAMS.**

It is the sense of the Senate that the functional totals in this resolution assume that $20,000,000 from funds designated for drug interdiction should be used for service-oriented targeted grants for the utilization of substances that block the craving for heroin and that are newly approved for such use by the Food and Drug Administration.

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**SA 327.** Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $380,000,000.

On page 3, line 11, increase the amount by $1,140,000,000.

On page 3, line 12, increase the amount by $2,280,000,000.

On page 3, line 13, increase the amount by $2,280,000,000.

On page 3, line 14, increase the amount by $1,140,000,000.

On page 4, line 1, increase the amount by $801,000,000.

On page 4, line 2, increase the amount by $1,140,000,000.

On page 4, line 3, increase the amount by $2,280,000,000.

On page 4, line 4, increase the amount by $2,280,000,000.

On page 4, line 5, increase the amount by $1,140,000,000.

On page 4, line 15, increase the amount by $3,797,000,000.

On page 4, line 16, decrease the amount by $23,000,000.

On page 4, line 17, decrease the amount by $72,000,000.

On page 4, line 18, decrease the amount by $138,000,000.

On page 4, line 19, decrease the amount by $195,000,000.

On page 4, line 20, decrease the amount by $224,000,000.

On page 4, line 21, decrease the amount by $237,000,000.

On page 4, line 22, decrease the amount by $250,000,000.

On page 4, line 23, decrease the amount by $283,000,000.

On page 4, line 24, decrease the amount by $278,000,000.

On page 5, line 5, increase the amount by $187,000,000.

On page 5, line 6, increase the amount by $547,000,000.

On page 5, line 7, increase the amount by $1,068,000,000.

On page 5, line 8, increase the amount by $1,002,000,000.

On page 5, line 9, increase the amount by $261,000,000.

On page 5, line 10, decrease the amount by $224,000,000.

On page 5, line 11, decrease the amount by $237,000,000.

On page 5, line 12, decrease the amount by $250,000,000.

On page 54, line 13, decrease the amount by $263,000,000.

On page 5, line 14, decrease the amount by $278,000,000.

On page 5, line 18, increase the amount by $193,000,000.

On page 5, line 19, increase the amount by $593,000,000.

On page 5, line 20, increase the amount by $1,212,000,000.

On page 5, line 21, increase the amount by $1,278,000,000.

On page 5, line 22, increase the amount by $879,000,000.

On page 5, line 23, increase the amount by $224,000,000.

On page 5, line 24, increase the amount by $237,000,000.

On page 5, line 25, increase the amount by $250,000,000.

On page 6, line 1, increase the amount by $263,000,000.

On page 6, line 2, increase the amount by $278,000,000.

On page 6, line 6, decrease the amount by $193,000,000.

On page 6, line 7, decrease the amount by $787,000,000.

On page 6, line 8, decrease the amount by $1,998,000,000.

On page 6, line 9, decrease the amount by $3,276,000,000.

On page 6, line 10, decrease the amount by $4,156,000,000.

On page 6, line 11, decrease the amount by $4,380,000,000.

On page 6, line 12, decrease the amount by $4,617,000,000.

On page 6, line 13, decrease the amount by $4,867,000,000.

On page 6, line 14, decrease the amount by $5,130,000,000.

On page 6, line 15, decrease the amount by $5,407,000,000.

On page 6, line 19, decrease the amount by $193,000,000.

On page 6, line 20, decrease the amount by $787,000,000.

On page 6, line 21, decrease the amount by $1,998,000,000.

On page 6, line 22, decrease the amount by $3,276,000,000.

On page 6, line 23, decrease the amount by $4,156,000,000.

On page 6, line 24, decrease the amount by $4,380,000,000.

On page 6, line 25, decrease the amount by $4,617,000,000.

On page 7, line 1, decrease the amount by $4,867,000,000.

On page 7, line 2, decrease the amount by $5,130,000,000.

On page 7, line 3, decrease the amount by $5,407,000,000.

On page 16, line 11, increase the amount by $3,800,000,000.

On page 16, line 12, increase the amount by $190,000,000.

On page 16, line 16, increase the amount by $570,000,000.

On page 16, line 20, increase the amount by $1,140,000,000.

On page 16, line 24, increase the amount by $1,140,000,000.

On page 17, line 3, increase the amount by $570,000,000.

On page 40, line 6, decrease the amount by $3,000,000.

On page 40, line 7, decrease the amount by $3,000,000.

On page 40, line 10, decrease the amount by $23,000,000.

On page 40, line 11, decrease the amount by $23,000,000.

On page 40, line 14, decrease the amount by $72,000,000.

On page 40, line 15, decrease the amount by $72,000,000.

On page 40, line 18, decrease the amount by $138,000,000.

On page 40, line 19, decrease the amount by $138,000,000.

On page 40, line 22, decrease the amount by $195,000,000.

On page 40, line 23, decrease the amount by $195,000,000.

On page 41, line 2, decrease the amount by $224,000,000.

On page 41, line 3, decrease the amount by $224,000,000.

On page 41, line 6, decrease the amount by $237,000,000.

On page 41, line 7, decrease the amount by $237,000,000.

On page 41, line 10, decrease the amount by $250,000,000.

On page 41, line 11, decrease the amount by $250,000,000.

On page 41, line 14, decrease the amount by $263,000,000.

On page 41, line 15, decrease the amount by $263,000,000.

On page 41, line 18, decrease the amount by $278,000,000.

On page 41, line 19, decrease the amount by $278,000,000.

On page 45, line 24, decrease the amount by $7,220,000,000.

On page 47, line 5, increase the amount by $3,800,000,000.

On page 47, line 6, increase the amount by $190,000,000.

On page 47, line 15, increase the amount by $570,000,000.

**SA 328.** Mr. WYDEN (for himself, Mr. KYL, Mr. BINGAMAN, Mrs. MURRAY, Mr. JOHNSON, Mr. KERRY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 16, line 11, increase the amount by $500,000,000.

On page 16, line 12, increase the amount by $325,000,000.

On page 16, line 16, increase the amount by $85,000,000.

On page 16, line 20, increase the amount by $50,000,000.

On page 16, line 24, increase the amount by $25,000,000.

On page 17, line 3, increase the amount by $15,000,000.

On page 42, line 2, decrease the amount by $500,000,000.

On page 42, line 3, decrease the amount by $325,000,000.

On page 42, line 7, decrease the amount by $85,000,000.

On page 42, line 11, decrease the amount by $50,000,000.

On page 42, line 15, decrease the amount by $25,000,000.

On page 42, line 19, decrease the amount by $15,000,000.

**SA 329.** Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,798,000,000.

On page 3, line 11, increase the amount by $1,798,000,000.

On page 3, line 12, increase the amount by $29,000,000.

On page 3, line 13, increase the amount by $9,000,000.

On page 3, line 14, increase the amount by $1,000,000.

On page 4, line 1, increase the amount by $1,798,000,000.

On page 4, line 2, increase the amount by $192,000,000.

On page 4, line 3, increase the amount by $29,000,000.

On page 4, line 4, increase the amount by $9,000,000.

On page 4, line 5, increase the amount by $1,000,000.

On page 4, line 15, increase the amount by $1,003,000,000.

On page 4, line 16, decrease the amount by $43,000,000.

On page 4, line 17, decrease the amount by $52,000,000.

On page 4, line 18, decrease the amount by $58,000,000.

On page 4, line 19, decrease the amount by $61,000,000.

On page 4, line 20, decrease the amount by $65,000,000.

On page 4, line 21, decrease the amount by $69,000,000.

On page 4, line 22, decrease the amount by $73,000,000.

On page 4, line 23, decrease the amount by $77,000,000.

On page 4, line 24, decrease the amount by $81,000,000.

On page 5, line 5, increase the amount by $883,000,000.

On page 5, line 6, increase the amount by $53,000,000.

On page 5, line 7, decrease the amount by $37,000,000.

On page 5, line 8, decrease the amount by $54,000,000.

On page 5, line 9, decrease the amount by $61,000,000.

On page 5, line 10, decrease the amount by $65,000,000.

On page 5, line 11, decrease the amount by $69,000,000.

On page 5, line 12, decrease the amount by $73,000,000.

On page 5, line 13, decrease the amount by $77,000,000.

On page 5, line 14, decrease the amount by $81,000,000.

On page 5, line 18, increase the amount by $915,000,000.

On page 5, line 19, increase the amount by $139,000,000.

On page 5, line 20, increase the amount by $66,000,000.

On page 5, line 21, increase the amount by $63,000,000.

On page 5, line 22, increase the amount by $62,000,000.

On page 5, line 23, increase the amount by $65,000,000.

On page 5, line 24, increase the amount by $69,000,000.

On page 5, line 25, increase the amount by $73,000,000.

On page 6, line 1, increase the amount by $77,000,000.

On page 6, line 2, increase the amount by $81,000,000.

On page 6, line 6, decrease the amount by $915,000,000.

On page 6, line 7, decrease the amount by $1,054,000,000.

On page 6, line 8, decrease the amount by $1,121,000,000.

On page 6, line 9, decrease the amount by $1,183,000,000.

On page 6, line 10, decrease the amount by $1,245,000,000.

On page 6, line 11, decrease the amount by $1,311,000,000.

On page 6, line 12, decrease the amount by $1,380,000,000.

On page 6, line 13, decrease the amount by $1,453,000,000.

On page 6, line 14, decrease the amount by $1,531,000,000.

On page 6, line 15, decrease the amount by $1,612,000,000.

On page 6, line 19, decrease the amount by $915,000,000.

On page 6, line 20, decrease the amount by $1,054,000,000.

On page 6, line 21, decrease the amount by $1,121,000,000.

On page 6, line 22, decrease the amount by $1,183,000,000.

On page 6, line 23, decrease the amount by $1,245,000,000.

On page 6, line 24, decrease the amount by $1,311,000,000.

On page 6, line 25, decrease the amount by $1,380,000,000.

On page 7, line 1, decrease the amount by $1,453,000,000.

On page 7, line 2, decrease the amount by $1,531,000,000.

On page 7, line 3, decrease the amount by $1,612,000,000.

On page 34, line 19, increase the amount by $1,019,000,000.

On page 34, line 20, increase the amount by $899,000,000.

On page 34, line 24, increase the amount by $96,000,000.

On page 35, line 3, increase the amount by $15,000,000.

On page 35, line 7, increase the amount by $4,000,000.

On page 40, line 6, decrease the amount by $16,000,000.

On page 40, line 7, decrease the amount by $16,000,000.

On page 40, line 10, decrease the amount by $43,000,000.

On page 40, line 11, decrease the amount by $43,000,000.

On page 40, line 14, decrease the amount by $52,000,000.

On page 40, line 15, decrease the amount by $52,000,000.

On page 40, line 18, decrease the amount by $58,000,000.

On page 40, line 19, decrease the amount by $58,000,000.

On page 40, line 22, decrease the amount by $61,000,000.

On page 40, line 23, decrease the amount by $61,000,000.

On page 41, line 2, decrease the amount by $65,000,000.

On page 41, line 3, decrease the amount by $65,000,000.

On page 41, line 6, decrease the amount by $69,000,000.

On page 41, line 7, decrease the amount by $69,000,000.

On page 41, line 10, decrease the amount by $73,000,000.

On page 41, line 11, decrease the amount by $73,000,000.

On page 41, line 14, decrease the amount by $77,000,000.

On page 41, line 15, decrease the amount by $77,000,000.

On page 41, line 18, decrease the amount by $81,000,000.

On page 41, line 19, decrease the amount by $81,000,000.

On page 45, line 24, decrease the amount by $2,029,000,000.

On page 47, line 5, increase the amount by $1,019,000,000.

On page 47, line 6, increase the amount by $899,000,000.

On page 47, line 15, increase the amount by $96,000,000.

**SA 330.** Mr. CARPER (for himself, Mr. CHAFEE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

Strike all after the resolving clause and insert the following:

### SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2004 including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013 as authorized by section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632).

## TITLE I—LEVELS AND AMOUNTS

### SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 2003 through 2013:

(1) Federal revenues.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2003: $1,343,134,000,000.
Fiscal year 2004: $1,441,770,000,000.
Fiscal year 2005: $1,604,926,000,000.
Fiscal year 2006: $1,746,972,000,000.
Fiscal year 2007: $1,863,966,000,000.
Fiscal year 2008: $1,981,577,000,000.
Fiscal year 2009: $2,099,550,000,000.
Fiscal year 2010: $2,226,842,000,000.
Fiscal year 2011: $2,460,796,000,000.
Fiscal year 2012: $2,637,779,000,000.
Fiscal year 2013: $2,778,210,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2003: $16,700,000,000.
Fiscal year 2004: $30,600,000,000.
Fiscal year 2005: $12,100,000,000.
Fiscal year 2006: $6,300,000,000.
Fiscal year 2007: −$10,800,000,000.
Fiscal year 2008: −$18,600,000,000.
Fiscal year 2009: −$21,200,000,000.
Fiscal year 2010: −$33,800,000,000.
Fiscal year 2011: −$33,300,000,000.
Fiscal year 2012: $0.
Fiscal year 2013: $0.

(2) New budget authority.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2003: $1,784,216,000,000.
Fiscal year 2004: $1,843,018,000,000.
Fiscal year 2005: $1,951,195,000,000.
Fiscal year 2006: $2,071,194,000,000.
Fiscal year 2007: $2,171,250,000,000.
Fiscal year 2008: $2,276,515,000,000.
Fiscal year 2009: $2,373,830,000,000.
Fiscal year 2010: $2,472,581,000,000.
Fiscal year 2011: $2,585,874,000,000.
Fiscal year 2012: $2,662,041,000,000.
Fiscal year 2013: $2,768,930,000,000.

(3) Budget outlays.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2003: $1,774,850,000,000.
Fiscal year 2004: $1,851,551,000,000.
Fiscal year 2005: $1,942,306,000,000.
Fiscal year 2006: $2,045,298,000,000.
Fiscal year 2007: $2,140,438,000,000.
Fiscal year 2008: $2,249,176,000,000.
Fiscal year 2009: $2,355,806,000,000.
Fiscal year 2010: $2,461,760,000,000.
Fiscal year 2011: $2,586,165,000,000.
Fiscal year 2012: $2,653,413,000,000.
Fiscal year 2013: $2,776,371,000,000.

(4) Deficits.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2003: −$431,716,000,000.
Fiscal year 2004: −$409,781,000,000.
Fiscal year 2005: −$337,380,000,000.
Fiscal year 2006: −$298,326,000,000.
Fiscal year 2007: −$276,472,000,000.
Fiscal year 2008: −$267,599,000,000.
Fiscal year 2009: −$256,276,000,000.
Fiscal year 2010: −$234,918,000,000.
Fiscal year 2011: −$125,369,000,000.
Fiscal year 2012: −$15,634,000,000.
Fiscal year 2013: −$1,839,000,000.

(5) Public debt.—The appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,668,069,000,000.
Fiscal year 2004: $7,179,838,000,000.
Fiscal year 2005: $7,621,902,000,000.
Fiscal year 2006: $8,048,310,000,000.
Fiscal year 2007: $8,457,629,000,000.
Fiscal year 2008: $8,861,982,000,000.
Fiscal year 2009: $9,258,280,000,000.
Fiscal year 2010: $9,637,286,000,000.
Fiscal year 2011: $9,911,600,000,000.
Fiscal year 2012: $10,082,375,000,000.
Fiscal year 2013: $10,239,283,000,000.

(6) Debt held by the public.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2003: $3,839,069,000,000.
Fiscal year 2004: $4,072,838,000,000.
Fiscal year 2005: $4,221,902,000,000.
Fiscal year 2006: $4,321,310,000,000.
Fiscal year 2007: $4,378,629,000,000.
Fiscal year 2008: $4,406,982,000,000.
Fiscal year 2009: $4,404,280,000,000.
Fiscal year 2010: $4,361,286,000,000.
Fiscal year 2011: $4,191,600,000,000.
Fiscal year 2012: $3,895,375,000,000.
Fiscal year 2013: $3,568,283,000,000.

### SEC. 102. SOCIAL SECURITY.

(a) Social Security Revenues.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2003: $531,607,000,000.
Fiscal year 2004: $557,826,000,000.
Fiscal year 2005: $587,785,000,000.
Fiscal year 2006: $619,062,000,000.
Fiscal year 2007: $651,128,000,000.
Fiscal year 2008: $684,409,000,000.
Fiscal year 2009: $719,112,000,000.
Fiscal year 2010: $755,724,000,000.
Fiscal year 2011: $792,122,000,000.
Fiscal year 2012: $829,538,000,000.
Fiscal year 2013: $869,650,000,000.

(b) Social Security Outlays.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2003: $366,296,000,000.
Fiscal year 2004: $380,467,000,000.
Fiscal year 2005: $390,247,000,000.
Fiscal year 2006: $402,579,000,000.
Fiscal year 2007: $415,605,000,000.
Fiscal year 2008: $429,595,000,000.
Fiscal year 2009: $446,203,000,000.
Fiscal year 2010: $464,626,000,000.
Fiscal year 2011: $483,334,000,000.
Fiscal year 2012: $506,507,000,000.
Fiscal year 2013: $533,097,000,000.

### SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 2003 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2003:
(A) New budget authority, $392,494,000,000
(B) Outlays, $386,229,000,000
Fiscal year 2004:
(A) New budget authority, $400,476,000,000
(B) Outlays, $400,882,000,000
Fiscal year 2005:
(A) New budget authority, $420,071,000,000.
(B) Outlays, $414,205,000,000.
Fiscal year 2006:
(A) New budget authority, $440,185,000,000.
(B) Outlays, $426,007,000,000.
Fiscal year 2007:
(A) New budget authority, $460,435,000,000.
(B) Outlays, $438,656,000,000.
Fiscal year 2008:
(A) New budget authority, $480,886,000,000.
(B) Outlays, $462,861,000,000.
Fiscal year 2009:
(A) New budget authority, $487,567,000,000.
(B) Outlays, $476,347,000,000.
Fiscal year 2010:
(A) New budget authority, $493,340,000,000.
(B) Outlays, $486,254,000,000.
Fiscal year 2011:
(A) New budget authority, $501,103,000,000.
(B) Outlays, $498,634,000,000.
Fiscal year 2012:
(A) New budget authority, $509,031,000,000.
(B) Outlays, $499,675,000,000.
Fiscal year 2013:
(A) New budget authority, $517,323,000,000.
(B) Outlays, $512,815,000,000.

(2) International Affairs (150):
Fiscal year 2003:
(A) New budget authority, $22,506,000,000
(B) Outlays, $19,283,000,000.
Fiscal year 2004:
(A) New budget authority, $25,681,000,000.
(B) Outlays, $24,207,000,000.
Fiscal year 2005:
(A) New budget authority, $29,734,000,000.
(B) Outlays, $24,917,000,000.
Fiscal year 2006:
(A) New budget authority, $32,308,000,000.
(B) Outlays, $26,539,000,000.
Fiscal year 2007:
(A) New budget authority, $33,603,000,000.
(B) Outlays, $28,464,000,000.
Fiscal year 2008:
(A) New budget authority, $34,611,000,000.
(B) Outlays, $29,604,000,000.
Fiscal year 2009:
(A) New budget authority, $35,413,000,000.
(B) Outlays, $30,733,000,000.
Fiscal year 2010:
(A) New budget authority, $36,258,000,000.
(B) Outlays, $31,689,000,000.
Fiscal year 2011:
(A) New budget authority, $37,136,000,000.
(B) Outlays, $32,565,000,000.
Fiscal year 2012:
(A) New budget authority, $38,005,000,000.
(B) Outlays, $33,408,000,000.
Fiscal year 2013:
(A) New budget authority, $38,885,000,000.
(B) Outlays, $34,298,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2003:
(A) New budget authority, $23,153,000,000.
(B) Outlays, $21,556,000,000.
Fiscal year 2004:
(A) New budget authority, $23,503,000,000.
(B) Outlays, $22,678,000,000.
Fiscal year 2005:
(A) New budget authority, $24,330,000,000.
(B) Outlays, $23,618,000,000.
Fiscal year 2006:
(A) New budget authority, $25,112,000,000.

(B) Outlays, $24,316,000,000.

Fiscal year 2007:

(A) New budget authority, $25,949,000,000.

(B) Outlays, $25,097,000,000.

Fiscal year 2008:

(A) New budget authority, $26,722,000,000.

(B) Outlays, $25,833,000,000.

Fiscal year 2009:

(A) New budget authority, $27,350,000,000.

(B) Outlays, $26,528,000,000.

Fiscal year 2010:

(A) New budget authority, $28,006,000,000.

(B) Outlays, $27,183,000,000.

Fiscal year 2011:

(A) New budget authority, $28,687,000,000.

(B) Outlays, $27,847,000,000.

Fiscal year 2012:

(A) New budget authority, $29,372,000,000.

(B) Outlays, $28,520,000,000.

Fiscal year 2013:

(A) New budget authority, $30,032,000,000.

(B) Outlays, $29,198,000,000.

(4) Energy (270):

Fiscal year 2003:

(A) New budget authority, $2,074,000,000.

(B) Outlays, $439,000,000.

Fiscal year 2004:

(A) New budget authority, $2,690,000,000.

(B) Outlays, $959,000,000.

Fiscal year 2005:

(A) New budget authority, $2,828,000,000.

(B) Outlays, $1,020,000,000.

Fiscal year 2006:

(A) New budget authority, $2,741,000,000.

(B) Outlays, $1,322,000,000.

Fiscal year 2007:

(A) New budget authority, $2,559,000,000.

(B) Outlays, $1,097,000,000.

Fiscal year 2008:

(A) New budget authority, $3,100,000,000.

(B) Outlays, $1,446,000,000.

Fiscal year 2009:

(A) New budget authority, $3,111,000,000.

(B) Outlays, $1,712,000,000.

Fiscal year 2010:

(A) New budget authority, $3,218,000,000.

(B) Outlays, $1,823,000,000.

Fiscal year 2011:

(A) New budget authority, $3,319,000,000.

(B) Outlays, $2,006,000,000.

Fiscal year 2012:

(A) New budget authority, $3,430,000,000.

(B) Outlays, $2,386,000,000.

Fiscal year 2013:

(A) New budget authority, $3,547,000,000.

(B) Outlays, $2,539,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2003:

(A) New budget authority, $30,816,000,000.

(B) Outlays, $28,940,000,000.

Fiscal year 2004:

(A) New budget authority, $30,237,000,000.

(B) Outlays, $30,357,000,000.

Fiscal year 2005:

(A) New budget authority, $31,084,000,000.

(B) Outlays, $30,996,000,000.

Fiscal year 2006:

(A) New budget authority, $31,824,000,000.

(B) Outlays, $31,998,000,000.

Fiscal year 2007:

(A) New budget authority, $32,384,000,000.

(B) Outlays, $32,168,000,000.

Fiscal year 2008:

(A) New budget authority, $33,240,000,000.

(B) Outlays, $32,612,000,000.

Fiscal year 2009:

(A) New budget authority, $34,577,000,000.

(B) Outlays, $33,835,000,000.

Fiscal year 2010:

(A) New budget authority, $35,647,000,000.

(B) Outlays, $34,857,000,000.

Fiscal year 2011:

(A) New budget authority, $36,684,000,000.

(B) Outlays, $35,870,000,000.

Fiscal year 2012:

(A) New budget authority, $37,629,000,000.

(B) Outlays, $36,772,000,000.

Fiscal year 2013:

(A) New budget authority, $38,549,000,000.

(B) Outlays, $37,769,000,000.

(6) Agriculture (350):

Fiscal year 2003:

(A) New budget authority, $24,418,000,000.

(B) Outlays, $23,365,000,000.

Fiscal year 2004:

(A) New budget authority, $24,629,000,000.

(B) Outlays, $23,693,000,000.

Fiscal year 2005:

(A) New budget authority, $27,028,000,000.

(B) Outlays, $25,695,000,000.

Fiscal year 2006:

(A) New budget authority, $26,841,000,000.

(B) Outlays, $25,587,000,000.

Fiscal year 2007:

(A) New budget authority, $26,296,000.

(B) Outlays, $25,103,000,000.

Fiscal year 2008:

(A) New budget authority, $25,494,000,000.

(B) Outlays, $24,368,000,000.

Fiscal year 2009:

(A) New budget authority, $26,079,000,000.

(B) Outlays, $25,111,000,000.

Fiscal year 2010:

(A) New budget authority, $25,531,000,000.

(B) Outlays, $24,701,000,000.

Fiscal year 2011:

(A) New budget authority, $24,971,000,000.

(B) Outlays, $24,157,000,000.

Fiscal year 2012:

(A) New budget authority, $24,550,000,000.

(B) Outlays, $23,752,000,000.

Fiscal year 2013:

(A) New budget authority, $24,276,000,000.

(B) Outlays, $23,472,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2003:

(A) New budget authority, $8,812,000,000.

(B) Outlays, $5,881,000,000.

Fiscal year 2004:

(A) New budget authority, $7,513,000,000.

(B) Outlays, $3,630,000,000.

Fiscal year 2005:

(A) New budget authority, $8,778,000,000.

(B) Outlays, $4,132,000,000.

Fiscal year 2006:

(A) New budget authority, $8,337,000,000.

(B) Outlays, $3,193,000,000.

Fiscal year 2007:

(A) New budget authority, $8,670,000,000.

(B) Outlays, $2,708,000,000.

Fiscal year 2008:

(A) New budget authority, $8,798,000,000.

(B) Outlays, $2,300,000,000.

Fiscal year 2009:

(A) New budget authority, $9,013,000,000.

(B) Outlays, $2,448,000,000.

Fiscal year 2010:

(A) New budget authority, $9,065,000,000.

(B) Outlays, $2,168,000,000.

Fiscal year 2011:

(A) New budget authority, $9,262,000,000.

(B) Outlays, $1,786,000,000.

Fiscal year 2012:

(A) New budget authority, $9,347,000,000.

(B) Outlays, $1,508,000,000.

Fiscal year 2013:

(A) New budget authority, $9,556,000,000.

(B) Outlays, $1,731,000,000.

(8) Transportation (400):

Fiscal year 2003:

(A) New budget authority, $64,091,000,000.

(B) Outlays, $67,847,000,000.

Fiscal year 2004:

(A) New budget authority, $59,741,000,000.

(B) Outlays, $68,763,000,000.

Fiscal year 2005:

(A) New budget authority, $64,072,000,000.

(B) Outlays, $66,422,000,000.

Fiscal year 2006:

(A) New budget authority, $64,454,000,000.

(B) Outlays, $66,283,000,000.

Fiscal year 2007:

(A) New budget authority, $64,948,000,000.

(B) Outlays, $67,388,000,000.

Fiscal year 2008:

(A) New budget authority, $65,521,00,000.

(B) Outlays, $68,758,000,000.

Fiscal year 2009:

(A) New budget authority, $66,303,000,000.

(B) Outlays, $70,299,000,000.

Fiscal year 2010:

(A) New budget authority, $67,104,000,000.

(B) Outlays, $71,902,000,000.

Fiscal year 2011:

(A) New budget authority, $67,947,000,000.

(B) Outlays, $73,629,000,000.

Fiscal year 2012:

(A) New budget authority, $68,819,000,000.

(B) Outlays, $75,449,000,000.

Fiscal year 2013:

(A) New budget authority, $69,726,000,000.

(B) Outlays, $77,306,000,000.

(9) Community and Regional Development (450):

Fiscal year 2003:

(A) New budget authority, $12,251,000,000.

(B) Outlays, $15,994,000,000.

Fiscal year 2004:

(A) New budget authority, $14,435,000,000.

(B) Outlays, $16,085,000,000.

Fiscal year 2005:

(A) New budget authority, $14,628,000,000.

(B) Outlays, $16,231,000,000.

Fiscal year 2006:

(A) New budget authority, $14,929,000,000.

(B) Outlays, $15,385,000,000.

Fiscal year 2007:

(A) New budget authority, $15.259,000,0003

(B) Outlays, $15,174,000,000.

Fiscal year 2008:

(A) New budget authority, $15,652,000,000.

(B) Outlays, $14,756,000,000.

Fiscal year 2009:

(A) New budget authority, $16,019,000,000.

(B) Outlays, $15,065,000,000.

Fiscal year 2010:

(A) New budget authority, $16,406,000,000.

(B) Outlays, $15,414,000,000.

Fiscal year 2011:

(A) New budget authority, $16,806,000,000.

(B) Outlays, $15,800,000,000.

Fiscal year 2012:

(A) New budget authority, $17,205,000,000.

(B) Outlays, $16,176,000,000.

Fiscal year 2013:

(A) New budget authority, $17,610,000,000.

(B) Outlays, $16,579,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2003:

(A) New budget authority, $84,259,000,000.

(B) Outlays, $83,015,000,000.

Fiscal year 2004:

(A) New budget authority, $88,575,000,000.

(B) Outlays, $85,634,000,000.

Fiscal year 2005:

(A) New budget authority, $87,080,000,000.

(B) Outlays, $84,690,000,000.

Fiscal year 2006:

(A) New budget authority, $89,410,000,000.

(B) Outlays, $86,920,000,000.

Fiscal year 2007:

(A) New budget authority, $91,519,000,000.

(B) Outlays, $88,896,000,000.

Fiscal year 2008:

(A) New budget authority, $93,852,000,000.

(B) Outlays, $91,029,000,000.

Fiscal year 2009:

(A) New budget authority, $95,607,000,000.

(B) Outlays, $93,322,000,000.

Fiscal year 2010:

(A) New budget authority, $97,323,000,000.
(B) Outlays, $95,187,000,000.
Fiscal year 2011:
(A) New budget authority, $99,277,000,000.
(B) Outlays, $97,003,000,000.
Fiscal year 2012:
(A) New budget authority, $101,142,000,000.
(B) Outlays, $98,838,000,000.
Fiscal year 2013:
(A) New budget authority, $103,094,000,000.
(B) Outlays, $100,776,000,000.
(11) Health (550):
Fiscal year 2003:
(A) New budget authority, $226,343,000,000.
(B) Outlays, $222,486,000,000.
Fiscal year 2004:
(A) New budget authority, $240,084,000,000.
(B) Outlays, $239,946,000,000.
Fiscal year 2005:
(A) New budget authority, $252,037,000,000.
(B) Outlays, $251,380,000,000.
Fiscal year 2006:
(A) New budget authority, $269,598,000,000.
(B) Outlays, $268,807,000,000.
Fiscal year 2007:
(A) New budget authority, $290,285,000,000.
(B) Outlays, $288,983,000,000.
Fiscal year 2008:
(A) New budget authority, $312,078,000,000.
(B) Outlays, $310,553,000,000.
Fiscal year 2009:
(A) New budget authority, $335,314,000,000.
(B) Outlays, $333,819,000,000.
Fiscal year 2010:
(A) New budget authority, $361,218,000,000.
(B) Outlays, $359,731,000,000.
Fiscal year 2011:
(A) New budget authority, $389,078,000,000.
(B) Outlays, $387,597,000,000.
Fiscal year 2012:
(A) New budget authority, $419,498,000,000.
(B) Outlays, $418,027,000,000.
Fiscal year 2013:
(A) New budget authority, $452,918,000,000.
(B) Outlays, $451,354,000,000.
(12) Medicare (570):
Fiscal year 2003:
(A) New budget authority, $248,586,000,000.
(B) Outlays, $248,434,000,000.
Fiscal year 2004:
(A) New budget authority, $265,111,000,000.
(B) Outlays, $265,376,000,000.
Fiscal year 2005:
(A) New budget authority, $282,929,000,000.
(B) Outlays, $285,877,000,000.
Fiscal year 2006:
(A) New budget authority, $322,160,000,000.
(B) Outlays, $318,921,000,000.
Fiscal year 2007:
(A) New budget authority, $344,455,000,000.
(B) Outlays, $344,725,000,000.
Fiscal year 2008:
(A) New budget authority, $370,178,000,000.
(B) Outlays, $370,053,000,000.
Fiscal year 2009:
(A) New budget authority, $396,532,000 000.
(B) Outlays, $396,271,000,000.
Fiscal year 2010:
(A) New budget authority, $423,768,000,000.
(B) Outlays, $424,026,000,000.
Fiscal year 2011:
(A) New budget authority, $455,875,000,000.
(B) Outlays, $459,232,000,000.
Fiscal year 2012:
(A) New budget authority, $490,601,000,000.
(B) Outlays, $486,775,000,000.
Fiscal year 2013:
(A) New budget authority, $526,303,000,000.
(B) Outlays, $526,559,000,000.
(13) Income Security (600):
Fiscal year 2003:
(A) New budget authority, $322,010,000,000.
(B) Outlays, $329,823,000,000.
Fiscal year 2004:
(A) New budget authority, $318,262,000,000.
(B) Outlays, $323,329,000,000.
Fiscal year 2005:
(A) New budget authority, $326,674,000,000.
(B) Outlays, $329,937,000,000.
Fiscal year 2006:
(A) New budget authority, $334,563,000,000.
(B) Outlays, $337,028,000,000.
Fiscal year 2007:
(A) New budget authority, $340,873,000,000.
(B) Outlays, $342,609,000,000.
Fiscal year 2008:
(A) New budget authority, $352,461,000,000.
(B) Outlays, $353,378,000,000.
Fiscal year 2009:
(A) New budget authority, $363,361,000,000.
(B) Outlays, $364,102,000,000.
Fiscal year 2010:
(A) New budget authority, $375,471,000,000.
(B) Outlays, $376,077,000,000.
Fiscal year 2011:
(A) New budget authority, $392,310,000,000.
(B) Outlays, $392,878,000,000.
Fiscal year 2012:
(A) New budget authority, $383,486,000,000.
(B) Outlays, $384,054,000,000.
Fiscal year 2013:
(A) New budget authority, $398,184,000,000.
(B) Outlays, $398,881,000,000.
(14) Social Security (650):
Fiscal year 2003:
(A) New budget authority, $13,255,000,000.
(B) Outlays, $13,255,000,000.
Fiscal year 2004:
(A) New budget authority, $14,544,000,000.
(B) Outlays, $14,502,000,000.
Fiscal year 2005:
(A) New budget authority, $15,612,000,000.
(B) Outlays, $15,597,000,000.
Fiscal year 2006:
(A) New budget authority, $16,689,000,000.
(B) Outlays, $16,698,000,000.
Fiscal year 2007:
(A) New budget authority, $18,174,000,000.
(B) Outlays, $18,182,000,000.
Fiscal year 2008:
(A) New budget authority, $19,999,000,000.
(B) Outlays, $20,005,000,000.
Fiscal year 2009:
(A) New budget authority, $22,156,000,000.
(B) Outlays, $22,157,000,000.
Fiscal year 2010:
(A) New budget authority, $24,536,000,000.
(B) Outlays, $24,535,000,000.
Fiscal year 2011:
(A) New budget authority, $28,416,000,000.
(B) Outlays, $28,416,000,000.
Fiscal year 2012:
(A) New budget authority, $31,635,000,000.
(B) Outlays, $31,634,000,000.
Fiscal year 2013:
(A) New budget authority, $34,670,000,000.
(B) Outlays, $34,670,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2003:
(A) New budget authority, $57,597,000,000.
(B) Outlays, $57,486,000,000.
Fiscal year 2004:
(A) New budget authority, $61,978,000,000.
(B) Outlays, $61,522,000,000.
Fiscal year 2005:
(A) New budget authority, $67,365,000,000.
(B) Outlays, $66,612,000,000.
Fiscal year 2006:
(A) New budget authority, $65,644,000,000.
(B) Outlays, $65,215,000,000.
Fiscal year 2007:
(A) New budget authority, $64,128,000,000.
(B) Outlays, $63,680,000,000.
Fiscal year 2008:
(A) New budget authority, $67,928,000,000.
(B) Outlays, $67,654,000,000.
Fiscal year 2009:
(A) New budget authority, $69,550,000,000.
(B) Outlays, $69,192,000,000.
Fiscal year 2010:
(A) New budget authority, $71,275,000,000.
(B) Outlays, $70,868,000,000.
Fiscal year 2011:
(A) New budget authority, $75,962,000,000.
(B) Outlays, $75,539,000,000.
Fiscal year 2012:
(A) New budget authority, $72,923,000,000.
(B) Outlays, $72,399,000,000.
Fiscal year 2013:
(A) New budget authority, $77,755,000,000.
(B) Outlays, $77,329,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $37,742,000,000.
(B) Outlays, $40,902,000,000.
Fiscal year 2005:
(A) New budget authority, $37,977,000,000.
(B) Outlays, $39,271,000,000.
Fiscal year 2006:
(A) New budget authority, $37,938,000,000.
(B) Outlays, $38,318,000,000.
Fiscal year 2007:
(A) New budget authority, $38,334,000,000.
(B) Outlays, $38,164,000,000.
Fiscal year 2008:
(A) New budget authority, $39,299,000,000.
(B) Outlays, $38,984,000,000.
Fiscal year 2009:
(A) New budget authority, $40,306,000,000.
(B) Outlays, $40,059,000,000.
Fiscal year 2010:
(A) New budget authority, $41,406,000,000.
(B) Outlays, $41,148,000,000.
Fiscal year 2011:
(A) New budget authority, $42,682,000,000.
(B) Outlays, $42,304,000,000.
Fiscal year 2012:
(A) New budget authority, $44,015,000,000.
(B) Outlays, $43,590,000,000.
Fiscal year 2013:
(A) New budget authority, $45,355,000,000.
(B) Outlays, $44,938,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,178,000,000.
(B) Outlays, $18,103,000,000.
Fiscal year 2004:
(A) New budget authority, $20,208,000,000.
(B) Outlays, $19,776,000,000.
Fiscal year 2005:
(A) New budget authority, $20,643,000,000.
(B) Outlays, $20,677,000,000.
Fiscal year 2006:
(A) New budget authority, $20,410,000,000.
(B) Outlays, $20,381,000,000.
Fiscal year 2007:
(A) New budget authority, $20,842,000,000.
(B) Outlays, $20,533,000,000.
Fiscal year 2008:
(A) New budget authority, $20,920,000,000.
(B) Outlays, $20,646,000,000.
Fiscal year 2009:
(A) New budget authority, $21,619,000,000.
(B) Outlays, $21,138,000,000.
Fiscal year 2010:
(A) New budget authority, $22,361,000,000.
(B) Outlays, $21,835,000,000.
Fiscal year 2011:
(A) New budget authority, $23,110,000,000.
(B) Outlays, $22,560,000,000.
Fiscal year 2012:
(A) New budget authority, $23,905,000,000.
(B) Outlays, $23,489,000,000.
Fiscal year 2013:
(A) New budget authority, $24,714,000,000.
(B) Outlays, $24,121,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $239,413,000,000.

(B) Outlays, $239,585,000,000.
Fiscal year 2004:
(A) New budget authority, $253,189,000,000.
(B) Outlays, $254,890,000,000.
Fiscal year 2005:
(A) New budget authority, $293,834,000,000.
(B) Outlays, $296,538,000,000.
Fiscal year 2006:
(A) New budget authority, $325,488,000,000.
(B) Outlays, $329,817,000,000.
Fiscal year 2007:
(A) New budget authority, $344,743,000,000.
(B) Outlays, $351,017,000,000.
Fiscal year 2008:
(A) New budget authority, $360,529,000,000.
(B) Outlays, $369,089,000,000.
Fiscal year 2009:
(A) New budget authority, $375,129,000,000.
(B) Outlays, $386,360,000,000.
Fiscal year 2010:
(A) New budget authority, $387,388,000,000.
(B) Outlays, $401,485,000,000.
Fiscal year 2011:
(A) New budget authority, $397,483,000,000.
(B) Outlays, $414,520,000,000.
Fiscal year 2012:
(A) New budget authority, $401,388,000,000.
(B) Outlays, $422,797,000,000.
Fiscal year 2013:
(A) New budget authority, $397,817,000,000.
(B) Outlays, $425,508,000,000.
(19) Allowances (920):
Fiscal year 2003:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2004:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2005:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2006:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2007:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2008:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2009:
(A) New budget authority, $5,384,000,000.
(B) Outlays, $3,868,000,000.
Fiscal year 2010:
(A) New budget authority, $12,245,000,000.
(B) Outlays, $10,659,000,000.
Fiscal year 2011:
(A) New budget authority, $17,288,000,000.
(B) Outlays, $15,344,000,000.
Fiscal year 2012:
(A) New budget authority, $22,418,000,000.
(B) Outlays, $20,522,000,000.
Fiscal year 2013:
(A) New budget authority, $27,563,000,000.
(B) Outlays, $25,686,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2003:
(A) New budget authority, −$44,583,000,000.
(B) Outlays, −$44,583,000,000.
Fiscal year 2004:
(A) New budget authority, −$45,580,000,000.
(B) Outlays, −$45,580,000,000.
Fiscal year 2005:
(A) New budget authority, −$55,509,000,000.
(B) Outlays, −$55,509,000,000.
Fiscal year 2006:
(A) New budget authority, −$57,437,000,000.
(B) Outlays, −$57,437,000,000.
Fiscal year 2007:
(A) New budget authority, −$52,206,000,000.
(B) Outlays, −$52,206,000,000.
Fiscal year 2008:
(A) New budget authority, −$54,753,000,000.
(B) Outlays, −$54,753,000,000.
Fiscal year 2009:
(A) New budget authority, −$56,560,000,000.
(B) Outlays, −$56,560,000,000.
Fiscal year 2010:
(A) New budget authority, −$58,985,000,000.
(B) Outlays, −$58,985,000,000.
Fiscal year 2011:
(A) New budget authority, −$61,522,000,000.
(B) Outlays, −$61,522,000,000.
Fiscal year 2012:
(A) New budget authority, −$66,358,000,000.
(B) Outlays, −$66,358,000,000.
Fiscal year 2013 :
(A) New budget authority, −$68,977,000,000.
(B) Outlays, −$68,977,000,000.

## TITLE II—RECONCILIATION

### SEC. 201. RECONCILIATION IN THE SENATE.

(a) SUBMISSION PROVIDING ECONOMIC GROWTH.—The Committee on Finance shall report to the Senate a reconciliation bill not later than April 11, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce the total level of revenues by not more than: $46,700,000,000 for the period of fiscal years 2003 and 2004 and increase the total level of revenues by not more than $49,900,000,000 for the period of fiscal years 2004 through 2013.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with the instructions set forth in paragraph (1) the Committee on Finance should provide immediate tax relief and economic stimulus by accelerating tax relief for middle-class families through increases in the child tax credit, marriage penalty relief, and reductions in individual income tax rates, provide incentives for business investment, provide immediate and permanent estate tax relief and defer tax relief for individual taxpayers with incomes above $140,000 until the budget is in balance and national security threats have been addressed.

### SEC. 202. INCREASE IN DEBT LIMIT CONTINGENT UPON PLAN TO RESTORE BALANCED BUDGET.

(a) TEMPORARY INCREASE IN STATUTORY DEBT LIMIT.—The Committee on Finance shall report a bill as soon as practicable, but not later than April 11, 2003, that consists solely of changes in laws within its jurisdiction to increase the statutory debt limit by $150,000,000,000.

(b) POINT OF ORDER.—(1) Except as provided by subsection (a) or paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that increases the limit on the public debt by more than $100,000,000,000.

(2) Paragraph (1) shall not apply in the Senate if—

(A) the chairman of the Committee on the Budget of the Senate has made the certification described in section 203 that the unified budget will be in balance by fiscal year 2009; or

(B) the President has submitted to Congress a declaration that such increase is necessary to finance costs of a military conflict or address an imminent threat to national security, but which shall not exceed the amount of the adjustment under section 302 for the costs of military operations in Iraq.

### SEC. 203. REVIEW OF BUDGET OUTLOOK.

(a) IN GENERAL.—If, in the report released pursuant to section 202 of the Congressional Budget Act of 1974, entitled the Budget and Economic Outlook Update (for fiscal years 2004 through 2013), the Director of the Congressional Budget Office projects that the unified budget of the United States for fiscal year 2009 will be in balance, then the chairman of the Committee on the Budget of the Senate is authorized to certify that the budget is projected to meet the goals of a balanced budget.

(b) CALCULATING DISCRETIONARY SPENDING BASELINE.—Notwithstanding any other provision of law, the Director of the Congressional Budget Office shall use the discretionary spending levels set forth in this resolution, including any adjustments to such levels as a result of the implementation of any reserve funds set forth in this resolution to calculate the discretionary spending baseline.

## TITLE III—RESERVE FUNDS AND ENFORCEMENT

## Subtitle A—Reserve Funds

### SEC. 301. RESERVE FUND FOR HOMELAND SECURITY.

(a) IN GENERAL.—In the Senate, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for the Department of Homeland Security and if the Secretary of Homeland Security so requests, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security should—

(1) conduct a homeland security needs assessment in consultation with all Federal agencies with responsibilities for homeland security and State and local governments; and

(2) submit a report to Congress with additional funding requests, if any, identified in the needs assessment, and that such report should also include a compilation of the needs assessments submitted by State and local governments.

### SEC. 302. RESERVE FUND FOR THE COSTS OF MILITARY OPERATIONS IN IRAQ.

In the Senate, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for the costs of military operations in Iraq, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose.

### SEC. 303. RESERVE FUND FOR ADDITIONAL MANDATORY FUNDING FOR EXISTING HEALTH AND EMPLOYMENT PROGRAMS WHICH PROVIDE ASSISTANCE TO STATES AND INDIVIDUALS.

In the Senate, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for additional mandatory funding for existing health and employment programs which provide assistance to States and individuals, then the chairman of the Committee on the Budget shall make the appropriate revisions to the allocations and other levels in this resolution by the amount provided by that measure for that purpose, but such revision shall not exceed $12,500,000,000 in new budget authority for the period of fiscal years 2003 through 2008 and outlays flowing therefrom.

### SEC. 304. RESERVE FUND FOR SURFACE TRANSPORTATION.

(a) IN GENERAL.—In the Senate, if the Committee on Environment and Public Works reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $30,340,000,000,

(2) for fiscal year 2005: $30,998,000,000,

(3) for fiscal year 2006: $31,707,000,000,

(4) for fiscal year 2007: $32,436,000,000, or

(5) for fiscal year 2008: $33,190,000,000,

and the amount of such excess in each such year is offset by reductions in the deficit caused by such legislation or any previously enacted legislation that changes direct spending from, or receipts subsequently appropriated to, the Highway Trust Fund, the chairman of the Committee on the Budget may increase the allocation of new budget authority for such committee by the amount of such excess for fiscal year 2004 and by the total amount of such excesses for the period of fiscal years 2004 through 2008 and make the necessary offsetting adjustments in the appropriate budget aggregates and allocations.

(b) COMMITTEE ON APPROPRIATIONS.—In the Senate, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes obligation limitations that, in total, are in excess of $38,496,000,000 for fiscal year 2004, but not to exceed the amount of such excess that was offset pursuant to subsection (a), for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays for such fiscal year for the Committee on Appropriations by the amount of outlays that corresponds to such excess obligation limitations.

### SEC. 305. RESERVE FUND FOR BIOSHIELD.

In the Senate, if the appropriate committee of jurisdiction reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that establishes a program to accelerate the research, development, and purchase of biomedical threat countermeasures and—

(1) such measure provides new budget authority to carry out such program; or

(2) such measure authorizes discretionary new budget authority to carry out such program and the Committee on Appropriations reports a bill or joint resolution that provides new budget authority to carry out such program,

the chairman of the Committee on the Budget may revise the allocations for the committee providing such new budget authority, and other appropriate levels in this resolution, by the amount provided for that purpose, but, in the case of a measure described in paragraph (1), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom and $3,418,000,000 in new budget authority for the period of fiscal years 2004 through 2008 and outlays flowing therefrom or, in the case of a measure described in paragraph (2), not to exceed $890,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom. Notwithstanding the preceding sentence, the total such revision for fiscal year 2004 may not exceed $890,000,000 in new budget authority and outlays flowing therefrom.

### SEC. 306. RESERVE FUND FOR PERMANENT EXTENSION OF TAX CUTS; MEDICARE.

In the Senate, notwithstanding section 311 of this resolution, if the Committee on Finance reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that makes the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 permanent or provides additional resources for a medicare prescription drug benefit in excess of $400,000,000,000 over the period of fiscal years 2004 through 2013, and if the chairman on the Committee on the Budget certifies that the enactment of such legislation would not cause or increase an on-budget deficit in 2013, then the chairman on the Committee on the Budget shall revise allocations to accommodate such legislation and make other necessary adjustments.

## Subtitle B—Enforcement

### SEC. 311. POINT OF ORDER AGAINST CERTAIN LEGISLATION REDUCING THE SURPLUS OR INCREASING THE DEFICIT AFTER FISCAL YEAR 2008.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that first provides new budget authority or a decrease in revenues for any fiscal year after fiscal year 2008 through fiscal year 2013 that would decrease the surplus or increase the deficit for any fiscal year.

(b) EXCEPTION.—Subsection (a) shall not apply if the chairman of the Committee on the Budget of the Senate certifies, based on estimates prepared by the Director of the Congressional Budget Office, that Congress has enacted legislation restoring 75-year solvency of the Federal Old Age and Survivors Disability Insurance Trust Fund and legislation extending the solvency of the Hospital Insurance Trust Fund for 20 years.

### SEC. 312. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

### SEC. 313. DISCRETIONARY SPENDING LIMITS IN THE SENATE.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill or joint resolution, or amendment thereto, that provides new budget authority that would cause the discretionary spending limits to be exceeded for any fiscal year.

(b) DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term "discretionary spending limit" means—

(8) with respect to fiscal year 2004—

(A) for the defense category: $399,683,000,000 in new budget authority and $389,746,000,000 in outlays;

(B) for the nondefense category: $392,517,000,000 in new budget authority and $429,054,000,000 in outlays;

(9) with respect to fiscal year 2005—

(A) for the defense category: $420,019,000,000 in new budget authority and $409,737,000,000 in outlays;

(B) for the nondefense category: $393,481,000,000 in new budget authority and $440,264,000,000 in outlays;

(10) with respect to fiscal year 2006—

(A) for the defense category: $440,044,000,000 in new budget authority and $422,808,000,000 in outlays;

(B) for the nondefense category: $402,256,000,000 in new budget authority and $446,992,000,000;

(11) with respect to fiscal year 2007—

(A) for the defense category: $460,309,000,000 in new budget authority and $436,164,000,000 in outlays;

(B) for the nondefense category: $412,091,000,000 in new budget authority and $455,236,000,000;

(12) with respect to fiscal year 2008—

(A) for the defense category: $480,747,000,000 in new budget authority and $460,190,000,000 in outlays;

(B) for the nondefense category: $494,853,000,000 in new budget authority and $465,710,000,000;

as adjusted in conformance with subsection (c).

(c) ADJUSTMENTS.—

(1) IN GENERAL.—

(A) CHAIRMAN.—After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority. The chairman of the Committee on the Budget may also make appropriate adjustments for the reserve funds set forth in sections 301, 302, and 303.

(B) MATTERS TO BE ADJUSTED.—The adjustments referred to in subparagraph (A) are to be made to—

(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974; and

(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(2) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in paragraph (1) shall be—

(A) an amount provided and designated as an emergency requirement pursuant to section 314;

(B) an amount appropriated for homeland security as provided in section 301;

(C) an amount appropriated for military operations in Iraq as provided in section 302; and

(D) an amount provided for transportation under section 304.

(3) APPLICATION OF ADJUSTMENTS.—The adjustments made for legislation pursuant to paragraph (1) shall—

(A) apply while that legislation is under consideration;

(B) take effect upon the enactment of that legislation; and

(C) be published in the Congressional Record as soon as practicable.

(4) APPLICATION OF THIS SECTION.—The provisions of this section shall apply to legislation providing new budget authority for fiscal years 2003 through 2008.

(5) WAIVER AND APPEAL.—This section may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

**SEC. 314. EMERGENCY LEGISLATION.**

(a) AUTHORITY TO DESIGNATE.—If a provision of direct spending or receipts legislation is enacted or if appropriations for discretionary accounts are enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement for the purpose of this resolution.

(b) DESIGNATIONS.—

(1) GUIDANCE.—If a provision of legislation is designated as an emergency requirement under subsection (a), the committee report and any statement of managers accompanying that legislation shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

(2) CRITERIA.—

(A) IN GENERAL.—The criteria to be considered in determining whether a proposed expenditure or tax change is an emergency requirement are that the expenditure or tax change is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(3) JUSTIFICATION FOR USE OF DESIGNATION.—When an emergency designation is proposed in any bill, joint resolution, or conference report thereon, the committee report and the statement of managers accompanying a conference report, as the case may be, shall provide a written justification of why the provision meets the criteria set forth in paragraph (2).

(c) DEFINITIONS.—In this section, the terms "direct spending", "receipts", and "appropriations for discretionary accounts" means any provision of a bill, joint resolution, amendment, motion or conference report that provides direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) SEPARATE SENATE VOTE ON EMERGENCY DESIGNATION.—In the Senate, in the consideration of any measure or amendment it shall always be in order to move to strike such emergency spending designation from the portion of the bill then open to amendment.

(e) COMMITTEE NOTIFICATION OF EMERGENCY LEGISLATION.—Whenever the Committee on Appropriations or any other committee of either House (including a committee of conference) reports any bill or joint resolution that provides budget authority for any emergency, the report accompanying that bill or joint resolution (or the joint explanatory statement of managers in the case of a conference report on any such bill or joint resolution) shall identify all provisions that provide budget authority and the outlays flowing therefrom for such emergency and include a statement of the reasons why such budget authority meets the definition of an emergency pursuant to the guidelines described in subsection (b).

(f) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(g) EXCEPTION FOR DEFENSE AND HOMELAND SECURITY SPENDING.—Subsection (d) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category and for homeland security programs.

(h) WAIVER AND APPEAL.—This section may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

**SEC. 315. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term "applicable time period" means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget;

(B) any reconciliation bill reported pursuant to section 201 of this resolution;

(C) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; or

(D) any legislation for which an adjustment is made under section 302.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget as adjusted for any changes in revenues or direct spending assumed by such resolution; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(c) WAIVER AND APPEAL.—This section may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) LIMITS ON APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the minority and the manager of the bill or joint resolution.

(e) SUNSET.—This section shall expire on September 30, 2008.

**SEC. 316. DISCLOSURE OF EFFECT OF LEGISLATION ON THE PUBLIC DEBT.**

Each report of a committee of the Senate on a public bill or public joint resolution shall contain an estimate by the committee of the amount the public debt would be increased (including related debt service costs) in carrying out the bill or joint resolution in the fiscal year in which it is reported and in the 5-fiscal year period beginning with such fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years).

**SEC. 317. DISCLOSURE OF INTEREST COSTS.**

Whenever a committee of either House of Congress reports to its House legislation providing new budget authority or providing an increase or decrease in revenues or tax expenditures, the report accompanying that bill or joint resolution shall contain a projection by the Congressional Budget Office of the cost of the debt servicing that would be caused by such measure for such fiscal year (or fiscal years) and each of the 4 ensuing fiscal years.

## TITLE IV—SENSE OF CONGRESS PROVISIONS

**SEC. 401. SENSE OF CONGRESS REGARDING BUDGET ENFORCEMENT.**

It is the sense of Congress that legislation should be enacted enforcing this resolution by—

(1) setting discretionary spending limits for budget authority and outlays at the levels set forth in this resolution for each of the next 5 fiscal years;

(2) reinstating the pay-as-you-go rules set forth in section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for the next 10 fiscal years;

(3) establishing a definition for emergency spending and requiring a justification for emergency spending requests and legislation; and

(4) establishing expedited rescission authority regarding congressional votes on rescission submitted by the President and reducing discretionary spending limits to reflect savings from any rescissions enacted into law.

**SEC. 402. SENSE OF CONGRESS ON TAX REFORM.**

It is the sense of Congress that the Committee on Finance should—

(1) work with the Secretary of the Treasury to draft legislation reforming the Internal Revenue Code of 1986 in a revenue-neutral manner to improve savings and investment; and

(2) consider changes that address the treatment of dividends and retirement savings, corporate tax avoidance, and simplification of the tax laws.

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**SA 331.** Mr. CORZINE (for himself, Mr. Kerry, Mr. Lautenberg, Mrs. Murray, Mrs. Clinton, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $378,000,000.

On page 3, line 11, increase the amount by $271,000,000.

On page 3, line 12, increase the amount by $216,000,000.

On page 3, line 13, increase the amount by $216,000,000.

On page 4, line 1, increase the amount by $1,081,000,000.

On page 4, line 15, increase the amount by $378,000,000.

On page 4, line 16, increase the amount by $271,000,000.

On page 4, line 17, increase the amount by $216,000,000.

On page 4, line 18, increase the amount by $216,000,000.

On page 16, line 11, increase the amount by $1,081,000,000.

On page 16, line 12, increase the amount by $378,000,000.

On page 16, line 16, increase the amount by $271,000,000.

On page 16, line 20, increase the amount by $216,000,000.

On page 16, line 24, increase the amount by $216,000,000.

On page 45, line 24, increase the amount by $1,081,000,000.

On page 47, line 5, increase the amount by $1,081,000,000.

On page 47, line 6, increase the amount by $378,000,000.

On page 47, line 15, increase the amount by $271,000,000.

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**SA 332.** Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

**"SEC. . PROTECTING RESOURCES REQUIRED FOR NATIONAL SECURITY**

(a) Point Order.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would increase the deficit in any fiscal year, other than spending measures related to national or homeland security, until the President submits to the Congress a detailed report on:

(1) the costs of the initial phase of the conflict, maintaining troops in the region, and reconstruction and rebuilding of Iraq; and

(2) how all of these costs fit within the budget plan as a whole.

(b) Waiver and Appeal.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section."

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**SA 333.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . RESERVE FUND FOR MILITARY ACTION AND RECONSTRUCTION IN IRAQ.**

In addition to any action taken by the Senate Committee on Finance pursuant to section 104(b) of this resolution, the Senate committee on Finance shall include in the reconciliation bill required by that section $100,000,000,000 in additional revenues for fiscal year 2004.

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**SA 334.** Mr. DODD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal year 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,040,000,000.

On page 3, line 11, increase the amount by $860,000,000.

On page 3, line 12, increase the amount by $80,000,000.

On page 3, line 13, increase the amount by $20,000,000.

On page 4, line 1, increase the amount by $1,040,000,000.

On page 4, line 2, increase the amount by $860,000,000.

On page 4, line 3, increase the amount by $80,000,000.

On page 4, line 4, increase the amount by $20,000,000.

On page 4, line 15, increase the amount by $991,000,000.

On page 4, line 16, decrease the amount by $35,000,000.

On page 4, line 17, decrease the amount by $51,000,000.

On page 4, line 18, decrease the amount by $57,000,000.

On page 4, line 19, decrease the amount by $60,000,000.

On page 4, line 20, decrease the amount by $64,000,000.

On page 4, line 21, decrease the amount by $68,000,000.

On page 4, line 22, decrease the amount by $72,000,000.

On page 4, line 23, decrease the amount by $76,000,000.

On page 4, line 24, decrease the amount by $80,000,000.

On page 5, line 5, increase the amount by $511,000,000.

On page 5, line 6, increase the amount by $395,000,000.

On page 5, line 7, decrease the amount by $11,000,000.

On page 5, line 8, decrease the amount by $47,000,000.

On page 5, line 9, decrease the amount by $60,000,000.

On page 5, line 10, decrease the amount by $64,000,000.

On page 5, line 11, decrease the amount by $68,000,000.

On page 5, line 12, decrease the amount by $72,000,000.

On page 5, line 13, decrease the amount by $76,000,000.

On page 5, line 14, decrease the amount by $80,000,000.

On page 5, line 18, increase the amount by $529,000,000.

On page 5, line 19, increase the amount by $465,000,000.

On page 5, line 20, increase the amount by $91,000,000.

On page 5, line 21, increase the amount by $67,000,000.

On page 5, line 22, increase the amount by $60,000,000.

On page 5, line 23, increase the amount by $64,000,000.

On page 5, line 24, increase the amount by $68,000,000.

On page 5, line 25, increase the amount by $72,000,000.

On page 6, line 1, increase the amount by $76,000,000.

On page 6, line 2, increase the amount by $80,000,000.

On page 6, line 6, decrease the amount by $529,000,000.

On page 6, line 7, decrease the amount by $994,000,000.

On page 6, line 8, decrease the amount by $1,085,000,000.

On page 6, line 8, decrease the amount by $1,152,000,000.

On page 6, line 10, decrease the amount by $1,213,000,000.

On page 6, line 11, decrease the amount by $1,277,000,000.

On page 6, line 12, decrease the amount by $1,345,000,000.

On page 6, line 13, decrease the amount by $1,417,000,000.

On page 6, line 14, decrease the amount by $1,493,000,000.

On page 6, line 15, decrease the amount by $1,573,000,000.

On page 6, line 19, decrease the amount by $529,000,000.

On page 6, line 20, decrease the amount by $994,000,000.

On page 6, line 21, decrease the amount by $1,085,000,000.

On page 6, line 22, decrease the amount by $1,152,000,000.

On page 6, line 23, decrease the amount by $1,213,000,000.

On page 6, line 24, decrease the amount by $1,277,000,000.

On page 6, line 25, decrease the amount by $1,345,000,000.

On page 7, line 1, decrease the amount by $1,417,000,000.

On page 7, line 2, decrease the amount by $1,493,000,000.

On page 7, line 3, decrease the amount by $1,573,000,000.

On page 25, line 16, increase the amount by $1,000,000,000.

On page 25, line 17, increase the amount by $520,000,000.

On page 25, line 21, increase the amount by $430,000,000.

On page 25, line 25, increase the amount by $40,000,000.

On page 26, line 4, increase the amount by $10,000,000.

On page 40, line 6, decrease the amount by $9,000,000.

On page 40, line 7, decrease the amount by $9,000,000.

On page 40, line 10, decrease the amount by $35,000,000.

On page 40, line 11, decrease the amount by $35,000,000.

On page 40, line 14, decrease the amount by $51,000,000.

On page 40, line 15, decrease the amount by $51,000,000.

On page 40, line 18, decrease the amount by $57,000,000.

On page 40, line 19, decrease the amount by $57,000,000.

On page 40, line 22, decrease the amount by $60,000,000.

On page 40, line 23, decrease the amount by $60,000,000.

On page 41, line 2, decrease the amount by $64,000,000.

On page 41, line 3, decrease the amount by $64,000,000.

On page 41, line 6, decrease the amount by $68,000,000.

On page 41, line 7, decrease the amount by $68,000,000.

On page 41, line 10, decrease the amount by $72,000,000.

On page 41, line 11, decrease the amount by $72,000,000.

On page 41, line 14, decrease the amount by $76,000,000.

On page 41, line 15, decrease the amount by $76,000,000.

On page 41, line 18, decrease the amount by $80,000,000.

On page 41, line 19, decrease the amount by $80,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $520,000,000.

On page 47, line 15, increase the amount by $430,000,000.

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**SA 335.** Mr. BINGAMAN (for himself, Mr. KERRY, Mr. DODD, Mr. DASCHLE, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $3,210,000,000.

On page 3, line 11, increase the amount by $3,745,000,000.

On page 3, line 12, increase the amount by $3,970,000,000.

On page 3, line 13, increase the amount by $4,043,000,000.

On page 3, line 14, increase the amount by $4,082,000,000.

On page 3, line 15, increase the amount by $4,080,000,000.

On page 3, line 16, increase the amount by $4,080,000,000.

On page 3, line 17, increase the amount by $4,080,000,000.

On page 3, line 18, increase the amount by $4,080,000,000.

On page 3, line 19, increase the amount by $4,080,000,000.

On page 4, line 1, increase the amount by $3,210,000,000.

On page 4, line 2, increase the amount by $3,745,000,000.

On page 4, line 3, increase the amount by $3,970,000,000.

On page 4, line 4, increase the amount by $4,043,000,000.

On page 4, line 5, increase the amount by $4,082,000,000.

On page 4, line 6, increase the amount by $4,080,000,000.

On page 4, line 7, increase the amount by $4,080,000,000.

On page 4, line 8, increase the amount by $4,080,000,000.

On page 4, line 9, increase the amount by $4,080,000,000.

On page 4, line 10, increase the amount by $4,080,000,000.

On page 4, line 15, increase the amount by $2,111,000,000.

On page 4, line 16, increase the amount by $1,919,000,000.

On page 4, line 17, increase the amount by $1,802,000,000.

On page 4, line 18, increase the amount by $1,676,000,000.

On page 4, line 19, increase the amount by $1,545,000,000.

On page 4, line 20, increase the amount by $1,406,000,000.

On page 4, line 21, increase the amount by $1,259,000,000.

On page 4, line 22, increase the amount by $1,106,000,000.

On page 4, line 23, increase the amount by $945,000,000.

On page 4, line 24, increase the amount by $775,000,000.

On page 5, line 5, increase the amount by $1,576,000,000.

On page 5, line 6, increase the amount by $1,751,000,000.

On page 5, line 7, increase the amount by $1,747,000,000.

On page 5, line 8, increase the amount by $1,658,000,000.

On page 5, line 9, increase the amount by $1,546,000,000.

On page 5, line 10, increase the amount by $1,406,000,000.

On page 5, line 11, increase the amount by $1,259,000,000.

On page 5, line 12, increase the amount by $1,106,000,000.

On page 5, line 13, increase the amount by $945,000,000.

On page 5, line 14, increase the amount by $775,000,000.

On page 5, line 18, increase the amount by $1,634,000,000.

On page 5, line 19, increase the amount by $1,994,000,000.

On page 5, line 20, increase the amount by $2,223,000,000.

On page 5, line 21, increase the amount by $2,385,000,000.

On page 5, line 22, increase the amount by $2,536,000,000.

On page 5, line 23, increase the amount by $2,674,000,000.

On page 5, line 24, increase the amount by $2,821,000,000.

On page 5, line 25, increase the amount by $2,974,000,000.

On page 6, line 1, increase the amount by $3,135,000,000.

On page 6, line 2, increase the amount by $3,305,000,000.

On page 6, line 6, decrease the amount by $1,634,000,000.

On page 6, line 7, decrease the amount by $3,628,000,000.

On page 6, line 8, decrease the amount by $5,852,000,000.

On page 6, line 9, decrease the amount by $8,237,000,000.

On page 6, line 10, decrease the amount by $10,773,000,000.

On page 6, line 11, decrease the amount by $13,447,000,000.

On page 6, line 12, decrease the amount by $16,268,000,000.

On page 6, line 13, decrease the amount by $19,242,000,000.

On page 6, line 14, decrease the amount by $22,377,000,000.

On page 6, line 15, decrease the amount by $25,682,000,000.

On page 6, line 19, decrease the amount by $1,634,000,000.

On page 6, line 20, decrease the amount by $3,628,000,000.

On page 6, line 21, decrease the amount by $5,852,000,000.

On page 6, line 22, decrease the amount by $8,237,000,000.

On page 6, line 23, decrease the amount by $10,773,000,000.

On page 6, line 24, decrease the amount by $13,447,000,000.

On page 6, line 25, decrease the amount by $16,268,000,000.

On page 7, line 1, decrease the amount by $19,242,000,000.

On page 7, line 2, decrease the amount by $22,377,000,000.

On page 7, line 3, decrease the amount by $25,682,000,000.

On page 31, line 2, increase the amount by $2,140,000,000.

On page 31, line 3, increase the amount by $1,605,000,000.

On page 31, line 6, increase the amount by $2,040,000,000.

On page 31, line 7, increase the amount by $1,872,000,000.

On page 31, line 10, increase the amount by $2,040,000,000.

On page 31, line 11, increase the amount by $1,985,000,000.

On page 31, line 14, increase the amount by $2,040,000,000.

On page 31, line 15, increase the amount by $2,022,000,000.

On page 31, line 18, increase the amount by $2,040,000,000.

On page 31, line 19, increase the amount by $2,041,000,000.

On page 31, line 22, increase the amount by $2,040,000,000.

On page 31, line 23, increase the amount by $2,040,000,000.

On page 32, line 2, increase the amount by $2,040,000,000.

On page 32, line 3, increase the amount by $2,040,000,000.

On page 32, line 6, increase the amount by $2,040,000,000.

On page 32, line 7, increase the amount by $2,040,000,000.

On page 32, line 10, increase the amount by $2,040,000,000.

On page 32, line 11, increase the amount by $2,040,000,000.

On page 32, line 14, increase the amount by $2,040,000,000.

On page 32, line 15, increase the amount by $2,040,000,000.

On page 40, line 6, decrease the amount by $29,000,000.

On page 40, line 7, decrease the amount by $29,000,000.

On page 40, line 10, decrease the amount by $121,000,000.

On page 40, line 11, decrease the amount by $121,000,000.

On page 40, line 14, decrease the amount by $238,000,000.

On page 40, line 15, decrease the amount by $238,000,000.

On page 40, line 18, decrease the amount by $364,000,000.

On page 40, line 19, decrease the amount by $364,000,000.

On page 40, line 22, decrease the amount by $495,000,000.

On page 40, line 23, decrease the amount by $495,000,000.

On page 41, line 2, decrease the amount by $634,000,000.

On page 41, line 3, decrease the amount by $634,000,000.

On page 41, line 6, decrease the amount by $781,000,000.

On page 41, line 7, decrease the amount by $781,000,000.

On page 41, line 10, decrease the amount by $934,000,000.

On page 41, line 11, decrease the amount by $934,000,000.

On page 41, line 14, decrease the amount by $1,095,000,000.

On page 41, line 15, decrease the amount by $1,095,000,000.

On page 41, line 18, decrease the amount by $1,265,000,000.

On page 41, line 19, decrease the amount by $1,265,000,000.

On page 47, line 5, increase the amount by $2,140,000,000.

On page 47, line 6, increase the amount by $1,605,000,000.

On page 47, line 14, increase the amount by $2,040,000,000.

On page 47, line 15, increase the amount by $1,872,000,000.

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**SA 336.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting for the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,500,000,000.

On page 3, line 11, increase the amount by $1,670,000,000.

On page 3, line 12, increase the amount by $1,758,000,000.

On page 3, line 13, increase the amount by $1,786,000,000.

On page 3, line 14, increase the amount by $1,802,000,000.

On page 3, line 15, increase the amount by $1,800,000,000.

On page 3, line 16, increase the amount by $1,800,000,000.

On page 3, line 17, increase the amount by $1,800,000,000.

On page 3, line 18, increase the amount by $1,800,000,000.

On page 3, line 19, increase the amount by $1,800,000,000.

On page 4, line 1, increase the amount by $1,500,000,000.

On page 4, line 2, increase the amount by $1,670,000,000.

On page 4, line 3, increase the amount by $1,758,000,000.

On page 4, line 4, increase the amount by $1,786,000,000.

On page 4, line 5, increase the amount by $1,802,000,000.

On page 4, line 6, increase the amount by $1,800,000,000.

On page 4, line 7 increase the amount by $1,800,000,000.

On page 4, line 8, increase the amount by $1,800,000,000.

On page 4, line 9, increase the amount by $1,800,000,000.

On page 4, line 10, increase the amount by $1,800,000,000.

On page 4, line 15, increase the amount by $986,000,000.

On page 4, line 16, increase the amount by $844,000,000.

On page 4, line 17, increase the amount by $792,000,000.

On page 4, line 18, increase the amount by $736,000,000.

On page 4, line 19, increase the amount by $678,000,000.

On page 4, line 20, increase the amount by $617,000,000.

On page 4, line 21, increase the amount by $552,000,000.

On page 4, line 22, increase the amount by $484,000,000.

On page 4, line 23, increase the amount by $413,000,000.

On page 4, line 24, increase the amount by $337,000,000.

On page 5, line 5, increase the amount by $736,000,000.

On page 5, line 6, increase the amount by $779,000,000.

On page 5, line 7, increase the amount by $771,000,000.

On page 5, line 8, increase the amount by $729,000,000.

On page 5, line 9, increase the amount by $679,000,000.

On page 5, line 10, increase the amount by $617,000,000.

On page 5, line 11, increase the amount by $552,000,000.

On page 5, line 12, increase the amount by $484,000,000.

On page 5, line 13, increase the amount by $413,000,000.

On page 5, line 14, increase the amount by $337,000,000.

On page 5, line 18, increase the amount by $764,000,000.

On page 5, line 19, increase the amount by $891,000,000.

On page 5, line 20, increase the amount by $987,000,000.

On page 5, line 21, increase the amount by $1,057,000,000.

On page 5, line 22, increase the amount by $1,123,000,000.

On page 5, line 23, increase the amount by $1,183,000,000.

On page 5, line 24, increase the amount by $1,248,000,000.

On page 5, line 25, increase the amount by $1,316,000,000.

On page 6, line 1, increase the amount by $1,387,000,000.

On page 6, line 2, increase the amount by $1,463,000,000.

On page 6, line 6, decrease the amount by $764,000,000.

On page 6, line 7, decrease the amount by $1,654,000,000.

On page 6, line 8, decrease the amount by $2,641,000,000.

On page 6, line 9, decrease the amount by $33,698,000,000.

On page 6, line 10, decrease the amount by $4,821,000,000.

On page 6, line 11, decrease the amount by $6,004,000,000.

On page 6, line 12, decrease the amount by $7,252,000,000.

On page 6, line 13, decrease the amount by $8,568,000,000.

On page 6, line 14, decrease the amount by $9,956,000,000.

On page 6, line 15, decrease the amount by $11,418,000,000.

On page 6, line 19, decrease the amount by $764,000,000.

On page 6, line 20, decrease the amount by $1,654,000,000.

On page 6, line 21, decrease the amount by $2,641,000,000.

On page 6, line 22, decrease the amount by $3,698,000,000.

On page 6, line 23, decrease the amount by $4,821,000,000.

On page 6, line 24, decrease the amount by $6,004,000,000.

On page 6, line 25, decrease the amount by $7,252,000,000.

On page 7, line 1, decrease the amount by $8,568,000,000.

On page 7, line 2, decrease the amount by $9,956,000,000.

On page 7, line 3, decrease the amount by $11,418,000,000.

On page 31, line 2, increase the amount by $1,000,000,000.

On page 31, line 3, increase the amount by $750,000,000.

On page 31, line 6, increase the amount by $900,000,000.

On page 31, line 7, increase the amount by $835,000,000.

On page 31, line 10, increase the amount by $900,000,000.

On page 31, line 11, increase the amount by $879,000,000.

On page 31, line 14, increase the amount by $900,000,000.

On page 31, line 15, increase the amount by $893,000,000.

On page 31, line 18, increase the amount by $900,000,000.

On page 31, line 19, increase the amount by $901,000,000.

On page 31, line 22, increase the amount by $900,000,000.

On page 31, line 23, increase the amount by $900,000,000.

On page 32, line 2, increase the amount by $900,000,000.

On page 32, line 3, increase the amount by $900,000,000.

On page 32, line 6, increase the amount by $900,000,000.

On page 32, line 7, increase the amount by $900,000,000.

On page 32, line 10, increase the amount by $900,000,000.

On page 32, line 11, increase the amount by $900,000,000.

On page 32, line 14, increase the amount by $900,000,000.

On page 32, line 15, increase the amount by $900,000,000.

On page 40, line 6, decrease the amount by $14,000,000.

On page 40, line 7, decrease the amount by $14,000,000.

On page 40, line 10, decrease the amount by $56,000,000.

On page 40, line 11, decrease the amount by $56,000,000.

On page 40, line 14, decrease the amount by $108,000,000.

On page 40, line 15, decrease the amount by $108,000,000.

On page 40, line 18, decrease the amount by $164,000,000.

On page 40, line 19, decrease the amount by $164,000,000.

On page 40, line 22, decrease the amount by $222,000,000.

On page 40, line 23, decrease the amount by $222,000,000.

On page 41, line 2, decrease the amount by $283,000,000.

On page 41, line 3, decrease the amount by $283,000,000.

On page 41, line 6, decrease the amount by $348,000,000.

On page 41, line 7, decrease the amount by $348,000,000.

On page 41, line 10, decrease the amount by $416,000,000.

On page 41, line 11, decrease the amount by $416,000,000.

On page 41, line 14, decrease the amount by $487,000,000.

On page 41, line 15, decrease the amount by $487,000,000.

On page 41, line 18, decrease the amount by $563,000,000.

On page 41, line 19, decrease the amount by $563,000,000.

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**SA 337.** Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 46, after line 2, insert the following:

**SEC. . REDUCTION IN FUNCTIONS FOR FISCAL YEAR 2004.**

Notwithstanding any other provision of this resolution, all non-defense discretionary spending functional totals in this resolution are reduced pro rata by $10,000,000,000 for fiscal year 2004 and the overall budgetary totals shall be adjusted accordingly.

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**SA 338.** Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 46, after line 2, insert the following:

**SEC. . REDUCTION IN FUNCTIONS FOR FISCAL YEAR 2004.**

Notwithstanding any other provision of this resolution, all non-defense discretionary spending functional totals in this resolution are reduced pro rata by $10,000,000,000 for fiscal year 2004 and the overall budgetary totals shall be adjusted accordingly.

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**SA 339.** Mr. BREAUX (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, increase the amount by $10,433,000,000.

On page 3, line 10, increase the amount by $33,015,000,000.

On page 3, line 11, increase the amount by $27,962,000,000.

On page 3, line 12, increase the amount by $22,167,000,000.

On page 3, line 13, increase the amount by $16,893,000,000.

On page 3, line 14, increase the amount by $16,183,000,000.

On page 3, line 15, increase the amount by $15,879,000,000.

On page 3, line 16, increase the amount by $15,992,000,000.

On page 3, line 17, increase the amount by $52,874,000,000.

On page 3, line 18, increase the amount by $79,512,000,000.

On page 3, line 19, increase the amount by $84,090,000,000.

On page 3, line 23, increase the amount by $10,433,000,000.

On page 4, line 1, increase the amount by $33,015,000,000.

On page 4, line 2, increase the amount by $27,962,000,000.

On page 4, line 3, increase the amount by $22,167,000,000.

On page 4, line 4, increase the amount by $16,893,000,000.

On page 4, line 5, increase the amount by $16,183,000,000.

On page 4, line 6, increase the amount by $15,879,000,000.

On page 4, line 7, increase the amount by $15,992,000,000.

On page 4, line 8, increase the amount by $52,874,000,000.

On page 4, line 9, increase the amount by $79,512,000,000.

On page 4, line 10, increase the amount by $84,090,000,000.

On page 4, line 14, decrease the amount by $77,000,000.

On page 4, line 15, decrease the amount by $899,000,000.

On page 4, line 16, decrease the amount by $2,687,000,000.

On page 4, line 17, decrease the amount by $4,364,000,000.

On page 4, line 18, decrease the amount by $5,762,000,000.

On page 4, line 19, decrease the amount by $7,003,000,000.

On page 4, line 20, decrease the amount by $8,294,000,000.

On page 4, line 21, decrease the amount by $9,640,000,000.

On page 4, line 22, decrease the amount by $12,035,000,000.

On page 4, line 23, decrease the amount by $16,276,000,000.

On page 4, line 24, decrease the amount by $21,605,000,000.

On page 5, line 4, decrease the amount by $77,000,000.

On page 5, line 5, decrease the amount by $899,000,000.

On page 5, line 6, decrease the amount by $2,687,000,000.

On page 5, line 7, decrease the amount by $4,364,000,000.

On page 5, line 8, decrease the amount by $5,762,000,000.

On page 5, line 9, decrease the amount by $7,003,000,000.

On page 5, line 10, decrease the amount by $8,294,000,000.

On page 5, line 11, decrease the amount by $9,640,000,000.

On page 5, line 12, decrease the amount by $12,035,000,000.

On page 5, line 13, decrease the amount by $16,276,000,000.

On page 5, line 14, decrease the amount by $21,605,000,000.

On page 5, line 17, increase the amount by $10,511,000,000.

On page 5, line 18, increase the amount by $33,914,000,000.

On page 5, line 19, increase the amount by $30,648,000,000.

On page 5, line 20, increase the amount by $26,532,000,000.

On page 5, line 21, increase the amount by $22,654,000,000.

On page 5, line 22, increase the amount by $23,186,000,000.

On page 5, line 23, increase the amount by $24,173,000,000.

On page 5, line 24, increase the amount by $25,632,000,000.

On page 5, line 25, increase the amount by $64,909,000,000.

On page 6, line 1, increase the amount by $95,788,000,000.

On page 6, line 2, increase the amount by $105,696,000,000.

On page 6, line 5, decrease the amount by $10,511,000,000.

On page 6, line 6, decrease the amount by $44,425,000,000.

On page 6, line 7, decrease the amount by $75,073,000,000.

On page 6, line 8, decrease the amount by $101,605,000,000.

On page 6, line 9, decrease the amount by $124,259,000,000.

On page 6, line 10, decrease the amount by $147,445,000,000.

On page 6, line 11, decrease the amount by $171,619,000,000.

On page 6, line 12, decrease the amount by $197,250,000,000.

On page 6, line 13, decrease the amount by $262,159,000,000.

On page 6, line 14, decrease the amount by $357,947,000,000.

On page 6, line 15, decrease the amount by $463,643,000,000.

On page 6, line 18, decrease the amount by $10,511,000,000.

On page 6, line 19, decrease the amount by $44,425,000,000.

On page 6, line 20, decrease the amount by $75,073,000,000.

On page 6, line 21, decrease the amount by $101,605,000,000.

On page 6, line 22, decrease the amount by $124,259,000,000.

On page 6, line 23, decrease the amount by $147,445,000,000.

On page 6, line 24, decrease the amount by $171,619,000,000.

On page 6, line 25, decrease the amount by $197,250,000,000.

On page 7, line 1, decrease the amount by $262,159,000,000.

On page 7, line 2, decrease the amount by $357,947,000,000.

On page 7, line 3, decrease the amount by $463,643,000,000.

On page 40, line 2, decrease the amount by $77,000,000.

On page 40, line 3, decrease the amount by $77,000,000.

On page 40, line 6, decrease the amount by $899,000,000.

On page 40, line 7, decrease the amount by $899,000,000.

On page 40, line 10, decrease the amount by $2,687,000,000.

On page 40, line 11, decrease the amount by $2,687,000,000.

On page 40, line 14, decrease the amount by $4,364,000,000.

On page 40, line 15, decrease the amount by $4,364,000,000.

On page 40, line 18, decrease the amount by $5,762,000,000.

On page 40, line 19, decrease the amount by $5,762,000,000.

On page 40, line 22, decrease the amount by $7,003,000,000.

On page 40, line 23, decrease the amount by $7,003,000,000.

On page 41, line 2, decrease the amount by $8,294,000,000.

On page 41, line 3, decrease the amount by $8,294,000,000.

On page 41, line 6, decrease the amount by $9,640,000,000.

On page 41, line 7, decrease the amount by $9,640,000,000.

On page 41, line 10, decrease the amount by $12,035,000,000.

On page 41, line 11, decrease the amount by $12,035,000,000.

On page 41, line 14, decrease the amount by $16,276,000,000.

On page 41, line 15, decrease the amount by $16,276,000,000.

On page 41, line 18, decrease the amount by $21,605,000,000.

On page 41, line 19, decrease the amount by $21,605,000,000.

On page 45, line 24, decrease the amount by $375,000,000,000.

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**SA 340.** Mr. KOHL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $160,000,000.

On page 3, line 11, increase the amount by $276,000,000.

On page 3, line 12, increase the amount by $254,000,000.

On page 3, line 13, increase the amount by $36,000,000.

On page 4, line 1, increase the amount by $160,000,000.

On page 4, line 2, increase the amount by $276,000,000.

On page 4, line 3, increase the amount by $254,000,000.

On page 4, line 4, increase the amount by $36,000,000.

On page 4, line 15, increase the amount by $362,000,000.

On page 4, line 16, decrease the amount by $7,000,000.

On page 4, line 17, decrease the amount by $15,000,000.

On page 4, line 18, decrease the amount by $20,000,000.

On page 4, line 19, decrease the amount by $22,000,000.

On page 4, line 20, decrease the amount by $23,000,000.

On page 4, line 21, decrease the amount by $24,000,000.

On page 4, line 22, decrease the amount by $26,000,000.

On page 4, line 23, decrease the amount by $27,000,000.

On page 4, line 24, decrease the amount by $28,000,000.

On page 5, line 5, increase the amount by $79,000,000.

On page 5, line 6, increase the amount by $131,000,000.

On page 5, line 7, increase the amount by $112,000,000.

On page 5, line 8, decrease the amount by $2,000,000.

On page 5, line 9, decrease the amount by $22,000,000.

On page 5, line 10, decrease the amount by $23,000,000.

On page 5, line 11, decrease the amount by $24,000,000.

On page 5, line 12, decrease the amount by $26,000,000.

On page 5, line 13, decrease the amount by $27,000,000.

On page 5, line 14, decrease the amount by $28,000,000.

On page 5, line 18, increase the amount by $81,000,000.

On page 5, line 19, increase the amount by $145,000,000.

On page 5, line 20, increase the amount by $142,000,000.

On page 5, line 21, increase the amount by $38,000,000.

On page 5, line 22, increase the amount by $22,000,000.

On page 5, line 23, increase the amount by $23,000,000.

On page 5, line 24, increase the amount by $24,000,000.

On page 5, line 25, increase the amount by $26,000,000.

On page 6, line 1, increase the amount by $27,000,000.

On page 6, line 2, increase the amount by $28,000,000.

On page 6, line 6, decrease the amount by $81,000,000.

On page 6, line 7, decrease the amount by $227,000,000.

On page 6, line 8, decrease the amount by $369,000,000.

On page 6, line 9, decrease the amount by $407,000,000.

On page 6, line 10, decrease the amount by $428,000,000.

On page 6, line 11, decrease the amount by $451,000,000.

On page 6, line 12, decrease the amount by $476,000,000.

On page 6, line 13, decrease the amount by $501,000,000.

On page 6, line 14, decrease the amount by $528,000,000.

On page 6, line 15, decrease the amount by $557,000,000.

On page 6, line 19, decrease the amount by $81,000,000.

On page 6, line 20, decrease the amount by $227,000,000.

On page 6, line 21, decrease the amount by $369,000,000.

On page 6, line 22, decrease the amount by $407,000,000.

On page 6, line 23, decrease the amount by $428,000,000.

On page 6, line 24, decrease the amount by $451,000,000.

On page 6, line 25, decrease the amount by $476,000,000.

On page 7, line 1, decrease the amount by $501,000,000.

On page 7, line 2, decrease the amount by $528,000,000.

On page 7, line 3, decrease the amount by $557,000,000.

On page 36, line 15, increase the amount by $363,000,000.

On page 36, line 16, increase the amount by $80,000,000.

On page 36, line 20, increase the amount by $138,000,000.

On page 36, line 24, increase the amount by $127,000,000.

On page 37, line 3, increase the amount by $18,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $7,000,000.

On page 40, line 11, decrease the amount by $7,000,000.

On page 40, line 14, decrease the amount by $15,000,000.

On page 40, line 15, decrease the amount by $15,000,000.

On page 40, line 18, decrease the amount by $20,000,000.

On page 40, line 19, decrease the amount by $20,000,000.

On page 40, line 22, decrease the amount by $22,000,000.

On page 40, line 23, decrease the amount by $22,000,000.

On page 41, line 2, decrease the amount by $23,000,000.

On page 41, line 3, decrease the amount by $23,000,000.

On page 41, line 6, decrease the amount by $24,000,000.

On page 41, line 7, decrease the amount by $24,000,000.

On page 41, line 10, decrease the amount by $26,000,000.

On page 41, line 11, decrease the amount by $26,000,000.

On page 41, line 14, decrease the amount by $27,000,000.

On page 41, line 15, decrease the amount by $27,000,000.

On page 41, line 18, decrease the amount by $28,000,000.

On page 41, line 19, decrease the amount by $28,000,000.

On page 45, line 24, decrease the amount by $726,000,000.

On page 47, line 5, increase the amount by $363,000,000.

On page 47, line 6, increase the amount by $80,000,000.

On page 47, line 15, increase the amount by $138,000,000.

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**SA 341.** Mr. REID submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 9, line 2, increase the amount by $182,000,000.

On page 9, line 3, increase the amount by $182,000,000.

On page 9, line 6, increase the amount by $331,000,000.

On page 9, line 7, increase the amount by $331,000,000.

On page 9, line 10, increase the amount by $584,000,000.

On page 9, line 11, increase the amount by $584,000,000.

On page 9, line 14, increase the amount by $965,000,000.

On page 9, line 15, increase the amount by $965,000,000.

On page 9, line 18, increase the amount by $1,454,000,000.

On page 9, line 19, increase the amount by $1,454,000,000.

On page 9, line 22, increase the amount by $1,642,000,000.

On page 9, line 23, increase the amount by $1,642,000,000.

On page 10, line 2, increase the amount by $1,739,000,000.

On page 10, line 3, increase the amount by $1,739,000,000.

On page 10, line 6, increase the amount by $1,844,000,000.

On page 10, line 7, increase the amount by $1,844,000,000.

On page 10, line 10, increase the amount by $1,953,000,000.

On page 10, line 11, increase the amount by $1,953,000,000.

On page 10, line 14, increase the amount by $2,070,000,000.

On page 10, line 15, increase the amount by $2,070,000,000.

On page 79, after line 22, insert the following:

**SEC. . SENSE OF SENATE ON PHASED-IN CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AT 60 PERCENT OR HIGHER.**

It is the sense of the Senate that the new budget authority and outlays for fiscal years 2004 through 2013 for National Defense (050) specified in section 103(1) are adequate to provide, and should provide, for the phased-in of concurrent receipt of retired pay and veterans' disability compensation by veterans with service-connected disabilities rated 60 percent or higher as if Section 1414 of title 10, United States Code, were amended to read as follows:

**"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation for disabilities rated at 60 percent or higher**

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—A member or former member of the uniformed services described in subsection (b) is entitled to be paid retired pay, up to the amount determined for such member or former member under subsection (d), in addition to any entitlement to veterans' disability compensation, without regard to sections 5304 and 5305 of title 38.

"(b) COVERED MEMBERS.—A member or former member described in this subsection is any member or former member who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation for a service-connected disability rated at 60 percent or higher, as determined under laws administered by the Secretary of Veterans Affairs.

"(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

"(d) MAXIMUM AMOUNT OF RETIRED PAY.—The maximum amount of retired pay to which a member or former member is entitled under subsection (a) is as follows:

"(1) For months beginning with January 2004 and ending with December 2004, the amount equal to 40 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

"(2) For months beginning with January 2005 and ending with December 2005, the amount equal to 60 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

"(3) For months beginning with January 2006 and ending with December 2006, the amount equal to 80 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

"(4) For months beginning with December 2006, the amount equal to the full amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

"(e) DEFINITIONS.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.

"(3) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(12) of title 38.".

(2) COORDINATION WITH SPECIAL COMPENSATION AUTHORITY.—Section 1413 of such title is amended—

(1) in subsection (a)—

(A) by inserting ", for months in 2002 and 2003," after "Secretary concerned shall"; and

(B) by striking the last sentence; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "September 2004" and inserting "December 2003"; and

(B) by striking paragraph (3).

(3) ADDITIONAL CONFORMING AMENDMENTS.—(A) Effective on December 31, 2003, section 1413a of such title is repealed.

(B) Effective on the date of the enactment of this Act, subsection (d) of section 641 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat, 1150; 10 U.S.C. 1414 note) is repealed.

(4) CLERICAL AMENDMENT.—Effective on the date of the enactment of this Act, the table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by striking the item relating to section: 1414and inserting the following new item:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation for disabilities rated at 60 percent or higher.".

(B) Effective December 31, 2003, the table of sections at the beginning of such chapter is amended by striking the item relating to section 1413a.

On page 4, line 15, increase the amount by $182,000,000.

On page 4, line 16, increase the amount by $331,000,000.

On page 4, line 17, increase the amount by $584,000,000.

On page 4, line 18, increase the amount by $965,000,000.

On page 4, line 19, increase the amount by $1,454,000,000.

On page 4, line 20, increase the amount by $1,642,000,000.

On page 4, line 21, increase the amount by $1,739,000,000.

On page 4, line 22, increase the amount by $1,844,000,000.

On page 4, line 23, increase the amount by $1,953,000,000.

On page 4, line 24, increase the amount by $2,070,000,000.

On page 5, line 5, increase the amount by $182,000,000.

On page 5, line 6, increase the amount by $331,000,000.

On page 5, line 7, increase the amount by $584,000,000.

On page 5, line 8, increase the amount by $965,000,000.

On page 5, line 9, increase the amount by $1,454,000,000.

On page 5, line 10, increase the amount by $1,642,000,000.

On page 5, line 11, increase the amount by $1,739,000,000.

On page 5, line 12, increase the amount by $1,844,000,000.

On page 5, line 13, increase the amount by $1,953,000,000.

On page 5, line 14, increase the amount by $2,070,000,000.

On page 45, line 24, decrease the amount by $12,764,000,000.

On page 3, line 10, increase the amount by $182,000,000.

On page 3, line 11, increase the amount by $331,000,000.

On page 3, line 12, increase the amount by $584,000,000.

On page 3, line 13, increase the amount by $965,000,000.

On page 3, line 14, increase the amount by $1,454,000,000.

On page 3, line 15, increase the amount by $1,642,000,000.

On page 3, line 16, increase the amount by $1,739,000,000.

On page 3, line 17, increase the amount by $1,844,000,000.

On page 3, line 18, increase the amount by $1,953,000,000.

On page 3, line 19, increase the amount by $2,070,000,000.

On page 4, line 1, increase the amount by $182,000,000.

On page 4, line 2, increase the amount by $331,000,000.

On page 4, line 3, increase the amount by $584,000,000.

On page 4, line 4, increase the amount by $965,000,000.

On page 4, line 5, increase the amount by $1,454,000,000.

On page 4, line 6, increase the amount by $1,642,000,000.

On page 4, line 7, increase the amount by $1,739,000,000.

On page 4, line 8, increase the amount by $1,844,000,000.

On page 4, line 9, increase the amount by $1,953,000,000.

On page 4, line 10, increase the amount by $2,070,000,000.

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**SA 342.** Mr. REID submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 9, line 2, increase the amount by $3,330,000,000.

On page 9, line 3, increase the amount by $3,330,000,000.

On page 9, line 6, increase the amount by $3,428,000,000.

On page 9, line 7, increase the amount by $3,428,000,000.

On page 9, line 10, increase the amount by $3,630,000,000.

On page 9, line 11, increase the amount by $3,630,000,000.

On page 9, line 14, increase the amount by $3,889,000,000.

On page 9, line 15, increase the amount by $3,889,000,000.

On page 9, line 18, increase the amount by $4,096,000,000.

On page 9, line 19, increase the amount by $4,096,000,000.

On page 9, line 22, increase the amount by $4,316,000,000.

On page 9, line 23, increase the amount by $4,316,000,000.

On page 10, line 2, increase the amount by $4,516,000,000.

On page 10, line 3, increase the amount by $4,516,000,000.

On page 10, line 6, increase the amount by $4,728,000,000.

On page 10, line 7, increase the amount by $4,728,000,000.

On page 10, line 10, increase the amount by $4,952,000,000.

On page 10, line 11, increase the amount by $4,952,000,000.

On page 10, line 14, increase the amount by $5,227,000,000.

On page 10, line 15, increase the amount by $5,227,000,000.

On page 79, after line 22, insert the following:

**SEC. . SENSE OF SENATE ON FULL CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.**

It is the sense of the Senate that the new budget authority and outlays for fiscal years 2004 through 2013 for National Defense (050) specified in section 103(1) are adequate to provide, and should provide, for full concurrent receipt of retired pay and veterans' disability compensation by members and former members of the uniformed services who are entitled to such pay and compensation, without regard to sections 5304 and 5305 of title 38, United States Code.

On page 4, line 15, increase the amount by $3,330,000,000.

On page 4, line 16, increase the amount by $3,428,000,000.

On page 4, line 17, increase the amount by $3,630,000,000.

On page 4, line 18, increase the amount by $3,889,000,000.

On page 4, line 19, increase the amount by $4,096,000,000.

On page 4, line 20, increase the amount by $4,316,000,000.

On page 4, line 21, increase the amount by $4,516,000,000.

On page 4, line 22, increase the amount by $4,728,000,000.

On page 4, line 23, increase the amount by $4,952,000,000.

On page 4, line 24, increase the amount by $5,227,000,000.

On page 5, line 5, increase the amount by $3,330,000,000.

On page 5, line 6, increase the amount by $3,428,000,000.

On page 5, line 7, increase the amount by $3,630,000,000.

On page 5, line 8, increase the amount by $3,889,000,000.

On page 5, line 9, increase the amount by $4,096,000,000.

On page 5, line 10, increase the amount by $4,316,000,000.

On page 5, line 11, increase the amount by $4,516,000,000.

On page 5, line 12, increase the amount by $4,728,000,000.

On page 5, line 13, increase the amount by $4,952,000,000.

On page 5, line 14, increase the amount by $5,227,000,000.

On page 45, line 24, decrease the amount by $42,110,000,000.

On page 3, line 10, increase the amount by $3,330,000,000.

On page 3, line 11, increase the amount by $3,428,000,000.

On page 3, line 12, increase the amount by $3,630,000,000.

On page 3, line 13, increase the amount by $3,889,000,000.

On page 3, line 14, increase the amount by $4,096,000,000.

On page 3, line 15, increase the amount by $4,316,000,000.

On page 3, line 16, increase the amount by $4,516,000,000.

On page 3, line 17, increase the amount by $4,728,000,000.

On page 3, line 18, increase the amount by $4,952,000,000.

On page 3, line 19, increase the amount by $5,227,000,000.

On page 4, line 1, increase the amount by $3,330,000,000.

On page 4, line 2, increase the amount by $3,428,000,000.

On page 4, line 3, increase the amount by $3,630,000,000.

On page 4, line 4, increase the amount by $3,889,000,000.

On page 4, line 5, increase the amount by $4,096,000,000.

On page 4, line 6, increase the amount by $4,316,000,000.

On page 4, line 7, increase the amount by $4,516,000,000.

On page 4, line 8, increase the amount by $4,728,000,000.

On page 4, line 9, increase the amount by $4,952,000,000.

On page 4, line 10, increase the amount by $5,227,000,000.

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**SA 343.** Mr. HOLLINGS (for himself, Mrs. BOXER, Mr. SARBANES, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $314,000,000.

On page 3, line 11, increase the amount by $634,000,000.

On page 3, line 12, increase the amount by $535,000,000.

On page 3, line 13, increase the amount by $336,000,000.

On page 3, line 14, increase the amount by $153,000,000.

On page 3, line 15, increase the amount by $31,000,000.

On page 4, line 1, increase the amount by $314,000,000.

On page 4, line 2, increase the amount by $634,000,000.

On page 4, line 3, increase the amount by $535,000,000.

On page 4, line 4, increase the amount by $336,000,000.

On page 4, line 5, increase the amount by $153,000,000.

On page 4, line 6, increase the amount by $31,000,000.

On page 4, line 15, increase the amount by $1,000,000,000.

On page 4, line 16, increase the amount by $1,000,000,000.

On page 5, line 5, increase the amount by $314,000,000.

On page 5, line 6, increase the amount by $634,000,000.

On page 5, line 7, increase the amount by $535,000,000.

On page 5, line 8, increase the amount by $336,000,000.

On page 5, line 9, increase the amount by $153,000,000.

On page 5, line 10, increase the amount by $31,000,000.

On page 21, line 23, increase the amount by $850,000,000.

On page 21, line 24, increase the amount by $201,000,000.

On page 22, line 2, increase the amount by $850,000,000.

On page 22, line 3, increase the amount by $484,000,000.

On page 22, line 7, increase the amount by $497,000,000.

On page 22, line 11, increase the amount by $336,000,000.

On page 22, line 15, increase the amount by $153,000,000.

On page 22, line 19, increase the amount by $31,000,000.

On page 36, line 15, increase the amount by $150,000,000.

On page 36, line 16, increase the amount by $113,000,000.

On page 36, line 19, increase the amount by $150,000,000.

On page 36, line 20, increase the amount by $150,000,000.

On page 36, line 24, increase the amount by $38,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $314,000,000.

On page 47, line 14, increase the amount by $1,000,000,000.

On page 47, line 15, increase the amount by $634,000,000.

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**SA 344.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . SENSE OF THE SENATE THAT CONGRESS SHOULD FULLY FUND AMTRAK TO PRESERVE A NATIONAL PASSENGER RAIL SYSTEM.**

(a) FINDINGS.—The Senate finds that—

(1) Amtrak, the National Railroad Passenger Corporation, served 23,400,000 passengers in fiscal year 2002;

(2) rail passenger service is a vital component to our national transportation system

and provides travelers an alternative mode of transportation for intercity travel;

(3) the lack of investment and attention to the needs of passenger rail infrastructure has resulted in a weak passenger rail network, and has caused a strain on the capacity of other modes of transportation in many areas of the country;

(4) passenger rail is an integral part of the Unites States transportation system, relieves the pressures of congestion on highways and at airports, and creates a more balanced system of transportation alternatives; and

(5) the need for a balanced interstate and international transportation system that provides a viable alternative to travel by private automobile or commercial aircraft is particularly evident after the events of September 11, 2001.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should fully fund Amtrak to preserve a national passenger rail system.

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**SA 345.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . SENSE OF THE SENATE REGARDING 0.08 BLOOD ALCOHOL CONTENT.**

(a) FINDINGS.—The Senate finds that, according to the National Highway Traffic Safety Administration—

(1) each year, 42,000 people die in motor vehicle crashes, and more than 16,000 of these fatalities are related to impaired driving;

(2) 68 percent of children killed in alcohol-related crashes were riding in a car with a drinking driver; and

(3) the 0.08 blood alcohol content legal limit is 1 of the laws that has had the greatest impact in preventing and deterring impaired driving.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal standard of 0.08 blood alcohol content for driving under the influence of alcohol saves lives and must remain the national policy.

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**SA 346.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . SENSE OF THE SENATE REGARDING GAS TAX DONOR STATES.**

(a) FINDINGS.—The Senate finds that—

(1) the Federal Highway Trust Fund, established under section 9503 of the Internal Revenue Code of 1986, consists of funds contributed by States through the collection of Federal gasoline taxes;

(2) each State contributes a certain amount of funds collected and receives a certain amount of funds apportioned from the Federal Highway Trust Fund; and

(3) each of the States of Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Massachusetts, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Washington contributes more to the Highway Account of the Federal Highway Trust Fund Highway Account than it receives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that apportionments out of the Highway Account of the Federal Highway Trust Fund should reflect the amount that each State contributes into the fund.

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**SA 347.** Mr. LUGAR (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. HAGEL, Mr. CHAFEE, Mr. SMITH, Mr. JEFFORDS, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 10, line 23, increase the amount by $1,115,000,000.

On page 10, line 24, increase the amount by $675,000,000.

On page 11, line 2, increase the amount by $834,000,000.

On page 11, line 3, increase the amount by $830,000,000.

On page 11, line 6, increase the amount by $560,000,000.

On page 11, line 7, increase the amount by $641,000,000.

On page 11, line 10, increase the amount by $294,000,000.

On page 11, line 11, increase the amount by $392,000,000.

On page 11, line 14, increase the amount by $28,000,000.

On page 11, line 15, increase the amount by $130,000,000.

On page 11, line 18, decrease the amount by $242,000,000.

On page 11, line 19, decrease the amount by $130,000,000.

On page 11, line 22, decrease the amount by $505,000,000.

On page 11, line 23, decrease the amount by $397,000,000.

On page 12, line 2, decrease the amount by $767,000,000.

On page 12, line 3, decrease the amount by $656,000,000.

On page 12, line 6, decrease the amount by $1,034,000,000.

On page 12, line 7, decrease the amount by $924,000,000.

On page 12, line 10, decrease the amount by $1,298,000,000.

On page 12, line 11, decrease the amount by $1,188,000,000.

On page 42, line 2, decrease the amount by $1,115,000,000.

On page 42, line 3, decrease the amount by $675,000,000.

On page 42, line 6, decrease the amount by $834,000,000.

On page 42, line 7, decrease the amount by $830,000,000.

On page 42, line 10, decrease the amount by $560,000,000.

On page 42, line 11, decrease the amount by $641,000,000.

On page 42, line 14, decrease the amount by $294,000,000.

On page 42, line 15, decrease the amount by $392,000,000.

On page 42, line 18, decrease the amount by $28,000,000.

On page 42, line 19, decrease the amount by $130,000,000.

On page 42, line 22, increase the amount by $242,000,000.

On page 42, line 23, increase the amount by $130,000,000.

On page 43, line 2, increase the amount by $505,000,000.

On page 43, line 3, increase the amount by $397,000,000.

On page 43, line 6, increase the amount by $767,000,000.

On page 43, line 7, increase the amount by $656,000,000.

On page 43, line 10, increase the amount by $1,034,000,000.

On page 43, line 11, increase the amount by $924,000,000.

On page 43, line 14, increase the amount by $1,298,000,000.

On page 43, line 15, increase the amount by $1,188,000,000.

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**SA. 348.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 61, line 12, insert "on an equal basis with respect to benefit level regardless of whether such beneficiaries remain in the traditional medicare fee-for-service program under parts A and B of such title or enroll in a private plan under the medicare program" after "prescription drugs".

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**SA 349.** Ms. MIKULSKI (for herself, Ms. LANDRIEU, Mrs. CLINTON, Mrs. MURRAY, Mr. KENNEDY, Mr. SARBANES, and Mr. JOHNSON) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $246,000,000.

On page 3, line 11, increase the amount by $256,000,000.

On page 3, line 12, increase the amount by $267,000,000.

On page 3, line 13, increase the amount by $552,000,000.

On page 3, line 14, increase the amount by $578,000,000.

On page 3, line 15, increase the amount by $908,000,000.

On page 3, line 16, increase the amount by $941,000,000.

On page 3, line 17, increase the amount by $1,313,000,000.

On page 3, line 18, increase the amount by $1,375,000,000.

On page 3, line 19, increase the amount by $1,799,000,000.

On page 4, line 1, increase the amount by $246,000,000.

On page 4, line 2, increase the amount by $256,000,000.

On page 4, line 3, increase the amount by $267,000,000.

On page 4, line 4, increase the amount by $552,000,000.

On page 4, line 5, increase the amount by $578,000,000.

On page 4, line 6, increase the amount by $908,000,000.

On page 4, line 7, increase the amount by $941,000,000.

On page 4, line 8, increase the amount by $1,313,000,000.

On page 4, line 9, increase the amount by $1,375,000,000.

On page 4, line 10, increase the amount by $1,799,000,000.

On page 4, line 15, increase the amount by $246,000,000.

On page 4, line 16, increase the amount by $256,000,000.

On page 4, line 17, increase the amount by $267,000,000.

On page 4, line 18, increase the amount by $552,000,000.

On page 4, line 19, increase the amount by $578,000,000.

On page 4, line 20, increase the amount by $908,000,000.

On page 4, line 21, increase the amount by $941,000,000.

On page 4, line 22, increase the amount by $1,313,000,000.

On page 4, line 23, increase the amount by $1,375,000,000.

On page 4, line 24, increase the amount by $1,799,000,000.

On page 5, line 5, increase the amount by $246,000,000.

On page 5, line 6, increase the amount by $256,000,000.

On page 5, line 7, increase the amount by $267,000,000.

On page 5, line 8, increase the amount by $552,000,000.

On page 5, line 9, increase the amount by $578,000,000.

On page 5, line 10, increase the amount by $908,000,000.

On page 5, line 11, increase the amount by $941,000,000.

On page 5, line 12, increase the amount by $1,313,000,000.

On page 5, line 13, increase the amount by $1,375,000,000.

On page 5, line 14, increase the amount by $1,799,000,000.

On page 27, line 11, increase the amount by $246,000,000.

On page 27, line 12, increase the amount by $246,000,000.

On page 27, line 15, increase the amount by $256,000,000.

On page 27, line 16, increase the amount by $256,000,000.

On page 27, line 19, increase the amount by $267,000,000.

On page 27, line 20, increase the amount by $267,000,000.

On page 27, line 23, increase the amount by $552,000,000.

On page 27, line 24, increase the amount by $552,000,000.

On page 28, line 2, increase the amount by $578,000,000.

On page 28, line 3, increase the amount by $578,000,000.

On page 28, line 6, increase the amount by $908,000,000.

On page 28, line 7, increase the amount by $908,000,000.

On page 28, line 10, increase the amount by $941,000,000.

On page 28, line 11, increase the amount by $941,000,000.

On page 28, line 14, increase the amount by $1,313,000,000.

On page 28, line 15, increase the amount by $1,313,000,000.

On page 28, line 18, increase the amount by $1,375,000,000.

On page 28, line 19, increase the amount by $1,375,000,000.

On page 28, line 22, increase the amount by $1,799,000,000.

On page 28, line 23, increase the amount by $1,799,000,000.

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**SA 350.** Mrs. CLINTON (for herself, Ms. COLLINS) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $16,000,000.

On page 3, line 11, increase the amount by $228,000,000.

On page 3, line 12, increase the amount by $65,000,000.

On page 3, line 13, increase the amount by $16,000,000.

On page 4, line 1, increase the amount by $16,000,000.

On page 4, line 2, increase the amount by $228,000,000.

On page 4, line 3, increase the amount by $65,000,000.

On page 4, line 4, increase the amount by $16,000,000.

On page 4, line 15, increase the amount by $326,000,000.

On page 5, line 5, increase the amount by $16,000,000.

On page 5, line 6, increase the amount by $228,000,000.

On page 5, line 7, increase the amount by $65,000,000.

On page 5, line 8, increase the amount by $16,000,000.

On page 25, line 16, increase the amount by $326,000,000.

On page 25, line 17, increase the amount by $16,000,000.

On page 25, line 21, increase the amount by $228,000,000.

On page 25, line 25, increase the amount by $65,000,000.

On page 26, line 4, increase the amount by $16,000,000.

On page 47, line 5, increase the amount by $326,000,000.

On page 47, line 6, increase the amount by $16,000,000.

On page 47, line 15, increase the amount by $228,000,000.

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**SA 351.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, insert the following:

**SEC.    . SENSE OF THE SENATE ON INCREASING THE CAP ON THE CRIME VICTIMS FUND.**

(a) FINDINGS.—The Senate finds the following:

(1) The Victims of Crime Act established the Crime Victims Fund which is one of the main Federal sources of money and support for crime victims.

(2) The Crime Victims Fund provides funding for—

(A) formula grants to States for victims compensation and victims assistance; and

(B) discretionary grants.

(3) State compensation programs pay directly for medical care and counseling, lost wages, and funerals for victims of domestic violence, child abuse, rape, and homicide.

(4) State assistance programs provide services including crisis intervention, counseling, emergency shelter and child care, and emergency transportation.

(5) Discretionary grants awarded to organizations fund demonstration projects, training, and other assistance to expand and improve the delivery of services to victims of Federal crimes.

(6) The Crime Victims Fund consists of monies collected from criminal fines, forfeited bail bonds, penalty fees, and special assessments collected by the Offices of the United States Attorneys, the United States courts, and the Bureau of Prisons, and does not rely on any tax-generated revenues.

(7) The formula to receive funding to compensate victims under the Victims of Crime Act changed in 2002. In that year, the Victims of Crime Act matched 40 percent of the amount that a State spent for victim compensation. In 2003, the percentage increased to 60 percent. However, because of the existence of the cap on the Crime Victims Fund (currently $600,000,000), the increase in victim compensation money has reduced the amount that can be spent on victim assistance. The existence of the cap has resulted in 8 percent less money for victim assistance.

(8) The cap on the Crime Victims Fund must be raised to ensure that the same amount is available for victim assistance that was available in fiscal year 2002, an amount equal to $383,000,000. To ensure this, the national victim advocacy groups estimate that the cap should be raised from the current $600,000,000 to $675,000,000 (not including any amounts for the antiterrorism emergency reserve).

(9) Raising the cap on the Crime Victims Fund will not cost any additional expenditures since Congress has capped the Fund for 4 successive years, thereby holding back more than $638,500,000 allocated to the Fund.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the cap on the Crime Victims Fund be raised to $675,000,000.

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**SA 352.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 20, line 2, increase the amount by $250,000,000.

On page 20, line 3, increase the amount by $250,000,000.

On page 79, after line 22, insert the following:

### SEC. . INCREASED FUNDING TO RESTORE THE OPERATING SUBSIDY FUND.

The budgetary levels in this resolution assume that an additional $250,000,000 will be provided for the Operating Subsidy Fund of the Department of Housing and Urban Development for the purpose of restoring funding cuts in fiscal year 2003 to be derived by reducing any revenue reductions assumed in this resolution.

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**SA 353.** Mr. SMITH (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### SEC. . SENSE OF THE SENATE CONCERNING AN EXPANSION IN HEALTH CARE COVERAGE.

(a) FINDINGS.—The Senate finds that—

(1) there were 74,700,000 Americans who were uninsured for all or part of the two-year period of 2001 and 2002;

(2) this large group of uninsured Americans constitutes almost one out of every three Americans under the age of 65;

(3) most of these uninsured individuals were without health coverage for lengthy periods of time, with two-thirds of them uninsured for over six months;

(4) four out of five uninsured individuals are in working families;

(5) high health care costs, the large number of unemployed workers, and State cutbacks of public health programs occasioned by State fiscal crises are causing more and more individuals to become uninsured; and

(6) uninsured individuals are less likely to have a usual source of care outside of an emergency room, often go without screenings and preventive care, often delay or forgo needed medical care, are often subject to avoidable hospital days, and are sicker and die earlier than those individuals who have health insurance.

(b) SENSE OF SENATE.—It is the sense of the Senate that the functional totals in this resolution assume that—

(1) expanded access to health care coverage throughout the United States is a top priority for national policymaking; and

(2) to the extent that additional funds are made available, a significant portion of such funds should be dedicated to expanding access to health care coverage so that fewer individuals are uninsured and fewer individuals are likely to become uninsured.

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**SA 354.** Mr. DEWINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### SEC. . SENSE OF THE SENATE CONCERNING CHILDREN'S GRADUATE MEDICAL EDUCATION.

(a) FINDINGS.—The Senate finds that—

(1) children's hospitals provide excellent care for children;

(2) the importance of children's hospitals extends to the health care of all children throughout the United States;

(3) making up only 1 percent of all hospitals, independent children's hospitals train almost 30 percent of all pediatricians and 50 percent of all pediatric specialists;

(4) children's hospitals provide over 50 percent of the hospital care in the United States for children with serious illness, including needing cardiatric surgery, children with cancer, and children with cerebral palsy; and

(5) children's hospitals are important centers for pediatric research and the major pipeline for future pediatric researchers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, for fiscal year 2004, children's graduate medical education should be funded at $305,000,000.

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**SA 355.** Mr. DEWINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

### SEC. 308. SENSE OF THE SENATE ON FUNDING FOR CRIMINAL JUSTICE.

(a) FINDINGS.—The Senate finds that—

(1) bipartisan efforts have led to success in the fight against crime and improvements in the administration of justice;

(2) Congress steadily increased funding for crime identification technologies between 1994 and 2003; and

(3) a strong commitment to improve crime identification technologies is still needed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the funding levels in this resolution assume that the programs authorized under the Crime Identification Technology Act of 1998 to improve the justice system will be fully funded at the levels authorized for each of the fiscal years 2004 through 2007.

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**SA 356.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 31, line 2, increase the amount by $283,000,000.

On page 31, line 3, increase the amount by $212,000,000.

On page 31, line 7, increase the amount by $65,000,000.

On page 31, line 11, increase the amount by $6,000,000.

On page 42, line 2, decrease the amount by $283,000,000.

On page 42, line 7, decrease the amount by $65,000,000.

On page 42, line 11, decrease the amount by $6,000,000.

On page 42, line 3, decrease the amount by $212,000,000.

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**SA 357.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $4,750,000,000.

On page 3, line 11, increase the amount by $4,750,000,000.

On page 3, line 12, increase the amount by $4,750,000,000.

On page 3, line 13, increase the amount by $4,750,000,000.

On page 3, line 14, increase the amount by $4,750,000,000.

On page 3, line 15, increase the amount by $4,750,000,000.

On page 3, line 16, increase the amount by $4,750,000,000.

On page 3, line 17, increase the amount by $4,750,000,000.

On page 4, line 1, increase the amount by $4,750,000,000.

On page 4, line 2, increase the amount by $4,750,000,000.

On page 4, line 3, increase the amount by $4,750,000,000.

On page 4, line 4, increase the amount by $4,750,000,000.

On page 4, line 5, increase the amount by $4,750,000,000.

On page 4, line 6, increase the amount by $4,750,000,000.

On page 4, line 7, increase the amount by $4,750,000,000.

On page 4, line 8, increase the amount by $4,750,000,000.

On page 4, line 15, increase the amount by $4,750,000,000.

On page 4, line 16, increase the amount by $4,750,000,000.

On page 4, line 17, increase the amount by $4,750,000,000.

On page 4, line 18, increase the amount by $4,750,000,000.

On page 4, line 19, increase the amount by $4,750,000,000.

On page 4, line 20, increase the amount by $4,750,000,000.

On page 4, line 21, increase the amount by $4,750,000,000.

On page 4, line 22, increase the amount by $4,750,000,000.

On page 5, line 5, increase the amount by $4,750,000,000.

On page 5, line 6, increase the amount by $4,750,000,000.

On page 5, line 7, increase the amount by $4,750,000,000.

On page 5, line 8, increase the amount by $4,750,000,000.

On page 5, line 9, increase the amount by $4,750,000,000.

On page 5, line 10, increase the amount by $4,750,000,000.

On page 5, line 11, increase the amount by $4,750,000,000.

On page 5, line 12, increase the amount by $4,750,000,000.

On page 27, line 11, increase the amount by $4,750,000,000.

On page 27, line 12, increase the amount by $4,750,000,000.

On page 27, line 15, increase the amount by $4,750,000,000.

On page 27, line 16, increase the amount by $4,750,000,000.

On page 27, line 19, increase the amount by $4,750,000,000.

On page 27, line 20, increase the amount by $4,750,000,000.

On page 27, line 23, increase the amount by $4,750,000,000.

On page 27, line 24, increase the amount by $4,750,000,000.

On page 28, line 2, increase the amount by $4,750,000,000.

On page 28, line 3, increase the amount by $4,750,000,000.

On page 28, line 6, increase the amount by $4,750,000,000.

On page 28, line 7, increase the amount by $4,750,000,000.

On page 28, line 10, increase the amount by $4,750,000,000.

On page 28, line 11, increase the amount by $4,750,000,000.

On page 28, line 14, increase the amount by $4,750,000,000.

On page 28, line 15, increase the amount by $4,750,000,000.

On page 62, line 12, increase the amount by $38,000,000,000.

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**SA 358.** Mr. BOND (for himself, Mr. REID, Mr. INHOFE, Mr. JEFFORDS, Mr. SHELBY, Mr. SARBANES, Mr. BYRD, Mrs. MURRAY, Mr. CHAFEE, Mr. WARNER, Mr. SPECTER, Ms. MURKOWSKI, Mr. LOTT, Ms. COLLINS, Mr. REED, Mrs. FEINSTEIN, Mr. LEVIN, Mr. BROWNBACK, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 4, line 15, increase the amount by $9,547,000,000.

On page 4, line 16, increase the amount by $6,619,000,000.

On page 4, line 17, increase the amount by $8,251,000,000.

On page 4, line 18, increase the amount by $10,473,000,000.

On page 4, line 19, increase the amount by $13,127,000,000.

On page 4, line 20, increase the amount by $15,478,000,000.

On page 4, line 21, increase the amount by $2,211,000,000.

On page 4, line 22, increase the amount by $2,662,000,000.

On page 4, line 23, increase the amount by $2,970,000,000.

On page 4, line 24, increase the amount by $3,222,000,000.

On page 5, line 5, increase the amount by $1,052,000,000.

On page 5, line 6, increase the amount by $3,139,000,000.

On page 5, line 7, increase the amount by $4,968,000,000.

On page 5, line 8, increase the amount by $6,865,000,000.

On page 5, line 9, increase the amount by $9,141,000,000.

On page 5, line 10, increase the amount by $11,564,000,000.

On page 5, line 11, increase the amount by $10,452,000,000.

On page 5, line 12, increase the amount by $6,604,000,000.

On page 5, line 13, increase the amount by $5,056,000,000.

On page 5, line 14, increase the amount by $4,500,000,000.

On page 5, line 18, decrease the amount by $1,052,000,000.

On page 5, line 19, decrease the amount by $3,139,000,000.

On page 5, line 20, decrease the amount by $4,968,000,000.

On page 5, line 21, decrease the amount by $6,865,000,000.

On page 5, line 22, decrease the amount by $9,141,000,000.

On page 5, line 23, decrease the amount by $11,564,000,000.

On page 5, line 24, decrease the amount by $10,452,000,000.

On page 5, line 25, decrease the amount by $6,604,000,000.

On page 6, line 1, decrease the amount by $5,056,000,000.

On page 6, line 2, decrease the amount by $4,500,000,000.

On page 6, line 6, increase the amount by $1,052,000,000.

On page 6, line 7, increase the amount by $4,191,000,000.

On page 6, line 8, increase the amount by $9,158,000,000.

On page 6, line 9, increase the amount by $16,023,000,000.

On page 6, line 10, increase the amount by $25,164,000,000.

On page 6, line 11, increase the amount by $36,728,000,000.

On page 6, line 12, increase the amount by $47,181,000,000.

On page 6, line 13, increase the amount by $53,785,000,000.

On page 6, line 14, increase the amount by $58,840,000,000.

On page 6, line 15, increase the amount by $63,340,000,000.

On page 6, line 19, increase the amount by $1,052,000,000.

On page 6, line 20, increase the amount by $4,191,000,000.

On page 6, line 21, increase the amount by $9,158,000,000.

On page 6, line 22, increase the amount by $16,023,000,000.

On page 6, line 23, increase the amount by $25,164,000,000.

On page 6, line 24, increase the amount by $36,728,000,000.

On page 6, line 25, increase the amount by $47,181,000,000.

On page 7, line 1, increase the amount by $53,785,000,000.

On page 7, line 2, increase the amount by $58,840,000,000.

On page 7, line 3, increase the amount by $63,340,000,000.

On page 21, line 23, increase the amount by $9,528,000,000.

On page 21, line 24, increase the amount by $1,033,000,000.

On page 22, line 2, increase the amount by $6,494,000,000.

On page 22, line 3, increase the amount by $3,014,000,000.

On page 22, line 6, increase the amount by $7,909,000,000.

On page 22, line 7, increase the amount by $4,626,000,000.

On page 22, line 10, increase the amount by $9,815,000,000.

On page 22, line 11, increase the amount by $6,207,000,000.

On page 22, line 14, increase the amount by $12,045,000,000.

On page 22, line 15, increase the amount by $8,059,000,000.

On page 22, line 18, increase the amount by $13,849,000,000.

On page 22, line 19, increase the amount by $9,935,000,000.

On page 22, line 23, increase the amount by $8,241,000,000.

On page 23, line 3, increase the amount by $3,942,000,000.

On page 23, line 7, increase the amount by $2,086,000,000.

On page 23, line 11, increase the amount by $1,278,000,000.

On page 40, line 6, increase the amount by $19,000,000.

On page 40, line 7, increase the amount by $19,000,000.

On page 40, line 10, increase the amount by $125,000,000.

On page 40, line 11, increase the amount by $125,000,000.

On page 40, line 14, increase the amount by $342,000,000.

On page 40, line 15, increase the amount by $342,000,000.

On page 40, line 18, increase the amount by $658,000,000.

On page 40, line 19, increase the amount by $658,000,000.

On page 40, line 22, increase the amount by $1,082,000,000.

On page 40, line 23, increase the amount by $1,082,000,000.

On page 41, line 2, increase the amount by $1,629,000,000.

On page 41, line 3, increase the amount by $1,629,000,000.

On page 41, line 6, increase the amount by $2,211,000,000.

On page 41, line 7, increase the amount by $2,211,000,000.

On page 41, line 10, increase the amount by $2,662,000,000.

On page 41, line 11, increase the amount by $2,662,000,000.

On page 41, line 14, increase the amount by $2,970,000,000.

On page 41, line 15, increase the amount by $2,970,000,000.

On page 41, line 18, increase the amount by $3,222,000,000.

On page 41, line 19, increase the amount by $3,222,000,000.

On page 47, line 9, increase the amount by $921,000,000.

On page 47, line 18, increase the amount by $2,631,000,000.

On page 47, line 11, increase the amount by $748,000,000.

On page 47, line 12, increase the amount by $112,000,000.

On page 47, line 20, increase the amount by $1,056,000,000.

On page 47, line 21, increase the amount by $383,000,000.

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**SA 359.** Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $38,000,000.

On page 3, line 10, increase the amount by $130,000,000.

On page 3, line 11, increase the amount by $153,000,000.

On page 3, line 12, increase the amount by $268,000,000.

On page 3, line 13, increase the amount by $321,000,000.

On page 3, line 14, increase the amount by $385,000,000.

On page 3, line 15, increase the amount by $460,000,000.

On page 3, line 16, increase the amount by $551,000,000.

On page 3, line 17, increase the amount by $658,000,000.

On page 3, line 18, increase the amount by $785,000,000.

On page 3, line 19, increase the amount by $936,000,000.

On page 3, line 23, increase the amount by $38,000,000.

On page 4, line 1, increase the amount by $130,000,000.

On page 4, line 2, increase the amount by $153,000,000.

On page 4, line 3, increase the amount by $268,000,000.

On page 4, line 4, increase the amount by $321,000,000.

On page 4, line 5, increase the amount by $385,000,000.

On page 4, line 6, increase the amount by $460,000,000.

On page 4, line 7, increase the amount by $551,000,000.

On page 4, line 8, increase the amount by $658,000,000.

On page 4, line 9, increase the amount by $785,000,000.

On page 4, line 10, increase the amount by $936,000,000.

On page 4, line 15, increase the amount by $272,000,000.

On page 4, line 16, increase the amount by $269,000,000.

On page 4, line 17, increase the amount by $269,000,000.

On page 4, line 18, increase the amount by $267,000,000.

On page 4, line 19, increase the amount by $262,000,000.

On page 4, line 20, increase the amount by $253,000,000.

On page 4, line 21, increase the amount by $240,000,000.

On page 4, line 22, decrease the amount by $220,000,000.

On page 4, line 23, decrease the amount by $193,000,000.

On page 4, line 24, decrease the amount by $156,000,000.

On page 5, line 5, increase the amount by $11,000,000.

On page 5, line 6, increase the amount by $187,000,000.

On page 5, line 7, increase the amount by $255,000,000.

On page 5, line 8, increase the amount by $267,000,000.

On page 5, line 9, increase the amount by $262,000,000.

On page 5, line 10, increase the amount by $253,000,000.

On page 5, line 11, increase the amount by $240,000,000.

On page 5, line 12, decrease the amount by $220,000,000.

On page 5, line 13, decrease the amount by $193,000,000.

On page 5, line 14, decrease the amount by $156,000,000.

On page 5, line 17, decrease the amount by $38,000,000.

On page 5, line 18, decrease the amount by $119,000,000.

On page 5, line 19, increase the amount by $34,000,000.

On page 5, line 20, decrease the amount by $13,000,000.

On page 5, line 21, decrease the amount by $54,000,000.

On page 5, line 22, decrease the amount by $123,000,000.

On page 5, line 23, decrease the amount by $207,000,000.

On page 5, line 24, decrease the amount by $311,000,000.

On page 5, line 25, decrease the amount by $438,000,000.

On page 6, line 1, decrease the amount by $592,000,000.

On page 6, line 2, decrease the amount by $780,000,000.

On page 6, line 5, decrease the amount by $38,000,000.

On page 6, line 6, decrease the amount by $157,000,000.

On page 6, line 7, decrease the amount by $124,000,000.

On page 6, line 8, decrease the amount by $137,000,000.

On page 6, line 8, decrease the amount by $191,000,000.

On page 6, line 10, decrease the amount by $314,000,000.

On page 6, line 11, decrease the amount by $520,000,000.

On page 6, line 12, decrease the amount by $832,000,000.

On page 6, line 13, decrease the amount by $1,270,000,000.

On page 6, line 14, decrease the amount by $1,862,000,000.

On page 6, line 15, decrease the amount by $2,642,000,000.

On page 6, line 18, decrease the amount by $38,000,000.

On page 6, line 19, decrease the amount by $157,000,000.

On page 6, line 20, decrease the amount by $124,000,000.

On page 6, line 21, decrease the amount by $137,000,000.

On page 6, line 22, decrease the amount by $191,000,000.

On page 6, line 23, decrease the amount by $314,000,000.

On page 6, line 24, decrease the amount by $520,000,000.

On page 6, line 25, decrease the amount by $832,000,000.

On page 7, line 1, decrease the amount by $1,270,000,000.

On page 7, line 2, decrease the amount by $1,862,000,000.

On page 7, line 3, decrease the amount by $2,642,000,000.

On page 25, line 16, increase the amount by $275,000,000.

On page 25, line 17, increase the amount by $14,000,000.

On page 25, line 20, increase the amount by $275,000,000.

On page 25, line 21, increase the amount by $193,000,000.

On page 25, line 24, increase the amount by $275,000,000.

On page 25, line 25, increase the amount by $261,000,000.

On page 26, line 3, increase the amount by $275,000,000.

On page 26, line 4, increase the amount by $275,000,000.

On page 26, line 7, increase the amount by $275,000,000.

On page 26, line 8, increase the amount by $275,000,000.

On page 26, line 11, increase the amount by $275,000,000.

On page 26, line 12, increase the amount by $275,000,000.

On page 26, line 15, increase the amount by $275,000,000.

On page 26, line 16, increase the amount by $275,000,000.

On page 26, line 19, increase the amount by $275,000,000.

On page 26, line 20, increase the amount by $275,000,000.

On page 26, line 23, increase the amount by $275,000,000.

On page 26, line 24, increase the amount by $275,000,000.

On page 27, line 2, increase the amount by $275,000,000.

On page 27, line 3, increase the amount by $275,000,000.

On page 40, line 6, decrease the amount by $3,000,000.

On page 40, line 7, decrease the amount by $3,000,000.

On page 40, line 10, decrease the amount by $6,000,000.

On page 40, line 11, decrease the amount by $6,000,000.

On page 40, line 14, decrease the amount by $6,000,000.

On page 40, line 15, decrease the amount by $6,000,000.

On page 40, line 18, decrease the amount by $8,000,000.

On page 40, line 19, decrease the amount by $8,000,000.

On page 40, line 22, decrease the amount by $13,000,000.

On page 40, line 23, decrease the amount by $13,000,000.

On page 41, line 2, decrease the amount by $22,000,000.

On page 41, line 3, decrease the amount by $22,000,000.

On page 41, line 6, decrease the amount by $35,000,000.

On page 41, line 7, decrease the amount by $35,000,000.

On page 41, line 10, decrease the amount by $55,000,000.

On page 41, line 11, decrease the amount by $55,000,000.

On page 41, line 14, decrease the amount by $82,000,000.

On page 41, line 15, decrease the amount by $82,000,000.

On page 41, line 18, decrease the amount by $119,000,000.

On page 41, line 19, decrease the amount by $119,000,000.

On page 47, line 5, increase the amount by $275,000,000.

On page 41, line 6, increase the amount by $14,000,000.

On page 47, line 14, increase the amount by $275,000,000.

On page 47, line 15, increase the amount by $193,000,000.

At the appropriate place insert the following:

**SEC. . SENSE OF THE SENATE ON CORPORATE TAX HAVEN LOOPHOLES**

(a) FINDINGS.—Congress finds that companies are taking advantage of loopholes in the United States tax code to direct taxable income to tax haven jurisdictions, some of which have excessive bank secrecy laws and a poor record of cooperation with United States civil and criminal tax enforcement.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should act to stop companies from avoiding paying their fair share of the United States taxes by—

(1) addressing the problem of corporations that have renounced their United States citizenship ("inverted") by relocating their headquarters to tax haven jurisdictions while maintaining their primary offices and production or service facilities in the United States; and

(2) addressing the problem of Bermuda-based insurance companies that are using reinsurance agreements with their subsidiaries to direct property and casualty insurance premiums out of the United States into Bermuda to reduce their United States taxes in

a way that places United States property and casualty insurance companies at a competitive disadvantage.

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**SA 360.** Ms. LANDRIEU (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . EDUCATION FIRST.**

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to ensure that a portion of unexpected, additional Federal resources are available to—

(1) assist disadvantaged children, teachers, and schools in meeting the additional academic challenges posed in the No Child Left Behind Act of 2001 (Public Law 107–110);

(2) provide for full funding of Federal financial commitment to children with disabilities and local communities as identified in the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(3) ensure that every student with the talent, desire, and drive to pursue postsecondary training at a school of their choice is not inhibited by family financial need; and

(4) grow to 10 percent over time, the share of the Federal discretionary budget dedicated toward education.

(b) ADJUSTMENT.—If the report provided pursuant to section 202(e) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)) (the budget and economic outlook: update), estimates on-budget Federal revenues for fiscal year 2003 or 2004, respectively, that exceed estimated on-budget Federal revenues set forth in the Congressional Budget Office's Spring 2003 or 2004, respectively, budget and economic outlook for fiscal year 2003 or 2004, respectively, (adjusted for the enactment of any fiscal year 2003 or 2004, respectively, supplemental appropriations act), then the Chairman of the Committee on the Budget of the Senate shall—

(1) in an amount equal to 20 percent of the increase in estimated on-budget Federal revenues for fiscal year 2004 or 2005, respectively, increase the amount of discretionary budget authority and outlays flowing therefrom allocated under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)) to carry out Function 500 education programs and for other purposes; and

(2) in an amount equal to 80 percent of the increase in estimated on-budget Federal revenue for fiscal year 2004 or 2005, respectively, reduce the deficit and level of publicly held debt in order to better secure the integrity of the Federal Old-Age and Survivors Insurance Trust Fund under section 201 of the Social Security Act (42 U.S.C. 401), unless there is a national emergency related to the war on terrorism.

(c) LIMITATION.—Amounts made available under subsection (a) shall—

(1) not exceed ½ of 1 percent of on-budget Federal revenues for fiscal year 2003; and

(2) supplement, and not supplant, amounts allocated under section 302(b) of the Congressional Budget Act of 1974 (2 U.S.C. 633(b)) and any other amounts used to carry out the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) for the previous fiscal year for which amounts are provided under this section.

(d) CONFORMING CHANGES.—The Chairman of the Committee on the Budget of the Senate shall make all necessary conforming changes to the functions and aggregates included in any applicable resolution as a result of adjustments under this section.

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**SA 361.** Mr. DASCHLE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $5,104,000,000.

On page 3, line 11, increase the amount by $348,000,000.

On page 3, line 12, increase the amount by $174,000,000.

On page 3, line 13, increase the amount by $116,000,000.

On page 4, line 1, increase the amount by $5,104,000,000.

On page 4, line 2, increase the amount by $348,000,000.

On page 4, line 3, increase the amount by $174,000,000.

On page 4, line 4, increase the amount by $116,000,000.

On page 4, line 15, increase the amount by $2,854,000,000.

On page 4, line 16, decrease the amount by $120,000,000.

On page 4, line 17, decrease the amount by $144,000,000.

On page 4, line 18, decrease the amount by $162,000,000.

On page 4, line 19, decrease the amount by $173,000,000.

On page 4, line 20, decrease the amount by $184,000,000.

On page 4, line 21, decrease the amount by $196,000,000.

On page 4, line 22, decrease the amount by $207,000,000.

On page 4, line 23, decrease the amount by $218,000,000.

On page 4, line 24, decrease the amount by $230,000,000.

On page 5, line 5, increase the amount by $2,506,000,000.

On page 5, line 6, increase the amount by $54,000,000.

On page 5, line 7, decrease the amount by $57,000,000.

On page 5, line 8, decrease the amount by $104,000,000.

On page 5, line 9, decrease the amount by $173,000,000.

On page 5, line 10, decrease the amount by $184,000,000.

On page 5, line 11, decrease the amount by $196,000,000.

On page 5, line 12, decrease the amount by $207,000,000.

On page 5, line 13, decrease the amount by $218,000,000.

On page 5, line 14, decrease the amount by $230,000,000.

On page 5, line 18, increase the amount by $2,598,000,000.

On page 5, line 19, increase the amount by $294,000,000.

On page 5, line 20, increase the amount by $231,000,000.

On page 5, line 21, increase the amount by $220,000,000.

On page 5, line 22, increase the amount by $173,000,000.

On page 5, line 23, increase the amount by $184,000,000.

On page 5, line 24, increase the amount by $196,000,000.

On page 5, line 25, increase the amount by $207,000,000.

On page 6, line 1, increase the amount by $218,000,000.

On page 6, line 2, increase the amount by $230,000,000.

On page 6, line 6, decrease the amount by $2,598,000,000.

On page 6, line 7, decrease the amount by $2,892,000,000.

On page 6, line 8, decrease the amount by $3,123,000,000.

On page 6, line 9, decrease the amount by $3,343,000,000.

On page 6, line 10, decrease the amount by $3,516,000,000.

On page 6, line 11, decrease the amount by $3,700,000,000.

On page 6, line 12, decrease the amount by $3,896,000,000.

On page 6, line 13, decrease the amount by $4,103,000,000.

On page 6, line 14, decrease the amount by $4,321,000,000.

On page 6, line 15, decrease the amount by $4,551,000,000.

On page 6, line 19, decrease the amount by $2,598,000,000.

On page 6, line 20, decrease the amount by $2,892,000,000.

On page 6, line 21, decrease the amount by $3,123,000,000.

On page 6, line 22, decrease the amount by $3,343,000,000.

On page 6, line 23, decrease the amount by $3,516,000,000.

On page 6, line 24, decrease the amount by $3,700,000,000.

On page 6, line 25, decrease the amount by $3,896,000,000.

On page 7, line 1, decrease the amount by $4,103,000,000.

On page 7, line 2, decrease the amount by $4,321,000,000.

On page 7, line 3, decrease the amount by $4,551,000,000.

On page 27, line 11, increase the amount by $2,900,000,000.

On page 27, line 12, increase the amount by $2,552,000,000.

On page 27, line 16, increase the amount by $174,000,000.

On page 27, line 20, increase the amount by $87,000,000.

On page 27, line 24, increase the amount by $58,000,000.

On page 40, line 6, decrease the amount by $46,000,000.

On page 40, line 7, decrease the amount by $46,000,000.

On page 40, line 10, decrease the amount by $120,000,000.

On page 40, line 11, decrease the amount by $120,000,000.

On page 40, line 14, decrease the amount by $144,000,000.

On page 40, line 15, decrease the amount by $144,000,000.

On page 40, line 18, decrease the amount by $162,000,000.

On page 40, line 19, decrease the amount by $162,000,000.

On page 40, line 22, decrease the amount by $173,000,000.

On page 40, line 23, decrease the amount by $173,000,000.

On page 41, line 2, decrease the amount by $184,000,000.

On page 41, line 3, decrease the amount by $184,000,000.

On page 41, line 6, decrease the amount by $196,000,000.

On page 41, line 7, decrease the amount by $196,000,000.

On page 41, line 10, decrease the amount by $207,000,000.

On page 41, line 11, decrease the amount by $207,000,000.

On page 41, line 14, decrease the amount by $218,000,000.

On page 41, line 15, decrease the amount by $218,000,000.

On page 41, line 18, decrease the amount by $230,000,000.

On page 41, line 19, decrease the amount by $230,000,000.

On page 47, line 5, increase the amount by $2,900,000,000.

On page 47, line 6, increase the amount by $2,552,000,000.

On page 47, line 15, increase the amount by $174,000,000.

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**SA 362.** Ms. COLLINS (for herself, Mr. Reed, Mr. Bond, and Ms. Mikulski) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, insert the following:

**SEC. . SENSE OF THE SENATE REGARDING MEDICARE HOME HEALTH PAYMENTS.**

(a) Findings.—The Senate makes the following findings:

(1) Home health has become an increasingly important part of our health care system. The kinds of highly skilled, and often technically complex, services that our Nation's home health agencies provide have enabled millions of our most frail and vulnerable older and disabled persons to avoid hospitals and nursing homes and remain in the comfort and security of their homes.

(2) The changes initiated as part of the Balanced Budget Act of 1997 produced cuts in home health spending under the medicare program far beyond what Congress intended. According to estimates from the Office of the Actuary of the Centers for Medicare & Medicaid Services, expenditures for home health services under the medicare program decreased by 39 percent between fiscal year 1997 and fiscal year 2003.

(3) Projected medicare home health savings under the Balanced Budget Act of 1997 have totaled more than $72,000,000,000 between fiscal year 1998 and fiscal year 2002, over 4 times the $16,000,000,000 that the Congressional Budget Office originally estimated for that time period.

(4) Over 3,400 home health agencies have either closed or stopped serving medicare beneficiaries since the enactment of the Balanced Budget Act of 1997.

(5) Since January 1997, the number of medicare beneficiaries receiving home health services nationwide has dropped by 1,300,000, more than ⅓, and the average number of visits provided over a 60-day period has dropped from 36 to 20.

(6) On October 1, 2002, home health agencies received an additional across-the-board cut in medicare home health payments and the Centers for Medicare & Medicaid Services has dramatically reduced projections for home health spending under the medicare program over the next 10 years.

(7) Further cuts in payments for home health services under the medicare program simply cannot be sustained without affecting patient care, particularly for those medicare beneficiaries with complex care requirements.

(b) Sense of the Senate.—It is the sense of the Senate that the medicare home health benefit should be stabilized by—

(1) avoiding further cuts in payments for home health services under the medicare program;

(2) preserving the full market basket update for payments under the medicare prospective payment system for home health services for 2004; and

(3) providing for an add-on payment under the medicare program for home health services furnished in rural areas after March 31, 2003.

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**SA 363.** Mr. DASCHLE (for himself, Mr. Inouye, Mr. Bingaman, Mr. Dorgan, Mrs. Murray, Mr. Wyden, Mr. Johnson, Mr. Leahy, Ms. Cantwell, Mr. Reid, Mr. Kennedy, and Mr. Lieberman) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $5,104,000,000.

On page 3, line 11, increase the amount by $5,809,000,000.

On page 3, line 12, increase the amount by $6,390,000,000.

On page 3, line 13, increase the amount by $6,953,000,000.

On page 3, line 14, increase the amount by $7,440,000,000.

On page 3, line 15, increase the amount by $7,961,000,000.

On page 3, line 16, increase the amount by $8,518,000,000.

On page 3, line 17, increase the amount by $9,114,000,000.

On page 3, line 18, increase the amount by $9,752,000,000.

On page 3, line 19, increase the amount by $10,435,000,000.

On page 4, line 1, increase the amount by $5,104,000,000.

On page 4, line 2, increase the amount by $5,809,000,000.

On page 4, line 3, increase the amount by $6,390,000,000.

On page 4, line 4, increase the amount by $6,953,000,000.

On page 4, line 5, increase the amount by $7,440,000,000.

On page 4, line 6, increase the amount by $7,961,000,000.

On page 4, line 7, increase the amount by $8,518,000,000.

On page 4, line 8, increase the amount by $9,114,000,000.

On page 4, line 9, increase the amount by $9,752,000,000.

On page 4, line 10, increase the amount by $10,435,000,000.

On page 4, line 15, increase the amount by $2,854,000,000.

On page 4, line 16, increase the amount by $2,912,000,000.

On page 4, line 17, increase the amount by $2,944,000,000.

On page 4, line 18, increase the amount by $2,968,000,000.

On page 4, line 19, increase the amount by $2,988,000,000.

On page 4, line 20, increase the amount by $2,999,000,000.

On page 4, line 21, increase the amount by $3,000,000,000.

On page 4, line 22, increase the amount by $2,993,000,000.

On page 4, line 23, increase the amount by $2,973,000,000.

On page 4, line 24, increase the amount by $2,939,000,000.

On page 5, line 5, increase the amount by $2,506,000,000.

On page 5, line 6, increase the amount by $2,714,000,000.

On page 5, line 7, increase the amount by $2,819,000,000.

On page 5, line 8, increase the amount by $2,892,000,000.

On page 5, line 9, increase the amount by $2,907,000,000.

On page 5, line 10, increase the amount by $2,912,000,000.

On page 5, line 11, increase the amount by $2,907,000,000.

On page 5, line 12, increase the amount by $2,893,000,000.

On page 5, line 13, increase the amount by $2,866,000,000.

On page 5, line 14, increase the amount by $2,824,000,000.

On page 5, line 18, increase the amount by $2.598,000,000.

On page 5, line 19, increase the amount by $3,095,000,000.

On page 5, line 20, increase the amount by $3,571,0000,000

On page 5, line 21, increase the amount by $4,061,000,000.

On page 5, line 22, increase the amount by $4,533,000,000.

On page 5, line 23, increase the amount by $5,049,000,000.

On page 5, line 24, increase the amount by $5,611,000,000.

. On page 5, line 25, increase the amount by $6,221,000,000.

On page 6, line 1, increase the amount by $6,886,000,000.

On page 6, line 2, increase the amount by $7,611,000,000.

On page 6, line 6, decrease the amount by $2,598,000,000.

On page 6, line 7, decrease the amount by $5,693,000,000.

On page 6, line 8, decrease the amount by $9,264,000,000.

On page 6, line 9, decrease the amount by $13,324,000,000.

On page 6, line 10, decrease the amount by $17,857,000,000.

On page 6, line 11, decrease the amount by $22,906,000,000.

On page 6, line 12, decrease the amount by $28,516,000,000.

On page 6, line 13, decrease the amount by $34,738,000,000.

On page 6, line 14, decrease the amount by $41,624,000,000.

On page 6, line 15, decrease the amount by $49,235,000,000.

On page 6, line 19, decrease the amount by $2,598,000,000.

On page 6, line 20, decrease the amount by $5,693,000,000.

On page 6, line 21, decrease the amount by $9,264,000,000.

On page 6, line 22, decrease the amount by $13,324,000,000.

On page 6, line 23, decrease the amount by $17,857,000,000.

On page 6, line 24, decrease the amount by $22,906,000,000.

On page 6, line 25, decrease the amount by $28,516,000,000.

On page 7, line 1, decrease the amount by $34,738,000,000.

On page 7, line 2, decrease the amount by $41,624,000,000.

On page 7, line 3, decrease the amount by $49,235,000,000.

On page 27, line 11, increase the amount by $2,900,000,000.

On page 27, line 12, increase the amount by $2,552,000,000.

On page 27, line 15, increase the amount by $3,103,000,000.

On page 27, line 16, increase the amount by $2,905,000,000.

On page 27, line 19, increase the amount by $3,320,000,000.

On page 27, line 20, increase the amount by $3,195,000,000.

On page 27, line 23, increase the amount by $3,553,000,000.

On page 27, line 24, increase the amount by $3,477,000,000.

On page 28, line 2, increase the amount by $3,801,000,000.

On page 28, line 3, increase the amount by $3,720,000,000.

On page 28, line 6, increase the amount by $4,067,000,000.

On page 28, line 7, increase the amount by $3,980,000,000.

On page 28, line 10, increase the amount by $4,352,000,000.

On page 28, line 11, increase the amount by $4,259,000,000.

On page 28, line 14, increase the amount by $4,657,000,000.

On page 28, line 15, increase the amount by $4,557,000,000.

On page 28, line 18, increase the amount by $4,983,000,000.

On page 28, line 19, increase the amount by $4,876,000,000.

On page 28, line 22, increase the amount by $5,332,000,000.

On page 28, line 23, increase the amount by $5,217,000,000.

On page 40, line 6, decrease the amount by $46,000,000.

On page 40, line 7, decrease the amount by $46,000,000.

On page 40, line 10, decrease the amount by $191,000,000.

On page 40, line 11, decrease the amount by $191,000,000.

On page 40, line 14, decrease the amount by $376,000,000.

On page 40, line 15, decrease the amount by $376,000,000.

On page 40, line 18, decrease the amount by $585,000,000.

On page 40, line 19, decrease the amount by $585,000,000.

On page 40, line 22, decrease the amount by $813,000,000.

On page 40, line 23, decrease the amount by $813,000,000.

On page 41, line 2, decrease the amount by $1,068,000,000.

On page 41, line 3, decrease the amount by $1,068,000,000.

On page 41, line 6, decrease the amount by $1,352,000,000.

On page 41, line 7, decrease the amount by $1,352,000,000.

On page 41, line 10, decrease the amount by $1,664,000,000.

On page 41, line 11, decrease the amount by $1,664,000,000.

On page 41, line 14, decrease the amount by $2,010,000,000.

On page 41, line 15, decrease the amount by $2,010,000,000.

On page 41, line 18, decrease the amount by $2,393,000,000.

On page 41, line 19, decrease the amount by $2,393,000,000.

On page 45, line 24, decrease the amount by $77,476,000,000.

On page 47, line 5, increase the amount by $2,900,000,000.

On page 47, line 6, increase the amount by $2,552,000,000.

On page 47, line 14, increase the amount by $3,103,000,000.

On page 47, line 15, increase the amount by $2,905,000,000.

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**SA 364.** Mr. LAUTENBERG (for himself and Mr. BYRD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 4, line 15, increase the amount by $929,000,000.

On page 4, line 16, increase the amount by $41,000,000.

On page 4, line 17, increase the amount by $47,000,000.

On page 4, line 18, increase the amount by $52,000,000.

On page 4, line 19, increase the amount by $55,000,000.

On page 4 line 20, increase the amount by $59,000,000.

On page 4 line 21, increase the amount by $63,000,000.

On page 4, line 22, increase the amount by $66,000,000.

On page 4, line 23, increase the amount by $70,000,000.

On page 4, line 24, increase the amount by $73,000,000.

On page 5, line 5, increase the amount by $929,000,000.

On page 5, line 6, increase the amount by $41,000,000.

On page 5, line 7, increase the amount by $47,000,000.

On page 5, line 8, increase the amount by $52,000,000.

On page 5, line 9, increase the amount by $55,000,000.

On page 5, line 10, increase the amount by $59,000,000.

On page 5, line 11, increase the amount by $63,000,000.

On page 5, line 12, increase the amount by $66,000,000.

On page 5, line 13, increase the amount by $70,000,000.

On page 5, line 14, increase the amount by $73,000,000.

On page 5, line 18, decrease the amount by $929,000,000.

On page 5, line 19, decrease the amount by $41,000,000.

On page 5, line 20, decrease the amount by $47,000,000.

On page 5, line 21, decrease the amount by $52,000,000.

On page 5, line 22, decrease the amount by $55,000,000.

On page 5, line 23, decrease the amount by $59,000,000.

On page 5, line 24, decrease the amount by $63,000,000.

On page 5, line 25, decrease the amount by $66,000,000.

On page 6, line 1, decrease the amount by $70,000,000.

On page 6, line 2, decrease the amount by $73,000,000.

On page 6, line 6, increase the amount by $929,000,000.

On page 6, line 7, increase the amount by $970,000,000.

On page 6, line 8, increase the amount by $1,017,000,000.

On page 6, line 9, increase the amount by $1,069,000,000.

On page 6, line 10, increase the amount by $1,124,000,000.

On page 6, line 11, increase the amount by $1,183,000,000.

On page 6, line 12, increase the amount by $1,245,000,000.

On page 6, line 13, increase the amount by $1,311,000,000.

On page 6, line 14, increase the amount by $1,381,000,000.

On page 6, line 15, increase the amount by $1,454,000,000.

On page 6, line 19, increase the amount by $929,000,000.

On page 6, line 20, increase the amount by $970,000,000.

On page 6, line 21, increase the amount by $1,017,000,000.

On page 6, line 22, increase the amount by $1,069,000,000.

On page 6, line 23, increase the amount by $1,124,000,000.

On page 6, line 24, increase the amount by $1,183,000,000.

On page 6, line 25, increase the amount by $1,245,000,000.

On page 7, line 1, increase the amount by $1,311,000,000.

On page 7, line 2, increase the amount by $1,381,000,000.

On page 7, line 3, increase the amount by $1,454,000,000.

On page 21, line 23, increase the amount by $912,000,000.

On page 21, line 24, increase the amount by $912,000,000.

On page 40, line 6, increase the amount by $17,000,000.

On page 40, line 7, increase the amount by $17,000,000.

On page 40, line 10, increase the amount by $41,000,000.

On page 40, line 11, increase the amount by $41,000,000.

On page 40, line 14, increase the amount by $47,000,000.

On page 40, line 15, increase the amount by $47,000,000.

On page 40, line 18, increase the amount by $52,000,000.

On page 40, line 19, increase the amount by $52,000,000.

On page 40, line 22, increase the amount by $55,000,000.

On page 40, line 23, increase the amount by $55,000,000.

On page 41, line 2, increase the amount by $59,000,000.

On page 41, line 3, increase the amount by $59,000,000.

On page 41, line 6, increase the amount by $63,000,000.

On page 41, line 7, increase the amount by $63,000,000.

On page 41, line 10, increase the amount by $66,000,000.

On page 41, line 11, increase the amount by $66,000,000.

On page 41, line 14, increase the amount by $70,000,000.

On page 41, line 15, increase the amount by $70,000,000.

On page 41, line 18, increase the amount by $73,000,000.

On page 41, line 19, increase the amount by $73,000,000.

On page 47, line 5, increase the amount by $912,000,000.

On page 47, line 6, increase the amount by $912,000,000.

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**SA 365.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 12, decrease the amount by $264,000,000.

On page 3, line 13, decrease the amount by $428,000,000.

On page 3, line 14, decrease the amount by $452,000,000.

On page 3, line 15, decrease the amount by $478,000,000.

On page 3, line 16, decrease the amount by $507,000,000.

On page 3, line 17, decrease the amount by $539,000,000.

On page 3, line 18, decrease the amount by $572,000,000.

On page 3, line 19, decrease the amount by $607,000,000.

On page 4, line 3, decrease the amount by $264,000,000.

On page 4, line 4, decrease the amount by $428,000,000.

On page 4, line 5, decrease the amount by $452,000,000.

On page 4, line 6, decrease the amount by $478,000,000.

On page 4, line 7, decrease the amount by $507,000,000.

On page 4, line 8, decrease the amount by $539,000,000.

On page 4, line 9, decrease the amount by $572,000,000.

On page 4, line 10, decrease the amount by $607,000,000.

On page 4, line 17, increase the amount by $7,000,000.

On page 4, line 18, increase the amount by $26,000,000.

On page 4, line 19, increase the amount by $52,000,000.

On page 4, line 20, increase the amount by $80,000,000.

On page 4, line 21, increase the amount by $111,000,000.

On page 4, line 22, increase the amount by $145,000,000.

On page 4, line 23, increase the amount by $183,000,000.

On page 4, line 24, increase the amount by $225,000.

On page 5, line 7, increase the amount by $7,000,000.

On page 5, line 8, increase the amount by $26,000,000.

On page 5, line 9, increase the amount by $52,000,000.

On page 5, line 10, increase the amount by $80,000,000.

On page 5, line 11, increase the amount by $111,000,000.

On page 5, line 12, increase the amount by $145,000,000.

On page 5, line 13, increase the amount by $183,000,000.

On page 5, line 14, increase the amount by $225,000,000.

On page 5, line 20, increase the amount by $271,000,000.

On page 5, line 21, increase the amount by $454,000,000.

On page 5, line 22, increase the amount by $504,000,000.

On page 5, line 23, increase the amount by $558,000,000.

On page 5, line 24, increase the amount by $618,000,000.

On page 5, line 25, increase the amount by $684,000,000.

On page 6, line 1, increase the amount by $755,000,000.

On page 6, line 2, increase the amount by $832,000,000.

On page 6, line 8, increase the amount by $271,000,000.

On page 6, line 9, increase the amount by $725,000,000.

On page 6, line 10, increase the amount by $1,229,000,000.

On page 6, line 11, increase the amount by $1,787,000,000.

On page 6, line 12, increase the amount by $2,404,000,000.

On page 6, line 13, increase the amount by $3,088,000,000.

On page 6, line 14, increase the amount by $3,843,000,000.

On page 6, line 15, increase the amount by $4,675,000,000.

On page 6, line 21, increase the amount by $271,000,000.

On page 6, line 22, increase the amount by $725,000,000.

On page 6, line 23, increase the amount by $1,229,000,000.

On page 6, line 24, increase the amount by $1,787,000,000.

On page 6, line 25, increase the amount by $2,404,000,000.

On page 7, line 1, increase the amount by $3,088,000,000.

On page 7, line 2, increase the amount by $3,843,000,000.

On page 7, line 3, increase the amount by $4,675,000,000.

On page 40, line 14, increase the amount by $7,000,000.

On page 40, line 15, increase the amount by $7,000,000.

On page 40, line 18, increase the amount by $26,000,000.

On page 40, line 19, increase the amount by $26,000,000.

On page 40, line 22, increase the amount by $52,000,000.

On page 40, line 23, increase the amount by $52,000,000.

On page 41, line 2, increase the amount by $80,000,000.

On page 41, line 3, increase the amount by $80,000,000.

On page 41, line 6, increase the amount by $111,000,000.

On page 41, line 7, increase the amount by $111,000,000.

On page 41, line 10, increase the amount by $145,000,000.

On page 41, line 11, increase the amount by $145,000,000.

On page 41, line 14, increase the amount by $183,000,000.

On page 41, line 15, increase the amount by $183,000,000.

On page 41, line 18, increase the amount by $225,000,000.

On page 41, line 19, increase the amount by $225,000,000.

Sense of the Senate.—It is the Sense of the Senate that legislation should be enacted no later than December 31, 2004 providing Presidential authority for the United States to negotiate the entry of the United Kingdom into the North American Free Trade Agreement.

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**SA 366.** Mrs. MURRAY (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $1,540,000,000.

On page 3, line 10, increase the amount by $3,080,000,000.

On page 3 line 11, increase the amount by $2,420,000,000.

On page 3, line 12, increase the amount by $1,320,000,000.

On page 3, line 13, increase the amount by $440,000,000.

On page 3, line 23, increase the amount by $1,540,000,000.

On page 4, line 1, increase the amount by $3,080,000,000.

On page 4, line 2, increase the amount by $2,420,000,000.

On page 4 line 3, increase the amount by $1,320,000,000.

On page 4 line 4, increase the amount by $440,000,000.

On page 4 line 14, increase the amount by $2,194,000,000.

On page 4 line 15, increase the amount by $2,150,000,000.

On page 4 line 16, decrease the amount by $135,000,000.

On page 4 line 17, decrease the amount by $203,000,000.

On page 4 line 18, decrease the amount by $243,000,000.

On page 4 line 19, decrease the amount by $264,000,000.

On page 4 line 20, decrease the amount by $281,000,000.

On page 4 line 21, decrease the amount by $297,000,000.

On page 4 line 22, decrease the amount by $314,000,000.

On page 4 line 23, decrease the amount by $331,000,000.

On page 4 line 24, decrease the amount by $350,000,000.

On page 5 line 4, increase the amount by $764,000,000.

On page 5 line 5, increase the amount by $1,490,000,000.

On page 5 line 6, increase the amount by $1,075,000,000.

On page 5 line 7, increase the amount by $457,000,000.

On page 5 line 8, decrease the amount by $23,000,000.

On page 5 line 9, decrease the amount by $264,000,000.

On page 5 line 10, decrease the amount by $281,000,000.

On page 5 line 11, decrease the amount by $297,000,000.

On page 5 line 12, decrease the amount by $314,000,000.

On page 5 line 13, decrease the amount by $331,000,000.

On page 5 line 14, decrease the amount by $350,000,000.

On page 5 line 17, increase the amount by $776,000,000.

On page 5 line 18, increase the amount by $1,590,000,000.

On page 5 line 19, increase the amount by $1,345,000,000.

On page 5 line 20, increase the amount by $863,000,000.

On page 5 line 21, increase the amount by $463,000,000.

On page 5 line 22, increase the amount by $264,000,000.

On page 5 line 23, increase the amount by $281,000,000.

On page 5 line 24, increase the amount by $297,000,000.

On page 5 line 25, increase the amount by $314,000,000.

On page 6 line 1, increase the amount by $331,000,000.

On page 6 line 2, increase the amount by $350,000,000.

On page 6 line 5, decrease the amount by $776,000,000.

On page 6 line 6, decrease the amount by $2,366,000,000.

On page 6 line 7, decrease the amount by $3,711,000,000.

On page 6 line 8, decrease the amount by $4,574,000,000.

On page 6 line 9, decrease the amount by $5,037,000,000.

On page 6, line 10, decrease the amount by $5,301,000,000.

On page 6, line 11, decrease the amount by $5,582,000,000.

On page 6, line 12, decrease the amount by $5,879,000,000.

On page 6, line 13, decrease the amount by $6,193,000,000.

On page 6, line 14, decrease the amount by $6,524,000,000.

On page 6, line 15, decrease the amount by $6,873,000,000.

On page 6, line 18, decrease the amount by $776,000,000.

On page 6, line 19, decrease the amount by $2,366,000,000.

On page 6, line 20, decrease the amount by $3,711,000,000.

On page 6, line 21, decrease the amount by $4,574,000,000.

On page 6, line 22, decrease the amount by $5,037,000,000.

On page 6, line 23, decrease the amount by $5,301,000,000.

On page 6, line 24, decrease the amount by $5,582,000,000.

On page 6, line 25, decrease the amount by $5,879,000,000.

On page 7, line 1, decrease the amount by $6,193,000,000.

On page 7, line 2, decrease the amount by $6,524,000,000.

On page 7, line 3, decrease the amount by $6,873,000,000.

On page 23, line 15, increase the amount by $2,200,000,000.

On page 23, line 16, increase the amount by $770,000,000.

On page 23, line 19, increase the amount by $2,200,000,000.

On page 23, line 20, increase the amount by $1,540,000,000.

On page 23, line 24, increase the amount by $1,210,000,000.

On page 24, line 3, increase the amount by $660,000,000.

On page 24, line 7, increase the amount by $220,000,000.

On page 40, line 2, decrease the amount by $6,000,000.

On page 40, line 3, decrease the amount by $6,000,000.

On page 40, line 6, decrease the amount by $50,000,000.

On page 40, line 7, decrease the amount by $50,000,000.

On page 40, line 10, decrease the amount by $135,000,000.

On page 40, line 11, decrease the amount by $135,000,000.

On page 40, line 14, decrease the amount by $203,000,000.

On page 40, line 15, decrease the amount by $203,000,000.

On page 40, line 18, decrease the amount by $203,000,000.

On page 40, line 19, decrease the amount by $243,000,000.

On page 40, line 22, decrease the amount by $264,000,000.

On page 40, line 23, decrease the amount by $264,000,000.

On page 41, line 2, decrease the amount by $281,000,000.

On page 41, line 3, decrease the amount by $281,000,000.

On page 41, line 6, decrease the amount by $297,000,000.

On page 41, line 7, decrease the amount by $297,000,000.

On page 41, line 10, decrease the amount by $314,000,000.

On page 41, line 11, decrease the amount by $314,000,000.

On page 41, line 14, decrease the amount by $331,000,000.

On page 41, line 15, decrease the amount by $331,000,000.

On page 41, line 18, decrease the amount by $350,000,000.

On page 41, line 19, decrease the amount by $350,000,000.

On page 45, line 24, decrease the amount by $8,800,000,000.

On page 46, line 20, increase the amount by $2,200,000,000.

On page 46, line 21, increase the amount by $770,000,000.

On page 47, line 5, increase the amount by $2,200,000,000.

On page 47, line 6, increase the amount by $1,540,000,000.

On page 47, line 15, increase the amount by $1,210,000,000.

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**SA 367.** Mr. CORZINE (for himself, Mr. KERRY, Mr. LAUTENBERG, Mrs. MURRAY, Mrs. CLINTON, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $378,000,000.

On page 3, line 11, increase the amount by $271,000,000.

On page 3, line 12, increase the amount by $216,000,000.

On page 3, line 13, increase the amount by $216,000,000.

On page 4, line 1, increase the amount by $1,081,000,000.

On page 4, line 15, increase the amount by $378,000,000.

On page 4, line 16, decrease the amount by $271,000,000.

On page 4, line 17, decrease the amount by $216,000,000.

On page 4, line 18, decrease the amount by $216,000,000.

On page 16, line 11, increase the amount by $1,081,000,000.

On page 16, line 12, increase the amount by $378,000,000.

On page 16, line 16, increase the amount by $271,000,000.

On page 16, line 20, increase the amount by $216,000,000.

On page 16, line 24, increase the amount by $216,000,000.

On page 47, line 5, increase the amount by $1,081,000,000.

On page 47, line 6, increase the amount by $378,000,000.

On page 47, line 15, increase the amount by $271,000,000.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Thursday, March 20, 2003. The purpose of this hearing will be to consider the nomination of Vernon Bernard Parker to be Assistant Secretary of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 20, 2003, at 9:30 a.m., in open session to receive testimony on the Atomic Energy Defense Activities of the Department of Energy, in review of the defense authorization request for fiscal year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 20, 2003, at 9:30 a.m., to conduct a hearing on "Issues Relating to HUD's Proposed Rule on the Real Estate Settlement Procedures Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 20, 2003 at 2:30 p.m. to hold a hearing on Safer Embassies in Unsafe Places.

*Witnesses*

Mr. Jess Ford, Director, International Affairs & Trade, U.S. General Accounting Office, Washington, DC.

Major General Charles E. Williams (Ret.), Director, Overseas Buildings Operations, Department of State, Washington, DC.

The Honorable Francis X. Taylor, Assistant Secretary for Diplomatic Security, Department of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, March 20, 2003 at 9:30 a.m. for a hearing entitled "Cargo Containers: The Next Terrorist Target?"

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 20, 2003, at 4:00 p.m. in Dirksen Room 226.

#### I. Nominations

Priscilla Richmond Owen to be U.S. Circuit Judge for the Fifth Circuit; Cormac J. Carney to be U.S. District Judge for the Central District of California; James V. Selna to be U.S. District Judge for the Central District of California; Philip P. Simon to be U.S. District Judge for the Northern District of Indiana; Theresa Lazar Springmann to be U.S. District Judge for the Northern District of Indiana; Mary Ellen Coster Williams to be Judge for the Court of Federal Claims; Victor J. Wolski to be Judge for the Court of Federal Claims; Ricardo H. Hinojosa to be U.S. Sentencing Commissioner; Michael E. Horowitz to be U.S. Sentencing Commissioner; Gregory A. White to be U.S. Attorney for the Northern District of Ohio; Thomas Dyson Hurlburt, Jr. to be U.S. Marshal for the Middle District of Florida; Christina Pharo to be U.S. Marshal for the Southern District of Florida; Dennise Arthur Williamson to be U.S. Marshal for the Northern District of Florida; Richard Zenos Winget to be U.S. Marshal for the District of Nevada.

#### II. Committee Business

COMMITTEE RULES SUBCOMMITTEE ORGANIZATION

#### III. Bills

S. 330: A bill to further the protection and recognition of veterans' memorials and for other purposes [Campbell].

S. Res. 48: A resolution designating April 2003 as "Financial Literacy for Youth Month" [Akaka].

S. Res. 52: A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem [Campbell].

S. Res. 58: A resolution expressing the sense of the Senate that the President should designate the week beginning June 1, 2003, as "National Citizen Soldier Week" [Allen].

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 20, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans Affairs.

The hearing will take place in room 345 of the Cannon House Office Building at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. ENZI. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, March 20, 2003 from 10:30 a.m. to 1:00 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, March 20 at 9:30 a.m. to conduct a hearing on legislative proposals amending the Clean Air Act regarding fuel additives and renewable fuels.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Ed Rimback during consideration of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. I ask unanimous consent the privilege of the floor be granted to Clyde Taylor of my staff for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that a congressional fellow in my office, David Napoliello, be granted the privilege of the floor for the remainder of the consideration of S. Con. 23.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that David Matsuda, a member of my staff, be granted the privilege of the floor during consideration of S. Con. Res. 23.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IRAQI SCIENTISTS IMMIGRATION ACT OF 2003

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 9, S. 205.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (S. 205) to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. I applaud the Senate for passing S. 205, the Iraqi Scientists Immigration Act. I am a cosponsor of this legislation, along with Senators BIDEN, HATCH, LUGAR, and SPECTER. When Senator BIDEN introduced this last year, I worked closely with him, discharging the bill from the Judiciary Committee and encouraging the Senate to pass it. I was pleased when the Senate did so, and disappointed that the House failed to act.

This bill could not be more timely. As the United States and United Nations seek to obtain information about Iraq's development of weapons of mass destruction, the scientists who have worked on biological, chemical, and nuclear weapons for Iraq hold critical information. Thus far, however, those scientists have refused to speak privately with U.N. inspectors, instead insisting that Iraqi government representatives be included in interviews. Many have suggested that these scientists fear they will be executed if they provide material assistance to the inspectors.

The Iraqi Scientists Immigration Act offers a potential way around this quandary by offering a benefit to those scientists who would like to share what they know about Iraq's weapons development. It provides for the admission to the United States of scientists who want to provide useful information about Iraq's efforts to develop weapons of mass destruction, along with those scientists' families. Eventually, these scientists could become legal permanent residents of the United States.

This bill has taken on increased importance since the Homeland Security Act—which has caused severe disruption in the processing of asylum and refugee applications—has taken effect. Many Iraqi scientists would surely be eligible for asylum and/or refugee status. Section 457 of the Homeland Security Act, however, eliminated the surcharges on applicants for immigration benefits, which had been used to fund the processing of asylum and refugee applications, which are generally made by destitute people. This was apparently an oversight in the hasty and secret process by which the Homeland Security Act was written by Congressional Republicans and the administration. This provision has left the asylum and refugee programs in limbo. The Senate-passed omnibus appropriations bill includes language to strike section 457 and restore the status quo, but the prospects for that change will remain unclear until the conference committee has completed its work. This gives us an added incentive to pass the Iraqi Scientists Immigration Act as quickly as possible. I urge the House to take the bill up and pass it without further delay.

Mr. NICKLES. Mr. President, I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the Record, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 205) was read the third time and passed, as follows:

S. 205

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Iraqi Scientists Immigration Act of 2003".

### SEC. 2. ADMISSION OF CRITICAL ALIENS.

(a) Nonimmigrant Category.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (U);

(2) by striking the period at the end of subparagraph (V) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(W) Subject to section 214(s), an alien—

"(i) who the Attorney General determines, in coordination with the Secretary of State, the Director of Central Intelligence, and such other officials as he may deem appropriate, and in the Attorney General's unreviewable discretion, is an individual—

"(I) who has worked at any time in an Iraqi program to produce weapons of mass destruction or the means to deliver them;

"(II) who is in possession of critical and reliable information concerning any such Iraqi program;

"(III) who is willing to provide, or has provided, such information to the United States Government;

"(IV) who may be willing to provide, or has provided, such information to inspectors of the United Nations or of the International Atomic Energy Agency;

"(V) who will be or has been placed in danger as a result of providing such information; and

"(VI) whose admission would be in the public interest or in the interest of national security; or

"(ii) who is the spouse, married or unmarried son or daughter, parent, or other relative, as determined by the Attorney General in his unreviewable discretion, of an alien described in clause (i), if accompanying or following to join such alien, and whose admission the Attorney General, in coordination with the Secretary of State and the Director of Central Intelligence, determines in his unreviewable discretion is in the public interest or in the interest of national security.".

(b) Limitations and Conditions Applicable to "W" Nonimmigrants.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) by redesignating subsections (m) (as added by section 105 of Public Law 106–313), (n) (as added by section 107(e) of Public Law 106–386), (o) (as added by section 1513(c) of Public Law 106–386), (o) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (p) (as added by section 1503(b) of the Legal Immigration Family Equity Act) as subsections (n), (o), (p), (q), and (r), respectively; and

(2) by adding at the end the following new subsection:

"(s) Numerical Limitations and Conditions of Admission and Stay For Nonimmigrants Admitted Under Section 101(a)(15)(W).—

"(1) Limitation.—The number of aliens who may be admitted to the United States or otherwise granted status under section 101(a)(15)(W)(i) may not exceed a total of 500.

"(2) Conditions.—As a condition for the admission, and continued stay in lawful status, of any alien admitted to the United States or otherwise granted status as a nonimmigrant under section 101(a)(15)(W), the nonimmigrant—

"(A) shall report to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission or grant of status;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of removal or for protection under the Convention Against Torture, any action for removal of the alien instituted before the alien obtains lawful permanent resident status;

"(D) shall cooperate fully with all requests for information from the United States Government including, but not limited to, fully and truthfully disclosing to the United States Government all information in the alien's possession concerning any Iraqi program to produce weapons of mass destruction or the means to deliver them; and

"(E) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.".

(c) Adjustment of Status.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (c)—

(A) by striking "or" before "(8)"; and

(B) by inserting before the period "or (9) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(W)";

(2) by redesignating subsection (l), relating to "U" visa nonimmigrants, as subsection (m); and

(3) by adding at the end the following new subsection:

"(n) Adjustment to Permanent Resident Status of 'W' Nonimmigrants.—

"(1) In general.—If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(W)(i) has complied with section 214(s) since such admission or grant of status, the Attorney General may, in coordination with the Secretary of State and the Director of Central Intelligence, and in his unreviewable discretion, adjust the status of the alien (and any alien who has accompanied or followed to join such alien pursuant to section 101(a)(15)(W)(ii) and who has complied with section 214(s) since admission or grant of nonimmigrant status) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Record of admission; reduction in visa numbers.—Upon the approval of adjustment of status of any alien under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(d) Waiver Authority.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting after paragraph (1) the following new paragraph:

"(2) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(W). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) in the case of such a nonimmigrant if the Attorney General considers it to be in the public interest or in the interest of national security.".

(e) Conforming Amendment.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking "or (S)" and inserting "(S), or (W)".

### SEC. 3. WEAPON OF MASS DESTRUCTION DEFINED.

(a) In General.—In this Act, the term "weapon of mass destruction" has the meaning given the term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)), as amended by subsection (b).

(b) Technical Correction.—Section 1403(1)(B) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)(B)) is amended by striking "a disease organism" and inserting "a biological agent, toxin, or vector (as those terms are defined in section 178 of title 18, United States Code)".

## MEASURES READ THE FIRST TIME—H.R. 5, H.R. 975, H.R. 1047, AND H.R. 1308

Mr. NICKLES. Mr. President, I understand the following bills are at the desk, and I ask they be read for the first time en bloc: H.R. 5, H.R. 975, H.R. 1047, and H.R. 1308.

The PRESIDING OFFICER. The clerk will read the titles of the bills for the first time.

The legislative clerk read as follows:

A bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

A bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes.

A bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

A bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

Mr. NICKLES. I now ask for their second reading and object to further proceeding on these matters en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

## ORDERS FOR FRIDAY, MARCH 21, 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, March 21. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 23, the concurrent budget resolution; provided that the time until 9:45 a.m. be for debate only on the resolution; further, the time be equally divided between the chairman of the Budget Committee and the ranking member.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. NICKLES. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the budget resolution. At 9:45 tomorrow morning, the Senate will begin a series of votes on the remaining amendments on the budget resolution. There will be a number of amendments to be included in this stacked series of votes, and Members are encouraged to remain in the Chamber during this very busy session. With the cooperation of all Senators, we will be able to move to a vote on final passage at a reasonable time tomorrow.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:30 p.m., adjourned until Friday, March 21, 2003, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## IMPROVING RESULTS FOR CHILDREN WITH DISABILITIES ACT

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. CASTLE. Mr. Speaker, I rise today to introduce the Improving Education Results for Children with Disabilities Act, which reauthorizes special education programs in our nation's schools. This legislation improves the Individuals with Disabilities Education Act to ensure that children with special needs receive the high-quality education they deserve. I would like to thank the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for his assistance in bringing this bill to this point.

For too many years, children with disabilities were denied access to public education. However, with the passage of the Education of All Handicapped Children Act in 1975, the doors of educational opportunity were opened. Today, more than ever, students with disabilities have an opportunity to accomplish their goals. According to the Department of Education, about 6.6 million students currently participate in these programs across the nation. Of those, almost 50 percent of students with disabilities spend 80 percent or more of their day in the regular education classroom. In addition, graduation rates for students with disabilities with a standard diploma are at an all-time high, while drop-out rates continue to fall.

Despite IDEA's many success stories, there is room for improvement in serving children with disabilities. These children are still among those at the greatest risk of being left behind. Now more than ever, we must make sure that children with disabilities are given access to an education that maximizes their unique abilities and provides them with tools for later successful, productive lives. We must continue to be vigilant in our efforts towards improving the quality of education of all children, including children with disabilities. We must shift from the current focus on compliance with bureaucratic rules to ensuring that children with disabilities are making progress and achieving to high expectations so that no child is left behind.

The Improving Education Results for Children with Disabilities Act aims to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, and addressing the problem of over identification of minority students as disabled. In addition, this bill seeks to reduce litigation, and reform special education finance and funding.

One of the great benefits of the No Child Left Behind Act (NCLB) is that we have raised expectations and will hold school districts accountable for the annual progress of all their students, including students with disabilities. Although we have made great progress in including students with disabilities in the regular classroom, we now must make equally great progress in ensuring that they receive a quality education in the regular classroom. We must carefully align the IDEA with NCLB to ensure that students with disabilities are included in the accountability systems of States and school districts.

This bill will help reduce the paperwork burden so that school districts are able to retain and recruit highly qualified special education teachers. The excessive amount of paperwork currently inherent in special education continues to overwhelm and burden teachers, robbing them of time to educate their students. Teachers must have the ability to spend more time in the classroom rather than spending endless hours filling out forms that do not lead to a better education for students.

Furthermore, we are committed to implementing reforms that would reduce the number of students that are misidentified or over represented in special education programs. Minorities are often significantly over represented in special education programs. In fact, African Americans are nearly three times more likely to be labeled as mentally retarded, and almost twice as likely to be labeled emotionally disturbed. Current methods of identifying children with disabilities lack validity or reliability. As a result, thousands of children are inappropriately identified every year, while many others are not identified early enough or at all.

This bill seeks to reduce litigation and restore trust between parents and school districts. All too often miscommunication damages this relationship and results in a proliferation of litigation. We are committed to implementing reforms that provide ample opportunities for positive interaction before a problem becomes serious. We are also committed to ensure that parents are actively involved in their child's education experience. This bill will give parents greater access to be involved in making decisions about their child's education.

Finally, we are very proud of our record in securing the largest funding increases for IDEA over the past 7 years. Since 1995, Congress has nearly tripled federal spending for special education. This bill continues to lead the way in increasing funds for IDEA by creating a path to attain full funding of the federal government's 40 percent goal within 7 years.

We remain committed to build upon reforms already implemented and must keep these challenges in mind as we reauthorize IDEA. I look forward to working with the member of the Committee, other Members of Congress, and stakeholders as we work to craft legislation that will build upon and improve previous reforms and continue to ensure that children with disabilities receive a quality education. I urge my colleagues to join me and the other original co-sponsors in support of the Improving Education Results for Children with Disabilities Act.

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## TRIBUTE TO DON WILCOX

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Don Wilcox for his outstanding achievements as the president of the Norwood Roping Club of Colorado. Through his leadership, the Roping Club has accomplished much, and it is my distinct honor to stand and recognize Don before this body of Congress and this nation.

The Norwood Roping Club hosts their own rodeo every year and, because of Don and his community's efforts, the size of that rodeo has nearly doubled over the last year. Don aggressively set out to increase the number of sponsors, giving Norwood's rodeo the distinction of having the largest prize money pot in the state. Don's work caught the attention of the Colorado Pro-Rodeo Association, which presented the Norwood club with two awards. Furthermore, the Norwood rodeo now attracts some of the best cowboys in the state. On top of this extraordinary record of success, this year's rodeo will be sanctioned by rodeo associations in New Mexico and Arizona, bringing cowboys from three states to Norwood for the competition. Despite his important role in the advancement of Norwood's rodeo, Don remains a humble man, giving much of the credit to the community.

Mr. Speaker, it is a great privilege to recognize Don Wilcox and congratulate him on his accomplishments. His dedication to preserving our Western heritage through his club's rodeo is a credit to himself, the Norwood Roping Club, and the community of Norwood. Don possesses a cowboy's determined spirit, and it is truly an honor to acknowledge his success before this body of Congress and this nation. Keep on riding, Don.

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## HONORING DEE AND BEN GETTLER AS THEY ARE HONORED BY THE OHIO CANCER RESEARCH ASSOCIATES

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. PORTMAN. Mr. Speaker, I rise today to honor Dee and Ben Gettler, good friends and distinguished constituents, who will be honored for their community service and commitment to cancer research on April 10, 2003, by the Ohio Cancer Research Associates. Dee

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and Ben's devotion to community and national organizations is legion.

Dee was born in Troy, New York, and graduated from the College of William and Mary. She has served Cincinnati as Chairman of the Women's Committee for the Cincinnati Ballet; President of the Umbrella Board and the Board of Trustees for the Seven Hills School; Business Manager for Conversation in the Arts; and Out of Town Chairman for the Cincinnati Opera; President of the Parents Organization for Anderson High School; Member of the Advisory Council for Indian Hill Schools; Board Member for the University of Cincinnati College of Nursing; and Chairman of the University of Cincinnati Presidents Ball. She has been President of the Women's Armed Forces Memorial and is a lifetime member of Hadassah.

Ben is an attorney and manufacturing company executive. Born in Louisville, Kentucky, he graduated from the University of Cincinnati with high honors in economics. In 1945, Ben received his J.D. from Harvard University and was selected as a Frankfurter Scholar. He served to the rank of Captain in the U.S. Army in 1955–56. From 1973 through 1987, Ben practiced law with Gettler, Katz and Buckley in Cincinnati, and is a member of the Ohio and U.S. Supreme Court bars. Currently, he is Chairman of the Board of Vulcan International Corporation, which is listed on the American Stock Exchange.

Ben served as Chairman of the Board of the University of Cincinnati, has been a Member of the Board of Trustees since January, 1984, and is a member of the Presidential Search Committee. He is Chairman of the Jewish Foundation of Cincinnati, and was Chairman of Cincinnati's Jewish Hospital for five years. Ben was National Chairman of the Jewish Institute for National Security Affairs (JINSA) from 1994–98 and is currently Chairman of its Policy Committee. He is also a Trustee of the Southwest Ohio Regional Transit Authority.

All of us congratulate Dee and Ben as they are honored by Ohio Cancer Research Associates and thank them for their commitment to our community.

## IN HONOR OF DONNA RUTHERFORD

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Donna Rutherford, as she is inducted into the San Mateo County Women's Hall of Fame.

Donna Rutherford was one of thirteen children who learned early in life the values of work, sharing and helping others. A mother of three, she became active in her children's schools as a parent volunteer, working to improve education for all children. This led to her being elected a Trustee of the Ravenswood City School District, a position she held for 12 years. In 2000, she became a member of the City Council of the City of East Palo Alto and she currently serves as the City's Vice Mayor.

Donna Rutherford worked in the food services industry for many years and became a part-time cook at Mateo Lodge's Wally's Place. She was promoted two years later to Social Rehab Coordinator and now serves as Wally's Place's Program Administrator where she supervises counseling staff and the care and management of the facility.

Mr. Speaker, I ask my colleagues to join me in honoring Donna Rutherford as she is inducted into the San Mateo County Women's Hall of Fame.

## CHILD PORNOGRAPHY

### HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. FOLEY. Mr. Speaker. I rise today to talk about a very disturbing issue to all Americans—child pornography. As co-chair of the Congressional Missing and Exploited Children's Caucus, I have been working for years with my colleagues, the National Center for Missing and Exploited Children, the U.S. Attorney General and the U.S. Customs Service, to eliminate child pornography from the Internet.

Child pornography was a worldwide industry that was all but eradicated in the 1980's. Unfortunately it has resurfaced with a vengeance thanks to computer technology and the Internet—thus requiring those who fight this crime to come up with new ways and seek new allies in our war to save our children. I am pleased to report that Visa U.S.A. (Visa), one of the world's largest credit card companies, has recently begun a program to try to stave off this ever-rising tide of child smut.

Visa's program is designed to put a stranglehold on this growing illegal industry by going after the one thing that keeps it going—money. The way Visa's program works and what it does is pretty amazing, so I'd like to share it with you.

Using sophisticated technical and forensic software tools, they identify sites that advertise that they accept Visa for payment. In fact, Visa's system monitors up to one million Web pages every day. Merchants dealing in child pornography are then reported back to Visa. Tests are conducted to determine who the merchant is and who owns the website and to trace the transaction trail. What this means is that child pornographers will no longer be able to hide by moving from site to site, because they will be found if they post Visa as their payment method. Visa acceptance privileges are terminated and finally—and I like this part the best—Visa and law enforcement officials throughout the world work together to either establish or support criminal investigations.

The results of Visa's monitoring system represent an invaluable intelligence contribution to the FBI's Innocent Images Program, a multi-agency investigative initiative to combat the proliferation of child pornography and exploitation over the Internet. I can tell you that the Innocent Images Program has been highly successful in identifying and investigating the people involved in this predatory crime. And when the FBI gets this level of cooperation from industry, the program becomes even more efficient and effective.

Such cooperation is encouraging and provides a fine example to our friends in private industry of how they can play a role in partnership with government and law enforcement agencies. While we here in Congress must continue to work for legislation that will take away avenues for the merchants who traffic in this abhorrent trade, we must actively seek out new partnerships with the private sector to find additional ways to drive child pornography from the Internet and to protect the interests of children worldwide.

## HONORING FRANK BOYER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Colonel Frank Boyer of Colorado Springs, Colorado for his extraordinary service to this country. After joining the United States Air Force, Col. Boyer sacrificed his career as a jet fighter pilot to pursue nine years of medical training, eventually becoming an Air Force surgeon. That career change was especially important in the winter of 2001, when Col. Boyer was instrumental in saving the lives of seventeen young soldiers injured during their service in Afghanistan. Today I am privileged to honor Col. Boyer for his service before this body of Congress and this nation.

In October 2001, Col. Boyer and his team of seventy doctors, nurses and medical staff from the Air Force Academy set up a combat hospital in Oman to support American troops fighting for Operation Enduring Freedom. Just forty-five days later, a B–52 dropped an errant bomb on a group of American Special Operations fighters in Afghanistan, killing three and wounding twenty, many severely.

On that day, seventeen of the injured soldiers were rushed to Col. Boyer's military hospital. Every one of them survived. Col. Boyer and his team worked for thirty-six continuous hours, performing twenty-three surgeries, including four life-saving procedures. For this exceptional effort under extreme pressure, Col. Boyer received the Bronze Star.

Mr. Speaker, it is a great privilege to recognize Col. Frank Boyer for his outstanding service to the United States of America. I want to thank him on behalf of this nation and this Congress for his calm leadership through a chaotic and frightening incident. Seventeen young soldiers owe their lives to Col. Boyer and his medical team. All of our nation is in Col. Boyer's debt.

## IN HONOR OF VICKI SMOTHERS

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Vicki Smothers, as she is inducted into the San Mateo County Women's Hall of Fame.

As Vice President of Free at Last's Board of Directors, Vicki Smothers has devoted herself to treating substance abuse and its tragic effects on the people of our community. She has been with this highly effective, grassroots organization which specializes in community recovery and rehabilitation from its inception. She was also one of the cofounders of the East Palo Alto AIDS Task Force.

Vicki Smothers is Community Programs Specialist for Prenatal Advantage where she coordinates prenatal services and counsels teen mothers in an effort to reduce infant mortality rates. A long-time East Palo Alto resident, she has a keen awareness of the needs of the community and is devoted to assisting others.

Mr. Speaker, I ask my colleagues to join me in honoring Vicki Smothers as she is inducted into the San Mateo County Women's Hall of Fame.

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## END UNFAIR PUNISHMENT OF STUDENT ATHLETES

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. GEORGE MILLER of California. Mr. Speaker, as we all prepare for college basketball's "March Madness" this month, I am introducing a bill, the Student Athlete Fairness Act, along with Representative ROB ANDREWS, to deal with another kind of madness. Recently a number of institutions of higher education have penalized student basketball players for misconduct, by banning them from post-season intercollegiate play. I support actions by colleges and universities to hold their coaches and players accountable when they engage in misconduct of any kind. Recruiting violations, academic fraud and financial improprieties have no place in college or college sports, and deserve punishment.

However, these particular institutions are penalizing the wrong student athletes—students who were not involved in any wrongdoing. In one case, Fresno State University is barring an entire basketball team from post-season intercollegiate play for the transgressions of previous players and coaches, even though none of the current student athletes or coaches were involved in the wrongdoing at all.

We can no longer allow colleges and universities to penalize innocent student athletes. Instead institutions of higher education must focus their efforts on the guilty parties.

The Student Athlete Fairness Act would prohibit colleges from penalizing players or coaches who had no involvement in a rules violation and would also prohibit colleges and universities from being affiliated with intercollegiate associations, like the NCAA, whose policies might include sanctioning players, teams and/or coaches even if they were not involved in any rules violation.

While many schools and teams work hard to follow the rules that are intended to preserve a quality academic and campus life alongside a vibrant athletic program, some schools have chosen to make innocent students scapegoats for the actions of runaway athletic programs that give win-loss records more priority than ethics and fair play.

An integral ingredient of the college and university mission is to foster both the academic and personal development of their students—from civic engagement and community service, where students learn how to become active participants in democracy, to team athletics, where students gain valuable leadership experience. These objectives are severely undermined when students are punished harshly, in ways that can significantly affect their future careers and earnings, for violations of rules by others. This kind of substitute punishment has no place in our courts, and it should have no place in our colleges and universities either.

The Student Athlete Fairness Act would make certain that the coaches, school officials, or students who break the rules are the ones who are punished. Innocent student athletes should be free to play ball.

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## CHILD ABDUCTION PREVENTION ACT

### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mrs. McCARTHY of New York. Mr. Speaker, in October 2002, the Office of Juvenile Justice and Delinquency Prevention released a report entitled the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children, which estimate there are almost 800,000 reported cases of missing children. This equates to over 11 children per 1000 in the U.S. that are missing. Worse yet are the hundreds of thousands of missing children that are not reported. While a large number of missing children are runaways, too many are missing due to abduction. One way to decrease this number is to pass H.R. 1104, the Child Abduction Prevention Act. H.R. 1104 is better known as America's Missing: Broadcast Emergency Response Plan, the AMBER Alert.

Currently, the AMBER alert is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent bulletin in case of child abduction. Almost 40 states have established AMBER alerts. Since the program began a little over six years ago, the AMBER alert has been credited with the recovery of 47 children. If the plan were implemented nationwide, with federal funding, the possibilities of recovering more children increase exponentially.

As a parent and a grandparent, I strongly support this legislation and urge my colleagues to do the same, our children deserve it!

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## TRIBUTE TO SARA FISHER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise before this body of Congress and this nation today to recognize Mrs. Sara Fisher of Gypsum, Colorado. As Sara prepares to step down from her position as the Eagle County Clerk and Recorder, it is clear that the people of Eagle County are lucky to have benefited from Sara's years of service.

The job of Clerk and Recorder has presented many challenges during Sara's tenure. Since she first took office the population of the county has more than doubled. Sara modernized the county's voting system, streamlined the process of obtaining basic services, and increased staff at satellite offices. Sara, who speaks Spanish fluently, has worked to increase the number of bilingual office staff to better serve her diverse community. Throughout her service as Clerk and Recorder, Sara has always had a positive attitude about serving the people of her county. Sara serves because she loves her community, and that shows in her dedication and hard work. The people who have been fortunate enough to have worked with Sara while she has been the Clerk and Recorder all know that she is a true asset to Eagle County, and an excellent public servant.

After more than a decade of service, Sara has recently built a new home in Gypsum and is looking forward to spending more time with her husband, Bill, and enjoying the beautiful landscape of Colorado. Throughout all of the challenges that Sara has faced, she has been a strong and competent leader in both Eagle County and throughout the state.

Mr. Speaker, it is with great pride that I rise to pay tribute to Mrs. Sara Fisher before this body of Congress and this nation. She has been a diligent servant of Eagle County and her commitment to her community will be greatly missed.

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## IN HONOR OF MILDRED SWANN

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Mildred Swann, as she is inducted into the San Mateo County Women's Hall of Fame.

Mildred Swann organized a neighborhood forum where people of different ethnic heritages gathered to share their experiences and aspirations. She engaged many volunteers in the effort that resulted in the formation of a tutoring and mentoring program for Tongan Youth. She serves as the Facilities Chair of Community Gatepath, and in this position she led the campaign to decrease dependence on shrinking government funding while maintaining the quality of the organization's programs. She also helped Community Gatepath to work with San Mateo County to identity high-risk MediCal families and provide them with prenatal care and parenting skills.

Mildred Swann has served her community in many ways and with many organizations, and has been honored by Menlo College for her contributions to the community. She was also recognized by Foothill College Haramba for her service to youth.

Mr. Speaker, I ask my colleagues to join me in honoring Mildred Swann as she is inducted into the San Mateo County Women's Hall of Fame.

## AMBER ALERT CONCERNS

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. PAUL. Mr. Speaker, as an OB–GYN who has had the privilege of bringing over 3,000 children into the world, I share the desire to punish severely those who sexually abuse children. In fact, it is hard to imagine someone more deserving of life in prison than one who preys on children. Therefore, I certainly support those parts of H.R. 1104 which enhance the punishment for those convicted of federal crimes involving sexual assaults on children.

I also support the provisions increasing the post-incarceration supervision of sex offenders. However, given the likelihood that a sex offender will attempt to commit another sex crime, it is reasonable to ask why rapists and child molesters are not simply imprisoned for life?

However, Mr. Speaker, I am concerned that making the AMBER Alert system a Federal program is neither constitutionally sound nor effective law enforcement. All Americans should be impressed at the demonstrated effectiveness of the AMBER system in locating missing and kidnapped children. However, I would ask my colleagues to consider that one of the factors that makes the current AMBER system so effective is that the AMBER Alert system is not a Federal program. Instead, states and local governments developed AMBER Alerts on their own, thus ensuring that each AMBER system meets the unique needs of individual jurisdictions. Once the AMBER Alert system becomes a one-size-fits all Federal program (with standards determined by DC-based bureaucrats instead of community-based law enforcement officials) local officials will not be able to tailor the AMBER Alert to fit their unique circumstances. Thus, nationalizing the AMBER system will cause this important program to lose some of its effectiveness.

Mr. Speaker, H.R. 1104 also exceeds Congress' constitutional authority by criminalizing travel with the intent of committing a crime. As appalling as it is that some would travel abroad to engage in activities that are rightly illegal in the United States, legislation of this sort poses many problems and offers few solutions. First among these problems is the matter of national sovereignty. Those who travel abroad and break the law in their host country should be subject to prosecution in that country: it is the responsibility of the host country—not the U.S. Congress—to uphold its own laws. It is a highly unique proposal to suggest that committing a crime in a foreign country against a non-US citizen is within the jurisdiction of the United States Government.

Mr. Speaker, this legislation makes it a Federal crime to "travel with intent to engage in illicit sexual conduct." I do not think this is a practical approach to the problem. It seems that this bill actually seeks to probe the conscience of anyone who seeks to travel abroad to make sure they do not have illegal or immoral intentions. Is it possible or even advisable to make thoughts and intentions illegal? And how is this to be carried out? Should Federal agents be assigned to each travel agency to probe potential travelers as to the intent of their travel?

At a time when Federal resources are stretched to the limit, American troops are preparing for imminent military conflict, and when we are not even able to keep known terrorists out of our own country, this bill would require Federal agents to not only track Americans as they vacation abroad, but would also require that they be able to divine the intentions of these individuals who seek to travel abroad. Talk about a tall order! As well-intentioned as I am sure this legislation is, I do not believe that it is a practical or well-thought-out approach to what I agree is a serious and disturbing problem. Perhaps a better approach would be to share with those interested countries our own laws and approaches to prosecuting those who commit these kinds of crimes, so as to see more effective capture and punishment of these criminals in the countries where the crime is committed.

In conclusion, Mr. Speaker, while H.R. 1104 has some good provisions aimed at enhancing the penalties of those who commit the most heinous of crimes, it also weakens the effective AMBER Alert program by nationalizing it. H.R. 542 also raises serious civil liberties and national sovereignty concerns by criminalizing intent and treating violations of criminal law occurring in other countries' jurisdictions as violations of American criminal law.

## TRIBUTE TO BUZZ ZANCANELLA

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. MCINNIS. Mr. Speaker, I rise to recognize Buzz Zancanella, an outstanding individual who has dedicated his life to serving Glenwood Springs, Colorado. For the past thirty-six years, Buzz has worked in his community, most recently as a water maintenance coordinator. After a long and successful career, Buzz has decided to retire. As he looks forward to retirement, I would like to take this time to highlight his service to his community.

Buzz is a native of Glenwood Springs who graduated from Garfield County High School in 1958 and began serving Glenwood Springs as a volunteer firefighter in 1959. In 1961, Buzz left home to fight for his country, serving honorably in the Navy. It was also at this time that Buzz met his wife, Gracie. When Buzz returned to Glenwood Springs in 1966, he began his long career with the city, working for the city's electric company. Later, in 1977, Buzz became the city's fire chief and remained in that role until 1985 when he began working for the Glenwood Springs Water Department. Buzz is now known as the go-to guy in the city of Glenwood Springs. His service has been much appreciated and he will be truly missed.

Mr. Speaker, it is my distinct honor to stand and recognize Buzz Zancanella before this Congress and this nation. Public servants work tirelessly to ensure that our communities are run safely and smoothly. Their service and dedication deserves our recognition and thanks. That is why I recognize Buzz Zancanella as he retires from his many years of service to his community. I wish you all the best Buzz.

## IN HONOR OF RUTH-E BENNISON

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Ruth-e Bennison, as she is inducted into the San Mateo County Women's Hall of Fame.

Ruth-e Bennison received a Masters degree in accounting from the University of Washington and worked as an accountant until her marriage in 1956. She later opened her own travel agency, began to travel extensively herself and became the Western Regional Manager for Sheraton Hotels. When her mother became ill and entered a nursing home, she developed a keen interest in long-term care facilities. She became a volunteer in the long-term care ombudsman program in San Mateo County and she has selflessly dedicated more than 15,000 hours to the program over 15 years. Ruth-e Bennison has also given generously of her time and talents as a HICAP volunteer and has given 5,200 volunteer hours to this agency, She's been honored for her work by the Department of Health and Human Services and was honored with the HICAP Excellence Award in 2002 for saving San Mateo County more than $5 million in Medicare related expenses.

Mr. Speaker, I ask my colleagues to join me in honoring Ruth-e Bennison as she is inducted into the San Mateo County Women's Hall of Fame.

## HONORING CITY OF LIVONIA FIREFIGHTER OF THE YEAR, FIREFIGHTER MATTHEW MAURIER

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. MCCOTTER. Mr. Speaker, I rise today to pay tribute to a dedicated Michigan resident, Firefighter Matthew Maurier, recently named City of Livonia Firefighter of the Year. Firefighter Maurier has served the City of Livonia with great pride and courage since 1995.

On September 16, 2002, Firefighter Maurier answered a call to a pedestrian injury accident. Upon arrival, he found a young male patient lying in the roadway who suffered significant head trauma and multiple fractures requiring immediate attention. Realizing the patient's airway was compromised as a result of his injuries, Firefighter Maurier began aggressive intervention to ventilate the patient. Recognizing the patient would require the services of a Trauma Center for definitive treatment, Firefighter Maurier immediately requested a helicopter for transport. This action saved considerable time the patient would not have otherwise had available.

Mr. Speaker, Firefighter Matthew Maurier is a hero to the people of Livonia, Michigan and the United States. I extend my sincere appreciation to him for making our community a better place.

## THE NORTH MYRTLE BEACH BILLBOARD EFFORT

### HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. BROWN of South Carolina. Mr. Speaker, I rise today to acknowledge and praise the actions of the North Myrtle Beach Republican Club. Their efforts to raise community support and money to erect billboards around their city to show support for President Bush and the American soldiers stationed in the Middle East have been outstanding. The diverse group of community members, comprised of business owners, attorneys, doctors, retirees, and elected officials, have come together under the direction of Ms. Cleo Steele to respond to the numerous anti-American protests held world wide, nationally, and even in the community of Myrtle Beach. Believing that the media gives a one-sided and distraught view, Ms. Steele gave birth to the idea after hearing of a similar program in Louisville, Kentucky. The group focuses on the ideas that the anti-Bush, anti-war mentality is currently in the minority, and that regardless of the circumstances, American troops need all the support that can be mustered during this crucial time. Within an hour of making her first phone call, Ms. Steele already had the backing of ten people, and the total force has increased since then. I am proud of the efforts of the North Myrtle Beach Republican Club and wish to applaud their actions. In my opinion, they are the epitome of American patriotism, and their zeal should give hope to all who call themselves Americans.

## HONORING CITY OF LIVONIA FIREFIGHTER OF THE YEAR, MICHAEL BAILEY

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McCOTTER. Mr. Speaker, I rise today to pay tribute to a dedicated Michigan resident, Firefighter Michael Bailey, recently named City of Livonia Firefighter of the Year. Firefighter Bailey has served the City of Livonia with great pride and courage since 1995.

On September 16, 2002, Firefighter Bailey answered a call to a pedestrian injury accident. Upon arrival, he found a young male patient lying in the roadway who suffered significant head trauma and multiple fractures requiring immediate attention. Realizing the patient's airway was compromised as a result of his injuries, Firefighter Bailey began aggressive intervention to ventilate the patient. Recognizing the patient would require the services of a Trauma Center for definitive treatment, Firefighter Bailey immediately requested a helicopter for transport. This action saved considered time the patient would not have had available.

Mr. Speaker, Firefighter Bailey is a hero to the people of Livonia, Michigan and the United States. I extend my sincere appreciation to Firefighter Bailey for making our community a safer place.

## A CALL FOR PRAYER ON THE EVE OF WAR

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. BONNER. Mr. Speaker, I rise this evening on what may be the eve of war. Like so many Americans, my prayers are with our men and women in uniform who so bravely and honorably prepare to fight the evils in this world in order to insure the continued safety and wellbeing of friends, family and citizens of this great Nation. On this day, my thoughts are also with our President and our other leaders of this great Nation upon whose shoulders the burden of these decisions falls.

I was recently given a prayer written by Jeff Stewart, a close personal friend and lay leader at St. Paul's Episcopal Church in Mobile, Alabama. The following prayer will be delivered at an ecumenical service in Mobile with the cooperation of four local churches.

Mr. Speaker, I ask that you and our colleagues join me in lifting this prayer to our Lord God in hopes that it will provide strength and reassurance to our President and our armed forces.

> "Help us, Lord, not be anxious about anything," During this time of pending war and the death that will surely come to our Service men, women and civilians. Give us Your peace and the power to invoke Your love and strength, "but in everything by prayer and petition with thanksgiving, we present our request to You" that those that will lose their lives will find the comfort of Your presence and Your peace. "O God which transcends all understanding, guard their hearts and minds in Christ Jesus." (Phil. 4: 6–7)
>
> We seek not war but peace and we know that You, O God, can bring peace if it is Your will; therefore, we put our trust in You and we know that "You are the Lord, the God of all mankind. And nothing is too difficult for You." (Jer 32:37) Amen.
>
> Be sober, be vigilant, because our adversary the devil, as a roaring lion, walketh about, seeking whom he may devour. As we seek to do God's will, we must deliberately make ourselves subject one to another and be clothed with humility, for God resisteth the proud and giveth the grace to be humbled. Humble yourself therefore under the mighty hand of God, that He may exalt us in due time, casting all our cares upon Him, for He careth for us all.

Mr. Speaker, I want to thank Jeff Stewart for this thoughtful prayer and the comfort it provides during these times of needed guidance and wisdom—words from the heart and words from which we may all benefit.

## HONORING MICHIGAN STATE TROOPER OF THE YEAR, D/SGT. EVERETT TORLEY

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McCOTTER. Mr. Speaker, I rise today to pay tribute to a dedicated Michigan resident, D/Sgt. Everett Torley, recently named City of Livonia Michigan State Trooper of the Year. D/Sgt. Torley has distinguished himself as an outstanding resource for the criminal justice community in southeast Michigan.

His knowledge in his field of service is unsurpassed in this state. He is one of only three persons in the State of Michigan trained and certified in forensic video clarification by the FBI. Those skills have been used to solve numerous crimes, most recently ending a string of local robberies.

As a testament of his expertise, D/Sgt. Torley has been asked to serve as an instructor at the FBI Academy in the Law Enforcement Video Association. As an instructor, D/Sgt. Torley will be instrumental in teaching forensic video clarification to law enforcement officers around the world.

Mr. Speaker, I extend my sincere appreciation to D/Sgt. Everett Torley for making our state and our country a safer place.

## HONORING THE CITY OF LIVONIA POLICE OFFICER OF THE YEAR BRIAN DUFFANY

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. McCOTTER. Mr. Speaker, I rise today to pay tribute to a dedicted Michigan resident, Police Officer Brian Duffany, recently named City of Livonia Police Officer of the Year. Officer Duffany has served the City of Livonia with great pride and courage since 1991.

On January 14, 2002, Officer Duffany received a dispatch call stating a robbery had taken place at a nearby restaurant. While on patrol, Officer Duffany observed a vehicle and driver matching the bulletin's description and attempted to stop the vehicle for questioning. The suspect attempted to flee, but after striking two civilian cars the chase continued on foot. Officer Duffany quickly apprehended the suspect, who was still carrying a revolver in his pants pocket.

Mr. Speaker, Officer Brian Duffany is a hero to the people of Livonia, Michigan and the United States. I extend my sincere appreciation to him for making our community a safer place.

## CONGRATULATING MR. CHARLES J. TODD

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to commend Court Security Officer (CSO) Charles J. Todd for his quick thinking and courage in his recent arrest of a wanted criminal. His quick actions have earned him the U.S. Marshal's CSO of the Year Award.

On July 9, 2002, a violent homicide was committed in the city of Harrisburg, Pennsylvania. Three suspects were charged in the homicide and two were arrested immediately. The third suspect, Francis Kelly, remained at large. On July 12, CSO Todd viewed a wanted poster for the third suspect at the beginning of his shift. Later that day, Todd observed an individual who met Kelly's description, as the subject was walking toward him down a street with heavy pedestrian traffic. CSO Todd used a ruse to get the subject to identify himself and then detained him until back-up units arrived.

CSO Todd's attention to detail and dedication to duty and bravery deprived Francis Kelly the opportunity to kill again. CSO Todd's actions were not only a positive reflection on himself and the Court Security Officer program, but also on the United States Marshals Service.

Mr. Speaker, CSO Todd has clearly displayed his bravery and sense of duty in this action. Therefore, I ask my colleagues to join me in thanking him for his commitment to excellence and his desire to see justice carried out. I would also like to ask my colleagues to join me in wishing him good fortune in his new position as Site Supervisor with the CSO contracting firm.

## A TRIBUTE TO MADGE JENNINGS OVERHOUSE

### HON. ZOE LOFGREN

OF CALIFORNIA

### HON. MICHAEL M. HONDA

OF CALIFORNIA

### HON. SAM FARR

OF CALIFORNIA

### HON. FORTNEY PETE STARK

OF CALIFORNIA

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Ms. LOFGREN. Mr. Speaker, today we rise to recognize the achievements and life of Madge Jennings Overhouse. We have had the privilege of knowing Madge for many years, and can personally attest to her lasting legacy of achievement through selfless volunteerism. Hers is the epitome of a life dedicated to public service.

Madge Jennings Overhouse was born in July 29, 1924 in The Dalles, Oregon, and soon moved to San Jose. She attended San Jose State University, graduating cum laude with honors in history. Madge married Howard Overhouse in 1949, and they have one son, Richard, and three lovely grandchildren.

Marge's career as a librarian spanned almost 40 years and two institutions. She started out at San Jose State, then moved to San Jose Community College. Typical of Madge, she assumed a leadership role in her profession, serving on the Santa Clara County Library Commission from 1976 to 1982, as well as serving on the California Library Agency for Systems and Services from 1979 to 1984, representing Santa Clara County as an alternate for Supervisor Rod Diridon. Madge also served on the Steering Committee for the Master Plan of California Libraries.

Madge's contributions to the community throughout her lifetime are legion, and the list of civic organizations that Madge has helped is long. We would like to take a moment to talk about them here. Madge was one of the first women to serve on the Executive Board of the Santa Clara County chapter of the Boy Scouts of America. The Santa Clara County Fair Association benefited from Madge's input as a Board member from 1987 to 1995. Madge also served on the boards of the Iota Delta Chapter of the Chi Omega sorority and the Campbell Historical Preservation Board. Madge is also a long-time member of the San Jose Metropolitan Chamber of Commerce. In addition, Madge lent her talents to the Multi-Modal Transportation Task Force, which led to the completion of Highway 85, which is now a major transportation artery in the Bay Area. During my time on the Santa Clara County Board of Supervisors, Madge's support on important measures such as this, which often meant doing the "leg-work" that no one else volunteered to do, was instrumental on so many occasions.

Madge has an absolutely amazing record of political involvement, For more than thirty years, Madge has been a stalwart in the Democratic Party at the local, state, and national level. Madge has fostered and encouraged the careers of numerous public officials in California.

Madge's lifelong commitment to volunteerism has been honored by almost every civic organization in Santa Clara County, and we are delighted to offer our heartfelt congratulations and gratitude to Madge for a lifetime of public service achievement.

## RECOGNIZING THREE TALENTED RHODE ISLAND EDUCATORS

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. LANGEVIN. Mr. Speaker, I rise today to recognize the achievements of three talented and committed educators from Rhode Island. These outstanding teachers have been selected to receive the 2003 Presidential Award for Excellence in Mathematics and Science Teaching.

The Presidential Award for Excellence in Math and Science Teaching was established in 1983 by the White House and is sponsored by the National Science Foundation. Each year, NSF identifies educators from the 50 states and 4 U.S. territories as leaders in the improvement of science and mathematics education. These educators are awarded a $7,500 grant from the National Science Foundation and a Presidential citation and serve as role models for their communities and colleagues. Additionally, the grants allow them to continue inspiring their students through innovative teaching.

This year, the winners from my district are Ms. Ann Simonelli from Holden Elementary School in Warwick, Mr. Daniel Potts from Chariho Middle School in Wood River Junction, and Ms. Susan Osberg from North Kingstown High School. Ms. Simonelli has been teaching for 22 years, Mr. Potts for 12 years, and Ms. Osberg for 37 years. Their dedication to educating the leaders of tomorrow is laudable. As the United States works to improve its international rankings for math and science education, it is important to reward teachers who excel in these areas.

Mr. Speaker, I find it heartening that there are educators in this country who devote so much time and effort to shaping the minds of our young people. I hope you and our colleagues will join me in recognizing and congratulating these outstanding teachers on receiving this prestigious award.

## PENN STATE MONT ALTO 100TH ANNIVERSARY

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Penn State Mont Alto for its 100th Anniversary as a well respected institution of learning. When this institution was first established, in May 1903 by the governor of Pennsylvania, it was known as the Pennsylvania State Forest Academy in Mont Alto. The academy was only the third forestry school in the entire nation, behind Yale and Biltmore respectively. The school was founded by Dr. Joseph T. Rothrock to train men for service in the state forests. To this day, the Forest Academy still educates America's foresters in addition to students in many other academic programs.

The earliest goal of the academy was to reforest much of the surrounding land, especially in areas made barren by forest fires and charcoal production. On Arbor Day in 1905, the academy's first administrator, George Wirt assigned students to search for native tree species not found on campus. These students returned with over 400 specimens reflecting 30 different varieties of species. These collected specimens were the beginning of the Mont Alto arboretum. An arboretum that to this day continues to provide a training ground for students, as well as a research site for the development of new hybrids.

The Pennsylvania State Forest Academy in Mont Alto has been constantly evolving throughout its history. In 1929, the academy merged with the Pennsylvania State College (now University) becoming one of the Commonwealth campuses. At that time, the campus was used only for the first year of training for Penn State forestry students. The students would then complete their three remaining years at the main campus in University Park. The campus continued to grow and by 1963 the first one or two years of most Penn State majors were being offered at the Mont Alto campus. The school completed its evolution in 1997, when students were able to earn their baccalaureate degrees at the Penn State Mont Alto campus.

Mr. Speaker, I urge my colleagues to join me in commending Penn State Mont Alto for its 100 years of commitment and dedication to providing a quality education to so many young people.

## JUDICIAL NOMINATIONS

### HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. BURR of North Carolina. Mr. Speaker, the Constitution of the United States gives the other body the responsibility for confirming, in a fair and just manner, judicial nominees chosen by the President. Unfortunately in the current political climate, qualified nominees are being held captive, causing a vacancy crisis in the federal judiciary.

Injecting ideology into the confirmation process is misguided at best and downright irresponsible at worst. The American people expect better out of their elected officials. There is a drastic shortage of judges in the federal court system, Mr. Speaker. With every passing day that these nominations are allowed to stagnate in the other body, the crisis worsens. These vacancies are denying swift and balanced justice for the American people.

This problem must be addressed in a nonpartisan way by placing well-qualified and experienced judges on the bench in an expedient manner. The President has thus far fulfilled his duty by nominating well-qualified men and women to the federal bench. It is long past time for my colleagues in the other body to act.

## HONORING CHRISTOPHER COX FOR HIS SERVICE

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to one of America's finest public servants, and my good friend, Mr. Christopher C. Cox.

Chris, who recently departed as my Chief of Staff in order to serve President George W. Bush, exemplifies the finest qualities of the men and women who serve the members of this legislative body. Chris is a man of great integrity, loyalty, intellect, and is dedicated to the best interests of the United States.

It is this selfless service to his government that sets Chris apart from others in his generation. Turning down the lucrative practice of law following his graduation from the University of Illinois School of Law, Chris came to Capitol Hill to be a participant, rather than a mere spectator, in our democracy.

During his service on the Hill, Chris has been a tireless advocate for common-sense conservative government and a key player in the effort to maintain a Republican majority in the House of Representatives. In addition to serving as a trusted advisor to my staff and I, Chris honorably served Congressmen ROBIN HAYES, SAXBY CHAMBLISS and MAC COLLINS.

Mr. Speaker, I ask you and my colleagues to join me in wishing Chris well in his new capacity as a Special Assistant to President George W. Bush, and to thank Chris for his years of service in the people's House.

## TRIBUTE TO REPRESENTATIVE DON EDWARDS

### HON. ZOE LOFGREN

OF CALIFORNIA

### HON. SAM FARR

OF CALIFORNIA

### HON. ANNA G. ESHOO

OF CALIFORNIA

### HON. MICHAEL M. HONDA

OF CALIFORNIA

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Ms. LOFGREN. Mr. Speaker, today we rise to recognize the achievements and life of former Congressman Don Edwards. We are proud to have known Representative Edwards for many years.

Born and raised in San Jose, California, Representative Edwards received his bachelor's degree from Stanford University where he later studied law. He became an F.B.I. agent during the Depression, and went on to serve in the U.S. Navy as an intelligence officer and gunnery officer at sea in World War II.

He was first elected to represent what was then California's 9th Congressional District in 1962. In Congress, Representative Edwards served on the House Judiciary Committee and for 23 years he served as the Chairman of the Subcommittee on Civil and Constitutional Rights. He also sat on the House Veterans' Affairs Committee.

Last year, Representative Edwards received the American Bar Association's Thurgood Marshall Award for his "unswerving devotion to the Constitution and its values throughout his career."

One of the foremost defenders of civil liberties in Congress, Representative Edwards in the 1970s—along with Senator Frank Church and his committee—exposed the pervasive abuses of civil liberties in J. Edgar Hoover's COINTEL PRO, which monitored, infiltrated and disrupted entirely lawful civil rights and anti-war organizations. He also fought to abolish the House Un-American Activities Committee.

Representative Edwards was one of the first seven Members of the House of Representatives to oppose the Vietnam War in 1965 and became a leader in the anti-war movement.

In the 1960s he was floor leader of the Omnibus Civil Rights Act, the Voting Rights Act and the Equal Rights Amendment. Outside of Congress, he took part in civil rights marches in the South; visited Dr. Martin Luther King Jr. in the Birmingham, Alabama jail and spoke against apartheid while visiting South Africa.

Every year, he introduced an ERA bill to the House, and in 1989, he argued "women are entitled to their birthright to full rights of citizenship."

In 1968, he introduced legislation creating the San Francisco Bay Wildlife Refuge. With the efforts of other Bay Area Representatives, he was instrumental in establishing the largest urban wildlife refuge in the country. The Don Edwards San Francisco Bay National Wildlife Refuge covers 25,902 acres and spans 12 cities and 3 counties.

Representative Don Edwards left a legacy in Congress of supporting civil rights, advocating for those less fortunate in our society and being a strong defender of our Constitution. He is a visionary public servant and a valued friend.

## PERSONAL EXPLANATION

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. SHUSTER. Mr. Speaker, on March 19, 2003, I was unavoidably detained in a meeting with my constituents, and was unable to vote in rollcall vote No. 71. Had I been able to vote, I would have voted "no."

## SUPPORT FOR BAN ON PARTIAL-BIRTH ABORTION

### HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. BURR of North Carolina. Mr. Speaker, I rise today in support of a ban on the partial-birth abortion procedure. I firmly believe in the sanctity of human life, and am pleased that my colleagues in the other body have taken this necessary step to protect an unborn child's right to life.

I am pleased to be a supporter and cosponsor of the House version of the Partial-Birth Abortion Ban, H.R. 760. I urge my colleagues to consider the lives of thousands of unborn children each year that are terminated by this callous procedure, children who would be spared by the swift passage of this measure. Beyond H.R. 760, I urge my colleagues to support legislation that further protects the rights of unborn children.

I am encouraged that there is great momentum in banning partial-birth abortions, and I am hopeful that the House of Representatives will be able to quickly pass this bill. With passage of legislation outlawing this barbaric practice, we will be taking a significant step in protecting innocent children.

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## COMMENDING CARPENTER ELEMENTARY SCHOOL

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to commend Carpenter Elementary School for being named a Michigan Blue Ribbon Exemplary School. This award is given to those elementary schools that exemplify educational excellence. It is designed to identify and give public recognition to outstanding schools that achieve high academic standards, to make available a comprehensive framework of key criteria for school effectiveness, and to communicate best practices for educational success among Michigan schools.

Through hard work and dedication, Carpenter Elementary has met those criteria. It provides year-round education for its students, and even holds, "intercessions," which are optional five day theme-based learning experiences made available during vacation periods. By using this format, the school reduces time spent in review, enhances student retention of learning, and improves student and staff attitude and attendance.

Mr. Speaker, Carpenter Elementary School is to be recognized for earning the Michigan Blue Ribbon Exemplary School Award. They are an example of the tremendous potential elementary schools have to make a difference in the lives of their students. Therefore, I ask my colleagues to join me in thanking the teachers and administration at Carpenter Elementary School for their commitment to excellence and their desire to provide students with a high-quality education. I would also like to ask my colleagues to join me in wishing them good fortune in the future.

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## INTRODUCING THE INTERMODAL TRANSPORTATION ACT OF 2003

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to introduce the Intermodal Transportation Act of 2003. This legislation enjoys bipartisan support, and I believe that its inclusion in TEA–21 Reauthorization will significantly enhance our nation's public transportation infrastructure.

We will be facing significant budget restraints in the reauthorization TEA–21 over the next 6 years, and for that reason I believe it is critical to look at ways to maximize our existing transportation assets. One important way we can do this in the realm of public transportation is by connecting the public transportation modes better so that they provide a more accessible and attractive transportation alternative. Public transportation, including intercity bus, intercity rail, local mass transit, and rural transit, serve thousands of communities nationwide, but they are rarely linked together in common facilities and with consolidated travel information. The Intermodal Transportation Act will provide for these missing intermodal connections.

This bill will create a new competitive grant program for intermodal transportation centers, which will provide incentives for states and communities to develop intermodal facilities. These intermodal centers will tie together all public transportation modes in convenient locations, giving public transportation users the ability to make seamless intercity and local trips from origin to destination. Across the country, very little has been invested in intermodal facilities linking the modes of affordable public transportation that the American people rely on everyday. ITA provides benefits to all public transportation riders through dedicated funding for these vital intermodal transportation terminals.

ITA will also create a National Public Transportation Information System so that with one call or website visit, a user can get information on schedules, fares, and locations for the intercity and local transportation services that she will need to make a trip.

ITA also increases funding so that customers using wheelchairs have better access to the intermodal system, thus allowing a mobility-impaired passenger to get on an intercity bus with a wheelchair lift and make accessible connections throughout the country.

In addition to creating a seamless intermodal transportation system, the cost-effective programs in ITA will produce new employment opportunities. These will include not only the construction and operating jobs directly related to the projects, but also new jobs created by the economic development produced by new intermodal transportation hubs in urban areas and through the connections we develop between rural communities and the national airway system.

With a total cost of around $150 million annually, the Intermodal Transportation Act will create a fully integrated public transportation network throughout the country while also linking hundreds, if not thousands, of rural communities to airports and creating economic development opportunities and new jobs across the country.

I am pleased to introduce these important intermodal proposals with significant bipartisan support. I would especially like to thank JO ANN EMERSON and MICHAEL BURGESS for their strong support of this legislation. I would also like to thank the other original co-sponsors of this legislation: ED CASE, MARTIN FROST, MAJOR OWENS, SHEILA JACKSON-LEE, ELEANOR HOLMES-NORTON, RICHARD BAKER, BETTY MCCOLLUM, and JUANITA MILLENDER-MCDONALD. We will work with our fellow colleagues to see that this bill is included in the reauthorization of TEA–21.

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## HONORING THE SERVICE OF MS. JOYCE WILLIAMS

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor Ms. Joyce Williams upon her retirement after 37 years of service in the federal government. During her accomplished career, Ms. Williams distinguished herself by aggressively taking on every task assigned and assuming the many associated responsibilities. She consistently exhibited willingness to work as a team player and assumed leadership responsibilities for the good of the Agency.

Beginning her career as a Procurement Clerk at the Defense General Supply Center in Richmond, Virginia, Ms. Williams steadily rose through the ranks till she assumed her current position as Chief of Congressional Affairs Office at the Defense Logistics Agency (DLA). During her tenure as Chief, Ms. Williams innumerable responsibilities included, but were not limited to, managing the liaison operations between DLA and Capitol Hill, monitoring the day-to-day operations of the Congressional Affairs Team, and overseeing the Congressional Hearings process.

On January 26, 2001, the Defense Logistics Agency Headquarters Complex at Fort Belvoir, Virginia, was officially named the Defense Logistics Agency Andrew T. McNamara Complex, a tribute to the Agency's first Director, Lieutenant General Andrew T. McNamara, (Retired). Ms. Williams worked many long hours in conjunction with myself and my staff to enable a special exception to existing law. Buildings on military installations are traditionally named for distinguished individuals, but only posthumously. Due to Ms. Williams diligence, I was able to include language in the fiscal year 2001 National Defense Authorization Act that made the name change.

Throughout her career, Joyce has been rewarded and recognized for her exceptional abilities and sustained the highest level of performance receiving numerous, and letters of appreciation. Joyce's achievements over the course of her 37 year career have been of the quality and level that are clearly deserving of the DLA Distinguished Career Service Award. Mr. Speaker, it is my pleasure to pay tribute to Ms. Williams' lifetime of distinguished service.

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## INTRODUCTION OF A HOUSE CONCURRENT RESOLUTION URGING INCREASED FEDERAL FUNDING FOR JUVENILE (TYPE 1) DIABETES RESEARCH

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. GREEN of Texas. Mr. Speaker, I rise today to reintroduce legislation which urges Congress to increase federal funding for Type 1 diabetes, also known as juvenile diabetes.

Type 1 diabetes is a devastating illness that affects over 1 million Americans, many of whom are diagnosed as children. This serious disease robs children of their innocence and independence, and burdens its victims with a lifetime of finger-sticks, shots, and fear of dreaded complications. Even with a strict regimen of insulin injections, blood-glucose monitoring, diet and exercise, people with Type I diabetes are at severe risk for blindness, kidney failure, amputations, heart disease and stroke.

The burden of diabetes is felt by all Americans. Americans spend $105 billion each year on the direct and indirect costs of this disease. One of every four Medicare dollars is spent on beneficiaries with diabetes, and one in ten health care dollars overall are spent on individuals with this disease disease.

There is great promise that a cure for Type 1 can be found in the near future. Advancements in genetic research, transplantation and immunology, and research into potential vaccines all hold the potential to eliminate Type 1 diabetes. But if we are to find a cure, we in Congress must find the money to pay for it.

The Diabetes Research Working Group (DRWG), a Congressional appointed panel of experts in diabetes research, issued a report in 1999 that indicates the need for a significant increase in diabetes research. The DRWG recommended a $4.1 billion increase for diabetes research over a five year period. Congress must heed this report. This legislation I am introducing today recognizes the particular burden of Type 1 diabetes, and the need to follow the recommendations of the DRWG.

Mr. Speaker, full funding for diabetes research will help eradicate this devastating illness, save billions of health care dollars, and end the unnecessary suffering of millions of Americans.

During the previous Congress, this legislation was passed by unanimous consent, but with the pending budget fight and potential cuts to the NIH budget, it is imperative that the Congress raise its voice in support of finding a cure for Type 1 diabetes. I urge all of my colleagues to join me in our fight against this disease.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

SPEECH OF

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 975) to amend title II of the United States Code, and for other purposes:

Mrs. MALONEY. Mr. Chairman, it is with great regret that I come to the floor in opposition to this bankruptcy bill, H.R. 975.

Last year, I voted for this legislation when it came to the House floor when we had reached a deal with strong legislators on the other side of the aisle, Representative HYDE and Senator HATCH.

Unfortunately, the bill that we are voting on today lacks a critically important provision which would prevent perpetrators of abortion clinic violence from filing for bankruptcy and then avoid paying the fines and penalties assessed against them as a result of their illegal activity.

The Bankruptcy Code's central purpose is to provide a fresh start to the "honest but unfortunate debtor." These debtors are not honest, unfortunate, innocent, or peaceful protestors: They owe fines because of their threats and acts of violence against doctors, clinic staff, and women.

The problem is widespread. Since 1977, there have been over 75,000 acts of violence and/or disruption at the Nation's clinics.

This includes: 7 murders; 17 attempted murders; 41 bombings; 165 arsons; 82 additional failed bombing and arson attempts; 370 physical invasions of personal and business properties; 942 acts of vandalism; 100 butyric acid attacks; 557 anthrax threats, of which 480 happened since September 11, 2001; 122 assaults; 343 death threats; and 3 kidnappings.

Bankruptcy reform is critically important, but without this provision, we will be sending a message to perpetrators of health clinic violence that they can continue to trample on the rights of American women and use violence to do so.

Without this provision, if someone injures or kills someone outside an abortion clinic, they can file for bankruptcy and avoid paying any judgements made against them.

In other words, they are not held financially responsible for violating the law. We must stop these people from violating the law and we must stop them from finding shelter in bankruptcy.

It is for this reason that I cannot vote for this bill.

## TRIBUTE TO JIM GRAY

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. DUNCAN. Mr. Speaker, on March 12, 2003, Jim Gray, a member of my constituency, was honored with Tennessee's highest artistic award. The Tennessee Arts Commission presented Jim with the Distinguished Artist Award as a part of the 2003 Governor's Awards in the Arts in Nashville, TN.

Jim's artistic drive has been with him his entire life, and he used his talents to guide his career as a young adult as an illustrator, an advertising executive, and as a technical illustrator in the United States Air Force.

After a visit with his family to the Great Smoky Mountains National Park in 1966, Jim found an artistic inspiration that he had never felt before. This inspiration led him to move to east Tennessee, where his desire to paint the beauty of the Tennessee countryside became his passion.

Throughout the years, Jim has sold more than 2,000 paintings and 125,000 prints to collectors in the United States and abroad. He has won several other awards, has been commissioned to do many major works, and has held workshops where he has instructed hundreds of students. His two sculptures of President Andrew Johnson are on display at Johnson's hometown of Greeneville, TN and at the Tennessee State Capitol Building in Nashville. Most recently, Jim's painting titled "Rising Above" was purchased as part of the Knoxville Convention Center art collection.

I am proud to display one of Jim's paintings in the entrance of my Washington, D.C. office.

Mr. Speaker, I ask the readers of the CONGRESSIONAL RECORD and my fellow colleagues in the House of Representatives to join me in congratulating Jim Gray for his achievements. On April 4th of this year, Jim will again be honored at a reception at the Knoxville Museum of Art, and a copy of this congratulatory statement will be presented to him. I also include here today an article written about Jim from the Knoxville News-Sentinel.

Jim's art continues to be an inspiration to us all and I am pleased today to speak on his behalf.

### STATE HONORS 2 OF ITS GREATEST GRACE NOTES

DOLLY PARTON, ARTIST JIM GRAY WIN TENNESSEE'S HIGHEST AWARD FOR ACHIEVEMENT IN ARTS

(By Terry Morrow)

NASHVILLE, Mar. 12, 2003.—A couple of hundred miles away from their beloved Smoky Mountains, singer Dolly Parton and artist Jim Gray found common ground Tuesday night on the stage of Ryman Auditorium.

It was there that the Tennessee Arts Commission paid tribute to them with the 2003 Governor's Awards in the Arts, the state's highest artistic honor. Parton received the Lifetime Achievement Award for numerous musical, educational and thespian achievements. Gray was recognized with a Distinguished Artist Award for his maritime paintings and his part in helping to create the artists' community in Gatlinburg.

Eleven people and three organizations from across the state were honored at the ceremony. Parton, a Nashville resident, and Gray, who lives in Knoxville, attended as did Gov. Phil Bredesen and other state dignitaries, including David Willard, director of Arrowmont School of Arts and Crafts in Gatlinburg, Knox County Commissioner Mary Lou Horner, Randy Tyree and Ted Miller, vice president of Dollywood.

Speaking at the ceremony, Bredesen, who is a painter, said the arts should be able to weather the state's current budget crisis.

Parton was cited not only for her many musical hits but for her educational pursuits in Sevier County. In her native county, Parton boosted the already thriving economy in Pigeon Forge when she retooled Silver Dollar City into Dollywood in the mid-1980s. She later created the Dollywood Foundation and the Imagination Library, which encourages children to read.

"This is called a Lifetime Achievement Award, but I ain't done yet," Parton said, indicating she was working with Bredesen to extend her Imagination Library beyond East Tennessee. Addressing the fact that the award was a "lifetime" award, Parton said, "That makes you feel old. I don't feel old. I don't look that old. As long as I have those surgeons in California, I won't look that old."

In a tribute to Parton, the Peasall sisters sang Parton's hit that many consider her autobiographical single, "Coat of Many Colors." The sisters, who are from Whitehouse, were part of the "O Brother, Where Art Thou?" soundtrack and appeared in the film.

Others receiving the Distinguished Artist Award were Chattanooga musician Roland Carter and Memphis sculptor Luther Hampton. Ralph Blizard, a legendary old-time fiddler from Blountville, won the Folk Heritage Award.

Parton and Gray were noted for their particular contributions in East Tennessee. Many of Parton's songs are based on her East Tennessee childhood. Gray's work often includes majestic scenes of the Great Smoky Mountains. Moving from Mobile, Ala., in 1966 to Gatlinburg, Gray aided in creating the city's arts and crafts community.

Thanking his wife Fran, his three children and seven grandchildren, Gray said, "What an honor. It's very emotional for me. How can it get any better than this?"

Parton and Gray have worked together before. A bronze statue of Parton, created by Gray in 1987, sits in front of the Sevier County Courthouse in Sevierville. Thousands of tourists stop to see the 2-ton, life-size structure each year.

"At 70, I've been blessed all these years doing what I have loved the best," Gray said. "I have been working full-time in fine arts since 1966. As far as I am concerned, this is icing on the cake, and it has been a wonderful cake I have enjoyed."

Knoxville will honor Gray with a reception Thursday, April 3, at the Knoxville Museum of Art. In addition to celebrating the Governor's Award, the Jim Gray painting "Rising Above" will be on display, and Mayor Victor Ashe will announce that the painting has been purchased as part of the Knoxville Convention Center art collection. The reception is open to the public. Anyone interested in receiving an invitation to attend should contact the Arts and Cultural Alliance, 865-523-7543.

## TRIBUTE TO ROSSANA ROSADO, PUBLISHER EL DIARIO-LA PRENSA

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. SERRANO. Mr. Speaker, I am pleased to pay tribute to Mrs. Rossana Rosado, Publisher and CEO of the El Diario-La Prensa who will be honored on Thursday, March 20, 2003, on the 90th anniversary of the newspaper, the oldest Spanish-language daily in the United States. I regret that I am unable to join her and her colleagues for the 18th Annual National Association of Hispanic Publications (NAHP) Convention and luncheon in Las Vegas. I would very much have enjoyed celebrating this well-deserved recognition with her.

For 90 years, El Diario-La Prensa has been instrumental to the Hispanic community in the Northeast, providing the Hispanic community in the United States a vehicle of communication within itself, which has contributed to its development and strengthening and empowered Hispanics to attain significant achievements in the political, economic and social arena. Furthermore, for nine decades, El Diario-La Prensa has informed our Latino community, serving as an ever present link between them and their families and friends in their countries of origin in Latin America and the Caribbean, during times of political turmoil and times of stability, times of success as well as times of economic downturn, joyous occasions or sad times.

Mr. Speaker, good writing is indeed an art. From 1995 to 1999, Ms. Rosado was responsible for the newsroom operations as El Diario's Editor in Chief, becoming the first Latina and one of just a few women in this country to hold this important position at a major newspaper. Her writing, eloquent and to the point, has won the attention and admiration of El Diario-La Prensa readers like me. I commend her for her ability to bring style to provocative and powerful commentary. Editorials that grab the reader with candid and passionate writing about politics and other issues affecting New York City communities deserve recognition.

In September 1999, after dedicating to El Diario-La Prensa nine of her seventeen years in the news media, Ms. Rosado was promoted to Publisher and CEO to oversee the day-to-day operations of the entire paper. She, once again, became the first Latina in the U.S. to hold such a high-ranking post in the newspaper-publishing world. This move provided her with the opportunity to cross over to the business and revenue side of the newspaper industry, a new frontier for Latinos in general and for women in particular. It is interesting to mention that her first experience as a reporter was at El Diario-La Prensa where she covered my home borough of the Bronx as well as City Hall, and wrote a weekly column. Ms. Rosado has had a diverse career in the N.Y. media, which includes work at radio and television stations, print media and public service.

Mr. Speaker, Ms. Rosado is the recipient of several prestigious awards including an Emmy for her work in television. Among many tributes, in March 2002, she received the NYS Governor's award for Excellence- "Women Sustaining the American Spirit"—in honor of Women's History Month. How fitting, Mr. Speaker. Ms. Rosado served as a member of Mayor Michael Bloomberg's transition team. She serves as Director on the board of United Way of NYC and September 11th Fund, as well as in other organizations. She is a graduate of Pace University, in White Pains, New York where she received her B.A. in journalism.

Mr. Speaker, I ask my colleagues to join me in recognizing Ms. Rossana Rosado for her leadership and extraordinary contributions to the advancement of journalism and in wishing her continued success.

## PERSONAL EXPLANATION

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. PORTMAN. Mr. Speaker, on March 19, 2003, during the House's consideration of H.R. 97, the Bankruptcy Abuse Prevention and Consumer Protection Act, I was recorded as voting "yea" on rollcall vote No. 72, the substitute amendment offered by Mr. NADLER of New York. I should have been recorded as voting "nay" on the Nadler substitute amendment.

## IMPROVING PARENTAL CHOICE FOR STUDENTS WITH DISABILITIES ACT

### HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. DEMINT. Mr. Speaker, today I submit for introduction a bill to improve education for children with special needs by encouraging innovative approaches to parental involvement and flexibility.

This legislation is meant to enhance other reforms being proposed in the IDEA reauthorization bill. Those reforms will improve special education by reducing the paperwork burden for educators, improving early intervention strategies, reducing misidentification of special needs students, and restoring trust between parents and districts by reducing litigation. I believe we must empower parents to be more involved in their child's education.

My legislation would help states create customized education systems for children with special needs. Many states would like to offer options for children with special needs. Unfortunately, the current IDEA structure does nothing to promote these alternatives. This new legislation encourages states to research and develop scholarship programs for children with special needs, providing parents the opportunity to choose the education they see as a best fit for their child.

The Improving Parental Choice bill would give states greater flexibility in providing for supplemental services. Students with special needs should have the flexibility to access the tutoring services of their choice. My bill would make it permissible for districts to use their federal IDEA reserved funds to provide greater opportunities for participation in outside supplemental education services. Children at a school designated for improvement under No Child Left Behind would have the opportunity to access the support services preferred by their family.

This legislation would also allow pre-school age children to continue education with successful and comfortable providers. Children under age three currently receive special needs service from the provider of their choice. This legislation would expand the options of parents and decrease transition problems for the youngest children with disabilities by allowing states to expand programs that currently serve children ages 0–2. It would allow children to continue participation in their preferred program (including private providers) until age five when the child begins school.

Children with special needs have different needs. They deserve education services that are customized for their personal needs. This legislation will provide parents with more resources and more opportunities for their children with disabilities.

## IMPROVING PARENTAL CHOICE FOR STUDENTS WITH DISABILITIES ACT OF 2003

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. BOEHNER. Mr. Speaker, today, I join my colleague from South Carolina in offering this important legislation to improve and increase the options available to parents of students with disabilities under the Individuals with Disabilities Education Act. The IDEA reauthorization is a top priority for my Committee this year. We want to build on the success of the No Child Left Behind Act and align IDEA with NCLB.

One of our key principles for reauthorization is the encouragement of innovative approaches to parental involvement and parental choice. IDEA already contains choice, for the educated and the wealthy. There is no reason to deny millions of parents those same opportunities. We should empower all parents to expand their participation and increase knowledge of their rights and responsibilities under the law.

This bill would accomplish three goals:

Encourage states to develop innovative, flexible choice programs for children with disabilities and permitting states that have such programs to allow federal funds to follow the child based on the parents' choice. According to a report by Education Week, Florida's pioneering program, launched two years ago under Governor Jeb Bush and Lieutenant Governor Frank Brogan, resulted in state education officials receiving more than 14,000 inquiries from parents interested in exploring scholarships as a means of securing the best education possible for their children. Federal law should not discourage other states from emulating the Florida model or from engaging in other innovative efforts to improve choices for the parents of children with special needs.

Permit districts to use their funds under this Act to provide necessary accommodations (including reasonable, additional expenses) to allow children with disabilities being educated in schools designated for improvement under No Child Left Behind (NCLB) to participate in supplemental educational services. NCLB, enacted in 2002 with overwhelming bipartisan support, guarantees parents with children in underachieving federally-funded schools—including children with disabilities—the right to obtain tutoring and other supplemental educational services for their children from providers reimbursed with their children's share of federal education funds. Eligible providers include private and faith-based providers of educational services. NCLB established an important historical precedent for the portability of federal Title I education funds, in which the money follows the child. The same principle should be applied to federal special education funds when children with special needs are otherwise being denied the opportunity for a quality education.

Expand the options of parents and decrease transition problems for the youngest children with disabilities by allowing states to expand current Part C (currently ages 0–2) programs to children that would otherwise be participating in Section 619 (ages 3–5). Parents can choose for their preschooler to remain in the Part C program with their current providers (including private providers) without interruption or transition from traditional Part C at age 3.

School choice, particularly for children with disabilities, provides a constructive way to continue to improve public education by insisting on excellence for every child. I strongly believe that parents are in the best position to determine where their child should be educated. We should allow all parents the right and the responsibility to have that choice.

I urge my colleagues to support this measure to give parents and children with disabilities the choice they deserve.

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## CONGRATULATING MR. JOHN LARSEN

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to congratulate FBI Agent John Larsen on being named the U.S. Marshals Law Enforcement Officer of the Year. His dedication and desire to work for the cause of justice is a model for all law enforcement officers.

Agent Larsen was a key figure in the prosecution of Robert Burke. Burke was convicted of supplying the handcuff key to Jeffery Erickson, who ultimately used it to escape confinement and murder Deputy U.S. Marshal Roy Frakes and Court Security Officer Harry Belloumini in 1992.

For the past ten years, Agent Larsen has worked tirelessly to uncover evidence for this case that may never have been found otherwise. Agent Larsen first located Mr. Burke in Ireland, and then helped facilitate his extradition back to the United States on charges of perjury. He then oversaw over 180 witness interviews, most of which were with inmates, being asked to recall conversations that had taken place over a decade ago. Having nothing to offer some of these witnesses for their testimony, Agent Larsen had to implore upon their sense of decency to bring some closure to the family and the United States Marshals Service.

Through perseverance, a strong work ethic, and a commitment to justice, Agent Larsen was a crucial factor in bringing an emotional case to a close.

Mr. Speaker, John Larsen's record of service and the fruits of his labor speak for themselves. Earning the Law Enforcement Officer of the Year award from the U.S. Marshals is a well-deserved token of the respect that is due him for his efforts. Therefore, I ask my colleagues to join me in thanking him for his commitment to excellence and his desire to see justice carried out.

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## DIVINITY, DIVERSITY, DIGNITY BOUND TOGETHER

### HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. FORBES. Mr. Speaker, I rise to call to the attention of the House of Representatives the following article written by Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach. Rabbi Zoberman's editorial appeared in the Suffolk News-Herald on March 18th.

DIVINITY, DIVERSITY, DIGNITY BOUND TOGETHER

This is a time of decision beclouded by political partisanship and posturing at home and in the United Nations. Going to war for a democracy is not an easy undertaking as it would be for a dictatorship. The value of human life weighs heavily upon decision-makers in a nation such as ours whose guiding concern is the individual's welfare. That is contrary to a totalitarian regime where the individual is not an end in itself but a means to goals serving the interests of an autocratic ruler. There is thus a vast difference between the conduct of George W. Bush and that of Saddam Hussein, both representing diametrically opposing systems of government.

America is on the verge of confronting Iraq primarily for the sake of eliminating a growing danger to the world by a leader who proved that he would not hesitate to use mass destruction weapons even against his own people. Hussein has not given up his dream of gaining hegemony over a region rich in oil to be used for his own megalomaniac purposes as he seeks to establish a nuclear option. He has only become emboldened to get his way by his past defeat in the 1991 Gulf War and consequent limitations posed on Iraq by the United Nations. A wounded and humiliated lion is more dangerous than an uninjured one. History taught us that dictators do not willingly relinquish power.

No doubt, the evil of 9/11 created a greater urgency to respond to forces undermining the world's stability, propelled by the global terrorism of uncompromising militant Islam assailing the West and its values. It begrudges our superior standing and their own longstanding inadequacies. Its aim is tragically not dialogue but a deadly duel they are bound to lose. Al-Qaida, now on the run following their defeat in Afghanistan, was too successful for its own good. It will be relentlessly pursued. Imagine if Osama Bin Ladin invested his large finances in promoting cultural exchange between civilizations! Hussein contributes to terrorism in a variety of ways, including generous monetary rewards to Palestinian families of suicide-homicide bombers who have terrorized Israel, the West's frontier, for over two years, wrecking havoc that no nation would have tolerated so long. The last terrifying terror act in Haifa was in the neighborhood where I grew up and it was Bus #37 and the stop, which I used only a month ago. My sister, a "Reali" school counselor, lost two young teenage students among the fifteen dead.

Another hopeful democracy in the making in the Middle East, the first Arab one, alongside Israel's inspiring example, would bode well for an essential transformation of a critical part of the world once blessing humanity with the vision of the sacredness of each human life and now breeding those who violate it in God's name. America standing up for itself would have a sobering effect on those who believe that it has grown too weak to be the world's leader. That is a dangerous scenario we cannot afford.

Power to defend what we rightfully cherish, touching upon our very security and basic way of life, is not to be snickered at. As son of Polish Holocaust survivors I know what the absence of power meant to the Jewish people in our darkest period. Let us take pride in our hard-earned power and in Hampton Roads' leading role in our nation's military mission for freedom's sake, pledging to support all our heroic servicemen and women as well as their families awaiting their safe return. Eleven members of my own over 300 family unit synagogue are in the Persian Gulf arena. At this trying juncture for humanity, America is called upon once more to assert that divinity, diversity and dignity are bound together.

Mr. Speaker, I commend Rabbi Zoberman for his timely and thoughtful statement. As we appear on the verge of war with Iraq, Rabbi Zoberman's words serve as a strong reminder of the differences between the United States and the evil Iraqi regime.

## DEFENDING AMERICA'S HOMELAND

### HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, in the early hours of the morning, our men and women in uniform began a campaign to defend America's homeland and liberate a population that has been under the brutal dictatorship of Saddam Hussein. While thousands of miles away, this nation stands behind these heroes and prays for their safety as they risk their lives in order to protect our freedom and security.

As the great battles of the past have clearly indicated, America's armed forces are the world's strongest, most advanced and will always succeed. While America may be in the early days of this conflict, it is certain that our brave soldiers, sailors and airmen will ultimately prevail and decades of oppression will be lifted from the Iraqi people.

The days ahead represent a struggle to prevent Saddam Hussein's terror from reaching our borders in the future. While the work our soldiers are doing now is in an arena far away, it is a direct accomplishment for the security and safety of America's homeland.

The young men and women in uniform are nothing short of heroic and their country stands proud of the missions they are leading abroad—both military and humanitarian. I would also like to commend their families for the sacrifices they have made for America. These days may be difficult, but the results of their work will forever be remembered and America will prevail.

## SUPPORTING OUR TROOPS

### HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. DOOLEY of California. Mr. Speaker, yesterday our nation, along with a coalition of more than thirty supporting nations, entered into military conflict with the nation of Iraq. I want to express my deepest appreciation for the commitment and resolve of our American men and women in service and their families. I join today with all of my colleagues in offering the unyielding support for all of our troops in the United States Armed Forces and their families.

Joining the thousands of troops from around the world in Iraq are many brave and courageous reservists and enlistees from the Central Valley. I join today with all those who have family members and friends in the region as we hope and pray for their safe and speedy return.

There is no question that Saddam Hussein is destabilizing the region, that he is willing to use deadly force against his own people, and that he is a threat to U.S. security. Yet, regardless of how each of us feels today about entering into this conflict, we must stand resolute behind our Commander in Chief and behind our men and women in uniform. Our hearts and thoughts are with those who will be putting their lives on the line for the sake of freedom in the days ahead.

## TUNISIA 47TH ANNIVERSARY OF INDEPENDENCE

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. KIRK. Mr. Speaker, I rise today in recognition of a great ally of the United States. Today, March 20th, marks the 47th year of Tunisia's independence. In 1797, the United States signed a Treaty of Peace and Friendship with the North African country of Tunisia. Over 150 years later, Tunisia peacefully gained independence from France. Today, we congratulate Tunisia as she celebrates 47 years as an independent nation.

The Republic of Tunisia has remained a steadfast friend to the United States, joining Allied forces during World War II and continuing support throughout the Cold War. Today, as we continue in our efforts against terrorism, Tunisia remains by our side as a Muslim nation and a loyal ally. Tunisia's ongoing efforts to work with the United States in the campaign to eradicate terrorism has been absolutely critical.

Tunisia's flourishing economy offers great hope for African and Middle Eastern countries, while she also continues to play an increasingly important role in the politics of the international community. One of Tunisia's most valuable assets has been its continued willingness to support a Middle East peace process. Despite being surrounded by nations engulfed in political turmoil, Tunisia continues to take an active role in combating international unrest.

I congratulate Tunisia on 47 years of independence and look forward to the United States' continuing strong relations with Tunisia for years to come. I urge my colleagues to join me in celebrating the 47th Anniversary of Tunisia's independence.

## COMBATTING TERROR AND EVIL

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. GRAVES. Mr. Speaker, last night, the United States continued its march against those who threaten the security of the United States. As the United States leads a coalition of nations willing to combat terror and evil, I offer my prayers to our heroic men and women who have been called on to defend our freedom. These brave soldiers are the latest of a long and proud history of courageous Americans dedicated to protecting the citizens of the United States.

For 12 long years, Iraq has failed to disarm and live up to the agreements it promised to uphold. By choosing not to disarm or to surrender power peacefully, Saddam Hussein has left us with no other option but to disarm him by force.

This is a critical moment in American history. We could either choose the path of appeasement or choose the path of forceful disarmament. History has shown that appeasement has never prevented war; it only postponed war. America must not wait for Saddam Hussein to build an arsenal strong enough and deadly enough to blackmail the Free World. The time for action is now. May God Bless America.

## ARMED FORCES TAX FAIRNESS ACT OF 2003

SPEECH OF

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. ETHERIDGE. Mr. Speaker, I rise today to voice my support of H.R. 1307, the Armed Forces Tax Fairness Act of 2003. It is only appropriate during this time of conflict that we take every opportunity to recognize and support the brave men and women of our armed forces. The original version of this legislation provided a number of significant tax benefits for our armed forces, National Guard and Reserves, and I am pleased and relieved to see that the bill has been restored to its original form and intent.

As a veteran of the United States Army, I know firsthand the contributions our military service personnel make in defense of our nation and the tremendous burden their families are forced to bear. Here in the U.S. House, I serve on the Army Caucus, and I have worked on a bipartisan basis to support our men and women in uniform. Furthermore, North Carolina's Second Congressional District includes

Fort Bragg and Pope Air Force Base, home to many soldiers now on the ground in Southwest Asia. Our service personnel are dedicated, professional and devoted to duty. Congress must stand up for these brave men and women who risk their lives to defend our country, our ideals and our interests around the world.

Mr. Speaker, H.R. 1307 includes a number of provisions to reduce taxes for the members of the armed services. It provides capital gains tax relief to soldiers who invest in a home for themselves and their families but have to move due to reassignment or deployment before they satisfy the five-year qualifying period.

The bill also provides National Guard and reserve members an "above-the-line" tax deduction for overnight expenses when they travel more than 100 miles from home to attend National Guard and Reserve meetings, as well as filing extensions and penalty-free withdrawals from education accounts for students attending one of our service academies.

Mr. Speaker, prompt passage of this legislation is a small gesture of support to active duty personnel as well as members of the Reserves and National Guard. In these uncertain times, we must remember that many of our soldiers put their civilian lives on hold in service to our country. More than 50,000 Reservists are supplementing active duty forces for our war against terrorism, and another 120,000 have been mobilized for our conflict with Iraq.

Mr. Speaker, I urge quick passage of H.R. 1307 in the House and Senate, and I hope the President will promptly sign it into law as a gesture of support and respect for our armed forces. The brave men and women of America's armed forces need to know that Congress stands behind them, and passing this legislation will demonstrate that Congress will put national interests ahead of special interests.

## PATRIOTISM OF THE TOWN OF CORNWALL

### HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mrs. KELLY. Mr. Speaker, I rise today to report to the House the strong sense of patriotism sweeping through a small town in the heart of New York's 19th Congressional District. The Cornwall Town Board has passed a resolution in support of all of our troops that are deployed overseas to protect our freedom and liberties.

The Resolution states that the Board supports of those brave men and women of Cornwall currently "serving in the armed forces and of our great country and their families and support the armed services for the great sacrifices they must make in the service of our country in the name of freedom."

I commend the Cornwall Town Board for their patriotic actions and ask that the entire text of the Resolution be placed in the CONGRESSIONAL RECORD.

RESOLUTION BY THE TOWN BOARD OF THE TOWN OF CORNWALL IN SUPPORT OF OUR TOWN RESIDENTS WHO ARE SERVING OUR COUNTRY IN THE ARMED FORCES, IN SUPPORT OF OUR ARMED FORCES IN GENERAL AND FOR WORLD PEACE

Whereas, heretofore the Town Board of the Town of Cornwall recognizes the great freedoms and liberties that this great nation of our's provides, and

Whereas, the Town Board recognizes that to insure that these great freedoms and liberties exist it is necessary to provide for a national defense, and

Whereas, the Town Board recognizes that the United States Armed Forces protect and defend our country from all enemies foreign and domestic and thereby serve with great dedication, personal risk and sacrifice in the risking of their lives and sacrificing the comfort of being with their loved ones when serving on distant shores, and

Whereas, the Town Board supports our own brave men and women and all members of the armed forces currently serving and preparing to defend our liberties and freedoms and protect us from our enemies and also supports their families in these times of heightened security alert, and

Whereas, the Town Board recognizes that world peace and security is paramount and we support and pray that all diplomatic efforts to secure world peace and security will succeed, now, therefore, be it

*Resolved* as follows:

1. That the Town Board of the Town of Cornwall supports our residents who are serving in the armed forces of our great country and their families and support the armed services for the great sacrifices they must make in the service of our country in the name of freedom and democracy.

2. That the Town Board of the Town of Cornwall call upon our leaders and other world leaders to bring about world peace as quickly and with firm resolve as possible by whatever means necessary.

3. That the Town Clerk forward a copy of this resolution signed by all members voting herein to our congressional representative SUE W. KELLY and ask that it be read into the Congressional Record at her earliest convenience.

## COMMENDING CLEAR LAKE ELEMENTARY SCHOOL

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to commend Clear Lake Elementary School for being named a Michigan Blue Ribbon Exemplary School. This award is given to those elementary schools that exemplify educational excellence. It is designed to identify and give public recognition to outstanding schools that achieve high academic standards, to make available a comprehensive framework of key criteria for school effectiveness, and to communicate best practices for educational success among Michigan schools.

Through hard work and dedication, Clear Lake Elementary has met the criteria for this award. It is committed to instilling, "Competence, Confidence, and Character" in all students. Through partnerships with parents, encouragement of critical thinking and cooperation, and character education, the staff at Clear Lake Elementary provides these excellent educational principles.

Mr. Speaker, Clear Lake Elementary is to be recognized for earning the Michigan Blue Ribbon Exemplary School Award. They are an example of the tremendous potential elementary schools have to make a difference in the lives of their students. Therefore, I ask my colleagues to join me in thanking the teachers and administration at Clear Lake Elementary for their commitment to excellence and their desire to provide students with a high-quality education. I would also like to ask my colleagues to join me in wishing them good fortune in the future.

## CELEBRATING TUNISIA'S 47TH ANNIVERSARY OF ITS INDEPENDENCE

### HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. HINCHEY. Mr. Speaker, I rise today to honor the Republic of Tunisia and its people on the 47th Anniversary of their National Day of Independence. Over the last 47 years, Tunisia has been an outstanding model for developing countries. It has risen from a fledgling democracy to a nation that is at the forefront of instituting an aggressive North African free market economy.

The United States and Tunisia have maintained a strong relationship throughout Tunisia's history. During the Cold War, Tunisia was a crucial partner in the Mediterranean region. In our struggle against terrorism, dating back to the early 1990s, Tunisia has been a steadfast ally. As early as 1993, Tunisia condemned forms of Islamic extremism and terrorism. In 1994, Tunisia warned the West of terrorism's evils and spoke of the need to fight terrorism on a global level.

The relationship between our countries has only been strengthened over the past two years, as we both act to confront the scourge of terrorism. Tunisia's unwavering opposition to terrorism is no more evident than in its response to the tragic terrorist attacks of September 11, 2001. Immediately following the attacks, Tunisia's President, Zine El Abidine Bel Ali, offered his country's heartfelt condolences to the American people and strongly condemned the attacks and those behind them. President Ben Ali also offered his country's steadfast support for our efforts to bring those responsible to justice. Tunisia's steadfast cooperation and support continues today.

As a friend of Tunisia, I again congratulate the Tunisian people on 47 years of independence and would like to share with my colleagues the insightful words of President Ben Ali, describing the reasons for Tunisia's success in building a democratic society:

"Tolerance is at the heart of our social traditions as well as a characteristic of Tunisia's history. Pluralism, whether religious, cultural, or political, is ingrained in our society. Tunisian Moslems and Jews have lived together under the same sky and same state for many centuries. Each contributed to the building of

[Tunisia], whose greatness is based on the tolerance of its people—a tolerance which has been among the highest values governing relations between the two parties, as there was no room for hatred."

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## CELEBRATING THE ANNIVERSARY OF TUNISIA'S INDEPENDENCE

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. TANNER. Mr. Speaker, I rise to recognize the celebration of Tunisian Independence Day, a historical occasion that occurred forty-seven years ago today when the people of Tunisia officially declared independence.

Since that time, the people of Tunisia have begun building the foundation for a great democracy, a process that continues to move forward. The almost ten million citizens of Tunisia now live in a country that shares many of the democratic values that make our own nation great, including civil rights, a more open political process and a thriving culture that highlights the history of the Tunisian people.

The quality of life for the Tunisian people has been greatly improved in recent decades, largely due to trade agreements and economic development in the nation's urban areas and elsewhere. There are great economic strides still to be made, but much progress has been made in a relatively short period of time, and that progress will continue.

Tunisia has been an important friend of the United States throughout history, including serving as an important ally in the ongoing war on terrorism. Mr. Speaker, I am hopeful that our relationship will continue to strengthen as Tunisia continues building onto its democratic foundation.

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## HONORING EMMITT SMITH

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. SESSIONS. Mr. Speaker, I rise today to honor the living legend of Emmitt Smith, the NFL's all-time leading rusher. I was among the legions of Dallas Cowboys fans who were saddened to see Emmitt leave the Cowboys after thirteen seasons with America's Team. I would like to take this opportunity to honor this future Hall-of-Famer for both his professional success and for his tireless community service efforts. Emmitt served as the Cowboy's representative to the United Way from 1994–1995 and is the founder of Emmitt Smith Charities, providing educational scholarships to his hometown of Pensacola, Florida,

While Emmitt is only 5'10" tall, his giving heart is the size of Texas. I was only too happy to be able to watch Emmitt rush for his NFL record of 17,162 yards. When Emmitt was drafted by the Cowboys in the first round of the 1990 NFL Draft, he had left the University of Florida as a junior without his college degree, Today, many pro athletes leave college early without a degree, or don't even go to college and leave high school straight for professional sports. To his credit, Emmitt went back to the University of Florida and received his Bachelor's degree in 1996.

I will miss not being able to see #22 suit up for the silver and blue. However, I wish Emmitt Smith all the best, and sincerely thank him for all that he has done on the field, and off the field for the greater Dallas community.

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## IN MEMORY OF CECILIA ELEANOR HADLEY

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to the memory of Cecilia Eleanor Hadley, a warmhearted and generous woman who dedicated her life to others.

I have known Cecilia Hadley since I was a boy and her husband, Al "Skipper" Hadley, served as my Sea Scout, BSA, Scoutmaster. Cecilia died last month at age 96. Skipper died in 2000, also at age 96.

Cecilia Hadley was born in Milwaukee and moved to California as a child. She graduated from the Los Angeles Conservatory of Music and Arts and, after 6 years of courtship, married Al Hadley in 1935.

Cecilia Hadley remained active long after retirement. She volunteered as a third-grade teacher's aide for nearly a decade, tutored students in reading and math after school, and taught countless children to play the piano.

She belonged to many women's clubs and was a member of St. Peter's Catholic Community for more than 20 years. She volunteered for the Fallbrook Hospital Auxiliary, working in the gift shop and hand-crocheting baby blankets for newborns. She also made baby blankets for Birth Choice, a crisis pregnancy center she actively supported.

Mr. Speaker, Cecilia Hadley is survived her sons, Pete and David; five grandchildren; and two great-grandchildren. I know my colleagues will join me in sending condolences to Cecilia's family, and in thanking her for making her community and our country a better place through her passion and compassion.

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## IN HONOR OF ROBERT M. MORGENTHAU, MANHATTAN DISTRICT ATTORNEY AND CHAIRMAN, MUSEUM OF JEWISH HERITAGE—A LIVING MEMORIAL TO THE HOLOCAUST

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. NADLER. Mr. Speaker, it is my very great personal pleasure to rise today to pay tribute to Robert M. Morgenthau, New York County's District Attorney and Chairman of the Museum of Jewish Heritage—A Living Memorial to the Holocaust. Mr. Morgenthau is being honored at the Museum's Heritage Dinner, and I would like to honor him myself, today.

Mr. Morgenthau, as an elected official, an advocate, and a selfless leader, epitomizes the very best of public service. He served his country as a naval reservist and then as a distinguished naval officer during World War II, achieving the rank of Lt. Commander. He was asked to serve the Nation once again as a U.S. Attorney, appointed by President John F. Kennedy in 1961. We are most fortunate that his pursuit of justice brought him to watch over our great borough of Manhattan, where he has been the District Attorney of New York County since 1974 and has won re-election eight times.

His wisdom, his energy, and his leadership have made New York a better city. His tireless devotion to the law resulted in his establishing units that oversee the prosecution of crimes against society's most vulnerable victims, and he has pursued major cases that affect the economic and social viability of New York City.

Since 1982, Mr. Morgenthau has lent his talent and vision to the Museum of Jewish Heritage—A Living Memorial to the Holocaust. With the memory of those who were murdered in the Holocaust always in his thoughts, he has seen the Museum through two construction projects and helped raise millions of dollars to ensure its future. Because of Mr. Morgenthau's leadership, the Museum, which is located five blocks south of the World Trade Center site, began building its new wing on November 27, 2001, mere months after the worst terrorist attacks this nation has ever witnessed. Located across New York Harbor from the Statue of Liberty and Ellis Island, the new wing will incorporate centers for memory, learning, performance, and exhibitions. It will also incorporate the strength and humanity of a man who has steered the Museum through both rough seas and calm waters. Mr. Morgenthau's tireless determination, infinite supply of good counsel, and unconditional devotion are as fundamental to the Museum's existence as the foundation on which it stands. The new wing, which is just about complete, will be named for Robert M. Morgenthau on April 6, 2003.

It gives me great pleasure to honor Robert M. Morgenthau, on behalf of the people of New York City. I thank him for ensuring justice for all.

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## IMPRISONMENT OF DR. NGUYEN DAN QUE

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to strongly condemn the arrest of Dr. Nguyen Dan Que by the Vietnamese Communist government on March 17th, 2003. I am outraged to hear that these Communist officials detained Dr. Que at a local security station in Saigon, while they had their secret police break into his house to seize his cellular phones, laptop computer, and collection of written essays.

As you may know, Dr. Que is the most vocal and ardent advocate in Viet Nam for freedom, democracy and human rights for almost the past 30 years. When Saigon fell into

Communist hands in 1975, Dr. Que refused to leave Viet Nam, and later turned down a government offer to resettle in the United States. Dr. Que could have continued a successful medical practice in America, but he consciously chose to remain in Viet Nam to speak out and defend the human dignity and rights of all Vietnamese people.

Because of his unrelenting efforts in the pursuit for freedom and human rights for Viet Nam, the Vietnamese government imprisoned Dr. Que in 1978. He remained in detention, often under inhumane conditions, for 10 years, pending formal charges and a trial. During this time, he was tortured, beaten, and placed into solitary confinement where his hands and feet were chained together. Due to the continuous intervention of the Congressional Dialogue on Viet Nam and international human rights groups, Dr. Que was finally released in 1988 after 10 years in prison.

On May 11, 1990, Dr. Que founded the Non-Violent Movement for Human Rights. He issued a manifesto appealing to all individuals and organizations inside Viet Nam and throughout the world for support of his moderate, non-violent struggle to establish human rights for all Vietnamese people. He demanded that the Vietnamese government invest in the welfare of its people, and reduce the size of its military. His manifesto also stipulated that the Communist government of Viet Nam cease its aggressive actions towards neighboring countries, and to bring about lasting peace for the region in Southeast Asia.

Dr. Que was arrested again in June 1990, and forcibly returned to prison without trial. His family received information that he was tortured and had received emergency medical care several times due to these beatings. Finally Dr. Que was released from prison in September 1998, but remained under house arrest with constant government surveillance and restrictions on any use of communication, such as phone calls and letters.

Mr. Speaker, Dr. Que's arrest by the Vietnamese government comes at a time when the world is preoccupied with the impending conflict in Iraq. I believe they made this decision on the basis that we, the international community, would not likely express strong condemnation towards their actions—but they are wrong. I urge my colleagues to join me now to collectively voice our strong opposition to the arrest of Dr. Que by the Vietnamese Communist government and demand his release immediately.

## ELKS CLUBS CREATE ARMY OF HOPE TO HELP MILITARY FAMILIES

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. MURTHA. Mr. Speaker, in a shining example of how Americans pull together in times of crisis, the Elks USA has pledged its support of the families of Reservists and National Guard Members who have been called to active duty. The Army of Hope, comprised of volunteers coordinated by the Elks, will assist families with all sorts of needs to ease their stress and financial burdens.

This could not be a more welcome and needed gesture of support and I am pleased to place the attached letter from the Elks to the President, of which I received a copy, into the CONGRESSIONAL RECORD. We should all applaud them for their patriotism. This is a trying time for our military families. Supporting them is one of the most patriotic things we as Americans can do.

ELKS USA,
*Richland, WA, February 21, 2003.*

Hon. GEORGE W. BUSH,
*President of the United States of America, The White House, Washington, DC.*

DEAR MR. PRESIDENT: The families who have a father or mother in the military reserves or National Guard called to active duty during our War on Terrorism and the current Iraq crisis will experience severe economic burdens as well as emotional stress. As National President of the one million men and women who comprise the Benevolent and Protective Order of the Elks, I am writing to express our organization's support of these families.

Mr. President, the Elks have mobilized the volunteers as an Army of Hope. We are teachers, lawyers, accountants and health workers. We are carpenters, electricians, mechanics, plumbers and tradesmen of every type. We are the hearts and hands of our communities. We will help with the kids, make minor home repairs and provide other assistance to these families of our service men and women as they attempt to keep hearth and home together during these trying times.

I cannot begin to stress to you our Order's willingness and preparedness to lend any further assistance as directed. We are committed to do everything you request of us and for these valiant people and their families. Mr. President, please know the Benevolent and Protective Order of the Elks is here for our nation.

Pledging you the full support of the men and women of the Elks, I remain,

Sincerely Yours,

ROGER R. TRUE,
*Grand Exalted Ruler (National President).*

## SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

SPEECH OF

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

Mr. STARK. Mr. Speaker, I rise in opposition to this resolution expressing the sense of Congress that the Ninth Circuit Court of Appeal's decision in Newdow v. the United States Congress is inconsistent with the Supreme Court's interpretation of the First Amendment and should be overturned.

The Court ruled on a case in which children were required to recite the pledge. Just as we should not bar anyone from reciting the Pledge of Allegiance, we should not force anyone to recite words they do not believe.

As I have stated before, I believe the Ninth Circuit was right in ruling that the reference to "God" in the Pledge of Allegiance is unconstitutional. It is a religious term that does not respect the diversity of faiths and opinion in America and the separation of Church and State as our Constitution requires.

This House has now been given three separate opportunities to vote on almost identical resolutions denouncing the Ninth Circuit for its rulings on this issue. Right or wrong, Congress has made its voice heard. But, it appears that many of my colleagues are not content to let the judicial branch do its job. They want to intervene, exerting as much political pressure as necessary to sway the Supreme Court to side with their far-right Christian ideology.

These same colleagues seem to forget that religious liberty, religious tolerance and freedom of thought and expression were foremost principles in the minds of the Constitution's framers. This resolution before us today states that "religious belief was central to our nation's founding"—completely ignoring these other integral ideals. As written, the resolution flatly mischaracterizes the very foundation of our democracy.

I urge my colleagues to end this effort to derail the Supreme Court's impartial deliberation on this issue. I urge my colleagues to vote no on the resolution.

## TRIBUTE TO DAVID AND CHERYL VIENNA

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. MATSUI. Mr. Speaker, I rise today to honor David and Cheryl Vienna as they prepare to begin their well-deserved retirements. For more than two decades, they have served dozens of clients before the Federal and State governments and, in doing so, have maintained standards of excellence that we would do well to recognize.

In 1978, David founded a Federal Government affairs company called David Vienna and Associates, and Cheryl joined him a year later. Together, they have made what is now known as Vienna, Gregor and Associates into one of the premier small firms in the Washington area. Among other clients, they represent several from my own State—the California State Senate, the California Franchise Tax Board, and the California Public Employees' Retirement System, the largest pension fund in the Untied States. My staff and I have worked with the firm many times and we know firsthand the level of knowledge, skill and integrity they bring to every task.

While operating one business successfully is enough of a challenge, David and Cheryl opened a second in 1981. Public Affairs Support Services has, for more than 20 years, filed federal and state campaign finance reports for the political action committees of some of the largest businesses and associations in the country. In this venture, as in their government affairs work, they have demonstrated the expertise and attention to detail that is the hallmark of every successful business owner.

Both David and Cheryl had extensive experience in this very building before starting their companies. David was on the staffs of two Senate subcommittees and worked closely with Senators Abe Ribicoff and Scoop Jackson, while Cheryl was director of legislation for senator Sam Nunn. In their public service, they showed the outstanding character and ability that foreshadowed their future success in the private sector.

Mr. Speaker, I would ask all of my colleagues to join me in congratulating David and Cheryl Vienna on their distinguished careers and wishing them continued success in their future endeavors.

## A TRIBUTE TO DR. RONALD BANGASSER, PRESIDENT OF THE CALIFORNIA MEDICAL ASSOCIATION

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. LEWIS of California. Mr. Speaker, it is with great pleasure that I rise today to commend the incoming president of the California Medical Association, Dr. Ronald Bangasser. For nearly two decades, I have known Dr. Bangasser as a friend and a community leader in San Bernardino County, California, and I believe he will be a strong asset at the head of the nation's largest state medical association.

Dr. Bangasser has been a prominent member of the San Bernardino County medical community since 1977, when he began in private practice. By 1982, he had established a reputation as an expert at treating complicated wounds as director of the Wound Care Center at Redlands Community Hospital. He became Chief of Staff at the hospital in 1990 and is now Medical Director for the Beaver Medical Group in Redlands.

Known for his interest in teaching, Dr. Bangasser is a member of the American Board of Family Practice, American College of Hyperbaric Medicine, American College of Physician Executives, and is a fellow of the American Academy of Family Physicians and an associate Professor at Loma Linda University Medical Center.

The legions of patients devoted to Dr. Bangasser include many in the retirement communities of Yucaipa, California, and a generation of young athletes at San Bernardino Valley College, where he has given 12,000 sport physicals in 22 years as team physician for the football team. Since 1986, he has served as team physician for the local minor league baseball team, currently known as the Inland Empire 66ers.

Dr. Bangasser is well known for his leadership role in the medical community and on public policy both in California and on the national level. He has served on nine medical association reference committees, and has been a San Bernardino County Medical Society board member for 25 years. He has served in a series of top positions on the California Medical Association, and is a delegate to the American Medical Association. He is a member of the AMA Council on Medical Services, and was recently appointed to the AMA's Quality Committee for NCQA. He was named Outstanding Physician by the San Bernardino County group in 1995, and was presented with the San Bernardino Valley College Distinguished Service Award in 1999.

In the community, Dr. Bangasser spearheaded a collaborative effort between the San Bernardino and Riverside County medical associations and the San Bernardino Bar Association on domestic violence awareness. He annually sponsors and pays for travel costs of two students to AMA events, and helped cover the costs of a group of teens to attend an AMA conference on teen pregnancy. He has served on the boards of the local United Way, the YMCA, the Redlands Community Hospital Foundation and the "Just for You Volunteers" seniors group in Yucaipa.

Dr. Bangasser is not unknown to us in Washington, where he has traveled to testify in support of medical programs, and last year he was honored by President Bush in a White House discussion on senior citizen health. He has already gained a reputation as a strong advocate of health care in his role as president-elect of the 35,000-member CMA.

Along with his other accomplishments, Dr. Bangasser trained as a former Navy Diving Medical Officer, and has taught many colleagues, friends, and patients the joys of this underwater adventure. I can thank him and his wife Susan for helping me rediscover my love for this sport, and helping me to train and qualify as a SCUBA diver.

Mr. Speaker, the job of president of the California Medical Association comes with heavy responsibility, but I am certain Dr. Ronald Bangasser will perform wonderfully in the role. I ask you and my colleagues to congratulate him on his election as president, and wish him success in his future endeavors.

## HONORING BENJAMIN BRISCOE, FORMER LORD MAYOR OF DUBLIN

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and celebration of the Honorable Benjamin Briscoe, former Lord Mayor of Dublin and former prominent member of the Dail. We extend a warm welcome to you and to your wife Carol and we hope that your St. Patrick's Day journey from County Kildare to Cleveland, Ohio, proves to be a joyous and enriching experience.

For the past twenty-four years, Tim Collins and Thomas Scanlon have organized the St. Patrick's Day Party. This joyous event brings people together for an enchanted evening of renewing old friendships and discovering new ones, and serves to build a living bridge that extends from the North Coast to the Emerald Isle.

Like his father before him, Mr. Briscoe has dedicated his life to political service and social leadership and activism. Though retired from the political stage, Mr. Briscoe continues to dedicate his time promoting tourism and investment in Ireland. Moreover, Mr. Briscoe continues his significant work that focuses on helping others. He is a Founding Member and Council Member of the Bone Marrow for Leukemia Trust of Ireland; Founder of Friends of the Vocal Arts; and Council Member of the Association of Recreation Clubs for the Handicapped.

Mr. Speaker and Colleagues, please join me in tribute to the Honorable Benjamin Briscoe, former Lord Mayor of Dublin, for joining us in Cleveland as we celebrate St. Patrick's Day. Please also join me in recognition of Tim Collins and Thomas Scanlon for organizing this wondrous St. Patrick's Day Party each year for the past twenty-four years. "Ni dheanfaidh smaoineamh an treabhadh duit—You'll never plough a field by turning it over in your mind"—Old Irish Proverb.

## H. CON. RES. 103

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce a resolution supporting the members of the United States armed forces and our allies who are engaged in the war on terrorism and the war with Iraq.

More than 1.4 million men and women make up America's active and reserve forces and are responsible for our national defense. They distinguish themselves daily in selfless service to this Nation and it is a privilege to take a few minutes today to pay tribute to them.

This resolution also acknowledges the families of our armed forces. Their contribution to our Nation's freedom is appreciated and our thoughts and prayers are with them as well. It is a sacrifice to send your son or daughter or husband or wife, into harm's way.

Finally, this Resolution acknowledges the military forces of our allies. They share our commitment to democracy and global security and have joined us in our fight against terrorism, the threat of nuclear weapons, and crimes against humanity.

Regardless of our thoughts on U.S. policy, we are now united in our support to the men and women in harm's way. Each of us is now focused on the safety of deployed forces, the success of the mission, and the minimization of casualties.

I believe it is fitting that I end this statement by reading the final sentences in the Resolution I am introducing today.

It is the sense of Congress that every American service member be commended for serving with such distinction and professionalism.

It is the sense of Congress that every American family be commended for their special role in providing support for the members of our Armed Forces.

It is the sense of Congress that every allied service member be commended for serving with such distinction and professionalism.

It is the sense of Congress that all citizens of the United States pay homage to our armed forces, their families, and allied service members.

## THE FAILURE OF CYPRUS TALKS

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. ROTHMAN. Mr. Speaker, I was very disheartened to learn about the failure last week of the United Nations sponsored peace talks regarding a just and lasting settlement in Cyprus. It is apparent that while the Greek-Cypriot people and their leaders are ready for a peaceful settlement to this longstanding problem, the Turkish-Cypriot leaders, and possibly the leaders of Turkey as well, are not committed to a peaceful settlement at this time.

The commitment of the United Nations Secretary General Kofi Annan to resolving the Cyprus dispute is notable, especially considering the impending crisis in Iraq. Mr. Annan, in good faith, presented a plan to both sides that required concessions from each party. Mr. Tassos Papadopoulos, the newly elected President of the Republic of Cyprus, was prepared to submit the United Nations plan to the Greek-Cypriots as a referendum, even though he was required to make unpopular concessions in order to achieve what was believed to be a workable plan.

Mr. Rauf Denktash, the leader of the Turkish-Cypriots, on the other hand, refused to submit the United Nations plan to the Turkish-Cypriots as a referendum. This is yet another case of the Greek-Cypriots negotiating in good faith, whereby they continue to demonstrate their dedication and commitment to a peaceful resolution to the division of Cyprus, and Mr. Denktash is not willing to negotiate.

In the United States, I believe that we must continue our efforts to improve the dialogue for the reunification of Cyprus. I strongly urge Mr. Denktash, and other Turkish leaders, to view this recent breakdown of talks as a lost opportunity that cannot occur again. I also urge the Administration to pressure Mr. Denktash and other Turkish leaders to re-evaluate their opposition to a unified Cyprus, especially in light of Turkey's desire to become a member of the European Union.

Mr. Speaker, the people of Cyprus deserve to have their voices heard about the future of their country and their people, and I sincerely hope that this will happen in the near future.

## WITHDRAWAL OF H.R. 1333

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to formally withdraw H.R. 1333, which I introduced on Tuesday, March 18, 2003.

Mr. Speaker, I offered this legislation in an attempt to provide United States citizenship to the members of the Tohono O'odham Nation of Arizona in both Arizona and Mexico. However, I withdraw H.R. 1333 and instead offer my full support for H.R. 731, the Tohono O'odham Citizenship Act of 2003, of which I am an original cosponsor.

In addition to this statement of withdrawal, I have filed a formal request with both the chairman and ranking member of the House Judiciary Committee, which has jurisdiction over H.R. 1333, to not take up this legislation in any hearings or markups during the course of the 108th Congress.

Thank you, Mr. Speaker, and I look forward to further legislative proceedings on H.R. 731.

## HONORING JOHN T. CORRIGAN

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mrs. JONES of Ohio. Mr. Speaker, I rise today to give honor to a great American, John T. Corrigan, who served 34 years as the Cuyahoga County prosecutor in the great State of Ohio. On yesterday, Mr. Corrigan died at the Ohio Veterans Home in Sandusky. He was 79.

He was my predecessor in the Prosecutor's Office. John T. Corrigan gave me the opportunity to serve as his assistant. As his assistant, I had the opportunity to work with his son, Judge Michael J. Corrigan. His support laid the foundation for my future elected public service.

John T. Corrigan was 33 and a state senator when he was elected in 1956 to head a county legal staff that was larger than most law firms. The County Prosecutor prosecutes criminal cases and serves as county counsel for all county officials and county agencies.

John T. Corrigan was the son of Cleveland policeman John J. Corrigan and his wife, Ann, both of whom were from Achill Island, Ireland. John T. Corrigan took pride in being an Irish-American. He was also a football player at St. Ignatius High School, where he graduated in 1941.

He entered John Carroll University, but his college days were interrupted by a 39–month stint as an Army infantryman in Europe and the Pacific during World War II. In 1951, he graduated from Western Reserve University School of Law and joined the Carney & Carney law firm.

John T. Corrigan is survived by his wife, Virginia H.; son, Michael of Westlake; daughters, Margaret Gaughen in Cohasset, Mass., Marlene Sanford and Martha Costello, both of Olmsted Falls, and Dr. Mary V. of Avon Lake; and 11 grandchildren.

On behalf of the United States Congress and the people of the 11th Congressional District, I extend my sympathies to all of the family and friends of John T. Corrigan.

## 47TH ANNIVERSARY OF REPUBLIC OF TUNISIA

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 20, 2003*

Mr. RAHALL. Mr. Speaker, I rise to acknowledge the Republic of Tunisia's 47th Anniversary on March 20, 2003. I invite my colleagues to join in extending our congratulations to the leaders and people of this important ally.

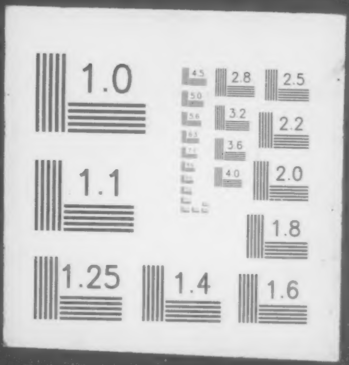
While Tunisia is celebrating 47 years of independence, our relationship with this country has roots much older. As early as 1797, The United States first signed a treaty of peace and friendship with Tunisia. This first step was a portentous omen for the future.

Throughout Tunisia's brief history they have been a staunch ally to the United States and democracy at large. Whether it be their willingness to support the United States in World War II by suspending their own struggle with the French to lend aid to the allied cause, or their unwavering commitment to seeing terrorism vanquished through their membership in the U.S. led coalition against terror, it becomes evident that Tunisia's dedication to freedom and democracy is held in the highest regard by its people.

Not only is Tunisia a defender of democracy outside its borders, but within as well. Few are the nations that can boast of a more progressive attitude towards women's rights, enshrined in law, as early as 1956, The Code of Personal Status established a new organization of family based on equal rights through a series of provisions including the abolition of polygamy, and setting the minimum age of marriage at 17. In 1993, amendments were adopted that went still further, guaranteeing alimony for divorced women and their children. Mothers were also given the explicit right to partake in the management of their children's affairs whether married or not.

Tunisia is also a country that values its heritage and culture. It is a proponent of the arts and its distinct, diverse culture. The government of this culturally rich country has passed laws that allow texts and musical instruments bound for cultural purposes to be imported tax free to stimulate interest and growth in this important sector of society. Tax breaks have also been levied towards investment in monuments from antiquity that might otherwise fall into ruin.

Tunisia is a country that has overcome many obstacles. From foreign powers to economic reform Tunisia has never shied from change while also preserving its unique and rich heritage. For this reason, and many others, I invite my colleagues to join in congratulating all Tunisians as they celebrate the 47th anniversary of their nation's independence.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